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# HOUSE OF REPRESENTATIVES—*Thursday, July 28, 2005*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Almighty God, strong is Your justice, penetrating all human events and evaluating all human endeavors. Great is Your mercy for each of us as we stand before You today.

Grant the Members of the House of Representatives freedom of spirit; that each may act with a well-formulated conscience and discern the far-reaching consequences of every decision that is made.

While here, working in the public service of the Nation, everything that is done is viewed by all and open to review by others. But far greater is Your judgment, Lord.

Aware that all must appear before Your judgment seat and each will receive recompense according to what he or she did while in Your service, we ask You, O Lord, to grant the vision of faith and trust in Your great mercy now and forever. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from California (Ms. ROYBAL-ALLARD) come forward and lead the House in the Pledge of Allegiance.

Ms. ROYBAL-ALLARD led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain five 1-minute speeches on each side.

## PRAISING HOUSE REPUBLICANS FOR GREAT ACCOMPLISHMENTS

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to praise the Republican leadership and my Republican colleagues in the House for the tremendous work we have done ahead of the August recess. The work we have done will have an immediate positive effect on the lives of my constituents.

First off, we enacted effective immigration control with the passage of the REAL ID Act. We also took action to stem the tide of China's unfair trade practices. We are taking the necessary first steps to ensure our domestic manufacturers have a level playing field to compete on.

The passage of the National Energy Policy also symbolizes new economic opportunities for my district. Not only does it decrease our dependence on foreign energy supply, it will boost our economy by providing up to $10 billion in tax incentives for renewable, reusable energy sources. This will create new markets and possibilities for our farmers.

Today we will greatly improve health care by passing H.R. 5. Health care dollars should be spent on patients in the operating room, not on lawyers in the courtroom.

Mr. Speaker, these are just a few of the many great accomplishments we have made. As we head into August recess, I look forward to building on that progress with my Republican colleagues.

## URGING SUPPORT FOR THE THRIVE ACT OF 2005

(Ms. ROYBAL-ALLARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROYBAL-ALLARD. Mr. Speaker, 45,000 adult Americans die every year from infectious diseases that could have been prevented by a simple vaccination. Tragically, 40 percent of adults in our country are underimmunized for preventable diseases such as influenza and hepatitis B. The consequences are unnecessary pain, suffering, and loss of life at a cost of more than $10 billion a year to society.

To address this tragedy, I am introducing the THRIVE Act of 2005 with the gentleman from Mississippi (Mr. WICKER) as part of National Immunization Month. The THRIVE Act authorizes CDC to develop immunization guidelines and increase patient outreach and provider outreach. It directs the Secretary of HHS to launch a national media campaign about the value of adult immunizations, and it establishes a pilot project to distribute influenza vaccine for uninsured, at-risk adults.

The THRIVE Act of 2005 is a critical step towards reducing vaccine-preventable deaths in our country, and I urge my colleagues to support this bill.

## MESSAGE ON MTBE: BAD LAW IS NOT CONGRESS'S FAULT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, I am going to support the energy bill later today, but I am amazed that Democrats in this town have convinced the majority party that law-abiding citizens must clean up Congress's mess.

When Congress mandated use of cleaner-burning gas, MTBE was the only way companies could obey its orders. Upon learning MTBE was linked to environmental concerns, Congress did not accept responsibility, change the policy, or invest in alternatives. Congress told the companies to clean up the mess themselves. Trial lawyers loved it. Congress's inaction signaled that obeying law warrants a lawsuit. Now they sue anyone who might have even had a thought of using MTBE.

Mr. Speaker, these companies did not cover up bad data. They did not set out to save money by cutting corners. They did not even choose to use MTBE

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

over a cleaner alternative. Congress made them do it.

The Democrats' own energy chairman in 1990 admits that. He says MTBE "was the only commercially viable alternative at the time."

Democrats are quick to blame corporations, but slow to take responsibility for their own foolish actions. Maybe that is why they are still in the minority.

## SUGGESTION FOR THE HOUSE REPUBLICAN LEADERSHIP

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Speaker, while I am not an expert in time management, I do have a suggestion that would allow the House to better use its time.

Last night we spent well over an hour here, a lot of very busy people, while the leadership variously cajoled, bribed, browbeat, et cetera, a few Republicans who wanted to have it both ways, who wanted to give people the impression they were opposed to CAFTA while they were ready to cave in for sufficient inducement.

What we should have done, and I propose this for the future, is the next time we have one of those tough votes where they are going to have to do that with their Members, let us schedule an evacuation drill from the House.

The fact is at the time the plane was flying over here and a roll call was open and we evacuated the House, it took about the same time as it took them to cajole and blackmail and browbeat their people last night.

So why not do two things at once? The next time they know there is a bill they are going to cram down people's throats that they do not want to vote for and want to pretend to their voters they are against it, and it is going to take them an hour or 2 to find out ways to get them to help fool people, why not schedule in advance an evacuation drill, and that way we can kill two birds with one stone? And since people might not know it is a drill, they can threaten people who do not vote with them: They can make them stay here in case there is a plane crash.

## VIDEO CHOICE ACT OF 2005

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, the laws governing delivery of television programming in this country are outdated, and we have not kept up with emerging new technologies.

I have introduced the Video Choice Act of 2005 to bring these laws into the 21st century.

Current law requires that all companies interested in offering cable service or video service, as it is called in the industry, must negotiate an individual agreement with a local franchising authority. This mandate serves as a barrier to competition, effectively preventing new technologies from entering the market. The Video Choice Act of 2005 will streamline the franchising process for new marketplace entrance and give American consumers choice over their video and cable service at a lower cost.

Our telecommunications services are rapidly changing and expanding. Congress must act to ensure our laws do not crush innovation and competition.

The bill is H.R. 3146. The gentleman from Maryland (Mr. WYNN) is the cosponsor on this legislation with me. I look forward to working with him for its passage here in the House of Representatives.

## WE NEED A NEW ENERGY POLICY

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, we will adopt a so-called energy policy for the United States later today. We are in the beginnings of a 21st century energy crisis, skyrocketing prices at the pump, consumers are being gouged, growing dependence on foreign oil. And what is the answer of the Republican majority and this administration? Let us obligate the taxpayers of the United States to borrow $15.4 billion as a gift, a needed incentive to the oil industry to go out and produce more.

At 60 bucks a barrel and $2.40 a gallon and record profits and huge piles of cash they do not know what to do with, we need to subsidize the oil industry? I do not think so.

We need a new energy policy that will serve this country and the challenges of the 21st century with new technologies, new efficiency, and breaking our dependence on foreign oil. Unfortunately, we are getting exactly the opposite here today.

## RECOGNIZING DANIELLE SIMONETTA

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to salute an individual without whom Members on this side of the aisle and indeed Members of the entire House would be lost.

Danielle Simonetta has been a public servant for the last 8 years, 5 of which have been spent with us here in the House. A New York native and a graduate of my alma mater, Washington Lee University in Virginia, Danielle began her Hill career with the legendary Gerry Solomon and then the gentleman from California (Mr. DREIER) as a Committee on Rules staffer. After 2 years with Mitch Daniels at the Office of Management and Budget, she came back to us again and has spent the last 2½ years as the senior floor assistant to the gentleman from Texas (Mr. DELAY), majority leader.

In her time with leadership, she has worked tirelessly for the members of the Republican Conference. Those who know Danielle know she is a reliable source of information to us here on the House floor and a constant advocate for us in scheduling the floor. Whether it is adding a Member's last-minute suspension to the House schedule, advising Members on the merits of a particular amendment, or bragging about her beloved dog Otis, Danielle has always been here when we need her.

This fall Danielle will be leaving us to pursue an exciting new career opportunity. In addition, she is putting the finishing touches on her upcoming wedding. Congratulations to Danielle. We will miss her, and we wish her well.

In conclusion, God bless our troops, and we will never forget September 11.

## THE AMERICAN PEOPLE DESERVE ANSWERS

(Ms. LEE asked and was given permission to address the House for 1 minute.)

Ms. LEE. Mr. Speaker, as the questions surrounding the Bush administration's case for war continue to mount, and the administration continues to stonewall, the American people deserve answers.

I want to read from an editorial from yesterday's Los Angeles Times. It says: "Scandals metastasize. That is the pattern since Watergate. What starts out looking like a small, isolated incident gradually reveals itself to be a part of a larger abuse of power. Meanwhile, an unraveling cover-up adds new elements. Is that happening now with the scandal over White House leaks of the identity of a CIA agent?"

As new elements of this unraveling cover-up are revealed, we should not lose sight of the larger abuse of power and the real scandal here.

As Chris Matthews said on Hardball on July 24: "The larger scandal in this White House/CIA leak story is not just who leaked the name of an undercover agent, but whether we were given a case for war, the deciding factor for many of us, knowing that it didn't hold water. As we work to find our way out of Iraq, we should focus a bit . . . on how we got in."

Mr. Speaker, the American people deserve answers.

## RECOGNIZING STEVE SAULS

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I rise today to recognize Steve Sauls, an extraordinary advocate for the students and the school of Florida International University in my hometown of Miami.

As an experienced member of the administration and leadership at the university, Steve has worked incredibly hard to promote the needs and the interests necessary to make FIU the fine institution that it is today.

Steve is retiring from his current position as vice president of government affairs for the university after 14 wonderful and productive years and has accepted a job as vice president of corporate relations in a private sector firm. I know that Steve will be immensely missed at the university, my alma mater, and will leave a void that will be difficult to fill. I have no doubt that Steve will continue to lead and excel in his new position, and I wish him all the best and FIU all the best in the years to come.

□ 1015

## SOCIAL SECURITY CELEBRATES ITS 70TH ANNIVERSARY

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, on August 14, we will be celebrating the 70th anniversary of Social Security, and that is 70 years of a guaranteed, promised benefit to all Americans of a certain age.

I have to say, I was interested to note that I looked on the Social Security Administration Web site, and I did not see any mention of the 70th anniversary. I think the reason is clear. This President, who basically is trying to dismantle Social Security, does not want the Social Security Administration to celebrate this landmark achievement.

Now, the President and House Republicans want Americans to forget how important Social Security has been for seniors and for the disabled for the last 70 years. It is a guaranteed benefit the Republicans want to turn into a risky privatization plan.

I know that the President continues to be on the road pushing his risky privatization plan. Most recently he was there with his mom, Mrs. Bush. And we are hearing that when we come back after the August break, we are going to see the Republican leadership in the House once again move forward with their privatization plan that is going to only aggravate Social Security's insolvency.

Remember: 70 years of a guaranteed benefit.

## WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. BISHOP of Utah. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 392 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 392

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Utah (Mr. BISHOP) is recognized for 1 hour.

Mr. BISHOP of Utah. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

This resolution waives all points of order against the conference report and against its consideration.

Mr. Speaker, we now have before us the first appropriations conference report. The gentleman from North Carolina (Chairman TAYLOR) and those who have been working with him on the House side, as well as on the Senate side, should be applauded for taking this appropriation process and concept of prioritization and presenting the product that we have before us. The Interior conferees have produced a conference report which is fiscally responsible and does live within strict budget discipline. It recommends for the fiscal year 2006 budget $26.2 billion, which is actually below last year's enacted level of $27 billion.

Even though the total number is lower, it still takes into account significant and important and high-priority items, such as wildland firefighting, $2.7 billion; a $61 million increase for our National Parks; a $31 million increase in our National Forest System; and $106 million increase for the Indian Health Service. Indian programs have been represented at a record $5.6 billion, which means the funding will provide for schools and hospitals, construction, education, human service needs, as well as law enforcement there.

With those increases there, it has to be significant, and there have to be offsetting balances somewhere else, and that is where the process of prioritization takes place. Once again, whether you like the total and the way it has been done, at least this committee has indeed done that process of prioritization.

I commend the Subcommittee chairman (Mr. TAYLOR); the chairman of the full Committee on Appropriations, the gentleman from California (Mr. LEWIS); the ranking members who were involved in this, as well as all the conferees, for shepherding this measure, this funding measure through the conference process in a timely and orderly fashion in the midst of a very lean budget climate.

Mr. Speaker, the conference report is obviously not perfect; none of these ever are. We are not totally happy with all of the aspects of it. I, for example, still have a concern over our process that we are doing with Payment in Lieu of Taxes, or the PILT program. This House was wise enough to fund that program at $242 million; the conference funds it at $6 million less, at $236 million. That still is $30 million above what the Senate tried to accomplish. This program, for example, is the basic funding for rural communities; it is rent that is due on the land that is government owned. If the Federal Government is going to own the land, they need to be able to fully support that.

Hope springs eternal, and we in the West will continue to work on this program in the future with the gentleman from North Carolina (Chairman TAYLOR), the gentleman from California (Chairman LEWIS), and others to make sure that these programs are adequately addressed in the future as well.

In closing, and notwithstanding these concerns, Mr. Speaker, the overall conference agreement is a good, bipartisan product. It has been done in a timely manner. It is the first one before us. It deserves our support.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from Utah (Mr. BISHOP) for yielding me this time, and I yield myself such time as I may consume.

As my colleague from the majority mentioned, the rule is typical to that for all conference reports, and I will not oppose it.

Mr. Speaker, I rise today not in opposition to the Interior and Environmental Appropriations conference report, but, rather, in disappointment that we have not done enough. Indeed, we live in trying times with enormous fiscal constraints, many of which we have brought upon ourselves. As the chairman and ranking Democrat of the Subcommittee on Interior, Environment, and Related Agencies will probably note today, they did the best that they could with what they were given. Indeed, they did, Mr. Speaker.

I commend the gentleman from North Carolina (Chairman TAYLOR) and the gentleman from Washington (Mr.

DICKS) for their hard and, perhaps most important, their bipartisan work on this legislation. I do believe that they did the best with what the majority gave them.

The Interior conference report includes $84 million for Everglades restoration in my district and throughout south Florida. It increases funding for the National Endowment of the Arts and Humanities, as well as operations at our national parks and Indian health care.

The underlying report also includes a provision that I offered during floor consideration prohibiting funds in the bill from being used to work in contravention of a 1994 executive order requiring that Federal agencies take the necessary steps to achieve health and environmental equity across all community lines.

The inclusion of this provision in the conference report sends a clear message to the Environmental Protection Agency that it must change the way it goes about doing business. On behalf of every community in the country which will benefit from this provision, I thank the gentleman from North Carolina (Chairman TAYLOR) and the gentleman from Washington (Mr. DICKS) for their commitment to working with me on this issue of critical importance.

The conference report also includes a provision championed by my good friend, the gentlewoman from California (Ms. SOLIS), that stops EPA from intentionally exposing pregnant women and children to pesticides and requires the agency to establish standards which will come down on the side of public health.

While I am pleased that the aforementioned is included in the conference report, I am greatly concerned about the report's major cuts in clean drinking water and conservation programs. These programs are essential to protecting our environment and the health of our citizens. It is offensive that this Congress has found the money for tax cuts for the best-off of us in our society, but not enough for these critical programs.

Finally, this legislation includes $1.5 billion in emergency funding for veterans health care. Frankly, this money should have been appropriated before the July 4 recess. Instead, the majority played politics with the Senate, and our veterans were told no.

More than 1 year ago, Democrats came to this floor with the former Republican chairman of the Committee on Veterans' Affairs, the gentleman from New Jersey (Mr. SMITH), arguing that the majority was shortchanging veterans health care by more than $1 billion. What did the majority do about our concerns? Absolutely nothing. Democrats got stonewalled, the gentleman from New Jersey (Mr. SMITH) lost his job, and America's veterans got shafted.

This spring, Mr. Speaker, our Democratic prophesy came true. The Bush administration finally admitted that it had pushed a budget which shortchanged veterans health care by some $1 billion. Democrats countered that $1 billion still was not enough, and the administration waffled. Eventually and embarrassingly, the Bush administration finally admitted that the actual shortfall was closer to $1.5 billion, the amount appropriated in this conference report.

How is it that this body can willingly authorize sending our troops into harm's way, yet refuse to provide them with the health care benefits they were promised? I am pleased that the other body has the backbone to fix what is wrong, but I am not pleased by the efforts of the administration and House Republicans to cover up these shortfalls. Shame on all of us for letting this happen.

Mr. Speaker, individuals on their own are not going to conduct major environmental restoration, force power companies to reduce toxic emissions from their smokestacks, or clean up our Nation's drinking water. But collectively, collectively, we can all make this happen.

Enforcement is not free, and neither is environmental restoration. Is there anybody in this body who is unwilling to pay just a little more to ensure that every American has clean air to breath and safe drinking water? If given the chance, who would not be willing to pool his or her resources with others in their neighborhood to collectively ensure that everyone has safe drinking water, or that no child would be forced to grow up playing in backyards polluted by dangerous levels of mercury and other toxins?

I will most likely support the underlying conference report, but I say to my colleagues, we had an opportunity to do more in this conference report. Our willingness to do so, however, was the missing ingredient.

Mr. Speaker, I reserve the balance of my time.

Mr. BISHOP. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas (Mr. BOOZMAN).

Mr. BOOZMAN. Mr. Speaker, I thank the gentleman for yielding me this time, and I appreciate all of the hard work in crafting the Interior bill, the conference report; and I very much support it.

I really rise today, though, to talk about something a little bit different. Mr. Speaker, in a few hours, U.S. Army Sergeant Arthur Raymond McGill will be laid to rest. A third district native, Sergeant McGill gave his life serving his country in Iraq when his convoy detonated an improvised device. I rise today to mourn this tragic loss and honor his courageous life.

Sergeant McGill grew up in the northwest Arkansas communities of Gentry, Decatur, and Gravette. At the age of 17, he joined the National Guard and later enlisted in the Army. He was on his second tour of duty in Iraq when he was killed.

Sergeant McGill valued family more than anything else and wanted to set a positive example for his daughter, Kaylee, who his aunt said was the love of his life. Though his life was cut short, Sergeant McGill did set a wonderful example for Kaylee and us all through his selfless and noble service to his country.

Mr. Speaker, at the age of 26, Sergeant Arthur Raymond McGill made the ultimate sacrifice for his country. He is a true American hero, and I certainly ask my colleagues to remember his family, remember his friends in their thoughts and prayers during these very difficult times.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 3 minutes to the distinguished gentleman from Massachusetts (Mr. MCGOVERN), my good friend that I serve with on the Committee on Rules.

Mr. MCGOVERN. Mr. Speaker, I thank my colleague, the gentleman from Florida, for yielding me this time.

Mr. Speaker, when this House first considered the Department of Interior appropriations bill, I came to the floor to express my deep outrage that this legislation nearly eliminated funding for the Land and Water Conservation Fund.

I join with my colleagues, the gentleman from New York (Mr. KING) and the gentleman from New Jersey (Mr. HOLT), in urging that the House and the Senate conferees restore some level of funding for this vital program. I am pleased that 119 Members shared our concerns about this funding cut and signed on to our bipartisan letter. Mr. Speaker, I will insert the letter for the RECORD at the conclusion of my remarks.

The Land and Water Conservation Fund has been an enormous help to our local communities and the families who live in them. The Stateside grant program has helped to preserve open space, slow urban sprawl, and give our children safe places to play.

□ 1030

It is a true partnership with Federal grants requiring a full match from States and local communities. In all, the stateside program has helped communities by funding 40,000 projects nationally. Success stories can be found in every State and in 98 percent of U.S. counties.

The Land and Water Conservation Fund is especially near and dear to my heart, having led the fight on the floor of the House back in 1999 to restore $30 million for the stateside grant program in the fiscal year 2000 Interior appropriations bill after it had been zeroed out in 1995.

In my district, the Land and Water Conservation Fund State assistance grants have provided much-needed funds to restore the historic Worcester Common in Worcester, Massachusetts, and renovate the Briggs Pool in Attleboro, Massachusetts. We have literally preserved dozens of acres of open space that otherwise would have been sold off for development that would not have been conducive to these communities. It has also helped to complete construction this coming fall with the Princeton playing fields in Princeton, Massachusetts.

The Land and Water Conservation Fund is based upon a simple concept. It takes revenues from offshore oil and gas drilling and invests them in our Nation's public land, letting States take the lead. For 40 years this program has a proven track record and benefited from strong bipartisan support.

It was the same bipartisan support that proved successful here today. Clearly the level of funding provided in this bill is far from what is required. In fact, the level of funding is at the same level it was when we resuscitated the program back in 1999. So I am disappointed with that. However, any amount appropriated to this program, no matter how small or large, serves a valuable purpose.

I commend my colleagues for their hard work. I thank those who helped reinsert funding for the Land and Water Conservation Fund back into this bill. I hope that we can come to some sort of consensus that next year we will restore funding to a level that is adequate, and to a level that we all promised our constituents.

Mr. Speaker, I will insert for the Record the letter I referred to earlier.

Congress of the United States,
*Washington, DC, July 22, 2005.*

Dear Conferee: We are writing to request that, as you move toward conference with the Senate on the FY 2006 Interior Appropriations Bill, you support the funding levels that were included for the Land and Water Conservation Fund (LWCF) in the Senate passed version of the bill.

Since its creation in 1964, the Land and Water Conservation Fund (LWCF) has been a critical source of funding for the National Park Service, Fish and Wildlife Service, Bureau of Land Management, and Forest Service. This funding is used to support the acquisition and maintenance of our national wildlife refuges, parks, forests, and public domain lands.

In addition, the LWCF also funds a matching grant program to assist states and localities in acquiring recreational lands and developing facilities. An integral part of the LWCF, the state-side matching grant program has provided state and local parks and recreation directors with the desperately needed funding to help preserve open space and develop recreational facilities. Over the years, these matching grants have been used successfully to fund more than 37,000 state and local park and recreation projects, enabling millions of Americans to hike through magnificent scenery and view historic sites, bike along seaside and river trails, and picnic and play ball at local parks.

The Senate-passed FY 2006 Interior Appropriations Bill provides $192 million for LWCF, which includes $30 million for the state-side grant program and $162 million for the federal program. This funding is absolutely essential for the proper stewardship of our nation's magnificent natural heritage, and therefore, we strongly urge you to maintain the funding levels for LWCF state-side and federal grant programs provided for in the Senate bill. Thank you for your consideration of this request.

Sincerely,

Jim McGovern, Rush Holt, Peter T. King, Jim Marshall, Robert E. Andrews, Michael H. Michaud, Michael M. Honda, Howard L. Berman, Rahm Emanuel, Barbara Lee, Donald M. Payne, Dennis J. Kucinich, Joseph Crowley, Richard E. Neal, Henry Cuellar, Rob Simmons, Rosa L. DeLauro, Shelley Berkley, Allyson Y. Schwartz, Melvin L. Watt, John Spratt, Jim Oberstar, John Lewis, Nick Rahall, Scott Garrett, Dan Lipinski, Mike Doyle, Betty McCollum, Harold Ford, John T. Salazar, Jim Langevin, Leonard L. Boswell, Elijah E. Cummings, Lloyd Doggett, Gene Green, Nancy L. Johnson, John Shimkus, Jo Bonner, Spencer Bachus, Mike McIntyre, Julia Carson, Vito Fossella, Adam Smith, Doris O. Matsui, Solomon P. Ortiz, Brian Higgins, Silvestre Reyes, Tammy Baldwin, Mike Thompson, Charles F. Bass, Tim Holden, Jay Inslee, Frank Pallone, Jr., Martin Meehan, Juanita Millender-McDonald Ike Skelton, Grace F. Napolitano, Sander Levin, Jerrold Nadler, Bernard Sanders, Chris Van Hollen, John B. Larson, George Miller, Tom Lantos, Gary L. Ackerman, Jim Matheson, Sherwood Boehlert, Ed Case, Raúl M. Grijalva, Dale E. Kildee, Jim McDermott, Earl Blumenauer, Jim Saxton, Dennis Cardoza, Carolyn McCarthy, Michael R. McNulty, Ellen O. Tauscher, Timothy H. Bishop, Edolphus Towns, Peter DeFazio, Anthony D. Weiner, John D. Dingell, Sherrod Brown, Wm. Lacy Clay, William Delahunt, Louise Slaughter, Barney Frank, Robert Menendez, Eliot L. Engel, Bobby Scott, Ben Cardin, Tom Udall, Janice Schakowsky, Bart Gordon, Lynn Woolsey, Stephen F. Lynch, Donna M. Christensen, Thomas Allen, Thaddeus G. McCotter, Lois Capps, Emanuel Cleaver, Mike Ferguson, Bart Stupak, David Price, Lane Evans, Carolyn B. Maloney, Jeb Bradley, Steve Israel, Pete Stark, Bob Etheridge, Mark Udall, Sue W. Kelly, Jerry F. Costello, Luis V. Gutierrez, Christopher Shays, Mike Ross, Charles A. Gonzalez, Neil Abercrombie, Anna Eshoo.

Mr. HASTINGS of Florida. Mr. Speaker, I yield back the balance of my time.

Mr. BISHOP of Utah. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate all of the discussion that has gone through on this particular bill. We have had it on several different occasions. There are a lot of good things that are in this particular bill.

The gentleman from Florida (Mr. Hastings) has mentioned the one portion of the $1.5 billion to solve the hole in the veterans funding area, that once the issue was validated could have been an easy chance for people to grandstand. But I am very proud of this entire Congress in a bipartisan way, who gave instructions in a bipartisanship way, which came as close to a unanimous vote as I have seen here on the floor.

Mr. Speaker, it is an appropriate step to do, to now take this and then review the process so that we can continue to go on. We have much to do in this particular area, but in each year that I have been here in this Congress, I have been very proud that we have tried to move forward in different areas and make progress to fully fund and fully maintain our commitments.

The same thing has gone on with all of the other programs in this particular budget and this particular conference report. This committee has once again done a great job in trying to come up with the principle that all appropriators ought to be doing a prioritizing program. They have prioritized the programs, Mr. Speaker, overall, we can be very positive of that.

Mr. DICKS. Mr. Speaker, I rise in support of this rule to allow for the consideration of the conference report on the fiscal year 06 Interior and Environment Appropriations bill. And I intend to intend to vote for the conference bill.

Although I am critical of several aspects of this bill—including the low overall spending level—without a doubt this process has been fair and open. Because of the low allocation, there are some problem areas.

But the overall conference report is well worth supporting. With the addition of $1.5 billion in spending for Veterans health care attached to this bill, I believe that this conference report will get widespread support in both the House and the Senate.

The conference agreement contains another year of healthy increases in National Park Service operations funding. I do wish that the Clean Water Act State Revolving Fund was higher. I also wish that the Conference Report had retained the extra $10 million in NEA funding that the full House approved in a floor amendment last May. It is important to point out that this agreement contains successful compromises on the issue of pesticide testing on humans and on federal funding for the Martin Luther King, Jr. Memorial to be built on the National Mall.

Again I want to reiterate my strong support for this rule and the conference report on the fiscal year 06 Interior and Environment Appropriations bill. And I want to thank Chairman Taylor and his staff for including the minority throughout this process.

Mr. BISHOP of Utah. Mr. Speaker, I yield back the balance of my time, and I urge the Members to support the rule that provides for consideration of this conference report to the accompanying H.R. 2361, and I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. Simpson). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HENSARLING. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX further proceedings on this question will be postponed.

## WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 6, ENERGY POLICY ACT OF 2005

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 394 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 394

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 394 waives all points of order against the conference report and against its consideration. The resolution also provides that the conference report shall be considered as read.

Mr. Speaker, there are few matters that we will consider this year as important as this comprehensive energy plan. As we are all know too well, our Nation badly needs an updated energy strategy. High oil and natural gas prices are causing stress on our economy by raising the price of energy on almost all consumer products, driving up costs for American families, and on job-creating businesses.

Every industry from agriculture to tourism to manufacturing is negatively affected by high energy costs. We need to update our laws to reflect the changing global energy market, encourage conservation and energy efficiency, and to foster the advance of new technologies that make traditional fuels cleaner and make emerging energy sources more reliable and competitive.

This conference report will do just that. This legislation reflects the fact the energy challenges we face today are complex, that no single approach is going to solve all of the problems. This comprehensive energy strategy takes a balanced approach. It includes incentives related to oil, natural gas, and nuclear energy, but also emphasizes conservation, energy efficiency and renewables.

The energy plan updates and enhances the Energy Star Program, promotes the use of clean coal technology, clarifies the process for siting liquified natural gas terminals, encourages development of hydrogen-powered cars, and extends tax incentives for the production of renewable energy from wind, biomass and other resources.

With respect to electrical power issues, this legislation includes consensus language providing for mandatory reliability standards for electric transmission to help prevent blackouts like we saw in the Northeast in 2003. It also encourages investment in transmission lines to eliminate bottlenecks in the electric grid. There are also important provisions providing for enhanced consumer protection against the kind of market manipulation we experienced in the west coast electricity market 4 years ago.

Mr. Speaker, I want to point out a couple of areas that are particularly of interest to my part of the country, the Pacific Northwest. We depend on clean, renewable hydropower for much of our electricity consumed in our region; however, the relicensing process that non-Federal dams must go through is too cumbersome and needs to be reformed. It currently takes an average of 10 years to get through the relicensing, but often that can take longer. This energy bill provides for a much needed overhaul of this lengthy dam relicensing process, potentially saving ratepayers millions of dollars while ensuring protections for other river interests to remain in place.

License applicants will now have the ability to propose alternative license conditions to those made by Federal source agencies. These more cost-effective alternatives will then be accepted, provided they are shown to provide the same level of environmental protection.

This conference report also preserves regional flexibility in achieving certain national electric marketing and transmission goals. This reflects the reality of what works in many areas of the country, but may not work in other areas that have a hydropower-based system.

This legislation strikes the proper balance on these and many other complex energy issues. I commend the gentleman from Texas (Chairman BARTON )and the gentleman from Michigan (Mr. DINGELL), the ranking member, and the gentleman from California (Chairman THOMAS) and the gentleman from New York (Mr. RANGEL), the ranking member, for their perseverance and leadership in crafting this conference report.

Mr. Speaker, it is time to take action to combat high energy costs and reduce America's dependence on foreign oil. Let us pass this balanced and bipartisan energy plan.

I urge my colleagues to support the rule and the underlying conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the gentleman from Washington (Mr. HASTINGS) for yielding me the customary 30 minutes.

Mr. Speaker, after passage of this rule, the House will consider the conference report for the energy bill. And before I explain why I strongly oppose this conference report, let me congratulate the gentleman from Texas (Mr. BARTON), the chairman of the Energy and Commerce Committee, for presiding over a full and open conference committee. Last Congress Democrats were shut out of the conference committee. Republicans wrote that bill in the dark of night and behind closed doors. This time the chairman opened the process. He consulted frequently with the gentleman from Michigan (Mr. DINGELL) and held public hearings.

The energy bill is an important piece of legislation that deserves to be debated out in the open, and while I do not support the final product, I want to commend the chairman for attempting to restore some bipartisanship to this Chamber, and I hope others will follow his example.

The gentleman from Michigan (Mr. DINGELL) deserves to be singled out as well. His long and distinguished career has produced some of the most important laws that govern our Nation. The gentleman from Texas (Chairman BARTON) said it best last night in the Rules Committee when you talked about trying to discern the intent of one provision that would change current law. The chairman told the Rules Committees that as he was trying to explain the intent of the law, the gentleman from Michigan (Mr. DINGELL) leaned across the table and talked about what he intended when he wrote that provision years ago.

And so I want to commend the gentleman from Michigan (Mr. DINGELL) for his work on this conference committee.

With that being said, Mr. Speaker, let me comment on the substance of the energy bill. I must say that I agree with the editorial in this morning's Washington Post which says, and I quote, "The nicest thing we can say about the comprehensive energy bill is that it could have been a lot worse."

We all know that our Nation is facing a severe energy crisis. The President knows it, the House knows it, and, most importantly, our constituents know it. As we stand here today, the average retail price for gasoline is $2.32, up 40 cents just this year. For a family of four this amounts to nearly $3,000 spent annually on gasoline. That is a tax increase courtesy of the Bush administration and the Republican-led Congress, and the oil companies that are reaping the rewards of record profits.

Yet the conference report that we have before us today does nothing, absolutely nothing, to lower energy prices for consumers. It fails to reduce our Nation's dependency on foreign oil. It makes no real commitment to the development of renewable energy sources.

In all, the oil and gas industries will receive a multibillion-dollar package of tax breaks, and if that was not for the dedicated leadership of the gentlewoman from California (Mrs. CAPPS), these same companies would have also been shielded from liability claims for their role in polluting our Nation's water supply with MTBE.

But let us be clear: Though a few concessions have been made, this bill is nowhere near what it should be. In fact, this bill is chock-full of giveaways to the oil and gas industry at the expense of public health and environmental safety.

If enacted, nearly 30.000 new oil and gas projects developed each year will be exempted from clean water requirements which aim to control erosion and run-off into rivers and streams. These same companies, including the administration's friends at Halliburton, would also be permitted to inject fluid laced with toxic chemicals into oil and gas wells. This provision alone poses an enormous threat to the safety of our Nation's drinking water sources, and if that was not bad enough, this bill extends the reach of the Federal Government into what should be local energy decisions.

Local communities like the City of Fall River, Massachusetts, in my district would have virtually no say in the construction, expansion and operation of liquid natural gas facilitates. Permits granted by State agencies would no longer be subject to review by State courts. Rather Federal appeals courts, which are far from experts on individual State laws, would have exclusive jurisdiction. This provision undermines the ability of State and local officials to protect their communities from dangers surrounding LNG.

Mr. Speaker, the bill that we have before us today is not a comprehensive approach. It does not solve our Nation's energy crisis. And I cannot say it any more simply than this: The Energy Policy Act will harm the environment, reward special interests at the expense of consumers and taxpayers, and limit States rights.

Mr. Speaker, I think we could have done much, much better, and I believe that it should be defeated.

Mr. Speaker, at this time I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 3 minutes to the gentlewoman from Illinois (Mrs. BIGGERT.)

Mrs. BIGGERT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in strong support of the rule and the conference report to H.R. 6, the Energy Policy Act of 2005.

After a series of fits and starts over the past 4 years, Congress now stands ready to approve the first comprehensive national energy policy in well over a decade.

I want to congratulate the gentleman from Texas (Mr. BARTON), the chairman of the Energy and Commerce Committee, and the gentleman from New York (Mr. DINGELL), the ranking member, on a job well done. As chairman of the Science Subcommittee on Energy, I am honored to have helped develop this legislation. In particular I want to thank the members and staff of the Energy Subcommittee and the full Science Committee, as well as our colleagues in the other Chamber for all of their hard work in crafting the research and development title of this act.

This bill makes a much-needed and sustained investment in basic science and applied energy research that will lead to advanced energy technologies and future energy solutions.

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Not only will this balanced portfolio of research help expand and diversify our energy supply while reducing energy demands; it will also educate and train the scientific and technical talent necessary for our Nation to remain competitive and secure.

In recognition of the fundamental role that science places in the development of advanced energy technologies and in fulfilling DOE's mission, this bill also elevates science within the Department by creating an Under Secretary of Science. It also puts an Assistant Secretary at the helm of the Department's nuclear energy research programs. Leadership at this level is needed if we are to use research and technology to reduce the volume and toxicity of nuclear waste and capitalize on the many benefits of safe, emissions-free nuclear energy.

I urge my colleagues to support the rule and the conference report which use science and technology to put America on the path towards a more secure and energy-efficient future.

Mr. MCGOVERN. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. BARTON), the chairman of the Committee on Energy and Commerce, an individual that has worked extremely hard on this legislation along with the ranking member, the gentleman from Michigan (Mr. DINGELL), and deserves a great amount of credit for bringing this legislation forward.

Mr. BARTON of Texas. Mr. Speaker, I thank the distinguished member of the Committee on Rules for yielding me time.

Mr. Speaker, I rise, first of all, in strong support of the rule that the Committee on Rules has put forward on this significant piece of legislation. I think it is a very fair rule, and my guess would be that it is going to be passed by voice vote.

I really want to talk about the underlying bill because this afternoon, since this is a conference report, there is only going to be an hour of debate evenly divided on each side. So I want to talk a little bit about the policies in the bill right now.

Our Nation was founded on the principle that people had freedom and this freedom entailed the opportunity to make choices. As we begin to industrialize that principle of freedom, we begin to be encapsulated in our, for lack of a better term, industrial policies; and part of that policy has been our energy policy.

Now, there are some people and there are some countries around the world that think an energy policy for a country should mean the command and control policy where the government dictates, the government owns, the government decides; but that is not what we in America believe. And in the bill that is going to be before us this afternoon, the Domenici-Barton Policy Act of 2005, we decided that "energy policy" means government setting the frame work, government deciding the parameters and the ground rules; but fundamentally we still believe in freedom of choice and freedom of opportunity. We believe in private property. We believe in economic choices.

So the bill before us does not dictate to the American people or to the corporations and to the interest groups that make up America exactly how we should develop our energy resources. It sets the ground rules.

I want to divide the energy sector into two components, stationary energy and mobile energy. On the stationary side, this is the best bill that has ever been before the Congress of the United States of America. It is going to fundamentally transform the way we develop our energy resources to generate electricity, whether it is in our coal area where there is great, great work on clean coal technology; in the nuclear area where we really revitalize nuclear power; or whether it is in the way we do the transmission grids; whether it is the way we site new transmission lines; whether it is the way that we determine what the reliability of our system has to be, has to be maintained.

This is an excellent bill.

Now, on the mobile source, which is primarily oil which we refine into gasoline, this is a good bill. But I cannot tell the American people that it is a great bill in the sense that it is going to reduce your gasoline prices next week if the House passes it and the Senate passes it and the President signs it.

Here is the fundamental problem we face on our mobile energy sources. We consume 21 million barrels of oil every day in this country, and we only produce 8. You subtract the 8 out of 21 and you get 13. So we are importing about 13 million barrels of oil a day. On our best day, the United States of America did not produce more than 10 million barrels of oil a day, on our best day. There is nothing we can do that is going to generate another 13 million barrels of oil produced in the confines of the United States of America. It cannot be done.

Now, we can produce more and we have an inventory and the OCS has been under moratory that will at least allow us to see what might be out there. When we come back in September in reconciliation, we are going to pass a provision that allows us to drill up in ANWR and maybe produce as much as 2 million barrels of oil today. And we have a component of this bill that will continue research on the hydrogen economy so that perhaps we can come up with an alternative to the internal combustion engine. And we have incentives in this bill to help our automobile manufacturers develop the hybrid technology so that we can get it more cost effective. We have some credits for people in this bill that could purchase hybrid vehicles.

So we are trying to narrow the gap: but as long as we are consuming 21 million barrels and we are only producing 8, we are going to be importing a fair amount of our oil. So we need to find a way to use that oil more effectively and this bill does that.

It also makes it possible, perhaps, to build some new oil refineries in our great Nation. We have not built a new oil refinery in the United States of America in 35 years. This bill for the first time begins to take some modest steps to make that possible.

I hope when the time comes, we vote for the rule this afternoon. I hope on a bipartisan basis we overwhelmingly vote for the bill.

Mr. McGOVERN. Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentlewoman from West Virginia (Mrs. CAPITO), a member of the Committee on Rules.

Mrs. CAPITO. Mr. Speaker, I thank my colleague from the Committee on Rules for yielding me time.

Mr. Speaker, I rise in strong support of the rule and the Domenici-Barton Energy Conference Report because it is the national energy strategy that our Nation has waited on for decades. This legislation will ensure adequate energy supply for consumers, help to drive down energy costs, and provide jobs in the energy industry.

I would like to highlight one facet of it as particular importance to me and my State. Coal provides thousands of jobs in West Virginia and produces the energy needed by customers across the country. This bill contains a number of provisions to support clean coal technology that will allow coal to continue to provide for the Nation's energy needs while also protecting our environment.

First, I am pleased that the conference report includes a 20 percent tax credit for new Integrated Gasification Combined Cycle facilities. IGCC facilities are on the cutting edge of new energy technology. Other tax credits for Industrial Gasification and Advanced Combustion will also further the use of clean coal. The bill also allows for power plants to amortize the cost of air pollution controls over 7 years, an important step towards cleaning up existing coal-fired facilities.

The Clean Coal Power Initiative, a 9 year, $1.8 billion program to demonstrate advanced coal technologies, created by this bill, will allow us to develop the next generation of clean, efficient coal use.

The Energy Policy Act is good for West Virginia coal, West Virginia jobs, and great for our Nation's economy and energy security. I hope my colleagues will join me in support of the rule and the underlying bill.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, I thank my colleague from Washington for the time.

Mr. Speaker, I have enormous respect for the gentleman from Texas (Mr. BARTON) and the gentleman from Michigan (Mr. DINGELL), the ranking member. They have worked in a bipartisan way in this conference committee to produce this bill.

Mr. Speaker, the following is an editorial that appeared in The Washington Post today entitled "Energy Deficient" and the editorial that appeared in today's New York Times entitled "Energy Shortage."

[From the New York Times, July 28, 2005]

### ENERGY SHORTAGE

The energy bill that has been six years in the making and is nearing the president's desk is not the unrelieved disaster some environmentalists make it out to be. But to say, as President Bush undoubtedly will, that it will swiftly move this country to a cleaner, more secure energy future is nonsense. The bill, approved by a House-Senate conference early Tuesday morning, does not take the bold steps necessary to reduce the nation's dependence on foreign oil, and it also fails to address the looming problem of global warming.

These shortcomings are chiefly the fault of the White House and its retainers in the House. To be sure, the Senate showed no more courage than the House in its refusal to increase fuel-economy standards for cars and trucks, even though higher standards, by common consent, are the easiest, quickest and most technologically feasible way to reduce oil demand and cut foreign imports.

But the Senate did approve a renewable fuels provision requiring power plants to produce 10 percent of their electricity from nontraditional sources, like wind power, by 2010. It also approved a provision that would ask the president to reduce domestic oil consumption by one million barrels a day by whatever means he chose. The House conferees rejected both proposals.

Meanwhile, both houses conspired in some spectacular giveaways. One would ease environmental restrictions on oil and gas companies drilling on public lands. The other would shower billions in undeserved tax breaks on the same companies, even as they wallow in the windfall profits produced by $60-a-barrel oil.

The bill's most useful provisions may take years to realize their promise. Again thanks largely to the Senate, the tax provisions are far more hospitable to energy efficiency and renewable fuels than earlier versions of the bill, and include substantial incentives for buyers of fuel-efficient hybrid cars.

More important in the long run, however, may be two provisions, buried deep in the bill, that are aimed at developing new energy technologies. One provision would encourage the development and commercial application of biofuels from agricultural products that, much like corn-based ethanol, might someday be used as a substitute for gasoline. The other provision is aimed at developing new clean-coal technologies to turn coal into a gas and, more important, capture emissions of carbon dioxide, a major contributor to global warming.

These could be powerful new tools in any future effort to reshape the way Americans produce and use energy. But the success of both will depend on the willingness of the government to put money into them. That, in turn, will require a deeper commitment to a more adventurous energy policy than this administration has so far displayed.

[From the Wasington Post, July 28, 2005]

### ENERGY DEFICIENT

Here's the nicest thing that we can say about the comprehensive energy bill that the House and Senate are due to take up, and will probably pass, before they leave town at the end of this week: It could have been a lot worse. Unlike the energy bill that the Senate filibustered in 2003, and in contrast to some earlier versions, this genuinely bipartisan bill contains fewer egregious pro-pollution measures and less pork. It will jump-start the commercial use of new clean coal, ethanol and biomass fuel technologies; promote energy efficiency standards; encourage investment in the electricity sector; and reinforce electricity reliability at last. It is less expensive than previous bills: The $11 billion net cost of the tax package plus the $2 billion direct spending comes to a relatively modest (for an energy bill) $13 billion over 10 years, with further costs depending on future appropriations.

Nevertheless, this is a bill that leaves most of the hard questions for later. Aside from a few tax breaks for purchasers of fuel-efficient cars, it makes no significant attempt to reduce the enormous automobile fuel demand that makes this country so dependent on imported oil. While it provides incentives for the construction of a new generation of nuclear power plants, it doesn't deal with the unresolved long-term problem of nuclear waste. It leaves out the whole question of mandatory controls on the greenhouse gases that cause climate change, thereby costing both an opportunity to raise revenue and create a market mechanism that might have accelerated the development of cleaner, more efficient technologies. It also perpetuates distortions in the energy market, providing needless subsidies for oil drilling offshore and on federal lands, and for marginal oil wells. And, by the way, don't believe the spin: This bill will not lower fuel prices anytime soon.

Given how long Congress labored over this legislation, and how much negotiation was required to get it to this stage, it's hard not to be disappointed by a bill that in effect preserves the status quo. It's also hard not to wonder whether the era of comprehensive, 1,700-page energy bills designed to appeal to multiple constituencies has passed. Clearly, some of the missing pieces—especially climate change and automotive fuel efficiency—will have to be dealt with separately in the future.

But it's also true that some of the less controversial pieces of this bill, such as the electricity reliability provisions and the efficiency standards for appliances, could have been passed years-ago. Now that this process is over, congressional leaders should step back, focus on the nation's most urgent long-term energy needs and get to work on more carefully targeted legislation.

Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's courtesy in permitting me to speak on the rule on the energy bill.

One is just struck by the rhetoric surrounding this because only people who are captive inside the beltway bubble would believe the rhetoric about this being a positive development for our country. People do not have to take the word of politicians for this. Any person can deal with reputable independent analysis from academics, from scientists, even looking at conservative think tanks to find out that the arguments are not sustainable.

This is, unfortunately, serious business. It is not just a list of special tax breaks and dodging hard issues. This is serious business for our country because our addiction to huge amounts of foreign oil that come from unstable parts of the world dooms us to costly dependency and means that we will continue to finance both sides of what they used to call the "war on terror."

This bill has no vision of a sustainable energy future for renewables and meaningful conservation, not window dressing but meaningful conservation. People are lining up in this country to buy energy-efficient vehicles that are only available by a handful of producers, and there is an opportunity lost to change that in terms of fuel efficiency. Ten percent of the world's supply of oil is dealt with in our addiction to inefficient energy transportation.

We are even falling behind not just the developed countries like Germany and Japan who have much more efficient use of energy; we are falling behind emerging countries. People on the floor are apoplectic about China buying an oil company, Unocal. Well, China at least is getting its energy house in order. As an emerging country, it has officially committed to a much more dramatic and aggressive program for renewables than the United States.

This bill is not an energy policy. It is a list of tax breaks and special interest favors that does not by any stretch of the imagination translate into a cohesive approach which global reality today demands for this country, demands for any country. It spends over $7 billion in subsidies to oil companies, the most profitable sector of our economy already flush with cash. I will not detail the harmful provisions that are going to come forward that are unnecessary exemptions for the oil and gas industries for compliance with the Clean Air Act, the backdoor immunity to MTBE producers and distributors that unfairly and inappropriatly denies injured parties.

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That will be discussed, I think, further here in the course of the debate.

But the point that I want to make is that instead of being a milestone for energy policy in this country, people will look back at what Congress does—because I have no doubt that the rule will pass and the bill will pass—but it will be inexcusable, inexcusable, as people are asked by our interns in the future, by our constituents, by our children, how could we be so wrongheaded? What should have been a milestone for energy policy at this critical time will instead be a tombstone, a monument to an energy policy of previous decades that we will enact to the detriment of our economy, the environment, and our children for years to come.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. I thank the gentleman for yielding me this time and for his very diligent and hard work on the Rules Committee, but also his hard work in terms of addressing the issues relating to this energy conference report.

Once again, and I want to talk a little bit about the substance, this administration and the Republican leadership, I believe, quite frankly, have put the profits of their friends in the energy industry ahead of the needs of the American people, ahead of the needs of our economy and our environment. Instead of reducing high gas prices, and I know in California we have some of the highest gas prices, and these gas prices are squeezing businesses and consumers at the pump. This bill, unfortunately, provides over $12.8 billion in giveaways to the oil and gas industries who are now making excessive profits and squeezing our consumers in terms of gas and oil prices.

Instead of encouraging the development of renewable energy and putting the United States economy at the forefront of the green revolution, this shortsighted bill, and that is what I say it is, it is very shortsighted, it will only increase our dependence on foreign oil. It will further subsidize corrupt and oppressive regimes throughout the world. It also puts our troops on the front lines, quite frankly, of our energy policy.

Instead of protecting our environment and our health by taking modest steps to curb greenhouse gas emissions and increase vehicle gas mileage, this bill would allow oil and gas companies to further pollute our skies, our water and our environment without paying the consequences. The health of the American people, I believe, is quite at risk as a result of this bill.

We need a comprehensive energy bill with a vision for the future that embraces ingenuity, reduces our chronic addiction to fossil fuels, fights global warming, which we all recognize is a huge problem. Just look at the weather changes this year. Last year. We have got to address global warming. This bill could do that. It could help us address pollution. It could help us protect our planet. But it puts our economy unfortunately on the wrong path rather than on the path to long-term sustainability.

While I want to commend our ranking member for at least making this bill much better than what it was, from what we remember when it left this body, it is still a bill that I believe forces us to rely on foreign energy sources rather than move us toward energy independence. I thank the gentleman from Massachusetts for the time. Unfortunately, I am going to have to vote against this bill.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 3 additional minutes to the gentleman from Texas (Mr. BARTON), chairman of the Energy and Commerce Committee.

Mr. BARTON of Texas. Mr. Speaker, I want to try to set the record straight about this bill and add some comments that I did not make in my previous statement. The Senate had 14 conferees on the bill, 8 Republicans and 6 Democrats. Thirteen of those conferees signed the conference report. We had all the Republicans in the Senate and five of the six Democrats sign this conference report. In the House, a majority of the House Democrat conferees have signed the report, a majority. Of the Energy and Commerce Committee conferees that were general conferees, a majority of those conferees signed the conference report, including the distinguished former chairman of the committee, JOHN DINGELL of Michigan.

We have a bipartisan bill that has come before the House. As I enunciated earlier, if your vision of an energy policy is a policy where the government tells you what you can do and when you can do it and how you can use your energy, this is not your bill. But if your vision of America is a vision of America that says it is okay to let the private sector, with the appropriate environmental guidelines and open market transparency rules and regulations, develop its resources for the good of all the people, this is your bill.

In terms of incentives for alternative energy, this bill has got more incentives at the individual level and at the general industrial level than any other energy bill that has ever been before this Congress. Whatever your energy source of choice is, there is something in this bill to help you decide if you want to maximize that choice. What this bill does not do is say every American has to drive a vehicle that gets 50 miles to the gallon whether they want to or not. Those vehicles are available right now in the marketplace, and Americans have the right to choose. This bill does not dictate that choice.

This bill also makes it possible, again without repealing or fundamentally changing any existing environmental law, to do some at least exploration and in some cases development of our onshore and offshore energy resources. As I said earlier, it fundamentally revitalizes the clean coal technology industry in this country and the nuclear power industry in this country.

This is a good bill. It is a bipartisan bill. A majority of the House Democrat conferees and every Republican conferee signed the conference report. Last night when we were before the Rules Committee, the gentleman from Michigan and I were both unanimous in that this should come to the floor under a rule that both sides could support. I want to commend the distinguished Rules Committee, in the gentleman from Washington's view, presenting the best rule that has ever been presented on the floor of the House of Representatives.

Mr. McGOVERN. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I do not mean to belabor this. I have great respect for the skills, the great skills, of the chair of the Energy and Commerce Committee. But it is just laughable to suggest that this is not your bill if you think you ought to dictate to the American public that you have to drive a car that gets 55 miles to the gallon, as if that were the only choice. A meaningful choice to raise CAFE standards the way other countries have done to their great advantage. That would have made more choices available to the American public and is something that is within our power, that we could do. It has nothing to do with forcing Americans to drive a car that gets 55 miles to the gallon. But the lack of a meaningful policy dealing with vehicle efficiency means that it is very difficult. There is a huge waiting list. It took me 6 months to get a hybrid SUV.

We are dropping the ball here. As to the notion that this is the best opportunity in terms of renewable energy, talk to the people in the industry who are ready, willing and able. Ask them if it is the best bill ever. That is not what I hear from people in this industry. I respectfully disagree.

Mr. McGOVERN. Mr. Speaker, I yield myself the balance of my time.

Let me just say in conclusion that I have great respect for Chairman BARTON and Ranking Member DINGELL. They have worked very hard on this bill. I think it is a better bill that is before us than the one that we passed here in the House. As Chairman BARTON pointed out, Ranking Member DINGELL supports this bill. There was virtually a love fest in the Rules Committee last night, in part a tribute to the process during these last several weeks.

Having said that, some of us obviously have some philosophical differences, and some of us feel compelled to vote against this bill. I have no doubt that this bill will pass with strong bipartisan support, but as I said at the beginning of my remarks, I feel compelled to oppose the bill as well. I am concerned about some of what I consider are giveaways in this bill that I think were unnecessary. One would ease environmental restrictions on oil and gas companies drilling on public lands. The other would give billions of dollars in, I think, undeserved tax breaks to companies that, quite frankly, right now are gouging Americans. Oil companies right now, I think, are gouging Americans who are paying the highest gas prices in recent memory.

I think this bill could have been a better bill. Again, there are philosophical differences here. There will be a debate on the conference report. I have no objection to the rule. Again, let me close by expressing my respect and admiration for Chairman BARTON and Ranking Member DINGELL, notwithstanding the fact that I oppose their final product.

Mr. Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, 4½ years ago, President George W. Bush stood in this Chamber during his first State of the Union Address and said, "We have a serious energy problem that demands a national energy policy. Our energy demands outstrip our supply. We can produce more energy at home while protecting our environment, and we must. We can produce more electricity to meet demand, and we must. We can promote alternative energy sources and conservation, and we must. America must become more energy independent, and we will."

Today, Mr. Speaker, this rule brings before the House a comprehensive, bipartisan energy plan that will help us produce more energy at home while protecting the environment; produce electricity to meet increasing demand; and promote alternative energy sources and conservation. This energy plan will help America meet its demands of today while planning for the energy needs of future generations, and it will allow us to become more energy independent.

Accordingly, Mr. Speaker, I urge a "yes" vote on the rule, House Resolution 394, and the underlying bill.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2985, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2006

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 396 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 396

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2985) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 396 is a traditional, standard rule for consideration of the conference report for the fiscal year 2006 Legislative Branch Appropriations Act. The rule provides 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The legislation before us appropriates $3.084 billion for operations of the legislative branch. The bill is fiscally sound. It includes a modest increase from the bill of fiscal year 2005.

In accordance with long practice, Mr. Speaker, each body determined its own fiscal requirements. As such, the conference report includes $1.1 billion the House of Representatives originally appropriated for its operations earlier this year. It also includes the $759 million the Senate appropriated for its operations. The appropriations for both the House of Representatives and the Senate includes funds for Members' representational allowances, leadership and committee offices. These funds will help Members fulfill their duties to legislate and to oversee.

These funds also help Congress complete the vitally important task, as I have just mentioned, which is the oversight of the executive branch. The Constitution grants Congress broad powers that include the extraordinarily important power of oversight. This includes obviously getting to know what the executive is doing, how programs are being administered, by whom and at what cost, and whether officials are complying with the law, with the intent of the law.

For the Capitol Police, who each and every day protect us, our staffs, and our constituents visiting the Capitol, the bill appropriates over $249 million. This level of funding will support the current staffing level of 1,592 officers, an additional 43 officers for the Library of Congress and 45 new officers for the Capitol Visitors Center. Also included is an inspector general for the Capitol Police to help the Capitol Police with administrative operations such as financial management and budgeting.

The bill also includes an important piece of legislation, the Continuity in Representation Act of 2005. As we all know, Mr. Speaker, on September 11, 2001, flight 93 was headed toward us here. If it were not for the heroic acts of the passengers on flight 93, we could very well have faced a situation where Congress may not have been able to function. We cannot allow this to happen. We certainly have to do everything we can to not allow it to happen.

□ 1115

H.R. 841 would accelerate elections in case a terrorist attack leaves the House of Representatives with over 100 vacancies. It provides for the expedited special election of new Members to fill seats left vacant in "extraordinary circumstances."

The House passed this bill earlier this year by an overwhelming bipartisan margin of 329 to 68. In the 108th Congress, the House passed a similar bill by a vote of 306 to 97. Each time the Senate has failed to consider this vital piece of legislation; so the Speaker wisely asked that this very important legislation be included in this process.

We must not ignore the threat to our constitutional duty. It is time that we have legislation such as this that can handle such an inconceivably horrible possibility and does not leave our duty to legislate and oversee in limbo.

Mr. Speaker, this is a good bill, essential to our continued ability to legislate, to our power of oversight and the continuity of government.

I would like to thank the gentleman from California (Chairman LEWIS) and the gentleman from Wisconsin (Mr. OBEY), ranking member, for their leadership on this. And I thank the distinguished gentlewoman from California for her hard work and friendship.

I urge my colleagues to support both the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Florida for yielding me the customary time, and I yield myself such time as I may consume.

Mr. Speaker, we are here to debate the rule for the Fiscal Year 2006 Legislative Branch Appropriations conference report, and although I support this report, I would just like to express my general concerns over the exorbitant cost overruns of the Capitol Visitors Center. Funding contained in this report is based on the GAO's assessment of needs, and I truly hope that this will be the last installment needed to get the center completed.

Through this measure, we will also fund the operations for our institution and the many supporting bodies that we rely upon daily, like the Library of Congress, the Government Accountability Office, the Congressional Budget Office, and the Capitol Police.

I would just like to take this opportunity to draw attention to those who help keep Congress running. There is a tremendous operation that helps my colleagues and me do the business of the American people, from the personnel at the Congressional Research Service that aids our offices in keeping up with the latest issues, to the Clerk's staff that records every word we speak, tracks each bill introduced, and, no matter the hour, is here to support us as we debate the priorities of the Nation. It is also the curators who impart the history of this great Capitol Building to visitors every single day, and painters and archivists that maintain the historical integrity of the buildings. It is not without the maintenance crews, food service workers, and so many that I cannot even begin to name that keep the trains running smoothly on the Capitol complex. I thank them all for their service.

Mr. Speaker, I look forward to seeing one of the first appropriations conference reports move forward today.

Ms. MATSUI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FLAKE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## CONFERENCE REPORT ON H.R. 6, ENERGY POLICY ACT OF 2005

Mr. BARTON of Texas. Mr. Speaker, pursuant to House Resolution 394, I call up the conference report on the bill (H.R. 6) to ensure jobs for our future with secure, affordable, and reliable energy.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 394, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 27, 2005 at page 17793.)

The SPEAKER pro tempore. The gentleman from Texas (Mr. BARTON) and the gentleman from Virginia (Mr. BOUCHER) each will control 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

I want to say at the beginning we currently do not have on the House floor the gentleman from Massachusetts (Mr. MARKEY), one of the opponents of the bill, but when he arrives, I want to assure those who are in opposition to the bill that we will yield time so that they have an opportunity to participate in the debate.

With that I want to say that this is a great day. The House is poised to pass the most comprehensive energy policy that we have ever had before this body, at least in the time that I have been in the House of Representatives, which encompasses the last 21 years.

In the last Congress, the House was able to adopt a conference report, but the other body was never able to invoke cloture and bring that bill to the floor.

This bill builds on last year's bill. It is full of superb legislation. It is a very balanced bill both for conservation and for production. There is a very strong title on energy efficiency. There is a strong title on renewable energy and clean energy. On a bipartisan basis, we have even adjusted daylight savings time to help save energy.

The bill before us today is going to promote a new generation of clean coal technology. It is going to promote the use of our Nation's greatest domestic resource, which is coal. It is going to do it in a clean, environmentally safe fashion. We are going to introduce a new generation for nuclear power in this country. There are many innovations that should make it possible the next 3 to 4 years to begin to construct a new nuclear power plant.

With the help of the gentleman from Michigan (Mr. DINGELL) and Senator CRAIG in the other body, we have a reform in our relicensing process for hydroelectric plants, which, as we all know, have zero emissions. We also have parts of the bill that are going to vigorously pursue the Hydrogen Fuel Initiative, which has the promise to help relieve some of the dependency on the internal combustion engine which we have developed in this country. We want to give American drivers the opportunity to drive safe, affordable, and reliable, clean hydrogen cars as soon as the year 2020. That is not as far off as it seems, Mr. Speaker.

In the short term, we have provisions in the bill to make it more efficient to use our boutique fuels. These are fuels that are a blend of fuels between gasoline and different types of ethanol. Under current rules there are as many as 19 different blends, many of them manufactured or refined in only one refinery. The bill before us reduces that number so that we have greater transportability of our boutique fuels between those regions of the country that need those fuel sources.

We have a brand new title on siting new liquified natural gas terminals. We are dependent on about 10 percent of imports for natural gas right now, yet we have not sited a new LNG facility in this Nation in over 30 years.

The bill before us will look at the permitting process. It will respect the States rights and local community rights, but it will create a process where they get a decision, and hopefully some of those sites will be permitted in the next 3 to 4 years, and we will be able to import liquefied natural gas for our Nation's economic future.

We also have a sector that came over from the other body on a comprehensive inventory in the oil and gas reserves in the Outer Continental Shelves. This particular title is something that is a work in progress, and I expect later today to engage in a colloquy with some members of the Florida delegation to see if perhaps in the near future we cannot refine that title to make it more acceptable to some of the Coastal States that have concerns about the inventory.

We have a strong title on research and development that would authorize programs for the study of energy efficiency, renewables, nuclear energy, fossil fuels, and much more.

The electricity title is one of the best titles in the bill. It is a title that has been put together over 6 years on a bipartisan, bicameral basis. It is one of the titles that I am most proud of. It is going to usher in for our electricity industry innovations across the board, from the generation of electricity, to the transmission of electricity, to the distribution of electricity, to the consumption of electricity. It is truly a landmark piece of legislation in the electricity title.

I want to thank the distinguished gentleman from Michigan (Mr. DINGELL), the dean of the House of Representatives, who has been in this body for almost 50 years, for his strong leadership on this bill on the minority side. I cannot tell the Members what a pleasure it was to have him sit with me in the negotiations with the Senate and to have him sit beside me in the open conference markups and educate me on how to do the parliamentary procedure and handle some of the sensitive issues that came before the conference. He is truly a giant among giants, and I cannot more proud. If I am as proud of anything in this bill, it is the fact that the gentleman from Michigan (Mr. DINGELL) signed the conference report. And I think that is a tremendous credit to him and how willing he was to work within the process.

Mr. Speaker, I reserve the balance of my time.

Mr. BOUCHER. Mr. Speaker, I yield myself 2 minutes.

It is our intent also to join with the gentleman from Texas in yielding some time to the opposition to this measure this morning.

I want to begin by commending the work of the gentleman from Michigan (Mr. DINGELL), the ranking member of our House Committee on Energy and Commerce, for the strong leadership that he has provided as our committee has considered this measure over the past 4 years. And I want to commend the gentleman from Texas (Mr. BARTON), the chairman of our committee. He has presided over the House-Senate conference on this measure with grace. It was truly an open process. It was truly a bipartisan process. And the passage of the Energy Policy Act of 2005, which we will accomplish today, will be a lasting tribute to the gentleman from Texas' (Mr. BARTON) skill and to his leadership.

Today we demonstrably advance our Nation's energy policy. Long-needed reliability standards will add stability and security to the electricity transmission grid. Modernized provisions will encourage cogeneration and other distributed means of producing electricity both efficiently and with improved environmental performance. The bill opens the door to a new generation of smart meters and real-time pricing plans so that electricity consumers can save money by operating appliances during times of lighter electricity demand. And we take meaningful steps to deploy advanced clean coal technologies that will encourage a greater use of coal for the electricity generation with superior environmental performance.

Coal is our most abundant domestic energy reserve. Within our borders we have 250 years of proven coal reserves. Our bill encourages electric utilities to make coal, rather than natural gas, the fuel of choice for new electricity-generating units, with an easing of the escalating pressure on natural gas prices. The bill is a balanced measure which deserves our support.

□ 1130

Mr. Speaker, I urge its approval by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that of the majority time, 10 minutes be yielded to the gentleman from Massachusetts (Mr. MARKEY), and I yield to the gentleman from Virginia (Mr. BOUCHER) to make a similar request on the minority side.

Mr. BOUCHER. Mr. Speaker, I also ask unanimous consent that 10 minutes of our time be yielded to the gentleman from Massachusetts (Mr. MARKEY), with the result that the majority will have 20 minutes, we on our side will have 20 minutes, and the gentleman from Massachusetts (Mr. MARKEY) will also have 20 minutes.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas (Mr. BARTON) and the gentleman from Virginia (Mr. BOUCHER)?

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts (Mr. MARKEY) will control 20 minutes.

Mr. MARKEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this bill is a historic failure. It will not lower gasoline prices. This bill does not do anything about fuel economy standards for automobiles and for SUVs. We put 70 percent of all the oil that we consume in the United States into gasoline tanks. This bill is silent on that. It is 2005. We now import 60 percent of all of the oil which we consume in America; most of it comes from the Middle East. One would think that we could do something about the place we put the oil. This bill is silent.

With regard to renewables, all utilities in the United States could have been given a mandate that they have to designate a substantial percentage of their electrical generating capacity over the next 20 years as renewable energy. This bill rejects that. It says, we are not going to move the utilities towards a renewable energy future.

Mr. Speaker, this bill is a failure on two of the central technology issues that the 21st century should be known for. I call for a "no" vote on this bill.

Mr. BARTON of Texas. Mr. Speaker, I am in awe, as always, of the gentleman of Massachusetts' rhetorical abilities.

Mr. Speaker, I yield 2 minutes to my distinguished friend, the gentleman from Georgia (Mr. NORWOOD), a member of the committee and a conferee.

Mr. NORWOOD. Mr. Speaker, I rise today in strong support of the Energy Policy Act of 2005. After several years of trying, the time to pass this vital legislation is now. The President has waited patiently since his first week in office. We need to pass this today.

Blackouts have affected our country, gas prices are crippling family budgets, and foreign energy resources have our Nation beholden to overseas interests. We have not built a new nuclear power plant in a generation. Additionally, we must begin to harness new energy sources for new potential. This bill wisely addresses all of these things.

Taken together, the provisions in this legislation will diversify and increase our energy supply in a careful and measured way. It deserves passage.

Now, it does not have everything in it that every Member wanted. This has been a long fight, and we all owe a great deal of gratitude to the gentleman from Texas (Chairman BARTON) for his patience over the last 5 years as he has tried to guide us to an energy policy for this Nation that we have not had certainly since I have been in Congress. It is time now to do that.

I thank personally the gentleman from Texas (Chairman BARTON) for his fair and evenhanded way, as he has been just now, giving time to the gentleman from Massachusetts (Mr. MARKEY), who obviously opposes the bill. But the rest of us in here need to pass this legislation today. I urge us all to vote "aye."

Mr. BOUCHER. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Maryland (Mr. WYNN), one of the conferees on the energy conference.

Mr. WYNN. Mr. Speaker, let me begin by thanking the gentleman from Virginia (Mr. BOUCHER) for yielding me this time. Let me then proceed to thank our ranking member, the gentleman from Michigan (Mr. DINGELL), for his strong leadership on this matter, and also our chairman, the gentleman from Texas (Chairman BARTON), for his leadership. They have done a Herculean job in bringing us this energy bill that will give us a comprehensive and bipartisan energy policy for the future, a very forward-looking bill.

Let me begin by applauding what is not in this bill. First of all, I think it is very significant that in this bill there will be no drilling in the Arctic National Wildlife Reserve. Our Arctic and sub-Arctic ecosystems will continue to flourish.

This bill also does not shield manufacturers of the fuel additive MTBE from lawsuits. This means that States and localities and municipalities will be able to hold these manufacturers liable when they pollute underground water supplies. These are two major environmental victories of which we should be very proud.

But let us look at the positive things that are, in fact, in the bill, because here we see an energy policy emerging that will help America attain security and independence.

First of all, we put in this bill mandatory reliability standards. Now, there are some folks in the Northeast that sat in the dark and suffered through scorching heat in a power outage some years ago, so this is very important. These mandatory standards will help us avoid the problems that we encountered when whole States began to go dark and air conditioners went off. This is very meaningful. We have never had mandatory electricity reliability standards for performance, for training of personnel, and for maintenance of the system.

Let me look at another area, the area of hydrogen. We have almost $3 billion in incentives for hydrogen fuel development. Now, why is that important? Because it looks to the future. We have a past which reflects a dependence on fossil fuels, oil, gas, and cars that emit huge amounts of pollution. We are looking at a future when cars and buildings will run electricity generated by hydrogen fuel cells, hydrogen energy generated through solar, through wind, and through nuclear energy. This is very important. We will see cars that only emit water. We think this is a good thing.

Now, will that solve the problem of the $2.50 gas we have today? No. But this energy policy is looking toward the future, and I think it is important to understand that we are undertaking a task much like putting a man on the Moon in which we are saying, down the road, we will accomplish great things, innovative things because we are making those investments today, and those investments are, in fact, in this energy bill.

We should also be pleased that other sources of energy are being enhanced in this bill. Solar energy, wind energy, biomass, all receive incentives for development of critical alternatives.

We are looking at a situation in which we can tell our children and our grandchildren that we did something today to make their energy security greater and their energy independence greater. Please adopt the Energy Policy Act of 2005.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank the gentleman for yielding me this time.

With great respect to our leaders, the gentleman from Texas (Chairman BARTON) and the gentleman from Michigan (Ranking Member DINGELL). Mr. Speaker, I do rise in opposition to the bill.

This bill is a missed opportunity to provide a secure energy future for America. It is a bill packed with taxpayer-subsidized goodies for energy companies. It is a bill that will not reduce our dependence on foreign oil.

Mr. Speaker, I am pleased about one part of the bill: it no longer contains the liability waiver to the MTBE industry. Now, perhaps, communities with MTBE-polluted groundwater will have a fighting chance to get it cleaned up by the people who made the mess. I call on the MTBE industry to do the right thing now, stop fighting in court and in Congress, own up to your responsibility by sitting down and working out cleanup plans with these affected communities.

Unfortunately, Mr. Speaker, the rest of the bill is mostly bad news. At a time of record-high energy prices, the bill hands out tens of billions of dollars in taxpayer subsidies for the oil and gas, coal and nuclear power industries already making record profits.

The bill also cuts States out of LNG siting decisions, giving power to the Federal Government, which, of course, always knows what is best.

In addition, the bill does precious little to make America more energy efficient or to reduce our dependence on foreign oil. There is no effort to make our cars more energy efficient. Seventy-five percent of the oil we use every day goes right into our gas tanks. This bill acts like it is okay that mileage on our autos has gone down in recent years, there is no connection between that and today's record gas prices.

Finally, Mr. Speaker, this bill calls for new offshore drilling under the guise of conducting a so-called inventory.

My friends on the other side will argue that this is just a study so we know what is out there. MMS already conducts surveys every 5 years on offshore resources. We already know where the offshore oil and gas is: in the central and western gulf where drilling is currently allowed and is under way, so why the inventory?

Putting it simply, this is just a first step in opening up offshore areas now off limits to new drilling. This means new drilling off States like Florida, North Carolina, and California. Make no mistake: this inventory is the oil companies' attempt to begin dismantling the long-standing, bipartisan moratorium on new drilling in these areas.

Voting for this bill means you support drilling off Florida, California, North Carolina, and other States. I urge my colleagues to vote down this bill.

Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. HALL), the chairman of the Subcommittee on Energy and Air Quality.

Mr. HALL. Mr. Speaker, I rise today, of course, in support of H.R. 6, the Energy Policy Act of 2005; and I am very pleased with the conference agreement before us today as the culmination of years of hard work and determination amongst my colleagues and friends. I certainly commend the gentleman from Texas (Chairman BARTON) and the gentleman from Michigan (Ranking Member DINGELL). I have been here 25 years, and I have never seen an operation like the one we have gone through this last week where the ranking member, the gentleman from Michigan (Mr. DINGELL), and the chairman, the gentleman from Texas (Mr. BARTON), worked together on hammering out a good bill; not perfect for either one of them, but both of them working for what has been called "the greatest good for the greatest number." These two men worked together, did not agree on everything, but worked together for the good of the people, basically for the young people of this country who will have to fight a war for energy if we do not find our own energy, and we have plenty of it here.

We need this bill before us today. We needed it 5 years ago. But I gladly accept it, because we simply cannot go another day without doing anything we have to do to increase our domestic production of oil and gas, increase our energy efficiency, and step up our conservation efforts, all towards the goal of being less reliant on foreign countries, people that do not trust us, people that we do not really trust for our energy needs.

I am especially pleased about the inclusion of my Ultra-deepwater and Unconventional Offshore Natural Gas and Research and Development program, which will enable the development of new technology to increase natural gas production from the 1,900 trillion cubic feet of technically recoverable reserves in North America, enough to meet over 85 years of demand at current rates of consumption.

Mr. Speaker, this is a good bill for the Nation, it is a good bill for the Fourth Congressional District of Texas, it is good for our country, and it is good also for this generation of high school juniors and high school seniors who, using this energy policy, will be able to ask themselves which university or college will I enter, rather than which branch of service will I enter.

I urge all of my colleagues to vote "yes" for this very important piece of legislation.

Mr. BOUCHER. Mr. Speaker, at this time I am pleased to yield 3 minutes to the gentleman from Michigan (Mr. STUPAK), another of our conferees.

Mr. STUPAK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I think what we have before us today is a pretty good energy bill. The conferees worked hard to find a compromise on this legislation, and I think that the majority of our colleagues on both sides of the aisle will support it today.

I want to give particular congratulations and thanks to the leadership of the gentleman from Texas (Chairman BARTON) and the gentleman from Michigan (Ranking Member DINGELL), and also to Senator DOMENICI and Senator BINGAMAN. By all working together, we do have a bill.

Is it a perfect bill? No. And if we are going to work via compromise, it cannot be a perfect bill. I would have preferred to see fewer corporate tax breaks; and I think in conference, those of us on the main committee, we were blocked out on those tax provisions. So while I have some objections on some of these corporate tax breaks, overall I think they are fair.

In addition, I would have liked to have seen stronger measures for direct relief at the pump for Americans who are suffering right now as we pay record-high gasoline prices. In fact, in Michigan last week, as I noted to the conferees, gas spiked 80 cents in one day, it went up 80 cents, to $3.51. That was based on rumors and everything else. But that is how volatile the situation is out there.

So I actually had a provision that said, stop filling the Strategic Petroleum Reserve until a barrel of oil drops below $40 for 2 consecutive weeks. Unfortunately, the language did not make it into the final bill. But we do encourage the Secretary of Energy to look at this, and I would like to take this time to suggest to him that he do something immediately to help out our domestic gasoline market. We just cannot continue to see spikes of 80 cents.

Also, I would have liked to have seen stronger language on the underground storage issue. While we did make some improvements on this issue, I think we can ill-afford to allow our groundwater to continue contaminating our drinking water. In particular, we cannot allow MTBE to continue to contaminate drinking water across this country.

☐ 1145

On a positive note, I am very excited and pleased that finally after all of the years of work, we have a permanent ban on oil and gas drilling in and under the Great Lakes. Whether it is a State permit or a Federal permit, you will no longer be allowed to do it. I am very pleased with that provision that I have worked for for more than a decade to put the provision in there.

Also there are some provisions on nuclear energy, and I know that is sort of a controversial thing, but I, for one, believe if we are going to start worrying on dependency on foreign oil, that if we are really concerned about global climate change and climate change here in this country, we must revisit the issue of nuclear energy, and I am pleased this bill provides incentives to make the United States once again a leader in this area, and protect our environment, protect our climate and get America less dependent on foreign oil.

Mr. Speaker, as I said, this is not a perfect bill but is one that I can support. After 13 years and seeing so many energy bills come before this floor, none of which I have supported, I am pleased to be able to lend my support for this bill, and once again I would like to thank the leadership for their work on this legislation.

Mr. Speaker, I think what we have before us today is a pretty good energy bill. The conferees worked hard to craft compromise legislation that I think the majority of our colleagues on both sides of the aisle will support today.

Is this a perfect bill? No. I would have preferred to see some of the corporate tax breaks pared back, but the Energy and Commerce conferees were shut out of discussions regarding tax provisions.

In addition, I would like to have seen stronger measures to give direct relief at the pump for the millions of Americans who are paying record high prices for gasoline right now. I had a measure that would have provided millions of additional barrels of oil for the U.S. market by suspending contributions to the strategic petroleum reserve until the price of oil dips below $40 per barrel for two consecutive weeks. Unfortunately, that was dropped in exchange for language allowing the Secretary of Energy to voluntarily suspend contributions if he sees fit. I would like to take this time to suggest that he do so immediately, allowing more oil into the domestic market.

I also would have liked to have seen stronger wording for secondary containment of underground storage tanks. While we did make some improvements on this issue, we can ill afford to allow our groundwater to become contaminated with gasoline from leaking underground storage tanks. In particular, we cannot allow MTBE to continue to contaminate drinking water across the country.

I am happy that the "safe harbor" provisions for manufacturers of MTBE that were in the House bill were dropped. Instead, there is a provision allowing lawsuits to be sent to Federal court if a defendant wants to make a request to do so. During the conference, I asked Chairman BARTON about the MTBE provisions in the bill and whether the claims filed after the date of enactment would require a case to be sent to Federal court. The chairman indicated that it did not require a case to be sent to Federal court, but gave defendants in prospective suits the right to ask that the case be sent to Federal courts. I wanted to be sure that we were not conferring any new substantive or subject matter jurisdiction over MTBE cases and I was pleased to hear from Chairman BARTON that to his knowledge, the legislation was not doing so.

I am happy to see that there are provisions in the bill to increase incentives for the nuclear power industry. While I know that there are those who oppose nuclear energy, I feel that if we are going to reduce our dependence on foreign oil, and climate change we need to explore increased nuclear technologies.

A provision I am particularly proud to say made it into the conference is a ban on any new oil and gas drilling beneath our Great Lakes. This provision will improve public safety and protect the source of drinking water for more than 30 million residents of the Great Lakes. I've worked on this for more than a decade and this will benefit the people of the Great Lakes for generations to come.

Lastly, I am happy to report that this bill does not include drilling for oil and gas in the Arctic National Wildlife Refuge.

Mr. Speaker, this is not a perfect bill, but it is one that I can support and I thank Chairman BARTON and Ranking Member DINGELL for their tireless efforts to come to the compromise before us today.

Mr. MARKEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this bill contains about $80 billion worth of giveaways to the oil and gas and other industries in our country. Those giveaways are coming from somewhere.

The United States has a huge deficit. We do not have any money. There is only one part of our government that is running a surplus, and that is the Social Security Trust Fund, and what the Republicans are doing is erecting a huge oil rig on top of the Social Security Trust Fund to drill for the revenues that will be given to the wealthiest industries in America—the oil and gas industries—that are reporting the largest profits in the history of any industry in the history of the United States.

The Republicans are tipping the United States consumer and taxpayer upside down and shaking money out of their pockets.

Mr. BARTON of Texas. Mr. Speaker, we thank the gentleman from Massachusetts (Mr. MARKEY) for using his chart once again.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. THOMAS), the distinguished chairman of the Ways and Means Committee.

Mr. THOMAS. Mr. Speaker, they have a saying in racing that to finish first, first you have to finish. It is a pleasure to stand up after several frustrating years and Congresses to be here supporting an energy bill. As we move from a society totally dependent upon fossil fuels to alternative energy, it is important to make sure that the infrastructure that will carry us through to alternate energy is functioning adequately, and I am pleased that that has been done in this bill. I am also pleased that, as principally led by Senator DOMENICI for a number of years, that we are beginning once again to look at an obvious source of energy that has been overlooked, nuclear energy.

And I want to compliment the new chairman of the Energy and Commerce Committee for his understanding that time is secondary to getting people to a level of agreement that allows us to present this bill on the floor today.

Of course, no bill is perfect, but if you do not have a bill, you cannot stand up and criticize it as the gentleman just did in the well. I am very pleased with this work product in terms of its balance. We tried to create balance within the tax area. We are willing to spend money on an experimental basis on a number of alternative sources. As some do not prove out, I am hopeful that we do not turn them into perennial payments just because they started in the bill; that we move and look for those alternate sources of energy that can begin to augment the fundamental hydrocarbon structure and then move beyond that as expeditiously as possible.

It is a balanced bill. I think you will see balanced support. Once again, I want to compliment the chairman for doing something that heretofore has not been done. It is always easy when you do it. It has not been done before. Congratulations to the gentleman from Texas (Mr. BARTON).

Mr. Speaker, the need to complete this comprehensive energy bill leads us to consider it without the normal accompanying statement of managers used to clarify and enhance understanding of the legislative text. Our colleagues, the chairman of the Committee on Finance and the ranking minority member of that committee, agree with me that those who follow tax legislation can and should use the Joint Committee on Taxation's publication, "Description and Technical Explanation of the Conference Agreement on H.R. 6, Title XIII, Energy Tax Incentives Act of 2005, JCX–60–05, as the functional equivalent of a statement of managers for the purposes of completing their understanding of what the tax incentives provide.

The joint committee publication has been submitted for publication in the CONGRESSIONAL RECORD. It can also be accessed on the joint committee's website—http://www.house.gov/jct/—for those who are interested. It is an extremely useful tool the public can employ to see just how much we have accomplished with this bill.

I would also note, as a matter of clarification, section 1326 of the conference report, which provides for a 7-year depreciation peliod for natural gas gathering lines, is meant to prospectively clarify the depreciation of property meeting either of the two standards in subsection (b) of the section. This provision should not be interpreted as undermining any taxpayer's position versus the IRS in regard to current law, but instead as a clarification of the treatment of property meeting either of the standards described in subsection (b) after April 11, 2005.

Mr. BOUCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. RUSH), a valuable member of our Energy and Commerce Committee.

Mr. RUSH. Mr. Speaker, I rise in support of this conference report. I do not think that this piece of legislation is perfect, and there are many provisions in this bill that I disagree with, but overall I support passage of this conference report, because it contains many provisions that are important to me and to my district, including provisions affecting ethanol and the Low Income Home Energy Assistance Program, also known as LIHEAP.

During the markup of this House version of the bill in the Energy and Commerce Committee, we passed my amendment, which will significantly increase authorized funding for LIHEAP to $5.1 billion. And I am very pleased that this increase was sustained during the conference committee and the hearings of the conference committee.

Mr. Speaker, I want you to know that this provision is so important to my constituents and to constituents similar to mine who suffer during the ravaging winter months and are often at a point where they have to make a decision between paying high energy costs and paying for medical care or paying for food.

I want to talk for a moment about this process that we have gone through this year. This year's process has been infinitely better than last year's shoddy process, whereby the majority went behind closed doors and drafted a conference report with zero input from the minority.

And, Mr. Speaker, I want to let you know and let the Members of this House know that I really appreciate the fact that Chairman BARTON has displayed a willingness to be fair and to work with me and other Democrats on this energy bill. We have a long history of bipartisan cooperation in our great committee, the Energy and Commerce Committee, particularly and especially when the gentleman from Michigan (Mr. DINGELL) was chairman. I want to commend the gentleman from Texas (Mr. BARTON) for continuing this tradition. It should serve as a blueprint for the rest of the Congress. We would have a lot less sniping and get a lot more work done in the full House of Representatives were we to follow the leadership of Chairman BARTON, the ranking member and the Energy and Commerce Committee.

And I urge my colleagues to vote yes for this conference report.

Mr. MARKEY. Mr. Speaker, I yield 30 seconds to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, when it has never been clearer that the United States needs to catch up to the rest of the world dealing with energy efficiency and global warming, even the supporters of this legislation agree with the taglines in the New York Times and the Washington Post, "it is not a disaster", "it could have been worse".

Forget about explaining to our grandchildren; how will the Members of this Congress explain to next Congress' interns about why we settled for the lowest common denominator, continued to finance both sides of the war on terror with our continued dependence on Middle East oil. If we could not get landmark legislation, hopefully this bill will be a tombstone for the energy policy for the last century.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. UPTON).

Mr. UPTON. Mr. Speaker, Ben Franklin certainly would be proud, because as the father of daylight savings time, we are finally implementing his ideas in this legislation.

I want to thank the many Republicans and Democrats that are supporting this legislation in both bodies. And, of course, on daylight savings time today, it starts the first Sunday in April, it goes through the last Sunday in October.

We learned, my coauthor, the gentleman from Massachusetts (Mr. MARKEY), and myself learned that there was a U.S. Government study done back when maybe I was in junior high school that we said that we would save 100,000 barrels of oil a day for every day that we extended daylight savings time. That was when we had 50 million fewer Americans.

Well, guess what we do in this bill? Beginning in 2007, we will change daylight savings time. It will start now the second Sunday in March, it will go through Halloween, through the first Sunday in November.

We know that traffic fatalities will decrease. We know that crime rates will decrease. We know that folks will get home with an hour more of sunlight, whether they are coming home from school or whether they are coming home from work. And by having it kick in 2007, we will allow other countries, whether they be Canada, Mexico, perhaps Europe, to establish their timelines the same as ours. We will add a little more sunshine to everybody's day.

Mr. BOUCHER. Mr. Speaker, we reserve the balance of our time.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I want to tell you that I am in opposition to the Energy Policy Act of 2005. In my opinion, the bill does nothing to reduce our dependency on foreign oil. It does not reduce gas prices. It does not make our Nation more secure.

Instead, the bill will increase gas prices for consumers in California, where I come from, by requiring the increased use of ethanol. It threatens our water supply by rolling back the Safe Drinking Water Act, the Clean Water Act, and a trade-off I do not find acceptable at all. It overrides our States rights to oppose drilling offshore by including language requiring an inventory.

Mr. Speaker, I commend my colleagues for choosing not to include MTBE safe harbor provisions in the bill, but that alone does not guarantee that this is a good bill.

The bill is a missed opportunity. I do not support this legislation. And I know we must continue this debate on cleaning up our environment and protecting our consumers.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. Mr. Speaker, this has indeed been a long process. I thank the chairman and I thank the ranking member for providing us with the leadership that has given us this balanced legislative product.

Mr. Speaker, conservation, production, alternative energy sources, and new technologies, hybrid vehicles, fuel cell vehicles are all part of this energy bill that we have before us today.

In my district back in Texas, significant because we have a big solar panel production plant in Keller, Texas, we have a wind turbine plant in Gainesville, Texas, up in Cook Country. And while people know that we have lots of wind and lots of sun in Texas, you may not know that we have garbage in Texas. And in Denton, Texas, my hometown, we have a new biodiesel plant, and the energy for that biodiesel plant is taken entirely from methane from the city dump, truly a balanced way to achieve new sources of energy.

Mr. Speaker, again I thank the chairman for the leadership in bringing this bill for us today, and I urge my colleagues to support it.

Mr. BOUCHER. Mr. Speaker, we reserve the balance of our time.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I am voting against this legislation. It does absolutely nothing to lower the outrageous price of gasoline at the pump. It provides precious little for research and development of renewable energy sources.

What it does do is give huge subsidies to the oil and gas industries that are making record profits. But the main reason I am voting against this dog of a piece of legislation is because it gives major megasubsidies to the nuclear industry so that they can build more nuclear power plants.

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What is the problem with this? When you have nuclear energy it produces a deadly by-product. That deadly by-product is nuclear waste. This Nation has never figured out what to do with the nuclear waste. We cannot safely store it. Our solution is to put it in a hole in the Nevada desert where we have ground water problems, seismic activity, volcanic activity. Why would we be spending billions of dollars of taxpayers' money to produce more nuclear waste that has a radioactive life of 300,000 years?

Before we waste taxpayers' money on nuclear energy, let us figure out how to deal with the nuclear waste. This is a slap in the face and an insult to the people I represent.

Mr. BARTON of Texas. Mr. Speaker, I want to first recommend the gentlewoman of Nevada to look at section 1290 of the bill which is an item that the Senior Centers in Nevada strongly supports.

Mr. Speaker, I yield 1½ minutes to the gentleman from Florida (Mr. STEARNS) for purposes of a colloquy.

Mr. STEARNS. Mr. Speaker, the gentleman from Florida (Mr. BILIRAKIS) and I would like to engage the gentleman from California (Mr. POMBO) in a colloquy.

First of all, we want to thank the gentleman for his willingness to work with the entire Florida delegation to reach an agreement that will allow the States to increase control of their waters.

Included in H.R. 6 is a provision ordering an inventory and analysis of oil and natural gas resources in the Outer Continental Shelf. Many are concerned that this inventory is merely a precursor to drilling off Florida's coast against the wishes of the Governor and our two U.S. Senators and the Florida delegation.

Currently, there is a moratorium against drilling in this area, over here, until 2012, and these areas called the stovepipe and bulge, here and here to 2007. The top of the stovepipe is about 16 miles off the coast of Pensacola, home to a large amount of military operations.

Mr. Speaker, can we have the chairman's assurance that he will continue to work with the Florida delegation to find a solution that encourages and ensures that drilling or exploration will not occur in the areas off the Florida coast against the wishes of the State?

Mr. BILIRAKIS. Mr. Speaker, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from Florida.

Mr. BILIRAKIS. In addition, the chairman has stated in the past that each individual State should have the ability to control its own waters, and the decision to drill or take an inventory should rest with the State legislature and the Governor. Can the gentleman assure us that he will work with us to provide States with that ability?

Mr. POMBO. Mr. Speaker, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from California.

Mr. POMBO. Mr. Speaker, I will continue to work with both of the gentlemen and the entire Florida delegation to resolve all of these problems so that we do what is in the best interest of

Florida the other States and the country. I appreciate all the work that the gentlemen have put into this already.

Mr. STEARNS. Mr. Speaker, I would say the importance of this is it be a long-term solution for the State of Florida instead of having to go to reiteration every 2 years dealing with this moratorium. As you know, we worked almost 3 hours in the night trying to come up with a solution. We have a workable plan that we discussed with the chairman, and we very much appreciate the chairman's support, interest, and help.

Mr. BILIRAKIS. We know the chairman is a man of his word.

Mr. BOUCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GENE GREEN), a valuable member of our Committee on Energy and Commerce.

Mr. GENE GREEN of Texas. Mr. Speaker, I thank our ranking member on our subcommittee for allowing me to speak for 3 minutes.

The comprehensive energy legislation is a positive step towards a stable energy future for America, and I want to thank all the Members who worked so hard in putting this together on such an aggressive schedule. I especially appreciate our ranking member, the gentleman from Michigan (Mr. DINGELL), of our full Committee of Energy and Commerce, and also our Chair of our subcommittee, the gentleman from Virginia (Mr. BOUCHER), for their hard work. I congratulate the gentleman from Texas (Mr. BARTON) on both his fairness in the committee mark-up and also in the floor action that we had. We actually made democracy work. But also I know the hard work as I watched a lot of conference committee on TV in the effort to get this legislation where it is today. I think it is a great achievement.

The folks who are opposing it, their biggest argument is we do not do anything about lowering oil prices. Well, the easiest thing we could do is actually produce more domestically instead of importing it from everywhere, but they are the same folks that are opposing any more domestic production.

This bill does so many good things. Energy infrastructure, the bill addresses the bureaucratic blocks that hamstring the growth of our energy infrastructure, particularly regarding natural gas terminals and pipelines. And I am pleased the conference committee has chosen to follow the blueprint of the Terry-Green LNG legislation we introduced last year that first recognized LNG as an international and interstate commerce and thus subject to ultimate Federal jurisdiction.

We need to open at least 10 to 15 liquefied natural gas terminals in the lower 48 in the next 5 to 10 years in order to stabilize our natural gas prices, both residential and commercial prices, and protect millions of our manufacturing jobs.

The petro-chemical industry is in dire need of stable natural gas feedstock prices as elsewhere along the Gulf Coast. Our community would end up looking like the Rust Belt. This committee report helps that.

Domestic production, I am disappointed, did not go far enough in domestic energy supplies. America's vast offshore energy resources remain largely off-limits even though our coast would not be threatened by development. Contrary to political scare tactics of certain organizations, oil and gas can be safely produced, whether it is Florida, California, or the east coast. We have been doing it off Texas, Louisiana, Mississippi, and Alabama for years. Lower 48 production uses pipelines and not tankers so the Valdez is not even an example they can use.

Mr. Speaker, the other concern I have is the loss of the MTBE issue, but I understand the Senate did not want to take it up. So I guess the folks who want to sue for MTBE can go to the courthouse. MTBE actually lowered our air pollution problems in my community in Houston. It was under the 1990 Clean Air Act. I would just hope businesses and communities would still continue to try to find another substances that would clean up our air.

In conclusion, I am concerned about ensuring that we have adequate traditional energy sources because we have to rely on them for the next few decades. I will support anything we do in research to get alternatives, but we also need to make sure we can keep our lights on for this decade.

The comprehensive energy legislation is a positive step towards a stable energy future for America.

I want to thank all Members who have worked so hard on putting this together on such an aggressive schedule. This is a great achievement.

### I. ENERGY INFRASTRUCTURE

The bill addresses bureaucratic roadblocks that have hamstrung the growth of our energy infrastructure, particularly liquefied natural gas terminals and pipelines.

I am pleased that the conference committee has chosen to follow the blueprint of the Terry-Green LNG legislation we introduced 1 year ago. Our bill was the first to recognize that LNG is international and interstate commerce, and thus subject to ultimate Federal jurisdiction.

We need to open up 10–15 LNG terminals in the lower 48 States in the next 5–10 years in order to stabilize natural gas prices, residential and commercial electric prices, and protect millions of manufacturing jobs. The petrochemical industry is in dire need of stable natural gas feedstock prices, or else the Gulf Coast could end up like the Rust Belt.

This conference report ensures that "not-in-my-backyard" LNG opposition will not drive electric prices through the roof and drive manufacturing jobs overseas to Asia and Europe in search of affordable natural gas.

### II. DOMESTIC PRODUCTION

I am disappointed that the legislation does not go nearly far enough to increase domestic energy supplies.

America's vast offshore energy resources remain largely off-limits, even through our coasts would not be threatened by development.

Contrary to the political scare tactics of certain organizations, oil and gas can be produced safely off of Florida, California, and the East Coast. Beaches and coastal areas in the lower 48 have no need to fear a Valdez-like accident from offshore production.

Lower 48 production uses pipelines, the safest form of transportation in the world, and will not mean more oil tankers.

In many decades of oil and gas production in the Gulf of Mexico, we have not had disasters that ruined any of the beaches or estuaries in Texas, Alabama, or Louisiana. Tourism at Texas beaches like Galveston and South Padre Island is a huge industry and we protect it seriously.

I challenge opponents of offshore production to name one serious oil spill that has harmed a Gulf beach or estuary.

Critics like to say that this bill is projected to do little to reduce gas prices that are squeezing Americans. That may be true in the short run, although if ANWR exploration is approved in the budget that will change. Ironically the real reason there is not enough gas price relief in this bill is the opponents of the bill themselves.

The best thing we can do to stabilize gas prices is produce more oil at home—we cannot wave a magic wand and lower the price of Middle Eastern oil.

### III. MTBE

I am also disappointed that the Senate is unwilling to help clean up MTBE spills from leaking underground storage tanks.

MTBE was developed to eliminate lead in gasoline, and by fulfilling the 1990 Clean Air Act's oxygenate requirement, MTBE has done much to reduce smog in American cities. Unfortunately, oxygenates are problematic when they are stored in leaky tanks.

MTBE producers, many of which are not huge oil companies, never would have made MTBE without the Clean Air Act of 1990.

In a catch–22, they now face multiple lawsuits for complying with federal law. As a result, U.S. industries are likely to be less willing to make environmentally beneficial products at the direction from Congress in the future.

This bill is a great first step and I support its final passage. However, America's energy policy is not complete and it will require more work for future Congresses.

### IV. CONCLUSION

I am most concerned with ensuring we have adequate traditional energy resources, because we will have to rely on them for the next several decades. An abundant, clean energy future is possible, but it is still many, many years away.

But I want to note that this bill is balanced: it has important energy efficiency, energy conservation, and renewable energy incentives and requirements. We will have more solar, wind, biomass, geothermal, hydro, clean coal energy as a result of this legislation.

I urge a "yes" vote on the conference report.

Mr. MARKEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, it is truly sad that a Nation that produced the Apollo Moon Project today will produce something with the success of the Hindenberg.

The only thing that can be guaranteed about this bill is that it will fail. It is guaranteed that it will fail to reduce our dependence on Saudi Arabian oil.

According to the Department of Energy, our dependence will rise under this bill from 58 percent to 68 percent failure. It is guaranteed to fail to deal with global warming, and the reason is you took the money that should have gone to emerging high-tech industries that need the help, the Davids, and you gave 64 percent to the Goliaths of the oil and gas industry. Guaranteed failure.

It is guaranteed to fail, to send our jobs to Japan because you took out of the bill the provision that would bring these new fuel-efficient cars to be manufactured in America where they should be. Guaranteed failure.

The only success that this bill will have is an energetic fleecing of American taxpayers. And if you can find a reason that you can take money from your taxpayers and give to the most profitable business in America at $60 a barrel oil, good luck. I cannot explain it. I do not think you will be able to either.

Vote against this bill.

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would advise Members that the gentleman from Texas (Mr. BARTON) has 5½ minutes remaining. The gentleman from Virginia (Mr. BOUCHER) has 6 minutes remaining. The gentleman from Massachusetts (Mr. MARKEY) has 12 minutes remaining.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. GILLMOR), one of the distinguished subcommittee chairmen of the Committee on Energy and Commerce.

Mr. GILLMOR. Mr. Speaker, I thank the gentleman for yielding me time.

I am very pleased to rise in support of this bill, and I want to commend the gentleman from Texas (Mr. BARTON) for the outstanding job he did as chairman of the conference committee. It was about the most fair and open process that I have seen, and I think it has contributed to the success of this report.

We are long overdue for a good national energy policy. We need to increase fuel supply. We need to encourage conservation. We need to encourage the use of renewable fuels, and we need to increase the reliability of our electrical grid. This bill does all of that and much more.

Mr. Speaker, I rise in support of the conference report to H.R. 6 and urge all my colleagues to do the same. In addition, I want to commend Chairman BARTON and Energy Subcommittee Chair HALL for their dedication and hard work in making this bill a reality.

A good national energy policy needs to address the issue from many aspects. It should, I think, deal with increased supply, with conservation, and with increased use of renewable fuels. It should also deal with improvements in the delivery systems for energy, including the reliability of our electrical grid. This bill makes significant improvement in all of the areas, plus more.

This bill is not perfect, but it steps our country in the right direction. Certainly, anyone of us could have written an energy bill that we liked, but getting it to the President's desk is another story. The worst type of legislation, in my opinion, is the kind you cannot get a majority to support.

Like it or not, an energy has to be about understanding our past legacy, solidifying our present reality, and preparing for our future destiny. I believe this conference report achieves those three goals. Plenty will be said today about the many provisions contained in this conference report, I would only like to take a brief moment to address two of them that directly impact our nation's past, present, and future energy history: leaking underground storage tanks and state energy production tax credits.

Regarding LUST, or the Leaking Underground Storage Tank program, I am pleased that H.R. 6 contains language to help states more aggressively tackle the problems of leaking fuel in their groundwater. Currently, the Federal government has collected gasoline taxes of over $2 billion to provide cleanup. In reality, however, not much more than the interest on yearly receipts is actually used. We must reverse this trend.

H.R. 6 contains many new requirements that I believe will make our underground tank programs more effective and efficient and our environment safer and healthier. Specifically, this conference report requires at least 80 percent of all dollars appropriated from the LUST Trust Fund to be sent to the States for operation leaking underground tank programs. It provides increases in State funding from the LUST Trust Fund for States containing a larger number of tanks or whose leaking tanks present a greater threat to groundwater. H.R. 6 also requires onsite inspections of underground storage tanks every three (3) years after a brief period for the state to update its backlog. In addition, the conference report establishes operator-training programs, where they do not already exist, institutes a specific new funding category to cleanup tank-related releases of oxygenated fuel additives in gasoline, like MTBE, prohibits Federal facilities from exempting themselves from complying with all Federal, State, and local underground tank laws, and asks States to submit an annual inventory to the U.S. EPA detailing the number of regulated tanks in its state and which of those tanks are leaking. Finally, and most importantly, this legislation allows states to stop deliveries of fuel to non-compliant regulated tanks in order to achieve legal enforcement.

These are all strong improvements that not only meet with the spirit, if not the letter of recommended by the General Accounting Office, but most of these same provisions have previously passed the House. I urge their support.

Another item I feel worthy of my colleagues' support is a measure protecting our states' abilities to enact laws providing incentives for energy production. When we are trying to encourage energy production, we should not pit good environmental protection against the retention of good jobs. My state has opted for tough, expensive, new equipment standards on its coal-fired electricity plants and has coupled that with the encouragement of good paying coal jobs. This effort though is in jeopardy because the law is murky enough to make it subject to accusations of Commerce Clause violations. Removing this cloud of uncertainty will further contribute to our nation's energy security, environmental protection, and growing economy.

H.R. 6 contains a section that mirrors legislation that I introduced clarifying that a state may provide a tax credit for in-state electricity production from coal technologies.

Such a credit is considered to be a reasonable regulation of commerce in accordance with the Commerce Clause of the U.S. Constitution, further encouraging states to move forward and take advantage of their respective resources spurring new and cleaner energy production.

I am happy we were able to provide greater protection for the Great Lakes.

Mr. BOUCHER. Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, to Americans who are paying record prices for gasoline, do not look for any relief in this legislation. You would think when you pay record high prices for gasoline because of supply and demand that those who are receiving such high prices ought to have enough money to reinvest it to develop more energy.

Well, what are we doing here? We are asking the taxpayers to give more money to the oil, gas, coal, and nuclear industries in order to produce more energy domestically. For those who think that maybe at a time when we are dealing with a supply and demand problem that we also ought to reduce the demand, there is almost nothing in this legislation.

In fact, the other body, that means the Senate, had a provision that would have called on the President to come up with some ideas to reduce the demand for energy and the waste of energy and waste of oil particularly, just the President to come up with some ideas. Well, that was forced out of the bill.

We have nothing to make automobiles more fuel efficient, nothing to reduce the demand. For those who think perhaps we ought to look for alternative renewable fuels, well, the Senate had a provision on that issue. It was not a very strong one. That was struck from the bill.

The Republican Party has always had a tension between those who believe in fiscal responsibility and reducing government spending and those who want to reward their friends. This bill reflects the Republican Party, and many Democrats', support for their goal to reward their friends in big business.

Then the worst part of this bill, at a time when we are fighting in the Middle East, when we are asking our young men and women to risk their lives in part to protect our security from those who have been financed by oil imports into the United States and around the world, we are going to become even more dependent on importing more foreign oil.

This legislation is more than just a lost opportunity; it is a bill that I do not think is worthy of our support.

Now, the bill is not as bad as it could have been, but it is not nearly as good as it should be. The American people deserve much better. They deserve a visionary, bold energy policy that truly makes our country energy independent. And the bill is also a strike at environmental protection.

There was nothing more pathetic than the colloquy a few minutes ago with some of my colleagues from Florida who were worried about the beginning of drilling off the shore of Florida as we in California have worried about that as well. And they asked the chairman of the full committee for assurances that he will continue to work with them if the State does not want to allow the offshore oil drilling off the coast of Florida as we do not want it done in California. And they were assured that, of course, they would continue to be worked with.

Well, those same gentleman offered amendments, and I supported them, to say that we should not start down that road to drilling off the coast. And then they offered an amendment, which I supported, to say, if the State does not want drilling off the Continental Shelf, off that coast, to let the State opt out. That was defeated.

Now what we have in that colloquy is we will have people continue to work with us.

Well, we have taken the step towards letting the oil companies drill off the coast of our Nation. We have taken the step to open up more national lands that we wanted to protect to be developed by the oil companies. In another bill we will open up Alaska lands to further drilling.

We cannot drill ourselves out of our energy problems. We are not going to drill ourselves out of the global climate problems. We have got to get a better energy bill than the one before us. I urge Members to vote against it.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. POMBO), the distinguished chairman of the Committee on Resources.

Mr. POMBO. Mr. Speaker, I thank the gentleman for yielding me time.

While I want to start off by congratulating the gentleman from Texas (Chairman BARTON) and the gentleman from Michigan (Mr. DINGELL) and the great work that went into putting this bill together, I would say this is a good bill. It is not a great bill. I think we started with a great bill in the House, but in the spirit of compromise in working with the other body, we were able to come up with a good bill that is finally going to be able to pass.

There is a lot that we need to do to have energy independence in this country and to lessen our dependence on foreign energy sources. A lot of that we did not include in this bill. Unfortunately, ANWR is not in this bill. It increased domestic production. We do not go as far as we should have in being able to streamline the process to bring in more alternative energy and renewable energy. A lot of that we were not able to get in. But it is a good first step. It is a way to move forward.

There are a lot of things that we were able to get into this bill that over a period of time will increase domestic production. It is a great start. It is a great way for us to begin to lessen our dependence on foreign oil.

One of the things that is frustrating with all of the process is that a lot of my colleagues voted against every single increase, anything that had to do with increasing energy independence in this country. We need to continue to work on this.

Again, I congratulate the chairman because I do believe this is a good bill.

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Mr. BOUCHER. Mr. Speaker, I continue to reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. EMANUEL).

Mr. EMANUEL. Mr. Speaker, as we consider this energy bill, here are a few numbers we might want to keep in mind: $7.4 billion. That was Exxon Mobil's income in the second quarter, an increase of 32 percent. Net profit at Shell rose 35 percent, going from $4 billion to $5.5 billion. BP's second-quarter profits soared by 29 percent, revenues were $5 billion. ConocoPhillips' earnings up 33 percent.

One more number: $14.5 billion. That is the total amount of taxpayer handouts to oil and gas companies in this bill, the same companies reporting very good profit margins. With oil at $60 a barrel, not $14, not $28, not $32, we are paying oil companies to execute their business plans. So American taxpayers, American consumers are being asked to pay twice, once at the pump and then again on April 15.

The sad truth is that this conference report is a lost opportunity. There are some very, very good provisions in the bill, but instead we have missed an opportunity to present a comprehensive energy policy and filled it instead with gifts to Big Oil. We could have accomplished things on conservation, we could have accomplished things on renewable sources, but we chose to give $14 billion of taxpayer money away to companies to do their business plans. I urge a "no" vote.

Mr. BARTON of Texas. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Michigan (Mr. CAMP), a member of the Committee on Ways and Means.

Mr. CAMP. Mr. Speaker, I thank the gentleman from Texas (Mr. BARTON), chairman of the Committee on Energy and Commerce, for yielding me this time, and also the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), both of these gentlemen, for their leadership on the Energy Policy Act.

As a conferee to the tax title on H.R. 6, this bill delivers a huge win for Michigan soybean growers by securing an extension of the Federal Biodiesel Tax Incentive through 2010, a program that many farmers in my district depend on. Biodiesel makes sense on every level, our environment, national security, reducing dependence on foreign oil, and it is certainly better for farmers in Michigan. The tax incentive is expected to increase demand for biodiesel, most often made from soybeans. And soybeans are Michigan's fourth largest commodity in terms of farm income, and by far the largest crop grown in mid-Michigan.

I am also pleased that the conference report includes legislation I have been working on that provides consumers with a tax credit for the purchase of hybrid advanced technology, lean-burn diesel, and alternative-fuel vehicles. This incentive will help reduce the amount consumers pay at the pump, lessen our dependence on traditional fossil fuels, and achieve cleaner air.

This bill reflects a balance between oil and gas production and efficiency and conservation. I urge my colleagues to vote for this important legislation.

Mr. BOUCHER. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me thank the gentleman from Virginia (Mr. BOUCHER) for yielding me this time and for his leadership, as well as the gentleman from Texas (Mr. HALL) of the subcommittee, but let me particularly offer appreciation to the chairman of the full committee and the ranking member of the full committee for the hard work and dedication that they have offered, and also the spirit of the conference, which was open and allowed the full debate on what has been an enormously difficult challenge.

This Congress has been swimming the difficult tides of negotiations in an effort to pass a comprehensive energy bill for a very long time, and I believe today that we have that comprehensive legislation. Always when we say comprehensive, we think perfect. It is not perfect. It is not the perfect storm. But it does give us a roadmap that we can follow.

I happen to agree with the elimination of the ANWR provision and the elimination of the MTBE liability provision, but I do think there are enormous strides we have made in renewables. And I want to thank again the gentleman from New York (Mr. BOEHLERT) and the gentleman from Tennessee (Mr. GORDON) of the Committee on Science, of which I am a member. We did work on renewables. I am delighted that amendments that we had, and I offered, are in this legislation regarding biomass for minority farmers and ranchers and the utilization of fuel cells that will help the research on how we can be more energy-efficient.

I am delighted to note that we will be working further on a 2-year study back to Congress for those areas offshore, Texas and Louisiana, where environmentally safe development is going on. Domestic development will now get a 2-year report from the Interior Department, which will give us a roadmap on how we can work.

Mr. Speaker, this legislation also contains building standards to ensure that more of our buildings are environmentally safe or energy-efficient. So we have to have conservation as well as domestic development. As I indicated, we have some challenges in this legislation, but I do believe we have an effective roadmap.

We also have some aspirations, and I look forward to working on developing a program to add geologists that can help us find good, safe energy resources, and I would hope my colleagues would vote "aye" for this very good roadmap for America.

Mr. Speaker, let me first say thank you to Energy and Commerce Chairman Mr. BARTON, and Ranking Minority Member Mr. DINGELL for there hard and dedicated work on this important conference report. For several Congresses now, we have been swimming the difficult tides of negations in an effort to pass a comprehensive energy bill that would be beneficial to all Americans. I would like to thank as well Mr. BOUCHER, Mr. RALPH HALL, Mr. BOEHLERT, and Mr. BART GORDON.

While this report may not be perfect, it at least provides for no drilling and development of the Arctic National Wildlife Refuge, ANWR. In addition, the report has no MTBE liability clause. Despite this fact, I think it is important to work towards providing some protection for the States, and I look forward to working with Mr. BARTON and Mr. DINGELL in this effort. Further, under the report, there are no EPA restrictions with respect to the Clean Air Act. In addition, EPA can still regulate diesel fuel and certain Enron contracts will now be governed by FERC.

Let me also note that I was able to obtain the following provisions in the report:

### BIOENEREGY LANGUAGE

There are authorized to be appropriated to the Secretary for integrated bioenergy research and development programs, projects, and activities $49,000,000 for each of the fiscal years 05–09. This funding shall be used for the training and education targeted to minority and social disadvantaged farmers and ranchers.

### OIL AND GAS 2 YEAR STUDY

Under this provision, two years after the date of the enactment of this Act, and at two-year intervals thereafter, the Secretary of the Interior, in consultation with the heads of other appropriate Federal agencies, shall transmit to Congress a report assessing the contents of natural gas and oil deposits at existing drilling sites off the coasts of Texas and Louisiana.

### BUILDING STANDARDS

This section calls for an assessment whether high performance buildings are employing voluntary consensus standards and rating systems that are consistent current state of the art technology and research and development findings. High performance buildings have been defined as those that effectively integrate energy efficiency, durability, life-cycle performance, and occupant productivity. This study shall be agreed upon, in conjunction with the National Institute of Building Sciences, no later than 120 days after the enactment of the act. The results of this study will provide the groundwork for future research, if deemed necessary and useful, as well as recommendations on new performance standards. This standard is important because it focuses building-related standards directly and the building industry indirectly on the concept of whole buildings or high performance buildings. The goal is to take the knowledge we have accumulated through years of Federal research and development and make sure that it is reflected in a comprehensive set of standards that represent best practices and current knowledge. For instance, if we are building low income housing, we hope the builder would take into consideration safety of the inhabitants and how construction decisions will affect the tenants' monthly costs. If for a little higher construction cost, it is possible to cut monthly energy bills in half, then we have a winner.

### SECONDARY ELECTRIC VEHICLE BATTERY USE PROGRAM

The act establishes a research, development, and demonstration program for the feasibility of using batteries in secondary applications, including utility and commercial power storage and power quality. The study will evaluate the performance, life cycle costs, and supporting infrastructure necessary to implement this technology. This is a good provision environmentally. If hybrids and other electric vehicles take off we are going to have a problem of what to do with all the batteries. This provision funded a series of research projects to look for uses for these batteries which are likely to outlast the vehicles, in utility applications and elsewhere.

In closing let me note that I also sought to include a provision that was not included in the report. This provision would have required the Secretary of Energy to establish a program to encourage minority students to study the earth sciences and enter the field of geology in order to qualify for employment in the oil and gas and mineral industries. While this provision did not make the cut, I am dedicated to including this provision in an appropriate piece of legislation by the end of the fall session.

Mr. MARKEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this bill is socialism at its worst. The headline makers of capitalism: Exxon Mobil, Chevron, and Texaco are reporting the biggest profits in the history of any industry in the history of the United States and bragging about it on the front pages of the newspapers of our country. They are bragging about it.

Right now, Adam Smith is spinning in his grave so fast that he would qualify for a subsidy in this bill as an energy source. That is how bad this bill is.

This bill so fundamentally violates all principles of capitalism that Exxon-Mobil, that Chevron-Texaco would come to the American people's Social Security System, put up an oil rig, and start drilling into the savings of American taxpayers, because that is who will subsidize all of these giveaways.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume to note that although we love the gentleman from Massachusetts (Mr. MARKEY) and his visuals, it is like the "I Love Lucy" reruns. We have seen them before.

Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING), the vice chairman of the committee.

Mr. PICKERING. Mr. Speaker, I rise today in support of this legislation. It is a good step forward to increase our energy supplies, diversify our energy supplies, provide cleaner air, help our farmers, and strengthen our economy.

I first want to commend the chairman of the committee, the gentleman from Texas (Mr. BARTON), who has done a tremendous job of leading us to a great accomplishment, along with the ranking member, the gentleman from Michigan (Mr. DINGELL). It is an honor to serve on the committee where we have had an open process, a bipartisan process, to reach an agreement to move our country forward.

It is a bill that will give us clean coal, nuclear, new technologies for the future, fuel cell, hybrid, as well as increasing the production of our traditional fuels. It is a well-balanced bill, it is a well-crafted bill, and I am proud to support it and urge all the Members to support.

And to my friend, the gentleman from Massachusetts (Mr. MARKEY), he has been a happy warrior. It is good to know that in that bastion of capitalism, Boston, that we do have a proponent for Adam Smith.

Mr. Speaker, my very strong support of this bill.

Mr. BOUCHER. Mr. Speaker, I too reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, this is a troubling moment. If we were in the military, I think that we might be charged with dereliction of duty. The most important security issue that this Nation has to deal with is the issue of energy, doing things to decrease our dependence on foreign energy, particularly foreign oil. We are now importing about 60 percent of the oil that we use on a daily, monthly, and annual basis. This bill does little to deal with that problem.

Instead, what it does do is it gifts the oil industry with enormous amounts of tax concessions and tax breaks. The oil industry, of course, is now suffering from a very serious problem: They have more cash on hand than they know what to do with. They do not know what to do with all the money coming in from these high gasoline prices, high heating prices, and yet now we are going to dump a whole bunch more money on them.

We should be doing something that looks forward. If this bill were before the Congress in 1955, some people might say it was a forward-looking bill. But in 2005, it does nothing but look backward and does nothing to help our energy dependence and overall energy situation. I hope we defeat it.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume to make a request of the gentleman from Massachusetts (Mr. MARKEY). Could the gentleman yield me 1 minute of his time, if possible; or do you have your speakers all utilized?

Mr. MARKEY. Well, I have three more speakers. Could the Chair tell me how much time is left on both sides?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. BARTON) has 1½ minutes remaining, the gentleman from Virginia (Mr. BOUCHER) has 4 minutes remaining, and the gentleman from Massachusetts (Mr. MARKEY) has 5 minutes remaining.

Mr. MARKEY. Mr. Speaker, the proponents of the bill still have more time left than the opponents of the bill, and the time was divided 40 minutes to 20 minutes. So what we have been trying to do, honestly, is just to harness our smaller number of minutes.

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that the time I control, which I believe is 1½ minutes, have an additional 1 minute added to that.

The SPEAKER pro tempore. One minute to each side?

Mr. BARTON of Texas. Well, no. I need 1 more minute from somewhere, Mr. Speaker. So if we cannot get it from the other side, I just ask unanimous consent to add 1 minute to the time I control.

The SPEAKER pro tempore. Without objection, the gentleman from Texas has 1 additional minute.

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from Alabama (Mr. BONNER).

Mr. BONNER. Mr. Speaker, knowing that time is precious and that our colleagues from Florida have already engaged the gentleman from California, I would like to raise this question in a colloquy.

Mr. Speaker, as these discussions continue toward a plan that could affect future oil and gas leasing in the Gulf of Mexico, can the gentleman assure the delegations from all the States that border the Gulf of Mexico that any proposed plan would equitably and fairly consider the interests of those States?

Mr. POMBO. Mr. Speaker, will the gentleman yield?

Mr. BONNER. I yield to the gentleman from California.

Mr. POMBO. Mr. Speaker, I pledge to the gentleman that as we move forward with a long-term solution, that the interests of all the States bordering the Gulf will be protected, and the gentleman will be part of those discussions.

Mr. BONNER. Reclaiming my time, Mr. Speaker, one final question. Can the gentleman also ensure that the Governors and appropriate officials from those States will be included in those discussions?

Mr. POMBO. If the gentleman will continue to yield, the answer is yes.

Mr. BONNER. Mr. Speaker, I thank the gentleman.

Mr. BOUCHER. Mr. Speaker, I continue to reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield 30 seconds to the gentlewoman from Tennessee (Mrs. BLACKBURN), a member of the committee.

Mrs. BLACKBURN. Mr. Speaker, I want to thank our committee chairman for the excellent work. In my district in Tennessee, our farmers are pleased that we are bringing this conference report to the floor. They understand affordable fuels, and they are looking forward to working alternative fuels. Our small business community is excited about available energy.

Most importantly, Mr. Speaker, I think this sends a message that America, this Nation, this Congress, is serious about a comprehensive plan and is ready and willing to address the future needs of this Nation's energy supply.

□ 1230

Mr. MARKEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, in this bill there are so many preposterous provisions, it is impossible to list them all. But amongst them is a provision which after 35 years strips Governors and mayors of an ability to block an LNG, a liquefied natural gas facility, from being built in the middle of a densely populated area. This photograph shows Boston. This is my district. This is where one of the facilities has already been built, but it was built with permission.

Now post-9/11 with terrorists targeting sites with the highest potential harm to Americans, this bill blocks Governors, police, and fire departments from blocking facilities from going into densely populated areas. But the bill also allows the Pentagon, Secretary Rumsfeld, to protect against one of these being built next to a military facility. Imagine that, the Republicans will protect the Pentagon but not civilians in densely populated areas from an LNG catastrophe which could maim or kill tens of thousands of people.

Mr. BOUCHER. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Massachusetts (Mr. MARKEY) has 4 minutes remaining.

Mr. MARKEY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this bill is packed with royalty relief for big oil and gas companies, tax breaks for big oil and gas companies, loan guarantees for the wealthiest energy companies in America, even as they are reporting the largest quarterly profits of any corporations in the history of the United States.

It is politically and morally wrong for the United States Congress to come to this floor to pass legislation which will take money from the American taxpayers to hand over to the corporations who are now charging $2.30, $2.40, $2.60 at the pump to American consumers and reporting the largest profits in history. If they need to do new research, they have the money in their own pockets. That is capitalism. If they want to do new drilling out in ultradeep areas of the oceans, they have the profits to do that.

The American taxpayer should not be funding that drilling because, as American consumers, they are already paying for that drilling. The oil companies are saying publicly that they are making so much money they do not know what to do with all of the profits. But even as they say that publicly, they are coming here to the House floor, they are saying to the Members, we want to erect huge oil drills on top of the Social Security trust fund and drill $80 billion of subsidies out of American taxpayers' pockets and hand it over to the oil, the gas, the coal, the nuclear industries that are reporting the largest profits in history.

It is a moral and political failure because it is what is not in this bill that is the important energy agenda for our country. Our country puts 70 percent of all of the oil that we consume in gasoline tanks. We only have 3 percent of the oil reserves in the world. OPEC has 70 percent. That is our weakness. Our strength is that we are the technological giant of the world.

There is nothing in this bill about improving the fuel economy standards for SUVs and automobiles. There is nothing in this bill that will mandate that electric utilities increase their use of renewable energy so we can break our dependence upon these sources of energy that weaken our foreign policy by getting us deeper into the Middle East, emitting more pollutants which cause more asthma, more breast cancer, more prostate cancer as the environment alters genes to increase disease in our society. None of that is addressed in this bill in 2005.

If we could roll back the clock to 1905, this would be a very good bill. It would be about oil, gas and coal. It is 2005, however. We should be talking about the new agenda, the new technology agenda for our country. This bill is a political and a moral and a technological failure.

In addition to draining revenues out of the taxpayers' pockets to subsidize the wealthiest industries, we ignore the technologies which could break our dependence on imported oil and could send a signal to OPEC which would drive down the price of oil which would help our country's national security. I urge a "no" vote on this historic failure.

Mr. BOUCHER. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan (Mr. DINGELL), the distinguished ranking member on the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I rise in support of the conference report. I begin by commending my colleagues, all of them, for the work they did. I want to pay particular tribute to the staff which worked long and hard and did a superb job, and that is the staff on both sides of the aisle and at both ends of this building: Senate, House, Republicans and Democrats. I want to pay particular tribute to my friends who served as conferees, all of them, whether they signed the conference report or not.

I want to pay particular tribute to the gentleman from Texas (Chairman BARTON) for his outstanding leadership and for the fair and decent way in which he conducted the business of the conference. And I want to pay tribute to Senators DOMENICI and BINGAMAN who did such an outstanding job in making it possible for us to have the kind of negotiations which brought us here.

I would observe that the gentleman from Texas (Mr. BARTON) ran the conference the way it used to be run, in an open, decent, and fair fashion; and I express to him my thanks for the way in which he conducted himself and the honorable and fine way in which he conducted the business of the conference in the House.

My colleagues will remember I voted against the measure in April. It was my view at that time that it hurt consumers, taxpayers, and the environment. Consumer protections in electricity and natural gas markets now, however, will be strengthened, and taxpayers will no longer be on the hook for MTBE cleanups, and the environmental risk has been reduced. Environmental laws have been protected, and it is a much better piece of legislation.

I repeat, the conference was kept as open as it could be because of the leadership of my friend and colleague, the chairman of the committee. Again, I repeat thanks for the outstanding work of the conferees and the staff.

What does this bill do? First of all, it is a much more balanced and collective piece of legislation than that before. It may even be better than either the Senate or the House bill in almost all of the particulars. It begins to set forth a comprehensive and balanced approach to the development and the use of energy resources. And rather than important industries being encumbered with costly mandates, carrying unfortunate economic effects, it lets things work in the way that will achieve the purposes of this Congress.

It is major progress in establishing reliability of the electric grid, incremental progress in efficiency standards on developing renewable energy sources, and potentially very significant progress for clean coal technologies and significant progress for energy research and development programs, including research in very deep water, something about which there has been some unjustified criticism raised lately.

Some of my colleagues will be calling this a missed opportunity. My autoworker constituents will be glad that we missed an opportunity to impose harsh fuel efficiency requirements on home-grown auto manufacturers. They already make many models that are very fuel efficient that American consumers can buy right now.

Others of my colleagues will cite subsidies for traditional energy industries, and sometimes on this matter they are right. I tried, but failed, to reduce many of these. But we need to encourage development of multiple domestic sources of energy, and many of the subsidies in this bill will help us develop those sources; and I would remind my colleagues that Congress has not infrequently, indeed, many times in our history, provided economic incentives for the economic development of this country. We are a richer, better, stronger, and happier country for that reason.

Are we overpaying some particulars? Probably. Would this be the bill I would have drawn had I begun with it? No. It is not a perfect bill, but it is a solid and a good beginning to developing an energy strategy for the 21st century. It is the best that can be constructed at this time. It has been done by honorable leadership of our chairman and members of the conference who worked so hard. I urge my colleagues to support this legislation.

Mr. BARTON of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I call the body's attention to the quote above the podium from Daniel Webster that starts off: "Let us develop the resources of our land." That is what this bill is all about.

I do not recognize the bill that my friend from Massachusetts just talked about. I think America is a land of hope and opportunity. We are a land of can-do and optimism. America is not a land of fear. It is not a land where we want the government to tell us what to do and how to make choices.

Our country is built on the premise that men and women, given the proper information, can make intelligent choices about what is best for them. This bill before us is based on that principle. We have strong environmental protection. We have strong protections against those that misuse the authorities, but this bill is based on the premise that we believe in private free market capitalism to develop the resources of this land in a cost-efficient fashion which benefits all of America. All of America.

And there are numerous provisions in this bill to give incentives to renewable and clean energy resources. There are numerous provisions in this bill to increase the efficient use of those resources. But, yes, there are provisions in this bill that say it is okay to use clean coal; it is okay to build a new nuclear power plant in this country if we do it in the proper way with the proper permits and the proper inspections. And, yes, it is okay to build new LNG facilities to bring more natural gas into our great Nation if we need it and if it is done with the proper consultation with State, local, and Federal agencies.

This is a very, very good bill. It is for America's future. Please vote "yes" for this bipartisan, bicameral, for-America bill.

Mr. HASTERT. Mr. Speaker, today I rise in strong support of the Domenici-Barton Energy Policy Act.

I want to congratulate the House Conferees and thank them all for their hard work. I would like to especially recognize the efforts of the Chairman of the Conference, Mr. BARTON and the Dean of the House, Mr. DINGELL.

Working together with their Senate counterparts, the House Conferees did what many said was impossible: complete the most comprehensive energy legislation in a generation in less than one month.

Mr. Speaker, completing this job was important for our Nation. Americans have waited too long for this legislation to get finished. Americans need this legislation to lower their energy costs, to drive economic growth and job creation and to promote greater energy independence.

Mr. Speaker, this bill is important to the Nation for a number of reasons.

First, this bill addresses the burden that higher gasoline prices place on American consumers by reducing our dependency on foreign oil.

This legislation encourages domestic production of oil by streamlining the permit process for new wells. It also promotes greater refining capacity so more gasoline will be on the market; and it increases gasoline supply by putting an end to the proliferation of boutique fuels.

In addition, this bill helps us reduce our dependence on foreign oil by unleashing the power of the American farmer.

This legislation includes a historic Renewable Fuel Standard, which will result in the doubling of the use of clean-burning and renewable ethanol. The production and use of 7.5 billion gallons of ethanol by 2012 will displace over 2 billion barrels of crude oil. America has a strategic reserve of motor fuels in the cornfields of Illinois, the fields of rice in California, and the cane fields of Florida and its time we tap it.

This legislation also helps alleviate the hidden tax on American consumers, farmers, small businesses and manufacturers that comes in the form of higher natural gas prices. Increased natural gas prices have had an adverse impact on the American economy for too long. Several provisions in H.R. 6, including the streamlining of the LNG infrastructure permitting process and the inventory of America's off-shore resources, are significant steps toward ensuring that our Nation has an adequate and affordable supply of natural gas.

Additionally, this bill provides incentives for the development of clean energy technologies. Included in this legislation are tax credits and funds for the promotion and development of clean coal technologies. There are important incentives for the construction of new nuclear power plants, including the President's proposal for risk insurance to protect against the difficult and lengthy regulatory process of building a nuclear plant. And, this bill continues our Nation's commitment to producing electricity through the use of solar, geothermal and wind power.

Another important component of this legislation enhances our electricity transmission infrastructure so it can meet the needs of our growing economy and help reduce the potential for future blackouts. This bill requires the adoption of strict transmission reliability standards and provides incentives for building additional transmission capacity. This bill also includes measures to update our Nation's electricity laws which will attract much-needed capital to this vital sector of our economy.

However, this bill is not just about the creation of energy, it also contains several important provisions which will help conserve energy as well. This bill establishes new mandatory efficiency standards for federal buildings. And, it sets new standards and requires product labeling for battery chargers, commercial refrigerators, freezers and other household products.

Mr. Speaker, I could go on and on about all the positive and important elements in this legislation. But I believe it's enough to say that we should support this bill and send it to the President because it's the right thing for the American people. They should expect to have an affordable, reliable, efficient, and environmentally sound supply of energy and this bill assures that they will.

Again, let me congratulate Mr. BARTON and all the House Conferees and urge my colleagues to support this historic legislation.

Mr. HOLT. Mr. Speaker, I rise in opposition to the energy legislation that we are debating on the House floor today. As an energy scientist who spent nearly a decade working at one of the Nation's premiere alternative energy research labs I understand the complex and challenging nature of moving toward sustainable energy sources. Having served in this body for more than 6 years, I understand the difficulties in balancing competing interests to obtain a policy that benefits the Nation. Unfortunately, this bill does not strike a balance that provides a productive and clear vision that will lead this Nation towards energy independence.

The Energy Policy Act does not provide any solutions to reaching energy independence or reducing our destruction of the world the next generation will inherit. This legislation provides subsidies to industries that produce environmentally damaging and finite energy sources instead of investing in research that would allow our children to be the first generation to realize a nation that is powered largely by renewable energy sources. It is a bill that is designed to meet the needs of special interests instead of demanding higher standards for corporate America.

Instead of investing in cleaner, long term solutions, this bill brushes aside our Nation's future energy needs in order to provide billions of taxpayer dollars to the oil, gas and other traditional energy industries to promote short-term, polluting energy sources. These tax incentives should not be going to industries that are thriving, but should be used to invest in our future by increasing research funding for alternative energy sources such as wind energy, fuel cells and fusion.

The domination of special interests means much more than wealthy industries receiving tax breaks that will make them even richer. It means that more of our children will suffer from asthma because we did not demand stricter regulations on polluters. It means that children across this Nation will drink contaminated water because we chose to insulate an industry from being held accountable for their negligent actions. It means that our children will not have the opportunity to take their children to view the natural treasures that inspired them in their youth because we needed to open up these lands to allow oil and gas companies to expand their operations.

We will never drill our way to independence domestically, yet we have an energy bill that is stuck in the past that yet again seeks to drill a little deeper, in more places. This legislation includes a permanent authorization of an oil and gas leasing program in the National Petroleum Reserve—Alaska without preserving any key wilderness and cultural areas in this 23 million acre region. Further, this bill authorizes an inventory of the oil and gas resources underneath the Outer Continental Shelf, OCS—a first step towards reversing the two decade moratorium that prohibits oil and gas drilling on the Outer Continental Shelf.

This bill also fails to protect American consumers. I am frustrated that an amendment I offered with Representative NANCY JOHNSON to ensure that consumers receive accurate information regarding the fuel efficiency of automobiles was gutted because it was characterized as an attempt to change CAFÉ standards. This is a consumer protection issue and not an attack on the automobile industry that vigorously opposed our legislation. Americans do care how efficient their car is, and it is a failure of our government that we cannot provide consumers that walk into a showroom to pick out a new car with a sticker in the window that reflects accurate information on the car's city and highway gas mileage.

Before I conclude my remarks I would like to recognize that there are some good points in this bill. For example, the bill provides continuing support for the highly successful Energy Star program at the Environmental Protection Agency and the Department of Energy, which promotes energy efficiency in buildings and products. The bill also authorizes annual 10 percent increases in research on energy efficiency and renewable energy. Additionally, it includes a few creative ways to reduce the consumption of energy, such as Representative MARKEY's provision to extend daylight savings time by one month.

We need a responsible and sustainable approach to addressing our Nation's energy needs. On behalf of the residents of the 12th District, I pledge to continue to work toward the development of a balanced, comprehensive energy plan—one that finds environmentally friendly, sustainable ways to decrease our dependence on foreign oil and slow the degradation of our planet.

Mr. SHAW. Mr. Speaker, I rise today to express my concerns about the conference report to the Energy Policy Act of 2005. I believe that the passage of the conference report for H.R. 6 is a momentous event. This conference report is a culmination of many years of hard work and negotiating on both sides of the aisle and in both Chambers of Congress. Our country is finally adopting a national energy policy, an action that is long, long overdue.

The conference report for H.R. 6 includes numerous important measures to promote the use of clean and renewable fuels and emerging energy technologies, improves the delivery and reliability of electricity transmission, requires energy conservation and mandates efficiency standards.

With all of these great provisions in H.R. 6, I am disappointed that the conference report includes a provision to conduct an inventory of all oil and gas resources beneath all waters of the Outer Continental Shelf. I have constantly fought to protect Florida's coast from offshore oil drilling. I have joined my colleagues in the Florida delegation, Republicans and Democrats, in defeating numerous attempts to weaken the drilling moratorium on the OCS.

To Floridians, an inventory of oil resources means drilling. To Floridians, there are too many uncertainties of the impact that seismic testing will have on sensitive ecosystems and marine life. To Floridians, anything but a full and permanent moratorium of drilling off our shores means doom.

I support identifying alternative domestic sources of energy. In our uncertain world, the United States must look closer to home for its energy needs. However, the shores of Florida are too close to home. Florida is a unique ecological gem in our country and the world, and cannot be tampered with. It is also important to note that Florida's leading industry is tourism. If inventorying would lead to drilling, it would inevitably lead to a downturn in tourism to Florida.

While I support the vast majority of H.R. 6, I must stand with my colleagues from Florida in voting against final passage. I remain committed to working with Chairman BARTON, Ranking Member DINGELL and my Florida colleagues in a bipartisan manner as we move forward, to ensure that the OCS drilling moratorium continues to protect Florida.

Mr. MORAN of Virginia. Mr. Speaker, I rise in opposition to this legislation.

I applaud the work of the conferees and their willingness to find compromise and drop the most controversial and anti-environmental provisions, particularly the authorization to drill in the Arctic National Wildlife Refuge and the liability exemption for the petroleum industry to finance the clean up of drinking water contaminated with MTBE.

I think some of the electricity and utility provisions are more balanced and appropriate.

But, I am still disappointed that this bill falls far short of what this institution and our nation must undertake to remove our dependency on oil and fossil fuels. You would think that in the two years since we last attempted to pass energy legislation, we would have a different bill. World oil supplies have tightened, the price of oil has shot up to over $60 a barrel, and many of our foreign sources of oil, the Middle East, in particular, but Africa and Venezuela as well, have grown even less stable.

What we are considering today is an improvement over what the House passed earlier this year, but absent the two controversial provisions I mentioned it's still practically the same bill from last Congress. It even has the same bill number, H.R. 6, as last time, as if it were photocopied with complete indifference to the disturbing news and international developments that have recently come to pass.

We are an oil-based economy, with about 60 percent of our oil imported from abroad. While coal, uranium and some renewable sources such as wind and hydro comprise a majority of the fuel used to generate electricity, most of our economy is dependent or exclusively reliant on oil, from fertilizers for agriculture, plastics for manufacturing to gasoline and diesel for transportation.

Mr. Speaker, we need a crash course in developing cleaner alternative sources of energy and a Herculean effort to reduce our present level of oil consumption. Nowhere are we demanding greater fuel efficiency in our vehicles. This conference agreement actually extends a loophole that allows automobile manufacturers an exemption from today's weaker fuel efficiency requirements for vehicles that use ethanol. During the next 10 years, this loophole alone is estimated to increase our oil consumption by 15 billion gallons of gasoline. Had we improved vehicle fuel efficiency through higher Corporate Average Fuel Efficiency, CAFE, standards, 27 miles for light trucks and 33 for cars back in the early 1990s, we could have displaced all the oil we imported from OPEC today. This bill is shamefully silent on that issue.

Mr. Speaker, this bill is deficient and heads our country in the wrong direction. It rushes us closer to the day oil shortages occur and sets us backward on our ability to address it.

As a nation, we are blessed with a land of immense beauty and natural wealth and a people of great ingenuity and resourcefulness capable of overcoming vast challenges and obstacles. It is unfortunate that so much of this legislation has the effect of exploiting the former and reflects such little faith in the latter.

I urge my colleagues to reject this bill.

Mr. MURPHY. Mr. Speaker, I rise today in strong support of the Energy Policy Act of 2005 and thank Chairman JOE BARTON and my colleagues for their hard work on this much needed legislation. The war on terror has renewed our interest as a nation in reducing our dependence on energy imports and in diversifying our domestic energy sector. Through the Energy Policy Act of 2005, we can do just that through increased utilization of our coal supply; of nuclear energy; of renewable fuels such as hydrogen and of increased energy efficiency and conservation.

In southwest Pennsylvania, no matter what we do or where we go, we depend on coal. Our computers, the companies we work for, our homes and schools, are powered by coal. The stigma on the burning of coal has always been its air emissions, but now major developments in clean coal technology will expand the benefits of coal in environmentally friendly ways. Establishing a comprehensive national energy policy which includes clean coal technology is the first step in accomplishing this task.

There is more than 250 years worth of coal energy in the ground of southwestern Pennsylvania. It generates more than 55 percent of Pennsylvania's electricity and more than half of the nation's. Coal is America's most abundant energy resource, but to take full advantage of it we need to reduce emissions. Many plants have turned towards the use of natural gas, which in turn has led to less supply, tripling the price in the past decade. The increases in natural gas prices has cost 90,000 jobs in the chemical industry alone and contributed to three million manufacturing job losses.

The Energy Policy Act allows for more than $250 million per year for the Department of Energy's fossil program for existing and new coal-based research and development. It calls for a national center for clean power and energy research as well as coal mining research efforts to reduce contaminants in mined coal. Research is to be focused on innovations at existing plants, new advanced gasification and combined cycle plants, advanced combustion systems and turbines as well as fuel-related research.

There is $1.8 billion included for the development of new clean coal technologies to increase the demand for coal and create 62,000 jobs across the country, from building new plants to mining coal. This includes 10,000 high-paying research jobs in the fields of math, engineering, physics, and science. Each job in the coal industry created in Pennsylvania will generate seven supporting jobs such as barge operators and train engineers.

An additional $2 billion included in the Energy Policy Act encourages the use of new equipment to better clean the air and higher-efficiency power generation machinery, making the use of coal more environmentally friendly. This will lead to increased jobs for virtually every industry in the region.

Pennsylvania is already at the center of the country's coal production thanks to the hardest-working, most dedicated workers in the world. Clean coal technology will allow the region to prosper and meet America's energy needs for years to come.

The bill also boosts production of clean natural gas to help alleviate soaring prices for the environmentally friendly fuel. Specifically, the bill breaks the bureaucratic logjam that has stymied work on approximately 40 liquefied natural gas facilities nationwide.

Nuclear power is a vital part of the energy mix in this country and in our State. The Energy Policy Act of 2005 will encourage this clean-burning energy source by promoting the construction of new nuclear reactors. Building a nuclear reactor creates between 2,000 and 3,000 jobs. Running a nuclear reactor creates an estimated 1,500 jobs. These are highly trained trade or professional positions that pay well.

The bill provides $2.7 billion for nuclear energy research and infrastructure support, including development of safe uses for spent nuclear fuel and advanced reactor designs, support for university nuclear science and engineering programs and establishment of a program dedicated to increasing the safety and security of nuclear power plants. Westinghouse here in Pittsburgh is a major developer of nuclear technology, and our universities are active in this area.

To meet rising energy demands in the future, we need continued advances in energy efficiency and conservation—helping to reduce our demand on foreign supply and stimulating economic growth. Included in the Energy Policy Act are provisions that will save Pennsylvania consumers and businesses money spent on energy, so they can invest, spend and grow the economy and improve our standard of living.

These include a package of energy efficiency, renewable energy and state energy measure that are key steps forward toward enhancing our natural economic drive to use existing energy supplies more efficiently.

The bill authorizes more than $2 billion for a hydrogen fuel-cell program with a goal of launching hydrogen fuel-cell cars into the marketplace by 2020. Hydrogen fuel cells for stationary source use are being developed right here in Pittsburgh.

Financial incentives in the bill will spur renewable energy companies to produce electricity from renewable and alternative fuels such as wind, solar, biomass and waste coal. Funding is provided for energy efficiency programs for public buildings, including schools and hospitals, and increased fuel efficiency requirements for federal vehicles.

The Energy Policy Act expands the Energy Star program, a government-industry partnership for promoting energy-efficient products; establishes new energy efficiency standards for many new commercial and consumer products that use large amount of energy—providing sufficient savings on monthly energy costs; and dramatically increases funding for the Low Income Housing Assistance Program, low-income weatherization programs, and state energy programs to improve energy efficiency.

The Energy Policy Act of 2005 recognizes that renewable fuels can be made from a variety of materials, including the animal fats and other biomass materials collected by renderers. Renderers collect and process materials generated from the livestock industry, as well as used cooking oils from restaurants. Rendering is environmentally beneficial because the reuse of these materials prevents pollution of surface and ground waters that might result from their improper disposal or management. Rendered materials are now used to make detergents, fabric softeners, perfumes, cosmetics, candles, lubricants, paints, plastics and biodiesel.

Moreover, these materials can create renewable-based fuels and feedstocks that in turn reduce the amount of fossil fuel material needed to produce a gallon of motor vehicle fuel. For example, animal fats and other biomass materials can be introduced as renewable fuel feedstocks into the refinery processes, solely or in combination with other conventional fossil fuel derived components, in order to produce renewable fuels. This process will yield renewable fuel or renewable fuel blending components commensurate with the percentage of renewable material introduced to the process.

In establishing the renewable fuel provisions of the Energy Policy Act of 2005, Congress has intended that these provisions allow the broadest use of renewable materials to produce fuels and renewable fuel blending components in order that we might reduce our use of virgin oil, increase our fuel diversity and decrease our dependence on foreign crude oil. Accordingly, implementing regulations should consider these types of uses and establish compliance mechanisms to account for the applicable volumes within the renewable fuel programs.

Again, I want to thank Chairman BARTON and all the Conferees for their hard work on this vital legislation and urge its quick passage.

Mr. McDERMOTT. Mr. Speaker, a grave threat to America today is our addiction to oil, and voting for the Energy Bill is like franchising drug abuse.

Republicans have written a bill that favors corporate America over Main Street America. This bill does not, and will not, address any of the critical energy issues that threaten our environment, our economy and our middle class.

Sixty dollars for a barrel oil that breaks the backs and the budgets of Mainstream Americans is a scandal. And this legislation serves as a full, free and absolute pardon to those who failed to put America's interests ahead of special interests.

Oil company profits have been driven obscenely high on the backs of American consumers, and this legislation paves an express lane for Big Oil to drive the American consumer into the ground.

At a time when America needs energy vision, Republicans have given us their philosophy: leave no special interest behind.

Big Oil—step right up and fill the tank with the hard earned money of America's middle class.

Big Coal—step right up and pardon that coughing in the background; it's only Americans choking from new pollution spewing into the atmosphere.

This legislation does not address the economic peril Americans face every time they fill up at the pump, but it will give over $14 billions in tax breaks and subsidies to big Republican donors.

This energy legislation represents thinking as old as the dinosaurs, and just as extinct. America needs an energy vision and a commitment to the rapid development of sustainable, renewable, energy resources.

The opportunities and technologies exist today to start us on a road to energy freedom and independence. But we are not going to get there with a bill that encourages predatory dinosaurs like Big Oil to roam the earth and destroy everything and everyone in their path.

I urge my colleagues to vote against an energy legislation that was written as if we lived in 2005—B.C."

Ms. BALDWIN. Mr. Speaker, I rise in opposition to the energy bill on the floor today. As our dependence on foreign oil increases, this plan fails to directly confront our nation's future energy challenges. It provides a false sense of security to the American people that this Congress is serious about addressing our future energy needs and the skyrocketing cost of oil.

Some of my colleagues have lauded this bill, saying that it is the most comprehensive energy bill to be brought to the House floor in 30 to 40 years. While the bill may be wide-ranging, it provides no solutions, no tools, and no blueprint for reducing our demand for foreign oil or for giving families and small business owners relief at the gas pump.

Over 58 percent of the oil used to transport our nation's food from farms to consumers, heat our homes, and get us to work or school, is imported from overseas. Even the Department of Energy acknowledged that this bill will do next-to-nothing to lower gasoline prices or reduce America's demand for foreign oil. In fact, the Energy Information Administration, EIA, predicts our dependence on foreign oil will increase to more than 68 percent by 2005 regardless of whether this energy bill is signed into law or not.

If this bill does become law, Congress will have missed a monumental opportunity to make real progress in reducing our demand for foreign oil Even small efforts in this direction were rejected. For example, during conference negotiations, Republican conferees voted against a modest Senate proposal that would have required the President to reduce U.S. oil consumption by 1 million barrels a day by 2015.

This energy bill also fails to raise the efficiency standards for automobiles, which have not been increased in decades. Instead of challenging our nation's talented engineers to build safe cars, trucks and SUVs that can travel further on less gasoline, Republican conferees wilted to lobbyists who do not seem to believe in the American worker's "can do" ingenuity anymore.

Instead of diversifying the portfolio of the energy resources we depend on to power our nation, a Senate provision that would have required electric utilities to generate 10 percent of its electricity from renewable sources was dropped during conference. A handful of States, including my home State of Wisconsin, have adopted similar targets and have had tremendous success. The use of renewables in these States has significantly increased while their benefits and popularity among consumers have proved the initial "doomsday" predictions by electric utilities wrong.

Rather than make Herculean efforts to bring renewable technologies to the market and expand their use, the bill provides oil and gas companies billions of dollars to subsidize their exploration and production efforts. To me, these taxpayer subsidies do not make much sense when the oil industry already expects to have 40 percent higher profits this year, with Exxon Mobil, BP, and Royal Dutch/Shell expecting to post a combined profit of more than $60 billion.

Despite the many misplaced priorities in this bill, I was pleased a number of provisions were included in this conference report that will benefit our Nation as well as Wisconsin. For example, conferees made the wise decision to expand our use of renewable fuels, such as ethanol, by 7.5 million gallons over 10 years. This is good for the environment, good for our Nation's energy future, and good for America's farmers. We could have done much more, but this is an important step in the right direction.

I believe now is the time to make substantial investments in improving technologies that generate more electricity from fewer resources and developing alternatives that won't pollute our environment. We must start today to ensure our Nation's energy security in the future.

I also strongly support the electricity reliability language in the bill that will help shore up the procedures and rules that govern the flow of electricity across State borders. While the reliability standards are long overdue, I believe they will help keep the lights on and ensure that a blackout similar to the one in 2003 does not happen again.

I also support the provision that will permanently ban oil and gas drilling in the Great Lakes. The Great Lakes are among our Nation's most valuable natural treasures and I believe they should not be threatened by potential oil spills or have their beauty or recreational appeal tainted by massive oil rigs.

Furthermore, I applaud conferees for not including a provision that would open up the Arctic National Wildlife Refuge for oil and natural gas production and exploration. Destroying one of America's most pristine wilderness areas for a few months of oil is not the long-term answer to reducing our-dependence on foreign nations for oil. Energy bill conferees also deserve credit for not including a safe harbor provision that would have shielded the manufacturers of the gasoline additive, MTBE, from lawsuits. This measure would have made taxpayers shoulder the burden of cleaning up hundreds of contaminated water supply systems across the country at a cost of more than $30 million.

Despite these positive provisions, Congress has had almost five years to get its priorities right, to put the American people before special interests, and to put forward a plan that curbs our demand for foreign oil. It is now clear that Congress has failed, and that this bill represents a lost opportunity. This House should not pass a bill that provides a false sense of security to the American people while failing to truly address the energy challenges our Nation will face in the future. I urge my colleagues to vote against this energy bill.

Mrs. MALONEY. Mr. Speaker, I rise today in opposition to this conference report.

As I've said before here on the floor of the House, America needs an energy policy. We need an energy policy that actually brings down record high gas prices, protects our environment, and truly reduces our dependence on foreign oil by encouraging energy efficiency and the use of renewable sources of energy. Unfortunately, this bill fails on all fronts.

We are heavily reliant on oil to power our cars and fuel our lifestyle, and 58 percent of the oil we consume is imported, often from politically volatile regions of the world. Promoting conservation and raising efficiency standards must play an important role in overcoming our dependence on oil and reducing our reliance on imports. Today, more than two-thirds of the oil consumed in the United States is used for transportation, mostly for cars and light trucks. Increasing fuel efficiency would lower pressures on oil prices, enhance our national security, curb air pollution, and reduce the emission of greenhouse gases, which cause global warming. And yet, instead of truly addressing energy conservation and fuel efficiency, H.R. 6 hands out huge new subsidies to the oil, gas, coal and nuclear industries.

This energy bill also harms our environment and threatens our drinking water by rolling back important safeguards in the Clean Water Act and the Safe Drinking Water Act, protections which are critical in keeping our waterways clean and safe. Under this bill, in fact, fluid laced with toxic chemicals and contaminants could actually be injected into oil and gas wells that penetrate underground water sources, risking contamination of our drinking water. I absolutely can not vote for an energy bill that might put the drinking water of my constituents at risk.

I don't think any of us believe that this energy bill is the last word on energy policy, and much remains to be done to meet the great challenges that lie before us. Until more is done, I oppose this conference report, and urge my colleagues to do the same.

Mr. HIGGINS. Mr. Speaker, I rise today in objection to H.R. 6, the Energy Policy Act conference report under consideration by the full House of Representatives and the Senate this week. While the conference report removes many of the worst provisions from the original House bill, this final version does little to reduce our nation's dependence on foreign oil, to decrease rising oil and gas prices, to increase our national security, to protect our environment, or to encourage investment in renewable energy sources. In addition, provisions in the report could directly impact my constituents by excluding local voices and local input during hydropower relicensing, which is what is taking place at the Niagara Power Project, just outside my district, right now.

While I applaud the hard work of my colleagues in removing many of the most egregious aspects of the bill—reducing the giveaways to oil and gas companies, removing the MTBE provision and excluding drilling in the Great Lakes and Alaska—I am most concerned about how this bill will affect my constituents in Western New York where we are currently embattled in a fight with the New York Power Authority over its bad faith negotiations to mitigate the environmental, aesthetic and economic effects of storage and use of NYPA equipment essential to the hydropower dam on Buffalo's waterfront, the Niagara River, Lake Erie and Western New York's economic recovery.

Buried deep in the conference report is language that will make it easier for hydropower project owners to squash local concerns and second-guess federal agency licensing conditions by countering with their own favorable alternatives. Under current law, applications to operate a hydroelectric facility are reviewed by federal environmental agencies. Those agencies, with input from concerned citizens, states and local governments, can place conditions on the approval of a license, requiring the applicant to provide specified protections for water and wildlife. The conference report allows applicants and other interested parties to offer alternatives to those government conditions, but those alternatives must either cost less to implement or increase electricity production. Federal agencies are then forced to accept those alternatives. This means dam owners can control their own licenses. While the language in the conference report is an improvement from the original House language, this would, in effect, give hydropower dam owners special rights to influence federal licensing decisions and reduce the state, local government and concerned citizen roles in the decision-making process. That is a step backwards from current law that I am not willing to take. In Buffalo we need more local control, not less.

In additional direct impact on my constituents, this bill will do nothing to reduce sky high oil and gas prices. The Administration's own Energy Information Administration acknowledges that with this bill, "changes to production, consumption, imports, and prices are negligible." They even find that gasoline prices under this legislation would increase by between three and eight cents per gallon.

Clearly, this measure is a short sighted political move aimed at winning friends and contributors instead of what it should be—a long term plan to ease the energy burden on consumers and make the United States safer and energy independent—and that's a shame.

As a member of the Committee on Government Reform's Subcommittee on Energy and Natural Resources, I know all too well how energy needs shape our foreign policy and our national security agenda. Our desperate need for oil pits us against China and India. It forces us into a position of funding governments and world leaders who funnel our payments to groups that are currently planning to do us harm. And our need for oil from foreign markets forces our brave Armed Service men and women into harm's way to protect our vital interests.

But oil needn't be the lead driver in our national security policy. We have resources at home like water, wind and sun that, with research and investment, can produce cleaner energy sources and cheaper alternatives, can reduce our dependence on foreign oil, and can create jobs and spur spending here at home. Just outside my district, with the water heaving over the Niagara Falls, we convert water into electricity every day. It's a shame this bill doesn't do enough for similar options around the country.

All too often I hear from my constituents in Western New York that too many low-income families, disabled individuals and senior citizens are not able to afford their energy costs. My district is particularly hard hit with extreme cold temperatures, which cause more families to face unaffordable heating costs and put families and seniors at a higher risk of life-threatening illness or death if their homes are too cold in the winter or too hot in the summer.

Because of its detrimental effects on the people in my district I will vote against the Energy Policy Act conference report today. It ignores my constituents' needs and only adds to their troubles by reducing local decision making, increasing oil and gas prices, increased their tax burden, creating more pollution, and leaving them less secure from foreign threats. I urge my colleagues to do the same.

Ms. WOOLSEY. Mr. Speaker, the energy bill conference report before us today is horrible for the consumer, horrible for the environment, and makes America neither energy independent nor more secure as a nation.

This conference report does too little to promote renewable energy and energy efficiency. By promoting the interests of corporations over consumers, and pollution over conservation, this bill makes the United States much less secure.

America's continued reliance on Middle East oil for the majority of our energy needs is the single largest factor that contributes to our lack of national security. This conference report fails to adequately address our reliance on foreign oil.

Worst of all, the conference report includes a huge provision, inserted in the middle of the night after the conference finished its work, to give $1.5 billion to big oil companies from Texas.

It would be wrong for anyone who cares about our nation's well-being, or the fight against extremism in the Middle East, to vote for this legislation. I urge my colleagues to join me in voting against it.

Mr. GORDON. Mr. Speaker, first, I would like to thank Science Committee Chairman SHERRY BOEHLERT and Energy Subcommittee Chair JUDY BIGGERT for their hard work, leadership and willingness to work with the minority in developing Title IX, the Research and Development title of this bill.

I would also like to call attention to a few provisions of the bill that I believe really illustrate the importance of utilizing our wide base of domestic science and technology resources in industry, the D.O.E. National Laboratories, universities and colleges, and training and trade organizations.

Section 924(b) directs the Secretary of Energy to initiate a program in the field of advanced small-scale portable power technologies. Institutions such as Tennessee Tech

University, Vanderbilt University and the University of Missouri are conducting valuable work with fuel cells, advanced batteries, microturbines, nanotechnology, and thermo-electricity. Advances in these fields will have limitless applications both military and civilian.

Section 932(e) establishes a bio-diesel demonstration program for a new breed of fuels that have the capability of replacing most or all of the petroleum diesel component in current bio-diesel mixtures with a non-petroleum product. Middle Tennessee State University has generation units that it could make available to test these new fuels at various levels of concentration, and I hope that DOE would consider MTSU as an appropriate site to conduct these tests.

Section 933 establishes a university program to demonstrate the feasibility of operating a hydrogen-powered vehicle by utilizing an innovative suite of off-the-shelf components in current automotive technologies. Research is being done today at Middle Tennessee State University that would show the practicality of running current engine technology off purely sun and water as the power sources.

Section 983 addresses the critical issue of declining U.S. competencies in math, science and engineering by awarding a grant to a Southeastern consortium of research universities for partnerships with teacher training colleges and National Laboratories to design, implement and disseminate K–16 less on plans in math and science. One of the country's premier organizations in this field is the Oak Ridge Associated Universities (ORAU). By utilizing the expert resources in teacher training institutions such as Middle Tennessee State University, I believe ORAU can play a major role in stemming the growing gap in our global technological competitiveness.

Section 1010 seeks to recognize the contributions smaller colleges and universities can make in research and development activities and encourage this through greater collaboration with the traditional research institutions. By identifying the colleges and universities according to the Carnegie Classification system, this amendment defines accurately the categories of research institutions that will benefit most from collaboration.

Section 1104 instructs the Secretary to support expanding ongoing activities of the National Center for Energy Management and Building Technologies. This important organization brings the Sheet Metal and Air Conditioning Contractors National Association, the Sheet Metal Workers, universities, and the national labs together to make sure that technology and skills are transferred in the heating and cooling industry. In my opinion, logical opportunities for expansion involve additional universities that are near other national laboratories like Oak Ridge and to initiate research, technology transfer, and training for related technologies such as ground source heat pumps.

Sec. 404 instructs the Secretary to award grants to institutions of higher education that have substantial experience in coal research and show the greatest potential for advancing clean coal technologies. Schools such as Southern Illinois University, the University of Pittsburgh, Carnegie Mellon University, Virginia Polytechnic Institute and State University and the Center for Electric Power at Tennessee Technological University have programs dedicated to the cost-effective and environmentally-responsible usage of our most plentiful domestic energy source.

I would also like to highlight the contributions of several of our members to very key components of Title IX:

Mr. HONDA's commitment to the progress of the Next Generation Lighting Initiative, the Stanford Linear Accelerator, and the Joint Genomics Institute, Nanotechnology research and development, and his work with Mr. LARSON on transit bus demonstrations of fuel cells.

Mrs. WOOLSEY and Mr. UDALL's continued dedication to deploying clean, newable and efficient energy technologies in transportation, buildings and electric power production.

Mr. COSTELLO's diligence in ensuring that utilization of our vast domestic coal resources only gets cleaner and more efficient and universities play a major role in these efforts.

Mrs. LOFGREN's vision in support of domestic fusion energy research and international fusion projects that may ultimately harness the power of the sun and give the world an inexhaustible source of energy.

Mr. LINCOLN DAVIS' work to ensure good science continues at Oak Ridge National Lab, particularly in the field of High-End Computing.

Mr. MILLER's efforts to establish a nationwide network of Advanced Energy Technology Transfer Centers, to get technologies off the laboratory shelf and into the marketplace.

SHEILA JACKSON LEE's work in electric vehicle battery recycling, building standards, offshore oil and gas resources and most importantly, her tireless commitment to science at minority-serving institutions.

JOHN LARSON's continued support for the development and utilization of fuel cell technologies that will carry us into a future hydrogen economy.

The Science Committee contributed virtually all of Title 9, the research and development title of this bill. While Research and Development programs typically have not been controversial, I believe the Title 9 provisions represent a major part of this legislation. The R&D programs authorized in this bill will provide the means to produce the energy that this country will need for the future.

Mr. GILLMOR. Mr. Speaker, I rise in support of Subtitle B of Title XV of the conference report to H.R. 6, the Domenici-Barton Energy Policy Act of 2005. This section makes many important policy changes that aim to increase funding of and direct additional care for underground storage tanks and the leaks of regulated substances that sometimes come from them. As the Chairman of the authorizing Subcommittee for the Solid Waste Disposal Act, I have been involved in oversight of the Leaking Underground Storage Tank program for the last five years and have personally taken an interest in the writing of this particular Subtitle. I, therefore, want to make some brief comments about the provisions in Subtitle B and the reasons and intent behind them.

### SECTION 1522. LEAKING UNDERGROUND STORAGE TANKS

This section is the longest surviving section of several Congresses of work on underground storage tank legislation, starting with an effort to amend this program in the 104th Congress to get more money out of the Leaking Underground Storage Tank Trust Fund and down to the states to ensure better compliance with the law. Specifically, this section amends the Solid Waste Disposal Act to direct the Administrator of EPA to distribute to States at least 80 percent of the funds from the Underground Storage Tank Trust Fund for use in paying the reasonable costs for State enforcement efforts pertaining to underground storage tanks. This limit of 80 percent should be viewed as the floor and not an allocation ceiling. The Committee understands that past congressional legislation that twice passed the House without a single vote in opposition contained an 85 percent limit, but in deference to the U.S. Environmental Protection Agency (EPA) and its Office of Underground Storage Tanks (OUST), the limit in the bill was lowered to 80 percent to allow some flexibilty for the Agency to meet its historical allocation to the States without statutorily binding OUST. In addition, this section establishes guidelines for revisions to the allocation process that the Administrator may revise after consulting with state agencies responsible for overseeing corrective action for releases from underground storage tanks.

This section also contains language that flows from Section 122(g) of the comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9622(g)) and mimics the intent of the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107–118). In seeking a cost recovery action, the Administrator (or State) shall consider the owner or operator's ability to pay by weighing the ability of the owner or operator to pay all corrective action costs and still maintain its basic business operations, including consideration of the overall financial condition of the owner or operator and demonstrable constraints on the ability of the owner or operator to raise revenues. In requesting consideration under these provisions, the owner or operator shall promptly provide the Administrator (or State) with all relevant information needed to determine the ability to pay corrective action costs and allow for alternative payment methods as may be necessary or appropriate, if the Administrator (or state) determines that the owner or operator cannot pay all or a portion of the costs in a lump sum payment. Owners and operators are to be held fully accountable for misrepresentation or fraud and the Administrator (or State) is authorized to seek full recovery in the case of fraud or misrepresentation of all the costs for the corrective action without consideration of the factors in this section.

This section addresses two other items. First, it prohibits the EPA Administrator from providing LUST Trust Fund dollars to states that have permanently diverted their underground storage tank cleanup funds to non-emergent items that are completely unrelated to underground storage tank programs. There has been concern that some states were using their underground storage tank funds to cover the costs of other state funding priorities. This provision is meant to apply prospectively and address the most egregious examples of this practice. This section also allows the EPA to withdraw approval of a State underground storage tank program that has been chronically abusive in the way it has run its program. These provisions are not in any way meant to insist on the withdrawal of approval for stats that are making best efforts to comply with Federal standards that provide for State approval, but have had some trouble. The language clearly instructs the EPA Administrator and OUST to work with States, give States leniency whenever needed, and give States every effort to make their programs work. EPA must have the ability to compel "bad actors" into compliance, but not to use these authorities as a weapon against States making "good faith" efforts.

### SECTION 1523. INSPECTION OF UNDERGROUND STORAGE TANKS

On-site inspections are one of the best ways to ensure routine compliance with LUST program rules. This section prescribes inspection requirements for underground storage tanks. These provisions, which are consistent with the core recommendations made by the General Accounting Office, or GAO, (now the Government Accountability Office) requires, for the first time ever, that every state conduct routine inspections of every underground storage tank (UST) every three years. The language in paragraph (c)(1) of Section 1523 (a) reflects two concerns. In order to give States time to pass the appropriate state laws and hire the necessary personnel, which is essential since only 19 states currently operate UST programs that could meet this three year guideline, the provisions in this section allow the states no more than an initial 2-year "grace period" to start their inspection programs. During this 2-year period, the provisions establish that states must eliminate their backlog of un-inspected underground tank systems that have been out of compliance with federal regulations that became effective in 1998.

This language reflects Congress's clear intent that States eliminate any backlog in the inspection of and enforcement against noncompliant tanks. This provision is intended to apply to those LUST systems in operation on or before December 22, 1998. The legislation also recognizes that States may not be in the best position to transition to immediate implementation of the requirements in this section. In fact, in a June 2000 Report to Congress on a Compliance Plan for the Underground Storage Tank Program, EPA stated that a significant number of new inspectors would need to be hired or retained and trained by EPA or the States to make meaningful inspections occur. In addition, EPA estimated a total annual cost of hiring an inspector at $70,000 and $1,000 for one month of training.

Next, this section establishes a mandatory requirement that States conduct on-site inspections of every underground storage tank located within their State that is regulated under Subtitle I of the Solid Waste Disposal Act at least once every three (3) years. To aid the States in this effort, the legislation allows the States to contract with third-party inspectors to carry out these inspections.

Finally, since 62 percent of the States either do not conduct regular inspections or inspect their USTs between every 4 to 10 years, the legislation allows a State to petition the U.S. EPA for a one-time grant of a one-year extension to the first mandatory three (3) year inspection cycle in order to meet the requirement of inspecting all tanks. While the language contemplates giving States every opportunity to do meaningful inspections and comply with all legal requirements, any grant of leniency must be demonstrated to EPA by the State and EPA is not required to provide the extra year. In addition, pursuant to section 9008 of the Solid Waste Disposal Act (42 U.S.C. 6991g), nothing in these provisions prevents a State that wants to have a more frequent inspection regime of their underground storage tanks from having them.

### SECTION 1524. OPERATOR TRAINING

In its May 2001 report and subsequent testimony before the Subcommittee on Environment and Hazardous Materials, GAO stated that one of the main causes of leaks from underground storage tanks was poor operation of the tank system by owners and operators. In its recommendations to Congress, GAO suggested instituting operator-training programs as an important prevention tool against future leaks. This section instructs the Administrator, with the cooperation of the States, to publish guidelines for use by the States that specify training requirements for persons having primary responsibility for on-site operation and maintenance of underground storage tanks, persons having daily on-site responsibility for the operation and maintenance of underground storage tanks, and daily on-site employees having primary responsibility for addressing emergencies presented by a spill or release from an underground storage tank system. This comprehensive list reflects the concern that responsible persons are not only in a position to prevent leaks, but also to respond quickly once they occur. Of note, the language is clear that in designing these operator training requirements, EPA should make every effort to differentiate the types of training between those persons, like underground storage tank owners and regional managers, who require more comprehensive and involved training and those persons, such as convenience store or gasoline station clerks whose job turnover is high and responsibilities are low, where training obligations should be more basic and minimally intensive in nature.

### SECTION 1525. REMEDIATION FROM OXYGENATED FUEL ADDITIVES

While nothing in law prevents EPA from using existing Leaking Underground Storage Tank Trust Funds to remediate fuel that contains oxygenated additives, this section recognizes the growing concern about groundwater and drinking water contamination by oxygenated fuel additives from leaking underground storage tanks. Specifically, this section creates a new dedicated authorization of Federal LUST Trust fund dollars to be used to carry out corrective actions with respect to releases of a fuel containing an oxygenated fuel additive that presents a threat to human health or welfare or the environment. Oxygenated fuel additives include, but are not limited to, methyl tertiary butyl ether, ethanol, ethyl tertiary butyl ether, TAME, and DIPE.

### SECTION 1526. RELEASE PREVENTION, COMPLIANCE, AND ENFORCEMENT

This section authorizes funds to be used to conduct inspections, issue orders, or bring actions under this subtitle by a State to carry out State regulations pertaining to underground storage tanks under this subtitle, or by the Administrator, for tanks regulated under this subtitle. Since many persons are concerned that appropriate protective measures are being taken by the States in regards to all underground storage tank systems, whether public or private, this section establishes right-to-know reporting requirements for all government-owned tanks. In these reports, the States submit to the Administrator a list identifying the location and owner of each underground storage tank that is not in compliance with section 9003 and specifies the date of the last inspection and describes the actions that have been and will be taken to ensure compliance of the underground storage tank with this subtitle. The Administrator shall require each State that receives Federal funds to make available to the public a record of underground storage tanks under this subtitle. The Administrator shall prescribe, after consultation with the States, the best manner and form to make available and maintain this record, considering the most practical and efficient means to maintain its intended purpose. This section also establishes incentives for performance measures that may be taken into consideration in determining the terms of a civil penalty under Section 9006 of the Solid Waste Disposal Act.

### SECTION 1527. DELIVERY PROHIBITION

Testimony received by the Subcommittee on Environment and Hazardous Materials has stated that the use of a delivery prohibition, by States, against habitually non-compliant tanks has been the most effective enforcement tool in motivating underground storage tank owners and operators into resolving outstanding problems with their systems. This section of the bill makes it unlawful, two (2) years after the date of enactment, to deliver, deposit into, or accept a regulated substance into an underground storage tank at a facility that has been identified as ineligible for fuel delivery or deposit. EPA is required to work with States and underground storage tank owners and product delivery industries before prescribing minimum guidelines for how this delivery prohibition is supposed to work. In prescribing the minimum guidelines, the EPA Administrator is required to address how to determine which tanks are ineligible for delivery, deposit, or acceptance of a regulated substance under the LUST program; the mechanisms for identifying which underground tanks are ineligible for delivery, deposit, or acceptance of a regulated substance under the LUST program; the process for reclassifying previously ineligible underground storage tanks as eligible for delivery, deposit, or acceptance of a regulated substance under the LUST program; one or more processes for giving notice to product delivery industries and to underground storage tank owners and operators that an underground storage tank or underground storage tank system is ineligible for delivery, deposit, or acceptance of a regulated substance under the LUST program; and a process for figuring out which areas might not be subject to the delivery prohibition. This language is intended to give the EPA Administrator the flexibility to work with and help states that otherwise meet these criteria and have successfully operated delivery prohibition programs to continue to do so. In addition, this section requires States without such delivery prohibition programs to meet these minimum criteria in order to receive funding.

### SECTION 1528. FEDERAL FACILITIES

In 1992, Congress enacted the Federal Facilities Compliance Act to send a clear signal to Federal departments and agencies that they should not hide behind claims of sovereign immunity in order to avoid compliance with State and local environmental requirements. This section further reinforces the point that the Federal government must be as protective of the environment and responsive to public health laws at all levels of government as private citizens are. This section also revises requirements for Federal agencies with jurisdiction over underground storage tanks or systems, or engaged in any activity that may result in specified actions regarding such tanks or regulated substances related to them, including release response activities. Specifically, these agencies need to report to Congress on their compliance with UST requirements. This section also waives claims of sovereign immunity with respect to substantive or procedural State requirements. Finally, this section continues the President's authority to exempt any Federal tank from compliance with such requirements if the exemption is in the "paramount interests of the United States."

### SECTION 1529. TANKS ON TRIBAL LANDS

Recognizing the unique governmental relationship between the Federal government and sovereign tribal governments and their tribal lands, this section seeks to protect persons on these lands in similar ways to protection requirements in other States. Specifically, this section instructs the Administrator, in coordination with Indian tribes, to develop and implement a strategy, giving priority to releases that present the greatest threat to human health or the environment, to implement and take necessary corrective actions in response to releases from leaking underground storage tanks on tribal lands, and to report within two (2) years to Congress on the status of these programs on tribal lands.

### SECTION 1530. ADDITIONAL MEASURES TO PROTECT GROUNDWATER

More recently, information has become public that has identified the causes of leaks from underground storage tanks and suggested ways to creatively address these sources of leaks. One of these sources, a draft study, which covered 22 States, was released by the U.S. Environmental Protection Agency (EPA) in August 2004 showed that of all new releases at new and upgraded UST sites, 54 percent were due to improper installation and physical or mechanical damage to UST parts and 12 percent were due to corrosion. Though EPA has not used its existing authority to administratively require secondary containment, some States (22) have implemented their own laws requiring this feature or tertiary containment. On top of some technical feasibility questions, barriers to some States enactment of secondary containment requirements include costs, since installing a secondarily contained system costs about $27,000–$32,420 or about 20 percent more than an installed, single walled tank system. Additional concerns are impacts on businesses with underground storage tanks because it renders an underground tank system out of service for 21 days.

To address the helpfulness of this groundwater protection device as well as allow states to contemplate other matters raised by groundwater professionals and the petroleum equipment industry, this section allows a State to choose between either secondary containment requirements or installer and manufacturer requirements. If a State chooses secondary containment, then any new installation of an underground storage tank that is within 1,000 feet of community water system or potable water well must be secondarily contained. In addition, any tank or piping that is replaced on an underground storage tank that is within 1,000 feet of a community water system or potable water well must be secondarily contained. Repairs to an underground storage tank system, as defined by EPA, do not trigger any secondary containment requirements and gasoline dispensers must also be addressed as part of the secondary containment strategy. If a State chooses installer and manufacturer certification as well as financial responsibility requirements, this section requires tank installers and manufacturers to follow professional guidelines for tank products or comply with one of the new statutory requirements that are similar to subsections (d) and (e) of 40 CFR 280.20. In addition, this section requires installers and manufacturers maintain evidence of financial assurance to help pay corrective action costs that are directly relatable to a faulty tank part or installation. The lone exception to the financial assurance requirement is where a tank owner or operator, who already maintains evidence of financial responsibility under Section 9003 of the Solid Waste Disposal Act, is also the installer or manufacturer of the underground storage tank. With respect to the financial responsibility option, the conference report references the existing financial responsibility authority contained in section 9003(d) of the Solid Waste Disposal Act that applies to owners and operators. It is the intent of this legislation that all of the authorities and flexibilities contained in 9003(d) would apply to underground storage tank installers and manufacturers in the same way that they currently apply to owners and operators of underground storage tanks.

### SECTION 1531. AUTHORIZATION OF APPROPRIATIONS

In order to avoid the creation of unfunded mandates, this section authorizes appropriations for FY 2005 through 2009. Specifically, this section authorizes $50 million per fiscal year from the General Treasury to cover administrative expenses and those areas in the bill that are not specifically authorized to receive direct appropriations from the Leaking Underground Storage Tank Trust Fund. In addition, from the Leaking Underground Storage Tank Trust Fund, $1 billion (or $200 million per year) is authorized for cleanups of releases from leaking underground storage tanks, $1 billion (or $200 million per year) is authorized for the cleanup of releases of oxygenated fuel additives from leaking underground storage tanks, $500 million (or $100 million per year) for on-site inspections and enforcement, and $275 million (or $55 million per year) for delivery prohibition and State tank program disclosure and operations improvements. Of further note, the reference to Section 9508(c)(1) of the Internal Revenue Code in the newly created section 9014(2) of the Solid Waste Disposal Act should be considered to mean Section 9508(c) of the Internal Revenue Code in order to reflect changes made to Title XIII, Subtitle F, Section 1362 that creates a new Section 6430 at the end of Subchapter B of Chapter 65—amending Section 9508(c) by striking the existing subsection 9508(c)(2) and renumbering subsection 9508(c)(1) as subsection 9508(c).

Ms. PELOSI. Mr. Speaker, I rise in opposition to this energy bill. The American people need and deserve an energy policy that will reduce energy prices, reduce our dependence on foreign oil, and reduce pollution. This bill is not the answer.

While it is an improvement over the House bill, it is not good enough for the American people. Several of the most egregious provisions have been removed, thanks to the tireless work of the Democratic Members who served on the conference committee. And I thank them for their contribution.

We kept the heat on the MTBE give-away and the massive roll-back of the Clean Air Act until they were withdrawn. We fought to protect the Arctic National Refuge, making it too hot for the Republicans to handle—forcing them to withdraw from the energy bill their plan to drill in the pristine wilderness.

Nonetheless, like its predecessors, this energy bill is a missed opportunity. It does not address the issues that the American people care about—lower gas prices at the pump, a healthy environment, safe water to drink, and cleaner air. This bill is still anti-taxpayer, anti-environment, and anti-consumer.

It is anti-taxpayer with billions of dollars in gifts to the oil, gas, and nuclear industries, including a new production tax credit for eight years. There are some subsidies for emerging clean energy technologies, such as renewable energy and hybrid vehicles, but not nearly enough, especially compared to the give-away for the established energy industries.

Then there is the special gift for the gentleman from Texas, the House Majority Leader. After the gavel went down on the energy bill conference, a provision was included that sets up a special $1.5 billion fund for the oil industry to conduct research on how to find oil, and a leading contender to host the consortium is Sugar Land, Texas. Consortium members, including Halliburton and Marathon Oil, can receive awards from the fund.

There you have it: big oil, Halliburton, and TOM DELAY, all in one neat symbolic package.

At a time when Congress is trying to scrape together enough Federal funding for veterans' health care, Social Security, education, Medicare, and Medicaid, why are we giving away taxpayer money hand over fist to well-established, profitable companies?

Some of these energy companies are not simply profitable. The major oil companies are raking in such enormous profits that they do not know what to do with it all. The top three oil companies (Exxon Mobil, BP, and Royal Dutch Shell) are expected to post a new record profit of $60 billion this year, while this quarter's profits are 40 percent better than last year.

Mr. Speaker, this bill is anti-environmental. It authorizes an oil and gas inventory of the Outer Continental Shelf, opening the door to oil and gas drilling in the protected areas off our shores. The House has more than once soundly voted to reject this proposal. Coastal Members from both sides of the aisle know that our beautiful beaches, shores and fisheries are priceless and should not be put at risk. But despite our best efforts, Republicans insisted on keeping the inventory in this bill.

The energy bill carves out exemptions for the oil and gas industry from the Safe Drinking Water Act, and the Clean Water Act. It is loaded with provisions that override local and State authority in favor of Federal authority. It gives the Federal Government the right to condemn land to build electric power lines. It gives the Federal Government the right to decide where gas pipelines and liquefied natural gas facilities will be built. It weakens States' rights to protect their own coastlines from oil and gas exploration.

Last but not least, the energy bill is anti-consumer. It fails to protect consumers from high gasoline prices. It fails to adequately protect consumers from price manipulations and future Enrons. And it fails to protect our national security by reducing our dependence on foreign oil.

Let there be no mistake. This bill is still anti-taxpayer, anti-environment, and anti-consumer. I urge my colleagues to vote "no" on the conference report.

Mr. TERRY. Mr. Speaker, I would like to take a moment to congratulate Chairman BARTON on his leadership in driving this legislation to the finish line.

This comprehensive energy bill is a vision. H.R. 6 aims to boost domestic sources of energy, increase the use of clean renewable power, and diversify the nation's energy portfolio. This legislation will not completely solve our dependence on foreign oil overnight, but it puts in place a number of tools to do just that. I applaud the increase of the use of bio-fuels, especially ethanol, to 7.5 billion gallons by 2012. This is important to our Nebraska farmers as well as a benefit for all Americans.

The repel of the Public Utility Holding Company Act (PUHCA) will allow for increased private investment in US. electricity production such as wind farms and other non-fossil energy sources. This is a smart move.

I am pleased to see several provisions that I authorized in this bill including a new provision to speed up the siting of new plants for Liquefied Natural Gas. LNG accounts for 90 percent of fertilizer production costs. Increased access to LNG will help our nation's farmers. I also author a new program to provide incentives for the use of stationary fuels cells and strong increases in renewable fuel efforts. This legislation provides $4 billion over five years to speed the arrival of affordable, viable hydrogen fuel cells; create a new Department of Energy program to encourage the use of on-site energy production from fuel cells and microturbines; and allow the use of livestock methane as an eligible source under the renewable energy fund for public power.

And finally this legislation includes tax incentive, which I authored, for increased use of energy efficient products for the home and office. This is a solid bill, much needed by our Nation. This energy bill is an opportunity to ensure a better future. The bill addresses present day energy problems while looking beyond the horizon and I urge my colleagues to vote for the conference report.

Mr. POMBO. Mr. Speaker, the Energy Policy Act of 2005 will encourage development of our Nation's diverse energy resources, reduce our dependence on foreign sources of energy, and strengthen the country's energy and economic security.

The U.S. has been at the top of the economic food chain for most of recent history. One of the major reasons we've been so successful is that we recognized early-on that the foundation for economic growth is built with energy and minerals. But our continued success fostered apathy and disinterest in the energy and mineral resources that created this success. In the past, U.S. concerns about energy and minerals supplies simply centered on the general issue of availability of these resources for our national purposes. It did not matter if those resources were located in the U.S. or in another country.

Over the years, inadequate domestic energy and minerals policies created a regulatory system that discouraged domestic investment. Capital began flowing overseas into resources-rich countries where regulatory and investment climates in the energy and minerals sectors were more attractive. As a result, the U.S. produced less and became increasingly reliant on foreign sources of energy and minerals. Last year, the U.S. imported more than 63% of its oil, placing our energy needs increasingly at the mercy of foreign governments. Yet the U.S. government continues the cycle of tolerating irresponsible energy and mineral policies, thereby continuing to discourage investment in domestic energy and mineral production. The end result is that the U.S. continues to send money and jobs overseas and becomes more dependent on foreign sources for our energy needs.

Crude oil prices have hit nominal all-time highs, and natural gas prices are sustaining elevated price levels for the foreseeable future. Additionally, U.S. trade deficit in energy is more than 25 percent of our total balance of payments, and continues to increase at a rapid rate.

Today, our problems are two-fold. First, the issue of access to domestic resources is still a significant hurdle to bolstering U.S. energy and mineral security. Although industry's technological advancements in exploration and production have sustained some minimal growth, policies preventing access to the responsible development of these resources still remain. Second, the U.S. is facing a global resources future where we are more dependent than ever on foreign sources of energy and minerals while at the same time no longer "guaranteed" to be the major recipient of energy and minerals from our traditional foreign suppliers.

In fact, emerging economies such as China and India are forever altering the global commodities markets, where demand by these countries for resources such as oil, natural gas, coal, minerals and metals, is outpacing expectations.

The road to a better quality of life starts with increased use of energy and mineral commodities. Economic growth rates in China and India have surged as have their demands for energy and mineral resources.

The old "Free World" versus "Evil Empire" dichotomy of energy and minerals availability has been replaced by a rough-and-tumble marketplace for commodities. In that global marketplace, long-running declines in prices for energy and mineral resources have been reversed; and, in the case of mineral commodities, a three decade long decline has been reversed almost overnight.

Our energy and mineral supply strategy for the long-term begins with enacting a comprehensive national energy policy that encourages diversity of fuel use, increased domestic production, and self-sufficiency.

Among other critically important provisions in this bill, my committee has jurisdiction over Department of Interior (DOI) and U.S. Forest Service (USFS) programs that administer the domestic energy and mineral programs for federal lands and the outer continental shelf.

Using FY 2005 budget estimates, the energy and mineral programs of the DOI cost around $850 million per year.

But these programs will generate about $10.1 billion for the U.S. taxpayer each year, primarily from energy development and production.

Outside of the Internal Revenue Service, these are the only programs that provide significant revenue to the feral treasury.

But generation of revenue is not the only benefit of domestic energy production on federal lands. Production of energy domestically keeps money at home, creates jobs and reduces our dependence on foreign energy imports.

Among other important issues, the provisions in the conference report before us today: encourage increased domestic production of renewable energy from resources like geothermal, wind, hydropower and biomass, to name but a few; encourage domestic production of traditional energy sources such as coal, oil and natural gas by streamlining the federal permitting process sand providing potential incentives for technically challenging oil and natural gas from the deep depths of the outer continental shelf; encourage domestic development of the more than 2 Trillion barrels of oil from oil shale in the Western U.S.; promote a "good Samaritan" pilot project to help clean-up the more than 57,000 "orphan" wells that have become wards of the federal government; promote sequestration of carbon dioxide as a means of enhancing oil and natural gas production from old and existing wells; maximize federal coal production and returns to the U.S. treasury; seek to establish North American energy independence by launching a commission to review and make recommendations on how Canada, the U.S., and Mexico can coordinate their energy policies to reach energy independence within 20 years; seek extensive review of the impact and challenges to U.S. interests created by the Chinese government's aggressive pursuit of global energy assets; and promote tribal energy development through self-governance of energy resources in Indian Country.

The Energy Policy Act of 2005 is a good first step in the effort to lower energy prices and reduce our dependence on foreign energy. But there is no question that we must do more to increase domestic production. As demand across the globe continues to skyrocket, it is imperative for America to produce more American energy. Doing so will create jobs, grow our economy and strengthen national security.

Tapping the abundant energy resources we have in America will become more and more necessary as we go forward. All we need is the political will in Congress to let an American workforce get these supplies here at home.

Mr. VAN HOLLEN. Mr. Speaker, I rise today in opposition to the energy conference report before us. While the reliability standards and efficiency incentives in this legislation are not without merit, the entire package is tragically little more than a case study in missed opportunities and misplaced priorities.

First, and most astonishingly, this bill does nothing to wean the United States from its dependence on foreign oil. In failing to make meaningful progress on energy independence, the conferees scrapped a measure designed to reduce our oil consumption by a million barrels a day by 2015 and refused to make long overdue improvements in our corporate average fuel economy, CAFE, standards for cars. The predictable result will be less security for the Nation and continued pricing pressure at the pump.

Second, rather than making robust investments in the renewable and advanced efficiency technologies of the future, this legislation lavishes billions of dollars on the polluting industries of the past. Particularly during this period of record profits, does anyone really believe taxpayers need to be giving oil and gas companies another tax break? The conferees' decision to abandon the renewable portfolio standard called for in the Senate bill is a serious mistake, and I regret that a forward-looking alternative called the New Apollo Energy Project I championed with Representatives JAY INSLEE and RUSH HOLT was blocked from receiving consideration on the House floor earlier this year.

Finally, this conference report turns back the clock on decades of hard-fought, bipartisan environmental protection. The Clean Water Act, Safe Drinking Water Act and National Environmental Protection Act are all undermined, while State authority over siting decisions for liquefied natural gas importation terminals is preempted. Additionally, the legislation abdicates all responsibility for the most looming ecological challenge of our time: climate change. Senate language calling for carbon caps to combat global warming was stripped from the final bill, and an amendment I offered with Representatives WAYNE GILCHREST and JOHN OLVER to take the modest step of establishing a national greenhouse gas registry was quashed in April by the House Rules Committee.

Mr. Speaker, this legislation goes further where it shouldn't—and not nearly far enough where it should. It is content to see the world through the rear view mirror of a parked SUV while the rest of the world is flying down the road in hybrids passing us by. At the dawn of the 21st century, the United States deserves an energy policy worthy of its people and of the historic leadership we have always provided on the world stage. This is not that energy policy. I urge my colleagues to oppose the conference report.

Mr. LEWIS of Kentucky. Mr. Speaker, I rise to express my support for the Energy Policy Act of 2005.

H.R. 6 is a truly balanced bill that will ensure the infrastructure necessary to meet energy needs in the United States through future decades, reduce dependence on foreign sources of oil, making us safer at home, and create thousands of new jobs for American workers. This was accomplished, in large part, by the inclusion of several important energy tax incentives.

Along with investments in renewable and clean energy incentives and domestic oil and gas production, H.R. 6 makes a significant commitment to coal. As my colleagues know, coal produces 51 percent of our Nation's electricity and many experts estimate that number will grow in the coming years.

H.R. 6 includes a 7-year recovery period for new investments in pollution control facilities installed in coal-fired electric generation plants. The shorter recovery period will allow companies to make it easier to comply with new EPA regulations.

For the first time we are making a real commitment to investing in clean coal technologies. The bill provides more than $1.6 billion in tax credits to fund IGCC and advanced clean coal projects.

It is estimated that we have a 250-year supply of coal. H.R. 6 ensures that this source continues to be a part of our Nation's energy policy and today we make a real commitment to ensure that it is more efficient and cleaner.

I would like to personally thank my chairman, BILL THOMAS, and his staff for their hard work on the energy tax incentives package. Throughout the last 5 years, the Ways and Means Committee has been the genesis of many massive social and economic reforms including several important tax relief bills, a Medicare and prescription drug plan, and a critical trade agreement. H.R. 6, the Energy Policy Act of 2005, is yet another major accomplishment under Chairman THOMAS's leadership.

Mr. WALSH. Mr. Speaker, I rise today to express my support for H.R. 6, the Energy Policy Act of 2005 conference report. In particular, I want to thank the conferees for including a provision that will establish the National Priority Project Designation. This national award program, modeled after the Malcolm Baldridge Quality Award Act, would promote and recognize large sustainable design building and renewable energy projects. In April, I sponsored the National Priority Project proposal as an amendment to the Energy Policy Act, which the House adopted by voice vote. The Senate adopted a similar amendment, also by voice vote, to its version of energy legislation in June. The Solar Energy Industries Association and the American Wind Energy Association have both endorsed this legislation.

This proposal establishes four categories of designations: wind and biomass energy generation projects; solar photovoltaic and fuel cell energy generation projects; energy efficient building and renewable energy projects; and "first-in-class" projects. The legislation sets minimum renewable energy generation thresholds for wind, biomass, solar, fuel cell and building projects. Energy efficient and renewable energy building projects must meet additional criteria to be considered for designation, including: compliance with third-party certification standards; comprehensive integration of renewable energy and energy efficient features; and the use of at least 50 percent renewable energy overall.

The DestiNY USA project, located in my congressional district, will likely apply for consideration for designation under this program. DestiNY USA is designed as the largest fossil fuel free building project in the world, with plans to deploy up to 600 megawatts of renewable energy generation capacity. It will employ the entire spectrum of renewable energy generation sources, including solar, wind, biomass, geothermal and micro-hydroelectric. DestiNY is just one example of the type of innovative, high technology projects that could qualify for designation. By providing an additional incentive for creativity and a commitment to renewable energy, the National Priority Project designation will help meet the goal of assuring "secure, affordable and reliable energy."

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise in support of the conference report on H.R. 6, the Energy Policy Act. One of the provisions in this bill is something I've been working on for years and clarifies the depreciation period for natural gas gathering lines is appropriately 7 years. I appreciate Chairman THOMAS's work on this provision for the years he has been the Chairman of the committee.

Further, I am glad to see that the conferees on the tax title of the bill were able to reach a balance between incentives for production of oil and gas and other energy production with energy efficiency incentives and conservation incentives. I support this bill and commend the conferees on their hard work.

Mr. BLUNT. Mr. Speaker, after some late nights and a lot of hard work, I am pleased we have a conference report on the energy bill today. The House of Representatives has passed energy legislation five times, only to have the bills die. Keeping the lights on should not be a partisan issue. Filling up a gas tank should not be a partisan issue.

Today we are finally voting to send this comprehensive plan to the President's desk. With gas prices soaring, I want to thank Chairman JOE BARTON for his hard work on this much needed legislation and for working with me to include a provision in this bill to curb the production of boutique fuel blends and address this issue head-on.

The current gasoline supply includes specially formulated boutique fuels which are required by law in certain communities.

When supplies are limited, gas prices rise quickly—sometimes overnight. For example: Missourians can fill their gas tanks up in Springfield and drive 3½ hours to St. Louis. When they get there, they'll be filling their tanks up with a completely different type of gasoline. But if St. Louis ever runs short on their boutique fuel, gas stations there can't sell what consumers could buy back in Springfield.

This conference report caps the number of these special fuel blends and allows communities faced with a shortage due to unforeseen circumstances, such as a refinery fire, a waiver to use conventional gasoline.

This plan relies on simple economics: If we create a larger market for a greater amount of gasoline, we'll help drive prices down.

This proposal moves the country one step closer to lowering the sky-high price of gas for consumers.

Mr. BARTON of Texas. Mr. Speaker, as Chairman of the Conference, I would like to clarify a point regarding section 1233, "Native Load". It is my understanding that section 1233 does not affect the Commission's authority under sections 205 and 206 of the Federal Power Act to ensure that rates are just and reasonable, and not unduly discriminatory or preferential.

### REFUND AUTHORITY

As Chairman of the Conference, I would also like to clarify a point regarding section 1286, "Refund Authority". This section provides the Federal Energy Regulatory Commission with authority to order refunds from overcharges on sales by large municipal utilities.

I understand the phrase "organized markets", and possibly other related words following that phrase, may be ambiguous. I believe the FERC should carefully consider the purposes of this section when interpreting those words. That purpose is to protect all consumers from exorbitant electricity prices, regardless of whether the seller is a fully regulated public utility or, in the case of this provision, a publicly owned and only partially regulated utility. The impact and the injury from the exorbitant price is equally injurious and equally in need of redress.

Therefore, I urge the Commission to give the words in question real meaning and to note that the Congress could have chosen other words, such as auction market or ISO or RTO managed market, to convey a more narrow and specific scope.

### CEILING FANS

As Chairman of the Conference, I want to address a drafting error in Section 135, "Energy Conservation Standards for Additional Products." An incorrect section mistakenly included starts on page 101, line 14 and ends on page 102, line 4. Sentence (v)(I) was not agreed to and should be removed later in a technical correction. Also, the phrase "Ceiling Fans" should be removed where it appears in section (v).

The proper language starts on page 107, line 8 and goes through page 112, line 10. This section (ff) is correct.

Congressman NATHAN DEAL authored the original language, which did not receive consensus during negotiation of the conference report. Congressman DEAL worked with Members of the Conference, industry representatives, and various environmental and energy efficiency advocates come up with some compromise language. I want to thank Congressman NATHAN DEAL for his hard work on this issue, and for bringing the mistake to my attention. I will work to correct this later.

### BOUTIQUE FUELS

As Chairman of the Conference, I want to clarify some points regarding Section 1541, "Boutique Fuels", This provision is an amendment to section 211(c)(4)(C) of the Clean Air Act to limit the number of boutique fuels.

First, it is my understanding that in section 1541 ethanol when blended into gasoline in a concentration of 20 percent by volume be considered a fuel additive.

Second, in implementing this new provision, the EPA must determine the total number of fuels approved under 211 (c)(4)(C) as of September 1, 2004 and publish such a list in the Federal Register. The plain meaning of this provision would be that fuels initially approved by the Environmental Protection Agency before this date would constitute the "upper limit" on the number of fuels that may be approved at any one time in the future under the provisions of this section.

Specifically, as long as a fuel was initially approved by the Environmental Protection Agency before September 1, 2004, the fuel may be sold and used pursuant to a State Implementation Plan and the provisions of 211 (c)(4)(C) as such provisions existed before the amendment of that section by the pending legislation. In addition, the amendments that we are enacting to section 211(c)(4)(C) do not require that a fuel actually be distributed or sold prior to September 1, 2004, only that the Administrator of the Environmental Protection Agency initially approved the fuel as meeting the requirements for a waiver prior to September 1, 2004.

This interpretation of section 1541 would also hold if the implementation date for the sale or distribution of any fuel previously approved by the Administrator prior to September 1, 2004 was later changed at any point in time. The amendments made today to section 211(c)(4)(C) would not prevent this sale or distribution from occurring nor impose any additional requirements or limitations on the implementation of matters related to the use of this previously approved fuel or a program providing for its use.

Finally, the changes to existing law regarding waivers for fuels approved as part of a State Implementation Plan only apply to those fuels which were not previously approved by the Administrator of the Environmental Protection Agency before September 1, 2004. Programs such as the Texas Low-Emission Diesel program are not affected by the provisions of section 1541 even though a later State Implementation Plan revision or action by the State or federal Environmental Protection Agency may have revised the beginning date of sale of the fuel or other matters related to the implementation of the fuel program.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I am pleased that the House is finally considering the Energy bill Conference Report today. More importantly it is greatly improved.

I have had mixed feelings about the Energy bill. Members and staff on both sides of the aisle have worked very hard to improve it. This hard work has resulted in several key changes that will result in my approval of this Conference Report.

One important change is that clean air initiatives were added. My state of Texas ranks first in the nation in toxic manufacturing emissions, first in the number of environmental civil rights complaints, and second on the amount of ozone pollution exposure. The clean air provisions are very important to me and my constituents.

I am also pleased to know that provisions for drilling in the Arctic National Wildlife Refuge have been removed from the bill.

The MTBE issue is also important to me. It is good to know that the provisions granting retroactive liability protection for MTBE producers have been removed.

Although the Energy bill is not a perfect one, the compromise we are considering today is greatly improved.

Because of these changes, Mr. Speaker, I now support this legislation and urge my colleagues to support it also. No bill is perfect and certainly this one is not perfect but I appreciate the efforts made to improve it.

Mr. HONDA. Mr. Speaker, I rise today in opposition to the conference report on H.R. 6. President Bush and the Republican majority have pushed this legislation on the premise that we need it to solve our energy problems, that we need it to wean ourselves from our dependence on imported oil which poses a threat to our economic and national security.

Sadly, the bill we have before us today fails to do that. Today we import 58 percent of the oil we consume, and projections predict that we will have to import 68 percent to meet demand by 2025. Experts indicate that at best, this bill would only slightly slow that rate of growth of dependence, rather than actually decrease our dependence on imported oil.

We cannot continue to increase our consumption of fossil fuels. By definition, these fuels are finite in supply. They will run out some day, plain and simple. And as long as we continue to rely on them, we are going to be faced with an impending crisis.

The bill gives billions of dollars in tax breaks and subsidies to encourage oil and gas production, but these will not do much more than high gasoline and natural gas prices already do to stimulate domestic production of fossil fuels. The energy industry is already the most profitable industry in the nation, incentives should not be necessary.

This bill could have really done something to reduce our consumption of oil by increasing fuel economy standards for vehicles, but it fails to do so. Increasing standards is the single biggest step we could have taken to reduce our oil dependency.

This bill could have really done something to reduce our dependence on fossil fuels by including a renewable portfolio standard, which would have required the use of sustainable energy sources, but it fails to do so. Instead its subsidies and tax breaks encourage more of the same old thing—finite fossil fuels and nuclear power plants whose waste we do not know what to do with.

Instead of encouraging energy conservation, renewable energy use, and curbs on emissions that damage our environment, the bill creates new exemptions in some of our nation's bedrock environmental laws, like the Clean Water Act, the Safe Drinking Water Act and the National Environmental Policy Act.

The bill also repeals the Public Utility Holding Company Act, which was instituted to protect the interests of consumers. In the wake of Enron, this is the wrong direction to go. And the bill rejects the wishes of State officials by granting the Federal Energy Regulatory Commission new authority to approve the location of terminals to handle the imports of liquefied natural gas.

To solve our energy problems in the future and reduce our reliance on foreign sources of energy, we need a truly visionary energy policy that employs renewable energy sources and encourages energy efficiency and conservation. This bill does not provide that vision, and I urge my colleagues to oppose it.

Mr. RAHALL. Mr. Speaker, this is now the third Congress energy policy legislation has been under consideration. During the course of this period I have consistently opposed the House versions of this legislation. Today, however, I am pleased to be in the position of voting for the pending conference agreement. The fundamental reason for my being able to now support this legislation is because many of the most troubling provisions in the past House versions which caused my opposition are largely no longer present in the final product before us today.

I have been troubled in the past by the inclusion of provisions waiving the National Environmental Policy Act, the opening of the Arctic National Wildlife Refuge to development, inappropriate and unseemly taxpayer giveaways to Big Oil, as well as unwarranted liability relief to certain fuel manufacturers. I was not gullible enough to think that the conference would clean the slate entirely of giveaways to Big Oil, but aside from that issue, these provisions that I have long opposed are, for the most part, not present in the pending legislation.

In addition, I have opposed past versions of this legislation because they contained provisions which unfairly provided western coal produced on federal lands a competitive advantage over all other coal producing regions including my home State of West Virginia. Those provisions have been mitigated in the pending measure.

And finally, I have been opposed to past versions of this bill because they lacked visionary and significant incentives to burn coal more cleanly and to utilize coal in a more efficient manner. The pending measure finally contained incentives of that nature, which will allow us to employ coal as a means to help wean ourselves from foreign sources of energy.

This is not a perfect bill, by no means. It still contains royalty relief for large producers of oil and gas in the Gulf of Mexico. It also contains provisions which some believe can be a precursor to lifting the wildly popular moratoria on oil and gas drilling off portions of the American coastline. I do not support those measures. At the same time, when I examine the tax title, and find almost $3 billion worth of incentives to promote the commercial application of new coal burning technologies, I find that finally, finally, coal is being paid more than lip service in our national energy policy.

These incentives are extremely important. As I have often observed in the past, we as a Nation, have expended a great deal of money in developing clean coal technologies. Yet, the fact of the matter is that they have not been deployed in the commercial sense.

After many decades of this effort, today, only a single integrated gasification combined cycle coal plant exists owned and operated by Tampa Electric. The reason is simple. Advanced plants of this nature are much more expensive to construct and there is no incentive for the electric utility industry to build them. Hence, the pressing need for federal incentives, so that we can begin to achieve widespread commercial application of these technologies, have a cleaner environment, and reduce our dependency on oil and natural gas.

All in all, again, not a perfect bill but one which I believe will be of some assistance in expanding our national energy mix.

Mr. BACA. Mr. Speaker, I rise in support of the conference report for the Energy Bill.

Americans need an abundant supply of energy to maintain a high quality of life and sustain our economy.

This comprehensive bill helps provide for our Nation's energy needs by encouraging domestic energy production.

America has become too dependent on foreign oil, making our consumers subject to volatile prices and the whims of often hostile, antidemocratic leaders. We have seen the consequences as oil and gas prices continue to rise. The price of imported oil recently reached record levels of $60 a barrel. That is a full $10 more than six months ago and nearly $20 more than two years ago. I am well aware of the hardships this causes for consumers, workers and our economy.

In my district in California the cost of gasoline has risen to $2.89 a gallon. Many of my constituents commute to Los Angeles, which is 60 miles away. Many others are truckers who depend on stable gasoline prices to put food on the table. These hard-working people are affected daily by our country's dependence on foreign oil.

Nobody should make false promises that gas prices will immediately be lowered.

This bill is not a quick fix, but it includes important provisions to help meet our country's energy needs, while also promoting energy efficiency, conservation and diversification, including incentives for alternative sources like ethanol, solar and wind.

By decreasing our dependence on foreign oil and expanding production of alternative sources, we are not only protecting consumers and protecting our national security, but we are also protecting our economy by creating perhaps one million jobs.

Improving our Nation's energy efficiency and cost efficiency is a bipartisan issue.

I am pleased to support H.R. 2419 for the economic and national security of our country.

Mr. TOM DAVIS of Virginia. Mr. Speaker, Chairman BARTON, thank you for the way you managed this difficult process. Being an outside conferee on a bill this size can often be an exercise in futility. But throughout this Conference, you and your staff remained responsive and helpful. Also, I also want to commend all the conferees for working hard to listen to each other and compromise when appropriate.

There are two sections of this bill which I am particularly excited about from an acquisition policy point of view. First is the section authorizing the continued use of Energy Savings Performance Contracts—these contracts have, over recent years, provided agencies with an effective tool to rapidly improve the energy efficiency of their buildings without increasing costs to the taxpayer.

Some have suggested limitations to this program, but such limitations will translate into reductions in the energy efficiency of government facilities. In my opinion, that is heading in the wrong direction and I'm happy to see such limitations were not included in the final bill.

Second, this legislation authorizes the use of Other Transactions for the Department of Energy's critical research and development efforts. These arrangements support research and development without using standard procurement contracts, grants or cooperative agreements.

Other Transactions authority has been used successfully in the Department of Defense for years to great effect. I appreciate the Science Committee's willingness to work with me and the Senate to craft language that allows the use of this valuable tool where appropriate. It is a shame when the government is denied a technological advance simply because our standard acquisition policies are not suitable for the development of cutting edge solutions.

Finally, I want to note that the conference has decided to include a request for a report on China and the CNOOC offer to acquire Unocal. This report will be conducted simultaneously with the regular review conducted by the Committee on Foreign Investments in the United States. The report will essentially develop the same information required by the CFIUS review. In other words, the Conference has decided to duplicate the review process. The conference's time would be better spent studying our Nation and how we plan to secure our energy over the next 50 years instead of worrying about the actions of our most valuable trading partners. With this one exception, the Energy Policy Act is a step in the direction of answering those questions.

Mr. STARK. Mr. Speaker, I rise in strong opposition to H.R. 6, the Energy Policy Act of 2005 conference report. If U.S. energy policy were the *Titanic*, Republicans would give a tax credit for bailing water rather than changing navigation techniques to avoid a future crisis. Fossil fuels are increasingly expensive, polluting, contribute to war and global unrest, and will run out within the next 50–100 years, and yet President Bush and Republicans in Congress want to ride the sinking ship of oil dependence to its disastrous conclusion.

This compromise between the House and Senate Republicans shows the good, the bad, and the ugly of politics.

Good: After four years getting nowhere with drilling in the Arctic National Wildlife Refuge and exempting manufacturers of MTBE from legal liability for groundwater contamination, the Republicans have finally relented and removed these provisions from the conference report.

Bad: Now that everyone isn't focused on these high-profile issues, there's a sinking realization that this bill does nothing to reduce our dependence on foreign oil and will actually raise, not lower, the price of gasoline, because it triples the use of ethanol. Ethanol is a Midwestern farm subsidy, pure and simple. It's expensive, it emits some air pollutants more than gasoline, and up to six times more energy is used to make ethanol than the finished fuel contains.

Ugly: The bill exempts oil and gas companies from the Clean Water Act, the Safe Drinking Water Act, and the National Environmental Policy Act. To speed up oil production, oil companies can now inject fluids laced with toxic chemicals into oil and gas wells that penetrate groundwater. According to the bill, the EPA no longer has any ability to regulate these activities or force oil companies to prevent contamination of drinking water supplies.

If you asked the American people how to create a secure energy future, they'd talk about solar and wind power, placing higher emission standards on SUVs, and conservation, but the great minds in the Republican Party don't believe in these proven strategies any more than they believe in the science of global warming.

Since I know that Republicans don't like high gas prices, smog, asthma, or ruined wilderness any more than I do, I can only conclude that they are selling out the American people for their corporate contributors. I will have no part of it and I vote "no" on this shameful bill.

Mr. ENGEL. Mr. Speaker, the Washington Post today noted that the nicest thing that it could say about the comprehensive energy bill is that it could've been a lot worse. That's the sentiment that many of my colleagues and I feel today—that while clear improvements have been made in conference—a tribute to Chairman BARTON's leadership—that H.R. 6 essentially preserves the status quo.

There is no doubt that the underlying bill is a vast improvement on the bill we marked up this spring in committee and on the floor. Two of the most egregious provisions, liability protection for MTBE polluters and drilling in the pristine Arctic wilderness are out. We are also finally enacting electricity reliability standards and I was pleased to have worked with my colleagues Mr. TOWNS and Mr. FOSSELLA to preserve New York's high reliability standards strengthening the underlying electricity title. New York has unique needs that necessitate this provision including having a high concentration of load in a small geographic area. Additionally, nearly 40 percent of the State population lives in NYC and close to three-fourths work there and 3 million New Yorkers use the underground subway system every day. Finally, New York is home to the NYSE and other critical financial institutions. Although, we should have done this years ago in response to the rolling blackouts of 2003, I am proud to be a part of the inclusion of such an important policy development.

However, I am deeply disappointed that this bill neither reduces our dependence on oil nor addresses climate change. The Energy Information Agency has stated that under the Energy Policy Act, by 2025, U.S. oil consumption is projected to increase to 28.3 million barrels per day and our country would increase its imports of foreign oil by 85 percent. It even found that gasoline prices under the bill would increase more than if the bill was not enacted. What this country critically needs, but is not in this bill, is a policy to reduce our addiction to oil through the promotion of alternatives and clean renewables, improve automotive fuel efficiency, and reduce greenhouse gasses.

Further, it is a travesty that this bill will open up our coastlines and wildlands to destructive oil and gas activities and evade environmental and consumer protections. I wish the conferees had included more funding for smarter, cleaner, safer, and cheaper energy policy in this bill that puts innovation and technology to work. While I am pleased that the Energy Policy Act includes $5 billion in tax breaks and incentives for energy efficiency and renewable energy programs, the number pales in comparison with the $9 billion earmarked for oil, gas, electricity and coal. Even our esteemed U.S. Energy Secretary, Sam Bodman, opposed the inclusion of such measures, stating, "these industries don't need incentives with oil and gas prices being what they are today." We must target scarce Federal dollars wisely.

Our energy policy is intricately tied to our national security and our economic well-being. We must be vigilant in opening dialogues between diverse groups of policy experts like the Set America Free Coalition and National Commission on Energy Policy as we continue to build and improve on current energy policies. As the co-chair of the Congressional Oil and National Security Caucus, I know we need to diversify our energy sources, reduce our dependence on unstable oil sheikdoms, and create skilled jobs while reducing energy costs. We must create policies that will protect the environment and our consumers. While there is improvement in this conference report, on balance, our goals cannot be achieved under this Energy Policy Act, and so regretfully I must vote against it.

Mr. ETHERIDGE. Mr. Speaker, I rise today in reluctant support of H.R. 6, the Energy Policy Act of 2005. While this bill still contains provisions that I oppose, it is a far better bill than the one's that I have voted against in the past.

Mr. Speaker, I am very disappointed that this bill contains a provision that will allow the Interior Department to conduct an inventory of oil and natural gas resources off the east coast of the United States, including my State of North Carolina, and other areas currently under a drilling moratorium. I do not think that this is a wise use of taxpayer dollars, considering the Administration's continued promise that these areas will never be drilled for oil. Let me state clearly that I continue my strong opposition to any effort to drill for oil off of the North Carolina coast.

This bill also repeals the 1935 Public Utility Holding Company Act, which was passed in the wake of the Depression to ensure that the public would not be taken advantage of by utility companies. We know this is still being done, we have heard with the stories such as Enron. This law has protected the rural rate payers in States like North Carolina, and I oppose its repeal.

Even in light of the negative aspects of this bill, I am voting for it because of the positive changes that have been included that will help put our country back on to the right track. This bill doubles the requirement for renewable fuels, and extends the tax credit for biodiesel. This will help our farmers and help us reduce our dependency on foreign oil. This bill also remove any legal waivers for companies that have poisoned our waters with MTBEs, and excludes the provision to allow drilling and development of the Arctic National Wildlife Refuge (ANWR), to preserve this national treasure for future generations. I would also add that I am pleased about the increases in tax incentives for renewable energy such as wind and solar power.

Mr. Speaker while this is not a perfect bill, it is a step in the right direction. And it deserves our support.

Ms. DEGETTE. Mr. Speaker, I rise to express my opposition to the comprehensive energy bill before us, a bill that purports to address the energy challenges facing this country, yet ignores the most fundamental issues and fails to set us on a path to a more sustainable future.

Despite the fact that the transportation sector is the biggest emitter of harmful pollutants into our air, this bill fails to increase the efficiency of our cars. The technology is there, the demand is there, but the will is not. Although the bill offers incentives for consumers to purchase hybrid vehicles, this country's broken fuel economy program prevents it from having an effect. When an auto maker sells more fuel efficient cars, they are then given flexibility to crank out more gas guzzlers, which boggles my mind.

The Energy Policy Act of 2005 also fails to require our utilities to derive even a small percentage of their power from renewable energy, as voters in Colorado overwhelmingly approved last year. Enactment of a national renewable portfolio standard would spur innovation in the marketplace, attract new capital investment, create jobs, and reduce pollution.

This legislation, which acknowledges that global warming is a problem, sets up yet another federal advisory committee to "develop a national policy to address climate change." Maybe I am mistaken, but isn't that Congress' job? We had the opportunity in this bill to create a market-based system to curb greenhouse gas emissions that are warming our earth, polluting our skies, and endangering our national security by keeping us bound to foreign oil. Again, we had the opportunity, but with this bill, we are passing the buck for another Congress to deal with, when the problem is even more out of control.

This bill weakens some of our most basic environmental laws, such as the Clean Air Act, Clean Water Act, and the Safe Drinking Water Act. It presents some nice handouts to industry, such as billions in giveaways to oil companies that are already drowning in profits due to high oil prices, while the Nation is experiencing huge deficits and slashing education and health care programs.

This bill fails to recognize that high energy costs are a function of both supply and demand. While it is quite generous in increasing the production of fossil fuels, it does not even acknowledge the oil scarcity problem. Instead of drilling and more drilling, we should be helping to curb the Nation's appetite for this rapidly declining resource by encouraging the development of alternative technologies.

Mr. Speaker, there is no question that this bill is a marked improvement over previous iterations. I applaud Chairman BARTON for his devotion to ensuring an open, transparent process with full debate on the issues. He has great courtesy and respect for the deliberative process, and I thank him for that. The bill he has put forward takes steps towards greater energy efficiency and conservation, ensuring the reliability of the electricity grid, and providing customers with incentives to purchase vehicles powered by alternative fuels.

But the problems with this legislation far outweigh its benefits, and as such I am forced to oppose it. I wish this Congress had the courage to enact reforms that would set this country on a more sustainable energy future, but instead it seems content to stick with a status quo that emphasizes extraction over conservation, pork over investment, and development over efficiency. Americans deserve better.

Mr. LEVIN. Mr. Speaker, I rise in support of the conference agreement on the Energy Policy Act.

This day has certainly been a long time coming. The last major energy bill I was able to support was the National Energy Efficiency Act of 1992. Since that time, there has been a clear need for follow-up legislation to address the significant energy challenges facing the country, but Congress and the Bush administration have repeatedly dropped the ball. Over the last 4 years, Congress has twice come close to approving irresponsible energy legislation that would have done significant harm to consumers, the environment, taxpayers, and plain common sense.

As others have noted, the bill before us today—is not perfect, but it is much improved. I am especially pleased that the conferees dropped the harmful provisions in the House-passed bill that sought to open the Arctic Refuge to drilling and shield the MTBE industry from liability for the environmental damage their product has caused. There are still a number of provisions in this package that I would change; in particular, I would drop the tax and royalty-relief incentives in the bill for oil and gas drilling. When the price of a barrel of oil is near an all-time high, such public subsidies are unneeded and unjustified.

I want to state clearly why this bill is worthy of passage today. Two summers ago, the United States and southern Canada experienced the worst power blackout in history that left more than 50 million people without electricity, including 2.3 million residents of Michigan. Two years later, Congress has done nothing to address the reliability of the electrical transmission system. Voluntary standards won't get the job done. We need clear, mandatory and enforceable rules for ensuring the reliability of the power grid. The bill before the House accomplishes that.

I also support the many provisions of this legislation that spur development and use of renewable sources of energy and encourage conservation and energy efficiency. I believe that consumers, the environment, and energy security will be well served by the enhanced tax credit for Americans to purchase hybrids and other alternative power vehicles. Looking to the future, this bill provides significant resources for the development of clean-burning hydrogen.

I know that many of my friends in the environmental community disagree with some of the provisions in this bill. In particular, I know there is concern over the incentives for nuclear energy. As one who has more often than not voted against nuclear power, I understand these concerns. The fundamental problem with nuclear energy is that we have not yet developed an acceptable way of dealing with nuclear waste. In all likelihood, it won't be sufficient to just bury the waste in a hole in the Nevada desert and hope it stays put for the next 20,000 years. A much better solution is to develop the technologies to safely recycle or permanently isolate the waste.

By the same token, I think most everyone now accepts that global warming is a serious problem that needs to be addressed. The scientific evidence on warming is overwhelming, and we can't just ignore it as the administration has. We know enough now to begin addressing the problem. Unlike coal and petroleum, nuclear power produces no greenhouse gases. Like it or not, nuclear power must continue to be part of the mix of solutions to address the global warming problem. There are other steps we need to take, and one essential step is finding a better solution to the waste problem.

Last but not least, this energy bill permanently bans new oil and gas drilling in the Great Lakes. The Lakes are our State's crown jewels, and the heart of Michigan's multi-billion-dollar tourist industry. They should not be put at risk just so energy companies can extract a few weeks' supply of oil.

On balance, this energy package is worthy of support, and I urge my colleagues to join me in voting for it.

Mr. UDALL of Colorado. Mr. Speaker, I regret that I cannot support this legislation.

There is nothing I would rather vote for than a balanced energy bill that sets us on a forward-looking course—one that acknowledges that this country is overly dependent on a single energy source—fossil fuels—to the detriment of our environment, our national security, and our economy.

But at a time of sky-rocketing oil prices, this report doesn't do what it needs to do—help us balance our energy portfolio and increase the contributions of alternative energy sources to our energy mix.

The process of developing the conference report is much improved from last year's contentious debate. Senate and House conferees worked together cooperatively and were able to compromise on a number of provisions and bridge difficult differences of opinion. I believe Chairman BARTON and Ranking Member DINGELL and on the Senate side, Chairman DOMENICI and Ranking Member BINGAMAN, have done a good job in this respect.

The conference report itself is also an improvement over the bill passed by the House earlier this year.

It includes an extension of the Renewable Energy Production Tax Credit for another 2 years, which will take us through the end of 2007. This is very good news. The report also includes clean energy bonds provisions from the Senate bill which will enable electric cooperatives to invest in renewable generation.

It also removes the methyl bromide tertiary-butyl ether, MTBE, liability waiver that would have let industry off the hook. It's true that the conference report does provide a "backdoor immunity" that could derail many legal claims by denying communities and states the right to be heard in state forums. But I believe that the conferees took a big step forward by dropping the liability waiver.

On energy efficiency, the conference report goes beyond the House bill in establishing new energy efficiency standards for 15 products. It also includes numerous energy efficiency tax provisions for alternative fuel vehicles, energy efficient appliances and new and existing homes, among others, provisions contained in the Energy Efficiency Cornerstone Act that I introduced with my colleague Rep. ZACH WAMP and others.

Electricity provisions are strengthened—not only does the conference report include new standards for grid reliability, but it also includes consumer protections in electric markets, such as new merger review, a prohibition on market manipulation, improved market transparency, among others. These protections are especially important given that the bill repeals the Public Utility Holding Company Act, PUHCA, which restricts the ownership and operations of power companies and their ability to control energy prices.

Another way in which the conference report has improved on the House bill is its treatment of oil shale.

This is a subject of particular concern to Coloradans, because Colorado has the most significant amounts of oil shale—and also the most experience with oil shale fever. In Colorado, we have had several bouts of that syndrome. The last one started during the 1970s energy crisis and ended abruptly on "Black Sunday" in 1982. That was when Exxon announced it was pulling out of the Colony shale project, an event that left an impact crater from the Western Slope to downtown Denver. There followed an exodus of other companies that had been working on oil shale—which led to an echoing exodus of jobs and of Coloradans who had nowhere else to turn.

The House bill would have required the Interior Department to set up a new leasing program for commercial development of oil shale, with final regulations to be in place by the end of next year. In other words, it called for a crash program to meet a short, arbitrary deadline.

In the Resources Committee, I tried to change that. An amendment I offered would not have barred oil shale development. Instead, it would have said that before we leap again, we should take a look and have a clear idea of where we are apt to land. Under my amendment, the Department of the Interior would be told to prepare regulations for a new oil shale leasing program—and to get them finished "promptly" after finishing the analysis required by NEPA and the regular process for developing new federal regulations.

Unfortunately, the Republican leadership of the Resources Committee opposed my amendment, and so it was not adopted. The result is that that part of the House bill was much uglier than it should have been.

The oil shale part of the conference report, while not necessarily a thing of real beauty, is definitely better. It calls for a programmatic environmental impact statement as the first step, and requires issuance of final regulations for a new commercial leasing program only after that statement has been completed. Further, it requires the Interior Department to consult with the Governor of Colorado (and the governors of other relevant states) and other interested parties in order to determine the level of support for development of oil shale (or tar sands) resources, and provides that leasing will then occur only if there is sufficient interest and support. This is a much better way to proceed than through the kind of crash program called for in the House-passed bill.

And, while I think the need for a new oil shale task force or a new office within DOE is doubtful at best, the conference report's provisions related to experimental leases are sensible and worthwhile.

There were a few good things in the House bill that I am glad are retained in the conference report—after all, in a 1,725-page bill, there are bound to be some good provisions, but in this case they are far outweighed by the bad.

For example, I support most of the provisions developed by the Science Committee, and I commend Chairman BOEHLERT and Ranking Member GORDON for their bipartisan approach.

In particular, I'm pleased that the Science Committee bill included generous authorization levels for renewable energy and energy efficiency R&D. As Co-chair of the Renewable Energy and Energy Efficiency Caucus, this funding is very important to me.

I am also pleased that the conference report includes the Clean Green School Bus Act, a bill that Chairman BOEHLERT and I drafted that authorizes grants to help school districts replace aging diesel vehicles with clean, alternative fuel buses. H.R. 6 also includes provisions from legislation I introduced on distributed power, which would direct the Secretary of Energy to develop and implement a strategy for research, development, and demonstration of distributed power energy systems.

Unfortunately, though, as a whole this conference report—like the bills we've debated twice before—basically retains the status quo and does little to provide solutions to the real energy problems facing this country.

This conference report provides oil and gas companies massive forgiveness of royalty payments. It exempts industry from requirements of the Safe Drinking Water Act when they inject harmful chemicals into the ground during drilling. It exempts oil and gas construction sites from storm water runoff regulations under the Clean Water Act. It authorizes up to $1.5 billion in new subsidies to the oil industry for ultra-deep oil drilling and exploration. It establishes an exclusion under the National Environmental Policy Act for oil and gas development activities.

Of the bill's total $14.6 billion in tax incentives, $9.3 billion (or 64 percent) is for traditional energy sources such as oil, natural gas, and nuclear power. The oil and gas industries are getting these massive subsidies from the taxpayer at the same time that their profits have never been higher. Meanwhile, renewables and energy efficiency technologies are allocated $5.3 billion, or just 26 percent of the total incentives in the bill.

And then there are all the things the bill would not do. It would not increase vehicle fuel economy standards, which have been frozen since 1996. Raising CAFE standards is the single biggest step we can take to reduce oil consumption, since about half of the oil used in the U.S. goes into the gas tanks of our passenger vehicles.

This conference report avoids the whole question of mandatory action on climate change, excluding even the toothless Senate-passed resolution that recognized the need for immediate action by Congress to implement mandatory caps on greenhouse gas emissions.

It also does not include the Renewable Portfolio Standard, RPS, part of the Senate-passed bill, which would require utilities to generate 10 percent of their power from renewable sources by 2020. Colorado is uniquely positioned to take advantage of alternative energy opportunities, such as wind and sun. Colorado's voters approved Amendment 37 last year, a state RPS, which is making a difference in our energy supply.

But a Federal RPS would yield numerous rewards in the long-term for the whole country, including increased energy independence and security, economic development opportunities in depressed communities, maintaining a competitive advantage internationally, protecting our environment, and helping our farmers develop long-term income sources. The absence of an RPS in this conference report is a serious setback for forward-thinking energy policy.

Most importantly, according to analyses conducted by the Department of Energy's Energy Information Administration, this energy bill will neither lower gas prices nor reduce U.S. dependence on foreign oil, with foreign imports predicted to increase from 58 percent to 68 percent in the next 20 years. Coloradans on average are already on average $2.25 for a gallon of regular gas. This bill will do nothing to bring those prices down.

I don't always agree with President Bush. But I think he is absolutely right about one thing—at $55 a barrel, we don't need incentives to oil and gas companies to explore. Instead, we need a strategy to wean our Nation from its dependence on fossil fuels, especially foreign oil.

In conclusion, Mr. Speaker, we need a plan in place to increase our energy security. Thirteen percent of the twenty million barrels of oil we consume each day comes from the Persian Gulf. In fact, fully 30 percent of the world's oil supply comes from this same volatile and politically unstable region of the world. Yet with only 3 percent of the world's known oil reserves, we are not in a position to solve our energy vulnerability by drilling at home.

This bill does nothing to tackle this fundamental problem. For every step it takes to move us away from our oil/carbon-based economy, it takes two in the opposite direction. I only wish my colleagues in the House could understand that a vision of a clean energy future is not radical science fiction but is instead based on science and technology that exists today. Given the magnitude of the crisis ahead, we can surely put more public investment behind new energy sources that will free us from our dependence on oil.

Earlier this year, President Bush spoke at the opening of the Abraham Lincoln Museum in Springfield, Illinois and attempted to draw parallels between his goal of expanding freedom in the world and Lincoln's effort to expand freedom in the U.S. I have some questions about that comparison, but I do think it is good to consider Lincoln's example when we debate public policy.

In fact, I wish President Bush and the Republicans would draw a few more parallels to Lincoln in their approach to energy policy—because, as that greatest of Republican Presidents said, "The dogmas of the quiet past are inadequate for the stormy present. Our present is piled high with difficulties. We must think anew and act anew—then we will save our country."

And while we are not engaged in a civil war, our excessive dependence on fossil energy is a pressing matter of national security. We have an energy security crisis. We need to think anew to devise an energy security strategy that will give future generations of Americans an economy less dependent on oil and fossil fuels.

Unfortunately, too much of this bill reflects not just a failure but an absolute refusal to think anew. Provision after provision reflects a stubborn insistence on old ideas—more tax subsidies, more royalty giveaways, more restrictions on public participation, more limits on environmental reviews—and a hostility to the search for new approaches.

Maybe we could have afforded such a mistake in the past. But now the stakes are too high—because, as I said, energy policy isn't just an economic issue, it's a national security issue. America's dependence on imported oil poses a risk to our homeland security and economic well-being.

Unfortunately, this conference report does not think anew and is not adequate to the challenges of this stormy present. For that reason, I cannot vote for it.

Ms. KILPATRICK of Michigan. Mr. Speaker, despite the President's oversell, this bill does nothing to improve our energy independence and does little to provide for a cleaner environment. The bill does nothing to lower gasoline prices, which are at an all-time high.

This bill is a corporate giveaway to the largest multinational oil companies, coal, utility and other energy companies, who stand to receive a windfall of $14.5 billion in tax breaks over 10 years. Taxpayers are going to subsidize billions in loan guarantees to these industries, so the energy industry can be free to fail without having to face little financial risk. That is a sweet deal.

With oil selling at $60 a barrel, this bill provides royalty-free drilling rights to the multinational oil companies to drill on public lands. This is making a sweet deal even sweeter. When the American consumer fills his or her car with gasoline selling over $2.30 a gallon, they will be secure in knowing that the record profits they are paying for big oil are being subsidized further at the expense of their tax dollars. Taxpayers are being asked to donate more than $14 billion in tax breaks, most of them to the oil and gas companies, the utilities, the nuclear industry and the coal industry. That is sweet on top of a sweeter deal for Big Oil. The renewable energy and energy efficiency industries are left with little.

The bill preempts the ability of state and local governments to block the siting of Liquefied Natural Gas terminal in densely populated urban areas. It will weaken environmental protections with new loopholes for the oil and gas industry. It will allow the process of hydraulic fracturing, which involves injecting diesel fuel into groundwater supplied and exempt other industry practices from the Clean Water Act, exemptions and the National Environmental Policy Act.

This bill will authorize exploratory efforts to prepare for oil and gas drilling off the Outer Continental Shelf, including areas that are currently closed to drilling. One area that I am pleased to report is that the bill does ban drilling in the Great Lakes.

This exercise is an unfortunate one. It is short on helping the nation's energy needs and long on subsidizing the oil and gas, nuclear, utility, and coal industries. Americans pay more than their fair share to support the record profit margins of the energy industry and now they are being asked to subsidize those record profits even more. This is a bad deal for American consumers. I urge my colleagues to join me in voting against the passage of this bill.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise today to oppose the offshore drilling provisions included in this bill.

I am categorically opposed to this bill because of provisions which would increase pressure for oil drilling in the protected waters off Florida's coast. It would also give billions of dollars in tax breaks and other giveaways to traditional fossil-fuel producers.

Included in this bill is a requirement to conduct an offshore inventory of oil and gas reserves. An expensive and environmentally damaging inventory in the protected waters of the Gulf is likely to increase pressure to lift the drilling moratorium off Florida's coast.

Another provision is a reduction in royalty payments for deep gas wells leased in the Gulf of Mexico. Any giveaway to the oil companies to reduce their costs will cause an increase in production. This will cause more exploration.

Florida is a beautiful state with miles of coastline. The Sunshine State economy depends heavily on tourism and the environment is the key factor in Florida's attractiveness to tourists. The tourism industry has an economic impact of $57 billion on Florida's economy. Not inconsequential is the 770 miles of gulf coastline and 5,095 of gulf tidal shoreline, and the hundreds of miles of beaches.

Florida's coastline is a treasure not just for Floridians, but all Americans and the rest of the world. For years Florida's delegation has worked together to protect our coastline and natural resources. Even conducting an inventory of resources in the Gulf of Mexico will begin to destroy the efforts we have made as a state to preserve our sensitive lands. As long as there are rigs in the area, the potential for devastation to Florida's beaches persists. Florida's beaches are not something we can afford to compromise. This decision goes against everything that Floridians have worked for over so many years. Certainly, the people of Florida do not support this ill-advised decision.

The impact of offshore drilling threatens irreversible scarring to the landscape, affecting thousands of species, each critical to the ecosystem. The great weather, pristine beaches, and marine wildlife are the number one draws to our fine state. By moving forward with even a resources inventory, you risk a multi-billion dollar industry for only a few barrels of oil.

Mr. MOORE of Kansas. Mr. Speaker, I rise in support of the conference report on H.R. 6, the omnibus energy bill. H.R. 6 is an important step toward increasing our Nation's energy independence by investing in energy efficiency and alternative energy sources.

As a member of the House Renewable Energy Caucus, I support measures in H.R. 6 to encourage and increase the use of renewable and alternative energy sources. H.R. 6 includes important tax incentives for energy efficiency programs and renewable energy sources, such as wind and solar production. This measure also includes a tax credit of up to $3,400 for certain hybrid cars and trucks. As a cochair of the House Biofuels Caucus, I also support raising the renewable fuels standard to 7.5 billion gallons by 2012, which is more than triple the current amount.

Over the past several Congresses, there have been several issues that have continually blocked congressional passage of comprehensive energy legislation, and I commend the conference committee on eliminating these controversial provisions from this final conference report. H.R. 6 does not include a provision providing for drilling in the Alaskan National Wildlife Refuge (ANWR), which had been part of past energy legislation. This pristine 1.5 million acre coastal plain is often referred to as "America's Serengeti" because of the presence of caribou, polar bears, grizzly bears, wolves, migratory birds, and many other species living in a nearly undisturbed state. While some consider this area to be one of the most promising U.S. onshore oil and gas prospects, studies indicate that this area could only provide 6 month's supply of oil, 10 years from now, and consequently have no significant effect on our nation's dependence on foreign oil.

Past versions of the energy legislation have also contained a safe-harbor provision for producers of MTBE and other fuel oxygenates from product liability claims. Under previous energy bills, states and cities would have been prevented from bringing against potential offenders "defective product" lawsuits, which some cities have employed to recapture the cost of MTBE cleanups. The U.S. Conference of Mayors has stated that the cost of cleanup could run more than $29 billion. If our states and localities were forced to pay these costs, the real costs would be borne by taxpayers. I commend the conference committee for eliminating this costly provision, and not making taxpayers responsible for the actions of a few MTBE producers.

While I voted for H.R. 6, there are several provisions that concern me. The conference agreement fails to adequately address climate change by not including even the modest proposal adopted by the Senate. This provision, authored by Senator CHUCK HAGEL, would use tax credits to encourage, but not require, industry reductions in greenhouse gas emissions, including carbon dioxide. Furthermore, the conference agreement also requires an inventory of oil and natural gas resources in offshore areas, including areas now closed to drilling. I am concerned about this provision, because it could lead to opening these environmentally sensitive areas to offshore drilling. In addition, I am also disappointed that the final conference report did not include a "renewable portfolio standard" that would have required utilities to get 10 percent of their electricity from alternative energy sources, such as wind and solar power, by 2020.

While this is not a perfect bill, I believe it is an important first step in creating a comprehensive energy policy that invests in energy efficiency and alternative energy sources. We owe it to our children and grandchildren to develop and implement energy policies, which will decrease our dependence of foreign oil and that protect consumers, communities, and environmentally sensitive areas.

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, the last time Congress enacted an energy bill was in 1992—13 years ago. Since that time, Republicans and Democrats alike have made clear that as a part of our national homeland security strategy, we must wean the country off of foreign oil. Yet, the bill before us would not achieve that goal. For that reason Mr. Speaker, I am opposed to the Energy Policy Act of 2005.

There is no doubt that the final House-Senate energy bill is vastly better than the House-passed bill. It extends the renewable electricity production tax credit and provides tax credits for energy efficiency, which, together, will catalyze investment and usage of the next generation of energy technology. It also would re-fund the Oil Spill Liability Trust Fund, which provided $42 million to clean-up the Delaware River after the November 2004 oil spill and was on track to be depleted by 2009. I hope no other region in the country experiences a similar incident; we must be prepared to adequately respond if it does.

Additionally, the bill does not include unnecessary liability protections for the manufacturers of the gasoline additive known as MTBE or allow for drilling in the Arctic National Wildlife Refuge—authorities that would have put our precious natural resources at-risk while doing very little to reduce our dependence on imported oil.

While I am pleased with these improvements in the bill, I do not support investing $14.6 billion in taxpayer funding on energy policies that ultimately will not reduce our dependence on and usage of foreign oil over the next 11 years.

My colleagues, the bill fails to include a renewable energy portfolio standard of 10 percent by 2020.

It fails to adequately invest in renewable energy and energy efficiency technologies by only providing 26 percent of the bill's tax incentives for the development of cleaner, less expensive energy sources under our control; while allocating $2.6 billion in tax benefits for oil and gas industry. Industries that are already profiting from record high oil prices, which are currently over $60 per barrel.

It fails to increase to automotive efficiency standards—a policy that would save up to 67 billion barrels of oil over the next 40 years, which is 10 to 20 times greater than the potential oil supply that could be extracted from the Artic National Wildlife Refuge.

Mr. Speaker, the bill fails to send us in a new direction, and that is unacceptable. We cannot leave ourselves positioned to return years from now and still be searching for ways to end our reliance on foreign oil.

With nations like India and China rapidly increasing their consumption of oil we must set the nation on a course to energy independence. That requires a balanced energy policy that aids domestic production but, more importantly, sends us in a new direction by investing in renewable and energy efficient technologies. This conference report failed to accomplish this goal.

I urge a "no" vote on H.R. 6.

Mr. COSTELLO. Mr. Speaker, I rise today in support of H.R. 6, the Energy Policy Act of

2005 Conference Report. Completion of this energy bill is yet another step forward in our struggle for energy security and independence. A reliable and affordable energy supply is crucial to America's economic vitality, security, and quality of life.

While this final conference report is not perfect, we continue to make progress towards promoting energy conservation and efficiency; increasing the use of all domestic energy resources, including coal; improving energy infrastructure; and promoting the development of advanced energy technologies.

The combustion of fossil fuels is essential to our energy policy and must continue to be a part of a balanced energy plan for this country. Coal is absolutely critical to our nation's economic health and global competitiveness. Coal accounts for more than 50 percent of U.S. electricity generation, far ahead of nuclear power, natural gas, hydroelectric power, petroleum and other sources. There is no present alternative to coal to meet our energy needs. New and improved technologies hold the promise of far greater emissions reductions and increased efficiency.

Clean coal provisions are included in the final conference report that would assist in burning coal more efficiently and cleanly. These clean coal technology initiatives encourage the development of new technologies for cleaner, higher efficiency coal combustion in new and established plants with the hope of achieving a healthier environment while maintaining jobs. Specifically, the conference agreement includes a $1.8 billion authorization for the Secretary of Energy to carry out the Clean Coal Power Initiative, which will provide funding to those projects that can demonstrate advanced coal-based power generating technologies that achieve significant reductions in emissions. Further, the bill authorizes $1.14 billion for coal research and development. I fought hard for robust funding for coal within the fossil energy research and development budget and I was glad to see they were included in the final version.

Additionally, I authored two provisions which were retained in the final conference report and greatly benefit Southern Illinois. First, I secured $75 million to create a program to develop advanced technologies to remove carbon dioxide from coal emissions and permanently sequester it below ground. Illinois is one of the leading states when it comes to research on carbon sequestration and Southern Illinois is listed as one of the prime spots for carbon sequestration, which is one of the technologies the FutureGen project is designed to use. Second, the bill authorizes the Clean Coal Centers of Excellence. Under this provision, the Secretary of Energy will award competitive, merit-based grants to universities that show the greatest potential for advancing new clean coal technologies. Southern Illinois University Carbondale (SIUC), which I represent, continues to be a leader in clean coal technology research, doing extensive work at its Coal Research Center. With funding and collaborative support from industry and government, SIUC has conducted long-term projects relating to surface mine reclamation, mine subsidence, coal desulfurization, coal characterization and combustion, coal residue management and utilization, coal market modeling, and environmental policy. Faculty, staff, and students in fields as diverse as engineering, science, business, education, law, and agriculture have contributed to the University's international reputation in coal research. The past two energy conference reports named Southern Illinois University as a "Clean Coal Center of Excellence" and the school is well-positioned to be a potential recipient of the award again this year. It is a testament to SIUC's high caliber research program that it was also named as a university to study and commercially deploy transportation fuel technology using Illinois coal. Finally, I am pleased this legislation promotes clean fuels by providing tax incentives for clean coal technology. This will greater enhance our ability to use Illinois basin coal.

In addition to the clean coal provisions, the energy conference agreement contains provisions instrumental in helping increase conservation and lowering consumption. Included in this are ethanol provisions that are used as a replacement and additive for gasoline consumption. Illinois currently produces 800 million gallons of ethanol per year. Under this legislation, ethanol use would increase, nearly doubling the current production level. The renewable fuel standard (RFS) in the bill is expected to increase the average price of corn paid to farmers 6.6 percent, or 16 cents per bushel and increase average net cash income to farmers by $3.3 billion over the next decade, or more than six percent. Increased production of ethanol will greatly benefit the agricultural industry in Southern Illinois.

Mr. Speaker, this energy bill will shape energy policy for the next decade and beyond. I am glad coal and ethanol remain an integral part of our energy future and I urge my colleagues to support this legislation.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in support of the energy bill conference report, but I do so with very strong reservations. Although I believe we missed many opportunities to make this energy bill truly comprehensive, I also believe that the conference report is an improvement over the House-passed energy bill.

It is a sad indictment of the way the Majority is running this Congress that it has taken us 5 years to pass an energy bill and the final product falls far short of what I believe the American public wants. I will vote for this conference report, but this bill lacks boldness and vision. There is more we can and must do to reduce our dependence on foreign oil, lower skyrocketing gas prices, protect our environment, and steer our country in a more forward-thinking direction on energy policy. I am pleased, however, that the bill makes strides in encouraging alternative energy research and production. Specifically, $3.2 billion is included for renewable energy production incentives and $1.3 billion is allotted for energy efficiency and conservation.

I was disappointed to see that a Renewable Portfolio Standard, RPS, was not included in the bill. The Senate-passed bill included an RPS that would have required utilities to generate 10 percent of their electricity from renewable energy sources such as wind, solar, biomass, and geothermal, by the year 2020. Studies conducted by the Energy Information Administration illustrate that a federal RPS could save consumers $19 billion. Moreover, 20 States have already enacted RPS requirement, many of which go beyond the Senate-passed provision. A federal RPS would have established a nationwide market-based trading system to ensure that renewables are developed at the lowest possible price. I strongly supported this provision, and over 70 of my colleagues signed onto a letter with me to conferees urging them to keep the RPS in the bill. The Senate conferees voted in a bipartisan manner to keep the RPS in the bill, but the House conferees stripped the provision. I hope that my colleagues will work with me in the future to support H.R. 983, a bill with bipartisan support that I introduced to create a federal RPS of 20 percent by 2027. The time for a federal RPS has come.

We also missed an opportunity to address the serious problem of global warming. I believe that the amendment Senator BINGAMAN offered, and that passed, expressing the sense of the Senate that mandatory action on climate change should be enacted was an important step towards congressional action to reduce greenhouse gas emissions. While I am disappointed that we could not do more, and that this sense of the Senate amendment was stripped from the conference report, I am pleased that the conference report includes a provision to establish a new cabinet-level advisory committee, charged with developing a national policy to address climate change and to promote technologies to reduce greenhouse gas emissions. In addition, the provision allows the Energy Department to authorize demonstration projects designed to test technologies that limit harmful emissions. The long-term solution to solving the global warming problem lies in the creation of new technologies and the Federal Government has a key role to play in promoting technological innovations. I believe we should have done more, something along the lines of the recommendations made recently by the National Commission on Energy Policy, but it is critical that we do something, and this climate change provision is the least we can do to begin the process of slowing global warming.

I am very pleased that a provision included in the House-passed bill, giving $30 million to uranium mining companies, was stripped from the bill. If enacted, this provision would have posed a grave threat to the water resources of two Navajo communities in northwestern New Mexico where four uranium in-situ leach mines have been granted conditional licenses by the Nuclear Regulatory Commission. The proposed ISL mining—which could still happen even without the $30 million subsidy—would leach uranium from an aquifer that provides high-quality groundwater to municipal wells in and near these communities—an aquifer that is the sole source of drinking water for an estimated 15,000 Navajos. I thank the conferees for heeding the wishes of over 200 members of the House—as well as the Navajo Nation Council—to strip this provision from the bill.

The liability waiver for oil companies who used methyl tertiary-butyl ether, MTBE, which has contaminated 1,861 water systems serving 45 million Americans in 29 States, including New Mexico, was also changed in the final bill. I strongly opposed that provision, which would have placed the coffers of oil companies ahead of Americans whose lives have been adversely affected by this negligence.

Finally, one of my great concerns with the House-passed bill was a provision allowing drilling in the Arctic National Wildlife Refuge (ANWR). I am glad this provision was stripped in conference, and I will continue to oppose efforts by the oil industry to drill in ANWR. I have witnessed first-hand the tremendously diverse wildlife that will be hurt if drilling occurs in the area. The small benefits are simply not worth the cost.

I would like to commend my home State Senators—DOMENICI and BINGAMAN—who worked together in a very bipartisan manner to write this bill. I know it was a difficult task. I look forward to working with them and with their counterparts here in the House, to continue work on energy policy issues such as global warming, fuel efficiency standards, and further reducing our energy dependence.

Mr. TIAHRT. Mr. Speaker, I rise today in strong support of the Conference Report on H.R. 6. This comprehensive energy plan will help America become more energy self-sufficient, create hundreds of thousands of new jobs and spur innovation for accessing new energy sources.

Nearly every sector of our economy is affected by high energy prices. Manufacturing facilities, the transportation industry and agricultural businesses all depend on affordable and reliable supplies of electricity, fuel and fertilizers to thrive in today's international economy.

All Americans, directly and indirectly, pay for the price of products or services that depend on various forms of energy. No one is immune from rising energy costs, and I am pleased the House has taken the lead in passing this long-term energy plan to help address energy reliability, supply and prices.

The Conference Report provides tax incentives within five main categories to improve energy production, transportation and efficiency. This balanced approach helps ensure we are taking care of current energy needs while also planning for future demand.

If America wants an internationally competitive economy that can fully contend with emerging economic superpowers of the 21st century, we must take actions now to reduce barriers to competitiveness. Having a secure and reliable source of energy is vital to keeping and creating high-quality, high-paying jobs in America. The provisions contained in this energy conference agreement are reliable options the private sector can use to make us more competitive.

Other countries have been more pro-active than we have in preparing for future energy needs. Brazil is projected to be completely energy self-sufficient within a few years. What once was considered an illusory dream may now become reality because Brazil recognized a problem and committed to a long-term solution. It may have taken them years to develop renewable energy sources, but Brazil is now a leader in ethanol production. As a result, its economy has been able to curb costs associated with higher crude oil prices.

H.R. 6 provides a renewable fuel standard that requires 7.5 billion gallons to be used annually by 2012. This provision will help increase our ethanol and biodiesel production at a time when alternatives to foreign oil are greatly needed. By ramping up the production of alternative fuel sources, we are going to take positive steps toward more secure and reliable means of meeting our energy demands into the 21st century.

Kansas' agriculture economy will also reap the benefits of increased uses for crops. We are learning more and more that today's farmers not only put food on our tables but they also play an important role in reducing emissions and helping us become less dependent on Middle East oil for our fuel needs. By expanding markets for agriculture commodities, producers and rural communities will see new sources of revenue.

Another conservation provision in the energy bill is the 4-week extension of Daylight Savings Time. By simply extending Daylight Savings Time 3 weeks in the spring and 1 week in the fall, we will reduce energy consumption equal to about 100,000 barrels of oil per day for four weeks. This energy saving time provision will also contribute to lower crime and fewer traffic fatalities.

As we look toward the future, we also need to be realistic about current energy demands. That is why the energy bill helps oil and gas producers increase domestic production, expand distribution capabilities and increase refining capacity. H.R. 6 provides $2.6 billion in tax incentives to accomplish these goals. Currently, small refiners are eligible for percentage depletion deductions if their refinery runs do not exceed 50,000 barrels on any day of the year. The energy bill increases that barrel limit to 75,000 barrels, which will encourage greater production by America's smaller refiners.

The energy Conference agreement contains just over $3 billion in tax incentives that will bolster our electricity infrastructure. Measures such as reducing the depreciation period for assets used in the transmission and distribution of electricity from 20 years to 15 years will encourage more upgrades to the system. And tax credits, such as the one for new nuclear power facilities, will help investors and utilities take risks needed to create clean, reliable sources of electricity.

Three separate tax credits were established for investments in clean coal facilities that produce electricity, and power plants will be able to amortize the cost of air pollution control facilities over 84 months. These incentives help energy producers meet stringent air quality standards. By rewarding power plants that accelerate implementation of pollution controls, we are helping create a cleaner environment.

Kansas is known for many wonderful things; one trait not so popular is our abundant source of wind. But as we find better ways to harness this natural Kansas resource, Kansas' abundant supply of wind may prove invaluable. The energy bill contains numerous tax incentives aimed at helping expand alternative sources of energy such as wind. Many Kansas landowners have also expressed strong support for expanded use of wind energy. Small wind farms can provide increases in the local tax base while creating additional revenue for the landowners.

Hydrogen fuel cell technology continues to improve, and I am pleased the final energy bill included many options for integration of this emerging technology into the marketplace. I am hopeful we will see more and more public marketplace uses for hydrogen fuel cells. The fuel cell provisions in H.R. 6 help take us in that direction.

This is a good plan that House Republicans and the Bush Administration have been working on non-stop for more than 4 years. I am very pleased we are finally successful in sending a national energy plan to the President's desk.

Mr. FARR. Mr. Speaker, I rise in strong opposition to the Conference Report to H.R. 6, the so-called comprehensive energy bill before us today. I urge my colleagues to vote against this legislation, which represents bad energy policy, bad environmental policy, bad fiscal policy, and bad nonproliferation policy.

H.R. 6 does nothing to address the issue of America's continuing dependency on imported oil. It does nothing to require more fuel efficient vehicles. It does nothing to reduce pump prices now or in the future, but it does shower wealthy oil and natural gas companies with unneeded tax breaks, royalty-free drilling on public lands, and exemptions from environmental laws.

We can and must do better if we are to seriously address the energy needs of our Nation. We should strike a sound policy balance by pursuing improvements in fuel technology and energy efficiency, maintaining a clean environment, and preserving our wilderness areas and public lands.

Frankly, this bill is an embarrassment—after six years of discussion and negotiation, the best we have to offer is a bill that in effect preserves the status quo? Instead of providing forward-looking policy ideas for a sound energy future, H.R. 6 is content to drive us into the future by looking through the rearview mirror with its heavily weighted dependence on fossil fuels.

Mr. Speaker, the majority of subsidies in H.R. 6 go to the oil, gas, coal and nuclear industries, leading to more pollution, more oil drilling and more radioactive-waste-producing nuclear power.

By contrast, only a small percentage of the tax breaks would go to energy efficiency and renewable energy incentives that could actually save consumers money and reduce our dependence on dirty energy sources.

By refusing to commit to improving and investing in sustainable fuel technology, we are putting our technology and manufacturing industries at a competitive disadvantage at a time when the rest of the planet is searching for alternatives to fossil fuels.

American consumers are being squeezed at the pump while the big oil companies are reaping record profits and the Republican Leadership is passing an energy bill that will further raise gas prices.

How in good faith can we go back to our constituents with a national energy policy that does not address the future, does not address short term fixes or long term solutions?

I urge my colleagues to oppose this legislation so we can develop a comprehensive energy policy that looks to the future and doesn't rely on repackaged out-dated technologies from the past.

Mr. WICKER. Mr. Speaker, the Energy Policy Act that the House passed yesterday includes a commitment by Congress to make a significant investment for research and development into renewable and alternative sources of energy. As demand for clean and reliable energy increases, it is imperative that America's young people be introduced and educated in conservation and alternative energy. To decrease foreign dependence, we must increase our knowledge and ability to foster our own forms of energy. With that in mind, it is with great pleasure that I inform this body of some recent educational achievements in alternative energy sources.

The Dell-Winston Solar Challenge is an educational competition among high school teams from across our Nation using solar powered cars. The competition began ten years ago at the Winston School in Dallas, Texas, to promote science and engineering to high school students. This unique competition has grown significantly since its inception. Technology and Learning magazine has named this Solar Race Challenge as one of the 10 Most Innovative Projects in Education.

In an effort to produce a competitive solar-powered vehicle, teams spent up to eighteen months designing and building the sun-fueled racers. The nine teams crossed the finish line at the Jet Propulsion Laboratory in Pasadena, California, after an eight-day race that began in Round Rock, Texas. The 1600-mile competition concluded this year as the winning team set a new race record with a top speed of 57 miles per hour. I am immensely proud that the winner of this race is located in my district, from the city of Houston, Mississippi.

This race team from a town with about 4,000 people consistently dominates the competition from much larger cities and schools. This remarkable team from the Houston Vocational Center is under the guidance of adviser and race coach Keith Reese. The team includes: captain Katie Weaver and members Tyler Davis, Austin Jordan, Stefanie Barkley, Brister Bishop, Matt Jernigan, David Peel, Leign Anna Springer, Mason Faulkner, Quinton Grice, Callie Weaver, Katie Weaver, Jesse Lal, Roderick Wiley, and Andrea Westmoreland. I am proud of each one these individuals. Their hard work and dedication is evident in the finished product.

The winning tradition of this team includes more than the aforementioned teachers and students. This project has grown into a community event. Support from the City of Houston is as consistent as the team's success. It is evident that these constituents have recognized the positive impact projects like these provide.

Year after year dedicated students and teachers build and race these advanced solar powered machines. This year marks the fifth consecutive time the Houston Race Team has won the coveted title. To quote Bubba Weir, the Executive Director of The Mississippi Alternative Energy Enterprise, "The Program integrates classroom principles in a real-life situation that fosters learning and encourages the students to work to the best of their ability."

This team brings much more than a trophy back to Mississippi; they bring a renewed emphasis and excitement to the fields of science and energy research. As the number of students studying math and science decreases nationwide, programs such as these pay dividends in increased interest in these fields. Dr. Lehman Marks, the founder and director of the Dell-Winston Race described it as "A Challenge that helps teach high school students the 21st century skills they need to be successful in the future, whether it's to become the scientists and engineers of tomorrow or wherever their paths may lead."

I am encouraged when I see future leaders taking the initiative to compete and excel in this demanding contest. Programs like this demonstrate the importance of implementing new education techniques. Projects outside the classroom environment generate learning that enhances knowledge students receive from traditional instruction. The challenges in the fields of math and science are changing, and I am proud that Mississippi's educators are training students to meet these challenges head on.

The success of the Houston solar race team has spread statewide, and many other Mississippi schools are beginning to experiment in alternative energy education programs. It is good to see young Mississippians leading the way through these innovative projects. Congratulations to the Houston Solar Race Team for an extraordinary performance and a job well done. The city of Houston, Chickasaw County, the entire State of Mississippi, and the United States of America are very proud of you.

Ms. McCOLLUM of Minnesota. Mr. Speaker, Congress had the opportunity and the charge to develop a comprehensive energy policy that would make America safer, decrease our dependency on foreign oil, and invest in the next generation of clean and renewable energy.

Unfortunately, H.R. 6 fails the current and future needs of our Nation miserably. As gas prices and oil industry profits rise, this bill rewards oil and gas companies with $2.8 billion in tax breaks and provides $1.4 billion in tax breaks for coal producers. These corporate giveaways only continue our addiction to Middle Eastern oil and enable our dependency on old and polluting technologies.

Mr. Speaker, the U.S. needs to be a world leader in energy self-sufficiency through conservation, alternative energy sources, and responsible leadership from the White House and Congress. Regrettably, this bill fails on all those counts. It neglects to include a Renewable Portfolio Standard, which would have required large electric companies to obtain 10 percent of their power from clean renewable energy sources by 2020. This act, once again, fails to increase much-needed fuel efficiency standards of cars and trucks.

As if this bill was not already bad enough, a new provision appeared after the conference committee had adjourned, which steers $1.5 billion to a private consortium located in the home district of Republican Majority Leader TOM DELAY. It provides that the consortium, of which Halliburton is a member, can keep up to 10 percent of the funds for administrative purposes. This is an outrage and a mockery of the democratic process.

America deserves a comprehensive energy policy that invests in the development of the next generation of fuel sources like fuel cells, hydrogen power and home grown Minnesota fuels like ethanol. I was pleased to see the measure tripling the amount of ethanol required in gasoline by 2012, but this bill could have done so much more to liberate our Nation from Saudi Arabian and Middle Eastern oil and move our Nation toward a sustainable and energy-independent future.

Mr. Speaker, this is an energy bill for 1950, not 2050. It would have been difficult to support this outmoded policy decades ago, and I certainly cannot vote for it today.

Ms. DELAURO. Mr. Speaker, of everything that can be said about this $15 billion give-away to the oil and gas industry—that it does nothing to alleviate the record high costs of oil, nothing to reduce our dependence on oil—the worst may be that it is a missed opportunity. And that is because it fails to harness America's entrepreneurial spirit to develop new sources of energy. It is a continuation of the status quo at a time when we need a new American energy policy—bold new thinking to foster energy independence and grow our Nation's economy in a way that addresses the threat of global warming.

But instead, this bill provides billions in tax breaks for oil companies already reaping record profits. It does little to encourage development of new forms of energy. And it restricts States' abilities to protect their own natural resources.

Mr. Speaker, Americans are rightly concerned about how our dependence on foreign oil affects our foreign policy. This bill does nothing to reduce that dependence. If anything, it enshrines that dependence into law. Today we import 58 percent of our oil, and by 2025 we will still import between 64 and 68 percent of our oil, even after enacting this legislation. Nor does it reduce skyrocketing gasoline prices—something even the president has conceded.

And that is because this bill rejects common sense ideas that could help us reduce our need for foreign oil. The conference committee rejected a measure that would have required America to decrease its oil consumption by 5 percent by 2015. At a time when Americans are fed-up with high gasoline prices, we should be looking for ways to reduce their need to fill-up at the pump. But the committee also rejected a modest proposal that would have increased the fuel efficiency of our cars by one mile per gallon per year for the next 15 years.

The final version of this bill also rejects a Senate proposal to require utilities to generate 10 percent of their electricity from renewable sources by 2020. This provision would have helped us to significantly reduce our dependence on traditional polluting sources of electricity. Another missed opportunity.

As if the lack of new thinking in this bill weren't enough, it also declares war on States' rights when it comes to protecting their citizens. The bill would eviscerate the role of the States in the siting of LNG facilities and grant sole jurisdiction in such matters to the Federal Energy Regulatory Commission, FERC. This provision flies in the face of the Coastal Zone Management Act. CZMA is a unique partnership between coastal States and the Federal Government that allows States to protect their own coastal resources. This is an especially important law for Connecticut, where the commerce that comes from the Long Island Sound fishing grounds, ports and recreational area makes it a $5 billion economic asset. Because our State's economy depends on the Long Island Sound, we believe that the State has the obligation to protect it from possible environmental harm.

Rather than passing this legislation, we ought to be reducing our dependence on foreign oil by improving our energy efficiency and maximizing our domestic energy production in an environmentally sound way—by investing in cleaner, more secure energy sources such as solar, wind, biomass and fuel cell technology. My State of Connecticut is a leader in fuel cell technology, with several businesses doing research that is on the cusp of revolutionizing the way our Nation powers its homes, cars and businesses. This bill should be investing in American small businesses like Proton Energy in Wallingford, Nxegen in Middletown and Danbury's Fuel Cell Energy—companies that already do over $300 million worth of fuel cell business and move us closer to true energy independence.

Mr. Speaker, this bill proposes 20th century solutions for 21st century energy challenges. It neglects the realities of a changing world—that our dependence on foreign oil has real consequences for our foreign policy, that the warming of the planet will have a serious impact on the lives of all Americans. It ignores our entrepreneurial spirit and technological know-how to develop and harness new forms of energy. And it ignores the rights of States to look after the interests of their citizens.

America can do better—and deserves better—than this conference report. I urge my colleagues to oppose it.

Mr. BARTON of Texas. Mr. Speaker, one of the features of H.R. 6 that will make a material difference in the protection of groundwater are the provisions making key reforms to the Leaking Underground Storage Tank (LUST) program. The lack of serious attention to leaking tanks has been one of the main causes of groundwater and drinking water contamination by fuel and fuel additives. I applaud our Subcommittee Chairman, PAUL GILLMOR, who authored the LUST provisions in H.R. 6 and that I have enthusiastically included in this legislation. In addition, I agree with and support his interpretation of these provisions, as outlined in his Extension of Remarks that appeared in the CONGRESSIONAL RECORD on July 28, 2005, on pages H6964–H6966. There are two specific provisions that deserve special mention.

First, in order to avoid the creation of unfunded mandates, the reference to Section 9508(c)(1) of the Internal Revenue Code in the newly created section 9014(2) of the Solid Waste Disposal Act should be considered to mean Section 9508(c) of the Internal Revenue Code in order to reflect changes made to Title XIII, Subtitle F, Section 1362. This Section of H.R. 6 creates a new Section 6430 at the end of Subchapter B of Chapter 65. It amends Section 9508(c) by striking the existing subsection 9508(c)(2) and renumbering subsection 9508(c)(1) as subsection 9508(c). As the chief author of this bill, it was never my intent to see LUST defunded and this instance should not be interpreted nor construed as nothing more than a drafting error since the historical construct and intent of the provisions in section 9014(2) of the Solid Waste Disposal Act are consistent with past versions addressing authorizations of appropriations under Subtitle I of the Solid Waste Disposal Act. Should it be necessary, I intend to immediately pursue statutory changes necessary to ensure proper use of collected transportation fuel taxes in the LUST program under the Solid Waste Disposal Act.

Second, Section 1530 on Title XV addresses additional methods to protect groundwater, including state requirements on the use of secondarily contained underground storage tank systems or conversely requiring states to use installer and manufacturer requirements. If a state chooses secondary containment, then any new installation of an underground storage tank that is within 1,000 feet of community water system or potable water well must be secondarily contained. In addition, any tank or piping that is replaced on an underground storage tank that is within 1,000 feet of a community water system or potable water well must be secondarily contained. Repairs to an underground storage tank system, as defined by the Environmental Protection Agency (EPA), do not trigger any secondary containment requirements and gasoline dispensers must also be addressed as part of the secondary containment strategy. If, however, a state chooses installer and manufacturer certification, as well as financial responsibility requirements, this section requires tank installers and manufacturers to follow professional guidelines for tank products or comply with one of the new statutory requirements that are similar to subsections (d) and (e) of 40 CFR 280.20. In addition, this section requires installers and manufacturers to maintain evidence of financial assurance to help pay corrective action costs that are directly relatable to a faulty tank part or installation. The lone exception to the financial assurance requirement is where a tank owner or operator, who already maintains evidence of financial responsibility under Section 9003 of the Solid Waste Disposal Act, is also the installer or manufacturer of the underground storage tank. I want to make clear that with respect to the financial responsibility option, the conference report references the existing financial responsibility authority contained in section 9003( d) of the Solid Waste Disposal Act that applies to owners and operators, and as such, it is the intent of this legislation that all of the authorities and flexibilities contained in 9003( d) apply to underground storage tank installers and manufacturers in the same way that they currently apply to owners and operators of underground storage tanks.

H.R. 6 also adds a new section 3022 to Title XXX of the Energy Policy Act of 1992. The new section states: "It is the sense of Congress that Federal agencies conducting assessments of risks to human health and the environment from energy technology, production, transport, transmission, distribution, storage, use, or conservation activities shall use sound and objective scientific practices in assessing such risks, shall consider the best available science (including peer reviewed studies), and shall include a description of the weight of the scientific evidence concerning such risks.".

For too long, documents and studies have been produced that do not reflect science, but rather a given policy bias mixed with elements of science. These documents and studies are then paraded forward as if they are risk assessments. This sense of Congress specifically finds such an approach unacceptable. I want to note that use of the weight of the scientific evidence is a specific recommendation in the 1997 Final Report of the Presidential/Congressional Commission on Risk Assessment and Risk Management. On page 4 of that report the Commission states: "A good risk management decision . . . is based on a careful analysis of the weight of scientific evidence that supports conclusions about a problem's potential risks to human health and the environment." On page 23 of that report the Commission states: "Making judgments about risk on the basis of scientific information is called 'evaluating the weight of the evidence.' . . . . It is important that risk assessors respect the objective scientific basis of risk and procedures for making inferences in the absence of adequate data." On page 38 of that report the Commission states: "Risk assessors and economists are responsible for providing decision-makers with the best technical information available or reasonably attainable, including evaluations of the weight of the evidence that supports different assumptions and conclusions.

It is important the Federal agencies conform their risk assessment practices to these principles.

### GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 6.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. All time for debate on the conference report has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BARTON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adoption of the conference report on H.R. 6 will be followed by 5-minute votes on H. Res. 392 and H. Res. 396.

The vote was taken by electronic device, and there were—yeas 275, nays 156, not voting 3, as follows:

[Roll No. 445]

YEAS—275

Abercrombie
Aderholt
Akin
Alexander
Baca
Bachus
Baker
Barrett (SC)
Barrow
Barton (TX)
Bass
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)

Blackburn
Blunt
Boehner
Bonilla
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carson
Carter
Chabot
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Costa
Costello
Cox
Cramer
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Dicks
Dingell
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
English (PA)
Etheridge
Evans
Everett
Ferguson
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutknecht
Hall
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Lucas
Lungren, Daniel E.
Manzullo
Marchant
Marshall
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meeks (NY)
Melancon
Mica
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ross
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (TX)
Snyder
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (NM)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)

### NAYS—156

Ackerman
Allen
Andrews
Baird
Baldwin
Bartlett (MD)
Becerra
Berkley
Berman
Bishop (NY)
Blumenauer
Boehlert
Bonner
Boyd
Bradley (NH)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Capps
Capuano
Cardin
Carnahan
Case
Castle
Chandler
Clay
Cleaver
Conyers
Cooper
Crenshaw
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Diaz-Balart, M.
Doggett
Emanuel
Engel
Eshoo
Farr
Fattah
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Frank (MA)
Grijalva
Gutierrez
Harman
Harris
Hastings (FL)
Higgins
Hinchey
Holt
Honda
Hooley
Inslee
Israel
Jackson (IL)
Jones (NC)
Jones (OH)
Kaptur
Keller
Kelly
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larson (CT)
Lee
Lewis (GA)
LoBiondo
Lofgren, Zoe
Lowey
Lynch
Mack
Maloney
Markey
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (NC)
Miller, George
Moore (WI)
Moran (VA)
Nadler
Neal (MA)
Obey
Olver
Owens
Pallone
Pascrell
Pastor
Paul
Pelosi
Price (NC)
Putnam
Rangel
Rohrabacher
Ros-Lehtinen
Rothman
Roybal-Allard
Royce
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Serrano
Shaw
Shays
Sherman
Smith (NJ)
Smith (WA)
Solis
Stark
Tauscher
Taylor (MS)
Thompson (CA)
Tierney
Udall (CO)
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Wexler
Woolsey
Wu
Young (FL)

### NOT VOTING—3

Brady (PA)
Payne
Schakowsky

☐ 1310

Ms. SCHWARTZ of Pennsylvania, Ms. CORRINE BROWN of Florida, and Messrs. SERRANO, KIND, BARTLETT of Maryland, and DAVIS of Illinois changed their vote from "yea" to "nay."

Ms. HERSETH, Mr. GILCHREST, and Mr. SCOTT of Virginia changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore (Mr. SIMPSON). The pending business is the question of agreeing to the resolution, House Resolution 392, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 402, nays 4, answered "present" 23, not voting 4, as follows:

[Roll No. 446]

### YEAS—402

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George

Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Strickland
Sullivan
Sweeney
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—4

Capuano
Cooper
Dingell
Stupak

ANSWERED "PRESENT"—23

Akin
Barrett (SC)
Bartlett (MD)
Flake
Foxx
Franks (AZ)
Gohmert
Gutknecht
Hefley
Hensarling
Jones (NC)
King (IA)
Lungren, Daniel E.
Miller (FL)
Musgrave
Otter
Pence
Price (GA)
Ryan (WI)
Sodrel
Tancredo
Tanner
Westmoreland

NOT VOTING—4

Brady (PA)
Paul
Payne
Schakowsky

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1318

Mr. POE changed his vote from "present" to "yea."

Mr. BARRETT of South Carolina changed his vote from "yea" to "present."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2985, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. The pending business is the question of agreeing to the resolution, House Resolution 396, on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 375, nays 27, answered "present" 24, not voting 7, as follows:

[Roll No. 447]

YEAS—375

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baker
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
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Rothman
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Simmons
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Slaughter
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Taylor (NC)
Terry
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### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

❑ 1326

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

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## MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed bills and a Joint Resolution of the following titles in which the concurrence of the House is requested:

S. 302. An act to make improvements in the Foundation for the National Institutes of Health.

S. 447. An act to authorize the conveyance of certain Federal land in the State of New Mexico.

S. 655. An act to amend the Public Health Service Act with respect to the National Foundation for the Centers for Disease Control and Prevention.

S. 1517. An act to permit Women's Business Centers to re-compete for sustainability grants.

S.J. Res. 19. Joint Resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act.

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## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1295

Mr. OWENS. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1295.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

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## HELP EFFICIENT, ACCESSIBLE, LOW-COST, TIMELY HEALTHCARE (HEALTH) ACT OF 2005

Mr. SMITH of Texas. Mr. Speaker, pursuant to House Resolution 385 and as the designee of the majority leader, I call up the bill (H.R. 5) to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system, and ask for its immediate consideration.

The Clerk read the title of the bill.

The text of H.R. 5 is as follows:

### H.R. 5

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2005".

**SEC. 2. FINDINGS AND PURPOSE.**

(a) FINDINGS.—

(1) EFFECT ON HEALTH CARE ACCESS AND COSTS.—Congress finds that our current civil justice system is adversely affecting patient access to health care services, better patient care, and cost-efficient health care, in that the health care liability system is a costly and ineffective mechanism for resolving claims of health care liability and compensating injured patients, and is a deterrent to the sharing of information among health care professionals which impedes efforts to improve patient safety and quality of care.

(2) EFFECT ON INTERSTATE COMMERCE.—Congress finds that the health care and insurance industries are industries affecting interstate commerce and the health care liability litigation systems existing throughout the United States are activities that affect interstate commerce by contributing to the high costs of health care and premiums for health care liability insurance purchased by health care system providers.

(3) EFFECT ON FEDERAL SPENDING.—Congress finds that the health care liability litigation systems existing throughout the United States have a significant effect on the amount, distribution, and use of Federal funds because of—

(A) the large number of individuals who receive health care benefits under programs operated or financed by the Federal Government;

(B) the large number of individuals who benefit because of the exclusion from Federal taxes of the amounts spent to provide them with health insurance benefits; and

(C) the large number of health care providers who provide items or services for which the Federal Government makes payments.

(b) PURPOSE.—It is the purpose of this Act to implement reasonable, comprehensive, and effective health care liability reforms designed to—

(1) improve the availability of health care services in cases in which health care liability actions have been shown to be a factor in the decreased availability of services;

(2) reduce the incidence of "defensive medicine" and lower the cost of health care liability insurance, all of which contribute to the escalation of health care costs;

(3) ensure that persons with meritorious health care injury claims receive fair and adequate compensation, including reasonable noneconomic damages;

(4) improve the fairness and cost-effectiveness of our current health care liability system to resolve disputes over, and provide compensation for, health care liability by reducing uncertainty in the amount of compensation provided to injured individuals; and

(5) provide an increased sharing of information in the health care system which will reduce unintended injury and improve patient care.

**SEC. 3. ENCOURAGING SPEEDY RESOLUTION OF CLAIMS.**

The time for the commencement of a health care lawsuit shall be 3 years after the date of manifestation of injury or 1 year after the claimant discovers, or through the use of reasonable diligence should have discovered, the injury, whichever occurs first. In no event shall the time for commencement of a health care lawsuit exceed 3 years after the date of manifestation of injury unless tolled for any of the following—

(1) upon proof of fraud;

(2) intentional concealment; or

(3) the presence of a foreign body, which has no therapeutic or diagnostic purpose or effect, in the person of the injured person.

Actions by a minor shall be commenced within 3 years from the date of the alleged manifestation of injury except that actions by a minor under the full age of 6 years shall be commenced within 3 years of manifestation of injury or prior to the minor's 8th birthday, whichever provides a longer period. Such time limitation shall be tolled for minors for any period during which a parent or guardian and a health care provider or health care organization have committed fraud or collusion in the failure to bring an action on behalf of the injured minor.

**SEC. 4. COMPENSATING PATIENT INJURY.**

(a) UNLIMITED AMOUNT OF DAMAGES FOR ACTUAL ECONOMIC LOSSES IN HEALTH CARE LAWSUITS.—In any health care lawsuit, nothing in this Act shall limit a claimant's recovery of the full amount of the available economic damages, notwithstanding the limitation in subsection (b).

(b) ADDITIONAL NONECONOMIC DAMAGES.—In any health care lawsuit, the amount of noneconomic damages, if available, may be as much as $250,000, regardless of the number of parties against whom the action is brought or the number of separate claims or actions brought with respect to the same injury.

(c) NO DISCOUNT OF AWARD FOR NONECONOMIC DAMAGES.—For purposes of applying the limitation in subsection (b), future noneconomic damages shall not be discounted to present value. The jury shall not be informed about the maximum award for noneconomic damages. An award for noneconomic damages in excess of $250,000 shall be reduced either before the entry of judgment, or by amendment of the judgment after entry of judgment, and such reduction shall be made before accounting for any other reduction in damages required by law. If separate awards are rendered for past and future noneconomic damages and the combined awards exceed $250,000, the future noneconomic damages shall be reduced first.

(d) FAIR SHARE RULE.—In any health care lawsuit, each party shall be liable for that party's several share of any damages only and not for the share of any other person. Each party shall be liable only for the amount of damages allocated to such party in direct proportion to such party's percentage of responsibility. Whenever a judgment of liability is rendered as to any party, a separate judgment shall be rendered against each such party for the amount allocated to such party. For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

**SEC. 5. MAXIMIZING PATIENT RECOVERY.**

(a) COURT SUPERVISION OF SHARE OF DAMAGES ACTUALLY PAID TO CLAIMANTS.—In any health care lawsuit, the court shall supervise the arrangements for payment of damages to protect against conflicts of interest that may have the effect of reducing the amount of damages awarded that are actually paid to claimants. In particular, in any health care lawsuit in which the attorney for a party claims a financial stake in the outcome by virtue of a contingent fee, the court shall have the power to restrict the payment of a claimant's damage recovery to such attorney, and to redirect such damages to the claimant based upon the interests of justice and principles of equity. In no event shall the total of all contingent fees for representing all claimants in a health care lawsuit exceed the following limits:

(1) 40 percent of the first $50,000 recovered by the claimant(s).

(2) 33⅓ percent of the next $50,000 recovered by the claimant(s).

(3) 25 percent of the next $500,000 recovered by the claimant(s).

(4) 15 percent of any amount by which the recovery by the claimant(s) is in excess of $600,000.

(b) APPLICABILITY.—The limitations in this section shall apply whether the recovery is by judgment, settlement, mediation, arbitration, or any other form of alternative dispute resolution. In a health care lawsuit involving a minor or incompetent person, a court retains the authority to authorize or approve a fee that is less than the maximum permitted under this section. The requirement for court supervision in the first two sentences of subsection (a) applies only in civil actions.

### SEC. 6. ADDITIONAL HEALTH BENEFITS.

In any health care lawsuit involving injury or wrongful death, any party may introduce evidence of collateral source benefits. If a party elects to introduce such evidence, any opposing party may introduce evidence of any amount paid or contributed or reasonably likely to be paid or contributed in the future by or on behalf of the opposing party to secure the right to such collateral source benefits. No provider of collateral source benefits shall recover any amount against the claimant or receive any lien or credit against the claimant's recovery or be equitably or legally subrogated to the right of the claimant in a health care lawsuit involving injury or wrongful death. This section shall apply to any health care lawsuit that is settled as well as a health care lawsuit that is resolved by a fact finder. This section shall not apply to section 1862(b) (42 U.S.C. 1395y(b)) or section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) of the Social Security Act.

### SEC. 7. PUNITIVE DAMAGES.

(a) In General.—Punitive damages may, if otherwise permitted by applicable State or Federal law, be awarded against any person in a health care lawsuit only if it is proven by clear and convincing evidence that such person acted with malicious intent to injure the claimant, or that such person deliberately failed to avoid unnecessary injury that such person knew the claimant was substantially certain to suffer. In any health care lawsuit where no judgment for compensatory damages is rendered against such person, no punitive damages may be awarded with respect to the claim in such lawsuit. No demand for punitive damages shall be included in a health care lawsuit as initially filed. A court may allow a claimant to file an amended pleading for punitive damages only upon a motion by the claimant and after a finding by the court, upon review of supporting and opposing affidavits or after a hearing, after weighing the evidence, that the claimant has established by a substantial probability that the claimant will prevail on the claim for punitive damages. At the request of any party in a health care lawsuit, the trier of fact shall consider in a separate proceeding—

(1) whether punitive damages are to be awarded and the amount of such award; and

(2) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim for punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(b) Determining Amount of Punitive Damages.—

(1) Factors considered.—In determining the amount of punitive damages, if awarded, in a health care lawsuit, the trier of fact shall consider only the following—

(A) the severity of the harm caused by the conduct of such party;

(B) the duration of the conduct or any concealment of it by such party;

(C) the profitability of the conduct to such party;

(D) the number of products sold or medical procedures rendered for compensation, as the case may be, by such party, of the kind causing the harm complained of by the claimant;

(E) any criminal penalties imposed on such party, as a result of the conduct complained of by the claimant; and

(F) the amount of any civil fines assessed against such party as a result of the conduct complained of by the claimant.

(2) Maximum award.—The amount of punitive damages, if awarded, in a health care lawsuit may be as much as $250,000 or as much as two times the amount of economic damages awarded, whichever is greater. The jury shall not be informed of this limitation.

(c) No Punitive Damages for Products That Comply With FDA Standards.—

(1) In general.—

(A) No punitive damages may be awarded against the manufacturer or distributor of a medical product, or a supplier of any component or raw material of such medical product, based on a claim that such product caused the claimant's harm where—

(i)(I) such medical product was subject to premarket approval, clearance, or licensure by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such medical product which caused the claimant's harm or the adequacy of the packaging or labeling of such medical product; and

(II) such medical product was so approved, cleared, or licensed; or

(ii) such medical product is generally recognized among qualified experts as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable Food and Drug Administration regulations, including without limitation those related to packaging and labeling, unless the Food and Drug Administration has determined that such medical product was not manufactured or distributed in substantial compliance with applicable Food and Drug Administration statutes and regulations.

(B) Rule of construction.—Subparagraph (A) may not be construed as establishing the obligation of the Food and Drug Administration to demonstrate affirmatively that a manufacturer, distributor, or supplier referred to in such subparagraph meets any of the conditions described in such subparagraph.

(2) Liability of health care providers.—A health care provider who prescribes, or who dispenses pursuant to a prescription, a medical product approved, licensed, or cleared by the Food and Drug Administration shall not be named as a party to a product liability lawsuit involving such product and shall not be liable to a claimant in a class action lawsuit against the manufacturer, distributor, or seller of such product. Nothing in this paragraph prevents a court from consolidating cases involving health care providers and cases involving products liability claims against the manufacturer, distributor, or product seller of such medical product.

(3) Packaging.—In a health care lawsuit for harm which is alleged to relate to the adequacy of the packaging or labeling of a drug which is required to have tamper-resistant packaging under regulations of the Secretary of Health and Human Services (including labeling regulations related to such packaging), the manufacturer or product seller of the drug shall not be held liable for punitive damages unless such packaging or labeling is found by the trier of fact by clear and convincing evidence to be substantially out of compliance with such regulations.

(4) Exception.—Paragraph (1) shall not apply in any health care lawsuit in which—

(A) a person, before or after premarket approval, clearance, or licensure of such medical product, knowingly misrepresented to or withheld from the Food and Drug Administration information that is required to be submitted under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) or section 351 of the Public Health Service Act (42 U.S.C. 262) that is material and is causally related to the harm which the claimant allegedly suffered; or

(B) a person made an illegal payment to an official of the Food and Drug Administration for the purpose of either securing or maintaining approval, clearance, or licensure of such medical product.

### SEC. 8. AUTHORIZATION OF PAYMENT OF FUTURE DAMAGES TO CLAIMANTS IN HEALTH CARE LAWSUITS.

(a) In General.—In any health care lawsuit, if an award of future damages, without reduction to present value, equaling or exceeding $50,000 is made against a party with sufficient insurance or other assets to fund a periodic payment of such a judgment, the court shall, at the request of any party, enter a judgment ordering that the future damages be paid by periodic payments. In any health care lawsuit, the court may be guided by the Uniform Periodic Payment of Judgments Act promulgated by the National Conference of Commissioners on Uniform State Laws.

(b) Applicability.—This section applies to all actions which have not been first set for trial or retrial before the effective date of this Act.

### SEC. 9. DEFINITIONS.

In this Act:

(1) Alternative dispute resolution system; ADR.—The term "alternative dispute resolution system" or "ADR" means a system that provides for the resolution of health care lawsuits in a manner other than through a civil action brought in a State or Federal court.

(2) Claimant.—The term "claimant" means any person who brings a health care lawsuit, including a person who asserts or claims a right to legal or equitable contribution, indemnity or subrogation, arising out of a health care liability claim or action, and any person on whose behalf such a claim is asserted or such an action is brought, whether deceased, incompetent, or a minor.

(3) Collateral source benefits.—The term "collateral source benefits" means any amount paid or reasonably likely to be paid in the future to or on behalf of the claimant, or any service, product or other benefit provided or reasonably likely to be provided in the future to or on behalf of the claimant, as a result of the injury or wrongful death, pursuant to—

(A) any State or Federal health, sickness, income-disability, accident, or workers' compensation law;

(B) any health, sickness, income-disability, or accident insurance that provides health benefits or income-disability coverage;

(C) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or income disability benefits; and

(D) any other publicly or privately funded program.

(4) Compensatory damages.—The term "compensatory damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for)

health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities, damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature. The term "compensatory damages" includes economic damages and noneconomic damages, as such terms are defined in this section.

(5) CONTINGENT FEE.—The term "contingent fee" includes all compensation to any person or persons which is payable only if a recovery is effected on behalf of one or more claimants.

(6) ECONOMIC DAMAGES.—The term "economic damages" means objectively verifiable monetary losses incurred as a result of the provision of, use of, or payment for (or failure to provide, use, or pay for) health care services or medical products, such as past and future medical expenses, loss of past and future earnings, cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities.

(7) HEALTH CARE LAWSUIT.—The term "health care lawsuit" means any health care liability claim concerning the provision of health care goods or services or any medical product affecting interstate commerce, or any health care liability action concerning the provision of health care goods or services or any medical product affecting interstate commerce, brought in a State or Federal court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of claimants, plaintiffs, defendants, or other parties, or the number of claims or causes of action, in which the claimant alleges a health care liability claim. Such term does not include a claim or action which is based on criminal liability; which seeks civil fines or penalties paid to Federal, State, or local government; or which is grounded in antitrust.

(8) HEALTH CARE LIABILITY ACTION.—The term "health care liability action" means a civil action brought in a State or Federal Court or pursuant to an alternative dispute resolution system, against a health care provider, a health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action, in which the claimant alleges a health care liability claim.

(9) HEALTH CARE LIABILITY CLAIM.—The term "health care liability claim" means a demand by any person, whether or not pursuant to ADR, against a health care provider, health care organization, or the manufacturer, distributor, supplier, marketer, promoter, or seller of a medical product, including, but not limited to, third-party claims, cross-claims, counter-claims, or contribution claims, which are based upon the provision of, use of, or payment for (or the failure to provide, use, or pay for) health care services or medical products, regardless of the theory of liability on which the claim is based, or the number of plaintiffs, defendants, or other parties, or the number of causes of action.

(10) HEALTH CARE ORGANIZATION.—The term "health care organization" means any person or entity which is obligated to provide or pay for health benefits under any health plan, including any person or entity acting under a contract or arrangement with a health care organization to provide or administer any health benefit.

(11) HEALTH CARE PROVIDER.—The term "health care provider" means any person or entity required by State or Federal laws or regulations to be licensed, registered, or certified to provide health care services, and being either so licensed, registered, or certified, or exempted from such requirement by other statute or regulation.

(12) HEALTH CARE GOODS OR SERVICES.—The term "health care goods or services" means any goods or services provided by a health care organization, provider, or by any individual working under the supervision of a health care provider, that relates to the diagnosis, prevention, or treatment of any human disease or impairment, or the assessment or care of the health of human beings.

(13) MALICIOUS INTENT TO INJURE.—The term "malicious intent to injure" means intentionally causing or attempting to cause physical injury other than providing health care goods or services.

(14) MEDICAL PRODUCT.—The term "medical product" means a drug, device, or biological product intended for humans, and the terms "drug", "device", and "biological product" have the meanings given such terms in sections 201(g)(1) and 201(h) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321) and section 351(a) of the Public Health Service Act (42 U.S.C. 262(a)), respectively, including any component or raw material used therein, but excluding health care services.

(15) NONECONOMIC DAMAGES.—The term "noneconomic damages" means damages for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.

(16) PUNITIVE DAMAGES.—The term "punitive damages" means damages awarded, for the purpose of punishment or deterrence, and not solely for compensatory purposes, against a health care provider, health care organization, or a manufacturer, distributor, or supplier of a medical product. Punitive damages are neither economic nor noneconomic damages.

(17) RECOVERY.—The term "recovery" means the net sum recovered after deducting any disbursements or costs incurred in connection with prosecution or settlement of the claim, including all costs paid or advanced by any person. Costs of health care incurred by the plaintiff and the attorneys' office overhead costs or charges for legal services are not deductible disbursements or costs for such purpose.

(18) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

### SEC. 10. EFFECT ON OTHER LAWS.

(a) VACCINE INJURY.—

(1) To the extent that title XXI of the Public Health Service Act establishes a Federal rule of law applicable to a civil action brought for a vaccine-related injury or death—

(A) this Act does not affect the application of the rule of law to such an action; and

(B) any rule of law prescribed by this Act in conflict with a rule of law of such title XXI shall not apply to such action.

(2) If there is an aspect of a civil action brought for a vaccine-related injury or death to which a Federal rule of law under title XXI of the Public Health Service Act does not apply, then this Act or otherwise applicable law (as determined under this Act) will apply to such aspect of such action.

(b) OTHER FEDERAL LAW.—Except as provided in this section, nothing in this Act shall be deemed to affect any defense available to a defendant in a health care lawsuit or action under any other provision of Federal law.

### SEC. 11. STATE FLEXIBILITY AND PROTECTION OF STATES' RIGHTS.

(a) HEALTH CARE LAWSUITS.—The provisions governing health care lawsuits set forth in this Act preempt, subject to subsections (b) and (c), State law to the extent that State law prevents the application of any provisions of law established by or under this Act. The provisions governing health care lawsuits set forth in this Act supersede chapter 171 of title 28, United States Code, to the extent that such chapter—

(1) provides for a greater amount of damages or contingent fees, a longer period in which a health care lawsuit may be commenced, or a reduced applicability or scope of periodic payment of future damages, than provided in this Act; or

(2) prohibits the introduction of evidence regarding collateral source benefits, or mandates or permits subrogation or a lien on collateral source benefits.

(b) PROTECTION OF STATES' RIGHTS AND OTHER LAWS.—(1) Any issue that is not governed by any provision of law established by or under this Act (including State standards of negligence) shall be governed by otherwise applicable State or Federal law.

(2) This Act shall not preempt or supersede any State or Federal law that imposes greater procedural or substantive protections for health care providers and health care organizations from liability, loss, or damages than those provided by this Act or create a cause of action.

(c) STATE FLEXIBILITY.—No provision of this Act shall be construed to preempt—

(1) any State law (whether effective before, on, or after the date of the enactment of this Act) that specifies a particular monetary amount of compensatory or punitive damages (or the total amount of damages) that may be awarded in a health care lawsuit, regardless of whether such monetary amount is greater or lesser than is provided for under this Act, notwithstanding section 4(a); or

(2) any defense available to a party in a health care lawsuit under any other provision of State or Federal law.

### SEC. 12. APPLICABILITY; EFFECTIVE DATE.

This Act shall apply to any health care lawsuit brought in a Federal or State court, or subject to an alternative dispute resolution system, that is initiated on or after the date of the enactment of this Act, except that any health care lawsuit arising from an injury occurring prior to the date of the enactment of this Act shall be governed by the applicable statute of limitations provisions in effect at the time the injury occurred.

**SEC. 13. SENSE OF CONGRESS.**

It is the sense of Congress that a health insurer should be liable for damages for harm caused when it makes a decision as to what care is medically necessary and appropriate.

The SPEAKER pro tempore. Pursuant to House Resolution 385, the Chair at any time may postpone further consideration of the bill until a time designated by the Speaker.

The gentleman from Texas (Mr. SMITH) and the gentleman from Michigan (Mr. CONYERS) each will control 1 hour.

The Chair recognizes the gentleman from Texas (Mr. SMITH).

### GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I strongly support the HEALTH Act, which is identical to two other bills that passed the House during the last Congress. The HEALTH Act is modeled on California's Medical Injury Compensation Reform Act, called MICRA, which has resulted in California's medical liability premiums increasing only one-third as much as they have in other States.

MICRA's reforms, which are included in the HEALTH Act, include a $250,000 cap on noneconomic damages; limits on the contingency fees lawyers can charge; a fair-share rule by which damages are allocated in direct proportion to fault; reasonable guidelines, but not caps, on the award of punitive damages; and a safe harbor from punitive damages for products that meet FDA safety requirements.

□ 1330

According to the nonpartisan organization Jury Verdict Research, the median medical liability award has more than doubled in the last 7 years to $1.2 million.

Doctors and other health care providers are being forced to abandon patients and practices, particularly in high-risk specialties such as emergency medicine, brain surgery and obstetrics and gynecology.

Women are particularly hard hit, as are low-income neighborhoods and rural areas. According to a report by the Department of Health and Human Services, "Unless a State has adopted limitations on noneconomic damages, the cost of these awards for noneconomic damages is paid by all other Americans through higher health care costs, higher health insurance premiums, higher taxes, reduced access to quality care, and threats to quality of care."

Many doctors are no longer available to treat patients. Mary Rasar's father did not get the medical care he needed following a car accident last summer, because the only trauma center in his area closed for 10 days due to medical liability costs. Her father died from those injuries.

Melinda Sallard, a 22-year-old mother, was forced to deliver her own baby on the side of the road after her physician stopped delivering babies and her hospital's maternity department closed because of rising medical liability costs.

Leanne Dyess' husband Tony sustained head injuries in a car accident and could not find a neurosurgeon to treat him because rising liability costs had forced insurers to drop their coverage. Tony was airlifted to a hospital in another State that still had neurosurgeons, but 6 hours had passed, and it was too late. As a result Tony suffered permanent brain damage.

In my hometown, the CEO of San Antonio's Methodist Children's Hospital has seen his premiums increase 400 percent. He has been sued three times. In one case the only interaction with the person suing was that he stepped in her child's hospital room and asked simply, how is your child doing? Each jury cleared him of any wrongdoing, and the total amount of time all three juries spent deliberating was less than an hour. But the doctor's insurance company spent a great deal of time, effort and money in his defense.

It is no surprise the American College of Emergency Physicians found that large majorities of both rural and urban hospitals had inadequate on-call specialists coverage. And there has been a 40 percent reduction in medical students entering obstetrics and gynecology.

According to the chair of the OB/GYN department at the Yale School of Medicine, "Within 2 years we will be faced with a very real possibility of having to shut down our high-risk obstetrical practice, a practice that cares for the sickest mothers in the State."

As for legitimate cases of medical malpractice, nothing in the HEALTH Act prevents juries from awarding very large amounts to victims, including children. The HEALTH Act does not limit in any way an award of economic damages to injured victims. Economic damages include lost wages or home services, medical costs, the cost of pain-reducing drugs, therapy and lifetime rehabilitation care.

In fact, in just the last few years, juries in California have awarded the following damages to medical malpractice victims: An $84 million award to a 5-year-old boy, a $59 million award to a 3-year-old girl, a $50 million award to a 10-year-old boy, a $12 million award to a 30-year-old homemaker, and a $27 million award to a 25-year-old woman. Other examples include damages of $7, $22, $25, $30, and $49 million, all in just the last few years. Awards of these same sizes would be available under the HEALTH Act. Researchers at the Harvard School of Public Health stated that "we found no evidence that women or the elderly were disparately impacted by the cap" on noneconomic damages in California under MICRA.

The HEALTH Act will work. According to the Congressional Budget Office, "Under the HEALTH Act, premiums from medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law."

The American people support the HEALTH Act. The Gallup poll found that 72 percent of those surveyed favor a limit on the amount patients can be awarded for noneconomic damages. The HEALTH Act also respects the judgments of State legislatures because it does not preempt any State law that limits damages, be they higher or lower than the limits provided for in the HEALTH Act.

Finally, this legislation is supported by some 200 organizations, including the American Medical Association, the American Academy of Pediatrics, the American College of Emergency Physicians, the American College of Nurse Practitioners, the American College of Obstetricians and Gynecologists, and the Council of Women's and Infant's Specialty Hospitals.

Mr. Speaker, for the sake of those who need health care, for the sake of health care providers who simply want to practice their professions, please join me and these selfless organizations in supporting the HEALTH Act.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. PUTNAM). The Chair understands that the gentleman from Michigan (Mr. CONYERS) will control 40 minutes as the designee of the minority leader, and the gentlewoman from Colorado (Ms. DEGETTE) will control 20 minutes as the designee of the minority leader.

Mr. CONYERS. Yes, sir. That is correct.

Mr. Speaker, I yield myself such time as I may consume.

Now, the reason that many people might support this bill is that they do not know that inside the bill, if they were asked, are you for legislation that makes it harder to sue drug companies and HMOs, I do not think you would get the same polling results.

Mr. Speaker, I will insert into the RECORD after these remarks letters and reports in opposition to H.R. 5 from the American Bar Association, Public Citizen, and the American Federation of State, County and Municipal Employees and the National Conference of State Legislators.

Mr. Speaker, make no mistake about it. This is a special interest bill before us today. The bill would supersede the law in all States in the Union to cap noneconomic damages, to cap and limit punitive damages, to cap attorneys' fees for poor victims, to shorten the statute of limitations, to eliminate joint and several liability, and to eliminate collateral source.

That is a pretty large menu. But, more amazing, this bill comes before us today without the benefit of a committee hearing, or a committee markup, and under a totally closed rule. How do you like that?

Rather than helping doctors and victims, this measure pads the pockets of insurance companies, health maintenance organizations, and manufacturers and distributors of defective medical products and pharmaceuticals, and it does so at the expense of innocent victims, particularly women, children, the elderly and the poor. We have a bill today for you.

So let us cut the charade and get to the heart of the problem, and the insurance industry is the greatest place to start. This month we found out that the insurance industry has increased premiums by more than 100 percent over the last 5 years, while the claims they have paid out were essentially the same, were flat.

This may have something to do with the fact that the insurance industry, which is exempt from antitrust laws, is not immune from collusion, price fixing, and other anticompetitive problems that they would be subject to if they did not have an antitrust exemption.

It is also clear that a legislative solution, largely focused on limiting victim rights, available under our State tort system will do little other than increase the incidence of medical malpractice, which is already the third leading cause of preventable death in our Nation.

So under the proposal, we here in Congress would be saying to the American people, we do not care if you lose your ability to bear children. We do not care if are you forced to bear excruciating pain for the reminder of your life. We do not care if you are permanently disfigured or crippled. We are going to limit your recovery no matter what.

The proposed new statute of limitations in this bill takes absolutely no account of the fact that many injuries caused by malpractice or faulty drugs take years, sometimes decades, to manifest themselves. Under this proposal a patient who is negligently infected with HIV blood and develops AIDS 6 years later would be forever barred from filing a liability claim.

The so-called periodic plan provisions are really nothing less than a Federal installment plan for the health maintenance organizations. The measure we have here right now would allow insurance companies teetering on the verge of bankruptcy to delay and then completely avoid future financial obligations. And they would have no obligation to pay interest on the amounts that they owe their victims.

And guess who else gets a sweetheart deal under the legislation? The drug companies. The producers of such killer devices like the Dalkon Shield, the Cooper-7 IUD, high-absorbency tampons linked to toxic shock syndrome, and silicone gel implants all would have completely avoided the billions of dollars in damages that they have had to pay had this bill been law.

Do you really want to do this today, my colleagues? It would help insulate Vioxx claims for liability, adding insult to injury to hundreds of thousands of individuals and families who suffered heart attacks or lost their life as a result of this dangerous drug.

I conclude. Nearly 100,000 people die in this country every year from medical malpractice. And at a time when 5 percent of our health care professionals cause 54 percent of all medical malpractice injuries, just a few, a few doctors causing all of this problem, the last thing we need to do is exacerbate this problem while ignoring the true causes of medical malpractice, the crisis that exists in this country today.

My colleagues, I urge you to please do not accept this antipatient, antivictim legislation.

Mr. Speaker, the material I referred to previously is as follows:

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
*Denver, CO, July 26, 2005.*

Re H.R. 5, the Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2005.

Hon. DENNIS HASTERT,
*Speaker of the House, House of Representatives, Washington, DC.*
Hon. NANCY PELOSI,
*Minority Leader, House of Representatives, Washington, DC.*

DEAR SPEAKER HASTERT AND REPRESENTATIVE PELOSI: On behalf of the National Conference of State Legislatures, I am writing to express strong, bipartisan opposition to the passage of federal medical malpractice legislation, H.R. 5, the "Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act of 2005," which is scheduled for a vote in the House of Representatives on Wednesday, July 27.

Medical malpractice, product liability and other areas of tort reform are areas of law that have been traditionally and successfully regulated by the states. Since the country's inception, states have addressed the myriad of substantive and regulatory issues regarding licensure, insurance, court procedures, victim compensation, civil liability, medical records and related matters. In the past two decades, all states have explored various aspects of medical malpractice and products liability and chosen various means for remedying identified problems. To date, twenty-nine states have enacted medical malpractice legislation in their 2005 legislative sessions.

NCSL's Medical Malpractice policy explicitly and firmly states that "American federalism contemplates diversity among the states in establishing rules and respects the ability of the states to act in their own best interests in matters pertaining to civil liability due to negligence." That diversity has worked well even under the most trying and challenging circumstances. The adoption of a one-size-fits-all approach to medical malpractice envisioned in H.R. 5 and other related measures would undermine that diversity and disregard factors unique to each particular state.

Federal medical malpractice legislation inappropriately seeks to preempt various areas of state law. All 50 states have statutes of limitations for medical malpractice suits. All 50 states have rules of civil procedure governing the admissibility of evidence and the use of expert witnesses. More than half of the states have caps on noneconomic damages and limitations on attorney's fees in medical malpractice cases.

This issue was scrutinized again at NCSL's last Fall Forum. Our review included assessing whether circumstances had developed or were so unique that only federal action could provide an adequate and workable remedy. We again examined recent state actions, policy options and experiences. We discussed at length how various proposed or anticipated pieces of federal legislation fared against NCSL's core federalism questions. Those questions included (1) whether preemption is needed to remediate serious conflicts imposing severe burdens on national economic activity; (2) whether preemption is needed to achieve a national objective; and (3) whether the states are unable to correct the problem. The resounding bipartisan conclusion was that federal legislation is unnecessary.

NCSL's opposition extends to any bill or amendment that directly or indirectly preempts any state law governing the awarding of damages by mandatory, uniform amounts or the awarding of attorney's fees. Our opposition also extends to any provision affecting the drafting of pleadings, the introduction of evidence and statutes of limitations. Furthermore, NCSL opposes any federal legislation that would undermine the capacity of aggrieved parties to seek full and fair redress in state courts for physical harm done to them due to the negligence of others.

Thank you for your consideration of our concerns. For additional information, please contact Susan Parnas Frederick or Trina Caudle in NCSL's Washington, D.C. office.

Respectfully,
Senator MICHAEL BALBONI,
*New York Senate, Chair,*
*NCSL Law & Criminal Justice Committee.*

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PUBLIC CITIZEN
*Washington, DC, July 25, 2005.*

Re please oppose H.R. 5—"HEALTH Act of 2005."

DEAR REPRESENTATIVE: H.R. 5, a bill dealing with civil liability for medical malpractice, would shield doctors, HMOs, hospitals, nursing homes, drug makers, and medical device manufacturers from legal and financial responsibility for harms inflicted by their misconduct. At the same time, it would punish victims of medical negligence by making it more difficult for them to recover fair compensation for their injuries. We strongly oppose this bill and urge you to vote against it.

We are enclosing a detailed fact sheet evaluating the major provisions of this misguided legislation, whose more egregious features include:

An arbitrary, non-adjustable $250,000 cap on non-economic damages—the lowest limit imposed by any state that has adopted caps since they first appeared 30 years ago—regardless of the severity of injury, number of malfeasors, or number of defendants involved.

Insulation from liability for nursing homes, HMOs, drug companies, and medical device manufacturers, and protection from punitive damages for products that are FDA approved or generally recognized as safe and effective.

Federalized standards for medical malpractice liability that preempt existing state laws in an arena that is traditionally the purview of state legislatures and courts.

The fact sheet is accompanied by our analysis of medical malpractice judgments over the "crisis" period 2000 to 2004, showing that total payments to plaintiffs for malpractice judgments have dropped 37.5 percent, when adjusted for inflation, over the past five years. This demonstrates—contrary to what proponents of denying legal rights to victims contend—that lawsuits are not the engine driving skyrocketing malpractice insurance premiums.

For the reasons stated above, and more fully described in the enclosures, we urge you to protect consumers by voting no on H.R. 5.

Sincerely,

JOAN CLAYBROOK,
*President.*
FRANK CLEMENTE,
*Director, Congress Watch.*

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AMERICAN BAR ASSOCIATION,
*Washington, DC, July 21, 2005.*

DEAR REPRESENTATIVE: We understand that in the near future the House is expected to consider H.R. 534, legislation to preempt substantial portions of the state medical liability laws. On behalf of the American Bar Association, I urge you to vote against passage of H.R. 534. The ABA opposes H.R. 534 because it would interfere with the traditional state regulation of medical liability laws and restrict the rights of injured patients to be compensated for their injuries.

For over 200 years, the authority to promulgate medical liability laws has rested with the states. This system, which allows each state autonomy to regulate the resolution of medical liability actions within its borders, is a hallmark of our American justice system. Because of the role they have played, the states are the repositories of experience and expertise in these matters. If enacted, H.R. 534 would pre-empt the rights of the states to continue to administer the medical liability laws.

Currently, states have the opportunity to enact and amend their tort laws, and the system functions well. Congress should not substitute its judgment for the systems that have thoughtfully evolved in each state over time. To do so would limit the ability of a patient who has been injured by medical malpractice to receive the compensation he or she deserves.

The ABA is especially concerned about the provisions in H.R. 534 that would place a cap on pain and suffering awards in states that have no such cap. The ABA opposes caps on pain and suffering awards which ultimately harms those who have been most severely injured. Instead, the courts should make greater use of their powers to set aside verdicts involving pain and suffering awards that are disproportionate to community expectations.

Medical professional liability expenditures account for less than two percent of national health care expenditures. Provisions contained in H.R. 534 to cap non-economic damages would not eliminate the less than two percent of health care costs attributable to medical professional liability since very few people are the subject of such caps. Any savings in the cost of health care would be a small fraction of the less than two percent figure.

There is no question that malpractice premiums have risen. The question is why. There is no evidence that the legal system has caused the spike in rates. And there is no evidence that caps will be effective in reversing the trend. In fact, not even data provided by the AMA in June 2004 supports the idea that placing caps on damages can avert a medical malpractice crisis in a particular state, or that states that fail to enact caps are certain to have a crisis. At that time, eight states that were listed by the AMA as "in crisis" (Florida, Massachusetts, Mississippi, Missouri, Nevada, Ohio, Texas, and West Virginia) had already enacted caps on non-economic damage awards. Fourteen other states that had such caps were, according to the AMA, "showing problem signs," and just six of the states that had enacted caps were considered by the AMA to not be "in crisis" or "showing problem signs." This follows a June 2003 report by Weiss Ratings, Inc., which found that caps on non-economic damages have failed to prevent sharp increases in medical malpractice insurance premiums, even though insurers enjoyed a slowdown in their payouts.

A July 2003 General Accounting Office study of the causes of malpractice insurance increases found that, while malpractice awards have contributed to increased premiums, "a lack of comprehensive data at the national and state levels on insurers' medical malpractice claims and the associated losses prevented us from fully analyzing the composition and causes of those losses." In fact, relevant studies have since been released that analyze and challenge the alleged link between the tort liability system and malpractice premiums. Two notable studies suggest that the issue is much more complex.

One such study, in Texas, found no evidence to support a link between rising malpractice premiums in Texas and the frequency of claims and size of payouts, despite Texas voters having passed a constitutional amendment in 2003 that sharply restricted non-economic damages in medical malpractice lawsuits. The Texas study was developed by researchers at three major universities. An examination of the comprehensive database of closed malpractice claims maintained by the Texas Department of Insurance found that the number of paid malpractice claims (adjusted for population growth) was roughly constant between 1991 and 2002, the frequency of such claims actually declined, the frequency of individual jury awards in malpractice cases declined, and the percentage of claimant verdicts showed no upward trend.

Similarly, a study by the Kaiser Family Foundation showed that capping damages in medical malpractice cases does not reduce doctors' exposure to malpractice claims. The Kaiser Family Foundation report on medical malpractice was released on May 27, 2005. The report provides trend data for malpractice claims. It shows that the total dollars in physician medical malpractice claim payments remained relatively constant during the period from 1991 to 2003 (13,687 in 1991, compared with 15,287 in 2003). The average number of malpractice claims per physician declined relatively steadily over the period.

The American Bar Association analyzed the Kaiser Family Foundation report's new state malpractice data (available at http://www.statehealthfacts.org/r/malpractice.cfm) on the number of paid claims per 1,000 physicians in each state in 2003, the latest year for which data is available. The chart attached as Appendix "A" lists the number of claims per 1,000 active, non-federal physicians and shows whether the state had caps on non-economic or total damage caps in 2003. This data shows the number of paid claims per 1,000 active non-federal physicians is not related to whether a state has caps on damages or not. For example, the average claims for 1,000 physicians ranged from a high of 30.5 in Indiana, which had damage caps in 2003, to a low of 5 in Alabama, which did not have caps on non-economic or total damage caps in 2003.

It is obvious that those affected by caps on damages are the patients who have been most severely injured by the negligence of others. No one has stated that their pain and suffering injuries are not real or severe. These patients should not be told that, due to an arbitrary limit, they will be deprived of the compensation they need to carry on. Yet H.R. 534, if enacted, would result in the most seriously injured persons who are most in need of recompense receiving less than adequate compensation.

On July 14, 2005, the Wisconsin Supreme Court, in a quite lengthy and well-thought-out opinion, found caps in malpractice cases to be unconstitutional. Ferdon v. Wisconsin Patients Compensation Fund, et al., Case No. 2003AP988. As part of its analysis of the issues, the Court noted that the cap put in place ($350,000) was apparently based on the assumption that the cap would help to limit the increasing cost and possible diminishing availability of health care, although the immediate objective was apparently to ensure the availability of sufficient liability insurance at a reasonable cost. Slip op. at 45. The Court found no rational relationship between "the classification of victims in the $350,000 cap on non-economic damages" and the equally desirous objective of compensating victims fairly, both those who suffer non-economic damages above and below the cap. Slip op. at p. 50. The Court found that the cap is "unreasonable and unnecessary because it is not rationally related to the legislative objective of lowering medical malpractice insurance premiums" and it creates an undue hardship on those whose non-economic damages exceed the cap and is thus arbitrary. Slip op. at pp. 49, 53. The Court came to its conclusion after reviewing an analysis of studies done within the state by the Wisconsin Commissioner of Insurance and of studies outside the state. Slip op. at pp. 59–66.

We urge you to vote no on H.R. 534.

Sincerely,

MILES J. ZAREMSKI,
*Chair, ABA Standing Committee on Medical Professional Liability.*

## MEDICAL MALPRACTICE—IS MAG MUTUAL GOUGING ITS DOCTORS?

Georgia's largest medical malpractice writer took in nearly triple what it paid out.

This gain is in addition to the $17,312,654 gain made by investing its doctors' money.

Insurance reform—not tort reform—is needed to reduce medical malpractice premiums.

Source: taken directly from the company's annual statement for the year ending December 31, 2004. All data is from the Five Year Historical Data Page; information on Net Paid Losses is line 61, Net Premiums

Written is line 12, and Net Investment Gain is line 14. Dollar figure for investment gain represents total investment multiplied by percentage of premiums written of total for the state. Statement available at: http:naic.org/cis. MAG Mutual Insurance Company is the largest insurer in Georgia with 42.3% of the market (AM Best).

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I yield 6½ minutes to the gentleman from Georgia (Mr. GINGREY) the primary author of the bill itself.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Texas (Mr. SMITH) for yielding me the time.

With all due respect to the distinguished ranking member, let me say that in response to his comments, this is a special interest bill. That is right. It is a special interest bill. It is a special interest bill for the American consumer of health care, for our patients. That is where the special interest is: not, Mr. Speaker, the insurance industry, not drug companies or manufacturers of medical devices.

The insurance industry, of course, offers a broad range of products. It could be health insurance. It could be automobile insurance. It could be homeowners insurance. It could be an umbrella policy for general liability. And, yes, of course there is a product line called medical liability insurance.

But let me tell you what is happening to the insurance industry in regard to that piece of their business. In my home State of Georgia, 3 years ago we had 20 companies that offered that line of business. Today we have one. We have gone from 20 to 1, and that is a mutual company.

☐ 1345

If these insurance companies were making out like bandits, as the other side of the aisle and the opposition to this commonsense bill are suggesting, then they would not be quitting the business in droves. They would be continuing to stay in the business and raising those premiums and making these tremendous profits.

I do not know, Mr. Speaker, what is happening with the industry of insurance in regard to other product lines. The gentleman may be right on that. But in regard to this line of business, I can tell you they are losing money even when they have good returns on their investments, as did Mag Mutual in Georgia several years ago. In fact, the return on their very conservative investments, they are very restricted by the insurance commissioner in that very conservative portfolio of investments, returned them $7 million; but they still are losing money because of these outrageous claims and the expense of defending so many frivolous lawsuits.

In regard, Mr. Speaker, to the drug companies and the manufacturers of medical devices that the distinguished ranking member mentioned, this bill would only relieve them of punitive damages, that is all, punitive damages, if it is shown that they did deliberately market a drug or a device that they knew was harmful to a patient and they deliberately withheld that information from the FDA. It does not relieve them of liability for being named in a lawsuit. It is only the punitive damages.

If they are guilty of something like that, of withholding information deliberately, we went through this with the tobacco industry in regard to lung cancer, the punitive damages can be in the hundreds of millions and, maybe if it is a big Fortune 500 company, billions of dollars.

So this is a distraction from the real problem. And the real problem, Mr. Speaker, is that we have an unlevel playing field. That is all it is. This bill, H.R. 5, the HEALTH Act of 2005, is not going to take away anybody's right to sue if they have been injured and to seek economic damages and payments for medical care for the rest of their lives.

The gentleman from Texas explained to us that many of these cases in California, a State that since 1979 has had a cap on noneconomic so-called "pain and suffering" at $250,000, these cases that he just talked about, $10 million, $20 million, $30 million worth of economic awards, people are not being denied access to that care, Mr. Speaker. This is only to balance the playing field so that we do not have this situation in this country where we are supposed to have the greatest health care in the world, and yet our specialists are dropping out. They are not delivering babies. They are not getting involved in high-risk pregnancies. They are not manning emergency rooms. They are not doing newer surgery.

Because of all the defensive practice of medicine, every specialist practices in two areas: his or her specialty and also the specialty of defensive medicine, and it is driving up the cost of health care and people cannot afford to get health insurance. That is all we are talking about here, Mr. Speaker, of leveling the playing field. It is not taking away anybody's right to sue. It is not denigrating or bashing the legal profession.

Those attorneys who specialize in personal injury, most of them do a great job representing their clients well. My brother is an attorney. My daughter is an attorney. We are not here to bash the legal profession. But we just want to ask them to give us an opportunity to level this playing field to make it fair for everyone. And so this idea that the other side suggests that we are taking away anybody's rights is absolutely not true, Mr. Speaker.

Let me say some of the things that this bill does do besides limiting noneconomic to $250,000. What it does, Mr. Speaker, is something called "collateral source disclosure." Current law did not allow a jury to know that a plaintiff in a malpractice case has health insurance or has a disability policy. So when they are calculating all of these economic losses and loss of wages, it is not known by the jury that maybe that disability policy gives them 80 percent of their earnings or their income for their whole life or that they have health insurance.

The other thing, and I will conclude on this, Mr. Speaker, the other things this bill does is it stops this issue of joint and several liability where, when multiple defendants are named, the person, the doctor who has the deepest pockets, who may have had very little to do, if anything to do, maybe just walked down the corridor on a Saturday and said hello to the patient, but they happened to have the most insurance and the deepest pockets so they pay all of the claims.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. KELLY), a subcommittee Chair of the Committee on Financial Services.

Mrs. KELLY. Mr. Speaker, I rise today in support of H.R. 5. Listen to why. For many years, the world has come to New York for medical care. But between 1998 and 2002, 70 percent of New York's neurosurgeons, 60 percent of the OB/GYNs in New York, 60 percent of New York's orthopedic surgeons, and 60 percent of the general surgeons in New York were sued.

Mr. Speaker, it is impossible that all of these physicians were bad doctors. We can all agree that there are some physicians that may be better than others, but it would be difficult to come to the consensus that more than half of the physicians in several vital practice areas have performed this poorly.

This is a problem. In New York, the average jury award increased from $1.7 million in 1994 to $6 million in 1999, which was an increase of 350 percent. New York physicians are now paying 34 to 50 percent more in 2005 for the same insurance coverage they had in 2002. This is in part due to an across-the-board average rate increase of 7 percent for the 2004–2005 policy year. In 2001, six of the top eight medical malpractice awards in the United States came from New York courts. In 2002, 7 of the top 10 jury verdicts in medical negligence cases were from New York courts. And in 2003, it was four of the top six.

The cost is not just to the doctors. It is a cost we all ultimately share. There are steps this Congress can take in solving the problem. The HEALTH Act is a step that is both reasonable and fair. It is reasonable because it calls for a cap on unquantifiable damages. State laws that otherwise cap damages at specific amounts, even at higher amounts than those provided in the HEALTH Act, would remain in effect. The act is fair when it allows for the full recovery of economic damages. In other words, when damages can be quantified, they are unlimited in the HEALTH Act.

The HEALTH Act is going to help solve the national crisis we are seeing in medical malpractice. Without this legislation, doctors will not just leave the area where they practice; they will leave the profession. I urge support of the HEALTH Act.

Today, I rise in support of H.R. 5—The HEALTH Act of 2005.

Between 1998 and 2002, the largest insurer of physicians in New York state had: 70 percent of its neurosurgeons sued, 60 percent of OB–GYNs were sued, 60 percent of orthopedic surgeons were sued, and 60 percent of general surgeons were sued.

Mr. Speaker, it is impossible that all of these physicians are bad doctors.

We can all agree that there are some physicians who may be better than others—but it would be difficult to come to the consensus that more than 50 percent of physicians in several vital practice areas have performed this poorly.

There is a problem.

Just in New York, the average jury award increased from $1.7 million in 1994 to $6 million in 1999—an increase of 350 percent.

New York physicians are now paying 34–50 percent more in 2005 for the same insurance coverage they had in 2002. This is in part due to an across the board average increase of 7 percent rate increase for the 2004–05 policy year.

In 2001, 6 of the top 8 medical malpractice awards came from New York courts.

In 2002, 7 of the top 10 jury verdicts in medical negligence cases were from New York courts. And in 2003, it was 4 of the top 6.

But, there are also steps that this Congress can take towards solving this problem.

We have learned today that the HEALTH Act is a step that is both reasonable and fair.

It's reasonable because it calls for a cap only on unquantifiable damages. State laws that otherwise cap damages at specific amounts, even at higher amounts than those provided in the HEALTH Act, would remain in effect under the HEALTH Act.

The Act is fair where it allows for full recovery of economic damages. In other words, when damages can be quantified, they are unlimited under the HEALTH Act.

The HEALTH Act will help solve the national crisis that we are seeing in medical malpractice liability insurance.

Without this legislation doctors will not just leave the area where they practice, they will leave the profession. Patients, who are the real victims in this crisis, will be left to suffer and die because there is no one to provide the care.

As a member of the Medical Malpractice Crisis Task Force, I ask my colleagues to recognize that there is a problem, and this legislation is one great step in the direction towards solving that problem.

Please support the HEALTH Act of 2005.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just let the gentlewoman from New York (Mrs. KELLY) and the gentleman from Georgia (Mr. GINGREY) know about the General Accounting Office report that found there is no evidence that caps on damages have reduced losses or helped consumers. They found, instead, that the contention that premiums are rising because there is a surge in jury awards is a myth and that while premiums have increased claims payments of insurance companies have remained essentially flat.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member, and I thank him for his continued leadership on this issue.

It looks as if this is deja vu. We have been at this table for a number of years, and I am delighted that the gentleman from Georgia (Mr. GINGREY) cleared it up. When you have a daughter that is a lawyer, I know you have a great affection for lawyers. And I appreciate the fact that he recognizes that as physicians care for the sick, lawyers have to keep the doors of justice open. For that reason, if anyone gets up on the floor of the House and cites the number of lawsuits, 60 percent of the doctors being sued, that has nothing to do with those cases that prevailed.

Most Americans understand the distinction between frivolous lawsuits and so does the court system. But, really, what this bill is premised on is absolutely false, and Americans should know that because I have heard from so many with so many tragic incidents, amputated legs, individuals at hospitals who have died not because of what they went into the hospital for but because they caught an infection in the hospital.

But as it relates to insurance and low rates, let me cite a study that is the prevailing trend in America. A new study by the former insurance commissioner of Missouri, Jay Angoff, shows that insurance companies are gouging doctors. The study shows that insurance premiums are skyrocketing, while payouts have remained flat or in some cases even decreased. There is no evidence that we are making a dent with this medical malpractice oppressive legislation—oppressive legislation, in insurance rates.

In particular, it is a shame that when you have a tragedy in your family, someone who lost their life because of negligence, and there are three defendants, the general trend is that you go against the defendant with the deepest pockets. That defendant who is well-situated will go against the others who contributed to that terrible tragedy.

Now, this bill locks the door, closes out the bus driver, the teacher, the nurse's aid, the oil refinery worker, absolutely closes them out. It also denies children who are innocent, under 18, enhanced economic damages. That was my amendment, to take away that cap of 250,000, to take away that cap of 250,000 on noneconomic damages because we do not know long range with all these tables about what someone will be needing the rest of their life after they have been maimed, after they have been disabled, or after they have died and what their family will need.

This is a tragic day because first of all this bill came to the floor with no committee work, no rules work of sorts, all amendments died; and we have failed. Herman Cole of Connecticut we have failed, whose wife slipped into a coma when in a procedure for a tubal ligation. Her blood pressure dropped dangerously and damagingly low and the doctor and anesthesiologist ignored the warning signs. What is he supposed to do? What is he supposed to do about his wife, Sadie, who is now in a vegetative state?

This is a bad bill. I hope my colleagues will have enough courage to vote for those who have been injured and vote against special interest.

Mr. Speaker, I rise in opposition to H.R. 5, the "Medical Malpractice Bill." Not only is the overall bill bad, but the process in which the majority followed was flawed as well. This bill came straight to the floor and bypassed both committees of jurisdiction. This begs the question, "what are the proponents of the bill so afraid of that they need to rush to the floor. Both the House Judiciary and Energy and Commerce Committees have been bypassed and this should not have been done on such an important piece of legislation. Given the new information that is available about the insurance industry gouging doctors, shouldn't the committees at least have had the opportunity to review the new information?

Turning to the bill itself, it should be noted that this bill applies across the board to all cases, not just frivolous cases. It applies no matter how much merit a case has, or the extent of the misconduct of the hospital, doctor or drug company. The bill applies regardless of the severity of the injury. Those most hurt by the bill are the most catastrophically injured. In addition, it undermines our constitutional right to trial by jury. The bill limits the power and authority of jurors to decide cases based on the facts presented to them. Washington politicians should not be making these decisions—juries should.

This legislation also reduces the accountability of hospitals, nursing homes, HMOs and drug companies. This will hurt patient safety. Patient safety must come first. We should be cracking down on the small number of doctors responsible for most of the malpractice. This will reduce both incidents of malpractice and lawsuits. Doctors and hospitals must be required to tell their patients or the patients' families when they know they have made a medical error, rather than allowing them to keep their mistakes secret.

This bill completely ignores the insurance industry's major role in the high price of medical malpractice insurance premiums. We must protect the legal system and make it accessible for everyone seeking justice, accountability and adequate compensation for devastating injuries or death.

In discussing the flaws of this bill, I would be remiss if I did not take a moment to mention some of the families who have survived medical malpractice.

Kim and Ryan Bliss of Florida, whose 8½-month-old daughter died when the doctor inserted an adult IV in her jugular and caused an air bubble to go directly into her bloodstream.

Herman Cole of Connecticut, whose wife slipped into a coma when, during a procedure for tubal ligation, her blood pressure dropped dangerously and damagingly low and the doctor and anesthesiologist ignored the warning signs. Herman's wife Sadie has been in a vegetative state ever since.

Diane Meyer of Nevada, who was diagnosed with kidney stones and was sent home to pass them, despite the fact that one was too large and was poisoning her body from within. Doctors later discovered this but failed to call Diane, who then slipped into a coma and later had to have both legs amputated below the knee.

Mark Unger of Oregon, whose mother was diagnosed with Burkitt's lymphoma in early 2001 and was injected with 1000 times more methotrexate than the appropriate dosage by a doctor who did not follow protocol. Mark's mother passed away in April 2001.

John McCormack of Massachusetts, whose 13-month-old daughter died while awaiting surgery to repair a malfunctioning shunt in her skull, while the attending physician slept through repeated pages because his beeper was set to vibrate and didn't wake him, leaving two neurosurgery residents in charge of her care.

Deborah Gillham of Maryland, who suffered injury when, during a routine laparoscopic procedure to look for a cyst on her left ovary, her physician punctured her colon.

Before closing, let me take a moment to speak on two amendments I would have offered had the rule not been so restrictive. My first amendment would have eliminated one of the many egregious provisions in the bill. In essence, it would eliminate the one-size-fits-all limit on awards for non-economic loss (i.e. pain and suffering damages) of $250,000. Typically, such damages exceed $250,000 only in cases involving catastrophic injuries such as deafness, blindness, loss of limb or organ, paraplegia, severe brain damage or loss of reproductive capacity. Limiting patients' rights to sue for medical injuries would have virtually no impact on the affordability of malpractice coverage. States with little or no tort law restrictions experience the same insurance rates as states that have enacted tort restrictions.

My second amendment also focused on the $250,000 cap for non-economic loss (i.e. pain and suffering damages). This amendment would have carved out an exception for plaintiffs or a person(s) representing a minor. In summary, the $250,000 cap for non-economic loss (i.e. and suffering damages) would not apply with respect to an injury to an individual who is under 18 years of age. Minors are more vulnerable in regards to injuries they suffer and the consequences of those injuries. Furthermore, the impacts of an injury suffered by a minor due to malpractice will be felt for a much longer time period than for an adult. This is especially true of children who suffer injuries at birth due to malpractice. These children will more likely have to suffer the consequences of these injuries for the rest of their lives.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN), a member of Committee on the Judiciary and an expert on this subject.

Mr. GREEN of Wisconsin. Mr. Speaker, 10 years ago, like so many States, Wisconsin was facing a medical liability crisis, not just because medical liability premiums were soaring, not just because insurance carriers were discontinuing the sale of medical liability insurance, but because too many physicians felt forced to leave their practice, leave their specialty, or leave the State for a more affordable State.

But 10 years ago in Wisconsin, we figured out a reasonable answer. I led the fight to create a new medical liability system where injured parties receive every single dollar of economic damages to which they are entitled. But where there is a modest cap on noneconomic damages, things like pain and suffering, loss of society, loss of companionship, you know what? It worked.

We hear a lot about studies here. We know as a fact in Wisconsin it worked. In a short period of time, Wisconsin became one of only six States not to have a medical liability crisis. As a result, as the State medical society reported, physicians, especially those in high-risk specialties, actually moved into our State from States like Ohio and Pennsylvania and Florida and Illinois. It worked.

But, sadly, Mr. Speaker, my State recently lost its way. Even though by any reasonable measure our reforms work, the Wisconsin courts struck them down. We can only hope that Wisconsin enacts a new medical liability reform act. But until then, we should pass the HEALTH Act. It will not only help Wisconsin doctors and patients but those in every State facing a medical liability crisis.

This bill is State-friendly. It does not preempt State reforms. If a State like Wisconsin has a cap on noneconomic damages, whether that cap is higher or lower, that cap will take effect. More important, it is doctor-friendly. It is patient-friendly. It will help us get a handle on at least a small portion of our health care costs. It will encourage doctors to continue to practice in vital specialties, and it will attack defensive medicine. I urge support for the HEALTH Act.

☐ 1400

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3½ minutes to the gentleman from Virginia (Mr. SCOTT), a distinguished member of the Committee on Judiciary.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding me this time.

One of the problems we are going to have during this debate is the fact we are here under a closed rule. We will not have the ability to highlight or fix the shortcomings of the bill, so we will go back and forth on sound bites. We have already heard that this has been described as a proconsumer bill, notwithstanding the fact that I am not aware of any recognized consumer group that is supporting it.

Mr. Speaker, we say we have lost doctors because of the malpractice crisis, but we did not say anything about the reimbursement rates for some specialties, who are not getting paid as much, nor is there a suggestion that tort reform has actually produced more doctors. Because we have the same list of ineffectual initiatives that we have had in other tort reform bills, reducing victims' rights without doing anything with malpractice rates, we will try to discuss the provisions of the bill.

First, the rule rejected the alternative offered by the gentleman from Michigan (Mr. CONYERS) and the gentleman from Michigan (Mr. DINGELL) that would have actually reduced malpractice costs and helped underserved areas without going overboard in helping and relieving from liability the HMOs and pharmaceutical companies, which means that the doctors will have to pay more of the responsibility for malpractice. We cannot consider that.

But let us come to the specifics. This legislation preempts State law. The National Conference of State Legislators has already considered this bill, and they have rejected it. Their opinion, the National Conference of State Legislators, have suggested this bill will make matters worse.

We have caps on damages, not on damages for wages and things like that, but for elderly, for children, for those who are without lost wages, they will be hurt. Incredibly, the cap on damages has not been shown to do anything about malpractice premiums. Those States with caps are paying the same malpractice premiums as those without caps.

We have heard about this fair share provision that says everybody just pays their fair share or more. Mr. Speaker, what we are talking about here is a group with insurance, and which insurance company will pay. Some States have dealt with this and said if a doctor is at least 60 percent responsible, he can be held fully responsible, but for others, maybe you can have a fair share. This says everybody involved. In other words, you have to go after each and every physician, with a separate case against each and every one for every 1 or 2 percent responsibility they have. We have had the problem of having to sue so many doctors. Well, this requires you to sue each and every doctor.

We have heard about the collateral source rule; that if you have insurance, and listen up small businesses, if you are providing health care for your employees, and you have an employee who gets into a malpractice-induced coma, and somebody has to pay it, and your employee has gotten a recovery from the malpractice insurance, if the small business is paying the responsibility, the physician, the guilty party, will get credit for all of your health insurance, and you are going to have to continue to pay under that health insurance.

We limit attorneys' fees in this legislation, which will do nothing to reduce malpractice premiums. We have different statutes of limitations, which will confuse people, and lawyers will miss the filing deadlines because of all this confusion.

We need insurance reform which will reduce premiums, not just attack victims. We need worthwhile legislation that will reduce the premiums. This will not do it. We need to defeat the bill.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, opponents of reform claim that the current crisis is driven by a small number of so-called bad doctors. But as Yale Medicine Professor Dr. Robert Auerbach has explained, "The American Trial Lawyers Association has perpetrated myths on the American public, including the myth that a very small proportion of all physicians are responsible for the majority of claims. This is a sort of statistical magic, because, unfortunately, a small proportion of the physicians in high-risk specialties, such as obstetrics and gynecology and neurosurgery, are responsible for a disproportionate number of the claims."

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. BURTON), former chairman of the Committee on Government Reform.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, I am for medical malpractice reform. I think it is extremely important we address this issue. However, I have a real problem with this bill. In section 7, item (c), under punitive damages, it in effect will protect the pharmaceutical industry against class action lawsuits by parents who have had their children damaged by mercury in vaccines that causes neurological problems, such as autism.

We had hearings on this for about 6 years, and we had scientists from all over the world, and the mercury in vaccines is a contributing factor to autism and other neurological disorders in children. It is in adult vaccines as well.

Now, I will not go into specifics of the language in here, but according to attorneys I have talked to in the last couple of days, it protects the pharmaceutical companies against class action lawsuits. I would not have a problem with that if there was another avenue for these parents to go to get money.

We created the Vaccine Injury Compensation Fund to take care of that. It was supposed to be nonadversarial. Unfortunately, parents have gotten nothing out of the Vaccine Injury Compensation Fund, even though there is $3 billion there. So there is only one avenue they have, and this legislation, the way I read it, blocks that.

The gentleman from Florida (Mr. WELDON) has worked with me on this, and I think he shares some of the same concerns that I have, and he is welcome to say a word or two if he wants to, but what I want to ask of the manager of the bill, would the gentleman work with me to try to clean this up so that that problem does not exist anymore; so they at least have an avenue to deal with this?

Mr. SMITH of Texas. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Texas.

Mr. SMITH of Texas. Mr. Speaker, the gentleman and I have spoken about this before. I happen to think that the problem lies with current law and not with this particular piece of legislation. But in any case, I share the gentleman's concerns and will work with him to address those concerns as this bill progresses to conference committee.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for his assurances.

Mr. WELDON of Florida. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from Florida.

Mr. WELDON of Florida. Mr. Speaker, I appreciate the gentleman's yielding to me, and let me just add to what the gentleman was saying. There is a lot of active research on this, and the research is not conclusive, so we do not need to act right now.

Mr. BURTON of Indiana. Mr. Speaker, I thank my colleague.

Mr. Speaker, I wish to submit for the RECORD a Dear Colleague letter which I sent to Members regarding this legislation:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, July 27, 2005.*

THE VACCINE LIABILITY WAIVER IN THE MEDICAL MALPRACTICE LEGISLATION WILL HURT AUTISTIC CHILDREN AND THEIR FAMILIES

DEAR COLLEAGUE: As we debate medical malpractice this week, I want to bring to your attention a provision in the bill that would waive vaccine manufacturer liability. Section 7(c) of the legislation states that no punitive damages may be awarded against a manufacturer or distributor of a medical product based on a claim that the product caused harm, unless the company violated FDA regulations. Essentially, this means as long as the vaccine goes through the regular FDA approval process, the company is shielded from liability.

In the 1980's, roughly 1 in 10,000 American children were diagnosed with some kind of autism spectrum disorder. Today, that number has risen to 1 in 166 with the number rising alarmingly as children have been required to get more and more shots containing the mercury-based preservative thimerosal During my tenure as Chairman of the House Committee on Government Reform, and as Chairman of the Subcommittee on Human Rights and Wellness, I chaired numerous hearings examining the alarming increase in autism in this country over the last several decades. We also conducted a four-year long investigation into the facts and theories surrounding the connection between mercury in vaccines (thimerosal) and autism and other childhood and adult neurodevelopment disorders, such as Alzheimer's. Credible scientific evidence points to a connection between thimerosal, autism and other neurodevelopmental disorders.

Many of the families of thimerosal's victims did not know about the National Vaccine Injury Compensation Program—the no-fault compensation system that provided for quick and fair recovery for those who experience injuries related to a vaccination which Congress established in 1986—and were unable to file claims within the 3 year Statute of Limitations. Thousands of families were left out in the cold, unable to get into the program. They are out there with nothing. Their houses are being sold, they are going bankrupt, they are spending all their money and leading desperate lives trying to help their kids, and they cannot do it. Therefore, the only recourse they had was to file a class action lawsuit.

As the number of thimerosal injured children grew, concerns over the potential financial impact of these class action lawsuits, and the growing scientific research demonstrating a connection between thimerosal and autism, and the subsequent effect on the pharmaceutical industry's bottom line prompted supporters of the Pharmaceutical industry to slip sections 1714 through 1717 into the Homeland Security Act of 2002 effectively killing all thimerosal class action lawsuits. In the 11th hour without any debate, without anybody knowing about it until it was too late, these lawsuits were stopped in their tracks.

Fortunately, the language was ultimately removed after being discovered by several deeply concerned Members of both the House and Senate. Section 7(c) of the Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2005 (H.R. 5) is arguably a thinly veiled attempt to resurrect the ill-conceived Homeland Security Act provisions of 2002, and although Section 10 of the bill exempts vaccine cases before the National Vaccine Injury Compensation Program, if a vaccine claimant exercises his or her right to opt-out of VICA and bring a lawsuit in state or Federal court or has no recourse but to file a lawsuit because of the Statute of Limitations, Section 7(c) of H.R. 5 will fully apply to limit that civil claimant's rights.

Congress should strike this provision from the medical malpractice legislation. We serve the interests of the American people, not the pharmaceutical industry.

Sincerely,

DAN BURTON,
*Member of Congress.*

Mr. CONYERS. Mr. Speaker, I am pleased now to yield 3 minutes to the gentleman from New York (Mr. NADLER), a distinguished member of the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, the Republicans have demonstrated that they either do not have a plan to fix the problem of the uninsured, or they simply do not care. Instead, they drag out the same tired giveaways to insurance companies year after year while trampling on the rights of consumers and patients.

This bill is a perfect example. It does nothing to address the real causes of rising malpractice rates, but instead protects insurance companies from their own poor business practices. It protects the pharmaceutical companies. It protects the manufacturers of medical devices. It protects everyone except the victims of medical malpractice.

We are told the bill is necessary to drive down insurance rates because juries are awarding too much money to plaintiffs. But the fact is lawsuits account for less than 2 percent of health care costs, as they always have, according to CBO. The average jury award has hardly increased at all in the last decade. In the last year, claims payments have decreased, gone down, by 9 percent, according to HHS, yet insurance premiums continue to rise.

So where is the crisis? Not in huge runaway juries and not in exorbitant awards. Yet we have here a spectacular assault on the rights of consumers and patients. A cap on noneconomic damages of $250,000 might have been reasonable in 1975 when it was first imposed in California, but today, and with increasing inflation, it is worth less and less.

When we considered this bill in committee last year, I offered amendments to raise the cap to $1.5 million, or at least to index it to inflation so it does not get inflated down to worthlessness. Party line vote: Cannot do that.

But the biggest weakness of this bill is that it will not work. Anyone who thinks insurance rates will go down as a result of this bill is being sold a bill of goods. This bill merely hopes the insurance executives will, out of the goodness of their hearts, reduce the rates they charge doctors. But there is no mechanism to guarantee this. Instead, the bill will simply lead to higher bottom lines for the insurance companies and protect the careless insurance companies and the careless manufacturers.

Every attempt by Democrats to mandate that savings be passed along to doctors in the form of lower rates was voted down by the Republicans. Mr. Speaker, we should not be misled by this bill's supporters. Do not believe for a second that insurance rates will go down as a result of this bill. This bill should be seen for what it is: a gift from the Republican majority to the big insurance companies at the cost of patients' rights, and deluding the doctors and the health care practitioners who are being led down the garden path.

If it were meant to help them, why do the Republicans refuse to put into this bill a provision that mandates that the savings that this bill will supposedly accomplish, at least some of those savings, are passed along to doctors in the form of lower malpractice rates? It will not happen.

The true thing we should do is to crack down on the 1 or 2 percent of doctors who cause 90 percent of the insurance claims who should not be practicing medicine, and better regulate the insurance companies. That is what we should do to solve this problem. Instead, we have this feel-good bill that will injure already injured patients and will do nothing for the doctors.

Mr. SMITH of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, the last two commentators in opposition to this bill talked about the biggest problem with this bill being the lack of consumer protection.

I am going to tell my colleagues that the biggest consumer protection in this bill is limitation of contingency lawyer fees. When a person is injured severely, they ought to walk out of that courtroom at the end of the day with the preponderance, the largest portion, of that judgment in their pocket and not in the pocket of the lawyers. And that is consumer protection at its very best.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. KELLER), a valued member of the Committee on the Judiciary.

Mr. KELLER. Mr. Speaker, I thank the gentleman for yielding me this time.

I support common-sense medical liability reform because it will increase patients' access to lifesaving health care, and it will save taxpayers over $30 billion a year in unnecessary defensive medical tests.

Let me give a real-life example. The Orlando Regional Medical Center is a large hospital located in the heart of my district in Orlando, Florida. It is home to the only Level I Trauma Center in central Florida which specializes in treating patients with severe brain and spine injuries.

Unfortunately, this important trauma center is in danger of closing because we only have a handful of neurosurgeons left in Orlando, and they cannot afford to pay the medical liability insurance premiums of over $250,000 a year. As a result of this liability crisis, this top-rated trauma center had no choice but to turn away over 1,000 patients last year.

Now, what happens when neurosurgeons are not available? We do not have to guess. I personally met with Mrs. Leanne Dyess, who testified before the Committee on the Judiciary. Her husband, Tony Dyess, suffered a very serious head injury in a car accident. The family had excellent medical insurance. What they did not have a was a neurosurgeon. All the neurosurgeons in her area had left town because they could not afford the liability insurance. As a result, it took 6 hours to transport Mr. Dyess to a different location, but it was too late. He needed to be treated within the first hour. Mr. Dyess is now permanently brain damaged. He is unable to communicate, work, or to provide for his family.

Mr. Speaker, some opponents of this legislation say it is not Congress' problem, let us just leave it up to the States. Well, it is our problem, because the U.S. Department of Health and Human Services estimates that this legislation will save taxpayers over $30 billion a year by avoiding unnecessary medical tests which are ordered by doctors under Medicare and Medicaid because of defensive medicine.

It does not have to be that way. Neurosurgeons in California, where they have a $250,000 cap, pay an average of only $59,000 a year in liability insurance, not the $250,000 they pay in Orlando, Florida. Let us bring common sense back to our health care system and give patients access to trauma centers and neurosurgeons.

Mr. Speaker, I urge my colleagues to vote yes.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. WEINER), a valuable member of the Committee on the Judiciary.

### REQUEST TO AMEND H.R. 5

Mr. WEINER. Mr. Speaker, I move by unanimous request that we amend H.R. 5 to include a cap on premium increases for the duration of the bill.

The SPEAKER pro tempore (Mr. LATHAM). The Chair cannot entertain that request at this time.

### PARLIAMENTARY INQUIRIES

Mr. WEINER. Mr. Speaker, parliamentary inquiry. I am making a unanimous consent request.

The SPEAKER pro tempore. Would the gentleman restate his request?

Mr. WEINER. Certainly. My unanimous consent request is that H.R. 5 be amended by unanimous consent, the consent here of both the majority and the minority, that premium increases, health insurance premium increases, be limited to zero for the duration of the period of this bill.

The SPEAKER pro tempore. The Chair will have to see the gentleman's amendment to see if it meets the Speaker's guidelines for recognition.

Mr. FRANK of Massachusetts. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. FRANK of Massachusetts. Mr. Speaker, I would ask to what guidelines the gentleman refers. I know there have been guidelines about bringing a bill up at all, but I am not aware of any guidelines that govern the deliberations of a bill once it has been brought forward. Could the Speaker enlighten us as to what guidelines he is discussing?

I am not aware of guidelines that deal with the bill once it is before us. I understand they have dealt with whether or not you consider the bill.

□ 1415

The SPEAKER pro tempore (Mr. LATHAM). It would be inappropriate for the chair to entertain a unanimous consent request for the consideration of a nongermane amendment absent conformity with the Speaker's guidelines.

Mr. FRANK of Massachusetts. Mr. Speaker, further parliamentary inquiry. Would someone point to the rule of the House? First, Mr. Speaker, I must say "inappropriate" does not seem to me to be a parliamentary term. Something is either in order or it is out of order. Appropriateness may deal with etiquette, it may deal with how well Members are dressed and how nice they look, but I understood under parliamentary procedure you are either in order or not in order. Would someone refer to me the section of our rules, Jefferson's Manual, which talks about appropriateness?

The SPEAKER pro tempore. If the gentleman would approach the Chair, the Chair will gladly point out the rule.

Mr. FRANK of Massachusetts. Mr. Speaker, why would I have to approach the Chair? This is a public forum. I believe this notion of appropriateness is a gloss on the rules that does not exist. Can we not have a citation to the rule of appropriateness?

The SPEAKER pro tempore. The guidelines are carried in section 956 of the House Rules and Manual.

Mr. FRANK of Massachusetts. Mr. Speaker, further parliamentary inquiry. We are told that these guidelines supersede the rules, during the consideration of a bill that unanimous consent is not in order? I had not previously heard that. Further, I understood they dealt with whether or not Members were recognized. Once recognized, as the gentleman from New York was, I am not aware of any restriction on what the gentleman can do as long as it is within the rules. Those guidelines dealt with recognition, as I understood it.

The SPEAKER pro tempore. Recognition for unanimous consent requests is at the discretion of the Chair following the guidelines followed by several successive Speakers.

Mr. WEINER. Mr. Speaker, further parliamentary inquiry. Is the Chair ruling a unanimous consent request which expresses the unanimous desire of the House of Representatives, is the Chair refusing that to be put to the body?

The SPEAKER pro tempore. The Chair will reiterate that conferral of recognition for a unanimous consent request is at the discretion of the Chair according to the Speaker's guidelines.

Mr. FRANK of Massachusetts. Mr. Speaker, further parliamentary inquiry. Does that mean any unanimous consent request to amend a bill is out of order unless it meets what standard? Could the Chair enlighten us as to how one would become in order?

The SPEAKER pro tempore. A unanimous consent request for the consideration of a nongermane amendment would have to have received clearance by the majority and minority floor and committee leaderships. The Chair has not seen the gentleman's amendment and is unaware of such clearance.

Mr. WEINER. Mr. Speaker, further parliamentary inquiry. Is the concern that it is not in proper form? There has not been a point of order that it is not germane.

The SPEAKER pro tempore. It is a matter of recognition.

Mr. WEINER. Mr. Speaker, I have been recognized, so that is not the issue. Is the issue the form of the unanimous consent request?

The SPEAKER pro tempore. If the gentleman would submit his amendment, the Chair would examine it.

Mr. WEINER. Mr. Speaker, if I can be further heard on the unanimous consent request, and I believe the paperwork is on the way, it is a very simple matter. The sponsor of the legislation says he wants to do what is right for consumers. Over and over we have heard the connection between the legislation and reducing premiums. All I am saying is, if we all agree upon that, let us include the language herein.

The SPEAKER pro tempore. Is the gentleman making a parliamentary inquiry?

Mr. WEINER. No, I want to be heard on my unanimous consent, and I was recognized.

The SPEAKER pro tempore. The Chair has not recognized the gentleman from New York (Mr. WEINER) on his unanimous consent request. The gentleman is, however, recognized for the time yielded to him.

Mr. WEINER. Mr. Speaker, I still have a unanimous consent that is, I believe, in the hands of the Parliamentarian now.

Mr. Speaker, I withdraw my unanimous consent request.

The SPEAKER pro tempore. The gentleman from New York (Mr. WEINER) withdraws his unanimous consent request.

The gentleman from New York (Mr. WEINER) is recognized for 3 minutes.

Mr. WEINER. Mr. Speaker, I think all of the assembled Parliamentarians, staffers, the histrionics of the other side, the apoplexy over the idea that perhaps we might actually reduce premiums is fairly instructive to this debate.

We had no hearings on this. We had no chance to mark it up. We had no chance to include a reduction in premiums.

The gentleman from Georgia said this is a pro-consumer thing. If you really wanted it to be pro-consumer, you would reduce premiums. I would ask any Member on the other side of the aisle who supports this bill to simply say, We do not really care about reducing premiums.

Mr. Speaker, who we are fighting for in this bill is the insurance industry; they are getting protected. The HMOs, they are getting protected. The pharmaceutical companies, that is who is being protected by H.R. 5. But, frankly, do not deceive the American public by what this bill will do.

Insurance prices will not go down. Do Members know how we know this? First of all, the industry themselves have said in public that they have no intention of reducing premiums if this legislation is passed. We can look at other States that have caps. Find me one where insurance premiums went down. Look at California, ask them whether their premiums have gone down.

Frankly, the only way we know for sure that premiums will go down is to cap the premiums, but you will not do that. Not only will you not do that; you will do everything possible to avoid even considering it. That is why committee was bypassed.

And do not also say that doctors are going to face fewer claims as a result of this legislation. They are already seeing fewer claims since they did in 2001. There were 25 per 1,000 physicians in 2001. There are 19 per 1,000 physicians in 2003. If we had a hearing in committee, we might find out what it is this year. You cannot say that, and you also cannot say this: you cannot say the amount being paid out in claims against physicians has reduced in States where there are caps.

You want us to be a Nation where there are caps. Let us look at the States where the caps are in place. The lowest number of claims per 1,000 physicians is in a State that does not have a cap, and the highest are among the States that do have the caps. What this issue is really all about, it is about who you all are fighting for and who we are fighting for.

You are fighting to take away the right of a jury. Your citizens, your constituents who apparently are brilliant enough to elect you, but not smart enough to solve a case that deals with medical malpractice, you are taking the right of a family who wants to take on a megapharmaceutical company or a mega-HMO, and the only way they can bring that suit is to make sure they get enough money out of that company that they learn the lesson and they do not do it again.

Mr. Speaker, there is some irony here. You control the legislature, you control the executive, you control the judiciary, and still you do not trust any of those people to make the decisions. Only you know how much each and every one of these cases will yield.

Mr. Speaker, I have an alternative idea: get rid of the bad doctors, get rid of the bad lawyers, get rid of the bad judges, and get rid of this bad bill.

Mr. CONYERS. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. FRANK) for a unanimous consent request.

REQUEST TO OFFER AMENDMENT

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent to offer an amendment which is in writing at the desk and is germane.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Mr. Frank moves to strike on page 11 lines 10 through 25 and page 12.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. SMITH of Texas. Mr. Speaker, I object to the unanimous consent request.

The SPEAKER pro tempore. Objection is heard.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, the amendment I sought to offer which was kept out by an objection from the bill's manager would have dealt with the section referred to by the gentleman from Indiana. I also, like the gentleman from Indiana, am prepared to vote for, as I have in the past, some restrictions on medical malpractice.

But what we have in this bill which has not gotten a lot of attention, and the gentleman from Indiana pointed it out, is a total exemption from punitive damages for drug manufacturers who get an FDA approval even though we have seen flaws in the FDA approval process.

What the majority has now made clear, they are insisting that this be taken in whole. The gentleman from Indiana made a good point, an objection to this amendment, and I share his objection. What I do not share is his faith that this is going to be taken care of.

The gentleman from Indiana, my good friend, was uncharacteristically mellow today in accepting an assurance that this will be looked at. I agree it will be looked at. It will be held up to the light. It will be turned upside down, and it will be looked at and looked at and looked at until it is signed into law, and then people will still be able to look at it as the law and those drug companies will have that exemption.

So what I offer today, and one might have thought under democratic procedures this would have been allowed, was simply to vote on that. I was, in the spirit of bipartisanship, acting on the suggestion of the gentleman from Indiana. Forget about everything said about medical malpractice; the amendment I sought to offer and was blocked from offering by that objection, as we were by the Committee on Rules' heavy-handedness, simply would have allowed this body to decide whether as part of a medical malpractice bill you would give an exemption from punitive damages to drug companies. That is not medical malpractice. That is not related to the core of this bill. The majority will not even allow this to be discussed.

I think it is wrong to give that kind of exemption certainly without a lot more consideration, but what is even more wrong is this further abuse of power. The majority simply will not allow this House, like the gentleman from Indiana, elected representatives of the people, to decide on whether or not we give an exemption to the drug manufacturers.

They take medical malpractice, a sympathetic issue, and use it to cloak immunity for the drug manufacturers in part, and then arrogantly refuse to allow the House to vote on it.

Mr. Speaker, I will say what I have said before. We are working with the people of Iraq and we are trying to get them to implement democracy. To the extent anyone from Iraq is watching the proceedings here, I would say to them, Please do not try this at home. Please do not, in the Iraqi Assembly, show the contempt and the disregard and the arrogance for minority rights and democratic procedures, and maybe majority rights. I should amend this. They are not afraid of minority rights; they are afraid if we had an open and honest vote on this that a majority would decide not to let the drug companies carry out under that darkness.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 10 seconds.

Mr. Speaker, I want to say I appreciate the gentleman from Massachusetts (Mr. FRANK), who just spoke, voting for this legislation in the last Congress.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART), a former member of the Committee on the Judiciary and now a member of the Committee on Ways and Means.

Ms. HART. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the HEALTH Act. It is called the HEALTH Act for a very good reason. It is going to help a number of people who now are finding it very difficult to have access to health care.

We have considered this bill twice in the last Congress, I believe once in the first Congress when I was here, and objecting to this as unfamiliar to Members is simply disingenuous. This issue is so well known, not only to Members, but to the general public, that it scores as one of the most important issues when asked nationwide what we need to address.

The other side of the aisle suggested we deal with bad doctors, bad lawyers, and bad judges. Well, bad doctors, bad lawyers, and bad judges are regulated by the States. The problem is that medical malpractice reform should have been dealt with by the States, but my State of Pennsylvania has not handled the problem. Many States have not acted to deal with this problem and avert further crisis.

Patients needing care face a real crisis in access to care. The wait is too long, the cost is too high. Physicians are quitting because of the high cost of medical malpractice insurance. From 2003 to 2004, Pennsylvania doctors faced double-digit medical malpractice insurance increases. The reason: out-of-control lawsuits.

□ 1430

According to the National Medical Practitioners Database, payouts in my State of Pennsylvania have risen from $187 million in 1991 to nearly $500 million in 2003. These excessive lawsuits have gotten so out of control, as I mentioned earlier, that many doctors have quit the practice of medicine. That means patients do not have physicians to even see.

Last year I met with a dozen doctors from my district. Of the dozen, nearly all of them raised their hand when I asked them if they had children. One doctor said his wife refuses to allow her kids to study medicine. We need to address this issue, and we need to address it today.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, the gentleman from Texas is right. I did vote for this bill last year, because I thought it was about medical malpractice and did not read it carefully. In fact, what happened was I made the mistake last year that the gentleman from Indiana might make this year. I believed that they would honestly talk about medical malpractice, and it did not occur to me they would try to sneak into this bill something that gave partial immunity to the drug manufacturers.

So I admit that I did not read it thoroughly, but I will not when the gentleman is managing bills make that mistake again.

Mr. DELAHUNT. Mr. Speaker, I had a revelation during the course of the exchange about capping premiums. What I found particularly fascinating was that my good friend from Georgia, our own Dr. Phil, is an advocate for wage control. In other words, cap those fees as long as, I guess, it is lawyers. Maybe not for CEOs, but at least we know that he is a proponent of wage controls for lawyers.

But when it comes to price control, it seems that the majority has a problem. So you are in favor of capping wages, but not in favor of capping prices, because really that is what it comes down to. I guess it is a new tradition within the Republican Party.

In any event, for all the reasons that others have suggested, I think not only does this qualify as a bad bill because it is not going to accomplish the goal of lowering premiums, but I think, and I would suggest, it is a cruel bill, because this cap on so-called noneconomic damages impacts the most vulnerable among us, mothers who stay at home and particularly children, because they have no economic damages. They do not have such economic damages as the loss of potential earnings. So apart from their medical bills, all of their losses are noneconomic, like a lifelong physical impairment, or maybe a mental disability, or disfigurement. This bill will deny them the possibility of a life that at least has a modicum of respect and dignity in compensation for their loss, a loss which, by the way, they had no involvement in other than being the victim.

Mr. SMITH of Texas. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN), a member of the Committee on Energy and Commerce and a former member of the Committee on the Judiciary.

Mrs. BLACKBURN. Mr. Speaker, they are asking what are we for and what is this bill all about? I will tell you what we are for, what this majority is for, and what this bill is about. It is about preserving access to health care in our local communities, lots of communities, like my Seventh District of Tennessee. It is not about sitting here and saying, oh, we think all it is going to take to address health care is a big, fat Federal Government. It is about access to health care in our local communities.

Americans know that our health care costs are soaring. They also know that trial lawyers many times view our hospitals and our health care providers as a limitless ATM.

That is the reason I cosponsored this legislation. My constituents have had enough. They have grown ill and fatigued with the stories that are out there, with seeing their local doctors run out of town, with seeing practices close up, and with knowing that they have access to less and less available health care. We know that only one in seven OB-GYNs now deliver babies for fear of being sued, and the national medical liability rate has risen almost 500 percent since 1976.

This is an issue that affects our families. It affects women. It affects children. It affects our rural communities. This bill is a way to assist in preserving health care for our local communities.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL), who has followed this subject ever since he has come to Congress.

Mr. EMANUEL. Mr. Speaker, I speak as both the son of a doctor and the son of a nurse. I introduced the Vioxx amendment that would prohibit this special liability protection for the pharmaceutical companies. Many Americans across the country are watching the Vioxx trial in Texas where the Ernst family has lost their loved one, a marathon runner, a personal trainer, who died a premature death because he took Merck's Vioxx medication, and the FDA was not provided with all the information that should have warned of the dangers from that. According to the FDA's doctor, approximately 55,000 premature deaths occurred because of Vioxx. That is the trial the American people are watching.

And then they tune in here to this Congress. What is this Congress trying to do? They are trying to protect Merck and the other pharmaceutical companies in a way that no other industry would get that type of protection from any liability. This Congress would intervene in that civil trial down in Texas where the Ernst family is trying to get their proper redress from the premature death of a marathon runner who had a heart attack because the information was withheld.

The irony of this whole situation is just last year, this Congress, bipartisan, said the FDA did not have the proper resources to regulate these medications. And now you want to hide behind the FDA's Good Housekeeping seal to give protection to an industry in a way that no other industry in America gets.

Last year this Congress gave the pharmaceutical industry $132 billion in additional profits through the prescription drug benefit. Now you want to give them liability protection in a way that no other industry gets. You are like the gift that keeps on giving. There is a gift ban that is on in this Congress, and at some point the pharmaceutical industry has got to be held accountable just like everybody else.

The Ernst family lost a loved one. According to the FDA, about 55,000 other deaths also have occurred. Let us have a debate about medical malpractice. Don't muck it up with your political goals of trying to protect the pharmaceutical industry and other families from the proper redress of the courts.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 20 seconds.

Mr. Speaker, regarding Vioxx, some have alleged the company knowingly misrepresented or withheld information from the FDA. If so, they would be denied the protections in the bill because the bill specifically in section 7 says and excludes any instances in which a person, before or after premarket approval, clearance, or licensure of such medical product, knowingly misrepresented to or withheld from the FDA information that is required to be submitted.

If we look at the language of the bill, we can see that what the gentleman said is not relevant.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, prior to coming to the U.S. Congress, I served 14 years in my State general assembly. I spent a lot of time on this issue, dealing with issues like caps on noneconomic damages, collateral sources, periodic payments, joint and several liability modifications and venue shopping. I just heard some statements from the other side, well-intentioned, but, I must respectfully say, misguided, that simply mandating a premium reduction will not solve this problem. What will happen is what happened in my State.

In 1975, a State-administered medical liability program was created because no one wanted to write insurance in the Commonwealth of Pennsylvania in 1975. We were in a crisis. That did not solve the problem. That State-administered program is broke. My general assembly has appropriated hundreds of millions of dollars to pay doctors' medical liability premiums and hospitals' premiums. That is what will happen if you mandate that premium reduction. It sounds good, but it does not fix it.

The Governor of my State, Ed Rendell, a Democrat, I talked to his insurance commissioner a couple of years ago. I said, if this is an insurance problem, let's look at the numbers. For every dollar paid at that time in medical liability premiums, there was $1.27 in losses incurred; $1 in, $1.27 out. That is an insurance problem. No one wants to write insurance. So if you mandate a premium reduction or hold it harmless, the State is going to have to set up a program, and they are going to have to find the money, and they are going to turn to the taxpayers. That is what is happening. We are in crisis.

This legislation we are dealing with helps deal with this issue because providing for caps on noneconomic damages, Mr. Speaker, will help restore some level of predictability and stability to the insurance marketplace. You need to have people wanting to write insurance in these States. Competition will help you actually drive down costs. I know that some might find that unbelievable, but it will work. It has to work.

I rise to speak in favor of H.R. 5, the Health Act of 2005.

This bill addresses one of the central issues in health care today: the way in which unpredictable, out-of-control legal judgments are driving up health care costs. This bill sets caps on punitive and non-economic damages that result from malpractice litigation. This is important because, as the Congressional Budget Office has noted, under this act, medical liability premiums would be an average of 25 to 30 percent below what they would be under current law.

High medical liability premiums are creating serious doctor recruitment and retention problems in my State, especially in so-called "high risk" disciplines such as neurosurgery, orthopedics, emergency medicine, I and obstetrics. In my district, the crisis created in part by outrageous malpractice judgments is best exemplified by the experience of St. Luke's Hospital.

St. Luke's has been recognized nationally 17 times for clinical excellence. Despite this accomplishment, St. Luke's became the target of a frivolous, outrageous lawsuit in the fall of 2000. As a direct result, St. Luke's professional medical liability costs increased more than $4 million in just 2 years.

As a result of medical liability issues, Pennsylvania hospitals face challenges retaining neurosurgeons, without whom trauma centers cannot operate. In fact, a few years ago, another regional hospital serving my district—Easton Hospital—lost all of its neurosurgeons to other States. And Lehigh Valley Hospital, an extraordinary three-hospital network and the largest employer in my district, experienced a fivefold increase in their liability costs over the past few years.

Nothing about this bill prevents a litigant from seeking his or her day in court. In California, which was the model for the current health act, plaintiffs with legitimate claims still enjoy large recoveries. The Government Accountability Office, GAO, has determined that California has controlled medical liability insurance premiums much better than has my home State, Pennsylvania. In fact, in Pennsylvania the medical liability crisis is so acute that the legislature has appropriated hundreds of millions of dollars to assist physicians and hospitals with rapidly rising medical liability premiums. That's like placing a Band-Aid on a gaping wound. Structural reform is needed; taxpayers bailouts—Band Aids, if you will—don't solve the underlying problem.

For all these reasons, I believe that congressional intervention is essential in the form of support for the Health Act of 2005.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentleman from Florida (Mr. WEXLER).

Mr. WEXLER. Mr. Speaker, the gentleman from New York (Mr. WEINER) smoked out the truth about this bill a couple of minutes ago when he simply asked that the bill include a provision that would require a flat medical malpractice premium rate. He smoked out the truth, and what we now know is that this bill is not about providing access to health care. It is not about solving a health care crisis. What it is about is protecting the insurance industry.

In fact, a study by the insurance commissioner of Missouri found that while malpractice premiums for doctors doubled from 2000 to 2004, malpractice claims during the same period increased less than 6 percent. Insurers themselves admit that capping medical malpractice payments will not reduce premiums. In fact, States that have caps have higher premiums than States without caps in every medical field, including internists, surgeons and OB–GYNs.

The proponents of this bill claim that large payouts are driving up the cost of medical malpractice insurance. Nothing could be further from the truth. In fact, the opposite is occurring in Florida where the average amount insurers are paying for claims has gone down 14 percent since 1991. At the same time, however, premiums charged by insurers have increased 43 percent. In particular, overall claim payouts for Florida's largest medical insurer, FPIC, dropped 22 percent in the last 4 years. Outrageously, remarkably, this same insurer saw a 154 percent increase in profits for the first quarter in 2004.

This legislation needs to be seen for what it is. It is not about helping doctors. It is not about helping patients. The only goal of this legislation is to ensure even higher profits for insurance companies while not doing a blasted thing to help the sick people in America, to help the people that provide the medical services to our people. This bill will not do one iota to improve health care in this country. The gentleman from New York smoked it out just right.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. BURGESS).

Mr. BURGESS. I thank the gentleman for yielding me this time to speak on this important issue today.

Mr. Speaker, we, of course, passed this bill some 2 years ago last March. Down in Texas we passed a bill 2 years ago this September and a constitutional amendment that would essentially provide the same type of cap on noneconomic damages that we are discussing here today in H.R. 5.

It has been said before that the States are great laboratories for the Nation. If that is the case, let us examine what has happened in Texas in the 2 years since the cap has been passed. When I ran for Congress in the year 2002, we started the year 2002 with 17 insurers in the State of Texas. By the time I took this office at the start of 2003, we were down to two insurers. It is pretty hard to get competitive rates when you have driven 15 insurers out of the market. Since the passage of the Proposition 12 in September of 2003, which allowed a cap on noneconomic damages, we have had 12 insurers come back to the State, which has provided competitive rates, and Texas Medical Liability Trust, my old insurer of record before I left medical practice, immediately dropped its rates 12 percent after the passage of Proposition 12 and then dropped its rates another 5 percent for a total of 17 percent in the first year since Proposition 12 was passed.

Most importantly, Mr. Speaker, an unintended consequence of the passage of Proposition 12 in Texas was what has happened in private, not-for-profit hospitals.

□ 1445

The Cristus Health Care System in south Texas, a self-insured hospital system, realized a $12 million savings from the first 9 months after that proposition was passed, money that was put back into nurses' salaries, capital expansion, the very things we want our hospitals to spend money on if they were not having to pay it for noneconomic damages.

And, finally, I just cannot let pass the statement about price controls. Physicians have lived under price controls, certainly all of my professional career, for the last 25 years. We have managed, sometimes poorly. But what happens when we have price controls is we end up with lines, and one of the biggest problems we have right now is that doctors are dropping out of practice, and we do not have the practitioners there to provide care for the patients.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this very precious time.

Mr. Speaker, I am a doctor's wife. There is nobody in this body that wants medical malpractice reform more than I. My husband's medical malpractice has gone up exponentially every single year for absolutely no reason, and if I thought for a minute that this legislation would cure that problem and provide relief for the doctors of this country, I would be all over this legislation.

Unfortunately, this piece of legislation will not do what the Republican side of the aisle says it will. And if the Republican leadership really wanted to provide relief for the doctors, we would have legislation on the floor that the bipartisan Congress could vote on and support and pass and put before the President for signature.

This is a bill not to help the doctors. This bill contains and limits claims against negligent hospitals, drug companies, medical device manufacturers, nursing homes, HMOs, and insurance companies. This bill is not for doctors. This bill is a gift to the insurance companies. There is no provision, there is not one line, one sentence in a 26-page bill, that would ensure that the savings that was realized by the insurance companies would be passed on to the doctors. The doctors will continue to suffer while the insurance companies will get happier and richer.

There is a medical crisis in this country. There is a crisis in access to health care. This is not the legislation that is going to cure that. And for those people who talk lovingly and glowingly of the insurance companies and the marketplace and competition will lower the cost for the doctors, let us have another thought about that. Since when, since when, can the doctors put their faith in the insurance companies when it is the insurance companies that are messing up the doctors? I do not like to see the doctors being used by the insurance companies to do the insurance companies' dirty work.

Let us get a reality check here. Let us not pass this dog of a piece of legislation. Let us work together and pass legislation that is truly going to provide medical malpractice reform and lower premiums for the doctors. They need it, and they deserve it.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from North Carolina (Ms. FOXX).

Ms. FOXX. Mr. Speaker, I thank the gentleman from Texas for yielding me this time.

I rise because this outstanding bill we are voting on today is so important to my constituency. Skyrocketing insurance premiums have been diminishing our Nation's health care delivery system for far too long. Women have been affected severely as OB/GYN doctors have stopped delivering babies because financially it does not make sense for them to practice in that area. The physicians who bring life into this world are too often forced to reject high-risk patients out of fear of future litigation. Trial lawyers continue to harass America's doctors. Physicians continue to face the burden of skyrocketing insurance premiums.

As a mother and grandmother, I know this is not acceptable. The HEALTH Act of 2005 will provide the means to take action and thwart the efforts of greedy trial lawyers. In turn, this will help Americans, specifically women, obtain better access to the health care they need and deserve. More doctors will stay in business, creating more treatment options, less expensive care, and better access to health services for all Americans.

Health care dollars should be spent on patients in the hospital, not on lawyers in a courtroom. This bill will direct more health care dollars to treating and curing patients, which is what our health care system should be about.

I urge my colleagues to join me in supporting this bill, and I urge our Senators to drastically improve America's health care system by passing this bill as soon as possible.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Ms. LINDA T. SÁNCHEZ), who serves with distinction on the Committee on the Judiciary.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this time.

Mr. Speaker, I rise in strong opposition to this unconscionable medical malpractice liability bill. This bill will do nothing to reduce the skyrocketing health care costs in this country. All it will do is deprive people who are already sick and injured of justice.

Mr. Speaker, it is undeniable that most Americans do not have access to affordable health care and that many specialists and trauma centers are closing their doors. But instead of addressing our health care crisis head on, my Republican colleagues have come up with H.R. 5.

H.R. 5 is as deplorable as it is ineffective. Trying to stabilize medical malpractice insurance rates by capping legitimate victims' damages is akin to trying to put out a forest fire with a squirt gun. I know that H.R. 5 will not magically keep medical malpractice insurance rates down and keep doctors in business because the bill is modeled after California's Medical Injury Compensation Reform Act, better known as MICRA.

My Republican colleagues love to sing the praises of MICRA. But guess what? MICRA did not work. MICRA's caps on pain and suffering damages have not reduced insurance rates for doctors in my State. MICRA was signed into law in 1975, but medical malpractice insurance rates did not stabilize until years after MICRA was passed. In fact, between 1975 and 1993, California's health care costs rose 343 percent, nearly twice the rate of inflation and 9 percent higher than the national average each year.

When California's insurance rates stabilized, it was because the State passed legislation to directly deal with the insurance problem. They passed an insurance reform bill known as Proposition 103.

It is a shame that the Republican leadership of the House is further victimizing victims instead of getting at the root of the real problem. Where is the Republican leadership on the real health care issues that Americans care about? Where is a Republican House bill to provide health care for every working family? Where is a Republican House bill to encourage more students to go into medicine and nursing and for practicing doctors to keep their doors open? Where is a Republican House bill that deals directly with medical malpractice insurance rates?

My Republican colleagues have not offered bills that will help reform our health care system. Legislation like that would have prevented the forest fire before it even began.. Instead, House Republicans cap legitimate victims' damage awards. H.R. 5, without insurance and health care reform, is meaningless. H.R. 5 simply reinjures the legitimate victims of medical malpractice, and we should vote "no" on H.R. 5.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from Washington (Miss MCMORRIS).

Miss MCMORRIS. Mr. Speaker, I thank the gentleman for yielding me this time.

I also rise in support of H.R. 5, which will bring needed medical liability reform to health care providers in Washington State.

As I travel around eastern Washington, I hear from desperate doctors and health care providers that these lawsuits are increasing costs to patients and driving doctors out of business. It is not unusual to hear that doctors are being forced to drop their insurance or stop delivering babies, or younger doctors are quitting to practice overseas. This is at a time when we have a health care personnel shortage. This has happened in areas within my district, such as Odessa, Republic, and Davenport, where we have no OB/GYNs, and pregnant women must travel over an hour now for care. Additionally, it is becoming impossible to recruit and retain specialists, such as neurosurgeons and cardiologists, when 30 to 50 percent experience lawsuits annually. Emergency care is in no better shape with over 30 percent of trauma surgeons being sued each year. This is unacceptable for 21st century health care.

Skyrocketing medical liability insurance costs for doctors and health care providers has caused the American Medical Association to declare that Washington State is in a medical liability crisis. In the past 10 years, the average jury findings in my State have increased 68 percent. As well, the number of million-dollar settlements has risen almost ten times.

This is an important bill that limits excessive lawsuits, but also ensures that those who are truly harmed are going to get their day in court. Over the past few years, had this law been enacted, Washington would have saved an estimated $53 million. HHS estimates that by setting reasonable guidelines for these noneconomic damage awards, we will save between $70 billion and $126 billion in national health care costs annually.

H.R. 5 will bring common-sense reform to outrageous liability rates and will protect patients' access to quality and affordable health care.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding me this time.

All the public should know on this bill is that no Democrats were allowed to make any amendments to this bill. They were not allowed to debate this bill. Even the great gentleman from Michigan (Mr. CONYERS) of the Committee on the Judiciary, no amendments allowed. None. No thought required by half of the Congress. And do the Members want to know why? Because this bill is really the pluperfect payback of the Republican Party to the insurance industry. This bill will victimize patients in the courtroom after they have already been victimized in the operating room. That is what it is all about.

The premise of the bill is this, and it is not a bad premise: If they are willing to lower the amount of money that somebody can receive for the pain and suffering that they have had inflicted upon them by some medical operation, then, in turn, there will be a lowering of the premiums that doctors have to pay. That is kind of the trade-off that the Republicans have. Lower return for the patients for their pain and suffering, but we also get, as a result, lower premiums for the doctors.

But 2 years ago when I made the amendment in the Committee on Energy and Commerce that would have said that all of the savings from the pain and suffering of patients would then go to lowering of premiums for doctors, every Republican voted against that because the insurance industry does not want the money to go to lower premiums for doctors. And then this year when I wanted to make an amendment in the Committee on Energy and Commerce that would have said the same thing, lower premiums, I was not allowed to make the amendment. Out here on the House floor, I was not allowed to make the amendment.

So it is not about lowering the premiums for physicians with the money that is "saved" from the money that would have gone to someone whose family had been harmed because they might have lost their sight, their limbs, their ability to bear children, their ability to fully function in society. All of those savings for the insurance industry, they are very real. But the lowering of medical malpractice fees is only illusory.

And, secondly, the bill will protect the pharmaceutical industry from liability as long as the drugs that harm patients are FDA-approved. The FDA approval is designed to protect patients from harmful drugs, but it should not waive a company's responsibility for drugs they put on the market. With all of the recent reports about how FDA approved drugs that harmed people, from Vioxx to Bextra to Accutane to Paxil, now is not the time to limit patients' access to the courts, but that is what the pharmaceutical industry and the insurance industry is going to get on the House floor today.

Vote "no" on this bill.

Mr. SMITH of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. LUNGREN), a member of the Committee on the Judiciary and former attorney general of California.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to just make some comments on some of the suggestions that have been made that MICRA does not work in California and refer only to those parts of this bill that are patterned after MICRA.

Prior to the time that I came to Congress for the first tour, I did medical malpractice cases in California, primarily on the defense side for doctors and hospitals, but I also handled some plaintiffs' cases. In fact, I think I had one of the first successful lawsuits against an HMO in the entire country.

MICRA came into California at a time when we had a crisis, when we had a medical crisis of doctors leaving the State of California or stopping their practice.

□ 1500

It was particularly acute in some specialties, but it was across the board. The evidence is there. The history is there. I can tell you it was there; I saw it.

In 1975, the legislature, in response to that problem, passed MICRA. That is what this is patterned after. It had a $250,000 limitation on pain and suffering. It had these other recommended changes with respect to recovery. It has not stopped successful lawsuits against doctors who have, in fact, committed malpractice.

But what it has done is it has taken a part of the process that basically abused the process out. And what it has done is stabilize what was otherwise a tremendous spiral in the medical malpractice premiums that doctors saw.

Now, some have suggested that is not the case in California. What I can tell my colleagues is it stopped the exit of doctors from the State of California. It stopped the exit of specialists from practice in the State of California. And while it did not diminish entirely the increases, it stopped the trajectory of increases. As a result, it did provide a very serious partial solution to the problem that we found in California.

That is the model. To the extent this bill is modeled after MICRA, that is the model we are talking about.

So if people want to talk about pilot projects, we have a 20-plus-year pilot project in the State of California. Ask the medical community whether or not it has been effective. Ask the patients who now have availability to the services of doctors who otherwise they would not have had we not done something in the State of California.

So for those who are wondering whether or not this will work, at least that part of the bill that is patterned after MICRA will. We have now had a 20-plus-year pilot project, and it has proven to be successful.

Mr. CONYERS. Mr. Speaker, I would like my colleague to know that this bill is based on the California program MICRA, and premiums for medical malpractice insurance grew more quickly between 1991 and 2000 than the national averages. Just remember that.

Mr. Speaker, I yield 45 seconds to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I rise in opposition to H.R. 5. It is an ill-conceived, ill-crafted bill that does nothing to help drive costs down. Studies have shown that this is not the way to go. In fact, insurance companies are the ones that are gaming us right now.

In California, malpractice rates have actually come down because we have enacted tough legislation, as was mentioned earlier. We need to do more to provide for, I would say, a level playing field so that the insurance companies do not walk away taking advantage of our consumers.

Mr. CONYERS. Mr. Speaker, I yield the remainder of my time to the gentlewoman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I also rise today in strong opposition to H.R. 5. As many of my colleagues have pointed out, there are various troublesome aspects of this bill, including the recent study that demonstrated clearly the rising cost of insurance premiums, while the claims have remained steady in terms of the ultimate litigation outcomes of those claims that have been filed. So we should not be passing any legislation that is not more comprehensive to hold insurance companies accountable as well.

But H.R. 5 is also troublesome because of its blatant disregard for States' rights. In South Dakota's 2004 legislative session, a bill modeled on H.R. 5 was defeated in committee on a unanimous bipartisan vote. I think this sends a strong signal that H.R. 5 does not provide the type of comprehensive solution to medical malpractice insurance premiums that States are looking for and will stifle innovation in the States that has been important to the health care industry.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 20 seconds.

Mr. Speaker, I just want to reply very quickly to the point that was made, and that is that this bill does not violate any States' rights. Section 7(a), it very clearly says that if any State has any cap of any amount, be it higher or lower than the caps in the bill, then that State's cap will prevail.

So this recognizes States' rights. It is friendly to States' rights.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. CHABOT), a member of the Committee on the Judiciary and also chairman of the Subcommittee on Constitutional Law.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for his leadership on this bill. I rise in strong support of the bill, and I would urge my colleagues to support it.

The costs of the tort system continue to take their toll on the Nation's economy. Medical professional liability insurance rates have skyrocketed, causing major insurers to drop coverage or raise premiums to unaffordable levels. We have heard case after case where this last occurred nationwide. In fact, in my home State of Ohio, it has been designated as a "crisis State" by the American Medical Association.

According to some estimates, premiums are now rising in Ohio anywhere from 10 percent to 40 percent, with many doctors involved in specialty practices such as obstetrics seeing their premiums rise by 100 percent, 100 percent or, in some cases, even more. Obviously, this has a negative impact on both patients and doctors, causing higher costs and forcing many doctors to close their practices.

The HEALTH Act, this act that we are debating here this afternoon, addresses this crisis by eliminating frivolous lawsuits and making health care more accessible and more affordable. We have been talking about doing that for years. This is a bill where we can actually do something about making health more affordable.

The HEALTH Act has enjoyed strong support in the House of Representatives in past Congresses, and I strongly urge my colleagues on both sides of the aisle to support this commonsense legislation if they are serious about bringing the high cost of health care in this country down to affordable levels.

Ms. DEGETTE. Mr. Speaker, I yield myself 5½ minutes.

Mr. Speaker, the American health care system is in crisis, in part, because of skyrocketing medical malpractice insurance rates. This crisis, however, is not the result of frivolous lawsuits, but of insurance industry practices.

The so-called solution that we are debating today, carving out enormous new liability exemptions for health insurers, pharmaceutical companies, medical device manufacturers, and nursing homes would not lower doctors' malpractice insurance rates by one dollar. Too many doctors are struggling to keep their practices afloat under the burden of enormous insurance premiums but, instead of helping them, what we are doing today is penalizing the severely injured patients and the families of those who die a result of medical negligence without providing any relief to the doctors from high malpractice insurance rates.

A new study, and we have been talking about it today, by the Kaiser Family Foundation, found that since 2001, there has been a 25 percent decrease in the average number of medical malpractice claims per physician.

Now, if medical malpractice claims have decreased, why do insurance premiums continue to increase? We have been talking today about MICRA, the California insurance program. Now, it is true, the State capped medical malpractice payments in 1975; but despite this, as we just heard from the gentleman from Michigan (Mr. CONYERS), malpractice premiums rose 450 percent over the next 13 years. Only after 1988, when California also implemented insurance reform, did the rates go down. But, today, instead of insurance reform, we are focusing entirely on capping damages.

Now, even the spokesman for the American Insurance Association, Dennis Kelly, said these words. He said, "We have not promised price reductions with tort reform."

So I want to ask my colleagues, why are we doing this bill today? What is the real reason for this bill? If the malpractice insurance companies are not going to reduce insurance premiums for these beleaguered doctors, why are we passing this bill? And what is the cause of the increasing insurance rates?

Some suggest that rate hikes are due to insurer investment losses. Others point to old-fashioned price gouging. This year, for example, the Washington State insurance commissioner ordered insurers to refund more than $1 million in premiums to physicians because rate hikes were unjustifiable. But I tried to do an amendment, I did it in committee last time when we heard it, and I tried to submit it to the Committee on Rules: let us do a study. Let us figure out why these rates are high and why Dennis Kelly says they are not going to go down.

The Republican majority refused to even allow a study of malpractice insurance rates and why they are so high. That is what this bill is really about. Because billion-dollar insurance companies have Federal antitrust exemptions, they are allowed to legally fix prices, and this has helped the industry gain a record $25 billion in annual profits.

Now, there is one thing we can agree on across the aisle: Congress must stop this price-gouging of physicians. But granting blanket liability protection to negligent nursing homes, to pharmaceutical companies, and insurance companies, without addressing insurance billing practices, does nothing to solve the problem for these doctors. And what is worse, the immunity for these other industries will be broader than any State tort reform law. It will do nothing to help the doctors; and in the end, it will serve to severely limit the rights of many millions of Americans.

It undermines our health care system to penalize victims of medical negligence in the name of relieving doctors' burdensome malpractice premiums when, actually, nothing is being done to reduce those premiums. Unfortunately, I think this is as a result of an aversion of some in Washington to what I would call fact-based policymaking.

Now, there is a solution. We could work across the aisle to reduce medical malpractice insurance rates, and we could do this by passing bipartisan insurance reform. This would get to the root of the crisis by reducing artificially inflated insurance rates for doctors and not punishing injured patients.

One further note. I hear all day that States are having a terrible problem: doctors cannot get insurance. OB GYNs are leaving. If this is a State problem, I say to my colleagues, if States are having these issues, I want to know why we are trying to address it at a Federal level. This is not traditionally a Federal issue. The States can do it.

One further note. Anyone reading this bill would know, for the gentlewoman from South Dakota's (Ms. HERSETH) State and every other State, this bill would supersede any other rate or caps they might have with the Federal law. That is wrong. I think we should abide by States' rights and defeat this bill.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, what was just said was actually contradicted by the Government Accountability Office. The GAO found that rising litigation awards are responsible for skyrocketing medical professional liability premiums. The report stated that "GAO found that losses on medical malpractice claims, which make up the largest part of the insurers' costs, appear to be the primary driver of rate increases."

The GAO found that insurers are not to blame for skyrocketing medical professional liability premiums. The GAO report states that insurer "profits are not increasing, indicating that insurers are not charging and profiting from excessively high premium rates."

Mr. Speaker, I also want to say that the opponents of this legislation are forgetting, I hope not ignoring, a study by the Harvard Medical Practice. What this study found is that over half, over half of the filed medical professional liability claims they studied were brought by plaintiffs who suffered either no injuries at all or, if they did, such injuries were not caused by their health care providers, but rather by the underlying disease itself.

Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to take my time, I hope sufficient time, to refute some of these statements that have been made in opposition. I want to start with the gentlewoman from Colorado who just spoke. It is absolutely wrong about the issue of Federal law superseding State law in cases where the State has already addressed the issue.

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Let us say the issue of caps, my State of Georgia passed a law this year, and the caps there are $350,000. That would be applicable State law would apply. It is only when States have not addressed the issue when the Federal law would speak.

I want to also address something the gentlewoman said in regard to this bill being nothing. I have heard this not just from her, but from number of other speakers on the other side in opposition, talking about that this is nothing but a protection for the insurance industry, and it is another bailout of protection for the pharmaceutical industry, and they are relieved of all liability, which is absolutely untrue, Mr. Speaker.

In fact, last night when we were talking about the rule, the gentleman from Arkansas, a registered pharmacist, opposed the rule and the bill basically for the same reason. I would like to remind him. I hope the gentleman is listening to the discussion this afternoon. But this would protect a pharmacist who prescribes a drug, a legally FDA-approved drug, that the pharmacist had no idea that there might be a problem or an adverse reaction. This is what this bill does. That would protect the pharmacist from punitive damages in a case like that, where there was no deliberate intent to harm the patient.

So it is very important that all of our colleagues understand the truth here. The gentleman from Illinois kept talking about the Vioxx case, and the marathon runner. Well, if Vioxx and the company that makes that drug is guilty of withholding pertinent information that they had in clinical trials, and they knew that it was a harmful drug that they put out there on the market and exposed patients to that drug, then they are going to pay one heck of a price for that, yes, in punitive damages.

So they are not relieved from that under this bill. It is only when they did everything right and they were approved by the FDA that they would have any relief from punitive damages.

There are plenty of great athletes, Mr. Speaker. I remember an All-American basketball player from St. Joseph's University 10 or 15 years ago that dropped dead on the basketball court. He was not taking Vioxx. But we will see how that case turns out.

The issue was brought up, Mr. Speaker, about young children who are injured, and they do not have a job or profession, so they need this pain and suffering compensation that can be infinity, hundreds of millions of dollars, rather than a cap at 250-, when the truth is the triers of fact, Mr. Speaker, the jury, can determine the life span, the expected life span of that child and what their earnings would be over the course of that lifetime. The same thing in regard to a stay-at-home mom who was a professional maybe, an attorney possibly, before she decided to become a mother and a homemaker. Those earnings would be calculated as well.

Finally, Mr. Speaker, a little while earlier a speaker in opposition, the gentleman from New York, he made this statement: It comes down to the issue of who we are fighting for. I am really not sure who the gentleman in the opposition is fighting for. I suspect that I know who they are fighting for. Does ATLA sound familiar to you, my colleagues?

But I am going to tell you who we are fighting for. We are fighting for the patient. We are fighting for their right to have the ability to access needed specialists in health care, and they are not going to be there if we do not level this playing field.

Ms. DEGETTE. Mr. Speaker, I yield 2½ minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank the gentlewoman for yielding time to me.

Mr. Speaker, no one disputes that rising medical malpractice premiums are a major, major problem. Unfortunately this bill before us will do nothing to solve that problem. It would limit consumers' ability to hold negligent doctors, profit-driven HMOs, insurance companies, and prescription drug companies accountable.

The claim is made that excessive or frivolous lawsuits are the cause of rising premiums. The problem is that lawsuits affected by the bill are by definition not frivolous.

Where large damages are awarded, it is a jury that has found that the patient has been severely harmed, and, in fact, over the last 5 years, malpractice insurance payments to patients have actually gone down, and that while premiums continue to go up. Now, something is wrong with that ratio.

There is no evidence that capping the damages to an injured person because of malpractice is the way to solve this problem. It will not lower premiums. It will not even stabilize them. All this bill will do is to make very sure that as the malpractice insurers collect outrageous premiums, they will be able to continue to pay out even less to the patients who have actually been harmed. This will penalize innocent victims of medical negligence.

Furthermore, the bill goes far beyond lawsuits against doctors. It would also protect drug companies and HMOs from lawsuits filed by people injured because of their policies.

In 3 years of considering this issue, the majority has not presented a shred of evidence that drug companies need these protections. They are making billions of dollars in profits. If this bill becomes law, the ability of injured patients to hold negligent drug companies accountable would be dramatically limited. We have all seen the recent stories about Cox-2 inhibitors, other medications. So many have tragic outcomes. They highlight the fact that drugs may harm patients. Those studies expose how dangerous this bill can be. We should be helping doctors with malpractice insurance premiums. But this bill is not going to help doctors, and it will hurt patients.

Mr. Speaker, I urge my colleagues to vote against this bill. Let us look for real solutions to rising medical malpractice premiums.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I thought my colleagues might be interested in some quotes. One quote is from a former Democratic Senator, and the other quote is from a liberal Washington Post columnist. I would like to read those now.

Former Democratic Senator George McGovern has written that "legal fear drives doctors to prescribe medicines and order tests, even invasive procedures that they feel are necessary. Reputable studies estimate that this defensive medicine squanders $50 billion a year, enough to provide medical care to millions of uninsured Americans."

Mr. Speaker, this is from a prominent liberal commentator, Michael Kinsley. He wrote in the Washington Post, "Limits on malpractice lawsuits are a good idea that Democrats are wrong and possibly foolish to oppose. Republicans are right about malpractice reform."

Mr. Speaker, also we have a number of polls showing that the American people support the HEALTH Act. Between two-thirds and three-quarters of the American people support exactly what we are trying to do. Just this week a poll conducted by Harris Interactive showed that 74 percent of those surveyed support reasonable limits on the award of noneconomic damages and limiting payments to personal injury attorneys.

A poll by the Harvard School of Public Health found the following: "More than 6 in 10, 63 percent, say they would favor legislation that would limit the amount of money that can be awarded as damages for pain and suffering to someone suing a doctor for malpractice."

The same poll found that 69 percent of the people surveyed say a law limiting pain and suffering awards would help either a lot or some in reducing the overall cost of health care.

Finally, the results of a recent Gallup poll show that the American public strongly supports the HEALTH Act. The survey asked whether those surveyed would favor or oppose a limit on the amount patients can be awarded for their emotional pain and suffering. Mr. Speaker, 72 percent were in favor. That means three-quarters of the American people favor this HEALTH Act.

Mr. Speaker, I reserve the balance of my time.

Ms. DEGETTE. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. STUPAK).

Mr. STUPAK. Mr. Speaker, I rise today in strong opposition of H.R. 5. Despite its name, this bill is a poor attempt to make health care more efficient, accessible, affordable or timely.

It is not even a serious attempt to lower malpractice insurance costs. I agree that Congress needs to comprehensively address medical malpractice issues. I understand and sympathize with doctors facing rising premiums. But this bill is not the answer.

Malpractice premiums are rising as costs in all segments of health care are rising. And doctors, according to this USA Today article, still pay less for malpractice insurance than they do for their rent. And as the headline says here, "Hype outpaces facts in medical malpractice debates."

I am opposed to this legislation for many reasons. First, it has never been brought to the floor with any consideration by the Energy and Commerce Committee or the Judiciary Committee. No hearings were ever held. And there were no opportunities to amend this bill, to include provisions that might actually help solve the problem of premium increases.

The majority believes that the answer to lower medical malpractice premiums is to institute an arbitrary $250,000 cap on noneconomic damages in malpractice suits. However, large jury awards are not the cause of the problem. Only 1.3 percent of all claims result in a winning verdict. But the noneconomic caps hurt the children and the low-income wage-earners the most.

Do we really want to create a capped system where the makers of Vioxx, Accutane, Celebrex and any other drug are suddenly off the hook because of a weak FDA, and the only thing to keep them remotely honest is the trial system?

In addition, this legislation undermines the foundation of our court system, trial by jury of our peers. If we trust juries to determine whether a person is guilty or innocent and should die in a death penalty case, surely we can trust juries to determine compensation for victims in medical malpractice. The fact is that juries are cautious, and patients only prevail in one of every five cases that ever go to trial.

Let me tell you what the bill fails to do. It fails to address the real driver of medical malpractice insurance costs, the insurance industry itself.

The insurance industry investments tanked in the beginning of this decade because of a weak stock market, and now the industry is squeezing health care providers in an effort to protect their bottom line. Why are we not looking at the insurance industry, including the fact health insurers continue to be exempt from antitrust legislation?

In addition, the bill does not address the rising health insurance costs. The Congressional Budget Office, our own CBO, found that even large reductions in medical malpractice costs will have little effect on health care costs.

Finally, the bill does nothing to address the two root causes of medical lawsuits, medical errors and bad actors in the health care system. It is a tragedy that medical errors account for almost 100,000 patient deaths each year, but Congress has done very little to address this issue.

The bill also does nothing to address the fact that 5 percent of all doctors are responsible for 54 percent of the malpractice claims paid. Why do we allow health care providers to practice if they have a long record of errors?

Mr. Speaker, I urge my colleagues to reject this legislation.

Mr. SMITH of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania (Mr. DENT).

Mr. DENT. Mr. Speaker, as I mentioned a little earlier today, we talked about the insurance industry and its role in this issue. But let us be very clear. We need the structural reforms contained in the HEALTH Act, H.R. 5, in order to continue to provide access to quality care for our constituents and patients of the United States.

We also need to incent insurance companies to write policies in our States, which they will not do indefinitely in this current environment. And I remember a few years ago when people said, when the crisis was acute in Pennsylvania, they said the problem is the insurance companies invested money foolishly in the stock market. Well, a lot of people lost money in the stock market a few years ago. At that time the insurance companies in my State had about 8 to 10 percent of their money in equities. Most of it was in investment-grade bonds, which did rather well. But that really was not the cause of the problem.

But let me tell you about the city of Philadelphia. In my State, many people want to get their cases heard in a Philadelphia courtroom. Why? Because the juries pay more. According to Jury Verdict Research, at that time the average jury verdict award in Philadelphia was over a million dollars, and the average everywhere else in the State was under a half million. No wonder people wanted to go to Philadelphia.

In fact, President Bush even cited Philadelphia in a speech he made in Scranton, Pennsylvania, where trauma centers were closing down. What the President said there is that in the city of Philadelphia, there were more jury awards, more dollars sent out by Philadelphia juries than in the entire State of California, a State of 35 million people, and Philadelphia a city of 1.5 million people.

How is that? The system is broken. I am in the Lehigh Valley of Pennsylvania, 60 miles north of Philadelphia. One hospital, St. Luke's, was hit with a $100 million jury verdict in a Philadelphia courtroom. In a Philadelphia courtroom. It was an outrageous decision. It was settled for something less than that, I will tell you that right now. But it was an outrageous situation, could have bankrupted a major institution that has been nationally recognized on many occasions for clinical excellence. That is one of my problems.

We have also heard, too, that this is not a Federal problem. Does the word Medicare mean anything to anyone around here? Medicare will save billions of dollars over 10 years if we enact the reforms contained in this legislation.

Furthermore, in many States again like mine in Pennsylvania, to amend the constitution to permit caps on noneconomic damages literally is a 4- to 5-year process.

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But we cannot wait 4 to 5 years to solve this problem. That is why we need the HEALTH Act now. We can do it much more quickly. It is absolutely critical. A Band-Aid will not stop the bleeding. Structural reforms are required.

As I mentioned a little earlier today, in my State, taxpayers, particularly cigarette smokers, that is who is paying the bill for doctors' premiums and hospitals' medical liability premiums, that is who is paying the bill because no one wants to write insurance, and the State-administered fund is broke. They will have to find hundreds of millions of dollars more come January 1 to fix this problem.

The point is, structural reform is needed. Taxpayer bail-outs and Band-Aids will not fix the problem. I commend the gentleman from Georgia (Mr. GINGREY) for his leadership on this issue. A former colleague, Jim Greenwood, I thank for his leadership in the last session; and I thank the gentleman from California (Mr. COX) as well. I want to thank them for their leadership. I urge passage of H.R. 5.

The SPEAKER pro tempore (Mr. SHAW). The gentleman from Texas (Mr. SMITH) has 11½ minutes remaining. The gentlewoman from Colorado (Ms. DEGETTE) has 9 minutes remaining.

Ms. DEGETTE. Mr. Speaker, I yield 2 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentlewoman for yielding time. I rise today not only as a lawmaker but also as a former judge who tried many malpractice cases in Cuyahoga County, Ohio, to voice my disapproval of H.R. 5, the medical malpractice legislation that irresponsibly limits what might be rightfully owed to an injured plaintiff.

My previous experiences have taught me to respect the independence of our court and the jury system. Our judicial system must remain uninhibited in order to be effective. In direct contradiction to this fundamental democratic principle, H.R. 5 limits the capacity of a jury to deliver a fair verdict by capping the amount of noneconomic damages at $250,000. I say that the facts of each case should be able to control.

Thomas Jefferson once stated: "I consider trial by jury as the only anchor ever yet imagined by man, by which a government can be held to the principles of its Constitution." By handcuffing the jury, this Congress would be trampling on this democratic principle.

Let me say that we can sit here on the floor of this House and talk about a number, $250,000. But it does not reach to a courtroom where we have an injured plaintiff who has the ability to put evidence on in the courtroom to say to the jury and to the judge that these are the facts of our case that deserve to have the law applied to it and have the jury render a verdict.

It would be unfair in my mind as we look at the drug company advertisements. It used to be that the doctor would recommend the drug to the patient. Anymore, you turn on the TV and the TV is telling the patients, Get that purple pill; it will make a difference in your life.

Why should we allow drug companies who spend millions of dollars to entice parties into getting a particular drug without knowing any information to be let loose or let go for these reasons.

I say vote against H.R. 5, the medical malpractice legislation, because it is not what we need to help our plaintiffs.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, let me share with my colleagues the result of three studies, and let me emphasize that these studies are not about hypothetical situations. They are not theoretical studies. They are studies of the actual experiences of States that have enacted reforms similar to the ones we have in this bill that we are talking about today.

According to the U.S. Department of Health and Human Services, States with reasonable legal reforms including caps on noneconomic damages enjoy access to more physicians per capita: "We found that States with caps on noneconomic damages experienced about 12 percent more physicians per capita than the States without such a cap. Moreover, we found that States with relatively high caps were less likely to experience an increase in physician supply than States with lower caps."

Mr. Speaker, also, research shows that California reforms, which the HEALTH Act is based on, have not resulted in unfair awards to deserving victims. A recent comprehensive study of California's MICRA reforms by the Rand Institute concluded that under MICRA, "awards generally remained quite large despite the imposition of the cap, and California's reforms have not resulted in any disparate impact on women or the elderly."

Mr. Speaker, in another study, researchers at the Harvard School of Public Health stated that "we found no evidence that women or the elderly were disparately impacted by the cap by noneconomic damages in California under MICRA."

Mr. Speaker, I reserve the balance of my time.

Ms. DEGETTE. Mr. Speaker, how much time remains?

The SPEAKER pro tempore. The gentleman from Texas (Mr. SMITH) has 10 minutes remaining. The gentlewoman from Colorado (Ms. DEGETTE) has 7 minutes remaining.

Mr. SMITH of Texas. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I think it is important that we make sure that all our colleagues are clear on some of the issues that have been discussed here today. I know there has been some hyperbole maybe on both sides of the issue, and I want to be very clear.

This bill protects our patients, first and foremost, and gives them an opportunity to have access to affordable health care and to the specialist that they need and when they need them. It also helps our physicians, our doctors be able to stay in practice when they have an opportunity to have a stable medical malpractice insurance premium that they have to pay.

Yes, there is no question, Mr. Speaker, that section 7 in regard to punitive damages, that is applicable to our doctors as well as to companies that make medical equipment. It also is applicable to drug companies that provide us with life-saving drugs if they have done so in a fashion that is not negligent and not deliberately intended to harm a patient.

Here is an example, Mr. Speaker: things like time released infusion, chemotherapy, treating cancer patients, insulin pumps for diabetics, titanium hip replacements, artificial heart valves. If the makers of these life-saving devices were subject to punitive damages every time something through no fault of their own went wrong, we would be in the situation that we were in a year and a half ago in regard to the flu vaccine. Nobody wants to get involved in that business for the fear of a lawsuit. And with the government setting prices on flu vaccines, the profit margin to begin with was very limited.

So this section 7 is a very important provision in this bill, Mr. Speaker. So again, I want my colleagues on both sides of the aisle to understand that this is not a bad provision. This is a good provision.

Mr. Speaker, also one of the speakers in opposition, well, actually several of the speakers in opposition, said that this bill has been brought to us, we have had no hearings, we have had no opportunity, we have had no voice. It is not true, Mr. Speaker.

This is the fourth time in 3 years that this exact same bill, H.R. 5, has been dealt with on the floor of this House. It is the exact same bill.

I joined this body in 2003. We dealt with it in 2003. We dealt with it in 2004, and here we are with the exact same bill. Section 7 was in the bill, the section in regard to punitive damages. Nothing has changed. In fact, in the Committee on Energy and Commerce this February, a hearing was held on medical liability and some 15 witnesses were at that hearing, Mr. Speaker. So it is untrue to suggest that we have not had hearings and they have not had an opportunity. They know this bill.

It is a good bill. We have passed it three times. We are going to, in a few minutes, pass it for a fourth time; and, hopefully, the other body will do the same thing so we can get this to the President for his signature and level this playing field once and for all.

Ms. DEGETTE. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, there are better ways to solve this problem than to strip Americans of the right to trial by jury. Fundamentally, this bill takes the right of trial by jury of your peers away from Americans and gives that authority to politicians who have never heard any of the evidence.

Take this case about a 4-year-old girl I know from Yakima, Washington, named Nichole. Several years ago, she went in with a urinary tract problem. The doctors put in a foley catheter. When you do that, there is a balloon they put in your bladder that is inflated to hold the catheter. This was traumatic to this 4-year-old girl. When they went to deflate the catheter, it would not deflate. So they tried to deflate it by sticking a steel wire up through her urethra to try to puncture the balloon so they could pull the catheter out. They tried it many times. This was traumatic to this young girl. It did not work.

So they finally had to inject a solvent up her urethra to dissolve the rubber and it dissolved the rubber and it also dissolved part of her bladder and severely burned her bladder because of the malfunction of a negligently designed and manufactured foley catheter.

Now, who is better to make a decision for that 4-year-old girl about what is justice? Teachers, truck drivers, insurance salesmen sitting in a jury who have heard the evidence and who have looked at Nichole and understand the future dysfunction she may have and the trauma she had, or 435 politicians who are clueless about that specific case?

Where is the wisdom from the Creator that these politicians are vested in to tell us what Nichole went through? Nobody knows except maybe someone who was at that trial.

This is moving authority from jurors, citizens, the people who are sitting up in the gallery right here and taking it away from you and putting it in the pockets, first of Members of Congress, through the lobbyists for the drug companies and the medical companies. And by the way you, know what happened because of Nichole's case? That company cleaned up its act, and it started a new quality-control mechanism so that we will not have future Nicholes, because we had a medical negligence system that protected the Nicholes of this world.

There is a problem. This is not the best way to solve it. Respect America, democracy, and our jurors.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are to refrain from referring to persons in the gallery.

Mr. SMITH of Texas. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I just want to remind my colleague who just spoke that our separation of powers provides that all aspects of the government are limited to some extent. If juries or judges give outrageous awards, like any other exercise of government power, they should be subject to reasonable checks and balances.

Mr. Speaker, I also want to remind my colleagues that unnecessary and frivolous litigation is threatening the viability of the life-saving drug industry. To encourage the development of life-saving drugs, the HEALTH Act contains a safe harbor from punitive damages from a defendant whose drugs or medical product comply with rigorous rules or regulations. The provision is manifestly fair.

Why should a drug manufacturer be found guilty of malicious conduct when all they did was sell a product approved as safe under the comprehensive regulations of the FDA? Claims for unlimited economic damages and reasonable noneconomic damages could still go forward under the HEALTH Act. The safe harbor does not apply if relevant information was misrepresented or withheld from the FDA.

Eight States have, in fact, provided an FDA regulatory compliance defense against damages just like this bill. Those States are Arizona, Colorado, Illinois, New Jersey, North Dakota, Ohio, Oregon, and Utah. Opposing this bill jeopardizes those State laws. And the Members who are from those States might want to remember that.

Mr. Speaker, the evidence is overwhelming. Without legal reform, patients will continue to go without needed doctors; women will continue to deliver babies on the side of the road because the nearest OB/GYN is hundreds of miles away; parents will continue to be forced to watch as their child with brain injury suffers because lawsuits forced the nearest neurosurgeon to stop practicing.

Mr. Speaker, we need to pass this legislation.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SMITH) has 3½ minutes remaining and has the right to close. The gentlewoman from Colorado (Ms. DEGETTE) has 5 minutes remaining.

□ 1545

Ms. DEGETTE. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise to ask why we are not doing more to ensure fewer mistakes are made in the first place.

Mr. Speaker, nobody disputes that malpractice premiums are heavily impacting many physicians. I think very few of us would dispute that there are frivolous claims filed. All of the justifications for this bill about losing physicians in high-risk practices are real concerns.

So why is it that we are spending this time debating a bill that won't address this problem? Repeatedly dramatizing the problem doesn't make this bill a solution. This bill does nothing to prevent frivolous lawsuits. It doesn't rein in the bad actors, in penalizes those who are the most grievously injured.

Experience shows that the link between awards or settlements and premiums is tenuous at best. An exhaustive study published this month showed that premiums have gone up 120 percent over the last 5 years while claims were flat. The GAO has found no evidence that caps on damages hold premiums down.

But even if this bill could work—it would not, Mr. Speaker, but even if it could—we are completely missing the real issue.

We are fighting about how or how not to compensate the victims of mistakes and hold negligent providers accountable. Shouldn't we be talking instead about how to ensure fewer mistakes in the first place?

We are talking about closing the barn door but the horse is already galloping across the field.

Mr. Speaker, Sorrel King can teach us all a lesson. Several years ago, her 18-month-old daughter Josie suffered severe burns and was rushed to the ICU at Johns Hopkins Hospital.

She got the world-class care you would expect and they saved her life. She was going home in just a few days. And then communications were botched, orders were lost, and Josie was administered a drug she was not supposed to get, over Sorrel's objection. And even then, further warning signs were missed.

Josie King wound up dying of dehydration in one of our Nation's finest hospitals. Johns Hopkins settled with Sorrel and her family. And—here is where we can learn something—Sorrel turned around and gave the money back to Hopkins to create a new patient safety program.

Mr. Speaker, like Sorrel, we need to spend less effort apportioning blame and more effort making our system safer and better. Hundreds of thousands of our constituents die in hospitals every year not in spite of the care they get, but because of it. These are mostly systems problems, not the result of individual negligence.

Last year I introduced the Josie King Act to begin transforming health care delivery so that the system itself is driving better quality at lower costs. It laid out a roadmap to bringing health care into the information age and promoted the development of uniform quality metrics so that providers, the public, and purchasers have a clearer picture of which providers get the best outcomes for patients.

Now we are finally beginning to see attention to these priorities, which, unlike the current debate, have bipartisan support. We won't reach agreement about capping damages to patients who are hurt, but we can agree that the system should hurt fewer people.

We can pass strong health IT legislation this year, like the bill Mr. MURPHY from Pennsylvania and I introduced or the one that was reported out of committee in the other body.

We can pass legislation this year to begin linking reimbursements to outcomes and quality. I know we have strong leadership on both sides of the aisle, in several committees and in the House leadership, for both of those things.

Until we begin aligning incentives in health care so that providers who go the extra mile to make their patients better or, even better, keep them healthy—people are going to keep getting hurt.

Until we begin aligning incentives in health care so that the tools of the information age can help make care more accurate and more efficient.

Mr. Speaker, I agree with my friends on other side that physicians need lower malpractice rates. I also believe that the best way to get fewer lawsuits is to get fewer mistakes. Let's keep our eyes on the ball and make our health care system better, safer, and more efficient and make everyone better off.

Ms. DEGETTE. Mr. Speaker, I am honored to yield 1 minute to the gentlewoman from California (Ms. PELOSI), the distinguished minority leader.

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman from Colorado (Ms. DEGETTE) for yielding me this time and for her leadership on issues that relate to the health and well-being of the American people.

I also want to salute the two distinguished ranking members, first the gentleman from Michigan (Mr. CONYERS) of the Committee on the Judiciary for his leadership on this important legislation; and I especially want to acknowledge the gentleman from Michigan (Mr. DINGELL), who this year celebrates his 50th anniversary in Congress, and every day of those 50 years he has worked to improve access to quality health care for all Americans. But particularly on this 40th anniversary of Medicare and Medicaid, it is worth noting the contributions of the gentleman from Michigan in providing health care security for millions of Americans and for upholding the fundamental principle that Democrats believe in: Health care is a right, not a privilege.

Mr. Speaker, I rise in strong opposition to the Republican medical malpractice bill. Let me begin with this simple fact: Under President Bush, 5.2 million more Americans have joined the ranks of the uninsured. Today, 45 million Americans have no health insurance. The bill before us does not, nor does any other Republican bill during this so-called Health Week, provide health insurance to one single American.

This bill is not about solving the urgent health insurance crisis that affects millions of American families, nor is it about improving our health care system, containing costs, or even lowering medical malpractice insurance premiums. Instead, the Republican medical malpractice bill, first and foremost, is a windfall to the big drug companies at the expense of Americans who have been injured or killed by harmful and unsafe drugs. Once again, protecting the big drug companies is at the top of the Republican agenda.

The Republicans have attempted to hide the true purpose and the real reason for this bill. It contains a special liability waiver for drug companies for the types of injuries caused by drugs. Under this Republican bill, when Americans are injured, or even killed, by drugs that have been negligently marketed, they will not be able to obtain justice and hold drug companies wholly accountable.

The Republican leadership, beholden to the pharmaceutical companies, refused to allow amendments that would strike this unjust provision. As with the Medicare prescription drug bill, where Republicans prohibited the government from negotiating for low prices for seniors, and forbade Americans from purchasing lower-priced drugs from Canada, this is yet another example of the Republicans being the handmaidens of the pharmaceutical industry.

The Republican medical malpractice bill is an extreme bill that is an injustice to consumers, and it unconscionably rewards irresponsible drug companies. If we are to remain a Nation that seeks justice for all, the special liability waiver for drug companies must be removed. Unfortunately, the Republicans refused to permit the consideration of the Emanuel-Berry amendment to remove this unjust and reprehensible provision.

Apart from pandering to drug companies, this bill utterly fails to achieve its stated purpose. It will not lower medical malpractice insurance premiums, nor does it address the real cause. The real cause of high malpractice premiums is not the payouts for malpractice claims. Former Missouri State Insurance Commissioner Jay Angoff issued a recent study showing the amount collected in premiums by major medical malpractice insurers has doubled. The amount received in premiums has doubled, while the claims paid out have remained flat, resulting in excessive profits and excessive reserve surpluses.

The Angoff study found that insurance companies are charging far more for malpractice insurance than actual payments or estimated future payments warrant. This finding is also supported by numerous studies that document that in States that have enacted caps or damage awards, they have not seen their premiums for malpractice insurance lowered.

Rather than addressing insurance companies' refusal to lower rates, the Republican bill instead interferes with the rights of injured Americans to be compensated for their injuries and have their claims heard by a jury of their peers. If enacted, the cap on damages would severely harm women, children, and the elderly who have been injured. Unfortunately, the Republican leadership did not allow the Democratic substitutes by the gentleman from Michigan (Mr. CONYERS) and the gentleman from Michigan (Mr. DINGELL) to be offered.

The Democratic substitute supports sensible approaches that permit only valid claims to go forward. More significantly, the Democratic substitute addresses real causes for premium increases and offers real solutions for the doctors. It repeals the antitrust exemption for insurance companies. It provides targeted assistance to help physicians stay in crisis areas.

We all respect the magnificent contribution that doctors provide to our society. It is not only a profession, it is a vocation, and we literally could not live without them. So it is with great respect for them that I say they deserve better than this bill, which purports to help them.

President Harry Truman said it so well: "The Democratic party stands for the people. The Republican party stands, and always has stood, for special interests." That was true almost 60 years ago when he said it, and it is certainly true today. Let us uphold the public interest. Let us stand up to the big drug and insurance companies, and let us oppose this unjust bill.

Mr. SMITH of Texas. Mr. Speaker, I reserve the balance of my time, as we are prepared to close on this side.

Ms. DEGETTE. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the gentleman from Texas says that this bill does not preempt State law. In fact, the bill includes a sweeping preemption of State law which is designed to override State laws that protect consumers and patients while keeping in place State laws that favor doctors, hospitals, nursing homes, HMOs, pharmaceuticals and medical device manufacturers, and other health care defendants.

In fact, the only laws that this bill does not supersede are the ones that protect those groups, and that is at the great risk to patients.

Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. WAXMAN).

Mr. WAXMAN. Mr. Speaker, there are a number of very important reasons to oppose this bill, but I want to focus on one of the most egregious parts of the legislation that has nothing to do with medical malpractice. Under this legislation, if a drug or medical device manufacturer sells a dangerous product that causes harm to a consumer, so long as that product received FDA approval prior to being marketed, a court would be prohibited from awarding punitive damages against that manufacturer. This marks a dramatic change in current law by transforming FDA product approval into a shield against liability.

Time and again we have seen that the FDA approval process cannot or does not guarantee the safety of drugs and other medical products. Every day our concerns increase about the adequacy of the FDA's postmarket safety programs. And we have seen numerous instances in which despite receiving FDA approval, drugs and medical devices, have been pulled from the market because of the emergence of severe dangers associated with their use.

Mr. Speaker, we have not given the FDA the tools or the ability to approve a drug so that all the things that would happen after that approval will not occur, such as the failure of the company that manufactures it to make sure they follow their own safety standards; or that new risks that are not known at the time of the approval will never arise.

We have to rely on the civil justice system as an additional layer of protection for American citizens. In court, consumers harmed by dangerous medical products are given the opportunity to hold the pharmaceutical companies accountable for their wrongdoing. Confronted with the looming threat of liability. pharmaceutical and medical device companies have every incentive to ensure that their products are safe before they are marketed, and that they continue to be safe once on the market.

We have seen mounting evidence that drug and device companies can withhold key data from physicians. fail to conduct needed safety studies. and carry out misleading advertisement campaigns even when they know of the risks of their products. Yet instead of safeguarding an individual's right to hold a drug and device company accountable for this kind of conduct, this legislation offers sweeping protection for those companies.

A company might mislead doctors about the safety of its drug and continue to aggressively promote the use of a dangerous drug in spite of studies raising questions as to its safety. Under this legislation. such company would have a shield from liability for punitive damages for this behavior. This is an issue that should be decided on the evidence and in court.

If we fail to preserve the right of Americans to hold manufacturers of dangerous medical products accountable, we will fail to uphold our responsibility to American consumers to protect against unsafe products and medical devices.

Mr. Speaker. I urge opposition to the legislation.

Mr. SMITH of Texas. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker. first let me say to my colleagues who are not usually concerned about States rights that if they will look at section 11 of the bill. they will find the bill respects the right of any State to set a cap of any amount. be it higher or lower. than the caps in the bill itself.

Mr. Speaker, the HEALTH Act is the only proven legislative solution to the current medical liability insurance crisis. According to the Congressional Budget Office, under this bill. "Premiums for medical malpractice insurance ultimately would be an average of 25 percent to 30 percent below what they would be under current law."

H.R. 5 allows unlimited awards of economic damages. These include past and future medical expenses. lost or past and future earnings. the cost of obtaining domestic services, loss of employment, and loss of business or employment opportunities. Deserving victims can be awarded tens of millions of dollars in damages, as we have already seen in the States that have similar reforms to those contained in this bill.

Mr. Speaker, the Harvard Medical Practice Study found that over half of the filed medical professional liability claims they studied were brought by plaintiffs who suffered either no injuries at all or, if they did. such injuries were not caused by the health care providers, but rather by the underlying disease.

H.R. 5 is modeled on California's legal reforms. Those reforms have resulted in California's medical liability premiums increasing at a rate that is only one-third the rate of those of other States.

Mr. Speaker, we need to act, and we need to act now. The nonpartisan Annals of Medicine predicts that the current doctor shortage could get worse. and we could lose 20 percent of needed doctors in the coming years. Let us protect patients everywhere. Let us pass the HEALTH Act.

Mr. AL GREEN of Texas. Mr. Speaker, I want to express my concern regarding the passage of H.R. 5, the Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2005 also known as the medical malpractice bill. Although some believe that "reforming" medical malpractice litigation will ultimately serve as a solution for skyrocketing healthcare premiums, it is my belief that this legislation is both misguided and harmful to the American people.

One of the most contentious provisions within H.R. 5 is a $250,000 cap on awards for non-economic damages. Placing such a cap allows corporations the opportunity to build into their bottom line a certain amount of liability. Currently, we have a judicial system that creates a fine balance between free corporate enterprise viability and consumer protection. The medical malpractice bill will disrupt this equilibrium in the name of reducing "frivolous" lawsuits without taking into account the implications for those making legitimate claims. This bill has the potential to reduce the incentive for corporations to remedy defective products,and instead may allow those entities to easily assume the loss incurred by ultimately accounting for the cost liability, a sum inevitably less than their sometimes lucrative profits.

I respect the efforts of all of my colleagues to address the concerns of their constituencies. However, I would be remiss in that duty if I did not oppose legislation that erodes consumer protection and the ability of the courts to determine appropriate punitive measures for negligent defendants.

Mr. ABERCROMBIE. Mr. Speaker, I rise today to support efforts to address the medical malpractice problem we have in this country today. There can be no doubt that doctors are paying excruciatingly high premiums and as a result, patients,and our medical system are suffering. However, I do not believe that H.R. 5 will do anything to solve this problem. As many of my colleagues have pointed out, this legislation will only lower expenses for the insurance industry and limit compensation for those victims who need it the most.

Later in this Congress, I will be introducing legislation to offer an alternative to the idea of caps on compensation. Instead of limiting victim awards, my proposal is to limit the involvement of the insurance industry in the medical malpractice system. Physicians will no longer have to worry about the cost of their medical malpractice insurance. The practice of defensive medicine and its toll on our medical system would be eliminated.

In addition, my proposal will ensure that the small number of doctors who are responsible for a large number of malpractice suits, will be critically examined. According to the National Practitioner Data Bank, 11% of physicians are responsible for half of all malpractice payments made between September 1, 1990 and December 31, 2003.

Yesterday, the House of Representatives passed S. 544, an important first step in addressing one of the root causes to the situation we face today. The Patient Safety and Quality Improvement Act will create a voluntary reporting system for errors and "near misses." This information can then be analyzed so that better medical practices can be established.

Mr. Speaker, it is time to address the other root causes of rising medical malpractice premiums. Caps are an old and ineffective solution. My proposal will be a substantive and constructive reform for the entire system. I urge my colleagues to keep an open mind in trying to solve the medical malpractice problems we face today.

Mr. HONDA. Mr. Speaker, for the fourth time in the 5 years I have been a member of the United States Congress, I will be opposing a flawed Republican bill which would limit damage awards to patients injured by medical malpractice. While Republicans claim their measure would reduce insurance costs for doctors by discouraging frivolous lawsuits—which they blame for driving up insurance premiums and reducing access to health care for patients—the Republicans legislation completely ignores the rate-setting process followed by the insurance industry. Furthermore, a 2002 study by the Congressional Budget Office found that the effect of even a very large reduction in malpractice costs would have a small effect on individual health care premiums.

This bill broadly defines "medical malpractice action" to protect HMOs, insurance companies, nursing homes and drug and device manufactures for a broad range of liabilities, including suits by physicians against those companies. Furthermore, the bill caps non-economic awards for pain and suffering of $250,000, and punitive damages at $250,000 or twice economic damages, whichever is greater.

All this measure really does is place legal obstacles on patients injured by wrongful conduct. Under this bill, individuals face time limits that would require an injured person to file health care lawsuits no later than three years after the date of the injury or one year after discovering the alleged malpractice, whichever occurs first. In addition, there are limits to attorney contingency fees, which would potentially force inured persons, faced with medical bills and lost wages, to finance lawsuits they otherwise cannot afford.

Support of tort reform say large million-dollar damage awards in medical liability suits are the reason that the cost of malpractice premium insurance are so high. I believe premium increases represent only one part of the problem facing many doctors throughout the nation and these increases are not necessary linked to damage awards. Even some insurance industry insiders say that recent increases in malpractice premiums have nothing to do with lawsuits or jury awards, and that tort reform will not reduce premiums. Rather, increases have been driven by the insurance underwriting cycle and insurance companies' bad investments.

Mr. Speaker, rather than truly deal with a crisis faced by medical doctors, this bill is simply crafted to benefit the insurance industry at the expense of victims of medical malpractice. Instead of fruitless passing this flawed bill for the 4th time in less than five years, we should be working hard to provide health care to the 45 million Americans who are uninsured today.

Mr. BOUSTANY. Mr. Speaker, I rise in support of H.R. 5, the HEALTH Act of 2005.

The medical liability crisis have been growing over the last decade and is rapidly developing into a patient access crisis as well.

Frivolous lawsuits are overwhelming our legal system and wasting billions of dollars each year.

In 2004, more than 70 percent of medical liability claims did not result in payments to plaintiffs and only 1.1 percent of claims resulted in a plaintiff's verdict.

In cases where the defendant prevailed at trial, the average defense costs were $87,720 illustrating the high cost of unfounded claims.

Frivolous lawsuits further drive up costs by encouraging physicians to practice defensive medicine ordering additional tests that are not necessary to provide quality care. Physicians are also less likely to try new and innovative medical treatments.

The resulting increase in medical malpractice premiums are threatening access to quality care by forcing physicians to move their practices, retire early, and limit services. The situation is particularly critical for ob-gyns. From 2003 to 2004, increases in rates for ob-gyns were as high at 66.9%. Illinois premiums rose from $138,031 to $230,428.

H.R. 5, the HEALTH Act, will increase patient access to health care services and provide improvised medical care by reducing the excessive burden the liability system place on the health care delivery system. This bill: Ensures that patients receive adequate compensation while limiting non-economic damages to $250,000. Sets a statute of limitations of three years after the date of manifestation of injury or one year after the claimant discovers the injury to ensure timely resolution; allows the introduction of collateral source benefits and the amount paid to secure such benefits as evidence; authorizes the award of punitive damages only where: (1) it is proven by clear and convincing evidence that a person acted with malicious intent to injure the claimant or deliberately failed to avoid unnecessary injury the claimant was substantially certain to suffer, and (2) compensatory damages are awarded. Prescribed qualifications for expert witnesses.

States including Louisiana and California that have instituted their own liability reforms that include caps on non-economic damages have shown proven success and as a result, these states are not facing a medical liability crisis.

I urge my colleagues to support the HEALTH Act and ensure patient access to quality medical care.

Ms. LEE. Mr. Speaker, I rise today in opposition to H.R. 5.

Proponents of this legislation make numerous false claims.

They claim that "tort reform" will magically reduce doctors' skyrocketing malpractice premiums.

But the truth is that even a spokesman for the American Insurance Association couldn't promise price reductions with tort reform.

Supporters also claim that capping non-economic damages will make malpractice insurance more affordable for doctors.

But the truth is that the example set by my home state of California's MICRA law proves this isn't the case. Enacted in 1975, it wasn't until after 1988, when California passed insurance reform under Proposition 103 that malpractice insurance rates began to stabilize.

Proponents even claim that this bill will protect patients' rights.

But the truth is that H.R. 5 would strip away the rights of patients, especially women, seniors, children, and lower income families.

But Mr. Speaker, let's give credit where credit is due. This bill does protect someone: It protects HMOs, the insurance industry and the pharmaceutical companies.

Mr. Speaker, instead of false claims and gifts to HMOs, we need a bill like the Conyers-Dingell substitute that was not made in order.

Unlike H.R. 5, the Conyers-Dingell bill is balanced and would eliminate frivolous lawsuits, increase competition, and reduce costs, without sacrificing crucial protections.

Let's be real, Mr. Speaker. This bill is yet another example that shows where Republican priorities lie—with their contributors—HMOs and insurance companies.

Patients and people deserve more.

I urge my colleagues to reject the false claims and vote "no" on H.R. 5.

Mr. BLUMENAUER. Mr. Speaker, there are two ways of dealing with the medical malpractice problem. One is to take the approach that the House Republican leadership has chosen for years; a narrowly drawn proposal that appeases their partisan supporters but doesn't solve the problem. As I said last year, the rationale was weak and there was little evidence it would succeed. Instead, it may do more harm to the health care community and doctors. Most important, because it is so narrow and partisan, it's very unlikely to become law. Pushing a political solution is the approach that has been tried repeatedly and is what Oregon voters rejected again at the polls last year.

The other approach is to work cooperatively, bringing people to the table to make progress. This is what appears to be happening in Oregon in the aftermath of the last defeat. In Oregon, doctors, hospitals, and other healthcare professionals are working with consumer advocates, trial lawyers, and people from government to fashion a solution that is acceptable; to make progress building on cooperation and trust.

Between the two approaches it's clear that the narrow, partisan, and unbalanced approach is not only questionable on its merits, but is a political dead end. I see no reason to change my longstanding opposition to both the narrow solution and to the approach that created it. Given the nature of the crisis of healthcare in the United States, the problems will only get worse; politicizing them will only put off the day when real progress is achieved.

Mr. HOLT. Mr. Speaker, I rise in opposition to H.R. 5. This legislation will not reduce medical liability premiums, and it unfairly and arbitrarily discriminates against those most severely injured by medical errors.

I have consistently heard from physicians in Central New Jersey that the rising cost of medical malpractice insurance represents a growing crisis. The rising premiums have compelled many physicians to leave the state or leave medicine altogether. My wife is a general practice physician, so I fully appreciate the gravity of the situation facing many doctors. The rising cost of insurance poses obvious dangers for access to care, particularly for populations most in need.

Unfortunately, the Republican leadership has brought to the floor a bill that does not reduce premiums for physicians and imposes an arbitrary cap on damages for the most severely injured victims of malpractice or negligence.

Capping non-economic damages at $250,000 for patients who have won a medical malpractice tort will not result in lower insurance premiums for physicians. Just listen to what the insurance industry itself has said. "We have not promised price reductions with tort reform," said Dennis Kelly, an American Insurance Association spokesman in the Chicago Tribune. In fact, over the past few years, payouts for medical malpractice cases have remained flat while premiums have continued to rise, in some cases doubling.

Because of insurance companies overcharging doctors for insurance, the fifteen largest insurers have accumulated a surplus that is double what they actually need to pay claims. We should be debating how to most effectively rebate this surplus to the doctors, rather than looking for ways to reward them for the squeeze that they are executing on our healthcare system. The insurance industry is gouging medical doctors and is trying to use patients as a scapegoat.

Imposing a cap on damages inherently affects the patients most severely injured by malpractice or negligence. Setting the cap at $250,000 is an insult to all those who have had their lives permanently changed by medical errors. The figure is lifted directly from the 1975 California MICRA law. Adjusted for inflation, this amount would be close to $1 million in 2005 dollars. $250,000 does not come close to compensating for loss of life or permanent disability or disfigurement.

I am disappointed that, for the third time in three years, the Rules Committee has eliminated any opportunity to amend the legislation. I am particularly disappointed that the Rules Committee disallowed substitute legislation by Ranking Members JOHN CONYERS and JOHN DINGELL. Their bill would weed out frivolous lawsuits, require insurance companies to pass savings on to health care providers, and provide targeted assistance to the physicians and communities who need it the most. That Congress is not permitted even to consider this legislation as an alternative demonstrates that the bill we have before us cannot survive on its own merits.

As liability insurance premiums continue to rise for physicians across the country, the Republican leadership continues to prescribe the same tired and ineffective legislation. For good reason, this bill has not survived the legislative process for the past three years, yet we are once again debating whether to enrich insurance companies at the expense of victims of medical malpractice and negligence.

We need a comprehensive, fair, and effective approach to lowering insurance premiums for physicians. The legislation we have before us is none of the above. I encourage my colleagues to oppose H.R. 5.

Ms. DELAURO. Mr. Speaker, we can all agree on one thing—the skyrocketing cost of malpractice insurance impacts every doctor and, indeed, every American. But contrary to what this majority has repeated time and again, the reason for these soaring costs has nothing to do with frivolous lawsuits.

Indeed, a new report by the Center for Justice and Democracy found that in the last 4 years, the 15 largest malpractice insurers increased premiums by 120 percent—more than doubling premiums. And what about all those frivolous lawsuits supposedly driving those costs? The same report found that claims during that same period rose by just 5.7 percent. In my State of Connecticut, the contrast between claims and rates is even starker, with premiums for our 3 largest malpractice insurers shooting up 213 percent over the last 4 years while claims have increased only 1.6 percent.

So, let's call this situation what it is, Mr. Speaker—insurance companies gouging doctors. To inflate their own profits, insurance companies are putting doctors at risk, destabilizing our health care industry and driving up costs for everyone.

And what is this majority's response? Granting authority to State insurance commissioners to order refunds for doctors when excessive rates are imposed? Requiring insurance companies to get approval before rate increases? Demanding that States set standards for actuaries to calculate rates?

No. Their response: "blame the patients." Limit damages. Drive a wedge between the parties being hurt the most by rising malpractice costs—doctors and patients. At all costs, it seems they are saying, do not hold the insurance industry's feet to the fire on this issue.

Mr. Speaker, this debate ought to be about helping doctors—about doing something meaningful to ensure they can afford to continue practicing medicine. Instead, this bill would insulate insurance companies from having to follow any kind of responsible guidelines regarding how malpractice insurance rates are set. And, as such, this bill will do nothing to actually drive those rates down—an admission the insurance industry itself has acknowledged.

None of this is to say that we do not need to crack down on frivolous lawsuits—indeed, last year I voted to penalize lawyers who file frivolous suits with a tough "3 strikes and you're out" rule. And today, Democrats wanted to offer a substitute, which would have taken a comprehensive approach to the malpractice insurance crisis. Our bill would have prevented frivolous lawsuits but also required insurance companies to pass some of their savings on to health care providers, as well as providing assistance to the physicians and communities who need it the most.

We had also hoped to strike a provision of this bill that would have protected manufacturers such as the makers of Vioxx from liability. But again, Republicans prevented that amendment from coming to the floor today for consideration. And little wonder—I would not want to justify why Republicans were protecting the makers of a drug found to be responsible for thousands of deaths either.

Mr. Speaker, in the face of premium increases that are 20 times faster than malpractice claims increases—frivolous or otherwise—this legislation is irresponsible, plain and simple. I urge my colleagues to do right by doctors and families by opposing this bill. Let's come back and pass a bill that will actually address the malpractice insurance crisis.

Mrs. BIGGERT. Mr. Speaker, I rise today in strong support of H.R. 5, the HEALTH Act.

Will County, Illinois, part of which I represent, no longer has any practicing neurosurgeons. A recent survey found that 11 percent of OB/GYNs no longer practice obstetrics in my home State of Illinois. And more than half of OB/GYNs in the State are considering dropping their obstetrics practice entirely in the next 2 years due to medical liability concerns.

Women and children are the first to suffer in a crisis like this. As a mother and a grandmother, I don't want to see pregnant women driving to another State because they can't find an OB/GYN in their own area. I don't want to see injured children transported miles away from their homes because there are no pediatric neurosurgeons left to treat head injuries. And I don't want to see health insurance premiums climb so high that employers can no longer afford to provide benefits to their workers. We need reform and we need it now.

Mr. ETHERIDGE. Mr. Speaker, I rise today in opposition to H.R. 5, the Republican medical malpractice bill, and the process by which it is being debated in this House.

Today, the House will vote on H.R. 5, a bill to impose caps on damages that may be awarded for medical malpractice, defective products, and other health related wrongdoings. Like many Members of this House, I am concerned about the rising cost of medical malpractice insurance and its impact on physicians and their patients, but H.R 5 is the wrong medicine for this national problem.

I oppose H.R. 5 because it will not reduce medical malpractice premiums. What's more, it protects manufacturers of faulty pharmaceutical devices and medical equipment from product liability actions, and overturns North Carolina State law. H.R. 5 also limits the ability of injured persons to bring suits against pharmaceutical companies, HMOs, and nursing homes, thus setting a dangerous precedent allowing these entities to escape the law in even the most severe cases of neglect and abuse. Finally, H.R. 5 undermines North Carolina's patient protection statutes, which are some of the strongest in the Nation.

My colleagues, Mr. DINGELL and Mr. CONYERS, have drafted an alternative amendment to H.R 5. This alternative will help courts weed out frivolous lawsuits without restricting the rights of legitimate claims, repeal the Federal anti-trust exemption for medical malpractice insurance companies, thereby increasing competition and lowering premiums, and provide targeted assistance directly to physicians, hospitals, and communities in medical malpractice crisis areas. Finally, the alternative establishes an independent advisory commission to examine and recommend long-term solutions to this important issue. Unfortunately the Republican Leadership has denied Representatives DINGELL and CONYERS the opportunity to offer this alternative.

Mr. Speaker, the issue of medical malpractice insurance is an important one. H.R. 5 will without a doubt harm America's patients. I urge all of my colleagues to vote against H.R. 5 and to support the motion to recommit the bill.

Mr. UDALL of Colorado. Mr. Speaker, I'm reluctantly voting against H.R. 5, which would limit medical malpractice awards.

I am not opposed to considering legislation that would do something to respond to real problems. But I do not think this bill merits that description.

In fact, I think the vote today has more to do with politics than with policy—and if I had any doubts on that point, they ended when the Republican leadership refused to permit any amendments at all to be considered. Stifling debate is not the way to develop good policy.

As in the past, the bill's supporters argue that unless the tort laws are changed, doctors will not be able to afford malpractice insurance and so will give up providing medical care. And, again, opponents say the bill would do nothing to affect insurance rates.

I think we're beating a dead horse. Both sides have dug in and aren't willing to compromise. In the meantime, we aren't doing anything to reform our medical liability system and we aren't doing anything to make health care more affordable and accessible for Americans.

Our system is inherently adversarial and we've continued this finger-pointing game and done nothing to improve patient safety and health care access, which is what we're really talking about here.

I think we need a system that is non-punitive and encourages openness and improvement so that doctors can report medical errors without fear of being sued. This will help us understand medical errors and improve procedures and patient safety. Fewer medical errors will result in fewer medical malpractice suits, which in turn will help keep malpractice insurance rates and health care premiums down.

That's why I have supported legislation to create a voluntary medical error reporting system under which patient safety organizations, on a confidential basis, would receive information on reported errors for analysis. They would then be expected to develop and disseminate evidence-based information to help providers implement changes in practice patterns that help to prevent future medical errors.

In addition to that, I think we should explore ideas like alternate dispute resolution, no-fault systems, and medical courts.

I also want to make it clear that I am not opposed in principle to capping damages. That has been done in Colorado and some other states, and I think there is evidence indicating that it can help keep health care costs down and keeps doctors accessible. However, I think this bill's low and arbitrary limits on damages will hurt those at the bottom of the income scale the most. Also, I don't think we should be shielding large and powerful HMOs and drug companies from liability. So, I cannot support the bill as it stands.

Mr. Speaker, ultimately this issue is about health care access and patient safety. If we aren't going to compromise, I hope we'd start thinking outside the box on how to end the logjam. I offer these ideas as a way to get there, because we aren't going to get there from where we are today.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today in opposition to H.R. 5, the Medical Malpractice bill.

H.R. 5 may have been conceived with good intentions, but it is a bad bill. It is a particularly bad bill for low income Americans.

If a patient is injured by a caregiver due to medical malpractice, and that patient sues, it should be up to a judge or a jury—not the U.S. Congress, to decide how much compensation should be awarded.

Injured patients who don't get their fair compensation will suffer. They will suffer in two ways. First of all, it's hard to put a blanket price on damages resulting in life or limb.

Secondly, if the compensation is not sufficient, what will happen to the disabled patient when the money runs out? Who, then, will pay for their long-term care, or for the children of someone permanently disabled or even killed?

I'll tell you who will pay for them: the American taxpayer. Those children and disabled people will enroll in federal programs to help them exist day by day. American taxpayers pay for those programs.

Mr. Speaker, this bill won't do anything to lower the cost of health care.

This legislation is good intentions that will have bad consequences. I ask my colleagues to consider very carefully who will end up paying at the end of the day.

The American taxpayers—you and I, not the care providers at fault—will end up paying for the damages incurred from medical malpractice.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in opposition to H.R. 5, legislation to limit non-economic damages that victims may seek when injured by medical malpractice. My primary objection to this bill stems from the Congress imposing its will on the states regarding an issue that rests squarely within State jurisdiction.

The states are responsible for licensing medical professionals and for regulating the insurance industry. In fact, the states have had jurisdiction over medical malpractice for more than 200 years, and it should continue to be that way. This legislation would unnecessarily preempt the laws of states that have taken measures to address this issue. At least 30 states have enacted laws with regard to non-economic damages, so it is unconscionable that anyone would argue that the medical malpractice issue is trapped in a regulatory vacuum.

In 2003, the State of Texas saw a need for action on medical malpractice and enacted a cap on non-economic damages. Having served in the Texas State Legislature, I know first-hand that state legislatures are best positioned to determine whether and how to address the medical malpractice situation in their individual states. The State of Virginia enacted a different cap that best balances the needs of consumers, physicians and health care institutions in that particular state. The situation is different in each state, and a Washington-knows-best approach ignores the hard work and tough decisions that individual states have made.

On a substantive level, I oppose this legislation based on two provisions with significant flaws. First, the bill includes a firm $250,000 cap on non-economic damages without providing for inflation adjustment in future years. While that figure mirrors California's MICRA law, it is important to recognize that California's cap has not been adjusted for inflation in approximately 30 years. Further, California's law was crafted during a time when a $250,000 cap would have sufficed for all but the most egregious jury awards—which, I might add, the judge has the discretion to overturn. That is certainly not the case in the 21st century, and I object to the Congress placing a price on pain and suffering. A cap on non-economic damages would create a one-size-fits-all figure for each and every case of medical malpractice. Members of Congress do not hear the details of each medical malpractice case. Members of juries do, which is why they are best equipped to determine the appropriate non-economic damages based on the facts of each case.

This legislation also contains a dangerous provision that would provide drug companies and device manufacturers with an affirmative defense against punitive damages as long as their products had FDA approval. This provision presupposes that FDA approval is an air-tight process whose integrity need not—and legally cannot—be questioned. Considering the FDA's recent track record with regard to Vioxx and other pharmaceuticals that have been removed from the pharmacy shelves, it is clear that the integrity of the FDA approval process has been compromised. Until some serious reforms are implemented at the FDA, the FDA stamp of approval should not provide any company with an affirmative defense against punitive damages. Such a provision would only provide drug and device manufacturers with even less of an incentive to report known adverse events before their products go to market and ensure that their products are as safe as possible. Given these concerns, I would urge my colleagues to oppose this bill and leave this issue to the states, which have clear jurisdiction, as well as the ability and willingness to handle this delicate issue.

Mr. WELDON of Florida. Mr. Speaker, I rise to express my strong support of H.R. 5 and my interest in seeing that one significant concern is addressed, should this bill move through the Senate.

As a practicing physician I know how important this bill is to ensuring that Americans have access to good medical care. For too long too many limited resources have been misdirected away from patient care and have instead been spent to unnecessary malpractice awards and the practice of defensive medicine. Defensive medicine offers little in terms of better patient outcomes, but it adds billions of dollars to the cost of medical care. I know this not only because studies show this is the case, but I used to practice defensive medicine every day.

This bill makes sure that there is fair treatment for those individuals who do suffer serious adverse medical outcomes, while ensuring that our legal system is not overwhelmed with frivolous lawsuits.

A serious concern I have with the bill, and an issue I have raised with the chairman and others, is how it treats liability reform for manufacturers of drugs and vaccines. With respect to pharmaceuticals we are often unable to recognize all adverse reactions until we have post-marketing information. This post-marketing safety data, such as in cases like Vioxx, is provided to FDA on a voluntary basis by the manufacturers. I agree with the intent of the bill which is to ensure that Americans have greater access to potentially live saving pharmaceuticals. However, it is equally important that we fully examine the implications of such provisions on safety and the willingness of manufacturers to come forward with adverse information.

I am also concerned that H.R. 5 offers significant liability protection for vaccine manufacturers, while failing to fix the broken vaccine injury compensation program (VICP). It is critically important that these two not be separated. The VICP is very broken and it would be wrong to cut off access to the courts without addressing the serious deficiencies that exist in the compensation program today. As it operates today, the VICP has essentially imported the tort system into the program. That was not how the program was designed to operate. If both the liability problem and the VICP deficiencies are not fixed fairly, then our nation's immunization program will suffer serious problems and parents could increasingly reject childhood immunizations for their children.

Mr. DINGELL. Mr. Speaker, I rise in strong opposition to H.R. 5. The Republican leaders of this House have denied us our right to offer an alternative to the over-broad and ill-conceived legislation that is before us today and have bypassed both committees of jurisdiction. Why are they so afraid?

Are they afraid we will demonstrate that their bill will create excessive litigation as opposed to reducing it? H.R. 5 is ambiguously drafted, leaving its readers to surmise what its provisions could possibly mean. Federal and State courts would take years trying to sort it all out.

Are they afraid we will discuss how their legislation shields HMOs, insurance companies, and drug manufacturers from all sorts of skullduggery? The proponents of this legislation offer no evidence that these privileged industries need additional protections, yet H.R. 5 grants them a special status under the law that is unprecedented.

Are they afraid we will show how this unprecedented immunity bath for their favorite industries will hurt the rights of injured patients? There is a human cost to this legislation that we must not forget.

Are they afraid we will tell how H.R. 5 would hurt women, seniors, and low-income families by limiting non-economic damages to $250,000? Because a large part of economic damages is an individual's income, such a system would place a higher value on the lives of CEO's. My friends, every human life is worth more than $250,000.

Unfortunately, my Republican colleagues are quite determined to move quickly and harshly. Their legislation reaches well beyond malpractice and offers no guarantees of assistance to providers and communities. Physicians and patients are asked to cross their fingers and hope that some of the benefits given to large corporations will trickle down to them. And women, seniors, and low-income families are left to pay the human cost of these corporate benefits. It is wrong.

But the rising cost of malpractice insurance is a real problem—requiring careful, balanced, and targeted legislation. Regrettably my colleagues will not have the opportunity to vote for the balanced package that my friend from Michigan, Mr. CONYERS, and I have crafted. Perhaps their greatest fear is that you would prefer a bill that truly helps physicians, hospitals and nurses, while protecting the rights of patients and doctors over HMOs. I urge you to support the motion to recommit and oppose final passage of H.R. 5.

Mr. STARK. Mr. Speaker, we have been told that weapons of mass destruction required an invasion of Iraq, that ketchup is a vegetable, and that global warming is a vast, left-wing conspiracy. Now, the great minds of the Republican Party want us to believe that lawyers are to blame for skyrocketing medical malpractice insurance premiums.

Respected insurance, health care, and legal experts all show that insurance companies, with their record surpluses, are to blame for rising premiums. Who are you going to believe? I cast my vote with the experts, and against H.R. 5, the so-called Help Efficient, Accessible, Low-cost, Timely Healthcare (HEALTH) Act of 2005.

This bill arbitrarily caps payments for pain and suffering at $250,000 and extends liability protection not only to doctors, but to HMOs, nursing homes and manufacturers of drugs and medical devices. Furthermore, the President and other Republican proponents claim that this bill will halt skyrocketing medical costs. That's hogwash. Even the non-partisan Congressional Budget Office has found that the this bill would have a negligible effect on health care spending, ultimately reducing insurance premiums by less than one-half of one percent.

Ineffective legislation is one thing, but this bill is legislative malpractice. It would mean that a child permanently disabled by an incompetent doctor would receive only $250,000 to be compensated for a lifetime of pain and the inability to lead a full life. If this bill were enacted, nursing homes that abuse our seniors, HMOs that deny critical care, and drug companies that market dangerous drugs like Vioxx can take your life for a guaranteed low price set by their friends in Congress.

The implication of limiting damages and attorneys' fees is that greedy lawyers and their irresponsible clients are somehow faking medical errors or blaming natural medical problems on innocent doctors. Given that medical errors are the eighth-leading cause of death in this country, exceeding car accidents, breast cancer, and AIDS, that suggestion is off base. Anyone who's ever been at the bedside of someone in the hospital and received 12 different answers from 12 different care providers about treatment instructions knows the risk of a serious medical error.

This bill does nothing to reduce medical errors, and it won't reduce malpractice premiums. Between 2000 and 2004, claims payments rose by less than 6% while insurers' net premiums rose by 120%. The money isn't going to lawyers—it is padding the pockets of wealthy insurance companies, and they have no intention of ending the windfall even if this bill passes.

I support the Democratic bill, which Republican leaders won't allow to come up for a vote. That bill reforms the insurance industry—breaks up insurance monopolies and gives doctors the right to challenge premium increases—and has sensible tort reform without blocking compensation for injured patients. Unlike the Republican bill, any savings by insurance companies would be required to actually reduce malpractice insurance premiums and 50% of punitive damage payments would go to the Agency for Healthcare Research and Quality to reduce medical errors.

If high premiums and medical errors are the problem, the Democratic bill seems like a logical solution. So logical in fact, so tempting even to my Republican colleagues, that their leadership won't even allow them to vote on the Democratic alternative. I urge my colleagues to reject this sham and force this House to consider real legislation to solve this national crisis.

Mr. RYUN of Kansas. Mr. Speaker, I rise today in support of H.R. 5, the next step in the ongoing struggle to reform medical malpractice liability. Skyrocketing insurance premiums are debilitating our Nation's health care delivery system and liability insurers are either leaving the market or raising rates to excessive levels. In turn, more physicians, hospitals, and other health care providers are severely limiting their practices, moving to other states, or simply not providing care. Without a change, the exodus of these providers from the practice of medicine will continue, and patients will find it increasingly difficult to obtain needed health care.

H.R. 5 would help to lower the costs associated with health care coverage by encouraging the speedy resolution of claims, limiting lawyers' fees, and imposing caps on non-economic damages.

I urge the House to once again pass medical malpractice reform to help lower the cost of quality health care and make it accessible to more Americans.

Mr. CARDOZA. Mr. Speaker, I rise today to share my concerns about H.R. 5 and to urge my colleagues to support the Democratic Motion to Recommit.

I think we all agree that skyrocketing medical malpractice premiums are spiraling out of control and demand our immediate attention.

As a former member of the California Legislature, I voted to uphold MICRA on three separate occasions and I think that doctors everywhere deserve the same protection. MICRA is a model for federal reform because it has produced a stable, competitive medical liability insurance market while ensuring prompt and fair payments to those injured and in need.

While I am pleased that H.R. 5 adopts the basic framework of MICRA, I am deeply concerned about other elements of the bill that provide cover to special interests, including liability protection to HMOs, pharmaceutical manufacturers and medical device manufacturers.

Now is not the time to give greater protections to pharmaceutical companies that put unsafe drugs like Vioxx on the market. Such protections have nothing to do with the liability insurance crisis facing doctors and should be stripped from this bill.

I am also concerned that the caps California established in 1975 under MICRA were never indexed to inflation: To provide the same level of compensation in today's dollars, the cap would have to equal $800,000. Put another way, the $250,000 MICRA cap has decreased in value since 1975 to approximately $70,000.

With that in mind, I believe we should adjust the $250,000 cap to reflect its current value. As we all know, health care costs—including hospital charges and medical fees—have risen dramatically since 1975. If we are going to model our national law after the 1975 MICRA model, I suggest that we start by using realistic figures that reflect 2005 dollars.

Despite these concerns, in 2003 and again last year, I voted for H.R. 5 with the expectation that improvements would be made in conference with the Senate.

Unfortunately, that did not happen, and today we are considering a bill under a Rule that blocked a number of reasonable amendments, including a substitute offered by my colleague from Michigan, the ranking member on the Judiciary Committee.

While I plan to support this legislation today, my continued support is predicated on substantial changes as the Senate attempts to align it more closely to California's MICRA law. If this happens, I will support the conference report.

However, I—as well as a number of physicians I know—will oppose a bill that provides inappropriate protection to drug companies, HMOs and medical device makers.

I hope that my colleagues in the House leadership will take these concerns into mind as debate moves forward on this critically important issue.

Mr. MANZULLO. Mr. Speaker, the United States has been blessed with the best system of medicine in the world. But we are having a crisis of access. This problem is not a case of whether a patient has health insurance. You may not be able to find a doctor to treat you.

The headlines are replete with stories of women having to drive several hours because they cannot find a doctor to deliver their baby. If you are in a car accident in southern Illinois and need a neurosurgeon, you will be airlifted to another State because there are no neurosurgeons left to treat you.

Litigation has escalated and awards have skyrocketed. Multi-million dollar court decisions and jury awards have left doctors with medical liability premiums increase 40 to 50 percent per year.

Doctors in certain fields of high-risk fields of medicine can expect to be sued at least once in their career.

As a result, doctors are retiring or leaving the practice of medicine. Emergency rooms and rural facilities have closed. Many other doctors are moving to States that have taken action to cap jury awards, which stabilizes malpractice costs.

I know of one OB–GYN in Illinois who left her practice to go back to being a pharmacist where she could earn more money and not worry about malpractice premiums. She explained that after paying malpractice insurance, she and another physician made $50,000. A third doctor made $60,000 and the fourth doctor made $70,000. Their office manager made more than all of them: $75,000.

Thirty years ago, California passed comprehensive medical liability reform. According to the Department of Health and Human Services, States that have limited noneconomic damages have seen premium increases by less than 20 percent. States without limits on noneconomic damages have seen premiums increase on average of 45 percent.

This is quantifiable evidence that medical liability reform works. I urge my colleagues to vote for H.R. 5.

Ms. ESHOO. Mr. Speaker, for 4 years we've been debating what to do about the malpractice premium crisis. We clearly have a problem but what's not so clear is what the solution should be.

I'm a Californian, and in my State, we have a law titled the Medical Injury Compensation Reform Act, MICRA, that has been mentioned many times on the floor. This law was passed by a Democratic legislature and signed by a Democratic governor in 1975. It's been on the books ever since, without a single change. MICRA has contributed to stabilizing premiums in California, but without other reforms, we would still be facing the same skyrocketing increases as other States.

The Help Efficient, Accessible, Low-cost, Timely Healthcare, HEALTH, Act of 2005 has been described as a Federal version of MICRA. I respectfully dispute this assertion.

The HEALTH Act places a $250,000 cap on noneconomic damages for suits against physicians, insurers, HMOs and nursing homes as well as drug and medical device manufacturers. MICRA limits that cap solely to physicians. The Health Act also places a cap on punitive damages. MICRA does not.

One of the reasons MICRA has worked is because it's prescribed in its scope. If we're to get to the heart of exorbitant medical malpractice insurance, we have to focus our efforts on those who truly need our help. I'm concerned that extending these provisions to those outside of the physician community may have a harmful effect on patient care and on our legal system.

Patients must also be fairly compensated for any wrongs that befall them, but this bill also uses MICRA's cap level of $250,000, which has not been updated for inflation since the law was passed in California in 1975. When adjusted for inflation, $250,000 from 1975 is now worth only approximately $68,000.

This bill also does not contain any mechanism for studying the insurance industry and its role in the premium crisis. A review of the insurance industry is critical to understanding the problem and possible solutions. While MICRA was enacted in 1975, premiums in California continued to rise. MICRA did not address, collectively, the problem of rapidly escalating premiums faced by California doctors. Only because California voters enacted stringent insurance rate reform after tort reforms failed did doctor's premiums fall.

In 1988, California enacted insurance reform law, Proposition 103, which has saved physicians and other medical providers hundreds of millions of dollars by regulating the premiums insurance companies are allowed to charge. Premiums dropped and stabilized in the years following passage of Proposition 103. I urge my colleagues to accurately look to the experience in California. My State enacted both tort limits and insurance reform.

This is a multi-faceted problem. If we are to truly help physicians, we have to look at this issue from all angles and implement solutions across all levels.

For these reasons, I urge my colleagues to oppose the HEALTH Act.

Mr. BACA. Mr. Speaker, I rise in opposition to H.R. 5, the Republican Medical malpractice bill.

This bill is bad medicine for American consumers. It is a bitter pill for our seniors, our children, and the middle class.

The Republican majority will stop at nothing to prevent access to the legal system for those who are hurt. First they said that all they wanted to do was limit class action lawsuits to Federal courts. Now that they have succeeded, they are back again, to take more rights away from American patients and consumers.

Mr. Speaker, the majority will distort the facts, but the American people will not be deceived.

The bill places a $250,000 cap on pain-and-suffering awards in medical malpractice lawsuits. $250,000. Is that what a lifetime of pain and suffering at the hands of malpractice is worth?

Would you want your mother, grandfather or child to be in that situation? As the bills pile up, and the Republicans say, sorry, but we have sold out to the special interests?

The bill makes it much harder for patients injured by medical errors to seek redress. It shortens the time for patients to prove they were hurt by malpractice. It gives legal immunity to drug makers, those same companies that have already killed and maimed people with products that were prematurely released on the market.

Many of us are alarmed at the skyrocketing cost of medical care, including patients, who are the consumers. However, medical malpractice is not the reason for these increasing costs. It is medical mismanagement and corporate greed.

The Washington Post had an article this past weekend about the health care system for our seniors. The frightening truth? Some health care providers deliberately, or indifferently, provide bad medical care, so that they can increase the costs of treatment, while patients become even sicker. Wounds become infected, equipment is covered with dust, and sterile techniques are not used.

It sounds like the plot of a bad medical thriller, or medical practice in some remote corner of the globe, but it is happening, right here in America, to your father or mother, grandmother or grandfather.

So, I say, stop picking on the legal system, which fights for the rights of the poor, the sick, the elderly, and the injured.

Many of the rights that consumers enjoy today are the result of path-breaking legal decisions and the lawyers who were willing to stand up and fight.

The Republicans would like to take us back to a darker time, when corporations ruled and the underserved had no rights. We must say, no; we must oppose this bad medicine. Enough is enough. We must oppose this bad bill.

Mr. SCOTT of Georgia. Mr. Speaker, one of the greatest challenges facing our Nation's health care system today is the medical malpractice insurance crisis. My State of Georgia is one of 18 States that have the highest, most significant medical malpractice insurance premium costs, and it is costing our Georgia and our entire country dearly. Because when our health care industry is in danger, we are all threatened.

Who among us is not a patient, who among us does not need and deserve quality medical care? At its heart, this crisis is a patient care issue. Every one of us wants ourselves and our loved ones to receive the highest quality health care possible.

We have to address the issue of medical malpractice insurance and the extremely high cost of health care. In 2000, Georgia physicians paid more than $92 million to cover jury awards. That amount was the 11th highest in the Nation despite the fact that Georgia ranks 38th in total number of physicians in the United States.

Forty percent of the State's hospitals faced premium increases of 50 percent or more in 2002. St. Paul, the State's second largest insurance carrier, stopped selling medical liability insurance last year. Remaining insurers have reportedly raised rates for some specialties by 70 percent or greater. Some emergency room physicians, OB–GYNs and radiologists have not yet found a new carrier.

Our health care system is suffering immensely, but some say that this moment in time will pass, that this crisis does not warrant taking serious action. But study after study proves them wrong.

Earlier this year, the Georgia Board for Physician Workforce released a study showing the effects of the medical liability crisis on access to health care for Georgia's patients. For example, the study shows that 17.8 percent of physicians, more than 2,800 physicians in Georgia, are expected to limit the scope of their practices which is by far the largest effect of the medical liability insurance crisis on access to medical care.

These physicians are expected to stop providing high-risk procedures in their practices during the next year in order to limit their liability risk. Nearly 1 in 3 obstetrician/gynecologists and 1 in 5 family practitioners reported plans to stop providing high-risk procedures, indicating that access to obstetrical care may be significantly reduced during the next year as a result of the medical liability insurance crisis.

In addition, nearly 11 percent or 1,750 physicians reported that they have stopped or plan to stop providing emergency room services. Six hundred and thirty physicians plan to stop practicing medicine altogether or leave the state because of high medical malpractice insurance rates. About 13 percent of doctors reported that they had difficulty finding malpractice insurance coverage.

In fact, at one particular Georgia hospital, the hospital could not give credentials to a surgeon and add that physician to its staff because the surgeon could not afford to buy medical malpractice insurance. In another instance, an obstetrician-gynecologist had to close his Georgia practice and work for a health care agency because he could not afford to buy medical malpractice insurance.

What happens to the patients that his hospital could have treated but now it cannot because it does not have the surgeons that it needs? What happens to the mothers who need a doctor to provide pre- and post-natal health care but cannot find one because doctors are leaving the profession due to the high cost of medical malpractice care?

In addition, Georgia is heavily dependent on other states to train physicians. Approximately 70 percent of participating physicians in Georgia completed training in another State. High costs of medical malpractice liability insurance may reduce the attractiveness of Georgia as a location for medical practice. High professional liability insurance costs are a significant financial problem for teaching hospitals, reducing the already limited funding available for faculty, residents, and other medical education costs.

Even more upsetting, the high cost of medical malpractice insurance for doctors and hospitals disproportionately affects seniors, minority and low-income patients. The physicians and hospitals who depend on Medicare reimbursements and who serve the over 44 million uninsured Americans every day cannot afford to pay higher insurance premiums. We need to ensure that these communities have access to quality health care and the best physicians or the health disparity that currently exists will continue to deepen and create a two-tier health care system.

But it is not only medical care in the present that is threatened, but also into the future. Many of the medical schools in our State are saying now that many of students are having second thoughts about even coming into the medical profession.

These statistics prove that Georgia's doctors cannot wait. More and more each day, good, principled health care providers are confronting the possibility of being unable to treat their patients because of out-of-control medical malpractice insurance premiums. There is no question that Congress must act, and act immediately.

I support H.R. 5 because doctors, hospitals, and the health care industry are caught in the middle between insurance companies and lawyers. Doctors are being squeezed by their medical malpractice insurance premiums and by the high amounts being awarded to injured patients. Doctors need to see results; they need to know that if this bill becomes law that their insurance premiums will go down. The message must reach the insurance companies that premiums have to go down so that the medical profession can survive and access to health care is improved. The health care industry must have relief and this bill, although not the final answer, is the first step in addressing the problems that affect doctors and the health care industry.

We must help doctors, physicians and dentists, hospitals, other health care providers, and, ultimately, American patients who are suffering in untold ways. Immeasurable damage is occurring in our Nation's health care delivery system because of the high cost of medical malpractice insurance. With the passage of this bill, the House of Representatives will send a clear and salient message to the insurance industry, and that message is: Bring down the cost of medical malpractice insurance for physicians and hospitals.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today in opposition to H.R. 5, the so-called HEALTH Care Act of 2005. Quite simply, the problems that we should be addressing today are burdensome malpractice insurance rates, patient safety, and access to health care. This bill addresses none of these. In another attempt to cede power from States to the Federal Government, this bill would impose nationwide limits on the compensation injured persons can receive in medical malpractice cases.

We have all heard the stories of doctors leaving their practices because they cannot afford their malpractice insurance rates. For the 6-year period from 1998 through 2003, medical malpractice insurance premiums in my State of Connecticut increased, depending on the insurance company, between 37 percent and 241 percent for internal medicare, 35 percent and 185 percent for general surgery, and 45 percent and 128 percent for obstetrics/gynecology. During that same period of time, the consumer price index only rose 13 percent and the medical consumer price index rose 24 percent. I certainly cannot imagine running a business where one of my expenses was that out of line with the rest of my income and expenses. How can we expect doctors to do that when they provide such an important service to us all? The end result is the loss of good doctors practicing and diminished access to health care. The bill we are debating today does not address the underlying problem and has many flaws.

First, it would remove authority on the issue of tort reform from States, where it has traditionally resided, and preempt various areas of State law, including important consumer protections. Each State has its own issues with regard to medical malpractice and tort law and a one-size-fits-all solution imposed by the Federal Government is not the answer.

Second, it would restrict the ability of injured patients to be compensated for their injuries. An inflexible $250,000 cap on noneconomic damages would punish victims of malpractice and cause significant inequalities in compensation for women, children, seniors, and lower-income workers. A woman who loses a pregnancy or her fertility is not judged to have high economic value, but juries can recognize the human value of her losses. A child with no job or income will obviously have a limited economic value, but juries can recognize the human value of his future. Even with the same injuries, a corporate CEO would receive a much larger economic damage award than a minimum-wage worker or a mother who stays at home to raise her kids, but a jury can recognize the human value of their pain and suffering.

My final objection to this legislation is the manner in which it was brought to the floor. It was never debated in committee and was reported to the floor with a closed rule. In fact, the Rules Committee has rejected 67 amendments to this legislation over the past 3 years. This is the third time the House has voted on this legislation in the past 3 years and the third time it has been the wrong answer for doctors and patients. This is just another example of the majority bringing the same legislation to the floor year after year knowing that it will go nowhere because it is the wrong answer for Americans. Legislation offered by the ranking members of the Judiciary Committee and the Energy and Commerce Committee, Mr. CONYERS and Mr. DINGELL, have been ignored as well as legislation offered by the gentlewoman from South Dakota, Ms. HERSETH. Americans deserve to have all of these bills debated side by each.

Mr. Speaker, I conclude by urging my colleagues to join me in opposing H.R. 5 and working on real solutions for reasonable malpractice rates, improved patient safety, and accessible health care.

Mr. JEFFERSON. Mr. Speaker, H.R. 5—the so-called HEALTH Act of 2005—is anything but healthy.

If there was even the remotest possibility that H.R. 5 could help get efficient, accessible, low-cost, timely health care to the American people, it would probably get 435 votes in this House.

However, H.R. 5 does absolutely nothing to achieve the admirable goals embodied in its misleading name. It does absolutely nothing to address the specific problem it is purported to fix: skyrocketing medical malpractice insurance premiums.

Let me be perfectly clear. I am in complete agreement with this bill's supposed and stated purpose: to help get efficient, accessible, low-cost, timely health care to all Americans. I agree that one of the obstacles to low-cost, accessible health care is outrageous medical malpractice liability insurance premiums charged to physicians and other health care providers throughout our Nation. I also agree that some litigation strategies contribute to the escalating costs of our Nation's health care by encouraging providers to order tests, procedures and treatments that may not be medically necessary. I agree with the supporters of H.R. 5 that high malpractice insurance premiums charged by carriers have led some physicians to abandon high-risk specialties and patients.

I ask you though to look at the legislation before us. H.R. 5 contains about 4,000 words. In those 4,000 words, the word "premium" appears only once; the word "insurance" appears only 5 times; and the word "cost" appears 14 times, the vast majority in the definitions and not the operative clauses of the bill.

I ask you to consider whether H.R. 5 is really about skyrocketing medical malpractice insurance premiums as its proponents claim. I have looked very carefully at this bill, and, after much reflection, have reached the only reasonable conclusion: It is not.

I stand here today because someone needs to stand up for American physicians. Someone needs to stand up for the American health care system.

The proponents of H.R. 5 tell us medical malpractice insurance premiums are skyrocketing out of control. There is no dispute that malpractice insurance premiums are increasing at an alarming rate. We agree on that.

There is no question that medical malpractice premiums are escalating across the country, particularly for physicians in high-risk specialties and certain geographic centers. In some cases, premiums have increased so dramatically that physicians have relocated their practices, reduced their services, or retired early. While there is little doubt that something must be done to alleviate this crisis, H.R. 5 is no solution.

Our friends on the other side of the aisle believe that if you limit the amount that insurance carriers have to pay for legitimate claims, then insurance rates will fall.

But I ask you to consider the fact that the American Insurance Association—the American Insurance Association—has repeatedly and specifically denied that tort reform will result in premium savings. Sherman Joyce, the president of the American Tort Reform Association, has stated, "We wouldn't tell you or anyone that the reason to pass tort reform would be to reduce insurance rates."

So, by the insurance industry's own admission, H.R. 5 will not stem the tide of rising medical malpractice insurance rates. Nevertheless, our friends on the other side would have us believe that limiting the exposure of insurance carriers is a panacea. It is not.

H.R. 5 is a hoax. It is a sham, and our friends on the other side know it. It is a fraud on the American medical establishment by insurance carriers who want to limit their exposure but will not commit to reducing premiums.

Please read the bill. H.R. 5 has absolutely no provision requiring the reduction of medical malpractice premiums, despite the fact that our friends believe that it is these high premiums that are crippling the health care system. Nevertheless, there is not a single word in this bill that directly calls for reductions in premiums: zero, zilch, nada, nothing, and they know it. It is a scam. H.R. 5 is absolutely nothing more than a boon, a windfall for the insurance industry.

Our friends on the other side tell us that damage caps will solve the premium crisis. Mr. Speaker, I ask that you consider the fact that in States that have enacted caps, the medical malpractice insurance premiums are higher than in States that have no caps. The carriers do not want us to know that.

In fact, in California—the State the other side holds up as a shining example of the benefits of legislation like H.R. 5—the average premium is $27,570, fully 8 percent higher than the average of all States that have no caps on noneconomic damages.

Recently, the American Medical Association issued a list of States that it concluded were in crisis due to exploding medical malpractice insurance rates. Five of those States have caps on noneconomic damages like the one proposed in H.R. 5. Yet, Mr. Speaker, they are still in crisis.

One of those States is Florida, where, despite having caps of just the kind proposed by H.R. 5, obstetricians and gynecologists pay the highest premiums in the Nation for medical malpractice insurance, some in excess of $200,000 per year. Florida has caps, and Florida has a crisis. So, Mr. Speaker, damage caps alone are not the solution to the problem.

If you look further at the California example, it becomes clear that damage caps alone are not an effective premium-reduction measure. In the 12 years after California passed MICRA, medical malpractice premiums rose 190 percent. Only after California passed Proposition 103—actual insurance reform—did medical malpractice premiums stabilize. Since California passed insurance reform—not medical malpractice reform—its medical malpractice premiums have been more stable than in most States.

Mr. Speaker, the lesson to be learned from California is that measures like H.R. 5 do not reduce medical malpractice insurance premiums. The facts simply do not bear it out.

Nevertheless, Mr. Speaker, our friends on the other side insist that one-size-fits-all approach of H.R. 5 is the last and best cure for the crisis of escalating malpractice insurance rates.

Some of our colleagues are, like me, very deeply concerned about rising malpractice insurance rates. Some of our colleagues have expressed an inclination to vote for this bill in order to get the ball rolling, in order to take a first step toward solving the premium crisis. But I want to be very clear: If H.R. 5 is our first step, as the saying goes, it's a doozy. It is a step on the backs of doctors, hospitals and patients to help out greedy insurance carriers. It is certainly a step in the wrong direction. H.R. 5—as the best evidence proves—is an ill-conceived, ill-advised bill that will not—let me repeat—will not solve the problem. This bill helps insurance companies—period.

Recent articles in newspapers across the country show in clear and compelling ways that this crisis is as complex as it is serious. "Malpractice litigation is only part of the cause of the huge increases in insurance premiums. The insurance industry's pricing and accounting practices . . . play [at least] as big a role."

The insurance company patrons of our friends on the other side want to hide behind what they consider out-of-control jury awards. Again, Mr. Speaker, the facts simply do not support this claim.

Over the past few years, many physicians have been hit with medical liability premium increases of 25 to 400 percent. Yet, according to The Journal of Health Affairs, during the past decade, malpractice payouts have grown approximately 6.2 percent per year. That's almost exactly the rate of medical inflation: an average of 6.7 percent between 1990 and 2004.

Moreover, contrary to the claims of proponents of H.R. 5, juries are not overly sympathetic to plaintiffs, as evidenced by the rate at which physicians prevail in medical malpractice suits. Dr. Barry Manuel, chairman and CEO of ProMutual Group, one of the Nation's leading malpractice insurance carriers, reported in 2001 that "we continue to close 60 percent of all claims without payment, and of those cases we are forced to defend in court, we prevail in 90 percent." In addition, many of the leading scholars studying the problem have concluded that despite conventional wisdom, juries in fact often favor physicians.

Neil Vidmar, a professor at Duke University School of Law and a leading scholar in the field, states unequivocally that "the assertion that jurors decide cases out of sympathy for injured plaintiffs rather than the legal merits of the case . . . have been made about malpractice juries in the United States since at least the nineteenth century. Yet, research shows no support for these claims."

So, Mr. Speaker, one begins to wonder what has caused such extraordinary increases on medical malpractice insurance premiums during the past few years.

Well, investment losses, like those of average Americans, and a weak economy have made a greater dent in the bottom lines of insurance companies than malpractice payouts.

The difference between insurance companies and average Americans is that most of us can't give ourselves a raise to cover our losses. A medical malpractice insurance company can—and does. It alone controls the premium rates it charges our country's doctors. I think you can guess what malpractice carriers have done in response to the general economic climate in the past few years.

The truth is that medical malpractice insurance carriers are asking doctors, hospitals and patients to pay for underperforming investments. It is as simple as that. They know it. We have asked the insurance carriers to commit to reducing premiums in this bill. They will not do it. They will not even talk about it. That is because they have absolutely no intention of reducing medical malpractice insurance premiums.

The bottom line is that H.R. 5 is a jackpot for insurance carriers, and it is the doctors, hospitals and patients that are going to pay for it.

Mr. Speaker, I want to talk for just a minute about the cap on noneconomic damages. If H.R. 5 becomes law, we will be speaking with a loud and clear voice that the injuries victims of medical malpractice suffer are valued in direct relation to how much money those victims have. The unfortunate consequence of this legislation is that—regardless of the severity of your injury, regardless of how long you suffer, regardless of its effect on even the most basic functions of your life, the things we take for granted every day, regardless of whether you can ever play with your children again, regardless of whether you can ever hug your grandchildren again, regardless even whether you or your child or your wife or mother die due to medical malpractice—no one's injury is ever worth more than $250,000.

Our friends on the other side of the aisle like to equate "noneconomic damages" with "pain and suffering." But "pain and suffering" is a misleading label. What is capped is recovery for disability and disfigurement, among other things, not just "pain and suffering." H.R. 5 lumps together everything that is not "economic" and calls it "noneconomic"—subject to a $250,000 cap that the bill does not even adjust for inflation.

Our friends on the other side of the aisle go to great lengths to emphasize that H.R. 5 in no way limits economic damages as long as they are objectively quantifiable monetary damages. In other words, if a surgeon loses his hand and is unable to perform surgery again, the injury he will suffer is greater than that suffered by a carpenter who loses his hand due to medical malpractice and is never again able to do his job. Why? Well, under H.R. 5 the answer is simple: The surgeon makes more money, so his economic damages are greater. Not to worry, they tell us, both of them can get up to $250,000 in addition to soothe their wounds.

The same is true in the case of an injury suffered by a working mother when compared to a mother working inside the home. Do our friends on the other side of the aisle believe that those women's husbands or children will understand the difference?

At many jobs, the loss of a leg, for example, may not prevent a worker from earning a living. But it will make it difficult to enjoy "non-economic" pursuits like playing soccer with your kids, or basketball and volleyball with friends, or a multitude of other things that make life enjoyable.

Mr. Speaker, H.R. 5 instructs that the value of life is capped at economic losses plus $250,000. That seems inconsistent with the administration's recent characterization of the value of life as "immeasurable." Remarkably, our friends on the other side of the aisle have taken out their calculators, and they have measured the immeasurable. Perhaps they should call the White House, and let them know.

While the proponents of H.R. 5 appear already to have figured it all out, I want to ask them: How much is hugging your grandchildren worth? How much is kissing your husband or wife worth? How much is the ability to walk or to drive or to play a round of golf worth? How much is your ability to feed, bathe and clothe yourself worth? How much is seeing your children grow up worth? How much is your life worth?

I honestly don't know, and I don't think we should be answering those questions for every American either.

Whether it's losing a limb, or an eye, or just the freedom to be able to go where you want and do what you want, how many of us would trade a lifetime of disability or disfigurement, not to mention pain, for $250,000?

The very real consequence of this legislation is that it punishes the most economically vulnerable members of our society to the benefit of greedy insurance companies. It discriminates against children, against women, against older Americans, against ethnic minorities, against the poor. And for what, Mr. Speaker? History shows us the only winners emerging from H.R. 5 are the medical malpractice insurance carriers—not the doctors, hospitals and patients our friends on the other side of the aisle purportedly seek to help.

I urge you to vote against this ill-conceived and mean-spirited legislation.

Ms. SCHAKOWSKY. Mr. Speaker, I rise in strong opposition to H.R. 5, the so-called HEALTH Act. The civil justice system is about giving injured consumers their day in court, allowing them the opportunity to hold wrongdoers accountable, recover damages and change dangerous behaviors. H.R. 5 is a frontal assault on those consumer rights.

H.R. 5 is a dangerous, anti-consumer bill that would impose an arbitrary ceiling $250,000—on the amount a patient injured by medical malpractice, HMO denials, nursing home abuse or defective drugs or medical devices could receive for noneconomic damages, no matter how devastating the injury. In many cases, the victim may have few out-of pocket losses, but suffer great harm. For example, an 18–year old woman who loses her ability to have a child for the rest of her life may suffer no monetary loss. Under H.R. 5, the most she could recover in a medical malpractice lawsuit would be $250,000.

Politicians should not impose arbitrary caps on non-economic damages. We are no substitute for a jury of one's peers, which has the ability to look at the facts and weigh the evidence in individual cases. There are some who say that it is appropriate to limit non-economic damages since economic damages are not capped. But non-economic damages are not "extras," they are not inconsequential. Unbearable and long-term pain, loss of sight and mobility, the inability to bear children, the loss of an infant or a grandparent—these may not be as easily quantifiable as lost wages but the losses are just as real. And, for many consumers who have been injured or lost a loved one, noneconomic damages might be the only damages available.

The National Citizens' Coalition for Nursing Home Reform has provided actual histories of nursing home residents harmed by medical negligence. Frances G's physician described her as "the victim of gross nursing home neglect. Her pressure sores and dehydration were inexcusable." Her nursing home was consistently understaffed, her physician's orders were repeatedly ignored, and she endured excruciating and continual pain from pressure sores but was given no pain medication. Gertrude H., according to charge nurses, was grossly neglected and suffered life-threatening pressure sores. Her physician stated that, "I have no doubt that Gertrude experienced severe and unrelenting pain from June 27, 2000 to February 6, 2001, from the deep, eroding pressure sores." Because both Frances and Gertrude were senior citizens, any compensation would come in the form of non-economic damages. Do my colleagues really believe that $250,000 is "reasonable" compensation for Frances and Gertrude and their families?

Children are also adversely affected by caps on non-economic damages. Shannon Hughes had a long and difficult labor. The doctor was called repeatedly and finally showed up at her 35th hour of labor. At 37 hours, the doctor performed an emergency C-section. The umbilical cord was twice wrapped around the child's neck. Tyler suffered cardiac arrest for 18 minutes. As a result, Tyler, who is now 7 years old, is severely brain-damaged and bedridden. He must be turned every two hours, is fed through a tube, suffers seizures daily and is non-communicative. Shannon says, "My son has no future but pain and suffering. No politician in Washington has the right to decide what is proper compensation for him." Like many parents, Shannon may need to use whatever noneconomic damages she received in order to pay for Tyler's care once her economic compensation runs out. In many instances, because of rising medical costs and new technologies, the damages awarded for medical care run out while the medical bills keep coming.

Tyler survived, but many babies do not. Where medical malpractice results in the death of a child during labor, a mother most often will not have any physical injury but only emotional distress of losing her child. In this case, under the proposal by H.R. 5, no amount of economic damages will be awarded, and the non-economic damages would be capped at $250,000.

Non-economic damage caps have a disproportionate effect on women who work inside the home, children, senior citizens, children and low wage-earners who are more likely to receive a greater percentage of their compensation in the form of non-economic damages if they are injured. But caps on damages are not the only anti-consumer provisions in this legislation.

In addition to the arbitrary ceiling on non-economic damages, H.R. 5 lets wrongdoers—those found guilty of medical malpractice—decide whether to pay damages on a periodic basis, even if the injured consumer wants and needs damages paid upfront.

H.R. 5 eliminates joint and several liability. This means that a consumer injured by more than one wrongdoer will not be fully compensated if one of those wrongdoers declares bankruptcy or cannot pay their share.

H.R. 5 eliminates the collateral source rule, which could mean that an injured consumer's health insurer—not the wrongdoer—pays the medical bill.

H.R. 5 also places limits on punitive damages, gives special protections for drug companies and medical device manufacturers, caps attorneys' fees for plaintiffs but not defendants, and shortens the statute of limitations. Finally, it includes a state preemption provision that leaves in place state laws more favorable to medical providers and organizations while overturning state laws more favorable to injured consumers.

While it is clear what H.R. 5 would do in terms of eliminating consumers' rights, it is equally clear what it won't do. No insurance company executive has yet to come forward to say that passage of H.R. 5 would reduce medical malpractice premiums. In fact, according to American Insurance Association spokesman Dennis Kelly, quoted in the January 3, 2005 Chicago Tribune, "We have not promised price reductions with tort reform." The General Counsel for the American Tort Reform Association admitted that "There is no question that it is very rare that frivolous suits are brought against doctors. They are too expensive to bring." (Los Angeles Times, 10/22/04).

At the same time, multiple studies have indicated that medical malpractice premiums are not connected to jury award or settlement levels. A recent analysis of the top 15 medical malpractice insurers found no rise in payouts from 2000 to 2004, at the same time that premiums doubled. Some companies significantly increased premiums while their claims actually decreased. A study by the Economic Policy Institute found that the number of tort cases fell 4 percent from 1993 to 2002 and that the real causes of higher premiums were economic factors and insurers' investment decisions.

H.R. 5 takes away consumers' rights and particularly hurts women, children and seniors, while doing nothing to help doctors with high malpractice insurance premiums. I urge my colleagues to vote "no" on H.R. 5.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to express my opposition to H.R. 5, the HEALTH Act of 2005. I rise to oppose this legislation, not because I do not recognize the crisis that is brewing in the area of medical malpractice insurance, but because this legislation tries to remedy this crisis with the wrong prescription.

Many of my distinguished colleagues on both sides of the aisle have expressed their concern regarding the access to healthcare that their constituents face. We all recognize this is a major problem in our country. In addition, physicians are constantly under increased pressure throughout the nation to deal with the increased burden that high malpractice premiums pose to their livelihood. In my home state of Illinois, only two neurosurgeons can be found south of Springfield because malpractice insurance rates are so out-of-control. Due to this shortage of neurosurgeons, patients with serious brain injuries are airlifted to St. Louis, many times costing them valuable minutes that can mean the difference between life and death. To remedy this situation as well as the overall problem of liability premium increases, my state imposed caps on non-economic damages to offer a quick fix to keep fleeing doctors. Currently, there are some 21 other states with similar caps.

While caps give the appearance of remedying this crisis in some states, they do nothing to stem the tide of "frivolous lawsuits." Frivolous lawsuits by definition are lawsuits without merit. According to the Physicians Insurers Association of America, the trade group representing physician-owned insurance companies, 70% of malpractice lawsuits are dismissed and only 0.8% of cases actually go through a trial and reach a verdict in favor of the plaintiff.

Advocates of caps argue that this 0.8% is what drives up the cost of malpractice insurance. They argue that out-of-control jury awards drive up malpractice premiums. Are we to assume that this 0.8% of cases which go through fair trial, find in favor of the plaintiff, are in fact "frivolous"? I would argue that the 70% of cases which are dismissed are the "frivolous cases," and this 0.8% represents many egregious cases of malpractice.

Without addressing this problem, this bill does nothing to stop "frivolous lawsuits," it only limits the claims of a person who suffers a terrible and often extreme example of malpractice. Minor injuries or pain and suffering do not receive massive awards. I ask my colleagues, if you or one of your family members suffered a tremendously egregious example of malpractice, would you want to be limited in what you or your family member could be compensated? I am sure your response, much as mine is that you would not.

My colleagues, we can debate over and over again on legislation such as this, but all the debate in the world will not lead to solving this problem when we are headed in a direction such as this. As many of my colleagues have pointed out, a recent study of the 15 largest malpractice insurers in the country found that insurers substantially increased their net premiums by an average of 120% while both their payments and projected future claims payments were flat or decreasing over the past few years. This directly contradicts the insurance industry's claims that premiums are increasing due to increased jury awards. Many of these same insurers even admit that capping malpractice awards will not reverse the trend of rising premiums. The malpractice insurance industry is unjustifiably raising their premiums, gouging doctors, and pushing for legislation that only does one thing: pits doctors against their patients.

If Congress is really serious about fixing this problem it will develop a system which benefits patients most while sidelining the interests of big business. Physicians are in the business of caring for patients, and I appreciate the burden they face with increased malpractice premiums. I am fully aware that this burden affects their ability to practice the profession they love. I only hope that in this struggle to find a remedy to this problem, the few patients who are harmed as a result of malpractice will not be further harmed by a limit on a just compensation.

Mr. LANGEVIN. Mr. Speaker, I rise today in strong opposition to H.R. 5, the Help Efficient, Accessible, Low Cost, Timely Health Care (HEALTH) Act. It is irresponsible to limit patients' access to the civil justice system, particularly without any guaranteed decrease in the cost of malpractice insurance coverage. This measure contains no provision requiring insurers to lower their rates once these so-called reforms are in place. As a result, it would leave countless patients deprived of relief while failing completely to help our struggling health providers.

Like many of my colleagues, I am deeply troubled by the rising cost of malpractice insurance. Doctors across the country are being adversely affected by an increase in medical liability insurance premiums. These increases are making it more costly for physicians to practice, and rising insurance rates could eventually mean that patients no longer will have easy access to medical care. Doctors completing residencies in expensive areas are seeking better rates elsewhere, and physicians already in the market are leaving. I recognize that this is becoming a national crisis.

There is wide agreement that something must be done to ensure reasonable rates and protect access to health care. Unfortunately, the leadership has presented us with a partisan bill, identical to that which we voted on in two previous Congressional sessions. Nothing in this legislation would decrease premium costs or increase the availability of medical malpractice insurance. Instead, it would make detrimental changes to the health care liability system that would extend beyond malpractice and compromise the ability of patients and other health care consumers to hold pharmaceutical companies, HMO's and health care and medical products providers accountable.

Once again, we are presented with a bill that the leadership claims will lower costs of medical liability insurance for doctors, but fails to address the rate-setting process followed by the insurance industry. Insurance companies benefit from a federal exemption to antitrust laws, which allows them to collectively raise premiums without fear of prosecution. A recent study of the annual statements of the 15 largest medical malpractice insurers found that insurers substantially increased their premiums while both their claims payments and projected future claims payments were decreasing. Other studies suggest that rate changes in premiums are closely tied to the fluctuations of the stock market—not the increases in claims from frivolous lawsuits.

Perhaps most troubling to me is that nothing in this bill stipulates that savings earned as a result of the "reforms" must be passed along to doctors, through a lowering of their own insurance costs. In light of the lack of transparency requirements of the insurance industry, there is no mechanism to hold them accountable to actually lower costs. I believe this must be the crux of any meaningful reform measure.

I recognize that the rapid increase in insurance premiums is having real effects on the health care industry. Not only does it drive up the cost of health care for consumers and doctors—it is having an impact on the medical professional workforce. Residents are being encouraged to enter lower-risk fields of practice and doctors are making decisions about their careers based the costs of insurance.

The Democratic motion to recommit proposes to address these issues by allowing patients to seek redress and providing assistance to physicians and hospitals in need. Specifically, this alternative would end frivolous lawsuits by requiring affidavits to be filed by qualified specialists certifying that the case is meritorious. It would also establish an independent advisory commission to explore the impact of malpractice insurance rates, particularly in areas where health care providers are lacking. These are the steps that we must take in order to adequately address this problem.

In addition to meaningful systemic reform, any responsible approach to the issues of medical malpractice insurance costs should include efforts to reduce medical errors in the first place. Reports show that there preventable medical errors that kill nearly 100,000 hospital patients a year. The utilization of electronic health records at our hospitals can go a long way in this effort. The Veteran's Administration (VA), which relies heavily on information technology, has been the first large health system in the nation to replace paper charts with this fully electronic record. Electronic medical records and the efficient use of technology can be a significant agent for change in health care quality across all settings, reducing not only inefficiencies, but the number of medical errors as well.

Mr. Speaker, I urge my colleagues to oppose the underlying bill, support the Democratic alternative and commit to working together on reform measures that will result in significant change, benefiting doctors and consumers alike.

Mr. SHUSTER. Mr. Speaker, I rise today to urge my colleagues to support H.R. 5, the HEALTH Act.

This country's health care system and its providers are currently faced with a crisis in regard to medical liability coverage. Skyrocketing malpractice insurance premiums have taken an enormous toll on the physicians and hospitals in my district in Western and

Central Pennsylvania. I have encountered many situations all over the communities that make up the 9th district where doctors have moved to lower-liability states, have reduced the scope of their practices, or have chosen to retire in the face of this growing malpractice crisis. This must not be allowed to continue.

I strongly disagree with those that would say there is no problem. Currently, only 4 percent of physicians practicing in Pennsylvania are under the age of 35 and students graduating from our medical schools are choosing not to stay and practice in State. As our older doctors retire or limit their practices there is no one to continue their important work. This real and increasing threat to patients' access to quality care cannot be ignored. The medical liability system in this country is in desperate need of reform.

We must act now to reverse a dangerous litigious trend that is eliminating doctors faster than we can replace them. I urge my colleagues to support and vote in favor of H.R. 5.

Mr. SALAZAR. Mr. Speaker, today, the House of Representatives will debate and vote on a proposal that supporters claim will solve the problem of increasingly unaffordable medical malpractice insurance premiums for our Nation's doctors. They argue that outrageous jury awards are to blame for rising healthcare costs.

I am afraid this bill is not the end-all, save-all solution to our health care crisis; and, in fact, I fear it will do nothing to relieve the burden our doctors face. If we are serious about lowering the cost of medical malpractice insurance why aren't we addressing the issue of insurance reform or ways in which we can weed out bad doctors, or for that matter, trial lawyers who abuse the court system?

This bill does little more than set a 1970's era cap on jury awards for medical malpractice cases, an action which will only hurt those who are already suffering—the patients and their loved ones.

An analysis of State by State medical malpractice insurance premiums, obtained from the Medical Liability Monitor, compared with caps on damages reveals no conclusive evidence these caps work. In fact, according to one survey, insurance premiums in states with caps were on average $4170 higher than those in States without caps.

This bill goes much further than simply addressing the medical malpractice insurance dilemma; it even sets caps on damages for nursing home neglect, unsafe prescription drugs, and a variety of other health-related industries. In 2004, Congress and others raised questions about the safety and effectiveness of several FDA-approved biomedical products on the market, including certain antidepressants, Merck's pain relief drug, Vioxx, Boston Scientific's cardiac stents, and other drugs and medical devices. Evidence has suggested that there were problems with these items during clinical trials.

Does this Congress really want to protect companies who knowingly put dangerous products on the market? I know I don't.

H.R. 5 does not go nearly far enough to address the climbing medical malpractice insurance rates or the healthcare crisis our constituents are trying to negotiate. I again pose the questions, why doesn't this bill address the insurance industry; why aren't we trying to weed out bad doctors; or punish trial lawyers who abuse the system?

We need something more than caps on jury awards to lower the cost of health care in this country.

Mr. CARDIN. Mr. Speaker, I rise in opposition to this bill. I support reform of our nation's medical liability system. I also believe that doctors and medical institutions who are experiencing unsustainable increases in their malpractice premiums deserve relief. Before coming to Congress, as Speaker of the Maryland House of Delegates, I worked to craft legislation that brought significant changes at the state level, including reasonable caps on non-economic damages. It worked well to hold down the cost of premiums and make our State's malpractice system a much fairer one.

The problems in our Nation's medical liability system require a multi-faceted approach that includes addressing the causes of premium increases, reducing the number of frivolous lawsuits, and limiting the number of medical errors. I support enacting fair reforms that will continue to permit injured patients to hold wrongdoers accountable, and I am willing to support legislation that provides for reasonable caps on non-economic and punitive damages.

In recent years, I have seen so-called malpractice "reform" bills come to the floor of this House. Those bills provided an inequitable approach—limiting patients' access to the courts and imposing strict limits on compensation for their injuries, no matter how serious the injury or how egregious the malpractice, while doing nothing to lower malpractice premiums. Fortunately, they were not enacted into law.

I had hoped that this year's legislation would be the product of careful deliberation at the committee level. I had hoped that the authors would take into consideration the rights of patients and balance them carefully with the need to alleviate the burden of escalating malpractice insurance costs. Unfortunately, once again this year, the bill before us does neither. In fact, the leadership has simply rolled out a bill that is nearly identical to the one we considered in the last Congress. There were no hearings, no markups, and today, there are no opportunities to amend the bill. The same bill, the same bill number, the same disregard for the rights of patients, the same ineffectual approach to helping physicians.

Mr. Speaker, I want to call attention to a few aspects of this bill. First, this bill contains an arbitrary cap of $250,000 on non-economic damages. Non-economic awards compensate patients and their families for real injuries, and sharply capping them will disproportionately hurt families, children, seniors, and others who have lower or fixed incomes.

Second, H.R. 5 provides a shield against punitive damages for manufacturers of prescription drugs and medical devices as long as they have been approved by the U.S. Food and Drug Administration. At one time, the FDA shield might have been less controversial. After all, the FDA has long been considered the gold standard for prescription drug quality and safety, and for years its seal of approval was viewed by the American public as a guarantee that drugs were safe. But in light of developments related to several other pharmaceuticals approved by the FDA, this provision is truly baffling. Cases involving life-threatening complications from these drugs have raised fundamental questions about the safety determinations made by the FDA.

In 2004, the Energy and Commerce Committee held hearings to examine safety Issues surrounding the prescribing of antidepressants to children. At that time, several members of the Committee criticized the FDA for failing to take prompt action to address these concerns. Last September, Vioxx was withdrawn from the market after a study showed it doubled the risk of heart attacks and strokes in patients taking the drug for more than 18 months. Since then, it has been reported that more than 130,000 persons have suffered heart attacks as a result of taking Vioxx. Richard Matthews of Thurmont, Maryland, was one of the first reported fatalities from Vioxx. According to an Associated Press account, Richard's wife, Lisa, said her husband had no previous heart problems and died in 2002 at age 42 of a heart arrhythmia only a few days after he began taking Vioxx. Several Congressional committees have responded to these events by initiating investigations of drug safety issues, including the FDA's procedures for evaluating the safety of prescription drugs.

Given the questions that have arisen about FDA's effectiveness, it is truly astonishing that the leadership is here promoting a bill that prohibits the awarding of any punitive damages and limits non-economic damages for drugs and devices approved by the FDA. This bill, H.R. 5, was referred to the Energy and Commerce Committee, the same committee that acknowledged problems at the FDA. Did the committee's members try to amend this bill to strike or tone down the FDA provision? There was no opportunity. H.R. 5 was introduced one week ago, July 21, referred to the Judiciary and Energy and Commerce Committees, which did not hold a hearing or mark-up, and then brought to the floor today. The FDA shield is an irresponsible provision that should have been stricken from this bill. We have no opportunity to strike it today, because an amendment that would have done so was not made in order by the Rules Committee. It may endanger the health and lives of thousands of Americans. It will certainly deny them the opportunity to receive fair compensation when they are injured.

Third, I firmly believe that we must reduce medical errors in our health care system if we are to reduce the number of malpractice cases. It has been nearly six years since the 1999 report of the Institute of Medicine, IOM, entitled "To Err Is Human: Building A Safer Health System." That report focused a great deal of attention on the issue of medical errors and patient safety. IOM estimated that between 44,000 and 98,000 people die in hospitals each year as the result of medical errors.

Even using the lower estimate, this would make medical errors the eighth leading cause of death in this country, higher than motor vehicle accidents, breast cancer, or AIDS. This House has just passed S. 544, legislation intended to reduce medical errors and improve patient safety. But its passage by a nearly unanimous vote of 428 to 3 is a clear indication that Congress knows there are valid cases whose victims deserve their day in court. The patient safety bill has not yet been signed into law. I hope it will be law soon, and that it will help improve patient safety. But each case is an individual case, and those who are harmed by medical errors deserve just compensation for their injuries.

Finally, I must question why the authors of this bill are not addressing malpractice insurance premium increases in this bill. The provisions of H.R. 5 would not reduce the rates that insurance companies charge providers. We have an alternative that would directly address the problems of frivolous lawsuits and insurance industry abuses. But once again this year, the base bill, H.R. 5, contains no provisions that will lower malpractice premiums.

Mr. Speaker, I must tell you, malpractice premium costs are the reason that providers ask me to support medical malpractice reform. These are practitioners who truly love their professions, and they are troubled by dramatic increases in their malpractice rates, increases that they must pay whether or not there have been any malpractice claims filed against them in the past year. They say that they want to continue practicing medicine next year, but they may not be able to afford to. When I ask if they would like to see provisions in the bill that limit their premium increases, they emphatically reply yes. So it is puzzling that this bill, which the authors say was written to help physicians stay in business, fails to address their central concern by even monitoring insurance companies' rate hikes. In fact, there are no provisions anywhere in the bill that affect malpractice insurers.

In sum, H.R. 5 represents a missed opportunity for this House. We could have produced a bill that would truly make a difference, in lowering malpractice premiums, in placing reasonable caps on non-economic damages. I am disappointed that we don't have a better bill, a more responsible bill that we can vote on today. I urge my colleagues to reject this approach, which will do nothing to improve access to care, nothing to hold insurance companies accountable for premium increases, and nothing to make our nation's medical liability system more fair.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I rise in opposition to H.R. 5, the Republican Medical Malpractice legislation. This flawed bill provides sweeping liability protections to pharmaceutical and insurance companies, provides inadequate protections for doctors, and will do nothing to lower health care costs.

Doctors are rightly frustrated over the significant increases in medical liability insurance premiums and I am truly concerned that additional costs make it more difficult for physicians to stay in practice. However, I do not believe that this legislation addresses the real problem, which lies with the insurance companies.

Republicans have for years claimed that the rising costs of malpractice insurance are due to a dramatic increase in malpractice lawsuits. However, a recent study of the 15 largest insurance companies shows that over the past 5 years, premiums have doubled while claims payments have been reduced or remained static. This study proves that insurance companies are simply increasing their profits on the backs of our physicians.

Another totally outrageous provision of this bill is the sweeping liability protection for pharmaceutical companies. This bill states that if a product has gone through the Food and Drug Administration approval process, no punitive damages can be awarded against the manufacture of the device or drug later. If this were to become law, the manufacturers of Vioxx would be protected from lawsuits from the families of those harmed or killed by this faulty medication. It is unacceptable to put into law that pharmaceutical and insurance companies are without accountability when their products or decisions knowingly cause harm.

This Republican bill will hurt patients who are harmed by medical malpractice by arbitrarily capping damages and denying justice to injured patients and their families. This is not only unfair, it is unnecessary. New information shows that there is no link between the existence of malpractice caps and insurance premiums.

Finally, because medical malpractice accounts for less than one percent of national health care costs, this legislation will do nothing to reduce health care premiums. Families across America are struggling to afford quality health care and the numbers of uninsured are on the rise. We need to address the real issues involved in the dramatic increase in health care costs, such as the cost of prescription drugs, provider shortages, uninsurance, and the cost of new technologies.

This Congress must become serious about increasing access to quality health care. We need to put families, not pharmaceutical companies, first. I support the Democratic substitute which would have weeded out frivolous lawsuits but allowed justice for injured patients. Democrats were ready to take steps to really reduce insurance premiums by requiring insurance companies to give half of their savings to reductions in medical malpractice rates for doctors. Finally, this substitute would create a commission to evaluate the real causes of increases in premiums as well as insurance reform proposals. We all recognize that this is an important issue. This substitute will give us an opportunity to work together, with accurate information, to make real progress for patients and providers.

Ms. KILPATRICK of Michigan. Mr. Speaker, I rise today in opposition to H.R. 5, Help Efficient, Accessible, Low-Cost, Timely Healthcare (HEALTH) Act. This bill would hurt patients who are harmed by medical malpractice by arbitrarily capping damages, denying justice to injured patients and their families.

This bill makes a number of changes to current law affecting medical malpractice lawsuits filed in Federal and State court, including limiting the amount of non-economic and punitive damages that could be awarded to a plaintiff, and restricting the contingency fees that can be charged by attorneys. The bill also preempts State laws that conflict with the enforcement of any of its provisions. The measure does not, however, pre-empt any State statutory limits on the amount of compensatory, punitive or total damages awarded in health care lawsuits. The provisions of the measure dealing with caps on awards would apply only to those States that have no statutory limits on damage awards in health care lawsuits.

The bill seriously restricts the rights of injured patients to be compensated for their injuries, while rewarding insurance companies for bad investment decisions and doctors for practicing bad medicine. In the 13th District of Michigan and in many districts across the country, physicians have either retired prematurely or relocated their practices. The supporters of this bill claim their proposal would reduce insurance costs for doctors. This bill does not lower premiums for doctors, contains no insurance reforms, and would not address the rising cost of health care.

Mr. Speaker, I urge all of my colleagues to support the Democratic substitute, which would directly address rising premiums by reforming malpractice insurance and stopping frivolous lawsuits. The Democratic substitute does not restrict the rights of injured patients who file meritorious claims. It requires certification, with civil penalties, that a pleading is not frivolous, factually inaccurate or designed to harass. It includes a 3-year statute of limitation; establishes an alternative dispute resolution process; limits suits for punitive damages; and applies 50 percent of awards from any punitive damages to a patient safety fund at HHS. Finally, it requires insurance companies to develop a plan to give 50 percent of their savings to reductions in medical malpractice rates for doctors.

It is unfortunate the Democratic Substitute was not adopted. H.R. 5 in its present form does not address rising premiums and denies justice to injured patients and their families.

Vote against H.R. 5.

Ms. CORRINE BROWN of Florida. Mr. Speaker, we need a fix for our healthcare system, but H.R. 5 is not it. Limiting patient's legal redress and compensation is not it. The punishment should fit the crime and if a doctor or drug company does harm knowingly or negligently to a patient they should be compensated to make them whole. That is the standard and it should be decided on a case by case basis according to the facts of each case. It makes me very uncomfortable to place a cap and effectively a dollar amount on what an impact an injury has on an individual's life.

The main group that benefits are big drug companies who will be able to evade their responsibilities injured parties.

The bill will seriously restrict the rights of injured patients to be compensated for their injuries, while rewarding insurance companies for bad investment decisions and doctors for practicing bad medicine. It will do almost nothing to make insurance more affordable or available for doctors. That is the bottom line. In a State like Florida where topic of healthcare is on the tip of every tongue it is important that we take the right steps to solve our mounting healthcare costs.

I am sensitive to the physicians and medical students who plead with me to make it affordable to practice. I know that physicians are now being forced to make specialty choices based on how much malpractice insurance costs, but let's be honest to our colleagues if not these poor students, the Republican leadership has trotted this bill out for purely political purposes—no hearings were held on the measure, nor did either committee with jurisdiction mark up the bill. This bill was only introduced last week.

If H.R. 5 becomes law, this bill would have serious consequences for sick and injured patients. The measure's $250,000 cap on noneconomic damages will hurt those at the bottom of the income scale the most. While corporate chief executive officers would receive economic damage awards that could easily reach into the millions of dollars, minimum-wage workers and stay-at-home moms would receive a pittance. The cap on punitive damages is similarly unjust. It imposes an impossibly high standard of proof, completely eviscerates the deterrent that effect punitive damages have on egregious misconduct of defendants, and would not affect how large drug companies test and market their products.

When investment income decreased because of stock market declines, insurance companies hiked premiums, reduced coverage and then blamed the legal system for a "liability insurance crisis." This bill also contorts the American legal system, first by taking the issue of tort litigation out of the hands of the states, where it has traditionally resided, and by severely limiting juries' abilities to adequately compensate victims of malpractice. We place our trust in juries every day to judge the facts and to decide what constitutes justice. If we can trust juries to make life and death decisions on death-penalty cases, we can surely trust them to decide the appropriate level of compensation for those injured by medical malpractice.

Our current tort system is the great equalizer in the civil justice system—it allows ordinary citizens to take on billion-dollar companies and millionaire doctors defended by $500–an-hour lawyers so they can get the compensation they deserve. The contingency fee system also deters frivolous lawsuits—no lawyer would agree to take on a case he believed would result in no award for his client and no payment for himself.

Tort reformers often ridicule million-dollar jury awards, saying that the plaintiffs must feel like they have won the lottery. Tell that to the parents of the 17-year-old transplant patient who died after being given organs with the wrong blood type, or the Wisconsin woman who had a double mastectomy, only to discover after the operation that the lab had made a mistake and she did not have breast cancer after all. It is doubtful that any family that loses a loved one or suffers years of pain and suffering because of a medical error feels like celebrating after fighting their way through the court system and finally receiving compensation.

The Institute of Medicine estimated in 1999 that as many as 98,000 people are killed by medical errors every year—that is as many people as live in the president's old hometown of Midland, Texas. Instead of penalizing innocent victims of medical malpractice, Congress should be focusing on reducing the number of mistakes made. According to data from the National practitioner Database, 5 percent of all doctors are responsible for 54 percent of malpractice claims paid. The medical profession needs to crack down on these repeat offenders. It is disgraceful that the House leadership is using this bill as filler round out its "health care" theme for next week's floor schedule. Medical malpractice insurance rates and medical errors are important issues that reserve the full attention of Congress. These issues need to be studied by Congress in a bipartisan manner to address both problems and should not be used as political fundraising tools.

Mr. SMITH of Texas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHAW). Pursuant to House Resolution 385, the bill is considered read and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

### MOTION TO RECOMMIT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. CONYERS. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Conyers moves to recommit the bill H.R. 5 to the Committee on the Judiciary and the Committee on Energy and Commerce with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medical Malpractice and Insurance Reform Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—LIMITING FRIVOLOUS MEDICAL MALPRACTICE LAWSUITS

Sec. 101. Statute of limitations.
Sec. 102. Health care specialist affidavit.
Sec. 103. Sanctions for frivolous actions and pleadings.
Sec. 104. Mandatory mediation.
Sec. 105. Limitation on punitive damages.
Sec. 106. Reduction in premiums paid by physicians for medical malpractice insurance coverage.
Sec. 107. Definitions.
Sec. 108. Applicability.

TITLE II—INDEPENDENT ADVISORY COMMISSION ON MEDICAL MALPRACTICE INSURANCE

Sec. 201. Establishment.
Sec. 202. Duties.
Sec. 203. Report.
Sec. 204. Membership.
Sec. 205. Director and staff; experts and consultants.
Sec. 206. Powers.
Sec. 207. Authorization of appropriations.

## TITLE I—LIMITING FRIVOLOUS MEDICAL MALPRACTICE LAWSUITS

### SEC. 101. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—A medical malpractice action shall be barred unless the complaint is filed within 3 years after the right of action accrues.

(b) ACCRUAL.—A right of action referred to in subsection (a) accrues upon the last to occur of the following dates:

(1) The date of the injury.

(2) The date on which the claimant discovers, or through the use of reasonable diligence should have discovered, the injury.

(3) The date on which the claimant becomes 18 years of age.

(c) APPLICABILITY.—This section shall apply to any injury occurring after the date of the enactment of this Act.

### SEC. 102. HEALTH CARE SPECIALIST AFFIDAVIT.

(a) REQUIRING SUBMISSION WITH COMPLAINT.—No medical malpractice action may be brought by any individual unless, at the time the individual brings the action (except as provided in subsection (b)(1)), it is accompanied by the affidavit of a qualified specialist that includes the specialist's statement of belief that, based on a review of the available medical record and other relevant material, there is a reasonable and meritorious cause for the filing of the action against the defendant.

(b) EXTENSION IN CERTAIN INSTANCES.—

(1) IN GENERAL.—Subject to paragraph (2), subsection (a) shall not apply with respect to an individual who brings a medical malpractice action without submitting an affidavit described in such subsection if, as of the time the individual brings the action, the individual has been unable to obtain adequate medical records or other information necessary to prepare the affidavit.

(2) DEADLINE FOR SUBMISSION WHERE EXTENSION APPLIES.—In the case of an individual who brings an action for which paragraph (1) applies, the action shall be dismissed unless the individual (or the individual's attorney) submits the affidavit described in subsection (a) not later than 90 days after obtaining the information described in such paragraph.

(c) QUALIFIED SPECIALIST DEFINED.—In subsection (a), a "qualified specialist" means, with respect to a medical malpractice action, a health care professional who is reasonably believed by the individual bringing the action (or the individual's attorney)—

(1) to be knowledgeable in the relevant issues involved in the action;

(2) to practice (or to have practiced) or to teach (or to have taught) in the same area of health care or medicine that is at issue in the action; and

(3) in the case of an action against a physician, to be board certified in a specialty relating to that area of medicine.

(d) CONFIDENTIALITY OF SPECIALIST.—Upon a showing of good cause by a defendant, the court may ascertain the identity of a specialist referred to in subsection (a) while preserving confidentiality.

### SEC. 103. SANCTIONS FOR FRIVOLOUS ACTIONS AND PLEADINGS.

(a) SIGNATURE REQUIRED.—Every pleading, written motion, and other paper in any medical malpractice action shall be signed by at least 1 attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address and telephone number, if any. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

(b) CERTIFICATE OF MERIT.—(1) A medical malpractice action shall be dismissed unless the attorney or unrepresented party presenting the complaint certifies that, to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances,—

(A) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) the claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(C) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

(2) By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information and belief, formed after an inquiry reasonable under the circumstances—

(A) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(B) the claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law; and

(C) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are reasonable based on a lack of information or belief.

(c) MANDATORY SANCTIONS.—

(1) FIRST VIOLATION.—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated, the court shall find each attorney or party in violation in contempt of court and shall require the payment of costs and attorneys fees. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit, and sanctions plus interest, upon the person in violation, or upon both such person and such person's attorney or client (as the case may be).

(2) SECOND VIOLATION.—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated and that the attorney or party with respect to which the determination was made has committed one previous violation of subsection (b) before this or any other court, the court shall find each such attorney or party in contempt of court and shall require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit and sanctions plus interest, upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

(3) THIRD VIOLATION.—If, after notice and a reasonable opportunity to respond, a court, upon motion or upon its own initiative, determines that subsection (b) has been violated and that the attorney or party with respect to which the determination was made has committed more than one previous violation of subsection (b) before this or any other court, the court shall find each such attorney or party in contempt of court, refer each such attorney to one or more appropriate State bar associations for disciplinary proceedings, require the payment of costs and attorneys fees, and require such person in violation (or both such person and such person's attorney or client (as the case may be)) to pay a monetary fine. The court may also impose additional appropriate sanctions, such as striking the pleadings, dismissing the suit, and sanctions plus interest, upon such person in violation, or upon both such person and such person's attorney or client (as the case may be).

**SEC. 104. MANDATORY MEDIATION.**

(a) IN GENERAL.—In any medical malpractice action, before such action comes to trial, mediation shall be required. Such mediation shall be conducted by one or more mediators who are selected by agreement of the parties or, if the parties do not agree, who are qualified under applicable State law and selected by the court.

(b) REQUIREMENTS.—Mediation under subsection (a) shall be made available by a State subject to the following requirements:

(1) Participation in such mediation shall be in lieu of any alternative dispute resolution method required by any other law or by any contractual arrangement made by or on behalf of the parties before the commencement of the action.

(2) Each State shall disclose to residents of the State the availability and procedures for resolution of consumer grievances regarding the provision of (or failure to provide) health care services, including such mediation.

(3) Each State shall provide that such mediation may begin before or after, at the option of the claimant, the commencement of a medical malpractice action.

(4) The Attorney General, in consultation with the Secretary of Health and Human Services, shall, by regulation, develop requirements with respect to such mediation to ensure that it is carried out in a manner that—

(A) is affordable for the parties involved;

(B) encourages timely resolution of claims;

(C) encourages the consistent and fair resolution of claims; and

(D) provides for reasonably convenient access to dispute resolution.

(c) FURTHER REDRESS AND ADMISSIBILITY.—Any party dissatisfied with a determination reached with respect to a medical malpractice claim as a result of an alternative dispute resolution method applied under this section shall not be bound by such determination. The results of any alternative dispute resolution method applied under this section, and all statements, offers, and communications made during the application of such method, shall be inadmissible for purposes of adjudicating the claim.

**SEC. 105. LIMITATION ON PUNITIVE DAMAGES.**

(a) IN GENERAL.—Punitive damages may not be awarded in a medical malpractice action, except upon proof of—

(1) gross negligence;

(2) reckless indifference to life; or

(3) an intentional act, such as voluntary intoxication or impairment by a physician, sexual abuse or misconduct, assault and battery, or falsification of records.

(b) ALLOCATION.—In such a case, the award of punitive damages shall be allocated 50 percent to the claimant and 50 percent to a trustee appointed by the court, to be used by such trustee in the manner specified in subsection (d). The court shall appoint the Secretary of Health and Human Services as such trustee.

(c) EXCEPTION.—This section shall not apply with respect to an action if the applicable State law provides (or has been construed to provide) for damages in such an action that are only punitive or exemplary in nature.

(d) TRUST FUND.—

(1) IN GENERAL.—This subsection applies to amounts allocated to the Secretary of Health and Human Services as trustee under subsection (b).

(2) AVAILABILITY.—Such amounts shall be available for use by the Secretary of Health and Human Services under paragraph (3) and shall remain so available until expended.

(3) USE.—

(A) Subject to subparagraph (B), the Secretary of Health and Human Services, acting through the Director of the Agency for Healthcare Research and Quality, shall use the amounts to which this subsection applies for activities to reduce medical errors and improve patient safety.

(B) The Secretary of Health and Human Services may not use any part of such amounts to establish or maintain any system that requires mandatory reporting of medical errors.

(C) The Secretary of Health and Human Services shall promulgate regulations to establish programs and procedures for carrying out this paragraph.

(4) INVESTMENT.—

(A) The Secretary of Health and Human Services shall invest the amounts to which this subsection applies in such amounts as such Secretary determines are not required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(B) Any obligation acquired by the Secretary in such Secretary's capacity as trustee of such amounts may be sold by the Secretary at the market price.

**SEC. 106. REDUCTION IN PREMIUMS PAID BY PHYSICIANS FOR MEDICAL MALPRACTICE INSURANCE COVERAGE.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, each medical malpractice liability insurance company shall—

(1) develop a reasonable estimate of the annual amount of financial savings that will be achieved by the company as a result of this title;

(2) develop and implement a plan to annually dedicate at least 50 percent of such annual savings to reduce the amount of premiums that the company charges physicians for medical malpractice liability coverage; and

(3) submit to the Secretary of Health and Human Services (hereinafter referred to in this section as the "Secretary") a written certification that the company has complied with paragraphs (1) and (2).

(b) REPORTS.—Not later than one year after the date of the enactment of this Act and annually thereafter, each medical malpractice liability insurance company shall submit to the Secretary a report that identifies the percentage by which the company has reduced medical malpractice coverage premiums relative to the date of the enactment of this Act.

(c) ENFORCEMENT.—A medical malpractice liability insurance company that violates a provision of this section is liable to the United States for a civil penalty in an amount assessed by the Secretary, not to exceed $11,000 for each such violation. The provisions of paragraphs (3) through (5) of section 303(g) of the Federal Food, Drug, and Cosmetic Act apply to such a civil penalty to the same extent and in the same manner as such paragraphs apply to a civil penalty under such section.

(d) DEFINITION.—For purposes of this section, the term "medical malpractice liability insurance company" means an entity in the business of providing an insurance policy under which the entity makes payment in settlement (or partial settlement) of, or in satisfaction of a judgment in, a medical malpractice action or claim.

### SEC. 107. DEFINITIONS.

In this title, the following definitions apply:

(1) ALTERNATIVE DISPUTE RESOLUTION METHOD.—The term "alternative dispute resolution method" means a method that provides for the resolution of medical malpractice claims in a manner other than through medical malpractice actions.

(2) CLAIMANT.—The term "claimant" means any person who alleges a medical malpractice claim, and any person on whose behalf such a claim is alleged, including the decedent in the case of an action brought through or on behalf of an estate.

(3) HEALTH CARE PROFESSIONAL.—The term "health care professional" means any individual who provides health care services in a State and who is required by the laws or regulations of the State to be licensed or certified by the State to provide such services in the State.

(4) HEALTH CARE PROVIDER.—The term "health care provider" means any organization or institution that is engaged in the delivery of health care services in a State and that is required by the laws or regulations of the State to be licensed or certified by the State to engage in the delivery of such services in the State.

(5) INJURY.—The term "injury" means any illness, disease, or other harm that is the subject of a medical malpractice action or a medical malpractice claim.

(6) MANDATORY.—The term "mandatory" means required to be used by the parties to attempt to resolve a medical malpractice claim notwithstanding any other provision of an agreement, State law, or Federal law.

(7) MEDIATION.—The term "mediation" means a settlement process coordinated by a neutral third party and without the ultimate rendering of a formal opinion as to factual or legal findings.

(8) MEDICAL MALPRACTICE ACTION.—The term "medical malpractice action" means an action in any State or Federal court against a physician, or other health professional, who is licensed in accordance with the requirements of the State involved that—

(A) arises under the law of the State involved;

(B) alleges the failure of such physician or other health professional to adhere to the relevant professional standard of care for the service and specialty involved;

(C) alleges death or injury proximately caused by such failure; and

(D) seeks monetary damages, whether compensatory or punitive, as relief for such death or injury.

(9) MEDICAL MALPRACTICE CLAIM.—The term "medical malpractice claim" means a claim forming the basis of a medical malpractice action.

(10) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and any other territory or possession of the United States.

### SEC. 108. APPLICABILITY.

(a) IN GENERAL.—Except as provided in section 104, this title shall apply with respect to any medical malpractice action brought on or after the date of the enactment of this Act.

(b) FEDERAL COURT JURISDICTION NOT ESTABLISHED ON FEDERAL QUESTION GROUNDS.—Nothing in this title shall be construed to establish any jurisdiction in the district courts of the United States over medical malpractice actions on the basis of section 1331 or 1337 of title 28, United States Code.

## TITLE II—INDEPENDENT ADVISORY COMMISSION ON MEDICAL MALPRACTICE INSURANCE

### SEC. 201. ESTABLISHMENT.

(a) FINDINGS.—The Congress finds as follows:

(1) The sudden rise in medical malpractice premiums in regions of the United States can threaten patient access to doctors and other health providers.

(2) Improving patient access to doctors and other health providers is a national priority.

(b) ESTABLISHMENT.—There is established a national commission to be known as the "Independent Advisory Commission on Medical Malpractice Insurance" (in this title referred to as the "Commission").

### SEC. 202. DUTIES.

(a) IN GENERAL.—The Commission shall evaluate the causes and scope of the recent and dramatic increases in medical malpractice insurance premiums and formulate additional proposals to reduce such medical malpractice premiums and make recommendations to avoid any dramatic increases in medical malpractice premiums in the future, in light of proposals for tort reform regarding medical malpractice.

(b) CONSIDERATIONS.—In formulating proposals under this section, the Commission shall, at a minimum, consider the following:

(1) Alternatives to the current medical malpractice tort system that would ensure adequate compensation for patients, preserve access to providers, and improve health care safety and quality.

(2) Modifications of, and alternatives to, the existing State and Federal regulations and oversight that affect, or could affect, medical malpractice lines of insurance.

(3) State and Federal reforms that would distribute the risk of medical malpractice more equitably among health care providers.

(4) State and Federal reforms that would more evenly distribute the risk of medical malpractice across various categories of providers.

(5) The effect of a Federal medical malpractice reinsurance program administered by the Department of Health and Human Services.

(6) The effect of a Federal medical malpractice insurance program, administered by the Department of Health and Human Services, to provide medical malpractice insurance based on customary coverage terms and liability amounts in States where such insurance is unavailable or is unavailable at reasonable and customary terms.

(7) Programs that would reduce medical errors and increase patient safety, including new innovations in technology and management.

(8) The effect of State policies under which—

(A) any health care professional licensed by the State has standing in any State administrative proceeding to challenge a proposed rate increase in medical malpractice insurance; and

(B) a provider of medical malpractice insurance in the State may not implement a rate increase in such insurance unless the provider, at minimum, first submits to the appropriate State agency a description of the rate increase and a substantial justification for the rate increase.

(9) The effect of reforming antitrust law to prohibit anticompetitive activities by medical malpractice insurers.

(10) Programs to facilitate price comparison of medical malpractice insurance by enabling any health care provider to obtain a quote from each medical malpractice insurer to write the type of coverage sought by the provider.

(11) The effect of providing Federal grants for geographic areas that have a shortage of one or more types of health providers as a result of the providers making the decision to cease or curtail providing health services in the geographic areas because of the costs of maintaining malpractice insurance.

### SEC. 203. REPORT.

(a) IN GENERAL.—The Commission shall transmit to Congress—

(1) an initial report not later than 180 days after the date of the initial meeting of the Commission; and

(2) a report not less than each year thereafter until the Commission terminates.

(b) CONTENTS.—Each report transmitted under this section shall contain a detailed statement of the findings and conclusions of the Commission, including proposals for addressing the current dramatic increases in medical malpractice insurance rates and recommendations for avoiding any such dramatic increases in the future.

(c) VOTING AND REPORTING REQUIREMENTS.—With respect to each proposal or recommendation contained in the report submitted under subsection (a), each member of the Commission shall vote on the proposal or recommendation, and the Commission shall include, by member, the results of that vote in the report.

### SEC. 204. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members appointed by the Comptroller General of the United States.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The membership of the Commission shall include individuals with national recognition for their expertise in health finance and economics, actuarial science, medical malpractice insurance, insurance regulation, health care law, health care policy, health care access, allopathic and osteopathic physicians, other providers of health care services, patient advocacy, and other related fields, who provide a mix of different professionals, broad geographic representations, and a balance between urban and rural representatives.

(2) INCLUSION.—The membership of the Commission shall include the following:

(A) Two individuals with expertise in health finance and economics, including one with expertise in consumer protections in the area of health finance and economics.

(B) Two individuals with expertise in medical malpractice insurance, representing both commercial insurance carriers and physician-sponsored insurance carriers.

(C) An individual with expertise in State insurance regulation and State insurance markets.

(D) An individual representing physicians.

(E) An individual with expertise in issues affecting hospitals, nursing homes, nurses, and other providers.

(F) Two individuals representing patient interests.

(G) Two individuals with expertise in health care law or health care policy.

(H) An individual with expertise in representing patients in malpractice lawsuits.

(3) MAJORITY.—The total number of individuals who are directly involved with the provision or management of malpractice insurance, representing physicians or other providers, or representing physicians or

other providers in malpractice lawsuits, shall not constitute a majority of the membership of the Commission.

(4) ETHICAL DISCLOSURE.—The Comptroller General of the United States shall establish a system for public disclosure by members of the Commission of financial or other potential conflicts of interest relating to such members.

(c) TERMS.—

(1) IN GENERAL.—The terms of the members of the Commission shall be for 3 years except that the Comptroller General of the United States shall designate staggered terms for the members first appointed.

(2) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(3) COMPENSATION.—Members of the Commission shall be compensated in accordance with section 1805(c)(4) of the Social Security Act.

(4) CHAIRMAN; VICE CHAIRMAN.—The Comptroller General of the United States shall designate at the time of appointment a member of the Commission as Chairman and a member as Vice Chairman. In the case of vacancy of the Chairmanship or Vice Chairmanship, the Comptroller General may designate another member for the remainder of that member's term.

(5) MEETINGS.—

(A) IN GENERAL.—The Commission shall meet at the call of the Chairman.

(B) INITIAL MEETING.—The Commission shall hold an initial meeting not later than the date that is 1 year after the date of the enactment of this title, or the date that is 3 months after the appointment of all the members of the Commission, whichever occurs earlier.

**SEC. 205. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.**

Subject to such review as the Comptroller General of the United States deems necessary to assure the efficient administration of the Commission, the Commission may—

(1) employ and fix the compensation of an Executive Director (subject to the approval of the Comptroller General) and such other personnel as may be necessary to carry out its duties (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service);

(2) seek such assistance and support as may be required in the performance of its duties from appropriate Federal departments and agencies;

(3) enter into contracts or make other arrangements, as may be necessary for the conduct of the work of the Commission (without regard to section 3709 of the Revised Statutes (41 U.S.C. 5));

(4) make advance, progress, and other payments which relate to the work of the Commission;

(5) provide transportation and subsistence for persons serving without compensation; and

(6) prescribe such rules and regulations as it deems necessary with respect to the internal organization and operation of the Commission.

**SEC. 206. POWERS.**

(a) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the Chairman, the head of that department or agency shall furnish that information to the Commission on an agreed upon schedule.

(b) DATA COLLECTION.—In order to carry out its functions, the Commission shall—

(1) utilize existing information, both published and unpublished, where possible, collected and assessed either by its own staff or under other arrangements made in accordance with this section;

(2) carry out, or award grants or contracts for, original research and experimentation, where existing information is inadequate; and

(3) adopt procedures allowing any interested party to submit information for the Commission's use in making reports and recommendations.

(c) ACCESS OF GENERAL ACCOUNTING OFFICE TO INFORMATION.—The Comptroller General of the United States shall have unrestricted access to all deliberations, records, and nonproprietary data of the Commission, immediately upon request.

(d) PERIODIC AUDIT.—The Commission shall be subject to periodic audit by the Comptroller General of the United States.

**SEC. 207. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary to carry out this title for each of fiscal years 2006 through 2010.

(b) REQUESTS FOR APPROPRIATIONS.—The Commission shall submit requests for appropriations in the same manner as the Comptroller General of the United States submits requests for appropriations, but amounts appropriated for the Commission shall be separate from amounts appropriated for the Comptroller General.

Amend the title so as to read: "A bill to limit frivolous medical malpractice lawsuits, to reform the medical malpractice insurance business in order to reduce the cost of medical malpractice insurance, to enhance patient access to medical care, and for other purposes.".

Mr. CONYERS (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I am pleased to bring a motion to recommit that goes to the heart of the medical malpractice crisis. Rather than limiting the rights of legitimate malpractice victims, as the underlying bill actually does, our motion would directly address the problem of frivolous lawsuits and insurance industry abuses.

Title I of the substitute addresses the problem of frivolous lawsuits. Among other things, it would require that both an attorney and health care specialist submit an affidavit that the claim is warranted before a malpractice action can be brought, and imposes strict sanctions for attorneys who make any frivolous pleadings.

Unlike the majority's bill, our amendment is limited to licensed physicians and health care professionals for malpractice cases only. It does not include lawsuits against HMOs, insurance companies, nursing homes, and drug and device manufacturers. And it sure does not insulate the manufacturer of Vioxx from liability.

Title II establishes a national commission to evaluate the rising insurance premiums and to review whether the McCarran-Ferguson antitrust exemption for medical malpractice insurers should be repealed.

This is a good motion.

Mr. Speaker, I yield the balance of my time, the last 2½ minutes, to the gentlewoman from Colorado (Ms. DEGETTE).

Ms. DEGETTE. Mr. Speaker, Congress is faced with an irony today. We have identified a problem, and the problem is that doctors are going out of business because of their high medical malpractice insurance premiums. So what are we going to do? We are going to pass a bill that caps damages for victims injured by medical malpractice, but we are going to do nothing to reduce the premiums for these doctors.

☐ 1600

So doctors get no relief, and victims of malpractice get less. But wait, there is more. There is so much more to this bill. We have not heard one word today about the pressing problems the pharmaceutical industry has and how we need to give them immunity so they will keep making drugs. But yet that is what this bill does.

We have not heard one word today about how all of the nursing homes are going out of business because of the lawsuits against them, but we are giving them immunity today.

We have not heard a thing about the medical device manufacturers and how they will not make the titanium hip replacements or the insulin pumps, but yet we are giving them immunity today.

This bill goes further than any State law. It goes further than any law anybody would contemplate, and it is just a giveaway to the insurance industry, to the pharmaceutical industry, to the nursing home industry, and to the medical device manufacturers.

If we pass the Conyers-Dingell motion to recommit, we will send this bill back and we will do something that will really give relief to the doctors who face these high malpractice insurance premiums.

I urge a "yes" vote on the motion to recommit. If that fails, I urge a "no" vote on the underlying bill.

Mr. CONYERS. Mr. Speaker, I yield myself the balance of my time.

This motion to recommit sets up a limitation on malpractice cases being brought. It requires that there be an attorney and health care specialist to submit an affidavit that the claim is warranted; and then in the second part, we establish a national commission to evaluate the causes of rising health insurance premiums.

This motion to recommit protects legitimate victims, limits frivolous lawsuits, and gives us a much-needed opportunity to examine the real causes of the medical malpractice insurance crisis that has this Nation in its grip.

I urge my colleagues to support the motion to recommit so that we can deal with medical malpractice insurance as a crisis and not as a giveaway to the companies that have been named throughout this debate.

Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I rise to claim the time in opposition to the motion to recommit.

The SPEAKER pro tempore (Mr. SHAW). Is the gentleman opposed to the motion?

Mr. SMITH of Texas. Yes, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Texas. Mr. Speaker, the motion to recommit must be defeated because it contains zero legal protections for doctors beyond current law, and in some cases it actually makes the current crisis even worse.

The Democratic alternative would require that before a health care lawsuit is filed, the claimant file an affidavit declaring that a qualified specialist has been consulted and has issued a written report that says the filing is meritorious.

Mr. Speaker, the definition is so broad it is meaningless. The Democratic alternative also imposes another wasteful layer of bureaucracy on the health care system, mandatory mediation, which simply has no binding effect.

The motion to recommit even makes the situation of OB/GYNs worse than it is today by allowing someone as old as 21 to file a lawsuit claiming the doctor who delivered them caused their injury 21 years before. The motion to recommit would subject OB/GYNs to even more nuisance suits and drive even more of them out of business.

So the Conyers-Dingell substitute contains zero legal reforms and would make the current litigation crisis even worse; yet legal reforms are needed to solve the current crisis in medical liability insurance and increase access to health care.

H.R. 5 is the only proven legislative solution. According to the Congressional Budget Office under the HEALTH Act, "premiums for medical malpractice insurance ultimately would be an average of 25 to 30 percent below what they would be under current law."

Mr. Speaker, for the sake of health care providers and the people who need them, let us keep doctors practicing their profession and defeat this motion to recommit.

Mr. Speaker, I yield the balance of my time to the gentleman from Wisconsin (Mr. GREEN), who is an expert on this subject.

Mr. GREEN of Wisconsin. Mr. Speaker, it all boils down to this: we cannot get a handle on health care costs unless we first get a handle on the least productive part of heath care costs. Excessive liability costs are unproductive. They do not increase the quality of care. They do not increase accessibility to care, and they certainly do not increase affordability of care.

Here is what excessive liability costs do. They drive up insurance costs for doctors. They drive physicians out of high-risk specialties and fields, and they drive them out of high-cost areas. In some cases, they drive them out of practice altogether; and in those cases we all lose.

The great thing about the bill before us is we know it will work. It is not speculative. We know it works. We know that reforms which permit injured parties to recover every last dollar of economic damages, but place a modest cap on noneconomic damages, loss of society, loss of companionship, we know these reforms can help solve the medical liability crisis. It worked in California. It once worked in Wisconsin. And it can work all across America if we pass the HEALTH Act. If we defeat this motion to recommit, we can solve the medical liability crisis. This is what we must do.

Mr. SMITH of Texas. Mr. Speaker, I urge my colleagues to vote "no" on the motion to recommit and "yes" on the HEALTH Act.

The SPEAKER pro tempore (Mr. SWEENEY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 193, nays 234, answered "present" 1, not voting 5 as follows:

[Roll No. 448]

YEAS—193

Abercrombie
Ackerman
Allen
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—234

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal

Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Sensenbrenner

NOT VOTING—5

Andrews
Carson
Kelly
Paul
Schakowsky

□ 1631

Mr. McHUGH, Mr. ISSA, Mrs. DRAKE, Mr. GORDON, Mrs. MUSGRAVE, and Mr. HOBSON changed their vote from "yea" to "nay."

Messrs. HINCHEY, FARR, SMITH of Washington, and SPRATT changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SWEENEY). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 230, noes 194, answered "present" 2, not voting 7, as follows:

[Roll No. 449]

AYES—230

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardoza
Carter
Castle
Chabot
Chocola
Cole (OK)
Conaway
Cox
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, M.
Doolittle
Drake
Dreier
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Jindal
Johnson (CT)
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matheson
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schwarz (MI)
Scott (GA)
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—194

Abercrombie
Ackerman
Allen
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carnahan
Case
Chandler
Clay
Cleaver
Clyburn
Coble
Conyers
Cooper
Costa
Costello
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Diaz Balart, L.
Dicks
Dingell
Doggett
Doyle
Duncan
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Flake
Ford
Frank (MA)
Gonzalez
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Hastings (FL)
Herseth
Higgins
Hinchey
Hinojosa
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schiff
Schwartz (PA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Terry
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wynn

ANSWERED "PRESENT"—2

Burton (IN)
Sensenbrenner

NOT VOTING—7

Andrews
Burgess
Carson
Johnson, Sam
Paul
Schakowsky
Wu

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1640

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3423. An act to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees.

## GENERAL LEAVE

Mr. TAYLOR of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and that I may include tabular and extraneous material on the conference report to accompany H.R. 2361.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

## CONFERENCE REPORT ON H.R. 2361, DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. TAYLOR of North Carolina. Mr. Speaker, pursuant to House Resolution 392, I call up the conference report on the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 392, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of July 26, 2005 at page 17661.)

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Washington (Mr. DICKS) each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. TAYLOR).

□ 1645

Mr. TAYLOR of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we bring before the House the conference agreement on H.R. 2361, the Interior, Environment, and Related Agencies Appropriations Act for fiscal year 2006. I would like to thank all of the members of the Subcommittee for their support and guidance this year. I want to extend special thanks to the subcommittee vice chairman, the gentleman from Idaho (Mr. SIMPSON), and the gentleman from Washington (Mr. DICKS), the ranking member and my good friend, for their assistance in shaping the bill. We are under last year, and we are under the allocation.

The conference report balances many competitive and diverse needs. It provides funding for programs in the Department of the Interior, the Environmental Protection Agency, the Forest Service, the Indian Health Agency, the Smithsonian Institution, and several other environmental and cultural agencies and commissions.

With the ongoing war on terrorism and a sizable Federal debt, the American taxpayer demands fiscal prudence, yet entrusts us to continue the conservation and care of our Nation's natural resources, the protection of the environment, and critical programs for native Americans and other programs. The needs far outweigh the funds available, but I believe this bill addresses the most critical needs.

The conference report is the product of a balanced, bipartisan, bicameral effort that resolves over 2,000 differences between the House and the Senate bills. Moreover, it addresses many of the key issues raised on the House floor in May and stays true to the fundamental issues that helped the bill pass overwhelmingly in the House. Here are a few of the highlights:

Payments in Lieu of Taxes are $9 million over the enacted level. The arts and humanities are $5 million each over the enacted level. Funding for operations of the national parks has increased by $61 million. Restrictions remain in the bill for pesticide testing on human subjects. Funding for the Clean Water State Revolving Act is $900 million, which is $50 million above the House level and $170 million above the budget request.

The Forest Health Program, which is critical to reducing this Nation's risk of catastrophic wildfires, is restored to the enacted level.

Finally, I am proud to say that this conference agreement contains $1.5 billion in critically needed funds for veterans medical care.

Mr. Speaker, I believe the priorities of the American people are reflected in the conference agreement, and I urge all of my colleagues to support it.

I would like to thank staff on both sides of the aisle because, without their hard work, we would not be able to bring this bill forward at this time.

At this time, I will include a table detailing the various accounts in the bill for insertion in the RECORD.

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2006 (H.R. 2361)
(Amounts in thousands)

| | FY 2005 Enacted | FY 2006 Request | House | Senate | Conference |
|---|---|---|---|---|---|
| TITLE I - DEPARTMENT OF THE INTERIOR | | | | | |
| Bureau of Land Management | | | | | |
| Management of lands and resources | 836,826 | 850,177 | 845,783 | 867,045 | 860,791 |
| Wildland fire management: | | | | | |
| Preparedness | 258,939 | 286,701 | 272,852 | 272,852 | 272,852 |
| Fire suppression operations | 218,445 | 234,167 | 234,167 | 234,167 | 234,167 |
| Additional appropriations (Title IV) | 98,611 | --- | --- | --- | --- |
| Other operations | 255,300 | 235,696 | 254,545 | 259,545 | 259,545 |
| Subtotal | 831,295 | 756,564 | 761,564 | 766,564 | 766,564 |
| Central hazardous materials fund | 9,855 | --- | --- | --- | --- |
| Rescission of balances | -13,500 | --- | --- | --- | --- |
| Construction | 11,340 | 6,476 | 11,476 | 9,976 | 11,926 |
| Land acquisition | 11,192 | 13,350 | 3,817 | 12,250 | 8,750 |
| Oregon and California grant lands | 107,497 | 110,070 | 110,070 | 110,070 | 110,070 |
| Range improvements (indefinite) | 10,000 | 10,000 | 10,000 | 10,000 | 10,000 |
| Service charges, deposits, & forfeitures (indefinite) | 20,055 | 32,940 | 32,940 | 32,940 | 32,940 |
| Offsetting fee collections | -20,055 | -32,940 | -32,940 | -32,940 | -32,940 |
| Miscellaneous trust funds (indefinite) | 12,405 | 12,405 | 12,405 | 12,405 | 12,405 |
| Total, Bureau of Land Management | 1,816,910 | 1,759,042 | 1,755,115 | 1,788,310 | 1,780,506 |
| United States Fish and Wildlife Service | | | | | |
| Resource management | 962,940 | 985,563 | 1,005,225 | 993,485 | 1,008,880 |
| Construction | 52,658 | 19,676 | 41,206 | 31,811 | 45,891 |
| Emergency appropriations (P.L. 108-324) | 40,552 | --- | --- | --- | --- |
| Land acquisition | 37,005 | 40,992 | 14,937 | 40,827 | 28,408 |
| Landowner incentive program | 21,694 | 40,000 | 23,700 | 25,000 | 24,000 |
| Private stewardship grants | 6,903 | 10,000 | 7,386 | 7,500 | 7,386 |
| Cooperative endangered species conservation fund | 80,462 | 80,000 | 84,400 | 80,000 | 82,200 |
| National wildlife refuge fund | 14,214 | 14,414 | 14,414 | 14,414 | 14,414 |
| North American wetlands conservation fund | 37,472 | 49,949 | 40,000 | 39,500 | 40,000 |
| Neotropical migratory birds conservation fund | 3,944 | --- | 4,000 | 4,000 | 4,000 |
| Multinational species conservation fund | 5,719 | 8,300 | 5,900 | 6,500 | 6,500 |
| State wildlife grants | 69,028 | 74,000 | 65,000 | 72,000 | 68,500 |
| Total, United States Fish and Wildlife Service | 1,332,591 | 1,322,894 | 1,306,168 | 1,315,037 | 1,330,179 |
| National Park Service | | | | | |
| Operation of the national park system | 1,683,564 | 1,734,053 | 1,754,199 | 1,748,486 | 1,744,074 |
| United States Park Police | 80,076 | 80,411 | 82,411 | 80,411 | 81,411 |
| National recreation and preservation | 60,973 | 36,777 | 48,997 | 56,729 | 54,965 |
| Historic preservation fund | 71,739 | 66,205 | 72,705 | 74,500 | 73,250 |
| Construction | 302,180 | 307,362 | 291,230 | 299,201 | 301,291 |
| Emergency appropriations (P.L. 108-324) | 50,802 | --- | --- | --- | --- |
| Land and water conservation fund (rescission of contract authority) | -30,000 | -30,000 | -30,000 | -30,000 | -30,000 |
| Land acquisition and state assistance | 146,349 | 54,467 | 9,421 | 86,005 | 64,909 |
| Total, National Park Service (net) | 2,365,683 | 2,249,275 | 2,228,963 | 2,315,332 | 2,289,900 |
| United States Geological Survey | | | | | |
| Surveys, investigations, and research | 935,464 | 933,515 | 974,586 | 963,057 | 976,035 |
| Emergency appropriations (P.L. 108-324) | 1,000 | --- | --- | --- | --- |
| Emergency appropriations (P.L. 109-13) | 8,100 | --- | --- | --- | --- |
| Total, United States Geological Survey | 944,564 | 933,515 | 974,586 | 963,057 | 976,035 |
| Minerals Management Service | | | | | |
| Royalty and offshore minerals management | 270,550 | 283,146 | 275,406 | 275,246 | 276,381 |
| Use of receipts | -103,730 | -122,730 | -122,730 | -122,730 | -122,730 |
| Oil spill research | 7,006 | 7,006 | 7,006 | 7,006 | 7,006 |
| Total, Minerals Management Service | 173,826 | 167,422 | 159,682 | 159,522 | 160,657 |
| Office of Surface Mining Reclamation and Enforcement | | | | | |
| Regulation and technology | 108,269 | 110,435 | 110,435 | 110,435 | 110,435 |
| Receipts from performance bond forfeitures (indefinite) | 99 | 100 | 100 | 100 | 100 |
| Subtotal | 108,368 | 110,535 | 110,535 | 110,535 | 110,535 |

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2006 (H.R. 2361)
(Amounts in thousands)

| | FY 2005 Enacted | FY 2006 Request | House | Senate | Conference |
|---|---|---|---|---|---|
| Abandoned mine reclamation fund (definite, trust fund) | 188,205 | 188,014 | 188,014 | 188,014 | 188,014 |
| Legislative proposal | --- | 58,000 | --- | --- | --- |
| Subtotal | 188,205 | 246,014 | 188,014 | 188,014 | 188,014 |
| Total, Office of Surface Mining Reclamation and Enforcement | 296,573 | 356,549 | 298,549 | 298,549 | 298,549 |
| Bureau of Indian Affairs | | | | | |
| Operation of Indian programs | 1,926,091 | 1,924,230 | 1,992,737 | 1,971,132 | 1,991,490 |
| Construction | 319,129 | 232,137 | 284,137 | 267,137 | 275,637 |
| Indian land and water claim settlements and miscellaneous payments to Indians | 44,150 | 24,754 | 34,754 | 24,754 | 34,754 |
| Indian guaranteed loan program account | 6,332 | 6,348 | 6,348 | 6,348 | 6,348 |
| Total, Bureau of Indian Affairs | 2,295,702 | 2,187,469 | 2,317,976 | 2,269,371 | 2,308,229 |
| Departmental Offices | | | | | |
| Insular Affairs: | | | | | |
| Assistance to Territories | 47,861 | 46,543 | 48,843 | 48,963 | 49,163 |
| Northern Marianas | 27,720 | 27,720 | 27,720 | 27,720 | 27,720 |
| Subtotal | 75,581 | 74,263 | 76,563 | 76,683 | 76,883 |
| Compact of Free Association | 3,450 | 2,862 | 3,362 | 2,862 | 3,362 |
| Mandatory payments | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 |
| Subtotal | 5,450 | 4,862 | 5,362 | 4,862 | 5,362 |
| Total, Insular Affairs | 81,031 | 79,125 | 81,925 | 81,545 | 82,245 |
| Departmental management | 95,821 | 120,155 | 97,755 | 104,627 | 127,183 |
| Emergency appropriations (P.L. 109-13) | 3,000 | --- | --- | --- | --- |
| Subtotal, Departmental management | 98,821 | 120,155 | 97,755 | 104,627 | 127,183 |
| Working Capital fund | --- | --- | --- | 22,555 | --- |
| Payments in lieu of taxes | 226,805 | 200,000 | 242,000 | 235,000 | 236,000 |
| Central hazardous materials fund | --- | 9,855 | 9,855 | 9,855 | 9,855 |
| Office of the Solicitor | 51,656 | 55,752 | 55,340 | 55,652 | 55,440 |
| Office of Inspector General | 37,275 | 40,999 | 39,566 | 39,116 | 39,116 |
| Office of Special Trustee for American Indians | | | | | |
| Federal trust programs | 193,540 | 269,397 | 191,593 | 191,593 | 191,593 |
| Indian land consolidation | 34,514 | 34,514 | 34,514 | 34,514 | 34,514 |
| Total, Office of Special Trustee for American Indians | 228,054 | 303,911 | 226,107 | 226,107 | 226,107 |
| Natural resource damage assessment fund | 5,737 | 6,106 | 6,106 | 6,106 | 6,106 |
| Total, Departmental Offices | 729,379 | 815,903 | 758,654 | 780,563 | 782,052 |
| A-T-B reduction to administrative costs | --- | --- | --- | -22,000 | --- |
| Total, title I, Department of the Interior: | | | | | |
| New budget (obligational) authority (net) | 9,955,228 | 9,792,069 | 9,799,693 | 9,867,741 | 9,926,107 |
| Appropriations | (9,881,774) | (9,822,069) | (9,829,693) | (9,897,741) | (9,956,107) |
| Emergency appropriations | (103,454) | --- | --- | --- | --- |
| Rescission | (-30,000) | (-30,000) | (-30,000) | (-30,000) | (-30,000) |
| TITLE II - ENVIRONMENTAL PROTECTION AGENCY | | | | | |
| Science and technology | 744,061 | 760,640 | 765,340 | 730,795 | 741,722 |
| (By transfer from Hazardous substance superfund) | (35,808) | (30,605) | (30,606) | (30,606) | (30,606) |
| Environmental programs and management | 2,294,902 | 2,353,764 | 2,389,491 | 2,333,416 | 2,381,752 |
| Pesticide fees (legislative proposal) | --- | (50,000) | --- | --- | --- |
| Office of Inspector General | 37,696 | 36,955 | 37,955 | 36,955 | 37,455 |
| (By transfer from Hazardous substance superfund) | (12,396) | (13,536) | (13,536) | (13,536) | (13,536) |
| Buildings and facilities | 38,688 | 40,218 | 40,218 | 40,218 | 40,218 |
| Emergency appropriations (P.L. 108-324) | 3,000 | --- | --- | --- | --- |
| Hazardous substance superfund | 1,247,477 | 1,279,333 | 1,258,333 | 1,256,165 | 1,260,621 |
| Transfer to Office of Inspector General | (-12,896) | (-13,536) | (-13,536) | (-13,536) | (-13,536) |
| Transfer to Science and Technology | (-35,808) | (-30,605) | (-30,606) | (-30,606) | (-30,606) |
| Leaking underground storage tank program | 69,440 | 73,027 | 73,027 | 73,027 | 73,027 |
| Oil spill response | 15,872 | 15,863 | 15,863 | 15,863 | 15,863 |

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2006 (H.R. 2361)
(Amounts in thousands)

| | FY 2005 Enacted | FY 2006 Request | House | Senate | Conference |
|---|---|---|---|---|---|
| Pesticide registration fund | 19,245 | 12,000 | 15,000 | 15,000 | 15,000 |
| Pesticide registration fees | -19,245 | -12,000 | -15,000 | -15,000 | -15,000 |
| State and tribal assistance grants | 2,438,758 | 1,779,500 | 2,078,500 | 2,331,000 | 2,132,000 |
| Categorical grants | 1,136,591 | 1,181,300 | 1,151,300 | 1,122,550 | 1,129,696 |
| Rescissions (various EPA accounts) | --- | --- | -100,000 | -58,000 | -80,000 |
| Subtotal, State and tribal assistance grants | 3,575,349 | 2,960,800 | 3,127,800 | 3,395,550 | 3,181,696 |
| Total, title II, Environmental Protection Agency: | | | | | |
| New budget (obligational) authority | 8,026,485 | 7,520,600 | 7,708,027 | 7,881,989 | 7,732,354 |
| Appropriations | (8,023,485) | (7,520,600) | (7,808,027) | (7,939,989) | (7,812,354) |
| Emergency appropriations | (3,000) | --- | --- | --- | --- |
| Rescissions | --- | --- | (-100,000) | (-58,000) | (-80,000) |
| (Transfer out) | (-48,704) | (-44,141) | (-44,142) | (-44,142) | (-44,142) |
| (By transfer) | (48,704) | (44,141) | (44,142) | (44,142) | (44,142) |
| TITLE III - RELATED AGENCIES | | | | | |
| DEPARTMENT OF AGRICULTURE | | | | | |
| Forest Service | | | | | |
| Forest and rangeland research | 276,384 | 285,400 | 285,000 | 280,892 | 283,094 |
| State and private forestry | 292,506 | 253,387 | 254,875 | 254,615 | 283,577 |
| Emergency appropriations (P.L. 108-324) | 49,100 | --- | --- | --- | --- |
| National forest system | 1,380,806 | 1,651,357 | 1,417,920 | 1,377,656 | 1,424,348 |
| Emergency appropriations (P.L. 108-324) | 12,153 | --- | --- | --- | --- |
| Wildland fire management: | | | | | |
| Preparedness | 676,470 | 676,014 | 691,014 | 676,014 | 676,014 |
| Fire suppression operations | 648,859 | 700,492 | 700,492 | 700,492 | 700,492 |
| Additional appropriations (Title IV) | 394,443 | --- | --- | --- | --- |
| Other operations | 377,687 | 67,761 | 399,000 | 369,025 | 402,889 |
| Emergency appropriations (P.L. 108-324) | 1,028 | --- | --- | --- | --- |
| Funded in Defense Bill (P.L. 108-287) (sec. 8098) | (30,000) | --- | --- | --- | --- |
| Subtotal | 2,098,487 | 1,444,267 | 1,790,506 | 1,745,531 | 1,779,395 |
| Capital improvement and maintenance | 514,701 | 380,792 | 468,260 | 409,751 | 441,178 |
| Emergency appropriations (P.L. 108-324) | 50,815 | --- | --- | --- | --- |
| Funded in Defense Bill (P.L. 108-287) (sec. 8098) | (10,000) | --- | --- | --- | --- |
| Emergency appropriations (P.L. 109-13) | 24,390 | --- | --- | --- | --- |
| Land acquisition | 61,007 | 40,000 | 15,000 | 44,925 | 42,500 |
| Acquisition of lands for national forests, special acts | 1,054 | 1,069 | 1,069 | 1,069 | 1,069 |
| Acquisition of lands to complete land exchanges (indefinite) | 231 | 234 | 234 | 234 | 234 |
| Range betterment fund (indefinite) | 3,021 | 2,963 | 2,963 | 2,963 | 2,963 |
| Gifts, donations and bequests for forest and rangeland research | 64 | 64 | 64 | 64 | 64 |
| Management of national forest lands for subsistence uses | 5,879 | 5,467 | 5,467 | 5,067 | 5,067 |
| Total, Forest Service | 4,770,598 | 4,065,000 | 4,241,358 | 4,122,767 | 4,263,489 |
| DEPARTMENT OF HEALTH AND HUMAN SERVICES | | | | | |
| Indian Health Service | | | | | |
| Indian health services: | | | | | |
| Non-contract services | 2,098,424 | 2,207,277 | 2,207,277 | 2,207,302 | 2,207,277 |
| Contract care | 480,318 | 507,021 | 507,021 | 507,021 | 507,021 |
| Catastrophic health emergency fund | 17,750 | 18,000 | 18,000 | 18,000 | 18,000 |
| Total, Indian health services | 2,596,492 | 2,732,298 | 2,732,298 | 2,732,323 | 2,732,298 |
| Indian health facilities | 388,574 | 315,668 | 370,774 | 335,643 | 358,485 |
| Total, Indian Health Service | 2,985,066 | 3,047,966 | 3,103,072 | 3,067,966 | 3,090,783 |
| National Institute of Health | | | | | |
| National Institute of Environmental Health Sciences | 79,842 | 80,289 | 80,289 | 80,289 | 80,289 |

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2006 (H.R. 2361)
(Amounts in thousands)

| | FY 2005 Enacted | FY 2006 Request | House | Senate | Conference |
|---|---|---|---|---|---|
| Agency for Toxic Substances and Disease Registry | | | | | |
| Toxic substances and environmental public health | 76,041 | 76,024 | 76,024 | 76,024 | 76,024 |
| Total, Department of Health and Human Services | 3,140,949 | 3,204,279 | 3,259,385 | 3,224,279 | 3,247,096 |
| OTHER RELATED AGENCIES | | | | | |
| Executive Office of the President | | | | | |
| Council on Environmental Quality and Office of Environmental Quality | 3,258 | 2,717 | 2,717 | 2,717 | 2,717 |
| Chemical Safety and Hazard Investigation Board | | | | | |
| Salaries and expenses | 9,027 | 9,200 | 9,200 | 9,200 | 9,200 |
| Emergency fund | 397 | --- | --- | --- | --- |
| Total, Chemical Safety and Hazard | 9,424 | 9,200 | 9,200 | 9,200 | 9,200 |
| Office of Navajo and Hopi Indian Relocation | | | | | |
| Salaries and expenses | 4,930 | 8,601 | 8,601 | 8,601 | 8,601 |
| Institute of American Indian and Alaska Native Culture and Arts Development | | | | | |
| Payment to the Institute | 5,916 | 6,300 | 6,300 | 6,300 | 6,300 |
| Smithsonian Institution | | | | | |
| Salaries and expenses | 489,035 | 524,135 | 524,381 | 524,135 | 524,281 |
| Facilities capital | 126,123 | 90,900 | 90,900 | 100,000 | 100,000 |
| Total, Smithsonian Institution | 615,158 | 615,035 | 615,281 | 624,135 | 624,281 |
| National Gallery of Art | | | | | |
| Salaries and expenses | 91,708 | 97,100 | 97,100 | 96,600 | 96,600 |
| Repair, restoration and renovation of buildings | 10,946 | 16,200 | 16,200 | 15,000 | 16,200 |
| Total, National Gallery of Art | 102,654 | 113,300 | 113,300 | 111,600 | 112,800 |
| John F. Kennedy Center for the Performing Arts | | | | | |
| Operations and maintenance | 16,914 | 17,800 | 17,800 | 17,800 | 17,800 |
| Construction | 16,107 | 15,200 | 10,000 | 15,200 | 13,000 |
| Total, John F. Kennedy Center for the Performing Arts | 33,021 | 33,000 | 27,800 | 33,000 | 30,800 |
| Woodrow Wilson International Center for Scholars | | | | | |
| Salaries and expenses | 8,863 | 9,201 | 9,085 | 9,201 | 9,201 |
| National Foundation on the Arts and the Humanities | | | | | |
| National Endowment for the Arts | | | | | |
| Grants and administration 1/ | 121,264 | 121,264 | 131,264 | 126,264 | 126,264 |
| National Endowment for the Humanities | | | | | |
| Grants and administration | 122,156 | 122,605 | 127,605 | 127,605 | 127,605 |
| Matching grants | 15,898 | 15,449 | 15,449 | 15,449 | 15,449 |
| Total, National Endowment for the Humanities | 138,054 | 138,054 | 143,054 | 143,054 | 143,054 |
| Total, National Foundation on the Arts and the Humanities | 259,318 | 259,318 | 274,318 | 269,318 | 269,318 |
| Commission of Fine Arts | | | | | |
| Salaries and expenses | 1,768 | 1,893 | 1,893 | 1,893 | 1,893 |
| National Capital Arts and Cultural Affairs | | | | | |
| Grants | 6,902 | 7,000 | 7,000 | 7,492 | 7,250 |

DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2006 (H.R. 2361)
(Amounts in thousands)

|  | FY 2005 Enacted | FY 2006 Request | House | Senate | Conference |
|---|---|---|---|---|---|
| Advisory Council on Historic Preservation |  |  |  |  |  |
| Salaries and expenses | 4,536 | 4,988 | 4,860 | 4,343 | 4,860 |
| National Capital Planning Commission |  |  |  |  |  |
| Salaries and expenses | 7,888 | 8,344 | 8,177 | 8,244 | 8,244 |
| United States Holocaust Memorial Museum |  |  |  |  |  |
| Holocaust Memorial Museum | 40,858 | 43,233 | 41,880 | 43,233 | 42,780 |
| Presidio Trust |  |  |  |  |  |
| Presidio trust fund | 19,722 | 20,000 | 20,000 | 19,722 | 20,000 |
| White House Commission on the National Moment of Remembrance |  |  |  |  |  |
| Operations | 248 | 250 | 250 | 250 | 250 |
| Total, title III, related agencies: |  |  |  |  |  |
| New budget (obligational) authority (net) | 9,036,011 | 8,411,659 | 8,651,405 | 8,506,895 | 8,669,080 |
| Appropriations | (8,898,525) | (8,411,659) | (8,651,405) | (8,506,895) | (8,669,080) |
| Emergency appropriations | (137,486) | --- | --- | --- | --- |
| TITLE IV - GENERAL PROVISIONS |  |  |  |  |  |
| Across-the-board cut (.476%) (rescission) (Sec. 437) | --- | --- | --- | --- | -126,000 |
| TITLE VI - SUPPLEMENTAL APPROPRIATIONS |  |  |  |  |  |
| Veteran's Health (Sec.439) (emergency appropriation) | --- | --- | --- | 1,500,000 | --- |
| Veteran's Health (Sec. 439) | --- | --- | --- | --- | 1,500,000 |
| Grand total: |  |  |  |  |  |
| New budget (obligational) authority (net) | 27,017,724 | 25,724,328 | 26,159,125 | 27,756,625 | 27,701,541 |
| Fiscal year 2005 | --- | --- | --- | 1,500,000 | 1,500,000 |
| Fiscal year 2006 | 27,017,724 | 25,724,328 | 26,159,125 | 26,256,625 | 26,201,541 |
| Appropriations | (26,803,784) | (25,754,328) | (26,289,125) | (26,344,625) | (26,311,541) |
| Supplemental appropriations | --- | --- | --- | --- | (1,500,000) |
| Emergency appropriations | (243,940) | --- | --- | (1,500,000) | --- |
| Rescissions | (-30,000) | (-30,000) | (-130,000) | (-88,000) | (-110,000) |
| (Transfer out) | (-48,704) | (-44,141) | (-44,142) | (-44,142) | (-44,142) |
| (By transfer) | (48,704) | (44,141) | (44,142) | (44,142) | (44,142) |

Mr. Speaker, I reserve the balance of my time.

Mr. DICKS. Mr. Speaker, I yield myself such time as I may consume.

I support this conference report on the fiscal year 2006 Interior and Environment Appropriations bill, and I will vote for it, in just a few minutes, I hope. With the addition of $1.5 billion in spending for veterans health care attached to this bill, I believe that this conference report will get widespread support in both the House and the Senate.

After we made a decision to add this $1.5 billion, I contacted back in the State of Washington the veterans hospital in Seattle and the one at American Lake to find out what the backlog was, and I was shocked to find out that there is a backlog of some 2,000 veterans who are waiting to get an initial appointment at those hospitals. So this money clearly is needed, and I am pleased that the other body selected the Interior appropriations to add this $1.5 billion to and that we were able to present it here today to the House.

There are several areas of this bill that I believe are underfunded; however, I believe these funding decisions were the result of an inadequate allocation. Although the majority cannot escape responsibility for this allocation, I believe that we here in the minority have been treated fairly during the process of developing the 2006 Interior appropriations.

First of all, I want to thank the chairman, the gentleman from North Carolina (Mr. TAYLOR), for the decision to provide the Park Service operating budget another year of healthy increases. Over the last 2 years, we have provided more than $100 million in increases for the parks operating budget, and I am very proud of that accomplishment. We really were seeing a decline in some of the parks because they were not able to cover their fixed costs on an annual basis and had to lay off people and were unable to provide the American people with the services that they needed.

However, I am disappointed with the overall amount for the Clean Water Act State Revolving Fund. I had hoped that the conference report would end up closer to the Senate mark of $1.1 billion, rather than at $900 million, which is only $50 million above the House mark. Over the last 2 years, this funding has been cut by 33 percent.

I am also disappointed that we could not retain the full $10 million increase for the National Endowment for the Arts, which was approved on the House floor in an overwhelming vote, but I am gratified that we could agree to some increase for both the NEA and the NEH.

I am glad to see this conference report contains increases over the House mark for both land acquisition and the State grant program. Although these programs are cut from last year, I agree with the decision to restore some of the funding; and I am sympathetic to the argument that, during a year with such a low allocation, it is most important to protect core programs and make land acquisition a more secondary goal.

I am deeply appreciative of everyone's efforts to resolve the issue concerning the use of humans during pesticide testing. I think the conference report reflects the will of both the House and Senate to stop such tests until the EPA develops regulations reflecting the recommendation of the National Academy of Science and follows the Nuremburg protocols. In addition, these regulations will prohibit such testing on pregnant women, infants, and children.

I also want to praise the compromise contained in this conference report on the Martin Luther King, Jr., memorial to be built on the National Mall. The conference report contains $10 million that must be matched by private donations. This matching requirement will spur increased private donations and reflects the thinking of the chairman, the gentleman from North Carolina (Mr. TAYLOR), who felt very strongly that we should try to raise as much money for the memorial from the private sector.

Again, I want to say that the chairman has been very fair and his staff, led by Debbie Weatherly, has done an outstanding job in putting together this bill. I want to congratulate Mike Stevens and Pete Modoff of my staff for the exceptional work they did on this bill. I think this is, in a very difficult year, I think this is a bill that deserves our support.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Wisconsin (Mr. OBEY), the ranking Democrat of the full Committee on Appropriations.

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding me this time. I would simply like to say that this is a close call on this bill as far as I am concerned; but weighing all of the conflicting pressures, I come down on the side of recommending a vote for the bill, primarily because of what it does to finally provide sufficient funding for veterans health care.

With respect to that item, I would simply say to our friends on the majority side of the aisle, welcome aboard. We tried for the last year and a half to convince this administration and to convince the majority that the veterans health accounts were underfunded. Finally, the administration admitted that that was true; and, in fact, the amount being added to this bill today for veterans health care is exactly the amount that we had been asking be added to that program for that purpose for a long period of time.

I want to make clear, the shortfall for veterans' health care is not the responsibility of the chairman of this subcommittee. This problem is supposed to be taken care of by another subcommittee; but, in fact, after running away from the problem for months and months, the majority party has finally decided that they did not want to go home in August and have to face the folks at the Legion hall or the VFW hall without finally doing something to fix the problem. So I am glad that they did.

But even though I am going to vote for this bill because of what it does for veterans, I think we need to understand that in a number of other areas, this bill is far from where it ought to be if we are to meet the responsibilities that we have to this country's future. Overall, funding for the EPA declines by $291 million in this bill. The Clean Water State Revolving Fund has now been cut by 33 percent over 2 years. Grants to States for conservation and recreation are reduced by two-thirds from fiscal year 2005. Every State suffers a 66 percent cut.

In the year 2001, land acquisition funds in this bill were $442 million. Today, they are $124 million. That is the lowest appropriation for this item in the past 20 years. Construction funding for national parks and refuges and forests has been reduced by about 10 percent from last year. The funding for Forest Service buildings, roads, and trails has been cut from $514 million to $441 million, a reduction of 14 percent.

BIA school construction is funded at a level $53 million below last year. Health facilities construction for Indian health services is funded at $38 million, a reduction of $50 million. I do not believe those numbers are numbers that we would be proud to take home.

So we are stuck with a choice. We can cast a protest vote against the cuts in this bill, which many of us have already done; or we can recognize the fact that in a time of war we have an obligation to meet the health care needs of those who have risked everything for this country; and I think we, in the end, have no real choice but to come down in favor of voting for that increased veterans funding.

But I hope that the general public will understand that the cuts in this bill do the Nation no favors. We are shortchanging our country's future. We are not meeting our stewardship responsibilities, and we will pay a long-term price for that, I regret to say.

Mr. Speaker, let me say one other thing. I do want to express my appreciation to the subcommittee chairman for the fairness with which he has dealt with this bill. I may not agree with the priorities that the majority party budget resolution imposed on the subcommittee, but I do want to say that I think the chairman has been most fair in his dealing with the minority; and we appreciate that.

Mr. TAYLOR of North Carolina. Mr. Speaker, I reserve the balance of my time.

Mr. DICKS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from South Carolina (Mr. SPRATT), who is one of the leaders in this House on budget matters.

Mr. SPRATT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in full support of the $1.5 billion in veterans health care funding for 2005, which was added on to this conference report. I am pleased that my colleagues on the other side have finally come around to our position on veterans funding and now acknowledge that their budgets have not funded this priority accurately or adequately.

This shortfall has not occurred for lack of notice or foresight. Over warnings from veterans groups and our own strenuous objections, the budgets passed by this House have consistently, consistently, understated the cost of veterans health care.

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This is the Veterans Administration borrowing from Peter to pay Paul, denying or delaying service until a supplement finally comes through. And then when the supplement comes through, it busts the spending caps imposed in the budget and adds to the deficit.

This is no way to budget for veterans health care, and it is no way to budget generally. The White House just 2 weeks ago issued a midsession review of the budget, which we received with some skepticism. We observed that their projections of the deficit seemed better, partly because they omit the full cost of various policies like veterans health care, the ongoing cost of operations in Afghanistan and Iraq, and fixing the alternative minimum tax, extending other tax credits.

In the short run, these omissions make the deficit look better, sure, but in the long run the true costs emerge, and the actual deficits turn out to be worse than projected.

Here, for example, is what happened to veterans health care in the fiscal 2005 budget cycle. When we brought forth our budget resolutions on the Democratic side for 2005, we argued that the discretionary spending levels in the Republican resolution were too tight, not realistic, and would shortchange essential priorities like veterans health care.

We were not alone. The chairman of the Veterans' Affairs Committee argued that more funding for veterans health care was badly needed, but our concerns went unheeded. Now we have to face the truth. The funding provided for veterans health care in the 2005 budget was, in fact, not sufficient.

And since an accurate funding level was not built into the budget, today's bill will move discretionary spending for 2005 over the allocation included in the Republican budget. This misestimate, like others, was left out of the deficit projections that OMB announced just a couple of weeks ago.

For the record, let me point out that the Democrats put forth a responsible budget for 2005. Our budget brought us to balance by the year 2012, yet we funded veterans health care priorities and other priorities adequately.

Our budget provided $1.3 billion more for veterans health care in 2005, and $1.5 billion more over a 5-year period of time. Unfortunately the same story is playing out, unfolding again in 2006. Once again, once again, this year we warned that the budget provided too little for veterans health care, and once again it was to no avail.

Our resolution provided $1.5 billion more for veterans health care in 2006, $16.4 billion more over 5 years, and a budget, mind you, that balanced by 2012. Just 3 months later, 3 months later, we are told that the VA appropriations bill for 2006 will have to exceed its budget allocation to accommodate the administration's amended request for veterans health care. And, of course, the deficit estimates for 2006 will have to be revised upward accordingly.

Mr. Speaker, I would gladly vote to raise veterans health care to the level it should have been to start with, but I urge that we learn a lesson from this experience and be forthright in the future about the cost of veterans health care. And in that connection, I would note that in the outyears, 2007, 2008 and onward, the official estimates of the Republican budget still grossly underfund veterans health care, they understate the deficit, and they definitely will have to do this all over again until the numbers are finally done right.

Mr. DICKS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS), who has been a real leader on the issue of dealing with pesticides and their effect on humans.

Ms. SOLIS. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of the Interior-Environment appropriations bill. I want to especially thank the gentleman from California (Mr. LEWIS), the gentleman from Wisconsin (Mr. OBEY), the gentleman from North Carolina (Mr. TAYLOR) and the gentleman from Washington (Mr. DICKS), the ranking, for their work on this legislation.

I am particularly proud of the steps that Congress has taken today to require the application of stringent ethical and scientific safeguards of intentional human dosing studies, and to stop the testing of pesticides on pregnant women and children. And I would like to thank all of your staff for their leadership on this issue.

Mr. DICKS. Mr. Speaker, will the gentlewoman yield?

Ms. SOLIS. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I want to congratulate the gentlewoman on her hard work on this. I can remember when we had the amendment on the floor. It was adopted here in the House unanimously. And I think your work and the work of your colleague from California in the other body on this matter, where they also won a vote there, too, was very impressive.

And, you know, this is the first year our committee has had jurisdiction over the Environmental Protection Agency, so we are all learning about these issues. I want to congratulate you on your real leadership. And I think what you did will be something that will protect children and pregnant mothers and will bring better standards at EPA on this issue. I congratulate you on this effort.

Ms. SOLIS. Mr. Speaker, reclaiming my time, I would like to also submit that our staffs have worked very hard, and the outside organizations that worked in tandem with us, religious organizations, the scientific, environmental community, as well as activists. In fact, the United Farm Workers also submitted a letter of support.

This should never have happened. It should never have taken place, the testing of pesticides on humans, and particularly children.

So I know that I stand here before you in the Congress to say that this is a good moment for us in this particular time. Thank you very much.

Mr. Speaker, as co-sponsor of this amendment, I rise today to support the application of stringent ethical and scientific safeguards to intentional human dosing studies of toxic chemicals and applaud the inclusion of this language in the Interior-Appropriation bill.

This amendment forbids the EPA from considering any intentional human dosing study unless it meets the minimum ethical and scientific safeguards outlined in the February 2004 National Academy of Sciences report and the 1947 Nuremberg Code adopted after World War II. I am submitting copies of the NAS report and the Nuremberg Code into the RECORD.

In particular, this amendment prohibits intentional human dosing on pregnant women, infants, or children, and requires the creation of a review board to evaluate the ethical and scientific propriety of intentional human dosing studies before they can be conducted, considered, or relied on. In 2002, the National Academy of Sciences convened a panel to examine the issue of intentionally dosing human subjects with pesticides and other toxic substances.

The report of the NAS, published in February 2004, recognized that these experiments can be "troubling" and in some cases "repugnant." For this reason, the NAS concluded that to be "ethically justified," a human pesticide experiment must pass "rigorous scrutiny on both scientific and ethical grounds."

All of the studies currently pending before EPA are scientifically and ethically suspect and appear to fall far short of the stringent criteria for EPA consideration outlined by the NAS and the Nuremberg Code, and required in this amendment. EPA provided Congress with a list of all human intentional dosing tests under consideration by the agency. An extensive evaluation of these tests shows that they are rife with ethical and scientific flaws and do not approach the standard for acceptability.

Representative WAXMAN and Senator BOXER evaluated the serious flaws in these studies in a report released last month entitled Human Pesticide Experiments, which I am submitting into the RECORD.

It is also clear that EPA's draft regulation regarding human testing similarly fails to meet the minimum criteria required in this amendment. EPA circulated internally a draft rule among the agency's various offices on June 20, 2005. EPA's draft rule, slated for proposal next month, would have allowed the systematic testing of pesticides on humans. The draft rule does not comply with the recommendations of the NAS and the Nuremberg Code, and it contains multiple loopholes that invite abuse.

The EPA draft is inconsistent with the standards we require in this amendment. EPA originally commenced its rulemaking in response to a wave of industry pressure to permit intentional dosing of human test subjects with toxic chemicals.

The pesticide industry has mounted a campaign to expand testing of pesticides on humans in order to weaken health standards. Because of the stricter requirements imposed by the Food Quality Protection Act of 1996, the pesticide industry has been under growing pressure to reduce the risks that pesticides pose to infants and children. The industry has adopted a strategy to evade these requirements by testing pesticides on a small number of adult human subjects, and then cite these tests to argue that the chemicals are safe.

EPA's proposed rule encourages this strategy and is contrary to the recommendations of the NAS and the ethical guidelines of the Nuremberg Code that we require in this amendment. I am submitting for the record a June 2005 report titled Flash Report: New EPA Proposal Encourages Human Pesticide Experiments.

As outlined in more detail in this report, EPA's proposed rule violates the ethical and scientific safeguards now required by this amendment, by failing to establish a national review panel to prevent abusive experiments, and by failing to provide full protections for children and other vulnerable populations.

Furthermore, the EPA draft rule does not clearly require that pesticide experiments comply with even its sub par standards. To the contrary, EPA proposed to accept all experiments as long as they "substantially" comply. This provision overtly undercuts the protections in the rule. The vague standard of substantial compliance wrongly sends the signal that EPA will not demand strict adherence to ethical standards in human pesticide experiments.

Intentional human toxicity testing has a troubling history that includes manipulation and abuse of the most vulnerable members of society. The amendment that I am supporting today will ensure that EPA may not consider or rely on any intentional human-dosing study that does not meet the minimum ethical and scientific criteria recommended by the NAS and expressed in the Nuremberg Code.

Mr. TAYLOR of North Carolina. Mr. Speaker, I would yield such time as he may consume to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I will not consume very much time. I rise to express my deep appreciation one more time to my colleague and friend, the gentleman from Wisconsin (Mr. OBEY), for his cooperating with me as we have gone through this initial conference process, but most importantly to congratulate both my colleague, the gentleman from Washington (Mr. DICKS), and my colleague, the gentleman from North Carolina (Mr. TAYLOR), for the fabulous job on this first of a series of conference reports that we expect to send to the President's desk.

It is very early in the process, but the Interior bill will be on the President's desk, and I am very certain he will find it to be to his liking. So congratulations to each of you for your work.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I think this is a very important moment today that we are passing this conference report before the August recess. And I want to congratulate the chairman and ranking member, who has really worked tirelessly to work with the chairman to get these bills enacted.

But I think there is absolutely no excuse not to try to do this and try to pass the rest of the bills in September and show the American people that we can get the job done before the start of the fiscal year.

And I think every time we have a new chairman, we do better in this regard. The previous chairman, of course, had to deal with other problems. But I think the chairman has made this a big priority. I think it is important that we do this, and I want to congratulate him for his leadership as the new chairman of the full committee.

Mr. LEWIS of California. Mr. Speaker, reclaiming my time, let me further say that none of this would have been done as effectively and with the high quality reflected in the conference report without the great help of our staff. They have done a tremendous job. They are breaking records here. It is because of the cooperation of the entire committee, the Members and the staff working together.

Mr. DINGELL. Mr. Speaker, it is with deep regret that I rise in opposition to this conference report. Let me explain. Mr. Speaker, this is a bad bill. It guts some of our most important environmental programs. It seems that the Republican majority realized what a bad bill it was and in order to win support for it, they put $1.5 billion in much needed funds for veterans' healthcare.

Now, Mr. Speaker, I am a pragmatist. I realize that there is no perfect bill. Sometimes we have to settle for some good and some bad. The bill before us, however, is a close call.

The problem is a simple one. You see, for years my Republican colleagues have been shortchanging our veterans. The number of veterans treated at VA facilities increased from 2.7 million to 4.7 million from 1995 to 2004. The Department expects to treat 5.2 million veterans in 2006. Currently, more than 50,000 veterans are waiting in line for at least 6 months for health services from the VA. Medical costs are increasing at nearly double the rate of inflation. Yet, over five years, the Republican budget for primarily veterans' health programs is funded $13.5 billion below the amount needed to maintain services at current levels.

I am pleased that my Republican colleagues have finally seen the light and realized that we cannot ask our men and women in uniform to make the ultimate sacrifice only to come home and have the promise of quality and timely healthcare broken. However, I am angry as hell that they attached this much needed funding to a particularly appalling bill.

You are probably saying, "Dingell, how appalling could it be when we are finally getting this funding for our veterans?"

Well, let me tell you.

EPA has estimated that there is a $388 billion shortfall between needed clean water and drinking water investments and the current level of spending. What do my Republican colleagues do to address that shortfall, Mr. Speaker? They cut the Clean Water State Revolving Loan Fund by $200 million from the FY 05 enacted level! That is a 33 percent cut over the past two years. Moreover, the bill cuts water and sewer construction grants by more than 30 percent—a reduction of $107 million from last year. This hardly seems like a reasonable response.

Conservation and land acquisition got a $41 million reduction. This is 25 percent below last year's enacted level. Mr. Speaker, my colleagues on the other side of the aisle have the dubious honor of providing the lowest appropriation for land and conservation programs in 20 years.

Funding for construction at our National Parks, Refuges and Forests was cut by ten percent and funding for Forest Service buildings, roads and trails by 14 percent. Stateside grants for conservation and recreation got an amazing two-thirds cut, from $90 million last year to $30 million.

So, you see the conundrum before us.

It is with a heavy heart that I feel that I must stand against not only a bad bill, but also against the process. It is unconscionable that my friends on the other side of the aisle would link this critically important and much needed funding for our Nation's heroes to a bad bill.

Mr. ETHERIDGE. Mr. Speaker, I rise in reluctant support of this conference report.

I am very reluctant to support this bill because it contains provisions I strongly oppose. Specifically, this bill contains harmful cuts to important interior and environmental priorities.

It cuts $800 million from last year's funding level for natural resources and the Environmental Protection Agency. Environmental and management and science and technology accounts are severely cut in this bill. The bill cuts $107 million for water and sewer construction STAG grants, cuts $200 million from SRF clean water funds, and cuts $30 million from stateside grants to states for conservation and recreation.

Mr. Speaker, this Congress has a solemn obligation to protect our Nation's water, air and land resources for public health and safety. We must practice responsible stewardship of our natural resources and pass on to future generations a physical environment as bountiful as the one we have enjoyed. This bill fails this test miserably.

I will vote for this bill because it contains desperately needed funding for veterans health care. Specifically, the conference report on H.R. 2631 contains $1.5 billion in veterans health care funds to make up for the Administration's bogus budget proposals. Democrats in this House have been arguing for months that the Administration is shortchanging VA health care, and we should restore that funding in the proper legislation under regular order. A nation at war must take care of its veterans, and I will vote for this bill to provide this critical funding for veterans health care.

Mr. HOLT. Mr. Speaker, I rise to express my disappointment with the Interior Appropriations bill that we are considering today. Although I will reluctantly vote for this legislation, I am concerned with the reduction in funding for many important domestic programs.

While I am pleased that this conference bill does not completely eliminate the Land and Water Conservation Fun, (LWCF), as in the House-passed version, I am still disappointed that this program only received $30 million, which is one-third of what it received last year.

The Land and Water Conservation Fund has been instrumental in assisting local and State governments preserve vital open spaces. This program was established in 1965 to address rapid overdevelopment by increasing the number of high quality recreation areas and facilities and by increasing the local involvement in land preservation. To achieve this goal, the fund was separated into two components, one portion of the fund serves as an account from which the Federal government draws from to acquire land and the other portion is distributed to states in a matching grant program.

New Jersey has been active in seeking grants from this program and has received funds from the LWCF that were used to preserve treasures such as the Pinelands National Reserve and the Delaware National Scenic River. In addition, LWCF has provided more that $111 million in state and local grants to build softball fields, rehabilitate playgrounds and to expand state parks.

Urban and highly developed regions, such as the region that I represent, will suffer the most from the elimination of the LWCF state grant program. The LWCF matching-grant program has proven to be a successful way to overcome the high cost of living that makes land acquisition and renewal projects costly in these regions. The steep reduction in funding for this program will leave local leaders without the capital necessary to enhance the quality of life in their communities.

This bill also cuts other domestic programs that benefit all Americans and future generations. This legislation only provides $900 million for the Clean Water State Revolving Fund—a reduction of $200 million from last year. This is vitally important to keeping drinking water clean and safe by supporting wastewater treatment, nonpoint source pollution and watershed and estuary management. Additionally, this bill cuts Federal land acquisition funding by 25 percent and reduces funding for construction projects in our national parks, refuges and forests by 10 percent.

Despite my reservations with cuts to important Environmental Protection Agency, EPA, and the Department of Interior, DOI, programs, I am pleased that this bill does the right thing and finally provides the VA the funds it needs to continue the delivery of care to our veterans through the end of the current fiscal year. This month, our Nation marked the 75th anniversary of the founding of the Veterans' Administration, the forerunner of today's Department of Veterans Affairs. Even as we celebrate the VA's many achievements, particularly in the field of medical research, we should use this opportunity to ask if we, as a country, are truly putting our money where our mouth is regarding VA funding. Every day, VA doctors, nurses, technicians and other staff across our country work to try to deliver the best possible health care to our veterans. They face one critical and continuing obstacle—a VA medical system that is chronically, and needlessly, underfunded.

I hope that the Congress will learn from this experience and pass mandatory funding legislation for the VA health care system. It's long past time for Congress to cease its band-aid approach to funding for veteran's health care, and I urge my colleagues to honor the request of the leaders of our Nation's veterans organizations to deal once and for all with this shameful and avoidable situation.

Another positive provision in this bill is the modest increase in funding for the National Endowment for the Arts and the National Endowment for the Humanities. Although the final funding levels fall slightly short of the amount approved by the House in May, the additional money will allow the NEA and NEH to build programs that use the strength of the arts and our Nation's cultural life to enhance communities in every State and every county around America.

It is clear that increasing funding for the arts and humanities are among the best investments that we as a society can make. They help our children learn. They give the elderly intellectual sustenance. They power economic development in regions that are down and out. They tie our diverse society and country together. I thank the conferees for recognizing the importance of this investment and giving the NEA and NEH the funds they need to advance our Nation's artistic and cultural life.

Even though I strongly oppose cuts to certain programs in this appropriations bill, I will vote in favor of this legislation. I hope in the future we can provide sufficient funding to these programs that enhance our communities, provide the Nation with clean water, and protect our precious natural wonders.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today in support of this conference report to provide funding for the Department of the Interior and the Environmental Protection Agency for fiscal year 2006. Despite a tight allocation, the Chairman and Ranking Member of the Interior subcommittee performed an admirable task in providing the necessary funding for the continued management of federal lands and the operation of our country's environmental programs. I was disappointed to learn, however, that the bill does not provide much needed funding for a project I requested for the City of Houston and the University of Texas, Houston to conduct a risk assessment of air toxics in the Greater Houston area.

The Houston Chronicle recently completed a five-part series titled "In Harm's Way" that investigated air toxics in the "fence-line" communities near industrial facilities in Houston's East End. In particular, the series noted that the Texas Commission on Environmental Quality found that folks residing in some of these neighborhoods experience higher levels of potentially carcinogenic compounds than other areas.

For many years, residents have had concerns and questions about the quality of the air in Houston's East End, the potential relationship to local industry, and the potential health effects on their families. The City of Houston, partnering with the University of Texas School of Public Health, is already working to characterize the science and weigh the evidence on health effects. Federal funding would allow us to broaden the scope of these efforts to ensure that we include the full range of risk assessment activities in our effort to improve the air in Houston.

While I remain disappointed that the Appropriations Committee did not include a line-item appropriation for this project, I am pleased that my colleague from Washington, the Interior Subcommittee Ranking Member, recognized the need for this air toxics assessment and has agreed to work with me to encourage the EPA to include this assessment as part of its fiscal year 2006 operations.

I thank my friend, Mr. DICKS, for his willingness to work with me on this effort. The folks in these fence-line communities—my constituents—are often the workers who produce many of the essential energy and petrochemical products we all use everyday, and they deserve accurate information about their environment.

With that, Mr. Speaker, I encourage my colleagues to support this bill.

Ms. WOOLSEY. Mr. Speaker, there is an old saying that, "You can put a dress on a pig, but it's still a pig." While I am happy that the FY06 Interior Appropriations Conference Report includes $1.5 billion to make up for the funding shortfall for the Veterans' Administration, VA, it does not mask the horrible choices that were made in the rest of this bill. It's still a pig. This legislation includes cuts to the Clean Water State Revolving Fund, decreases in the number of STAG grants, and completely eliminates many conservation grants.

Ensuring that the VA has the funding it needs is one of my highest priorities, which is why I am so disappointed that this money was included in a bill that undermines our environment. It is sad that veterans' have been shortchanged by President Bush who was all to eager to send troops off to war, but failed to account for the cost of their care after they had dutifully served their country. The underestimation by the White House of $1.5 billion for this year is only the tip of the iceberg with the shortfall for next year already projected to be $2.6 billion. Unfortunately, the shortsightedness of the Republican majority failed to include this spending where it should be, in the Military Quality of Life Appropriations bill.

However, Mr. Speaker, in spite of the shortcomings for the environment, I will vote for this bill to support our troops.

Mr. SALAZAR. Mr. Speaker, I rise today to express my strong support for the conference report on H.R. 2361, the Interior Appropriations bill. This important piece of legislation provides $1.5 billion to remedy the shortfall in veterans' health care for this year. Earlier this month, I stood here urging this body to step up to the plate when it comes to veterans. Our veterans must be our number one priority. By passing this measure, we take the first step in fulfilling our obligation to the men and women who have served our country with honor and dignity.

Passage of this bill is a necessity—I will never turn my back to our Nation's veterans. However, I do want to take this opportunity to discuss my concerns with the larger measure and its failure to address the land and water conservation and management needs of our nation. The Land and Water Conservation Fund has been a valuable program for my district. This has been a fund to assist communities in helping preserve open space to protect and conserve unique landscapes. The cut in funding for the Land and Water Conservation Fund is a cut in land conservation for Colorado.

For those who know, the 3rd Congressional District is comprised of rural communities containing millions of acres of public lands. These public lands are managed by the U.S. Forest Service, Bureau of Land Management, National Park Service, and the Fish and Wildlife Service. These agencies and public lands provide many benefits for the local communities in my district. I am disappointed with the decrease in funding to these agencies in this year's Interior Appropriations Conference Report. These agencies have to maintain a difficult balance of managing our nation's public lands with budget constraints. By cutting funding to these agencies it makes it very difficult for them to maintain their current management practices and leaves our nation's public lands in jeopardy.

With that being said, this report does have some positive aspects. The funding of $5.6 billion for Indian programs is beneficial for school and hospital construction, education grants, human services programs, and law enforcement needs. These programs are essential for the Native American reservations within my district.

More often than not, in the West, the Federal Government is not just your neighbor, it is the entire neighborhood. Since most of my district cannot raise taxes, Payment in Lieu of Funding is vital. These counties with public lands within their boundaries need this funding for schools, roads, and other infrastructure needs. This program has never been fully funded, yet my counties are dependent upon this program. I hope to see this program fully funded next year.

I also want to see continued funding for the National Fire Plan and the forest health initiatives. These programs need to see increased funding due to the continued drought periods in the West and the current pine beetle epidemic. If the beetle infestations are not addressed, we will continue to see our forests decimated. These insects will continue to cause fire hazards in our nation's forests if we do not get them under control.

I urge Congress next year to fully fund these agency budgets. This is critical to the Western States and our existence.

Finally, Mr. Speaker, I would like to thank Representatives OBEY and DICKS for their assistance in securing $100,000 for Montrose's City Hall Renovation Project. The City Hall building of Montrose was built in 1926 and has been well preserved throughout the years. However, as the City and County continues to grow, so too must the building in order to accommodate the needs of the people. Preserving and expanding the City Hall building in Montrose will allow us to keep a part of history alive for future generations of Colorado. Mr. Speaker once again I urge my colleagues to vote in favor of this legislation. We need to sure up our VA budget so we can continue to provide critical health care services to our nation's veterans. In the future we need to restore the Land and Water Conservation funding and fully fund our agencies budgets.

Mr. UDALL of Colorado. Mr. Speaker, I will vote for this conference report—but only because it includes an essential immediate increase in funding for veterans health care.

This has been a long time coming. Last September, many of us sought to provide a $2.5 billion increase over the Bush Administration's budget for veterans' health care. Earlier this year, Members on our side of the aisle made an unsuccessful effort to add $1.2 billion for veterans' health care to the emergency supplemental appropriations for military activities in Afghanistan and Iraq. And over the last month, the Republican leadership led successful efforts to block consideration of amendments to add the needed funds for VA health care.

Things finally changed when the Bush Administration finally acknowledged a $1 billion shortfall in veterans' health care for FY 2005, which had been well known since spring. When that happened, the Senate added $1.5 billion in supplemental funding to this bill because it was the most convenient legislative vehicle—and the conferees wisely agreed to retain it in the conference report.

This additional $1.5 billion is essential if we are to make any claim to meeting our moral obligation to America's veterans and returning soldiers. Because of its inclusion, I will vote for the conference report, even though the rest of the conference report does not deserve to pass.

Except for the veterans' health funding, this conference report falls short across the board.

It once again fails to provide the authorized funding for the payments-in-lieu-of-taxes program, shortchanging the counties and other local governments in Colorado and across the country for whom these "PILT" payments are so important.

It does not provide enough funds to enable the Bureau of Land Management, the U.S. Fish and Wildlife Service, the National Park Service, or the Forest Service to properly manage the federal lands for which they are responsible.

And it inadequately funds many other agencies as well, particularly the Environmental Protection Agency, which will be cut by about 3 percent from this fiscal year. I am particularly concerned about deep cuts to EPA's state grants (down nearly $400 million from fiscal 2005), which support environmental protection programs through grants to State, local and tribal governments, and a $24 million shortfall for EPA science and technology research.

Of course, Colorado will benefit from funding earmarked for projects in several parts of the state. But the needs of many communities will go unmet, and opportunities to acquire high-priority lands such as those in the Beaver Brook watershed in Clear Creek County will be missed.

Finally, the bill includes extensive legislative provisions authorizing the Forest Service to sell, lease, exchange, or otherwise convey lands that the Forest Service identifies as "administrative sites"—including forest headquarters, ranger stations, research stations, or laboratories, among many other kinds of sites.

Mr. Speaker, this part of the conference report originated in the Senate. Inclusion of such legislative provisions in a general appropriation bill is contrary to the House rules, because it properly should be handled by the authorizing committee—the Committee on Resources—in an orderly fashion that allows for hearings and the consideration of amendments.

It would have been far better for the House conferees to have rejected it and enabled our committee to consider it in that fashion. However, I want to express my appreciation for the fact that the conferees did make very important changes in the Senate-passed language.

In particular, I am glad that they included an explicit requirement for the Forest Service to consult with affected local governments and to provide public notice regarding their plans for disposing of properties covered by this part of the conference report. And I think that excluding visitor centers and potential inholdings as well as lands providing access to other lands or waters were valuable changes, as was the requirement that the Forest Service provide advance notice to Congress of planned disposals and the reaffirmation that environmental analysis of proposed disposals include consideration of the "no action" alternative as required by NEPA.

While this legislation will remain in effect only through fiscal 2008, the statement of managers clearly signals an expectation that Congress will be asked to renew it or perhaps even make it permanent. If that should occur, I will do all I can to make sure that the Resources Committee is responsible for considering such legislation and that it is not accomplished by inclusion of legislation in an appropriations measure.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise today to express my support for the Senate passed amendment to the Interior Appropriations bill to include $1.5 billion in emergency supplemental funding to the veterans budget.

However, this funding comes more than a month late. We had a chance to get this emergency spending to the people who need the funding before we left for the July Fourth recess.

After the budget shortfall was announced, both sides of the aisle in the Senate came together to take immediate action to address this issue. They passed a $1.5 billion emergency funding amendment to immediately get the funds to the people who need it, our veterans, those who have defended this Nation against its enemies.

As we have seen by the slow movement of these badly needed funds, all Republicans do is talk, when it comes to a veteran in need.

The Republican Leadership in the House decided to sit on their hands and wait for President Bush to pull a number out of the air. That number was $975 million.

However, it turns out that the Bush level was $300 million short to fund veterans health.

This would be a good start to resolving the funding crisis in veterans healthcare, but I know this administration will continue to try to balance the budget on the backs of the men and women who have sacrificed to defend this great Nation of ours.

The Fiscal Year 2006 budget is short, and the FY 2007 budget is being calculated as we stand here.

Let this be the beginning of full funding for veterans healthcare, now and in the future.

Mr. HENSARLING. Mr. Speaker, I rise today to discuss funding for veterans' healthcare. As the son, grandson, and brother of veterans, I understand just how important this funding is to our brave men and women who have answered the call of duty to serve their country. Since coming to Congress, it has been one of my greatest pleasures to be able to provide our veterans with the care and the treatment they deserve.

Since 1995, Congress has increased spending on veterans by more than 59 percent—an average increase of 6.9 percent per year. During this Congress alone we have increased the death benefits and life insurance coverage of our Armed Services personnel. We have also provided funding for specialty mental health care for the first time ever, increased funding for the treatment of conditions like Post Traumatic Stress Syndrome, and doubled funding for mental health care issues. This is indeed a record to which we can all be proud.

I was also proud to cosponsor H.R. 303, the Retired Pay Restoration Act, in the 108th Congress. With the agreement of the House and Senate, another version of this bill was passed and signed by President Bush in order to allow certain military retirees to receive both their longevity retired pay and veterans disability compensation. As Speaker of the House J. DENNIS HASTERT noted, "Congressman Hensarling's strong support for our nation's veterans and concurrent receipt legislation was critical to ensuring that we achieved the most significant, positive step forward for veterans in our nation's history."

Unfortunately, sometimes Congress can fall short. For instance, the Fiscal Year 2004 Veterans Affairs and Housing and Urban Development Appropriations bill, fell $1.8 billion short of what was agreed to in that year's budget resolution. This inadequate level for funding for veterans healthcare greatly concerned me, and that is why I voted against the bill. When thousands of veterans were waiting 6 months or longer for healthcare, I did not believe that it was the time to skimp on needed resources.

Mr. Speaker, yesterday, the House of Representatives voted on the Fiscal Year 2006 Department of the Interior, Environment, and Related Agencies Appropriations bill. Included as part of this legislation was $1.5 billion in funding for the Department of Veterans Affairs to cover an anticipated budgetary shortfall for the current fiscal year. I am very pleased that the House of Representatives has approved the funding necessary to ensure that they receive the medical care they deserve. However, because the underlying legislation to which we attached this important provision violated the budget we agree to abide by earlier this year, I found myself in the difficult position of having to vote against this legislation.

There were a number of alternative methods that could have been used to alleviate this problem—methods that would not have violated the budget. Most notably, we could have amended H.R. 3130, which was approved unanimously by the House of Representatives on June 30, 2005, to provide the necessary funding levels. This broadly supported measure would have demonstrated our firm commitment to our veterans, and it is unfortunate this alternative was not utilized.

Mr. Speaker, in the end the greatest threat to adequately funding the needs of our veterans is Congress' seemingly inherent inability to control runaway wasteful spending in our budget. Each and every time we spend another dollar on wasteful measures like bulletproof vests for K–9s, bridges to nowhere, or an underground cafeteria in the Carlsbad Caverns, is a dollar that is not available for our veterans.

One of Congress's most solemn obligations is to care for our veterans. I remain committed to funding 100 percent of the benefits veterans have earned through their service and sacrifice to our country. I will continue to work with Members of Congress to explore ways to ensure that the Department of Veterans Affairs gets the money they need within the rules of our budget agreement. I will not however, support legislation to grow the budget of another department, such as this bill would have done with the Department of the Interior, at the expense of our veteran's and our children's future.

Mr. SCOTT of Georgia. Mr. Speaker, as a strong supporter of our Nation's veterans, I support the additional $1.5 billion provided in the FY 2006 Interior Appropriations bill that addresses the current shortfall in funding for veterans' health care. These funds are urgently needed to care for troops returning from Iraq and Afghanistan, as well as the heroes from former conflicts who rely upon the VA for their health care. According to the Department of Veterans Affairs, VA, currently, there are 24.8 million veterans of the U.S. armed services. They served their country in one of the military branches—Army, Navy, Air Force, Marine Corps, and Coast Guard—or in one of many smaller groups that supported the military services, primarily during World War II.

Approximately 769,000 veterans live in Georgia serving in every major conflict and during peacetime. About a quarter of the nation's population, approximately 70 million people, are potentially eligible for VA benefits and services because they are veterans, family members or survivors of veterans. The benefits include: medical care, payments to compensate for disabilities suffered during military service, rehabilitation and employment assistance, pensions to low-income disabled veterans, guarantees on loans to help veterans buy homes, financial aid to help them attend school, burial in a national cemetery and special headstones or markers for their gravesites.

Slightly less than half of all Americans who ever served during wartime in our country's history are alive today, and nearly 80 percent of today's veterans served during a war or an official period of conflict. There are widows and children of veterans of the Civil War and the Indian War of the last century who still receive VA benefits. The largest group of veterans fought in World War II. Approximately 550,000 Georgia veterans served during wartime during either World War II, the Korean conflict, during the Vietnam era or during the Gulf War. These veterans deserve our support especially due to the extraordinary sacrifices and contributions that they have made so that peace and freedom could exist around the world.

I also encourage Congress to provide much needed additional funding for veterans' health care in FY 2006 so that the VA's resources are sufficient to meet the increased demand for its services from our Nation's veterans and their families. It is critical that at all times, but particularly during a time of war, the quality of care for veterans must be a clear and unmistakable priority. We must fulfill our commitment to those who helped build America's strength and security. Our veterans should not have to wait any longer for the benefits they deserve.

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I rise in support of the conference agreement on the Department of Interior Appropriations, H.R. 2361, because it addresses urgent needs within our veterans' health care system. Last month, the Department of Veterans Affairs (VA) announced a $1.3 billion shortfall in funding for veterans' medical care, and it is estimated that in FY 2006 this shortfall could grow. This is unacceptable. With thousands of new veterans entering our health care system every year—including those that have fought in Iraq, Afghanistan and the global war on terrorism—we must provide the resources they need and deserve, as well as continuing to provide for those who came before them. This bill provides $1.5 billion in emergency funding in FY 2005 for veterans health care and keeps our promise to those who have so honorably served our nation.

This bill also provides a $5 million increase for the National Endowment for the Arts. I support this investment in our artistic resources. It enhances the richness of Minnesota and our nation's cultural legacy and allows participation in the arts by many who would not otherwise have the opportunity.

Regrettably, this bill falls short on supporting the federal programs that conserve our environment and protect the public's health. This bill cuts funding for the Clean Water State Revolving Loan Fund by 17 percent. This fund allows states to allocate funds for local water and sewage treatment projects. St. Paul Regional Water Services recently applied for Clean Water funds for a water filtration project and were denied because there wasn't enough funding.

Funding for the National Park Service is also cut by three percent. These dollars are used to protect our national treasures like Voyageurs, Yosemite and Yellowstone National Parks. The maintenance backlog at our National Parks has increased from $4.9 billion in 2000, when President Bush pledged to eliminate the backlog, to $7.1 billion today. We should give the Park Service the resources to maintain these national treasures instead of slipping farther and farther behind in unmet maintenance needs.

I am pleased to support our nation's honored veterans. Unfortunately, while this bill could have done so much more to keep our families and communities strong and healthy and protect our nation's cherished natural resources for generations to come, this Congress failed to make the environment and public health a priority.

Mr. TAYLOR of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DICKS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Without objection the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX the yeas and nays are ordered.

Pursuant to clause 8 of rule XX further proceedings on this question will be postponed.

## GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and that I may include tabular and extraneous material on the conference report to accompany H.R. 2985.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

## CONFERENCE REPORT ON H.R. 2985, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2006

Mr. LEWIS of California. Mr. Speaker, I call up the conference report on the bill (H.R. 2985), making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 396, the conference report is considered read.

(For conference report and statement see proceedings of the House of July 26, 2005 at Page 17728.)

The SPEAKER pro tempore. The gentleman from California (Mr. LEWIS) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I might consume. I do not expect that we will use very much of our time, Mr. Speaker.

The conference report I bring forth today to fund the legislative branch involves those activities providing some $3 billion, 800 million, an increase of 4.5 percent over the year 2005.

Mr. Speaker, the adjustments upward almost entirely represent increased expenditures for our police services and security around the Capitol campus, and, beyond that, expenses that are directly related to the development of the Congressional Visitors Center.

Otherwise the bill is absolutely flat in terms of spending over 2005-2006. It is a very, very lean bill. I urge the Members to support the bill.

Mr. Speaker, I submit the following for the RECORD:

LEGISLATIVE BRANCH APPROPRIATIONS ACT - FY 2006 (H.R. 2985)
(Amounts in thousands)

| | FY 2005 Enacted | FY 2006 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| TITLE I - LEGISLATIVE BRANCH | | | | | | |
| SENATE | | | | | | |
| Expense allowances. | | | | | | |
| Vice President | 20 | 20 | --- | 20 | 20 | --- |
| President Pro Tempore of the Senate | 40 | 40 | --- | 40 | 40 | --- |
| Majority Leader of the Senate | 40 | 40 | --- | 40 | 40 | --- |
| Minority Leader of the Senate | 40 | 40 | --- | 40 | 40 | --- |
| Majority Whip of the Senate | 10 | 10 | --- | 10 | 10 | --- |
| Minority Whip of the Senate | 10 | 10 | --- | 10 | 10 | --- |
| President Pro Tempore Emeritus of the Senate | 15 | 15 | --- | 15 | 15 | --- |
| Chairman of the Majority Conference Committee | 5 | 5 | --- | 5 | 5 | --- |
| Chairman of the Minority Conference Committee | 5 | 5 | --- | 5 | 5 | --- |
| Chairman of the Majority Policy Committee | 5 | 5 | --- | 5 | 5 | --- |
| Chairman of the Minority Policy Committee | 5 | 5 | --- | 5 | 5 | --- |
| Subtotal, expense allowances | 195 | 195 | --- | 195 | 195 | --- |
| Representation allowances for the Majority and Minority Leaders | 30 | 30 | --- | 30 | 30 | --- |
| Total, Expense allowances and representation | 225 | 225 | --- | 225 | 225 | --- |
| Salaries, Officers and Employees | | | | | | |
| Office of the Vice President | 2,108 | 2,181 | --- | 2,181 | 2,181 | +73 |
| Office of the President Pro Tempore | 561 | 582 | --- | 582 | 582 | +21 |
| Office of the President Pro Tempore Emeritus | 163 | 290 | --- | 290 | 290 | +127 |
| Offices of the Majority and Minority Leaders | 3,808 | 4,340 | --- | 4,340 | 4,340 | +532 |
| Offices of the Majority and Minority Whips | 2,556 | 2,644 | --- | 2,644 | 2,644 | +88 |
| Committee on Appropriations | 13,301 | 13,758 | --- | 13,758 | 13,758 | +457 |
| Conference committees | 2,826 | 2,940 | --- | 2,940 | 2,940 | +114 |
| Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority | 702 | 728 | --- | 728 | 728 | +26 |
| Policy Committees | 2,946 | 3,048 | --- | 3,048 | 3,048 | +102 |
| Office of the Chaplain | 341 | 354 | --- | 354 | 354 | +13 |
| Office of the Secretary | 19,586 | 20,866 | --- | 20,866 | 20,866 | +1,280 |
| Office of the Sergeant at Arms and Doorkeeper | 50,635 | 57,743 | --- | 56,700 | 56,700 | +6,065 |
| Offices of the Secretaries for the Majority and Minority | 1,528 | 1,584 | --- | 1,584 | 1,584 | +56 |
| Agency contributions and related expenses | 33,779 | 37,105 | --- | 37,105 | 37,105 | +3,326 |
| Outlays | --- | --- | --- | --- | --- | --- |
| Total, Salaries, officers and employees | 134,840 | 148,163 | --- | 147,120 | 147,120 | +12,280 |
| Office of the Legislative Counsel of the Senate | | | | | | |
| Salaries and expenses | 5,152 | 5,437 | --- | 5,437 | 5,437 | +285 |
| Office of Senate Legal Counsel | | | | | | |
| Salaries and expenses | 1,265 | 1,306 | --- | 1,306 | 1,306 | +41 |
| Expense Allowances of the Secretary of the Senate, Sergeant at Arms and Doorkeeper of the Senate, and Secretaries for the Majority and Minority of the Senate: Expenses allowances | 24 | 24 | --- | 24 | 24 | --- |
| Contingent Expenses of the Senate | | | | | | |
| Inquiries and investigations | 110,000 | 119,637 | --- | 119,637 | 119,637 | +9,637 |
| Expenses of United States Senate Caucus on International Narcotics Control | 520 | 520 | --- | 520 | 520 | --- |
| Secretary of the Senate | 1,700 | 1,900 | --- | 1,980 | 1,980 | +280 |
| Sergeant at Arms and Doorkeeper of the Senate | 127,182 | 162,225 | --- | 142,000 | 142,000 | +14,818 |
| Miscellaneous items | 18,326 | 18,326 | --- | 17,000 | 17,000 | -1,326 |
| Senators' Official Personnel and Office Expense Account | 320,660 | 364,985 | --- | 350,000 | 350,000 | +29,340 |
| Official Mail Costs | | | | | | |
| Expenses | 300 | 300 | --- | 300 | 300 | --- |
| Total, Contingent expenses of the Senate | 578,688 | 667,893 | --- | 631,437 | 631,437 | +52,749 |
| Total, Senate | 720,194 | 823,048 | --- | 785,549 | 785,549 | +65,355 |

LEGISLATIVE BRANCH APPROPRIATIONS ACT - FY 2006 (H.R. 2985)
(Amounts in thousands)

| | FY 2005 Enacted | FY 2006 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| HOUSE OF REPRESENTATIVES | | | | | | |
| Payments to Widows and Heirs of Deceased Members of Congress (emergency) (P.L. 109-13) | 162 | --- | --- | --- | --- | -162 |
| Salaries and Expenses | | | | | | |
| House Leadership Offices | | | | | | |
| Office of the Speaker | 2,708 | 2,788 | 2,788 | 2,788 | 2,788 | +80 |
| Office of the Majority Floor Leader | 2,027 | 2,089 | 2,089 | 2,089 | 2,089 | +62 |
| Office of the Minority Floor Leader | 2,840 | 2,928 | 2,928 | 2,928 | 2,928 | +88 |
| Office of the Majority Whip | 1,741 | 1,797 | 1,797 | 1,797 | 1,797 | +56 |
| Office of the Minority Whip | 1,303 | 1,345 | 1,345 | 1,345 | 1,345 | +42 |
| Speaker's Office for Legislative Floor Activities | 470 | 482 | 482 | 482 | 482 | +12 |
| Republican Steering Committee | 881 | 906 | 906 | 906 | 906 | +25 |
| Republican Conference | 1,500 | 1,548 | 1,548 | 1,548 | 1,548 | +48 |
| Republic Policy Committee | --- | 307 | 307 | 307 | 307 | +307 |
| Democratic Steering and Policy Committee | 1,589 | 1,945 | 1,945 | 1,945 | 1,945 | +356 |
| Democratic Caucus | 792 | 816 | 816 | 816 | 816 | +24 |
| Nine minority employees | 1,409 | 1,445 | 1,445 | 1,445 | 1,445 | +36 |
| Training and Program Development: | | | | | | |
| Majority | 290 | 290 | 290 | 290 | 290 | --- |
| Minority | 290 | 290 | 290 | 290 | 290 | --- |
| Cloakroom Personnel: | | | | | | |
| Majority | 419 | 434 | 434 | 434 | 434 | +15 |
| Minority | 419 | 434 | 434 | 434 | 434 | +15 |
| Subtotal, House Leadership Offices | 18,678 | 19,844 | 19,844 | 19,844 | 19,844 | +1,166 |
| Members' Representational Allowances Including Members' Clerk Hire, Official Expenses of Members, and Official Mail | | | | | | |
| Expenses | 525,195 | 564,536 | 538,109 | 538,109 | 542,109 | +16,914 |
| Committee Employees | | | | | | |
| Standing Committees, Special and Select | 113,499 | 117,913 | 117,913 | 117,913 | 117,913 | +4,414 |
| Committee on Appropriations (including studies and investigations) | 24,726 | 25,668 | 25,668 | 25,668 | 25,668 | +942 |
| Subtotal, Committee employees | 138,225 | 143,581 | 143,581 | 143,581 | 143,581 | +5,356 |
| Salaries, Officers and Employees | | | | | | |
| Office of the Clerk | 20,534 | 21,911 | 21,911 | 21,911 | 21,911 | +1,377 |
| Office of the Sergeant at Arms | 5,879 | 6,284 | 6,284 | 6,284 | 6,284 | +405 |
| Office of the Chief Administrative Officer | 143,645 | 119,804 | 116,971 | 116,971 | 121,471 | -22,174 |
| Office of the Inspector General | 3,986 | 3,991 | 3,991 | 3,991 | 3,991 | +5 |
| Office for Emergency Planning, Preparedness and Operations | 1,000 | 5,000 | 5,000 | 5,000 | 5,000 | +4,000 |
| Office of General Counsel | 962 | 962 | 962 | 962 | 962 | --- |
| Office of the Chaplain | 155 | 161 | 161 | 161 | 161 | +6 |
| Office of the Parliamentarian | 1,673 | 1,767 | 1,767 | 1,767 | 1,767 | +94 |
| Office of the Parliamentarian | (1,459) | (1,546) | (1,546) | (1,546) | (1,546) | (+87) |
| Compilation of precedents of the House of Representatives | (214) | (221) | (221) | (221) | (221) | (+7) |
| Office of the Law Revision Counsel of the House | 2,346 | 2,453 | 2,453 | 2,453 | 2,453 | +107 |
| Office of the Legislative Counsel of the House | 6,721 | 6,963 | 6,963 | 6,963 | 6,963 | +242 |
| Office of Interparliamentary Affairs | 687 | 720 | 720 | 720 | 720 | +33 |
| Other authorized employees | 156 | 161 | 161 | 161 | 161 | +5 |
| Office of the Historian | --- | --- | 405 | 405 | 405 | +405 |
| Subtotal, Salaries, officers and employees | 187,744 | 170,177 | 167,749 | 167,749 | 172,249 | -15,495 |
| Allowances and Expenses | | | | | | |
| Supplies, materials, administrative costs and Federal tort claims | 4,350 | 4,179 | 4,179 | 4,179 | 4,179 | -171 |
| Official mail for committees, leadership offices, and administrative offices of the House | 410 | 410 | 410 | 410 | 410 | --- |
| Government contributions | 203,900 | 214,422 | 214,422 | 214,422 | 214,422 | +10,522 |

LEGISLATIVE BRANCH APPROPRIATIONS ACT - FY 2006 (H.R. 2985)
(Amounts in thousands)

| | FY 2005 Enacted | FY 2006 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| Miscellaneous items | 690 | 703 | 703 | 703 | 703 | +13 |
| Capitol Visitor Center | --- | 9,965 | 3,410 | 3,410 | 3,410 | +3,410 |
| Subtotal, Allowances and expenses | 209,350 | 229,679 | 223,124 | 223,124 | 223,124 | +13,774 |
| Total, Salaries and expenses | 1,079,192 | 1,127,817 | 1,092,407 | 1,092,407 | 1,100,907 | +21,715 |
| Total, House of Representatives | 1,079,354 | 1,127,817 | 1,092,407 | 1,092,407 | 1,100,907 | +21,553 |
| JOINT ITEMS | | | | | | |
| Joint Economic Committee | 4,139 | 4,276 | 4,276 | 4,276 | 4,276 | +137 |
| Joint Committee on Taxation | 8,366 | 8,781 | 8,781 | 8,781 | 8,781 | +415 |
| Office of the Attending Physician | | | | | | |
| Medical supplies, equipment, expenses, and allowances | 2,508 | 2,545 | 2,545 | 2,545 | 2,545 | +37 |
| Capitol Guide Service and Special Services Office | 3,844 | 4,098 | 4,268 | 4,098 | 4,098 | +254 |
| Statements of Appropriations | 30 | 30 | 30 | 30 | 30 | --- |
| Total, Joint items | 18,887 | 19,730 | 19,900 | 19,730 | 19,730 | +843 |
| CAPITOL POLICE | | | | | | |
| Salaries | 201,812 | 230,191 | 210,350 | 222,600 | 217,456 | +15,644 |
| General expenses | 39,657 | 59,948 | 29,345 | 42,000 | 32,000 | -7,657 |
| Total, Capitol Police | 241,469 | 290,139 | 239,695 | 264,600 | 249,456 | +7,987 |
| OFFICE OF COMPLIANCE | | | | | | |
| Salaries and expenses | 2,402 | 3,112 | 3,112 | 3,112 | 3,112 | +710 |
| CONGRESSIONAL BUDGET OFFICE | | | | | | |
| Salaries and expenses | 34,640 | 35,853 | 35,450 | 35,853 | 35,450 | +810 |
| ARCHITECT OF THE CAPITOL | | | | | | |
| General administration | 79,704 | 76,982 | 77,002 | 76,522 | 76,812 | -2,892 |
| Capitol building | 28,626 | 27,105 | 22,097 | 25,380 | 23,352 | -5,274 |
| Capitol grounds | 15,118 | 7,801 | 7,723 | 7,061 | 7,511 | -7,607 |
| Senate office buildings | 61,586 | 65,564 | --- | 67,004 | 67,004 | +5,418 |
| House office buildings | 64,830 | 68,698 | 59,616 | 59,616 | 59,616 | -5,214 |
| Capitol Power Plant | 60,744 | 65,755 | 65,185 | 65,317 | 65,285 | +4,541 |
| Offsetting collections | -4,365 | -6,500 | -6,600 | -6,500 | -6,600 | -2,235 |
| Net subtotal, Capitol Power Plant | 56,379 | 59,255 | 58,585 | 58,817 | 58,685 | +2,306 |
| Library buildings and grounds | 39,776 | 83,318 | 31,318 | 70,948 | 68,763 | +28,987 |
| Capitol police buildings and grounds | 9,906 | 34,959 | 16,830 | 10,031 | 14,902 | +4,996 |
| Botanic garden | 6,275 | 10,613 | 7,211 | 7,633 | 7,633 | +1,358 |
| Capitol Visitor Center | | | | | | |
| CVC Project (cost-to-complete) | --- | 36,900 | 36,900 | 41,900 | 41,900 | +41,900 |
| CVC Operations | --- | 35,285 | --- | 2,300 | 2,300 | +2,300 |
| Total, Capitol Visitor Center | --- | 72,185 | 36,900 | 44,200 | 44,200 | +44,200 |
| Total, Architect of the Capitol | 362,200 | 506,480 | 317,282 | 427,212 | 428,478 | +66,278 |
| LIBRARY OF CONGRESS | | | | | | |
| Salaries and expenses | 381,593 | 409,079 | 388,144 | 397,285 | 395,754 | +14,161 |
| Authority to spend receipts | -6,299 | -6,350 | -6,350 | -6,350 | -6,350 | -51 |
| Subtotal, Salaries and expenses | 375,294 | 402,729 | 381,794 | 390,935 | 389,404 | +14,110 |

LEGISLATIVE BRANCH APPROPRIATIONS ACT - FY 2006 (H.R. 2985)
(Amounts in thousands)

| | FY 2005 Enacted | FY 2006 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| Copyright Office, salaries and expenses | 53,182 | 58,191 | 58,601 | 57,322 | 58,601 | +5,419 |
| Authority to spend receipts | -33,209 | -30,657 | -35,946 | -34,622 | -35,946 | -2,737 |
| Subtotal, Copyright Office | 19,973 | 27,534 | 22,655 | 22,700 | 22,655 | +2,682 |
| Congressional Research Service, salaries and expenses | 96,118 | 105,289 | 99,952 | 101,755 | 100,916 | +4,798 |
| Books for the blind and physically handicapped, Salaries and expenses | 53,977 | 55,243 | 54,049 | 64,172 | 54,449 | +472 |
| Subtotal, Library of Congress | 545,362 | 590,795 | 558,450 | 579,562 | 567,424 | +22,062 |
| Rescission, Chapter 9, Division A, Misc. Appropriations Act, 2001 | --- | --- | -15,500 | --- | -6,858 | -6,858 |
| Total, Library of Congress | 545,362 | 590,795 | 542.950 | 579,562 | 560,566 | +15,204 |
| GOVERNMENT PRINTING OFFICE | | | | | | |
| Congressional printing and binding | 88,090 | 92,283 | 82,690 | 88,090 | 88,090 | --- |
| Office of Superintendent of Documents | | | | | | |
| Salaries and expenses | 31,697 | 33,837 | 33,337 | 33,837 | 33,337 | +1,640 |
| Government Printing Office Revolving Fund | --- | 5,000 | 1,200 | 5,000 | 2,000 | +2,000 |
| Total, Government Printing Office | 119,787 | 131,120 | 117,227 | 126,927 | 123,427 | +3,640 |
| GOVERNMENT ACCOUNTABILITY OFFICE | | | | | | |
| Salaries and expenses | 474,565 | 493,548 | 489,560 | 491,548 | 489,560 | +14,995 |
| Offsetting collections | -7,360 | -7,165 | -7,165 | -7,165 | -7,165 | +195 |
| Total, Government Accountability Office | 467,205 | 486,383 | 482,395 | 484,383 | 482,395 | +15,190 |
| OPEN WORLD LEADERSHIP CENTER | | | | | | |
| Payment to the Open World Leadership Center Trust Fund | 13,392 | 14,000 | 14,000 | 14,000 | 14,000 | +608 |
| STENNIS CENTER FOR PUBLIC SERVICE | | | | | | |
| Stennis Center for Public Service | --- | --- | --- | 430 | 430 | +430 |
| Sec. 6050 - U.S. Senate (emergency) P.L. 109-13) | 35,000 | --- | --- | --- | --- | -35,000 |
| Grand total | 3,639,892 | 4,028,477 | 2,864,418 | 3,833,765 | 3,803,500 | +163,608 |

LEGISLATIVE BRANCH APPROPRIATIONS ACT - FY 2006 (H.R. 2985)
(Amounts in thousands)

| | FY 2005 Enacted | FY 2006 Request | House | Senate | Conference | Conference vs. Enacted |
|---|---|---|---|---|---|---|
| RECAPITULATION | | | | | | |
| Senate | 720,194 | 823,048 | --- | 785,549 | 785,549 | +65,355 |
| House of Representatives | 1,079,354 | 1,127,817 | 1,092,407 | 1,092,407 | 1,100,907 | +21,553 |
| Joint Items | 18,887 | 19,730 | 19,900 | 19,730 | 19,730 | +843 |
| Capitol Police | 241,469 | 290,139 | 239,695 | 264,600 | 249,456 | +7,987 |
| Office of Compliance | 2,402 | 3,112 | 3,112 | 3,112 | 3,112 | +710 |
| Congressional Budget Office | 34,640 | 35,853 | 35,450 | 35,853 | 35,450 | +810 |
| Architect of the Capitol | 362,200 | 506,480 | 317,282 | 427,212 | 428,478 | +66,278 |
| Library of Congress | 545,362 | 590,795 | 542,950 | 579,562 | 560,566 | +15,204 |
| Government Printing Office | 119,787 | 131,120 | 117,227 | 126,927 | 123,427 | +3,640 |
| Government Accountability Office | 467,205 | 486,383 | 482,395 | 484,383 | 482,395 | +15,190 |
| Open World Leadership Center | 13,392 | 14,000 | 14,000 | 14,000 | 14,000 | +608 |
| Stennis Center for Public Service | --- | --- | --- | 430 | 430 | +430 |
| Sec. 6050 - U.S. Senate (emergency) P.L. 109-13) | 35,000 | --- | --- | --- | --- | -35,000 |
| Grand total | 3,639,892 | 4,028,477 | 2,864,418 | 3,833,765 | 3,803,500 | +163,608 |

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, at the risk of beating a dead horse, I would once again like to express my profound misgivings about supporting this bill this afternoon.

Obviously this Chamber has basic expenses, and they have to be paid for, but I want to suggest that I think that the visitors center, which is now being constructed on the east side of the Capitol, is a project which, while it might be desirable, has been managed in such an outlandish fashion that I think before it is done, it is going to bring great embarrassment to this institution.

The fact is that that center started out costing around $90 million. Before it is finished, it is now going to cost a good $600 million. It was supposed to be open by 2005. We are going to be lucky if it will be open and fully operational, if we ignore the nice word games that we have been presented by the Architect's office; in fact, we will be lucky if this is fully operational by the year 2007.

In my view, this project has been mismanaged as badly as the entire Federal budget has been mismanaged. That hole that we used to have out here, I think, was symbolic of the hole in logic that has dominated the administration of this entire project.

I have two principal objections to that visitors center. Number one, I think it is far too expensive. And, secondly, I object to the misallocation of space in that project.

Now, I have seen three different stories that have purportedly reported on my objections to the center. And each of those stories leaves the impression that my major concern is simply that Congress did not have enough room. That is not my point at all.

My point is that when you have such a huge addition of space to the Capitol, that space should be allocated in an intelligent way, in a way which makes Congress more efficient, in a way which gives Congress more working space as opposed to propaganda space.

We are going to have a lot of money lavished on a media center. We are going to have all of the creature comforts that you can imagine for any of the reporters who cover Members of Congress in that media center. But there will be very little done to make this Congress more able to sit down in a timely fashion in conference and work out our differences.

So I think a tremendous amount of space has been wasted. And I think a tremendous amount of taxpayers' dollars have been wasted. And the reason I am voting against this is because I think this is the last chance that any of us will have to ask the leadership of this House and the Architect's office to at least review the way space is being allocated, at least review the way taxpayer dollars are being expended.

We are going to have, when this project is over, we will have a project which is cosmetically beautiful, no question about that. There will be lots of Taj Mahal marble show space, but there will be very little working space that will be added.

□ 1715

I think that if we are not getting the biggest bang from the buck we ought to be getting out of a project like this. I do believe that not only is the cost of this project out of control, I think the heating center project which is also ongoing is also going to wind up embarrassing this institution significantly.

So I intend to vote "no." I am not going to particularly try to ask anyone to vote any which way, but I intend to vote "no" because I think this visitor center represents a missed opportunity and a spectacular case of mismanagement and wasting of taxpayer funds.

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is by way of suggesting to my colleagues in the body that my friend, the gentleman from Wisconsin (Mr. OBEY), is raising serious questions regarding the visitor center, and because of that focus he has not spent a lot of time today talking about the fundamentals of this bill that relate to supporting the institution, the work of the legislative branch, an effort which is fundamental to our being successful as a legislative branch.

The gentleman from Wisconsin (Mr. OBEY) and I share together great concern about making sure that work goes forward and goes forward successfully. We are partners. In connection with this, I, frankly, today would like to predict at least that somewhere out there before we leave the Congress, the gentleman from Wisconsin (Mr. OBEY) and I together will walk with our brides through this visitors centers and have different kinds of observations. We will enjoy much of the Taj, but in the meantime it will be a fabulous addition to the Congress, the largest addition that has been made in our lifetime at any rate, my public affairs lifetime.

I am very proud of the work of this subcommittee, the work they have done to carry forward the effort of the legislative branch.

Mr. Speaker, if the gentleman would not mind, I would like to take just a moment to ask my colleague, the gentleman from Illinois (Mr. LAHOOD), to kind of introduce your piece of that because the gentleman from Wisconsin (Mr. OBEY) and he share similar interests regarding the real work of the legislative branch.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. LAHOOD).

Mr. LAHOOD. Mr. Speaker, I just want to say this is a good bill. It is a bill that every Member should support. It is a bill that takes care of all the things that get done around here. Every day there is a RECORD printed of every word that is spoken in the House. Every day there are Clerks that show up here that help the Members. Every day there are people here that take care of the security of the Capitol. Every day there are people here to make sure that we can come and do our work and this bill takes care of all of that.

That is why it is a bill that is absolutely critical to every Member of this institution. It is a bill that I think highlights some of the important things that have gone on and will go on around here in terms of opportunities to enhance the facilities, one of the most beautiful, magnificent buildings in the world, and the one across the street, the Library of Congress, is also accounted for, and the staff that work there and provide the kind of resources, the people that do the research that help us write the bills around here and all of that staff.

There is also in this bill the opportunity not only to enhance a visitors center, which may not be perfect but one that is sorely needed, but there are also provisions in this bill to account for what happens if some sort of national calamity would fall upon the United States Capitol, the idea of continuity and how we should succeed ourselves around here. I think that is an important part of it.

I hope during our deliberations next year we can consider some sort of governance board for the visitors center to account for maybe a little bit more opportunity to look at how it should be run and how it should be operated. But this is a good bill.

This is the bill that says to all of the people that make this institution work, we are grateful to you. This is the bill that says to all the people who help us get our jobs done, we thank you for what you do. And this is a bill that deserves the support of every Member of the Chamber.

I encourage all Members to vote "aye" on the legislative branch bill so that we can continue to keep the operations of the United States Capitol, the House of Representatives, the United States Senate, and all the workings of this great institution going.

Mr. OBEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me thank the gentleman from Illinois (Mr. LAHOOD) for reminding me that I forgot to mention the continuity issue as well. Again, I find myself in the minority.

This is a very important question. What we are talking about here is very simply, what would happen if a large number of Members of Congress were obliterated in some kind of terrorist attack and we were left in a crisis situation? And we have very simply a choice that needs to be made. We have a choice between an operation which would allow the executive branch to essentially operate almost any way it sees fits with perhaps only a handful of surviving Members for a 45-day period until we can have special elections to replace Members of Congress who might have been killed in such an attack; or we could follow a different model under which we would have this Congress populated for a temporary period by persons who are appointed under a previously prescribed procedure until we could have a special election so that we would again have elected representatives for each of the 435 districts in this House.

I much prefer the latter. I do not think it is a good idea, as this bill does, to, in effect, create a situation in which we would have one-man rule for 45 days. We could have literally only a handful of Members of Congress who had survived an attack, and I do not think under those circumstances that we want to be ruled by a President without any kind of checks and balances whatsoever.

So there is an honest, intellectual difference of opinion on this question. And I think we are going down the wrong road. I think that by choosing the model that was chosen, what is happening is that we are in fact choosing form over substance. It is indeed important to have persons who represent each of our districts be elected representatives. But if the Member from an individual district is blown away in a terrorist attack, it is in my judgment, better that that district be represented on a temporary basis by an appointed person rather than having them represented by no one at all for that period.

So that is why I think that this House in its haste to find a solution is going down the wrong road.

Mr. LAHOOD. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Illinois.

Mr. LAHOOD. I wonder if the gentleman from Wisconsin (Mr. OBEY) would, since I gave him a friendly reminder, would be willing to vote for the bill now as a result from the fact now that you could now expound on this for another 5 minutes?

Mr. OBEY. No, I do not think so. I think there is always room in this place for protest votes, and this is one occasion when I intend to exercise it; but I thank the gentleman for his efforts.

Mr. LEWIS of California. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. LAHOOD).

Mr. LAHOOD. Mr. Speaker, I just want to say this. We did have a very spirited debate on this issue of continuity. We really did. I do not know if there were 5 or 6 or 7 hours, but the gentleman from Washington (Mr. BAIRD) had his chance to present his bill and have a vote on it. And, frankly, not very many Members voted for it. And we did have a good debate about it, but I think ultimately the Speaker decided that we have to get on with this issue and this was the place to put it.

It may not be the best place, but it is in this bill because I think the Speaker felt an obligation that we have to deal with this issue at some point. It may not be perfect, but we did have a very good debate about it, and I think that is why it is included in the bill.

I thank the chairman for allowing me to explain that.

Mr. OBEY. Mr. Speaker, I yield back the balance of my time.

Mr. LEWIS of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Without objection, the previous question is ordered on the conference report.

There was no objecton.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

## DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. The pending business is the question of agreeing to the conference report on the bill, H.R. 2361, on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for the electronic vote on the question of adoption of the conference report on H.R. 2985.

The vote was taken by electronic device, and there were—yeas 410, nays 10, not voting 14, as follows:

[Roll No. 450]

YEAS—410

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar

Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

### NAYS—10

Dingell
Duncan
Flake
Franks (AZ)
Graves
Hefley
Hensarling
Jones (NC)
Pence
Petri

### NOT VOTING—14

Andrews
Carson
Cox
Cramer
Cuellar
Davis (FL)
Gillmor
Lynch
Olver
Paul
Renzi
Schakowsky
Scott (GA)
Waxman

□ 1747

Mr. HEFLEY changed his vote from "yea" to "nay."

Messrs. BUTTERFIELD, MACK, BLUMENAUER, and STARK changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. RENZI. Mr. Speaker, on Thursday, July 28, 2005 I was unavoidably detained and missed the House of Representative's vote on the adoption of the Conference Report on H.R. 2361, Department of the Interior, Environment, and Related Agencies Appropriations Act for Fiscal Year 2006. Had I been present I would have voted "yea" on H.R. 2361.

Mr. CUELLAR. Mr. Speaker, on rollcall No. 450, Interior Appropriations bill, had I been present, I would have voted "yea."

## PERSONAL EXPLANATION

Mr. JONES of North Carolina. Mr. Speaker, on vote No. 450 regarding adoption of the Conference Report on H.R. 2361—the Department of the Interior, Environment, and Related Agencies Appropriations Act for Fiscal Year 2006—my vote was recorded in a manner inconsistent with my intent. Let the RECORD show that my vote should have been recorded as "yea" not "nay."

## CONFERENCE REPORT ON H.R. 2985, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore (Mr. BASS). The pending business is the question of agreeing to the conference report on the bill, H.R. 2985, on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 305, nays 122, not voting 7, as follows:

[Roll No. 451]

### YEAS—305

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Carnahan
Carter
Case
Castle
Cleaver
Clyburn
Cole (OK)
Conaway
Costa
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Tom
Deal (GA)
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Fortenberry
Foxx
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goodlatte
Granger
Green, Al
Hall
Harman
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Herger
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hostettler
Hoyer
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Kanjorski
Keller
Kelly
Kennedy (RI)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Matsui
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Ortiz
Osborne
Otter
Owens
Oxley
Pascrell
Pastor
Payne
Pearce
Peterson (PA)
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Rothman
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Sodrel
Souder
Strickland
Stupak
Sullivan
Sweeney
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

### NAYS—122

Baird
Baldwin
Barrow
Bean
Becerra
Berman
Berry
Bishop (NY)
Blumenauer
Boswell
Brown (OH)
Brown-Waite, Ginny
Cardoza
Chabot
Chandler
Chocola
Coble
Conyers
Cooper
Costello
Davis (CA)
Davis, Jo Ann
DeFazio
DeGette
Dicks
Doggett
Duncan
Etheridge
Feeney
Flake
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Garrett (NJ)
Goode
Gordon
Graves
Green (WI)
Green, Gene
Grijalva
Gutierrez
Gutknecht
Harris
Hayworth
Hefley
Hensarling
Herseth
Hinchey
Honda
Hooley
Hulshof
Inslee
Israel
Jones (NC)
Jones (OH)
Kaptur
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Lee
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Maloney
Markey
Marshall
Matheson
McCollum (MN)
McDermott
McGovern
McKinney
Meehan
Meek (FL)
Melancon
Menendez
Miller (FL)
Miller, George
Moore (KS)
Musgrave
Nadler
Oberstar
Obey
Olver
Pallone
Pelosi
Pence
Peterson (MN)
Petri
Pomeroy
Price (GA)
Rohrabacher
Ross
Roybal-Allard
Salazar
Sanchez, Loretta
Sanders
Shays
Sherman
Shimkus
Slaughter
Snyder
Solis
Spratt
Stark
Stearns
Tancredo
Tanner
Tauscher
Taylor (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velazquez
Westmoreland
Woolsey
Wu

### NOT VOTING—7

Andrews
Carson
Clay
Lynch
Paul
Renzi
Schakowsky

□ 1755

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. RENZI. Mr. Speaker, on Thursday, July 28, 2005, I was unavoidably detained and missed the House of Representatives' vote on the adoption of the Conference Report on H.R. 2985, Legislative Branch Appropriations Act for Fiscal Year 2006. Had I been present I would have voted "yea" on H.R. 2985.

## PROVIDING FOR AN ADJOURNMENT OR RECESS OF THE TWO HOUSES

Mr. DELAY. Mr. Speaker, I offer a privileged concurrent resolution (H. Con. Res. 225) and ask for its immediate consideration.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 225

*Resolved by the House of Representatives (the Senate concurring)*, That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the House adjourns on the legislative day of Thursday, July 28, 2005, Friday, July 29, 2005, or Saturday, July 30, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, September 6, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Friday, July 29, 2005, through Friday, August 5, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, September 6, 2005, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. Pursuant to section 132(a) of the Legislative Reorganization Act of 1946, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 404, nays 16, not voting 13, as follows:

[Roll No. 452]

YEAS—404

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas
Lungren, Daniel E.
Mack
Maloney
Manzullo
Marchant
Markey
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Saxton
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wynn
Young (AK)
Young (FL)

NAYS—16

Boswell
Chandler
Cooper
Doggett
Ford
Lewis (GA)
Lofgren, Zoe
Marshall
Matheson
Olver
Sanchez, Loretta
Sherman
Taylor (MS)
Udall (CO)
Udall (NM)
Wu

NOT VOTING—13

Andrews
Barrett (SC)
Butterfield
Carson
Eshoo
Larson (CT)
Lynch
Moore (KS)
Paul
Renzi
Sanders
Schakowsky
Velazquez

□ 1813

Mr. UDALL of Colorado and Mr. OLVER changed their vote from "yea" to "nay."

So the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. RENZI. Mr. Speaker, on Thursday, July 28, 2005, I was unavoidably detained and missed the House of Representatives vote on an Adjournment Resolution. Had I been present I would have voted "yea" on the resolution.

## PERSONAL EXPLANATION

Mr. ANDREWS. Mr. Speaker, I regret that I missed five votes on July 28, 2005. Had I been present I would have voted "yes" on rollcall Nos. 448, 450 and 452. I would have voted "no" on rollcall Nos. 449 and 451.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1946

Mr. PRICE of Georgia. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1946.

The SPEAKER pro tempore (Mr. BASS). Is there objection to the request of the gentleman from Georgia?

There was no objection.

## CONGRATULATING SUSAN HANBACK ON HER RETIREMENT FROM THE HOUSE OF REPRESENTATIVES

(Mr. DREIER asked and was given permission to address the House for 1 minute.)

Mr. DREIER. Mr. Speaker, as we approach completion of our work here before the summer break, I think it is important for us to note that when we return, a very familiar face will no longer be greeting us here when we regularly come onto the House floor. I am referring, of course, to Susan Hanback, who has worked on Capitol Hill since 1967.

☐ 1815

That is a long, long period of time. And after that long tenure, she has chosen to retire. And I would like to take just a minute because I learned some things about her, in the fact that she is headed to retirement, that I did not know, Mr. Speaker.

Earlier in her career, during a very challenging time in our Nation's history, she worked hard and reported on the hearings for the confirmation of Nelson Rockefeller to become Vice President of the United States and Gerald Ford to become President of the United States.

In 1976 she joined the House as a House official committee reporter. And in 1979 she became a floor reporter of debates, one of the first two stenotype reporters to come to the floor. Since 1995 Susan has been Chief of the combined committee/floor reporter offices.

And I would like to say that she has got a number of outside interests as well. Not everyone knows that she and former Senator John Breaux actually won a mixed doubles tournament at the Capitol Hill Tennis Club.

She is a very, very familiar face to us, and one that we will miss greatly. And I would like all of us, Mr. Speaker, to join in expressing our appreciation to the fine service of Susan Hanback.

Mr. HOYER. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Speaker, I thank my friend from California, the chairman of the Committee on Rules, for yielding to me.

Mr. Speaker, those of us who have been here for some period of time quickly learn that those who serve this House, this institution, who may not speak in the well, who may not introduce legislation, who may not participate in debates, nevertheless are absolutely critical to the legislative process. As a group they bring a degree of love of country, love of the House of Representatives, and commitment to their work that surely if paralleled somewhere, it is only in a few places.

I have had the privilege of working with the desk officers, the reporters, the parliamentarians for now over a quarter of a century, less time than Susan Hanback has served this House. She was here when I came here in 1981.

Her decision to retire as Chief of the Office of Official Reporters is, of course, wonderful news for her and her family. We had an opportunity to discuss it on the floor just the other evening about how she is going to enjoy her Virginia residence, perhaps much more peaceful, less hassled, but from time to time perhaps a little less interesting as well, but certainly more restful. And she deserves the rest because her service has been extraordinary.

As has been said by the gentleman from California (Mr. DREIER), she has worked in the House since the late 1960s. She witnessed during that time some of the most important events that have occurred on the House floor, including debates on legislation affecting every aspect of Americans' lives as she transcribed innumerable speeches and statements of hundreds of Members of Congress.

Those who transcribe history are critically important because future generations will learn from the historic record that they have set down, and the accuracy of that reporting is critically important not only to the deliberations of this body today, but it will be critically important to the precedents of tomorrow.

Mrs. Hanback has dedicated her career to serving the American people just as surely as every one of us who serves here in elected office. Those who serve as reporters and at the desk and as the parliamentarians and in every other aspect of making sure this House runs correctly serve America, serve America's citizens, serve America's freedom. By accurately reporting for and helping oversee the production of the CONGRESSIONAL RECORD, Susan has helped ensure that there is a government accessible to the people and is, therefore, a government for the people, of the people, and by the people.

Susan was critical, as so many of you are whose names are not known to the public and, indeed, whose names may not be known to many who serve here by your sides every day. But because your names are not known, it does not mean that the service you perform is not absolutely essential to our democracy.

Susan Hanback was offered a job, Mr. Speaker, as a Senate official reporter in 1987. As testimony to the love of this House, she turned that offer down and chose to stay in the House because she thought it was more interesting, and the people said, Amen.

We are all, of course, very grateful, Susan, that you made that decision. We have been advantaged not only by the skill with which you have performed your job, but by the warmth of your personality and the grace that you have served this body.

I would like to wish you all the very best. The gentlewoman from California (Ms. PELOSI), minority leader, and the leadership on this side joins with the Speaker, the majority leader, the majority whip, and all the officers, including the gentleman from California (Mr. DREIER), on that side of the aisle to say in a nonpartisan, bipartisan, unanimous way, Susan, you have served us well. You have served your country well. We wish you the very greatest of happiness as you now retire from this body to serving so well your family as you have done for so long, but now will do so much more present with them, and we wish you the very best.

Mr. DREIER. Mr. Speaker, reclaiming my time, I thank my friend for his very thoughtful comments.

And as he was talking about Susan's history here, and as I look at the gathered employees here of the House of Representatives, I was thinking during the remarks that the gentleman from Maryland, the distinguished minority whip offered, of the new assignment that we have taken on here in this institution when we established under the direction of the gentleman from Illinois (Speaker HASTERT) and the gentlewoman from California (Ms. PELOSI), minority leader, this new commission, the House Democracy Assistance Commission. And we have over the past several months, and are continuing at this time, to proceed with assessments of different countries around the world, and we are working with those Parliaments that are looking to model their work after much of what we do here. Obviously, there are some things that we might do a little differently.

But, clearly, the example that Susan has set is one that is a model not just for the future here in the United States of America, but, Mr. Speaker, it should be known that her example is one that can be set for these emerging Parliaments, and there are so many of them around the world, because of the great reverence that is held for this institution. And as the gentleman from Maryland (Mr. HOYER) said very well, the appreciation that exists for all who work at this institution is something that is held by all of us who are privileged to serve as elected representatives of this House.

And we do wish you well in your retirement. And we want you to know, of course, from the Speaker and all of the leadership team, as the gentleman from Maryland (Mr. HOYER) said, on both sides of the aisle, that you are welcome back to visit us at any time at all.

## RECESS

The SPEAKER pro tempore (Mr. BASS). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:35 p.m.

Accordingly (at 6 o'clock and 25 minutes p.m.), the House stood in recess until approximately 6:35 p.m.

☐ 1840

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BASS) at 6 o'clock and 40 minutes p.m.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 6 o'clock and 41 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1859

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BASS) at 6 o'clock and 59 minutes p.m.

## CONFERENCE REPORT ON H.R. 3, SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska submitted the following conference report and statement on the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes:

Conference Report (H. Rept. 109-203)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3), to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" or "SAFETEA–LU".*

*(b) TABLE OF CONTENTS.—*

*Sec. 1. Short title; table of contents.*
*Sec. 2. General definitions.*

*TITLE I—FEDERAL-AID HIGHWAYS*

*Subtitle A—Authorization of Programs*

*Sec. 1101. Authorization of appropriations.*
*Sec. 1102. Obligation ceiling.*
*Sec. 1103. Apportionments.*
*Sec. 1104. Equity bonus program.*
*Sec. 1105. Revenue aligned budget authority.*
*Sec. 1106. Future Interstate System routes.*
*Sec. 1107. Metropolitan planning.*
*Sec. 1108. Transfer of highway and transit funds.*
*Sec. 1109. Recreational trails.*
*Sec. 1110. Temporary traffic control devices.*
*Sec. 1111. Set-asides for Interstate discretionary projects.*
*Sec. 1112. Emergency relief.*
*Sec. 1113. Surface transportation program.*
*Sec. 1114. Highway bridge program.*
*Sec. 1115. Highway use tax evasion projects.*
*Sec. 1116. Appalachian development highway system.*
*Sec. 1117. Transportation, community, and system preservation program.*
*Sec. 1118. Territorial highway program.*
*Sec. 1119. Federal lands highways.*
*Sec. 1120. Puerto Rico highway program.*
*Sec. 1121. HOV facilities.*
*Sec. 1122. Definitions.*

*Subtitle B—Congestion Relief*

*Sec. 1201. Real-time system management information program.*

*Subtitle C—Mobility and Efficiency*

*Sec. 1301. Projects of national and regional significance.*
*Sec. 1302. National corridor infrastructure improvement program.*
*Sec. 1303. Coordinated border infrastructure program.*
*Sec. 1304. High priority corridors on the National Highway System.*
*Sec. 1305. Truck parking facilities.*
*Sec. 1306. Freight intermodal distribution pilot grant program.*
*Sec. 1307. Deployment of magnetic levitation transportation projects.*
*Sec. 1308. Delta region transportation development program.*
*Sec. 1309. Extension of public transit vehicle exemption from axle weight restrictions.*
*Sec. 1310. Interstate oasis program.*

*Subtitle D—Highway Safety*

*Sec. 1401. Highway safety improvement program.*
*Sec. 1402. Worker injury prevention and free flow of vehicular traffic.*
*Sec. 1403. Toll facilities workplace safety study.*
*Sec. 1404. Safe routes to school program.*
*Sec. 1405. Roadway safety improvements for older drivers and pedestrians.*
*Sec. 1406. Safety incentive grants for use of seat belts.*
*Sec. 1407. Safety incentives to prevent operation of motor vehicles by intoxicated persons.*
*Sec. 1408. Improvement or replacement of highway features on National Highway System.*
*Sec. 1409. Work zone safety grants.*
*Sec. 1410. National Work Zone Safety Information Clearinghouse.*
*Sec. 1411. Roadway safety.*
*Sec. 1412. Idling reduction facilities in Interstate rights-of-way.*

*Subtitle E—Construction and Contract Efficiency*

*Sec. 1501. Program efficiencies.*
*Sec. 1502. Highways for LIFE pilot program.*
*Sec. 1503. Design build.*

*Subtitle F—Finance*

*Sec. 1601. Transportation Infrastructure Finance and Innovation Act amendments.*
*Sec. 1602. State infrastructure banks.*
*Sec. 1603. Use of excess funds and funds for inactive projects.*
*Sec. 1604. Tolling.*

*Subtitle G—High Priority Projects*

*Sec. 1701. High Priority Projects program.*
*Sec. 1702. Project authorizations.*
*Sec. 1703. Technical amendments to transportation projects.*

*Subtitle H—Environment*

*Sec. 1801. Construction of ferry boats and ferry terminal facilities.*
*Sec. 1802. National Scenic Byways Program.*
*Sec. 1803. America's Byways Resource Center.*
*Sec. 1804. National historic covered bridge preservation*
*Sec. 1805. Use of debris from demolished bridges and overpasses.*
*Sec. 1806. Additional authorization of contract authority for States with Indian reservations.*
*Sec. 1807. Nonmotorized transportation pilot program.*
*Sec. 1808. Addition to CMAQ-eligible projects.*

*Subtitle I—Miscellaneous*

*Sec. 1901. Inclusion of requirements for signs identifying funding sources in title 23.*
*Sec. 1902. Donations and credits.*
*Sec. 1903. Inclusion of Buy America requirements in title 23.*
*Sec. 1904. Stewardship and oversight.*
*Sec. 1905. Transportation development credits.*
*Sec. 1906. Grant program to prohibit racial profiling.*
*Sec. 1907. Pavement marking systems demonstration projects.*
*Sec. 1908. Inclusion of certain route segments on Interstate System and NHS.*
*Sec. 1909. Future of surface transportation system.*
*Sec. 1910. Motorist information concerning full service restaurants.*
*Sec. 1911. Approval and funding for certain construction projects.*
*Sec. 1912. Lead agency designation.*
*Sec. 1913. Bridge construction, North Dakota.*
*Sec. 1914. Motorcyclist Advisory Council.*
*Sec. 1915. Loan forgiveness.*
*Sec. 1916. Treatment of off ramp.*
*Sec. 1917. Opening of Interstate ramps.*
*Sec. 1918. Credit to State of Louisiana for State matching funds.*
*Sec. 1919. Road user fees.*
*Sec. 1920. Transportation and local workforce investment.*
*Sec. 1921. Update of obsolete text.*
*Sec. 1922. Technical amendments to nondiscrimination section.*
*Sec. 1923. Transportation assets and needs of Delta region.*
*Sec. 1924. Alaska Way Viaduct study.*
*Sec. 1925. Community enhancement study.*
*Sec. 1926. Budget justification.*
*Sec. 1927. 14th Amendment Highway and 3rd Infantry Division Highway.*
*Sec. 1928. Sense of Congress regarding Buy America.*
*Sec. 1929. Designation of Daniel Patrick Moynihan Interstate Highway.*
*Sec. 1930. Designation of Thomas P. "Tip" O'Neill, Jr. Tunnel.*
*Sec. 1931. Richard Nixon Parkway, California.*
*Sec. 1932. Amo Houghton Bypass.*
*Sec. 1933. Billy Tauzin Energy Corridor.*
*Sec. 1934. Transportation improvements.*
*Sec. 1935. Project flexibility.*
*Sec. 1936. Advances.*
*Sec. 1937. Roads in closed basins.*
*Sec. 1938. Technology.*
*Sec. 1939. BIA Indian Road Program.*
*Sec. 1940. Going-to-the-Sun Road, Glacier National Park, Montana.*
*Sec. 1941. Beartooth Highway, Montana.*
*Sec. 1942. Opening of airfield at Malmstrom Air Force Base, Montana.*
*Sec. 1943. Great Lakes ITS implementation.*
*Sec. 1944. Transportation construction and remediation, Ottawa County, Oklahoma.*
*Sec. 1945. Infrastructure awareness program.*
*Sec. 1946. Gateway rural improvement pilot program.*
*Sec. 1947. Eligible safety improvements.*
*Sec. 1948. Emergency service route.*
*Sec. 1949. Knik Arm Bridge funding clarification.*
*Sec. 1950. Lincoln Parish, LA/I-20 Transportation Corridor Program.*
*Sec. 1951. Bonding assistance program.*
*Sec. 1952. Congestion relief.*
*Sec. 1953. Authorization of appropriations.*
*Sec. 1954. Bicycle transportation and pedestrian walkways.*
*Sec. 1955. Conveyance to the City of Ely, Nevada.*
*Sec. 1956. Brownfields grants.*
*Sec. 1957. Traffic circle construction, Clarendon, Vermont.*

*Sec. 1958. Limitation on project approval.*
*Sec. 1959. Cross harbor freight movement project.*
*Sec. 1960. Denali access system program.*
*Sec. 1961. I-95/Contee Road interchange study.*
*Sec. 1962. Multimodal facility improvements.*
*Sec. 1963. Apollo Theater leases.*
*Sec. 1964. Project Federal share.*

### TITLE II—HIGHWAY SAFETY

*Sec. 2001. Authorization of appropriations.*
*Sec. 2002. Highway safety programs.*
*Sec. 2003. Highway safety research and outreach programs.*
*Sec. 2004. Occupant protection incentive grants.*
*Sec. 2005. Grants for primary safety belt use laws.*
*Sec. 2006. State traffic safety information system improvements.*
*Sec. 2007. Alcohol-impaired driving countermeasures.*
*Sec. 2008. NHTSA accountability.*
*Sec. 2009. High visibility enforcement program.*
*Sec. 2010. Motorcyclist safety.*
*Sec. 2011. Child safety and child booster seat incentive grants.*
*Sec. 2012. Safety data.*
*Sec. 2013. Drug-impaired driving enforcement.*
*Sec. 2014. First responder vehicle safety program.*
*Sec. 2015. Driver performance study.*
*Sec. 2016. Rural State emergency medical services optimization pilot program.*
*Sec. 2017. Older driver safety; law enforcement training.*
*Sec. 2018. Safe intersections.*
*Sec. 2019. National Highway Safety Advisory Committee technical correction.*
*Sec. 2020. Presidential Commission on Alcohol-Impaired Driving.*
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Sec. 1112. Exclusion for tractors weighing 19,500 pounds or less from Federal excise tax on heavy trucks and trailers.
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**SEC. 2. GENERAL DEFINITIONS.**

In this Act, the following definitions apply:

(1) DEPARTMENT.—The term "Department" means the Department of Transportation.

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

## TITLE I—FEDERAL-AID HIGHWAYS

### Subtitle A—Authorization of Programs

**SEC. 1101. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) INTERSTATE MAINTENANCE PROGRAM.—For the Interstate maintenance program under section 119 of title 23, United States Code—

(A) $4,883,759,623 for fiscal year 2005;
(B) $4,960,788,917 for fiscal year 2006;
(C) $5,039,058,556 for fiscal year 2007;
(D) $5,118,588,513 for fiscal year 2008; and
(E) $5,199,399,081 for fiscal year 2009.

(2) NATIONAL HIGHWAY SYSTEM.—For the National Highway System under section 103 of such title—

(A) $5,911,200,104 for fiscal year 2005;
(B) $6,005,256,569 for fiscal year 2006;
(C) $6,110,827,556 for fiscal year 2007;
(D) $6,207,937,450 for fiscal year 2008; and
(E) $6,306,611,031 for fiscal year 2009.

(3) BRIDGE PROGRAM.—For the bridge program under section 144 of such title—

(A) $4,187,708,821 for fiscal year 2005;
(B) $4,253,530,131 for fiscal year 2006;
(C) $4,320,411,313 for fiscal year 2007;
(D) $4,388,369,431 for fiscal year 2008; and
(E) $4,457,421,829 for fiscal year 2009.

(4) SURFACE TRANSPORTATION PROGRAM.—For the surface transportation program under section 133 of such title—

(A) $6,860,096,662 for fiscal year 2005;
(B) $6,269,833,394 for fiscal year 2006;
(C) $6,370,469,775 for fiscal year 2007;
(D) $6,472,726,628 for fiscal year 2008; and
(E) $6,576,630,046 for fiscal year 2009.

(5) CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—For the congestion mitigation and air quality improvement program under section 149 of such title—

(A) $1,667,255,304 for fiscal year 2005;
(B) $1,694,101,866 for fiscal year 2006;
(C) $1,721,380,718 for fiscal year 2007;
(D) $1,749,098,821 for fiscal year 2008; and
(E) $1,777,263,247 for fiscal year 2009.

(6) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—For the highway safety improvement program under section 148 of such title—

(A) $1,235,810,000 for fiscal year 2006;
(B) $1,255,709,322 for fiscal year 2007;
(C) $1,275,929,067 for fiscal year 2008; and
(D) $1,296,474,396 for fiscal year 2009.

(7) APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM PROGRAM.—For the Appalachian development highway system program under subtitle IV of title 40, United States Code, $470,000,000 for each of fiscal years 2005 through 2009.

(8) RECREATIONAL TRAILS PROGRAM.—For the recreational trails program under section 206 of title 23, United States Code—

(A) $60,000,000 for fiscal year 2005;
(B) $70,000,000 for fiscal year 2006;
(C) $75,000,000 for fiscal year 2007;
(D) $80,000,000 for fiscal year 2008; and
(E) $85,000,000 for fiscal year 2009.

(9) FEDERAL LANDS HIGHWAYS PROGRAM.—

(A) INDIAN RESERVATION ROADS.—For Indian reservation roads under section 204 of such title—

(i) $300,000,000 for fiscal year 2005;
(ii) $330,000,000 for fiscal year 2006;
(iii) $370,000,000 for fiscal year 2007;
(iv) 410,000,000 for fiscal year 2008; and
(v) $450,000,000 for fiscal year 2009.

(B) PARK ROADS AND PARKWAYS.—

(i) IN GENERAL.—For park roads and parkways under section 204 of such title—

(I) $180,000,000 for fiscal year 2005;
(II) $195,000,000 for fiscal year 2006;
(III) $210,000,000 for fiscal year 2007;
(IV) $225,000,000 for fiscal year 2008; and
(V) $240,000,000 for fiscal year 2009.

(ii) MINIMUM ALLOCATION TO CERTAIN STATES.—A State containing more than 50 percent of the total acreage of the National Park System shall receive not less than 3 percent of any funds appropriated under this subparagraph.

(C) REFUGE ROADS.—For refuge roads under section 204 of such title, $29,000,000 for each of fiscal years 2005 through 2009.

(D) PUBLIC LANDS HIGHWAYS.—For Federal lands highways under section 204 of such title—

(i) $260,000,000 for fiscal year 2005;
(ii) $280,000,000 for fiscal year 2006;
(iii) $280,000,000 for fiscal year 2007;
(iv) $290,000,000 for fiscal year 2008; and
(v) $300,000,000 for fiscal year 2009.

(10) NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.—For the national corridor infrastructure improvement program under section 1302 of this Act—

(A) $194,800,000 for fiscal year 2005;
(B) $389,600,000 for fiscal year 2006;
(C) $487,000,000 for fiscal year 2007;
(D) $487,000,000 for fiscal year 2008; and
(E) $389,600,000 for fiscal year 2009.

(11) COORDINATED BORDER INFRASTRUCTURE PROGRAM.—For the coordinated border infrastructure program under section 1303 of this Act—

(A) $123,000,000 for fiscal year 2005;
(B) $145,000,000 for fiscal year 2006;
(C) $165,000,000 for fiscal year 2007;
(D) $190,000,000 for fiscal year 2008; and
(E) $210,000,000 for fiscal year 2009.

*(12) NATIONAL SCENIC BYWAYS PROGRAM.—For the national scenic byways program under section 162 of such title—*

*(A) $26,500,000 for fiscal year 2005;*

*(B) $30,000,000 for fiscal year 2006;*

*(C) $35,000,000 for fiscal year 2007;*

*(D) $40,000,000 for fiscal year 2008; and*

*(E) $43,500,000 for fiscal year 2009.*

*(13) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—For construction of ferry boats and ferry terminal facilities under section 147 of such title—*

*(A) $38,000,000 for fiscal year 2005;*

*(B) $55,000,000 for fiscal year 2006;*

*(C) $60,000,000 for fiscal year 2007;*

*(D) $65,000,000 for fiscal year 2008; and*

*(E) $67,000,000 for fiscal year 2009.*

*(14) PUERTO RICO HIGHWAY PROGRAM.—For the Puerto Rico highway program under section 165 of such title—*

*(A) $115,000,000 for fiscal year 2005;*

*(B) $120,000,000 for fiscal year 2006;*

*(C) $135,000,000 for fiscal year 2007;*

*(D) $145,000,000 for fiscal year 2008; and*

*(E) $150,000,000 for fiscal year 2009.*

*(15) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE PROGRAM.—For the projects of national and regional significance program under section 1301 of this Act—*

*(A) $177,900,000 for fiscal year 2005;*

*(B) $355,800,000 for fiscal year 2006;*

*(C) $444,750,000 for fiscal year 2007;*

*(D) $444,750,000 for fiscal year 2008; and*

*(E) $355,800,000 for fiscal year 2009.*

*(16) HIGH PRIORITY PROJECTS PROGRAM.—For the high priority projects program under section 117 of title 23, United States Code, $2,966,400,000 for each of fiscal years 2005 through 2009.*

*(17) SAFE ROUTES TO SCHOOL PROGRAM.—For the safe routes to school program under section 1404 of this Act—*

*(A) $54,000,000 for fiscal year 2005;*

*(B) $100,000,000 for fiscal year 2006;*

*(C) $125,000,000 for fiscal year 2007;*

*(D) $150,000,000 for fiscal year 2008; and*

*(E) $183,000,000 for fiscal year 2009.*

*(18) DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS.—For the deployment of magnetic levitation projects under section 1307 of this Act—*

*(A) $15,000,000 for each of fiscal years 2006 and 2007; and*

*(B) $30,000,000 for each of fiscal years 2008 and 2009.*

*(19) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—For the national corridor planning and development and coordinated border infrastructure programs under sections 1118 and 1119 of the Transportation Equity Act for the 21st Century (112 Stat. 161, 163) $140,000,000 for fiscal year 2005.*

*(20) HIGHWAYS FOR LIFE.—For the Highways for LIFE Program under section 1502 of this Act—*

*(A) $15,000,000 for fiscal year 2006; and*

*(B) $20,000,000 for each of fiscal years 2007 through 2009.*

*(21) HIGHWAY USE TAX EVASION PROJECTS.—For highway use tax evasion projects under section 1115 of this Act—*

*(A) $5,000,000 for fiscal year 2005;*

*(B) $44,800,000 for fiscal year 2006;*

*(C) $53,300,000 for fiscal year 2007; and*

*(D) $12,000,000 for each of fiscal years 2008 and 2009.*

*(b) DISADVANTAGED BUSINESS ENTERPRISES.—*

*(1) DEFINITIONS.—In this subsection, the following definitions apply:*

*(A) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning that term has under section 3 of the Small Business Act (15 U.S.C. 632), except that the term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $19,570,000, as adjusted annually by the Secretary for inflation.*

*(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term "socially and economically disadvantaged individuals" has the meaning that term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations issued pursuant to that Act, except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.*

*(2) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available for any program under titles I, III, and V of this Act and section 403 of title 23, United States Code, shall be expended through small business concerns owned and controlled by socially and economically disadvantaged individuals.*

*(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually—*

*(A) survey and compile a list of the small business concerns referred to in paragraph (1) and the location of the concerns in the State; and*

*(B) notify the Secretary, in writing, of the percentage of the concerns that are controlled by women, by socially and economically disadvantaged individuals (other than women), and by individuals who are women and are otherwise socially and economically disadvantaged individuals.*

*(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments to use in certifying whether a concern qualifies for purposes of this subsection. The minimum uniform criteria shall include, but not be limited to, on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.*

*(5) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an entity or person to receive funds made available under titles I, III, and V of this Act and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (1) because a Federal court issues a final order in which the court finds that the requirement of paragraph (1), or the program established under paragraph (1), is unconstitutional.*

### *SEC. 1102. OBLIGATION CEILING.*

*(a) GENERAL LIMITATION.—Subject to subsections (g) and (h), and notwithstanding any other provision of law, the obligations for Federal-aid highway and highway safety construction programs shall not exceed—*

*(1) $34,422,400,000 for fiscal year 2005;*

*(2) $36,032,343,903 for fiscal year 2006;*

*(3) $38,244,210,516 for fiscal year 2007;*

*(4) $39,585,075,404 for fiscal year 2008; and*

*(5) $41,199,970,178 for fiscal year 2009.*

*(b) EXCEPTIONS.—The limitations under subsection (a) shall not apply to obligations under or for—*

*(1) section 125 of title 23, United States Code;*

*(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);*

*(3) section 9 of the Federal-Aid Highway Act of 1981 (Public Law 97-134; 95 Stat. 1701);*

*(4) subsections (b) and (j) of section 131 of the Surface Transportation Assistance Act of 1982 (Public Law 97–424; 96 Stat. 2119);*

*(5) subsections (b) and (c) of section 149 of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 198);*

*(6) sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027);*

*(7) section 157 of title 23, United States Code (as in effect on June 8, 1998);*

*(8) section 105 of title 23, United States Code (as in effect for fiscal years 1998 through 2004, but only in an amount equal to $639,000,000 for each of those fiscal years);*

*(9) Federal-aid highway programs for which obligation authority was made available under the Transportation Equity Act for the 21st Century (Public Law 105–178; 112 Stat. 107) or subsequent public laws for multiple years or to remain available until used, but only to the extent that the obligation authority has not lapsed or been used;*

*(10) section 105 of title 23, United States Code (but, for each of fiscal years 2005 through 2009, only in an amount equal to $639,000,000 per fiscal year); and*

*(11) section 1603 of this Act, to the extent that funds obligated in accordance with that section were not subject to a limitation on obligations at the time at which the funds were initially made available for obligation.*

*(c) DISTRIBUTION OF OBLIGATION AUTHORITY.—For each of fiscal years 2005 through 2009, the Secretary—*

*(1) shall not distribute obligation authority provided by subsection (a) for the fiscal year for—*

*(A) amounts authorized for administrative expenses and programs by section 104(a) of title 23, United States Code;*

*(B) programs funded from the administrative takedown authorized by section 104(a)(1) of title 23, United States Code (as in effect on the date before the date of enactment of this Act); and*

*(C) amounts authorized for the highway use tax evasion program and the Bureau of Transportation Statistics;*

*(2) shall not distribute an amount of obligation authority provided by subsection (a) that is equal to the unobligated balance of amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for Federal-aid highway and highway safety programs for previous fiscal years the funds for which are allocated by the Secretary;*

*(3) shall determine the ratio that—*

*(A) the obligation authority provided by subsection (a) for the fiscal year, less the aggregate of amounts not distributed under paragraphs (1) and (2); bears to*

*(B) the total of the sums authorized to be appropriated for the Federal-aid highway and highway safety construction programs (other than sums authorized to be appropriated for provisions of law described in paragraphs (1) through (9) of subsection (b) and sums authorized to be appropriated for section 105 of title 23, United States Code, equal to the amount referred to in subsection (b)(10) for the fiscal year), less the aggregate of the amounts not distributed under paragraphs (1) and (2);*

*(4)(A) shall distribute the obligation authority provided by subsection (a) less the aggregate amounts not distributed under paragraphs (1) and (2), for sections 1301, 1302, and 1934 of this Act, sections 117 but individual for each of project numbered 1 through 3676 listed in the table contained in section 1702 of this Act and 144(g) of title 23, United States Code, and section 14501 of title 40, United States Code, and, during fiscal year 2005, amounts for programs, projects, and activities authorized by section 117 of title I of division H of the Consolidated Appropriations Act, 2005 (Public Law 108–447; 118 Stat. 3212), so that the amount of obligation authority available for each of such sections is equal to the amount determined by multiplying—*

*(i) the ratio determined under paragraph (3); by*

(ii) the sums authorized to be appropriated for that section for the fiscal year; and

(B) shall distribute $2,000,000,000 for section 105 of title 23, United States Code;

(5) shall distribute among the States the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2), for each of the programs that are allocated by the Secretary under this Act and title 23, United States Code (other than to programs to which paragraph (1) applies), by multiplying—

(A) the ratio determined under paragraph (3); by

(B) the amounts authorized to be appropriated for each such program for the fiscal year; and

(6) shall distribute the obligation authority provided by subsection (a), less the aggregate amounts not distributed under paragraphs (1) and (2) and the amounts distributed under paragraphs (4) and (5), for Federal-aid highway and highway safety construction programs (other than the amounts apportioned for the equity bonus program, but only to the extent that the amounts apportioned for the equity bonus program for the fiscal year are greater than $2,639,000,000, and the Appalachian development highway system program) that are apportioned by the Secretary under this Act and title 23, United States Code, in the ratio that—

(A) amounts authorized to be appropriated for the programs that are apportioned to each State for the fiscal year; bear to

(B) the total of the amounts authorized to be appropriated for the programs that are apportioned to all States for the fiscal year.

(d) REDISTRIBUTION OF UNUSED OBLIGATION AUTHORITY.—Notwithstanding subsection (c), the Secretary shall, after August 1 of each of fiscal years 2005 through 2009—

(1) revise a distribution of the obligation authority made available under subsection (c) if an amount distributed cannot be obligated during that fiscal year; and

(2) redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year, giving priority to those States having large unobligated balances of funds apportioned under sections 104 and 144 of title 23, United States Code.

(e) APPLICABILITY OF OBLIGATION LIMITATIONS TO TRANSPORTATION RESEARCH PROGRAMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), obligation limitations imposed by subsection (a) shall apply to contract authority for transportation research programs carried out under—

(A) chapter 5 of title 23, United States Code; and

(B) title V (research title) of this Act.

(2) EXCEPTION.—Obligation authority made available under paragraph (1) shall—

(A) remain available for a period of 3 fiscal years; and

(B) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(f) REDISTRIBUTION OF CERTAIN AUTHORIZED FUNDS.—

(1) IN GENERAL.—Not later than 30 days after the date of distribution of obligation authority under subsection (c) for each of fiscal years 2005 through 2009, the Secretary shall distribute to the States any funds that—

(A) are authorized to be appropriated for the fiscal year for Federal-aid highway programs; and

(B) the Secretary determines will not be allocated to the States, and will not be available for obligation, in the fiscal year due to the imposition of any obligation limitation for the fiscal year.

(2) RATIO.—Funds shall be distributed under paragraph (1) in the same ratio as the distribution of obligation authority under subsection (c)(6).

(3) AVAILABILITY.—Funds distributed under paragraph (1) shall be available for any purpose described in section 133(b) of title 23, United States Code.

(g) SPECIAL LIMITATION CHARACTERISTICS.—Obligation authority distributed for a fiscal year under subsection (c)(4) for the provision specified in subsection (c)(4) shall—

(1) remain available until used for obligation of funds for that provision; and

(2) be in addition to the amount of any limitation imposed on obligations for Federal-aid highway and highway safety construction programs for future fiscal years.

(h) ADJUSTMENT IN OBLIGATION LIMIT.—

(1) IN GENERAL.—Subject to the last sentence of section 110(a)(2) of title 23, United States Code, a limitation on obligations imposed by subsection (a) for a fiscal year shall be adjusted by an amount equal to the amount determined in accordance with section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(1)(B)) for the fiscal year.

(2) DISTRIBUTION.—An adjustment under paragraph (1) shall be distributed in accordance with this section.

(i) SPECIAL RULE FOR FISCAL YEAR 2005.—

(1) IN GENERAL.—Obligation authority distributed under subsection (c)(4) for fiscal year 2005 for sections 1301, 1302, and 1934 of this Act and sections 117 and 144(g) of title 23, United States Code, may be used in fiscal year 2005 for purposes of obligation authority distributed under subsection (c)(6).

(2) RESTORATION.—Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for fiscal year 2006.

(j) HIGH PRIORITY PROJECT FLEXIBILITY.—

(1) IN GENERAL.—Subject to paragraph (2), obligation authority distributed for a fiscal year under subsection (c)(4) for each project numbered 1 through 3676 listed in the table contained in section 1702 of this Act may be obligated for any other project in such section in the same State.

(2) RESTORATION.—Obligation authority used as described in paragraph (1) shall be restored to the original purpose on the date on which obligation authority is distributed under this section for the next fiscal year following obligation under paragraph (1).

(k) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to limit the distribution of obligation authority under subsection (c)(4)(A) for each of the individual projects numbered greater than 3676 listed in the table contained in section 1702 of this Act.

### SEC. 1103. APPORTIONMENTS.

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—Section 104(a) of title 23, United States Code, is amended to read as follows:

"(a) ADMINISTRATIVE EXPENSES.—

"(1) IN GENERAL.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to be made available to the Secretary for administrative expenses of the Federal Highway Administration—

"(A) $353,024,000 for fiscal year 2005;

"(B) $370,613,540 for fiscal year 2006;

"(C) $389,079,500 for fiscal year 2007;

"(D) $408,465,500 for fiscal year 2008; and

"(E) $423,717,460 for fiscal year 2009.

"(2) PURPOSES.—The funds authorized by this subsection shall be used—

"(A) to administer the provisions of law to be financed from appropriations for the Federal-aid highway program and programs authorized under chapter 2; and

"(B) to make transfers of such sums as the Secretary determines to be appropriate to the Appalachian Regional Commission for administrative activities associated with the Appalachian development highway system.

"(3) AVAILABILITY.—The funds made available under paragraph (1) shall remain available until expended.".

(2) CONFORMING AMENDMENTS.—Section 104 of such title is amended—

(A) in the matter preceding paragraph (1) of subsection (b) by striking "the deduction authorized by subsection (a) and the set-aside authorized by subsection (f)" and inserting "the set-asides authorized by subsections (d) and (f) and section 130(e)";

(B) in the first sentence of subsection (e)(1) by striking ", and also" and all that follows through "this section"; and

(C) in subsection (i) by striking "deducted" and inserting "made available".

(b) ALASKA HIGHWAY.—Section 104(b)(1)(A) of such title is amended by striking "$18,800,000 for each of fiscal years 1998 through 2002" and inserting "$30,000,000 for each of fiscal years 2005 through 2009".

(c) NATIONAL HIGHWAY SYSTEM COMPONENT.—Section 104(b)(1)(A) of such title is amended by striking "$36,400,000 for each fiscal year" and inserting "$40,000,000 for each of fiscal years 2005 and 2006 and $50,000,000 for each of fiscal years 2007 through 2009".

(d) CMAQ APPORTIONMENT.—Section 104(b)(2) of such title is amended—

(1) in subparagraph (B)—

(A) by striking clause (i) and inserting the following:

"(i) 1.0 if, at the time of apportionment, the area is a maintenance area;";

(B) by striking "or" at the end of clause (vi);

(C) by striking the period at the end of clause (vii) and inserting "; or"; and

(D) by adding at the end the following:

"(viii) 1.0 if, at the time of apportionment, an area is designated as nonattainment for ozone under subpart 1 of part D of title I of such Act (42 U.S.C. 7512 et seq.)."; and

(2) by striking subparagraph (C) and inserting the following:

"(C) ADDITIONAL ADJUSTMENT FOR CARBON MONOXIDE AREAS.—If, in addition to being designated as a nonattainment or maintenance area for ozone as described in section 149(b), any county within the area was also classified under subpart 3 of part D of title I of the Clean Air Act (42 U.S.C. 7512 et seq.) as a nonattainment or maintenance area described in section 149(b) for carbon monoxide, the weighted nonattainment or maintenance area population of the county, as determined under clauses (i) through (vi) or clause (viii) of subparagraph (B), shall be further multiplied by a factor of 1.2.".

(e) REPORT.—Section 104(j) of such title is amended by striking "submit to Congress a report" and inserting "submit to Congress a report, and also make such report available to the public in a user-friendly format via the Internet,".

(f) OPERATION LIFESAVER.—Section 104(d) of such title is amended—

(1) by striking paragraph (1) and all that follows through the period at the end of paragraph (2)(A) and inserting the following:

"(1) OPERATION LIFESAVER.—To carry out a public information and education program to help prevent and reduce motor vehicle accidents, injuries, and fatalities and to improve driver performance at railway-highway crossings—

"(A) before making an apportionment under subsection (b)(3) for fiscal year 2005, the Secretary shall set aside $560,000 for such fiscal year; and

“(B) there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $560,000 for each of fiscal years 2006 through 2009.

“(2) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—

“(A) FUNDING.—To carry out the elimination of hazards at railway-highway crossings—

“(i) before making an apportionment under subsection (b)(3) for fiscal year 2005, the Secretary shall set aside $5,250,000 for such fiscal year; and

“(ii) there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $7,250,000 for fiscal year 2006, $10,000,000 for fiscal year 2007, $12,500,000 for fiscal year 2008, and $15,000,000 for fiscal year 2009.”; and

(2) in paragraph (2)(E)—

(A) by striking “Not less than $250,000 of such set-aside” and inserting “Of such set-aside, not less than $250,000 for fiscal year 2005, $1,000,000 for fiscal year 2006, $1,750,000 for fiscal year 2007, $2,250,000 for fiscal year 2008, and $3,000,000 for fiscal year 2009”; and

(B) by striking “per fiscal year”.

**SEC. 1104. EQUITY BONUS PROGRAM.**

(a) IN GENERAL.—Section 105 of title 23, United States Code, is amended to read as follows:

**“§ 105. Equity bonus program**

“(a) PROGRAM.—

“(1) IN GENERAL.—Subject to subsections (c) and (d), for each of fiscal years 2005 through 2009, the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a percentage of the total apportionments for the fiscal year for the programs specified in paragraph (2) that is less than the percentage calculated under subsection (b).

“(2) SPECIFIC PROGRAMS.—The programs referred to in subsection (a) are—

“(A) the Interstate maintenance program under section 119;

“(B) the national highway system program under section 103;

“(C) the highway bridge replacement and rehabilitation program under section 144;

“(D) the surface transportation program under section 133;

“(E) the highway safety improvement program under section 148;

“(F) the congestion mitigation and air quality improvement program under section 149;

“(G) metropolitan planning programs under section 104(f);

“(H) the high priority projects program under section 117;

“(I) the equity bonus program under this section;

“(J) the Appalachian development highway system program under subtitle IV of title 40;

“(K) the recreational trails program under section 206;

“(L) the safe routes to school program under section 1404 of the SAFETEA–LU;

“(M) the rail-highway grade crossing program under section 130; and

“(N) the coordinated border infrastructure program under section 1303 of the SAFETEA–LU.

“(b) STATE PERCENTAGE.—

“(1) IN GENERAL.—The percentage referred to in subsection (a) for each State shall be—

“(A) for each of fiscal years 2005 and 2006, 90.5 percent, for fiscal year 2007, 91.5 percent, and for each of fiscal years 2008 and 2009, 92 percent, of the quotient obtained by dividing—

“(i) the estimated tax payments attributable to highway users in the State paid into the Highway Trust Fund (other than the Mass Transit Account) in the most recent fiscal year for which data are available; by

“(ii) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) for the fiscal year; or

“(B) for a State with a total population density of less than 40 persons per square mile (as reported in the decennial census conducted by the Federal Government in 2000) and of which at least 1.25 percent of the total acreage is under Federal jurisdiction, based on the report of the General Services Administration entitled ‘Federal Real Property Profile’ and dated September 30, 2004, a State with a total population of less than 1,000,000 (as reported in that decennial census), a State with a median household income of less than $35,000 (as reported in that decennial census), a State with a fatality rate during 2002 on Interstate highways that is greater than 1 fatality for each 100,000,000 vehicle miles traveled on Interstate highways, or a State with an indexed, State motor fuels excise tax rate higher than 150 percent of the Federal motor fuels excise tax rate as of the date of enactment of the SAFETEA–LU, the greater of—

“(i) the applicable percentage under subparagraph (A); or

“(ii) the average percentage of the State's share of total apportionments for the period of fiscal years 1998 through 2003 for the programs specified in paragraph (2).

“(2) SPECIFIC PROGRAMS.—The programs referred to in paragraph (1)(B)(ii) are (as in effect on the day before the date of enactment of the SAFETEA–LU)—

“(A) the Interstate maintenance program under section 119;

“(B) the national highway system program under section 103;

“(C) the highway bridge replacement and rehabilitation program under section 144;

“(D) the surface transportation program under section 133;

“(E) the recreational trails program under section 206;

“(F) the high priority projects program under section 117;

“(G) the minimum guarantee provided under this section;

“(H) revenue aligned budget authority amounts provided under section 110;

“(I) the congestion mitigation and air quality improvement program under section 149;

“(J) the Appalachian development highway system program under subtitle IV of title 40; and

“(K) metropolitan planning programs under section 104(f).

“(c) SPECIAL RULES.—

“(1) MINIMUM COMBINED ALLOCATION.—For each fiscal year, before making the allocations under subsection (a)(1), the Secretary shall allocate among the States amounts sufficient to ensure that no State receives a combined total of amounts allocated under subsection (a)(1), apportionments for the programs specified in subsection (a)(2), and amounts allocated under this subsection, that is less than the following percentages of the average for fiscal years 1998 through 2003 of the annual apportionments for the State for all programs specified in subsection (b)(2):

“(A) For fiscal year 2005, 117 percent.

“(B) For fiscal year 2006, 118 percent.

“(C) For fiscal year 2007, 119 percent.

“(D) For fiscal year 2008, 120 percent.

“(E) For fiscal year 2009, 121 percent.

“(2) NO NEGATIVE ADJUSTMENT.—No negative adjustment shall be made under subsection (a)(1) to the apportionment of any State.

“(d) TREATMENT OF FUNDS.—

“(1) PROGRAMMATIC DISTRIBUTION.—The Secretary shall apportion the amounts made available under this section that exceed $2,639,000,000 so that the amount apportioned to each State under this paragraph for each program referred to in subparagraphs (A) through (F) of subsection (a)(2) is equal to the amount determined by multiplying the amount to be apportioned under this paragraph by the ratio that—

“(A) the amount of funds apportioned to each State for each program referred to in subparagraphs (A) through (F) of subsection (a)(2) for a fiscal year; bears to

“(B) the total amount of funds apportioned to such State for all such programs for such fiscal year.

“(2) REMAINING DISTRIBUTION.—The Secretary shall administer the remainder of funds made available under this section to the States in accordance with section 104(b)(3), except that paragraphs (1) through (3) of section 133(d) shall not apply to amounts administered pursuant to this paragraph.

“(e) METRO PLANNING SET ASIDE.—Notwithstanding section 104(f), no set aside provided for under that section shall apply to funds allocated under this section.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to carry out this section for each of fiscal years 2005 through 2009.”.

(b) CLERICAL AMENDMENT.—The analysis for subchapter I of chapter 1 of such title is amended by striking the item relating to section 105 and inserting the following:

“105. Equity bonus program.”.

**SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY.**

(a) ALLOCATION.—Section 110(a)(1) of title 23, United States Code, is amended—

(1) by striking “2000” and inserting “2007”;

(2) by inserting after “such fiscal year” the first place it appears: “and the succeeding fiscal year”.

(b) REDUCTION.—Section 110(a)(2) of such title is amended—

(1) by striking “2000” and inserting “2007”;

(2) by striking “October 1 of the succeeding” and inserting “October 15 of such”;

(3) by inserting after “Account)” the following: “for such fiscal year and the succeeding fiscal year”; and

(4) by adding at the end the following: “No reduction under this paragraph and no reduction under section 1102(h), and no reduction under title VIII or any amendment made by title VIII, of the SAFETEA–LU shall be made for a fiscal year if, as of October 1 of such fiscal year the balance in the Highway Trust Fund (other than the Mass Transit Account) exceeds $6,000,000,000.”.

(c) GENERAL DISTRIBUTION.—Section 110(b)(1)(A) of such title is amended—

(1) by striking “minimum guarantee” and inserting “equity bonus”; and

(2) by striking “Transportation Equity Act for the 21st Century” and inserting “SAFETEA–LU”.

(d) ADDITION OF HIGHWAY SAFETY IMPROVEMENT PROGRAM.—Section 110(c) of such title is amended by inserting “the highway safety improvement program,” after “the surface transportation program,”.

(e) TECHNICAL AMENDMENT.—Section 110(b)(1)(A) of such title is amended by striking “for” the second place it appears.

(f) SPECIAL RULE.—If the amount available pursuant to section 110 of title 23, United States Code, for fiscal year 2007 is greater than zero, the Secretary shall—

(1) determine the total amount necessary to increase each State's rate of return (as determined under section 105(b)(1)(A) of title 23, United States Code) to 92 percent, excluding amounts provided under this paragraph;

(2) allocate to each State the lesser of—

(A) the amount computed for that State under paragraph (1); or

(B) an amount determined by multiplying the total amount calculated under section 110 of title 23, United States Code, for fiscal year 2007 by the ratio that—

(i) the amount determined for such State under paragraph (1); bears to

(ii) the total amount computed for all States in paragraph (1); and

(3) allocate amounts remaining in excess of the amounts allocated in paragraph (2) to all States in accordance with section 110 of title 23, United States Code.

### SEC. 1106. FUTURE INTERSTATE SYSTEM ROUTES.

(a) Extension of Date.—Section 103(c)(4)(B)(ii) of title 23, United States Code, is amended by striking "12" and inserting "25".

(b) Removal of Designation.—Section 103(c)(4)(B)(iii) of such title is amended—

(1) in subclause (I) by striking "in the agreement between the Secretary and the State or States"; and

(2) by adding at the end the following:

"(III) Existing agreements.—An agreement described in clause (ii) that is entered into before the date of enactment of this subclause shall be deemed to include the 25-year time limitation described in that clause, regardless of any earlier construction completion date in the agreement.".

### SEC. 1107. METROPOLITAN PLANNING.

Section 104(f) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Set-aside.—On October 1 of each fiscal year, the Secretary shall set aside 1.25 percent of the funds authorized to be appropriated for the Interstate maintenance, national highway system, surface transportation, congestion mitigation and air quality improvement, and highway bridge replacement and rehabilitation programs authorized under this title to carry out the requirements of section 134.";

(2) in paragraph (2) by striking "per centum" and inserting "percent";

(3) in paragraph (3)—

(A) by striking "The funds" and inserting the following:

"(A) In general.—The funds"; and

(B) by striking "These funds" and all that follows and inserting the following:

"(B) Unused funds.—Any funds that are not used to carry out section 134 may be made available by a metropolitan planning organization to the State to fund activities under section 135."; and

(4) in paragraph (4)—

(A) by striking "The distribution" and inserting the following:

"(A) In general.—The distribution"; and

(B) by adding at the end the following:

"(B) Reimbursement.—Not later than 30 days after the date of receipt by a State of a request for reimbursement of expenditures made by a metropolitan planning organization for carrying out section 134, the State shall reimburse, from funds distributed under this paragraph to the metropolitan planning organization by the State, the metropolitan planning organization for those expenditures.".

### SEC. 1108. TRANSFER OF HIGHWAY AND TRANSIT FUNDS.

Section 104(k) of title 23, United States Code, is amended to read as follows:

"(k) Transfer of Highway and Transit Funds.—

"(1) Transfer of highway funds for transit projects.—

"(A) In general.—Subject to subparagraph (B), funds made available for transit projects or transportation planning under this title may be transferred to and administered by the Secretary in accordance with chapter 53 of title 49.

"(B) Non-federal share.—The provisions of this title relating to the non-Federal share shall apply to the funds transferred under subparagraph (A).

"(2) Transfer of transit funds for highway projects.—

"(A) In general.—Subject to subparagraph (B), funds made available for highway projects or transportation planning under chapter 53 of title 49 may be transferred to and administered by the Secretary in accordance with this title.

"(B) Non-federal share.—The provisions of chapter 53 of title 49 relating to the non-Federal share shall apply to funds transferred under subparagraph (A).

"(3) Transfer of funds among states or to federal highway administration.—

"(A) In general.—Subject to subparagraphs (B) and (C), the Secretary may, at the request of a State, transfer funds apportioned or allocated under this title to the State to another State, or to the Federal Highway Administration, for the purpose of funding 1 or more projects that are eligible for assistance with funds so apportioned or allocated.

"(B) Apportionment.—The transfer shall have no effect on any apportionment of funds to a State under this section or section 105 or 144.

"(C) Surface transportation program.—Funds that are apportioned or allocated to a State under subsection (b)(3) and attributed to an urbanized area of a State with a population of over 200,000 individuals under section 133(d)(3) may be transferred under this paragraph only if the metropolitan planning organization designated for the area concurs, in writing, with the transfer request.

"(4) Transfer of obligation authority.—Obligation authority for funds transferred under this subsection shall be transferred in the same manner and amount as the funds for the projects that are transferred under this subsection.".

### SEC. 1109. RECREATIONAL TRAILS.

(a) Recreational Trails Program Formula.—Section 104(h) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking the first sentence and inserting the following: "Before apportioning sums authorized to be appropriated to carry out the recreational trails program under section 206, the Secretary shall deduct for administrative, research, technical assistance, and training expenses for such program $840,000 for each of fiscal years 2005 through 2009."; and

(2) in paragraph (2) by striking "After" and all that follows through "remainder of the sums" and inserting "The Secretary shall apportion the sums".

(b) Permissible Uses.—Section 206(d)(2) of such title is amended to read as follows:

"(2) Permissible uses.—Permissible uses of funds apportioned to a State for a fiscal year to carry out this section include—

"(A) maintenance and restoration of existing recreational trails;

"(B) development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails;

"(C) purchase and lease of recreational trail construction and maintenance equipment;

"(D) construction of new recreational trails, except that, in the case of new recreational trails crossing Federal lands, construction of the trails shall be—

"(i) permissible under other law;

"(ii) necessary and recommended by a statewide comprehensive outdoor recreation plan that is required by the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.) and that is in effect;

"(iii) approved by the administering agency of the State designated under subsection (c)(1); and

"(iv) approved by each Federal agency having jurisdiction over the affected lands under such terms and conditions as the head of the Federal agency determines to be appropriate, except that the approval shall be contingent on compliance by the Federal agency with all applicable laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.);

"(E) acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors;

"(F) assessment of trail conditions for accessibility and maintenance;

"(G) development and dissemination of publications and operation of educational programs to promote safety and environmental protection, (as those objectives relate to 1 or more of the use of recreational trails, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training), but in an amount not to exceed 5 percent of the apportionment made to the State for the fiscal year; and

"(H) payment of costs to the State incurred in administering the program, but in an amount not to exceed 7 percent of the apportionment made to the State for the fiscal year.".

(c) Use of Apportionments.—Section 206(d)(3) of such title is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) in subparagraph (C) (as so redesignated) by striking "(2)(F)" and inserting "(2)(H)".

(d) Federal Share.—Section 206(f) of such title is amended—

(1) in paragraph (1)—

(A) by inserting "and the Federal share of the administrative costs of a State" after "project"; and

(B) by striking "not exceed 80 percent" and inserting "be determined in accordance with section 120(b)";

(2) in paragraph (2)(A) by striking "80 percent of" and inserting "the amount determined in accordance with section 120(b) for";

(3) in paragraph (2)(B) by inserting "sponsoring the project" after "Federal agency";

(4) by striking paragraph (5);

(5) by redesignating paragraph (4) as paragraph (5),

(6) in paragraph (5) (as so redesignated) by striking "80 percent" and inserting "the Federal share as determined in accordance with section 120(b)"; and

(7) by inserting after paragraph (3) the following:

"(4) Use of recreational trails program funds to match other federal program funds.—Notwithstanding any other provision of law, funds made available under this section may be used toward the non-Federal matching share for other Federal program funds that are—

"(A) expended in accordance with the requirements of the Federal program relating to activities funded and populations served; and

"(B) expended on a project that is eligible for assistance under this section.".

(e) Planning and Environmental Assessment Costs Incurred Prior to Project Approval.—Section 206(h)(1) of such title is amended by adding at the end the following:

"(C) Planning and environmental assessment costs incurred prior to project approval.—The Secretary may allow preapproval planning and environmental compliance costs to be credited toward the non-Federal share of the cost of a project described in subsection (d)(2) (other than subparagraph (H)) in accordance with subsection (f), limited to costs incurred less than 18 months prior to project approval.".

(f) Encouragement of Use of Youth Conservation or Service Corps.—The Secretary *shall encourage the States to enter into contracts and cooperative agreements with qualified youth conservation or service corps to perform construction and maintenance of recreational trails under section 206 of title 23, United States Code.*

### SEC. 1110. TEMPORARY TRAFFIC CONTROL DEVICES.

*(a) STANDARDS.—Section 109(e) of title 23, United States Code, is amended—*

*(1) by striking "(e) No funds" and inserting the following:*

*"(e) INSTALLATION OF SAFETY DEVICES.—*

*"(1) HIGHWAY AND RAILROAD GRADE CROSSINGS AND DRAWBRIDGES.—No funds"; and*

*(2) by adding at the end the following:*

*"(2) TEMPORARY TRAFFIC CONTROL DEVICES.—No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2, unless proper temporary traffic control devices to improve safety in work zones will be installed and maintained during construction, utility, and maintenance operations on that portion of the highway with respect to which such expenditures are to be made. Installation and maintenance of the devices shall be in accordance with the Manual on Uniform Traffic Control Devices.".*

*(b) LETTING OF CONTRACTS.—Section 112 of such title is amended—*

*(1) by striking subsection (f);*

*(2) by redesignating subsection (g) as subsection (f); and*

*(3) by adding at the end the following:*

*"(g) TEMPORARY TRAFFIC CONTROL DEVICES.—*

*"(1) ISSUANCE OF REGULATIONS.—The Secretary, after consultation with appropriate Federal and State officials, shall issue regulations establishing the conditions for the appropriate use of, and expenditure of funds for, uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations.*

*"(2) EFFECTS OF REGULATIONS.—Based on regulations issued under paragraph (1), a State shall—*

*"(A) develop separate pay items for the use of uniformed law enforcement officers, positive protective measures between workers and motorized traffic, and installation and maintenance of temporary traffic control devices during construction, utility, and maintenance operations; and*

*"(B) incorporate such pay items into contract provisions to be included in each contract entered into by the State with respect to a highway project to ensure compliance with section 109(e)(2).*

*"(3) LIMITATION.—Nothing in the regulations shall prohibit a State from implementing standards that are more stringent than those required under the regulations.*

*"(4) POSITIVE PROTECTIVE MEASURES DEFINED.—In this subsection, the term 'positive protective measures' means temporary traffic barriers, crash cushions, and other strategies to avoid traffic accidents in work zones, including full road closures.".*

*(c) CLARIFICATION OF DATE.—Section 109(g) of such title is amended in the first sentence by striking "The Secretary" and all that follows through "of 1970" and inserting "Not later than January 30, 1971, the Secretary shall issue".*

### SEC. 1111. SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS.

*(a) IN GENERAL.—Section 118(c)(1) of title 23, United States Code, is amended by striking "$50,000,000" and all that follows through "2003" and inserting "$100,000,000 for each of fiscal years 2005 through 2009".*

*(b) TECHNICAL AMENDMENTS.—*

*(1) SECTION 116.—Section 116(b) of such title is amended by striking "highway department" and inserting "transportation department".*

*(2) SECTION 120.—Section 120(e) of such title is amended in the first sentence by striking "such system" and inserting "such highway".*

*(3) SECTION 127.—Section 127(a) of such title is amended by striking "118(b)(1)" and inserting "118(b)(2)".*

*(4) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—Section 1212(i) of the Transportation Equity Act for the 21st Century (112 Stat. 196–197) is amended by redesignating subparagraphs (D) and (E) as paragraphs (2) and (3), respectively, and moving such paragraphs 2 ems to the left.*

### SEC. 1112. EMERGENCY RELIEF.

*There are authorized to be appropriated for each fiscal year such sums as may be necessary for allocations by the Secretary described in subsections (a) and (b) of section 125 of title 23, United States Code, if the total of those allocations in such fiscal year are in excess of $100,000,000.*

### SEC. 1113. SURFACE TRANSPORTATION PROGRAM.

*(a) PROGRAM ELIGIBILITY.—Section 133(b) of title 23, United States Code, is amended—*

*(1) in paragraph (6) by inserting ", including advanced truck stop electrification systems" before the period at the end; and*

*(2) by inserting after paragraph (11) the following:*

*"(12) Projects relating to intersections that—*

*"(A) have disproportionately high accident rates;*

*"(B) have high levels of congestion, as evidenced by—*

*"(i) interrupted traffic flow at the intersection; and*

*"(ii) a level of service rating that is not better than 'F' during peak travel hours, calculated in accordance with the Highway Capacity Manual issued by the Transportation Research Board; and*

*"(C) are located on a Federal-aid highway.".*

*(b) REPEAL OF SAFETY PROGRAMS SET-ASIDE.—*

*(1) REPEAL.—Section 133(d)(1) of such title is repealed.*

*(2) TECHNICAL AMENDMENTS.—Section 133(d) of such title is amended—*

*(A) in the first sentence of paragraph (3)(A)—*

*(i) by striking "subparagraphs (C) and (D)" and inserting "subparagraph (C)"; and*

*(ii) by striking "80 percent" and inserting "90 percent";*

*(B) in paragraph (3)(B) by striking "tobe" and inserting "to be"; and*

*(C) in paragraph (3)—*

*(i) by striking subparagraph (C);*

*(ii) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and*

*(iii) in subparagraph (C) (as redesignated by clause (ii)) by adding a period at the end.*

*(3) EFFECTIVE DATE.—Paragraph (1) and paragraph (2)(A)(ii) of this subsection shall take effect October 1, 2005.*

*(c) TRANSPORTATION ENHANCEMENT ACTIVITIES.—Effective October 1, 2005, section 133(d)(2) of such title is amended by striking "10 percent" and all that follows through "section 104(b)(3) for a fiscal year" and inserting the following: "In a fiscal year, the greater of 10 percent of the funds apportioned to a State under section 104(b)(3) for such fiscal year, or the amount set aside under this paragraph with respect to the State for fiscal year 2005,".*

*(d) OBLIGATION AUTHORITY.—Section 133(f)(1) of such title is amended—*

*(1) by striking "1998 through 2000" and inserting "2004 through 2006"; and*

*(2) by striking "2001 through 2003" and inserting "2007 through 2009".*

*(e) TECHNICAL CORRECTION.—Effective June 9, 1998, section 1108(e) of the Transportation Equity Act for the 21st Century (112 Stat. 140) is amended by striking "Section 133" and inserting "Section 133(f)".*

### SEC. 1114. HIGHWAY BRIDGE PROGRAM.

*(a) FINDING AND DECLARATION.—Section 144(a) of title 23, United States Code, is amended to read as follows:*

*"(a) FINDING AND DECLARATION.—Congress finds and declares that it is in the vital interest of the United States that a highway bridge program be carried out to enable States to improve the condition of their highway bridges over waterways, other topographical barriers, other highways, and railroads through replacement and rehabilitation of bridges that the States and the Secretary determine are structurally deficient or functionally obsolete and through systematic preventive maintenance of bridges.".*

*(b) PARTICIPATION.—Section 144(d) of such title is amended to read as follows:*

*"(d) PARTICIPATION.—*

*"(1) BRIDGE REPLACEMENT AND REHABILITATION.—On application by a State or States to the Secretary for assistance for a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c), the Secretary may approve Federal participation in—*

*"(A) replacing the bridge with a comparable facility; or*

*"(B) rehabilitating the bridge.*

*"(2) TYPES OF ASSISTANCE.—On application by a State or States to the Secretary, the Secretary may approve Federal assistance for any of the following activities for a highway bridge that has been determined to be eligible for replacement or rehabilitation under subsection (b) or (c):*

*"(A) Painting.*

*"(B) Seismic retrofit.*

*"(C) Systematic preventive maintenance.*

*"(D) Installation of scour countermeasures.*

*"(E) Application of calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions.*

*"(3) BASIS FOR DETERMINATION.—The Secretary shall determine the eligibility of highway bridges for replacement or rehabilitation for each State based on structurally deficient and functionally obsolete highway bridges in the State.*

*"(4) SPECIAL RULE FOR PREVENTIVE MAINTENANCE.—Notwithstanding any other provision of this subsection, a State may carry out a project under paragraph (2)(B), (2)(C), or (2)(D) for a highway bridge without regard to whether the bridge is eligible for replacement or rehabilitation under this section.".*

*(c) APPORTIONMENT OF FUNDS.—Section 144(e) of such title is amended—*

*(1) in the third sentence by striking "square footage" and inserting "deck area";*

*(2) in the fourth sentence by striking "the total cost of deficient bridges in a State and in all States shall be reduced by the total cost of any highway bridges constructed under subsection (m) in such State, relating to replacement of destroyed bridges and ferryboat services, and,"; and*

*(3) in the seventh sentence by striking "for the same period as funds apportioned for projects on the Federal-aid primary system under this title" and inserting "for the period specified in section 118(b)(2)".*

*(d) OFF-SYSTEM BRIDGES.—Section 144(g)(3) of such title is amended to read as follows:*

*"(3) OFF-SYSTEM BRIDGES.—*

*"(A) IN GENERAL.—Not less than 15 percent of the amount apportioned to each State in each of fiscal years 2005 through 2009 shall be expended*

for projects to replace, rehabilitate, paint, perform systematic preventive maintenance or seismic retrofit of, or apply calcium magnesium acetate, sodium acetate/formate, or other environmentally acceptable, minimally corrosive anti-icing and de-icing compositions to, or install scour countermeasures to, highway bridges located on public roads, other than those on a Federal-aid highway, or to complete the Warwick Intermodal Station (including the construction of a people mover between the Station and the T.F. Green Airport).

"(B) REDUCTION OF EXPENDITURES.—The Secretary, after consultation with State and local officials, may reduce the requirement for expenditure for bridges not on a Federal-aid highway under subparagraph (A) with respect to the State if the Secretary determines that the State has inadequate needs to justify the expenditure.".

(e) BRIDGE SET-ASIDE.—

(1) FISCAL YEAR 2005.—Section 144(g)(1)(C) of such title is amended—

(A) in the subsection heading by striking "2003"and inserting "2005"; and

(B) in the first sentence by striking "2003" and inserting "2005".

(2) FISCAL YEARS 2006 THROUGH 2009.—Effective October 1, 2005, section 144(g) of such title (as amended by subsection (d) of this section) is amended—

(A) by striking the subsection designation and all that follows through the period at the end of paragraph (2) and inserting the following:

"(g) BRIDGE SET-ASIDES.—

"(1) DESIGNATED PROJECTS.—

"(A) IN GENERAL.—Of the amounts authorized to be appropriated to carry out the bridge program under this section for each of the fiscal years 2006 through 2009, all but $100,000,000 shall be apportioned as provided in subsection (e). Such $100,000,000 shall be available as follows:

"(i) $12,500,000 per fiscal year for the Golden Gate Bridge.

"(ii) $18,750,000 per fiscal year for the construction of a bridge joining the Island of Gravina to the community of Ketchikan in Alaska.

"(iii) $12,500,000 per fiscal year to the State of Nevada for construction of a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area.

"(iv) $12,500,000 per fiscal year to the State of Missouri for construction of a structure over the Mississippi River to connect the city of St. Louis, Missouri, to the State of Illinois.

"(v) $12,500,000 per fiscal year for replacement and reconstruction of State maintained bridges in the State of Oklahoma.

"(vi) $4,500,000 per fiscal year for replacement of the Missisquoi Bay Bridge, Vermont.

"(vii) $8,000,000 per fiscal year for replacement and reconstruction of State-maintained bridges in the State of Vermont.

"(viii) $8,750,000 per fiscal year for design, planning, and right-of-way acquisition for the Interstate Route 74 bridge from Bettendorf, Iowa, to Moline, Illinois.

"(ix) $10,000,000 per fiscal year for replacement and reconstruction of State-maintained bridges in the State of Oregon.

"(B) GRAVINA ACCESS SCORING.—The project described in subparagraph (A)(ii) shall not be counted for purposes of the reduction set forth in the fourth sentence of subsection (e).

"(C) PERIOD OF AVAILABILITY.—Amounts made available to a State under this paragraph shall remain available until expended.";

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(f) CONTINUATION OF REPORT; FEDERAL SHARE.—Section 144 of such title is amended by adding at the end the following:

"(r) ANNUAL MATERIALS REPORT ON NEW BRIDGE CONSTRUCTION AND BRIDGE REHABILITATION.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the Secretary shall publish in the Federal Register a report describing construction materials used in new Federal-aid bridge construction and bridge rehabilitation projects.

"(s) FEDERAL SHARE.—

"(1) IN GENERAL.—Except as provided under paragraph (2), the Federal share of the cost of a project payable from funds made available to carry out this section shall be determined under section 120(b).

"(2) INTERSTATE SYSTEM.—The Federal share of the cost of a project on the Interstate System payable from funds made available to carry out this section shall be determined under section 120(a).".

(g) TECHNICAL AMENDMENT.—Section 144(i) of such title is amended by striking "at the same time" and all that follows through "Congress".

### SEC. 1115. HIGHWAY USE TAX EVASION PROJECTS.

(a) ELIGIBLE ACTIVITIES.—

(1) INTERGOVERNMENTAL ENFORCEMENT EFFORTS.—Section 143(b)(2) of title 23, United States Code, is amended by inserting before the period the following: "; except that of funds so made available for each of fiscal years 2005 through 2009, $2,000,000 shall be available only to carry out intergovernmental enforcement efforts, including research and training".

(2) CONDITIONS ON FUNDS ALLOCATED TO INTERNAL REVENUE SERVICE.—Section 143(b)(3) of such title is amended by striking "The" and inserting "Except as otherwise provided in this section, the".

(3) LIMITATION ON USE OF FUNDS.—Section 143(b)(4) of such title is amended—

(A) by striking "and" at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting a semicolon; and

(C) by adding at the end the following:

"(H) to support efforts between States and Indian tribes to address issues relating to State motor fuel taxes; and

"(I) to analyze and implement programs to reduce tax evasion associated with foreign imported fuel.".

(4) REPORTS.—Section 143(b) of such title is amended by adding at the end the following:

"(9). REPORTS.—The Commissioner of the Internal Revenue Service and each State shall submit to the Secretary an annual report that describes the projects, examinations, and criminal investigations funded by and carried out under this section. Such report shall specify the estimated annual yield from such projects, examinations, and criminal investigations.".

(b) EXCISE FUEL REPORTING SYSTEM.—Section 143(c) of such title is amended to read as follows:

"(c) EXCISE TAX FUEL REPORTING.—

"(1) IN GENERAL.—Not later than 90 days after the date of enactment of the SAFETEA–LU, the Secretary shall enter into a memorandum of understanding with the Commissioner of the Internal Revenue Service for the purposes of—

"(A) the additional development of capabilities needed to support new reporting requirements and databases established under such Act and the American Jobs Creation Act of 2004 (P.L. 108–357), and such other reporting requirements and database development as may be determined by the Secretary, in consultation with the Commissioner of the Internal Revenue Service, to be useful in the enforcement of fuel excise taxes, including provisions recommended by the Fuel Tax Enforcement Advisory Committee;

"(B) the completion of requirements needed for the electronic reporting of fuel transactions from carriers and terminal operators,

"(C) the operation and maintenance of an excise summary terminal activity reporting system and other systems used to provide strategic analyses of domestic and foreign motor fuel distribution trends and patterns,

"(D) the collection, analysis, and sharing of information on fuel distribution and compliance or noncompliance with fuel taxes, and

"(E) the development, completion, operation, and maintenance of an electronic claims filing system and database and an electronic database of heavy vehicle highway use payments.

"(2) ELEMENTS OF MEMORANDUM OF UNDERSTANDING.—The memorandum of understanding shall provide that—

"(A) the Internal Revenue Service shall develop and maintain any system under paragraph (1) through contracts,

"(B) any system under paragraph (1) shall be under the control of the Internal Revenue Service, and

"(C) any system under paragraph (1) shall be made available for use by appropriate State and Federal revenue, tax, and law enforcement authorities, subject to section 6103 of the Internal Revenue Code of 1986.

"(3) FUNDING.—Of the amounts made available to carry out this section for each of fiscal years 2005 through 2009, the Secretary shall make available to the Internal Revenue Service such funds as may be necessary to complete, operate, and maintain the systems under paragraph (1) in accordance with this subsection.

"(4) REPORTS.—Not later than September 30 of each year, the Commissioner of the Internal Revenue Service shall provide reports to the Secretary on the status of the Internal Revenue Service projects funded under this subsection.".

(c) ALLOCATIONS.—Of the amounts authorized to be appropriated under section 1101(a)(21) of this Act for highway use tax evasion projects for each of the fiscal years 2005 through 2009, the following amounts shall be allocated to the Internal Revenue Service to carry out section 143 of title 23, United States Code:

(1) $5,000,000 for fiscal year 2005.

(2) $44,800,000 for fiscal year 2006.

(3) $53,300,000 for fiscal year 2007.

(4) $12,000,000 for each of fiscal years 2008 and 2009.

### SEC. 1116. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM.

(a) APPORTIONMENT.—The Secretary shall apportion funds made available by section 1101(a)(7) of this Act for fiscal years 2005 through 2009 among the States based on the latest available cost to complete estimate for the Appalachian development highway system under section 14501 of title 40, United States Code.

(b) APPLICABILITY OF TITLE 23.—Funds made available by section 1101(a)(7) of this Act for the Appalachian development highway system shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project under this section shall be determined in accordance with section 14501 of title 40, United States Code, and such funds shall be available to construct highways and access roads under such section and shall remain available until expended.

(c) USE OF TOLL CREDITS.—Section 120(j)(1) of title 23, United States Code, is amended by inserting "and the Appalachian development highway system program under section 14501 of title 40" after "section 125".

### SEC. 1117. TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM.

(a) ESTABLISHMENT.—In cooperation with appropriate State, tribal, regional, and local governments, the Secretary shall establish a comprehensive program to address the relationships *among transportation, community, and system preservation plans and practices and identify private sector-based initiatives to improve such relationships.*

*(b) PURPOSE.—Through the program under this section, the Secretary shall facilitate the planning, development, and implementation of strategies to integrate transportation, community, and system preservation plans and practices that address 1 or more of the following:*

*(1) Improve the efficiency of the transportation system of the United States.*

*(2) Reduce the impacts of transportation on the environment.*

*(3) Reduce the need for costly future investments in public infrastructure.*

*(4) Provide efficient access to jobs, services, and centers of trade.*

*(5) Examine community development patterns and identify strategies to encourage private sector development that achieves the purposes identified in paragraphs (1) through (4).*

*(c) GENERAL AUTHORITY.—The Secretary shall allocate funds made available to carry out this section to States, metropolitan planning organizations, local governments, and tribal governments to carry out eligible projects to integrate transportation, community, and system preservation plans and practices.*

*(d) ELIGIBILITY.—A project described in subsection (c) is an eligible project under this section if the project—*

*(1) is eligible for assistance under title 23 or chapter 53 of title 49, United States Code; or*

*(2) is to conduct any other activity relating to transportation, community, and system preservation that the Secretary determines to be appropriate, including corridor preservation activities that are necessary to implement 1 or more of the following:*

*(A) Transit-oriented development plans.*

*(B) Traffic calming measures.*

*(C) Other coordinated transportation, community, and system preservation practices.*

*(e) CRITERIA.—In allocating funds made available to carry out this section, the Secretary shall give priority consideration to applicants that—*

*(1) have instituted preservation or development plans and programs that—*

*(A) are coordinated with State and local preservation or development plans, including transit-oriented development plans;*

*(B) promote cost-effective and strategic investments in transportation infrastructure that minimize adverse impacts on the environment; or*

*(C) promote innovative private sector strategies;*

*(2) have instituted other policies to integrate transportation, community, and system preservation practices, such as—*

*(A) spending policies that direct funds to high-growth areas;*

*(B) urban growth boundaries to guide metropolitan expansion;*

*(C) “green corridors” programs that provide access to major highway corridors for areas targeted for efficient and compact development; or*

*(D) other similar programs or policies as determined by the Secretary;*

*(3) have preservation or development policies that include a mechanism for reducing potential impacts of transportation activities on the environment;*

*(4) demonstrate a commitment to public and private involvement, including the involvement of nontraditional partners in the project team; and*

*(5) examine ways to encourage private sector investments that address the purposes of this section.*

*(f) EQUITABLE DISTRIBUTION.—In allocating funds to carry out this section, the Secretary shall ensure the equitable distribution of funds to a diversity of populations and geographic regions.*

*(g) FUNDING.—*

*(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $25,000,000 for fiscal year 2005 and $61,250,000 for each of fiscal years 2006, 2007, 2008, and 2009.*

*(2) CONTRACT AUTHORITY.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable, and the Federal share for projects and activities carried out with such funds shall be determined in accordance with section 120(b) of title 23, United States Code.*

*(h) CONFORMING AMENDMENT.—Section 1221 of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note; 112 Stat. 221) is repealed.*

***SEC. 1118. TERRITORIAL HIGHWAY PROGRAM.***

*(a) IN GENERAL.—Chapter 2 of title 23, United States Code, is amended by striking section 215 and inserting the following:*

***“§215. Territorial highway program***

*“(a) DEFINITIONS.—In this section, the following definitions apply:*

*“(1) PROGRAM.—The term ‘program’ means the territorial highway program established under subsection (b).*

*“(2) TERRITORY.—The term ‘territory’ means the any of the following territories of the United States:*

*“(A) American Samoa.*

*“(B) The Commonwealth of the Northern Mariana Islands.*

*“(C) Guam.*

*“(D) The United States Virgin Islands.*

*“(b) PROGRAM.—*

*“(1) IN GENERAL.—Recognizing the mutual benefits that will accrue to the territories and the United States from the improvement of highways in the territories, the Secretary may carry out a program to assist each government of a territory in the construction and improvement of a system of arterial and collector highways, and necessary inter-island connectors, that is—*

*“(A) designated by the Governor or chief executive officer of each territory; and*

*“(B) approved by the Secretary.*

*“(2) FEDERAL SHARE.—The Federal share of Federal financial assistance provided to territories under this section shall be in accordance with section 120(h).*

*“(c) TECHNICAL ASSISTANCE.—*

*“(1) IN GENERAL.—To continue a long-range highway development program, the Secretary may provide technical assistance to the governments of the territories to enable the territories to, on a continuing basis—*

*“(A) engage in highway planning;*

*“(B) conduct environmental evaluations;*

*“(C) administer right-of-way acquisition and relocation assistance programs; and*

*“(D) design, construct, operate, and maintain a system of arterial and collector highways, including necessary inter-island connectors.*

*“(2) FORM AND TERMS OF ASSISTANCE.—Technical assistance provided under paragraph (1), and the terms for the sharing of information among territories receiving the technical assistance, shall be included in the agreement required by subsection (e).*

*“(d) NONAPPLICABILITY OF CERTAIN PROVISIONS.—*

*“(1) IN GENERAL.—Except to the extent that provisions of chapter 1 are determined by the Secretary to be inconsistent with the needs of the territories and the intent of the program, chapter 1 (other than provisions of chapter 1 relating to the apportionment and allocation of funds) shall apply to funds authorized to be appropriated for the program.*

*“(2) APPLICABLE PROVISIONS.—The agreement required by subsection (e) for each territory shall identify the sections of chapter 1 that are applicable to that territory and the extent of the applicability of those sections.*

*“(e) AGREEMENT.—*

*“(1) IN GENERAL.—Except as provided in paragraph (4), none of the funds made available for the program shall be available for obligation or expenditure with respect to any territory until the chief executive officer of the territory enters into an agreement with the Secretary (not later than 1 year after the date of enactment of SAFETEA–LU), providing that the government of the territory shall—*

*“(A) implement the program in accordance with applicable provisions of chapter 1 and subsection (d);*

*“(B) design and construct a system of arterial and collector highways, including necessary inter-island connectors, in accordance with standards that are—*

*“(i) appropriate for each territory; and*

*“(ii) approved by the Secretary;*

*“(C) provide for the maintenance of facilities constructed or operated under this section in a condition to adequately serve the needs of present and future traffic; and*

*“(D) implement standards for traffic operations and uniform traffic control devices that are approved by the Secretary.*

*“(2) TECHNICAL ASSISTANCE.—The agreement required by paragraph (1) shall—*

*“(A) specify the kind of technical assistance to be provided under the program;*

*“(B) include appropriate provisions regarding information sharing among the territories; and*

*“(C) delineate the oversight role and responsibilities of the territories and the Secretary.*

*“(3) REVIEW AND REVISION OF AGREEMENT.—The agreement entered into under paragraph (1) shall be reevaluated and, as necessary, revised, at least every 2 years.*

*“(4) EXISTING AGREEMENTS.—With respect to an agreement under the section between the Secretary and the chief executive officer of a territory that is in effect as of the date of enactment of the SAFETEA–LU—*

*“(A) the agreement shall continue in force until replaced by an agreement entered into in accordance with paragraph (1); and*

*“(B) amounts made available for the program under the existing agreement shall be available for obligation or expenditure so long as the agreement, or the existing agreement entered into under paragraph (1), is in effect.*

*“(f) PERMISSIBLE USES OF FUNDS.—*

*“(1) IN GENERAL.—Funds made available for the program may be used only for the following projects and activities carried out in a territory:*

*“(A) Eligible surface transportation program projects described in section 133(b).*

*“(B) Cost-effective, preventive maintenance consistent with section 116(d).*

*“(C) Ferry boats, terminal facilities, and approaches, in accordance with subsections (b) and (c) of section 129.*

*“(D) Engineering and economic surveys and investigations for the planning, and the financing, of future highway programs.*

*“(E) Studies of the economy, safety, and convenience of highway use.*

*“(F) The regulation and equitable taxation of highway use.*

*“(G) Such research and development as are necessary in connection with the planning, design, and maintenance of the highway system.*

*“(2) PROHIBITION ON USE OF FUNDS FOR ROUTINE MAINTENANCE.—None of the funds made available for the program shall be obligated or expended for routine maintenance.*

*“(g) LOCATION OF PROJECTS.—Territorial highway projects (other than those described in paragraphs (1), (3), and (4) of section 133(b))*

*may not be undertaken on roads functionally classified as local.".*

*(b) Conforming Amendments.—*

*(1) ELIGIBLE PROJECTS.—Section 103(b) of such title is amended—*

*(A) in the heading for paragraph (6) by striking "ELIGIBLE" and inserting "STATE ELIGIBLE";*

*(B) in paragraph (6) by striking subparagraph (P) ; and*

*(C) by adding at the end the following:*

*"(7) Territory eligible projects.—Subject to approval by the Secretary, funds set aside for this program under section 104(b)(1) for the National Highway System may be obligated for projects eligible for assistance under the territorial highway program under section 215.".*

*(2) Funding.—Section 104(b)(1)(A) of such title is amended by striking "to the Virgin Islands, Guam, American Samoa, and the Commonwealth of Northern Mariana Islands" and inserting "for the territorial highway program under section 215".*

*(3) Clerical amendment.—The analysis for chapter 2 of such title is amended by striking the item relating to section 215 and inserting the following:*

*"215. Territorial highway program.".*

***SEC. 1119. FEDERAL LANDS HIGHWAYS.***

*(a) Federal Share Payable.—*

*(1) In general.—Section 120(k) of title 23, United States Code, is amended—*

*(A) by striking "Federal-aid highway"; and*

*(B) by striking "section 104" and inserting "this title or chapter 53 of title 49".*

*(2) Technical references.—Section 120(l) of such title is amended by striking "section 104" and inserting "this title or chapter 53 of title 49".*

*(b) Payments to Federal Agencies for Federal-Aid Projects.—Section 132 of such title is amended—*

*(1) by striking the first 2 sentences and inserting the following:*

*"(a) In General.—In a case in which a proposed Federal-aid project is to be undertaken by a Federal agency in accordance with an agreement between a State and the Federal agency, the State may—*

*"(1) direct the Secretary to transfer the funds for the Federal share of the project directly to the Federal agency; or*

*"(2) make such deposit with, or payment to, the Federal agency as is required to meet the obligation of the State under the agreement for the work undertaken or to be undertaken by the Federal agency.*

*"(b) Reimbursement.—On execution with a State of a project agreement described in subsection (a), the Secretary may reimburse the State, using any available funds, for the estimated Federal share under this title of the obligation of the State deposited or paid under subsection (a)(2)."; and*

*(2) in the last sentence by striking "Any sums" and inserting the following:*

*"(c) Recovery and Crediting of Funds.—Any sums".*

*(c) Allocations.—Section 202 of such title is amended—*

*(1) in subsection (a) by striking "(a) On October 1" and all that follows through "Such allocation" and inserting the following:*

*"(a) Allocation Based on Need.—*

*"(1) In general.—On October 1 of each fiscal year, the Secretary shall allocate sums authorized to be appropriated for the fiscal year for forest development roads and trails according to the relative needs of the various national forests and grasslands.*

*"(2) Planning.—The allocation under paragraph (1)";*

*(2) in subsection (d)(2)—*

*(A) by adding at the end the following:*

*"(E) Transferred funds.—*

*"(i) In general.—Not later than 30 days after the date on which funds are made available to the Secretary of the Interior under this paragraph, the funds shall be distributed to, and available for immediate use by, the eligible Indian tribes, in accordance with the formula for distribution of funds under the Indian reservation roads program.*

*"(ii) Use of funds.—Notwithstanding any other provision of this section, funds available to Indian tribes for Indian reservation roads shall be expended on projects identified in a transportation improvement program approved by the Secretary."; and*

*(B) in subsection (d)(3)(A) by striking "under this title" and inserting "under this chapter and section 125(e)".*

*(d) Federal Lands Highways Program.—Section 202 of such title is amended by striking subsection (b) and inserting the following:*

*"(b) Allocation for Public Lands Highways.—*

*"(1) Public lands highways.—*

*"(A) In general.—On October 1 of each fiscal year, the Secretary shall allocate 34 percent of the sums authorized to be appropriated for that fiscal year for public lands highways among those States having unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations, on the basis of need in the States, respectively, as determined by the Secretary, on application of the State transportation departments of the respective States.*

*"(B) Preference.—In making the allocation under subparagraph (A), the Secretary shall give preference to those projects that are significantly impacted by Federal land and resource management activities that are proposed by a State that contains at least 3 percent of the total public land in the United States.*

*"(2) Forest highways.—*

*"(A) In general.—On October 1 of each fiscal year, the Secretary shall allocate 66 percent of the funds authorized to be appropriated for public lands highways for forest highways in accordance with section 134 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 202 note; 101 Stat. 173).*

*"(B) Public access to and within National Forest System.—In making the allocation under subparagraph (A), the Secretary shall give equal consideration to projects that provide access to and within the National Forest System, as identified by the Secretary of Agriculture through—*

*"(i) renewable resource and land use planning; and*

*"(ii) assessments of the impact of that planning on transportation facilities.".*

*(e) BIA Administrative Expenses.—Section 202(d)(2) of such title (as amended by subsection (c)(2) of this section) is amended by adding at the end the following:*

*"(F) Administrative expenses.—*

*"(i) In general.—Of the funds authorized to be appropriated for Indian reservation roads, $20,000,000 for fiscal year 2006, $22,000,000 for fiscal year 2007, $24,500,000 for fiscal year 2008, and $27,000,000 for fiscal year 2009 may be used by the Secretary of the Interior for program management and oversight and project-related administrative expenses.*

*"(ii) Health and safety assurances.—Notwithstanding any other provision of law, an Indian tribal government may approve plans, specifications, and estimates and commence road and bridge construction with funds made available for Indian reservation roads under the Transportation Equity Act for the 21st Century (Public Law 105-178) and SAFETEA-LU through a contract or agreement under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.) if the Indian tribal government—*

*"(I) provides assurances in the contract or agreement that the construction will meet or exceed applicable health and safety standards;*

*"(II) obtains the advance review of the plans and specifications from a State-licensed civil engineer that has certified that the plans and specifications meet or exceed the applicable health and safety standards; and*

*"(III) provides a copy of the certification under subclause (I) to the Deputy Assistant Secretary for Tribal Government Affairs or the Assistant Secretary for Indian Affairs, as appropriate.".*

*(f) National Tribal Transportation Facility Inventory.—Section 202(d)(2) of such title (as amended by subsection (e)) is amended by adding at the end the following:*

*"(G) National tribal transportation facility inventory.—*

*"(i) In general.—Not later than 2 years after the date of enactment of the SAFETEA-LU, the Secretary, in cooperation with the Secretary of the Interior, shall complete a comprehensive national inventory of transportation facilities that are eligible for assistance under the Indian reservation roads program.*

*"(ii) Transportation facilities included in the inventory.—For purposes of identifying the tribal transportation system and determining the relative transportation needs among Indian tribes, the Secretary shall include, at a minimum, transportation facilities that are eligible for assistance under the Indian reservation roads program that a tribe has requested, including facilities that—*

*"(I) were included in the Bureau of Indian Affairs system inventory for funding formula purposes in 1992 or any subsequent fiscal year;*

*"(II) were constructed or reconstructed with funds from the Highway Trust Funds (other than the Mass Transit Account) under the Indian reservation roads program since 1983;*

*"(III) are owned by an Indian tribal government; or*

*"(IV) are community streets or bridges within the exterior boundary of Indian reservations, Alaska Native villages, and other recognized Indian communities (including communities in former Indian reservations in Oklahoma) in which the majority of residents are American Indians or Alaska Natives; or*

*"(V) are primary access routes proposed by tribal governments, including roads between villages, roads to landfills, roads to drinking water sources, roads to natural resources identified for economic development, and roads that provide access to intermodal termini, such as airports, harbors, or boat landings.*

*"(iii) Limitation on primary access routes.—For purposes of this subparagraph, a proposed primary access route is the shortest practicable route connecting 2 points of the proposed route.*

*"(iv) Additional facilities.—Nothing in this subparagraph shall preclude the Secretary from including additional transportation facilities that are eligible for funding under the Indian reservation roads program in the inventory used for the national funding allocation if such additional facilities are included in the inventory in a uniform and consistent manner nationally.*

*"(v) Report to Congress.—Not later than 90 days after the date of completion of the inventory under this subparagraph, the Secretary shall prepare and submit a report to Congress that includes the data gathered and the results of the inventory.".*

*(g) Indian Reservation Road Bridges.—Section 202(d)(4) of such title is amended—*

*(1) in subparagraph (B)—*

*(A) by striking "(B) Reservation.—Of the amounts" and all that follows through "to replace," and inserting the following:*

*"(B) Funding.—*

*"(i) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available for Indian reservation roads for each fiscal year, there is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $14,000,000 for each of fiscal years 2005 through 2009 to carry out planning, design, engineering, preconstruction, construction, and inspection of projects to replace,"; and*

*(B) by adding at the end the following:*

*"(ii) AVAILABILITY.—Funds made available to carry out this subparagraph shall be available for obligation in the same manner as if such funds were apportioned under chapter 1.";*

*(2) in subparagraph (C) by striking clause (iii) and inserting the following:*

*"(iii) be structurally deficient or functionally obsolete; and"; and*

*(3) by striking subparagraph (D) and inserting the following:*

*"(D) APPROVAL REQUIREMENT.—*

*"(i) IN GENERAL.—Subject to clause (ii), on request by an Indian tribe or the Secretary of the Interior, the Secretary may make funds available under this subsection for preliminary engineering for Indian reservation road bridge projects.*

*"(ii) CONSTRUCTION AND CONSTRUCTION ENGINEERING.—The Secretary may make funds available under clause (i) for construction and construction engineering after approval of applicable plans, specifications, and estimates in accordance with this title.".*

*(4) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—Section 202(d) of such title is amended by adding at the end the following:*

*"(5) CONTRACTS AND AGREEMENTS WITH INDIAN TRIBES.—*

*"(A) IN GENERAL.—Notwithstanding any other provision of law or any interagency agreement, program guideline, manual, or policy directive, all funds made available to an Indian tribal government under this chapter for a highway, road, bridge, parkway, or transit facility program or project that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe shall be made available, on the request of the Indian tribal government, to the Indian tribal government for use in carrying out, in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), contracts and agreements for the planning, research, design, engineering, construction, and maintenance relating to the program or project.*

*"(B) EXCLUSION OF AGENCY PARTICIPATION.—In accordance with subparagraph (A), all funds for a program or project to which subparagraph (A) applies shall be paid to the Indian tribal government without regard to the organizational level at which the Department of the Interior has previously carried out, or the Department of Transportation has previously carried out under the Federal lands highway programs, the programs, functions, services, or activities involved.*

*"(C) CONSORTIA.—Two or more Indian tribes that are otherwise eligible to participate in a program or project to which this chapter applies may form a consortium to be considered as a single Indian tribe for the purpose of participating in the project under this section.*

*"(D) SECRETARY AS SIGNATORY.—Notwithstanding any other provision of law, the Secretary is authorized to enter into a funding agreement with an Indian tribal government to carry out a highway, road, bridge, parkway, or transit program or project under subparagraph (A) that is located on an Indian reservation or provides access to the reservation or a community of the Indian tribe.*

*"(E) FUNDING.—The amount an Indian tribal government receives for a program or project under subparagraph (A) shall equal the sum of the funding that the Indian tribal government would otherwise receive for the program or project in accordance with the funding formula established under this subsection and such additional amounts as the Secretary determines equal the amounts that would have been withheld for the costs of the Bureau of Indian Affairs for administration of the program or project.*

*"(F) ELIGIBILITY.—*

*"(i) IN GENERAL.—Subject to clause (ii), funds may be made available under subparagraph (A) to an Indian tribal government for a program or project in a fiscal year only if the Indian tribal government requesting such funds demonstrates to the satisfaction of the Secretary financial stability and financial management capability during the 3 fiscal years immediately preceding the fiscal year for which the request is being made.*

*"(ii) CRITERIA FOR DETERMINING FINANCIAL STABILITY AND FINANCIAL MANAGEMENT CAPABILITY.—An Indian tribal government that had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribal government self-determination contracts or self-governance funding agreements with any Federal agency during the 3-fiscal year period referred in clause (i) shall be conclusive evidence of the financial stability and financial management capability for purposes of clause (i).*

*"(G) ASSUMPTION OF FUNCTIONS AND DUTIES.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall assume all functions and duties that the Secretary of the Interior would have performed with respect to a program or project under this chapter, other than those functions and duties that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).*

*"(H) POWERS.—An Indian tribal government receiving funding under subparagraph (A) for a program or project shall have all powers that the Secretary of the Interior would have exercised in administering the funds transferred to the Indian tribal government for such program or project under this section if the funds had not been transferred, except to the extent that such powers are powers that inherently cannot be legally transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.).*

*"(I) DISPUTE RESOLUTION.—In the event of a disagreement between the Secretary or the Secretary of the Interior and an Indian tribe over whether a particular function, duty, or power may be lawfully transferred under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b et seq.), the Indian tribe shall have the right to pursue all alternative dispute resolutions and appeal procedures authorized by such Act, including regulations issued to carry out such Act.*

*"(J) TERMINATION OF CONTRACT OR AGREEMENT.—On the date of the termination of a contract or agreement under this section by an Indian tribal government, the Secretary shall transfer all funds that would have been allocated to the Indian tribal government under the contract or agreement to the Secretary of the Interior to provide continued transportation services in accordance with applicable law.".*

*(h) PLANNING AND AGENCY COORDINATION.—Section 204 of such title is amended—*

*(1) in subsection (a)(1) by inserting "refuge roads," after "parkways,"; and*

*(2) by striking subsection (b) and inserting the following:*

*"(b) USE OF FUNDS.—*

*"(1) IN GENERAL.—Funds made available for public lands highways, park roads and parkways, and Indian reservation roads shall be used by the Secretary and the Secretary of the appropriate Federal land management agency to pay the cost of—*

*"(A) transportation planning, research, and engineering and construction of, highways, roads, parkways, and transit facilities located on public lands, national parks, and Indian reservations; and*

*"(B) operation and maintenance of transit facilities located on public lands, national parks, and Indian reservations.*

*"(2) CONTRACT.—In connection with an activity described in paragraph (1), the Secretary and the Secretary of the appropriate Federal land management agency may enter into a contract or other appropriate agreement with respect to such activity with—*

*"(A) a State (including a political subdivision of a State); or*

*"(B) an Indian tribe.*

*"(3) INDIAN RESERVATION ROADS.—In the case of an Indian reservation road—*

*"(A) Indian labor may be employed, in accordance with such rules and regulations as may be promulgated by the Secretary of the Interior, to carry out any construction or other activity described in paragraph (1); and*

*"(B) funds made available to carry out this section may be used to pay bridge preconstruction costs (including planning, design, and engineering).*

*"(4) FEDERAL EMPLOYMENT.—No maximum limitation on Federal employment shall be applicable to construction or improvement of Indian reservation roads.*

*"(5) AVAILABILITY OF FUNDS.—Funds made available under this section for each class of Federal lands highways shall be available for any transportation project eligible for assistance under this title that is within or adjacent to, or that provides access to, the areas served by the particular class of Federal lands highways.*

*"(6) RESERVATION OF FUNDS.—The Secretary of the Interior may reserve funds from administrative funds of the Bureau of Indian Affairs that are associated with the Indian reservation roads program to finance Indian technical centers under section 504(b).".*

*(i) MAINTENANCE OF INDIAN RESERVATION ROADS.—Section 204(c) of such title is amended by striking the second and third sentences and inserting the following: "Notwithstanding any other provision of this title, of the amount of funds allocated for Indian reservation roads from the Highway Trust Fund, not more than 25 percent of the funds allocated to an Indian tribe may be expended for the purpose of maintenance, excluding road sealing which shall not be subject to any limitation. The Bureau of Indian Affairs shall continue to retain primary responsibility, including annual funding request responsibility, for road maintenance programs on Indian reservations. The Secretary shall ensure that funding made available under this subsection for maintenance of Indian reservation roads for each fiscal year is supplementary to and not in lieu of any obligation of funds by the Bureau of Indian Affairs for road maintenance programs on Indian reservations.".*

*(j) REFUGE ROADS.—Section 204(k)(1) of such title is amended—*

*(1) in subparagraph (B)—*

*(A) by striking "(2), (5)," and inserting "(2), (3), (5),"; and*

*(B) by striking "and" after the semicolon;*

*(2) in subparagraph (C) by striking the period at the end and inserting a semicolon; and*

*(3) by adding at the end the following:*

*"(D) the non-Federal share of the cost of any project funded under this title or chapter 53 of title 49 that provides access to or within a wildlife refuge; and*

*"(E) maintenance and improvement of recreational trails; except that expenditures on*

*trails under this subparagraph shall not exceed 5 percent of available funds for each fiscal year.”.*

*(k) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—Section 204 of such title is amended by adding at the end the following:*

*“(l) TRIBAL-STATE ROAD MAINTENANCE AGREEMENTS.—*

*“(1) IN GENERAL.—An Indian tribe and a State may enter into a road maintenance agreement under which an Indian tribe assumes the responsibilities of the State for—*

*“(A) Indian reservation roads; and*

*“(B) roads providing access to Indian reservation roads.*

*“(2) TRIBAL-STATE AGREEMENTS.—Agreements entered into under paragraph (1)—*

*“(A) shall be negotiated between the State and the Indian tribe; and*

*“(B) shall not require the approval of the Secretary.*

*“(3) ANNUAL REPORT.—Effective beginning with fiscal year 2005, the Secretary shall prepare and submit to Congress an annual report that identifies—*

*“(A) the Indian tribes and States that have entered into agreements under paragraph (1);*

*“(B) the number of miles of roads for which Indian tribes have assumed maintenance responsibilities; and*

*“(C) the amount of funding transferred to Indian tribes for the fiscal year under agreements entered into under paragraph (1).”.*

*(l) DEPUTY ASSISTANT SECRETARY OF TRANSPORTATION FOR TRIBAL GOVERNMENT AFFAIRS.—Section 102 of title 49, United States Code, is amended—*

*(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and*

*(2) by inserting after subsection (e) the following:*

*“(f) DEPUTY ASSISTANT SECRETARY FOR TRIBAL GOVERNMENT AFFAIRS.—*

*“(1) ESTABLISHMENT.—In accordance with Federal policies promoting Indian self determination, the Department of Transportation shall have, within the office of the Secretary, a Deputy Assistant Secretary for Tribal Government Affairs appointed by the President to plan, coordinate, and implement the Department of Transportation policy and programs serving Indian tribes and tribal organizations and to coordinate tribal transportation programs and activities in all offices and administrations of the Department and to be a participant in any negotiated rulemaking relating to, or having an impact on, projects, programs, or funding associated with the tribal transportation program.*

*“(2) RESERVATION OF TRUST OBLIGATIONS.—*

*“(A) RESPONSIBILITY OF SECRETARY.—In carrying out this title, the Secretary shall be responsible to exercise the trust obligations of the United States to Indians and Indian tribes to ensure that the rights of a tribe or individual Indian are protected.*

*“(B) PRESERVATION OF UNITED STATES RESPONSIBILITY.—Nothing in this title shall absolve the United States from any responsibility to Indians and Indian tribes, including responsibilities derived from the trust relationship and any treaty, executive order, or agreement between the United States and an Indian tribe.”.*

*(m) FOREST HIGHWAYS.—Of the amounts made available for public lands highways under section 1101—*

*(1) not to exceed $20,000,000 per fiscal year may be used for the maintenance of forest highways;*

*(2) not to exceed $1,000,000 per fiscal year may be used for signage identifying public hunting and fishing access; and*

*(3) not to exceed $10,000,000 per fiscal year shall be used by the Secretary of Agriculture to pay the costs of facilitating the passage of aquatic species beneath roads in the National Forest System, including the costs of constructing, maintaining, replacing, or removing culverts and bridges, as appropriate.*

*(n) WILDLIFE VEHICLE COLLISION REDUCTION STUDY.—*

*(1) IN GENERAL.—The Secretary shall conduct a study of methods to reduce collisions between motor vehicles and wildlife (in this subsection referred to as “wildlife vehicle collisions”).*

*(2) CONTENTS.—*

*(A) AREAS OF STUDY.—The study shall include an assessment of the causes and impacts of wildlife vehicle collisions and solutions and best practices for reducing such collisions.*

*(B) METHODS FOR CONDUCTING THE STUDY.—In carrying out the study, the Secretary shall—*

*(i) conduct a thorough literature review; and*

*(ii) survey current practices of the Department of Transportation.*

*(3) CONSULTATION.—In carrying out the study, the Secretary shall consult with appropriate experts in the field of wildlife vehicle collisions.*

*(4) REPORT.—*

*(A) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study.*

*(B) CONTENTS.—The report shall include a description of each of the following:*

*(i) Causes of wildlife vehicle collisions.*

*(ii) Impacts of wildlife vehicle collisions.*

*(iii) Solutions to and prevention of wildlife vehicle collisions.*

*(5) MANUAL.—*

*(A) DEVELOPMENT.—Based upon the results of the study, the Secretary shall develop a best practices manual to support State efforts to reduce wildlife vehicle collisions.*

*(B) AVAILABILITY.—The manual shall be made available to States not later than 1 year after the date of transmission of the report under paragraph (4).*

*(C) CONTENTS.—The manual shall include, at a minimum, the following:*

*(i) A list of best practices addressing wildlife vehicle collisions.*

*(ii) A list of information, technical, and funding resources for addressing wildlife vehicle collisions.*

*(iii) Recommendations for addressing wildlife vehicle collisions.*

*(iv) Guidance for developing a State action plan to address wildlife vehicle collisions.*

*(6) TRAINING.—Based upon the manual developed under paragraph (5), the Secretary shall develop a training course on addressing wildlife vehicle collisions for transportation professionals.*

*(o) LIMITATION ON APPLICABILITY.—The requirements of the January 4, 2005, Federal Highway Administration, a final rule on the implementation of the Uniform Relocation Assistance and Real Property Acquisition policy Act of 1970 (42 U.S.C. 4601 et seq.) shall not apply to the voluntary conservation easement activities of the Department of Agriculture or the Department of the Interior.*

***SEC. 1120. PUERTO RICO HIGHWAY PROGRAM.***

*(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by adding at the end the following:*

***“§ 165. Puerto Rico highway program***

*“(a) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section for each of fiscal years 2005 through 2009 to the Commonwealth of Puerto Rico to carry out a highway program in the Commonwealth.*

*“(b) APPLICABILITY OF TITLE.—Amounts made available by section 1101(a)(14) of the SAFETEA–LU shall be available for obligation in the same manner as if such funds were apportioned under this chapter.*

*“(c) TREATMENT OF FUNDS.—Amounts made available to carry out this section for a fiscal year shall be administered as follows:*

*“(1) APPORTIONMENT.—For the purpose of imposing any penalty under this title or title 49, the amounts shall be treated as being apportioned to Puerto Rico under sections 104(b) and 144, for each program funded under those sections in an amount determined by multiplying—*

*“(A) the aggregate of the amounts for the fiscal year; by*

*“(B) the ratio that—*

*“(i) the amount of funds apportioned to Puerto Rico for each such program for fiscal year 1997; bears to*

*“(ii) the total amount of funds apportioned to Puerto Rico for all such programs for fiscal year 1997.*

*“(2) PENALTY.—The amounts treated as being apportioned to Puerto Rico under each section referred to in paragraph (1) shall be deemed to be required to be apportioned to Puerto Rico under that section for purposes of the imposition of any penalty under this title or title 49.*

*“(d) EFFECT ON ALLOCATIONS AND APPORTIONMENTS.—Subject to subsection (c)(2), nothing in this section affects any allocation under section 105 and any apportionment under sections 104 and 144.”.*

*(b) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 1 of such title is amended by adding at the end the following:*

*“165. Puerto Rico highway program.”.*

*(c) DEFINITION OF STATE.—For the purposes of apportioning funds under sections 104, 105, 130, 144, and 206 of title 23, United States Code, and section 1404, relating to the safe routes to school program, the term “State” means any of the 50 States and the District of Columbia.*

***SEC. 1121. HOV FACILITIES.***

*(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code (as amended by section 1120 of this Act), is amended by adding at the end the following:*

***“§ 166. HOV Facilities***

*“(a) IN GENERAL.—*

*“(1) AUTHORITY OF STATE AGENCIES.—A State agency that has jurisdiction over the operation of a HOV facility shall establish the occupancy requirements of vehicles operating on the facility.*

*“(2) OCCUPANCY REQUIREMENT.—Except as otherwise provided by this section, no fewer than 2 occupants per vehicle may be required for use of a HOV facility.*

*“(b) EXCEPTIONS.—*

*“(1) IN GENERAL.—Notwithstanding the occupancy requirement of subsection (a)(2), the exceptions in paragraphs (2) through (5) shall apply with respect to a State agency operating a HOV facility.*

*“(2) MOTORCYCLES AND BICYCLES.—*

*“(A) IN GENERAL.—Subject to subparagraph (B), the State agency shall allow motorcycles and bicycles to use the HOV facility.*

*“(B) SAFETY EXCEPTION.—*

*“(i) IN GENERAL.—A State agency may restrict use of the HOV facility by motorcycles or bicycles (or both) if the agency certifies to the Secretary that such use would create a safety hazard and the Secretary accepts the certification.*

*“(ii) ACCEPTANCE OF CERTIFICATION.—The Secretary may accept a certification under this subparagraph only after the Secretary publishes notice of the certification in the Federal Register and provides an opportunity for public comment.*

*“(3) PUBLIC TRANSPORTATION VEHICLES.—The State agency may allow public transportation vehicles to use the HOV facility if the agency—*

*“(A) establishes requirements for clearly identifying the vehicles; and*

*“(B) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.*

*"(4) HIGH OCCUPANCY TOLL VEHICLES.—The State agency may allow vehicles not otherwise exempt pursuant to this subsection to use the HOV facility if the operators of the vehicles pay a toll charged by the agency for use of the facility and the agency—*

*"(A) establishes a program that addresses how motorists can enroll and participate in the toll program;*

*"(B) develops, manages, and maintains a system that will automatically collect the toll; and*

*"(C) establishes policies and procedures to—*

*"(i) manage the demand to use the facility by varying the toll amount that is charged; and*

*"(ii) enforce violations of use of the facility.*

*"(5) LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—*

*"(A) INHERENTLY LOW EMISSION VEHICLE.—Before September 30, 2009, the State agency may allow vehicles that are certified as inherently low-emission vehicles pursuant to section 88.311–93 of title 40, Code of Federal Regulations (or successor regulations), and are labeled in accordance with section 88.312–93 of such title (or successor regulations), to use the HOV facility if the agency establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.*

*"(B) OTHER LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Before September 30, 2009, the State agency may allow vehicles certified as low emission and energy-efficient vehicles under subsection (e), and labeled in accordance with subsection (e), to use the HOV facility if the operators of the vehicles pay a toll charged by the agency for use of the facility and the agency—*

*"(i) establishes a program that addresses the selection of vehicles under this paragraph; and*

*"(ii) establishes procedures for enforcing the restrictions on the use of the facility by the vehicles.*

*"(C) AMOUNT OF TOLLS.—Under subparagraph (B), a State agency may charge no toll or may charge a toll that is less than tolls charged under paragraph (3).*

*"(c) REQUIREMENTS APPLICABLE TO TOLLS.—*

*"(1) IN GENERAL.—Tolls may be charged under paragraphs (3) and (4) of subsection (b) notwithstanding section 301 and, except as provided in paragraphs (2) and (3), subject to the requirements of section 129.*

*"(2) HOV FACILITIES ON THE INTERSTATE SYSTEM.—Notwithstanding section 129, tolls may be charged under paragraphs (3) and (4) of subsection (b) on a HOV facility on the Interstate System.*

*"(3) EXCESS TOLL REVENUES.—If a State agency makes a certification under section 129(a)(3) with respect to toll revenues collected under paragraphs (3) and (4) of subsection (b), the State, in the use of toll revenues under that sentence, shall give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety.*

*"(d) HOV FACILITY MANAGEMENT, OPERATION, MONITORING, AND ENFORCEMENT.—*

*"(1) IN GENERAL.—A State agency that allows vehicles to use a HOV facility under paragraph (3) or (4) of subsection (b) in a fiscal year shall certify to the Secretary that the agency will carry out the following responsibilities with respect to the facility in the fiscal year:*

*"(A) Establishing, managing, and supporting a performance monitoring, evaluation, and reporting program for the facility that provides for continuous monitoring, assessment, and reporting on the impacts that the vehicles may have on the operation of the facility and adjacent highways.*

*"(B) Establishing, managing, and supporting an enforcement program that ensures that the facility is being operated in accordance with the requirements of this section.*

*"(C) Limiting or discontinuing the use of the facility by the vehicles if the presence of the vehicles has degraded the operation of the facility.*

*"(2) DEGRADED FACILITY.—*

*"(A) DEFINITION OF MINIMUM AVERAGE OPERATING SPEED.—In this paragraph, the term 'minimum average operating speed' means—*

*"(i) 45 miles per hour, in the case of a HOV facility with a speed limit of 50 miles per hour or greater; and*

*"(ii) not more than 10 miles per hour below the speed limit, in the case of a HOV facility with a speed limit of less than 50 miles per hour.*

*"(B) STANDARD FOR DETERMINING DEGRADED FACILITY.—For purposes of paragraph (1), the operation of a HOV facility shall be considered to be degraded if vehicles operating on the facility are failing to maintain a minimum average operating speed 90 percent of the time over a consecutive 180-day period during morning or evening weekday peak hour periods (or both).*

*"(C) MANAGEMENT OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—In managing the use of HOV lanes by low emission and energy-efficient vehicles that do not meet applicable occupancy requirements, a State agency may increase the percentages described in subsection (f)(3)(B)(i).*

*"(e) CERTIFICATION OF LOW EMISSION AND ENERGY-EFFICIENT VEHICLES.—Not later than 180 days after the date of enactment of this section, the Administrator of the Environmental Protection Agency shall—*

*"(1) issue a final rule establishing requirements for certification of vehicles as low emission and energy-efficient vehicles for purposes of this section and requirements for the labeling of the vehicles; and*

*"(2) establish guidelines and procedures for making the vehicle comparisons and performance calculations described in subsection (f)(3)(B), in accordance with section 32908(b) of title 49.*

*"(f) DEFINITIONS.—In this section, the following definitions apply:*

*"(1) ALTERNATIVE FUEL VEHICLE.—The term 'alternative fuel vehicle' means a vehicle that is operating on—*

*"(A) methanol, denatured ethanol, or other alcohols;*

*"(B) a mixture containing at least 85 percent of methanol, denatured ethanol, and other alcohols by volume with gasoline or other fuels;*

*"(C) natural gas;*

*"(D) liquefied petroleum gas;*

*"(E) hydrogen;*

*"(F) coal derived liquid fuels;*

*"(G) fuels (except alcohol) derived from biological materials;*

*"(H) electricity (including electricity from solar energy); or*

*"(I) any other fuel that the Secretary prescribes by regulation that is not substantially petroleum and that would yield substantial energy security and environmental benefits, including fuels regulated under section 490 of title 10, Code of Federal Regulations (or successor regulations).*

*"(2) HOV FACILITY.—The term 'HOV facility' means a high occupancy vehicle facility.*

*"(3) LOW EMISSION AND ENERGY-EFFICIENT VEHICLE.—The term 'low emission and energy-efficient vehicle' means a vehicle that—*

*"(A) has been certified by the Administrator as meeting the Tier II emission level established in regulations prescribed by the Administrator under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model year vehicle; and*

*"(B)(i) is certified by the Administrator of the Environmental Protection Agency, in consultation with the manufacturer, to have achieved not less than a 50-percent increase in city fuel economy or not less than a 25-percent increase in combined city-highway fuel economy (or such greater percentage of city or city-highway fuel economy as may be determined by a State under subsection (d)(2)(C)) relative to a comparable vehicle that is an internal combustion gasoline fueled vehicle (other than a vehicle that has propulsion energy from onboard hybrid sources); or*

*"(ii) is an alternative fuel vehicle.*

*"(4) PUBLIC TRANSPORTATION VEHICLE.—The term 'public transportation vehicle' means a vehicle that—*

*"(A) provides designated public transportation (as defined in section 221 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12141) or provides public school transportation (to and from public or private primary, secondary, or tertiary schools); and*

*"(B)(i) is owned or operated by a public entity;*

*"(ii) is operated under a contract with a public entity; or*

*"(iii) is operated pursuant to a license by the Secretary or a State agency to provide motorbus or school vehicle transportation services to the public.*

*"(5) STATE AGENCY.—*

*"(A) IN GENERAL.—The term 'State agency', as used with respect to a HOV facility, means an agency of a State or local government having jurisdiction over the operation of the facility.*

*"(B) INCLUSION.—The term 'State agency' includes a State transportation department.".*

*(b) CONFORMING AMENDMENTS.—*

*(1) PROGRAM EFFICIENCIES.—Section 102 of title 23, United States Code, is amended—*

*(A) by striking subsection (a); and*

*(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.*

*(2) CHAPTER ANALYSIS.—The analysis for such subchapter (as amended by section 1120 of this Act) is amended by adding at the end the following:*

*"166. HOV facilities.".*

*(c) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary and the States should provide additional incentives (including the use of high occupancy vehicle lanes on State and Interstate highways) for the purchase and use of hybrid and other fuel efficient vehicles, which have been proven to minimize air emissions and decrease consumption of fossil fuels.*

### ***SEC. 1122. DEFINITIONS.***

*(a) TRANSPORTATION ENHANCEMENT ACTIVITY.—Section 101(a)(35) of title 23, United States Code, is amended to read as follows:*

*"(35) TRANSPORTATION ENHANCEMENT ACTIVITY.—The term 'transportation enhancement activity' means, with respect to any project or the area to be served by the project, any of the following activities as the activities relate to surface transportation:*

*"(A) Provision of facilities for pedestrians and bicycles.*

*"(B) Provision of safety and educational activities for pedestrians and bicyclists.*

*"(C) Acquisition of scenic easements and scenic or historic sites (including historic battlefields).*

*"(D) Scenic or historic highway programs (including the provision of tourist and welcome center facilities).*

*"(E) Landscaping and other scenic beautification.*

*"(F) Historic preservation.*

*"(G) Rehabilitation and operation of historic transportation buildings, structures, or facilities (including historic railroad facilities and canals).*

*"(H) Preservation of abandoned railway corridors (including the conversion and use of the corridors for pedestrian or bicycle trails).*

*"(I) Inventory, control, and removal of outdoor advertising.*

*"(J) Archaeological planning and research.*

*"(K) Environmental mitigation—*

*"(i) to address water pollution due to highway runoff; or*

*"(ii) reduce vehicle-caused wildlife mortality while maintaining habitat connectivity.*

*"(L) Establishment of transportation museums.".*

*(b) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—Such section 101(a) is amended by adding at the end the following:*

*"(38) ADVANCED TRUCK STOP ELECTRIFICATION SYSTEM.—The term 'advanced truck stop electrification system' means a system that delivers heat, air conditioning, electricity, or communications to a heavy duty vehicle.".*

### ***Subtitle B—Congestion Relief***

### ***SEC. 1201. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM.***

*(a) ESTABLISHMENT.—*

*(1) IN GENERAL.—The Secretary shall establish a real-time system management information program to provide, in all States, the capability to monitor, in real-time, the traffic and travel conditions of the major highways of the United States and to share that information to improve the security of the surface transportation system, to address congestion problems, to support improved response to weather events and surface transportation incidents, and to facilitate national and regional highway traveler information.*

*(2) PURPOSES.—The purposes of the real-time system management information program are to—*

*(A) establish, in all States, a system of basic real-time information for managing and operating the surface transportation system;*

*(B) identify longer range real-time highway and transit monitoring needs and develop plans and strategies for meeting such needs; and*

*(C) provide the capability and means to share that data with State and local governments and the traveling public.*

*(b) DATA EXCHANGE FORMATS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall establish data exchange formats to ensure that the data provided by highway and transit monitoring systems, including statewide incident reporting systems, can readily be exchanged across jurisdictional boundaries, facilitating nationwide availability of information.*

*(c) REGIONAL INTELLIGENT TRANSPORTATION SYSTEM ARCHITECTURE.—*

*(1) ADDRESSING INFORMATION NEEDS.—As State and local governments develop or update regional intelligent transportation system architectures, described in section 940.9 of title 23, Code of Federal Regulations, such governments shall explicitly address real-time highway and transit information needs and the systems needed to meet such needs, including addressing coverage, monitoring systems, data fusion and archiving, and methods of exchanging or sharing highway and transit information.*

*(2) DATA EXCHANGE.—States shall incorporate the data exchange formats established by the Secretary under subsection (b) to ensure that the data provided by highway and transit monitoring systems may readily be exchanged with State and local governments and may be made available to the traveling public.*

*(d) ELIGIBILITY.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under sections 104(b)(1), 104(b)(2), and 104(b)(3) of title 23, United States Code, for activities relating to the planning and deployment of real-time monitoring elements that advance the goals and purposes described in subsection (a).*

*(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program, the location of the project, and the Federal-share payable on account of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for activities and projects under this section.*

*(f) STATEWIDE INCIDENT REPORTING SYSTEM DEFINED.—In this section, the term "statewide incident reporting system" means a statewide system for facilitating the real-time electronic reporting of surface transportation incidents to a central location for use in monitoring the event, providing accurate traveler information, and responding to the incident as appropriate.*

### ***Subtitle C—Mobility and Efficiency***

### ***SEC. 1301. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.***

*(a) FINDINGS.—Congress finds the following:*

*(1) Under current law, surface transportation programs rely primarily on formula capital apportionments to States.*

*(2) Despite the significant increase for surface transportation program funding in the Transportation Equity Act of the 21st Century, current levels of investment are insufficient to fund critical high-cost transportation infrastructure facilities that address critical national economic and transportation needs.*

*(3) Critical high-cost transportation infrastructure facilities often include multiple levels of government, agencies, modes of transportation, and transportation goals and planning processes that are not easily addressed or funded within existing surface transportation program categories.*

*(4) Projects of national and regional significance have national and regional benefits, including improving economic productivity by facilitating international trade, relieving congestion, and improving transportation safety by facilitating passenger and freight movement.*

*(5) The benefits of projects described in paragraph (4) accrue to local areas, States, and the Nation as a result of the effect such projects have on the national transportation system.*

*(6) A program dedicated to constructing projects of national and regional significance is necessary to improve the safe, secure, and efficient movement of people and goods throughout the United States and improve the health and welfare of the national economy.*

*(b) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to provide grants to States for projects of national and regional significance.*

*(c) DEFINITIONS.—In this section, the following definitions apply:*

*(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs" means the costs of—*

*(A) development phase activities, including planning, feasibility analysis, revenue forecasting, environmental review, preliminary engineering and design work, and other preconstruction activities; and*

*(B) construction, reconstruction, rehabilitation, and acquisition of real property (including land related to the project and improvements to land), environmental mitigation, construction contingencies, acquisition of equipment, and operational improvements.*

*(2) ELIGIBLE PROJECT.—The term "eligible project" means any surface transportation project eligible for Federal assistance under title 23, United States Code, including freight railroad projects and activities eligible under such title.*

*(3) STATE.—The term "State" has the meaning such term has in section 101(a) of title 23, United States Code.*

*(d) ELIGIBILITY.—To be eligible for assistance under this section, a project shall have eligible project costs that are reasonably anticipated to equal or exceed the lesser of—*

*(1) $500,000,000; or*

*(2) 75 percent of the amount of Federal highway assistance funds apportioned for the most recently completed fiscal year to the State in which the project is located.*

*(e) APPLICATIONS.—Each State seeking to receive a grant under this section for an eligible project shall submit to the Secretary an application in such form and in accordance with such requirements as the Secretary shall establish.*

*(f) COMPETITIVE GRANT SELECTION AND CRITERIA FOR GRANTS.—*

*(1) IN GENERAL.—The Secretary shall—*

*(A) establish criteria for selecting among projects that meet the eligibility criteria specified in subsection (d);*

*(B) conduct a national solicitation for applications; and*

*(C) award grants on a competitive basis.*

*(2) CRITERIA FOR GRANTS.—The Secretary may approve a grant under this section for a project only if the Secretary determines that the project—*

*(A) is based on the results of preliminary engineering;*

*(B) is justified based on the ability of the project—*

*(i) to generate national economic benefits, including creating jobs, expanding business opportunities, and impacting the gross domestic product;*

*(ii) to reduce congestion, including impacts in the State, region, and Nation;*

*(iii) to improve transportation safety, including reducing transportation accidents, injuries, and fatalities;*

*(iv) to otherwise enhance the national transportation system; and*

*(v) to garner support for non-Federal financial commitments and provide evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility; and*

*(C) is supported by an acceptable degree of non-Federal financial commitments, including evidence of stable and dependable financing sources to construct, maintain, and operate the infrastructure facility.*

*(3) SELECTION CONSIDERATIONS.—In selecting a project under this section, the Secretary shall consider the extent to which the project—*

*(A) leverages Federal investment by encouraging non-Federal contributions to the project, including contributions from public-private partnerships;*

*(B) uses new technologies, including intelligent transportation systems, that enhance the efficiency of the project; and*

*(C) helps maintain or protect the environment.*

*(4) PRELIMINARY ENGINEERING.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of preliminary engineering for the project.*

*(5) NON-FEDERAL FINANCIAL COMMITMENT.—*

*(A) EVALUATION OF PROJECT.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—*

*(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases; and*

*(ii) each proposed non-Federal source of capital and operating financing is stable, reliable, and available within the proposed project timetable.*

*(B) CONSIDERATIONS.—In assessing the stability, reliability, and availability of proposed sources of non-Federal financing under subparagraph (A), the Secretary shall consider—*

*(i) existing financial commitments;*

*(ii) the degree to which financing sources are dedicated to the purposes proposed;*

*(iii) any debt obligation that exists or is proposed by the recipient for the proposed project; and*

*(iv) the extent to which the project has a non-Federal financial commitment that exceeds the required non-Federal share of the cost of the project.*

*(6) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue regulations on the manner in which the Secretary will evaluate and rate the projects based on the results of preliminary engineering, project justification, and the degree of non-Federal financial commitment, as required under this subsection.*

*(7) PROJECT EVALUATION AND RATING.—*

*(A) IN GENERAL.—A proposed project may advance from preliminary engineering to final design and construction only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements.*

*(B) EVALUATION AND RATING.—In making such findings, the Secretary shall evaluate and rate the project as "highly recommended", "recommended", or "not recommended" based on the results of preliminary engineering, the project justification criteria, and the degree of non-Federal financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established under the regulations issued under paragraph (6).*

*(g) LETTERS OF INTENT AND FULL FUNDING GRANT AGREEMENTS.—*

*(1) LETTER OF INTENT.—*

*(A) IN GENERAL.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project.*

*(B) NOTIFICATION.—At least 60 days before issuing a letter under subparagraph (A) or entering into a full funding grant agreement, the Secretary shall notify in writing the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.*

*(C) NOT AN OBLIGATION.—The issuance of a letter is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31, United States Code, or an administrative commitment.*

*(D) OBLIGATION OR COMMITMENT.—An obligation or administrative commitment may be made only when contract authority is allocated to a project.*

*(2) FULL FUNDING GRANT AGREEMENT.—*

*(A) IN GENERAL.—A project financed under this subsection shall be carried out through a full funding grant agreement. The Secretary shall enter into a full funding grant agreement based on the evaluations and ratings required under subsection (f)(7).*

*(B) TERMS.—If the Secretary makes a full funding grant agreement with an applicant, the agreement shall—*

*(i) establish the terms of participation by the United States Government in a project under this section;*

*(ii) establish the maximum amount of Government financial assistance for the project;*

*(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and*

*(iv) make timely and efficient management of the project easier according to the laws of the United States.*

*(C) AGREEMENT.—An agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law. The agreement shall state that the contingent commitment is not an obligation of the Government. Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.*

*(3) AMOUNTS.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent and full funding grant agreements may be not more than the greater of the amount authorized to carry out this section or an amount equivalent to the last 2 fiscal years of funding authorized to carry out this section less an amount the Secretary reasonably estimates is necessary for grants under this section not covered by a letter. The total amount covered by new letters and contingent commitments included in full funding grant agreements may be not more than a limitation specified in law.*

*(h) GRANT REQUIREMENTS.—*

*(1) IN GENERAL.—A grant for a project under this section shall be subject to all of the requirements of title 23, United States Code.*

*(2) OTHER TERMS AND CONDITIONS.—The Secretary shall require that all grants under this section be subject to all terms, conditions, and requirements that the Secretary decides are necessary or appropriate for purposes of this section, including requirements for the disposition of net increases in value of real property resulting from the project assisted under this section.*

*(i) GOVERNMENT'S SHARE OF PROJECT COST.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the cost of a project receiving assistance under this section. A grant for the project is for 80 percent of the project cost, unless the grant recipient requests a lower grant percentage. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.*

*(j) FISCAL CAPACITY CONSIDERATIONS.—If the Secretary gives priority consideration to financing projects that include more than the non-Government share required under subsection (i) the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.*

*(k) REPORTS.—*

*(1) ANNUAL REPORT.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report that includes a proposal on the allocation of amounts to be made available to finance grants under this section.*

*(2) RECOMMENDATIONS ON FUNDING.—The annual report under this paragraph shall include evaluations and ratings, as required under subsection (f). The report shall also include recommendations of projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years and for the next 10 fiscal years based on information currently available to the Secretary.*

*(l) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended and the Federal share of the cost of a project under this section shall be as provided in this section.*

*(m) DESIGNATED PROJECTS.—Notwithstanding any other provision of this section, the Secretary shall allocate for each of fiscal years 2005 through 2009, from funds made available to carry out this section, 20 percent of the following amounts for grants to carry out the following projects under this section:*

## PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1 | CA | Bakersfield Beltway System | 140,000,000 |
| 2 | VA, WV, OH | Heartland Corridor Project including multiple intermodal facility improvements and improvements to facilitate the movement of intermodal freight from VA to OH. | 90,000,000 |
| 3 | CA | Roadway improvements in and around the former Norton Air Force Base as part of the Inland Empire Goods Movement Gateway project. | 55,000,000 |
| 4 | MI | Planning, design and construction of a new American border plaza at the Blue Water Bridge in or near Port Huron, MI | 20,000,000 |
| 5 | IL | Construction of O'Hare Bypass- Elgin - O'Hare Extension | 140,000,000 |
| 6 | WI | Reconstruction of the Marquette Interchange, Milwaukee WI | 30,000,000 |
| 7 | IL | CREATE | $100,000,000 |
| 8 | OR | I-5 Bridge repair, replacement and associated improvements in the I-5 corridor | $160,000,000 |
| 9 | CA | Alameda Corridor East | $125,000,000 |
| 10 | IL | Mississippi River Bridge and related roads | $150,000,000 |
| 11 | CA | Transbay Terminal | $27,000,000 |
| 12 | NY | Cross Harbor Freight Movement Project, New York | $100,000,000 |
| 13 | WA | Alaska Way Viaduct and Seawall Replacement | $100,000,000 |
| 14 | CA | Gerald Desmond Bridge /I-710 Gateway | $100,000,000 |
| 15 | CO | Denver's Union Station | $50,000,000 |
| 16 | MN | Union Depot Mulimodal Transit Facility | $50,000,000 |
| 17 | CA | Sacramento Intermodal Station | $3,000,000 |
| 18 | NJ | Liberty Corridor | $100,000,000 |

## PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE

| No. | State | Project Description | Amount |
|---|---|---|---|
| 19 ~~1~~ | NM | Relocate the El Paso, TX rail yard to Santa Teresa | $14,000,000 |
| 20 ~~2~~ | PA | Route 23/US 422 Interchange Modernization and Route 363/US 422 Interchange Improvement Project and US 422 Widening, Montgomery County, PA | $20,000,000 |
| 21 ~~3~~ | PA | Route 28 Widening and Improvements, Allegheny County, PA | $15,000,000 |
| 22 ~~4~~ | PA | Improvements to I-80, Monroe County, PA | $15,000,000 |
| 23 ~~5~~ | SC | I-73, Construction of 1-73 from Myrtle Beach, SC to 1-95, ending at the North Carolina state line. | $40,000,000 |
| 24 ~~6~~ | VA | Rail Relocation to route 164/I-664 rail corridor, Portsmouth | $15,000,000 |
| 25 ~~7~~ | WA | Replacement of the Alaskan Way Viaduct and Seawall in Seattle | $120,000,000 |

### *SEC. 1302. NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.*

*(a) IN GENERAL.—The Secretary shall establish and implement a program to make allocations to States for highway construction projects in corridors of national significance to promote economic growth and international or interregional trade pursuant to the selection factors provided in this section. A State must submit an application to the Secretary in order to receive an allocation under this section.*

*(b) SELECTION PROCESS.—*

*(1) PRIORITY.—In the selection process under this section, the Secretary shall give priority to projects in corridors that are a part of, or will be designated as part of, the Dwight D. Eisenhower National System of Interstate and Defense Highways after completion of the work described in the application received by the Secretary and to any project that will be completed within 5 years of the date of the allocation of funds for the project.*

*(2) SELECTION FACTORS.—In making allocations under this section, the Secretary shall consider the following factors:*

*(A) The extent to which the corridor provides a link between 2 existing segments of the Interstate System.*

*(B) The extent to which the project will facilitate major multistate or regional mobility and economic growth and development in areas underserved by existing highway infrastructure.*

*(C) The extent to which commercial vehicle traffic in the corridor—*

*(i) has increased since the date of enactment of the North American Free Trade Agreement Implementation Act (16 U.S.C. 4401 et seq.); and*

*(ii) is projected to increase in the future.*

*(D) The extent to which international truck-borne commodities move through the corridor.*

*(E) The extent to which the project will make improvements to an existing segment of the Interstate System that will result in a decrease in congestion.*

*(F) The reduction in commercial and other travel time through a major freight corridor expected as a result of the project.*

*(G) The value of the cargo carried by commercial vehicle traffic in the corridor and the economic costs arising from congestion in the corridor.*

*(H) The extent of leveraging of Federal funds provided to carry out this section, including—*

*(i) use of innovative financing;*

*(ii) combination with funding provided under other sections of this Act and title 23, United States Code; and*

*(iii) combination with other sources of Federal, State, local, or private funding.*

*(c) APPLICABILITY OF TITLE 23.—Funds made available by section 1101(a)(10) of this Act to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.*

*(d) STATE DEFINED.—In this section, the term "State" has the meaning such term has in section 101(a) of title 23, United States Code.*

*(e) DESIGNATED PROJECTS.—The Secretary shall allocate for each of fiscal years 2005 through 2009, from funds made available to carry out this section, 20 percent of the following amounts for grants to carry out the following projects under this section:*

## NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1 | TX, AR, MS, TN, KY, IN | Planning, Design, and Construction of I-69 in TX, LA, AR, MS, TN, KY, and IN | $50,000,000 |
| 2 | LA | Improvements to Louisiana Highway 1 between the Caminada Bridge and the intersection of LA Highway 1 and US 90 | $20,000,000 |
| 3 | MD | Planning, design and construction of the Inter County Connector in Montgomery and Prince Georges County in Maryland | $10,000,000 |
| 4 | CA | Centennial Corridor Loop in Bakersfield | $330,000,000 |
| 5 | VA | Construction of dedicated truck lanes on additional capacity in I-81 in VA | $100,000,000 |
| 6 | CA | Design, Planning and Construction of State Route 178 in Bakersfield | $100,000,000 |
| 7 | CA | Widening of Rosedale Highway between SR 43 and SR 99 in Bakersfield and widening of SR 178 between SR 99 and D street in Bakersfield | $60,000,000 |
| 8 | LA | Construction of the 36 mile segment of I-49 in LA between the Arkansas state line and I-220 in Shreveport. | $150,000,000 |
| 9 | AR | Construction of an extension of I-530 from Pine Bluff, Arkansas to Wilmar, Arkansas to interstate specifications. | $40,000,000 |
| 10 | IL | Construction of the U.S. I-80 to I-88 North-South Connector in Illinois | $152,000,000 |
| 11 | WI | Construction and reconstruction of the U.S. Highway 41 corridor between Milwaukee and Green Bay, Wisconsin. | $30,000,000 |
| 12 | IL | Construction of Route 34 Interchange and Improvements in Illinois | $55,000,000 |
| 13 | CA | Increase capacity on I-80 between Sacrament /Placer County Line and SR 65 | $50,000,000 |
| 14 | AK | Planning, design, and construction of Knik Arm Bridge | $30,000,000 |
| 15 | IA, IL | Planning, design, right of way acquisition and construction of the Interstate Route 74 bridge from Bettendorf, Iowa, to Moline, Illinois | $15,000,000 |
| 16 | AR | Planning design and construction of the I-49/Bella Vista Bypass in Arkansas | $20,000,000 |
| 17 | SC | Planning, design and construction of the I-73 corridor of national significance in South Carolina | $10,000,000 |
| 18 | CA | I-405 HOV lane | $100,000,000 |
| 19 | AR | I-69 Corridor, including the Great River Bridge | $75,000,000 |
| 20 | MN | Falls-to-Falls Corridor | $50,000,000 |
| 21 | DC | Frederick Douglass Memorial Bridge | $75,000,000 |
| 22 | CT | Pearl Harbor Memorial Bridge | $35,000,000 |
| 23 | IN | I-80 Improvements | $10,000,000 |
| 24 | CA | State Route 4 East Upgrade | $20,000,000 |
| 25 | LA | LA 1 Replacement | $5,000,000 |
| 26 | AZ | State Route 85 Upgrade | $3,000,000 |
| 27 | WV | I-73/I-74 Corridor | $50,000,000 |

## NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM

| No. | State | Project Description | Amount |
|---|---|---|---|
| 28 ~~1~~ | LA | Construction of I-49 North from Shreveport, Louisiana to Arkansas state line (I-220 to AR Line) | $27,500,000 |
| 29 ~~2~~ | LA | Transportation improvements to I-49 South | $27,500,000 |
| 30 ~~3~~ | OK | Ports to Plain Corridor in Oklahoma | $35,000,000 |
| 31 ~~4~~ | TN | For design, ROW and construction of Interstate 69 | $100,000,000 |
| 32 ~~5~~ | CO | US 287, Ports-to-Plains Corridor | $3,000,000 |
| 33 ~~176~~ | OK | State of Oklahoma I-44 from Riverside to Yale Avenue in Tulsa | $110,000,000 |

### *SEC. 1303. COORDINATED BORDER INFRASTRUCTURE PROGRAM.*

*(a) GENERAL AUTHORITY.—The Secretary shall implement a coordinated border infrastructure program under which the Secretary shall distribute funds to border States to improve the safe movement of motor vehicles at or across the border between the United States and Canada and the border between the United States and Mexico.*

*(b) ELIGIBLE USES.—Subject to subsection (d), a State may use funds apportioned under this section only for—*

*(1) improvements in a border region to existing transportation and supporting infrastructure that facilitate cross-border motor vehicle and cargo movements;*

*(2) construction of highways and related safety and safety enforcement facilities in a border region that facilitate motor vehicle and cargo movements related to international trade;*

*(3) operational improvements in a border region, including improvements relating to electronic data interchange and use of telecommunications, to expedite cross border motor vehicle and cargo movement;*

*(4) modifications to regulatory procedures to expedite safe and efficient cross border motor vehicle and cargo movements; and*

*(5) international coordination of transportation planning, programming, and border operation with Canada and Mexico relating to expediting cross border motor vehicle and cargo movements.*

*(c) APPORTIONMENT OF FUNDS.—On October 1 of each fiscal year, the Secretary shall apportion among border States sums authorized to be appropriated to carry out this section for such fiscal year as follows:*

*(1) 20 percent in the ratio that—*

*(A) the total number of incoming commercial trucks that pass through the land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to*

*(B) the total number of incoming commercial trucks that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.*

*(2) 30 percent in the ratio that—*

*(A) the total number of incoming personal motor vehicles and incoming buses that pass through land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to*

*(B) the total number of incoming personal motor vehicles and incoming buses that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.*

*(3) 25 percent in the ratio that—*

*(A) the total weight of incoming cargo by commercial trucks that pass through land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to*

*(B) the total weight of incoming cargo by commercial trucks that pass through such ports of entry within the boundaries of all the border States, as determined by the Secretary.*

*(4) 25 percent of the ratio that—*

*(A) the total number of land border ports of entry within the boundaries of a border State, as determined by the Secretary; bears to*

*(B) the total number of land border ports of entry within the boundaries of all the border States, as determined by the Secretary.*

*(d) PROJECTS IN CANADA OR MEXICO.—A project in Canada or Mexico, proposed by a border State to directly and predominantly facilitate cross-border motor vehicle and cargo movements at an international port of entry into the border region of the State, may be constructed using funds apportioned to the State under this section if, before obligation of those funds, Canada or Mexico, or the political subdivision of Canada or Mexico that is responsible for the operation of the facility to be constructed, provides assurances satisfactory to the Secretary that any facility constructed under this subsection will be—*

*(1) constructed in accordance with standards equivalent to applicable standards in the United States; and*

*(2) properly maintained and used over the useful life of the facility for the purpose for which the Secretary is allocating such funds to the project.*

*(e) TRANSFER OF FUNDS TO THE GENERAL SERVICES ADMINISTRATION.—*

*(1) STATE FUNDS.—At the request of a border State, funds apportioned to the State under this section may be transferred to the General Services Administration for the purpose of funding 1 or more projects described in subsection (b) if—*

*(A) the Secretary determines, after consultation with the transportation department of the border State, that the General Services Administration should carry out the project; and*

*(B) the General Services Administration agrees to accept the transfer of, and to administer, those funds in accordance with this section.*

*(2) NON-FEDERAL SHARE.—*

*(A) IN GENERAL.—A border State that makes a request under paragraph (1) shall provide directly to the General Services Administration, for each project covered by the request, the non-Federal share of the cost of the project.*

*(B) NO AUGMENTATION OF APPROPRIATIONS.—Funds provided by a border State under subparagraph (A)—*

*(i) shall not be considered to be an augmentation of the appropriations made available to the General Services Administration; and*

*(ii) shall be—*

*(I) administered, subject to paragraph (1)(B), in accordance with the procedures of the General Services Administration; but*

*(II) available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.*

*(3) OBLIGATION AUTHORITY.—Obligation authority shall be transferred to the General Services Administration for a project in the same manner and amount as the funds provided for the project under paragraph (1).*

*(4) LIMITATION ON TRANSFER OF FUNDS.—No State may transfer to the General Services Administration under this subsection an amount that is more than the lesser of—*

*(A) 15 percent of the aggregate amount of funds apportioned to the State under this section for such fiscal year; or*

*(B) $5,000,000.*

*(f) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that, subject to subsection (e), such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.*

*(g) DEFINITIONS.—In this section, the following definitions apply:*

*(1) BORDER REGION.—The term "border region" means any portion of a border State within 100 miles of an international land border with Canada or Mexico.*

*(2) BORDER STATE.—The term "border State" means any State that has an international land border with Canada or Mexico.*

*(3) COMMERCIAL TRUCK.—The term "commercial truck" means a commercial motor vehicle as defined in section 31301(4) (other than subparagraph (B)) of title 49, United States Code.*

*(4) MOTOR VEHICLE.—The term "motor vehicle" has the meaning such term has under section 101(a) of title 23, United States Code.*

*(5) STATE.—The term "State" has the meaning such term has in section 101(a) of such title 23.*

### *SEC. 1304. HIGH PRIORITY CORRIDORS ON THE NATIONAL HIGHWAY SYSTEM.*

*(a) EVACUATION ROUTES.—Section 1105(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2032) is amended in the first sentence by inserting "and evacuation routes" after "corridors" the first place it appears.*

*(b) CORRIDORS.—Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) is amended—*

*(1) by striking paragraph (14) and inserting the following:*

*"(14) Heartland Expressway from Denver, Colorado, through Scottsbluff, Nebraska, to Rapid City, South Dakota as follows:*

*"(A) In the State of Colorado, the Heartland Expressway Corridor shall generally follow—*

*"(i) Interstate 76 from Denver to Brush; and*

*"(ii) Colorado Highway 71 from Limon to the border between the States of Colorado and Nebraska.*

*"(B) In the State of Nebraska, the Heartland Expressway Corridor shall generally follow—*

*"(i) Nebraska Highway 71 from the border between the States of Colorado and Nebraska to Scottsbluff;*

*"(ii) United States Route 26 from Scottsbluff to the intersection with State Highway L62A;*

*"(iii) State Highway L62A from the intersection with United States Route 26 to United States Route 385 north of Bridgeport;*

*"(iv) United States Route 385 to the border between the States of Nebraska and South Dakota; and*

*"(v) United States Highway 26 from Scottsbluff to the border of the States of Nebraska and Wyoming.*

*"(C) In the State of Wyoming, the Heartland Expressway Corridor shall generally follow United States Highway 26 from the border of the States of Nebraska and Wyoming to the termination at Interstate 25 at Interchange number 94.*

*"(D) In the State of South Dakota, the Heartland Expressway Corridor shall generally follow—*

*"(i) United States Route 385 from the border between the States of Nebraska and South Dakota to the intersection with State Highway 79; and*

*"(ii) State Highway 79 from the intersection with United States Route 385 to Rapid City.";*

*(2) in paragraph (23) by inserting before the period at the end the following: "and the connection from Wichita, Kansas, to Sioux City, Iowa, which includes I-135 from Wichita, Kansas to Salina, Kansas, United States Route 81 from Salina, Kansas, to Norfolk, Nebraska, Nebraska State Route 35 from Norfolk, Nebraska, to South Sioux City, Nebraska, and the connection to I-29 in Sioux City, Iowa";*

*(3) in paragraph (33) by striking "I–395" and inserting "and including the I–395 corridor";*

*(4) by striking paragraph (34) and inserting the following:*

*"(34) The Alameda Corridor-East and Southwest Passage, California. The Alameda Corridor-East is generally described as the corridor from East Los Angeles (terminus of Alameda Corridor) through Los Angeles, Orange, San Bernardino, and Riverside Counties, to termini at Barstow in San Bernardino County and Coachella in Riverside County. The Southwest Passage shall follow I–10 from San Bernardino to the Arizona State line.";*

*(5) by adding at the end the following:*

*"(46) Interstate Route 710 between the terminus at Long Beach, California, to California State Route 60.*

*"(47) Interstate Route 87 from the Quebec border to New York City.*

*"(48) The Route 50 High Plains Corridor along the United States Route 50 corridor from Newton, Kansas, to Pueblo, Colorado.*

*"(49) The Atlantic Commerce Corridor on Interstate Route 95 from Jacksonville, Florida, to Miami, Florida.*

*"(50) The East-West Corridor commencing in Watertown, New York, continuing northeast through New York, Vermont, New Hampshire, and Maine, and terminating in Calais, Maine.*

*"(51) The SPIRIT Corridor on United States Route 54 from El Paso, Texas, through New Mexico, Texas, and Oklahoma to Wichita, Kansas.*

*"(52) The route in Arkansas running south of and parallel to Arkansas State Highway 226 from the relocation of United States Route 67 to the vicinity of United States Route 49 and United States Route 63.*

*"(53) United States Highway Route 6 from Interstate Route 70 to Interstate Route 15, Utah.*

*"(54) The California Farm-to-Market Corridor, California State Route 99 from south of Bakersfield to Sacramento, California.*

*"(55) In Texas, Interstate Route 20 from Interstate Route 35E in Dallas County, east to the intersection of Interstate Route 635, north to the intersection of Interstate Route 30, northeast through Texarkana to Little Rock, Arkansas, Interstate Route 40 northeast from Little Rock east to the proposed Interstate Route 69 corridor.*

*"(56) In the State of Texas, the La Entrada al Pacifico Corridor consisting of the following highways and any portion of a highway in a corridor on 2 miles of either side of the center line of the highway:*

*"(A) State Route 349 from Lamesa to the point on that highway that is closest to 32 degrees, 7 minutes, north latitude, by 102 degrees, 6 minutes, west longitude.*

*"(B) The segment or any roadway extending from the point described by subparagraph (A) to the point on Farm-to-Market Road 1788 closest to 32 degrees, 0 minutes, north latitude, by 102 degrees, 16 minutes, west longitude.*

*"(C) Farm-to-Market Road 1788 from the point described by subparagraph (B) to its intersection with Interstate Route 20.*

*"(D) Interstate Route 20 from its intersection with Farm-to-Market Road 1788 to its intersection with United States Route 385.*

*"(E) United States Route 385 from Odessa to Fort Stockton, including those portions that parallel United States Route 67 and Interstate Route 10.*

*"(F) United States Route 67 from Fort Stockton to Presidio, including those portions that parallel Interstate Route 10 and United States Route 90.*

*"(57) United States Route 41 corridor between Interstate Route 94 via Interstate Route 894 and Highway 45 near Milwaukee and Interstate Route 43 near Green Bay in the State of Wisconsin.*

*"(58) The Theodore Roosevelt Expressway from Rapid City, South Dakota, north on United States Route 85 to Williston, North Dakota, west on United States Route 2 to Culbertson, Montana, and north on Montana Highway 16 to the international border with Canada at the port of Raymond, Montana.*

*"(59) The Central North American Trade Corridor from the border between North Dakota and South Dakota, north on United States Route 83 through Bismark and Minot, North Dakota, to the international border with Canada.*

*"(60) The Providence Beltline Corridor beginning at Interstate Route 95 in the vicinity of Hope Valley, Rhode Island, traversing eastwardly intersecting and merging into Interstate Route 295, continuing northeastwardly along Interstate Route 95, and terminating at the Massachusetts border, and including the western bypass of Providence, Rhode Island, from Interstate Route 295 to the Massachusetts border.*

*"(61) In the State of Missouri, the corridors consisting of the following highways:*

*"(A) Interstate Route 70, from Interstate Route 29/35 to United States Route 61/Avenue of the Saints.*

*"(B) Interstate Route 72/United States Route 36, from the intersection with Interstate Route 29 to United States Route 61/Avenue of the Saints.*

*"(C) United States Route 67, from Interstate Route 55 to the Arkansas State line.*

*"(D) United States Route 65, from United States Route 36/Interstate Route 72 to the East-West TransAmerica corridor, at the Arkansas State line.*

*"(E) United States Route 63, from United States Route 36 and the proposed Interstate Route 72 to the East-West TransAmerica corridor, at the Arkansas State line.*

*"(F) United States Route 54, from the Kansas State line to United States Route 61/Avenue of the Saints.*

*"(62) The Georgia Developmental Highway System Corridors identified in section 32-4-22 of the Official Code of Georgia, Annotated.*

*"(63) The Liberty Corridor, a corridor in an area encompassing very critical and significant transportation infrastructure providing regional, national, and international access through the State of New Jersey, including Interstate Routes 95, 80, 287, and 78, and United States Routes 1, 3, 9, 17, and 46, and portways and connecting infrastructure.*

*"(64) The corridor in an area of passage in the State of New Jersey serving significant interstate and regional traffic, located near the cities of Camden, New Jersey, and Philadelphia, Pennsylvania, and including Interstate Route 295, United States Route 42, United States Route 130, and Interstate Route 676.*

*"(65) The Interstate Route 95 Corridor beginning at the New York State line and continuing through Connecticut to the Rhode Island State line.*

*"(66) The Interstate Route 91 Corridor from New Haven, Connecticut, to the Massachusetts State line.*

*"(67) The Fairbanks-Yukon International Corridor consisting of the portion of the Alaska Highway from the international border with Canada to the Richardson Highway, and the Richardson Highway from its junction with the Alaska Highway to Fairbanks, Alaska.*

*"(68) The Washoe County corridor, along Interstate Route 580/United States Route 95/United States Route 95A, from Reno, Nevada, to Las Vegas, Nevada.*

*"(69) The Cross Valley Connector connecting Interstate Route 5 and State Route 14, Santa Clarita Valley, California.*

*"(70) The Economic Lifeline corridor, along Interstate Route 15 and Interstate Route 40, California, Arizona, and Nevada, including Interstate Route 215 South from near San Bernadino, California, to Riverside, California, and State Route 91 from Riverside, California, to the intersection with Interstate Route 15 near Corona, California.*

*"(71) The High Desert Corridor/E-220 from Los Angeles, California, to Las Vegas, Nevada, via Palmdale and Victorville, California.*

*"(72) The North-South corridor, along Interstate Route 49 North, from Kansas City, Missouri, to Shreveport, Louisiana.*

*"(73) The Louisiana Highway corridor, along Louisiana Highway 1, from Grand Isle, Louisiana, to the intersection with United States Route 90.*

*"(74) The portion of United States Route 90 from Interstate Route 49 in Lafayette, Louisiana, to Interstate Route 10 in New Orleans, Louisiana.*

*"(75) The Louisiana 28 corridor from Fort Polk to Alexandria, Louisiana.*

*"(76) The portion of Interstate Route 75 from Toledo, Ohio, to Cincinnati, Ohio.*

*"(77) The portion of United States Route 24 from the Indiana/Ohio State line to Toledo, Ohio.*

*"(78) The portion of Interstate Route 71 from Cincinnati, Ohio, to Cleveland, Ohio.*

*"(79) Interstate Route 376 from the Pittsburgh Interchange (I/C No. 56) of the Pennsylvania Turnpike, westward on Interstate Route 279, United States Route 22, United States Route 30, and Pennsylvania Route 60, continuing past the Pittsburgh International Airport on Turnpike Route 60, to the Pennsylvania Turnpike (Interstate Route 76), Interchange 10, and continuing north on Pennsylvania Turnpike Route 60 and on United States Route 422 to Interstate Route 80.*

*"(80) The Intercounty Connector, a new east-west multimodal highway between Interstate Route 270 and Interstate Route 95/United States Route 1 in Montgomery and Prince George's Counties, Maryland."; and*

*(6) by aligning paragraph (45) with paragraph (46) (as added by paragraph (5)).*

*(c) INTERSTATE ROUTES.—Section 1105(e)(5) of the Intermodal Surface Transporation Efficiency Act of 1991 is amended—*

*(1) in subparagraph (A) by striking "and subsection (c)(45)" and inserting "subsection (c)(45), subsection (c)(54), and subsection (c)(57)";*

*(2) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E); and*

*(3) by inserting after subparagraph (A) the following:*

*"(B) INTERSTATE ROUTE 376.—*

*"(i) DESIGNATION OF INTERSTATE ROUTE 376.—*

*"(I) IN GENERAL.—The routes referred to in subsection (c)(79), except the portion of Pennsylvania Turnpike Route 60 and United States Route 422 between Pennsylvania Turnpike Interchange 10 and Interstate Route 80, shall be designated as Interstate Route 376.*

*"(II) SIGNS.—The State of Pennsylvania shall have jurisdiction over the highways described in subclause (I) (except Pennsylvania Turnpike Route 60) and erect signs in accordance with Interstate signing criteria that identify the routes described in subclause (I) as Interstate Route 376.*

*"(III) ASSISTANCE FROM SECRETARY.—The Secretary shall assist the State of Pennsylvania in carrying out, not later than December 31, 2008, an activity under subclause (II) relating to Interstate Route 376 and in complying with sections 109 and 139 of title 23, United States Code.*

*"(ii) OTHER SEGMENTS.—The segment of the route referred to in subsection (c)(79) located between the Pennsylvania Turnpike, Interchange 10, and Interstate Route 80 may be signed as Interstate Route 376 under clause (i)(II) if that segment meets the criteria under sections 109 and 139 of title 23, United States Code.".*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out, in accordance with title 23, United States Code, projects on corridors identified in section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032) such sums as may be necessary.*

### ***SEC. 1305. TRUCK PARKING FACILITIES.***

*(a) ESTABLISHMENT.—In cooperation with appropriate State, regional, and local governments, the Secretary shall establish a pilot program to address the shortage of long-term parking for commercial motor vehicles on the National Highway System.*

*(b) ALLOCATION OF FUNDS.—*

*(1) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section*

among States, metropolitan planning organizations, and local governments.

(2) APPLICATIONS.—To be eligible for an allocation under this section, a State (as defined in section 101(a) of title 23, United States Code), metropolitan planning organization, or local government shall submit to the Secretary an application at such time and containing such information as the Secretary may require.

(3) ELIGIBLE PROJECTS.—Funds allocated under this subsection shall be used by the recipient for projects described in an application approved by the Secretary. Such projects shall serve the National Highway System and may include the following:

(A) Constructing safety rest areas (as defined in section 120(c) of title 23, United States Code) that include parking for commercial motor vehicles.

(B) Constructing commercial motor vehicle parking facilities adjacent to commercial truck stops and travel plazas.

(C) Opening existing facilities to commercial motor vehicle parking, including inspection and weigh stations and park-and-ride facilities.

(D) Promoting the availability of publicly or privately provided commercial motor vehicle parking on the National Highway System using intelligent transportation systems and other means.

(E) Constructing turnouts along the National Highway System for commercial motor vehicles.

(F) Making capital improvements to public commercial motor vehicle parking facilities currently closed on a seasonal basis to allow the facilities to remain open year-round.

(G) Improving the geometric design of interchanges on the National Highway System to improve access to commercial motor vehicle parking facilities.

(4) PRIORITY.—In allocating funds made available to carry out this section, the Secretary shall give priority to applicants that—

(A) demonstrate a severe shortage of commercial motor vehicle parking capacity in the corridor to be addressed;

(B) have consulted with affected State and local governments, community groups, private providers of commercial motor vehicle parking, and motorist and trucking organizations; and

(C) demonstrate that their proposed projects are likely to have positive effects on highway safety, traffic congestion, or air quality.

(c) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the pilot program.

(d) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $6,250,000 for each of fiscal years 2006 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with sections 120(b) and 120(c) of such title.

(e) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects funded under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

### SEC. 1306. FREIGHT INTERMODAL DISTRIBUTION PILOT GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish and implement a freight intermodal distribution pilot grant program.

(b) PURPOSES.—The purposes of the program established under subsection (a) shall be for the Secretary to make grants to States—

(1) to facilitate and support intermodal freight transportation initiatives at the State and local levels to relieve congestion and improve safety; and

(2) to provide capital funding to address infrastructure and freight distribution needs at inland ports and intermodal freight facilities.

(c) ELIGIBLE PROJECTS.—Projects for which grants may be made under this section shall help relieve congestion, improve transportation safety, facilitate international trade, and encourage public-private partnership and may include projects for the development and construction of intermodal freight distribution and transfer facilities at inland ports.

(d) SELECTION PROCESS.—

(1) APPLICATIONS.—A State (as defined in section 101(a) of title 23, United States Code) shall submit for approval by the Secretary an application for a grant under this section containing such information as the Secretary may require to receive such a grant.

(2) PRIORITY.—In selecting projects for grants, the Secretary shall give priority to projects that will—

(A) reduce congestion into and out of international ports located in the United States;

(B) demonstrate ways to increase the likelihood that freight container movements involve freight containers carrying goods; and

(C) establish or expand intermodal facilities that encourage the development of inland freight distribution centers.

(3) DESIGNATED PROJECTS.—Subject to the provisions of this section, the Secretary shall allocate for each of fiscal years 2005 through 2009, from funds made available to carry out this section, 20 percent of the following amounts for grants to carry out the following projects under this section:

(A) Short-haul intermodal projects, Oregon, $5,000,000.

(B) The Georgia Port Authority, $5,000,000.

(C) The ports of Los Angeles and Long Beach, California, $5,000,000.

(D) Fairbanks, Alaska, $5,000,000.

(E) Charlotte Douglas International Airport Freight Intermodal Facility, North Carolina, $5,000,000.

(F) South Piedmont Freight Intermodal Center, North Carolina, $5,000,000.

(e) USE OF GRANT FUNDS.—Funds made available to a recipient of a grant under this section shall be used by the recipient for the project described in the application of the recipient approved by the Secretary.

(f) REPORT.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the pilot program carried out under this section.

(g) FUNDING.—

(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $6,000,000 for each of fiscal years 2005 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.

(h) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects for which grants are made under this section shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.

### SEC. 1307. DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ELIGIBLE PROJECT COSTS.—The term "eligible project costs"—

(A) means the capital cost of the fixed guideway infrastructure of a MAGLEV project, including land, piers, guideways, propulsion equipment and other components attached to guideways, power distribution facilities (including substations), control and communications facilities, access roads, and storage, repair, and maintenance facilities, but not including costs incurred for a new station; and

(B) includes the costs of preconstruction planning activities.

(2) FULL PROJECT COSTS.—The term "full project costs" means the total capital costs of a MAGLEV project, including eligible project costs and the costs of stations, vehicles, and equipment.

(3) MAGLEV.—The term "MAGLEV" means transportation systems employing magnetic levitation that would be capable of safe use by the public at a speed in excess of 240 miles per hour.

(4) STATE.—The term "State" has the meaning such term has under section 101(a) of title 23, United States Code.

(b) IN GENERAL.—

(1) ASSISTANCE FOR ELIGIBLE PROJECTS.—The Secretary shall make available financial assistance to pay the Federal share of full project costs of eligible projects authorized by this section.

(2) USE OF ASSISTANCE.—Financial assistance provided under paragraph (1) shall be used only to pay eligible project costs of projects authorized by this section.

(3) APPLICABILITY OF OTHER LAWS.—Financial assistance made available under this section, and projects assisted with such assistance, shall be subject to section 5333(a) of title 49, United States Code.

(c) PROJECT ELIGIBILITY.—To be eligible to receive financial assistance under subsection (b), a project shall—

(1) involve a segment or segments of a high-speed ground transportation corridor;

(2) result in an operating transportation facility that provides a revenue producing service; and

(3) be approved by the Secretary based on an application submitted to the Secretary by a State or authority designated by 1 or more States.

(d) ALLOCATION.—Of the amounts made available to carry out this section for a fiscal year, the Secretary shall allocate 50 percent for the MAGLEV project between Las Vegas and Primm, Nevada, and 50 percent for a MAGLEV project located east of the Mississippi River.

### SEC. 1308. DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Secretary shall carry out a program in the 8 States comprising the Delta Region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee) to—

(1) support and encourage multistate transportation planning and corridor development;

(2) provide for transportation project development;

(3) facilitate transportation decisionmaking; and

(4) support transportation construction.

(b) ELIGIBLE RECIPIENTS.—A State transportation department or metropolitan planning organization in a Delta Region State may receive and administer funds provided under the program.

(c) ELIGIBLE ACTIVITIES.—The Secretary shall make allocations under the program for multistate highway planning, development, and construction projects.

(d) OTHER PROVISIONS REGARDING ELIGIBILITY.—All activities funded under this program shall be consistent with the continuing, *cooperative, and comprehensive planning processes required by sections 134 and 135 of title 23, United States Code.*

*(e) SELECTION CRITERIA.—The Secretary shall select projects to be carried out under the program based on—*

*(1) whether the project is located—*

*(A) in an area under the authority of the Delta Regional Authority; and*

*(B) on a Federal-aid highway;*

*(2) endorsement of the project by the State department of transportation; and*

*(3) evidence of the ability of the recipient of funds provided under the program to complete the project.*

*(f) PROGRAM PRIORITIES.—In administering the program, the Secretary shall—*

*(1) encourage State and local officials to work together to develop plans for multimodal and multijurisdictional transportation decision-making; and*

*(2) give priority to projects that emphasize multimodal planning, including planning for operational improvements that—*

*(A) increase the mobility of people and goods;*

*(B) improve the safety of the transportation system with respect to catastrophic natural disasters or disasters caused by human activity; and*

*(C) contribute to the economic vitality of the area in which the project is being carried out.*

*(g) FEDERAL SHARE.—Amounts provided by the Delta Regional Authority to carry out a project under this subsection may be applied to the non-Federal share of the project required by section 120 of title 23, United States Code.*

*(h) FUNDING.—*

*(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for each of fiscal years 2006 through 2009.*

*(2) CONTRACT AUTHORITY.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended.*

### *SEC. 1309. EXTENSION OF PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS.*

*Section 1023(h)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 127 note; 106 Stat. 1552) is amended by striking "2005" and inserting "2009".*

### *SEC. 1310. INTERSTATE OASIS PROGRAM.*

*(a) IN GENERAL.—Not later than 180 days after the date of enactment of this section, in consultation with the States and other interested parties, the Secretary shall—*

*(1) establish an interstate oasis program; and*

*(2) after providing an opportunity for public comment, develop standards for designating, as an interstate oasis, a facility that—*

*(A) offers—*

*(i) products and services to the public;*

*(ii) 24-hour access to restrooms; and*

*(iii) parking for automobiles and heavy trucks; and*

*(B) meets other standards established by the Secretary.*

*(b) STANDARDS FOR DESIGNATION.—The standards for designation under subsection (a) shall include standards relating to—*

*(1) the appearance of a facility; and*

*(2) the proximity of the facility to the Dwight D. Eisenhower National System of Interstate and Defense Highways.*

*(c) ELIGIBILITY FOR DESIGNATION.—If a State (as defined in section 101(a) of title 23, United States Code) elects to participate in the interstate oasis program, any facility meeting the standards established by the Secretary shall be eligible for designation under this section.*

*(d) LOGO.—The Secretary shall design a logo to be displayed by a facility designated under this section.*

## *Subtitle D—Highway Safety*

### *SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM.*

*(a) SAFETY IMPROVEMENT.—*

*(1) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:*

***"§ 148. Highway safety improvement program***

*"(a) DEFINITIONS.—In this section, the following definitions apply:*

*"(1) HIGH RISK RURAL ROAD.—The term 'high risk rural road' means any roadway functionally classified as a rural major or minor collector or a rural local road—*

*"(A) on which the accident rate for fatalities and incapacitating injuries exceeds the statewide average for those functional classes of roadway; or*

*"(B) that will likely have increases in traffic volume that are likely to create an accident rate for fatalities and incapacitating injuries that exceeds the statewide average for those functional classes of roadway.*

*"(2) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.*

*"(3) HIGHWAY SAFETY IMPROVEMENT PROJECT.—*

*"(A) IN GENERAL.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—*

*"(i) corrects or improves a hazardous road location or feature; or*

*"(ii) addresses a highway safety problem.*

*"(B) INCLUSIONS.—The term 'highway safety improvement project' includes a project for one or more of the following:*

*"(i) An intersection safety improvement.*

*"(ii) Pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition).*

*"(iii) Installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists, pedestrians, and the disabled.*

*"(iv) Installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents.*

*"(v) An improvement for pedestrian or bicyclist safety or safety of the disabled.*

*"(vi) Construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings.*

*"(vii) Construction of a railway-highway crossing safety feature, including installation of protective devices.*

*"(viii) The conduct of a model traffic enforcement activity at a railway-highway crossing.*

*"(ix) Construction of a traffic calming feature.*

*"(x) Elimination of a roadside obstacle.*

*"(xi) Improvement of highway signage and pavement markings.*

*"(xii) Installation of a priority control system for emergency vehicles at signalized intersections.*

*"(xiii) Installation of a traffic control or other warning device at a location with high accident potential.*

*"(xiv) Safety-conscious planning.*

*"(xv) Improvement in the collection and analysis of crash data.*

*"(xvi) Planning, integrated interoperable emergency communications equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety.*

*"(xvii) Installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators.*

*"(xviii) The addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife.*

*"(xix) Installation and maintenance of signs (including fluorescent, yellow-green signs) at pedestrian-bicycle crossings and in school zones.*

*"(xx) Construction and yellow-green signs at pedestrian-bicycle crossings and in school zones.*

*"(xxi) Construction and operational improvements on high risk rural roads.*

*"(4) SAFETY PROJECT UNDER ANY OTHER SECTION.—*

*"(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.*

*"(B) INCLUSION.—The term 'safety project under any other section' includes a project to promote the awareness of the public and educate the public concerning highway safety matters (including motorcyclist safety) and a project to enforce highway safety laws.*

*"(5) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(g).*

*"(6) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—*

*"(A) is developed after consultation with—*

*"(i) a highway safety representative of the Governor of the State;*

*"(ii) regional transportation planning organizations and metropolitan planning organizations, if any;*

*"(iii) representatives of major modes of transportation;*

*"(iv) State and local traffic enforcement officials;*

*"(v) persons responsible for administering section 130 at the State level;*

*"(vi) representatives conducting Operation Lifesaver;*

*"(vii) representatives conducting a motor carrier safety program under section 31102, 31106, or 31309 of title 49;*

*"(viii) motor vehicle administration agencies; and*

*"(ix) other major State and local safety stakeholders;*

*"(B) analyzes and makes effective use of State, regional, or local crash data;*

*"(C) addresses engineering, management, operation, education, enforcement, and emergency services elements (including integrated, interoperable emergency communications) of highway safety as key factors in evaluating highway projects;*

*"(D) considers safety needs of, and high-fatality segments of, public roads;*

*"(E) considers the results of State, regional, or local transportation and highway safety planning processes;*

*"(F) describes a program of projects or strategies to reduce or eliminate safety hazards;*

*"(G) is approved by the Governor of the State or a responsible State agency; and*

*"(H) is consistent with the requirements of section 135(g).*

*"(b) PROGRAM.—*

*"(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.*

*"(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.*

*"(c) ELIGIBILITY.—*

*"(1) IN GENERAL.—To obligate funds apportioned under section 104(b)(5) to carry out this section, a State shall have in effect a State highway safety improvement program under which the State—*

*"(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);*

*"(B) produces a program of projects or strategies to reduce identified safety problems;*

*"(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements; and*

*"(D) submits to the Secretary an annual report that—*

*"(i) describes, in a clearly understandable fashion, not less than 5 percent of locations determined by the State, using criteria established in accordance with paragraph (2)(B)(ii), as exhibiting the most severe safety needs; and*

*"(ii) contains an assessment of—*

*"(I) potential remedies to hazardous locations identified;*

*"(II) estimated costs associated with those remedies; and*

*"(III) impediments to implementation other than cost associated with those remedies.*

*"(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—*

*"(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;*

*"(B) based on the analysis required by subparagraph (A)—*

*"(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, and other highway users; and*

*"(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, traffic volume levels, and other relevant data;*

*"(C) adopt strategic and performance-based goals that—*

*"(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;*

*"(ii) focus resources on areas of greatest need; and*

*"(iii) are coordinated with other State highway safety programs;*

*"(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—*

*"(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;*

*"(ii) includes all public roads;*

*"(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists (including motorcyclists), bicyclists, pedestrians, the disabled, and other highway users; and*

*"(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, deaths, and traffic volume levels;*

*"(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;*

*"(ii) identify opportunities for preventing the development of such hazardous conditions; and*

*"(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and*

*"(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and*

*"(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.*

*"(d) ELIGIBLE PROJECTS.—*

*"(1) IN GENERAL.—A State may obligate funds apportioned to the State under section 104(b)(5) to carry out—*

*"(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or*

*"(B) as provided in subsection (e), other safety projects.*

*"(2) USE OF OTHER FUNDING FOR SAFETY.—*

*"(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.*

*"(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).*

*"(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—*

*"(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 10 percent of the amount of funds apportioned to the State under section 104(b)(5) for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan if the State certifies that—*

*"(A) the State has met needs in the State relating to railway-highway crossings; and*

*"(B) the State has met the State's infrastructure safety needs relating to highway safety improvement projects.*

*"(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.*

*"(f) HIGH RISK RURAL ROADS.—*

*"(1) IN GENERAL.—After making an apportionment under section 104(b)(5) for a fiscal year beginning after September 30, 2005, the Secretary shall ensure, from amounts made available to carry out this section for such fiscal year, that a total of $90,000,000 of such apportionment is set aside by the States, proportionally according to the share of each State of the total amount so apportioned, for use only for construction and operational improvements on high risk rural roads.*

*"(2) SPECIAL RULE.—A State may use funds apportioned to the State pursuant to this subsection for any project under this section if the State certifies to the Secretary that the State has met all of State needs for construction and operational improvements on high risk rural roads.*

*"(g) REPORTS.—*

*"(1) IN GENERAL.—A State shall submit to the Secretary a report that—*

*"(A) describes progress being made to implement highway safety improvement projects under this section;*

*"(B) assesses the effectiveness of those improvements; and*

*"(C) describes the extent to which the improvements funded under this section contribute to the goals of—*

*"(i) reducing the number of fatalities on roadways;*

*"(ii) reducing the number of roadway-related injuries;*

*"(iii) reducing the occurrences of roadway-related crashes;*

*"(iv) mitigating the consequences of roadway-related crashes; and*

*"(v) reducing the occurrences of crashes at railway-highway crossings.*

*"(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).*

*"(3) TRANSPARENCY.—The Secretary shall make reports submitted under subsection (c)(1)(D) available to the public through—*

*"(A) the Web site of the Department; and*

*"(B) such other means as the Secretary determines to be appropriate.*

*"(4) DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION.—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose directly relating to paragraph (1) or subsection (c)(1)(D), or published by the Secretary in accordance with paragraph (3), shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in such reports, surveys, schedules, lists, or other data.*

*"(h) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—Except as provided in sections 120 and 130, the Federal share of the cost of a highway safety improvement project carried out with funds apportioned to a State under section 104(b)(5) shall be 90 percent.".*

*(2) CLERICAL AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 148 and inserting the following:*

*"148. Highway safety improvement program.".*

*(3) CONFORMING AMENDMENTS.—*

*(A) TRANSFERS OF APPORTIONMENTS.—Section 104(g) of such title is amended in the first sentence by striking "sections 130, 144, and 152 of this title" and inserting "sections 130 and 144".*

*(B) UNIFORM TRANSFERABILITY.—Section 126(a) of such title is amended by inserting "under" after "State's apportionment".*

*(C) OTHER SECTIONS.—Sections 154, 164, and 409 of such title are amended by striking "152" each place it appears and inserting "148".*

*(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104(b) of such title (as amended by section 1103 of this Act) is amended—*

*(1) in the matter preceding paragraph (1) by inserting after "Improvement program," the following: "the highway safety improvement program,"; and*

*(2) by adding at the end the following:*

*"(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—*

*"(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:*

*"(i) 33⅓ percent of the apportionments in the ratio that—*

*"(I) the total lane miles of Federal-aid highways in each State; bears to*

*"(II) the total lane miles of Federal-aid highways in all States.*

*"(ii) 33⅓ percent of the apportionments in the ratio that—*

*"(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to*

*"(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.*

*"(iii) 33⅓ percent of the apportionments in the ratio that—*

*"(I) the number of fatalities on the Federal-aid system in each State in the latest fiscal year for which data are available; bears to*

*"(II) the number of fatalities on the Federal-aid system in all States in the latest fiscal year for which data are available.*

*''(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.''.*

*(d) ELIMINATION OF HAZARDS RELATING TO RAILWAY-HIGHWAY CROSSINGS.—*

*(1) FUNDS FOR PROTECTIVE DEVICES.—Section 130(e) of such title is amended—*

*(A) by striking ''At'' and inserting the following:*

*''(1) IN GENERAL.—Before making an apportionment under section 104(b)(5) for a fiscal year, the Secretary shall set aside, from amounts made available to carry out the highway safety improvement program under section 148 for such fiscal year, at least $220,000,000 for the elimination of hazards and the installation of protective devices at railway-highway crossings. At''; and*

*(B) by adding at the end the following:*

*''(2) SPECIAL RULE.—If a State demonstrates to the satisfaction of the Secretary that the State has met all its needs for installation of protective devices at railway-highway crossings, the State may use funds made available by this section for other purposes under this subsection.''.*

*(2) APPORTIONMENT.—Section 130(f) of such title is amended to read as follows:*

*''(f) APPORTIONMENT.—*

*''(1) FORMULA.—Fifty percent of the funds set aside to carry out this section pursuant to subsection (e)(1) shall be apportioned to the States in accordance with the formula set forth in section 104(b)(3)(A), and 50 percent of such funds shall be apportioned to the States in the ratio that total public railway-highway crossings in each State bears to the total of such crossings in all States.*

*''(2) MINIMUM APPORTIONMENT.—Notwithstanding paragraph (1), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under paragraph (1).*

*''(3) FEDERAL SHARE.—The Federal share payable on account of any project financed with funds set aside to carry out this section shall be 90 percent of the cost thereof.''.*

*(3) BIENNIAL REPORTS TO CONGRESS.—Section 130(g) of such title is amended in the third sentence—*

*(A) by inserting ''and the Committee on Commerce, Science, and Transportation,'' after ''Public Works''; and*

*(B) by striking ''not later than April 1 of each year'' and inserting '', not later than April 1, 2006, and every 2 years thereafter,''.*

*(4) EXPENDITURE OF FUNDS.—Section 130 of such title is amended by adding at the end the following:*

*''(k) EXPENDITURE OF FUNDS.—Not more than 2 percent of funds apportioned to a State to carry out this section may be used by the State for compilation and analysis of data in support of activities carried out under subsection (g).''.*

*(e) TRANSITION.—*

*(1) IMPLEMENTATION.—Except as provided in paragraph (2), the Secretary shall approve obligations of funds apportioned under section 104(b)(5) of title 23, United States Code (as added by subsection (b)) to carry out section 148 of that title, only if, not later than October 1 of the second fiscal year beginning after the date of enactment of this Act, a State has developed and implemented a State strategic highway safety plan as required pursuant to section 148(c) of that title.*

*(2) INTERIM PERIOD.—*

*(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.*

*(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1, 2007, the State shall receive for the highway safety improvement program for each subsequent fiscal year until the date of development of such plan an amount that equals the amount apportioned to the State for that program for fiscal year 2007.*

### ***SEC. 1402. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC.***

*Not later than 1 year after the date of enactment of this Act, the Secretary shall issue regulations to decrease the likelihood of worker injury and maintain the free flow of vehicular traffic by requiring workers whose duties place them on or in close proximity to a Federal-aid highway (as defined in section 101 of title 23, United States Code) to wear high visibility garments. The regulations may also require such other worker-safety measures for workers with those duties as the Secretary determines to be appropriate.*

### ***SEC. 1403. TOLL FACILITIES WORKPLACE SAFETY STUDY.***

*(a) IN GENERAL.—The Secretary shall conduct a study on the safety of highway toll collection facilities, including toll booths, to determine the safety of the facilities for the toll collectors who work in and around the facilities, including consideration of—*

*(1) the effect of design or construction of the facilities on the likelihood of vehicle collisions with the facilities;*

*(2) the safety of crosswalks used by toll collectors in transit to and from toll booths;*

*(3) the extent of the enforcement of speed limits in the vicinity of the facilities;*

*(4) the use of warning devices, such as vibration and rumble strips, to alert drivers approaching the facilities;*

*(5) the use of cameras to record traffic violations in the vicinity of the facilities;*

*(6) the use of traffic control arms in the vicinity of the facilities;*

*(7) law enforcement practices and jurisdictional issues that affect safety in the vicinity of the facilities; and*

*(8) the incidence of accidents and injuries in the vicinity of toll booths.*

*(b) DATA COLLECTION.—As part of the study, the Secretary shall collect data regarding the incidence of accidents and injuries in the vicinity of highway toll collection facilities.*

*(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study, together with recommendations for improving toll facilities workplace safety.*

*(d) FUNDING.—*

*(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $500,000 for fiscal year 2006.*

*(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share of the cost of the project shall be 100 percent, and the funds shall remain available until expended and shall not be transferable.*

### ***SEC. 1404. SAFE ROUTES TO SCHOOL PROGRAM.***

*(a) ESTABLISHMENT.—Subject to the requirements of this section, the Secretary shall establish and carry out a safe routes to school program for the benefit of children in primary and middle schools.*

*(b) PURPOSES.—The purposes of the program shall be—*

*(1) to enable and encourage children, including those with disabilities, to walk and bicycle to school;*

*(2) to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and*

*(3) to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.*

*(c) APPORTIONMENT OF FUNDS.—*

*(1) IN GENERAL.—Subject to paragraphs (2), (3), and (4), amounts made available to carry out this section for a fiscal year shall be apportioned among the States in the ratio that—*

*(A) the total student enrollment in primary and middle schools in each State; bears to*

*(B) the total student enrollment in primary and middle schools in all States.*

*(2) MINIMUM APPORTIONMENT.—No State shall receive an apportionment under this section for a fiscal year of less than $1,000,000.*

*(3) SET-ASIDE FOR ADMINISTRATIVE EXPENSES.—Before apportioning under this subsection amounts made available to carry out this section for a fiscal year, the Secretary shall set aside not more than $3,000,000 of such amounts for the administrative expenses of the Secretary in carrying out this subsection.*

*(4) DETERMINATION OF STUDENT ENROLLMENTS.—Determinations under this subsection concerning student enrollments shall be made by the Secretary.*

*(d) ADMINISTRATION OF AMOUNTS.—Amounts apportioned to a State under this section shall be administered by the State's department of transportation.*

*(e) ELIGIBLE RECIPIENTS.—Amounts apportioned to a State under this section shall be used by the State to provide financial assistance to State, local, and regional agencies, including nonprofit organizations, that demonstrate an ability to meet the requirements of this section.*

*(f) ELIGIBLE PROJECTS AND ACTIVITIES.—*

*(1) INFRASTRUCTURE-RELATED PROJECTS.—*

*(A) IN GENERAL.—Amounts apportioned to a State under this section may be used for the planning, design, and construction of infrastructure-related projects that will substantially improve the ability of students to walk and bicycle to school, including sidewalk improvements, traffic calming and speed reduction improvements, pedestrian and bicycle crossing improvements, on-street bicycle facilities, off-street bicycle and pedestrian facilities, secure bicycle parking facilities, and traffic diversion improvements in the vicinity of schools.*

*(B) LOCATION OF PROJECTS.—Infrastructure-related projects under subparagraph (A) may be carried out on any public road or any bicycle or pedestrian pathway or trail in the vicinity of schools.*

*(2) NONINFRASTRUCTURE-RELATED ACTIVITIES.—*

*(A) IN GENERAL.—In addition to projects described in paragraph (1), amounts apportioned to a State under this section may be used for noninfrastructure-related activities to encourage walking and bicycling to school, including public awareness campaigns and outreach to press and community leaders, traffic education and enforcement in the vicinity of schools, student sessions on bicycle and pedestrian safety, health, and environment, and funding for training, volunteers, and managers of safe routes to school programs.*

*(B) ALLOCATION.—Not less than 10 percent and not more than 30 percent of the amount apportioned to a State under this section for a fiscal year shall be used for noninfrastructure-related activities under this subparagraph.*

*(3) SAFE ROUTES TO SCHOOL COORDINATOR.—Each State receiving an apportionment under this section for a fiscal year shall use a sufficient amount of the apportionment to fund a full-time position of coordinator of the State's safe routes to school program.*

*(g) CLEARINGHOUSE.—*

*(1) IN GENERAL.—The Secretary shall make grants to a national nonprofit organization engaged in promoting safe routes to schools to—*

*(A) operate a national safe routes to school clearinghouse;*

*(B) develop information and educational programs on safe routes to school; and*

*(C) provide technical assistance and disseminate techniques and strategies used for successful safe routes to school programs.*

*(2) FUNDING.—The Secretary shall carry out this subsection using amounts set aside for administrative expenses under subsection (c)(3).*

*(h) TASK FORCE.—*

*(1) IN GENERAL.—The Secretary shall establish a national safe routes to school task force composed of leaders in health, transportation, and education, including representatives of appropriate Federal agencies, to study and develop a strategy for advancing safe routes to school programs nationwide.*

*(2) REPORT.—Not later than March 31, 2006, the Secretary shall submit to Congress a report containing the results of the study conducted, and a description of the strategy developed, under paragraph (1) and information regarding the use of funds for infrastructure-related and noninfrastructure-related activities under paragraphs (1) and (2) of subsection (f).*

*(3) FUNDING.—The Secretary shall carry out this subsection using amounts set aside for administrative expenses under subsection (c)(3).*

*(i) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of a project or activity under this section shall be 100 percent.*

*(j) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects assisted under this subsection shall be treated as projects on a Federal-aid system under chapter 1 of title 23, United States Code.*

*(k) DEFINITIONS.—In this section, the following definitions apply:*

*(1) IN THE VICINITY OF SCHOOLS.—The term "in the vicinity of schools" means, with respect to a school, the area within bicycling and walking distance of the school (approximately 2 miles).*

*(2) PRIMARY AND MIDDLE SCHOOLS.—The term "primary and middle schools" means schools providing education from kindergarten through eighth grade.*

### SEC. 1405. ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS.

*(a) IN GENERAL.—The Secretary shall carry out a program to improve traffic signs and pavement markings in all States (as such term is defined in section 101 of title 23, United States Code) in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled "Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)" and dated October 2001.*

*(b) FEDERAL SHARE.—The Federal share of the cost of a project carried out under this section shall be determined in accordance with section 120 of title 23, United States Code.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2005 through 2009.*

### SEC. 1406. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS.

*Section 157(g)(1) of title 23, United States Code, is amended by striking "2004, and" and all that follows through "2005" and inserting "2004, and $112,000,000 for fiscal year 2005".*

### SEC. 1407. SAFETY INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS.

*(a) CODIFICATION OF PENALTY.—Section 163 of title 23, United States Code, is amended—*

*(1) by redesignating subsection (e) as subsection (f); and*

*(2) by inserting after subsection (d) the following:*

*"(e) PENALTY.—*

*"(1) IN GENERAL.—On October 1, 2003, and October 1 of each fiscal year thereafter, if a State has not enacted or is not enforcing a law described in subsection (a), the Secretary shall withhold from amounts apportioned to the State on that date under each of paragraphs (1), (3), and (4) of section 104(b) an amount equal to the amount specified in paragraph (2).*

*"(2) AMOUNT TO BE WITHHELD.—If a State is subject to a penalty under paragraph (1), the Secretary shall withhold for a fiscal year from the apportionments of the State described in paragraph (1) an amount equal to a percentage of the funds apportioned to the State under paragraphs (1), (3), and (4) of section 104(b) for fiscal year 2003. The percentage shall be as follows:*

*"(A) For fiscal year 2004, 2 percent.*

*"(B) For fiscal year 2005, 4 percent.*

*"(C) For fiscal year 2006, 6 percent.*

*"(D) For fiscal year 2007, and each fiscal year thereafter, 8 percent.*

*"(3) FAILURE TO COMPLY.—If, within 4 years from the date that an apportionment for a State is withheld in accordance with this subsection, the Secretary determines that the State has enacted and is enforcing a law described in subsection (a), the apportionment of the State shall be increased by an amount equal to the amount withheld. If, at the end of such 4-year period, any State has not enacted or is not enforcing a law described in subsection (a) any amounts so withheld from such State shall lapse.".*

*(b) AUTHORIZATION OF APPROPRIATIONS.—Section 163(f)(1) of such title (as redesignated by subsection (a)(1) of this section) is amended by striking "2004, and" and inserting "2004, and $110,000,000 for fiscal year 2005".*

*(c) REPEAL.—Section 351 of the Department of Transportation and Related Agencies Appropriations Act, 2001 (23 U.S.C. 163 note; 114 Stat. 1356A-34) is repealed.*

### SEC. 1408. IMPROVEMENT OR REPLACEMENT OF HIGHWAY FEATURES ON NATIONAL HIGHWAY SYSTEM.

*(a) UPDATE OF IMPLEMENTATION GUIDANCE.—The Secretary, in cooperation with the American Association of State Highway and Transportation Officials, shall update as appropriate the August 28, 1998, Federal Highway Administration Policy on Implementation of the report of the Transportation Research Board of the National Research Council entitled "NCHRP Report 350–Recommended Procedures for the Safety Performance Evaluation of Highway Features".*

*(b) GUIDANCE.—The Secretary, in cooperation with the Association, shall publish updated guidance regarding the conditions under which States, when choosing to improve or replace highway features on the National Highway System, should improve or replace such features with highway features that have been tested, evaluated, and found to be acceptable under the guidelines of the report referred to in subsection (a).*

*(c) MATTERS TO BE CONSIDERED.—Guidance published in accordance with subsection (a)—*

*(1) shall address those highway features that are covered by the guidelines in the report referred to in subsection (b); and*

*(2) shall consider types of highway features, cost-effectiveness, and practicality of replacement with highway features that have been found to be acceptable under the report guidelines to determine conditions when such features should be used.*

### SEC. 1409. WORK ZONE SAFETY GRANTS.

*(a) IN GENERAL.—The Secretary shall establish and implement a work zone safety grant program under which the Secretary may make grants to nonprofit organizations and not-for-profit organizations to provide training to prevent or reduce highway work zone injuries and fatalities.*

*(b) ELIGIBLE ACTIVITIES.—Grants may be made under the program for the following purposes:*

*(1) Training for construction craft workers on the prevention of injuries and fatalities in highway and road construction.*

*(2) Development of guidelines for the prevention of highway work zone injuries and fatalities.*

*(3) Training for State and local government transportation agencies and other groups implementing guidelines for the prevention of highway work zone injuries and fatalities.*

*(c) FUNDING.—*

*(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $5,000,000 for each of fiscal years 2006 through 2009.*

*(2) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable.*

*(d) CONSTRUCTION WORK IN ALASKA.—Section 114 of title 23, United States Code, is amended by adding at the end of the following:*

*"(c) CONSTRUCTION WORK IN ALASKA.—*

*"(1) IN GENERAL.—The Secretary shall ensure that a worker who is employed on a remote project for the construction of a highway or portion of a highway located on a Federal-aid system in the State of Alaska and who is not a domiciled resident of the locality shall receive meals and lodging.*

*"(2) LODGING.—The lodging under paragraph (1) shall be in accordance with section 1910.142 of title 29, Code of Federal Regulations (relating to temporary labor camp requirements).*

*"(3) PER DIEM.—*

*"(A) IN GENERAL.—Contractors are encouraged to use commercial facilities and lodges on remote projects, however, when such facilities are not available, per diem in lieu of room and lodging may be paid on remote Federal highway projects at a basic rate of $75.00 per day or part of a day the worker is employed on the project. Where the contractor provides or furnishes room and lodging or pays a per diem, the cost of the amount shall not be considered a part of wages and shall be excluded from the calculation of wages.*

*"(B) SECRETARY OF LABOR.—Such per diem rate shall be adopted by the Secretary of Labor for all applicable remote Federal highway projects in Alaska.*

*"(C) EXCEPTION.—Per diem shall not be allowed on any of the following remote projects for the construction of a highway or portion of a highway located on a Federal-aid system:*

*"(i) West of Livengood on the Elliot Highway.*

*"(ii) Mile 0 on the Dalton Highway to the North Slope of Alaska; north of Mile 20 on the Taylor Highway.*

*"(iii) East of Chicken on the Top of the World Highway and south of Tetlin Junction to the Alaska Canadian border.*

*"(4) DEFINITIONS.—In this subsection, the following definitions apply:*

*"(A) REMOTE.—The term 'remote', as used with respect to a project, means that the project is 65 road miles or more from the international airport in Fairbanks, Anchorage, or Juneau, Alaska, as the case may be, or is inaccessible by road in a 2-wheel drive vehicle.*

*"(B) RESIDENT.—The term 'resident', as used with respect to a project, means a person living within 65 road miles of the midpoint of the project for at least 12 consecutive months prior to the award of the project.".*

### SEC. 1410. NATIONAL WORK ZONE SAFETY INFORMATION CLEARINGHOUSE.

*(a) GRANTS.—The Secretary shall make grants for fiscal years 2006 through 2009 to a national nonprofit foundation for the operation of the National Work Zone Safety Information Clearinghouse, authorized by section 358(b)(2) of Public Law 104–59, created for the purpose of assembling and disseminating, by electronic and other means, information relating to improvement of roadway work zone safety.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $1,000,000 for each of fiscal years 2006 through 2009.*

*(c) CONTRACT AUTHORITY.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.*

### SEC. 1411. ROADWAY SAFETY.

*(a) ROAD SAFETY.—*

*(1) IN GENERAL.—The Secretary shall enter into an agreement to assist in the activities of a national nonprofit organization that is dedicated solely to improving public road safety—*

*(A) by improving the quality of data pertaining to public road hazards and design features that affect or increase the severity of motor vehicle crashes;*

*(B) by developing and carrying out a public awareness campaign to educate State and local transportation officials, public safety officials, and motorists regarding the extent to which public road hazards and design features are a factor in motor vehicle crashes; and*

*(C) by promoting public road safety research and technology transfer activities.*

*(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $500,000 for each of fiscal years 2006 through 2009 to carry out this subsection.*

*(3) APPLICABILITY OF TITLE 23.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.*

*(b) BICYCLE AND PEDESTRIAN SAFETY GRANTS.—*

*(1) IN GENERAL.—The Secretary shall make grants to a national, not-for-profit organization engaged in promoting bicycle and pedestrian safety—*

*(A) to operate a national bicycle and pedestrian clearinghouse;*

*(B) to develop information and educational programs; and*

*(C) to disseminate techniques and strategies for improving bicycle and pedestrian safety.*

*(2) FUNDING.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $300,000 for fiscal year 2005 and $500,000 for each of fiscal years 2006 through 2009 to carry out this subsection.*

*(3) APPLICABILITY OF TITLE 23.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.*

### SEC. 1412. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.

*Section 111 of title 23, United States Code, is amended by adding at the end the following:*

*"(d) IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY.—*

*"(1) IN GENERAL.—Notwithstanding subsection (a), a State may—*

*"(A) permit electrification or other idling reduction facilities and equipment, for use by motor vehicles used for commercial purposes, to be placed in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System in the State, so long as those idling reduction measures do not reduce the existing number of designated truck parking spaces at any given rest or recreation area; and*

*"(B) charge a fee, or permit the charging of a fee, for the use of those parking spaces actively providing power to a truck to reduce idling.*

*"(2) PURPOSE.—The exclusive purpose of the facilities described in paragraph (1) (or similar technologies) shall be to enable operators of motor vehicles used for commercial purposes—*

*"(A) to reduce idling of a truck while parked in the rest or recreation area; and*

*"(B) to use installed or other equipment specifically designed to reduce idling of a truck, or provide alternative power for supporting driver comfort, while parked.".*

## Subtitle E—Construction and Contract Efficiency

### SEC. 1501. PROGRAM EFFICIENCIES.

*(a) ADVANCE CONSTRUCTION.—Section 115 of title 23, United States Code, is amended—*

*(1) by redesignating subsection (c) as subsection (d); and*

*(2) by striking subsections (a) and (b) and inserting the following:*

*"(a) IN GENERAL.—The Secretary may authorize a State to proceed with a project authorized under this title—*

*"(1) without the use of Federal funds; and*

*"(2) in accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—*

*"(A) with the aid of Federal funds previously apportioned or allocated to the State; or*

*"(B) with obligation authority previously allocated to the State.*

*"(b) OBLIGATION OF FEDERAL SHARE.—The Secretary, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of a project authorized to proceed under this section from any category of funds for which the project is eligible.".*

*(b) OBLIGATION AND RELEASE OF FUNDS.—Section 118(d) of such title is amended to read as follows:*

*"(d) OBLIGATION AND RELEASE OF FUNDS.—*

*"(1) IN GENERAL.—Funds apportioned or allocated to a State for a purpose for any fiscal year shall be considered to be obligated if a sum equal to the total of the funds apportioned or allocated to the State for that purpose for that fiscal year and previous fiscal years is obligated.*

*"(2) RELEASED FUNDS.—Any funds released by the final payment for a project, or by modifying the project agreement for a project, shall be—*

*"(A) credited to the same class of funds previously apportioned or allocated to the State for the project; and*

*"(B) immediately available for obligation.*

*"(3) NET OBLIGATIONS.—Notwithstanding any other provision of law (including a regulation), obligations recorded against funds made available under this subsection shall be recorded and reported as net obligations.".*

### SEC. 1502. HIGHWAYS FOR LIFE PILOT PROGRAM.

*(a) ESTABLISHMENT.—*

*(1) IN GENERAL.—The Secretary shall establish and implement a pilot program to be known as the "Highways for LIFE Pilot Program".*

*(2) PURPOSE.—The purpose of the pilot program shall be to advance longer-lasting highways using innovative technologies and practices to accomplish the fast construction of efficient and safe highways and bridges.*

*(3) OBJECTIVES.—Under the pilot program, the Secretary shall provide leadership and incentives to demonstrate and promote state-of-the-art technologies, elevated performance standards, and new business practices in the highway construction process that result in improved safety, faster construction, reduced congestion from construction, and improved quality and user satisfaction.*

*(b) PROJECTS.—*

*(1) APPLICATIONS.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that is in such form and contains such information as the Secretary requires. Each application shall contain a description of proposed projects to be carried by the State under the pilot program.*

*(2) ELIGIBILITY.—A proposed project shall be eligible for assistance under the pilot program if the project—*

*(A) constructs, reconstructs, or rehabilitates a route or connection on a Federal-aid highway eligible for assistance under chapter 1 of title 23, United States Code;*

*(B) uses innovative technologies, manufacturing processes, financing, or contracting methods that improve safety, reduce congestion due to construction, and improve quality; and*

*(C) meets additional criteria as determined by the Secretary.*

*(3) PROJECT PROPOSAL.—A project proposal submitted under paragraph (1) shall contain—*

*(A) an identification and description of the projects to be delivered;*

*(B) a description of how the projects will result in improved safety, faster construction, reduced congestion due to construction, user satisfaction, and improved quality;*

*(C) a description of the innovative technologies, manufacturing processes, financing, and contracting methods that will be used for the proposed projects; and*

*(D) such other information as the Secretary may require.*

*(4) SELECTION CRITERIA.—In selecting projects for approval under this section, the Secretary shall ensure that the projects provide an evaluation of a broad range of technologies in a wide variety of project types and shall give priority to the projects that—*

*(A) address achieving the Highways for LIFE performance standards for quality, safety, and speed of construction;*

*(B) deliver and deploy innovative technologies, manufacturing processes, financing, contracting practices, and performance measures that will demonstrate substantial improvements in safety, congestion, quality, and cost-effectiveness;*

*(C) include innovation that will lead to change in the administration of the State's transportation program to more quickly construct long-lasting, high-quality, cost-effective projects that improve safety and reduce congestion;*

*(D) are or will be ready for construction within 1 year of approval of the project proposal; and*

*(E) meet such other criteria as the Secretary determines appropriate.*

*(5) FINANCIAL ASSISTANCE.—*

*(A) FUNDS FOR HIGHWAYS FOR LIFE PROJECTS.—Out of amounts made available to carry out this section for a fiscal year, the Secretary may allocate to a State up to 20 percent, but not more than $5,000,000, of the total cost of a project approved under this section. Notwithstanding any other provision of law, funds allocated to a State under this subparagraph may be applied to the non-Federal share of the cost of construction of a project under title 23, United States Code.*

*(B) USE OF APPORTIONED FUNDS.—A State may obligate not more than 10 percent of the amount apportioned to the State under 1 or more of paragraphs (1), (2), (3), and (4) of section 104(b) of title 23, United States Code, for a fiscal year for projects approved under this section.*

*(C) INCREASED FEDERAL SHARE.—Notwithstanding sections 120 and 129 of title 23, United States Code, the Federal share payable on account of any project constructed with Federal funds allocated under this section, or apportioned under section 104(b) of such title, to a State under such title and approved under this section may amount to 100 percent of the cost of construction of such project.*

*(D) LIMITATION ON STATUTORY CONSTRUCTION.—Except as provided in subparagraph (C), nothing in this subsection shall be construed as altering or otherwise affecting the applicability of the requirements of chapter 1 of title 23, United States Code (including requirements relating to the eligibility of a project for assistance under the program and the location of the project), to amounts apportioned to a State for a program under section 104(b) that are obligated by the State for projects approved under this subsection.*

*(6) PROJECT SELECTIONS.—In the period of fiscal years 2005 through 2009, the Secretary, to the maximum extent possible, shall approve at least 1 project in each State for participation in the pilot program and for financial assistance under paragraph (5) if the State submits an application and the project meets the eligibility requirements and selection criteria under this subsection.*

*(7) MAXIMUM NUMBER OF PROJECTS.—The maximum number of projects for which the Secretary may allocate funds under this subsection in a fiscal year is 15.*

*(c) TECHNOLOGY PARTNERSHIPS.—*

*(1) IN GENERAL.—The Secretary may make grants or enter into cooperative agreements or other transactions to foster the development, improvement, and creation of innovative technologies and facilities to improve safety, enhance the speed of highway construction, and improve the quality and durability of highways.*

*(2) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this subsection shall not exceed 80 percent.*

*(d) TECHNOLOGY TRANSFER AND INFORMATION DISSEMINATION.—*

*(1) IN GENERAL.—The Secretary shall conduct a highways for life technology transfer program.*

*(2) AVAILABILITY OF INFORMATION.—The Secretary shall ensure that the information and technology used, developed, or deployed under this subsection is made available to the transportation community and the public.*

*(e) STAKEHOLDER INPUT AND INVOLVEMENT.—The Secretary shall establish a process for stakeholder input and involvement in the development, implementation, and evaluation of the Highways for LIFE Pilot Program. The process may include participation by representatives of State departments of transportation and other interested persons.*

*(f) PROJECT MONITORING AND EVALUATION.—The Secretary shall monitor and evaluate the effectiveness of any activity carried out under this section.*

*(g) CONTRACT AUTHORITY.—Except as otherwise provided in this section, funds authorized to be appropriated to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.*

*(h) STATE DEFINED.—In this section, the term "State" has the meaning such term has in section 101(a) of title 23, United States Code.*

### ***SEC. 1503. DESIGN BUILD.***

*Section 112(b)(3) of title 23, United States Code, is amended—*

*(1) by redesignating subparagraph (D) as subparagraph (E); and*

*(2) by striking subparagraph (C) and inserting the following:*

*"(C) QUALIFIED PROJECTS.—A qualified project referred to in subparagraph (A) is a project under this chapter (including intermodal projects) for which the Secretary has approved the use of design-build contracting under criteria specified in regulations issued by the Secretary.*

*"(D) REGULATORY PROCESS.—Not later than 90 days after the date of enactment of the SAFETEA–LU, the Secretary shall issue revised regulations under section 1307(c) of the Transportation Equity Act for 21st Century (23 U.S.C. 112 note; 112 Stat. 230) that—*

*"(i) do not preclude a State transportation department or local transportation agency, prior to compliance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), from—*

*"(I) issuing requests for proposals;*

*"(II) proceeding with awards of design-build contracts; or*

*"(III) issuing notices to proceed with preliminary design work under design-build contracts;*

*"(ii) require that the State transportation department or local transportation agency receive concurrence from the Secretary before carrying out an activity under clause (i); and*

*"(iii) preclude the design-build contractor from proceeding with final design or construction of any permanent improvement prior to completion of the process under such section 102.".*

## ***Subtitle F—Finance***

### ***SEC. 1601. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS.***

*(a) DEFINITIONS.—Section 181 of title 23, United States Code, is amended—*

*(1) in paragraph (3) by striking "category" and "offered into the capital markets";*

*(2) by striking paragraph (7) and redesignating paragraphs (8) through (15) as paragraphs (7) through (14), respectively;*

*(3) in paragraph (8) (as redesignated by paragraph (2) of this subsection)—*

*(A) in subparagraph (B) by striking the period at the end and inserting a semicolon; and*

*(B) by striking subparagraph (D) and inserting the following:*

*"(D) a project that—*

*"(i) is a project—*

*"(I) for a public freight rail facility or a private facility providing public benefit for highway users;*

*"(II) for an intermodal freight transfer facility;*

*"(III) for a means of access to a facility described in subclause (I) or (II);*

*"(IV) for a service improvement for a facility described in subclause (I) or (II) (including a capital investment for an intelligent transportation system); or*

*"(V) that comprises a series of projects described in subclauses (I) through (IV) with the common objective of improving the flow of goods;*

*"(ii) may involve the combining of private and public sector funds, including investment of public funds in private sector facility improvements; and*

*"(iii) if located within the boundaries of a port terminal, includes only such surface transportation infrastructure modifications as are necessary to facilitate direct intermodal interchange, transfer, and access into and out of the port."; and*

*(4) in paragraph (10) (as redesignated by paragraph (2) of this subsection) by striking "bond" and inserting "credit".*

*(b) DETERMINATION OF ELIGIBILITY.—Section 182(a) of such title is amended—*

*(1) by striking paragraphs (1) and (2) and inserting the following:*

*"(1) INCLUSION IN TRANSPORTATION PLANS AND PROGRAMS.—The project shall satisfy the applicable planning and programming requirements of sections 134 and 135 at such time as an agreement to make available a Federal credit instrument is entered into under this subchapter.*

*"(2) APPLICATION.—A State, local government, public authority, public-private partnership, or any other legal entity undertaking the project and authorized by the Secretary, shall submit a project application to the Secretary.";*

*(2) in paragraph (3)(A)(i) by striking "$100,000,000" and inserting "$50,000,000";*

*(3) in paragraph (3)(A)(ii) by striking "50" and inserting "33⅓";*

*(4) in paragraph (3)(B) by striking "$30,000,000" and inserting "$15,000,000"; and*

*(5) in paragraph (4)—*

*(A) by striking "Project financing" and inserting "The Federal credit instrument"; and*

*(B) by inserting before the period at the end "that also secure the project obligations".*

*(c) PROJECT SELECTION.—Section 182(b) of such title is amended—*

*(1) in paragraph (1) by striking "criteria" the second place it appears and inserting "requirements"; and*

*(2) in paragraph (2)(B) by inserting ", which may be the Federal credit instrument," after "obligations".*

*(d) SECURED LOANS.—*

*(1) AGREEMENTS.—Section 183(a)(1) of such title is amended—*

*(A) in subparagraph (A) by inserting "of any project selected under section 602" after "costs";*

*(B) by striking the semicolon at the end of subparagraph (B) and all that follows through "under section 182." and inserting "of any project selected under section 602; or"; and*

*(C) by adding at the end the following:*

*"(C) to refinance long-term project obligations or Federal credit instruments if such refinancing provides additional funding capacity for the completion, enhancement, or expansion of any project that—*

*"(i) is selected under section 602; or*

*"(ii) otherwise meets the requirements of section 602.".*

*(2) INVESTMENT-GRADE RATING REQUIREMENT.—Section 183(a)(4) of such title is amended—*

*(A) by striking "The funding" and inserting "The execution"; and*

*(B) by striking the first comma and all that follows through "1 rating agency".*

*(3) TERMS AND LIMITATIONS.—Section 183(b) of such title is amended—*

*(A) in paragraph (2)—*

*(i) by inserting "the lesser of" after "exceed"; and*

*(ii) by inserting "or, if the secured loan does not receive an investment grade rating, the amount of the senior project obligations" after "costs";*

*(B) in paragraph (3)(A)(i) by inserting "that also secure the senior project obligations" after "sources"; and*

*(C) in paragraph (4) by striking "marketable".*

*(4) REPAYMENT.—Section 183(c) of such title is amended—*

*(A) by striking paragraph (3);*

*(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;*

*(C) in paragraph (3)(A) (as redesignated by subparagraph (B) of this paragraph) by striking "during the 10 years"; and*

*(D) in subparagraph (3)(B)(ii) (as so redesignated) by striking "loan" and all that follows and inserting "loan.".*

*(e) LINES OF CREDIT.—*

*(1) TERMS AND LIMITATIONS.—Section 184(b) of such title is amended—*

*(A) by striking paragraph (2) and inserting the following:*

*"(2) MAXIMUM AMOUNTS.—The total amount of the line of credit shall not exceed 33 percent of the reasonably anticipated eligible project costs.";*

*(B) in paragraph (3) by striking ", any debt service reserve fund, and any other available reserve" and inserting "but not including reasonably required financing reserves";*

*(C) in paragraph (4)—*

*(i) by striking "marketable";*

*(ii) by striking "on which" and inserting "of execution of"; and*

*(iii) by striking "is obligated" and inserting "agreement";*

*(D) in paragraph (5)(A)(i) by inserting "that also secure the senior project obligations" after "sources"; and*

*(E) in paragraph (6) by striking "line of credit" and inserting "full amount of the line of credit, to the extent not drawn upon,".*

*(2) REPAYMENT.—Section 184(c) of such title is amended—*

*(A) in paragraph (2)—*

*(i) by striking "scheduled";*

*(ii) by inserting "be scheduled to" after "shall"; and*

*(iii) by striking "be fully repaid, with interest," and inserting "to conclude, with full repayment of principal and interest,"; and*

*(B) by striking paragraph (3).*

*(f) PROGRAM ADMINISTRATION.—Section 185 of such title is amended to read as follows:*

***"§ 185. Program administration***

*"(a) REQUIREMENT.—The Secretary shall establish a uniform system to service the Federal credit instruments made available under this subchapter.*

*"(b) FEES.—*

*"(1) IN GENERAL.—The Secretary may collect and spend fees, contingent upon authority being provided in appropriations Acts, at a level that is sufficient to cover—*

*"(A) the costs of services of expert firms retained pursuant to subsection (d); and*

*"(B) all or a portion of the costs to the Federal Government of servicing the Federal credit instruments.*

*"(c) SERVICER.—*

*"(1) IN GENERAL.—The Secretary may appoint a financial entity to assist the Secretary in servicing the Federal credit instruments.*

*"(2) DUTIES.—The servicer shall act as the agent for the Secretary.*

*"(3) FEE.—The servicer shall receive a servicing fee, subject to approval by the Secretary.*

*"(d) ASSISTANCE FROM EXPERT FIRMS.—The Secretary may retain the services of expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments.".*

*(g) FUNDING.—Section 188 of such title is amended to read as follows:*

***"§ 188. Funding***

*"(a) FUNDING.—*

*"(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subchapter $122,000,000 for each of fiscal years 2005 through 2009.*

*"(2) AVAILABILITY.—Amounts made available to carry out this chapter shall remain available until expended.*

*"(3) ADMINISTRATIVE COSTS.—From funds made available to carry out this chapter, the Secretary may use, for the administration of this subchapter, not more than $2,200,000 for each of fiscal years 2005 through 2009.*

*"(b) CONTRACT AUTHORITY.—*

*"(1) IN GENERAL.—Notwithstanding any other provision of law, approval by the Secretary of a Federal credit instrument that uses funds made available under this subchapter shall impose upon the United States a contractual obligation to fund the Federal credit investment.*

*"(2) AVAILABILITY.—Amounts authorized under this section for a fiscal year shall be available for obligation on October 1 of the fiscal year.".*

*(h) DATES FOR SUBMISSION OF REPORTS.—Section 189 of such title is amended—*

*(1) by striking the section designation and heading and inserting the following:*

***"§ 189. Reports to Congress";***

*(2) by striking "Not later than 4 years after the date of enactment of this subchapter," and inserting "On June 1, 2006, and every 2 years thereafter,"; and*

*(3) by striking "subchapter" each place it appears and inserting "chapter (other than section 610)".*

*(i) CLERICAL AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the item relating to section 185 and inserting the following:*

*"185. Program administration.".*

***SEC. 1602. STATE INFRASTRUCTURE BANKS.***

*(a) IN GENERAL.—Subchapter II of chapter 1 of title 23, United States Code, is amended by adding at the end the following:*

***"§ 190. State infrastructure bank program***

*"(a) DEFINITIONS.—In this section, the following definitions apply:*

*"(1) CAPITAL PROJECT.—The term 'capital project' has the meaning such term has under section 5302 of title 49.*

*"(2) OTHER FORMS OF CREDIT ASSISTANCE.—The term 'other forms of credit assistance' includes any use of funds in an infrastructure bank—*

*"(A) to provide credit enhancements;*

*"(B) to serve as a capital reserve for bond or debt instrument financing;*

*"(C) to subsidize interest rates;*

*"(D) to insure or guarantee letters of credit and credit instruments against credit risk of loss;*

*"(E) to finance purchase and lease agreements with respect to transit projects;*

*"(F) to provide bond or debt financing instrument security; and*

*"(G) to provide other forms of debt financing and methods of leveraging funds that are approved by the Secretary and that relate to the project with respect to which such assistance is being provided.*

*"(3) STATE.—The term 'State' has the meaning such term has under section 401.*

*"(4) CAPITALIZATION.—The term 'capitalization' means the process used for depositing funds as initial capital into a State infrastructure bank to establish the infrastructure bank.*

*"(5) COOPERATIVE AGREEMENT.—The term 'cooperative agreement' means written consent between a State and the Secretary which sets forth the manner in which the infrastructure bank established by the State in accordance with this section will be administered.*

*"(6) LOAN.—The term 'loan' means any form of direct financial assistance from a State infrastructure bank that is required to be repaid over a period of time and that is provided to a project sponsor for all or part of the costs of the project.*

*"(7) GUARANTEE.—The term 'guarantee' means a contract entered into by a State infrastructure bank in which the bank agrees to take responsibility for all or a portion of a project sponsor's financial obligations for a project under specified conditions.*

*"(8) INITIAL ASSISTANCE.—The term 'initial assistance' means the first round of funds that are loaned or used for credit enhancement by a State infrastructure bank for projects eligible for assistance under this section.*

*"(9) LEVERAGE.—The term 'leverage' means a financial structure used to increase funds in a State infrastructure bank through the issuance of debt instruments.*

*"(10) LEVERAGED.—The term 'leveraged', as used with respect to a State infrastructure bank, means that the bank has total potential liabilities that exceed the capital of the bank.*

*"(b) COOPERATIVE AGREEMENTS.—Subject to the provisions of this section, the Secretary may enter into cooperative agreements with States for the establishment of State infrastructure banks for making loans and providing other forms of credit assistance to public and private entities carrying out or proposing to carry out projects eligible for assistance under this section.*

*"(c) INTERSTATE COMPACTS.—*

*"(1) IN GENERAL.—Congress grants consent to 2 or more of the States, entering into a cooperative agreement under subsection (a) with the Secretary for the establishment by such States of a multistate infrastructure bank in accordance with this section, to enter into an interstate compact establishing such bank in accordance with this section.*

*"(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.*

*"(d) FUNDING.—*

*"(1) HIGHWAY ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank to deposit into the highway account of the bank not to exceed—*

*"(A) 10 percent of the funds apportioned to the State for each of fiscal years 2005 through 2009 under each of sections 104(b)(1), 104(b)(3), 104(b)(4), and 144; and*

*"(B) 10 percent of the funds allocated to the State for each of such fiscal years under section 105.*

*"(2) TRANSIT ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under section 5307, 5309, or 5311 of title 49, to deposit into the transit account of the bank not to exceed 10 percent of the funds made available to the State or other recipient in each of fiscal years 2005 through 2009 for capital projects under each of such sections.*

*"(3) RAIL ACCOUNT.—Subject to subsection (j), the Secretary may permit a State entering into a cooperative agreement under this section to establish a State infrastructure bank, and any other recipient of Federal assistance under subtitle V of title 49, to deposit into the rail account of the bank funds made available to the State or other recipient in each of fiscal years 2005 through 2009 for capital projects under such subtitle.*

*"(4) CAPITAL GRANTS.—*

*"(A) HIGHWAY ACCOUNT.—Federal funds deposited into a highway account of a State infrastructure bank under paragraph (1) shall constitute for purposes of this section a capitalization grant for the highway account of the bank.*

*"(B) TRANSIT ACCOUNT.—Federal funds deposited into a transit account of a State infrastructure bank under paragraph (2) shall constitute for purposes of this section a capitalization grant for the transit account of the bank.*

*"(C) RAIL ACCOUNT.—Federal funds deposited into a rail account of a State infrastructure bank under paragraph 3 shall constitute for purposes of this section a capitalization grant for the rail account of the bank.*

*"(5) SPECIAL RULE FOR URBANIZED AREAS OF OVER 200,000.—Funds in a State infrastructure bank that are attributed to urbanized areas of a State with urbanized populations of over 200,000 under section 133(d)(3) may be used to provide assistance with respect to a project only if the metropolitan planning organization designated for such area concurs, in writing, with the provision of such assistance.*

*"(6) DISCONTINUANCE OF FUNDING.—If the Secretary determines that a State is not implementing the State's infrastructure bank in accordance with a cooperative agreement entered into under subsection (b), the Secretary may prohibit the State from contributing additional Federal funds to the bank.*

*"(e) FORMS OF ASSISTANCE FROM INFRASTRUCTURE BANKS.—An infrastructure bank established under this section may make loans or provide other forms of credit assistance to a public or private entity in an amount equal to all or a part of the cost of carrying out a project eligible for assistance under this section. The amount of any loan or other form of credit assistance provided for the project may be subordinated to any other debt financing for the project. Initial assistance provided with respect to a project from Federal funds deposited into an infrastructure bank under this section may not be made in the form of a grant.*

*"(f) ELIGIBLE PROJECTS.—Subject to subsection (e), funds in an infrastructure bank established under this section may be used only to provide assistance for projects eligible for assistance under this title and capital projects defined in section 5302 of title 49, and any other projects relating to surface transportation that the Secretary determines to be appropriate.*

*"(g) INFRASTRUCTURE BANK REQUIREMENTS.—In order to establish an infrastructure bank under this section, the State establishing the bank shall—*

*"(1) deposit in cash, at a minimum, into each account of the bank from non-Federal sources an amount equal to 25 percent of the amount of each capitalization grant made to the State and deposited into such account; except that, if the deposit is into the highway account of the bank and the State has a non-Federal share under section 120(b) that is less than 25 percent, the percentage to be deposited from non-Federal sources shall be the lower percentage of such grant;*

*"(2) ensure that the bank maintains on a continuing basis an investment grade rating on its debt, or has a sufficient level of bond or debt financing instrument insurance, to maintain the viability of the bank;*

*"(3) ensure that investment income derived from funds deposited to an account of the bank are—*

*"(A) credited to the account;*

*"(B) available for use in providing loans and other forms of credit assistance to projects eligible for assistance from the account; and*

*"(C) invested in United States Treasury securities, bank deposits, or such other financing instruments as the Secretary may approve to earn interest to enhance the leveraging of projects assisted by the bank;*

*"(4) ensure that any loan from the bank will bear interest at or below market interest rates, as determined by the State, to make the project that is the subject of the loan feasible;*

*"(5) ensure that repayment of any loan from the bank will commence not later than 5 years after the project has been completed or, in the case of a highway project, the facility has opened to traffic, whichever is later;*

*"(6) ensure that the term for repaying any loan will not exceed 30 years after the date of the first payment on the loan; and*

*"(7) require the bank to make an annual report to the Secretary on its status no later than September 30 of each year and such other reports as the Secretary may require under guidelines issued to carry out this section.*

*"(h) APPLICABILITY OF FEDERAL LAW.—*

*"(1) IN GENERAL.—The requirements of this title and title 49 that would otherwise apply to funds made available under this title or such title and projects assisted with those funds shall apply to—*

*"(A) funds made available under this title or such title and contributed to an infrastructure bank established under this section, including the non-Federal contribution required under subsection (g); and*

*"(B) projects assisted by the bank through the use of the funds;*

*except to the extent that the Secretary determines that any requirement of such title (other than sections 113 and 114 of this title and section 5333 of title 49) is not consistent with the objectives of this section.*

*"(2) REPAYMENTS.—The requirements of this title and title 49 shall apply to repayments from non-Federal sources to an infrastructure bank from projects assisted by the bank. Such a repayment shall be considered to be Federal funds.*

*"(i) UNITED STATES NOT OBLIGATED.—The deposit of Federal funds into an infrastructure bank established under this section shall not be construed as a commitment, guarantee, or obligation on the part of the United States to any third party, nor shall any third party have any right against the United States for payment solely by virtue of the contribution. Any security or debt-financing instrument issued by the infrastructure bank shall expressly state that the security or instrument does not constitute a commitment, guarantee, or obligation of the United States.*

*"(j) MANAGEMENT OF FEDERAL FUNDS.—Sections 3335 and 6503 of title 31 shall not apply to funds deposited into an infrastructure bank under this section.*

*"(k) PROGRAM ADMINISTRATION.—For each of fiscal years 2005 through 2009, a State may expend not to exceed 2 percent of the Federal funds contributed to an infrastructure bank established by the State under this section to pay the reasonable costs of administering the bank.".*

*(b) PREPARATORY AMENDMENTS.—*

*(1) SECTION 181.—Section 181 of such title is amended—*

*(A) by striking the section designator and heading and inserting the following:*

***"§ 181. Generally applicable provisions"**;*

*(B) by striking "In this subchapter" and inserting the following:*

*"(a) DEFINITIONS.—In this chapter";*

*(C) in paragraph (5) by striking "184" and inserting "604";*

*(D) in paragraph (11) (as redesignated by section 1601(a) of this Act) by striking "183" and inserting "603"; and*

*(E) by adding at the end the following:*

*"(b) TREATMENT OF CHAPTER.—For purposes of this title, this chapter shall be treated as being part of chapter 1.".*

*(2) SECTION 182.—Section 182(b)(2)(A)(viii) of such title is amended by inserting "and chapter 1" after "this chapter".*

*(3) SECTION 183.—Section 183(a)(3) of such title is amended by striking "182(b)(2)(B)" and inserting "602(b)(2)(B)".*

*(4) SECTION 184.—Section 184 of such title is amended—*

*(A) in subsection (a)(1) by striking "182" and inserting "602";*

*(B) in subsection (a)(3) by striking "182(b)(2)(B)" and inserting "602(b)(2)(B)"; and*

*(C) in subsection (b)(10) by striking "183" and inserting "603".*

*(5) REFERENCES IN SUBCHAPTER.—Subchapter II of chapter 1 of such title is amended by striking "this subchapter" each place it appears and inserting "this chapter".*

*(6) SUBCHAPTER HEADINGS.—Chapter 1 of such title is further amended—*

*(A) by striking "SUBCHAPTER I—GENERAL PROVISIONS" preceding section 101; and*

*(B) by striking "SUBCHAPTER II—INFRASTRUCTURE FINANCE" preceding section 181.*

*(c) CHAPTER 6.—Such title is further amended by adding at the end the following:*

### *"CHAPTER 6—INFRASTRUCTURE FINANCE*

*"Sec.*
*"601. Generally applicable provisions.*
*"602. Determination of eligibility and project selection.*
*"603. Secured loans.*
*"604. Lines of credit.*
*"605. Program administration.*
*"606. State and local permits.*
*"607. Regulations.*
*"608. Funding.*
*"609. Reports to Congress.*
*"610. State infrastructure bank program.".*

*(d) MOVING AND REDESIGNATING.—Such title is further amended—*

*(1) by redesignating sections 181 through 189 as sections 601 through 609, respectively;*

*(2) by moving such sections from chapter 1 to chapter 6 (as added by subsection (c)); and*

*(3) by inserting such sections after the analysis for chapter 6.*

*(e) ANALYSIS FOR CHAPTER 1 AND TABLE OF CHAPTERS.—*

*(1) ANALYSIS FOR CHAPTER 1.—The analysis for chapter 1 of such title is amended—*

*(A) by striking the headings for subchapters I and II; and*

*(B) by striking the items relating to sections 181 through 189.*

*(2) TABLE OF CHAPTERS.—The table of chapters for such title is amended by inserting after the item relating to chapter 5 the following:*

*"6. Infrastructure Finance .................. 601.".*

### *SEC. 1603. USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS.*

*(a) DEFINITIONS.—In this section, the following definitions apply:*

*(1) ELIGIBLE FUNDS.—*

*(A) IN GENERAL.—The term "eligible funds" means excess funds or inactive funds for a specific transportation project or activity that were—*

*(i) allocated before fiscal year 1991; and*

*(ii) designated in a public law, or a report accompanying a public law, for allocation for the specific surface transportation project or activity.*

*(B) INCLUSION.—The term "eligible funds" includes funds described in subparagraph (A) that were allocated and designated for a demonstration project.*

*(2) EXCESS FUNDS.—The term "excess funds" means—*

*(A) funds obligated for a specific transportation project or activity that remain available for the project or activity after the project or activity has been completed or canceled; or*

*(B) an unobligated balance of funds allocated for a transportation project or activity that the State in which the project or activity was to be*

*carried out certifies are no longer needed for the project or activity.*

*(3) Inactive funds.—The term "inactive funds" means—*

*(A) an obligated balance of Federal funds for an eligible transportation project or activity against which no expenditures have been charged during any 1-year period beginning after the date of obligation of the funds; and*

*(B) funds that are available to carry out a transportation project or activity in a State, but, as certified by the State, are unlikely to be advanced for the project or activity during the 1-year period beginning on the date of certification.*

*(b) Availability for STP Purposes.—Eligible funds shall be—*

*(1) made available in accordance with this section to the State that originally received the funds; and*

*(2) available for obligation for any eligible purpose under section 133 of title 23, United States Code.*

*(c) Retention for Original Purpose.—*

*(1) In general.—The Secretary may determine that eligible funds identified as inactive funds shall remain available for the purpose for which the funds were initially made available if the applicable State certifies that the funds are necessary for that initial purpose.*

*(2) Report.—A certification provided by a State under paragraph (1) shall include a report on the status of, and an estimated completion date for, the project that is the subject of the certification.*

*(d) Authority to Obligate.—Notwithstanding the original source or period of availability of eligible funds, the Secretary may, on the request by a State—*

*(1) obligate the funds for any eligible purpose under section 133 of title 23, United States Code; or*

*(2)(A) deobligate the funds; and*

*(B) reobligate the funds for any eligible purpose under that section.*

*(e) Applicability.—*

*(1) In general.—Subject to paragraph (2), this section applies only to eligible funds.*

*(2) Discretionary allocations; section 125 projects.—This section does not apply to funds that are—*

*(A) allocated at the discretion of the Secretary and for which the Secretary has the authority to withdraw the allocation for use on other projects; or*

*(B) made available to carry out projects under section 125 of title 23, United States Code.*

*(f) Period of Availability; Title 23 Requirements.—*

*(1) In general.—Notwithstanding the original source or period of availability of eligible funds obligated, or deobligated and reobligated, under subsection (d), the eligible funds—*

*(A) shall remain available for obligation for a period of 3 fiscal years after the fiscal year in which this Act is enacted; and*

*(B) except as provided in paragraph (2), shall be subject to the requirements of title 23, United States Code, that apply to section 133 of that title, including provisions relating to Federal share.*

*(2) Exception.—With respect to eligible funds described in paragraph (1)—*

*(A) section 133(d) of title 23, United States Code, shall not apply; and*

*(B) the period of availability of the eligible funds shall be determined in accordance with this section.*

*(g) Report.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report describing any action taken by the Secretary under this section.*

*(h) Sense of Congress Regarding Use of Eligible Funds.—It is the sense of Congress that eligible funds made available under this Act or title 23, United States Code, should be available for obligation for transportation projects and activities in the same geographic region for which the eligible funds were initially made available.*

### ***SEC. 1604. TOLLING.***

*(a) Value Pricing Pilot Program.—Section 1012(b)(8) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 149 note; 105 Stat. 1938) is amended—*

*(1) by redesignating subparagraphs (A) and (B) as subparagraphs (C) and (D), respectively; and*

*(2) by inserting before subparagraph (C) (as redesignated by paragraph (1)) the following:*

*"(A) In general.—There are authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to carry out this subsection—*

*"(i) for fiscal year 2005, $11,000,000; and*

*"(ii) for each of fiscal years 2006 through 2009, $12,000,000.*

*"(B) Set-aside for projects not involving highway tolls.—Of the amounts made available to carry out this subsection, $3,000,000 for each of fiscal years 2006 through 2009 shall be available only for congestion pricing pilot projects that do not involve highway tolls.".*

*(b) Express Lanes Demonstration Program.—*

*(1) Definitions.—In this subsection, the following definitions apply:*

*(A) Eligible toll facility.—The term "eligible toll facility" includes—*

*(i) a facility in existence on the date of enactment of this Act that collects tolls;*

*(ii) a facility in existence on the date of enactment of this Act that serves high occupancy vehicles;*

*(iii) a facility modified or constructed after the date of enactment of this Act to create additional tolled lane capacity (including a facility constructed by a private entity or using private funds); and*

*(iv) in the case of a new lane added to a previously non-tolled facility, only the new lane.*

*(B) Nonattainment area.—The term "nonattainment area" has the meaning given that term in section 171 of the Clean Air Act (42 U.S.C. 7501).*

*(2) Demonstration program.—Notwithstanding sections 129 and 301 of title 23, United States Code, the Secretary shall carry out 15 demonstration projects during the period of fiscal years 2005 through 2009 to permit States, public authorities, or a public or private entities designated by States, to collect a toll from motor vehicles at an eligible toll facility for any highway, bridge, or tunnel, including facilities on the Interstate System—*

*(A) to manage high levels of congestion;*

*(B) to reduce emissions in a nonattainment area or maintenance area; or*

*(C) to finance the expansion of a highway, for the purpose of reducing traffic congestion, by constructing 1 or more additional lanes (including bridge, tunnel, support, and other structures necessary for that construction) on the Interstate System.*

*(3) Limitation on use of revenues.—*

*(A) Use.—*

*(i) In general.—Toll revenues received under paragraph (2) shall be used by a State, public authority, or private entity designated by a State, for—*

*(I) debt service;*

*(II) a reasonable return on investment of any private financing;*

*(III) the costs necessary for proper operation and maintenance of any facilities under paragraph (2) (including reconstruction, resurfacing, restoration, and rehabilitation); or*

*(IV) if the State, public authority, or private entity annually certifies that the tolled facility is being adequately operated and maintained, any other purpose relating to a highway or transit project carried out under title 23 or 49, United States Code.*

*(B) Requirements.—*

*(i) Variable price requirement.—A facility that charges tolls under this subsection may establish a toll that varies in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.*

*(ii) HOV variable pricing requirement.—The Secretary shall require, for each high occupancy vehicle facility that charges tolls under this subsection, that the tolls vary in price according to time of day or level of traffic, as appropriate to manage congestion or improve air quality.*

*(iii) HOV passenger requirements.—Pursuant to section 166 of title 23, United States Code, a State may permit motor vehicles with fewer than 2 occupants to operate in high occupancy vehicle lanes as part of a variable toll pricing program established under this subsection.*

*(C) Agreement.—*

*(i) In general.—Before the Secretary may permit a facility to charge tolls under this subsection, the Secretary and the applicable State, public authority, or private entity designated by a State shall enter into an agreement for each facility incorporating the conditions described in subparagraphs (A) and (B).*

*(ii) Termination.—An agreement under clause (i) shall terminate with respect to a facility upon the decision of the State, public authority, or private entity designated by a State to discontinue the variable tolling program under this subsection for the facility.*

*(iii) Debt.—If there is any debt outstanding on a facility at the time at which the decision is made to discontinue the program under this subsection with respect to the facility, the facility may continue to charge tolls in accordance with the terms of the agreement until such time as the debt is retired.*

*(D) Limitation on federal share.—The Federal share of the cost of a project on a facility tolled under this subsection, including a project to install the toll collection facility shall be a percentage, not to exceed 80 percent, determined by the applicable State.*

*(4) Eligibility.—To be eligible to participate in the program under this subsection, a State, public authority, or private entity designated by a State shall provide to the Secretary—*

*(A) a description of the congestion or air quality problems sought to be addressed under the program;*

*(B) a description of—*

*(i) the goals sought to be achieved under the program; and*

*(ii) the performance measures that would be used to gauge the success made toward reaching those goals; and*

*(C) such other information as the Secretary may require.*

*(5) Automation.—Fees collected from motorists using an express lane shall be collected only through the use of noncash electronic technology that optimizes the free flow of traffic on the tolled facility.*

*(6) Interoperability.—*

*(A) In general.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate a final rule specifying requirements, standards, or performance specifications for automated toll collection systems implemented under this section.*

*(B) Development.—In developing that rule, which shall be designed to maximize the interoperability of electronic collection systems, the*

*Secretary shall, to the maximum extent practicable—*

*(i) seek to accelerate progress toward the national goal of achieving a nationwide interoperable electronic toll collection system;*

*(ii) take into account the use of noncash electronic technology currently deployed within an appropriate geographical area of travel and the noncash electronic technology likely to be in use within the next 5 years; and*

*(iii) seek to minimize additional costs and maximize convenience to users of toll facility and to the toll facility owner or operator.*

*(7) Reporting.—*

*(A) In general.—The Secretary, in cooperation with State and local agencies and other program participants and with opportunity for public comment, shall—*

*(i) develop and publish performance goals for each express lane project;*

*(ii) establish a program for regular monitoring and reporting on the achievement of performance goals, including—*

*(I) effects on travel, traffic, and air quality;*

*(II) distribution of benefits and burdens;*

*(III) use of alternative transportation modes; and*

*(IV) use of revenues to meet transportation or impact mitigation needs.*

*(B) Reports to congress.—The Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—*

*(i) not later than 1 year after the date of enactment of this Act, and annually thereafter, a report that describes in detail the uses of funds under this subsection in accordance with paragraph (8)(D); and*

*(ii) not later than 3 years after the date of enactment of this Act, and every 3 years thereafter, a report that describes any success of the program under this subsection in meeting congestion reduction and other performance goals established for express lane programs.*

*(c) Interstate System Construction Toll Pilot Program.—*

*(1) Establishment.—The Secretary shall establish and implement an Interstate System construction toll pilot program under which the Secretary, notwithstanding sections 129 and 301 of title 23, United States Code, may permit a State or an interstate compact of States to collect tolls on a highway, bridge, or tunnel on the Interstate System for the purpose of constructing Interstate highways.*

*(2) Limitation on number of facilities.—The Secretary may permit the collection of tolls under this section on 3 facilities on the Interstate System.*

*(3) Eligibility.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains, at a minimum, the following:*

*(A) An identification of the facility on the Interstate System proposed to be a toll facility.*

*(B) In the case of a facility that affects a metropolitan area, an assurance that the metropolitan planning organization designated under section 134 or 135 for the area has been consulted concerning the placement and amount of tolls on the facility.*

*(C) An analysis demonstrating that financing the construction of the facility with the collection of tolls under the pilot program is the most efficient and economical way to advance the project.*

*(D) A facility management plan that includes—*

*(i) a plan for implementing the imposition of tolls on the facility;*

*(ii) a schedule and finance plan for the construction of the facility using toll revenues;*

*(iii) a description of the public transportation agency that will be responsible for implementation and administration of the pilot program;*

*(iv) a description of whether consideration will be given to privatizing the maintenance and operational aspects of the facility, while retaining legal and administrative control of the portion of the Interstate route; and*

*(v) such other information as the Secretary may require.*

*(4) Selection criteria.—The Secretary may approve the application of a State under paragraph (3) only if the Secretary determines that—*

*(A) the State's analysis under paragraph (3)(C) is reasonable;*

*(B) the State plan for implementing tolls on the facility takes into account the interests of local, regional, and interstate travelers;*

*(C) the State plan for construction of the facility using toll revenues is reasonable;*

*(D) the State will develop, manage, and maintain a system that will automatically collect the tolls; and*

*(E) the State has given preference to the use of a public toll agency with demonstrated capability to build, operate, and maintain a toll expressway system meeting criteria for the Interstate System.*

*(5) Prohibition on noncompete agreements.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that the State will not enter into an agreement with a private person under which the State is prevented from improving or expanding the capacity of public roads adjacent to the toll facility to address conditions resulting from traffic diverted to such roads from the toll facility, including—*

*(A) excessive congestion;*

*(B) pavement wear; and*

*(C) an increased incidence of traffic accidents, injuries, or fatalities.*

*(6) Limitations on use of revenues; audits.—Before the Secretary may permit a State to participate in the pilot program, the State must enter into an agreement with the Secretary that provides that—*

*(A) all toll revenues received from operation of the toll facility will be used only for—*

*(i) debt service;*

*(ii) reasonable return on investment of any private person financing the project; and*

*(iii) any costs necessary for the improvement of and the proper operation and maintenance of the toll facility, including reconstruction, resurfacing, restoration, and rehabilitation of the toll facility; and*

*(B) regular audits will be conducted to ensure compliance with subparagraph (A) and the results of such audits will be transmitted to the Secretary.*

*(7) Limitation on use of interstate maintenance funds.—During the term of the pilot program, funds apportioned for Interstate maintenance under section 104(b)(4) of title 23, United States Code, may not be used on a facility for which tolls are being collected under the program.*

*(8) Program term.—The Secretary may approve an application of a State for permission to collect a toll under this section only if the application is received by the Secretary before the last day of the 10-year period beginning on the date of enactment of this Act.*

*(9) Interstate system defined.—In this section, the term "Interstate System" has the meaning such term has under section 101 of title 23, United States Code.*

## *Subtitle G—High Priority Projects*

### *SEC. 1701. HIGH PRIORITY PROJECTS PROGRAM.*

*(a) Authorization of High Priority Projects.—Section 117(a) of title 23, United States Code, is amended to read as follows:*

*"(a) Authorization of High Priority Projects.—*

*"(1) In general.—The Secretary is authorized to carry out high priority projects with funds made available to carry out the high priority projects program under this section.*

*"(2) Availability of funds.—*

*"(A) For TEA21.—Of amounts made available to carry out this section for fiscal years 1998 through 2003, the Secretary, subject to subsection (b), shall make available to carry out each project described in section 1602 of the Transportation Equity Act for the 21st Century the amount listed for such project in such section.*

*"(B) For SAFETEA–LU.—Of amounts made available to carry out this section for fiscal years 2005 through 2009, the Secretary, subject to subsection (b), shall make available to carry out each project described in section 1702 of the SAFETEA–LU the amount listed for such project in such section.*

*"(3) Availability of unallocated funds.—Any amounts made available to carry out such program that are not allocated for projects described in such section shall be available to the Secretary, subject to subsection (b), to carry out such other high priority projects as the Secretary determines appropriate.".*

*(b) Allocation Percentages.—Section 117(b) of such title is amended to read as follows:*

*"(b) For TEA21.—For each project to be carried out with funds made available to carry out the high priority projects program under this section for fiscal years 1998 through 2003—*

*"(1) 11 percent of such amount shall be available for obligation beginning in fiscal year 1998;*

*"(2) 15 percent of such amount shall be available for obligation beginning in fiscal year 1999;*

*"(3) 18 percent of such amount shall be available for obligation beginning in fiscal year 2000;*

*"(4) 18 percent of such amount shall be available for obligation beginning in fiscal year 2001;*

*"(5) 19 percent of such amount shall be available for obligation beginning in fiscal year 2002; and*

*"(6) 19 percent of such amount shall be available for obligation beginning in fiscal year 2003.*

*"(c) For SAFETEA-LU.—For each project to be carried out with funds made available to carry out the high priority projects program under this section for fiscal years 2005 through 2009—*

*"(1) 20 percent of such amount shall be available for obligation beginning in fiscal year 2005;*

*"(2) 20 percent of such amount shall be available for obligation beginning in fiscal year 2006;*

*"(3) 20 percent of such amount shall be available for obligation beginning in fiscal year 2007;*

*"(4) 20 percent of such amount shall be available for obligation beginning in fiscal year 2008; and*

*"(5) 20 percent of such amount shall be available for obligation beginning in fiscal year 2009.".*

*(c) Advance Construction.—Section 117(e) of such title is amended—*

*(1) in paragraph (1) by inserting after "21st Century" the following: "or section 1701 of the SAFETEA-LU , as the case may be,"; and*

*(2) by striking "section 1602 of the Transportation Equity Act for the 21st Century." and inserting "such section 1602 or 1702, as the case may be."*

*(d) Availability of Obligation Limitation.—Section 117(g) of such title is amended by inserting after "21st Century" the following: "or section 1102(g) of the SAFETEA–LU, as the case may be".*

*(e) Federal-State Relationship.—Section 145(b) of such title is amended—*

*(1) by inserting after "described in" the following: "section 1702 of the SAFETEA–LU,";*

*(2) by inserting after "for such projects by" the following: "section 1101(a)(16) of the SAFETEA-LU,"; and*

*(3) by striking "117 of title 23, United States Code." and inserting "section 117 of this title,".*

***SEC. 1702. PROJECT AUTHORIZATIONS.***

*Subject to section 117 of title 23, United States Code, the amount listed for each high priority project in the following table shall be available (from amounts made available by section 1101(a)(16) of this Act) for fiscal years 2005 through 2009 to carry out each such project:*

## High Priority Projects

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1 | CA | Construct safe access to streets for bicyclists and pedestrians including crosswalks, sidewalks and traffic calming measures, Covina | $400,000 |
| 2 | CA | Develop and implement ITS master plan in Anaheim | $800,000 |
| 3 | TN | Improve circuitry on vehicle protection device installed at highway—RR crossing in Athens, TN | $47,200 |
| 4 | CA | Builds a pedestrian bridge from Hiller Street to the Bay Trail, Belmont . | $1,960,000 |
| 5 | OH | Renovate and expand National Packard Museum and adjacent historic Packard facilities | $2,750,000 |
| 6 | IL | Land acquisition for the widening of Rt. 47 in Yorkville, IL . | $4,000,000 |
| 7 | NE | Interstate 80 Interchange at Pflug Road, Sarpy County, Nebraska | $1,600,000 |
| 8 | TX | Construction of Segment #1 of Morrison Road for the City of Brownsville . | $1,600,000 |
| 9 | MI | I–96 at Latson Road Interchange Improvements . | $4,800,000 |
| 10 | IL | Preconstruction and Construction of IL 83 at IL 132 | $800,000 |
| 11 | TN | Add third lane on U.S. 27 (State Route 29) for truck-climbing lane and realignment of roadway at Wolf Creek Road to Old U.S. 27 north of Robbins | $4,800,000 |
| 12 | MI | Reconfiguration of U.S. 31 from the Manistee Bascule Bridge to Lincoln Street in the city of Manistee | $600,000 |
| 13 | AR | Bentonville, Arkansas—widen and improve I– 540 and SH–102 Interchange . | $1,420,000 |
| 14 | WA | Interstate 5 and 41st Street/Broadway Interchange and Arterial Improvement Project, Everett | $3,180,000 |
| 15 | CA | Reconstruct and deep-lift asphalt on various roads throughout the district in Santa Barbara County . | $4,000,000 |
| 16 | OK | Improving the I–35 Interchange at Milepost 1 Near Thackerville . | $1,600,000 |
| 17 | NJ | Laurel Avenue Bridge replacement in Holmdel Township | $800,000 |
| 18 | OH | Construct overpass over CSX Railroad on Columbia Road (State Route 252), Olmsted Falls | $448,000 |
| 19 | TN | Reconstruct and widen U.S. 72 from south of State Route 175 to State Route 57, Shelby County | $800,000 |
| 20 | NY | Construct roundabout at Oregon Road— Westbrook Dr—Red Mill Road in Town of Cortlandt | $380,000 |
| 21 | IL | Construct Bike, Pedestrian Paths, Orland Hills | $320,000 |
| 22 | PA | Construct I–79/Rte 3025 missing ramps at Jackson Township, PA | $920,000 |
| 23 | NY | John Street Extension-Lehigh Station Road to Bailey Road in the Town of Henrietta | $2,000,000 |
| 24 | TX | Extension of SH 349 to US 87 Relief Route in Dawson County | $2,000,000 |
| 25 | IL | Parking facility in Peoria, IL | $800,000 |
| 26 | IL | Construct Interchange on Interstate 255/Davis Ferry Road, Dupo | $17,500,000 |
| 27 | MN | Construction and right-of-way acquisition for interchange at TH65 and TH242 in Blaine, MN . | $3,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 28 | CA | Huntington Beach, Remove off-ramp on I–405 at Beach Blvd. Construct fourth lane on I– 405 North, at the Beach Blvd. interchange | $400,000 |
| 29 | TN | Addition of an interchange on I–40 in Roane County at Buttermilk Road and I–40 . | $2,400,000 |
| 30 | NY | Purchase Three Ferries and Establish System for Ferry Service from Rockaway Peninsula to Manhattan | $15,000,000 |
| 31 | IL | Reconstruction of Mockingbird Lane and Stratford St, Granite City . | $1,600,000 |
| 32 | FL | Construction a new multi-lane tunnel below the channel to link the Port of Miami on Dodge Island with I–395 on Watson Island and I– 95 in Downtown Miami . | $400,000 |
| 33 | MD | Rehabilitation of West Baltimore Trail and Implementation of Pedestrian Improvements Along Associated Roadways . | $720,000 |
| 34 | TN | Removal and Reconfiguration of Interstate Ramps—I–240, Memphis | $2,400,000 |
| 35 | CA | Replace structurally unsafe Winters Bridge for vehicles, bicycles and pedestrians between Yolo and Solano Counties | $1,600,000 |
| 36 | IL | City of Havana, Illinois Upgrades to Broadway Street . | $762,058 |
| 37 | MN | Construction of Gitchi-Gami State Trail from Cascade River to Grand Marais | $900,000 |
| 38 | LA | Develop master transportation plan for the New Orleans Regional Medical Center | $400,000 |
| 39 | VA | Final Design and Construction for improvements at I–64 and City Line Road, Virginia Beach and Chesapeake | $800,000 |
| 40 | MA | Replacement of Cross Street Bridge spanning flood prone Aberjona River, Winchester | $800,000 |
| 41 | NC | Construction of and improvement to I–73, I– 74, U.S. 220 in Montgomery and Randolph Counties, NC | $8,800,000 |
| 42 | IA | Access and transportation enhancements to access Lake Belva Deer, Sigourney | $1,600,000 |
| 43 | CA | Roadway surface improvements, street lighting, and storm drain improvements to South Center Street from Baughman Road to State Route 78/86, Westmorland | $640,000 |
| 44 | TX | Construct two connectors between SH 288 and Beltway 8 | $1,800,000 |
| 45 | NY | Implement Central NY highway grade crossing and grade separation project . | $1,600,000 |
| 46 | CA | Douglas St. Improvements, El Segundo | $3,200,000 |
| 47 | MA | Reconstruction of Massachusetts Avenue including safety improvements and related pedestrian, bike way in Arlington . | $1,600,000 |
| 48 | NY | Reconstruction of Rt 5, 8, 12 (North South Arterial) Burrstone Rd. to Oriskany Circle, City of Utica | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 49 | OK | Construction of Norman highway-rail Grade Separation | $1,600,000 |
| 50 | PA | Construction of the Montour Trail, Great Allegheny Passage | $1,600,000 |
| 51 | CA | Route 1 San Pedro Creek Bridge replacement in Pacifica | $2,500,000 |
| 52 | MI | South Lyon, 2nd St. between Warren and Haggadorn . | $100,000 |
| 53 | PA | Street improvements, Abington Township . | $1,600,000 |
| 54 | IA | Study of a direct link to I 80, Pella | $400,000 |
| 55 | TN | Knoxville, TN Cessna Rd. Improving At-Grade highway-railroad Crossings . | $76,800 |
| 56 | OR | Construct bike/pedestrian path, Powers | $440,000 |
| 57 | IL | IL 29 from IL 6 to I–180—Phase 2 study and land acquisition | $1,600,000 |
| 58 | FL | Construct a new bridge at Indian Street, Martin County | $800,000 |
| 59 | GA | Improve sidewalks, upgrade lighting, and add landscaping in downtown Glennville | $400,000 |
| 60 | LA | Continue planning and construction of the New Orleans Regional Planning Commission Mississippi River trail in St. John, Plaquemines St. Bernard and St. Charles parishes . | $1,520,000 |
| 61 | MO | Road widening and curb and gutter improvements on Hwy 33 in Kearney | $2,400,000 |
| 62 | TX | The SH146, Port Rd direct connectors allows traffic bypass several rail lines & traffic signals at, near intersection of SH146 and Port Rd | $10,560,000 |
| 63 | UT | Reconstruct South Moore Cut-off Road in Emery County | $7,500,000 |
| 64 | PA | Improvements to exits along Interstate 81 in Franklin County, PA—Antrim Road | $6,560,000 |
| 65 | OH | Plan and construct the Southeast Arterial Connector highway at Delaware, Ohio | $4,480,000 |
| 66 | TN | To construct transportation enhancements on a multi-faceted greenway in downtown Columbia on the Duck River . | $6,400,000 |
| 67 | RI | New Interchange constructed from I–195 to Taunton and Warren Avenue in East Providence | $4,640,000 |
| 68 | NY | Town of Chester reconstruction of Walton Lake Estates subdivision and related roads . | $64,000 |
| 69 | NC | Extend M.L. King Jr. Boulevard in Monroe . | $1,600,000 |
| 70 | NY | Town of Fishkill Old Glenham Road (aka Washington Ave) reconstruction | $260,400 |
| 71 | PA | U.S. Route 13 Corridor Reconstruction, Redevelopment and Beautification, Bucks County | $4,000,000 |
| 72 | NY | Rochester & Southern Highway-Rail Grade Crossing Bypass, Silver Springs, New York | $1,464,000 |
| 73 | IL | Upgrade streets in the City of Rushville, IL . | $800,000 |
| 74 | MO | Construct 2 lanes on Chouteau Trafficway from MO 210 to I–35 | $1,600,000 |
| 75 | AZ | US 60 to Gonzalez Pass | $3,040,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 76 | LA | Interstate lighting system (I 10 and LA 93) | $240,000 |
| 77 | | | $0 |
| 78 | WA | SR 704 Cross-Base Highway, Spanaway Loop Road to SR 7 . | $1,200,000 |
| 79 | NY | Village of Brewster Main Street and Route 6 related construction and improvements . | $780,000 |
| 80 | PA | Design and construct relocation of US 11 between Ridge Hill and Hempt Roads | $4,544,000 |
| 81 | VA | Improve Route 42 (Main Street) in Bridgewater, Virginia . | $400,000 |
| 82 | NY | Construction of Route 59 Palisades Interstate Parkway to Route 303 | $1,000,000 |
| 83 | IL | Improve University Drive, Macomb . | $400,000 |
| 84 | CA | Adams Street Rehabilitation Project, Glendale | $310,400 |
| 85 | NY | Construct grade separation-interchange between Taconic Parkway and Pudding Street | $1,160,000 |
| 86 | IA | Construction of 100th St interchange on I– 35—80, Urbandale | $800,000 |
| 87 | MO | Lewis and Clark Expressway . | $1,600,000 |
| 88 | PA | Mercer County, PA I–79 and PA 208 Interchange Improvement Project . | $2,400,000 |
| 89 | WA | Plan to relieve traffic until North-South freeway HWY 2 . | $440,000 |
| 90 | CA | San Diego River Multiuse Bicycle and Pedestrian Path | $400,000 |
| 91 | PA | Construction of the Lafayette Street extension project in Montgomery County, PA . | $9,120,000 |
| 92 | NJ | Construct new ramps between I–295 and Route 42 . | $4,000,000 |
| 93 | PA | Construct S.R. 29 Wal-mart to River Betterment, Eaton Tunkhannock, Wyoming County | $1,360,000 |
| 94 | WV | Construct Shawnee Parkway . | $880,000 |
| 95 | FL | Improve pedestrian and bicycle sidewalks, lighting, and ADA ramps—Main Street, Canal Street, Miramar . | $480,000 |
| 96 | MN | Reconstruct CSAH 19 from CSAH 36 to CSAH 2, Morrison County | $160,000 |
| 97 | TN | Develop trails, bike paths and recreational facilities on Bird Mountain, Morgan County for Cumberland Trail State Park | $200,000 |
| 98 | MN | Lyndale Avenue Bridge, Richfield | $13,000,000 |
| 99 | MI | Provide a bypass around the Village of Almont during M–53 reconstruction which is contiguous with Macomb County | $80,000 |
| 100 | NY | Town of Wallkill new construction road-tunnel under Rt. 17 | $800,000 |
| 101 | NY | Village of Cold Spring Main Street and ancillary road and sidewalk improvements . | $656,000 |
| 102 | IL | West Ridge Nature Preserve, Chicago | $2,800,000 |
| 103 | TN | widen Campbell Station Road in Knoxville, TN | $1,440,000 |
| 104 | AL | Widen Hwy. 84 to 4 lanes west of I–65 from Evergreen to Monroeville and beyond to the State of AL line . | $4,800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 105 | MS | Widen State Highway 57 from I–10 through Vancleave . | $4,800,000 |
| 106 | WA | Widening SR 527 from 2 lanes to 5 from Bothell to Mill Creek . | $1,200,000 |
| 107 | TX | Paving of County Roads 3230 and 3240 connecting FM 1158 to FM 1159 Northeast of Clarksville, Tx | $1,000,000 |
| 108 | MI | Construct improvements to Finkbeiner Road from Patterson Road to Whitneyville Road in Barry County, and new bridge over Thornapple River . | $3,520,000 |
| 109 | PA | York Road improvements from Horsham Road to Summit Avenue, Borough of Hatboro . | $1,000,000 |
| 110 | OH | Construct Highland Road pedestrian path and intersection improvements at Highland and Bishop Roads in the City of Highland Heights, OH | $489,600 |
| 111 | WI | Reconstruct Wisconsin State Highway 21 at I– 94 interchange . | $2,400,000 |
| 112 | MN | Safety improvements and intersection enhancements of TH 95 and TH 169, Princeton | $1,440,000 |
| 113 | NY | Wading River Bicycle and Pedestrian Project in Riverhead . | $960,000 |
| 114 | FL | Widen County Line Road (CR 578) from Suncoast Parkway to US 41 to four lanes | $4,800,000 |
| 115 | IL | Improve Great River Road, Warsaw . | $600,000 |
| 116 | WA | SR 518 3rd lane construction, King County . | $1,600,000 |
| 117 | FL | Construct East Central Regional Rail Trail in Volusia County, Florida . | $800,000 |
| 118 | MO | Y Highway US 71 to MO 58, Cass County | $1,600,000 |
| 119 | WY | WYO 59 Reconstruction | $1,600,000 |
| 120 | LA | Plan and construct bike/pedestrian crossings of Washington-Palmetto Canal in the vicinity of Xavier University, New Orleans | $3,200,000 |
| 121 | NC | Winston-Salem Northern Beltway, Eastern Section and Extension, NC | $4,000,000 |
| 122 | CA | Willow and Herndon Traffic Flow Improvements, City of Clovis, California | $240,000 |
| 123 | MO | US 71 at Y Highway North and Southbound Ramps | $1,600,000 |
| 124 | CA | Will add landscaping enhancements along the Ronald Reagan Freeway Route 118 for aesthetic purposes . | $2,320,000 |
| 125 | NC | Widens US 29 Business Freeway Drive from South Scales St. to NC 14 in Rockingham County | $8,000,000 |
| 126 | PA | Widening, rechannelization, signalization to 2nd ave and Bates street, replace Elisa Furnace bridge over Bates Street | $640,000 |
| 127 | KS | Resurfacing, grading, replacing guardrails & adding shoulders to Old Highway 77 in Geary Cty, to accommodate expected traffic increase . | $627,200 |
| 128 | MO | Widening, curb and gutter improvements on Hwy 92 as part of Hwy 33 redevelopment project in Kearney . | $2,400,000 |
| 129 | IL | Construct streetscape along Morse avenue from Clark street to Sheridan road, Chicago . | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 130 | SC | Build extension of North Rhett Boulevard from Liberty Hall Road to US 176 in SC . | $5,600,000 |
| 131 | NH | Construct and upgrade intersection of Route 3 and Franklin Industrial Drive in Franklin . | $800,000 |
| 132 | GA | Construct Waycross East Bypass from US 84 in Pierce County, Georgia to US 1 in Ware County, Georgia . | $2,560,000 |
| 133 | NY | Design and Construction of a transportation enhancement project at the Erie Canal Aqueduct in downtown Rochester | $1,200,000 |
| 134 | CA | Improvement of intersection at Balboa Blvd. and San Fernando Rd . | $400,000 |
| 135 | TN | Impove Vehicle Efficiencies at highway At-Grade Railroad Crossing in Athens, TN . | $79,200 |
| 136 | WI | Develop pedestrian and bike connections that link to Hank Aaron State Trail in Milwaukee | $1,680,000 |
| 137 | AK | Keystone Drive Road Improvements . | $1,000,000 |
| 138 | GA | Pedestrian and streetscape improvements, Ellaville | $250,000 |
| 139 | NY | Construct and improve pedestrian access on Main Street in Hempstead | $1,600,000 |
| 140 | IL | Preconstruction activities IL 336 from Macomb to Peoria . | $1,600,000 |
| 141 | OH | Purchase of right-of-ways for construction of pedestrian and bicycle improvements in the City of Aurora, OH | $400,000 |
| 142 | IL | Replacement of bridge on Harlem Avenue, The Village of River Forest | $800,000 |
| 143 | CA | State Route 86S and Ave 66 highway safety grade separation . | $3,600,000 |
| 144 | IL | Construct Bissel Street Roadway Connector, Tri-City Regional Port District . | $800,000 |
| 145 | CT | Improve Route 1 between East Avenue and Belden Avenue, Norwalk, CT | $1,600,000 |
| 146 | IA | Central IA Trail Loop, bicycle and pedestrian, Ankeny to Woodward section . | $800,000 |
| 147 | MI | Chippewa County, Upgrade Tilson Road between M–28 South to intersection of M–48 at Rudyard . | $800,000 |
| 148 | WA | Coal Creek Parkway Bridge Replacement, Newcastle WA . | $800,000 |
| 149 | PA | Complete gaps in the Pittsburgh Riverfront Trail Network including the Hot Metal Bridge | $600,000 |
| 150 | TX | Construct passing lanes on Texas State Highway 16 in Atascosa County | $797,000 |
| 151 | TX | Construct street and drainage improvements to road system in Encinal | $250,000 |
| 152 | MN | Environmental assessment and right of way acquisition at US 52 and CSAH 24 Interchange, Cannon Falls, Goodhue Cnty, MN . | $1,600,000 |
| 153 | NY | Planning and design, construction, and related relocations for approaches to Peace Bridge Development Project, Buffalo | $8,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 154 | MN | Construct recreational visitor center on the Mesabi Trail, City of Virginia | $1,300,000 |
| 155 | NE | Engineering, right-of-way and construction of the 23rd Street Viaduct in Fremont, Nebraska | $400,000 |
| 156 | MN | Phase III of Devil Track Road Project, Cook County | $1,200,000 |
| 157 | ME | Relocation of southbound on-ramp to I-95 at exit 184,Bangor | $1,500,000 |
| 158 | MA | Construct access roads to Hospital Hill project in Northampton, MA . | $1,600,000 |
| 159 | IN | Construct interchange for 146th St. and I–69, Hamilton County, Indiana . | $2,400,000 |
| 160 | NY | Design & Construct a Bicycle and Pedestrian Walkway along the Decommissioned Putnam Rail Line | $950,000 |
| 161 | AK | False Pass Road construction from small boat harbor dock to airport and town . | $3,000,000 |
| 162 | IL | Improve North Illinois St and related roads, Belleville | $5,000,000 |
| 163 | AR | Construction of I–49, Highway 71: Arkansas portion of Bella Vista Bypass . | $17,000,000 |
| 164 | NM | Coors—I–40 Interchange Reconstruction, Albuquerque | $15,600,000 |
| 165 | GA | Extend the south Toccoa Bypass east of Toccoa to CR 311, four lanes for approximately 5.7 miles on new location . | $2,320,000 |
| 166 | TX | Construct SH 183 from SH 360 to Belt Line Road in Irving, Texas | $1,600,000 |
| 167 | CA | Construct pedestrian, bicycle and ADA accessible boardwalks at the Pismo Beach Promenade in San Luis Obispo County . | $240,000 |
| 168 | TX | SH 44 E of Alice near SH 359 to US 281, Jim Wells County | $1,600,000 |
| 169 | AR | Conway Western Loop—For engineering, rights-of-way, relocations, and continued planning and design . | $400,000 |
| 170 | PA | For design, land & ROW acquisition, & construction of a parking facility and associated activities in the City of Wilkes-Barre | $800,000 |
| 171 | TN | Hawkins County, Tennessee SR–31 reconstruction . | $800,000 |
| 172 | WI | Reconstruct US Highway 41—STH 67 interchange (Dodge County, Wisconsin) . | $1,000,000 |
| 173 | MA | Reconstruct Route 24/Route 140 Interchange, replace bridge and ramps, widen and extend acceleration and deceleration lanes | $13,000,000 |
| 174 | OR | Study landslides on U.S. Hwy. 20 between Cascadia and Santiam Pass to develop long-term repair strategy | $1,000,000 |
| 175 | MS | Upgrade Alex Gates Road and Walnut Road in Quitman County, and roads in Falcon, Sledge and Lambert . | $1,400,000 |
| 176 | IL | Upgrades for Muller Road in the City of Washington, IL . | $224,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 177 | AL | Construction of Valleydale Road Flyover and widening and improvements from U.S. 31 to I–65 (Shelby County Rd 17) . | $4,720,000 |
| 178 | MS | Upgrade roads in Beauregard (U. S. Hwy 51), Dentville-Jack Rd. near Crystal Springs, and Hazelhurst (U.S. Hwy 51 and I-55), Copiah County. | $800,000 |
| 179 | NY | Westchester County, NY Rehabilitation of June Road Town of North Salem . | $520,000 |
| 180 | CA | Implement streetscape improvements on segments of Laurel Canyon Blvd. and Victory Blvd. in North Hollywood | $960,000 |
| 181 | OH | Construct loop road along US 23 in City of Fostoria, Seneca County | $6,960,000 |
| 182 | PA | Design, engineering, ROW acquisition, & construction of street improvements, parking, safety enhancements & roadway redesign in Nanticoke . | $1,600,000 |
| 183 | LA | Improve Ralph Darden Memorial Parkway Between LA 182 and Martin Luther King Road, St. Mary Parish . | $280,000 |
| 184 | CA | Reconstruct segments of Hollister Avenue between San Antonio Road and State Route 154 in Santa Barbara County . | $2,000,000 |
| 185 | NY | Reconstruction of Schenck Avenue from Jamaica Avenue to Flatlands Avenue, Brooklyn | $4,000,000 |
| 186 | CO | Construct Wadsworth Interchange over US 36 in Broomfield . | $1,600,000 |
| 187 | NY | Enhance Battery Park Bikeway Perimeter, New York City . | $1,600,000 |
| 188 | FL | I-95 Interchange in the City of Boca Raton . | $11,400,000 |
| 189 | NJ | Construct Long Valley Bypass | $800,000 |
| 190 | MI | Alpena County, Resurface 3.51 miles of Hamilton and Wessel Roads | $512,000 |
| 191 | CA | Construct a 2.8 mile bikeway along Lambert Road from Mills Ave. to Valley Home Ave. in the City of Whittier, CA | $2,000,000 |
| 192 | TX | Hidalgo County Loop | $800,000 |
| 193 | ME | Improvements to Route 108 to enhance access to business park, Rumford | $1,500,000 |
| 194 | NY | Installation of new turning lane from Mohansic Ave onto eastbound Route 202, & addition of new striped crosswalk | $340,000 |
| 195 | NY | Rockland County Hudson River Greenway Trail Project construction | $1,600,000 |
| 196 | TX | Construct a segment of FM 110 in San Marcos | $1,000,000 |
| 197 | TX | Big Spring, TX Construction of the Big Spring Reliever Route | $7,320,000 |
| 198 | NY | Improvements to Intermodal Transportation Facility and Construction of Waterfront Esplanade at Fort Totten | $2,240,000 |
| 199 | PA | Reconstruction and repair of Haverford Ave. Between 68th St. and Lansdowne Ave | $240,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 200 | ND | Bismarck/Mandan Liberty Memorial Bridge over the Missouri River | $24,000,000 |
| 201 | WI | City of Glendale, WI. Develop and rehabilitate exit ramps on I-43, and improvements at West Silver Spring Dr. and North Port Washington Rd | $2,400,000 |
| 202 | TX | Construction of Lake Ridge and US 67 Project, Cedar Hill, TX . | $2,800,000 |
| 203 | NY | Install Improvements for Pedestrian Safety including in the vicinity of PS K277 | $250,000 |
| 204 | WI | Resurface USH 8 between CTH C and Monico | $880,000 |
| 205 | PA | South Phila. Access Rd. Design and construction of port access road from South Phila Port and intermodal facilities, Philadelphia | $2,400,000 |
| 206 | NY | Implement ITS system and apparatus to enhance citywide truck route system on Broadway to Irwin Ave between 232 to 231 in the neighborhood of Kingsbridge, NY | $100,000 |
| 207 | PA | SR 219 Purchase of Right of Way and completion of four lane extension from the Town of Somerset to the Maryland border | $13,600,000 |
| 208 | WI | Expand USH 41 between Oconto and Peshtigo, Wisconsin (Oconto and Marinette Counties, Wisconsin) | $1,600,000 |
| 209 | IA | Study for NE Beltway, Polk Co | $400,000 |
| 210 | NY | This project involves a full reconstruction of all the streets in Long Island City surrounding 11th Street . | $1,920,000 |
| 211 | AZ | Upgrade and Widen SR85 to I-10 (Mileposts 120–141) | $1,200,000 |
| 212 | MS | Upgrade Dog Pen Road, Galilee Road, and Holmes County Bridge in Holmes County, and roads in Cruger, Pickens, and Goodman | $840,000 |
| 213 | GA | U.S. 19/SR92 median work from Ellis RD to West Taylor ST, Griffin | $1,200,000 |
| 214 | MS | Upgrade roads at Coahoma Community College, and roads in Coahoma and Jonestown, Coahoma County | $1,200,000 |
| 215 | IN | Construction of Dixon Road from Markland Avenue to Judson Road in Kokomo, Indiana | $400,000 |
| 216 | CA | Construction of Cross Vally Connector between I-5 and SR 14 | $4,000,000 |
| 217 | MA | State Street Corridor Redevelopment Project includes street resurfacing, pedestrian walkway improvements and ornate lighting from Main Street to St. Michael's Cemetery, Springfield | $4,800,000 |
| 218 | MI | Resurfacing of Stephenson Highway in Madison Heights | $280,000 |
| 219 | CA | Soundwall construction on the 210 Freeway, Pasadena | $1,440,000 |
| 220 | GA | Streetscape-Ashburn | $200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 221 | NY | Improve traffic flow on Rockaway Point Boulevard in the Breezy Point neighborhood of Queens County, including work to install a traffic signal at the intersection of Rockaway Point Boulevard and Reid Avenue. | $500,000 |
| 222 | WI | Improve Superior Avenue: Interstate 43 to State Highway 32, Sheboygan County, Wisconsin . | $1,000,000 |
| 223 | TX | Design and construction streetscape improvements to enhance pedestrian access, pedestrian access to bus services and facilities | $800,000 |
| 224 | IL | Upgrade roads, The Village of Berkeley . | $800,000 |
| 225 | GA | Upgrade sidewalks and lighting, Wrightsville . | $320,000 |
| 226 | PA | Upgrades to Bedford Route 220 at the entrance of the Bedford Business Park to Beldon Ridge intersection | $1,680,000 |
| 227 | MI | Widen Baldwin Road from Morgan to Waldon in Orion Township . | $3,200,000 |
| 228 | FL | Construct Saxon Boulevard Extension, Volusia County, Florida | $1,680,000 |
| 229 | NY | Construction and rehabilitation of East and West Gates Avenues in the Village of Lindenhurst, NY | $816,000 |
| 230 | TN | Widen Interstate 240 from Interstate 55 to Interstate 40 West of Memphis, Shelby County | $800,000 |
| 231 | NJ | Rahway River Corridor Greenway Bicycle and Pedestrian Path, South Orange . | $1,200,000 |
| 232 | CT | Reconstruct Pearl Harbor Memorial Bridge, New Haven | $1,600,000 |
| 233 | PA | Development of Northwest Lancaster County River Trail . | $200,000 |
| 234 | CA | Widen SR 89 at existing mousehole two lane RR underpass | $2,827,744 |
| 235 | LA | Construct Mississippi River Trail and Bikepath, New Orleans | $400,000 |
| 236 | NY | Utica Marsh-Reestablish Water Street | $2,120,000 |
| 237 | AR | Widen to 5 lanes, improvement, and other development to U.S. Highway 79B/Univeristy Ave. in Pine Bluff | $3,200,000 |
| 238 | WA | SR 9 & 20th St. SE Intersection Reconstruction in Snohomish County | $250,000 |
| 239 | OH | Streetscape and related safety improvements to US 20 in Painesville Township, OH | $280,000 |
| 240 | PA | Design, construct intersection and other upgrades on PA 24 and 124 in York County, PA | $800,000 |
| 241 | WA | Issaquah Historical Society, Issaquah Valley Trolley Project . | $200,000 |
| 242 | IL | Construct new bridge on Illinois Prairie Path over East Branch River in Milton Township, IL . | $240,000 |
| 243 | TN | Plan and construct improvements, Livingston public square | $40,000 |
| 244 | GA | Construction on US 82 from Dawson to Alabama Line | $800,000 |
| 245 | IA | Construct I-74 Bridge in Bettendorf, IA | $1,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 246 | CA | Operations and management improvements, including ITS technologies, on U.S. Highway 101 in Santa Barbara County . | $800,000 |
| 247 | OH | Plan and construct new interchange on Interstate 71 at Big Walnut Road in Delaware County, Ohio | $4,160,000 |
| 248 | PA | Design and construct access to intermodal facility in York County . | $1,600,000 |
| 249 | WA | Complete preliminary engineering and environmental analysis for SR14 through Camas and Washougal | $1,500,000 |
| 250 | UT | Construct Bingham Junction Boulevard in Midvale City | $5,400,000 |
| 251 | MD | Construct Centreville, MD spur of Queen Annes County Cross Island Trail, Centreville to US Route 301 | $305,600 |
| 252 | MN | Polk, Pennington, Marshall County 10-Ton Corridor in Northwestern Minnesota . | $4,480,000 |
| 253 | CA | Quincy-Oroville Highway Rehabilitation in Plumas County | $800,000 |
| 254 | CA | Construct Coyote Creek Trail Project from Story Road to Montague Expressway in San Jose | $2,000,000 |
| 255 | TX | Construct Depression of Belt Line Road at I-35 E Intermodal Transportation Project in Carrollton, TX . | $5,600,000 |
| 256 | AL | Construct Anniston Eastern Bypass from Golden Springs Road to US Hwy 431 | $21,600,000 |
| 257 | NY | Construct greenway along East River waterfront between East River Park (ERP) and Brooklyn Bridge, and reconstruct South entrance to ERP, in Manhattan . | $1,000,000 |
| 258 | NE | Construction of I-80-Cherry Avenue Interchange and East Bypass, Kearney, Nebraska | $6,400,000 |
| 259 | MN | Corridor study, EIS, and ROW acquisition for a future highway and bridge over the Mississippi River, City of Brainerd . | $800,000 |
| 260 | CA | Escondido, CA Construction of Bear Valley Parkway, East Valley Parkway . | $1,600,000 |
| 261 | AR | Junction Bridge—rehabilitation & conversion from rail to pedestrian use | $1,280,000 |
| 262 | WA | Port of Tacoma Rd.—Construct a second left turn lane for traffic from westbound Pac. Hwy E. to Port of Tacoma Rd. and I-5 | $400,000 |
| 263 | NY | Realign Union Valley Road in Town of Carmel | $264,000 |
| 264 | MO | Roadway improvements to U.S. 67 in St. Francois County | $3,200,000 |
| 265 | FL | Homestead, FL Widening of SW 328 from SW 137 Ave to 152 Ave . | $5,600,000 |
| 266 | CA | Reconstruct I-710 southern terminus off ramps, Long Beach | $2,400,000 |
| 267 | GA | SR 4 widen from Milledgeville Road to Government Street, Richmond County | $4,000,000 |
| 268 | TN | Develop trails, bike paths and recreational facilities on Western Slope of Black Mountain, Cumberland County for Cumberland Trail State Park | $200,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 269 | NJ | Routes 1 & 9 Secaucus Road to Broad Avenue in Hudson and Bergen Counties . | $800,000 |
| 270 | MA | Massachusetts Avenue Reconstruction, Boston | $3,850,000 |
| 271 | NY | Improve Ashburton Ave. from the Saw Mill River Parkway to the waterfront, Yonkers | $1,200,000 |
| 272 | MN | Trail extensions to Mesabi Trail, City of Aurora | $235,796 |
| 273 | LA | I-10 Ryan Street exit ramp to include relocation and realignment of Lakeshore Drive to include portions of Front Street and or Ann Street, and to include expansion of Contraband Bayou Bridge | $4,000,000 |
| 274 | MI | Van Buren, Belleville Road widen to 5 lanes between Tyler and Ecorse | $880,000 |
| 275 | IA | Widening University Blvd, Clive | $800,000 |
| 276 | HI | Construct Waimea Bypass . | $800,000 |
| 277 | IL | Widening two blocks of Poplar St from Park Ave to 13th Street, Williamson County . | $384,000 |
| 278 | CA | Widening the highway and reconstructing off ramps on Hwy 101 between Steele Lane and Windsor, CA to reduce traffic and promote carpools | $5,600,000 |
| 279 | WA | Granite Falls Alternate Freight Route in Granite Falls | $2,834,000 |
| 280 | NY | Construction and rehabilitation of North Queens Avenue and Grand Avenue in the Village of Lindenhurst, NY . | $616,000 |
| 281 | SC | Extension & Expansion of Lower Richland Roads Phase I | $560,000 |
| 282 | OR | Kuebler Boulevard improvements, Salem | $1,200,000 |
| 283 | NC | Upgrade US 1 in Rockingham | $8,000,000 |
| 284 | CA | Implement Southwest San Fernando Valley Road and Safety Improvements . | $1,840,000 |
| 285 | VA | Upgrade DOT crossing #467662S to constant warning time devices | $161,440 |
| 286 | TX | Construct new location highway & interchanges on Inner Loop, from Global Reach to Loop 375 including the Global Reach ext., El Paso | $12,800,000 |
| 287 | CA | Rehabilitation, repair, and/or reconstruction of deficient two-lane roads that connect to Interstate 5, SR 180, SR 41 and SR 99 countywide, Fresno County . | $2,800,000 |
| 288 | OH | Relocate SR 149 from 26th Street to Trough Run in Bellaire | $520,000 |
| 289 | WA | Auburn, Washington—M Street SE rehabilitation between 29th Street SE and 37th Street SE | $400,000 |
| 290 | KY | Replace Bridge over Stoner Creek, 2 Miles East of US 27 Junction, Bourbon County | $800,000 |
| 291 | NM | Development of Paseo del Volcan corridor located in Sandoval County from Iris Road to U.S. Highway 550 . | $1,600,000 |
| 292 | OH | Stan Hywet Hall and Gardens to restore, expand, construct, and improve pedestrian paths and bike trail system . | $144,000 |
| 293 | MS | Construct bicycle path, Petal . | $160,000 |
| 294 | NJ | Construction of Route 206 Chester Township, NJ | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 295 | IL | For IDOT to conduct Phase II engineering for reconstruction of 159th St-US 6-IL 7 in Will and Cook Counties . | $800,000 |
| 296 | IL | For Will County to begin Phase II engineering and preconstruction activities for a high level bridge linking Caton Farm Road with Bruce Road . | $1,600,000 |
| 297 | CA | Study of Thomas Bridge to meet future cargo and passenger traffic needs of the ports of Long Beach and Los Angeles | $1,600,000 |
| 298 | MD | Construct new Greenbelt Metro Station Access Interchange at I-95 / I-495 | $1,000,000 |
| 299 | IL | Construct Citywide bicycle path network, city of Evanston | $200,000 |
| 300 | CA | Mount Vernon Avenue grade separation and bridge expansion in Colton | $1,600,000 |
| 301 | NJ | Improvements for St. Georges Avenue from Wood Avenue to Chestnut Street including the Linden and Roselle sides of the street | $400,000 |
| 302 | PA | Design, construct and upgrade interchange of US 15 and US 30 in Adams County . | $3,200,000 |
| 303 | OH | State Route 8 Improvements in Northern Summit County . | $3,000,000 |
| 304 | CO | US 50 East, State Line to Pueblo | $6,000,000 |
| 305 | IN | Widening road (along Gordon Road, Sixth Street, and West Shafer Drive) to 3-lane street, with sidewalk and improvements to existing bridge White County/Monticello, Indiana | $11,520,000 |
| 306 | OH | Widening Pleasant Valley Bagley Road (Rte 27), Parma and Middleburg Heights | $1,200,000 |
| 307 | MA | Rehabilitation of I-95 Whittier Bridge— Amesbury and Newburyport | $1,600,000 |
| 308 | CA | Streetscape improvements at East 14th St-Mission Blvd in Alameda County | $600,000 |
| 309 | NY | Construct W. 79th St Rotunda, New York City | $1,600,000 |
| 310 | TX | Acquire Kelly Parkway Corridor Right-of-way through San Antonio | $400,000 |
| 311 | NC | Construct new route from US 17 to US 421 in Brunswick and New Hanover Counties . | $800,000 |
| 312 | PA | Construct safety and capacity improvements to Route 309 and Old Packhouse Road . | $200,000 |
| 313 | OR | Delta Ponds Bike/Pedestrian Path | $2,880,000 |
| 314 | FL | Hollywood US Route 1 Young Circle Safety Improvement | $1,840,000 |
| 315 | MI | Houghton County, Gravel and paving of remaining 3.2 miles in 5.5 mile stretch of Jacobsville Rd | $344,000 |
| 316 | PA | Improve access to Airport Connector from PA 283 to the terminus of the Airport Connector at State Route 230 and adjacent access roads | $800,000 |
| 317 | CA | Construct one additional all purpose lane in each direction on I 405 and provide additional capital improvements from SR 73 through the LA County line | $2,568,000 |
| 318 | IL | Improve Roads and Bridges, Cook County . | $3,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 319 | CA | Improve traffic safety, including streetlights, from Queen to Barclay to Los Angeles River to Riverside in Elysian Valley, Los Angeles | $1,120,000 |
| 320 | MI | Construction and improvements to Western Avenue and associated streets betweeen Third Street and Terrace Street in Muskegon | $2,320,000 |
| 321 | IL | Construct Reed Station Parkway Extension to IL Rt 3, Carbondale | $1,655,004 |
| 322 | AL | Construction of Patton Island Bridge Corridor | $8,000,000 |
| 323 | MI | Highland, Clyde Road from Hickory Ridge to Strathcona | $100,000 |
| 324 | MI | Alger County, Repaving a portion of H-58 from Buck Hill towards Little Beaver Road | $1,280,720 |
| 325 | TX | Improvements to US 183 in Gonzales County | $400,000 |
| 326 | CA | Construct a raised landscaped median on Alondra Blvd between Clark Ave and Woodruff Ave in Bellflower | $320,000 |
| 327 | MN | Right of way acquisition for TH 23 Paynesville Bypass | $2,000,000 |
| 328 | FL | Construct interchange improvements at I-75 and University Parkway | $400,000 |
| 329 | CO | For construction and architectural improvements of Wadsworth Bypass (SH121) Burlington Northern Railroad and Grandview Grade Separation . | $4,000,000 |
| 330 | KS | Construction of 4-lane improvement on K-18 in Riley County, Kansas | $2,000,000 |
| 331 | NJ | Replace Rockaway Road Bridge, Randolph Tonwhsip, New Jersey . | $800,000 |
| 332 | FL | Construction of paved road over existing unpaved roadway on SE 144th Ave from SR 100 to US 301, distance of 1.2 miles | $2,400,000 |
| 333 | FL | Construct I-4 Frontage Rd, Volusia County, Florida . | $1,600,000 |
| 334 | MD | Construction of Fringe and Corridor Parking Facility at intersection of Clinton Street and Keith Avenue in Baltimore | $3,200,000 |
| 335 | OH | Purchase of Right of Way for transportation enhancement activities in Bainbridge Township, OH | $1,152,000 |
| 336 | NJ | Rowan Boulevard Parking adjacent to Highway 322 Corridor in Glassboro Township . | $800,445 |
| 337 | CA | Construct interchange on US 50 at Empire Ranch Road in Folsom | $1,440,000 |
| 338 | FL | Bicycle and Pedestrian Improvements in the Town of Windermere, Florida . | $240,000 |
| 339 | TN | Plan and construct a bicycle and pedestrian trail, Smyrna | $2,400,000 |
| 340 | CA | Santa Anita Avenue Corridor Improvement project, Arcadia, California | $2,400,000 |
| 341 | AL | Phoenix City on/off ramps for US Hwy 80 | $257,200 |
| 342 | PA | Design, engineering, ROW acquisition, & construction of a connector road between Pennsylvania Rt. 93 & Pennsylvania Rt. 309 in Hazle Township . | $480,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 343 | GA | South Tifton Bypass from US 82/SR 520 west to US 319/SR 35 east, Tift County | $400,000 |
| 344 | NJ | Streetscape and Traffic Improvement Project to Downtown West Orange | $800,000 |
| 345 | NJ | Bergen County, NJ On Route 17, address congestion, safety, drainage, maintenance, signing, access, pedestrian circulation and transit access . | $4,400,000 |
| 346 | CA | Road widening, construct bike path, lighting, and safety improvements on road leading to Hansen Dam Recreation Area, Los Angeles | $5,200,000 |
| 347 | OH | Highway grade crossing improvement on Summit Road at Pataskala, Ohio | $54,400 |
| 348 | NY | Reconstruct a historic bridge crossing Maxwell Creek in the Town of Sodus, NY | $464,000 |
| 349 | NJ | Safety and operation improvements on Route 73 in Berlin, Voorhees and Evesham | $960,000 |
| 350 | NJ | Study and preliminary engineering designs for a boulevard on State Route 440 and U.S. Highway Route 1 & 9, Jersey City | $800,000 |
| 351 | VA | Construction of Route 17 Dominion Boulevard, Chesapeake, VA . | $6,400,000 |
| 352 | LA | Installation of proper lighting standards to illuminate inbound and outbound ramps of I–10 and portions of HWY 95 . | $160,000 |
| 353 | IN | Cyntheanne Rd. Interchange and Corridor Improvements, Town of Fishers, Indiana | $800,000 |
| 354 | ME | Plan and construct North-South Aroostook highways, to improve access to St. John Valley, including Presque Isle Bypass and other improvements | $3,000,000 |
| 355 | TN | Plan and construct a bicycle and pedestrian trail, LaVergne | $1,200,000 |
| 356 | TX | Build Arkansas Street Grade Separation in Laredo | $1,000,000 |
| 357 | CA | Construct new left turn lane at State Route 19 and Telstar in El Monte | $560,000 |
| 358 | NY | Meadow Drive Extension—North Tonawanda, New York . | $1,600,000 |
| 359 | CA | Reconstruct I-880 & Coleman Avenue Interchange & implement other I-880 Corridor operational improvements in Santa Clara County | $8,000,000 |
| 360 | OR | Improve Millican, West Butte Road which connects U.S. Highway 20 with U.S. Highway 126 . | $1,600,000 |
| 361 | VA | Metropolitan Washington, D.C. Regional Transportation Coordination Program | $1,600,000 |
| 362 | NY | Brooks Landing Transportation Improvements and Enhancement project, Rochester | $400,000 |
| 363 | NJ | Construct CR 538 Coles Mill Road Bridge over Scotland Run, Gloucester County | $400,000 |
| 364 | TX | Convert discontinuous two-way frontage roads to continuous one-way frontage roads on IH 30 in Texarkana, TX . | $4,000,000 |
| 365 | TX | Regional bicycle routes on existing highways in Austin, TX . | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 366 | IN | Construct Interchange at I-65 and 109th Avenue, Crown Point . | $5,963,375 |
| 367 | GA | Intersection improvement at Harris Drive at SR 42 . | $480,000 |
| 368 | IL | Engineering and construction of the East Branch DuPage River Greenway Trail in central DuPage County, IL . | $80,000 |
| 369 | NY | Rehabilitate a historic transporation-related warehouse on the Erie Canal in the Town of Lyons, NY | $480,000 |
| 370 | NY | Relocating Miller Highway W 59th-72 St. Manhattan under future expansion of Riverside Park . | $2,000,000 |
| 371 | MI | Allen Road under the CN Railroad Grade Separation, Woodhaven . | $3,560,000 |
| 372 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Larksville Borough, Luzerne County . | $160,000 |
| 373 | AR | Northeast Arkansas Connector (relocation of Highway 226) | $2,400,000 |
| 374 | NJ | Reconstruct Route 168 from Route 41 to 6th Avenue in Runnemede . | $526,400 |
| 375 | NY | Renovation of Metropolitan Avenue and Unionport Road center islands | $1,700,000 |
| 376 | PA | Rt 60 Millennium Park Interchange, construct new interchange on Rt 60 to provide access to new Lawrence County Industrial Park . | $640,000 |
| 377 | AR | Bentonville, Arkansas—widen Arkansas Highway 102 between U.S. 71B and the west city limits | $1,500,000 |
| 378 | PA | Purchase of right-of-way, utilities and construction for Northern Access to Altoona from Interstate 99, Blair County, PA | $2,400,000 |
| 379 | CA | Construct Class I bike and pedestrian path from San Luis Obispo to Avila Beach . | $320,000 |
| 380 | MN | Reconstruct CSAH 61 from south county line to TH 73, Moose Lake | $252,800 |
| 381 | AZ | Improving Lone Pine Dam Road in Navajo County | $2,000,000 |
| 382 | MI | Construct Road Improvements to North Henry St. from Vermont Ave. to Wilder Rd. Bay City | $2,160,000 |
| 383 | TX | Reconstruct I-35E Trinity River Bridge, Dallas | $12,000,000 |
| 384 | NY | Town of Greenville rehabilitation of Grahamtown Rd. & Burnt Corners Rd | $100,000 |
| 385 | NJ | Completion of Hudson River Waterfront Walkway through Stevens Institute of Technology in Hoboken . | $800,000 |
| 386 | NC | Construct US 74 Bypass, Shelby, NC . | $2,400,000 |
| 387 | WA | Tukwila Urban Access Improvement Project— address necessary improvements to Southcenter Parkway in Tukwila to relieve congestion | $800,000 |
| 388 | CA | Construction of a traffic signal at the intersection of Independence Avenue and Sherman Way | $100,000 |
| 389 | NH | Design and construction of intersection of Rte 101A and Rte 13 in Milford | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 390 | NJ | Construct Rte 30—Pomona Road Intersection Improvements, Atlantic County . | $4,000,000 |
| 391 | CA | I-10 and Indian Ave Interchange, Palm Springs, CA | $2,200,000 |
| 392 | CA | Complete the Bay Trail along the western edge of the American Canyon Wetlands Edge Bay Trail | $800,000 |
| 393 | KY | Right of way for and construction of Pennyrile Parkway Extension from 41A S. to I-24 . | $2,560,000 |
| 394 | TN | Sevier County, Tennessee SR-66 widening . | $1,400,000 |
| 395 | TN | Plan and construct interchange improvements, I-65 at Highland Road | $320,000 |
| 396 | IA | Reconstruction of NW Madrid Dr, Polk Co | $800,000 |
| 397 | NH | Relocation and Reconstruction of intersection at Route 103 and North Street in Claremont | $1,040,000 |
| 398 | IL | To construct a new 2-lane road extending 1650 feet north from intersection with University Park Drive, Edwardsville . | $400,000 |
| 399 | NY | Town of Highlands reconstruction of bridge on School Street | $180,000 |
| 400 | AK | Unalaska, AK Construction of AMHW ferry terminal including approach, staging, and upland improvements . | $7,500,000 |
| 401 | PA | Design and construct interchange and related improvements to I 83 Exit 4 . | $2,800,000 |
| 402 | MD | Great Allegheny Passage, Allegeny county, MD. Construction of five miles of trail from Cumberland to Wharf Branch | $1,600,000 |
| 403 | MI | Northwestern Highway Extension projects in Oakland County . | $7,280,000 |
| 404 | PA | PA Route 61 safety improvements, Leesport Borough and Ontelaunee and Muhlenburg Townships | $2,400,000 |
| 405 | OH | Improve Rt 62 (Main and Town Streets) Bridges over Scioto River, Columbus | $5,200,000 |
| 406 | AK | Planning, design, and construction of a bridge joining the Island of Gravina to the Community of Ketchikan . | $100,000,000 |
| 407 | MN | U.S. Trunk Highway 14 from Waseca to Owatonna, Minnesota | $3,315,200 |
| 408 | TX | Construct Mission Trails Project Packages 4 & 5 in San Antonio | $3,820,000 |
| 409 | MS | Upgrade Roads in Carthage, Leake County . | $160,000 |
| 410 | MI | Construct access road at intersection of Doerr Road and Schell Street to Develop 65-Acre of Municipal Tract of Industrial Land. Village of Cass City, Tuscola County . | $20,800 |
| 411 | MS | Upgrade roads in Humphreys County Districts 1 and 5 and Isola . | $680,000 |
| 412 | IN | 126th Street Project, Town of Fishers, Indiana | $1,000,000 |
| 413 | HI | Construct Puanaiko Street | $800,000 |
| 414 | AZ | Burro Creek section between Wikieup and the Santa Maria River . | $800,000 |
| 415 | PA | Conduct Environmental Impact Statement study for Parkway West corridor | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 416 | SC | Build Railroad Avenue Extension in Berkeley County, SC—SCDOT | $1,600,000 |
| 417 | MD | Construct a visitors center and related roads serving Ft. McHenry . | $3,760,000 |
| 418 | OH | Construction of Gracemont Street Exchange Interstate 77—Bethlehem Township and Pike Township, Ohio | $2,400,000 |
| 419 | MI | Design, Right-of-Way and Construction of the I-196 Chicago Drive (Baldwin Street) Interchange Modification, Michigan | $15,480,000 |
| 420 | CA | Folsom Blvd. Transportation Enhancements, City of Rancho Cordova . | $5,600,000 |
| 421 | TN | improve streetscape and pavement repair, Monroe County, TN | $240,000 |
| 422 | TX | IH37 frontage roads in Mathis . | $1,600,000 |
| 423 | WV | Construct New River Parkway | $3,600,000 |
| 424 | NY | Construct sidewalk and improvements on Broadway in the Town of Cortlandt | $264,000 |
| 425 | PA | Erie, PA Powell Avenue Bridge Replacement, Asbury Road Improvement Project . | $3,200,000 |
| 426 | VA | Liberty Street Construction in Martinsville, Virginia | $236,800 |
| 427 | CA | Implement streetscape project on Central Avenue from 103rd Street to Watts/103rd Street Station, Watts . | $3,200,000 |
| 428 | MA | Realignments and reconstruction of a section of Route 32 in Palmer to the Ware town line . | $2,560,000 |
| 429 | CA | Seismic retrofit of the Golden Gate Bridge . | $8,800,000 |
| 430 | CA | Upgrade and extend Commerce Avenue, City of Concord | $1,600,000 |
| 431 | MA | Somerville Roadway Improvements | $2,300,000 |
| 432 | LA | Replace Almonaster Bridge, New Orleans | $400,000 |
| 433 | IN | Upgrade Traffic Signals Phase III in the City of Muncie, Indiana . | $512,000 |
| 434 | FL | Sharpes Ferry Bridge replacement in Marion County | $2,240,000 |
| 435 | IA | US 34 Missouri River bridge relocation and replacement . | $2,000,000 |
| 436 | NY | Village of Highland Falls repaving and sidewalk construction of Oak Avenue | $120,000 |
| 437 | MN | Interchange Reconstruction at CSAH 4 and US 169 . | $800,000 |
| 438 | IL | Development and construction of an interchange at Brisbin Rd and Interstate 80 . | $4,800,000 |
| 439 | NE | Design, right-of-way and construction of rail-grade separations throughout Nebraska as identified by Nebraska Dept. of Roads . | $12,000,000 |
| 440 | MO | Redesign & Reconstruction of the I-270 Dorsett Road Interchange Complex in the City of Maryland Heights | $1,600,000 |
| 441 | SC | Build Berlin Myers Extension in Summerville, SC | $6,400,000 |
| 442 | IN | Improve 100 South, Porter County . | $800,000 |
| 443 | NY | Improve safety measures at the railroad grade crossings on the West Short River Line, Rockland County | $1,280,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 444 | NJ | Street Improvements and Traffic Signal Replacement in Union City Central Business District . | $640,000 |
| 445 | GA | Streetscape project to replace sidewalks in downtown Forsyth | $300,000 |
| 446 | AK | Westside development Williamsport-Pile Bay Road . | $5,000,000 |
| 447 | NV | Construct Interstate 15 – Las Vegas Beltway Interchange | $10,000,000 |
| 448 | NY | Palisades Trailway Phase 2 – Rockland County, New York | $150,000 |
| 449 | PA | Replace a Highway Rail Grade crossing in Jeanette, PA at Wegleys Road | $400,000 |
| 450 | CA | Conduct project design and environmental analysis of Heritage Bridge on Heritage Road linking Chula Vista to Otay Mesa . | $2,800,000 |
| 451 | MA | Assabet River National Wildlife Refuge, MA, Design and Construction of parking areas | $420,000 |
| 452 | NY | Reconstruct Main Street in the Town of Lewisboro . | $72,000 |
| 453 | MA | Study and analysis of Lowell Westford St.-Wood St. Rourke Bridge Corridor, Lowell | $500,000 |
| 454 | OR | Highway 20, Lincoln County . | $5,600,000 |
| 455 | MN | Construction of 8th Street North: Stearns C.R. 120 to T.H. 15 in St. Cloud, MN . | $1,600,000 |
| 456 | IL | Construction of a pedestrian sidewalk along S. Chicago Street in Geneseo, IL . | $180,000 |
| 457 | OH | Construct Bike and Walking Path from West 210 St to Metroparks Fairview Park | $280,000 |
| 458 | PA | Great Allegheny Passage, Somerset County, PA. Garrett Crossing Bridge, realign trail and construct a new bridge to eliminate a dangerous crossing of a state highway | $800,000 |
| 459 | MN | City of East Grand Forks Construct 13th St SE Extension . | $960,000 |
| 460 | NY | Improvements to Clark Pl and Cherry Ln—Rt. 6 and 6 N in Putnam County . | $296,000 |
| 461 | NJ | Construct Garden State Parkway Grade Separation, Cape May County . | $32,000,000 |
| 462 | VA | High Knob Horse Trails—construction of horse riding trails and associated facilities in High Knob area of Jefferson National Forest . | $600,000 |
| 463 | TN | Plan and construct a bicycle and pedestrian trail, Cookeville | $2,000,000 |
| 464 | UT | Provo, Utah Westside Connector from I-15 to Provo Municipal Airport | $800,000 |
| 465 | CA | I-5 Santa Clarita-Los Angeles Gateway Improvement Project | $1,600,000 |
| 466 | NY | Project will revitalize staircases used as streets due to steep grade of terrain in areas in which they are located, the Bronx . | $800,000 |
| 467 | TX | Construct and rehabilitate pedestrian walkways along the Main Street Corridor to improve transit-related accessibility | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 468 | MD | Reconstruct East North Avenue (US Route 1) in Baltimore . | $4,000,000 |
| 469 | CT | Reconstructoin of Lakeville Center to improve pedestrian and vehicle safety at the intersection of Routes 41 and 44 . | $716,000 |
| 470 | TX | City of Robstown Trade Processing and Inland Center | $5,000,000 |
| 471 | CA | San Gabriel Blvd Rehabilitation Project—Mission Rd to Broadway, San Gabriel | $240,000 |
| 472 | NC | To plan, design, and construct the 10th Street Connector Project in Greenville, NC . | $2,131,200 |
| 473 | OH | To widen Western Reserve Road from SR 7 to Hitchcock Road, Mahoning Co | $2,000,000 |
| 474 | NY | Binghamton, Improve Front Street . | $4,000,000 |
| 475 | FL | U.S. Highway 19 Bayside Segment | $1,600,000 |
| 476 | MI | Arenac County, Upgrade Maple Ridge Road from Briggs Road east to M-65 . | $1,316,800 |
| 477 | NY | Village of Highland Falls repaving and sidewalk construction of Mearns Ave . | $180,000 |
| 478 | NY | Village of Nelsonville improvements, paving & sidewalk installation to North Pearl St, Crown St, Pine St, & Wood Ave | $200,000 |
| 479 | CA | Widen Firestone Blvd between Ryerson Blvd and Stewart and Gray Road in Downey | $1,600,000 |
| 480 | CA | Construct Air Cargo Access Road to Oakland International Airport . | $720,000 |
| 481 | MD | Peer review study of conflicts between road system and light rail operations in Linthicum, MD . | $80,000 |
| 482 | GA | Resurface and widen Jac-Art Road as part of the Bleckley County Development Authority project | $200,000 |
| 483 | VA | Construction of Virginia Blue Ridge Trail in Amherst County, VA | $240,000 |
| 484 | FL | Implement NE 6th Street/Sistrunk Boulevard Streetscape and Enhancement Project, City of Ft. Lauderdale . | $800,000 |
| 485 | CA | Widen Lakewood Blvd between Telegraph Rd and Fifth St in Downey . | $1,600,000 |
| 486 | TX | Widen Motor Street thoroughfare in Dallas to improve accessibility to Southwestern Medical District | $4,400,000 |
| 487 | MN | Construction of Gitchi-Gami State Trail, Lutsen Phase, CR 34 to Lockport store | $500,000 |
| 488 | PA | Widen of SR 309 through the Borough of Coopersburg to create left-turn lanes and complete the Rt. 309 Corridor Improvement Project | $2,400,000 |
| 489 | CA | Pasadena Ave/Monterey Rd Partial Grade Separation—Preliminary Engineering—Feasibility, South Pasadena . | $240,000 |
| 490 | OH | Intermodal Bikeway, Independence . | $2,000,000 |
| 491 | MO | Widen shoulder and resurface US 136 and replace 2 deficient bridges between Rock Port and Bethany, Missouri . | $2,400,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 492 | FL | S.R. 43 (U.S.301) Improvement Project— Ellentown to Parrish, Florida | $3,200,000 |
| 493 | GA | Bike and pedestrian paths and other transportation enhancements at Georgia Veterans Memorial Park . | $640,000 |
| 494 | AK | Citywide pavement rehabilitation in City of North Pole . | $1,000,000 |
| 495 | GA | Replace and upgrade sidewalks, Glenwood | $50,000 |
| 496 | MI | Reconstruction of Leeman Road from County Road 581 west 7 miles to Lerza Road, Dickinson County | $1,200,000 |
| 497 | GA | Widen SR 133 from Spence Field to SR 35 in Colquitt County, Georgia . | $800,000 |
| 498 | CA | Mariposa County, CA Improve 16 roads, bridge and one bike path . | $2,800,000 |
| 499 | LA | Upgrade highway-rail crossings at Madison Street, City of Gretna | $160,000 |
| 500 | PA | Two-lane Extension of Bristol Road, Bucks County | $1,600,000 |
| 501 | TN | Widen SR30 From Athens to Etowah, Tennessee . | $4,606,400 |
| 502 | MI | Iosco County, Reconstruct Bissonette Road from Lorenz Road to Chambers Road . | $258,000 |
| 503 | TX | Development of one-story 300-vehicle parking facility | $1,200,000 |
| 504 | WA | Design and construct improved I-182 interchange ramps at Broadmoor Blvd. in Pasco, WA . | $1,600,000 |
| 505 | NY | Erie Canalway National Heritage Corridor in Lockport, NY—Transportation Enhancements . | $2,600,000 |
| 506 | MI | M-6 Paul Henry Freeway trail design and construction . | $2,224,000 |
| 507 | CT | Reconstruction and conversion of Union Station in North Canaan to establish a transportation museum | $1,364,000 |
| 508 | OR | Construct passing lanes on U.S. 199, Josephine County | $1,827,000 |
| 509 | CA | Scenic preservation and run-off mitigation in the Santa Monica Mountains National Recreation Area near PCH and US101 . | $1,200,000 |
| 510 | IL | South Shore Drive and 67th Underpass . | $1,040,000 |
| 511 | CA | Mission Boulevard/State Route 71 Interchange—Corridor Improvements . | $3,360,000 |
| 512 | OR | For purchase of right of way, planning, design and construction of a highway, Newberg | $8,545,600 |
| 513 | VA | Smith River Trail—Construction of trail along Smith River in Henry County . | $400,000 |
| 514 | IL | Resurface Clifton Park Ave. and S. Louis Ave., Village of Evergreen | $320,000 |
| 515 | NJ | University Heights Connector for improvements to First Street in Newark from Sussex Street to West Market Street | $509,600 |
| 516 | GA | Broad Avenue Bridge: Albany . | $400,000 |
| 517 | CA | Caelsbad, CA Construction of Poinsettia Lane | $1,600,000 |
| 518 | CA | Construct pedestrian enhancements on Broadway in Los Angeles | $2,000,000 |
| 519 | NJ | Construct Rt 56 Maurice River Bridge Replacement, Salem & Cumberland Counties | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 520 | WA | Conduct route analysis for community pathway through Chehalis | $50,000 |
| 521 | WA | Construct a multi-jurisdictional non-motorized transportation project parallel to SR 99 called the Interurban Trail | $1,600,000 |
| 522 | FL | Construct Downtown Bypass Roadway Connector, Lake Mary, Florida . | $400,000 |
| 523 | NY | To study, design and construct the Brooklyn Waterfront Greenway in Red Hook, Greenpoint, and the Navy Yard in Brooklyn | $6,600,000 |
| 524 | NY | Update all county and town traffic signage in Wayne County, NY | $220,000 |
| 525 | CA | Construct Route 101 Auxiliary Lanes 3rd Ave in the City of San Mateo to Millbrae Ave in Millbrae | $3,000,000 |
| 526 | CA | Undertake Cordelia Hill Sky Valley transportation enhancement project, including upgrade of pedestrian and bicycle corridors, Solano County | $2,400,000 |
| 527 | MS | Construct I-20 Interchange at Hawkins Crossing, Lauderdale County . | $2,000,000 |
| 528 | TN | Sevier, Jefferson, Cocke Counties, Tennessee SR-35 & U.S. 411 widening | $1,400,000 |
| 529 | GA | Upgrade Safety of Bicycle and Pedestrian Access to Public Schools, Dekalb County | $2,400,000 |
| 530 | OH | Construction of Safety and related improvements on Rutlege Transfer Road in Vernon Township, OH | $96,000 |
| 531 | WI | Reconstruct USH 45 in Antigo . | $1,616,000 |
| 532 | WA | SR 2/Main Street/Old Owen Road Intersection in Monroe . | $384,000 |
| 533 | GA | Install landscaping and upgrade lighting on Fall Line Freeway, Reynolds | $350,000 |
| 534 | WA | Congestion relief on I-405 with added lanes from SR 520-SR 522 including 2 lanes each way from NE 85th-NE 124th . | $800,000 |
| 535 | NY | Conduct NYS 5 construction study . | $64,000 |
| 536 | PA | Widen lanes, add left turn lanes and update & install traffic signals at SR309, SR 4010 interchange in North Whitehall Township | $1,200,000 |
| 537 | KY | Reconstruct I-64-KY 180 Interchange, Boyd County, Kentucky | $1,600,000 |
| 538 | TX | Widen US 271 from a 2-lane facility to a 4lane divided facility from Paris, TX to Pattonville, TX | $1,600,000 |
| 539 | TN | Carter County, Tennessee SR-362 reconstruction . | $400,000 |
| 540 | OH | Construct Ohio River Trail, Anderson Township | $220,000 |
| 541 | MI | Delta County, CR 515 from US 2 and US 41 in Rapid River to County Road 446 at Days River Road-Bituminous overlay and joint repair . | $256,000 |
| 542 | FL | Fund design phase for widening US 41 north of Dunnellon to four lanes . | $800,000 |
| 543 | TN | Construction of Elizabethton Connector in Carter County, Tennessee | $800,000 |
| 544 | NJ | Newark Waterfront Pedestrian and Bicycle Access project . | $1,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 545 | ME | Plan and construct Lewiston/Auburn Downtown Connector | $4,360,000 |
| 546 | OH | Conduct Miami St along SR Route 53 safety enhancement project to improve access to railroad crossing | $800,000 |
| 547 | AK | Planning, design, and construction of Juneau access roads in Juneau, Alaska . | $15,000,000 |
| 548 | TN | Construction of an intersection/interchange in the City of Cleveland along I-75 | $1,920,000 |
| 549 | FL | Construct Flagler Avenue Improvements, City of Key West, Florida . | $808,000 |
| 550 | CA | Rehabilitate street surface of Cedros Avenue between Burbank Blvd. and Magnolia Blvd | $34,400 |
| 551 | VA | Engineering and Right of Way to widen Route 221 in Forest, Virginia | $1,000,000 |
| 552 | NY | Install Improvements for Pedestrian Safety including in the vicinity of PS Q200 | $250,000 |
| 553 | TX | SH 146 grade separation over Red Bluff Rd | $13,600,000 |
| 554 | TN | construction of park access road and adjacent trails at the Athens Regional Park in Athens, TN | $240,000 |
| 555 | IL | State Street Road Improvements from 43rd Street to IL Rt 157, East St. Louis . | $3,080,000 |
| 556 | GA | Streetscape-Dawson . | $160,000 |
| 557 | SC | Build Carolina Bays Parkway Segment from SC 544 to US 17 in Myrtle Beach, SC . | $2,400,000 |
| 558 | GA | US 341 US 41 SR 7 from Barnesville to SR 3, Georgia . | $3,200,000 |
| 559 | OH | Reconstruct and widen State Route 82 in North Royalton | $800,000 |
| 560 | FL | Acquisition, engineering, and construction of West Avenue Connector Bridge, City of Miami Beach, FL | $800,000 |
| 561 | ME | Safety Enhancements on Routes 11, 6, and 16 for Piscataquis County Industrial Development | $400,000 |
| 562 | IL | Study, design, and construction of a designated truck route through the City of Monticello . | $905,600 |
| 563 | CA | Improvement of intersection at Aviation Blvd. and Rosecrans Ave. to reduce congestion, City of Hawthorne | $2,000,000 |
| 564 | WI | Preliminary engineering for upgrading I 94 between Illinois State Line and Mitchell Interchange in SE Wisconsin | $7,200,000 |
| 565 | MI | Cogshall Road Crossing Improvement and Life Safety Access Project in Holly, MI . | $960,000 |
| 566 | MI | Ontonagon County, Improve Fed Forest Hwy 16 from M-38 to Houghton County Line | $400,000 |
| 567 | UT | Forest Street Improvements, Brigham City, UT | $2,000,000 |
| 568 | NC | I40 Union Cross Road Interchange in Forsyth County, NC | $800,000 |
| 569 | NJ | Construct Sea Isle Boulevard Reconstruction from Garden State Parkway to Ludlams Thoroughfare, Cape May County | $1,600,000 |
| 570 | CA | I-5 HOV Improvements from Route 134 to Route 170 | $400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 571 | NY | Reconfiguration of intersection and redesign of traffic signal timing at Mohegan Ave and Lakeland St . | $400,000 |
| 572 | CA | Shoal Creek Pedestrian Bridge (San Diego) . | $1,200,000 |
| 573 | GA | Streetscape-Cordele | $200,000 |
| 574 | CA | Construct I-605 Interchange Capacity Improvements in Irwindale . | $1,600,000 |
| 575 | SC | Construction of interchange at I-385 and SC 14, Exit 19, in Laurens County, South Carolina . | $1,760,000 |
| 576 | NE | Design, right-of-way and construction of Nebraska Highway 35 between Norfolk and South Sioux City | $7,600,000 |
| 577 | MO | Complete impact study for North Oak Highway corridor redevelopment | $400,000 |
| 578 | MA | Design and construct the 1.5 mile East Long-meadow Redstone rail Trail bike path . | $1,200,000 |
| 579 | NY | Improve bicycle and pedestrian safety on Main Street, Holbrook | $100,000 |
| 580 | CA | Tuolumne, Stanislaus and Merced Counties Upgrade existing county highway, J59 . | $2,000,000 |
| 581 | FL | U.S. 19 Continuous right turn lanes in Pasco County . | $5,760,000 |
| 582 | NJ | Union Boulevard Revitalization and Streetscape Enhancements, Totowa | $400,000 |
| 583 | IL | Improve roads, The Village of Westchester . | $800,000 |
| 584 | IN | Reconstruct 45th Avenue from Colfax Street to Grant Street, Lake County | $2,160,000 |
| 585 | IN | Construct Grade Separation Underpass on Main Street in Mishawaka, Indiana | $1,600,000 |
| 586 | UT | Construct two-lane divided highway from the Atkinville Interchange to the new replacement airport access road in St. George | $4,000,000 |
| 587 | CA | Diamond Bar On-Off Ramp at Lemon Ave on SR-60 . | $9,600,000 |
| 588 | NY | Transportation parking facility serving the Harlem Hospital Complex . | $8,000,000 |
| 589 | MA | Downtown revitalization for Pleasant Street, Malden . | $1,520,000 |
| 590 | NY | Install Improvements for Pedestrian Safety in the vicinity of Prospect Park Yeshiva | $250,000 |
| 591 | NY | Emergency vehicle preemption system at traffic signals, Smithtown | $500,000 |
| 592 | CA | Reconstruct interchange for south-bound traffic entering I-80 from Central Avenue, City of Richmond . | $3,120,000 |
| 593 | KY | Reconstruct KY 393, Oldham County, Kentucky | $1,600,000 |
| 594 | CA | Reduce Orange County Congestion Program | $200,000 |
| 595 | CA | Street Closure at Chevy Chase Drive, Glendale | $640,000 |
| 596 | PA | Allegheny County Urban Runoff Mitigation-eliminate urban highway runoff and the discharge of culverted streams into municipal combined sewers . | $800,000 |
| 597 | SC | Construct Briggs-Pearson-DeLaine Connector | $16,080,000 |
| 598 | NM | Construct an interchange on I-25 to provide access to Mesa del Sol in Albuquerque . | $5,600,000 |
| 599 | MI | Reconstruction of 30th Avenue from 13th Street to 22nd Street, Menominee | $270,080 |
| 600 | VA | Rivermont Ave. (Lynchburg) Bridge improvements . | $1,760,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 601 | MA | Construct new interchange on I-95 between existing Route 1A ramp to the north and Route 123 ramp to the south, Attleboro | $500,000 |
| 602 | OH | Construct Waverly, Ohio South Connector from US 23 to SR 104 to SR 220 . | $2,560,000 |
| 603 | VA | Craig County Trail—improvements to trail in Craig County | $120,000 |
| 604 | CO | US 160, State Highway 3 to East of the Florida River | $4,800,000 |
| 605 | TX | Bridge Access Road for FM 493 from US 281 to US 83 | $5,000,000 |
| 606 | AZ | Pinal Avenue/Main Street right-of-way acquisition--Pinal County, Casa Grande, AZ--to reconstruct Main St. to include a bypass for commercial traffic | $800,000 |
| 607 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking, garage & roadway redesign in Duryea Borough, Luzerne County . | $160,000 |
| 608 | OK | SH-33, Widen SH-33 from the Cimarron River East to U.S. 177 Payne County, OK | $6,400,000 |
| 609 | TX | Washington Boulevard Improvements in Beaumont, Texas . | $2,080,000 |
| 610 | FL | Widen Midway Road from South 25th Street to U.S. 1 in St. Lucie County | $1,600,000 |
| 611 | NY | Enhance road and transportation facilities in the vicinity of W. 65th St and Broadway, New York City . | $4,000,000 |
| 612 | LA | Construct Kansas-Garrett Connector and I-20 Interchange Improvements | $4,000,000 |
| 613 | PA | Construct the SR 1058 Connector between PA 309 and the Pennsylvania Turnpike Northeast Extension in Montgomery County . | $1,280,000 |
| 614 | OK | Reconstruct the Interstate 44 193rd street interchange . | $2,400,000 |
| 615 | NY | Roadway improvements to Woodbury Rd at intersection with Syosset-Woodbury Rd . | $1,600,000 |
| 616 | RI | Construct a handicapped accessible trail and platform at Kettle Pond Visitor Center Administrative Facility . | $160,000 |
| 617 | NJ | Construct Great Swamp National Wildlife Refuge Road | $200,000 |
| 618 | CA | Grade Separation at 32nd Street between I-15 and Harbor Drive, San Diego . | $800,000 |
| 619 | IN | Widen Old Meridian Street from 2 to 4 lanes, City of Carmel, Indiana . | $900,000 |
| 620 | WI | Construct a bicycle/pedestrian path, City of Portage . | $1,760,000 |
| 621 | VA | Widen Route 17 in Stafford | $4,000,000 |
| 622 | VA | Widen Route 820 in Bergton, Virginia . | $1,240,000 |
| 623 | IL | Construction of 2 North/South Blvds. and 2 East/West Blvds. in the vicinity of Northern Illinois University . | $8,320,000 |
| 624 | CA | Begin construction of road from U.S. 395 west towards SR-14 . | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 625 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Old Forge Borough, Lackawanna County | $160,000 |
| 626 | PA | Improvements to Amtrak Keystone Corridor grade crossings at Irishtown Rd., New Comer Rd., and a new bridge at Ebychiques Rd | $400,000 |
| 627 | TN | Acquire and construct trail and bikeway along S. Chickamauga Creek in Chattanooga, TN | $1,280,000 |
| 628 | TX | Interchange improvements IH-30 Arlington at FM 157 (Collins Street) and Center Street | $1,600,000 |
| 629 | MO | Highway 350 Access Management Study from I435 to I470 | $800,000 |
| 630 | TX | Reconstruct Mile 6 W from US83 to SH 107, Hidalgo County | $800,000 |
| 631 | NJ | Pedestrian facilities and street lighting on Had-don Avenue from Albertson Avenue to Glen-wood Avenue, Haddon Township . | $346,400 |
| 632 | NY | Rehabilitate highway bridges—Ithaca secondary line . | $2,000,000 |
| 633 | WA | Buckley, WA; New Road alignments on 112th Street Corridor . | $1,600,000 |
| 634 | ID | Construct Washington Street North from the end of Project # (STP 7072(102)) to the beginning of Project # (DHP-NH-F-2390(104)) | $4,400,000 |
| 635 | SC | Construction of the U.S. 15/SC–341 connector parallel to I–20, Lee County . | $3,600,000 |
| 636 | PA | Construct Recreational Trail from Oil City to Rynd Farm (Venango County) | $1,200,000 |
| 637 | TX | FM 1637 from FM 3051 to FM 185, Waco . | $1,600,000 |
| 638 | VA | Green Cove Station—improvements to existing Forest Service facility located at trailhead of Virginia Creeper Trail . | $80,000 |
| 639 | NJ | South Essex Street Bridge Pedestrian Access Improvements, Orange . | $462,400 |
| 640 | TX | FM 3391 (East Renfro St.) from I-35W to CR 602, Burleson | $2,200,000 |
| 641 | WI | Replace Wisconsin Street Bridge (STH 44) in Oshkosh, Wisconsin . | $10,000,000 |
| 642 | CT | Construct Route 11 Extension and bicycle and pedestrian path from Salem to Waterford . | $14,400,000 |
| 643 | TX | Drainage Study and Engineering for US 83 in Starr County | $800,000 |
| 644 | TN | widen SR-62 in Knox County, TN | $6,500,000 |
| 645 | GA | Widen US 17 SR 25 from Yacht Drive to Harry Driggers Boulevard, Glynn County, Georgia . | $1,600,000 |
| 646 | KY | Widen US 25 from US 421 North to KY 876, Madison County . | $800,000 |
| 647 | GA | Widen US 280/SR 30 from east of Flint River to SR 300 Connector west of Cordele . | $800,000 |
| 648 | MS | Upgrade roads in Gunnison, Mound Bayou, Beulah, Benoit, Pace and Shaw, Bolivar County. | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 649 | NY | Construct and enhance Fillmore Avenue and traffic down-grade and infrastructure improvements to Humboldt Parkway, Buffalo | $1,200,000 |
| 650 | NJ | Construct Route 46 & Main Street intersection in Lodi . | $1,600,000 |
| 651 | MN | Phase III construction of Trunk Highway 61010 Minnesota . | $4,000,000 |
| 652 | NM | NM 128 JCT NM 31 East to Texas State Line | $3,200,000 |
| 653 | NJ | Replacement of Prospect Avenue Culvert, City of Summit, County of Union . | $320,000 |
| 654 | FL | US 441 Traffic Improvements—Road surface, road access, curb, gutter, and right of way, Miami Gardens | $720,000 |
| 655 | MN | Environmental studies and right of way acuisition for Trunk Highway 55 Corridor Protection Project | $4,000,000 |
| 656 | NY | Roadway improvements on Woodbine Avenue between 5th Avenue and Beach Avenue | $640,000 |
| 657 | NY | Saugerties, Improve downtown streets | $960,000 |
| 658 | IN | Widen US 31 Hamilton County, Indiana | $800,000 |
| 659 | GA | Build a bridge across Big Indian Creek, Perry | $1,000,000 |
| 660 | MI | Carpenter Road Reconstruction—700 feet South of Textile Road to I-94, Washtenaw County | $1,600,000 |
| 661 | IN | Resurface and widen Shelby County Indiana 400 North Phases IV and V | $800,000 |
| 662 | SC | Widen West Georgia Road from Neely Ferry Road to Fork Shoals Road | $1,600,000 |
| 663 | TX | Construct Phase II of City of Killeen SH-201 | $4,800,000 |
| 664 | MN | Interchange improvements at I-94 and CSAH 19 and at CSAH 37 in the city of Albertville, MN . | $800,000 |
| 665 | KY | Construction of bypass between KY 55 and US 68 at Lebanon in Marion County | $1,200,000 |
| 666 | NY | Peruville Road. Creating overpass to address intersection safety issue | $1,600,000 |
| 667 | OR | Add a southbound lane to section of I-5 through Portland, OR between Delta Park and Lombard . | $4,000,000 |
| 668 | MN | 10th Street Bridge Expansion in St. Cloud, MN . | $800,000 |
| 669 | NJ | Intermodal Access Improvements to the Peninsula at Bayonne Harbor | $1,600,000 |
| 670 | TX | Nolana Loop from FM 1426 to FM 88, Hidalgo County | $1,600,000 |
| 671 | OH | Perry Park Road Improvements and Pedestrian Trail Expansion at Call Road in the Village of Perry, OH | $53,600 |
| 672 | NV | Implement Regional Transportation of Southern Nevada FAST system | $5,000,000 |
| 673 | NY | Bronx River Greenway 233rd Street Connection | $750,000 |
| 674 | ~~PA~~ | ~~Construction of turn lanes, increase curve radius at the intersection of SR 3041 and Industrial Park Road, Somerset, Pa .~~ | ~~$240,000~~ |
| 675 | FL | Planning and design for development of future highway connections to the Florida International Airport, Hardee County . | $400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 676 | WI | Reconstruct and rebuild St. Croix River Crossing, connecting Wisconsin State Highway 64 in Houlton, Wisconsin to Minnesota State Highway 36 in Stillwater Minnesota . | $5,600,000 |
| 677 | TN | Conduct study for SR 45 to SR 386 Connector | $400,000 |
| 678 | IN | Reconstruct and widen Shelby County Indiana 500 East from 1200 N to US 52 | $800,000 |
| 679 | MO | Removal and Replacement of the Grand Avenue Bridge in the City of St. Louis . | $2,800,000 |
| 680 | TX | Conduct reconstruction and managed lanes project on Airport Freeway (SH 183-SH 121) from IH 820 to the Dallas County Line | $4,000,000 |
| 681 | FL | Reconstruction of Hanford Boulevard, North Miami Beach | $2,200,000 |
| 682 | MA | Commonwealth Ave/Kenmore Sq. Roadway & Pedestrian Improvements | $4,000,000 |
| 683 | NY | Pedestrian walkway and bikeway improvements along the NYC Greenway System in Coney Island . | $2,560,000 |
| 684 | PA | Restore Route 222 in Maxatawny and Richmond Townships, Berks County, PA . | $2,000,000 |
| 685 | OH | Study and design of modifications to I-75 interchanges at M.L. King-Hopple, I-74, and Mitchell in Cincinnati | $2,400,000 |
| 686 | VA | Widen Route 10 to six lanes from Route 1 to Meadowville Road, Chesterfield . | $800,000 |
| 687 | GA | Rebuild sidewalks, install sidewalks, and add speed monitoring system, Alamo | $250,000 |
| 688 | CA | Widen Wilmington Ave from 223rd street including ramp modifications, Carson | $4,000,000 |
| 689 | WI | Construct STH 32 (Claude Allouez) bridge in DePere, Wisconsin (Brown County, Wisconsin) | $400,000 |
| 690 | NY | Construction of drainage improvements and aethetic enhancements to Oak Beach Road in the Town of Babylon, NY . | $408,000 |
| 691 | WI | Construct an alternative connection to divert local traffic from I-90, a major highway, and allow movement through the Gateway commercial development project | $3,200,000 |
| 692 | WA | East Marine View Drive Widening in Everett | $3,500,000 |
| 693 | OH | Construction of safety improvements at intersection of US 422 and SR 700 in Geauga County, OH | $240,000 |
| 694 | WV | Upgrade Route 10, Logan Co . | $4,000,000 |
| 695 | TX | Conduct Preliminary Engineering for Funnel Project on SH 114 from BS 114L to Dallas County Line and on SH 121 from SH 360 to Dallas Co Line . | $3,200,000 |
| 696 | NC | Install ITS on US 70 Clayton Bypass | $800,000 |
| 697 | PA | Brighton Road Extension-add new street to N Shore roadway network to facilitate access to amphitheater | $800,000 |
| 698 | NJ | Broad Street Streetscape Project in Elizabeth to provide physical improvements and to enhance transportation flow and efficiency . | $560,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 699 | FL | Construction of 4 lane highway around Jacksonville connecting US1 to Route 9A | $2,400,000 |
| 700 | WA | 510-507 Loop—Conduct engineering, design, and ROW acquisition for alternative route to two existing highways that bisect Yelm, WA | $2,000,000 |
| 701 | CA | Develop and implement traffic calming measures for traffic exiting the I-710 into Long Beach . | $1,600,000 |
| 702 | CA | San Diego, CA Construction of the I-5 and SR56 Connectors | $6,400,000 |
| 703 | IL | Upgrade Ridge Avenue, Evanston . | $2,400,000 |
| 704 | SC | Widening and improvements of SC Highway 5 Bypass in York County | $1,600,000 |
| 705 | IA | Widening and Reconstruction, I 235, Des Moines | $8,720,000 |
| 706 | CA | Bay Road improvements between University Avenue to Fordham, and from Clarke Avenue to Cooley Landing. Northern access improvements between University and Illinois Avenues, East Palo Alto . | $4,800,000 |
| 707 | NC | Project to widen US 501 from NC 49 in Roxboro to the VA state line with part on new location . | $3,200,000 |
| 708 | NY | Congestion reduction, traffic flow improvement and intermodal transfer study at Roosevelt Avenue/74th Street in Queens | $640,000 |
| 709 | CA | Construct bicycle and pedestrian bridge between Oyster Bay Regional Park in San Leandro and Metropolitan Golf Course in Oakland | $600,000 |
| 710 | TX | For right-of-way aquisition and construction of Seg 5 and 6 of SH 130 from 183 to Seguin, TX | $4,800,000 |
| 711 | NJ | Construct the Airport Circle Elimination at Tilton and Delilah Roads, Atlantic County . | $800,000 |
| 712 | CA | The Alameda Corridor SR 47 Port Access Expressway design funding | $8,000,000 |
| 713 | NV | Construct US Highway 95 – Las Vegas Beltway Interchange | $10,000,000 |
| 714 | NY | Repair and repave the north side of the Mineola train station | $120,000 |
| 715 | IL | Repair of CH 29 and reconstruction of CH 8 at interchanges with Interstate 55 at Towanda and Lexington Illinois | $800,000 |
| 716 | CA | Conduct a Project Study Report for new Highway 99 interchange between SR 165 and Bradbury Road, serving Turlock/Hilmar region | $400,000 |
| 717 | PA | Construction of U.S. 22 to I–79 Section of Southern Beltway, Pittsburgh, Pennsylvania | $1,200,000 |
| 718 | MN | Construction of new highway between the bridge over Partridge River on CR 565 in Hoyt Lakes to the intersection of CSAH 21 and 70, Babbitt | $2,400,000 |
| 719 | CA | State Route 1 improvements between Soquel and Morrissey Blvd including merge lanes and the La Fonda overpass, Santa Cruz . | $2,936,000 |
| 720 | WA | The West Corridor Coalition in Washington state | $250,000 |
| 721 | WA | North Sound Connecting Communities Transportation Project Planning | $960,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 722 | FL | West Relief Bridge Rehabilitation, Bay Harbor Islands | $1,200,000 |
| 723 | NE | Western Douglas County Trails Project, Nebraska | $5,600,000 |
| 724 | TN | Bristol, Tennessee highway—RR grade Crossing improvement—Hazelwood Street | $80,000 |
| 725 | GA | Extend East Greene Street, install street lights, utilities, and landscaping, Milledgeville | $400,000 |
| 726 | CA | Grade Separation at Vanowen and Cliveborne, Burbank | $800,000 |
| 727 | MA | Improve traffic signal operations, pavement markings & regulatory signage, Milton-Boston City Line | $1,200,000 |
| 728 | NY | Port Jervis, NY downtown pedestrian mall and promenaDe | $560,000 |
| 729 | MN | Construct Soo Line Trail from north of Bowlus to the east side of Mississippi River | $396,000 |
| 730 | WI | Construct traffic mitigation signals, signs, and other upgrades for Howard Ave, St. Francis | $320,000 |
| 731 | NH | Reconstruction of NH 11 and NH 28 Intersection in Alton . | $560,000 |
| 732 | CA | Riverside Drive Improvements, Los Angeles . | $320,000 |
| 733 | CA | Upgrade CA SR 4 East from the vicinity of Loveridge Road to G Street, Contra Costa County | $16,000,000 |
| 734 | TX | Widen SH 24 from a 2-lane facility to 4-lane divided facility from SH 19 to Cooper, TX . | $1,600,000 |
| 735 | PA | Rail crossing signalization upgrade, Willow Street, Fleetwood, Berks . | $260,320 |
| 736 | AZ | Navajo Route 20--Navajo Nation, Coconino County, AZ--To Conduct a two-lane road design for 28 miles of dirt road between the communities of Le Chee, Coppermine, and Gap. | $800,000 |
| 737 | SC | Construct Hub City Connector Passage (12.5 miles of bicycle-pedestrian improvements, 176-SC 56), part of State-wide Palmetto Trail Project | $800,000 |
| 738 | FL | Construct US 1/SR 100 Connector, Bunnell, Florida . | $2,000,000 |
| 739 | | | $0 |
| 740 | CA | Design and environmental analysis for State Route 11 connecting State Route 905 to the new East Otay Mesa Port of Entry, San Diego | $800,000 |
| 741 | NY | Improve North Fork Trail, Southold | $200,000 |
| 742 | HI | Interstate Route H1 Deck Repair, Airport Viaduct | $3,816,000 |
| 743 | OH | Replace Grade Separation at Eastland and Sheldon Road, Berea . | $600,000 |
| 744 | WA | Widen I-5 through Lewis County | $3,750,000 |
| 745 | SC | Engineering design and construction of I-73 from the North Carolina State Line to I-95 | $8,000,000 |
| 746 | OH | Planning and construction of a bicycle trail adjacent to the I-90 and SR 615 Interchange in Lake County, OH | $2,000,000 |
| 747 | SC | Widening of Boiling Springs 9 from Rainbow Lake Rd. to SC 292 | $4,800,000 |
| 748 | IL | Construct Streetscape Project, Orland Hills . | $320,000 |
| 749 | | | $0 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 750 | OR | Widening of Oregon Hwy 217 between Tualatin Valley Hwy and the US 26 interchange, Beaverton | $7,745,600 |
| 751 | PA | SR 10 widening, New Morgan Borough and Caernarvon Township, PA | $1,600,000 |
| 752 | MI | Widen M-72 from U.S. 31 easterly 7.2 miles to Old M-72 | $2,000,000 |
| 753 | PA | Widening of Rt.22 and SR.26 in Huntingdon. Upgrades to the interchange at US RT 22 and SR26 . | $2,700,000 |
| 754 | MN | Widening of US Highway 61 at Frontenac Station, MN | $640,000 |
| 755 | KS | Construction and reconstruction of four interchanges on I–435, I–35 and U.S. 69 in Johnson Co | $3,200,000 |
| 756 | MA | Melnea Cass Blvd Reconstruction . | $2,160,000 |
| 757 | NH | Improve Meredith Village Traffic Rotary | $800,000 |
| 758 | FL | Implement Blue Heron Boulevard Streetscape Improvements, City of Riviera Beach | $2,000,000 |
| 759 | NY | Install Improvements for Pedestrian Safety including in the vicinity of PS Q114 | $250,000 |
| 760 | WI | Reconstruct STH 181 between Florist Ave and North Milwaukee County Line | $3,600,000 |
| 761 | LA | Replace the Prospect Street Bridge (LA 3087), Houma | $2,400,000 |
| 762 | GA | Streetscape improvements along LaVista Road in the Northlake business district of DeKalb County, Georgia . | $160,000 |
| 763 | MD | Study Greater Towson Area traffic flow and future needs | $160,000 |
| 764 | FL | Construct US 1 Improvements, Cities of Holly Hill and Ormond Beach, Florida . | $320,000 |
| 765 | OH | Transportation Enhancements to the downtown area of the Village of Chagrin Falls, OH | $560,000 |
| 766 | MA | Pedestrian Walkway for the Town of Norwood | $780,000 |
| 767 | NJ | Restoration of Route 35 in Ocean County, New Jersey . | $1,600,000 |
| 768 | PA | Extension of Third Street from Interstate 83 to Chestnut Street, Harrisburg | $4,320,000 |
| 769 | TX | Carlton road grade separation, Laredo, TX | $4,000,000 |
| 770 | OH | Construct connector roadway between SR13 13 and Horns Hill Road in north Newark . | $1,000,000 |
| 771 | TN | Construct new lighting on Veterans Memorial Bridge, Loudon County, Tennessee . | $200,000 |
| 772 | NY | Roadway improvements on CR3 between Ruland Rd and I-495 | $1,776,000 |
| 773 | TN | Construct State Route 385 (North and East) around the city of Memphis . | $2,520,000 |
| 774 | NY | Waterloo, NY by-pass project | $5,600,000 |
| 775 | IN | Extend Everbrook Drive from SR 332 to Bethel Avenue in the City of Muncie, Indiana | $512,000 |
| 776 | TN | Construct Proposed SR 397 extension from SR96 West to US 431 North to Franklin WIlliamson County | $1,780,000 |
| 777 | AK | Construct linking road from airport to port in Akutan . | $1,500,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 778 | PA | Uniontown to Brownsville section of Pennsylvania Mon/Fayette Expressway . | $4,000,000 |
| 779 | NY | Ashburton Avenue Reconstruction, Yonkers, New York | $1,000,000 |
| 780 | OR | Highway 22, Polk County . | $800,000 |
| 781 | FL | I-75 Widening and Improvements in Collier and Lee County, Florida . | $36,000,000 |
| 782 | WI | Pioneer Road Rail Grade Separation (Fond du Lac, Wisconsin) . | $5,000,000 |
| 783 | FL | Design and construction of double-deck roadway system exiting FLL airport connecting Y.S. 1 and I-595 | $3,200,000 |
| 784 | MI | Wayne, Reconstruct one quarter of a mile stretch of Laurenwood . | $100,000 |
| 785 | GA | Construct the West Cleveland Bypass from US 129 SR 11 near Hope Road exteding west of Cleveland, on new and existing locations to SR 75 . | $2,320,000 |
| 786 | IL | Reconstruct Highway-Railway crossing over US 14 and realignment of US 14, Des Plaines . | $1,600,000 |
| 787 | OR | Highway 22-Cascade Highway interchange improvements, Marion County . | $400,000 |
| 788 | VA | Widen Route 29 between Eaton Place and Route 123 in Fairfax City, VA | $2,400,000 |
| 789 | WI | Reroute State Hwy 11 near Burlington, WI (Walworth and Racine Counties, WI) . | $3,200,000 |
| 790 | IL | East Peoria, Illinois Technology Blvd. upgrades | $800,000 |
| 791 | DC | Metro Branch Trail Construction | $1,600,000 |
| 792 | MA | Study and design I-93/Mystic Ave. Interchange at Assembly Sq | $400,000 |
| 793 | NM | Widening of US 491 from Navajo 9 to Colorado state border . | $1,600,000 |
| 794 | FL | Construct access road to link Jacksonville International Airport to I-95 . | $4,000,000 |
| 795 | FL | Widening of SR 60 from 66th Avenue to I-95 in Indian River County, FL . | $800,000 |
| 796 | GA | Widening of SR 133: Colquitt Co./Daughtery Co . | $800,000 |
| 797 | IL | Upgrade streets, Stickney Township | $2,206,400 |
| 798 | PA | Widening of SR 1001 Section 601 in Clinton County | $800,000 |
| 799 | PA | Widening of Route 40 in Wharton Township, Fayette County, Pa | $1,600,000 |
| 800 | NJ | Widening of Route 1 and intersection improvements in South Brunswick | $800,000 |
| 801 | PA | construct PA 706 Wyalusing Bypass Bradford County, Pennsylvania . | $800,000 |
| 802 | IL | Construct four lane extension of IL RT29 from Rochester to Taylorville . | $480,000 |
| 803 | IL | Widening of Old Madison Road, St. Clair County | $1,600,000 |
| 804 | NY | Construction of Bicycle Path and Pedestrian Trail in City of Dunkirk | $400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 805 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Plains Township, Luzerne County . | $160,000 |
| 806 | CA | Replace I-880 overpass at Davis St in San Leandro | $600,000 |
| 807 | PA | DuBois-Jefferson County Airport Access Road Construction . | $1,200,000 |
| 808 | GA | Streetscape project to improve accessibility and safety for pedestrians, Mount Vernon . | $400,000 |
| 809 | IL | Replacement of Fullerton Avenue Bridge and Pedestrian Walkway | $3,840,000 |
| 810 | NH | Construct intersection at US 3 and Pembroke Hill Road in Pembroke | $560,000 |
| 811 | FL | A new interchange with the Pineda Causeway Extension and I-95 | $10,400,000 |
| 812 | CT | Make Improvements to Groton Bicycle and Pedestrian Trails and Facilities | $160,000 |
| 813 | MN | TH 36—Stillwater Bridge; cut-and-cover approach to river crossing . | $400,000 |
| 814 | NM | US 54 Reconstruction, Tularosa to Santa Rosa | $2,400,000 |
| 815 | VA | Daniel Boone Wilderness Trail Corridor—acquire site; design and construction of interpretative center, enhancement of trail corridor . | $2,560,000 |
| 816 | MI | Widening of M-24 from two lanes to four lanes with a boulevard from I-69 to the county line | $800,000 |
| 817 | IN | Construct US 231 in Spencer and Dubois Counties in Indiana . | $4,800,000 |
| 818 | TN | Construct overpass at Highway 321 and Highway 11 Loudon County, Tennessee . | $5,200,000 |
| 819 | SD | Improve the SD Advanced Traveler Information System | $800,000 |
| 820 | GA | Streetscape, lighting, and traffic enhancements from Lancaster to Church Street on Bellevue, Dublin. | $500,000 |
| 821 | NY | Implement ITS system and apparatus to enhance citywide truck route system on Avenue P between Coney Island Avenue and Ocean Avenue in the 9th District of New York | $100,000 |
| 822 | GA | Install sidewalks, trails, lighting, and amenities in Balls Ferry Park, Wilkinson County . | $1,000,000 |
| 823 | CA | Construct Inland Empire Transportation Management Center in Fontana to better regulate traffic and dispatch personnel to incidents . | $1,200,000 |
| 824 | IL | Reconstruct Milwaukee Avenue, including Six Corners . | $13,600,000 |
| 825 | TX | Implementation and quantification of benefits of large-scale landscaping along freeways and interchanges in the Houston region . | $22,796,800 |
| 826 | PA | Design, engineering, ROW acquisition & construction of a connector road between PA 115 & Interstate 81 in Luzerne County | $200,000 |
| 827 | AL | Pedestrian Improvements for Homewood, AL | $320,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 828 | TN | Plan and construct a bicycle and pedestrian trail, Gallatin . | $532,000 |
| 829 | MA | Conduct design, feasibility and environmental impact studies of proposal to relocate New Bedford/Fairhaven bridge | $1,400,000 |
| 830 | IA | Iowa City, IA Construction of arterial extension project connecting Coralville to west and south Iowa City | $2,000,000 |
| 831 | NJ | Rehabilitate Route 139 in Jersey City— Portway | $1,600,000 |
| 832 | NJ | Route 605 extension to U.S. 206 | $800,000 |
| 833 | OH | Widen SR 170 Calcutta . | $2,000,000 |
| 834 | IA | Widening of Hwy 44, Grimes | $800,000 |
| 835 | VA | Widening of Highway 15 in Farmville, Virginia | $1,349,760 |
| 836 | MA | Design and construct intersection improvements at Memorial Park II on Roosevelt Ave from Bay St to Page Boulevard, Springfield | $800,000 |
| 837 | SC | Widening of Frontage Road from U.S. 72 to U.S. 56, Laurens, SC | $2,240,000 |
| 838 | NY | Mill Road: NY Rte 261 to North Avenue in the Town of Greece | $400,000 |
| 839 | NC | Widening of Beckford Drive, City of Henderson | $768,000 |
| 840 | NY | Realignment of Clove Road and Rt 208, access management improvements in Orange County | $960,000 |
| 841 | NY | City of Peeskill,NY Street Resurfacing Program. Brown Street . | $41,600 |
| 842 | FL | Fund advanced Right-of-Way Acquisition along SR 52 in Pasco County, Florida . | $2,960,000 |
| 843 | MA | Design, engineer, permit, and construct "Border to Boston Bikeway" rails-trails project, from Salisbury to Danvers . | $800,000 |
| 844 | FL | Soutel Drive Road Enhancements, Jacksonville | $1,200,000 |
| 845 | NJ | Bicycle facilities in West Deptford Township . | $92,000 |
| 846 | PA | Create a direct connection between State Road 29 and State Route 113 | $2,400,000 |
| 847 | MA | Design and construction of the north and southbound ramps on Interstate 91 at Exit 19 . | $1,200,000 |
| 848 | IA | NW 70th Ave reconstruction, Johnston | $4,000,000 |
| 849 | NY | Town of Minisink South Plank Road | $220,000 |
| 850 | VA | Town of St. Paul—restoration of historic Hillman House to serve as trail system information center and construction of stations on trails | $120,000 |
| 851 | PA | Conduct environmental review and acquire right of way for preferred alternative to improve PA 41 . | $3,360,000 |
| 852 | FL | Acquire Right-of-Way for Ludlam Trail, Miami, Florida . | $400,000 |
| 853 | NY | Construct Safe Routes to Schools projects in New York City . | $2,800,000 |
| 854 | CO | Construction of US 24—Tennessee Pass, Colorado | $4,800,000 |
| 855 | CA | Implement Riverside Avenue Railroad Bridge improvements, south of Interstate 10 in Rialto . | $400,000 |
| 856 | MA | Longwood Ave/Urban Ring Tunnel Study | $450,000 |
| 857 | MN | Ely Area Joint Public Works Complex | $1,500,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 858 | IA | US 63 improvement near New Hampton, Iowa | $6,960,000 |
| 859 | NY | Village of Unionville reconstruction of Main Street . | $64,000 |
| 860 | TX | Widening from two lanes to four of SH 36 from Bellville, TX to Sealy, TX | $7,200,000 |
| 861 | KY | Comprehensive Traffic Study for intersection of Main Street and Berea College Campus, Berea | $480,000 |
| 862 | TN | Improve State Route 62 in Morgan County near U.S. 27 in Wartburg to Petit Lane from existing two lane highway to four lanes | $3,600,000 |
| 863 | IL | Construct West Corbin Overpass over Illinois 255, Bethalto . | $4,000,000 |
| 864 | OR | I-5/99W connector | $248,000 |
| 865 | FL | Improvements to I-75 in the City of Pembroke Pines, Florida | $6,000,000 |
| 866 | CA | Planning, design, engineering and construction of Naval Air Station, North Island access tunnel on SR 75-282 corridor, San Diego | $4,000,000 |
| 867 | CA | Construct road from Mace Blvd in Yolo County to federally supported Pacific Flyway wildlife area | $800,000 |
| 868 | PA | Construction of ramps on I-95 and US 322, widening of streets and intersections . | $2,400,000 |
| 869 | NY | Construct and restore pedestrian and residential roadways in downtown business district in Rockville Centre . | $800,000 |
| 870 | LA | Plan, design and construct Pointe Clair Expressway in Iberville Parish . | $2,400,000 |
| 871 | MA | Construction of East Milton Parking Deck over Interstate/Rt. 93 | $1,000,000 |
| 872 | PA | Reconstruction of I-176 in Cumru and Robeson Townships, Berks County | $2,400,000 |
| 873 | MI | Resurfacing of Masonic Boulevard in Fraser | $928,000 |
| 874 | OH | Construct Ohio River Trail from Downtown Cincinnati, Ohio to Salem Road | $1,600,000 |
| 875 | PA | Realignment and reconstruction of SR 60 interchange with U.S. 22-30 and reconstruct adjacent Tonidale-Bayer intersection | $1,600,000 |
| 876 | NY | Construtction and rehabilitation of East and West John Streets in the Village of Lindenhurst, NY | $836,000 |
| 877 | NY | Construct Northern State Parkway and Long Island Expressway access at Marcus Avenue and Lakeville Road and associated Park and Ride | $4,800,000 |
| 878 | PA | Deployment of an Intelligent Transportation System along I-476 Pa Tpke NE Ext/Pa-309 and I-76 Schuylkill Exwy in Montgomery County | $3,200,000 |
| 879 | NY | Install Improvements for Pedestrian Safety including in the vicinity of PS Q153 | $250,000 |
| 880 | TX | Build 36th Street Extension in San Antonio | $1,680,000 |
| 881 | CA | North Atlantic Pedestrian Bridge, Monterey Park . | $480,000 |
| 882 | CA | Reconstruct Eastern Ave from Muller St to Watcher St in Bell Gardens | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 883 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in West Pittston, Luzerne County . | $160,000 |
| 884 | CA | Design Traffic Flow Improvements Azusa and Amar, City of West Covina | $1,000,000 |
| 885 | MI | Reconstruction of Nine Mile Road in Eastpointe | $896,000 |
| 886 | WA | Redmond, WA City-wide ITS | $800,000 |
| 887 | IL | Reconstruction and realignment of Baseline Rd, Montgomery, IL | $1,664,000 |
| 888 | NY | Transportation Enhancements to support development of Erie Canal in Orleans County, NY | $240,000 |
| 889 | CO | US 160, East of Wolf Creek Pass . | $12,000,000 |
| 890 | MA | Design, engineering and construction at I-93 The Junction Interchange, Andover, Tewksbury and Wilmington | $2,200,000 |
| 891 | CA | Rosemead Boulevard/Highway 19 Renovation Project, Pico Rivera . | $80,000 |
| 892 | PA | Intersection improvements at PA Route 209 and Water Company Road, construction of a bridge and access enhancements to Nature and Arts Center, Upper Paxton Township | $600,000 |
| 893 | TX | Improvements to FM 1979 in Caldwell County | $240,000 |
| 894 | HI | Interstate Route H 1 guard rail and shoulder improvements, Waikele Bridge to Airport Interchange, Honolulu . | $3,040,000 |
| 895 | MI | M-168 Reconstruction in the village of Elberta | $1,760,000 |
| 896 | CA | Colima Road at Fullerton Road Intersection Improvements . | $800,000 |
| 897 | OH | Design and construct Youngstown State University Roadway and Pedestrian Safety Improvements, Youngstown | $2,100,000 |
| 898 | MO | Reconstruct Interstate 44 and Highway 39 Interchange | $4,000,000 |
| 899 | WA | Complete final Columbia River crossing Environmental Impact Statement for SR35 in Klickitat County | $640,000 |
| 900 | KY | Reconstruct US 127 at Bellows Road, Mercer County | $480,000 |
| 901 | NY | Roadway and Pedestrian Improvements for Times and Duffy Squares in New York City | $3,200,000 |
| 902 | FL | Six lane expansion of State Road 200 (A1A) from Interstate 95 east to Amelia Island | $3,200,000 |
| 903 | MI | Widen and reconstruct Tienken Road in Rochester Hills from Livernois to Sheldon . | $10,800,000 |
| 904 | NV | Design and Construct I-580 Meadowood Complex Improvements, Washoe County | $1,600,000 |
| 905 | NY | Town of Chester reconstruction of 13 independent town roads | $160,000 |
| 906 | NY | Implement ITS system and apparatus to enhance citywide truck route system at 9th Street and 3rd Avenue intersection in Kings County | $100,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 907 | TX | Construction of highway infrastructure to provide flood protection for Nueces County . | $800,000 |
| 908 | FL | Widen State Road 80, Hendry County . | $2,800,000 |
| 909 | NE | Construction of the Columbus, Nebraska North Arterial Road . | $3,600,000 |
| 910 | KY | Extension of Newtown Pike from West Main Street to South Limestone Street, Lexington | $16,000,000 |
| 911 | OH | Road construction and related improvements in the Village of Gates Mills, OH . | $400,000 |
| 912 | IL | Widening and Reconstruction of 55th Street from Holmes Avenue to Williams Street in Westmont and Clarendon Hills | $1,200,000 |
| 913 | IL | Road upgrades for the Village of Oreana, IL . | $707,200 |
| 914 | ID | Widen Amity Road from Chestnut Street to Robinson Road in Nampa, Idaho | $1,600,000 |
| 915 | TX | Widening FM 60 (University Drive) from SH 6 to FM 158, College Station . | $2,400,000 |
| 916 | GA | Widening Cedarcrest Road from Paulding County line to Governors Towne . | $2,520,000 |
| 917 | CA | Widening Avenue 416 in Dinuba California . | $1,200,000 |
| 918 | MA | Infrastructure Improvements in the Gardner-Kilby-Hammond Area, Worcester | $600,000 |
| 919 | TX | Extend Munn Street from Demáree Ln to Gellhorn Drive . | $800,000 |
| 920 | MN | City of Moorhead SE Main GSI, 34th St. and I-94 Interchange and Moorhead Comprehensive Rail Safety Program . | $2,400,000 |
| 921 | AL | Widening and safety improvements to SR-216 between SR-215 and I-59, I-20 . | $1,813,333 |
| 922 | GA | The Carrollton Greenbelt Project, City of Carrollton, Georgia | $280,000 |
| 923 | IL | Improve safety of culvert replacement on 250th Rd between 460th St and Cty Hwy 20 in Grandview Township, Edgar County, IL | $256,000 |
| 924 | NY | Kingston, Improve uptown streets | $1,040,000 |
| 925 | PA | Replace Blair Creek Bridg over the Little Lehigh Creek, just west of the Maple Grove Bridge, in Longswamp Township, Berks County | $1,280,000 |
| 926 | CA | Construct highway connecting State Route 78/ 86 and State RoutE 111, Brawley . | $7,600,000 |
| 927 | GA | Widening and improvements on Colerain Road in St. Marys, Georgia | $800,000 |
| 928 | MD | Implement Pedestrian and Roadway Improvements Contained in the Druid Hill Park Neighborhood Access Program in Baltimore | $1,600,000 |
| 929 | AZ | Kabba Wash project between I-40 and Wikieup | $1,600,000 |
| 930 | ME | Route 2 Improvements from Bethel to Gilead | $1,000,000 |
| 931 | FL | Widening and Improvements for I-75 in Collier and Lee County . | $21,600,000 |
| 932 | TX | Widening 349 Dawson and Martin County . | $1,600,000 |
| 933 | WI | Widen Wisconsin State Highway 64 between Houlton and New Richmond . | $3,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 934 | IN | Widen Wheeling Avenue from Centennial to McGalliard Road in the City of Muncie, Indiana . | $768,000 |
| 935 | MN | Construct a bike trail along the north side of TH 11 to the Voyageurs National Park Visitor Center on Black Bay of Rainy Lake | $540,000 |
| 936 | FL | Construct pedestrian underpass and safety improvements at SR A1A and Castillo Drive, City of St. Augustine . | $1,280,000 |
| 937 | CA | Rehabilitate street surfaces in Sherman Oaks | $99,200 |
| 938 | CA | Repair and realignment of Brahma Dr. and Winnetka Ave . | $240,000 |
| 939 | NJ | Riverwalk in Millburn along the West Branch of the Rahway River | $600,000 |
| 940 | AL | I–20 widening and safety improvements in St. Clair County . | $4,000,000 |
| 941 | TN | Plan and construct Rutherford County visitor's center/ transportation information hub . | $400,000 |
| 942 | UT | Streetscape a two-lane road and add turning lanes at key intersections on Santa Clara Drive in Santa Clara | $1,050,000 |
| 943 | CA | US 101 Operational Improvements, San Jose | $4,000,000 |
| 944 | IL | Upgrade traffic signal system on 87th Street, Chicago | $400,000 |
| 945 | LA | Water Well Road Gateway Cooridor (LA 478)—Design, Right of Way, and Construction of 3.6 miles from I-49 to LA 1 | $4,520,000 |
| 946 | CO | East 104th and US 85 Intersection: Study, design and construction of needed improvements to intersection . | $664,000 |
| 947 | FL | Widen West Virginia Drive from Floresta Drive to US 1 in St. Lucie | $2,400,000 |
| 948 | ID | Widen U.S. 95 in Idaho from Jct. SH-1 to Canadian Border | $2,400,000 |
| 949 | IL | Engineering of the Willow Creek Trail Extension from Rock Cut State Park to the Long Prairie Trail . | $160,000 |
| 950 | CA | Widen Interstate 8 overpass at Dogwood Road, Imperial County . | $1,698,000 |
| 951 | CA | Improve bridge 58-7 on SR 115 that crosses the Alamo River in Holtville and also project design and environmental analysis of a new bridge over the same river . | $800,000 |
| 952 | ID | Widen U.S. 95 from Worley to Mica Creek, Idaho | $2,400,000 |
| 953 | MI | Complete the 2 segments of U.S. 127 from Ithaca to St. Johns to a limited access freeway . | $4,000,000 |
| 954 | CA | Construct a new interchange where I-15 meets Cajalco Road in Corona, CA | $8,000,000 |
| 955 | OH | Construct interchange at CR 80 on IR 77 near Dover | $5,000,000 |
| 956 | TX | Colonial Drive Project, Cleburne | $1,200,000 |
| 957 | NC | Widen and improve I 85 through Cabarrus County from US 29—49 to 29—601 | $6,400,000 |
| 958 | NC | US 401 from Raleigh to Fayetteville | $3,200,000 |
| 959 | GA | Construct and Improve Westside Parkway, Northern Section, in Fulton County . | $3,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 960 | NY | City of Peeskill,NY Street Resurfacing Program. Hudson Avenue . | $104,000 |
| 961 | CA | Construction of CA 101 Auxiliary Lanes, Marsh Rd. to Santa Clara County Line | $1,800,000 |
| 962 | NY | For the acquisition of ferry boats and ferry terminal facilities and operation of ferry service from Rockland County-Yonkers-Manhattan | $1,200,000 |
| 963 | IL | For engineering, right-of-way acquisition and reconstruction of two existing lanes on Arsenal Road from Baseline Rd to Rt 53 | $1,700,000 |
| 964 | PA | For the Scranton City Redevelopment Authority to design, engineer, acquire ROW & construct streetscaping enhancements, paving, lighting & safety improvements, parking & roadway redesign . | $2,000,000 |
| 965 | FL | Construct landscaped sidewalks, bus lanes, pedestrian/bicycle paths, vehicular lanes, City of Plantation | $1,228,833 |
| 966 | NY | Improve Route 17—Access Control, Elmira to Chemung | $2,000,000 |
| 967 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Plymouth Borough, Luzerne County . | $160,000 |
| 968 | ID | Improve SH 75 from Timmerman to Ketchum | $4,800,000 |
| 969 | OR | Improve U.S. 97 from Modoc Point to Algoma | $1,600,000 |
| 970 | SD | Construct an interchange on I-90 at Marion Road west of Sioux Falls . | $5,600,000 |
| 971 | CA | Realign First St between Mission Rd and Clarence St in Los Angeles | $1,000,000 |
| 972 | MO | Relocation of Route 13 Branson West Bypass | $4,160,000 |
| 973 | IL | Resurfacing Congress Parkway The Illinois Department of Transportation | $400,000 |
| 974 | RI | Establish interchange between Route 4 and Interstate 95 | $4,800,000 |
| 975 | TX | Improvements to FM 676 in Alton . | $400,000 |
| 976 | MA | Reconstruction of Goddard Memorial Drive from State Route 9 to Airport Drive, Worcester | $900,000 |
| 977 | FL | Homestead, FL Widening of SW 320 Street (Mowry Drive) from Flagler Avenue to SW 187 Avenue | $2,000,000 |
| 978 | CT | Broad Street Reconstruction Project in New Britain | $2,000,000 |
| 979 | PA | Construct Johnsonburg Bypass . | $3,520,000 |
| 980 | CT | Construct Valley Service Road Extension, North Haven | $1,600,000 |
| 981 | VA | Construction of transportation related enhancements and infrastructure of the VMFA project | $800,000 |
| 982 | MI | Reconstruct and Widen I-94 in Kalamazoo, MI | $12,800,000 |
| 983 | MD | Land Acquistion for Highway Mitigation in Cecil and Worcester Conties, MD | $15,600,000 |
| 984 | CA | Construct overpass on Central Ave at the railroad crossing in Newark | $600,000 |
| 985 | IL | City of Bartonville, Street widening and improvements and sidewalk improvements | $762,058 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 986 | OH | Construct Williamsburg, Ohio to Batavia, Ohio Hike & Bike Trail | $240,000 |
| 987 | IL | The continuation of US Route 12 from the Wisconsin state line to the intersection of Tryon Grove Road, Route 12 and Illinois State Route 31 . | $2,400,000 |
| 988 | FL | U.S. 17-92 and French Ave. Roundabout, Sanford . | $400,000 |
| 989 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Hanover Township, Luzerne County . | $160,000 |
| 990 | MI | Reduction from 3.5 miles of travel to 1.0 miles of travel crossing over the Tittabawassee River on Meridian Road | $2,400,000 |
| 991 | ID | Widen U.S. 95 from Top of Lewiston Hill to Moscow, Idaho . | $1,600,000 |
| 992 | TX | Construct a pedestrian/bicycle trail in the Sunnyside area of Houston | $750,000 |
| 993 | TX | Construct remaining 800-foot 4-lane divided thoroughfare for Preston Rd segment between Beltway 8 and Genoa Red Bluff Rd . | $928,000 |
| 994 | | | $0 |
| 995 | SC | Medical University of South Carolina Roadway Enhancement . | $3,200,000 |
| 996 | PA | Acquisistion of adjacent property to planned Park-n-Ride at Kressler and Hamilton Boulevards in Wescosville, PA | $2,000,000 |
| 997 | MI | Livonia, reconstruct Stark Rd. between Plymouth Rd. and I-96 | $800,000 |
| 998 | PA | PA Route 309 roadway construction and signalization improvements in Tamaqua Borough . | $1,600,000 |
| 999 | MA | Union Square Roadway & Streetscape Improvements . | $400,000 |
| 1000 | TX | Improvements to South McColl Road in Hidalgo County | $1,920,000 |
| 1001 | MS | Widen US Hwy 61 and improve major intersections, Natchez | $3,040,000 |
| 1002 | TX | Widen US 82 from 2-lane facility to 4-lane facility from FM 1417 in Sherman, TX to US 69 in Bells, TX | $3,600,000 |
| 1003 | TX | Widen US 79, from FM 1512 near Jewett to IH-45 to a four-lane divided highway . | $1,600,000 |
| 1004 | TN | Construct shoulder and turn lane on SR 35 in Seymour, Tennessee . | $1,200,000 |
| 1005 | NE | Construction of Heartland Expressway between Alliance and Minatare, NE | $6,000,000 |
| 1006 | WA | Pedestrian Sidewalk Construction in Snohomish . | $140,000 |
| 1007 | TN | North Second Street Corridor Upgrade, Memphis . | $1,600,000 |
| 1008 | OH | Purchase High Speed Ferries for Black River Excursion Boat Service, Lorain . | $600,000 |
| 1009 | MD | MD4 at Suitland Parkway | $3,200,000 |
| 1010 | OK | Widen US 60 from approximately 2 miles east of the US 60-US 75 interchange east approximately 5.5 miles . | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1011 | NC | Widen US 401 from Wake County to Louisburg . | $2,400,000 |
| 1012 | PA | CUPSS, Pennsylvania, Urban Maglev Demonstration Test Project | $4,000,000 |
| 1013 | TX | Widen US 287 Bypass at Ennis from two to four lanes | $6,400,000 |
| 1014 | KY | Widen US 27 from KY 34 to US 150 Bypass, Garrard County and Lincoln County | $1,600,000 |
| 1015 | MN | Right of way acquisition for Mississippi River Bridge connecting I 94 and US 10 between US 169 and TH 101 . | $800,000 |
| 1016 | WI | Rehabilitate Highway 53 between Chippewa Falls and New Auburn | $3,200,000 |
| 1017 | IL | Widen U.S. Route 67 from Macomb to Illinois 101 . | $1,600,000 |
| 1018 | IL | Widen U.S. Route 51 from Pana to Vandalia | $2,400,000 |
| 1019 | IL | Widen U.S. Route 34 from U.S. 67 to Carmen Road . | $3,200,000 |
| 1020 | WA | Alaskan Way Viaduct and Seawall | $11,200,000 |
| 1021 | NJ | East Coast Greenway bicycle and pedestrian path from New Brunswick to Hudson River | $800,000 |
| 1022 | FL | Construct bicycle and pedestrian undperpass and park under I-95, Miami | $1,200,000 |
| 1023 | CA | Implement Van Nuys Road and Safety Improvements . | $400,000 |
| 1024 | FL | New systems interchange ramps at SR 417 and Boggy Creek Road in Orange County, FL | $6,400,000 |
| 1025 | NY | Reconstruction of Tappan Street Bridge in Town of Newark Valley . | $800,000 |
| 1026 | IL | Widen Rakow Road from Ackman Road to IL Rt 31 in McHenry County, Illinois | $5,720,000 |
| 1027 | IL | Widen U.S. Route 30 from Rock Falls to Round Grove, Whiteside County | $400,000 |
| 1028 | TN | Bristol, Tennessee highway-RR grade crossing improvement—Cedar Street | $40,000 |
| 1029 | IL | Perform Broadway and Sheridan Road signal interconnect project, Chicago . | $1,200,000 |
| 1030 | IL | Widen U.S. Highway 30 in Whiteside County, Illinois | $800,000 |
| 1031 | WI | Rehabilitate existing bridge and construct new bridge on Michigan Street in Sturgeon Bay, Wisconsin . | $5,600,000 |
| 1032 | ME | Replacement of the Route 201-A "covered" bridge, Norridgewock | $3,000,000 |
| 1033 | AR | Widen to four lanes, improvement, and other development to U.S. Highway 167 from LA state line north to I-530 | $5,000,000 |
| 1034 | PA | Widen the Route 412 corridor from I-78 into the City of Bethlehem | $8,000,000 |
| 1035 | HI | Construct access road for Kahului Airport . | $800,000 |
| 1036 | IL | Improve Highway-Railroad Crossings, Galesburg | $600,000 |
| 1037 | MN | Sauk Rapids Bridge and Roadway Replacement in Sauk Rapids, MN | $4,800,000 |
| 1038 | TN | Construct Transportation and Heritage Museum in Townsend, Tennessee . | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1039 | CA | Widen State Route 98, including storm drain developments, from Kloke Road to State Route 111, Calexico . | $2,400,000 |
| 1040 | CA | Widen State Route 98 from Route 111 to State Route 7, Calexico . | $4,000,000 |
| 1041 | GA | Construction of bypass around town of Hiram, from SR 92 to US 278, Paulding County, Georgia . | $1,600,000 |
| 1042 | TX | Construction of the interchanges at BI20 and IH20 for JBS Parkway . | $2,000,000 |
| 1043 | CA | Widen State Route 46 between Airport Road and the Shandon Rest Stop in San Luis Obispo County . | $33,461,000 |
| 1044 | TN | Widen State Route 4 (US-78) from Mississippi State Line to Getwell Road (SR-176) in Memphis, Shelby County . | $800,000 |
| 1045 | MI | Baraga County, Reconstruction of county primary road on Bayshore Drive from Haanpaa Road northerly 1.7 miles to Whirligig Road | $600,000 |
| 1046 | NY | Town of Warwick, NY walking and biking trail | $400,000 |
| 1047 | AK | Bridge over Fish Creek in Matanuska-Susitna Borough . | $1,000,000 |
| 1048 | GA | GA 400 and McGinnis Ferry Road Interchange, Forsyth County, GA . | $2,400,000 |
| 1049 | NY | Implement Improvements for Pedestrian Safety in Kings County | $600,000 |
| 1050 | NY | Reconfigure road through FDR VA Hospital to provide access to Battery Place in Town of Cortlandt | $316,000 |
| 1051 | CA | Widen State Route 262, replace two railroad overpass structures, and rebuild on and off ramps between SR 262 and Kato Rd in Fremont . | $3,200,000 |
| 1052 | TN | Widen State Route 101 in Cumberland County from two lane highway to five lanes between State Routes 282 (Dunbar Road) and 392 in Crossville | $6,400,000 |
| 1053 | FL | Widen State Road 50 in Lake County, Florida | $5,600,000 |
| 1054 | AZ | Construct a passing lane between the north end of Lake Havasu City to I-40 | $1,600,000 |
| 1055 | GA | Widen SR 85 from SR 74 to County Route 126 Bernhard Road, Fayette County, Georgia | $2,400,000 |
| 1056 | CT | Construct New arterial roadway from Barnum Avenue north to proposed Lake Success Business Park in Bridgeport, CT | $8,000,000 |
| 1057 | MI | M-13 Washington Avenue Streetscape Project. Phase II of High Priority Project 192 in Pub. L. 105–550. City of Saginaw | $1,200,000 |
| 1058 | TX | Improvements to FM 716 in Duval County | $800,000 |
| 1059 | NY | Town of Chester Surrey Meadow subdivision road improvements . | $240,000 |
| 1060 | PA | Cresheim Valley Drive Revitalization project involving scenic enhancements & pedestrian safety improvements from Lincoln Drive to Navajo Street . | $880,000 |
| 1061 | NC | Transportation Improvements at Piedmont Triad Research Park, Winston-Salem, NC . | $2,400,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1062 | MO | Upgrade and partially relocate MO Rt 141 from I-64 to Rt 340 . | $2,880,000 |
| 1063 | NY | Construct Millennium Parkway in the Towns of Dunkirk and Sheridan . | $8,400,000 |
| 1064 | AZ | Construct the Rio Salado Parkway to connect I-10 and Loop 202 freeways to 7th Street in downtown Phoenix . | $6,400,000 |
| 1065 | TN | Improving Vehicle Efficiencies at At-Grade highway-Railroad Crossing in Lenoir City, TN | $83,200 |
| 1066 | NJ | Replacement of Monmouth County bridges W7, W-8, and W-9 | $2,400,000 |
| 1067 | OK | US-54, Widen US-54 from North of Optima Northeast to Kansas State Line, Texas County, OK | $800,000 |
| 1068 | FL | Widen Palm Coast Parkway and I-95 interchange and overpass, Flagler County, Florida | $2,320,000 |
| 1069 | FL | Delray Beach Federal Highway pedestrian improvements SE 4th Street to NE 4th Street | $1,600,000 |
| 1070 | WI | Expand Highway 10 between Marshfield and Stevens Point . | $16,000,000 |
| 1071 | NY | Install Improvements for Pedestrian Safety including in the vicinity of IS R72/PS R69 | $250,000 |
| 1072 | TN | Upgrade roads for Slack Water Port facility and industrial park Lake County | $1,500,000 |
| 1073 | AK | Emergency evacuation road at Point Hope in North Slope Borough . | $3,000,000 |
| 1074 | MI | Construct railroad grade separation on M-85 (Fort Street) North of Van Horn Road, Trenton . | $1,600,000 |
| 1075 | IL | Land acquisition, engineering, and construction for the initial 2-lane segments of the Corridor between IL 31 to IL 25 and other segments of the Corridor as appropriate | $4,000,000 |
| 1076 | PA | Modernize traffic signals, complete minor roadway realignment, and improve channelization at US 322 and PA 10 intersection | $384,000 |
| 1077 | KS | Construction of a four-lane access controlled improvement for 4 miles on US-54/400 in Pratt County | $8,548,800 |
| 1078 | IN | Upgrade rail crossing at 93rd Avenue, St. John | $160,000 |
| 1079 | FL | Widen SR 710 by 2 lanes from Congress Avenue to US-1 . | $2,400,000 |
| 1080 | GA | Widen SR 234/Gillionville Road from Eight Mile Road to Lockett Station, Dougherty County | $800,000 |
| 1081 | CA | Widen SR 12 to four lanes through Jamieson Canyon (between I-80 and SR 29) for safety concerns and economic growth | $6,400,000 |
| 1082 | GA | Widen SR 104 from SR 383/Belaire Road to CR 515/Cumberland Drive (including bridges) in Columbia County . | $3,200,000 |
| 1083 | IN | Study Traffic on Muncie By-Pass from Centennial Avenue to McGalliard Road in the City of Muncie and Delaware County, Indiana . | $96,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1084 | FL | Construct US 17-92 improvements, Maitland, Florida . | $1,200,000 |
| 1085 | CA | Widen South Main St.-Soda Bay Rd. between CR 400A (mile marker 0.0-miler marker and 0.7) and CR 502 (mile marker 0.0 and 0.9) | $3,200,000 |
| 1086 | VA | Replacement of the 635 Bridge in Orange County, VA | $400,000 |
| 1087 | TX | construct Loop 20 in Laredo . | $1,600,000 |
| 1088 | IA | Construct SE Connector/MLK Pkwy, Des Moines | $7,200,000 |
| 1089 | FL | Construction and Design of Miami River Greenway Road Improvements and 5th Street Improvements | $1,600,000 |
| 1090 | TX | Widen SH 317 from two lanes to four lane divided facility . | $1,600,000 |
| 1091 | TX | Widen SH 205 from two lanes to a six lane urban divided highway from North of SH 66 to proposed SH 276 . | $800,000 |
| 1092 | CA | Widen Santa Maria River Bridge on U.S. Highway 101 between Santa Barbara County and San Luis Obispo County | $2,720,000 |
| 1093 | CA | Widen San Fernando Road North, including streetscape projects, Sylmar | $848,000 |
| 1094 | PA | Central Susquehanna Valley Transportation Project US 15: $5 million for the final design . | $4,880,000 |
| 1095 | NJ | Construct Rt 49 Cohansey River Bridge Replacement, Cumberland County . | $2,400,000 |
| 1096 | ME | Construction and snowmobile safety accommodations for Route 116 Bridge, Medway | $4,000,000 |
| 1097 | MI | Construct pedestrian trail and bridge in Kearsley Park in Flint . | $80,000 |
| 1098 | IA | Coralville, IA Implementation of final phase of Safety Improvements Project from 12th Ave to 22nd Ave | $1,600,000 |
| 1099 | IL | Expand and improve Illinois Route 47 Roadway from Reed Road to Kreutzer Road in Huntley, Illinois . | $5,720,000 |
| 1100 | NY | Build Route 15, Pennsylvania to Presho | $20,000,000 |
| 1101 | GA | I-285 Riverside interchange reconstruction, Fulton County, Georgia . | $1,600,000 |
| 1102 | MN | Construct 3 segments of Cuyuna Lakes Trails, Crow Wing County | $1,200,000 |
| 1103 | WA | Improve I-5 interchange at 134th Street in Clark County | $10,772,000 |
| 1104 | GA | Construct Pedestrian Safety Improvements on Buford Hwy (SR-13), Dekalb County . | $2,400,000 |
| 1105 | DC | 11th St. Bridges, Rehabilitation of structures as well as new ramps to provide for traffic at Navy Yard, Southeast Federal Ctr., and Gateway Government Ctr | $17,600,000 |
| 1106 | MO | Improve U.S. 36 to divided four lane expressway from Macon to Route 24 | $8,000,000 |
| 1107 | VA | Mill Road Slip Ramp . | $400,000 |
| 1108 | NY | Construct sidewalks and curbing on Tate Avenue in Village of Buchanan . | $300,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1109 | MI | Delta County, Widen, pulverize, improve drainage at County Rd 497 from US 2 at Nahma Junction southerly 4.75 miles to the village of Nahma | $589,920 |
| 1110 | UT | Construction of 200 North Street highway-rail graded crossing separation, Kaysville, Utah | $3,200,000 |
| 1111 | FL | Kennedy Blvd. Reconstruction, Eatonville | $1,600,000 |
| 1112 | VA | Improvements to public roadways within the campus boundaries of the Virginia Biotechnology Park, Richmond, VA | $2,400,000 |
| 1113 | VA | Install Transporation Critical Incident Mobile Data Collection Device in Charlottesville | $94,720 |
| 1114 | NY | Ithaca, Design and construct pedestrian and bicycle path . | $435,200 |
| 1115 | AZ | Navajo Mountain Road on the Navajo Nation | $1,000,000 |
| 1116 | PA | Expansion of existing PA Turnpike ITS System . | $3,280,000 |
| 1117 | TX | Construction of ferryboat for City of Port Aransas | $320,000 |
| 1118 | NY | Project will rehabilitate and reopen historic High Bridge, which crosses the Harlem River between Manhattan and the Bronx | $4,000,000 |
| 1119 | NJ | Route 17 Congestion Improvements and Widening, from Williams Avenue to the Garden State Parkway and Route 4 in Bergen County | $9,600,000 |
| 1120 | IN | Design and construct Tanner Creek Bridge on US 50, Dearborn County Indiana . | $992,000 |
| 1121 | NC | Environmental studies and construction of US 74 Monroe Bypass Extension | $4,800,000 |
| 1122 | OH | Construct Pedestrian Bridge from east of Dock 32 to Voinovich Park southwest corner, Cleveland | $1,712,000 |
| 1123 | GA | Extension of Sugarloaf Parkway, Gwinnett County | $2,400,000 |
| 1124 | ME | Construct bicycle and pedestrian bridge over Stillwater River, Orono | $1,000,000 |
| 1125 | IL | For widening from two to four lanes, the Brookmont Boulevard Viaduct in Kankakee, IL and adjusting approach grades | $800,000 |
| 1126 | GA | I-285 SR 400 interchange reconstruction and HOV interchange, Fulton County, Georgia . | $800,000 |
| 1127 | MN | Construct a road between Highway 332 and TH 11 including a signalized rail road crossing, Koochiching County | $240,000 |
| 1128 | MO | Hanley Road from I-64 to south of State Route 100, St. Louis County . | $8,000,000 |
| 1129 | AL | Expand SR-167 from Troy, AL to Enterprise, AL | $2,400,000 |
| 1130 | MN | Construction of primary and secondary access roadways to the Duluth Air National Guard Base, City of Duluth | $3,400,000 |
| 1131 | CT | Construct high-speed rail crossing to bike and pedestrian trails -Enfield, CT | $3,440,000 |
| 1132 | TX | Expansion of Port Rd at Northbound Frontage Rd of SH 146 east to intersection with Cruise Terminal Rd to 6-lane section with raised median . | $9,552,000 |
| 1133 | TN | Constuct Western Bipass from Zinc Plant Road to Dotsonville Road, Montgomery County | $2,720,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1134 | CA | Improvements to State Route 67/State Route 52 interchange | $4,000,000 |
| 1135 | TN | Plan and construct a bicycle and pedestrian trail, Springfield . | $200,000 |
| 1136 | TX | Expansion of Daniel McCall Dr., Lufkin, TX . | $2,200,000 |
| 1137 | NY | Rehabilitate the Pines Bridge Road and Lake Avenue and Ryder Road, in Ossining, York-town, and New Castle | $2,212,000 |
| 1138 | CA | Construct Valley Boulevard Drainage Improvements, El Monte | $600,000 |
| 1139 | NJ | Route 82 Union County Streetscape and Intersection Improvements | $800,000 |
| 1140 | NY | Short Clove Road Rail Overpass, Haverstraw . | $800,000 |
| 1141 | FL | Construct Atlantic Boulevard Improvements, Key West, Florida | $800,000 |
| 1142 | CA | Implement intelligent management & logistics measures to improve freight movement, Gateway Cities . | $2,400,000 |
| 1143 | WI | Expand USH 45 between CTH G and Winchester, Winnebago County, WI | $4,000,000 |
| 1144 | NY | Implement ITS system and apparatus to enhance citywide truck route system on LIE Eastbound Service Road at 74th Street to Caldwell Ave, Grand Ave from 69th Street to Flushing Ave, and Eliot Ave from 69th Street to Woodhaven Blvd | $100,000 |
| 1145 | IA | Construct IA-32 Arterial from US 20 in Dubuque Co, IA to US 61 and US 151 . | $15,200,000 |
| 1146 | HI | Kapolei Transportation Improvements, Island of Oahu | $800,000 |
| 1147 | NY | 125th Street Corridor Improvements from Old Broadway to Marginal Street/Waterfront, New York City | $11,200,000 |
| 1148 | CA | Los Angeles Regional Diesel Emissions Reduction Program For Engine Retrofit, Gateway Cities | $400,000 |
| 1149 | IL | Reconstruct intersection of Wood Dale and Irving Park roads in DuPage County, IL | $11,440,000 |
| 1150 | GA | Social Circle bypass completion, from Stanford Road to SR 11, Social Circle . | $2,400,000 |
| 1151 | GA | Streetscape Project to install sidewalks and bicycle trails, Gray | $500,000 |
| 1152 | MO | Reconstruction of the Tucker Street Bridge in the City of St. Louis | $5,600,000 |
| 1153 | PA | Bethlehem Pike improvements from Valley Green Road to South of Gordon Lane, Springfield Township . | $800,000 |
| 1154 | GA | Construct I-75 I-575 HOV interchange, Cobb County, Georgia . | $480,000 |
| 1155 | IL | Construct multi-use pedestrian path between Oakton St. and Dempster St., Skokie . | $200,000 |
| 1156 | AZ | Construct link from Twin Peaks Road to I-10 and Linda Vista Blvd. including bridge over Santa Cruz River and overpass of Union Pacific Rail Road . | $4,800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1157 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Newport Township, Luzerne County . | $160,000 |
| 1158 | VA | Fries Train Station and Trail—restoration of former train station for use as visitors center and construction of trail along New River | $800,000 |
| 1159 | PA | Construction SR 3024, Middle Creek Bridge II, South Canaan, Wayne County | $560,000 |
| 1160 | WI | Expand USH 141 between STH 22 and STH 64 (Oconto and Marinette Counties, Wisconsin) | $1,600,000 |
| 1161 | IL | Development of a coordinated trail system, parking and trial systems in Dixon, IL . | $2,560,000 |
| 1162 | PA | Installation of comprehensive signage system across 1700 acres of urban parks in Pittsburgh | $720,000 |
| 1163 | GA | Interstate 75/Windy Hill Road Interchange | $1,600,000 |
| 1164 | NJ | Bridge replacement and SR 31 widening over the Raritan Valley Line in Glen Garnder, Hampton, Hunterdon County | $800,000 |
| 1165 | VA | Bristol Train Station—historic preservation and rehabilitation of former Bristol, VA train station . | $400,000 |
| 1166 | CO | I-25 Improvements—Douglas—Arapahoe County Line to El Paso County Line | $4,800,000 |
| 1167 | TN | Reconstruct connection with Hermitage Avenue to Cumberland River Bluff in Nashville | $400,000 |
| 1168 | IL | For Village of Lemont to construct a bridge over Chicago Ship and Sanitary Canal linking Centennial Trail to I&M Canal Trail | $80,000 |
| 1169 | OH | Construct roadway improvement along State Route 62 in Berlin . | $100,000 |
| 1170 | NY | Reconstruction and improvements of University Avenue and the extension of the ARTWalk project, Rochester | $1,600,000 |
| 1171 | NH | Reconstruction and Improvements to NH Route 110 in Berlin . | $1,600,000 |
| 1172 | PA | Route 6 Resurfacing from Mansfield Borough in Richmond Township to the Village of Mainesburg in Sullivan Township . | $1,200,000 |
| 1173 | WA | SR 167—Right of way acquisition for a new freeway connecting SR 509 to SR 161 . | $2,000,000 |
| 1174 | MD | I-70: Frederick | $1,600,000 |
| 1175 | NY | Planning, Design, ROW and Construction of Fort Drum Connector Road | $5,200,000 |
| 1176 | CA | Study and construct highway alternatives between Orange and Riverside Counties, directed by the Riverside Orange Corridor Authority working with local government agencies, local transp. authorities, and guided by the current MIS | $3,200,000 |
| 1177 | CA | Fresno County, CA Widen Friant Road to four lanes with class II bicycle lanes . | $1,200,000 |
| 1178 | MO | Study for Highway 160 & Kansas Expressway Corridor | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1179 | FL | Construct Route 9B from US 1 to Route 9A (I-295) to the Duval County line . | $4,000,000 |
| 1180 | PA | Design, const. widening of PA 94 from York-Adams County line to Elm Street in Hanover, PA . | $2,400,000 |
| 1181 | CA | Improvement of intersection at Burbank Blvd. and Woodley Ave | $128,000 |
| 1182 | TX | Port of Beaumont Southside Intermodal Project | $5,190,400 |
| 1183 | WA | Perform final interchange design and property acqusition at Fleshman Way where it crosses SR 129, that enhances safety and passenger and freight mobility and reduces congestion | $840,000 |
| 1184 | WA | Roosevelt Extension at Urban Avenue to Cameron Way in Mount Vernon . | $3,200,000 |
| 1185 | NJ | Hazel Street reconstruction, Passaic County | $3,200,000 |
| 1186 | FL | Improvements to Eller Drive including right-ofway acquisition and construction of return loop connector | $800,000 |
| 1187 | MO | Study Highway 37-60 Entire Corridor . | $2,000,000 |
| 1188 | TX | The District-Tyler Outer Loop 49 Construction | $5,184,000 |
| 1189 | PA | Tidal Schuylkill Riverfront project consists of an eight mile bike and pedestrian recreation trail from Locust Street to Historic Bar-tram's Gardens | $1,344,000 |
| 1190 | NY | Town of Fishkill reconstruct Maple Ave . | $19,600 |
| 1191 | IL | For IDOT to expedite pre-construction and construction to widen I-55 from Naperville Road south to I-80 | $2,800,000 |
| 1192 | UT | 200 East Minor Arterial, Logan City, Utah . | $720,000 |
| 1193 | NJ | Construct I-287, I-80, Route 202 Interchange | $800,000 |
| 1194 | NY | Design and construction of Fulton Street from Clinton Avenue to Bedford Avenue in Brooklyn, New York | $4,480,000 |
| 1195 | TX | Port of Corpus Christi Joe Fulton International Trade Corridor for congestion and safety enhancements | $400,000 |
| 1196 | MO | Renovations and Enhancements on the Bicycle Pedestrian Facility on the Old Chain of Rocks Bridge spanning the Mississippi River | $640,000 |
| 1197 | CT | Construct Shoreline Greenway Trail, Guilford, Branford, East Haven . | $1,600,000 |
| 1198 | NJ | Transportation Improvements in Liberty Corridor . | $4,000,000 |
| 1199 | OH | Construct SR 104 into a 4 lane facility with a turning lane in Ross County | $6,000,000 |
| 1200 | MO | Construct 2 lanes on Hwy 45 from Hwy 9 to Graden Road in Platte County . | $2,400,000 |
| 1201 | MS | Plan and Construct Highway 45 Bypass in Columbus | $2,400,000 |
| 1202 | PA | Reconstruct hwy & replace of bridge on US 422 between the Berks County Line and the Schuylkill River in Montgomery and Chester Counties . | $1,200,000 |
| 1203 | FL | Construct SR 20 connection to SR 100 via CR 309-C, Putnam County, Florida | $3,440,000 |
| 1204 | OH | Road and related pedestrian improvements at SR 283 in the Village of Grand River, OH . | $80,000 |
| 1205 | NY | Road infrastracture projects to improve commercial access in the Towns of Malta and Stillwater and the Village of Round Lake, Saratoga County, New York | $6,520,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1206 | NY | Replace structurally deficient bridge over the Pocantico River, the Village of Pleasantville | $800,000 |
| 1207 | IL | Complete Heavy Truck Loop for DuQuoin Industrial Park | $500,000 |
| 1208 | MD | Construction and dualization of US 113 . | $12,000,000 |
| 1209 | GA | Streetscape-Quitman | $160,000 |
| 1210 | NY | Town of New Windsor Toleman & Station Roads Reconstruction and area Improvements . | $592,000 |
| 1211 | | | $0 |
| 1212 | WA | Design and construct pedestrian land bridge spanning SR14 | $2,000,000 |
| 1213 | MI | Construction of Greenways in Pittsfield Charter Township—2.5 miles to existing Ann Arbor Greenways, Pittsfield Charter Township | $239,200 |
| 1214 | CA | Golden Gate National Parks Conservancy—Plan and Implement Trails & Bikeways Plan for the Golden Gate National Recreation Area and Presidio | $5,000,000 |
| 1215 | NY | State of NY Village of Kiryas Joel sidewalk project | $600,000 |
| 1216 | | | $0 |
| 1217 | IL | Transportation Enhancement and road improvements necessary for Downtown Plaza improvements in Jacksonville, IL | $762,058 |
| 1218 | CA | Upgrade and reconstruct I-580/Vasco Road Interchange, City of Livermore . | $2,000,000 |
| 1219 | TX | Build Bike Trail at Chacon Creek in Laredo | $3,300,000 |
| 1220 | UT | 3200 South Project, Nibley, Utah . | $800,000 |
| 1221 | NJ | Expand Route 440—State Street Interchange in Perth Amboy | $4,000,000 |
| 1222 | GA | Improvement and construction of SR 40 from east of St. Marys cutoff at mile post 5.0, Charlton County to County Route 61, Camden County, Georgia | $800,000 |
| 1223 | PA | Erie, PA Regional upgrades to urban-rural corridors | $1,280,000 |
| 1224 | GA | Georgia Construct Three Greenway Trail Project, Dekalb County . | $1,600,000 |
| 1225 | FL | Cross Creek Boulevard Widening | $1,440,000 |
| 1226 | MD | Implement Intelligent Transportation System in Baltimore . | $1,120,000 |
| 1227 | OH | Construct an access road into the industrial park near SR 209 and CR 345 in Guernsey County | $800,000 |
| 1228 | CA | Improve the Rosecrans Ave and Alondra Blvd bridges over the San Gabriel River in Bellflower . | $40,000 |
| 1229 | PA | Independence National Historic Park scenic enhancement and pedestrian walkways improvement project in conjunction with the park's Executive Mansion Exhibit . | $3,600,000 |
| 1230 | CA | Modesto, Riverbank & Oakdale, CA Improve SR 219 to 4-lanes | $1,600,000 |
| 1231 | ME | Modifications to Exit 7/I-295 and to Franklin Arterial, Portland | $180,000 |
| 1232 | KY | Replace Bridge and Approaches on Searcy School Road over Beaver Creek, Anderson County | $700,000 |
| 1233 | NJ | Route 22 Sustainable Corridor Plan . | $2,400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1234 | NY | Conduct studies, if necessary, and construct the High Line Trail Project, New York City | $4,000,000 |
| 1235 | WA | Install dual left turn lanes and intersection signal modifications at SR432 and Columbia Blvd | $1,750,000 |
| 1236 | OK | Transportaion enhancements for Highway 19 from Ada to Stratford . | $2,400,000 |
| 1237 | CA | Interstate 15-Base Line Road Interchange Project, Rancho Cucamonga, California | $4,000,000 |
| 1238 | SC | Build Interchange at US 17 and Bowman Road in Mount Pleasant, SC . | $4,800,000 |
| 1239 | CA | Complete Monterey Bay Sanctuary Scenic Trail between Monterey and Santa Cruz counties | $5,800,000 |
| 1240 | NY | Improve Hospital Road Bridge between CR99 and CR101, Patchogue | $4,800,000 |
| 1241 | NV | Construct Martin Luther King Blvd. – Industrial Rd. Connector | $8,000,000 |
| 1242 | MI | I-96 Beck,Wixom Road Interchange, design, ROW, and construction . | $2,400,000 |
| 1243 | IA | Muscatine, IA Construction of 4.2 mile multipurpose trail from Musser Park to Weggens Road . | $400,000 |
| 1244 | GA | Historic preservation of a city bus station in downtown Eastman | $160,000 |
| 1245 | TX | Construction of internal roads at Port of Brownsville to make roads safer with less wear and tear . | $2,000,000 |
| 1246 | NY | NYSDOT Route 55 turning lane at Gardner Hollow Road | $400,000 |
| 1247 | TN | Plan and construct a bicycle and pedestrian trail, Lewisburg | $80,000 |
| 1248 | TX | Reconstruct Danieldale Rd from I-35E to Houston School Rd in Lancaster | $1,600,000 |
| 1249 | CT | Relocation of Edmond Road in Newtown and construction of additional turning lanes at Rte 6 and Commerce and Edmond Rds | $1,600,000 |
| 1250 | OH | Construction of Interchange at State Route 8 and Seasons Road, Stow, OH | $1,200,000 |
| 1251 | NJ | North Avenue-Route 1 Elizabeth Pedestrian and Bicycle Project | $60,000 |
| 1252 | AL | Pedestrian Improvements for Morris, AL . | $106,666 |
| 1253 | NY | Preliminary design and environmental impact study for a collector-distributor road along I-95 from Westchester Ave. to Bartow Ave | $7,360,000 |
| 1254 | NJ | Replacement of Signals at the Intersections of Centennial Ave @ Lincoln Ave and Walnut Ave @ Lincoln Ave, Cranford, NJ | $392,000 |
| 1255 | KS | Replacement or rehabilitation of the Amelia Earhart US-59 Bridge in Atchison County, Kansas . | $2,000,000 |
| 1256 | | | $0 |
| 1257 | CA | Central Galt & State Route 99 Interchange and Access Improvements . | $2,400,000 |
| 1258 | OH | Construction of Roadways and transportation improvements for downtown Springfield, Ohio | $3,560,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1259 | KY | Reconstruct KY 89 from Irvine Bypass to 2000 Feet North of Estill County High School, Estill County | $600,000 |
| 1260 | NY | Town of East Fishkill new construction Bypass road | $640,000 |
| 1261 | CA | Establish new grade separation at Sunset Ave in Banning . | $1,600,000 |
| 1262 | CT | Construct and Widen Stamford Rail Underpass & Road Realignment Project . | $800,000 |
| 1263 | TN | Hamblen County, Tennessee US 11E (SR 34) interchange improvements | $800,000 |
| 1264 | IL | Implement ITS and congestion Mitigation Project on I-294 and I-90 . | $3,200,000 |
| 1265 | AZ | Design and construction of roadway improvements on US 60 from 67th Avenue to McDowell | $1,600,000 |
| 1266 | TX | Hike and bike trail will tie into the Gellhorn Dr. project providing an improved multi-modal transportation facility . | $800,000 |
| 1267 | OH | Jackson Township, Ohio—Hill and Dales Road widening . | $1,600,000 |
| 1268 | SC | Build 701 Connector (Southern Conway Bypass) in SC | $4,000,000 |
| 1269 | MN | Reconstruct I-694 White Bear Avenue (CSAH 65) Interchange in White Bear Lake | $400,000 |
| 1270 | WI | Replace 17th Street Lift Bridge, Two Rivers, Wisconsin . | $6,000,000 |
| 1271 | MA | Route 116 and Bay Road Intersection Improvements-Amherst . | $3,200,000 |
| 1272 | IL | Streetscape improvements on Blue Island from 19th-21st St, Chicago | $800,000 |
| 1273 | TN | Construct and improves intersections in Niota, Tennessee | $80,000 |
| 1274 | CA | Upgrade Bellflower intersections at Alondra Blvd and at Rosecrans Ave in Bellflower | $280,000 |
| 1275 | NJ | Construct Riverbank Park Bike Trail, Kearny | $2,000,000 |
| 1276 | NC | Install ITS on US 52 in Forsyth County | $320,000 |
| 1277 | MD | Construction and dualization of MD 404 in Queen Anne, Talbot and Caroline Counties | $5,600,000 |
| 1278 | NY | Land acquisition and improvements on Louisa Street, Peekskill, NY . | $740,000 |
| 1279 | IL | Upgrade connector road from IL Rt I-255 to IL Rt 3, Sauget . | $1,920,000 |
| 1280 | NJ | Reconstruction of Route 46/Route 3/Valley Rd/ Notch Rd Interchange . | $9,600,000 |
| 1281 | MS | Upgrade roads in Attala County District 4 (Roads 4211 and 4204), Kosciusko, Ward 3 (U.S. Hwy 16), and Ethel (U.S. Hwy 12), Attala County | $800,000 |
| 1282 | TX | Construction of streets in the White Heather area of Houston | $9,250,000 |
| 1283 | MS | Upgrade roads in Canton (U.S. Hwy 51, 22, 16 and I-55), Madison County | $320,000 |
| 1284 | IA | Reconstruction of the Neal Smith Trail, bicycle and pedestrian, Polk Co | $2,880,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1285 | CA | Rehabilitate pavement on Azusa Avenue and San Gabriel Avenue in Azusa | $400,000 |
| 1286 | CA | South Bay Cities COG Coastal Corridor Transportation Initiative, Phase 3, El Segundo . | $1,600,000 |
| 1287 | MS | Upgrade roads in Terry, Edwards,Utica and Bolton, Hinds County | $1,000,000 |
| 1288 | FL | US 1 six laning from St. Lucie County line to south of 4th St in Indian River County, FL | $800,000 |
| 1289 | MD | Expand Route 29 in Howard County | $5,440,000 |
| 1290 | WA | Issaquah SE Bypass | $4,000,000 |
| 1291 | | | $0 |
| 1292 | MD | US 220 MD 53 North South Corridor | $800,000 |
| 1293 | NJ | Improvements to Clove Road and Long Hill Road in Little Falls and Upper Mountain Ave. in Montclair . | $2,800,000 |
| 1294 | HI | Study of East Hawaii Alternative Road, Island of Hawaii . | $160,000 |
| 1295 | FL | Town of Southwest Ranches Urban Interchange | $1,600,000 |
| 1296 | CA | Long Beach Intelligent Transportation System: Integrate functioning traffic management center that includes the port, transit, airport as well as the city's police and fire departments, Long Beach | $2,400,000 |
| 1297 | CA | Almaden Expressway Improvements between Branham Lane and Blossom Road, San Jose | $2,800,000 |
| 1298 | AR | Construct and rehabilitate University of Arkansas Technology Corridor Enhancement Project | $1,200,000 |
| 1299 | CO | US 550, New Mexico State Line to Durango . | $4,800,000 |
| 1300 | TX | Construct bicycle and pedestrian trails in Houston's historic Third Ward | $600,000 |
| 1301 | NY | Village of Cold Spring Main St. sidewalk and lighting improvements | $200,000 |
| 1302 | NY | Village of Goshen Hatfield Lane reconstruction | $200,000 |
| 1303 | SC | Plan and build Interstate 73 from NC line to Myrtle Beach, SC . | $8,000,000 |
| 1304 | | | $0 |
| 1305 | FL | Construct College Road Improvements, Key West, Florida . | $400,000 |
| 1306 | NY | West Harlem Waterfront-ferry, intermodal and street improvements . | $11,200,000 |
| 1307 | CA | Construct sound barriers at the I-805/S.R. 54 Interchange, National City | $680,000 |
| 1308 | NY | Road projects that develop Access to Port Byron and Erie Canal | $1,000,000 |
| 1309 | FL | West Palm Beach, Florida, Flagler Drive Re-configuration | $800,000 |
| 1310 | AL | Construct extension of I-565 westward fromexisting interchange to existing Tennessee River bridges at Decatur, AL . | $4,000,000 |
| 1311 | CT | Construct Farmington Canal Greenway, City of New Haven and Hamden . | $2,000,000 |
| 1312 | GA | Replace sidewalks, upgrade lighting, and install landscaping, Helena . | $320,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1313 | IA | Upgrade US 30 Liberty Square in City of Clinton, Iowa | $7,600,000 |
| 1314 | HI | Study of Waianae Coast Emergency Access Road . | $400,000 |
| 1315 | NY | Westchester County,NY Rehabilitation of Lexington Ave, Mt. Kisco | $400,000 |
| 1316 | CA | Widen and Improve County Line Road in Calimesa . | $1,600,000 |
| 1317 | OH | Construct turn lane, install traffic light, and reorient traffic on SR 146 near Bussemer Lane in Muskingum County | $600,000 |
| 1318 | RI | Restore and Expand Maritime Heritage site in Bristol | $800,000 |
| 1319 | OH | City of Green, Ohio. Lauby Road exit improvements . | $1,200,000 |
| 1320 | NY | Construct Bicycle Path in Town of Bedford . | $520,000 |
| 1321 | CA | Compton Arterial Reconstruction and Improvement Program, Compton . | $3,200,000 |
| 1322 | MT | Construction of S. 323 from Alzada to Ekalaka in Carter County | $9,600,000 |
| 1323 | IL | Improve Great River Road, Mercer County | $400,000 |
| 1324 | FL | Normandy Blvd. & Cassat Ave. Transportation Enhancements, Jacksonville | $400,000 |
| 1325 | OH | North Canton, OH Applegrove St. road widening | $2,400,000 |
| 1326 | MA | Design & Build Cape Cod Bike Trail, with Shining Sea Bikeway, to link core with outer Cape communities & heavily visited national sites | $3,200,000 |
| 1327 | TN | Plan and construct N. Tennessee Boulevard enhancements | $400,000 |
| 1328 | NJ | Quinn Road realignment, Clifton | $2,400,000 |
| 1329 | MO | Reconstruct Interstate 44 and Highway 65 Interchange | $13,040,000 |
| 1330 | MN | Reconstruct TH 61 from Split Rock River to Silver Bay including construction of the Gitchi Gami Spur Trail between the main trail and Silver Bay Marina along the TH 61 roadway segment | $9,664,000 |
| 1331 | KY | Reconstruction of KY 259 in Edmonson County from Green River Bridge at Brownsville to Kyrock Elementary School | $1,200,000 |
| 1332 | LA | Construction of a turn lane expansion along with signalization at the north bound off ramp on I-49, at the intersection of US 190 | $400,000 |
| 1333 | AL | Expand SR-210 (Ross Clark Circle) from US 231 North to US 231 South in Dothan, AL | $3,200,000 |
| 1334 | MD | Construct interchange at MD Route 355 at Montrose and Randolph Roads in Montgomery County . | $1,600,000 |
| 1335 | CA | Construct new interchange and related road improvements on US101 near Airport Blvd, Salinas | $1,936,000 |
| 1336 | PA | Construct the French Creek Parkway in Phoenixville, PA . | $4,000,000 |
| 1337 | MN | Capacity and safety improvements to TH 8, west of 306th St. to eastern city limits, Lindstrom | $5,760,000 |
| 1338 | VA | Eastern Seaboard Intermodal Transportation Applications Center (ESITAC) in Hampton Roads . | $1,200,000 |
| 1339 | IL | Construct underpass at intersection of Damen/ Fullerton/Elston Avenues, Chicago | $4,400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1340 | AR | Highway 165: Railroad Overpass | $1,600,000 |
| 1341 | FL | Implement Snake Road (BIA Route 1281) Widening and Improvements . | $800,000 |
| 1342 | CA | Construction of new freeway between I-15 and US-395, including new interchange at I—15 | $4,000,000 |
| 1343 | OH | Lake Township, Ohio. Market Avenue-Lake Center intersections improvement . | $1,760,000 |
| 1344 | CT | Construct Quinnipiac Linear Trail, Wallingford | $800,000 |
| 1345 | MI | Construction of a hike and bike path from Riverbends Park, 22 Mile Road, to Stony Creek Park, 25 Mile Road in Shelby Township | $400,000 |
| 1346 | IN | Reconstruct Boston Street, from State Road 2 to Bach St., Larson-Whirlpool St. in LaPorte, Indiana . | $600,000 |
| 1347 | OR | Improvements to Bandon-Charleston State Scenic Tour on Randolph Road and North Bank Lane | $4,200,000 |
| 1348 | VA | Conduct study of Route 460 Corridor, Virginia | $4,000,000 |
| 1349 | NJ | Construct Sparta Stanhope Road Bridge (AKA Bridge K-07) | $800,000 |
| 1350 | KY | Reconstruct Turkeyfoot Road, Kenton County, Kentucky | $2,400,000 |
| 1351 | OH | Construct additional lane to alleviate traffic congrestion on US 40 in and adjacent to St. Clairsville . | $800,000 |
| 1352 | CO | CO 56th Avenue & Quebec Street Improvements Phase I, Denver | $5,200,000 |
| 1353 | OH | Construct Truck Bypass-Orville, Ohio | $4,803,520 |
| 1354 | PA | Conversion of Penn and Park Bridges located over Spring Run in Altoona, Pa into pedestrian bridges . | $40,000 |
| 1355 | CA | Coyote Creek Trail Project—Story Road to Montague Expressway . | $2,000,000 |
| 1356 | PA | Construct Cameron Street Bridge Northumberland County, Pennsylvania | $800,000 |
| 1357 | | | $0 |
| 1358 | OH | Medina, Ohio. Guilford Avenue urban road collector pavement reconstruction | $480,000 |
| 1359 | TN | Improvements to I-40 interchange at I-240 East of Memphis (Phase II) | $2,400,000 |
| 1360 | WY | Casper Bypass: Reconstruct Old Yellowstone Hwy and 2nd St . | $4,000,000 |
| 1361 | NY | Construct sidewalks and roadway improvements on Oscawana Lake Road in the Town of Putnam Valley . | $480,000 |
| 1362 | LA | Engineering and right of way acquisition for I-49 Corridor through Lafayette, LA | $8,000,000 |
| 1363 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Edwardsville Borough, Luzerne County . | $160,000 |
| 1364 | IL | Foster Avenue at Kedzie Avenue Streetscape . | $1,600,000 |
| 1365 | WV | Construct I-73/74 High Priority Corridor, Mercer Co . | $8,960,000 |
| 1366 | NY | Improve Long and Short Beach Road, Southampton | $2,100,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1367 | CA | Modify I-880 & Stevens Creek Boulevard Interchange to ease traffic congestion in San Jose | $9,600,000 |
| 1368 | NY | Improve road and streetscape along Prospect Avenue in North Hempstead . | $800,000 |
| 1369 | CA | Palm Drive & Interstate 10 interchange project | $2,200,000 |
| 1370 | MN | Reconstruct TH 36 from expressway to freeway in North St. Paul . | $4,800,000 |
| 1371 | CA | Construct I-580 Interchange Improvements in Castro Valley | $960,000 |
| 1372 | AL | Expand US 331 from Luverne, AL to Montgomery, AL | $2,400,000 |
| 1373 | TX | Construction of highway medians, pedestrian walkways for City of South Padre Island | $400,000 |
| 1374 | NY | Construct Rt. 12 intersection between Pamela Drive-River Road-Located in the Town of Chenango . | $1,920,000 |
| 1375 | IL | Construct Streetscape Project, Village of Robbins . | $640,000 |
| 1376 | GA | Effingham Parkway to Connect SR119 to SR30 | $3,200,000 |
| 1377 | MD | Construct Phase 2 of the Jones Falls Trail from Baltimore Penn Station to the Maryland Science Center on the Inner Harbor . | $3,200,000 |
| 1378 | IL | For Will County for engineering and right-ofway acquisition to extend 95th Street from Plainfield-Naperville Road east to Boughton Road . | $400,000 |
| 1379 | PA | Construct Valley Business Park Access Road C, Bradford County . | $2,160,000 |
| 1380 | LA | Improve by widening, realigning, & resurfacing 3.2 miles of LA Hwy 820 btwn LA Hwy 145 & LA Hwy 821 | $2,400,000 |
| 1381 | IN | 45th Street Improvements, Munster . | $400,000 |
| 1382 | NY | Install Improvements for Pedestrian Safety including in the vicinity of PS K124 | $250,000 |
| 1383 | VT | Construction and engineering for the Vermont Smugglers Notch Scenic Highway Corridor Southern Gateway and Notch Proper Facilities . | $868,411 |
| 1384 | OH | Planning and construction of a network of recreational trails in Perry Township | $760,000 |
| 1385 | GA | Construction of the Truman Linear Park Trail-Phase II . | $1,008,000 |
| 1386 | NJ | Pedestrian and bicycle facilities, and street lighting in Haddon Heights/Barrington | $600,000 |
| 1387 | CA | Reconstruct interchange at I-10 and Riverside Avenue to improve traffic in Rialto . | $1,600,000 |
| 1388 | CA | Reconstruct Bloomfield Av. with medians from Carson St. to north city limits in Hawaiian Gardens | $320,000 |
| 1389 | SC | Extension of Wells Highway, Oconee County, South Carolina . | $1,600,000 |
| 1390 | CA | Reconstruct Paramount Bl. with medians and improve drainage from Artesia Bl. to Candlewood St. in Long Beach | $480,000 |
| 1391 | IL | Reconstruction of 5th Street Road (FAS 569)in Logan County, IL | $762,056 |
| 1392 | WA | Reconstruction of SR 99 (Aurora Ave N) between N 145th St and N 205th St . | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1393 | NY | Page Green—Phase III—Reconstruction of 2.6 miles. Town of Virgil, Cortland County | $2,880,000 |
| 1394 | MI | Gogebic County, Reconstruct Lake Road in Ironwood from Margaret Street to Airport Road . | $644,000 |
| 1395 | | | $0 |
| 1396 | IN | Redevelop and Complete the Cardinal Green-way and Starr-Gennett Area in the City of Richmond, Indiana . | $2,400,000 |
| 1397 | NY | Rehabilitate and redesign Erie Canal Museum in Syracuse, NY through the Erie Canalway National Heritage Corridor Commission . | $400,000 |
| 1398 | OH | Construction of 6.25 mile bicycle project in Mahoning County . | $400,000 |
| 1399 | NM | I-40/Munoz Reconstruction in the City of Gallup | $1,200,000 |
| 1400 | TX | Rehabilitate Yale Street between IH 10 to IH 610 . | $800,000 |
| 1401 | CA | Reconstruct Long Beach Bl. with medians and improve drainage from Palm Av. to Tweedy Bl. in Lynwood | $2,400,000 |
| 1402 | CA | Expand carsharing pilot program to serve low-and moderate-income neighborhoods in the City and County of San Francisco | $1,600,000 |
| 1403 | FL | Implement Kennedy Boulevard corridor improvements To improve safety in Tampa . | $2,000,000 |
| 1404 | MD | Construct Broadneck Peninsula Trail, Anne Arundel County, Maryland | $1,200,000 |
| 1405 | MO | Relocation and reconstruction of Rt MM from Rt 21 to Rt 30 . | $13,744,000 |
| 1406 | MN | Replace three at-grade highway-railroad crossings with grade-separated crossings adjacent to Winona State University . | $473,600 |
| 1407 | CA | Construct Traffic flow improvements Vincent and Lakes Drive, West Covina | $600,000 |
| 1408 | CA | Construction of a Lincoln Bypass on state route 65 in Placer County, CA | $2,400,000 |
| 1409 | KS | Construct highway-rail grade separation from Douglas Avenue to 17th Street North in Wichita, KS . | $11,200,000 |
| 1410 | OH | Conduct Phase II of U.S. Route 68 bypass project in Urbana | $1,840,000 |
| 1411 | GA | Construct sidewalks and install landscaping, Vienna | $500,000 |
| 1412 | TX | Extension of FM 1427 in Penitas . | $560,000 |
| 1413 | MD | MD 124, Woodfield Road, from Midcounty Highway to Warfield Road | $1,600,000 |
| 1414 | CA | Rio Vista Bridge Realignment Study & Street Sign Safety Program | $560,000 |
| 1415 | CO | SH 121—Bowles Ave Intersection and Roadway Improvements, Jefferson County Colorado | $1,600,000 |
| 1416 | NY | Implement Improvements for Pedestrian Safety in Queens County | $600,000 |
| 1417 | NY | Repair and improve Jericho Turnpike (NYS HWY 25) and construct streetscapes along the Turnpike in New Hyde Park . | $1,600,000 |
| 1418 | GA | SR 316/SR 20 interchange construction Gwinnett, County . | $400,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1419 | IL | Construct Pedestrian walkways and streetscaping projects in the Village of Western Springs | $3,553,600 |
| 1420 | WA | SR 518 corridor—Improvements to SR 518-509 interchange and addition of eastbound travel lane on a portion of the corridor . | $800,000 |
| 1421 | CA | Development and construction of improvements to State Route 79 in the San Jacinto Valley | $2,400,000 |
| 1422 | MN | Construct roadway improvements on the Great River Road on CSAH 10 and CSAH 21, Aitkin County . | $5,568,000 |
| 1423 | WA | Conduct preliminary engineering and EIS for Columbia River Crossing in WA and OR | $7,000,000 |
| 1424 | NC | Greensboro Signal System Replacement ITS Enhancement Project . | $10,000,000 |
| 1425 | MN | Reconstruction of 1 mile of CR 107 from CSAH 2 to Highway 11 and 71, Koochiching County | $400,000 |
| 1426 | OH | Plain Township, Ohio. Market Avenue widening | $4,000,000 |
| 1427 | LA | Construct right of way improvements from Third St. at James St. to LA. Hwy. One at Broadway St. Acquire property at Third St. and Winn St . | $2,400,000 |
| 1428 | PA | State Street Bridge Rehabilitation, Hamburg | $1,200,000 |
| 1429 | OH | Construct Flats East Bulkhead and Riverwalk: construct bulkhead and riverwalk connecting Front and Maine Ave . | $3,720,000 |
| 1430 | NY | Construct/reconstruct Lincoln Road: Commercial Street to Route 31F in the Town-Village of East Rochester | $720,000 |
| 1431 | OH | Acquire land and construct Portage Bike and Hike Trail, Portage Co | $800,000 |
| 1432 | NC | Continued development of Cary, NC pedestrian bike paths . | $1,200,000 |
| 1433 | TX | Cottonflat Road overpass at Interstate 20 | $1,200,000 |
| 1434 | NY | Improve Rt. 17M access, safety and traffic management . | $600,000 |
| 1435 | OH | Safety improvements to Paris Avenue intersections and Meese Rd. and Easton St. -Nimishillen Township, Ohio . | $1,200,000 |
| 1436 | CA | Alameda Corridor-East Construction Authority, San Gabriel Valley . | $240,000 |
| 1437 | WA | Construct a tunnel as part of the Bremerton Pedestrian-Bremerton Transportation Center Access Improvement project | $16,800,000 |
| 1438 | NC | Eliminate highway-railway crossings in the city of Fayetteville, NC . | $800,000 |
| 1439 | NJ | Hoboken Observer Highway Operational and Safety Improvements . | $2,000,000 |
| 1440 | CA | Reconfigure San Fernando Road from Fletcher Drive to I-5 Fwy, Los Angeles | $5,160,000 |
| 1441 | NY | Construction of an access road, drainage improvements, and aesthetic enhancements adjacent to Ocean Parkway in the Town of Babylon, NY | $2,156,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1442 | TX | Construct highway improvements on E. Tidwell, Ley Rd, and E. Little York Rd | $2,000,000 |
| 1443 | AZ | Construct pedestrian and bicycle overpass at McDowell Road & 35th Avenue in Phoenix . | $2,400,000 |
| 1444 | TX | Reconstruct I-30 Trinity River Bridge, Dallas | $20,000,000 |
| 1445 | PA | Armstrong and Indiana County, Pennsylvania, U.S. 422 Improvements . | $1,600,000 |
| 1446 | TX | Bicycle and Pedestrian Trail Network in East Austin . | $7,680,000 |
| 1447 | NV | Construct I-15 Cactus Avenue | $8,000,000 |
| 1448 | AL | I-65 Widening from U.S. 31 in Alabaster (Exit 238) to AL 25 in Calera (Exit 228) | $6,400,000 |
| 1449 | NY | Improve Route 4 Streetscape and replace waterlines, Town and Village of Fort Edward, Washington County . | $3,480,000 |
| 1450 | OH | Planning and construction on bike paths and trails as part of Phases III-VI in Ashtabula Metroparks Western Reserve Greenway | $800,000 |
| 1451 | CO | Construction of Powers Boulevard and Woodman Road interchange, Colorado Springs . | $8,000,000 |
| 1452 | MN | Environmental review for TH 8 upgrade, Forest Lake to Chisago City . | $480,000 |
| 1453 | MD | Construct Pedestrian Bridge and Garage at Coppin State University in Baltimore | $2,640,000 |
| 1454 | MD | Historic Preservation and Traffic Improvements along Liberty Heights Ave. and in Druid Hill Park in Baltimore | $1,520,000 |
| 1455 | NC | I-85 in Vance County | $800,000 |
| 1456 | PA | Design and construct interchange and related improvements at I 83 Exit 19 . | $4,800,000 |
| 1457 | IL | Preconstruction and Construction at IL 31 from Bull Valley Road to IL 176 | $1,936,000 |
| 1458 | MS | Replace Popps Ferry Road Bridge, Biloxi | $4,000,000 |
| 1459 | IL | Reconstruct Lakeshore Drive Overpass over Wilson avenue, Chicago . | $1,200,000 |
| 1460 | AL | Pedestrian Improvements for Moody, AL . | $106,666 |
| 1461 | MA | Design and construct Canal and Union Street Corridor improvements, Lawrence | $800,000 |
| 1462 | OH | Construct new two lane road to Sycamore Street in Gallia County | $1,000,000 |
| 1463 | AL | Construct interchange on Interstate 85 at Beehive Road in Auburn, AL | $400,000 |
| 1464 | ME | Improvements to the Interconnecting Trail System for bike/pedestrian trails near Baxter State Park | $500,000 |
| 1465 | TX | ROW acquisition for 87 Relief Route | $1,200,000 |
| 1466 | WA | Restore and construct historic Naches Depot and Trail project | $400,000 |
| 1467 | GA | S.R. 20 widening from I-575 to S.R. 369, Cherokee County | $800,000 |
| 1468 | IL | Road Construction and reconstruction in the Village of Hampshire: Keyes Ave., Industrial Drive Overlay, and Mill Avenue . | $1,840,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1469 | IL | Conduct study and design of Chicago North lakefront path expansion project . | $800,000 |
| 1470 | MS | I-59 interchange at US 84 and SR 15, Laurel | $4,000,000 |
| 1471 | TX | Improvements to IH-35E from US 77 North of Waxahachie to US 77 South of Waxahachie | $3,200,000 |
| 1472 | MO | Scudder Road and I-170 Interchange Improvements, St. Louis County | $1,600,000 |
| 1473 | GA | Construct and Improve Cobb County Trails . | $900,000 |
| 1474 | MS | Extend SR 590 from US 11 to SR 29 near Ellisville | $3,200,000 |
| 1475 | IN | Improve Intersection at Jackson Street and Morrison Road in the City of Muncie, Delaware County, Indiana | $448,000 |
| 1476 | CO | Construction of McCaslin Boulevard US 36 Interchange in Superior . | $800,000 |
| 1477 | MA | Route 128 Improvements—Route 114 in Peabody to Route 62 in Danvers . | $1,600,000 |
| 1478 | TX | Lubbock, Texas Construction for Marsha Sharp Freeway main lanes between Chicago and Salem Avenues | $12,440,000 |
| 1479 | NH | South Road Mitigation in Londonderry | $1,200,000 |
| 1480 | NY | Paul Road—Fisher Road Improvements, Town of Chili, Monroe County | $4,000,000 |
| 1481 | CA | Construct truck lane on Keystone Road from State Route 111 to Austin Road, Imperial County | $2,000,000 |
| 1482 | MS | Construct East Metropolitan Corridor linking I-20 at Brandon to Hwy 25 at Flowood . | $4,960,000 |
| 1483 | LA | Leeville Bridge, Port Fourchon to Golden Meadow | $4,000,000 |
| 1484 | GA | National Infantry Museum Transporation Network . | $2,400,000 |
| 1485 | AL | Interchange at I-65 and Limestone County Road 24 Constuction . | $800,000 |
| 1486 | PA | Project to realign intersection of King of Prussia Road and Upper Gulph Road to provide turning lanes and signalization | $1,319,200 |
| 1487 | FL | Widen State Road 80, Hendry County . | $800,000 |
| 1488 | SD | Construction of four-lane highway on US 79 between Maverick Junction, and the Nebraska border . | $6,400,000 |
| 1489 | IL | 130th and Torrance Avenue Intersection Improvement, Chicago | $7,200,000 |
| 1490 | OK | Improvements to Hereford Lane and US69 Interchange, McAlester | $800,000 |
| 1491 | GA | Athens-Clarke County Bike Trail Project . | $1,120,000 |
| 1492 | CT | Construct UCONN Storrs Campus-Hillside Road . | $1,600,000 |
| 1493 | NM | I-25, Tramway North to Bernalillo, Reconstruction . | $2,800,000 |
| 1494 | NJ | Planning for Liberty Corridor . | $400,000 |
| 1495 | OR | Sellwood Bridge Replacement, – Multnomah County | $2,000,000 |
| 1496 | | | $0 |
| 1497 | FL | Englewood Interstate Connector in Sarasota County, Florida . | $2,400,000 |
| 1498 | NY | Elevate and construct drainage improvements to Beach Road, Canal Road, and Sea Breeze Road in Massapequa, New York | $2,400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1499 | TX | Design and construction streetscape improvements in Midtown, enhance pedestrian access | $800,000 |
| 1500 | NY | Replace sidewalk along Route 9A in Hamlet of Montrose, Town of Cortlandt | $264,000 |
| 1501 | MN | Construction and widening of TH 241 in the city of St. Michael, MN . | $1,600,000 |
| 1502 | GA | I-75 lanes from Aviation Boulevard to SR 54, Clayton County | $1,200,000 |
| 1503 | VT | Construction and rehabilitation of the Cross Vermont Trail for the Cross Vermont Trail Association . | $1,108,800 |
| 1504 | NY | Construction of a new ramp from 9A Southbound to Taconic State Parkway Southbound, Westchester County . | $1,420,000 |
| 1505 | NY | Restore vehicular traffic to Main Street in Downtown Buffalo . | $4,000,000 |
| 1506 | MI | Construction of 5 lane concrete pavement with curb, gutter and sewer on Romeo Plank Road from M-59 to 23 Mile Road in Macomb Township . | $8,000,000 |
| 1507 | NY | Enhance road and transportation facilities in the vicinity of the Brooklyn Children's Museum | $550,000 |
| 1508 | IL | Construct and expand Northwest Illinois US Rte 20 from Freeport to Galena, IL . | $3,200,000 |
| 1509 | CA | Construction of new roadway lighting on major transportation corridors in the Southwest San Fernando Valley | $800,000 |
| 1510 | MO | Construct Interstate flyover at Hughes Road and Liberty Drive to 76th Street. Part of Liberty Parkway Project . | $15,200,000 |
| 1511 | CA | Freeway 180 Improvements Fresno | $7,600,000 |
| 1512 | NY | Construct sidewalks and curbs on Valley Road in Town of Bedford . | $360,000 |
| 1513 | OK | Construction of rail crossing in Claremore at Blue Star Drive and SH 66 | $1,600,000 |
| 1514 | IL | Improve U.S. Route 34 from Kewanee to Kentville Road . | $400,000 |
| 1515 | IL | For Naperville Township to fund improvements to North Aurora Road . | $160,000 |
| 1516 | WA | Kent—Construct a single point urban interchange (SPUI) under I-5 at South 272nd St | $800,000 |
| 1517 | TN | Construct Interpretive Visitor Center for the Cherokee Removal Memorial Park Trail of Tears site in Meigs County, TN | $800,000 |
| 1518 | GA | Create a greenway trail along the Oconee River connecting parks, preserving historic sites, and promoting economic development | $2,000,000 |
| 1519 | PA | Design, engineering, ROW acquisition, & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Dunmore Borough, Lackawanna County | $320,000 |
| 1520 | PA | Add turn lane, modify signals and install pavement markings at intersection of PA 422 and PA 662 in Amity Township | $1,944,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1521 | WI | Construct bicycle/pedestrian path and facilities in the Central park area of Madison . | $2,800,000 |
| 1522 | VA | Expand Route 15 29 in Culpeper, Virginia | $1,600,000 |
| 1523 | WV | Fairmont Gateway Connector System to provide an improved highway link between downtown Fairmont and I-79 in the vicinity of Fairmont | $17,600,000 |
| 1524 | OR | Construct Barber Street extension, Wilsonville | $2,400,000 |
| 1525 | FL | Four-laning SR 281 (Avalon Boulevard) in Santa Rosa County from Interstate 10 to north of CSX RR Bridge . | $11,600,000 |
| 1526 | OR | Interstate 5 Interchange at City of Coburg | $8,000,000 |
| 1527 | IL | Construction of a bridge at Stearns Road in Kane County, Illinois . | $70,400,000 |
| 1528 | TX | East 7th Street Improvements in Austin | $420,000 |
| 1529 | GA | Rebuild SR-10 Memorial Drive for bicycle and pedestrian safety, from Mountain Drive to Goldsmith Road, Dekalb County . | $1,600,000 |
| 1530 | NJ | Provide an alternative route for traffic passing though congested SR 31 corridor in Flemington NJ | $2,000,000 |
| 1531 | CA | Construction of a smart crosswalk system at the intersection of Arminta St. and Mason Ave . | $40,000 |
| 1532 | WI | Reconstruct U.S. Highway 41 north of Lake Butte des Morts Bridge, Wisconsin . | $13,000,000 |
| 1533 | PA | Improvements to 8th and 9th Street bridges between Pleasant Valley Blvd. and Valley View Blvd, Altoona, Pa | $392,000 |
| 1534 | LA | Construction of a direct intermodal truck access road from Interstate 210 to the City Docks of the Port of Lake Charles | $10,400,000 |
| 1535 | TX | Construct Links Hike & Bike Trail Project. 2.2 mile trail project connecting Gaylord Texan to Grapevine Mills Mall. Grapvine, TX . | $400,000 |
| 1536 | GA | Construct sidewalks between Marion Middle School, City Park, and Community Center, Buena Vista | $300,000 |
| 1537 | IL | Construct a four lane connection between Rt. 13 and Rt. 45 and upgrades to Netty Green Road in Saline Co Illinois | $1,600,000 |
| 1538 | MI | Plymouth, Haggerty Road from Plymouth Rd. to Schoolcraft Rd . | $400,000 |
| 1539 | TN | Provide streetscape improvements and pavement repair, Greenback, Tennessee . | $200,000 |
| 1540 | IA | Reconstruction of NE 56th St, eastern Polk Co | $800,000 |
| 1541 | IL | Relocate Pocket Road/Lakewood Place for Access to the Racehorse Business Park, Alorton | $900,000 |
| 1542 | CT | Construct roadway on East Commerce Drive, Oxford, CT | $400,000 |
| 1543 | TN | Niota, TN Improve vehicle efficiencies at highway At-Grade Railroad Crossing . | $45,600 |
| 1544 | FL | Plan and Construct 17th Street connector in the City of Sarasota, FL . | $1,600,000 |
| 1545 | VT | Reconstruction and widening of U.S. Route 5 for the Town of Hartford | $1,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1546 | MO | Relocate the entrance to the Shaw Nature Reserve that is being altered due to a redesign of the Gray Summit I-44 interchange project | $400,000 |
| 1547 | DC | Replace and reconstruct South Capitol Street/Frederick Douglass Memorial Bridge | $48,000,000 |
| 1548 | MI | Complete 13.8 miles of nonmotorized pedistrain Fred Meijer Heartland Trail of 30.1 miles . | $2,160,000 |
| 1549 | MO | Roadway improvements on U.S. 60 from Willow Springs to the Van Buren Area | $8,000,000 |
| 1550 | UT | Construct Parley's Creek Trail | $5,000,000 |
| 1551 | ME | Construction of Calais/St. Stephen Border Crossing Project | $7,000,000 |
| 1552 | FL | Alleviate congestion at Atlantic Corridor Green-way Network, City of Miami Beach, FL . | $2,000,000 |
| 1553 | MD | Construction of MD 331 Dover Bridge . | $3,454,400 |
| 1554 | NY | Improve Traffic Flow on Noel Road between Church and Crossbay Boulevard Including Work Necessary to Demolish and Reconstruct the Firehouse Facility | $1,000,000 |
| 1555 | PA | Construct 9th and 10th Street bridges over Norfolk Southern Tracks, Lebanon . | $6,400,000 |
| 1556 | | | $0 |
| 1557 | CA | Improve I-8 off ramp at Ocotiilo to the Imperial Valley College Desert Museum/Regional Traveler Visitor Center, Imperial County | $800,000 |
| 1558 | CA | Install new grade separation at Ranchero Road in Hesperia | $4,000,000 |
| 1559 | NY | Bartow Ave Ramp and Reconstruction at the Hutchinson Parkway | $1,600,000 |
| 1560 | FL | Airport Access Rd., Gainesville . | $1,600,000 |
| 1561 | WA | Intersection project at South Access-522 beginning and ending at the UWB-CCC campus to improve access and alleviate congestion | $2,400,000 |
| 1562 | NJ | Reconstruction of CR 530 from RT 206 to CR 644. Construct shoulders, travel lanes, center turn lane, drainage improvements & traffic signal | $8,000,000 |
| 1563 | NY | Improve SCCC roads, Fallsburg | $1,100,000 |
| 1564 | CA | Add turn lane and adaptive traffic control system at intersection of San Tomas Expressway and Hamilton Avenue in Campbell | $1,280,000 |
| 1565 | CA | Interchange improvements at Rice Avenue and U.S. Highway 101 in the City of Oxnard . | $2,640,000 |
| 1566 | GA | Northside Drive Multi Modal Corridor | $1,600,000 |
| 1567 | GA | Replace sidewalks, meet ADA guidelines, and install a crosswalk, McRae | $400,000 |
| 1568 | TX | Ritchie Road from FM 1695 to US 84, Waco | $2,400,000 |
| 1569 | AR | Maumelle Interchange—for third entrance into Maumelle | $800,000 |
| 1570 | CT | Construct Housatonic Riverwalk, Shelton . | $800,000 |
| 1571 | MD | Rehabilitate Roadways Around East Baltimore Life Science Park in Baltimore . | $6,800,000 |
| 1572 | AL | City of Vestavia Hills Pedestrian Walkway to Cross U.S. 31 | $560,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1573 | IN | Replace Samuelson Road Underpass, Portage | $2,530,312 |
| 1574 | IL | Construct Commuter Parking Structure in the Central Business District in the vicinity of La Grange Road | $3,232,000 |
| 1575 | PA | Design and construct inner loop roadway around Shippensburg Boro | $400,000 |
| 1576 | WV | Construct I-73/74 High Priority Corridor, Mingo Co | $9,600,000 |
| 1577 | NY | Roadway improvements to Jackson Avenue between Jericho Turnpike and Teibrook Avenue . | $1,800,000 |
| 1578 | OR | Rogue River Bikeway/Pedestrian Path, Curry County | $600,000 |
| 1579 | CA | San Gabriel Blvd Intersection Improvements at Broadway and at Las Tunas, San Gabriel . | $160,000 |
| 1580 | NY | Improvements to Erie Station Road, Town of Henrietta, Monroe County . | $1,000,000 |
| 1581 | IA | Sioux City, Iowa Hoeven Corridor—Outer Drive Project | $1,600,000 |
| 1582 | KY | Study & rehabilitate the I-471 corridor, Campbell County, Kentucky . | $1,600,000 |
| 1583 | SC | SCSU Transportation Center, Orangeburg | $5,200,000 |
| 1584 | NY | Construction and rehabilitation of North and South Delaware Avenues in the Village of Lindenhurst, NY | $696,000 |
| 1585 | NY | Study on extending Rt. 5 to Auburn . | $120,000 |
| 1586 | AL | Expand US-84 from Andalusia, AL to Enterprise, AL | $2,400,000 |
| 1587 | NJ | Susse County, NJ Safety and Operational Improvements on Route 23 in Hardyston Township and Franklin Borough . | $3,440,000 |
| 1588 | PA | State Street and Mulberry Street Bridge Lighting project, Harrisburg | $4,000,000 |
| 1589 |  |  | $0 |
| 1590 | CA | Interstate 15 and State Route 79 South Freeway Interchange and Ramp Improvement Project | $1,600,000 |
| 1591 | OH | Road Improvements, streetscapes, and pedestrian safety additions in Ashtabula Harbor | $800,000 |
| 1592 | NY | Town of East Fishkill improvements to Robinson La & Lake Walton Road at NYS Route 376 . | $400,000 |
| 1593 | WI | Construct a bicycle/pedestrian path, Wisconsin Dells . | $1,600,000 |
| 1594 | NY | Construct improvements in Sight Distance at Road Grade and Trail Corssings in Oneida and Herkimer Counties | $160,000 |
| 1595 | NY | Repair Silver Mine Bridge in the Town of Lewisboro . | $120,000 |
| 1596 | IL | River walk Reconstruction, City of Chicago | $480,000 |
| 1597 | AR | Rogers, Arkansas—Construct new interchange on I-540 near the existing Perry Road overpass | $5,000,000 |
| 1598 | IN | Design and construct Indiana Ohio River Bridges Project on I-65 and 265 . | $16,000,000 |
| 1599 | RI | Transportation Enhacements at Blackstone Valley Heritage Corridor . | $400,000 |
| 1600 | TX | Reconstruction of US 79 from FM 1460 to Williamson County Road 195 | $1,600,000 |
| 1601 | CA | Transportation enhancements to Children's Museum of Los Angeles . | $960,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1602 | IN | Construct Shelby County Indiana Shelbyville Parkway . | $400,000 |
| 1603 | NY | Reconstruct the Niagara Street culvert/bridge which crosses over Two Mile Creek, City of Tonawanda . | $320,000 |
| 1604 | MA | Reconstruction of Main Street and Lebanon Street in Melrose . | $560,000 |
| 1605 | OH | Construct the existing IR 70 interchange at US 40, SR 331 west of St. Clairsville . | $9,700,000 |
| 1606 | GA | Install traffic lights and pedestrian walkways on Highway 441 at MLK, Jr. Boulevard, Dublin | $500,000 |
| 1607 | OH | Pike County, OH Fog Road Upgrade . | $960,000 |
| 1608 | CA | Project design, environmental assessment, and roadway construction of Lonestar Road from Alta Road to Enrico Fermi Drive San Diego County | $400,000 |
| 1609 | CA | Project Study Reports for I-105 and I-405 Interchanges at Los Angeles International Airport . | $320,000 |
| 1610 | CA | Reconstruct Whittier Blvd. and improve parkway drainage from Philadelphia Av. to Five Points in Whittier | $1,360,000 |
| 1611 | NY | Rockland County Railroad Grade Crossings Safety Study | $1,000,000 |
| 1612 | TX | San Angelo Ports-to-Plains Route Loop 306 at F.M. 388 | $1,200,000 |
| 1613 | MN | City of Hutchinson School Road Underpass of TH7 and TH22 Improvements | $800,000 |
| 1614 | TN | construct and widen SR-33 in Monroe County, TN | $5,000,000 |
| 1615 | PA | Construct the realignment of Cool Creek Road in York County, PA . | $800,000 |
| 1616 | NJ | Construct Waterfront Walkway from North Sinatra Drive and 12th St. south to Sinatra Drive in Hoboken . | $1,600,000 |
| 1617 | TX | Add shoulders to FM 156 from Ponder, Texas to Krum, Texas | $1,600,000 |
| 1618 | NJ | Bridge replacement on Section 6V of Route 1 from Ryders Lane to Milltown Road, North Brunswick | $1,600,000 |
| 1619 | MN | Construct Two Harbors High School Trail connecting Two Harbors High School to Two Harbors City | $891,600 |
| 1620 | SC | Construct I-85 Brockman-McClimon Interchange between Greenville Spartanburg Airport and SC Highway 101 interchanges . | $800,000 |
| 1621 | IA | Fort Madison, IA Construction of US 61 bypass around Fort Madison to create a safer and faster route . | $2,720,000 |
| 1622 | PA | Germantown Avenue Revitalization with Mt. Airy USA for landscaping, scenic enhancements and pedestrian safety improvements along the heavily traveled thoroughfare | $1,856,000 |
| 1623 | NM | I-10 Reconstruction, Las Cruces to Texas State Line | $2,400,000 |
| 1624 | TX | IH 820 Widening Project | $1,600,000 |
| 1625 | IL | For Naperville Township to fund improvements to Diehl Road between Eola Road and Route 59 . | $640,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1626 | KS | Remove and Replace Topeka Blvd. Bridge over the Kansas River . | $5,600,000 |
| 1627 | VA | Clifton, VA Main Street parking and sidewalk improvements . | $200,000 |
| 1628 | SC | Replace Milford Road Bridge, Anderson, SC | $400,000 |
| 1629 | LA | Improvements to Essen Lane at I-12; and to Perkins Rd.; and to Central Thruway; and to O'Neal Lane; an to Burbank Dr.; and to Essen Park Extension; and for LA408 study | $24,000,000 |
| 1630 | GA | Streetscape project for lighting and landscaping on Main Street along Georgia Highway 231, Davisboro . | $240,000 |
| 1631 | IA | City of Council Bluffs and Pottawattamie county East Beltway Roadway and Connectors Project | $1,200,000 |
| 1632 | OR | U.S. 199/Laurel Road Intersection | $2,880,000 |
| 1633 | CA | Conduct project report study on Old River School Rd—Firestone Blvd intersection re-configuration | $400,000 |
| 1634 | FL | Conduct study for Port of Miami Tunnel, Miami, FL . | $1,600,000 |
| 1635 | NY | Ithaca, Design and construct pedestrian and bicycle path (Cayuga Waterfront Trail) . | $960,000 |
| 1636 | NC | Greenway Trails Project, Elizabeth City | $512,000 |
| 1637 | IL | Reconstruct Lakeshore Drive overpass over Lawrence Avenue . | $1,200,000 |
| 1638 | SC | Replace Murphy Road West Bridge, Anderson, SC | $188,000 |
| 1639 | CA | Resurface and construct truck lane at CA Hwy 94 and Interstate 8 interchange, Boulevard | $2,400,000 |
| 1640 | CT | Undertake road improvements associated with Coltsville Area Redevelopment, Hartford | $1,600,000 |
| 1641 | AZ | Upgrade and Re-opening of Main Street in Yuma | $960,000 |
| 1642 | NJ | Pedestrian facilities, street lighting and streetscaping improvements in downtown Laurel Springs . | $477,059 |
| 1643 | MS | Upgrade Blue Cane Road in Tallahatchie County, and roads in Webb and Tutwiler . | $600,000 |
| 1644 | OH | Upgrade circuitry on vehicle protection device at Sheldon Road rail crossing in Berea . | $112,000 |
| 1645 | NY | Design and construct Upper Delaware Scenic Byway Visitor Center, Cochecton | $600,000 |
| 1646 | NY | Construct sidewalks and curbing on Westchester Avenue in Village of Buchanan | $220,000 |
| 1647 | NC | Downtown Redevelopment Project, City of Rocky Mount | $5,068,800 |
| 1648 | TX | Construction of divided four lane concrete arterial with drainage improvements—Sandy Lake Road: Denton Tap Rd to North Coppell Road | $800,000 |
| 1649 | IL | Preconstruction and Construction at IL 120 at Bacon Road and Cedar Lake Road . | $1,092,000 |
| 1650 | GA | Revitalization project will extend and resurface the Roberta Walking Trail, Roberta | $400,000 |
| 1651 | KY | Construct Westbound Access to Mountain Parkway from Exit 18 (KY 1057), Powell County | $2,320,000 |
| 1652 | NC | Development of 2 miles of road parallel to I-95 located approximately between the I-95/NC-125 interchange and I-95/US-158 interchange | $1,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1653 | CA | Engineering, right of way and construction of HOV lanes on I-580 in the Livermore Valley, California . | $9,600,000 |
| 1654 | IL | Construct Streetscape Project, City of Markham | $400,000 |
| 1655 | CA | Landscape south side of the 91 fwy at Bellflower Blvd in Bellflower . | $200,000 |
| 1656 | MA | Southwick and Westfield Rail Trail, Design & Construction . | $4,000,000 |
| 1657 | VA | Upgrade DOT crossing #467665M to constant warning time devices . | $155,680 |
| 1658 | TX | Reconstruct and add two lanes to US 287 from the Oklahoma State line to US 54 in Stratford . | $5,600,000 |
| 1659 | WY | Casper West Belt Loop . | $1,600,000 |
| 1660 | MN | Munger Trail extension, City of Duluth | $2,500,000 |
| 1661 | AK | Bogard/Sheldon Extension in Matanuska-Susitna Borough | $4,000,000 |
| 1662 | CA | City of Redondo Beach Esplanade Improvement Project | $800,000 |
| 1663 | MN | Kandiyohi and Meeker Counties Hwy 7 between TH 71 and TH 22 | $1,600,000 |
| 1664 | NJ | Construction of Rowan Boulevard from US Route 322 to Main Street, Glassboro | $480,000 |
| 1665 | CA | Conduct Study of SR 130 Realignment Project, San Joaquin County & Santa Clara County, CA | $1,600,000 |
| 1666 | CA | Passons Grade Separation in the City of Pico Rivera . | $2,960,000 |
| 1667 | MD | Construct South Shore Trail, Anne Arundel County, MD . | $800,000 |
| 1668 | NJ | Realignment of the Routes35/36 intersection in Eatontown | $1,600,000 |
| 1669 | IN | Construct Hoosier Heartland Highway in Cass and Carroll County, Indiana | $2,400,000 |
| 1670 | MI | Oscoda County, Reconstruction and surfacing of Valley Road from M-33 west to Mapes Road . | $768,000 |
| 1671 | TX | Reconstruct Precinct Line Road 2-lane bridge as 4-lane bridge and widen Precinct Line Road to 4-lane roadway from SH 10 to Trammel Davis Rd | $800,000 |
| 1672 | CT | Reconstruct Waterfront Street Corridor, City of New Haven | $1,200,000 |
| 1673 | TN | Improving Vehicle Efficiencies at At-Grade highway-Railroad Crossing in Philadelphia, Tn | $79,200 |
| 1674 | TX | Reconstruct Mile 2 W from Mile 12 N to US 83, Hidalgo County | $800,000 |
| 1675 | NY | Reconstruction of West Neck Road from Huntington-Lloyd Harbor boundary to the end of the Village-maintained road . | $2,400,000 |
| 1676 | GA | Rehabilitate sidewalks and replace street lights, Swainsboro . | $400,000 |
| 1677 | SC | Replace Murphy Road East Bridge, Anderson, SC | $212,000 |
| 1678 | MO | Access improvements and safety and mobility upgrades along US 7 as part of the Highway 7 Corridor Development Plan in Blue Springs . | $4,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1679 | OH | Construct Stearns Road Grade Separation, Olmsted Township | $3,600,000 |
| 1680 | CA | Implement Grove Avenue Corridor Interstate 10 interchange improvements in Ontario | $2,400,000 |
| 1681 | MA | Construct & Replace West Corner Bridge & Culvert, Rte 228, spanning Weir River Estuary & Straits Pond Inlet | $800,000 |
| 1682 | OK | Complete Reconstruction of the I-35—SH 9 West Interchange . | $3,200,000 |
| 1683 | NJ | Construct Rte 50 Tuckahoe River Bridge Replacement, Cape May and Atlantic Counties | $3,200,000 |
| 1684 | NY | Rt. 12 reconstruction-Town and Village of Greene | $3,288,000 |
| 1685 | MN | Becker County CR 143 and CR 124 Improvements . | $768,000 |
| 1686 | NY | Construct and extend existing pedestrian streetscape areas in Valley Stream | $1,080,000 |
| 1687 | MI | Construct Interchange at I-675 and M-13 (Washington Avenue). Northbound Exit. Phase I of Construction. City of Saginaw | $2,000,000 |
| 1688 | OH | Construct Cleveland Towpath Trail. 6-mile extension towards downtown. Cleveland | $4,640,000 |
| 1689 | FL | Construct widening of US 17 to 4 lanes from San Mateo to Volusia County line, Putnam County, Florida . | $16,300,000 |
| 1690 | MD | Construct Phase 1 of the South Shore Trail in Anne Arundel County from Maryland Route 3 at Millersville Road to I-97 at Waterbury Road . | $800,000 |
| 1691 | MI | Construction of 5 lane concrete pavement with curb, gutter and storm sewer on Van Dyke Ave. from 23 Mile Road to 26 Mile Road, Macomb Co | $1,663,600 |
| 1692 | FL | Design and construct replacement for A. Max Brewer Bridge, Titusville . | $8,000,000 |
| 1693 | NY | Implement ITS system and apparatus to enhance citywide truck route system on Victory Blvd Between Travis Ave and West Shore Expressway Travis Section of SI | $100,000 |
| 1694 | MI | Purchase and implementation of various Intelligent Transportation System technologies in the Grand Rapids metro region . | $9,944,000 |
| 1695 | WI | Recondition USH 45 between New London and Clintonville, Wisconsin (Waupaca County, Wisconsin) | $1,600,000 |
| 1696 | CA | Reconstruction of The Strand in the City of Manhattan Beach to improve beach access and accommodate increased pedestrian traffic . | $1,600,000 |
| 1697 | CA | Construction of new roadway lighting on major transportation corridors in the Northeast San Fernando Valley . | $400,000 |
| 1698 | MD | Rehabilitate Hanover Street Bridge in Baltimore . | $1,200,000 |
| 1699 | NY | Rehabilitation of Hornbeck Road in the Town of Poughkeepsie . | $340,800 |
| 1700 | CA | Rehabilitation of Tulare County Farm to Market road system | $3,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1701 | GA | Riverside Drive Streetscape Project, Macon . | $400,000 |
| 1702 | GA | South Lumpkin Road Trail-Columbus | $400,000 |
| 1703 | CA | Implement Northeast San Fernando Valley Road and Safety Improvements . | $160,000 |
| 1704 | NY | Big Ridge Road : Spencerport Village Line to Gillet Road in the Town of Ogden | $1,000,000 |
| 1705 | TX | Build south bound ramp from east bound I-20 to Clark Road at the southern terminus of Spur 408. Duncanville, TX . | $4,400,000 |
| 1706 | | | $0 |
| 1707 | TN | Reconstruct US 64 from west of Bolivar to the Lawrence County Line in Hardemant, McNairy, Hardin, Wayne Counties . | $4,180,000 |
| 1708 | PA | Improve safety of Route 145 in Whitehall Township | $1,780,000 |
| 1709 | GA | Construct Stone Mountain-Lithonia road Bike Lane and Sidewalks, Dekalb County . | $800,000 |
| 1710 | OK | Texanna Road improvements around Lake Eufaula | $800,000 |
| 1711 | OH | North Huntington Street Improvements, Medina, OH | $1,088,000 |
| 1712 | IL | To contruct a new intersection of a public road and US Route 50 and a new street . | $440,000 |
| 1713 | NC | To plan, design, and construct the Northwest Corridor-Western Blvd. Project in Jacksonville, NC . | $473,600 |
| 1714 | CT | Upgrade Mark Twain Drive, Hartford | $1,600,000 |
| 1715 | CO | CO I-70 East Multimodal Corridor (Highway Expansion), Denver . | $2,000,000 |
| 1716 | MS | Upgrade roads in Indianola, Ruleville, Moorehead, Doddsville, Sunflower and Drew, Sunflower County | $1,600,000 |
| 1717 | MS | Upgrade Marshall Road in North Carrollton (U.S. Hwy 35 and 82) McCain Street, South Street, Love Street, and Colver Street, Carroll County | $320,000 |
| 1718 | NJ | Passaic-Bergen intermodal transportation deployment initiative . | $12,000,000 |
| 1719 | IL | Upgrade roads, The Village of Maywood | $800,000 |
| 1720 | PA | Upgrade Route 30 Corridor and Airport Access | $800,000 |
| 1721 | GA | Upgrade sidewalks and lighting, Lyons . | $400,000 |
| 1722 | CA | State Route 88—Pine Grove Corridor Improvement Project | $400,000 |
| 1723 | WA | Tacoma—Lincoln Avenue Grade Separation | $800,000 |
| 1724 | NY | Improve NY 112 from Old Town Road to NY 347 . | $8,000,000 |
| 1725 | NJ | Construct I-195 Noise Barrier, Hamilton Twp, Mercer County . | $2,000,000 |
| 1726 | AR | Highway 77 Rail Grade Separation | $800,000 |
| 1727 | WA | Kent, WA Willis Street BNSF Railroad Grade Separation Project . | $400,000 |
| 1728 | MI | Menominee, Ogden Street Bridge rehabilitation project-replacement of deck, expansion joints, sidewalks, railing and all other joints | $160,000 |
| 1729 | VA | Pochantas Trail—development and construction of trail from Bluestone Junction to Pochantas adjacent to abandoned rail line | $400,000 |
| 1730 | NY | Suffolk County ITS arterial monitoring and performance measures | $500,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1731 | LA | Conduct study for Highway 25 in Washington Parish . | $400,000 |
| 1732 | IL | Construction of the 43rd Street Bicycle Pedestrian Bridge over Lake Shore Drive, City of Chicago | $480,000 |
| 1733 | NY | To design and reconstruct Nassau Avenue, improve sidewalks and include pedestrian amenities in Greenpoint, Brooklyn | $1,920,000 |
| 1734 | OH | Upgrade the I-480 and Tiedman Road interchange, Brooklyn | $1,600,000 |
| 1735 | NJ | Interchange improvements and bridge replacement, Route 46, Passaic County . | $4,000,000 |
| 1736 | PR |  | $0 |
| 1737 | IA | Construction of a Four Lane U.S. Highway 20 between Moville in Woodbury County, through Ida County and Sac County to U.S. 71 at Early, IA | $8,000,000 |
| 1738 | AZ | Paving of Navajo Route 9010-off of I-40 at Houck, AZ (Exit 348) to Pine Springs Day School . | $3,440,000 |
| 1739 | OH | Red Bank Road Improvements from I-71 to Fair Lane in Eastern Hamilton County, Ohio | $3,120,000 |
| 1740 | CA | Construct earthen berm along Esperanza Road from Yorba Linda Blvd. to the west city limits to mitigate noise . | $1,600,000 |
| 1741 | TX | US 90—Construct 6 mainlines from east of Mercury to east of Wallisville | $1,600,000 |
| 1742 | NY | Town of Chester Trout Brook road improvements and reconstruction | $56,000 |
| 1743 | OR | Upgrade the I-5 Fern Valley Interchange (Exit 24) | $2,400,000 |
| 1744 | CA | Construct I-80 Gilman Street interchange improvements in Berkeley | $1,200,000 |
| 1745 | NJ | Construct Vineland Boulevard and Sherman Avenue Intersection Improvements, Vineland, Cumberland County . | $1,400,000 |
| 1746 | WA | Terry's Corner Park and Ride on Camano Island | $1,120,000 |
| 1747 | OR | Upgrade U.S. 101 and Utility Relocation, Gold Beach | $200,000 |
| 1748 | WI | Upgrade USH 41 from DePere to Suamico, Wisconsin (Brown County, Wisconsin) | $2,000,000 |
| 1749 | IL | Upgrade Veterans Drive in Pekin Illinois . | $800,000 |
| 1750 | NY | Saugerties, Improve Tissle Road-Old Kings Highway intersection | $500,000 |
| 1751 | TX | Design and Construct the Cottonwood Trail pedestrian-bicycle connection | $800,000 |
| 1752 | NY | Rehabilitation of the Ashford Ave. bridge over I-87 in the Villages of Dobbs Ferry and Ardsley . | $2,080,000 |
| 1753 | OH | Streetscape completion along US 40 in Bridgeport | $80,000 |
| 1754 | SD | Design and construct new Meridian Bridge across the Missouri River at Yankton | $7,108,844 |
| 1755 | MD | Upgrade MD 210 from MD 228 to I-495 | $3,000,000 |
| 1756 | IL | For DuPage County to construct certain segments of Southern DuPage County Regional Trail . | $80,000 |
| 1757 | IA | US 20 relocated, Webster, Sac and Calhoun Counties, Iowa . | $2,400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1758 | NJ | Construction of new access roads along Route 42/Blackhorse Pike in Washington Township | $800,000 |
| 1759 | CA | Highways 152-156 Intersection improvements, CA | $800,000 |
| 1760 | AK | Coffman Cove IFA ferry terminal or IFA vessel debt repayment for MV Prince of Wales Ferry | $3,200,000 |
| 1761 | MA | Acquisition, engineering design, and construction of the Assabet River Rail Trail, Acton, Hudson, Maynard, and Stow | $1,500,000 |
| 1762 | MI | Conduct Feasibility Study to Extend I-475 to US 23 in Genesee County | $480,000 |
| 1763 | TX | Construct a reliever route on US 287 South of Dumas to US 287 North of Dumas | $2,400,000 |
| 1764 | TN | construct new exit on I-75 and connect US-11, US-411, and SR-30 . | $3,600,000 |
| 1765 | PA | Design, engineering, ROW acquisition & construction of street improvements, parking, safety enhancements & roadway redesign in Pittston | $1,400,000 |
| 1766 | TX | Dowlen Road Imprvements for Beaumont, Texas | $2,764,800 |
| 1767 | CA | Construct Hwy 101 bicycle-pedestrian project in Marin and Sonoma Counties from north of Atherton Ave to south of Petaluma River bridge . | $400,000 |
| 1768 | TX | Construct raised median from Loop 224 to Sradley St. in Nacogdoches, TX | $2,680,000 |
| 1769 | OH | Construction of bicycle trail extension in Geauga Park District in Chardon, OH . | $400,000 |
| 1770 | CA | Extension of a regional Class I bikeway from the West City limits to the East City limits along leased railroad right-of-away | $320,000 |
| 1771 | AR | For rail grade separations identified by the MPO for the Little Rock/North Little Rock metropolitan area, (which may include: Edison Ave.; Springer Blvd; Hwy 89 Extension; McCain/Fairfax; Salem Road; J.P. Wright Loop; South Loop; Geyer Springs Rd) | $8,000,000 |
| 1772 | NY | Court Street & Smith Street Shopping District Enhancements | $640,000 |
| 1773 | MA | Hampshire County Bike Paths, Design & Construction . | $4,400,000 |
| 1774 | NV | Construct I-15 Starr Interchange . | $8,000,000 |
| 1775 | CA | Construct full-access interchange at SR 120— McKinley Avenue, with the necessary SR120 auxiliary lanes, Manteca, CA . | $3,200,000 |
| 1776 | CA | Install emergency vehicle preemption equipment along major arterials in the I-880 corridor, Alameda County . | $400,000 |
| 1777 | OH | Construct a proposed relocation of US 22 and SR 93 from the current IR 70, US 40 west of Zanesville . | $4,800,000 |
| 1778 | CA | Conduct Study and Construct I 205 Chrisman Road Interchange Project, Tracy, CA . | $800,000 |
| 1779 | IL | Construction of part of a 230 mile corridor U.S. 67 near Jerseyville and Carrolton, Illinois . | $1,360,000 |
| 1780 | CA | Construction of Campus Parkway from State Route 99 to Yosemite Ave., Merced County | $400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1781 | MI | Construction of Superior Road Roundabout, Superior Township . | $600,000 |
| 1782 | OR | Construction and preliminary engineering of a railroad crossing at the intersection of Havlik Road and Hwy 30, Scappoose | $198,400 |
| 1783 | FL | Clark Road Clover Leaf at I95, Jacksonville | $4,400,000 |
| 1784 | PA | Construct and widen PA 94 from the Adams and York County line north to Appler Road | $1,200,000 |
| 1785 | IL | For the reconstruction and realignment of 2 miles of Evergreen Ave. located west of the City of Effingham | $1,600,000 |
| 1786 | IN | Improve State Road 332 and Nebo Road Intersection in Delaware County, Indiana . | $2,400,000 |
| 1787 | AL | Birmingham Northern Beltline . | $8,000,000 |
| 1788 | WI | Construct Lake Butte des Morts Bridge, US Highway 41, Winnebago County, Wisconsin | $28,000,000 |
| 1789 | MA | North Worcester County Bike Paths, Design & Construction . | $4,000,000 |
| 1790 | TX | Old Reliance Road Overpass at SH 6 (Earl Rudder Freeway)—widening project in Brazos Co | $2,000,000 |
| 1791 | IA | Phase III of Main St project, Amana . | $800,000 |
| 1792 | MN | Re-align Vadnais Boulevard at interchange of I-694/Highway 49, Ramsey County . | $800,000 |
| 1793 | CA | Reconfigure intersection at Highways 152 and 156 in Santa Clara County . | $11,120,000 |
| 1794 | KY | Construct Georgetown Northwest Bypass from US 460 West to I-75 North, Scott County . | $2,400,000 |
| 1795 | AZ | Grand Canyon Greenway Trails | $2,560,000 |
| 1796 | NY | Remediate road runoff in vicinity of Peconic Estuary watershed | $1,000,000 |
| 1797 | | | $0 |
| 1798 | OH | Construction of road improvements from Richmond Road to new Cuyahoga Community College in Warrensville Heights, OH . | $120,000 |
| 1799 | MI | Construction of the I-696 and Northwestern Highway Interchange Freeway Ramps at Franklin Road in Southfield | $1,600,000 |
| 1800 | OH | Construct access improvements to I-680 and internal roadways for Corridor of Opportunity, Mahoning Co . | $1,600,000 |
| 1801 | NY | Mount Vernon Railroad Cut | $2,000,000 |
| 1802 | TX | Reconstruct and add two lanes to IH 27 from Western Street in Amarillo to Loop 335 . | $4,800,000 |
| 1803 | CO | SH 83-SH 88 Interchange Reconstruction— Arapahoe County, CO | $3,200,000 |
| 1804 | NY | Town of Pawling Old Rt 55 | $400,000 |
| 1805 | IL | Upgrade Curtis Road in conjunction with state plan for I-57 interchange; from Duncan Rd to 1st Street in Champaign . | $5,600,000 |
| 1806 | MO | Upgrade Rt. 249 [Range Line] from Rt. 171 to I-44 | $8,000,000 |
| 1807 | VA | Bland County Trails and Visitor Center—establishment of multi-use trail network, associated facilities and begin work on visitors center . | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1808 | NH | Upgrade Sewalls Falls Road bridge over Merrimack River in Concord . | $800,000 |
| 1809 | IL | Perform Old Orchard Road Expansion and improvement project between harms road and US 41, Cook County | $800,000 |
| 1810 | MN | Design engineering and ROW acquisition to reconstruct TH 95 bridge, North Branch | $7,120,745 |
| 1811 | NY | Tappan Zee Bridge to I287 Transportation Corridor | $1,000,000 |
| 1812 | CA | Upgrade and reconstruct the I-80/I-680/SR12 Interchange, Solano County | $17,480,000 |
| 1813 | MD | US 219 Oakland Bypass . | $800,000 |
| 1814 | NC | US 221 widening from US 421 to Jefferson, NC | $1,600,000 |
| 1815 | IL | Complete 80,000 lb truck route between CH 2 (Burma Rd) and IL Rte 130 in Cumberland County | $2,400,000 |
| 1816 | CA | Improvement of intersection at Burbank Blvd. and Hayvenhurst Ave | $320,000 |
| 1817 | OH | Construct pedestrain bridge over I77; tunnel underneath railroad; bridge over Tuscarawas River along OH and Erie Canal in Tuscarawas County | $2,000,000 |
| 1818 | MN | Lake Street Access to I-35W, Minneapolis | $1,600,000 |
| 1819 | WI | Upgrade USH 2 in Ashland County . | $3,200,000 |
| 1820 | OR | Construct an urban arterial street between NE Weidler and NE Washington on NE 102nd, Portland | $4,200,000 |
| 1821 | CA | Construct an Interchange on Highway 70 at Georgia Pacific Road in Oroville . | $2,028,000 |
| 1822 | AZ | Construct or Modify Railroad Grade Separations on 6th St. and 22nd St. and Reconstruct Speedway Blvd. Underpass in Tucson | $10,640,000 |
| 1823 | FL | Construct North Ormond Beach Business Park Interchange at I-95 between U.S. 1 and SR 40, Volusia County . | $880,000 |
| 1824 | MN | Environmental review for improvement along the entire US 10 corridor | $1,040,000 |
| 1825 | NY | Construct visitor center, access road, and parking at Sam's Point Preserve, Ellenville | $400,000 |
| 1826 | OH | Installation of road improvements on Old State Road-SR 608 in Middlefield, OH | $80,000 |
| 1827 | WA | To replace BNSF trestle, Sammamish River bridge and reconstruct SR 202/127th Pl NE and SR 202/180th Ave NE intersections | $1,600,000 |
| 1828 | PA | Completion of beltway interchanges along Business Route 60 in Moon Township, Allegheny County | $800,000 |
| 1829 | TX | US 290 Improvements in Austin, TX . | $2,400,000 |
| 1830 | CA | City of Madera, CA Improve SR 99—SR 145 Interchange | $2,400,000 |
| 1831 | AL | Construct a new interchange on I-65 at Cullman, AL County Road 222 . | $800,000 |
| 1832 | VA | National Park Service transportation improvements to Historic Jamestowne, Virginia | $3,400,000 |
| 1833 | MI | Design and construction of West Michigan Regional Trail Network connector to link two trail systems together and to Grand Rapids | $2,400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1834 | TN | Plan and construct a bicycle and pedestrian trail including enhancements, Murfreesboro | $7,200,000 |
| 1835 | AZ | Replacement of Safford Bridge which crosses the Gila River directly north of Safford, AZ on North 8th Avenue . | $3,520,000 |
| 1836 | TX | Design & construct streetscape improvements to Old Spanish Trail—SH 288 to Griggs, Griggs to Mykawa | $800,000 |
| 1837 | TN | For each rail-highway crossing: Improve circuitry on vehicle protection device installed at crossing in Knoxville, TN | $45,600 |
| 1838 | OH | Reconstruct Broadway Ave in Lorain . | $600,000 |
| 1839 | OH | Road Widening and related improvements to SR 82 in Macedonia OH . | $2,728,000 |
| 1840 | MN | Reconstruct CSAH 4 and CSAH 5 ( Forest Highway 11) between CSAH 15 and TH 61, Silver Bay | $1,392,000 |
| 1841 | CA | Ramona Avenue Grade Separation, Montclair, California . | $1,600,000 |
| 1842 | MN | Roadway improvements, City of Federal Dam | $800,000 |
| 1843 | VA | Rocky Knob Heritage Center—planning, design, site acquisition and construction for trail system and visitors center on Blue Ridge Parkway . | $1,200,000 |
| 1844 | FL | Design and construct capacity and safety improvements for State Road 426-County Road 419 in Oviedo from Pine St to west of Lockwood Blvd . | $1,600,000 |
| 1845 | FL | Coordinated Regional Transportation Study of US 98 from Pensacola Bay Bridge, Escambia County to Hathaway Bridge, Bay County, Florida | $1,200,000 |
| 1846 | PA | Paving and reconstruction in the townships: North and South Eldorado, North Altoona, Fairview, Juniata, East End, Pleasant Valley, South Tracks, Lyswen-Altoona, PA | $1,600,000 |
| 1847 | AK | Ferry infrastructure at Seward Marine Center | $3,000,000 |
| 1848 | AZ | Realign Davis Road from State Route 80 to State Route 191 . | $2,640,000 |
| 1849 | PA | Reesdale Street roadway reconfiguration to allow HOV access to new parking facility . | $800,000 |
| 1850 | WA | SR 538 (College Way) and North 26th St. Signal in Mount Vernon . | $140,000 |
| 1851 | TX | Acquisition of right of way and environmental preservation from I-45 to U.S. 59 for Grand Parkway . | $11,200,000 |
| 1852 | ID | Reconstruct Grangemont Road (Idaho Forest Highway 67) from Orofino to Milepost 9.3 . | $1,600,000 |
| 1853 | VA | Expansion of South Airport Connector Road (Clarkson Road to Charles City) . | $6,240,000 |
| 1854 | NY | Design and Construction of bicycle and pedestrian facilities in the area of the Roosevelt Avenue Bridge . | $384,000 |
| 1855 | NC | Construct Endor Iron Furnace Greenway enhancements from Deep River to Sanford | $800,000 |
| 1856 | CO | Improve and widen State Highway 44 from Colorado Boulevard to State Highway 2 . | $3,200,000 |
| 1857 | FL | Fund improvement of US 301 corridor in Sumter and Marion Counties | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1858 | TN | complete construction and landscaping of visitor center on Cherohala Skyway in Monroe County, TN | $80,000 |
| 1859 | OR | Construction of the East Burnside Street improvements, Portland | $5,200,000 |
| 1860 | AL | Expand to 4 lanes US Highway 278 from Sulligent to Guin . | $800,000 |
| 1861 | IL | Francis Cabrini/W. Green Homes CHA Street Construction, City of Chicago | $480,000 |
| 1862 | NY | Plan and construct greenway, bicycle path, esplanades and ferry landing along New York Bay in Sunset Park, Brooklyn | $8,000,000 |
| 1863 | PA | Construct Dubois Regional Medical Center Access Road . | $480,000 |
| 1864 | NY | To design and construct safe route to school projects in Brooklyn, Queens and Manhattan, NY | $1,680,000 |
| 1865 | PA | US 30 corridor improvements from PA 896 to PA 897. Connects PA 41 | $2,600,000 |
| 1866 | MD | US 40 Alternate, Middletown Bypass . | $4,000,000 |
| 1867 | CA | Construction of a smart crosswalk system at the intersection of Topanga Canyon Blvd. and Gault St | $40,000 |
| 1868 | WI | Expand USH 51 & STH 29 in Marathon County | $6,400,000 |
| 1869 | PA | Construct 2 flyover ramps and S Linden St ext for access to industrial sites in the cities of McKeesport and Duquesne | $5,600,000 |
| 1870 | NY | Improvements and upgrades on Main Street, Beekman, NY . | $160,000 |
| 1871 | NY | Construct pedestrian walkway along Route 9A in Hudson River Park, New York City . | $5,600,000 |
| 1872 | IN | Design engineering, right-of-way acquistion, and construction for the Grant County Economic Corridor . | $1,600,000 |
| 1873 | MN | City of Marshall TH 23 4-Lane Extension . | $2,630,400 |
| 1874 | IL | Henry Horner Homes CHA Street Construction, City of Chicago | $800,000 |
| 1875 | TN | Improve circuitry on vehicle protection device installed at highway-RR crossing in Knoxville, TN . | $126,400 |
| 1876 | NJ | Construct Intersection at Route 46 and Little Ferry Circle in Little Ferry . | $1,200,000 |
| 1877 | AR | Improve State Highway 88 (Higdon Ferry Road) in Hot Springs | $3,560,000 |
| 1878 | MD | Improve US 1, Washington Boulevard Corridor in Howard County . | $800,000 |
| 1879 | NY | Downtown Flushing Traffic and Pedestrian Improvements . | $800,000 |
| 1880 | FL | Arlington Expressway Access Rd., Jacksonville | $1,200,000 |
| 1881 | CO | Construct arterial on W side of Montrose to ease traffic congestion on SH 550 between Grand Avenue, N/S of city | $6,000,000 |
| 1882 | CO | North I-25: Denver to Fort Collins Colorado | $7,733,333 |
| 1883 | CA | Planning for Orange Line Mag Lev from downtown Los Angeles to central Orange County | $280,000 |
| 1884 | NJ | Rahway Streetscape Replacement Project . | $400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1885 | CT | Reconstruct I-95/I-91 interchange and construct pedestrian walkway, New Haven . | $1,600,000 |
| 1886 | VA | Blue Ridge Music Center—install lighting/ steps, upgrade existing trail system and equip interpretative center with visitor information | $1,200,000 |
| 1887 | VA | Ceres Recreation Trail and Center—design and construct pedestrian/bicycle trail in community of Ceres and establish trail center . | $120,000 |
| 1888 | ME | Construction of trails within the Eastern Trail Management District | $1,000,000 |
| 1889 | GA | 1-75 interchanges from north of Tifton to Turner County line | $800,000 |
| 1890 | GA | City of Savannah, Construct bike and pedestrian paths along Heritage Rail | $160,000 |
| 1891 | FL | Implementation of the Advanced Traffic Managament System, Boca Raton, FL . | $1,600,000 |
| 1892 | NY | Lyell Avenue: NY Rte 259 (Union Street) to Village Line, Village of Spenscerport, Town of Ogden | $1,280,000 |
| 1893 | WI | Construct USH 151 between CTH D and STH 175, Fond du Lac County, WI | $3,000,000 |
| 1894 | OH | Construct transportation enhancement projects, Toledo | $8,400,000 |
| 1895 | TX | Contruct grade separation at US 59 and SH 99. Replace the proposed interim cloverleaf ramps at the intersection . | $4,000,000 |
| 1896 | MS | Gateways Transportation Enhancement Project, Hancock County . | $200,000 |
| 1897 | NY | Install Improvements for Pedestrian Safety including in the vicinity of IS X194 . | $250,000 |
| 1898 | OK | Improvements to SH 412P at 412 Interchange | $3,600,000 |
| 1899 | FL | Acquire right-of-way and construct East-West Connector from SR 37 to SR 563 in Lakeland, FL . | $4,000,000 |
| 1900 | WA | Design Valley Mall Blvd for Main St to I-82 and two I-82 interchanges at Mileposts 36 and 38 in Union Gap, WA . | $5,120,000 |
| 1901 | WA | Extension of Waaga Way west to Old Frontier Rd | $400,000 |
| 1902 | ME | Plan and construct highway access between US Route 161 and US Route 1 in Madawaska | $1,000,000 |
| 1903 | CA | Randolph St improvements between Wilmington Ave and Fishburn Ave in Huntington Park . | $960,000 |
| 1904 | CA | Reconstruct Azusa Ave and San Gabriel Ave for two-way traffic in Azusa | $2,000,000 |
| 1905 | KS | Construction of a 1.5 mile alternate truck route in Downs, Kansas | $400,000 |
| 1906 | AL | Pedestrian Improvements for Columbiana, AL | $106,667 |
| 1907 | MN | Reconstruct CSAH 91 from the D.M. and I.R. Railroad crossing at 8th Street in Duluth to CSAH 56, St Louis County . | $4,000,000 |
| 1908 | NY | Construct Wayne County, NY rails to trails initiative . | $276,000 |
| 1909 | MA | Design and construct signal crossing and other safety improvements to Emerald Necklace Greenway Bicycle Trail, Town of Brookline | $600,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1910 | MI | Construction of Nonmotorized Pathway, City of Rockwood . | $240,000 |
| 1911 | WA | Purchase of scenic easement or site at I-90 and Highway 18 | $480,000 |
| 1912 | PA | Reconstruct the SR 33, 512 interchange in the Borough of Wind Gap | $2,000,000 |
| 1913 | NY | Access improvements for terminal located on 12th Ave between W. 44th and W. 54th St in Manhattan . | $3,200,000 |
| 1914 | IL | Completion of the Grand Illinois Trail, Cook County | $1,034,000 |
| 1915 | CA | Construct and improve medians and drainage on Imperial Highway from west border to east border of city in La Mirada . | $1,360,000 |
| 1916 | CT | Construct Pomfret Pedestrian Bridge . | $80,000 |
| 1917 | NV | Construct Laughlin Bullhead City Bridge | $1,600,000 |
| 1918 | PA | Design, engineering, ROW acquisition, & construction of the widening of Pennsylvania Rt. 443 Corridor in Carbon County | $800,000 |
| 1919 | NY | Palisades Interstate Parkway Mitigation Measures for New Square | $600,000 |
| 1920 | CA | Reconstruct and widen Del Amo Blvd to four lanes between Normandie Ave and New Hampshire Ave, Los Angeles County | $2,400,000 |
| 1921 | MN | Reconstruct Unorganized Township Road 488 from CSAH 138, Koochiching County | $820,000 |
| 1922 | NY | Reconstruction of Empire Boulevard | $5,120,000 |
| 1923 | PA | Reconstruction of PA 309 from Greenwood Avenue to Welsh Road . | $2,000,000 |
| 1924 | TN | Construction of I-69 in Obion, Dyer, Lauderdale & Tipton Counties | $11,300,000 |
| 1925 | IL | Design, land acquistion, and construction of South Main St (IL 2) Corridor from Beltline Rd to Cedar Street in Rockford, IL | $1,600,000 |
| 1926 | OH | Grading, paving, roads for the transfer of rail to truck for the intermodal facility at Rickenbacker Airport | $12,000,000 |
| 1927 | MA | Reconstruction of Pleasant Street, Watertown | $1,600,000 |
| 1928 | MN | Lake Wobegon Trail corridor from Sauk Centre to the Stearns County line . | $281,600 |
| 1929 | RI | Replace Sakonnet Bridge . | $1,600,000 |
| 1930 | CA | Conduct study and construct CA State Route 239 from State Route 4 in Brentwood area to I-205 in Tracy area . | $4,000,000 |
| 1931 | MA | Geometric improvements, safety enhancements and signal upgrades at Rt. 28 & Rt.106, intersection West Bridgewater . | $1,200,000 |
| 1932 | WA | Fife—Widen 70th Ave. East and Valley Ave. East | $800,000 |
| 1933 | CA | Construct two right hand turn for Byzantine Latino Quarter transit plazas at Normandie and Pico, and Hoover and Pico, Los Angeles | $400,000 |
| 1934 | WA | I-90 Two-Way Transit-HOV Project . | $3,200,000 |
| 1935 | AL | Construct Talladega Mountains Natural Resource Center -an educaational center and hub for hikers, bicyclists, and automobiles | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1936 | MD | Gaithersburg, MD Extension of Teachers Way-Olde Towne Gaithersburg Revitalization . | $1,120,000 |
| 1937 | IL | Millburn By-Pass (US Route 45 at Gross Lake Road/Millburn Road), Lake County | $2,080,000 |
| 1938 | AK | Planning, design, and EIS of Bradfield Canal Road . | $2,000,000 |
| 1939 | TX | Reconstruct Clinton Dr. from Federal Rd. to N. Wayside Dr . | $11,200,000 |
| 1940 | GA | Pave portions of CR 345, CR 44, and CR 45, Hancock County | $400,000 |
| 1941 | NY | Deer Avoidance System, to deter deer from milepost marker 494.5, Ripley, PA, to 304.2., Weedsport, NY along I-90 . | $200,000 |
| 1942 | CA | El Camino Real Grand Blvd Initiative in San Mateo County | $3,000,000 |
| 1943 | CA | Construct Guadalupe River Trail from I-880 to Highway 237 in Santa Clara County | $6,400,000 |
| 1944 | TN | Cocke County, Tennessee SR-32 reconstruction | $800,000 |
| 1945 | IL | Construct I-80, Ridgeland Ave. Improvements, Tinley Park | $800,000 |
| 1946 | KY | Construct Pedestrian Mall and Streetscape Improvements on Lexington, College, Walnut and Gilespie Sts, Wilmore . | $3,124,000 |
| 1947 | PA | PA 23 corridor improvements from US 30 to US 322 . | $2,400,000 |
| 1948 | NJ | Replacement and realignment of Amwell Road Bridge over Neshanic River . | $844,000 |
| 1949 | FL | City of Wilton Manors Powerline Road Streetscape Enhancement Project . | $300,000 |
| 1950 | TX | Construct SH 199 (Henderson St.) through the Trinity Uptown Project between the West Fork and Clear Fork of the Trinity River in Fort Worth | $6,400,000 |
| 1951 | IN | Construction of multi-use paths, Town of Fishers, Indiana | $200,000 |
| 1952 | OH | Construct White Pond Dr. project in Akron . | $800,000 |
| 1953 | MN | Design and right of way acquisition for I-35ECSAH 14 Main Street Interchange, city of Lino Lakes, Minnesota | $800,000 |
| 1954 | OR | Expand storage facilities in Eugene to support transportation enhancement activities throughout the state | $2,500,000 |
| 1955 | CA | Improvements to US-101 ramps between Winnetka Ave. and Van Nuys Blvd . | $320,000 |
| 1956 | IN | Acquire right of way for and construct University Parkway from Upper Mt. Vernon Road to SR 66 | $2,400,000 |
| 1957 | CA | Pine Avenue extension from Route 71 to Euclid Avenue in the City of Chino, California | $6,800,000 |
| 1958 | MO | Confluence Greenway Land Acquisition for Riverfront Trail development in St. Louis | $560,000 |
| 1959 | TN | Retrofit noise abatement walls in Davidson County | $2,000,000 |
| 1960 | MA | Streetscape and pedestrian access improvements between Museum Road & Forsyth Way | $3,200,000 |
| 1961 | MI | Commerce, Haggerty Road from 14 Mile to Richardson . | $1,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 1962 | WI | Expand STH 23, County Highway OJ to US Highway 41, WI | $24,000,000 |
| 1963 | FL | Construct interchange at I-95 and Matanzas Woods Parkway, Flagler County . | $800,000 |
| 1964 | IL | Miller Road Widening and Improvement, McHenry | $6,364,000 |
| 1965 | NC | Construct Neuse River Trail in Johnston County | $1,600,000 |
| 1966 | TX | Construct landscaping and other pedestrian amenities in segments of the Old Spanish Trail and Griggs Road rights-of-way . | $1,600,000 |
| 1967 | NY | Construction of and improvements to Union Road and Walden Avenue in Cheektowaga . | $800,000 |
| 1968 | LA | Construction of West Covington Bypass-LA 21 Widening | $3,200,000 |
| 1969 | MS | Construct Byrd Parkway Extension, Petal . | $1,200,000 |
| 1970 | NY | Intermodal transportation improvements in Coney Island | $3,200,000 |
| 1971 | MN | Construct one mile of new roadway and a bridge crossing the DM&IR railroad tracks, and construct connector between CSAH 14 and CSAH 284, Proctor | $2,624,000 |
| 1972 | NH | Construct Park and Ride, Exit 5 on I-93— Londonderry, NH | $1,600,000 |
| 1973 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Exeter Borough, Luzerne County . | $160,000 |
| 1974 | PA | Extension of River Road in Reading, PA to provide access to major industial and brownfields sites . | $1,200,000 |
| 1975 | AK | Point MacKenzie in Matanuska-Susitna Borough plan and design road access . | $1,000,000 |
| 1976 | TX | Repair 4.35 miles of Lake Ridge Parkway. Widen roadway along with 2 bridges from 4 lanes to 6 across Joe Poole Lake in Grand Prairie, TX | $4,800,000 |
| 1977 | IL | Robert Taylor Homes CHA Street Construction, City of Chicago | $440,000 |
| 1978 | OR | Rockwood Town Center for Stark Street from 190th to 197th for pedestrian, bicycle and transit facilities and safety mitigation | $2,000,000 |
| 1979 | PA | Route 89 Curve Realignment one mile north of Titusville on Route 89 . | $240,000 |
| 1980 | FL | Sand Lake Road Improvements between Presidents Drive and I-4 . | $4,800,000 |
| 1981 | MI | Sault Ste. Marie, Reconstruct East Spruce Street with drainage, curb, gutter, pavement, traffic control devices | $760,000 |
| 1982 | MI | Study and construct I-96/US31-Sternberg Road area improvements . | $2,000,000 |
| 1983 | PA | Provide access to HOV ramp from Reedsdale Street with traffic signals, pavement markings, lane control and fast acting gates . | $1,600,000 |
| 1984 | IL | The extension of MacArthur Blvd. from Wabash to Iron Bridge Road. Springfield | $1,200,000 |
| 1985 | IL | Construct Cedar Creek Linear Park Trail, Quincy | $400,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 1986 | IN | Conduct study for US 50 Corridor Improvements, Dearborn County Indiana | $240,000 |
| 1987 | IL | Design, land acquistion, and construct West State St (US Business 20) from Meridan Rd to Rockton Ave in Rockford, IL | $1,600,000 |
| 1988 | CA | The Foothill South Project, construct 16 miles of a six-lane limited access highway system | $8,000,000 |
| 1989 | MI | Construct Road Improvements to Miller Rd. from I-75 to Linden Rd. Flint Township | $2,400,000 |
| 1990 | CA | State Route 99 improvements at Sheldon Road | $3,200,000 |
| 1991 | KY | The Kentucky Multi-Highway Preservation Project | $1,280,000 |
| 1992 | NY | Town of Warwick, NY. Bridge replacement on Buttermilk Falls Rd | $140,000 |
| 1993 | TN | Improve existing two lane highway to a four lane facility along the US-412 Corridor west of Natchez Trace to US-43 at Mt. Pleasant | $8,000,000 |
| 1994 | NY | Town of Warwick,NY East Shore Road reconstruction . | $640,000 |
| 1995 | FL | Traffic Reconfiguration of SR 934 and US 1 Route, Miami . | $800,000 |
| 1996 | PA | For design, engineering, ROW acquisition, and construction of the third phase of the Marshalls Creek Bypass Project in Monroe County, Pennsylvania | $240,000 |
| 1997 | MI | Construct North Central Muskegon County Corridor Improvements at US31 and Russell Road . | $1,840,000 |
| 1998 | OH | Reconstruct I-75/I-475 Interchange, Toledo . | $2,400,000 |
| 1999 | NY | College Point 20th Avenue Streetscapes Improvements Project in Queens | $700,000 |
| 2000 | OH | Construct a 4 lane limited access road to link Newcomerstown and Cadiz | $550,000 |
| 2001 | CT | Construct trail to extend the Pequonnock Valley rail-trail through Trumbull and into Bridgeport, CT | $400,000 |
| 2002 | AK | Providence Hospital Public Access Road | $3,000,000 |
| 2003 | TX | I Road Between Nolana Loop and FM 495 in Hidalgo County | $1,520,000 |
| 2004 | NC | North Carolina. Add passing lanes and safety improvements to US Hwy. 64 in Transylvania County . | $4,800,000 |
| 2005 | TN | improve streetscape and pavement repair, Blount County, TN | $240,000 |
| 2006 | CT | Reconstruction of State Route 111 from Purdy Hill Road to Fan Hill Road, Monroe, CT . | $1,200,000 |
| 2007 | IL | Resurface Trumbull Ave. and Homan Ave., Evergreen Park | $320,000 |
| 2008 | GA | HWY 78 Corridor Improvement Gwinnett County | $400,000 |
| 2009 | TX | Construct Southwest Bypass in Georgetown, Texas, between SH 29 and Ranch Road 2243 . | $3,200,000 |
| 2010 | MO | To improve U.S. 54 to a four lane highway from the Osage River to MO Route KK . | $800,000 |
| 2011 | MS | Upgrade roads in Mayersville (U.S. Hwy 14 and 1), Issaquena County | $160,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2012 | MA | Gainsborough St & St. Botolph St. Improvements | $900,000 |
| 2013 | IN | Construct US 31 Kokomo Corridor Project for Kokomo Howard County, Indiana . | $800,000 |
| 2014 | OH | Construction of Tri-State Outer Belt in Lawrence County | $1,600,000 |
| 2015 | PA | Completion of I-79-Kirwin Heights Interchange and construction of retaining walls, bridge and new ramps . | $1,600,000 |
| 2016 | OH | Construction of the Carroll Area Interchange in Fairfield County . | $3,600,000 |
| 2017 | CA | Construct the Silicon Valley Transportation Incident Management Center in San Jose | $6,400,000 |
| 2018 | CA | Design and Construction Camino Tassajara Crown Canyon to East Town Project, Danville, CA . | $800,000 |
| 2019 | NY | Traffic mitigation on Bridge Street and Maple Avenue, Florida, NY | $120,000 |
| 2020 | WI | North 28th Street Phase 2 roadway safety improvements from Weeks Avenue to Hill Avenue in Superior | $1,024,000 |
| 2021 | NC | Upgrade US 74 in Columbus County | $5,600,000 |
| 2022 | MS | Upgrade US 78 to Interstated Standards from the MS-TN state line to the MS-AL state line . | $8,000,000 |
| 2023 | IN | Improve Bailie Street, Kentland | $256,000 |
| 2024 | CA | Realignment of La Brea Avenue to reduce congestion, City of Inglewood | $2,640,000 |
| 2025 | IL | Resurface Elston Avenue from Milwaukee to Pulaski, Chicago | $1,600,000 |
| 2026 | TN | Sullivan, Washington Counties, Tennessee SR-75 widening | $1,600,000 |
| 2027 | GA | US 17/SR 404 Spur, Back River bridge replacement, Savannah | $4,000,000 |
| 2028 | MS | US 98 access improvements & new I-59 interchange, Lamar County | $4,000,000 |
| 2029 | VA | Construct South Airport Connector, Richmond International Airport . | $400,000 |
| 2030 | NY | City of Peeskill,NY Street Resurfacing Program. Riverview Avenue | $104,000 |
| 2031 | GA | SR 400 at SR 120 Old Milton Parkway intersection improvement Fulton County Georgia | $800,000 |
| 2032 | MA | East Boston Haul Road Construction | $5,000,000 |
| 2033 | NY | Town of Goshen Orzeck Road reconstruction . | $320,000 |
| 2034 | VA | Revitalize Main Street in Dumfries . | $580,000 |
| 2035 | FL | Replace Platt Street Bridge | $2,400,000 |
| 2036 | FL | Access Rd. Streetscaping, Sanford Airport . | $400,000 |
| 2037 | NY | Rockland County and City of Yonkers to Lower-Manhattan Ferry Boat project . | $800,000 |
| 2038 | SC | Complete construction of Palmetto Parkway (I520) Extension (Phase II) to I-20 | $5,600,000 |
| 2039 | NM | US 62-180 Reconstruction, Texas State Line to Carlsbad | $4,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2040 | IL | For US Rt 30 intersection signals, turn & deceleration lanes btwn Williams St & IL Rt 43 incl. 80th Ave, Wolf Rd, Lincoln Way HS & Locust St | $5,600,000 |
| 2041 | OH | Construct Orchard Lane to Factory Road Connector, Greene County . | $400,000 |
| 2042 | TX | Construct a bridge impact protection system for TxDOT . | $400,000 |
| 2043 | NC | Design and construction of the Airport Area Roadway Network, High Point, North Carolina . | $4,000,000 |
| 2044 | VA | Repair Colorado Street bridge in Salem, Virginia . | $1,400,000 |
| 2045 | CA | Project to evaluate air quality and congestion mitigation benefits of a Hybrid Utility Vehicle in Santa Barbara County . | $80,000 |
| 2046 | PA | Mill Street improvements, Borough of Lansdale | $720,000 |
| 2047 | MN | Construction of County State Aid Highway 21, Scott County, MN | $2,560,000 |
| 2048 | [illegible] | ~~Safety improvement to Chestnuts Turn SR 175, Fulton County, Pa.~~ | ~~[illegible]~~00 |
| 2049 | TX | Two direct connectors in Houston, Texas between IH 10 and SH 99, The Grand Parkway . | $4,000,000 |
| 2050 | MO | Upgrade of Rt. 71 from Pineville to Arkansas State Line | $12,000,000 |
| 2051 | CA | Improve interstates and roads part of the Inland Empire Goods Movement Gateway project in and around the former Norton Air Force Base . | $20,000,000 |
| 2052 | IL | Preconstruction activities for Sangamon Valley Bicycle Trail (IL) | $400,000 |
| 2053 | MI | St. Clair County Parks is working with 13 local units to develop the 54-mile Bridge-to-Bay trail | $400,000 |
| 2054 | NJ | New Jersey Underground Railroad for preservation, enhancement and promotion of sites in New Jersey | $256,000 |
| 2055 | CA | Construction of an interchange at Lammers Road and I-205, Tracy, CA . | $800,000 |
| 2056 | MN | Corridor Preservation Studies & Right of Way Acquisition, St. Cloud Metro Area | $2,400,000 |
| 2057 | NY | Improve CR39 from NY27 to NY27A, Suffolk County | $3,000,000 |
| 2058 | PA | Street improvements, Borough of Ambler . | $520,000 |
| 2059 | KY | Reconstruction of KY 61 from Greensburg in Green County to Columbia in Adair County | $800,000 |
| 2060 | TX | Construct Loop 12-IH 35E and SH 183 west extension to MacArthur, Irving, Texas | $800,000 |
| 2061 | NC | To plan, design, and construct the segment of Berkeley Blvd. from Royal Avenue to Hew Hope Rd (SR 1003) in Goldsboro, NC . | $236,800 |
| 2062 | OH | Upgrade Manchester Rd. in Akron . | $3,200,000 |
| 2063 | IL | St. Charles Road, The Village of Bellwood . | $800,000 |
| 2064 | TN | Engineer,design & construction of connector rd from I-75 interchange across Enterprise South Industrial Park to Hwy 58 in Hamilton County . | $7,200,000 |
| 2065 | TX | Construct 4 lane divided roadway along SH 71 from the Perdernales River to Bee Creek . | $1,600,000 |
| 2066 | CT | I-84 Danbury Exits 1-11 Upgrade Interchanges | $2,720,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2067 | CA | Complete the engineering design and acquire the right-of way needed for the Arch-Sperry project in San Joaquin County | $4,000,000 |
| 2068 | UT | Increase lane capacity on bridge over Virgin River on Washington Fields Road in Washington | $3,000,000 |
| 2069 | NY | Installation of Utica Traffic Signal System | $2,400,000 |
| 2070 | NC | To construct an interchange at an existing grade separation at SR 1602 (Old Stantonsburg Rd.) and U.S. 264 Bypass in Wilson County, NC | $947,200 |
| 2071 | WA | US12 Burbank to Walla Walla: Construct new four lane highway for portion of US 12 | $3,440,000 |
| 2072 | | | $0 |
| 2073 | OH | Structural improvements to two bridges over the Zimber Ditch between 38th St. and Whipple Ave. in Canton, Ohio . | $400,000 |
| 2074 | OK | US-281, Widen US-281 from the new US-281 Spur North to Geary Canadian County, OK | $800,000 |
| 2075 | MI | City of Negaunee, Croix Street reconstruction-Streetscape and resurfacing from US 41 to Maas Street | $900,000 |
| 2076 | KS | Construct I-35 and Lone Elm Road interchange and widen I-35 from 151st St. to 159th St., Olathe . | $4,000,000 |
| 2077 | MI | Integrated highway realignment and grade separations at Port Huron, MI to eliminate road blockages from NAFTA rail traffic . | $400,000 |
| 2078 | OK | US-60, Widen US-60 between Bartlesville and Pawhuska, Osage County, OK . | $2,400,000 |
| 2079 | WA | Construct an off-ramp from I-5 to the intersection of Alderwood Mall Blvd and Alderwood Mall Pkwy | $400,000 |
| 2080 | CA | Reduce congestion and boost economies through safer access to the coast by realigning Hwy 299 between Trinity and Shasta Counties . | $5,600,000 |
| 2081 | IL | Pre-construction and construction activities on US 45/LaGrange Road from 131st Street to 179th Street . | $800,000 |
| 2082 | AR | Van Buren, Arkansas—Widen and reconstruct Rena Road . | $3,000,000 |
| 2083 | GA | Construction of infrastructure for inter-parcel access, median upgrades, lighting, and beautification along Highway 78 corridor . | $4,800,000 |
| 2084 | CA | Construct Alviso Bay Trail from Gold Street in historic Alviso to San Tomas Aquino Creek in San Jose | $800,000 |
| 2085 | MS | Construct bicycle and trolley path, Hattiesburg | $680,000 |
| 2086 | WI | Construct a bike and pedestrian bridge across STH 100 at the 1800 block of S. 108th Street, West Allis . | $240,000 |
| 2087 | IL | Increasing the height on the IL Rt. 82 Railroad Underpass in Geneseo, IL . | $2,400,000 |
| 2088 | NC | US-70 Goldsboro Bypass . | $800,000 |
| 2089 | CA | Vasco Road Safety Improvements, Contra Costa Transportation Authority and the County of Alameda Public Works, California | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2090 | NY | Downtown Flushing Multi-Modal Connection Project, Queens | $880,000 |
| 2091 | MD | Construct Safety and Operations Improvements at MLK Jr. Blvd. and W. Baltimore Street in Baltimore . | $2,000,000 |
| 2092 | NY | Rehabilitate Riis Park Boardwalk | $300,000 |
| 2093 | TX | Construct 25 mile stretch of the 177-mile loop, between IH-45 south and SH-288 | $9,200,000 |
| 2094 | UT | Construction of Midvalley Highway, Tooele County, Utah . | $800,000 |
| 2095 | WA | Improve Willapa Hills bicycle and pedestrian trail between Chehalis and Pacific County | $700,000 |
| 2096 | PA | Design and construct interchange and related improvements at I 83 Exit 18 . | $4,800,000 |
| 2097 | VA | Northern Virginia Potomac Heritage National Scenic Trail . | $800,000 |
| 2098 | NC | Wilmington Area Port Access Improvements | $2,400,000 |
| 2099 | OK | Construction of Midwest City Pedestrian Walkway . | $800,000 |
| 2100 | | | $0 |
| 2101 | GA | Construct access roads on Airport Loop road in Hapeville | $1,600,000 |
| 2102 | TN | Construct 2nd Creek Greenway, Knoxville, Tennessee . | $548,560 |
| 2103 | NE | Design, right-of-way and construction for the Louisville Bypass, Nebraska | $2,000,000 |
| 2104 | HI | Construct Honoapiilani Highway Realignment | $2,400,000 |
| 2105 | TN | Hamblen County, Tennessee US 25E interchange improvements . | $800,000 |
| 2106 | IL | Construction of a new bicycle-pedestrian bridge in Wayne, IL | $960,000 |
| 2107 | PA | David Lawrence Convention Center Phase IV-reconstruction of roadways assoc. with HQ hotel project . | $960,000 |
| 2108 | CO | I-70 and SH 58 Interchange: Reconstruction of existing ramps, building of missing ramps and ROW acquisition . | $5,976,000 |
| 2109 | OH | Reconstruct U.S. Route 6 (Lake Road). Rocky River | $2,640,000 |
| 2110 | WA | Construct .6 mile span over I-5 in Thurston County to connect Chehalis Western Trail | $4,108,000 |
| 2111 | IL | Extend Frank Scott Parkway East Road to Scott AFB, St. Clair County . | $2,240,000 |
| 2112 | OH | Reconfigure I-480 and Transportation Blvd. Interchange, Garfield Heights | $800,000 |
| 2113 | NY | Rehabilitation of Route 100 from Virginia Road to Westchester Community College | $880,000 |
| 2114 | TN | Restoration of historic L&N Depot, McMinn County, Tennessee . | $16,000 |
| 2115 | SD | Resurface 10 miles of US18 from Okreek to Carter on the Rosebud Indian Reservation . | $1,840,000 |
| 2116 | CA | Route 198 Expansion, from SR 99 to SR 43 . | $2,400,000 |
| 2117 | WA | SR 543 Interstate 5 to International Boundary Enhancement in Blaine | $3,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2118 | MD | Rockville, MD Construction of Maryland Avenue and Market Street Intermodal Access Project | $3,200,000 |
| 2119 | MN | US Highway 212 expansion from Carver Cnty Rd 147 to Cologne and from Cologne to Norwood Young America . | $800,000 |
| 2120 | VA | Vienna, VA Maple Avenue improvement project | $1,320,000 |
| 2121 | IL | Village of South Jacksonville—West Vandalia Road upgrades . | $762,058 |
| 2122 | | | $0 |
| 2123 | | | $0 |
| 2124 | FL | Destiny Rd Reconstruction, Eatonville | $800,000 |
| 2125 | KY | Construct New Technology Triangle Access Road, Campbell County, Kentucky | $1,600,000 |
| 2126 | NY | Town of Wawayanda reconstruction of McVeigh Road | $400,000 |
| 2127 | VA | Virginia Creeper Trail—Trail needs, including construction of restroom facilities at Watauga and Alvarado and parking expansion at Watauga . | $680,000 |
| 2128 | CA | Construct grade separation on State College Blvd. at the Burlington Northern Santa Fe railroad, Fullerton . | $12,800,000 |
| 2129 | MA | Warren Street—Blue Hill Avenue . | $2,400,000 |
| 2130 | FL | Design and construct Dunn Avenue Extension, Volusia County . | $1,600,000 |
| 2131 | CA | Construct operational and safety improvements to I-880 N at 29th Ave in Oakland . | $2,000,000 |
| 2132 | WA | U.S. 395, North Spokane Corridor Improvements . | $4,640,000 |
| 2133 | NY | Route 531 Expansion Spencerport-Brockport, 4-lane Highway is a project to extend Rt. 531 . | $5,920,000 |
| 2134 | OR | Columbia Intermodal Corridor for rail congestion relief, improved intersections and access to Interstate-5 for trucks, and grade-separate road from rail, Portland | $11,000,000 |
| 2135 | OH | Interchange and related road improvements to SR 44 in Painesville, OH | $2,000,000 |
| 2136 | GA | Greene County, Georgia conversion of I-20 and Carey Station Road overpass to full interchange | $960,000 |
| 2137 | IL | Pioneer Parkway upgrade in Peoria—Extension from Allen Road to Route 91 . | $1,600,000 |
| 2138 | MS | Construct historic bicycle path, Pascagoula | $120,000 |
| 2139 | PA | Crows Run Relocation from SR 65 to Freedom Crider Road . | $3,080,000 |
| 2140 | OH | Replace the Edward N. Waldvogel Viaduct in Cincinnati . | $8,000,000 |
| 2141 | NC | Construct I-540 from NC 55 South to NC 55 North . | $8,800,000 |
| 2142 | NY | Roadway, streetscape, pedestrian, and parking improvements to the Buffalo Niagara Medical Campus, Buffalo . | $3,200,000 |
| 2143 | VA | Upgrade DOT crossing #470515H to constant warning devices in Halifax . | $35,520 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2144 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Avoca Borough, Luzerne County . | $160,000 |
| 2145 | WA | Bridge Modification and Interstate Highway Protection Project, Skagit River, in Skagit County | $3,000,000 |
| 2146 | TN | Construct welcome center, Macon County . | $160,000 |
| 2147 | CA | Construction of new roadway lighting on major transportation corridors in the Northwest San Fernando Valley . | $800,000 |
| 2148 | MO | Interchange design and construction for the Main Street Extension at I-55, Cape Girardeau County | $800,000 |
| 2149 | CA | Replace SR22 interchanges, construct HOV lanes, and lengthen bridges in Garden Gove | $5,200,000 |
| 2150 | IL | Construction of CAP I-290 Village of Oak Park | $800,000 |
| 2151 | RI | Rehabilitation of Bridge Number 550 In Pawtucket . | $4,400,000 |
| 2152 | WA | Complete analysis, permitting and right of way procurement for I-5/SR501 Interchange replacement in Ridgefield | $600,000 |
| 2153 | CA | Design and construct new interchange at Potrero Blvd and State Route 60 in Beaumont . | $1,600,000 |
| 2154 | TN | construction of a pedestrian bridge in Alcoa, TN | $800,000 |
| 2155 | WV | Construct 4 lane improvements on U.S. Route 35 in Mason County | $35,400,000 |
| 2156 | OH | Construct Grade Separation at Front Street, Berea | $400,000 |
| 2157 | CA | Crenshaw Blvd. Rehabilitation, 182nd St. 190th St.; and Crenshaw Blvd. at 182nd St. Fwy on-off Ramp Capacity Enhancement, City of Torrance | $640,000 |
| 2158 | CA | Construct Interchange at Intersection of SR 44 and Stillwater Road . | $4,000,000 |
| 2159 | MN | CSAH 61 improvements, City of Coleraine . | $392,000 |
| 2160 | KY | Expansion to four lanes of Hwy 55 and Hwy 555 Heartland Parkway in Taylor County | $8,000,000 |
| 2161 | KS | Interchange improvement at K-7 and 55th St. in Johnson Co | $4,000,000 |
| 2162 | CA | Construct truck lane on Baughman Road from State Route 78/86 to Forrester Road, Westmorland | $440,000 |
| 2163 | AZ | Construct bridges at Aspen St., at Birch St., at Cherry St., at Bonito St., at Thorpe St | $3,000,000 |
| 2164 | CT | Construct Putnam curb cuts . | $80,000 |
| 2165 | OH | Canton, OH Cleveland Ave. bridge replacement over the Nimishilen Creek . | $320,000 |
| 2166 | MN | Design and right of way acquisition for I-35 and CSAH 2 interchange in Forest Lake, MN . | $2,400,000 |
| 2167 | PA | Complete the connection of the American Parkway between the east and west sides of the Lehigh River with bridge and interchanges . | $8,000,000 |
| 2168 | PA | Design, engineering, ROW acquisition & construction of street improvements, parking & safety enhancements Main & Parsonage Streets in Pittston . | $200,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2169 | TX | Grade separation bridges at Wintergreen Rd. and Millers Ferry Rd. in Hutchins and Pleasant Run Rd. and Millers Ferry Rd. in Wilmer . | $6,560,000 |
| 2170 | GA | I-20 HOV lanes from Evans Mill Road to Salem Road, Dekalb and Rockdale Counties | $1,200,000 |
| 2171 | NV | Improve Las Vegas Beltway-Airport Connector Interchange | $3,200,000 |
| 2172 | CA | Oregon-Page Mill expressway Improvements between US 101 and SR 82, Palo Alto . | $3,200,000 |
| 2173 | MA | Design and construct the Quinebaug River Rail Trail Bikeway | $800,000 |
| 2174 | CA | Park Boulevard-Harbor Drive Rail Grade Separation, San Diego . | $800,000 |
| 2175 | MN | Paul Bunyan Trail, Walker to Bemidji segment | $560,000 |
| 2176 | CA | Construct road surface improvements, and improve road safety from Brawley Water plant to HWY 86 to 9th Street to 18th Street, Brawley | $1,120,000 |
| 2177 | TX | Improvements to FM 1017 in Hebbronville | $400,000 |
| 2178 | CA | Alameda Corridor East Gateway to America Trade Corridor Project, Highway-Railgrade separation along 35 mile corridor from Alameda Corridor (Hobart Junction) to Los Angeles/San Bernardino County Line | $12,400,000 |
| 2179 | GA | Phase III Streetscape-Columbus . | $800,000 |
| 2180 | IL | Pre-construction and construction IL 15 over Wabash River at Mt. Carmel . | $5,568,000 |
| 2181 | NY | Queens, Bronx, and Kings, and Richmond County Graffiti Elimination Program including Kings Highway from Ocean Parkway to McDonald Avenue | $4,750,000 |
| 2182 | IA | Improvements at the IA 146 and I 80 interchange, Grinnell . | $800,000 |
| 2183 | TX | Construct Grade separation at US 277 in Eagle Pass . | $4,000,000 |
| 2184 | LA | Plan, design, and construct the internal roadway at Port of South Louisiana, Saint John the Baptist Parish and LA 22 in Ascension Parish. | $2,200,000 |
| 2185 | KS | Construction of a two-lane on a four-lane right of way bypass with controlled access on US400 at Dodge City . | $10,240,000 |
| 2186 | MN | Reconstruct CR 203 between US 10 and CSAH 1, Morrison County | $268,800 |
| 2187 | NY | Reconstruction of York Street Industrial Corridor Project, Auburn, NY . | $2,800,000 |
| 2188 | NY | Construction of and improvements to Route 62 in the Village of Hamburg . | $800,000 |
| 2189 | IN | Convention Center Area Redevelopment Project includes street resurfacing, pedestrian walkway and streetscape improvements, signalization, safety enhancements, plaza and pedestrian area upgrades, and pedestrian bridges on South Street, Capitol Street, West Street, Missouri Street, and McCarty Street, Indianapolis | $12,280,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2190 | AL | Construct pedestrian urban-edge riverwalk in Montgomery, AL | $1,200,000 |
| 2191 | PA | Johnstown, Pennsylvania, West End bypass safety improvements | $4,000,000 |
| 2192 | CA | Construction of traffic and pedestrian safety improvements in Yucca Valley . | $1,600,000 |
| 2193 | CA | 710 Freeway Study to Evaluate Technical Feasibility and Impacts of a Tunnel Alternative to Close 710 Freeway Gap | $2,400,000 |
| 2194 | CA | Greenleaf Right of Way Community Enhancement Project-design and construct bikeways, pedestrian walkways and upgrade signalization Compton . | $3,200,000 |
| 2195 | KY | Improve Prospect Street Pedestrian Access, Berea | $2,200,000 |
| 2196 | OH | Construct Crocker Stearns Connection, North Olmsted and Westlake | $880,000 |
| 2197 | NY | Construction of and improvements to Seneca Street in Buffalo | $480,000 |
| 2198 | CA | Avalon Boulevard/I-405 Interchange modification project, Carson . | $4,800,000 |
| 2199 | IL | Construct Illinois Route 336 from Macomb to Peoria . | $1,600,000 |
| 2200 | NC | North Carolina. Pack Sqaure Pedestrian and Roadway Improvements, Asheville . | $3,840,000 |
| 2201 | PA | Provide pedestrian and water access to Convention Center from surrounding neighborhoods | $880,000 |
| 2202 | NY | Reconstruction of Times and Duffy Squares in New York City . | $1,200,000 |
| 2203 | LA | Construction of I-10 Access Road (Crowley) | $880,000 |
| 2204 | NY | Repaving of I-86 in towns of Coldspring, Randolph, Allegany, and Olean; City of Olean; Village of Randolph in Cattaraugus County | $6,000,000 |
| 2205 | PA | Replace Bridge, S.R. 106, Tunkhannock Creek Bridge 2, Clifford Township, Susquehanna County | $640,000 |
| 2206 | NJ | Replace Route 7-Wittpen Bridge, Hudson County | $800,000 |
| 2207 | MN | Right-of-Way acquisition for 8th Street North & Pinecone Road . | $3,200,000 |
| 2208 | IL | For Village of Lemont to modernize and improve the intersection of McCarthy Road, Derby Road, and Archer Avenue . | $280,000 |
| 2209 | CA | Construct I-80 HOV lanes and interchange in Vallejo | $800,000 |
| 2210 | PA | Rail Crossing signalization upgrade, East Wesner Road, Maidencreek Twp, Berks County | $165,040 |
| 2211 | OH | Construct road projects and transportation enhancements as part of RiverScape Phase III, Montgomery County, Ohio . | $5,184,000 |
| 2212 | TN | Riverside Drive Cobblestone Restoration and Walkway, Memphis | $800,000 |
| 2213 | TX | Reconstruction of West Airport between US 59 and Kirkwood in the City of Meadows Place, Texas | $320,000 |
| 2214 | PA | Construct additional northbound lane on Rte 28 between Harmar and Creighton Interchange | $1,320,000 |
| 2215 | NJ | Roadway and intersection modifications on New Jersey Route 82 . | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2216 | OH | Jackson Township, Ohio. Intersection improvements at Fulton Dr. and Wales . | $1,600,000 |
| 2217 | GA | Rockdale County Veteran's Park— create park trails . | $400,000 |
| 2218 | MA | Construct the Blackstone River Bikeway and Worcester Bikeway Pavilion between Providence, RI and Worcester, MA . | $1,600,000 |
| 2219 | OH | Improvements to SR 91 in City of Twinsburg, OH . | $1,560,000 |
| 2220 | TX | Completion of US 77 relief route around City of Robstown . | $2,400,000 |
| 2221 | NY | Improve Maple Avenue, Smithtown | $1,000,000 |
| 2222 | HI | Replace and Rehabilitate Kamehameha Highway Bridges, Island of Oahu . | $800,000 |
| 2223 | TX | SH71 from W of FM 20 to Loop 150, Bastrop County | $1,600,000 |
| 2224 | IN | Construct US 31 Plymouth to South Bend Freeway Project in Marshall and St. Joseph Counties, Indiana . | $8,800,000 |
| 2225 | LA | Plan and develop a four-lane roadway, Jeanerette to US 90 connection | $160,000 |
| 2226 | LA | Construct I-12 and LA 1088 Interchange | $2,400,000 |
| 2227 | CA | 4 lane widening/safety improvements on State Route 25 from Hollister to Gilroy . | $2,928,000 |
| 2228 | NY | Comprehensive traffic congestion mitigation study of Hauppauge Industrial Park and surrounding area | $600,000 |
| 2229 | NY | Develop an identity and signage program for the Erie Canalway National Heritage Corridor . | $800,000 |
| 2230 | CO | Dillon Drive Overpass at Interstate 25 in Pueblo . | $3,200,000 |
| 2231 | NY | Improvements at highway-rail crossings along the Southern Tier Extension Railroad in Allegany, Cattaraugus, and Steuben Counties | $900,000 |
| 2232 | FL | Depot Ave. Enhancements, Gainesville . | $4,800,000 |
| 2233 | CA | Interstate 15 and Winchester Road Interchange Project . | $1,600,000 |
| 2234 | PA | Construct the Eastern Inner Loop in Centre County around State College, PA | $4,000,000 |
| 2235 | NJ | Streetscape Improvements along Berlin road between Gibbsboro Road and White Horse Road in Lindenwold Borough | $800,000 |
| 2236 | FL | SR 70 improvements in Highland, DeSoto and Okeechobee Counties | $1,600,000 |
| 2237 | GA | Streetscape-Albany | $400,000 |
| 2238 | GA | Streetscape-Richland . | $160,000 |
| 2239 | MO | Construct four lanes for Route 5 in Camden County | $8,000,000 |
| 2240 | IL | Improve Cottage Grove intersection, South Chicago Avenue and 71st Street . | $800,000 |
| 2241 | NY | Study, design and reconstruction of pedestrian walkways, the Bronx | $750,000 |
| 2242 | MS | Upgrade roads in Anguilla and Rolling Fork, Sharkey County . | $600,000 |
| 2243 | TX | For center to center communication link between highway traffic transportation management centers . | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2244 | OH | Upgrade the interchange of Interstates 270 and 71 in Franklin County, Ohio | $2,105,600 |
| 2245 | CA | US 101 Corridor Improvements—Route 280 to the Capitol-Yerba Buena Interchange . | $4,000,000 |
| 2246 | CA | Rancho Vista Blvd Widening Project | $2,800,000 |
| 2247 | NJ | Newark Access Variable Message Signage System . | $400,000 |
| 2248 | IA | Construct SW Connector, West Des Moines . | $1,600,000 |
| 2249 | IA | US 30 reconstruction , near Tama . | $3,200,000 |
| 2250 | GA | Construction of interchange on I-985 north of SR-13, Hall County Georgia . | $3,200,000 |
| 2251 | MI | Marquette County, Realignment of 3200 feet of County Road 492 from US-41 north to County Road HD . | $400,000 |
| 2252 | WI | Realign USH 8 near Cameron, Barron County | $1,600,000 |
| 2253 | PA | Restoration of PA422, in Berks County, including slab repair and diamond grinding . | $800,000 |
| 2254 | CA | Monte Vista Avenue Grade Separation, Montclair, California | $1,600,000 |
| 2255 | NY | Deploy intermodal chassis ITS project in New York . | $1,600,000 |
| 2256 | NY | Reconstruction of Route 590 in the Town of Irondequoit, NY . | $6,000,000 |
| 2257 | NY | Design and Construction of Downtown Jamestown Connector Trail . | $1,600,000 |
| 2258 | LA | Further construction to improve draining at Clearview Parkway (LA 3152) and Earhart Expressway (LA 3139) | $2,640,000 |
| 2259 | MI | Houghton County, Rehabilitate 2 piers and remove old bridge caissons for Sturgeon River Bridge | $216,000 |
| 2260 | AK | Make necessary improvements to Indian River Road in City and Borough of Sitka . | $2,000,000 |
| 2261 | MN | Reconstruct CSAH 61 from Barnum to TH 210 at Carlton, and improve Munger Trail | $1,680,000 |
| 2262 | TX | Build I-30 Trinity River Bridge, Dallas, Texas | $800,000 |
| 2263 | AK | Realign rail track to eliminate highway-rail crossings and improve highway safety and transit times . | $5,000,000 |
| 2264 | MS | Relocate SR 44 from SR 198 to Pierce Road, Columbia | $3,200,000 |
| 2265 | AL | Interstate 565 west extension towards Decatur | $1,600,000 |
| 2266 | MO | Roadway Improvements on Rte. 21 from Hayden Road to Lake Lorraine . | $4,000,000 |
| 2267 | IL | Halsted Bridge over North Branch Canal Reconstruction, City of Chicago | $480,000 |
| 2268 | VA | Town of Pound Riverwalk—construction of pedestrian riverwalk in Town of Pound | $80,000 |
| 2269 | IL | US 67 west of Jacksonville, IL Bypass to east of IL 100 . | $1,600,000 |
| 2270 | NY | Village of Wappingers Falls North Mesier Ave | $600,000 |
| 2271 | AR | War Eagle Bridge Rehabilitation—Benton County, Arkansas . | $640,000 |
| 2272 | WI | Build additional staircases, landscape, and other improvements to the marsupial bridge at the Holton St. Viaduct in Milwaukee | $640,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2273 | TN | Washington County, Tennessee SR-36 widening | $800,000 |
| 2274 | MI | Westland, Ann Arbor Trail between Farmington and Merriman . | $2,520,000 |
| 2275 | MI | White Lake and Commerce, pave Cooley Lake Road Between Ripple Way and Havenwood | $400,000 |
| 2276 | GA | Bridge replacement on County Road 183-FAS Route 1509, Peach County | $450,000 |
| 2277 | NC | I40 I-77 Interchange in Iredell County, NC . | $4,000,000 |
| 2278 | CA | Construct safe routes to school in Cherryland and Ashland . | $800,000 |
| 2279 | CA | Install Central Ave Historic Corridor comprehensive streetscape improvements thus improving traffic, ped safety, and economic development, Los Angeles | $1,656,000 |
| 2280 | VA | Whitetop Station—completion of renovation of Whitetop Station (which serves as trailhead facility) including construction of trail | $80,000 |
| 2281 | CT | Make Improvements to Montville-Preston Mohegan Bridge | $1,600,000 |
| 2282 | IL | Widen and improve Pulaski Road, Alsip | $560,000 |
| 2283 | AK | For Completion of the Shotgun Cove Road, from Whittier, Alaska to the area of Decision Point, Alaska . | $4,000,000 |
| 2284 | NY | Study and Implement Intelligent Transportation System Sensor Technology to Improve Safety at Bridges and Tunnels in Metropolitan New York City | $1,000,000 |
| 2285 | NY | Warburton avenue Bridge over Factory Lane, Hastings-on-Hudson, New York | $500,000 |
| 2286 | NY | Improve intersection of Old Dock and Church Street, Kings Park . | $400,000 |
| 2287 | TN | Widen and improve State Route 33, Knox County, Tennessee . | $6,500,000 |
| 2288 | CA | Reconstruct Paramount Bl. with medians and improve drainage from north border to south border of city in Lakewood | $1,080,000 |
| 2289 | NY | Upgrade Metro North stations in the Bronx and construct station at Yankee Stadium . | $2,400,000 |
| 2290 | OH | Construct the existing industrial park road from local to state standards near Cadiz | $4,100,000 |
| 2291 | LA | Upgrade LA 28 to four lanes from LA 121 to LA 465 . | $1,600,000 |
| 2292 | NY | Reconstruction of Historic Eastern Parkway | $1,920,000 |
| 2293 | CA | Widen and make ITS improvements on Paramount Blvd between Telegraph Rd and Gardendale St in Downey | $800,000 |
| 2294 | VA | Conduct planning and engineering for Hampton Roads Third Crossing and Interconnected Roadways | $2,400,000 |
| 2295 | IL | Widen Annie Glidden Road to five lanes with intersection improvements. DeKalb, IL . | $6,400,000 |
| 2296 | CA | Widen California State Route132 from California State Route 99 west to Dakota Avenue . | $14,400,000 |
| 2297 | NC | Widen Derita Road from Poplar Tent Road in Concord to the Cabarrus Mecklenburg County line . | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2298 | TX | Widen from 4 to 6 lanes Interstate 35 East from Lake Lewisville to Loop 288 . | $5,600,000 |
| 2299 | CA | Widen Haskell Avenue between Chase St. and Roscoe Blvd . | $160,000 |
| 2300 | TX | Widen Hempstead Highway from 12th Street to Washington Avenue from four lanes to six lanes . | $800,000 |
| 2301 | NH | Reconstruction and relocation of the intersection of Maple Avenue and Charleston Road in Claremont | $400,000 |
| 2302 | OH | Construct highway-rail crossing safety upgrades at 3 grade crossings in Madison Village, OH . | $240,000 |
| 2303 | WA | Cultural & Interpretive Center (Hanford Reach National Monument) facility, Richland, WA | $1,280,000 |
| 2304 | NY | Implement Improvements for Pedestrian Safety in New York County | $600,000 |
| 2305 | NY | Construction of and improvements to Main Street in the Town of Eden . | $320,000 |
| 2306 | GA | SR 85 widening from Adams DR to I-75 and reconstruct the Forest Parkway interchange, Clayton County | $1,200,000 |
| 2307 | GA | Jogging, and Bicycle Trails around CSU, Columbus | $400,000 |
| 2308 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Throop Borough, Lackawanna County | $160,000 |
| 2309 | IL | Reconstruct Winter Ave, existing 1 lane RR subway, and 1 lane bridge to provide access to Winter Park in Danville | $4,320,000 |
| 2310 | OR | Construct highway and pedestrian access to Macadam Ave and street improvements as part of the South Waterfront development, Portland . | $7,200,000 |
| 2311 | TX | Relocation of 10th Street near McAllen-Miller International Airport . | $600,000 |
| 2312 | IL | Construct pedestrian tunnel at railroad crossing in Winfield, IL . | $800,000 |
| 2313 | IN | Construct Margaret Avenue Safety and Capacity Enhancement Project . | $2,400,000 |
| 2314 | TX | Construct Loop 574 from BU 77 to I-35 in McLennan Co . | $1,600,000 |
| 2315 | NY | Construction of a bicycle / pedestrian off road scenic pathway from the Niagara Falls City Line to the southerly Lewiston Town / Village Line along the Niagara Gorge, Town of Lewiston, Village of Lewiston, Niagara County | $1,840,000 |
| 2316 | FL | Construct new bridge from West-Florida Turnpike to CR 714 to 36th Street—cross S. Fork of St. Lucie River—Indian Street to US 1on east side | $4,000,000 |
| 2317 | WI | Recondition STH 16 from Columbus to STH 26 (Dodge County, Wisconsin) | $4,000,000 |
| 2318 | | | $0 |
| 2319 | NY | Riverwalk in Irvington development | $200,000 |
| 2320 | OH | Road resurfacing and improvements in the Village of Bentleyville, OH . | $560,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2321 | PA | Improvements to Stella Street rail-highway crossing in Wormleysburg, PA | $600,000 |
| 2322 | CT | Construct Entrance Ramp at Route 8 Exit 11, Shelton, CT | $800,000 |
| 2323 | AL | Pedestrian Improvements for Leeds, AL | $160,000 |
| 2324 | WA | Federal Way Triangle—Conduct final engineering work for the reconstruction of the I-5— SR 18 interchange . | $1,600,000 |
| 2325 | MI | Garden City, Reconstruct Maplewood between Inkster and Merriman . | $980,000 |
| 2326 | OR | Lake Road Reconstruction and Safety Improvements, Milwaukie . | $4,000,000 |
| 2327 | NY | Resurface Grade Crossing at Old State Road . | $200,000 |
| 2328 | MN | Construction of Cedar Avenue Busway, MN . | $4,800,000 |
| 2329 | IL | Upgrade streets and implement traffic and pedestrian safety signalization improvements, Oak Lawn | $3,920,000 |
| 2330 | GA | Streetscape-Thomasville . | $240,000 |
| 2331 | AZ | State Route 77 -- Project funds for the Ore Trail in the Copper Corridor on SR 77 | $240,000 |
| 2332 | PA | To enhance existing directional markers & increase wayfinding signage infrastructure in Monroe County | $400,000 |
| 2333 | CA | Construct and repair lining in four tunnels on Kanan, Kanan Dume, and Malibu Canyon Roads between US 1 and US 101 . | $2,400,000 |
| 2334 | GA | Sidewalk revitalization project in downtown Eastman . | $400,000 |
| 2335 | TX | Port of Corpus Christi Up River Road for upgrade of roadway to and from docks & IH 37 | $400,000 |
| 2336 | GA | Construct US 411 Connector from US 41 to I75, Bartow County, Georgia | $16,000,000 |
| 2337 | NY | Construction of US Route 219 Expressway: Sections V and VI | $4,800,000 |
| 2338 | PA | Engineering, design and construction of an extension of Park Avenue north to Lakemont Park in Altoona . | $1,600,000 |
| 2339 | MN | Reconstruct I-35E from I-94 to Maryland Avenue in St. Paul . | $2,800,000 |
| 2340 | CA | Construct truck ramp linking Interstate 5 to the National City Marine Cargo Terminal, National City . | $2,400,000 |
| 2341 | GA | Reconstruct the interchange at Interstate 185 and Victory Drive (SR 520), Columbus, GA Victory Drive (SR 520), Columbus, GA | $1,444,800 |
| 2342 | OH | Streetscaping, bicycle trails, and related improvements to the I-90—SR 615 Interchange in Mentor, OH . | $2,800,000 |
| 2343 | IN | Preliminary engineering, right-of-way, and construction for Perimeter Parkway -West Lafayette/Purdue University, Indiana . | $4,480,000 |
| 2344 | TN | Reconstruct Interchange 55 at Mallory Avenue, Memphis, Shelby County . | $800,000 |
| 2345 | CA | Upgrade first responders signal pre-emption hardware, Culver City | $25,600 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2346 | IN | Construction of Maplecrest Rd Extension— Allen County, Indiana . | $8,800,000 |
| 2347 | MS | Upgrade roads in Arcola, Leland, Greenville, and Hollandale (U.S. Highway 61 and 18), Washington County | $1,400,000 |
| 2348 | MS | Canal Road Intermodal Connector, Gulfport | $6,400,000 |
| 2349 | NY | Long Pong Road: Larkins Creek to Lake Ontario State Parkway, Town of Greece | $1,152,000 |
| 2350 | NY | Construct the Auburn Connector Road Corridor , Auburn, NY | $800,000 |
| 2351 | MA | Engineering and construction of Blackstone Valley Visitors Center at intersection of State Route 146 and Millbury Street, Worcester | $6,400,000 |
| 2352 | CA | Improve I-8 off ramp to the Desert Farming Institute, Imperial County . | $800,000 |
| 2353 | KS | Construct bike and pedestrian path along K-10 between Douglas and Johnson Counties . | $400,000 |
| 2354 | HI | Construct Bike Lanes on Kalanianaole Highway, vicinity of Makapuu to Keolu Drive | $240,000 |
| 2355 | TX | Donna/Rio Bravo International Bridge . | $1,600,000 |
| 2356 | IL | Improve Sheridan Road, Evanston | $1,600,000 |
| 2357 | MD | Intercounty Connector . | $3,200,000 |
| 2358 | MI | Resurfacing of Ten Mile Road in St. Clair Shores | $716,800 |
| 2359 | NY | Conduct studies to consider transportation planning and community involvement for infrastructure projects that address congestion relief in New York City | $1,200,000 |
| 2360 | MO | Construct an extension of MO 740 from U.S. 63 to the 1-70 Lake of the Woods Interchange | $2,000,000 |
| 2361 | LA | Construct improvements to Enterprise Blvd. in Iberville Parish; and LA 1/I-10 Connector Study; and improvements to LA 10/Zachary Taylor Parkway | $3,200,000 |
| 2362 | NY | Monroe County ITS project . | $720,000 |
| 2363 | MO | Roadway improvement on I-44 in Phelps County Missouri . | $800,000 |
| 2364 | MA | Rt128/95 ramp Northbound to Kendrick Street, Needham | $1,400,000 |
| 2365 | IN | Realign State Road 312, Hammond . | $3,330,313 |
| 2366 | PA | Design, engineering, ROW acquisition & construction of surface improvements to the area adjacent to Exit 168 of Interstate 81 at the Wachovia Arena in Wilkes-Barre Township | $200,000 |
| 2367 | GA | SR 92 relocation from Durelee Road to SR 92 at Malone, including grade separation, Douglas County, Georgia . | $6,400,000 |
| 2368 | IN | Construct I69 Evansville to Indianapolis, Indiana . | $11,200,000 |
| 2369 | CA | Construct fourth bore of Caldecott Tunnel on SR 24, California . | $1,600,000 |
| 2370 | TN | Construct interchange on I-40 in Wilson County | $800,000 |
| 2371 | IN | Construct service road parallel to I-69 in the City of Anderson, Indiana . | $3,200,000 |
| 2372 | NY | Croton-on-Hudson, NY Restoration of Van Cortlandt Manor entrance road . | $2,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2373 | OH | Construction and repair of pedestrian walkways along Lake Shore Blvd. in Lakeline Village, OH . | $231,200 |
| 2374 | MD | Reconstruct MD 32 from MD 108 to I-70 in Howard County | $3,040,000 |
| 2375 | NY | Repair and Improve Streets in Astoria damaged by water main breaks | $1,400,000 |
| 2376 | MI | Reconstruct two bridges over Black Creek Drain in Sanilac County | $570,000 |
| 2377 | FL | Construction of Little Venice Road, Marathon, FL | $800,000 |
| 2378 | CA | Make traffic and safety improvements to Atlantic Blvd in Maywood | $400,000 |
| 2379 | MN | Stearns County Bridge no. 73501 Improvements . | $320,000 |
| 2380 | LA | Construct LA 16 Interchange at I-12 and improvements, and Cook Road improvements . | $10,400,000 |
| 2381 | MO | Reconstruct Highway 60 and Highway 65 Interchange | $1,600,000 |
| 2382 | CO | I-70, Havana, Yosemite Street Interchange Reconstruction Project, Denver . | $1,200,000 |
| 2383 | CO | Reconstruct C 470-US 85 Interchange . | $3,200,000 |
| 2384 | VA | Reconstruction of the entranceway to Montpelier on Orange County, Virginia | $800,000 |
| 2385 | TN | construct and widen underpass at intersection of Boydstation, Harvey, and McFee Roads, Knox County, TN | $395,440 |
| 2386 | GA | Extend sidewalks, upgrade landscaping in downtown Hawkinsville | $400,000 |
| 2387 | OH | Conduct Sarah St along SR 18 and 101 enhancement project to calm traffic in the City of Tiffin | $2,080,000 |
| 2388 | LA | Improvements to Zachary Taylor Parkway . | $1,600,000 |
| 2389 | CA | Las Tunas Drive Pedestrian Enhancement, San Gabriel | $120,000 |
| 2390 | OH | Reconstruction, widening, and bicycle improvements to Pettibone Road in the City of Solon, OH | $2,400,000 |
| 2391 | NH | Replacement of Ash Street and Pillsbury Road Bridge | $1,520,000 |
| 2392 | PA | Swamp Road Corridor Safety and Roadway Improvements, Bucks County | $2,400,000 |
| 2393 | FL | Construct St. Augustine to Palatka Rail Trail, Florida . | $2,320,000 |
| 2394 | IL | Construction of a traffic circle to reduce traffic congestion, Museum Campus Chicago . | $1,600,000 |
| 2395 | AL | Pedestrian Improvements for Gardendale, AL | $533,334 |
| 2396 | PA | Extension of Second Street from Race to the intersection of Lehigh and Poplar Street in the Borough of Catasauqua . | $880,000 |
| 2397 | NE | Cuming Street Transportation Improvement Project, Omaha, Nebraska . | $3,600,000 |
| 2398 | TN | Construct State Route 1 (US-70) to a four lane divided highway on new alignment from Centertown to McMinnville in Warren County | $9,200,000 |
| 2399 | CA | Improve access to I-80 at Eureka Road Interchange | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2400 | LA | Expand existing South Central Planning and Development Commission Intelligent Transportation System program in Houma-Thibodaux area by installing signals, sensors and systems | $1,440,000 |
| 2401 | IL | Install traffic control devices on traffic signals in Village of Oak Lawn | $192,000 |
| 2402 | CA | Interstate 15, California Oaks Road Interchange Project . | $1,600,000 |
| 2403 | TX | Choate Road overpass to eliminate at-grade intersection between Choate Rd and SH146 | $7,840,000 |
| 2404 | OH | Construction of I-75 Austin Road Interchange, Montgomery County, Ohio . | $6,000,000 |
| 2405 | CA | Acquire lands for mitigation adjacent to US 101 as part of Southern Santa Clara County Wildlife Corridor Protection and Scenic Enhancement Project . | $400,000 |
| 2406 | TX | Construct US Business 287 through the Trinity Uptown Project from 7th St. NE to 11th St. NE in Fort Worth . | $6,400,000 |
| 2407 | KS | Construct K-10 and Lone Elm Road interchange, Lenexa | $4,000,000 |
| 2408 | OH | Construct connector road between SR 79 and Thornwood Drive in Licking County . | $5,000,000 |
| 2409 | NH | Construct Pedestrian, Bicycle bridge in Keene | $640,000 |
| 2410 | FL | Coral Way, SR 972 Highway Beautification, Phase One, Miami, Florida | $1,200,000 |
| 2411 | TN | Develop historic preservation transportation enhancement project, Sumner Co. and surrounding counties . | $108,000 |
| 2412 | NY | Develop terminal facilities for water taxi projects in New York City | $4,400,000 |
| 2413 | WI | Expand USH 151 between Dickeyville and Belmont . | $1,600,000 |
| 2414 | NY | Improve bicycle and pedestrian safety, NY 25, Jamesport | $240,000 |
| 2415 | PA | PA Route 183 widening and ramp enhancement, Bern Township | $1,600,000 |
| 2416 | IN | Reconstruct Hoosier Heartland Highway, Wabash, Huntington and Miami County Indiana segments | $800,000 |
| 2417 | GA | Replace sidewalks, upgrade lighting, and install landscaping, Soperton | $400,000 |
| 2418 | LA | Lafayette, LA Implementation of Intelligent Transportation System | $8,800,000 |
| 2419 | NY | Conduct improvements to I87—Exit 18 Interchange | $2,000,000 |
| 2420 | IL | To construct an extension of US-51 from .9 miles south of Moweaqua to 4.6 miles south of Moweaqua | $1,600,000 |
| 2421 | IL | Upgrade roads, The Village of Hillside . | $800,000 |
| 2422 | MS | Upgrade safety devices at Front Street rail crossing, Ellisville | $40,000 |
| 2423 | CO | US 287—Ports-to-Plains Corridor in Colorado | $6,133,333 |
| 2424 | AZ | Many Farms, Apache County -- For the Construction of N8086 and N8084 on the Navajo Nation | $480,000 |
| 2425 | VA | Construct I-95 Interchange at Temple Ave, Colonial Heights . | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2426 | KS | Route designation, environmental clearance, final design and right-of-way acquisition for Crawford County, KS corridor of U.S. Highway 69 | $3,200,000 |
| 2427 | CA | US-395 Realignment and Widening Project . | $400,000 |
| 2428 | IL | To connect about a two-mile segment through Collinsville at two or three lanes . | $1,600,000 |
| 2429 | IL | Construct Parking Facility and pedestrian walkways at 94th an S. Oak Park Ave, Oak Lawn | $192,000 |
| 2430 | UT | I-15 Freeway Reconstruction—Springville 200 South Interchange . | $3,600,000 |
| 2431 | MA | Washington St. from High St. to Water St., Walpole | $1,400,000 |
| 2432 | VA | White's Mill Trail and Renovation—design and construction of recreational trail and preservation of watermill for use as visitors center | $400,000 |
| 2433 | CA | Implement San Francisco Street Improvements Program . | $6,400,000 |
| 2434 | MA | Design, engineering and construction of Methuen Rotary alternative at I-93 and Routes 110 and 113, Methuen | $600,000 |
| 2435 | IL | Improve Mill Street, Rock Island | $400,000 |
| 2436 | PA | For the Nanticoke City Redevelopment Authority to design, acquire land, and construct a parking garage, streetscaping enhancements, paving, lighting and safety improvements, and roadway redesign in Nanticoke . | $5,600,000 |
| 2437 | MI | Widen and reconstruct Walton Boulevard Bridge in Auburn Hills between Opdyke and Squirrel Road | $4,000,000 |
| 2438 | OR | Widen Delaura Beach Lane and add a bike lane both directions, Warrenton | $148,800 |
| 2439 | MA | Design and construct the 3 ‡ mile long Grand Trunk Trail bikeway from Sturbridge to Southbridge | $560,000 |
| 2440 | TN | Develop trails, bike paths and recreational facilities on the Crest of Black Mountain, Cumberland County for Cumberland Trail State Park | $200,000 |
| 2441 | NY | Study and Improve Traffic Flow Improvement at Atlantic Yard Arena Development | $2,000,000 |
| 2442 | MD | Upgrade and widen MD 237 from Pegg Road to MD 235 . | $12,000,000 |
| 2443 | PA | Main Street improvements from Broad Street to Richardson Avenue and Main Street to Madison Avenue, Borough of Lansdale . | $640,000 |
| 2444 | CA | Widen Highway 101 in Marin and Sonoma Counties from Hwy 37 in Novato to Old Redwood Highway in Petaluma . | $12,000,000 |
| 2445 | NY | Road and pedestrian safety improvements Main Street, Village of Patchogue | $1,500,000 |
| 2446 | UT | Widen Highway 92 from Lehi to Highland | $2,500,000 |
| 2447 | AZ | Widen I-10 to 3 lanes in each direction north of Tucson from Marana Interchange to Cortato Interchange . | $1,360,000 |
| 2448 | CA | Widen I-238 between I-580 & I-880 in Alameda County | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2449 | VA | Widen I-66 westbound inside the Capital Beltway from the Rosslyn Tunnel to the Dulles Connector Road . | $5,600,000 |
| 2450 | NC | Construction of I-74 between I-40 and US 220, High Point, North Carolina . | $4,000,000 |
| 2451 | MD | Widen I-695, Baltimore Beltway, Southwest | $3,440,000 |
| 2452 | GA | Replace sidewalks, upgrade lighting in downtown Vidalia . | $400,000 |
| 2453 | MN | Construct bicycle and pedestrian trails in Cuyuna Recreation Area | $700,000 |
| 2454 | HI | Construct Kapaa Bypass . | $2,400,000 |
| 2455 | FL | Temple Terrace Highway Modification . | $1,600,000 |
| 2456 | TN | Widen Interstate 240 from Poplar Avenue (SR57) to near Walnut Grove Road (SR-23) East of Memphis, Shelby County | $800,000 |
| 2457 | IL | For the Village of Woodridge to resurface Internationale Parkway . | $86,400 |
| 2458 | OR | I-5 Trade Corridor, Portland Oregon to Vancouver, Washington segment | $4,220,000 |
| 2459 | GA | Streetscape, Pedestrian Improvements in City Center, City of Clarkston . | $4,000,000 |
| 2460 | KY | Widen KY 1991 from Maysville Road to Midland Trail Industrial Park, Montgomery County . | $1,000,000 |
| 2461 | NC | Construct new Route from Beach Drive (SR 1104) to NC 211 in Brunswick County | $3,200,000 |
| 2462 | NJ | International Trade and Logistics Center Roadway Improvements at Exit 12 of the New Jersey Turnpike, Carteret . | $1,200,000 |
| 2463 | IL | Interstate 41 and Route 176 Interchange replacement . | $600,000 |
| 2464 | MA | Northern Avenue Bridge rehabilitation, Boston | $2,400,000 |
| 2465 | AK | Planning, design, and construction of Knik Arm Bridge | $151,000,000 |
| 2466 | IN | North Calumet Avenue Improvements, Valparaiso | $960,000 |
| 2467 | OR | I-205-Highway 213 interchange improvements | $800,000 |
| 2468 | TN | Improving Vehicle Efficiencies at highway At-Grade Railroad Crossing in Loudon, TN | $45,600 |
| 2469 | AZ | Design, right-of-way acquisition, and construction ! 10 Collector Distributor Roadway from 40th Street to Baseline Maricopa County, Arizona . | $3,200,000 |
| 2470 | LA | Improvements to LA 42 In Ascension Parish; and LA 73 improvements in Ascension Parish | $8,000,000 |
| 2471 | MN | Construct Paul Bunyan trail from Mississippi River Bridge Trail to Crow Wing State Park | $775,000 |
| 2472 | MN | Construct Mesabi Trail from Grand Rapids to City of Ely | $2,700,000 |
| 2473 | GA | Install sidewalks on Highway 23 from Dykes Street to Sarah Street, Cochran | $300,000 |
| 2474 | AK | Kodiak, AK Construction of AMHW ferry terminal and approach . | $7,500,000 |
| 2475 | OK | Reconstruction of SH 66 from Craig and Rogers Counties to SH 66 and US 60 intersection . | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2476 | CA | Enhance pedestrian environment and increase safety along Olympic Blvd between Vermont and Western Avenues, Los Angeles . | $1,600,000 |
| 2477 | NY | Enhancement of the Michigan Avenue Corridor, Buffalo . | $1,600,000 |
| 2478 | NJ | Kapkowski Road Area Improvements in Elizabeth | $4,560,000 |
| 2479 | CA | Construct landscape medians along Skyline Drive from Sears Avenue to 58th Street, San Diego | $800,000 |
| 2480 | NY | Jamaica Air Train Station Area Infrastructure Improvements . | $4,000,000 |
| 2481 | MO | Construct Highway 465 to Highway 376 south from HWY 76 to HWY 376 | $4,800,000 |
| 2482 | WA | New Country Road on Whidbey Island . | $960,000 |
| 2483 | NM | Chaco Wash Bridge and Road Improvements on Navajo Route 46 . | $1,600,000 |
| 2484 | CA | Reconstruct Interstate 880-Route 92 interchange in Hayward | $1,400,000 |
| 2485 | MA | Relocate Rt. 79 in Fall River to create 4-lane urban boulevard with landscaped median and developable waterfront | $1,800,000 |
| 2486 | IL | Road extension for Highway 22 in Macon County, IL | $534,400 |
| 2487 | NY | Portageville Bridge—purchase existing bridge to convert to pedestrian bridge | $1,464,000 |
| 2488 | PA | Rt. 422 complete preliminary engineering and four lane expansion from Ebensburg to Kittanning | $2,400,000 |
| 2489 | CA | Upgrade essential road arterials, connectors, bridges and other road infrastructure improvements in the Town of Desert Hot Springs, CA | $1,600,000 |
| 2490 | KY | Construct the Heartland Parkway in Adair County | $960,000 |
| 2491 | NV | Horse-US-95 Interchange Project . | $4,800,000 |
| 2492 | CT | Make Improvements to Plainfield Moosup Pond Road . | $200,000 |
| 2493 | FL | Construction design ROW US 27 from SR 540 to SR 544 & from I-4 to US 192 in Polk County, FL | $8,000,000 |
| 2494 | IA | Construction of approaches and viaduct on Edgewood Rd SW over the UP Railroad, Prairie Creek, and the CRANDIC railroad . | $1,280,000 |
| 2495 | NJ | Construct Hackensack River Walkway in Bergen County . | $1,600,000 |
| 2496 | TX | Hwy 80/123 Overpass at Hwy 181 in Karnes County | $240,000 |
| 2497 | NM | Improvements to U.S. Highway 87 from Clayton, NM to Raton, NM | $1,600,000 |
| 2498 | VA | Route 11 Interchange improvements in Lexington, Virginia | $800,000 |
| 2499 | CA | Improvements to Ben Maddox Way Bridge | $1,600,000 |
| 2500 | WA | SR 18 Widening, Maple Valley to I-90 . | $6,000,000 |
| 2501 | NY | City of Beacon construction of pedestrian & Bicycle trail . | $252,000 |
| 2502 | TX | FM 544, widen 2-lane roadway to 6-lane roadway from SH 121 to Dozier-Parker Road . | $1,600,000 |
| 2503 | TX | Construct an alternate truck route to Interstate 35 in Buda | $500,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2504 | NY | Improvements on the Cross Island Bridge Overpass / 212th Street and vicinity, Queens | $3,376,000 |
| 2505 | MI | Novi, Reconstruct Grand River between Novi and Haggerty . | $800,000 |
| 2506 | SD | Resurface US Hwy 18 from Lake Andes to US Hwy 50 on Yankton Sioux Reservation . | $960,000 |
| 2507 | TX | Lajitas Relief Route | $1,200,000 |
| 2508 | WY | U.S. 85 Passing Lanes . | $1,600,000 |
| 2509 | MA | Design and Construct Blackstone River Bikeway and Worcester Bikeway Pavilion between Providence, RI and Worcester | $2,000,000 |
| 2510 | NY | Little Falls Access: Repair and reconstruct High School and Lower School Road | $192,000 |
| 2511 | FL | Replace Columbus Drive Bridge | $3,200,000 |
| 2512 | | | $0 |
| 2513 | MI | Construction of two railroad-highway grade separations on Farm Lane north of Mount Hope Road . | $1,840,000 |
| 2514 | CA | Widen Atlantic Bl bridge over the Los Angeles River in Vernon . | $800,000 |
| 2515 | CA | Widen Bundy Drive between Wilshire and Santa Monica Boulevards in the City of Los Angeles . | $3,400,000 |
| 2516 | AL | To provide four lanes on US-80, Perry County, Marengo County, and Sumter County . | $11,200,000 |
| 2517 | CA | Widen Maine Avenue in Baldwin Park . | $300,000 |
| 2518 | NM | Ease traffic congestion and improve intersection safety by identifying alternative alignment to US 84/285 and NM 68 through Espanola | $1,600,000 |
| 2519 | MS | Widen MS Hwy 19 between Philadelphia and Collinsville, MS | $10,000,000 |
| 2520 | NY | Construct the Fire Island ferry terminal facility, Patchogue | $1,600,000 |
| 2521 | IL | IL 8 from East Peoria to Washington, IL | $762,056 |
| 2522 | NJ | Preliminary engineering for missing connections of NJ 23 and I-80 | $1,200,000 |
| 2523 | ME | Penobscot Riverfront Development for bicycle trails, amenities, and traffic circulation improvements, Bangor and Brewer | $2,800,000 |
| 2524 | IL | Restoration and reconstruction of the central business district street. Cambridge, IL . | $960,000 |
| 2525 | NC | Widen NC 150 from Cherryville to Lincolnton | $800,000 |
| 2526 | NY | Second phase of the Grand Concourse improvements from East 166th St. to East 171st St | $8,000,000 |
| 2527 | VT | U.S. Route 7 and U.S. Route 4 road improvements for the City of Rutland . | $2,848,000 |
| 2528 | IL | Improve 63rd Street, Chicago . | $1,600,000 |
| 2529 | MI | Alcona County, Reconstruction of Ritchie Road from Village of Lincoln to Hubbard Lake road | $650,400 |
| 2530 | SC | Construct roadway btwn I-26 and US 1 in Lexington County. Intermodal connector from US 1 to I-26 and I-77. SC 302 and SC 602 improvements . | $1,600,000 |
| 2531 | OR | Agness Road, Curry County | $2,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2532 | NY | Rehabilitation of Sharon Drive in the Town of Poughkeepsie . | $260,000 |
| 2533 | TX | Conduct study of I-10 and U.S. 190 with a focus on congestion relief and the need for a military & emergency relief transportation corridor | $160,000 |
| 2534 | MD | MD 85 at I270 | $4,000,000 |
| 2535 | GA | SR 36 passing lanes north of Jackson to Newton County line, Butts County, Georgia | $2,440,000 |
| 2536 | VA | I-66 and Route 29 Gainesville Interchange Project | $8,000,000 |
| 2537 | NY | Construct and extend existing pedestrian streetscape areas in Lynbrook . | $800,000 |
| 2538 | CA | Construct traffic intersection island improvements on North side of Olympic Blvd where Irolo St. and Normandie Ave. split in Koreatown, Los Angeles | $200,000 |
| 2539 | WA | Improvements in the SR 9 corridor in Snohomish County . | $1,200,000 |
| 2540 | PA | Replace a highway railcrossing in Osborne Borough, PA | $1,720,000 |
| 2541 | AL | Pedestrian Improvements for Centerpoint, AL | $533,334 |
| 2542 | CA | Replace twin 2 lane bridge with single 4 lane bridge on SR 138 over Big Rock Wash | $400,000 |
| 2543 | CA | State Route 86S and Ave 50 highway safety grade separation | $800,000 |
| 2544 | TX | Construct Fredericksburg Road-Medical Drive grade separation in San Antonio . | $3,040,000 |
| 2545 | PA | For design, engineering, ROW acquisition, & construction of a connector road between the Valmont Industrial Park & Pennsylvania Rt. 924 at Cranberry Creek . | $400,000 |
| 2546 | AR | Interstates 30/440/530 Interchanges—for interchange improvements, Little Rock . | $1,200,000 |
| 2547 | NJ | Rehabilitation of Benigno Boulevard from I295 to Route 168 in Bellmawr | $320,000 |
| 2548 | PA | Preconstruction studies for improvement to US 22 from Irving Street to Mickley Road . | $800,000 |
| 2549 | IL | Establish transportation museum on Navy Pier, Chicago | $432,000 |
| 2550 | WA | Continuing construction of I 90, Spokane to Idaho State Line | $2,640,000 |
| 2551 | VA | Improve transportation infrastructure for visitors to Jamestown 2007 | $425,520 |
| 2552 | AR | Highway 67: Kiehl Avenue—Vandenberg Boulevard: rehabilitating and widening Highway 67 from four to six lanes from Kiehl Ave. to Vandenberg Blvd . | $2,960,000 |
| 2553 | NY | Install Improvements for Pedestrian Safety including in the vicinity of PS X81 | $250,000 |
| 2554 | GA | Memorial Drive Corridor . | $1,600,000 |
| 2555 | VA | Route 11 improvements in Maurertown, Virginia . | $800,000 |
| 2556 | PA | Street improvements, Whitemarsh Township | $1,200,000 |
| 2557 | VT | Construction of the Lamoille Valley Rail Trail for the Vermont Association of Snow Travelers | $5,814,789 |
| 2558 | CO | I-76: Colorados Northeast Gateway | $6,133,334 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2559 | VA | Construct Maersk Terminal interchange in Portsmouth | $1,600,000 |
| 2560 | GA | I-75 Welcom Project | $200,000 |
| 2561 | PA | Improve handicapped accessibility and provide pedestrian overpass in Villanova | $2,400,000 |
| 2562 | NY | Install Two Permanent Variable Message Signs (VMS) on Belt Parkway | $500,000 |
| 2563 | MI | Re-surfacing Sebewaing Road in Huron County | $332,800 |
| 2564 | IN | Complete construction of paths at Hamilton County Riverwalk, Noblesville, Indiana . | $300,000 |
| 2565 | NY | Study and Implement Traffic and Pedestrian Safety Enhancements to Gerritsen Beach, Brooklyn | $250,000 |
| 2566 | PA | Upgrade circuit for gates and lights at Sixth Street in Emmaus, PA USDOT crossing number 592402P to constant warning time devices | $220,000 |
| 2567 | TN | Plan and construct a bicycle and pedestrian trail, Eagleville . | $160,000 |
| 2568 | NY | Improvements for pedestrian and vehicular access to Baychester Avenue and Bartow Avenue | $600,000 |
| 2569 | GA | SR 400 reconstruction from I 285 to McFarland Road, Fulton and Forsyth Counties | $800,000 |
| 2570 | MI | Construct pedestrian and bicycle pathway at Chippewa Landing River Park in the Village of Caro . | $64,000 |
| 2571 | GA | Upgrade sidewalks, replace street lights, and landscaping, Metter . | $400,000 |
| 2572 | AR | Highway 412: Baxter Co. to Ash Flat | $1,600,000 |
| 2573 | NY | Town of North Salem improvements and repaving to Hawley Road | $160,000 |
| 2574 | IA | US 20 Mississippi River Bridge and approaches, Dubuque Co, IA . | $20,000,000 |
| 2575 | NY | Construct access road and exit lanes for Center for Advanced Medicine: North Shore LIJ Health System . | $2,000,000 |
| 2576 | NY | Improve key intersections and highway segments along Rt. 32 between Route 17-6-NYS Thruway interchange in Harriman and Highland Mills . | $600,000 |
| 2577 | CA | Widen I-5 to 10 Lanes and Improve Corridor Arterials, SR 91 to I-710 | $4,160,000 |
| 2578 | IL | For the construction of the Grand Avenue Underpass, Village of Franklin Park . | $928,000 |
| 2579 | NY | Rehabilitation of North and South Ridge Street and Wappanocca Avenue in the Village of Rye Brook and City of Rye | $1,728,000 |
| 2580 | NY | NYSDOT Route 55 construction over Fishkill Creek and left turn lane construction | $1,200,000 |
| 2581 | AL | Alabama Hwy 36 Extension and Widening-Phase II . | $800,000 |
| 2582 | OH | Construct Eagle Avenue Viaduct-Demolition bridge, realignment of roadway to replace bridge and reconstruction of two other bridges, Cleveland | $400,000 |
| 2583 | NV | Construct US 93 Corridor -Boulder City | $8,000,000 |
| 2584 | NY | Reconstruction of NYS 5, 8, 12. Viaduct and Rt 5A and 5S: City of Utica . | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2585 | CT | Street and streetscape improvements along Campbell Ave., West Haven | $1,200,000 |
| 2586 | MA | Reconstruct North Washington Street Bridge to connect Boston and Charlestown | $4,000,000 |
| 2587 | MS | Upgrade roads in Fayette (U.S. Hwy 61 and 33), Jefferson County | $320,000 |
| 2588 | MN | Heritage Center at the Grand Portage National Monument | $1,400,000 |
| 2589 | NY | Redesign and reconstruction of the Putnam Rail-Trail, Bronx | $500,000 |
| 2590 | OR | Highway 34/Corvallis Bypass Intersection | $2,100,000 |
| 2591 | CA | Install traffic signal on Balboa Blvd. at Knollwood Shopping Center . | $96,000 |
| 2592 | MA | Chelsea Street Bridge Reconstruction | $9,000,000 |
| 2593 | AL | Pedestrian Improvements for Northport, AL | $213,334 |
| 2594 | NV | Construct widening of US50A from Fernley to Leeteville Junction . | $4,000,000 |
| 2595 | WA | Rebuild & widen Cemetery Road bridge over US Bureau of Reclamation canal near Othello, WA | $160,000 |
| 2596 | FL | Roadway construction of SW 62—SW 24 Avenue in Gainesville . | $1,600,000 |
| 2597 | WA | SR 2/Kelsey Street Intersection Improvements in Monroe . | $832,000 |
| 2598 | NY | Town of Southeast construction and repaving of town roads . | $240,000 |
| 2599 | MI | Reconstruct Third Ave. from Saginaw St. to Flint River, City of Flint . | $2,400,000 |
| 2600 | PA | Upgrade circuit for gates and lights at 31st Street in Allentown, PA USDOT crossing number 592410G to constant warning time devices | $220,000 |
| 2601 | NV | Construct US 95 Widening from Rainbow Blvd to Kyle Canyon | $6,400,000 |
| 2602 | IN | Improve campus streets to increase pedestrian safety and ease vehicular congestion in the City of Anderson, Indiana . | $1,600,000 |
| 2603 | PA | Schaefferstown Bypass, PA Route 501, Lebanon | $1,600,000 |
| 2604 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Dupont Borough, Luzerne County . | $160,000 |
| 2605 | GA | Intersection improvement at Lake Dow Road and SR 81 Harris Dr at SR 42 | $480,000 |
| 2606 | CA | Replace South Access to the Golden Gate Bridge—Doyle Drive . | $8,000,000 |
| 2607 | IL | Resurface Yellow Banks Road, Franklin County | $320,000 |
| 2608 | AL | CR 52 from US 31 (Pelham) and continuation of CR 52 in Jefferson County, known as Morgan Road, to I–459, including proposed Highway 261 bypass around old town Helena . | $8,000,000 |
| 2609 | IL | Intersection Reconstruction at US 12-IL 31Tryon Grove Road . | $720,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2610 | NY | Streetscape of Herald and Greeley Squares in New York City . | $400,000 |
| 2611 | NJ | Construct Cape May and Supawna Meadows National Wildlife Refuges Roadway and Parking Improvements . | $600,000 |
| 2612 | TX | Del Rio-Laughlin Air Force Base Relief Route | $11,600,000 |
| 2613 | NC | Study feasibility of widening US 221-NC 226 from Woodlawn to Spruce Pine, start planning and design, and make upgrades to improve safety | $2,800,000 |
| 2614 | NY | Transportation improvements to the Far Rock-away Business District, Queens, New York | $1,920,000 |
| 2615 | AL | Construction of Patton Island Bridge Corridor | $4,000,000 |
| 2616 | NH | Hampton Bridge Rehabilitation -Hampton, NH | $1,200,000 |
| 2617 | CA | Gale Avenue widening between Fullerton Road and Nogales Street, and Nogales Street widening at Gale Avenue . | $80,000 |
| 2618 | CA | Grade Separation at Cesar Chavez Parkway and Harbor Drive, San Diego . | $400,000 |
| 2619 | MO | Improve access to I-55 at River Des Peres . | $8,000,000 |
| 2620 | PA | PA Route 61 enhancements, Schuylkill Haven | $8,000,000 |
| 2621 | MO | Kansas City SmartPort ITS for highways | $4,000,000 |
| 2622 | PA | City of Philadelphia in conjunction with American Cities Foundation for neighborhood transportation enhancement and pedestrian safety projects | $3,200,000 |
| 2623 | DE | Reconstructing I-95/SR-1 interchange, adding a fifth lane, and replacing toll plaza on Delaware's portion of I-95 corridor | $4,400,000 |
| 2624 | OH | Study possible road upgrades in Tuscarawas County due to flood issues based on dams in Muskingum Watershed District . | $100,000 |
| 2625 | OR | Sunrise Corridor, Clackamas County | $3,000,000 |
| 2626 | CA | Construct Cabot-Camino Capistrano Bridge Project and related roadway improvements in Cities of Mission Viejo and Laguna Niguel, California . | $670,952 |
| 2627 | TX | Construction of mainlanes and interchanges on SH 121 from Hillcrest to US 75 . | $12,800,000 |
| 2628 | WA | Enumclaw, WA Welcome Center . | $1,200,000 |
| 2629 | PA | Upgrade narrow existing roads, Plank, Otts, Meyers, Seitz Roads, along 1 mile corridor to 2 lane road with shoulders, improve intersections . | $800,000 |
| 2630 | GA | Widen Old Petersburg Road-Old Evans Road from Baston Road to Washington Road, Columbia County, Georgia . | $3,200,000 |
| 2631 | CA | Widen Peyton Dr. from Grand Ave. to Chino Hills Pky., construct Eucalyptus Ave. from Peyton Dr. to Galloping Hills, improve English Channel . | $5,628,888 |
| 2632 | TX | New construction for the SH 349 Reliever Route beginning at the SH 191 intersection in Midland | $2,000,000 |
| 2633 | PA | Widen Route 22 between Export and Delmont | $1,160,000 |
| 2634 | CA | Construction of a traffic signal at the intersection of Hamlin St. and Corbin Ave . | $100,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2635 | NY | Design/Environmental work on the Inner Loop from Clinton Avenue to East Main Street, Rochester . | $1,920,000 |
| 2636 | MO | I-35 access modification planning, city of Kearney | $1,200,000 |
| 2637 | OH | Construction and road improvements to Hubbard Road in Burton Township, OH | $400,000 |
| 2638 | MN | North-South Corridor with Railroad Overpass, City of Staples . | $1,200,000 |
| 2639 | CA | Port of Hueneme Intermodal Access Improvement Project, including grade separation at Rice Avenue and State Route 34; widen Hueneme Road . | $3,760,000 |
| 2640 | CA | Reconstruct and deep-lift asphalt on various roads throughout the district in Ventura County | $4,800,000 |
| 2641 | GA | Upgrade sidewalks, parking, street lighting, and landscaping, Claxton . | $400,000 |
| 2642 | MS | Upgrade roads in Itta Bena (U.S. Hwy 82 and 7) and in vicinity of Viking Range Corp. (U.S. Hwy 7 and 49) , Leflore County . | $1,200,000 |
| 2643 | VA | Widen Route 262 in Augusta County . | $800,000 |
| 2644 | CA | Forest Highway 171 Upper Skyway Improvement . | $5,800,000 |
| 2645 | NV | Construct overpass and exit lane improvements on Lake Mead Parkway to Lake Las Vegas entrance | $2,400,000 |
| 2646 | IL | Construct Bridge Overpass, DuSable Museum-Chicago . | $800,000 |
| 2647 | WA | Expand size and improve safety Lewis and Clark Discovery Trailhead and Scenic Overlook | $146,000 |
| 2648 | PA | Construction of access improvement at the I79 SR 228 interchange in vicinity of Cranberry Town Center | $520,000 |
| 2649 | PA | Development of bicycle and pedestrian trails and access links along North Delaware Riverfront . | $8,000,000 |
| 2650 | OH | Highway—railroad grade separation over the Norfolk Southern Rail Line for the Hines Hill Road—Milford Connector project in Hudson, Ohio . | $240,000 |
| 2651 | CA | Construct crosswalk bump-outs and related streetscape improvements on Temple St between Hoover St and Glendale Blvd, Los Angeles | $400,000 |
| 2652 | NC | Improve SR 1923 from US 70 Business to US 301 Smithfield . | $4,000,000 |
| 2653 | MA | Improvements to Mass. Ave, Andover Street, Osgood Street, Salem Street, and Johnson Street in the Old Town Center of North Andover | $800,000 |
| 2654 | KY | Reconstruct US 127 at US 127 South, Mercer County | $480,000 |
| 2655 | CA | Construct truck lane from Britannia Blvd. to the Otay Mesa Port of Entry, San Diego County | $1,200,000 |
| 2656 | PA | Beford, Pa Relocation of Old Route 220 and Sweet Road. Complete preliminary engineering,purchase right-of-way, construction . | ~~[illegible]~~ $12,228,000<br>~~$7,000,000~~ |
| 2657 | GA | Design and construction of 2.2 miles of multiuse trail in the City of Douglas, Georgia | $160,000 |
| 2658 | IL | Entry Road to Southern Illinois University Research Park, Carbondale | $1,000,000 |
| 2659 | NY | Kingston, Construct pedestrian waterfront walkway | $1,040,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2660 | MN | Reconstruction of Airport Road from TH 53 to CR 296, Cirrus Drive from Airport Road to TH 53 and TH 53 from Airport Road to Stebner Road | $1,700,000 |
| 2661 | KS | Replacement of US-169 bridge in Kansas City | $6,800,000 |
| 2662 | PA | Route 313 Turning Lanes and Truck Climbing Lanes, Bucks County . | $1,600,000 |
| 2663 | CA | Purchase of Rosemead Blvd ROW, Temple City | $800,000 |
| 2664 | NJ | Reconfiguration of Bay Avenue and Polaris Street in Newark, NJ | $6,400,000 |
| 2665 | MI | Reconstruct highway under a railroad bridge, Wyoming Ave. from Eagle Pass to Michigan Avenue, Wayne County | $800,000 |
| 2666 | OK | Construct vehicular bridge over the Burlington Northern RR at War Bonnet Crossing, Mannford, OK . | $800,000 |
| 2667 | UT | Construction and Rehabilitation of 13th East in Sandy City | $7,000,000 |
| 2668 | VA | Construct 3.6 miles of Interstate 73 near Martinsville | $615,680 |
| 2669 | WA | Maple Valley SR 169 and SR 516 improvements . | $800,000 |
| 2670 | FL | Construct access road to entrances to Opa-Locka Airport at Opa-Locka Airport at N.W. 135th Street and N.W. 47th Avenue, including improvements to N.W. 47th Avenue with median strip, City of Opa-Locka . | $1,600,000 |
| 2671 | UT | Expand Redhills Parkway from 2 to 5 lanes and improve alignment within rights-of-way in St. George | $4,000,000 |
| 2672 | OH | Bethlehem Township, Ohio. Riverland Avenue Bridge Replacement . | $1,040,000 |
| 2673 | MD | MD 295, BWI Access Improvements | $3,792,000 |
| 2674 | OR | Connect Boeckman Road to Tooze Road, Wilsonville | $800,000 |
| 2675 | LA | Lincoln Parish, LA/I-20 Transportation Corridor Program | $4,000,000 |
| 2676 | TX | FM 937 from SH 164 to FM 3371, Limestone Co . | $1,600,000 |
| 2677 | MO | Construct additional exit ramp access lane from I-44 to Kingshighway and enhance Shaw Ave. corridor | $3,856,000 |
| 2678 | IN | Construdtion of I 64 Interchange, Harrison County, Indiana . | $4,248,000 |
| 2679 | OH | Bridge Replacement at SR 84 and I-90 on Bishop Road in Willougby Hills, OH | $400,000 |
| 2680 | TN | Continue Shelby Avenue—Demonbreun Street project in Nashville | $5,200,000 |
| 2681 | WI | Construct a bicycle/pedestrian path from Waunakee to Westport | $1,600,000 |
| 2682 | CT | Construct bike and pedestrian paths along Salem Greenway -Salem, CT . | $80,000 |
| 2683 | TX | Construct I-635/35E Interchange in Dallas, TX | $3,600,000 |
| 2684 | CA | Hwy 199 Narrow Enhancement to reduce active slides that cause significant road closures on primary connecting route from US 101 to I-5 | $1,800,000 |
| 2685 | MD | Construction of New Interchange at MD5, MD373, and Brandywine Road . | $12,000,000 |
| 2686 | GA | I-20 West from SR 5 Bill Arp to SR 6—HOV Lanes . | $5,800,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2687 | PA | Install and construct signals, calming devices and signs in Mechanicsburg and surrounding municipalities . | $360,000 |
| 2688 | FL | 44th St. Extension to Golfair Blvd, Jacksonville . | $1,200,000 |
| 2689 | NJ | Passaic River-Newark Bay Restoration and Pollution Abatement Project, Route 21, River Road, CR 510 | $800,000 |
| 2690 | CA | San Gabriel Blvd and Mission Road Intersection Improvements, San Gabriel | $160,000 |
| 2691 | NY | Rehabilitate 125th Street Corridor from Old Broadway to Marginal Street/Waterfront | $2,000,000 |
| 2692 | MI | Repair M-10 corridor from I-696 to downtown Detroit | $800,000 |
| 2693 | FL | Capital Circle Northwest, Tallahassee . | $8,000,000 |
| 2694 | TN | Installation of Intelligent Transportation System on various major routes in Memphis | $1,600,000 |
| 2695 | MI | Planning and Engineering for The American Road, The Henry Ford Museum, Dearborn | $1,200,000 |
| 2696 | TX | Reconstruct Ella/Wheatley from Little York to West Gulf Bank . | $1,000,000 |
| 2697 | NY | Implement Improvements for Pedestrian Safety in Richmond County | $600,000 |
| 2698 | FL | Palm Bay Parkway from Emerson Drive to US 192, Palm Bay, FL . | $800,000 |
| 2699 | CA | Construct the Los Angeles River bicycle and pedestrian path in the San Fernando Valley | $460,000 |
| 2700 | TX | Construct Santa Fe Trail DART LR overpass from Hill St. to Commerce St. along abandoned Santa Fe Rail right of way in Dallas | $800,000 |
| 2701 | CA | Construct Route 101 bicycle/pedestrian overpass at Millbrae Ave for the San Francisco Bay Trail | $1,000,000 |
| 2702 | | | $0 |
| 2703 | LA | New Iberia Rail Grade Separation | $1,600,000 |
| 2704 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Ashley Borough, Luzerne County . | $160,000 |
| 2705 | MN | Reconstruct Grand Avenue (from Central Ave to 59 Ave W), Central Ave (from Grand Ave to I-35) and Bristol Street (from Central Ave to Grand Ave), Duluth . | $600,000 |
| 2706 | TN | Plan and construct a bicycle and pedestrian trail, Cannon County . | $80,000 |
| 2707 | TX | Develop, deploy and integrate municipal ITS in San Antonio . | $2,560,000 |
| 2708 | TN | Jefferson, Hamblen Counties, Tennessee SR-66 relocation | $1,600,000 |
| 2709 | MD | Rehabilitate Pennington Avenue Drawbridge in Baltimore . | $1,200,000 |
| 2710 | PA | Construction of I-79 to Mon-Fayette Section of Southern Beltway, Pittsburgh, Pennsylvania | $1,200,000 |
| 2711 | FL | Springfield Rd. Improvements, Jacksonville . | $1,200,000 |
| 2712 | LA | Elimination of highway-rail grade crossings along Louisiana and Delta railroad . | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2713 | CA | Conduct necessary planning and engineering and implement comprehensive Corridor Management Plan for Arroyo Seco Historic Parkway, Los Angeles . | $1,120,000 |
| 2714 | FL | Plant City Traffic Management System | $2,400,000 |
| 2715 | GA | SR 347 widen-new construction from I-985 to SR 211, Hall County, Georgia | $8,000,000 |
| 2716 | WA | SR 28 and SR285 Sellar Bridge Improvements: ramp & roadway network improvements at the west end and a new lane on the Sellar Bridge | $4,000,000 |
| 2717 | NY | Stabilize Poughkeepsie Railroad Bridge and construct a pedestrian walkway linking the two sides of the Hudson River, Poughkeepsie | $874,000 |
| 2718 | WA | International Mobility and Trade Corridor Project for Whatcom County . | $1,040,000 |
| 2719 | CA | State Route 76 Road Widening, Melrose Drive to Interstate 15 | $4,000,000 |
| 2720 | NJ | Streetscape Improvements to Clements Bridge Road from Newton Avenue to New Jersey Turnpike, Barrington | $400,000 |
| 2721 | FL | Construct Eastern Connector from SR 417 to I-95, Volusia & Seminole Counties Florida . | $800,000 |
| 2722 | GA | Construction of the McIntosh Path on SR 99, 7.15 miles between Darien, Georgia and the Sapelo Island Visitor Center | $160,000 |
| 2723 | AL | Construction of Sulphur Springs Road Bypass in City of Hoover, Alabama . | $4,000,000 |
| 2724 | AZ | Pliocene Cliffs reconstruction between Wikieup and the Santa Maria River | $800,000 |
| 2725 | MN | Construct roadway improvements to CSAH 76, Little Falls . | $851,200 |
| 2726 | IN | Study alternatives along 2 miles of railroad to eliminae in-town highway-rail crossings to improve safety and reduce congestion in Delaware County | $120,000 |
| 2727 | NV | Design and construct separation of rail-highway crossings in downtown Reno | $800,000 |
| 2728 | NJ | Maple Shade Township Streetscape Improvements of Mill Road, Rudderow Ave., North & South Coles Ave. and Schoolhouse Lane . | $800,000 |
| 2729 | WA | Conduct study for I-5 and SR503 interchange | $300,000 |
| 2730 | WA | Implement Red Mountain Area Vision transportation plan, includes Webber Canyon Road realignment at existing I-82 Kiona-Benton interchange and new Red Mountain I-82 interchange at SR224 | $2,800,000 |
| 2731 | TX | Downtown Streetscape Improvements in Beaumont, Texas . | $512,000 |
| 2732 | NY | Improve Traffic Flow on Lefferts Boulevard by Rehabilitating Facilities Surrounding LIRR/Kew Gardens Eastbound Station | $500,000 |
| 2733 | FL | Construct reliever road to SR A–1–A in the City of Deerfield Beach beginning at A–1–A/ Hillsboro Blvd and ending at A–1–A/NE 2nd Street . | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2734 | | | $0 |
| 2735 | CA | SR 52 East Improvments (San Diego) . | $6,000,000 |
| 2736 | OR | Study to evaluate alternatives in support of an eventual Astoria bypass, Astoria | $248,000 |
| 2737 | GA | Commission a study and report regarding the construction and designation of a new Interstate linking Savannah, Augusta, & Knoxville | $80,000 |
| 2738 | VT | Construction of the St. Albans, Vermont inter-modal connector roadway with I-89 for the City of St. Albans | $960,000 |
| 2739 | OR | I-5-Highway 214 interchange improvements, Woodburn . | $800,000 |
| 2740 | OR | Construction of transportation facilities at the Tualatin River Wildlife Refuge | $793,600 |
| 2741 | WY | I-80 Rock Springs Marginal | $1,520,000 |
| ✓ 2742 | ~~PA~~ | ~~Improvements to Route 11 and access to I-81~~ | ~~$800,000~~ |
| 2743 | IL | Improve safety of a horizontal curve on Clarksville St. .25 mile north of 275th Road in Grandview Township, Edgar County, Illinois | $70,400 |
| 2744 | UT | Provo Reservoir Canal Trail, Utah | $6,750,000 |
| 2745 | MO | South County Riverfront Access and Trails Project, Lemay . | $3,200,000 |
| 2746 | AK | Road improvements in the City of Fairbanks . | $5,000,000 |
| 2747 | MD | Construct Ferry Terminal, Somerset County, Maryland | $800,000 |
| 2748 | MS | Plan and Construct two lanes to SR-6 from SR 342 to Alabama state line | $2,400,000 |
| 2749 | CA | Construct bypass along Hwy 101 around Willits, CA to reduce congestion, improve air quality and enhance economic lifeline of No. Coast | $5,600,000 |
| 2750 | CA | Engineering support to I-5 Joint Powers Authority to widen I-5 freeway and improve corridor arterials from I-710 to Orange County line . | $120,000 |
| 2751 | LA | Kerner Ferry Bridge, Jefferson Parish Bayou Barataria | $1,680,000 |
| 2752 | WA | Renton, WA SR 167 HOV, Strander Boulevard Connection . | $800,000 |
| 2753 | NJ | Sussex County, NJ Vernon Township, Mountain Creek Rt. 94 Traffic Calming, Ped. Safety and Traffic Congestion, Circulation Improvement | $2,800,000 |
| 2754 | PA | Linglestown Square, roadway and intersection improvements, Lower Paxton Township | $2,400,000 |
| 2755 | MD | Rehabilitate road including bridges over CSX tracks in Baltimore | $2,320,000 |
| 2756 | WA | Extend 18th Street between 87th Avenue and NE 192nd Avenue in Vancouver | $3,200,000 |
| 2757 | TX | Implement repairs on Old Pleasanton Road Bridge in Atascosa County | $403,000 |
| 2758 | CA | Hazel Avenue Improvements, U.S. Highway 50 to Madison Avenue | $2,400,000 |
| 2759 | MI | Menominee County, County Road 557 Bridge Replacement over the Big Cedar River . | $224,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2760 | OH | Massillon, Ohio. Tremont Avenue Bridge Rehabilitation . | $1,216,000 |
| 2761 | MI | Montmorency County, Reconstruction of County Road 612 from W. County Line to County Road 491 . | $640,000 |
| 2762 | | | $0 |
| 2763 | NM | Planning, design and construction of bikeways and walkway at the City of Santa Fe's downtown railyard redevelopment project | $1,600,000 |
| 2764 | GA | Streetscape-Bainbridge | $200,000 |
| 2765 | PA | Construct S.R. 706 Corridor, Susquehanna County, Pennsylvania | $1,600,000 |
| 2766 | NY | Town of North Salem reconstruction and repaving of Keeler Lane | $120,000 |
| 2767 | FL | Conduct planning and engineering for U.S. 17 widening and improvements in Hardee County, Florida | $3,200,000 |
| 2768 | IL | Traffic Signalization, Matteson . | $726,000 |
| 2769 | MS | Upgrade Poe Road in Kilmichael, Montgomery County | $160,000 |
| 2770 | NC | Upgrade U.S. 220 to I–73/74 interstate standards in Montgomery County | $1,600,000 |
| 2771 | WA | US 2/Sultan Basin Road Improvements in Sultan | $480,000 |
| 2772 | | | $0 |
| 2773 | FL | A1A Transportation Enhancements, Daytona Beach . | $800,000 |
| 2774 | MI | City of Menominee, Resurface Hattie Street Bridge deck 250 feet from 9th avenue in Menominee to Riverside Avenue in Marinette, WI | $180,000 |
| 2775 | TN | Construct streetscape improvements near TN Theater in Knoxville, TN | $1,600,000 |
| 2776 | MI | Emmet County, Ultra thin demonstration project resurfacing of Mitchell Road from the City of Petoskey limits east to Division | $48,000 |
| 2777 | NY | Gowanus Expressway Project | $400,000 |
| 2778 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Moosic Borough, Lackawanna County | $160,000 |
| 2779 | AL | Expand to 4 lanes on U.S. 278 from I–65 to U.S. 231 . | $2,800,000 |
| 2780 | IL | Preconstruction and construction McCarthy Road, Bell Road to US 45 and 123rd Street US 45 to 86th Avenue in Palos Park . | $713,600 |
| 2781 | WY | Riverton: Reconstruct HWY 26- Main St . | $880,000 |
| 2782 | MA | Somerville Bicycle Path Improvements – Cedar Street to Central Street | $900,000 |
| 2783 | MI | US 31 improvements and relocation between Holland and Grand Haven | $7,200,000 |
| 2784 | PA | Replace Messinger Street Bridge in the Borough of Bangor | $800,000 |
| 2785 | NY | Owego, Construct pedestrian waterfront walkway . | $1,000,000 |
| 2786 | KY | Reconstruct US 127 from Hustonville Road to the Mercer County Line, Boyle County . | $1,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2787 | ~~PA~~ | ~~Construction of an intermodal facility in Altoona, Pa~~ | ~~$1,200,000~~ |
| 2788 | CA | Design and construct access improvements in North Central Business District, Sacramento | $6,400,000 |
| 2789 | NC | Construction of the southbound lane of US 321 bridge replacement over the Catawba River | $5,440,000 |
| 2790 | FL | Grand Lagoon Bridge Replacement Project. The replacement of a two lane bridge with a four lane bridge | $5,200,000 |
| 2791 | FL | Construct SR 9B Extension, St. Johns County, Florida . | $3,520,000 |
| 2792 | AL | Design and construct a 4-lane highway from Muscle Shoals, AL to I-10 . | $800,000 |
| 2793 | IN | Improve SR 9 Greenfield Corridor, Indiana | $400,000 |
| 2794 | NJ | Interstate 280 Interchange Improvements, Harrison . | $8,000,000 |
| 2795 | KY | Construct Northern Bypass of Somerset, KY and I-66 from the Cumberland Parkway west of Somerset, Kentucky to I-75 south of London, Kentucky | $28,000,000 |
| 2796 | VA | Preliminary Engineer, Design, and Construct improvements to Virginia Beach Blvd in Virginia Beach and Norfolk | $1,200,000 |
| 2797 | PA | Fayette County, Pennsylvania, State Road 21 Improvements . | $1,600,000 |
| 2798 | ME | Replacement of Waldo-Hancock Bridge | $11,000,000 |
| 2799 | CT | Reconstruct and widen Homer St and Chase Ave in Waterbury from Waterville Ave to Nottingham Terrace | $1,600,000 |
| 2800 | FL | Construct new east-west road from the intersection of Beeline Highway and PGA Boulevard west to Seminole Pratt Whitney Road | $800,000 |
| 2801 | WI | Enhance West Silver Spring Ave with lighting enhancement, crosswalk improvements, sign-age, landscaping, Milwaukee | $320,000 |
| 2802 | NY | Completion of 1.6 mi trail network in the Utica Marsh, NY . | $99,200 |
| 2803 | TX | Construct I635-I30 Interchange, Dallas, Texas | $12,000,000 |
| 2804 | IL | Establish transportation museum on Navy Pier, Chicago | $400,000 |
| 2805 | CA | Establish I-15 Interchange at Nisqualli and Mojave River crossing in San Bernardino County | $1,200,000 |
| 2806 | MA | Massachusetts Bay Transportation Authority Secure Station, Boston | $1,000,000 |
| 2807 | FL | Construct bridges on SR 710 in Palm Beach County | $2,000,000 |
| 2808 | PA | Reconstruct intersection of SR 51 and Franklin Ave, Beaver County | $1,720,000 |
| 2809 | NJ | Rehabilitation existing structure at the Bridge Street bridge over the CSX Railroad Trenton Line in Manville, NJ . | $800,000 |
| 2810 | OR | Repair and recoat logging bridge over Highway 99 E, Canby . | $120,000 |
| 2811 | CA | San Gabriel Blvd Rehabilitation Project— Broadway to Las Tunas, San Gabriel . | $160,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 2812 | CA | Signal upgrades on Avenida de las Flores, Melinda Road, Avenida de las Banderas, and Alma Aldea, Rancho Santa Margarita, California | $100,160 |
| 2813 | CA | Construct State Route 905 to connect the Otay Mesa Port of Entry to Interstate 805, San Diego | $12,000,000 |
| 2814 | MA | Crosby Drive Improvement Project . | $800,000 |
| 2815 | WI | Construct North Shore Extension of Friendship State Trail, Calumet and Winnebago Counties, Wisconsin . | $350,000 |
| 2816 | AR | Construct and rehabilitate Fayetteville Expressway Economic Development Corridor | $5,000,000 |
| 2817 | PA | Armstrong County, Pennsylvania, construction of the Freeport Bridge . | $1,600,000 |
| 2818 | IL | Road extension for Redco Drive to Skyline Dr, Williamson County . | $800,000 |
| 2819 | CA | Rosecrans Avenue and Bridge Arterial Reconstruction Project, Compton | $3,200,000 |
| 2820 | MA | Canalside Rail Trail Construction of the Canalside Rail Trail, Deerfield & Montague | $800,000 |
| 2821 | CA | Conduct study and construct Daggett Road, Port of Stockton, CA, Access Project | $7,200,000 |
| 2822 | WI | Construct a bicycle/pedestrian path, and two bridges across Starkweather Creek, Madison | $1,600,000 |
| 2823 | GA | Construct City of Fayetteville, Ga. School Access Bike Ped Project | $500,000 |
| 2824 | TN | Sevier County, Tennessee SR 449 extension . | $800,000 |
| 2825 | GA | SR 133 south bound lane bridge replacement over the Georgia Florida Railnet line, Dougherty County | $800,000 |
| 2826 | CA | Construct grade separation on State Street and Cajon Boulevard along BNSF tracks in San Bernardino . | $1,600,000 |
| 2827 | WA | Construct SR 9 Pedestrian Overpass in Arlington | $880,000 |
| 2828 | CA | Implement streetscape improvements along Wilbur Avenue to enhance traffic and pedestrian safety . | $80,000 |
| 2829 | MD | I95, I495, MD5 Branch Avenue Metro Access | $3,200,000 |
| 2830 | TN | Improving Vehicle Efficiencies at At-Grade highway-Railroad Crossing in Loudon, TN . | $45,600 |
| 2831 | MO | I-470, I-435 & Rt 71 Completion of Interstate realignment | $2,400,000 |
| 2832 | PA | Ridge Avenue Revitalization project in conjunction with Roxborough Dev. Corp. for scenic enhancements & pedestrian safety improvements along a heavily traveled thoroughfare | $800,000 |
| 2833 | PA | Corridor improvements for PA 72 from PA 283 to PA Turnpike | $800,000 |
| 2834 | AR | Construction of I-49, Highway 71: Highway 22 to Highway 71 near Jenny Lind . | $6,000,000 |
| 2835 | CA | Provide landscape enhancement of an existing open culvert on Atherton Street, Long Beach | $1,200,000 |
| 2836 | NY | Rehabilitate Guy Lombardo Avenue and construct drainage improvements and new sidewalks and curb cuts in Freeport, NY | $956,000 |
| 2837 | IA | I 35 interchange improvements, Ankeny . | $4,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2838 | PA | Improve Freemansburg Avenue and its intersections at Route 33 | $1,600,000 |
| 2839 | NJ | Pedestrian facilities and street lighting on Route 551 from Route 130 to Chestnut Street, Brooklawn | $320,000 |
| 2840 | IL | I-57 and I-294 Interchange . | $2,400,000 |
| 2841 | FL | New Kings Rd. Pedestrian Overpass & Enhancements, Jacksonville | $1,600,000 |
| 2842 | TX | Grimes Co., TX Bridge Improvement Project . | $400,000 |
| 2843 | CA | Crenshaw Blvd. Rehabilitation, Maricopa St. to Sepulveda Blvd., City of Torrance . | $800,000 |
| 2844 | VA | Engineering and Right of Way for Interstate 73 in Roanoke County . | $1,200,000 |
| 2845 | GA | Johnson Ferry Road Glenridge Drive Widening, Abernathy Road to Hammond Drive | $2,000,000 |
| 2846 | GA | Install walkways, bridges, lighting, landscaping in Water Works Park and south along river through Ocmulgee Monument and Central City Park | $6,160,000 |
| 2847 | OH | Intersection improvements and related road improvements in the City of Chardon, OH . | $489,600 |
| 2848 | WV | Construct Coalfields Expressway . | $5,760,000 |
| 2849 | CA | Improve pedestrian and biking trails within East Bay Regional Park District, Contra Costa County . | $800,000 |
| 2850 | MA | Berkshire County Bike Paths, Design & Construction . | $4,000,000 |
| 2851 | MI | Ogemaw County, Overlay of Fairview Road to improve network of all-season truck routes . | $295,680 |
| 2852 | VA | Old Mill Road Extension . | $800,000 |
| 2853 | PA | Construct Campbelltown Connector, Lebanon County | $2,000,000 |
| 2854 | NJ | Construct Rt 40 Reconstruction from Rt 77 to Elmer Lake, Elmer, Salem County . | $2,400,000 |
| 2855 | OH | Design and Construct Riverwalk and adjacent facilities, Warren, Trumbull Co . | $1,200,000 |
| 2856 | CA | Realign SR 4 within the City of Oakley | $1,600,000 |
| 2857 | IL | Construct recreational trail from Spring Creek Forest Preserve to Greene Valley Forest Preserve in DuPage County, IL | $320,000 |
| 2858 | MN | Construct trail link between Bruce Vento Regional Trail and Mississippi River Corridor in St. Paul . | $1,200,000 |
| 2859 | FL | Construct Interstate-4/ Crosstown Connector . | $800,000 |
| 2860 | UT | Add lights to road from Halchita to Mexican Hat on the Navajo Nation | $200,000 |
| 2861 | CA | Construct off ramp at Interstate 8/Imperial Avenue Interchange, El Centro . | $2,400,000 |
| 2862 | VA | Cranesnest Trail—construction of hiking, biking, horse trail from Route 83 to Cranesnest Campground | $520,000 |
| 2863 | NC | Durham and Chatham Counties, NC Completion of American Tobacco Trail . | $1,600,000 |
| 2864 | TX | Austin to Manor Rail Trail, Texas | $1,600,000 |
| 2865 | PA | Eliminate existing rail line in Indian, PA to eliminate 37 at grade crossings and reconstruct the line outside the town from Glenn Lock to Middletown . | $3,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2866 | MN | Extend Cuyuna Range and Great River Road Trails, Aitkin . | $320,000 |
| 2867 | NY | Conduct planning, engineering, and eventual construction of Rte. 5 in City of Oneida, from Seneca St. to county line | $400,000 |
| 2868 | NY | Great Neck Road Traffic Calming Project | $320,000 |
| 2869 | NJ | Design and construct new streetscape through Irvington Center | $800,000 |
| 2870 | IL | Construct connector road between Collinsville Rd to IL 3/North 1st St, St. Clair County . | $4,800,000 |
| 2871 | NJ | Carteret, NJ Ferry Service Terminal | $1,680,000 |
| 2872 | AL | Construct I 10-US 231 Connector from Dothan, AL to Florida | $2,400,000 |
| 2873 | OH | Bicycle Paths for the Magic Mile in Willougby, OH . | $640,000 |
| 2874 | NC | Construct Interstate 73 74 in Montgomery County and Richmond County, North Carolina . | $14,400,000 |
| 2875 | NY | Construct Phase II I-90 Connector ITS Laboratory in Rensselaer County | $4,800,000 |
| 2876 | NC | Design and Construction of the Airport Area Roadway Network, High Point | $2,240,000 |
| 2877 | WA | Engineering and Construction of the Centennial Trail in Snohomish . | $800,000 |
| 2878 | OR | I-5 Beltline Interchange | $20,000,000 |
| 2879 | IL | Extension North from Rt. 30 to Wheeler Road and Galena Boulevard extension west of Rt. 47 in Sugar Grove, IL . | $3,808,000 |
| 2880 | NY | Newburgh, Improve East End Roads | $1,490,800 |
| 2881 | ME | Construction of the Kennebec River Rail Trail | $400,000 |
| 2882 | CA | Construct Bristol Street multi-modal corridor in Santa Ana | $2,800,000 |
| 2883 | CA | Construct pedestrian sidewalk enhancements in Bellflower . | $400,000 |
| 2884 | KS | Improvement and expansion for 2.7 miles of K18 in Geary County . | $11,600,000 |
| 2885 | CA | I-110/SR 47/Harbor Blvd. Interchange Improvements, San Pedro | $4,000,000 |
| 2886 | MA | Oxbow National Wildlife Refuge, Design and construction of a Visitor Contact Station | $1,500,000 |
| 2887 | AL | Pedestrian Improvements for Pell City, AL | $266,666 |
| 2888 | WI | Rehabilitate Highway 51 between CTH S and USH 8 in Lincoln County . | $1,600,000 |
| 2889 | OH | Rehabilitate tunnel and bridge on National Road Bikeway in St. Clairsville . | $700,000 |
| 2890 | MD | Pennington Ave Drawbridge, Baltimore | $800,000 |
| 2891 | MA | Rehabilitation and paving of Parker River Road . | $200,000 |
| 2892 | MN | Reconstruct CSAH 7 between Itasca CR 341 and the Scenic State Park entrance to improve safety and structural integrity . | $2,560,000 |
| 2893 | OH | Grading, paving, roads for the transfer of rail to truck for the intermodal facility at Rickenbacker Airport | $5,200,000 |
| 2894 | PA | Relocation of PA 52 at Longwood Gardens | $960,000 |
| 2895 | TX | Construct Interstate 35 improvements in Buda | $1,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2896 | TN | improve streetscape and signage, McMinn County, TN | $240,000 |
| 2897 | OR | Culvert Replacement, Sweet Home | $130,000 |
| 2898 | AL | AL 5 Widening in Bibb County | $2,400,000 |
| 2899 | CO | Design and build a multimodal corridor on US 36 . | $4,000,000 |
| 2900 | WA | Development of highway-rail crossings in Spokane County, WA and Kootenai County, ID | $800,000 |
| 2901 | OH | Acquire right of way land along US 24, Lucas County | $800,000 |
| 2902 | IL | Improve Streets, Westchester | $224,000 |
| 2903 | NY | Enhance road and transportation facilities in the vicinity of W. 65th St and Broadway, New York City | $2,000,000 |
| 2904 | TN | Construction of Knob Creek Road in Washington County, Tennessee | $400,000 |
| 2905 | TN | improve streetscape and pavement repair, Loudon County, TN . | $240,000 |
| 2906 | CA | Improvement of intersection at Inglewood Ave and Marine Ave to reduce congestion, City of Lawndale | $2,600,000 |
| 2907 | HI | Interstate Route H1 rehabilitation, Kaahumanu Street to Kaimakani Street . | $5,944,000 |
| 2908 | ID | Construct Interchange on I-84 at Ten Mile Rd, Meridian, Idaho . | $1,600,000 |
| 2909 | NJ | Pedestrian facilities and street lighting on Had-don Avenue from Voorhees Township Line to Bate Avenue, Berlin Township | $277,696 |
| 2910 | WA | 267th Street NW Pedestrian Path in Stanwood | $480,000 |
| 2911 | KY | Replace US 68 and US 150 Bridge over Chaplin River, Perryville | $600,000 |
| 2912 | UT | Geveva Rd-Provo Center Street, Orem 1600 North to I-15 FWY, Provo-widen from 2 to 4 lanes | $6,000,000 |
| 2913 | IL | Construction of a new roadway and grade separation of the UP West Line east of Elburn | $7,600,000 |
| 2914 | VA | Haymarket, VA. Washington Street improvements . | $400,000 |
| 2915 | NJ | Improvements to implement the Readington Tewksbury Transportation Improvement District | $400,000 |
| 2916 | IL | Allow IDOT to proceed with engineering and construction of Airport-Lockport Rd and Illinois Route 126 interchanges on I-55 | $1,600,000 |
| 2917 | AR | Caraway Bridge Overpass . | $7,200,000 |
| 2918 | OH | Construction of an Intermodal Facility at University Circle in the City of Cleveland . | $400,000 |
| 2919 | PA | Jeannette Truck Route | $400,000 |
| 2920 | MD | MD45, Cavan to Ridgley Roads | $4,416,000 |
| 2921 | MD | MD 30 Hampstead Bypass . | $800,000 |
| 2922 | MI | Monroe Area Highway-Railway Crossing Improvements, City of Monroe . | $5,120,000 |
| 2923 | OH | Conduct study of new interchange at Routes 161/37 and Cherry Valley road in Licking County, Ohio | $2,000,000 |
| 2924 | CT | Enfield, Connecticut Make improvements to South Maple Street Bridge | $2,328,000 |
| 2925 | NY | Conduct studies, if necessary, and construct infrastructure projects for Governor's Island . | $3,200,000 |
| 2926 | NY | Harlem River Park and Bikeway | $800,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2927 | CT | Make Improvements to Plainfield Cemetary Road . | $160,000 |
| 2928 | SC | Construct grade separation and interchange improvements at U.S. 521, Lancaster County | $800,000 |
| 2929 | NJ | Replacement of the Magnolia Avenue Bridge over Route 1 & 9 | $800,000 |
| 2930 | | | $0 |
| 2931 | MI | Resurfacing of Frazho Road in Roseville | $1,024,000 |
| 2932 | CA | Construct 213th Street pedestrian bridge to provide safe passage for pedestrians and wheelchairs, Carson . | $800,000 |
| 2933 | MO | Conduct impact studies for Missouri River Bridge siting in Kansas City, MO . | $4,000,000 |
| 2934 | CA | Construction of Lenwood Road Grade Separation in Barstow, CA . | $1,200,000 |
| 2935 | PA | Improvements to Frankford Avenue from Cottman Avenue to Harbison Avenue . | $1,000,000 |
| 2936 | IN | Revelop Hazeldell Road, Hamilton County, Indiana | $800,000 |
| 2937 | AK | Road Improvements and upgrades to service road areas and miscellaneous projects within Northstar Borough | $5,000,000 |
| 2938 | OH | Rehabilitation or replacement of highway-rail grade separations along the West Central Ohio Port Authority route in Champaign and Clark Counties . | $288,000 |
| 2939 | MI | Otsego County, Resurfacing and widening of Parmater Rd | $294,400 |
| 2940 | WA | Realign West Main Street through Kelso | $2,000,000 |
| 2941 | TN | Reconstruct State Route 109 from I-40 in Wilson County to Portland in Sumner County . | $800,000 |
| 2942 | PA | Redesigning the intersection of US 322/High Street and Rosedale Ave | $1,200,000 |
| 2943 | DE | Replacement of the Indian River Inlet Bridge, Sussex County Delaware | $4,800,000 |
| 2944 | FL | Construct link from I-95 to I-10 through Clay County with terminus points SR 23 to CAR 739B | $4,000,000 |
| 2945 | MN | Construct ramps and new bridge over Interstate 35 at CSAH 17, and reconstruct CSAH 17 from west County Line to CSAH 30, Chisago County | $5,616,595 |
| 2946 | CT | Conduct multi-modal study of Route 8 corridor between Beacon Falls-Seymour town line and exit 40 | $800,000 |
| 2947 | AR | Hwy 65 improvements in Van Buren County, including construction of passing lanes, bridge improvements, intersection improvements and other roadway improvements . | $1,200,000 |
| 2948 | AZ | Scott Ranch Road. Navajo County -- Connect White Mountain Road (SR260) and Penrod Road (SR 77) | $1,000,000 |
| 2949 | NY | Construction of Pedestrian and Bike Trail campus access & improvements, St. Bonaventure, NY . | $500,000 |
| 2950 | NY | Eastern Laurelton Area Improvements, Queens, New York . | $6,880,000 |
| 2951 | NY | Bicycle and pedestrian safety improvements, Main Street, Riverhead | $1,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2952 | AL | Construct County Road 83 corridor from Foley Beach Express to I-10 . | $8,000,000 |
| 2953 | PA | Design and construct improvements to PA 465 from Walnut Bottom Rd. to PA 641 and at I 81 Exit 44 | $3,096,400 |
| 2954 | IL | Reconstruct and Widen Route 60 Bridge over I-94 in Lake Forest . | $9,000,000 |
| 2955 | VA | Improve Downtown Staunton, Virginia, Streetscape . | $1,200,000 |
| 2956 | PA | Route 322 Halls Run Upgrades from the intersection of Horsecreek Road to Mapleshade Road -Venango County | $1,360,000 |
| 2957 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Wilkes-Barre . | $2,000,000 |
| 2958 | IN | SR56 Reconstruction, Aurora, Indiana . | $4,096,000 |
| 2959 | MI | Study and implement transportation system alternatives in the vicinity of US 31/M 46 . | $2,800,000 |
| 2960 | MA | Longfellow Bridge Rehabilitation | $3,000,000 |
| 2961 | IL | For Village of Bolingbrook to construct Remington Blvd. extension . | $400,000 |
| 2962 | AZ | Design and Construction of Rio Salado Pedestrian Bridge in Tempe, AZ | $2,400,000 |
| 2963 | MI | Study to determine replacement options for obsolete and structurally deteriorating bridge (Trenton- Grosse Ile Bridge) including approach roadways, Charter County of Wayne | $3,200,000 |
| 2964 | PA | Mount Joy Bridge Replacement on Route 230 | $360,000 |
| 2965 | CA | Modifies 9 traffic signals between Willow Road and Middlefield Road and Hamilton Avenue, Menlo Park | $240,000 |
| 2966 | OH | Summit County Engineer Reconstruct Access Roads to Cuyahoga Valley National Park . | $400,000 |
| 2967 | OR | To study the feasibility of widening Hwy 26 from the Hwy 217 interchange to the Cornelius Pass exit | $992,000 |
| 2968 | GA | Athens-Clarke County Greenway Enhancement Project | $1,856,000 |
| 2969 | WA | Improve Wahkiakum County Ferry landing | $250,000 |
| 2970 | IL | Irving Park Bridge over the Chicago River . | $3,200,000 |
| 2971 | MI | Design, right-of-way and construction of passing relief lanes and improvements necessary on M-55, between M-37 and M-115 | $1,760,000 |
| 2972 | NE | Design, right-of-way and construction of South and West Beltway in Lincoln, Nebraska . | $3,200,000 |
| 2973 | TX | Tower 55 CMAQ Congestion and Preliminary Engineering Study . | $1,600,000 |
| 2974 | NY | Town of Chester, Lake Hill Farms subdivision road improvements . | $120,000 |
| 2975 | MN | Improvements on TH 169 east and west of East Two Rivers Crossing and TH 135 from Enterprise Drive to TH 169 | $1,772,800 |
| 2976 | IN | Reconstruct Standard Avenue, Whiting | $1,040,000 |
| 2977 | TX | Barron Rd. Interchange at SH 6 (Earl Rudder Freeway) College Station . | $2,400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 2978 | CA | Develop conceptual master plan to improve the efficiency of transportation facilities, Covina | $172,000 |
| 2979 | PA | Transportation enhancements along the Delaware Canal between Yardley, PA and Bristol, PA | $2,400,000 |
| 2980 | VA | Upgrade DOT crossing #467661K to constant warning time devices | $137,360 |
| 2981 | UT | Add lighting on Highway 262 on the Navajo Nation in Aneth | $175,000 |
| 2982 | VA | Chestnut Mountain Road—feasibility study, design and construction start for road improvement on National Forest lands | $400,000 |
| 2983 | MI | Construction of roads and trails Humbug Marsh Unit Linked Greenways System, Detroit International Wildlife Refuge | $880,000 |
| 2984 | TX | Construct access road connecting Port of Beaumont property on east bank of Neches River to I-10 access road east of the Neches River | $1,440,000 |
| 2985 | | | $0 |
| 2986 | SC | Lexington County, widen US 1 and SC 6, and improve US 1, SC 6, and US 378 . | $1,600,000 |
| 2987 | IL | Midlothian Road Signalization, Lake Zurich | $480,000 |
| 2988 | VA | Glen Alton—design and construction of recreation trails, access and visitor information center . | $800,000 |
| 2989 | MI | Expansion of Cass Avenue in Clinton Township | $7,355,200 |
| 2990 | CO | Bromley Lane and US 85 interchange feasibility study and construction of needed improvements . | $664,000 |
| 2991 | MD | Constructing Chestertown Trail, Chestertown, MD . | $240,000 |
| 2992 | IL | Eastern Peoria Bypass and (Ring Road) study and land acquisition | $2,400,000 |
| 2993 | VA | Conduct planning and engineering for Mayo Bridge in Richmond | $1,600,000 |
| 2994 | NY | Elevation of road and construction of drainage improvements on Sequams Lane Center and Sequams Lane West in the Town of Islip, NY | $556,000 |
| 2995 | NM | Improvements to San Juan County Road 7950 | $800,000 |
| 2996 | WA | 116th St/Interstate 5 Interchange Reconstruction in Marysville | $1,400,000 |
| 2997 | SC | Construction of public roads at the International Center for Automotive Research and reconstruction of Fairforest Way in Greenville, South Carolina | $4,800,000 |
| 2998 | PA | Provide 4 through-lanes on PA 100 by constructing two thru lanes to the east of Ludwigs Corner | $4,000,000 |
| 2999 | PA | Completion of construction of final 2 ramps of I-79 interchange with Parkway West; widening of 1 mile of Parkway West leading to ramps . | $1,600,000 |
| 3000 | CA | Diamond Bar, CA Grand Avenue Rehabilitation . | $1,280,000 |
| 3001 | NY | Reconfigure intersection of Ridge Street and Hallocks Mill Road & install new traffic signal | $600,000 |
| 3002 | WA | Guard Street Reconstruction Project in Friday Harbor . | $640,000 |
| 3003 | CO | Roadway widening and interchange rebuilding on I-225 from I-70 to Parker Road | $5,976,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3004 | PA | Roosevelt Boulevard improvements by the Pennsylvania Department of Transportation | $3,200,000 |
| 3005 | MN | Construct Paul Bunyan Trail Walker to Bemidji Segment | $560,000 |
| 3006 | HI | Upgrades to Farrington Highway . | $800,000 |
| 3007 | KY | US 41A Phase II Design and Right of Way . | $3,200,000 |
| 3008 | NM | US 54 Corona, Tularosa, and Vaughn Bridges Replacement and Rehabilitation | $800,000 |
| 3009 | OH | Construction of access road along east side of SR 8 in Summit County, OH | $800,000 |
| 3010 | TX | US 281 from Brooks County Line to FM 3066, Brooks County . | $1,600,000 |
| 3011 | FL | Construction of an interchange at Florida's Turnpike & Stirling Rd. in Broward County | $4,431,167 |
| 3012 | NY | Construction of the City of Watertown Streetscape Enhancement Project . | $2,400,000 |
| 3013 | IL | Improve Streets, Merrionette Park | $480,000 |
| 3014 | NY | Install Improvements for Pedestrian Safety in the vicinity of St. Roberts Bellarmine | $250,000 |
| 3015 | NY | Rebuild Queens Plaza, a 250-foot wide roadway on the eastern end of the Queensborough Bridge . | $6,400,000 |
| 3016 | PA | Upgrade circuit for gates and lights at Seventh Street in Emmaus, PA USDOT crossing number 592401H to constant warning time devices | $220,000 |
| 3017 | UT | SR-158 Improvements, Pine View Dam, Weber County, Utah . | $1,680,000 |
| 3018 | CA | Valley Boulevard Capacity Improvement between 710 Freeway and Marguerita Avenue, Alhambra . | $1,600,000 |
| 3019 | IL | Offramp and overpass from I-57 outside of Marion and necessary connector roads | $4,000,000 |
| 3020 | AK | Construction of and improvements to roads at Alaska Pacific University . | $3,000,000 |
| 3021 | SC | Upgrade of the I-95/SC 327 Interchange near Florence . | $6,000,000 |
| 3022 | CA | Valley View/Stage Grade Separation Project, La Mirada and Santa Fe Springs, California | $720,000 |
| 3023 | OR | Renewal of Wooden Bridge West of Albany | $7,500,000 |
| 3024 | MI | Northville, Taft Road from 8 Mile North to city limits . | $400,000 |
| 3025 | NY | Village of Pawling Rehabilitation of Grandview Ave from Lakeside to end | $80,000 |
| 3026 | SD | Pave and curb Cheyenne River Tribe Route 900, "Chinatown" in Eagle Butte . | $1,200,000 |
| 3027 | FL | Church Street Improvements, Orlando | $11,200,000 |
| 3028 | MI | Walled Lake, Widen Maple Road, west of Decker to Welch . | $100,000 |
| 3029 | AR | Washington County, Arkansas—replace and rebuild Tilly Willy Bridge . | $800,000 |
| 3030 | AR | Russellville Intermodal Facility construct access roads from AR Hwy 247, purchase Right-of-Way | $2,000,000 |
| 3031 | TX | Construct IH 30 Monty Stratton Parkway Interchange in Greenville, TX . | $1,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3032 | PA | Design and Construction of Portzer Road Connector, Bucks County | $1,600,000 |
| 3033 | IL | For Plainfield Township Park District to construct DuPage River Bike & Pedestrian Trail linking Grand Illinois, Midewin, & I&M Canal Trails . | $80,000 |
| 3034 | TX | Pedestrian Path and Sidewalk Improvements along US 83 in Rio Grande City . | $400,000 |
| 3035 | MS | Upgrade roads at Tougaloo College | $400,000 |
| 3036 | IL | Washington Street Widening, Gurnee . | $2,688,000 |
| 3037 | LA | Replacement Bridge for Tunnel, Belle Chasse | $400,000 |
| 3038 | FL | Implement Busch Boulevard corridor improvements to improve safety in Tampa | $2,000,000 |
| 3039 | MI | Construction of Pittsfield Greenways Bridge—nonmotorized bridge enhancement onto existing Bemis Road Bridge, Pittsfield Charter Township | $160,800 |
| 3040 | NC | North Carolina. Repair and improve safety features on US Hwy 19 from Maggie Valley to Cherokee | $11,360,000 |
| 3041 | NC | Northern Loop Project, City of Wilson . | $800,000 |
| 3042 | OR | Weaver Road Extension and Bridge Project, Douglas County | $17,000,000 |
| 3043 | MI | Complete 58 miles of White Pine Trail from Grand Rapids to Cadillac | $2,240,000 |
| 3044 | NY | Elmira Congestion Mitigation . | $1,800,000 |
| 3045 | IL | Improve Roads and Bridges, Cicero | $1,200,000 |
| 3046 | MI | Carlysle Road Reconstruction, Inkster | $2,000,000 |
| 3047 | UT | Construct pedestrian safety project on the Navajo Nation in Montezuma Creek | $325,000 |
| 3048 | MD | Construct MD5, Hughesville Bypass . | $8,000,000 |
| 3049 | OH | Repair & Construct Rock Spring Bridge, Portage County | $500,000 |
| 3050 | RI | Replace I-195 Washington Bridge Eastbound | $1,600,000 |
| 3051 | UT | Bear River Migratory Bird Refuge Access Road Improvements, Box Elder County, UT | $3,600,000 |
| 3052 | MA | Reconstruction of Union St. and Rt. 138W, Holbrook | $1,220,000 |
| 3053 | MI | Replacement of the interchange at 44th Street and U.S. 131 in Grand Rapids | $7,200,000 |
| 3054 | OH | Construct interchange improvements at SR 46 and 82 in Howland Township, Trumbull Co | $450,000 |
| 3055 | GA | Widen and construct US 84 Connector Bypass from west of US 84 SR 119 west of Hinesville to US 84 SR 196 south of Flemington, Liberty County, Georgia | $2,400,000 |
| 3056 | IL | Project is a stand-alone roadway improvement consisting of the complete reconstruction of the roadway, The Village of Forest Park | $800,000 |
| 3057 | MI | Jackson Freeway Modernization Project. I-94 Modernization Project from Michigan State Route 60 [M60] easterly to Sargent Road | $12,800,000 |
| 3058 | VA | Smart Travel and Traffic Management Systems in Salem and Staunton District, Virginia . | $400,000 |
| 3059 | OH | Construct Great Miami River Multi-Use Trail, Miami County, Ohio . | $1,016,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3060 | DC | Rock Creek Recreational Trail study to assess feasibility of constructing recreation trail . | $800,000 |
| 3061 | MI | Study road runoff in Little Black Creek between U.S. 31 and Seaway Drive | $320,000 |
| 3062 | CA | Conducts environmental review of proposed improvements related to the connection of Dumbarton Bridge to Highway 101 | $400,000 |
| 3063 | NY | Construction of and improvements to Union Road in West Seneca | $800,000 |
| 3064 | WI | Upgrade I 43 between State Highway 140 and East County Line in Rock County, Wisconsin . | $2,400,000 |
| 3065 | NJ | Separation of the intersection of 13th Street and the Lehigh Rail Line through bridge or tunnel in Manville, NJ . | $844,000 |
| 3066 | CA | Construct parking facility and improve access to Imperial Valley Expo . | $302,000 |
| 3067 | CA | Develop bicycle paths and pedestrian access to Third Avenue, Chula Vista | $240,000 |
| 3068 | IL | Upgrade County Highways 18 and 22 in conjunction with state I-57 interchange plan north of Mattoon | $1,600,000 |
| 3069 | CA | Widen & Reconfigure Sepulveda & Culver Boulevards, Culver City . | $2,192,000 |
| 3070 | OH | Construct interchange or other appropriate access on IR 70 west of existing mall road exit in Belmont County . | $6,935,000 |
| 3071 | AZ | Widen and expand the existing roadway and railroad overpass in the Houghton Road Corridor . | $4,000,000 |
| 3072 | OK | Construction of Duncan Bypass Grade Separation . | $2,400,000 |
| 3073 | SC | Pine Needles Widening & Bridge Replacement | $1,600,000 |
| 3074 | CA | Olsen Road widening and roadway improvments in Simi Valley, California . | $1,680,000 |
| 3075 | GA | Streetscape project to upgrade sidewalks, lighting and streets, Jeffersonville | $500,000 |
| 3076 | NY | Implement Diamond Grinding Measures on I-95, I-278, Mosholu Parkway, I- 495, Grand Central Parkway, and Richmond Parkway | $700,000 |
| 3077 | MD | Upgrade Conduit System for Traffic Signal Systems, Street Lighting, and Traffic-related Video Cameras for Baltimore | $960,000 |
| 3078 | WA | 5th Street/US 2 Signalization Improvements in Sultan . | $80,000 |
| 3079 | WI | Implementation of recommendations contained in 2005 Safe Routes to School in Superior plan | $480,000 |
| 3080 | LA | Widen and improve LaPalco Boulevard from Westwood Drive to US 90, Jefferson Parish | $3,200,000 |
| 3081 | NY | Realign Kirk Lake Drive in Carmel | $88,000 |
| 3082 | NY | Town of Somers road reconstruction . | $400,000 |
| 3083 | OH | Upgrade grade crossing safety devices in Elyria and North Ridgeville | $761,600 |
| 3084 | MS | Widen and improve Martin Bluff Road, Gautier | $2,400,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 3085 | CA | Widen and reconstruct Washington Blvd from westerly city boundary at Vernon to I-5 Fwy at Telegraph Rd in Commerce . | $2,400,000 |
| 3086 | CA | San Diego, CA Interstate 5, Sorrento Valley Road and Genesee Avenue Interchange Project | $1,600,000 |
| 3087 | OR | Widen I-5 between Portland, Oregon and Vancouver, Washington | $3,200,000 |
| 3088 | LA | North-South Corridor from Houma/Thibodaux to I-10 | $4,000,000 |
| 3089 | GA | Warren County I-20 Frontage Road | $4,000,000 |
| 3090 | KY | Widen KY 11 from US 460 to the Mt. Sterling Bypass, Montgomery County . | $2,000,000 |
| 3091 | OH | Traffic and safety improvements to county roadways in Geauga County, OH | $456,000 |
| 3092 | CA | Develop bicycle paths and public park space adjacent to the New River, Calexico . | $4,000,000 |
| 3093 | TN | Constructiion of the Foothills Parkway in the Great Smoky Mountains National Park | $7,500,000 |
| 3094 | PA | Improvements to Torresdale Avenue from Harbison Avenue to Cottman Avenue . | $1,000,000 |
| 3095 | GA | Butner Road and Stonewall Tell Road, Fulton County | $800,000 |
| 3096 | OH | Construction of highway-rail grade separations at intersections in Lima to improve motorist and pedestrian safety . | $2,600,000 |
| 3097 | OR | Siuslaw River Bridge, Florence | $4,250,000 |
| 3098 | CA | Construct Cypress Avenue over-pass to separate Interstate 10 and Union Pacific Railroad tracks in Fontana | $2,400,000 |
| 3099 | CA | Modify and reconfigure Kanan Road interchange along US101 in Agoura Hills | $4,000,000 |
| 3100 | OH | Upgrade and widen intersection for SR 14 in Washingtonville | $800,000 |
| 3101 | NM | Upgrade NM 434 from Mora north to Black Lake . | $1,200,000 |
| 3102 | NJ | Upgrade of Turnpike/Route 440 Interchange in Bayonne . | $3,200,000 |
| 3103 | LA | Widen LA 18 from Northrup Grumman/ Avondale Shipyards to US 90, Jefferson Parish . | $2,000,000 |
| 3104 | PA | Widen PA 896 between Strasburg Borough and US 30 . | $960,000 |
| 3105 | MI | Eliminate major roadway on Cleary University campus and establish a new roadway | $400,000 |
| 3106 | PA | Reconstruction of 11 mile segment of the Lower Trail between Williamsport and Mt Edna, Blair County, Pa . | $400,000 |
| 3107 | KY | Construction of interchange connecting US31W to I65 at mile marker 32 in Warren County | $1,600,000 |
| 3108 | | | $0 |
| 3109 | NC | Install Sugar Creek Road Grade Separation, Charlotte | $2,400,000 |
| 3110 | LA | Improvements to LA 46 in St. Bernard Parish | $320,000 |
| 3111 | IN | Construct Hoham Drive Extension in Plymouth, Indiana . | $400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3112 | OR | Construct turn lane on Gateway Boulevard, Cottage Grove | $90,000 |
| 3113 | TN | Replace Unitia Bridge in Loudon County, TN | $720,000 |
| 3114 | VA | Replacement of Robertson Bridge in Danville | $1,456,320 |
| 3115 | MA | Public Improvements to Springfield Symphony Hall | $240,000 |
| 3116 | NY | Realign Union Valley Road in Town of Carmel | $440,000 |
| 3117 | NY | Village of Pawling Improvements to Reservoir Road from State Rt 22 to Prospect St . | $100,000 |
| 3118 | MS | Build connector between SR 609 and State Highway 15 near I-10, Jackson and Harrison Counties | $2,400,000 |
| 3119 | CO | I-70 West Mountain Corridor, Denver to Garfield County | $3,200,000 |
| 3120 | CA | Completion of Interstate 5 and Interstate 8 Connectors, San Diego . | $4,800,000 |
| 3121 | FL | Construct US 1 interchange at CR 210, St. Johns County, Florida . | $5,280,000 |
| 3122 | OH | Construct roadway improvement project along State Routes 37 and 78 through Fairfield, Perry, Morgan, Noble, Monroe Counties . | $250,000 |
| 3123 | IL | Construct I-57 Bridge Overpass, City of Markham | $480,000 |
| 3124 | NJ | Design, plan and build a permanent pedestrian/ bicycle path along the banks of the Elizabeth River . | $400,000 |
| 3125 | NJ | Improve the US Interstate 78 Interchange at exit 15 in Franklin Township, Union Township, and Town of Clinton . | $800,000 |
| 3126 | CA | Reconstruct Rosecrans Av. and construct bus pads from Garfield Av. to Century Bl. in Paramount . | $320,000 |
| 3127 | TN | Bristol, Tennessee highway-RR crossing grade improvement—USDOT#731120J | $80,000 |
| 3128 | CO | Glenwood Springs South Bridge (new, off-system bridge) . | $5,200,000 |
| 3129 | NJ | Improvements of Newark and First Streets in Hoboken . | $240,000 |
| 3130 | OH | Feasibility Study to construct a bridge over the Muskingum River in the vicinity of McConnelsville | $200,000 |
| 3131 | MN | Construction of Gitchi-Gami State Trail from Silver Bay to Tettegouche State Park | $1,500,000 |
| 3132 | CA | Improvements/Widening of SR 99 from Goshen to Kingsburg in Tulare County, California . | $6,560,000 |
| 3133 | CA | Design and implement Harbor Boulevard ITS in Garden Grove | $800,000 |
| 3134 | WI | Complete the Glacial Drumlin Trail, from Madison to Waukesha | $240,000 |
| 3135 | PA | Design and construct turn lanes, signal upgrades and improvements at PA 34 and 174 intersection . | $464,000 |
| 3136 | PA | Design, engineering, ROW acquisition & construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Wright Township, Luzerne County . | $160,000 |
| 3137 | PA | I-70-I-79 South Interchange Redesign and Upgrade | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3138 | KS | Elimination of highway-railway crossings at the city of Pittsburg Port Authority to increase safety and reduce congestion . | $4,584,000 |
| 3139 | CA | Improve Access Road to Beale Air Force Base (Smartville Road) . | $3,000,000 |
| 3140 | CA | Interstate 215, Los Alamos Road Interchange Project | $1,600,000 |
| 3141 | NE | Missouri River Bridges between US-34, I-29 in Iowa and US-75 in Nebraska | $2,800,000 |
| 3142 | AL | Huntsville Southern Bypass planning and engineering . | $2,400,000 |
| 3143 | MO | Redesign and reconstruct I-170 interchange at Ladue Rd . | $320,000 |
| 3144 | NY | Construct Interstate 87 Exit 3 Airport Connector in Albany . | $2,400,000 |
| 3145 | CA | Citywide traffic signal upgrades requiring the installation of hardware and software at 9 major intersections, Palo Alto . | $400,000 |
| 3146 | OH | Construct replacement of Morgan Township Road 209 between SR 60 and SR 78 in Morgan County . | $3,300,000 |
| 3147 | | | $0 |
| 3148 | NY | Construct the Setauket/Port Jefferson Greenway Trail Project | $5,000,000 |
| 3149 | AR | Develop a railroad overpass connecting U.S. Highway 67 and U.S. Highway 371 in Prescott | $2,640,000 |
| 3150 | FL | Construct SR 312 Extension Bypass, St. Johns County, Florida | $5,300,000 |
| 3151 | GA | Construct Welcome Center, and pedestrian trail, Abbeville | $300,000 |
| 3152 | VA | Improve Erickson Avenue and Stone Spring Road connection . | $600,000 |
| 3153 | TX | Reconstruct Loop 12 IH 35E and SH 183 west extension to MacArthur, Irving, Texas | $4,000,000 |
| 3154 | OR | Completion of the first of three phases of trails in the Regional Trails Program | $5,000,000 |
| 3155 | MN | Construct bridge for Paul Bunyan Trail over Excelsior Road, Baxter | $1,500,000 |
| 3156 | KY | Reconstruct US-127 at the US-127 and US127 North Bypass, Mercer County | $480,000 |
| 3157 | CA | Rehabilitate street surface of Addison St. between Kester Ave. and Lemona Ave | $37,600 |
| 3158 | IL | City of Springfield, IL for improvements to Cockrell Lane . | $762,058 |
| 3159 | OH | Repair/Construct Mill Street Bridge, Akron | $1,240,000 |
| 3160 | MI | Resurface Caseville Road in Huron County | $153,600 |
| 3161 | PA | River Trail and Esplanade Development at the Southside Riverfront Park . | $600,000 |
| 3162 | IL | Construct access roads to National Great Rivers Research Center | $1,000,000 |
| 3163 | IL | Construct Roadway from Mississippi River Barge Dock to IL Rt 3-IL Rt 157, Cahokia | $1,600,000 |
| 3164 | PA | Context Sensitive Design Elements for the Market Street Bridge, Lycoming County, PA | $1,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3165 | NY | Implement Pedestrian Safety Improvements on Queens Boulevard | $500,000 |
| 3166 | NV | Design and construct interchange on I-15 in Mesquite . | $800,000 |
| 3167 | CA | Construct grade separations at Washington Ave & UPRR crossing east and Washington Ave & La Cadena Drive in Colton | $400,000 |
| 3168 | MD | Intercounty Connector . | $4,800,000 |
| 3169 | MA | Charlemont Bridge, Route 2, Charlemont . | $3,840,000 |
| 3170 | MN | CSAH 47 rehabilitation from 165th Ave to TH 25, Morrison County | $352,000 |
| 3171 | MS | Improve Old Augusta Road and construct Kaiser Road, Perry County . | $2,800,000 |
| 3172 | PA | Reconstruction of US 30 from PA 10 to Business US 30 including travel lanes, shoulders, etc | $4,000,000 |
| 3173 | NY | Route 78 (Transit Road), Genesee Street to Main Street, Towns of Amherst, Cheektowaga and Clarence in Erie County . | $2,400,000 |
| 3174 | NY | Planning and design, construction, and relocations for Southtowns Connector - NY Route 5 from Coast Guard Base to Ohio Street, including Fuhrmann Boulevard | $8,560,000 |
| 3175 | CA | SR 91 I 605 Needs Assessment Study, Whittier, CA | $12,800 |
| 3176 | GA | SR 70/Fulton Industrial Boulevard widening from Camp Creek Parkway to the SCL RR, Fulton County | $1,200,000 |
| 3177 | MO | Ste. Genevieve Co., Missouri Rt. 61 bridge replacement over Establishment Creek . | $1,200,000 |
| 3178 | MN | Construction of intersection at County Road 5 and TH 13 in City of Burnsville . | $2,400,000 |
| 3179 | GA | SR 307 overpass over Georgia Port Authority rail line, Savannah | $4,000,000 |
| 3180 | MO | Study railroad reconfiguration to eliminate highway crossings in and around Springfield, MO . | $800,000 |
| 3181 | NC | Construct relocated NC 16 in Lincoln and Catawba Counties, NC | $1,360,000 |
| 3182 | IL | Construction of highway approaches to the Sullivan Road bridge in Aurora, IL | $1,280,000 |
| 3183 | IL | Engineering and construction of 15.1 mile Alliance trail between Lock 14 in LaSalle and Lock 2 in Bureau Junction . | $800,000 |
| 3184 | CA | Construct parking facility and improve museum pedestrian access from trolley station, San Diego | $800,000 |
| 3185 | PA | Relocation and upgrade of Beaner Hallow Rd, Beaver County, PA | $1,320,000 |
| 3186 | MN | TH 36-Stillwater Bridge, ROW acquisition and Utility Relocation | $4,000,000 |
| 3187 | IL | To construct Veterans Memorial Drive Extension. Will link Mt. Vernon on the east side of I-57 with incorporated area lying west | $800,000 |
| 3188 | MN | I-494 US 169 Interchange Reconstruction, Twin Cities Metropolitan Area, Minnesota | $4,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 3189 | AL | Jackson County Industrial Park Access Road, Hollywood . | $800,000 |
| 3190 | FL | North-South Corridor between Archer Road and Newberry Road | $2,400,000 |
| 3191 | AK | Construct access road and a bridge crossing the Naknek River terminus points in South Naknek-King Salmon Highway . | $3,000,000 |
| 3192 | NY | Route 303 Orangeburg Road and Route 340 and Erie Street intersection | $800,000 |
| 3193 | MS | Upgrade roads in Port Gibson (U.S. Hwy 61), Claiborne County . | $320,000 |
| 3194 | GA | Construct Horsestamp Road Interchange on I95 in Camden County, Georgia . | $800,000 |
| 3195 | MO | Upgrade Route 94 in St. Charles County from East of Harvester road to West of Mid-Rivers Drive | $9,600,000 |
| 3196 | OH | Upgrade the I-71 interchange with SR665 and widen SR665 from Hoover Road on the east to a relocated Haughn Road on the west, in Grove City, OH | $11,200,000 |
| 3197 | NY | Village of Highland Falls repaving and sidewalk construction of Berry Hill Road . | $60,000 |
| 3198 | PA | Westmoreland County, Pennsylvania, four lane limited access facility connecting State Road 119 to the Pennsylvania Turnpike (Sony Connector) | $3,200,000 |
| 3199 | NJ | Edison National Historic Site Traffic Improvement Project to improve traffic flow and promote safety . | $192,000 |
| 3200 | IL | Construction of Eldamain Road over the Fox River . | $4,000,000 |
| 3201 | CA | Construction of a traffic signal at the intersection of Oso Ave. and Vanowen St | $100,000 |
| 3202 | OR | Reroute U.S. 97 at Redmond, OR and improve the intersection of U.S. 97 and Oregon 126 | $5,600,000 |
| 3203 | CA | Widen & realign Cherry Avenue from 19th Street to one block south of Pacific Coast Highway, Signal Hill . | $3,200,000 |
| 3204 | AR | Ft. Smith, Arkansas: Improvements to Jenny Lind Rd. and Ingersoll Rd | $6,000,000 |
| 3205 | OH | Widen Pearl Road in Strongsville . | $800,000 |
| 3206 | CA | Interstate 5 and State Route 78 Interchange Improvements . | $4,000,000 |
| 3207 | OK | Improvements to SH3 from Antlers to Broken Bow | $5,000,000 |
| 3208 | KY | Construct the Albany Bypass in Clinton County | $4,800,000 |
| 3209 | CA | Highway 74 and Interstate 215 Interchange Project | $800,000 |
| 3210 | SC | Improve intersection and corridor on US 278 to improve safety. Poss build frontage roads widen road & change traffic controls . | $9,600,000 |
| 3211 | WA | Port of Bellingham Transportation Enhancement Projects | $7,280,000 |
| 3212 | OH | Rehabilitation of SR 53 from Miami St to North city limits including approaches to the CSX railroad bridge, City of Tiffin . | $800,000 |
| 3213 | OH | Upgrade U.S. Route 30 between State Route 235 and Upper Sandusky in Hancock and Wyandot Counties | $8,072,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 3214 | MN | Main Street streetscape reconstruction, 2nd Street from Ash Ave. to State Hwy 2, and Grand Utley Ave from 2nd Street to 6th Street N. across State Hwy 2, Cass Lake . | $1,520,000 |
| 3215 | NJ | Warren County, NJ Route 57 and County Route 519 Intersection Improvements | $2,160,000 |
| 3216 | HI | Widen Queen Kaahumanu Highway | $2,400,000 |
| 3217 | CT | Widen Route 34, Derby . | $2,400,000 |
| 3218 | IN | Construction of County Road 17—Elkhart, IN | $4,000,000 |
| 3219 | PA | Widen Route 666 in Forest County | $1,200,000 |
| 3220 | CA | Upgrade Jepson Parkway at North and South Gates of Travis Air Force Base and widen Vanden Road segment, Solano County | $3,200,000 |
| 3221 | CT | Widen Route 67, Seymour . | $800,000 |
| 3222 | | | $0 |
| 3223 | CT | Widen Canal Street, Shelton, CT | $400,000 |
| 3224 | NJ | Construct CR 521-Ocean Drive & Middle Thoroughfare Bridge Replacement, Cape May County | $1,600,000 |
| 3225 | OR | I-205 widening, Clackamas County . | $1,600,000 |
| 3226 | OK | Construct interchange south of I-40 along Indian Nation Turnpike near Henryetta | $200,000 |
| 3227 | MO | Complete upgrade of U.S. 40-61 to interstate status on two section, from I 70 to Lake St. Louis exit and Highway K to Highway DD . | $1,600,000 |
| 3228 | TX | Abilene, TX, Dyess Air Force Base North Entry Access Project with related improvments . | $11,120,000 |
| 3229 | CA | Construction and enhancements of trails in the Santa Monica Mountains National Recreation Area | $800,000 |
| 3230 | KY | Construct South Airfield Road, Boone County, Kentucky | $2,400,000 |
| 3231 | LA | Construction of pedestrian and bike path adjacent to Tammany Trace Rails-to-Trails Corridor . | $160,000 |
| 3232 | NY | Construction of pedestrian walkways in Village of Northport . | $80,000 |
| 3233 | NV | Design and Construction of I-80 interchange in Fernley . | $1,600,000 |
| 3234 | OH | Eastgate Area Improvements, I-275 & SR 32, Clermont County | $3,360,000 |
| 3235 | PA | Pennsylvania Turnpike-Interstate 95 Interchange Project, Bucks County, PA . | $8,000,000 |
| 3236 | GA | Commission a study & report regarding construction & desgnation of a new Interstate linking Augusta, Macon, Columbus, Montgomery, & Natchez . | $80,000 |
| 3237 | CT | Construct Shoreline Greenway Trail, Madison | $800,000 |
| 3238 | NE | New roads and overpasses to relieve congestion and improve traffic flow Antelope Valley— Lincoln, NE . | $7,200,000 |
| 3239 | CA | Reconstruct Atlantic Av. and improve drainage from Ardmore St. to Imperial Hwy. in South Gate . | $2,600,000 |
| 3240 | SD | Construct Railroad Underpass on Hwy 34 in Pierre . | $880,000 |
| 3241 | AR | I40-Highway 89 Interchange . | $2,400,000 |
| 3242 | WA | Kent, WA Willis Street UP Railroad Grade Separation Project . | $400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3243 | IL | Replace Interstate 74 Bridge, Moline . | $3,200,000 |
| 3244 | CA | Implement SFgo Van Ness Corridor Improvements . | $5,600,000 |
| 3245 | NC | Battleground Avenue Rail to Trail Project, Guilford County, NC | $800,000 |
| 3246 | IL | Construction of an Extension of Atkinson Road to Intersect with IL 120 and IL 137 | $4,800,000 |
| 3247 | OH | I-70, I-71 Split reconfiguration, Columbus . | $6,400,000 |
| 3248 | MI | Delta County, CR 186 from M-35 at Brampton to US2 and US41-bituminous overlay with super elevation, correction, curb, and gutter | $192,000 |
| 3249 | TN | Niota, TN Improving Vehicle Effiecies at At-Grade highway-Railroad Crossings | $79,200 |
| 3250 | NY | Construct access to the NYS Thruway -Montezuma National Wildlife Reserve | $1,200,000 |
| 3251 | MN | Corridor design work, I-94 and Radio Drive, Woodbury, MN . | $400,000 |
| 3252 | TN | Develop trails, bike paths and recreational facilities on Brady Mountain, Cumberland County for Cumberland Trail State Park . | $200,000 |
| 3253 | WA | Access Downtown Phase II: I-405 Downtown Bellevue Circulation Improvements . | $9,200,000 |
| 3254 | PA | Reconstruct PA Route 274, at PA Route 11/ 15, Duncannon | $800,000 |
| 3255 | PA | Road and pedestrian improvements and reallignment, through construction, in York City NW Triangle | $1,200,000 |
| 3256 | NY | Rockland County highway railroad grade crossing safety improvements | $1,400,000 |
| 3257 | OH | Calm traffic on Greenfield St in City of Tiffin and improve intersection of Greenfield St with Routes 18 and 101 | $1,360,000 |
| 3258 | IA | Construction of NW 26th St interchange on I 35, Polk Co | $800,000 |
| 3259 | NY | To conduct design and environmental studies along proposed Northern Tier Expressway | $4,800,000 |
| 3260 | IL | Undertake Traffic Mitigation and Circulation Enhancements on 57th and Lake Shore Drive, Chicago . | $1,600,000 |
| 3261 | IL | For the the construction of a highway on new alignment to create a cross town route across Godfrey | $1,400,000 |
| 3262 | MI | Construct Industrial Park Service Road and Caine Road Bridge Replacement. Village of Millington, Tuscola County | $395,200 |
| 3263 | TX | Loop 281 Mobility and Safety Improvements, Longview, TX | $2,736,000 |
| 3264 | TX | Upgrade Fulghum Road Bridge on I-45 in Dallas County (TX) to provide safety and access for expanded intermodal traffic . | $2,480,000 |
| 3265 | MN | Edge of Wilderness Discovery Center, Marcell | $471,000 |
| 3266 | IN | Construction of Star Hill Road, Clark County, Indiana . | $1,772,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3267 | TN | Plan and construct a bicycle and pedestrian trail, Shelbyville . | $320,000 |
| 3268 | TX | Construct Park Row bypass from Texas State Highway 6 to the Eldridge Parkway in Houston, TX | $1,600,000 |
| 3269 | CA | Implement Northwest San Fernando Valley Road and Safety Improvements . | $2,444,800 |
| 3270 | KY | Construct two bridges across the Ohio River from Louisville to southern Indiana | $28,000,000 |
| 3271 | ME | Construction of the Gorham Village Bypass, Gorham | $11,220,000 |
| 3272 | OK | Reconstruction of the I–40 Crosstown Expressway from I–44 to I–35 in downtown Oklahoma City, Oklahoma | $16,000,000 |
| 3273 | MD | I-695, MD147 to I-695 . | $3,792,000 |
| 3274 | SC | Upgrade Hwy. 21 Bypass Grade Crossings | $560,000 |
| 3275 | MD | Upgrade MD 175 in Anne Arundel County between MD 170 and the Baltimore Washington Parkway | $800,000 |
| 3276 | OK | Construct and widen six lanes on Interstate 44 from the Arkansas River extending east approximately 3.7 miles to Yale Avenue in Tulsa, OK | $8,800,000 |
| 3277 | OR | North Bend Waterfront District Boardwalk Construction | $992,000 |
| 3278 | CT | Make Improvements to North Stonington, CT Westerly, R.I. Pawcatuck River Bridge . | $240,000 |
| 3279 | VA | Construct improvements at I-264 interchange in Virginia Beach | $9,400,000 |
| 3280 | CA | Construct Western Placerville Interchanges on State Route 50 . | $2,400,000 |
| 3281 | CT | Construction of Housatonic River Walk, Shelton, CT | $800,000 |
| 3282 | NY | NYS Route 5, 8, 12 Interchange reconstruction: Town of New Hartford | $800,000 |
| 3283 | NY | Implement Improvements for Pedestrian Safety in Bronx County | $600,000 |
| 3284 | CA | Improve West Adams Blvd Streetscape in West Adams Historic District, Los Angeles | $200,000 |
| 3285 | CA | Improve access from I-8 and construct parking lot for the Imperial Sand Dunes Recreation Area Visitor's Center, Imperial Valley | $800,000 |
| 3286 | PA | Construction of low-impact, spine roadway serving the North Delaware Riverfront corridor, City of Philadelphia . | $8,000,000 |
| 3287 | AL | Construct interchange on I-59 between I-59 and 49th Street in Fort Payne, AL | $2,400,000 |
| 3288 | FL | Coordinated Regional Transportation Study of US 98 from Pensacola Bay Bridge, Escambia County, to Hathaway Bridge, Bay County, Florida | $1,200,000 |
| 3289 | GA | Leesburg North Bypass from US 19 to SR 195, Lee County | $400,000 |
| 3290 | LA | Peters Road improvements in Plaquemines Parish . | $800,000 |
| 3291 | GA | Upgrade sidewalks, lighting, landscaping from Cherry Street to Hampton Street, Industrial Park to Dooly Street, Montezuma . | $400,000 |
| 3292 | | | $0 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 3293 | GA | US 27 Reconstruction from Colquit to CR 279 | $800,000 |
| 3294 | TX | Loop 180 (Project code 1190-01-035) in Whitney, TX from FM 933/ FM 1713 to FM 933S of Whitney | $800,000 |
| 3295 | IA | US 30 widening, reconstruction in Story and Marshall Counties, Iowa | $1,840,000 |
| 3296 | TX | US 377 from SH 144 to the eastern intersection of BUS377H, Hood Co | $3,000,000 |
| 3297 | NY | Construct and improve pedestrian streetscapes along Sunrise Highway in Freeport | $400,000 |
| 3298 | IA | Construct Principal Riverwalk, Des Moines | $4,000,000 |
| 3299 | NY | Construct access ramps to Rt. 32-6-17-CR 105 in Orange County | $6,400,000 |
| 3300 | IL | Resurface Shawnee College Road, Pulaski County | $1,261,000 |
| 3301 | MI | Canton, Pave Cherry Hill Rd. between Canton Ctr., and Haggerty | $1,600,000 |
| 3302 | AR | Springdale, AR—Improvements to Johnson Road. From Hwy 412 to I-540 through Springdale and Johnson | $9,000,000 |
| 3303 | NC | Environmental studies and construction of Garden Parkway | $4,800,000 |
| 3304 | AZ | US 60 and US 93 connection on the eastern edge of central Wickenburg . | $1,600,000 |
| 3305 | GA | Construction of I-575 HOV Lanes from Sixes Road to S.R. 20, Cherokee County, Georgia | $800,000 |
| 3306 | WA | I-405-SR 167 interchange—rebuild the interchange and add additional lanes to relieve congestion | $1,600,000 |
| 3307 | MN | US10 corridor improvement between Blaine and St. Cloud: design and ROW acquisition | $2,000,000 |
| 3308 | CA | Walnut Grove at Broadway Intersection Capacity Enhancements, San Gabriel . | $200,000 |
| 3309 | KY | Widen and Reconstruct KY 698 at Mason Gap Road, Lincoln County | $960,000 |
| 3310 | OR | Medford, OR to construct sidewalks and improve storm drainage and gutters for the Citys Safe Walk Plan . | $800,000 |
| 3311 | MN | Construct a pedestrian and bicycle bridge across TH 169, Onamia | $878,080 |
| 3312 | NY | Improve Montauk Highway from CR46 to Barnes Road, Suffolk County | $6,400,000 |
| 3313 |  |  | $0 |
| 3314 | AR | Study and construction of 8th Street, in Bentonville, AR from Interstate 540, (including direct access to I-540) to SW Elm Tree Road . | $35,000,000 |
| 3315 | MN | Cedar Lake Regional Trail, Minneapolis | $3,000,000 |
| 3316 | TX | Reconstruct Union Pacific Railroad bridge over widened Business U.S. 287 . | $800,000 |
| 3317 | AK | Anchorage Traffic Congestion Relief . | $5,000,000 |
| 3318 | VA | Expansion of Battlefield Parkway from East Market Street at Route 7 to Sycolin Road, SE | $1,600,000 |
| 3319 | OR | Construction of the I–84, US 395 Stanfield Interchange Improvement Project . | $1,600,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3320 | IN | Design and reconstruct residential streets in the City of Muncie, Indiana . | $744,000 |
| 3321 | CA | Improvement of Main Street—Shenandoah Road/SR-49 Intersection, Plymouth | $800,000 |
| 3322 | SD | Design and construct new Meridian Bridge across the Missouri River south of Yankton, South Dakota . | $3,200,000 |
| 3323 | AK | Earthwork and roadway construction Gravina Access Project | $48,000,000 |
| 3324 | GA | Improvement and construction of SR 40 from east of St. Marys cutoff at mile post 5.0, Charlton County to County Route 61, Camden County, Georgia | $800,000 |
| 3325 | NJ | Route 22 Sustainable Corridor Plan . | $3,000,000 |
| 3326 | OR | Hood River, OR, Frontage Road Crossing Project | $400,000 |
| 3327 | GA | Construct and Improve Westside Parkway, Northern Section, in Fulton County . | $1,600,000 |
| 3328 | | | $0 |
| 3329 | GA | Widen SR 133 from Spence Field to SR 35 in Colquitt County, Georgia . | $800,000 |
| 3330 | FL | West Palm Beach, Florida, Flagler Drive Re-configuration | $800,000 |
| 3331 | FL | Implement Snake Road (BIA Route 1281) Widening and Improvements . | $800,000 |
| 3332 | NY | Reconstruction of Portland Ave. from Rochester City line to Titus Ave in Irondequoit, NY | $2,400,000 |
| 3333 | FL | Alleviate congestion at Atlantic Corridor Greenway Network, City of Miami Beach, FL . | $400,000 |
| 3334 | | | $0 |
| 3335 | WA | SR 704 Cross-Base Highway, Spanaway Loop Road to SR 7 . | $4,000,000 |
| 3336 | CA | Restoration of Victoria Avenue in the City of Riverside, CA . | $400,000 |
| 3337 | MN | I-494 Lane Addition | $1,600,000 |
| 3338 | GA | Uptown Jogging, Bicycle, Trolley Trail, Columbus Georgia | $400,000 |
| 3339 | CA | Study and construct highway alternatives between Orange and Riverside Counties, directed by the Riverside Orange Corridor Authority working with local government agencies, local transp. authorities, and guided by the current MIS | $12,600,000 |
| 3340 | OH | Rehabilitation or replacement of highway-rail grade separations along the West Central Ohio Port Authority route in Champaign and Clark Counties . | $240,000 |
| 3341 | FL | Improvements to I–75 in the City of Pembroke Pines, Florida | $1,800,000 |
| 3342 | LA | Construction of new interchange Causeway at Earhart-LA 3139 | $1,440,000 |
| 3343 | GA | Construction of infrastructure for inter-parcel access, median upgrades, lighting, and beautification along Highway 78 corridor . | $400,000 |
| 3344 | MI | Design, Right-of-Way and Construction of the I–196 Chicago Drive (Baldwin Street) Interchange Modificaiton, Michigan | $2,400,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 3345 | VA | I-66 and Route 29 Gainesville Interchange Project | $5,600,000 |
| 3346 | FL | SR 688 Ulmerton Road Widening (Lake Seminole Bypass Canal to El Centro Ranchero) | $8,000,000 |
| 3347 | OK | Navajoe Gateway Improvements Project, U.S. 62 in Altus, OK . | $800,000 |
| 3348 | NV | Construction of Carson City Freeway . | $800,000 |
| 3349 | TN | Upgrade lights and gates and motion sensor controlling circuitry at the highway rail grade crossing located on Wenasoga Road/ FAS 8224, Middleton, TN | $160,000 |
| 3350 | WV | Construct connector road from north end of RHL Boulevard to State Route 601 (Jefferson Road) . | $600,000 |
| 3351 | NY | Construct Siena College campus perimeter road, Loudonville, NY | $800,000 |
| 3352 | AL | Construct additional lanes on SR 77 from Southside, Alabama to Green Valley Road | $1,360,000 |
| 3353 | TX | Environmental mitigation related to the SH 195 project and related improvements in Williamson County that had adverse effects on the Karst cave system . | $1,600,000 |
| 3354 | AL | The City of Calera, Alabama—Northern Bypass Segment (U.S. Highway 31 to Alabama State Highway 25) . | $5,440,000 |
| 3355 | WA | Construct a single point urban interchange (SPUI) under I–5 at South 272nd St . | $1,080,000 |
| 3356 | IN | Reconstruct bridges at County Roads 200E and 300E in LaPorte County, Indiana . | $400,000 |
| 3357 | MI | Widen and Reconstruct Walton Blvd in Auburn Hills from Opdyke to Squirrel Rd . | $5,920,000 |
| 3358 | GA | Commission a study and report regarding the construction and designation of a new Interstate linking Savannah, Augusta, & Knoxville | $240,000 |
| 3359 | | | $0 |
| 3360 | CA | Pedestrian Beach Trail in San Clemente, CA . | $800,000 |
| 3361 | TX | US90—Construct 6 mainlanes from east of Mercury to east of Wallisville | $1,600,000 |
| 3362 | PA | Construct highway safety and capacity improvements to improve the access to the KidsPeace Broadway Campus . | $720,000 |
| 3363 | GA | GA 400 and McGinnis Ferry Road Interchange, Forsyth County, GA | $720,000 |
| 3364 | GA | Construction of bypass around town of Hiram, from SR 92 to US 278, Paulding County, Georgia . | $400,000 |
| 3365 | GA | Construct US 411 Connector from US 41 to I– 75, Bartow County, Georgia | $800,000 |
| 3366 | TX | Construct access road connecting Port of Beaumont property on east bank of Neches River to I–10 access road east of the Neches River | $1,056,000 |
| 3367 | MD | US 220/MD 53 North-South Corridor | $800,000 |
| 3368 | FL | Acquire Right-of-Way for Ludlam Trail, Miami, Florida . | $200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3369 | NY | Construct Northern State Parkway and LIE access at Marcus Ave. and Lakeville Rd. and associated Park and Ride | $1,360,000 |
| 3370 | PA | Construct interim U.S. 422 improvements at Valley Forge river crossing | $800,000 |
| 3371 | NY | Design and construction of Renaissance Square in Rochester, NY . | $1,600,000 |
| 3372 | AL | Alabama Hwy 36 Extension and Widening— Phase II . | $240,000 |
| 3373 | PA | Northfield site roadway extension from Rte 60 to Industrial Park near the Pittsburgh International Airport . | $400,000 |
| 3374 | OH | Plan and construct pedestrian trail along the Ohio and Erie Canal Towpath Trail in downtown Akron, OH | $760,000 |
| 3375 | TX | Reconstruct I–30 Trinity River Bridge—Dallas, TX . | $27,200,000 |
| 3376 | TX | Reconstruct I–30 Trinity River Bridge—Dallas, TX . | $800,000 |
| 3377 | GA | Construction of interchange on I–985 north of SR–13, Hall County Georgia . | $800,000 |
| 3378 | | | $0 |
| 3379 | FL | Temple Terrace Highway Modification . | $800,000 |
| 3380 | WY | Burma Rd: Extension from I–90 to Lakeway Rd | $1,600,000 |
| 3381 | NJ | Construct Western Blvd. extension from Northern Blvd to S.H. Rt. 9, Ocean County, NJ . | $3,200,000 |
| 3382 | FL | Powerline Rearvision motor carrier backover motor carrier safety research . | $800,000 |
| 3383 | NH | Environmental mitigation at Sybiak Farm in Londonderry to offset effects of I–93 improvements . | $1,200,000 |
| 3384 | MI | East Grand River Improvements, Brighton Township, Michigan . | $1,600,000 |
| 3385 | KY | Replace Brent Spence Bridge, Kenton County, Kentucky | $1,600,000 |
| 3386 | TX | Construction of projects that relieve congestion in and around the Texas Medical Center complex | $9,600,000 |
| 3387 | CA | Hazel Avenue ITS Improvements, Folsom Blvd. to Placer County | $400,000 |
| 3388 | FL | SR 688 Ulmerton Road widening (west of 38th street to west of I275) . | $8,000,000 |
| 3389 | NH | Environmental mitigation at Crystal Lake in Manchester to offset effects of I–93 improvements . | $1,520,000 |
| 3390 | VA | Widening I–95 between Rte 123 and Fairfax County Parkway | $800,000 |
| 3391 | PA | Armstrong County, PA Slatelick Interchange for PA 28 at SR 3017 . | $1,920,000 |
| 3392 | OK | Reconstruct the I–44—Ft. Still Key Gate Interchange | $800,000 |
| 3393 | GA | Greene County, Georgia conversion of I–20 and Carey Station Road overpass to full interchange | $1,600,000 |
| 3394 | OH | Upgrade overpass and interchange at US 24 and SR 66 in the City of Defiance | $800,000 |
| 3395 | NE | I–80 Interchange at Pflug Road, Sarpy County, Nebraska | $800,000 |
| 3396 | FL | SR 70 improvements in Highland, DeSoto and Okeechobee Counties | $400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3397 | VA | Cathodic Bridge Protection for Veterans Memorial Bridge and the Berkely Bridge in the Commonwealth of Virginia | $560,000 |
| 3398 | IN | Reconstruct McClung Road from State Road 39 to Park Street in LaPorte, Indiana . | $600,000 |
| 3399 | OH | Riversouth Street Network Improvements in Columbus . | $2,400,000 |
| 3400 | GA | National Infantry Museum Transportation Network, Georgia . | $3,000,000 |
| 3401 | AK | Wideband multimedia mobile emergency communications pilot project Wasilla, Alaska . | $5,000,000 |
| 3402 | MD | Widen road and improve interchanges of I–81 from south of I–70 to north of Halfway Boulevard . | $800,000 |
| 3403 | TX | Expansion of U.S. 385 4-lane divide south of Crane to McCarney | $1,600,000 |
| 3404 | VA | Old Mill Road Extension . | $1,280,000 |
| 3405 | GA | Commission a study & report regarding construction & desgnation of a new Interstate linking Augusta, Macon, Columbus, Montgomery, & Natchez . | $240,000 |
| 3406 | CO | Improvements on US 36 corridor from I–25 to Boulder. Improvements include interchange and overpass reconstruction . | $1,120,000 |
| 3407 | AZ | Design and construct bridge and roadway approaches across Tonto Creek at Sheeps Crossing south of Payson, AZ . | $2,960,000 |
| 3408 | NE | Missouri River Bridges between U.S. 34, I–29 in Iowa and U.S. 75 in Nebraska | $2,000,000 |
| 3409 | NY | Reconstruct—Orangeport Road from NYS Rte 31 to Slayton Settlement Road—Niagara County, NY | $680,000 |
| 3410 | TN | Construct sound-walls between I–65 and Harding Place in Davidson County . | $664,000 |
| 3411 | ID | Reconstruct and Realign SH–55 in Idaho between Mileposts 94 and 102 | $1,600,000 |
| 3412 | FL | Pinellas Countywide Intelligent Transportation System—Phase 2 . | $8,000,000 |
| 3413 | OK | Realignment of US 287 around Boise City, OK | $800,000 |
| 3414 | FL | Replace Heckscher Drive (SR 105) Bridge across Broward River | $1,600,000 |
| 3415 | TX | FM 156 Road Relocation at Alliance Airport, Texas | $6,500,000 |
| 3416 | TX | Upgrade Caesar Chavez Boulevard from San Antonio Street to Brazos Street | $2,400,000 |
| 3417 | FL | Coral Way, SR 972 Highway Beautification, Phase One, Miami, Florida | $400,000 |
| 3418 | OR | Cascade Locks Marine Park Underpass to address necessary improvements . | $400,000 |
| 3419 | NY | Reconstruction of East Genesee Street connective corridor to Syracuse University in Syracuse, NY . | $3,360,000 |
| 3420 | IL | For Cook County to reconstruct and widen 127th Street between Smith Road and State Street in Lemont . | $360,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3421 | TN | Widen I–65 from SR–840 to SR–96, including interchange modification at Goose Creek Bypass, Williamson County | $776,000 |
| 3422 | CA | Auburn Boulevard Improvements, City of Citrus Heights | $400,000 |
| 3423 | LA | Bossier Parish Congestion Relief | $2,400,000 |
| 3424 | LA | Fund the 8.28 miles of the El Camino East-West Corridor along LA 6 from LA 485 near Robeline, LA to I–49 . | $1,600,000 |
| 3425 | FL | Bryan Dairy Road improvements from Starkey Road to 72nd Street | $3,200,000 |
| 3426 | GA | Buckhead Community Improvements to rehabilitate State Road 141, including lane straightening, addition of median, installation of left turn bays at two intersections, addition of bicycle lanes, sidewalks, clear zones and landscape buffers | $800,000 |
| 3427 | VA | Purchase specialized tunnel fire safety equipment, Hampton Roads . | $640,000 |
| 3428 | MI | Holmes Road Reconstruction—From Prospect Road to Michigan Avenue, Charter Township of Ypsilanti | $1,600,000 |
| 3429 | TN | Construct a system of greenways in Nashville—Davidson County | $800,000 |
| 3430 | UT | Improve pedestrian and traffic safety in Holladay | $2,000,000 |
| 3431 | OH | Construction of road improvements from Richmond Road to Cuyahoga Community College, Warrensville Heights | $1,080,000 |
| 3432 | OH | Construct road with access to memorial Shoreway, Cleveland | $800,000 |
| 3433 | TX | North Cameron County East-West Railroad Relocation Project | $80,000 |
| 3434 | OR | Construct Pathway From Multimodal Transit Station to Swanson Park, Albany | $520,000 |
| 3435 | NY | Transportation Initiative to provide for a parking facility, in the vicinity of the Manhattan College Community | $500,000 |
| 3436 | NY | Phase II Corning Preserve Transportation Enhancement Project . | $4,800,000 |
| 3437 | NY | Study of Goods movement through I–278 in New York City and New Jersey | $1,200,000 |
| 3438 | NY | Study and Implement Traffic Improvements to the area surrounding the Stillwell Avenue train station | $1,000,000 |
| 3439 | CA | Expand Diesel Emission Reduction Program of Gateway Cities COG | $2,480,000 |
| 3440 | TX | Construct pedestrian walkway on Houston Texas' Main Street Corridor | $1,000,000 |
| 3441 | CA | Sacramento County, California—Watt Avenue Multi-modal Mobility Improvements, Kiefer Boulevard to Fair Oaks Boulevard | $3,200,000 |
| 3442 | NJ | Passaic River—Newark Bay Restoration and Pollution Abatement Project, Route 21 | $400,000 |
| 3443 | NJ | Downtown West Orange streetscape and traffic improvement program. | $1,440,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 3444 | NY | High-Speed EZ pass at the New Rochelle Toll Plaza, New Rochelle | $800,000 |
| 3445 | TX | Access to Regional Multi-Modal Center—FM 1016 and SH 115 | $1,600,000 |
| 3446 | AR | For acquisition and construction of an alternate transportation (pedestrian/bicycle) trail from East Little Rock to Pinnacle Mountain State Park | $160,000 |
| 3447 | MN | Construct 4th Street overpass grade separation crossing a BNSF Rail Road, City of Carlton | $159,835 |
| 3448 | TX | North Rail Relocation Project, Harlingen . | $1,600,000 |
| 3449 | MN | Construct Pfeifer Road, remove 10 foot raised crossing, Twin Lakes Township | $201,374 |
| 3450 | MS | Safety improvements and to widen Hardy Street at the intersection of U.S. 49 in Hattiesburg | $640,000 |
| 3451 | | | $0 |
| 3452 | MN | Safety improvements to TH 169 between Virginia and Winton | $20,464,331 |
| 3453 | LA | U.S. 190 (LA 22 to Little Bayou Castine) Widening | $800,000 |
| 3454 | NC | Construct bicycle and pedestrian trails, Durham and Durham County | $1,600,000 |
| 3455 | MN | TH 61 Reconstruction from 2.7 miles to 6.2 miles north of Tofte . | $8,053,600 |
| 3456 | MN | Phase II/part II—CSAH 15 to East of Scenic Highway 7 (1.2 miles) . | $2,272,000 |
| 3457 | MN | Reconstruction with some rehabilitation of roadway with storm water sewer system construction from eastern boundary of the Bois Forte Indian Reservation and ending at "T" intersection of roadway (3.5 miles) . | $800,000 |
| 3458 | MS | Widen 4th Street in Hattiesburg . | $2,560,000 |
| 3459 | NJ | Study of safe and efficient commercial multi-modal transportation systems serving the East Coast Port Complex | $400,000 |
| 3460 | IL | Construct bike/pedestrian paths, Chicago | $2,480,000 |
| 3461 | IL | Construct Leon Pass overpass, Hodgkins | $768,000 |
| 3462 | IL | Undertake Streetscaping project on Harlem Avenue initiating from 71st Street to I-80, Cook County | $3,280,000 |
| 3463 | IL | Construct bike path, parking facility, and related transportation enhancement projects, North Riverside | $1,920,000 |
| 3464 | IL | Upgrade Roads, Summit | $768,000 |
| 3465 | IL | Undertake streetscaping on Ridgeland Avenue, Oak Park Avenue, and 26th Street, Berwyn | $768,000 |
| 3466 | IL | Construct bike/pedestrian paths, facilities and infrastructure improvements in Spring Rock Park, Western Springs Park District | $576,000 |
| 3467 | SD | Extend the Sioux Falls Bike Trail to the Great Bear Recreation Area | $960,000 |
| 3468 | SD | Redesign T corner on BIA #2 5 miles SW of Kyle on the Pine Ridge Reservation | $600,000 |
| 3469 | SD | Extend bike trail in Pine Ridge to the SuAnne Big Crow Boys & Girls Center | $200,000 |
| 3470 | SD | Extend bicycle trail system in Aberdeen . | $640,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3471 | GA | City of Moultrie Streetscape Improvements, Phase III. | $750,000 |
| 3472 | GA | Restore and renovate for historic preservation and museum the 1906 AB&A Railroad Building, Fitzgerald. | $500,000 |
| 3473 | GA | Improve sidewalks, upgrade lighting, and add landscaping, Ocilla. | $500,000 |
| 3474 | GA | Improve sidewalks, upgrade lighting, and add landscaping, Newton County. | $750,000 |
| 3475 | GA | Improve sidewalks, upgrade lighting, and add landscaping, Monticello. | $500,000 |
| 3476 | GA | City of Sylvester Bicycle and Pedestrian Project | $400,000 |
| 3477 | GA | Improve sidewalks, upgrade lighting, and add landscaping, Tifton. | $750,000 |
| 3478 | GA | Improve sidewalks and curbs on Wheeler Avenue and Carlos Avenues, Ashburn. | $500,000 |
| 3479 | GA | Improve sidewalks, upgrade lighting, and add landscaping, Jackson. | $500,000 |
| 3480 | CA | Construct traffic circle in San Ysidro at the intersection of Via de San Ysidro and West San Ysidro Boulevard, San Diego . | $240,000 |
| 3481 | CA | Construct and resurface unimproved roads in the Children's Village Ranch and improve access from Children's Village Ranch to Lake Morena Drive, San Diego County . | $800,000 |
| 3482 | CA | Project design and environmental assessment of widening and improving the interchange at "H" Street and I–5, Chula Vista, Chula Vista . | $2,160,000 |
| 3483 | FL | Jacksonville International Airport Access Rd. to I–95, Jacksonville | $1,600,000 |
| 3484 | FL | Mathews Bridge Replacement, Jacksonville | $800,000 |
| 3485 | FL | Hecksher Bridge Replacement, Jacksonville . | $800,000 |
| 3486 | FL | NE 3 Ave to NE 8th Ave Rd Reconstruction, Gainesville | $800,000 |
| 3487 | FL | University Ave to NE 8 Avenue Rd Reconstruction, Gainesville | $1,600,000 |
| 3488 | KY | Central Kentucky Multi Highway Preservation Project | $1,840,000 |
| 3489 | WV | Construct East Beckley Bypass, including $500,000 for preliminary engineering and design of the Shady Spring connector (Route 3/Airport Road) . | $4,000,000 |
| 3490 | WV | Construct I–73/74 High Priority Corridor, Wayne Co . | $4,000,000 |
| 3491 | KY | Construct Kidville Road (KY 974) Interchange at the Mountain Parkway, Clark County | $1,360,000 |
| 3492 | NY | Construction and improvements to Ridge Road, Lackawanna . | $400,000 |
| 3493 | CA | Construction at I–580 and California SR 84 (Isabel Avenue) Interchange . | $2,000,000 |
| 3494 | NY | Construction of and improvements to Amherst Street, Buffalo . | $160,000 |
| 3495 | NY | Construction of and improvements to Grant Street, Buffalo . | $160,000 |
| 3496 | NY | Construction of and improvements to Hertel Avenue, Buffalo . | $160,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3497 | NY | Construction of and improvements to Hopkins Street, Buffalo . | $160,000 |
| 3498 | NY | Construction of and improvements to Main Street in the Town of Aurora . | $400,000 |
| 3499 | NY | Construction of and improvements to McKinley Parkway, Buffalo . | $400,000 |
| 3500 | NY | Construction of and improvements to Route 5 in the Town of Hamburg . | $400,000 |
| 3501 | NY | Construction of and improvements to South Park Avenue and Lake Avenue in the Village of Blasdell | $400,000 |
| 3502 | NY | Construction of and improvements to South Park Avenue, Buffalo | $160,000 |
| 3503 | NY | Construction of Bicycle Path and Pedestrian Trail in City of Buffalo . | $640,000 |
| 3504 | NY | Construction, redesign, and improvements to Fargo Street in Buffalo . | $1,600,000 |
| 3505 | TN | Improve existing two lane highway to a five lane facility on State Route 53 from South of I–24 to Near Parks Creek Road, Coffee County | $4,400,000 |
| 3506 | ME | Improve portions of Route 116 between Lincoln and Medway to bring road up to modern standard | $3,500,000 |
| 3507 | ME | Improve portions of Route 26 between Bethel and Oxford | $1,000,000 |
| 3508 | NY | Road improvements and signage in City of Lackawanna . | $400,000 |
| 3509 | NJ | Belmont Ave Gateway Community Enhancement Project, Haledon . | $400,000 |
| 3510 | TX | Conduct feasibility study for an off ramp on I– 30 on to Hall Street for direct access to Baylor University Medical Center in Dallas | $800,000 |
| 3511 | NJ | Livingston Pedestrian Streetscape Project along Mt. Pleasant and Livingston Avenues | $720,000 |
| 3512 | MD | MD4 at Suitland Parkway | $4,000,000 |
| 3513 | NJ | Pompton Lakes Downtown Streetscape | $800,000 |
| 3514 | PA | Street improvements along North Broad Street, Hatfield Borough . | $100,000 |
| 3515 | PA | Street improvements to Old York Road, Jenkintown Borough | $800,000 |
| 3516 | PA | Street improvements to Ridge Pike and Joshua Road, Whitemarsh Township . | $640,000 |
| 3517 | PA | Street improvements to Skippack Pike (Rte 73), Whitpain Township | $480,000 |
| 3518 | PA | Street Improvements, Upper Dublin Township | $1,200,000 |
| 3519 | PA | Street Improvements, Upper Gwynedd Township | $300,000 |
| 3520 | VA | Construct access road and roadway improvements to Chessie development site, Clifton Forge | $1,040,000 |
| 3521 | WA | Fruitdale and McGarigle Arterial Improvements Project in Sedro Woolley, Washington | $760,000 |
| 3522 | MS | Improve Ridge Road, Pearl River County . | $800,000 |
| 3523 | MS | Port Bienville Intermodal Connector, Hancock County . | $2,400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3524 | WA | Realign Airport Road/Springhetti Ave. /Marsh Road in Snohomish County, Washington. | $250,000 |
| 3525 | LA | US 61 (Airline Highway) Improvements, Orleans and Jefferson Parishes | $2,240,000 |
| 3526 | UT | Widen Redwood Road from Bangerter Highway in Salt Lake County through Saratoga Springs in Utah County | $1,000,000 |
| 3527 | VA | Widen Rolfe Highway from near the intersection of Rolfe Highway and Point Pleasant Road to the Surry ferry landing approach bridge . | $400,000 |
| 3528 | MI | Bristol Road improvement project from Interstate 69 to North Torrey road | $1,600,000 |
| 3529 | NJ | Construct parking facility at the Robert Wood Johnson University Hospital and UMDNJ with access to the intermodal train station, New Brunswick | $1,600,000 |
| 3530 | WA | Olympia Infrastructure Enhancement Project | $684,000 |
| 3531 | IN | Downtown Road Improvements | $5,720,000 |
| 3532 | TX | Continuation of item number 92 of the table contained in section 1602 of the Transportation Equity Act for the 21st Century (PL105-178) | $1,120,000 |
| 3533 | IL | Upgrade roads, Plainfield | $240,000 |
| 3534 | CA | Acquisition of land along CA 86 at the Desert Cahuilla Prehistoric Site, Imperial County for environmental mitigation related to reducing wildlife mortality while maintaining habitat connectivity | $800,000 |
| 3535 | NY | Queens and Bronx Counties Graffiti Elimination Program | $200,000 |
| 3536 | MA | Cambridge Bicycle Path Improvements | $1,000,000 |
| 3537 | CA | Conduct preliminary engineering and design analysis for a dedicated intermodal right of way link between San Diego and the proposed Regional International Airport in Imperial Valley including a feasibility study and cost benefit analysis evaluating the comparative options of dedicated highway or highway lanes, Maglev and conventional high speed rail or any combination thereof | $800,000 |
| 3538 | MA | Chelsea Roadway Improvements | $2,000,000 |
| 3539 | NY | Congestion reduction measures in Richmond County | $2,000,000 |
| 3540 | NJ | Construct Hudson River Waterfront Walkway over Long Slip Canal—Hoboken and Jersey City | $800,000 |
| 3541 | CA | Construct Illinois Street Bridge/Amador Street Connection and Improvements, San Francisco | $3,200,000 |
| 3542 | NY | Construct multi-modal facility in the vicinity of Brooklyn Childrens Museum . | $240,000 |
| 3543 | NJ | Construct Parking Facility at McGinley Square in Jersey City . | $840,000 |
| 3544 | OR | Construction of access road including sidewalks, bike lanes and railroad crossing from Highway 99W to industrial zoned property, Corvallis | $814,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 3545 | NY | Continuation of the public awareness program to the subcontracting entity which was funded under Section 1212(b) of Pub. L. 105– 178 about infrastructure in Lower Manhattan . | $400,000 |
| 3546 | OR | Continue bridge repair project authorized under P.L. 105-178, Coos Bay | $8,000,000 |
| 3547 | NJ | Expand TRANSCOM Regional ITS System in NJ, NY, and CT | $800,000 |
| 3548 | CA | Construct new sidewalks in the city of Heber, CA | $400,000 |
| 3549 | NY | Graffiti Elimination Program in Riverdale neighborhood of Bronx County | $500,000 |
| 3550 | NY | Graffiti Elimination Program on Smith Street in Kings County | $500,000 |
| 3551 | | Struck project | $0 |
| 3552 | NJ | Hudson County Fire & Rescue Department, North Bergen: Transportation Critical Incident Mobile Data Collection Device . | $960,000 |
| 3553 | NJ | Hudson County Pedestrian Safety Improvements . | $800,000 |
| 3554 | OR | Hwy. 199 Safety Improvements, Josephine County | $2,000,000 |
| 3555 | OR | Hwy. 99E/Geary Street Safety Improvements, Albany | $1,002,000 |
| 3556 | NY | Implement Improvements for Pedestrian Safety in Riverdale neighborhood of Bronx County | $500,000 |
| 3557 | WA | Improve Mill Plain Blvd between SE 172nd and SE 192nd in Vancouver | $1,250,000 |
| 3558 | WA | Improve signage along scenic highways in Clark, Skamania and Pacific counties | $60,000 |
| 3559 | | Struck project | $0 |
| 3560 | NJ | Jersey City 6th Street Viaduct Pedestrian and Bicycle Pathway Project | $1,600,000 |
| 3561 | OR | Middle Fork Willamette River Path, Springfield | $3,000,000 |
| 3562 | | Struck project | $0 |
| 3563 | OR | Pedestrian improvements including boardwalk extension and sidewalk construction, Port of Brookings Harbor | $600,000 |
| 3564 | NJ | Port Reading—Improvements to air quality through reduction of engine idling behind Rosewood Lane | $640,000 |
| 3565 | OR | Purchase communications equipment related to traffic incident management in Linn, Benton, Lane, Douglas, Coos, Curry and Josephine Counties. | $9,000,000 |
| 3566 | MA | Reconstruction of the I–95/Rte. 20 Interchange in Waltham | $1,040,000 |
| 3567 | NJ | Route 440 Rehabilitation and Boulevard Creation Project in Jersey City . | $1,000,000 |
| 3568 | MA | Rutherford Avenue Improvements, Boston | $1,000,000 |
| 3569 | GA | SR 10/Peters Street/Olympic Drive interchange, Athens | $1,600,000 |
| 3570 | | | $0 |
| 3571 | OR | To construct and enhance bikeway between Hood River and McCord Creek. | $500,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3572 | NY | To construct greenway along East River waterfront between East River Park (ERP) and Brooklyn Bridge, and reconstruct South entrance to ERP, in Manhattan . | $1,200,000 |
| 3573 | OR | Transportation enhancements at Eugene Depot, Eugene | $1,000,000 |
| 3574 | OR | U.S. 101 Slide Repair, Curry County | $2,895,200 |
| 3575 | OR | U.S. Hwy. 20 and Airport Road Intersection Improvements, Lebanon | $837,000 |
| 3576 | IL | Upgrade 31st Street and Golfview Rd intersection and construct parking facilities, Brookfield | $1,200,000 |
| 3577 | NJ | Weehawken Baldwin Avenue Improvements . | $1,600,000 |
| 3578 | WA | Widen SR 503 through Woodland | $1,000,000 |
| 3579 | | | $0 |
| 3580 | NC | Expand Derita Road | $1,600,000 |
| 3581 | IL | Construct Rt 3 Loop Hog Hollow Road to Monsanto Road, St. Clair County | $600,000 |
| 3582 | NY | Planning and design, construction, and relocations for Southtowns Connector - NY Route 5 from Coast Guard Base to Ohio Street, including Fuhrmann Boulevard | $800,000 |
| 3583 | | | $0 |
| 3584 | NY | Implement a roadway evacuation study for the South Shore of Long Island, Mastic . | $800,000 |
| 3585 | NY | Improve Brooksite Dr. from NY 25/25A to Rt. 347, Smithtown | $720,000 |
| 3586 | NY | Improve Clover Ln. from Bay Ave to Bay Rd, hamlet of Brookhaven | $216,000 |
| 3587 | | | $0 |
| 3588 | NY | Improve Dare Rd from Old Town Rd to Rt. 25, Selden . | $352,000 |
| 3589 | | | $0 |
| 3590 | NY | Improve intersection of Old Dock and Church Street, Kings Park | $100,000 |
| 3591 | | | $0 |
| 3592 | NY | Improve Old Town Rd from Rt 347 to Slattery Rd, Setauket | $336,000 |
| 3593 | NY | Improve Old Willets Path from NY 454 to Rabro Dr., Smithtown | $812,000 |
| 3594 | NY | Improve Pipe Stave Hollow Rd. to Harbor Beach Rd., Miller Place . | $200,000 |
| 3595 | IL | Reconstruction and Improvement of North Lincoln Ave, O'Fallon | $1,339,996 |
| 3596 | IL | Reconstruction of 20th Street, Granite City . | $1,200,000 |
| 3597 | IL | Road Alignment from Caseyville Road to Sullivan Drive, Swansea | $900,000 |
| 3598 | NY | Road Improvements Hamlet of Medford, Town of Brookhaven | $400,000 |
| 3599 | NY | Road improvements, Hamlet of Gordon Heights, Town of Brookhaven . | $344,000 |
| 3600 | NY | Road improvements, Village of Patchogue | $1,200,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 3601 | NY | Roadway improvements, hamlet of Mastic Beach . | $320,000 |
| 3602 | IL | | $0 |
| 3603 | NY | WLIU Public Radio Emergency and Evacuation Transportation Information Initiative, Southampton | $900,000 |
| 3604 | UT | Reconstruct 500 West, including pedestrian and bicycle access, in Moab | $250,000 |
| 3605 | PA | Construct improvements to Chambers Hill Road and Lindle Road (S.R. 441) at its intersections with Interstate 283 and Eisenhower Boulevard | $800,000 |
| 3606 | PA | Construct Regional Trail, Muhlenberg Township | $600,000 |
| 3607 | PA | Rail Crossing signalization upgrade, Main Street, Lyons Station, Berks County | $165,040 |
| 3608 | PA | Rail Crossing signalization upgrade at Hill Road, Township of Blandon, County of Berks | $165,040 |
| 3609 | PA | Safety improvements at Liberty Street intersection with PA Route 61 in W. Brunswick and N. Manheim Twp., Schuylkill County . | $1,524,560 |
| 3610 | PA | Replace Stossertown Bridge (Main Street) over West Creek in Branch Township, Schuylkill County | $400,000 |
| 3611 | PA | Replace bridge over Little Mahantongo Creek at intersection of Hepler and Valley Roads in Upper Mahantongo Twp., Schuylkill County | $200,000 |
| 3612 | PA | Replace Union Street Bridge over Middle Creek in the borough of Tremont, Schuvlkill County | $400,000 |
| 3613 | PA | Replace Burd St. Bridge over Amtrak and Norfolk Southern railroad tracks in the Borough of Royalton, Dauphin County | $400,000 |
| 3614 | PA | Hummelstown Borough, PA for intersection and pedestrian realignment and drainage . | $1,600,000 |
| 3615 | MN | City of Moorhead Southeast Main GSI 34th Street and I–94 interchange | $1,600,000 |
| 3616 | MN | Paynesville Highway 23 Bypass | $1,600,000 |
| 3617 | AR | Construction of I–530 between Pine Bluff and Wilmer . | $32,000,000 |
| 3618 | NY | Conduct study to develop regional transit strategy in Herkimer and Oneida counties | $80,000 |
| 3619 | NY | Improve Town weatherization capabilities on Tucker Drive, Poughkeepsie, NY | $200,000 |
| 3620 | NY | Bedell Road improvements, Poughkeepsie, NY | $104,000 |
| 3621 | NY | Land acquisition and improvements on Main Street, Beacon, NY | $400,000 |
| 3622 | NY | Construction of sidewalks in Sugar Loaf | $80,000 |
| 3623 | CT | I-84 Expressway Reconstruction from Waterbury to Southbury | $1,200,000 |
| 3624 | DC | Road and trail reconstruction and drainage improvements (APHCC) | $480,000 |
| 3625 | GA | Central Hall Recreation and Multi-Use Trail, Hall County, GA | $1,600,000 |
| 3626 | OH | Land acquisition for construction of pedestrian and bicycle trails at Mentor Marsh in Ohio | $560,000 |
| 3627 | OH | Design and construct road enhancements Andrews Road and Lakeshore Blvd in Mentor on-the-Lake, OH | $240,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 3628 | OH | Design and construct road enhancements Cleveland Port Authority in Cleveland, Ohio | $2,500,000 |
| 3629 | LA | Red River National Wildlife Refuge Visitor Center | $2,400,000 |
| 3630 | TN | For the advancement of project development activities for SR–33 from Knox County Line to SR–61 at Maynardville, TN | $1,600,000 |
| 3631 | CA | To convert a railroad bridge into a highway bridge spanning over the Feather River between Yuba City and Marysville | $4,000,000 |
| 3632 | | | $0 |
| 3633 | GA | Construction of interchange on I-985 north of SR-13, Hall County, Georgia | $800,000 |
| 3634 | | | $0 |
| 3635 | | | $0 |
| 3636 | | | $0 |
| 3637 | CA | Planning design and construction to widen SR in Kern, CA between San Luis Obispo County Line and I-5 | $92,000,000 |
| 3638 | | | $0 |
| 3639 | | | $0 |
| 3640 | GA | Design and Construct Railroad Grade Crossing Gates in Acworth, GA | $300,000 |
| 3641 | | | $0 |
| 3642 | KS | Northwest Bypass between K96 and 119th Street West | $1,600,000 |
| 3643 | | | $0 |
| 3644 | IL | State Rt. 78 to Lathrop Street to 2900 E (Township Road) - A 1.5 mile village street extension, bridges, and upgrading of existing street | $1,840,000 |
| 3645 | | | $0 |
| 3646 | | | $0 |
| 3647 | | | $0 |
| 3648 | | | $0 |
| 3649 | CA | Increase Capacity on I-80 between Sacramento/Placer County Line and SR 65 | $21,600,000 |
| 3650 | IL | Bloomington-Normal East Side Highway Corridor | $800,000 |
| 3651 | | | $0 |
| 3652 | OH | Morse Road Corridor Improvements, Phase II, Columbus | $800,000 |
| 3653 | | | $0 |
| 3654 | | | $0 |
| 3655 | | | $0 |
| 3656 | | | $0 |
| 3657 | | | $0 |
| 3658 | | | $0 |
| 3659 | | | $0 |
| 3660 | MI | Holland, Michigan, Construct River Avenue Corridor Improvements | $2,320,000 |
| 3661 | | | $0 |
| 3662 | | | $0 |
| 3663 | | | $0 |
| 3664 | | | $0 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3665 | | | $0 |
| 3666 | | | $0 |
| 3667 | | | $0 |
| 3668 | | | $0 |
| 3669 | | | $0 |
| 3670 | KY | Central Kentucky Multi-Highway Preservation Project (plus-up) | $460,000 |
| 3671 | KY | The Kentucky Multi-Highway Preservation Project (plus-up) | $320,000 |
| 3672 | AZ | Pave remaining stretch of the Turquoise Trail, BIA Route 4, which is a north-south road that joins AZ HW 160 in the north to AZ HW 264 in the south portion of BIA Route 4 . | $1,600,000 |
| 3673 | AK | Improve marine intermodal facilities in Ketchikan | $14,000,000 |
| 3674 | DC | Highway improvements to improve access to the Kennedy Center . | $4,000,000 |
| 3675 | KY | Construct two bridges across the Ohio River from Louisville to southern Indiana (plus-up) | 10,000,000 |
| 3676 | OR | TransPacific Parkway Realignment Project, Coos County | $350,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3677 | AK | Planning, Design and Construction of Knik Arm Bridge | $28,425,000 |
| 3678 | AK | Intermodel facility improvements at the Port of Anchorage | $25,000,000 |
| 3679 | AK | Upgrade city roads and construct a road and acquire a hovercraft to transit the bay between King Cove and Cold Bay in King Cove | $3,700,000 |
| 3680 | AK | Municipal Road Paving - Kotzebue | $2,000,000 |
| 3681 | AK | Various Road Improvements in Petersburg | $2,000,000 |
| 3682 | AK | Construction and Improvements at Alaska Pacific University | $3,000,000 |
| 3683 | AK | Various road improvements in the City of Kenai | $1,000,000 |
| 3684 | AK | Float Plane Road in Aleknagik | $1,000,000 |
| 3685 | AK | Olympic Circle road paving in Gridwood | $500,000 |
| 3686 | AK | Coffman Cove road paving in Coffman Cove | $375,000 |
| 3687 | AK | Port Saint Nicholas road improvements in Craig | $3,000,000 |
| 3688 | AK | Construction of a road between Lake Lucille and Big Lake in Matanuska-Sustina Borough | $2,000,000 |
| 3689 | AK | Hatcher Pass Ski Development Road in Matanuska-Sustina Borough | $1,000,000 |
| 3690 | AK | Access roads for the Barrow Arctic Research Center in Barrow | $3,000,000 |
| 3691 | AK | Intermodal ferry dock in Hoonah | $2,000,000 |
| 3692 | AK | Construction of relocation road in Shishmaref | $5,000,000 |
| 3693 | AK | Improvements to Lake Camp Road in Bristol Bay Borough | $3,000,000 |
| 3694 | AK | Study on the feasibility of constructing a natural gas pipeline from the North Star Borough to South Central Alaska along the existing transportation corridors | $2,000,000 |
| 3695 | AK | Soldotna: Keystone Drive Road improvements in Soldotna | $3,000,000 |
| 3696 | AK | Metlakatla: Walden Point Road | $5,000,000 |
| 3697 | AK | Anchorage: Traffic Congestion Relief | $5,000,000 |
| 3698 | AK | Bristol Bay: Transportation improvements to the access road and a bridge crossing at the Naknek River | $3,000,000 |
| 3699 | AK | Statewide: Road culvert replacement and repair to improve fish habitat | $5,000,000 |
| 3700 | AK | Construction of a ferry between Anchorage and Port MacKenzie | $5,000,000 |
| 3701 | AK | Aleknagik: Wood River Bridge, or design, engineering, permitting, and construction | $3,000,000 |
| 3702 | AK | Chignik: Inter-Village Road, for design, engineering, permitting, and construction | $5,000,000 |
| 3703 | AK | Kotzebue: Cape Blossom Road, for design, engineering, permitting, and construction | $5,000,000 |
| 3704 | AK | Fairbanks: Tanana River Bridge replacement, for design, engineering, permitting, and construction | $5,000,000 |
| 3705 | AK | Transportation Improvements in Cook Inlet for the Westside development/Williamsport-Pile Bay Road | $2,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3706 | AK | Fairbanks/North Star Borough: Road improvements to service roads and other misc. | $5,000,000 |
| 3707 | AK | Upgrades for Road Access to McCarthy, AK, for design, engineering, permitting, and construction | $5,000,000 |
| 3708 | AK | Upgrades on the Dalton Highway, for design, engineering, permitting, and construction | $4,500,000 |
| 3709 | AK | Kotzebue: Municipal Road Paving Project | $2,000,000 |
| 3710 | AK | Crooked Creek: Road to Donlin Mine, for design, engineering, permitting, and construction | $2,000,000 |
| 3711 | AK | Kenai: Borough road improvements | $2,500,000 |
| 3712 | AK | Wrangell: Road improvements, | $4,000,000 |
| 3713 | AK | Petersburg: Road improvements, including but not limited to design, engineering, permitting, and construction | $1,500,000 |
| 3714 | AK | Ketchikan: Improve marine dry-dock and facilities | $2,000,000 |
| 3715 | AK | Southeast: Planning, design, and EIS of Bradfield Canal Road | $2,000,000 |
| 3716 | AK | Gustavus: Dock replacement for the Alaska Marine Highway | $3,000,000 |
| 3717 | AK | Upgrades on the Richardson Highway, including but not limited to design, engineering, permitting, and construction | $4,500,000 |
| 3718 | AK | Bethel: Dust Control Mitigation for Rural Roads | $1,500,000 |
| 3719 | AK | Nome: Dust Control Mitigation for Rural Roads | $1,500,000 |
| 3720 | AK | Sitka: Improvements to Indian River Road, including but not limited to design, engineering, permitting, and construction | $500,000 |
| 3721 | AK | Anchorage: handicapped and pedestrian access construction, surfacing and other improvements for 2006 National Veterans' Wheelchair Games | $2,000,000 |
| 3722 | AK | Statewide: Mobility coalition--job access transportation | $250,000 |
| 3723 | AK | AK-North Pole: Homestead Road/North Pole High School Boulevard Extension Project | $500,000 |
| 3724 | AK | Fairbanks: O'Connor Road Bridge Replacement | $250,000 |
| 3725 | AK | Anchorage: Transportation Improvements to the Creekside development | $3,000,000 |
| 3726 | AK | Anchorage: Dimond Center Intermodal Facility, including but not limited to design, engineering, permitting, and construction | $2,500,000 |
| 3727 | AK | Anchorage: Transportation needs for Glacier/Winner Creek Development | $1,000,000 |
| 3728 | AL | Preliminary Engineering, Design, ROW Acquisition and Construction of the Tuscaloosa Bypass | $25,000,000 |
| 3729 | AL | Preliminary Engineering, Design, ROW Acquisition and Construction of the I-10 Connector | $15,000,000 |
| 3730 | AL | Preliminary Engineering, Design, ROW Acquisition and Construction of the I-85 Extension | $50,000,000 |
| 3731 | AL | To construct approximately 13 mile four lane thoroughfare to connect the Foley Beach Express to Interstate 10.Highway 83 Baldwin County | $18,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3732 | AL | To construct a new interchange on I-85 at Beehive Road in Auburn, AL | $18,000,000 |
| 3733 | AL | To widen Highway 84 to 4 lanes west of I-65 from Evergreen to Monroeville and beyond to the Alabama state line | $4,000,000 |
| 3734 | AL | I-65 Widening from U.S. 31 in Alabaster (exit 238) to AL 25 in Calera (exit 228) | $5,000,000 |
| 3735 | AR | Northeast Arkansas Connector (relocation of Highway 226) | $10,600,000 |
| 3736 | AR | Interchange Modification to I-430/I-630 | $15,000,000 |
| 3737 | AR | Hot Springs Extension, East-West Arterial: Highway 70 to Highways 5/7 | $10,000,000 |
| 3738 | AR | Caraway Bridge Overpass | $1,800,000 |
| 3739 | AR | Highway 67: Kiehl Avenue--Vandenberg Boulevard: rehabilitating and widening Highway 67 from four to six lanes from Kiehl Ave to Vandenberg Blvd | $4,000,000 |
| 3740 | AR | Improve State HWY 88 (Higdon Ferry Road) in Hot Springs | $3,000,000 |
| 3741 | AR | I-40-Highway 89 Interchange Planning and Construction | $3,000,000 |
| 3742 | AR | Conway, AR Western Loop--for engineering, rights-of-way, relocations, and continued planning and design | $2,000,000 |
| 3743 | AR | Develop a railroad overpass connecting U.S. Highway 67 and U.S. Highway 371 in Prescott | $528,000 |
| 3744 | AR | Highway 77 Rail Grade Separation in Marion | $3,000,000 |
| 3745 | AR | Maumelle Interchange--for third entrance into Maumelle | $1,500,000 |
| 3746 | AR | Rogers--Construct new interchange on I-540 near the existing Perry Road overpass | $3,372,000 |
| 3747 | AR | Construction of I-49, Highway 71: Highway 22 to Highway 71 near Jenny Lind | $1,000,000 |
| 3748 | AR | Highway 165: Railroad Overpass Construction | $2,000,000 |
| 3749 | AR | Improve Highway 412: Baxter Co. to Ash Flat | $1,000,000 |
| 3750 | AR | Highway 412 Relocation: Paragould South Bypass | $1,000,000 |
| 3751 | AR | Widening of Highway 65/82: Pine Bluff-Greenville Bridge | $2,000,000 |
| 3752 | AR | Highway 167 Widening: Fordyce to Sheridan Bypass | $2,000,000 |
| 3753 | AR | Ft. Smith: Improvements to Jenny Lind Rd. and Ingersoll | $1,200,000 |
| 3754 | AR | Van Buren--Widen and reconstruct Rena Road | $600,000 |
| 3755 | AR | Russellville Intermodal Facility: construct access roads from AR Hwy 247, purchase Right-of-Way | $400,000 |
| 3756 | AR | Springdale--Improvements to Johnson Road from Hwy 412 to I-540 through Springdale and Johnson | $7,000,000 |
| 3757 | AR | Construct and rehabilitate Fayetteville Expressway Economic Development Corridor | $4,000,000 |
| 3758 | AR | Construct and rehabilitate University of Arkansas Technology Corridor Enhancement Project | $2,000,000 |
| 3759 | AR | Develop U.S. Highway 71 (I-49) to Interstate standards on new location between Mena, AR and LA state line | $3,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3760 | AZ | Arizona Department of Transportation; for those projects it has identified as its highest priorities | $41,335,473 |
| 3761 | AZ | Replacement of Safford Bridge which crosses the Gila River directly north of Safford, AZ on North 8th Avenue | $3,664,527 |
| 3762 | CA | Widen Highway 101 in Marin and Sonoma Counties from Hwy 37 in Novato to Old Redwood Highway in Petaluma | $15,000,000 |
| 3763 | CA | Construct Hwy 101 bicycle-pedestrian project in Marin and Sonoma Counties from north of Atherton Ave to south of Petaluma River bridge | $500,000 |
| 3764 | CA | ITS and Intersection Improvements, LAX | $1,000,000 |
| 3765 | CA | Complete Monterey Bay Sanctuary Scenic Trail between Monterey and Santa Cruz counties | $1,000,000 |
| 3766 | CA | Airport Boulevard Interchange Improvements, Salinas and Vicinity, Montery County | $4,000,000 |
| 3767 | CA | Improvements to Bay Road and Northern Access (City of East Palo Alto) | $6,000,000 |
| 3768 | CA | Compton Arterial Reconstruction and Improvement Program, Compton | $2,500,000 |
| 3769 | CA | University Avenue Overpass: Construction of bicycle and pedestrian lanes - East Palo Alto | $2,000,000 |
| 3770 | CA | Sealing unpaved roads in Calaveras County | $1,000,000 |
| 3771 | CA | Mission Boulevard/State Route 71 Interchange--Corridor Improvements in Pomona | $3,000,000 |
| 3772 | CA | Construct Bristol Street multi-modal corridor in Santa Ana | $1,000,000 |
| 3773 | CA | Reconstruct I-710 Interchanges at I-405, at SR91, and at I-105 | $5,500,000 |
| 3774 | CA | Riverside Highway Grade Separation | $5,000,000 |
| 3775 | CA | Hunts Lane Rail Grade Separation, San Bernardino | $5,000,000 |
| 3776 | CA | Construct truck lane from Britannia Blvd. to the Otay Mesa Port of Entry, San Diego County | $3,000,000 |
| 3777 | CA | Park Boulevard-Harbor Drive Rail Grade Separation, San Diego | $2,000,000 |
| 3778 | CA | Virginia Corridor Rails to Trails: Reconstruct Union Pacific Right of Way to bicycle and pedestrian trail, City of Modesto, Stanislaus County | $3,000,000 |
| 3779 | CA | Construct bicycle and pedestrian trail between Port Costa and Martinez as part of the San Francisco Bay Trail, Contra Costa County | $1,000,000 |
| 3780 | CA | Improve air quality in the Sacramento region, Sacramento Area Council of Governments | $5,000,000 |
| 3781 | CA | Builds a pedestrian bridge from Hiller Street to the Bay Trail, Belmont | $1,000,000 |
| 3782 | CA | Plan and improve Orange County's transportation system to reduce congestion, Orange County Council of Governments | $1,000,000 |
| 3783 | CA | Construct 20 mile managed lanes on Interstate 15 between State Route 163 and State Route 78 (San Diego) | $5,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3784 | CA | Design and construct access improvements in North Central Business District, Sacramento | $2,000,000 |
| 3785 | CA | Modify I-880 & Stevens Creek Boulevard Interchange to ease traffic congestion in San Jose | $3,000,000 |
| 3786 | CA | Construction of Cross Valley Connector between I-5 and SR 14 | $5,000,000 |
| 3787 | CA | I-680: Construct High Occupancy Toll Lanes in Alameda County | $2,000,000 |
| 3788 | CA | Interchange Improvements: Laval and I-5, City of Lebec | $4,000,000 |
| 3789 | CA | Planning, design, engineering and construction of Naval Air Station, North Island access tunnel on SR 75-282 corridor, San Diego | $5,000,000 |
| 3790 | CA | ITS Improvements - City of Pasadena | $2,000,000 |
| 3791 | CA | Construct Interchange at Harbor Blvd and I-80 in West Sacramento | $1,000,000 |
| 3792 | CA | Road and Signage Improvements, Southeast corner of Tahquitz Canyon Way and Hermosa Drive, Agua Caliente Museum, Palm Springs | $500,000 |
| 3793 | CA | To improve California Avenue between Willow and Spring Streets, Long Beach | $1,000,000 |
| 3794 | CA | For Environmental Review Process at I-5 Interchanges, Stockton, North Grove, Eight Mile Road, Otto Drive, Hammer Lane | $500,000 |
| 3795 | CA | Folsom Boulevard Corridor Transportation Enhancements, between Rod Beaudry Drive and Sunrise Boulevard, City of Rancho Cordova | $1,000,000 |
| 3796 | CA | Construct I-80 HOV lanes and interchange in Vallejo | $2,000,000 |
| 3797 | CA | Alameda Corridor SR 47 Port Access Expressway design | $2,000,000 |
| 3798 | CA | Rehabilitation, repair and/or reconstruction of deficient two-lane roads that connect to Interstate 5, SR 180, SR 41 and SR 99 countywide, Fresno County | $1,500,000 |
| 3799 | CA | Improvement of intersection at Aviation Blvd. and Rosecrans Ave. to reduce congestion (El Segundo) | $2,000,000 |
| 3800 | CA | Improvements/Widening of SR 99 from Goshen to Kingsbury in Tulare County, California | $8,000,000 |
| 3801 | CA | Modesto, Riverbank & Oakdale, CA Improve SR 219 to 4-lanes | $4,000,000 |
| 3802 | CA | Improvements of State Route 4 in Calaveras County between Stockton and Angels Camp | $1,000,000 |
| 3803 | CA | Expansion of Kelseyville/Lower Lake Expressway in Lake County | $5,000,000 |
| 3804 | CA | Widening of State Route 156 in Monterey between Castroville and US 101 | $5,000,000 |
| 3805 | CA | Planning, design, and preliminary engineering of on/off ramp system at intersection of I-10 and Robertson/National Boulevards in Culver City | $2,000,000 |
| 3806 | CA | Construct eastern loop of Campus Parkway in Merced | $2,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3807 | CA | Diesel Emission Reduction Program of South Coast Air Quality Management District | $2,000,000 |
| 3808 | CA | Replace South Access to the Golden Gate Bridge--Doyle Drive | $6,000,000 |
| 3809 | CO | Transportation Improvements to I-70/Havana/Yosimite Interchange | $3,000,000 |
| 3810 | CO | Transportation Improvements to Wadsworth & US 36 Interchange in Broomfield | $2,000,000 |
| 3811 | CO | Transportation Improvements to Wadworth Bypass (Grandview Grade Separation) | $3,000,000 |
| 3812 | CO | Transportation Improvements to US 287, Ports-to-Plains Corridor | $2,000,000 |
| 3813 | CO | Transportation Improvements to I-70 & SH 58 Interchange | $5,000,000 |
| 3814 | CO | Transportation Improvements to Powers Blvd & Woodman Road Interchange | $8,000,000 |
| 3815 | CO | Transportation Improvements to I-25 South, Douglas/Arapahoe Co. line to El Paso Co. | $5,000,000 |
| 3816 | CO | Transportation Improvements to US 36 Corridor | $4,000,000 |
| 3817 | CO | Transportation Improvements to US 24 – Tennessee Pass | $2,000,000 |
| 3818 | CO | Transportation Improvements to Bromley Lane & US 85 Interchange | $1,000,000 |
| 3819 | CO | Transportation Improvements to 104th & US 85 Intersection | $1,000,000 |
| 3820 | CO | Transportation Improvements to I-25 North, Denver to Ft. Collins | $4,000,000 |
| 3821 | CO | Transportation Improvements to I-70 East Multimodal Corridor (Highway Portion) | $2,000,000 |
| 3822 | CO | Transportation Improvements to Parker & Arapahoe Road Interchange | $2,000,000 |
| 3823 | CO | Transportation Improvements to I-225, Parker Road to I-70 | $6,000,000 |
| 3824 | CO | Transportation Improvements to I-70 West Mountain Corridor, Denver to Garfield Co. | $3,000,000 |
| 3825 | CO | Transportation Improvements to I-76 – Northeast Gateway | $3,000,000 |
| 3826 | CO | Transportation Improvements to C470 & US 85 Interchange | $2,000,000 |
| 3827 | CO | Transportation Improvements to Wadsworth & Bowles Intersection | $2,000,000 |
| 3828 | CO | Transportation Improvements to US 160 – SH 3 to the Florida River | $2,000,000 |
| 3829 | CO | Transportation Improvements to US 160, Wolf Creek Pass | $4,000,000 |
| 3830 | CO | Transportation Improvements to 56th Avenue & Quebec Street | $4,000,000 |
| 3831 | CO | US 287 - Ports to Plains - Reconstruction of Existing Roadways/Expansion to Four Lanes/Concrete | $5,000,000 |
| 3832 | CO | US 160 - Wolf Creek Pass: widen lanes and shoulders | $5,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3833 | CO | US 36 - Widen lanes and construct new interchanges | $5,000,000 |
| 3834 | CO | Fort Carson: I-25 and Highway 12 - improvements and upgrades of interchange and renovation to handle increased capacity | $5,000,000 |
| 3835 | CO | US 50 East - Pueblo to Kansas Border - road widening and improvements | $5,000,000 |
| 3836 | CO | Heartland Expressway improvements | $5,000,000 |
| 3837 | CO | I-25 North Denver to Fort Collins - improved interchanges and road construction | $5,000,000 |
| 3838 | CO | Pueblo Dillon Drive at I-25 overpass and ramp - Construction of a Dillon Drive overpass and ramp connections to I-25 | $2,000,000 |
| 3839 | CO | Denver Union Station - renovations | $3,000,000 |
| 3840 | CO | Improvements to 56th Avenue from Quebec St to Havana St and to Quebec St from I-70 to 56th Ave in Denver | $5,000,000 |
| 3841 | CT | Undertake road improvements associated with Coltsville Area Redevelopment, Hartford | $7,000,000 |
| 3842 | CT | Upgrade Mark Twain Drive, Hartford | $1,750,000 |
| 3843 | CT | Realign, widen, and reconstruct Arch Street and connect pedestrian walkways to Constitution Plaza in Hartford | $2,000,000 |
| 3844 | CT | Construct Farmington Canal Greenway enhancements in New Haven, Connecticut and connect Greenway to waterfront at Longwharf Pier | $3,500,000 |
| 3845 | CT | Land acquisition, remediation, improvements and construction for ferry-highway-rail terminal at junction of Interstates 91 and 95 adjacent to East Street and Forbes Avenue in New Haven | $5,000,000 |
| 3846 | CT | Planning, design, engineering and improvements converting Route 34 highway between I-95 and Park Street with corresponding site recovery in New Haven | $5,000,000 |
| 3847 | CT | Construct terminal facilities in Bridgeport for high-speed ferry | $3,000,000 |
| 3848 | CT | Restructure and widen Seaview Avenue in Bridgeport, to accommodate future developments | $2,000,000 |
| 3849 | CT | Construction of Intermodal Transportation facility in Bridgeport | $5,000,000 |
| 3850 | CT | Design and widen Route 34 in Derby | $2,000,000 |
| 3851 | CT | Streetscape and pedestrian-oriented improvements to and around Campbell Avenue in West Haven | $2,000,000 |
| 3852 | CT | Construct high-speed ferry terminal in Stamford, Connecticut to facilitate transportation between Connecticut and New York | $2,000,000 |
| 3853 | CT | Construct walking bridge and trail connecting Mill River Revitalization Project with west side of river in Stamford | $1,500,000 |
| 3854 | CT | Relocate Route 72 in Bristol | $3,800,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3855 | CT | Reconfigure four rail underpasses in Stamford, Connecticut to accommodate commuter and commercial traffic | $7,000,000 |
| 3856 | CT | Upgrade Storrs Road in Mansfield, Connecticut and accompanying streetscape to improve safety and mitigate congestion | $2,500,000 |
| 3857 | CT | Improve roads for Norwalk-Center - West Avenue Corridor Municipal Development Plan area and the Academy Street Extension Project in Norwalk | $2,000,000 |
| 3858 | CT | Construct improvements and upgrades to riverwalk in Ansonia | $2,000,000 |
| 3859 | CT | Replace existing parking garage in Middletown, with four-story, handicapped accessible parking garage. | $8,000,000 |
| 3860 | CT | Acquire and develop Rails-to-Trails project in park next to Willimantic River in Windham | $2,000,000 |
| 3861 | CT | Construct access drive to Reidsville Industrial Park in Waterbury | $4,000,000 |
| 3862 | CT | Design and construct Quinnipiac River Linear Trail in Meriden | $1,000,000 |
| 3863 | CT | Fund University of Connecticut for improving air quality and reducing emissions | $1,000,000 |
| 3864 | CT | Construct Farmington Canal Greenway, City of New Haven and City of Hamden | $3,750,000 |
| 3865 | CT | Refurbish and upgrade Powder Hollow bridge connecting State Route 190 and Interstate 91 in Enfield | $200,000 |
| 3866 | CT | Construct and expand roads to relieve congestion on Route 6 between Commerce Road and I-84 in Newtown | $2,000,000 |
| 3867 | CT | Construct pedestrian and vehicular access road to Riverfront Park in Glastonbury | $250,000 |
| 3868 | CT | Widen Route 82 in Norwich | $1,000,000 |
| 3869 | CT | Extend Rails-to-Trails project from Southington to Chesire | $250,000 |
| 3870 | CT | Reconstruct Pearl Harbor Memorial Bridge, New Haven | $10,000,000 |
| 3871 | CT | Widen Interstate 95 between Branford and North Stonington | $7,500,000 |
| 3872 | CT | Widen Interstate 84 between Danbury and Waterbury | $7,500,000 |
| 3873 | CT | Make Improvements to South Maple Street Bridge in Enfield | $1,000,000 |
| 3874 | CT | Widen Route 34, Derby | $1,000,000 |
| 3875 | CT | Construct and Widen Stamford Rail Underpass & Road Realignment Project | $1,000,000 |
| 3876 | CT | Reconstruct and widen Homer St and Chase Ave in Waterbury from Waterville Avenue to Nottingham Terrace | $1,000,000 |
| 3877 | CT | Make Improvements to Groton Bicycle and Pedestrian Trails and Facilities | $750,000 |
| 3878 | CT | Street and streetscape improvements along Campbell Ave., West Haven | $750,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3879 | CT | Construct New Arterial Roadway from Boston Avenue North to proposed Lake Success Business Park in Bridgeport | $750,000 |
| 3880 | CT | Make Improvements to Plainfield Moosup Pond Road | $500,000 |
| 3881 | CT | Construct UCONN Storrs Campus-Hillside Road | $500,000 |
| 3882 | CT | Construct Shoreline Greenway Trail, Guilford, Banford, East Haven | $250,000 |
| 3883 | DE | Improve Access to the Wilmington Riverfront from I-95 including Design and Construction of an Interchange and Street Grid Redesign | $20,000,000 |
| 3884 | DE | Replacement of the Indian River Inlet Bridge, Sussex County | $41,400,000 |
| 3885 | DE | Reconstructing I-95/SR-1 interchange, adding a fifth lane, and replacing toll plaza on Delaware's portion of I-95 corridor | $20,000,000 |
| 3886 | DE | City of Dover Transportation and Community and System Preservation | $1,000,000 |
| 3887 | DE | Wilmington Train Station Restoration | $6,500,000 |
| 3888 | DE | Replacement of the Lake Gerar Bridge in Rehoboth Beach | $1,600,000 |
| 3889 | DE | Wyoming Mill Road Realignment, Dover | $1,500,000 |
| 3890 | DE | Replacement of the Woodland Ferry on the Naticoke River between Seaford and Laurel | $2,500,000 |
| 3891 | DE | Hydrogen Storage Research at Delaware State University in Dover | $2,000,000 |
| 3892 | DE | Northeast Corridor Commuter Rail Project from Wilmington to Newark | $5,000,000 |
| 3893 | DE | Replacement of Railroad Crossings in Wilmington and Marshallton | $1,500,000 |
| 3894 | DE | Rehabilitate Auto Tour Route at the Bombay Hook National Wildlife Refuge | $5,000,000 |
| 3895 | DE | Improve Pedestrian and Bicycle Access at the University of Delaware in Newark | $1,000,000 |
| 3896 | DE | Replacement of Fixed Route Transit Buses | $3,000,000 |
| 3897 | DE | Enhance and expand the DelTrac Integrated Transportation Management System | $3,000,000 |
| 3898 | FL | I-75 Widening and Improvements in Collier and Lee County, Florida | $15,000,000 |
| 3899 | FL | Sand Lake Road Improvements between President's Drive and I-4 | $9,000,000 |
| 3900 | FL | Construction of Gulf Coast Parkway, Gulf County/Port St. Joe with Bay County/Panama City | $10,000,000 |
| 3901 | FL | Improvements to Jacksonville International Airport Access Road to I-95, Jacksonville | $1,000,000 |
| 3902 | FL | New systems interchange ramps at SR 417 and Boggy Creek Road in Orange County, Florida | $2,000,000 |
| 3903 | FL | Widening(Four lanes) of SR 87 North from Whiting Field to the Alabama border | $4,000,000 |
| 3904 | FL | Widen SR 710 by two lane from Congress Avenue to US 1 | $600,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3905 | FL | Widen Palm Coast Parkway and I-95 Interchange and overpass, Flagler County, Florida | $1,000,000 |
| 3906 | FL | Construction of new multi-lane tunnel below the channel to link the Port of Miami on Dodge Island with I-395 on Watson Island and I-95 in Downtown Miami | $1,000,000 |
| 3907 | FL | Construct Flagler Avenue Improvements, City of Key West, Florida | $500,000 |
| 3908 | FL | Improvements to SR 52 in Pasco County, FL | $800,000 |
| 3909 | FL | Four-Laning SR 281 (Avalon Boulevard) in Santa Rosa County from I-10 to north of CSX RR Bridge | $3,000,000 |
| 3910 | FL | Widen SR 80, Hendry County | $3,000,000 |
| 3911 | FL | Construct new bridge from West Florida Turnpike to CR 714 to 36th Street--cross S. Fork of St. Lucie River--Indian Street to US 1 on east side | $1,000,000 |
| 3912 | FL | Construction of four lane highway around Jacksonville connecting US 1 to Route 9A | $2,000,000 |
| 3913 | FL | Expansion of Capital Circle, NW/SW (SR263) from Tallahassee Regional Airport to Interstate 10 | $1,100,000 |
| 3914 | FL | Construct a I-4 crosstown connector in Hillsborough from I-4 to Port of Tampa | $8,200,000 |
| 3915 | FL | Gulf Coast Parkway--Design, engineering, and construction of a two-lane Gulf Coast/US 98 bypass | $8,000,000 |
| 3916 | FL | City of Hollywood, US RT 1 Young Circle Safety Improvements | $1,000,000 |
| 3917 | FL | City of Miami Greenway Roadway, Construction and design of Miami Greenway Road Improvements and 5th ST improvements | $1,000,000 |
| 3918 | FL | Orlando, Lake County, Widen to four lanes State Road 50 from US 27 to Orange County Line, with interchange US 27 | $5,000,000 |
| 3919 | FL | Gainesville, Alachua County, Improve North-South corridor between Archer Rd. & Newberry Rd. to provide congestion relief to I-75 corridor, SR 21, SR 24, SR 26 | $1,500,000 |
| 3920 | FL | I-75 improvements, Widen to six lanes I-75 from Golden Gate Parkway in Collier County to Daniels Parkway in Lee County | $8,500,000 |
| 3921 | FL | Orlando, Church Street, Design and re-construction of the segment of Church Street from Terry Avenue to Westmoreland in Parramore Neighborhood | $5,800,000 |
| 3922 | FL | West Palm Beach, Construction of US 1, Flagler Drive Waterfront Redevelopment and Traffic Calming Project. | $2,000,000 |
| 3923 | FL | Leon County FL: Capital Circle, NW/SW, Widen Capital Circle, NW/SW to 4 lanes from I-10 to West US 90 | $7,000,000 |
| 3924 | FL | Snake Road, Improvements, Widen and improve Snake Road (BIA 1281) in Hendry and Broward Counties | $2,000,000 |
| 3925 | GA | HWY 78 Corridor Improvement Gwinnett County | $4,000,000 |
| 3926 | GA | Transportation Improvements to I-285 interchange at Atlanta Rd. Cobb Co. | $18,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3927 | GA | Queens Road widening and reconstruction Cobb Co. | $1,500,000 |
| 3928 | GA | Widening Cedarcrest Rd. from Paulding Co. to Governor's Towne | $500,000 |
| 3929 | GA | City of Duluth sidewalk and streetscape improvements | $300,000 |
| 3930 | GA | East Hiram Parkway, from SR 92 to US 278, Paulding County new location | $1,000,000 |
| 3931 | GA | Transportation Improvements to US 84 Connector/Bypass from west of US 84/SR 119 west of Hinesville to US 84/SR 196 south of Flemington, Liberty County | $1,000,000 |
| 3932 | GA | Transportation Improvements to SR 746/SE Rome Bypass from SR101 US 411 Floyd Co. | $1,000,000 |
| 3933 | GA | Transportation Improvements to I-575 from I-75/Cobb north to Sixes Rd/Cherokee for HOV | $1,000,000 |
| 3934 | GA | Upgrade SR 316 from I-85 to SR 10 Loop, Gwinnett, Barrow, Oconee Counties new interchanges and HOV lanes | $1,000,000 |
| 3935 | GA | SR 204/Abercorn Street from King George Boulevard to Rio Road widening | $1,000,000 |
| 3936 | GA | SR 96 from I-75 to old Hawkinsville Road widening and reconstruction | $1,000,000 |
| 3937 | GA | SR40 from west of CR 61 to SR 25/US 17 widening | $1,000,000 |
| 3938 | GA | SR 247 Connector Improvements from SR 11/US 41 to SR 247, Warner Robbins widening and intersection | $2,000,000 |
| 3939 | GA | I-285/I-20 West - reconstruct interchange | $2,000,000 |
| 3940 | GA | Johnson Ferry Road/Glenridge Drive widening from Abernathy Road to Hammond Drive, Fulton County | $2,500,000 |
| 3941 | GA | SR 15 From Clayton City limits to North Carolina lane widening | $2,000,000 |
| 3942 | GA | SR 105 from Cannon Bridge Road to Walnut Street widening | $2,000,000 |
| 3943 | GA | SR 369 from Cherokee Circle to CR 267/Hightower Circle – Truck Lanes, Forsyth County passing lanes | $1,500,000 |
| 3944 | GA | SR 369 widening from SR 9 to SR 306 and interchange at SR 400, Forsyth County | $1,900,000 |
| 3945 | GA | Widen SR 20 from CR 293 to CS 5231, Forsyth County | $1,600,000 |
| 3946 | GA | Transportation Improvements to SR 306 at CR 65/Waldrip Road, Forsyth County | $2,200,000 |
| 3947 | GA | Transportation Improvements to US 411 Connector from US 41 to I-75, Bartow County | $2,000,000 |
| 3948 | GA | Construct access roads on Airport Loop road in Hapeville | $3,000,000 |
| 3949 | GA | Warren County I-20 Frontage Road | $5,000,000 |
| 3950 | GA | Kennesaw National Battlefield Park for land acquisition in carrying outviewshed protection and wildlife abatement | $3,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3951 | GA | State of Georgia road infrastructure improvements associated with capacity increases at statewide military installations | $10,000,000 |
| 3952 | GA | State Road 133, widening and improvements from Moultrie to Valdosta | $2,000,000 |
| 3953 | GA | Highway 78, improvements to 7 mile corridor, Snellville, GA Gwinnett county | $500,000 |
| 3954 | GA | Greene County, Conversion of I-20 and Carey Station Road to a full interchange | $800,000 |
| 3955 | GA | Southeastern Economic Alliance, Next Generation High Speed Rail Development | $2,000,000 |
| 3956 | GA | Commission a study and report regarding the construction and designation of a new route linking Savannah, Augusta, and Knoxville | $1,000,000 |
| 3957 | GA | Commission a study & report regarding construction & designation of a new Interstate linking Augusta, Macon,Columbus, Montgomery, & Natchez | $1,000,000 |
| 3958 | GA | Dekalb County, Northlake Streetscape | $800,000 |
| 3959 | GA | Dekalb County Schools Bicycle and Pedestrian Upgrades | $1,000,000 |
| 3960 | GA | Dekalb County, Buford Highway pedestrian safety improvements | $1,000,000 |
| 3961 | GA | Transportation Improvements to Dekalb County, Stone Mountain Side/Bike Lanes | $1,000,000 |
| 3962 | GA | Dekalb County, Rockbridge Road Corridor Improvements | $2,000,000 |
| 3963 | GA | Transportation Improvements to Dekalb County, Southeast DeKalb Arterial Analysis | $500,000 |
| 3964 | GA | City of Macon, Second Street Bridge Replacement, Reconstruction of ROW | $3,000,000 |
| 3965 | GA | Middle Georgia Clean Air Coalition for congestion mitigation transportation projects | $4,500,000 |
| 3966 | GA | Transportation Improvements to Chattahoochee Hill Country Regional Greenway Trail Master Plan | $2,000,000 |
| 3967 | GA | City of East Point, Semmes Street Construction | $1,000,000 |
| 3968 | GA | Transportation Improvements to Broad Avenue Bridge, Albany, GA | $500,000 |
| 3969 | GA | Fulton County, Atlanta Georgia, Right of Way acquisition to complete a multimodel corridor on SR 1019 by closing property ownership gap | $2,000,000 |
| 3970 | GA | Tift County Bypass US 82/SR 520 W to US 319/SR35 E Truck Route US HWY 82 | $4,500,000 |
| 3971 | GA | Cherokee County, SR 20 Widening from I-575 to SR 369 | $2,000,000 |
| 3972 | GA | Transportation Improvements to Paulding County, East Hiram Parkway from SR 92 to US 278 | $2,500,000 |
| 3973 | GA | Columbia County, SR 104, Improvements from SR 383 to CR 515 | $2,000,000 |
| 3974 | GA | Columbia County, Old Petersburg Road/Old Evans Road Improvements from Baston Way to Washington Road | $1,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 3975 | GA | Transportation Improvements to White County, West Cleveland Bypass from US 129 to SR 75 | $2,000,000 |
| 3976 | GA | Transportation Improvements to Stephens County, Toccoa Bypass Extension from SR 17 to SR 365 | $2,000,000 |
| 3977 | GA | Hall County, Widen SR 53 from Duckett Mill Rd to Lake Ranch Court and Old Sardis Road from SR 53 to Chestatee Road | $5,000,000 |
| 3978 | GA | Bartow County, US 411 Connector from US 41 to I-75 | $3,000,000 |
| 3979 | GA | Coffee County, Broxton Rocks Restoration Project, Coffee and Jeff Davis Counties | $2,200,000 |
| 3980 | GA | City of Smyrna, Railroad Quiet Zone | $1,000,000 |
| 3981 | GA | City of Smyrna, Brawner Park development and construction | $1,000,000 |
| 3982 | GA | City of Smyrna, Railroad Pedestrian Bridge | $1,000,000 |
| 3983 | GA | City of Duluth, intersection realignment and road extension of Davenport Rd at Buford hwy | $800,000 |
| 3984 | GA | City of Duluth, sidewalks along Davenport Road | $500,000 |
| 3985 | GA | Pickens County, Repair of Steve Tate Road | $500,000 |
| 3986 | GA | Gwinnett County, Extension of Sugarloaf Parkway, HWY 120 | $5,000,000 |
| 3987 | GA | City of Macon, Bloomfield Road, Purchase of Right of Way and Engineering | $1,500,000 |
| 3988 | GA | City of Macon, Wimbish Road, Widening and striping for bike lanes | $500,000 |
| 3989 | GA | Pierce Avenue, Widening/Striping to create bike lanes from Ingelside Ave to Riverside Dr. | $500,000 |
| 3990 | GA | City of Macon, Rivoli Drive,Widening, striping to create bike lanes | $900,000 |
| 3991 | GA | Rockdale County, Georgia Veterans memorial park pedestrian walkway | $500,000 |
| 3992 | GA | City of Macon, Riverside Drive Streetscapes and Bike Pedestrian Amenities | $500,000 |
| 3993 | HI | Kapolei Transportation Improvements, Island of Oahu | $35,000,000 |
| 3994 | HI | Widen Queen Kaahumanu Highway | $15,000,000 |
| 3995 | HI | Construct Honoapiilani Highway Realignment | $10,000,000 |
| 3996 | HI | Improvements to Saddle Road on the Island of Hawaii | $40,000,000 |
| 3997 | IA | Transportation Improvements to US 20, 4-lane in Webster, Sac, Calhoun, and Webster Counties | $11,000,000 |
| 3998 | IA | Transportation Improvements to US 30, 4-lane in Marshall, Story, and Boone Counties, | $12,000,000 |
| 3999 | IA | Transportation Improvements to US 34 Missouri River Bridges, Mills County | $12,000,000 |
| 4000 | IA | Transportation Improvements to I-74 Improvements, including Mississippi River preliminary work, in Scott County, Iowa | $6,000,000 |
| 4001 | IA | US 63 Improvements, Chickasaw, Bremer, and Black Hawk Counties, | $5,000,000 |
| 4002 | IA | Transportation Improvements to Hoven Corridor/Outer Drive Project, Sioux City | $8,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4003 | IA | Transportation Improvements to East Beltway, Pottawattamie County | $6,000,000 |
| 4004 | IA | Transportation Improvements to US 30 "Liberty Square", Clinton | $6,000,000 |
| 4005 | IA | Transportation Improvements to Edgewood Road Viaduct, Cedar Rapids | $5,000,000 |
| 4006 | IA | Transportation Improvements to I-80 Interchange at Alice's Road/105th Street, Waukee | $3,000,000 |
| 4007 | IA | Transportation Improvements to US 61 Bypass, Fort Madison | $2,000,000 |
| 4008 | IA | Transportation Improvements to US 61 and Hershey Avenue Interchange, Muscatine | $2,000,000 |
| 4009 | IA | Transportation Improvements to US 63 Improvements, Waterloo | $3,000,000 |
| 4010 | IA | Transportation Improvements to Grand Avenue, Ames | $4,000,000 |
| 4011 | IA | Transportation Improvements to SE Connector/Martin Luther King Jr. Parkway, Des Moines | $3,000,000 |
| 4012 | IA | Transportation Improvements to Highland Acres Road, Marshalltown | $3,000,000 |
| 4013 | IA | Transportation Improvements to 65th/67th Street, Davenport | $2,000,000 |
| 4014 | IA | Transportation Improvements to Highway 4 underpass in Jefferson | $1,000,000 |
| 4015 | IA | Transportation Improvements to I-235 Reconstruction, Des Moines | $1,000,000 |
| 4016 | IA | Transportation Improvements to Lake Belva Deer Transportation Project, Sigourney | $2,000,000 |
| 4017 | IA | Construct SE Connector/MLK Pkwy, Des Moines | $5,000,000 |
| 4018 | IA | I 35 interchange improvements, Ankeny | $2,000,000 |
| 4019 | IA | City of Council Bluffs and Pottawattamie county East Beltway Roadway and Connectors Project | $3,000,000 |
| 4020 | IA | Trail Planning in the Des Moines MPO area | $100,000 |
| 4021 | IA | Highway 63 in Waterloo, Iowa improvements | $3,000,000 |
| 4022 | IA | Cedar Falls recreational trails including Highway 58 intersection | $2,000,000 |
| 4023 | IA | Rail extension to the Eastern Iowa Industrial Center, Davenport, IA | $3,000,000 |
| 4024 | IA | Design and construct trails, Carlisle to Des Moines | $650,000 |
| 4025 | IA | Improve Great Western Trail, Warren County | $25,000 |
| 4026 | IA | Highway 61 improvements, Muscatine | $1,500,000 |
| 4027 | IA | Improve, Construct, land acquisition, Central Iowa Loop Trail, Ankeny to Woodward including the Des Moines River High Bridge | $3,000,000 |
| 4028 | IA | Collins Road Improvements, Cedar Rapids | $2,000,000 |
| 4029 | IA | I-74 improvements in Scott County Iowa including Mississippi River bridge design | $2,000,000 |
| 4030 | IA | Access and transportation enhancements to access Lake Belva Deer, Sigourney | $400,000 |
| 4031 | IA | Widening of Hwy 44, Grimes | $200,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4032 | IA | Highway 92 Improvements including Design in Warren County | $200,000 |
| 4033 | IA | Construction of approaches and viaduct on Edgewood Rd SW over the UP Railroad, Prairie Creek, and the CRANDIC railroad | $1,500,000 |
| 4034 | IA | NW 70th Ave reconstruction, Johnston | $1,000,000 |
| 4035 | IA | Construction of Sioux City, Iowa Hoeven Corridor--Outer Drive Project | $3,000,000 |
| 4036 | IA | US 34 Missouri River bridge relocation and replacement | $1,425,000 |
| 4037 | ID | Transportation Improvements to Widen US-95, Worley to Mica Creek | $20,000,000 |
| 4038 | ID | Transportation Improvements to Improve SH-75, Timmerman to Ketchum | $16,000,000 |
| 4039 | ID | Transportation Improvements to US-20, Menan-Lorenzo Interchange | $12,000,000 |
| 4040 | ID | Construct Interchange on I-84 at Ten-Mile Road, Meridian, Idaho | $16,000,000 |
| 4041 | ID | Transportation Improvements to US-93, Twin Falls Alternate Route, Stages II and III | $13,000,000 |
| 4042 | ID | Transportation Improvements to US-30, McCammon to Lava East | $11,000,000 |
| 4043 | ID | Reconstruct Grangemont Road (ID Forest Hwy. 67) from Orofino to MP 9.3, Segment I, II, and III | $7,000,000 |
| 4044 | ID | Widen Amity Road from Chestnut St. to Robinson Road, Nampa, Idaho | $3,000,000 |
| 4045 | ID | Construct Washington St. North From Addison Ave. to Pole Line Road, Twin Falls, Idaho | $1,000,000 |
| 4046 | ID | Transportation Improvements to Bridging the Valley, Kootenai County | $5,000,000 |
| 4047 | ID | Transportation Improvements to Three Cities River Crossing, Eagle | $3,000,000 |
| 4048 | ID | Transportation Improvements to SH-55, Between Miles Posts 94 & 102 | $4,000,000 |
| 4049 | ID | Transportation Improvements to Amity Road Widening to Kings Overpass, Nampa | $4,000,000 |
| 4050 | IL | Construct extension of US-51 from .9 miles south of Moweaqua to 4.6 miles south of Moweaqua | $5,000,000 |
| 4051 | IL | Construction of Galena and Freeport bypasses, US 20 | $5,000,000 |
| 4052 | IL | Widen US 30, Fulton-Rock Falls (Morrison), Whiteside County | $2,250,000 |
| 4053 | IL | Construction of 11th Street Extension, Springfield | $6,000,000 |
| 4054 | IL | Construction of Capital Avenue Project, 7th - 11th Streets, Springfield | $4,000,000 |
| 4055 | IL | Design, land acquisition, and construct of West State St (US Business 20) from Meridian Rd to Rockton Ave in Rockford | $5,000,000 |
| 4056 | IL | To conduct study of US 67 bridge over Illinois River, Beardstown | $4,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4057 | IL | Construction to improve access of Interstate 57/64, Mt. Vernon | $2,000,000 |
| 4058 | IL | Expand US 67, Brighton to Bunker Hill Road, Macoupin County | $1,000,000 |
| 4059 | IL | Improvements to Harrison Street, Quincy | $1,500,000 |
| 4060 | IL | Construction of Joliet Arsenal Road Improvements, Will County | $2,000,000 |
| 4061 | IL | Continue expansion of IL 336, Macomb-Peoria | $2,000,000 |
| 4062 | IL | Construct I 290, The Village of Oak Park | $2,000,000 |
| 4063 | IL | Improve U.S. Route 34 from Kewanee to Kentville Road | $500,000 |
| 4064 | IL | Construction of IL Route 31--Algonquin Bypass to Rakow Road | $3,000,000 |
| 4065 | IL | Road Improvements in Elmwood Park, Franklin Park, Northlake, Oak Park, River Forest, River Grove, Stone Park | $1,000,000 |
| 4066 | IL | Bourbonnais road improvements, Bourbonnais | $1,500,000 |
| 4067 | IL | Bayview Bridge Improvements, Adams County | $250,000 |
| 4068 | IL | Improvements to Maple/Manteno Lake Road, Manteno | $1,000,000 |
| 4069 | IL | Replace Interstate 74 Bridge, Moline | $1,500,000 |
| 4070 | IL | Constitution Trail Extension--Grove Street south to Lafayette Street, Bloomington | $750,000 |
| 4071 | IL | Improve transportation accessibility at Chicago Botanic Garden, Glencoe | $1,500,000 |
| 4072 | IL | Loyola University-Chicago vehicular-pedestrian right of way, Chicago | $750,000 |
| 4073 | IL | Construct extension of Route 3 from Loop Hog Hollow Road to Monsanto Road, Cahokia/Sauget | $1,500,000 |
| 4074 | IL | Engineering, Preconstruction and Construction of North-South Wacker Drive, Chicago | $10,000,000 |
| 4075 | IL | Upgrade Roads, Summit | $750,000 |
| 4076 | IL | Widen U.S. Highway 30 in Whiteside County | $2,200,000 |
| 4077 | IL | For the construction of the Grand Avenue Underpass, Village of Franklin Park | $1,000,000 |
| 4078 | IL | Illinois 31 Roadway Improvements, Algonquin Bypass - Rakow Road | $7,000,000 |
| 4079 | IL | Road Improvements Associated with Diversatech Campus, Manteno | $700,000 |
| 4080 | IL | Upgrade Veterans Drive in Pekin Illinois | $4,000,000 |
| 4081 | IL | Street Resurfacing, City of Centreville | $500,000 |
| 4082 | IL | Design, land acquisition, and construction of South Main Street (IL 2) Corridor from Beltline Road to Cedar Street in Rockford | $5,000,000 |
| 4083 | IL | Preconstruction and construction activities for U.S. 51 | $7,500,000 |
| 4084 | IL | Construct I-290, The Village of Oak Park | $2,000,000 |
| 4085 | IL | Mitchell Road to Farnsworth Avenue Improvements, Aurora | $2,500,000 |
| 4086 | IL | Preconstruction and construction, East New York Street, Aurora | $3,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4087 | IL | Improve Great River Road, Mercer County | $500,000 |
| 4088 | IL | Improve Great River Road, Warsaw | $250,000 |
| 4089 | IL | Undertake Traffic Mitigation and Circulation Enhancements on 57th and Lakeshore Drive, Chicago | $1,200,000 |
| 4090 | IL | Upgrade 31st Street and Golfview Road intersection and construct parking facilities, Brookfield | $1,000,000 |
| 4091 | IL | Phase II Road Construction, Outer Belt West, Effingham | $1,500,000 |
| 4092 | IL | Construct four lane extension of IL RT29 from Rochester to Taylorville | $1,000,000 |
| 4093 | IL | Preconstruction and construction activities on U.S. 67 from Macomb to Alton | $7,000,000 |
| 4094 | IL | Preconstruction and construction activities on U.S. 34 from Monmouth to Plano | $5,000,000 |
| 4095 | IL | Improve Lightfoot Road, City of Farmington | $500,000 |
| 4096 | IL | Pioneer Parkway Improvements, Peoria | $1,000,000 |
| 4097 | IL | Transportation Enhancements and road improvements necessary for Downtown Plaza improvements in Jacksonville | $1,000,000 |
| 4098 | IL | City of Havana, Illinois Upgrades to Broadway Street | $500,000 |
| 4099 | IL | Improvements to County Highway One, Calhoun County | $1,000,000 |
| 4100 | IL | Resurfacing of East Main Street in Staunton, Macoupin County | $500,000 |
| 4101 | IL | Bike trail extension for the Kankakee River Trail Project, Kankakee | $400,000 |
| 4102 | IL | Improve Highway-Railroad Crossings, Galesburg | $500,000 |
| 4103 | IL | Improvements to township roads in Shawnee National Forest, Pope County | $500,000 |
| 4104 | IL | Associated improvements for the Intersection of IL 13 and 37, Marion | $500,000 |
| 4105 | IL | Construction of 11th Street Extensionin Springfield | $800,000 |
| 4106 | IL | Widen U.S. 30 in Whiteside County | $550,000 |
| 4107 | IL | Upgrade 31st Street and Golfview Road and construct parking facilities in Brookfield | $1,000,000 |
| 4108 | IL | Bayview Bridge Improvements in Adams County | $250,000 |
| 4109 | IL | Preconstruction and construction of IL 13 connector in Harrisburg | $2,000,000 |
| 4110 | IL | Expansion of U.S. 67 from Brighton to Bunker Hill Road in Macoupin County | $1,000,000 |
| 4111 | IL | Loyola University-Chicago vehicular-pedestrian right of way in Chicago | $250,000 |
| 4112 | IL | Constitution Trail Extension (Grove Street south to Lafayette Street) in Bloomington | $250,000 |
| 4113 | IL | Improvements to 11th Avenue streetscape, campus trails and bridges at Augustana College in Rock Island | $1,500,000 |
| 4114 | IL | Improvements to Oakland, Main street, Elderado and Fairview, streetscape in the vicinity of Millikin University, Decatur. | $1,500,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4115 | IL | The extension of MacArthur Boulevard from Wabash to Iron Bridge Road in Springfield | $2,000,000 |
| 4116 | IL | Restoration of the historic railroad depot and intermodal in Mattoon | $1,200,000 |
| 4117 | IL | Construct overpass, U.S. 40 to Southwest Andrews Drive in Greenville | $1,000,000 |
| 4118 | IL | Improvements to Cockrell Lane in the City of Springfield | $1,200,000 |
| 4119 | IL | Construct extension of Route 3 from Loop Hog Hollow Road to Monsanto Road in Cahokia/Sauget | $500,000 |
| 4120 | IN | Construct Interchange for 146th and I-69, Hamilton County, Indiana | $600,000 |
| 4121 | IN | Construction of Dixon Road from Markland Avenue to Judson Road in Kokomo, Indiana | $100,000 |
| 4122 | IN | Widening Road (along Gordon Road, 6th Street, and West Shafer Drive) to three-lane street, with sidewalk and improvements to existing bridge, White County/Monticello, Indiana | $2,880,000 |
| 4123 | IN | Cyntheanne Road Interchange and corridor improvements, Town of Fishers | $200,000 |
| 4124 | IN | Construct Interchange at I-65 and 109th Avenue, Crown Point, Indiana | $1,490,844 |
| 4125 | IN | Transportation Improvements to 126th Street Project, Town of Fishers | $250,000 |
| 4126 | IN | Reconstruct 45th Avenue from Colfax Street to Grant Street, Lake County | $540,000 |
| 4127 | IN | Construct grade separation underpass on Main Street in Mishawaka | $400,000 |
| 4128 | IN | Widen Old Meridian Street from two to four lanes, City of Carmel | $225,000 |
| 4129 | IN | Upgrade traffic signals Phase III in the City of Muncie, Indiana | $128,000 |
| 4130 | IN | Transportation Improvements to 100 South, Porter County | $200,000 |
| 4131 | IN | Widen US 31 Hamilton County | $200,000 |
| 4132 | IN | Resurface and widen Shelby County, Indiana 400 North Phases IV - V | $200,000 |
| 4133 | IN | Reconstruct and widen Shelby County, Indiana 500 East from 1200 North to US 52 | $200,000 |
| 4134 | IN | Extend Everbrooke Drive from SR 332 to Bethel Avenue in the City of Muncie | $128,000 |
| 4135 | IN | Construct US 231 in Spencer and Dubois Counties | $1,200,000 |
| 4136 | IN | Widening Wheeling Avenue from Centennial to McGailliard Road in the City of Muncie | $192,000 |
| 4137 | IN | Upgrade rail crossing at 93rd Avenue, St. John | $40,000 |
| 4138 | IN | Study traffic on Muncie bypass from Centennial Avenue to McGailliard Road in the City of Muncie and Delaware County | $24,000 |
| 4139 | IN | Design and construct Tanner Creek Bridge on US 50, Dearborn County | $248,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4140 | IN | Reconstruct Boston Street, from State Road 2 to Bach Street, Larson-Whirlpool Street in LaPorte, Indiana | $150,000 |
| 4141 | IN | 45th Street Improvements, Munster, Indiana | $100,000 |
| 4142 | IN | Redevelop and Complete the Cardinal Greenway and Starr-Genett Area in the City of Richmond | $600,000 |
| 4143 | IN | Improve Intersection at Jackson Street and Morrison Road in the City of Muncie, Delaware County | $112,000 |
| 4144 | IN | Replace Samuelson Road Underpass, Portage | $632,578 |
| 4145 | IN | Design and construct Indiana Ohio river Bridges Project on I-65 and 265 | $4,000,000 |
| 4146 | IN | Construct Shelby County, Indiana Shelbyville Parkway | $100,000 |
| 4147 | IN | Construct Hoosier Heartland Highway in Cass & Carroll County | $600,000 |
| 4148 | IN | Improve State Road 332 and Nebo Road Intersection in Delaware County | $600,000 |
| 4149 | IN | Design engineering, right-of-way acquisition, and construction for the Grant County Economic Corridor | $400,000 |
| 4150 | IN | Construction of multi-use paths, Town of Fishers | $50,000 |
| 4151 | IN | Acquire right of way for and construct University Parkway from Upper Mount Vernon Road to SR 66 | $600,000 |
| 4152 | IN | Conduct study for US50 Corridor Improvements, Dearborn County | $60,000 |
| 4153 | IN | Construct US 31 Kokomo Corridor Project for Kokomo and Howard County | $200,000 |
| 4154 | IN | Improve Bailie Street, Kentland | $64,000 |
| 4155 | IN | Downtown Road Improvements, Indianapolis | $4,500,000 |
| 4156 | IN | Construct US31 Plymouth to South Bend Freeway Project in Marshall and St. Joseph Counties | $2,200,000 |
| 4157 | IN | Construct Margaret Avenue Safety and Capacity Enhancement Project | $600,000 |
| 4158 | IN | Preliminary engineering, right of way and construction for Perimeter Parkway - West Lafayette/Purdue University | $1,120,000 |
| 4159 | IN | Construction of Maplecrest Road Extension, Allen County | $2,200,000 |
| 4160 | IN | Realign State Road 312, Hammond | $832,578 |
| 4161 | IN | Construct I-69 Evansville to Indianapolis | $2,800,000 |
| 4162 | IN | Construct service road parallel in the City of Anderson | $800,000 |
| 4163 | IN | Reconstruct Hoosier Heartland Highway, Wabash, Huntington and Miami County Indiana segments | $200,000 |
| 4164 | IN | North Calumet Avenue Improvements, Valparaiso | $240,000 |
| 4165 | IN | Complete construction of paths at Hamilton County Riverwalk, Noblesville | $75,000 |
| 4166 | IN | Improve campus streets to increase pedestrian safety and ease vehicular congestion in the City of Anderson | $400,000 |
| 4167 | IN | Construction of I-64 interchange, Harrison County, Indiana | $1,062,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4168 | IN | Study alternatives along 2 miles of railroad to eliminate in-town highway-rail crossings to improve safety and reduce congestion in Delaware County | $30,000 |
| 4169 | IN | Improve SR9 Greenfield Corridor | $100,000 |
| 4170 | IN | Redevelop Hazeldell Road, Hamilton County | $200,000 |
| 4171 | IN | SR 56 Reconstruction, Aurora | $1,024,000 |
| 4172 | IN | Reconstruct Standard Avenue, Whiting | $260,000 |
| 4173 | IN | Construct Hoham Drive Extension in Plymouth | $100,000 |
| 4174 | IN | Construction of County Road 17-Elkhart | $1,000,000 |
| 4175 | IN | Construction of Star Hill Road, Clark County | $443,000 |
| 4176 | IN | Design and reconstruct residential streets in the City of Muncie | $186,000 |
| 4177 | IN | Reconstruct bridges at County Roads 200 East and 300 East in LaPorte County | $100,000 |
| 4178 | IN | Reconstruct McClung Road from State Road 39 to Park Street in LaPorte | $150,000 |
| 4179 | IN | Highway-rail crossing safety related improvements on Route 37 between US35 and US50 | $1,400,000 |
| 4180 | IN | Maintain full funding of TEA-LU HPPs as necessary, with balance for other eligible INDOT projects | $20,263,000 |
| 4181 | IN | Removal of I-65/I-70 Market Street Ramp and Streetscaping, Indianapolis | $5,000,000 |
| 4182 | IN | Downtown Indianapolis Road Improvements, transportation Enhancements, Streetscaping, bicycle paths and pedestrian walkways | $6,000,000 |
| 4183 | IN | Relocation of railroad lines at Gary/Chicago Airport in Gary | $7,000,000 |
| 4184 | IN | Design engineering, right-of-way acquisition, and construction for the Grant County Economic Corridor | $2,000,000 |
| 4185 | IN | Improve Clinton Street Corridor and Replace Clinton Street Bridge spanning St. Mary's River in downtown Fort Wayne | $4,000,000 |
| 4186 | IN | Widen unsafe US 24 between Fort Wayne and Defiance, OH | $3,000,000 |
| 4187 | IN | Construct and Improve ISR 62 (Lloyd Expressway) in Evansville | $4,000,000 |
| 4188 | IN | Margaret Avenue Safety and Capacity Enhancement - Construct a four-lane roadway extending from S.R. 63 on Terre Haute's west side to S.R. 46 | $4,000,000 |
| 4189 | KS | Construction of four-lane improvement on K-18 in Riley County | $20,000,000 |
| 4190 | KS | Reconstruction of I-235/US-54 and I-235/Central interchanges and expansion of I-235 to a 6-lane facility between the interchanges in Wichita | $10,000,000 |
| 4191 | KS | Replacement or rehabilitation of the Amelia Earhart US-59 Bridge in Atchison County | $5,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4192 | KS | Debt retirement for Dodge City Depot project, Dodge City | $2,000,000 |
| 4193 | KS | Reconstruction and rehabilitation of the intersection of K-18 and 12th Street interchange in Riley County, KS | $10,000,000 |
| 4194 | KS | Reconstruction of an interchange at U.S. 73 and 20th Street in the city of Leavenworth | $2,500,000 |
| 4195 | KS | Replacement of the Spring Creek Bridge on U.S. 160 in Cowley County | $1,200,000 |
| 4196 | KS | Construction, improvements, and streetscaping for Wyatt Earp Boulevard/US Business 50 in Dodge City | $3,500,000 |
| 4197 | KS | Construction of an interchange at K-7 and 55th Street/Johnson Drive, an overpass structure for Clear Creek Parkway, and other access improvements to K-7 in the city of Shawnee | $3,000,000 |
| 4198 | KS | Reconstruction of K-27 in Sherman County | $5,000,000 |
| 4199 | KS | Street and sidewalk replacement in downtown Fort Scott | $1,000,000 |
| 4200 | KS | Reconstruction or widening of 135th Street from Metcalf to Nall in Overland Park | $3,000,000 |
| 4201 | KS | Reconstruction of Desoto Road in the city of Lansing | $2,000,000 |
| 4202 | KS | Construct I-35 and Lone Elm Road interchange and widen I-35 from 51st St. to 59th St. in the city of Olathe | $3,000,000 |
| 4203 | KS | Reconstruction of I-70 in Saline County | $2,000,000 |
| 4204 | KS | Construction of the Prairie State Parkway (KS HWY 7 to Mize Blvd) in the city of Lenexa | $3,000,000 |
| 4205 | KS | Rehabilitation and reconstruction of US 169 and interchange with US 166 in Montgomery County | $4,000,000 |
| 4206 | KS | Rehabilitation of US 54 in Kingman County | $2,550,000 |
| 4207 | KS | Replacement of K-39 bridge over SKO Railroad in the city of Chanute | $1,189,000 |
| 4208 | KS | Reconstruction and relocation of interchanges on US 156 near RS 255 and the Horse Theif Canyon Reservoir entrance in Hodgeman County | $561,000 |
| 4209 | KS | US HWY 50 Shoulder widening between Dodge City and Garden City | $4,500,000 |
| 4210 | KS | Research and development of advanced vehicle technology concepts at the University of Kansas Transportation Research Institute, Lawrence | $4,500,000 |
| 4211 | KS | Research and development of rural transportation infrastructure at Kansas State University, Manhattan | $1,500,000 |
| 4212 | KY | Owensboro Riverfront Development Project in Owensboro | $30,000,000 |
| 4213 | KY | Construction of new I-65 Interchange in Warren County | $23,000,000 |
| 4214 | KY | Oregon Road Bridge Replacement Project in Mercer County | $1,000,000 |
| 4215 | KY | Ashland Riverfront Development Project in Ashland | $10,220,000 |
| 4216 | KY | Henderson Riverfront Development Project in Henderson | $10,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4217 | KY | Transportation Improvements to Brent Spence Bridge | $34,000,000 |
| 4218 | KY | Transportation Improvements to AA-I275 Connector, Campbell County | $6,000,000 |
| 4219 | KY | Abraham Lincoln Project, LaRue County | $3,500,000 |
| 4220 | KY | Breathitt-Pennyrile Extension, Christian County | $2,500,000 |
| 4221 | KY | Transportation Improvements to US60 Owensboro, Daviess County | $5,500,000 |
| 4222 | KY | Transportation Improvements to Hwy 163 from Hwy 90 to Tompkinsville, Monroe County | $4,000,000 |
| 4223 | KY | Feasibility study of construction an US27 to I-75 connector road, Jessamine County | $500,000 |
| 4224 | KY | Reconstruction of KY61 from US68 in Greensburg to Columbia (the national highway system truck route) 16.1 miles, Green County | $3,000,000 |
| 4225 | KY | Southern Connector from KY139 to KY9, Caldwell County | $1,000,000 |
| 4226 | LA | Transportation Improvements to I-49 North | $22,500,000 |
| 4227 | LA | Transportation Improvements to I-49 South | $16,000,000 |
| 4228 | LA | Improvements to Louisiana Highway 1 between the Caminada Bridge and the intersection of Louisiana Highway 1 and US 90 | $20,000,000 |
| 4229 | LA | Upgrade LA 28 to four lanes from LA 121 to LA 465 | $17,400,000 |
| 4230 | LA | Construct Kansas-Garrett Connector and I-20 Interchange Improvements | $8,350,000 |
| 4231 | LA | Further construction to improve draining at Clearview Parkway (LA 3152) and Earhart Expressway (LA3139) | $3,585,000 |
| 4232 | LA | Study of Baton Rouge Loop Project | $500,000 |
| 4233 | LA | Water Well Road Gateway Corridor (LA 478) - Design, Right of Way, and Construction of 3.6 miles from I-49 to LA1 | $831,000 |
| 4234 | LA | Widen LA 18 from Northrup Grumman/Avondale Shipyards to US 90, Jefferson Parish | $1,325,000 |
| 4235 | LA | Red River National Wildlife Refuge Visitor Center | $850,000 |
| 4236 | LA | Construct ROW improvements from Third St. at James St. to LA Hwy. One at Broadway St. Acquire property at Third St. and Winn St. | $400,000 |
| 4237 | LA | West Lake Overpass -- to make grade separation interchange improvements at Sampson Street | $2,200,000 |
| 4238 | LA | Improve by widening, realigning, & resurface 3.2 miles of LA Hwy 820 between LA Hwy 145 & LA Hwy 821 | $400,000 |
| 4239 | LA | Connection between Highway 51 By-Pass and Old Baton Rouge Highway 1040 - Hammond | $100,000 |
| 4240 | LA | LA 3224 -- Hemlock Street at US 61 Improvements -- St. John the Baptist Parish | $519,000 |
| 4241 | LA | Louisiana Interstate 49 South Corridor | $7,500,000 |
| 4242 | LA | Design and acquire right-of-way, Louisiana I-69, Louisiana Segment, SIU 15 | $2,500,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4243 | LA | Construction to improve drainage at Clearview Parkway (LA 3152) and Earhart Expressway (LA 3139) | $900,000 |
| 4244 | LA | Shreveport Intelligent Transportation System in Northwest, LA | $1,500,000 |
| 4245 | LA | Widen I-10 in New Orleans | $2,000,000 |
| 4246 | LA | St. Tammany US 11 Bicycle Path and Sidewalk Improvements | $2,000,000 |
| 4247 | LA | Bossier Parish Congestion Relief Program | $1,500,000 |
| 4248 | LA | I-10 Ryan Street exit ramp and relocation/realignments | $1,500,000 |
| 4249 | LA | Improve Zachary Taylor Parkway | $2,000,000 |
| 4250 | LA | LA-1 drainage and sidewalk improvements in Grande Isle | $1,500,000 |
| 4251 | LA | Construct I-20 interchanges at US 167 at Tarbutton RD Construct East West Frontage Roads along I-20 | $1,500,000 |
| 4252 | LA | Louisiana University Consortium for Smart Growth Study and Educational Outreach | $2,000,000 |
| 4253 | LA | Upgrade El Camino East-West Corridor along LA 6 | $1,500,000 |
| 4254 | LA | Develop and construct St. Martinville Bypass, LA 31 North to LA 96 | $1,000,000 |
| 4255 | LA | Construct Leeville Bridge from Port Fouchon to Golden Meadow | $1,000,000 |
| 4256 | LA | Improve Natchitoches Johnson Chute and Posey Road connection to I-49 to LA 1 | $500,000 |
| 4257 | LA | LA 50 (Almedia) widening and I-310 / US 90 interchange improvements, St. Charles Parish | $500,000 |
| 4258 | LA | Upgrade LA 28 to four lanes from LA 121 to LA 465 | $1,000,000 |
| 4259 | LA | Rehabilitation of Street Routes Project in Bogalusa | $500,000 |
| 4260 | LA | Construction of I-10 Access RD, Crowley, LA | $500,000 |
| 4261 | LA | Replace Kerner Ferry Bridge Jefferson Parish Bayou Barataria | $500,000 |
| 4262 | LA | Peters Road improvements in Plaquemines Parish | $500,000 |
| 4263 | LA | Improvements to LA 46 in St. Bernard Parish | $100,000 |
| 4264 | LA | Baton Rouge Intelligent Transportation System | $1,000,000 |
| 4265 | MA | Reconstruct Chelsea Street Bridge in Boston | $6,000,000 |
| 4266 | MA | Design and construct downtown roadway and streetscape enhancements in Worcester | $4,500,000 |
| 4267 | MA | Design and construct RT 24 Interchange in Fall River and Freetown | $5,500,000 |
| 4268 | MA | Design and construct multi-modal improvements and facilities in New Bedford | $5,500,000 |
| 4269 | MA | Construct access improvements to the Lawrence Gateway Project, Lawrence | $2,500,000 |
| 4270 | MA | Construct pedestrian and vehicular access improvements on the existing Brightman Street Bridge in Fall River | $500,000 |
| 4271 | MA | Northern Avenue Bridge rehabilitation in Boston | $6,000,000 |
| 4272 | MA | Construct Phase II of the Quincy Center Concourse Extension in Quincy | $6,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4273 | MA | Design and construct downtown roadway and streetscape improvements in North Adams | $2,000,000 |
| 4274 | MA | Construct Holyoke Canalwalk and streetscape improvements in Holyoke | $3,500,000 |
| 4275 | MA | Road Improvements between Museum Road and Forsyth Way in Boston | $3,000,000 |
| 4276 | MA | Design and construct access improvements and intermodal facilities at the former South Weymouth Naval Air Station in South Weymouth | $8,000,000 |
| 4277 | MA | Design and construct Boston National Park traveler information system and visitor center in Boston | $7,000,000 |
| 4278 | MA | Construct Haverhill intermodal center access and vehicle capacity improvements in Haverhill | $3,000,000 |
| 4279 | MA | Design and construct roadway and streetscape improvements in Franklin | $5,000,000 |
| 4280 | MA | Construct Lechmere Station area roadway and access improvements in Cambridge | $5,000,000 |
| 4281 | MA | Design and construct Assembly Square multi-modal access improvements in Somerville | $5,000,000 |
| 4282 | MA | Construct downtown roadway and corridor improvements in Gloucester | $3,000,000 |
| 4283 | MA | Construct the Blackstone River Bikeway and Worcester Bikeway Pavilion between Providence, RI and Worcester | $2,000,000 |
| 4284 | MA | Construct Melnea Cass Corridor Improvements in Boston | $4,000,000 |
| 4285 | MA | Construct Southeastern Massachusetts freight rail corridor improvements in Bristol County | $5,000,000 |
| 4286 | MA | Reconstruct RT 24/RT 140 Interchange, replace bridge and ramps, widen and extend acceleration and deceleration lanes | $4,000,000 |
| 4287 | MA | Design and construct RT 20 access road in Westfield | $2,000,000 |
| 4288 | MA | Reconfigure Kilby-Gardner-Hammond area road network in Worcester | $2,000,000 |
| 4289 | MD | I-70 Improvement Project: Frederick, MD | $13,400,000 |
| 4290 | MD | Construction and dualization of MD 404 in Queen Anne's, Talbot and Caroline Counties | $11,000,000 |
| 4291 | MD | Construct US 220 MD 53 North/South Corridor | $9,200,000 |
| 4292 | MD | Upgrade MD 175 in Anne Arundel county between MD 170 and BW Parkway | $6,700,000 |
| 4293 | MD | Construct a visitor center and related roads, and parking serving Ft. McHenry | $5,300,000 |
| 4294 | MD | Construct Assateague Island National Seashore visitors center and related road improvements | $6,300,000 |
| 4295 | MD | Construction of new interchange at MD 5, MD 373 and Brandywine Rd. | $4,000,000 |
| 4296 | MD | Rehabilitate Pennington Avenue Drawbridge, Baltimore | $5,500,000 |
| 4297 | MD | Construction and dualization of US 113 | $3,200,000 |
| 4298 | MD | Construct MD 5 Hughesville Bypass | $3,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4299 | MD | Construct US 40, MD 715 interchange at Aberdeen Proving Ground | $3,000,000 |
| 4300 | MD | Construct MD 4 at Suitland Parkway | $2,800,000 |
| 4301 | MD | Baltimore Rail Tunnel improvement study | $3,000,000 |
| 4302 | MD | Construct Allegheny Highlands pedestrian/bicycle trail | $2,000,000 |
| 4303 | MD | Upgrade MD 210 from MD 228 to I-495 | $2,000,000 |
| 4304 | MD | Patuxent Research Refuge Road Improvements | $3,000,000 |
| 4305 | MD | Rehabilitate roadways around East Baltimore Life Science Park | $2,200,000 |
| 4306 | MD | Construction of new Baltimore water taxi terminals | $2,000,000 |
| 4307 | MD | Upgrade I-95, I-495, MD 5 - Branch Avenue Metro Access | $1,800,000 |
| 4308 | MD | Construct Blackwater National Wildlife Refuge visitors center, trails and road improvements | $1,500,000 |
| 4309 | MD | Edgewood, MD train station streetscaping and parking improvements | $1,500,000 |
| 4310 | MD | Roadway improvements from intersection of US 29 in Montgomery Co. along Industrial Parkway thru to FDA access/Cherry Hill Road | $2,000,000 |
| 4311 | MD | Roadway access improvements, boardwalks, and pier construction at Hanover Street and West Cromwell, Baltimore | $1,500,000 |
| 4312 | MD | MD-295 BWI access improvements | $1,200,000 |
| 4313 | MD | Construction of Maryland Ave. and Market St. intermodal access project, including pedestrian safety improvements and Baltimore Rd. corridor, Rockville | $800,000 |
| 4314 | MD | Construct Woodrow Wilson Bridge Anacostia River wetlands mitigation project | $1,600,000 |
| 4315 | MD | Construct Potomac River Gorge stormwater mitigation project | $500,000 |
| 4316 | ME | I-295 Improvements in Portland | $15,000,000 |
| 4317 | ME | Construction of Calais/St. Stephan Border Crossing Project, Calais | $4,000,000 |
| 4318 | ME | Improvements and construction of the Lewiston-Auburn Highway, Lewiston | $2,000,000 |
| 4319 | ME | Replacement of Waldo-Hancock bridge and Construction of Related Pedestrian Walkways. | $18,000,000 |
| 4320 | ME | Transportation Improvements for Maine East-West Corridor Project | $18,000,000 |
| 4321 | ME | Augusta Memorial Bridge improvements, Augusta | $6,000,000 |
| 4322 | ME | Plan and construct North-South Aroostook highways, to improve access to St. John Valley, including Presque Isle Bypass and other improvements | $5,000,000 |
| 4323 | ME | Construction of an Intermodal Center in Acadia Park, Bar Harbor | $4,000,000 |
| 4324 | ME | Replacement of the Route 201-A "covered" bridge, Norridgewock | $6,000,000 |
| 4325 | ME | Repair and Improvements of Richmond-Dresden Bridge, Richmond-Dresden | $3,750,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4326 | ME | Access and Traffic Improvements to Route 15 in Brewer | $1,250,000 |
| 4327 | ME | State of Maine Pedestrian and Bicycle Trail Project | $1,000,000 |
| 4328 | ME | Plan and construct North-South Aroostook highways, to improve access to St. John Valley, including Presque Isle Bypass and other improvements | $20,000,000 |
| 4329 | ME | Construction of the Gorham Village Bypass, Gorham | $2,000,000 |
| 4330 | ME | Improvements for statewide bike and pedestrian projects | $1,000,000 |
| 4331 | ME | Repair and Improvement of Harpswell Cribstone Bridge, Harpswell | $3,000,000 |
| 4332 | ME | Repair and Improvement of Deer Isle-Sedgwick Bridge, Deer Isle-Sedgwick | $10,000,000 |
| 4333 | MI | Plan and construct, land acquisition, Detroit West Riverfront Greenway | $9,000,000 |
| 4334 | MI | Reconstruct and widen I-94 in Kalamazoo | $8,000,000 |
| 4335 | MI | Construct Interchange at I-675 and M-13 (Washington Avenue), Northbound exit, in Saginaw | $8,000,000 |
| 4336 | MI | Rehabilitate bridge lift over Black River on 7th Street Bridge in Port Huron | $5,000,000 |
| 4337 | MI | Reconstruct I-75 from North of US-2 to Sault Ste. Marie and reconstruct the existing roadway, Sault Ste. Marie | $6,000,000 |
| 4338 | MI | Construct at-grade crossing and I-75 interchange to reconnect Milbocker and McCoy Roads and construct overpass to reconnect Van Tyle to South Wisconsin Road in Gaylord | $5,000,000 |
| 4339 | MI | Improvements to Trowbridge Road Extension to Farm Lane, Ingham County, Farm Lane between Mt. Hope Road and Trowbridge Road with underpasses for CN and CSX railroad crossings | $9,000,000 |
| 4340 | MI | Allen Road under the CN Railroad Grade Separation, Woodhaven | $6,000,000 |
| 4341 | MI | Blue Water Bridge Plaza Improvements and relocation of segments of I-94 and I-69 | $5,000,000 |
| 4342 | MI | West Portage Avenue realignment, Sault Ste. Marie | $2,000,000 |
| 4343 | MI | Construct road improvements to Van Dyke Road, from I-696 to Red Run Drain, City of Warren | $8,000,000 |
| 4344 | MI | Construction of the I-696 and Northwestern Highway Interchange Freeway ramps at Franklin Road in Southfield | $3,000,000 |
| 4345 | MI | Construct Road Improvements to Miller Road from I-75 to Linden Road, Flint Township | $2,500,000 |
| 4346 | MI | University of Michigan Health Systems auto crash notification system | $1,500,000 |
| 4347 | MI | Alger County, Repaving a portion of H-58 between Sullivan Creek towards Little Beaver Road | $1,000,000 |
| 4348 | MI | Jackson Road Boulevard Extension, utilizing fly ash and recycled concrete in road surface | $1,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4349 | MN | Transportation Improvements for City of Moorhead SE Main GSI, 34th St. and I-94 Interchange and Moorhead Comprehensive Rail Safety Program in Moorhead | $5,000,000 |
| 4350 | MN | Reconstruct I-35E from University Avenue to Maryland Avenue in St. Paul, | $5,000,000 |
| 4351 | MN | Construct last segment of the Victory Drive project to link Victory Drive with Highway 14 in Blue Earth County | $2,000,000 |
| 4352 | MN | Phase III construction of Trunk Highway 610-10 | $9,000,000 |
| 4353 | MN | U.S. Trunk Highway 14 from One Mile West of Waseca to Owatonna | $4,000,000 |
| 4354 | MN | Construction of 8th Street North: Stearns C.R. 120 to T.H. 15 in St. Cloud, | $2,000,000 |
| 4355 | MN | Design engineering and ROW acquisition to reconstruct Trunk Highway 95 bridge in North Branch | $750,000 |
| 4356 | MN | Construction and right-of-way acquisition for interchange at TH65 and TH242 in Blaine | $2,000,000 |
| 4357 | MN | Design, construct, and expand TH 241 in the city of St. Michael | $2,500,000 |
| 4358 | MN | Design, construct, and acquire right-of-way for St. Croix River Crossing in Stillwater | $9,000,000 |
| 4359 | MN | Design and construction of Cedar Avenue Busway in Dakota County | $5,000,000 |
| 4360 | MN | Planning and Pre-Design for Twin Cities Bioscience Corridor in St. Paul | $3,000,000 |
| 4361 | MN | TH 23 -- Construction of 4-Lane Bypass in Paynesville | $2,500,000 |
| 4362 | MN | I-494 US 169 Interchange Reconstruction, Twin Cities Metropolitan Area | $2,000,000 |
| 4363 | MN | Replace three at-grade highway-railroad crossings with grade-separated crossings adjacent to Winona State University | $3,000,000 |
| 4364 | MN | Reconstruct County Highway 42 Interchange at U.S. Highway 52 in Dakota County | $3,250,000 |
| 4365 | MN | 34th Street Realignment and Interchange at 34th Street and I-94 in Moorhead | $4,000,000 |
| 4366 | MN | Construct last segment of the Victory Drive project to link Victory Drive with Highway 14 in Blue Earth County | $2,000,000 |
| 4367 | MN | Phase III Construction of Trunk Highway 610-10 | $8,000,000 |
| 4368 | MN | Construction of US Highway 14 from Waseca to Owatonna | $4,000,000 |
| 4369 | MN | Reimbursement of 8th Street North in St. Cloud | $2,000,000 |
| 4370 | MN | Construction and right-of-way acquisition for interchange at TH65 and TH242 in Blaine | $2,000,000 |
| 4371 | MN | Construction and widening of TH 241 in the City of St. Michael | $2,500,000 |
| 4372 | MN | Program for Replacement and upgrade of deficient township signs, statewide | $3,000,000 |
| 4373 | MN | Improvement of State Highway 11 to 10 ton-status | $3,500,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4374 | MN | Reconstruct I-35E from I-94 to Maryland Avenue in St. Paul | $3,000,000 |
| 4375 | MN | Right of way acquisition for TH 23 Paynesville Bypass | $1,000,000 |
| 4376 | MO | Construct four lanes for Hwy 60 from Willow Springs to Van Buren Missouri | $25,000,000 |
| 4377 | MO | Construct four lanes for Hwy 65 North of I-44 from I-44 N to Route EE | $20,000,000 |
| 4378 | MO | Construct fours lanes on Hwy 50 west of Jefferson City to west of California, Missouri (From St. Martens to California Missouri) | $20,000,000 |
| 4379 | MO | Construct Hwy 13 Bypass in Warrensburg | $5,000,000 |
| 4380 | MO | Improvements to Hwy. 60/65 Interchange | $10,000,000 |
| 4381 | MO | Improve Highway 13 from Springfield, MO to Bolivar | $5,000,000 |
| 4382 | MO | I-470/Strother Road Interchange in Lee's Summit | $5,000,000 |
| 4383 | MO | Improve U.S. 36 to divided four lane expressway from Macon to Route 24 | $30,000,000 |
| 4384 | MO | Improve Highway 291 from Harrisonville to Lee's Summit in Cass County | $4,000,000 |
| 4385 | MO | Route 364, Phase II Page Avenue Extension, St. Charles County | $5,000,000 |
| 4386 | MO | Transportation Improvements forU.S. 63 Interchange at Gans Road, Boone County | $4,000,000 |
| 4387 | MO | Improve Highway 67 from Fredericktown, MO to Poplar Bluff | $5,000,000 |
| 4388 | MO | Upgrade to 4 lanes MO 66 from Duquesne Road to Rte. 249 in Jasper County | $2,000,000 |
| 4389 | MO | Interchange design and construction for the Main Street Extension at I-55, Cape Girardeau County | $5,000,000 |
| 4390 | MO | Relocation and reconstruction of Rt MM from Rt 21 to Rt 30 | $2,000,000 |
| 4391 | MO | Upgrade Route 59 at rail crossing in St. Joseph, MO | $3,000,000 |
| 4392 | MO | Realignment and bridge replacement over First Creek from east of 2nd Street to Route 169 on MO 92, Clay County | $2,000,000 |
| 4393 | MO | Roadway Improvements on Rte. 21 from Hayden Road to Lake Lorraine | $2,000,000 |
| 4394 | MO | Construct Interstate flyover at Hughes Road and Liberty Drive to 76th Street. Part of Liberty Parkway Project, Liberty | $4,000,000 |
| 4395 | MO | I-55 Redesign, Cape Girardeau County | $2,000,000 |
| 4396 | MS | Widening of I-55 from Highway 304 in DeSoto County to TN state line | $20,240,000 |
| 4397 | MS | Upgrade US 78 to Interstate standards from the MS-TN state line to the MS-AL state line. | $8,000,000 |
| 4398 | MS | For construction and ROW acquisition US 49 from South of Florence to I-20 | $26,400,000 |
| 4399 | MS | To upgrade Old Fannin Road connecting Highway 25 to Spillway Road in Rankin County | $6,400,000 |
| 4400 | MS | Plan and construct an intermodal connector linking I-20 to Hwy 49, Pearl-Richland | $10,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4401 | MS | Airport Parkway/Pearl River Bridge for ROW acquisition & construction of west segment between I-55 & Highway 475 at Jackson International Airport, with connector to Highway 25 | $8,960,000 |
| 4402 | MS | Byram-Clinton/Norrell Corridor - Connects the Norrell Road Interchange on I-20 to the Byram-Clinton Multimodal Corridor on I-55 | $15,000,000 |
| 4403 | MS | Lake Harbour Drive Extension, Ridgeland - Connects US Highway 51 to Highland Colony Parkway | $10,000,000 |
| 4404 | MS | Transportation Improvements for Greenville Bypass - Highway 82 - U.S. Highway 82 bypass between Greenville and Leland | $10,000,000 |
| 4405 | MS | Transportation Improvements for Port Connector Road, Claiborne County | $10,000,000 |
| 4406 | MS | Transportation Improvements for South Entrance Loop - Mississippi State University | $10,000,000 |
| 4407 | MS | Lynch Street Extension to Metro Parkway, Jackson - An extension of the Metro Parkway that connects intermodal traffic between the Meto Center Area and Jackson State University | $5,000,000 |
| 4408 | MS | Transportation Improvements for Highway 7 and Highway 49 Connector, Greenwood | $5,000,000 |
| 4409 | MS | Transportation Improvements for Pearl-Pirates Cove Interchange, Pearl | $5,000,000 |
| 4410 | MS | Transportation Improvements for Washington Street/Old U.S. Highway 61, Vicksburg | $5,000,000 |
| 4411 | MS | Star Landing Corridor, Southaven | $5,000,000 |
| 4412 | MT | Transportation Improvements for MT 78 Corridor Development | $10,000,000 |
| 4413 | MT | Transportation Improvements for Bench Boulevard Connection and Corridor Project, Billings | $17,000,000 |
| 4414 | MT | Transportation Improvements for Babcock to Kagy Project, Bozeman | $5,000,000 |
| 4415 | MT | Transportation Improvements for Townsend - South Project, US 287 | $10,000,000 |
| 4416 | MT | Transportation Improvements for Cutbank Railroad Overpass, Cutbank | $6,000,000 |
| 4417 | MT | Transportation Improvements for Havre - East Project, including Glasgow to Poplar, US 2 | $10,000,000 |
| 4418 | MT | Transportation Improvements for Lonepine North and East Project, MT 28 | $7,000,000 |
| 4419 | MT | US 93 transportation improvement projects between Lolo and Hamilton | $15,000,000 |
| 4420 | MT | US 2 transportation improvement projects between North Dakota State Line and Browning | $20,000,000 |
| 4421 | MT | MT 3 transportation improvement projects between Billings and Great Falls | $15,000,000 |
| 4422 | MT | MT 16, reconstruction of roadway and structures northeast of Glendive | $7,000,000 |
| 4423 | MT | Develop and reconstruct Two Medicine Bridge, US 2, East of Glacier National Park | $25,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4424 | MT | US 93 Ninepipe to Ronan transportation improvement projects | $8,000,000 |
| 4425 | NC | Construction of the southbound lane of US 321 bridge replacement over the Catawba River in Caldwell and Catawba Counties | $2,160,000 |
| 4426 | NC | Construction and expansion of Little Sugar Creek Greenway Charlotte | $3,155,000 |
| 4427 | NC | Falls of Neuse Road Widening and Improvement, Raleigh | $3,000,000 |
| 4428 | NC | Interstate 20 Extension study | $5,000,000 |
| 4429 | NC | Transportation Improvements at Piedmont Triad Research Park, Winston Salem | $2,000,000 |
| 4430 | NC | Plan, design, and construct the 10th street Connector Project in Greenville | $1,500,000 |
| 4431 | NC | Randall Parkway Widening and Improvement, Wilmington | $3,000,000 |
| 4432 | NC | Widen Derita Road from Poplar Tent Road in Concord to the Cabarrus Mecklenburg County line, Concord | $3,400,000 |
| 4433 | NC | Construction improvements to Highway 10 in Newton | $1,020,000 |
| 4434 | NC | US 64 upgrade and improvement between Raleigh, NC and Rocky Mount | $5,000,000 |
| 4435 | NC | Construction and improvement of I-73, I-74, US 220, in Montgomery and Randolph Counties | $2,200,000 |
| 4436 | NC | US 1 Bypass and improvements around Rockingham | $1,000,000 |
| 4437 | NC | Norfolk Southern Intermodal System, Charlotte | $4,000,000 |
| 4438 | NC | Design and construction of the Airport Area Roadway Network, High Point | $1,000,000 |
| 4439 | NC | Independence Boulevard Extension, Wilmington | $3,000,000 |
| 4440 | NC | Design, engineering and construction of I-77/Catawba Avenue Interchange Cornelius | $5,000,000 |
| 4441 | NC | Eliminate highway-railway crossings in city of Fayetteville | $4,000,000 |
| 4442 | NC | Construction of I-74 between I-40 and US 220, High Point | $6,000,000 |
| 4443 | NC | Environmental studies and construction of US 74 Bypass Extension, Monroe | $4,200,000 |
| 4444 | NC | Greenways Expansion and Improvement Project, Greenville | $1,600,000 |
| 4445 | NC | Northern Loop Project, Wilson | $3,000,000 |
| 4446 | NC | Rail Track Replacement, Spencer | $565,000 |
| 4447 | NC | Construction of Interstate 73 and Interstate 74 | $10,000,000 |
| 4448 | NC | Construction of Charlotte Douglas International Airport Freight Intermodal Distribution Center | $7,500,000 |
| 4449 | NC | Rehabilitate existing roadway, make safety improvements and add lanes to Interstate 95 in North Carolina | $2,500,000 |
| 4450 | NC | Construction of the southbound lane of US 321bridge replacement over the Catawba River in North Carolina | $2,000,000 |
| 4451 | NC | Widening of Beckford Drive, City of Henderson in | $192,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4452 | NC | Transportation Improvements for Peters Creek Pkwy, 1st St., 2nd St., and Brookstown Ave. in Winston-Salem | $2,000,000 |
| 4453 | NC | Environmental studies and construction of US 74 Monroe Bypass Extension | $5,000,000 |
| 4454 | NC | To plan, design and construct the 10th Street connector project in Greenville | $2,500,000 |
| 4455 | NC | Transportation Improvements at Piedmont Triad Research Park, Winston-Salem | $2,500,000 |
| 4456 | NC | Acquisition of rail corridors for use as bicycle and pedestrian trails, Durham | $2,000,000 |
| 4457 | NC | Northern Loop Project, City of Wilson | $2,933,000 |
| 4458 | NC | Widen Derita Road from Poplar Tent Road in Concord to the Cabarrus Mecklenburg County line | $3,350,000 |
| 4459 | NC | Winston-Salem Northern Beltway, Eastern Section and Extension | $1,300,000 |
| 4460 | NC | To perform a study to be performed by East Carolina University to find the feasibility of constructing a mid-Currituck Sound bridge | $2,000,000 |
| 4461 | NC | Transportation improvements at the Marion Diehl Center, Charlotte | $725,000 |
| 4462 | NC | Pack Square Pedestrian and Roadway Improvements, Asheville | $700,000 |
| 4463 | NC | Study feasibility of widening US 221-NC226 from Woodlawn to Spruce Pine, start planning and design, and make upgrades to improve safety | $700,000 |
| 4464 | NC | Continued development of Cary, NC pedestrian bike paths | $400,000 |
| 4465 | NC | Extend M. L. King Boulevard in Monroe | $1,000,000 |
| 4466 | NC | Design and Construction of the Airport Area Roadway Network, High Point | $900,000 |
| 4467 | ND | I-29 Reconstruction from Main Avenue N. to County Road 20 in Fargo | $10,000,000 |
| 4468 | ND | Reconstruct US 281 in Jamestown - South Corporate limits to 17th St., SW | $6,000,000 |
| 4469 | ND | Reconstruction of US 2 from Towner to Rugby - WB | $7,000,000 |
| 4470 | ND | Reconstruct ND 1804 From University of Mary to 48th St. South of Bismarck | $5,900,000 |
| 4471 | ND | Reconstruction of US 85 north of Grassy Butte to Long-X Bridge Near Teddy Roosevelt National Park North Unit | $6,500,000 |
| 4472 | ND | ND 22 Reconstruction from 15th St. to North Corporate Limits in Dickinson | $2,000,000 |
| 4473 | ND | ND 200 Reconstruction from Jct. ND 49 @ Beulah to Hazen | $3,500,000 |
| 4474 | ND | North Bound I-29 Reconstruction from south of ND 15 to Near Grand Forks | $8,000,000 |
| 4475 | ND | East Bound I-94 Reconstruction From Near South Heart to Dickinson | $7,000,000 |
| 4476 | ND | ND 294 - 12th Avenue N Reconstruction and Bridge Widening in Fargo | $11,000,000 |

## HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4477 | ND | Replace Red River Valley Bridge at Drayton, ND | $3,100,000 |
| 4478 | ND | US 12 Improvements between Bowman and Hettinger | $10,000,000 |
| 4479 | ND | US 83/North Broadway Reconstruction in Minot | $10,000,000 |
| 4480 | ND | Mandan Avenue Reconstruction in Mandan | $2,000,000 |
| 4481 | ND | ND 127 Reconstruction from ND 11 N. to Wahpeton | $3,000,000 |
| 4482 | ND | US 83 Reconstruction from Max to ND 23 SB | $6,000,000 |
| 4483 | ND | US 281 Reconstruction from Carrington to Jct. ND 15 | $4,000,000 |
| 4484 | NE | Construction of the Columbus, Nebraska North Arterial Road | $1,400,000 |
| 4485 | NE | US-34 Missouri River Bridge relocation and replacement | $500,000 |
| 4486 | NE | Missouri River Bridges between US-34, I-29 in Iowa and US-75 in Nebraska | $1,200,000 |
| 4487 | NE | Design, right of way and construction of Nebraska Highway 35 between Norfolk to South Sioux City | $4,000,000 |
| 4488 | NE | Transportation Improvements for US-81 Meridian Bridge, Yankton | $1,800,000 |
| 4489 | NE | Railroad Grade Separation Structures, Statewide | $6,000,000 |
| 4490 | NE | Engineering, right of way and construction of the 23rd Street Viaduct in Fremont, Nebraska | $700,000 |
| 4491 | NE | Design, right of way and construction of the Louisville bypass, Nebraska | $400,000 |
| 4492 | NE | Construction of I-80 - Cherry Avenue Interchange and East bypass, Kearney, Nebraska | $1,000,000 |
| 4493 | NE | Interstate 80 Interchange at Pflug Road, Sarpy County, Nebraska | $600,000 |
| 4494 | NE | Construction of Heartland Expressway between Alliance and Minatare, NE | $8,000,000 |
| 4495 | NE | New roads and overpass to relieve congestion and improve traffic flow for Antelope Valley - Lincoln, NE | $3,000,000 |
| 4496 | NE | Design of right of way and construction of South and West beltway in Lincoln, NE | $2,000,000 |
| 4497 | NE | Cuming Street Transportation improvement project in Omaha, NE | $900,000 |
| 4498 | NE | Nebraska Intelligent Transportation Systems Statewide | $1,000,000 |
| 4499 | NE | Midwest Roadside Safety Facility, UNL -- Lincoln, NE | $1,000,000 |
| 4500 | NE | US Highway 75 expressway, Plattsmouth to Bellevue, Nebraska | $5,000,000 |
| 4501 | NE | US-275 So. Omaha Veterans Memorial Bridge | $3,000,000 |
| 4502 | NE | Lincoln East Beltway, NE | $500,000 |
| 4503 | NE | I-80 six lane (I-80 to 56th Street) Lincoln, NE | $3,000,000 |
| 4504 | NE | Antelope Valley Transportation Improvement Project in Lincoln | $10,000,000 |
| 4505 | NE | Design and construction of the South and West Beltway in Lincoln | $5,000,000 |
| 4506 | NE | Cuming Street Transportation Improvement Project in Omaha | $5,500,000 |
| 4507 | NE | Design and construction of Highway 35 between Norfolk and South Sioux City | $9,500,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4508 | NE | I-80-Cherry Avenue Interchange and East Bypass in Kearney | $8,000,000 |
| 4509 | NE | Construction of the Heartland Expressway between Alliance and Minatare | $5,000,000 |
| 4510 | NE | Plan and design I-80 Interchange at Pflug Road | $1,000,000 |
| 4511 | NE | Design and construction of Missouri River Bridges between US 34, I-29 in Iowa and US 75 in Nebraska | $3,000,000 |
| 4512 | NE | Construction of the North Arterial Road in Columbus | $2,000,000 |
| 4513 | NE | Design and construction of Meridian Bridge between Nebraska and Yankton, South Dakota | $1,000,000 |
| 4514 | NH | Construction, including widening and structural improvements, of Little Bay Bridge to eliminate congestion - Portsmouth, NH | $20,000,000 |
| 4515 | NH | I-93 water quality study project | $4,000,000 |
| 4516 | NH | Reconfiguration of Pelham Intersection to Improve Safety | $2,000,000 |
| 4517 | NH | Reconstruction of NH 11 and NH 28 Intersection in Alton | $1,400,000 |
| 4518 | NH | Construct and upgrade intersection of Route 3 and Franklin Industrial Drive in Franklin | $2,000,000 |
| 4519 | NH | Design and construction of intersection of Rte 101A and Rte 13 in Milford | $2,000,000 |
| 4520 | NH | Relocation and reconstruction of intersection at Route 103 and North Street in Claremont | $2,600,000 |
| 4521 | NH | Improve Meredith Village Traffic Rotary | $1,600,000 |
| 4522 | NH | Construct intersection at US 3 and Pembroke hill Road in Pembroke | $1,400,000 |
| 4523 | NH | Reconstruction and Improvements to NH Route 110 in Berlin | $3,600,000 |
| 4524 | NH | South Road Mitigation in Londonderry | $2,000,000 |
| 4525 | NH | Construct Park and Ride, Exit 5 on I-93 – Londonderry, NH | $2,000,000 |
| 4526 | NH | Reconstruction and relocation of the intersection of Maple Avenue and Charleston Road in Claremont | $1,000,000 |
| 4527 | NH | Replacement of Ash Street and Pillsbury Road Bridge | $1,400,000 |
| 4528 | NH | Hampton Bridge Rehabilitation – Hampton | $3,000,000 |
| 4529 | NJ | PATCO Rolling Stock acquisition and/or renovation for use on line between Lindenwold and Locust Street in Philadelphia | $40,000,000 |
| 4530 | NJ | Construct new ramps between I-295 and Route 42 | $15,000,000 |
| 4531 | NJ | Route 46 Corridor upgrades | $9,500,000 |
| 4532 | NJ | Route 18 Reconstruction in downtown New Brunswick | $7,500,000 |
| 4533 | NJ | Interstate 280 Interchange Improvements, Harrison | $2,000,000 |
| 4534 | NJ | Construct Waterfront Walkway from North Sinatra Drive and 12th St. south to Sinatra Drive in Hoboken | $8,000,000 |
| 4535 | NJ | Widening of Route 1 and intersection improvements in South Brunswick | $3,500,000 |
| 4536 | NJ | Route 29 conversion project to a full access freeway | $4,000,000 |
| 4537 | NJ | Improvements to River Road in Camden | $4,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4538 | NJ | Design and Construct Newark Waterfront Pedestrian and Bicycle Access | $2,000,000 |
| 4539 | NJ | Route 9W operational and safety improvements, including I-95 Southbound entrance alterations | $4,000,000 |
| 4540 | NJ | New Jersey Underground Railroad for preservation, enhancement and promotion of sites in New Jersey | $100,000 |
| 4541 | NJ | International Trade and Logistics Center Roadway Improvements at Exit 12 of the New Jersey Turnpike, Carteret | $1,000,000 |
| 4542 | NJ | Kapkowski Road Area Improvements in Elizabeth | $1,000,000 |
| 4543 | NJ | Expand TRANSCOM Regional ITS System in NJ, NY, and CT | $1,900,000 |
| 4544 | NJ | Construct Rt 49 Cohansey River Bridge Replacement, Cumberland County | $1,500,000 |
| 4545 | NM | Double Eagle II aviation facility for road construction | $8,000,000 |
| 4546 | NM | Double Eagle II aviation facility for interchange construction | $12,000,000 |
| 4547 | NM | Extension of University BLVD in Albuquerque | $5,000,000 |
| 4548 | NM | For construction work on NM-176 in Lea County | $5,000,000 |
| 4549 | NM | Rio Rancho, Iris Rd. to U.S. Highway 550 | $14,600,000 |
| 4550 | NM | For US 62/180 in Carlsbad | $5,000,000 |
| 4551 | NM | Transportation Improvements for I-10 reconstruction in Las Cruces | $2,000,000 |
| 4552 | NM | I-10/I-25 bridge reconstruction in Las Cruces | $7,000,000 |
| 4553 | NM | Transportation Improvements to FS 235 and access to Magdalena Ridge Observatory | $1,400,000 |
| 4554 | NM | Reconstruction of I-25/Paseo del Norte and Jefferson Interchange, Albuquerque | $20,000,000 |
| 4555 | NM | Reconstruction of NM 524 South Truck Bypass in Carlsbad | $5,000,000 |
| 4556 | NM | Reconstruction of I-10 and I-25 Interchange, Las Cruces | $7,000,000 |
| 4557 | NM | Extend College Blvd, Roswell | $2,000,000 |
| 4558 | NM | Widen US 64 between Farmington and Bloomfield | $7,000,000 |
| 4559 | NM | Rehabilitate Espanola Main Street, Espanola | $4,000,000 |
| 4560 | NV | Blue Diamond Hwy/SR 160 Widening | $20,000,000 |
| 4561 | NV | I-15 Widening and Interchanges, Las Vegas Valley | $8,000,000 |
| 4562 | NV | Transportation Improvements for to I-80 at Fernley Interchange | $6,000,000 |
| 4563 | NV | Transportation Improvements to Pyramid Highway Corridor, Sparks | $12,000,000 |
| 4564 | NV | US 95 Widening and Interchanges, Las Vegas, | $7,000,000 |
| 4565 | NV | Railroad Reconstruction, Ely and White Pine County | $2,000,000 |
| 4566 | NV | I-15 Widening northbound from Primm to Sloan Interchange, Clark County | $25,000,000 |
| 4567 | NV | I-580/US 395 Capacity Improvements, Washoe County | $25,000,000 |
| 4568 | NV | Construct I-15 - Las Vegas Beltway Interchange | $3,000,000 |
| 4569 | NV | Construct US 95 - Las Vegas Beltway Interchange | $3,000,000 |
| 4570 | NV | Construct Las Vegas Beltway/Airport Connector Interchange | $3,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4571 | NV | Transportation improvements on Henderson Lake Mead Parkway, Henderson, Nevada | $2,000,000 |
| 4572 | NV | Transportation improvements on Laughlin-Bullhead City Colorado Bridge | $3,000,000 |
| 4573 | NV | Transportation improvements for Mesquite Airport Access | $8,000,000 |
| 4574 | NV | US-395 Design | $3,000,000 |
| 4575 | NY | I-86/Route 17 Upgrade for Broome, Delaware, Chemung, Orange, Sullivan, and Cattaraugus Counties | $9,000,000 |
| 4576 | NY | Roadway and Intermodal Improvements to the Nassau County Hub | $5,000,000 |
| 4577 | NY | For Studies, Design, and Construction of the High Line Trail Project, New York City | $9,000,000 |
| 4578 | NY | Improvements to the Harlem River Bridges | $7,000,000 |
| 4579 | NY | Road Improvements for the Village of Kyrias Joel | $2,000,000 |
| 4580 | NY | I-86/Route 17 Upgrade for Tioga County | $1,000,000 |
| 4581 | NY | Reconstruction of Ashburton Avenue in Yonkers | $4,000,000 |
| 4582 | NY | To Conduct Scoping and Planning Studies for the Northern Tier Expressway | $1,500,000 |
| 4583 | NY | Improvements to Route 12 in Broome and Oneida Counties | $9,000,000 |
| 4584 | NY | Improvements for West 125th Street in West Harlem | $2,500,000 |
| 4585 | NY | Enhance Road and Transportation Facilities Near W. 65th Street and Broadway, New York City | $5,000,000 |
| 4586 | NY | Design and Construction of the Short Clove Crossing in Haverstraw | $6,000,000 |
| 4587 | NY | Planning and Construction of Fort Drum Connector Road | $1,000,000 |
| 4588 | NY | Design and Construction for a Syracuse University Transportation Facility in Syracuse | $4,000,000 |
| 4589 | NY | Road and Transportation Improvements near the Brooklyn Children's Museum | $5,000,000 |
| 4590 | NY | Construction and Improvements to US Route 219 Expressway | $5,000,000 |
| 4591 | NY | For research at the Rochester Institute of Technology Alternative Fuels and Life-Cycle Engineering | $4,000,000 |
| 4592 | NY | Improve Bronx Zoo Intermodal Facility | $4,000,000 |
| 4593 | NY | Conversion of NY Route 15 to I-99 Road Improvements | $3,000,000 |
| 4594 | NY | University of Buffalo Multidisciplinary Center for Earthquake Engineering Research (MCEER) | $3,000,000 |
| 4595 | NY | Tappan Zee Bridge to I-287 Transportation Corridor Study, Assessments, and Design | $1,500,000 |
| 4596 | NY | Corning Preserve Improvements Phase II | $2,000,000 |
| 4597 | NY | Siena College Perimeter Road Improvements and Construction | $500,000 |
| 4598 | NY | Southtown Connector Improvements on NY Route 5 from the Coast Guard Base to Ohio Street, Buffalo, NY/Buffalo Outer Harbor Road Improvements | $8,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4599 | NY | Miller Highway Improvements | $4,000,000 |
| 4600 | NY | Roadway, Pedestrian, and Streetscape Improvements for the New Cassel Revitalization Project in North Hempstead | $2,000,000 |
| 4601 | NY | Farm to Fork Transportation Distribution Network Study and Support in Upstate | $200,000 |
| 4602 | NY | Reconstruction of East Avenue from Main Street to Henry Street in Hornell | $2,000,000 |
| 4603 | NY | Improvements to Widmer Road in the Town of Wappinger | $500,000 |
| 4604 | NY | Improvements to Erie Boulevard in Schenectady | $2,000,000 |
| 4605 | NY | Construction of highway noise suppression barriers bordering I-84 in Newburgh | $1,500,000 |
| 4606 | NY | Improve Traffic Flow on Noel Road between Church and Crossbay Boulevard Including Work Necessary to Demolish and Reconstruct the Firehouse Facility in Broad Channel | $1,000,000 |
| 4607 | NY | Design, Planning, and Construction of a Community Transportation Center from Broadway to Manhattan College Parkway | $5,000,000 |
| 4608 | NY | Construction of Pedestrian and Bike Trail Campus Improvements at St. Bonaventure | $1,500,000 |
| 4609 | NY | For the CargoWatch Transportation Management Project for Study and Implementation | $3,500,000 |
| 4610 | NY | Design and Construction of an Access Road to Plattsburgh International Airport | $500,000 |
| 4611 | NY | Improvements and Enhancements for Oak Beach Road in the Town of Babylon | $2,000,000 |
| 4612 | NY | Design and Construction of Downtown Jamestown Connector Trail | $1,000,000 |
| 4613 | NY | Restoration of the Van Cortlandt Manor Entrance near Croton | $1,000,000 |
| 4614 | NY | Sound Shore Medical Center of Westchester Intermodal Facility Improvements | $1,000,000 |
| 4615 | NY | Route 17 Widening Study and Design | $1,000,000 |
| 4616 | NY | Erie Community College Transportation Improvements | $1,000,000 |
| 4617 | NY | Roadway and Traffic Improvements for Suffolk County | $1,500,000 |
| 4618 | NY | Connection Greenway from Bruckner Boulevard to | $800,000 |
| 4619 | OH | Reconstruction of Cleveland Inner Belt and rehabilitation of the Central Viaduct Bridge, Cleveland, OH. | $21,970,000 |
| 4620 | OH | Grading, paving, roads, and the transfer of rail-to-truck for the intermodal facility at Rickenbacker Airport Columbus, OH | $8,200,000 |
| 4621 | OH | Ramp and Roadway approaches on I-75 toward Brent Spence Bridge. Cincinnati, OH | $10,000,000 |
| 4622 | OH | Rehabilitation of the Martin Luther King, Jr. Bridge. Toledo, OH. | $2,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4623 | OH | Reconstruction, widening, and interchange upgrades to I-75 between Cincinnati and Dayton. Dayton, OH | $5,000,000 |
| 4624 | OH | Replace the Edward N. Waldvogel Viaduct. Cincinnati, OH | $6,000,000 |
| 4625 | OH | SR 8 safety improvement and road expansion project in Northern Summit County. OH | $2,600,000 |
| 4626 | OH | Reconstruction of the 70/71 split in downtown Columbus, OH | $8,000,000 |
| 4627 | OH | Widen US 35 to three contiguous lanes from I-75 to I-675 in Montgomery County, OH. | $4,000,000 |
| 4628 | OH | Construct pedestrian bridge from east of Dock 32 to park. Cleveland, OH. | $3,300,000 |
| 4629 | OH | SR 220 for new development areas in a depressed Appalachian region. Waverly, OH. | $4,100,000 |
| 4630 | OH | Construct full movement interchange on I-75 at Austin/Miamisburg-Springboro Rd & widen Miamisburg-Springboro Rd from Wood Rd to SR741. Dayton, OH | $750,000 |
| 4631 | OH | Reconstruct I-75/I-475 Interchange. Toledo, OH. | $5,000,000 |
| 4632 | OH | Construct 1,100 foot bulkhead/riverwalk connecting Front and Maine Ave. public rights of way. Cleveland, OH. | $1,280,000 |
| 4633 | OH | Construction of new bridges that will replace two unsafe spans that carry U.S. Route 62 across the Scioto River. Columbus, OH | $3,300,000 |
| 4634 | OH | Construction of a full four-way interchange at SR 44 and Shamrock Boulevard to replace current two-way interchange of SR 44 and Jackson St. Painesville, OH | $400,000 |
| 4635 | OH | Construction of interchange at SR 8 & Season Road. Cuyahoga Falls, OH. | $2,800,000 |
| 4636 | OH | Eliminate at-grade signalized intersections between North Fairfield Road and the Xenia Bypass on US 35 in Greene County, OH. | $3,000,000 |
| 4637 | OH | Design and construct a Towpath Trail from southern Cuyahoga County through downtown Cleveland to Lake Erie. Cleveland, OH. | $1,800,000 |
| 4638 | OH | Reconstruct and widen SR 82. North Royalton, OH | $1,000,000 |
| 4639 | OH | Construct connector between Crocker and Stearns County Highways. Westlake and North Olmsted, OH | $500,000 |
| 4640 | OH | Construct I-75/SR122 interchange and related improvements. Middletown, OH | $2,000,000 |
| 4641 | OH | NW Butler County TID US-27 widening, bypass, intersection improvements, and safety projects. | $14,000,000 |
| 4642 | OH | Allen County SR-309 road reconstruction and safety improvements | $5,000,000 |
| 4643 | OH | Licking County SR-79 service road construction, safety improvements, and congestion relief | $4,090,000 |
| 4644 | OH | Clermont County SR-125 turn lane additions and related safety improvements | $2,400,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4645 | OH | Portage County SR-14 turn lane addition, signalization, and related safety improvements | $500,000 |
| 4646 | OH | Mahoning County US-224 turn lane addition, widening, signage, and safety improvements | $4,000,000 |
| 4647 | OH | I-75 at Austin/Miamisburg-Springboro interchange construction, Miamisburg-Springboro Rd. from Wood Rd. to S.R. 741 widening | $750,000 |
| 4648 | OH | Delaware County US-23 turn lane addition, realignment, and related safety improvements | $935,000 |
| 4649 | OH | Fairfield County US-33 safety improvements and signalization, including section 13.2 to 15.01 | $2,000,000 |
| 4650 | OH | City of Springfield North Street relocation, land acquisition, utility replacement, and repaving | $3,715,000 |
| 4651 | OH | Grading, paving, roads for the transfer of rail to truck for the intermodal facility at Rickenbacker Airport | $5,000,000 |
| 4652 | OH | Knox County SR-13 rail-grade crossing improvements, realignment, and related safety measures | $480,000 |
| 4653 | OH | Jackson County SR-93 widening, turn-lane addition, and related safety improvements | $730,000 |
| 4654 | OH | Stark County SR-172 safety construction and related improvements | $2,500,000 |
| 4655 | OH | City of Cincinnati Waldvogel Viaduct reconstruction project | $2,500,000 |
| 4656 | OH | Delaware County SR-750 realignment and safety improvements (PID 79367) | $1,300,000 |
| 4657 | OH | Highway rail crossing safety upgrades at three locations in Madison Village, OH | $110,000 |
| 4658 | OH | Highway rail grade separation over NS rail line for Hines Hill Road/Milford Connector | $60,000 |
| 4659 | OH | Mill Street Bridge reconstruction and related improvements, Akron OH | $3,500,000 |
| 4660 | OH | Columbiana County Port Authority construct intermodal facility, transportation safety improvements | $1,000,000 |
| 4661 | OH | Transportation Improvements to downtown Columbsus RiverSouth Bridge | $2,000,000 |
| 4662 | OH | Transportation Improvements for Ohio River Trail from Salem to Downtown | $1,000,000 |
| 4663 | OH | Transportation Improvements for Montgomery County I-75 at South Dixie Drive/Central Avenue Interchange, W. Carrolton | $2,000,000 |
| 4664 | OH | Medina County US-224 turn lane addition, resurfacing, signage, and other improvements | $2,200,000 |
| 4665 | OH | Washington County SR-7 safety improvements, widening, and signage | $3,230,000 |
| 4666 | OH | Establish a Trans-Erie Ferry line from Cleveland, Ohio to Port Stanley, Ontario | $1,000,000 |
| 4667 | OK | To the University of OK to conduct reseach on global tracking methods for intermodal containerized freight | $5,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4668 | OK | Improving the I-35 Interchange at Milepost 1 Near Thackerville | $400,000 |
| 4669 | OK | Construction of Norman highway-rail Grade Separation | $8,400,000 |
| 4670 | OK | Transportation Improvements for SH-33 Widen SH-33 from the Cimarron River East to U.S. 177 Payne County | $1,600,000 |
| 4671 | OK | Reconstruct the Interstate 44 193rd Street Interchange | $600,000 |
| 4672 | OK | Widen US 60 from approximately 2 miles east of US 60-US75 interchange east approximately 5.5 miles | $400,000 |
| 4673 | OK | Widen US-54 from North of Optima Northeast to Kasas State Line, Texas County, OK | $200,000 |
| 4674 | OK | McAlester | $200,000 |
| 4675 | OK | Construction of rail crossing in Claremore at Blue State Drive and SH 66 | $400,000 |
| 4676 | OK | Complete Reconstruction of the I-35-SH9 West Interchange | $800,000 |
| 4677 | OK | Texanna Road improvements around Lake Eufaula | $200,000 |
| 4678 | OK | Improvements to SH 412P at 412 Interchange | $10,900,000 |
| 4679 | OK | Widen US-281 from the new US-281 Spur Borth to Geary Canadian County | $200,000 |
| 4680 | OK | Widen US-60 between, Bartlesville and Pawhuska, Osage County | $600,000 |
| 4681 | OK | Construction of Midwest City Pedestrian Walkway | $200,000 |
| 4682 | OK | Reconstruction SH 66 from Craig and Rogers Counties to SH 66 and US 60 intersection | $200,000 |
| 4683 | OK | Construct vehicular bridge over the Burlington Northern RR at War Bonnet Crossing, Mannford | $200,000 |
| 4684 | OK | Construction of Duncan Bypass Grade Separation | $600,000 |
| 4685 | OK | Improvements to SH3 from Antlers to Broken Bow | $1,250,000 |
| 4686 | OK | Reconstruction of the I-40 Cross-town Expressway from I-44 to I-35 in downtown Oklahoma City | $4,000,000 |
| 4687 | OK | Construct and widen six-lanes on Interstate 44 from the Arkansas River extending east approximately 3.7 miles to Yale Avenue in Tulsa, OK | $2,200,000 |
| 4688 | OK | Navajoe Gateway Improvements Projects, U.S. 62 in Altus, OK | $200,000 |
| 4689 | OK | Reconstruct the I-44 -- Ft. Sill Key Gate Interchange | $200,000 |
| 4690 | OK | Realignment of US 287 around Boise City | $200,000 |
| 4691 | OK | To study the feasibility of creating a by-pass around the City of Durant to accommodate the traffic needs of the International Trade Assistance Center | $300,000 |
| 4692 | OK | To construct a viaduct on US highway 70 over the railroad tracks in Durant | $6,400,000 |
| 4693 | OK | Enhancement projects for Woodward | $1,000,000 |
| 4694 | OK | Improvements to highways and bridges in the State of Oklahoma, divided equally among the eight field divisions | $53,150,000 |
| 4695 | OK | For improvements to the state maintained interstate system in the state of Oklahoma | $45,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4696 | OR | Highway 20 Improvements from Pioneer Mountain to Eddyville, Lincoln County | $5,000,000 |
| 4697 | OR | For purchase of right of way, planning, design and construction of a highway, Newberg | $15,000,000 |
| 4698 | OR | Upgrade, to add a southbound lane to a section of I-5 through Portland, between Delta Park and Lombard, Portland | $7,000,000 |
| 4699 | OR | Widening of Oregon Highway 217 between Tualatin Valley Highway and the U.S. 26 Interchange, Beaverton | $1,000,000 |
| 4700 | OR | Improve Highway 22, Polk County | $1,700,000 |
| 4701 | OR | Improve I-5/99W Connecter, Washington County | $10,000,000 |
| 4702 | OR | Improvements to U.S 97 from Modoc Point to Algoma | $3,500,000 |
| 4703 | OR | Construct Barber Street Extension, Wilsonville | $700,000 |
| 4704 | OR | For Interstate 5 interchange, City of Coburg | $1,000,000 |
| 4705 | OR | Upgrade the I-5 Fern Valley Interchange at Exit 24, Medford | $5,000,000 |
| 4706 | OR | Construction of highway and pedestrian access to Macadam Ave and street improvements as part of South Waterfront Development, Portland | $2,000,000 |
| 4707 | OR | Plan, design, and acquire, Sunrise Corridor, Clackamas County | $15,000,000 |
| 4708 | OR | Relocate and improve Cascade Locks Southbank Enhancements, Cascade Locks | $1,000,000 |
| 4709 | OR | Reroute U.S. 97 at Redmond, and improve intersection of U.S. 97 and Oregon 126 | $7,000,000 |
| 4710 | OR | Construction of I-84, US 395 Stanfield Interchange Improvement Project | $3,400,000 |
| 4711 | OR | Plan, design, and construct Frontage Road Crossing Project, Hood River | $500,000 |
| 4712 | OR | Improve Marine Park Underpass to address necessary transportation improvements, Cascade Locks | $400,000 |
| 4713 | OR | Improve Barnhart Road, Umatilla Country | $3,900,000 |
| 4714 | OR | P&W Rehabilitation Project, Yamhill County | $700,000 |
| 4715 | OR | Transportation Improvements Around the Eugene, Oregon Federal Courthouse | $1,000,000 |
| 4716 | OR | Plan, design, and construct the Dalles, Oregon Riverfront Access | $1,800,000 |
| 4717 | OR | Troutdale Interchange enhancements at I-84 and 257th St, Troutdale | $1,000,000 |
| 4718 | OR | Interchange Improvements to I-205 at Airport Way | $1,000,000 |
| 4719 | OR | Beaverton Hillsdale/Scholls Ferry/Oleson Rd Intersection Reconfiguration, Washington County | $3,000,000 |
| 4720 | OR | Rehabilitate Sellwood Bridge, Multnomah County, Oregon | $3,000,000 |
| 4721 | OR | I-5 Franklin-Glenwood Interchange Study | $400,000 |
| 4722 | PA | Road improvements for North Shore Transportation Connection, HOV modification, Pittsburgh | $1,500,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4723 | PA | Planning, environment and preliminary engineering for East-West Corridor Rapid Transit, Pittsburgh | $1,000,000 |
| 4724 | PA | Warrendale-Bayne Road improvements from I-79 to SR 19, in Allegheny County | $2,000,000 |
| 4725 | PA | New interchange off Route 60 into proposed industrial park in Neshannock Township | $200,000 |
| 4726 | PA | Upgrade of Route 60 Interchange with Route 22/30, Allegheny County | $1,000,000 |
| 4727 | PA | Streetscape improvements, Geneva College | $1,345,000 |
| 4728 | PA | Construct the Alle-Kiski Bridge and Connector, Pennsylvania | $1,000,000 |
| 4729 | PA | Relocation of existing two lane road, Rose Street, Indiana County | $1,000,000 |
| 4730 | PA | I-70-I-79 South Interchange Redesign and Upgrade | $2,000,000 |
| 4731 | PA | Construct 2 flyover ramps and S Linden St. extension for access to industrial sites in the cities of McKeesport and Duquesne | $3,000,000 |
| 4732 | PA | Crows Run Relocation from SR 65 to Freedom Crider Road, Beaver County | $400,000 |
| 4733 | PA | Transportation Improvements to Jeannette Truck Route, Westmoreland County | $100,000 |
| 4734 | PA | Construction of Central Susquehanna Valley Thruway | $5,000,000 |
| 4735 | PA | Construction of ramps on I-95 and US 322 widening of streets and intersections | $5,000,000 |
| 4736 | PA | Construct parking facility in Upper Darby | $2,000,000 |
| 4737 | PA | Improve Freemansburg Avenue and its intersections at Route 33 | $1,000,000 |
| 4738 | PA | For design, engineering, ROW acquisition, and construction of the third phase of the Marshalls Creek Bypass Project in Monroe County, Pennsylvania | $2,000,000 |
| 4739 | PA | Construct Campbelltown Connector, Lebanon County | $1,000,000 |
| 4740 | PA | Widen the Route 412 corridor from I-78 into the City of Bethlehem | $5,000,000 |
| 4741 | PA | Asbury Road and associated intersection improvement projects, Erie | $3,700,000 |
| 4742 | PA | ROW acquisition and construction for the South Valley Parkway, Luzerne County | $1,000,000 |
| 4743 | PA | Widening of SR 68 S. of I-80 interchange, Clarion County | $1,000,000 |
| 4744 | PA | State Street Bridge Replacement, Sharon | $1,000,000 |
| 4745 | PA | Intersection improvements and upgrades of SR 62/257 in Cranberry Township | $1,000,000 |
| 4746 | PA | Design-build in-house, bridge rehabilitation of six bridges in Warren County | $1,000,000 |
| 4747 | PA | Engineering, design and construction of an extension of Park Avenue north to Lakemont Park in Altoona | $2,000,000 |
| 4748 | PA | Widening of Rt.22 and SR.26 in Huntingdon, upgrades to the interchange at US RT 22 and SR26 | $1,000,000 |
| 4749 | PA | Road impact study along Potomac River tributaries, Pennsylvania | $250,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4750 | PA | Construct Dubois Regional Medical Center Access Road, Clearfield County | $600,000 |
| 4751 | PA | Road Improvements and upgrades related to the Pennsylvania State Baseball Stadium | $750,000 |
| 4752 | PA | Construction of turn lanes, increase curve radius at the intersection of SR 3041 and Industrial Park Road, Somerset | $425,000 |
| 4753 | PA | Construct Johnsonburg Bypass, Elk County | $2,000,000 |
| 4754 | PA | DuBois-Jefferson County Airport Access Road Construction | $2,000,000 |
| 4755 | PA | Replacement of existing bypass on US-219, McKean County | $1,000,000 |
| 4756 | PA | Complete heritage tourism work plans for communities along SR 6, Pennsylvania | $300,000 |
| 4757 | PA | Improvements and resurfacing on US-6 through the Borough of Mansfield | $1,000,000 |
| 4758 | PA | Construction of a road to join Route 247 and Salem Road, Lackawanna County | $3,000,000 |
| 4759 | PA | PA Route 61 enhancements, Schuylkill Haven | $1,600,000 |
| 4760 | PA | PA Route 309 roadway construction and signalization improvements in Tamaqua Borough | $400,000 |
| 4761 | PA | Design, engineering, ROW acquisition construction of streetscaping enhancements, paving, lighting, safety improvements, parking & roadway redesign in Wilkes-Barre | $1,000,000 |
| 4762 | PA | Construct Valley Business Park Access Road C, Bradford County | $400,000 |
| 4763 | PA | Construct PA 706 Wyalusing Bypass Bradford County, Pennsylvania | $200,000 |
| 4764 | PA | Construct S.R. 29 to River Betterment, Eaton Tunkhannock, Wyoming County | $340,000 |
| 4765 | PA | Modernize traffic signals, complete minor roadway realignment, and improve channelization at US 322 and PA 10 intersection | $100,000 |
| 4766 | PA | Replace Bridge, S.R. 106, Tunkhannock Creek Bridge 2, Clifford Township, Susquehanna County | $160,000 |
| 4767 | PA | Construction SR 3024, Middle Creek Bridge II, South Canaan, Wayne County | $140,000 |
| 4768 | PA | Restore Route 222 in Maxatawny and Richmond Townships, Berks County | $280,000 |
| 4769 | PA | Widening and improvements to SR 10, New Morgan Borough, Berks County | $1,000,000 |
| 4770 | PA | Construct parking facility in Norristown, Montgomery County | $2,000,000 |
| 4771 | PA | Design and construct French Creek Parkway and connector roads in Phoenixville | $1,000,000 |
| 4772 | PA | Design and Construction of Portzer Road Connector, Bucks County | $1,600,000 |
| 4773 | PA | Construction of pedestrian tunnel under Cherry Street in Philadelphia | $2,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4774 | PA | U.S. Route 13 Corridor Reconstruction, Redevelopment and Beautification, Bucks County | $1,000,000 |
| 4775 | PA | Two-lane Extension of Bristol Road, Bucks County | $400,000 |
| 4776 | PA | Relocation of PA 52 at Longwood Gardens, Chester County | $200,000 |
| 4777 | PA | Improvements to SR 39/I-81, West Hanover Township | $500,000 |
| 4778 | PA | Construction of alternate truck route for SR 441, Columbia Borough | $1,000,000 |
| 4779 | PA | Concord Road Extension, Springettsbury Township | $500,000 |
| 4780 | PA | Widen PA 896 between Strasburg Borough and US 30 | $500,000 |
| 4781 | PA | Design and construct relocation of US 11 between Ridge Hill and Hempt Roads | $750,000 |
| 4782 | PA | Construct and widen PA 94 from the Adams and York County line north to Appler Road | $300,000 |
| 4783 | PA | Construct a turning lane off Route 16 in McConnellsburg, Fulton County | $500,000 |
| 4784 | PA | Improvements from US 11 to southbound ramp to I-81 in Antrim Township | $250,000 |
| 4785 | PA | Construction of the Montour Trail, Great Allegheny Passage | $200,000 |
| 4786 | PA | Transportation Improvements for Armstrong County, PA Slatelick Interchange for PA 28 at SR 3017 | $500,000 |
| 4787 | PA | Widening of Route 40 in Wharton Township, Fayette County | $750,000 |
| 4788 | PA | Completion of I-79-Kirwin Heights Interchange and construction of retaining walls, bridge and new ramps | $400,000 |
| 4789 | PA | Construction of U.S. 22 to I-79 Section of Southern Beltway, Pittsburgh | $300,000 |
| 4790 | PA | Reconstruct intersection of SR 51 and Franklin Ave, Beaver County | $400,000 |
| 4791 | PA | South Phila. Access Rd. Design and construction of port access road from South Phila Port and intermodal facilities, Philadelphia | $500,000 |
| 4792 | PA | Widen Route 22 between Export and Delmont | $260,000 |
| 4793 | PA | Construct a new highway interchange between the PA Turnpike and I-95 and widen both routes to six lanes | $4,000,000 |
| 4794 | PA | Construct a highway connecting US 119 near Uniontown with SR 88 near Brownsville | $4,000,000 |
| 4795 | PA | Construct a road along the North Delaware Riverfront Corridor from Buckius Street to Poquessing Creek | $4,000,000 |
| 4796 | PA | Construct an intermodal center at the Philadelphia Zoo | $2,000,000 |
| 4797 | PA | Widen Route 412 corridor from I-78 into the City of Bethlehem | $2,000,000 |
| 4798 | PA | Improvements to the Erie Airport corridor | $1,000,000 |
| 4799 | PA | Widen I-81 from four to six lanes in the Wilkes-Barre/Scranton corridor | $2,000,000 |
| 4800 | PA | Construct the South Valley Parkway, Pennsylvania | $1,500,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4801 | PA | Complete the connection of the American Parkway between the east and west sides of the Lehigh River with bridges and interchanges | $2,000,000 |
| 4802 | PA | Construct safety and capacity improvements to Route 309 and Old Packhouse Road | $2,500,000 |
| 4803 | PA | Flyover ramps and improvements to I-79 and SR 228, Cranberry Township | $2,500,000 |
| 4804 | PA | Construct the Valley View Business Park Access Road | $1,500,000 |
| 4805 | PA | Construct the North Delaware River East Coast Greenway Trail | $3,000,000 |
| 4806 | PA | Improvements to the Pleasant Valley and Sandy Hill Roads intersection with SR 130 in Penn Township | $2,000,000 |
| 4807 | PA | Construct an intermodal facility servicing Children's Hospital of Pittsburgh | $1,000,000 |
| 4808 | PA | Widening and construction of grade-separated interchanges along SR 28 from Pittsburgh to Millvale, Pennsylvania | $1,000,000 |
| 4809 | PA | Lafayette Street extension and interchange improvements | $500,000 |
| 4810 | PA | Construct the Church Street Transportation Center in Williamsport | $2,000,000 |
| 4811 | PA | For the Children's Hospital of Philadelphia Partners for Child Passenger Safety program | $1,000,000 |
| 4812 | PA | Construct improvements to SR 29 and SR 113 in Upper Providence Township, Pennsylvania | $2,400,000 |
| 4813 | PA | Construct ramps off of I-95 and US 322 and access improvements to Chester, Pennsylvania | $1,000,000 |
| 4814 | PA | Improvements to access roads at the Please Touch Museum, Philadelphia | $1,000,000 |
| 4815 | PA | Construction of the Schuylkill Gateway Project in Philadelphia, Pennsylvania | $1,000,000 |
| 4816 | PA | Security improvements to the Commodore Barry Bridge, Pennsylvania | $1,000,000 |
| 4817 | PA | Improve Freemansburg Avenue and its intersections at Route 33, Pennsylvania | $1,000,000 |
| 4818 | PA | Study and construct improvements to the intersection of the Bucknell University main campus entrance road and SR 15, Pennsylvania | $1,000,000 |
| 4819 | PA | Improvements to rural corridors in Erie, Pennsylvania | $450,000 |
| 4820 | PA | Widen the ramp at the intersection of Peach Street and I-90, Pennsylvania | $500,000 |
| 4821 | PA | Implement the Clearfield Cluster Pennsylvania highway grade crossing project, Clearfield and Clinton Counties | $1,000,000 |
| 4822 | PA | Rail traffic safety improvements, Homer City, Pennsylvania | $500,000 |
| 4823 | PA | Design and construct interchange improvements including sound barriers at I-83, Exit 19, or other projects designated by York County, MPO | $1,000,000 |
| 4824 | PA | Construct the Alle-Kiski Bridge and Connector | $1,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4825 | PA | Reconfiguration of the Rochester Riverfront ramp | $1,000,000 |
| 4826 | PA | Expand US 422 between Indiana and Kittaning | $1,000,000 |
| 4827 | PA | PATCO high-speed line fleet upgrade | $1,000,000 |
| 4828 | PA | For interpretive signage and trails in Pittsburgh urban park land | $300,000 |
| 4829 | PA | Construct rail crossings to access Schuylkill River Park, Philadelphia | $600,000 |
| 4830 | PA | Repair and upgrade Cresheim Valley Drive, Philadelphia | $450,000 |
| 4831 | PA | Improvements to Penn's Landing Ferry Terminal, Philadelphia | $400,000 |
| 4832 | PA | Shippensburg University campus circulation improvements | $250,000 |
| 4833 | PA | To incorporate a portion of Old Delaware Avenue as the South Philadelphia Port Access Road | $400,000 |
| 4834 | PA | Construct a new interchange and additional northbound lane along SR 28 near Tarentum | $400,000 |
| 4835 | PA | Linglestown Square, Lower Paxton Township | $250,000 |
| 4836 | PA | Study the future needs of east-west road infrastructure in Adams County | $500,000 |
| 4837 | PA | Completion and enhancements to the Pittsburgh Riverfront trail system | $500,000 |
| 4838 | PA | Road impact study along Potomac River tributaries | $200,000 |
| 4839 | PA | Da Vinci Center hydrogen fuel-celled transit vehicles | $200,000 |
| 4840 | PA | Complete heritage tourism work plans for communities along SR 6 | $100,000 |
| 4841 | PA | Relocation of East Lake Road in Pyamatuning Township | $100,000 |
| 4842 | RI | Transportation Improvements for the Apponaug Bypass | $22,000,000 |
| 4843 | RI | Transportation Improvements for the Washington Secondary Bicycle Facility/Coventry Greenway/Trestle Trail (Coventry) | $4,000,000 |
| 4844 | RI | Transportation Improvements for the Northwest Biketrail/Woonasquatucket River Greenway (Providence, Johnston) | $6,000,000 |
| 4845 | RI | New Interchange constructed from I-195 to Taunton and Warren Avenue in East Providence | $7,000,000 |
| 4846 | RI | Transportation Improvements for the Blackstone River Bikeway (Providence, Woonsocket) | $10,000,000 |
| 4847 | RI | Transportation Improvements for the Jamestown Bridge Demolition - Bicycle Access/Trestle Span Demolition/Fishing Pier (N. Kingstown) | $4,000,000 |
| 4848 | RI | Weybosset Street (200 Block) Streetscape and Drop-off Lane Improvement - Providence | $750,000 |
| 4849 | RI | Acquisition of fee or easement, construction of a trail, and site improvements in Foster | $1,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 4850 | RI | Open space acquisition to mitigate growth associated with SR-4 and Interstate 95, by non-profit land conservation agencies through acquisition of fee or easement, with a match requirement of 50% of the total purchase price. | $8,000,000 |
| 4851 | RI | Replace Sakonnet Bridge | $7,000,000 |
| 4852 | RI | Transportation Enhancements at Blackstone Valley Heritage Corridor | $500,000 |
| 4853 | RI | Bury the Power Lines at India Point | $2,500,000 |
| 4854 | RI | Restore and Expand Maritime Heritage site in Bristol | $500,000 |
| 4855 | RI | Transportation Improvements for the Colt State Park Bike Path | $2,000,000 |
| 4856 | RI | Construct trails and facility improvements within the Rhode Island National Wildlife Refuge complex | $1,000,000 |
| 4857 | RI | Improvements for the Commuter rail in Rhode Island | $5,000,000 |
| 4858 | RI | Transportation Improvements for the East Main Road in Middletown | $5,000,000 |
| 4859 | RI | Downtown Circulation Improvements Providence | $2,000,000 |
| 4860 | RI | Transportation Improvements for the Route 138 (South Kingstown) | $4,000,000 |
| 4861 | RI | Transportation Improvements for the Route 1 Gilbert Stuart Turnaround (N. Kingstown) | $2,750,000 |
| 4862 | RI | Rehabilitate and improve RT 138 from RT 108 to RT 2 | $12,000,000 |
| 4863 | RI | Improve traffic circulation and road surfacing in downtown Providence | $5,000,000 |
| 4864 | RI | Improve access to Pell Bridge in Newport | $5,000,000 |
| 4865 | RI | Completion of Washington Secondary Bike Path from Covernty to Connecticut Border | $7,000,000 |
| 4866 | RI | Replace Warren Bridge in Warren | $11,000,000 |
| 4867 | RI | Rehabilitation of Stillwater Viaduct in Smithfield | $5,000,000 |
| 4868 | RI | Completion of Woonasquatucket River Greenway from Johnston to Providence | $5,000,000 |
| 4869 | RI | Replace Natick Bridge in Warwick and West Warwick | $5,000,000 |
| 4870 | SC | Construction of I-73 from Myrtle Beach, SC to I-95, ending at the NC state line | $10,000,000 |
| 4871 | SC | Widening of US 278 to six lanes in Beaufort County, SC between Hilton Head Island and SC 170 | $15,000,000 |
| 4872 | SC | Engineering, design and construction of a Port Access Road connecting to I-26 in North Charleston, SC | $10,000,000 |
| 4873 | SC | Improvements to US 17 in Beaufort and Colleton Counties to improve safety between US 21 and SC 64 | $10,000,000 |
| 4874 | SC | Widening of SC 9 in Spartanburg County from SC 292 to Rainbow Lake Road | $2,000,000 |
| 4875 | SC | Complete Construction of Palmetto Parkway Extension (I 520) Phase II to I-20 | $3,000,000 |
| 4876 | SC | Complete a multi-lane widening project on SC Hwy 5 Bypass in York County, SC between I-77 and I-85 | $4,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4877 | SC | Re-construction of an existing interchange at I-385 and SC 14, in Laurens County | $2,000,000 |
| 4878 | SC | Construction of the Lexington Connector in Lexington County, to alleviate traffic congestion | $2,000,000 |
| 4879 | SC | Widening of 4.4 miles of West Georgia Road in Greenville County | $2,000,000 |
| 4880 | SC | Extension of Wells Highway in Oconee Count | $2,000,000 |
| 4881 | SC | Demolition of the old Cooper River Bridges in Charleston | $5,000,000 |
| 4882 | SC | Transportation Improvements for the I-73 in South Carolina- Proposed interstate corridor beginning at NC state line continuing to the Grand Strand area of SC. | $5,000,000 |
| 4883 | SC | Transportation Improvements for the US 278 in Beaufort/Jasper County to alleviate roadway capacity constraints and improve safety and operations. | $2,000,000 |
| 4884 | SC | ICAR Roads, Greenville, reconstruction of roads around Fairforest Way for better flow into ICAR | $2,000,000 |
| 4885 | SC | Harden Street Improvements in Columbia. Specific improvements will include: modern traffic control signals, intersections, improved street lighting, driveways etc. | $5,000,000 |
| 4886 | SC | Palmetto Parkway, Phase 2 is approximately 6 miles long and begins at US 1/78 and terminates at I-20. | $3,000,000 |
| 4887 | SC | Lexington Connector in South Carolina, to alleviate traffic congestion along three major thoroughfares in Lexington County: US 1, US 378, and SC 6 | $1,000,000 |
| 4888 | SC | I-77/Peach Road Interchange in Fairfield County, SC, project would create interchange to encourage development at industrial park | $3,000,000 |
| 4889 | SC | I-95/SC 327 in Florence, SC, to construct northbound ramp and expand existing ramps | $3,000,000 |
| 4890 | SC | Transportation Improvements for Highway 901, York County, SC | $1,000,000 |
| 4891 | SC | The Extension of the Mark Clark Expressway in Charleston County | $3,000,000 |
| 4892 | SD | Construction of four-lane highway on US 79 between Maverick Junction, and the Nebraska border | $27,000,000 |
| 4893 | SD | Reconstruct, S. Rochford Road from Rochford to Deerfield Rd. | $9,000,000 |
| 4894 | SD | Reconstruct SD-50 Cherry Street in Vermillion | $3,000,000 |
| 4895 | SD | Construct Rush Lake Crossing US 12 near Webster | $8,000,000 |
| 4896 | SD | Construct Phase I -- South Connector Broadway to 29th Street, Watertown | $3,600,000 |
| 4897 | SD | Construct Intersection of State Hwy. 212 and US 81, Watertown | $2,500,000 |
| 4898 | SD | Reconstruction of US 14 -- Medary Ave. to 22nd Ave., Brookings | $3,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4899 | SD | Extension of Main Street and replacement of rail crossing, Mobridge | $1,500,000 |
| 4900 | SD | Reconstruction and paving of BIA Route 27, Wounded Knee-Procupine Butte | $6,000,000 |
| 4901 | SD | Purchase critical conservation easements along the Heartland Expressway (Highway 79) adjacent to Custer State Park and Wind Cave National Park | $2,000,000 |
| 4902 | SD | Reconstruction and paving of streets on the Flandreau Indian Reservation | $2,000,000 |
| 4903 | SD | Construct Exit 61 I-90 Rapid City (Heartland Expressway) | $15,116,000 |
| 4904 | SD | Construct SD 1806 from US 83 East -- 15.6 miles toward Lower Brule | $862,000 |
| 4905 | SD | Construct Wagner Community Streets, Yankton Reservation | $200,000 |
| 4906 | SD | Construct Marty Community Streets, Yankton Reservation | $200,000 |
| 4907 | SD | Construct Riverfront Walking trail between 4th Ave. and Main Street, Mobridge | $300,000 |
| 4908 | SD | Reconstruct Exit 79 – I-29 in Sioux Falls (12th Street) | $12,323,000 |
| 4909 | SD | East Anamosa St. extension to east/north and lacrosse St. road and bridge | $6,127,000 |
| 4910 | SD | To replace bridge over Missouri River, I-90 in Chamberlain | $15,000,000 |
| 4911 | SD | Winter Maintenance Decision Support System -- SD DOT | $1,000,000 |
| 4912 | SD | Reconstruct US 14 to US 83 junction, Pierre East | $2,000,000 |
| 4913 | SD | Resurface US 12 from McLaughlin east 14.2 miles in Standing Rock Reservation | $2,472,000 |
| 4914 | SD | Reconstruct I-90 loop in Mitchell (Burr to Sanborn) | $3,000,000 |
| 4915 | SD | Road Construction Activities Turner County | $1,000,000 |
| 4916 | SD | Pavement restoration US 12 2.1 miles from west of Penn St. to east of Melgaard in Aberdeen | $1,000,000 |
| 4917 | SD | BIA route 3/ Tribal Farm Rd. reconstrcution and paving | $6,000,000 |
| 4918 | SD | BIA route 15 resurfacing between red scaffold and cherry creek to Ziebach county Rd. 33. | $5,000,000 |
| 4919 | SD | For Okreek to Carter grading and resrufacing US 18 west of Okreek to Carter | $2,250,000 |
| 4920 | SD | Acquisition of road maintenance equipment for Oglala, Rosebud and Cheyenne River Sioux Tribes | $3,000,000 |
| 4921 | SD | Construct bike path in Vermillion | $750,000 |
| 4922 | SD | Construct Rail Spur in Brookings | $750,000 |
| 4923 | SD | Asphalt overlay to extend Lewis and Clark Highway 1804 in Charles Mix County leading to Platte Creek Recreation Area | $600,000 |
| 4924 | SD | South Dakota Department of Transportation; for those projects it has identified as its highest priorities | $3,450,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4925 | TN | University of Tennessee Joint Institute for Advanced Materials in Knoxville | $20,000,000 |
| 4926 | TN | Center for Advanced Intermodal Transportation Technologies at the University of Memphis | $5,000,000 |
| 4927 | TN | College Street Corridor, Phase II, Great Smoky Mountain Heritage Highway Cultural and Visitors Center, Maryville | $8,000,000 |
| 4928 | TN | Plan and construct N. Tennessee Boulevard enhancements, Murfreesboro | $6,000,000 |
| 4929 | TN | North Second Street Corridor Upgrade, Memphis | $10,000,000 |
| 4930 | TN | Engineer, design & construction of connector rd from I-75 interchange across Enterprise South Industrial Park to Hwy 58 in Hamilton County | $10,000,000 |
| 4931 | TN | Construct force protection barriers along U.S. Highway 41-A at Fort Campbell | $4,000,000 |
| 4932 | TN | Upgrade roads for Slack Water Port facility and industrial park, Lake County, TN | $1,500,000 |
| 4933 | TN | Plan and construct Rutherford County visitor's center/transportation information hub, City of Murfreesboro | $2,000,000 |
| 4934 | TN | Reconstruct connection with Hermitage Avenue to Cumberland River Bluff in Nashville | $5,000,000 |
| 4935 | TN | Six lane extension from Airways Boulevard to South Highland Avenue in Jackson | $4,000,000 |
| 4936 | TN | Plough Boulevard Interchange with Winchester Road in Memphis | $2,500,000 |
| 4937 | TN | Construction of a pedestrian bridge in Alcoa | $200,000 |
| 4938 | TN | Construct vistor interpretive center at the Gray Fossil Site in Gray | $1,800,000 |
| 4939 | TN | Expansion of SR 11W from Rutlegde to Bean Station in Grainger County | $5,000,000 |
| 4940 | TN | Construction of Knob Creek Road in Washington County, Tennessee | $2,500,000 |
| 4941 | TN | Riverside Drive Cobblestone Restoration and Walkway, Memphis | $2,500,000 |
| 4942 | TN | Reconstruction of sidewalks, curbs, and streetscape improvements within the Memphis Central Biomedical District, Memphis, Tennessee | $5,000,000 |
| 4943 | TN | Develop intelligent transportation signage for access points at Fort Campbell, Tennessee | $2,200,000 |
| 4944 | TN | Construction of SR-32/US-321 from SR-73 at Wilton Springs road to near I-40 in Cocke County, Tennessee | $5,000,000 |
| 4945 | TN | Improvements to I-40 interchange at I-240 East of Memphis (Phase II) | $5,000,000 |
| 4946 | TN | Warren County Mountain View Industrial Park access road, Warren County, TN | $1,500,000 |
| 4947 | TN | Widen U.S. Highway 127 to 4 lanes between Jamestown, Tennessee and I-40 | $2,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4948 | TN | Widen a railroad underpass and make access improvements to the I-275 industrial business park in Knoxville | $5,000,000 |
| 4949 | TN | Construct Interpretive Visitor Center for the Cherokee Removal Memorial Park Trail of Tears site in Meigs County | $500,000 |
| 4950 | TN | Construct overpass at Highway 321 and Highway 11 Loudon County | $1,300,000 |
| 4951 | TN | Construction of an Interchange on Highway 64 (APD 40) adjacent to I-75 Exit 20 in the City of Cleveland, TN for increased safety | $1,250,000 |
| 4952 | TN | Construct trails and recreational facilities at the Warriors Path State Park in Kingsport | $500,000 |
| 4953 | TN | Construct the Melton Lake greenway in Oak Ridge | $650,000 |
| 4954 | TN | Access road improvements for regional hospital in Morristown | $1,000,000 |
| 4955 | TN | Johnson County, Tennessee for a trails system | $500,000 |
| 4956 | TN | Access road from the James H. Quillen VA Medical Center to US 11-E in Mountain Home | $1,000,000 |
| 4957 | TN | Widen I-65 from SR-840 to SR-96, including interchange modification at Goose Creek bypass, Williamson County | $2,000,000 |
| 4958 | TN | Acquire and construct trail and bikeway along S. Chickamauga Creek in Chattanooga | $500,000 |
| 4959 | TN | Improve Streetscape and pavement repair, Carter County | $500,000 |
| 4960 | TN | Improve Streetscape and pavement repair, McMinn County | $500,000 |
| 4961 | TN | Improve Streetscape and pavement repair, Maury County | $500,000 |
| 4962 | TN | Improve, Streetscape and pavement repair, Lincoln County | $500,000 |
| 4963 | TN | Improve Streetscape and pavement repair, Dyer County | $500,000 |
| 4964 | TN | Improve Streetscape and pavement repair, Smith County | $500,000 |
| 4965 | TN | Improve Streetscape and pavement repair, Henry County | $500,000 |
| 4966 | TN | Improve Streetscape and pavement repair, Obion County | $500,000 |
| 4967 | TN | Improve Streetscape and pavement repair, Sumner County | $500,000 |
| 4968 | TN | Replace Unitia Bridge in Loudon County | $200,000 |
| 4969 | TN | Sullivan, Washington Counties, Tennessee SR-75 widening | $500,000 |
| 4970 | TN | Sevier County, TN SR-66 widening | $500,000 |
| 4971 | TN | Develop the East Hickman County and Oak Hill Community Greenway Projects, Hickman County | $200,000 |
| 4972 | TN | SR-397 extension from SR-96W to US-431N to Franklin | $500,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4973 | TN | US-412 from the Madison County Line to Parsons TN in Henderson and Decatur Counties | $500,000 |
| 4974 | TN | Construction of the Foothills Parkway in Smoky Mountains National Park, Sevier County | $10,000,000 |
| 4975 | TN | Construct Transportation and Heritage museum, Townsend | $400,000 |
| 4976 | TN | Plan and construct access road for the Overton County Industrial Park, Overton County | $300,000 |
| 4977 | TN | Construct system of greenways in Nashville--Davidson County | $500,000 |
| 4978 | TN | Improve Streetscape and pavement repair, Roane County | $500,000 |
| 4979 | TN | Improve Streetscape and pavement repair, Scott County | $500,000 |
| 4980 | TN | Improve Streetscape and pavement repair, Morgan County | $500,000 |
| 4981 | TN | Improve Streetscape and pavement repair, Fentress County | $500,000 |
| 4982 | TN | Street improvements, streetscape features, signals and signage along 3rd Avenue North and Union Street in downtown Nashville, Tennessee | $6,000,000 |
| 4983 | TN | Improvements to the Blount/Sevier Corridor in Knoxville, Tennessee to support the South Waterfront Redevelopment project | $6,000,000 |
| 4984 | TX | Replacement of the I-30 Bridge over the Trinity River in Dallas | $17,000,000 |
| 4985 | TX | Replacement of the Galveston Causeway Railroad Bridge in Galveston | $15,000,000 |
| 4986 | TX | Construction of a new international rail bridge and rail track west of Brownsville | $4,000,000 |
| 4987 | TX | Construction of a three mile bypass around central San Marcos | $10,000,000 |
| 4988 | TX | Construction of a railroad grade separation at Calton Rd. in Laredo, TX (part of the West Laredo Multimodal Trade Corridor) | $6,000,000 |
| 4989 | TX | Transportation Improvements for the San Angelo Ports to Plains Route 306 at FM 388 | $5,000,000 |
| 4990 | TX | Reconstruct Mile 6 West from U.S. 83 to SH 107 Hidalgo County | $2,000,000 |
| 4991 | TX | Tyler Outer Loop 49 Construction | $3,000,000 |
| 4992 | TX | Transportation Improvements to Cotton Flat Road Overpass @ Interstate 20 | $3,000,000 |
| 4993 | TX | Construction of a parking facility at the University of the Incarnate Word, San Antonio, Texas | $2,000,000 |
| 4994 | TX | Research and construction, Southwest Center for Transportation Research and Testing, Pecos, TX | $1,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 4995 | TX | Construct a reliever route on U.S. 287 south of Dumas to U.S. 287 north of Dumas | $3,000,000 |
| 4996 | TX | Widen FM 60 (University Drive) from SH 6 to FM 158, College Station | $2,000,000 |
| 4997 | TX | Complete U.S. 77 relief route around city of Robstown | $4,000,000 |
| 4998 | TX | North Rail Relocation Harlingen | $4,000,000 |
| 4999 | TX | Improvements to KellyUSA 36th Street | $2,000,000 |
| 5000 | TX | Beaumont, Tx Washington Blvd Improvements | $1,000,000 |
| 5001 | TX | Improvements to Cottonwood Trail | $1,000,000 |
| 5002 | TX | Improvements to FM 110 in San Marcos | $1,000,000 |
| 5003 | TX | Improvments to SH 71 from W of FM 20 to Loop 150 bastrop County | $2,000,000 |
| 5004 | TX | Construct 6 mainlines from east of Mercury to east of Wallsville | $2,000,000 |
| 5005 | UT | Geneva Rd-Provo Center Street, Orem 1600 North to I-15 FWY, Provo-widen from 2 to 4 lanes, Provo | $2,000,000 |
| 5006 | UT | Construction of Midvalley Highway, Tooele County | $3,000,000 |
| 5007 | UT | Provo, Utah Westside Connector from I-15 to Provo Municipal Airport, Provo | $1,000,000 |
| 5008 | UT | Reconstruct 500 West, including pedestrian and bicycle access, in Moab | $1,500,000 |
| 5009 | UT | Bear River Migratory Bird Refuge Access Road Improvements, Box Elder County | $3,000,000 |
| 5010 | UT | Widen Highway 92 from Lehi to Alpine/Highland | $2,500,000 |
| 5011 | UT | I-15 Freeway Reconstruction-Springville 200 South Interchange, Springville | $6,000,000 |
| 5012 | UT | Construct two-lane divided highway from the Atkinville Interchange to the new airport access road in St. George | $7,000,000 |
| 5013 | UT | I-15 Reconstruction; Salt Lake County | $3,500,000 |
| 5014 | UT | I-15 North and Commuter Rail Coordination, Davis County | $2,500,000 |
| 5015 | UT | Streetscape a two-lane road and add turning lanes at key intersections on Santa Clara Drive in Santa Clara | $3,000,000 |
| 5016 | UT | Widen Redwood Road from Saratoga Springs to Bangerter Highway in Utah County | $2,500,000 |
| 5017 | UT | Grant Tower Reconfiguration, Salt Lake City | $5,000,000 |
| 5018 | UT | 200 East Minor Arterial, Logan City | $3,000,000 |
| 5019 | UT | 3200 South Project, Nibley/Cache County | $3,000,000 |
| 5020 | UT | Construct Parley's Creek Trail, Salt Lake City | $5,500,000 |
| 5021 | UT | SR-158 Improvements, Pine View Dam, Weber County | $2,100,000 |
| 5022 | UT | Provo Reservoir Canal Trail, Provo | $5,000,000 |
| 5023 | UT | Improve pedestrian and traffic safety in Holladay | $2,000,000 |
| 5024 | UT | Forest Street Improvements, Brigham City | $3,500,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 5025 | UT | Reconstruct South Moore Cut-off Road in Emery County, UT | $8,000,000 |
| 5026 | UT | Increase lane capacity on bridge over Virgin River on Washington Fields Road in Washington | $4,000,000 |
| 5027 | UT | Construct pedestrian safety project on the Navajo Nation in Montezuma Creek. | $500,000 |
| 5028 | UT | Add lighting on Highway 262 on the Navajo Nation in Aneth . | $500,000 |
| 5029 | UT | Add lights to road from Halchita to Mexican Hat in the Navajo Nation. | $400,000 |
| 5030 | UT | Geneva Rd-Provo Center Street, Orem 1600 North to I-15 FWY, Provo-widen from 2 to 4 lanes. | $10,000,000 |
| 5031 | UT | Transportation Improvements for the Widen Highway 92 from Lehi to Highland | $5,500,000 |
| 5032 | UT | Expand Redhills Parkway from 2 to 5 lanes and improve alignment within rights-of-way in St. George | $8,000,000 |
| 5033 | UT | I-15 Freeway Reconstruction-Springville 200 South Interchange | $4,500,000 |
| 5034 | UT | Construct two-lane divided highway from the Atkinville Interchange to the new replacement airport access road in St. George | $6,000,000 |
| 5035 | UT | Widen Redwood Road from Bangerter Highway in Salt Lake County through Saratoga Springs in Utah County | $4,000,000 |
| 5036 | UT | Construction of 200 North Street highway-rail graded crossing separation, Kaysville | $5,000,000 |
| 5037 | UT | Forest Street Improvements, Brigham City | $2,500,000 |
| 5038 | UT | Bear River Migratory Bird Refuge Access Road Improvements, Box Elder County | $5,500,000 |
| 5039 | UT | Construction and Rehabilitation of 13th East in Sandy City | $5,000,000 |
| 5040 | UT | Transportation Improvements to 200 East Minor Arterial, Logan City | $1,000,000 |
| 5041 | UT | Provo, Utah Westside Connector from I-15 to Provo Municipal Airport | $1,000,000 |
| 5042 | UT | Improve pedestrian and traffic safety in Holladay .. | $2,000,000 |
| 5043 | VA | I-66 Improvements and Route 29 Interchange at Gainesville | $20,000,000 |
| 5044 | VA | Construct Meadowcreek Parkway Interchange, Charlottesville | $25,000,000 |
| 5045 | VA | Construct South Airport Connector Road, Richmond International Airport | $2,000,000 |
| 5046 | VA | I-264/Lynnhaven Parkway/Great Neck Road Interchange | $2,000,000 |
| 5047 | VA | Improvements to Coalfields Connector, Route 460, Buchanan County | $12,000,000 |
| 5048 | VA | Rt. 460 Improvements | $5,000,000 |
| 5049 | VA | National Park Service transportation improvements to Historic Jamestowne in FY 2006 | $2,000,000 |
| 5050 | VA | Manage freight movement and safety improvments toI-81 | $3,500,000 |

HIGH PRIORITY PROJECTS---Continued

| No | State | Project Description | Amount |
|---|---|---|---|
| 5051 | VA | Route 50 Traffic Calming, Gilberts Corner | $8,000,000 |
| 5052 | VA | Smart Road Research and Operations, Blacksburg | $6,000,000 |
| 5053 | VA | Replacement of Robertson Bridge, Danville | $5,000,000 |
| 5054 | VA | I-64/City Line Road Interchange | $5,000,000 |
| 5055 | VA | Dominion Boulevard Improvements, Route 17,Chesapeake | $8,000,000 |
| 5056 | VA | National Park Service, Appalachian Trail, High Top Mountain land acquisition, FY 2006 | $500,000 |
| 5057 | VA | Widen I-66 westbound inside the Capital Beltway | $22,000,000 |
| 5058 | VA | Construct I-73 near Martinsville, | $7,000,000 |
| 5059 | VA | The Journey Through Hallowed Ground Rt. 15 scenic corridor management planning and implementation,FY 2006 | $1,000,000 |
| 5060 | VA | Widening I-95 between Rte 123 and Fairfax County Parkway | $10,000,000 |
| 5061 | VA | Widen Route 17 in Stafford | $1,000,000 |
| 5062 | VA | Construct Old Mill Road extension | $2,000,000 |
| 5063 | VA | Improvements to public roadways within the campus boundaries of the Virginia Biotechnology Park, Richmond | $1,000,000 |
| 5064 | VA | Widen Route 262 in Augusta County | $2,000,000 |
| 5065 | VA | Bristol Train Station--historic preservation and rehabilitation of former Bristol, VA train station | $1,000,000 |
| 5066 | VA | Interstate 81 ITS message signs | $500,000 |
| 5067 | VA | Improvements to Route 15, Farmville | $1,000,000 |
| 5068 | VA | Route 11 improvements in Maurertown (Shenandoah County) | $500,000 |
| 5069 | VA | Improve Route 42 (Main Street) in Bridgewater | $500,000 |
| 5070 | VA | Widen Rolfe Highway to the Surry Ferry landing approach bridge in FY 2006 | $1,000,000 |
| 5071 | VA | Engineering and Right of Way for Interstate 73 in Roanoke County | $1,000,000 |
| 5072 | VA | Double stack clearance of tunnels on the Norfolk and Western Mainline in Virginia located on the Heartland Corridor | $5,000,000 |
| 5073 | VA | Construction and improvements from Route 60 to Mariners Museum and USS Monitor Center | $1,000,000 |
| 5074 | VA | Route 221 improvements in Forest | $500,000 |
| 5075 | VT | US Route 2 Improvements in Danville | $5,000,000 |
| 5076 | VT | Vermont Statewide Rural Advanced Traveller System and Fiber Construction | $10,000,000 |
| 5077 | VT | Main Street Bridge, Johnson | $3,600,000 |
| 5078 | VT | Pearl Street Bridge, Johnson | $1,400,000 |
| 5079 | VT | Church Street Improvements in Burlington | $6,000,000 |
| 5080 | VT | Burlington Waterfront Transportation Improvements | $3,500,000 |
| 5081 | VT | Colchester Campus Road Project | $1,000,000 |
| 5082 | VT | Essex Junction Downtown Transportation Improvements | $1,000,000 |
| 5083 | VT | US Route 2/I-89 Interchange Improvements in South Burlington | $3,000,000 |
| 5084 | VT | I-91 Reconstruction at Derby Line, VT Port of Entry | $6,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 5085 | VT | Design and Construction of Montpelier Downtown Redevelopment Project | $4,000,000 |
| 5086 | VT | Design and construction of dry span bridge in Swanton | $5,000,000 |
| 5087 | VT | Vermont Transportation Coordinated Use Facility in Berlin | $2,000,000 |
| 5088 | VT | St. Lawrence and Atlantic Railroad Upgrades in Northeastern Vermont | $5,000,000 |
| 5089 | VT | Vermont I-89 Exit 14 Upgrades | $4,000,000 |
| 5090 | VT | Construct Bennington Bypass (North Leg) | $20,000,000 |
| 5091 | VT | Improve Federal Street, St. Albans | $1,500,000 |
| 5092 | VT | Improvements to US RT 7 from Brandon to Pittsford | $15,000,000 |
| 5093 | VT | Improvements to US RT 7 in Charlotte | $4,000,000 |
| 5094 | VT | Design and construction of roundabouts/traffic circles at US RT 7/RT 7A in Manchester and US RT 7/VT RT 103 in Clarendon | $2,500,000 |
| 5095 | VT | Improvements to I-91 between Hartford,VT and Derby line | $15,000,000 |
| 5096 | VT | Transportation Improvements to Vermont Park and Ride | $2,500,000 |
| 5097 | VT | Transportation Improvements to Bellows Falls Tunnel | $2,000,000 |
| 5098 | VT | Improvements to River Rd/US RT 2 in Lunenberg | $2,000,000 |
| 5099 | WA | SR 518 corridor--Improvements to SR 518-509 interchange and addition of eastbound travel lane on a portion of the corridor | $4,000,000 |
| 5100 | WA | Design and construct pedestrian land bridge spanning SR 14 | $2,500,000 |
| 5101 | WA | Riverside Avenue Improvements, Phases 2 & 3, Spokane | $2,500,000 |
| 5102 | WA | Hanford Reach National Monument Road Improvement | $1,500,000 |
| 5103 | WA | Town Square Roadway and Pedestrian Improvements, Burien | $2,500,000 |
| 5104 | WA | SR-704 Cross-Base Highway Improvements, Spanaway Loop Road to SR 7 | $2,000,000 |
| 5105 | WA | Tukwila Southcenter Parkway Improvements, Tukwila | $3,000,000 |
| 5106 | WA | Federal Way Triangle--Conduct final engineering work for the reconstruction of the I-5--SR 18 interchange | $4,000,000 |
| 5107 | WA | US12 Burbank to Walla Walla: Construct new four lane highway for portion of US 12 | $2,500,000 |
| 5108 | WA | Reconstruction of SR 99 (Aurora Ave N) between N 145th St and N 205th St | $1,000,000 |
| 5109 | WA | Access Downtown Phase II: I-405 Downtown Bellevue Circulation Improvements | $1,500,000 |
| 5110 | WA | Seattle Ferry Terminal Redevelopment & Expansion | $2,000,000 |
| 5111 | WA | Port of Bellingham Transportation Enhancement Projects | $2,500,000 |
| 5112 | WA | Toroda Creek Road Improvements, Ferry County | $1,650,000 |
| 5113 | WA | Toroda Creek Road Improvements, Okanogan County | $850,000 |
| 5114 | WA | Conduct preliminary engineering and EIS for Columbia River Crossing in WA and OR | $1,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 5115 | WA | U.S. 395, North Spokane Corridor Improvements | $2,000,000 |
| 5116 | WA | 116th St/Interstate 5 Interchange Reconstruction in Marysville | $1,000,000 |
| 5117 | WA | SR 167--Right of way acquisition for a new freeway connecting SR 509 to SR 161 | $7,500,000 |
| 5118 | WA | Roadway and Pedestrian Improvements at Burien Town Square, Burien | $1,500,000 |
| 5119 | WA | Complete analysis, permitting and right of way procurement for I-5/SR 501 Interchange Replacement in Ridgefield | $8,400,000 |
| 5120 | WA | Construct improvements to Multimodal Terminal, Bainbridge Island | $2,500,000 |
| 5121 | WA | Construct Intermodal Transit Facility, City of University Place | $3,250,000 |
| 5122 | WA | Streetscape University Place Downtown, City of University Place | $2,800,000 |
| 5123 | WA | Plan and Improve freight and goods transport - the West Cost Corridor Coalition in Washington state | $500,000 |
| 5124 | WA | Continuing construction of I 90, Spokane to Idaho State Line | $7,300,000 |
| 5125 | WA | Tukwila Urban Access Improvement-- address necessary improvements to Southcenter Parkway in Tukwila to relieve congestion | $1,750,000 |
| 5126 | WA | Takoma--Lincoln Ave Grade Separation | $1,500,000 |
| 5127 | WA | Widen SR 202/SR520 to Sahalee Way, King County | $1,750,000 |
| 5128 | WA | Improve Vancouver traffic management - Vancouver Advanced Traffic Management System, Vancouver | $500,000 |
| 5129 | WA | SR 240/Stevens Drive Corridor Improvements, interchange construction and graded rail crossing separation at intersection of SR 240 and Van Giesen Street, Richland | $2,750,000 |
| 5130 | WI | Reconstruct Interstate 94/43/794 (Marquette Interchange) in Milwaukee | $20,800,000 |
| 5131 | WI | Rehabilitate existing bridge and construct new bridge on Michigan Street in Sturgeon Bay | $7,500,000 |
| 5132 | WI | Reconstruct and rebuild St. Croix River Crossing, connecting Wisconsin State Highway 64 in Houlton, Wisconsin to Minnesota State Highway in Stillwater Minnesota | $7,500,000 |
| 5133 | WI | Reconstruct US Highway 151 (East Washington Ave) in Madison | $4,000,000 |
| 5134 | WI | Expand STH 57 between Dyckesville and Sturgeon Bay | $3,000,000 |
| 5135 | WI | Rehabilitate Highway 53 between Chippewa Falls and New Auburn | $2,000,000 |
| 5136 | WI | Expand USH 151 between Dickeyville and Belmont | $2,500,000 |
| 5137 | WI | Develop pedestrian and bike connections that link to Hank Aaron State Trail in Milwaukee | $400,000 |
| 5138 | WI | Reconstruct STH 78 between Prairie du Sac and Merrimac, WI, including reuse of rubble from Badger Ammunition Plant building demolition | $500,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 5139 | WI | Upgrade Interstate 94 between Wilson Creek and Red Cedar River in Dunn County | $2,000,000 |
| 5140 | WI | City of Glendale, WI. Develop and rehabilitate exit ramps on I-43, and improvements at West Silver Spring Dr. and North Port Washington Rd | $2,000,000 |
| 5141 | WI | Expand USH 51 & STH 29 in Marathon County | $2,500,000 |
| 5142 | WI | Upgrade USH 2 in Ashland County | $2,100,000 |
| 5143 | WI | Widen Wisconsin State Highway 64 between Houlton and New Richmond | $1,500,000 |
| 5144 | WI | Upgrade USH 41 from DePere to Suamico, Brown County | $2,000,000 |
| 5145 | WI | Reconstruct and widen CTH AAA/Oneida St between Hansen Road and Cormier Road including reconstruction of STH 172 overpasses, Brown County | $2,000,000 |
| 5146 | WI | Reconstruct STH 33, including the planned bicycle/pedestrian component, between Port Washington and Saukville, Ozaukee County | $1,000,000 |
| 5147 | WI | Reconstruct USH 41/STH 44 interchange near Slinger | $1,000,000 |
| 5148 | WI | Reconstruct Wisconsin State Highway 21 at I-94 Interchange, Monroe County | $1,000,000 |
| 5149 | WI | Construct bicycle/pedestrian path and facilities in the Central park area of Madison | $700,000 |
| 5150 | WI | Construct a bicycle/pedestrian path, Wisconsin Dells | $500,000 |
| 5151 | WI | Construct a bicycle/pedestrian path from Waunakee to Westport | $500,000 |
| 5152 | WI | Construct an alternative connection to divert local traffic from I-90, a major highway, and allow movement through the Gateway commercial development project | $1,000,000 |
| 5153 | WI | Reconstruct Highway 151 from American Parkway to Main Street, Sun Prairie | $2,000,000 |
| 5154 | WI | Replace Highway 10 bridge over the Chippewa River near Durand | $2,000,000 |
| 5155 | WI | Construct Eau Claire bypass on USH 53 in Eau Claire | $2,000,000 |
| 5156 | WI | Replace the 17th Street Lift Bridge, Two Rivers | $2,000,000 |
| 5157 | WI | Pioneer Road Rail Grade Separation (Fond du Lac, Wisconsin) | $1,000,000 |
| 5158 | WI | Upgrade Highway 26 between Janesville and Watertown | $3,000,000 |
| 5159 | WV | Construct King Coal Highway-Red Jacket Segment, Mingo County | $38,000,000 |
| 5160 | WV | Plan, design, and construct New Ohio River Bridge, South of Wellsburg, Brooke County | $18,000,000 |

HIGH PRIORITY PROJECTS---Continued

| No. | State | Project Description | Amount |
|---|---|---|---|
| 5161 | WV | Plan, design, and construct Route 9 Martinsburg Bypass | $13,000,000 |
| 5162 | WV | Upgrade Route 10 Logan Co | $7,000,000 |
| 5163 | WV | Construct Coalfields Expressway | $11,000,000 |
| 5164 | WV | Widen and reconstruct US Rt 35, Putnam County | $27,000,000 |
| 5165 | WV | Construct Shawnee Parkway | $1,000,000 |
| 5166 | WY | Burma Rd: Extension from I–90 to Lakeway | $2,500,000 |
| 5167 | WY | US 26-287: repair road from Dubois to Moran Junction, Wyoming to improve access to Yellowstone National Park (Togwotee Pass Reconstruction) | $25,000,000 |
| 5168 | WY | WYO 59: add lanes between Gillette and Douglas, Wyoming for improved safety and access | $10,000,000 |
| 5169 | WY | Casper West Belt Loop: connect three National Highway System routes (WYO 220, US 20-26 and I-25) | $21,000,000 |
| 5170 | WY | I-80: reconstruct section of I-80 near Rock Springs, Wyoming for improved safety | $19,000,000 |
| 5171 | WY | 1-25: widen and resurface approximately eight miles of I-25 in Johnson County, Wyoming between Buffalo and Kaycee | $5,000,000 |
| 5172 | WY | I-90: create I-90/Burma Road overpass to increase community and emergency access in Gillette, Wyoming | $2,500,000 |
| 5173 | WY | US 85: add passing lanes on US 85 between Newcastle and Lusk, Wyoming to increase safety | $5,000,000 |
| | | | **$5,911,180,000** |

### SEC. 1703. TECHNICAL AMENDMENTS TO TRANSPORTATION PROJECTS.

(a) TEA–21.—The table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 257) is amended—

(1) in item number 35 by inserting "and for other related purposes" after "Yard";

(2) in item number 78 by striking "Third" and all that follows through "Bridge" and inserting "Bayview Transportation Improvements Project";

(3) in item number 312 by inserting "through construction" after "engineering";

(4) in item number 566 by striking "Prunedale Bypass" and inserting "improvements to Prunedale";

(5) in item number 732 by striking "reviews and other preliminary work" and inserting "reviews, other preliminary work, and transitional construction";

(6) in item number 744 by striking "Preliminary" and all that follows through "Fitchburg" and inserting "Design, construction or reconstruction, and right of way acquisition for roadway improvements along the Route 12 corridor in Leominster and Fitchburg to enhance access from Route 2 to North Leominster and downtown Fitchburg";

(7) in item number 800 by striking "Fairview Township" and inserting "or other projects selected by the York County, Pennsylvania MPO";

(8) in item number 820 by striking "Conduct" and all that follows through "interchange" and inserting "Conduct a transportation needs study and make improvements to I–75 interchanges in the Grayling area";

(9) in item number 863, by adding at the end the following: ", including the Cuyahoga-Woodland Avenue Bridge";

(10) in item number 897 by striking "Road upgrade" and all that follows through "Hills" and inserting "Engineering and construction of a new access road to a development near Interstate Route 57 and 167th Street in Country Club Hills";

(11) in item 1096 by striking "Construct" and all that follows through "Independence" and inserting "Construction and improvements in Reminderville, Ohio (43 percent); streetscaping, bicycle trails, and related improvements to the I–90—SR 615 Interchange in Mentor, Ohio (20 percent); planning and construction of a bicycle trail adjacent to such Interchange (14 percent); Eastlake Stadium transit intermodal facility (16 percent); and purchase of right-of-way for transportation enhancement activities in Bainbridge Township, Ohio (7 percent)";

(12) in item number 1121 by striking "Construct" and all that follows through "Douglaston Parkway" and inserting "Provide landscaping along both sides of the Grand Central Parkway from 188th Street to 172nd Street";

(13) in item number 1225 by striking "Construct SR 9 bypass" and inserting "Study, design, and construct transportation solutions for SR 9 corridor";

(14) in item number 1349 by inserting ", and improvements to streets and roads providing access to," after "along";

(15) in item number 1375 by striking "Preliminary" and all that follows through "Emmet County" and inserting "Petoskey area transportation needs study and trunkline preservation and safety in the Petoskey area";

(16) in item number 1392 by striking "Construct" and all that follows through "multimodal center" and inserting "Improve the ramp configuration at the I–476 PA Turnpike Landsdale Interchange";

(17) in item number 1447 by striking "Extend" and all that follows through "Valparaiso" and inserting "Design and construction of interchange at I–65 and 109th Avenue, Crown Point"; and

(18) in item number 1474 by adding at the end the following: ", widen Cuyahoga SR87, and $4,000,000 of the amount authorized to construct grading separation at Front Street, Berea".

(b) ISTEA.—Item number 32 in the table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2038) is amended by striking "Extension of 34th Street from IL Rt.15 to County Road 10" and inserting "Extension and improvements of 34th Street".

## Subtitle H—Environment

### SEC. 1801. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.

(a) IN GENERAL.—Section 147 of title 23, United States Code, is amended to read as follows:

### "§ 147. Construction of ferry boats and ferry terminal facilities

"(a) IN GENERAL.—The Secretary shall carry out a program for construction of ferry boats and ferry terminal facilities in accordance with section 129(c).

"(b) FEDERAL SHARE.—The Federal share of the cost of construction of ferry boats, ferry terminals, and ferry maintenance facilities under this section shall be 80 percent.

"(c) ALLOCATION OF FUNDS.—The Secretary shall give priority in the allocation of funds under this section to those ferry systems, and public entities responsible for developing ferries, that—

"(1) provide critical access to areas that are not well-served by other modes of surface transportation;

"(2) carry the greatest number of passengers and vehicles; or

"(3) carry the greatest number of passengers in passenger-only service.

"(d) SET-ASIDE FOR PROJECTS ON NHS.—

"(1) IN GENERAL.—$20,000,000 of the amount made available to carry out this section for each of fiscal years 2005 through 2009 shall be obligated for the construction or refurbishment of ferry boats and ferry terminal facilities and approaches to such facilities within marine highway systems that are part of the National Highway System.

"(2) ALASKA.—$10,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Alaska.

"(3) NEW JERSEY.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of New Jersey.

"(4) WASHINGTON.—$5,000,000 of the $20,000,000 for a fiscal year made available under paragraph (1) shall be made available to the State of Washington.

"(e) PERIOD OF AVAILABILITY.—Notwithstanding section 118(b), funds made available to carry out this section shall remain available until expended.

"(f) APPLICABILITY.—All provisions of this chapter that are applicable to the National Highway System, other than provisions relating to apportionment formula and Federal share, shall apply to funds made available to carry out this section, except as determined by the Secretary to be inconsistent with this section.".

(b) CLERICAL AMENDMENT.—The analysis for such subchapter is amended by striking the item relating to section 147 and inserting the following:

"147. Construction of ferry boats and ferry terminal facilities.".

(c) CONFORMING REPEAL.—Section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2005) is repealed.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available to carry out section 147 of title 23, United States Code, by section 1101 of this Act, there are authorized to be appropriated such sums as may be necessary to carry out such section 147 for fiscal year 2006 and each fiscal year thereafter. Such funds shall remain available until expended.

(e) NATIONAL FERRY DATABASE.—

(1) ESTABLISHMENT.—The Secretary, acting through the Bureau of Transportation Statistics, shall establish and maintain a national ferry database.

(2) CONTENTS.—The database shall contain current information regarding ferry systems, including information regarding routes, vessels, passengers and vehicles carried, funding sources and such other information as the Secretary considers useful.

(3) UPDATE REPORT.—Using information collected through the database, the Secretary shall periodically modify as appropriate the report submitted under section 1207(c) of the Transportation Equity Act for the 21st Century (23 U.S.C. 129 note; 112 Stat. 185–186).

(4) REQUIREMENTS.—The Secretary shall—

(A) compile the database not later than 1 year after the date of enactment of this Act and update the database every 2 years thereafter;

(B) ensure that the database is easily accessible to the public; and

(C) make available, from the amounts made available for the Bureau of Transportation Statistics by section 5101 of this Act, not more than $500,000 for each of fiscal years 2006 through 2009 to establish and maintain the database.

(f) TERRITORY FERRIES.—Section 129(c)(5) of title 23, United States Code, is amended by striking "the Commonwealth of Puerto Rico" each place it appears and inserting "any territory of the United States".

### SEC. 1802. NATIONAL SCENIC BYWAYS PROGRAM.

(a) IN GENERAL.—Section 162(a) of title 23, United States Code, is amended—

(1) in paragraph (1) by striking "the roads as" and all that follows and inserting "the roads as—

"(A) National Scenic Byways;

"(B) All-American Roads; or

"(C) America's Byways."; and

(2) by striking paragraph (3) and inserting the following:

"(3) NOMINATION.—

"(A) IN GENERAL.—To be considered for a designation, a road must be nominated by a State, an Indian tribe, or a Federal land management agency and must first be designated as a State scenic byway, an Indian tribe scenic byway, or, in the case of a road on Federal land, as a Federal land management agency byway.

"(B) NOMINATION BY INDIAN TRIBES.—An Indian tribe may nominate a road as a National Scenic Byway under subparagraph (A) only if a Federal land management agency (other than the Bureau of Indian Affairs), a State, or a political subdivision of a State does not have—

"(i) jurisdiction over the road; or

"(ii) responsibility for managing the road.

"(C) SAFETY.—An Indian tribe shall maintain the safety and quality of roads nominated by the Indian tribe under subparagraph (A).

"(4) RECIPROCAL NOTIFICATION.—States, Indian tribes, and Federal land management agencies shall notify each other regarding nominations made under this subsection for roads that—

"(A) are within the jurisdictional boundary of the State, Federal land management agency, or Indian tribe; or

"(B) directly connect to roads for which the State, Federal land management agency, or Indian tribe is responsible.".

(b) GRANTS AND TECHNICAL ASSISTANCE.—Section 162(b) of such title is amended—

(1) in paragraph (1) by inserting "and Indian tribes" after "provide technical assistance to States";

(2) in paragraph (1)(A) by striking "designated as" and all that follows through "; and" and inserting "designated as—

"(i) National Scenic Byways;

"(ii) All-American Roads;

"(iii) America's Byways;

"(iv) State scenic byways; or

"(v) Indian tribe scenic byways; and"; and

(3) in paragraph (1)(B) by inserting "or Indian tribe" after "State";

(4) in paragraph (2)(A) by striking "Byway or All-American Road" and inserting "Byway, All-American Road, or 1 of America's Byways";

(5) in paragraph (2)(B)—

(A) by striking "State-designated" and inserting "State or Indian tribe"; and

(B) by striking "designation as a" and all that follows through "; and" and inserting "designation as—

"(i) a National Scenic Byway;

"(ii) an All-American Road; or

"(iii) 1 of America's Byways; and"; and

(6) in paragraph (2)(C) by inserting "or Indian tribe" after "State".

(c) ELIGIBLE PROJECTS.—Section 162(c) of such title is amended—

(1) in paragraph (1) by inserting "or Indian tribe" after "State";

(2) in paragraph (3)—

(A) by inserting "Indian tribe scenic byway," after "improvements to a State scenic byway,"; and

(B) by inserting "Indian tribe scenic byway," after "designation as a State scenic byway,"; and

(3) in paragraph (4) by striking "passing lane,".

(d) CONFORMING AMENDMENT.—Section 162(e) of such title is amended by inserting "or Indian tribe" after "State".

### SEC. 1803. AMERICA'S BYWAYS RESOURCE CENTER.

(a) IN GENERAL.—The Secretary shall allocate funds made available to carry out this section to the America's Byways Resource Center established pursuant to section 1215(b)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 209).

(b) TECHNICAL SUPPORT AND EDUCATION.—

(1) USE OF FUNDS.—The Center shall use funds allocated to the Center under this section to continue to provide technical support and conduct educational activities for the national scenic byways program established under section 162 of title 23, United States Code.

(2) ELIGIBLE ACTIVITIES.—Technical support and educational activities carried out under this subsection shall provide local officials and organizations associated with National Scenic Byways, All-American Roads, and America's Byways with proactive, technical, and on-site customized assistance, including training, communications (including a public awareness series), publications, conferences, on-site meetings, and other assistance considered appropriate to develop and sustain such byways and roads.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $1,500,000 for fiscal year 2005 and $3,000,000 for each of fiscal years 2006 through 2009.

(d) APPLICABILITY OF TITLE 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity carried out under this section shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.

### SEC. 1804. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) HISTORIC COVERED BRIDGE.—The term "historic covered bridge" means a covered bridge that is listed or eligible for listing on the National Register of Historic Places.

(2) STATE.—The term "State" has the meaning such term has in section 101(a) of title 23, United States Code.

(b) HISTORIC COVERED BRIDGE PRESERVATION.—The Secretary shall—

(1) collect and disseminate information on historic covered bridges;

(2) conduct educational programs relating to the history and construction techniques of historic covered bridges;

(3) conduct research on the history of historic covered bridges; and

(4) conduct research on, and study techniques for, protecting historic covered bridges from rot, fire, natural disasters, or weight-related damage.

(c) GRANTS.—

(1) IN GENERAL.—The Secretary shall make a grant to a State that submits an application to the Secretary that demonstrates a need for assistance in carrying out 1 or more historic covered bridge projects described in paragraph (2).

(2) ELIGIBLE PROJECTS.—A grant under paragraph (1) may be made for a project—

(A) to rehabilitate or repair a historic covered bridge; or

(B) to preserve a historic covered bridge, including through—

(i) installation of a fire protection system, including a fireproofing or fire detection system and sprinklers;

(ii) installation of a system to prevent vandalism and arson; or

(iii) relocation of a bridge to a preservation site.

(3) AUTHENTICITY REQUIREMENTS.—A grant under paragraph (1) may be made for a project only if—

(A) to the maximum extent practicable, the project—

(i) is carried out in the most historically appropriate manner; and

(ii) preserves the existing structure of the historic covered bridge; and

(B) the project provides for the replacement of wooden components with wooden components, unless the use of wood is impracticable for safety reasons.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $10,000,000 for each of fiscal years 2006 through 2009.

(e) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of any project or activity carried out under this section shall be determined in accordance with section 120 of such title, and such funds shall remain available until expended and shall not be transferable.

### SEC. 1805. USE OF DEBRIS FROM DEMOLISHED BRIDGES AND OVERPASSES.

(a) IN GENERAL.—Any State that demolishes a bridge or an overpass that is eligible for Federal assistance under the highway bridge replacement and rehabilitation program under section 144 of title 23, United States Code, is directed to first make the debris from the demolition of such bridge or overpass available for beneficial use by a Federal, State, or local government, unless such use obstructs navigation.

(b) RECIPIENT RESPONSIBILITIES.—A recipient of the debris described in subsection (a) shall—

(1) bear the additional cost associated with having the debris made available;

(2) ensure that placement of the debris complies with applicable law; and

(3) assume all future legal responsibility arising from the placement of the debris, which may include entering into an agreement to hold the owner of the demolished bridge or overpass harmless in any liability action.

(c) DEFINITION.—In this section, the term "beneficial use" means the application of the debris for purposes of shore erosion control or stabilization, ecosystem restoration, and marine habitat creation.

### SEC. 1806. ADDITIONAL AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS.

Section 1214(d)(5)(A) of the Transportation Equity Act for the 21st Century (23 U.S.C. 202 note; 112 Stat. 206) is amended by striking "$1,500,000 for each of fiscal years 1998 through 2003" and inserting "$1,800,000 for each of fiscal years 2005 through 2009".

### SEC. 1807. NONMOTORIZED TRANSPORTATION PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall establish and carry out a nonmotorized transportation pilot program to construct, in the following 4 communities selected by the Secretary, a network of nonmotorized transportation infrastructure facilities, including sidewalks, bicycle lanes, and pedestrian and bicycle trails, that connect directly with transit stations, schools, residences, businesses, recreation areas, and other community activity centers:

(1) Columbia, Missouri.

(2) Marin County, California.

(3) Minneapolis-St. Paul, Minnesota.

(4) Sheboygan County, Wisconsin.

(b) PURPOSE.—The purpose of the program shall be to demonstrate the extent to which bicycling and walking can carry a significant part of the transportation load, and represent a major portion of the transportation solution, within selected communities.

(c) GRANTS.—In carrying out the program, the Secretary may make a grant of $6,250,000 per fiscal year for each of the communities set forth in subsection (a) to State, local, and regional agencies that the Secretary determines are suitably equipped and organized to carry out the objectives and requirements of this section. An agency that receives a grant under this section may suballocate grant funds to a nonprofit organization to carry out the program under this section.

(d) STATISTICAL INFORMATION.—In carrying out the program, the Secretary shall develop statistical information on changes in motor vehicle, nonmotorized transportation, and public transportation usage in communities participating in the program and assess how such changes decrease congestion and energy usage, increase the frequency of bicycling and walking, and promote better health and a cleaner environment.

(e) REPORTS.—The Secretary shall submit to Congress an interim report not later than September 30, 2007, and a final report not later than September 30, 2010, on the results of the program.

(f) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $25,000,000 for each of fiscal years 2006 through 2009.

(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if the funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the project shall be 100 percent, and the funds shall remain available until expended and shall not be transferable.

(g) TREATMENT OF PROJECTS.—Notwithstanding any other provision of law, projects assisted under this subsection shall be treated as *projects on a Federal-aid system under chapter 1 of title 23, United States Code.*

### *SEC. 1808. ADDITION TO CMAQ-ELIGIBLE PROJECTS.*

*(a) FORMER 1-HOUR MAINTENANCE AREAS.—Section 149(b) of title 23, United States Code, is amended in the matter preceding paragraph (1)(A) by inserting "or is required to prepare, and file with the Administrator of the Environmental Protection Agency, maintenance plans under the Clean Air Act (42 U.S.C. 7401 et seq.)" after "1997,".*

*(b) ELIGIBLE PROJECTS.—Section 149(b) of such title is amended—*

*(1) by striking paragraph (1) and inserting the following:*

*"(1)(A)(i) if the Secretary, after consultation with the Administrator determines, on the basis of information published by the Environmental Protection Agency pursuant to section 108(f)(1)(A) of the Clean Air Act (other than clause (xvi)) that the project or program is likely to contribute to—*

*"(I) the attainment of a national ambient air quality standard; or*

*"(II) the maintenance of a national ambient air quality standard in a maintenance area; and*

*"(ii) a high level of effectiveness in reducing air pollution, in cases of projects or programs where sufficient information is available in the database established pursuant to subsection (h) to determine the relative effectiveness of such projects or programs; or.*

*"(B) in any case in which such information is not available, if the Secretary, after such consultation, determines that the project or program is part of a program, method, or strategy described in such section 108(f)(1)(A);".*

*(2) in paragraph (4)—*

*(A) by inserting ", including advanced truck stop electrification systems," after "facility or program"; and*

*(B) by striking "or" at the end;*

*(3) in paragraph (5)—*

*(A) by inserting "improve transportation systems management and operations that mitigate congestion and improve air quality," after "intersections,"; and*

*(B) by striking the period at the end and inserting a semicolon; and*

*(4) by adding at the end the following:*

*"(6) if the project or program involves the purchase of integrated, interoperable emergency communications equipment; or*

*"(7) if the project or program is for—*

*"(A) the purchase of diesel retrofits that are—*

*"(i) for motor vehicles (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)); or*

*"(ii) published in the list under subsection (f)(2) for non-road vehicles and non-road engines (as defined in section 216 of the Clean Air Act (42 U.S.C. 7550)) that are used in construction projects that are—*

*"(I) located in nonattainment or maintenance areas for ozone, $PM_{10}$, or $PM_{2.5}$ (as defined under the Clean Air Act (42 U.S.C. 7401 et seq.)); and*

*"(II) funded, in whole or in part, under this title; or*

*"(B) the conduct of outreach activities that are designed to provide information and technical assistance to the owners and operators of diesel equipment and vehicles regarding the purchase and installation of diesel retrofits.".*

*(c) STATES RECEIVING MINIMUM APPORTIONMENT.—Section 149(c) of such title is amended—*

*(1) in paragraph (1) by striking "for any project eligible under the surface transportation program under section 133." and inserting the following: "for any project in the State that—*

*"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or*

*"(B) is eligible under the surface transportation program under section 133."; and*

*(2) in paragraph (2) by striking "for any project in the State eligible under section 133." and inserting the following: "for any project in the State that—*

*"(A) would otherwise be eligible under this section as if the project were carried out in a nonattainment or maintenance area; or*

*"(B) is eligible under the surface transportation program under section 133.".*

*(d) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—Section 149 of such title is amended by adding at the end the following:*

*"(f) COST-EFFECTIVE EMISSION REDUCTION GUIDANCE.—*

*"(1) DEFINITIONS.—In this subsection, the following definitions apply:*

*"(A) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Environmental Protection Agency.*

*"(B) DIESEL RETROFIT.—The term 'diesel retrofit' means a replacement, repowering, rebuilding, after treatment, or other technology, as determined by the Administrator.*

*"(2) EMISSION REDUCTION GUIDANCE.—The Administrator, in consultation with the Secretary, shall publish a list of diesel retrofit technologies and supporting technical information for—*

*"(A) diesel emission reduction technologies certified or verified by the Administrator, the California Air Resources Board, or any other entity recognized by the Administrator for the same purpose;*

*"(B) diesel emission reduction technologies identified by the Administrator as having an application and approvable test plan for verification by the Administrator or the California Air Resources Board that is submitted not later that 18 months of the date of enactment of this subsection;*

*"(C) available information regarding the emission reduction effectiveness and cost effectiveness of technologies identified in this paragraph, taking into consideration air quality and health effects.*

*"(3) PRIORITY.—*

*"(A) IN GENERAL.—States and metropolitan planning organizations shall give priority in distributing funds received for congestion mitigation and air quality projects and programs from apportionments derived from application of sections 104(b)(2)(B) and 104(b)(2)(C) to—*

*"(i) diesel retrofits, particularly where necessary to facilitate contract compliance, and other cost-effective emission reduction activities, taking into consideration air quality and health effects; and*

*"(ii) cost-effective congestion mitigation activities that provide air quality benefits.*

*"(B) SAVINGS.—This paragraph is not intended to disturb the existing authorities and roles of governmental agencies in making final project selections.*

*"(4) NO EFFECT ON AUTHORITY OR RESTRICTIONS.—Nothing in this subsection modifies or otherwise affects any authority or restriction established under the Clean Air Act (42 U.S.C. 7401 et seq.) or any other law (other than provisions of this title relating to congestion mitigation and air quality).".*

*(e) IMPROVED INTERAGENCY CONSULTATION.—Section 149 of such title (as amended by subsection (d)) is amended by adding at the end the following:*

*"(g) INTERAGENCY CONSULTATION.—The Secretary shall encourage States and metropolitan planning organizations to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emission reductions from proposed congestion mitigation and air quality improvement programs and projects.".*

*(f) EVALUATION AND ASSESSMENT OF CMAQ PROJECTS.—Section 149 of such title (as amended by subsection (e)) is amended by adding at the end the following:*

*"(h) EVALUATION AND ASSESSMENT OF PROJECTS.—*

*"(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate and assess a representative sample of projects funded under the congestion mitigation and air quality program to—*

*"(A) determine the direct and indirect impact of the projects on air quality and congestion levels; and*

*"(B) ensure the effective implementation of the program.*

*"(2) DATABASE.—Using appropriate assessments of projects funded under the congestion mitigation and air quality program and results from other research, the Secretary shall maintain and disseminate a cumulative database describing the impacts of the projects.*

*"(3) CONSIDERATION.—The Secretary, in consultation with the Administrator, shall consider the recommendations and findings of the report submitted to Congress under section 1110(e) of the Transportation Equity Act for the 21st Century (112 Stat. 144), including recommendations and findings that would improve the operation and evaluation of the congestion mitigation and air quality improvement program.".*

*(g) FLEXIBILITY IN THE STATE OF MONTANA.—The State of Montana may use funds apportioned under section 104(b)(2) of title 23, United States Code, for the operation of public transit activities that serve a nonattainment or maintenance area.*

*(h) AVAILABILITY OF FUNDS FOR STATE OF MICHIGAN.—The State of Michigan may use funds apportioned under section 104(b)(2) of such title for the operation and maintenance of intelligent transportation system strategies that serve a nonattainment or maintenance area.*

*(i) AVAILABILITY OF FUNDS FOR THE STATE OF MAINE.—The State of Maine may use funds apportioned under section 104(b)(2) of such title to support, through September 30, 2009, the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.*

*(j) AVAILABILITY OF FUNDS FOR OREGON.—The State of Oregon may use funds apportioned on or before September 30, 2009, under section 104(b)(2) of such title to support the operation of additional passenger rail service between Eugene and Portland.*

*(k) AVAILABILTY OF FUNDS FOR CERTAIN OTHER STATES.—The States of Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, and Ohio may use funds apportioned under section 104(b)(2) of such title to purchase alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel.*

## *Subtitle I—Miscellaneous*

### *SEC. 1901. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23.*

*(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 320—*

*(1) the following:*

***"§ 321. Signs identifying funding sources"**; and*

*(2) the text of section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note).*

*(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 320 the following:*

*"321. Signs identifying funding sources.".*

*(c) CONFORMING REPEAL.—Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) is repealed.*

### *SEC. 1902. DONATIONS AND CREDITS.*

*Section 323 of title 23, United States Code, is amended—*

*(1) in the first sentence of subsection (c) by inserting ", or a local government from offering to*

*donate funds, materials, or services performed by local government employees," after "services"; and*

*(2) by striking subsection (e).*

### SEC. 1903. INCLUSION OF BUY AMERICA REQUIREMENTS IN TITLE 23.

*(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 312—*

*(1) the following:*

***"§313. Buy America"**; and*

*(2) the text of section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136).*

*(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of such title is amended by inserting after the item relating to section 312 the following:*

*"313. Buy America.".*

*(c) CONFORMING AMENDMENTS.—Section 313 of such title (as added by subsection (a)) is amended—*

*(1) in subsection (a) by striking "by this Act" the first place it appears and all that follows through "of 1978" and inserting "to carry out the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title";*

*(2) in subsection (b) by redesignating paragraph (4) as paragraph (3);*

*(3) in subsection (d) by striking "this Act," and all that follows through "Code, which" and inserting "the Surface Transportation Assistance Act of 1982 (96 Stat. 2097) or this title that";*

*(4) by striking subsection (e); and*

*(5) by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.*

*(d) CONFORMING REPEAL.—Section 165 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note; 96 Stat. 2136) is repealed.*

### SEC. 1904. STEWARDSHIP AND OVERSIGHT.

*(a) IN GENERAL.—Section 106 of title 23, United States Code, is amended—*

*(1) by striking subsection (e) and inserting the following:*

*"(e) VALUE ENGINEERING ANALYSIS.—*

*"(1) DEFINITION OF VALUE ENGINEERING ANALYSIS.—*

*"(A) IN GENERAL.—In this subsection, the term 'value engineering analysis' means a systematic process of review and analysis of a project, during the concept and design phases, by a multidisciplined team of persons not involved in the project, that is conducted to provide recommendations such as those described in subparagraph (B) for—*

*"(i) providing the needed functions safely, reliably, and at the lowest overall cost;*

*"(ii) improving the value and quality of the project; and*

*"(iii) reducing the time to complete the project.*

*"(B) INCLUSIONS.—The recommendations referred to in subparagraph (A) include, with respect to a project—*

*"(i) combining or eliminating otherwise inefficient use of costly parts of the original proposed design for the project; and*

*"(ii) completely redesigning the project using different technologies, materials, or methods so as to accomplish the original purpose of the project.*

*"(2) ANALYSIS.—The State shall provide a value engineering analysis or other cost-reduction analysis for—*

*"(A) each project on the Federal-aid system with an estimated total cost of $25,000,000 or more;*

*"(B) a bridge project with an estimated total cost of $20,000,000 or more; and*

*"(C) any other project the Secretary determines to be appropriate.*

*"(3) MAJOR PROJECTS.—The Secretary may require more than 1 analysis described in paragraph (2) for a major project described in subsection (h).*

*"(4) REQUIREMENTS.—Analyses described in paragraph (1) for a bridge project shall—*

*"(A) include bridge substructure requirements based on construction material; and*

*"(B) be evaluated—*

*"(i) on engineering and economic bases, taking into consideration acceptable designs for bridges; and*

*"(ii) using an analysis of life-cycle costs and duration of project construction."; and*

*(2) by striking subsections (g) and (h) and inserting the following:*

*"(g) OVERSIGHT PROGRAM.—*

*"(1) ESTABLISHMENT.—*

*"(A) IN GENERAL.—The Secretary shall establish an oversight program to monitor the effective and efficient use of funds authorized to carry out this title.*

*"(B) MINIMUM REQUIREMENT.—At a minimum, the program shall be responsive to all areas relating to financial integrity and project delivery.*

*"(2) FINANCIAL INTEGRITY.—*

*"(A) FINANCIAL MANAGEMENT SYSTEMS.—The Secretary shall perform annual reviews that address elements of the State transportation departments' financial management systems that affect projects approved under subsection (a).*

*"(B) PROJECT COSTS.—The Secretary shall develop minimum standards for estimating project costs and shall periodically evaluate the practices of States for estimating project costs, awarding contracts, and reducing project costs.*

*"(3) PROJECT DELIVERY.—The Secretary shall perform annual reviews that address elements of the project delivery system of a State, which elements include 1 or more activities that are involved in the life cycle of a project from conception to completion of the project.*

*"(4) RESPONSIBILITY OF THE STATES.—*

*"(A) IN GENERAL.—The States shall be responsible for determining that subrecipients of Federal funds under this title have—*

*"(i) adequate project delivery systems for projects approved under this section; and*

*"(ii) sufficient accounting controls to properly manage such Federal funds.*

*"(B) PERIODIC REVIEW.—The Secretary shall periodically review the monitoring of subrecipients by the States.*

*"(5) SPECIFIC OVERSIGHT RESPONSIBILITIES.—*

*"(A) EFFECT OF SECTION.—Nothing in this section shall affect or discharge any oversight responsibility of the Secretary specifically provided for under this title or other Federal law.*

*"(B) APPALACHIAN DEVELOPMENT HIGHWAYS.—The Secretary shall retain full oversight responsibilities for the design and construction of all Appalachian development highways under section 14501 of title 40.*

*"(h) MAJOR PROJECTS.—*

*"(1) IN GENERAL.—Notwithstanding any other provision of this section, a recipient of Federal financial assistance for a project under this title with an estimated total cost of $500,000,000 or more, and recipients for such other projects as may be identified by the Secretary, shall submit to the Secretary for each project—*

*"(A) a project management plan; and*

*"(B) an annual financial plan.*

*"(2) PROJECT MANAGEMENT PLAN.—A project management plan shall document—*

*"(A) the procedures and processes that are in effect to provide timely information to the project decisionmakers to effectively manage the scope, costs, schedules, and quality of, and the Federal requirements applicable to, the project; and*

*"(B) the role of the agency leadership and management team in the delivery of the project.*

*"(3) FINANCIAL PLAN.—A financial plan shall—*

*"(A) be based on detailed estimates of the cost to complete the project; and*

*"(B) provide for the annual submission of updates to the Secretary that are based on reasonable assumptions, as determined by the Secretary, of future increases in the cost to complete the project.*

*"(i) OTHER PROJECTS.—A recipient of Federal financial assistance for a project under this title with an estimated total cost of $100,000,000 or more that is not covered by subsection (h) shall prepare an annual financial plan. Annual financial plans prepared under this subsection shall be made available to the Secretary for review upon the request of the Secretary.".*

*(b) CONFORMING AMENDMENTS.—Section 114(a) of title 23, United States Code, is amended—*

*(1) in the first sentence by striking "highways or portions of highways located on a Federal-aid system" and inserting "Federal-aid highway or a portion of a Federal-aid highway"; and*

*(2) by striking the second sentence and inserting "The Secretary shall have the right to conduct such inspections and take such corrective action as the Secretary determines to be appropriate.".*

### SEC. 1905. TRANSPORTATION DEVELOPMENT CREDITS.

*Section 120(j)(1) of title 23, United States Code, is amended—*

*(1) by striking "A State" and inserting the following:*

*"(A) IN GENERAL.—A State"; and*

*(2) by striking the last sentence and inserting the following:*

*"(B) SPECIAL RULE FOR USE OF FEDERAL FUNDS.—If the public, quasi-public, or private agency has built, improved, or maintained the facility using Federal funds, the credit under this paragraph shall be reduced by a percentage equal to the percentage of the total cost of building, improving, or maintaining the facility that was derived from Federal funds.*

*"(C) FEDERAL FUNDS DEFINED.—In this paragraph, the term 'Federal funds' does not include loans of Federal funds or other financial assistance that must be repaid to the Government.".*

### SEC. 1906. GRANT PROGRAM TO PROHIBIT RACIAL PROFILING.

*(a) GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to a State that—*

*(1)(A) has enacted and is enforcing a law that prohibits the use of racial profiling in the enforcement of State laws regulating the use of Federal-aid highways; and*

*(B) is maintaining and allows public inspection of statistical information for each motor vehicle stop made by a law enforcement officer on a Federal-aid highway in the State regarding the race and ethnicity of the driver and any passengers; or*

*(2) provides assurances satisfactory to the Secretary that the State is undertaking activities to comply with the requirements of paragraph (1).*

*(b) ELIGIBLE ACTIVITIES.—A grant received by a State under subsection (a) shall be used by the State—*

*(1) in the case of a State eligible under subsection (a)(1), for costs of—*

*(A) collecting and maintaining of data on traffic stops;*

*(B) evaluating the results of the data; and*

*(C) developing and implementing programs to reduce the occurrence of racial profiling, including programs to train law enforcement officers; and*

*(2) in the case of a State eligible under subsection (a)(2), for costs of—*

*(A) activities to comply with the requirements of subsection (a)(1); and*

*(B) any eligible activity under paragraph (1).*

*(c) Racial Profiling.—*

*(1) In general.—To meet the requirement of subsection (a)(1), a State law shall prohibit, in the enforcement of State laws regulating the use of Federal-aid highways, a State or local law enforcement officer from using the race or ethnicity of the driver or passengers to any degree in making routine or spontaneous law enforcement decisions, such as ordinary traffic stops on Federal-aid highways.*

*(2) Limitation.—Nothing in this subsection shall alter the manner in which a State or local law enforcement officer considers race or ethnicity whenever there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization.*

*(d) Limitations.—*

*(1) Maximum amount of grants.—The total amount of grants made to a State under this section in a fiscal year may not exceed 5 percent of the amount made available to carry out this section in the fiscal year.*

*(2) Eligibility.—A State may not receive a grant under subsection (a)(2) in more than 2 fiscal years.*

*(e) Authorization of Appropriations.—*

*(1) In general.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $7,500,000 for each of fiscal years 2005 through 2009.*

*(2) Contract authority.—Funds authorized by this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of activities carried out using such funds shall be 80 percent, and such funds shall remain available until expended and shall not be transferable.*

### ***SEC. 1907. PAVEMENT MARKING SYSTEMS DEMONSTRATION PROJECTS.***

*(a) In General.—The Secretary shall conduct a demonstration project in the State of Alaska, and a demonstration project in the State of Tennessee, to study the safety impacts, environmental impacts, and cost effectiveness of different pavement marking systems and the effect of State bidding and procurement processes on the quality of pavement marking material employed in highway projects. The demonstration projects shall each include an evaluation of the impacts and effectiveness of increasing the width of pavement marking edge lines from 4 inches to 6 inches and an evaluation of advanced acrylic water-borne pavement markings.*

*(b) Report.—Not later than June 30, 2009, the Secretary shall submit to Congress a report on the results of the demonstration projects, together with findings and recommendations on methods that will optimize the cost-benefit ratio of the use of Federal funds on pavement marking.*

*(c) Funding.—*

*(1) Authorization of appropriations.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 for each of fiscal years 2006 through 2009.*

*(2) Contract authority.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; expect that the Federal share of the cost of the demonstration projects shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.*

### ***SEC. 1908. INCLUSION OF CERTAIN ROUTE SEGMENTS ON INTERSTATE SYSTEM AND NHS.***

*(a) Interstate System.—*

*(1) Creek turnpike, oklahoma.—The Secretary shall designate as part of the Interstate System (as defined in section 101 of title 23, United States Code) in accordance with section 103(c)(4) of such title the portion of the Creek Turnpike connecting Interstate Route 44 east and west of Tulsa, Oklahoma.*

*(2) Certain section of interstate route 181.—The Secretary shall designate as part of Interstate Route 26 the 11-mile section of Interstate Route 181 lying northwest of the intersection with Interstate Route 81, Tennessee.*

*(3) Treatment.—The designations under paragraph (2) shall be treated, for purposes of title 23, United States Code, as being made under section 103(c)(4) of such title.*

*(b) National Highway System.—The Secretary shall designate as a component of the National Highway System in accordance with section 103(b)(4) of title 23, United States Code, the portion of United States Route 271 from the Arkansas State line, west to the intersection with United States Route 59, and northwest to the intersection with Interstate Route 40, Sallisaw, Oklahoma.*

### ***SEC. 1909. FUTURE OF SURFACE TRANSPORTATION SYSTEM.***

*(a) Declaration of Policy.—Section 101(b) of title 23, United States Code, is amended—*

*(1) by striking "(b) It is hereby declared" and all that follows through the first undesignated paragraph and inserting the following:*

*"(b) Declaration of Policy.—*

*"(1) Acceleration of construction of federal-aid highway systems.—Congress declares that it is in the national interest to accelerate the construction of Federal-aid highway systems, including the Dwight D. Eisenhower National System of Interstate and Defense, because many of the highways (or portions of the highways) are inadequate to meet the needs of local and interstate commerce for the national and civil defense.";*

*(2) in the second undesignated paragraph by striking "It is hereby declared" and all that follows through "objectives of this Act" and inserting the following:*

*"(2) Completion of interstate system.—Congress declares that the prompt and early completion of the Dwight D. Eisenhower National System of Interstate and Defense Highways (referred to in this section as the 'Interstate System'), so named because of its primary importance to the national defense, is essential to the national interest"; and*

*(3) by striking the third undesignated paragraph and inserting the following:*

*"(3) Transportation needs of 21st century.—Congress declares that—*

*"(A) it is in the national interest to preserve and enhance the surface transportation system to meet the needs of the United States for the 21st Century;*

*"(B) the current urban and long distance personal travel and freight movement demands have surpassed the original forecasts and travel demand patterns are expected to continue to change;*

*"(C) continued planning for and investment in surface transportation is critical to ensure the surface transportation system adequately meets the changing travel demands of the future;*

*"(D) among the foremost needs that the surface transportation system must meet to provide for a strong and vigorous national economy are safe, efficient, and reliable—*

*"(i) national and interregional personal mobility (including personal mobility in rural and urban areas) and reduced congestion;*

*"(ii) flow of interstate and international commerce and freight transportation; and*

*"(iii) travel movements essential for national security;*

*"(E) special emphasis should be devoted to providing safe and efficient access for the type and size of commercial and military vehicles that access designated National Highway System intermodal freight terminals;*

*"(F) the connection between land use and infrastructure is significant;*

*"(G) transportation should play a significant role in promoting economic growth, improving the environment, and sustaining the quality of life; and*

*"(H) the Secretary should take appropriate actions to preserve and enhance the Interstate System to meet the needs of the 21st Century.".*

*(b) National Surface Transportation Policy and Revenue Study Commission.—*

*(1) Establishment.—There is established a commission to be known as the "National Surface Transportation Policy and Revenue Study Commission" (in this subsection referred to as the "Commission").*

*(2) Membership.—*

*(A) Composition.—The Commission shall be composed of 12 members, of whom—*

*(i) 1 member shall be the Secretary, who shall serve as Chairperson;*

*(ii) 3 members shall be appointed by the President;*

*(iii) 2 members shall be appointed by the Speaker of the House of Representatives;*

*(iv) 2 members shall be appointed by the minority leader of the House of Representatives;*

*(v) 2 members shall be appointed by the majority leader of the Senate; and*

*(vi) 2 members shall be appointed by the minority leader of the Senate.*

*(B) Qualifications.—Members appointed under subparagraph (A)—*

*(i) shall include—*

*(I) individuals representing State and local governments, metropolitan planning organizations, transportation-related industries, and public interest organizations involved with scientific, regulatory, economic, and environmental activities relating to transportation;*

*(II) individuals with a background in public finance, including experience in developing State and local revenue resources;*

*(III) individuals involved in surface transportation program administration;*

*(IV) individuals that have conducted academic research into related issues; and*

*(V) individuals that provide unique perspectives on current and future requirements for revenue sources to support the Highway Trust Fund and policies impacting those revenues; and*

*(ii) shall be balanced geographically to the extent consistent with maintaining the highest level of expertise on the Commission.*

*(C) Date of appointments.—The appointment of a member of the Commission shall be made not later than 120 days after the date of establishment of the Commission.*

*(D) Terms.—A member shall be appointed for the life of the Commission.*

*(E) Vacancies.—A vacancy on the Commission—*

*(i) shall not affect the powers of the Commission; and*

*(ii) shall be filled in the same manner as the original appointment was made.*

*(F) Initial meeting.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission.*

*(G) Meetings.—The Commission shall meet at the call of the Chairperson.*

*(H) Quorum.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.*

*(I) Vice chairperson.—The Commission shall select a Vice Chairperson from among the appointed members of the Commission.*

*(3) DUTIES.—*

*(A) IN GENERAL.—The Commission shall—*

*(i) conduct a comprehensive study of—*

*(I) the current condition and future needs of the surface transportation system;*

*(II) short-term sources of Highway Trust Fund revenues;*

*(III) long-term alternatives to replace or supplement the fuel tax as the principal revenue source to support the Highway Trust Fund, including new or alternate sources of revenue;*

*(IV) revenue sources to fund the needs of the surface transportation system over at least the 30-year period beginning on the date of enactment of this Act, including new or alternate sources of revenue;*

*(V) revenues flowing into the Highway Trust Fund under laws in existence on the date of enactment of this Act, including individual components of the overall flow of the revenues; and*

*(VI) whether the amount of revenues described in subclause (V) is likely to increase, decrease, or remain constant absent any change in law, taking into consideration the impact of possible changes in public vehicular choice, fuel use, and travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;*

*(B) develop a conceptual plan, with alternative approaches, to ensure that the surface transportation system will continue to serve the needs of the United States, including specific recommendations regarding design and operational standards, Federal policies, and legislative changes;*

*(C) consult with the Secretary of the Treasury in conducting the study to ensure that the views of the Secretary concerning essential attributes of Highway Trust Fund revenue alternatives are considered;*

*(D) consult with representatives of State departments of transportation and metropolitan planning organizations and other key interested stakeholders in conducting the study to ensure that—*

*(i) the views of the stakeholders on alternative revenue sources to support State transportation improvement programs are considered; and*

*(ii) any recommended Federal financing strategy takes into account State financial requirements; and*

*(E) based on the study, make specific recommendations regarding—*

*(i) actions that should be taken to develop alternative revenue sources to sup port the Highway Trust Fund; and*

*(ii) the time frame for taking those actions.*

*(4) RELATED WORK.—To the maximum extent practicable, the study shall build on related work that has been completed by—*

*(A) the Secretary;*

*(B) the Secretary of Energy;*

*(C) the Transportation Research Board, including the findings, conclusions, and recommendations of the recent study conducted by the Transportation Research Board on alternatives to the fuel tax to support highway program financing; and*

*(D) other entities and persons.*

*(5) SURFACE TRANSPORTATION NEEDS.—With respect to surface transportation needs, the investigation and study shall specifically address—*

*(A) the current condition and performance of the Interstate System (including the physical condition of bridges and pavements and operational characteristics and performance), relying primarily on existing data sources;*

*(B) the future of the Interstate System, based on a range of legislative and policy approaches for 15-, 30-, and 50-year time periods;*

*(C) the expected demographics and business uses that impact the surface transportation system;*

*(D) the expected use of the surface transportation system, including the effects of changing vehicle types, modes of transportation, fleet size and weights, and traffic volumes;*

*(E) desirable design policies and standards for future improvements of the surface transportation system, including additional access points;*

*(F) the identification of urban, rural, national, and interregional needs for the surface transportation system;*

*(G) the potential for expansion, upgrades, or other changes to the surface transportation system, including—*

*(i) deployment of advanced materials and intelligent technologies;*

*(ii) critical multistate, urban, and rural corridors needing capacity, safety, and operational enhancements;*

*(iii) improvements to intermodal linkages;*

*(iv) security and military deployment enhancements;*

*(v) strategies to enhance asset preservation; and*

*(vi) implementation strategies;*

*(H) the improvement of emergency preparedness and evacuation using the surface transportation system, including—*

*(i) examination of the potential use of all modes of the surface transportation system in the safe and efficient evacuation of citizens during times of emergency;*

*(ii) identification of the location of critical bottlenecks; and*

*(iii) development of strategies to improve system redundancy, especially in areas with a high potential for terrorist attacks;*

*(I) alternatives for addressing environmental concerns associated with the future development of the surface transportation system;*

*(J) the assessment of the current and future capabilities for conducting system-wide real-time performance data collection and analysis, traffic monitoring, and transportation systems operations and management; and*

*(K) policy and legislative alternatives for addressing future needs for the surface transportation system.*

*(6) FINANCING.—With respect to financing, the study shall address specifically—*

*(A) the advantages and disadvantages of alternative revenue sources to meet anticipated Federal surface transportation financial requirements;*

*(B) recommendations concerning the most promising revenue sources to support long-term Federal surface transportation financing requirements;*

*(C) development of a broad transition strategy to move from the current tax base to new funding mechanisms, including the time frame for various components of the transition strategy;*

*(D) recommendations for additional research that may be needed to implement recommended alternatives; and*

*(E) the extent to which revenues should reflect the relative use of the highway system.*

*(7) FINANCING RECOMMENDATIONS.—*

*(A) FACTORS FOR CONSIDERATION.—In developing financing recommendations under this subsection, the Commission shall consider—*

*(i) the ability to generate sufficient revenues from all modes to meet anticipated long-term surface transportation financing needs;*

*(ii) the roles of the various levels of government and the private sector in meeting future surface transportation financing needs;*

*(iii) administrative costs (including enforcement costs) to implement each option;*

*(iv) the expected increase in nontaxed fuels and the impact of taxing those fuels;*

*(v) the likely technological advances that could ease implementation of each option;*

*(vi) the equity and economic efficiency of each option;*

*(vii) the flexibility of different options to allow various pricing alternatives to be implemented; and*

*(viii) potential compatibility issues with State and local tax mechanisms under each alternative.*

*(B) NEED AND REVENUE ANALYSIS.—In developing financing recommendations under this subsection, the Commission shall distinguish between—*

*(i) the needs of, and revenues for, the surface transportation system that are eligible to receive funds from the Highway Trust Fund; and*

*(ii) the needs for projects and programs that are not eligible to receive funds from the Highway Trust Fund.*

*(8) TECHNICAL ADVISORY COMMITTEE.—The Secretary shall establish a technical advisory committee, in a manner consistent with the Federal Advisory Committee Act (5 U.S.C. App.), to collect and evaluate technical input from—*

*(A) appropriate Federal, State, and local officials with responsibility for transportation;*

*(B) appropriate State and local elected officials;*

*(C) transportation and trade associations;*

*(D) emergency management officials;*

*(E) freight providers;*

*(F) the general public; and*

*(G) other entities and persons determined to be appropriate by the Secretary to ensure a diverse range of views.*

*(9) REPORT AND RECOMMENDATIONS.—Not later than July 1, 2007, the Commission shall submit to Congress—*

*(A) a final report that contains a detailed statement of the findings and conclusions of the Commission; and*

*(B) the recommendations of the Commission for such legislation and administrative actions as the Commission considers to be appropriate.*

*(10) POWERS OF THE COMMISSION.—*

*(A) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.*

*(B) INFORMATION FROM FEDERAL AGENCIES.—*

*(i) IN GENERAL.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section.*

*(ii) PROVISION OF INFORMATION.—On request of the Chairperson of the Commission, the head of a Federal agency shall provide the requested information to the Commission.*

*(C) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.*

*(D) DONATIONS.—The Commission may accept, use, and dispose of donations of services or property.*

*(11) COMMISSION PERSONNEL MATTERS.—*

*(A) MEMBERS.—A member of the Commission shall serve without pay but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.*

*(B) CONTRACTORS.—The Commission may enter into agreements with an appropriate organizations, agencies, and entities to conduct the study required under this section, under the strategic guidance of the Commission.*

*(C) ADMINISTRATIVE SUPPORT.—On the request of the Commission, the Administrator of the Federal Highway Administration shall provide to the Commission, on a reimbursable basis, the administrative support and services necessary for the Commission to carry out the duties of the Commission under this section.*

*(D) Detail of Personnel.—*

*(i) In General.—On the request of the Commission, the Secretary may detail, on a reimbursable basis, any of the personnel of the Department to the Commission to assist the Commission in carrying out the duties of the Commission under this section.*

*(ii) Civil Service Status.—The detail of the employee shall be without interruption or loss of civil service status or privilege.*

*(12) Cooperation.—The staff of the Secretary shall cooperate with the Commission in the study required under this section, including providing such nonconfidential data and information as are necessary to conduct the study.*

*(13) Relationship to Other Law.—*

*(A) In General.—Except as provided in subparagraphs (B) and (C), funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.*

*(B) Federal Share.—The Federal share of the cost of the study and the Commission under this section shall be 100 percent.*

*(C) Availability.—Funds made available to carry out this section shall remain available until expended.*

*(14) Definition of Surface Transportation System.—In this subsection, the term "surface transportation system" includes—*

*(A) the National Highway System, as defined in section 103(b) of title 23, United States Code;*

*(B) congressional high priority corridors;*

*(C) intermodal connectors;*

*(D) intermodal freight facilities;*

*(E) public transportation infrastructure and facilities; and*

*(F) freight and intercity passenger bus and rail infrastructure and facilities.*

*(15) Authorization of Appropriations.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $1,400,000 for each of fiscal years 2006 and 2007.*

*(16) Applicability of Title 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended, and the Federal share of the cost of a project under this section shall be as provided in this section.*

*(17) Termination.—*

*(A) In General.—The Commission shall terminate on the date that is 180 days after the date on which the Commission submits the report of the Commission under paragraph (9).*

*(B) Records.—Not later than the date of termination of the Commission under subparagraph (A), all records and papers of the Commission shall be delivered to the Archivist of the United States for deposit in the National Archives.*

### SEC. 1910. MOTORIST INFORMATION CONCERNING FULL SERVICE RESTAURANTS.

*Not later than 180 days after the date of enactment of this Act, the Secretary may initiate a rulemaking to determine whether—*

*(1) full service restaurants should be given priority on not more than 2 panels of the camping or attractions logo-specific service signs in the Manual on Uniform Traffic Control Devices of the Department of Transportation when the food logo-specific service sign is fully used; and*

*(2) full service restaurants should be given priority on not more than 2 panels of the food logo-specific service signs in such Manual when the camping or attractions logo specific service signs are fully used.*

### SEC. 1911. APPROVAL AND FUNDING FOR CERTAIN CONSTRUCTION PROJECTS.

*(a) Project Approval.—If the Secretary finds that the project number STP–189–1(15)CT 3 in Gwinnett County, Georgia, was not listed in the current regional transportation plan because of a clerical error, such failure to be listed shall not be a basis for not approving the project. The Secretary shall make a final decision on the approval of the project within 30 days after the date of receipt by the Secretary of a construction authorization request from the department of transportation for the State of Georgia.*

*(b) Conformity Determination.—*

*(1) In General.—Approval, funding, and implementation of the project referred to in subsection (a) shall not be subject to the requirements of part 93 of title 40, Code of Federal Regulations (or successor regulations).*

*(2) Regional Emissions.—Notwithstanding paragraph (1), all subsequent regional emission analyses required by section 93.118 or 93.119 of title 40, Code of Federal Regulations (or successor regulations), shall include the project.*

### SEC. 1912. LEAD AGENCY DESIGNATION.

*The public entity established under California law in 1989 to acquire rights-of-way in northwestern California to maintain surface transportation infrastructure is designated as the lead agency for the purpose of accepting Federal funds authorized under item 13 of the table contained in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2061).*

### SEC. 1913. BRIDGE CONSTRUCTION, NORTH DAKOTA.

*Notwithstanding any other provision of law, and regardless of the source of Federal funds, the Federal share of the eligible costs of construction of a bridge between Bismarck, North Dakota, and Mandan, North Dakota, shall be 90 percent.*

### SEC. 1914. MOTORCYCLIST ADVISORY COUNCIL.

*(a) In General.—The Secretary, acting through the Administrator of the Federal Highway Administration, in consultation with the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate, shall appoint a Motorcyclist Advisory Council to coordinate with and advise the Administrator on infrastructure issues of concern to motorcyclists, including—*

*(1) barrier design;*

*(2) road design, construction, and maintenance practices; and*

*(3) the architecture and implementation of intelligent transportation system technologies.*

*(b) Composition.—The Council shall consist of not more than 10 members of the motorcycling community with professional expertise in national motorcyclist safety advocacy, including—*

*(1) at least—*

*(A) 1 member recommended by a national motorcyclist association;*

*(B) 1 member recommended by a national motorcycle riders foundation;*

*(C) 1 representative of the National Association of State Motorcycle Safety Administrators;*

*(D) 2 members of State motorcyclists' organizations;*

*(E) 1 member recommended by a national organization that represents the builders of highway infrastructure;*

*(F) 1 member recommended by a national association that represents the traffic safety systems industry; and*

*(G) 1 member of a national safety organization; and*

*(2) at least 1, and not more than 2, motorcyclists who are traffic system design engineers or State transportation department officials.*

### SEC. 1915. LOAN FORGIVENESS.

*Debt outstanding as of the date of enactment of this Act for project number Q–DPM–0013(001) carried out under section 108(c) of title 23, United States Code, is deemed satisfied.*

### SEC. 1916. TREATMENT OF OFF RAMP.

*Notwithstanding any other provision of law, the New Harbor Boulevard North off-ramp project along the Interstate Route 405 Collector-Distributor Road in Costa Mesa, California (Susan Street Slip-Ramp), shall be treated for purposes of title 23, United States Code, as satisfying all Federal requirements, and the California State department of transportation shall authorize any final environmental, engineering, or design analyses necessary to approve, as expeditiously as possible, construction of the project consistent with applicable California State operational and safety standards.*

### SEC. 1917. OPENING OF INTERSTATE RAMPS.

*(a) In General.—The Maryland State highway administration and the Federal Highway Administration shall work cooperatively—*

*(1) to expedite the project being developed as of the date of enactment of this Act to improve Interstate Route 495 through the area of the Arena Drive interchange to allow for safe exit, including improvements to the adjacent interchanges upstream and downstream along Interstate Route 495; and*

*(2) to expedite action on the Interstate access request so that the Interstate Route 495/Arena Drive interchange can be opened safely to all vehicles 24 hours per day, 7 days per week.*

*(b) Report.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the status of opening the Interstate Route 495/Arena Drive interchange to full-time use.*

### SEC. 1918. CREDIT TO STATE OF LOUISIANA FOR STATE MATCHING FUNDS.

*(a) In General.—The Secretary may provide a credit to the State of Louisiana in an amount equal to non Federal Share of the cost of any planning, engineering, design, or construction work carried out by the State on any project that the Secretary determines is integral to the project authorized by item number 202 in the table contained in section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 264).*

*(b) Eligibility of Credit.—The credit may be used for any future payment relating to the completion of the project referred to in subsection (a) that is required by the State under title 23, United States Code.*

### SEC. 1919. ROAD USER FEES.

*(a) Study.—The Secretary shall enter into an agreement with the Public Policy Center of the University of Iowa for an analysis and report to the Secretary and the Secretary of the Treasury on a long-term field test of an approach to assessing highway use fees based upon actual mileage driven by a specific vehicle on specific types of highways by use of an onboard computer—*

*(1) which is linked to satellites to calculate highway mileage traversed;*

*(2) which computes the appropriate highway use fees for each of the Federal, State, and local governments as the vehicle makes use of the highways; and*

*(3) the data from which is periodically downloaded by the vehicle owner to a collection center for an assessment of highway use fees due in each jurisdiction traversed; and*

*(4) which includes methods of ensuring privacy of road users.*

*(b) Components of Field Test.—The components of the field test shall include 2 years for preparation, including selection of vendors and test participants, and a 3-year testing period.*

*(c) Reports.—The Secretary shall submit annual reports on the status of the analysis and, not later than July 1, 2009, a final report on the results of the analysis, together with findings and recommendations. The reports shall be submitted to the Secretary of the Treasury, the Committee on Transportation and Infrastructure and the Committee on Ways and Means of*

*the House of Representatives, and the Committee on Environment and Public Works and the Committee on Finance of the Senate.*

*(d) AUTHORIZATION OF APPROPRIATION.—*

*(1) IN GENERAL.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $2,000,000 fiscal year 2006 and $3,500,000 for each of fiscal years 2007, 2008, and 2009.*

*(2) CONTRACT AUTHORITY.—Funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code; except the Federal share of the cost of the analysis and report shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.*

### *SEC. 1920. TRANSPORTATION AND LOCAL WORKFORCE INVESTMENT.*

*(a) FINDINGS.—Congress finds the following:*

*(1) Federal-aid highway programs provide State and local governments and other recipients substantial funds for projects that produce significant employment and job-training opportunities.*

*(2) Every $1,000,000,000 in Federal infrastructure investment creates an estimated 47,500 jobs.*

*(3) Jobs in transportation construction, including apprenticeship positions, typically pay more than twice the minimum wage, and include health and other benefits.*

*(4) Transportation projects provide the impetus for job training and employment opportunities for low income individuals residing in the area in which a transportation project is planned.*

*(5) Transportation projects can offer young people, particularly those who are economically disadvantaged, the opportunity to gain productive employment.*

*(6) The Alameda Corridor, a $2,400,000,000 transportation project, is an example of a transportation project that included a local hiring provision resulting in a full 30 percent of the project jobs being filled by locally hired and trained men and women.*

*(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal transportation projects should facilitate and encourage the collaboration between interested persons, including Federal, State, and local governments, community colleges, apprentice programs, local high schools, and other community-based organizations that have an interest in improving the job skills of low-income individuals, to help leverage scarce training and community resources and to help ensure local participation in the building of transportation projects.*

### *SEC. 1921. UPDATE OF OBSOLETE TEXT.*

*Section 137(a) of title 23, United States Code, is amended in the first sentence by striking "on the Federal-aid urban system" and inserting "on a Federal-aid highway".*

### *SEC. 1922. TECHNICAL AMENDMENTS TO NONDISCRIMINATION SECTION.*

*(a) STATE ASSURANCES.—Section 140(a) of title 23, United States Code, is amended—*

*(1) in the first sentence by striking "subsection (a) of section 105 of this title" and inserting "section 135";*

*(2) in the second sentence by striking "He" and inserting "The Secretary";*

*(3) in the third sentence—*

*(A) by striking "shall, where he considers it necessary to assure" and inserting "if necessary to ensure"; and*

*(B) by inserting "shall" after "opportunity,"; and*

*(4) in the last sentence—*

*(A) by striking "him" and inserting "the Secretary" and*

*(B) by striking "he" and inserting "the Secretary of Transportation".*

*(b) HIGHWAY CONSTRUCTION AND TECHNOLOGY TRAINING.—Section 140(b) of such title is amended—*

*(1) in the first sentence by striking "highway construction" and inserting "surface transportation"; and*

*(2) in the second sentence—*

*(A) by striking "he may deem"; and*

*(B) by striking "not to exceed $2,500,000 for the transition quarter ending September 30, 1976, and".*

*(c) MINORITY BUSINESS TRAINING PROGRAMS.—Section 140(c) of such title is amended in the second sentence—*

*(1) by striking "subsection 104(b)(3) of this title" and inserting "section 104(b)(3)"; and*

*(2) by striking "he may deem".*

*(d) TECHNICAL AMENDMENT.—Section 140(d) of such title is amended in the subsection heading by striking "AND CONTRACTING".*

### *SEC. 1923. TRANSPORTATION ASSETS AND NEEDS OF DELTA REGION.*

*(a) AGREEMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall enter into an agreement with the Delta Regional Authority (in this section referred to as the "DRA") to conduct a comprehensive study of transportation assets and needs for all modes of transportation (including passenger and freight transportation) in the 8 States comprising the Delta region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee).*

*(b) CONSULTATION.—Under the agreement, the DRA, in conducting the study, shall consult with the Department, State transportation departments, local planning and development districts, local and regional governments, and metropolitan planning organizations.*

*(c) REPORT.—Under the agreement, the DRA, not later than 2 years after the date of entry into the agreement, shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a final report on the results of the study, together with such recommendations as the DRA considers to be appropriate.*

*(d) PLAN.—Under the agreement, the DRA, upon completion of the report, shall establish a regional strategic plan to implement the recommendations of the report.*

*(e) FUNDING.—*

*(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account), to carry out this section $500,000 for each of the fiscal years 2005 and 2006.*

*(2) CONTRACT AUTHORITY.—Funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended and shall not be transferable.*

### *SEC. 1924. ALASKA WAY VIADUCT STUDY.*

*(a) FINDINGS.—Congress finds that—*

*(1) in 2001, the Alaska Way Viaduct, a critical segment of the National Highway System in Seattle, Washington, was seriously damaged by the Nisqually earthquake;*

*(2) an effort to address the possible repair, retrofit, or replacement of the Viaduct that conforms with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is underway; and*

*(3) as a result of the efforts referred to in paragraph (2), a locally preferred alternative for the Viaduct is being developed.*

*(b) STUDY.—*

*(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary, in cooperation with the Washington State department of transportation and the city of Seattle, Washington, shall conduct a comprehensive study to determine the specific damage to the Alaska Way Viaduct from the Nisqually earthquake of 2001 that contribute to the ongoing degradation of the Viaduct.*

*(2) REQUIREMENTS.—The study under paragraph (1) shall—*

*(A) identify any repair, retrofit, and replacement costs for the Viaduct that are eligible for additional assistance from the emergency fund authorized under section 125 of title 23, United States Code, consistent with the emergency relief manual governing eligible expenses from the emergency fund; and*

*(B) determine the amount of assistance from the emergency fund for which the Viaduct is eligible.*

*(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to Congress a report that describes the findings of the study.*

### *SEC. 1925. COMMUNITY ENHANCEMENT STUDY.*

*(a) IN GENERAL.—The Secretary shall conduct a study on—*

*(1) the role of well-designed transportation projects in—*

*(A) promoting economic development;*

*(B) protecting public health, safety and the environment; and*

*(C) enhancing the architectural design and planning of communities; and*

*(2) the positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits of such projects for communities.*

*(b) CONTENTS.—The study shall address the following:*

*(1) The degree to which well-designed transportation projects have positive economic, cultural, aesthetic, scenic, architectural, and environmental benefits for communities.*

*(2) The degree to which such projects protect and contribute to improvements in public health and safety.*

*(3) The degree to which such projects use inclusive public participation processes to achieve quicker, more certain, and better results.*

*(4) The degree to which positive results are achieved by linking transportation, design, and the implementation of community visions for the future.*

*(5) Facilitating the use of successful models or best practices in transportation investment or development to accomplish each of the following:*

*(A) Enhancement of community identity.*

*(B) Protection of public health and safety.*

*(C) Provision of a variety of choices in housing, shopping, transportation, employment, and recreation.*

*(D) Preservation and enhancement of existing infrastructure.*

*(E) Creation of a greater sense of community through public involvement.*

*(c) REPORT.—Not later than September 20, 2007, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study.*

*(d) ADMINISTRATION.—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with, a national organization representing architects who have expertise in the design of a wide range of transportation and infrastructure projects, which include the design of buildings, public facilities, and surrounding communities.*

*(e) AUTHORIZATION.—Of the amounts made available to carry out the transportation, community, and system preservation program by section 1117 of this Act $1,000,000 shall be available for each of fiscal years 2006 and 2007 to carry out this section; except that, notwithstanding section 1117(g) of this Act, the Federal*

*share of the cost of the study shall be 100 percent.*

### *SEC. 1926. BUDGET JUSTIFICATION.*

*The Department of Transportation and each agency in the Department shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a budget justification concurrently with the President's annual budget submission to Congress under section 1105(a) of title 31, United States Code.*

### *SEC. 1927. 14TH AMENDMENT HIGHWAY AND 3RD INFANTRY DIVISION HIGHWAY.*

*Not later than December 31, 2005, any funds made available to commission studies and reports regarding construction of a route linking Augusta, Georgia, Macon, Georgia, Columbus, Georgia, Montgomery, Alabama, and Natchez, Mississippi and a route linking through Savannah, Georgia, Augusta, Georgia, and Knoxville, Tennessee, shall be provided to the Secretary to—*

*(1) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to construct a route for the 14th Amendment Highway, from Augusta, Georgia, to Natchez, Mississippi (formerly designated the Fall Line Freeway in the State of Georgia); and*

*(2) carry out a study and submit to the appropriate committees of Congress a report that describes the steps and estimated funding necessary to designate and construct a route for the 3rd Infantry Division Highway, extending from Savannah, Georgia, to Knoxville, Tennessee, by way of Augusta, Georgia (formerly the Savannah River Parkway in the State of Georgia).*

### *SEC. 1928. SENSE OF CONGRESS REGARDING BUY AMERICA.*

*It is the sense of Congress that—*

*(1) the Buy America test required by section 165 of the Surface Transportation Assistance Act of 1982 (23 U.S.C. 101 note) needs to be applied to an entire bridge project and not only to component parts of such project;*

*(2) the law clearly states that domestic materials must be used in Federal highway projects unless there is a finding that the inclusion of domestic materials will increase the cost of the overall project by more than 25 percent;*

*(3) uncertainty regarding how to apply Buy America laws for major bridge projects threatens the domestic bridge industry;*

*(4) because the Nation's unemployment rate continues to hover around 5.6 percent, steps are needed to protect American workers and the domestic bridge building industry; and*

*(5) the Buy American Act (41 U.S.C. 10a et seq.) was designed to ensure that, when taxpayer money is spent on direct Federal Government procurement and infrastructure projects, these expenditures stimulate United States production and job creation.*

### *SEC. 1929. DESIGNATION OF DANIEL PATRICK MOYNIHAN INTERSTATE HIGHWAY.*

*(a) DESIGNATION.—The portion of Interstate Route 86 in the State of New York, extending from the Pennsylvania border near Lake Erie through Orange County, New York, shall be known and designated as the "Daniel Patrick Moynihan Interstate Highway".*

*(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway portion referred to in subsection (a) shall be deemed to be a reference to the "Daniel Patrick Moynihan Interstate Highway".*

### *SEC. 1930. DESIGNATION OF THOMAS P. "TIP" O'NEILL, JR. TUNNEL.*

*(a) DESIGNATION.—In honor of his service to the Commonwealth of Massachusetts and the United States, and in recognition of his contributions toward the construction of the Central Artery project in Boston, the northbound and southbound tunnel of Interstate Route 93, located in the city of Boston, which extends north of the intersection of Interstate Route 90 and Interstate Route 93 to the Leonard P. Zakim Bunker Hill Bridge, shall be known and designated as the "Thomas P. 'Tip' O'Neill, Jr. Tunnel".*

*(b) REFERENCES.—Any reference in law, map, regulation, document, paper, or other record of the United States to the tunnel referred to in subsection (a) shall be deemed to be a reference to the "Thomas P. 'Tip' O'Neill, Jr. Tunnel".*

### *SEC. 1931. RICHARD NIXON PARKWAY, CALIFORNIA.*

*(a) DESIGNATION.—The segment of the Imperial Highway located between California State Route 91 and Esperanza Road in the State of California shall be known and designated as the "Richard Nixon Parkway".*

*(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway segment referred to in subsection (a) shall be deemed to be a reference to the "Richard Nixon Parkway".*

### *SEC. 1932. AMO HOUGHTON BYPASS.*

*(a) DESIGNATION.—The 3-mile segment of Interstate Route 86 between its interchange with New York State Route 15 in the vicinity of Painted Post, New York, and its interchange with New York State Route 352 in the vicinity of Corning, New York, shall be known and designated as the "Amo Houghton Bypass".*

*(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway segment referred to in subsection (a) shall be deemed to be a reference to the "Amo Houghton Bypass".*

### *SEC. 1933. BILLY TAUZIN ENERGY CORRIDOR.*

*(a) DESIGNATION.—Louisiana Route 1 shall be known and designated as the "Billy Tauzin Energy Corridor".*

*(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the highway segment referred to in subsection (a) shall be deemed to be a reference to the "Billy Tauzin Energy Corridor".*

### *SEC. 1934. TRANSPORTATION IMPROVEMENTS.*

*(a) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) IN GENERAL.—For each of fiscal years 2005 through 2009, there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) such sums as are necessary to make allocations in accordance with paragraph (2) to carry out each project described in the table contained in subsection (c), at the amount specified for each such project in that table.*

*(2) ALLOCATION PERCENTAGES.—Of the total amount specified for each project described in the table contained in subsection (c), 10 percent for fiscal year 2005, 20 percent for fiscal year 2006, 25 percent for fiscal year 2007, 25 percent for fiscal year 2008, and 20 percent for fiscal year 2009 shall be allocated to carry out each such project in that table.*

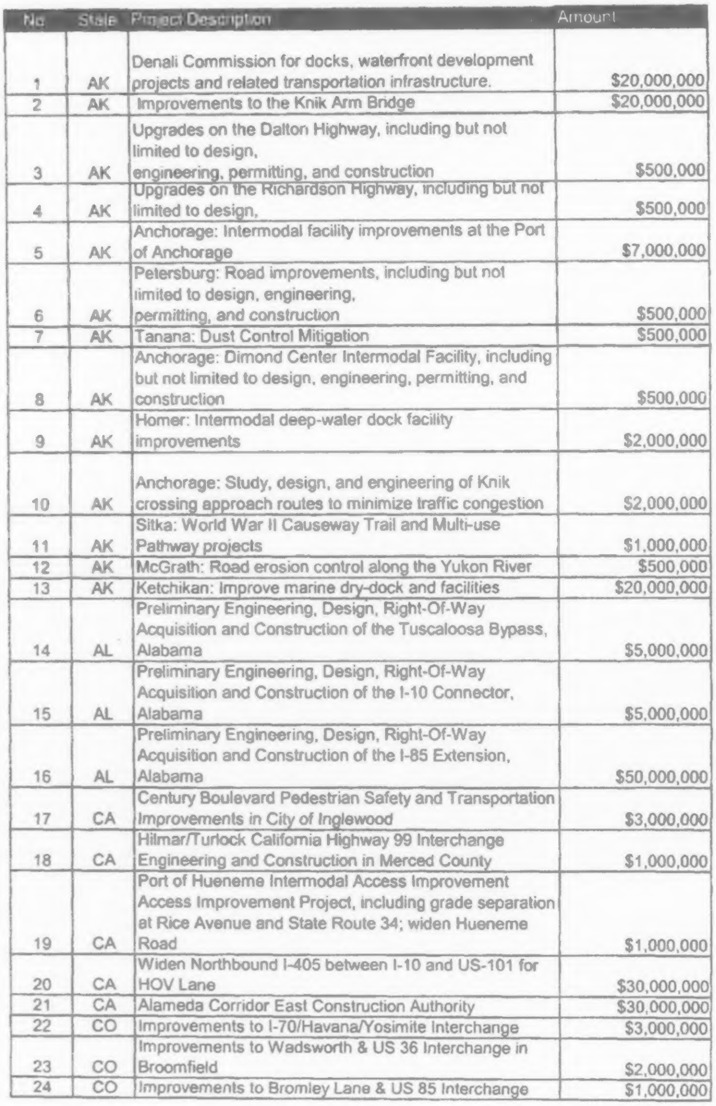
*(b) CONTRACT AUTHORITY.—*

*(1) IN GENERAL.—Funds authorized to be appropriated to carry out this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that the funds shall remain available until expended.*

*(2) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined in accordance with section 120 of such title.*

*(c) TABLE.—The table referred to in subsections (a) and (b) is as follows:*

## TRANSPORTATION IMPROVEMENTS



| No | State | Project Description | Amount |
|---|---|---|---|
| 1 | AK | Denali Commission for docks, waterfront development projects and related transportation infrastructure. | $20,000,000 |
| 2 | AK | Improvements to the Knik Arm Bridge | $20,000,000 |
| 3 | AK | Upgrades on the Dalton Highway, including but not limited to design, engineering, permitting, and construction | $500,000 |
| 4 | AK | Upgrades on the Richardson Highway, including but not limited to design, | $500,000 |
| 5 | AK | Anchorage: Intermodal facility improvements at the Port of Anchorage | $7,000,000 |
| 6 | AK | Petersburg: Road improvements, including but not limited to design, engineering, permitting, and construction | $500,000 |
| 7 | AK | Tanana: Dust Control Mitigation | $500,000 |
| 8 | AK | Anchorage: Dimond Center Intermodal Facility, including but not limited to design, engineering, permitting, and construction | $500,000 |
| 9 | AK | Homer: Intermodal deep-water dock facility improvements | $2,000,000 |
| 10 | AK | Anchorage: Study, design, and engineering of Knik crossing approach routes to minimize traffic congestion | $2,000,000 |
| 11 | AK | Sitka: World War II Causeway Trail and Multi-use Pathway projects | $1,000,000 |
| 12 | AK | McGrath: Road erosion control along the Yukon River | $500,000 |
| 13 | AK | Ketchikan: Improve marine dry-dock and facilities | $20,000,000 |
| 14 | AL | Preliminary Engineering, Design, Right-Of-Way Acquisition and Construction of the Tuscaloosa Bypass, Alabama | $5,000,000 |
| 15 | AL | Preliminary Engineering, Design, Right-Of-Way Acquisition and Construction of the I-10 Connector, Alabama | $5,000,000 |
| 16 | AL | Preliminary Engineering, Design, Right-Of-Way Acquisition and Construction of the I-85 Extension, Alabama | $50,000,000 |
| 17 | CA | Century Boulevard Pedestrian Safety and Transportation Improvements in City of Inglewood | $3,000,000 |
| 18 | CA | Hilmar/Turlock California Highway 99 Interchange Engineering and Construction in Merced County | $1,000,000 |
| 19 | CA | Port of Hueneme Intermodal Access Improvement Access Improvement Project, including grade separation at Rice Avenue and State Route 34; widen Hueneme Road | $1,000,000 |
| 20 | CA | Widen Northbound I-405 between I-10 and US-101 for HOV Lane | $30,000,000 |
| 21 | CA | Alameda Corridor East Construction Authority | $30,000,000 |
| 22 | CO | Improvements to I-70/Havana/Yosimite Interchange | $3,000,000 |
| 23 | CO | Improvements to Wadsworth & US 36 Interchange in Broomfield | $2,000,000 |
| 24 | CO | Improvements to Bromley Lane & US 85 Interchange | $1,000,000 |

## TRANSPORTATION IMPROVEMENTS

| | | | |
|---|---|---|---|
| 25 | CO | Improvements to C470 & US 85 Interchange | $4,000,000 |
| 26 | CO | Improvements to Hwy 34 & I-25 Interchange (Loveland/Greeley exit) | $2,000,000 |
| 27 | CO | Improvements to Hwy 16 & I-25 Interchange (Ft. Carson Phase I) | $3,000,000 |
| 28 | CO | Improvements to Hwy 50 from Las Animas to Lamar | $12,000,000 |
| 29 | CO | Improvements to Hwy 395 & I-25 (at Windsor Exit) | $2,000,000 |
| 30 | CO | Improvements to Pecos Street Overpass (Adams County) | $3,000,000 |
| 31 | CO | Improvements to US 285 & Deer Creek Interchange | $1,000,000 |
| 32 | CO | Improvements to US 50 & Hwy 115 (safety improvements) | $2,000,000 |
| 33 | CO | Improvements to Glenwood Springs Bridge | $1,000,000 |
| 34 | CO | Improvements to 104th & US 85 Intersection | $1,000,000 |
| 35 | CT | Development and demonstration in Connecticut of fuel cell technogies for buses in urban areas | $5,000,000 |
| 36 | CT | Improvements to I-95 in Connecticut, including the Pearl Harbor Memorial/Q Bridge, from the state border with New York to the state border with Rhode Island | $50,000,000 |
| 37 | DE | Planning, Design, and Construction of the Energy Exploration Center at Destination Station in Rehoboth Beach | $1,000,000 |
| 38 | DE | Preliminary Engineering and Environmental Analysis of the Middletown to Newark Rail Connection | $4,000,000 |
| 39 | DE | Develop and construct an alternative route for truck traffic in the core downtown area of Harrington | $8,500,000 |
| 40 | DE | Build the Pomeroy Line Pedestrian/Bicycle Trail and Facility in Newark | $4,771,000 |
| 41 | DE | Infrastructure and Streetscape Improvements on Rehoboth Avenue in Rehoboth | $6,750,000 |
| 42 | DE | University of Delaware's Automotive Based Fuel Cell Hybrid Bus Program in Newark | $4,979,000 |
| 43 | DE | Design and Construct the Indian River Inlet Bridge on SR-1 in Sussex County | $5,000,000 |
| 44 | FL | Tamiami Trail Skyway Transportation Study | $1,000,000 |
| 45 | FL | Sand Lake Road Improvements between President's Drive and I-4. | 3,000,000 |
| 46 | FL | New systems interchange ramps at SR 417 and Boggy Creek Road in Orange County, Florida | 2,000,000 |
| 47 | FL | Florida SIS projects in Miami-Dade County | 5,000,000 |
| 48 | FL | Hillsborough County I-4 Crosstown Connector--Construction of I-4 crosstown connector from I-4 to Port of Tampa | $7,000,000 |
| 49 | FL | Sand Lake Road Improvements between Presidents Drive and I-4 | $6,000,000 |
| 50 | FL | Gulf Coast Parkway, Final design, engineering, and construction for a 2-lane Gulf Coast/US 98 bypass | $7,000,000 |
| 51 | GA | Queens Road widening and reconstruction Cobb Co. | $1,000,000 |
| 52 | GA | Widening Cedarcrest Rd. from Paulding Co. to Governor's Towne | $1,000,000 |

## TRANSPORTATION IMPROVEMENTS

| | | | |
|---|---|---|---|
| 53 | GA | US 84 Connector/Bypass from west of US 84/SR 119 west of Hinesville to US 84/SR 196 south of Flemington, Liberty County | $1,000,000 |
| 54 | GA | SR 746/SE Rome Bypass from SR101 US 411 Floyd Co. | $4,000,000 |
| 55 | GA | SR 204/Abercorn Street from King George Boulevard to Rio Road widening | $4,000,000 |
| 56 | GA | SR 96 from I-75 to old Hawkinsville Road widening and reconstruction | $4,000,000 |
| 57 | GA | SR40 from west of CR 61 to SR 25/US 17 widening | $4,000,000 |
| 58 | GA | SR 40 from east of St. Mary's cut off at mile post 5.0, Charlton County, to County Route 61, Camden County Widening | $2,000,000 |
| 59 | GA | I-75 interchanges from north of Tifton to Turner County line interchange reconstruction | $4,000,000 |
| 60 | GA | I-75/Windy Hill Road interchange reconstruction, Cobb County | $5,000,000 |
| 61 | GA | Interchange capacity improvements at I-285 and Ashford-Dunwoody Road | $3,000,000 |
| 62 | GA | I-75/CR65/Union Grove Road – new interchange, Gordon County | $3,500,000 |
| 63 | GA | SR 85 widening from Adams Drive to I-75 and reconstruct the Forest Parkway interchange | $3,500,000 |
| 64 | GA | City of Jesup, Georgia for transportation improvements | $2,500,000 |
| 65 | GA | Walker County, Georgia for transportation improvements | $2,500,000 |
| 66 | GA | Catoosa County, Georgia for transportation improvements | $2,500,000 |
| 67 | GA | I-75/CR 665/Carbondale Road interchange reconstruction, Whitfield County | $4,000,000 |
| 68 | GA | US 411/SR 20 Access Rights from Floyd County to US 41/SR 3 for transportation improvements | $3,500,000 |
| 69 | HI | Saddle Road traffic improvements on the Island of Hawaii | $10,000,000 |
| 70 | HI | Kapolei traffic improvements on the Island of Oahu | $5,000,000 |
| 71 | HI | Queen Kaahumanu Highway traffic improvements on the Island of Hawaii | $5,000,000 |
| 72 | IA | Iowa State University, National Center for Portland Cement Concrete Pavement Technology | $10,000,000 |
| 73 | IA | University of Northern Iowa, Native Roadside Vegetation Enhancement Center, construction and equipment | $1,000,000 |
| 74 | IA | University of Iowa, Public Policy Center - Field Test of Onboard Computer Assessment of Highway User Fees | $4,000,000 |
| 75 | IA | Drake University, 28th and Carpenter Streets Improvements, Des Moines | $1,500,000 |
| 76 | IA | Loess Hills Scenic Byways/Resource Protection, Western Iowa | $330,000 |
| 77 | IA | Great River Road National Scenic Byway, Rivers to the Sea, Dubuque County | $5,000,000 |

TRANSPORTATION IMPROVEMENTS

| | | | |
|---|---|---|---|
| 78 | IA | Road, Dubuque County | $600,000 |
| 79 | IA | Great River Road National Scenic Byway, Renovating Old Fort Madision | $37,445 |
| 80 | IA | Great River Road National Scenic Byway, Louisa County | $1,700,000 |
| 81 | IA | Great River Road National Scenic Byway, Montrose | $73,500 |
| 82 | IA | Wapsi-Great Western Trail System, Mithcell and Howard Counties | $2,300,000 |
| 83 | IA | Lewis and Clark Trail Study | $250,000 |
| 84 | IA | Recreation Trail, Comanche to Clinton | $2,100,000 |
| 85 | IA | Mississippi River Trail, Heritage Trail, Dubuque County | $1,680,000 |
| 86 | IA | Mississippi River Trail, Bridge at Credit Island, Davenport | $2,000,000 |
| 87 | IA | Mississippi River Trail, Leach Park in Bettendorf to Riverdale | $2,165,000 |
| 88 | IA | American Discovery Trail, Hoover Nature Trail Connect to Ely | $200,000 |
| 89 | IA | American Discovery Trail, connection to Clear Creek Trail, Coralville | $450,000 |
| 90 | IA | Downtown Improvement Project, DeWitt | $1,700,000 |
| 91 | IA | 19th Avenue North Connector, Clinton | $1,500,000 |
| 92 | IA | McCollister Boulevard, Iowa City (HP: 830) | $3,000,000 |
| 93 | IA | County Home Road, Linn County | $1,200,000 |
| 94 | IA | Collins Road, Cedar Rapids | $6,000,000 |
| 95 | IA | I-80/Middle Road Interchange Justification Report with Environmental Assessment, Bettendorf | $500,000 |
| 96 | IA | Highway K-35, Woodbury County | $1,000,000 |
| 97 | IA | National Transportation Heroes Center and Regional Transportation Archival, Research, and Library Center, Grinnell | $3,600,000 |
| 98 | IA | Highway 4 Underpass, Jefferson | $3,000,000 |
| 99 | IA | IA 92 Project, Indianola | $2,000,000 |
| 100 | IA | Rehabilitation and Retrofit of Historic Boone County Wagon Bridge | $800,000 |
| 101 | IA | Lincoln Highway Rehabilitation and Restoration Project, Woodbine | $203,870 |
| 102 | IA | IA 57/West 1st Street Reconstruction, Cedar Falls | $3,000,000 |
| 103 | IA | Scotch Ridge Project, Carlisle | $2,022,000 |
| 104 | IA | US 63 Improvements, Chickasaw, Bremer, and Black Hawk Counties (HP: 858) | $1,486,185 |
| 105 | IA | Study of Direct Link to I-80, Pella (HP: 54) | $110,000 |
| 106 | IA | Construction of 100th Street Interchange on I-35/80, Urbandale (HP: 86) | $220,000 |
| 107 | IA | Central Iowa Trail Loop, Ankeny to Woodward (HP: 146) | $720,000 |
| 108 | IA | Study for NE Beltway, Polk County (HP: 209) | $110,000 |
| 109 | IA | Widening University Boulevard, Clive (HP: 275) | $220,000 |

TRANSPORTATION IMPROVEMENTS

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|---|---|---|---|
| 110 | IA | Reconstruction of NW Madrid Drive, Polk County (HP: 396) | $220,000 |
| 111 | IA | Widening of Highway 44, Grimes (HP: 834) | $2,020,000 |
| 112 | IA | NW 70th Avenue Reconstruction, Johnston (HP: 848) | $2,100,000 |
| 113 | IA | US 6 Final Phase of Safety Improvements, Coralville (HP: 1098) | $440,000 |
| 114 | IA | Construct IA-32 Arterial from US 20 to US 61 and 151, Dubuque (HP: 1145) | $4,180,000 |
| 115 | IA | Construct Trail from Musser Park to Weggens Road, Muscatine (HP: 1243) | $110,000 |
| 116 | IA | Reconstruction of Neal Smith Trail, Polk County (HP: 1284 | $792,000 |
| 117 | IA | Reconstruction of NE 56th Street, Eastern Polk County (HP: 1540) | $220,000 |
| 118 | IA | Hoeven Corridor/Outer Drive Project, Sioux City (HP:1581) | $440,000 |
| 119 | IA | Phase III of Main Street Project, Amana (HP:1791) | $220,000 |
| 120 | IA | Improvements at IA 146 and I-80 Interchange, Grinnell (HP: 2182) | $220,000 |
| 121 | IA | Construct SW Connector, West Des Moines (HP: 2248) | $3,440,000 |
| 122 | IA | US 20 Mississippi River Bridges and Approaches, Dubuque (HP: 2574) | $5,500,000 |
| 123 | IA | I-35 Interchange Improvements, Ankeny (HP: 2837) | $1,100,000 |
| 124 | IA | Construction of NW 26th Street Interchange I-35, Polk County (HP: 3258) | $220,000 |
| 125 | IA | Construct Principal Riverwalk, Des Moines (HP:3298) | $1,100,000 |
| 126 | IA | Design, rehabilitation and construction of Clear Creek Greenway and associated trails in Johnson County | $800,000 |
| 127 | IA | Design ans construction of Central IA Trail Loop from Ankeny to Woodward | $1,000,000 |
| 128 | IA | Design, ROW and construction of Ely Connector Trail in Linn County | $400,000 |
| 129 | IA | Reconstruction of rail line from Oelwein to DeWar | $1,000,000 |
| 130 | IA | Purchase and rehabilitation of 9 mile Rail spur to Bondurant | $1,000,000 |
| 131 | IA | ROW and construction of Mississippi River Trail and related trails in Dubuque County | $1,000,000 |
| 132 | IA | ROW and construction of Mississippi River Trail and related trails in Scott-Muscatine Counties | $1,000,000 |
| 133 | IA | Construction of SW Arterial, IA-32 Dubuque | $6,800,000 |
| 134 | IA | Construction of Cedar Falls trails | $1,000,000 |
| 135 | IA | Construction of HWY 63 in Waterloo | $3,000,000 |
| 136 | IA | Kimberly Road improvements andconstruction in Davenport | $3,000,000 |
| 137 | IA | Mississippi River Trail, Allamakee County | $4,900,000 |
| 138 | IA | US 71 Bypass, Spencer | $5,000,000 |

## TRANSPORTATION IMPROVEMENTS

| | | | |
|---|---|---|---|
| 139 | ID | Transportation Improvements to Widen US-95, Worley to Mica Creek | $5,000,000 |
| 140 | ID | Transportation Improvements to Improve SH-75, Timmerman to Ketchum | $2,000,000 |
| 141 | ID | Construct Interchange on I-84 at Ten-Mile Road, Meridian, Idaho | $2,000,000 |
| 142 | ID | Reconstruct Grangemont Road (ID Forest Hwy. 67) from Orofino to MP 9.3, Segment I, II, and III | $1,000,000 |
| 143 | IL | Preconstruction and construction activities of U.S. 51 between Decatur and Vandalia | $7,500,000 |
| 144 | IL | Preconstruction and construction of North-South Wacker Drive in Chicago | $15,000,000 |
| 145 | IL | Construct new Mississippi River Bridge and related roads in the vicinity of East St. Louis | $14,000,000 |
| 146 | IL | Replace I-74 Bridge in Quad Cities (Moline) | $3,500,000 |
| 147 | IL | Conduct study of U.S. 67 bridge over Illinois River in Beardstown | $2,000,000 |
| 148 | IL | Improvements to the intersection of IL 13 and 37 in Marion | $1,000,000 |
| 149 | IL | Construction to improve access of Interstate 57/64 in Mt. Vernon | $2,000,000 |
| 150 | IL | Construction of Joliet Arsenal Road Improvements in Will County | $1,000,000 |
| 151 | IL | Continue expansion of IL 336 in Macomb-Peoria | $2,000,000 |
| 152 | IL | Preconstruction and construction of IL 13 connector in Harrisburg | $2,000,000 |
| 153 | IN | Improvements to existing roadway/railroad crossings, City of Vincennes, Indiana | $5,000,000 |
| 154 | IN | Improvements to existing rail-highway crossings, City of Elkhart, Indiana | $5,000,000 |
| 155 | KS | Widen South Meridian Street from 47th Street South to 71st Street South in Sedgwick County, KS | $3,000,000 |
| 156 | KS | Widen 21st Street North, eastward from HWY K-96 to the Butler County line in Sedgwick County | $2,600,000 |
| 157 | KS | Reconstruction of railroad and road grade separation project eliminating four high volume at grade crossings on Ridgeview Street, Santa Fe Street, Loula Street, and Park Street in Olathe, KS | $2,000,000 |
| 158 | KS | Construction of South Bypass for Highway 56 in Great Bend | $2,000,000 |
| 159 | KS | Street and sidewalk replacement in downtown Fort Scott | $400,000 |
| 160 | KS | HWY 156 associated with the Horse Thief Reservoir in Hodgeman County | $3,600,000 |
| 161 | KS | Bridge replacement on Johnson Drive and Nall Ave. associated with the Rock Creek Project in Mission | $1,200,000 |
| 162 | KS | Reconstruction of the box under US HWY 56 on Windsor Lane associated with the Rock Creek Project in Fairway | $200,000 |
| 163 | KS | Reconstruction of the Mission Road Bridge associated with the Rock Creek Project in Fairway, KS | $1,000,000 |

## TRANSPORTATION IMPROVEMENTS

| | | | |
|---|---|---|---|
| 164 | KS | Rehabilitation and reconstruction of US 169 and interchange with US 166 in Montgomery County | $2,000,000 |
| 165 | KS | US HWY 50 Shoulder widening between Dodge City and Garden City, KS | $2,000,000 |
| 166 | KY | 21st Century Parks Project in Louisville, Kentucky | $38,000,000 |
| 167 | KY | Construction of new I65 Interchange in Warren County, Kentucky | $12,000,000 |
| 168 | KY | Owensboro Riverfront Development Project in Owensboro, Kentucky | $10,000,000 |
| 169 | KY | Transportation Improvements to AA-I275 Connector, Campbell County | $8,000,000 |
| 170 | KY | Transportation Improvements to US60 Owensboro, Daviess County | $2,000,000 |
| 171 | LA | Construction of the Leeville Bridge from Port Fouchon to Golden Meadow | $10,000,000 |
| 172 | MA | Construct rail freight corridor improvements between Boston and Worcester | $9,000,000 |
| 173 | MA | Design and construct bicycle and pedestrian trails in Barnstable County | $3,000,000 |
| 174 | MA | Rutherford Avenue Improvements in Boston | $9,000,000 |
| 175 | MA | Design and construct roadway and streetscape improvements along State Street in Springfield | $5,000,000 |
| 176 | MA | Construct I-91 Corridor Intelligent Transportation System Communications Network, Hampden, Hampshire, and Franklin Counties | $4,000,000 |
| 177 | MA | Design and construct roadway and streetscape improvements along Main Street and Maywood Street, Worcester, MA | $2,000,000 |
| 178 | MA | Design and construct downtown roadway and streetscape improvements in Brockton | $2,000,000 |
| 179 | MA | Junction Interchange, Andover, Tewksbury, and Wilmington | $4,000,000 |
| 180 | MA | Gainsborough St. & St. Botolph Street Improvements in Boston | $2,000,000 |
| 181 | MD | Upgrade MD 175 in Anne Arundel County between MD 170 and BW Parkway | $5,000,000 |
| 182 | MD | Improve US 40, MD 715 interchange at Aberdeen Proving Ground | $5,000,000 |
| 183 | MD | Upgrade MD 4 at Suitland Parkway | $5,000,000 |
| 184 | MD | Construct Fort McHenry Visitors Center and related parking facilities | $2,000,000 |
| 185 | ME | Plan and construct North-South Aroostook highways to improve access to the St. John Valley, including Presque Isle Bypass and other improvements | $5,000,000 |
| 186 | ME | Repair and Improvement of Deer Isle-Sedgwick Bridge | $3,000,000 |
| 187 | ME | Construction of Calais/St. Stephen Border Crossing Project | $1,000,000 |
| 188 | ME | Replacement of Waldo-Hancock Bridge | $1,000,000 |

TRANSPORTATION IMPROVEMENTS

| | | | |
|---|---|---|---|
| 189 | ME | Improvements and construction of US Route 1A and State Route 9 in Bangor, Maine | $1,500,000 |
| 190 | ME | Planning and Construction of the Gorham Bypass, Gorham, Maine. | $2,500,000 |
| 191 | ME | Access and Traffic Improvements to Route 15 in Brewer, Maine | $500,000 |
| 192 | ME | Sedgewick - Deer Isle Bridge, Sedgewick, Maine | $3,000,000 |
| 193 | ME | Augusta Memorial Bridge Improvements, Augusta, Maine. | $1,000,000 |
| 194 | ME | Replacement of Waldo-Hancock and Construction of Related Pedestrian Walkways. | $1,000,000 |
| 195 | ME | extend the life of concrete bridges and Marine structures within varied climates. | $500,000 |
| 196 | MI | Detroit Riverfront Conservancy, West Riverfront Walkway, Greenway and Adjacent Land Acquisition, from Riverfront Towers to Ambassador Bridge, Detroit | $20,000,000 |
| 197 | MI | Reconstruct and Widen I-94 in Kalamazoo | $20,000,000 |
| 198 | MI | Construction of a new at-grade crossing and I-75 interchange to reconnect Milbocker and McCoy Roads and a new overpass to reconnect Van Tyle to South Wisconsin Road in Gaylord | $7,000,000 |
| 199 | MI | The Trowbridge Road Extension to Farm Lane, Ingham County, MI, Farm Lane between Mt. Hope Road and Trowbridge Road with underpasses for CN and CSX railroad crossings | $6,000,000 |
| 200 | MI | East Riverfront, completion of Detroit Riverfront East Walkway, Detroit | $3,000,000 |
| 201 | MI | Alger County, Repaving a portion of H-58 between Sullivan Creek towards Little Beaver Road | $11,000,000 |
| 202 | MI | Jackson Road Boulevard Project, Scio Township | $5,000,000 |
| 203 | MI | Blue Water Bridge Plaza Expansion, Improve Highway connections along I-94 and I-69 Port Huron | $18,000,000 |
| 204 | MI | Midtown Detroit Greenway Loop, Detroit Cultural Center in Detroit | $2,000,000 |
| 205 | MI | Pinnacle Aeropark Access Project in Wayne County | $2,000,000 |
| 206 | MI | Washington Ave Streetscape and rail relocation in Saginaw | $1,000,000 |
| 207 | MI | US 131 widening from the Manistee River to north of M-113 in Grand Traverse County | $3,000,000 |
| 208 | MI | 11 Mile Road Reconstruction--Berkley, Huntington Woods, Oak Park | $2,000,000 |
| 209 | MN | Phase III construction of Trunk Highway 610-10 | $8,000,000 |
| 210 | MN | Polk, Pennington, Marshall County 10-Ton Corridor in Northwestern Minnesota | $2,000,000 |
| 211 | MO | Mississippi River Bridge St. Louis, Missouri | $25,000,000 |
| 212 | MO | I-29 Paseo Bridge Kansas City, Missouri | $50,000,000 |

## TRANSPORTATION IMPROVEMENTS

| | | | |
|---|---|---|---|
| 213 | MO | Page Ave. Extension, Phase 2, St. Charles County, Missouri | $20,000,000 |
| 214 | MO | U.S. 67 Corridor from Butler to St. Francois County, Missouri line | $15,000,000 |
| 215 | MO | Lewis & Clark Expressway, 39th Street to Hwy 24, Jackson county, Missouri | $30,000,000 |
| 216 | MO | Hwy 54 Lake Ozark Bypass, Miller and Camden Counties, Missouri | $3,000,000 |
| 217 | MO | Hwy 13 Warrensburg Bypass, Johnson County, Missouri | $10,000,000 |
| 218 | MO | I-55 Interchange at Main Street, Cape Girardeau, Missouri | $5,000,000 |
| 219 | MO | Rt. 13 in Polk County, Missouri CR490 to Pinewood Drive | $20,000,000 |
| 220 | MO | Widen Rt. 66 Duquesne Rd. to Rt. 249, Jasper County, Missouri | $10,000,000 |
| 221 | MO | Grand Ave. Bridge Replacement, St. Louis City, Missouri | $15,000,000 |
| 222 | MO | Hwy 36 Macon to Rt. 24, Marion, Ralls, Monroe, Shelby and Macon Counties | $7,000,000 |
| 223 | MO | Ramsey Creek Bridge, Scott County Missouri | $5,000,000 |
| 224 | MO | Upgrades to MO Route 14 between U.S. 160 and U.S. 65 in Christian County | $6,000,000 |
| 225 | MO | Upgrades to Scott Road (MO Route TT) between Rollins Road and Brookview Terrace in Boone County | $3,500,000 |
| 226 | MO | Construction of riverfront trails in the City of Warsaw | $500,000 |
| 227 | MS | Widen State Highway 57 from I-10 through Vancleave | $32,000,000 |
| 228 | MS | Widening of I-55 from Highway 304 in DeSoto County to TN state line | $8,000,000 |
| 229 | MS | Byram-Clinton/Norrell Corridor - Connects the Norrell Road Interchange on I-20 to the Byram-Clinton Multimodal Corridor on I-55 | $5,000,000 |
| 230 | MS | South Entrance Loop - Mississippi State University | $5,000,000 |
| 231 | MS | Highway 44 Extension/Pearl River Bridge Project, Lawrence and Marion Counties | $5,000,000 |
| 232 | MS | US Highway 78, New Albany Interchange | $5,000,000 |
| 233 | MS | Interstate 69, Unfinished Sections, Mississippi | $35,000,000 |
| 234 | MT | Zimmerman Trail Project, Billings, Montana | $7,000,000 |
| 235 | MT | Taylor Hill Road reconstruction, Secondary 234, Montana | $3,000,000 |
| 236 | MT | Develop and construct Shiloh Road reconstruction project, Billings | $10,000,000 |
| 237 | MT | Develop and construct US 93 Kalispell Bypass project | $30,000,000 |
| 238 | MT | Develop and construct St. Mary water project road and bridge infrastructure including: new bridge and approaches across St. Mary River, stabilization and improvements to US 89, and road/canal from Siphon Bridge to Spider Lake | $8,000,000 |

## TRANSPORTATION IMPROVEMENTS

| | | | |
|---|---|---|---|
| 239 | MT | US 2, corridor feasibility study, environmental review and construction, which may include construction of a four-lane highway, for roadway sections from Glasgow east to the North Dakota State line, provided that all currently programmed highway improvement projects move forward | $10,000,000 |
| 240 | MT | Develop East Belgrade Interchange and connecting roadways to include environmental review | $8,000,000 |
| 241 | MT | Reconstruct Marysville Road consistent with final environmental document, Lewis and Clark County | $5,000,000 |
| 242 | MT | Develop and construct transportation enhancements including bicycle/pedestrian trails, landscaping, footbridges, parks, and river access on and in the vicinity of the Milltown Dam Site, Missoula County and Deer Lodge County | $5,000,000 |
| 243 | MT | Develop Billings bypass, Yellowstone County | $7,000,000 |
| 244 | MT | Develop Great Falls South Arterial, including environmental review | $4,500,000 |
| 245 | MT | Develop and construct Helena I-15 corridor consistent with final environmental document and record of decision | $10,000,000 |
| 246 | MT | Develop and construct US 212 Red Lodge North | $22,000,000 |
| 247 | MT | Develop and construct Whitefish pedestrian and bicycle trails | $3,000,000 |
| 248 | MT | Develop and construct parking lot and transportation enhancements including bicycle/pedestrian trails and urban plaza, serving the City of Bozeman Public Library | $1,125,000 |
| 249 | MT | US 2, Swamp Creek East roadway and bridge reconstruction, Lincoln County | $6,000,000 |
| 250 | MT | Russell Street reconstruction and bridge expansion over the Clark Fork River, Missoula | $6,000,000 |
| 251 | MT | Conrad I-15 North Interchange modifications to provide access east of the current interchange, Pondera County | $4,000,000 |
| 252 | MT | Develop and improve access road and structure serving the Port of Montana and Silicon Mountain Technology Park | $4,000,000 |
| 253 | NC | Construction and expansion of Little Sugar Creek Greenway Charlotte | $2,000,000 |
| 254 | NC | Falls of Neuse Road Widening and Improvement, Raleigh | $1,000,000 |
| 255 | NC | Transportation Improvements at Piedmont Triad Research Park, Winston Salem | $1,000,000 |
| 256 | NC | Plan, design, and construct the 10th street Connector Project in Greenville | $1,000,000 |
| 257 | NC | Randall Parkway Widening and Improvement, Wilmington | $1,000,000 |
| 258 | NC | Construction and improvement of I-73, I-74, US 220, in Montgomery and Randolph Counties | $1,000,000 |
| 259 | NC | US 1 Bypass and improvements around Rockingham | $1,000,000 |

## TRANSPORTATION IMPROVEMENTS

| | | | |
|---|---|---|---|
| 260 | NC | Design, engineering and construction of I-77/ Catawba Avenue Interchange Cornelius | $1,000,000 |
| 261 | NC | Eliminate highway-railway crossings in city of Fayetteville | $1,000,000 |
| 262 | NC | Right-of-way acquisition and construction of US 74 bypass,Monroe | $3,000,000 |
| 263 | NC | Transportation improvements for the Piedmont Triad Research Park,Winston-Salem | $2,000,000 |
| 264 | NC | Acquire right-of-way and construct a new highway that will begin at NC 58 and follow east to US 301,Wilson | $2,000,000 |
| 265 | NC | Transfer the of the Williams Street railroad switching operation to the Milan Yard switching operation site,Fayetteville | $3,000,000 |
| 266 | ND | Reconstruction of the Bismarck-Mandan Liberty Memorial Bridge over Missouri River | $16,000,000 |
| 267 | ND | Develop and construct freight intermodal project in North Dakota, including access road construction | $2,000,000 |
| 268 | ND | Rural transportation safety and security research at the Upper Great Plains Transportation Institute at North Dakota State University | $2,000,000 |
| 269 | ND | US 12 Improvements between Bowman and Hettinger | $3,000,000 |
| 270 | ND | Replace Red River Valley Bridge at Drayton, ND | $3,000,000 |
| 271 | ND | US-83 Reconstruction from Max to ND 23 Southbound | $500,000 |
| 272 | ND | US-83 Rehabilitation from Linton to Hazelton | $4,500,000 |
| 273 | ND | I-29 Vertical Clearance Improvements from Bowesmont to the Canadian Border | $2,000,000 |
| 274 | ND | US 281 Reconstruction from Edgely to the junction of ND 46 | $7,000,000 |
| 275 | NE | Construction of the Antelope Valley Transportation Improvement Project in Lincoln | $3,800,000 |
| 276 | NE | Design and construction of the Cuming Street Transportation Improvement Project in Omaha | $5,700,000 |
| 277 | NE | Design and construction of the I-80-Cherry Avenue Interchange and East Bypass in Kearney | $2,000,000 |
| 278 | NE | Construction of the Heartland Expressway between Alliance and Minatare | $2,500,000 |
| 279 | NE | Design, right-of-way and construction of the North Arterial Road in Columbus | $2,500,000 |
| 280 | NE | Research at the Midwest Roadside Safety Facility at the University of Nebraska, Lincoln, Nebraska | $3,500,000 |
| 281 | NJ | PATCO Rolling Stock acquisition and/or renovation for use on line between Lindenwold and Locust Street in Philadelphia | $10,000,000 |
| 282 | NJ | Construct new ramps between I-295 and Route 42 | $10,000,000 |
| 283 | NJ | Route 46 Corridor upgrades | $500,000 |
| 284 | NJ | Route 18 Reconstruction in downtown New Brunswick | $2,500,000 |
| 285 | NJ | Interstate 280 Interchange Improvements, Harrison | $3,000,000 |
| 286 | NJ | Widening of RT 1 and intersection improvements in South Brunswick | $2,500,000 |

## TRANSPORTATION IMPROVEMENTS

| | | | |
|---|---|---|---|
| 287 | NJ | Route 29 conversion project to a full access freeway | $2,500,000 |
| 288 | NJ | Improvements to River Road in Camden | $1,000,000 |
| 289 | NJ | Design and construct Newark Waterfront Pedestrian and Bicycle Access project | $1,500,000 |
| 290 | NJ | Route 9W operational and safety improvements, including I-95 Southbound entrance alterations | $1,000,000 |
| 291 | NJ | Expand TRANSCOM Regional ITS System in NJ, NY, and CT | $500,000 |
| 292 | NM | I25/US64 Interchange rehabilitation in Raton | $2,000,000 |
| 293 | NM | Reconstruction of NM18 in Lea County | $3,000,000 |
| 294 | NM | Reconstruction of US180 in Grant County | $3,000,000 |
| 295 | NM | Reconstruction of US491 from Tohatchi to Shiprock | $2,000,000 |
| 296 | NV | Hoover Dam Bypass - Boulder City Extension | $26,500,000 |
| 297 | NV | California Trail Interpretive Center roadside improvements and access infrastructure | $2,000,000 |
| 298 | NV | I-15 Widening north from U.S. 95 to Apex Road in Clark County | $26,500,000 |
| 299 | NV | V & T Railroad Reconstruction Project in Carson City | $10,000,000 |
| 300 | NV | Carson City Bypass Enhancement Project (Phase II), Carson City (GROW & NDOT) | $2,000,000 |
| 301 | NV | Laughlin-Bullhead City Colorado River Bridge | $18,000,000 |
| 302 | NV | Rail Access Corridor Enhancement in Reno | $15,000,000 |
| 303 | NY | Peace Bridge Redevelopment Project, Road Improvements, and Construction Buffalo | $17,000,000 |
| 304 | NY | Improvements to Moynihan Station | $10,000,000 |
| 305 | NY | Design and Construction of Renaissance Square Intermodal Facility in Rochester | $4,000,000 |
| 306 | NY | Repair and Restoration of the Outdoor Area on 82nd Street and 5th Avenue | $3,000,000 |
| 307 | NY | Improvements to the New York Public Library vicinity | $3,000,000 |
| 308 | NY | Construction and Improvements to York Street in Auburn | $2,000,000 |
| 309 | NY | Streetscape, Roadway, and Improvements for the College of New Rochelle | $1,000,000 |
| 310 | NY | South Lexington and Post Road Streetscape Expansion in White Plains | $1,000,000 |
| 311 | NY | Planning and Interim Improvements for the Manhattan, Bronx, Yonkers Hudson River GreenwayLink | $1,000,000 |
| 312 | NY | DestiNY USA Design, Research, Construction and Improvements | $5,000,000 |
| 313 | NY | Restoration of Vehicle Traffic to Main Street in Downtown Buffalo | $2,000,000 |
| 314 | NY | Roadway, Streetscape, Pedestrian, and Parking Improvements to the Buffalo Niagara Medical Campus in Buffalo | $6,000,000 |
| 315 | OH | Reconstruction of Cleveland Inner Belt and replacement of the Central Viaduct Bridge. Cleveland, OH | $85,000,000 |
| 316 | OH | SR-3 intersection/interchange improvements and signalization, Franklin County OH (PID 76279) | $2,500,000 |

## TRANSPORTATION IMPROVEMENTS

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|---|---|---|---|
| 317 | OH | SR-81 widening, turn lane addition, and safety improvements, Allen County OH (PID 75928) | $1,100,000 |
| 318 | OH | US-422 turn lane addition and traffic flow improvements at SR-88/SR-528, Geauga County OH (PID 78343) | $600,000 |
| 319 | OH | SR-39 add two-way left turn lane, signalization, and safety improvements, Tuscarawas County OH (PID 19598) | $1,600,000 |
| 320 | OH | US-36 signal relocation and related safety improvements, Delaware County OH (PID 76276) | $2,000,000 |
| 321 | OH | SR-39 two-way turn lane addition, signalization, and safety improvements, Holmes County OH (PID 23913) | $600,000 |
| 322 | OH | Evans Avenue / CSX RR Grade Separation Improvements, Akron OH | $1,600,000 |
| 323 | OK | State of Oklahoma I-40 Crosstown Realignment in Oklahoma City | $110,000,000 |
| 324 | OK | The University of Oklahoma to conduct research in global tracking methods for intermodal containerized freight | $7,000,000 |
| 325 | OK | State of Oklahoma for control of outdoor advertizing | $1,000,000 |
| 326 | OK | Reconstruction of SH-20 in Owasso, Oklahoma | $2,000,000 |
| 327 | OK | Widen Hwy 60 between Ponca City and Bartletsville | $10,800,000 |
| 328 | OK | Trails in Tulsa, Mingo Creek, NCOG--Complete and extend Mingo trail from 41st. to 81st St.,from11th St. to Mohawk park | 2 $~~7~~,000,000 |
| 329 | OK | Signalization, Complete update of traffic signals with LED illumination technology | $2,200,000 |
| 330 | OR | To add a southbound land to a section of I-5 through Portalnd, OR between Delta Park and Lombard, Portland, Oregon | 2,000,000 |
| 331 | OR | Sunrise Corridor, Clackamas County, Oregon | 1,000,000 |
| 332 | OR | Reroute U.S. 97 at Redmond, Oregon and improvements to intersection of U.S. 97 and Oregon 126 | 1,400,000 |
| 333 | OR | Constuct Barber Street extension, Wilsonville, Oregon | 600,000 |
| 334 | OR | Construct highway and pedestrian access to Macadam Ave and street improvements as part of South waterfront development, Portland, Oregon | 1,800,000 |
| 335 | OR | Sellwood Bridge, Multnomah County, Oregon | 2,000,000 |
| 336 | OR | Highway 22-Cascade Highway interchange improvements, Marion County, Oregon | 1,600,000 |
| 337 | OR | I-5 Trade Corridor, Potland, Oregon to Vancouver, Washington Segment | 2,000,000 |
| 338 | OR | Highway 101 Improvements, Oregon | 500,000 |
| 339 | OR | I-205 Widening, Clackamas County, Oregon | 1,400,000 |
| 340 | OR | Phase 1 I-205/Highway 213 Interchange Improvements, Oregon | 1,500,000 |
| 341 | OR | Kuebler Boulevard Improvments, Salem, Oregon | 500,000 |

## TRANSPORTATION IMPROVEMENTS

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|---|---|---|---|
| 342 | OR | To construct sidewalks and improve storm drainage and gutters for the Citys Safe Walk Plan, Medford, Oregon | 2,000,000 |
| 343 | OR | Highway 140 Transportation Improvements, Lake County, Oregon | 1,700,000 |
| 344 | PA | Warrendale-Bayne Road improvements from I-79 to SR 19, in Allegheny County | $2,800,000 |
| 345 | PA | For design, engineering, ROW acquisition, and construction of the third phase of the Marshalls Creek Bypass Project in Monroe County, Pennsylvania | $1,000,000 |
| 346 | PA | Construction of Central Susquehanna Valley Thruway | $600,000 |
| 347 | PA | Improvements to SR 130 and the College Avenue Underpass, Greensburg, PA | $500,000 |
| 348 | PA | Mifflin County Industrial Park Access Road | $500,000 |
| 349 | PA | Improvements to Section 114 of State Route 150, Centre County, PA | $2,500,000 |
| 350 | PA | Upgrade to SR 228, Cranberry Township, PA | $1,500,000 |
| 351 | PA | Purchase of right-of-way, utilities and construction for Northern Access to Altoona from Interstate 99, Blair County, Pa | $600,000 |
| 352 | PA | Reconfiguration of the Rochester Riverfront ramp | $500,000 |
| 353 | PA | Construct the Alle-Kiski Bridge and Connector | $1,500,000 |
| 354 | PA | Construct an intermodal center at the Philadelphia Zoo | $1,000,000 |
| 355 | PA | For interpretive signage and trails in Pittsburgh urban park land | $2,000,000 |
| 356 | PA | Construct an intermodal facility in Derry Township | $1,000,000 |
| 357 | PA | Construction of the Schuylkill Gateway Project | $700,000 |
| 358 | PA | Da Vinci Center hydrogen fuel-celled transit vehicles | $200,000 |
| 359 | PA | Construct a road along the North Delaware Riverfront Corridor from Buckius Street to Poquessing Creek | $1,000,000 |
| 360 | PA | Widen I-81 from four to six lanes in the Wilkes-Barre/Scranton corridor | $1,000,000 |
| 361 | PA | Improvements to the Pleasant Valley and Sandy Hill Roads intersection with SR 130 in Penn Township | $300,000 |
| 362 | PA | Improvements to access roads at the Please Touch Museum | $300,000 |
| 363 | PA | Construct the North Delaware River East Coast Greenway Trail | $500,000 |
| 364 | RI | To enhance the infrastructure surrounding and for transportation improvements relative to the intermodal station at Warwick | $20,000,000 |
| 365 | RI | Improvements to Warren Bridge (Warren) | $11,000,000 |
| 366 | RI | Open space acquisition to mitigate growth associated with SR-4 and Interstate 95, by non-profit land conservation agencies through acquisition of fee or easement, with a match requirement of 50% of the total purchase price. | $2,000,000 |
| 367 | RI | Ten Mile River Greenway (Pawtucket, E. Providence) | $3,000,000 |
| 368 | RI | Washington Secondary Bicycle Facility/ Coventry Greenway/ Trestle Trail (Coventry) | $4,000,000 |

TRANSPORTATION IMPROVEMENTS

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|---|---|---|---|
| 369 | RI | South County Bike Path (South Kingstown, Narragansett) | $2,000,000 |
| 370 | RI | New Interchange constructed from I-195 to Taunton and Warren Avenue in East Providence | $1,500,000 |
| 371 | RI | Jamestown Bridge Demolition - Bicycle Access/Trestle Span Demolition/Fishing Pier (N. Kingstown) | $11,500,000 |
| 372 | RI | Sakonnet River Bridge Replacement | $15,000,000 |
| 373 | RI | RT 146 Safety Improvements in North Smithfield | $5,000,000 |
| 374 | SD | Construction of four-lane highway on US 79 between Maverick Junction, and the Nebraska border | $19,000,000 |
| 375 | SD | Rosebud community streets reconstruction and paving | $6,000,000 |
| 376 | SD | Aberdeen bike trail extension | $1,000,000 |
| 377 | SD | Whether or not otherwise eligible in Title 23, construct Phase II and III of Phillips to the Falls Project. Notwithstanding any other provision of law, with respect to costs for Phase II & III of this project paid for from this $40 million, the Federal share of project costs shall be 100 percent. | $40,000,000 |
| 378 | SD | Rapid City Greenway Pedestrian and bike path expansion | $2,000,000 |
| 379 | SD | Brookings bike path | $100,000 |
| 380 | SD | Sioux Falls Bike Path--Dunham Park, Skunk Creek, 12th St., and I-29 to Sertoma Park | $1,170,000 |
| 381 | SD | For bike paths and pedestrian walkways within Yankton, Pierre, Huron, Watertown, and Madison. Allocation for such paths will be determined by state. | $2,500,000 |
| 382 | SD | Directed to SD DOT for projects it determines to be of high priority. | $3,230,000 |
| 383 | TN | North Second Street Corridor Upgrade, Memphis | $2,000,000 |
| 384 | TN | Upgrade roads for Slack Water Port facility and industrial park, Lake County, TN | $2,000,000 |
| 385 | TN | Plan and construct Rutherford County visitor's center/transportation information hub, Rutherford County, Tennessee | $1,000,000 |
| 386 | TN | Warren County Mountain View Industrial Park access road, Warren County, TN | $1,000,000 |
| 387 | TN | Construction of an Interchange on Highway 64 (APD 40) adjacent to I-75 Exit 20 in the City of Cleveland, TN for increased safety | $2,000,000 |
| 388 | TN | Sullivan, Washington Counties, Tennessee SR-75 widening | $1,000,000 |
| 389 | TN | Sevier County, TN SR-66 widening | $500,000 |
| 390 | TN | reconstruct US 79 between Milan and McKenzie | $5,000,000 |
| 391 | TN | Construct Transportation and Heritage museum, Townsend | $500,000 |
| 392 | UT | Widen Highway 92 from Lehi to Highland | $3,000,000 |
| 393 | UT | Widen Redwood Road from Bangerter Highway in Salt Lake County through Saratoga Springs in Utah County | $2,000,000 |

TRANSPORTATION IMPROVEMENTS

| | | | |
|---|---|---|---|
| 394 | UT | Construction of 200 North Street highway-rail graded crossing separation, Kaysville, Utah | $2,000,000 |
| 395 | UT | Bear River Migratory Bird Refuge Access Road Improvements, Box Elder County, Utah | $500,000 |
| 396 | UT | State Street Reconstruction Project - 10600 South to 9400 South, Sandy, Utah | $2,500,000 |
| 397 | UT | Geneva Rd-Provo Center Street, Orem 1600 North to I-15 FWY, Provo-widen from 2 to 4 lanes, Provo | $6,000,000 |
| 398 | UT | Provo, Utah Westside Connector from I-15 to Provo Municipal Airport, Provo | $4,000,000 |
| 399 | UT | Bear River Migratory Bird Refuge Access Road Improvements, Box Elder County | $3,000,000 |
| 400 | UT | Widen Highway 92 from Lehi to Alpine/Highland | $5,000,000 |
| 401 | UT | Construction of 200 North Street highway-rail graded crossing separation, Kaysville | $7,000,000 |
| 402 | UT | Expand Redhills Parkway from 2 to 5 lanes and improve alignment within rights-of-way in St. George | $8,000,000 |
| 403 | UT | Construction and Rehabilitation of 13th East in Sandy City | $7,000,000 |
| 404 | VA | Hampton Roads Third Crossing-Segment 1 | $37,000,000 |
| 405 | VA | Manage Freight movement and safety improvements to I-81 | $38,000,000 |
| 406 | VA | Construct Old Mill Road extension | $3,000,000 |
| 407 | VA | Widen Route 262 in Augusta County | $3,000,000 |
| 408 | VA | Construct Meadowcreek Parkway Interchange, Charlottesville | $2,000,000 |
| 409 | VA | Widening I-95 between Rte 123 and Fairfax County Parkway | $2,000,000 |
| 410 | VT | Improvements to Vermont Small Bridges | $30,000,000 |
| 411 | VT | Improvements to Vermont interstates | $10,000,000 |
| 412 | VT | Vermont Institute of Natural Science turning lane on US RT 4 in Woodstock | $300,000 |
| 413 | VT | Western Corridor Rail Improvements, ABRB&E, Vermont | $30,000,000 |
| 414 | VT | Design and Construction of the Bennington Welcome Center | $6,500,000 |
| 415 | VT | Improvements to the E. Alburg Railroad Trestle Swing Span | $5,000,000 |
| 416 | VT | Rehabilitation of Hartford Northbound and Southbound rest areas | $6,500,000 |
| 417 | VT | Improvements to the Island Line at South Street in South Hero | $2,000,000 |
| 418 | VT | Property acquistion and improvements for public access and viewshed protection for the Cedar Creek Vermont monument at the Cedar Creek and Belle Grove National Historical Park in Virginia | $2,000,000 |
| 419 | VT | Design and construction of the South Burlington City Center project | $5,000,000 |
| 420 | VT | Rehabilitation of statewide covered bridges | $6,200,000 |
| 421 | VT | Improvements to the Green Mountain Rail Line between Rutland and Bellows Falls | $2,500,000 |

TRANSPORTATION IMPROVEMENTS

| | | | |
|---|---|---|---|
| 422 | VT | Streetscape and road improvements in the Village of Enosburg Falls | $1,000,000 |
| 423 | VT | Signalization and storm drainage improvements to Main Street in Brattleboro | $3,000,000 |
| 424 | VT | Streetscape, trail and road improvements in Lamoille, Caledonia, Grand Isle and Chittenden Counties. | $4,000,000 |
| 425 | VT | Vermont Statewide Transportation and Stormwater Projects | $6,000,000 |
| 426 | WV | Improvements to US RT-35 in Putnam County | $25,000,000 |
| 427 | WV | Raleigh Street Extension Project in Martinsburg | $10,000,000 |
| 428 | VA | I-64/City Line Road Interchange in Virginia Beach | $5,000,000 |

### TRANSPORTATION IMPROVEMENTS

| | No. | State | Project Description | Amount |
|---|---|---|---|---|
| 428 | 1 | AS | Shoreline protection and drainage mitigation for Nuuuli village roads | $1,000,000 |
| 429 | 2 | AS | Village road improvements for Ta'u, Ofu, and Olosega-Sili counties in Manu'a district | $1,400,000 |
| 430 | 3 | AS | Shoreline protection and drainage mitigation for Aua village roads | $1,000,000 |
| 431 | 4 | AS | Drainage mitigation in Malaeloa-Leone village roads | $1,400,000 |
| 432 | 5 | AS | To upgrade, repair and continue construction of Ta'u harbor/ferry terminal facility on Manu'a island | $1,600,000 |
| 433 | 6 | AS | Village road improvements for Launiusaelua and Ituau counties in the Central district | $3,000,000 |
| 434 | 7 | AS | Village road improvements for Tualauta, Tualatai, Aitulagi, Fofo, and Alataua counties in the Western district | $3,000,000 |
| 435 | 8 | AS | Village road improvements for Sua and Vaifanua counties in the Eastern district | $2,600,000 |
| 436 | 9 | AS | Drainage mitigation for Pago Pago village roads | $1,000,000 |
| 437 | 10 | GU | Reconstruct Hagåtña River Bridges, Municipality of Hagåtña | $6,600,000 |
| 438 | 11 | GU | Piti, GU Construct Cabras Island Intermodal Facility | $6,000,000 |
| 439 | 12 | GU | Guam Mass Transit Authority Acquisition of transit vehicles for disabled persons | $400,000 |
| 440 | 13 | GU | Construct Route 3A Extension, Municipality of Yigo | $3,000,000 |
| 441 | 14 | MP | Planning design and construction of East Coast Highway/ Route 36, Saipan | $12,000,000 |
| 442 | 15 | PR | Construction of 4 lane connector serving PR 9922, PR 9939 and PR 183 | $1,950,000 |
| 443 | 16 | PR | Widening of PR 111 at the intersections of PR-444 through PR-423 | $6,000,000 |
| 444 | 17 | PR | Replacement ferries on Culebra and Vieques routes | $2,000,000 |
| 445 | 18 | PR | To build an extension of PR-53 between Yabucoa and Maunabo | $5,000,000 |
| 446 | 19 | PR | To build the missing central segment of PR-10, to complete one of only two highways crossing Puerto Rico North to South | $5,000,000 |
| 447 | 20 | PR | To revitalize Old San Juan Historic District streets | $3,000,000 |
| 448 | 21 | PR | Widen Route 835 to provide ready access to Guaynado and facilitate housing, industrial, commercial, & recreational development | $6,000,000 |
| 449 | 22 | PR | Construct sidewalks, curbs and gutters in the Municipality of Loiza. (PR 187 from Mediania Baja to Puente Herrera; Community La Torre, Pinones) | $500,000 |
| 450 | 23 | PR | Extension of PR 833, between the PR-177 and the PR 2. The extension is approximately of 0.8km | $1,000,000 |
| 451 | 24 | PR | Reconstruct various roads throughout the Municipality of Bayamon, including pavings and cold millings as well as construction of gutters. (PR 2; PR 829; PR 830; PR 861; PR 862; PR 840; PR 29) | $2,000,000 |

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TRANSPORTATION IMPROVEMENTS

| | No. | State | Project Description | Amount |
|---|---|---|---|---|
| 452 | 25 | PR | Construct extension of 1.04 km to the "Caridad del Cobre" Avenue in Bayamon between the PR 199 and Urb. Canaa | $3,000,000 |
| 453 | 26 | PR | Roadway improvements for municipal roads in Orocovis | $661,000 |
| 454 | 27 | VI | Christiansted By-Pass Highway, St. Croix | $8,000,000 |
| 455 | 28 | VI | Upgrade West-East Corridor through Charlotte Amalie, St. Thomas | $8,000,000 |
| 456 | 29 | MN | Lake Street Access to I-35W, Minneapolis | $6,000,000 |
| 457 | 30 | OH | Construction, including design and engineering, of an approximately 30,000 sq. ft. terminal building to accommodate the Trans-Erie ferry service which departs the Cleveland-Cuyahoga County Port Authority, Cleveland, Ohio. | $6,000,000 |
| 458 | 31 | NY | Various transportation projects related to the DestiNY USA project | $5,000,000 |
| 459 | 32 | CA | Construction at Lammers Road and I 205 | $5,000,000 |
| 460 | 33 | CA | Feasibility study for consructing SR 130 Realignment project connecting the central valley and San Joaquin County and Santa Clara county | $6,000,000 |
| 461 | 34 | FL | Widening and Improvements for I-75 in Collier and Lee County | $10,000,000 |
| 462 | 35 | AR | Improvements to US 412 in Northwest Arkansas | $6,500,000 |
| 463 | 36 | CA | Construction of and improvements to State Route 239 from State Route 4 in Brentwood area to I 205 in the area of Tracy | $10,000,000 |
| 464 | 37 | CA | Design and construction of Camino Tassajara Crown Canyon to East Town Project | $5,000,000 |
| 465 | 38 | CA | Engineering right of way and construction of I-580 in the Livermore Valley | $6,000,000 |

### SEC. 1935. PROJECT FLEXIBILITY.

*(a) In General.—Notwithstanding any other provision of law, funds allocated for a project described in subsection (b) in a State may be obligated for any other project in the State for which funds are so allocated, except that the total amount of funds authorized for any project for which funds are so allocated shall not be reduced.*

*(b) Projects.—The projects described in this subsection are—*

*(1) the projects numbered greater than 3676 listed in the table contained in section 1702 of this Act;*

*(2) the projects numbered greater than 18 listed in the table contained in section 1301 of this Act;*

*(3) the projects numbered greater than 27 listed in the table contained in section 1302 of this Act; and*

*(4) the projects listed in the table contained in section 1934 of this Act.*

### SEC. 1936. ADVANCES.

*Notwithstanding any other provision of law, funds apportioned to a State under section 104(b) of title 23, United States Code, may be obligated to carry out a project designated in any of sections 1301, 1302, 1306, and 1934 of this Act and sections 117 and 144(g) of title 23, United States Code, in an amount not to exceed the amount authorized for that project, only from a program under which the project would be eligible, except that any amounts obligated to carry out the project shall be restored from funds allocated for the project.*

### SEC. 1937. ROADS IN CLOSED BASINS.

*(a) In General.—The Secretary shall use funds made available to carry out section 125 of title 23, United States Code, through advancement or reimbursement, without further emergency declaration, to construct such measures as the Secretary determines to be necessary for the continuation of roadway services, or the impoundment of water to protect roads, or both, at Devils Lake in the State of North Dakota, as the Secretary determines to be appropriate.*

*(b) Requirements.—The Secretary shall carry out construction under subsection (a) in accordance with—*

*(1) the options and needs identified in the report of the Devils Lake Surface Transportation Task Force of the Federal Highway Administration dated May 4, 2000, and entitled "Roadways Serving as Water Barriers";*

*(2) any needs relating to Devils Lake identified after May 4, 2000; and*

*(3) any monitoring, study, or design or preliminary engineering associated with evaluating or constructing the measures.*

*(c) Affected Areas.—The Secretary shall carry out construction under this section in an area that has been the subject of an emergency declaration issued during the period beginning on January 1, 1993, and ending on the date of enactment of this Act.*

*(d) Funding.—*

*(1) In general.—Except as provided in paragraph (2), to the extent that expenditures relating to construction under this section could not be made pursuant to any other authority under section 125 of title 23, United States Code, the expenditures shall not exceed—*

*(A) $10,000,000 during any fiscal year; and*

*(B) a total amount of $70,000,000.*

*(2) Exception.—Nothing in paragraph (1) limits any expenditure with respect to—*

*(A) emergency relief in response to a development occurring after the date of enactment of this Act; or*

*(B) an authority under any other provision of law (including section 125 of such title).*

*(e) Effect of Section.—Nothing in this section authorizes or provides funding for the construction, operation, or maintenance of an outlet at Devils Lake in the State of North Dakota.*

### SEC. 1938. TECHNOLOGY.

*States are encouraged to consider using a nondestructive technology able to detect cracks including sub-surface flaws as small as 0.005 inches in length or depth in steel bridges.*

### SEC. 1939. BIA INDIAN ROAD PROGRAM.

*(a) Limitation on Applicability of Certain Rule.—The final rule effective October 1, 2004, published in the Federal Register, July 19, 2004, at pages 43089, relating to the Indian reservation road program administered by the Bureau of Indian Affairs of the Department of the Interior, shall not apply to the following Alaska villages with respect to the following projects:*

*(1) Craig, Alaska, Craig Community Association, Point St. Nicholas Road improvements.*

*(2) Cordova, Alaska, Native Village of Eyak, Shepard's Point Road improvements.*

*(3) Hydaburg, Alaska, Hydaburg Community Association, Hydaburg community street improvements.*

*(4) Healy Lake, Alaska, Healy Lake Traditional, Cummings Road improvements.*

*(b) Special Rule.—For the villages listed in subsection (a), the Indian reservation road program shall be administered by the Bureau of Indian Affairs under the rules and regulations in effect before the adoption of the final rule referred to in subsection (a), and the Secretary shall pay, from amounts made available to carry out section 202(d) of title 23, United States Code, for fiscal year 2006 each of the tribal organizations referred to in subsection (a) for the Federal share of the costs of the projects listed in subsection (a).*

### SEC. 1940. GOING-TO-THE-SUN ROAD, GLACIER NATIONAL PARK, MONTANA.

*(a) Project Authorization.—There is authorized to be appropriated to the Secretary from the Highway Trust Fund (other than the Mass Transit Account) to resurface, repair, rehabilitate, and reconstruct the Going-to-the-Sun Road at Glacier National Park, Montana, in accordance with the framework identified in Alternative 3 (shared use alternative) of the environmental impact statement and record of decision dated 2003 and relating to the Going-to-the-Sun Road, to remain available until expended—*

*(1) $10,000,000 for fiscal year 2005;*

*(2) $10,000,000 for fiscal year 2006;*

*(3) $10,000,000 for fiscal year 2007;*

*(4) $10,000,000 for fiscal year 2008; and*

*(5) $10,000,000 for fiscal year 2009.*

*(b) Federal Share.—The Federal share of the costs of the project described in subsection (a) shall be 100 percent.*

### SEC. 1941. BEARTOOTH HIGHWAY, MONTANA.

*(a) Project Authorization.—Of funds made available for the State of Montana for the project for development and construction of United States Route 212, Red Lodge North, Montana, as described in the table contained in section 1934 (including amounts transferred to the project under section 1935), on request of the State of Montana, the Secretary shall obligate such sums as are necessary to reconstruct the Beartooth Highway in the State of Montana.*

*(b) Reimbursement.—The amounts used for reconstruction under subsection (a) shall be reimbursed to the project relating to United States Route 212 described in subsection (a) on the date or dates on which funding is allocated for the Beartooth Highway under section 125 of title 23, United States Code.*

*(c) Federal Share.—The Federal share payable for funds allocated for the Beartooth Highway under section 125 of such title shall be 100 percent.*

### SEC. 1942. OPENING OF AIRFIELD AT MALMSTROM AIR FORCE BASE, MONTANA.

*Not later than 60 days after the date of the enactment of this Act, the Secretary of the Air Force shall—*

*(1) open the airfield at Malmstrom Air Force Base, Montana; and*

*(2) enable flying operations for all fixed-wing aircraft at that base.*

### SEC. 1943. GREAT LAKES ITS IMPLEMENTATION.

*(a) In General.—The Secretary shall make grants to the State of Wisconsin to continue intelligent transportation system activities in the corridor serving the Greater Milwaukee, Wisconsin, Chicago, Illinois, and Gary, Indiana, areas initiated under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) and other areas of the State of Wisconsin.*

*(b) Funding.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) $2,000,000 for each of fiscal years 2006 through 2008 and $3,000,000 for fiscal year 2009 to carry out this section.*

*(c) Contract Authority.—Funds made available to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.*

### SEC. 1944. TRANSPORTATION CONSTRUCTION AND REMEDIATION, OTTAWA COUNTY, OKLAHOMA.

*(a) In General.—The Secretary shall allocate to the State of Oklahoma amounts made available to carry out this section for the activities described in subsection (b).*

*(b) Oklahoma Plan for Tar Creek.—The activities referred to in subsection (a) are all activities described in the Oklahoma Plan for Tar Creek, including activities under that Plan that are to be carried out by involved Federal and State entities.*

*(c) Funding.—*

*(1) Authorization of appropriations.—*

*(A) In general.—There is authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $10,000,000 for fiscal year 2006.*

*(B) Availability.—Funds authorized to be appropriated under subparagraph (A) shall remain available until expended.*

*(2) Contract authority.—Except as otherwise provided in this section, funds authorized to be appropriated under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.*

*(3) Title 23 eligibility.—Activities described in subsection (b) shall be considered to be eligible for funding under any program for which funds are apportioned under section 104(b) of such title, as in effect on the day before the date of enactment of this section.*

### SEC. 1945. INFRASTRUCTURE AWARENESS PROGRAM.

*(a) In General.—In cooperation with the subcontracting production entity that received funds under section 1212(b) of the Transportation Equity Act for the 21st Century (112 Stat. 193), the Secretary shall fund the production of a documentary about infrastructure that demonstrates advancements in Alaska, the last frontier.*

*(b) Federal Share.—The Federal share of the cost of production of the documentary under subsection (a) shall be 100 percent.*

*(c) Funding.—There is authorized to be appropriated out of the Highway Trust fund (other than the Mass Transit Account) to carry out this section $1,500,000 for fiscal year 2005 and $1,450,000 for fiscal year 2006. Such fund shall remain available until expended.*

*(d) Applicability of Title 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United State Code; except that the Federal share of the cost of production of the documentary under this section shall be determined in accordance with this section.*

### SEC. 1946. GATEWAY RURAL IMPROVEMENT PILOT PROGRAM.

(a) IN GENERAL.—The Secretary shall establish a pilot program in the State of Vermont to be known as the "Gateway Rural Improvement Pilot Program" (referred to in this section as the "program") to demonstrate the benefits to a rural rail corridor of a freight transportation gateway program.

(b) ELIGIBLE ACTIVITIES.—Under the program—

(1) funding preference shall be given to selecting a corridor in the State of Vermont that includes a border crossing; and

(2) individual projects shall provide community and highway benefits by addressing economic, congestion, security, safety, and environmental issues.

(c) COST SHARING.—

(1) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be determined in accordance with section 120 of title 23, United States Code.

(2) NON-FEDERAL SHARE.—Project user fees may be used to provide all or part of the non-Federal share of the cost of a project funded under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—In addition to such amounts as are otherwise authorized to be appropriated for the Department, there are authorized to be appropriated such sums as may be necessary to carry out this section.

### SEC. 1947. ELIGIBLE SAFETY IMPROVEMENTS.

Section 120(c) of title 23, United States Code, is amended in the first sentence by inserting "traffic circles (also known as 'roundabouts')," after "traffic control signalization,".

### SEC. 1948. EMERGENCY SERVICE ROUTE.

Notwithstanding any Federal law, regulation, or policy to the contrary, no Federal funds shall be obligated or expended for the demolition of the existing Brightman Street Bridge connecting Fall River and Somerset, Massachusetts, and the existing Brightman Street Bridge shall be maintained for pedestrian and bicycle access, and as an emergency service route.

### SEC. 1949. KNIK ARM BRIDGE FUNDING CLARIFICATION.

The Secretary shall provide to the public entity known as the Knik Arm Bridge and Toll Authority, established by the State of Alaska, funds provided in items 2465 and 3677 in the table contained in section 1702, item 2 in the table contained in section 1934, and item 14 in the table contained in section 1302.

### SEC. 1950. LINCOLN PARISH, LA/I–20 TRANSPORTATION CORRIDOR PROGRAM.

(a) IN GENERAL.—The Secretary shall credit non-Federal expenditures paid on or after October 23, 2000, by project sponsors of the Lincoln Parish transportation and community and system preservation project funded by the Department of Transportation and Related Agencies Appropriations Act, 2001 (Public Law 106–346), and the United States Route 167/I–20 interchange Interstate maintenance discretionary project funded by the Department of Transportation and Related Agencies Appropriations Act, 2002 (Public Law 107–87), that are in excess of the non-Federal matching requirements for such projects as non-Federal contributions toward the non-Federal matching requirements for all LA/I–20 Transportation Corridor Program elements between Louisiana Route 149 and Louisiana Route 33.

(b) EXPIRATION OF AUTHORITY.—The authority to provide credit under subsection (a) expires on September 30, 2009.

### SEC. 1951. BONDING ASSISTANCE PROGRAM.

Section 332 of title 49, United States Code, is amended by inserting at the end the following:

"(e) BONDING ASSISTANCE.—

"(1) IN GENERAL.—The Secretary, acting through the Minority Resource Center established under subsection (b), shall provide assistance in obtaining bid, payment, and performance bonds by disadvantaged business enterprises pursuant to subsection (b)(4).

"(2) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2005 through 2009 to carry out activities under this subsection.".

### SEC. 1952. CONGESTION RELIEF.

The Secretary shall conduct a design and feasibility analysis to alleviate southbound traffic congestion along the George Washington Parkway, Virginia, between Interstate Route 495 and the 14th Street Bridge and shall take appropriate action in response to the results of that analysis.

### SEC. 1953. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out, in accordance with title 23, United States Code, projects under section 1301 and 1302 of this Act.

### SEC. 1954. BICYCLE TRANSPORTATION AND PEDESTRIAN WALKWAYS.

Section 217(c) of title 23, United States Code, is amended by striking "in conjunction with such trails, roads, highways, and parkways".

### SEC. 1955. CONVEYANCE TO THE CITY OF ELY, NEVADA.

Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712), the Secretary of Interior, acting through the Director of the Bureau of Land Management, shall convey within 45 days after the date of enactment of this Act to the city of Ely, Nevada, subject to valid existing rights, without consideration, all right, title, and interest of the United States in the land located within the railroad corridor described in rights-of-way numbered Nev–043230, Nev–043231, Nev–043232, Nev–43240, Nev–043234, ELKO–03009, ELKO–03514, and CC–05887.

### SEC. 1956. BROWNFIELDS GRANTS.

Section 104(k)(4)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)(4)(B)) is amended by adding at the end the following:

"(iii) EXCEPTION.—Notwithstanding clause (i)(IV), the Administrator may use up to 25 percent of the funds made available to carry out this subsection to make a grant or loan under this subsection to eligible entities that satisfy all of the elements set forth in section 101(40) to qualify as a bona fide prospective purchaser, except that the date of acquisition of the property was on or before January 11, 2002.".

### SEC. 1957. TRAFFIC CIRCLE CONSTRUCTION, CLARENDON, VERMONT.

(a) IN GENERAL.—The State of Vermont agency of transportation shall—

(1) not later than August 1, 2005, commence planning for a traffic circle at the intersection of United States Route 7 and Vermont Route 103 in Clarendon, Vermont; and

(2) not later than August 1, 2007, complete construction of that traffic circle.

(b) FUNDING.—From amounts made available to the State of Vermont by this Act, the Secretary shall provide to the State of Vermont agency of transportation $1,000,000 for use in carrying out this section.

### SEC. 1958. LIMITATION ON PROJECT APPROVAL.

Notwithstanding any provision of title 23, United States Code, the Secretary is prohibited from approving any Federal-aid highway project in Orange and Seminole Counties, Florida, which provides access from Interstate Route 4 to the right-of-way or median of Interstate Route 4 if tolls or toll facilities are used for the access to the right-of-way or median.

### SEC. 1959. CROSS HARBOR FREIGHT MOVEMENT PROJECT.

The Secretary shall provide to the public entity known as the Port Authority of New York and New Jersey, established by the States of New York and New Jersey, funds provided for project numbered 12 in section 1301 of this Act.

### SEC. 1960. DENALI ACCESS SYSTEM PROGRAM.

The Denali Commission Act of 1998 (42 U.S.C. 3121 note) is amended—

(1) by redesignating section 309 as section 310; and

(2) by inserting after section 308 the following:

### "SEC. 309. DENALI ACCESS SYSTEM PROGRAM.

"(a) ESTABLISHMENT OF THE DENALI ACCESS SYSTEM PROGRAM.—Not later than 3 months after the date of enactment of the SAFETEA-LU, the Secretary of Transportation shall establish a program to pay the costs of planning, designing, engineering, and constructing road and other surface transportation infrastructure identified for the Denali access system program under this section.

"(b) DENALI ACCESS SYSTEM PROGRAM ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—Not later than 3 months after the date of enactment of the SAFETEA–LU, the Denali Commission shall establish a Denali Access System Program Advisory Committee (referred to in this section as the 'advisory committee') .

"(2) MEMBERSHIP.—The advisory committee shall be composed of 9 members to be appointed by the Governor of the State of Alaska as follows:

"(A) The chairman of the Denali Commission.

"(B) 4 members who represent existing regional native corporations, native nonprofit entities, or tribal governments, including one member who is a civil engineer.

"(C) 4 members who represent rural Alaska regions or villages, including one member who is a civil engineer.

"(3) TERMS.—

"(A) IN GENERAL.—Except for the chairman of the Commission who shall remain a member of the advisory committee, members shall be appointed to serve a term of 4 years.

"(B) INITIAL MEMBERS.—Except for the chairman of the Commission, of the 8 initial members appointed to the advisory committee, 2 shall be appointed for a term of 1 year, 2 shall be appointed for a term of 2 years, 2 shall be appointed for a term of 3 years, and 2 shall be appointed for a term of 4 years. All subsequent appointments shall be for 4 years.

"(4) RESPONSIBILITIES.—The advisory committee shall be responsible for the following activities:

"(A) Advising the Commission on the surface transportation needs of Alaska Native villages and rural communities, including projects for the construction of essential access routes within remote Alaska Native villages and rural communities and for the construction of roads and facilities necessary to connect isolated rural communities to a road system.

"(B) Advising the Commission on considerations for coordinated transportation planning among the Alaska Native villages, Alaska rural villages, the State of Alaska, and other government entities.

"(C) Establishing a list of transportation priorities for Alaska Native village and rural community transportation projects on an annual basis, including funding recommendations.

"(D) Facilitate the Commission's work on transportation projects involving more than one region.

"(5) FACA EXEMPTION.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee.

"(c) ALLOCATION OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall allocate funding authorized and made available for the Denali access system program to the Commission to carry out this section.

"(2) DISTRIBUTION OF FUNDING.—In distributing funds for surface transportation projects *funded under the program, the Commission shall consult the list of transportation priorities developed by the advisory committee.*

*"(d) PREFERENCE TO ALASKA MATERIALS AND PRODUCTS.—To construct a project under this section, the Commission shall encourage, to the maximum extent practicable, the use of employees and businesses that are residents of Alaska.*

*"(e) DESIGN STANDARDS.—Each project carried out under this section shall use technology and design standards determined by the Commission to be appropriate given the location and the functionality of the project.*

*"(f) MAINTENANCE.—Funding for a construction project under this section may include an additional amount equal to not more than 10 percent of the total cost of construction, to be retained for future maintenance of the project. All such retained funds shall be dedicated for maintenance of the project and may not be used for other purposes.*

*"(g) LEAD AGENCY DESIGNATION.—For purposes of projects carried out under this section, the Commission shall be designated as the lead agency for purposes of accepting Federal funds and for purposes of carrying out this project.*

*"(h) NON-FEDERAL SHARE.—Notwithstanding any other provision of law, funds made available to carry out this section may be used to meet the non-Federal share of the cost of projects under title 23, United States Code.*

*"(i) SURFACE TRANSPORTATION PROGRAM TRANSFERABILITY.—*

*"(1) TRANSFERABILITY.—In any fiscal year, up to 15 percent of the amounts made available to the State of Alaska for surface transportation by section 133 of title 23, United States Code, may be transferred to the Denali access system program.*

*"(2) NO EFFECT ON SET-ASIDE.—Paragraph (2) of section 133(d), United States Code, shall not apply to funds transferred under paragraph (1).*

*"(j) AUTHORIZATION OF APPROPRIATIONS.—*

*"(1) IN GENERAL.—There is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) to carry out this section $15,000,000 for each of fiscal years 2006 through 2009.*

*"(2) APPLICABILITY OF TITLE 23.—Funds made available to carry out this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall not be transferable and shall remain available until expended, and the Federal share of the cost of any project carried out using such funds shall be determined in accordance with section 120(b).".*

### ***SEC. 1961. I-95/CONTEE ROAD INTERCHANGE STUDY.***

*(a) IN GENERAL.—The Secretary shall conduct a study on the I-95/Contee Road relocated interchange project located in Prince George's County, Maryland. The study shall assess how the proposed interchange will—*

*(1) leverage Federal investment in the I-95/Contee Road relocated interchange project by encouraging a public-private partnership between the State of Maryland and the private financial interests supporting the project;*

*(2) improve overall transportation efficiency in the area and enhance fire, rescue, and emergency response in the area;*

*(3) complement planned development in the area by providing sufficient access to the Interstate System; and*

*(4) otherwise provide public benefits and revenues.*

*(b) DATA COLLECTION.—As part of the study, the Secretary shall collect data regarding the economic impact of the project, including new jobs and State and county revenues in the form of real estate property taxes, retail sales taxes, and income and hotel sales and occupancy taxes.*

*(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study, including any recommendations of the Secretary.*

*(d) FUNDING.—*

*(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, out of the Highway Trust Fund (other than the Mass Transit Account), $1,000,000 for fiscal year 2006.*

*(2) CONTRACT AUTHORITY.—Funds authorized to be appropriated by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of the project shall be 100 percent, and such funds shall remain available until expended and shall not be transferable.*

### ***SEC. 1962. MULTIMODAL FACILITY IMPROVEMENTS.***

*(a) AUTHORIZATION OF APPROPRIATIONS.—The Secretary shall make available from funds in the Highway Trust Fund (other than the Mass Transit Account) $5,000,000 for each of fiscal years 2006 through 2009 for multimodal facility improvements, construction, and ferry acquisition by North Bay Ferry Service, Inc., located at Port Sonoma in Petaluma, California.*

*(b) CONTRACT AUTHORITY.—Funds appropriated to carry out this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code, except that such funds shall remain available until expended.*

*(c) LIMITATION.—Not more than 50 percent of funds appropriated to carry out this section shall be used for facility improvements and construction.*

*(d) FEDERAL SHARE.—The Federal Share of the cost of a facility improvement or construction project under this section shall be 80 percent.*

*(e) REQUIREMENT.—Ferries to which assistance is provided under this section shall be purchased by a United States company that designs and builds vessels in the United States.*

### ***SEC. 1963. APOLLO THEATER LEASES.***

*Notwithstanding the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), or any other provision of law, the Economic Development Administration shall, in order to facilitate the further financing of the project, approve, without compensation to the agency, a series of leases of the Apollo Theater, located in Harlem, New York, to be improved by Economic Development Administration project numbers 01-01-7308 and 01-01-07552.*

### ***SEC. 1964. PROJECT FEDERAL SHARE.***

*(a) IN GENERAL.—Notwithstanding any other provision of law, only for the States of Alaska, Montana, Nevada, North Dakota, Oregon, and South Dakota, the Federal share of the cost of a project described in subsection (b) shall be determined in accordance with section 120(b) of title 23, United States Code.*

*(b) PROJECTS.—The projects described in this subsection are—*

*(1) the projects listed in section 1702;*

*(2) the projects listed in section 1301; and*

*(3) the projects listed in section 1934.*

## ***TITLE II—HIGHWAY SAFETY***

### ***SEC. 2001. AUTHORIZATION OF APPROPRIATIONS.***

*(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):*

*(1) HIGHWAY SAFETY PROGRAMS.—For carrying out section 402 of title 23, United States Code, $163,680,000 for fiscal year 2005, $217,000,000 for fiscal year 2006, $220,000,000 for fiscal year 2007, $225,000,000 for fiscal year 2008, and $235,000,000 for fiscal year 2009.*

*(2) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—For carrying out section 403 of title 23, United States Code, $71,424,000 for fiscal year 2005, $110,000,000 for fiscal year 2006, $107,750,000 for fiscal year 2007, $107,750,000 for fiscal year 2008, and $105,500,000 for fiscal year 2009.*

*(3) OCCUPANT PROTECTION INCENTIVE GRANTS.—For carrying out section 405 of title 23, United States Code, $19,840,000 for fiscal year 2005, $25,000,000 for fiscal year 2006, $25,000,000 for fiscal year 2007, $25,000,000 for fiscal year 2008, and $25,000,000 for fiscal year 2009.*

*(4) SAFETY BELT PERFORMANCE GRANTS.—For carrying out section 406 of title 23, United States Code, $124,500,000 for fiscal year 2006, $124,500,000 for fiscal year 2007, $124,500,000 for fiscal year 2008, and $124,500,000 for fiscal year 2009.*

*(5) STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.—For carrying out section 408 of title 23, United States Code, $34,500,000 for fiscal year 2006, $34,500,000 for fiscal year 2007, $34,500,000 for fiscal year 2008, and $34,500,000 for fiscal year 2009.*

*(6) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANT PROGRAM.—For carrying out section 410 of title 23, United States Code, $39,680,000 for fiscal year 2005, $120,000,000 for fiscal year 2006, $125,000,000 for fiscal year 2007, $131,000,000 for fiscal year 2008, and $139,000,000 for fiscal year 2009.*

*(7) NATIONAL DRIVER REGISTER.—For the National Highway Traffic Safety Administration to carry out chapter 303 of title 49, United States Code, $3,968,000 for fiscal year 2005, $4,000,000 for fiscal year 2006, $4,000,000 for fiscal year 2007, $4,000,000 for fiscal year 2008, and $4,000,000 for fiscal year 2009.*

*(8) HIGH VISIBILITY ENFORCEMENT PROGRAM.—For carrying out section 2009 of this title $29,000,000 for fiscal year 2006, $29,000,000 for fiscal year 2007, $29,000,000 for fiscal year 2008, and $29,000,000 for fiscal year 2009.*

*(9) MOTORCYCLIST SAFETY.—For carrying out section 2010 of this title $6,000,000 for fiscal year 2006, $6,000,000 for fiscal year 2007, $6,000,000 for fiscal year 2008, and $7,000,000 for fiscal year 2009.*

*(10) CHILD SAFETY AND CHILD BOOSTER SEAT SAFETY INCENTIVE GRANTS.—For carrying out section 2011 of this title $6,000,000 for fiscal year 2006, $6,000,000 for fiscal year 2007, $6,000,000 for fiscal year 2008, and $7,000,000 for fiscal year 2009.*

*(11) ADMINISTRATIVE EXPENSES.—For administrative and related operating expenses of the National Highway Traffic Safety Administration in carrying out chapter 4 of title 23, United States Code, and this title $17,500,000 for fiscal year 2006, $17,750,000 for fiscal year 2007, $18,250,000 for fiscal year 2008, and $18,500,000 for fiscal year 2009.*

*(b) PROHIBITION ON OTHER USES.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title, (including the amendments made by this title), the amounts made available from the Highway Trust Fund (other than the Mass Transit Account) for a program under such chapter shall only be used to carry out such program and may not be used by States or local governments for construction purposes.*

*(c) APPLICABILITY OF TITLE 23.—Except as otherwise provided in chapter 4 of title 23, United States Code, and this title, amounts made available under subsection (a) for each of fiscal years 2005 through 2009 shall be available*

*for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.*

*(d) TRANSFERS.—In each fiscal year, the Secretary may transfer any amounts remaining available under paragraph (3), (5), or (6) of subsection (a) to the amounts made available under any other of such paragraphs in order to ensure, to the maximum extent possible, that each State receives the maximum incentive funding for which the State is eligible under sections 405, 408, and 410 of title 23, United States Code.*

*(e) CLARIFICATIONS.—The amounts made available by each of subsections (a)(1) through (a)(7) shall be less any amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by laws enacted before the date of enactment of this Act for the respective programs referred to in each of such subsections for fiscal year 2005. Amounts authorized by such subsections are post-rescission and shall not be subject to any rescission after the date of enactment of this Act.*

***SEC. 2002. HIGHWAY SAFETY PROGRAMS.***

*(a) PROGRAMS TO BE INCLUDED.—Section 402(a) of title 23, United States Code, is amended—*

*(1) in clause (2) by striking "and to increase public awareness of the benefit of motor vehicles equipped with airbags";*

*(2) by redesignating clause (6) as clause (7);*

*(3) by inserting after clause (5) the following: "(6) to reduce accidents resulting from unsafe driving behavior (including aggressive or fatigued driving and distracted driving arising from the use of electronic devices in vehicles)"; and*

*(4) in the 10th sentence by inserting "aggressive driving, fatigued driving, distracted driving," after "school bus accidents,"*

*(b) ADMINISTRATION OF STATE PROGRAMS.—Section 402(b)(1) of such title is amended—*

*(1) in subparagraph (C) by striking "and" at the end;*

*(2) by redesignating clause (6) as clause (7);*

*(3) in subparagraph (D) by striking "State." and inserting "State; and"; and*

*(4) by adding at the end the following:*

*"(E) provide satisfactory assurances that the State will implement activities in support of national highway safety goals to reduce motor vehicle related fatalities that also reflect the primary data-related crash factors within a State as identified by the State highway safety planning process, including—*

*"(i) national law enforcement mobilizations;*

*"(ii) sustained enforcement of statutes addressing impaired driving, occupant protection, and driving in excess of posted speed limits;*

*"(iii) an annual statewide safety belt use survey in accordance with criteria established by the Secretary for the measurement of State safety belt use rates to ensure that the measurements are accurate and representative; and*

*"(iv) development of statewide data systems to provide timely and effective data analysis to support allocation of highway safety resources.".*

*(c) DEDUCTION DELETION.—Section 402(c) of such title is amended—*

*(1) by striking the second sentence; and*

*(2) in the sixth sentence by striking "three-fourths of 1 percent" and inserting "2 percent".*

*(d) LAW ENFORCEMENT AND CONSOLIDATION OF APPLICATIONS.—Section 402 of such title is further amended by adding at the end the following:*

*"(l) LAW ENFORCEMENT VEHICULAR PURSUIT TRAINING.—A State shall actively encourage all relevant law enforcement agencies in such State to follow the guidelines established for vehicular pursuits issued by the International Association of Chiefs of Police that are in effect on the date of enactment of this subsection or as revised and in effect after such date as determined by the Secretary.*

*"(m) CONSOLIDATION OF GRANT APPLICATIONS.—The Secretary shall establish an approval process by which a State may apply for all grants under this chapter through a single application process with one annual deadline. The Bureau of Indian Affairs shall establish a similar simplified process for applications for grants from Indian tribes under this chapter.".*

*(e) CONFORMING REPEAL FOR ADMINISTRATIVE EXPENSES.—Section 405(d) of such title is repealed.*

***SEC. 2003. HIGHWAY SAFETY RESEARCH AND OUTREACH PROGRAMS.***

*(a) REVISED AUTHORITY AND REQUIREMENTS.—Section 403(a) of title 23, United States Code, is amended to read as follows:*

*"(a) AUTHORITY OF THE SECRETARY.—The Secretary is authorized to use funds appropriated to carry out this section to—*

*"(1) conduct research on all phases of highway safety and traffic conditions, including accident causation, highway or driver characteristics, communications, and emergency care;*

*"(2) conduct ongoing research into driver behavior and its effect on traffic safety;*

*"(3) conduct research on, launch initiatives to counter, and conduct demonstration projects on fatigued driving by drivers of motor vehicles and distracted driving in such vehicles, including the effect that the use of electronic devices and other factors deemed relevant by the Secretary have on driving;*

*"(4) conduct training or education programs in cooperation with other Federal departments and agencies, States, private sector persons, highway safety personnel, and law enforcement personnel;*

*"(5) conduct research on, and evaluate the effectiveness of, traffic safety countermeasures, including seat belts and impaired driving initiatives;*

*"(6) conduct research on, evaluate, and develop best practices related to driver education programs (including driver education curricula, instructor training and certification, program administration and delivery mechanisms) and make recommendations for harmonizing driver education and multistage graduated licensing systems;*

*"(7) conduct research, training, and education programs related to older drivers;*

*"(8) conduct demonstration projects; and*

*"(9) conduct research, training, and programs relating to motorcycle safety, including impaired driving."*

*(b) INTERNATIONAL COOPERATION.—Section 403 of such title is amended by adding at the end the following:*

*"(g) INTERNATIONAL COOPERATION.—The Administrator of the National Highway Traffic Safety Administration may participate and cooperate in international activities to enhance highway safety.".*

*(c) ON-SCENE MOTOR VEHICLE COLLISION CAUSATION.—*

*(1) STUDY.—The Secretary shall conduct under section 403 of title 23, United States Code, a nationally representative study to collect on-scene motor vehicle collision data and to determine crash causation. The Secretary shall enter into a contract with the National Academy of Sciences to conduct a review of the research, design, methodology, and implementation of the study.*

*(2) CONSULTATION.—The study under this subsection may be conducted in consultation with other Federal departments and agencies with relevant expertise.*

*(3) FINAL REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit a report on the results of the study conducted under this subsection to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.*

*(d) RESEARCH ON DISTRACTED, INATTENTIVE, AND FATIGUED DRIVERS.—In conducting research under section 403(a)(3) of title 23, United States Code, the Secretary shall carry out not less than 2 demonstration projects to evaluate new and innovative means of combating traffic system problems caused by distracted, inattentive, or fatigued drivers. The demonstration projects shall be in addition to any other research carried out under such section.*

*(e) PEDESTRIAN SAFETY.—*

*(1) IN GENERAL.—The Secretary shall—*

*(A) produce a comprehensive report on pedestrian safety that builds on the current level of knowledge of pedestrian safety countermeasures by identifying the most effective advanced technology and intelligent transportation systems, such as automated pedestrian detection and warning systems (infrastructure-based and vehicle-based), road design, and vehicle structural design that could potentially mitigate the crash forces on pedestrians in the event of a crash; and*

*(B) include in the report recommendations on how new technological developments could be incorporated into educational and enforcement efforts and how they could be integrated into national design guidelines developed by the American Association of State Highway and Transportation Officials.*

*(2) DUE DATE.—The Secretary shall complete the report under this subsection not less than 2 years after the date of enactment of this Act and submit a copy of the report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.*

*(f) REFUSAL OF INTOXICATION TESTING.—*

*(1) STUDY.—The Secretary shall carry out under section 403 of title 23, United States Code, a study of the frequency with which persons arrested for the offense of operating a motor vehicle while under the influence of alcohol and persons arrested for the offense of operating a motor vehicle while intoxicated refuse to take a test to determine blood alcohol concentration levels and the effect such refusals have on the ability of States to prosecute such persons for those offenses.*

*(2) CONSULTATION.—In carrying out the study under this subsection, the Secretary shall consult with the Governors of the States, the States' Attorneys General, and the United States Sentencing Commission.*

*(3) REPORT.—*

*(A) REQUIREMENT FOR REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report on the results of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.*

*(B) CONTENT.—The report shall include any recommendation for legislation, including any recommended model State legislation, and any other recommendations that the Secretary considers appropriate for implementing a program designed to decrease the occurrence of refusals by arrested persons to submit to a test to determine blood alcohol concentration levels.*

*(g) IMPAIRED MOTORCYCLE DRIVING.—*

*(1) STUDYING.—In conducting research under section 403(a)(9) of title 23, United States Code, the Secretary shall conduct a study on educational, public information and other activities targeted at reducing motorcycle accidents and resulting fatalities and injuries, where the operator of the motorcycle is impaired.*

*(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study, including the data collected and statistics compiled and recommendations to reduce the number of motorcycle accidents described in paragraph (1) and the resulting fatalities and injuries.*

*(h) REDUCING IMPAIRED DRIVING RECIDIVISM.—*

*(1) STUDY.—The Secretary shall conduct a study on reducing the incidence of alcohol-related motor vehicle crashes and fatalities through research of advanced vehicle-based alcohol detection systems, including an assessment of the practicability and cost effectiveness of such systems.*

*(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.*

### SEC. 2004. OCCUPANT PROTECTION INCENTIVE GRANTS.

*(a) GENERAL AUTHORITY.—Section 405(a) of title 23, United States Code, is amended—*

*(1) in paragraph (2) by striking "Transportation Equity Act for the 21st Century" and inserting "SAFETEA–LU";*

*(2) in paragraph (3) by striking "1997" and inserting "2003"; and*

*(3) in each of paragraphs (4)(A), (4)(B), and (4)(C) by inserting after "years" the following: "beginning after September 30, 2003,".*

*(c) GRANT AMOUNTS.—Section 405(c) of such title is amended—*

*(1) by striking "25 percent" and inserting "100 percent"; and*

*(2) by striking "1997" and inserting "2003".*

### SEC. 2005. GRANTS FOR PRIMARY SAFETY BELT USE LAWS.

*(a) IN GENERAL.—Section 406 of title 23, United States Code, is amended to read as follows:*

### "§406. Safety belt performance grants

*"(a) IN GENERAL.—The Secretary shall make grants to States in accordance with the provisions of this section to encourage the enactment and enforcement of laws requiring the use of safety belts in passenger motor vehicles.*

*"(b) GRANTS FOR ENACTING PRIMARY SAFETY BELT USE LAWS.—*

*"(1) IN GENERAL.—The Secretary shall make a single grant to each State that either—*

*"(A) enacts for the first time after December 31, 2002, and has in effect and is enforcing a conforming primary safety belt use law for all passenger motor vehicles; or*

*"(B) in the case of a State that does not have such a primary safety belt use law, has after December 31, 2005, a State safety belt use rate of 85 percent or more for each of the 2 calendar years immediately preceding the fiscal year of a grant, as measured under criteria determined by the Secretary.*

*"(2) AMOUNT.—The amount of a grant available to a State in fiscal year 2006 or in a subsequent fiscal year under paragraph (1) shall equal 475 percent of the amount apportioned to the State under section 402(c) for fiscal year 2003.*

*"(3) JULY 1 CUT-OFF.—For the purpose of determining the eligibility of a State for a grant under paragraph (1)(A), a conforming primary safety belt use law enacted after June 30th of any year shall—*

*"(A) not be considered to have been enacted in the Federal fiscal year in which that June 30th falls; but*

*"(B) be considered as if it were enacted after October 1 of the next Federal fiscal year.*

*"(4) SHORTFALL.—If the total amount of grants provided for by this subsection for a fiscal year exceeds the amount of funds available for such grants for that fiscal year, the Secretary shall make grants under this subsection to States in the order in which—*

*"(A) the conforming primary safety belt use law came into effect; or*

*"(B) the State's safety belt use rate was 85 percent or more for 2 consecutive calendar years (as measured under by criteria determined by the Secretary), whichever first occurs.*

*"(5) CATCH-UP GRANTS.—The Secretary shall make a grant to any State eligible for a grant under this subsection that did not receive a grant for a fiscal year because of the application of paragraph (4), in the next fiscal year if the State's conforming primary safety belt use law remains in effect or its safety belt use rate is 85 percent or more for the 2 consecutive calendar years preceding such next fiscal year (subject to the condition in paragraph (4)).*

*"(c) GRANTS FOR PRE-2003 LAWS.—*

*"(1) IN GENERAL.—To the extent that amounts made available for grants under this section for any of fiscal years 2006 through 2009 exceed the total amount of grants to be awarded under subsection (b) for the fiscal year, including amounts to be awarded for catch-up grants under subsection (b)(5), the Secretary shall make a single grant to each State that enacted, has in effect, and is enforcing a conforming primary safety belt use law for all passenger motor vehicles that was in effect before January 1, 2003.*

*"(2) AMOUNT; INSTALLMENTS.—The amount of a grant available to a State under this subsection shall be equal to 200 percent of the amount of funds apportioned to the State under section 402(c) for fiscal year 2003. The Secretary may award the grant in annual installments.*

*"(d) ALLOCATION OF UNALLOCATED FUNDS.—*

*"(1) ADDITIONAL GRANTS.—The Secretary shall make additional grants under this section of any amounts made available for grants under this section that, on July 1, 2009, have not been allocated to States under this section.*

*"(2) ALLOCATION.—The additional grants made under this subsection shall be allocated among all States that, as of that date, have enacted, have in effect, and are enforcing conforming primary safety belt laws for all passenger motor vehicles. The allocations shall be made in accordance with the formula for apportioning funds among the States under section 402(c).*

*"(e) USE OF GRANT FUNDS.—*

*"(1) IN GENERAL.—Subject to paragraph (2), a State may use a grant under this section for any safety purpose under this title or for any project that corrects or improves a hazardous roadway location or feature or proactively addresses highway safety problems, including—*

*"(A) intersection improvements;*

*"(B) pavement and shoulder widening;*

*"(C) installation of rumble strips and other warning devices;*

*"(D) improving skid resistance;*

*"(E) improvements for pedestrian or bicyclist safety;*

*"(F) railway-highway crossing safety;*

*"(G) traffic calming;*

*"(H) the elimination of roadside obstacles;*

*"(I) improving highway signage and pavement marking;*

*"(J) installing priority control systems for emergency vehicles at signalized intersections;*

*"(K) installing traffic control or warning devices at locations with high accident potential;*

*"(L) safety-conscious planning; and*

*"(M) improving crash data collection and analysis.*

*"(2) SAFETY ACTIVITY REQUIREMENT.—Notwithstanding paragraph (1), the Secretary shall ensure that at least $1,000,000 of amounts received by States under this section are obligated for safety activities under this chapter.*

*"(3) SUPPORT ACTIVITY.—The Secretary or his designee may engage in activities with States and State legislators to consider proposals related to safety belt use laws.*

*"(f) CARRY-FORWARD OF EXCESS FUNDS.—If the amount available for grants under this section for any fiscal year exceeds the sum of the grants made under this section for that fiscal year, the excess amount and obligational authority shall be carried forward and made available for grants under this section in the succeeding fiscal year.*

*"(g) FEDERAL SHARE.—The Federal share payable for grants under this section shall be 100 percent.*

*"(h) PASSENGER MOTOR VEHICLE DEFINED.—In this section, the term 'passenger motor vehicle' means—*

*"(1) a passenger car;*

*"(2) a pickup truck; and*

*"(3) a van, minivan, or sport utility vehicle with a gross vehicle weight rating of less than 10,000 pounds.".*

*(b) CLERICAL AMENDMENT.—The analysis for chapter 4 of such title is amended by striking the item relating to section 406 and inserting the following:*

*"406. Safety belt performance grants.".*

### SEC. 2006. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS.

*(a) IN GENERAL.—Section 408 of title 23, United States Code, is amended to read as follows:*

### "§408. State traffic safety information system improvements

*"(a) GRANT AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants to eligible States to support the development and implementation of effective programs by such States to—*

*"(1) improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of the safety data of the State that is needed to identify priorities for national, State, and local highway and traffic safety programs;*

*"(2) evaluate the effectiveness of efforts to make such improvements;*

*"(3) link the State data systems, including traffic records, with other data systems within the State, such as systems that contain medical, roadway, and economic data; and*

*"(4) improve the compatibility and interoperability of the data systems of the State with national data systems and data systems of other States and enhance the ability of the Secretary to observe and analyze national trends in crash occurrences, rates, outcomes, and circumstances.*

*"(b) FIRST-YEAR GRANTS.—To be eligible for a first-year grant under this section in a fiscal year, a State shall demonstrate to the satisfaction of the Secretary that the State has—*

*"(1) established a highway safety data and traffic records coordinating committee with a multidisciplinary membership that includes, among others, managers, collectors, and users of traffic records and public health and injury control data systems; and*

*"(2) developed a multiyear highway safety data and traffic records system strategic plan—*

*"(A) that addresses existing deficiencies in the State's highway safety data and traffic records system;*

*"(B) that is approved by the highway safety data and traffic records coordinating committee;*

*"(C) that specifies how existing deficiencies in the State's highway safety data and traffic records system were identified;*

*"(D) that prioritizes, on the basis of the identified highway safety data and traffic records system deficiencies of the State, the highway safety data and traffic records system needs and goals of the State, including the activities under subsection (a);*

*"(E) that identifies performance-based measures by which progress toward those goals will be determined; and*

*"(F) that specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan.*

*"(c) SUCCESSIVE YEAR GRANTS.—A State shall be eligible for a grant under this subsection in a fiscal year succeeding the first fiscal year in which the State receives a grant under subsection (b) if the State—*

*"(1) certifies to the Secretary that an assessment or audit of the State's highway safety data and traffic records system has been conducted or updated within the preceding 5 years;*

*"(2) certifies to the Secretary that its highway safety data and traffic records coordinating committee continues to operate and supports the multiyear plan;*

*"(3) specifies how the grant funds and any other funds of the State are to be used to address needs and goals identified in the multiyear plan;*

*"(4) demonstrates to the Secretary measurable progress toward achieving the goals and objectives identified in the multiyear plan; and*

*"(5) submits to the Secretary a current report on the progress in implementing the multiyear plan.*

*"(d) GRANT AMOUNT.—Subject to subsection (e)(3), the amount of a year grant made to a State for a fiscal year under this section shall equal the higher of—*

*"(1) the amount determined by multiplying—*

*"(A) the amount appropriated to carry out this section for such fiscal year, by*

*"(B) the ratio that the funds apportioned to the State under section 402 for fiscal year 2003 bears to the funds apportioned to all States under such section for fiscal year 2003; or*

*"(2)(A) $300,000 in the case of the first fiscal year a grant is made to a State under this section after the date of enactment of this subparagraph; or*

*"(B) $500,000 in the case of a succeeding fiscal year a grant is made to the State under this section after such date of enactment.*

*"(e) ADDITIONAL REQUIREMENTS AND LIMITATIONS.—*

*"(1) MODEL DATA ELEMENTS.—The Secretary, in consultation with States and other appropriate parties, shall determine the model data elements that are useful for the observation and analysis of State and national trends in occurrences, rates, outcomes, and circumstances of motor vehicle traffic accidents. In order to be eligible for a grant under this section, a State shall submit to the Secretary a certification that the State has adopted and uses such model data elements, or a certification that the State will use grant funds provided under this section toward adopting and using the maximum number of such model data elements as soon as practicable.*

*"(2) DATA ON USE OF ELECTRONIC DEVICES.—The model data elements required under paragraph (1) shall include data elements, as determined appropriate by the Secretary, in consultation with the States and appropriate elements of the law enforcement community, on the impact on traffic safety of the use of electronic devices while driving.*

*"(3) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for highway safety data programs at or above the average level of such expenditures maintained by such State in the 2 fiscal years preceding the date of enactment of the SAFETEA–LU.*

*"(4) FEDERAL SHARE.—The Federal share of the cost of adopting and implementing in a fiscal year a State program described in subsection (a) may not exceed 80 percent.*

*"(5) LIMITATION ON USE OF GRANT PROCEEDS.—A State may use the proceeds of a grant received under this section only to implement the program described in subsection (a) for which the grant is made.*

*"(f) APPLICABILITY OF CHAPTER 1.—Section 402(d) of this title shall apply in the administration of this section.".*

*(b) CLERICAL AMENDMENT.—The analysis for chapter 4 of such title is amended by striking the item relating to section 408 and inserting the following:*

*"408. State traffic safety information system improvements.".*

### *SEC. 2007. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.*

*(a) MAINTENANCE OF EFFORT.—Section 410(a)(2) of title 23, United States Code, is amended—*

*(1) by striking "under this section" and inserting "under this subsection"; and*

*(2) by striking "Transportation Equity Act for the 21st Century" and inserting "SAFETEA–LU".*

*(b) REVISED GRANT AUTHORITY.—Section 410 of such title is amended—*

*(1) in subsection (a)—*

*(A) by striking paragraph (3);*

*(B) by redesignating paragraph (4) as paragraph (3); and*

*(C) in paragraph (3) (as so redesignated) by striking the second comma following "sixth";*

*(2) by redesignating subsections (e) and (f) as subsections (h) and (i), respectively;*

*(3) by striking subsections (b) through (d) and inserting the following:*

*"(b) ELIGIBILITY REQUIREMENTS.—To be eligible for a grant under subsection (a), a State shall—*

*"(1) have an alcohol related fatality rate of 0.5 or less per 100,000,000 vehicle miles traveled as of the date of the grant, as determined by the Secretary using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; or*

*"(2)(A) for fiscal year 2006 by carrying out 3 of the programs and activities under subsection (c);*

*"(B) for fiscal year 2007 by carrying out 4 of the programs and activities under subsection (c); or*

*"(C) for fiscal years 2008 and 2009 by carrying out 5 of the programs and activities under subsection (c).*

*"(c) STATE PROGRAMS AND ACTIVITIES.—The programs and activities referred to in subsection (b) are the following:*

*"(1) CHECK POINT, SATURATION PATROL PROGRAM.—A State program to conduct a series of high visibility, Statewide law enforcement campaigns in which law enforcement personnel monitor for impaired driving, either through the use of sobriety check points or saturation patrols, on a nondiscriminatory, lawful basis for the purpose of determining whether the operators of the motor vehicles are driving while under the influence of alcohol—*

*"(A) if the State organizes the campaigns in cooperation with related periodic national campaigns organized by the National Highway Traffic Safety Administration, except that this subparagraph does not preclude a State from initiating sustained high visibility, Statewide law enforcement campaigns independently of the cooperative efforts; and*

*"(B) if, for each fiscal year, the State demonstrates to the Secretary that the State and the political subdivisions of the State that receive funds under this section have increased, in the aggregate, the total number of impaired driving law enforcement activities at high incident locations (or any other similar activity approved by the Secretary) initiated in such State during the preceding fiscal year by a factor that the Secretary determines meaningful for the State over the number of such activities initiated in such State during the preceding fiscal year.*

*"(2) PROSECUTION AND ADJUDICATION OUTREACH PROGRAM.—A State prosecution and adjudication program under which—*

*"(A) the State works to reduce the use of diversion programs by educating and informing prosecutors and judges through various outreach methods about the benefits and merits of prosecuting and adjudicating defendants who repeatedly commit impaired driving offenses;*

*"(B) the courts in a majority of the judicial jurisdictions of the State are monitored on the courts' adjudication of cases of impaired driving offenses; or*

*"(C) annual statewide outreach is provided for judges and prosecutors on innovative approaches to the prosecution and adjudication of cases of impaired driving offenses that have the potential for significantly improving the prosecution and adjudication of such cases.*

*"(3) TESTING OF BAC.—An effective system for increasing from the previous year the rate of blood alcohol concentration testing of motor vehicle drivers involved in fatal accidents.*

*"(4) HIGH RISK DRIVERS.—A law that establishes stronger sanctions or additional penalties for individuals convicted of operating a motor vehicle while under the influence of alcohol whose blood alcohol concentration is 0.15 percent or more than for individuals convicted of the same offense but with a lower blood alcohol concentration. For purposes of this paragraph, 'additional penalties' includes—*

*"(A) a 1 year suspension of a driver's license, but with the individual whose license is suspended becoming eligible after 45 days of such suspension to obtain a provisional driver's license that would permit the individual to drive—*

*"(i) only to and from the individual's place of employment or school; and*

*"(ii) only in an automobile equipped with a certified alcohol ignition interlock device; and*

*"(B) a mandatory assessment by a certified substance abuse official of whether the individual has an alcohol abuse problem with possible referral to counseling if the official determines that such a referral is appropriate.*

*"(5) PROGRAMS FOR EFFECTIVE ALCOHOL REHABILITATION AND DWI COURTS.—A program for effective inpatient and outpatient alcohol rehabilitation based on mandatory assessment and appropriate treatment for repeat offenders or a program to refer impaired driving cases to courts that specialize in driving while impaired cases that emphasize the close supervision of high-risk offenders.*

*"(6) UNDERAGE DRINKING PROGRAM.—An effective strategy, as determined by the Secretary, for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages and for preventing persons from making alcoholic beverages available to individuals under age 21. Such a strategy may include—*

*"(A) the issuance of tamper-resistant drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals age 21 or older; and*

*"(B) a program provided by a nonprofit organization for training point of sale personnel concerning, at a minimum—*

*"(i) the clinical effects of alcohol;*

*"(ii) methods of preventing second party sales of alcohol;*

*"(iii) recognizing signs of intoxication;*

*"(iv) methods to prevent underage drinking; and*

*"(v) Federal, State, and local laws that are relevant to such personnel; and*

*"(C) having a law in effect that creates a 0.02 percent blood alcohol content limit for drivers under 21 years old.*

*"(7) ADMINISTRATIVE LICENSE REVOCATION.—An administrative driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol that requires that—*

*"(A) in the case of an individual who, in any 5-year period beginning after the date of enactment of the Transportation Equity Act for the 21st Century, is determined on the basis of a chemical test to have been operating a motor vehicle while under the influence of alcohol or is determined to have refused to submit to such a test as proposed by a law enforcement officer, the State agency responsible for administering drivers' licenses, upon receipt of the report of the law enforcement officer—*

*"(i) suspend the driver's license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; except that under such suspension an individual may operate a motor vehicle, after the 15-day period beginning on the date of the suspension, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual; and*

*"(ii) suspend the driver's license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; except that such individual to operate a motor vehicle, after the 45-day period beginning on the date of the suspension or revocation, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on each of the motor vehicles owned or operated, or both, by the individual; and*

*"(B) the suspension and revocation referred to under clause (i) take effect not later than 30 days after the date on which the individual refused to submit to a chemical test or received notice of having been determined to be driving under the influence of alcohol, in accordance with the procedures of the State.*

*"(8) SELF SUSTAINING IMPAIRED DRIVING PREVENTION PROGRAM.—A program under which a significant portion of the fines or surcharges collected from individuals who are fined for operating a motor vehicle while under the influence of alcohol are returned to communities for comprehensive programs for the prevention of impaired driving.*

*"(d) USES OF GRANTS.—Subject to subsection (g)(2), grants made under this section may be used for all programs and activities described in subsection (c), and to defray the following costs:*

*"(1) Labor costs, management costs, and equipment procurement costs for the high visibility, Statewide law enforcement campaigns under subsection (c)(1).*

*"(2) The costs of the training of law enforcement personnel and the procurement of technology and equipment, including video equipment and passive alcohol sensors, to counter directly impaired operation of motor vehicles.*

*"(3) The costs of public awareness, advertising, and educational campaigns that publicize use of sobriety check points or increased law enforcement efforts to counter impaired operation of motor vehicles.*

*"(4) The costs of public awareness, advertising, and educational campaigns that target impaired operation of motor vehicles by persons under 34 years of age.*

*"(5) The costs of the development and implementation of a State impaired operator information system.*

*"(6) The costs of operating programs that result in vehicle forfeiture or impoundment or license plate impoundment.*

*"(e) ADDITIONAL AUTHORITIES FOR CERTAIN AUTHORIZED USES.—*

*"(1) COMBINATION OF GRANT PROCEEDS.—Grant funds used for a campaign under subsection (d)(3) may be combined, or expended in coordination, with proceeds of grants under section 402.*

*"(2) COORDINATION OF USES.—Grant funds used for a campaign under paragraph (3) or (4) of subsection (d) may be expended—*

*"(A) in coordination with employers, schools, entities in the hospitality industry, and nonprofit traffic safety groups; and*

*"(B) in coordination with sporting events and concerts and other entertainment events.*

*"(f) ALLOCATION.—Subject to subsection (g), funds made available to carry out this section shall be allocated among States that meet the eligibility criteria in subsection (b) on the basis of the apportionment formula under section 402(c).*

*"(g) GRANTS TO HIGH FATALITY RATE STATES.—*

*"(1) IN GENERAL.—The Secretary shall make a separate grant under this section to each state that—*

*"(A) is among the 10 States with the highest impaired driving related fatalities as determined by the Secretary using the most recent Fatality Analysis Reporting System of the National Highway Traffic Safety Administration; and*

*"(B) prepares a plan for grant expenditures under this subsection that is approved by the Administrator of the National Highway Traffic Safety Administration.*

*"(2) REQUIRED USES.—At least one-half of the amounts allocated to States under this subsection may only be used for the program described in subsection (c)(1).*

*"(3) ALLOCATION.—Funds made available under this subsection shall be allocated among States described in paragraph (1) on the basis of the apportionment formula under section 402(c), except that no State shall be allocated more than 30 percent of the funds made available to carry out this subsection for a fiscal year.*

*"(4) FUNDING.—Not more than 15 percent per fiscal year of amounts made available to carry out this section for a fiscal year shall be made available by the Secretary for making grants under this subsection."; and*

*(4) by adding at the end of subsection (i) (as redesignated by paragraph (2)) the following:*

*"(4) IMPAIRED OPERATOR.— The term 'impaired operator' means a person who, while operating a motor vehicle*

*"(A) has a blood alcohol content of 0.08 percent or higher; or*

*"(B) is under the influence of a controlled substance.*

*"(5) IMPAIRED DRIVING RELATED FATALITY RATE.—The term 'impaired driving related fatality rate' means the rate of alcohol related fatalities, as calculated in accordance with regulations which the Administrator of the National Highway Traffic Safety Administration shall prescribe.".*

*(c) NHTSA TO ISSUE REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the National Highway Traffic Safety Administration shall issue guidelines to the States specifying the types and formats of data that States should collect relating to drivers who are arrested or convicted for violation of laws prohibiting the impaired operation of motor vehicles.*

***SEC. 2008. NHTSA ACCOUNTABILITY.***

*(a) IN GENERAL.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following:*

***"§412. Agency accountability***

*"(a) TRIENNIAL STATE MANAGEMENT REVIEWS.—At least once every 3 years the Secretary shall conduct a review of each State highway safety program. The review shall include a management evaluation of all grant programs funded under this chapter. The Secretary shall provide review-based recommendations on how each State could improve the management and oversight of its grant activities and may provide a management and oversight plan for such grant programs.*

*"(b) RECOMMENDATIONS BEFORE SUBMISSION.—In order to provide guidance to State highway safety agencies on matters that should be addressed in the goals and initiatives of the State highway safety program before the program is submitted for review, the Secretary shall provide data-based recommendations to each State at least 90 days before the date on which the program is to be submitted for approval.*

*"(c) STATE PROGRAM REVIEW.—The Secretary shall—*

*"(1) conduct a program improvement review of a highway safety program under this chapter of a State that does not make substantial progress over a 3-year period in meeting its priority program goals; and*

*"(2) provide technical assistance and safety program requirements to be incorporated in the State highway safety program for any goal not achieved.*

*"(d) REGIONAL HARMONIZATION.—The Secretary and the Inspector General of the Department of Transportation shall undertake an administrative review of the practices and procedures of the management reviews and program reviews of State highway safety programs under this chapter conducted by the regional offices of the National Highway Traffic Safety Administration and prepare a written report of best practices and procedures for use by the regional offices in conducting such reviews. The report shall be completed within 180 days after the date of enactment of this section.*

*"(e) BEST PRACTICES GUIDELINES.—*

*"(1) UNIFORM GUIDELINES.—The Secretary shall issue uniform management review guidelines and program review guidelines based on the report under subsection (d). Each regional office shall use the guidelines in executing its State administrative review duties under this section.*

*"(2) PUBLICATION.—The Secretary shall make publicly available on the Web site (or successor electronic facility) of the Administration the following documents upon their completion:*

*"(A) The Secretary's management review guidelines and program review guidelines.*

*"(B) All State highway safety programs submitted under this chapter.*

*"(C) State annual accomplishment reports.*

*"(D) The Administration's Summary Report of findings from Management Reviews and Improvement Plans.*

*"(3) REPORTS TO STATE HIGHWAY SAFETY AGENCIES.—The Secretary may not make publicly available a program, report, or review under paragraph (2) that is directed to a State highway safety agency until after the date on which the program, report, or review is submitted to that agency under this chapter.*

*"(f) GAO REVIEW.—*

*"(1) ANALYSIS.—The Comptroller General shall analyze the effectiveness of the Administration's oversight of traffic safety grants under this chapter by determining the usefulness of the Administration's advice to the States regarding administration and State activities under this chapter, the extent to which the States incorporate the Administration's recommendations into their highway safety programs, and the improvements that result in a State's highway safety program that may be attributable to the Administration's recommendations.*

*"(2) REPORT.—Not later than the September 30, 2008, the Comptroller General shall submit a report on the results of the analysis to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate..".*

*(b) CLERICAL AMENDMENT.—The analysis for chapter 4 of such title is amended by adding at the end the following:*

*"412. Agency accountability.".*

### *SEC. 2009. HIGH VISIBILITY ENFORCEMENT PROGRAM.*

*(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall establish and administer a program under which at least 2 high-visibility traffic safety law enforcement campaigns will be carried out for the purposes specified in subsection (b) in each of years 2006 through 2009.*

*(b) PURPOSE.—The purpose of each law enforcement campaign under this section shall be to achieve either or both of the following objectives:*

*(1) Reduce alcohol-impaired or drug-impaired operation of motor vehicles.*

*(2) Increase use of seat belts by occupants of motor vehicles.*

*(c) ADVERTISING.—The Administrator may use, or authorize the use of, funds available to carry out this section to pay for the development, production, and use of broadcast and print media advertising in carrying out traffic safety law enforcement campaigns under this section. Consideration shall be given to advertising directed at non-English speaking populations, including those who listen, read, or watch nontraditional media.*

*(d) COORDINATION WITH STATES.—The Administrator shall coordinate with the States in carrying out the traffic safety law enforcement campaigns under this section, including advertising funded under subsection (c), with a view to—*

*(1) relying on States to provide the law enforcement resources for the campaigns out of funding available under this section and sections 402, 405, 406, and 410 of title 23, United States Code; and*

*(2) providing out of National Highway Traffic Safety Administration resources most of the means necessary for national advertising and education efforts associated with the law enforcement campaigns.*

*(e) USE OF FUNDS.—Funds made available to carry out this section may only be used for activities described in subsections (a), (c), and (f).*

*(f) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of the effectiveness of campaigns referred to in subsection (a).*

*(g) STATE DEFINED.—The term "State" has the meaning such term has under section 401 of title 23, United States Code.*

### *SEC. 2010. MOTORCYCLIST SAFETY.*

*(a) AUTHORITY TO MAKE GRANTS.—Subject to the requirements of this section, the Secretary shall make grants to States that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcyclists.*

*(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in a fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all the other sources for motorcyclist safety training programs and motorcyclist awareness programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.*

*(c) ALLOCATION.—The amount of a grant made to a State for a fiscal year under this section may not be less than $100,000 and may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.*

*(d) GRANT ELIGIBILITY.—*

*(1) IN GENERAL.—A State becomes eligible for a grant under this section by adopting or demonstrating to the satisfaction of the Secretary—*

*(A) for the first fiscal year for which the State will receive a grant under this section, at least 1 of the 6 criteria listed in paragraph (2); and*

*(B) for the second, third, and fourth fiscal years for which the State will receive a grant under this section, at least 2 of the 6 criteria listed in paragraph (2).*

*(2) CRITERIA.—The criteria for eligibility for a grant under this section are the following:*

*(A) MOTORCYCLE RIDER TRAINING COURSES.—An effective motorcycle rider training course that is offered throughout the State, provides a formal program of instruction in accident avoidance and other safety-oriented operational skills to motorcyclists and that may include innovative training opportunities to meet unique regional needs.*

*(B) MOTORCYCLISTS AWARENESS PROGRAM.—An effective statewide program to enhance motorist awareness of the presence of motorcyclists on or near roadways and safe driving practices that avoid injuries to motorcyclists.*

*(C) REDUCTION OF FATALITIES AND CRASHES INVOLVING MOTORCYCLES.—A reduction for the preceding calendar year in the number of motorcycle fatalities and the rate of motor vehicle crashes involving motorcycles in the State (expressed as a function of 10,000 motorcycle registrations).*

*(D) IMPAIRED DRIVING PROGRAM.—Implementation of a statewide program to reduce impaired driving, including specific measures to reduce impaired motorcycle operation.*

*(E) REDUCTION OF FATALITIES AND ACCIDENTS INVOLVING IMPAIRED MOTORCYCLISTS.—A reduction for the preceding calendar year in the number of fatalities and the rate of reported crashes involving alcohol- or drug-impaired motorcycle operators (expressed as a function of 10,000 motorcycle registrations).*

*(F) FEES COLLECTED FROM MOTORCYCLISTS.—All fees collected by the State from motorcyclists for the purposes of funding motorcycle training and safety programs will be used for motorcycle training and safety programs.*

*(e) ELIGIBLE USES.—*

*(1) IN GENERAL.—A State may use funds from a grant under this section only for motorcyclist safety training and motorcyclist awareness programs, including—*

*(A) improvements to motorcyclist safety training curricula;*

*(B) improvements in program delivery of motorcycle training to both urban and rural areas, including—*

*(i) procurement or repair of practice motorcycles;*

*(ii) instructional materials;*

*(iii) mobile training units; and*

*(iv) leasing or purchasing facilities for closed-course motorcycle skill training;*

*(C) measures designed to increase the recruitment or retention of motorcyclist safety training instructors; and*

*(D) public awareness, public service announcements, and other outreach programs to enhance driver awareness of motorcyclists, such as the "share-the-road" safety messages developed under subsection (g).*

*(2) SUBALLOCATIONS OF FUNDS.—An agency of a State that receives a grant under this section may suballocate funds from the grant to a nonprofit organization incorporated in that State to carry out under this section.*

*(f) DEFINITIONS.—In this section, the following definitions apply:*

*(1) MOTORCYCLIST SAFETY TRAINING.—The term "motorcyclist safety training" means a formal program of instruction that—*

*(A) is approved for use in a State by the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.*

*(2) MOTORCYCLIST AWARENESS.—The term "motorcyclist awareness" means individual or collective awareness of—*

*(A) the presence of motorcycles on or near roadways; and*

*(B) safe driving practices that avoid injury to motorcyclists.*

*(3) MOTORCYCLIST AWARENESS PROGRAM.—The term "motorcyclist awareness program" means an informational or public awareness program designed to enhance motorcyclist awareness that is developed by or in coordination with the designated State authority having jurisdiction over motorcyclist safety issues, which may include the State motorcycle safety administrator or a motorcycle advisory council appointed by the Governor of the State.*

*(4) STATE.—The term "State" has the same meaning such term has in section 101(a) of title 23, United States Code.*

*(g) SHARE-THE-ROAD MODEL LANGUAGE.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the National Highway Traffic Safety Administration, shall develop and provide to the States model language for use in traffic safety education courses, driver's manuals, and other driver's training materials instructing the drivers of motor vehicles on the importance of sharing the roads safely with motorcyclists.*

### *SEC. 2011. CHILD SAFETY AND CHILD BOOSTER SEAT INCENTIVE GRANTS.*

*(a) GENERAL AUTHORITY.—Subject to the requirements of this section, the Secretary shall make grants to States that are enforcing a law requiring that any child riding in a passenger motor vehicle in the State who is too large to be secured in a child safety seat be secured in a child restraint that meets the requirements prescribed by the Secretary under section 3 of Anton's Law (49 U.S.C. 30127 note; 116 Stat. 2772).*

*(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in a fiscal year unless the State enters into such agreements with the Secretary as the Secretary may require to ensure that the State will maintain its aggregate expenditures from all other sources for child safety seat and child restraint programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this Act.*

*(c) FEDERAL SHARE.—The Federal share of the costs of activities funded using amounts from grants under this section shall not exceed—*

*(1) for the first 3 fiscal years for which a State receives a grant under this section, 75 percent; and*

*(2) for the fourth fiscal year for which a State receives a grant under this section, 50 percent.*

*(d) USE OF GRANT AMOUNTS.—*

*(1) ALLOCATIONS.—Of the amounts received by a State in grants under this section for a fiscal year not more than 50 percent shall be used to fund programs for purchasing and distributing child safety seats and child restraints to low-income families.*

*(2) REMAINING AMOUNTS.—Amounts received by a State in grants under this section, other than amounts subject to paragraph (1), shall be used to carry out child safety seat and and child restraint programs, including the following:*

*(A) A program to support enforcement of child restraint laws.*

*(B) A program to train child passenger safety professionals, police officers, fire and emergency medical personnel, educators, and parents concerning all aspects of the use of child safety seats and and child restraints.*

*(C) A program to educate the public concerning the proper use and installation of child safety seats and and child restraints.*

*(e) Grant Amount.—The amount of a grant to a State for a fiscal year under this section may not exceed 25 percent of the amount apportioned to the State for fiscal year 2003 under section 402 of title 23, United States Code.*

*(f) Applicability of Chapter 1.—The provisions contained in section 402(d) of such title shall apply to this section.*

*(g) Report.—A State that receives a grant under this section shall transmit to the Secretary a report documenting the manner in which the grant amounts were obligated and expended and identifying the specific programs carried out using the grant funds. The report shall be in a form prescribed by the Secretary and may be combined with other State grant reporting requirements under of chapter 4 of title 23, United States Code.*

*(h) Definitions.—In this section, the following definitions apply:*

*(1) Child restraint.—The term "child restraint" means any product designed to provide restraint to a child (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.*

*(2) Child safety seat.—The term "child safety seat" has the meaning such term has in section 405(f) of title 23, United States Code.*

*(3) Passenger motor vehicle.—The term "passenger motor vehicle" has the meaning such term has in section 405(f) of such title.*

*(4) State.—The term "State" has the meaning such term has in section 101(a) of such title.*

### *SEC. 2012. SAFETY DATA.*

*(a) In General.—Using funds made available to carry out section 403 of title 23, United States Code, for fiscal years 2005 through 2009, the Secretary shall collect data and compile statistics on accidents involving motor vehicles being backed up that result in fatalities and injuries and that occur on public and nonpublic roads and residential and commercial driveways and parking facilities.*

*(b) Report.—Not later than January 1, 2009, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on accidents described in subsection (a), including the data collected and statistics compiled under subsection (a) and any recommendations regarding measures to be taken to reduce the number of such accidents and the resulting fatalities and injuries.*

### *SEC. 2013. DRUG-IMPAIRED DRIVING ENFORCEMENT.*

*(a) Illicit Drug.—In this section, the term "illicit drug" includes substances listed in schedules I through V of section 112(e) of the Controlled Substances Act (21 U.S.C. 812) not obtained by a legal and valid prescription.*

*(b) Duties.—The Secretary shall—*

*(1) advise and coordinate with other Federal agencies on how to address the problem of driving under the influence of an illegal drug; and*

*(2) conduct research on the prevention, detection, and prosecution of driving under the influence of an illegal drug.*

*(c) Report.—*

*(1) In general.—Not later than 18 months after the date of enactment of this Act, the Secretary, in cooperation with the National Institutes of Health, shall submit to Congress a report on the problem of drug-impaired driving.*

*(2) Contents.—The report shall include, at a minimum, the following:*

*(A) An assessment of methodologies and technologies for measuring driver impairment resulting from use of the most common illicit drugs (including the use of such drugs in combination with alcohol).*

*(B) Effective and efficient methods for training law enforcement personnel, including drug recognition experts, to detect or measure the level of impairment of a driver who is under the influence of an illicit drug by the use of technology or otherwise.*

*(C) A description of the role of drugs as causal factor in traffic crashes and the extent of the problem of drug-impaired driving.*

*(D) A description and assessment of current State and Federal laws relating to drug-impaired driving.*

*(E) Recommendations for addressing the problem of drug-impaired driving, including recommendations on levels of impairment.*

*(F) Recommendations for developing a model statute relating to drug-impaired driving.*

*(d) Model Statute.—*

*(1) In general.—The Secretary shall develop a model statute for States relating to drug-impaired driving.*

*(2) Contents.—Based on recommendations and findings contained in the report submitted under subsection (c), the model statute may include–*

*(A) threshold levels of impairment for illicit drugs;*

*(B) practicable methods for detecting the presence of illicit drugs; and*

*(C) penalties for drug impaired driving.*

*(3) Date.—The model statute shall be provided to States not later than 1 year after date of submission of the report under subsection (c).*

*(e) Research and Development.—Section 403(b) of title 23, United States Code, is amended by adding at the end the following:*

*"(5) Technology to detect drug use and enable States to efficiently process toxicology evidence.*

*"(6) Research on the effects of illicit drugs and the compound effects of alcohol and illicit drugs on impairment.".*

*(f) Funding.—Out of amounts made available to carry out section 403 of title 23, United States Code, for each of fiscal years 2006 through 2009, the Secretary shall make available $1,200,000 for such fiscal year to carry out this section.*

### *SEC. 2014. FIRST RESPONDER VEHICLE SAFETY PROGRAM.*

*(a) In General.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the National Highway Traffic Safety Administration, should—*

*(1) develop and implement a comprehensive program to promote compliance with State and local laws intended to increase the safe and efficient operation of first responder vehicles;*

*(2) compile a list of best practices by State and local governments to promote compliance with the laws described in paragraph (1);*

*(3) analyze State and local laws intended to increase the safe and efficient operation of first responder vehicles; and*

*(4) develop model legislation to increase the safe and efficient operation of first responder vehicles.*

*(b) Partnerships.—The Secretary may enter into partnerships with qualified organizations to carry out this section.*

*(c) Public Outreach.—The Secretary shall use a variety of public outreach strategies to carry out this section, including public service announcements, publication of informational materials, and posting information on the Internet.*

*(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section for fiscal year 2006.*

### *SEC. 2015. DRIVER PERFORMANCE STUDY.*

*(a) In General.—Using funds made available to carry out section 403 of title 23, United States Code, for fiscal year 2005, the Secretary shall make $1,000,000 available to conduct a study on the risks associated with glare to oncoming drivers, including increased risks to drivers on 2-lane highways, increased risks to drivers over the age of 50, and the overall effects of glare on driver performance.*

*(b) Report.—Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study and any recommendations regarding measures to reduce the risks associated with glare to oncoming drivers.*

### *SEC. 2016. RURAL STATE EMERGENCY MEDICAL SERVICES OPTIMIZATION PILOT PROGRAM.*

*(a) In General.—From funds made available to carry out section 403 of title 23, United States Code, for fiscal year 2006, the Secretary shall make $1,000,000 available to conduct a pilot program for optimizing emergency medical services in a rural State.*

*(b) Collecting Data.—The pilot program shall focus on collecting geo-coded data for highway accidents and resulting injuries, analyzing data to develop injury patterns and distributions, and improving placement and management of emergency medical services resources and personnel.*

*(c) Selection.—The Secretary shall enter into an agreement with the State of Alaska to conduct the pilot program.*

*(d) Report.—Not later than 12 months after the completion of the pilot program, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatices and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the pilot program and recommendations for application to other rural States.*

### *SEC. 2017. OLDER DRIVER SAFETY; LAW ENFORCEMENT TRAINING.*

*(a) Improving Older Driver Safety.—*

*(1) In general.—Of the funds made available to carry out section 403 of title 23, United States Code, the Secretary shall allocate $1,700,000 for each of fiscal years 2006 through 2009 to conduct a comprehensive research and demonstration program to improve traffic safety pertaining to older drivers.*

*(2) Elements of program.—The program shall—*

*(A) provide information and guidelines to assist older drivers, physicians, and other related medical personnel, families, licensing agencies, enforcement officers, and various public and transit agencies in enhancing the safety of older drivers;*

*(B) improve the scientific basis of medical standards and screenings strategies used in the licensing of all drivers in a non-discriminatory manner;*

*(C) conduct field tests to assess the safety benefits and mobility impacts of different driver licensing strategies and driver assessment and rehabilitation methods;*

*(D) assess the value and improve the safety potential of driver retraining courses of particular benefit to older drivers; and*

*(E) conduct other activities to accomplish the objectives of this section.*

*(3) Formulation of plan.—After consultation with affected parties, the Secretary shall formulate an older driver traffic safety plan to guide the design and implementation of the program.*

*(4) Submision of plan to congress.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the plan to the Committee on Transportation and Infrastructure House of Representatives and the*

Committee on Commerce, Science, and Transportation of the Senate.

(b) Law Enforcement Training.—

(1) Requirement for program.—The Secretary shall carry out a program to provide guidance and support to law enforcement agencies in police chase techniques that are consistent with the police chase guidelines issued by the International Association of Chiefs of Police.

(2) Amount for program.—Of the funds made available to carry out section 403 of title 23, United States Code, the Secretary shall allocate $500,000 in each of fiscal years 2006 through 2009 to carry out this subsection.

### SEC. 2018. SAFE INTERSECTIONS.

(a) In General.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:

**"§ 39. Traffic signal preemption transmitters**

"(a) Offenses.—

"(1) Sale.—Whoever, in or affecting interstate or foreign commerce, knowingly sells a traffic signal preemption transmitter to a nonqualifying user shall be fined under this title, or imprisoned not more than 1 year, or both.

"(2) Use.—Whoever, in or affecting interstate or foreign commerce, being a nonqualifying user makes unauthorized use of a traffic signal preemption transmitter shall be fined under this title, or imprisoned not more than 6 months, or both.

"(b) Definitions.—In this section, the following definitions apply:

"(1) Traffic signal preemption transmitter.—The term 'traffic signal preemption transmitter' means any mechanism that can change or alter a traffic signal's phase time or sequence.

"(2) Nonqualifying user.—The term 'nonqualifying user' means a person who uses a traffic signal preemption transmitter and is not acting on behalf of a public agency or private corporation authorized by law to provide fire protection, law enforcement, emergency medical services, transit services, maintenance, or other services for a Federal, State, or local government entity, but does not include a person using a traffic signal preemption transmitter for classroom or instructional purposes.".

(b) Clerical Amendment.—The analysis for such chapter is amended by adding at the end the following:

"39. Traffic signal preemption transmitters.".

### SEC. 2019. NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE TECHNICAL CORRECTION.

Section 404(d) of title 23, United States Code, is amended by striking "Commerce" and inserting "Transportation".

### SEC. 2020. PRESIDENTIAL COMMISSION ON ALCOHOL-IMPAIRED DRIVING.

(a) Findings.—Congress finds that—

(1) there has been considerable progress over the past 25 years in reducing the number and rate of alcohol-related highway facilities;

(2) the National Highway Traffic Safety Administration projects that fatalities in alcohol-related crashes declined in 2003 for the 2nd year in a row;

(3) in spite of this progress, an estimated 17,013 Americans died in 2003, in alcohol-related crashes;

(4) these fatalities comprise 40 percent of the annual total highway fatalities;

(5) about 250,000 are injured each year in alcohol-related crashes;

(6) the past 2 years of decreasing alcohol-related fatalities follows a 3-year increase;

(7) alcohol-impaired driving is the Nation's most frequently committed violent crime;

(8) the annual cost of alcohol-related crashes is over $100,000,000,000, including $9,000,000,000 in costs to employers;

(9) a Presidential Commission on Alcohol Impaired Driving in 1982 and 1983 helped to lead to substantial progress on this issue; and

(10) these facts point to the need to renew the national commitment to preventing these deaths and injuries.

(b) Sense of the Congress.—It is the sense of Congress that, in an effort to further change the culture of alcohol-impaired driving on our Nation's highways, the President should consider establishing a Presidential Commission on Alcohol-Impaired Driving—

(1) comprised of representatives of—

(A) State and local governments, including State legislators;

(B) law enforcement;

(C) traffic safety experts, including researchers;

(D) victims of alcohol-related crashes;

(E) affected industries, including the alcohol, insurance, motorcycle, and auto industries;

(F) the business community;

(G) labor;

(H) the medical community;

(I) public health; and

(J) Members of Congress; and

(2) that not later than September 30, 2006, would—

(A) conduct a full examination of alcohol-impaired driving issues; and

(B) make recommendations for a broad range of policy and program changes that would serve to further reduce the level of deaths and injuries caused by alcohol impaired driving.

### SEC. 2021. SENSE OF THE CONGRESS IN SUPPORT OF INCREASED PUBLIC AWARENESS OF BLOOD ALCOHOL CONCENTRATION LEVELS AND DANGERS OF ALCOHOL-IMPAIRED DRIVING.

(a) Findings.—Congress finds that—

(1) in 2003—

(A) 17,013 Americans died in alcohol-related traffic crashes;

(B) 40 percent of the persons killed in traffic crashes died in alcohol-related crashes; and

(C) drivers with blood alcohol concentration levels over 0.15 were involved in 58 percent of alcohol-related traffic fatalities;

(2) research shows that 77 percent of Americans think they have received enough information about alcohol-impaired driving and the way in which alcohol affects individual blood alcohol levels; and

(3) only 28 percent of the American public can correctly identify the legal limit of blood alcohol concentration of the State in which they reside.

(b) Sense of Congress.—It is the sense of Congress that the National Highway Traffic Safety Administration should work with State and local governments and independent organizations to increase public awareness of—

(1) State legal limits on blood alcohol concentration levels; and

(2) the dangers of alcohol-impaired driving.

### SEC. 2022. EFFECTIVE DATE.

Sections 2002 through 2007 of this title (and the amendments and repeals made by such sections) shall take effect October 1, 2005.

## TITLE III—PUBLIC TRANSPORTATION

### SEC. 3001. SHORT TITLE.

This title may be cited as the "Federal Public Transportation Act of 2005".

### SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY.

(a) Amendments to Title 49.—Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision of law, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

(b) Updated Terminology.—Chapter 53 is amended—

(1) in the chapter heading by striking "**MASS**" and inserting "**PUBLIC**";

(2) in section 5310(h) by striking "Mass" and inserting "Public";

(3) in the subsection heading for section 5331(b) by striking "MASS" and inserting "PUBLIC"; and

(4) by striking "mass" each place the term appears before "transportation" and inserting "public", except in sections 5301(f), 5302(a)(7), 5315, and 5323(a)(1).

(c) Table of Chapters.—The table of chapters for subtitle III is amended in the item relating to chapter 53 by striking "**Mass**" and inserting "**Public**".

### SEC. 3003. POLICIES, FINDINGS, AND PURPOSES.

(a) In General.—Section 5301(a) is amended to read as follows:

"(a) Development and Revitalization of Public Transportation Systems.—It is in the interest of the United States, including its economic interest, to foster the development and revitalization of public transportation systems that—

"(1) maximize the safe, secure, and efficient mobility of individuals;

"(2) minimize environmental impacts; and

"(3) minimize transportation-related fuel consumption and reliance on foreign oil.".

(b) General Findings.—Section 5301(b)(1) is amended—

(1) by striking "70 percent" and inserting "two-thirds"; and

(2) by striking "urban areas" and inserting "urbanized areas".

(c) Preserving the Environment.—Section 5301(e) is amended—

(1) by striking "an urban" and inserting "a"; and

(2) by striking "under sections 5309 and 5310 of this title".

(d) General Purposes.—Section 5301(f) is amended—

(1) in paragraph (1)—

(A) by striking "mass" the first place it appears and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "both public transportation companies and private companies engaged in public transportation";

(2) in paragraph (2)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public and private mass transportation companies" and inserting "both public transportation companies and private companies engaged in public transportation";

(3) in paragraph (3)—

(A) by striking "urban mass" and inserting "public"; and

(B) by striking "public or private mass transportation companies" and inserting "public transportation companies or private companies engaged in public transportation"; and

(4) in paragraph (5) by striking "urban mass" and inserting "public".

### SEC. 3004. DEFINITIONS.

(a) Lead-in.—Section 5302(a) is amended in the matter preceding paragraph (1) by striking "In this chapter" and inserting "Except as otherwise specifically provided, in this chapter".

(b) Capital Project.—Section 5302(a)(1) is amended—

(1) in subparagraph (G) by inserting "construction, renovation, and improvement of intercity bus and intercity rail stations and terminals," before "and the renovation and improvement of historic transportation facilities,";

(2) in subparagraph (G)(ii) by inserting "(other than an intercity bus station or terminal)" after "commercial revenue-producing facility";

(3) in subparagraph (H) by striking "or" at the end;

(4) in subparagraph (I) by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

"(J) crime prevention and security—

"(i) including—

"(I) projects to refine and develop security and emergency response plans;

"(II) projects aimed at detecting chemical and biological agents in public transportation;

"(III) the conduct of emergency response drills with public transportation agencies and local first response agencies; and

"(IV) security training for public transportation employees; but

"(ii) excluding all expenses related to operations, other than such expenses incurred in conducting activities described in clauses (i)(III) and (i)(IV);

"(K) establishing a debt service reserve, made up of deposits with a bondholder's trustee, to ensure the timely payment of principal and interest on bonds issued by a grant recipient to finance an eligible project under this chapter; or

"(L) mobility management—

"(i) consisting of short-range planning and management activities and projects for improving coordination among public transportation and other transportation service providers carried out by a recipient or subrecipient through an agreement entered into with a person, including a governmental entity, under this chapter (other than section 5309); but

"(ii) excluding operating public transportation services.".

(c) Individual With a Disability.—Section 5302(a)(5) is amended—

(1) in the paragraph heading by striking "HANDICAPPED INDIVIDUAL" and inserting "INDIVIDUAL WITH A DISABILITY"; and

(2) by striking "handicapped individual" and inserting "individual with a disability".

(d) Mass Transportation.—Section 5302(a)(7) is amended to read as follows:

"(7) Mass transportation.—The term 'mass transportation' means public transportation.".

(e) Public Transportation.—Section 5302(a)(10) is amended to read as follows:

"(10) Public transportation.—The term 'public transportation' means transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, or intercity bus transportation or intercity passenger rail transportation provided by the entity described in chapter 243 (or a successor to such entity).".

(f) Urbanized Area.—Section 5302(a)(17) is amended to read as follows:

"(17) Urbanized area.—The term 'urbanized area' means an area encompassing a population of not less than 50,000 people that has been defined and designated in the most recent decennial census as an 'urbanized area' by the Secretary of Commerce.".

(g) Authority to Modify Definition.—Section 5302(b) is amended—

(1) in the subsection heading by striking "HANDICAPPED INDIVIDUAL" and inserting "INDIVIDUAL WITH A DISABILITY"; and

(2) by striking "handicapped individual" and inserting "individual with a disability".

**SEC. 3005. METROPOLITAN TRANSPORTATION PLANNING.**

(a) In General.—Section 5303 is amended to read as follows:

**"§5303. Metropolitan transportation planning**

"(a) Policy.—It is in the national interest to—

"(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and

"(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 5304(d).

"(b) Definitions.—In this section and section 5304, the following definitions apply:

"(1) Metropolitan planning area.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).

"(2) Metropolitan planning organization.—The term 'metropolitan planning organization' means the policy board of an organization created as a result of the designation process in subsection (d).

"(3) Nonmetropolitan area.—The term 'nonmetropolitan area' means a geographic area outside a designated metropolitan planning area.

"(4) Nonmetropolitan local official.—The term 'nonmetropolitan local official' means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.

"(5) TIP.—The term 'TIP' means a transportation improvement program developed by a metropolitan planning organization under subsection (j).

"(6) Urbanized area.—The term 'urbanized area' means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.

"(c) General Requirements.—

"(1) Development of long-range plans and TIPs.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.

"(2) Contents.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.

"(3) Process of development.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.

"(d) Designation of Metropolitan Planning Organizations.—

"(1) In general.—To carry out the transportation planning process required by this section, a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—

"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or

"(B) in accordance with procedures established by applicable State or local law.

"(2) Structure.—Each metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—

"(A) local elected officials;

"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and

"(C) appropriate State officials.

"(3) Limitation on statutory construction.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—

"(A) develop the plans and TIPs for adoption by a metropolitan planning organization; and

"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.

"(4) Continuing designation.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).

"(5) Redesignation procedures.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.

"(6) Designation of more than 1 metropolitan planning organization.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.

"(e) Metropolitan Planning Area Boundaries.—

"(1) In general.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.

"(2) Included area.—Each metropolitan planning area—

"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and

"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.

"(3) Identification of new urbanized areas within existing planning area boundaries.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.

"(4) Existing metropolitan planning areas in nonattainment.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the Federal Public Transportation Act of 2005, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained; except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).

"(5) New metropolitan planning areas in nonattainment.—In the case of an urbanized area designated after the date of enactment of *the Federal Public Transportation Act of 2005 as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—*

*"(A) shall be established in the manner described in subsection (d)(1);*

*"(B) shall encompass the areas described in paragraph (2)(A);*

*"(C) may encompass the areas described in paragraph (2)(B); and*

*"(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.*

*"(f) Coordination in Multistate Areas.—*

*"(1) In general.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.*

*"(2) Interstate compacts.—The consent of Congress is granted to any 2 or more States—*

*"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and*

*"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.*

*"(3) Lake Tahoe region.—*

*"(A) Definition.—In this paragraph, the term 'Lake Tahoe region' has the meaning given the term 'region' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).*

*"(B) Transportation planning process.—The Secretary shall—*

*"(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and*

*"(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 5304.*

*"(C) Interstate compact.—*

*"(i) In general.—Subject to clause (ii), and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.*

*"(ii) Involvement of federal land management agencies.—*

*"(I) Representation.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.*

*"(II) Funding.—In addition to funds made available to the metropolitan planning organization for the Lake Tahoe region under other provisions of this chapter and title 23, 1 percent of the funds allocated under section 202 of title 23 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.*

*"(D) Activities.—Highway projects included in transportation plans developed under this paragraph—*

*"(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and*

*"(ii) may, in accordance with chapter 2 of title 23, be funded using funds allocated under section 202 of such title.*

*"(4) Reservation of rights.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.*

*"(g) MPO Consultation in Plan and TIP Coordination.—*

*"(1) Nonattainment areas.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.*

*"(2) Transportation improvements located in multiple MPOs.—If a transportation improvement, funded from the Highway Trust Fund or authorized under this chapter, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.*

*"(3) Relationship with other planning officials.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—*

*"(A) recipients of assistance under this chapter;*

*"(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide nonemergency transportation services; and*

*"(C) recipients of assistance under section 204 of title 23.*

*"(h) Scope of Planning Process.—*

*"(1) In general.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—*

*"(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;*

*"(B) increase the safety of the transportation system for motorized and nonmotorized users;*

*"(C) increase the security of the transportation system for motorized and nonmotorized users;*

*"(D) increase the accessibility and mobility of people and for freight;*

*"(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;*

*"(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;*

*"(G) promote efficient system management and operation; and*

*"(H) emphasize the preservation of the existing transportation system.*

*"(2) Failure to consider factors.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.*

*"(i) Development of Transportation Plan.—*

*"(1) In general.—Each metropolitan planning organization shall prepare a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:*

*"(A) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).*

*"(B) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).*

*In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.*

*"(2) Transportation plan.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:*

*"(A) Identification of transportation facilities.—An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as such factors relate to a 20-year forecast period.*

*"(B) Mitigation activities.—*

*"(i) In general.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.*

*"(ii) Consultation.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.*

*"(C) Financial plan.—A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.*

*"(D) Operational and management strategies.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.*

*"(E) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.*

*"(F) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.*

*"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.*

*"(4) CONSULTATION.—*

*"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.*

*"(B) ISSUES.—The consultation shall involve, as appropriate—*

*"(i) comparison of transportation plans with State conservation plans or maps, if available; or*

*"(ii) comparison of transportation plans to inventories of natural or historic resources, if available.*

*"(5) PARTICIPATION BY INTERESTED PARTIES.—*

*"(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.*

*"(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—*

*"(i) shall be developed in consultation with all interested parties; and*

*"(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.*

*"(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—*

*"(i) hold any public meetings at convenient and accessible locations and times;*

*"(ii) employ visualization techniques to describe plans; and*

*"(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).*

*"(6) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.*

*"(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(C).*

*"(j) METROPOLITAN TIP.—*

*"(1) DEVELOPMENT.—*

*"(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the area for which the organization is designated.*

*"(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).*

*"(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.*

*"(D) UPDATING AND APPROVAL.—The TIP shall be updated at least once every 4 years and shall be approved by the metropolitan planning organization and the Governor.*

*"(2) CONTENTS.—*

*"(A) PRIORITY LIST.—The TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.*

*"(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—*

*"(i) demonstrates how the TIP can be implemented;*

*"(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;*

*"(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and*

*"(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.*

*"(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.*

*"(3) INCLUDED PROJECTS.—*

*"(A) PROJECTS UNDER THIS CHAPTER AND TITLE 23.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under this chapter and chapter 1 of title 23.*

*"(B) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—*

*"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.*

*"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.*

*"(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.*

*"(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.*

*"(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).*

*"(5) SELECTION OF PROJECTS.—*

*"(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved TIP—*

*"(i) by—*

*"(I) in the case of projects under title 23, the State; and*

*"(II) in the case of projects under this chapter, the designated recipients of public transportation funding; and*

*"(ii) in cooperation with the metropolitan planning organization.*

*"(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.*

*"(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—*

*"(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).*

*"(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.*

*"(7) PUBLICATION.—*

*"(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.*

*"(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the TIP.*

*"(C) RULEMAKING.—Not later than 180 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations setting standards for the listing required by subparagraph (B) and specifying the types of data to be included in such list, including sufficient information about each project to identify its type, location, and amount obligated.*

*"(k) TRANSPORTATION MANAGEMENT AREAS.—*

*"(1) IDENTIFICATION AND DESIGNATION.—*

*"(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.*

*"(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.*

*"(2) TRANSPORTATION PLANS.—In a metropolitan planning area serving a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.*

*"(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a*

*transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this chapter and title 23 through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than one year after the identification of a transportation management area.*

*"(4) SELECTION OF PROJECTS.—*

*"(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under title 23 (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under this chapter shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.*

*"(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under title 23 shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.*

*"(5) CERTIFICATION.—*

*"(A) IN GENERAL.—The Secretary shall—*

*"(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and*

*"(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.*

*"(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—*

*"(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and*

*"(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.*

*"(C) EFFECT OF FAILURE TO CERTIFY.—*

*"(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this chapter and title 23.*

*"(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.*

*"(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.*

*"(l) ABBREVIATED PLANS FOR CERTAIN AREAS.—*

*"(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.*

*"(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act.*

*"(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—*

*"(1) IN GENERAL.—Notwithstanding any other provisions of this chapter or title 23, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.*

*"(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).*

*"(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this chapter or title 23.*

*"(o) FUNDING.—Funds set aside under section 5305(g) of this title or section 104(f) of title 23 shall be available to carry out this section.*

*"(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under such Act.".*

*(b) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States and metropolitan planning organizations. The Secretary shall not require a State or metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Beginning July 1, 2007, State or metropolitan planning organization plan or program updates shall reflect changes made by this section.*

*(c) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5303 and inserting the following:*

*"5303. Metropolitan transportation planning.".*

***SEC. 3006. STATEWIDE TRANSPORTATION PLANNING.***

*(a) IN GENERAL.—Section 5304 is amended to read as follows:*

***"§ 5304. Statewide transportation planning***

*"(a) GENERAL REQUIREMENTS.—*

*"(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 5303(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State, subject to section 5303.*

*"(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.*

*"(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 5303(a), and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.*

*"(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—*

*"(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 5303 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and*

*"(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).*

*"(c) INTERSTATE AGREEMENTS.—*

*"(1) IN GENERAL.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.*

*"(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.*

*"(d) SCOPE OF PLANNING PROCESS.—*

*"(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—*

*"(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;*

*"(B) increase the safety of the transportation system for motorized and nonmotorized users;*

*"(C) increase the security of the transportation system for motorized and nonmotorized users;*

*"(D) increase the accessibility and mobility of people and freight;*

*"(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;*

*"(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;*

*"(G) promote efficient system management and operation; and*

*"(H) emphasize the preservation of the existing transportation system.*

*"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this chapter, title 23, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation*

*plan, the transportation improvement program, a project or strategy, or the certification of a planning process.*

*“(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—*

*“(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;*

*“(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and*

*“(3) coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.*

*“(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—*

*“(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.*

*“(2) CONSULTATION WITH GOVERNMENTS.—*

*“(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.*

*“(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.*

*“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.*

*“(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—*

*“(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.*

*“(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.*

*“(3) PARTICIPATION BY INTERESTED PARTIES.—*

*“(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan.*

*“(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—*

*“(i) hold any public meetings at convenient and accessible locations and times;*

*“(ii) employ visualization techniques to describe plans; and*

*“(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).*

*“(4) MITIGATION ACTIVITIES.—*

*“(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.*

*“(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.*

*“(5) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.*

*“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).*

*“(7) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.*

*“(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.*

*“(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—*

*“(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program for all areas of the State. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.*

*“(2) CONSULTATION WITH GOVERNMENTS.—*

*“(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 5303.*

*“(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.*

*“(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.*

*“(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.*

*“(4) INCLUDED PROJECTS.—*

*“(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.*

*“(B) LISTING OF PROJECTS.—An annual listing of projects for which funds have been obligated in the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.*

*“(C) PROJECTS UNDER CHAPTER 2 OF TITLE 23.—*

*“(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 of title 23 shall be identified individually in the transportation improvement program.*

*“(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 of title 23 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.*

*“(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—*

*“(i) consistent with the statewide transportation plan developed under this section for the State;*

*“(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and*

*“(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act, if the project is carried out in an area designated as nonattainment for ozone, particulate matter, or carbon monoxide under that Act.*

*“(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.*

*“(F) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.*

*“(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—*

*“(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).*

*“(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.*

*“(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this chapter and title 23.*

*“(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in*

areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317 of this title) by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under title 23 or sections 5310, 5311, 5316, and 5317 of this title shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.

"(6) Transportation Improvement Program Approval.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.

"(7) Planning Finding.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 5303.

"(8) Modifications to Project Priority.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.

"(h) Funding.—Funds set aside pursuant to section 5305(g) of this title and section 104(i) of title 23 shall be available to carry out this section.

"(i) Treatment of Certain State Laws as Congestion Management Processes.—For purposes of this section and section 5303, and sections 134 and 135 of title 23, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 5303, and sections 134 and 135 of title 23, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section, section 5303, and sections 134 and 135 of title 23, as appropriate.

"(j) Continuation of Current Review Practice.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under such Act.".

(b) Schedule for Implementation.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States and metropolitan planning organizations. The Secretary shall not require a State or metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Beginning July 1, 2007, State or metropolitan planning organization plan or program updates shall reflect changes made by this section.

(c) Chapter Analysis.—The analysis for chapter 53 is amended by striking the item relating to section 5304 and inserting the following:

"5304. Statewide transportation planning.".

**SEC. 3007. PLANNING PROGRAMS.**

(a) In General.—Section 5305 is amended to read as follows:

**"§ 5305. Planning programs**

"(a) State Defined.—In this section, the term 'State' means a State of the United States, the District of Columbia, and Puerto Rico.

"(b) General Authority.—

"(1) Grants and Agreements.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities, and make agreements with other departments, agencies, or instrumentalities of the Government to—

"(A) develop transportation plans and programs;

"(B) plan, engineer, design, and evaluate a public transportation project; and

"(C) conduct technical studies relating to public transportation.

"(2) Eligible Activities.—Activities eligible under paragraph (1) include the following:

"(A) Studies related to management, planning, operations, capital requirements, and economic feasibility.

"(B) Evaluating previously financed projects.

"(C) Peer reviews and exchanges of technical data, information, assistance, and related activities in support of planning and environmental analyses among metropolitan planning organizations and other transportation planners.

"(D) Other similar and related activities preliminary to and in preparation for constructing, acquiring, or improving the operation of facilities and equipment.

"(c) Purpose.—To the extent practicable, the Secretary shall ensure that amounts appropriated or made available under section 5338 to carry out this section and sections 5303, 5304, and 5306 are used to support balanced and comprehensive transportation planning that considers the relationships among land use and all transportation modes, without regard to the programmatic source of the planning amounts.

"(d) Metropolitan Planning Program.—

"(1) Apportionment to States.—

"(A) In general.—The Secretary shall apportion 80 percent of the amounts made available under subsection (g)(1) among the States to carry out sections 5303 and 5306 in the ratio that—

"(i) the population of urbanized areas in each State, as shown by the latest available decennial census of population; bears to

"(ii) the total population of urbanized areas in all States, as shown by that census.

"(B) Minimum Apportionment.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

"(2) Allocation to MPO's.—Amounts apportioned to a State under paragraph (1) shall be made available, not later than 30 days after the date of apportionment, to metropolitan planning organizations in the State designated under this section under a formula that—

"(A) considers population of urbanized areas;

"(B) provides an appropriate distribution for urbanized areas to carry out the cooperative processes described in this section;

"(C) the State develops in cooperation with the metropolitan planning organizations; and

"(D) the Secretary approves.

"(3) Supplemental Amounts.—

"(A) In general.—The Secretary shall apportion 20 percent of the amounts made available under subsection (g)(1) among the States to supplement allocations made under paragraph (1) for metropolitan planning organizations.

"(B) Formula.—The Secretary shall apportion amounts referred to in subparagraph (A) under a formula that reflects the additional cost of carrying out planning, programming, and project selection responsibilities under sections 5303 and 5306 in certain urbanized areas.

"(e) State Planning and Research Program.—

"(1) Apportionment to States.—

"(A) In general.—The Secretary shall apportion the amounts made available under subsection (g)(2) among the States for grants and contracts to carry out this section and sections 5304, 5306, 5315, and 5322 in the ratio that—

"(i) the population of urbanized areas in each State, as shown by the latest available decennial census; bears to

"(ii) the population of urbanized areas in all States, as shown by that census.

"(B) Minimum Apportionment.—Notwithstanding subparagraph (A), a State may not receive less than 0.5 percent of the amount apportioned under this paragraph.

"(2) Supplemental Amounts.—A State, as the State considers appropriate, may authorize part of the amount made available under this subsection to be used to supplement amounts made available under subsection (d).

"(f) Government's Share of Costs.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity unless the Secretary determines that it is in the interests of the Government not to require a State or local match.

"(g) Allocation of Funds.—Of the funds made available by or appropriated to carry out this section under section 5338(c) for fiscal years 2005 through 2009—

"(1) 82.72 percent shall be available for the metropolitan planning program under subsection (d); and

"(2) 17.28 percent shall be available to carry out subsection (e).

"(h) Availability of Funds.—Funds apportioned under this section to a State that have not been obligated in the 3-year period beginning after the last day of the fiscal year for which the funds are authorized shall be reapportioned among the States.".

(b) Chapter Analysis.—The analysis for chapter 53 is amended by striking the item relating to section 5305 and inserting the following:

"5305. Planning programs.".

**SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION.**

Section 5306(a) is amended by inserting ", as determined by local policies, criteria, and decisionmaking," after "feasible".

**SEC. 3009. URBANIZED AREA FORMULA GRANTS.**

(a) Technical Amendments.—Section 5307 is amended—

(1) by striking subsections (h), (j) and (k); and

(2) by redesignating subsections (i), (l), (m), and (n) as subsections (h), (i), (j), and (k), respectively.

(b) Definitions.—

(1) Associated Capital Maintenance Items.—Section 5307(a)(1) is amended—

(A) by striking "means equipment, tires," and inserting "means—

"(A) equipment, tires,";

(B) in subparagraph (A) (as so designated) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(B) reconstruction of equipment and material, each of which after reconstruction will have a fair market value of at least .5 percent of *the current fair market value of rolling stock comparable to the rolling stock for which the equipment and material will be used.''.*

*(2) Designated recipient.—Section 5307(a)(2)(A) is amended to read as follows:*

*''(A) an entity designated, in accordance with the planning process under sections 5303, 5304, and 5306, by the chief executive officer of a State, responsible local officials, and publicly owned operators of public transportation, to receive and apportion amounts under section 5336 that are attributable to transportation management areas identified under section 5303; or''.*

*(c) General Authority.—Section 5307(b) is amended—*

*(1) by striking paragraph (1) and inserting the following:*

*''(1) Grants.—The Secretary may make grants under this section for—*

*''(A) capital projects and associated capital maintenance items;*

*''(B) planning;*

*''(C) transit enhancements;*

*''(D) operating costs of equipment and facilities for use in public transportation in an urbanized area with a population of less than 200,000;*

*''(E) operating costs of equipment and facilities for use in public transportation in a portion or portions of an urbanized area with a population of at least 200,000, but not more than 225,000, if—*

*''(i) the urbanized area includes parts of more than one State;*

*''(ii) the portion of the urbanized area includes only one State;*

*''(iii) the population of the portion of the urbanized area is less than 30,000; and*

*''(iv) the grants will not be used to provide public transportation outside of the portion of the urbanized area; and*

*''(F) operating costs of equipment and facilities for use in public transportation for local governmental authorities in areas which adopted transit operating and financing plans that became a part of the Houston, Texas, urbanized area as a result of the 2000 decennial census of population, but lie outside the service area of the principal public transportation agency that serves the Houston urbanized area.'';*

*(2) by striking paragraph (2) and inserting the following:*

*''(2) Special rule for fiscal years 2005 through 2007.—*

*''(A) Increased flexibility.—The Secretary may award grants under this section, from funds made available to carry out this section for each of the fiscal years 2005 through 2007, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000, as determined by the 2000 decennial census of population, if—*

*''(i) the urbanized area had a population of less than 200,000, as determined by the 1990 decennial census of population;*

*''(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000, as determined by the 1990 decennial census of population;*

*''(iii) the area was not designated as an urbanized area, as determined by the 1990 decennial census of population; or*

*''(iv) a portion of the area was not designated as an urbanized area, as determined by the 1990 decennial census, and received assistance under section 5311 in fiscal year 2002.*

*''(B) Maximum amounts in fiscal year 2005.—In fiscal year 2005—*

*''(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;*

*''(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than the amount apportioned to the urbanized area under this section for fiscal year 2003; and*

*''(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than the amount the portion of the area received under section 5311 for fiscal year 2002.*

*''(C) Maximum amounts in fiscal year 2006.—In fiscal year 2006—*

*''(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 50 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;*

*''(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 50 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and*

*''(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less 50 percent of the amount the portion of the area received under section 5311 for fiscal year 2002.*

*''(D) Maximum amounts in fiscal year 2007.—In fiscal year 2007—*

*''(i) amounts made available to any urbanized area under clause (i) or (ii) of subparagraph (A) shall be not more than 25 percent of the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000, as determined in the 1990 decennial census of population;*

*''(ii) amounts made available to any urbanized area under subparagraph (A)(iii) shall be not more than 25 percent of the amount apportioned to the urbanized area under this section for fiscal year 2003; and*

*''(iii) each portion of any area not designated as an urbanized area, as determined by the 1990 decennial census, and eligible to receive funds under subparagraph (A)(iv), shall receive an amount of funds to carry out this section that is not less than 25 percent of the amount the portion of the area received under section 5311 in fiscal year 2002.''; and*

*(3) by striking paragraph (4).*

*(d) Grant Recipient Requirements.—Section 5307(d)(1) is amended—*

*(1) in subparagraph (A) by inserting '', including safety and security aspects of the program'' after ''program'';*

*(2) in subparagraph (E)—*

*(A) by striking ''and'' at the end of clause (ii);*

*(B) by inserting ''and'' at the end of clause (iii); and*

*(C) by adding at the end the following:*

*''(iv) will comply with sections 5323 and 5325;'';*

*(3) in subparagraph (H) by striking ''sections 5301(a) and (d), 5303–5306, and 5310(a)–(d) of this title'' and inserting ''section 5301(a), section 5301(d), and sections 5303 through 5306'';*

*(4) in subparagraph (I) by striking ''and'' at the end;*

*(5) by adding at the end the following:*

*''(K) in the case of a recipient for an urbanized area with a population of at least 200,000—*

*''(i) will expend not less than 1 percent of the amount the recipient receives each fiscal year under this section for transit enhancements, as defined in section 5302(a); and*

*''(ii) will submit an annual report listing projects carried out in the preceding fiscal year with those funds; and''.*

*(e) Government's Share of Costs.—Section 5307(e) is amended to read as follows:*

*''(e) Government's Share of Costs.—*

*''(1) Capital projects.—A grant for a capital project (including associated capital maintenance items) under this section shall be for 80 percent of the net project cost of the project. The recipient may provide additional local matching amounts.*

*''(2) Operating expenses.—A grant for operating expenses under this section may not exceed 50 percent of the net project cost of the project.*

*''(3) Remaining costs.—Subject to paragraph (4), the remainder of the net project cost shall be provided—*

*''(A) in cash from non-Government sources other than revenues from providing public transportation services;*

*''(B) from revenues derived from the sale of advertising and concessions;*

*''(C) from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital; and*

*''(D) from amounts received under a service agreement with a State or local social service agency or private social service organization.*

*''(4) Use of certain funds.—The prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to the remainder.''.*

*(f) Undertaking Projects in Advance.—Section 5307(g) is amended by striking paragraph (4).*

*(g) Relationship to Other Laws.—Section 5307(k) (as redesignated by subsection (a)(2) of this section) is amended to read as follows:*

*''(k) Relationship to Other Laws.—*

*''(1) Applicable provisions.—Sections 5301, 5302, 5303, 5304, 5306, 5315(c), 5318, 5319, 5323, 5325, 5327, 5329, 5330, 5331, 5332, 5333, and 5335 apply to this section and to any grant made under this section.*

*''(2) Inapplicable provisions.—*

*''(A) In general.—Except as provided by this section, no other provision of this chapter applies to this section or to a grant made under this section.*

*''(B) Title 5.—The provision of assistance under this chapter shall not be construed as bringing within the application of chapter 15 of title 5 any nonsupervisory employee of a public transportation system (or any other agency or entity performing related functions) to which such chapter is otherwise inapplicable.''.*

*(h) Treatment.—Section 5307 is amended by adding at the end the following:*

*''(l) Treatment.—For the purposes of this section, the United States Virgin Islands shall be treated as an urbanized area, as defined in section 5302.''.*

*(i) Contracted Paratransit Pilot.—*

*(1) In general.—Notwithstanding section 5302(a)(1)(I) of title 49, United States Code, for fiscal years 2005 through 2009, a recipient of assistance under section 5307 of such title in urbanized areas with a population of 558,329 or 747,003 according to the 2000 decennial census of population may use not more than 20 percent of such recipient's annual formula apportionment under section 5307 of such title for the provision of nonfixed route paratransit services in accordance with section 223 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12143), but only if the grant recipient is in compliance with applicable requirements of that Act, including both fixed route and demand responsive service and the service is acquired by contract.*

*(2) Report.—Not later than January 1, 2009, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate*

a report on the implementation of this subsection and any recommendations of the Secretary regarding the application of this subsection.

### SEC. 3010. CLEAN FUELS GRANT PROGRAM.

(a) In General.—Section 5308 is amended to read as follows:

#### "§5308. Clean fuels grant program

"(a) Definitions.—In this section, the following definitions apply:

"(1) Clean fuel bus.—The term 'clean fuel bus' means a passenger vehicle used to provide public transportation that—

"(A) is powered by—

"(i) compressed natural gas;

"(ii) liquefied natural gas;

"(iii) biodiesel fuels;

"(iv) batteries;

"(v) alcohol-based fuels;

"(vi) hybrid electric;

"(vii) fuel cell;

"(viii) clean diesel, to the extent allowed under this section; or

"(ix) other low or zero emissions technology; and

"(B) the Administrator of the Environmental Protection Agency has certified sufficiently reduces harmful emissions.

"(2) Eligible project.—The term 'eligible project'—

"(A) means a project in a nonattainment or maintenance area described in paragraph (4)(A) for—

"(i) purchasing or leasing clean fuel buses, including buses that employ a lightweight composite primary structure;

"(ii) constructing or leasing clean fuel buses or electrical recharging facilities and related equipment for such buses; or

"(iii) constructing new or improving existing public transportation facilities to accommodate clean fuel buses; and

"(B) at the discretion of the Secretary, may include a project located in a nonattainment or maintenance area described in paragraph (4)(A) relating to clean fuel, biodiesel, hybrid electric, or zero emissions technology buses that exhibit equivalent or superior emissions reductions to existing clean fuel or hybrid electric technologies.

"(3) Maintenance area.—The term 'maintenance area' has the meaning such term has under section 101 of title 23.

"(4) Recipient.—

"(A) In general.—The term 'recipient' means a designated recipient (as defined in section 5307(a)(2)) for an area that, and a recipient for an urbanized area with a population of less than 200,000 that—

"(i) is designated as a nonattainment area for ozone or carbon monoxide under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

"(ii) is a maintenance area for ozone or carbon monoxide.

"(B) Smaller urbanized areas.—In the case of an urbanized area with a population of less than 200,000, the State in which the area is located shall act as the recipient for the area under this section.

"(b) Authority.—The Secretary shall make grants in accordance with this section to recipients to finance eligible projects.

"(c) Clean Diesel Buses.—Not more than 25 percent of the amount made available by or appropriated under section 5338 in each fiscal year to carry out this section may be made available to fund clean diesel buses.

"(d) Grant Requirements.—

"(1) In general.—A grant under this section shall be subject to the requirements of section 5307.

"(2) Government's share of costs for certain projects.—Section 5323(i) applies to projects carried out under this section.

"(e) Availability of Funds.—Any amount made available or appropriated under this section—

"(1) shall remain available to a project for 2 years after the fiscal year for which the amount is made available or appropriated; and

"(2) that remains unobligated at the end of the period described in paragraph (1) shall be added to the amount made available in the following fiscal year.".

(b) Conforming Amendment.—The analysis for chapter 53 is amended by striking the item relating to section 5308 and inserting the following:

"5308. Clean fuels grant program.".

### SEC. 3011. CAPITAL INVESTMENT GRANTS.

(a) In General.—Section 5309 is amended to read as follows:

#### "§5309. Capital investment grants

"(a) Definitions.—In this section, the following definitions apply:

"(1) Alternatives analysis.—The term 'alternatives analysis' means a study conducted as part of the transportation planning process required under sections 5303 and 5304, which includes—

"(A) an assessment of a wide range of public transportation alternatives designed to address a transportation problem in a corridor or subarea;

"(B) sufficient information to enable the Secretary to make the findings of project justification and local financial commitment required under this section;

"(C) the selection of a locally preferred alternative; and

"(D) the adoption of the locally preferred alternative as part of 'the long-range transportation plan required under section 5303.

"(2) Major new fixed guideway capital project.—The term 'major new fixed guideway capital project' means a new fixed guideway capital project for which the Federal assistance provided or to be provided under this section is $75,000,000 or more.

"(3) New fixed guideway capital project.—The term 'new fixed guideway capital project' means a minimum operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system.

"(b) General Authority.—The Secretary may make grants under this section to assist State and local governmental authorities in financing—

"(1) new fixed guideway capital projects under subsections (d) and (e), including the acquisition of real property, the initial acquisition of rolling stock for the systems, the acquisition of rights of way, and relocation, for fixed guideway corridor development for projects in the advanced stages of alternatives analysis or preliminary engineering;

"(2) capital projects to modernize existing fixed guideway systems;

"(3) capital projects to replace, rehabilitate, and purchase buses and related equipment and to construct bus-related facilities, including programs of bus and bus-related projects for assistance to subrecipients that are public agencies, private companies engaged in public transportation, or private nonprofit organizations; and

"(4) the development of corridors to support new fixed guideway capital projects under subsections (d) and (e), including protecting rights of way through acquisition, construction of dedicated bus and high occupancy vehicle lanes and park and ride lots, and other nonvehicular capital improvements that the Secretary may decide would result in increased public transportation usage in the corridor.

"(c) Grant Requirements.—

"(1) In general.—The Secretary may not approve a grant for a project under this section unless the Secretary determines that—

"(A) the project is part of an approved transportation plan and program of projects required under sections 5303, 5304, and 5306; and

"(B) the applicant has, or will have—

"(i) the legal, financial, and technical capacity to carry out the project, including safety and security aspects of the project;

"(ii) satisfactory continuing control over the use of the equipment or facilities; and

"(iii) the capability and willingness to maintain the equipment or facilities.

"(2) Certification.—An applicant that has submitted the certifications required under subparagraphs (A), (B), (C), and (H) of section 5307(d)(1) shall be deemed to have provided sufficient information upon which the Secretary may make the determinations required under this subsection.

"(3) Grantee requirements.—The Secretary shall require that any grant awarded under this section to a recipient be subject to all terms, conditions, requirements, and provisions that the Secretary determines to be necessary or appropriate for the purposes of this section, including requirements for the disposition of net increases in the value of real property resulting from the project assisted under this section.

"(d) Major Capital Investment Grants of $75,000,000 or More.—

"(1) Full funding grant agreement.—

"(A) In general.—A major new fixed guideway capital project shall be carried out through a full funding grant agreement.

"(B) Criteria.—The Secretary shall enter into a full funding grant agreement, based on the evaluations and ratings required under this subsection, with each grantee receiving assistance for a major new fixed guideway capital project that—

"(i) is authorized for final design and construction; and

"(ii) has been rated as medium, medium-high, or high, in accordance with paragraph (5)(B).

"(2) Approval of grants.—The Secretary may approve a grant under this section for a major new fixed guideway capital project only if the Secretary, based upon evaluations and considerations set forth in paragraph (3), determines that the project is—

"(A) based on the results of an alternatives analysis and preliminary engineering;

"(B) justified based on a comprehensive review of its mobility improvements, environmental benefits, cost effectiveness, operating efficiencies, economic development effects, and public transportation supportive land use policies and future patterns; and

"(C) supported by an acceptable degree of local financial commitment (including evidence of stable and dependable financing sources) to construct, maintain, and operate the system or extension, and maintain and operate the entire public transportation system without requiring a reduction in existing public transportation services or level of service to operate the proposed project.

"(3) Evaluation of project justification.—In making the determinations under paragraph (2)(B) for a major capital investment grant, the Secretary shall analyze, evaluate, and consider—

"(A) the results of the alternatives analysis and preliminary engineering for the proposed project;

"(B) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;

"(C) the direct and indirect costs of relevant alternatives;

"(D) factors such as—

"(i) congestion relief;

"(ii) improved mobility;

"(iii) air pollution;

*"(iv) noise pollution;*

*"(v) energy consumption; and*

*"(vi) all associated ancillary and mitigation costs necessary to carry out each alternative analyzed;*

*"(E) reductions in local infrastructure costs and other benefits achieved through compact land use development, such as positive impacts on the capacity, utilization, or longevity of other surface transportation assets and facilities;*

*"(F) the cost of suburban sprawl;*

*"(G) the degree to which the project increases the mobility of the public transportation dependent population or promotes economic development;*

*"(H) population density and current transit ridership in the transportation corridor;*

*"(I) the technical capability of the grant recipient to construct the project;*

*"(J) any adjustment to the project justification necessary to reflect differences in local land, construction, and operating costs; and*

*"(K) other factors that the Secretary determines to be appropriate to carry out this subsection.*

*"(4) EVALUATION OF LOCAL FINANCIAL COMMITMENT.—*

*"(A) IN GENERAL.—In evaluating a project under paragraph (2)(C), the Secretary shall require that—*

*"(i) the proposed project plan provides for the availability of contingency amounts that the Secretary determines to be reasonable to cover unanticipated cost increases;*

*"(ii) each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable; and*

*"(iii) local resources are available to recapitalize and operate the overall proposed public transportation system, including essential feeder bus and other services necessary to achieve the projected ridership levels without requiring a reduction in existing public transportation services or level of service to operate the proposed project.*

*"(B) EVALUATION CRITERIA.—In assessing the stability, reliability, and availability of proposed sources of local financing under paragraph (2)(C), the Secretary shall consider—*

*"(i) the reliability of the forecasting methods used to estimate costs and utilization made by the recipient and the contractors to the recipient;*

*"(ii) existing grant commitments;*

*"(iii) the degree to which financing sources are dedicated to the proposed purposes;*

*"(iv) any debt obligation that exists, or is proposed by the recipient, for the proposed project or other public transportation purpose; and*

*"(v) the extent to which the project has a local financial commitment that exceeds the required non-Federal share of the cost of the project.*

*"(C) CONSIDERATION OF FISCAL CAPACITY OF STATE AND LOCAL GOVERNMENTS.—If the Secretary gives priority to financing projects under this subsection that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.*

*"(5) PROJECT ADVANCEMENT AND RATINGS.—*

*"(A) PROJECT ADVANCEMENT.—A proposed project under this subsection shall not advance from alternatives analysis to preliminary engineering or from preliminary engineering to final design and construction unless the Secretary determines that the project meets the requirements of this section and there is a reasonable likelihood that the project will continue to meet such requirements.*

*"(B) RATINGS.—In making a determination under subparagraph (A), the Secretary shall evaluate and rate the project on a 5-point scale (high, medium-high, medium, medium-low, or low) based on the results of the alternatives analysis, the project justification criteria, and the degree of local financial commitment, as required under this subsection. In rating the projects, the Secretary shall provide, in addition to the overall project rating, individual ratings for each of the criteria established by regulation.*

*"(6) POLICY GUIDANCE.—*

*"(A) PUBLICATION.—The Secretary shall publish policy guidance regarding the new fixed guideway capital project review and evaluation process and criteria—*

*"(i) not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005; and*

*"(ii) each time significant changes are made by the Secretary to the process and criteria, but not less frequently than once every 2 years.*

*"(B) PUBLIC COMMENT AND RESPONSE.—The Secretary shall—*

*"(i) invite public comment to the policy guidance published under subparagraph (A); and*

*"(ii) publish a response to the comments received under clause (i).*

*"(e) CAPITAL INVESTMENT GRANTS LESS THAN $75,000,000.—*

*"(1) IN GENERAL.—*

*"(A) APPLICABILITY OF REQUIREMENTS.—Except as provided by subparagraph (B), a new fixed guideway capital project shall be subject to the requirements of this subsection if the Federal assistance provided or to be provided under this section for the project is less than $75,000,000 and the total estimated net capital cost of the project is less than $250,000,000.*

*"(B) PROJECTS RECEIVING LESS THAN $25,000,000 IN FEDERAL ASSISTANCE.—If the assistance provided under this section with respect to a new fixed guideway capital project is less than $25,000,000, the requirements of this subsection shall not apply to the project until such date as the final regulation to be issued under paragraph (9) takes effect.*

*"(2) SELECTION CRITERIA.—The Secretary may provide Federal assistance under this subsection with respect to a proposed project only if the Secretary finds that the project is—*

*"(A) based on the results of planning and alternatives analysis;*

*"(B) justified based on a review of its public transportation supportive land use policies, cost effectiveness, and effect on local economic development; and*

*"(C) supported by an acceptable degree of local financial commitment.*

*"(3) PLANNING AND ALTERNATIVES.—In evaluating a project under paragraph (2)(A), the Secretary shall analyze and consider the results of planning and alternatives analysis for the project.*

*"(4) PROJECT JUSTIFICATION.—For purposes of making the finding under paragraph (2)(B), the Secretary shall—*

*"(A) determine the degree to which the project is consistent with local land use policies and is likely to achieve local developmental goals;*

*"(B) determine the cost effectiveness of the project at the time of the initiation of revenue service;*

*"(C) determine the degree to which the project will have a positive effect on local economic development;*

*"(D) consider the reliability of the forecasting methods used to estimate costs and ridership associated with the project; and*

*"(E) consider other factors that the Secretary determines appropriate to carry out this subsection.*

*"(5) LOCAL FINANCIAL COMMITMENT.—*

*"(A) IN GENERAL.—For purposes of paragraph (2)(C), the Secretary shall require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable.*

*"(B) CONSIDERATION OF FISCAL CAPACITY OF STATE AND LOCAL GOVERNMENTS.—If the Secretary gives priority to financing projects under this subsection that include more than the non-Federal share required under subsection (h), the Secretary shall give equal consideration to differences in the fiscal capacity of State and local governments.*

*"(6) ADVANCEMENT OF PROJECT TO DEVELOPMENT AND CONSTRUCTION.—*

*"(A) GENERAL RULE.—A proposed project under this subsection may advance from planning and alternatives analysis to project development and construction only if the Secretary finds that the project meets the requirements of this subsection and there is a reasonable likelihood that the project will continue to meet such requirements.*

*"(B) EVALUATION.—In making the findings under subparagraph (A), the Secretary shall evaluate and rate the project as high, medium-high, medium, medium-low, or low based on the results of the analysis of the project justification criteria and the degree of local financial commitment, as required by this subsection.*

*"(7) CONTENTS OF PROJECT CONSTRUCTION GRANT AGREEMENT.—A project construction grant agreement under this subsection shall specify the scope of the project to be constructed, the estimated net project cost of the project, the schedule under which the project shall be constructed, the maximum amount of funding to be obtained under this subsection, the proposed schedule for obligation of future Federal grants, and the sources of funding from other than the Government. The agreement may include a commitment on the part of the Secretary to provide funding for the project in future fiscal years.*

*"(8) LIMITATION ON ENTRY INTO CONSTRUCTION GRANT AGREEMENT.—The Secretary may enter into a project construction grant agreement for a project under this subsection only if the project is authorized for construction and has been rated as high, medium-high, or medium under this subsection.*

*"(9) REGULATIONS.—Not later than 240 days after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall issue regulations establishing an evaluation and rating process for proposed projects under this subsection that is based on the results of project justification and local financial commitment, as required under this subsection.*

*"(10) FIXED GUIDEWAY CAPITAL PROJECT.—In this subsection, the term 'fixed guideway capital project' includes a corridor-based bus capital project if—*

*"(A) a substantial portion of the project operates in a separate right-of-way dedicated for public transit use during peak hour operations; or*

*"(B) the project represents a substantial investment in a defined corridor as demonstrated by features such as park-and-ride lots, transit stations, bus arrival and departure signage, intelligent transportation systems technology, traffic signal priority, off-board fare collection, advanced bus technology, and other features that support the long-term corridor investment.*

*"(11) IMPACT REPORT.—*

*"(A) IN GENERAL.—Not later than 120 days after the date of enactment of the Federal Public Transportation Act of 2005, the Federal Transit Administration shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the methodology to be used in evaluating the land use and economic development impacts of non-fixed guideway or partial fixed guideway projects.*

*"(B) CONTENTS.—The report submitted under subparagraph (A) shall address any qualitative and quantitative differences between fixed guideway and non-fixed guideway projects with respect to land use and economic development impacts.*

*"(f) PREVIOUSLY ISSUED LETTER OF INTENT OR FULL FUNDING GRANT AGREEMENT.—Subsections (d) and (e) do not apply to projects for which the Secretary has issued a letter of intent or entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005. Subsection (e) also does not apply to projects for which the Secretary has received an application for final design before such date of enactment.*

*"(g) LETTERS OF INTENT, FULL FUNDING GRANT AGREEMENTS, AND EARLY SYSTEMS WORK AGREEMENTS.—*

*"(1) LETTERS OF INTENT.—*

*"(A) AMOUNTS INTENDED TO BE OBLIGATED.—The Secretary may issue a letter of intent to an applicant announcing an intention to obligate, for a capital project under this section, an amount from future available budget authority specified in law that is not more than the amount stipulated as the financial participation of the Secretary in the project. When a letter is issued for fixed guideway projects, the amount shall be sufficient to complete at least an operable segment.*

*"(B) TREATMENT.—The issuance of a letter under subparagraph (A) is deemed not to be an obligation under sections 1108(c), 1108(d), 1501, and 1502(a) of title 31 or an administrative commitment.*

*"(2) FULL FUNDING GRANT AGREEMENTS.—*

*"(A) TERMS.—The Secretary may make a full funding grant agreement with an applicant. The agreement shall—*

*"(i) establish the terms of participation by the Government in a project under this section;*

*"(ii) establish the maximum amount of Government financial assistance for the project;*

*"(iii) cover the period of time for completing the project, including a period extending beyond the period of an authorization; and*

*"(iv) make timely and efficient management of the project easier according to the law of the United States.*

*"(B) SPECIAL FINANCIAL RULES.—*

*"(i) IN GENERAL.—A full funding grant agreement under this paragraph obligates an amount of available budget authority specified in law and may include a commitment, contingent on amounts to be specified in law in advance for commitments under this paragraph, to obligate an additional amount from future available budget authority specified in law.*

*"(ii) STATEMENT OF CONTINGENT COMMITMENT.—The agreement shall state that the contingent commitment is not an obligation of the Government.*

*"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out a part of the project within a reasonable time are a cost of carrying out the project under a full funding grant agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.*

*"(iv) COMPLETION OF OPERABLE SEGMENT.—The amount stipulated in an agreement under this paragraph for a fixed guideway project shall be sufficient to complete at least an operable segment.*

*"(C) BEFORE AND AFTER STUDY.—*

*"(i) IN GENERAL.—A full funding grant agreement under this paragraph shall require the applicant to conduct a study that—*

*"(I) describes and analyzes the impacts of the new fixed guideway capital project on transit services and transit ridership;*

*"(II) evaluates the consistency of predicted and actual project characteristics and performance; and*

*"(III) identifies sources of differences between predicted and actual outcomes.*

*"(ii) INFORMATION COLLECTION AND ANALYSIS PLAN.—*

*"(I) SUBMISSION OF PLAN.—Applicants seeking an agreement under this paragraph shall submit a complete plan for the collection and analysis of information to identify the impacts of the new fixed guideway capital project and the accuracy of the forecasts prepared during the development of the project. Preparation of this plan shall be included in the full funding grant agreement as an eligible activity.*

*"(II) CONTENTS OF PLAN.—The plan submitted under subclause (I) shall provide for—*

*"(aa) the collection of data on the current transit system regarding transit service levels and ridership patterns, including origins and destinations, access modes, trip purposes, and rider characteristics;*

*"(bb) documentation of the predicted scope, service levels, capital costs, operating costs, and ridership of the project;*

*"(cc) collection of data on the transit system 2 years after the opening of the new fixed guideway capital project, including analogous information on transit service levels and ridership patterns and information on the as-built scope and capital costs of the project; and*

*"(dd) analysis of the consistency of predicted project characteristics with the after data.*

*"(D) COLLECTION OF DATA ON CURRENT SYSTEM.—To be eligible for a full funding grant agreement under this paragraph, recipients shall have collected data on the current system, according to the plan required, before the beginning of construction of the proposed new start project. Collection of this data shall be included in the full funding grant agreement as an eligible activity.*

*"(3) EARLY SYSTEM WORK AGREEMENTS.—*

*"(A) CONDITIONS.—The Secretary may make an early systems work agreement with an applicant if a record of decision under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been issued on the project and the Secretary finds there is reason to believe—*

*"(i) a full funding grant agreement for the project will be made; and*

*"(ii) the terms of the work agreement will promote ultimate completion of the project more rapidly and at less cost.*

*"(B) CONTENTS.—*

*"(i) IN GENERAL.—A work agreement under this paragraph obligates an amount of available budget authority specified in law and shall provide for reimbursement of preliminary costs of carrying out the project, including land acquisition, timely procurement of system elements for which specifications are decided, and other activities the Secretary decides are appropriate to make efficient, long-term project management easier.*

*"(ii) PERIOD COVERED.—A work agreement under this paragraph shall cover the period of time the Secretary considers appropriate. The period may extend beyond the period of current authorization.*

*"(iii) INTEREST AND OTHER FINANCING COSTS.—Interest and other financing costs of efficiently carrying out the work agreement within a reasonable time are a cost of carrying out the agreement, except that eligible costs may not be more than the cost of the most favorable financing terms reasonably available for the project at the time of borrowing. The applicant shall certify, in a way satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financing terms.*

*"(iv) FAILURE TO CARRY OUT PROJECT.—If an applicant does not carry out the project for reasons within the control of the applicant, the applicant shall repay all Government payments made under the work agreement plus reasonable interest and penalty charges the Secretary establishes in the agreement.*

*"(4) LIMITATION ON AMOUNTS.—*

*"(A) MAJOR CAPITAL INVESTMENT GRANTS CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all outstanding letters of intent, full funding grant agreements, and early systems work agreements under this subsection for major new fixed guideway capital projects may be not more than the greater of the amount authorized under sections 5338(a)(3) and 5338(c) for such projects or an amount equivalent to the last 3 fiscal years of funding allocated under subsections (m)(1)(A) and (m)(2)(A)(ii) for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by a letter or agreement. The total amount covered by new letters and contingent commitments included in full funding grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.*

*"(B) OTHER CONTINGENT COMMITMENT AUTHORITY.—The total estimated amount of future obligations of the Government and contingent commitments to incur obligations covered by all project construction grant agreements and early system work agreements under this subsection for small capital projects described in subsection (e) may be not more than the greater of the amount allocated under subsection (m)(2)(A)(i) for such projects or an amount equivalent to the last fiscal year of funding allocated under such subsection for such projects, less an amount the Secretary reasonably estimates is necessary for grants under this section for those of such projects that are not covered by an agreement. The total amount covered by new contingent commitments included in project construction grant agreements and early systems work agreements for such projects may be not more than a limitation specified in law.*

*"(C) INCLUSION OF CERTAIN COMMITMENTS.—Future obligations of the Government and contingent commitments made against the contingent commitment authority under section 3032(g)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (106 Stat. 2125) for the San Francisco BART to the Airport project for fiscal years 2002, 2003, 2004, 2005, and 2006 shall be charged against section 3032(g)(2) of that Act.*

*"(D) APPROPRIATION REQUIRED.—An obligation may be made under this subsection only when amounts are appropriated for the obligation.*

*"(5) NOTIFICATION OF CONGRESS.—At least 60 days before issuing a letter of intent or entering into a full funding grant agreement or project construction grant agreement under this section, the Secretary shall notify, in writing, the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate of the proposed letter or agreement. The Secretary shall include with the notification a copy of the proposed letter or agreement as well as the evaluations and ratings for the project.*

*"(h) GOVERNMENT'S SHARE OF NET PROJECT COST.—*

*"(1) IN GENERAL.—Based on engineering studies, studies of economic feasibility, and information on the expected use of equipment or facilities, the Secretary shall estimate the net project cost. A grant for the project shall be for 80 percent of the net capital project cost, unless the*

grant recipient requests a lower grant percentage.

"(2) ADJUSTMENT FOR COMPLETION UNDER BUDGET.—The Secretary may adjust the final net project cost of a new fixed guideway capital project evaluated under subsections (d) and (e) to include the cost of eligible activities not included in the originally defined project if the Secretary determines that the originally defined project has been completed at a cost that is significantly below the original estimate.

"(3) MAXIMUM GOVERNMENT SHARE.—The Secretary may provide a higher grant percentage than requested by the grant recipient if—

"(A) the Secretary determines that the net project cost of the project is not more than 10 percent higher than the net project cost estimated at the time the project was approved for advancement into preliminary engineering; and

"(B) the ridership estimated for the project is not less than 90 percent of the ridership estimated for the project at the time the project was approved for advancement into preliminary engineering.

"(4) REMAINDER OF NET PROJECT COST.—The remainder of net project costs shall be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital.

"(5) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section, including paragraph (1) and subsections (d)(4)(B)(v) and (e)(5), shall be construed as authorizing the Secretary to require a non-Federal financial commitment for a project that is more than 20 percent of the net capital project cost.

"(6) SPECIAL RULE FOR ROLLING STOCK COSTS.—In addition to amounts allowed pursuant to paragraph (1), a planned extension to a fixed guideway system may include the cost of rolling stock previously purchased if the applicant satisfies the Secretary that only amounts other than amounts of the Government were used and that the purchase was made for use on the extension. A refund or reduction of the remainder may be made only if a refund of a proportional amount of the grant of the Government is made at the same time.

"(7) LIMITATION ON APPLICABILITY.—This subsection does not apply to projects for which the Secretary has entered into a full funding grant agreement before the date of enactment of the Federal Public Transportation Act of 2005.

"(i) UNDERTAKING PROJECTS IN ADVANCE.—

"(1) IN GENERAL.—The Secretary may pay the Government's share of the net capital project cost to a State or local governmental authority that carries out any part of a project described in this section without the aid of amounts of the Government and according to all applicable procedures and requirements if—

"(A) the State or local governmental authority applies for the payment;

"(B) the Secretary approves the payment; and

"(C) before carrying out the part of the project, the Secretary approves the plans and specifications for the part in the same way as other projects under this section.

"(2) FINANCING COSTS.—

"(A) IN GENERAL.—The cost of carrying out part of a project includes the amount of interest earned and payable on bonds issued by the State or local governmental authority to the extent proceeds of the bonds are expended in carrying out the part.

"(B) LIMITATION ON AMOUNT OF INTEREST.—The amount of interest under this paragraph may not be more than the most favorable interest terms reasonably available for the project at the time of borrowing.

"(C) CERTIFICATION.—The applicant shall certify, in a manner satisfactory to the Secretary, that the applicant has shown reasonable diligence in seeking the most favorable financial terms.

"(j) AVAILABILITY OF AMOUNTS.—

"(1) IN GENERAL.—An amount made available or appropriated under section 5338(a)(3)(C)(iii), 5338(a)(3)(C)(iv), 5338(b)(2)(E), or 5338(c) for replacement, rehabilitation, and purchase of buses and related equipment and construction of bus-related facilities or for new fixed guideway capital projects shall remain available for 3 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period may be used by the Secretary for any purpose under this section.

"(2) USE OF DEOBLIGATED AMOUNTS.—An amount available under this section that is deobligated may be used for any purpose under this section.

"(k) REPORTS ON NEW STARTS.—

"(1) ANNUAL REPORT ON FUNDING RECOMMENDATIONS.—Not later than the first Monday in February of each year, the Secretary shall submit to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate a report that includes—

"(A) a proposal of allocations of amounts to be available to finance grants for new fixed guideway capital projects among applicants for these amounts;

"(B) evaluations and ratings, as required under subsections (d) and (e), for each such project that is authorized by the Federal Public Transportation Act of 2005; and

"(C) recommendations of such projects for funding based on the evaluations and ratings and on existing commitments and anticipated funding levels for the next 3 fiscal years based on information currently available to the Secretary.

"(2) ANNUAL GAO REVIEW.—The Comptroller General shall—

"(A) conduct an annual review of—

"(i) the processes and procedures for evaluating, rating, and recommending new fixed guideway capital projects; and

"(ii) the Secretary's implementation of such processes and procedures; and

"(B) report to Congress on the results of such review by May 31 of each year.

"(l) OTHER REPORTS.—

"(1) BEFORE AND AFTER STUDY REPORTS.—Not later than the first Monday of August of each year, the Secretary shall submit to the committees referred to in subsection (k)(1) a report containing a summary of the results of the studies conducted under subsection (g)(2)(C).

"(2) CONTRACTOR PERFORMANCE ASSESSMENT REPORT.—

"(A) IN GENERAL.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, and each year thereafter, the Secretary shall submit to the committees referred to in subsection (k)(1) a report analyzing the consistency and accuracy of cost and ridership estimates made by each contractor to public transportation agencies developing new fixed guideway capital projects.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall compare the cost and ridership estimates made at the time projects are approved for entrance into preliminary engineering with—

"(i) estimates made at the time projects are approved for entrance into final design;

"(ii) costs and ridership when the project commences revenue operation; and

"(iii) costs and ridership when the project has been in operation for 2 years.

"(C) CONSIDERATIONS.—In making comparisons under subparagraph (B), the Secretary shall consider factors having an impact on costs and ridership not under the control of the contractor. The Secretary shall also consider the role taken by each contractor in the development of the project.

"(3) CONTRACTOR PERFORMANCE INCENTIVE REPORT.—Not later than 180 days after the enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit to the committees referred to in subsection (k)(1) a report on the suitability of allowing contractors to public transportation agencies that undertake new fixed guideway capital projects under this section to receive performance incentive awards if a project is completed for less than the original estimated cost.

"(m) ALLOCATING AMOUNTS.—

"(1) FISCAL YEAR 2005.—Of the amounts made available or appropriated for fiscal year 2005 under section 5338(a)(3)—

"(A) $1,437,829,600 shall be allocated for new fixed capital projects under subsection (d);

"(B) $1,204,684,800 shall be allocated for capital projects for fixed guideway modernization; and

"(C) $669,600,000 shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(2) FISCAL YEARS 2006 THROUGH 2009.—The amounts made available or appropriated for fiscal years 2006 through 2009 under sections 5338(b) and 5338(c) shall be allocated as follows:

"(A) MAJOR CAPITAL PROJECTS.—Of the amounts appropriated under section 5338(c) for major capital projects—

"(i) $200,000,000 for each of fiscal years 2007 through 2009 shall be allocated for projects for new fixed guideway capital projects of less than $75,000,000 in accordance with subsection (e); and

"(ii) the remainder shall be allocated for major new fixed guideway capital projects in accordance with subsection (d).

"(B) FIXED GUIDEWAY MODERNIZATION.—The amounts made available under section 5338(b)(2)(D) shall be allocated for capital projects for fixed guideway modernization.

"(C) BUSES AND BUS-RELATED EQUIPMENT AND FACILITIES.—The amounts made available under section 5338(b)(2)(E) shall be allocated for capital projects for buses and bus-related equipment and facilities.

"(3) FIXED GUIDEWAY MODERNIZATION.—The amounts made available for fixed guideway modernization under section 5338(b)(2)(D) for fiscal year 2006 and each fiscal year thereafter shall be allocated in accordance with section 5337.

"(4) PRELIMINARY ENGINEERING AND ALTERNATIVES ANALYSIS.—Not more that 8 percent of the allocation described in paragraph (1)(A) may be expended on alternatives analysis and preliminary engineering.

"(5) PRELIMINARY ENGINEERING.—Not more than 8 percent of the allocation described in paragraph (2)(A) may be expended on preliminary engineering.

"(6) FUNDING FOR FERRY BOATS.—Of the amounts described in paragraphs (1)(A) and (2)(A)—

"(A) $10,400,000 shall be available in fiscal year 2005 for capital projects in Alaska and Hawaii for new fixed guideway systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals;

"(B) $15,000,000 shall be available in each of fiscal years 2006 through 2009 for capital projects in Alaska and Hawaii for new fixed guideway ferry systems and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals; and

"(C) $5,000,000 shall be available for each of fiscal years 2006 though 2009 for payments to the Denali Commission under the terms of section 307(e) of the Denali Commission Act of 1998 (42 U.S.C. 3121 note) for docks, waterfront development projects, and related transportation infrastructure.

"(7) BUS AND BUS FACILITY GRANTS.—The amounts made available under paragraphs (1)(C) and (2)(C) shall be allocated as follows:

"(A) FERRY BOAT SYSTEMS.—$10,000,000 shall be available in each of fiscal years 2006 through 2009 for ferry boats or ferry terminal facilities. Of such funds, the following amounts shall be set aside for each fiscal year:

"(i) $2,500,000 for the San Francisco Water Transit Authority.

"(ii) $2,500,000 for the Massachusetts Bay Transportation Authority Ferry System.

"(iii) $1,000,000 for the Camden, New Jersey Ferry System.

"(iv) $1,000,000 for the Governor's Island, New York Ferry System

"(v) $1,000,000 for the Philadelphia Penn's Landing Ferry Terminal.

"(vi) $1,000,000 for the Staten Island Ferry.

"(vii) $650,000 for the Maine State Ferry Service, Rockland.

"(viii) $350,000 for the Swans Island, Maine Ferry Service.

"(B) FUEL CELL BUS PROGRAM.—The following amounts shall be set aside for the national fuel cell bus technology development program under section 3039 of the Federal Public Transportation Act of 2005:

"(i) $11,250,000 for fiscal year 2006.

"(ii) $11,500,000 for fiscal year 2007.

"(iii) $12,750,000 for fiscal year 2008.

"(iv) $13,500,000 for fiscal year 2009.

"(C) PROJECTS NOT IN URBANIZED AREAS.—Not less than 5.5 percent shall be available in each fiscal year for projects that are not in urbanized areas.

"(D) INTERMODAL TERMINALS.—Not less than $35,000,000 shall be available in each fiscal year for intermodal terminal projects, including the intercity bus portion of such projects.

"(E) BUS TESTING.—$3,000,000 shall be available in each fiscal year for bus testing under section 5318.

"(8) BUS AND BUS FACILITY GRANT CONSIDERATIONS.—In making grants under paragraphs (1)(C) and (2)(C), the Secretary shall consider the age and condition of buses, bus fleets, related equipment, and bus-related facilities.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5309 and inserting the following:

"5309. Capital investment grants.".

(c) PUBLIC-PRIVATE PARTNERSHIP PILOT PROGRAM.—

(1) ESTABLISHMENT.—The Secretary may establish and implement a pilot program to demonstrate the advantages and disadvantages of public-private partnerships for certain new fixed guideway capital projects.

(2) LIMITATION ON THE NUMBER OF FACILITIES.—The Secretary may permit the establishment of 3 public-private partnerships for new fixed guideway capital projects.

(3) ELIGIBILITY.—To be eligible to participate in the public-private partnership program, a recipient shall submit to the Secretary an application that contains, at a minimum, the following:

(A) An identification of the new fixed guideway capital project that has not entered into a full funding grant agreement or project construction grant agreement with the Federal Transit Administration.

(B) A schedule and finance plan for the construction of and operation of the proposed project.

(C) An analysis of the costs, benefits, and efficiencies of the proposed public-private partnership agreement.

(4) SELECTION CRITERIA.—The Secretary may approve the application of a recipient under this subsection if the Secretary determines that—

(A) State and local laws permit public-private agreements for all phases of project development, construction, and operation of the project;

(B) the recipient is unable to advance the project due to fiscal constraints; and

(C) the plan implementing the public-private partnership is justified.

(5) PROGRAM TERM.—The Secretary may approve an application of a recipient for a public-private partnership for fiscal years 2006 through 2009.

(6) REPORT TO CONGRESS.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing an assessment of the costs, benefits, and efficiencies of a public-private partnership program for new fixed guideway capital projects.

(d) RESTRICTIONS ON USE OF BUS CATEGORY FUNDS FOR FIXED GUIDEWAY PROJECTS.—Funds provided to grantees under the bus and bus facility category for fixed guideway ferry and gondola projects in the Department of Transportation and Related Agencies Appropriations Acts for any of fiscal years 1998 through 2005, or accompanying committee reports, that remain available and unobligated may be used for new fixed guideway capital projects under section 5309 of title 49, United States Code. Funds made available to the same grantees for similar projects under the bus and bus facility category of section 5309 of title 49, United States Code, in fiscal years 2006 through 2009 may be used for fixed guideway projects under that section.

(e) MIAMI METRORAIL.—The Secretary shall credit funds provided by the Florida department of transportation for the extension of the Miami Metrorail System from Earlington Heights to the Miami Intermodal Center to satisfy the matching requirements of section 5309(h)(4) of title 49, United Stated Code, for the Miami North Corridor and Miami East-West Corridor projects.

(f) ADJUSTMENTS.—The adjustments made in the Federal Transit Administrator's Dear Colleague letter of April 29, 2005, to require a "medium" for the cost-effectiveness rating, in order for fixed guideway projects to be recommended for funding by the Federal Transit Administration, shall not apply to the following:

(1) San Francisco Muni—Third Street LRT Phase I/II.

(2) Santa Clara Valley Transit Authority—Silicon Valley Rapid Transit Corridor.

(3) Washington County, Oregon—Wilsonville to Beaverton Commuter Rail.

(4) Dulles Corridor Metrorail Project—Extension to Wiehle Avenue.

### SEC. 3012. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Section 5310 is amended to read as follows:

**"§5310. Formula grants for special needs of elderly individuals and individuals with disabilities**

"(a) GENERAL AUTHORITY.—

"(1) GRANTS.—The Secretary may make grants to States and local governmental authorities under this section for public transportation capital projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities.

"(2) SUBRECIPIENTS.—A State that receives a grant under this section may allocate the amounts provided under the grant to—

"(A) a private nonprofit organization, if the public transportation service provided under paragraph (1) is unavailable, insufficient, or inappropriate; or

"(B) a governmental authority that—

"(i) is approved by the State to coordinate services for elderly individuals and individuals with disabilities; or

"(ii) certifies that there are not any nonprofit organizations readily available in the area to provide the services described under paragraph (1).

"(3) ACQUIRING PUBLIC TRANSPORTATION SERVICES.—A public transportation capital project under this section may include acquisition of public transportation services as an eligible capital expense.

"(4) ADMINISTRATIVE EXPENSES.—A State or local governmental authority may use not more than 10 percent of the amounts apportioned to the State under this section to administer, plan, and provide technical assistance for a project funded under this section.

"(b) APPORTIONMENT AND TRANSFERS.—

"(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section under a formula the Secretary administers that considers the number of elderly individuals and individuals with disabilities in each State.

"(2) TRANSFER OF FUNDS.—Any funds apportioned to a State under paragraph (1) may be transferred by the State to the apportionments made under sections 5311(c) and 5336 if such funds are only used for eligible projects selected under this section.

"(c) GOVERNMENT'S SHARE OF COSTS.—

"(1) CAPITAL PROJECTS.—

"(A) IN GENERAL.—A grant for a capital project under this section shall be for 80 percent of the net capital costs of the project, as determined by the Secretary.

"(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive an increased Government share in accordance with the formula under that section.

"(2) REMAINDER.—The remainder of the net project costs—

"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;

"(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and

"(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.

"(3) USE OF CERTAIN FUNDS.—For purposes of paragraph (2)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.

"(d) GRANT REQUIREMENTS.—

"(1) IN GENERAL.—A grant under this section shall be subject to all requirements of a grant under section 5307 to the extent the Secretary determines appropriate.

"(2) CERTIFICATION REQUIREMENTS.—

"(A) FUND TRANSFERS.—A grant recipient under this section that transfers funds to a project funded under section 5336 in accordance with subsection (b)(2) shall certify that the project for which the funds are requested has been coordinated with private nonprofit providers of services under this section.

"(B) PROJECT SELECTION AND PLAN DEVELOPMENT.—Beginning in fiscal year 2007, each grant recipient under this section shall certify that—

"(i) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and

"(ii) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human *services providers and participation by the public.*

*"(C) ALLOCATIONS TO SUBRECIPIENTS.—Each grant recipient under this section shall certify that allocations of the grant to subrecipients, if any, are distributed on a fair and equitable basis.*

*"(e) STATE PROGRAM OF PROJECTS.—*

*"(1) IN GENERAL.—Amounts made available to carry out this section may be used for transportation projects to assist in providing transportation services for elderly individuals and individuals with disabilities that are included in a State program of projects.*

*"(2) SUBMISSION AND APPROVAL.—A State shall submit to the Secretary annually for approval a program of projects. The program shall contain an assurance that the program provides for maximum feasible coordination of transportation services assisted under this section with transportation services assisted by other Government sources.*

*"(f) LEASING VEHICLES.—Vehicles acquired under this section may be leased to local governmental authorities to improve transportation services designed to meet the special needs of elderly individuals and individuals with disabilities.*

*"(g) MEAL DELIVERY FOR HOMEBOUND INDIVIDUALS.—Public transportation service providers receiving assistance under this section or section 5311(c) may coordinate and assist in regularly providing meal delivery service for homebound individuals if the delivery service does not conflict with providing public transportation service or reduce service to public transportation passengers.*

*"(h) TRANSFERS OF FACILITIES AND EQUIPMENT.—With the consent of the recipient in possession of a facility or equipment acquired with a grant under this section, a State may transfer the facility or equipment to any recipient eligible to receive assistance under this chapter if the facility or equipment will continue to be used as required under this section.".*

*(b) ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES PILOT PROGRAM.—*

*(1) IN GENERAL.—In fiscal year 2006, the Secretary shall establish a pilot program that will allow Wisconsin, Alaska, Minnesota, Oregon, and 3 other States selected by the Secretary to use not more than 33 percent of the funds apportioned to each State to carry out section 5310 of title 49, United States Code, for operating costs associated with public transportation projects planned, designed, and carried out to meet the special needs of elderly individuals and individuals with disabilities under such section. The Secretary may base the selection of participating States on a State's exemplary coordination of public transit-human services transportation. The Secretary may require participants to collect data necessary to support the report to Congress required by paragraph (7).*

*(2) PLANNING COORDINATION.—Recipients of funds made available consistent with this subsection shall certify that—*

*(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and*

*(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.*

*(3) GOVERNMENT'S SHARE OF COSTS.—Operating assistance under this subsection may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary. The credit for any non-Federal share provided under this subsection shall not reduce nor replace State funds required to match Federal funds for formula grants for the special needs of elderly individuals and individuals with disabilities program authorized under section 5310 of title 49, United States Code.*

*(4) REMAINDER.—The remainder of the net project costs—*

*(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and*

*(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.*

*(5) USE OF CERTAIN FUNDS.—For purposes of paragraph (4)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.*

*(6) ELIGIBLE ACTIVITIES.—Projects eligible under the pilot program may include the collection of data necessary to support the report to Congress required by paragraph (7).*

*(7) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program, which may include—*

*(A) the extent to which funds were used to subsidize existing paratransit service provided in compliance with the Americans with Disabilities Act of 1990;*

*(B) whether States participating in the pilot program use the funds to provide services to persons with disabilities that exceed those services required by the Americans with Disabilities Act of 1990 differently than States not in the pilot program;*

*(C) whether States participating in this pilot program use the funds to provide services to individuals with disabilities that exceed those services required by the Americans with Disabilities Act of 1990 to the detriment of other eligible projects;*

*(D) the percentage of funds used to assist elderly individuals;*

*(E) the percentage of funds used to assist individuals with disabilities;*

*(F) the extent to which States participating in this pilot program serve a wider range of elderly, low income, and persons with disabilities populations;*

*(G) whether the pilot program improves services to elderly individuals and individuals with disabilities;*

*(H) the extent to which States participating in the pilot program were able to expand the range of transportation alternatives available to elderly individuals and individuals with disabilities; and*

*(I) whether the pilot program facilitates or discourages coordination with or integration of other funding sources.*

*(8) SUNSET.—This subsection shall cease to be effective on September 30, 2009.*

*(c) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5310 and inserting the following:*

*"5310. Formula grants for special needs of elderly individuals and individuals with disabilities.".*

### *SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS.*

*(a) DEFINITIONS.—Section 5311(a) is amended to read as follows:*

*"(a) DEFINITIONS.—As used in this section, the following definitions shall apply:*

*"(1) RECIPIENT.—The term 'recipient' means a State or Indian tribe that receives a Federal transit program grant directly from the Federal Government.*

*"(2) SUBRECIPIENT.—The term 'subrecipient' means a State or local governmental authority, a nonprofit organization, or an operator of public transportation or intercity bus service that receives Federal transit program grant funds indirectly through a recipient.".*

*(b) GENERAL AUTHORITY.—Section 5311(b) is amended to read as follows:*

*"(b) GENERAL AUTHORITY.—*

*"(1) GRANTS AUTHORIZED.—Except as provided by paragraph (2), the Secretary may award grants under this section to recipients located in areas other than urbanized areas for—*

*"(A) public transportation capital projects;*

*"(B) operating costs of equipment and facilities for use in public transportation; and*

*"(C) the acquisition of public transportation services, including service agreements with private providers of public transportation services.*

*"(2) STATE PROGRAM.—*

*"(A) IN GENERAL.—A project eligible for a grant under this section shall be included in a State program for public transportation service projects, including agreements with private providers of public transportation service.*

*"(B) SUBMISSION TO SECRETARY.—Each State shall submit to the Secretary annually the program described in subparagraph (A).*

*"(C) APPROVAL.—The Secretary may not approve the program unless the Secretary determines that—*

*"(i) the program provides a fair distribution of amounts in the State, including Indian reservations; and*

*"(ii) the program provides the maximum feasible coordination of public transportation service assisted under this section with transportation service assisted by other Federal sources.*

*"(3) RURAL TRANSPORTATION ASSISTANCE PROGRAM.—*

*"(A) IN GENERAL.—The Secretary shall carry out a rural transportation assistance program in other than urbanized areas.*

*"(B) GRANTS AND CONTRACTS.—In carrying out this paragraph, the Secretary may use not more than 2 percent of the amount made available to carry out this section to make grants and contracts for transportation research, technical assistance, training, and related support services in other than urbanized areas.*

*"(C) PROJECTS OF A NATIONAL SCOPE.—Not more than 15 percent of the amounts available under subparagraph (B) may be used by the Secretary to carry out projects of a national scope, with the remaining balance provided to the States.*

*"(4) DATA COLLECTION.—Each recipient under this section shall submit an annual report to the Secretary containing information on capital investment, operations, and service provided with funds received under this section, including—*

*"(A) total annual revenue;*

*"(B) sources of revenue;*

*"(C) total annual operating costs;*

*"(D) total annual capital costs;*

*"(E) fleet size and type, and related facilities;*

*"(F) revenue vehicle miles; and*

*"(G) ridership.".*

*(c) APPORTIONMENTS.—Section 5311(c) is amended to read as follows:*

*"(c) APPORTIONMENTS.—*

*"(1) PUBLIC TRANSPORTATION ON INDIAN RESERVATIONS.—Of the amounts made available or appropriated for each fiscal year pursuant to subsections (a)(1)(C)(v) and (b)(2)(G) of section 5338, the following amounts shall be apportioned for grants to Indian tribes for any purpose eligible under this section, under such terms and conditions as may be established by the Secretary:*

*"(A) $8,000,000 for fiscal year 2006.*

*"(B) $10,000,000 for fiscal year 2007.*

*"(C) $12,000,000 for fiscal year 2008.*

*"(D) $15,000,000 for fiscal year 2009.*

*"(2) REMAINING AMOUNTS.—Of the amounts made available or appropriated for each fiscal*

*year pursuant to subsections (a)(1)(C)(v) and (b)(2)(G) of section 5338 that are not apportioned under paragraph (1)—*

*"(A) 20 percent shall be apportioned to the States in accordance with paragraph (3); and*

*"(B) 80 percent shall be apportioned to the States in accordance with paragraph (4).*

*"(3) APPORTIONMENTS BASED ON LAND AREA IN NONURBANIZED AREAS.—*

*"(A) IN GENERAL.—Subject to subparagraph (B), each State shall receive an amount that is equal to the amount apportioned under paragraph (2)(A) multiplied by the ratio of the land area in areas other than urbanized areas in that State and divided by the land area in all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.*

*"(B) MAXIMUM APPORTIONMENT.—No State shall receive more than 5 percent of the amount apportioned under this paragraph.*

*"(4) APPORTIONMENTS BASED ON POPULATION IN NONURBANIZED AREAS.—Each State shall receive an amount equal to the amount apportioned under paragraph (2)(B) multiplied by the ratio of the population of areas other than urbanized areas in that State divided by the population of all areas other than urbanized areas in the United States, as shown by the most recent decennial census of population.".*

*(d) USE FOR ADMINISTRATION, PLANNING, AND TECHNICAL ASSISTANCE.—Section 5311(e) is amended—*

*(1) in the subsection heading by inserting ", PLANNING," after "ADMINISTRATION";*

*(2) by striking "(1) The Secretary" and inserting "The Secretary";*

*(3) by striking paragraph (2); and*

*(4) by striking "recipient" and inserting "subrecipient".*

*(e) INTERCITY BUS TRANSPORTATION.—Section 5311(f) is amended—*

*(1) in paragraph (1)—*

*(A) by striking "(1) A State" and inserting the following:*

*"(1) IN GENERAL.—A State";*

*(B) by striking "after September 30, 1993,"; and*

*(C) by moving subparagraphs (A) through (D) 2 ems to the right; and*

*(2) in paragraph (2)—*

*(A) by striking "(2) A State" and inserting the following:*

*"(2) CERTIFICATION.—A State"; and*

*(B) by striking "Secretary of Transportation" and inserting "Secretary, after consultation with affected intercity bus service providers,".*

*(f) GOVERNMENT SHARE OF COSTS.—Section 5311(g) is amended to read as follows:*

*"(g) GOVERNMENT SHARE OF COSTS.—*

*"(1) CAPITAL PROJECTS.—*

*"(A) IN GENERAL.—Except as provided by subparagraph (B), a grant awarded under this section for any purpose other than operating assistance shall be for 80 percent of the net capital costs of the project, as determined by the Secretary.*

*"(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net capital costs in accordance with the formula under that section.*

*"(2) OPERATING ASSISTANCE.—*

*"(A) IN GENERAL.—Except as provided by subparagraph (B), a grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.*

*"(B) EXCEPTION.—A State described in section 120(b) of title 23 shall receive a Government share of the net operating costs equal to 62.5 percent of the Government share provided for under paragraph (1)(B).*

*"(3) REMAINDER.—The remainder of net project costs—*

*"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital;*

*"(B) may be derived from amounts appropriated or otherwise made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation; and*

*"(C) notwithstanding subparagraph (B), may be derived from amounts made available to carry out the Federal lands highway program established by section 204 of title 23.*

*"(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.*

*"(5) LIMITATION ON OPERATING ASSISTANCE.—A State carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.".*

*(g) RELATIONSHIP TO OTHER LAWS.—Section 5311 is amended—*

*(1) by striking subsection (h); and*

*(2) by redesignating subsections (i) and (j) as subsections (h) and (i), respectively.*

*(h) WAIVER CONDITION.—Section 5311(j)(1) is amended by striking "but the Secretary of Labor may waive the application of section 5333(b)" and inserting "if the Secretary of Labor utilizes a special warranty that provides a fair and equitable arrangement to protect the interests of employees".*

*(i) CORRECTION TO CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5311 and inserting the following:*

*"5311. Formula grants for other than urbanized areas.".*

### *SEC. 3014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.*

*(a) IN GENERAL.—Section 5312(a) is amended to read as follows:*

*"(a) RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS.—*

*"(1) IN GENERAL.—The Secretary may make grants, contracts, cooperative agreements, and other agreements (including agreements with departments, agencies, and instrumentalities of the United States Government) for research, development, demonstration, and deployment projects, and evaluation of technology of national significance to public transportation, that the Secretary determines will improve public transportation service or help public transportation service meet the total transportation needs at a minimum cost.*

*"(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.*

*"(3) SAVINGS PROVISION.—This subsection does not limit the authority of the Secretary under any other law.".*

*(b) JOINT PARTNERSHIP PROGRAM FOR DEPLOYMENT OF INNOVATION.—Section 5312 is amended by striking subsections (b) and (c) and redesignating subsections (d) and (e) as subsections (b) and (c), respectively.*

*(c) INTERNATIONAL MASS TRANSPORTATION PROGRAM.—Section 5312(c)(2) (as redesignated by subsection (b) of this section) is amended by striking "public and private" and inserting "public or private".*

*(d) FUNDING.—Section 5312(c)(3) (as redesignated by subsection (b) of this section) is amended by striking "shall be accounted for separately within the Mass Transit Account of the Highway Trust Fund and".*

*(e) CONFORMING AMENDMENTS.—*

*(1) SECTION HEADING.—Section 5312 is amended by striking the section heading and inserting the following:*

***"§5312. Research, development, demonstration, and deployment projects"**.*

*(2) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5312 and inserting the following:*

*"5312. Research, development, demonstration, and deployment projects.".*

### *SEC. 3015. TRANSIT COOPERATIVE RESEARCH PROGRAM.*

*(a) IN GENERAL.—Section 5313 is amended—*

*(1) by striking subsection (b);*

*(2) in subsection (a)—*

*(A) in paragraph (1) by striking "(1) The amounts made available under paragraphs (1) and (2)(C)(ii) of section 5338(c) of this title" and inserting "The amounts made available under subsections (a)(5)(C)(iii) and (d)(1) of section 5338"; and*

*(B) in paragraph (2) by striking "(2) The Secretary" and inserting the following:*

*"(b) FEDERAL ASSISTANCE.—The Secretary"; and*

*(3) by striking subsection (c) and inserting the following:*

*"(c) GOVERNMENT'S SHARE.—If there would be a clear and direct financial benefit to an entity under a grant or contract financed under this section, the Secretary shall establish a Government share consistent with that benefit.".*

*(b) CONFORMING AMENDMENTS.—*

*(1) SECTION HEADING.—Section 5313 is amended by striking the section heading and inserting the following:*

***"§5313. Transit cooperative research program"**.*

*(2) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5313 and inserting the following:*

*"5313. Transit cooperative research program.".*

### *SEC. 3016. NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.*

*(a) IN GENERAL.—Section 5314 is amended—*

*(1) by striking the section heading and inserting the following:*

***"§5314. National research programs"**;*

*(2) in subsection (a)(1)—*

*(A) by striking "subsections (d) and (h)(7) of section 5338 of this title" and inserting "section 5338(d)";*

*(B) by striking "and contracts" and inserting ", contracts, cooperative agreements, or other agreements";*

*(C) by striking "5303–5306,"; and*

*(D) by striking "5317,";*

*(3) in subsection (a)(2) by striking "Of the amounts" and all that follows through "$3,000,000 to" and inserting "The Secretary shall";*

*(4) by striking subsection (a)(4)(B);*

*(5) by redesignating subsection (a)(4)(C) as subsection (a)(4)(B);*

*(6) by adding at the end of subsection (a) the following:*

*"(6) MEDICAL TRANSPORTATION DEMONSTRATION GRANTS.—*

*"(A) GRANTS AUTHORIZED.—The Secretary may award demonstration grants, from funds made available under paragraph (1), to eligible entities to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.*

*"(B) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under this paragraph if the entity—*

*"(i) meets the conditions described in section 501(c)(3) of the Internal Revenue Code of 1986; or*

*"(ii) is an agency of a State or unit of local government.*

"(C) USE OF FUNDS.—Grant funds received under this paragraph may be used to provide transportation services to individuals to access dialysis treatments and other medical treatments for renal disease.

"(D) APPLICATION.—

"(i) IN GENERAL.—Each eligible entity desiring a grant under this paragraph shall submit an application to the Secretary at such time, at such place, and containing such information as the Secretary may reasonably require.

"(ii) SELECTION OF GRANTEES.—In awarding grants under this paragraph, the Secretary shall give preference to eligible entities from communities with—

"(I) high incidence of renal disease; and

"(II) limited access to dialysis facilities.

"(E) RULEMAKING.—The Secretary shall issue regulations to implement and administer the grant program established under this paragraph.

"(F) REPORT.—The Secretary shall submit a report on the results of the demonstration projects funded under this paragraph to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.".

(7) in subsection (b) by striking "or contract" and all that follows through "section," and inserting ", contract, cooperative agreement, or other agreement under subsection (a) or section 5312,"; and

(b) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—Section 5314 is amended by adding at the end the following:

"(c) NATIONAL TECHNICAL ASSISTANCE CENTER FOR SENIOR TRANSPORTATION.—

"(1) ESTABLISHMENT.—The Secretary shall award grants to a national not-for-profit organization for the establishment and maintenance of a national technical assistance center.

"(2) ELIGIBILITY.—An organization shall be eligible to receive a grant under paragraph (1) if the organization—

"(A) focuses significantly on serving the needs of the elderly;

"(B) has demonstrated knowledge and expertise in senior transportation policy and planning issues;

"(C) has affiliates in a majority of the States;

"(D) has the capacity to convene local groups to consult on operation and development of senior transportation programs; and

"(E) has established close working relationships with the Federal Transit Administration and the Administration on Aging.

"(3) USE OF FUNDS.—The national technical assistance center established under this section shall—

"(A) gather best practices from throughout the Nation and provide such practices to local communities that are implementing senior transportation programs;

"(B) work with teams from local communities to identify how the communities are successfully meeting the transportation needs of senior citizens and any gaps in services in order to create a plan for an integrated senior transportation program;

"(C) provide resources on ways to pay for senior transportation services;

"(D) create a web site to publicize and circulate information on senior transportation programs;

"(E) establish a clearinghouse for print, video, and audio resources on senior mobility; and

"(F) administer the demonstration grant program established under paragraph (4).

"(4) GRANTS AUTHORIZED.—

"(A) IN GENERAL.—The national technical assistance center established under this section, in consultation with the Federal Transit Administration, shall award senior transportation demonstration grants to—

"(i) local transportation organizations;

"(ii) State agencies;

"(iii) units of local government; and

"(iv) nonprofit organizations.

"(B) USE OF FUNDS.—Grant funds received under this paragraph may be used to—

"(i) evaluate the state of transportation services for senior citizens;

"(ii) recognize barriers to mobility that senior citizens encounter in their communities;

"(iii) establish partnerships and promote coordination among community stakeholders, including public, not-for-profit, and for-profit providers of transportation services for senior citizens;

"(iv) identify future transportation needs of senior citizens within local communities; and

"(v) establish strategies to meet the unique needs of healthy and frail senior citizens.

"(C) SELECTION OF GRANTEES.—The Secretary shall select grantees under this paragraph based on a fair representation of various geographical locations throughout the United States.".

(c) ALTERNATIVE FUELS STUDY.—

(1) STUDY.—The Secretary shall conduct a study of the actions necessary to facilitate the purchase of increased volumes of alternative fuels (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) for use in public transit vehicles.

(2) SCOPE OF STUDY.—The study conducted under this subsection shall focus on the incentives necessary to increase the use of alternative fuels in public transit vehicles, including buses, fixed guideway vehicles, and ferries.

(3) CONTENTS.—The study shall consider—

(A) the environmental benefits of increased use of alternative fuels in transit vehicles;

(B) existing opportunities available to transit system operators that encourage the purchase of alternative fuels for transit vehicle operation;

(C) existing barriers to transit system operators that discourage the purchase of alternative fuels for transit vehicle operation, including situations where alternative fuels that do not require capital improvements to transit vehicles are disadvantaged over fuels that do require such improvements; and

(D) the necessary levels and type of support necessary to encourage additional use of alternative fuels for transit vehicle operation.

(4) RECOMMENDATIONS.—The study shall recommend regulatory and legislative alternatives that will result in the increased use of alternative fuels in transit vehicles.

(5) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the results of the study completed under this subsection.

(d) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5314 and inserting the following:

"5314. National research programs.".

### SEC. 3017. NATIONAL TRANSIT INSTITUTE.

(a) ESTABLISHMENT AND DUTIES.—Section 5315 is amended by striking subsections (a) and (b) and inserting the following:

"(a) ESTABLISHMENT.—The Secretary shall award grants to Rutgers University to conduct a national transit institute.

"(b) DUTIES.—

"(1) IN GENERAL.—In cooperation with the Federal Transit Administration, State transportation departments, public transportation authorities, and national and international entities, the institute established under subsection (a) shall develop and conduct training and educational programs for Federal, State, and local transportation employees, United States citizens, and foreign nationals engaged or to be engaged in Government-aid public transportation work.

"(2) TRAINING AND EDUCATIONAL PROGRAMS.—The training and educational programs developed under paragraph (1) may include courses in recent developments, techniques, and procedures related to—

"(A) intermodal and public transportation planning;

"(B) management;

"(C) environmental factors;

"(D) acquisition and joint use rights of way;

"(E) engineering and architectural design;

"(F) procurement strategies for public transportation systems;

"(G) turnkey approaches to delivering public transportation systems;

"(H) new technologies;

"(I) emission reduction technologies;

"(J) ways to make public transportation accessible to individuals with disabilities;

"(K) construction, construction management, insurance, and risk management;

"(L) maintenance;

"(M) contract administration;

"(N) inspection;

"(O) innovative finance;

"(P) workplace safety; and

"(Q) public transportation security.".

(b) AVAILABILITY OF AMOUNTS.—Section 5315(d) is amended by striking "mass" each place it appears.

### SEC. 3018. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANTS.

(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5315 the following:

### "§ 5316. Job access and reverse commute formula grants

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) ACCESS TO JOBS PROJECT.—The term 'access to jobs project' means a project relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment, including—

"(A) transportation projects to finance planning, capital, and operating costs of providing access to jobs under this chapter;

"(B) promoting public transportation by low-income workers, including the use of public transportation by workers with nontraditional work schedules;

"(C) promoting the use of transit vouchers for welfare recipients and eligible low-income individuals; and

"(D) promoting the use of employer-provided transportation, including the transit pass benefit program under section 132 of the Internal Revenue Code of 1986.

"(2) ELIGIBLE LOW-INCOME INDIVIDUAL.—The term 'eligible low-income individual' means an individual whose family income is at or below 150 percent of the poverty line (as that term is defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section) for a family of the size involved.

"(3) RECIPIENT.—The term 'recipient' means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.

"(4) REVERSE COMMUTE PROJECT.—The term 'reverse commute project' means a public transportation project designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities, including any projects to—

"(A) subsidize the costs associated with adding reverse commute bus, train, carpool, van routes, or service from urbanized areas and other than urbanized areas to suburban workplaces;

*“(B) subsidize the purchase or lease by a nonprofit organization or public agency of a van or bus dedicated to shuttling employees from their residences to a suburban workplace; or*

*“(C) otherwise facilitate the provision of public transportation services to suburban employment opportunities.*

*“(5) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.*

*“(6) WELFARE RECIPIENT.—The term ‘welfare recipient’ means an individual who has received assistance under a State or tribal program funded under part A of title IV of the Social Security Act at any time during the 3-year period before the date on which the applicant applies for a grant under this section.*

*“(b) GENERAL AUTHORITY.—*

*“(1) GRANTS.—The Secretary may make grants under this section to a recipient for access to jobs and reverse commute projects carried out by the recipient or a subrecipient.*

*“(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.*

*“(c) APPORTIONMENTS.—*

*“(1) FORMULA.—The Secretary shall apportion amounts made available for a fiscal year to carry out this section as follows:*

*“(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—*

*“(i) the number of eligible low-income individuals and welfare recipients in each such urbanized area; bears to*

*“(ii) the number of eligible low-income individuals and welfare recipients in all such urbanized areas.*

*“(B) 20 percent of the funds shall be apportioned among the States in the ratio that—*

*“(i) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in each State; bears to*

*“(ii) the number of eligible low-income individuals and welfare recipients in urbanized areas with a population of less than 200,000 in all States.*

*“(C) 20 percent of the funds shall be apportioned among the States in the ratio that—*

*“(i) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in each State; bears to*

*“(ii) the number of eligible low-income individuals and welfare recipients in other than urbanized areas in all States.*

*“(2) USE OF APPORTIONED FUNDS.—Except as provided in paragraph (3)—*

*“(A) funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more;*

*“(B) funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000; and*

*“(C) funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.*

*“(3) EXCEPTIONS.—A State may use funds apportioned under paragraphs (1)(B) and (1)(C)—*

*“(A) for projects serving areas other than the area specified in paragraph (2)(B) or (2)(C), as the case may be, if the Governor of the State certifies that all of the objectives of this section are being met in the specified area; or*

*“(B) for projects anywhere in the State if the State has established a statewide program for meeting the objectives of this section.*

*“(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—*

*“(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.*

*“(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.*

*“(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.*

*“(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.*

*“(e) TRANSFERS.—*

*“(1) IN GENERAL.—A State may transfer any funds apportioned to it under subsection (c)(1)(B) or (c)(1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.*

*“(2) LIMITED TO ELIGIBLE PROJECTS.—Any apportionment transferred under this subsection shall be made available only for eligible job access and reverse commute projects as described in this section.*

*“(3) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).*

*“(f) GRANT REQUIREMENTS.—*

*“(1) IN GENERAL.—A grant under this section shall be subject to the requirements of section 5307.*

*“(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify to the Secretary that allocations of the grant to subrecipients are distributed on a fair and equitable basis.*

*“(g) COORDINATION.—*

*“(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.*

*“(2) WITH NONPROFIT PROVIDERS.—A State that transfers funds to an apportionment under section 5336 pursuant to subsection (e) shall certify to the Secretary that any project for which the funds are requested under this section has been coordinated with nonprofit providers of services.*

*“(3) PROJECT SELECTION AND PLANNING.—A recipient of funds under this section shall certify to the Secretary that—*

*“(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and*

*“(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.*

*“(h) GOVERNMENT’S SHARE OF COSTS.—*

*“(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.*

*“(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.*

*“(3) REMAINDER.—The remainder of the net project costs—*

*“(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and*

*“(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.*

*“(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.*

*“(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.*

*“(i) PROGRAM EVALUATION.—*

*“(1) COMPTROLLER GENERAL.—Beginning one year after the date of enactment of the Federal Public Transportation Act of 2005, and every 2 years thereafter, the Comptroller General shall—*

*“(A) conduct a study to evaluate the grant program authorized by this section; and*

*“(B) transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the results of the study under subparagraph (A).*

*“(2) DEPARTMENT OF TRANSPORTATION.—Not later than 3 years after the date of enactment of Federal Public Transportation Act of 2005, the Secretary shall—*

*“(A) conduct a study to evaluate the effectiveness of the grant program authorized by this section and the effectiveness of recipients making grants to subrecipients under this section; and*

*“(B) transmit to the committees referred to in paragraph (1)(B) a report describing the results of the study under subparagraph (A).”.*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by inserting after the item relating to section 5315 the following:*

*“5316. Job access and reverse commute formula grants.”.*

*(c) REPEAL.—Effective October 1, 2005, section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 387) is repealed.*

### SEC. 3019. NEW FREEDOM PROGRAM.

*(a) IN GENERAL.—Chapter 53 is amended by inserting after section 5316 the following:*

### *“§5317. New freedom program*

*“(a) DEFINITIONS.—In this section, the following definitions apply:*

*“(1) RECIPIENT.—The term ‘recipient’ means a designated recipient (as defined in section 5307(a)(2)) and a State that receives a grant under this section directly.*

*“(2) SUBRECIPIENT.—The term ‘subrecipient’ means a State or local governmental authority, nonprofit organization, or operator of public transportation services that receives a grant under this section indirectly through a recipient.*

*“(b) GENERAL AUTHORITY.—*

*“(1) GRANTS.—The Secretary may make grants under this section to a recipient for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.*

*“(2) ADMINISTRATIVE EXPENSES.—A recipient may use not more than 10 percent of the*

*amounts apportioned to the recipient under this section to administer, plan, and provide technical assistance for a project funded under this section.*

*"(c) APPORTIONMENTS.—*

*"(1) FORMULA.—The Secretary shall apportion amounts made available to carry out this section as follows:*

*"(A) 60 percent of the funds shall be apportioned among designated recipients (as defined in section 5307(a)(2)) for urbanized areas with a population of 200,000 or more in the ratio that—*

*"(i) the number of individuals with disabilities in each such urbanized area; bears to*

*"(ii) the number of individuals with disabilities in all such urbanized areas.*

*"(B) 20 percent of the funds shall be apportioned among the States in the ratio that—*

*"(i) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in each State; bears to*

*"(ii) the number of individuals with disabilities in urbanized areas with a population of less than 200,000 in all States.*

*"(C) 20 percent of the funds shall be apportioned among the States in the ratio that—*

*"(i) the number of individuals with disabilities in other than urbanized areas in each State; bears to*

*"(ii) the number of individuals with disabilities in other than urbanized areas in all States.*

*"(2) USE OF APPORTIONED FUNDS.—Funds apportioned under paragraph (1) shall be used for projects as follows:*

*"(A) Funds apportioned under paragraph (1)(A) shall be used for projects serving urbanized areas with a population of 200,000 or more.*

*"(B) Funds apportioned under paragraph (1)(B) shall be used for projects serving urbanized areas with a population of less than 200,000.*

*"(C) Funds apportioned under paragraph (1)(C) shall be used for projects serving other than urbanized areas.*

*"(3) TRANSFERS.—*

*"(A) IN GENERAL.—A State may transfer any funds apportioned to it under paragraph (1)(B) or (1)(C), or both, to an apportionment under section 5311(c) or 5336, or both.*

*"(B) LIMITED TO ELIGIBLE PROJECTS.—Any funds transferred pursuant to this paragraph shall be made available only for eligible projects selected under this section.*

*"(C) CONSULTATION.—A State may make a transfer of an amount under this subsection only after consulting with responsible local officials and publicly owned operators of public transportation in each area for which the amount originally was awarded under subsection (d)(4).*

*"(d) COMPETITIVE PROCESS FOR GRANTS TO SUBRECIPIENTS.—*

*"(1) AREAWIDE SOLICITATIONS.—A recipient of funds apportioned under subsection (c)(1)(A) shall conduct, in cooperation with the appropriate metropolitan planning organization, an areawide solicitation for applications for grants to the recipient and subrecipients under this section.*

*"(2) STATEWIDE SOLICITATION.—A recipient of funds apportioned under subsection (c)(1)(B) or (c)(1)(C) shall conduct a statewide solicitation for applications for grants to the recipient and subrecipients under this section.*

*"(3) APPLICATION.—Recipients and subrecipients seeking to receive a grant from funds apportioned under subsection (c) shall submit to the recipient an application in the form and in accordance with such requirements as the recipient shall establish.*

*"(4) GRANT AWARDS.—The recipient shall award grants under paragraphs (1) and (2) on a competitive basis.*

*"(e) GRANT REQUIREMENTS.—*

*"(1) IN GENERAL.—A grant under this section shall be subject to all the requirements of section 5310 to the extent the Secretary considers appropriate.*

*"(2) FAIR AND EQUITABLE DISTRIBUTION.—A recipient of a grant under this section shall certify that allocations of the grant to subrecipients are distributed on a fair and equitable basis.*

*"(f) COORDINATION.—*

*"(1) IN GENERAL.—The Secretary shall coordinate activities under this section with related activities under programs of other Federal departments and agencies.*

*"(2) WITH NONPROFIT PROVIDERS.—A recipient that transfers funds to an apportionment under section 5336 pursuant to subsection (c)(2) shall certify that the project for which the funds are requested under this section has been coordinated with nonprofit providers of services.*

*"(3) PROJECT SELECTION AND PLANNING.—Beginning in fiscal year 2007, a recipient of funds under this section shall certify that—*

*"(A) the projects selected were derived from a locally developed, coordinated public transit-human services transportation plan; and*

*"(B) the plan was developed through a process that included representatives of public, private, and nonprofit transportation and human services providers and participation by the public.*

*"(g) GOVERNMENT'S SHARE OF COSTS.—*

*"(1) CAPITAL PROJECTS.—A grant for a capital project under this section may not exceed 80 percent of the net capital costs of the project, as determined by the Secretary.*

*"(2) OPERATING ASSISTANCE.—A grant made under this section for operating assistance may not exceed 50 percent of the net operating costs of the project, as determined by the Secretary.*

*"(3) REMAINDER.—The remainder of the net project costs—*

*"(A) may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, a service agreement with a State or local social service agency or a private social service organization, or new capital; and*

*"(B) may be derived from amounts appropriated to or made available to a department or agency of the Government (other than the Department of Transportation) that are eligible to be expended for transportation.*

*"(4) USE OF CERTAIN FUNDS.—For purposes of paragraph (3)(B), the prohibitions on the use of funds for matching requirements under section 403(a)(5)(C)(vii) of the Social Security Act (42 U.S.C. 603(a)(5)(C)(vii)) shall not apply to Federal or State funds to be used for transportation purposes.*

*"(5) LIMITATION ON OPERATING ASSISTANCE.—A recipient carrying out a program of operating assistance under this section may not limit the level or extent of use of the Government grant for the payment of operating expenses.".*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by inserting after the item relating to section 5316 the following:*

*"5317. New freedom program.".*

***SEC. 3020. BUS TESTING FACILITY.***

*(a) FACILITY.—Section 5318(a) is amended to read as follows:*

*"(a) FACILITY.—The Secretary shall maintain one facility for testing a new bus model for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.".*

*(b) AVAILABILITY OF AMOUNTS TO PAY FOR TESTING.—Section 5318(d) is amended by striking "under section 5309(m)(1)(C) of this title" and inserting "to carry out this section".*

*(c) ACQUIRING NEW BUS MODELS.—Section 5318(e) is amended to read as follows:*

*"(e) ACQUIRING NEW BUS MODELS.—Amounts appropriated or made available under this chapter may be obligated or expended to acquire a new bus model only if a bus of that model has been tested at the facility maintained by the Secretary under subsection (a).".*

***SEC. 3021. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS.***

*(a) IN GENERAL.—Chapter 53 is amended by striking section 5320 and inserting the following:*

***"§5320. Alternative transportation in parks and public lands***

*"(a) IN GENERAL.—*

*"(1) AUTHORIZATION.—*

*"(A) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may award a grant or enter into a contract, cooperative agreement, interagency agreement, intraagency agreement, or other agreement to carry out a qualified project under this section to enhance the protection of national parks and public lands and increase the enjoyment of those visiting the parks and public lands by—*

*"(i) ensuring access to all, including persons with disabilities;*

*"(ii) improving conservation and park and public land opportunities in urban areas through partnering with State and local governments; and*

*"(iii) improving park and public land transportation infrastructure.*

*"(B) CONSULTATION WITH OTHER AGENCIES.—To the extent that projects are proposed or funded in eligible areas that are not within the jurisdiction of the Department of the Interior, the Secretary of the Interior shall consult with the heads of the relevant Federal land management agencies in carrying out the responsibilities under this section.*

*"(2) USE OF FUNDS.—A grant, cooperative agreement, interagency agreement, intraagency agreement, or other agreement for a qualified project under this section shall be available to finance the leasing of equipment and facilities for use in public transportation, subject to any regulation that the Secretary may prescribe limiting the grant or agreement to leasing arrangements that are more cost-effective than purchase or construction.*

*"(3) ALTERNATIVE TRANSPORTATION FACILITIES AND SERVICES.—Projects receiving assistance under this section shall provide alternative transportation facilities and services that complement and enhance existing transportation services in national parks and public lands in a manner that is consistent with Department of Interior and other public land management policies regarding private automobile access to and in such parks and lands.*

*"(b) DEFINITIONS.—In this section, the following definitions apply:*

*"(1) ELIGIBLE AREA.—The term 'eligible area' means any federally owned or managed park, refuge, or recreational area that is open to the general public, including—*

*"(A) a unit of the National Park System;*

*"(B) a unit of the National Wildlife Refuge System;*

*"(C) a recreational area managed by the Bureau of Land Management;*

*"(D) a recreation area managed by the Bureau of Reclamation; and*

*"(E) a unit of the National Forest System.*

*"(2) FEDERAL LAND MANAGEMENT AGENCY.—The term 'Federal land management agency' means a Federal agency that manages an eligible area.*

*"(3) ALTERNATIVE TRANSPORTATION.—The term 'alternative transportation' means transportation by bus, rail, or any other publicly or privately owned conveyance that provides to the public general or special service on a regular basis, including sightseeing service. Such term also includes a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft).*

*"(4) QUALIFIED PARTICIPANT.—The term 'qualified participant' means—*

*"(A) a Federal land management agency; or*

*"(B) a State, tribal, or local governmental authority with jurisdiction over land in the vicinity of an eligible area acting with the consent of the Federal land management agency, alone or in partnership with a Federal land management agency or other governmental or nongovernmental participant.*

*"(5) QUALIFIED PROJECT.—The term 'qualified project' means a planning or capital project in or in the vicinity of an eligible area that—*

*"(A) is an activity described in section 5302(a)(1)(A), 5303, 5304, 5305, or 5309(b);*

*"(B) involves—*

*"(i) the purchase of rolling stock that incorporates clean fuel technology or the replacement of buses of a type in use on the date of enactment of the Federal Public Transportation Act of 2005 with clean fuel vehicles; or*

*"(ii) the deployment of alternative transportation vehicles that introduce innovative technologies or methods;*

*"(C) relates to the capital costs of coordinating the Federal land management agency public transportation systems with other public transportation systems;*

*"(D) provides a nonmotorized transportation system (including the provision of facilities for pedestrians, bicycles, and nonmotorized watercraft);*

*"(E) provides waterborne access within or in the vicinity of an eligible area, as appropriate to and consistent with this section; or*

*"(F) is any other alternative transportation project that—*

*"(i) enhances the environment;*

*"(ii) prevents or mitigates an adverse impact on a natural resource;*

*"(iii) improves Federal land management agency resource management;*

*"(iv) improves visitor mobility and accessibility and the visitor experience;*

*"(v) reduces congestion and pollution (including noise pollution and visual pollution); or*

*"(vi) conserves a natural, historical, or cultural resource (excluding rehabilitation or restoration of a non-transportation facility).*

*"(c) FEDERAL AGENCY COOPERATIVE ARRANGEMENTS.—The Secretary shall develop cooperative arrangements with the Secretary of the Interior that provide for—*

*"(1) technical assistance in alternative transportation;*

*"(2) interagency and multidisciplinary teams to develop Federal land management agency alternative transportation policy, procedures, and coordination; and*

*"(3) the development of procedures and criteria relating to the planning, selection, and funding of qualified projects and the implementation and oversight of the program of projects in accordance with this section.*

*"(d) LIMITATION ON USE OF AVAILABLE AMOUNTS.—*

*"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, may use not more than 10 percent of the amount made available for a fiscal year under section 5338(b)(2)(J) to carry out planning, research, and technical assistance under this section, including the development of technology appropriate for use in a qualified project.*

*"(2) ADDITIONAL AMOUNTS.—Amounts made available under this subsection are in addition to amounts otherwise available to the Secretary to carry out planning, research, and technical assistance under this chapter or any other provision of law.*

*"(3) MAXIMUM AMOUNT.—No qualified project shall receive more than 25 percent of the total amount made available to carry out this section under section 5338(b)(2)(J) for any fiscal year.*

*"(e) PLANNING PROCESS.—In undertaking a qualified project under this section—*

*"(1) if the qualified participant is a Federal land management agency—*

*"(A) the Secretary, in cooperation with the Secretary of the Interior, shall develop transportation planning procedures that are consistent with—*

*"(i) the metropolitan planning provisions under section 5303;*

*"(ii) the statewide planning provisions under section 5304; and*

*"(iii) the public participation requirements under section 5307(d); and*

*"(B) in the case of a qualified project that is at a unit of the National Park System, the planning process shall be consistent with the general management plans of the unit of the National Park System; and*

*"(2) if the qualified participant is a State or local governmental authority, or more than one State or local governmental authority in more than one State, the qualified participant shall—*

*"(A) comply with the metropolitan planning provisions under section 5303;*

*"(B) comply with the statewide planning provisions under section 5304;*

*"(C) comply with the public participation requirements under section 5307(d); and*

*"(D) consult with the appropriate Federal land management agency during the planning process.*

*"(f) COST SHARING.—*

*"(1) GOVERNMENT'S SHARE.—The Secretary, in cooperation with the Secretary of the Interior, shall establish the Government's share of the net project cost to be provided to a qualified participant under this section.*

*"(2) CONSIDERATIONS.—In establishing the Government's share of the net project cost to be provided under this section, the Secretary shall consider—*

*"(A) visitation levels and the revenue derived from user fees in the eligible area in which the qualified project is carried out;*

*"(B) the extent to which the qualified participant coordinates with a public transportation authority or private entity engaged in public transportation;*

*"(C) private investment in the qualified project, including the provision of contract services, joint development activities, and the use of innovative financing mechanisms;*

*"(D) the clear and direct benefit to the qualified participant; and*

*"(E) any other matters that the Secretary considers appropriate to carry out this section.*

*"(3) SPECIAL RULE.—Notwithstanding any other provision of law, funds appropriated to any Federal land management agency may be counted toward the remainder of the net project cost.*

*"(g) SELECTION OF QUALIFIED PROJECTS.—*

*"(1) IN GENERAL.—The Secretary of the Interior, after consultation with and in cooperation with the Secretary, shall determine the final selection and funding of an annual program of qualified projects in accordance with this section.*

*"(2) CONSIDERATIONS.—In determining whether to include a project in the annual program of qualified projects, the Secretary of the Interior shall consider—*

*"(A) the justification for the qualified project, including the extent to which the qualified project would conserve resources, prevent or mitigate adverse impact, and enhance the environment;*

*"(B) the location of the qualified project, to ensure that the selected qualified projects—*

*"(i) are geographically diverse nationwide; and*

*"(ii) include qualified projects in eligible areas located in both urban areas and rural areas;*

*"(C) the size of the qualified project, to ensure that there is a balanced distribution;*

*"(D) the historical and cultural significance of a qualified project;*

*"(E) safety;*

*"(F) the extent to which the qualified project would—*

*"(i) enhance livable communities;*

*"(ii) reduce pollution (including noise pollution, air pollution, and visual pollution);*

*"(iii) reduce congestion; and*

*"(iv) improve the mobility of people in the most efficient manner; and*

*"(G) any other matters that the Secretary of the Interior considers appropriate to carry out this section, including—*

*"(i) visitation levels;*

*"(ii) the use of innovative financing or joint development strategies; and*

*"(iii) coordination with gateway communities.*

*"(h) QUALIFIED PROJECTS CARRIED OUT IN ADVANCE.—*

*"(1) IN GENERAL.—When a qualified participant carries out any part of a qualified project without assistance under this section in accordance with all applicable procedures and requirements, the Secretary, in consultation with the Secretary of the Interior, may pay the share of the net capital project cost of a qualified project if—*

*"(A) the qualified participant applies for the payment;*

*"(B) the Secretary approves the payment; and*

*"(C) before carrying out that part of the qualified project, the Secretary approves the plans and specifications in the same manner as plans and specifications are approved for other projects assisted under this section.*

*"(2) FINANCING COSTS.—*

*"(A) IN GENERAL.—The cost of carrying out part of a qualified project under paragraph (1) includes the amount of interest earned and payable on bonds issued by a State or local governmental authority, to the extent that proceeds of the bond are expended in carrying out that part.*

*"(B) LIMITATION ON AMOUNT OF INTEREST.—The rate of interest under this paragraph may not exceed the most favorable rate reasonably available for the qualified project at the time of borrowing.*

*"(C) CERTIFICATION.—The qualified participant shall certify, in a manner satisfactory to the Secretary, that the qualified participant has exercised reasonable diligence in seeking the most favorable interest rate.*

*"(i) RELATIONSHIP TO OTHER LAWS.—*

*"(1) SECTION 5307.—A qualified participant under this section shall be subject to the requirements of sections 5307 and 5333(a) to the extent the Secretary determines to be appropriate.*

*"(2) OTHER REQUIREMENTS.—A qualified participant under this section shall be subject to any other requirements that the Secretary determines to be appropriate to carry out this section, including requirements for the distribution of proceeds on disposition of real property and equipment resulting from a qualified project assisted under this section.*

*"(3) PROJECT MANAGEMENT PLAN.—If the amount of assistance anticipated to be required for a qualified project under this section is not less than $25,000,000—*

*"(A) the qualified project shall, to the extent the Secretary considers appropriate, be carried out through a full funding grant agreement in accordance with section 5309(g); and*

*"(B) the qualified participant shall prepare a project management plan in accordance with section 5327(a).*

*"(j) ASSET MANAGEMENT.—The Secretary, in consultation with the Secretary of the Interior, may transfer the interest of the Department of*

Transportation in, and control over, all facilities and equipment acquired under this section to a qualified participant for use and disposition in accordance with any property management regulations that the Secretary determines to be appropriate.

"(k) COORDINATION OF RESEARCH AND DEPLOYMENT OF NEW TECHNOLOGIES.—

"(1) GRANTS AND OTHER ASSISTANCE.—The Secretary, in cooperation with the Secretary of the Interior, may undertake, or make grants, cooperative agreements, contracts (including agreements with departments, agencies, and instrumentalities of the Federal Government) or other agreements for research, development, and deployment of new technologies in eligible areas that will—

"(A) conserve resources;

"(B) prevent or mitigate adverse environmental impact;

"(C) improve visitor mobility, accessibility, and enjoyment; and

"(D) reduce pollution (including noise pollution and visual pollution).

"(2) INFORMATION.—The Secretary may request and receive appropriate information from any source.

"(3) FUNDING.—Grants, cooperative agreements, contracts, and other agreements under paragraph (1) shall be awarded from amounts allocated under subsection (d)(1).

"(l) INNOVATIVE FINANCING.—A qualified project receiving financial assistance under this section shall be eligible for funding through a State infrastructure bank or other innovative financing mechanism available to finance an eligible project under this chapter.

"(m) REPORTS.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of the Interior, shall annually submit a report on the allocation of amounts made available to assist qualified projects under this section to—

"(A) the Committee on Banking, Housing, and Urban Affairs of the Senate;

"(B) the Committee on Transportation and Infrastructure of the House of Representatives; and

"(C) the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

"(2) ANNUAL REPORTS.—The report required under paragraph (1) shall be included in the report submitted under section 5309(k)(1).".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5320 and inserting the following:

"5320. Alternative transportation in parks and public lands.".

### SEC. 3022. HUMAN RESOURCES PROGRAMS.

Section 5322 is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(2) by adding at the end the following:

"(b) FELLOWSHIPS.—

"(1) AUTHORITY TO MAKE GRANTS.—The Secretary may make grants to States, local governmental authorities, and operators of public transportation systems to provide fellowships to train personnel employed in managerial, technical, and professional positions in the public transportation field.

"(2) TERMS.—

"(A) PERIOD OF TRAINING.—A fellowship under this subsection may be for not more than one year of training in an institution that offers a program applicable to the public transportation industry.

"(B) SELECTION OF INDIVIDUALS.—A recipient of a grant for a fellowship under this subsection shall select an individual on the basis of demonstrated ability and for the contribution the individual reasonably can be expected to make to an efficient public transportation operation.

"(C) AMOUNT.—A grant for a fellowship under this subsection may not be more than the lesser of $65,000 or 75 percent of the sum of—

"(i) tuition and other charges to the fellowship recipient;

"(ii) additional costs incurred by the training institution and billed to the grant recipient; and

"(iii) the regular salary of the fellowship recipient for the period of the fellowship to the extent the salary is actually paid or reimbursed by the grant recipient.".

### SEC. 3023. GENERAL PROVISIONS ON ASSISTANCE.

(a) INTERESTS IN PROPERTY.—Section 5323(a) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Financial assistance provided under this chapter to a State or a local governmental authority may be used to acquire an interest in, or to buy property of, a private company engaged in public transportation, for a capital project for property acquired from a private company engaged in public transportation after July 9, 1964, or to operate a public transportation facility or equipment in competition with, or in addition to, transportation service provided by an existing public transportation company, only if—

"(A) the Secretary determines that such financial assistance is essential to a program of projects required under sections 5303, 5304, and 5306;

"(B) the Secretary determines that the program provides for the participation of private companies engaged in public transportation to the maximum extent feasible; and

"(C) just compensation under State or local law will be paid to the company for its franchise or property."; and

(2) in paragraph (2) by striking "(2) A governmental authority" and inserting the following:

"(2) LIMITATION.—A governmental authority".

(b) NOTICE AND PUBLIC HEARING.—Section 5323(b) is amended to read as follows:

"(b) NOTICE AND PUBLIC HEARING.—

"(1) IN GENERAL.—For a capital project that will substantially affect a community, or the public transportation service of a community, an applicant shall—

"(A) provide an adequate opportunity for public review and comment on the project;

"(B) after providing notice, hold a public hearing on the project if the project affects significant economic, social, or environmental interests;

"(C) consider the economic, social, and environmental effects of the project; and

"(D) find that the project is consistent with official plans for developing the community.

"(2) NOTICE.—Notice of a hearing under this subsection—

"(A) shall include a concise description of the proposed project; and

"(B) shall be published in a newspaper of general circulation in the geographic area the project will serve.

"(3) APPLICATION REQUIREMENTS.—An application for a grant under this chapter for a capital project described in paragraph (1) shall include—

"(A) a certification that the applicant has complied with the requirements of this subsection; and

"(B) in the environmental record for the project, evidence that the applicant has complied with the requirements of this subsection.".

(c) FARES NOT REQUIRED.—Section 5323(c) is amended to read as follows:

"(c) FARES NOT REQUIRED.—This chapter does not require that elderly individuals and individuals with disabilities be charged a fare.".

(d) CONDITION ON CHARTER BUS TRANSPORTATION SERVICE.—Section 5323(d) is amended—

(1) by striking "(1) Financial assistance" and inserting the following:

"(1) AGREEMENTS.—Financial assistance"; and

(2) by striking paragraph (2) and inserting the following:

"(2) VIOLATIONS.—

"(A) INVESTIGATIONS.—On receiving a complaint about a violation of the agreement required under paragraph (1), the Secretary shall investigate and decide whether a violation has occurred.

"(B) ENFORCEMENT OF AGREEMENTS.—If the Secretary decides that a violation has occurred, the Secretary shall correct the violation under terms of the agreement.

"(C) ADDITIONAL REMEDIES.—In addition to any remedy specified in the agreement, the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate if the Secretary finds a pattern of violations of the agreement.".

(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—Section 5323(e) is amended to read as follows:

"(e) BOND PROCEEDS ELIGIBLE FOR LOCAL SHARE.—

"(1) USE AS LOCAL MATCHING FUNDS.—Notwithstanding any other provision of law, a recipient of assistance under section 5307 or 5309 may use the proceeds from the issuance of revenue bonds as part of the local matching funds for a capital project.

"(2) MAINTENANCE OF EFFORT.—The Secretary shall approve of the use of the proceeds from the issuance of revenue bonds for the remainder of the net project cost only if the Secretary finds that the aggregate amount of financial support for public transportation in the urbanized area provided by the State and affected local governmental authorities during the next 3 fiscal years, as programmed in the State transportation improvement program under section 5304, is not less than the aggregate amount provided by the State and affected local governmental authorities in the urbanized area during the preceding 3 fiscal years.

"(3) DEBT SERVICE RESERVE.—The Secretary may reimburse an eligible recipient for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5309.

"(4) PILOT PROGRAM FOR URBANIZED AREAS.—

"(A) IN GENERAL.—The Secretary shall establish a pilot program to reimburse not to exceed 10 eligible recipients for deposits of bond proceeds in a debt service reserve that the recipient establishes pursuant to section 5302(a)(1)(K) from amounts made available to the recipient under section 5307.

"(B) REPORT.—Not later than July 31, 2008, the Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status and effectiveness of the pilot program established under subparagraph (A).".

(f) SCHOOLBUS TRANSPORTATION.—Section 5323(f) is amended—

(1) by striking "(1) Financial assistance" and inserting the following:

"(1) AGREEMENTS.—Financial assistance";

(2) in paragraph (1) by moving subparagraphs (A), (B), and (C) 2 ems to the right; and

(3) by striking paragraph (2) and inserting the following:

"(2) VIOLATIONS.—If the Secretary finds that an applicant, governmental authority, or publicly owned operator has violated the agreement required under paragraph (1), the Secretary shall bar a recipient or an operator from receiving Federal transit assistance in an amount the Secretary considers appropriate.".

(g) BUYING BUSES UNDER OTHER LAWS.—Section 5323(g) is amended by striking "103(e)(4) and 142(a) or (c)" each place it appears and inserting "133 and 142".

(h) GOVERNMENT'S SHARE OF COSTS FOR CERTAIN PROJECTS.—Section 5323(i) is amended—

(1) in the subsection heading by striking "GOVERNMENT" and inserting "GOVERNMENT'S";

(2) by striking "A grant" and inserting the following:

"(1) EQUIPMENT FOR ADA AND CLEAN AIR ACT COMPLIANCE.—A grant";

(3) by inserting "or facilities" after "equipment" each place it appears; and

(4) by adding at the end the following:

"(2) CERTAIN STATE OWNED RAILROADS.—The Government share for financial assistance under this chapter to a State-owned railroad (as defined in section 603 of the Rail Safety and Service Improvement Act of 1982 (45 U.S.C. 1202)) shall be the same as the Government share under section 120(b) of title 23 for Federal-aid highway funds apportioned to the State in which the railroad operates.".

(i) BUY AMERICA.—

(1) PUBLIC INTEREST WAIVER.—Section 5323(j) is amended—

(A) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(B) by inserting after paragraph (2) the following:

"(3) WRITTEN JUSTIFICATION FOR PUBLIC INTEREST WAIVER.—When issuing a waiver based on a public interest determination under paragraph (2)(A), the Secretary shall issue a detailed written justification as to why the waiver is in the public interest. The Secretary shall publish such justification in the Federal Register and provide the public with a reasonable period of time for notice and comment.".

(2) INELIGIBILITY FOR CONTRACTS.—Section 5323(j)(6) (as so redesignated) is amended by striking "Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914)" and inserting "Federal Public Transportation Act of 2005".

(3) ADMINISTRATIVE REVIEW.—Section 5323(j) is amended by adding at the end the following:

"(9) ADMINISTRATIVE REVIEW.—A party adversely affected by an agency action under this subsection shall have the right to seek review under section 702 of title 5.".

(4) REPEAL OF GENERAL WAIVER.—Subsections (b) and (c) of Appendix A of section 661.7 of title 49, Code of Federal Regulations, shall cease to be in effect beginning on the date of enactment of this Act.

(5) RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue a final rule on implementation of the requirements of section 5323(j) of title 49, United States Code (in this paragraph referred to as the "Buy America requirements"). The purposes of the regulations shall be as follows:

(A) MICROPROCESSOR WAIVER.—To clarify that any waiver from the Buy America requirements issued under section 5323(j)(2) of such title for a microprocessor, computer, or microcomputer applies only to a device used solely for the purpose of processing or storing data and does not extend to a product containing a microprocessor, computer, or microcomputer.

(B) DEFINITIONS.—To define the terms "end product", "negotiated procurement", and "contractor" for purposes of part 661 of title 49, Code of Federal Regulations. In defining the terms, the Secretary shall develop a list of representative items that are subject to the Buy America requirements, and shall address the procurement of systems under the definition to ensure that major system procurements are not used to circumvent the Buy America requirements.

(C) POST-AWARD WAIVERS.—To permit a grantee to request a non-availability waiver from the Buy America requirements under section 661.7c of title 49, Code of Federal Regulations, after contract award in any case in which the contractor has made a certification of compliance with the requirements in good faith.

(D) CERTIFICATION UNDER NEGOTIATED PROCUREMENT PROCESS.—In any case in which a negotiated procurement process is used, compliance with the Buy America requirements shall be determined on the basis of the certification submitted with the final offer.

(j) RELATIONSHIP TO OTHER LAWS.—Section 5323(l) is amended to read as follows:

"(l) RELATIONSHIP TO OTHER LAWS.—Section 1001 of title 18 applies to a certificate, submission, or statement provided under this chapter. The Secretary may terminate financial assistance under this chapter and seek reimbursement directly, or by offsetting amounts, available under this chapter if the Secretary determines that a recipient of such financial assistance has made a false or fraudulent statement or related act in connection with a Federal transit program.".

(k) PREAWARD AND POSTDELIVERY REVIEW OF ROLLING STOCK PURCHASES.—Section 5323(m) is amended by adding at the end the following: "Rolling stock procurements of 20 vehicles or fewer made for the purpose of serving other than urbanized areas and urbanized areas with populations of 200,000 or fewer shall be subject to the same requirements as established for procurements of 10 or fewer buses under the postdelivery purchaser's requirements certification process under section 663.37(c) of title 49, Code of Federal Regulations.".

(l) GRANT REQUIREMENTS.—Section 5323(o) is amended by striking "the Transportation Infrastructure Finance and Innovation Act of 1998" and inserting "chapter 6 (other than section 609) of title 23".

(m) ALTERNATIVE FUELING FACILITIES.—Section 5323 is amended by adding at the end the following:

"(p) ALTERNATIVE FUELING FACILITIES.—A recipient of assistance under this chapter may allow the incidental use of Federally funded alternative fueling facilities and equipment by nontransit public entities and private entities if—

"(1) the incidental use does not interfere with the recipient's public transportation operations;

"(2) all costs related to the incidental use are fully recaptured by the recipient from the nontransit public entity or private entity;

"(3) the recipient uses revenues received from the incidental use in excess of costs for planning, capital, and operating expenses that are incurred in providing public transportation; and

"(4) private entities pay all applicable excise taxes on fuel.".

### SEC. 3024. SPECIAL PROVISIONS FOR CAPITAL PROJECTS.

(a) IN GENERAL.—Section 5324 is amended to read as follows:

### "§ 5324. Special provisions for capital projects

"(a) RELOCATION AND REAL PROPERTY REQUIREMENTS.—The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) shall apply to financial assistance for capital projects under this chapter.

"(b) CONSIDERATION OF ECONOMIC, SOCIAL, AND ENVIRONMENTAL INTERESTS.—

"(1) COOPERATION AND CONSULTATION.—In carrying out the policy of section 5301(e), the Secretary shall cooperate and consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency on each project that may have a substantial impact on the environment.

"(2) PUBLIC PARTICIPATION IN ENVIRONMENTAL REVIEWS.—In performing environmental reviews, the Secretary shall review each transcript of a hearing submitted under section 5323(b) to establish that an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest in the project, and that the project application includes a record of—

"(A) the environmental impact of the proposal;

"(B) adverse environmental effects that cannot be avoided;

"(C) alternatives to the proposal; and

"(D) irreversible and irretrievable impacts on the environment.

"(3) APPROVAL OF APPLICATIONS FOR ASSISTANCE.—

"(A) FINDINGS BY THE SECRETARY.—The Secretary may approve an application for financial assistance for a capital project in accordance with this chapter only if the Secretary makes written findings, after reviewing the application and the transcript of any hearing held before a State or local governmental authority under section 5323(b), that—

"(i) an adequate opportunity to present views was given to all parties having a significant economic, social, or environmental interest;

"(ii) the preservation and enhancement of the environment and the interest of the community in which the project is located were considered; and

"(iii) no adverse environmental effect is likely to result from the project, or no feasible and prudent alternative to the effect exists and all reasonable steps have been taken to minimize the effect.

"(B) HEARING.—If a hearing has not been conducted or the Secretary decides that the record of the hearing is inadequate for making the findings required by this subsection, the Secretary shall conduct a hearing on an environmental issue raised by the application after giving adequate notice to interested persons.

"(C) AVAILABILITY OF FINDINGS.—The Secretary's findings under subparagraph (A) shall be made a matter of public record.

"(c) RAILROAD CORRIDOR PRESERVATION.—

"(1) IN GENERAL.—The Secretary may assist an applicant to acquire railroad right-of-way before the completion of the environmental reviews for any project that may use the right-of-way if the acquisition is otherwise permitted under Federal law. The Secretary may establish restrictions on such an acquisition as the Secretary determines to be necessary and appropriate.

"(2) ENVIRONMENTAL REVIEWS.—Railroad right-of-way acquired under this subsection may not be developed in anticipation of the project until all required environmental reviews for the project have been completed.".

(b) CHAPTER ANALYSIS.—The analysis for chapter 53 is amended by striking the item relating to section 5324 and inserting the following:

"5324. Special provisions for capital projects.".

### SEC. 3025. CONTRACT REQUIREMENTS.

(a) IN GENERAL.—Section 5325 is amended to read as follows:

### "§ 5325. Contract requirements

"(a) COMPETITION.—Recipients of assistance under this chapter shall conduct all procurement transactions in a manner that provides full and open competition as determined by the Secretary.

"(b) ARCHITECTURAL, ENGINEERING, AND DESIGN CONTRACTS.—

"(1) PROCEDURES FOR AWARDING CONTRACT.—A contract or requirement for program management, architectural engineering, construction management, a feasibility study, and preliminary engineering, design, architectural, engineering, surveying, mapping, or related services for a project for which Federal assistance is provided under this chapter shall be awarded in the same way as a contract for architectural and engineering services is negotiated under chapter 11 of title 40 or an equivalent qualifications-based requirement of a State.

"(2) Effect of State Laws.—Paragraph (1) does not apply to the extent a State has adopted by law, before the date of enactment of the Federal Public Transportation Act of 2005, an equivalent State qualifications-based requirement for contracting for architectural, engineering, and design services.

"(3) Additional Requirements.—When awarding a contract described in paragraph (1), recipients of assistance under this chapter shall comply with the following requirements:

"(A) Performance of Audits.—Any contract or subcontract awarded under this chapter shall be performed and audited in compliance with cost principles contained in part 31 of title 48, Code of Federal Regulations (commonly known as the Federal Acquisition Regulation).

"(B) Indirect Cost Rates.—A recipient of funds under a contract or subcontract awarded under this chapter shall accept indirect cost rates established in accordance with the Federal Acquisition Regulation for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute.

"(C) Application of Rates.—After a firm's indirect cost rates are accepted under subparagraph (B), the recipient of the funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment, and shall not be limited by administrative or de facto ceilings.

"(D) Prenotification; Confidentiality of Data.—A recipient requesting or using the cost and rate data described in subparagraph (C) shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided by the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(c) Efficient Procurement.—A recipient may award a procurement contract under this chapter to other than the lowest bidder if the award furthers an objective consistent with the purposes of this chapter, including improved long-term operating efficiency and lower long-term costs.

"(d) Design-Build Projects.—

"(1) Term Defined.—In this subsection, the term 'design-build project'—

"(A) means a project under which a recipient enters into a contract with a seller, firm, or consortium of firms to design and build a public transportation system, or an operable segment of such system, that meets specific performance criteria; and

"(B) may include an option to finance, or operate for a period of time, the system or segment or any combination of designing, building, operating, or maintaining such system or segment.

"(2) Financial Assistance for Capital Costs.—Federal financial assistance under this chapter may be provided for the capital costs of a design-build project after the recipient complies with Government requirements.

"(e) Multiyear Rolling Stock.—

"(1) Contracts.—A recipient procuring rolling stock with Government financial assistance under this chapter may make a multiyear contract to buy the rolling stock and replacement parts under which the recipient has an option to buy additional rolling stock or replacement parts for not more than 5 years after the date of the original contract.

"(2) Cooperation Among Recipients.—The Secretary shall allow at least 2 recipients to act on a cooperative basis to procure rolling stock in compliance with this subsection and other Government procurement requirements.

"(f) Acquiring Rolling Stock.—A recipient of financial assistance under this chapter may enter into a contract to expend that assistance to acquire rolling stock—

"(1) based on—

"(A) initial capital costs; or

"(B) performance, standardization, life cycle costs, and other factors; or

"(2) with a party selected through a competitive procurement process.

"(g) Examination of Records.—Upon request, the Secretary and the Comptroller General, or any of their representatives, shall have access to and the right to examine and inspect all records, documents, and papers, including contracts, related to a project for which a grant is made under this chapter.

"(h) Grant Prohibition.—A grant awarded under this chapter or the Federal Public Transportation Act of 2005 may not be used to support a procurement that uses an exclusionary or discriminatory specification.

"(i) Bus Dealer Requirements.—No State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter.

"(j) Awards to Responsible Contractors.—

"(1) In General.—Federal financial assistance under this chapter may be provided for contracts only if a recipient awards such contracts to responsible contractors possessing the ability to successfully perform under the terms and conditions of a proposed procurement.

"(2) Criteria.—Before making an award to a contractor under paragraph (1), a recipient shall consider—

"(A) the integrity of the contractor;

"(B) the contractor's compliance with public policy;

"(C) the contractor's past performance, including the performance reported in the Contractor Performance Assessment Reports required under section 5309(l)(2); and

"(D) the contractor's financial and technical resources.".

(b) Conforming Amendment.—Section 5326 and the item relating to section 5326 in the analysis for chapter 53 are repealed.

### SEC. 3026. PROJECT MANAGEMENT OVERSIGHT AND REVIEW.

(a) Project Management Plan Requirements.—Section 5327(a) is amended—

(1) in paragraph (11) by striking "and" at the end;

(2) in paragraph (12) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(13) safety and security management.".

(b) Limitations.—Section 5327(c) is amended to read as follows:

"(c) Limitations.—

"(1) Limitations on Use of Available Amounts.—Of the amounts made available to carry out this chapter for a fiscal year, the Secretary may use not more than the following amounts to make contracts for the activities described in paragraph (2):

"(A) 0.5 percent of amounts made available to carry out section 5305.

"(B) 0.75 percent of amounts made available to carry out section 5307.

"(C) 1 percent of amounts made available to carry out section 5309.

"(D) 0.5 percent of amounts made available to carry out section 5310.

"(E) 0.5 percent of amounts made available to carry out section 5311.

"(F) 0.5 percent of amounts made available to carry out section 5320.

"(2) Activities.—Paragraph (1) shall apply to the following:

"(A) Activities to oversee the construction of a major project.

"(B) Activities to review and audit the safety and security, procurement, management, and financial compliance of a recipient or subrecipient of funds under sections 5305, 5307, 5309, 5310, 5311, and 5320.

"(C) Activities to provide technical assistance to correct deficiencies identified in compliance reviews and audits carried out under this section.

"(3) Limitations on Applicability.—Subsections (a), (b), and (e) do not apply to contracts under this section for activities described in paragraphs (2)(B) and (2)(C).

"(4) Government's Share of Costs.—The Government shall pay the entire cost of carrying out a contract under this subsection.

"(5) Availability of Certain Funds.—Beginning in fiscal year 2006, funds available under paragraph (1)(C) shall be made available to the Secretary before allocating the funds appropriated to carry out any project under a full funding grant agreement or project construction grant agreement.".

### SEC. 3027. PROJECT REVIEW.

Section 5328(a) is amended—

(1) in paragraph (1) by striking "(1) When the Secretary of Transportation allows a new fixed guideway project to advance into the alternatives analysis stage of project review, the Secretary shall cooperate with the applicant in" and inserting the following:

"(1) Alternatives Analysis.—The Secretary shall cooperate with an applicant undertaking an alternatives analysis required by subsections (d) and (e) of section 5309 in the"; and

(2) in paragraph (2)—

(A) by striking "(2) After" and inserting the following:

"(2) Advancement to Preliminary Engineering Stage.—After"; and

(B) by striking "is consistent with section 5309(e)" and inserting "meets the requirements of subsection (d) or (e) of section 5309";

(3) in paragraph (3)—

(A) by striking "(3) The Secretary" and inserting the following:

"(3) Record of Decision.—The Secretary";

(B) by striking "of construction"; and

(C) by adding before the period at the end the following: "if the Secretary determines that the project meets the requirements of subsection (d) or (e) of section 5309"; and

(4) by striking paragraph (4) and inserting the following:

"(4) Funding Agreements.—The Secretary shall enter into a full funding grant agreement or project construction grant agreement, as appropriate, between the Government and the project sponsor if the Secretary determines that the project meets the requirements of subsection (d) or (e) of section 5309.".

### SEC. 3028. INVESTIGATIONS OF SAFETY HAZARDS AND SECURITY RISKS.

(a) In General.—Section 5329 is amended to read as follows:

**"§5329. Investigations of safety hazards and security risks**

"(a) In General.—The Secretary may conduct investigations into safety hazards and security risks associated with a condition in equipment, a facility, or an operation financed under this chapter to establish the nature and extent of the condition and how to eliminate, mitigate, or correct it.

"(b) Submission of Corrective Plan.—If the Secretary establishes that a safety hazard or security risk warrants further protective measures, the Secretary shall require the local governmental authority receiving amounts under this chapter to submit a plan for eliminating, mitigating, or correcting it.

"(c) Withholding Financial Assistance.—Financial assistance under this chapter, in an amount to be determined by the Secretary, may *be withheld until a plan is approved and carried out.”.*

*(b) Public Transportation Security.—*

*(1) In General.—Not later than 45 days after the date of enactment of this Act, the Secretary shall execute an annex to the memorandum of understanding between the Secretary and the Secretary of Homeland Security, dated September 28, 2004, to define and clarify the respective roles and responsibilities of the Department of Transportation and the Department of Homeland Security relating to public transportation security.*

*(2) Contents.—The annex to be executed under paragraph (1) shall—*

*(A) establish a process to develop security standards for public transportation agencies;*

*(B) create a method of direct coordination with public transportation agencies on security matters;*

*(C) address any other issues determined to be appropriate by the Secretary and the Secretary of Homeland Security; and*

*(D) include a formal and permanent mechanism to ensure coordination and involvement by the Department of Transportation, as appropriate, in public transportation security.*

*(c) Rulemaking.—Not later than 180 days after the date of enactment of this Act, the Secretary and the Secretary of Homeland Security shall issue jointly final regulations to establish the characteristics of and requirements for public transportation security grants, including funding priorities, eligible activities, methods for awarding grants, and limitations on administrative expenses.*

*(d) Chapter Analysis.—The analysis for chapter 53 is amended by striking the item relating to section 5329 and inserting the following:*

*“5329. Investigations of safety hazards and security risks.”.*

### SEC. 3029. STATE SAFETY OVERSIGHT.

*(a) In General.—Section 5330 is amended—*

*(1) by striking the section heading and all that follows through subsection (a) and inserting the following:*

***“§ 5330. State safety oversight***

*“(a) Application.—This section shall only apply to—*

*“(1) States that have rail fixed guideway public transportation systems that are not subject to regulation by the Federal Railroad Administration; and*

*“(2) States that are designing rail fixed guideway public transportation systems that will not be subject to regulation by the Federal Railroad Administration.”;*

*(2) in subsection (d) by striking “may” and inserting “shall ensure uniform safety standards and enforcement or shall”; and*

*(3) by striking subsection (f).*

*(b) Chapter Analysis.—The analysis for chapter 53 is amended by striking the item relating to section 5330 and inserting the following:*

*“5330. State safety oversight.”.*

### SEC. 3030. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING.

*(a) Definitions.—Section 5331(a)(3) is amended by striking the period at the end and inserting the following: “or section 2303a, 7101(i), or 7302(e) of title 46. The Secretary may also decide that a form of public transportation is covered adequately, for employee alcohol and controlled substances testing purposes, under the alcohol and controlled substance statutes or regulations of an agency within the Department of Transportation or the Coast Guard.”.*

*(b) Technical Corrections.—Subsections (b)(1) and (g) of section 5331 are each amended by striking “or section 103(e)(4) of title 23”.*

*(c) Regulations.—Section 5331(f) is amended by striking paragraph (3).*

### SEC. 3031. EMPLOYEE PROTECTIVE ARRANGEMENTS.

*Section 5333(b) is amended—*

*(1) in paragraph (1) by striking “5318(d), 5323(a)(1), (b), (d), and (e), 5328, 5337, and 5338(b)” each place it appears and inserting “5316, 5318, 5323(a)(1), 5323(b), 5323(d), 5328, 5337, and 5338(b)”; and*

*(2) by adding at the end the following:*

*“(4) Fair and equitable arrangements to protect the interests of employees utilized by the Secretary of Labor for assistance to purchase like-kind equipment or facilities, and grant amendments which do not materially revise or amend existing assistance agreements, shall be certified without referral.*

*“(5) When the Secretary is called upon to issue fair and equitable determinations involving assurances of employment when one private transit bus service contractor replaces another through competitive bidding, such decisions shall be based on the principles set forth in the Department of Labor's decision of September 21, 1994, as clarified by the supplemental ruling of November 7, 1994, with respect to grant NV-90-X021. This paragraph shall not serve as a basis for objections under section 215.3(d) of title 29, Code of Federal Regulations.”.*

### SEC. 3032. ADMINISTRATIVE PROCEDURES.

*Section 5334 is amended—*

*(1) in subsection (a)—*

*(A) in paragraph (9) by striking “and” at the end;*

*(B) in paragraph (10) by striking the period at the end and inserting “; and”; and*

*(C) by adding at the end the following:*

*“(11) issue regulations as necessary to carry out the purposes of this chapter.”;*

*(2) by striking subsection (i);*

*(3) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively;*

*(4) by inserting after subsection (a) the following:*

*“(b) Prohibitions Against Regulating Operations and Charges.—*

*“(1) In General.—Except for purposes of national defense or in the event of a national or regional emergency, the Secretary may not regulate the operation, routes, or schedules of a public transportation system for which a grant is made under this chapter, nor may the Secretary regulate the rates, fares, tolls, rentals, or other charges prescribed by any provider of public transportation.*

*“(2) Limitation on Statutory Construction.—Nothing in this subsection shall be construed to prevent the Secretary from requiring a recipient of funds under this chapter to comply with the terms and conditions of its Federal assistance agreement.”; and*

*(5) by striking subsection (c)(4) (as redesignated by paragraph (3) of this subsection) and inserting the following:*

*“(4) The Secretary of Transportation shall comply with this section (except subsection (i)) and sections 5318(e), 5323(a)(2), 5325(a), 5325(b), and 5325(f) when proposing or carrying out a regulation governing an activity under this chapter, except for a routine matter or a matter with no significant impact.”; and*

*(6) by adding at the end the following:*

*“(k) Notification of Pending Discretionary Grants.—Not less than 3 full business days before announcement of award by the Secretary of any discretionary grant, letter of intent, or full funding grant agreement totaling $1,000,000 or more, the Secretary shall notify the Committees on Banking, Housing, and Urban Affairs and Appropriations of the Senate and Committees on Transportation and Infrastructure and Appropriations of the House of Representatives.*

*“(l) Agency Statements.—*

*“(1) In General.—The Administrator of the Federal Transit Administration shall follow applicable rulemaking procedures under section 553 of title 5 before the Federal Transit Administration issues a statement that imposes a binding obligation on recipients of Federal assistance under this chapter.*

*“(2) Binding Obligation Defined.—In this subsection, the term ‘binding obligation’ means a substantive policy statement, rule, or guidance document issued by the Federal Transit Administration that grants rights, imposes obligations, produces significant effects on private interests, or effects a significant change in existing policy.”.*

### SEC. 3033. NATIONAL TRANSIT DATABASE.

*(a) In General.—Section 5335 is amended—*

*(1) by striking the section heading and inserting the following:*

***“§ 5335. National transit database”;***

*(2) by striking subsection (b); and*

*(3) in subsection (a)—*

*(A) in paragraph (1), by striking “(1)”; and*

*(B) in paragraph (2), by striking “(2) The Secretary may make a grant under section 5307 of this title” and inserting the following:*

*“(b) Reporting and Uniform Systems.—The Secretary may award a grant under section 5307 or 5311”.*

*(b) Chapter Analysis.—The analysis for chapter 53 is amended by striking the item relating to section 5335 and inserting the following:*

*“5335. National transit database.”.*

### SEC. 3034. APPORTIONMENTS OF FORMULA GRANTS.

*(a) Apportionments.—Section 5336 is amended—*

*(1) by striking subsections (d), (h), and (k);*

*(2) by redesignating subsections (e), (f), (g), (i), and (j) as subsections (d), (e), (f), (g), and (h), respectively;*

*(3) by adding at the end the following:*

*“(i) Apportionments.—Of the amounts made available for each fiscal year under subsections (a)(1)(C)(vi) and (b)(2)(B) of section 5338—*

*“(1) one percent shall be apportioned, in fiscal year 2006 and each fiscal year thereafter, to certain urbanized areas with populations of less than 200,000 in accordance with subsection (j); and*

*“(2) any amount not apportioned under paragraph (1) shall be apportioned to urbanized areas in accordance with subsections (a) through (c).”; and*

*(4) in subsection (a) by striking “Of the amount made available or appropriated under section 5338(a) of this title” and inserting “Of the amount apportioned under subsection (i)(2)”.*

*(b) Small Transit Intensive Cities Formula.—Section 5336 is amended by adding at the end the following:*

*“(j) Small Transit Intensive Cities Formula.—*

*“(1) Definitions.—In this subsection, the following definitions apply:*

*“(A) Eligible Area.—The term ‘eligible area’ means an urbanized area with a population of less than 200,000 that meets or exceeds in one or more performance categories the industry average for all urbanized areas with a population of at least 200,000 but not more than 999,999, as determined by the Secretary in accordance with subsection (c)(2).*

*“(B) Performance Category.—The term ‘performance category’ means each of the following:*

*“(i) Passenger miles traveled per vehicle revenue mile.*

*“(ii) Passenger miles traveled per vehicle revenue hour.*

*“(iii) Vehicle revenue miles per capita.*

*“(iv) Vehicle revenue hours per capita.*

*“(v) Passenger miles traveled per capita.*

*“(vi) Passengers per capita.*

*“(2) Apportionment.—*

*“(A) Apportionment Formula.—The amount to be apportioned under subsection (i)(1) shall*

be apportioned among eligible areas in the ratio that—

"(i) the number of performance categories for which each eligible area meets or exceeds the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999; bears to

"(ii) the aggregate number of performance categories for which all eligible areas meet or exceed the industry average in urbanized areas with a population of at least 200,000 but not more than 999,999.

"(B) DATA USED IN FORMULA.—The Secretary shall calculate apportionments under this subsection for a fiscal year using data from the national transit database used to calculate apportionments for that fiscal year under this section.".

(c) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—Section 5336 is amended by adding at the end the following:

"(c) STUDY ON INCENTIVES IN FORMULA PROGRAMS.—

"(1) STUDY.—The Secretary shall conduct a study to assess the feasibility and appropriateness of developing and implementing an incentive funding system under sections 5307 and 5311 for operators of public transportation.

"(2) REPORT.—

"(A) IN GENERAL.—Not later than 2 years after the date of enactment of the Federal Public Transportation Act of 2005, the Secretary shall submit a report on the results of the study conducted under paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

"(B) CONTENTS.—The report submitted under subparagraph (A) shall include—

"(i) an analysis of the availability of appropriate measures to be used as a basis for the distribution of incentive payments;

"(ii) the optimal number and size of any incentive programs;

"(iii) what types of systems should compete for various incentives;

"(iv) how incentives should be distributed; and

"(v) the likely effects of the incentive funding system.".

(d) TECHNICAL AMENDMENTS.—Section 5336 is amended—

(1) in subsection (a) by striking "of this title" and inserting "to carry out section 5307";

(2) in paragraph (2) by inserting before the period at the end the following: ", except that the amount apportioned to the Anchorage urbanized area under subsection (b) shall be available to the Alaska Railroad for any costs related to its passenger operations";

(3) in subsection (b)(1) by inserting "and, beginning in fiscal year 2006, 60 percent of the directional route miles attributable to the Alaska Railroad passenger operations" after "recipient"; and

(4) in subsection (h) by striking "a grant made under" each place it appears and inserting "a grant made with funds apportioned under".

**SEC. 3035. APPORTIONMENTS BASED ON FIXED GUIDEWAY FACTORS.**

(a) IN GENERAL.—Section 5337 is amended—

(1) by striking the section designation and heading and inserting the following:

**"§5337. Apportionment based on fixed guideway factors"**; and

(2) by adding at the end the following:

"(f) ADJUSTMENT.—For purposes of this section, an urbanized area with a population of 55,997, according to the most recent decennial census, shall be treated as an urbanized area eligible for assistance under section 5336(b)(2)(A) to which amounts were apportioned under this section for fiscal year 1997. For the purposes of paragraph (e)(1), the number of fixed guideway revenue vehicle miles of service and number of fixed guideway route miles for that urbanized area as of the date of enactment of the Federal Public Transportation Act of 2005 shall be considered to have been used to determine apportionments for fiscal year 1997.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 53 is amended by striking the item relating to section 5337 and inserting the following:

"5337. Apportionment based on fixed guideway factors.".

**SEC. 3036. AUTHORIZATIONS.**

Section 5338 is amended to read as follows:

**"§5338. Authorizations**

"(a) FISCAL YEAR 2005.—

"(1) FORMULA GRANTS.—

"(A) TRUST FUND.—For fiscal year 2005, $3,499,927,776 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5307, 5308, 5310, and 5311 and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $499,989,824 for fiscal year 2005 to carry out sections 5307, 5308, 5310, and 5311 and section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) $4,811,150 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307;

"(ii) $5,208,000 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) to operators of intercity, fixed-route over-the-road buses;

"(iii) $1,686,400 shall be available to provide over-the-road bus accessibility grants under section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note) to operators of over-the-road buses providing other than intercity, fixed-route service;

"(iv) $94,526,689 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310;

"(v) $250,889,588 shall be available to provide financial assistance for other than urbanized areas under section 5311;

"(vi) $3,593,195,773 shall be available to provide financial assistance for urbanized areas under section 5307; and

"(vii) $49,600,000 shall be available to carry out the clean fuels program under section 5308.

"(2) JOB ACCESS AND REVERSE COMMUTE.—

"(A) TRUST FUND.—For fiscal year 2005, $108,500,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 3037 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note).

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $15,500,000 for fiscal year 2005 to carry out section 3037 of the Transportation Equity Act of the 21st Century (49 U.S.C. 5309 note).

"(3) CAPITAL PROGRAM GRANTS.—

"(A) TRUST FUND.—For fiscal year 2005, $2,898,100,224 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5309.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $414,014,176 for fiscal year 2005 to carry out sections 5308, 5309, and 5318 and section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361).

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) $49,600,000 shall be available to carry out the clean fuels program under section 5308;

"(ii) $669,600,000 shall be available for capital projects to replace, rehabilitate, and purchase bus and related equipment and to construct bus-related facilities under section 5309;

"(iii) $1,204,684,800 shall be available for fixed guideway modernization under section 5309;

"(iv) $1,437,829,600 shall be available for capital projects for new fixed guideway systems and extensions to existing fixed guideway systems under section 5309;

"(v) $10,213,632 shall be available for capital projects in Alaska and Hawaii under section 5309;

"(vi) $2,976,000 shall be available to carry out bus testing under section 5318; and

"(vii) $4,811,200 shall be available to carry out the fuel cell bus and bus facilities program under section 3015(b) of the Transportation Equity Act for the 21st Century (112 Stat. 361).

"(4) PLANNING.—

"(A) TRUST FUND.—For fiscal year 2005, $63,364,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5303, 5304, 5305, and 5313(b), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $9,052,000 for fiscal year 2005 to carry out sections 5303, 5304, 5305, and 5313(b), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.

"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—

"(i) 82.72 percent shall be allocated for metropolitan planning under section 5305; and

"(ii) 17.28 percent shall be allocated for State planning under section 5305.

"(5) RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2005, $47,740,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322.

"(B) GENERAL FUND.—In addition to the amounts made available under subparagraph (A), there is authorized to be appropriated $6,820,000 for fiscal year 2005 to carry out sections 5311(b)(2), 5312, 5313(a), 5314, 5315, and 5322.

"(C) ALLOCATION OF FUNDS.—Of the funds made available or appropriated under this paragraph—

"(i) not less than $3,968,000 shall be available to carry out programs under the National Transit Institute under section 5315, of which not more than $992,000 shall be available to carry out section 5315(a)(16);

"(ii) not less than $5,208,000 shall be available to provide rural transportation assistance under section 5311(b)(2);

"(iii) not less than $8,184,000 shall be available to carry out transit cooperative research programs under section 5313(a);

"(iv) not less than $2,976,000 shall be available to carry out Project Action under section 5312; and

"(v) the remainder shall be available to carry out national research and technology programs under sections 5312, 5314, and 5322.

"(6) UNIVERSITY TRANSPORTATION RESEARCH.—

"(A) TRUST FUND.—For fiscal year 2005, $5,208,000 shall be available from the Mass

*Transit Account of the Highway Trust Fund to carry out sections 5505.*

*"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there is authorized to be appropriated $744,000 for fiscal year 2005 to carry out sections 5505.*

*"(C) ALLOCATION OF FUNDS.—Of the amounts made available or appropriated under this paragraph—*

*"(i) $1,984,000 shall be available for grants under section 5505(d) to the center identified in section 5505(j)(4)(A), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005; and*

*"(ii) $1,984,000 shall be available for grants under section 5505(d) to the center identified in section 5505(j)(4)(F), as in effect on the day before the date of enactment of the Federal Public Transportation Act of 2005.*

*"(D) SPECIAL RULE.—Nothing in this paragraph shall be construed to limit the transportation research conducted by the centers receiving financial assistance under this section.*

*"(7) ADMINISTRATION.—*

*"(A) TRUST FUND.—For fiscal year 2005, $67,704,000 shall be available from the Mass Transit Account of the Highway Trust Fund to carry out section 5334.*

*"(B) GENERAL FUND.—In addition to amounts made available under subparagraph (A), there is authorized to be appropriated $9,672,000 for fiscal year 2005 to carry out section 5334.*

*"(8) AVAILABILITY OF AMOUNTS.—Amounts made available or appropriated under paragraphs (1) through (6) shall remain available until expended.*

*"(b) FORMULA AND BUS GRANTS.—*

*"(1) IN GENERAL.—There shall be available from the Mass Transit Account of the Highway Trust Fund to carry out sections 5305, 5307, 5308, 5309, 5310, 5311, 5316, 5317, 5320, 5335, 5339, and 5340 and section 3038 of the Federal Transit Act of 1998 (112 Stat. 387 et seq.)—*

*"(A) $6,979,931,000 for fiscal year 2006;*

*"(B) $7,262,775,000 for fiscal year 2007;*

*"(C) $7,872,893,000 for fiscal year 2008; and*

*"(D) $8,360,565,000 for fiscal year 2009.*

*"(2) ALLOCATION OF FUNDS.—Of the amounts made available under paragraph (1)—*

*"(A) $95,000,000 for fiscal year 2006, $99,000,000 for fiscal year 2007, $107,000,000 for fiscal year 2008, and $113,500,000 for fiscal year 2009 shall be available to carry out section 5305;*

*"(B) $3,466,681,000 for fiscal year 2006, $3,606,175,000 for fiscal year 2007, $3,910,843,000 for fiscal year 2008, and $4,160,365,000 for fiscal year 2009 shall be allocated in accordance with section 5336 to provide financial assistance for urbanized areas under section 5307;*

*"(C) $43,000,000 for fiscal year 2006, $45,000,000 for fiscal year 2007, $49,000,000 for fiscal year 2008, and $51,500,000 for fiscal year 2009 shall be available to carry out section 5308;*

*"(D) $1,391,000,000 for fiscal year 2006, $1,448,000,000 for fiscal year 2007, $1,570,000,000 for fiscal year 2008, and $1,666,500,000 for fiscal year 2009 shall be allocated in accordance with section 5337 to provide financial assistance under section 5309(m)(2)(B); and*

*"(E) $822,250,000 for fiscal year 2006, $855,500,000 for fiscal year 2007, $927,750,000 for fiscal year 2008, and $984,000,000 for fiscal year 2009 shall be available to carry out section 5309(m)(2)(C).*

*"(F) $112,000,000 for fiscal year 2006, $117,000,000 for fiscal year 2007, $127,000,000 for fiscal year 2008, and $133,500,000 for fiscal year 2009 shall be available to provide financial assistance for services for elderly persons and persons with disabilities under section 5310;*

*"(G) $388,000,000 for fiscal year 2006, $404,000,000 for fiscal year 2007, $438,000,000 for fiscal year 2008, and $465,000,000 for fiscal year 2009 shall be available to provide financial assistance for other than urbanized areas under section 5311;*

*"(H) $138,000,000 for fiscal year 2006, $144,000,000 for fiscal year 2007, $156,000,000 for fiscal year 2008, and $164,500,000 for fiscal year 2009 shall be available to carry out section 5316;*

*"(I) $78,000,000 for fiscal year 2006, $81,000,000 for fiscal year 2007, $87,500,000 for fiscal year 2008, and $92,500,000 for fiscal year 2009 shall be available to carry out section 5317;*

*"(J) $22,000,000 for fiscal year 2006, $23,000,000 for fiscal year 2007, $25,000,000 for fiscal year 2008, and $26,900,000 for fiscal year 2009 shall be available to carry out section 5320;*

*"(K) $3,500,000 in fiscal year 2006; $3,500,000 in fiscal year 2007; $3,500,000 in fiscal year 2008; and $3,500,000 in fiscal year 2009 shall be available to carry out section 5335;*

*"(L) $25,000,000 in fiscal year 2006; $25,000,000 in fiscal year 2007; $25,000,000 in fiscal year 2008; and $25,000,000 in fiscal year 2009 shall be available to carry out section 5339;*

*"(M) $388,000,000 for fiscal year 2006, $404,000,000 for fiscal year 2007, $438,000,000 for fiscal year 2008, and $465,000,000 for fiscal year 2009 shall be allocated in accordance with section 5340 to provide financial assistance for urbanized areas under section 5307 and other than urbanized areas under section 5311; and*

*"(N) $7,500,000 for fiscal year 2006, $7,600,000 for fiscal year 2007, $8,300,000 for fiscal year 2008, and $8,800,000 for fiscal year 2009 shall be available to carry out section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note).*

*"(c) MAJOR CAPITAL INVESTMENT GRANTS.—There are authorized to be appropriated to carry out section 5309(m)(2)(A)—*

*"(1) $1,503,000,000 for fiscal year 2006;*

*"(2) $1,566,000,000 for fiscal year 2007;*

*"(3) $1,700,000,000 for fiscal year 2008; and*

*"(4) $1,809,250,000 for fiscal year 2009.*

*"(d) RESEARCH AND UNIVERSITY RESEARCH CENTERS.—*

*"(1) IN GENERAL.—There is authorized to be appropriated to carry out transit cooperative research programs under section 5313, the National Transit Institute under section 5315, university research centers under section 5506, and national research programs under sections 5312, 5313, 5314, and 5322 $58,000,000 for fiscal year 2006, $61,000,000 for fiscal year 2007, $65,500,000 for fiscal year 2008, and $69,750,000 for fiscal year 2009, of which—*

*"(A) $9,000,000 for fiscal year 2006, $9,300,000 for fiscal year 2007, $9,600,000 for fiscal year 2008, and $10,000,000 for fiscal year 2009 shall be allocated to carry out transit cooperative research programs under section 5313;*

*"(B) $4,300,000 shall be allocated for each fiscal year to carry out programs under the National Transit Institute under section 5315, of which not more than $1,000,000 for each fiscal year shall be used to carry out section 5315(a)(16);*

*"(C) $7,000,000 shall be allocated for each fiscal year to carry out the university centers program under section 5506;*

*"(D) $3,000,000 shall be allocated for each fiscal year to carry out Project Action under section 5314(a)(2);*

*"(E) $1,000,000 shall be allocated for each fiscal year to carry out the National Technical Assistance Center under section 5314(c); and*

*"(F) any funds made available under this paragraph that are not allocated under subparagraphs (A) through (E) shall be allocated to carry out national research programs under sections 5312, 5313, 5314, and 5322.*

*"(2) UNIVERSITY CENTERS PROGRAM.—*

*"(A) ALLOCATION.—Of the amounts allocated under paragraph (1)(C), the following amounts shall be available to provide transportation research, training, and curriculum development:*

*"(i) $2,000,000 for each of fiscal years 2006 through 2009 for the University of Tennessee—Knoxville National Transportation Research Center.*

*"(ii) $1,500,000 for each of fiscal years 2006 through 2009 for Texas A&M University—Texas Transportation Institute.*

*"(iii) $1,000,000 for each of fiscal years 2006 through 2009 for Morgan State University.*

*"(iv) $400,000 for each of fiscal years 2006 and 2007 for the Small Urban & Rural Transit Center at North Dakota State University.*

*"(v) $550,000 for each of fiscal years 2006 and 2007 and $650,000 for each of fiscal years 2008 and 2009 for the University Transportation Center at the University of Alabama.*

*"(vi) $450,000 for each of fiscal years 2006 and 2007 and $550,000 for each of fiscal years 2008 and 2009 for the Injury Control Research Center at the University of Alabama Birmingham.*

*"(vii) $550,000 for each of fiscal years 2006 and 2007 and $650,000 for each of fiscal years 2008 and 2009 for the Jackson State University Intermodal Transportation Institute at the Jackson State University.*

*"(viii) $550,000 for each of fiscal years 2006 and 2007 and $650,000 for each of fiscal years 2008 and 2009 for the University Transportation Center at the University of Denver/Mississippi State University.*

*"(B) REQUIREMENTS.—The universities specified in subparagraph (A) shall be considered to be university transportation centers under section 5506 and shall be subject to the requirements of subsections (b), (h), (i), (k), (l), and (m) of such section.*

*"(e) ADMINISTRATION.—There is authorized to be appropriated to carry out section 5334—*

*"(1) $82,000,000 for fiscal year 2006;*

*"(2) $85,000,000 for fiscal year 2007;*

*"(3) $92,500,000 for fiscal year 2008; and*

*"(4) $98,500,000 for fiscal year 2009.*

*"(f) GRANTS AS CONTRACTUAL OBLIGATIONS.—*

*"(1) GRANTS FINANCED FROM HIGHWAY TRUST FUND.—A grant or contract that is approved by the Secretary and financed with amounts made available from the Mass Transit Account of the Highway Trust Fund pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project.*

*"(2) GRANTS FINANCED FROM GENERAL FUND.—A grant or contract that is approved by the Secretary and financed with amounts appropriated in advance from the General Fund of the Treasury pursuant to this section is a contractual obligation of the Government to pay the Federal share of the cost of the project only to the extent that amounts are appropriated for such purpose by an Act of Congress.*

*"(g) AVAILABILITY OF AMOUNTS.—Amounts made available by or appropriated under subsections (b), (c), and (d) shall remain available until expended.".*

### SEC. 3037. ALTERNATIVES ANALYSIS PROGRAM.

*(a) IN GENERAL.—Section 5339 is amended to read as follows:*

***"§ 5339. Alternatives analysis program***

*"(a) GRANTS AND AGREEMENTS.—Under criteria established by the Secretary, the Secretary may award grants to States, authorities of the States, metropolitan planning organizations, and local governmental authorities to develop alternatives analyses as defined by section 5309(a)(1).*

*"(b) GOVERNMENT'S SHARE OF COSTS.—The Government's share of the cost of an activity funded using amounts made available under this section may not exceed 80 percent of the cost of the activity.*

*"(c) AVAILABILITY OF FUNDS.—An amount made available or appropriated under section 5338(b)(2)(L) for this section shall remain available for 3 fiscal years, including the fiscal year in which the amount is made available or appropriated. Any of such amounts that are unobligated at the end of the 3-fiscal-year period*

may be used by the Secretary for any purpose under this section.''.

(b) Conforming Amendment.—The analysis for chapter 53 is amended by striking the item relating to section 5339 and inserting the following:

''5339. Alternatives analysis program.''.

(c) Projects.—For each of fiscal years 2006 and 2007, of the funds authorized under this section, funds shall be made available to the following projects in not less than the amounts specified:

(1) Minnesota Red Rock Corridor/Rush Line/Central Corridors studies, $2,000,000.

(2) Trans-Hudson Midtown corridor study, $1,500,000.

(3) Lane County, Oregon Bus Rapid Transit Phase II corridor study, $500,000.

(4) Portland Streetcar, Oregon corridor study, $1,500,000.

(5) San Gabriel Valley-Gold Line Foothill Extension corridor study, $1,250,000.

(6) Monmouth-Ocean-Middlesex Counties, New Jersey corridor study, $1,250,000.

(7) Metra BNSF Naperville to Aurora corridor study, $1,250,000.

(8) Madison and Dane Counties, Wisconsin Transport 2020 corridor study, $750,000.

(9) Sound Transit I–90 Long-Range Plan corridor studies, $750,000.

(10) Middle Rio Grande Coalition of governments, Albuquerque to Santa Fe corridor study, $500,000.

(11) Piedmont Authority Regional Transportation East-West corridor study, $1,000,000.

(12) Baltimore Red Line/Green Line Transit Project study, $1,500,000.

(13) Metra-West Line Extension, Elgin to Rockford study, $1,000,000.

(14) Madison-Ridgeland Transportation Commission, Mississippi, Madison Light Rail Transportation Corridor study, $350,000.

(15) South Carolina Department of Transportation Light Rail study, $300,000.

(16) Provo Orem BRT study, $500,000.

(17) Sevierville County Transportation Board, Sevier County BRT study, $500,000.

(18) New Jersey Transit Midtown Project study, $2,500,000.

### SEC. 3038. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS.

(a) In General.—Chapter 53 is amended by adding at the end the following:

**''§ 5340. Apportionments based on growing States and high density States formula factors**

''(a) Definition.—In this section, the term 'State' shall mean each of the 50 States of the United States.

''(b) Allocation.—Of the amounts made available for each fiscal year under section 5338(b)(2)(M), the Secretary shall apportion—

''(1) 50 percent to States and urbanized areas in accordance with subsection (c); and

''(2) 50 percent to States and urbanized areas in accordance with subsection (d).

''(c) Growing State Apportionments.—

''(1) Apportionment among States.—The amounts apportioned under subsection (b)(1) shall provide each State with an amount equal to the total amount apportioned multiplied by a ratio equal to the population of that State forecast for the year that is 15 years after the most recent decennial census, divided by the total population of all States forecast for the year that is 15 years after the most recent decennial census. Such forecast shall be based on the population trend for each State between the most recent decennial census and the most recent estimate of population made by the Secretary of Commerce.

''(2) Apportionments between urbanized areas and other than urbanized areas in each State.—

''(A) In general.—The Secretary shall apportion amounts to each State under paragraph (1) so that urbanized areas in that State receive an amount equal to the amount apportioned to that State multiplied by a ratio equal to the sum of the forecast population of all urbanized areas in that State divided by the total forecast population of that State. In making the apportionment under this subparagraph, the Secretary shall utilize any available forecasts made by the State. If no forecasts are available, the Secretary shall utilize data on urbanized areas and total population from the most recent decennial census.

''(B) Remaining amounts.—Amounts remaining for each State after apportionment under subparagraph (A) shall be apportioned to that State and added to the amount made available for grants under section 5311.

''(3) Apportionments among urbanized areas in each State.—The Secretary shall apportion amounts made available to urbanized areas in each State under paragraph (2)(A) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (2)(A) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.

''(d) High Density State Apportionments.—Amounts to be apportioned under subsection (b)(2) shall be apportioned as follows:

''(1) Eligible States.—The Secretary shall designate as eligible for an apportionment under this subsection all States with a population density in excess of 370 persons per square mile.

''(2) State urbanized land factor.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to—

''(A) the total land area of the State (in square miles); multiplied by

''(B) 370; multiplied by

''(C)(i) the population of the State in urbanized areas; divided by

''(ii) the total population of the State.

''(3) State apportionment factor.—For each State qualifying for an apportionment under paragraph (1), the Secretary shall calculate an amount equal to the difference between the total population of the State less the amount calculated in paragraph (2).

''(4) State apportionment.—Each State qualifying for an apportionment under paragraph (1) shall receive an amount equal to the amount to be apportioned under this subsection multiplied by the amount calculated for the State under paragraph (3) divided by the sum of the amounts calculated under paragraph (3) for all States qualifying for an apportionment under paragraph (1).

''(5) Apportionments among urbanized areas in each State.—The Secretary shall apportion amounts made available to each State under paragraph (4) so that each urbanized area receives an amount equal to the amount apportioned under paragraph (4) multiplied by a ratio equal to the population of each urbanized area divided by the sum of populations of all urbanized areas in the State. Amounts apportioned to each urbanized area shall be added to amounts apportioned to that urbanized area under section 5336, and made available for grants under section 5307.''.

(b) Conforming Amendment.—The analysis for chapter 53 is amended by adding at the end the following:

''5340. Apportionments based on growing States and high density States formula factors.''.

### SEC. 3039. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.

(a) In General.—Section 3038 of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 392) is amended—

(1) by striking the section heading and inserting the following:

**''SEC. 3038. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM.'';**

(2) by striking subsection (e) and inserting the following:

''(e) Federal Share of Costs.—The Federal share of costs under this section shall be provided from funds made available to carry out this section and shall be determined in accordance with section 5323(i) of title 49, United States Code.''; and

(3) by striking subsection (g) and inserting the following:

''(g) Funding.—

''(1) Intercity, fixed route over-the-road bus service.—Of the amounts made available to carry out this section in each fiscal year, 75 percent shall be available for operators of over-the-road buses used substantially or exclusively in intercity, fixed-route over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.

''(2) Other over-the-road bus service.—Of the amounts made available to carry out this section in each fiscal year, 25 percent shall be available for operators of other over-the-road bus service to finance the incremental capital and training costs of the Department of Transportation's final rule regarding accessibility of over-the-road buses. Such amounts shall remain available until expended.''.

(b) Conforming Amendments.—The table of contents contained in section 1(b) of the Transportation Equity Act for the 21st Century (112 Stat. 107) is amended by striking the item relating to section 3038 and inserting the following:

''3038. Over-the-road bus accessibility program.''.

### SEC. 3040. OBLIGATION CEILING.

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Mass Transit Account of the Highway Trust Fund by, and amounts appropriated under, subsections (a) through (f) of section 5338 of title 49, United States Code, shall not exceed—

(1) $7,646,336,000 for fiscal year 2005, of which not more than $6,690,544,000 shall be from the Mass Transit Account;

(2) $8,622,931,000 for fiscal year 2006, of which not more than $6,979,931,000 shall be from the Mass Transit Account;

(3) $8,974,775,000 for fiscal year 2007, of which not more than $7,262,775,000 shall be from the Mass Transit Account;

(4) $9,730,893,000 for fiscal year 2008, of which not more than $7,871,895,000 shall be from the Mass Transit Account; and

(5) $10,338,065,000 for fiscal year 2009, of which not more than $8,360,565,000 shall be from the Mass Transit Account.

### SEC. 3041. ADJUSTMENTS FOR FISCAL YEAR 2005.

(a) In General.—Notwithstanding any other provision of law, the Secretary shall ensure that the total apportionments and allocations made for fiscal year 2005 to each grant recipient under the Federal Transit Administration programs shall not exceed the amount made available under section 5338 of title 49, United States Code, as amended by this title, for fiscal year 2005 plus prior year balances.

(b) Fixed Guideway Modernization Adjustment.—In making the apportionments described in subsection (a), the Secretary shall adjust the *amount apportioned for fiscal year 2005 to each urbanized area for fixed guideway modernization to reflect the apportionment method set forth in section 5337(a) of title 49, United States Code.*

*(c) Reconciliation.—Funds authorized by or made available under section 5338, as amended by this title, for fiscal year 2005—*

*(1) shall not be subject to the across-the-board rescissions in section 122 of division J of Public Law 108–477;*

*(2) shall be transferred or made available for the purposes as indicated in division H of Public Law 108–477, as amended by Public Law 109–13; and*

*(3) shall be administered consistent with the applicable formula authorized under Public Law 105–178, as amended.*

### ***SEC. 3042. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS.***

*(a) In General.—Section 1993 of title 18, United States Code, is amended—*

*(1) in the section heading by striking "**mass**" and inserting "**public**";*

*(2) by striking "mass" each place the term appears and inserting "public";*

*(3) in subsection (a)(5) by inserting "controlling," after "operating,"; and*

*(4) in subsection (c)(5) by striking "5302(a)(7) of title 49, United States Code," and inserting "5302(a) of title 49,".*

*(b) Chapter Analysis.—The analysis for chapter 97 of title 18, United States Code, is amended by striking the item relating to section 1993 and inserting the following:*

*"1993. Terrorist attacks and other acts of violence against public transportation systems.".*

### ***SEC. 3043. PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS.***

*(a) Existing Full Funding Grant Agreements.—The following projects are authorized for final design and construction for existing full funding grant agreements in not less than the amount specified for each fiscal year:*

*(1) Atlanta—North Springs Extension $263,287 for fiscal year 2005.*

*(2) Baltimore—Central LRT Double Tracking $28,777,920 for fiscal year 2005 and $12,655,664 for fiscal year 2006.*

*(3) Charlotte—South Corridor LRT $29,760,000 for fiscal year 2005, $55,000,000 for fiscal year 2006, and $69,405,565 for fiscal year 2007.*

*(4) Chicago—Chicago Transit Authority Douglas Branch Reconstruction $84,320,000 for fiscal year 2005 and $45,825,190 for fiscal year 2006.*

*(5) Chicago—Chicago Transit Authority Ravenswood Expansion Project $39,680,000 for fiscal year 2005, $40,000,000 for fiscal year 2006, $40,000,000 for fiscal year 2007, $40,000,000 for fiscal year 2008, and $65,152,615 for fiscal year 2009.*

*(6) Cleveland—Euclid Corridor Transportation Project $24,800,000 for fiscal year 2005 and $24,774,513 for fiscal year 2006.*

*(7) Denver Southeast Corridor LRT $79,360,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $80,000,000 for fiscal year 2007, and $77,192,758 for fiscal year 2008.*

*(8) Fort Lauderdale—Tri-Rail Commuter Rail Upgrade $11,210,695 for fiscal year 2005.*

*(9) Los Angeles—Metro Gold Line Eastside Extension $59,520,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $100,000,000 for fiscal year 2007, $80,000,000 for fiscal year 2008, and $80,000,000 for fiscal year 2009.*

*(10) Los Angeles—North Hollywood MOS–3 $663,339 in fiscal year 2005.*

*(11) Metra North Central Corridor Commuter Rail $24,084,000 for fiscal year 2005 and $16,529,452 for fiscal year 2006.*

*(12) Metra South West Corridor Commuter Rail $15,500,000 for fiscal year 2005 and $11,781,395 for fiscal year 2006.*

*(13) Metra Union Pacific West Line Extension $12,000,000 for fiscal year 2005 and $14,285,749 for fiscal year 2006.*

*(14) Minneapolis—Hiawatha Corridor LRT $33,111,257 for fiscal year 2005.*

*(15) New Jersey Urban Core—Hudson-Bergen LRT $313,896.*

*(16) New Jersey Urban Core—Hudson-Bergen LRT MOS–2 $99,200,000 for fiscal year 2005, $100,000,000 for fiscal year 2006, $100,000,000 for fiscal year 2007, and $53,202,995 for fiscal year 2008.*

*(17) New Jersey Urban Core—Newark-Elizabeth Rail Link MOS–1 $1,342,076 for fiscal year 2005.*

*(18) New Orleans MOS–1 Canal Street $16,455,206 for fiscal year 2005.*

*(19) Phoenix—Central Phoenix/East Valley LRT $74,400,000 for fiscal year 2005, $90,000,000 for fiscal year 2006, $90,000,000 for fiscal year 2007, $90,000,000 for fiscal year 2008, and $90,000,000 for fiscal year 2009.*

*(20) Pittsburgh—North Shore LRT Connector $54,560,000 in fiscal year 2005, $55,000,000 in fiscal year 2006, $55,000,000 in fiscal year 2007, and $14,421,944 in fiscal year 2008.*

*(21) Pittsburgh—Stage II LRT Reconstruction $1,120,854 for fiscal year 2005.*

*(22) Portland—Interstate MAX LRT Extension $23,292,160 fiscal year 2005 and $18,292,550 for fiscal year 2006.*

*(23) St. Louis—Metrolink Extension St. Clair County, IL $53,383 for fiscal year 2005.*

*(24) Salt Lake City—CBD to University LRT $1,127,405 for fiscal year 2005.*

*(25) Salt Lake City—Medical Center $8,682,141 for fiscal year 2005.*

*(26) San Diego—Mission Valley East LRT Extension $80,986,880 for fiscal year 2005 and $8,353,424 for fiscal year 2006.*

*(27) San Diego—Oceanside Escondido Rail Corridor $54,560,000 fiscal year 2005 and $12,651,061 for fiscal year 2006.*

*(28) San Francisco—BART Extension to San Francisco Airport $99,200,000 fiscal year 2005 and $82,655,680 for fiscal year 2006.*

*(29) San Juan—Tren Urbano $44,263,040 fiscal year 2005 and $10,555,900 for fiscal year 2006.*

*(30) Seattle—Central Link Initial Segment LRT $79,360,000 for fiscal year 2005, $80,000,000 for fiscal year 2006, $80,000,000 for fiscal year 2007, $70,000,000 for fiscal year 2008, and $24,028,149 for fiscal year 2009.*

*(31) Washington DC/MD—Largo Metrorail Extension $75,432,887 for fiscal year 2005.*

*(b) Final Design and Construction.—The following projects are authorized for final design and construction for fiscal years 2005 through 2009 under paragraphs (1)(A) and (2)(A) of section 5309(m) of title 49, United States Code:*

*(1) Baltimore—MARC Commuter Rail Improvements.*

*(2) Boston—Silver Line BRT Phase III.*

*(3) Central Florida Commuter Rail System.*

*(4) Charlotte—South Corridor LRT.*

*(5) Dallas Area Rapid Transit—Northwest-Southeast LRT Extension.*

*(6) Delaware—Wilmington-Newark Commuter Rail Improvements.*

*(7) Denver—West Corridor LRT.*

*(8) El Paso—Rapid Transit (SMART) Starter Line.*

*(9) Harrisburg—Corridor One Commuter Rail (MOS–1).*

*(10) Houston Advanced Transit Program Light Rail.*

*(11) Kansas City, Missouri—Southtown BRT.*

*(12) Las Vegas—Resort Corridor Downtown Extension Project.*

*(13) Los Angeles MTA—Exposition LRT.*

*(14) Miami-Dade Transit—North Corridor.*

*(15) Minneapolis—North Star Corridor.*

*(16) Nashua—Commuter Rail.*

*(17) Nashville, Tennessee Commuter Rail.*

*(18) New Britain-Hartford Busway Project.*

*(19) New Orleans—Desire Corridor Streetcar.*

*(20) New York—Long Island Railroad East Side Access Project.*

*(21) New York—Second Avenue Subway.*

*(22) Norfolk Light Rail.*

*(23) Northern Virginia—Dulles Corridor Extension to Wiehle Avenue (Phase 1).*

*(24) Orange County, California—Rapid Transit Project.*

*(25) Philadelphia—Schuylkill Valley MetroRail.*

*(26) Pittsburgh—North Shore Connector.*

*(27) Portland, Oregon—South Corridor I–205/Portland Mall LRT.*

*(28) Providence—South County Commuter Rail.*

*(29) Sacramento—South Corridor LRT Extension (Phase 2), Meadowview to Consumnes River College.*

*(30) Salt Lake City—Weber County to Salt Lake City Commuter Rail.*

*(31) San Diego—Mid-Coast Extension.*

*(32) San Francisco Muni—Third Street LRT-Phase I/II.*

*(33) San Gabriel Valley—Gold Line Foothill Extension Phase I/PhaseII, Los Angeles to Montclair.*

*(34) Santa Clara Valley Transit Authority—Silicon Valley Rapid Transit Corridor.*

*(35) Tampa Bay—Regional Rail.*

*(36) Triangle Transit Authority, North Carolina—Regional Rail Project.*

*(37) Washington County, Oregon—Wilsonville to Beaverton Commuter Rail.*

*(38) Wasilla-Girdwood, Alaska—Commuter Rail.*

*(c) Preliminary Engineering.—The following projects are authorized for preliminary engineering for fiscal years 2005 through 2009 under paragraphs (1)(A) and (2)(A) of section 5309(m) of title 49, United States Code:*

*(1) Alameda, California—Fixed Guideway Corridor Project.*

*(2) Alameda, California—Transit Improvements and Multimodal Center.*

*(3) Albuquerque—High Capacity Corridor.*

*(4) Ann Arbor/Downtown Detroit—Transit Improvement Project.*

*(5) Atlanta—East Line I–20 Corridor Project.*

*(6) Atlanta—MARTA Memorial Drive Bus Rapid Transit.*

*(7) Atlanta—GRTA I–75 Corridor, Downtown Atlanta—Cherokee County.*

*(8) Atlanta—Interstate 285 Transit Corridor.*

*(9) Atlanta—Georgia 400 North Line Corridor Project.*

*(10) Atlanta—Belt Line C–Loop.*

*(11) Atlanta—I–20 East Line I–20 Corridor Project.*

*(12) Atlanta—West Line I–20 Corridor Project.*

*(13) Austin—San Antonio I–35 Commuter Rail.*

*(14) Austin—Rapid Bus Project.*

*(15) Austin—Urban Commuter Rail.*

*(16) Baltimore Red Line/Green Line Transit Project.*

*(17) Baton Rouge—Bus Rapid Transit.*

*(18) Bayonne, New Jersey—Hudson Bergen LRT Extension to NY Harbor.*

*(19) Bernalillo-Santa Fe—New Mexico Commuter Rail.*

*(20) Birmingham, Alabama—Transit Corridor.*

*(21) Boise—Downtown Circulator.*

*(22) Boise, Idaho—Valley Regional Transit Rail Corridor Preservation.*

*(23) Boston—Assembly Square Orange Line Station.*

*(24) Boston—Lechmere Transit Improvement to Somerville and Medford.*

*(25) Boston—North Shore Corridor and Blue Line Extension.*

*(26) Boston—North/South Rail Link.*

*(27) Boston—Urban Ring BRT.*

*(28) Bridgeport, Connecticut—Bridgeport Intermodal Facility.*

*(29) Broward County, Florida—Bus Rapid Transit.*

*(30) Camden, New Jersey—North Ferry Terminal.*

*(31) Carrollton, Texas—Regional Intermodal Passenger Rail Facility Project.*

*(32) Cedar Rapids, Iowa—River Rail Project.*

*(33) Central Phoenix—East Valley Corridor LRT Extensions.*

*(34) Charlotte—Charlotte Multimodal Station.*

*(35) Charlotte—North Corridor Project.*

*(36) Charlotte—Northeast Corridor Project.*

*(37) Charlotte—South Corridor LRT extension to Rock Hill, South Carolina.*

*(38) Charlotte—Southeast Corridor Project.*

*(39) Charlotte—West Corridor Project.*

*(40) Charlotte—Center City Streetcar Project.*

*(41) Chicago—Cermack Road BRT.*

*(42) Chicago CTA—Red Line Extension.*

*(43) Chicago CTA—Chicago Transit Hub (Circle Line-Ogden Streetcar).*

*(44) Chicago CTA—Orange Line Extension (Midway Airport to Ford City).*

*(45) Chicago CTA—Yellow Line Extension (Dempster-Old Orchard).*

*(46) Chicago—Ogden Avenue Corridor.*

*(47) Chicago—Pace Golf Road Bus Rapid Transit.*

*(48) Chula Vista, California—Bus Rapid Transit.*

*(49) Clark County, Washington—MAX Extension.*

*(50) Cleveland-Akron-Canton (Northeast Ohio) Commuter Rail.*

*(51) Columbia, South Carolina—Light Rail.*

*(52) Columbus—North Corridor LRT Project.*

*(53) Contra-Costa—BART Extension.*

*(54) Corpus Christi—Downtown Rail Trolley.*

*(55) Dallas Area Rapid Transit—Dallas Central Business District.*

*(56) Dallas Area Rapid Transit—Rowlett LRT Extension.*

*(57) Dallas Area Rapid Transit—Beltline to DFW Airport.*

*(58) Dayton—Aviation Heritage Corridor Streetcar Project.*

*(59) Dayton—Aviation Heritage Corridor Streetcar Project Phase I.*

*(60) Denton County Transportation Authority, Texas—Fixed Guideway Project.*

*(61) Denver—Gold Line Extension to Arvada.*

*(62) Denver—RR Right of Way Acquisition.*

*(63) Denver—United States Route 36 Transit Corridor.*

*(64) Denver—North Metro Corridor to Thornton.*

*(65) Denver—East Corridor to DIA Airport.*

*(66) Denver—I-225 Transit Corridor.*

*(67) Denver—Southeast Corridor Extension to Lone-Tree/Ridgegate.*

*(68) Denver—Southwest Corridor Extension to C470/Lucent Boulevard.*

*(69) Detroit—Center City Loop.*

*(70) Detroit—Woodward Corridor.*

*(71) District of Columbia—Light Rail Starter Line.*

*(72) Erie, Pennsylvania—Ferry Acquisition.*

*(73) Fitchburg, Massachusetts—Commuter Rail Extensions and Improvements.*

*(74) Florence-Myrtle Beach, South Carolina—Transit Corridor.*

*(75) Fort Lauderdale—Downtown Rail Link.*

*(76) Fort Lauderdale—Transit Project from NW 215th and 79th Streets.*

*(77) Fort Worth—Cottonbelt Commuter Rail to DFW.*

*(78) Fort Worth—Trinity Railway Express Commuter Rail Extensions.*

*(79) Galveston—Rail Trolley Extension.*

*(80) Glendale, California—Downtown Streetcar.*

*(81) Grand Rapids—Fixed Guideway Corridor Project.*

*(82) Guam—Tumon Bay-Airport Light Rail.*

*(83) Harrisburg, Pennsylvania—Corridor One MOS-2 (East Mechanicsburg to Carlisle).*

*(84) Harrison County, Mississippi—Canal Road Intermodal Connector.*

*(85) Henderson-Las Vegas-North Las Vegas—Regional Fixed Guideway Project.*

*(86) Honolulu—Rapid Transit Project.*

*(87) Houston—Commuter Rail Service in Harris & Fort Bend Counties.*

*(88) Houston—Advanced Transportation Technology System.*

*(89) Indianapolis—System of Metropolitan Area Rapid Transit.*

*(90) Jacksonville—East-Southwest BRT.*

*(91) Jacksonville—North-Southeast BRT.*

*(92) Kansas City, Missouri-Lawrence, Kansas—Commuter Rail.*

*(93) Kenosha-Racine-Milwaukee Metra Commuter Rail Extension (Wisconsin).*

*(94) Kenosha, Wisconsin Streetcar Expansion Project.*

*(95) King County, Washington—I-405 Corridor Bus Rapid Transit.*

*(96) Lake Tahoe—Passenger Ferry Service.*

*(97) Lakeville, Minnesota—Cedar Avenue Corridor Bus Rapid Transit.*

*(98) Lane County, Oregon—Bus Rapid Transit, Phase 2.*

*(99) Las Vegas—Boulder Highway MAX Bus Rapid Transit.*

*(100) Little Rock—River Rail Streetcar Extensions.*

*(101) Little Rock—West Little Rock Commuter Rail.*

*(102) Livermore, California—BART Rail Extension to Livermore.*

*(103) Long Island Railroad—Nassau Hub.*

*(104) Lorain-Cleveland Commuter Rail.*

*(105) LOSSAN Del Mar-San Diego—Rail Corridor Improvements.*

*(106) Lovejoy to Griffin, Georgia Commuter Rail.*

*(107) Madison, Wisconsin—Madison Streetcar.*

*(108) Madison, Wisconsin—Light Rail Transportation.*

*(109) Madison and Dane Counties, Wisconsin—Transport 2020 Commuter Rail.*

*(110) Maryland—I-270 Corridor Cities Transitway.*

*(111) Maryland—Route 5 Corridor to Waldorf.*

*(112) Maryland—Silver Spring Capacity Improvements.*

*(113) Massachusetts—Commuter Rail Extensions to Worcester and New Bedford.*

*(114) Memphis—Downtown Airport Corridor.*

*(115) Memphis—Intermodal Terminal.*

*(116) Memphis Regional Rail Plan.*

*(117) Metra BNSF Naperville to Aurora Corridor Extension and Improvements.*

*(118) Metra South Suburban Airport Commuter Rail Extension.*

*(119) Metra SouthEast Service Line Commuter Rail.*

*(120) Metra STAR Line Inter-Suburban Commuter Rail.*

*(121) Metra UP Northwest Line Core Capacity Upgrades.*

*(122) Metra UP West Line Core Capacity Upgrades.*

*(123) Metra-West Line Extension, Elgin to Rockford.*

*(124) Miami-Dade Transit—Douglas Road Extension.*

*(125) Miami-Dade Transit—East-West Corridor.*

*(126) Miami-Dade Transit—Kendall Corridor.*

*(127) Miami-Dade Transit—Northeast Corridor.*

*(128) Miami-Dade Transit—South Dade Corridor.*

*(129) Miami-Dade Transit—Miami Intermodal Center to Earlington Heights.*

*(130) Miami—Downtown Streetcar Project.*

*(131) Middletown-South Failsburg, New York, Passenger Rail.*

*(132) Milwaukee—Downtown Dedicated Guideway Transit Connector.*

*(133) Minneapolis—Northwest Corridor Busway.*

*(134) Minneapolis-St. Paul—Central Corridor Transit Project.*

*(135) Minneapolis-St. Paul-Hinckley, Minnesota—Rush Line Corridor.*

*(136) Missouri/Kansas—Interstate 35 Transit Corridor.*

*(137) Monterey County, California—Commuter Rail.*

*(138) Montgomery and Prince George's Counties, Maryland—Bi-County Transitway (Purple Line).*

*(139) Nashua-Manchester—Commuter Rail Extension.*

*(140) Nashville—Area Transit Corridors.*

*(141) Nashville—Southeast Rail Corridor.*

*(142) Nashville Tennessee Commuter Rail.*

*(143) Nassau and Queens Counties, New York—LIRR Main Line Third Track Project.*

*(144) New Bedford-Fall River, Massachusetts—Commuter Rail Extension.*

*(145) New Haven, Connecticut-Hartford, Connecticut-Springfield, Massachusetts Commuter Line.*

*(146) New Jersey Trans-Hudson Midtown Corridor.*

*(147) New Jersey Transit—Northeast Corridor Trans-Hudson Commuter Rail Improvements.*

*(148) New Jersey Transit—Morris/Essex/Boonton Trans-Hudson Commuter Rail Improvements.*

*(149) New Jersey Transit—New York Susquehanna and Western RR Commuter Extension.*

*(150) New Jersey Transit—Phillipsburg Extension.*

*(151) New Jersey Transit—West Trenton Line Commuter Line Service Extension.*

*(152) New Jersey-Pennsylvania Lackawanna Cutoff Rail Restoration.*

*(153) New Jersey Urban Core.*

*(154) New Orleans—Airport-CBD Commuter Rail.*

*(155) New Orleans—Riverfront Streetcar Downriver Extension.*

*(156) New Orleans—Riverfront Streetcar Upriver Extension.*

*(157) New York—Governors Island Transportation Access.*

*(158) New York—Long Island Sound (Long Island) Ferry Service.*

*(159) New York—Long Island Sound (Westchester) Ferry Service.*

*(160) New York—NYC Bus Rapid Transit.*

*(161) New York—NYC Highline.*

*(162) New York—Penn Station Access Project.*

*(163) New York—Rockaway-Brooklyn Army Terminal-Manhattan Ferry Service.*

*(164) New York—Staten Island to Manhattan High-Speed Ferry Service Extension.*

*(165) New York—Stewart Airport Rail Access.*

*(166) New York—Tappan Zee I-287 Corridor.*

*(167) New York—West Harlem Waterfront Ferry Improvements.*

*(168) Newburg, New York—LRT System.*

*(169) Northern Indiana—Commuter District Line.*

*(170) Northern Indiana—West Lake Commuter Rail Link (South Shore Commuter Rail).*

*(171) Norfolk—Naval Station Corridor.*

*(172) Norfolk-Petersburg—United States Route 460 Commuter Rail Project.*

*(173) Northern Virginia—Crystal City Potomac Yards Transit.*

*(174) Northern Virginia—Columbia Pike Rapid Transit Project.*

*(175) Northern Virginia—Dulles Corridor Extension, Phase 2.*

*(176) Northern Virginia—Richmond Highway (Route 1) Rapid Transit Project.*

*(177) Oakland—Telegraph Avenue/International Blvd/East 14th Street BRT.*

*(178) Ogden—Intermodal-Weber State University Transit Connection.*

*(179) Orange County, California—Bus Rapid Transit.*

*(180) Orlando-Orange County, Florida—Light Rail Project.*

*(181) Ottawa, Illinois—Illinois Valley Commuter Rail Extension.*

*(182) Pawtucket, Rhode Island—Commuter Rail Station.*

*(183) Philadelphia—Elwyn to Wawa Train Service Restoration.*

*(184) Philadelphia—Navy Yard Transit Extension.*

*(185) Philadelphia—52nd Street City Connector Project.*

*(186) Philadelphia—Route 100 Rapid Trolley Extension.*

*(187) Philadelphia—Broad Street Subway Line Extension.*

*(188) Piedmont Authority Regional Transportation—East-West Rail Transit Corridor Project.*

*(189) Pinellas Mobility Initiative Bus Rapid Transit.*

*(190) Pittsburgh—Keystone West Passenger Rail Corridor in Blair, Cambria, West Moreland, and Allegheny Counties.*

*(191) Pittsburgh—East-West Corridor Rapid Transit.*

*(192) Pittsburgh—Martin Luther King, Jr. Busway Extension.*

*(193) Pittsburgh—Oakland Technology Corridor.*

*(194) Portland Streetcar Extensions.*

*(195) Portland-Yarmouth-Brunswick-Lewiston/Auburn Passenger Rail.*

*(196) Providence—South County Commuter Rail Phase II.*

*(197) Provo-Orem Utah—Bus Rapid Transit.*

*(198) Quakertown-Stoney Creek, Pennsylvania—Rail Restoration.*

*(199) Raritan Valley, New Jersey—Commuter Rail.*

*(200) Reno, Nevada—Virginia Street Bus Rapid Transit Project.*

*(201) Riverside County, California—Perris Valley Line Metrolink Extension.*

*(202) Roaring Fork Valley, Colorado—Bus Rapid Transit.*

*(203) Rock Island, Illinois—Quad Cities Rapid Transit System.*

*(204) Sacramento—Downtown Streetcar Project.*

*(205) Sacramento—Regional Rail, Auburn to Oakland.*

*(206) Sacramento—Downtown/Natomas Airport Transit Corridor.*

*(207) Salt Lake City—Airport to University LRT.*

*(208) Salt Lake City—Delta Center to Gateway Intermodal Center LRT Extension.*

*(209) Salt Lake City—Draper to Sandy LRT Extension.*

*(210) Salt Lake-Provo—Commuter Rail Extension.*

*(211) Salt Lake City—TRAX Capacity Improvements.*

*(212) Salt Lake City—West Valley City LRT Extension.*

*(213) Salt Lake City—West Valley City 3500 South BRT.*

*(214) Salt Lake City—West Jordan LRT extension.*

*(215) Salt Lake City to South Davis Transit Connection.*

*(216) San Antonio—Bus Rapid Transit.*

*(217) San Diego—First Bus Rapid Transit.*

*(218) San Diego—San Diego Imperial County Mag-Lev Rail Airport Corridor Project.*

*(219) San Diego—Sprinter Rail Line Extension Project.*

*(220) San Francisco—BART Extension to Livermore.*

*(221) San Francisco—BART Extension to Oakland International Airport.*

*(222) San Francisco—MUNI Geary Boulevard Bus Rapid Transit.*

*(223) San Francisco—Oyster Point Ferry Terminal.*

*(224) San Francisco—Transbay Terminal/Caltrain Downtown Extension Project.*

*(225) San Joaquin, California—Regional Rail Commission Central Valley Rail Service.*

*(226) San Joaquin Regional Rail Commission Commuter Rail (Altamont Commuter Express).*

*(227) San Juan Tren Urbano—Extension from Rio Piedras to Carolina.*

*(228) San Juan—Tren Urbano Minillas Extension.*

*(229) Santa Fe—El Dorado Rail Link.*

*(230) Seattle—Monorail Project Post—Green Line Extensions.*

*(231) Seattle—Link LRT Extensions.*

*(232) Seattle—Sound Transit Commuter Rail.*

*(233) Seattle—Sound Transit Regional Express Bus.*

*(234) Sevierville to Pigeon Ford, Tennessee—Bus Rapid Transit.*

*(235) Sonoma/Marin (SMART) Commuter Rail, California.*

*(236) Southern California High Speed Regional Transit.*

*(237) Southern New Jersey to Philadelphia Transit Project.*

*(238) St. Louis Metro Link—Scott AFB to Mid America Airport.*

*(239) St. Louis—East/West Gateway.*

*(240) St. Louis—Metro Link Northside Daniel Boone Project.*

*(241) St. Louis—Metro South Corridor.*

*(242) St. Louis—University Downtown Trolley.*

*(243) St. Paul—Red Rock Corridor Commuter Rail Project.*

*(244) Stamford, Connecticut—Boston Post Road Intermodal Center and Capacity Expansion Project.*

*(245) Stamford, Connecticut—Urban Transitway Phase II.*

*(246) Tampa—Bus Rapid Transit Improvements.*

*(247) Tampa—Streetcar Extension to Downtown Tampa.*

*(248) Toledo, Ohio—CBD to Zoo.*

*(249) Toledo, Ohio—University Corridor.*

*(250) Trenton Trolley.*

*(251) Tri-Rail Dolphin Extension.*

*(252) Tri-Rail Florida East Coast Commuter Rail Extension.*

*(253) Tri-Rail Jupiter Extension.*

*(254) Tri-Rail Scripps Corridor Extension Project.*

*(255) Tucson—Old Pueblo Trolley Expansion.*

*(256) Vancouver—Interstate MAX Extension to Clark County, Washington.*

*(257) Virginia Beach—Bus Rapid Transit.*

*(258) Virginia Railway Express Capacity Improvements.*

*(259) Washington, D.C.—Woodrow Wilson Bridge Transit Projects.*

*(260) Washington State Ferries and Ferry Facilities.*

*(261) Washington State—Issaquah Valley Trolley Project.*

*(262) Williamsburg-Newport News—Peninsula Rail Transit.*

*(263) Wilmington, Delaware—Commuter Rail to Middletown.*

*(264) Winston-Salem—Downtown Streetcar System.*

*(d) PROJECT AUTHORIZATIONS.—Subject to the requirements of sections 5309(d) and 5309(e) of title 49, United States Code, the following projects are authorized for the following amounts:*

*(1) Ann Arbor/Downtown Detroit Transit Improvement Project, $100,000,000.*

*(2) Baltimore Red Line/Green Line Transit Project, $102,300,000.*

*(3) Bernalillo-Santa Fe-New Mexico Commuter Rail, $75,000,000.*

*(4) Birmingham-Jefferson Transit Authority—I-65 South BRT, $100,000,000.*

*(5) Boston—Assembly Square Orange Line Station, $25,000,000.*

*(6) Boston—Silver Line BRT Phase II, $20,000,000.*

*(7) Bridgeport, Connecticut—Bridgeport Intermodal Transit Center, $28,000,000.*

*(8) Dallas Area Rapid Transit—NW/SW Light Rail Transit Minimal Operable Segment, $260,000,000.*

*(9) Delaware—Wilmington-Newark Commuter Rail Improvements, $14,000,000.*

*(10) Denver Regional Transit District—West Corridor, $270,000,000.*

*(11) Grand Rapids—Fixed Guideway Corridor Project, $14,400,000.*

*(12) Harrison County, Mississippi HOV/BRT Canal Road Intermodal Connector, $70,000,000.*

*(13) Henderson-Las Vegas-North Las Vegas—Regional Fixed Guideway Project, $32,000,000.*

*(14) Houston—Advanced Transportation Technology System in Harris County, $245,000,000.*

*(15) Kenosha-Racine-Milwaukee Metra Commuter Rail Extension (Wisconsin), $80,000,000.*

*(16) Lake Tahoe—Passenger Ferry Service, $8,000,000.*

*(17) Lane County, Oregon—Bus Rapid Transit, Phase 2, $31,000,000.*

*(18) Las Vegas—Boulder Highway MAX Bus Rapid Transit, $12,000,000.*

*(19) Las Vegas—Resort Corridor Downtown Extension Project, $16,000,000.*

*(20) Long Island Railroad—Nassau Hub, $10,000,000.*

*(21) Los Angeles County Metropolitan Transportation Authority (LACMTA): Mid-City/Exposition Light Rail Transit Project, $11,000,000.*

*(22) Metro Gold Line Foothill Extension Construction Authority: Gold Line Foothill Light Rail Transit Project, $6,000,000.*

*(23) Miami—Downtown Streetcar Project, $50,000,000.*

*(24) Minneapolis—North Star Corridor, $80,000,000.*

*(25) Mississippi—I-69 HOV/BRT, $70,000,000.*

*(26) Nashville—Commuter Rail, $6,200,000.*

*(27) New Bedford-Fall River, Massachusetts—Commuter Rail Extension, $10,000,000.*

*(28) New Britain-Hartford Busway Project, $55,000,000.*

*(29) New Jersey Transit—Northeast Corridor Trans-Hudson Commuter Rail Improvements, $80,000,000.*

*(30) New Orleans—Airport-CBD Commuter Rail, $5,000,000.*

*(31) New Orleans—Desire Corridor Streetcar, $69,700,000.*

*(32) New York—Penn Station Access Project, $15,000,000.*

*(33) New York—Stewart Airport Rail Access, $40,000,000.*

*(34) Providence—South County Commuter Rail, Phase II, $60,000,000.*

*(35) Providence—South County Commuter Rail, $36,000,000.*

*(36) Pennsylvania—New Jersey Lackawanna Cutoff Rail Restoration, $120,000,000.*

*(37) Philadelphia—Schuylkill Valley Metro, $250,000,000.*

*(38) Reno, Nevada—Virginia Street Bus Rapid Transit, $12,000,000.*

*(39) Sacramento—South Corridor LRT Extension (Phase 2), Meadowview to Consumnes River College, $11,000,000.*

*(40) Sacramento Regional Transit District: Downtown Natoma Airport Transit Corridor, $5,000,000.*

*(41) San Diego—Mid-Coast Light Rail Transit Extension, $11,000,000.*

*(42) San Francisco Muni Third St. Light Rail Transit-Phase I/II, $15,000,000*

*(43) Santa Clara Valley Transportation Authority—Silicon Valley Rapid Transit Corridor Project, $11,000,000.*

*(44) Santa Fe-El Dorado Rail Link, $5,400,000.*

*(45) Sonoma Marin Area Rail Transit (SMART) Project, $5,000,000.*

*(46) St. Louis—Metro South Corridor Metrolink Light Rail Extension, $135,000,000.*

*(47) St. Louis—North Side and Daniel Boone Corridors Metrolink Light Rail Extensions, $275,000,000.*

*(48) Stamford, Connecticut Urban Transitway Phase II, $22,800,000.*

*(49) Tampa—Streetcar Extension to Downtown Tampa, $3,000,000.*

*(50) Utah—Regional Commuter Rail, $200,000,000.*

*(51) Washington State Ferries, $25,000,000.*

*(52) Wilmington, Delaware—Commuter Rail to Middletown, $24,900,000.*

*(e) RULES RELATING TO FUNDING.—*

*(1) SUBSECTION (a) PROJECTS.—*

*(A) IN GENERAL.—The Secretary is authorized to expend funds made available under section 5309(m) of title 49, United States Code, for final design and construction of projects authorized by subsection (a) as existing full funding grant agreements.*

*(B) MINIMUM FUNDING LEVELS.—The Secretary shall make available not less than the following amounts for projects authorized by subsection (a): $1,157,400,426 for fiscal year 2005, $838,360,578 for fiscal year 2006, $614,405,565 for fiscal year 2007, $424,817,697 for fiscal year 2008, and $259,180,764 for fiscal year 2009.*

*(2) SUBSECTION (b) PROJECTS.—*

*(A) IN GENERAL.—Projects authorized by subsection (b) for final design and construction are also authorized for alternatives analysis and preliminary engineering.*

*(B) MINIMUM FUNDING LEVELS.—The Secretary shall make available not less than the following amounts for projects authorized by subsection (b): $165,402,806 for fiscal year 2005, $544,399,422 for fiscal year 2006, $826,314,435 for fiscal year 2007, $1,139,182,303 for fiscal year 2008, and $1,405,329,236 for fiscal year 2009.*

*(C) PRIORITY.—In making funds available under subparagraph (B), the Secretary shall first make such funds available for any full funding grant agreement executed by the Secretary in fiscal year 2005 after the date of enactment of this Act and for any full funding grant agreement executed by the Secretary in the amount indicated in fiscal years 2005 through 2009 in the amount indicated in the "Schedule of Federal Funds for the Project" included in such agreement.*

*(3) SUBSECTION (c) PROJECTS.—*

*(A) IN GENERAL.—Effective October 1, 2007, projects authorized by subsection (c) for preliminary engineering are also authorized for final design and construction.*

*(B) MAXIMUM FUNDING LEVELS.—The Secretary shall make available not more than the following amounts for projects authorized by subsection (c): $115,026,368 for fiscal year 2005, $120,240,000 for fiscal year 2006, and $125,280,000 in fiscal year 2007.*

*(C) MAXIMUM FUNDING LEVELS FOR PRELIMINARY ENGINEERING.—In fiscal years 2008 and 2009, the Secretary shall make available not more than the following amounts for projects authorized by subsection (b), and projects authorized by subsection (c), to conduct preliminary engineering activities: $136,000,000 in fiscal year 2008 and $144,740,000 in fiscal year 2009.*

*(f) NEW JERSEY URBAN CORE PROJECT.—Section 3031(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (112 Stat. 380; 105 Stat. 2122) is amended—*

*(1) by striking "associated components to and at the contiguous New Jersey Meadowlands Sports Complex)," and inserting "to and at the contiguous New Jersey Meadowlands Sports Complex), including a connection to the Hudson River Waterfront Transportation System, the Lackawanna Cutoff,"; and*

*(2) by striking "in Lakewood to Freehold to Matawan or Jamesburg, New Jersey, as described in section 3035(p) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2131)" and inserting "from Lakehurst to the Northeast Corridor or the New Jersey Coast Line".*

*(g) NEW JERSEY TRANS-HUDSON MIDTOWN CORRIDOR.—Not later than 90 days after the date of enactment of this Act, the Secretary shall permit New Jersey Transit to enter into preliminary engineering on the New Jersey Trans-Hudson Midtown Corridor project. When evaluating the local share of such project in the new starts rating process, the Secretary shall give consideration to project elements of the New Jersey Trans-Hudson Midtown Corridor advanced with 100 percent non-Federal funds, including the purchase of bi-level rail equipment and the New Jersey Transit Light Rail River Line. Based upon the project's evaluations and ratings required under section 5309(d) of title 49, United States Code, the Secretary shall give strong consideration to the project for a full funding grant agreement.*

*(h) HOUSTON METRO.—*

*(1) LOCAL SHARE.—Notwithstanding any other provision of law, for the purpose of calculating the non-Federal share of the net project cost of any new fixed guideway capital project currently included in the Advanced Transit Program ("Metro Solutions Plan") sponsored by the Metropolitan Transit Authority of Harris County, Texas, the Secretary shall include $324,000,000 in State and local funds expended for the design and construction of the Red Line Light Rail Transit system that operates in Harris County, Texas.*

*(2) SPECIAL RULE.—No provision of this Act shall be construed to override or nullify the will of the voters who approved the Metro Solutions Plan as described on the ballot and in the accompanying Board resolutions, nor shall any provision of this Act be construed to override or nullify the terms and conditions of Metro Board Resolution No. 2003-77 or any applicable provision of State law or the charter of the city of Houston as in effect as of the date of enactment of this Act.*

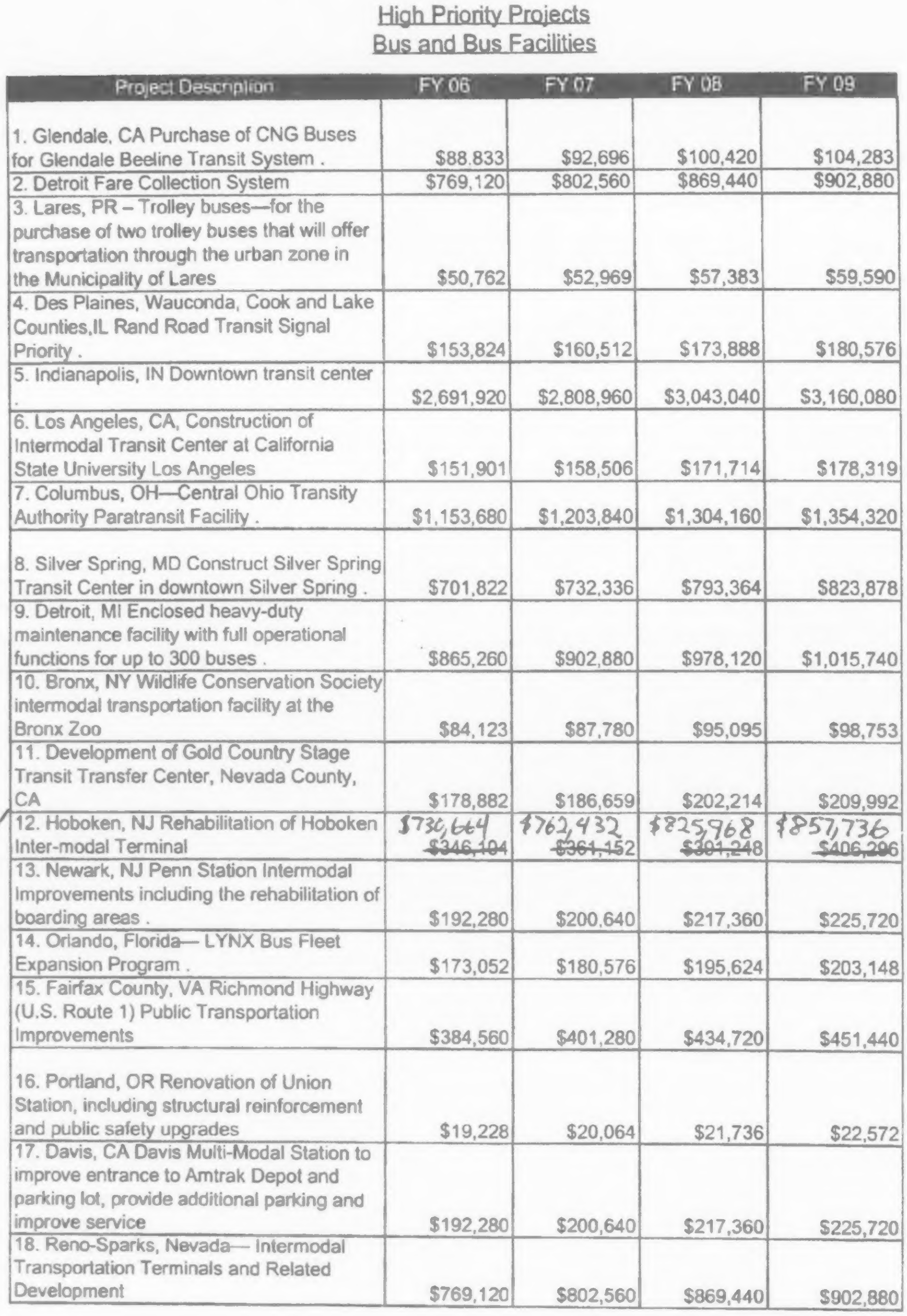
*(3) AMENDMENT.—Section 178 of Public Law 108-447, division H (118 Stat. 3230), is amended by striking "49 USC 5309(e)(1)(A), 23 CFR 771.123, and 49 CFR 611.7." and inserting "49 U.S.C. 5309 and 49 C.F.R. 611.7: Provided, That such projects shall retain their status in preliminary engineering should bus rapid transit be chosen as the locally preferred alternative during that phase.".*

*(i) EXEMPTION.—The Metra BNSF Naperville to Aurora Extension Project authorized under subsection (c) shall be exempted from all requirements related to criteria for grants for new fixed guideway capital projects under section 5309(d) of title 49, United States Code, and from regulations required under that section.*

*(j) RAIL CARS.—The project authorized by subsection (a)(31) includes an additional 52 rapid rail cars and project scope changes from amounts authorized by the Transportation Equity Act for the 21st Century.*

### *SEC. 3044. PROJECTS FOR BUS AND BUS-RELATED FACILITIES AND CLEAN FUELS GRANT PROGRAM.*

*(a) PROJECTS.—Of the amounts made available to carry out section 5309(m)(2)(C) of title 49, United States Code, for each of fiscal years 2006 through 2009, the Secretary shall make funds available for the following projects in not less than the amounts specified for the fiscal year:*



## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 1. Glendale, CA Purchase of CNG Buses for Glendale Beeline Transit System . | $88,833 | $92,696 | $100,420 | $104,283 |
| 2. Detroit Fare Collection System | $769,120 | $802,560 | $869,440 | $902,880 |
| 3. Lares, PR – Trolley buses—for the purchase of two trolley buses that will offer transportation through the urban zone in the Municipality of Lares | $50,762 | $52,969 | $57,383 | $59,590 |
| 4. Des Plaines, Wauconda, Cook and Lake Counties,IL Rand Road Transit Signal Priority . | $153,824 | $160,512 | $173,888 | $180,576 |
| 5. Indianapolis, IN Downtown transit center . | $2,691,920 | $2,808,960 | $3,043,040 | $3,160,080 |
| 6. Los Angeles, CA, Construction of Intermodal Transit Center at California State University Los Angeles | $151,901 | $158,506 | $171,714 | $178,319 |
| 7. Columbus, OH—Central Ohio Transity Authority Paratransit Facility . | $1,153,680 | $1,203,840 | $1,304,160 | $1,354,320 |
| 8. Silver Spring, MD Construct Silver Spring Transit Center in downtown Silver Spring . | $701,822 | $732,336 | $793,364 | $823,878 |
| 9. Detroit, MI Enclosed heavy-duty maintenance facility with full operational functions for up to 300 buses . | $865,260 | $902,880 | $978,120 | $1,015,740 |
| 10. Bronx, NY Wildlife Conservation Society intermodal transportation facility at the Bronx Zoo | $84,123 | $87,780 | $95,095 | $98,753 |
| 11. Development of Gold Country Stage Transit Transfer Center, Nevada County, CA | $178,882 | $186,659 | $202,214 | $209,992 |
| ✓ 12. Hoboken, NJ Rehabilitation of Hoboken Inter-modal Terminal | $730,664<br>~~$346,104~~ | $762,432<br>~~$361,152~~ | $825,968<br>~~$391,248~~ | $857,736<br>~~$406,296~~ |
| 13. Newark, NJ Penn Station Intermodal Improvements including the rehabilitation of boarding areas . | $192,280 | $200,640 | $217,360 | $225,720 |
| 14. Orlando, Florida— LYNX Bus Fleet Expansion Program . | $173,052 | $180,576 | $195,624 | $203,148 |
| 15. Fairfax County, VA Richmond Highway (U.S. Route 1) Public Transportation Improvements | $384,560 | $401,280 | $434,720 | $451,440 |
| 16. Portland, OR Renovation of Union Station, including structural reinforcement and public safety upgrades | $19,228 | $20,064 | $21,736 | $22,572 |
| 17. Davis, CA Davis Multi-Modal Station to improve entrance to Amtrak Depot and parking lot, provide additional parking and improve service | $192,280 | $200,640 | $217,360 | $225,720 |
| 18. Reno-Sparks, Nevada— Intermodal Transportation Terminals and Related Development | $769,120 | $802,560 | $869,440 | $902,880 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 19. Bar Harbor, ME Purchase new buses to enhance commuting near the Jackson Labs . | $57,684 | $60,192 | $65,208 | $67,716 |
| 20. Bronx, NY Establish an intermodal transportation facility at the Wildlife Conservation Society Bronx Zoo . | $192,280 | $200,640 | $217,360 | $225,720 |
| 21. Hingham, MA Hingham Marine Intermodal Center Improvements: Enhance public transportation infrastructure/parking . | $1,730,520 | $1,805,760 | $1,956,240 | $2,031,480 |
| 22. Philadelphia, PA Philadelphia Zoo Intermodal Transportation project w/parking consolidation, pedestrian walkways, public transportation complements & landscape improvements to surface parking lots | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 23. Construct intermodal transportation & parking facility, City of Winter Park, Florida | $96,140 | $100,320 | $108,680 | $112,860 |
| 24. Roma, TX Bus Facility | $100,947 | $105,336 | $114,114 | $118,503 |
| 25. New York City, NY First Phase Implementation of Bus Rapid Transit System | $192,280 | $200,640 | $217,360 | $225,720 |
| 26. Scottsdale, Arizona— Plan, design, and construct intermodal center | $480,700 | $501,600 | $543,400 | $564,300 |
| 27. Sonoma County, CA Purchase of CNG buses | $96,140 | $100,320 | $108,680 | $112,860 |
| 28. Camden, NJ Construction of the Camden County Intermodal Facility in Cramer Hill | $192,280 | $200,640 | $217,360 | $225,720 |
| 29. Sandy Hook, NJ National Park Service Construct year-round ferry dock at Sandy Hook Unit of Gateway National Recreation Area | $192,280 | $200,640 | $217,360 | $225,720 |
| 30. Sevier County, Tennessee—U.S. 441. bus rapid transit . | $48,070 | $50,160 | $54,340 | $56,430 |
| 31. St. Augustine, Florida—Intermodal Transportation and Parking Facility . | $192,280 | $200,640 | $217,360 | $225,720 |
| 32. Torrington, CT Construct bus-related facility (Northwestern Connecticut Central Transit District) . | $384,560 | $401,280 | $434,720 | $451,440 |
| 33. Warren, PA—Construct Intermodal Transportation Center and related pedestrian and landscape imporovements | $288,420 | $300,960 | $326,040 | $338,580 |
| 34. Toledo, OH TARTA/ TARPS Passenger Inter-modal Facility construction . | $1,442,100 | $1,504,800 | $1,630,200 | $1,692,900 |
| 35. Union City, CA Inter-modal Station, Phase 1: Modify BART station | $817,190 | $852,720 | $923,780 | $959,310 |
| 36. Los Angeles, CA Wilshire-Vermont subway station reconstruction . | $192,280 | $200,640 | $217,360 | $225,720 |

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| 33. Warren, PA—Construct Intermodal Transportation Center and related pedestrian and landscape imporovements | $288,420 | $300,960 | $326,040 | $338,580 |
| 34. Toledo, OH TARTA/ TARPS Passenger Inter-modal Facility construction . | $1,442,100 | $1,504,800 | $1,630,200 | $1,692,900 |
| 35. Union City, CA Inter-modal Station, Phase 1: Modify BART station | $817,190 | $852,720 | $923,780 | $959,310 |
| 36. Los Angeles, CA Wilshire-Vermont subway station reconstruction . | $192,280 | $200,640 | $217,360 | $225,720 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 37. Lancaster, PA—bus replacement . | $182,666 | $190,608 | $206,492 | $214,434 |
| 38. Monmouth County, NJ Construction of main bus facility for Freehold Township, including a terminal and repair shop | $384,560 | $401,280 | $434,720 | $451,440 |
| 39. Monrovia, California— Transit Village Project | $576,840 | $601,920 | $652,080 | $677,160 |
| 40. Duluth, MN Downtown Duluth Area Transit facility improvements | $384,560 | $401,280 | $434,720 | $451,440 |
| 41. Brooklyn, NY New Urban Center—Broadway Junction Intermodal Center | $184,589 | $192,614 | $208,666 | $216,691 |
| 42. Medford, MA Downtown revitalization featuring construction of a 200 space Park and Ride Facility . | $384,560 | $401,280 | $434,720 | $451,440 |
| 43. Needles, California—El Garces Intermodal Facility . | $384,560 | $401,280 | $434,720 | $451,440 |
| 44. Bridgeport, Connecticut—Greater Bridgeport Transit Authority Bus Facility . | $96,140 | $100,320 | $108,680 | $112,860 |
| 45. Palm Springs, California—Sunline Transit bus purchase | $96,140 | $100,320 | $108,680 | $112,860 |
| 46. National Park Service Design and construct 2.1-mile segment to complete Sandy Hook multiuse pathway in Sandy Hook, NJ . | $192,280 | $200,640 | $217,360 | $225,720 |
| 47. Phoenix, AZ Construct City of Phoenix para-transit facility (Dial-a-Ride) | $192,280 | $200,640 | $217,360 | $225,720 |
| 48. Project provides for the engineering and construction of a transportation center in Paoli, Chester County | $192,280 | $200,640 | $217,360 | $225,720 |
| 49. Columbus, Georgia— Buses & Bus Facilities . | $186,319 | $194,420 | $210,622 | $218,723 |
| 50. Cleveland, Ohio—University Circle intermodal facility | $1,634,380 | $1,705,440 | $1,847,560 | $1,918,620 |
| 51. Cleveland, OH acquisition of buses Greater Cleveland Regional Transit Authority . | $192,280 | $200,640 | $217,360 | $225,720 |
| 52. Greensboro, North Carolina—Replacement buses | $1,111,378 | $1,159,699 | $1,256,341 | $1,304,662 |
| 53. Johnson Co., KS Bus and bus related facilities [I-35. corridor], Johnson Co. Transit . | $384,560 | $401,280 | $434,720 | $451,440 |
| 54. City of Alameda, CA Plan, design, and construct intermodal facility | $384,560 | $401,280 | $434,720 | $451,440 |
| 55. New Orleans, LA Inter-modal Riverfront Center | $96,140 | $100,320 | $108,680 | $112,860 |
| 56. Brooklyn, NY— Rehabilition of Bay Ridge 86th Street Subway Station | $769,120 | $802,560 | $869,440 | $902,880 |
| 57. Wilmington, NC Build Intermodal Center | $192,280 | $200,640 | $217,360 | $225,720 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 58. Yabucoa, Puerto Rico—Trolley buses . | $33,649 | $35,112 | $38,038 | $39,501 |
| 59. Beverly, MA Design and Construct Beverly Depot Intermodal Transportation Center . | $384,560 | $401,280 | $434,720 | $451,440 |
| 60. Georgia Statewide Bus Program . | $38,456 | $40,128 | $43,472 | $45,144 |
| 61. Trenton, New Jersey— Trenton Train Station Rehabilitation . | $288,420 | $300,960 | $326,040 | $338,580 |
| 62. Trenton, NJ Reconstruction and rehabilitation of the Trenton Train Station . | $1,345,960 | $1,404,480 | $1,521,520 | $1,580,040 |
| 63. Zapata, Texas Purchase Bus vehicles | $60,088 | $62,700 | $67,925 | $70,538 |
| 64. Zanesville, OH—bus system signage and shelters . | $15,623 | $16,302 | $17,661 | $18,340 |
| 65. York, Pennsylvania— Rabbit Transit facilities and communications equipment . | $532,712 | $555,873 | $602,196 | $625,357 |
| 66. Canby, OR bus and bus facilities | $28,842 | $30,096 | $32,604 | $33,858 |
| 67. New Orleans, LA Plan and construct New Orleans Union Passenger Terminal intermodal facilities . | $192,280 | $200,640 | $217,360 | $225,720 |
| 68. Northern Neck and Middle Peninsula, Virginia—Bay Transit Multimodal Facilities . | $624,910 | $652,080 | $706,420 | $733,590 |
| 69. Broward County, FL Busses & Bus Facilities | $1,249,820 | $1,304,160 | $1,412,840 | $1,467,180 |
| 70. Palm Springs, California—Sunline Transit: CalStart-Weststart fuel cell bus program | $192,280 | $200,640 | $217,360 | $225,720 |
| 71. San Juan, Puerto Rico—Buses . | $192,280 | $200,640 | $217,360 | $225,720 |
| 72. Hammond, Louisiana— Passenger Intermodal facility at Southeastern University . | $38,456 | $40,128 | $43,472 | $45,144 |
| 73. West Virginia Construct Beckley Intermodal Gateway pursuant to the eligibility provisions for projects listed under section 3030(d)(3) of P.L. 105-178. | $4,614,720 | $4,815,360 | $5,216,640 | $5,417,280 |
| 74. Albany-Schenectady, NY Bus Rapid Transit Improvements in NY Route 5. Corridor . | $192,280 | $200,640 | $217,360 | $225,720 |
| 75. Alameda County, CA AC Transit Bus Rapid Transit Corridor Project | $96,140 | $100,320 | $108,680 | $112,860 |
| 76. Baldwin Park, CA Construct vehicle and bicycle parking lot and pedestrian rest area at transit center . | $384,560 | $401,280 | $434,720 | $451,440 |
| 77. Niagara Falls, NY Relocation, Development, and Enhancement of Niagara Falls International Railway Station/Intermodal Transportation Center | $1,076,768 | $1,123,584 | $1,217,216 | $1,264,032 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 78. Utica, New York— Union Station Boehlert Center siding track improvements . | $19,228 | $20,064 | $21,736 | $22,572 |
| 79. Ionia County, MI— Purchase and implementation of communication equipment improvements | $113,445 | $118,378 | $128,242 | $133,175 |
| 80. Flagler County, Florida—bus facility . | $115,368 | $120,384 | $130,416 | $135,432 |
| 81. Easton, Pennsylvania— Design and construct Intermodal Transportation Center | $384,560 | $401,280 | $434,720 | $451,440 |
| 82. Yamhill County, OR For the construction of bus shelters, park and ride facilities, and a sign-age strategy to increase ridership . | $21,151 | $22,070 | $23,910 | $24,829 |
| 83. Woodland, CA Yolobus operations, maintenance, administration facility expansion and improvements to increase bus service with alternative fuel buses . | $384,560 | $401,280 | $434,720 | $451,440 |
| 84. Sacramento, CA Construct intermodal station and related improvements | $1,345,960 | $1,404,480 | $1,521,520 | $1,580,040 |
| 85. Torrance Transit System, CA Acquisition of EPA and CARB-certified low emission replacement buses | $576,840 | $601,920 | $652,080 | $677,160 |
| 86. Burlington County, NJ—BurLink and Burlington County Transportation System vehicles and equipment . | $769,120 | $802,560 | $869,440 | $902,880 |
| 87. Niles, OH Acquisition of bus operational and service equipment for Niles Trumbull Transit | $38,456 | $40,128 | $43,472 | $45,144 |
| 88. Rockport, MA Rockport Commuter Rail Station Improvements . | $528,770 | $551,760 | $597,740 | $620,730 |
| 89. Cincinnati, Ohio— Metro Regional Transit Hub Network Eastern Neighborhoods . | $177,859 | $185,592 | $201,058 | $208,791 |
| 90. Buses and bus related facilities throughout the State of Connecticut | $1,153,680 | $1,203,840 | $1,304,160 | $1,354,320 |
| 91. Columbus, GA Bus replacement . | $57,684 | $60,192 | $65,208 | $67,716 |
| 92. Norwalk, CA Transit System Bus Procurement and Los Angeles World Airport Remote Fly-Away Facility Project | $153,824 | $160,512 | $173,888 | $180,576 |
| 93. Salem, OR bus and bus facilities | $384,560 | $401,280 | $434,720 | $451,440 |
| 94. Ilwaco, WA Procure shuttles for Lewis and Clark National Historical Park . | $19,228 | $20,064 | $21,736 | $22,572 |
| 95. Gainesville, FL Bus Replacement . | $769,120 | $802,560 | $869,440 | $902,880 |
| 96. SEPTA Montgomery County Intermodal Improvements at Glenside and Jenkintown Station Parking Garages | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 97. Fredericksburg, Virginia—Improve and repair Fredericksburg Station . | $480,700 | $501,600 | $543,400 | $564,300 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 98. Birmingham, AL Expansion of Downtown Intermodal Facility, Phase II . | $384,560 | $401,280 | $434,720 | $451,440 |
| 99. Gresham, Oregon Construct a new light rail station and transit plaza on Portland MAX system and serve Gresham Civic neighborhood | $269,192 | $280,896 | $304,304 | $316,008 |
| 100. State of Wisconsin buses and bus facilities | $3,143,778 | $3,280,464 | $3,553,836 | $3,690,522 |
| 101. Emeryville, CA Expand & Improve Inter-modal Transit Center at Amtrak Station | $192,280 | $200,640 | $217,360 | $225,720 |
| 102. Jersey City, NJ Construct West Entrance to Pavonia-Newport PATH Station . | $384,560 | $401,280 | $434,720 | $451,440 |
| 103. Longwood, Florida— Construct Intermodal Transportation Facility | $96,140 | $100,320 | $108,680 | $112,860 |
| 104. Marietta, Ohio Construction of transportation hub to accommodate regional bus traffic | $96,140 | $100,320 | $108,680 | $112,860 |
| 105. Akron, Ohio—West Market Street transit center and related pedestrian improvements | $124,982 | $130,416 | $141,284 | $146,718 |
| 106. Sandy, Oregon Transit Bus Facility | $134,596 | $140,448 | $152,152 | $158,004 |
| 107. Jacksonville, FL Paratransit Vehicles . | $865,260 | $902,880 | $978,120 | $1,015,740 |
| 108. Carson, CA Purchase two tripper buses . | $96,140 | $100,320 | $108,680 | $112,860 |
| 109. Bloomington, IN— Bus and transfer facility | $924,867 | $965,078 | $1,045,502 | $1,085,713 |
| 110. Cobb County, GA Cobb County Smart Card Technology/ Bus Facility Improvements . | $192,280 | $200,640 | $217,360 | $225,720 |
| 111. Construct West Houston and Fort Bend County, Texas—bus transit corridor . | $384,560 | $401,280 | $434,720 | $451,440 |
| 112. Mariposa, CA—Yosemite National Park CNG-Hydrogen transit buses and facilities . | $480,700 | $501,600 | $543,400 | $564,300 |
| 113. Snohomish County, WA Community Transit bus purchases and facility enhancement . | $576,840 | $601,920 | $652,080 | $677,160 |
| 114. Geneva, Illinois—Construct commuter parking deck for Metra Service . | $769,120 | $802,560 | $869,440 | $902,880 |
| 115. Rhode Island Statewide Bus Fleet . | $1,153,680 | $1,203,840 | $1,304,160 | $1,354,320 |
| 116. Pleasant Hill, CA Construct Diablo Valley College Bus Transit Center . | $288,420 | $300,960 | $326,040 | $338,580 |
| 117. Broward, FL Purchase new articulated buses and bus stop improvements on State Road 7. (SR 7) between Golden Glades Interchange and Glades Road | $96,140 | $100,320 | $108,680 | $112,860 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 118. Attleboro, MA Construction, engineering and site improvements at the Attleboro Intermodal Center | $384,560 | $401,280 | $434,720 | $451,440 |
| 119. Burbank, CA CNG Transit Vehicles Purchase for Local Transit Network Expansion | $86,526 | $90,288 | $97,812 | $101,574 |
| 120. Dayton Airport Inter-modal Rail Feasibility Study | $144,210 | $150,480 | $163,020 | $169,290 |
| 121. Los Angeles, CA Improve transit shelters, sidewalks lighting and landscaping around Cedar's-Sinai Medical Center . | $288,420 | $300,960 | $326,040 | $338,580 |
| 122. Baltimore, MD Construct Intercity Bus Intermodal Terminal | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 123. Cheltenham, PA Glenside Rail Station Parking Garage project involving the construction of a 300-400 space parking lot at Easton Road and Glenside Avenue . | $192,280 | $200,640 | $217,360 | $225,720 |
| 124. Haverhill, MA Design and Construct Inter-modal Transit Parking Improvements . | $1,076,768 | $1,123,584 | $1,217,216 | $1,264,032 |
| 125. Palm Beach County, FL Plan and Construct Belle Glade Combined Passenger Transit Facility . | $672,980 | $702,240 | $760,760 | $790,020 |
| 126. Pittsburgh, PA Clean Fuel Bus Procurement | $96,140 | $100,320 | $108,680 | $112,860 |
| 127. San Fernando, CA Purchase CNG buses and related equipment and construct facilities . | $584,531 | $609,946 | $660,774 | $686,189 |
| 128. Bayamon, Puerto Rico—bus terminal | $115,368 | $120,384 | $130,416 | $135,432 |
| 129. Bozeman, Montana— Vehicular Parking Facility . | $769,120 | $802,560 | $869,440 | $902,880 |
| 130. Coahoma County, Mississippi Purchase buses for the Aaron E. Henry Community Health Services Center, Inc./ DARTS transit service. | $28,842 | $30,096 | $32,604 | $33,858 |
| 131. Stonington and Mystic, Connecticut—Intermodal Center parking facility and Streetscape . | $469,163 | $489,562 | $530,358 | $550,757 |
| 132. Carson, CA Purchase one bus . | $48,070 | $50,160 | $54,340 | $56,430 |
| 133. Miami-Dade County, Florida—Transit Security System . | $574,917 | $599,914 | $649,906 | $674,903 |
| 134. Town of Chapel Hill, NC Park and Ride Lot | $288,420 | $300,960 | $326,040 | $338,580 |
| 135. Wheaton, IL Pace Suburban Bus—Purchase buses . | $192,280 | $200,640 | $217,360 | $225,720 |
| 136. Ocala and Marion County, Florida—replacement buses . | $576,840 | $601,920 | $652,080 | $677,160 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 137. Philadelphia, PA Improvements to the existing Penn's Landing Ferry Terminal | $769,120 | $802,560 | $869,440 | $902,880 |
| 138. Long Branch, NJ Design and construct facilities for ferry service from Long Branch, NJ to New York City and other destinations | $769,120 | $802,560 | $869,440 | $902,880 |
| 139. Quincy, MA MBTA Purchase high speed catamaran ferry for Quincy Harbor Express Service | $384,560 | $401,280 | $434,720 | $451,440 |
| 140. Los Angeles, CA Crenshaw Bus Rapid Transit . | $1,639,764 | $1,711,058 | $1,853,646 | $1,924,940 |
| 141. South Bend, Indiana—Construct South Bend Bus Operations Center | $192,280 | $200,640 | $217,360 | $225,720 |
| 142. Arlington County, VA Crystal City—Potomac Yard Busway, including construction of bus shelters . | $576,840 | $601,920 | $652,080 | $677,160 |
| 143. Raleigh, NC Purchase eighteen replacement buses to replace buses that have reached their useful life according to Federal Transit Administration regulations . | $384,560 | $401,280 | $434,720 | $451,440 |
| 144. Augusta, GA Buses and Bus Facilities | $76,912 | $80,256 | $86,944 | $90,288 |
| 145. Santa Ana, CA Improve Santa Ana transit terminal | $192,280 | $200,640 | $217,360 | $225,720 |
| 146. Cooperstown, New York—Intermodal Facility Project | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 147. Santa Barbara, CA— Expansion of Regional Intermodal Transit Center . | $57,684 | $60,192 | $65,208 | $67,716 |
| 148. Tampa, FL Purchase buses and construct bus facilities | $432,630 | $451,440 | $489,060 | $507,870 |
| 149. Yonkers, NY Trolley Bus Acquisition | $72,105 | $75,240 | $81,510 | $84,645 |
| 150. Phoenix, AZ Construct regional heavy bus maintenance facility . | $192,280 | $200,640 | $217,360 | $225,720 |
| 151. Thurston County, WA Replace Thurston County Buses . | $173,052 | $180,576 | $195,624 | $203,148 |
| 152. San Juan, Puerto Rico—bus security equipment . | $576,840 | $601,920 | $652,080 | $677,160 |
| 153. Bryan, TX The District—Bryan Intermodel Transit Terminal and Parking Facility . | $576,840 | $601,920 | $652,080 | $677,160 |
| 154. City of Greenville, NC Expansion Buses and Greenville Intermodal Center | $685,286 | $715,081 | $774,671 | $804,466 |
| 155. City of Livermore, CA Construct Bus Facility for Livermore Amador Valley Transit Authority | $432,630 | $451,440 | $489,060 | $507,870 |
| 156. Detroit Replacement Buses | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 157. Bealeton, Virginia— Intermodal Station Depot Refurbishment . | $52,877 | $55,176 | $59,774 | $62,073 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 158. Covina, El Monte, Baldwin Park, Upland, CA Parking and Electronic Signage Improvements | $336,490 | $351,120 | $380,380 | $395,010 |
| 159. Eugene, OR Lane Transit District, Vehicle Replacement | $686,714 | $716,571 | $776,286 | $806,143 |
| 160. Kearney, Nebraska— RYDE Transit Bus Maintenance and Storage Facility . | $384,560 | $401,280 | $434,720 | $451,440 |
| 161. Revere, MA Inter-modal transit improvements in the Wonderland station (MBTA) area . | $346,104 | $361,152 | $391,248 | $406,296 |
| 162. Brownsville, TX Brownsville Urban System City-Wide Transit Improvement Project . | $480,700 | $501,600 | $543,400 | $564,300 |
| 163. Normal, Illinois— Multimodal Transportation Center, including facilities for adjacent public and nonprofit uses | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 164. Puerto Rico—Caribbean National Forest buses and bus facilities | $576,840 | $601,920 | $652,080 | $677,160 |
| 165. Albany, OR Rehabilitate Building At Multimodal Transit Station | $292,998 | $305,737 | $331,215 | $343,954 |
| 166. Bronx, NY Hebrew Home for the Aged elderly and disabled transportation support | $36,053 | $37,620 | $40,755 | $42,323 |
| 167. Denver, CO Denver Union Station Inter-modal Center | $1,057,540 | $1,103,520 | $1,195,480 | $1,241,460 |
| 168. Lane Transit District, Bus Rapid Transit Progressive Corridor Enhancements | $569,845 | $594,621 | $644,172 | $668,948 |
| 169. Delaware—University of Delaware Fuel Cell Bus Deployment . | $96,140 | $100,320 | $108,680 | $112,860 |
| 170. Lousiana—Construct pedestrian walkways between Caddo St. and Milam St. along Edwards St. in Shreveport, LA | $195,280 | $203,640 | $220,360 | $228,720 |
| 171. Riverside, California—RTA Advanced Traveler Information System | $96,140 | $100,320 | $108,680 | $112,860 |
| 172. Santa Monica, CA Purchase and service LNG buses for Santa Monica's Big Blue Bus to meet increased ridership needs and reduce emissions | $721,050 | $752,400 | $815,100 | $846,450 |
| 173. Ontario, CA Construct Omnitrans Transcenter | $192,280 | $200,640 | $217,360 | $225,720 |
| 174. Brockton, MA Bus replacement for the Brockton Area Transit Authority . | $288,420 | $300,960 | $326,040 | $338,580 |
| 175. Molalla, OR South Clackamas Transportation District, bus purchase | $19,228 | $20,064 | $21,736 | $22,572 |
| 176. Boise, ID—Multimodal facility . | $865,260 | $902,880 | $978,120 | $1,015,740 |
| 177. Fond du Lac Reservation, MN Purchase busses . | $28,842 | $30,096 | $32,604 | $33,858 |
| 178. Sandy City, UT Construct transit hub station and TRAX station at 9400 South | $384,560 | $401,280 | $434,720 | $451,440 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 179. Cleveland, OH Construct passenger inter-modal center near Dock 32 . | $165,361 | $172,550 | $186,930 | $194,119 |
| 180. Tillamook, OR construction of a transit facility . | $19,228 | $20,064 | $21,736 | $22,572 |
| 181. Trenton, NJ Development of Trenton Trolley System | $192,280 | $200,640 | $217,360 | $225,720 |
| 182. Utica, New York— Union Station rehabilitation and related infrastructure improvements | $96,140 | $100,320 | $108,680 | $112,860 |
| 183. San Fernando Valley, CA Reseda Blvd. Bus Rapid Transit Route | $115,368 | $120,384 | $130,416 | $135,432 |
| 184. Richmond, VA Renovation and construction for Main Street Station | $211,508 | $220,704 | $239,096 | $248,292 |
| 185. St. Paul to Hinckley, MN Construct bus amenities along Rush Line Corridor | $288,420 | $300,960 | $326,040 | $338,580 |
| 186. Mattoon, Illinois—historic railroad depot restoration/intermodal center . | $307,648 | $321,024 | $347,776 | $361,152 |
| 187. Columbia County, OR To purchase buses . | $26,919 | $28,090 | $30,430 | $31,601 |
| 188. Mountain Express, Crested Butte, CO Bus and Bus Facilities | $96,140 | $100,320 | $108,680 | $112,860 |
| 189. Sacramento, CA Bus enhancement and improvements-construct maintenance facility and purchase clean-fuel buses to improve transit service | $384,560 | $401,280 | $434,720 | $451,440 |
| 190. Calexico, CA Purchase new buses for the Calexico Transit System | $57,684 | $60,192 | $65,208 | $67,716 |
| 191. Monterey Park, CA Safety improvements at a bus stop including creation of bus loading areas and street improvements | $307,648 | $321,024 | $347,776 | $361,152 |
| 192. Buffalo, NY Inter-modal Center Parking Facility . | $192,280 | $200,640 | $217,360 | $225,720 |
| 193. Mukilteo, WA Multi-Modal Terminal . | $1,115,224 | $1,163,712 | $1,260,688 | $1,309,176 |
| 194. Orange County Transit Authority, California—Security surveillance and monitoring equipment . | $1,017,161 | $1,061,386 | $1,149,834 | $1,194,059 |
| 195. Woodland Hills, CA Los Angeles Pierce College Bus Rapid Transit Station Extension | $192,280 | $200,640 | $217,360 | $225,720 |
| 196. Design Downtown Carrollton, Texas Regional Multi-Modal Transit Hub Station . | $384,560 | $401,280 | $434,720 | $451,440 |
| 197. Brooklyn, NY Construct a multi-modal transportation facility | $269,192 | $280,896 | $304,304 | $316,008 |
| 198. Cleveland, Ohio—Euclid Avenue University Hospital intermodal facility . | $865,260 | $902,880 | $978,120 | $1,015,740 |
| 199. Las Vegas, NV Construct Central City Inter-modal Transportation Terminal | $1,153,680 | $1,203,840 | $1,304,160 | $1,354,320 |
| 200. Montebello, CA Bus Lines Bus Fleet Replacement Project | $134,596 | $140,448 | $152,152 | $158,004 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 201. Philadelphia, PA Cruise Terminal Transportation Ctr. Phila. Naval Shipyard | $672,980 | $702,240 | $760,760 | $790,020 |
| 202. Cleveland, OH Construct Fare Collection System Project, Cuyahoga County . | $96,140 | $100,320 | $108,680 | $112,860 |
| 203. Tempe, Arizona— Construct East Valley Metro Bus Facility . | $1,249,820 | $1,304,160 | $1,412,840 | $1,467,180 |
| 204. Boysville of Michigan Transportation System | $646,061 | $674,150 | $730,330 | $758,419 |
| 205. Woburn, MA Construction of an 89. space park and ride facility to be located on Magazine Hill, in the Heart of Woburn Square | $346,104 | $361,152 | $391,248 | $406,296 |
| 206. Sylvester, GA Inter-modal Facility | $38,456 | $40,128 | $43,472 | $45,144 |
| 207. Culver City, CA Purchase compressed natural gas buses and expand natural gas fueling facility . | $711,436 | $742,368 | $804,232 | $835,164 |
| 208. Eastern Upper Peninsula, MI Ferry Dock and Facility upgrades for Drummond Island Ferry Services | $48,070 | $50,160 | $54,340 | $56,430 |
| 209. Morristown, New Jersey—Intermodal Historic Station . | $192,280 | $200,640 | $217,360 | $225,720 |
| 210. San Antonio, TX Improve VIA bus facility and purchase new buses | $1,345,960 | $1,404,480 | $1,521,520 | $1,580,040 |
| 211. Miami-Dade County, Florida—buses and bus facilities | $1,153,680 | $1,203,840 | $1,304,160 | $1,354,320 |
| 212. Glendale, CA Construction of Downtown Streetcar Project | $192,280 | $200,640 | $217,360 | $225,720 |
| 213. Gainesville, FL Bus Rapid Transit Study | $96,140 | $100,320 | $108,680 | $112,860 |
| 214. Mount Rainier, MD Intermodal and Pedestrian Project . | $86,526 | $90,288 | $97,812 | $101,574 |
|  | $0 | $0 | $0 | $0 |
| 216. Wilsonville, OR South Metro Area Rapid Transit, bus and bus facilities | $48,070 | $50,160 | $54,340 | $56,430 |
| 217. Charlotte, NC Construct Charlotte Multimodal Station | $1,499,784 | $1,564,992 | $1,695,408 | $1,760,616 |
| 218. Enfield, Connecticut—intermodal station . | $576,840 | $601,920 | $652,080 | $677,160 |
| 219. Chicago, IL Feasibility Study for intermodal station on the Metra Rock Island near Kennedy-King College | $57,684 | $60,192 | $65,208 | $67,716 |
| 220. Indianapolis, IN IndySMART program to relieve congestion, improve safety and air quality | $384,560 | $401,280 | $434,720 | $451,440 |
| 221. Chicago, IL Construct intermodel facility at 35th Street at Metra Red Line (Northside) . | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 222. Escondido, CA—Construct Bus Maintenance Facility . | $96,140 | $100,320 | $108,680 | $112,860 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 223. Los Angeles, CA Design and construct improved transit and pedestrian linkages between Los Angeles Community College and nearby MTA rail stop and bus lines . | $288,420 | $300,960 | $326,040 | $338,580 |
| 224. Montgomery County, MD Wheaton CBD Intermodal Access Program . | $96,140 | $100,320 | $108,680 | $112,860 |
| 225. Allentown, Pennsylvania—Design and construct Intermodal Transportation Center . | $384,560 | $401,280 | $434,720 | $451,440 |
| 226. Champaign, IL—Construct park and ride lot with attached daycare facility . | $288,420 | $300,960 | $326,040 | $338,580 |
| 227. Berkeley, CA Construct Ed Roberts Campus Intermodal Transit Disability Center | $576,840 | $601,920 | $652,080 | $677,160 |
| 228. Charlotte, North Carolina—Multimodal Station . | $769,120 | $802,560 | $869,440 | $902,880 |
| 229. Coconino County, Arizona -- Bus and bus facilities for the Sedona Transit System | $182,666 | $190,608 | $206,492 | $214,434 |
| 230. Construction of Third Bus Depot on Staten Island | $2,307,360 | $2,407,680 | $2,608,320 | $2,708,640 |
| 231. Harrison, Arkansas— Trolley Barn | $7,691 | $8,026 | $8,694 | $9,029 |
| 232. Alexandria, VA Royal Street Bus Garage Replacement . | $96,140 | $100,320 | $108,680 | $112,860 |
| 233. Intermodal Facilities in Bucks County (Croydon and Levittown Stations) . | $576,840 | $601,920 | $652,080 | $677,160 |
| 234. Bronx, NY Jacobi Intermodal Center to North Central Bronx Hospital bus system | $60,088 | $62,700 | $67,925 | $70,538 |
| 235. Indianapolis, IN Construct the Ivy Tech State College Multi-Modal Facility . | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 236. Juneau, Alaska— transit bus acquisition and transit center | $345,000 | $360,000 | $390,000 | $405,000 |
| 237. Knoxville, Tennessee—Central Station Transit Center . | $1,961,256 | $2,046,528 | $2,217,072 | $2,302,344 |
| 238. Levy County, Florida—Purchase 2. wheel chair equipped passenger buses and related equipment . | $57,684 | $60,192 | $65,208 | $67,716 |
| 239. Lafayette, Louisiana—Lafayette Transit System bus replacement program | $173,052 | $180,576 | $195,624 | $203,148 |
| 240. Nebraska—statewide transit vehicles, facilities, and related equipment . | $769,120 | $802,560 | $869,440 | $902,880 |
| 241. Cincinnati, Ohio— Costruct Uptown Crossings Joint Development Transit Project | $576,840 | $601,920 | $652,080 | $677,160 |
| 242. Des Moines, IA Purchase 40 foot buses | $192,280 | $200,640 | $217,360 | $225,720 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 243. New Orleans, LA Regional Planning Commission, bus and bus facilities . | $96,140 | $100,320 | $108,680 | $112,860 |
| 244. Orange County, CA Purchase buses for rapid transit | $192,280 | $200,640 | $217,360 | $225,720 |
| 245. Bus to provide York-town, New York internal circulator to provide transportaion throughout the Town . | $35,572 | $37,118 | $40,212 | $41,758 |
| 246. Providence, RI Expansion of Elmwood Paratransit Maintenance Facility . | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 247. Atlanta, GA Inter-modal Passenger Facility Improvements . | $384,560 | $401,280 | $434,720 | $451,440 |
| 248. Palm Beach, FL Palm Tran AVL-APC system with smart card fareboxes | $48,070 | $50,160 | $54,340 | $56,430 |
| 249. Grand Rapids, MI— Purchase replacement and expansion buses | $2,816,902 | $2,939,376 | $3,184,324 | $3,306,798 |
| 250. Maywood, IL Purchase buses . | $9,614 | $10,032 | $10,868 | $11,286 |
| 251. Redondo Beach, CA Capital Equipment procurement of 12. Compressed Natural Gas (CNG) Transit vehicles for Coastal Shuttle Services by Beach Cities Transit . | $153,824 | $160,512 | $173,888 | $180,576 |
| 252. Rochester, New York—Renaissance Square transit center . | $865,260 | $902,880 | $978,120 | $1,015,740 |
| 253. San Bernardino, CA Implement Santa Fe Depot improvements in San Bernardino | $96,140 | $100,320 | $108,680 | $112,860 |
| 254. San Joaquin, California Regional Rail— Altamont Commuter Express Corridor inter-modal centers . | $769,120 | $802,560 | $869,440 | $902,880 |
| 255. Albany, GA Multimodal Facility | $153,824 | $160,512 | $173,888 | $180,576 |
| 256. Savannah, GA Bus and Bus Facilities— Chatham Area Transit . | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 257. Newburyport, MA Design and Construct Intermodal Facility | $384,560 | $401,280 | $434,720 | $451,440 |
| 258. Cleveland, Ohio—Euclid Avenue and East 93rd Street intermodal facility | $1,634,380 | $1,705,440 | $1,847,560 | $1,918,620 |
| 259. St. Charles, IL— Intermodal Parking Structures | $865,260 | $902,880 | $978,120 | $1,015,740 |
| 260. Gardena, CA Purchase of alternative fuel buses for service expansion, on-board security system and bus facility training equipment | $1,178,676 | $1,229,923 | $1,332,417 | $1,383,664 |
| 261. Thendra-Webb and Utica, New York—Install hadicap lifts in intermodal centers . | $19,228 | $20,064 | $21,736 | $22,572 |
| ~~262. Union City, NJ Construct Union City Inter-modal Facility~~ | ~~$384,560~~ | ~~$401,280~~ | ~~$434,720~~ | ~~$451,440~~ |
| 263. Wilmar, AR Develop the Southeast Arkansas Intermodal Facility | $384,560 | $401,280 | $434,720 | $451,440 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 264. Westchester County, NY Bus replacement program | $721,050 | $752,400 | $815,100 | $846,450 |
| 265. Village of Tinley Park, Illinois, 80th Avenue Commuter Rail Station reconstruction and site enhancements | $153,824 | $160,512 | $173,888 | $180,576 |
| 266. Martinez, CA Inter-modal Facility Restoration . | $288,420 | $300,960 | $326,040 | $338,580 |
| 267. Middletown, CT Construct intermodal center | $288,420 | $300,960 | $326,040 | $338,580 |
| 268. Nashville, TN Construct a parking garage on the campus of Lipscomb University, Nashville | $384,560 | $401,280 | $434,720 | $451,440 |
| 269. New London, Connecticut—Intermodal Transportation Center and Streetscapes | $96,140 | $100,320 | $108,680 | $112,860 |
| 270. Vernon, Connecticut— Intermodal Center, Parking and Streetscapes | $1,461,328 | $1,524,864 | $1,651,936 | $1,715,472 |
| 271. Bronx, NY Botanical Garden metro North Rail station Intermodal Facility | $192,280 | $200,640 | $217,360 | $225,720 |
| 272. Bend, Oregon—replacement vans . | $192,280 | $200,640 | $217,360 | $225,720 |
| 273. Boston, MA Harbor Park Pavilion & Inter-modal Station . | $240,350 | $250,800 | $271,700 | $282,150 |
| 274. Philadelphia, PA SEPTA's Market St. Elevated Rail project in conjunction with Philadelphia Commercial Development Corporation for improvements and assistance to entities along rail corridor | $269,192 | $280,896 | $304,304 | $316,008 |
| 275. Jesup, Georgia— Train Depot intermodal center . | $192,280 | $200,640 | $217,360 | $225,720 |
| 276. Long Beach, CA Museum of Latin American Art, Long Beach, to build intermodal park and ride facility | $384,560 | $401,280 | $434,720 | $451,440 |
| 277. Shreveport, LA— Intermodal Transit Facility . | $644,138 | $672,144 | $728,156 | $756,162 |
| 278. Arlington County, VA Columbia Pike Bus Improvements . | $672,980 | $702,240 | $760,760 | $790,020 |
| 279. Bronx, NY Establish an intermodal transportation facility at the Wildlife Conservation Society Bronx Zoo | $192,280 | $200,640 | $217,360 | $225,720 |
| 280. Lowell, MA Implementation of LRTA bus replacement plan | $192,280 | $200,640 | $217,360 | $225,720 |
| 281. Falls Church, VA Falls Church Intermodal Transportation Center . | $384,560 | $401,280 | $434,720 | $451,440 |
| 282. San Diego, CA Completion of San Diego Joint Transportation Operations Center (JTOC) | $384,560 | $401,280 | $434,720 | $451,440 |
| 283. St. Bernard Parish, LA Intermodal facility improvements . | $192,280 | $200,640 | $217,360 | $225,720 |
| 284. Cornwall, NY—Purchase Bus . | $16,728 | $17,456 | $18,910 | $19,638 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 285. Metro Gold Line Foothill Extension Light Rail Transit Project from Pasadena, CA to Montclair, CA | $2,884,200 | $3,009,600 | $3,260,400 | $3,385,800 |
| 286. Richmond, CA BART Parking Structure | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 287. San Francisco, CA Implement ITS on Muni Transit System | $576,840 | $601,920 | $652,080 | $677,160 |
| 288. Alameda County, CA AC Transit Bus Rapid Transit Corridor Project | $384,560 | $401,280 | $434,720 | $451,440 |
| 289. Town of Warwick, NY Bus Facility Warwick Transit System | $105,754 | $110,352 | $119,548 | $124,146 |
| 290. Galveston, Texas— Intermodal center and parking facility, The Strand | $865,260 | $902,880 | $978,120 | $1,015,740 |
| 291. Joliet, Illinois—Union Station commuter parking facility | $552,805 | $576,840 | $624,910 | $648,945 |
| 292. Cuyahoga County, Ohio— Ohio Department of Transportation transit improvements . | $28,842 | $30,096 | $32,604 | $33,858 |
| 293. Muskegon, Michigan—Muskegon Area Transit Terminal and related improvements | $384,560 | $401,280 | $434,720 | $451,440 |
| 294. Orlando, FL Bus Replacement . | $769,120 | $802,560 | $869,440 | $902,880 |
| 295. Long Beach, CA Purchase one larger (75. passengers) and two smaller (40 passengers) ferryboats and construct related dock work to facilitate the use and accessibility of the ferryboats . | $576,840 | $601,920 | $652,080 | $677,160 |
| 296. Elgin to Rockford, Illinois—Intermodal stations along planned Metra Union Pacific West Line extension alignment, including necessary alternatives analysis . | $96,140 | $100,320 | $108,680 | $112,860 |
| 297. Broward County, Fl – Purchase Buses and construct bus facilities | $384,560 | $401,280 | $434,720 | $451,440 |
| 298. Thomasville, GA Bus Replacement . | $38,456 | $40,128 | $43,472 | $45,144 |
| 299. Corvallis, OR Bus Replacement | $283,842 | $296,183 | $320,865 | $333,206 |
| 300. Geneva, New York— Multimodal facility— Construct passenger rail center . | $96,140 | $100,320 | $108,680 | $112,860 |
| 301. Barry County, MI— Barry County Transit equipment and dispatching software . | $28,842 | $30,096 | $32,604 | $33,858 |
| 302. Greensboro, North Carolina—Piedmont Authority for Regional Transportation Multimodal Transportation Center | $2,407,346 | $2,512,013 | $2,721,347 | $2,826,014 |
| 303. Howard County, MD Construct Central Maryland Transit Operations and Maintenance Facility | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 304. Coconino county buses and bus facilities for Flagstaff, AZ . | $240,350 | $250,800 | $271,700 | $282,150 |
| 305. Roanoke, Virginia— Intermodal Facility | $38,456 | $40,128 | $43,472 | $45,144 |
| 306. Jacksonville, FL Bus Replacement . | $1,345,960 | $1,404,480 | $1,521,520 | $1,580,040 |
| 307. Los Angeles, CA Improve safety, mobility and access between LATTC, Metro line and nearby bus stops on Grand Ave between Washington and 23rd | $96,140 | $100,320 | $108,680 | $112,860 |
| 308. Miami Dade, FL N.W. 7th Avenue Transit Hub . | $576,840 | $601,920 | $652,080 | $677,160 |
| 309. Elyria, OH Construct the New York Central Train Station into an intermodal transportation hub | $393,789 | $410,911 | $445,153 | $462,275 |
| 310. River Parishes, LA South Central Planning and Development Commission, bus and bus facilities . | $192,280 | $200,640 | $217,360 | $225,720 |
| 311. Mammoth Lakes, California—Regional Transit Maintenance Facility . | $96,140 | $100,320 | $108,680 | $112,860 |
| 312. Roanoke, Virginia— Improve Virginian Railway Station | $48,070 | $50,160 | $54,340 | $56,430 |
| 313. Solana Beach, CA— Construct Intermodal Facility . | $288,420 | $300,960 | $326,040 | $338,580 |
| 314. San Diego, CA Widen sidewalks and bus stop entrance, and provide diagonal parking, in the Skyline Paradise Hills neighborhood (Reo Drive) . | $57,684 | $60,192 | $65,208 | $67,716 |
| 315. Temecula, California—Intermodal Transit Facility | $96,140 | $100,320 | $108,680 | $112,860 |
| 316. Philadelphia, Pennsylvania—SEPTA Market Street Elevated Line parking facility . | $769,120 | $802,560 | $869,440 | $902,880 |
| 317. Jamestown, NY Rehabilitation of Intermodal Facility and associated property | $384,560 | $401,280 | $434,720 | $451,440 |
| 318. Akron, Ohio Construct Downtown Multimodal Transportation Center . | $769,120 | $802,560 | $869,440 | $902,880 |
| 319. Detroit Bus Maintenance Facility | $1,730,520 | $1,805,760 | $1,956,240 | $2,031,480 |
| 320. Detroit, MI Bus Replacement . | $1,442,100 | $1,504,800 | $1,630,200 | $1,692,900 |
| 321. Monterey Park, CA Catch Basins at Transit Stop Installation | $61,530 | $64,205 | $69,555 | $72,230 |
| 322. Oneonta, New York-bus replacement . | $28,842 | $30,096 | $32,604 | $33,858 |
| 323. Lincoln County, OR bus purchase | $48,070 | $50,160 | $54,340 | $56,430 |
| 324. Elon, North Carolina—Piedmont Authority for Regional Transportation buses and bus facilities | $230,736 | $240,768 | $260,832 | $270,864 |
| 325. Grants Pass, OR Purchase Vehicles For Use By Josephine Community Transit | $39,143 | $40,845 | $44,248 | $45,950 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 326. Los Angeles, CA Install permanent irrigation system and enhanced landscaping on San Fernando Valley rapid bus transitway | $576,840 | $601,920 | $652,080 | $677,160 |
| 327. Cleveland, OH Construct East Side Transit Center | $576,840 | $601,920 | $652,080 | $677,160 |
| 328. New Jersey Transit Community Shuttle Buses | $96,140 | $100,320 | $108,680 | $112,860 |
| 329. Quitman, Clay, Randolph, Stewart Co., GA Bus project . | $48,070 | $50,160 | $54,340 | $56,430 |
| 330. Framingham, MA Local Intra-Framingham Transit System enhancements | $346,104 | $361,152 | $391,248 | $406,296 |
| 331. Gettysburg, Pennsylvania—transit transfer center . | $172,860 | $180,375 | $195,407 | $202,922 |
| 332. Long Beach, CA Park and Ride facility . | $192,280 | $200,640 | $217,360 | $225,720 |
| 333. Oak Harbor, WA Multimodal Facility | $192,280 | $200,640 | $217,360 | $225,720 |
| 334. North Bend, Washington—Park and Ride | $153,824 | $160,512 | $173,888 | $180,576 |
| 335. High Point, North Carolina—Bus Terminal | $1,153,680 | $1,203,840 | $1,304,160 | $1,354,320 |
| 336. Dallas, TX Bus Passenger Facilities . | $2,461,184 | $2,568,192 | $2,782,208 | $2,889,216 |
| 337. Island Transit, WA Operations Base Facilities Project . | $461,472 | $481,536 | $521,664 | $541,728 |
| 338. Bronx, NY Intermodal facility near Exit 6. of the Bronx River Parkway . | $48,070 | $50,160 | $54,340 | $56,430 |
| 339. East San Diego County, California—Bus Maintence Facility Expansion . | $384,560 | $401,280 | $434,720 | $451,440 |
| 340. New Jersey Inter-modal Facilities and Bus Rolling Stock | $576,840 | $601,920 | $652,080 | $677,160 |
| 341. San Gabriel Valley, CA—Foothill Transit Park and Rides | $1,826,660 | $1,906,080 | $2,064,920 | $2,144,340 |
| 342. St. Paul, MN Union Depot Multi Modal Transit Facility | $384,560 | $401,280 | $434,720 | $451,440 |
| 343. Kings County, NY Construct a multi-modal transportation facility | $192,280 | $200,640 | $217,360 | $225,720 |
| 344. Gainesville, FL Bus Facility Expansion . | $769,120 | $802,560 | $869,440 | $902,880 |
| 345. Kansas City, MO Bus Transit Infrastructure . | $192,280 | $200,640 | $217,360 | $225,720 |
| 346. Phoenix, AZ Construct metro bus facility in Phoenix?s West Valley | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 347. Eastlake, Ohio—Eastlake Stadium transit intermodal facility | $817,190 | $852,720 | $923,780 | $959,310 |
| 348. Savannah, Georgia— Water Ferry Riverwalk intermodal facilities | $384,560 | $401,280 | $434,720 | $451,440 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 349. Kent, OH Construct Kent State University Intermodal Facility serving students and the general public . | $192,280 | $200,640 | $217,360 | $225,720 |
| 350. Milwaukee, WI Rehabilitate Intermodal transportation facility at downtown Milwaukee's Amtrak Station, increase parking for bus passengers . | $865,260 | $902,880 | $978,120 | $1,015,740 |
| 351. Charlotte North Carolina—Eastland Community Transit Center | $384,560 | $401,280 | $434,720 | $451,440 |
| 352. Oakland, CA Construct streetscape & intermodal improvements at BART Station Transit Villages . | $192,280 | $200,640 | $217,360 | $225,720 |
| 353. Suffolk County, NY Purchase four handicapped accessible vans to transport veterans to and from the VA facility in Northport . | $53,838 | $56,179 | $60,861 | $63,202 |
| 354. Norfolk, Virginia— Final Design and Construction Southside Bus Facility . | $336,490 | $351,120 | $380,380 | $395,010 |
| 355. Albany, GA Bus replacement . | $57,684 | $60,192 | $65,208 | $67,716 |
| 356. Lafayette, Louisiana -- Multimodal center, Final Phase | $576,840 | $601,920 | $652,080 | $677,160 |
| 357. Athens, GA Buses and Bus Facilities . | $273,038 | $284,909 | $308,651 | $320,522 |
| 358. Cicero, Chicago Establish Transit Signal Priority, Cicero Ave., Pace Suburban Bus . | $192,280 | $200,640 | $217,360 | $225,720 |
| 359. Arlington County, VA Pentagon City Multimodal Improvements | $384,560 | $401,280 | $434,720 | $451,440 |
| 360. Richmond, VA Design and construction for a bus operations and maintenance facility for Greater Richmond Transit Company . | $288,420 | $300,960 | $326,040 | $338,580 |
| 361. Roanoke, Virginia— Roanoke Railway and Link Passenger facility | $96,140 | $100,320 | $108,680 | $112,860 |
| 362. Akron, OH Construct City of Akron Commuter Bus Transit Facility | $288,420 | $300,960 | $326,040 | $338,580 |
| 363. Corning, New York— Transportation Center . | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 364. Santa Monica, CA Construct intermodal park-and-ride facility at Santa Monica College campus on South Bundy Drive near Airport Avenue . | $192,280 | $200,640 | $217,360 | $225,720 |
| 365. Pace Suburban Bus, IL South Suburban BRT Mobility Network . | $96,140 | $100,320 | $108,680 | $112,860 |
| 366. Orange County, CA Transportation Projects to Encourage Use of Transit to Reduce Congestion | $192,280 | $200,640 | $217,360 | $225,720 |
| 367. Palm Beach, FL 20 New Buses for Palm Tran . | $288,420 | $300,960 | $326,040 | $338,580 |
| 368. Nassau County, NY Conduct planning and engineering for transportation system (HUB) . | $1,345,960 | $1,404,480 | $1,521,520 | $1,580,040 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 369. Norwalk, Connecticut—Pulse Point Joint Development inter-modal facility . | $96,140 | $100,320 | $108,680 | $112,860 |
| 370. Salem, MA Design and Construct Salem Intermodal Transportation Center | $384,560 | $401,280 | $434,720 | $451,440 |
| 371. Las Vegas, NV Construct Las Vegas WestCare Intermodal Facility . | $48,070 | $50,160 | $54,340 | $56,430 |
| 372. Richmond, KY Purchase buses, bus equipment, and facilities | $138,442 | $144,461 | $156,499 | $162,518 |
| 373. Niagara Frontier Transportation Authority, NY Replacement Buses | $192,280 | $200,640 | $217,360 | $225,720 |
| 374. Metro-Atlanta, GA MARTA Automated Smart-Card Fare Collection system . | $192,280 | $200,640 | $217,360 | $225,720 |
| 375. Monterey, CA Purchase bus equipment | $192,280 | $200,640 | $217,360 | $225,720 |
| 376. New York City, NY Purchase Handicapped-Accessible Livery Vehicles . | $192,280 | $200,640 | $217,360 | $225,720 |
| 377. San Francisco, CA Construct San Francisco Muni Islais Creek Maintenance Facility | $1,153,680 | $1,203,840 | $1,304,160 | $1,354,320 |
| 378. Indianapolis, IN Relocate and improve inter-modal transportation for pedestrian to Children's Museum of Indianapolis | $2,691,920 | $2,808,960 | $3,043,040 | $3,160,080 |
| 379. Ramapo, NY Transportation Safety Field Bus . | $48,070 | $50,160 | $54,340 | $56,430 |
| 380. Columbiana County, OH Construct Inter-modal Facility | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 381. San Francisco, CA Redesign and renovate intermodal facility at Glen Park Community | $793,155 | $827,640 | $896,610 | $931,095 |
| 382. San Luis Rey, California—Transit Center Project | $96,140 | $100,320 | $108,680 | $112,860 |
| 383. South San Francisco,CA Construction of Ferry Terminal at Oyster Point in South San Francisco to the San Francisco Bay Area Water Transit Authority | $913,330 | $953,040 | $1,032,460 | $1,072,170 |
| 384. Atlanta, GA MARTA Clean Fuel Bus Acquisition . | $1,153,680 | $1,203,840 | $1,304,160 | $1,354,320 |
| 385. Springfield, OH – City of Springfield Bus Transfer Station and Associated Parking | $48,070 | $50,160 | $54,340 | $56,430 |
| 386. Suffolk County, NY Design and construction of intermodal transit facility in Wyandanch | $884,488 | $922,944 | $999,856 | $1,038,312 |
| 387. Fresno, CA—Develop program of low-emission transit vehicles . | $192,280 | $200,640 | $217,360 | $225,720 |
| 388. Sylmar, CA Los Angeles Mission College Transit Center construction | $48,070 | $50,160 | $54,340 | $56,430 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 389. Lakewood, NJ— Ocean County Bus service and parking facilities | $576,840 | $601,920 | $652,080 | $677,160 |
| 390. St. Lucie County, FL Purchase Buses | $192,280 | $200,640 | $217,360 | $225,720 |
| 391. Hampton Roads, VA Final design and construction for a Hampton Roads Transit Southside Bus Facility . | $384,560 | $401,280 | $434,720 | $451,440 |
| 392. Oakland, CA Construct Bay Trail between Coliseum BART station and Martin Luther King, Jr. Regional Shoreline . | $173,052 | $180,576 | $195,624 | $203,148 |
| 393. South Amboy, NJ Construction of improvements to facilities at South Amboy Station under S Amboy, NJ Regional Intermodal Initiative . | $1,538,240 | $1,605,120 | $1,738,880 | $1,805,760 |
| 394. Hartford, CT Buses and bus-related facilities | $769,120 | $802,560 | $869,440 | $902,880 |
| 395. Ilwaco, WA Construct park and ride . | $19,228 | $20,064 | $21,736 | $22,572 |
| 396. Burbank, CA Construction of Empire Area Transit Center near Burbank Airport | $48,070 | $50,160 | $54,340 | $56,430 |
| 397. Pottsville, PA Union Street Trade and Transfer Center Intermodal Facility . | $384,560 | $401,280 | $434,720 | $451,440 |
| 398. Amador County, California—Regional Transit Center | $192,280 | $200,640 | $217,360 | $225,720 |
| 399. Pasadena, CA ITS Improvements . | $192,280 | $200,640 | $217,360 | $225,720 |
| 400. South FL Region, FL Regional Universal Automated Fare Collection System (UAFC) (for bus system) . | $384,560 | $401,280 | $434,720 | $451,440 |
| 401. South Pasadena, CA Silent Night Grade Crossing Project . | $173,052 | $180,576 | $195,624 | $203,148 |
| 402. Tampa, FL Establish Transit Emphasis Corridor and Improvements | $144,210 | $150,480 | $163,020 | $169,290 |
| 403. San Francisco, CA Implement Transbay Terminal-Caltrain Downtown Extension Project | $2,691,920 | $2,808,960 | $3,043,040 | $3,160,080 |
| 404. Rock Island, IL Improve Rock Island Mass Transit District Bus Facility . | $96,140 | $100,320 | $108,680 | $112,860 |
| 405. Las Vegas, NV Construct Boulder Highway BRT system and purchase vehicles and related equipment | $384,560 | $401,280 | $434,720 | $451,440 |
| 406. Moultrie, GA Inter-modal facility . | $57,684 | $60,192 | $65,208 | $67,716 |
| 407. Carson, CA Purchase one trolley-bus vehicle | $48,070 | $50,160 | $54,340 | $56,430 |
| 408. Brooklyn, NY Construct a multi-modal transportation facility in the vicinity of Downstate Medical Center . | $192,280 | $200,640 | $217,360 | $225,720 |
| 409. Alexandria, VA Eisenhower Avenue Inter-modal Station Improvements, including purchase of buses and construction of bus shelters | $480,700 | $501,600 | $543,400 | $564,300 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 410. Long Beach, CA Purchase ten clean fuel busses . | $576,840 | $601,920 | $652,080 | $677,160 |
| 411. Cleveland, OH Construction of an inter-modal facility and related improvements at University Hospitals facility on Euclid Avenue | $192,280 | $200,640 | $217,360 | $225,720 |
| 412. Nashville, TN Construct Downtown Nashville Transit Transfer Facility . | $288,420 | $300,960 | $326,040 | $338,580 |
| 413. Philadelphia, PA Penn's Landing water shuttle parking lot expansion and water shuttle ramp infrastructure construction | $211,508 | $220,704 | $239,096 | $248,292 |
| 414. Hercules, CA Inter-modal Rail Station Improvements . | $288,420 | $300,960 | $326,040 | $338,580 |
| 415. Purchase Buses and construct bus facilities in Broward County, FL . | $432,630 | $451,440 | $489,060 | $507,870 |
| 416. Improve marine inter-modal facilities in Ketchikan | $3,220,000 | $3,360,000 | $3,640,000 | $3,780,000 |
| 417. Indianapolis, Indiana—Childrens Museum Intermodal Center | $192,280 | $200,640 | $217,360 | $225,720 |
| 418. Windham, New Hampshire—Construction of Park and Ride Bus facility at Exit 3 . | $711,436 | $742,368 | $804,232 | $835,164 |
| 419. Brooklyn, NY— Rehabilition of Bay Ridge 86th Street Subway Station | $769,120 | $802,560 | $869,440 | $902,880 |
| 420. Purchase Buses and construct bus facilities in Broward County, FL . | $384,560 | $401,280 | $434,720 | $451,440 |
| 421. Bayamon, Puerto Rico—Purchase of Trolley Cars | $163,438 | $170,544 | $184,756 | $191,862 |
| 422. C Street Expanded bus facility and inter-modal parking garage, Anchorage, AK . | $1,150,000 | $1,200,000 | $1,300,000 | $1,350,000 |
| 423. Morris Thompson Cultural and Visitors Center intermodal parking facility, Fairbanks, AK . | $575,000 | $600,000 | $650,000 | $675,000 |
| 424. Sharon, PA—Bus Facility Construction | $96,140 | $100,320 | $108,680 | $112,860 |
| 425. CITC Non-profit Services Center inter-modal parking facility, Anchorage, AK . | $690,000 | $720,000 | $780,000 | $810,000 |
| 426. Abilene, TX Vehicle replacement and facility improvements for transit system | $76,912 | $80,256 | $86,944 | $90,288 |
| 427. Alaska Native Medical Center intermodal parking facility | $1,150,000 | $1,200,000 | $1,300,000 | $1,350,000 |
| 428. Butler, PA— Multimodal Transit Center Construction . | $192,280 | $200,640 | $217,360 | $225,720 |
| 429. Normal, Illinois— Multimodal Transportation Center | $384,560 | $401,280 | $434,720 | $451,440 |
| 430. Rochester, New York—Renaissance Square transit center . | $432,630 | $451,440 | $489,060 | $507,870 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 431. Erie, PA—EMTA Vehicle Acquisition . | $384,560 | $401,280 | $434,720 | $451,440 |
| 432. Miami-Dade County, Florida—Buses and bus facilities | $769,120 | $802,560 | $869,440 | $902,880 |
| 433. Centralia, Illinois— South Central Mass Transit District Improvements | $76,912 | $80,256 | $86,944 | $90,288 |
| 434. Roanoke, VA—Bus restoration in the City of Roanoke . | $48,070 | $50,160 | $54,340 | $56,430 |
| 435. Denver, Colorado— Regional Transportation District Bus Replacement . | $384,560 | $401,280 | $434,720 | $451,440 |
| 436. Intermodal facility improvements at the Port of Anchorage | $5,750,000 | $6,000,000 | $6,500,000 | $6,750,000 |
| 437. American Village/ Montevallo, Alabama construction of closed loop Access Road, bus lanes and parking facility . | $76,912 | $80,256 | $86,944 | $90,288 |
| 438. Corpus Christi, TX Corpus Regional Transit Authority for maintenance facility improvements | $480,700 | $501,600 | $543,400 | $564,300 |
| 439. Central Florida Commuter Rail intermodal facilities | $961,400 | $1,003,200 | $1,086,800 | $1,128,600 |
| 440. Ames, Iowa—Expansion of CyRide Bus Maintenance Facility . | $384,560 | $401,280 | $434,720 | $451,440 |
| 441. Grand Valley Transit, CO Bus and Bus Facilities | $96,140 | $100,320 | $108,680 | $112,860 |
| 442. Albany, OR North Albany Park and Ride | $183,124 | $191,086 | $207,010 | $214,971 |
| 443. Los Angeles County Metropolitan Transit Authority, CA capital funds for facility improvements to support the Cal State Northridge tram system | $62,491 | $65,208 | $70,642 | $73,359 |
| 444. Pueblo Transit, CO Bus and Bus Facilities | $48,070 | $50,160 | $54,340 | $56,430 |
| 445. Roaring Fork Transit Authority, CO Bus and Bus Facilities | $144,210 | $150,480 | $163,020 | $169,290 |
| 446. Steamboat Springs, CO Bus and Bus Facilities | $144,210 | $150,480 | $163,020 | $169,290 |
| 447. Town of Telluride, CO Bus and Bus Facilities | $62,120 | $64,821 | $70,222 | $72,923 |
| 448. City of Durango, CO Bus and Bus Facilities | $48,070 | $50,160 | $54,340 | $56,430 |
| 449. City of Aspen, CO Bus and Bus Facilities | $134,596 | $140,448 | $152,152 | $158,004 |
| 450. Town of Snowmass Village, CO Bus and Bus Facilities | $57,684 | $60,192 | $65,208 | $67,716 |
| 451. Utica, New York Transit Multimodal Facilities | $1,150,000 | $1,200,000 | $1,300,000 | $1,350,000 |
| 452. State of Wisconsin Transit Intermodal Facilities | $1,150,000 | $1,200,000 | $1,300,000 | $1,350,000 |
| 453. Central Florida Commuter Rail Intermodal Facilities | $690,000 | $720,000 | $780,000 | $810,000 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 454. Miami-Dade Transit Dadeland South Intermodal Center | $460,000 | $480,000 | $520,000 | $540,000 |
| 455. Carrollton, Texas Downtown Regional Multimodal Transit Hub | $230,000 | $240,000 | $260,000 | $270,000 |
| 456. Altoona Multimodal Transportation Facility Parking Garage | $230,000 | $240,000 | $260,000 | $270,000 |
| 457. Lancaster County, Pennsylvania Intermodal Center and Parking Facility | $57,500 | $60,000 | $65,000 | $67,500 |
| 458. Hershey, Pennsylvania Intermodal Center and Parking Facility | $57,500 | $60,000 | $65,000 | $67,500 |
| 459. Transbay Terminal/Caltrain Downtown Extension Project | $4,025,000 | $4,200,000 | $4,550,000 | $4,725,000 |
| 460. | $0 | $0 | $0 | $0 |
| 461. Alabama Institute for Deaf and Blind-Bus project | $115,000 | $119,000 | $129,000 | $137,000 |
| 462. Alabama State Port Authority-Choctaw Point Terminal | $4,582,000 | $4,760,000 | $5,173,000 | $5,485,000 |
| 463. Albany-Schenectady, NY, Bus Rapid Transit Improvements in NY Route 5 | $500,000 | $800,000 | $1,200,000 | $1,500,000 |
| 464. Albuquerque, NM, Ride Bus and Bus Facilities | $1,500,000 | $1,500,000 | $1,800,000 | $2,100,000 |
| 465. AMTRAN Altoona,PA-Buses and Transit System Improvements | $687,000 | $714,000 | $776,000 | $823,000 |
| 466. Anchorage-Transit Needs | $229,000 | $238,000 | $259,000 | $274,000 |
| 467. Area Transportation Authority of North Central Pennsylvania-Vehicle Replacements | $229,000 | $238,000 | $259,000 | $274,000 |
| 468. Atlantic City, NJ Jitney | $750,000 | $750,000 | $750,000 | $750,000 |
| 469. Auburn University-Intermodal Parking Garage | $916,000 | $952,000 | $1,035,000 | $1,097,000 |
| 470. Bay County,FL- Transit Facility | $458,000 | $476,000 | $517,000 | $549,000 |
| 471. Beaver County,PA Transit Authority-Bus Replacement/Related Equipment Replacement | $229,000 | $238,000 | $259,000 | $274,000 |
| 472. Berkshire, MA, Berkshire Regional Transit Authority Bus Maintenance Facility | $50,000 | $30,000 | $20,000 | $0 |
| 473. Bi-State Development Agency-St Louis Bridge Repair/Reconstruction, for any activity eligible under section 5309 | $1,145,000 | $1,190,000 | $1,293,000 | $1,372,000 |
| 474. Bi-State Development Agency-St Louis Metro Bus Fare Collection Program | $3,665,000 | $3,808,000 | $4,139,000 | $4,388,000 |
| 475. Black Hawk County,IA[redacted]UNI Multimodal Project | $687,000 | $714,000 | $776,000 | $823,000 |
| 476. Bozeman, MT, Intermodal and parking facility | $168,000 | $171,000 | $175,000 | $176,000 |
| 477. Brattleborough, VT, Intermodal Center | $600,000 | $200,000 | $200,000 | $0 |
| 478. Bridgeport, CT Facility Expansion/Improvement | $350,000 | $400,000 | $500,000 | $750,000 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 479. Broward County-Bus and Bus Facilities | $458,000 | $476,000 | $517,000 | $549,000 |
| 480. Brownsville Urban System,TX--City-Wide Transit Improvement Project | $916,000 | $952,000 | $1,035,000 | $1,097,000 |
| 481. Butler Township,PA-Cranbury Area Transit Service | $802,000 | $833,000 | $905,000 | $960,000 |
| 482. Cambria County,PA Transit Authority-Bus Replacements | $687,000 | $714,000 | $776,000 | $823,000 |
| 483. Campobello Park, ME, Bus Acquisition | $22,000 | $34,000 | $0 | $0 |
| 484. Capital Area Transit System-Baton Rouge BRT | $687,000 | $714,000 | $776,000 | $823,000 |
| 485. Capital Metropolitan Transportation Authority,TX-Bus Replacements | $2,291,000 | $2,380,000 | $2,587,000 | $2,742,000 |
| 486. CCTA, VT, Bus, Facilities and Equipment | $300,000 | $400,000 | $500,000 | $800,000 |
| 487. Central Arkansas Transit Authority Facility Upgrades | $450,000 | $550,000 | $750,000 | $1,000,000 |
| 488. Central Florida Regional Transportation Authority-LYNX Bus Fleet Expansion Program | $1,145,000 | $1,190,000 | $1,293,000 | $1,372,000 |
| 489. Central Ohio Transit Authority-Paratransit and Small Bus Service Facility | $458,000 | $476,000 | $517,000 | $549,000 |
| 490. Charlotte Area Transit System/City of Charlotte-Charlotte Multimodal Station | $2,291,000 | $2,380,000 | $2,587,000 | $2,742,000 |
| 491. Chicago, IL, Cermak Road, Bus Rapid Transit | $200,000 | $250,000 | $300,000 | $500,000 |
| 492. City of Alexandria,VA-City-Wide Transit Improvements | $229,000 | $238,000 | $259,000 | $274,000 |
| 493. City of Alexandria,VA-Potomac Yard Transit Improvements | $229,000 | $238,000 | $259,000 | $274,000 |
| 494. City of Alexandria,VA-Replace Royal Street Bus Garage | $687,000 | $714,000 | $776,000 | $823,000 |
| 495. City of Alexandria,VA-Valley Pedestrian & Transit | $229,000 | $238,000 | $259,000 | $274,000 |
| 496. City of Birmingham,AL-Birmingham Downtown Intermodal Terminal, Phase II | $1,145,000 | $1,190,000 | $1,293,000 | $1,372,000 |
| 497. City of El Paso-Sun Metro-Bus Replacements | $687,000 | $714,000 | $776,000 | $823,000 |
| 498. City of Gainesville Regional Transit System-Facility Expansion | $229,000 | $238,000 | $259,000 | $274,000 |
| 499. City of Gaithersburg, Maryland -- Bus and paratransit vehicle for seniors | $112,000 | $0 | $0 | $0 |
| 500. City of Hazleton,PA-Hazleton Intermodal Center | $321,000 | $333,000 | $362,000 | $384,000 |
| 501. City of Huntsville,AL-Cummings Park Intermodal Center | $1,145,000 | $1,190,000 | $1,293,000 | $1,372,000 |
| 502. City of Kalamazoo, MI Bus Replacement | $2,500,000 | $1,800,000 | $1,500,000 | $1,400,000 |
| 503. City of Montgomery, AL-ITS Acquisition and Implementation | $916,000 | $952,000 | $1,035,000 | $1,097,000 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 504. City of Montgomery, AL-Montgomery Airport Intermodal Center | $916,000 | $952,000 | $1,035,000 | $1,097,000 |
| 505. City of Qmaha-Creighton University Intermodal Facility | $687,000 | $714,000 | $776,000 | $823,000 |
| 506. City of Round Rock,TX-Downtown Intermodal Transportation Terminal | $229,000 | $238,000 | $259,000 | $274,000 |
| 507. City of Tuscaloosa,AL-Intermodal Facility | $1,374,000 | $1,428,000 | $1,552,000 | $1,646,000 |
| 508. Collier County Transit-Transit Facility | $229,000 | $238,000 | $259,000 | $274,000 |
| 509. Colorado Association of Transit Agencies/Colorado Transit Coalition-Colorado Statewide Buses and Bus Facilities | $5,956,000 | $6,188,000 | $6,726,000 | $7,130,000 |
| 510. Columbus, Georgia/Phenix City, Alabama-National Infrantry Museum Multimodal Facility | $389,000 | $405,000 | $440,000 | $466,000 |
| 511. Commonwealth of Virginia-Statewide Bus Capital Program | $3,436,000 | $3,570,000 | $3,880,000 | $4,114,000 |
| 512. Corning, NY, Phase II Corning Preserve Transportation Enhancement Project | $350,000 | $450,000 | $550,000 | $650,000 |
| 513. County of Lackawanna Transit System-Scranton Intermodal Transportation Center | $229,000 | $238,000 | $259,000 | $274,000 |
| 514. Cumberland-Dauphin-Harrisburg Transit Authority-Purchase of Buses and Spare Units | $229,000 | $238,000 | $259,000 | $274,000 |
| 515. Dallas Area Rapid Transit-Bus passenger Facilities | $229,000 | $238,000 | $259,000 | $274,000 |
| 516. Dayton -Wright Stop Plaza | $458,000 | $476,000 | $517,000 | $549,000 |
| 517. Delaware Statewide Bus and Bus Replacement (with Clean Fuel (hybrid) vechicles) | $1,750,000 | $2,000,000 | $2,000,000 | $2,250,000 |
| 518. Denver Regional Transit District-Bus Maintenance Facility | $687,000 | $714,000 | $776,000 | $823,000 |
| 519. Denver Regional Transit District-Bus Replacements | $916,000 | $952,000 | $1,035,000 | $1,097,000 |
| 520. Denver Regional Transit District-Denver Union Station Multimodal Renovations | $458,000 | $476,000 | $517,000 | $549,000 |
| 521. Denver Regional Transit District-US 36 Corridor BRT | $1,604,000 | $1,666,000 | $1,811,000 | $1,919,000 |
| 522. Detroit Department of Transportation Bus Replacement | $2,000,000 | $2,100,000 | $2,200,000 | $2,300,000 |
| 523. Downtown Middletown, CT, Transportation Infrastructure Improvement Project | $2,000,000 | $2,150,000 | $2,500,000 | $2,850,000 |
| 524. Erie,PA Metropolitan Transit Authority-Bus Acquisitions | $229,000 | $238,000 | $259,000 | $274,000 |
| 525. Fairfax County, Virginia-Richmond Highway Initiative | $458,000 | $476,000 | $517,000 | $549,000 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 526. Flint, MI, Mass Transportation Authority Bus Maintenance Facility | $750,000 | $650,000 | $450,000 | $150,000 |
| 527. Florida Department of Transportation-Palm Beach County Replacement Buses | $229,000 | $238,000 | $259,000 | $274,000 |
| 528. Gadsden,AL-Community Buses | $115,000 | $119,000 | $129,000 | $137,000 |
| 529. Gary, Indiana, Gary Airport Station Modernization and Shuttle Service Projecy | $350,000 | $400,000 | $450,000 | $500,000 |
| 530. Georgia Department of Transportation-Georgia Statewide Bus and Bus Facilities | $2,062,000 | $2,142,000 | $2,328,000 | $2,468,000 |
| 531. Grand Rapids, Michigan, The Rapid, Bus Replacement | $1,100,000 | $1,100,000 | $1,250,000 | $1,750,000 |
| 532. Greater Richmond Transit, VA-Bus Operations/Maintenance Facility | $1,145,000 | $1,190,000 | $1,293,000 | $1,372,000 |
| 533. Greenville,SC Transit Authority-City of Greenville Multimodal Transportation Center Improvements | $229,000 | $238,000 | $259,000 | $274,000 |
| 534. Gulf Shores,AL-Community Buses | $229,000 | $238,000 | $259,000 | $274,000 |
| 535. Hampton Roads Transit,VA-Southside Bus Facility | $229,000 | $238,000 | $259,000 | $274,000 |
| 536. Harris County-West Houston-Fort Bend Bus Transit Corridor: Uptown-Westpark Terminal | $229,000 | $238,000 | $259,000 | $274,000 |
| 537. High Point,NC -Intermodal Facility | $275,000 | $286,000 | $310,000 | $329,000 |
| ✓ 538. Hillsborough Area Regional Transit-Bus Rapid Transit Improvements | $458,000 | $476,000 | $517,000 | $549,000 |
| 539. ~~Hillsburough~~ Hillsborough, FL, Hillsburough Area regional Transit Authority | $1,000,000 | $1,000,000 | $1,000,000 | $1,000,000 |
| 540. Honolulu, HI, Bus Facilities | $1,350,000 | $1,300,000 | $1,300,000 | $1,300,000 |
| 541. Hoonah, AK-Intermodal Ferry Dock | $458,000 | $476,000 | $517,000 | $549,000 |
| 542. Howard County, MD Construct Central Maryland Transit Operations and Maintenance Facility | $250,000 | $220,000 | $200,000 | $200,000 |
| 543. Idaho Department of Transportation-Idaho Statewide ITS for Public Transportation | $344,000 | $357,000 | $388,000 | $411,000 |
| 544. Indianapolis Downtown Transit Center | $800,000 | $900,000 | $1,100,000 | $1,200,000 |
| 545. Iowa Department of Transportation-Iowa Statewide Buses and Bus Replacement | $2,749,000 | $2,856,000 | $3,104,000 | $3,291,000 |
| 546. Ivy Tech State College, Indiana Multi-Modal Center | $150,000 | $200,000 | $250,000 | $400,000 |
| 547. Jackson State University,MS-Busing Project | $1,145,000 | $1,190,000 | $1,293,000 | $1,372,000 |
| 548. Jacksonville Transportation Authority-Bus Fleet Replacement and Equipment | $1,145,000 | $1,190,000 | $1,293,000 | $1,372,000 |
| 549. Jacksonville, FL Transportation Authority Paratransit Program | $350,000 | $0 | $0 | $0 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 550. Juneau-Transit Bus Acquistion and Transit Center | $344,000 | $357,000 | $388,000 | $411,000 |
| 551. Kansas City Area Transportation Authority-Bus Project | $2,291,000 | $2,380,000 | $2,587,000 | $2,742,000 |
| 552. Kansas Department of Transportation-Kansas Statewide Transit Buses, Bus Facilities, and Bus ITS | $2,749,000 | $2,856,000 | $3,104,000 | $3,291,000 |
| 553. Ketchikan, Alaska-Transit Needs | $57,000 | $60,000 | $65,000 | $68,000 |
| 554. Knoxville,TN-Central Station | $573,000 | $595,000 | $647,000 | $685,000 |
| 555. Lafayette City-Parish Consolidated Government,LA-Lafayette Multimodal Transportation Facility | $229,000 | $238,000 | $259,000 | $274,000 |
| 556. Lafayette, Indiana, City Bus of Greater Lafayette | $500,000 | $550,000 | $700,000 | $750,000 |
| 557. Lake Tahoe, NV MPO Bus replacement | $1,000,000 | $1,000,000 | $1,000,000 | $1,000,000 |
| 558. Lakeland Area Mass Transit District/Citrus Connection-Capital Funding Needs | $458,000 | $476,000 | $517,000 | $549,000 |
| 559. Lancaster,PA-Intermodal Project | $160,000 | $167,000 | $181,000 | $192,000 |
| 560. Lansing, MI, Capitol Area Transportation Authority, Bus Replacement and Bus Related ITS | $750,000 | $850,000 | $950,000 | $1,050,000 |
| 561. Laredo-North Laredo Transit Hub-Bus Maintenance Facility | $687,000 | $714,000 | $776,000 | $823,000 |
| 562. Las Cruces, NM, Road Runner Bus and Bus Facilities | $200,000 | $250,000 | $300,000 | $350,000 |
| 563. Lawrence, MA, Gateway Intermodal and Quadrant Area Reuse Project | $600,000 | $800,000 | $900,000 | $1,150,000 |
| 564. Lehigh and Northampton Transportation Authority,PA-Allentown Intermodal Transportation Center | $458,000 | $476,000 | $517,000 | $549,000 |
| 565. Lipscomb University,TN-Intermodal Parking Garage | $344,000 | $357,000 | $388,000 | $411,000 |
| 566. Los Angeles, CA, Fly-Away Bus System Expansion | $500,000 | $550,000 | $600,000 | $850,000 |
| 567. Los Angeles, CA, LAX Intermodal Transportation Center Rail and Bus Facilities | $500,000 | $550,000 | $600,000 | $850,000 |
| 568. Lousiana Department of Transportation and Development-Statewide Vehicles and Equipment | $229,000 | $238,000 | $259,000 | $274,000 |
| 569. Lowell, MA, Lowell Regional Transit | $600,000 | $800,000 | $900,000 | $1,150,000 |
| 570. Maine Department of Transportation-Acadia Intermodal Facility | $687,000 | $714,000 | $776,000 | $823,000 |
| 571. MARC Intermodal Odenton and Edgewood Station Improvements | $368,000 | $380,000 | $380,000 | $418,000 |
| 572. Marquette County, Michigan Transit Authority Bus passenger facility | $300,000 | $300,000 | $300,000 | $300,000 |
| 573. Maryland Statewide Bus Facilities and Buses | $5,500,000 | $5,750,000 | $6,500,000 | $7,250,000 |
| 574. Matsu, Alaska-Transit Needs | $115,000 | $119,000 | $129,000 | $137,000 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 575. METRO of Harris County-Discretionary Bus Program | $2,291,000 | $2,380,000 | $2,587,000 | $2,742,000 |
| 576. Metro Regional Transit Authority/City of Akron-Downtown Transit Center, Akron | $1,604,000 | $1,666,000 | $1,811,000 | $1,919,000 |
| 577. Metro Transit/Metropolitan Council,MN-Bus/Bus Capital | $2,176,000 | $2,261,000 | $2,457,000 | $2,606,000 |
| 578. Metropolitan Atlanta Rapid Transit Authority-Clean Fuel Buses | $2,291,000 | $2,380,000 | $2,587,000 | $2,742,000 |
| 579. Metropolitan Transit Authority-Nashville Downtown Transit Transfer Facility | $2,749,000 | $2,856,000 | $3,104,000 | $3,291,000 |
| 580. Miami-Dade Transit-7th Avenue NW Transit Hub | $229,000 | $238,000 | $259,000 | $274,000 |
| 581. Michigan Department of Transportation (MDOT) Bus Replacement | $2,000,000 | $2,200,000 | $2,400,000 | $2,600,000 |
| 582. Mobile County,AL Commission-Bus project | $115,000 | $119,000 | $129,000 | $137,000 |
| 583. Monroe Township, PA -Clarion County Buses | $151,000 | $157,000 | $171,000 | $181,000 |
| 584. Montana Department of Transportation-Statewide Bus Facilities and Buses | $687,000 | $714,000 | $776,000 | $823,000 |
| 585. Nassau County, NY, Conduct planning, engineering, and construction for transportation system (HUB) | $1,000,000 | $1,200,000 | $1,300,000 | $1,500,000 |
| 586. Nebraska Department of Roads-Bus Maintenance and Storage Facility for RYDE in Kearney, NE | $458,000 | $476,000 | $517,000 | $549,000 |
| 587. Nebraska Department of Roads-Statewide Vehicles, Facilities, and Related Equipment Purchases | $916,000 | $952,000 | $1,035,000 | $1,097,000 |
| 588. New Castle,PA Area Transit Authority-Bus Purchases/Park and Ride facility | $170,000 | $176,000 | $191,000 | $203,000 |
| 589. New Haven, CT Bus Maintenance Facility | $2,000,000 | $2,150,000 | $2,500,000 | $2,850,000 |
| 590. New York City, NY, Bronx Zoo Intermodal Facility | $350,000 | $450,000 | $550,000 | $650,000 |
| 591. New York City, NY, Enhance Transportation Facilities Near W. 65th Street and Broadway | $350,000 | $450,000 | $550,000 | $650,000 |
| 592. New York City, NY, Highline Project, for Studies, Design, and Construction | $1,000,000 | $1,200,000 | $1,300,000 | $1,500,000 |
| 593. New York, Improvements to Moynihan Station | $1,000,000 | $1,200,000 | $1,300,000 | $1,500,000 |
| 594. North Carolina Department of Transportation-North Carolina Statewide Bus and Bus Facilities | $5,727,000 | $5,950,000 | $6,467,000 | $6,856,000 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| ✓ 595. North Dakota Department of Transportation ← Statewide Bus | $1,000,000 | $1,100,000 | $1,300,000 | $1,600,000 |
| 596. North Slope Borough, AK-Transit Purposes | $458,000 | $476,000 | $517,000 | $549,000 |
| 597. North Star Borough, AK-Transit Purposes | $229,000 | $238,000 | $259,000 | $274,000 |
| 598. OATS, Incorporated,MO-ITS Information and Billing System and Bus Facilities | $3,894,000 | $4,046,000 | $4,397,000 | $4,663,000 |
| 599. Omaha, NE, Buses and Fareboxes | $610,000 | $650,000 | $700,000 | $740,000 |
| 600. Pinellas County Metropolitan Planning Organization-Pinellas Mobility Initiative: BRT and Guideway | $229,000 | $238,000 | $259,000 | $274,000 |
| 601. Port Huron, Michigan, Blue Water Area Transportation Commission, Bus Maintenance Facility | $1,000,000 | $1,250,000 | $1,500,000 | $1,750,000 |
| 602. Potomac & Rappahannock Transportation Commission,VA-Buses for Service Expansion | $229,000 | $238,000 | $259,000 | $274,000 |
| 603. Regional Transportation Commission of Southern Nevada-Central City Intermodal Transportation Terminal | $916,000 | $952,000 | $1,035,000 | $1,097,000 |
| 604. Rhode Island, RIPTA Elmwood Facility Expansion | $1,600,000 | $1,700,000 | $1,750,000 | $1,850,000 |
| 605. Rhode Island, Statewide Bus and Van Replacement | $5,250,000 | $5,500,000 | $6,200,000 | $6,400,000 |
| 606. River Parishes , Lousiana, South Central Planning and Development Commission, bus and bus facilities | $160,000 | $180,000 | $200,000 | $220,000 |
| 607. Rochester, NY, Renaissance Square Intermodal Facility, Design and Construction | $1,000,000 | $1,400,000 | $1,600,000 | $2,000,000 |
| 608. Rock Island, Illinois, Metrolink Transit Maintenance Facility | $200,000 | $250,000 | $300,000 | $500,000 |
| 609. Rockland County, NY Express Bus | $600,000 | $700,000 | $800,000 | $900,000 |
| 610. San Angelo,TX Street Railroad Company-Transit Fleet Replacement | $229,000 | $238,000 | $259,000 | $274,000 |
| 611. San Joaquin Region Transit District, California, Hybrid Diesel-Electric Replacement Buses | $250,000 | $250,000 | $250,000 | $300,000 |
| 612. Santa Fe, NM, Trails Bus and Bus Facilities | $450,000 | $500,000 | $500,000 | $700,000 |
| 613. Seattle, WA Multimodal Terminal Redevelopment & Expansion | $800,000 | $900,000 | $1,000,000 | $1,100,000 |
| 614. Sevierville County,TN Transportation Board-Alternative Fuel Buses | $229,000 | $238,000 | $259,000 | $274,000 |
| 615. Silver Spring, Maryland, Transit Center | $7,000,000 | $6,000,000 | $5,000,000 | $0 |
| 616. Sitka, Alaska-Transit Needs | $57,000 | $60,000 | $65,000 | $68,000 |
| 617. South Bend, Indiana,TRANSPO Bus Operations Center | $800,000 | $900,000 | $1,100,000 | $1,200,000 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 618. South Brunswick, NJ Transit System | $1,000,000 | $1,000,000 | $1,000,000 | $1,000,000 |
| 619. South Carolina Department of Transportation-Transit Facilities Construction Program | $458,000 | $476,000 | $517,000 | $549,000 |
| 620. South Carolina Department of Transportation-Vehicle Acquisition Program | $1,833,000 | $1,904,000 | $2,069,000 | $2,194,000 |
| 621. South Dakota Department of Transportation -Statewide Buses and Bus Facilities | $3,166,000 | $3,452,000 | $3,785,000 | $4,097,000 |
| 622. South Florida Regional Transportation Authority-Tri-Rail Improvements, for any activity eligible under section 5309 | $3,436,000 | $3,570,000 | $3,880,000 | $4,114,000 |
| 623. South Florida Regional Transportation Authority-West Palm Beach Intermodal Facility | $458,000 | $476,000 | $517,000 | $549,000 |
| 624. Southeast Missouri Transportation Service-Bus Project | $458,000 | $476,000 | $517,000 | $549,000 |
| 625. Southeastern Louisiana University Intermodal Facility | $300,000 | $450,000 | $550,000 | $700,000 |
| 626. Southeastern Pennsylvania Transportation Authority-Bucks County Intermodal (Croydon and Levittown) | $687,000 | $714,000 | $776,000 | $823,000 |
| 627. Southeastern Pennsylvania Transportation Authority-Paoli Transportation Center | $687,000 | $714,000 | $776,000 | $823,000 |
| 628. Southeastern Pennsylvania Transportation Authority-Villanova- SEPTA Intermodal | $687,000 | $714,000 | $776,000 | $823,000 |
| 629. Southern Maryland Commuter Initiative | $2,700,000 | $2,800,000 | $3,000,000 | $3,500,000 |
| 630. Southern Nevada Transit Coalition, Public Transit Building Acquisition | $300,000 | $300,000 | $300,000 | $100,000 |
| 631. Southwest Ohio Regional Transit Authority-Bus Replacements | $687,000 | $714,000 | $776,000 | $823,000 |
| 632. Springfield, IL, Multimodal Transit Terminal | $800,000 | $1,100,000 | $1,300,000 | $1,800,000 |
| 633. State of Vermont Buses, Facilities and Equipment | $250,000 | $350,000 | $480,000 | $520,000 |
| 634. Suburban Mobility Authority for Regional Transportation (SMART) Bus Maintenance Facility | $1,500,000 | $1,750,000 | $2,000,000 | $2,250,000 |
| 635. Syracuse, New York, Syracuse University Connective Corridor Transit Project | $800,000 | $950,000 | $1,100,000 | $1,150,000 |
| 636. Tennessee Department of Transportaiton-Statewide Tennessee Transit ITS and Bus Replacement Project | $2,749,000 | $2,856,000 | $3,104,000 | $3,291,000 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 637. Terre Haute, Indiana – Cherry Street Joint Development Project | $800,000 | $900,000 | $1,100,000 | $1,200,000 |
| 638. The District, The Woodlands, TX-Bus Replacement Program | $229,000 | $238,000 | $259,000 | $274,000 |
| 639. Transit Authority of Lexington,KY-Rehabilitation of Building for Maintenance and Administration | $916,000 | $952,000 | $1,035,000 | $1,097,000 |
| 640. Transit Authority of Northern Kentucky-TANK Bus Replacement Project | $458,000 | $476,000 | $517,000 | $549,000 |
| 641. Transit Authority of River City-New Hybrid Electric Buses | $687,000 | $714,000 | $776,000 | $823,000 |
| 642. Transit Authority of Warren County,PA-Impact Warren | $229,000 | $238,000 | $259,000 | $274,000 |
| 643. Trenton Intermodal Station | $5,500,000 | $4,250,000 | $4,000,000 | $4,000,000 |
| 644. University of Alabama in Birmingham-Intermodal Facility | $1,604,000 | $1,666,000 | $1,811,000 | $1,919,000 |
| 645. University of Alabama in Huntsville-Intermodal Facility | $1,374,000 | $1,428,000 | $1,552,000 | $1,646,000 |
| 646. University of Alabama Intermodal Facility South | $2,062,000 | $2,142,000 | $2,328,000 | $2,468,000 |
| 647. University of Alabama Transit System | $344,000 | $357,000 | $388,000 | $411,000 |
| 648. University of Delaware Fuel Cell Bus Program | $160,000 | $165,000 | $175,000 | $185,000 |
| 649. University of Memphis-Pedestrian Bridge | $687,000 | $714,000 | $776,000 | $823,000 |
| 650. US Space and Rocket Center, AL-Tramway Expansion | $229,000 | $238,000 | $259,000 | $274,000 |
| 651. Utah Statewide Bus and Bus Facilities | $6,882,000 | $7,148,000 | $7,757,000 | $8,234,000 |
| 652. Valley Regional Transit,ID-Downtown Boise Multimodal | $1,329,000 | $1,381,000 | $1,500,000 | $1,590,000 |
| 653. VIA Metropolitan Transit Authority,TX-Bus & Bus Facility Improvements | $1,145,000 | $1,190,000 | $1,293,000 | $1,372,000 |
| 654. Washington Southworth Terminal Redevelopment | $1,000,000 | $1,150,000 | $1,350,000 | $1,500,000 |
| 655. Washington, King Street Transportation Center-Intercity Bus Terminal Component | $50,000 | $60,000 | $70,000 | $70,000 |
| 656. Washoe County, NV Bus and Bus Facilities | $1,000,000 | $1,500,000 | $2,000,000 | $2,250,000 |
| 657. Waterbury, CT Bus Maintenance Facility | $2,000,000 | $2,300,000 | $2,800,000 | $3,400,000 |
| 658. West Virginia, Statewide Bus and Bus Facilities | $5,000,000 | $5,000,000 | $5,000,000 | $5,000,000 |
| 659. Westchester, NY, Bee Line Bus Replacement | $450,000 | $500,000 | $550,000 | $650,000 |
| 660. Westmoreland County Transit Authority,PA-Bus Replacement | $229,000 | $238,000 | $259,000 | $274,000 |
| 661. Wilkes-Barre Intermodal Facility | $1,374,000 | $1,428,000 | $1,552,000 | $1,646,000 |

## High Priority Projects
## Bus and Bus Facilities

| Project Description | FY 06 | FY 07 | FY 08 | FY 09 |
|---|---|---|---|---|
| 662. Williamsport,PA Bureau of Transportation-Williamsport Trade and Transit Centre Expansion | $687,000 | $714,000 | $776,000 | $823,000 |
| 663. Wisconsin, Statewide Buses and Bus Facilities | $600,000 | $610,000 | $650,000 | $700,000 |
| 664. Wrangell, AK-Ferry Infrastructure | $229,000 | $238,000 | $259,000 | $274,000 |
| 665. Wyoming Department of Transportation-Wyoming Statewide Bus and Bus Related Facilities | $687,000 | $714,000 | $776,000 | $823,000 |

*(b) CLEAN FUELS GRANTS PROGRAM PROJECTS.—*

*(1) FUNDING.—Notwithstanding subsection (a), the Secretary shall make funds available for the projects listed in item numbers 497, 517, 519, 557, 575, 578, 605, 611, 612, 614, 631, 638, 640, 641, 648, and 659 in the table contained in subsection (a), in the amounts specified, from amounts made available to carry out section 5308 of title 49, United States Code.*

*(2) PURCHASE OF BUSES UNDER SUPPLEMENTAL ENVIRONMENTAL PROJECT.—With respect to the project numbered 605, purchases of buses procured under a supplemental environmental project executed by the Rhode Island Public Transit Authority and the Environmental Protection Agency are eligible for assistance under section 5308 of such title.*

*(c) SPECIAL RULE.—Notwithstanding any other provision of law, the Secretary shall pay the Federal share of the net project cost to a State or local governmental authority that carries out or has carried out any part of the bus and bus-related facilities projects numbered 258 and 347 under subsection (a).*

### *SEC. 3045. NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM.*

*(a) ESTABLISHMENT.—The Secretary shall establish a national fuel cell bus technology development program (in this section referred to as the "program") to facilitate the development of commercially viable fuel cell bus technology and related infrastructure.*

*(b) GENERAL AUTHORITY.—The Secretary may enter into grants, contracts, and cooperative agreements with no more than 3 geographically diverse nonprofit organizations and recipients under chapter 53 of title 49, United States Code, to conduct fuel cell bus technology and infrastructure projects under the program.*

*(c) GRANT CRITERIA.—In selecting applicants for grants under the program, the Secretary shall consider the applicant's—*

*(1) ability to contribute significantly to furthering fuel cell technology as it relates to transit bus operations, including hydrogen production, energy storage, fuel cell technologies, vehicle systems integration, and power electronics technologies;*

*(2) financing plan and cost share potential;*

*(3) fuel cell technology to ensure that the program advances different fuel cell technologies, including hydrogen-fueled and methanol-powered liquid-fueled fuel cell technologies, that may be viable for public transportation systems; and*

*(4) other criteria that the Secretary determines are necessary to carry out the program.*

*(d) COMPETITIVE GRANT SELECTION.—The Secretary shall conduct a national solicitation for applications for grants under the program. Grant recipients shall be selected on a competitive basis. The Secretary shall give priority consideration to applicants that have successfully managed advanced transportation technology projects, including projects related to hydrogen and fuel cell public transportation operations for a period of not less than 5 years.*

*(e) FEDERAL SHARE.—The Federal share of costs of the program shall be provided from funds made available to carry out this section. The Federal share of the cost of a project carried out under the program shall not exceed 50 percent of such cost. The cost of a project carried out under the program shall not include the cost of a fuel cell power unit.*

*(f) GRANT REQUIREMENTS.—A grant under this section shall be subject to—*

*(1) all terms and conditions applicable to a grant made under section 5309 of title 49, United States Code; and*

*(2) such other terms and conditions as are determined by the Secretary.*

### *SEC. 3046. ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS.*

*(a) IN GENERAL.—Amounts appropriated pursuant to section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 of such title shall be allocated by the Secretary as follows:*

*(1) PUBLIC TRANSPORTATION NATIONAL SECURITY STUDY.—*

*(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall enter into an agreement with the National Academy of Sciences to conduct a study and evaluation of the value major public transportation systems in the United States serving the 38 urbanized areas that have a population of more than 1,000,000 individuals provide to the Nation's security and the ability of such systems to accommodate the evacuation, egress or ingress of people to or from critical locations in times of emergency.*

*(B) ALTERNATIVE ROUTES.—For each system described in subparagraph (A) the study shall identify—*

*(i) potential alternative routes for evacuation using other transportation modes such as highway, air, marine, and pedestrian activities; and*

*(ii) transit routes that, if disrupted, do not have sufficient transit alternatives available.*

*(C) REPORT.—Not later than 24 months after the date of entry into the agreement, the Academy shall submit to the Secretary and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a final report on the results of the study and evaluation, together with such recommendations as the Academy considers appropriate.*

*(D) FUNDING.—For each of fiscal years 2006 and 2007 $250,000 shall be available to carry out this paragraph.*

*(2) CENTER FOR TRANSIT-ORIENTED DEVELOPMENT.—For each of fiscal years 2006 through 2009, not less than $1,000,000 shall be made available by the Secretary for establishment and operation of the Center for Transit-Oriented Development—*

*(A) to develop standards and definitions for transit-oriented development adjacent to public transportation facilities;*

*(B) to develop system planning guidance, performance criteria, and modeling techniques for metropolitan planning agencies and public transportation agencies to maximize ridership through land use planning and adjacent development; and*

*(C) to provide research support and technical assistance to public transportation agencies, metropolitan planning agencies, and other persons regarding transit-oriented development.*

*(3) TRANSPORTATION EQUITY RESEARCH PROGRAM.—For each of fiscal years 2006 through 2009, not less than $1,000,000 shall be made available by the Secretary for research and demonstration activities that focus on the impacts that transportation planning, investment, and operations have on low-income and minority populations that are transit dependent. Such activities shall include the development of strategies to advance economic and community development in low-income and minority communities and the development of training programs that promote the employment of low-income and minority community residents on Federal-aid transportation projects constructed in their communities.*

*(4) COGNITIVE IMPAIRMENT STUDY.—For fiscal year 2006, $1,000,000 shall be made available by the Secretary for research and demonstration activities that focus on the capacity and resources of Oregon public transportation systems to address the needs, barriers, and desires for travel of people with cognitive impairments.*

*(5) TRANSIT CAREER LADDER TRAINING PROGRAM.—For each fiscal years 2006 through 2009, not less than $1,000,000 shall be available for a nationwide career ladder job training partnership program for public transportation employees to respond to technological changes in the public transportation industry, especially in the area of maintenance. Such program shall be carried out by the Secretary through a contract with a national nonprofit organization with a demonstrated capacity to develop and provide such programs.*

*(6) PILOT PROGRAM FOR REMOTE INFRARED AUDIBLE SIGNS.—*

*(A) IN GENERAL.—For each of fiscal years 2006 through 2009, not less than $500,000 shall be made available by the Secretary to carry out a pilot program to determine the benefits of remote infrared audible signage technology for provision of wayfinding and information to people who are visually, cognitively, or learning disabled.*

*(B) REPORT.—*

*(i) IN GENERAL.—Not later than September 30, 2009, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the pilot program carried out under this section.*

*(ii) CONTENTS.—The report—*

*(I) shall include—*

*(aa) an evaluation of the effect of the pilot program on multimodal accessibility in public transportation;*

*(bb) an evaluation of the effect of the program on operators of public transportation and their passengers;*

*(cc) an evaluation of the effect of making public transportation accessible to people with visual, cognitive, and learning disabilities on ridership of public transportation and use of paratransit; and*

*(dd) an evaluation of the effect of the program on the education, community integration, work life, and general quality of life of the targeted populations.*

*(7) HYDROGEN FUEL CELL SHUTTLE DEPLOYMENT DEMONSTRATION PROJECT.—To demonstrate the utility of hydrogen fuel cell vehicles in daily shuttle service, $800,000 in each of fiscal years 2006 and 2007 shall be provided for hydrogen fuel cell employee shuttle vans, related equipment, operations, public education and outreach in Allentown, Pennsylvania.*

*(8) WISCONSIN SUPPLEMENTAL TRANSPORTATION RURAL ASSISTANCE PROGRAM (STRAP).—*

*(A) IN GENERAL.—For capital projects, operations, purchase or lease of vehicles, and integration, planning and coordination of public transportation services in the State of Wisconsin that will supplement and expand existing rural and special public transportation services in that State, $2,000,000 in each of fiscal years 2006, 2007, 2008, and 2009 shall be provided to the State of Wisconsin Department of Transportation.*

*(B) PURPOSE.—Funds received under this program may be used to supplement public transportation programs for rural populations for activities authorized under sections 5310, 5311, and 5316 of title 49, United States Code. Funds made available under this program are subject to the requirements of section 5311 of title 49, United States Code, except that funds may be made available for up to 80 percent of net operating costs. In awarding grants made available under this program, the State shall consider—*

*(i) rural population in the area to be served by the applicant;*

*(ii) extent to which the applicant demonstrates coordination of existing transportation services or proposed public transportation services;*

*(iii) need for additional services in the area being serviced by the applicant and the extent to which the proposed services will address those needs and provide accessibility for non-ambulatory recipients;*

*(iv) extent to which the applicant demonstrates an innovative approach that is responsive to the identified service needs of the rural population; and*

*(v) extent to which the applicant demonstrates that the communities being served have been consulted in the planning process.*

*(9) HUMAN SERVICES TRANSPORTATION COORDINATION.—*

*(A) IN GENERAL.—For the management of a program to improve and enhance the coordination of Federal resources for human services transportation with those of the Department of Transportation. $1,600,000 in each of fiscal years 2006, 2007, 2008, and 2009 shall be provided to a national non-profit organization that is competitively selected by the Secretary. Such organization shall have demonstrated expertise in issues of transportation coordination and in providing technical assistance to local transportation organizations.*

*(B) ELIGIBLE ACTIVITIES.—Under this program, the organization selected by the Secretary shall—*

*(i) establish an advisory panel consisting of federal, state and local officials and organizations;*

*(ii) prepare an inventory of human service transportation agencies operating in the United States;*

*(iii) prepare an inventory of Federal transportation spending;*

*(iv) develop a program of technical assistance and training for human services transportation organizations that shall include on-site technical assistance, a resource clearinghouse, and preparation of technical manuals;*

*(v) prepare an annual report for the Secretary on activities under this program and make recommendations for improving coordination.*

*(10) PORTLAND, OREGON STREETCAR PROTOTYPE PURCHASE AND DEPLOYMENT.—Not less than $1,000,000 shall be made available in each of fiscal years 2006, 2007, 2008, and 2009 by the Secretary to TriMet for the purchase and deployment of a domestically manufactured streetcar.*

*(11) PUBLIC TRANSPORTATION PARTICIPATION PILOT PROGRAM.—*

*(A) IN GENERAL.—Of the funds allocated under this section for each of fiscal years 2006 through 2009, $1,000,000 for each fiscal year shall be made available by the Secretary to establish a pilot program to support planning and public participation activities related to public transportation projects.*

*(B) ELIGIBLE ACTIVITIES.—Activities eligible to be carried out under the pilot program may include the following:*

*(i) Improving data collection analysis and transportation access for all users of the public transportation systems.*

*(ii) Supporting public participation through the project development phases.*

*(iii) Using innovative techniques to improve the coordination of transportation alternatives.*

*(iv) Enhancing the coordination of public transportation benefits and services.*

*(v) Contracting with stakeholders to focus on the delivery of transportation plans and programs.*

*(vi) Measuring and reporting on the annual performance of the transportation systems.*

*(12) TRANSPORTATION HYBRID ELECTRIC VEHICLE AND FUEL CELL RESEARCH.—$500,000 in each of fiscal years 2006 through 2009 for a transportation hybrid electric vehicle and fuel cell research program at the University of Alabama.*

*(13) TRAUMA CARE SYSTEM RESEARCH AND DEVELOPMENT.—$500,000 in each of fiscal years 2006 through 2009 for trauma care system research and development at the University of Alabama in Birmingham.*

*(14) TRANSPORTATION INFRASTRUCTURE AND LOGISTICS RESEARCH.—$500,000 in each of fiscal years 2006 through 2009 for transportation infrastructure and logistics research at the University of Alabama in Huntsville.*

*(15) NATIONAL BUS RAPID TRANSIT INSTITUTE.—$1,750,000 in each of fiscal years 2006 though 2009 for the National Bus Rapid Transit Institute at the University of South Florida.*

*(16) APPLICATION OF INFORMATION TECHNOLOGY TO TRANSPORTATION LOGISTICS AND SECURITY.—$400,000 in each of fiscal years 2006 through 2009 for research on the application of information technology to transportation logistics and security at the Northern Kentucky University.*

*(17) INTELLIGENT TRANSPORTATION SYSTEM PILOT PROJECT.—$465,000 in each of fiscal years 2006 through 2009 for an intelligent transportation system pilot project with the National Consortium on Remote Sensing in Transportation Flows at the Ohio State University.*

*(18) REGIONAL PUBLIC SAFETY TRAINING CENTER.—$500,000 in each of fiscal years 2006 through 2009 for a regional public safety training center at the Lehigh-Carbon Community College.*

*(19) TRANSIT SECURITY TRAINING FACILITY.—$750,000 in each of fiscal years 2006 though 2009 for a transit security training facility at the Chester County Community College.*

*(20) SMALL URBAN AND RURAL TRANSIT CENTER.—$800,000 in fiscal year 2006, $800,000 in fiscal year 2007, $1,200,000 in fiscal year 2008, and $1,200,000 in fiscal year 2009 for the Small Urban and Rural Transit Center at North Dakota State University.*

*(21) ADVANCED TECHNOLOGY BUS RAPID TRANSIT PROJECT.— $500,000 in fiscal year 2006, $540,000 in fiscal year 2007, $550,000 in fiscal year 2008, and $625,000 in fiscal year 2009 for the Southeastern Connecticut Advanced Technology Bus Rapid Transit Project.*

*(22) GREATER NEW HAVEN TRANSIT DISTRICT FUEL CELL-POWERED BUS RESEARCH.—$500,000 in fiscal year 2006, $540,000 in fiscal year 2007, $550,000 in fiscal year 2008, and $625,000 in fiscal year 2009 for the Greater New Haven Transit District Fuel Cell-Powered Bus Research.*

*(23) CENTER FOR ADVANCED TRANSPORTATION INITIATIVES.—$500,000 in fiscal year 2006, $540,000 in fiscal year 2007, $540,000 in fiscal year 2008, and $625,000 in fiscal year 2009 for the Rutgers Center for Advanced Transportation Initiatives (CAIT).*

*(24) INSTITUTE OF TECHNOLOGY'S TRANSPORTATION, ECONOMIC, AND LAND USE SYSTEM.—$500,000 in fiscal year 2006, $540,000 in fiscal year 2007, $540,000 in fiscal year 2008, and $625,000 in fiscal year 2009 for the New Jersey Institute of Technology's Transportation, Economic, and Land Use System program (TELUS).*

*(25) REGIONAL TRANSIT TRAINING CONSORTIUM PILOT PROGRAM.—$270,000 in fiscal year 2006, $380,000 in fiscal year 2007, $380,000 in fiscal year 2008, and $450,000 in fiscal year 2009 for the Southern California Regional Transit Training Consortium Pilot Program.*

*(b) REMAINDER.—After making allocations under subsection (a), the remainder of funds made available by section 5338(d) of title 49, United States Code, for national research and technology programs under sections 5312, 5314, and 5322 for a fiscal year shall be allocated at the discretion of the Secretary to other transit research, development, demonstration and deployment projects authorized by sections 5312, 5314, and 5322 of such title.*

### *SEC. 3047. FORGIVENESS OF GRANT AGREEMENT.*

*(a) LANE COUNTY TRANSIT DISTRICT.—Notwithstanding any other provision of law (including any regulation), any outstanding balances on the following grant agreements made to the Lane County Transit District, Oregon, do not have to be repaid:*

*(1) Federal Contract Number OR-03-0087.*

*(2) Federal Contract Number OR-90-X094.*

*(b) PEE DEE REGIONAL TRANSIT AUTHORITY.—The debt identified in the 2000 Triennial Review of the Pee Dee Regional Transit Authority as owed to the Federal Transit Administration by the Pee Dee Regional Transit Authority does not have to be repaid.*

### *SEC. 3048. COOPERATIVE PROCUREMENT.*

*Not later than 6 months after the date of enactment of this Act, the Secretary shall undertake a 30-day review of efforts to use cooperative procurement to determine whether benefits are sufficient to formally incorporate cooperative procurement into the mass transit program. In particular, the Secretary shall review the progress made under the pilot program authorized under section 166 of division F of the Consolidated Appropriations Act, 2004 (49 U.S.C. 5397 note; 118 Stat. 309), based on experience to date in the pilot program and any available reports to Congress submitted under such section 166. The Secretary shall also consider information gathered from grantees about cooperative procurement, whether or not related to the pilot program.*

### *SEC. 3049. TRANSPORTATION FRINGE BENEFITS.*

*(a) TRANSIT PASS TRANSPORTATION FRINGE BENEFITS.—*

*(1) IN GENERAL.—Effective as of the first day of the next fiscal year beginning after the date of the enactment of this Act, each covered agency shall implement a program under which all qualified Federal employees serving in or under such agency shall be offered transit pass transportation fringe benefits, as described in paragraph (2).*

*(2) BENEFITS DESCRIBED.—The benefits described in this paragraph are the transit pass transportation fringe benefits which, under section 2 of Executive Order 13150, are required to be offered by Federal agencies in the National Capital Region on the date of the enactment of this Act.*

*(3) DEFINITIONS.—In this subsection—*

*(A) the term "covered agency" means any agency, to the extent of its facilities in the National Capital Region;*

*(B) the term "agency" means any agency (as defined by 7905(a)(2) of title 5, United States Code), the Postal Rate Commission, and the Smithsonian Institution;*

*(C) the term "National Capital Region" includes the District of Columbia and every county or other geographic area covered by section 2 of Executive Order 13150;*

*(D) the term "Executive Order 13150" refers to Executive Order 13150 (5 U.S.C. 7905 note);*

*(E) the term "Federal agency" is used in the same way as under section 2 of Executive Order 13150; and*

*(F) any determination as to whether or not one is a "qualified Federal employee" shall be made applying the same criteria as would apply under section 2 of Executive Order 13150.*

*(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall be considered to require that a covered agency—*

*(A) terminate any program or benefits in existence on the date of the enactment of this Act, or postpone any plans to implement (before the effective date referred to in paragraph (1)) any program or benefits permitted or required under any other provision of law; or*

*(B) discontinue (on or after the effective date referred to in paragraph (1)) any program or benefits referred to in subparagraph (A), so long as such program or benefits satisfy the requirements of paragraphs (1) through (3).*

*(b) AUTHORITY TO TRANSPORT FEDERAL EMPLOYEES BETWEEN THEIR PLACE OF EMPLOYMENT AND MASS TRANSIT FACILITIES.—*

(1) In General.—Section 1344 of title 31, United States Code, is amended—

(A) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(B) by inserting after subsection (f) the following:

"(g)(1) If and to the extent that the head of a Federal agency, in his or her sole discretion, deems it appropriate, a passenger carrier may be used to transport an officer or employee of a Federal agency between the officer's or employee's place of employment and a mass transit facility (whether or not publicly owned) in accordance with succeeding provisions of this subsection.

"(2) Notwithstanding section 1343, a Federal agency that provides transportation services under this subsection (including by passenger carrier) may absorb the costs of such services using any funds available to such agency, whether by appropriation or otherwise.

"(3) In carrying out this subsection, a Federal agency, to the maximum extent practicable and consistent with sound budget policy, should—

"(A) use alternative fuel vehicles for the provision of transportation services;

"(B) to the extent consistent with the purposes of this subsection, provide transportation services in a manner that does not result in additional gross income for Federal income tax purposes; and

"(C) coordinate with other Federal agencies to share, and otherwise avoid duplication of, transportation services provided under this subsection.

"(4) For purposes of any determination under chapter 81 of title 5 or chapter 171 of title 28, an individual shall not be considered to be in the 'performance of duty' or 'acting within the scope of his or her office or employment' by virtue of the fact that such individual is receiving transportation services under this subsection. Nor shall any time during which an individual uses such services be considered when calculating the hours of work or employment for that individual for purposes of title 5 of the United States Code, including chapter 55 of that title.

"(5)(A) The Administrator of General Services, after consultation with the appropriate agencies, shall prescribe any regulations necessary to carry out this subsection.

"(B) Transportation services under this subsection shall be subject neither to the last sentence of subsection (d)(3) nor to any regulations under the last sentence of subsection (e)(1).

"(6) In this subsection, the term 'passenger carrier' means a passenger motor vehicle or similar means of transportation that is owned, leased, or provided pursuant to contract by the United States Government.".

(2) Funds for Maintenance, Repair, etc.—Subsection (a) of section 1344 of title 31, United States Code, is amended by adding at the end the following:

"(3) For purposes of paragraph (1), the transportation of an individual between such individual's place of employment and a mass transit facility pursuant to subsection (g) is transportation for an official purpose.".

(3) Coordination.—The authority to provide transportation services under section 1344(g) of title 31, United States Code (as amended by paragraph (1)) shall be in addition to any authority otherwise available to the agency involved.

### SEC. 3050. COMMUTER RAIL.

(a) In General.—The Federal Transit Administration shall approve final design for the projects authorized under section 3030(c)(1)(A)(xliv) of the Federal Transit Act of 1998 and section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note) in the absence of an access agreement with the owner of the railroad right of way.

(b) Timely Resolution of Issues.—The Secretary shall timely resolve any issues delaying the completion of the projects authorized under section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note) and section 3030(c)(1)(A)(xliv) of the Federal Transit Act of 1998.

### SEC. 3051. PARATRANSIT SERVICE IN ILLINOIS.

In the State of Illinois, a regional or State agency, or another transit agency, may be responsible for providing the complementary paratransit services that would otherwise be provided by a transit agency under the Americans with Disabilities Act of 1990. Where a regional or State agency, or another transit agency, undertakes to provide such services, either by agreement or pursuant to State legislation, the Secretary may audit the paratransit services provided, make recommendations, and take appropriate enforcement action directed to such regional, State, or transit agency providing the services, to ensure that the requirements of the Americans with Disabilities Act of 1990 are met. Nothing in this Act shall be construed to conflict with the requirements of the Americans with Disabilities Act of 1990 and its implementing regulations.

## TITLE IV—MOTOR CARRIER SAFETY

### SECTION 4001. SHORT TITLE.

This title may be cited as the "Motor Carrier Safety Reauthorization Act of 2005".

## Subtitle A—Commercial Motor Vehicle Safety

### SEC. 4101. AUTHORIZATION OF APPROPRIATIONS.

(a) Motor Carrier Safety Grants.—Section 31104(a) of title 49, United States Code, is amended to read as follows:

"(a) In General.—Subject to subsection (f), there are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 31102—

"(1) $188,480,000 for fiscal year 2005;

"(2) $188,000,000 for fiscal year 2006;

"(3) $197,000,000 for fiscal year 2007;

"(4) $202,000,000 for fiscal year 2008; and

"(5) $209,000,000 for fiscal year 2009.".

(b) Administrative Expenses.—Section 31104 of such title is amended by adding the following at the end:

"(i) Administrative Expenses.—

"(1) Authorization of Appropriations.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration—

"(A) $254,849,000 for fiscal year 2005;

"(B) $213,000,000 for fiscal year 2006;

"(C) $223,000,000 for fiscal year 2007;

"(D) $228,000,000 for fiscal year 2008; and

"(E) $234,000,000 for fiscal year 2009.

"(2) Use of Funds.—The funds authorized by this subsection shall be used for personnel costs; administrative infrastructure; rent; information technology; programs for research and technology, information management, regulatory development, the administration of the performance and registration information system management, and outreach and education; other operating expenses; and such other expenses as may from time to time become necessary to implement statutory mandates of the Administration not funded from other sources.

"(j) Availability of Funds; Contract Authority.—

"(1) Period of Availability.—The amounts made available under this section shall remain available until expended.

"(2) Initial Date of Availability.—Authorizations from the Highway Trust Fund (other than the Mass Transit Account) by this section shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

"(3) Contract Authority.—Approval by the Secretary of a grant with funds made available under this section imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.".

(c) Grant Programs.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) the following sums for the following Federal Motor Carrier Safety Administration programs:

(1) Commercial Driver's License Program Improvement Grants.—For commercial driver's license program improvement grants under section 31313 of title 49, United States Code $25,000,000 for each of fiscal years 2006 through 2009.

(2) Border Enforcement Grants.—For border enforcement grants under section 31107 of such title $32,000,000 for each of fiscal years 2006, 2007, 2008, and 2009.

(3) Performance and Registration Information System Management Grant Program.—For the performance and registration information system management grant program under section 31109 of such title $5,000,000 for each of fiscal years 2006, 2007, 2008, and 2009.

(4) Commercial Vehicle Information Systems and Networks Deployment.—For carrying out the commercial vehicle information systems and networks deployment program under section 4126 of this Act, $25,000,000 for each of fiscal years 2006 through 2009.

(5) Safety Data Improvement Grants.—For safety data improvement grants under section 4128 of this Act $2,000,000 for fiscal year 2006 and $3,000,000 for each of fiscal years 2007 through 2009.

(d) Period of Availability.—The amounts made available under subsection (b) of this section shall remain available until expended.

(e) Initial Date of Availability.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (b) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.

(f) Contract Authority.—Approval by the Secretary of a grant with funds made available under subsection (b) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.

### SEC. 4102. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS.

(a) Recordkeeping and Reporting Violations.—Section 521(b)(2)(B) of title 49, United States Code, is amended—

(1) in clause (i) by striking "$500" and inserting "$1,000"; and

(2) by striking "$5,000" each place it appears and inserting "$10,000".

(b) Violations of Out-of-Service Orders.—Section 31310(i)(2) of title 49, United States Code, is amended—

(1) by striking "Not later than December 18, 1992, the" and inserting "The";

(2) in subparagraph (A)—

(A) by striking "90 days" and inserting "180 days"; and

(B) by striking "$1,000" and inserting "$2,500";

(3) in subparagraph (B)—

(A) by striking "one year" and inserting "2 years"; and

(B) by striking "$1,000; and" and inserting "$5,000;";

(4) in subparagraph (C) by striking "$10,000." and inserting "$25,000; and"; and

(5) by adding at the end the following:

"(D) an employer that knowingly and willfully allows or requires an employee to operate *a commercial motor vehicle in violation of an out-of-service order shall, upon conviction, be subject for each offense to imprisonment for a term not to exceed one year or a fine under title 18, or both.".*

### *SEC. 4103. PENALTY FOR DENIAL OF ACCESS TO RECORDS.*

*Section 521(b) of title 49, United States Code, is amended—*

*(1) by striking "(b)(1)(A) If the Secretary" and inserting the following:*

*"(b) Violations Relating to Commercial Motor Vehicle Safety Regulation and Operators.—*

*"(1) Notice.—*

*"(A) In general.—If the Secretary"; and*

*(2) by adding at the end of paragraph (2) the following:*

*"(E) Copying of records and access to equipment, lands, and buildings.—A person subject to chapter 51 or a motor carrier, broker, freight forwarder, or owner or operator of a commercial motor vehicle subject to part B of subtitle VI who fails to allow promptly, upon demand, the Secretary (or an employee designated by the Secretary) to inspect and copy any record or inspect and examine equipment, lands, buildings and other property in accordance with sections 504(c), 5121(c), and 14122(b) shall be liable to the United States for a civil penalty not to exceed $1,000 for each offense. Each day the Secretary is denied the right to inspect and copy any record or inspect and examine equipment, lands, buildings and other property shall constitute a separate offense, except that the total of all civil penalties against any violator for all offenses related to a single violation shall not exceed $10,000. It shall be a defense to such penalty that the records did not exist at the time of the Secretary's request or could not be timely produced without unreasonable expense or effort. Nothing in this subparagraph amends or supersedes any remedy available to the Secretary under section 502(d), section 507(c), or any other provision of this title.".*

### *SEC. 4104. REVOCATION OF OPERATING AUTHORITY.*

*Section 13905(e) of title 49, United States Code, is amended—*

*(1) by striking paragraph (1) and inserting the following:*

*"(1) Protection of safety.—Notwithstanding subchapter II of chapter 5 of title 5, the Secretary—*

*"(A) may suspend the registration of a motor carrier, a freight forwarder, or a broker for failure to comply with requirements of the Secretary pursuant to section 13904(c) or 13906 or an order or regulation of the Secretary prescribed under those sections; and*

*"(B) shall revoke the registration of a motor carrier that has been prohibited from operating in interstate commerce for failure to comply with the safety fitness requirements of section 31144.";*

*(2) in paragraph (2) by striking "may suspend a registration" and inserting "shall revoke the registration"; and*

*(3) by striking paragraph (3) and inserting the following:*

*"(3) Notice; period of suspension.—The Secretary may suspend or revoke under this subsection the registration only after giving notice of the suspension or revocation to the registrant. A suspension remains in effect until the registrant complies with the applicable sections or, in the case of a suspension under paragraph (2), until the Secretary revokes the suspension.".*

### *SEC. 4105. STATE LAWS RELATING TO VEHICLE TOWING.*

*(a) State Laws Relating to Vehicle Towing.—Section 14501(c) of title 49, United States Code, is amended by adding at the end the following:*

*"(5) Limitation on statutory construction.—Nothing in this section shall be construed to prevent a State from requiring that, in the case of a motor vehicle to be towed from private property without the consent of the owner or operator of the vehicle, the person towing the vehicle have prior written authorization from the property owner or lessee (or an employee or agent thereof) or that such owner or lessee (or an employee or agent thereof) be present at the time the vehicle is towed from the property, or both.".*

*(b) Predatory Tow Truck Operations.—*

*(1) Study.—The Secretary shall conduct a study—*

*(A) to identify issues related to the protection of the rights of individuals whose motor vehicles are towed;*

*(B) to establish the scope and geographic reach of any issues so identified, and*

*(C) to identify potential remedies for those issues.*

*(2) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study.*

### *SEC. 4106. MOTOR CARRIER SAFETY GRANTS.*

*(a) State Plan Contents.—Section 31102(b)(1) of title 49, United States Code, is amended—*

*(1) by striking subparagraph (A) and inserting the following:*

*"(A) implements performance-based activities, including deployment of technology to enhance the efficiency and effectiveness of commercial motor vehicle safety programs;";*

*(2) by striking subparagraph (E) and inserting the following:*

*"(E) provides that the total expenditure of amounts of the State and its political subdivisions (not including amounts of the Government) for commercial motor vehicle safety programs for enforcement of commercial motor vehicle size and weight limitations, drug interdiction, and State traffic safety laws and regulations under subsection (c) of this section will be maintained at a level at least equal to the average level of that expenditure for the 3 full fiscal years beginning after October 1 of the year 5 years prior to the beginning of each Government fiscal year.";*

*(3) by striking subparagraph (Q) and inserting the following:*

*"(Q) provides that the State has established a program to ensure that—*

*"(i) accurate, complete, and timely motor carrier safety data is collected and reported to the Secretary; and*

*"(ii) the State will participate in a national motor carrier safety data correction system prescribed by the Secretary;";*

*(4) by aligning subparagraph (R) with subparagraph (S);*

*(5) by striking "and" at the end of subparagraph (S);*

*(6) by striking the period at the end of subparagraph (T) and inserting a semicolon; and*

*(7) by adding at the end the following:*

*"(U) provides that the State will include in the training manual for the licensing examination to drive a noncommercial motor vehicle and a commercial motor vehicle, information on best practices for driving safely in the vicinity of noncommercial and commercial motor vehicles;*

*"(V) provides that the State will enforce the registration requirements of section 13902 by prohibiting the operation of any vehicle discovered to be operated by a motor carrier without a registration issued under such section or to operate beyond the scope of such registration;*

*"(W) provides that the State will conduct comprehensive and highly visible traffic enforcement and commercial motor vehicle safety inspection programs in high-risk locations and corridors; and*

*"(X) except in the case of an imminent or obvious safety hazard, ensures that an inspection of a vehicle transporting passengers for a motor carrier of passengers is conducted at a station, terminal, border crossing, maintenance facility, destination, or other location where a motor carrier may make a planned stop.".*

*(b) Use of Grants to Enforce Other Laws.—Section 31102 of such title is amended—*

*(1) by striking subsection (c) and inserting the following:*

*"(c) Use of Grants to Enforce Other Laws.—A State may use amounts received under a grant under subsection (a)—*

*"(1) for the following activities if the activities are carried out in conjunction with an appropriate inspection of the commercial motor vehicle to enforce Government or State commercial motor vehicle safety regulations:*

*"(A) enforcement of commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at specific locations such as steep grades or mountainous terrains where the weight of a commercial motor vehicle can significantly affect the safe operation of the vehicle, or at ports where intermodal shipping containers enter and leave the United States; and*

*"(B) detection of the unlawful presence of a controlled substance (as defined under section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)) in a commercial motor vehicle or on the person of any occupant (including the operator) of the vehicle; and*

*"(2) for documented enforcement of State traffic laws and regulations designed to promote the safe operation of commercial motor vehicles, including documented enforcement of such laws and regulations relating to noncommercial motor vehicles when necessary to promote the safe operation of commercial motor vehicles if the number of motor carrier safety activities (including roadside safety inspections) conducted in the State is maintained at a level at least equal to the average level of such activities conducted in the State in fiscal years 2003, 2004, and 2005; except that the State may not use more than 5 percent of the basic amount the State receives under the grant under subsection (a) for enforcement activities relating to noncommercial motor vehicles described in this paragraph unless the Secretary determines a higher percentage will result in significant increases in commercial motor vehicle safety."; and*

*(2) by adding at the end the following:*

*"(e) Annual Report.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate an annual report that—*

*"(1) analyzes commercial motor vehicle safety trends among the States and documents the most effective commercial motor vehicle safety programs implemented with grants under this section; and*

*"(2) describes the effect of activities carried out with grants made under this section on commercial motor vehicle safety.".*

### *SEC. 4107. HIGH PRIORITY ACTIVITIES AND NEW ENTRANTS AUDITS.*

*(a) High Priority Activities.—Section 31104 of title 49, United States Code (as amended by section 4101 of this Act), is amended by adding at the end the following:*

*"(k) High-Priority Activities.—*

*"(1) Criteria.—The Secretary shall establish safety performance criteria to be used to distribute high priority program funds under this subsection.*

*"(2) SET ASIDE.—The Secretary may set aside from amounts made available by subsection (a) up to $15,000,000 for each of fiscal years 2006 through 2009 for States, local governments, and organizations representing government agencies or officials described in paragraph (3) for carrying out high priority activities and projects that improve commercial motor vehicle safety and compliance with commercial motor vehicle safety regulations (including activities and projects that are national in scope), increase public awareness and education, demonstrate new technologies, and reduce the number and rate of accidents involving commercial motor vehicles.*

*"(3) DESCRIPTION OF RECIPIENTS.—Amounts set aside under this subsection shall be allocated by the Secretary only to State agencies, local governments, and organizations representing government agencies or officials that use and train qualified officers and employees in coordination with State motor vehicle safety agencies.*

*"(4) LIMITATION.—At least 90 percent of the amounts set aside for a fiscal year under this subsection shall be awarded in grants to State agencies and local government agencies.".*

*(b) NEW ENTRANT AUDITS.—Section 31104 of such title is amended—*

*(1) by redesignating the second subsection as subsection (f); and*

*(2) by adding at the end of such subsection the following:*

*"(5) NEW ENTRANT AUDITS.—*

*"(A) GRANTS.—The Secretary may make grants to States and local governments for new entrant motor carrier audits under this subsection without requiring a matching contribution from such States and local governments.*

*"(B) SET ASIDE.—The Secretary shall set aside from amounts made available by section 31104(a) up to $29,000,000 per fiscal year for audits of new entrant motor carriers conducted pursuant to this paragraph.*

*"(C) DETERMINATION.—If the Secretary determines that a State or local government is not able to use government employees to conduct new entrant motor carrier audits, the Secretary may use the funds set aside under this paragraph to conduct audits for such States or local governments.".*

### ***SEC. 4108. DATA QUALITY IMPROVEMENT.***

*(a) IN GENERAL.—Section 31106(a)(3) of title 49, United States Code, is amended—*

*(1) by striking "and" at the end of subparagraph (D);*

*(2) by striking the period at the end of subparagraph (E) and inserting a semicolon; and*

*(3) by adding at the end the following:*

*"(F) ensure, to the maximum extent practical, all the data is complete, timely, and accurate across all information systems and initiatives; and*

*"(G) establish and implement a national motor carrier safety data correction system.".*

*(b) REPORT ON STATUS OF SAFETY FITNESS RATING SYSTEM REVISION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of revision of the safety fitness rating system of motor carriers.*

### ***SEC. 4109. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT.***

*(a) DESIGN AND CONDITIONS FOR PARTICIPATION.—Section 31106(b) of title 49, United States Code, is amended by striking paragraphs (2), (3), and (4) and inserting the following:*

*"(2) DESIGN.—The program shall link Federal motor carrier safety information systems with State commercial vehicle registration and licensing systems and shall be designed to enable a State to—*

*"(A) determine the safety fitness of a motor carrier or registrant when licensing or registering the registrant or motor carrier or while the license or registration is in effect; and*

*"(B) deny, suspend, or revoke the commercial motor vehicle registrations of a motor carrier or registrant that has been issued an operations out-of-service order by the Secretary.*

*"(3) CONDITIONS FOR PARTICIPATION.—The Secretary shall require States, as a condition of participation in the program, to—*

*"(A) comply with the uniform policies, procedures, and technical and operational standards prescribed by the Secretary under subsection (a)(4);*

*"(B) possess or seek the authority to possess for a time period no longer than determined reasonable by the Secretary, to impose sanctions relating to commercial motor vehicle registration on the basis of a Federal safety fitness determination; and*

*"(C) establish and implement a process to cancel the motor vehicle registration and seize the registration plates of a vehicle when an employer is found liable under section 31310(i)(2)(C) for knowingly allowing or requiring an employee to operate such a commercial motor vehicle in violation of an out-of-service order.*

*"(4) GRANTS.—From the funds authorized by section 31104(i), the Secretary may make a grant in a fiscal year to a State to implement the performance and registration information system management requirements of this subsection.".*

*(b) PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT GRANTS.—*

*(1) IN GENERAL.—Subchapter I of chapter 311 of title 49, United States,Code, is further amended by adding at the end the following:*

#### ***"§31109. Performance and registration information System management***

*"The Secretary of Transportation may make a grant to a State to implement the performance and registration information system management requirements of section 31106(b).".*

*(2) CONFORMING AMENDMENT.—The analysis for such subchapter is amended by adding at the end the following:*

*"31109. Performance and registration information system management.".*

### ***SEC. 4110. BORDER ENFORCEMENT GRANTS.***

*(a) IN GENERAL.—Chapter 311 of title 49, United States Code, is amended—*

*(1) by striking the heading for subchapter I and inserting the following:*

*"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS"; and*

*(2) by striking section 31107 and inserting the following:*

#### ***"§31107. Border enforcement grants***

*"(a) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant in a fiscal year to an entity or State that shares a land border with another country for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.*

*"(b) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this section only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years of the State or the Federal Government ending before October 1, 2005, whichever the State designates.*

*"(c) GOVERNMENTS SHARE OF COSTS.—The Secretary shall reimburse a State under a grant made under this section an amount that is not more than 100 percent of the costs incurred by the State in a fiscal year for carrying out border commercial motor vehicle safety programs and related enforcement activities and projects.*

*"(d) AVAILABILITY AND REALLOCATION OF AMOUNTS.—Allocations to a State remain available for expenditure in the State for the fiscal year in which they are allocated and for the next fiscal year. Amounts not expended by a State during those 2 fiscal years are available to the Secretary for reallocation under this section.".*

*(b) CLERICAL AMENDMENTS.—*

*(1) ITEM RELATING TO SUBCHAPTER I.—The analysis for such chapter is amended by striking the item relating to subchapter I and inserting the following:*

*"SUBCHAPTER I—GENERAL AUTHORITY AND STATE GRANTS".*

*(2) ITEM RELATING TO SECTION 31107.—The analysis for such chapter is amended by striking the item relating to section 31107 and inserting the following:*

*"31107. Border enforcement grants.".*

### ***SEC. 4111. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM.***

*(a) IN GENERAL.—Section 31108 of title 49, United States Code, is amended to read as follows:*

#### ***"§31108. Motor carrier research and technology program***

*"(a) RESEARCH, TECHNOLOGY, AND TECHNOLOGY TRANSFER ACTIVITIES.—*

*"(1) ESTABLISHMENT.—The Secretary of Transportation shall establish and carry out a motor carrier and motor coach research and technology program.*

*"(2) MULTIYEAR PLAN.—The program must include a multi-year research plan that focuses on nonredundant innovative research and shall be coordinated with other research programs or projects ongoing or planned within the Department of Transportation, as appropriate.*

*"(3) RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—The Secretary may carry out under the program research, development, technology, and technology transfer activities with respect to—*

*"(A) the causes of accidents, injuries, and fatalities involving commercial motor vehicles;*

*"(B) means of reducing the number and severity of accidents, injuries, and fatalities involving commercial motor vehicles;*

*"(C) improving the safety and efficiency of commercial motor vehicles through technological innovation and improvement;*

*"(D) improving technology used by enforcement officers when conducting roadside inspections and compliance reviews to increase efficiency and information transfers; and*

*"(E) increasing the safety and security of hazardous materials transportation.*

*"(4) TESTS AND DEVELOPMENT.—The Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process related to the research and technology program.*

*"(5) TRAINING.—The Secretary may use the funds made available to carry out this section for training or education of commercial motor vehicle safety personnel, including training in accident reconstruction and detection of controlled substances or other contraband and stolen cargo or vehicles.*

*"(6) PROCEDURES.—The Secretary may carry out this section—*

*"(A) independently;*

*"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or*

*"(C) by making grants to, or entering into contracts and cooperative agreements with, any*

*Federal laboratory, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or person.*

*"(7) Development and Promotion of Use of Products.—The Secretary shall use funds made available to carry out this section to develop, administer, communicate, and promote the use of products of research, technology, and technology transfer programs under this section.*

*"(b) Collaborative Research and Development.—*

*"(1) In General.—To advance innovative solutions to problems involving commercial motor vehicle and motor carrier safety, security, and efficiency, and to stimulate the deployment of emerging technology, the Secretary may carry out, on a cost-shared basis, collaborative research and development with—*

*"(A) non-Federal entities, including State and local governments, foreign governments, colleges and universities, corporations, institutions, partnerships, and sole proprietorships that are incorporated or established under the laws of any State; and*

*"(B) Federal laboratories.*

*"(2) Cooperative Agreements.—In carrying out this subsection, the Secretary may enter into cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)).*

*"(3) Cost Sharing.—*

*"(A) Federal Share.—The Federal share of the cost of activities carried out under a cooperative research and development agreement entered into under this subsection shall not exceed 50 percent; except that, if there is substantial public interest or benefit associated with any such activity, the Secretary may approve a greater Federal share.*

*"(B) Treatment of Directly Incurred Non-Federal Costs.—All costs directly incurred by the non-Federal partners, including personnel, travel, and hardware or software development costs, shall be credited toward the non-Federal share of the cost of the activities described in subparagraph (A).*

*"(4) Use of Technology.—The research, development, or use of a technology under a cooperative research and development agreement entered into under this subsection, including the terms under which the technology may be licensed and the resulting royalties may be distributed, shall be subject to the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.).".*

*(b) Clerical Amendment.—The analysis for chapter 311 of such title is amended by striking the item relating to section 31108 and inserting the following:*

*"31108. Motor carrier research and technology program.".*

### SEC. 4112. NEBRASKA CUSTOM HARVESTERS LENGTH EXEMPTION.

*(a) In General.—Section 31112(c) of title 49, United States Code, is amended by adding at the end the following:*

*"(5) Nebraska may allow the operation of a truck tractor and 2 trailers or semitrailers not in actual lawful operation on a regular or periodic basis on June 1, 1991, if the length of the property-carrying units does not exceed 81 feet 6 inches and such combination is used only to transport equipment utilized by custom harvesters under contract to agricultural producers to harvest one or more of wheat, soybeans, and milo during the harvest months for such crops, as defined by the State of Nebraska.".*

*(b) Conforming Amendment.—Such section 31112(c) is amended by striking the subsection designation and heading and inserting the following:*

*"(c) Special Rules for Wyoming, Ohio, Alaska, Iowa, and Nebraska.—".*

### SEC. 4113. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER MANAGEMENT.

*(a) Duties of Employers and Employees.—Section 31135 of title 49, United States Code, is amended—*

*(1) by inserting "(a) In General.—" before "Each"; and*

*(2) by adding at the end the following:*

*"(b) Pattern of Noncompliance.—If the Secretary finds that an officer of a motor carrier engages or has engaged in a pattern or practice of avoiding compliance, or masking or otherwise concealing noncompliance, with regulations on commercial motor vehicle safety prescribed under this subchapter, while serving as an officer of any motor carrier, the Secretary may suspend, amend, or revoke any part of the motor carrier's registration under section 13905.*

*"(c) Regulations.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall by regulation establish standards to implement subsection (b).*

*"(d) Definitions.—In this section, the following definitions apply:*

*"(1) Motor Carrier.—The term 'motor carrier' has the meaning such term has under section 13102.*

*"(2) Officer.—The term 'officer' means an owner, director, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor, and driver supervisor of a motor carrier, regardless of the title attached to those functions, and any person, however designated, exercising controlling influence over the operations of a motor carrier.".*

*(b) Cross Reference.—Section 13902(a)(1)(B) of such title is amended to read as follows:*

*"(B)(i) any safety regulations imposed by the Secretary;*

*"(ii) the duties of employers and employees established by the Secretary under section 31135; and*

*"(iii) the safety fitness requirements established by the Secretary under section 31144; and".*

### SEC. 4114. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS.

*(a) In General.—Section 31144(a) of title 49, United States Code, is amended to read as follows:*

*"(a) In General.—The Secretary shall—*

*"(1) determine whether an owner or operator is fit to operate safely commercial motor vehicles, utilizing among other things the accident record of an owner or operator operating in interstate commerce and the accident record and safety inspection record of such owner or operator—*

*"(A) in operations that affect interstate commerce within the United States; and*

*"(B) in operations in Canada and Mexico if the owner or operator also conducts operations within the United States;*

*"(2) periodically update such safety fitness determinations;*

*"(3) make such final safety fitness determinations readily available to the public; and*

*"(4) prescribe by regulation penalties for violations of this section consistent with section 521.".*

*(b) Prohibited Transportation.—The first subsection (c) of section 31144 of such title is amended by adding at the end the following:*

*"(5) Transportation Affecting Interstate Commerce.—Owners or operators of commercial motor vehicles prohibited from operating in interstate commerce pursuant to paragraphs (1) through (3) of this section may not operate any commercial motor vehicle that affects interstate commerce until the Secretary determines that such owner or operator is fit.".*

*(c) Determination of Unfitness by State.—Section 31144 of such title is amended—*

*(1) by redesignating subsections (d), (e), and the second subsection (c) as subsections (e), (f), and (g), respectively; and*

*(2) by inserting after subsection (c) the following:*

*"(d) Determination of Unfitness by State.—If a State that receives motor carrier safety assistance program funds under section 31102 determines, by applying the standards prescribed by the Secretary under subsection (b), that an owner or operator of a commercial motor vehicle that has its principal place of business in that State and operates in intrastate commerce is unfit under such standards and prohibits the owner or operator from operating such vehicle in the State, the Secretary shall prohibit the owner or operator from operating such vehicle in interstate commerce until the State determines that the owner or operator is fit.".*

### SEC. 4115. TRANSFER PROVISION.

*(a) In General.—Title II of the Motor Carrier Safety Improvement Act of 1999 (113 Stat. 1748–1773) is amended by inserting after section 228—*

*(1) the following:*

***"SEC. 229. CERTAIN EXEMPTIONS."****; and*

*(2) the text of section 345 of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note).*

*(b) Clerical Amendment.—The table of contents for such Act is amended by inserting after the item relating to section 228 the following:*

*"Sec. 229. Certain exemptions.".*

*(c) Conforming Amendment.—Section 229 of such Act (as added by this section) is amended by striking subsection (f).*

*(d) Conforming Repeal.—Section 345 of the National Highway System Designation Act of 1995 (49 U.S.C. 31136 note; 109 Stat. 613) is repealed.*

### SEC. 4116. MEDICAL PROGRAM.

*(a) In General.—Subchapter III of chapter 311 of title 49, United States Code, is amended by adding at the end the following:*

***"§ 31149. Medical program***

*"(a) Medical Review Board.—*

*"(1) Establishment and Function.—The Secretary of Transportation shall establish a Medical Review Board to provide the Federal Motor Carrier Safety Administration with medical advice and recommendations on medical standards and guidelines for the physical qualifications of operators of commercial motor vehicles, medical examiner education, and medical research.*

*"(2) Composition.—The Medical Review Board shall be appointed by the Secretary and shall consist of 5 members selected from medical institutions and private practice. The membership shall reflect expertise in a variety of medical specialties relevant to the driver fitness requirements of the Federal Motor Carrier Safety Administration.*

*"(b) Chief Medical Examiner.—The Secretary shall appoint a chief medical examiner who shall be an employee of the Federal Motor Carrier Safety Administration and who shall hold a position under section 3104 of title 5, United States Code, relating to employment of specially qualified scientific and professional personnel, and shall be paid under section 5376 of title 5, United States Code, relating to pay for certain senior-level positions.*

*"(c) Medical Standards and Requirements.—*

*"(1) In General.—The Secretary, with the advice of the Medical Review Board and the chief medical examiner, shall—*

*"(A) establish, review, and revise—*

*"(i) medical standards for operators of commercial motor vehicles that will ensure that the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely;*

*"(ii) requirements for periodic physical examinations of such operators performed by medical examiners who have, at a minimum, self-certified that they have completed training in physical and medical examination standards and are listed on a national registry maintained by the Department of Transportation; and*

*"(B) require each such operator to have a current valid medical certificate;*

*"(C) conduct periodic reviews of a select number of medical examiners on the national registry to ensure that proper examinations of such operators are being conducted;*

*"(D) develop, as appropriate, specific courses and materials for medical examiners listed in the national registry established under this section, and require those medical examiners to, at a minimum, self-certify that they have completed specific training, including refresher courses, to be listed in the registry;*

*"(E) require medical examiners to transmit the name of the applicant and numerical identifier, as determined by the Administrator of the Federal Motor Carrier Safety Administration, for any completed medical examination report required under section 391.43 of title 49, Code of Federal Regulations, electronically to the chief medical examiner on monthly basis; and*

*"(F) periodically review a representative sample of the medical examination reports associated with the name and numerical identifiers of applicants transmitted under subparagraph (E) for errors, omissions, or other indications of improper certification.*

*"(2) MONITORING PERFORMANCE.—The Secretary shall investigate patterns of errors or improper certification by a medical examiner. If the Secretary finds that a medical examiner has issued a medical certificate to an operator of a commercial motor vehicle who fails to meet the applicable standards at the time of the examination or that a medical examiner has falsely claimed to have completed training in physical and medical examination standards as required by this section, the Secretary may remove such medical examiner from the registry and may void the medical certificate of the applicant or holder.*

*"(d) NATIONAL REGISTRY OF MEDICAL EXAMINERS.—The Secretary, acting through the Federal Motor Carrier Safety Administration—*

*"(1) shall establish and maintain a current national registry of medical examiners who are qualified to perform examinations and issue medical certificates;*

*"(2) shall remove from the registry the name of any medical examiner that fails to meet or maintain the qualifications established by the Secretary for being listed in the registry or otherwise does not meet the requirements of this section or regulation issued under this section;*

*"(3) shall accept as valid only medical certificates issued by persons on the national registry of medical examiners; and*

*"(4) may make participation of medical examiners in the national registry voluntary if such a change will enhance the safety of operators of commercial motor vehicles.*

*"(e) REGULATIONS.—The Secretary such regulations as may be necessary to carry out this section.".*

*(b) MEDICAL EXAMINERS.—Section 31136(a)(3) of such title is amended to read as follows:*

*"(3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely and the periodic physical examinations required of such operators are performed by medical examiners who have received training in physical and medical examination standards and, after the national registry maintained by the Department of Transportation under section 31149(d) is established, are listed on such registry; and".*

*(c) DEFINITION OF MEDICAL EXAMINER.—Section 31132 of such title is amended—*

*(1) by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively; and*

*(2) by inserting after paragraph (5) the following:*

*"(6) 'medical examiner' means an individual licensed, certified, or registered in accordance with regulations issued by the Federal Motor Carrier Safety Administration as a medical examiner.".*

*(d) FUNDING.—Amounts made available pursuant to section 31104(i) of title 49, United States Code, shall be used by the Secretary to carry out section 31149 of title 49, United States Code.*

*(e) CLERICAL AMENDMENT.—The analysis for such subchapter is amended by inserting after the item relating to section 31148 the following:*

*"31149. Medical program.".*

*(f) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 365th day following the date of enactment of this Act.*

### SEC. 4117. SAFETY PERFORMANCE HISTORY SCREENING.

*(a) IN GENERAL.—Subchapter III of chapter 311 of title 49, United States Code (as amended by section 4116 of this Act), is amended by adding at the end the following:*

***"§31150. Safety performance history screening***

*"(a) IN GENERAL.—The Secretary of Transportation shall provide persons conducting preemployment screening services for the motor carrier industry electronic access to the following reports contained in the Motor Carrier Management Information System:*

*"(1) Commercial motor vehicle accident reports.*

*"(2) Inspection reports that contain no driver-related safety violations.*

*"(3) Serious driver-related safety violation inspection reports.*

*"(b) CONDITIONS ON PROVIDING ACCESS.—Before providing a person access to the Motor Carrier Management Information System under subsection (a), the Secretary shall—*

*"(1) ensure that any information that is released to such person will be in accordance with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and all other applicable Federal law;*

*"(2) ensure that such person will not conduct a screening without the operator-applicant's written consent;*

*"(3) ensure that any information that is released to such person will not be released to any person or entity, other than the motor carrier requesting the screening services or the operator-applicant, unless expressly authorized or required by law; and*

*"(4) provide a procedure for the operator-applicant to correct inaccurate information in the System in a timely manner.*

*"(c) DESIGN.—The process for providing access to the Motor Carrier Management Information System under subsection (a) shall be designed to assist the motor carrier industry in assessing an individual operator's crash and serious safety violation inspection history as a preemployment condition. Use of the process shall not be mandatory and may only be used during the preemployment assessment of an operator-applicant.*

*"(d) SERIOUS DRIVER-RELATED SAFETY VIOLATION DEFINED.—In this section, the term 'serious driver-related violation' means a violation by an operator of a commercial motor vehicle that the Secretary determines will result in the operator being prohibited from continuing to operate a commercial motor vehicle until the violation is corrected.".*

*(b) CLERICAL AMENDMENT.—The analysis for such subchapter (as amended by section 4116 of this Act) is amended by adding at the end the following:*

*"31150. Safety performance history screening.".*

### SEC. 4118. ROADABILITY.

*(a) IN GENERAL.—Subchapter III of chapter 311 of title 49, United States Code (as amended by sections 4116 and 4117 of this Act) is amended by adding at the end the following:*

***"§31151. Roadability***

*"(a) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—*

*"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation, after providing notice and opportunity for comment, shall issue regulations establishing a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained.*

*"(2) INTERMODAL EQUIPMENT SAFETY REGULATIONS.—The Secretary shall issue the regulations under this section as a subpart of the Federal motor carry safety regulations.*

*"(3) CONTENTS.—The regulations issued under this section shall include, at a minimum—*

*"(A) a requirement to identify intermodal equipment providers responsible for the inspection and maintenance of intermodal equipment that is interchanged or intended for interchange to motor carriers in intermodal transportation;*

*"(B) a requirement to match intermodal equipment readily to an intermodal equipment provider through a unique identifying number;*

*"(C) a requirement that an intermodal equipment provider identified under subparagraph (A) systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, intermodal equipment described in subparagraph (A) that is intended for interchange with a motor carrier;*

*"(D) a requirement to ensure that each intermodal equipment provider identified under subparagraph (A) maintains a system of maintenance and repair records for such equipment;*

*"(E) requirements that—*

*"(i) a specific list of intermodal equipment components or items be identified for the visual or audible inspection of which a driver is responsible before operating the equipment over the road; and*

*"(ii) the inspection under clause (i) be conducted as part of the Federal requirement in effect on the date of enactment of this Act that a driver be satisfied that the intermodal equipment components are in good working order before the equipment is operated over the road;*

*"(F) a requirement that a facility at which an intermodal equipment provider regularly makes intermodal equipment available for interchange have an operational process and space readily available for a motor carrier to have an equipment defect identified pursuant to subparagraph (E) repaired or the equipment replaced prior to departure;*

*"(G) a program for the evaluation and audit of compliance by intermodal equipment providers with applicable Federal motor carrier safety regulations;*

*"(H) a civil penalty structure consistent with section 521(b) of title 49, United States Code, for intermodal equipment providers that fail to attain satisfactory compliance with applicable Federal motor carrier safety regulations; and*

*"(I) a prohibition on intermodal equipment providers from placing intermodal equipment in service on the public highways to the extent such providers or their equipment are found to pose an imminent hazard;*

*"(J) a process by which motor carriers and agents of motor carriers shall be able to request the Federal Motor Carrier Safety Administration to undertake an investigation of an intermodal equipment provider identified under subparagraph (A) that is alleged to be not in compliance with the regulations under this section;*

*"(K) a process by which equipment providers and agents of equipment providers shall be able*

*to request the Administration to undertake an investigation of a motor carrier that is alleged to be not in compliance with the regulations issued under this section;*

*"(L) a process by which a driver or motor carrier transporting intermodal equipment is required to report to the intermodal equipment provider or the provider's designated agent any actual damage or defect in the intermodal equipment of which the driver or motor carrier is aware at the time the intermodal equipment is returned to the intermodal equipment provider or the provider's designated agent;*

*"(M) a requirement that any actual damage or defect identified in the process established under subparagraph (L) be repaired before the equipment is made available for interchange to a motor carrier and that repairs of equipment made pursuant to the requirements of this subparagraph and reports made pursuant to the subparagraph (L) process be documented in the maintenance records for such equipment; and*

*"(N) a procedure under which motor carriers, drivers and intermodal equipment providers may seek correction of their motor carrier safety records through the deletion from those records of violations of safety regulations attributable to deficiencies in the intermodal chassis or trailer for which they should not have been held responsible.*

*"(4) DEADLINE FOR RULEMAKING PROCEEDING.—Not later than 120 days after the date of enactment of this section, the Secretary shall initiate a rulemaking proceeding for issuance of the regulations under this section.*

*"(b) INSPECTION, REPAIR, AND MAINTENANCE OF INTERMODAL EQUIPMENT.—The Secretary or an employee of the Department of Transportation designated by the Secretary may inspect intermodal equipment, and copy related maintenance and repair records for such equipment, on demand and display of proper credentials.*

*"(c) OUT-OF-SERVICE UNTIL REPAIR.—Any intermodal equipment that is determined under this section to fail to comply with applicable Federal safety regulations may be placed out of service by the Secretary or a Federal, State, or government official designated by the Secretary and may not be used on a public highway until the repairs necessary to bring such equipment into compliance have been completed. Repairs of equipment taken out of service shall be documented in the maintenance records for such equipment.*

*"(d) PREEMPTION GENERALLY.—Except as provided in subsection (e), a law, regulation, order, or other requirement of a State, a political subdivision of a State, or a tribal organization relating to commercial motor vehicle safety is preempted if such law, regulation, order, or other requirement exceeds or is inconsistent with a requirement imposed under or pursuant to this section.*

*"(e) PRE-EXISTING STATE REQUIREMENTS.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2), a State requirement for the periodic inspection of intermodal chassis by intermodal equipment providers that was in effect on January 1, 2005, shall remain in effect only until the date on which requirements prescribed under this section take effect.*

*"(2) NONPREEMPTION DETERMINATIONS.—*

*"(A) IN GENERAL.—Notwithstanding subsection (d), a State requirement described in paragraph (1) is not preempted by a Federal requirement prescribed under this section if the Secretary determines that the State requirement is as effective as the Federal requirement and does not unduly burden interstate commerce.*

*"(B) APPLICATION REQUIRED.—Subparagraph (A) applies to a State requirement only if the State applies to the Secretary for a determination under this paragraph with respect to the requirement before the date on which the regulations issued under this section take effect. The Secretary shall make a determination with respect to any such application within 6 months after the date on which the Secretary receives the application.*

*"(C) AMENDED STATE REQUIREMENTS.—Any amendment to a State requirement not preempted under this subsection because of a determination by the Secretary under subparagraph (A) may not take effect unless—*

*"(i) it is submitted to the Secretary before the effective date of the amendment; and*

*"(ii) the Secretary determines that the amendment would not cause the State requirement to be less effective than the Federal requirement and would not unduly burden interstate commerce.*

*"(f) DEFINITIONS.—In this section, the following definitions apply:*

*"(1) INTERMODAL EQUIPMENT.—The term 'intermodal equipment' means trailing equipment that is used in the intermodal transportation of containers over public highways in interstate commerce, including trailers and chassis.*

*"(2) INTERMODAL EQUIPMENT INTERCHANGE AGREEMENT.—The term 'intermodal equipment interchange agreement' means the Uniform Intermodal Interchange and Facilities Access Agreement or any other written document executed by an intermodal equipment provider or its agent and a motor carrier or its agent, the primary purpose of which is to establish the responsibilities and liabilities of both parties with respect to the interchange of the intermodal equipment.*

*"(3) INTERMODAL EQUIPMENT PROVIDER.—The term 'intermodal equipment provider' means any person that interchanges intermodal equipment with a motor carrier pursuant to a written interchange agreement or has a contractual responsibility for the maintenance of the intermodal equipment.*

*"(4) INTERCHANGE.—The term 'interchange'—*

*"(A) means the act of providing intermodal equipment to a motor carrier pursuant to an intermodal equipment interchange agreement for the purpose of transporting the equipment for loading or unloading by any person or repositioning the equipment for the benefit of the equipment provider; but*

*"(B) does not include the leasing of equipment to a motor carrier for primary use in the motor carrier's freight hauling operations.".*

*(b) CLERICAL AMENDMENT.—The analysis for such subchapter (as amended by sections 4116 and 4117 of this Act) is amended by adding at the end the following:*

*"31151. Roadability.".*

### *SEC. 4119. INTERNATIONAL COOPERATION.*

*(a) IN GENERAL.—Chapter 311 of title 49, United States Code, is amended by adding at the end the following:*

*"SUBCHAPTER IV—MISCELLANEOUS*

***"§ 31161. International cooperation***

*"The Secretary of Transportation is authorized to use funds made available by section 31104(i) to participate and cooperate in international activities to enhance motor carrier, commercial motor vehicle, driver, and highway safety by such means as exchanging information, conducting research, and examining needs, best practices, and new technology.".*

*(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by adding at the end the following:*

*"SUBCHAPTER IV—MISCELLANEOUS*

*"31161. International cooperation.".*

### *SEC. 4120. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR CARRIERS.*

*(a) TRANSPORTATION OF PASSENGERS.—*

*(1) GENERAL REQUIREMENT.—Section 31138(a) of title 49, United States Code, is amended—*

*(A) by striking "for compensation"; and*

*(B) by inserting "commercial" before "motor vehicle".*

*(2) OTHER PERSONS.—Section 31138(c) of such title is amended by adding at the end the following:*

*"(4) OTHER PERSONS.—The Secretary may require a person, other than a motor carrier (as defined in section 13102), transporting passengers by commercial motor vehicle to file with the Secretary the evidence of financial responsibility specified in subsection (c)(1) in an amount not less than the greater of the amount required by subsection (b)(1) or the amount required for such person to transport passengers under the laws of the State or States in which the person is operating; except that the amount of the financial responsibility must be sufficient to pay not more than the amount of the financial responsibility for each final judgment against the person for bodily injury to, or death of, an individual resulting from the negligent operation, maintenance, or use of the commercial motor vehicle, or for loss or damage to property, or both.".*

*(b) TRANSPORTATION OF PROPERTY.—Section 31139 of such title is amended—*

*(1) in subsection (b)(1)—*

*(A) by striking "for compensation"; and*

*(B) by inserting "commercial" before "motor vehicle";*

*(2) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively; and*

*(3) by inserting after subsection (b) the following:*

*"(c) FILING OF EVIDENCE OF FINANCIAL RESPONSIBILITY.—The Secretary may require a motor private carrier (as defined in section 13102) to file with the Secretary the evidence of financial responsibility specified in subsection (b) in an amount not less than the greater of the minimum amount required by this section or the amount required for such motor private carrier to transport property under the laws of the State or States in which the motor private carrier is operating; except that the amount of the financial responsibility must be sufficient to pay not more than the amount of the financial responsibility for each final judgment against the motor private carrier for bodily injury to, or death of, an individual resulting from negligent operation, maintenance, or use of the commercial motor vehicle, or for loss or damage to property, or both.".*

### *SEC. 4121. DEPOSIT OF CERTAIN CIVIL PENALTIES INTO HIGHWAY TRUST FUND.*

*Sections 31138(d)(5) and 31139(f)(5) of title 49, United States Code, are each amended by striking "Treasury as miscellaneous receipts" and inserting "Highway Trust Fund (other than the Mass Transit Account)".*

### *SEC. 4122. CDL LEARNER'S PERMIT PROGRAM.*

*Chapter 313 of title 49, United States Code, is amended—*

*(1) in section 31302 by inserting "and may have only 1 learner's permit at any time" after "time";*

*(2) in section 31308—*

*(A) by inserting after "license" the first place it appears "and learner's permits" ;*

*(B) by striking "licenses." and inserting "licenses and permits.";*

*(C) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and*

*(D) by inserting after paragraph (1) the following:*

*"(2) before a commercial driver's license learner's permit may be issued to an individual, the individual must pass a written test, that complies with the minimum standards prescribed by the Secretary under section 31305(a), on the operation of the commercial motor vehicle that the individual will be operating under the permit;"; and*

*(E) in paragraphs (3) and (4) of section 31308 (as so redesignated) and in section 31309 (b) by inserting after "license" each place it appears "or learner's permit".*

### SEC. 4123. COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM MODERNIZATION.

*(a) MODERNIZATION PLAN.—Section 31309 of title 49, United States Code, is amended by adding at the end the following:*

*"(e) MODERNIZATION PLAN.—*

*"(1) IN GENERAL.—Not later than 120 days after the date of enactment of this subsection, the Secretary shall develop and publish a comprehensive national plan to modernize the information system under this section that—*

*"(A) complies with applicable Federal information technology security standards;*

*"(B) provides for the electronic exchange of all information including the posting of convictions;*

*"(C) contains self auditing features to ensure that data is being posted correctly and consistently by the States;*

*"(D) integrates the commercial driver's license and the medical certificate; and*

*"(E) provides a schedule for modernization of the system.*

*"(2) CONSULTATION.—The plan shall be developed in consultation with representatives of the motor carrier industry, State safety enforcement agencies, and State licensing agencies designated by the Secretary.*

*"(3) STATE FUNDING OF FUTURE EFFORTS.—The plan shall specify that States will fund future efforts to modernize the commercial driver's information system.*

*"(4) DEADLINE FOR STATE PARTICIPATION.—*

*"(A) IN GENERAL.—The Secretary shall establish in the plan a date by which all States must be operating commercial driver's license information systems that are compatible with the modernized information system under this section.*

*"(B) FACTORS TO CONSIDER.—In establishing the date under subparagraph (A), the Secretary shall consider the following:*

*"(i) Availability and cost of technology and equipment needed to comply with subparagraph (A).*

*"(ii) Time necessary to install, and test the operation of, such technology and equipment.*

*"(5) IMPLEMENTATION.—The Secretary shall implement the plan developed under subsection (a) and modernize the information system under this section to meet the requirements of the plan.*

*"(f) FUNDING.—At the Secretary's discretion, a State may use the funds made available to the State under section 31318 to modernize its commercial driver's license information system to be compatible with the modernized information system under this section.".*

*(b) STATE PARTICIPATIONS.—Section 31311(a) of such title is amended—*

*(1) in paragraph (15) by striking "(g)(1)(A), and (g)(2)" and inserting "(i)(1)(A) and (i)(2)";*

*(2) in paragraph (17) by striking "section 31310(h)" and inserting "as 31310(j)"; and*

*(3) by adding at the end the following:*

*"(21) By the date established by the Secretary under section 31309(e)(4), the State shall be operating a commercial driver's license information system that is compatible with the modernized commercial driver's license information system under section 31309.".*

*(c) GRANTS.—*

*(1) IN GENERAL.—The Secretary may make a grant to a State or organization representing agencies and officials of a State in a fiscal year to modernize the commercial driver's license information system of the State to be compatible with the modernized commercial driver's license information system under section 31309 of title 49, United States Code, if the State is in substantial compliance with the requirements of section 31311 of such title and this section, as determined by the Secretary.*

*(2) CRITERIA.—The Secretary shall establish criteria for the distribution of grants and notify each State annually of such criteria.*

*(3) USE OF GRANT.—A State may use a grant under this subsection only to implement improvements that are consistent with the modernization plan developed by the Secretary.*

*(4) GOVERNMENT SHARE.—A grant under this subsection to a State or organization may not be for more than 80 percent of the costs incurred by the State or organization in a fiscal year in modernizing the commercial driver's license information system of the State to be compatible with the modernized commercial driver's license information system under section 31309 of title 49, United States Code. In determining these costs, the Secretary shall include in-kind contributions of the State.*

*(d) FUNDING.—There are authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out this section—*

*(1) $5,000,000 for fiscal year 2006;*

*(2) $7,000,000 for fiscal year 2007;*

*(3) $8,000,000 for fiscal year 2008; and*

*(4) $8,000,000 for fiscal year 2009.*

*(e) CONTRACT AUTHORITY AND AVAILABILITY.—*

*(1) PERIOD OF AVAILABILITY.—The amounts made available under subsection (d) shall remain available until expended.*

*(2) INITIAL DATE OF AVAILABILITY.—Amounts authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) by subsection (d) shall be available for obligation on the date of their apportionment or allocation or on October 1 of the fiscal year for which they are authorized, whichever occurs first.*

*(3) CONTRACT AUTHORITY.—Approval by the Secretary of a grant with funds made available under subsection (d) imposes upon the United States a contractual obligation for payment of the Government's share of costs incurred in carrying out the objectives of the grant.*

*(f) BASELINE AUDIT.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Inspector General of the Department of Transportation, shall perform a baseline audit of the information system maintained under section 31309 of title 49, United States Code. The audit shall include—*

*(1) an assessment of the validity of data in the information system on a State-by-State basis;*

*(2) an assessment of the extent to which convictions are validly posted on a driver's record;*

*(3) recommendations to the Secretary on how to update the baseline audit annually to ensure that any shortcomings in the information system are addressed, and a methodology for conducting the update;*

*(4) identification, on a State-by-State basis, of any actions that the Inspector General finds necessary to improve the integrity of data collected by the system and to ensure the proper posting of convictions; and*

*(5) an analysis of amounts and use of the revenues derived from fees charged for use of the commercial driver's license information system.*

### SEC. 4124. COMMERCIAL DRIVER'S LICENSE IMPROVEMENTS.

*(a) STATE GRANTS.—Chapter 313 of title 49, United States Code, is amended by inserting after section 31312 the following:*

### "§31313. Grants for commercial driver's license program improvements

*"(a) GRANTS FOR COMMERCIAL DRIVER'S LICENSE PROGRAM IMPROVEMENTS.—*

*"(1) GENERAL AUTHORITY.—The Secretary of Transportation may make a grant to a State in a fiscal year—*

*"(A) to comply with the requirements of section 31311; and*

*"(B) in the case of a State that is making a good faith effort toward substantial compliance with the requirements of section 31311 and this section, to improve its implementation of its commercial driver's license program.*

*"(2) PURPOSES FOR WHICH GRANTS MAY BE USED.—*

*"(A) IN GENERAL.—A State may use grants under paragraphs (1)(A) and (1)(B) only for expenses directly related to its compliance with section 31311; except that a grant under paragraph (1)(B) may be used for improving implementation of the State's commercial driver's license program, including expenses for computer hardware and software, publications, testing, personnel, training, and quality control. The grant may not be used to rent, lease, or buy land or buildings.*

*"(B) PRIORITY.—In making grants under paragraph (1)(B), the Secretary shall give priority to States that will use such grants to achieve compliance with the requirements of the Motor Carrier Safety Improvement Act of 1999, including the amendments made by such Act.*

*"(3) APPLICATION.—In order to receive a grant under this section, a State shall submit an application for such grant that is in such form, and contains such information, as the Secretary may require. The application shall include the State's assessment of its commercial drivers license program.*

*"(4) MAINTENANCE OF EXPENDITURES.—The Secretary may make a grant to a State under this subsection only if the State agrees that the total expenditure of amounts of the State and political subdivisions of the State, exclusive of amounts from the United States, for the State's commercial driver's license program will be maintained at a level at least equal to the average level of that expenditure by the State and political subdivisions of the State for the last 2 fiscal years of the State ending before the date of enactment of the this section.*

*"(5) GOVERNMENT SHARE.—The Secretary shall reimburse a State under a grant made under this subsection an amount that is not more than 100 percent of the costs incurred by the State in a fiscal year in complying with section 31311 and improving its implementation of its commercial driver's license program. In determining such costs, the Secretary shall include in-kind contributions by the State. Amounts required to be expended by the State under paragraph (4) may not be included as part of the non-Federal share of such costs.*

*"(b) HIGH-PRIORITY ACTIVITIES.—*

*"(1) GRANTS FOR NATIONAL CONCERNS.—The Secretary may make a grant to a State agency, local government, or other person for 100 percent of the costs of research, development, demonstration projects, public education, and other special activities and projects relating to commercial driver licensing and motor vehicle safety that are of benefit to all jurisdictions of the United States or are designed to address national safety concerns and circumstances.*

*"(2) FUNDING.—The Secretary may deduct up to 10 percent of the amounts made available to carry out this section for a fiscal year to make grants under this subsection.*

*"(c) EMERGING ISSUES.—The Secretary may designate up to 10 percent of the amounts made available to carry out this section for a fiscal year for allocation to a State agency, local government, or other person at the discretion of the Secretary to address emerging issues relating to commercial driver's license improvements.*

*"(d) APPORTIONMENT.—Except as otherwise provided in subsection (c), all amounts made available to carry out this section for a fiscal year shall be apportioned to States according to criteria prescribed by the Secretary.".*

*(b) Clerical Amendment.—The analysis for such chapter is amended by inserting after the item relating to section 31312 the following:*

*"31313. Grants for commercial driver's license program improvements.".*

*(c) Amounts Withheld.—Subsections (a) and (b) of section 31314 of such title are each amended by inserting "up to" after "withhold".*

### *SEC. 4125. HOBBS ACT.*

*(a) Jurisdiction of Court of Appeals Over Commercial Motor Vehicle Safety Regulation and Operators and Motor Carrier Safety.—Section 2342(3)(A) of title 28, United States Code, is amended by inserting before "of title 49" the following: ", subchapter III of chapter 311, chapter 313, or chapter 315".*

*(b) Judicial Review.—Section 351(a) of title 49, United States Code, is amended by striking "Federal Highway Administration" and inserting "Federal Motor Carrier Safety Administration".*

*(c) Authority to Carry Out Certain Transferred Duties and Powers.—Section 352 of title 49, United States Code, is amended by striking "Federal Highway Administration" and inserting "Federal Motor Carrier Safety Administration".*

### *SEC. 4126. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT.*

*(a) In General.—The Secretary shall carry out a commercial vehicle information systems and networks program to—*

*(1) improve the safety and productivity of commercial vehicles and drivers; and*

*(2) reduce costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements.*

*(b) Purpose.—The program shall advance the technological capability and promote the deployment of intelligent transportation system applications for commercial vehicle operations, including commercial vehicle, commercial driver, and carrier-specific information systems and networks.*

*(c) Core Deployment Grants.—*

*(1) In general.—The Secretary shall make grants to eligible States for the core deployment of commercial vehicle information systems and networks.*

*(2) Amount of grants.—The maximum aggregate amount the Secretary may grant to a State for the core deployment of commercial vehicle information systems and networks under this subsection and sections 5001(a)(5) and 5001(a)(6) of the Transportation Equity Act for the 21st Century (112 Stat. 420) may not exceed $2,500,000.*

*(3) Use of funds.—Funds from a grant under this subsection may only be used for the core deployment of commercial vehicle information systems and networks. An eligible State that has either completed the core deployment of commercial vehicle information systems and networks or completed such deployment before grant funds are expended under this subsection may use the grant funds for the expanded deployment of commercial vehicle information systems and networks in the State.*

*(d) Expanded Deployment Grants.—*

*(1) In general.—For each fiscal year, from the funds remaining after the Secretary has made grants under subsection (c), the Secretary may make grants to each eligible State, upon request, for the expanded deployment of commercial vehicle information systems and networks.*

*(2) Eligibility.—Each State that has completed the core deployment of commercial vehicle information systems and networks in such State is eligible for an expanded deployment grant under this subsection.*

*(3) Amount of grants.—Each fiscal year, the Secretary may distribute funds available for expanded deployment grants equally among the eligible States, but not to exceed $1,000,000 per State.*

*(4) Use of funds.—A State may use funds from a grant under this subsection only for the expanded deployment of commercial vehicle information systems and networks.*

*(e) Eligibility.—To be eligible for a grant under this section, a State—*

*(1) shall have a commercial vehicle information systems and networks program plan approved by the Secretary that describes the various systems and networks at the State level that need to be refined, revised, upgraded, or built to accomplish deployment of core capabilities;*

*(2) shall certify to the Secretary that its commercial vehicle information systems and networks deployment activities, including hardware procurement, software and system development, and infrastructure modifications—*

*(A) are consistent with the national intelligent transportation systems and commercial vehicle information systems and networks architectures and available standards; and*

*(B) promote interoperability and efficiency to the extent practicable; and*

*(3) shall agree to execute interoperability tests developed by the Federal Motor Carrier Safety Administration to verify that its systems conform with the national intelligent transportation systems architecture, applicable standards, and protocols for commercial vehicle information systems and networks.*

*(f) Federal Share.—The Federal share of the cost of a project payable from funds made available to carry out this section shall not exceed 50 percent. The total Federal share of the cost of a project payable from all eligible Federal sources shall not exceed 80 percent.*

*(g) Definitions.—In this section, the following definitions apply:*

*(1) Commercial vehicle information systems and networks.—The term "commercial vehicle information systems and networks" means the information systems and communications networks that provide the capability to—*

*(A) improve the safety of commercial motor vehicle operations;*

*(B) increase the efficiency of regulatory inspection processes to reduce administrative burdens by advancing technology to facilitate inspections and increase the effectiveness of enforcement efforts;*

*(C) advance electronic processing of registration information, driver licensing information, fuel tax information, inspection and crash data, and other safety information;*

*(D) enhance the safe passage of commercial motor vehicles across the United States and across international borders; and*

*(E) promote the communication of information among the States and encourage multistate cooperation and corridor development.*

*(2) Commercial motor vehicle operations.—The term "commercial motor vehicle operations"—*

*(A) means motor carrier operations and motor vehicle regulatory activities associated with the commercial motor vehicle movement of goods, including hazardous materials, and passengers; and*

*(B) with respect to the public sector, includes the issuance of operating credentials, the administration of motor vehicle and fuel taxes, and roadside safety and border crossing inspection and regulatory compliance operations.*

*(3) Core deployment.—The term "core deployment" means the deployment of systems in a State necessary to provide the State with the following capabilities:*

*(A) Safety information exchange to—*

*(i) electronically collect and transmit commercial motor vehicle and driver inspection data at a majority of inspection sites in the State;*

*(ii) connect to the safety and fitness electronic records system for access to interstate carrier and commercial motor vehicle data, summaries of past safety performance, and commercial motor vehicle credentials information; and*

*(iii) exchange carrier data and commercial motor vehicle safety and credentials information within the State and connect to such system for access to interstate carrier and commercial motor vehicle data.*

*(B) Interstate credentials administration to—*

*(i) perform end-to-end processing, including carrier application, jurisdiction application processing, and credential issuance, of at least the international registration plan and international fuel tax agreement credentials and extend this processing to other credentials, including intrastate registration, vehicle titling, oversize vehicle permits, overweight vehicle permits, carrier registration, and hazardous materials permits;*

*(ii) connect to such plan and agreement clearinghouses; and*

*(iii) have at least 10 percent of the credentialing transaction volume in the State handled electronically and have the capability to add more carriers and to extend to branch offices where applicable.*

*(C) Roadside electronic screening to electronically screen transponder-equipped commercial vehicles at a minimum of one fixed or mobile inspection site in the State and to replicate this screening at other sites in the State.*

*(4) Expanded deployment.—The term "expanded deployment" means the deployment of systems in a State that exceed the requirements of a core deployment of commercial vehicle information systems and networks, improve safety and the productivity of commercial motor vehicle operations, and enhance transportation security.*

### *SEC. 4127. OUTREACH AND EDUCATION.*

*(a) In General.—The Secretary shall conduct, through any combination of grants, contracts, or cooperative agreements, an outreach and education program to be administered by the Federal Motor Carrier Safety Administration and the National Highway Traffic Safety Administration.*

*(b) Program Elements.—The program shall include, at a minimum, the following:*

*(1) A program to promote a more comprehensive and national effort to educate commercial motor vehicle drivers and passenger vehicle drivers about how commercial motor vehicle drivers and passenger vehicle drivers can more safely share the road with each other.*

*(2) A program to promote enhanced traffic enforcement efforts aimed at reducing the incidence of the most common unsafe driving behaviors that cause or contribute to crashes involving commercial motor vehicles and passenger vehicles.*

*(3) A program to establish a public-private partnership to provide resources and expertise for the development and dissemination of information relating to sharing the road referred to in paragraphs (1) and (2) to each partner's constituents and to the general public through the use of brochures, videos, paid and public advertisements, the Internet, and other media.*

*(c) Federal Share.—The Federal share of a program or activity for which a grant is made under this section shall be 100 percent of the cost of such program or activity.*

*(d) Annual Report.—The Secretary shall prepare and transmit to Congress an annual report on the programs and activities carried out under this section. The final annual report shall be submitted not later than September 30, 2009.*

*(e) Funding.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available $1,000,000 to the Federal Motor Carrier Safety*

*Administration, and $3,000,000 to the National Highway Traffic Safety Administration, for each of fiscal years 2006, 2007, 2008, and 2009 to carry out this section (other than subsection (f)).*

*(f) STUDY.—The Comptroller General shall update the Government Accountability Office's evaluation of the "Share the Road Safely" program to determine if it has achieved reductions in the number and severity of commercial motor vehicle crashes, including reductions in the number of deaths and the severity of injuries sustained in these crashes and shall report its updated evaluation to Congress no later than June 30, 2006.*

### *SEC. 4128. SAFETY DATA IMPROVEMENT PROGRAM.*

*(a) IN GENERAL.—The Secretary shall make grants to States for projects and activities to improve the accuracy, timeliness, and completeness of commercial motor vehicle safety data reported to the Secretary.*

*(b) ELIGIBILITY.—A State shall be eligible for a grant under this section in a fiscal year if the Secretary determines that the State has—*

*(1) conducted a comprehensive audit of its commercial motor vehicle safety data system within the preceding 2 years;*

*(2) developed a plan that identifies and prioritizes its commercial motor vehicle safety data needs and goals; and*

*(3) identified performance-based measures to determine progress toward those goals.*

*(c) FEDERAL SHARE.—The Federal share of a grant under this section shall be 80 percent of the cost of the activities for which the grant is made.*

*(d) BIENNIAL REPORT.—Not later 2 years after the date of enactment of this Act, and biennially thereafter, the Secretary shall transmit to Congress a report on the activities and results of the program carried out under this section, together with any recommendations the Secretary determines appropriate.*

### *SEC. 4129. OPERATION OF COMMERCIAL MOTOR VEHICLES BY INDIVIDUALS WHO USE INSULIN TO TREAT DIABETES MELLITUS.*

*(a) REVISION OF FINAL RULE.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall begin revising the final rule published in the Federal Register on September 3, 2003, relating to persons with diabetes, to allow individuals who use insulin to treat their diabetes to operate commercial motor vehicles in interstate commerce. The revised final rule shall provide for the individual assessment of applicants who use insulin to treat their diabetes and who are, except for their use of insulin, otherwise qualified under the Federal motor carrier safety regulations. The revised final rule shall be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305 note) and shall conclude the rulemaking process in the Federal Motor Carrier Safety Administration docket relating to qualifications of drivers with diabetes.*

*(b) NO PERIOD OF COMMERCIAL DRIVING WHILE USING INSULIN REQUIRED FOR QUALIFICATION.—After the earlier of the date of issuance of the revised final rule under subsection (a) or the 90th day following the date of enactment of this Act, the Secretary may not require individuals with insulin-treated diabetes mellitus who are applying for an exemption from the physical qualification standards to have experience operating commercial motor vehicles while using insulin in order to be exempted from the physical qualification standards to operate a commercial motor vehicle in interstate commerce.*

*(c) MINIMUM PERIOD OF INSULIN USE.—Subject to subsection (b), the Secretary shall require individuals with insulin-treated diabetes mellitus to have a minimum period of insulin use to demonstrate stable control of diabetes before operating a commercial motor vehicle in interstate commerce. Such demonstration shall be consistent with the findings reported in July 2000, by the expert medical panel established by the Secretary, in "A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate Commercial Motor Vehicles in Interstate Commerce as Directed by the Transportation Equity Act for the 21st Century". For individuals who have been newly diagnosed with type 1 diabetes, the minimum period of insulin use may not exceed 2 months, unless directed by the treating physician. For individuals who have type 2 diabetes and are converting to insulin use, the minimum period of insulin use may not exceed 1 month, unless directed by the treating physician.*

*(d) LIMITATIONS.—Insulin-treated individuals may not be held by the Secretary to a higher standard of physical qualification in order to operate a commercial motor vehicle in interstate commerce than other individuals applying to operate, or operating, a commercial motor vehicle in interstate commerce; except to the extent that limited operating, monitoring, and medical requirements are deemed medically necessary under regulations issued by the Secretary.*

### *SEC. 4130. OPERATORS OF VEHICLES TRANSPORTING AGRICULTURAL COMMODITIES AND FARM SUPPLIES.*

*(a) AGRICULTURAL EXEMPTION.—Section 229(a)(1) of the Federal Motor Carrier Safety Improvement Act of 1999 (as added by section 4115 of this Act), is amended to read as follows:*

*"(1) TRANSPORTATION OF AGRICULTURAL COMMODITIES AND FARM SUPPLIES.—Regulations prescribed by the Secretary under sections 31136 and 31502 regarding maximum driving and on-duty time for drivers used by motor carriers shall not apply during planting and harvest periods, as determined by each State, to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State if such transportation is limited to an area within a 100 air mile radius from the source of the commodities or the distribution point for the farm supplies.".*

*(b) REVIEW BY THE SECRETARY.—Section 229(c) of such Act is amended by striking "paragraph (2)" and inserting "paragraph (1), (2), or (4)".*

*(c) DEFINITIONS.—Section 229(e) of such Act is amended by adding at the end the following:*

*"(7) AGRICULTURAL COMMODITY.—The term 'agricultural commodity' means any agricultural commodity, non-processed food, feed, fiber, or livestock (including livestock as defined in section 602 of the Emergency Livestock Feed Assistance Act of 1988 (7 U.S.C. 1471) and insects).*

*"(8) FARM SUPPLIES FOR AGRICULTURAL PURPOSES.—The term 'farm supplies for agricultural purposes' means products directly related to the growing or harvesting of agricultural commodities during the planting and harvesting seasons within each State, as determined by the State, and livestock feed at any time of the year.".*

### *SEC. 4131. MAXIMUM HOURS OF SERVICE FOR OPERATORS OF GROUND WATER WELL DRILLING RIGS.*

*Section 229(a)(2) of the Motor Carrier Safety Improvement Act of 1999 (as added by section 4115 of this Act), is amended by adding at the end the following: "Except as required in section 395.3 of title 49, Code of Federal Regulations, as in effect on the date of enactment of this sentence, no additional off-duty time shall be required in order to operate such vehicle.".*

### *SEC. 4132. HOURS OF SERVICE FOR OPERATORS OF UTILITY SERVICE VEHICLES.*

*Section 229 of the Federal Motor Carrier Safety Improvements Act of 1999 (as added by section 4115 of this Act), is amended—*

*(1) in subsection (a) by striking paragraph (4) and inserting the following:*

*"(4) OPERATORS OF UTILITY SERVICE VEHICLES.—*

*"(A) INAPPLICABILITY OF FEDERAL REGULATIONS.—Such regulations shall not apply to a driver of a utility service vehicle.*

*"(B) PROHIBITION ON STATE REGULATIONS.—A State, a political subdivision of a State, an interstate agency, or other entity consisting of 2 or more States, shall not enact or enforce any law, rule, regulation, or standard that imposes requirements on a driver of a utility service vehicle that are similar to the requirements contained in such regulations."; and*

*(2) in subsection (b) by striking "Nothing" and inserting "Except as provided in subsection (a)(4), nothing".*

### *SEC. 4133. HOURS OF SERVICE RULES FOR OPERATORS PROVIDING TRANSPORTATION TO MOVIE PRODUCTION SITES .*

*Notwithstanding sections 31136 and 31502 of title 49, United States Code, and any other provision of law, the maximum daily hours of service for an operator of a commercial motor vehicle providing transportation of property or passengers to or from a theatrical or television motion picture production site located within a 100 air mile radius of the work reporting location of such operator shall be those in effect under the regulations in effect under such sections on April 27, 2003.*

### *SEC. 4134. GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS.*

*(a) ESTABLISHMENT.—The Secretary shall establish a grant program for persons to train operators of commercial motor vehicles (as defined in section 31301 of title 49, United States Code). The purpose of the program shall be to train operators and future operators in the safe use of such vehicles.*

*(b) FEDERAL SHARE.—The Federal share of the cost for which a grant is made under this section shall be 80 percent.*

*(c) FUNDING.—From amounts made available under section 31104(i) of title 49, United States Code, the Secretary shall make available $1,000,000 for each of fiscal years 2005 through 2009 to carry out this section.*

### *SEC. 4135. CDL TASK FORCE.*

*(a) IN GENERAL.—The Secretary shall convene a task force to study and address current impediments and foreseeable challenges to the commercial driver's license program's effectiveness and measures needed to realize the full safety potential of the commercial driver's license program, including such issues as—*

*(1) State enforcement practices;*

*(2) operational procedures to detect and deter fraud;*

*(3) needed improvements for seamless information sharing between States;*

*(4) effective methods for accurately sharing electronic data between States;*

*(5) adequate proof of citizenship;*

*(6) updated technology; and*

*(7) timely notification from judicial bodies concerning traffic and criminal convictions of commercial drivers license holders.*

*(b) MEMBERSHIP.—Members of the task force should include State motor vehicle administrators, organizations representing government agencies or officials, members of the Judicial Conference, representatives of the trucking industry, representatives of labor organizations, safety advocates, and other significant stakeholders.*

*(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary, on behalf of the task force, shall complete a report of the task forces findings and recommendations for legislative, regulatory, and enforcement changes to improve the commercial drivers license program and submit such the report to the*

*Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.*

*(d) Funding.—From the funds amounts made available by section 4101(c)(1), $200,000 shall be available for each of fiscal years 2006 and 2007 to carry out this section.*

### *SEC. 4136. INTERSTATE VAN OPERATIONS.*

*The Federal motor carrier safety regulations that apply to interstate operations of commercial motor vehicles designed to transport between 9 and 15 passengers (including the driver) shall apply to all interstate operations of such carriers regardless of the distance traveled.*

### *SEC. 4137. DECALS.*

*The Commercial Vehicle Safety Alliance may not restrict the sale of any inspection decal to the Federal Motor Carrier Safety Administration unless the Administration fails to meet its responsibilities under its memorandum of understanding with the Alliance (other than a failure due to the Administration's compliance with Federal law).*

### *SEC. 4138. HIGH RISK CARRIER COMPLIANCE REVIEWS.*

*From the funds authorized by section 31104(i) of title 49, United States Code, the Secretary shall ensure that compliance reviews are completed on motor carriers that have demonstrated through performance data that they pose the highest safety risk. At a minimum, a compliance review shall be conducted whenever a motor carrier is rated as category A or B for 2 consecutive months.*

### *SEC. 4139. FOREIGN COMMERCIAL MOTOR VEHICLES.*

*(a) Operating Authority Enforcement Assistance for States.—*

*(1) Training and Outreach.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Federal Motor Carrier Safety Administration shall conduct outreach and provide training as necessary to State personnel engaged in the enforcement of Federal motor carrier safety regulations to ensure their awareness of the process to be used for verification of the operating authority of motor carriers, including motor carriers of passengers, and to ensure proper enforcement when motor carriers are found to be in violation of operating authority requirements.*

*(2) Assessment.—The Inspector General of the Department of Transportation may periodically assess the implementation and effectiveness of the training and outreach program.*

*(b) Study of Foreign Commercial Motor Vehicles.—*

*(1) Review.—Not later than 1 year after the date of enactment of this Act, the Administrator shall conduct a review to determine the degree to which Canadian and Mexican commercial motor vehicles, including motor carriers of passengers, currently operating or expected to operate in the United States comply with the Federal motor vehicle safety standards.*

*(2) Reports.—Not later than 1 year after the date of enactment, the Adminstrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives containing the findings and conclusions of the review. Not later than 4 months after the date on which the report is submitted to the Committees, the Inspector General of the Department shall provide comments and observations to the Committees on the scope and methodology of the review.*

### *SEC. 4140. SCHOOL BUS DRIVER QUALIFICATIONS AND ENDORSEMENT KNOWLEDGE TEST.*

*(a) Recognition of Test.—The Secretary shall recognize any driver who passes a test approved by the Federal Motor Carrier Safety Administration as meeting the knowledge test requirement for a school bus endorsement under section 383.123 of title 49, Code of Federal Regulations.*

*(b) Driver Qualifications.— Section 383.123 of such title (as in effect on the date of enactment of this Act) shall not be in effect during the period beginning on the date of enactment of this Act and ending on September 30, 2006.*

### *SEC. 4141. DRIVEAWAY SADDLEMOUNT VEHICLES.*

*(a) Definition.—Section 31111(a) of tile 49, United States Code, is amended by adding at the end of the following:*

*"(4) Drive-away saddlemount with fullmount vehicle transporter combination.—The term 'drive-away saddlemount with fullmount vehicle transporter combination' means a vehicle combination designed and specifically used to tow up to 3 trucks or truck tractors, each connected by a saddle to the frame or fifth-wheel of the forward vehicle of the truck or truck tractor in front of it.".*

*(b) General Limitations.—Section 31111(b)(1) of such title is amended*

*(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and*

*(2) by inserting after subparagraph (C) the following:*

*"(D) imposes a vehicle length limitation of not less than or more than 97 feet on a driveaway saddlemount with fullmount vehicle transporter combinations;".*

### *SEC. 4142. REGISTRATION OF MOTOR CARRIERS AND FREIGHT FORWARDERS.*

*(a) Definitions Relating to Motor Carriers.—Paragraphs (6), (7), (12), and (13) of section 13102 of title 49, United States Code, are each amended by striking "motor vehicle" and inserting "commercial motor vehicle (as defined in section 31132)".*

*(b) Freight Forwarders.—Section 13903(a) of such title is amended—*

*(1) by striking "The Secretary" and inserting the following:*

*"(1) Household goods.—The Secretary";*

*(2) by inserting "of household goods" after "freight forwarder"; and*

*(3) by adding at the end the following:*

*"(2) Others.—The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a freight forwarder (other than a freight forwarder of household goods) if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board.".*

*(c) Brokers.—Section 13904(a) of such title is amended—*

*(1) by striking "The Secretary" and inserting the following:*

*"(1) Household Goods.—The Secretary";*

*(2) by inserting "of household goods" after "broker"; and*

*(3) by adding at the end the following:*

*"(2) Others.—The Secretary may register a person to provide service subject to jurisdiction under subchapter III of chapter 135 as a broker (other than a broker of household goods) if the Secretary finds that such registration is needed for the protection of shippers and that the person is fit, willing, and able to provide the service and to comply with this part and applicable regulations of the Secretary and Board.".*

### *SEC. 4143. AUTHORITY TO STOP COMMERCIAL MOTOR VEHICLES.*

*(a) In General.—Chapter 2 of title 18, United States Code, is amended by adding at the end the following:*

***"§ 39. Commercial motor vehicles required to stop for inspections***

*"(a) A driver of a commercial motor vehicle (as defined in section 31132 of title 49) shall stop and submit to inspection of the vehicle, driver, cargo, and required records when directed to do so by an authorized employee of the Federal Motor Carrier Safety Administration of the Department of Transportation, at or in the vicinity of an inspection site. The driver shall not leave the inspection site until authorized to do so by an authorized employee.*

*"(b) A driver of a commercial motor vehicle, as defined in subsection (a), who knowingly fails to stop for inspection when directed to do so by an authorized employee of the Administration at or in the vicinity of an inspection site, or leaves the inspection site without authorization, shall be fined under this title or imprisoned not more than 1 year, or both.".*

*(b) Authority of FMCSA.—Chapter 203 of such title is amended by adding at the end the following:*

***"§ 3064. Powers of Federal Motor Carrier Safety Administration***

*"Authorized employees of the Federal Motor Carrier Safety Administration may direct a driver of a commercial motor vehicle (as defined in section 31132 of title 49) to stop for inspection of the vehicle, driver, cargo, and required records at or in the vicinity of an inspection site.".*

*(c) Clerical Amendments.—*

*(1) The analysis for chapter 2 of such title is amended by inserting after the item relating to section 38 the following:*

> *"39. Commercial motor vehicles required to stop for inspections.".*

*(2) The analysis for chapter 203 of such title is amended by inserting after the item relating to section 3063 the following:*

> *"3064. Powers of Federal Motor Carrier Safety Administration.".*

### *SEC. 4144. MOTOR CARRIER SAFETY ADVISORY COMMITTEE.*

*(a) Establishment and Duties.—The Secretary shall establish in the Federal Motor Carrier Safety Administration a motor carrier safety advisory committee. The committee shall—*

*(1) provide advice and recommendations to the Administrator of the Federal Motor Carrier Safety Administration about needs, objectives, plans, approaches, content, and accomplishments of the motor carrier safety programs carried out by the Administration; and*

*(2) provide advice and recommendations to the Administrator on motor carrier safety regulations.*

*(b) Members, Chairman, Pay, and Expenses.—*

*(1) In general.—The committee shall be composed of not more than 20 members appointed by the Administrator from among individuals who are not employees of the Administration and who are specially qualified to serve on the committee because of their education, training, or experience. The members shall include representatives of the motor carrier industry, safety advocates, and safety enforcement officials. Representatives of a single enumerated interest group may not constitute a majority of the members of the advisory committee.*

*(2) Chairman.—The Administrator shall designate the chairman of the committee.*

*(3) Pay.—A member of the committee shall serve without pay; except that the Administrator may allow a member, when attending meetings of the committee or a subcommittee of the committee, expenses authorized under section 5703 of title 5, relating to per diem, travel, and transportation expenses.*

*(c) Support Staff, Information, and Services.—The Administrator shall provide support staff for the committee. On request of the committee, the Administrator shall provide information, administrative services, and supplies that the Administrator considers necessary for the committee to carry out its duties and powers.*

(d) TERMINATION DATE.—Notwithstanding the Federal Advisory Committee Act (5 U.S.C. App.), the advisory committee shall terminate on September 30, 2010.

### SEC. 4145. TECHNICAL CORRECTIONS.

(a) INTERMODAL TRANSPORTATION ADVISORY BOARD.—Section 5502(b) of title 49, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) the Federal Motor Carrier Safety Administration.".

(b) REFERENCE TO AGENCY.—Section 31502(e) of such title is amended—

(1) in paragraph (2) by striking "Regional Director of the Federal Highway Administration" and inserting "Field Administrator of the Federal Motor Carrier Safety Administration"; and

(2) in paragraph (3) by striking "Regional Director" and inserting "Field Administrator".

### SEC. 4146. EXEMPTION DURING HARVEST PERIODS.

Regulations issued by the Secretary under sections 31136 and 31502 of title 49, United States Code, regarding maximum driving and on-duty time for a driver used by a motor carrier, shall not apply, beginning on the date of enactment of this Act and ending at the end of fiscal year 2009, for the transportation of grapes west of Interstate 81 in the State of New York if such transportation—

(1) is during a harvesting period, as determined by the State; and

(2) is limited to a 150-air mile radius from where the grapes are picked or distributed.

### SEC. 4147. EMERGENCY CONDITION REQUIRING IMMEDIATE RESPONSE.

Section 229 of the Motor Carrier Safety Improvement Act of 1999 (as added and amended by section 4115 of this Act) is amended by adding at the end the following:

"(f) EMERGENCY CONDITION REQUIRING IMMEDIATE RESPONSE.—

"(1) PROPANE OR PIPELINE EMERGENCY.—A regulation prescribed under section 31136 or 31502 of title 49, United States Code, shall not apply to a driver of a commercial motor vehicle which is used primarily in the transportation of propane winter heating fuel or a driver of a motor vehicle used to respond to a pipeline emergency if such regulations would prevent the driver from responding to an emergency condition requiring immediate response.

"(2) DEFINITION.—An emergency condition requiring immediate response is any condition that, if left unattended, is reasonably likely to result in immediate serious bodily harm, death, or substantial damage to property. In the case of propane such conditions shall include (but are not limited to) the detection of gas odor, the activation of carbon monoxide alarms, the detection of carbon monoxide poisoning, and any real or suspected damage to a propane gas system following a severe storm or flooding. An 'emergency condition requiring an immediate response' does not include requests to re-fill empty gas tanks. In the case of pipelines such conditions include (but are not limited to) indication of an abnormal pressure event, leak, release or rupture.".

### SEC. 4148. SUBSTANCE ABUSE PROFESSIONALS.

The Secretary shall conduct a rulemaking to permit a State licensed or certified marriage and family therapist, to act as a substance abuse professional under subpart O of part 40 of title 49, Code of Federal Regulations.

### SEC. 4149. OFFICE OF INTERMODALISM.

Section 5503 of title 49, United States Code, is amended—

(1) in subsection (e) by inserting "Amounts reserved under section 5504(d) not awarded to States as grants may be used by the Director to provide technical assistance under this subsection." after "organizations.";

(2) by redesignating subsection (f) as subsection (h); and

(3) by inserting after subsection (e) the following:

"(f) NATIONAL INTERMODAL SYSTEM IMPROVEMENT PLAN.—

"(1) IN GENERAL.—The Director, in consultation with the advisory board established under section 5502 and other public and private transportation interests, shall develop a plan to improve the national intermodal transportation system. The plan shall include—

"(A) an assessment and forecast of the national intermodal transportation system's impact on mobility, safety, energy consumption, the environment, technology, international trade, economic activity, and quality of life in the United States;

"(B) an assessment of the operational and economic attributes of each passenger and freight mode of transportation and the optimal role of each mode in the national intermodal transportation system;

"(C) a description of recommended intermodal and multi-modal research and development projects;

"(D) a description of emerging trends that have an impact on the national intermodal transportation system;

"(E) recommendations for improving intermodal policy, transportation decision-making, and financing to maximize mobility and the return on investment of Federal spending on transportation;

"(F) an estimate of the impact of current Federal and State transportation policy on the national intermodal transportation system; and

"(G) specific near and long-term goals for the national intermodal transportation system.

"(2) PROGRESS REPORTS.—The Director shall submit an initial report on the plan to improve the national intermodal transportation system 2 years after the date of enactment of the Surface Transportation Safety Improvement Act of 2005, and a follow-up report 2 years after that, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. The progress report shall—

"(A) describe progress made toward achieving the plan's goals;

"(B) describe challenges and obstacles to achieving the plan's goals;

"(C) update the plan to reflect changed circumstances or new developments; and

"(D) make policy and legislative recommendations the Director believes are necessary and appropriate to achieve the goals of the plan.

"(3) PLAN DEVELOPMENT FUNDING.—Such sums as may be necessary from the administrative expenses of the Research and Innovative Technology Administration shall be reserved by the Secretary of Transportation each year for the purpose of completing and updating the plan to improve the national intermodal transportation plan.

"(g) IMPACT MEASUREMENT METHODOLOGY; IMPACT REVIEW.—The Director and the Director of the Bureau of Transportation Statistics shall jointly—

"(1) develop, in consultation with the modal administrations, and State and local planning organizations, common measures to compare transportation investment decisions across the various modes of transportation; and

"(2) formulate a methodology for measuring the impact of intermodal transportation on—

"(A) the environment;

"(B) public health and welfare;

"(C) energy consumption;

"(D) the operation and efficiency of the transportation system;

"(E) congestion, including congestion at the Nation's ports; and

"(F) the economy and employment.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation such sums as may be necessary for fiscal years 2006 through 2009 to carry out this chapter.".

## Subtitle B—Household Goods Transportation

### SEC. 4201. SHORT TITLE.

This subtitle may be cited as the "Househood Goods Mover Oversight Enforcement and Reform Act of 2005"

### SEC. 4202. DEFINITIONS; APPLICATION OF PROVISIONS.

(a) TERMS USED IN THIS CHAPTER.—In this subtitle, the terms "carrier", "household goods", "motor carrier", "Secretary", and "transportation" have the meaning given to such terms in section 13102 of title 49, United States Code.

(b) HOUSEHOLD GOODS MOTOR CARRIER AND INDIVIDUAL SHIPPER IN PART B OF SUBTITLE IV OF TITLE 49.—Section 13102 of title 49, United States Code (as amended by section 4141 of this Act) is amended by redesignating paragraphs (12) through (24) as paragraphs (14) through (26) and by inserting after paragraph (11) the following:

"(12) HOUSEHOLD GOODS MOTOR CARRIER.—

"(A) IN GENERAL.—The term 'household goods motor carrier' means a motor carrier that, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services:

"(i) Binding and nonbinding estimates.

"(ii) Inventorying.

"(iii) Protective packing and unpacking of individual items at personal residences.

"(iv) Loading and unloading at personal residences.

"(B) INCLUSION.—The term includes any person that is considered to be a household goods motor carrier under regulations, determinations, and decisions of the Federal Motor Carrier Safety Administration that are in effect on the date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005.

"(C) LIMITED SERVICE EXCLUSION.—The term does not include a motor carrier when the motor carrier provides transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual (other than an employee or agent of the motor carrier).

"(13) INDIVIDUAL SHIPPER.—The term 'individual shipper' means any person who—

"(A) is the shipper, consignor, or consignee of a household goods shipment;

"(B) is identified as the shipper, consignor, or consignee on the face of the bill of lading;

"(C) owns the goods being transported; and

"(D) pays his or her own tariff transportation charges.".

(c) APPLICATION OF CERTAIN PROVISIONS OF LAW.—The provisions of title 49, United States Code, and this subtitle (including any amendments made by this subtitle), that relate to the transportation of household goods apply only to a household goods motor carrier (as defined in section 13102 of title 49, United States Code).

### SEC. 4203. PAYMENT OF RATES.

Section 13707(b) of title 49, United States Code, is amended by adding at the end the following:

"(3) SHIPMENTS OF HOUSEHOLD GOODS.—

"(A) IN GENERAL.—A carrier providing transportation of a shipment of household goods shall give up possession of the household goods being transported at the destination upon payment of—

"(i) 100 percent of the charges contained in a binding estimate provided by the carrier;

"(ii) not more than 110 percent of the charges contained in a nonbinding estimate provided by the carrier; or *"(iii) in the case of a partial delivery of the shipment, the prorated percentage of the charges calculated in accordance with subparagraph (B).*

*"(B) CALCULATION OF PRORATED CHARGES.—For purposes of subparagraph (A)(iii), the prorated percentage of the charges shall be the percentage of the total charges due to the carrier as described in clause (i) or (ii) of subparagraph (A) that is equal to the percentage of the weight of that portion of the shipment delivered to the total weight of the shipment.*

*"(C) POST-CONTRACT SERVICES.—Subparagraph (A) does not apply to additional services requested by a shipper after the contract of service is executed that were not included in the estimate.*

*"(D) IMPRACTICABLE OPERATIONS.—Subparagraph (A) does not apply to impracticable operations, as defined by the applicable carrier tariff, except that the charges collected at delivery for such operations shall not exceed 15 percent of all other charges due at delivery. Any remaining charges due shall be paid within 30 days after the carrier presents its freight bill.".*

### SEC. 4204. ADDITIONAL REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS OF HOUSEHOLD GOODS.

*Section 13902(a) of title 49, United States Code, is amended—*

*(1) by striking paragraphs (2) and (3);*

*(2) by redesignating paragraph (4) as paragraph (5);*

*(3) by inserting after paragraph (1) the following:*

*"(2) ADDITIONAL REGISTRATION REQUIREMENTS FOR HOUSEHOLD GOODS MOTOR CARRIERS.—In addition to meeting the requirements of paragraph (1), the Secretary may register a person to provide transportation of household goods as a household goods motor carrier only after that person—*

*"(A) provides evidence of participation in an arbitration program and provides a copy of the notice of the arbitration program as required by section 14708(b)(2);*

*"(B) identifies its tariff and provides a copy of the notice of the availability of that tariff for inspection as required by section 13702(c);*

*"(C) provides evidence that it has access to, has read, is familiar with, and will observe all applicable Federal laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage; and*

*"(D) discloses any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier, freight forwarder, or broker of household goods within 3 years of the proposed date of registration.*

*"(3) CONSIDERATION OF EVIDENCE; FINDINGS.—The Secretary shall consider, and, to the extent applicable, make findings on any evidence demonstrating that the registrant is unable to comply with any applicable requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2).*

*"(4) WITHHOLDING.—If the Secretary determines that a registrant under this section does not meet, or is not able to meet, any requirement of paragraph (1) or, in the case of a registrant to which paragraph (2) applies, paragraph (1) or (2), the Secretary shall withhold registration."; and*

*(4) by adding at the end of paragraph (5) (as redesignated by paragraph (2) of this section) "In the case of a registration for the transportation of household goods as a household goods motor carrier, the Secretary may also hear a complaint on the ground that the registrant fails or will fail to comply with the requirements of paragraph (2) of this subsection.".*

### SEC. 4205. HOUSEHOLD GOODS CARRIER OPERATIONS.

*Section 14104(b) of title 49, United States Code, is amended—*

*(1) by redesignating paragraph (2) as paragraph (3); and*

*(2) by striking paragraph (1) and inserting the following:*

*"(1) REQUIRED TO BE IN WRITING.—*

*"(A) IN GENERAL.—Except as otherwise provided in this subsection, every motor carrier providing transportation of household goods described in section 13102(10)(A) as a household goods motor carrier and subject to jurisdiction under subchapter I of chapter 135 shall conduct a physical survey of the household goods to be transported on behalf of a prospective individual shipper and shall provide the shipper with a written estimate of charges for the transportation and all related services.*

*"(B) WAIVER.—A shipper may elect to waive a physical survey under this paragraph by written agreement signed by the shipper before the shipment is loaded. A copy of the waiver agreement must be retained as an addendum to the bill of lading and shall be subject to the same record inspection and preservation requirements of the Secretary as are applicable to bills of lading.*

*"(C) ESTIMATE.—*

*"(i) IN GENERAL.—Notwithstanding a waiver under subparagraph (B), a carrier's statement of charges for transportation must be submitted to the shipper in writing and must indicate whether it is binding or nonbinding. The written estimate shall be based on a physical survey of the household goods if the household goods are located within a 50-mile radius of the location of the carrier's household goods agent preparing the estimate.*

*"(ii) BINDING.—A binding estimate under this paragraph must indicate that the carrier and shipper are bound by such charges. The carrier may impose a charge for providing a written binding estimate.*

*"(iii) NONBINDING.—A nonbinding estimate under this paragraph must indicate that the actual charges will be based upon the actual weight of the individual shipper's shipment and the carrier's lawful tariff charges. The carrier may not impose a charge for providing a nonbinding estimate.*

*"(2) OTHER INFORMATION.—At the time that a motor carrier provides the written estimate required by paragraph (1), the motor carrier shall provide the shipper a copy of the Department of Transportation publication FMCSA-ESA-03-005 (or its successor publication) entitled 'Ready to Move?'. Before the execution of a contract for service, the motor carrier shall provide the shipper copy of the Department of Transportation publication OCE 100, entitled 'Your Rights and Responsibilities When You Move' required by section 375.213 of title 49, Code of Federal Regulations (or any successor regulation). ".*

### SEC. 4206. ENFORCEMENT OF REGULATIONS RELATED TO TRANSPORTATION OF HOUSEHOLD GOODS.

*(a) NONPREEMPTION OF INTRASTATE TRANSPORTATION OF HOUSEHOLD GOODS.—Section 14501(c)(2)(B) of title 49, United States Code, is amended by inserting "intrastate" before "transportation".*

*(b) ENFORCEMENT OF FEDERAL LAW WITH RESPECT TO INTERSTATE HOUSEHOLD GOODS CARRIERS.—*

*(1) IN GENERAL.—Chapter 147 of such title is amended by adding at the end the following:*

### "§ 14710. Enforcement of Federal laws and regulations with respect to transportation of household goods

*"(a) ENFORCEMENT BY STATES.—Notwithstanding any other provision of this title, a State authority may enforce the consumer protection provisions of this title that apply to individual shippers, as determined by the Secretary, and are related to the delivery and transportation of household goods in interstate commerce. Any fine or penalty imposed on a carrier in a proceeding under this subsection shall be paid, notwithstanding any other provision of law, to and retained by the State.*

*"(b) NOTICE.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide the notice immediately upon instituting such civil action.*

*"(c) ENFORCEMENT ASSISTANCE OUTREACH PLAN.—The Federal Motor Carrier Safety Administration shall implement an outreach plan to enhance the coordination and effective enforcement of Federal laws and regulations with respect to transportation of household goods between and among Federal and State law enforcement and consumer protection authorities. The outreach shall include, as appropriate, local law enforcement and consumer protection authorities.*

*"(d) STATE AUTHORITY DEFINED.—In this section, the term 'State authority' means an agency of a State that has authority under the laws of the State to regulate the intrastate movement of household goods.*

### "§ 14711. Enforcement by State attorneys general

*"(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the consumer protection provisions of this title that apply to individual shippers, as determined by the Secretary, and are related to the delivery and transportation of household goods by a household goods motor carrier subject to jurisdiction under subchapter I of chapter 135 or regulations or orders of the Secretary or the Board issued under such provisions or to impose the civil penalties authorized by this part or such regulations or orders, whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened or adversely affected by a carrier or broker providing transportation subject to jurisdiction under subchapter I or III of chapter 135 or a foreign motor carrier providing transportation that is registered under section 13902 and is engaged in household goods transportation that violates this part or a regulation or order of the Secretary or Board, as applicable, issued under this part.*

*"(b) NOTICE AND CONSENT.—*

*"(1) IN GENERAL.—The State shall serve written notice to the Secretary or the Board, as the case may be, of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action.*

*"(2) CONDITIONS.—The Secretary or the Board—*

*"(A) shall review the initiation of a civil action under this section by a State if—*

*"(i) the carrier or broker that is the subject of the action is not registered with the Department of Transportation;*

*"(ii) the license of the carrier or broker for failure to file proof of required bodily injury or cargo liability insurance is pending, or the license has been revoked for any other reason by the Department;*

*"(iii) the carrier is not rated or has received a conditional or unsatisfactory safety rating by the Department; or*

*"(iv) the carrier or broker has been licensed with the Department for less than 5 years; and*

*"(B) may review if the carrier or broker fails to meet criteria developed by the Secretary that are consistent with this section.*

*"(3) Congressional Notification.—The Secretary shall notify the Committee on Commerce, Science, and Transportation, of the Senate and the Committee on Transportation and Infrastructure of the House of Representativesof any criteria developed by the Secretary under paragraph (2)(B).*

*"(4) 60-Day Deadline.—The Secretary or the Board shall be considered to have consented to any civil action of a State under this section if the Secretary or the Board has taken no action with respect to the notice within 60 calendar days after the date on which the Secretary or the Board received notice under paragraph (1).*

*"(c) Authority to Intervene.—Upon receiving the notice required by subsection (b), the Secretary or board may intervene in a civil action of a State under this section and upon intervening—*

*"(1) be heard on all matters arising in such civil action; and*

*"(2) file petitions for appeal of a decision in such civil actions.*

*"(d) Construction.—For purposes of bringing any civil action under subsection (a), nothing in this section shall—*

*"(1) convey a right to initiate or maintain a class action lawsuit in the enforcement of a Federal law or regulation; or*

*"(2) prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.*

*"(e) Venue; Service of Process.—In a civil action brought under subsection (a)—*

*"(1) the venue shall be a Federal judicial district in which—*

*"(A) the carrier, foreign motor carrier, or broker operates;*

*"(B) the carrier, foreign motor carrier, or broker was authorized to provide transportation at the time the complaint arose; or*

*"(C) where the defendant in the civil action is found;*

*"(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and*

*"(3) a person who participated with a carrier or broker in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.*

*"(f) Enforcement of State Law.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court to enforce a criminal statute of such State.".*

*(c) Clerical Amendment.—The analysis for such chapter 147 is amended by inserting after the item relating to section 14709 the following:*

*"14710. Enforcement of Federal laws and regulations with respect to transportation of household goods.*

*"14711. Enforcement by State attorneys general.".*

### SEC. 4207. LIABILITY OF CARRIERS UNDER RECEIPTS AND BILLS OF LADING.

*Section 14706(f) of title 49, United States Code, is amended—*

*(1) by striking "A carrier" and inserting the following:*

*"(1) In General.—A carrier"; and*

*(2) by adding at the end the following:*

*"(2) Full Value Protection Obligation.—Unless the carrier receives a waiver in writing under paragraph (3), a carrier's maximum liability for household goods that are lost, damaged, destroyed, or otherwise not delivered to the final destination is an amount equal to the replacement value of such goods, subject to a maximum amount equal to the declared value of the shipment and to rules issued by the Surface Transportation Board and applicable tariffs.*

*"(3) Application of Rates.—The released rates established by the Board under paragraph (1) (commonly known as 'released rates') shall not apply to the transportation of household goods by a carrier unless the liability of the carrier for the full value of such household goods under paragraph (2) is waived, in writing, by the shipper.".*

### SEC. 4208. ARBITRATION REQUIREMENTS.

*(a) Offering Shippers Arbitration.—Section 14708(a) of title 49, United States Code, is amended by inserting before the period at the end the following: "and to determine whether carrier charges, in addition to those collected at delivery, must be paid by shippers for transportation and services related to transportation of household goods".*

*(b) Threshold for Binding Arbitration.—Section 14708(b)(6) of such title is amended by striking "$5,000" each place it appears and inserting "$10,000".*

*(c) Deadline for Decision.—Section 14708(b)(8) of such title is amended in last sentence—*

*(1) by striking "and"; and*

*(2) by inserting after "for damages" the following: ", and an order requiring the payment of additional carrier charges".*

*(d) Attorney's Fees to Shippers.—Section 14708(d)(3) of such title is amended—*

*(1) by redesignating subparagraph (B) as subparagraph (C); and*

*(2) by striking "(3)(A) a decision resolving the dispute was not" and inserting the following:*

*"(3)(A) the shipper was not advised by the carrier during the claim settlement process that a dispute settlement program was available to resolve the dispute;*

*"(B) a decision resolving the dispute was not".*

### SEC. 4209. CIVIL PENALTIES RELATING TO HOUSEHOLD GOODS BROKERS AND UNAUTHORIZED TRANSPORTATION.

*Section 14901(d) of title 49, United States Code, is amended—*

*(1) by striking "If a carrier" and inserting the following:*

*"(1) In General.—If a carrier"; and*

*(2) by adding at the end the following:*

*"(2) Estimate of Broker Without Carrier Agreement.—If a broker for transportation of household goods subject to jurisdiction under subchapter I of chapter 135 makes an estimate of the cost of transporting any such goods before entering into an agreement with a carrier to provide transportation of household goods subject to such jurisdiction, the broker is liable to the United States for a civil penalty of not less than $10,000 for each violation.*

*"(3) Unauthorized Transportation.—If a person provides transportation of household goods subject to jurisdiction under subchapter I of chapter 135 or provides broker services for such transportation without being registered under chapter 139 to provide such transportation or services as a motor carrier or broker, as the case may be, such person is liable to the United States for a civil penalty of not less than $25,000 for each violation.".*

### SEC. 4210. PENALTIES FOR HOLDING HOUSEHOLD GOODS HOSTAGE.

*(a) In General.—Chapter 149 of title 49, United States Code, is amended by adding at the end the following:*

***"§ 14915. Penalties for failure to give up possession of household goods***

*"(a) Civil Penalty.—*

*"(1) In General.—Whoever is found holding a household goods shipment hostage is liable to the United States for a civil penalty of not less than $10,000 for each violation.*

*"(2) Each Day, a Separate Violation.—Each day a carrier is found to have failed to give up possession of household goods may constitute a separate violation.*

*"(3) Suspension.—If the person found holding a shipment hostage is a carrier or broker, the Secretary may suspend for a period of not less than 12 months nor more than 36 months the registration of such carrier or broker under chapter 139. The force and effect of such suspension of a carrier or broker shall extend to and include any carrier or broker having the same ownership or operational control as the suspended carrier or broker.*

*"(b) Criminal Penalty.—Whoever has been convicted of having failed to give up possession of household goods shall be fined under title 18 or imprisoned for not more than 2 years, or both.*

*"(c) Failure to Give Up Possession of Household Goods Defined.—For purposes of this section, the term 'failed to give up possession of household goods' means the knowing and willful failure, in violation of a contract, to deliver to, or unload at, the destination of a shipment of household goods that is subject to jurisdiction under subchapter I or III of chapter 135 of this title, for which charges have been estimated by the motor carrier providing transportation of such goods, and for which the shipper has tendered a payment described in clause (i), (ii), or (iii) of section 13707(b)(3)(A).".*

*(b) Clerical Amendment.—The analysis for such chapter is amended by adding at the end the following:*

*"14915. Penalties for failure to give up possession of household goods.".*

### SEC. 4211. CONSUMER HANDBOOK ON DOT WEB SITE.

*Not later than 1 year after the date of enactment of this Act, the Secretary shall take such action as may be necessary to ensure that publication ESA 03005 of the Federal Motor Carrier Safety Administration entitled "Your Rights and Responsibilities When You Move", is prominently displayed, and available in language that is readily understandable by the general public, on the Web site of the Department of Transportation.*

### SEC. 4212. RELEASE OF HOUSEHOLD GOODS BROKER INFORMATION.

*Not later than 1 year after the date of enactment of this Act, the Secretary shall modify the regulations contained in part 375 of title 49, Code of Federal Regulations, to require a broker that is subject to such regulations to provide shippers with the following information whenever they have contact with a shipper or potential shipper:*

*(1) The Department of Transportation number of the broker.*

*(2) The ESA 03005 publication referred to in section 4211 of this Act.*

*(3) A list of all motor carriers providing transportation of household goods used by the broker and a statement that the broker is not a motor carrier providing transportation of household goods.*

### SEC. 4213. WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS.

*(a) In General.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a working group of State attorneys general, State consumer protection administrators, and Federal and local law enforcement officials for the purpose of developing practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts with respect to interstate*

*transportation of household goods and of making legislative and regulatory recommendations to the Secretary concerning such enforcement efforts.*

*(b) CONSULTATION.—In carrying out subsection (a), the working group shall consult with industries involved in the transportation of household goods, the public, and other interested parties.*

*(c) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group established under subsection (a).*

*(d) TERMINATION DATE.—The working group shall remain in effect until September 30, 2009.*

### ***SEC. 4214. CONSUMER COMPLAINT INFORMATION.***

*(a) ESTABLISHMENT OF SYSTEM.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—*

*(1) establish (A) a system for filing and logging consumer complaints relating to household goods motor carriers for the purpose of compiling or linking complaint information gathered by the Department of Transportation and the States with regard to such carriers, (B) a database of the complaints, and (C) a procedure for the public to have access, subject to section 552(a) of title 5, United States Code, to aggregated information and for carriers to challenge duplicate or fraudulent information in the database;*

*(2) issue regulations requiring each motor carrier of household goods to submit on a quarterly basis a report summarizing—*

*(A) the number of shipments that originate and are delivered for individual shippers during the reporting period by the carrier;*

*(B) the number and general category of complaints lodged by consumers with the carrier;*

*(C) the number of claims filed with the carrier for loss and damage in excess of $500;*

*(D) the number of such claims resolved during the reporting period;*

*(E) the number of such claims declined in the reporting period; and*

*(F) the number of such claims that are pending at the close of the reporting period; and*

*(3) develop a procedure to forward a complaint, including the motor carrier bill of lading number, if known, related to the complaint to a motor carrier named in such complaint and to an appropriate State authority (as defined in section 14710(d) of title 49, United States Code) in the State in which the complainant resides.*

*(b) USE OF INFORMATION.—The Secretary shall consider information in the data base established under subsection (a) in its household goods compliance and enforcement program.*

### ***SEC. 4215. REVIEW OF LIABILITY OF CARRIERS.***

*(a) REVIEW.—Not later than 1 year after the date of enactment of this Act, the Surface Transportation Board shall complete a review of the current Federal regulations regarding the level of liability protection provided by motor carriers that provide transportation of household goods and revise such regulations, if necessary, to provide enhanced protection in the case of loss or damage.*

*(b) DETERMINATIONS.—The review required by subsection (a) shall include a determination of—*

*(1) whether the current regulations provide adequate protection;*

*(2) the benefits of purchase by a shipper of insurance to supplement the carrier's limitations on liability; and*

*(3) whether there are abuses of the current regulations that leave the shipper unprotected in the event of loss and damage to a shipment of household goods.*

### ***SEC. 4216. APPLICATION OF STATE CONSUMER PROTECTION LAWS TO CERTAIN HOUSEHOLD GOODS CARRIERS.***

*(a) STUDY.—The Comptroller General shall conduct a study on the current consumer protection authorities and actions of the Department of Transportation and the impact on shippers and carriers of household goods involved in interstate transportation of allowing State attorneys general to apply State consumer protection laws to such transportation.*

*(b) MATTERS TO BE CONSIDERED.—In conducting the study, the Comptroller General shall consider, at a minimum—*

*(1) the level of consumer protection being provided to consumers through Federal household goods regulations and how household goods regulations relating to consumer protection compare to regulations relating to consumer protection for other modes of transportation regulated by the Department of Transportation;*

*(2) the history and background of State enforcement of State consumer protection laws on household goods carriers providing intrastate transportation and what effects such laws have on the ability of intrastate household goods carriers to operate;*

*(3) what operational impacts, if any, would result on household goods carriers engaged in interstate commerce being subject to the State consumer protection laws; and*

*(4) the potential for States to regulate rates or other business operations if State consumer protection laws applied to interstate household goods movements.*

*(c) CONSULTATION.—In conducting the study, the Comptroller General shall consult with the Secretary, State attorneys general, consumer protection agencies, and the household goods industry.*

*(d) REPORT.—Not later than 18 months after the date of enactment of this Act, the Comptroller General shall transmit to the Committee of Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate a report on the results of the study.*

## ***Subtitle C—Unified Carrier Registration Act of 2005***

### ***SEC. 4301. SHORT TITLE.***

*This subtitle may be cited as the "Unified Carrier Registration Act of 2005".*

### ***SEC. 4302. RELATIONSHIP TO OTHER LAWS.***

*Except as provided in section 14504 of title 49, United States Code, and sections 14504a and 14506 of title 49, United States Code, as added by this subtitle, this subtitle is not intended to prohibit any State or any political subdivision of any State from enacting, imposing, or enforcing any law or regulation with respect to a motor carrier, motor private carrier, broker, freight forwarder, or leasing company that is not otherwise prohibited by law.*

### ***SEC. 4303. INCLUSION OF MOTOR PRIVATE AND EXEMPT CARRIERS.***

*(a) PERSONS REGISTERED TO PROVIDE TRANSPORTATION OR SERVICE AS A MOTOR CARRIER OR MOTOR PRIVATE CARRIER.—Section 13905 of title 49, United States Code, is amended—*

*(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and*

*(2) by inserting after subsection (a) the following:*

*"(b) PERSON REGISTERED WITH SECRETARY.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2), any person having registered with the Secretary to provide transportation or service as a motor carrier or motor private carrier under this title, as in effect on January 1, 2005, but not having registered pursuant to section 13902(a), shall be treated, for purposes of this part, to be registered to provide such transportation or service for purposes of sections 13908 and 14504a.*

*"(2) EXCLUSIVELY INTRASTATE OPERATORS.—Paragraph (1) does not apply to a motor carrier or motor private carrier (including a transporter of waste or recyclable materials) engaged exclusively in intrastate transportation operations.".*

*(b) SECURITY REQUIREMENT.—Section 13906(a) of such title is amended—*

*(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and*

*(2) by inserting after paragraph (1) the following:*

*"(2) SECURITY REQUIREMENT.—Not later than 120 days after the date of enactment of the Unified Carrier Registration Act of 2005, any person, other than a motor private carrier, registered with the Secretary to provide transportation or service as a motor carrier under section 13905(b) shall file with the Secretary a bond, insurance policy, or other type of security approved by the Secretary, in an amount not less than required by sections 31138 and 31139.".*

*(c) TERMINATION OF TRANSITION RULE.—Section 13902 of such title is amended—*

*(1) by adding at the end of subsection (d) the following:*

*"(3) TERMINATION.—This subsection shall cease to be in effect on the transition termination date."; and*

*(2) by redesignating subsection (f) as subsection (g), and inserting after subsection (e) the following:*

*"(f) MODIFICATION OF CARRIER REGISTRATION.—*

*"(1) IN GENERAL.—On and after the transition termination date, the Secretary—*

*"(A) may not register a motor carrier under this section as a motor common carrier or a motor contract carrier;*

*"(B) shall register applicants under this section as motor carriers; and*

*"(C) shall issue any motor carrier registered under this section after that date a motor carrier certificate of registration that specifies whether the holder of the certificate may provide transportation of persons, household goods, other property, or any combination thereof.*

*"(2) PRE-EXISTING CERTIFICATES AND PERMITS.—The Secretary shall redesignate any motor carrier certificate or permit issued before the transition termination date as a motor carrier certificate of registration. On and after the transition termination date, any person holding a motor carrier certificate of registration redesignated under this paragraph may provide both contract carriage (as defined in section 13102(4)(B)) and transportation under terms and conditions meeting the requirements of section 13710(a)(1). The Secretary may not, pursuant to any regulation or form issued before or after the transition termination date, make any distinction among holders of motor carrier certificates of registration on the basis of whether the holder would have been classified as a common carrier or as a contract carrier under—*

*"(A) subsection (d) of this section, as that section was in effect before the transition termination date; or*

*"(B) any other provision of this title that was in effect before the transition termination date.*

*"(3) TRANSITION TERMINATION DATE DEFINED.—In this section, the term 'transition termination date' means the first day of January occurring more than 12 months after the date of enactment of the Unified Carrier Registration Act of 2005.".*

*(d) CLERICAL AMENDMENTS.—*

*(1) HEADING FOR SECTION 13906.—Section 13906 of such title is amended by striking the section designation and heading and inserting the following:*

***"§13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders".***

*(2) CHAPTER ANALYSIS.—The analysis for chapter 139 of such title is amended by striking the item relating to section 13906 and inserting the following:*

*"13906. Security of motor carriers, motor private carriers, brokers, and freight forwarders.".*

## SEC. 4304. UNIFIED CARRIER REGISTRATION SYSTEM.

*Section 13908 of title 49, United States Code, is amended to read as follows:*

**"§ 13908. Registration and other reforms**

*"(a) ESTABLISHMENT OF UNIFIED CARRIER REGISTRATION SYSTEM.—The Secretary, in cooperation with the States, representatives of the motor carrier, motor private carrier, freight forwarder, and broker industries and after notice and opportunity for public comment, shall issue within 1 year after the date of enactment of the Unified Carrier Registration Act of 2005 regulations to establish an online Federal registration system, to be named the 'Unified Carrier Registration System', to replace—*

*"(1) the current Department of Transportation identification number system, the single state registration system under section 14504;*

*"(2) the registration system contained in this chapter and the financial responsibility information system under section 13906; and*

*"(3) the service of process agent systems under sections 503 and 13304.*

*"(b) ROLE AS CLEARINGHOUSE AND DEPOSITORY OF INFORMATION.—The Unified Carrier Registration System shall serve as a clearinghouse and depository of information on, and identification of, all foreign and domestic motor carriers, motor private carriers, brokers, freight forwarders, and others required to register with the Department of Transportation, including information with respect to a carrier's safety rating, compliance with required levels of financial responsibility, and compliance with the provisions of section 14504a. The Secretary shall ensure that Federal agencies, States, representatives of the motor carrier industry, and the public have access to the Unified Carrier Registration System, including the records and information contained in the System.*

*"(c) PROCEDURES FOR CORRECTING INFORMATION.—Not later than 60 days after the effective date of this section, the Secretary shall prescribe regulations establishing procedures that enable a motor carrier to correct erroneous information contained in any part of the Unified Carrier Registration System.*

*"(d) FEE SYSTEM.—The Secretary shall establish, under section 9701 of title 31, a fee system for the Unified Carrier Registration System according to the following guidelines:*

*"(1) REGISTRATION AND FILING EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for new registrants shall as nearly as possible cover the costs of processing the registration but shall not exceed $300.*

*"(2) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The fee for filing evidence of financial responsibility pursuant to this section shall not exceed $10 per filing. No fee shall be charged for a filing for purposes of designating an agent for service of process or the filing of other information relating to financial responsibility.*

*"(3) ACCESS AND RETRIEVAL FEES.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), the fee system shall include a nominal fee for the access to or retrieval of information from the Unified Carrier Registration System to cover the costs of operating and upgrading the System, including the personnel costs incurred by the Department and the costs of administration of the unified carrier registration agreement.*

*"(B) EXCEPTIONS.—There shall be no fee charged under this paragraph—*

*"(i) to any agency of the Federal Government or a State government or any political subdivision of any such government for the access to or retrieval of information and data from the Unified Carrier Registration System for its own use; or*

*"(ii) to any representative of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder (as each is defined in section 14504a) for the access to or retrieval of the individual information related to such entity from the Unified Carrier Registration System for the individual use of such entity.*

*"(e) APPLICATION TO CERTAIN INTRASTATE OPERATIONS.—Nothing in this section requires the registration of a motor carrier, a motor private carrier of property, or a transporter of waste or recyclable materials operating exclusively in intrastate transportation not otherwise required to register with the Secretary under another provision of this title.".*

## SEC. 4305. REGISTRATION OF MOTOR CARRIERS BY STATES.

*(a) TERMINATION OF REGISTRATION PROVISIONS.—Section 14504, and the item relating to such section in the analysis for chapter 145, of title 49, United States Code, are repealed effective on the first January 1st occurring more than 12 months after the date of enactment of this Act.*

*(b) UNIFIED CARRIER REGISTRATION SYSTEM PLAN AND AGREEMENT.—Chapter 145 of title 49, United States Code is amended by inserting after section 14504 the following:*

**"§ 14504a. Unified Carrier Registration System plan and agreement**

*"(a) DEFINITIONS.—In this section and section 14506, the following definitions apply :*

*"(1) COMMERCIAL MOTOR VEHICLE.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'commercial motor vehicle' has the meaning such term has under section 31101.*

*"(B) EXCEPTION.—With respect to a motor carrier required to make any filing or pay any fee to a State with respect to the motor carrier's authority or insurance related to operation within such State, the motor carrier shall have the option to include, in addition to commercial motor vehicles as defined in subparagraph (A), any self-propelled vehicle used on the highway in commerce to transport passengers or property for compensation regardless of the gross vehicle weight rating of the vehicle or the number of passengers transported by such vehicle.*

*"(2) BASE-STATE.—*

*"(A) IN GENERAL.—Subject to subparagraph (B), the term 'base-State' means, with respect to a unified carrier registration agreement, a State—*

*"(i) that is in compliance with the requirements of subsection (e); and*

*"(ii) in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company to which the agreement applies maintains its principal place of business.*

*"(B) DESIGNATION OF BASE-STATE.—A motor carrier, motor private carrier, broker, freight forwarder, or leasing company may designate another State in which it maintains an office or operating facility to be its base-State in the event that—*

*"(i) the State in which the motor carrier, motor private carrier, broker, freight forwarder, or leasing company maintains its principal place of business is not in compliance with the requirements of subsection (e); or*

*"(ii) the motor carrier, motor private carrier, broker, freight forwarder, or leasing company does not have a principal place of business in the United States.*

*"(3) INTRASTATE FEE.—The term 'intrastate fee' means any fee, tax, or other type of assessment, including per vehicle fees and gross receipts taxes, imposed on a motor carrier or motor private carrier for the renewal of the intrastate authority or insurance filings of such carrier with a State.*

*"(4) LEASING COMPANY.—The term 'leasing company' means a lessor that is engaged in the business of leasing or renting for compensation motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.*

*"(5) MOTOR CARRIER.—The term 'motor carrier' includes all carriers that are otherwise exempt from this part under subchapter I of chapter 135 or exemption actions by the former Interstate Commerce Commission under this title.*

*"(6) PARTICIPATING STATE.—The term 'participating State' means a State that has complied with the requirements of subsection (e).*

*"(7) SSRS.—The term 'SSRS' means the single state registration system in effect on the date of enactment this section.*

*"(8) UNIFIED CARRIER REGISTRATION AGREEMENT.—The terms 'unified carrier registration agreement' and 'UCR agreement' mean the interstate agreement developed under the unified carrier registration plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies pursuant to this section.*

*"(9) UNIFIED CARRIER REGISTRATION PLAN.—The terms 'unified carrier registration plan' and 'UCR plan' mean the organization of State, Federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement.*

*"(10) VEHICLE REGISTRATION.—The term 'vehicle registration' means the registration of any commercial motor vehicle under the International Registration Plan (as defined in section 31701) or any other registration law or regulation of a jurisdiction.*

*"(b) APPLICABILITY OF PROVISIONS TO FREIGHT FORWARDERS.—A freight forwarder that operates commercial motor vehicles and is not required to register as a carrier pursuant to section 13903(b) shall be subject to the provisions of this section as if the freight forwarder is a motor carrier.*

*"(c) UNREASONABLE BURDEN.—For purposes of this section, it shall be considered an unreasonable burden upon interstate commerce for any State or any political subdivision of a State, or any political authority of 2 or more States—*

*"(1) to enact, impose, or enforce any requirement or standards with respect to, or levy any fee or charge on, any motor carrier or motor private carrier providing transportation or service subject to jurisdiction under subchapter I of chapter 135 (in this section referred to as an 'interstate motor carrier' and an 'interstate motor private carrier', respectively) in connection with—*

*"(A) the registration with the State of the interstate operations of the motor carrier or motor private carrier;*

*"(B) the filing with the State of information relating to the financial responsibility of the a motor carrier or motor private carrier pursuant to sections 31138 or 31139;*

*"(C) the filing with the State of the name of the local agent for service of process of the motor carrier or motor private carrier pursuant to sections 503 or 13304; or*

*"(D) the annual renewal of the intrastate authority, or the insurance filings, of the motor carrier or motor private carrier, or other intrastate filing requirement necessary to operate within the State if the motor carrier or motor private carrier is—*

*"(i) registered under section 13902 or section 13905(b); and*

*"(ii) in compliance with the laws and regulations of the State authorizing the carrier to operate in the State in accordance with section 14501(c)(2)(A); except with respect to—*

*"(I) intrastate service provided by motor carriers of passengers that is not subject to the preemption provisions of section 14501(a);*

*"(II) motor carriers of property, motor private carriers, brokers, or freight forwarders, or their services or operations, that are described in subparagraphs (B) and (C) of section 14501(c)(2).*

*"(III) the intrastate transportation of waste or recyclable materials by any carrier; or*

*"(2) to require any interstate motor carrier or motor private carrier that also performs intrastate operations to pay any fee or tax which a carrier engaged exclusively in interstate operations is exempt.*

*"(d) Unified Carrier Registration Plan.—*

*"(1) Board of directors.—*

*"(A) Governance of plan; establishment.—The unified carrier registration plan shall have a board of directors consisting of representatives of the Department of Transportation, participating States, and the motor carrier industry. The Secretary shall establish the board.*

*"(B) Composition.—The board shall consist of 15 directors appointed by the Secretary as follows:*

*"(i) Federal motor carrier safety administration.—One director from each of the Federal Motor Carrier Safety Administration's 4 service areas (as those areas were defined by the Federal Motor Carrier Safety Administration on January 1, 2005) from among the chief administrative officers of the State agencies responsible for overseeing the administration of the UCR agreement.*

*"(ii) State agencies.—Five directors from the professional staffs of State agencies responsible for overseeing the administration of the UCR agreement in their respective States. Nominees for these 5 directorships shall be submitted to the Secretary by the national association of professional employees of the State agencies responsible for overseeing the administration of the UCR agreement in their respective States.*

*"(iii) Motor carrier industry.—Five directors from the motor carrier industry. At least 1 of the appointees under this clause shall be a representative of a national trade association representing the general motor carrier of property industry. At least 1 of the appointees under this clause shall represent a motor carrier that falls within the smallest fleet fee bracket.*

*"(iv) Department of transportation.—The Deputy Administrator of the Federal Motor Carrier Safety Administration, or such other presidential appointee from the Department, as the Secretary may appoint.*

*"(C) Chairperson and vice-chairperson.—The Secretary shall designate 1 director as chairperson and 1 director as vice-chairperson of the board. The chairperson and vice-chairperson shall serve in such capacity for the term of their appointment as directors.*

*"(D) Terms.—*

*"(i) Initial terms.—In appointing the initial board, the Secretary shall designate 5 of the appointed directors for initial terms of 3 years, 5 of the appointed directors for initial terms of 2 years, and 5 of the appointed directors for initial terms of 1 year.*

*"(ii) Thereafter.—After the initial term, all directors shall be appointed for terms of 3 years; except that the term of the Deputy Administrator or other individual designated by the Secretary under subparagraph (B)(iv) shall be at the discretion of the Secretary.*

*"(iii) Succession.—A director may be appointed to succeed himself or herself.*

*"(iv) End of service.—A director may continue to serve on the board until his or her successor is appointed.*

*"(2) Rules and regulations governing the UCR agreement.—The board of directors shall issue rules and regulations to govern the UCR agreement. The rules and regulations shall—*

*"(A) prescribe uniform forms and formats, for—*

*"(i) the annual submission of the information required by a base-State of a motor carrier, motor private carrier, leasing company, broker, or freight forwarder;*

*"(ii) the transmission of information by a participating State to the Unified Carrier Registration System;*

*"(iii) the payment of excess fees by a State to the designated depository and the distribution of fees by the depository to those States so entitled; and*

*"(iv) the providing of notice by a motor carrier, motor private carrier, broker, freight forwarder, or leasing company to the board of the intent of such entity to change its base-State, and the procedures for a State to object to such a change under subparagraph (C);*

*"(B) provide for the administration of the unified carrier registration agreement, including procedures for amending the agreement and obtaining clarification of any provision of the Agreement;*

*"(C) provide procedures for dispute resolution under the agreement that provide due process for all involved parties; and*

*"(D) designate a depository.*

*"(3) Compensation and expenses.—*

*"(A) In general.—Except for the representative of the Department appointed under paragraph (1)(B)(iv), no director shall receive any compensation or other benefits from the Federal Government for serving on the board or be considered a Federal employee as a result of such service.*

*"(B) Expenses.—All directors shall be reimbursed for expenses they incur attending meetings of the board. In addition, the board may approve the reimbursement of expenses incurred by members of any subcommittee or task force appointed under paragraph (5) for carrying out the duties of the subcommittee or task force. The reimbursement of expenses to directors and subcommittee and task force members shall be under subchapter II of chapter 57 of title 5, United States Code, governing reimbursement of expenses for travel by Federal employees.*

*"(4) Meetings.—*

*"(A) In general.—The board shall meet at least once per year. Additional meetings may be called, as needed, by the chairperson of the board, a majority of the directors, or the Secretary.*

*"(B) Quorum.—A majority of directors shall constitute a quorum.*

*"(C) Voting.—Approval of any matter before the board shall require the approval of a majority of all directors present at the meeting.*

*"(D) Open meetings.—Meetings of the board and any subcommittees or task forces appointed under paragraph (5) shall be subject to the provisions of section 552b of title 5.*

*"(5) Subcommittees.—*

*"(A) Industry advisory subcommittee.—The chairperson shall appoint an industry advisory subcommittee. The industry advisory subcommittee shall consider any matter before the board and make recommendations to the board.*

*"(B) Other subcommittees.—The chairperson shall appoint an audit subcommittee, a dispute resolution subcommittee, and any additional subcommittees and task forces that the board determines to be necessary.*

*"(C) Membership.—The chairperson of each subcommittee shall be a director. The other members of subcommittees and task forces may be directors or nondirectors.*

*"(D) Representation on subcommittees.—Except for the industry advisory subcommittee (the membership of which shall consist solely of representatives of entities subject to the fee requirements of subsection (f)), each subcommittee and task force shall include representatives of the participating States and the motor carrier industry.*

*"(6) Delegation of authority.—The board may contract with any person or any agency of a State to perform administrative functions required under the unified carrier registration agreement, but may not delegate its decision or policy-making responsibilities.*

*"(7) Determination of fees.—*

*"(A) Recommendation by board.—The board shall recommend to the Secretary the initial annual fees to be assessed carriers, leasing companies, brokers, and freight forwarders under the unified carrier registration agreement. In making its recommendation to the Secretary for the level of fees to be assessed in any agreement year, and in setting the fee level, the board and the Secretary shall consider—*

*"(i) the administrative costs associated with the unified carrier registration plan and the agreement;*

*"(ii) whether the revenues generated in the previous year and any surplus or shortage from that or prior years enable the participating States to achieve the revenue levels set by the board; and*

*"(iii) the provisions governing fees under in subsection (f)(1).*

*"(B) Setting fees.—The Secretary shall set the initial annual fees for the next agreement year and any subsequent adjustment of those fees—*

*"(i) within 90 days after receiving the board's recommendation under subparagraph (A); and*

*"(ii) after notice and opportunity for public comment.*

*"(8) Liability protections for directors.—No individual appointed to serve on the board shall be liable to any other director or to any other party for harm, either economic or noneconomic, caused by an act or omission of the individual arising from the individual's service on the board if—*

*"(A) the individual was acting within the scope of his or her responsibilities as a director; and*

*"(B) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the right or safety of the party harmed by the individual.*

*"(9) Inapplicability of federal advisory committee act.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the unified carrier registration plan, the board, or its committees.*

*"(10) Certain fees not affected.—This section does not limit the amount of money a State may charge for vehicle registration or the amount of any fuel use tax a State may impose pursuant to the International Fuel Tax Agreement (as defined in section 31701).*

*"(e) State Participation.—*

*"(1) State plan.—No State shall be eligible to participate in the unified carrier registration plan or to receive any revenues derived under the UCR agreement, unless the State submits to the Secretary, not later than 3 years after the date of enactment of the Unified Carrier Registration Act of 2005, a plan—*

*"(A) identifying the State agency that has or will have the legal authority, resources, and qualified personnel necessary to administer the agreement in accordance with the rules and regulations promulgated by the board of directors; and*

*"(B) demonstrating that an amount at least equal to the revenue derived by the State from the unified carrier registration agreement shall be used for motor carrier safety programs, enforcement, or the administration of the UCR plan and UCR agreement.*

*"(2) Amended plans.—A State that submits a plan under this subsection may change the agency designated in the plan by filing an amended plan with the Secretary and the chairperson of the board of directors.*

*"(3) Withdrawal of plan.—If a State withdraws, or notifies the Secretary that it is withdrawing, the plan it submitted under this subsection, the State may no longer participate in the unified carrier registration agreement or receive any portion of the revenues derived under*

*the agreement. The Secretary shall notify the chairperson upon receiving notice from a State that it is withdrawing its plan or withdrawing from the agreement, or both.*

*"(4) TERMINATION OF ELIGIBILITY.—If a State fails to submit a plan to the Secretary in accordance with paragraph (1) or withdraws its plan under paragraph (3), the State may not submit or resubmit a plan or participate in the agreement.*

*"(5) PROVISION OF PLAN TO CHAIRPERSON.—The Secretary shall provide a copy of each plan submitted under this subsection to the chairperson of the board of directors not later than 10 days after date of submission of the plan.*

*"(f) CONTENTS OF UNIFIED CARRIER REGISTRATION AGREEMENT.—The unified carrier registration agreement shall provide the following:*

*"(1) FEES.—(A) Fees charged—*

*"(i) to a motor carrier, motor private carrier, or freight forwarder in connection with the filing of proof of financial responsibility under the UCR agreement shall be based on the number of commercial motor vehicles owned or operated by the motor carrier, motor private carrier, or freight forwarder; and*

*"(ii) to a broker or leasing company in connection with such a filing shall be equal to the smallest fee charged to a motor carrier, motor private carrier, and freight forwarder or under this paragraph.*

*"(B) The fees shall be determined by the Secretary based upon the recommendation of the board under subsection (d)(7).*

*"(C) The board shall develop for purposes of charging fees no more than 6 and no less than 4 brackets of carriers (including motor private carriers) based on the size of fleet.*

*"(D) The fee scale shall be progressive in the amount of the fee.*

*"(E) The board may ask the Secretary to adjust the fees within a reasonable range on an annual basis if the revenues derived from the fees—*

*"(i) are insufficient to provide the revenues to which the States are entitled under this section; or*

*"(ii) exceed those revenues.*

*"(2) DETERMINATION OF OWNERSHIP OR OPERATION.—For purposes of this subsection, a commercial motor vehicle is owned or operated by a motor carrier, motor private carrier, or freight forwarder if the vehicle is registered under Federal law or State law, or both, in the name of the motor carrier, motor private carrier, or freight forwarder or is controlled by the motor carrier, motor private carrier, or freight forwarder under a long term lease during a vehicle registration year.*

*"(3) CALCULATION OF NUMBER OF COMMERCIAL MOTOR VEHICLES OWNED OR OPERATED.—The number of commercial motor vehicles owned or operated by a motor carrier, motor private carrier, or freight forwarder for purposes of paragraph (1) shall be based either on the number of commercial motor vehicles the motor carrier, motor private carrier, or freight forwarder has indicated it operates on its most recently filed MCS-150 or the total number of such vehicles it owned or operated for the 12-month period ending on June 30 of the year immediately prior to the registration year of the Unified Carrier Registration System. A motor carrier may include in the calculation of its fleet size for purposes of paragraph (1) any commercial motor vehicle. Motor carriers and motor private carriers in the calculation of their fleet size for purposes of paragraph (1) may elect not to include commercial motor vehicle used exclusively in the intrastate transportation of property, waste, or recyclable material.*

*"(4) PAYMENT OF FEES.—Motor carriers, motor private carriers, leasing companies, brokers, and freight forwarders shall pay all fees required under this section to their base-State pursuant to the UCR Agreement.*

*"(g) PAYMENT OF FEES.—Revenues derived under the UCR Agreement shall be allocated to participating States as follows:*

*"(1) A State that participated in the SSRS in the last registration year under the SSRS ending before the date of enactment of the Unified Carrier Registration Act of 2005 and complies with subsection (e) is entitled to receive under this section a portion of the revenues generated under the UCR agreement equivalent to the revenues it received under the SSRS in such last registration year, as long as the State continues to comply with subsection (e).*

*"(2) A State that collected intrastate registration fees from interstate motor carriers, interstate motor private carriers, or interstate exempt carriers and complies with subsection (e) is entitled to receive under this section an additional portion of the revenues generated under the UCR agreement equivalent to the revenues it received from such carriers in the last calendar year ending before the date of enactment of the Unified Carrier Registration Act of 2005, as long as the State continues to comply with subsection (e).*

*"(3) States that comply with subsection (e) but did not participate in SSRS during such last registration year shall be entitled under this section to an annual allotment not to exceed $500,000 from the revenues generated under the UCR agreement, as long as the State continues to comply with the provisions of subsection (e).*

*"(4) The amount of revenues generated under the UCR agreement to which a State is entitled under this section shall be calculated by the board and approved by the Secretary.*

*"(h) DISTRIBUTION OF UCR AGREEMENT REVENUES.—*

*"(1) ELIGIBILITY.—Each State that is in compliance with subsection (e) shall be entitled under this section to a portion of the revenues derived from the UCR Agreement in accordance with subsection (g).*

*"(2) ENTITLEMENT TO REVENUES.—A State that is in compliance with subsection (e) may retain an amount of the gross revenues it collects from motor carriers, motor private carriers, brokers, freight forwarders and leasing companies under the UCR agreement equivalent to the portion of revenues to which the State is entitled under subsection (g). All revenues a participating State collects in excess of the amount to which the State is so entitled shall be forwarded to the depository designated by the board under subsection (d)(2)(D).*

*"(3) DISTRIBUTION OF FUNDS FROM DEPOSITORY.—The excess funds deposited in the depository shall be distributed by the board of directors as follows:*

*"(A) On a pro rata basis to each participating State that did not collect revenues under the UCR agreement equivalent to the amount such State is entitled under subsection (g), except that the sum of the gross revenues collected under the UCR agreement by a participating State and the amount distributed to it from the depository shall not exceed the amount to which the State is entitled under subsection (g).*

*"(B) After all distributions under subparagraph (A) have been made, to pay the administrative costs of the UCR plan and the UCR agreement.*

*"(4) RETENTION OF CERTAIN EXCESS FUNDS.—Any excess funds held by the depository after distributions and payments under paragraphs (3)(A) and (3)(B) shall be retained in the depository, and the fees charged under the UCR agreement to motor carriers, motor private carriers, leasing companies, freight forwarders, and brokers for the next fee year shall be reduced by the Secretary accordingly.*

*"(i) ENFORCEMENT.—*

*"(1) CIVIL ACTIONS.—Upon request by the Secretary, the Attorney General may bring a civil action in the United States district court described in paragraph (2) to enforce an order issued to require compliance with this section and with the terms of the UCR agreement.*

*"(2) VENUE.—An action under this section may be brought only in a United States district court in the State in which compliance with the order is required.*

*"(3) RELIEF.—Subject to section 1341 of title 28, the court, on a proper showing shall issue a temporary restraining order or a preliminary or permanent injunction requiring that the State or any person comply with this section.*

*"(4) ENFORCEMENT BY STATES.—Nothing in this section—*

*"(A) prohibits a participating State from issuing citations and imposing reasonable fines and penalties pursuant to the applicable laws and regulations of the State on any motor carrier, motor private carrier, freight forwarder, broker, or leasing company for failure to—*

*"(i) submit information documents as required under subsection (d)(2); or*

*"(ii) pay the fees required under subsection (f); or*

*"(B) authorizes a State to require a motor carrier, motor private carrier, or freight forwarder to display as evidence of compliance any form of identification in excess of those permitted under section 14506 on or in a commercial motor vehicle.*

*"(j) APPLICATION TO INTRASTATE CARRIERS.—Notwithstanding any other provision of this section, a State may elect to apply the provisions of the UCR agreement to motor carriers and motor private carriers and freight forwarders subject to its jurisdiction that operate solely in intrastate commerce within the borders of the State.".*

*(c) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 14504 the following:*

*"14504a. Unified Carrier Registration System plan and agreement.".*

**SEC. 4306. IDENTIFICATION OF VEHICLES.**

*(a) IN GENERAL.—Chapter 145 of title 49, United States Code; is amended by adding at the end the following:*

***"§ 14506. Identification of vehicles***

*"(a) RESTRICTION ON REQUIREMENTS.—No State, political subdivision of a State, interstate agency, or other political agency of 2 or more States may enact or enforce any law, rule, regulation standard, or other provision having the force and effect of law that requires a motor carrier, motor private carrier, freight forwarder, or leasing company to display any form of identification on or in a commercial motor vehicle (as defined in section 14504a), other than forms of identification required by the Secretary of Transportation under section 390.21 of title 49, Code of Federal Regulations.*

*"(b) EXCEPTION.—Notwithstanding subsection (a), a State may continue to require display of credentials that are required—*

*"(1) under the International Registration Plan under section 31704;*

*"(2) under the International Fuel Tax Agreement under section 31705;*

*"(3) under a State law regarding motor vehicle license plates or other displays that the Secretary determines are appropriate;*

*"(4) in connection with Federal requirements for hazardous materials transportation under section 5103; or*

*"(5) in connection with the Federal vehicle inspection standards under section 31136.".*

*(b) CLERICAL AMENDMENT.—The analysis for such chapter is amended by inserting after the item relating to section 14505 the following:*

*"14506. Identification of vehicles.".*

### SEC. 4307. USE OF UCR AGREEMENT REVENUES AS MATCHING FUNDS.

(a) IN GENERAL.—Section 31103(a) of title 49, United States Code, is amended—

(1) by striking "31102(b)(1)(D)" inserting "31102(b)(1)(E)"; and

(2) by inserting "Amounts generated under the unified carrier registration agreement under section 14504a and received by a State and used for motor carrier safety purposes may be included as part of the State's share not provided by the United States." after "United States Government.".

(b) TECHNICAL CORRECTION.—Sections 31102(b)(3) of such title is amended by striking "paragraph (1)(D)" and inserting "paragraph (1)(E)".

### SEC. 4308. REGULATIONS.

The Secretary may issue such regulations as the Secretary determines are necessary to carry out this subtitle and the amendments made by this subtitle.

## Subtitle D—Miscellaneous Provisions

### SEC. 4401. TECHNICAL ADJUSTMENT.

(a) DEFINITIONS.—In this section the following definitions:

(1) The term "Administrator" means the Administrator of General Services.

(2) The term "donee" means the corporation to which the Administrator donated the vessel.

(3) The term "vessel" means the vessel with Unit Identification number 13862.

(b) TRANSFER.—Not later than 30 days after the date of enactment of this Act, the donee shall transfer all of the rights, title, and interest of the donee in and to the vessel to the Administrator.

(c) FUTURE CONVEYANCE.—Within 30 days after the transfer of the vessel under subsection (b), the Administrator shall remove the vessel to a Federal facility. Within 60 days after the date of the transfer of the vessel under subsection (b), the Administrator shall sell the vessel for fair market value. The Administrator shall require as a condition of any conveyance of the vessel that the vessel shall not be used within the United States, as defined in section 2101(44) of title 46, United States Code, or within the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988. The donee shall not be required to pay any amounts for removing the vessel to a Federal facility under this subsection.

(d) EFFECT ON PENDING LAWSUITS.—Nothing in this section shall have any effect on any lawsuit relating to transfer or use of the vessel.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $4,000,000 for a grant to the donee. The Secretary shall transfer any funds appropriated under this subsection to the Secretary of the Interior, who shall obligate such funds through instruments and procedures that are equivalent to the instruments and procedures required to be used by the Bureau of Indian Affairs pursuant to title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.). Amounts paid to the donee under this section shall be treated as revenues originating from the Alaska Native Fund for purposes of section 21(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(a)).

### SEC. 4402. TRANSFER.

Section 407(b) of the Coast Guard Authorization Act of 1998 (112 Stat. 3430) is amended—

(1) by striking "made—" and all that follows through "(1) subject" and inserting "made subject"; and

(2) by striking "; and" and all that follows and inserting a period.

### SEC. 4403. EXTENSION OF ASSISTANCE.

Section 206(c) of Public Law 89–702 (16 U.S.C. 1166(c)) is amended—

(1) by striking "for fiscal years 2001, 2002, 2003, 2004, and 2005" the first place it it appears; and

(2) in paragraph (1) by inserting ", for fiscal years 2001, 2002, 2003, 2004, 2005, 2006, and 2007" after "subsection (a)".

### SEC. 4404. DESIGNATIONS.

(a) DESIGNATION.—In the States of Alaska and Hawaii, members of the State legislature may serve on the policy board of a metropolitan planning organization designated under section 134 of title 23, United States Code, if such service is allowed by State law.

(b) REDESIGNATION.—In the States of Alaska and Hawaii, a metropolitan planning organization designated under section 134 of title 23, United Sates Code, may be redesignated as a result of changes in State law that define new requirements for the metropolitan planning organization policy board.

### SEC. 4405. LIMITED EXCEPTION.

Section 44704(a) of title 49, United States Code is amended—

(1) in paragraph (1) by striking "The" the first place it appears and inserting "ISSUANCE, INVESTIGATIONS, AND TESTS.—The";

(2) in paragraph (2) by striking "The" and inserting "SPECIFICATIONS.—The";

(3) in paragraph (3) by striking "If" and inserting "SPECIAL RULES FOR NEW AIRCRAFT AND APPLIANCES.—Except as provided in paragraph (4), if";

(4) by adding at the end the following:

"(4) LIMITATION FOR AIRCRAFT MANUFACTURED BEFORE AUGUST 5, 2004.—Paragraph (3) shall not apply to a person who began the manufacture of an aircraft before August 5, 2004, and who demonstrates to the satisfaction of the Administrator that such manufacture began before August 5, 2004, if the name of the holder of the type certificate for the aircraft does not appear on the airworthiness certificate or identification plate of the aircraft. The holder of the type certificate for the aircraft shall not be responsible for the continued airworthiness of the aircraft. A person may invoke the exception provided by this paragraph with regard to the manufacture of only one aircraft.";

(5) by indenting paragraph (1); and

(6) by aligning the left margin of paragraphs (1), (2), and (3) with the left margin of paragraph (4) (as added by paragraph (4) of this section.)

### SEC. 4406. AIRPORT LAND AMENDMENT.

(a) RELEASE OF REVERTER CONDITION.—The Secretary of the Interior shall execute such instruments as are necessary to release the condition on a portion of land situated adjacent to the community of Beaver, Alaska, conveyed pursuant to Patent No. 50–69–0130 and dated August 23, 1968, requiring that such land reverts to the United States if the land is not used for airport purposes. The Secretary shall ensure that the release executed pursuant to this subsection—

(1) applies only to approximately 33 acres of land identified as tracts II through VI of the Beaver Airport, a part of U.S. Survey No. 3798, Alaska (referred to in this section as the "community expansion land");

(2) is without any requirement for receipt of fair market value for the release and conveyance of the conditions otherwise applicable to the community expansion land; and

(3) is contingent on the conveyance by the State of Alaska of the community expansion land to the Beaver Kwit'chin Corporation, the Village Corporation of the village of Beaver, Alaska.

(b) RECONVEYANCE.—The Beaver Kwit'chin Corporation—

(1) shall reconvey to any individual who currently occupies a portion of the land referred to in subsection (a) or successor in interest to such an individual, all right, title, and interest of the Kwit'chin Corporation in and to such land as is currently occupied;

(2) may subsequently—

(A) convey the remaining land to other individuals or persons for community expansion purposes; or

(B) retain the remaining land in whole or in part for community uses.

### SEC. 4407. RIGHTS-OF-WAY.

Notwithstanding any other provision of law, the reciprocal rights-of-way and easements identified on the map numbered 92337 and dated June 15, 2005, are hereby enacted into law.

### SEC. 4408. RIALTO MUNICIPAL AIRPORT.

(a) FINDINGS.—Congress finds that—

(1) Rialto Municipal Airport/Art Scholl Memorial Airport (Rialto Municipal Airport) is a general aviation airport located within a 20-mile radius of 10 other general aviation airports;

(2) Rialto Municipal Airport is located approximately 8.5 nautical miles from the former Norton Air Force Base which was selected for closure by the Base Realignment and Closure Commission in 1988 and was closed in 1994;

(3) there has been a significant decline in based aircraft and aviation operations at Rialto Municipal Airport due to the unexpected impact of increased capacity in the immediate vicinity of the airport;

(4) the transfer of Rialto Municipal Airport's operations, assets and liabilities is supported by the general aviation operators at the airport and will not compromise service or safety; and

(5) the closure of Rialto Municipal Airport shall be in compliance with applicable federal laws and regulations.

(b) IN GENERAL.—Notwithstanding any law, regulation or grant assurance, but subject to the requirements of this section, the United States shall release all restrictions, conditions, and limitations on the use, encumbrance, conveyance, or closure of the Rialto Municipal Airport, in Rialto, California, to the extent such restrictions, conditions, and limitations are enforceable by the United States.

(c) CONDITIONS.—A release under subsection (b) shall be subject to the following conditions:

(1) Upon conveyance of the land or transfer of any interest or rights of use or occupancy of the land—

(A) the city of Rialto will pay the United States 45 percent of the current fair market value of the property, and this amount shall be used for projects eligible under chapter 471 of title 49, United States Code, at a commercial airport—

(i) for which a certificate is issued under part 139 of title 14, Code of Federal Regulations;

(ii) that is located within 10 nautical miles of Rialto Municipal Airport; and

(iii) that was included on the Department of Defense base closure list of 1988;

(B) the remaining 55 percent of the fair market value referred to in subparagraph (A) shall be retained by the city of Rialto;

(C) the city shall pay to the United States 90 percent of the unamortized portion of any Federal development grant for airport facilities other than land, amortized over a 20-year term, with interest. These funds shall be payable over a period of 5 years and deposited into the Airport and Airway Trust Fund and available for projects eligible under chapter 471 of title 49, United States Code.

(2) The United States will not be responsible for any environmental cleanup of any land with respect to which such release is made.

(3) All airport and aviation-related equipment located at Rialto Municipal Airport and owned by the city of Rialto before the date of the release will be transferred to a commercial airport referred to in paragraph (1)(A).

### SEC. 4409. CONFORMING AMENDMENTS.

Section 218 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "prior to the date of the enactment of the reauthorization of the Transportation Equity Act for the 21st Century"; and

(2) by adding at the end the following:

"(c) For purposes of this section, the term 'Alaska Marine Highway System' includes all existing or planned transportation facilities and equipment in Alaska, including the lease, purchase, or construction of vessels, terminals, docks, floats, ramps, staging areas, parking lots, bridges and approaches thereto, and necessary roads.".

**SEC. 4410. RALPH M. BARTHOLOMEW VETERANS' MEMORIAL BRIDGE.**

(a) DESIGNATION.—The bridge joining the Island of Gravina to the community of Ketchican, Alaska, constructed pursuant to section 144(g)(1)(E) of title 23, United States Code, is designated as the "Ralph M. Bartholomew Veterans' Memorial Bridge".

(b) REFERENCES.—Any reference in law, map, regulation, document, paper, or other record of the United States to the bridge referred to in subsection (a) shall be deemed to be a reference to the "Ralph M. Bartholomew Veterans' Memorial Bridge".

**SEC. 4411. DON YOUNG'S WAY.**

(a) DESIGNATION.—The Knik Arm bridge in Alaska to be planned, designed, and constructed pursuant to section 117 of title 23, United States Code, as high priority project number 2465 under section 1702 of this Act, is designated as "Don Young's Way".

(b) REFERENCES.—Any reference in law, map, regulation, document, paper, or other record of the United States to the bridge referred to in subsection (a) shall be deemed to be a reference to "Don Young's Way".

**SEC. 4412. QUALITY BANK ADJUSTMENTS.**

(a) DEFINITION OF TAPS QUALITY BANK ADJUSTMENTS.—In this section, the term "TAPS quality bank adjustments" means monetary adjustments paid by or to a shipper of oil on the Trans Alaska Pipeline System through the operation of a quality bank to compensate for the value of the oil of the shipper that is commingled in the Pipeline.

(b) PROCEEDINGS.—

(1) IN GENERAL.—In a proceeding commenced before the date of enactment of this Act, the Federal Energy Regulatory Commission may not order retroactive changes in TAPS quality bank adjustments for any period before February 1, 2000.

(2) PROCEEDINGS COMMENCED AFTER THE DATE OF ENACTMENT.—In a proceeding commenced after the date of enactment of this Act, the Commission may not order retroactive changes in TAPS quality bank adjustments for any period that exceeds the 15-month period immediately preceding the earliest date of the first order of the Federal Energy Regulatory Commission imposing quality bank adjustments in the proceeding.

(c) DEADLINE FOR CLAIMS.—

(1) IN GENERAL.—A claim relating to a quality bank under this section shall be filed with the Federal Energy Regulatory Commission not later than 2 years after the date on which the claim arose.

(2) FINAL ORDER.—Not later than 15 months after the date on which a claim is filed under paragraph (1), the Federal Energy Regulatory Commission shall issue a final order with respect to the claim.

**SEC. 4413. TECHNICAL AMENDMENT.**

Section 5006(d) of Public Law 101-380 is amended by inserting "annual" before "amount".

## TITLE V—RESEARCH

### Subtitle A—Funding

**SEC. 5101. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—The following sums are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account):

(1) SURFACE TRANSPORTATION RESEARCH, DEVELOPMENT, AND DEPLOYMENT PROGRAM.—To carry out sections 502, 503, 506, 507, 509, and 510 of title 23, United States Code, and sections 5201, 5203, 5204, 5309, 5501, 5502, 5503, 5504, 5506, 5511, 5512, 5513 of this title $196,400,000 for each of fiscal years 2005 through 2009 shall be available.

(2) TRAINING AND EDUCATION.—To carry out section 504 of title 23, United States Code, and section 5502 of this Act $26,700,000 for each of fiscal years 2005 through 2009.

(3) BUREAU OF TRANSPORTATION STATISTICS.—For the Bureau of Transportation Statistics to carry out section 111 of title 49, United States Code, $27,000,000 for each of fiscal years 2005 through 2009.

(4) UNIVERSITY TRANSPORTATION RESEARCH.—To carry out sections 5505 and 5506 of title 49, United States Code, $69,700,000 for each of fiscal years 2005 through 2009.

(5) INTELLIGENT TRANSPORTATION SYSTEMS (ITS) RESEARCH.—To carry out subtitle C of this title, and section 511 of title 23, United States Code, $110,000,000 for each of fiscal years 2005 through 2009.

(6) ITS DEPLOYMENT.—To carry out sections 5208 and 5209 of the Transportation Equity Act for the 21st Century (112 Stat. 458; 112 Stat. 460), $122,000,000 for fiscal year 2005.

(b) APPLICABILITY OF TITLE 23, UNITED STATES CODE.—Funds authorized to be appropriated by subsection (a) shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that the Federal share of the cost of a project or activity carried out using such funds shall be 50 percent, unless otherwise expressly provided by this Act (including the amendments made by this Act) or otherwise determined by the Secretary, and such funds shall remain available until expended and shall not be transferable.

**SEC. 5102. OBLIGATION CEILING.**

Notwithstanding any other provision of law, the total of all obligations from amounts made available from the Highway Trust Fund (other than the Mass Transit Account) by section 5101(a) of this Act shall be $410,888,888 for each of fiscal years 2005 through 2009.

**SEC. 5103. FINDINGS.**

Congress finds the following:

(1) Research and development are critical to developing and maintaining a transportation system that meets the goals of safety, mobility, economic vitality, efficiency, equity, and environmental protection.

(2) Federally sponsored surface transportation research and development has produced many successes. The development of rumble strips has increased safety; research on materials has increased the lifespan of pavements, saving money and reducing the disruption caused by construction; and Geographic Information Systems have improved the management and efficiency of transit fleets.

(3) Despite these important successes, the Federal surface transportation research and development investment represents less than one percent of overall Government spending on surface transportation.

(4) While Congress increased funding for overall transportation programs by about 40 percent in the Transportation Equity Act for the 21st Century, funding for transportation research and development remained relatively flat.

(5) The Federal investment in research and development should be balanced between short-term applied and long-term fundamental research and development. The investment should also cover a wide range of research areas, including research on materials and construction, research on operations, research on transportation trends and human factors, and research addressing the institutional barriers to deployment of new technologies.

(6) That it is in the United States interest to increase the Federal investment in transportation research and development, and to conduct research in critical research gaps, in order to ensure that the transportation system meets the goals of safety, mobility, economic vitality, efficiency, equity, and environmental protection.

### Subtitle B—Research, Technology, and Education

**SEC. 5201. RESEARCH, TECHNOLOGY, AND EDUCATION.**

(a) RESEARCH, TECHNOLOGY, AND EDUCATION.—Title 23, United States Code, is amended—

(1) in the table of chapters by striking the item relating to chapter 5 and inserting the following:

**"5. Research, Technology, and Education ........................................ 501"**

; and

(2) by striking the heading for chapter 5 and inserting the following:

**"CHAPTER 5—RESEARCH, TECHNOLOGY, AND EDUCATION".**

(b) STATEMENT OF PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—Section 502 of such title is amended—

(1) by redesignating subsections (a) through (g) as subsections (b) through (h), respectively; and

(2) by inserting before subsection (b) (as so redesignated) the following:

"(a) BASIC PRINCIPLES GOVERNING RESEARCH AND TECHNOLOGY INVESTMENTS.—

"(1) COVERAGE.—Surface transportation research and technology development shall include all activities leading to technology development and transfer, as well as the introduction of new and innovative ideas, practices, and approaches, through such mechanisms as field applications, education and training, and technical support.

"(2) FEDERAL RESPONSIBILITY.—Funding and conducting surface transportation research and technology transfer activities shall be considered a basic responsibility of the Federal Government when the work—

"(A) is of national significance;

"(B) supports research in which there is a clear public benefit and private sector investment is less than optimal;

"(C) supports a Federal stewardship role in assuring that State and local governments use national resources efficiently; or

"(D) presents the best means to support Federal policy goals compared to other policy alternatives.

"(3) ROLE.—Consistent with these Federal responsibilities, the Secretary shall—

"(A) conduct research;

"(B) support and facilitate research and technology transfer activities by State highway agencies;

"(C) share results of completed research; and

"(D) support and facilitate technology and innovation deployment.

"(4) PROGRAM CONTENT.—A surface transportation research program shall include—

"(A) fundamental, long-term highway research;

"(B) research aimed at significant highway research gaps and emerging issues with national implications; and

"(C) research related to policy and planning.

"(5) STAKEHOLDER INPUT.—Federal surface transportation research and development activities shall address the needs of stakeholders.

*Stakeholders include States, metropolitan planning organizations, local governments, the private sector, researchers, research sponsors, and other affected parties, including public interest groups.*

*"(6) COMPETITION AND PEER REVIEW.—Except as otherwise provided in this chapter, the Secretary shall award, to the maximum extent practicable, all grants, contracts, and cooperative agreements for research and development under this chapter based on open competition and peer review of proposals.*

*"(7) PERFORMANCE REVIEW AND EVALUATION.—To the maximum extent practicable, all surface transportation research and development projects shall include a component of performance measurement and evaluation. Performance measures shall be established during the proposal stage of a research and development project and shall, to the maximum extent possible, be outcome-based. All evaluations shall be made readily available to the public.*

*"(8) TECHNOLOGICAL INNOVATION.—The programs and activities carried out under this section shall be consistent with the surface transportation research and technology development strategic plan developed under section 508.".*

*(c) PROCUREMENT FOR RESEARCH, DEVELOPMENT, AND TECHNOLOGY TRANSFER ACTIVITIES.—Section 502(b)(3) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:*

*"(3) COOPERATION, GRANTS, AND CONTRACTS.—The Secretary may carry out research, development, and technology transfer activities related to transportation—*

*"(A) independently;*

*"(B) in cooperation with other Federal departments, agencies, and instrumentalities and Federal laboratories; or*

*"(C) by making grants to, or entering into contracts and cooperative agreements with one or more of the following: the National Academy of Sciences, the American Association of State Highway and Transportation Officials, any Federal laboratory, Federal agency, State agency, authority, association, institution, for-profit or nonprofit corporation, organization, foreign country, or any other person.".*

*(d) TRANSPORTATION POOLED FUND PROGRAM.—Section 502(b) of such title (as redesignated by subsection (b) of this section) is amended by adding at the end the following:*

*"(6) POOLED FUNDING.—*

*"(A) COOPERATION.—To promote effective utilization of available resources, the Secretary may cooperate with a State and an appropriate agency in funding research, development, and technology transfer activities of mutual interest on a pooled funds basis.*

*"(B) SECRETARY AS AGENT.—The Secretary may enter into contracts, cooperative agreements, and grants as the agent for all participating parties in carrying out such research, development, or technology transfer activities.".*

*(e) OPERATIONS ELEMENTS IN RESEARCH ACTIVITIES.—Section 502 of such title is further amended—*

*(1) in subsection (b)(1)(B) (as redesignated by subsection (b) of this section) by inserting "transportation system management and operations," after "operation,";*

*(2) in subsection (d)(5)(C) (as redesignated by subsection (b) of this section) by inserting "system management and" after "transportation"; and*

*(3) by inserting at the end of subsection (d) (as redesignated by subsection (b) of this section) the following:*

*"(12) Investigation and development of various operational methodologies to reduce the occurrence and impact of recurrent congestion and nonrecurrent congestion and increase transportation system reliability.*

*"(13) Investigation of processes, procedures, and technologies to secure container and hazardous material transport, including the evaluation of regulations and the impact of good security practices on commerce and productivity.*

*"(14) Research, development, and technology transfer related to asset management.".*

*(f) FACILITATING TRANSPORTATION RESEARCH AND TECHNOLOGY DEPLOYMENT PARTNERSHIPS.—Section 502(c)(2) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:*

*"(2) COOPERATION, GRANTS, CONTRACTS, AND AGREEMENTS.—Notwithstanding any other provision of law, the Secretary may directly initiate contracts, cooperative research and development agreements (as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a)) to fund, and accept funds from, the Transportation Research Board of the National Research Council of the National Academy of Sciences, State departments of transportation, cities, counties, and their agents to conduct joint transportation research and technology efforts.".*

*(g) EXPLORATORY ADVANCED RESEARCH PROGRAM.—Section 502(e) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:*

*"(e) EXPLORATORY ADVANCED RESEARCH.—*

*"(1) IN GENERAL.—The Secretary shall establish an exploratory advanced research program, consistent with the surface transportation research and technology development strategic plan developed under section 508 that addresses longer-term, higher-risk research with potentially dramatic breakthroughs for improving the durability, efficiency, environmental impact, productivity, and safety (including bicycle and pedestrian safety) aspects of highway and intermodal transportation systems. In carrying out the program, the Secretary shall strive to develop partnerships with public and private sector entities.*

*"(2) RESEARCH AREAS.—In carrying out the program, the Secretary may make grants and enter into cooperative agreements and contracts in such areas of surface transportation research and technology as the Secretary determines appropriate, including the following:*

*"(A) Characterization of materials used in highway infrastructure, including analytical techniques, microstructure modeling, and the deterioration processes.*

*"(B) Assessment of the effects of transportation decisions on human health.*

*"(C) Development of surrogate measures of safety.*

*"(D) Environmental research.*

*"(E) Data acquisition techniques for system condition and performance monitoring.*

*"(F) System performance data and information processing needed to assess the day-to-day operational performance of the system in support of hour-to-hour operational decision-making.".*

*(h) FUNDING.—Of the amounts made available by section 5101(a) of this Act, $14,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 502(e) of such title.*

*(i) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—*

*(1) IN GENERAL.—Section 502(f) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:*

*"(f) LONG-TERM PAVEMENT PERFORMANCE PROGRAM.—*

*"(1) AUTHORITY.—The Secretary shall continue to carry out, through September 30, 2009, tests, monitoring, and data analysis under the long-term pavement performance program.*

*"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—*

*"(A) monitor, material-test, and evaluate highway test sections in existence as of the date of the grant, agreement, or contract;*

*"(B) analyze the data obtained under subparagraph (A); and*

*"(C) prepare products to fulfill program objectives and meet future pavement technology needs.".*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $10,120,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 502(f) of such title.*

*(j) SEISMIC RESEARCH.—*

*(1) IN GENERAL.—Section 502(g) of such title (as redesignated by subsection (b) of this section) is amended to read as follows:*

*"(g) SEISMIC RESEARCH.—The Secretary shall—*

*"(1) in consultation and cooperation with Federal agencies participating in the National Earthquake Hazards Reduction Program established by section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704), coordinate the conduct of seismic research;*

*"(2) take such actions as are necessary to ensure that the coordination of the research is consistent with—*

*"(A) planning and coordination activities of the National Institute of Standards and Technology under section 5(b)(1) of that Act (42 U.S.C. 7704(b)(1)); and*

*"(B) the plan developed by the Director of the National Institute of Standards and Technology under section 8(b) of that Act (42 U.S.C. 7705b(b)); and*

*"(3) in cooperation with the Center for Civil Engineering Research at the University of Nevada, Reno, and the National Center for Earthquake Engineering Research at the University of Buffalo, carry out a seismic research program—*

*"(A) to study the vulnerability of the Federal-aid system and other surface transportation systems to seismic activity;*

*"(B) to develop and implement cost-effective methods to reduce the vulnerability; and*

*"(C) to conduct seismic research and upgrade earthquake simulation facilities as necessary to carry out the program.".*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $2,500,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 502(g) of such title.*

*(k) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—Section 502 of such title is further amended by adding at the end the following:*

*"(h) INFRASTRUCTURE INVESTMENT NEEDS REPORT.—*

*"(1) IN GENERAL.—Not later than July 31, 2006, and July 31 of every second year thereafter, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes—*

*"(A) estimates of the future highway, transit, and bridge needs of the United States; and*

*"(B) the backlog of current highway, transit, and bridge needs.*

*"(2) COMPARISON WITH PRIOR REPORTS.—Each report under paragraph (1) shall provide the means, including all necessary information, to relate and compare the conditions and service measures used in the previous biennial reports.".*

*(l) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—Section 502 of such title is further amended by adding at the end the following:*

*"(i) TURNER-FAIRBANK HIGHWAY RESEARCH CENTER.—*

*"(1) IN GENERAL.—The Secretary shall operate in the Federal Highway Administration a Turner-Fairbank Highway Research Center.*

*"(2) USES OF THE CENTER.—The Turner-Fairbank Highway Research Center shall support—*

*"(A) the conduct of highway research and development related to new highway technology;*

*"(B) the development of understandings, tools, and techniques that provide solutions to complex technical problems through the development of economical and environmentally sensitive designs, efficient and quality-controlled construction practices, and durable materials; and*

*"(C) the development of innovative highway products and practices.".*

*(m) BIOBASED TRANSPORTATION RESEARCH.—Of the amounts made available by section 5101(a)(1) of this Act, $12,500,000 for each of fiscal years 2006 through 2009, equally divided and available, shall be available to carry out biobased research of national importance at the National Biodiesel Board and at research centers identified in section 9011 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8109).*

***SEC. 5202. LONG-TERM BRIDGE PERFORMANCE PROGRAM; INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.***

*(a) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—*

*(1) IN GENERAL.—Section 502 of title 23, United States Code, is further amended by adding at the end the following:*

*"(j) LONG-TERM BRIDGE PERFORMANCE PROGRAM.—*

*"(1) AUTHORITY.—The Secretary shall establish a 20-year long-term bridge performance program.*

*"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Under the program, the Secretary shall make grants and enter into cooperative agreements and contracts to—*

*"(A) monitor, material-test, and evaluate test bridges;*

*"(B) analyze the data obtained under subparagraph (A); and*

*"(C) prepare products to fulfill program objectives and meet future bridge technology needs.".*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $7,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 502(j) of such title.*

*(b) INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM.—*

*(1) IN GENERAL.—Section 503(b)(1) of such title is amended to read as follows:*

*"(1) IN GENERAL.—The Secretary shall establish and carry out a program to promote, demonstrate, evaluate, and document the application of innovative designs, materials, and construction methods in the construction, repair, and rehabilitation of bridges and other highway structures.".*

*(2) GOALS.—Section 503(b)(2) of such title is amended to read as follows:*

*"(2) GOALS.—The goals of the program shall include—*

*"(A) the development of new, cost-effective, innovative highway bridge applications;*

*"(B) the development of construction techniques to increase safety and reduce construction time and traffic congestion;*

*"(C) the development of engineering design criteria for innovative products, materials, and structural systems for use in highway bridges and structures;*

*"(D) the reduction of maintenance costs and life-cycle costs of bridges, including the costs of new construction, replacement, or rehabilitation of deficient bridges;*

*"(E) the development of highway bridges and structures that will withstand natural disasters;*

*"(F) the documentation and wide dissemination of objective evaluations of the performance and benefits of these innovative designs, materials, and construction methods;*

*"(G) the effective transfer of resulting information and technology; and*

*"(H) the development of improved methods to detect bridge scour and economical bridge foundation designs that will withstand bridge scour.".*

*(3) FUNDING.—*

*(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $13,100,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 503(b) of such title.*

*(B) HIGH PERFORMANCE CONCRETE BRIDGE TECHNOLOGY RESEARCH AND DEPLOYMENT.—The Secretary shall obligate $4,125,000 of the amount described in subparagraph (A) for each of fiscal years 2006 through 2009 to conduct research and deploy technology related to high-performance concrete bridges.*

*(c) HIGH PERFORMING STEEL BRIDGE RESEARCH AND TECHNOLOGY TRANSFER.—*

*(1) IN GENERAL.—The Secretary shall carry out a program to demonstrate the application of high-performing steel in the construction and rehabilitation of bridges.*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $4,100,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection.*

*(d) STEEL BRIDGE TESTING.—*

*(1) IN GENERAL.—The Secretary shall carry out a program to test steel bridges using a nondestructive technology that is able to detect growing cracks, including subsurface flaws as small as 0.010 inches in length or depth, in the bridges.*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $1,250,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection.*

*(3) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 80 percent.*

***SEC. 5203. TECHNOLOGY DEPLOYMENT.***

*(a) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 503(a) of title 23, United States Code, is amended—*

*(1) in the subsection heading by striking "INITIATIVES AND PARTNERSHIPS";*

*(2) by striking paragraph (1) and inserting the following:*

*"(1) ESTABLISHMENT.—The Secretary shall develop and administer a national technology deployment program.";*

*(3) by striking paragraph (7) and inserting the following:*

*"(7) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—*

*"(A) IN GENERAL.—Under the program, the Secretary may make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations to pay the Federal share of the cost of research, development, and technology transfer activities concerning innovative materials.*

*"(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit an application to the Secretary. The application shall be in such form and contain such information as the Secretary may require. The Secretary shall select and approve an application based on whether the project that is the subject of the grant meets the purpose of the program described in paragraph (2)."; and*

*(4) by striking paragraph (8) and inserting the following:*

*"(8) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall ensure that the information and technology resulting from research conducted under paragraph (7) is made available to State and local transportation departments and other interested parties as specified by the Secretary.".*

*(b) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—*

*(1) IN GENERAL.—Section 503 of such title is further amended by adding at the end the following:*

*"(c) INNOVATIVE PAVEMENT RESEARCH AND DEPLOYMENT PROGRAM.—*

*"(1) IN GENERAL.—The Secretary shall establish and implement a program to promote, demonstrate, support, and document the application of innovative pavement technologies, practices, performance, and benefits.*

*"(2) GOALS.—The goals of the innovative pavement research and deployment program shall include—*

*"(A) the deployment of new, cost-effective, innovative designs, materials, recycled materials (including taconite tailings and foundry sand), and practices to extend pavement life and performance and to improve customer satisfaction;*

*"(B) the reduction of initial costs and life-cycle costs of pavements, including the costs of new construction, replacement, maintenance, and rehabilitation;*

*"(C) the deployment of accelerated construction techniques to increase safety and reduce construction time and traffic disruption and congestion;*

*"(D) the deployment of engineering design criteria and specifications for innovative practices, products, and materials for use in highway pavements;*

*"(E) the deployment of new nondestructive and real-time pavement evaluation technologies and techniques;*

*"(F) the evaluation, refinement, and documentation of the performance and benefits of innovative technologies deployed to improve life, performance, cost effectiveness, safety, and customer satisfaction;*

*"(G) effective technology transfer and information dissemination to accelerate implementation of innovative technologies and to improve life, performance, cost effectiveness, safety, and customer satisfaction; and*

*"(H) the development of designs and materials to reduce storm water runoff.*

*"(3) RESEARCH TO IMPROVE NHS PAVEMENT.—The Secretary shall obligate for each of fiscal years 2006 through 2009 from funds made available to carry out this subsection, $4,100,000 to conduct research to improve asphalt pavement, $4,100,000 to conduct research to improve concrete pavement, $4,100,000 to conduct research to improve alternative materials used in highways (including alternative materials used in highway drainage applications), and $2,450,000 to conduct research to improve aggregates used in highways on the National Highway System.".*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $22,625,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 503(c) of such title.*

*(c) SAFETY INNOVATION DEPLOYMENT PROGRAM.—*

*(1) IN GENERAL.—Section 503 of such title is further amended by adding at the end the following:*

*"(d) SAFETY INNOVATION DEPLOYMENT PROGRAM.—*

*"(1) IN GENERAL.—The Secretary shall establish and implement a program to demonstrate the application of innovative technologies in highway safety.*

*"(2) GOALS.—The goals of the program shall include—*

*"(A) the deployment and evaluation of safety technologies and innovations at State and local levels; and*

*"(B) the deployment of best practices in training, management, design, and planning.*

*"(3) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—*

*"(A) IN GENERAL.—Under the program, the Secretary shall make grants to, and enter into cooperative agreements and contracts with, States, other Federal agencies, universities and colleges, private sector entities, and nonprofit organizations for research, development, and technology transfer for innovative safety technologies.*

*"(B) APPLICATIONS.—To receive a grant under this subsection, an entity described in subparagraph (A) shall submit to the Secretary an application at such time and containing such information as the Secretary may require. The Secretary shall select and approve an application based on whether the project that is the subject of the application meets the goals of the program described in paragraph (2).*

*"(4) TECHNOLOGY AND INFORMATION TRANSFER.—The Secretary shall take such action as is necessary to ensure that the information and technology resulting from research conducted under paragraph (3) is made available to State and local transportation departments and other interested parties as specified by the Secretary.".*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $12,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 503(d) of such title.*

*(d) AUTHORITY TO PURCHASE PROMOTIONAL ITEMS.—Section 503 of such title is further amended by adding at the end the following:*

*"(e) PROMOTIONAL AUTHORITY.—Funds authorized to be appropriated for necessary expenses for administration and operation of the Federal Highway Administration shall be available to purchase promotional items of nominal value for use in the recruitment of individuals and to promote the programs of the Federal Highway Administration.".*

*(e) DEMONSTRATION PROJECTS AND STUDIES.—*

*(1) WOOD COMPOSITE MATERIALS DEMONSTRATION PROJECT.—Of the funds made available by section 5101(a)(1) of this Act, $1,000,000 for each of fiscal years 2006 and 2007 shall be made available for conducting a demonstration at the University of Maine of the durability and potential effectiveness of wood composite materials in multimodal transportation facilities.*

*(2) ASPHALT RECLAMATION STUDY.—Of the funds made available by section 5101(a)(1) of this Act, $1,500,000 for fiscal year 2006 shall be available for asphalt and asphalt-related reclamation research at the South Dakota School of Mines.*

*(3) ALKALI SILICA REACTIVITY.—Of the funds made available by section 5101(a)(1) of this Act, $2,450,000 shall be made available by the Secretary for each of fiscal years 2006 through 2009 for further development and deployment of techniques to prevent and mitigate alkali silica reactivity.*

*(4) FEDERAL SHARE.—The Federal share of the cost of the projects—*

*(A) under paragraph (1) shall be 100 percent; and*

*(B) under paragraphs (2) and (3) shall be the share applicable under section 120(b) of such title unless otherwise specified or determined by the Secretary.*

*(f) TURNER-FAIRBANK FACILITY.—Of the funds made available by section 5101(a)(1) of this Act, $625,000 shall be available for each of fiscal years 2006 through 2009 to provide for physical demonstrations of the ongoing work at the Turner-Fairbank facility with respect to ultra-high performance concrete with ductility.*

***SEC. 5204. TRAINING AND EDUCATION.***

*(a) NATIONAL HIGHWAY INSTITUTE.—*

*(1) COURSES.—Section 504(a)(3) of title 23, United States Code, is amended to read as follows:*

*"(3) COURSES.—*

*"(A) IN GENERAL.—The Institute shall—*

*"(i) develop or update existing courses in asset management, including courses that include such components as—*

*"(I) the determination of life-cycle costs;*

*"(II) the valuation of assets;*

*"(III) benefit-to-cost ratio calculations; and*

*"(IV) objective decisionmaking processes for project selection; and*

*"(ii) continually develop courses relating to the application of emerging technologies for—*

*"(I) transportation infrastructure applications and asset management;*

*"(II) intelligent transportation systems;*

*"(III) operations (including security operations);*

*"(IV) the collection and archiving of data;*

*"(V) expediting the planning and development of transportation projects; and*

*"(VI) the intermodal movement of individuals and freight.*

*"(B) ADDITIONAL COURSES.—In addition to the courses developed under subparagraph (A), the Institute, in consultation with State transportation departments, metropolitan planning organizations, and the American Association of State Highway and Transportation Officials, may develop courses relating to technology, methods, techniques, engineering, construction, safety, maintenance, environmental mitigation and compliance, regulations, management, inspection, and finance.*

*"(C) REVISION OF COURSES OFFERED.—The Institute shall periodically—*

*"(i) review the course inventory of the Institute; and*

*"(ii) revise or cease to offer courses based on course content, applicability, and need.".*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $9,600,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(a) of such title.*

*(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—Section 504(b) of such title is amended to read as follows:*

*"(b) LOCAL TECHNICAL ASSISTANCE PROGRAM.—*

*"(1) AUTHORITY.—The Secretary shall carry out a local technical assistance program that will provide access to surface transportation technology to—*

*"(A) highway and transportation agencies in urbanized and rural areas;*

*"(B) contractors that perform work for the agencies; and*

*"(C) infrastructure security staff.*

*"(2) GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The Secretary may make grants and enter into cooperative agreements and contracts to provide education and training, technical assistance, and related support services to—*

*"(A) assist rural, local transportation agencies and tribal governments, and the consultants and construction personnel working for the agencies and governments, to—*

*"(i) develop and expand expertise in road and transportation areas (including pavement, bridge, concrete structures, intermodal connections, safety management systems, intelligent transportation systems, incident response, operations, and traffic safety countermeasures);*

*"(ii) improve roads and bridges;*

*"(iii) enhance—*

*"(I) programs for the movement of passengers and freight; and*

*"(II) intergovernmental transportation planning and project selection; and*

*"(iv) deal effectively with special transportation-related problems by preparing and providing training packages, manuals, guidelines, and technical resource materials;*

*"(B) develop technical assistance for tourism and recreational travel;*

*"(C) identify, package, and deliver transportation technology and traffic safety information to local jurisdictions to assist urban transportation agencies in developing and expanding their ability to deal effectively with transportation-related problems (particularly the promotion of regional cooperation);*

*"(D) operate, in cooperation with State transportation departments and universities—*

*"(i) local technical assistance program centers designated to provide transportation technology transfer services to rural areas and to urbanized areas; and*

*"(ii) local technical assistance program centers designated to provide transportation technical assistance to tribal governments; and*

*"(E) allow local transportation agencies and tribal governments, in cooperation with the private sector, to enhance new technology implementation.*

*"(3) FEDERAL SHARE.—The Federal share of the cost of activities carried out by the tribal technical assistance centers under paragraph (2)(D)(ii) shall be 100 percent.".*

*(c) FUNDING.—Of the funds made available by section 5101(a)(2) of this Act, $11,100.000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(b) of such title.*

*(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—*

*(1) IN GENERAL.—Section 504 of such title, is further amended by adding at the end the following new subsection:*

*"(d) GARRETT A. MORGAN TECHNOLOGY AND TRANSPORTATION EDUCATION PROGRAM.—*

*"(1) IN GENERAL.—The Secretary shall establish the Garrett A. Morgan Technology and Transportation Education Program to improve the preparation of students, particularly women and minorities, in science, technology, engineering, and mathematics through curriculum development and other activities related to transportation.*

*"(2) AUTHORIZED ACTIVITIES.—The Secretary shall award grants under this subsection on the basis of competitive peer review. Grants awarded under this subsection may be used for enhancing science, technology, engineering, and mathematics at the elementary and secondary school level through such means as—*

*"(A) internships that offer students experience in the transportation field;*

*"(B) programs that allow students to spend time observing scientists and engineers in the transportation field; and*

*"(C) developing relevant curriculum that uses examples and problems related to transportation.*

*"(3) APPLICATION AND REVIEW PROCEDURES.—*

*"(A) IN GENERAL.—An entity described in subparagraph (C) seeking funding under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. Such application, at a minimum, shall include a description of how the funds will be used to serve the purposes described in paragraph (2).*

*"(B) PRIORITY.—In making awards under this subsection, the Secretary shall give priority to applicants that will encourage the participation of women and minorities.*

*"(C) ELIGIBILITY.—Local educational agencies and State educational agencies, which may enter into a partnership agreement with institutions of higher education, businesses, or other entities, shall be eligible to apply for grants under this subsection.*

*"(4) DEFINITIONS.—In this subsection, the following definitions apply:*

*"(A) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the*

*meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).*

*"(B) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).*

*"(C) STATE EDUCATIONAL AGENCY.—The term 'State educational agency' has the meaning given that term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).".*

*(2) FUNDING.—Of the amounts made available by section 5101(a)(2) of this Act, $1,250,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 504(d) of such title.*

*(3) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this section 504(d) of such title shall be 100 percent.*

*(e) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—Section 504 of such title is further amended by adding at the end the following:*

*"(e) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION.—*

*"(1) FUNDING.—Subject to project approval by the Secretary, a State may obligate funds apportioned to the State under sections 104(b)(1), 104(b)(2), 104(b)(3), 104(b)(4), and 144(e) for surface transportation workforce development, training, and education, including—*

*"(A) tuition and direct educational expenses, excluding salaries, in connection with the education and training of employees of State and local transportation agencies;*

*"(B) employee professional development;*

*"(C) student internships;*

*"(D) university or community college support; and*

*"(E) education activities, including outreach, to develop interest and promote participation in surface transportation careers.*

*"(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent.*

*"(3) SURFACE TRANSPORTATION WORKFORCE DEVELOPMENT, TRAINING, AND EDUCATION DEFINED.—In this subsection, the term 'surface transportation workforce development, training, and education' means activities associated with surface transportation career awareness, student transportation career preparation, and training and professional development for surface transportation workers, including activities for women and minorities.*

*"(f) TRANSPORTATION EDUCATION DEVELOPMENT PILOT PROGRAM.—*

*"(1) ESTABLISHMENT.—The Secretary shall establish a program to make grants to institutions of higher education that, in partnership with industry or State departments of transportation, will develop, test, and revise new curricula and education programs to train individuals at all levels of the transportation workforce.*

*"(2) SELECTION OF GRANT RECIPIENTS.—In selecting applications for awards under this subsection, the Secretary shall consider—*

*"(A) the degree to which the new curricula or education program meets the specific needs of a segment of the transportation industry, States, or regions;*

*"(B) providing for practical experience and on-the-job training;*

*"(C) proposals oriented toward practitioners in the field rather than the support and growth of the research community;*

*"(D) the degree to which the new curricula or program will provide training in areas other than engineering, such as business administration, economics, information technology, environmental science, and law;*

*"(E) programs or curricula in nontraditional departments that train professionals for work in the transportation field, such as materials, information technology, environmental science, urban planning, and industrial technology; and*

*"(F) the commitment of industry or a State's department of transportation to the program.*

*"(3) LIMITATIONS.—The amount of a grant under this subsection shall not exceed $300,000 per year. After a recipient has received 3 years of Federal funding under this subsection, Federal funding may equal not more than 75 percent of a grantee's program costs.".*

*(f) FUNDING.—*

*(1) IN GENERAL.—Of the amounts made available by section 5101(a)(2) of this Act, $1,875,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 504(f) of such title.*

*(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with section 504(f) of such title shall be 100 percent.*

*(g) TRANSPORTATION TECHNOLOGY INNOVATIONS.—*

*(1) FUNDAMENTAL PROPERTIES OF ASPHALTS AND MODIFIED ASPHALTS.—The Secretary shall continue to carry out section 5117(b)(5) of the Transportation Equity Act for the 21st Century (112 Stat. 450).*

*(2) TRANSPORTATION, ECONOMIC, AND LAND USE SYSTEM.—The Secretary shall continue to carry out section 5117(b)(7) of the Transportation Equity Act for the 21st Century (112 Stat. 450).*

*(3) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, for each of fiscal years 2005 through 2009 $4,200,000 shall be available to carry out paragraph (1) and $1,000,000 shall be available to carry out paragraph (2).*

*(h) FREIGHT PLANNING CAPACITY BUILDING.—*

*(1) IN GENERAL.—Section 504 of title 23, United States Code, is further amended by adding at the end the following:*

*"(g) FREIGHT CAPACITY BUILDING PROGRAM.—*

*"(1) ESTABLISHMENT.—The Secretary shall establish a freight planning capacity building initiative to support enhancements in freight transportation planning in order to—*

*"(A) better target investments in freight transportation systems to maintain efficiency and productivity; and*

*"(B) strengthen the decisionmaking capacity of State transportation departments and local transportation agencies with respect to freight transportation planning and systems.*

*"(2) AGREEMENTS.—The Secretary shall enter into agreements to support and carry out administrative and management activities relating to the governance of the freight planning capacity initiative.*

*"(3) STAKEHOLDER INVOLVEMENT.—In carrying out this section, the Secretary shall consult with the Association of Metropolitan Planning Organizations, the American Association of State Highway and Transportation Officials, and other freight planning stakeholders, including the other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.*

*"(4) ELIGIBLE ACTIVITIES.—The freight planning capacity building initiative shall include research, training, and education in the following areas:*

*"(A) The identification and dissemination of best practices in freight transportation.*

*"(B) Providing opportunities for freight transportation staff to engage in peer exchange.*

*"(C) Refinement of data and analysis tools used in conjunction with assessing freight transportation needs.*

*"(D) Technical assistance to State transportation departments and local transportation agencies reorganizing to address freight transportation issues.*

*"(E) Facilitating relationship building between governmental and private entities involved in freight transportation.*

*"(F) Identifying ways to target the capacity of State transportation departments and local transportation agencies to address freight considerations in operations, security, asset management, and environmental excellence in connection with long-range multimodal transportation planning and project implementation.*

*"(5) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent, and such funds shall remain available until expended.*

*"(6) USE OF FUNDS.—Funds made available for the program established under this subsection may be used for research, program development, information collection and dissemination, and technical assistance. The Secretary may use such funds independently or make grants or to and enter into contracts and cooperative agreements with a Federal agency, State agency, local agency, federally recognized Indian tribal government or tribal consortium, authority, association, nonprofit or for-profit corporation, or institution of higher education, to carry out the purposes of this subsection.".*

*(2) FUNDING.—Of the amounts made available under section 5101(a)(2) of this Act, $875,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 504(g) of such title.*

*(i) EISENHOWER TRANSPORTATION FELLOWSHIP PROGRAM.—Of the amounts made available by section 5101(a)(2) of this Act, $2,200,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 504(c)(2) of such title.*

### *SEC. 5205. STATE PLANNING AND RESEARCH.*

*Section 505 of title 23, United States Code, is amended—*

*(1) in subsection (a) by adding at the end the following—*

*"(7) The conduct of activities relating to the planning of real-time monitoring elements."; and*

*(2) in subsection (d) by striking "for the same" and all that follows through the period and inserting the following: "for the period described in section 118(b)(2).".*

### *SEC. 5206. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM.*

*(a) IN GENERAL.—Section 506 of title 23, United States Code, is amended to read as follows:*

### *"§506. International highway transportation outreach program*

*"(a) ESTABLISHMENT.—The Secretary may establish an international highway transportation outreach program—*

*"(1) to inform the United States highway community of technological innovations in foreign countries that could significantly improve highway transportation in the United States;*

*"(2) to promote United States highway transportation expertise, goods, and services in foreign countries; and*

*"(3) to increase transfers of United States highway transportation technology to foreign countries.*

*"(b) ACTIVITIES.—Activities carried out under the program may include—*

*"(1) the development, monitoring, assessment, and dissemination in the United States of information about highway transportation innovations in foreign countries that could significantly improve highway transportation in the United States;*

*"(2) research, development, demonstration, training, and other forms of technology transfer and exchange;*

*"(3) the provision to foreign countries, through participation in trade shows, seminars, expositions, and other similar activities, of information relating to the technical quality of United States highway transportation goods and services;*

*"(4) the offering of technical services of the Federal Highway Administration that cannot be*

*readily obtained from private sector firms in the United States for incorporation into the proposals of those firms undertaking highway transportation projects outside the United States, if the costs of the technical services will be recovered under the terms of the project;*

*"(5) the conduct of studies to assess the need for, or feasibility of, highway transportation improvements in foreign countries; and*

*"(6) the gathering and dissemination of information on foreign transportation markets and industries.*

*"(c) COOPERATION.—The Secretary may carry out this section in cooperation with any appropriate—*

*"(1) Federal, State, or local agency;*

*"(2) authority, association, institution, or organization;*

*"(3) for-profit or nonprofit corporation;*

*"(4) national or international entity;*

*"(5) foreign country; or*

*"(6) person.*

*"(d) FUNDS.—*

*"(1) CONTRIBUTIONS.—Funds available to carry out this section shall include funds deposited by any cooperating organization or person into a special account of the Treasury established for this purpose.*

*"(2) ELIGIBLE USES OF FUNDS.—The funds deposited into the account, and other funds available to carry out this section, shall be available to cover the cost of any activity eligible under this section, including the cost of—*

*"(A) promotional materials;*

*"(B) travel;*

*"(C) reception and representation expenses; and*

*"(D) salaries and benefits.*

*"(3) REIMBURSEMENTS FOR SALARIES AND BENEFITS.—Reimbursements for salaries and benefits of Department employees providing services under this section shall be credited to the account.*

*"(e) REPORT.—For each fiscal year, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that describes the destinations and individual trip costs of international travel conducted in carrying out activities described in this section.".*

*(b) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $300,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 506 of such title.*

### *SEC. 5207. SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM.*

*(a) IN GENERAL.—Section 507 of title 23, United States Code, is amended to read as follows:*

#### *"§507. Surface transportation-environmental cooperative research program*

*"(a) IN GENERAL.—The Secretary shall establish and carry out a surface transportation-environmental cooperative research program.*

*"(b) CONTENTS.—The program carried out under this section may include research—*

*"(1) to develop more accurate models for evaluating transportation control measures and transportation system designs that are appropriate for use by State and local governments (including metropolitan planning organizations) in designing implementation plans to meet Federal, State, and local environmental requirements;*

*"(2) to improve understanding of the factors that contribute to the demand for transportation;*

*"(3) to develop indicators of economic, social, and environmental performance of transportation systems to facilitate analysis of potential alternatives;*

*"(4) to meet additional priorities as determined by the Secretary in the strategic planning process under section 508; and*

*"(5) to refine, through the conduct of workshops, symposia, and panels, and in consultation with stakeholders (including the Department of Energy, the Environmental Protection Agency, and other appropriate Federal and State agencies and associations) the scope and research emphases of the program.*

*"(c) PROGRAM ADMINISTRATION.—The Secretary shall—*

*"(1) administer the program established under this section; and*

*"(2) ensure, to the maximum extent practicable, that—*

*"(A) the best projects and researchers are selected to conduct research in the priority areas described in subsection (b)—*

*"(i) on the basis of merit of each submitted proposal; and*

*"(ii) through the use of open solicitations and selection by a panel of appropriate experts;*

*"(B) a qualified, permanent core staff with the ability and expertise to manage a large multiyear budget is used;*

*"(C) the stakeholders are involved in the governance of the program, at the executive, overall program, and technical levels, through the use of expert panels and committees; and*

*"(D) there is no duplication of research effort between the program established under this section and the new strategic highway research program established under section 510.*

*"(d) NATIONAL ACADEMY OF SCIENCES.—The Secretary may make grants to, and enter into cooperative agreements with, the National Academy of Sciences to carry out such activities relating to the research, technology, and technology transfer activities described in subsections (b) and (c) as the Secretary determines to be appropriate.".*

*(b) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $16,875,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 507 of such title.*

*(c) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is amended by striking the item relating to section 507 and inserting the following:*

*"507. Surface transportation environment and planning cooperative research program.".*

### *SEC. 5208. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING.*

*(a) IN GENERAL.—Section 508 of title 23, United States Code, is amended to read as follows:*

#### *"§508. Transportation research and development strategic planning*

*"(a) IN GENERAL.—*

*"(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of the SAFETEA-LU, the Secretary shall develop a 5-year transportation research and development strategic plan to guide Federal transportation research and development activities. This plan shall be consistent with section 306 of title 5, sections 1115 and 1116 of title 31, and any other research and development plan within the Department of Transportation.*

*"(2) CONTENTS.—The strategic plan developed under paragraph (1) shall—*

*"(A) describe the primary purposes of the transportation research and development program, which shall include, at a minimum—*

*"(i) reducing congestion and improving mobility;*

*"(ii) promoting safety;*

*"(iii) promoting security;*

*"(iv) protecting and enhancing the environment;*

*"(v) preserving the existing transportation system; and*

*"(vi) improving the durability and extending the life of transportation infrastructure;*

*"(B) for each purpose, list the primary research and development topics that the Department intends to pursue to accomplish that purpose, which may include the fundamental research in the physical and natural sciences, applied research, technology development, and social science research intended for each topic; and*

*"(C) for each research and development topic, describe—*

*"(i) the anticipated annual funding levels for the period covered by the strategic plan; and*

*"(ii) the additional information the Department expects to gain at the end of the period covered by the strategic plan as a result of the research and development in that topic area.*

*"(3) CONSIDERATIONS.—In developing the strategic plan, the Secretary shall ensure that the plan—*

*"(A) reflects input from a wide range of stakeholders;*

*"(B) includes and integrates the research and development programs of all the Department's operating administrations, including aviation, transit, rail, and maritime; and*

*"(C) takes into account how research and development by other Federal, State, private sector, and nonprofit institutions contributes to the achievement of the purposes identified under paragraph (2)(A), and avoids unnecessary duplication with these efforts.*

*"(4) PERFORMANCE PLANS AND REPORTS.—In reports submitted under sections 1115 and 1116 of title 31, the Secretary shall include—*

*"(A) a summary of the Federal transportation research and development activities for the previous fiscal year in each topic area;*

*"(B) the amount of funding spent in each topic area;*

*"(C) a description of the extent to which the research and development is meeting the expectations set forth in paragraph (2)(C)(ii); and*

*"(D) any amendments to the strategic plan.*

*"(b) ANNUAL REPORT.—The Secretary shall submit to appropriate committees of Congress an annual report, in conjunction with the President's annual budget request as set forth in section 1105 of title 31, describing the amount spent in the last completed fiscal year on transportation research and development and the amount proposed in the current budget for transportation research and development.*

*"(c) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall enter into an agreement for the review by the National Research Council of the details of each—*

*"(1) strategic plan under this section;*

*"(2) performance plan required under section 1115 of title 31; and*

*"(3) program performance report required under section 1116 of title 31, with respect to transportation research and development.".*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is amended by striking the item relating to section 508 and inserting the following:*

*"508. Transportation research and development strategic planning.".*

### *SEC. 5209. NATIONAL COOPERATIVE FREIGHT TRANSPORTATION RESEARCH PROGRAM.*

*(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is amended by adding at the end the following:*

#### *"§509. National cooperative freight transportation research program*

*"(a) ESTABLISHMENT.—The Secretary shall establish and support a national cooperative freight transportation research program.*

*"(b) AGREEMENT.—The Secretary shall enter into an agreement with the National Academy*

*of Sciences to support and carry out administrative and management activities relating to the governance of the national cooperative freight transportation research program.*

*"(c) ADVISORY COMMITTEE.—The National Academy of Sciences shall select an advisory committee consisting of a representative cross-section of freight stakeholders, including the Department of Transportation, other Federal agencies, State transportation departments, local governments, nonprofit entities, academia, and the private sector.*

*"(d) GOVERNANCE.—The national cooperative freight transportation research program established under this section shall include the following administrative and management elements:*

*"(1) NATIONAL RESEARCH AGENDA.—The advisory committee, in consultation with interested parties, shall recommend a national research agenda for the program. The agenda shall include a multiyear strategic plan.*

*"(2) INVOLVEMENT.—Interested parties may—*

*"(A) submit research proposals to the advisory committee;*

*"(B) participate in merit reviews of research proposals and peer reviews of research products; and*

*"(C) receive research results.*

*"(3) OPEN COMPETITION AND PEER REVIEW OF RESEARCH PROPOSALS.—The National Academy of Sciences may award research contracts and grants under the program through open competition and merit review conducted on a regular basis.*

*"(4) EVALUATION OF RESEARCH.—*

*"(A) PEER REVIEW.—Research contracts and grants under the program may allow peer review of the research results.*

*"(B) PROGRAMMATIC EVALUATIONS.—The National Academy of Sciences may conduct periodic programmatic evaluations on a regular basis of research contracts and grants.*

*"(5) DISSEMINATION OF RESEARCH FINDINGS.—The National Academy of Sciences shall disseminate research findings to researchers, practitioners, and decisionmakers, through conferences and seminars, field demonstrations, workshops, training programs, presentations, testimony to government officials, the World Wide Web, publications for the general public, and other appropriate means.*

*"(e) CONTENTS.—The national research agenda required under subsection (d)(1) shall include research in the following areas:*

*"(1) Techniques for estimating and quantifying public benefits derived from freight transportation projects.*

*"(2) Alternative approaches to calculating the contribution of truck and rail traffic to congestion on specific highway segments.*

*"(3) The feasibility of consolidating origins and destinations for freight movement.*

*"(4) Methods for incorporating estimates of international trade into landside transportation planning.*

*"(5) The use of technology applications to increase capacity of highway lanes dedicated to truck-only traffic.*

*"(6) Development of physical and policy alternatives for separating car and truck traffic.*

*"(7) Ways to synchronize infrastructure improvements with freight transportation demand.*

*"(8) The effect of changing patterns of freight movement on transportation planning decisions relating to rest areas.*

*"(9) Other research areas to identify and address emerging and future research needs related to freight transportation by all modes.*

*"(f) FUNDING.—*

*"(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out under this section shall be up to 100 percent.*

*"(2) USE OF NON-FEDERAL FUNDS.—In addition to using funds authorized for this section, the National Academy of Sciences may seek and accept additional funding sources from public and private entities capable of accepting funding from the Department of Transportation, States, local governments, nonprofit foundations, and the private sector.*

*"(3) PERIOD OF AVAILABILITY.—Amounts made available to carry out this section shall remain available until expended.".*

*(b) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $3,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 509 of such title.*

*(c) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:*

*"509. National cooperative freight transportation research program.".*

**SEC. 5210. *FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM.***

*(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:*

***"§510. Future strategic highway research program***

*"(a) ESTABLISHMENT.—The Secretary, in consultation with the American Association of State Highway and Transportation Officials, shall establish and carry out, acting through the National Research Council of the National Academy of Sciences, the future strategic highway research program.*

*"(b) COOPERATIVE AGREEMENTS.—The Secretary may make grants to, and enter into cooperative agreements with, the American Association of State Highway and Transportation Officials and the National Academy of Sciences to carry out such activities under this section as the Secretary determines are appropriate.*

*"(c) PROGRAM PRIORITIES.—*

*"(1) PROGRAM ELEMENTS.—The program established under this section shall be based on the National Research Council Special Report 260, entitled 'Strategic Highway Research: Saving Lives, Reducing Congestion, Improving Quality of Life' and the results of the detailed planning work subsequently carried out in 2002 and 2003 to identify the research areas through National Cooperative Research Program Project 20–58. The research program shall include an analysis of the following:*

*"(A) Renewal of aging highway infrastructure with minimal impact to users of the facilities.*

*"(B) Driving behavior and likely crash causal factors to support improved countermeasures.*

*"(C) Reducing highway congestion due to nonrecurring congestion.*

*"(D) Planning and designing new road capacity to meet mobility, economic, environmental, and community needs.*

*"(2) DISSEMINATION OF RESULTS.—The research results of the program, expressed in terms of technologies, methodologies, and other appropriate categorizations, shall be disseminated to practicing engineers for their use, as soon as practicable.*

*"(d) PROGRAM ADMINISTRATION.—In carrying out the program under this section, the National Research Council shall ensure, to the maximum extent practicable, that—*

*"(1) projects and researchers are selected to conduct research for the program on the basis of merit and open solicitation of proposals and review by panels of appropriate experts;*

*"(2) State department of transportation officials and other stakeholders, as appropriate, are involved in the governance of the program at the overall program level and technical level through the use of expert panels and committees;*

*"(3) the Council acquires a qualified, permanent core staff with the ability and expertise to manage the program and multiyear budget; and*

*"(4) there is no duplication of research effort between the program and any other research effort of the Department.*

*"(e) REPORT ON IMPLEMENTATION OF RESULTS.—*

*"(1) REPORT.—The Transportation Research Board of the National Research Council shall complete a report on the strategies and administrative structure to be used for implementation of the results of the future strategic highway research program.*

*"(2) COMPONENTS.—The report under paragraph (1) shall include with respect to the program—*

*"(A) an identification of the most promising results of research under the program (including the persons most likely to use the results);*

*"(B) a discussion of potential incentives for, impediments to, and methods of, implementing those results;*

*"(C) an estimate of costs of implementation of those results; and*

*"(D) recommendations on methods by which implementation of those results should be conducted, coordinated, and supported in future years, including a discussion of the administrative structure and organization best suited to carry out those recommendations.*

*"(3) CONSULTATION.—In developing the report, the Transportation Research Board shall consult with a wide variety of stakeholders, including—*

*"(A) the Federal Highway Administration;*

*"(B) the National Highway Traffic Safety Administration; and*

*"(C) the American Association of State Highway and Transportation Officials.*

*"(4) SUBMISSION.—Not later than February 1, 2009, the report shall be submitted to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.*

*"(f) FUNDING.—*

*"(1) FEDERAL SHARE.—The Federal share of the cost of an activity carried out using amounts made available under a grant or cooperative agreement under this section shall be 100 percent, and such funds shall remain available until expended.*

*"(2) ADVANCE PAYMENTS.—The Secretary may make advance payments as necessary to carry out the program under this section.*

*"(g) LIMITATION OF REMEDIES.—*

*"(1) SAME REMEDY AS IF UNITED STATES.—The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for injury, loss of property, personal injury, or death shall apply to any claim against the National Academy of Sciences for money damages for injury, loss of property, personal injury, or death caused by any negligent or wrongful act or omission by employees and individuals described in paragraph (3) arising from activities conducted under or in connection with this section. Any such claim shall be subject to the limitations and exceptions which would be applicable to such claim if such claim were against the United States. With respect to any such claim, the Secretary shall be treated as the head of the appropriate Federal agency for purposes of sections 2672 and 2675 of title 28.*

*"(2) EXCLUSIVENESS OF REMEDY.—The remedy referred to in paragraph (1) shall be exclusive of any other civil action or proceeding for the purpose of determining liability arising from any such act or omission without regard to when the act or omission occurred.*

*"(3) TREATMENT.—Employees of the National Academy of Sciences and other individuals appointed by the president of the National Academy of Sciences and acting on its behalf in connection with activities carried out under this section shall be treated as if they are employees*

of the Federal Government under section 2671 of title 28 for purposes of a civil action or proceeding with respect to a claim described in paragraph (1). The civil action or proceeding shall proceed in the same manner as any proceeding under chapter 171 of title 28 or action against the United States filed pursuant to section 1346(b) of title 28 and shall be subject to the limitations and exceptions applicable to such a proceeding or action.

"(4) SOURCES OF PAYMENTS.—Payment of any award, compromise, or settlement of a civil action or proceeding with respect to a claim described in paragraph (1) shall be paid first out of insurance maintained by the National Academy of Sciences, second from funds made available to carry out this section, and then from sums made available under section 1304 of title 31. For purposes of such section, such an award, compromise, or settlement shall be deemed to be a judgment, award, or settlement payable under section 2414 or 2672 of title 28. The Secretary may establish a reserve of funds to carry out this section for making payments under this paragraph.".

(b) PROGRAMMATIC EVALUATIONS.—Not later than 3 years after the first research and development project grants, cooperative agreements, or contracts are awarded under section 510 of title 23, United States Code, the Comptroller General shall review the program under such section and recommend improvements to the program. The review shall assess the degree to which projects funded under such section have addressed the research and development topics identified in the Transportation Research Board Special Report 260, including identifying those topics that have not yet been addressed.

(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $51,250,000 for each of fiscal years 2006 through 2009, shall be available to carry out section 510 of such title.

(d) CONFORMING AMENDMENT.—The analysis for chapter 5 of such title is further amended by adding at the end the following:

"510. Future strategic highway research program.".

### SEC. 5211. MULTISTATE CORRIDOR OPERATIONS AND MANAGEMENT.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

### "§511. Multistate corridor operations and management

"(a) IN GENERAL.—The Secretary shall encourage multistate cooperative agreements, coalitions, or other arrangements to promote regional cooperation, planning, and shared project implementation for programs and projects to improve transportation system management and operations.

"(b) INTERSTATE ROUTE 95 CORRIDOR COALITION TRANSPORTATION SYSTEMS MANAGEMENT AND OPERATIONS.—The Secretary shall make grants under this subsection to States to continue intelligent transportation system management and operations in the Interstate Route 95 corridor coalition region initiated under the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240).".

(b) FUNDING.—Of the amounts made available under section 5101(a)(5) of this Act $7,000,000 for each of fiscal years 2005 through 2009 shall be available to carry out section 511 of such title.

(c) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:

"511. Multistate corridor operations and management.".

## Subtitle C—Intelligent Transportation System Research

### SEC. 5301. NATIONAL ITS PROGRAM PLAN.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

### "§512. National ITS program plan

"(a) IN GENERAL.—

"(1) UPDATES.—Not later than 1 year after the date of enactment of the SAFETEA-LU, the Secretary, in consultation with interested stakeholders (including State transportation departments) shall develop a 5-year National Intelligent Transportation System (in this section referred to as 'ITS') program plan.

"(2) SCOPE.—The National ITS program plan shall—

"(A) specify the goals, objectives, and milestones for the research and deployment of intelligent transportation systems in the contexts of—

"(i) major metropolitan areas;

"(ii) smaller metropolitan and rural areas; and

"(iii) commercial vehicle operations;

"(B) specify the manner in which specific programs and projects will achieve the goals, objectives, and milestones referred to in subparagraph (A), including consideration of a 5-year timeframe for the goals and objectives;

"(C) identify activities that provide for the dynamic development, testing, and necessary revision of standards and protocols to promote and ensure interoperability in the implementation of intelligent transportation system technologies, including actions taken to establish standards; and

"(D) establish a cooperative process with State and local governments for—

"(i) determining desired surface transportation system performance levels; and

"(ii) developing plans for accelerating the incorporation of specific intelligent transportation system capabilities into surface transportation systems.

"(b) REPORTING.—The National ITS program plan shall be submitted and biennially updated as part of the transportation research and development strategic plan developed under section 508.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:

"512. National ITS Program Plan.".

### SEC. 5302. USE OF FUNDS.

(a) IN GENERAL.—Chapter 5 of title 23, United States Code, is further amended by adding at the end the following:

### "§513. Use of funds for ITS activities

"(a) IN GENERAL.—For each fiscal year, not more than $250,000 of the funds made available to carry out this subtitle C of title V of the SAFETEA-LU shall be used for intelligent transportation system outreach, public relations, displays, tours, and brochures.

"(b) APPLICABILITY.—Subsection (a) shall not apply to intelligent transportation system training, scholarships, or the publication or distribution of research findings, technical guidance, or similar documents.".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following:

"513. Use of funds for ITS activities.".

### SEC. 5303. GOALS AND PURPOSES.

(a) GOALS.—The goals of the intelligent transportation system program include—

(1) enhancement of surface transportation efficiency and facilitation of intermodalism and international trade to enable existing facilities to meet a significant portion of future transportation needs, including public access to employment, goods, and services and to reduce regulatory, financial, and other transaction costs to public agencies and system users;

(2) achievement of national transportation safety goals, including the enhancement of safe operation of motor vehicles and nonmotorized vehicles and improved emergency response to a crash, with particular emphasis on decreasing the number and severity of collisions;

(3) protection and enhancement of the natural environment and communities affected by surface transportation, with particular emphasis on assisting State and local governments to achieve national environmental goals;

(4) accommodation of the needs of all users of surface transportation systems, including operators of commercial motor vehicles, passenger motor vehicles, motorcycles, bicycles and pedestrians, including individuals with disabilities; and

(5) improvement of the Nation's ability to respond to security-related or other manmade emergencies and natural disasters and enhancement of national defense mobility.

(b) PURPOSES.—The Secretary shall implement activities under the intelligent system transportation program to, at a minimum—

(1) expedite, in both metropolitan and rural areas, deployment and integration of intelligent transportation systems for consumers of passenger and freight transportation;

(2) ensure that Federal, State, and local transportation officials have adequate knowledge of intelligent transportation systems for consideration in the transportation planning process;

(3) improve regional cooperation and operations planning for effective intelligent transportation system deployment;

(4) promote the innovative use of private resources;

(5) facilitate, in cooperation with the motor vehicle industry, the introduction of vehicle-based safety enhancing systems;

(6) support the application of intelligent transportation systems that increase the safety and efficiency of commercial motor vehicle operations;

(7) develop a workforce capable of developing, operating, and maintaining intelligent transportation systems; and

(8) provide continuing support for operations and maintenance of intelligent transportation systems.

### SEC. 5304. INFRASTRUCTURE DEVELOPMENT.

Funds made available to carry out this subtitle for operational tests—

(1) shall be used primarily for the development of intelligent transportation system infrastructure; and

(2) to the maximum extent practicable, shall not be used for the construction of physical highway and public transportation infrastructure unless the construction is incidental and critically necessary to the implementation of an intelligent transportation system project.

### SEC. 5305. GENERAL AUTHORITIES AND REQUIREMENTS.

(a) SCOPE.—Subject to the provisions of this subtitle, the Secretary shall conduct an ongoing intelligent transportation system program to research, develop, and operationally test intelligent transportation systems and to provide technical assistance in the nationwide application of those systems as a component of the surface transportation systems of the United States.

(b) POLICY.—Intelligent transportation system research projects and operational tests funded pursuant to this subtitle shall encourage and not displace public-private partnerships or private sector investment in such tests and projects.

(c) COOPERATION WITH GOVERNMENTAL, PRIVATE, AND EDUCATIONAL ENTITIES.—The Secretary shall carry out the intelligent transportation system program in cooperation with State *and local governments and other public entities, the private sector firms of the United States, the Federal laboratories, and colleges and universities, including historically Black colleges and universities and other minority institutions of higher education.*

*(d) CONSULTATION WITH FEDERAL OFFICIALS.—In carrying out the intelligent transportation system program, the Secretary shall consult with the heads of other Federal departments and agencies, as appropriate.*

*(e) TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION.—The Secretary may provide technical assistance, training, and information to State and local governments seeking to implement, operate, maintain, or evaluate intelligent transportation system technologies and services.*

*(f) TRANSPORTATION PLANNING.—The Secretary may provide funding to support adequate consideration of transportation systems management and operations, including intelligent transportation systems, within metropolitan and statewide transportation planning processes.*

*(g) INFORMATION CLEARINGHOUSE.—*

*(1) IN GENERAL.—The Secretary shall—*

*(A) maintain a repository for technical and safety data collected as a result of federally sponsored projects carried out under this subtitle (including the amendments made by this subtitle); and*

*(B) make, on request, that information (except for proprietary information and data) readily available to all users of the repository at an appropriate cost.*

*(2) AGREEMENT.—*

*(A) IN GENERAL.—The Secretary may enter into an agreement with a third party for the maintenance of the repository for technical and safety data under paragraph (1)(A).*

*(B) FEDERAL FINANCIAL ASSISTANCE.—If the Secretary enters into an agreement with an entity for the maintenance of the repository, the entity shall be eligible for Federal financial assistance under this section.*

*(3) AVAILABILITY OF INFORMATION.—Information in the repository shall not be subject to section 555 of title 5, United States Code.*

*(h) ADVISORY COMMITTEE.—*

*(1) IN GENERAL.—The Secretary shall establish an Advisory Committee to advise the Secretary on carrying out this subtitle.*

*(2) MEMBERSHIP.—The Advisory Committee shall have no more than 20 members, be balanced between metropolitan and rural interests, and include, at a minimum—*

*(A) a representative from a State highway department;*

*(B) a representative from a local highway department who is not from a metropolitan planning organization;*

*(C) a representative from a State, local, or regional transit agency;*

*(D) a representative from a metropolitan planning organization;*

*(E) a private sector user of intelligent transportation system technologies;*

*(F) an academic researcher with expertise in computer science or another information science field related to intelligent transportation systems, and who is not an expert on transportation issues;*

*(G) an academic researcher who is a civil engineer;*

*(H) an academic researcher who is a social scientist with expertise in transportation issues;*

*(I) a representative from a nonprofit group representing the intelligent transportation system industry;*

*(J) a representative from a public interest group concerned with safety;*

*(K) a representative from a public interest group concerned with the impact of the transportation system on land use and residential patterns; and*

*(L) members with expertise in planning, safety, and operations.*

*(3) DUTIES.—The Advisory Committee shall, at a minimum, perform the following duties:*

*(A) Provide input into the development of the Intelligent Transportation System aspects of the strategic plan under section 508 of title 23, United States Code.*

*(B) Review, at least annually, areas of intelligent transportation systems research being considered for funding by the Department, to determine—*

*(i) whether these activities are likely to advance either the state-of-the-practice or state-of-the-art in intelligent transportation systems;*

*(ii) whether the intelligent transportation system technologies are likely to be deployed by users, and, if not, to determine the barriers to deployment; and*

*(iii) the appropriate roles for government and the private sector in investing in the research and technologies being considered.*

*(4) REPORT.—Not later than February 1 of each year after the date of enactment of this Act, the Secretary shall transmit to the Congress a report including—*

*(A) all recommendations made by the Advisory Committee during the preceding calendar year;*

*(B) an explanation of how the Secretary has implemented those recommendations; and*

*(C) for recommendations not implemented, the reasons for rejecting the recommendations.*

*(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Advisory Committee shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).*

*(i) REPORTING.—*

*(1) GUIDELINES AND REQUIREMENTS.—*

*(A) IN GENERAL.—The Secretary shall issue guidelines and requirements for the reporting and evaluation of operational tests and deployment projects carried out under this subtitle.*

*(B) OBJECTIVITY AND INDEPENDENCE.—The guidelines and requirements issued under subparagraph (A) shall include provisions to ensure the objectivity and independence of the reporting entity so as to avoid any real or apparent conflict of interest or potential influence on the outcome by parties to any such test or deployment project or by any other formal evaluation carried out under this subtitle.*

*(C) FUNDING.—The guidelines and requirements issued under subparagraph (A) shall establish reporting funding levels based on the size and scope of each test or project that ensure adequate reporting of the results of the test or project.*

*(2) SPECIAL RULE.—Any survey, questionnaire, or interview that the Secretary considers necessary to carry out the reporting of any test, deployment project, or program assessment activity under this subtitle shall not be subject to chapter 35 of title 44, United States Code.*

### *SEC. 5306. RESEARCH AND DEVELOPMENT.*

*(a) IN GENERAL.—The Secretary shall carry out a comprehensive program of intelligent transportation system research, development, and operational tests of intelligent vehicles and intelligent infrastructure systems and other similar activities that are necessary to carry out this subtitle.*

*(b) PRIORITY AREAS.—Under the program, the Secretary shall give higher priority to funding projects that—*

*(1) enhance mobility and productivity through improved traffic management, incident management, transit management, freight management, road weather management, toll collection, traveler information, or highway operations systems and remote sensing products;*

*(2) utilize interdisciplinary approaches to develop traffic management strategies and tools to address multiple impacts of congestion concurrently;*

*(3) address traffic management, incident management, transit management, toll collection traveler information, or highway operations systems with goals of—*

*(A) reducing metropolitan congestion by not less than 5 percent by 2010;*

*(B) ensuring that a national, interoperable 5-1-1 system, along with a national traffic information system that includes a user-friendly, comprehensive website, is fully implemented for use by travelers throughout the United States by September 30, 2010; and*

*(C)(i) improving incident management response, particularly in rural areas, so that rural emergency response times are reduced by an average of 10 minutes; and*

*(ii) improving communication between emergency care providers and trauma centers;*

*(4) incorporate research on the impact of environmental, weather, and natural conditions on intelligent transportation systems, including the effects of cold climates;*

*(5) enhance intermodal use of intelligent transportation systems for diverse groups, including for emergency and health-related services;*

*(6) enhance safety through improved crash avoidance and protection, crash and other notification, commercial motor vehicle operations, and infrastructure-based or cooperative safety systems; and*

*(7) facilitate the integration of intelligent infrastructure, vehicle, and control technologies.*

*(c) FEDERAL SHARE.—The Federal share of the cost of operational tests and demonstrations under subsection (a) shall not exceed 80.*

### *SEC. 5307. NATIONAL ARCHITECTURE AND STANDARDS.*

*(a) IN GENERAL.—*

*(1) DEVELOPMENT, IMPLEMENTATION, AND MAINTENANCE.—Consistent with section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note; 110 Stat. 783), the Secretary shall develop, implement, and maintain a national architecture and supporting standards and protocols to promote the widespread use and evaluation of intelligent transportation system technology as a component of the surface transportation systems of the United States.*

*(2) INTEROPERABILITY AND EFFICIENCY.—To the maximum extent practicable, the national architecture shall promote interoperability among, and efficiency of, intelligent transportation system technologies implemented throughout the United States.*

*(3) USE OF STANDARDS DEVELOPMENT ORGANIZATIONS.—In carrying out this section, the Secretary shall use the services of such standards development organizations as the Secretary determines to be appropriate.*

*(4) USE OF EXPERT PANEL.—*

*(A) DESIGNATION.—The Secretary shall designate a panel of experts to recommend ways to expedite and streamline the process for developing the standards and protocols to be developed pursuant to paragraph (1).*

*(B) NONAPPLICABILITY OF ADVISORY COMMITTEE ACT.—The expert panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).*

*(C) DEADLINE FOR RECOMMENDATION.—Not later than September 30, 2007, the expert panel shall provide the Secretary with a recommendation relating to such standards development.*

*(b) PROVISIONAL STANDARDS.—*

*(1) IN GENERAL.—If the Secretary finds that the development or balloting of an intelligent transportation system standard jeopardizes the timely achievement of the objectives identified in subsection (a), the Secretary may establish a provisional standard, after consultation with affected parties, using, to the extent practicable, the work product of appropriate standards development organizations.*

*(2) Period of Effectiveness.—A provisional standard established under paragraph (1) shall be published in the Federal Register and remain in effect until the appropriate standards development organization adopts and publishes a standard.*

*(c) Conformity With National Architecture.—*

*(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall ensure that intelligent transportation system projects carried out using funds made available from the Highway Trust Fund, including funds made available under this subtitle to deploy intelligent transportation system technologies, conform to the national architecture, applicable standards or provisional standards, and protocols developed under subsection (a).*

*(2) Secretary's discretion.—The Secretary may authorize exceptions to paragraph (1) for—*

*(A) projects designed to achieve specific research objectives outlined in the national intelligent transportation system program plan or the surface transportation research and development strategic plan developed under section 508 of title 23, United States Code; or*

*(B) the upgrade or expansion of an intelligent transportation system in existence on the date of enactment of this Act if the Secretary determines that the upgrade or expansion—*

*(i) would not adversely affect the goals or purposes of this subtitle;*

*(ii) is carried out before the end of the useful life of such system; and*

*(iii) is cost-effective as compared to alternatives that would meet the conformity requirement of paragraph (1).*

*(3) Exceptions.—Paragraph (1) shall not apply to funds used for operation or maintenance of an intelligent transportation system in existence on the date of enactment of this Act.*

### ***SEC. 5308. ROAD WEATHER RESEARCH AND DEVELOPMENT PROGRAM.***

*(a) Establishment.—The Secretary shall establish a road weather research and development program to—*

*(1) maximize use of available road weather information and technologies;*

*(2) expand road weather research and development efforts to enhance roadway safety, capacity, and efficiency while minimizing environmental impacts; and*

*(3) promote technology transfer of effective road weather scientific and technological advances.*

*(b) Stakeholder Input.—In carrying out this section, the Secretary shall consult with the National Oceanic and Atmospheric Administration, the National Science Foundation, the American Association of State Highway and Transportation Officials, nonprofit organizations, and the private sector.*

*(c) Contents.—The program established under this section shall solely carry out research and development called for in the National Research Council's report entitled "A Research Agenda for Improving Road Weather Services". Such research and development includes—*

*(1) integrating existing observational networks and data management systems for road weather applications;*

*(2) improving weather modeling capabilities and forecast tools, such as the road surface and atmospheric interface;*

*(3) enhancing mechanisms for communicating road weather information to users, such as transportation officials and the public; and*

*(4) integrating road weather technologies into an information infrastructure.*

*(d) Activities.—In carrying out this section, the Secretary shall—*

*(1) enable efficient technology transfer;*

*(2) improve education and training of road weather information users, such as State and local transportation officials and private sector transportation contractors; and*

*(3) coordinate with transportation weather research programs in other modes, such as aviation.*

*(e) Funding.—*

*(1) In general.—In awarding funds under this section, the Secretary shall give preference to applications with significant matching funds from non-Federal sources.*

*(2) Funds for road weather research and development.—Of the amounts made available by section 5101(a)(5) of this Act, $5,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.*

### ***SEC. 5309. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE.***

*(a) Establishment.—The Secretary shall establish 4 centers for surface transportation excellence.*

*(b) Goals.—The goals of the centers for surface transportation excellence are to promote and support strategic national surface transportation programs and activities relating to the work of State departments of transportation in the areas of environment, surface transportation safety, rural safety, and project finance.*

*(c) Role of Centers.—To achieve the goals set forth in subsection (b), the Secretary shall establish the 4 centers as follows:*

*(1) Environmental excellence.—To provide technical assistance, information sharing of best practices, and training in the use of tools and decision-making processes that can assist States in planning and delivering environmentally sound surface transportation projects.*

*(2) Surface transportation safety.—To develop and disseminate advanced transportation safety techniques and innovations in both rural areas and urban communities. The center will use a controlled access highway with state of the art features, to test safety devices and techniques that enhance driver performance, examine advanced pavement and lighting systems, and develop techniques to address older driver and fatigue driver issues.*

*(3) Rural safety.—To provide research, training, and outreach on innovative uses of technology to enhance rural safety and economic development, assess local community needs to improve access to mobile emergency treatment, and develop online and seminar training needs of rural transportation practitioners and policy-makers.*

*(4) Project finance.—To provide support to State transportation departments in the development of finance plans and project oversight tools and to develop and offer training in state of the art financing methods to advance projects and leverage funds.*

*(d) Funding.—*

*(1) In general.—Of the amounts made available by section 5101(a)(1) of this Act, $3,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.*

*(2) Allocation of funds.—Of the funds made available under paragraph (1) the Secretary shall use such amounts as follows:*

*(A) $1,250,000 to establish the Center for Environmental Excellence.*

*(B) $750,000 to establish the Center for Excellence in Surface Transportation Safety at the Virginia Tech Transportation Institute.*

*(C) $875,000 to establish the Center for Excellence in Rural Safety at the Hubert H. Humphrey Institute, Minnesota.*

*(D) $875,000 to establish the Center for Excellence in Project Finance.*

*(3) Applicability of title 23.—Funds authorized by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, except that the Federal share shall be 100 percent.*

*(e) Program Administration.—*

*(1) Competition.—A party entering into a contract, cooperative agreement, or other transaction with the Secretary, or receiving a grant to perform research or provide technical assistance under subsections (d)(2)(A) and (d)(2)(D) shall be selected on a competitive basis, to the maximum extent practicable.*

*(2) Strategic plan.—The Secretary shall require each center to develop a multiyear strategic plan that describes—*

*(A) the activities to be undertaken; and*

*(B) how the work of the center is coordinated with the activities of the Federal Highway Administration and the various other research, development, and technology transfer activities authorized by this title. Such plans shall be submitted to the Secretary by January 1, 2006, and each year thereafter.*

### ***SEC. 5310. DEFINITIONS.***

*In this subtitle, the following definitions apply:*

*(1) Incident.—The term "incident" means a crash, a natural disaster, workzone activity, special event, or other emergency road user occurrence that adversely affects or impedes the normal flow of traffic.*

*(2) Intelligent transportation infrastructure.—The term "intelligent transportation infrastructure" means fully integrated public sector intelligent transportation system components, as defined by the Secretary.*

*(3) Intelligent transportation system.—The term "intelligent transportation system" means electronics, photonics, communications, or information processing used singly or in combination to improve the efficiency or safety of a surface transportation system.*

*(4) National architecture.—The term "national architecture" means the common framework for interoperability that defines—*

*(A) the functions associated with intelligent transportation system user services;*

*(B) the physical entities or subsystems within which the functions reside;*

*(C) the data interfaces and information flows between physical subsystems; and*

*(D) the communications requirements associated with the information flows.*

*(5) Project.—The term "project" means an undertaking to research, develop, or operationally test intelligent transportation systems or any other undertaking eligible for assistance under this subtitle.*

*(6) Standard.—The term "standard" means a document that—*

*(A) contains technical specifications or other precise criteria for intelligent transportation systems that are to be used consistently as rules, guidelines, or definitions of characteristics so as to ensure that materials, products, processes, and services are fit for their purposes; and*

*(B) may support the national architecture and promote—*

*(i) the widespread use and adoption of intelligent transportation system technology as a component of the surface transportation systems of the United States; and*

*(ii) interoperability among intelligent transportation system technologies implemented throughout the States.*

*(7) State.—The term "State" has the meaning given the term under section 101 of title 23, United States Code.*

*(8) Transportation systems management and operations.—The term "transportation systems management and operations" has the meaning given the term under section 101(a) of title 23, United States Code.*

## ***Subtitle D—University Transportation Research; Scholarship Opportunities***

### ***SEC. 5401. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.***

*(a) In General.—Section 5505 of title 49, United States Code, is amended to read as follows:*

### "SEC. 5505. NATIONAL UNIVERSITY TRANSPORTATION CENTERS.

"(a) In General.—

"(1) Establishment and Operation.—The Secretary of Transportation shall make grants under this section to eligible nonprofit institutions of higher learning to establish and operate national university transportation centers.

"(2) Role of Centers.—The role of each center shall be to advance significant transportation research on critical national transportation issues and to expand the workforce of transportation professionals.

"(b) Applicability of Requirements.—A grant received by an eligible nonprofit institution of higher learning under this section shall be available for the same purposes, and shall be subject to the same terms and conditions, as a grant made to a nonprofit institution of higher learning under section 5506.

"(c) Eligible Nonprofit Institution of Higher Learning Defined.—In this section, the term 'eligible nonprofit institution of higher learning' means each of the following:

"(1) University of Alaska.

"(2) Marshall University, West Virginia, on behalf of a consortium of West Virginia colleges and universities.

"(3) University of Minnesota.

"(4) University of Missouri, Rolla.

"(5) Northwestern University.

"(6) Oklahoma Transportation Center.

"(7) Portland State University, in partnership with the University of Oregon, Oregon State University, and the Oregon Institute of Technology.

"(8) University of Vermont.

"(9) Western Transportation Institute at Montana State University.

"(10) University of Wisconsin.

"(d) Grants.—The Secretary shall make a grant under this section to each eligible nonprofit institution of higher learning in an amount $2,000,000 in fiscal year 2005 and $3,500,000 in each of fiscal years 2006 through 2009 to carry out this section.".

(b) Funding.—Of the amounts made available by section 5101(a)(4) of this Act, $20,000,000 for fiscal year 2005 and $35,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out section 5505 of such title.

(c) Conforming Amendment.—The analysis for subchapter I of chapter 55 of such title is amended by striking the item relating to section 5505 and inserting the following:

"5505. National university transportation centers.".

### SEC. 5402. UNIVERSITY TRANSPORTATION RESEARCH.

(a) In General.—Section 5506 of title 49, United States Code, is amended to read as follows:

### "SEC. 5506. UNIVERSITY TRANSPORTATION RESEARCH.

"(a) In General.—The Secretary of Transportation shall make grants under this section to nonprofit institutions of higher learning to establish and operate university transportation centers.

"(b) Objectives.—Grants received under this section shall be used by nonprofit institutions of higher learning to advance significantly the state-of-the-art in transportation research and expand the workforce of transportation professionals through the following programs and activities:

"(1) Research.—Basic and applied research, the products of which are judged by peers or other experts in the field of transportation to advance the body of knowledge in transportation.

"(2) Education.—An education program relating to transportation that includes multidisciplinary course work and participation in research.

"(3) Technology Transfer.—An ongoing program of technology transfer that makes transportation research results available to potential users in a form that can be implemented, utilized, or otherwise applied.

"(c) Regional, Tier I, and Tier II Centers.—

"(1) Regional and Tier I Centers.—For each of fiscal years 2005 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate—

"(A) 10 regional university transportation centers; and

"(B) 10 Tier I university transportation centers.

"(2) Tier II Centers.—

"(A) For each of fiscal years 2006 through 2009, the Secretary shall make grants under subsection (a) to nonprofit institutions of higher learning to establish and operate 22 Tier II university transportation centers.

"(B) The tier II centers consist of the following:

"(i) University of Arkansas, Mack-Blackwell Rural Transportation Center.

"(ii) University of California, Davis.

"(iii) California State University, San Bernardino.

"(iv) Cleveland State University, Work Zone Safety Institute.

"(v) University of Connecticut.

"(vi) University of Delaware in Newark.

"(vii) University of Detroit Mercy (including the coalition partners of the university).

"(viii) George Mason University.

"(ix) Hampton University, Eastern Seaboard Intermodal Transportation Applications Center (ESITAC).

"(x) Kansas State University.

"(xi) Louisiana State University, LTRC-TTEC.

"(xii) University of Massachusetts Amherst.

"(xiii) Michigan Technological University.

"(xiv) University of Nevada Las Vegas.

"(xv) North Carolina State University, Center for Transportation and the Environment.

"(xvi) Northwestern University.

"(xvii) Ohio Higher Education Transportation Consortium-University of Akron.

"(xviii) University of Rhode Island.

"(xix) University of Toledo.

"(xx) Utah State University.

"(xxi) Youngstown State University.

"(xxii) University of Memphis.

"(3) Location of Regional Centers.—One regional university transportation center shall be located in each of the 10 United States Government regions that comprise the Standard Federal Regional Boundary System.

"(4) Limitation.—A nonprofit institution of higher learning may not directly receive a grant under this section for a fiscal year for more than one university transportation center.

"(d) Competitive Selection Process.—

"(1) Applications.—In order to be eligible to receive a grant under subsection (c)(1), a nonprofit institution of higher learning shall submit to the Secretary an application that is in such form and contains such information as the Secretary may require.

"(2) General Selection Criteria.—Except as otherwise provided by this section, the Secretary shall select each recipient of a grant under subsection (c)(1) through a competitive process on the basis of the following:

"(A) The demonstrated research and extension resources available to the recipient to carry out this section.

"(B) The capability of the recipient to provide leadership in making national and regional contributions to the solution of immediate and long-range transportation problems.

"(C) The recipient's demonstrated commitment of at least $400,000 each year in regularly budgeted institutional amounts to support ongoing transportation research and education programs.

"(D) The recipient's demonstrated ability to disseminate results of transportation research and education programs through a statewide or regionwide continuing education program.

"(E) The strategic plan the recipient proposes to carry out under the grant.

"(e) Regional University Transportation Centers.—

"(1) Competition.—Not later than March 31, 2006, and not later than March 31st of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 regional university transportation centers referred to in subsection (c)(1)(A).

"(2) Selection Criteria.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of—

"(A) the criteria described in subsection (d)(2);

"(B) the location of the center within the Federal region to be served; and

"(C) whether or not the institution (or, in the case of a consortium of institutions, the lead institution) demonstrates that it has a well-established, nationally recognized program in transportation research and education, as evidenced by—

"(i) not less than $2,000,000 in highway or public transportation research expenditures each year for each of the preceding 5 years;

"(ii) not less than 10 graduate degrees awarded in professional fields closely related to highways and public transportation each year for each of the preceding 5 years; and

"(iii) not less than 5 tenured or tenure-track faculty members who specialize on a full-time basis in professional fields closely related to highways and public transportation who, as a group, have published a total at least 50 refereed journal publications on highway or public transportation research during the preceding 5 years.

"(3) Grant Recipients.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall make a grant to the recipient to establish and operate a regional university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

"(4) Special Rule for Fiscal Years 2005 and 2006.—For fiscal years 2005 and 2006, the Secretary shall make a grant under this section to each of the 10 nonprofit institutions of higher learning that were competitively selected for grants by the Secretary under this section in July 1999 to operate regional university transportation centers.

"(5) Amount of Grants.—The Secretary shall make a grant to a nonprofit institution of higher learning to establish and operate a regional university transportation center of—

"(A) $1,000,000 for fiscal year 2005;

"(B) $2,000,000 for each of fiscal years 2006 through 2008; and

"(C) $2,225,000 for fiscal year 2009.

"(f) Tier I University Transportation Centers.—

"(1) Competition.—Not later than June 30, 2006, and not later than June 30 of every 4th year thereafter, the Secretary shall complete a competition among nonprofit institutions of higher learning for grants to establish and operate the 10 Tier I university transportation centers referred to in subsection (c)(1)(B).

"(2) Selection Criteria.—In conducting a competition under paragraph (1), the Secretary shall select a nonprofit institution of higher learning on the basis of—

"(A) the criteria described in subsection (d)(2); and

"(B) whether or not the institution (or, in the case of a consortium of institutions, the lead institution) can demonstrate that it has an established, recognized program in transportation research and education, as evidenced by—

"(i) not less than $1,000,000 in highway or public transportation research expenditures each year for each of the preceding 5 years or not less than $6,000,000 in such expenditures during the 5 preceding years;

"(ii) not less than 5 graduate degrees awarded in professional fields closely related to highways and public transportation each year for each of the preceding 5 years; and

"(iii) not less than 3 tenured or tenure-track faculty members who specialize on a full-time basis in professional fields closely related to highways and public transportation who, as a group, have published a total at least 20 refereed journal publications on highway or public transportation research during the preceding 5 years.

"(3) GRANT RECIPIENTS.—After selecting a nonprofit institution of higher learning as a grant recipient on the basis of a competition conducted under this subsection, the Secretary shall make a grant to the recipient to establish and operate a Tier I university transportation center in each of the first 4 fiscal years beginning after the date of the competition.

"(4) SPECIAL RULE FOR FISCAL YEARS 2005 AND 2006.—For fiscal years 2005 and 2006, the Secretary shall make a grant under this section to each of the 10 nonprofit institutions of higher learning that were competitively selected for grant awards by the Secretary under this section in May 2002 to operate university transportation centers (other than regional centers).

"(5) AMOUNT OF GRANTS.—The Secretary shall make a grant of $1,000,000 for each of fiscal years 2005 through 2009 to a nonprofit institution of higher learning to establish and operate a Tier I university transportation center.

"(g) TIER II UNIVERSITY TRANSPORTATION CENTERS.—

"(1) SELECTION.—The Secretary shall make grants to the nonprofit institutions of higher learning to establish and operate the 22 Tier II university transportation centers referred to in subsection (c)(2)(B).

"(2) AMOUNT OF GRANTS.—The Secretary shall make a grant of $500,000 for each of fiscal years 2006 through 2009 to a nonprofit institution of higher learning to establish and operate a Tier II university transportation center.

"(h) SUPPORT OF NATIONAL STRATEGY FOR SURFACE TRANSPORTATION RESEARCH.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall provide assurances satisfactory to the Secretary that the research and education activities of its university transportation center will support the national strategy for surface transportation research, as identified by—

"(1) the report of the National Highway Research and Technology Partnership entitled 'Highway Research and Technology: The Need for Greater Investment', dated April 2002; and

"(2) the programs of the National Research and Technology Program of the Federal Transit Administration.

"(i) MAINTENANCE OF EFFORT.—In order to be eligible to receive a grant under this section, a nonprofit institution of higher learning shall enter into an agreement with the Secretary to ensure that the institution will maintain total expenditures from all other sources to establish and operate a university transportation center and related research activities at a level at least equal to the average level of such expenditures in its 2 fiscal years prior to award of a grant under this section.

"(j) FEDERAL SHARE.—The Federal share of the costs of activities carried out using a grant made under this section shall be 50 percent of such costs. The non-Federal share may include funds provided to a recipient under section 503, 504(b), or 505 of title 23.

"(k) PROGRAM COORDINATION.—

"(1) COORDINATION.—The Secretary shall coordinate the research, education, and technology transfer activities that grant recipients carry out under this section, disseminate the results of the research, and establish and operate a clearinghouse to disseminate the results of the research.

"(2) ANNUAL REVIEW AND EVALUATION.—At least annually, and consistent with the plan developed under section 508 of title 23, the Secretary shall review and evaluate programs of grant recipients.

"(3) MANAGEMENT AND OVERSIGHT.—The Secretary shall expend not more than $400,000 for each of fiscal years 2005 through 2009 from amounts made available to carry out this section to carry out management and oversight of the centers receiving assistance under this section and section 5505.

"(l) PROGRAM ADMINISTRATION.—The Secretary shall carry out this section acting through the Administrator of the Research and Innovative Technology Administration.

"(m) LIMITATION ON AVAILABILITY OF FUNDS.—Funds made available to carry out this section shall remain available for obligation by the Secretary for a period of 2 years after the last day of the fiscal year for which such funds are authorized.".

(b) FUNDING.—Of the amounts made available by section 5101(a)(4) of this Act, the following amounts shall be available to carry out section 5506 of such title.

(1) $20,400,000 for fiscal year 2005.

(2) $41,400,000 for each of fiscal years 2006 through 2008.

(3) $43,900,000 for fiscal year 2009.

(c) CONFORMING AMENDMENT.—The analysis for subchapter I of chapter 55 of such title is amended by striking the item relating to section 5506 and inserting the following:

"5506. University transportation research.".

## Subtitle E—Other Programs

### SEC. 5501. TRANSPORTATION SAFETY INFORMATION MANAGEMENT SYSTEM PROJECT.

(a) IN GENERAL.—The Secretary shall fund and carry out a project to further the development of a comprehensive transportation safety information management system (in this section referred to as "TSIMS").

(b) PURPOSES.—The purpose of the TSIMS project is to further the development of a software application to provide for the collection, integration, management, and dissemination of safety data from and for use among State and local safety and transportation agencies, including driver licensing, vehicle registration, emergency management system, injury surveillance, roadway inventory, and motor carrier databases.

(c) FUNDING.—

(1) FEDERAL FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for fiscal years 2006 and 2007 shall be available to carry out the TSIMS project under this section.

(2) STATE CONTRIBUTION.—The sums authorized in paragraph (1) are intended to supplement voluntary contributions to be made by State departments of transportation and other State safety and transportation agencies.

### SEC. 5502. SURFACE TRANSPORTATION CONGESTION RELIEF SOLUTIONS RESEARCH INITIATIVE.

(a) ESTABLISHMENT.—The Secretary shall establish a surface transportation congestion solutions research initiative consisting of 2 independent research programs described in subsections (b)(1) and (b)(2) and designed to develop information to assist State transportation departments and metropolitan planning organizations measure and address surface transportation congestion problems.

(b) SURFACE TRANSPORTATION CONGESTION SOLUTIONS RESEARCH PROGRAM.—

(1) IMPROVED SURFACE TRANSPORTATION CONGESTION MANAGEMENT SYSTEM MEASURES.—The purposes of the first research program established under this section shall be—

(A) to examine the effectiveness of surface transportation congestion management systems since enactment of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240);

(B) to identify best case examples of locally designed reporting methods and incorporate such methods in research on national models for developing and recommending improved surface transportation congestion measurement and reporting; and

(C) to incorporate such methods in the development of national models and methods to monitor, measure, and report surface transportation congestion information.

(2) ANALYTICAL TECHNIQUES FOR ACTION ON SURFACE TRANSPORTATION CONGESTION.—The purposes of the second research program established under this section shall be—

(A) to analyze the effectiveness of procedures used by State transportation departments and metropolitan planning organizations to assess surface transportation congestion problems and communicate those problems to decisionmakers; and

(B) to identify methods to ensure that the results of surface transportation congestion analyses lead to the targeting of funding for programs, projects, or services with demonstrated effectiveness in reducing travel delay, congestion, and system unreliability.

(c) TECHNICAL ASSISTANCE AND TRAINING.—In fiscal year 2006, the Secretary shall develop a technical assistance and training program to disseminate the results of the surface transportation congestion solutions research initiative for the purpose of assisting State transportation departments and local transportation agencies with improving their approaches to surface transportation congestion measurement, analysis, and project programming.

(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $9,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out subsections (a) and (b) of this section. Of the amounts made available by section 5101(a)(2), $750,000 for each of fiscal years 2006 through 2009 shall be available to carry out subsection (c) of this subsection.

### SEC. 5503. MOTOR CARRIER EFFICIENCY STUDY.

(a) IN GENERAL.—The Secretary, in coordination with the motor carrier and wireless technology industry, shall conduct a study to—

(1) identify inefficiencies in the transportation of freight;

(2) evaluate the safety, productivity, and reduced cost improvements that may be achieved through the use of wireless technologies to address the inefficiencies identified in paragraph (1); and

(3) conduct, as appropriate, field tests demonstrating the technologies identified in paragraph (2).

(b) PROGRAM ELEMENTS.—The program shall include, at a minimum, the following:

(1) Fuel monitoring and management systems.

(2) Radio frequency identification technology.

(3) Electronic manifest systems.

(4) Cargo theft prevention.

(c) FEDERAL SHARE.—The Federal share of the cost of the study under this section shall be 100 percent.

(d) ANNUAL REPORT.—The Secretary shall prepare and submit to Congress an annual report *on the programs and activities carried out under this section.*

*(e) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, the Secretary shall make available $1,250,000 to the Federal Motor Carrier Safety Administration for each of fiscal years 2006 through 2009 to carry out this section.*

### SEC. 5504. CENTER FOR TRANSPORTATION ADVANCEMENT AND REGIONAL DEVELOPMENT.

*(a) ESTABLISHMENT.—The Secretary shall establish a Center for Transportation Advancement and Regional Development (referred to in this section as the "Center") to assist, through training, education, and research, in the comprehensive development of small metropolitan and rural regional transportation systems that are responsive to the needs of businesses and local communities.*

*(b) ACTIVITIES.—In carrying out this section, the Center shall—*

*(1) provide training, information, and professional resources for small metropolitan and rural regions to pursue innovative strategies to expand the capabilities, capacity, and effectiveness of a region's transportation network, including activities related to freight projects, transit system upgrades, roadways and bridges, and intermodal transfer facilities and operations;*

*(2) assist local officials, rural transportation and economic development planners, officials from State departments of transportation and economic development, business leaders, and other stakeholders in developing public-private partnerships to enhance their transportation systems; and*

*(3) promote the leveraging of regional transportation planning with regional economic and business development planning to assure that appropriate transportation systems are created.*

*(c) PROGRAM ADMINISTRATION.—To carry out this section, the Secretary shall make a grant to, or enter into a cooperative agreement or contract with the National Association of Development Organizations.*

*(d) FUNDING.—*

*(1) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $625,000 shall be available for each of fiscal years 2006 through 2009 to carry out this section.*

*(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this subsection shall be 100 percent.*

### SEC. 5505. TRANSPORTATION SCHOLARSHIP OPPORTUNITIES PROGRAM.

*(a) IN GENERAL.—*

*(1) ESTABLISHMENT OF PROGRAM.—The Secretary may establish and implement a scholarship program for the purpose of attracting qualified students for transportation-related critical jobs.*

*(2) PARTNERSHIP.—The Secretary may establish the program in partnership with appropriate nongovernmental institutions.*

*(b) PARTICIPATION.—An operating administration of the Department and the Office of Inspector General may participate in the scholarship program.*

*(c) FUNDING.—Notwithstanding any other provision of law, the Secretary may use funds available to an operating administration or from the Office of Inspector General of the Department for the purpose of carrying out this section.*

### SEC. 5506. COMMERCIAL REMOTE SENSING PRODUCTS AND SPATIAL INFORMATION TECHNOLOGIES.

*(a) IN GENERAL.—The Secretary shall establish and carry out a program to validate commercial remote sensing products and spatial information technologies for application to national transportation infrastructure development and construction.*

*(b) PROGRAM.—*

*(1) NATIONAL POLICY.—The Secretary shall establish and maintain a national policy for the use of commercial remote sensing products and spatial information technologies in national transportation infrastructure development and construction.*

*(2) POLICY IMPLEMENTATION.—The Secretary shall develop new applications of commercial remote sensing products and spatial information technologies for the implementation of the national policy established and maintained under paragraph (1).*

*(c) COOPERATION.—The Secretary shall carry out this section in cooperation with a consortium of university research centers.*

*(d) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $7,750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.*

### SEC. 5507. RURAL INTERSTATE CORRIDOR COMMUNICATIONS STUDY.

*(a) STUDY.—The Secretary, in cooperation with the Secretary of Commerce, State departments of transportation, and other appropriate State, regional, and local officials, shall conduct a study on the feasibility of installing fiber optic cabling and wireless communication infrastructure along multistate Interstate System route corridors for improved communications services to rural communities along such corridors.*

*(b) CONTENTS OF STUDY.—In conducting the study, the Secretary shall identify—*

*(1) impediments to installation of the infrastructure described in subsection (a) along multistate Interstate System route corridors and to connecting such infrastructure to the rural communities along such corridors;*

*(2) the effective geographic range of such infrastructure;*

*(3) potential opportunities for the private sector to fund, wholly or partially, the installation of such infrastructure;*

*(4) potential benefits fiber optic cabling and wireless communication infrastructure may provide to rural communities along such corridors, including the effects of the installation of such infrastructure on economic development, deployment of intelligent transportation systems technologies and applications, homeland security precaution and response, and education and health systems in those communities;*

*(5) rural broadband access points for such infrastructure;*

*(6) areas of environmental conflict with such installation;*

*(7) real estate ownership issues relating to such installation;*

*(8) preliminary design for placement of fiber optic cable and wireless towers;*

*(9) monetary value of the rights-of-way necessary for such installation;*

*(10) applicability and transferability of the benefits of such installation to other rural corridors; and*

*(11) safety and other operational issues associated with the installation and maintenance of fiber optic cabling and wire infrastructure within Interstate System rights-of-way and other publicly owned rights-of-way.*

*(c) CORRIDOR LOCATIONS.—The study required under subsection (a) shall be conducted for corridors along—*

*(1) Interstate Route 90 through rural Wisconsin, southern Minnesota, northern Iowa, and South Dakota;*

*(2) Interstate Route 20 through Alabama, Mississippi, and northern Louisiana;*

*(3) Interstate Route 91 through Vermont, New Hampshire, and Massachusetts; and*

*(4) any other rural corridor the Secretary considers appropriate.*

*(d) REPORT TO CONGRESS.—Not later than September 30, 2007, the Secretary shall submit to Congress a report on the results of the study, including any recommendations of the Secretary.*

*(e) FEDERAL SHARE.—The Federal share of the cost of the study shall be 100 percent.*

*(f) FUNDING.—Of the amounts made available under section 5101(a)(5) of this Act, $1,000,000 shall be available for fiscal year 2006, and $2,000,000 shall be available for fiscal year 2007 to carry out this section.*

### SEC. 5508. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM.

*Section 5117(b) of the Transportation Equity Act for the 21st Century (112 Stat 449; 112 Stat. 864; 115 Stat. 2330) is amended by striking paragraph (3) and inserting the following:*

*''(3) INTELLIGENT TRANSPORTATION INFRASTRUCTURE.—*

*''(A) DEFINITIONS.—In this paragraph:*

*''(i) CONGESTED AREA.—The term 'congested area' means a metropolitan area that experiences significant traffic congestion, as determined by the Secretary on an annual basis, including the metropolitan areas of Albany, Atlanta, Austin, Burlington, Charlotte, Columbus, Greensboro, Hartford, Jacksonville, Kansas City, Louisville, Milwaukee, Minneapolis-St. Paul, Nashville, New Orleans, Norfolk, Raleigh, Richmond, Sacramento, San Jose, Tuscson, and Tulsa.*

*''(ii) DEPLOYMENT AREA.—The term 'deployment area' means any of the metropolitan areas of Baltimore, Birmingham, Boston, Chicago, Cleveland, Dallas/Ft. Worth, Denver, Detroit, Houston, Indianapolis, Las Vegas, Los Angeles, Miami, New York/Northern New Jersey, Northern Kentucky/Cincinnati, Oklahoma City, Orlando, Philadelphia, Phoenix, Pittsburgh, Portland, Providence, Salt Lake, San Diego, San Francisco, St. Louis, Seattle, Tampa, and Washington, District of Columbia.*

*''(iii) METROPOLITAN AREA.—The term 'metropolitan area', including a major transportation corridor serving a metropolitan area, means any area that—*

*''(I) has a population exceeding 300,000; and*

*''(II) meets criteria established by the Secretary in conjunction with the intelligent vehicle highway systems corridors program.*

*''(iv) ORIGINAL CONTRACT.—The term 'original contract' means the Department of Transportation contract numbered DTTS 59–99–D–00445 T020013.*

*''(v) PROGRAM.—The term 'program' means the 2-part intelligent transportation infrastructure program carried out under this paragraph.*

*''(vi) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means—*

*''(I) a State transportation department (as defined in section 101 of title 23, United States Code); and*

*''(II) a designee of a State transportation department (as so defined) for the purpose of entering into contracts.*

*''(vii) UNCOMMITTED FUNDS.—The term 'uncommitted funds' means the total amount of funds that, as of the date that is 180 days after the date of enactment of the SAFETEA–LU, remain uncommitted under the original contract.*

*''(B) INTELLIGENT TRANSPORTATION INFRASTRUCTURE PROGRAM.—*

*''(i) IN GENERAL.—The Secretary shall carry out a 2-part intelligent transportation infrastructure program in accordance with this paragraph to advance the deployment of an operational intelligent transportation infrastructure system, through measurement of various transportation system activities, to simultaneously—*

*''(I) aid in transportation planning and analysis; and*

*''(II) make a significant contribution to the ITS program under this title.*

*''(ii) OBJECTIVES.—The objectives of the program are—*

*"(I) to build or integrate an infrastructure of the measurement of various transportation system metrics to aid in planning, analysis, and maintenance of the Department of Transportation, including the buildout, maintenance, and operation of greater than 40 metropolitan area systems with a total cost not to exceed $2,000,000 for each metropolitan area;*

*"(II) to provide private technology commercialization initiatives to generate revenues that will be reinvested in the intelligent transportation infrastructure system;*

*"(III) to aggregate data into reports for multipoint data distribution techniques; and*

*"(IV) with respect to part I of the program under subparagraph (C), to use an advanced information system designed and monitored by an entity with experience with the Department of Transportation in the design and monitoring of high-reliability, mission-critical voice and data systems.*

*"(C) PART I.—*

*"(i) IN GENERAL.—In carrying out part I of the program, the Secretary shall permit the entity to which the original contract was awarded to use uncommitted funds to deploy intelligent transportation infrastructure systems that have been accepted by the Secretary—*

*"(I) in accordance with the terms of the original contract; and*

*"(II) in any deployment area, with the consent of the State transportation department for the deployment area.*

*"(ii) APPLICABLE CONDITIONS.—The same asset ownership, maintenance, fixed price contract, and revenue sharing model, and the same competitively selected consortium leader, as were used for the deployment of intelligent transportation infrastructure systems under the original contract before the date of enactment of the SAFETEA–LU shall apply to each deployment carried out under clause (i).*

*"(iii) DEPLOYMENT IN CONGESTED AREAS.—If the entity referred to in clause (i) is unable to use the uncommitted funds by deploying intelligent transportation infrastructure systems in deployment areas, as determined by the Secretary, the entity may deploy the systems in accordance with this paragraph in 1 or more congested areas, with the consent of the State transportation departments for the congested areas.*

*"(D) PART II.—*

*"(i) IN GENERAL.—In carrying out part II of the program, the Secretary shall award, on a competitive basis, contracts for the deployment of intelligent transportation infrastructure systems that have been accepted by the Secretary in congested areas, with the consent of the State transportation departments for the congested areas.*

*"(ii) REQUIREMENTS.—The Secretary shall award contracts under clause (i)—*

*"(I) for individual congested areas among entities that seek to deploy intelligent transportation infrastructure systems in the congested areas; and*

*"(II) on the condition that the terms of each contract awarded requires the entity deploying such system to ensure that the deployed system is compatible (as determined by the Secretary) with systems deployed in other congested areas under this paragraph.*

*"(iii) PROVISIONS IN CONTRACTS.—The Secretary shall require that each contract for the deployment of an intelligent transportation infrastructure system under this subparagraph contain such provisions relating to asset ownership, maintenance, fixed price, and revenue sharing as the Secretary considers to be appropriate.*

*"(E) USE OF FUNDS FOR UNDEPLOYED SYSTEMS.—*

*"(i) IN GENERAL.—If, under part I or part II of the program, a State transportation department for a deployment area or congested area does not consent by the later of the date that is 180 days after the date of enactment of the SAFETEA–LU, or another date determined jointly by the State transportation department and the deployment area or congested area, to participate in the deployment of an intelligent transportation infrastructure system in the deployment area or congested area, upon application by any other deployment area or congested area that has consented by that date to participate in the deployment of such a system, the Secretary shall distribute any such unused funds to any other deployment or congested area that has consented by that date to participate in the deployment of such a system.*

*"(ii) NO INCLUSION IN COST LIMITATION.—Costs paid using funds provided through a distribution under clause (i) shall not be considered in determining the limitation on maximum cost described in subparagraph (F)(ii).*

*"(F) FEDERAL SHARE; LIMITS ON COSTS OF SYSTEMS FOR METROPOLITAN AREAS.—*

*"(i) FEDERAL SHARE.—Subject to clause (ii), the Federal share of the cost of any project or activity carried out under the program shall be 80 percent.*

*"(ii) LIMIT ON COSTS OF SYSTEM FOR EACH METROPOLITAN AREA.—*

*"(I) IN GENERAL.—Not more than $2,000,000 may be provided under this paragraph for deployment of an intelligent transportation infrastructure system for a metropolitan area.*

*"(II) FUNDING UNDER EACH PART.—A metropolitan area in which an intelligent transportation infrastructure system is deployed under part I or part II under subparagraphs (C) and (D), respectively, including through a distribution of funds under subparagraph (E), may not receive any additional deployment under the other part of the program.*

*"(G) USE OF RIGHTS-OF-WAY.—*

*"(i) IN GENERAL.—An intelligent transportation system project described in this paragraph or paragraph (6) that involves privately-owned intelligent transportation system components and is carried out using funds made available from the Highway Trust Fund shall not be subject to any law (including a regulation) of a State or political subdivision of a State prohibiting or regulating commercial activities in the rights-of-way of a highway for which Federal-aid highway funds have been used for planning, design, construction, or maintenance for the project, if the Secretary determines that such use is in the public interest.*

*"(ii) EFFECT OF SUBPARAGRAPH.—Nothing in this subparagraph affects the authority of a State or political subdivision of a State—*

*"(I) to regulate highway safety; or*

*"(II) under sections 253 and 332(c)(7) of the Communications Act of 1934 (47 U.S.C. 253, 332(c)(7)).*

*"(H) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary for each of fiscal years 2005 through 2009 to carry out this paragraph.".*

### SEC. 5509. REPEAL.

*Effective October 1 of 2005, sections 5208 and 5209 of subtitle C of title V of The Transportation Equity Act for the 21st Century (23 U.S.C. 502 note; 112 Stat. 452–463) is repealed.*

### SEC. 5510. NOTICE.

*(a) NOTICE OF REPROGRAMMING.—If any funds authorized for carrying out this title or the amendments made by this title are subject to a reprogramming action that requires notice to be provided to the Committees on Appropriations, Transportation and Infrastructure, and Science of the House of Representatives and the Committees on Appropriations and Environment and Public Works of the Senate, notice of that action shall be concurrently provided to the Committee of Transportation and Infrastructure and the Committee on Science of the House of Representative and the Committee on Environment and Public Works of the Senate.*

*(b) NOTICE OF REORGANIZATION.—On or before the 15th day preceding the date of any major reorganization of a program, project, or activity of the Department for which funds are authorized by this title or the amendments made by this title, the Secretary shall provide notice of the reorganization to the Committees on Transportation and Infrastructure and Science of the House of Representatives and the Committee on Environment and Public Works of the Senate.*

### SEC. 5511. MOTORCYCLE CRASH CAUSATION STUDY GRANTS.

*(a) GRANTS.—The Secretary shall provide grants to the Oklahoma Transportation Center for the purpose of conducting a comprehensive, in-depth motorcycle crash causation study that employs the common international methodology for in-depth motorcycle accident investigation of the Organization for Economic Cooperation and Development.*

*(b) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $1,408,000 for each of fiscal years 2006 and 2007 shall be available to carry out this section.*

### SEC. 5512. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM.

*(a) CONTINUATION AND ACCELERATION OF TRANSIMS DEPLOYMENT.—*

*(1) IN GENERAL.—The Secretary shall accelerate the deployment of the advanced transportation model known as the "Transportation Analysis Simulation System" (in this section referred to as "TRANSIMS"), developed by the Los Alamos National Laboratory.*

*(2) PROGRAM APPRECIATION.—The purpose of the program is to assist State departments of transportation and metropolitan planning organizations—*

*(A) to implement TRANSIMS;*

*(B) to develop methods for TRANSIMS applications to transportation planning, air quality analysis, regulatory compliance, and response to natural disasters and other transportation disruptions; and*

*(C) to provide training and technical assistance for the implementation of TRANSIMS.*

*(b) REQUIRED ACTIVITIES.—The Secretary shall use funds made available to carry out this section to—*

*(1) provide funding to State departments of transportation and metropolitan planning organizations serving transportation management areas designated under chapter 52 of title 49, United States Code, representing a diversity of populations, geographic regions, and analytic needs to implement TRANSIMS;*

*(2) develop methods to demonstrate a wide spectrum of TRANSIMS applications to support local, metropolitan, statewide transportation planning, including integrating highway and transit operational considerations into the transportation Planning process, and estimating the effects of induced travel demand and transit ridership in making transportation conformity determinations where applicable;*

*(3) provide training and technical assistance with respect to the implementation and application of TRANSIMS to States, local governments, and metropolitan planning organizations with responsibility for travel modeling;*

*(4) to further develop TRANSIMS for additional applications, including—*

*(A) congestion analyses;*

*(B) major investment studies;*

*(C) economic impact analyses;*

*(D) alternative analyses;*

*(E) freight movement studies;*

*(F) emergency evacuation studies;*

*(G) port studies; and*

*(H) airport access studies;*

*(I) induced demand studies; and*

*(J) transit ridership analysis.*

*(c) ELIGIBLE ACTIVITIES.—The program may support the development of methods to plan for the transportation response to chemical and biological terrorism and other security concerns.*

*(d) ALLOCATION OF FUNDS.—Not more than 75 percent of the funds made available to carry out this section may be allocated to activities described in subsection (b)(1).*

*(e) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $2,625,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.*

### ***SEC. 5513. RESEARCH GRANTS.***

*(a) THERMAL IMAGING.—*

*(1) IN GENERAL.—The Secretary shall make a grant to carry out a demonstration project that uses a thermal imaging inspection system (TIIS) that leverages state-of-the-art thermal imagery technology, integrated with signature recognition software, providing the capability to identify, in real time, faults and failures in tires, brakes and bearings mounted on commercial motor vehicles.*

*(2) USE OF FUNDS.—Funds shall be used—*

*(A) to employ a TIIS in a field environment, along the Interstate, to further assess the system's ability to identify faults in tires, brakes, and bearings mounted on commercial motor vehicles;*

*(B) to establish, through statistical analysis, the probability of failure for each component; and*

*(C) to develop and integrate a predictive tool into the TIIS, which identifies an impending tire, brake, or bearing failure and provides the use a time frame in which this failure may occur.*

*(3) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $2,000,000 in fiscal year 2006 shall be available to carry out this subsection.*

*(b) TRANSPORTATION INJURY RESEARCH.—*

*(1) GRANT.—The Secretary shall make a grant to maintain a center for transportation injury research at the Calspan University of Buffalo Research Center, through the North Campus facility located in Amherst, New York, and affiliated with the State University of New York at Buffalo.*

*(2) RECOUP COSTS.— Notwithstanding current law, Federal regulations, or Office of Management and Budget circulars or guidance, the Center shall be permitted to recoup direct and indirect costs and apply a 7 percent fee to the grant made under this subsection.*

*(3) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $1,250,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.*

*(c) TECHNOLOGY TRANSFER GRANT.—*

*(1) GRANT.—The Secretary shall make grants to the Argonne National Laboratory-Advanced Transportation Technology Center for the purpose of conducting transportation research and demonstration projects that would lead to the exchange of research results with the private sector and collaboration with universities at a centralized location conducive for technology transfer.*

*(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $4,000,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.*

*(d) APPALACHIAN REGIONAL COMMISSION.—*

*(1) GRANT.—The Secretary shall make a grant to the Appalachian Regional Commission to conduct a feasibility study for the creation of a system of inland ports and distribution centers in Appalachia.*

*(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $500,000 in fiscal year 2006 shall be available to carry out this subsection.*

*(e) AUTOMOBILE ACCIDENT INJURY RESEARCH.—*

*(1) GRANTS.—The Secretary shall make a grant to the Forsyth Institute for research and technology development for preventing and minimizing head, craniofacial, and spinal cord injuries resulting from automobile accidents.*

*(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $500,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.*

*(f) RURAL TRANSPORTATION RESEARCH.—*

*(1) GRANTS.—The Secretary shall make grants to the New England Transportation Institute in White River Junction, Vermont for rural transportation research.*

*(2) FUNDING.—*

*(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for fiscal year 2006 shall be available to carry out this subsection and shall remain available until expended.*

*(B) COST-SHARING.—*

*(i) FEDERAL SHARE.—The Federal Share of the cost of activities carried out under this subsection shall be 80 percent.*

*(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal sponsor for activities under this subsection shall be credited to the non-Federal share.*

*(g) RURAL TRANSPORTATION RESEARCH INITIATIVE.—*

*(1) GRANTS.—For each of fiscal years 2006 through 2009, the Secretary shall provide a grant to the Upper Great Plains Transportation Institute at North Dakota State University for use in carrying out the Rural Transportation Research Initiative.*

*(2) FUNDING.—*

*(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $500,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection, and shall remain available until expended.*

*(B) COST-SHARING.—*

*(i) FEDERAL SHARE.—The Federal share of the cost of the activities carried out under this subsection shall be 80 percent.*

*(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal project sponsor for any activity under this subsection shall be credited to the non-Federal share.*

*(h) HYDROGEN-POWERED TRANSPORTATION RESEARCH INITIATIVE.—*

*(1) GRANTS.—For each of fiscal years 2006 through 2009, the Secretary shall provide a grant to the University of Montana for use in carrying out the Hydrogen-Powered Transportation Research Initiative.*

*(2) FUNDING.—*

*(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $750,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection, and shall remain available until expended.*

*(B) COST-SHARING.—*

*(i) FEDERAL SHARE.—The Federal share of the cost of the activities carried out under this subsection shall be 80 percent.*

*(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal project sponsor for an activity under this subsection shall be credited to the non-Federal share.*

*(i) COLD REGION AND RURAL TRANSPORTATION RESEARCH, MAINTENANCE, AND OPERATIONS.—*

*(1) GRANTS.—The Secretary shall provide grants to the Western Transportation Institute at Montana State University, for use in developing a research facility in Lewistown, Montana, for basic and applied research and testing on surface transportation issues facing rural and cold regions.*

*(2) FUNDING.—*

*(A) IN GENERAL.—Of the amounts made available by section 5101(a)(1) of this Act, $1,000,000 for each of fiscal years 2006 through 2009 shall be available to carry out this subsection, to remain available until expended.*

*(B) COST-SHARING.—*

*(i) FEDERAL SHARE.—The Federal share of the cost of the activities carried out under this subsection shall be 80 percent.*

*(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-Federal project sponsor for an activity under this section shall be credited to the non-Federal share.*

*(j) ADVANCED VEHICLE TECHNOLOGY.—*

*(1) GRANT.—The Secretary shall make a grant to the University of Kansas Transportation Research Institute for research and development of advanced vehicle technology concepts, focused on vehicle emissions, fuel cells and catalytic processes, and intelligent transportation systems.*

*(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $2,500,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.*

*(k) ASPHALT RESEARCH CONSORTIUM.—*

*(1) GRANT.—The Secretary shall make a grant to the asphalt research consortium lead by the Western Research Institute to research flexible pavement and extending the life-cycle of asphalts.*

*(2) FUNDING.—Of the amounts made available under section 5101(a)(1) of this Act, $7,500,000 in each of fiscal years 2006 through 2009 shall be available to carry out this subsection.*

*(l) RENEWABLE TRANSPORTATION SYSTEMS RESEARCH.—*

*(1) GRANTS.—The Secretary shall make grants to the University of Vermont for research, development and field testing of hydrogen fuel cell and biofuel transportation technology.*

*(2) FUNDING.—*

*(A) IN GENERAL.—Of the amounts made available for section 5101(a)(1) of this Act, $1,000,000 for fiscal year 2006 to remain available until expended.*

*(B) COST-SHARING.—*

*(i) FEDERAL SHARE.—The Federal Share of the cost of activities carried out under this section shall be 80 percent.*

*(ii) NON-FEDERAL SHARE.—The fair market value of any materials or services provided by the non-federal sponsor for activities under this section shall be credited to the non-federal share.*

*(m) FEDERAL SHARE.—The Federal share of the cost of activities carried out in accordance with this section shall be 80 percent unless otherwise expressly provided by this section or otherwise determined by the Secretary.*

### ***SEC. 5514. COMPETITION FOR SPECIFICATION OF ALTERNATIVE TYPES OF CULVERT PIPES.***

*Notwithstanding any contrary interpretation of appendix A of subpart D of section 635.411 of volume 23, Code of Federal Regulations (as in existence on the date of enactment of this Act), not later than 180 days after the date of enactment of this Act, the Secretary shall ensure that States provide for competition with respect to the specification of alternative types of culvert pipes through requirements that are commensurate with competition requirements for other construction materials, as determined by the Secretary.*

## ***Subtitle F—Bureau of Transportation Statistics***

### ***SEC. 5601. BUREAU OF TRANSPORTATION STATISTICS.***

*(a) IN GENERAL.—Section 111 of title 49, United States Code, is amended to read as follows:*

### *“§111. Bureau of Transportation Statistics*

*“(a) ESTABLISHMENT.—There is established in the Research and Innovative Technology Administration a Bureau of Transportation Statistics.*

*“(b) DIRECTOR.—*

*“(1) APPOINTMENT.—The Bureau shall be headed by a Director who shall be appointed in the competitive service by the Secretary of Transportation.*

*“(2) QUALIFICATIONS.—The Director shall be appointed from among individuals who are qualified to serve as the Director by virtue of their training and experience in the collection, analysis, and use of transportation statistics.*

*“(c) RESPONSIBILITIES.—The Director of the Bureau shall serve as the Secretary's senior advisor on data and statistics and shall be responsible for carrying out the following duties:*

*“(1) PROVIDING DATA, STATISTICS, AND ANALYSIS TO TRANSPORTATION DECISIONMAKERS.—Ensuring that the statistics compiled under paragraph (5) are designed to support transportation decisionmaking by the Federal Government, State and local governments, metropolitan planning organizations, transportation-related associations, the private sector (including the freight community), and the public.*

*“(2) COORDINATING COLLECTION OF INFORMATION.—Working with the operating administrations of the Department to establish and implement the Bureau's data programs and to improve the coordination of information collection efforts with other Federal agencies.*

*“(3) DATA MODERNIZATION.—Continually improving surveys and data collection methods to improve the accuracy and utility of transportation statistics.*

*“(4) ENCOURAGING DATA STANDARDIZATION.—Encouraging the standardization of data, data collection methods, and data management and storage technologies for data collected by the Bureau, the operating administrations of the Department of Transportation, States, local governments, metropolitan planning organizations, and private sector entities.*

*“(5) TRANSPORTATION STATISTICS.—Collecting, compiling, analyzing, and publishing a comprehensive set of transportation statistics on the performance and impacts of the national transportation system, including statistics on—*

*“(A) productivity in various parts of the transportation sector;*

*“(B) traffic flows for all modes of transportation;*

*“(C) other elements of the intermodal transportation database established under subsection (e);*

*“(D) travel times and measures of congestion;*

*“(E) vehicle weights and other vehicle characteristics;*

*“(F) demographic, economic, and other variables influencing traveling behavior, including choice of transportation mode and goods movement;*

*“(G) transportation costs for passenger travel and goods movement;*

*“(H) availability and use of mass transit (including the number of passengers served by each mass transit authority) and other forms of for-hire passenger travel;*

*“(I) frequency of vehicle and transportation facility repairs and other interruptions of transportation service;*

*“(J) safety and security for travelers, vehicles, and transportation systems;*

*“(K) consequences of transportation for the human and natural environment;*

*“(L) the extent, connectivity, and condition of the transportation system, building on the national transportation atlas database developed under subsection (g); and*

*“(M) transportation-related variables that influence the domestic economy and global competitiveness.*

*“(6) NATIONAL SPATIAL DATA INFRASTRUCTURE.—Building and disseminating the transportation layer of the National Spatial Data Infrastructure developed under Executive Order No. 12906, including coordinating the development of transportation geospatial data standards, compiling intermodal geospatial data, and collecting geospatial data that is not being collected by others.*

*“(7) ISSUING GUIDELINES.—Issuing guidelines for the collection of information by the Department required for statistics to be compiled under paragraph (5) in order to ensure that such information is accurate, reliable, relevant, and in a form that permits systematic analysis.*

*“(8) REVIEW SOURCES AND RELIABILITY OF STATISTICS.—Reviewing and reporting to the Secretary on the sources and reliability of the statistics proposed by the heads of the operating administrations of the Department to measure outputs and outcomes as required by the Government Performance and Results Act of 1993 (Public Law 103–62; 107 Stat. 285), and the amendments made by such Act, and carrying out such other reviews of the sources and reliability of other data collected or statistical information published by the heads of the operating administrations of the Department as shall be requested by the Secretary.*

*“(9) MAKING STATISTICS ACCESSIBLE.—Making the statistics published under this subsection readily accessible to the public.*

*“(d) INFORMATION NEEDS ASSESSMENT.—*

*“(1) IN GENERAL.—Not later than 60 days after the date of enactment of the SAFETEA–LU, the Secretary shall enter into an agreement with the National Research Council to develop and publish a National transportation information needs assessment (referred to in this subsection as the ‘assessment’). The assessment shall be submitted to the Secretary and the appropriate committees of Congress not later than 24 months after such agreement is entered into.*

*“(2) CONTENT.—The assessment shall—*

*“(A) identify, in order of priority, the transportation data that is not being collected by the Bureau, operating administrations of the Department, or other Federal, State, or local entities, but is needed to improve transportation decisionmaking at the Federal, State, and local levels and to fulfill the requirements of subsection (c)(5);*

*“(B) recommend whether the data identified in subparagraph (A) should be collected by the Bureau, other parts of the Department, or by other Federal, State, or local entities, and whether any data is of a higher priority than data currently being collected;*

*“(C) identify any data the Bureau or other Federal, State, or local entity is collecting that is not needed;*

*“(D) describe new data collection methods (including changes in surveys) and other changes the Bureau or other Federal, State, or local entity should implement to improve the standardization, accuracy, and utility of transportation data and statistics; and*

*“(E) estimate the cost of implementing any recommendations.*

*“(3) CONSULTATION.—In developing the assessment, the National Research Council shall consult with the Department's Advisory Council on Transportation Statistics and a representative cross-section of transportation community stakeholders as well as other Federal agencies, including the Environmental Protection Agency, the Department of Energy, and the Department of Housing and Urban Development.*

*“(4) REPORT TO CONGRESS.—Not later than 180 days after the date on which the National Research Council submits the assessment under paragraph (1), the Secretary shall submit a report to Congress that describes—*

*“(A) how the Department plans to fill the data gaps identified under paragraph (2)(A);*

*“(B) how the Department plans to stop collecting data identified under paragraph (2)(C);*

*“(C) how the Department plans to implement improved data collection methods and other changes identified under paragraph (2)(D);*

*“(D) the expected costs of implementing subparagraphs (A), (B), and (C) of this paragraph;*

*“(E) any findings of the assessment under paragraph (1) with which the Secretary disagrees, and why; and*

*“(F) any proposed statutory changes needed to implement the findings of the assessment under paragraph (1).*

*“(e) INTERMODAL TRANSPORTATION DATABASE.—*

*“(1) IN GENERAL.—In consultation with the Under Secretary for Policy, the Assistant Secretaries, and the heads of the operating administrations of the Department, the Director shall establish and maintain a transportation database for all modes of transportation.*

*“(2) USE.—The database shall be suitable for analyses carried out by the Federal Government, the States, and metropolitan planning organizations.*

*“(3) CONTENTS.—The database shall include—*

*“(A) information on the volumes and patterns of movement of goods, including local, interregional, and international movement, by all modes of transportation and intermodal combinations and by relevant classification;*

*“(B) information on the volumes and patterns of movement of people, including local, interregional, and international movements, by all modes of transportation (including bicycle and pedestrian modes) and intermodal combinations and by relevant classification;*

*“(C) information on the location and connectivity of transportation facilities and services; and*

*“(D) a national accounting of expenditures and capital stocks on each mode of transportation and intermodal combination.*

*“(f) NATIONAL TRANSPORTATION LIBRARY.—*

*“(1) IN GENERAL.—The Director shall establish and maintain a National Transportation Library, which shall contain a collection of statistical and other information needed for transportation decisionmaking at the Federal, State, and local levels.*

*“(2) ACCESS.—The Director shall facilitate and promote access to the Library, with the goal of improving the ability of the transportation community to share information and the ability of the Director to make statistics readily accessible under subsection (c)(9).*

*“(3) COORDINATION.—The Director shall work with other transportation libraries and transportation information providers, both public and private, to achieve the goal specified in paragraph (2).*

*“(g) NATIONAL TRANSPORTATION ATLAS DATABASE.—*

*“(1) IN GENERAL.—The Director shall develop and maintain a national transportation atlas database that is comprised of geospatial databases that depict—*

*“(A) transportation networks;*

*“(B) flows of people, goods, vehicles, and craft over the networks; and*

*“(C) social, economic, and environmental conditions that affect or are affected by the networks.*

*“(2) INTERMODAL NETWORK ANALYSIS.—The databases shall be able to support intermodal network analysis.*

*“(h) MANDATORY RESPONSE AUTHORITY FOR FREIGHT DATA COLLECTION.—Whoever, being the owner, official, agent, person in charge, or assistant to the person in charge of any freight corporation, company, business, institution, establishment, or organization of any nature whatsoever, neglects or refuses, when requested by the Director or other authorized officer, employee, or contractor of the Bureau, to answer*

*completely and correctly to the best of the individual's knowledge all questions relating to the corporation, company, business, institution, establishment, or other organization, or to make available records or statistics in the individual's official custody, contained in a data collection request prepared and submitted under the authority of subsection (c)(1), shall be fined not more than $500; but if the individual willfully gives a false answer to such a question, the individual shall be fined not more than $10,000.*

*"(i) RESEARCH AND DEVELOPMENT GRANTS.—The Secretary may make grants to, or enter into cooperative agreements or contracts with, public and nonprofit private entities (including State transportation departments, metropolitan planning organizations, and institutions of higher education) for—*

*"(1) investigation of the subjects specified in subsection (c)(5) and research and development of new methods of data collection, standardization, management, integration, dissemination, interpretation, and analysis;*

*"(2) demonstration programs by States, local governments, and metropolitan planning organizations to coordinate data collection, reporting, management, storage, and archiving to simplify data comparisons across jurisdictions;*

*"(3) development of electronic clearinghouses of transportation data and related information, as part of the National Transportation Library under subsection (f); and*

*"(4) development and improvement of methods for sharing geographic data, in support of the database under subsection (g) and the National Spatial Data Infrastructure.*

*"(j) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—*

*"(1) to authorize the Bureau to require any other department or agency to collect data; or*

*"(2) to reduce the authority of any other officer of the Department to collect and disseminate data independently.*

*"(k) PROHIBITION ON CERTAIN DISCLOSURES.—*

*"(1) IN GENERAL.—An officer, employee, or contractor of the Bureau may not—*

*"(A) make any disclosure in which the data provided by an individual or organization under subsection (c) can be identified;*

*"(B) use the information provided under subsection (c) for a nonstatistical purpose; or*

*"(C) permit anyone other than an individual authorized by the Director to examine any individual report provided under subsection (c).*

*"(2) COPIES OF REPORTS.—*

*"(A) IN GENERAL.—No department, bureau, agency, officer, or employee of the United States (except the Director in carrying out this section) may require, for any reason, a copy of any report that has been filed under subsection (c) with the Bureau or retained by an individual respondent.*

*"(B) LIMITATION ON JUDICIAL PROCEEDINGS.—A copy of a report described in subparagraph (A) that has been retained by an individual respondent or filed with the Bureau or any of its employees, contractors, or agents—*

*"(i) shall be immune from legal process; and*

*"(ii) shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings.*

*"(C) APPLICABILITY.—This paragraph shall apply only to reports that permit information concerning an individual or organization to be reasonably determined by direct or indirect means.*

*"(3) INFORMING RESPONDENT OF USE OF DATA.—In a case in which the Bureau is authorized by statute to collect data or information for a nonstatistical purpose, the Director shall clearly distinguish the collection of the data or information, by rule and on the collection instrument, so as to inform a respondent who is requested or required to supply the data or information of the nonstatistical purpose.*

*"(l) TRANSPORTATION STATISTICS ANNUAL REPORT.—The Director shall submit to the President and Congress a transportation statistics annual report which shall include information on items referred to in subsection (c)(5), documentation of methods used to obtain and ensure the quality of the statistics presented in the report, and recommendations for improving transportation statistical information.*

*"(m) DATA ACCESS.—The Director shall have access to transportation and transportation-related information in the possession of any Federal agency, except information—*

*"(1) the disclosure of which to another Federal agency is expressly prohibited by law; or*

*"(2) the disclosure of which the agency possessing the information determines would significantly impair the discharge of authorities and responsibilities which have been delegated to, or vested by law, in such agency.*

*"(n) PROCEEDS OF DATA PRODUCT SALES.—Notwithstanding section 3302 of title 31, funds received by the Bureau from the sale of data products, for necessary expenses incurred, may be credited to the Highway Trust Fund (other than the Mass Transit Account) for the purpose of reimbursing the Bureau for the expenses.*

*"(o) ADVISORY COUNCIL ON TRANSPORTATION STATISTICS.—*

*"(1) ESTABLISHMENT.—The Director shall establish an advisory council on transportation statistics.*

*"(2) FUNCTION.—The function of the advisory council established under this subsection is to—*

*"(A) advise the Director on the quality, reliability, consistency, objectivity, and relevance of transportation statistics and analyses collected, supported, or disseminated by the Bureau and the Department;*

*"(B) provide input to and review the report to Congress under subsection (d)(4); and*

*"(C) advise the Director on methods to encourage cooperation and interoperability of transportation data collected by the Bureau, the operating administrations of the Department, States, local governments, metropolitan planning organizations, and private sector entities.*

*"(3) MEMBERSHIP.—The advisory council established under this subsection shall be composed of not fewer than 9 and not more than 11 members appointed by the Director, who are not officers or employees of the United States. Each member shall have expertise in transportation data collection or analysis or application; except that 1 member shall have expertise in economics, 1 member shall have expertise in statistics, and 1 member shall have experience in transportation safety. At least 1 member shall be a senior official of a State department of transportation. Members shall include representation of a cross-section of transportation community stakeholders.*

*"(4) TERMS OF APPOINTMENT.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), members of the advisory council shall be appointed to staggered terms not to exceed 3 years. A member may be renominated for 1 additional 3-year term.*

*"(B) CURRENT MEMBERS.—Members serving on the Advisory Council on Transportation Statistics as of the date of enactment of the SAFETEA–LU shall serve until the end of their appointed terms.*

*"(5) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall apply to the Advisory Council established under this subsection, except that section 14 of such Act shall not apply.".*

## ***TITLE VI—TRANSPORTATION PLANNING AND PROJECT DELIVERY***

### ***SEC. 6001. TRANSPORTATION PLANNING.***

*(a) IN GENERAL.—Sections 134 and 135 of title 23, United States Code, are amended to read as follows:*

### **"§ 134. Metropolitan transportation planning**

*"(a) POLICY.—It is in the national interest to—*

*"(1) encourage and promote the safe and efficient management, operation, and development of surface transportation systems that will serve the mobility needs of people and freight and foster economic growth and development within and between States and urbanized areas, while minimizing transportation-related fuel consumption and air pollution through metropolitan and statewide transportation planning processes identified in this chapter; and*

*"(2) encourage the continued improvement and evolution of the metropolitan and statewide transportation planning processes by metropolitan planning organizations, State departments of transportation, and public transit operators as guided by the planning factors identified in subsection (h) and section 135(d).*

*"(b) DEFINITIONS.—In this section and section 135, the following definitions apply:*

*"(1) METROPOLITAN PLANNING AREA.—The term 'metropolitan planning area' means the geographic area determined by agreement between the metropolitan planning organization for the area and the Governor under subsection (e).*

*"(2) METROPOLITAN PLANNING ORGANIZATION.—The term 'metropolitan planning organization' means the policy board of an organization created as a result of the designation process in subsection (d).*

*"(3) NONMETROPOLITAN AREA.—The term 'nonmetropolitan area' means a geographic area outside designated metropolitan planning areas.*

*"(4) NONMETROPOLITAN LOCAL OFFICIAL.—The term 'nonmetropolitan local official' means elected and appointed officials of general purpose local government in a nonmetropolitan area with responsibility for transportation.*

*"(5) TIP.—The term 'TIP' means a transportation improvement program developed by a metropolitan planning organization under subsection (j).*

*"(6) URBANIZED AREA.—The term 'urbanized area' means a geographic area with a population of 50,000 or more, as designated by the Bureau of the Census.*

*"(c) GENERAL REQUIREMENTS.—*

*"(1) DEVELOPMENT OF LONG-RANGE PLANS AND TIPS.—To accomplish the objectives in subsection (a), metropolitan planning organizations designated under subsection (d), in cooperation with the State and public transportation operators, shall develop long-range transportation plans and transportation improvement programs for metropolitan planning areas of the State.*

*"(2) CONTENTS.—The plans and TIPs for each metropolitan area shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the metropolitan planning area and as an integral part of an intermodal transportation system for the State and the United States.*

*"(3) PROCESS OF DEVELOPMENT.—The process for developing the plans and TIPs shall provide for consideration of all modes of transportation and shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.*

*"(d) DESIGNATION OF METROPOLITAN PLANNING ORGANIZATIONS.—*

*"(1) IN GENERAL.—To carry out the transportation planning process required by this section,*

*a metropolitan planning organization shall be designated for each urbanized area with a population of more than 50,000 individuals—*

*"(A) by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the affected population (including the largest incorporated city (based on population) as named by the Bureau of the Census); or*

*"(B) in accordance with procedures established by applicable State or local law.*

*"(2) STRUCTURE.—Each metropolitan planning organization that serves an area designated as a transportation management area, when designated or redesignated under this subsection, shall consist of—*

*"(A) local elected officials;*

*"(B) officials of public agencies that administer or operate major modes of transportation in the metropolitan area; and*

*"(C) appropriate State officials.*

*"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed to interfere with the authority, under any State law in effect on December 18, 1991, of a public agency with multimodal transportation responsibilities to—*

*"(A) develop the plans and TIPs for adoption by a metropolitan planning organization; and*

*"(B) develop long-range capital plans, coordinate transit services and projects, and carry out other activities pursuant to State law.*

*"(4) CONTINUING DESIGNATION.—A designation of a metropolitan planning organization under this subsection or any other provision of law shall remain in effect until the metropolitan planning organization is redesignated under paragraph (5).*

*"(5) REDESIGNATION PROCEDURES.—A metropolitan planning organization may be redesignated by agreement between the Governor and units of general purpose local government that together represent at least 75 percent of the existing planning area population (including the largest incorporated city (based on population) as named by the Bureau of the Census) as appropriate to carry out this section.*

*"(6) DESIGNATION OF MORE THAN 1 METROPOLITAN PLANNING ORGANIZATION.—More than 1 metropolitan planning organization may be designated within an existing metropolitan planning area only if the Governor and the existing metropolitan planning organization determine that the size and complexity of the existing metropolitan planning area make designation of more than 1 metropolitan planning organization for the area appropriate.*

*"(e) METROPOLITAN PLANNING AREA BOUNDARIES.—*

*"(1) IN GENERAL.—For the purposes of this section, the boundaries of a metropolitan planning area shall be determined by agreement between the metropolitan planning organization and the Governor.*

*"(2) INCLUDED AREA.—Each metropolitan planning area—*

*"(A) shall encompass at least the existing urbanized area and the contiguous area expected to become urbanized within a 20-year forecast period for the transportation plan; and*

*"(B) may encompass the entire metropolitan statistical area or consolidated metropolitan statistical area, as defined by the Bureau of the Census.*

*"(3) IDENTIFICATION OF NEW URBANIZED AREAS WITHIN EXISTING PLANNING AREA BOUNDARIES.—The designation by the Bureau of the Census of new urbanized areas within an existing metropolitan planning area shall not require the redesignation of the existing metropolitan planning organization.*

*"(4) EXISTING METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—Notwithstanding paragraph (2), in the case of an urbanized area designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act (42 U.S.C. 7401 et seq.) as of the date of enactment of the SAFETEA–LU, the boundaries of the metropolitan planning area in existence as of such date of enactment shall be retained; except that the boundaries may be adjusted by agreement of the Governor and affected metropolitan planning organizations in the manner described in subsection (d)(5).*

*"(5) NEW METROPOLITAN PLANNING AREAS IN NONATTAINMENT.—In the case of an urbanized area designated after the date of enactment of the SAFETEA–LU, as a nonattainment area for ozone or carbon monoxide, the boundaries of the metropolitan planning area—*

*"(A) shall be established in the manner described in subsection (d)(1);*

*"(B) shall encompass the areas described in paragraph (2)(A);*

*"(C) may encompass the areas described in paragraph (2)(B); and*

*"(D) may address any nonattainment area identified under the Clean Air Act for ozone or carbon monoxide.*

*"(f) COORDINATION IN MULTISTATE AREAS.—*

*"(1) IN GENERAL.—The Secretary shall encourage each Governor with responsibility for a portion of a multistate metropolitan area and the appropriate metropolitan planning organizations to provide coordinated transportation planning for the entire metropolitan area.*

*"(2) INTERSTATE COMPACTS.—The consent of Congress is granted to any 2 or more States—*

*"(A) to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section as the activities pertain to interstate areas and localities within the States; and*

*"(B) to establish such agencies, joint or otherwise, as the States may determine desirable for making the agreements and compacts effective.*

*"(3) LAKE TAHOE REGION.—*

*"(A) DEFINITION.—In this paragraph, the term 'Lake Tahoe region' has the meaning given the term 'region' in subdivision (a) of article II of the Tahoe Regional Planning Compact, as set forth in the first section of Public Law 96–551 (94 Stat. 3234).*

*"(B) TRANSPORTATION PLANNING PROCESS.—The Secretary shall—*

*"(i) establish with the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region a transportation planning process for the region; and*

*"(ii) coordinate the transportation planning process with the planning process required of State and local governments under this section and section 135.*

*"(C) INTERSTATE COMPACT.—*

*"(i) IN GENERAL.—Subject to clause (ii), and notwithstanding subsection (b), to carry out the transportation planning process required by this section, the consent of Congress is granted to the States of California and Nevada to designate a metropolitan planning organization for the Lake Tahoe region, by agreement between the Governors of the States of California and Nevada and units of general purpose local government that together represent at least 75 percent of the affected population (including the central city or cities (as defined by the Bureau of the Census)), or in accordance with procedures established by applicable State or local law.*

*"(ii) INVOLVEMENT OF FEDERAL LAND MANAGEMENT AGENCIES.—*

*"(I) REPRESENTATION.—The policy board of a metropolitan planning organization designated under clause (i) shall include a representative of each Federal land management agency that has jurisdiction over land in the Lake Tahoe region.*

*"(II) FUNDING.—In addition to funds made available to the metropolitan planning organization for the Lake Tahoe region under other provisions of this title and under chapter 53 of title 49, 1 percent of the funds allocated under section 202 shall be used to carry out the transportation planning process for the Lake Tahoe region under this subparagraph.*

*"(D) ACTIVITIES.—Highway projects included in transportation plans developed under this paragraph—*

*"(i) shall be selected for funding in a manner that facilitates the participation of the Federal land management agencies that have jurisdiction over land in the Lake Tahoe region; and*

*"(ii) may, in accordance with chapter 2, be funded using funds allocated under section 202.*

*"(4) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.*

*"(g) MPO CONSULTATION IN PLAN AND TIP COORDINATION.—*

*"(1) NONATTAINMENT AREAS.—If more than 1 metropolitan planning organization has authority within a metropolitan area or an area which is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act, each metropolitan planning organization shall consult with the other metropolitan planning organizations designated for such area and the State in the coordination of plans and TIPs required by this section.*

*"(2) TRANSPORTATION IMPROVEMENTS LOCATED IN MULTIPLE MPOS.—If a transportation improvement, funded from the Highway Trust Fund or authorized under chapter 53 of title 49, is located within the boundaries of more than 1 metropolitan planning area, the metropolitan planning organizations shall coordinate plans and TIPs regarding the transportation improvement.*

*"(3) RELATIONSHIP WITH OTHER PLANNING OFFICIALS.—The Secretary shall encourage each metropolitan planning organization to consult with officials responsible for other types of planning activities that are affected by transportation in the area (including State and local planned growth, economic development, environmental protection, airport operations, and freight movements) or to coordinate its planning process, to the maximum extent practicable, with such planning activities. Under the metropolitan planning process, transportation plans and TIPs shall be developed with due consideration of other related planning activities within the metropolitan area, and the process shall provide for the design and delivery of transportation services within the metropolitan area that are provided by—*

*"(A) recipients of assistance under chapter 53 of title 49;*

*"(B) governmental agencies and nonprofit organizations (including representatives of the agencies and organizations) that receive Federal assistance from a source other than the Department of Transportation to provide non-emergency transportation services; and*

*"(C) recipients of assistance under section 204.*

*"(h) SCOPE OF PLANNING PROCESS.—*

*"(1) IN GENERAL.—The metropolitan planning process for a metropolitan planning area under this section shall provide for consideration of projects and strategies that will—*

*"(A) support the economic vitality of the metropolitan area, especially by enabling global competitiveness, productivity, and efficiency;*

*"(B) increase the safety of the transportation system for motorized and nonmotorized users;*

*"(C) increase the security of the transportation system for motorized and nonmotorized users;*

*"(D) increase the accessibility and mobility of people and for freight;*

*"(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between*

*transportation improvements and State and local planned growth and economic development patterns;*

*"(F) enhance the integration and connectivity of the transportation system, across and between modes, for people and freight;*

*"(G) promote efficient system management and operation; and*

*"(H) emphasize the preservation of the existing transportation system.*

*"(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title or chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a transportation plan, a TIP, a project or strategy, or the certification of a planning process.*

*"(i) DEVELOPMENT OF TRANSPORTATION PLAN.—*

*"(1) IN GENERAL.—Each metropolitan planning organization shall prepare and update a transportation plan for its metropolitan planning area in accordance with the requirements of this subsection. The metropolitan planning organization shall prepare and update such plan every 4 years (or more frequently, if the metropolitan planning organization elects to update more frequently) in the case of each of the following:*

*"(A) Any area designated as nonattainment, as defined in section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)).*

*"(B) Any area that was nonattainment and subsequently designated to attainment in accordance with section 107(d)(3) of that Act (42 U.S.C. 7407(d)(3)) and that is subject to a maintenance plan under section 175A of that Act (42 U.S.C. 7505a).*

*In the case of any other area required to have a transportation plan in accordance with the requirements of this subsection, the metropolitan planning organization shall prepare and update such plan every 5 years unless the metropolitan planning organization elects to update more frequently.*

*"(2) TRANSPORTATION PLAN.—A transportation plan under this section shall be in a form that the Secretary determines to be appropriate and shall contain, at a minimum, the following:*

*"(A) IDENTIFICATION OF TRANSPORTATION FACILITIES.—An identification of transportation facilities (including major roadways, transit, multimodal and intermodal facilities, and intermodal connectors) that should function as an integrated metropolitan transportation system, giving emphasis to those facilities that serve important national and regional transportation functions. In formulating the transportation plan, the metropolitan planning organization shall consider factors described in subsection (h) as such factors relate to a 20-year forecast period.*

*"(B) MITIGATION ACTIVITIES.—*

*"(i) IN GENERAL.—A long-range transportation plan shall include a discussion of types of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.*

*"(ii) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.*

*"(C) FINANCIAL PLAN.—A financial plan that demonstrates how the adopted transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available. For the purpose of developing the transportation plan, the metropolitan planning organization, transit operator, and State shall cooperatively develop estimates of funds that will be available to support plan implementation.*

*"(D) OPERATIONAL AND MANAGEMENT STRATEGIES.—Operational and management strategies to improve the performance of existing transportation facilities to relieve vehicular congestion and maximize the safety and mobility of people and goods.*

*"(E) CAPITAL INVESTMENT AND OTHER STRATEGIES.—Capital investment and other strategies to preserve the existing and projected future metropolitan transportation infrastructure and provide for multimodal capacity increases based on regional priorities and needs.*

*"(F) TRANSPORTATION AND TRANSIT ENHANCEMENT ACTIVITIES.—Proposed transportation and transit enhancement activities.*

*"(3) COORDINATION WITH CLEAN AIR ACT AGENCIES.—In metropolitan areas which are in nonattainment for ozone or carbon monoxide under the Clean Air Act, the metropolitan planning organization shall coordinate the development of a transportation plan with the process for development of the transportation control measures of the State implementation plan required by the Clean Air Act.*

*"(4) CONSULTATION.—*

*"(A) IN GENERAL.—In each metropolitan area, the metropolitan planning organization shall consult, as appropriate, with State and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation concerning the development of a long-range transportation plan.*

*"(B) ISSUES.—The consultation shall involve, as appropriate—*

*"(i) comparison of transportation plans with State conservation plans or maps, if available; or*

*"(ii) comparison of transportation plans to inventories of natural or historic resources, if available.*

*"(5) PARTICIPATION BY INTERESTED PARTIES.—*

*"(A) IN GENERAL.—Each metropolitan planning organization shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, providers of freight transportation services, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the transportation plan.*

*"(B) CONTENTS OF PARTICIPATION PLAN.—A participation plan—*

*"(i) shall be developed in consultation with all interested parties; and*

*"(ii) shall provide that all interested parties have reasonable opportunities to comment on the contents of the transportation plan.*

*"(C) METHODS.—In carrying out subparagraph (A), the metropolitan planning organization shall, to the maximum extent practicable—*

*"(i) hold any public meetings at convenient and accessible locations and times;*

*"(ii) employ visualization techniques to describe plans; and*

*"(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).*

*"(6) PUBLICATION.—A transportation plan involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web, approved by the metropolitan planning organization and submitted for information purposes to the Governor at such times and in such manner as the Secretary shall establish.*

*"(7) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—Notwithstanding paragraph (2)(C), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(C).*

*"(j) METROPOLITAN TIP.—*

*"(1) DEVELOPMENT.—*

*"(A) IN GENERAL.—In cooperation with the State and any affected public transportation operator, the metropolitan planning organization designated for a metropolitan area shall develop a TIP for the area for which the organization is designated.*

*"(B) OPPORTUNITY FOR COMMENT.—In developing the TIP, the metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).*

*"(C) FUNDING ESTIMATES.—For the purpose of developing the TIP, the metropolitan planning organization, public transportation agency, and State shall cooperatively develop estimates of funds that are reasonably expected to be available to support program implementation.*

*"(D) UPDATING AND APPROVAL.—The TIP shall be updated at least once every 4 years and shall be approved by the metropolitan planning organization and the Governor.*

*"(2) CONTENTS.—*

*"(A) PRIORITY LIST.—The TIP shall include a priority list of proposed federally supported projects and strategies to be carried out within each 4-year period after the initial adoption of the TIP.*

*"(B) FINANCIAL PLAN.—The TIP shall include a financial plan that—*

*"(i) demonstrates how the TIP can be implemented;*

*"(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;*

*"(iii) identifies innovative financing techniques to finance projects, programs, and strategies; and*

*"(iv) may include, for illustrative purposes, additional projects that would be included in the approved TIP if reasonable additional resources beyond those identified in the financial plan were available.*

*"(C) DESCRIPTIONS.—Each project in the TIP shall include sufficient descriptive material (such as type of work, termini, length, and other similar factors) to identify the project or phase of the project.*

*"(3) INCLUDED PROJECTS.—*

*"(A) PROJECTS UNDER THIS TITLE AND CHAPTER 53 OF TITLE 49.—A TIP developed under this subsection for a metropolitan area shall include the projects within the area that are proposed for funding under chapter 1 of this title and chapter 53 of title 49.*

*"(B) PROJECTS UNDER CHAPTER 2.—*

*"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.*

*"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.*

*“(C) CONSISTENCY WITH LONG-RANGE TRANSPORTATION PLAN.—Each project shall be consistent with the long-range transportation plan developed under subsection (i) for the area.*

*“(D) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.*

*“(4) NOTICE AND COMMENT.—Before approving a TIP, a metropolitan planning organization, in cooperation with the State and any affected public transportation operator, shall provide an opportunity for participation by interested parties in the development of the program, in accordance with subsection (i)(5).*

*“(5) SELECTION OF PROJECTS.—*

*“(A) IN GENERAL.—Except as otherwise provided in subsection (k)(4) and in addition to the TIP development required under paragraph (1), the selection of federally funded projects in metropolitan areas shall be carried out, from the approved TIP—*

*“(i) by—*

*“(I) in the case of projects under this title, the State; and*

*“(II) in the case of projects under chapter 53 of title 49, the designated recipients of public transportation funding; and*

*“(ii) in cooperation with the metropolitan planning organization.*

*“(B) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved TIP in place of another project in the program.*

*“(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—*

*“(A) NO REQUIRED SELECTION.—Notwithstanding paragraph (2)(B)(iv), a State or metropolitan planning organization shall not be required to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv).*

*“(B) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State or metropolitan planning organization to select any project from the illustrative list of additional projects included in the financial plan under paragraph (2)(B)(iv) for inclusion in an approved TIP.*

*“(7) PUBLICATION.—*

*“(A) PUBLICATION OF TIPS.—A TIP involving Federal participation shall be published or otherwise made readily available by the metropolitan planning organization for public review.*

*“(B) PUBLICATION OF ANNUAL LISTINGS OF PROJECTS.—An annual listing of projects, including investments in pedestrian walkways and bicycle transportation facilities, for which Federal funds have been obligated in the preceding year shall be published or otherwise made available by the cooperative effort of the State, transit operator, and metropolitan planning organization for public review. The listing shall be consistent with the categories identified in the TIP.*

*“(k) TRANSPORTATION MANAGEMENT AREAS.—*

*“(1) IDENTIFICATION AND DESIGNATION.—*

*“(A) REQUIRED IDENTIFICATION.—The Secretary shall identify as a transportation management area each urbanized area (as defined by the Bureau of the Census) with a population of over 200,000 individuals.*

*“(B) DESIGNATIONS ON REQUEST.—The Secretary shall designate any additional area as a transportation management area on the request of the Governor and the metropolitan planning organization designated for the area.*

*“(2) TRANSPORTATION PLANS.—In a metropolitan planning area serving a transportation management area, transportation plans shall be based on a continuing and comprehensive transportation planning process carried out by the metropolitan planning organization in cooperation with the State and public transportation operators.*

*“(3) CONGESTION MANAGEMENT PROCESS.—Within a metropolitan planning area serving a transportation management area, the transportation planning process under this section shall address congestion management through a process that provides for effective management and operation, based on a cooperatively developed and implemented metropolitan-wide strategy, of new and existing transportation facilities eligible for funding under this title and chapter 53 of title 49 through the use of travel demand reduction and operational management strategies. The Secretary shall establish an appropriate phase-in schedule for compliance with the requirements of this section but no sooner than 1 year after the identification of a transportation management area.*

*“(4) SELECTION OF PROJECTS.—*

*“(A) IN GENERAL.—All federally funded projects carried out within the boundaries of a metropolitan planning area serving a transportation management area under this title (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program) or under chapter 53 of title 49 shall be selected for implementation from the approved TIP by the metropolitan planning organization designated for the area in consultation with the State and any affected public transportation operator.*

*“(B) NATIONAL HIGHWAY SYSTEM PROJECTS.—Projects carried out within the boundaries of a metropolitan planning area serving a transportation management area on the National Highway System and projects carried out within such boundaries under the bridge program or the Interstate maintenance program under this title shall be selected for implementation from the approved TIP by the State in cooperation with the metropolitan planning organization designated for the area.*

*“(5) CERTIFICATION.—*

*“(A) IN GENERAL.—The Secretary shall—*

*“(i) ensure that the metropolitan planning process of a metropolitan planning organization serving a transportation management area is being carried out in accordance with applicable provisions of Federal law; and*

*“(ii) subject to subparagraph (B), certify, not less often than once every 4 years, that the requirements of this paragraph are met with respect to the metropolitan planning process.*

*“(B) REQUIREMENTS FOR CERTIFICATION.—The Secretary may make the certification under subparagraph (A) if—*

*“(i) the transportation planning process complies with the requirements of this section and other applicable requirements of Federal law; and*

*“(ii) there is a TIP for the metropolitan planning area that has been approved by the metropolitan planning organization and the Governor.*

*“(C) EFFECT OF FAILURE TO CERTIFY.—*

*“(i) WITHHOLDING OF PROJECT FUNDS.—If a metropolitan planning process of a metropolitan planning organization serving a transportation management area is not certified, the Secretary may withhold up to 20 percent of the funds attributable to the metropolitan planning area of the metropolitan planning organization for projects funded under this title and chapter 53 of title 49.*

*“(ii) RESTORATION OF WITHHELD FUNDS.—The withheld funds shall be restored to the metropolitan planning area at such time as the metropolitan planning process is certified by the Secretary.*

*“(D) REVIEW OF CERTIFICATION.—In making certification determinations under this paragraph, the Secretary shall provide for public involvement appropriate to the metropolitan area under review.*

*“(l) ABBREVIATED PLANS FOR CERTAIN AREAS.—*

*“(1) IN GENERAL.—Subject to paragraph (2), in the case of a metropolitan area not designated as a transportation management area under this section, the Secretary may provide for the development of an abbreviated transportation plan and TIP for the metropolitan planning area that the Secretary determines is appropriate to achieve the purposes of this section, taking into account the complexity of transportation problems in the area.*

*“(2) NONATTAINMENT AREAS.—The Secretary may not permit abbreviated plans or TIPs for a metropolitan area that is in nonattainment for ozone or carbon monoxide under the Clean Air Act.*

*“(m) ADDITIONAL REQUIREMENTS FOR CERTAIN NONATTAINMENT AREAS.—*

*“(1) IN GENERAL.—Notwithstanding any other provisions of this title or chapter 53 of title 49, for transportation management areas classified as nonattainment for ozone or carbon monoxide pursuant to the Clean Air Act, Federal funds may not be advanced in such area for any highway project that will result in a significant increase in the carrying capacity for single-occupant vehicles unless the project is addressed through a congestion management process.*

*“(2) APPLICABILITY.—This subsection applies to a nonattainment area within the metropolitan planning area boundaries determined under subsection (e).*

*“(n) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to confer on a metropolitan planning organization the authority to impose legal requirements on any transportation facility, provider, or project not eligible under this title or chapter 53 of title 49.*

*“(o) FUNDING.—Funds set aside under section 104(f) of this title or section 5305(g) of title 49 shall be available to carry out this section.*

*“(p) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since plans and TIPs described in this section are subject to a reasonable opportunity for public comment, since individual projects included in plans and TIPs are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning plans and TIPs described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a plan or TIP described in this section shall not be considered to be a Federal action subject to review under such Act.*

***“§ 135. Statewide transportation planning***

*“(a) GENERAL REQUIREMENTS.—*

*“(1) DEVELOPMENT OF PLANS AND PROGRAMS.—To accomplish the objectives stated in section 134(a), each State shall develop a statewide transportation plan and a statewide transportation improvement program for all areas of the State, subject to section 134.*

*“(2) CONTENTS.—The statewide transportation plan and the transportation improvement program developed for each State shall provide for the development and integrated management and operation of transportation systems and facilities (including accessible pedestrian walkways and bicycle transportation facilities) that will function as an intermodal transportation system for the State and an integral part of an intermodal transportation system for the United States.*

*“(3) PROCESS OF DEVELOPMENT.—The process for developing the statewide plan and the transportation improvement program shall provide for consideration of all modes of transportation and the policies stated in section 134(a), and*

*shall be continuing, cooperative, and comprehensive to the degree appropriate, based on the complexity of the transportation problems to be addressed.*

*``(b) COORDINATION WITH METROPOLITAN PLANNING; STATE IMPLEMENTATION PLAN.—A State shall—*

*``(1) coordinate planning carried out under this section with the transportation planning activities carried out under section 134 for metropolitan areas of the State and with statewide trade and economic development planning activities and related multistate planning efforts; and*

*``(2) develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.).*

*``(c) INTERSTATE AGREEMENTS.—*

*``(1) IN GENERAL.—The consent of Congress is granted to 2 or more States entering into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this section related to interstate areas and localities in the States and establishing authorities the States consider desirable for making the agreements and compacts effective.*

*``(2) RESERVATION OF RIGHTS.—The right to alter, amend, or repeal interstate compacts entered into under this subsection is expressly reserved.*

*``(d) SCOPE OF PLANNING PROCESS.—*

*``(1) IN GENERAL.—Each State shall carry out a statewide transportation planning process that provides for consideration and implementation of projects, strategies, and services that will—*

*``(A) support the economic vitality of the United States, the States, nonmetropolitan areas, and metropolitan areas, especially by enabling global competitiveness, productivity, and efficiency;*

*``(B) increase the safety of the transportation system for motorized and nonmotorized users;*

*``(C) increase the security of the transportation system for motorized and nonmotorized users;*

*``(D) increase the accessibility and mobility of people and freight;*

*``(E) protect and enhance the environment, promote energy conservation, improve the quality of life, and promote consistency between transportation improvements and State and local planned growth and economic development patterns;*

*``(F) enhance the integration and connectivity of the transportation system, across and between modes throughout the State, for people and freight;*

*``(G) promote efficient system management and operation; and*

*``(H) emphasize the preservation of the existing transportation system.*

*``(2) FAILURE TO CONSIDER FACTORS.—The failure to consider any factor specified in paragraph (1) shall not be reviewable by any court under this title or chapter 53 of title 49, subchapter II of chapter 5 of title 5, or chapter 7 of title 5 in any matter affecting a statewide transportation plan, the transportation improvement program, a project or strategy, or the certification of a planning process.*

*``(e) ADDITIONAL REQUIREMENTS.—In carrying out planning under this section, each State shall consider, at a minimum—*

*``(1) with respect to nonmetropolitan areas, the concerns of affected local officials with responsibility for transportation;*

*``(2) the concerns of Indian tribal governments and Federal land management agencies that have jurisdiction over land within the boundaries of the State; and*

*``(3) coordination of transportation plans, the transportation improvement program, and planning activities with related planning activities being carried out outside of metropolitan planning areas and between States.*

*``(f) LONG-RANGE STATEWIDE TRANSPORTATION PLAN.—*

*``(1) DEVELOPMENT.—Each State shall develop a long-range statewide transportation plan, with a minimum 20-year forecast period for all areas of the State, that provides for the development and implementation of the intermodal transportation system of the State.*

*``(2) CONSULTATION WITH GOVERNMENTS.—*

*``(A) METROPOLITAN AREAS.—The statewide transportation plan shall be developed for each metropolitan area in the State in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.*

*``(B) NONMETROPOLITAN AREAS.—With respect to nonmetropolitan areas, the statewide transportation plan shall be developed in consultation with affected nonmetropolitan officials with responsibility for transportation. The Secretary shall not review or approve the consultation process in each State.*

*``(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the statewide transportation plan shall be developed in consultation with the tribal government and the Secretary of the Interior.*

*``(D) CONSULTATION, COMPARISON, AND CONSIDERATION.—*

*``(i) IN GENERAL.—The long-range transportation plan shall be developed, as appropriate, in consultation with State, tribal, and local agencies responsible for land use management, natural resources, environmental protection, conservation, and historic preservation.*

*``(ii) COMPARISON AND CONSIDERATION.—Consultation under clause (i) shall involve comparison of transportation plans to State and tribal conservation plans or maps, if available, and comparison of transportation plans to inventories of natural or historic resources, if available.*

*``(3) PARTICIPATION BY INTERESTED PARTIES.—*

*``(A) IN GENERAL.—In developing the statewide transportation plan, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, providers of freight transportation services, and other interested parties with a reasonable opportunity to comment on the proposed plan.*

*``(B) METHODS.—In carrying out subparagraph (A), the State shall, to the maximum extent practicable—*

*``(i) hold any public meetings at convenient and accessible locations and times;*

*``(ii) employ visualization techniques to describe plans; and*

*``(iii) make public information available in electronically accessible format and means, such as the World Wide Web, as appropriate to afford reasonable opportunity for consideration of public information under subparagraph (A).*

*``(4) MITIGATION ACTIVITIES.—*

*``(A) IN GENERAL.—A long-range transportation plan shall include a discussion of potential environmental mitigation activities and potential areas to carry out these activities, including activities that may have the greatest potential to restore and maintain the environmental functions affected by the plan.*

*``(B) CONSULTATION.—The discussion shall be developed in consultation with Federal, State, and tribal wildlife, land management, and regulatory agencies.*

*``(5) FINANCIAL PLAN.—The statewide transportation plan may include a financial plan that demonstrates how the adopted statewide transportation plan can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the plan, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted statewide transportation plan if reasonable additional resources beyond those identified in the financial plan were available.*

*``(6) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—A State shall not be required to select any project from the illustrative list of additional projects included in the financial plan described in paragraph (5).*

*``(7) EXISTING SYSTEM.—The statewide transportation plan should include capital, operations and management strategies, investments, procedures, and other measures to ensure the preservation and most efficient use of the existing transportation system.*

*``(8) PUBLICATION OF LONG-RANGE TRANSPORTATION PLANS.—Each long-range transportation plan prepared by a State shall be published or otherwise made available, including (to the maximum extent practicable) in electronically accessible formats and means, such as the World Wide Web.*

*``(g) STATEWIDE TRANSPORTATION IMPROVEMENT PROGRAM.—*

*``(1) DEVELOPMENT.—Each State shall develop a statewide transportation improvement program for all areas of the State. Such program shall cover a period of 4 years and be updated every 4 years or more frequently if the Governor elects to update more frequently.*

*``(2) CONSULTATION WITH GOVERNMENTS.—*

*``(A) METROPOLITAN AREAS.—With respect to each metropolitan area in the State, the program shall be developed in cooperation with the metropolitan planning organization designated for the metropolitan area under section 134.*

*``(B) NONMETROPOLITAN AREAS.—With respect to each nonmetropolitan area in the State, the program shall be developed in consultation with affected nonmetropolitan local officials with responsibility for transportation. The Secretary shall not review or approve the specific consultation process in the State.*

*``(C) INDIAN TRIBAL AREAS.—With respect to each area of the State under the jurisdiction of an Indian tribal government, the program shall be developed in consultation with the tribal government and the Secretary of the Interior.*

*``(3) PARTICIPATION BY INTERESTED PARTIES.—In developing the program, the State shall provide citizens, affected public agencies, representatives of public transportation employees, freight shippers, private providers of transportation, providers of freight transportation services, representatives of users of public transportation, representatives of users of pedestrian walkways and bicycle transportation facilities, representatives of the disabled, and other interested parties with a reasonable opportunity to comment on the proposed program.*

*``(4) INCLUDED PROJECTS.—*

*``(A) IN GENERAL.—A transportation improvement program developed under this subsection for a State shall include federally supported surface transportation expenditures within the boundaries of the State.*

*``(B) LISTING OF PROJECTS.—An annual listing of projects for which funds have been obligated in the preceding year in each metropolitan planning area shall be published or otherwise made available by the cooperative effort of the State, transit operator, and the metropolitan planning organization for public review. The listing shall be consistent with the funding categories identified in each metropolitan transportation improvement program.*

*"(C) PROJECTS UNDER CHAPTER 2.—*

*"(i) REGIONALLY SIGNIFICANT PROJECTS.—Regionally significant projects proposed for funding under chapter 2 shall be identified individually in the transportation improvement program.*

*"(ii) OTHER PROJECTS.—Projects proposed for funding under chapter 2 that are not determined to be regionally significant shall be grouped in 1 line item or identified individually in the transportation improvement program.*

*"(D) CONSISTENCY WITH STATEWIDE TRANSPORTATION PLAN.—Each project shall be—*

*"(i) consistent with the statewide transportation plan developed under this section for the State;*

*"(ii) identical to the project or phase of the project as described in an approved metropolitan transportation plan; and*

*"(iii) in conformance with the applicable State air quality implementation plan developed under the Clean Air Act, if the project is carried out in an area designated as nonattainment for ozone, particulate matter, or carbon monoxide under such Act.*

*"(E) REQUIREMENT OF ANTICIPATED FULL FUNDING.—The transportation improvement program shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project within the time period contemplated for completion of the project.*

*"(F) FINANCIAL PLAN.—The transportation improvement program may include a financial plan that demonstrates how the approved transportation improvement program can be implemented, indicates resources from public and private sources that are reasonably expected to be made available to carry out the transportation improvement program, and recommends any additional financing strategies for needed projects and programs. The financial plan may include, for illustrative purposes, additional projects that would be included in the adopted transportation plan if reasonable additional resources beyond those identified in the financial plan were available.*

*"(G) SELECTION OF PROJECTS FROM ILLUSTRATIVE LIST.—*

*"(i) NO REQUIRED SELECTION.—Notwithstanding subparagraph (F), a State shall not be required to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F).*

*"(ii) REQUIRED ACTION BY THE SECRETARY.—Action by the Secretary shall be required for a State to select any project from the illustrative list of additional projects included in the financial plan under subparagraph (F) for inclusion in an approved transportation improvement program.*

*"(H) PRIORITIES.—The transportation improvement program shall reflect the priorities for programming and expenditures of funds, including transportation enhancement activities, required by this title and chapter 53 of title 49.*

*"(5) PROJECT SELECTION FOR AREAS OF LESS THAN 50,000 POPULATION.—Projects carried out in areas with populations of less than 50,000 individuals shall be selected, from the approved transportation improvement program (excluding projects carried out on the National Highway System and projects carried out under the bridge program or the Interstate maintenance program under this title or under sections 5310, 5311, 5316, and 5317 of title 49), by the State in cooperation with the affected nonmetropolitan local officials with responsibility for transportation. Projects carried out in areas with populations of less than 50,000 individuals on the National Highway System or under the bridge program or the Interstate maintenance program under this title or under sections 5310, 5311, 5316, and 5317 of title 49 shall be selected, from the approved statewide transportation improvement program, by the State in consultation with the affected nonmetropolitan local officials with responsibility for transportation.*

*"(6) TRANSPORTATION IMPROVEMENT PROGRAM APPROVAL.—Every 4 years, a transportation improvement program developed under this subsection shall be reviewed and approved by the Secretary if based on a current planning finding.*

*"(7) PLANNING FINDING.—A finding shall be made by the Secretary at least every 4 years that the transportation planning process through which statewide transportation plans and programs are developed is consistent with this section and section 134.*

*"(8) MODIFICATIONS TO PROJECT PRIORITY.—Notwithstanding any other provision of law, action by the Secretary shall not be required to advance a project included in the approved transportation improvement program in place of another project in the program.*

*"(h) FUNDING.—Funds set aside pursuant to section 104(f) of this title and section 5305(g) of title 49, shall be available to carry out this section.*

*"(i) TREATMENT OF CERTAIN STATE LAWS AS CONGESTION MANAGEMENT PROCESSES.—For purposes of this section and section 134, and sections 5303 and 5304 of title 49, State laws, rules, or regulations pertaining to congestion management systems or programs may constitute the congestion management process under this section and section 134, and sections 5303 and 5304 of title 49, if the Secretary finds that the State laws, rules, or regulations are consistent with, and fulfill the intent of, the purposes of this section and section 134 and sections 5303 and 5304 of title 49, as appropriate.*

*"(j) CONTINUATION OF CURRENT REVIEW PRACTICE.—Since the statewide transportation plan and the transportation improvement program described in this section are subject to a reasonable opportunity for public comment, since individual projects included in the statewide transportation plans and the transportation improvement program are subject to review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and since decisions by the Secretary concerning statewide transportation plans or the transportation improvement program described in this section have not been reviewed under such Act as of January 1, 1997, any decision by the Secretary concerning a metropolitan or statewide transportation plan or the transportation improvement program described in this section shall not be considered to be a Federal action subject to review under such Act.".*

*(b) SCHEDULE FOR IMPLEMENTATION.—The Secretary shall issue guidance on a schedule for implementation of the changes made by this section, taking into consideration the established planning update cycle for States and metropolitan planning organizations. The Secretary shall not require a State or metropolitan planning organization to deviate from its established planning update cycle to implement changes made by this section. Beginning July 1, 2007, State or metropolitan planning organization plan or program updates shall reflect changes made by this section.*

*(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by striking the items relating to sections 134 and 135 and inserting the following:*

*"134. Metropolitan transportation planning.*
*"135. Statewide transportation planning.".*

### ***SEC. 6002. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING.***

*(a) IN GENERAL.—Subchapter I of chapter 1 of title 23, United States Code, is amended by inserting after section 138 the following:*

### ***"§ 139. Efficient environmental reviews for project decisionmaking***

*"(a) DEFINITIONS.—In this section, the following definitions apply:*

*"(1) AGENCY.—The term 'agency' means any agency, department, or other unit of Federal, State, local, or Indian tribal government.*

*"(2) ENVIRONMENTAL IMPACT STATEMENT.—The term 'environmental impact statement' means the detailed statement of environmental impacts required to be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*"(3) ENVIRONMENTAL REVIEW PROCESS.—*

*"(A) IN GENERAL.—The term 'environmental review process' means the process for preparing for a project an environmental impact statement, environmental assessment, categorical exclusion, or other document prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*"(B) INCLUSIONS.—The term 'environmental review process' includes the process for and completion of any environmental permit, approval, review, or study required for a project under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*"(4) LEAD AGENCY.—The term 'lead agency' means the Department of Transportation and, if applicable, any State or local governmental entity serving as a joint lead agency pursuant to this section.*

*"(5) MULTIMODAL PROJECT.—The term 'multimodal project' means a project funded, in whole or in part, under this title or chapter 53 of title 49 and involving the participation of more than one Department of Transportation administration or agency.*

*"(6) PROJECT.—The term 'project' means any highway project, public transportation capital project, or multimodal project that requires the approval of the Secretary.*

*"(7) PROJECT SPONSOR.—The term 'project sponsor' means the agency or other entity, including any private or public-private entity, that seeks approval of the Secretary for a project.*

*"(8) STATE TRANSPORTATION DEPARTMENT.—The term 'State transportation department' means any statewide agency of a State with responsibility for one or more modes of transportation.*

*"(b) APPLICABILITY.—*

*"(1) IN GENERAL.—The project development procedures in this section are applicable to all projects for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 and may be applied, to the extent determined appropriate by the Secretary, to other projects for which an environmental document is prepared pursuant to such Act.*

*"(2) FLEXIBILITY.—Any authorities granted in this section may be exercised for a project, class of projects, or program of projects.*

*"(c) LEAD AGENCIES.—*

*"(1) FEDERAL LEAD AGENCY.—The Department of Transportation shall be the Federal lead agency in the environmental review process for a project.*

*"(2) JOINT LEAD AGENCIES.—Nothing in this section precludes another agency from being a joint lead agency in accordance with regulations under the National Environmental Policy Act of 1969.*

*"(3) PROJECT SPONSOR AS JOINT LEAD AGENCY.—Any project sponsor that is a State or local governmental entity receiving funds under this title or chapter 53 of title 49 for the project shall serve as a joint lead agency with the Department for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 and may prepare any*

*such environmental document required in support of any action or approval by the Secretary if the Federal lead agency furnishes guidance in such preparation and independently evaluates such document and the document is approved and adopted by the Secretary prior to the Secretary taking any subsequent action or making any approval based on such document, whether or not the Secretary's action or approval results in Federal funding.*

*"(4) ENSURING COMPLIANCE.—The Secretary shall ensure that the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection and that such document is appropriately supplemented if project changes become necessary.*

*"(5) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection may be adopted or used by any Federal agency making any approval to the same extent that such Federal agency could adopt or use a document prepared by another Federal agency.*

*"(6) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project, the lead agency shall have authority and responsibility—*

*"(A) to take such actions as are necessary and proper, within the authority of the lead agency, to facilitate the expeditious resolution of the environmental review process for the project; and*

*"(B) to prepare or ensure that any required environmental impact statement or other document required to be completed under the National Environmental Policy Act of 1969 is completed in accordance with this section and applicable Federal law.*

*"(d) PARTICIPATING AGENCIES.—*

*"(1) IN GENERAL.—The lead agency shall be responsible for inviting and designating participating agencies in accordance with this subsection.*

*"(2) INVITATION.—The lead agency shall identify, as early as practicable in the environmental review process for a project, any other Federal and non-Federal agencies that may have an interest in the project, and shall invite such agencies to become participating agencies in the environmental review process for the project. The invitation shall set a deadline for responses to be submitted. The deadline may be extended by the lead agency for good cause.*

*"(3) FEDERAL PARTICIPATING AGENCIES.—Any Federal agency that is invited by the lead agency to participate in the environmental review process for a project shall be designated as a participating agency by the lead agency unless the invited agency informs the lead agency, in writing, by the deadline specified in the invitation that the invited agency—*

*"(A) has no jurisdiction or authority with respect to the project;*

*"(B) has no expertise or information relevant to the project; and*

*"(C) does not intend to submit comments on the project.*

*"(4) EFFECT OF DESIGNATION.—Designation as a participating agency under this subsection shall not imply that the participating agency—*

*"(A) supports a proposed project; or*

*"(B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.*

*"(5) COOPERATING AGENCY.—A participating agency may also be designated by a lead agency as a 'cooperating agency' under the regulations con tained in part 1500 of title 40, Code of Federal Regulations.*

*"(6) DESIGNATIONS FOR CATEGORIES OF PROJECTS.—The Secretary may exercise the authorities granted under this subsection for a project, class of projects, or program of projects.*

*"(7) CONCURRENT REVIEWS.—Each Federal agency shall, to the maximum extent practicable—*

*"(A) carry out obligations of the Federal agency under other applicable law concurrently, and in conjunction, with the review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), unless doing so would impair the ability of the Federal agency to carry out those obligations; and*

*"(B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.*

*"(e) PROJECT INITIATION.—The project sponsor shall notify the Secretary of the type of work, termini, length and general location of the proposed project, together with a statement of any Federal approvals anticipated to be necessary for the proposed project, for the purpose of informing the Secretary that the environmental review process should be initiated.*

*"(f) PURPOSE AND NEED.—*

*"(1) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a project.*

*"(2) DEFINITION.—Following participation under paragraph (1), the lead agency shall define the project's purpose and need for purposes of any document which the lead agency is responsible for preparing for the project.*

*"(3) OBJECTIVES.—The statement of purpose and need shall include a clear statement of the objectives that the proposed action is intended to achieve, which may include—*

*"(A) achieving a transportation objective identified in an applicable statewide or metropolitan transportation plan;*

*"(B) supporting land use, economic development, or growth objectives established in applicable Federal, State, local, or tribal plans; and*

*"(C) serving national defense, national security, or other national objectives, as established in Federal laws, plans, or policies.*

*"(4) ALTERNATIVES ANALYSIS.—*

*"(A) PARTICIPATION.—As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a project.*

*"(B) RANGE OF ALTERNATIVES.—Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.*

*"(C) METHODOLOGIES.—The lead agency also shall determine, in collaboration with participating agencies at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.*

*"(D) PREFERRED ALTERNATIVE.—At the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.*

*"(g) COORDINATION AND SCHEDULING.—*

*"(1) COORDINATION PLAN.—*

*"(A) IN GENERAL.—The lead agency shall establish a plan for coordinating public and agency participation in and comment on the environmental review process for a project or category of projects. The coordination plan may be incorporated into a memorandum of understanding.*

*"(B) SCHEDULE.—*

*"(i) IN GENERAL.—The lead agency may establish as part of the coordination plan, after consultation with each participating agency for the project and with the State in which the project is located (and, if the State is not the project sponsor, with the project sponsor), a schedule for completion of the environmental review process for the project.*

*"(ii) FACTORS FOR CONSIDERATION.—In establishing the schedule, the lead agency shall consider factors such as—*

*"(I) the responsibilities of participating agencies under applicable laws;*

*"(II) resources available to the cooperating agencies;*

*"(III) overall size and complexity of the project;*

*"(IV) the overall schedule for and cost of the project; and*

*"(V) the sensitivity of the natural and historic resources that could be affected by the project.*

*"(C) CONSISTENCY WITH OTHER TIME PERIODS.—A schedule under subparagraph (B) shall be consistent with any other relevant time periods established under Federal law.*

*"(D) MODIFICATION.—The lead agency may—*

*"(i) lengthen a schedule established under subparagraph (B) for good cause; and*

*"(ii) shorten a schedule only with the concurrence of the affected cooperating agencies.*

*"(E) DISSEMINATION.—A copy of a schedule under subparagraph (B), and of any modifications to the schedule, shall be—*

*"(i) provided to all participating agencies and to the State transportation department of the State in which the project is located (and, if the State is not the project sponsor, to the project sponsor); and*

*"(ii) made available to the public.*

*"(2) COMMENT DEADLINES.—The lead agency shall establish the following deadlines for comment during the environmental review process for a project:*

*"(A) For comments by agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of such document, unless—*

*"(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or*

*"(ii) the deadline is extended by the lead agency for good cause.*

*"(B) For all other comment periods established by the lead agency for agency or public comments in the environmental review process, a period of no more than 30 days from availability of the materials on which comment is requested, unless—*

*"(i) a different deadline is established by agreement of the lead agency, the project sponsor, and all participating agencies; or*

*"(ii) the deadline is extended by the lead agency for good cause.*

*"(3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project (including the issuance or denial of a permit or license) is required to be made by the later of the date that is 180 days after the date on which the Secretary made all final decisions of the lead agency with respect to the project, or 180 days after the date on which an application was submitted for the permit or license, the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—*

*"(A) as soon as practicable after the 180-day period, an initial notice of the failure of the Federal agency to make the decision; and*

“(B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.

“(4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection shall reduce any time period provided for public comment in the environmental review process under existing Federal law, including a regulation.

“(h) ISSUE IDENTIFICATION AND RESOLUTION.—

“(1) COOPERATION.—The lead agency and the participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project under applicable laws.

“(2) LEAD AGENCY RESPONSIBILITIES.—The lead agency shall make information available to the participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration. Such information may be based on existing data sources, including geographic information systems mapping.

“(3) PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the lead agency, participating agencies shall identify, as early as practicable, any issues of concern regarding the project's potential environmental or socioeconomic impacts. In this paragraph, issues of concern include any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project.

“(4) ISSUE RESOLUTION.—

“(A) MEETING OF PARTICIPATING AGENCIES.—At any time upon request of a project sponsor or the Governor of a State in which the project is located, the lead agency shall promptly convene a meeting with the relevant participating agencies, the project sponsor, and the Governor (if the meeting was requested by the Governor) to resolve issues that could delay completion of the environmental review process or could result in denial of any approvals required for the project under applicable laws.

“(B) NOTICE THAT RESOLUTION CANNOT BE ACHIEVED.—If a resolution cannot be achieved within 30 days following such a meeting and a determination by the lead agency that all information necessary to resolve the issue has been obtained, the lead agency shall notify the heads of all participating agencies, the project sponsor, the Governor, the Committee on Environment and Public Works of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Council on Environmental Quality, and shall publish such notification in the Federal Register.

“(i) PERFORMANCE MEASUREMENT.—The Secretary shall establish a program to measure and report on progress toward improving and expediting the planning and environmental review process.

“(j) ASSISTANCE TO AFFECTED STATE AND FEDERAL AGENCIES.—

“(1) IN GENERAL.—For a project that is subject to the environmental review process established under this section and for which funds are made available to a State under this title or chapter 53 of title 49, the Secretary may approve a request by the a State to provide funds so made available under this title or such chapter 53 to affected Federal agencies (including the Department of Transportation), State agencies, and Indian tribes participating in the environmental review process for the projects in that State or participating in a State process that has been approved by the Secretary for that State. Such funds may be provided only to support activities that directly and meaningfully contribute to expediting and improving transportation project planning and delivery for projects in that State.

“(2) ACTIVITIES ELIGIBLE FOR FUNDING.—Activities for which funds may be provided under paragraph (1) include transportation planning activities that precede the initiation of the environmental review process, dedicated staffing, training of agency personnel, information gathering and mapping, and development of programmatic agreements.

“(3) USE OF FEDERAL LANDS HIGHWAY FUNDS.—The Secretary may also use funds made available under section 204 for a project for the purposes specified in this subsection with respect to the environmental review process for the project.

“(4) AMOUNTS.—Requests under paragraph (1) may be approved only for the additional amounts that the Secretary determines are necessary for the Federal agencies, State agencies, or Indian tribes participating in the environmental review process to meet the time limits for environmental review.

“(5) CONDITION.—A request under paragraph (1) to expedite time limits for environmental review may be approved only if such time limits are less than the customary time necessary for such review.

“(k) JUDICIAL REVIEW AND SAVINGS CLAUSE.—

“(1) JUDICIAL REVIEW.—Except as set forth under subsection (l), nothing in this section shall affect the reviewability of any final Federal agency action in a court of the United States or in the court of any State.

“(2) SAVINGS CLAUSE.—Nothing in this section shall be construed as superseding, amending, or modifying the National Environmental Policy Act of 1969 or any other Federal environmental statute or affect the responsibility of any Federal officer to comply with or enforce any such statute.

“(3) LIMITATIONS.—Nothing in this section shall preempt or interfere with—

“(A) any practice of seeking, considering, or responding to public comment; or

“(B) any power, jurisdiction, responsibility, or authority that a Federal, State, or local government agency, metropolitan planning organization, Indian tribe, or project sponsor has with respect to carrying out a project or any other provisions of law applicable to projects, plans, or programs.

“(l) LIMITATIONS ON CLAIMS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within 180 days after publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed. Nothing in this subsection shall create a right to judicial review or place any limit on filing a claim that a person has violated the terms of a permit, license, or approval.

“(2) NEW INFORMATION.—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under section 771.130 of title 23, Code of Federal Regulations. The preparation of a supplemental environmental impact statement when required shall be considered a separate final agency action and the deadline for filing a claim for judicial review of such action shall be 180 days after the date of publication of a notice in the Federal Register announcing such action.”.

(b) EXISTING ENVIRONMENTAL REVIEW PROCESS.—Nothing in this section affects any existing State environmental review process, program, agreement, or funding arrangement approved by the Secretary under section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232; 23 U.S.C. 109 note) as such section was in effect on the day preceding the date of enactment of the SAFETEA-LU.

(c) CONFORMING AMENDMENT.—The analysis for such subchapter is amended by inserting after the item relating to section 138 the following:

“139. Efficient environmental reviews for project decisionmaking.”.

(d) REPEAL.—Section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232) is repealed.

### SEC. 6003. STATE ASSUMPTION OF RESPONSIBILITIES FOR CERTAIN PROGRAMS AND PROJECTS.

(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is amended by inserting after section 324 the following:

**“§ 325. State assumption of responsibilities for certain programs and projects**

“(a) ASSUMPTION OF SECRETARY'S RESPONSIBILITIES UNDER APPLICABLE FEDERAL LAWS.—

“(1) PILOT PROGRAM.—

“(A) ESTABLISHMENT.—The Secretary may establish a pilot program under which States may assume the responsibilities of the Secretary under any Federal laws subject to the requirements of this section.

“(B) FIRST 3 FISCAL YEARS.—In the first 3 fiscal years following the date of enactment of the SAFETEA-LU, the Secretary may allow up to 5 States to participate in the pilot program.

“(2) SCOPE OF PROGRAM.—Under the pilot program, the Secretary may assign, and a State may assume, any of the Secretary's responsibilities (other than responsibilities relating to federally recognized Indian tribes) for environmental reviews, consultation, or decisionmaking or other actions required under any Federal law as such requirements apply to the following projects:

“(A) Projects funded under section 104(h).

“(B) Transportation enhancement activities under section 133, as such term is defined in section 101(a)(35).

“(b) AGREEMENTS.—

“(1) IN GENERAL.—The Secretary shall enter into a memorandum of understanding with a State participating in the pilot program setting forth the responsibilities to be assigned under subsection (a)(2) and the terms and conditions under which the assignment is being made.

“(2) CERTIFICATION.—Before the Secretary enters into a memorandum of understanding with a State under paragraph (1), the State shall certify that the State has in effect laws (including regulations) applicable to projects carried out and funded under this title and chapter 53 of title 49 that authorize the State to carry out the responsibilities being assumed.

“(3) MAXIMUM DURATION.—A memorandum of understanding with a State under this section shall be established for an initial period of no more than 3 years and may be renewed by mutual agreement on a periodic basis for periods of not more than 3 years.

“(4) COMPLIANCE.—

“(A) IN GENERAL.—After entering into a memorandum of understanding under paragraph (1), the Secretary shall review and determine compliance by the State with the memorandum of understanding.

“(B) RENEWALS.—The Secretary shall take into account the performance of a State under the pilot program when considering renewal of *a memorandum of understanding with the State under the program.*

*"(5) SOLE RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.*

*"(6) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.*

*"(c) SELECTION OF STATES FOR PILOT PROGRAM.—*

*"(1) APPLICATION.—To be eligible to participate in the pilot program, a State shall submit to the Secretary an application that contains such information as the Secretary may require. At a minimum, an application shall include—*

*"(A) a description of the projects or classes of projects for which the State seeks to assume responsibilities under subsection (a)(2); and*

*"(B) a certification that the State has the capability to assume such responsibilities.*

*"(2) PUBLIC NOTICE.—Before entering into a memorandum of understanding allowing a State to participate in the pilot program, the Secretary shall—*

*"(A) publish notice in the Federal Register of the Secretary's intent to allow the State to participate in the program, including a copy of the State's application to the Secretary and the terms of the proposed agreement with the State; and*

*"(B) provide an opportunity for public comment.*

*"(3) SELECTION CRITERIA.—The Secretary may approve the application of a State to assume responsibilities under the program only if—*

*"(A) the requirements under paragraph (2) have been met; and*

*"(B) the Secretary determines that the State has the capability to assume the responsibilities.*

*"(4) OTHER FEDERAL AGENCY VIEWS.—Before assigning to a State a responsibility of the Secretary that requires the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency.*

*"(d) STATE DEFINED.—With respect to the recreational trails program, the term 'State' means the State agency designated by the Governor of the State in accordance with section 206(c)(1).*

*"(e) PRESERVATION OF PUBLIC INTEREST CONSIDERATION.—Nothing in this section shall be construed to limit the requirements under any applicable law providing for the consideration and preservation of the public interest, including public participation and community values in transportation decisionmaking.".*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is amended by adding after the item relating to section 324 the following:*

*"325. State assumption of responsibilities for certain programs and projects.".*

### SEC. 6004. STATE ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS.

*(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is further amended by inserting after section 325 the following:*

#### "§326. State assumption of responsibility for categorical exclusions

*"(a) CATEGORICAL EXCLUSION DETERMINATIONS.—*

*"(1) IN GENERAL.—The Secretary may assign, and a State may assume, responsibility for determining whether certain designated activities are included within classes of action identified in regulation by the Secretary that are categorically excluded from requirements for environmental assessments or environmental impact statements pursuant to regulations promulgated by the Council on Environmental Quality under part 1500 of title 40, Code of Federal Regulations (as in effect on October 1, 2003).*

*"(2) SCOPE OF AUTHORITY.—A determination described in paragraph (1) shall be made by a State in accordance with criteria established by the Secretary and only for types of activities specifically designated by the Secretary.*

*"(3) CRITERIA.—The criteria under paragraph (2) shall include provisions for public availability of information consistent with section 552 of title 5 and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*"(b) OTHER APPLICABLE FEDERAL LAWS.—*

*"(1) IN GENERAL.—If a State assumes responsibility under subsection (a), the Secretary may also assign and the State may assume all or part of the responsibilities of the Secretary for environmental review, consultation, or other related actions required under any Federal law applicable to activities that are classified by the Secretary as categorical exclusions, with the exception of government-to-government consultation with Indian tribes, subject to the same procedural and substantive requirements as would be required if that responsibility were carried out by the Secretary.*

*"(2) SOLE RESPONSIBILITY.—A State that assumes responsibility under paragraph (1) with respect to a Federal law shall be solely responsible and solely liable for complying with and carrying out that law, and the Secretary shall have no such responsibility or liability.*

*"(c) MEMORANDA OF UNDERSTANDING.—*

*"(1) IN GENERAL.—The Secretary and the State, after providing public notice and opportunity for comment, shall enter into a memorandum of understanding setting forth the responsibilities to be assigned under this section and the terms and conditions under which the assignments are made, including establishment of the circumstances under which the Secretary would reassume responsibility for categorical exclusion determinations.*

*"(2) TERM.—A memorandum of understanding—*

*"(A) shall have a term of not more than 3 years; and*

*"(B) shall be renewable.*

*"(3) ACCEPTANCE OF JURISDICTION.—In a memorandum of understanding, the State shall consent to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary that the State assumes.*

*"(4) MONITORING.—The Secretary shall—*

*"(A) monitor compliance by the State with the memorandum of understanding and the provision by the State of financial resources to carry out the memorandum of understanding; and*

*"(B) take into account the performance by the State when considering renewal of the memorandum of understanding.*

*"(d) TERMINATION.—The Secretary may terminate any assumption of responsibility under a memorandum of understanding on a determination that the State is not adequately carrying out the responsibilities assigned to the State.*

*"(e) STATE AGENCY DEEMED TO BE FEDERAL AGENCY.—A State agency that is assigned a responsibility under a memorandum of understanding shall be deemed to be a Federal agency for the purposes of the Federal law under which the responsibility is exercised.".*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is further amended by adding after the item relating to section 325 the following:*

*"326. State assumption of responsibility for categorical exclusions.".*

### SEC. 6005. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM.

*(a) IN GENERAL.—Chapter 3 of title 23, United States Code, is further amended by inserting after section 326 the following:*

#### "§327. Surface transportation project delivery pilot program

*"(a) ESTABLISHMENT.—*

*"(1) IN GENERAL.—The Secretary shall carry out a surface transportation project delivery pilot program (referred to in this section as the 'program').*

*"(2) ASSUMPTION OF RESPONSIBILITY.—*

*"(A) IN GENERAL.—Subject to the other provisions of this section, with the written agreement of the Secretary and a State, which may be in the form of a memorandum of understanding, the Secretary may assign, and the State may assume, the responsibilities of the Secretary with respect to 1 or more highway projects within the State under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*"(B) ADDITIONAL RESPONSIBILITY.—If a State assumes responsibility under subparagraph (A)—*

*"(i) the Secretary may assign to the State, and the State may assume, all or part of the responsibilities of the Secretary for environmental review, consultation, or other action required under any Federal environmental law pertaining to the review or approval of a specific project; but*

*"(ii) the Secretary may not assign—*

*"(I) responsibility for any conformity determination required under section 176 of the Clean Air Act (42 U.S.C. 7506); or*

*"(II) any responsibility imposed on the Secretary by section 134 or 135.*

*"(C) PROCEDURAL AND SUBSTANTIVE REQUIREMENTS.—A State shall assume responsibility under this section subject to the same procedural and substantive requirements as would apply if that responsibility were carried out by the Secretary.*

*"(D) FEDERAL RESPONSIBILITY.—Any responsibility of the Secretary not explicitly assumed by the State by written agreement under this section shall remain the responsibility of the Secretary.*

*"(E) NO EFFECT ON AUTHORITY.—Nothing in this section preempts or interferes with any power, jurisdiction, responsibility, or authority of an agency, other than the Department of Transportation, under applicable law (including regulations) with respect to a project.*

*"(b) STATE PARTICIPATION.—*

*"(1) NUMBER OF PARTICIPATING STATES.—The Secretary may permit not more than 5 States (including the States of Alaska, California, Ohio, Oklahoma, and Texas) to participate in the program.*

*"(2) APPLICATION.—Not later than 270 days after the date of enactment of this section, the Secretary shall promulgate regulations that establish requirements relating to information required to be contained in any application of a State to participate in the program, including, at a minimum—*

*"(A) the projects or classes of projects for which the State anticipates exercising the authority that may be granted under the program;*

*"(B) verification of the financial resources necessary to carry out the authority that may be granted under the program; and*

*"(C) evidence of the notice and solicitation of public comment by the State relating to participation of the State in the program, including copies of comments received from that solicitation.*

*"(3) PUBLIC NOTICE.—*

*"(A) IN GENERAL.—Each State that submits an application under this subsection shall give notice of the intent of the State to participate in the program not later than 30 days before the date of submission of the application.*

*"(B) METHOD OF NOTICE AND SOLICITATION.—The State shall provide notice and solicit public comment under this paragraph by publishing the complete application of the State in accordance with the appropriate public notice law of the State.*

*"(4) SELECTION CRITERIA.—The Secretary may approve the application of a State under this section only if—*

*"(A) the regulatory requirements under paragraph (2) have been met;*

*"(B) the Secretary determines that the State has the capability, including financial and personnel, to assume the responsibility; and*

*"(C) the head of the State agency having primary jurisdiction over highway matters enters into a written agreement with the Secretary described in subsection (c).*

*"(5) OTHER FEDERAL AGENCY VIEWS.—If a State applies to assume a responsibility of the Secretary that would have required the Secretary to consult with another Federal agency, the Secretary shall solicit the views of the Federal agency before approving the application.*

*"(c) WRITTEN AGREEMENT.—A written agreement under this section shall—*

*"(1) be executed by the Governor or the top-ranking transportation official in the State who is charged with responsibility for highway construction;*

*"(2) be in such form as the Secretary may prescribe;*

*"(3) provide that the State—*

*"(A) agrees to assume all or part of the responsibilities of the Secretary described in subsection (a);*

*"(B) expressly consents, on behalf of the State, to accept the jurisdiction of the Federal courts for the compliance, discharge, and enforcement of any responsibility of the Secretary assumed by the State;*

*"(C) certifies that State laws (including regulations) are in effect that—*

*"(i) authorize the State to take the actions necessary to carry out the responsibilities being assumed; and*

*"(ii) are comparable to section 552 of title 5, including providing that any decision regarding the public availability of a document under those State laws is reviewable by a court of competent jurisdiction; and*

*"(D) agrees to maintain the financial resources necessary to carry out the responsibilities being assumed.*

*"(d) JURISDICTION.—*

*"(1) IN GENERAL.—The United States district courts shall have exclusive jurisdiction over any civil action against a State for failure to carry out any responsibility of the State under this section.*

*"(2) LEGAL STANDARDS AND REQUIREMENTS.—A civil action under paragraph (1) shall be governed by the legal standards and requirements that would apply in such a civil action against the Secretary had the Secretary taken the actions in question.*

*"(3) INTERVENTION.—The Secretary shall have the right to intervene in any action described in paragraph (1).*

*"(e) EFFECT OF ASSUMPTION OF RESPONSIBILITY.—A State that assumes responsibility under subsection (a)(2) shall be solely responsible and solely liable for carrying out, in lieu of the Secretary, the responsibilities assumed under subsection (a)(2), until the program is terminated as provided in subsection (i).*

*"(f) LIMITATIONS ON AGREEMENTS.—Nothing in this section permits a State to assume any rulemaking authority of the Secretary under any Federal law.*

*"(g) AUDITS.—*

*"(1) IN GENERAL.—To ensure compliance by a State with any agreement of the State under subsection (c) (including compliance by the State with all Federal laws for which responsibility is assumed under subsection (a)(2)), for each State participating in the program under this section, the Secretary shall conduct—*

*"(A) semiannual audits during each of the first 2 years of State participation; and*

*"(B) annual audits during each subsequent year of State participation.*

*"(2) PUBLIC AVAILABILITY AND COMMENT.—*

*"(A) IN GENERAL.—An audit conducted under paragraph (1) shall be provided to the public for comment.*

*"(B) RESPONSE.—Not later than 60 days after the date on which the period for public comment ends, the Secretary shall respond to public comments received under subparagraph (A).*

*"(h) REPORT TO CONGRESS.—The Secretary shall submit to Congress an annual report that describes the administration of the program.*

*"(i) TERMINATION.—*

*"(1) IN GENERAL.—Except as provided in paragraph (2), the program shall terminate on the date that is 6 years after the date of enactment of this section.*

*"(2) TERMINATION BY SECRETARY.—The Secretary may terminate the participation of any State in the program if—*

*"(A) the Secretary determines that the State is not adequately carrying out the responsibilities assigned to the State;*

*"(B) the Secretary provides to the State—*

*"(i) notification of the determination of noncompliance; and*

*"(ii) a period of at least 30 days during which to take such corrective action as the Secretary determines is necessary to comply with the applicable agreement; and*

*"(C) the State, after the notification and period provided under subparagraph (B), fails to take satisfactory corrective action, as determined by Secretary.".*

*(b) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23, United States Code, is further amended by adding after the item relating to section 326 the following:*

*"327. Surface transportation project delivery pilot program.".*

### ***SEC. 6006. ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT; CONTROL OF NOXIOUS WEEDS AND AQUATIC NOXIOUS WEEDS AND ESTABLISHMENT OF NATIVE SPECIES.***

*(a) MODIFICATION TO NHS/STP FOR ENVIRONMENTAL RESTORATION, POLLUTION ABATEMENT, CONTROL OF NOXIOUS WEEDS AND AQUATIC NOXIOUS WEEDS.—*

*(1) MODIFICATIONS TO NATIONAL HIGHWAY SYSTEM.—Section 103(b)(6) of title 23, United States Code, is amended by adding at the end the following:*

*"(Q) Environmental restoration and pollution abatement in accordance with section 328.*

*"(R) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.".*

*(2) MODIFICATIONS TO SURFACE TRANSPORTATION PROGRAM.—Section 133(b) of title 23, is amended by striking paragraph (14) and inserting the following:*

*"(14) Environmental restoration and pollution abatement in accordance with section 328.*

*"(15) Control of noxious weeds and aquatic noxious weeds and establishment of native species in accordance with section 329.".*

*(b) ELIGIBLE ACTIVITIES.—Chapter 3 of title 23, United States Code, is further amended by adding after section 327 the following:*

### ***"§ 328. Eligibility for environmental restoration and pollution abatement***

*"(a) IN GENERAL.—Subject to subsection (b), environmental restoration and pollution abatement to minimize or mitigate the impacts of any transportation project funded under this title (including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 401 and 402 of the Federal Water Pollution Control Act (33 U.S.C. 1341; 1342)) may be carried out to address water pollution or environmental degradation caused wholly or partially by a transportation facility.*

*"(b) MAXIMUM EXPENDITURE.—In a case in which a transportation facility is undergoing reconstruction, rehabilitation, resurfacing, or restoration, the expenditure of funds under this section for environmental restoration or pollution abatement described in subsection (a) shall not exceed 20 percent of the total cost of the reconstruction, rehabilitation, resurfacing, or restoration of the facility.*

### ***"§ 329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species***

*"(a) IN GENERAL.—In accordance with all applicable Federal law (including regulations), funds made available to carry out this section may be used for the following activities if such activities are related to transportation projects funded under this title:*

*"(1) Establishment of plants selected by State and local transportation authorities to perform one or more of the following functions: abatement of stormwater runoff, stabilization of soil, and aesthetic enhancement.*

*"(2) Management of plants which impair or impede the establishment, maintenance, or safe use of a transportation system.*

*"(b) INCLUDED ACTIVITIES.—The establishment and management under subsection (a)(1) and (a)(2) may include—*

*"(1) right-of-way surveys to determine management requirements to control Federal or State noxious weeds as defined in the Plant Protection Act (7 U.S.C. 7701 et seq.) or State law, and brush or tree species, whether native or nonnative, that may be considered by State or local transportation authorities to be a threat with respect to the safety or maintenance of transportation systems;*

*"(2) establishment of plants, whether native or nonnative with a preference for native to the maximum extent possible, for the purposes defined in subsection (a)(1);*

*"(3) control or elimination of plants as defined in subsection (a)(2);*

*"(4) elimination of plants to create fuel breaks for the prevention and control of wildfires; and*

*"(5) training.*

*"(c) CONTRIBUTIONS.—*

*"(1) IN GENERAL.—Subject to paragraph (2), an activity described in subsection (a) may be carried out concurrently with, in advance of, or following the construction of a project funded under this title.*

*"(2) CONDITION FOR ACTIVITIES CONDUCTED IN ADVANCE OF PROJECT CONSTRUCTION.—An activity described in subsection (a) may be carried out in advance of construction of a project only if the activity is carried out in accordance with all applicable requirements of Federal law (including regulations) and State transportation planning processes.".*

*(c) CONFORMING AMENDMENT.—The analysis for chapter 3 of title 23 is further amended by adding after the item relating to section 327 the following:*

*"328. Eligibility for environmental restoration and pollution abatement.*

*"329. Eligibility for control of noxious weeds and aquatic noxious weeds and establishment of native species.".*

### ***SEC. 6007. EXEMPTION OF INTERSTATE SYSTEM.***

*Section 103(c) of title 23, United States Code, is amended by adding at the end the following:*

*"(5) EXEMPTION OF INTERSTATE SYSTEM.—*

*"(A) IN GENERAL.—Except as provided in subparagraph (B), the Interstate System shall not*

be considered to be a historic site under section 303 of title 49 or section 138 of this title, regardless of whether the Interstate System or portions or elements of the Interstate System are listed on, or eligible for listing on, the National Register of Historic Places.

"(B) INDIVIDUAL ELEMENTS.—Subject to subparagraph (C), the Secretary shall determine, through the administrative process established for exempting the Interstate System from section 106 of the National Historic Preservation Act (16 U.S.C. 470f), those individual elements of the Interstate System that possess national or exceptional historic significance (such as a historic bridge or a highly significant engineering feature). Such elements shall be considered to be a historic site under section 303 of title 49 or section 138 of this title, as applicable.

"(C) CONSTRUCTION, MAINTENANCE, RESTORATION, AND REHABILITATION ACTIVITIES.—Subparagraph (B) does not prohibit a State from carrying out construction, maintenance, restoration, or rehabilitation activities for a portion of the Interstate System referred to in subparagraph (B) upon compliance with section 303 of title 49 or section 138 of this title, as applicable, and section 106 of the National Historic Preservation Act (16 U.S.C. 470f).".

### SEC. 6008. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO TRANSPORTATION PROJECT PLANNING.

Section 109(c)(2) of title 23, United States Code, is amended—

(1) by striking "consider the results" and inserting "consider—

"(A) the results";

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(B) the publication entitled 'Flexibility in Highway Design' of the Federal Highway Administration;

"(C) 'Eight Characteristics of Process to Yield Excellence and the Seven Qualities of Excellence in Transportation Design' developed by the conference held during 1998 entitled 'Thinking Beyond the Pavement National Workshop on Integrating Highway Development with Communities and the Environment while Maintaining Safety and Performance'; and

"(D) any other material that the Secretary determines to be appropriate.".

### SEC. 6009. PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES.

(a) PROGRAMS AND PROJECTS WITH DE MINIMIS IMPACTS.—

(1) TITLE 23.—Section 138 of title 23, United States Code, is amended—

(A) in the first sentence, by striking "it is hereby" and inserting the following: "(a) DECLARATION OF POLICY.—It is"; and

(B) by adding at the end the following:

"(b) DE MINIMIS IMPACTS.—

"(1) REQUIREMENTS.—

"(A) REQUIREMENTS FOR HISTORIC SITES.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

"(B) REQUIREMENTS FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—The requirements of subsection (a)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (a)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

"(C) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

"(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

"(i) the transportation program or project will have no adverse effect on the historic site; or

"(ii) there will be no historic properties affected by the transportation program or project;

"(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

"(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

"(3) PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

"(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.".

(2) TITLE 49.—Section 303 of title 49, United States Code, is amended—

(A) by striking "(c) The Secretary" and inserting the following:

"(c) APPROVAL OF PROGRAMS AND PROJECTS.—Subject to subsection (d), the Secretary"; and

(B) by adding at the end the following:

"(d) DE MINIMIS IMPACTS.—

"(1) REQUIREMENTS.—

"(A) REQUIREMENTS FOR HISTORIC SITES.—The requirements of this section shall be considered to be satisfied with respect to an area described in paragraph (2) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area.

"(B) REQUIREMENTS FOR PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—The requirements of subsection (c)(1) shall be considered to be satisfied with respect to an area described in paragraph (3) if the Secretary determines, in accordance with this subsection, that a transportation program or project will have a de minimis impact on the area. The requirements of subsection (c)(2) with respect to an area described in paragraph (3) shall not include an alternatives analysis.

"(C) CRITERIA.—In making any determination under this subsection, the Secretary shall consider to be part of a transportation program or project any avoidance, minimization, mitigation, or enhancement measures that are required to be implemented as a condition of approval of the transportation program or project.

"(2) HISTORIC SITES.—With respect to historic sites, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, in accordance with the consultation process required under section 106 of the National Historic Preservation Act (16 U.S.C. 470f), that—

"(i) the transportation program or project will have no adverse effect on the historic site; or

"(ii) there will be no historic properties affected by the transportation program or project;

"(B) the finding of the Secretary has received written concurrence from the applicable State historic preservation officer or tribal historic preservation officer (and from the Advisory Council on Historic Preservation if the Council is participating in the consultation process); and

"(C) the finding of the Secretary has been developed in consultation with parties consulting as part of the process referred to in subparagraph (A).

"(3) PARKS, RECREATION AREAS, AND WILDLIFE OR WATERFOWL REFUGES.—With respect to parks, recreation areas, or wildlife or waterfowl refuges, the Secretary may make a finding of de minimis impact only if—

"(A) the Secretary has determined, after public notice and opportunity for public review and comment, that the transportation program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under this section; and

"(B) the finding of the Secretary has received concurrence from the officials with jurisdiction over the park, recreation area, or wildlife or waterfowl refuge.".

(b) CLARIFICATION OF EXISTING STANDARDS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall (in consultation with affected agencies and interested parties) promulgate regulations that clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

(2) REQUIREMENTS.—The regulations—

(A) shall clarify the application of the legal standards to a variety of different types of transportation programs and projects depending on the circumstances of each case; and

(B) may include, as appropriate, examples to facilitate clear and consistent interpretation by agency decisionmakers.

(c) IMPLEMENTATION STUDY.—

(1) IN GENERAL.—The Secretary shall—

(A) conduct a study on the implementation of this section and the amendments made by this section; and

(B) commission an independent review of the study plan and methodology, and any associated conclusions, by the Transportation Research Board of the National Academy of Sciences.

(2) COMPONENTS.—In conducting the study, the Secretary shall evaluate—

(A) the processes developed under this section and the amendments made by this section and the efficiencies that may result;

(B) the post-construction effectiveness of impact mitigation and avoidance commitments adopted as part of projects conducted under this section and the amendments made by this section; and

(C) the quantity of projects with impacts that are considered de minimis under this section and the amendments made by this section, including information on the location, size, and cost of the projects.

(3) REPORT REQUIREMENT.—The Secretary shall prepare—

(A) not earlier than the date that is 3 years after the date of enactment of this Act, a report on the results of the study conducted under this subsection; and

(B) not later than March 1, 2010, an update on the report required under subparagraph (A).

(4) REPORT RECIPIENTS.—The Secretary shall—

*(A) submit the report, review of the report, and update required under paragraph (3) to—*

*(i) the appropriate committees of Congress;*

*(ii) the Secretary of the Interior; and*

*(iii) the Advisory Council on Historic Preservation; and*

*(B) make the report and update available to the public.*

### *SEC. 6010. ENVIRONMENTAL REVIEW OF ACTIVITIES THAT SUPPORT DEPLOYMENT OF INTELLIGENT TRANSPORTATION SYSTEMS.*

*(a) CATEGORICAL EXCLUSIONS.—Not later than one year after the date of enactment of this Act, the Secretary shall initiate a rulemaking process to establish, to the extent appropriate, categorical exclusions for activities that support the deployment of intelligent transportation infrastructure and systems from the requirement that an environmental assessment or an environmental impact statement be prepared under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) in compliance with the standards for categorical exclusions established by that Act.*

*(b) NATIONWIDE PROGRAMMATIC AGREEMENT.—*

*(1) DEVELOPMENT.—The Secretary shall develop a nationwide programmatic agreement governing the review of activities that support the deployment of intelligent transportation infrastructure and systems in accordance with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and the regulations of the Advisory Council on Historic Preservation.*

*(2) CONSULTATION.—The Secretary shall develop the agreement under paragraph (1) in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (26 U.S.C. 470i et seq.) and after soliciting the views of other interested parties.*

*(c) INTELLIGENT TRANSPORTATION INFRASTRUCTURE AND SYSTEMS DEFINED.—In this section, the term "intelligent transportation infrastructure and systems" means intelligent transportation infrastructure and intelligent transportation systems, as such terms are defined in subtitle C of title V of this Act.*

### *SEC. 6011. TRANSPORTATION CONFORMITY.*

*(a) CONFORMITY REDETERMINATIONS.—Section 176(c)(2) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the following:*

*"(E) The appropriate metropolitan planning organization shall redetermine conformity of existing transportation plans and programs not later than 2 years after the date on which the Administrator—*

*"(i) finds a motor vehicle emissions budget to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004);*

*"(ii) approves an implementation plan that establishes a motor vehicle emissions budget if that budget has not yet been determined to be adequate in accordance with clause (i); or*

*"(iii) promulgates an implementation plan that establishes or revises a motor vehicle emissions budget.".*

*(b) FREQUENCY OF CONFORMITY DETERMINATION UPDATES.—Section 176(c)(4)(B)(ii) of the Clean Air Act (42 U.S.C. 7506(c)(4)(B)(ii)) is amended to read as follows:*

*"(ii) address the appropriate frequency for making conformity determinations, but the frequency for making conformity determinations on updated transportation plans and programs shall be every 4 years, except in a case in which—*

*"(I) the metropolitan planning organization elects to update a transportation plan or program more frequently; or*

*"(II) the metropolitan planning organization is required to determine conformity in accordance with paragraph (2)(E); and".*

*(c) TIME HORIZON FOR CONFORMITY DETERMINATIONS IN NONATTAINMENT AREAS.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the following:*

*"(7) CONFORMITY HORIZON FOR TRANSPORTATION PLANS.—*

*"(A) IN GENERAL.—Each conformity determination required under this section for a transportation plan under section 134(i) of title 23, United States Code, or section 5303(i) of title 49, United States Code, shall require a demonstration of conformity for the period ending on either the final year of the transportation plan, or at the election of the metropolitan planning organization, after consultation with the air pollution control agency and solicitation of public comments and consideration of such comments, the longest of the following periods:*

*"(i) The first 10-year period of any such transportation plan.*

*"(ii) The latest year in the implementation plan applicable to the area that contains a motor vehicle emission budget.*

*"(iii) The year after the completion date of a regionally significant project if the project is included in the transportation improvement program or the project requires approval before the subsequent conformity determination.*

*"(B) REGIONAL EMISSIONS ANALYSIS.—The conformity determination shall be accompanied by a regional emissions analysis for the last year of the transportation plan and for any year shown to exceed emission budgets by a prior analysis, if such year extends beyond the applicable period as determined under subparagraph (A).*

*"(C) EXCEPTION.—In any case in which an area has a revision to an implementation plan under section 175A(b) and the Administrator has found the motor vehicles emissions budgets from that revision to be adequate in accordance with section 93.118(e)(4) of title 40, Code of Federal Regulations (as in effect on October 1, 2004), or has approved the revision, the demonstration of conformity at the election of the metropolitan planning organization, after consultation with the air pollution control agency and solicitation of public comments and consideration of such comments, shall be required to extend only through the last year of the implementation plan required under section 175A(b).*

*"(D) EFFECT OF ELECTION.—Any election by a metropolitan planning organization under this paragraph shall continue in effect until the metropolitan planning organization elects otherwise.*

*"(E) AIR POLLUTION CONTROL AGENCY DEFINED.—In this paragraph, the term 'air pollution control agency' means an air pollution control agency (as defined in section 302(b)) that is responsible for developing plans or controlling air pollution within the area covered by a transportation plan.".*

*(d) SUBSTITUTION OF TRANSPORTATION CONTROL MEASURES.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by subsection (c)) is amended by inserting after paragraph (7) the following:*

*"(8) SUBSTITUTION OF TRANSPORTATION CONTROL MEASURES.—*

*"(A) IN GENERAL.—Transportation control measures that are specified in an implementation plan may be replaced or added to the implementation plan with alternate or additional transportation control measures—*

*"(i) if the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced, as demonstrated with an emissions impact analysis that is consistent with the current methodology used for evaluating the replaced control measure in the implementation plan;*

*"(ii) if the substitute control measures are implemented—*

*"(I) in accordance with a schedule that is consistent with the schedule provided for control measures in the implementation plan; or*

*"(II) if the implementation plan date for implementation of the control measure to be replaced has passed, as soon as practicable after the implementation plan date but not later than the date on which emission reductions are necessary to achieve the purpose of the implementation plan;*

*"(iii) if the substitute and additional control measures are accompanied with evidence of adequate personnel and funding and authority under State or local law to implement, monitor, and enforce the control measures;*

*"(iv) if the substitute and additional control measures were developed through a collaborative process that included—*

*"(I) participation by representatives of all affected jurisdictions (including local air pollution control agencies, the State air pollution control agency, and State and local transportation agencies);*

*"(II) consultation with the Administrator; and*

*"(III) reasonable public notice and opportunity for comment; and*

*"(v) if the metropolitan planning organization, State air pollution control agency, and the Administrator concur with the equivalency of the substitute or additional control measures.*

*"(B) ADOPTION.—(i) Concurrence by the metropolitan planning organization, State air pollution control agency and the Administrator as required by subparagraph (A)(v) shall constitute adoption of the substitute or additional control measures so long as the requirements of subparagraphs (A)(i), (A)(ii), (A)(iii) and (A)(iv) are met.*

*"(ii) Once adopted, the substitute or additional control measures become, by operation of law, part of the state implementation plan and become federally enforceable.*

*"(iii) Within 90 days of its concurrence under subparagraph (A)(v), the State air pollution control agency shall submit the substitute or additional control measure to the Administrator for incorporation in the codification of the applicable implementation plan. Nothwithstanding any other provision of this Act, no additional State process shall be necessary to support such revision to the applicable plan.*

*"(C) NO REQUIREMENT FOR EXPRESS PERMISSION.—The substitution or addition of a transportation control measure in accordance with this paragraph and the funding or approval of such a control measure shall not be contingent on the existence of any provision in the applicable implementation plan that expressly permits such a substitution or addition.*

*"(D) NO REQUIREMENT FOR NEW CONFORMITY DETERMINATION.—The substitution or addition of a transportation control measure in accordance with this paragraph shall not require—*

*"(i) a new conformity determination for the transportation plan; or*

*"(ii) a revision of the implementation plan.*

*"(E) CONTINUATION OF CONTROL MEASURE BEING REPLACED.—A control measure that is being replaced by a substitute control measure under this paragraph shall remain in effect until the substitute control measure is adopted by the State pursuant to subparagraph (B).*

*"(F) EFFECT OF ADOPTION.—Adoption of a substitute control measure shall constitute rescission of the previously applicable control measure.".*

*(e) LAPSE OF CONFORMITY.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) (as amended by subsections (c) and (d)) is amended by inserting after paragraph (8) the following:*

*"(9) LAPSE OF CONFORMITY.—If a conformity determination required under this subsection for a transportation plan under section 134(i) of*

*title 23, United States Code, or section 5303(i) of title 49, United States Code, or a transportation improvement program under section 134(j) of such title 23 or under section 5303(j) of such title 49 is not made by the applicable deadline and such failure is not corrected by additional measures to either reduce motor vehicle emissions sufficient to demonstrate compliance with the requirements of this subsection within 12 months after such deadline or other measures sufficient to correct such failures, the transportation plan shall lapse.*

*"(10) LAPSE.—In this subsection, the term 'lapse' means that the conformity determination for a transportation plan or transportation improvement program has expired, and thus there is no currently conforming transportation plan or transportation improvement program.".*

*(f) CONFORMING AMENDMENTS.—Section 176(c)(4) of the Clean Air Act (42 U.S.C. 7506(c)(4) (as amended by subsection (b)) is amended—*

*(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (D), (E), and (F), respectively;*

*(2) by striking "(4)(A) No later than one year after the date of enactment of the Clean Air Act Amendments of 1990, the Administrator shall promulgate" and inserting the following:*

*"(4) CRITERIA AND PROCEDURES FOR DETERMINING CONFORMITY.—*

*"(A) IN GENERAL.—The Administrator shall promulgate, and periodically update,";*

*(3) in the second sentence of subparagraph (A)—*

*(A) by striking "No later than one year after such date of enactment, the Administrator, with the concurrence of the Secretary of Transportation, shall promulgate" and inserting the following:*

*"(B) TRANSPORTATION PLANS, PROGRAMS, AND PROJECTS.—The Administrator, with the concurrence of the Secretary of Transportation, shall promulgate, and periodically update,"; and*

*(B) in the third sentence, by striking "A suit" and inserting the following:*

*"(C) CIVIL ACTION TO COMPEL PROMULGATION.—A civil action"; and*

*(4) by striking subparagraph (E) (as redesignated by paragraph (1)) and inserting the following:*

*"(E) INCLUSION OF CRITERIA AND PROCEDURES IN SIP.—Not later than 2 years after the date of enactment of the SAFETEA-LU the procedures under subparagraph (A) shall include a requirement that each State include in the State implementation plan criteria and procedures for consultation required by subparagraph (D)(i), and enforcement and enforceability (pursuant to sections 93.125(c) and 93.122(a)(4)(ii) of title 40, Code of Federal Regulations) in accordance with the Administrator's criteria and procedures for consultation, enforcement and enforceability.".*

*(g) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall promulgate revised regulations to implement the changes made by this section.*

**SEC. 6012. FEDERAL REFERENCE METHOD.**

*(a) IN GENERAL.—Section 6102(e) of the Transportation Equity Act for the 21st Century (42 U.S.C. 7407 note; 112 Stat. 464–465) is amended to read as follows:*

*"(e) FIELD STUDY.—Not later than 2 years after the date of enactment of the SAFETEA-LU, the Administrator shall—*

*"(1) conduct a field study of the ability of the* $PM_{2.5}$ *Federal Reference Method to differentiate those particles that are larger than 2.5 micrometers in diameter;*

*"(2) develop a Federal reference method to measure directly particles that are larger than 2.5 micrometers in diameter without reliance on subtracting from coarse particle measurements those particles that are equal to or smaller than 2.5 micrometers in diameter;*

*"(3) develop a method of measuring the composition of coarse particles; and*

*"(4) submit a report on the study and responsibilities of the Administrator under paragraphs (1) through (3) to—*

*"(A) the Committee on Energy and Commerce of the House of Representatives; and*

*"(B) the Committee on Environment and Public Works of the Senate.".*

**SEC. 6013. AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.**

*(a) IN GENERAL.—Section 319 of the Clean Air Act (42 U.S.C. 7619) is amended—*

*(1) by striking the section heading and all that follows through "after notice and opportunity for public hearing" and inserting the following:*

**"SEC. 319. AIR QUALITY MONITORING.**

*"(a) IN GENERAL.—After notice and opportunity for public hearing"; and*

*(2) by adding at the end the following:*

*"(b) AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS.—*

*"(1) DEFINITION OF EXCEPTIONAL EVENT.—In this section:*

*"(A) IN GENERAL.—The term 'exceptional event' means an event that—*

*"(i) affects air quality;*

*"(ii) is not reasonably controllable or preventable;*

*"(iii) is an event caused by human activity that is unlikely to recur at a particular location or a natural event; and*

*"(iv) is determined by the Administrator through the process established in the regulations promulgated under paragraph (2) to be an exceptional event.*

*"(B) EXCLUSIONS.—In this subsection, the term 'exceptional event' does not include—*

*"(i) stagnation of air masses or meteorological inversions;*

*"(ii) a meteorological event involving high temperatures or lack of precipitation; or*

*"(iii) air pollution relating to source noncompliance.*

*"(2) REGULATIONS.—*

*"(A) PROPOSED REGULATIONS.—Not later than March 1, 2006, after consultation with Federal land managers and State air pollution control agencies, the Administrator shall publish in the Federal Register proposed regulations governing the review and handling of air quality monitoring data influenced by exceptional events.*

*"(B) FINAL REGULATIONS.—Not later than 1 year after the date on which the Administrator publishes proposed regulations under subparagraph (A), and after providing an opportunity for interested persons to make oral presentations of views, data, and arguments regarding the proposed regulations, the Administrator shall promulgate final regulations governing the review and handling or air quality monitoring data influenced by an exceptional event that are consistent with paragraph (3).*

*"(3) PRINCIPLES AND REQUIREMENTS.—*

*"(A) PRINCIPLES.—In promulgating regulations under this section, the Administrator shall follow—*

*"(i) the principle that protection of public health is the highest priority;*

*"(ii) the principle that timely information should be provided to the public in any case in which the air quality is unhealthy;*

*"(iii) the principle that all ambient air quality data should be included in a timely manner, an appropriate Federal air quality database that is accessible to the public;*

*"(iv) the principle that each State must take necessary measures to safeguard public health regardless of the source of the air pollution; and*

*"(v) the principle that air quality data should be carefully screened to ensure that events not likely to recur are represented accurately in all monitoring data and analyses.*

*"(B) REQUIREMENTS.—Regulations promulgated under this section shall, at a minimum, provide that—*

*"(i) the occurrence of an exceptional event must be demonstrated by reliable, accurate data that is promptly produced and provided by Federal, State, or local government agencies;*

*"(ii) a clear causal relationship must exist between the measured exceedances of a national ambient air quality standard and the exceptional event to demonstrate that the exceptional event caused a specific air pollution concentration at a particular air quality monitoring location;*

*"(iii) there is a public process for determining whether an event is exceptional; and*

*"(iv) there are criteria and procedures for the Governor of a State to petition the Administrator to exclude air quality monitoring data that is directly due to exceptional events from use in determinations by the Administrator with respect to exceedances or violations of the national ambient air quality standards.*

*"(4) INTERIM PROVISION.—Until the effective date of a regulation promulgated under paragraph (2), the following guidance issued by the Administrator shall continue to apply:*

*"(A) Guidance on the identification and use of air quality data affected by exceptional events (July 1986).*

*"(B) Areas affected by PM-10 natural events, May 30, 1996.*

*"(C) Appendices I, K, and N to part 50 of title 40, Code of Federal Regulations.".*

**SEC. 6014. FEDERAL PROCUREMENT OF RECYCLED COOLANT.**

*(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the President shall conduct a review of Federal procurement policy of recycled coolant.*

*(b) ELEMENTS.—In conducting the review under subsection (a), the President shall consider recycled coolant produced from processes that—*

*(1) are energy efficient;*

*(2) generate no hazardous waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903));*

*(3) produce no emissions of air pollutants;*

*(4) present lower health and safety risks to employees at a plant or facility; and*

*(5) recover at least 97 percent of the glycols from used antifreeze feedstock.*

**SEC. 6015. CLEAN SCHOOL BUS PROGRAM.**

*(a) DEFINITIONS.—In this section, the following definitions apply:*

*(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.*

*(2) ALTERNATIVE FUEL.—The term "alternative fuel" means—*

*(A) liquefied natural gas, compressed natural gas, liquefied petroleum gas, hydrogen, or propane;*

*(B) methanol or ethanol at no less than 85 percent by volume; or*

*(C) biodiesel conforming with standards published by the American Society for Testing and Materials as of the date of enactment of this Act.*

*(3) CLEAN SCHOOL BUS.—The term "clean school bus" means a school bus with a gross vehicle weight of greater than 14,000 pounds that—*

*(A) is powered by a heavy duty engine; and*

*(B) is operated solely on an alternative fuel or ultra-low sulfur diesel fuel.*

*(4) ELIGIBLE RECIPIENT.—*

*(A) IN GENERAL.—Subject to subparagraph (B), the term "eligible recipient" means—*

*(i) one or more local or State governmental entities responsible for providing school bus service to one or more public school systems or the purchase of school buses;*

*(ii) one or more contracting entities that provide school bus service to one or more public school systems; or*

*(iii) a nonprofit school transportation association.*

*(B) SPECIAL REQUIREMENTS.—In the case of eligible recipients identified under clauses (ii) and (iii) of subparagraph (A), the Administrator shall establish timely and appropriate requirements for notice and may establish timely and appropriate requirements for approval by the public school systems that would be served by buses purchased or retrofit using grant funds made available under this section.*

*(5) RETROFIT TECHNOLOGY.—The term "retrofit technology" means a particulate filter or other emissions control equipment that is verified or certified by the Administrator or the California Air Resources Board as an effective emission reduction technology when installed on an existing school bus.*

*(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.*

*(7) ULTRA-LOW SULFUR DIESEL FUEL.—The term "ultra-low sulfur diesel fuel" means diesel fuel that contains sulfur at not more than 15 parts per million.*

*(b) PROGRAM FOR RETROFIT OR REPLACEMENT OF CERTAIN EXISTING SCHOOL BUSES WITH CLEAN SCHOOL BUSES.—*

*(1) ESTABLISHMENT.—*

*(A) IN GENERAL.—The Administrator, in consultation with the Secretary and other appropriate Federal departments and agencies, shall establish a program for awarding grants on a competitive basis to eligible recipients for the replacement of, retrofit (including repowering, aftertreatment, and remanufactured engines) of, or purchase of alternative fuels for, certain existing school buses. The awarding of grants for the purchase of alternative fuels should be consistent with the historic funding levels of the program for such purchase.*

*(B) BALANCING.—In awarding grants under this section, the Administrator shall achieve, to the maximum extent practicable, achieve an appropriate balance between awarding grants—*

*(i) to replace school buses;*

*(ii) to install retrofit technologies; and*

*(iii) to purchase and use alternative fuel.*

*(2) PRIORITY OF GRANT APPLICATIONS.—*

*(A) REPLACEMENT.—In the case of grant applications to replace school buses, the Administrator shall give priority to applicants that propose to replace school buses manufactured before model year 1977.*

*(B) RETROFITTING.—In the case of grant applications to retrofit school buses, the Administrator shall give priority to applicants that propose to retrofit school buses manufactured in or after model year 1991.*

*(3) USE OF SCHOOL BUS FLEET.—*

*(A) IN GENERAL.—All school buses acquired or retrofitted with funds provided under this section shall be operated as part of the school bus fleet for which the grant was made for not less than 5 years.*

*(B) MAINTENANCE, OPERATION, AND FUELING.—New school buses and retrofit technology shall be maintained, operated, and fueled according to manufacturer recommendations or State requirements.*

*(4) RETROFIT GRANTS.—The Administrator may award grants under this section for up to 100 percent of the retrofit technologies and installation costs.*

*(5) REPLACEMENT GRANTS.—*

*(A) ELIGIBILITY FOR 50 PERCENT GRANTS.—The Administrator may award grants under this section for replacement of school buses in the amount of up to ½ of the acquisition costs (including fueling infrastructure) for—*

*(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—*

*(I) 1.8 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and*

*(II) .01 grams per brake horsepower-hour of particulate matter; or*

*(ii) clean school buses with engines manufactured in model year 2007, 2008, or 2009 that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter to be applicable for school buses manufactured in model year 2010.*

*(B) ELIGIBILITY FOR 25 PERCENT GRANTS.—The Administrator may award grants under this section for replacement of school buses in the amount of up to ¼ of the acquisition costs (including fueling infrastructure) for—*

*(i) clean school buses with engines manufactured in model year 2005 or 2006 that emit not more than—*

*(I) 2.5 grams per brake horsepower-hour of non-methane hydrocarbons and oxides of nitrogen; and*

*(II) .01 grams per brake horsepower-hour of particulate matter; or*

*(ii) clean school buses with engines manufactured in model year 2007 or thereafter that satisfy regulatory requirements established by the Administrator for emissions of oxides of nitrogen and particulate matter from school buses manufactured in that model year.*

*(6) ULTRA-LOW SULFUR DIESEL FUEL.—*

*(A) IN GENERAL.—In the case of a grant recipient receiving a grant for the acquisition of ultra-low sulfur diesel fuel school buses with engines manufactured in model year 2005 or 2006, the grant recipient shall provide, to the satisfaction of the Administrator—*

*(i) documentation that diesel fuel containing sulfur at not more than 15 parts per million is available for carrying out the purposes of the grant; and*

*(ii) a commitment by the applicant to use that fuel in carrying out the purposes of the grant.*

*(7) DEPLOYMENT AND DISTRIBUTION.—The Administrator, to the maximum extent practicable, shall—*

*(A) achieve nationwide deployment of clean school buses through the program under this section; and*

*(B) ensure a broad geographic distribution of grant awards, with no State receiving more than 10 percent of the grant funding made available under this section during a fiscal year.*

*(8) ANNUAL REPORT.—*

*(A) IN GENERAL.—Not later than January 31 of each year, the Administrator shall submit to Congress a report that—*

*(i) evaluates the implementation of this section; and*

*(ii) describes—*

*(I) the total number of grant applications received;*

*(II) the number and types of alternative fuel school buses, ultra-low sulfur diesel fuel school buses, and retrofitted buses requested in grant applications;*

*(III) grants awarded and the criteria used to select the grant recipients;*

*(IV) certified engine emission levels of all buses purchased or retrofitted under this section;*

*(V) an evaluation of the in-use emission level of buses purchased or retrofitted under this section; and*

*(VI) any other information the Administrator considers appropriate.*

*(c) EDUCATION.—*

*(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Administrator shall develop an education outreach program to promote and explain the grant program.*

*(2) COORDINATION WITH STAKEHOLDERS.—The outreach program shall be designed and conducted in conjunction with national school bus transportation associations and other stakeholders.*

*(3) COMPONENTS.—The outreach program shall—*

*(A) inform potential grant recipients on the process of applying for grants;*

*(B) describe the available technologies and the benefits of the technologies;*

*(C) explain the benefits of participating in the grant program; and*

*(D) include, as appropriate, information from the annual report required under subsection (b)(8).*

*(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator to carry out this section, to remain available until expended—*

*(1) $55,000,000 for each of fiscal years 2006 and 2007; and*

*(2) such sums as are necessary for each of fiscal years 2008, 2009, and 2010.*

### SEC. 6016. SPECIAL DESIGNATION.

*For the purpose of any applicable program under title 23, United States Code, the city of Norman, Oklahoma, shall be considered to be part of the Oklahoma City urbanized area.*

### SEC. 6017. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

*(a) IN GENERAL.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) is amended by adding at the end the following:*

### "SEC. 6005. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE.

*"(a) DEFINITIONS.—In this section:*

*"(1) AGENCY HEAD.—The term 'agency head' means—*

*"(A) the Secretary of Transportation; and*

*"(B) the head of each other Federal agency that on a regular basis procures, or provides Federal funds to pay or assist in paying the cost of procuring, material for cement or concrete projects.*

*"(2) CEMENT OR CONCRETE PROJECT.—The term 'cement or concrete project' means a project for the construction or maintenance of a highway or other transportation facility or a Federal, State, or local government building or other public facility that—*

*"(A) involves the procurement of cement or concrete; and*

*"(B) is carried out in whole or in part using Federal funds.*

*"(3) RECOVERED MINERAL COMPONENT.—The term 'recovered mineral component' means—*

*"(A) ground granulated blast furnace slag other than lead slag;*

*"(B) coal combustion fly ash;*

*"(C) blast furnace slag aggregate other than lead slag aggregate;*

*"(D) silica fume; and*

*"(E) any other waste material or byproduct recovered or diverted from solid waste that the Administrator, in consultation with an agency head, determines should be treated as recovered mineral component under this section for use in cement or concrete projects paid for, in whole or in part, by the agency head.*

*"(b) IMPLEMENTATION OF REQUIREMENTS.—*

*"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Administrator and each agency head shall take such actions as are necessary to implement fully all procurement requirements and incentives in effect as of the date of enactment of this section*

*(including guidelines under section 6002) that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects.*

*"(2) Priority.—In carrying out paragraph (1) an agency head shall give priority to achieving greater use of recovered mineral component in cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally.*

*"(3) Conformance.—The Administrator and each agency head shall carry out this subsection in accordance with section 6002.*

*"(c) Full Implementation Study.—*

*"(1) In general.—The Administrator, in cooperation with the Secretary of Transportation and the Secretary of Energy, shall conduct a study to determine the extent to which current procurement requirements, when fully implemented in accordance with subsection (b), may realize energy savings and environmental benefits attainable with substitution of recovered mineral component in cement used in cement or concrete projects.*

*"(2) Matters to be addressed.—The study shall—*

*"(A) quantify the extent to which recovered mineral components are being substituted for Portland cement, particularly as a result of current procurement requirements, and the energy savings and environmental benefits associated with that substitution;*

*"(B) identify all barriers in procurement requirements to greater realization of energy savings and environmental benefits, including barriers resulting from exceptions from current law; and*

*"(C)(i) identify potential mechanisms to achieve greater substitution of recovered mineral component in types of cement or concrete projects for which recovered mineral components historically have not been used or have been used only minimally;*

*"(ii) evaluate the feasibility of establishing guidelines or standards for optimized substitution rates of recovered mineral component in those cement or concrete projects; and*

*"(iii) identify any potential environmental or economic effects that may result from greater substitution of recovered mineral component in those cement or concrete projects.*

*"(3) Report.—Not later than 30 months after the date of enactment of this section, the Administrator shall submit to Congress a report on the study.*

*"(d) Additional Procurement Requirements.—Unless the study conducted under subsection (c) identifies any effects or other problems described in subsection (c)(2)(C)(iii) that warrant further review or delay, the Administrator and each agency head shall, not later than 1 year after the release of the report in accordance with subsection (c)(3), take additional actions authorized under this Act to establish procurement requirements and incentives that provide for the use of cement and concrete with increased substitution of recovered mineral component in the construction and maintenance of cement or concrete projects, so as to—*

*"(1) realize more fully the energy savings and environmental benefits associated with increased substitution; and*

*"(2) eliminate barriers identified under subsection (c).*

*"(e) Effect of Section.—Nothing in this section affects the requirements of section 6002 (including the guidelines and specifications for implementing those requirements).".*

*(b) Table of Contents Amendment.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) is amended by adding after the item relating to section 6004 the following:*

*"Sec. 6005. Increased use of recovered mineral component in federally funded projects involving procurement of cement or concrete.".*

### *SEC. 6018. USE OF GRANULAR MINE TAILINGS.*

*(a) In General.—Subtitle F of the Solid Waste Disposal Act (42 U.S.C. 6961 et seq.) (as amended by section 6017(a)) is amended by adding at the end the following:*

### *"SEC. 6006. USE OF GRANULAR MINE TAILINGS.*

*"(a) Mine Tailings.—*

*"(1) In general.—Not later than 180 days after the date of enactment of this section, the Administrator, in consultation with the Secretary of Transportation and heads of other Federal agencies, shall establish criteria (including an evaluation of whether to establish a numerical standard for concentration of lead and other hazardous substances) for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for—*

*"(A) cement or concrete projects; and*

*"(B) transportation construction projects (including transportation construction projects involving the use of asphalt) that are carried out, in whole or in part, using Federal funds.*

*"(2) Requirements.—In establishing criteria under paragraph (1), the Administrator shall consider—*

*"(A) the current and previous uses of granular mine tailings as an aggregate for asphalt; and*

*"(B) any environmental and public health risks and benefits derived from the removal, transportation, and use in transportation projects of granular mine tailings.*

*"(3) Public participation.—In establishing the criteria under paragraph (1), the Administrator shall solicit and consider comments from the public.*

*"(4) Applicability of criteria.—On the establishment of the criteria under paragraph (1), any use of the granular mine tailings described in paragraph (1) in a transportation project that is carried out, in whole or in part, using Federal funds, shall meet the criteria established under paragraph (1).*

*"(b) Effect of Sections.—Nothing in this section or section 6005 affects any requirement of any law (including a regulation) in effect on the date of enactment of this section.".*

*(b) Conforming Amendment.—The table of contents in section 1001 of the Solid Waste Disposal Act (42 U.S.C. prec. 6901) (as amended by section 6017(b)) is amended by adding after the item relating to section 6005 the following:*

*"Sec. 6006. Use of granular mine tailings.".*

## *TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION*

### *SEC. 7001. SHORT TITLE.*

*This title may be cited as the "Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005".*

### *SEC. 7002. AMENDMENT OF TITLE 49, UNITED STATES CODE.*

*Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.*

### *Subtitle A—General Authorities on Transportation of Hazardous Materials*

### *SEC. 7101. FINDINGS AND PURPOSE.*

*(a) Findings.—Congress finds with respect to hazardous materials transportation that—*

*(1) approximately 4,000,000,000 tons of regulated hazardous materials are transported each year and approximately 1,200,000 movements of hazardous materials occur each day, according to Department of Transportation estimates;*

*(2) the movement of hazardous materials in commerce is necessary to maintain economic vitality and meet consumer demands and must be conducted in a safe, secure, and efficient manner;*

*(3) accidents involving, or unauthorized access to, hazardous materials in transportation may result in a release of such materials and pose a serious threat to public health and safety;*

*(4) because of the potential risks to life, property, and the environment posed by unintentional releases of hazardous materials, consistency in laws and regulations governing the transportation of hazardous materials is necessary and desirable; and*

*(5) in order to provide reasonable, adequate, and cost-effective protection from the risks posed by the transportation of hazardous materials, a network of well-trained State and local emergency response personnel and hazmat employees is essential.*

*(b) Purpose.—Section 5101 is amended by striking "The purpose" and all that follows through the period at the end and inserting the following: "The purpose of this chapter is to protect against the risks to life, property, and the environment that are inherent in the transportation of hazardous material in intrastate, interstate, and foreign commerce.".*

### *SEC. 7102. DEFINITIONS.*

*Section 5102 is amended as follows:*

*(1) Commerce.—Paragraph (1) is amended—*

*(A) by striking "or" after the semicolon in subparagraph (A);*

*(B) by striking "State." in subparagraph (B) and inserting "State; or"; and*

*(C) by adding at the end the following:*

*"(C) on a United States-registered aircraft.".*

*(2) Hazmat employee.—Paragraph (3)(A) is amended—*

*(A) by striking clause (i) and inserting the following:*

*"(i) who—*

*"(I) is employed on a full time, part time, or temporary basis by a hazmat employer; or*

*"(II) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft) transporting hazardous material in commerce; and";*

*(B) in clause (ii)—*

*(i) by striking "course of employment" and inserting "course of such full time, part time, or temporary employment, or such self employment,"; and*

*(ii) by adding "and" after the semicolon;*

*(C) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and*

*(D) in subparagraph (B), as so redesignated—*

*(i) by striking "employed by a hazmat employer," and inserting "employed on a full time, part time, or temporary basis by a hazmat employer, or self employed,"; and*

*(ii) by striking clause (ii) and inserting the following:*

*"(ii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;".*

*(3) Hazmat employer.—Paragraph (4) is amended to read as follows:*

*"(4) 'hazmat employer'—*

*"(A) means a person—*

*"(i) who—*

*"(I) employs or uses at least 1 hazmat employee on a full time, part time, or temporary basis; or*

*"(II) is self-employed (including an owner-operator of a motor vehicle, vessel, or aircraft)*

*transporting hazardous material in commerce; and*

*"(ii) who—*

*"(I) transports hazardous material in commerce;*

*"(II) causes hazardous material to be transported in commerce; or*

*"(III) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce; and*

*"(B) includes a department, agency, or instrumentality of the United States Government, or an authority of a State, political subdivision of a State, or Indian tribe, carrying out an activity described in clause (ii).".*

*(4) IMMINENT HAZARD.—Paragraph (5) is amended by inserting "relating to hazardous material" after "of a condition".*

*(5) MOTOR CARRIER.—Paragraph (7) is amended to read as follows:*

*"(7) 'motor carrier'—*

*"(A) means a motor carrier, motor private carrier, and freight forwarder as those terms are defined in section 13102; but*

*"(B) does not include a freight forwarder, as so defined, if the freight forwarder is not performing a function relating to highway transportation.".*

*(6) NATIONAL RESPONSE TEAM.—Paragraph (8) is amended—*

*(A) by striking "national response team" both places it appears and inserting "National Response Team"; and*

*(B) by striking "national contingency plan" and inserting "National Contingency Plan".*

*(7) PERSON.—Paragraph (9)(A) is amended to read as follows:*

*"(A) includes a government, Indian tribe, or authority of a government or tribe that—*

*"(i) offers hazardous material for transportation in commerce;*

*"(ii) transports hazardous material to further a commercial enterprise; or*

*"(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce; but".*

*(8) SECRETARY OF TRANSPORTATION.—Section 5102 is further amended—*

*(A) by redesignating paragraphs (11), (12), and (13) as paragraphs (12), (13), and (14), respectively; and*

*(B) by inserting after paragraph (10) the following:*

*"(11) 'Secretary' means the Secretary of Transportation except as otherwise provided.".*

**SEC. 7103. GENERAL REGULATORY AUTHORITY.**

*(a) DESIGNATING MATERIAL AS HAZARDOUS.—Section 5103(a) is amended—*

*(1) by striking "etiologic agent" and all that follows through "corrosive material," and inserting "infectious substance, flammable or combustible liquid, solid, or gas, toxic, oxidizing, or corrosive material,"; and*

*(2) by striking "decides" and inserting "determines".*

*(b) REGULATIONS FOR SAFE TRANSPORTATION.—Section 5103(b)(1)(A) is amended to read as follows:*

*"(A) apply to a person who—*

*"(i) transports hazardous material in commerce;*

*"(ii) causes hazardous material to be transported in commerce;*

*"(iii) designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce;*

*"(iv) prepares or accepts hazardous material for transportation in commerce;*

*"(v) is responsible for the safety of transporting hazardous material in commerce;*

*"(vi) certifies compliance with any requirement under this chapter; or*

*"(vii) misrepresents whether such person is engaged in any activity under clause (i) through (vi); and".*

*(c) TECHNICAL AMENDMENT REGARDING CONSULTATION.—Section 5103 is amended—*

*(1) by striking subsection (b)(1)(C); and*

*(2) by adding at the end the following:*

*"(c) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary of Transportation.".*

**SEC. 7104. LIMITATION ON ISSUANCE OF HAZMAT LICENSES.**

*(a) COVERED HAZARDOUS MATERIALS.—Section 5103a(b) is amended by striking "with respect to—" and all that follows and inserting "with respect to any material defined as hazardous material by the Secretary for which the Secretary requires placarding of a commercial motor vehicle transporting that material in commerce.".*

*(b) RECOMMENDATIONS ON CHEMICAL OR BIOLOGICAL MATERIALS.—Section 5103a is further amended—*

*(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and*

*(2) by inserting after subsection (b) the following:*

*"(c) RECOMMENDATIONS ON CHEMICAL AND BIOLOGICAL MATERIALS.—The Secretary of Health and Human Services shall recommend to the Secretary of Transportation any chemical or biological material or agent for regulation as a hazardous material under section 5103(a) if the Secretary of Health and Human Services determines that such material or agent poses a significant risk to the health of individuals.".*

*(c) CONFORMING AMENDMENT.—Section 5103a(a)(1) is amended by striking "subsection (c)(1)(B)," and inserting "subsection (d)(1)(B),".*

**SEC. 7105. BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.**

*Section 5103a is further amended by adding at the end the following:*

*"(g) BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS.—*

*"(1) IN GENERAL.—*

*"(A) EMPLOYER NOTIFICATION.—Not later than 90 days after the date of enactment of this subsection, the Director of the Transportation Security Administration, after receiving comments from interested parties, shall develop and implement a process for notifying hazmat employers designated by an applicant of the results of the applicant's background record check, if—*

*"(i) such notification is appropriate considering the potential security implications; and*

*"(ii) the Director, in a final notification of threat assessment, served on the applicant determines that the applicant does not meet the standards set forth in regulations issued to carry out this section.*

*"(B) RELATIONSHIP TO OTHER BACKGROUND RECORDS CHECKS.—*

*"(i) ELIMINATION OF REDUNDANT CHECKS.—An individual with respect to whom the Transportation Security Administration—*

*"(I) has performed a security threat assessment under this section; and*

*"(II) has issued a final notification of no security threat,*

*is deemed to have met the requirements of any other background check that is required for purposes of any Federal law applicable to transportation workers if that background check is equivalent to, or less stringent than, the background check required under this section.*

*"(ii) DETERMINATION BY DIRECTOR.—Not later than 60 days after the date of issuance of the report under paragraph (5), but no later than 120 days after the date of enactment of this Act, the Director shall initiate a rulemaking proceeding, including notice and opportunity for comment, to determine which background checks required for purposes of Federal laws applicable to transportation workers are equivalent to, or less stringent than, those required under this section.*

*"(iii) FUTURE RULEMAKINGS.—The Director shall make a determination under the criteria established under clause (ii) with respect to any rulemaking proceeding to establish or modify required background checks for transportation workers initiated after the date of enactment of this subsection.*

*"(2) APPEALS PROCESS FOR MORE STRINGENT STATE PROCEDURES.—If a State establishes its own standards for applicants for a hazardous materials endorsement to a commercial driver's license, the State shall also provide—*

*"(A) an appeals process similar to and to the same extent as the process provided under part 1572 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may appeal that denial; and*

*"(B) a waiver process similar to and to the same extent as the process provided under part 1572 of title 49, Code of Federal Regulations, by which an applicant denied a hazardous materials endorsement to a commercial driver's license by that State may apply for a waiver.*

*"(3) CLARIFICATION OF TERM DEFINED IN REGULATIONS.—The term 'transportation security incident', as defined in part 1572 of title 49, Code of Federal Regulations, does not include a work stoppage or other nonviolent employee-related action resulting from an employer-employee dispute. Not later than 30 days after the date of enactment of this subsection, the Director shall modify the definition of that term to reflect the preceding sentence.*

*"(4) BACKGROUND CHECK CAPACITY.—Not later than October 1, 2005, the Director shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Homeland Security of the House of Representatives a report on the implementation of fingerprint-based security threat assessments and the adequacy of fingerprinting locations, personnel, and resources to accomplish the timely processing of fingerprint-based security threat assessments for individuals holding commercial driver's licenses who are applying to renew hazardous materials endorsements.*

*"(5) REPORT.—*

*"(A) IN GENERAL.—Not later than 60 days after the date of enactment of this subsection, the Director shall transmit to the committees referred to in paragraph (4) a report on the Director's plans to reduce or eliminate redundant background checks for holders of hazardous materials endorsements performed under this section.*

*"(B) CONTENTS.—The report shall—*

*"(i) include a list of background checks and other security or threat assessment requirements applicable to transportation workers under Federal laws for which the Department of Homeland Security is responsible and the process by which the Secretary of Homeland Security will determine whether such checks or assessments are equivalent to, or less stringent than, the background check performed under this section; and*

*"(ii) provide an analysis of how the Director plans to reduce or eliminate redundant background checks in a manner that will continue to ensure the highest level of safety and security.*

*"(h) Commercial Motor Vehicle Operators Registered To Operate in Mexico or Canada.—*

*"(1) In general.—Beginning on the date that is 6 months after the date of enactment of this subsection, a commercial motor vehicle operator registered to operate in Mexico or Canada shall not operate a commercial motor vehicle transporting a hazardous material in commerce in the United States until the operator has undergone a background records check similar to the background records check required for commercial motor vehicle operators licensed in the United States to transport hazardous materials in commerce.*

*"(2) Extension.—The Director of the Transportation Security Administration may extend the deadline established by paragraph (1) for a period not to exceed 6 months if the Director determines that such an extension is necessary.*

*"(3) Commercial motor vehicle defined.—In this subsection, the term 'commercial motor vehicle' has the meaning given that term by section 31101.".*

### SEC. 7106. REPRESENTATION AND TAMPERING.

*(a) Representation.—Section 5104(a)(1) is amended—*

*(1) by striking "a container," and all that follows through "packaging) for" and inserting "a package, component of a package, or packaging for"; and*

*(2) by striking "the container" and all that follows through "packaging) meets" and inserting "the package, component of a package, or packaging meets".*

*(b) Tampering.—Section 5104(b) is amended—*

*(1) by striking "A person may not" and inserting "No person may"; and*

*(2) in paragraph (2) by inserting "component of a package, or packaging," after "package,".*

### SEC. 7107. TECHNICAL AMENDMENTS.

*Section 5105 is amended—*

*(1) by striking subsection (d); and*

*(2) by redesignating subsection (e) as subsection (d).*

### SEC. 7108. TRAINING OF CERTAIN EMPLOYEES.

*Section 5107 is amended—*

*(1) by striking subsection (e) and inserting the following:*

*"(e) Training Grants.—*

*"(1) In general.—Subject to the availability of funds under section 5128(c), the Secretary shall make grants under this subsection—*

*"(A) for training instructors to train hazmat employees; and*

*"(B) to the extent determined appropriate by the Secretary, for such instructors to train hazmat employees.*

*"(2) Eligibility.—A grant under this subsection shall be made to a nonprofit hazmat employee organization that demonstrates—*

*"(A) expertise in conducting a training program for hazmat employees; and*

*"(B) the ability to reach and involve in a training program a target population of hazmat employees.";*

*(2) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;*

*(3) by inserting after subsection (e) the following:*

*"(f) Training of Certain Employees.—The Secretary shall ensure that maintenance-of-way employees and railroad signalmen receive general awareness and familiarization training and safety training pursuant to section 172.704 of title 49, Code of Federal Regulations."; and*

*(4) in subsection (g)(2) (as redesignated by paragraph (2) of this subsection) by striking "sections 5106, 5108(a)–(g)(1) and (h), and 5109 of this title" and inserting "section 5106".*

### SEC. 7109. REGISTRATION.

*(a) Persons Required To File.—*

*(1) Requirement to file.—Section 5108(a)(1)(B) is amended by striking "class A or B explosive" and inserting "Division 1.1, 1.2, or 1.3 explosive material".*

*(2) Authority to require to file.—Section 5108(a)(2)(B) is amended to read as follows:*

*"(B) a person designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce.".*

*(3) No transportation without filing.—Section 5108(a)(3) is amended by striking "manufacture," and all that follows through "package or" and inserting "design, manufacture, fabricate, inspect, mark, maintain, recondition, repair, or test a package, container packaging component, or".*

*(b) Form and Content of Filings.—Section 5108(b)(1)(C) is amended by striking "the activity." and inserting "any of the activities.".*

*(c) Filing.—Section 5108(c) is amended to read as follows:*

*"(c) Filing.—Each person required to file a registration statement under subsection (a) shall file the statement in accordance with regulations prescribed by the Secretary.".*

*(d) Registration.—As soon as practicable, the Administrator of the Pipeline and Hazardous Materials Safety Administration shall transmit to the Federal Motor Carrier Safety Administration hazardous material registrant information obtained before, on, or after the date of enactment of this Act under section 5108 of title 49, United States Code, together with any Department of Transportation identification number for each registrant.*

*(e) Relationship to Other Laws.—Section 5108(i)(2)(B) is amended by inserting "an Indian tribe," after "subdivision of a State,".*

*(f) Fees.—Section 5108(g) is amended—*

*(1) in paragraph (1) by striking "may" and inserting "shall";*

*(2) in paragraph (2)(A) by striking "$5,000" and inserting "$3,000"; and*

*(3) by adding at the end the following:*

*"(3) Fees on exempt persons.—Notwithstanding subsection (a)(4), the Secretary shall impose and collect a fee of $25 from a person who is required to register under this section but who is otherwise exempted by the Secretary from paying any fee under this section. The fee shall be used to pay the costs incurred by the Secretary in processing registration statements filed by such persons.".*

### SEC. 7110. SHIPPING PAPERS AND DISCLOSURE.

*(a) Disclosure Considerations and Requirements.—Section 5110 is amended—*

*(1) by striking "under subsection (b) of this section." in subsection (a) and inserting "in regulations.";*

*(2) by striking subsection (b); and*

*(3) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively.*

*(b) Retention of Papers.—Subsection (d) of section 5110, as redesignated by subsection (a)(3) of this section, is amended to read as follows:*

*"(d) Retention of Papers.—*

*"(1) Shippers.—The person who provides the shipping paper under this section shall retain the paper, or an electronic format of it, for a period of 2 years after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the shipper's principal place of business.*

*"(2) Carriers.—The carrier required to keep the shipping paper under this section, shall retain the paper, or an electronic format of it, for a period of 1 year after the date that the shipping paper is provided to the carrier, with the paper or electronic format to be accessible through the carrier's principal place of business.*

*"(3) Availability to government agencies.—Any person required to keep a shipping paper under this subsection shall, upon request, make it available to a Federal, State, or local government agency at reasonable times and locations.".*

### SEC. 7111. RAIL TANK CARS.

*Section 5111, and the item relating to section 5111 in the analyis for chapter 51, are repealed.*

### SEC. 7112. UNSATISFACTORY SAFETY RATINGS.

*(a) In General.—The text of section 5113 is amended to read as follows: "A violation of section 31144(c)(3) shall be considered a violation of this chapter, and shall be subject to the penalties in sections 5123 and 5124.".*

*(b) Conforming Amendments.—The first subsection (c) of section 31144, relating to prohibited transportation, is amended—*

*(1) in paragraph (1) by striking "sections 521(b)(5)(A) and 5113" and inserting "section 521(b)(5)(A)"; and*

*(2) by adding at the end of paragraph (3) the following: "A violation of this paragraph by an owner or operator transporting hazardous material shall be considered a violation of chapter 51, and shall be subject to the penalties in sections 5123 and 5124.".*

*(c) Technical Correction.—The second subsection (c) of section 31144, relating to safety reviews of new operators, is redesignated as subsection (f).*

### SEC. 7113. TRAINING CURRICULUM FOR THE PUBLIC SECTOR.

*(a) In General.—Section 5115(a) is amended by striking the subsection designation and all that follows through the period at the end of the first sentence and inserting the following:*

*"(a) In General.—In coordination with the Director of the Federal Emergency Management Agency, the Chairman of the Nuclear Regulatory Commission, the Administrator of the Environmental Protection Agency, the Secretaries of Labor, Energy, and Health and Human Services, and the Director of the National Institute of Environmental Health Sciences, and using existing coordinating mechanisms of the National Response Team and, for radioactive material, the Federal Radiological Preparedness Coordinating Committee, the Secretary of Transportation shall maintain, and update periodically, a current curriculum of courses necessary to train public sector emergency response and preparedness teams in matters relating to the transportation of hazardous material.".*

*(b) Requirements.—Section 5115(b) is amended—*

*(1) in the matter preceding paragraph (1) by striking "developed" and inserting "maintained and updated"; and*

*(2) in paragraph (1)(C) by striking "under other United States Government grant programs, including those" and inserting "with Federal financial assistance, including programs".*

*(c) Training on Complying With Legal Requirements.—Section 5115(c)(3) is amended by inserting before the period at the end the following: "and such other voluntary consensus standard-setting organizations as the Secretary of Transportation determines appropriate".*

*(d) Distribution and Publication.—Section 5115(d) is amended—*

*(1) in the matter preceding paragraph (1) by striking "national response team" and inserting "National Response Team";*

*(2) in paragraph (1) by striking "Director of the Federal Emergency Management Agency" and inserting "Secretary"; and*

*(3) in paragraph (2)—*

*(A) by inserting "and distribute" after "publish"; and*

*(B) by striking "programs that uses" and all that follows before the period at the end and inserting "programs and courses maintained and updated under this section and of any programs utilizing such courses".*

### ***SEC. 7114. PLANNING AND TRAINING GRANTS; HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.***

*(a) Maintenance of Effort.—Sections 5116(a)(2)(A) and 5116(b)(2)(A) are amended by striking "2 fiscal years" and inserting "5 fiscal years".*

*(b) Monitoring and Technical Assistance.—Section 5116(f) is amended by striking "national response team" and inserting "National Response Team".*

*(c) Delegation of Authority.—Section 5116(g) is amended by striking "Government grant programs" and inserting "Federal financial assistance".*

*(d) Hazardous Materials Emergency Preparedness Fund.—*

*(1) Name of fund.—Section 5116(i) is amended by inserting after "an account in the Treasury" the following: "(to be known as the 'Hazardous Materials Emergency Preparedness Fund')".*

*(2) Publication of emergency response guide.—Section 5116(i) is further amended—*

*(A) by striking "collects under section 5108(g)(2)(A) of this title and";*

*(B) by striking "and" after the semicolon in paragraph (2);*

*(C) by redesignating paragraph (3) as paragraph (4);*

*(D) by inserting after paragraph (2) the following:*

*"(3) to publish and distribute an emergency response guide; and"; and*

*(E) in paragraph (4) (as redesignated by subparagraph (C) of this paragraph) by striking "10 percent" and inserting "2 percent".*

*(3) Conforming amendment.—Section 5108(g)(2)(C) is amended by striking "the account the Secretary of the Treasury establishes" and inserting "the Hazardous Materials Emergency Preparedness Fund established".*

*(e) Reports.—Section 5116(k) is amended—*

*(1) by striking the first sentence and inserting the following: "The Secretary shall submit annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and make available to the public information on the allocation and uses of the planning grants allocated under subsection (a), training grants under subsection (b), and grants under subsection (j) of this section and under section 5107."; and*

*(2) by striking "Such report" in the second sentence and inserting "The report".*

### ***SEC. 7115. SPECIAL PERMITS AND EXCLUSIONS.***

*(a) Section Heading.—*

*(1) In general.—Section 5117 is amended by striking the section designation and heading and inserting the following:*

***"§5117. Special permits and exclusions".***

*(2) Conforming amendment.—The item relating to section 5117 in the analysis for chapter 51 is amended to read as follows:*

*"5117. Special permits and exclusions.".*

*(b) Subsection Heading.—The heading for subsection (a) of section 5117 is amended by striking "EXEMPT" and inserting "ISSUE SPECIAL PERMITS".*

*(c) Authority to Issue Special Permits.—Section 5117(a)(1) is amended—*

*(1) by striking "an exemption" and inserting ", modify, or terminate a special permit authorizing a variance"; and*

*(2) by striking "transporting, or causing to be transported, hazardous material" and inserting "performing a function regulated by the Secretary under section 5103(b)(1)".*

*(d) Period of Special Permit.—Section 5117(a)(2) is amended to read as follows:*

*"(2) A special permit issued under this section shall be effective for an initial period of not more than 2 years and may be renewed by the Secretary upon application for successive periods of not more than 4 years each or, in the case of a special permit relating to section 5112, for an additional period of not more than 2 years.".*

*(e) Applications.—Sections 5117(b) is amended—*

*(1) by striking "an exemption" each place it appears and inserting "a special permit"; and*

*(2) by striking "the exemption" and inserting "the special permit".*

*(f) Dealing With Applications Promptly.—Section 5117(c) is amended by striking "the exemption" each place it appears and inserting "the special permit".*

*(g) Limitation on Authority.—Section 5117(e) is amended—*

*(1) by striking "an exemption" and inserting "a special permit"; and*

*(2) by striking "be exempt" and inserting "be granted a variance".*

*(h) Repeal of Section 5118.—Section 5118, and the item relating to such section in the analysis for chapter 51, are repealed.*

### ***SEC. 7116. UNIFORM FORMS AND PROCEDURES.***

*Section 5119 is amended to read as follows:*

***"§5119. Uniform forms and procedures***

*"(a) Establishment of Working Group.—The Secretary shall establish a working group of State and local government officials, including representatives of the National Governors' Association, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the National Conference of State Legislatures, and the Alliance for Uniform Hazmat Transportation Procedures.*

*"(b) Purpose of Working Group.—The purpose of the working group shall be to develop uniform forms and procedures for a State to register, and to issue permits to, persons that transport, or cause to be transported, hazardous material by motor vehicle in the State.*

*"(c) Limitation on Working Group.—The working group may not propose to define or limit the amount of a fee a State may impose or collect.*

*"(d) Procedure.—The Secretary shall develop a procedure for the working group to employ in developing recommendations for the Secretary to harmonize existing State registration and permit laws and regulations relating to the transportation of hazardous materials, with special attention paid to each State's unique safety concerns and interest in maintaining strong hazmat safety standards.*

*"(e) Report of Working Group.—Not later than 18 months after the date of enactment of this subsection, the working group shall transmit to the Secretary a report containing recommendations for establishing uniform forms and procedures described in subsection (b).*

*"(f) Regulations.—Not later than 18 months after the date the working group's report is delivered to the Secretary, the Secretary shall issue regulations to carry out such recommendations of the working group as the Secretary considers appropriate. In developing such regulations, the Secretary shall consider the State needs associated with the transition to and implementation of a uniform forms and procedures program.*

*"(g) Limitation on Statutory Construction.—Nothing in this section shall be construed as prohibiting a State from voluntarily participating in a program of uniform forms and procedures until such time as the Secretary issues regulations under subsection (f).".*

### ***SEC. 7117. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS.***

*(a) Consultation.—Section 5120(b) is amended by inserting "and requirements" after "standards".*

*(b) Differences With International Standards and Requirements.—Section 5120(c) is amended—*

*(1) in paragraph (1) by inserting "or requirement" after "standard" each place it appears; and*

*(2) in paragraph (2)—*

*(A) by inserting "standard or" before "requirement" each place it appears; and*

*(B) by striking "included in a standard".*

### ***SEC. 7118. ADMINISTRATIVE AUTHORITY.***

*(a) General Authority.—Section 5121(a) is amended—*

*(1) in the first sentence by inserting "conduct tests," after "investigate,";*

*(2) in the second sentence by striking "After" and inserting "Except as provided in subsections (c) and (d), after"; and*

*(3) by striking "regulation prescribed" and inserting "regulation prescribed, or an order, special permit, or approval issued,".*

*(b) Records, Reports, and Information.—Section 5121(b) is amended—*

*(1) in paragraph (1) by inserting "and property" after "records"; and*

*(2) in paragraph (2)—*

*(A) by inserting "property," after "records,";*

*(B) by inserting "for inspection" after "available"; and*

*(C) by striking "requests" and inserting "undertakes an investigation or makes a request".*

*(c) Enhanced Authority To Discover Hidden Shipments of Hazardous Material.—Section 5121(c) is amended to read as follows:*

*"(c) Inspections and Investigations.—*

*"(1) In general.—A designated officer, employee, or agent of the Secretary—*

*"(A) may inspect and investigate, at a reasonable time and in a reasonable manner, records and property relating to a function described in section 5103(b)(1);*

*"(B) except in the case of packaging immediately adjacent to its hazardous material contents, may gain access to, open, and examine a package offered for, or in, transportation when the officer, employee, or agent has an objectively reasonable and articulable belief that the package may contain a hazardous material;*

*"(C) may remove from transportation a package or related packages in a shipment offered for or in transportation for which—*

*"(i) such officer, employee, or agent has an objectively reasonable and articulable belief that the package may pose an imminent hazard; and*

*"(ii) such officer, employee, or agent contemporaneously documents such belief in accordance with procedures set forth in guidance or regulations prescribed under subsection (e);*

*"(D) may gather information from the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package, to ascertain the nature and hazards of the contents of the package;*

*"(E) as necessary, under terms and conditions specified by the Secretary, may order the offeror, carrier, packaging manufacturer or tester, or other person responsible for the package to have the package transported to, opened, and the contents examined and analyzed, at a facility appropriate for the conduct of such examination and analysis; and*

*"(F) when safety might otherwise be compromised, may authorize properly qualified personnel to assist in the activities conducted under this subsection.*

*"(2) Display of credentials.—An officer, employee, or agent acting under this subsection shall display proper credentials when requested.*

*"(3) Safe resumption of transportation.—In instances when, as a result of an inspection or investigation under this subsection, an imminent hazard is not found to exist, the Secretary, in accordance with procedures set forth in regulations prescribed under subsection (e), shall assist—*

*"(A) in the safe and prompt resumption of transportation of the package concerned; or*

*"(B) in any case in which the hazardous material being transported is perishable, in the safe and expeditious resumption of transportation of the perishable hazardous material.".*

*(d) EMERGENCY AUTHORITY FOR HAZARDOUS MATERIAL TRANSPORTATION.—Section 5121 is amended—*

*(1) by redesignating subsections (d) and (e) as subsections (f) and (h), respectively; and*

*(2) by inserting after subsection (c) the following:*

*"(d) EMERGENCY ORDERS.—*

*"(1) IN GENERAL.—If, upon inspection, investigation, testing, or research, the Secretary determines that a violation of a provision of this chapter, or a regulation prescribed under this chapter, or an unsafe condition or practice, constitutes or is causing an imminent hazard, the Secretary may issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or an opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.*

*"(2) WRITTEN ORDERS.—The action of the Secretary under paragraph (1) shall be in a written emergency order that—*

*"(A) describes the violation, condition, or practice that constitutes or is causing the imminent hazard;*

*"(B) states the restrictions, prohibitions, recalls, or out-of-service orders issued or imposed; and*

*"(C) describes the standards and procedures for obtaining relief from the order.*

*"(3) OPPORTUNITY FOR REVIEW.—After taking action under paragraph (1), the Secretary shall provide for review of the action under section 554 of title 5 if a petition for review is filed within 20 calendar days of the date of issuance of the order for the action.*

*"(4) EXPIRATION OF EFFECTIVENESSS OF ORDER.—If a petition for review of an action is filed under paragraph (3) and the review under that paragraph is not completed by the end of the 30-day period beginning on the date the petition is filed, the action shall cease to be effective at the end of such period unless the Secretary determines, in writing, that the imminent hazard providing a basis for the action continues to exist.*

*"(5) OUT OF SERVICE ORDER DEFINED.—In this subsection, the term 'out-of-service order' means a requirement that an aircraft, vessel, motor vehicle, train, railcar, locomotive, other vehicle, transport unit, transport vehicle, freight container, potable tank, or other package not be moved until specified conditions have been met.*

*"(e) REGULATIONS.—*

*"(1) TEMPORARY REGULATIONS.—Not later than 60 days after the date of enactment of the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005, the Secretary shall issue temporary regulations to carry out subsections (c) and (d). The temporary regulations shall expire on the date of issuance of the regulations under paragraph (2).*

*"(2) FINAL REGULATIONS.—Not later than 1 year after such date of enactment, the Secretary shall issue regulations to carry out subsections (c) and (d) in accordance with subchapter II of chapter 5 of title 5.".*

*(e) GRANTS AND COOPERATIVE AGREEMENTS.—Section 5121 is amended by inserting after subsection (f) (as redesignated by subsection (d)(1) of this section) the following:*

*"(g) GRANTS AND COOPERATIVE AGREEMENTS.—The Secretary may enter into grants and cooperative agreements with a person, agency, or instrumentality of the United States, a unit of State or local government, an Indian tribe, a foreign government (in coordination with the Department of State), an educational institution, or other appropriate entity—*

*"(1) to expand risk assessment and emergency response capabilities with respect to the security of transportation of hazardous material;*

*"(2) to enhance emergency communications capacity as determined necessary by the Secretary, including the use of integrated, interoperable emergency communications technologies where appropriate;*

*"(3) to conduct research, development, demonstration, risk assessment, and emergency response planning and training activities; or*

*"(4) to otherwise carry out this chapter.".*

*(f) REPORT.—Section 5121(h) (as redesignated by subsection (d)(1) of this section) is amended—*

*(1) in the matter preceding paragraph (1) by striking "submit to the President for transmittal to the Congress" and inserting "transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate"; and*

*(2) in paragraph (4) by inserting "relating to a function regulated by the Secretary under section 5103(b)(1)" after "activities".*

### ***SEC. 7119. ENFORCEMENT.***

*(a) IN GENERAL.—Section 5122(a) is amended—*

*(1) in the first sentence by striking "chapter or a regulation prescribed or order" and inserting "chapter or a regulation prescribed or order, special permit, or approval"; and*

*(2) by striking the second sentence and inserting the following: "The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties considering the same penalty amounts and factors as prescribed for the Secretary in an administrative case under section 5123.".*

*(b) IMMINENT HAZARDS.—Section 5122(b)(1)(B) is amended by striking "or ameliorate the" and inserting "or mitigate the".*

### ***SEC. 7120. CIVIL PENALTY.***

*(a) PENALTY.—Section 5123(a) is amended—*

*(1) in paragraph (1)—*

*(A) by striking "regulation prescribed or order issued" and inserting "regulation, order, special permit, or approval issued"; and*

*(B) by striking "$25,000" and inserting "$50,000";*

*(2) by redesignating paragraph (2) as paragraph (4); and*

*(3) by inserting after paragraph (1) the following:*

*"(2) If the Secretary finds that a violation under paragraph (1) results in death, serious illness, or severe injury to any person or substantial destruction of property, the Secretary may increase the amount of the civil penalty for such violation to not more than $100,000.*

*"(3) If the violation is related to training, paragraph (1) shall be applied by substituting '$450' for '$250'.".*

*(b) HEARING REQUIREMENT.—Section 5123(b) is amended by striking "regulation prescribed" and inserting "regulation prescribed or order, special permit, or approval issued".*

*(c) CIVIL ACTIONS TO COLLECT.—Section 5123(d) is amended by striking "section." and inserting "section and any accrued interest on the civil penalty as calculated in accordance with section 1005 of the Oil Pollution Act of 1990 (33 U.S.C. 2705). In the civil action, the amount and appropriateness of the civil penalty shall not be subject to review.".*

*(d) EFFECTIVE DATES.—*

*(1) HEARING REQUIREMENT.—The amendment made by subsection (b) shall take effect on the date of enactment of this Act, and shall apply with respect to violations described in section 5123(a) of title 49, United States Code (as amended by this section), that occur on or after that date.*

*(2) CIVIL ACTIONS TO COLLECT.—The amendment made by subsection (c) shall apply with respect to civil penalties imposed on violations described in section 5123(a) of title 49, United States Code (as amended by this section), that occur on or after the date of enactment of this Act.*

### ***SEC. 7121. CRIMINAL PENALTY.***

*Section 5124 is amended to read as follows:*

***"§5124. Criminal penalty***

*"(a) IN GENERAL.—A person knowingly violating section 5104(b) or willfully or recklessly violating this chapter or a regulation, order, special permit, or approval issued under this chapter shall be fined under title 18, imprisoned for not more than 5 years, or both; except that the maximum amount of imprisonment shall be 10 years in any case in which the violation involves the release of a hazardous material that results in death or bodily injury to any person.*

*"(b) KNOWING VIOLATIONS.—For purposes of this section—*

*"(1) a person acts knowingly when—*

*"(A) the person has actual knowledge of the facts giving rise to the violation; or*

*"(B) a reasonable person acting in the circumstances and exercising reasonable care would have that knowledge; and*

*"(2) knowledge of the existence of a statutory provision, or a regulation or a requirement required by the Secretary, is not an element of an offense under this section.*

*"(c) WILLFUL VIOLATIONS.—For purposes of this section, a person acts willfully when—*

*"(1) the person has knowledge of the facts giving rise to the violation; and*

*"(2) the person has knowledge that the conduct was unlawful.*

*"(d) RECKLESS VIOLATIONS.—For purposes of this section, a person acts recklessly when the person displays a deliberate indifference or conscious disregard to the consequences of that person's conduct.".*

### ***SEC. 7122. PREEMPTION.***

*(a) SUBSTANTIVE DIFFERENCES.—Section 5125(b) is amended—*

*(1) by striking subparagraph (E) of paragraph (1) and inserting the following:*

*"(E) the designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing a package, container, or packaging component that is represented, marked, certified, or sold as qualified for use in transporting hazardous material in commerce."; and*

*(2) by striking "prescribes after November 16, 1990. However, the" in paragraph (2) and inserting "prescribes. The".*

*(b) DECISIONS ON PREEMPTION.—Section 5125(d)(1) is amended in the first sentence by inserting before the period at the end "or section 5119(e)".*

*(c) WAIVER OF PREEMPTION.—Section 5125(e) is amended in the first sentence by inserting before the period at the end "or section 5119(b)".*

*(d) STANDARDS.—Section 5125 is amended by adding at the end the following:*

*"(h) APPLICATION OF EACH PREEMPTION STANDARD.—Each standard for preemption in subsection (b), (c)(1), or (d), and in section 5119(b), is independent in its application to a requirement of a State, political subdivision of a State, or Indian tribe.*

*"(i) NON-FEDERAL ENFORCEMENT STANDARDS.—This section does not apply to any procedure, penalty, required mental state, or other standard utilized by a State, political subdivision of a State, or Indian tribe to enforce a requirement applicable to the transportation of hazardous material.".*

### ***SEC. 7123. JUDICIAL REVIEW.***

*(a) REPEAL.—Section 5125 (as amended by section 7122 of this Act) is further amended—*

*(1) by striking subsection (f);*

*(2) by redesignating subsections (g), (h), and (i) as subsections (f), (g), and (h), respectively; and*

*(3) in subsection (f) (as so redesignated) by moving paragraph (2) (including subparagraphs (A) through (D)) 2 ems to the left.*

(b) JUDICIAL REVIEW.—Chapter 51 is amended by redesignating section 5127 as section 5128 and by inserting after section 5126 the following:

**"§5127. Judicial review**

"(a) FILING AND VENUE.—Except as provided in section 20114(c), a person adversely affected or aggrieved by a final action of the Secretary under this chapter may petition for review of the final action in the United States Court of Appeals for the District of Columbia or in the court of appeals for the United States for the circuit in which the person resides or has its principal place of business. The petition must be filed not more than 60 days after the Secretary's action becomes final.

"(b) JUDICIAL PROCEDURES.—When a petition is filed under subsection (a), the clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary shall file with the court a record of any proceeding in which the final action was issued, as provided in section 2112 of title 28.

"(c) AUTHORITY OF COURT.—The court has exclusive jurisdiction, as provided in subchapter II of chapter 5 of title 5, to affirm or set aside any part of the Secretary's final action and may order the Secretary to conduct further proceedings.

"(d) REQUIREMENT FOR PRIOR OBJECTION.—In reviewing a final action under this section, the court may consider an objection to a final action of the Secretary only if the objection was made in the course of a proceeding or review conducted by the Secretary or if there was a reasonable ground for not making the objection in the proceeding.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 51 is amended by striking the item relating to section 5127 and inserting the following:

"5127. Judicial review.
"5128. Authorization of appropriations.".

### SEC. 7124. RELATIONSHIP TO OTHER LAWS.

Section 5126(a) is amended—

(1) by striking "or causes to be transported hazardous material," and inserting "hazardous material, or causes hazardous material to be transported,";

(2) by striking "manufactures," and all that follows through "or sells" and inserting "designs, manufactures, fabricates, inspects, marks, maintains, reconditions, repairs, or tests a package, container, or packaging component that is represented";

(3) by striking "must" and inserting "shall"; and

(4) by striking "manufacturing," and all that follows through "testing" and inserting "designing, manufacturing, fabricating, inspecting, marking, maintaining, reconditioning, repairing, or testing".

### SEC. 7125. AUTHORIZATION OF APPROPRIATIONS.

Section 5128 (as redesignated by section 7123(b) of this Act) is amended to read as follows:

**"§5128. Authorizations of appropriations**

"(a) IN GENERAL.—In order to carry out this chapter (except sections 5107(e), 5108(g)(2), 5113, 5115, 5116, and 5119), the following amounts are authorized to be appropriated to the Secretary:

"(1) For fiscal year 2005, $24,940,000.

"(2) For fiscal year 2006, $29,000,000.

"(3) For fiscal year 2007, $30,000,000.

"(4) For fiscal year 2008, $30,000,000.

"(b) HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), for each of fiscal years 2005 through 2008 the following:

"(1) To carry out section 5115, $200,000.

"(2) To carry out sections 5116(a) and (b), $21,800,000 to be allocated as follows:

"(A) $5,000,000 to carry out section 5116(a).

"(B) $7,800,000 to carry out section 5116(b).

"(C) Of the amount provided for by this paragraph for a fiscal year in excess of the sub-allocations in subparagraphs (A) and (B)—

"(i) 35 percent shall be used to carry out section 5116(a); and

"(ii) 65 percent shall be used to carry out section 5116(b),

except that the Secretary may increase the proportion to carry out section 5116(b) and decrease the proportion to carry out section 5116(a) if the Secretary determines that such reallocation is appropriate to carry out the intended uses of these funds as described in the applications submitted by States and Indian tribes.

"(3) To carry out section 5116(f), $150,000.

"(4) To publish and distribute the Emergency Response Guidebook under section 5116(i)(3), $625,000.

"(5) To carry out section 5116(j), $1,000,000.

"(c) HAZMAT TRAINING GRANTS.—There shall be available to the Secretary, from the account established pursuant to section 5116(i), to carry out section 5107(e) $4,000,000 for each of fiscal years 2005 through 2008.

"(d) ISSUANCE OF HAZMAT LICENSES.—There are authorized to be appropriated for the Department of Transportation such amounts as may be necessary to carry out section 5103a.

"(e) CREDITS TO APPROPRIATIONS.—The Secretary may credit to any appropriation to carry out this chapter an amount received from a State, Indian tribe, or other public authority or private entity for expenses the Secretary incurs in providing training to the State, authority, or entity.

"(f) AVAILABILITY OF AMOUNTS.—Amounts made available by or under this section remain available until expended.".

### SEC. 7126. REFERENCES TO THE SECRETARY OF TRANSPORTATION.

Chapter 51 is amended by striking "Secretary of Transportation" each place it appears (other than the second place it appears in section 5108(g)(2)(C) and in sections 5102(11), 5103(c), 5103a(c), 5115(a), 5115(c)(3), 5116(i), and 5120(a)) and inserting "Secretary".

### SEC. 7127. CRIMINAL MATTERS.

Section 845(a)(1) of title 18, United States Code, is amended to read as follows:

"(1) aspects of the transportation of explosive materials via railroad, water, highway, or air that pertain to safety, including security, and are regulated by the Department of Transportation or the Department of Homeland Security;".

### SEC. 7128. ADDITIONAL CIVIL AND CRIMINAL PENALTIES.

(a) TITLE 49 PENALTIES.—Section 46312 is amended—

(1) by striking "part—" in subsection (a) and inserting "part or chapter 51—"; and

(2) by inserting "or chapter 51" in subsection (b) after "under this part".

(b) TITLE 18 PENALTIES.—Section 3663(a)(1)(A) of title 18, United States Code, is amended by inserting "5124," before "46312,".

### SEC. 7129. HAZARDOUS MATERIAL TRANSPORTATION PLAN REQUIREMENT.

(a) IN GENERAL.—Subpart I of part 172 of the Department of Transportation's regulations (49 C.F.R. 172.800 et seq.), or any subsequent Department of Transportation regulation in pari materia, does not apply to the surface transportation activities of a farmer that are—

(1) in direct support of the farmer's farming operations; and

(2) conducted within a 150-mile radius of those operations.

(b) FARMER DEFINED.—In this section, the term "farmer" means a person—

(1) actively engaged in the production or raising of crops, poultry, livestock, or other agricultural commodities; and

(2) whose gross receipts from the sale of such agricultural commodities or products do not exceed $500,000 annually.

### SEC. 7130. DETERMINING AMOUNT OF UNDECLARED SHIPMENTS OF HAZARDOUS MATERIALS ENTERING THE UNITED STATES.

(a) STUDY.—The Comptroller General shall review existing options and determine additional options for discovering the amount of undeclared shipments of hazardous materials (as defined in section 5101 of title 49, United States Code) entering the United States.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study.

### SEC. 7131. HAZARDOUS MATERIALS RESEARCH PROJECTS.

(a) IN GENERAL.—The Administrator of the Pipeline and Hazardous Materials Safety Administration shall enter into a contract with the National Academy of Sciences to carry out the 9 research projects called for in the 2005 Special Report 283 of the Transportation Research Board entitled "Cooperative Research for Hazardous Materials Transportation: Defining the Need, Converging on Solutions". In carrying out the research projects, the National Academy of Sciences shall consult with the Administrator.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the need to establish a cooperative research program on hazardous materials transportation.

(c) FUNDING.—Of the amounts made available by section 5101(a)(1) of this Act, $1,250,000 for each of fiscal years 2006 through 2009 shall be available to carry out this section.

### SEC. 7132. NATIONAL FIRST RESPONDER TRANSPORTATION INCIDENT RESPONSE SYSTEM.

(a) IN GENERAL.—The Secretary shall provide funding to the Operation Respond Institute to design, build, and operate a seamless first responder hazardous materials incident detection, preparedness, and response system.

(b) EXPANSION.—This system shall include an expansion of the Operation Respond Emergency Information System (OREIS).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section $2,500,000 for each of fiscal years 2005 through 2008.

### SEC. 7133. COMMON CARRIER PIPELINE SYSTEM.

(a) STUDY.—The Secretary shall conduct a study of the economic, environmental, and homeland security advantages and disadvantages of operating a common carrier pipeline system in the States of Texas, Louisiana, Mississippi, and Alabama for the transportation of aromatic chemicals.

(b) EVALUATION.—In conducting the study, the Secretary shall evaluate the appropriateness of different Federal incentives for the construction and operation of such a pipeline system, including loan guarantees, other types of financial assistance, and various types of tax incentives.

(c) REPORT.—Not later than December 31, 2005, the Secretary shall transmit to Congress a report on the results of the study, including recommendations, if any, for legislation.

## Subtitle B—Sanitary Food Transportation

### SEC. 7201. SHORT TITLE.

This subtitle may be cited as the "Sanitary Food Transportation Act of 2005".

### SEC. 7202. RESPONSIBILITIES OF SECRETARY OF HEALTH AND HUMAN SERVICES.

(a) UNSANITARY TRANSPORT DEEMED ADULTERATION.—Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

"(i) If it is transported or offered for transport by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food under conditions that are not in compliance with regulations promulgated under section 416.".

(b) SANITARY TRANSPORTATION REQUIREMENTS.—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

### "SEC. 416. SANITARY TRANSPORTATION PRACTICES.

"(a) DEFINITIONS.—In this section:

"(1) BULK VEHICLE.—The term 'bulk vehicle' includes a tank truck, hopper truck, rail tank car, hopper car, cargo tank, portable tank, freight container, or hopper bin, and any other vehicle in which food is shipped in bulk, with the food coming into direct contact with the vehicle.

"(2) TRANSPORTATION.—The term 'transportation' means any movement in commerce by motor vehicle or rail vehicle.

"(b) REGULATIONS.—The Secretary shall by regulation require shippers, carriers by motor vehicle or rail vehicle, receivers, and other persons engaged in the transportation of food to use sanitary transportation practices prescribed by the Secretary to ensure that food is not transported under conditions that may render the food adulterated.

"(c) CONTENTS.—The regulations under subsection (b) shall—

"(1) prescribe such practices as the Secretary determines to be appropriate relating to—

"(A) sanitation;

"(B) packaging, isolation, and other protective measures;

"(C) limitations on the use of vehicles;

"(D) information to be disclosed—

"(i) to a carrier by a person arranging for the transport of food; and

"(ii) to a manufacturer or other person that—

"(I) arranges for the transportation of food by a carrier; or

"(II) furnishes a tank vehicle or bulk vehicle for the transportation of food; and

"(E) recordkeeping; and

"(2) include—

"(A) a list of nonfood products that the Secretary determines may, if shipped in a bulk vehicle, render adulterated food that is subsequently transported in the same vehicle; and

"(B) a list of nonfood products that the Secretary determines may, if shipped in a motor vehicle or rail vehicle (other than a tank vehicle or bulk vehicle), render adulterated food that is simultaneously or subsequently transported in the same vehicle.

"(d) WAIVERS.—

"(1) IN GENERAL.—The Secretary may waive any requirement under this section, with respect to any class of persons, vehicles, food, or nonfood products, if the Secretary determines that the waiver—

"(A) will not result in the transportation of food under conditions that would be unsafe for human or animal health; and

"(B) will not be contrary to the public interest.

"(2) PUBLICATION.—The Secretary shall publish in the Federal Register any waiver and the reasons for the waiver.

"(e) PREEMPTION.—

"(1) IN GENERAL.—A requirement of a State or political subdivision of a State that concerns the transportation of food is preempted if—

"(A) complying with a requirement of the State or political subdivision and a requirement of this section, or a regulation prescribed under this section, is not possible; or

"(B) the requirement of the State or political subdivision as applied or enforced is an obstacle to accomplishing and carrying out this section or a regulation prescribed under this section.

"(2) APPLICABILITY.—This subsection applies to transportation that occurs on or after the effective date of the regulations promulgated under subsection (b).

"(f) ASSISTANCE OF OTHER AGENCIES.—The Secretary of Transportation, the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the heads of other Federal agencies, as appropriate, shall provide assistance on request, to the extent resources are available, to the Secretary for the purposes of carrying out this section.".

(c) INSPECTION OF TRANSPORTATION RECORDS.—

(1) REQUIREMENT.—Section 703 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 373) is amended—

(A) by striking the section heading and all that follows through "For the purpose" and inserting the following:

### "SEC. 703. RECORDS.

"(a) IN GENERAL.—For the purpose"; and

(B) by adding at the end the following:

"(b) FOOD TRANSPORTATION RECORDS.—A shipper, carrier by motor vehicle or rail vehicle, receiver, or other person subject to section 416 shall, on request of an officer or employee designated by the Secretary, permit the officer or employee, at reasonable times, to have access to and to copy all records that the Secretary requires to be kept under section 416(c)(1)(E).".

(2) CONFORMING AMENDMENT.—Subsection (a) of section 703 of the Federal Food, Drug, and Cosmetic Act (as designated by paragraph (1)(A)) is amended by striking "carriers." and inserting "carriers, except as provided in subsection (b).".

(d) PROHIBITED ACTS; RECORDS INSPECTION.—Section 301(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(e)) is amended by inserting "416," before "504," each place it appears.

(e) UNSAFE FOOD TRANSPORTATION.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

"(hh) The failure by a shipper, carrier by motor vehicle or rail vehicle, receiver, or any other person engaged in the transportation of food to comply with the sanitary transportation practices prescribed by the Secretary under section 416.".

### SEC. 7203. DEPARTMENT OF TRANSPORTATION REQUIREMENTS.

Chapter 57 is amended to read as follows:

## "CHAPTER 57—SANITARY FOOD TRANSPORTATION

"5701. Food Transportation safety inspections.

### "§5701. Food transportation safety inspections

"(a) INSPECTION PROCEDURES.—

"(1) IN GENERAL.—The Secretary of Transportation, in consultation with the Secretary of Health and Human Services and the Secretary of Agriculture, shall establish procedures for transportation safety inspections for the purpose of identifying suspected incidents of contamination or adulteration of—

"(A) food in violation of regulations promulgated under section 416 of the Federal Food, Drug, and Cosmetic Act;

"(B) a carcass, part of a carcass, meat, meat food product, or animal subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672); and

"(C) poultry products or poultry subject to detention under section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a).

"(2) TRAINING.—

"(A) IN GENERAL.—The Secretary of Transportation shall develop and carry out a training program to conduct enforcement of this chapter and regulations prescribed under this chapter or compatible State laws and regulations.

"(B) CONDUCT.—In carrying out this paragraph, the Secretary of Transportation shall train inspectors, including Department of Transportation personnel, State employees described under subsection (c), or personnel paid with funds authorized under sections 31102 and 31104, in the recognition of adulteration problems associated with the transportation of cosmetics, devices, drugs, food, and food additives and in the procedures for obtaining assistance of the appropriate departments, agencies, and instrumentalities of the Government and State authorities to support the enforcement.

"(3) APPLICABILITY.—The procedures established under paragraph (1) shall apply, at a minimum, to Department of Transportation personnel that perform commercial motor vehicle or railroad safety inspections.

"(b) NOTIFICATION OF SECRETARY OF HEALTH AND HUMAN SERVICES OR SECRETARY OF AGRICULTURE.—The Secretary of Transportation shall promptly notify the Secretary of Health and Human Services or the Secretary of Agriculture, as applicable, of any instances of potential food contamination or adulteration of a food identified during transportation safety inspections.

"(c) USE OF STATE EMPLOYEES.—The means by which the Secretary of Transportation carries out subsection (b) may include inspections conducted by State employees using funds authorized to be appropriated under sections 31102 through 31104.".

### SEC. 7204. EFFECTIVE DATE.

This subtitle takes effect on October 1, 2005.

## Subtitle C—Research and Innovative Technology Administration

### SEC. 7301. ADMINISTRATIVE AUTHORITY.

Section 112 is amended by adding at the end the following:

"(e) ADMINISTRATIVE AUTHORITIES.—The Administrator may enter into grants and cooperative agreements with Federal agencies, State and local government agencies, other public entities, private organizations, and other persons—

"(1) to conduct research into transportation service and infrastructure assurance; and

"(2) to carry out other research activities of the Administration.".

## TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE

### SEC. 8001. DISCRETIONARY SPENDING LIMITS FOR THE HIGHWAY AND MASS TRANSIT CATEGORIES.

(a) LIMITS.—Redesignate paragraphs (2) through (9) of section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 as paragraphs (6) through (13), respectively, and strike paragraph (1) of such section 251(c) and insert the following new paragraphs:

"(1) with respect to fiscal year 2005—

"(A) for the highway category: $31,277,000,000 in outlays;

"(B) for the mass transit category: $955,792,000 in new budget authority and $6,674,000,000 in outlays;

"(2) with respect to fiscal year 2006—

"(A) for the highway category: $33,942,000,000 in outlays;

"(B) for the mass transit category: $1,643,000,000 in new budget authority and $7,359,000,000 in outlays;

"(3) with respect to fiscal year 2007—

"(A) for the highway category: $36,960,000,000 in outlays;

"(B) for the mass transit category: $1,712,000,000 in new budget authority and $8,120,000,000 in outlays;

*"(4) with respect to fiscal year 2008—*

*"(A) for the highway category: $39,123,000,000 in outlays;*

*"(B) for the mass transit category: $1,858,000,000 in new budget authority and $8,742,000,000 in outlays;*

*"(5) with respect to fiscal year 2009—*

*"(A) for the highway category: $40,660,000,000 in outlays;*

*"(B) for the mass transit category: $1,977,500,000 in new budget authority and $9,180,000,000 in outlays;".*

*(b) Definitions.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—*

*(1) in subparagraph (B)—*

*(A) by striking "the Transportation Equity Act for the 21st Century" and all that follows through the colon and inserting: "the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users:"; and*

*(B) by adding at the end thereof the following new clauses:*

*"(v) 69–8362–0–7–401 (National Driver Registry).*

*"(vi) 69–8159–0–7–401 (Motor Carrier Safety Operations and Programs).*

*"(vii) 06–8158–0–7–401 (Motor Carrier Safety Grants)."; and*

*(2) by striking subparagraph (C) and inserting the following:*

*"(C) Mass transit category.—The term 'mass transit category' means the following budget accounts, or portions of the accounts, that are subject to the obligation limitations on contract authority provided in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or for which appropriations are provided in accordance with authorizations contained in that Act:*

*"(i) 69–1120–0–1–401 (Administrative Expenses).*

*"(ii) 69–1134–0–1–401 (Capital Investment Grants).*

*"(iii) 69–8191–0–7–401 (Discretionary Grants).*

*"(iv) 69–1129–0–1–401 (Formula Grants).*

*"(v) 69–1127–0–1–401 (Interstate Transfer Grants—Transit).*

*"(vi) 69–1125–0–1–401 (Job Access and Reverse Commute).*

*"(vii) 69–1122–0–1–401 (Miscellaneous Expired Accounts).*

*"(viii) 69–1121–0–1–401 (Research, Training and Human Resources).*

*"(ix) 69–8350–0–7–401 (Trust Fund Share of Expenses).*

*"(x) 69–1137–0–1–401 (Transit Planning and Research).*

*"(xi) 69–1136–0–1–401 (University Transportation Research).*

*"(xii) 69–1128–0–1–401 (Washington Metropolitan Area Transit Authority).".*

### SEC. 8002. ADJUSTMENTS TO ALIGN HIGHWAY SPENDING WITH REVENUES.

*Subparagraphs (B) through (E) of section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 are amended to read as follows:*

*"(B) Adjustment to align highway spending with revenues.—(i) When the President submits the budget under section 1105 of title 31, United States Code, OMB shall calculate and the budget shall make adjustments to the highway category for the budget year and each outyear as provided in clause (ii)(I)(cc).*

*"(ii)(I)(aa) OMB shall take the actual level of highway receipts for the year before the current year and subtract the sum of the estimated level of highway receipts in subclause (II) plus any amount previously calculated under item (bb) for that year.*

*"(bb) OMB shall take the current estimate of highway receipts for the current year and subtract the estimated level of receipts for that year.*

*"(cc) OMB shall add one-half of the sum of the amount calculated under items (aa) and (bb) to the obligation limitations set forth in the section 8003 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and, using current estimates, calculate the outlay change resulting from the change in obligations for the budget year and the first outyear and the outlays flowing therefrom through subsequent fiscal years. After making the calculations under the preceding sentence, OMB shall adjust the amount of obligations set forth in that section for the budget year and the first outyear by adding one-half of the sum of the amount calculated under items (aa) and (bb) to each such year.*

*"(II) The estimated level of highway receipts for the purposes of this clause are—*

*"(aa) for fiscal year 2005, $31,562,000,000;*

*"(bb) for fiscal year 2006, $33,712,000,000;*

*"(cc) for fiscal year 2007, $34,623,000,000*

*"(dd) for fiscal year 2008, $35,449,000,000; and*

*"(ee) for fiscal year 2009, $36,220,000,000.*

*"(III) In this clause, the term 'highway receipts' means the governmental receipts credited to the highway account of the Highway Trust Fund.*

*"(C) In addition to the adjustment required by subparagraph (B), when the President submits the budget under section 1105 of title 31, United States Code, for fiscal year 2007, 2008, or 2009, OMB shall calculate and the budget shall include for the budget year and each outyear an adjustment to the limits on outlays for the highway category and the mass transit category equal to—*

*"(i) the outlays for the applicable category calculated assuming obligation levels consistent with the estimates prepared pursuant to subparagraph (D), as adjusted, using current technical assumptions; minus*

*"(ii) the outlays for the applicable category set forth in the subparagraph (D) estimates, as adjusted.*

*"(D)(i) When OMB and CBO submit their final sequester report for fiscal year 2006, that report shall include an estimate of the outlays for each of the categories that would result in fiscal years 2007 through 2010 from obligations at the levels specified in section 8003 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users using current assumptions.*

*"(ii) When the President submits the budget under section 1105 of title 31, United States Code, for fiscal year 2007, 2008, 2009, or 2010, OMB shall adjust the estimates made in clause (i) by the adjustments by subparagraphs (B) and (C).*

*"(E) OMB shall consult with the Committees on the Budget and include a report on adjustments under subparagraphs (B) and (C) in the preview report.".*

### SEC. 8003. LEVEL OF OBLIGATION LIMITATIONS.

*(a) Highway Category.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the highway category is—*

*(1) for fiscal year 2005, $35,164,292,000;*

*(2) for fiscal year 2006, $37,220,843,903;*

*(3) for fiscal year 2007, $39,460,710,516;*

*(4) for fiscal year 2008, $40,824,075,404; and*

*(5) for fiscal year 2009, $42,469,970,178.*

*(b) Mass Transit Category.—For the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the level of obligation limitations for the mass transit category is—*

*(1) for fiscal year 2005, $7,646,336,000;*

*(2) for fiscal year 2006, $8,622,931,000;*

*(3) for fiscal year 2007, $8,974,775,000;*

*(4) for fiscal year 2008, $9,730,893,000; and*

*(5) for fiscal year 2009, $10,338,065,000.*

*For purposes of this subsection, the term "obligation limitations" means the sum of budget authority and obligation limitations.*

### SEC. 8004. ENFORCEMENT OF GUARANTEE.

*Clause 3 of rule XXI of the Rules of the House of Representatives is amended—*

*(1) by striking "section 8103 of the Transportation Equity Act for the 21st Century" and inserting "section 8003 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users"; and*

*(2) by adding at the end the following: "For purposes of this clause, any obligation limitation relating to surface transportation projects under section 1602 of the Transportation Equity Act for the 21st Century and section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users shall be assumed to be administered on the basis of sound program management practices that are consistent with past practices of the administering agency permitting States to decide High Priority Project funding priorities within State program allocations.".*

### SEC. 8005. TRANSFER OF FEDERAL TRANSIT ADMINISTRATIVE EXPENSES.

*For purposes of clauses 2 and 3 of rule XXI of the House of Representatives, it shall be in order to transfer funds, in amounts specified in annual appropriation Acts to carry out the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (including the amendments made by that Act), from the Federal Transit Administration's administrative expenses account to other mass transit budget accounts under section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985.*

## TITLE IX—RAIL TRANSPORTATION

### SEC. 9001. HIGH-SPEED RAIL CORRIDOR DEVELOPMENT.

*(a) Corridor Development.—*

*(1) Amendments.—Section 26101 of title 49, United States Code, is amended—*

*(A) in the section heading, by striking "**planning**" and inserting "**development**";*

*(B) in the heading of subsection (a), by striking "Planning" and inserting "Development";*

*(C) by striking "corridor planning" each place it appears and inserting "corridor development";*

*(D) in subsection (b)(1)—*

*(i) by inserting ", or if it is an activity described in subparagraph (M)" after "high-speed rail improvements";*

*(ii) by striking "and" at the end of subparagraph (K);*

*(iii) by striking the period at the end of subparagraph (L) and inserting "; and"; and*

*(iv) by adding at the end the following new subparagraph:*

*"(M) the acquisition of locomotives, rolling stock, track, and signal equipment."; and*

*(E) in subsection (c)(2), by striking "planning" and inserting "development".*

*(2) Conforming amendment.—The item relating to section 26101 in the table of sections of chapter 261 of title 49, United States Code, is amended by striking "planning" and inserting "development".*

*(b) Authorization of Appropriations.—Section 26104 of title 49, United States Code, is amended to read as follows:*

**"§ 26104. Authorization of appropriations**

*"(a) Fiscal Years 2006 Through 2013.—There are authorized to be appropriated to the Secretary—*

*"(1) $70,000,000 for carrying out section 26101; and*

*"(2) $30,000,000 for carrying out section 26102, for each of the fiscal years 2006 through 2013.*

*"(b) Funds to Remain Available.—Funds made available under this section shall remain available until expended.".*

(c) DEFINITION.—Section 26105(1) of title 49, United States Code, is amended by striking "and cooperative agreements" and inserting ", cooperative agreements, and other transactions".

## SEC. 9002. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS.

(a) ESTABLISHMENT OF PROGRAM.—

(1) PROGRAM REQUIREMENTS.—Chapter 201 of title 49, United States Code, is amended by adding at the end of subchapter II the following:

### "§20154. Capital grants for rail line relocation projects

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Transportation shall carry out a grant program to provide financial assistance for local rail line relocation and improvement projects.

"(b) ELIGIBILITY.—A State is eligible for a grant under this section for any construction project for the improvement of the route or structure of a rail line that either—

"(1) is carried out for the purpose of mitigating the adverse effects of rail traffic on safety, motor vehicle traffic flow, community quality of life, or economic development; or

"(2) involves a lateral or vertical relocation of any portion of the rail line.

"(c) CONSIDERATIONS FOR APPROVAL OF GRANT APPLICATIONS.—In determining whether to award a grant to an eligible State under this section, the Secretary shall consider the following factors:

"(1) The capability of the State to fund the rail line relocation project without Federal grant funding.

"(2) The requirement and limitation relating to allocation of grant funds provided in subsection (d).

"(3) Equitable treatment of the various regions of the United States.

"(4) The effects of the rail line, relocated or improved as proposed, on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce.

"(5) The effects of the rail line, relocated as proposed, on the freight and passenger rail operations on the rail line.

"(d) ALLOCATION REQUIREMENTS.—At least 50 percent of all grant funds awarded under this section out of funds appropriated for a fiscal year shall be provided as grant awards of not more than $20,000,000 each. The $20,000,000 amount shall be adjusted by the Secretary to reflect inflation for fiscal years beginning after fiscal year 2006.

"(e) NON-FEDERAL SHARE.—

"(1) PERCENTAGE.—A State or other non-Federal entity shall pay at least 10 percent of the shared costs of a project that is funded in part by a grant awarded under this section.

"(2) FORMS OF CONTRIBUTIONS.—The share required by paragraph (1) may be paid in cash or in kind.

"(3) IN-KIND CONTRIBUTIONS.—The in-kind contributions that are permitted to be counted under paragraph (2) for a project for a State or other non-Federal entity are as follows:

"(A) A contribution of real property or tangible personal property (whether provided by the State or a person for the State).

"(B) A contribution of the services of employees of the State or other non-Federal entity, calculated on the basis of costs incurred by the State or other non-Federal entity for the pay and benefits of the employees, but excluding overhead and general administrative costs.

"(C) A payment of any costs that were incurred for the project before the filing of an application for a grant for the project under this section, and any in-kind contributions that were made for the project before the filing of the application, if and to the extent that the costs were incurred or in-kind contributions were made, as the case may be, to comply with a provision of a statute required to be satisfied in order to carry out the project.

"(4) FINANCIAL CONTRIBUTION FROM PRIVATE ENTITIES.—

"(A) The Secretary shall require a State to submit a description of the anticipated public and private benefits associated with each rail line relocation or improvement project described in subsection (a). The determination of such benefits shall be developed in consultation with the owner and user of the rail line being relocated or improved or other private entity involved in the project.

"(B) The Secretary shall consider the feasibility of seeking financial contributions or commitments from private entities involved with the project in proportion to the expected benefits determined under subparagraph (A) that accrue to such entities from the project.

"(f) AGREEMENTS TO COMBINE AMOUNTS.—Two or more States (not including political subdivisions of States) may, pursuant to an agreement entered into by the States, combine any part of the amounts provided through grants for a project under this section if—

"(1) the project will benefit each of the States entering into the agreement; and

"(2) the agreement is not a violation of a law of any such State.

"(g) REGULATIONS.—The Secretary shall prescribe regulations for carrying out this section.

"(h) DEFINITIONS.—In this section:

"(1) CONSTRUCTION.—The term 'construction' means the supervising, inspecting, actual building, and incurrence of all costs incidental to the construction or reconstruction of a project described under subsection (b)(1) of this section, including bond costs and other costs relating to the issuance of bonds or other debt financing instruments and costs incurred by the State in performing project related audits, and includes—

"(A) locating, surveying, and mapping;

"(B) track installation, restoration, and rehabilitation;

"(C) acquisition of rights-of-way;

"(D) relocation assistance, acquisition of replacement housing sites, and acquisition and rehabilitation, relocation, and construction of replacement housing;

"(E) elimination of obstacles and relocation of utilities; and

"(F) and other activities defined by the Secretary.

"(2) QUALITY OF LIFE.—The term 'quality of life' includes first responders' emergency response time, the environment, noise levels, and other factors as determined by the Secretary.

"(3) STATE.—The term 'State' includes, except as otherwise specifically provided, a political subdivision of a State, and the District of Columbia.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for use in carrying out this section $350,000,000 for each of the fiscal years 2006 through 2009.".

(2) CLERICAL AMENDMENT.—The chapter analysis for such chapter is amended by adding at the end the following:

"20154. Capital grants for rail line relocation projects.".

(b) REGULATIONS.—

(1) TEMPORARY REGULATIONS.—Not later than April 1, 2006, the Secretary of Transportation shall issue temporary regulations to implement the grant program under section 20154 of title 49, United States Code, as added by subsection (a). Subchapter II of chapter 5 of title 5, United States Code, shall not apply to the issuance of a temporary regulation under this subsection or of any amendment of such a temporary regulation.

(2) FINAL REGULATIONS.—Not later than October 1, 2006, the Secretary shall issue final regulations implementing the program.

## SEC. 9003. REHABILITATION AND IMPROVEMENT FINANCING.

(a) DEFINITIONS.—Section 102(7) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 802(7)) is amended to read as follows:

"(7) 'railroad' has the meaning given that term in section 20102 of title 49, United States Code; and".

(b) GENERAL AUTHORITY.—Section 502(a) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(a)) is amended to read as follows:

"(a) GENERAL AUTHORITY.—The Secretary shall provide direct loans and loan guarantees to—

"(1) State and local governments;

"(2) interstate compacts consented to by Congress under section 410(a) of the Amtrak Reform and Accountability Act of 1997 (49 U.S.C. 24101 nt);

"(3) government sponsored authorities and corporations;

"(4) railroads;

"(5) joint ventures that include at least 1 railroad; and

"(6) solely for the purpose of constructing a rail connection between a plant or facility and a second rail carrier, limited option rail freight shippers that own or operate a plant or other facility that is served by no more than a single railroad.".

(c) PRIORITY PROJECTS.—Section 502(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(c)) is amended—

(1) by striking "or" after the semicolon in paragraph (5);

(2) by striking "areas." in paragraph (6) and inserting "areas;"; and

(3) by adding at the end the following:

"(7) enhance service and capacity in the national rail system; or

"(8) would materially alleviate rail capacity problems which degrade the provision of service to shippers and would fulfill a need in the national transportation system.".

(d) EXTENT OF AUTHORITY.—Section 502(d) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(d)) is amended—

(1) by striking "$3,500,000,000" and inserting "$35,000,000,000";

(2) by striking "$1,000,000,000" and inserting "$7,000,000,000"; and

(3) by adding at the end "The Secretary shall not establish any limit on the proportion of the unused amount authorized under this subsection that may be used for 1 loan or loan guarantee.".

(e) COHORTS OF LOANS.—Section 502(f) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(f)) is amended—

(1) by striking "and" after the semicolon in subparagraph (D) of paragraph (2);

(2) by redesignating subparagraph (E) of paragraph (2) as subparagraph (F);

(3) by adding after subparagraph (D) of paragraph (2) the following:

"(E) the size and characteristics of the cohort of which the loan or loan guarantee is a member; and"; and

(4) by adding at the end of paragraph (4) "A cohort may include loans and loan guarantees. The Secretary shall not establish any limit on the proportion of a cohort that may be used for 1 loan or loan guarantee.".

(f) CONDITIONS OF ASSISTANCE.—

(1) ASSURANCES.—Section 502(h) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822(h)) is amended—

(A) by inserting "(1)" before "The Secretary";

(B) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C); and

*(C) by adding at the end the following:*

*"(2) The Secretary shall not require an applicant for a direct loan or loan guarantee under this section to provide collateral. Any collateral provided or thereafter enhanced shall be valued as a going concern after giving effect to the present value of improvements contemplated by the completion and operation of the project. The Secretary shall not require that an applicant for a direct loan or loan guarantee under this section have previously sought the financial assistance requested from another source.*

*"(3) The Secretary shall require recipients of direct loans or loan guarantees under this section to comply with—*

*"(A) the standards of section 24312 of title 49, United States Code, as in effect on September 1, 2002, with respect to the project in the same manner that the National Railroad Passenger Corporation is required to comply with such standards for construction work financed under an agreement made under section 24308(a) of that title; and*

*"(B) the protective arrangements established under section 504 of this Act, with respect to employees affected by actions taken in connection with the project to be financed by the loan or loan guarantee.".*

*(2) TECHNICAL CORRECTION.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by striking "offered;" in subsection (f)(2)(A) and inserting "offered, if any;".*

*(g) TIME LIMIT AND REPAYMENT SCHEDULES.—Section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822) is amended by adding at the end the following:*

*"(i) TIME LIMIT FOR APPROVAL OR DISAPPROVAL.—Not later than 90 days after receiving a complete application for a direct loan or loan guarantee under this section, the Secretary shall approve or disapprove the application.*

*"(j) REPAYMENT SCHEDULES.—*

*"(1) IN GENERAL.—The Secretary shall establish a repayment schedule requiring payments to commence not later than the sixth anniversary date of the original loan disbursement.*

*"(2) ACCRUAL.—Interest shall accrue as of the date of disbursement, and shall be amortized over the remaining term of the loan beginning at the time the payments begin.".*

*(h) EVALUATION CHARGE.—Section 503(k) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823(k)) is amended—*

*(1) in the subsection heading, by striking "INVESTIGATION" and inserting "EVALUATION";*

*(2) by inserting "the cost of evaluating the application, including" after "reasonable charge for"; and*

*(3) by adding at the end the following: "Amounts collected under this subsection shall be credited directly to the Safety and Operations account of the Federal Railroad Administration, and shall remain available until expended to pay for the evaluation costs described in this subsection.".*

*(i) FEES AND CHARGES.—Section 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 823) is amended by adding at the end the following new subsection:*

*"(l) FEES AND CHARGES.—Except as provided in this title, the Secretary may not assess any fees, including user fees, or charges in connection with a direct loan or loan guarantee provided under section 502.".*

*(j) SUBSTANTIVE CRITERIA AND STANDARDS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Transportation shall publish in the Federal Register and post on the Department of Transportation website the substantive criteria and standards used by the Secretary to determine whether to approve or disapprove applications submitted under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822). The Secretary of Transportation shall ensure adequate procedures and guidelines are in place to permit the filing of complete applications within 30 days of such publication.*

### SEC. 9004. REPORT REGARDING IMPACT ON PUBLIC SAFETY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

*(a) STUDY.—The Secretary of Transportation shall, in consultation with State and local government officials, conduct a study of the impact of blocked highway-railroad grade crossings on the ability of emergency responders to perform public safety and security duties.*

*(b) REPORT ON THE IMPACT OF BLOCKED HIGHWAY-RAILROAD GRADE CROSSINGS ON EMERGENCY RESPONDERS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit the results of the study and recommendations for reducing the impact of blocked crossings on emergency response to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.*

### SEC. 9005. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

*(a) TRACK STANDARDS.—Section 20142 of title 49, United States Code, is amended by adding at the end the following new subsection:*

*"(e) TRACK STANDARDS.—*

*"(1) IN GENERAL.—Within 90 days after the date of enactment of this subsection, the Federal Railroad Administration shall—*

*"(A) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;*

*"(B) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and*

*"(C) establish a program to review continuous welded rail joint bar inspection data from railroads and Administration track inspectors periodically.*

*"(2) INSPECTION.—Whenever the Administration determines that it is necessary or appropriate, the Administration may require railroads to increase the frequency of inspection, or improve the methods of inspection, of joint bars in continuous welded rail.".*

*(b) TANK CAR STANDARDS.—*

*(1) AMENDMENT.—Subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new section:*

***"§20155. Tank cars***

*"(a) STANDARDS.—The Federal Railroad Administration shall—*

*"(1) validate a predictive model to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions within 1 year after the date of enactment of this section; and*

*"(2) initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars within 18 months after the date of enactment of this section.*

*"(b) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 1 year after the date of enactment of this section the Federal Railroad Administration shall conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989. Within 6 months after completing that analysis the Administration shall transmit a report, including recommendations for reducing any risk of catastrophic fracture and separation of such cars, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.".*

*(2) TABLE OF SECTIONS AMENDMENT.—The table of sections for subchapter II of chapter 201 of title 49, United States Code, is amended by adding at the end the following new item:*

*"20155. Tank cars.".*

### SEC. 9006. ALASKA RAILROAD.

*(a) GRANTS.—The Secretary shall make grants to the Alaska Railroad for capital rehabilitation and improvements benefiting its passenger operations.*

*(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.*

### SEC. 9007. STUDY OF RAIL TRANSPORTATION AND REGULATION.

*(a) REQUIREMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation shall enter into an arrangement with the Transportation Research Board of the National Academy of Sciences to conduct a comprehensive study of the Nation's railroad transportation system since the enactment of the Staggers Rail Act of 1980. The study shall address and make recommendations on—*

*(1) the performance of the Nation's major railroads regarding service levels, service quality, and rates;*

*(2) the projected demand for freight transportation over the next two decades and the constraints limiting the railroads' ability to meet that demand;*

*(3) the effectiveness of public policy in balancing the need for railroads to earn adequate returns with those of shippers for reasonable rates and adequate service; and*

*(4) the future role of the Surface Transportation Board in regulating railroad rates, service levels, and the railroads' common carrier obligations, particularly as railroads may become revenue adequate.*

*(b) REPORT TO CONGRESS.—Not later than 1 year after the Secretary and the Transportation Research Board enter into the arrangement for the study, the Secretary shall transmit the results of the study conducted under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation $1,000,000 for fiscal year 2006 and $800,000 for fiscal year 2007 to carry out this section. Such sums are to remain available until expended.*

### SEC. 9008. HAWAII PORT INFRASTRUCTURE EXPANSION PROGRAM.

*(a) IN GENERAL.—Amounts appropriated or otherwise made available for any fiscal year for an intermodal or marine facility comprising a component of the Hawaii Port Infrastructure Expansion Program, and any non-Federal contributions made available for that program, shall be—*

*(1) transferred to and administered by the Administrator of the Maritime Administration; and*

*(2) subject only to such conditions and requirements as may be required by the Maritime Administration.*

*(b) INTERMODAL AUTHORIZATIONS.—*

*(1) INTERMODAL CENTERS.—Notwithstanding any other provision of law, an intermodal or marine facility described in subsection (a) is eligible for funding under section 5309(m)(1)(C) of title 49, United States Code.*

*(2) INTERMODAL SURFACE FREIGHT TRANSFER FACILITY ELIGIBILITY.—Notwithstanding any other provision of law, an intermodal or marine facility described in subsection (a) is deemed to*

*be eligible to be an intermodal surface freight transfer facility for the purposes of section 181(9)(D) of title 23, United States Code.*

*(c) AUTHORIZATION OF APPROPRIATIONS.—*

*(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out this section.*

*(2) NO LIMITATION.—Nothing in paragraph (1) shall be construed—*

*(A) to limit or prevent the transfer or administration under subsection (a) of any funds appropriated or otherwise made available pursuant to any other authorization of appropriations or by any appropriations Act; or*

*(B) to limit the application of subsection (b) to title 49, United States Code.*

## TITLE X—MISCELLANEOUS PROVISIONS

### Subtitle A—Sportfishing and Recreational Boating Safety

### SEC. 10101. SHORT TITLE.

*This subtitle may be cited as the "Sportfishing and Recreational Boating Safety Act of 2005".*

## CHAPTER 1—DINGELL-JOHNSON SPORT FISH RESTORATION ACT AMENDMENTS

### SEC. 10111. AMENDMENT OF DINGELL-JOHNSON SPORT FISH RESTORATION ACT.

*Except as otherwise expressly provided, whenever in this chapter an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 et seq.).*

### SEC. 10112. AUTHORIZATION OF APPROPRIATIONS.

*(a) IN GENERAL.—Section 3 (16 U.S.C. 777b) is amended—*

*(1) by striking "the succeeding fiscal year." in the third sentence and inserting "succeeding fiscal years."; and*

*(2) by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport and recreation." and inserting "to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States, as provided for in section 4(c).".*

*(b) CONFORMING AMENDMENTS.—*

*(1) IN GENERAL.—The first sentence of section 3 (16 U.S.C. 777b) is amended—*

*(A) by striking "Sport Fish Restoration Account" and inserting "Sport Fish Restoration and Boating Trust Fund"; and*

*(B) by striking "that Account" and inserting "that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986".*

*(2) EFFECTIVE DATE.—The amendments made by paragraph (1) take effect on October 1, 2005.*

### SEC. 10113. DIVISION OF ANNUAL APPROPRIATIONS.

*Section 4 (16 U.S.C. 777c) is amended—*

*(1) by striking subsections (a) through (c) and redesignating subsections (d), (e), (f), and (g) as subsections (b), (c), (d), and (e), respectively;*

*(2) by inserting before subsection (b), as redesignated by paragraph (1), the following:*

*"(a) IN GENERAL.—For each of fiscal years 2006 through 2009, the balance of each annual appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:*

*"(1) COASTAL WETLANDS.—An amount equal to 18.5 percent to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3951 et seq.).*

*"(2) BOATING SAFETY.—An amount equal to 18.5 percent to the Secretary of the department in which the Coast Guard is operating for State recreational boating safety programs under section 13106 of title 46, United States Code.*

*"(3) CLEAN VESSEL ACT.—An amount equal to 2.0 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).*

*"(4) BOATING INFRASTRUCTURE.—An amount equal to 2.0 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)).*

*"(5) NATIONAL OUTREACH AND COMMUNICATIONS.—An amount equal to 2.0 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this Act. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (c) of this section.";*

*(3) by striking (b)(1)(A), as redesignated by paragraph (1), and inserting the following:*

*"(A) SET-ASIDE FOR ADMINISTRATION.—From the annual appropriation made in accordance with section 3, for each of fiscal years 2006 through 2009, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this Act, in accordance with this section and section 9. The amount specified in subparagraph (B) for a fiscal year may not be included in the amount of the annual appropriation distributed under subsection (a) for the fiscal year.";*

*(4) by striking "Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), (c), and (d), respectively, and after deducting amounts used for grants under section 14, shall apportion the remainder" in subsection (c), as redesignated by paragraph (1), and inserting "Secretary, for each of fiscal years 2006 through 2009, after the distribution, transfer, use and deduction under subsection (b), and after deducting amounts used for grants under section 14 of this title, shall apportion 57 percent of the balance";*

*(5) by striking "per centum" each place it appears in subsection (c), as redesignated by paragraph (1), and inserting "percent";*

*(6) by striking "subsections (a), (b)(3)(A), (b)(3)(B), and (c)" in paragraph (1) of subsection (e), as redesignated by paragraph (1), and inserting "paragraphs (1), (3), (4), and (5) of subsection (a)"; and*

*(7) by adding at the end the following:*

*"(f) TRANSFER OF CERTAIN FUNDS.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary of the Interior after 3 fiscal years shall be transferred to the Secretary of the department in which the Coast Guard is operating and shall be expended for State recreational boating safety programs under section 13106(a) of title 46, United States Code.".*

### SEC. 10114. MAINTENANCE OF PROJECTS.

*Section 8 (16 U.S.C. 777g) is amended—*

*(1) by striking "in carrying out the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation." in subsection (b)(2) and inserting "to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(c)."; and*

*(2) by striking "subsection (c) or (d)" in subsection (d)(3) and inserting "subsection (a)(5) or subsection (b)".*

### SEC. 10115. BOATING INFRASTRUCTURE.

*Section 7404(d)(1) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g–1(d)(1)) is amended by striking "section 4(b)(3)(B) of the Act entitled 'An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes,' approved August 9, 1950, as amended by this Act," and inserting "section 4(a)(4) of the Dingell-Johnson Sport Fish Restoration Act".*

### SEC. 10116. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.

*Section 9 (16 U.S.C. 777h) is amended—*

*(1) by striking "section 4(d)(1)" in subsection (a) and inserting "section 4(b)"; and*

*(2) by striking "section 4(d)(1)" in subsection (b)(1) and inserting "section 4(b)".*

### SEC. 10117. PAYMENTS OF FUNDS TO AND COOPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SAMOA, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS.

*Section 12 (16 U.S.C. 777k) is amended by striking "in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation." and inserting "to supplement the 57 percent of the balance of each annual appropriation to be apportioned among the States under section 4(b) of this Act.".*

### SEC. 10118. MULTISTATE CONSERVATION GRANT PROGRAM.

*Section 14 (16 U.S.C. 777m) is amended—*

*(1) by striking so much of subsection (a) as precedes paragraph (2) and inserting the following:*

*"(a) IN GENERAL.—*

*"(1) AMOUNT FOR GRANTS.—For each of fiscal years 2006 through 2009, not more than $3,000,000 of each annual appropriation made in accordance with the provisions of section 3 shall be distributed to the Secretary of the Interior for making multistate conservation project grants in accordance with this section.";*

*(2) by striking "section 4(e)" each place it appears in subsection (a)(2)(B) and inserting "section 4(c)"; and*

*(3) by striking "Of the balance of each annual appropriation made under section 3 remaining after the distribution and use under subsections (a), (b), and (c) of section 4 for each fiscal year and after deducting amounts used for grants under subsection (a)—" in subsection (e) and inserting "Of amounts made available under section 4(b) for each fiscal year—".*

### SEC. 10119. EXPENDITURE OF REMAINING BALANCE IN BOAT SAFETY ACCOUNT.

*The Act is amended by redesignating section 15 (16 U.S.C. 777 note) as section 16, and by inserting after section 14 the following:*

### "SEC. 15. EXPENDITURE OF REMAINING BALANCE IN BOAT SAFETY ACCOUNT.

*"Amounts remaining in the Boat Safety Account on October 1, 2005, and amounts thereafter credited to the Account under section 9602(b) of the Internal Revenue Code of 1986, shall be available, without further appropriation, for making expenditures before October 1, 2010, to carry out the purposes of this section and shall be distributed as follows:*

*"(1) In fiscal year 2006, $28,155,000 shall be distributed—*

*"(A) under section 4 of this Act in the following manner:*

*"(i) $11,200,000 to be added to funds available under subsection (a)(2) of that section;*

*"(ii) $1,245,000 to be added to funds available under subsection (a)(3) of that section;*

*"(iii) $1,245,000 to be added to funds available under subsection (a)(4) of that section;*

*"(iv) $1,245,000 to be added to funds available under subsection (a)(5) of that section; and*

*"(v) $12,800,000 to be added to funds available under subsection (b) of that section; and*

*"(B) under section 14 of this Act, $420,000, to be added to funds available under subsection (a)(1) of that section.*

*"(2) In fiscal year 2007, $22,419,000 shall be distributed—*

*"(A) under section 4 of this Act in the following manner:*

*"(i) $8,075,000 to be added to funds available under subsection (a)(2) of that section;*

*"(ii) $713,000 to be added to funds available under subsection (a)(3) of that section;*

*"(iii) $713,000 to be added to funds available under subsection (a)(4) of that section;*

*"(iv) $713,000 to be added to funds available under subsection (a)(5) of that section; and*

*"(v) $11,925,000 to be added to funds available under subsection (b) of this Act; and*

*"(B) under section 14 of this Act, $280,000 to be added to funds available under subsection (a)(1) of that section.*

*"(3) In fiscal year 2008, $17,139,000 shall be distributed—*

*"(A) under section 4 of this Act in the following manner:*

*"(i) $6,800,000 to be added to funds available under subsection (a)(2) of that section;*

*"(ii) $333,000 to be added to funds available under subsection (a)(3) of that section;*

*"(iii) $333,000 to be added to funds available under subsection (a)(4) of that section;*

*"(iv) $333,000 to be added to funds available under subsection (a)(5) of that section; and*

*"(v) $9,200,000 to be added to funds available under subsection (b) of that section; and*

*"(B) under section 14 of this Act, $140,000, to be added to funds available under subsection (a)(1) of that section.*

*"(4) In fiscal year 2009, $12,287,000 shall be distributed—*

*"(A) under section 4 of this Act in the following manner:*

*"(i) $5,100,000 to be added to funds available under subsection (a)(2) of that section;*

*"(ii) $48,000 to be added to funds available under subsection (a)(3) of that section;*

*"(iii) $48,000 to be added to funds available under subsection (a)(4) of that section;*

*"(iv) $48,000 to be added to funds available under subsection (a)(5) of that section; and*

*"(v) $6,900,000 to be added to funds available under subsection (b) of that section; and*

*"(B) under section 14 of this Act, $143,000, to be added to funds available under subsection (a)(1) of that section.*

*"(5) In fiscal year 2010, all remaining funds in the Account shall be distributed under section 4 of this Act in the following manner:*

*"(A) one-third to be added to funds available under subsection (b); and*

*"(B) two-thirds to be added to funds available under subsection (h).".*

## *CHAPTER 2—CLEAN VESSEL ACT OF 1992 AMENDMENTS*

### *SEC. 10131. GRANT PROGRAM.*

*Section 5604(c)(2) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note) is amended—*

*(1) by striking subparagraph (A);*

*(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and*

*(3) in subparagraph (A), as so redesignated, by striking "receptions" and inserting "reception".*

## *CHAPTER 3—RECREATIONAL BOATING SAFETY PROGRAM AMENDMENTS*

### *SEC. 10141. TECHNICAL CORRECTION.*

*Section 13102(a) of title 46, United States Code, is amended by striking "the Boat Safety Account" and inserting "the Sport Fish Restoration and Boating Trust Fund".*

### *SEC. 10142. AVAILABILITY OF ALLOCATIONS.*

*Section 13104(a) of title 46, United States Code, is amended—*

*(1) by striking "2 years" in paragraph (1) and inserting "3 years"; and*

*(2) by striking "2-year" in paragraph (2) and inserting "3-year".*

### *SEC. 10143. AUTHORIZATION OF APPROPRIATIONS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.*

*Section 13106 of title 46, United States Code, is amended—*

*(1) in subsection (a)(1) by striking "the amount appropriated from the Boat Safety Account for that fiscal year" and inserting "the amount made available from the Boat Safety Account for that fiscal year under section 10119 of the Sportfishing and Recreational Boating Safety Act of 2005";*

*(2) in subsection (a)(1) by striking "section 4(b) of the Act of August 9, 1950 (16 U.S.C. 777c(b))" and inserting "subsection (a)(2) of section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2))";*

*(3) in subsection (a)(2) by striking "not less than one percent and";*

*(4) in subsection (c)(1)—*

*(A) by striking "Secretary of Transportation under paragraph (5)(C) of section 4(b)" and inserting "Secretary under subsection (a)(2) of section 4";*

*(B) by striking "(16 U.S.C. 777c(b))" and inserting "(16 U.S.C. 777c(a)(2)";*

*(C) by striking "$3,333,336" and inserting "$4,266,666";*

*(D) by striking "$1,333,336" and inserting "not less than $2,083,333"; and*

*(5) in subsection (c)(3) by striking "until expended." and inserting "during the 2 succeeding fiscal years. Any amount that is unexpected or unobligated at the end of the 3-year period during which it is available shall be withdrawn by the Secretary and allocated to the States in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.".*

## *Subtitle B—Other Miscellaneous Provisions*

### *SEC. 10201. NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS.*

*The Secretary shall notify each State or political subdivision of a State to which the Secretary awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is funded, in whole or in part, by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004 (15 U.S.C. 567g).*

### *SEC. 10202. EMERGENCY MEDICAL SERVICES.*

*(a) FEDERAL INTERAGENCY COMMITTEE ON EMERGENCY MEDICAL SERVICES.—*

*(1) ESTABLISHMENT.—The Secretary of Transportation, the Secretary of Health and Human Services, and the Secretary of Homeland Security, acting through the Under Secretary for Emergency Preparedness and Response, shall establish a Federal Interagency Committee on Emergency Medical Services.*

*(2) MEMBERSHIP.—The Interagency Committee shall consist of the following officials, or their designees:*

*(A) The Administrator, National Highway Traffic Safety Administration.*

*(B) The Director, Preparedness Division, Directorate of Emergency Preparedness and Response of the Department of Homeland Security.*

*(C) The Administrator, Health Resources and Services Administration, Department of Health and Human Services.*

*(D) The Director, Centers for Disease Control and Prevention, Department of Health and Human Services.*

*(E) The Administrator, United States Fire Administration, Directorate of Emergency Preparedness and Response of the Department of Homeland Security.*

*(F) The Administrator, Centers for Medicare & Medicaid Services, Department of Health and Human Services.*

*(G) The Under Secretary of Defense for Personnel and Readiness.*

*(H) The Director, Indian Health Service, Department of Health and Human Services.*

*(I) The Chief, Wireless Telecommunications Bureau, Federal Communications Commission.*

*(J) A representative of any other Federal agency appointed by the Secretary of Transportation or the Secretary of Homeland Security through the Under Secretary for Emergency Preparedness and Response, in consultation with the Secretary of Health and Human Services, as having a significant role in relation to the purposes of the Interagency Committee.*

*(K) A State emergency medical services director appointed by the Secretary.*

*(3) PURPOSES.—The purposes of the Interagency Committee are as follows:*

*(A) To ensure coordination among the Federal agencies involved with State, local, tribal, or regional emergency medical services and 9–1–1 systems.*

*(B) To identify State, local, tribal, or regional emergency medical services and 9–1–1 needs.*

*(C) To recommend new or expanded programs, including grant programs, for improving State, local, tribal, or regional emergency medical services and implementing improved emergency medical services communications technologies, including wireless 9–1–1.*

*(D) To identify ways to streamline the process through which Federal agencies support State, local, tribal or regional emergency medical services.*

*(E) To assist State, local, tribal or regional emergency medical services in setting priorities based on identified needs.*

*(F) To advise, consult, and make recommendations on matters relating to the implementation of the coordinated State emergency medical services programs.*

*(4) ADMINISTRATION.—The Administrator of the National Highway Traffic Safety Administration, in cooperation with the Administrator of the Health Resources and Services Administration of the Department of Health and Human Services and the Director of the Preparedness Division, Directorate of Emergency Preparedness and Response of the Department of Homeland Security, shall provide administrative support to the Interagency Committee, including scheduling meetings, setting agendas, keeping minutes and records, and producing reports.*

*(5) LEADERSHIP.—The members of the Interagency Committee shall select a chairperson of the Committee each year.*

*(6) MEETINGS.—The Interagency Committee shall meet as frequently as is determined necessary by the chairperson of the Committee.*

*(7) ANNUAL REPORTS.—The Interagency Committee shall prepare an annual report to Congress regarding the Committee's activities, actions, and recommendations.*

### *SEC. 10203. HUBZONE PROGRAM.*

*Section 3(p)(4)(B)(ii) of the Small Business Act (15 U.S.C. 632(p)(4)(B)(ii)) is amended—*

*(1) in subclause (I) by striking "or" at the end;*

*(2) in subclause (II) by striking the period at the end and inserting "; or"; and*

*(3) by adding after subclause (II) the following:*

*"(III) there is located a difficult development area, as designated by the Secretary of Housing and Urban Development in accordance with section 42(d)(5)(C)(iii) of the Internal Revenue Code of 1986, within Alaska, Hawaii, or any territory or possession of the United States outside the 48 contiguous States.".*

### *SEC. 10204. CATASTROPHIC HURRICANE EVACUATION PLANS.*

*(a) IN GENERAL.—The Secretary and the Secretary of Homeland Security (referred to in this section as the "Secretaries"), in coordination with the Gulf Coast States and contiguous States, shall jointly review and assess Federal*

*and State evacuation plans for catastrophic hurricanes impacting the Gulf Coast Region and report its findings and recommendations to Congress.*

*(b) Consultation.—In carrying out this section, the Secretaries shall consult with appropriate Federal, State, and local transportation and emergency management agencies.*

*(c) Contents.—In conducting the review, the Secretaries shall consider, at a minimum—*

*(1) all practical modes of transportation available for evacuations;*

*(2) the extent to which evacuation plans are coordinated with neighboring States;*

*(3) methods of communicating evacuation plans and preparing citizens in advance of evacuations; and*

*(4) methods of coordinating communication with evacuees during plan execution.*

*(d) Report.—The Secretaries shall submit to Congress a report of their findings under this section and recommendations not later than October 1, 2006.*

### SEC. 10205. INTERMODAL TRANSPORTATION FACILITY EXPANSION.

*Any funds provided for the Federal share, and any funds provided for the non-Federal share, for an intermodal transportation maritime facility at the Port of Anchorage, Alaska, or for access to that facility shall be transferred to and administered by the Administrator of the Maritime Administration.*

### SEC. 10206. ELIGIBILITY TO PARTICIPATE IN WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

*A community shall be eligible to participate in the western Alaska community development quota program established under section 305(i) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)) if the community—*

*(1) is listed in table 7 to part 679 of title 50, Code of Federal Regulations, as in effect on March 8, 2004; or*

*(2) was determined to be eligible participate in such program by the National Marine Fisheries Service on April 19, 1999.*

### SEC. 10207. RAIL REHABILITATION AND BRIDGE REPAIR.

*There are authorized to be appropriated to the Secretary of Transportation for rail rehabilitation and bridge repair in the State of Alabama for the period encompassing fiscal years 2006 through 2010 such sums as may be necessary, for work on—*

*(1) the Luxapalila Valley Railroad from the Mississippi and Alabama State line east to Belk, Alabama;*

*(2) the Meridian & Bigbee Railroad from the Mississippi and Alabama State line east to Burkeville, Alabama;*

*(3) the Three Notch Railroad from Georgiana, Alabama, to Andalusia, Alabama;*

*(4) the Wiregrass Railroad in Alabama;*

*(5) the Alabama & Gulf Coast Railroad from the Mississippi and Alabama State line southeast to Mobile and Atmore in Alabama; and*

*(6) the railroad bridge that spans the Coosa River, connecting the east and west sides of the City of Gadsden, Alabama.*

### SEC. 10208. RENTED OR LEASED MOTOR VEHICLES.

*(a) In General.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:*

### ***"§ 30106. Rented or leased motor vehicle safety and responsibility***

*"(a) In General.—An owner of a motor vehicle that rents or leases the vehicle to a person (or an affiliate of the owner) shall not be liable under the law of any State or political subdivision thereof, by reason of being the owner of the vehicle (or an affiliate of the owner), for harm to persons or property that results or arises out of the use, operation, or possession of the vehicle during the period of the rental or lease, if—*

*"(1) the owner (or an affiliate of the owner) is engaged in the trade or business of renting or leasing motor vehicles; and*

*"(2) there is no negligence or criminal wrongdoing on the part of the owner (or an affiliate of the owner).*

*"(b) Financial Responsibility Laws.—Nothing in this section supersedes the law of any State or political subdivision thereof—*

*"(1) imposing financial responsibility or insurance standards on the owner of a motor vehicle for the privilege of registering and operating a motor vehicle; or*

*"(2) imposing liability on business entities engaged in the trade or business of renting or leasing motor vehicles for failure to meet the financial responsibility or liability insurance requirements under State law.*

*"(c) Applicability and Effective Date.—Notwithstanding any other provision of law, this section shall apply with respect to any action commenced on or after the date of enactment of this section without regard to whether the harm that is the subject of the action, or the conduct that caused the harm, occurred before such date of enactment.*

*"(d) Definitions.—In this section, the following definitions apply:*

*"(1) Affiliate.—The term 'affiliate' means a person other than the owner that directly or indirectly controls, is controlled by, or is under common control with the owner. In the preceding sentence, the term 'control' means the power to direct the management and policies of a person whether through ownership of voting securities or otherwise.*

*"(2) Owner.—The term 'owner' means a person who is—*

*"(A) a record or beneficial owner, holder of title, lessor, or lessee of a motor vehicle;*

*"(B) entitled to the use and possession of a motor vehicle subject to a security interest in another person; or*

*"(C) a lessor, lessee, or a bailee of a motor vehicle, in the trade or business of renting or leasing motor vehicles, having the use or possession thereof, under a lease, bailment, or otherwise.*

*"(3) Person.—The term 'person' means any individual, corporation, company, limited liability company, trust, association, firm, partnership, society, joint stock company, or any other entity.".*

*(b) Clerical Amendment.—The analysis for such chapter is amended by inserting after the item relating to section 30105 the following:*

*"30106. Rented or leased motor vehicle safety and responsibility.".*

### SEC. 10209. MIDWAY ISLAND.

*(a) Grants.—In order to provide for both the safety of commercial and military aviation operations and the support of resource management in the remote Pacific, the Commandant of the Coast Guard, in consultation with the Secretary of Transportation and the Undersecretary of Commerce for Oceans and Atmosphere, shall develop such memoranda of understanding as may be necessary, and to make grants or otherwise provide funding, to provide for the operation of the Midway Airport, the rightsizing of necessary infrastructure and support facilities, the maintenance and development of the Airport, and other related matters.*

*(b) Authorization of Appropriations.—There are authorized to be appropriated to the United States Coast Guard, the Department of Transportation, and the National Oceanic and Atmospheric Administration such sums as may be necessary to carry out this section for fiscal years 2006 through 2009.*

### SEC. 10210. DEMONSTRATION OF DIGITAL PROJECT SIMULATION.

*(a) In General.—*

*(1) Digital Project Simulation Demonstration Project.—The Secretary shall establish a demonstration initiative using digital project simulation to plan, design, and construct the project listed in item 31 designated in section 1934 of the SAFETEA–LU.*

*(2) Cooperation.—To be eligible to receive funds made available for the project referred to in paragraph (1), the project sponsor, including private entities working with the project sponsor on the project, and the State shall enter into an agreement to work cooperatively with the Secretary to use digital project simulation for such project and to evaluate the effectiveness of using such simulation.*

*(b) Simulation Program Development.—*

*(1) In general.—In establishing the demonstration initiative under subsection (a), the Secretary shall provide, to the extent practicable, that—*

*(A) the planning, design, and construction of the project is carried out by using digital project simulation to achieve savings and efficiency in investment planning, project delivery coordination, and facility management; and*

*(B) in constructing such project, the project sponsor use digital lifecycle management techniques, including the use of embedded electronics and software to monitor performance of the infrastructure and provide safety and security information to the project sponsor.*

*(2) Collaboration.—The Secretary, the State, and the project sponsor may consult with technology companies and educational institutions that strive to develop and enhance technologies, including digital project simulation, that save money and time by using efficient methods of design, construction, and operation for transportation infrastructure projects.*

*(c) Report.—*

*(1) In general.—Not later than one year after completion of the project described in subsection (a), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate a detailed report comparing the application of digital project simulation for such project to more traditional approaches to planning, design, and construction.*

*(2) Performance measures and recommendations.—The report shall also include—*

*(A) a description of the performance measures applied, including cost comparisons and length of construction; and*

*(B) recommendations, if any, for administrative or legislative action.*

*(d) Definition.—For purposes of this section, the term "digital project simulation" means computer-assisted three-dimensional technology and digital lifecycle management.*

### SEC. 10211. ENVIRONMENTAL PROGRAMS.

*(a) Oklahoma.—Notwithstanding any other provision of law, if the Administrator of the Environmental Protection Agency (referred to in this section as the "Administrator") determines that a regulatory program submitted by the State of Oklahoma for approval by the Administrator under a law administered by the Administrator meets applicable requirements of the law, and the Administrator approves the State to administer the State program under the law with respect to areas in the State that are not Indian country, on request of the State, the Administrator shall approve the State to administer the State program in the areas of the State that are in Indian country, without any further demonstration of authority by the State.*

*(b) Treatment as State.—Notwithstanding any other provision of law, the Administrator may treat an Indian tribe in the State of Oklahoma as a State under a law administered by the Administrator only if—*

*(1) the Indian tribe meets requirements under the law to be treated as a State; and*

*(2) the Indian tribe and the agency of the State of Oklahoma with federally delegated program authority enter into a cooperative agreement, subject to review and approval of the Administrator after notice and opportunity for public hearing, under which the Indian tribe and that State agency agree to treatment of the Indian tribe as a State and to jointly plan administer program requirements.*

### SEC. 10212. RESCISSION OF UNOBLIGATED BALANCES.

*(a) IN GENERAL.—On September 30, 2009, $8,543,000,000 of the unobligated balances of funds apportioned before such date to the States for the Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation (other than the STP set-aside programs), metropolitan planning, minimum guarantee, Appalachian development highway system, recreational trails, safe routes to school, freight intermodal connectors, coordinated border infrastructure, high risk rural road, and highway safety improvement programs, and each of the STP set-aside programs, is rescinded.*

*(b) ALLOCATION AMONG STATES.—The Secretary shall determine each State's share of the amount to be rescinded by subsection (a) on September 30, 2009, by multiplying $8,543,000,000 by the ratio of the aggregate amount apportioned to such State for fiscal years 2004 through 2009 for all the programs referred to in subsection (a) to the aggregate amount apportioned to all States for such fiscal years for those programs.*

*(c) CALCULATIONS.—To determine the allocation of the amount to be rescinded for a State under subsection (b) among the programs referred to in subsection (a), the Secretary shall make the following calculations:*

*(1) The Secretary shall multiply such amount to be rescinded by the ratio that the aggregate amount of unobligated funds available to the State on September 30, 2009, for each such program bears to the aggregate amount of unobligated funds available to the State on September 30, 2009, for all such programs.*

*(2) The Secretary shall multiply such amount to be rescinded by the ratio that the aggregate of the amount apportioned to the State for each such program for fiscal years 2004 through 2009 bears to the aggregate amount apportioned to the State for all such programs for fiscal years 2004 through 2009.*

*(d) ALLOCATION AMONG PROGRAMS.—*

*(1) IN GENERAL.—The Secretary, in consultation with the State, shall rescind for the State from each program referred to in subsection (a) the amount determined for the program under subsection (c)(1).*

*(2) SPECIAL RULE.—*

*(A) RESTORATION OF FUNDS FOR COVERED PROGRAMS.—If the rescission calculated under subsection (c)(1) for a covered program exceeds the amount calculated for the covered program under subsection (c)(2), the State shall immediately restore to the apportionment account for the covered program from the unobligated balances of programs referred to in subsection (a) (other than covered programs) the amount of funds required so that the net rescission from the covered program does not exceed the amount calculated for the covered program under subsection (c)(2).*

*(B) TREATMENT OF RESTORED FUNDS.—Any funds restored under subparagraph (A) shall be deemed to be the funds that were rescinded for the purposes of obligation.*

*(3) COVERED PROGRAM DEFINED.—In paragraph (2), the term "covered program" means a program authorized under sections 130 and 152 of title 23, United States Code, paragraph (2) or (3) of section 133(d) of that title, section 144 of that title, section 149 of that title, or section 1404 of this Act.*

*(e) TREATMENT OF SAFETY PROGRAMS.—In making calculations under subsections (c)(1), (c)(2), and (d)(2), the Secretary shall treat the STP set-aside program for safety programs and the highway safety improvement program as a single program.*

*(f) STP SET-ASIDE PROGRAM DEFINED.—In this section, the term "STP set-aside program" means the amount set aside under section 133(d) of title 23, United States Code, for each of the safety programs, transportation enhancement activities, and division between urbanized areas of over 200,000 population and other areas.*

### SEC. 10213. TRIBAL LAND.

*Section 707(a) of Public Law 106–568 (25 U.S.C. 1041e(a)) is amended—*

*(1) in paragraph (1) by striking "(1) IN GENERAL.—"; and*

*(2) by striking paragraph (2).*

## Subtitle C—Specific Vehicle Safety-related Rulings

### SEC. 10301. VEHICLE ROLLOVER PREVENTION AND CRASH MITIGATION.

*(a) IN GENERAL.—Subchapter II of chapter 301 is amended by adding at the end the following:*

**"§ 30128. Vehicle rollover prevention and crash mitigation**

*"(a) IN GENERAL.—The Secretary shall initiate rulemaking proceedings, for the purpose of establishing rules or standards that will reduce vehicle rollover crashes and mitigate deaths and injuries associated with such crashes for motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds.*

*"(b) ROLLOVER PREVENTION.—One of the rulemaking proceedings initiated under subsection (a) shall be to establish performance criteria to reduce the occurrence of rollovers consistent with stability enhancing technologies. The Secretary shall issue a proposed rule in this proceeding by rule by October 1, 2006, and a final rule by April 1, 2009.*

*"(c) OCCUPANT EJECTION PREVENTION.—*

*"(1) IN GENERAL.—The Secretary shall also initiate a rulemaking proceeding to establish performance standards to reduce complete and partial ejections of vehicle occupants from outboard seating positions. In formulating the standards the Secretary shall consider various ejection mitigation systems. The Secretary shall issue a final rule under this paragraph no later than October 1, 2009.*

*"(2) DOOR LOCKS AND DOOR RETENTION.—The Secretary shall complete the rulemaking proceeding initiated to upgrade Federal Motor Vehicle Safety Standard No. 206, relating to door locks and door retention, no later than 30 months after the date of enactment of this section.*

*"(d) PROTECTION OF OCCUPANTS.—One of the rulemaking proceedings initiated under subsection (a) shall be to establish performance criteria to upgrade Federal Motor Vehicle Safety Standard No. 216 relating to roof strength for driver and passenger sides. The Secretary may consider industry and independent dynamic tests that realistically duplicate the actual forces transmitted during a rollover crash. The Secretary shall issue a proposed rule by December 31, 2005, and a final rule by July 1, 2008.*

*"(e) DEADLINES.—If the Secretary determines that the deadline for a final rule under this section cannot be met, the Secretary shall—*

*"(1) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce and explain why that deadline cannot be met; and*

*"(2) establish a new deadline.".*

### SEC. 10302. SIDE-IMPACT CRASH PROTECTION RULEMAKING.

*(a) RULEMAKING.—The Secretary shall complete a rulemaking proceeding under chapter 301 of title 49, United States Code, to establish a standard designed to enhance passenger motor vehicle occupant protection, in all seating positions, in side impact crashes. The Secretary shall issue a final rule by July 1, 2008.*

*(b) DEADLINES.—If the Secretary determines that the deadline for a final rule under this section cannot be met, the Secretary shall—*

*(1) notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce and explain why that deadline cannot be met; and*

*(2) establish a new deadline.*

### SEC. 10303. TIRE RESEARCH.

*Within 2 years after the date of enactment of this Act, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on research conducted to address tire aging. The report shall include a summary of any Federal agency findings, activities, conclusions, and recommendations concerning tire aging and recommendations for potential rulemaking regarding tire aging.*

*(a) CONFORMING AMENDMENT.—The chapter analysis for chapter 301 is amended by inserting after the item relating to section 30127 the following:*

*"30128. Vehicle accident ejection protection.".*

### SEC. 10304. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY STUDY.

*(a) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration shall conduct a study of effective methods for reducing the incidence of injury and death outside of parked passenger motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds attributable to movement of such vehicles. The Administrator shall complete the study within 1 year after the date of enactment of this Act and report its findings to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce not later than 15 months after the date of enactment of this Act.*

*(b) SPECIFIC ISSUES TO BE COVERED.—The study required by subsection (a) shall—*

*(1) include an analysis of backover prevention technology;*

*(2) identify, evaluate, and compare the available technologies for detecting people or objects behind a motor vehicle with a gross vehicle weight rating of not more than 10,000 pounds for their accuracy, effectiveness, cost, and feasibility for installation; and*

*(3) provide an estimate of cost savings that would result from widespread use of backover prevention devices and technologies in motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds, including savings attributable to the prevention of—*

*(A) injuries and fatalities; and*

*(B) damage to bumpers and other motor vehicle parts and damage to other objects.*

### SEC. 10305. NONTRAFFIC INCIDENT DATA COLLECTION.

*(a) IN GENERAL.—In conjunction with the study required in section 10304, the National Highway Traffic Safety Administration shall establish a method to collect and maintain data on the number and types of injuries and deaths involving motor vehicles with a gross vehicle weight rating of not more than 10,000 pounds in non-traffic incidents.*

*(b) DATA COLLECTION AND PUBLICATION.—The Secretary of Transportation shall publish the data collected under subsection (a) no less frequently than biennially.*

### SEC. 10306. STUDY OF SAFETY BELT USE TECHNOLOGIES.

The Secretary shall conduct a review of safety belt use technologies to consider possible revisions in strategies for achieving further gains in safety belt use. The Secretary shall complete the study by July 1, 2008.

### SEC. 10307. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended—

(1) by striking "and" after the semicolon in subsection (e);

(2) by inserting "and" after the semicolon in subsection (f)(3);

(3) by striking "(3)." in subsection (f)(4) and inserting "(3);"; and

(4) by adding at the end the following:

"(g) if 1 or more safety ratings for such automobile have been assigned and formally published or released by the National Highway Traffic Safety Administration under the New Car Assessment Program, information about safety ratings that—

"(1) includes a graphic depiction of the number of stars, or other applicable rating, that corresponds to each such assigned safety rating displayed in a clearly differentiated fashion indicating the maximum possible safety rating;

"(2) refers to frontal impact crash tests, side impact crash tests, and rollover resistance tests (whether or not such automobile has been assigned a safety rating for such tests);

"(3) contains information describing the nature and meaning of the crash test data presented and a reference to additional vehicle safety resources, including http://www.safecar.gov; and

"(4) is presented in a legible, visible, and prominent fashion and covers at least—

"(A) 8 percent of the total area of the label; or

"(B) an area with a minimum length of 4 ½ inches and a minimum height of 3 ½ inches; and

"(h) if an automobile has not been tested by the National Highway Traffic Safety Administration under the New Car Assessment Program, or safety ratings for such automobile have not been assigned in one or more rating categories, a statement to that effect.".

(b) REGULATIONS.—The Secretary of Transportation shall issue regulations to ensure that the labeling requirements under subsections (g) and (h) of section 3 of the Automobile Information Disclosure Act, as added by subsection (a), are implemented by September 1, 2007.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation, to accelerate the testing processes and increasing the number of vehicles tested under the New Car Assessment Program of the National Highway Traffic Safety Administration—

(1) $15,000,000 for fiscal year 2006;

(2) $8,134,065 for fiscal year 2007;

(3) $8,418,760 for fiscal year 2008;

(4) $8,713,410 for fiscal year 2009; and

(5) $9,018,385 for fiscal year 2010.

### SEC. 10308. POWER WINDOW SWITCHES.

The Secretary shall upgrade Federal Motor Vehicle Safety Standard 118 to require that power windows in motor vehicles not in excess of 10,000 pounds have switches that raise the window only when the switch is pulled up or out. The Secretary shall issue a final rule implementing this section by April 1, 2007.

### SEC. 10309. 15-PASSENGER VAN SAFETY.

(a) TESTING.—

(1) IN GENERAL.—The Secretary of Transportation shall require the testing of 15-passenger vans as part of the rollover resistance program of the National Highway Traffic Safety Administration's new car assessment program.

(2) 15-PASSENGER VAN DEFINED.—In this subsection, the term "15-passenger van" means a vehicle that seats 10 to 14 passengers, not including the driver.

(b) PROHIBITION OF PURCHASE, RENTAL, OR LEASE OF NONCOMPLYING 15-PASSENGER VANS FOR SCHOOL USE.—Section 30112(a) is amended—

(1) by inserting "(1)" before "Except as provided"; and

(2) by adding at the end the following:

"(2) Except as provided in this section, sections 30113 and 30114 of this title, and subchapter III of this chapter, a school or school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15-passenger van complies with the motor vehicle standards prescribed for school buses and multifunction school activity buses under this title. This paragraph does not apply to the purchase or lease of a 15-passenger van under a contract executed before the date of enactment of this paragraph.".

(c) PENALTY.—Section 30165(a) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) SCHOOL BUSES.—

"(A) IN GENERAL.—Notwithstanding paragraph (1), the maximum amount of a civil penalty under this paragraph shall be $10,000 in the case of—

"(i) the manufacture, sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation of a school bus or school bus equipment (as those terms are defined in section 30125(a) of this title) in violation of section 30112(a)(1) of this title; or

"(ii) a violation of section 30112(a)(2) of this title.

"(B) RELATED SERIES OF VIOLATIONS.—A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by that section. The maximum penalty under this paragraph for a related series of violations is $15,000,000.".

### SEC. 10310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary to carry out this subtitle, chapter 301 of title 49, and part C of subtitle VI of title 49, United States Code—

(1) $136,000,000 for fiscal year 2006;

(2) $142,800,000 for fiscal year 2007;

(3) $149,900,000 for fiscal year 2008; and

(4) $157,400,000 for fiscal year 2009.

## TITLE XI—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

### SEC. 1100. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

## Subtitle A—Trust Fund Reauthorization

### SEC. 1101. EXTENSION OF HIGHWAY-RELATED TAXES AND TRUST FUNDS.

(a) EXTENSION OF TAXES.—

(1) IN GENERAL.—The following provisions are each amended by striking "2005" each place it appears and inserting "2011":

(A) Section 4041(a)(1)(C)(iii)(I) (relating to rate of tax on certain buses).

(B) Section 4041(a)(2)(B) (relating to rate of tax on special motor fuels).

(C) Section 4041(m)(1) (relating to certain alcohol fuels).

(D) Section 4051(c) (relating to termination of tax on heavy trucks and trailers).

(E) Section 4071(d) (relating to termination of tax on tires).

(F) Section 4081(d)(1) (relating to termination of tax on gasoline, diesel fuel, and kerosene).

(2) EXTENSION OF TAX, ETC., ON USE OF CERTAIN HEAVY VEHICLES.—The following provisions are each amended by striking "2006" each place it appears and inserting "2011":

(A) Section 4481(f) (relating to period tax in effect).

(B) Section 4482(c)(4) (relating to taxable period).

(C) Section 4482(d) (relating to special rule for taxable period in which termination date occurs).

(3) FLOOR STOCKS REFUNDS.—Section 6412(a)(1) (relating to floor stocks refunds) is amended—

(A) by striking "2005" each place it appears and inserting "2011", and

(B) by striking "2006" each place it appears and inserting "2012".

(b) EXTENSION OF CERTAIN EXEMPTIONS.—

(1) CERTAIN TAX-FREE SALES.—Section 4221(a) (relating to certain tax-free sales) is amended by striking "2005" and inserting "2011".

(2) TERMINATION OF EXEMPTIONS FOR HIGHWAY USE TAX.—Section 4483(h) (relating to termination of exemptions for highway use tax) is amended by striking "2006" and inserting "2011".

(c) EXTENSION OF TRANSFERS OF CERTAIN TAXES.—

(1) IN GENERAL.—Paragraphs (1) and (2) of subsection (b), and paragraphs (2) and (3) of subsection (c), of section 9503 (relating to the Highway Trust Fund) are each amended—

(A) by striking "2005" each place it appears and inserting "2011", and

(B) by striking "2006" each place it appears and inserting "2012".

(2) MOTORBOAT AND SMALL-ENGINE FUEL TAX TRANSFERS.—

(A) IN GENERAL.—Subparagraph (A) of section 9503(c)(5) is amended by striking "2005" and inserting "2011".

(B) CONFORMING AMENDMENTS TO LAND AND WATER CONSERVATION FUND.—Section 201(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–11(b)) is amended—

(i) by striking "2003" and inserting "2011", and

(ii) by striking "2004" each place it appears and inserting "2012".

(d) EXTENSION AND EXPANSION OF EXPENDITURES FROM TRUST FUNDS.—

(1) HIGHWAY TRUST FUND.—

(A) HIGHWAY ACCOUNT.—Paragraph (1) of section 9503(c) of such Code is amended to read as follows:

"(1) FEDERAL-AID HIGHWAY PROGRAM.—Except as provided in subsection (e), amounts in the Highway Trust Fund shall be available, as provided by appropriation Acts, for making expenditures before September 30, 2009 (October 1, 2009, in the case of expenditures for administrative expenses), to meet those obligations of the United States heretofore or hereafter incurred which are authorized to be paid out of the Highway Trust Fund under the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or any other provision of law which was referred to in this paragraph before the date of the enactment of such Act (as such Act and provisions of law are in effect on the date of the enactment of such Act).".

(B) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended to read as follows:

"(3) EXPENDITURES FROM ACCOUNT.—Amounts in the Mass Transit Account shall be available, *as provided by appropriation Acts, for making capital or capital related expenditures (including capital expenditures for new projects) before October 1, 2009, in accordance with the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users or any other provision of law which was referred to in this paragraph before the date of the enactment of such Act (as such Act and provisions of law are in effect on the date of the enactment of such Act).".*

*(C) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(6) is amended by striking "July 31, 2005" and inserting "September 30, 2009 (October 1, 2009, in the case of expenditures for administrative expenses)".*

*(2) AQUATIC RESOURCES TRUST FUND.—*

*(A) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) is amended by striking "Surface Transportation Extension Act of 2005, Part V" each place it appears and inserting "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users".*

*(B) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) is amended by striking "July 31, 2005" and inserting "October 1, 2009".*

*(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.*

### SEC. 1102. MODIFICATION OF ADJUSTMENTS OF APPORTIONMENTS.

*(a) IN GENERAL.—Section 9503(d) (relating to adjustments for apportionments) is amended—*

*(1) by striking "24-month" in paragraph (1)(B) and inserting "48-month", and*

*(2) by striking "2 YEARS' " in the heading for paragraph (3) and inserting "4 YEARS' ".*

*(b) MEASUREMENT OF NET HIGHWAY RECEIPTS.—Section 9503(d) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:*

*"(6) MEASUREMENT OF NET HIGHWAY RECEIPTS.—For purposes of making any estimate under paragraph (1) of net highway receipts for periods ending after the date specified in subsection (b)(1), the Secretary shall treat—*

*"(A) each expiring provision of subsection (b) which is related to appropriations or transfers to the Highway Trust Fund to have been extended through the end of the 48-month period referred to in paragraph (1)(B), and*

*"(B) with respect to each tax imposed under the sections referred to in subsection (b)(1), the rate of such tax during the 48-month period referred to in paragraph (1)(B) to be the same as the rate of such tax as in effect on the date of such estimate.".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.*

## Subtitle B—Excise Tax Reform and Simplification

### PART I—HIGHWAY EXCISE TAXES

### SEC. 1111. MODIFICATION OF GAS GUZZLER TAX.

*(a) UNIFORM APPLICATION OF TAX.—Subparagraph (A) of section 4064(b)(1) (defining automobile) is amended by striking the second sentence.*

*(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 2005.*

### SEC. 1112. EXCLUSION FOR TRACTORS WEIGHING 19,500 POUNDS OR LESS FROM FEDERAL EXCISE TAX ON HEAVY TRUCKS AND TRAILERS.

*(a) IN GENERAL.—Subsection (a) of section 4051 (relating to imposition of tax) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:*

*"(4) EXCLUSION FOR TRACTORS WEIGHING 19,500 POUNDS OR LESS.—The tax imposed by paragraph (1) shall not apply to tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer if—*

*"(A) such tractor has a gross vehicle weight of 19,500 pounds or less (as determined by the Secretary), and*

*"(B) such tractor, in combination with a trailer or semitrailer, has a gross combined weight of 33,000 pounds or less (as determined by the Secretary).".*

*(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after September 30, 2005.*

### SEC. 1113. VOLUMETRIC EXCISE TAX CREDIT FOR ALTERNATIVE FUELS.

*(a) IMPOSITION OF TAX.—*

*(1) IN GENERAL.—Section 4041(a)(2)(B) (relating to rate of tax) is amended—*

*(A) by adding "and" at the end of clause (i),*

*(B) by striking clauses (ii) and (iii),*

*(C) by striking the last sentence, and*

*(D) by adding after clause (i) the following new clause:*

*"(ii) in the case of liquefied natural gas, any liquid fuel (other than ethanol and methanol) derived from coal (including peat), and liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)), 24.3 cents per gallon.".*

*(2) TREATMENT OF COMPRESSED NATURAL GAS.—Section 4041(a)(3) (relating to compressed natural gas) is amended—*

*(A) by striking "48.54 cents per MCF (determined at standard temperature and pressure)" in subparagraph (A) and inserting "18.3 cents per energy equivalent of a gallon of gasoline", and*

*(B) by striking "MCF" in subparagraph (C) and inserting "energy equivalent of a gallon of gasoline".*

*(3) NEW REFERENCE.—The heading for paragraph (2) of section 4041(a) is amended by striking "SPECIAL MOTOR FUELS" and inserting "ALTERNATIVE FUELS".*

*(b) CREDIT FOR ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURES.—*

*(1) IN GENERAL.—Section 6426(a) (relating to allowance of credits) is amended to read as follows:*

*"(a) ALLOWANCE OF CREDITS.—There shall be allowed as a credit—*

*"(1) against the tax imposed by section 4081 an amount equal to the sum of the credits described in subsections (b), (c), and (e), and*

*"(2) against the tax imposed by section 4041 an amount equal to the sum of the credits described in subsection (d).*

*No credit shall be allowed in the case of the credits described in subsections (d) and (e) unless the taxpayer is registered under section 4101.".*

*(2) ALTERNATIVE FUEL AND ALTERNATIVE FUEL MIXTURE CREDIT.—Section 6426 (relating to credit for alcohol fuel and biodiesel mixtures) is amended by redesignating subsections (d) and (e) as subsections (f) and (g) and by inserting after subsection (c) the following new subsections:*

*"(d) ALTERNATIVE FUEL CREDIT.—*

*"(1) IN GENERAL.—For purposes of this section, the alternative fuel credit is the product of 50 cents and the number of gallons of an alternative fuel or gasoline gallon equivalents of a nonliquid alternative fuel sold by the taxpayer for use as a fuel in a motor vehicle or motorboat, or so used by the taxpayer.*

*"(2) ALTERNATIVE FUEL.—For purposes of this section, the term 'alternative fuel' means—*

*"(A) liquefied petroleum gas,*

*"(B) P Series Fuels (as defined by the Secretary of Energy under section 13211(2) of title 42, United States Code),*

*"(C) compressed or liquefied natural gas,*

*"(D) liquefied hydrogen,*

*"(E) any liquid fuel derived from coal (including peat) through the Fischer-Tropsch process, and*

*"(F) liquid hydrocarbons derived from biomass (as defined in section 29(c)(3)).*

*Such term does not include ethanol, methanol, or biodiesel.*

*"(3) GASOLINE GALLON EQUIVALENT.—For purposes of this subsection, the term 'gasoline gallon equivalent' means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).*

*"(4) TERMINATION.—This subsection shall not apply to any sale or use for any period after September 30, 2009 (September 30, 2014, in the case of any sale or use involving liquefied hydrogen).*

*"(e) ALTERNATIVE FUEL MIXTURE CREDIT.—*

*"(1) IN GENERAL.—For purposes of this section, the alternative fuel mixture credit is the product of 50 cents and the number of gallons of alternative fuel used by the taxpayer in producing any alternative fuel mixture for sale or use in a trade or business of the taxpayer.*

*"(2) ALTERNATIVE FUEL MIXTURE.—For purposes of this section, the term 'alternative fuel mixture' means a mixture of alternative fuel and taxable fuel (as defined in subparagraph (A), (B), or (C) of section 4083(a)(1)) which—*

*"(A) is sold by the taxpayer producing such mixture to any person for use as fuel, or*

*"(B) is used as a fuel by the taxpayer producing such mixture.*

*"(3) TERMINATION.—This subsection shall not apply to any sale or use for any period after September 30, 2009 (September 30, 2014, in the case of any sale or use involving liquefied hydrogen).".*

*(3) CONFORMING AMENDMENTS.—*

*(A) The section heading for section 6426 is amended by striking "alcohol fuel and biodiesel" and inserting "alcohol fuel, biodiesel, and alternative fuel".*

*(B) The table of sections for subchapter B of chapter 65 is amended by striking "alcohol fuel and biodiesel" in the item relating to section 6426 and inserting "alcohol fuel, biodiesel, and alternative fuel".*

*(C) Section 6427(e) is amended—*

*(i) by inserting "or the alternative fuel mixture credit" after "biodiesel mixture credit" in paragraph (1),*

*(ii) by redesignating paragraph (2) as paragraph (3) and paragraph (4) as paragraph (5),*

*(iii) by inserting after paragraph (1) the following new paragraph:*

*"(2) ALTERNATIVE FUEL.—If any person sells or uses an alternative fuel (as defined in section 6426(d)(2)) for a purpose described in section 6426(d)(1) in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the alternative fuel credit with respect to such fuel.",*

*(iv) by striking "under paragraph (1) with respect to any mixture" in paragraph (3) (as redesignated by clause (ii)) and inserting "under paragraph (1) or (2) with respect to any mixture or alternative fuel",*

*(v) by inserting after paragraph (3) (as so redesignated) the following new paragraph:*

*"(4) REGISTRATION REQUIREMENT FOR ALTERNATIVE FUELS.—The Secretary shall not make any payment under this subsection to any person with respect to any alternative fuel credit or alternative fuel mixture credit unless the person is registered under section 4101.",*

*(vi) by striking "and" at the end of paragraph (5)(A) (as redesignated by clause (ii)),*

*(vii) by striking the period at the end of paragraph (5)(B) (as so redesignated) and inserting a comma,*

*(viii) by adding at the end of paragraph (5) (as so redesignated) the following new subparagraphs:*

*"(C) except as provided in subparagraph (D), any alternative fuel or alternative fuel mixture (as defined in subsection (d)(2) or (e)(3) of section 6426) sold or used after September 30, 2009, and*

*"(D) any alternative fuel or alternative fuel mixture (as so defined) involving liquefied hydrogen sold or used after September 30, 2014.", and*

*(ix) by striking "OR BIODIESEL USED TO PRODUCE ALCOHOL FUEL AND BIODIESEL MIXTURES" in the heading and inserting ", BIODIESEL, OR ALTERNATIVE FUEL".*

*(c) ADDITIONAL REGISTRATION REQUIREMENTS.—Section 4101(a)(1) (relating to registration) is amended by striking "4041(a)(1)" and inserting "4041(a)".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any sale or use for any period after September 30, 2006.*

### *PART 2—AQUATIC EXCISE TAXES*

### *SEC. 1115. ELIMINATION OF AQUATIC RESOURCES TRUST FUND AND TRANSFORMATION OF SPORT FISH RESTORATION ACCOUNT.*

*(a) SIMPLIFICATION OF FUNDING FOR BOAT SAFETY ACCOUNT.—*

*(1) IN GENERAL.—Paragraph (4) of section 9503(c) (relating to transfers from Trust Fund for motorboat fuel taxes) is amended—*

*(A) by striking so much of that paragraph as precedes subparagraph (D),*

*(B) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively, and*

*(C) by inserting before subparagraph (C) (as so redesignated) the following:*

*"(4) TRANSFERS FROM THE TRUST FUND FOR MOTORBOAT FUEL TAXES.—*

*"(A) TRANSFER TO LAND AND WATER CONSERVATION FUND.—*

*"(i) IN GENERAL.—The Secretary shall pay from time to time from the Highway Trust Fund into the land and water conservation fund provided for in title I of the Land and Water Conservation Fund Act of 1965 amounts (as determined by the Secretary) equivalent to the motorboat fuel taxes received on or after October 1, 2005, and before October 1, 2011.*

*"(ii) LIMITATION.—The aggregate amount transferred under this subparagraph during any fiscal year shall not exceed $1,000,000.*

*"(B) EXCESS FUNDS TRANSFERRED TO SPORT FISH RESTORATION AND BOATING TRUST FUND.—Any amounts in the Highway Trust Fund—*

*"(i) which are attributable to motorboat fuel taxes, and*

*"(ii) which are not transferred from the Highway Trust Fund under subparagraph (A).*

*shall be transferred by the Secretary from the Highway Trust Fund into the Sport Fish Restoration and Boating Trust Fund.".*

*(2) CONFORMING AMENDMENT.—Paragraph (5) of section 9503(c) is amended by striking "Account in the Aquatic Resources" in subparagraph (A) and inserting "and Boating".*

*(b) MERGING OF ACCOUNTS.—*

*(1) IN GENERAL.—Subsection (a) of section 9504 is amended to read as follows:*

*"(a) CREATION OF TRUST FUND.—There is hereby established in the Treasury of the United States a trust fund to be known as the 'Sport Fish Restoration and Boating Trust Fund'. Such Trust Fund shall consist of such amounts as may be appropriated, credited, or paid to it as provided in this section, section 9503(c)(4), section 9503(c)(5), or section 9602(b).".*

*(2) CONFORMING AMENDMENTS.—*

*(A) Subsection (b) of section 9504, as amended by section 1101 of this Act, is amended—*

*(i) by striking "ACCOUNT" in the heading thereof and inserting "AND BOATING TRUST FUND",*

*(ii) by striking "Account" both places it appears in paragraphs (1) and (2) and inserting "and Boating Trust Fund", and*

*(iii) by striking "ACCOUNT" both places it appears in the headings for paragraphs (1) and (2) and inserting "TRUST FUND".*

*(B) Subsection (d) of section 9504, as amended by section 1101 of this Act, is amended—*

*(i) by striking "AQUATIC RESOURCES" in the heading thereof,*

*(ii) by striking "any Account in the Aquatic Resources" in paragraph (1) and inserting "the Sport Fish Restoration and Boating", and*

*(iii) by striking "any such Account" in paragraph (1) and inserting "such Trust Fund".*

*(C) Subsection (e) of section 9504 is amended by striking "Boat Safety Account and Sport Fish Restoration Account" and inserting "Sport Fish Restoration and Boating Trust Fund".*

*(D) Section 9504 is amended by striking "aquatic resources" in the heading thereof and inserting "sport fish restoration and boating".*

*(E) The item relating to section 9504 in the table of sections for subchapter A of chapter 98 is amended by striking "aquatic resources" and inserting "sport fish restoration and boating".*

*(F) Paragraph (2) of section 1511(e) of the Homeland Security Act of 2002 (6 U.S.C. 551(e)) is amended by striking "Aquatic Resources Trust Fund of the Highway Trust Fund" and inserting "Sport Fish Restoration and Boating Trust Fund".*

*(c) PHASEOUT OF BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 is amended to read as follows:*

*"(c) EXPENDITURES FROM BOAT SAFETY ACCOUNT.—Amounts remaining in the Boat Safety Account on October 1, 2005, and amounts thereafter credited to the Account under section 9602(b), shall be available, without further appropriation, for making expenditures before October 1, 2010, to carry out the purposes of section 15 of the Dingell-Johnson Sport Fish Restoration Act (as in effect on the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users). For purposes of section 9602, the Boat Safety Account shall be treated as a Trust Fund established by this subchapter.".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005.*

### *SEC. 1116. REPEAL OF HARBOR MAINTENANCE TAX ON EXPORTS.*

*(a) IN GENERAL.—Subsection (d) of section 4462 (relating to definitions and special rules) is amended to read as follows:*

*"(d) NONAPPLICABILITY OF TAX TO EXPORTS.—The tax imposed by section 4461(a) shall not apply to any port use with respect to any commercial cargo to be exported from the United States.".*

*(b) CONFORMING AMENDMENTS.—*

*(1) Section 4461(c)(1) is amended by adding "or" at the end of subparagraph (A), by striking subparagraph (B), and by redesignating subparagraph (C) as subparagraph (B).*

*(2) Section 4461(c)(2) is amended by striking "imposed—" and all that follows through "in any other case," and inserting "imposed".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall take effect before, on, and after the date of the enactment of this Act.*

### *SEC. 1117. CAP ON EXCISE TAX ON CERTAIN FISHING EQUIPMENT.*

*(a) IN GENERAL.—Paragraph (1) of section 4161(a) (relating to sport fishing equipment) is amended to read as follows:*

*"(1) IMPOSITION OF TAX.—*

*"(A) IN GENERAL.—There is hereby imposed on the sale of any article of sport fishing equipment by the manufacturer, producer, or importer a tax equal to 10 percent of the price for which so sold.*

*"(B) LIMITATION ON TAX IMPOSED ON FISHING RODS AND POLES.—The tax imposed by subparagraph (A) on any fishing rod or pole shall not exceed $10.".*

*(b) CONFORMING AMENDMENTS.—Section 4161(a)(2) is amended by striking "paragraph (1)" both places it appears and inserting "paragraph (1)(A)".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2005.*

### *PART 3—AERIAL EXCISE TAXES*

### *SEC. 1121. CLARIFICATION OF EXCISE TAX EXEMPTIONS FOR AGRICULTURAL AERIAL APPLICATORS AND EXEMPTION FOR FIXED-WING AIRCRAFT ENGAGED IN FORESTRY OPERATIONS.*

*(a) NO WAIVER BY FARM OWNER, TENANT, OR OPERATOR NECESSARY.—Subparagraph (B) of section 6420(c)(4) (relating to certain farming use other than by owner, etc.) is amended to read as follows:*

*"(B) if the person so using the gasoline is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the gasoline, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such gasoline on a farm for farming purposes.".*

*(b) EXEMPTION INCLUDES FUEL USED BETWEEN AIRFIELD AND FARM.—Section 6420(c)(4), as amended by subsection (a), is amended by adding at the end the following new flush sentence: "In the case of an aerial applicator, gasoline shall be treated as used on a farm for farming purposes if the gasoline is used for the direct flight between the airfield and 1 or more farms.".*

*(c) EXEMPTION FROM TAX ON AIR TRANSPORTATION OF PERSONS FOR FORESTRY PURPOSES EXTENDED TO FIXED-WING AIRCRAFT.—Subsection (f) of section 4261 (relating to tax on air transportation of persons) is amended to read as follows:*

*"(f) EXEMPTION FOR CERTAIN USES.—No tax shall be imposed under subsection (a) or (b) on air transportation—*

*"(1) by helicopter for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, hard minerals, oil, or gas, or*

*"(2) by helicopter or by fixed-wing aircraft for the purpose of the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),*

*but only if the helicopter or fixed-wing aircraft does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to section 44509 or 44913(b) or subchapter I of chapter 471 of title 49, United States Code, during such use. In the case of helicopter transportation described in paragraph (1), this subsection shall be applied by treating each flight segment as a distinct flight.".*

*(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel use or air transportation after September 30, 2005.*

### *SEC. 1122. MODIFICATION OF RURAL AIRPORT DEFINITION.*

*(a) IN GENERAL.—Section 4261(e)(1)(B) (defining rural airport) is amended—*

*(1) by inserting "(in the case of any airport described in clause (ii)(III), on flight segments of at least 100 miles)" after "by air" in clause (i), and*

*(2) by striking "or" at the end of subclause (I) of clause (ii), by striking the period at the end of subclause (II) of clause (ii) and inserting ", or", and by adding at the end of clause (ii) the following new subclause:*

*"(III) is not connected by paved roads to another airport.".*

*(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2005.*

### SEC. 1123. EXEMPTION FROM TAXES ON TRANSPORTATION PROVIDED BY SEAPLANES.

(a) In General.—Section 4261 (relating to imposition of tax) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) Exemption for Seaplanes.—No tax shall be imposed by this section or section 4271 on any air transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airways Trust Fund.".

(b) Rate of Fuel Tax for Seaplanes Subject to Exemption.—Subsection (b) of section 4083 is amended by striking "section 4261(h)" and inserting "subsection (h) or (i) of section 4261".

(c) Effective Date.—The amendments made by this section shall apply to transportation beginning after September 30, 2005.

### SEC. 1124. CERTAIN SIGHTSEEING FLIGHTS EXEMPT FROM TAXES ON AIR TRANSPORTATION.

(a) In General.—Section 4281 (relating to small aircraft on nonestablished lines) is amended by adding at the end the following new sentence: "For purposes of this section, an aircraft shall not be considered as operated on an established line at any time during which such aircraft is being operated on a flight the sole purpose of which is sightseeing.".

(b) Effective Date.—The amendment made by this section shall apply with respect to transportation beginning after September 30, 2005, but shall not apply to any amount paid before such date for such transportation.

## PART 4—TAXES RELATING TO ALCOHOL

### SEC. 1125. REPEAL OF SPECIAL OCCUPATIONAL TAXES ON PRODUCERS AND MARKETERS OF ALCOHOLIC BEVERAGES.

(a) Repeal of Occupational Taxes.—

(1) In general.—The following provisions of part II of subchapter A of chapter 51 (relating to occupational taxes) are hereby repealed:

(A) Subpart A (relating to proprietors of distilled spirits plants, bonded wine cellars, etc.).

(B) Subpart B (relating to brewer).

(C) Subpart D (relating to wholesale dealers) (other than sections 5114 and 5116).

(D) Subpart E (relating to retail dealers) (other than section 5124).

(E) Subpart G (relating to general provisions) (other than sections 5142, 5143, 5145, and 5146).

(2) Nonbeverage domestic drawback.—Section 5131 is amended by striking ", on payment of a special tax per annum,".

(3) Industrial use of distilled spirits.—Section 5276 is hereby repealed.

(b) Conforming Amendments.—

(1)(A) The heading for part II of subchapter A of chapter 51 and the table of subparts for such part are amended to read as follows:

"PART II—MISCELLANEOUS PROVISIONS

"Subpart A. Manufacturers of stills.
"Subpart B. Nonbeverage domestic drawback claimants.
"Subpart C. Recordkeeping by dealers.
"Subpart D. Other provisions.".

(B) The table of parts for such subchapter A is amended by striking the item relating to part II and inserting the following new item:

"Part II. Miscellaneous provisions.".

(2) Subpart C of part II of such subchapter (relating to manufacturers of stills) is redesignated as subpart A.

(3)(A) Subpart F of such part II (relating to nonbeverage domestic drawback claimants) is redesignated as subpart B and sections 5131 through 5134 are redesignated as sections 5111 through 5114, respectively.

(B) The table of sections for such subpart B, as so redesignated, is amended—

(i) by redesignating the items relating to sections 5131 through 5134 as relating to sections 5111 through 5114, respectively, and

(ii) by striking "and rate of tax" in the item relating to section 5111, as so redesignated.

(C) Section 5111, as redesignated by subparagraph (A), is amended—

(i) by striking "**AND RATE OF TAX**" in the section heading,

(ii) by striking the subsection heading for subsection (a), and

(iii) by striking subsection (b).

(4) Part II of subchapter A of chapter 51 is amended by adding after subpart B, as redesignated by paragraph (3), the following new subpart:

### "Subpart C—Recordkeeping and Registration by Dealers

"Sec. 5121. Recordkeeping by wholesale dealers.
"Sec. 5122. Recordkeeping by retail dealers.
"Sec. 5123. Preservation and inspection of records, and entry of premises for inspection.
"Sec. 5124. Registration by dealers.".

(5)(A) Section 5114 (relating to records) is moved to subpart C of such part II and inserted after the table of sections for such subpart.

(B) Section 5114 is amended—

(i) by striking the section heading and inserting the following new heading:

**"SEC. 5432. RECORDKEEPING BY WHOLESALE DEALERS."**

, and

(ii) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Wholesale Dealers.—For purposes of this part—

"(1) Wholesale dealer in liquors.—The term 'wholesale dealer in liquors' means any dealer (other than a wholesale dealer in beer) who sells, or offers for sale, distilled spirits, wines, or beer, to another dealer.

"(2) Wholesale dealer in beer.—The term 'wholesale dealer in beer' means any dealer who sells, or offers for sale, beer, but not distilled spirits or wines, to another dealer.

"(3) Dealer.—The term 'dealer' means any person who sells, or offers for sale, any distilled spirits, wines, or beer.

"(4) Presumption in case of sale of 20 wine gallons or more.—The sale, or offer for sale, of distilled spirits, wines, or beer, in quantities of 20 wine gallons or more to the same person at the same time, shall be presumptive evidence that the person making such sale, or offer for sale, is engaged in or carrying on the business of a wholesale dealer in liquors or a wholesale dealer in beer, as the case may be. Such presumption may be overcome by evidence satisfactorily showing that such sale, or offer for sale, was made to a person other than a dealer.".

(C) Paragraph (3) of section 5121(d), as so redesignated, is amended by striking "section 5146" and inserting "section 5123".

(6)(A) Section 5124 (relating to records) is moved to subpart C of part II of subchapter A of chapter 51 and inserted after section 5121.

(B) Section 5124 is amended—

(i) by striking the section heading and inserting the following new heading:

**"SEC. 5122. RECORDKEEPING BY RETAIL DEALERS.".**

(ii) by striking "section 5146" in subsection (c) and inserting "section 5123", and

(iii) by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c) Retail Dealers.—For purposes of this section—

"(1) Retail dealer in liquors.—The term 'retail dealer in liquors' means any dealer (other than a retail dealer in beer or a limited retail dealer) who sells, or offers for sale, distilled spirits, wines, or beer, to any person other than a dealer.

"(2) Retail dealer in beer.—The term 'retail dealer in beer' means any dealer (other than a limited retail dealer) who sells, or offers for sale, beer, but not distilled spirits or wines, to any person other than a dealer.

"(3) Limited retail dealer.—The term 'limited retail dealer' means any fraternal, civic, church, labor, charitable, benevolent, or ex-servicemen's organization making sales of distilled spirits, wine or beer on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, or any person making sales of distilled spirits, wine or beer to the members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or other similar outings, if such organization or person is not otherwise engaged in business as a dealer.

"(4) Dealer.—The term 'dealer' has the meaning given such term by section 5121(c)(3).".

(7) Section 5146 is moved to subpart C of part II of subchapter A of chapter 51, inserted after section 5122, and redesignated as section 5123.

(8) Subpart C of part II of subchapter A of chapter 51, as amended by paragraph (7), is amended by adding at the end the following new section:

### "SEC. 5124. REGISTRATION BY DEALERS.

"Every dealer who is subject to the recordkeeping requirements under section 5121 or 5122 shall register with the Secretary such dealer's name or style, place of residence, trade or business, and the place where such trade or business is to be carried on. In the case of a firm or company, the names of the several persons constituting the same, and the places of residence, shall be so registered.".

(9) Section 7012 is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) For provisions relating to registration by dealers in distilled spirits, wines, and beer, see section 5124.".

(10) Part II of subchapter A of chapter 51 is amended by inserting after subpart C the following new subpart:

### "Subpart D—Other Provisions

"Sec. 5131. Packaging distilled spirits for industrial uses.
"Sec. 5132. Prohibited purchases by dealers.".

(11) Section 5116 is moved to subpart D of part II of subchapter A of chapter 51, inserted after the table of sections, redesignated as section 5131, and amended by inserting "(as defined in section 5121(c))" after "dealer" in subsection (a).

(12) Subpart D of part II of subchapter A of chapter 51 is amended by adding at the end the following new section:

### "SEC. 5132. PROHIBITED PURCHASES BY DEALERS.

"(a) In General.—Except as provided in regulations prescribed by the Secretary, it shall be unlawful for a dealer to purchase distilled spirits for resale from any person other than a wholesale dealer in liquors who is required to keep the records prescribed by section 5121.

"(b) Limited Retail Dealers.—A limited retail dealer may lawfully purchase distilled spirits for resale from a retail dealer in liquors.

"(c) Penalty and Forfeiture.—

"For penalty and forfeiture provisions applicable to violations of subsection (a), see sections 5687 and 7302.".

(13) Subsection (b) of section 5002 is amended—

(A) by striking "section 5112(a)" and inserting "section 5121(c)(3)",

(B) by striking "section 5112" and inserting "section 5121(c)", and

(C) by striking "section 5122" and inserting "section 5122(c)".

(14) Subparagraph (A) of section 5010(c)(2) is amended by striking "section 5134" and inserting "section 5114".

(15) Subsection (d) of section 5052 is amended to read as follows:

"(d) BREWER.—For purposes of this chapter, the term 'brewer' means any person who brews beer or produces beer for sale. Such term shall not include any person who produces only beer exempt from tax under section 5053(e).".

(16) The text of section 5182 is amended to read as follows:

"For provisions requiring recordkeeping by wholesale liquor dealers, see section 5112, and by retail liquor dealers, see section 5122.".

(17) Subsection (b) of section 5402 is amended by striking "section 5092" and inserting "section 5052(d)".

(18) Section 5671 is amended by striking "or 5091".

(19)(A) Part V of subchapter J of chapter 51 is hereby repealed.

(B) The table of parts for such subchapter J is amended by striking the item relating to part V.

(20)(A) Sections 5142, 5143, and 5145 are moved to subchapter D of chapter 52, inserted after section 5731, redesignated as sections 5732, 5733, and 5734, respectively, and amended by striking "this part" each place it appears and inserting "this subchapter".

(B) Section 5732, as redesignated by subparagraph (A), is amended by striking "(except the tax imposed by section 5131)" each place it appears.

(C) Paragraph (2) of section 5733(c), as redesignated by subparagraph (A), is amended by striking "liquors" both places it appears and inserting "tobacco products and cigarette papers and tubes".

(D) The table of sections for subchapter D of chapter 52 is amended by adding at the end the following:

"Sec. 5732. Payment of tax.
"Sec. 5733. Provisions relating to liability for occupational taxes.
"Sec. 5734. Application of State laws.".

(E) Section 5731 is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c).

(21) Subsection (c) of section 6071 is amended by striking "section 5142" and inserting "section 5732".

(22) Paragraph (1) of section 7652(g) is amended—

(A) by striking "subpart F" and inserting "subpart B", and

(B) by striking "section 5131(a)" and inserting "section 5111".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 2008, but shall not apply to taxes imposed for periods before such date.

### SEC. 1126. INCOME TAX CREDIT FOR DISTILLED SPIRITS WHOLESALERS AND FOR DISTILLED SPIRITS IN CONTROL STATE BAILMENT WAREHOUSES FOR COSTS OF CARRYING FEDERAL EXCISE TAXES ON BOTTLED DISTILLED SPIRITS.

(a) IN GENERAL.—Subpart A of part I of subchapter A of chapter 51 (relating to gallonage and occupational taxes) is amended by adding at the end the following new section:

### "SEC. 5011. INCOME TAX CREDIT FOR AVERAGE COST OF CARRYING EXCISE TAX.

"(a) IN GENERAL.—For purposes of section 38, the amount of the distilled spirits credit for any taxable year is the amount equal to the product of—

"(1) in the case of—

"(A) any eligible wholesaler, the number of cases of bottled distilled spirits—

"(i) which were bottled in the United States, and

"(ii) which are purchased by such wholesaler during the taxable year directly from the bottler of such spirits, or

"(B) any person which is subject to section 5005 and which is not an eligible wholesaler, the number of cases of bottled distilled spirits which are stored in a warehouse operated by, or on behalf of, a State or political subdivision thereof, or an agency of either, on which title has not passed on an unconditional sale basis, and

"(2) the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year.

"(b) ELIGIBLE WHOLESALER.—For purposes of this section, the term 'eligible wholesaler' means any person which holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits which is not a State or political subdivision thereof, or an agency of either.

"(c) AVERAGE TAX-FINANCING COST.—

"(1) IN GENERAL.—For purposes of this section, the average tax-financing cost per case for any calendar year is the amount of interest which would accrue at the deemed financing rate during a 60-day period on an amount equal to the deemed Federal excise tax per case.

"(2) DEEMED FINANCING RATE.—For purposes of paragraph (1), the deemed financing rate for any calendar year is the average of the corporate overpayment rates under paragraph (1) of section 6621(a) (determined without regard to the last sentence of such paragraph) for calendar quarters of such year.

"(3) DEEMED FEDERAL EXCISE TAX PER CASE.—For purposes of paragraph (1), the deemed Federal excise tax per case is $25.68.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CASE.—The term 'case' means 12 80-proof 750-milliliter bottles.

"(2) NUMBER OF CASES IN LOT.—The number of cases in any lot of distilled spirits shall be determined by dividing the number of liters in such lot by 9.".

(b) CREDIT TREATED AS PART OF GENERAL BUSINESS CREDIT.—Section 38(b) (relating to current year business credit) is amended by striking "plus" at the end of paragraph (18), by striking the period at the end of paragraph (19), and inserting ", plus", and by adding at the end the following new paragraph:

"(20) the distilled spirits credit determined under section 5011(a).".

(c) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter A of chapter 51 is amended by adding at the end the following new item:

"Sec. 5011. Income tax credit for average cost of carrying excise tax.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after September 30, 2005.

### SEC. 1127. QUARTERLY EXCISE TAX FILING FOR SMALL ALCOHOL EXCISE TAXPAYERS.

(a) IN GENERAL.—Subsection (d) of section 5061 (relating to time for collecting tax on distilled spirits, wines, and beer) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) TAXPAYERS LIABLE FOR TAXES OF NOT MORE THAN $50,000.—

"(A) IN GENERAL.—In the case of any taxpayer who reasonably expects to be liable for not more than $50,000 in taxes imposed with respect to distilled spirits, wines, and beer under subparts A, C, and D and section 7652 for the calendar year and who was liable for not more than $50,000 in such taxes in the preceding calendar year, the last day for the payment of tax on withdrawals, removals, and entries (and articles brought into the United States from Puerto Rico) under bond for deferred payment shall be the 14th day after the last day of the calendar quarter during which the action giving rise to the imposition of such tax occurs.

"(B) NO APPLICATION AFTER LIMIT EXCEEDED.—Subparagraph (A) shall not apply to any taxpayer for any portion of the calendar year following the first date on which the aggregate amount of tax due under subparts A, C, and D and section 7652 from such taxpayer during such calendar year exceeds $50,000, and any tax under such subparts which has not been paid on such date shall be due on the 14th day after the last day of the semimonthly period in which such date occurs.

"(C) CALENDAR QUARTER.—For purposes of this paragraph, the term 'calendar quarter' means the three-month period ending on March 31, June 30, September 30, or December 31.".

(b) CONFORMING AMENDMENT.—Section 5061(d)(6), as redesignated by subsection (a), is amended by striking "paragraph (4)" and inserting "paragraph (5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to quarterly periods beginning on and after January 1, 2006.

## PART 5—SPORT EXCISE TAXES

### SEC. 1131. CUSTOM GUNSMITHS.

(a) SMALL MANUFACTURERS EXEMPT FROM FIREARMS EXCISE TAX.—Section 4182 (relating to exemptions) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) SMALL MANUFACTURERS, ETC.—

"(1) IN GENERAL.—The tax imposed by section 4181 shall not apply to any pistol, revolver, or firearm described in such section if manufactured, produced, or imported by a person who manufactures, produces, and imports less than an aggregate of 50 of such articles during the calendar year.

"(2) CONTROLLED GROUPS.—All persons treated as a single employer for purposes of subsection (a) or (b) of section 52 shall be treated as one person for purposes of paragraph (1).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to articles sold by the manufacturer, producer, or importer after September 30, 2005.

(2) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create any inference with respect to the proper tax treatment of any sales before the effective date of such amendments.

## Subtitle C—Miscellaneous Provisions

### SEC. 1141. MOTOR FUEL TAX ENFORCEMENT ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is established a Motor Fuel Tax Enforcement Advisory Commission (in this section referred to as the "Commission").

(b) FUNCTION.—The Commission shall—

(1) review motor fuel revenue collections, historical and current;

(2) review the progress of investigations with respect to motor fuel taxes;

(3) develop and review legislative proposals with respect to motor fuel taxes;

(4) monitor the progress of administrative regulation projects relating to motor fuel taxes;

(5) review the results of Federal and State agency cooperative efforts regarding motor fuel taxes;

*(6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes; and*

*(7) evaluate and make recommendations to the President and Congress regarding—*

*(A) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes,*

*(B) enforcement personnel allocation, and*

*(C) proposals for regulatory projects, legislation, and funding.*

*(c) MEMBERSHIP.—*

*(1) APPOINTMENT.—The Commission shall be composed of the following representatives appointed by the Chairmen and the Ranking Members of the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives:*

*(A) At least 1 representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice.*

*(B) At least 1 representative from the Federation of State Tax Administrators.*

*(C) At least 1 representative from any State department of transportation.*

*(D) 2 representatives from the highway construction industry.*

*(E) 6 representatives from industries relating to fuel distribution — refiners (2 representatives), distributors (1 representative), pipelines (1 representative), and terminal operators (2 representatives).*

*(F) 1 representative from the retail fuel industry.*

*(G) 2 representatives from the staff of the Committee on Finance of the Senate and 2 representatives from the staff of the Committee on Ways and Means of the House of Representatives.*

*(2) TERMS.—Members shall be appointed for the life of the Commission.*

*(3) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.*

*(4) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.*

*(5) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.*

*(d) FUNDING.—Such sums as are necessary shall be available from the Highway Trust fund for the expenses of the Commission.*

*(e) CONSULTATION.—Upon request of the Commission, representatives of the Department of the Treasury and the Internal Revenue Service shall be available for consultation to assist the Commission in carrying out its duties under this section.*

*(f) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.*

*(g) TERMINATION.—The Commission shall terminate as of the close of September 30, 2009.*

### *SEC. 1142. NATIONAL SURFACE TRANSPORTATION INFRASTRUCTURE FINANCING COMMISSION.*

*(a) ESTABLISHMENT.—There is established a National Surface Transportation Infrastructure Financing Commission (in this section referred to as the "Commission"). The Commission shall hold its first meeting within 90 days of the appointment of the eighth individual to be named to the Commission.*

*(b) FUNCTION.—*

*(1) IN GENERAL.—The Commission shall, with respect to the period beginning on the date of the enactment of this Act and ending before 2016—*

*(A) make a thorough investigation and study of revenues flowing into the Highway Trust Fund under current law, including the individual components of the overall flow of such revenues;*

*(B) consider whether the amount of such revenues is likely to increase, decline, or remain unchanged, absent changes in the law, particularly by taking into account the impact of possible changes in public vehicular choice, fuel use, or travel alternatives that could be expected to reduce or increase revenues into the Highway Trust Fund;*

*(C) consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield;*

*(D) consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs;*

*(E) consider a program that would exempt all or a portion of gasoline or other motor fuels used in a State from the Federal excise tax on such gasoline or other motor fuels if such State elects not to receive all or a portion of Federal transportation funding, including—*

*(i) whether such State should be required to increase State gasoline or other motor fuels taxes by the amount of the decrease in the Federal excise tax on such gasoline or other motor fuels;*

*(ii) whether any Federal transportation funding should not be reduced or eliminated for States participating in such program; and*

*(iii) whether there are any compliance problems related to enforcement of Federal transportation-related excise taxes under such program; and*

*(F) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.*

*(2) PREPARATION OF REPORT.—Based on such investigation and study, the Commission shall develop a final report, with recommendations and the bases for those recommendations, indicating policies that should be adopted, or not adopted, to achieve various levels of annual revenue for the Highway Trust Fund and to enable the Highway Trust Fund to receive revenues sufficient to meet highway and transit needs. Such recommendations shall address, among other matters as the Commission may deem appropriate—*

*(A) what levels of revenue are required by the Federal Highway Trust Fund in order for it to meet needs to maintain and improve the condition and performance of the Nation's highway and transit systems;*

*(B) what levels of revenue are required by the Federal Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and*

*(C) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.*

*(c) MEMBERSHIP.—*

*(1) APPOINTMENT.—The Commission shall be composed of 15 members, appointed as follows:*

*(A) 7 members appointed by the Secretary of Transportation, in consultation with the Secretary of the Treasury.*

*(B) 2 members appointed by the Chairman of the Committee on Ways and Means of the House of Representatives.*

*(C) 2 members appointed by the Ranking Minority Member of the Committee on Ways and Means of the House of Representatives.*

*(D) 2 members appointed by the Chairman of the Committee on Finance of the Senate.*

*(E) 2 members appointed by the Ranking Minority Member of the Committee on Finance of the Senate.*

*(2) QUALIFICATIONS.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs, and may include representatives of interested parties, such as State and local governments or other public transportation authorities or agencies, representatives of the transportation construction industry (including suppliers of technology, machinery, and materials), transportation labor (including construction and providers), transportation providers, the financial community, and users of highway and transit systems.*

*(3) TERMS.—Members shall be appointed for the life of the Commission.*

*(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.*

*(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.*

*(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.*

*(d) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.*

*(e) FUNDING.—Funding for the Commission shall be provided by the Secretary of the Treasury and by the Secretary of Transportation, out of funds available to those agencies for administrative and policy functions.*

*(f) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail any of the personnel of that department or agency to the Commission to assist in carrying out its duties under this section.*

*(g) OBTAINING DATA.—The Commission may secure directly from any department or agency of the United States, information (other than information required by any law to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission. The Commission shall also gather evidence through such means as it may deem appropriate, including through holding hearings and soliciting comments by means of Federal Register notices.*

*(h) REPORT.—Not later than 2 years after the date of its first meeting, the Commission shall transmit its final report, including recommendations, to the Secretary of Transportation, the Secretary of the Treasury, and the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, and the Committee on Banking, Housing, and Urban Affairs of the Senate.*

*(i) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (h). All records and papers of the Commission shall thereupon be delivered to the Administrator of General Services for deposit in the National Archives.*

### *SEC. 1143. TAX-EXEMPT FINANCING OF HIGHWAY PROJECTS AND RAIL-TRUCK TRANSFER FACILITIES.*

*(a) TREATMENT AS EXEMPT FACILITY BOND.—Subsection (a) of section 142 (relating to exempt facility bond) is amended by striking "or" at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting ", or", and by adding at the end the following new paragraph:*

*"(15) qualified highway or surface freight transfer facilities.".*

*(b) QUALIFIED HIGHWAY OR SURFACE FREIGHT TRANSFER FACILITIES.—Section 142 is amended by adding at the end the following:*

*"(m) QUALIFIED HIGHWAY OR SURFACE FREIGHT TRANSFER FACILITIES.—*

*"(1) IN GENERAL.—For purposes of subsection (a)(15), the term 'qualified highway or surface freight transfer facilities' means—*

*"(A) any surface transportation project which receives Federal assistance under title 23, United States Code (as in effect on the date of the enactment of this subsection),*

*"(B) any project for an international bridge or tunnel for which an international entity authorized under Federal or State law is responsible and which receives Federal assistance under title 23, United States Code (as so in effect), or*

*"(C) any facility for the transfer of freight from truck to rail or rail to truck (including any temporary storage facilities directly related to such transfers) which receives Federal assistance under either title 23 or title 49, United States Code (as so in effect).*

*"(2) NATIONAL LIMITATION ON AMOUNT OF TAX-EXEMPT FINANCING FOR FACILITIES.—*

*"(A) NATIONAL LIMITATION.—The aggregate amount allocated by the Secretary of Transportation under subparagraph (C) shall not exceed $15,000,000,000.*

*"(B) ENFORCEMENT OF NATIONAL LIMITATION.—An issue shall not be treated as an issue described in subsection (a)(15) if the aggregate face amount of bonds issued pursuant to such issue for any qualified highway or surface freight transfer facility (when added to the aggregate face amount of bonds previously so issued for such facility) exceeds the amount allocated to such facility under subparagraph (C).*

*"(C) ALLOCATION BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation shall allocate the amount described in subparagraph (A) among qualified highway or surface freight transfer facilities in such manner as the Secretary determines appropriate.*

*"(3) EXPENDITURE OF PROCEEDS.—An issue shall not be treated as an issue described in subsection (a)(15) unless at least 95 percent of the net proceeds of the issue is expended for qualified highway or surface freight transfer facilities within the 5-year period beginning on the date of issuance. If at least 95 percent of such net proceeds is not expended within such 5-year period, an issue shall be treated as continuing to meet the requirements of this paragraph if the issuer uses all unspent proceeds of the issue to redeem bonds of the issue within 90 days after the end of such 5-year period. The Secretary, at the request of the issuer, may extend such 5-year period if the issuer establishes that any failure to meet such period is due to circumstances beyond the control of the issuer.*

*"(4) EXCEPTION FOR CURRENT REFUNDING BONDS.—Paragraph (2) shall not apply to any bond (or series of bonds) issued to refund a bond issued under subsection (a)(15) if—*

*"(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,*

*"(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and*

*"(C) the refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond.*

*For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A).".*

*(c) EXEMPTION FROM GENERAL STATE VOLUME CAPS.—Paragraph (3) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by striking "or (14)" and all that follows through the end of the paragraph and inserting "(14), or (15) of section 142(a), and".*

*(d) EFFECTIVE DATE.—The amendments made by this section apply to bonds issued after the date of the enactment of this Act.*

### *SEC. 1144. TREASURY STUDY OF HIGHWAY FUELS USED BY TRUCKS FOR NON-TRANSPORTATION PURPOSES.*

*(a) STUDY.—The Secretary of the Treasury shall conduct a study regarding the use of highway motor fuel by trucks that is not used for the propulsion of the vehicle. As part of such study—*

*(1) in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle—*

*(A) the Secretary of the Treasury, in consultation with the Secretary of Transportation, and with public notice and comment, shall determine the average annual amount of tax-paid fuel consumed per vehicle, by type of vehicle, used by the propulsion engine to provide the power to operate the equipment attached to the highway vehicle, and*

*(B) the Secretary of the Treasury shall review the technical and administrative feasibility of exempting such nonpropulsive use of highway fuels from the highway motor fuels excise taxes, and, if such exemptions are technically and administratively feasible, shall propose options for implementing such exemptions for—*

*(i) mobile machinery (as defined in section 4053(8) of the Internal Revenue Code of 1986) whose nonpropulsive fuel use exceeds 50 percent, and*

*(ii) any highway vehicle which consumes fuel for both transportation- and non-transportation-related equipment, using a single motor,*

*(2) in the case where non-transportation equipment is run by a separate motor—*

*(A) the Secretary of the Treasury shall determine the annual average amount of fuel exempted from tax in the use of such equipment by equipment type, and*

*(B) the Secretary of the Treasury shall review issues of administration and compliance related to the present-law exemption provided for such fuel use, and*

*(3) the Secretary of the Treasury shall—*

*(A) estimate the amount of taxable fuel consumed by trucks and the emissions of various pollutants due to the long-term idling of diesel engines, and*

*(B) determine the cost of reducing such long-term idling through the use of plug-ins at truck stops, auxiliary power units, or other technologies.*

*(b) REPORT.—Not later than January 1, 2007, the Secretary of the Treasury shall report the findings of the study required under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.*

### *SEC. 1145. DIESEL FUEL TAX EVASION REPORT.*

*Not later than 360 days after the date of the enactment of this Act, the Commissioner of the Internal Revenue shall report to the Committees on Finance and Environment and Public Works of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives on—*

*(1) the availability of new technologies, including forensic or chemical molecular markers, that can be employed to enhance collections of the excise tax on diesel fuel and the plans of the Internal Revenue Service to employ such technologies,*

*(2) the design of a test to place forensic or chemical molecular markers in any excluded liquid (as defined in section 48.4081–1(b) of title 26, Code of Federal Regulations),*

*(3) the design of a test, in consultation with the Department of Defense, to place forensic or chemical molecular markers in all nonstrategic bulk fuel deliveries of diesel fuel to the military, and*

*(4) the design of a test to place forensic or chemical molecular markers in all diesel fuel bound for export utilizing the Gulf of Mexico.*

### *SEC. 1146. TAX TREATMENT OF STATE OWNERSHIP OF RAILROAD REAL ESTATE INVESTMENT TRUST.*

*(a) IN GENERAL.—If a State owns all of the outstanding stock of a corporation—*

*(1) which is a real estate investment trust on the date of the enactment of this Act,*

*(2) which is a non-operating class III railroad, and*

*(3) substantially all of the activities of which consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons for railroad transportation and for economic development purposes for the benefit of the State and its citizens, then, to the extent such activities are of a type which are an essential governmental function within the meaning of section 115 of the Internal Revenue Code of 1986, income derived from such activities by the corporation shall be treated as accruing to the State for purposes of section 115 of such Code.*

*(b) GAIN OR LOSS NOT RECOGNIZED ON CONVERSION.—Notwithstanding section 337(d) of the Internal Revenue Code of 1986—*

*(1) no gain or loss shall be recognized under section 336 or 337 of such Code, and*

*(2) no change in basis of the property of such corporation shall occur, because of any change of status of a corporation to a tax-exempt entity by reason of the application of subsection (a).*

*(c) TAX-EXEMPT FINANCING.—*

*(1) IN GENERAL.—Any obligation issued by a corporation described in subsection (a) at least 95 percent of the net proceeds (as defined in section 150(a) of the Internal Revenue Code of 1986) of which are to be used to provide for the acquisition, construction, or improvement of railroad transportation infrastructure (including railroad terminal facilities)—*

*(A) shall be treated as a State or local bond (within the meaning of section 103(c) of such Code), and*

*(B) shall not be treated as a private activity bond (within the meaning of section 103(b)(1) of such Code) solely by reason of the ownership or use of such railroad transportation infrastructure by the corporation.*

*(2) NO INFERENCE.—Except as provided in paragraph (1), nothing in this subsection shall be construed to affect the treatment of the private use of proceeds or property financed with obligations issued by the corporation for purposes of section 103 of the Internal Revenue Code of 1986 and part IV of subchapter B of such Code.*

*(d) DEFINITIONS.—For purposes of this section:*

*(1) REAL ESTATE INVESTMENT TRUST.—The term "real estate investment trust" has the meaning given such term by section 856(a) of the Internal Revenue Code of 1986.*

*(2) NON-OPERATING CLASS III RAILROAD.—The term "non-operating class III railroad" has the meaning given such term by part A of subtitle IV of title 49, United States Code (49 U.S.C. 10101 et seq.), and the regulations thereunder.*

*(3) STATE.—The term "State" includes—*

(A) the District of Columbia and any possession of the United States, and

(B) any authority, agency, or public corporation of a State.

(e) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall apply on and after the date on which a State becomes the owner of all of the outstanding stock of a corporation described in subsection (a) through action of such corporation's board of directors.

(2) EXCEPTION.—This section shall not apply to any State which—

(A) becomes the owner of all of the voting stock of a corporation described in subsection (a) after December 31, 2003, or

(B) becomes the owner of all of the outstanding stock of a corporation described in subsection (a) after December 31, 2006.

### SEC. 1147. LIMITATION ON TRANSFERS TO THE LEAKING UNDERGROUND STORAGE TANK TRUST FUND.

(a) IN GENERAL.—Section 9508 is amended by adding at the end the following new subsection:

"(e) LIMITATION ON TRANSFERS TO LEAKING UNDERGROUND STORAGE TANK TRUST FUND.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated to the Leaking Underground Storage Tank Trust Fund on and after the date of any expenditure from the Leaking Underground Storage Tank Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

"(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

"(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this paragraph.

"(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before October 1, 2011, in accordance with the provisions of this section.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

## Subtitle D—Highway-Related Technical Corrections

### SEC. 1151. HIGHWAY-RELATED TECHNICAL CORRECTIONS.

(a) AMENDMENTS RELATED TO SECTION 301 OF THE AMERICAN JOBS CREATION ACT OF 2004.—Section 6427 is amended—

(1) by striking subsection (f), and

(2) by striking subsection (o) and redesignating subsection (p) as subsection (o).

(b) AMENDMENTS RELATED TO SECTION 853 OF THE AMERICAN JOBS CREATION ACT OF 2004.—

(1) Subparagraph (C) of section 4081(a)(2) is amended by striking "for use in commercial aviation" and inserting "for use in commercial aviation by a person registered for such use under section 4101".

(2) So much of paragraph (2) of section 4081(d) as precedes subparagraph (A) is amended to read as follows:

"(2) AVIATION FUELS.—The rates of tax specified in clauses (ii) and (iv) of subsection (a)(2)(A) shall be 4.3 cents per gallon—".

(3) Section 6421(f)(2) is amended—

(A) by striking "noncommercial aviation (as defined in section 4041(c)(2))" in subparagraph (A) and inserting "aviation which is not commercial aviation (as defined in section 4083(b))", and

(B) by striking "aviation which is not noncommercial aviation" in subparagraph (B) and inserting "commercial aviation".

(c) AMENDMENT RELATED TO SECTION 9005 OF THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—The last sentence of paragraph (2) of section 9504(b) is amended by striking "subparagraph (B)", and inserting "subparagraph (C)".

(d) AMENDMENT RELATED TO SECTION 1306 OF THE ENERGY POLICY ACT OF 2005.—

(1) Subsection (b) of section 1306 of the Energy Tax Incentives Act of 2005 is amended by striking "Transportation Equity Act: A Legacy for Users" and inserting "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users".

(2) If the Energy Policy Act of 2005 is enacted before the date of the enactment of this Act, for purposes of executing any amendments made by the Energy Policy Act of 2005 to section 38(b) of the Internal Revenue Code of 1986, the amendments made by section 1126(b) of this Act shall be treated as having been executed before such amendments made by the Energy Policy Act of 2005.

(e) CLERICAL AMENDMENTS.—

(1) Subparagraph (A) of section 9504(b)(2) is amended by striking "the Act entitled 'An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes', approved August 9, 1950" and inserting "the Dingell-Johnson Sport Fish Restoration Act".

(2) Sections 6426(d)(2)(F) and 4041(a)(2)(B)(ii) are both amended by striking "section 29(c)(3)" and inserting "section 45K(c)(3)".

(f) EFFECTIVE DATES.—

(1) AMERICAN JOBS CREATION ACT OF 2004.—The amendments made by subsections (a) and (b) shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which they relate.

(2) TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY.—The amendment made by subsection (c) shall take effect as if included in the provision of the Transportation Equity Act for the 21st Century to which it relates.

(3) ENERGY POLICY ACT OF 2005.—The amendments made by subsections (d)(1) and (e)(2) shall take effect as if included in the provision of the Energy Tax Incentives Act of 2005 to which they relate.

## Subtitle E—Preventing Fuel Fraud

### SEC. 1161. TREATMENT OF KEROSENE FOR USE IN AVIATION.

(a) ALL KEROSENE TAXED AT HIGHEST RATE.—

(1) IN GENERAL.—Section 4081(a)(2)(A) (relating to rates of tax) is amended by adding "and" at the end of clause (ii), by striking ", and" at the end of clause (iii) and inserting a period, and by striking clause (iv).

(2) EXCEPTION FOR USE IN AVIATION.—Subparagraph (C) of section 4081(a)(2) is amended to read as follows:

"(C) TAXES IMPOSED ON FUEL USED IN AVIATION.—In the case of kerosene which is removed from any refinery or terminal directly into the fuel tank of an aircraft for use in aviation, the rate of tax under subparagraph (A)(iii) shall be—

"(i) in the case of use for commercial aviation by a person registered for such use under section 4101, 4.3 cents per gallon, and

"(ii) in the case of use for aviation not described in clause (i), 21.8 cents per gallon.".

(3) APPLICABLE RATE IN CASE OF CERTAIN REFUELER TRUCKS, TANKERS, AND TANK WAGONS.—Section 4081(a)(3) (relating to certain refueler trucks, tankers, and tank wagons treated as terminals) is amended—

(A) by striking "a secured area of" in subparagraph (A)(i), and

(B) by adding at the end the following new subparagraph:

"(D) APPLICABLE RATE.—For purposes of paragraph (2)(C), in the case of any kerosene treated as removed from a terminal by reason of this paragraph—

"(i) the rate of tax specified in paragraph (2)(C)(i) in the case of use described in such paragraph shall apply if such terminal is located within a secured area of an airport, and

"(ii) the rate of tax specified in paragraph (2)(C)(ii) shall apply in all other cases.";

(4) CONFORMING AMENDMENTS.—

(A) Sections 4081(a)(3)(A) and 4082(b) are amended by striking "aviation-grade" each place it appears.

(B) Section 4081(a)(4) is amended by striking "paragraph (2)(C)" and inserting "paragraph (2)(C)(i)".

(C) The heading for paragraph (4) of section 4081(a) is amended by striking "AVIATION-GRADE".

(D) Section 4081(d)(2) is amended by striking so much as precedes subparagraph (A) and inserting the following:

"(2) AVIATION FUELS.—The rates of tax specified in subsections (a)(2)(A)(ii) and (a)(2)(C)(ii) shall be 4.3 cents per gallon—".

(E) Subsection (e) of section 4082 is amended—

(i) by striking "aviation-grade",

(ii) by striking "section 4081(a)(2)(A)(iv)" and inserting "section 4081(a)(2)(A)(iii)",

(iii) by adding at the end the following new sentence: "For purposes of this subsection, any removal described in section 4081(a)(3)(A) shall be treated as a removal from a terminal but only if such terminal is located within a secure area of an airport.", and

(iv) by striking "AVIATION-GRADE KEROSENE" in the heading thereof and inserting "KEROSENE REMOVED INTO AN AIRCRAFT".

(b) REDUCED RATE FOR USE OF CERTAIN LIQUIDS IN AVIATION.—

(1) IN GENERAL.—Subsection (c) of section 4041 (relating to imposition of tax) is amended—

(A) by striking "aviation-grade kerosene" in paragraph (1) and inserting "any liquid for use as a fuel other than aviation gasoline",

(B) by striking "aviation-grade kerosene" in paragraph (2) and inserting "liquid for use as a fuel other than aviation gasoline",

(C) by striking paragraph (3) and inserting the following new paragraph:

"(3) RATE OF TAX.—The rate of tax imposed by this subsection shall be 21.8 cents per gallon (4.3 cents per gallon with respect to any sale or use for commercial aviation).", and

(D) by striking "AVIATION-GRADE KEROSENE" in the heading thereof and inserting "CERTAIN LIQUIDS USED AS A FUEL IN AVIATION".

(2) PARTIAL REFUND OF FULL RATE.—

(A) IN GENERAL.—Paragraph (2) of section 6427(l) (relating to nontaxable uses of diesel fuel, kerosene and aviation fuel) is amended to read as follows:

"(2) NONTAXABLE USE.—For purposes of this subsection, the term 'nontaxable use' means any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax.".

(B) REFUNDS FOR NONCOMMERCIAL AVIATION.—Section 6427(l) (relating to nontaxable uses of diesel fuel, kerosene and aviation fuel) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) REFUNDS FOR KEROSENE USED IN NONCOMMERCIAL AVIATION.—

"(A) IN GENERAL.—In the case of kerosene used in aviation not described in paragraph (4)(A) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to so much of the tax imposed by section 4081 as is attributable to—

"(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

"(ii) so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does not exceed the rate specified in section 4081(a)(2)(C)(ii).

*"(B) PAYMENT TO ULTIMATE, REGISTERED VENDOR.—The amount which would be paid under paragraph (1) with respect to any kerosene shall be paid only to the ultimate vendor of such kerosene. A payment shall be made to such vendor if such vendor—*

*"(i) is registered under section 4101, and*

*"(ii) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).".*

*(3) CONFORMING AMENDMENTS.—*

*(A) Section 4041(a)(1)(B) is amended by striking the last sentence.*

*(B) The heading for subsection (l) of section 6427 is amended by striking ", Kerosene and Aviation Fuel" and inserting "and Kerosene".*

*(C) Section 4082(d)(2)(B) is amended by striking "section 6427(l)(5)(B)" and inserting "section 6427(l)(6)(B)".*

*(D) Section 6427(i)(4)(A) is amended—*

*(i) by striking "paragraph (4)(B) or (5)" both places it appears and inserting "paragraph (4)(B), (5), or (6)", and*

*(ii) by striking "subsection (b)(4) and subsection (l)(5)" in the last sentence and inserting "subsections (b)(4), (l)(5), and (l)(6)".*

*(E) Paragraph (4) of section 6427(l) is amended—*

*(i) by striking "aviation-grade" in subparagraph (A),*

*(ii) by striking "section 4081(a)(2)(A)(iv)" and inserting "section 4081(a)(2)(iii)",*

*(iii) by striking "aviation-grade kerosene" in subparagraph (B) and inserting "kerosene used in commercial aviation as described in subparagraph (A)", and*

*(iv) by striking "AVIATION-GRADE KEROSENE" in the heading thereof and inserting "KEROSENE USED IN COMMERCIAL AVIATION".*

*(F) Section 6427(l)(6)(B), as redesignated by paragraph (2)(B), is amended by striking "aviation-grade kerosene" and inserting "kerosene used in aviation".*

*(c) TRANSFERS FROM HIGHWAY TRUST FUND OF TAXES ON FUELS USED IN AVIATION TO AIRPORT AND AIRWAY TRUST FUND.—*

*(1) IN GENERAL.—Section 9503(c) (relating to expenditures from Highway Trust Fund) is amended by adding at the end the following new paragraph:*

*"(7) TRANSFERS FROM THE TRUST FUND FOR CERTAIN AVIATION FUEL TAXES.—The Secretary shall pay at least monthly from the Highway Trust Fund into the Airport and Airway Trust Fund amounts (as determined by the Secretary) equivalent to the taxes received on or after October 1, 2005, and before October 1, 2011, under section 4081 with respect to so much of the rate of tax as does not exceed—*

*"(A) 4.3 cents per gallon of kerosene with respect to which a payment has been made by the Secretary under section 6427(l)(4), and*

*"(B) 21.8 cents per gallon of kerosene with respect to which a payment has been made by the Secretary under section 6427(l)(5).*

*Transfers under the preceding sentence shall be made on the basis of estimates by the Secretary, and proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred. Any amount allowed as a credit under section 34 by reason of paragraph (4) or (5) of section 6427(l) shall be treated for purposes of subparagraphs (A) and (B) as a payment made by the Secretary under such paragraph.".*

*(2) CONFORMING AMENDMENTS.—*

*(A) Section 9502(a) is amended by striking "appropriated or credited to the Airport and Airway Trust Fund as provided in this section or section 9602(b)" and inserting "appropriated, credited, or paid into the Airport and Airway Trust Fund as provided in this section, section 9503(c)(7), or section 9602(b)".*

*(B) Section 9502(b)(1) is amended—*

*(i) by striking "subsections (c) and (e) of section 4041" in subparagraph (A) and inserting "section 4041(c)", and*

*(ii) by striking "and aviation-grade kerosene" in subparagraph (C) and inserting "and kerosene to the extent attributable to the rate specified in section 4081(a)(2)(C)".*

*(C) Section 9503(b) is amended by striking paragraph (3).*

*(d) CERTAIN REFUNDS NOT TRANSFERRED FROM AIRPORT AND AIRWAY TRUST FUND.—*

*(1) Section 9502(d)(2) (relating to transfers from Airport and Airway Trust Fund on account of certain refunds) is amended by inserting "(other than subsections (l)(4) and (l)(5) thereof)" after "or 6427 (relating to fuels not used for taxable purposes)".*

*(2) The text of section 9502(d)(3) (relating to transfers from Airport and Airway Trust Fund on account of certain section 34 credits) is amended by inserting "(other than payments made by reason of paragraph (4) or (5) of section 6427(l))" after "section 34".*

*(e) EFFECTIVE DATE.—The amendments made by this section shall apply to fuels or liquids removed, entered, or sold after September 30, 2005.*

### SEC. 1162. REPEAL OF ULTIMATE VENDOR REFUND CLAIMS WITH RESPECT TO FARMING.

*(a) IN GENERAL.—Subparagraph (A) of section 6427(l)(6) (relating to registered vendors to administer claims for refund of diesel fuel or kerosene sold to farmers and State and local governments), as redesignated by section 1161, is amended to read as follows:*

*"(A) IN GENERAL.—Paragraph (1) shall not apply to diesel fuel or kerosene used by a State or local government.". .*

*(b) CONFORMING AMENDMENT.—The heading of paragraph (6) of section 6427(l), as so redesignated, is amended by striking "FARMERS AND".*

*(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after September 30, 2005.*

### SEC. 1163. REFUNDS OF EXCISE TAXES ON EXEMPT SALES OF FUEL BY CREDIT CARD.

*(a) REGISTRATION OF PERSON EXTENDING CREDIT ON CERTAIN EXEMPT SALES OF FUEL.—Section 4101(a) (relating to registration) is amended by adding at the end the following new paragraph:*

*"(4) REGISTRATION OF PERSONS EXTENDING CREDIT ON CERTAIN EXEMPT SALES OF FUEL.—The Secretary shall require registration by any person which—*

*"(A) extends credit by credit card to any ultimate purchaser described in subparagraph (C) or (D) of section 6416(b)(2) for the purchase of taxable fuel upon which tax has been imposed under section 4041 or 4081, and*

*"(B) does not collect the amount of such tax from such ultimate purchaser.".*

*(b) REFUNDS OF TAX ON GASOLINE.—*

*(1) IN GENERAL.—Paragraph (4) of section 6416(a) (relating to condition to allowance) is amended—*

*(A) by inserting "except as provided in subparagraph (B)," after "For purposes of this subsection," in subparagraph (A),*

*(B) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:*

*"(B) CREDIT CARD ISSUER.—For purposes of this subsection, if the purchase of gasoline described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, paragraph (1) shall not apply and the person extending the credit to the ultimate purchaser shall be treated as the person (and the only person) who paid the tax, but only if such person—*

*"(i) is registered under section 4101, and*

*"(ii) has established, under regulations prescribed by the Secretary, that such person—*

*"(I) has not collected the amount of the tax from the person who purchased such article, or*

*"(II) has obtained the written consent from the ultimate purchaser to the allowance of the credit or refund, and*

*"(iii) has so established that such person—*

*"(I) has repaid or agreed to repay the amount of the tax to the ultimate vendor,*

*"(II) has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or*

*"(III) has otherwise made arrangements which directly or indirectly provides the ultimate vendor with reimbursement of such tax.*

*If clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall collect an amount equal to the tax from the ultimate purchaser and only such ultimate purchaser may claim such credit or payment.",*

*(C) by striking "subparagraph (A)" in subparagraph (C), as redesignated by paragraph (2), and inserting "subparagraph (A) or (B)",*

*(D) by inserting "or credit card issuer" after "vendor" in subparagraph (C), as so redesignated, and*

*(E) by inserting "OR CREDIT CARD ISSUER" after "VENDOR" in the heading thereof.*

*(2) CONFORMING AMENDMENT.—Section 6416(b)(2) is amended by adding at the end the following new sentence: "Subparagraphs (C) and (D) shall not apply in the case of any tax imposed on gasoline under section 4081 if the requirements of subsection (a)(4) are not met.".*

*(c) DIESEL FUEL OR KEROSENE.—Paragraph (6) of section 6427(l) (relating to nontaxable uses of diesel fuel and kerosene), as redesignated by section 1161, is amended—*

*(1) by striking "The amount" in subparagraph (C) and inserting "Except as provided in subparagraph (D), the amount", and*

*(2) by adding at the end the following new subparagraph:*

*"(D) CREDIT CARD ISSUER.—For purposes of this paragraph, if the purchase of any fuel described in subparagraph (A) (determined without regard to the registration status of the ultimate vendor) is made by means of a credit card issued to the ultimate purchaser, the Secretary shall pay to the person extending the credit to the ultimate purchaser the amount which would have been paid under paragraph (1) (but for subparagraph (A)), but only if such person meets the requirements of clauses (i), (ii), and (iii) of section 6416(a)(4)(B). If such clause (i), (ii), or (iii) is not met by such person extending the credit to the ultimate purchaser, then such person shall collect an amount equal to the tax from the ultimate purchaser and only such ultimate purchaser may claim such amount.".*

*(d) CONFORMING PENALTY AMENDMENTS.—*

*(1) Section 6206 (relating to special rules applicable to excessive claims under sections 6420, 6421, and 6427) is amended—*

*(A) by striking "Any portion" in the first sentence and inserting "Any portion of a refund made under section 6416(a)(4) and any portion".*

*(B) by striking "payments under sections 6420" in the first sentence and inserting "refunds under section 6416(a)(4) and payments under sections 6420",*

*(C) by striking "section 6420" in the second sentence and inserting "section 6416(a)(4), 6420", and*

*(D) by striking "**SECTIONS 6420, 6421, AND 6427**" in the heading thereof and inserting "**CERTAIN SECTIONS**".*

*(2) Section 6675(a) is amended by inserting "section 6416(a)(4) (relating to certain sales of gasoline)," after "made under".*

*(3) Section 6675(b)(1) is amended by inserting "6416(a)(4)," after "under section".*

*(4) The item relating to section 6206 in the table of sections for subchapter A of chapter 63 is amended by striking "sections 6420, 6421, and 6427" and inserting "certain sections".*

*(e) Effective Date.—The amendments made by this section shall apply to sales after December 31, 2005.*

### *SEC. 1164. REREGISTRATION IN EVENT OF CHANGE IN OWNERSHIP.*

*(a) In General.—Section 4101(a) (relating to registration) is amended by adding at the end the following new paragraph:*

*"(4) Reregistration in event of change in ownership.—Under regulations prescribed by the Secretary, a person (other than a corporation the stock of which is regularly traded on an established securities market) shall be required to reregister under this section if after a transaction (or series of related transactions) more than 50 percent of ownership interests in, or assets of, such person are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions).".*

*(b) Conforming Amendments.—*

*(1) Civil penalty.—Section 6719 (relating to failure to register) is amended—*

*(A) by inserting "or reregister" after "register" each place it appears,*

*(B) by inserting "or Reregister" after "Register" in the heading for subsection (a), and*

*(C) by inserting "**OR REREGISTER**" after "**REGISTER**" in the heading thereof.*

*(2) Criminal penalty.—Section 7232 (relating to failure to register under section 4101, false representations of registration status, etc.) is amended—*

*(A) by inserting "or reregister" after "register",*

*(B) by inserting "or reregistration" after "registration", and*

*(C) by inserting "**OR REREGISTER**" after "**REGISTER**" in the heading thereof.*

*(3) Additional civil penalty.—Section 7272 (relating to penalty for failure to register) is amended—*

*(A) by inserting "or reregister" after "failure to register" in subsection (a),*

*(B) by inserting "**OR REREGISTER**" after "**REGISTER**" in the heading thereof.*

*(4) Clerical amendments.—The item relating to section 6719 in the table of sections for part I of subchapter B of chapter 68, the item relating to section 7232 in the table of sections for part II of subchapter A of chapter 75, and the item relating to section 7272 in the table of sections for subchapter B of chapter 75 are each amended by inserting "or reregister" after "register".*

*(c) Effective Date.—The amendments made by this section shall apply to actions, or failures to act, after the date of the enactment of this Act.*

### *SEC. 1165. RECONCILIATION OF ON-LOADED CARGO TO ENTERED CARGO.*

*(a) In General.—Subsection (a) of section 343 of the Trade Act of 2002 is amended by inserting at the end the following new paragraph:*

*"(4) Transmission of data.—Pursuant to paragraph (2), not later than 1 year after the date of enactment of this paragraph, the Secretary of Homeland Security, after consultation with the Secretary of the Treasury, shall establish an electronic data interchange system through which the United States Customs and Border Protection shall transmit to the Internal Revenue Service information pertaining to cargoes of any taxable fuel (as defined in section 4083 of the Internal Revenue Code of 1986) that the United States Customs and Border Protection has obtained electronically under its regulations adopted in accordance with paragraph (1). For this purpose, not later than 1 year after the date of enactment of this paragraph, all filers of required cargo information for such taxable fuels (as so defined) must provide such information to the United States Customs and Border Protection through such electronic data interchange system.".*

*(b) Effective Date.—The amendment made by this section shall take effect on the date of the enactment of this Act.*

### *SEC. 1166. TREATMENT OF DEEP-DRAFT VESSELS.*

*(a) In General.—On and after the date of the enactment of this Act, the Secretary of the Treasury shall require that a vessel described in section 4042(c)(1) of the Internal Revenue Code of 1986 be considered a vessel for purposes of the registration of the operator of such vessel under section 4101 of such Code, unless such operator uses such vessel exclusively for purposes of the entry of taxable fuel.*

*(b) Exemption for Domestic Bulk Transfers by Deep-Draft Vessels.—*

*(1) In general.—Subparagraph (B) of section 4081(a)(1) (relating to tax on removal, entry, or sale) is amended to read as follows:*

*"(B) Exemption for bulk transfers to registered terminals or refineries.—*

*"(i) In general.—The tax imposed by this paragraph shall not apply to any removal or entry of a taxable fuel transferred in bulk by pipeline or vessel to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel (except as provided in clause (ii)), and the operator of such terminal or refinery are registered under section 4101.*

*"(ii) Nonapplication of registration to vessel operators entering by deep-draft vessel.—For purposes of clause (i), a vessel operator is not required to be registered with respect to the entry of a taxable fuel transferred in bulk by a vessel described in section 4042(c)(1).".*

*(2) Effective date.—The amendment made by this subsection shall take effect on the date of the enactment of this Act.*

### *SEC. 1167. PENALTY WITH RESPECT TO CERTAIN ADULTERATED FUELS.*

*(a) In General.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end the following new section:*

### *"SEC. 6720A. PENALTY WITH RESPECT TO CERTAIN ADULTERATED FUELS.*

*"(a) In General.—Any person who knowingly transfers for resale, sells for resale, or holds out for resale any liquid for use in a diesel-powered highway vehicle or a diesel-powered train which does not meet applicable EPA regulations (as defined in section 45H(c)(3)), shall pay a penalty of $10,000 for each such transfer, sale, or holding out for resale, in addition to the tax on such liquid (if any).*

*"(b) Penalty in the Case of Retailers.—Any person who knowingly holds out for sale (other than for resale) any liquid described in subsection (a), shall pay a penalty of $10,000 for each such holding out for sale, in addition to the tax on such liquid (if any).".*

*(b) Dedication of Revenue.—Paragraph (5) of section 9503(b) (relating to certain penalties) is amended by inserting "6720A," after "6719,".*

*(c) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by adding at the end the following new item:*

*"Sec. 6720A. Penalty with respect to certain adulterated fuels.".*

*(d) Effective Date.—The amendments made by this section shall apply to any transfer, sale, or holding out for sale or resale occurring after the date of the enactment of this Act.*

And the Senate agree to the same.

From the Committee on Transportation and Infrastructure, for consideration of the House bill (except title X) and the Senate amendment (except title V), and modifications committed to conference:

Don Young,
Thomas E. Petri,
Sherwood Boehlert,
Howard Coble,
John J. Duncan, Jr.,
John L. Mica,
Pete Hoekstra,
Steven C. LaTourette,
Spencer Bachus,
Richard H. Baker,
Gary G. Miller,
Robin Hayes,
Rob Simmons,
Henry E. Brown, Jr.
Sam Graves,
Bill Shuster,
John Boozman,
James L. Oberstar,
Nick Rahall,
Peter A. DeFazio,
Jerry F. Costello,
Eleanor Holmes Norton,
Jerrold Nadler,
Robert Menendez,
Corrine Brown,
Bob Filner,
Eddie Bernice Johnson,
Gene Taylor,
Juanita Millender-McDonald,
Elijah E. Cummings,
Earl Blumenauer,
Ellen O. Tauscher,

From the Committee on the Budget, for consideration of secs. 8001–8003 of the House bill, and title III of the Senate amendment, and modifications committed to conference:

Jim Nussle,
Mario Diaz-Balart,
John Spratt,

From the Committee on Education and the Workforce, for consideration of secs. 1118, 1605, 1809, 3018, and 3030 of the House bill, and secs. 1304, 1819, 6013, 6031, 6038, and 7603 of the Senate amendment, and modifications committed to conference:

Ric Keller,
John Barrow,

From the Committee on Energy and Commerce, for consideration of provisions in the House bill and Senate amendment relating to Clean Air Act provisions of transportation planning contained in secs. 6001 and 6006 of the House bill, and secs. 6005 and 6006 of the Senate amendment; and secs. 1210, 1824, 1833, 5203, and 6008 of the House bill, and secs. 1501, 1511, 1522, 1610–1619, 1622, 4001, 4002, 6016, 6023, 7218, 7223, 7251, 7252, 7256–7262, 7324, 7381, 7382, and 7384 of the Senate amendment, and modifications committed to conference:

Joe Barton,
Chip Pickering,
John D. Dingell,

From the Committee on Government Reform, for consideration of sec. 4205 of the House bill, and sec. 2101 of the Senate amendment, and modifications committed to conference:

Tom Davis,
Todd R. Platts,

From the Committee on Homeland Security, for consideration of secs. 1834, 6027, 7324, and 7325 of the Senate amendment, and modifications committed to conference:

Chris Cox,
Daniel E. Lungren,
Bennie G. Thompson,

From the Committee on the Judiciary, for consideration of secs. 1211, 1605, 1812, 1832, 2013, 2017, 4105, 4201, 4202, 4214, 7018–7020, and 7023 of the House bill, and secs. 1410, 1512, 1513, 6006, 6029, 7108, 7113, 7115, 7338, 7340, 7343, 7345, 7362, 7363, 7406, 7407, and 7413 of the Senate amendment, and modifications committed to conference:

Lamar Smith,
John Conyers,

From the Committee on Resources, for consideration of secs. 1119, 3021, 6002, and 6003 of the House bill, and secs. 1501, 1502, 1505, 1511, 1514, 1601, 1603, 6040, and 7501-7518 of the Senate amendment, and modifications committed to conference:

Greg Walden,
Ron Kind,

From the Committee on Rules, for consideration of secs. 8004 and 8005 of the House bill, and modifications committed to conference:

David Dreier,
Shelley Moore Capito,
Jim McGovern,

From the Committee on Science, for consideration of secs. 2010, 3013, 3015, 3034, 3039, 3041, 4112, and title V of the House bill, and title II and secs. 6014, 6015, 6036, 7118, 7212, 7214, 7361, and 7370 of the Senate amendment, and modifications committed to conference:

Vernon J. Ehlers,
David Reichert,
Bart Gordon,

From the Committee on Ways and Means, for consideration of title X of the House bill, and title V of the Senate amendment, and modifications committed to conference:

William M. Thomas,
Jim McCrery,

For consideration of the House bill and Senate amendment, and modifications committed to conference:

Tom DeLay

*Managers on the Part of the House.*

James M. Inhofe,
John Warner,
Kit Bond,
George V. Voinovich,
Lincoln Chafee,
Lisa Murkowski,
John Thune,
Jim DeMint,
Johnny Isakson,
David Vitter,
Chuck Grassley,
Orrin Hatch,
Richard Shelby,
Wayne Allard,
Ted Stevens,
Trent Lott,
Jim Jeffords,
Max Baucus,
Joe Lieberman,
Barbara Boxer,
Tom Carper,
Hillary Rodham Clinton,
Frank R. Lautenberg,
Barack Obama,
Ken T. Conrad,
Daniel K. Inouye,
Jay Rockefeller,
Paul Sarbanes,
Jack Reed,
Tim Johnson,

*Managers on the Part of the Senate.*

## JOINT EXPLANATORY KSTATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3), to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The difference between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

## TITLE I—FEDERAL-AID HIGHWAYS

### Subtitle A—Authorizations of Programs

### SEC. 1101. AUTHORIZATION OF APPROPRIATIONS

*House Bill*

*Sec. 1101.*

Subsection (a) authorizes funds out of the Highway Trust Fund (other than the Mass Transit Account) for the following highway programs: Interstate Maintenance Program, National Highway System, Bridge Program, Highway Safety Improvements Program, Surface Transportation Program, Congestion Mitigation and Air Quality Improvement Program, Appalachian Development Highway System Program, Recreational Trails Program, Federal Lands Highways Program, National Corridor Infrastructure Improvement Program, Coordinated Border Infrastructure Program, Projects of National and Regional Significance Program, Construction of Ferry Boats and Ferry Terminal Facilities, National Scenic Byways Program, Congestion Pricing Pilot Program, Deployment of 511 Traveler Information Program, High Priority Projects Program, Freight Intermodal Connector Program, High Risk Rural Road Safety Improvement Program, Highway Use Tax Evasion Program, Pedestrian and Cyclist Equity, Dedicated Truck Lanes, Highways for LIFE Program, and Commonwealth of Puerto Rico Program.

Subsection (b) continues the disadvantaged business enterprise (DBE) program with minor changes. The Committee finds there is a continuing compelling need for the DBE program. In enacting TEA 21 in 1998, Congress compiled an extensive record on the effects of discrimination in transportation contracting. Much of this information remains valid today. We agree with those courts that have observed that evidence concerning the exclusion of disadvantaged groups remains relevant over a considerable period of time. The Committee has relied on the information that Congress used in 1998 in finding a continuing compelling need for the DBE program.

The Committee has also taken notice of data about the period between 1998 and today. The data demonstrates the continuing need for the program, as DBEs are still not able to compete on the same basis as other businesses. First, the regulation, found constitutional in a series of recent court rulings, tells recipients to set overall goals. Under the rules, recipients may set DBE contract goals only for that portion of the overall goal that cannot be achieved by completely race-neutral means. Highway and transit program data for 2000–2002 shows that the overwhelming majority of recipients have to set DBE contract goals to achieve all or part of their overall goals. Unfortunately, race-neutral means alone cannot overcome the persisting effects of discrimination.

Second, in several States for which DOT has comparative 2002 data, participation by minority- and women-owned businesses in State-funded highway contracts to which no contract goals applied fell well short both of DBE overall goals and DBE participation in federally-assisted contracts. If states are to ensure equal opportunity for DBEs, contract goal programs remain essential. Third, DOT provided 15 detailed studies from states and cities that found disparities between the availability and utilization of minority- and women-owned businesses in government contracting. The courts agree that it is fair to make an inference of discriminatory exclusion from such disparities.

*Senate Bill*

*Sec. 1101.*

This section authorizes sums out of the Highway Trust Fund (other than Mass Transit Account) for the Interstate Maintenance Program, National Highway System, Bridge Program, Surface Transportation Program, Congestion Mitigation and Air Quality Improvement Program, Highway Safety Improvement Program, Appalachian Development Highway System Program, Recreational Trails Program, Federal Lands Highway Program, Multi-State Corridor Planning Program, Border, Planning, Operations and Technology Program, National Scenic Byways Program, Infrastructure Performance and Maintenance Program, Construction of Ferry Boats and Ferry Terminal Facilities, Puerto Rico Highway Program, Public-Private Partnerships Pilot Program, Denali Access System, Delta Region Transportation Development Program, and Intermodal Passenger Facilities.

The authorizing amounts to be appropriated are as follows:

Interstate Maintenance Program: $5,799,188,140 for fiscal year 2005, $6,032,059,334 for fiscal year 2006, $6,049,378,729 for fiscal year 2007, $6,351,069,528 for fiscal year 2008, and $6,443,591,248 for fiscal year 2009

National Highway System: $7,054,146,316 for fiscal year 2005, $7,333,629,462 for fiscal year 2006, $7,354,650,712 for fiscal year 2007, $7,720,825,041 for fiscal year 2008, and $7,833,068,496 for fiscal year 2009

Bridge Program: $4,970,732,691 for fiscal year 2005, $5,157,180,500 for fiscal year 2006, $5,141,987,920 for fiscal year 2007, $5,429,922,039 for fiscal year 2008, and $5,509,052,458 for fiscal year 2009

Surface Transportation: $7,318,023,129 for fiscal year 2005, $7,597,631,986 for fiscal year 2006, $7,619,446,491 for fiscal year 2007, $7,999,438,719 for fiscal year 2008, and $8,116,064,782 for fiscal year 2009

Congestion Mitigation and Air Quality Improvement: $1,979,088,016 for fiscal year 2005, $2,049,058,323 for fiscal year 2006, $2,054,941,629 for fiscal year 2007, $2,157,424,382 for fiscal year 2008, and $2,188,954,810 for fiscal year 2009

Highway Safety Improvement Program: $1,196,657,870 for fiscal year 2005, $1,234,248,870 for fiscal year 2006, $1,246,818,516 for fiscal year 2007, $1,308,999,063 for fiscal year 2008, and $1,328,233,842 for fiscal year 2009

Appalachian Development Highway System Program: $532,518,499 for fiscal years 2005 through 2009

Recreational Trails Program: $54,154,424 for fiscal years 2005 through 2009

Federal Lands Highway Program Indian Reservation Roads: $291,251,572 for fiscal year 2005, $312,578,616 for fiscal year 2006, $334,905,660 for fiscal year 2007, $357,232,704 for fiscal year 2008, and $379,559,748 for fiscal year 2009

Recreation Roads: $44,654,088 for each fiscal years 2005 through 2009

Park Roads and Parkways: $276,855,346 for fiscal year 2005, and $285,786,164 for fiscal years 2006 through 2009

Refuge Roads: $26.792.453 for fiscal years 2005 through 2009

Public Lands Highways: $267.924.258 for fiscal years 2005 through 2009

Safety: $35.723.270 for fiscal years 2005 through 2009

Multi-State Corridor Planning Program: $120,566,038 for fiscal year 2005, $140,660,377 for fiscal year 2006, $160.754.717 for fiscal year 2007, $180,849,057 for fiscal year 2008, and $200,943.396 for fiscal year 2009

Border Planning, Operations, and Technology Program: $120.566.038 for fiscal year 2005. $140.660.377 for fiscal year 2006. $160.754.717 for fiscal year 2007, $180.849.057 for fiscal year 2008. and $200.943.396 for fiscal year 2009

National Scenic Byways Program: $31.257,862 for fiscal year 2005. $32,150,943 for fiscal year 2006. $33.044.025 for fiscal year 2007. and $34.830.189 for fiscal years 2008 and 2009

Infrastructure Performance and Maintenance Program: $0

Construction of Ferry Boats and Terminal Facilities Program: $54.154.424 for fiscal years 2005 through 2009

Puerto Rico Highway Program: $129.496.855 for fiscal year 2005, $133,069.182 for fiscal year 2006. $137.534.591 for fiscal year 2007. $142.893.082 for fiscal year 2008, and $145.572.327 for fiscal year 2009

Public-Private Partnerships Pilot Program: $8.930.818 for fiscal years 2005 through 2009

Denali Access System: $26.792.453 for fiscal years 2005 through 2009

Delta Region Transportation Development Program: $71.446.541 for fiscal years 2005 through 2009

Intermodal Passenger Facilities: $8.930.818 for fiscal years 2005 through 2009

*Conference Substitute*

The Conference adopts the Senate provision with modifications. This provision authorizes funds out of the Highway Trust Fund (other than the Mass Transit Account) for the highway programs: Interstate Maintenance Program, National Highway System, Bridge Program, Highway Safety Improvements Program, Surface Transportation Program, Congestion Mitigation and Air Quality Improvement Program, Appalachian Development Highway System Program, Recreational Trails Program, Federal Lands Highways Program, National Corridor Infrastructure Improvement Program, Coordinated Border Infrastructure Program, Projects of National and Regional Significance Program, Construction of Ferry Boats and Ferry Terminal Facilities, National Scenic Byways Program, High Priority Projects Program, Safe Routes to School Program, Highways for LIFE Program, and Puerto Rico Highway Program.

Subsection (b) continues the disadvantaged business enterprise (DBE) program with minor changes. The Committee finds there is a continuing compelling need for the DBE program. In enacting TEA 21 in 1998, Congress compiled an extensive record on the effects of discrimination in transportation contracting. Much of this information remains valid today. We agree with those courts that have observed that evidence concerning the exclusion of disadvantaged groups remains relevant over a considerable period of time. The Committee has relied on the information that Congress used in 1998 in finding a continuing compelling need for the DBE program. Under DBE, not less than 10 percent of the funds provided under titles I and II of this Act shall be expended with small businesses owned and controlled by socially and economically disadvantaged individuals, except to the extent the Secretary of Transportation determines otherwise. The provision in current law requiring a review of the program by the Comptroller General of the United States has been eliminated. The Comptroller General completed the required review in June 2001.

### SEC. 1102. OBLIGATION CEILING

*House Bill*

*Sec. 1102.*

This section provides the obligation limitation for the federal-aid highway and highway safety construction programs. Subsection (b) addresses the exemptions to the obligation limitation. Paragraphs 1–8 in this subsection are identical to TEA 21. Paragraph (9) is added to address three year obligation authority (OA) made available under TEA 21 for research programs and "no-year" OA made available for certain programs and projects under TEA 21 or in subsequent appropriations acts. Subsections (c),(d),(e),(f),(g),(h), and (i) address how the obligation authority is distributed, the redistribution of unused obligation authority, and the limitation on obligations for administrative expenses are virtually identical to TEA 21.

*Senate Bill*

*Sec. 1102.*

This section sets limits on obligations for spending.

The general limitation on spending shall be as follows:

$34,425,380,000 for fiscal year 2005,
$37,154,999,523 for fiscal year 2006,
$37,450,167,691 for fiscal year 2007,
$38,816,364,417 for fiscal year 2008, and
$40,321,257,845 for fiscal year 2009.

*Conference Substitute*

The Conference adopts provisions from both House and Senate bills with modified funding levels and a funding flexibility provision for fiscal year 2005. This flexibility provision allows states to obligate funds from 1301 and 1302 of this Act and sections 117 and 144(g) of title 23 on core formula programs.

### SEC. 1103. APPORTIONMENTS

*House Bill*

*Sec. 1103.*

This section makes changes to the process by which apportionments are made pursuant to Section 104 of Title 23. Subsection (a) of this section amends the way administrative expenses for FHWA and FMCSA are provided. These expenses were formerly funded as a takedown and are now a specific authorized amount.

Subsection (b) of this section changes the set-aside amount for the Alaska Highway and the set-asides for the U.S. Territories under the National Highway System program apportionment formula.

Subsection (c) of this section requires the report mandated by Section 104(j) of Title 23 be available on the Internet.

Subsection (d) of this section makes a conforming amendment to the metropolitan planning set-aside formula to reflect the fact that administrative expenses are no longer funded as a takedown.

Subsection (e) of this section updates the reference for the Puerto Rico Highway program, replacing the TEA 21 reference with a TEA LU reference.

*Senate Bill*

*Sec. 1103.*

This section makes amendments to current apportionments. It authorizes the appropriation of funds for the administrative expenses of the Federal Highway Administration and details the use of these funds.

This section amends the amounts authorized for administrative expenses, for specified programs to:

$415,283,019 for fiscal year 2005,
$428,679,245 for fiscal year 2006,
$442,075,472 for fiscal year 2007,
$455,471,698 for fiscal year 2008, and
$468,867,925 for fiscal year 2009.

Funds authorized in this section shall be used for the Federal-aid highway program and programs authorized under chapter 2 of title 23, USC. Such sums as the Secretary determines to be appropriate shall be transferred to the Appalachian Regional Commission for administrative activities associated with the Appalachian highway development system.

The bill increases the set-aside for metropolitan planning to 1.5 percent from the same programs as under TEA-21 and, additionally, the new Highway Safety Program and Equity Bonus Program. Because the 2000 Census establishes 46 new Metropolitan Planning Organizations (MPOs), an increase in funding for metropolitan planning is required. Under the law, each MPO is directed to assume the responsibility for carrying out specific, costly and detailed Federal analysis as required under NEPA, Air Quality Conformity, Long Range Planning, Transportation Improvement Program planning, transportation modeling, operations, and public involvement. This bill further enhances MPO planning for habitat plan development, freight movement, transportation security, deployment of ITS systems including operating and managing traffic centers and incident management programs, and interacting with emergency management officials regarding homeland security issues.

*Conference Substitute*

The Conference agrees to provisions from both House and Senate bills with modifications. This section amends current apportionments. It authorizes the appropriation of funds for the administrative expenses of the Federal Highway Administration and details the use of these funds.

This provision increases the set-aside amount for the Alaska Highway and the set-asides for the U.S. Territories under the National Highway System program apportionment formula. Changes are also made to the Operation Lifesaver and High-Speed Rail Corridor programs from set-asides to become individually-funded programs.

The Conference adopts the Senate CMAQ provision with modifications. The addition of a weighting factor for PM2.5 nonattainment areas is not included in the substitute. The Senate language regarding an additional adjustment factor for carbon monoxide is adopted with no modifications.

For areas in ozone nonattainment, the Conference applies a weighting factor of 1.0 for areas designated under subpart 1 of part D of title I of the Clean Air Act. The Conference maintains the current system of varied weighting factors for areas classified under subpart 2 and intends it to apply to 8-hour nonattainment areas in the same manner it did to 1-hour nonattainment areas. For example, an 8-hour ozone nonattainment area that is classified by EPA as moderate pursuant to subpart 2 would receive a weighting factor of 1.1, while an 8-hour nonattainment area classified by EPA as serious pursuant to subpart 2 would receive a weighting factor of 1.2.

### SEC. 1104. EQUITY BONUS PROGRAM

*House Bill*

*Sec. 1104.*

This section retains the Minimum Guarantee program that was created in TEA-21.

*Senate Bill*

*Sec. 1104.*

This section strikes and replaces the Minimum Guarantee Program under Section 105 of Title 23, United States Code with the Equity Bonus Program.

The Secretary shall ensure that the percentages of apportionments of each State is sufficient to ensure that no State's percentage return from the Highway Trust Fund is less than 92 percent in each of the fiscal years 2005-2009. The rate of return shall include from each State, the total apportionments made for the fiscal year for the Interstate Maintenance Program, the National Highway System Program, the Bridge Program, the Surface Transportation Program, the Congestion Mitigation and Air Quality Improvement Program, the Highway Safety Improvement Program, the Appalachian Development Highway System Program, the Recreational Trails Program, the Infrastructure Performance and Maintenance Program, the Metropolitan Planning Program, and the Equity Bonus Program.

Special rules protect the calculations for States with a population density of less than 20 persons per square mile, a population less than 1 million, a median household income less than $35,000, or a State with a fatality rate during 2002 on Interstate highways greater than 1 fatality per 100 million vehicle miles traveled on Interstate highways. Further, no State receives apportionments less than 110 percent of the average annual apportionments for specified programs during 1998–2003. There is a cap on the Equity Bonus such that no State may receive apportionments more than a specified percentage of their average for 1998-2003. The scope, or percent funding included in the Equity Bonus program, remains the same as TEA-21 at 92.5 percent.

*Conference Substitute*

The conference adopts the Senate structure with modifications. The Secretary shall ensure that the percentages of apportionments of each State is sufficient to ensure that no State's percentage return from the Highway Trust Fund is less than 90.5% in fiscal year 2005 and 2006, 91.5% in 2007, and 92% in 2008 and 2009. The rate of return shall include from each State, the total apportionments made for the fiscal year for the Interstate Maintenance Program, the National Highway System Program, the Bridge Program, the Surface Transportation Program, the Congestion Mitigation and Air Quality Improvement Program, the Highway Safety Improvement Program, the Appalachian Development Highway System Program, the Recreational Trails Program, the Safe Routes to School Program, the Metropolitan Planning Program, the High Priority Project Program, the Railway-Highway Crossings Program, the Coordinated Border Infrastructure Program, and the Equity Bonus Program.

Special rules protect the share of apportionments to be provided to any State meeting any one or more of the following criteria: total population density of less than 40 persons per square mile, as reported in the decennial census conducted by the Federal Government in 2000, having at least 1.25 percent of its total acreage in Federal ownership based on GSA's "Federal Real Property Profile, as of September 30, 2004" report; or a population less than 1 million as reported in that census; or a median household income less than $35,000 as reported in that census; or a State with a fatality rate during 2002 on Interstate highways greater than 1 fatality per 100 million vehicle miles traveled on Interstate highways; or a State with an indexed, state motor fuels excise tax rate higher than 150 percent of the Federal motor fuels excise tax rate on the date of enactment of this Act.

Further, no State receives apportionments less than certain percentages above their TEA–21 average annual apportionments for specified programs during 1998-2003. (FY 2005—117 percent; FY 2006—118 percent; FY 2007—119 percent; FY 2008—120 percent; and FY 2009—121 percent)

### SEC. 1105. REVENUE ALIGNED BUDGET AUTHORITY

*House Bill*

*Sec. 1108.*

This section continues the revenue aligned budget authority, but in a way that ensures greater stability in program funding level adjustments.

*Senate Bill*

*Sec. 1105.*

This section changes the calculation of Revenue Aligned Budget Authority under Section 110 of Title 23, United States Code.

A new method of determining RABA is established in this section. This provision amends section 110 of Title 23, to extend the RABA provision through FY 2009. It also amends section 110 to provide that if the RABA adjustment in a fiscal year is negative, the amount of contract authority apportioned to the States for that year shall be reduced by an amount equal to the negative RABA. Under TEA–21, negative adjustments were delayed until the succeeding fiscal year. Under the new method, no reduction to apportionments are made for RABA for a fiscal year if the cash balance of the highway trust fund (other than the mass transit account) exceeds $6,000,000,000 on October 1 of that fiscal year.

*Conference Substitute*

The Conference adopts concepts from both the House and Senate provisions. This provision changes the calculation of Revenue Aligned Budget Authority under Section 110 of Title 23 to ensure greater stability in program funding level adjustments.

A new method of determining RABA is established in this section. This provision amends section 110 of Title 23, to extend the RABA provision through FY 2009. RABA calculations will be spread over 2 fiscal years, rather than in a single year as in TEA–21.

For fiscal year 2007, any positive RABA amounts will be applied to increasing the minimum rate of return for donor States as close to 92 percent as possible. Any remaining funds are to be distributed proportionally.

Under the new method, no reduction to apportionments are made for RABA for a fiscal year if the cash balance of the highway trust fund (other than the mass transit account) exceeds $6,000,000,000 on October 1 of that fiscal year.

### SEC. 1106. FUTURE INTERSTATE SYSTEM ROUTES

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1801.*

This section replaces the 12-year requirement with a 20-year requirement to provide States more time to substantially complete construction of highways designated as future Interstate System routes, before the States forfeit future Interstate designation status. This section also extends the time limitation contained in existing agreements from 12 years to 20 years.

*Conference Substitute*

The Conference adopts the Senate provision with a modification to change the timeframes from 20 years to 25 years.

### SEC. 1107. METROPOLITAN PLANNING

*House Bill*

*Sec. 1816.*

This section requires the States to distribute planning funds to the metropolitan planning organizations within 30 days of receipt of such funds from the Secretary.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision with a modification to increase the set-aside for metropolitan planning funds from 1 percent to 1.25 percent.

### SEC. 1108. TRANSFER OF HIGHWAY AND TRANSIT FUNDS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1302.*

This section clarifies and authorizes the transferability of funds from the Highway Trust Fund.

This provision clarifies that Title 23 funds may be transferred by the Secretary to the Federal Transit Administration for other than a transit capital project, provided such project is eligible for Title 23 assistance.

This section also allows funds derived from the HTF to be transferred, at the request of a State, to another State or States or to a Federal agency provided that they are expended on Title 23 eligible projects.

An equal amount of obligation authority is transferred with funds transferred from one State to another State. Funds may only be used for the same purpose and in the same manner for which they were authorized.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1109. RECREATIONAL TRAILS

*House Bill*

*Sec. 1119.*

This section makes various improvements to the recreational trails program established in section 206 of Title 23, U.S. Code.

Subsection (a) amends 23 USC 104(h) to permit the use of administrative funds for training and deletes reference to the National Recreational Trails Advisory Committee.

Subsection (b) amends 23 USC 206(d)(2) regarding permissible uses of funds to include assessment of trail conditions and to clarify that new trails on Federal lands must be recommended in a statewide comprehensive outdoor recreation plan.

Subsection (c) strikes 23 USC 206 (b)(3)(C), which permits States to waive requirements regarding distribution of funds for various types of projects.

Subsection (d) amends 23 USC 206(f) to provide that the federal share for recreational trails projects shall be determined in accordance with section 120(b) of Title 23 and allows recreational trails funds to be used toward the Federal share of certain other Federal programs.

Subsection (e) amends 23 USC 206(h)(1) to provide that pre-approval planning and environmental compliance costs can be credited toward the non-Federal share of a project.

Subsection (f) directs the Secretary to encourage the States to use qualified youth conservation or service corps to complete trail projects.

*Senate Bill*

*Sec. 1603.*

This section allows funds to be used to provide and maintain recreational trails for motorized and nonmotorized recreational trail uses.

The changes in section 206 of Title 23 amend the permissible uses of funds apportioned to States under this program. Eligible categories are added to permit trail assessment for accessibility and maintenance, and to hire trail crews, youth conservation, or service corps to perform recreational trails activities. Non-law enforcement trail safety and trail-use monitoring patrols, and trail-related training are now activities eligible for Recreational Trails Program (RTP) educational funds. However, funds provided under this program are not intended to support routine law enforcement.

Under this section, pre-approval planning and environmental compliance costs may be credited toward the non-Federal share for RTP projects, limited to costs incurred less than 18 months prior to project approval.

Since projects in this section are much smaller than typical highway projects, this program is relieved of several requirements, which, while appropriate for large highway projects, are excessively burdensome for small trail projects. RTP projects are not subject to sections 112, 114, 116, 134, 135, 138, 217, and 301, of Title 23 and section 303 of title 49.

*Conference Substitute*

The Conference adopts the House provision with a modification to add the Senate provision (H) under "Permissible Uses" which allows for the development and dissemination of publications and operation of educational programs to promote safety and environmental protection, supporting non-law enforcement trail safety and trail use monitoring patrol programs, and providing trail-related training. The Conferees change the administrative expenses from a percentage of program funding to a specific annual authorization.

### SEC. 1110. TEMPORARY TRAFFIC CONTROL DEVICES

*House Bill*

*Sec. 1107.*

This section amends Section 109(e) of Title 23 and Section 112 of Title 23 to require that contracts for federally funded highway construction projects include costs for appropriate safety measures. The amendment to Section 109 requires that temporary traffic control devices be installed and maintained during construction and maintenance projects in order to provide protection for construction workers. The amendment to Section 112 requires the Secretary to issue regulations establishing the conditions for and the appropriate use of Federal funds for uniformed law enforcement officers, positive protective measures between traffic and workers, and installation of temporary traffic control devices during construction and maintenance projects.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House position.

### SEC. 1111. SET-ASIDES FOR INTERSTATE DISCRETIONARY PROJECTS

*House Bill*

*Sec. 1115.*

This section eliminates the Interstate Maintenance Discretionary program in Section 118 of Title 23. The Committee does not intend to have any changes to this program affect any projects that have already been funded under this program.

*Senate Bill*

*Sec. 1805.*

This section continues the interstate discretionary project set-aside listed in section 118(c)(1) of title 23 for fiscal years 2005 through 2009 and increases the amount.

*Conference Substitute*

The Conference adopts the Senate position.

### SEC. 1112. EMERGENCY RELIEF

*House Bill*

*Sec. 1110.*

This section authorizes additional amounts for this program above the $100 million per year to be derived from the General Fund. It is the Committee's intent that if there is a need for additional funds over and above the annually authorized level of $100 million that those funds be appropriated from the General Fund.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House version.

### SEC. 1113. SURFACE TRANSPORTATION PROGRAM

*House Bill*

*Sec. 1111.*

This section continues the requirement in Section 133(f)(1) of Title 23 that States suballocate a portion of their Surface Transportation Program funds to urbanized areas with over 200,000 individuals.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision with a modification to add eligibility for projects relating to intersections that have high accident rates or high levels of congestion on the Federal-aid system.

### SEC. 1114. HIGHWAY BRIDGE PROGRAM

*House Bill*

*Sec. 1116.*

Subsection (a) retains the principles for applications for and approval of Federal assistance for bridge replacement or rehabilitation allowed in current law. It also includes additional language to allow Federal participation in preventive maintenance on a bridge, as well as, installing scour countermeasures to a bridge.

Subsection (b) continues the discretionary bridge program and subsection (c) changes the lower bound for the off-system set-aside from 15 percent to 20 percent.

*Senate Bill*

*Sec. 1807.*

The Highway Bridge Program provides funds to assist States in improving the condition of their bridges, through replacement, rehabilitation, and systematic preventive maintenance.

The changes to section 144 allow the use of bridge funds for: (1) preventive maintenance activities consistent with the section 116(d) of the NHS Designation Act, (2) preventive maintenance on off-system bridges, and (3) scour countermeasures without regard to eligibility. This section also increased bridge discretionary funding to $133,962,264.

*Conference Substitute*

The Conference agrees to accept the House provision with modifications. The off-system bridge set-aside is to remain as current law at 15 percent and the Federal share for highway bridges projects is now eligible for up to 90 percent.

### SEC. 1115. HIGHWAY USE TAX EVASION PROJECTS

*House Bill*

*Sec. 1112.*

This section continues the existing program to combat highway use tax evasion and makes changes designed to reduce tax evasion and increase receipts into the Highway Trust Fund.

The Highway Use Tax Evasion program supports State and Federal efforts to enhance motor fuel tax enforcement. To make the program more effective, this provision would amend section 143 of title 23 to: (1) dedicate funding for intergovernmental enforcement efforts; (2) allow projects for identification of tax evasion in the area of foreign imported fuel; (3) assist States and Indian Tribes in addressing issues related to the collection of State motor fuel taxes; and (4) provide for annual reporting on examinations, criminal investigations, and audits by the States and the Internal Revenue Service (IRS).

*Senate Bill*

Comparable provision in Senate finance title.

*Conference Substitute*

The Conference agrees to the House provision with funding modifications.

### SEC. 1116. APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM

*House Bill*

*Sec. 1113.*

This section directs the Secretary to apportion funds made available for the Appalachian Development Highway System (ADHS) among the states on the basis of the estimated cost to complete the system. It specifies that such funds are subject to title 23 requirements and are available to construct ADHS highways and access roads. It also prohibits the use of toll revenues as non-federal match for the construction, improvement, and maintenance of highways, bridges, or tunnels.

*Senate Bill*

*Sec. 1808.*

The Appalachian Development Highway System program provides funds for the construction of the Appalachian corridor highways in thirteen States and for the establishment of a State-Federal framework to meet the needs of the region.

This section prescribes how funds made available for the Appalachian development highway system are to be apportioned to the States in the Appalachian region. The latest cost estimate is to be used as the basis for apportionments. The funding shall remain available until expended and the Federal share is delineated in section 201 of the Appalachian Regional Development Act of 1965. This section also prohibits the use of toll credits on projects funded under the Appalachian development highway system program under subtitle IV of title 40.

*Conference Substitute*

The Conference adopts the House version.

### SEC. 1117. TRANSPORTATION, COMMUNITY, AND SYSTEM PRESERVATION PROGRAM

*House Bill*

*Sec. 1117.*

This section reauthorizes the program for fiscal years 2004 through 2009. It prohibits funds made available for this program from being transferred to other programs, and establishes the federal cost share for projects carried out under this program in accordance with section 120(b) of title 23. Subsection (c) establishes a pilot program to support transportation planning and public participation in decision making.

*Senate Bill*

*Sec. 1813.*

This section continues the Transportation and Community and System Preservation (TCSP) Pilot Program, a comprehensive initiative of research and implementation grants to investigate the relationships between transportation and community and system preservation, as well as private sector-based initiatives. This section also makes TCSP projects STP eligible.

This section requires the Secretary to establish a comprehensive program to facilitate the planning, development, and implementation of strategies by States, metropolitan planning organizations, Federally-recognized Indian tribes, and local governments to integrate transportation, community, and system preservation plans and practices.

*Conference Substitute*

The conference agrees to the Senate provision with modifications to drop subsection (b)(18) from the Senate passed bill and move (19) to an eligible activity under the Surface Transportation Program. The conference also agreed to not codify this program.

### SEC. 1118. TERRITORIAL HIGHWAY PROGRAM

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1818.*

The changes made in section 215 of title 23 update and consolidate the statutory provisions governing the territorial highway program.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1119. FEDERAL LANDS HIGHWAYS

*House Bill*

*Sec. 1120.*

Subsection (a) amends the contracting provisions of the Indian reservation roads program in section 202(d)(3) of title 23. This section was added to the United States Code in TEA 21. The Committee felt at that time that the congressional intent with regard to tribal contracting authority was clear. Unfortunately, the Committee now believes the full intent of the TEA 21 amendments has not been fulfilled. This subsection aims to clarify the intent of the Committee on this important point for the Indian tribes.

The Committee is aware that certain tribes currently possess the ability to carry out themselves, or contract directly with outside providers, highway, bridge, and transit projects that are located on Indian reservations or that provide access to the reservations, including planning, research, engineering, and construction activities relating to such projects. Other tribes are developing their ability to perform those functions.

This amendment to section 202(d)(3) of title 23 is intended to empower Indian tribes that have the ability and interest to carry out the activities in-house or to contract directly with outside providers for the activities consistent with the Indian Self-Determination and Education Assistance Act. It allows tribes to choose, on a project-by-project basis, those activities that they want to perform themselves or to contract directly with outside providers. At the same time, existing capabilities within the Bureau of Indian Affairs are retained to support tribes that do not have such ability or interest. It directs that funds be paid directly by the Federal Highway Administration (FHWA) to the Indian tribal government when a tribe carries out, or contracts directly with outside providers for a planning, research, engineering, or construction activity relating to a highway, bridge, or transit project located on an Indian reservation or that provides access to the reservation. Furthermore, it directs FHWA to determine the amount of funds for such activity and project that is to be received by the Indian tribe according to the funding formula established under section 202(d) of title 23, without deducting from it any non-project-related administrative takedown or project management costs imposed by the Bureau of Indian Affairs or the Department of the Interior.

*Senate Bill*

*Sec. 1806.*

The Federal Lands Highway Program provides funding for a coordinated program of public roads and transit facilities serving Federal and Indian lands.

Section 101 of title 23 is amended to include new definitions for 'recreation roads' and 'public forest service roads,' to reflect new classes of Federal lands highways. It also changes the definitions of 'forest development roads and trails' and 'forest road or trail' to reflect current U.S. Forest Service definitions and a new class of Federal lands highways.

The Federal Lands Highways program allocation in section 202 of title 23, USC is amended to: (1) revise the date on which the Indian Reservation Road fund distribution formula regulation is published, from April 1999 to April 2004, and the year in which the new formula is implemented, from October 1999 to October 2004; (2) allow the use of Indian Reservation Road Bridge funds to be used for design, engineering and preconstruction as well as construction; (3) limit the amounts that the Bureau of Indian Affairs may use to pay the costs of administering the Indian reservation roads program (including the administrative expenses relating to individual projects associated with the Indian reservation roads program) to 6 percent; (4) require not later than 30 days after the date on which funds are made available to the Secretary of the Interior the distribution and availability of such funds for immediate use by eligible Indian tribes; (5) establish a demonstration program under which eligible tribes may enter into contracts and agreements with the Secretary of Transportation under the Indian Self-Determination and Education Assistance Act; (6) authorize $13,396,226 annually for IRR bridge planning, design, engineering, preconstruction, construction and inspection; and (7) make Indian reservation road maintenance expenses eligible for funding up to certain amounts.

Section 204 of title 23 is amended to: (1) allow the Secretary to enter into agreements as well as contracts, and (2) expand the use of refuge road funds to be used for interpretive signage, maintenance of public roads in National Fish hatcheries, payment of the non-Federal share of Federal-aid highway and transit projects, and maintenance and improvement of recreational trails. Funding used for trails would be limited to 5 percent of available funding per fiscal year.

Maintenance and improvement projects on recreation roads consistent with or identified in a land use plan do not need any additional environmental reviews or assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if there is no new information and no significant changes to the proposal bearing on environmental concerns. Improvement projects include those consisting of one or more of the following elements: roadway widening, adding shoulders, paving of gravel roads, gravelling of earth roads, rebuilding of the roadway subgrade, reshaping the roadway surface, replacing culverts, rehabilitation or widening of bridges, minor grade and curvature adjustments to short sections of roads, and the installation of signs, pavement striping, guardrails and other safety hardware.

A safety funding category is created to provide dedicated funds for transportation safety improvement projects, collection of safety information, development and operation of safety management systems, highway safety education programs, and other eligible activities under section 402 of title 23. Safety funding is distributed among the Bureau of Reclamation, the Bureau of Indian Affairs, the Bureau of Land Management, the Forest Service, the Fish and Wildlife Service, and the Army Corps of Engineers.

A recreation roads funding category is created to provide dedicated funds for improvement projects for public roads under the jurisdiction of the Bureau of Land Management, Bureau of Reclamation, Forest Service, Department of Defense, and Army Corps of Engineers, and that are owned by the U.S. Government.

*Conference Substitute*

The conference adopts the Senate provision with several modifications. New funding and eligibility categories for safety and recreation roads are eliminated. Specific dollar amounts are identified for program management oversight and project-related administrative expenses of the Bureau of Indian Affairs equaling roughly 6 percent of each year's program allocation. These amounts are still subject to reduction upon a tribe's request for use in carrying out contracts and agreements in accordance with the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

In addition to contracts and agreements currently permitted under section 202(d)(3) of title 23 between tribes and the Secretary of the Interior in accordance with the Indian Self-Determination and Education Assistance Act (ISDEAA), tribes will also be able to enter into contracts and agreements in accordance with ISDEAA for IRR programs or projects with the Secretary of Transportation.

Amounts authorized for Indian reservation road bridges is increased to $14 million annually. Within the office of the Secretary is created a new Deputy Assistant Secretary for Tribal Government Affairs. The Secretary is also directed to conduct a national IRR survey, and to conduct a study of methods to reduce collisions between motor vehicles and wildlife.

### SEC. 1120. PUERTO RICO HIGHWAY PROGRAM

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1811.*

Section 173 of title 23 authorizes the continuation of the Puerto Rico Highway Program to carry out a highway program in the Commonwealth of Puerto Rico.

The committee continues the requirement to distribute the lump sum authorized each year to programs in the same proportions that Puerto Rico received apportionments of such funds in 1997. The funds are subject to the penalties under titles 23 and 49 that would apply to apportionments from the programs.

*Conference Substitute*

The Conference adopts the Senate language with minor modifications.

### SEC. 1121. HOV FACILITIES

*House Bill*

*Sec. 1208.*

This section adds a new section 168 to title 23 that authorizes the use of High Occupancy Vehicle lanes. Subsection (a) of the proposed section 168 in title 23 allows a state agency to establish the occupancy requirements of vehicles operating on an HOV facility except that no fewer than 2 occupants per vehicle may be required for use of a HOV facility.

This section also provides the exemptions for the HOV occupancy requirements including motorcycles, bicycles, public transportation vehicles, and High Occupancy Toll (HOT) vehicles and low emission and energy-efficient vehicles.

For HOT lanes the state agency must charge operators of vehicles with less than the established occupancy requirements a fee. The agency must also establish a program that addresses how motorists can enroll and participate in the toll program, automatically collects tolls, and establishes policies and procedures to manage demand by varying the toll, enforce violations, and permit low-income drivers to pay a reduced toll.

For inherently low emission vehicles, a state may allow the use of HOV lanes even if the occupancy requirements are not met so long as the vehicles are certified pursuant to section 88.311-93 of title 40, Code of Federal Regulations. The state agency may also allow other low emission and energy efficient vehicles to pay a toll to use HOV lanes even if the occupancy requirements are not met if those vehicles meet the certification requirements that the EPA is directed to develop in subsection (e). The toll amount charged to low emission vehicles not certified pursuant to the CFR and other energy efficient vehicles may be less than other HOT lane vehicles, or the toll may be zero.

This section also sets requirements applicable to tolls on HOV lanes. This subsection verifies that HOV facilities on the interstate can be tolled pursuant to the provisions of this section. The subsection also states that the state agency must first use the toll revenue to repay debt and provide a reasonable rate of return on investments and then must give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety, including projects that improve safety by providing increased capacity.

This section addresses HOV facility management, operation, monitoring and enforcement. If a state agency allows single occupancy HOV vehicles to use the facility it must ensure that vehicles maintain a minimum operating speed 90 percent of the time over a 6-month period during weekday peak travel periods.

*Senate Bill*

*Sec. 1606.*

This section amends section 102(a) of title 23 to clarify existing law and provide more flexibility to State and local agencies for effective management of HOV facilities.

This section identifies the types of vehicles that are exempt from meeting the minimum occupancy requirements for HOV facilities. This provision also identifies the possible options that responsible agencies may select from and use as operational strategies to maximize the use of existing and planned future HOV facilities and highway capacity, mitigate congestion, and reduce fuel consumption. Motorcycles shall not be considered single-occupant vehicles and shall be allowed to use HOV facilities, consistent with the provisions of section 163 of the Surface Transportation Assistance Act of 1982.

Responsible agencies may allow low-emission and energy-efficient vehicles to use HOV facilities provided that the agency: (1) creates a program that defines how such qualifying vehicles are selected and certified, (2) establishes a method to label qualifying vehicles (3) continuously monitors, evaluates, reports to the Secretary on performance, (4) and imposes restrictions on the use of HOV lanes by vehicles that do not meet established requirements.

Responsible agencies are provided with the option of charging vehicles a toll for the use of an HOV facility if these vehicles do not meet the minimum occupancy requirements, and if the requirements of section 129 of title 23 are met.

A responsible agency under this section includes a State department of transportation, local transportation agency, or other public or private entity designated by a State to collect a toll on HOV lanes.

*Conference Substitute*

The conference agrees to the House provision, with certain accommodations to the Senate language, to add a new section 168 to title 23 that authorizes the use of HOV lanes. Subsection (a) of the new section 168 in title 23 allows a state agency to establish the occupancy requirements of vehicles operating on an HOV facility except that no fewer than 2 occupants per vehicle may be required for use of a HOV facility.

The conferees intend for this provision to provide exemptions for the HOV occupancy requirements including motorcycles, bicycles, public transportation vehicles, inherently low emission vehicles, low emission and energy-efficient vehicles, and High Occupancy Toll (HOT) vehicles.

For inherently low emission vehicles, the conferees accept the House provisions that the state may allow the use of HOV lanes even if the occupancy requirements are not met so long as the vehicles are certified pursuant to section 88.311–93 of title 40, Code of Federal Regulations. The state agency may also allow other low emission and energy efficient vehicles to pay a toll to use HOV lanes even if the occupancy requirements are not met if those vehicles meet the certification requirements that the EPA is directed to develop in subsection (e). The toll amount charged to low emission vehicles not certified pursuant to the CFR and other energy efficient vehicles may be less than other HOT lane vehicles, or the toll may be zero.

The House recedes to the Senate on the definition of low emission and energy efficient vehicles. Under this language, the Administrator of EPA must certify that a low emission or energy efficient vehicles operating in the HOV lane with fewer than 2 passengers meets Tier II emissions levels established under section 202(i) of the Clean Air Act (42 U.S.C. 7521(i)) for that make and model vehicle. In addition to meeting Tier II, a low emission or energy efficient vehicles must meet one of two additional requirements: it must be an alternative fuel vehicle operating on alternative fuel or, if it is propelled by on-board hybrid technologies, it must meet particular fuel economy performance requirements.

For the purposes of this section, Senate recedes to the House on the definition of alternative fuel vehicles with one clarification that such fuels include additional substantially non-petroleum fuels regulated under 10 C.F.R. 490.

With respect to the determination of fuel economy performance requirements for a low emission or energy efficient vehicle not meeting occupancy requirements that is propelled by on-board hybrid technologies, the conferees have agreed to accept language in the Senate-passed legislation. Under this subsection, a low emission or energy efficient vehicle propelled by hybrid technology may access the HOV lane if the EPA certifies that it has achieved not less than a 50-percent increase in city fuel economy or not less than a 25-percent increase in combined city-highway fuel economy. The conferees also have made conforming changes to the section to ensure that states have the ability to increase either of these percentages as part of their HOV management programs. The conferees intend to give the states broad discretion to increase these percentages for individual vehicles as a way of managing vehicle access, maintaining air quality and preventing lane degradation.

The conferees note that some current hybrid manufacturers make hybrid versions of a vehicle and do not make a gasoline counterpart. In such cases, the conferees feel that EPA and the states should compare the hybrid vehicle to a group or class of gasoline vehicles of similar size, weight and performance.

This section also sets requirements applicable to tolls on HOV lanes. This subsection verifies that HOV facilities on the Interstate can be tolled pursuant to the provisions of this section. The subsection also states that the state agency must first use the toll revenue to repay debt and provide a reasonable rate of return on investments and then must give priority consideration to projects for developing alternatives to single occupancy vehicle travel and projects for improving highway safety, including projects that improve safety by providing increased capacity.

This section addresses HOV facility management, operation, monitoring and enforcement. If a state agency allows single occupancy HOV vehicles to use the facility it must ensure that vehicles maintain a minimum operating speed 90 percent of the time over a 6-month period during weekday peak travel periods. The conferees intend that a state agency include a public authority or a public or private entity designated by the state agency.

### SEC. 1122. BIA INDIAN ROAD PROGRAM

### SEC. 1123. DEFINITIONS

*House Bill*

This section adds "Advanced Truck Stop Electrification System" to the definitions in section 101.

*Senate Bill*

No comparable provision in the Senate bill.

*Conference Substitute*

The Conference adopts the House provision with a modification to add an additional provision to amend the definition of "Transportation Enhancement Activity" to include the acquisition of historic battlefields and to clarify that inventory for outdoor advertising is currently and shall continue to be an eligible activity.

Inventory control may include, but not be limited to, data collection, acquisition and maintenance of digital aerial photography, video logging, scanning and imaging of data, developing and maintaining an inventory and control database, and hiring of outside legal counsel.

## Subtitle B—Congestion Relief

### SEC. 1201. REAL-TIME SYSTEM MANAGEMENT INFORMATION PROGRAM

*House Bill*

*Sec. 1203.*

This section requires the Secretary to establish a program that provides to all States the capability to monitor, in real-time, the traffic and travel conditions of the nation's major highways and to share the information with other States, local governments, and the traveling public.

The Secretary is required to establish a steering committee to provide guidance regarding the content and uniformity of data exchange formats to ensure that data can be shared.

With approval from the Secretary, States may obligate certain formula funds for activities related to the planning and deployment of this program.

*Senate Bill*

*Sec. 1702.*

This section encourages the deployment of systems to monitor the condition of key surface transportation facilities.

Changes made to 23 USC 169(c) in this section require the States to establish an incident reporting system within two years of enactment of this section. If a State demonstrates that it cannot meet this deadline, the Secretary may extend this deadline up to 5 years after date of enactment.

The purpose of the proposed real-time system management information program is to provide the nationwide capability to monitor and disseminate real-time traffic and travel conditions of major highways. The committee hopes this program will improve the security of the surface transportation system, address congestion problems, support improved response to weather events, and facilitate national and regional traveler information.

Specifically, this section requires the Secretary to establish data exchange formats within one year of enactment of this bill. Within two years of enactment of this bill, each State will be required to establish a statewide incident reporting system, unless a waiver is received from the Secretary that allows up to 3 additional years. In exercising this discretion, the committee expects that the Secretary will only provide the State the minimum extension necessary to complete development of its reporting system.

The committee expects State and local governments to explicitly address real-time highway and transit needs and the systems needed to meet those needs including coverage, monitoring systems, data fusion and archiving, and methods of information sharing and exchange within their intelligent transportation system regional architecture.

Activities related to the planning and deployment of real-time monitoring elements would be eligible for Surface Transportation Program and National Highway System funds. Under this section, a State may obligate State Planning and Research funds for activities related to the planning of real-time monitoring elements.

*Conference Substitute*

The Conference agrees to accept the House provision with one exception in dropping the provision to establish a National Steering Committee.

## Subtitle C—Mobility and Efficiency

### SEC. 1301. PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE

*House Bill*

*Sec. 1304.*

This section establishes a program to finance critical, high-cost transportation infrastructure that address critical national economic and transportation needs. These projects of national and regional significance will improve the safe, secure, and efficient movement of people and goods throughout the United States and improve the health and welfare of the national economy by increasing economic productivity, facilitating international trade, relieving transportation congestion, and enhancing transportation safety.

The program will fund the construction of high-cost surface transportation projects, including freight railroad projects eligible under title 23. To be eligible for assistance under this program, eligible project costs must equal or exceed the lesser of $500 million or 75 percent of the State's highway apportionment for the prior fiscal year. The Secretary of Transportation will conduct a national solicitation for applications for projects of national and regional significance and award grants on a competitive basis. The program creates a rigorous review process for project applicants similar to the Federal Transit Administration's review process for transit new start projects.

*Senate Bill*

No comparable provision in the Senate bill.

*Conference Substitute*

The Conference agrees to adopt the House provision.

### SEC. 1302. NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM

*House Bill*

*Sec. 1301.*

This section directs the Secretary to establish and implement a program to allocate funding to States for highway construction projects in corridors of national significance. A State must submit applications to the Secretary for funds.

The Secretary shall give priority to corridor projects that are part of, or will be designated as part of, the Dwight D. Eisenhower National System of Interstate and Defense highways and to any project that will be complete in five years. The Secretary shall consider such factors as mobility, economic growth, linking two existing segments of Interstate, commercial vehicle traffic due to NAFTA, reduction of travel time, value of the cargo traveling through the corridor, economic costs, and the financing associated with the project.

*Senate Bill*

*Sec. 1809.*

The program supports and encourages multistate transportation planning and facilitates both project development and decision-making for multistate corridors. State transportation departments or metropolitan planning organizations may receive and administer the funds provided under this section for multistate highway and multimodal planning studies and construction.

Freight demand is forecasted to increase significantly in the coming years. The committee's goal is to meet this growing demand by improving highways and intermodal connections in the nation's key corridors. Funds provided by the Corridor Program should supplement other public and private funding to support strategic improvements, expanding both capacity and efficiency.

The Secretary shall select studies and projects to be carried out under this program based on: 1) the existence and significance of binding agreements; 2) the endorsement of the study or project by elected representative; 3) prospects for early completion; and 4) whether the study or project was listed in 1105(c) of ISTEA.

The committee expects that the Secretary will encourage States and other jurisdictions to work together and shall give priority to projects that increase mobility, freight productivity, access to marine or inland ports, safety and security, and reliability.

*Conference Substitute*

The Conference agrees to continue this program as current law with a modification for the funding to be as such sums as necessary out of the General Fund.

### SEC. 1303. COORDINATED BORDER INFRASTRUCTURE PROGRAM

*House Bill*

*Sec. 1302.*

This section establishes a new formula program for border infrastructure projects. The Secretary apportions funds to the States based upon several factors: incoming commercial trucks passing through land border ports of entry; the number of incoming personal motor vehicles and buses passing through the land border ports of entry; the weight of incoming cargo by commercial trucks passing through such ports of entry; and the number of land border ports of entry.

Definitions—"Border region" means any portion of a border State within 20 miles in an international land border with Canada or Mexico. "Border State" means any State that has an international land border with Canada or Mexico. "Commercial Truck" means a commercial motor vehicle as defined in section 31301(4) (other than subparagraph (B)) of title 49, U.S.C.

*Senate Bill*

*Sec. 1810.*

The purpose of this program is to support the coordination and improvement of bi-national transportation planning, operations, efficiency, capacity, information exchange, safety, and security at the international borders of the United States with Canada and Mexico. The term border State in this section means any of the States of Alaska, Arizona, California, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New Mexico, New York, North Dakota, Texas, Vermont, and Washington.

The committee is aware of the ever growing strain on the nation's points of entry caused by the demands of a global economy. As with the Corridors Program, the committee has elected to expand funding for the Borders program in hopes that both capacity and operational efficiency can be improved to meet future freight mobility needs.

The General Services Administration (GSA) is authorized to receive funding under this section at the request of a border State. The committee intends transportation improvement projects undertaken with funds directly transferred by the Secretary to the GSA to be designed and constructed in coordination with State transportation officials. State transportation departments and metropolitan planning organizations at or near an international land border in a border State may receive and administer funds allocated under this program to carry out the eligible activities listed in this section.

For each fiscal year, the Secretary shall allocate funds based on the specified formula listed in this section. In choosing projects, it is the hope of the committee that border States choose projects that emphasize multimodal planning, improvements in infrastructure, and improvements that stress both the environment and a desire to promote increased safety, security, freight capacity, and highway access to rail, marine, and air services.

*Conference Substitute*

The Conference agrees to the House provision with a change to the definition of Border region being any portion of a border State within 100 miles in an international land border with Canada or Mexico. Under this section a border state may use funds apportioned to it for this program for, among other things, highway projects located within 100 geographic miles of an international land border, and for planning and environmental studies for such projects. Such projects are considered to be within a border region and as facilitating cross-border motor vehicle and cargo movements and motor vehicle and cargo movements related to international trade. The Conferees intend funding provided under this program be used to improve highway infrastructure or highway safety for the purpose of facilitating movement of people and goods. Under the provision, various features of title 23 are incorporated by reference, including the sliding scale match provision of 23 USC 120.

### SEC. 1304. HIGH PRIORITY CORRIDORS ON THE NATIONAL HIGHWAY SYSTEM

*House Bill*

*Sec. 1804.*

This section adds new corridor designations to the high priority corridor list in ISTEA.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference agrees to House provision with modifications adding additional corridors.

### SEC. 1305. TRUCK PARKING FACILITIES

*House Bill*

*Sec. 1306.*

This section establishes a pilot program in cooperation with appropriate State, regional, and local governments to address the shortage of long-term parking for commercial motor vehicles on the National Highway System.

This section allows State, regional, and local governments to address the safety problem of fatigued drivers through a pilot program designed to allow for the creation of new rest stops, as stated in section 120(c) of title 23, addition of new commercial motor vehicle parking facilities adjacent to commercial truck stops or travel plazas, or opening existing weigh stations or park-and-ride facilities to commercial motor vehicle parking. Pilot programs may also include using intelligent transportation systems, or other means, to promote the availability of public or privately available parking facilities.

The Committee developed this pilot project after working closely with the Administration, industry, State safety and construction agencies, and truck plaza and rest stop operators. It is the Committee's intent that the projects funded from this pilot program only address adding parking facilities in corridors with an identified truck parking shortage. This pilot program is not intended to compete with local businesses or commercial enterprises.

Not later than five years after the enactment of this bill, the Secretary shall transmit a report on the results of the pilot programs developed under this section.

*Senate Bill*

*Sec. 1814.*

This section creates the Commercial Truck Parking and the Corridor and Fringe Parking Pilot Programs. This section also authorizes the Secretary to appropriate funds for these programs.

The committee aims to create additional parking on the National Highway System by creating two different pilot programs: the Commercial Truck Parking Pilot Program and the Corridor and Fringe Parking Pilot Program. The section authorizes the Secretary to appropriate $8,930,818 in grants from the Highway Trust Fund for each of these programs.

The Commercial Truck Parking Pilot Program allows funds to be used for construction of safety rest areas that include truck parking, commercial vehicle parking facilities adjacent to commercial truck stops, and projects designed to improve accessibility for truck parking on or near the National Highway System. The committee expects priority for these funds will be given to States with a severe shortage of commercial vehicle parking, as well as potential for positive effects on safety, congestion, and air quality from improved parking facility.

The committee also recognized the importance of adequate and accessible parking for car pooling, van pooling, ride sharing, commuting, and high occupancy vehicle travel. The committee notes that these practices have a definitive impact on congestion, air quality and traffic safety and proposes the Corridor and Fringe Parking Pilot Program to be given to the States for the construction of parking facilities, costs to promote public awareness of the facilities, and geometric design improvement on adjoining roadways.

*Conference Substitute*

The Conference agrees to adopt the House provision.

### SEC. 1306. FREIGHT INTERMODAL DISTRIBUTION PILOT GRANT PROGRAM

*House Bill*

*Sec. 1307.*

This provision establishes a pilot program to demonstrate the feasibility of developing inland intermodal port facilities that can accommodate short-haul rail shipments, relieve traffic congestion, and improve safety at coastal ports in metropolitan areas on the West Coast. Priority will be given to projects that will reduce congestion into and out of international ports in the U.S., reduce the need to move empty containers into and out of ports, and establish or expand intermodal facilities that encourage the development of inland freight distribution centers. Eligible projects may include developing and constructing intermodal freight distribution and transfer facilities at inland ports or at facilities serving inland ports.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The conference adopts the House provision with modifications that eliminate the preference for West Coast ports and names six projects to carry out the pilot program.

### SEC. 1307. DEPLOYMENT OF MAGNETIC LEVITATION TRANSPORTATION PROJECTS

*House Bill*

*Sec. 1118.*

This section details the funding and eligibility requirements for constructing fixed guideway infrastructure, as well as the related components necessary for the construction, but not including costs incurred for a new station. Eligible projects under this section must involve a segment or segments of high speed ground transportation corridor, result in an operating transportation facility that provides a revenue-producing service and be approved by the Secretary. It is the Committee's intent for this program to be administered as a new program and not the continuation of any previously authorized program.

*Senate Bill*

*Sec. 1819.*

This section continues the authorization of the Magnetic Levitation Transportation Technology Deployment program (MAGLEV) in section 322 of title 23.

Section 322 of title 23 is amended to allow the Secretary to solicit additional applications from States or authorities designated by one or more States, for financial assistance for planning, design, and construction of eligible MAGLEV projects. Authorized from the Highway Trust Fund for this program is $357,232,704 for fiscal year 2005, $370,628,931 for fiscal year 2006, $379,559,748 for fiscal year 2007, $388,490,566 for fiscal year 2008, $401,886,792 for fiscal year 2009.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1308. DELTA REGION TRANSPORTATION DEVELOPMENT PROGRAM

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1824.*

This section creates section 178 of title 23, the Delta Regional Transportation Development Program.

The Delta Regional Transportation Development Program is a discretionary program to assist the Delta Regional Authority in developing adequate transportation infrastructure in the 8-state region served by the authority. The committee feels that this investment will remedy severe economic distress by stimulating development in the region through the mobilization of people and goods through a safe transportation program. Funds under this program may be used for multi-state highway and transit planning, development, and construction.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1309. EXTENSION OF PUBLIC TRANSIT VEHICLE EXEMPTION FROM AXLE WEIGHT RESTRICTIONS

*House Bill*

*Sec. 1830.*

This section extends the exemption that public transit vehicles and over-the-road buses have from axle weight restrictions.

*Senate Bill*

*Sec. 1404.*

This section amends section 127 of title 23, relating to axle weight limitations for vehicles using the interstate system.

This section amends section 127 of title 23 to exempt any over-the-road bus (as defined in section 301 of the Americans With Disabilities Act of 1990) or any vehicle that is regularly and exclusively used as an intrastate public agency transit passenger bus using the National System of Interstate and Defense Highways from the maximum gross weight limitations imposed by any State.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1310. INTERSTATE OASIS PROGRAM

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1815.*

This section establishes an interstate oasis program.

This section requires the Secretary to establish an interstate oasis program for designating interstate oases that provide products and services to the public, 24 hour access to restroom, and parking for automobiles and heavy trucks. The Secretary shall also take into account the appearance of the facility as well as the proximity of the system to the interstate for its designation.

*Conference Substitute*

The Conference adopts the Senate provision.

## Subtitle D—Highway Safety

### SEC. 1401. HIGHWAY SAFETY IMPROVEMENT PROGRAM

*House Bill*

*Sec. 1401.*

This section amends title 23 by eliminating the requirement that States set aside 10 percent of their section 133, Surface Transportation Program, funds to carry out section 130 of title 23, the Railway-Highway Crossing program and section 152, the Hazard Elimination program. This section also establishes a separate funding authorization for a combined section 130 and 152 called Highway Safety Improvement Program. However, the authorizing language for the two programs still resides in Section 130 and Section 152.

In subsection (a) the definition of Safety Improvement Project as used in Section 101(a)(30) of title 23 is expanded to include the installation of fluorescent, yellow-green signs at pedestrian or bicycle crossings or school zones.

Subsection (b) amends title 23 to move the set-aside for Operation Lifesaver from the apportionment under the Surface Transportation Program to the apportionment for Section 130. It also increases the amount for this program from $500,000 to $600,000.

Subsection (c) increases the amount of the set-aside for hazard elimination in high-speed rail corridors designated under 104(d)(2) of title 23 and for the Minneapolis/St. Paul—Chicago segment of the Midwest High-Speed Rail Corridor. The subsection also adds the Northern New England High Speed Rail Corridor and expands the South Central Corridor to section 104(d)(2) of title 23.

Subsection (d) adds a special rule to allow States to use funds for protective devices on other section 130 activities if the State demonstrates to the Secretary that it has met the needs in such State for protective devices. The apportionment formula for rail highway crossings is amended to distribute funds 50 percent based on the STP formula and 50 percent based on the number of rail highway crossings. Each state shall receive at least a minimum of one half of one percent. The federal share will be 90 percent. States will be required to report to Congress every two years and can use up to two percent of their funds for analysis and data collection.

Subsection (e) makes technical changes.

Subsection (f) amends section 152(a)(1) of title 23 to include in the state survey dangers to the disabled from hazardous road conditions. It also includes a requirement that States identify the roadway safety improvements for hazardous locations. It also adds four new activities for which the funds can be used. The Secretary will use the STP apportionment formula to apportion funds to the States for the Hazard Elimination program. Each State shall receive at least one half of one percent from funds apportioned to the States. The federal share will be 90 percent. The Secretary is required to report to Congress every two years the results of this program, including projects completed, the effectiveness of the projects, adequacy of funding and recommendation of improvements to the program.

Subsection (g) makes the amendments in subsection (d), (e) and (f) effective September 30, 2005 since there is no funding for the new Highway Safety Improvement Program in fiscal year 2005.

*Senate Bill*

*Sec. 1401.*

This program authorizes a new core Federal-aid funding program for the Highway Safety Improvement Program (HSIP) in section 148 of title 23.

The Committee heard compelling testimony that further progress was needed to project the safety of the traveling public. While rates of highway fatalities have decreased in recent years, 42,000 Americans still lose their lives on the nation's highways each year. In response, the committee has elected to create and apportion funds for a new core program, the Highway Safety Improvement Program. Recognizing that needs and circumstances vary in each State, the committee has sought to provide flexibility to the States on how the new program funds are spent. To ensure that such flexibility is well applied, the Committee will require each State to develop a safety plan and restrict spending under the program to projects or activities arising from that plan.

Section 133 of title 23, is amended by eliminating the current provision that requires States to set-aside a minimum of 10% of Surface Transportation Program funds for safety programs. Section 148 is subject to three set-asides: (1) $178,616,352 for the elimination of hazards and the installation of protective devices at railway-highway crossings; (2) $22,327,044 for the improvement of traffic signs and pavement markings to accommodate older drivers and pedestrians, and (3) $62,515,723 for the Safe Routes to Schools program under section 150 of title 23.

Section 1401 eliminates the Hazard Elimination Program under Section 152 of title 23, and incorporates it into 23 USC 148 the new HSIP. Additional categories eligible for funding under this section have been added to what is currently eligible under subsection (f) and (g) of section 152, title 23.

The HSIP directs State transportation departments to establish and implement a State strategic highway safety plan in their State. In order to receive funds for this program, States must have a process in place to analyze highway safety problems and opportunities and to produce strategies to mitigate identified safety problems. States must also submit an annual report to the Secretary that identifies hazardous locations and elements, and assesses the costs and impediments to eliminating the hazards.

States that have developed a strategic highway safety plan are also permitted to use up to 25% of their section 148 funds on safety projects carried out under any other section of title 23 as long as the project is consistent with the State's strategic highway safety plan.

The development of a strategic highway safety plan does not require changes in existing planning processes, plans, or programs of other State transportation or highway safety agencies.

*Sec. 1402.*

This section increases the funding level for Operation Lifesaver from $500,000 to $535,849 for each fiscal year and moves the source of funding from the Surface Transportation Program to section 148, the Highway Safety Improvement Program.

*Conference Substitute*

The Conference adopts the Senate provision with modifications. The program set-asides within the Senate HSIP structure were modified: (1) to eliminate the set-aside for the Safe Routes to School program, making it a separately funded program; (2) eliminating the mandatory set-aside for bicycle and pedestrian improvements; (3) added a set-aside of $90,000,000 annually for construction and operational improvements on high risk rural roads; (4) increasing the set-aside for the installation of protective devices at railway-highway crossings to $220,000,000; and (5) increasing the set-aside for Operation Lifesaver to $560,000.

With regards to the State strategic highway safety plans, States are given until October 1, 2007 to develop the plan. If such a plan has not been developed by October 1, 2007, a State's HSIP apportionment for subsequent fiscal years will be frozen at fiscal year 2007 levels, until the State completes development of the strategic highway safety plan. States that have developed a strategic highway safety plan and also certify to the Secretary that they have met their State's needs relating to railway-highway crossings and infrastructure highway safety improvement projects, are also permitted to use up to 10% of their HSIP funds on safety projects carried out under any other section of title 23 (e.g. section 402 Highway Safety programs), consistent with the State's strategic highway safety plan. If a State certifies that it has met all of its needs for installation of protective devices at railway-highway crossings, the State may use funds set-aside for section 130 Railway-Highway Crossings to pay for any other safety projects eligible under the HSIP, consistent with that State's strategic safety plan. If a State certifies that it has met all of its needs for construction and operational improvements on high risk rural roads, the State may use funds set-aside for that purpose to pay for any other safety projects eligible under the HSIP, consistent with that State's strategic safety plan. The high risk rural roads program requires the Secretary to ensure States set aside an aggregate of $90 million a year to improve the safety of rural roads. The Conferees intend for the set-aside to be applied proportionally to each States' share of the HSIP apportionment.

With regards to the distribution formula used to apportion funds for the HSIP program to the States, the Conference abandons the Surface Transportation Program formula previously used to distribute funds for sections 152 and 130. Adopted in its place is the following formula for distributing funds apportioned for the HSIP program: ⅓ of the funds are apportioned based on each State's percentage of lane miles of Federal-aid highways; ⅓ of the funds are apportioned based on each State's percentage of vehicle miles traveled on Federal-aid highways; and ⅓ of the funds are apportioned based on the each State's percentage of fatalities on the Federal-aid system. Additionally, of the amounts set-aside from the HSIP for the elimination of hazards and the installation of protective devices at railway-highway crossings under section 130(e), ½ of the funds are apportioned based on the formula set forth in section 104(b)(3)(A) and ½ of the funds are apportioned based on each State's percentage of railway-highway crossings.

### SEC. 1402. WORKER INJURY PREVENTION AND FREE FLOW OF VEHICULAR TRAFFIC

*House Bill*

*Sec. 1402.*

The Secretary shall, within one year, issue regulations requiring workers whose duties place them in close proximity to a Federal-aid highway to wear high visibility garments.

*Senate Bill*

*Sec. 1408.*

This section ensures increased worker safety and assists with the free flow of vehicular traffic.

This section directs the Secretary to promulgate regulations recommending workers near a Federal-aid highway to wear high-visibility clothing, and to recommend any other worker-safety measures that the Secretary deems necessary to minimize worker injuries and maintain the free flow of vehicular traffic.

*Conference Substitute*

The Conference adopts the House provision and finds the provisions in both the House and Senate to be substantially equivalent.

### SEC. 1403. TOLL FACILITIES WORKPLACE SAFETY STUDY

*House Bill*

*Sec. 1807.*

This section directs the Secretary to conduct a study to determine the safety of highway toll collection facilities for toll collectors who work in and around such facilities. It requires the Secretary to submit within 1 year a report on the results of the study and recommendations for improving workplace safety at toll facilities to the congressional committees of jurisdiction.

*Senate Bill*

*Sec. 7214.*

This program is reauthorized for FYs 2006 through 2009 at an average annual funding level of $142 million. These programs focus on the research and development of safety countermeasures related to impaired driving, occupant protection, traffic law enforcement and criminal justice, licensing, motorcycle, pedestrian, bicycle, teen drivers and emergency medical services. The States use this research to model their safety programs for the most impact on saving lives and reducing injuries. This section also would provide $24 million a year to NHTSA to launch national advertising campaigns to increase seat belt use and reduce drunk driving during holiday periods. Launching these advertising campaigns at the national level is much more cost effective than individual States buying advertising at the local level.

*Conference Substitute*

The Conference adopts the House provision. It is the intent of the conference that those agencies operating such toll facilities shall, at the request of the Secretary, provide data as necessary to adhere to this provision.

### SEC. 1404. SAFE ROUTES TO SCHOOL PROGRAM

*House Bill*

*Sec. 1122(a).*

This section establishes two new programs—a Safe Routes to School Program and a Nonmotorized Transportation Pilot Program.

Subsection (a) establishes a Safe Routes to School Program for the benefit of children in primary and middle schools. The purposes of the program are to enable and encourage children, including those with disabilities, to walk and bicycle to school; to make bicycling and walking to school a safer and more appealing transportation alternative, thereby encouraging a healthy and active lifestyle from an early age; and to facilitate the planning, development and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.

Funding is made available by formula to state departments of transportation on the basis of student enrollment in primary and middle schools. No state will receive less than $2 million annually. Funds will be used by the state to provide financial assistance to state, local and regional agencies, including nonprofit organizations, which demonstrate an ability to meet the requirements of this section.

The program funds two distinct types of projects: infrastructure projects and non-infrastructure related activities. States should be encouraged to create competitive application forms, criteria, and evaluations that are appropriate for the two different types of projects.

The creation of a state level safe routes to school coordinator position provides a central point of contact for the program. Funding for the state level safe routes to school coordinator position is not included in the 10 to 30 percent of funds required to be used for non-infrastructure related activities under this subsection. The state coordinator's position is to be funded from the balance of the state's safe routes to school funds.

The safe routes to school clearinghouse provides an important opportunity to insure successful implementation of the program. As a new program, states will be interested in guidance on implementing the program effectively and efficiently. The clearinghouse can provide case studies, gather and disseminate information, track implementation, and monitor the program.

Given the broad scope of safe routes to school activities, the Committee acknowledges the need to include a broad range of agencies and organizations in the Task Force authorized by this section. In addition to representatives from federal agencies, additional task force members could include representatives from state and local agencies as well as relevant non-profit organizations and associations including organizations or associations that represent automobile drivers.

*Senate Bill*

*Sec. 1405.*

This section creates a new Safe Routes to Schools Program, section 150 of title 23. The Secretary shall establish and carry out a safe routes to schools program for the benefit of children who walk and bicycle to school.

The Safe Routes to Schools program works towards this goal by making bicycling and walking a safer and more appealing transportation alternatives. For this program, the Secretary shall set-aside $65,704,024 from section 148 to facilitate the planning, development, and implementation of projects and activities that will improve safety within two miles of primary and secondary schools. The Secretary shall distribute these funds using the formula established in section 148.

*Conference Substitute*

The Conference adopts the House provision with a modification to reduce the minimum state apportionment to $1 million.

### SEC. 1405. ROADWAY SAFETY IMPROVEMENTS FOR OLDER DRIVERS AND PEDESTRIANS

*House Bill*

No comparable provision in Senate bill.

*Senate Bill*

*Sec. 1401.*

As part of the Highway Safety Improvement Program, $23,465,723 is authorized for projects to improve traffic signs and pavement markings in a manner consistent with the recommendations included in the publication of the Federal Highway Administration entitled "Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians (FHWA-RD-01-103)".

*Conference Substitute*

The Conference adopts the Senate provision with a modification to authorize such sums as necessary for the eligible projects.

### SEC. 1406. SAFETY INCENTIVE GRANTS FOR USE OF SEAT BELTS

*House Bill*

*Sec. 1405.*

This section authorizes $112,000,000 for each of fiscal years 2004 and 2005 for grants to States that have met certain requirements with regards to seatbelts.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1407. SAFETY INCENTIVES TO PREVENT OPERATION OF MOTOR VEHICLES BY INTOXICATED PERSONS

*House Bill*

*Sec. 1406.*

Subsection (a) codifies the penalty against States for not enacting and enforcing a 0.08 drunk driving law. This penalty was originally enacted in the 2001 DOT appropriations bill.

Subsection (b) authorizes $110,000,000 for each of fiscal years 2004 and 2005 for grants to States that have enacted 0.08 laws.

Subsection (c) repeals the appropriations language that enacted the penalty in 2001.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1408. IMPROVEMENT OR REPLACEMENT OF HIGHWAY FEATURES ON NATIONAL HIGHWAY SYSTEM

*House Bill*

*Sec. 1408.*

This section instructs the Secretary to conduct a rulemaking to determine the standards to which a State should replace or repair damaged highway features after they have been damaged.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision with modifications. The Secretary is required to issue guidance when choosing to improve or replace highway features on the NHS in lieu of a rulemaking. The conferees deleted the word "repair" that was in the House provision. Only planned capital projects to "replace" or "improve" NHS features are covered by the conference provision.

### SEC. 1409. WORK ZONE SAFETY GRANTS

*House Bill*

*Sec. 1809.*

This section directs the Secretary to establish a work zone safety grant program to provide training to prevent or reduce highway work zone injuries and fatalities.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference agrees to adopt the House provision with a modification to subsection (d) Construction Work in Alaska.

### SEC. 1410. NATIONAL WORK ZONE SAFETY INFORMATION CLEARINGHOUSE

*House Bill*

*Sec. 1823.*

This section provides grants to establish and operate a National Work Zone Safety Information Clearinghouse.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1411. ROADWAY SAFETY

*House Bill*

*Sec. 1125.*

Subsection (a) directs the Secretary to enter into an agreement with an organization to develop a public service campaign to educate transportation officials, public safety officials, and motorists regarding the extent to which road hazards and design features are a factor in motor vehicle crashes.

Subsection (b) directs the Secretary to make grants to an organization to operate a national bicycle and pedestrian clearinghouse, to disseminate techniques and strategies for improving bicycle and pedestrian safety, and to develop information and educational programs related to pedestrian activities and cycling.

*Senate Bill*

*Sec. 1607.*

This section makes minor amendments to section 217 of Title 23.

These changes explicitly allow the use of STP and CMAQ funds for non-construction pedestrian safety programs whereby current law only mentions bicycle safety. It also explicitly mentions pedestrian use on bridges, whereby current law only mentions bicycle use.

The current practice of charging user fees for shared-use paths is now explicitly allowed. The fees collected by a State must be used for maintenance and operation of shared use paths within the State. This provision restricts the application of a user fee to shared-use paths not within a highway right-of-way and prohibits extension of user fees to sidewalks or bicycle lanes.

In order to address concerns regarding bicycle and pedestrian safety, the national bicycle and pedestrian clearinghouse first authorized in section 1212(i) of TEA-21 is reauthorized. A new subsection (i) provides funding and contract authority for these safety efforts for fiscal years 2004 through 2009.

This section also provides that the bicycle and safety grants are to be funded by a set-aside from the Surface Transportation Program.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1412. IDLING REDUCTION FACILITIES IN INTERSTATE RIGHTS-OF-WAY

*House Bill*

*Sec. 1828.*

This section includes a definition for Advanced Truck Stop Electrification Systems in Title 23 and clarifies that such systems are eligible under CMAQ.

*Senate Bill*

*Sec. 1608.*

This section creates an exception to the prohibition of the placement of commercial establishments in rest and recreation areas, and in safety rest areas, constructed or located on rights-of-way of the Interstate System.

The purpose of this exception allows States (either directly or through contracts) to place electrification or other idling reduction facilities in rest areas that can be used to provide heating, air conditioning, electricity, and communication to motor vehicles used for commercial purposes. Through these facilities, operators of such motor vehicles are able to receive these services without turning on their engines, thereby reducing vehicle emissions. States, other public agencies, and private entities that are already allowed to operate on the Interstate System, may charge for the services provided under this authority.

*Conference Substitute* ·

The Conference adopted both the House and Senate provision with modifications.

## Subtitle E—Construction and Contract Efficiency

### SEC. 1501. PROGRAM EFFICIENCIES

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1804.*

This section amends 23 U.S.C. 115, Advance construction, and 23 U.S.C. 118, Availability of funds.

Section 115 is amended to remove the restriction that a State must obligate all of its allocated or apportioned funds, or demonstrate that it will use all obligation authority allocated to it for Federal-aid highways and highway safety construction prior to approval of advance construction projects.

The revisions clarify that advance construction procedures can be used for all categories of Federal-aid highway funds and that when a project is converted to a regular Federal-aid project, any available Federal-aid funds may be used to convert the project.

This section further modifies section 115 to remove the requirement that the Secretary must first approve an application of the State prior to authorizing the payment of the Federal share of the cost of the project when additional funds are later apportioned or allocated to the State. The new provision allows the Secretary to obligate the Federal share or a portion of the Federal share of cost of the project by executing a project agreement.

Section 118 of Title 23, is amended to clarify the method used by FHWA to account for Federal-aid funds and determine amounts subject to lapse. This revision results in no change to current practice but simplifies the language to reduce ambiguity.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1502. HIGHWAYS FOR LIFE PILOT PROGRAM

*House Bill*

*Sec. 1504.*

The Committee intends with this pilot program to incentivize the use of innovative technologies and practices in the construction of highways and bridges. The Committee expects that safe, efficient highways and bridges can be built faster, and with greater durability, if innovative practices and technologies are utilized. This pilot authorizes the Secretary to allocate funds for projects deemed to satisfy the requirements of the project. The selection criteria are designed to identify projects that employ material and technique innovations which will produce more quickly constructed, longer lasting, high-quality and cost-effective projects.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference agrees to accept the House provision with a modification to allow 15 projects at the most each fiscal year.

### SEC. 1503. DESIGN-BUILD

*House Bill*

*Sec. 1501.*

Subsection (a) amends section 112 of title 23 with the intent of clarifying and improving the design-build authority provided. During the rulemaking process for the design-build regulation required by section 1307 of TEA 21, which also amended 23 U.S.C. 112, FHWA received several comments regarding the restrictive nature of the "qualified project" definition with respect to the project cost threshold. Approximately 85 percent of the design-build projects that have been evaluated under the FHWA experimental contracting program (Special Experimental Project No. 14 (SEP–14—Innovative Contracting) are too small to meet the definition of "qualified project." Based on the Haw's experience with design-build projects under SEP–14, there is no need to limit design-build projects to those costing more than $5 million in the case of a project that involves installation of an intelligent transportation system and to those costing more than $50 million in the case of any other project.

Subsection (b) similarly amends section 112 of title 23 making clear the parameters of the authority for the use of project evaluation criteria. The subsection also makes clear that this amendment does not disturb any other authority that the Secretary has under current law or that is being carried out by the Secretary as of the date of enactment.

*Senate Bill*

*Sec. 1803.*

This section amends section 112(b)(3) of title 23, to include intermodal facilities in the definition of qualified projects.

*Conference Substitute*

The Conference adopts the Senate provision. The Conferees intend that the Secretary's required concurrence is based in part on a determination that activities a state of local transportation agency plans to undertake will not influence the environmental review of those activities under NEPA.

## Subtitle F—Finance

### SEC. 1601. TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION ACT AMENDMENTS

*House Bill*

*Sec. 1601.*

This section makes programmatic changes to the TIFIA program.

Subsection (a) makes technical changes to the definitions in Section 181 of title 23.

Subsection (b) amends section 182 of title 23 to clarify the requirements regarding statewide and metropolitan planning. This subsection also decreases the minimum eligible project costs to $50,000,000 and to $15,000,000 for ITS projects.

Subsection (c) makes technical changes to the project selection process in section 182 of title 23.

Subsection (d) makes technical changes to section 183 of Title 23. The change to section 183(a)(4) codifies a DOT regulation that requires the project's senior obligations to receive an investment-grade rating in order to execute a secured loan agreement. The change to section 183(b)(2) ensures that the amount of the TIFIA credit instrument may not exceed that of the senior project obligations. The elimination of section 183(c)(3) deletes the description of sources of repayment funds because the subject is already covered in section 183(b)(3).

Subsection (e)(1) makes changes to section 184(b)(3) to ease the restrictions on funding draws on a line of credit in order to help a borrower avoid a payment default. The changes to section 184(b)(4) conform the interest rate setting mechanism for the line of credit with that for secured loans. The change to section 184(b)(5) has the same purpose as the changes to sections 183(b)(3) and 182(a)(4).

Subsection (e)(2) makes changes to Section 184(c) to clarify language regarding the scheduling of principal and interest repayments. The elimination of section 184(c)(3) deletes the description of sources of repayment funds because the subject is already covered in section 184(b)(5)(A)(i).

The changes to sections 185(a), 185(b), and 185(c) in subsection (f) clarify that the Secretary may establish fees to cover the cost of servicing TIFIA credit instruments. The change to section 185(d) clarifies that the program may retain outside counsel to assist in the underwriting and servicing of TIFIA credit instruments.

Subsection (g) sets the funding levels for the TIFIA program, including administrative expenses and limitations on credit amounts.

*Senate Bill*

*Sec. 1303.*

This section makes amendments to the TIFIA program under sections 181 through 189 of title 23.

The change to section 181(8)(D), as redesignated, expands the definition of freight-related projects eligible for TIFIA assistance. The provision also allows for a group of such related projects to be eligible, each of which individually might not meet the threshold requirements to apply for TIFIA credit assistance.

The change to section 182(a)(1) clarifies the provision regarding statewide and metropolitan planning requirements. The existing provision contained language that could be misinterpreted to constrain TIFIA assistance in the case of a project with a construction timetable that extended beyond the typical three-year approved State Transportation Improvement Program (STIP).

The changes to section 182(a)(3) lowers the threshold cost for eligible projects to $50 million, and also allows to be eligible projects that are equal to or exceed 20 percent of the Federal highway funds apportioned to that State in the most recently completed fiscal year.

The change to section 183(a)(4) codifies current regulation requiring a project's senior obligations to receive an investment-grade rating in order to execute a secured loan agreement.

The changes to section 184(b)(4) conform the interest rate setting mechanism for the line of credit with that for secured loans. This change allows the Department to execute both agreements on the same date at the same interest rate if a borrower utilizes both a secured loan and a line of credit for the same project.

Section 188(a)(2) allows all collected fees to be available to the Secretary without further appropriation to carry out this section.

Section 188(a)(3) maintains the limit on administrative costs.

*Conference Substitute*

The Conference agrees to adopt provisions from both the House and Senate. This section makes programmatic changes to the TIFIA program. Subsection (a) makes technical changes to the definitions in Section 181 of title 23.

The conferees eliminated section 181(7) to reflect the Department's decision not to use local servicers to perform the enumerated duties on behalf of the Secretary. Conferees also believe that ongoing servicing of TIFIA loans should be managed by a single entity as it has done so to date.

These provisions also expand the definition of freight-related projects eligible for TIFIA assistance to allow private rail facilities that serve a public benefit for highway users. The provision also makes eligible a group of such related projects, each of which separately might not meet the threshold requirements, to apply for TIFIA assistance.

Subsection (b) amends Section 182 of title 23 to clarify the requirements regarding statewide and metropolitan planning. This subsection also decreases the minimum eligible project costs to from $100 million to $50 million, $50,000,000 and to $15,000,000 for ITS projects, and changes clause (ii) by striking 50 and inserting 33.3 to ensure that smaller states have the opportunity to benefit from this program as well.

Subsection (d) makes technical changes to Section 183 of Title 23. The change to section 183(a)(4) codifies a DOT regulation that requires the project's senior obligations to receive an investment-grade rating in order to execute a secured loan agreement. The change to section 183(b)(2) ensures that the amount of the TIFIA credit instrument may not exceed that of the senior project obligations. The elimination of section 183(c)(3) deletes the description of sources of repayment funds because the subject is already covered in section 183(b)(3). It was the intent of the conference to allow agreements to refinance long-term project obligations or Federal credit instruments, if such refinancing provides additional funding capacity for the completion enhancement or expansion of any project selected under section 602 or that otherwise meets the requirements of section 602.

The changes to section 184(b) conform the interest rate setting mechanism for the line of credit with that for secured loans. This change allows the Department to execute both agreements on the same date at the same interest rate if a borrower utilizes both a secured loan and a line of credit for the same project. The changes to this section also eliminate the 20% cap on what a borrower can draw. It is the conference's understanding that the line of credit tool has not been widely used and the elimination of this cap could incentivize this credit instrument.

The changes in section 185 clarify that the Secretary may establish, collect and spend fees to cover the cost of servicing TIFIA credit instruments. This section also clarifies that the program may retain outside counsel to assist in the underwriting and servicing of TIFIA credit instruments.

Sections 181–189 are redesignated to 601-609.

### SEC. 1602. STATE INFRASTRUCTURE BANKS

*House Bill*

*Sec. 1602.*

Subsection (a) of this section codifies a state infrastructure bank (SIB) program in Section 189 of title 23.

Subsection (a) of section 189 provides definitions for the SIB program. Subsection (b) permits the Secretary to enter into a cooperative agreement with a State for the establishment of a SIB. Subsection (c) allows two or more States to enter into a cooperative agreement with the Secretary to establish a multi-state SIB. Subsection (d) establishes funding requirements for SIBs, restricting the amount of federal funding that a State can deposit in their highway, transit, and rail SIB accounts. Subsection (e) establishes the forms of assistance that a SIB can offer. Subsection (f) describes the eligible projects that are allowed to be funded by the SIB.

Subsection (g) establishes the requirements that a State must adhere to when establishing a SIB. Subsection (h) speaks to the applicability of Federal law in the SIBs program. Subsection (i) states that the United States is not obligated by any commitment made by a state SIB. Subsection (k) limits the amount of federal funds that can be used to administer the state SIB to 2 percent of the federal funds contributed to the SIB.

Subsection (b), (c), (d), and (e) of Section 1602 establishes a new chapter 6 in title 23 for infrastructure finance.

*Senate Bill*

*Sec. 1306.*

This section amends 1511(b)(1)(A) of TEA-21, which named the following States: Missouri, Rhode Island, California, and Florida. This change extends the program to any State that seeks to establish a State infrastructure bank.

This bill reauthorizes the State Infrastructure Bank (SIB) program under which all States are authorized to enter into cooperative agreements with the Secretary to set up infrastructure revolving funds eligible to be capitalized with Federal transportation funds authorized for the FY 2005–2009 period.

The SIB program gives States the capacity to increase the efficiency of their transportation investment and significantly leverage Federal resources by attracting non-Federal public and private investment. The program provides greater flexibility to the States by allowing other types of project assistance in addition to the traditional reimbursable grant.

SIBs provide various forms of non-grant assistance to eligible projects, including at or below-market rate subordinate loans, interest rate buy-downs on third party loans, and guarantees and other forms of credit enhancement. Any debt that the SIB issues or guarantees must be of investment grade caliber.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1603. USE OF EXCESS FUNDS AND FUNDS FOR INACTIVE PROJECTS

*House Bill*

*Sec. 1106.*

This section allows states to audit projects funded with apportionments under sections

104 and 144 of title 23 to determine whether there are excess project funds. If the audit reveals that there are excess funds, the state may develop a plan for spending the apportionment for the design or construction of other similar eligible projects. The state must certify to the Secretary that an audit was conducted and has developed a plan. Excess funds used to carry out a project under this section are subject to the requirements of this title that are applicable to the program for which the funds were originally apportioned.

*Senate Bill*

*Sec. 1106.*

This provision allows States to convert demonstration projects that were designated prior to 1998 to the Surface Transportation Program (STP). This section also requires States to certify to the Secretary that inactive funds will not be used in order to reobligate them under STP.

*Conference Substitute*

The Conference adopts the Senate provision with modifications. States can convert demonstration projects that were designated prior to 1991 in public law or a report accompanying public law and reprogram them under STP. States can also convert funds from projects that have no expenditures during any 1-year period or if a State certifies that a project is unlikely to be advanced, it can be converted to STP.

The Secretary is required to submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on what each state has reprogrammed.

It is the Sense of the Congress that funds released from demonstration projects are required to reprogram those funds into the same geographic area for which they were originally allocated.

### SEC. 1604. TOLLING

The Conference agrees to combine all tolling programs under one section.

*House Bill*

*Sec. 1209.*

This section amends the congestion pricing pilot program established under the Intermodal Surface Transportation Equity Act of 1991 to expand the authority to conduct such projects to all States, although the number of congestion pricing pilot projects is limited to 25. The limit of 25 projects includes all projects previously approved under this section (prior to the enactment of TEA LU) that collect tolls. This section also requires that any congestion pricing toll programs include a program for low-income drivers to pay a reduced toll. This section also sets aside $3 million a year for congestion pricing programs that do not include tolls.

*Senate Bill*

*Sec. 1827.*

This section amends section 1012(b) of ISTEA by continuing the program for fiscal year 2005 and each fiscal year thereafter.

*Conference Substitute*

The Conference agrees to continue the 15 tolling programs under current law and set aside one third of the total funding for the 15 programs to go toward non-tolling programs.

*House Bill*

*Sec. 1603.*

This section establishes an interstate system reconstruction and rehabilitation pilot program similar to the one authorized in TEA 21. The new program is limited to three facilities and requires states to show that tolling is the most efficient and economical way to finance the project. The previous program required that states prove that tolling was the only way to finance the interstate reconstruction or rehabilitation project. The new program also requires that the state agency collect tolls electronically and that the agency include a program to permit low-income drivers to pay a reduced toll amount.

*Senate Bill*

This section amends section 1216(b) or TEA–21 to expand the criteria by which states can apply. It is further amended by only allowing the state of Virginia to be eligible for funding under this program if accepted.

*Conference Substitute*

The Conference agrees to drop both provisions and continue current law.

*House Bill*

*Sec. 1604.*

This section establishes a new pilot program for projects involving the construction of new interstate facilities. The program is limited to three facilities (multi-state corridor projects may be considered as one facility) and states must show that tolling is the most efficient and economical way to finance the project. The new program also requires that the state agency collect tolls electronically and that the agency include a program to permit low-income drivers to pay a reduced toll amount.

It is the Committee's intent that this program be used only for the construction of new interstate facilities and that the pilot program authorized in Section 1603 be used only for rehabilitation and reconstruction of existing interstate facilities.

*Senate Bill*

No comparable provision in the Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

*Sec. 1609.*

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

This section modifies the Interstate System Reconstruction and Rehabilitation Program and establishes a new Fast and Sensible Toll Lanes Program. The Interstate System Reconstruction and Rehabilitation Pilot Program, established in TEA-21 is amended to ease the eligibility criteria for participation in the pilot program. The Fast and Sensible Lanes Program replaces the Value Pricing Pilot Program under TEA–21.

The change to the Interstate System Reconstruction and Rehabilitation Pilot Program eases the requirement for States to demonstrate that financing the improvements through tolls is the most efficient, economical, or expeditious way to advance the project. It is the intent of the committee that States may use variable pricing under this program. The pilot program remains limited to 3 facilities in 3 different States. A modification to this section designates that one of the facilities be located in Virginia.

This section also establishes the Fast and Sensible Toll (FAST) Lanes program to manage congestion, reduce emissions in a nonattainment or maintenance area, or to finance the addition of one or more lanes to an interstate to reduce congestion. The Secretary may permit a State to place tolls on highway, bridge or tunnel that are facilities that currently collect tolls, existing HOV facilities, or facilities that are upgraded for additional tolled capacity. Revenues may be used for debt service on highway or transit projects, a reasonable return on investment of any private financing, operational and maintenance costs, or any other purpose related to highway or transit projects under titles 23 or 49. The program also allows for the States to vary in price a toll according to time of day or level of traffic, as appropriate to manage congestion or improve air quality. To be eligible to participate in this program, a State must provide to the Secretary a description of the congestion and air quality problems to be addressed, a description of the congestion and air quality problems to be addressed, and the goals to be achieved. The committee realizes that commercial trucks utilize more capacity on roads than other vehicles, and States may toll trucks under this program to fairly reflect the additional capacity that they utilize on a facility. It is not the intent of the committee for States to unfairly charge trucks under a variable toll pricing program.

This section also permits any State or public authority currently operating under the authority of a cooperative agreement developed under the value pricing pilot program from TEA–21 to continue under the terms of that agreement and states that any State or public authority shall be allowed to continue tolling under that authority.

*Conference Substitute*

The Conference agrees to the Senate provision with a modification that this program will be a pilot program. The name of this program is changed to "EXPRESS Lanes".

## Subtitle G—High Priority Projects

### SEC. 1701. HIGH PRIORITY PROJECTS PROGRAM

*House Bill*

*Sec. 1701.*

This section updates the current high priority projects program to reflect the funding and year-by-year allocations provided in TEA LU.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House version.

### SEC. 1702. PROJECT AUTHORIZATIONS

*House Bill*

*Sec. 1702.*

This section lists the State, project description, and dollar amount for each high priority project.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision with additional projects listed.

### SEC. 1703. TECHNICAL AMENDMENTS TO TEA–21 PROJECTS

*House Bill*

*Sec. 1822.*

This section makes changes to projects authorized in TEA–21.

*Senate Bill*

*Sec. 1835, Sec. 1836.*

These sections make changes to projects authorized in TEA–21.

*Conference Substitute*

The Conference agrees to accept all technical changes provided in the sections from both bodies.

## Subtitle II—Environment

### SEC. 1801. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES

*House Bill*

*Sec. 1114.*

Subsections (a) and (b) codify the existing Ferry Boat Discretionary Program authorized in Section 1064 of ISTEA. Subsection (c) requires the Secretary to establish a national ferry database. It is the Committee's intent that the information collected and maintained in this database will be used as part of the decision making process for funding allocations under this program.

*Senate Bill*

*Sec. 1204.*

This bill codifies the Ferry Boat Program and requires the Secretary to carry out a program for the construction of ferry boats and ferry facilities in accordance with section 129(c). The section specifies projects to be given priority.

In allocating these funds, the Secretary shall give priority to ferry boat services that carry the greatest number of passengers and vehicles, as well as those that provide critical access to areas that are not well-served by other modes of transportation.

*Conference Substitute*

The Conference agrees to accept and merge both provisions.

### SEC. 1802. NATIONAL SCENIC BYWAYS PROGRAM

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1602.*

This section amends section 162 of title 23, the National Scenic Byways Program.

Section 162 of title 23 is amended to recognize that the Secretary already promotes a collection of National Scenic Byways and All-American Roads as 'America's Byways.' If State and byway representatives reach consensus on establishing a single designation category, then these amendments will provide the Secretary with the authority to use any of the three terms—National Scenic Byways, All-American Roads, or America's Byways—as the single designation.

A new subsection is added to authorize the Secretary to form public-private partnerships to carry out technical assistance, marketing, market research, and promotion with respect to National Scenic Byways, All-American Roads, or America's Byways. The National Scenic Byways and All-American Roads currently are promoted collectively as America's Byways.

*Conference Substitute*

The Conference adopts the Senate provision with the modification to drop subsection (d) Research, Technical Assistance, Marketing, and promotion.

### SEC. 1803. AMERICA'S BYWAYS RESOURCE CENTER

*House Bill*

*Sec. 1811.*

This section reauthorizes the America's Byways Resource Center. The Byways Resource Center provides technical support and conducts educational activities for the National Scenic Byways program. Technical support and educational activities will provide local officials and organizations with proactive, technical, and on-site customized assistance, including training, communications (including a public awareness series), publications, conferences, on-site meetings, and other assistance considered appropriate to develop and sustain Scenic Byways and All-American Roads.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1804. NATIONAL HISTORIC COVERED BRIDGE PRESERVATION

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1812.*

This section authorizes the Secretary to make grants to States for covered bridges that are listed or eligible for listing on the National Register of Historic Places.

Subject to the availability of appropriations, the Secretary shall make grants to States demonstrating a need for assistance in carrying out 1 or more historic covered bridge projects described in this section.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1805. USE OF DEBRIS FROM DEMOLISHED BRIDGES AND OVERPASSES

*House Bill*

*Sec. 1820.*

This section specifies that any debris from a demolished Federal-aid bridge or overpass can be used for beneficial public use by Federal, State, and local governments.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision with a modification.

### SEC. 1806. ADDITIONAL AUTHORIZATION OF CONTRACT AUTHORITY FOR STATES WITH INDIAN RESERVATIONS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1826.*

Section 1826 increases funding for roads that are adjacent to or provide access to Indian reservations.

This section increases funds that supplement maintenance funds provided by the Bureau of Indian Affairs from $1,500,000 to $1,607,547 for fiscal years 2005 through 2009. The committee intends these funds to be shared equally by States (except Arizona) that have Indian reservations larger than 10 million acres. These funds shall be used for roads that are adjacent to or provide access to Indian reservations, as well as roads used by a school bus to transport children to a school or Headstart program.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1807. NONMOTORIZED TRANSPORTATION PILOT PROGRAM

*House Bill*

*Sec. 1122(b).*

This section establishes two new programs—a Safe Routes to School Program and a Nonmotorized Transportation Pilot Program.

Subsection (b) establishes a Nonmotorized Transportation Pilot Program to construct a network of nonmotorized transportation infrastructure facilities in four communities to demonstrate the extent to which bicycling and walking can carry a significant part of the transportation load. This program is designed to develop the statistical information necessary to properly evaluate the impact of investments in nonmotorized travel and increases in pedestrian and bicycle trips on congestion, energy usage, clean air and public health. It recognizes that only complete, comprehensive and connected networks of nonmotorized transportation facilities will provide the opportunity for the pedestrian and bicycle usage needed for the measurement of impacts.

In making grants, the Secretary may select public agencies that are suitably equipped and organized to carry out the requirements of this subsection. An agency that receives a grant under this subsection may work with and provide grant funds to a nonprofit organization to assist in carrying out the program.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision with a modification to name four communities to carry out the pilot program. The Minnesota Department of Transportation shall provide funds for the Minneapolis nonmotorized pilot program grant to Transit for Livable Communities.

### SEC. 1808. ADDITION TO CMAQ-ELIGIBLE PROJECTS

*House Bill*

*Sec. 1210.*

This section clarifies that transportation system management and operations are an eligible activity under this program.

*Sec. 1833.*

This section specifies that advanced truck stop electrification system is an eligible activity under CMAQ.

*Senate Bill*

*Sec. 1612.*

Subsection (a) of section 1612 makes the following projects and programs eligible activities under the CMAQ program: the purchase of alternative fuel (as defined in the Energy Policy Act of 1992) and biodiesel fuel; the purchase of integrated, interoperable emergency communications equipment; diesel retrofit technologies for on-road vehicles and non-road vehicles and engines used in construction projects located in ozone or particulate matter nonattainment or maintenance areas and funded in whole or in part under Title 23; and outreach activities to provide information and technical assistance to the owners and operators of diesel equipment and vehicles.

Subsection (b) of this section ensures that States that receive the minimum apportionment can use CMAQ money to fund projects for the purpose of congestion mitgation or improving air quality, instead of only being able to use CMAQ dollars for projects that can be funded under the surface transportation program.

Subsection (c) of this section provides for reducing air emissions from the construction equipment used in projects funded under Title 23 by requiring emission reduction strategies. The subsection includes requirements and limitations to be applied in these strategies, but does not affect a State's current authority under the Clean Air Act. EPA is directed to publish guidance to support the development of the strategies. Finally, the subsection establishes a funding priority for diesel retrofits and other cost-effective emission reduction activities identified in the strategies developed under the section.

Subsection (d) authorizes the State of Maine to use CMAQ funds for the operation of passenger rail service between Boston, Massachusetts, and Portland, Maine.

Subsection (e) authorizes the State of Montana to use CMAQ funds for the operation of public transit activities that serve a nonattainment or maintenance area.

Currently, CMAQ funds can be used for a wide array of purposes designed to improve air quality, including improvements to transit systems, capital improvements to ITS projects, bicycle and pedestrian facilities, traffic flow improvements, alternative fuel infrastructure, inspection and maintenance programs, and shared ride services. The Clean Air Act (CAA) and EPA encourage the use of alternative fuels to assist areas in reducing criteria pollutants. CMAQ provisions in TEA-21/ISTEA include a specific subsection authorizing the use of CMAQ funds on alternative fuel infrastructure. Section 1612 further facilitates the use of alternative fuels by also allowing purchase of alternative fuels with CMAQ funds. The purchase of integrated, interoperable emergency communications equipment with CMAQ funds is also authorized under this subsection.

Subsection (b) of this section remedies an oversight that exists in the current law by providing States that receive the minimum amount of CMAQ funding the ability to use the money for air quality and congestion mitigation projects, if they so choose. States that receive the minimum apportionment either do not have nonattainment and maintenance areas, or have a nonattainment or maintenance area with a small enough population that they would only receive the guaranteed minimum ½ of 1 percent based on the population apportionment formula. This section of the bill allows these States to fund CMAQ-type projects with their CMAQ funds. It allows these areas to fund projects that would otherwise be eligible under section 149(b), regardless of the fact that section 149(b) specifically states that the eligible projects may only be funded in nonattainment or maintenance areas. This change is in keeping with the overall purpose of the CMAQ program.

Just as the bill adjusts the CMAQ apportionment formula to reflect the importance of reducing fine particulate matter (PM2.5), section 1612(c) adjusts the list of eligible activities to include cost-effective means of reducing PM2.5. Specifically, this subsection addresses emissions from construction equipment (both on-road and non-road) used in Federally-funded highway projects. Reducing emissions from long-term construction activities in the middle of a non-attainment area will provide great improvements to the immediate non-attainment area. For example, in 2000, the Massachusetts Department of Environmental Protection estimated that in five years the diesel retrofit program instituted at the Central Artery Tunnel Project in Boston would reduce construction emissions, including PM2.5, by an amount equivalent to eliminating 96 million truck miles or removing 1,300 diesel-powered public buses for a year.

These activities are also very cost-effective, particularly as compared to the cost-effectiveness of other CMAQ-eligible projects. For example, early estimates by the Environmental Protection Agency are that retrofitting a diesel engine bulldozer costs $15,000–20,000 per ton of fine particulate matter reduced. In contrast, the Transportation Research Board reported in its 2002 assessment of the CMAQ program that traditional CMAQ activities cost significantly more per ton of pollution reduced (bicycle and pedestrian facilities at $84,100 per ton; telework programs at $251,800 per ton; and park-and-ride lots at $43,000).

The Senate is also aware that some confusion remains in DOT and EPA field and regional offices regarding whether projects to control the extended idling of vehicles, such as advanced truck stop electrification projects, are eligible for CMAQ funding. Such confusion has led to delays in project approvals. Advanced truck stop electrification projects dramatically reduce emissions, and therefore improve air quality, by allowing long-haul drivers to turn off their engines during extended stops (e.g., during USDOT-mandated rest periods); mitigate congestion by providing drivers timely information regarding road congestion and alternative routes; enhance energy independence by reducing diesel fuel consumption; enhance highway safety by providing drivers a quieter, more restful sleep environment; and reduce noise impacts to nearby neighborhoods. Furthermore, advanced truck stop electrification projects can qualify for CMAQ funding, whether they are implemented through public-private partnerships; involve private ownership of land, project facilities or other physical assets, emission reduction credits and offsets; or are located on public or private land or rights-of-way. Such programs are clearly authorized under section 108(f)(1)(A)(xi) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)(xi) and associated Federal guidance (65 Fed. Reg. 9040 (Feb. 23, 2000)). Therefore, the committee directs the Secretary of Transportation and the Administrator of the Environmental Protection Agency to issue guidance to all appropriate Federal, State and local agencies that interpret and implement CMAQ and/or Clean Air Act programs informing such agencies as to the foregoing.

Section 1613 requires the Secretary to encourage States and metropolitan planning organizations (MPOs) to consult with State and local air quality agencies in nonattainment and maintenance areas on the estimated emissions reductions from proposed congestion mitigation and air quality improvement programs and projects.

The purpose of the Congestion Mitigation and Air Quality Improvement program is to help States meet their air quality goals of attaining or maintaining the air quality standards. This section has been added to acknowledge that State and local air quality agencies have valuable input with regard to which projects can best serve this purpose in their particular areas, and their participation in selecting projects, while not mandated, is to be encouraged. States, MPOs, and transit agencies, in consultation with State and local air quality agencies, are encouraged to work cooperatively in developing criteria for project selection and in making decisions over which projects and programs to fund under the CMAQ program.

Section 1614 requires DOT to evaluate and assess a representative sample of CMAQ projects in consultation with EPA, maintain and disseminate a database of CMAQ projects, and consider the recommendations and findings of the NAS CMAQ report in consultation with EPA.

Evaluation and information sharing are important aspects of the CMAQ program, and should be used to direct CMAQ funding toward the most cost-effective projects and programs. CMAQ funding can be used to innovative projects that contribute to improved air quality. If a particular type of project is successful in achieving emissions reductions, the goals of the program are furthered if that information is shared widely with other nonattainment and maintenance areas. DOT, in consultation with EPA, must consider the NAS report recommendations and finding to improve the operation and evaluation of the program. The committee's interest is to ensure that the information from previous effort and expense is used wisely.

*Conference Substitute*

The Conference adopts Senate provisions with additions and modifications. First, the Conference includes authorization to use CMAQ funds in areas that are required to prepare and file with the Administrator maintenance plans under the Clean Air Act. This provision is intended to benefit those areas that were designated nonattainment under the 1-hour ozone standard, which was revoked in June 2005, but are designated attainment for the new 8-hour ozone standard. These areas still must file maintenance plans for a period of time and while that is a requirement, the areas will be eligible to receive CMAQ funds.

The adopted language amends the eligibility requirements to limit eligibility of transportation control measures and projects under section 108(f)(1)(A) of the Clean Air Act to those that are likely to contribute to a high level of effectiveness in reducing air pollution, where sufficient information is available in the database established by this section to make a determination of their relative effectiveness. The language also clarifies that only transportation systems management and operations that mitigate congestion and improve air quality are eligible activities.

The requirement for States to develop emission reduction strategies, with the accompanying considerations, limitations and EPA guidance to support the strategies, is not adopted. EPA is still directed to publish guidance regarding diesel retrofit technologies and supporting technical information.

The Senate language establishing a CMAQ funding priority is amended to include cost-effective congestion mitigation activities, in addition to diesel retrofits and other cost-effective emission reduction activities. The substitute clarifies that the priority need only apply to funds a State receives based on its population in nonattainment or maintenance areas. A State receiving the minimum apportionment under the program need not consider the priority when determining how to distribute that portion of CMAQ funds apportioned to the State to raise the State's funding to the minimum apportionment level. The priority is further clarified to ensure that governmental agencies retain existing authorities and roles in making final project selections. These clarifications to the original Senate priority language are intended to retain needed flexibility in utilizing CMAQ funds while providing States with direction to focus on cost-effectiveness as an important consideration in distributing program funds.

The Conference retains Senate language encouraging interagency consultation on the estimated emission reductions from proposed CMAQ projects and requiring the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to evaluate and assess a representative sample of CMAQ projects for their effectiveness.

The Conference adopts several CMAQ eligibility provisions for certain States authorizing: use in Montana of CMAQ funds for the operation of public transit activities that serve a nonattainment or maintenance area; use in Missouri, Iowa, Minnesota, Wisconsin, Illinois, Indiana, and Ohio of CMAQ funds for the purchase of alternative fuel (as defined in section 301 of the Energy Policy Act of 1992 (42 U.S.C. 13211)) or biodiesel; use in Michigan of CMAQ funds for the operation and maintenance of intelligent transportation system strategies that serve a nonattainment or maintenance area; use in Maine of CMAQ funds to support operation of passenger rail service between Boston, Massachusetts, and Portland, Maine; and use in Oregon of CMAQ funds to support operation of passenger rail service between Portland, Oregon and Eugene, Oregon.

### Subtitle I—Miscellaneous

### SEC. 1901. INCLUSION OF REQUIREMENTS FOR SIGNS IDENTIFYING FUNDING SOURCES IN TITLE 23

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1903.*

Section 154 of the Federal-Aid Highway Act of 1987 (23 U.S.C. 101 note; 101 Stat. 209) establishes the basis for erecting signs at Federally assisted highway projects identifying the source and amount of funding being used. This section transfers the provision to 23 U.S.C. 321 and makes a needed conforming amendment.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1902. DONATIONS AND CREDITS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1820.*

Section 323 of title 23 is amended to give States and local governments additional flexibility to match Federal funds and expedite project implementation.

This provision expands section 323 to include the value of donated services provided by local government employees to be credited to the non-Federal share for projects funded under title 23 funds.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1903. INCLUSION OF BUY AMERICA REQUIREMENTS IN TITLE 23

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1904.*

This section sets forth the "Buy America" provision and designates it as 23 U.S.C. 321. The provision makes non-substantive, conforming amendments to the text needed because of the transfer, simplifies the text, and deletes an executed report requirement.

*Conference Substitute*

The Conference agrees with language from both the House and Senate bills.

### SEC. 1904. STEWARDSHIP AND OVERSIGHT

*House Bill*

*Sec. 1105.*

This section amends the Financial Plan portion of section 106 of title 23 requiring states with a project that costs $500 million or more to submit an annual financial plan.

*Senate Bill*

*Sec. 1802.*

This section requires the Secretary to establish an oversight program to monitor the effective and efficient use of funds authorized under title 23, with a specific focus on financial integrity and project delivery.

The Secretary shall require the States to annually certify the adequacy of their financial management systems and project delivery systems to meet all requirements for financial integrity. As part of the financial integrity oversight, the Secretary is required to develop minimum standards for estimating project costs and to periodically evaluate States' practices for estimating project costs, awarding contracts, and reducing project costs. States are required to determine that subrecipients of Federal funds have sufficient accounting controls and project delivery systems.

Under section 1802, recipients of Federal financial assistance are required to prepare an annual financial plan for projects that receive $100,000,000 or more in Federal financial assistance and that are not subject to the requirements for major projects.

This section also mandates debarment of contractors who have been convicted of fraud related to Federal-aid highway or transit programs and suspension of contractors who have been indicted for offenses relating to fraud. In addition, it requires that portions of monetary judgments won in Federal criminal and civil cases against contractors pertaining to Federal-aid highway and transit program fraud be shared with the State or local transit agency injured by the fraud.

Finally, this section requires a value engineering analysis, as defined in this section, for all projects over $25 million and bridge projects over $20 million.

*Conference Substitute*

The Conference agrees to accept provisions from both the House and Senate with modifications. The Secretary is required to establish an oversight program to monitor the effective and efficient use of funds with a specific focus on financial integrity and project delivery. States will have to annually certify their financial management systems and project delivery systems to meet all requirements for financial integrity.

The conference adopted the House provision to require a project sponsor who receives Federal financial assistance and who has a total project cost of $500,000,000 or more be required to submit a project management plan and an annual financial plan for projects to the Secretary or for any project as determined by the Secretary.

Finally, this section requires a value engineering analysis for any project on the Federal-aid system with an estimated cost of $25 million or more, for bridge projects $20 million or more, or for any other project the Secretary determines to be appropriate.

### SEC. 1905. TRANSPORTATION DEVELOPMENT CREDITS

*House Bill*

*Sec. 1841.*

This provision allows states to use toll credits toward the states' match of a project.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision:

### SEC. 1906. GRANT PROGRAM TO PROHIBIT RACIAL PROFILING

*House Bill*

*Sec. 1810.*

On February 27, 2001, in the Address to a Joint Session of Congress, President George W. Bush declared that racial profiling is "wrong and we will end it in America". The President issued a Memorandum for the Attorney General that directed the Attorney General to review the use of Federal law enforcement authorities use of race in conducting stops, searches, and other investigative procedures. In particular, the President asked the Attorney General to work with Congress to develop methods or mechanisms to collect any relevant data from Federal law enforcement agencies and to work in cooperation with state and local law enforcement agencies in order to asses the extent and nature of any such policies.

In response to the efforts of the President to end the use of racial profiling, this section establishes a new incentive grant program to encourage states to enact and to enforce laws that prohibit the use of racial profiling in the enforcement of traffic laws on Federal-aid highways. The incentive grant program will assist the states with the compilation of data to support efforts to eliminate the use of race or ethnicity as a key factor in whether to make a traffic stop.

Subsection (a) authorizes the Secretary to make a grant to a State that has enacted and is enforcing a law that prohibits the use of racial profiling in the enforcement of traffic laws on Federal-aid highways. To be eligible for a grant, a State must maintain and allow public inspection of statistical information for each motor vehicle stop in the state showing the race and ethnicity of the driver and any passengers. Also, a State may receive a grant if the State provides assurances satisfactory to the Secretary that the State is undertaking activities that will lead to compliance with the requirements to this section.

Subsection (b) authorizes the eligible activities for which a grant may be used by the State. In the case of a state eligible for a grant under subsection (a) (1), the grant may be used for: collecting and maintaining of data on traffic stops; evaluating the results of the data; and developing and implementing programs to reduce the occurrence of racial profiling. An eligible State receiving a grant by providing assurances to the Secretary that the State is undertaking activities that will lead to compliance with this section may use the grant for any eligible activity under this section. The collection, maintenance, and evaluation of data relating to traffic stops could be used to determine whether race has been a key factor in motor vehicle stops. According to the report published by the Comptroller General entitled Racial Profiling, more information is needed to determine the extent to which race, as opposed to other factors, is a key factor for traffic stops.

Subsection (c) clarifies the meaning of racial profiling as it pertains to making routine or spontaneous law enforcement decisions, such as ordinary traffic stops. The racial profiling provisions under this section is not intended to affect the ability of law enforcement officers from considering race or ethnicity whenever there is trustworthy information available that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization.

Subsection (d) limits the maximum amount for which a state may receive a grant to not more than 5 percent of the amount authorized in a fiscal year to carry out this section. A state that provides assurances to the Secretary that the state is undertaking activities that will lead to compliance with the requirements of this section may not receive a grant in more than two fiscal years.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1907. PAVEMENT MARKING SYSTEMS DEMONSTRATION PROJECTS

*House Bill*

*Sec. 1808.*

This section directs the Secretary to conduct demonstration projects in Alaska and Tennessee to study the impacts of increasing the minimum width for pavement markings from four inches to six inches and report the results to Congress by June 30, 2009.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1908. INCLUSION OF CERTAIN ROUTE SEGMENTS ON THE INTERSTATE SYSTEM AND NHS

*House Bill*

*Sec. 1839.*

This section amends 1105 (e)(5) of ISTEA to designate US 41 in Wisconsin as I-41.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

This provision was added in conference to makes two changes to section 1105 of ISTEA and to designate segments of the Interstate System and routes on the National Highway System.

### SEC. 1909. FUTURE OF SURFACE TRANSPORTATION SYSTEM

*House Bill*

*Sec. 1123.*

This section establishes two commissions, one to study future revenue sources to support the Highway Trust Fund and another to study the future of the Interstate Highway System. Both commissions are established using the same criteria for the selection of the members. This section also amends section 101 of title 23 to include a declaration of policy regarding the study of the Interstate Highway System.

The Commission on Future Revenue Sources to Support the Highway Trust Fund will study alternative short-term sources of revenue for the Highway Trust Fund, as well as evaluating alternative long-term sources of revenue to support the Highway Trust Fund. When studying the long-term sources, the Commission is directed to consider the findings, conclusions, and recommendations of a recent study completed by the Transportation Research Board of the National Academy of Sciences on alternatives to the user fee to support highway financing.

The Commission is directed to develop ways to generate revenues to accomplish the requirements of section 1125; oversee a comprehensive investigation of alternatives to replace the user fee as the principal source of revenue for the Highway Trust Fund; consult with the Secretaries of Transportation and Treasury to ensure that their views concerning essential revenue alternatives are understood; consider State transportation agencies views on alternative revenue sources for the Highway Trust Fund; and make specific recommendations regarding their findings and necessary actions to Congress.

When considering alternative sources of revenue, the Commission shall address the advantages or disadvantages of alternative revenue sources and identify the most promising revenue sources to support long-term financing requirements. The Commission shall also establish a time frame for which the necessary actions must be taken and a broad transition strategy to move from the current user fee base to new funding mechanisms, including the time frame for the transition strategy.

Not later than September 30, 2005, the Commission shall transmit to Congress a report on revenues to support actions necessary to meet the requirements of section 1125. The Commission has until September 30, 2006 to transmit to Congress a report on the alternative long-term sources of revenue for the Highway Trust Fund.

The Commission on the Future of the Interstate Highway System will study the current condition and future of the Dwight D. Eisenhower National System of Interstate and Defense Highways (the "Interstate System"). The study will include a conceptual plan with alternative approaches for the future of the Interstate System and will assure that the Interstate System will continue to serve its National needs.

The Commission is directed to consider the views of State transportation agencies and make specific recommendations regarding design standards, Federal policies, and legislative changes that must be made to assure that national interests in meeting future needs are addressed.

When conducting the study, the Commission is specifically directed to address all issues that could impact the Interstate system including, demographics; usage; natural disasters; design standards; system-wide needs; potential expansion, upgrades, or other changes; community values; environmental issues; and system performance.

The Commission has until September 30, 2006 to transmit to Congress a report on the results of the study.

*Senate Bill*

*Sec. 1202.*

Actions under this section shall address the future transportation needs in the interest of preserving and enhancing the surface transportation system to meet the needs of the United States for the 21st Century.

Section 101 of title 23 is amended by changing the declaration of policy to include additional language to support the transportation needs of the 21st century. The Secretary shall conduct a complete investigation and study of the current conditions and the future needs of the surface transportation system. This section describes the specific issues to be addressed and what shall be reported to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

*Conference Substitute*

The Conference adopts language from both the House and Senate provisions. This section establishes a 12 member commission comprised of individuals with knowledge and experience in the area of surface transportation policy and revenue who will make recommendations to Congress about the future transportation policy considerations that will need to be considered in future legislation. The Commission will conduct a comprehensive, thorough study of current and future needs of the surface transportation system, short and long term revenue sources and alternatives, other forms of revenue that might be needed, and the impact changing dynamics will have upon the Highway Trust Fund and other revenue sources. A plan to address these needs will be presented in coordination with the Secretary and other government entities across the United States.

### SEC. 1910. MOTORIST INFORMATION CONCERNING FULL SERVICE RESTAURANTS

*House Bill*

*Sec. 1803.*

This section requires the Secretary to do a rulemaking to determine whether to give priority to full service restaurants on at least two of the panels for highway food service signs.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1911. APPROVAL AND FUNDING FOR CERTAIN CONSTRUCTION PROJECTS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1829.*

This provision allows the State of Georgia to receive project approval by the Secretary for the project stated in the bill. This project was previously listed on the State's Transportation Improvement Plan and was erroneously removed, subsequently, not eligible for project approval.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1912. LEAD AGENCY DESIGNATION

*House Bill*

*Sec. 1819.*

This section specifies that a specific agency in California be the lead agency for a highway project authorized in 1991.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1913. BRIDGE CONSTRUCTION, NORTH DAKOTA

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1832.*

This provision increases the Federal share for a specific bridge project in North Dakota from 80 percent to 90 percent.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1914. MOTORCYCLIST ADVISORY COUNCIL

*House Bill*

*Sec. 1831.*

This section establishes an advisory council to address relevant highway infrastructure issues as they relate to motorcyclists.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1915. LOAN FORGIVENESS

*House Bill*

*Sec. 1818.*

This section specifies that a loan has satisfied its repayment obligations.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1916. TREATMENT OF OFF RAMP

*House Bill*

*Sec. 1817.*

This section specifies that an off-ramp in California meets the requirements of title 23 that govern the approval of the placement of ramps off a Federal-aid Highway.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference agrees to the House provision. It is the Committee's intent that notwithstanding any other provision of law, the New Harbor Boulevard North Off-Ramp project along the Interstate 405 Collector-Distributor Road in Costa Mesa, California (Susan Street Slip Ramp) is hereby deemed to satisfy all Federal requirements, and the California State Department of Transportation shall authorize any final environmental, engineering, or design analyses necessary to approve, as expeditiously as possible, construction of the project consistent with applicable California State Operational and Safety standards.

### SEC. 1917. OPENING OF INTERSTATE RAMPS

*House Bill*

*Sec. 1212.*

This section provides for opening a ramp connecting I-495 and Arena Drive in the State of Maryland.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference agrees to House provision with a modification to that the State DOT certifies to the Secretary that the opening of this ramp does not present a safety risk.

### SEC. 1918. CREDIT TO STATE OF LOUISIANA FOR STATE MATCHING FUNDS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1828.*

This provision allows the State of Louisiana to receive a credit in an amount equal to the cost of any planning, engineering, design, or construction work carried out by the State on any project numbered 202 under section 1602 of TEA–21.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1919. ROAD USER FEES

*House Bill*

*Sec. 1813.*

The issue of future financing of the Highway Trust Fund is a critical one that Congress must begin to address. The Trust Fund is currently financed primarily through fuel excise taxes and certain truck taxes. When the Trust Fund was established in the 1950s, it was legitimate to have the gas tax serve as a surrogate for road usage and be the basis for the user-pays system of the federal highway program. But with the advent of hybrid cars, alternative fuels, the potential for fuel cell technology, increased fuel efficiency and other technological developments, the relationship between the gas tax and road usage is diminishing.

On July 16, 2002, the Subcommittee on Highways, Transit, and Pipelines held a hearing on this and related topics. Testimony was received from representatives of the Public Policy Center of the University of Iowa regarding research that was then in progress, though now completed, to develop a new approach for charging vehicles that travel on the public roads. A consortium of the Federal Highway Administration and 15 state departments of transportation funded the study. The purpose of the study was to evaluate how intelligent transportation system technology (GPS and on-board computers, smart cards and collection centers) can be used to assess mileage-based road user charges.

This section provides funding and authorization for the Secretary to conduct a pilot project to test the technology and feasibility of the system. It is contemplated that various cars will be equipped with the technology in different regions of the country with a diverse set of drivers. An important element of the study is measuring the public acceptance of such a system and to ensure that privacy concerns of drivers are met.

The finding of this study will provide useful information as the Congress strives to identify a funding source to finance the federal-aid highway programs that is stable, accurate, fairer and more flexible than the current gas tax.

*Senate Bill*

The Senate has a comparable provision in title V of the Senate passed bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1920. TRANSPORTATION AND LOCAL WORKFORCE INVESTMENT

*House Bill*

*Sec. 1836.*

This section expresses the sense of the Congress that Federal transportation projects should facilitate and encourage the collaboration between interested persons to help leverage scarce training and community resources and to help encourage local participation in the building of transportation projects.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1921. UPDATE OF OBSOLETE TEXT

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1901.*

Letting of Contracts: This amendment deletes the obsolete exception.

Fringe and Corridor Parking Facilities: The amendment would substitute a meaningful reference for the obsolete term.

Repeal of obsolete sections of title 23: This section repeals obsolete sections of title 23: Priority Primary Routes (23 U.S.C. 147); Development of a National Scenic and Recreational Highway (23 U.S.C. 148); and Access Highways to Public Recreational Areas on Certain Lakes (23 U.S.C. 155).

*Conference Substitute*

The Conferees adopts the Senate provision.

### SEC. 1922. TECHNICAL AMENDMENTS TO NONDISCRIMINATION SECTION

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1905.*

This section makes several technical amendments to section 140 of title 23.

Technical changes made include:

Eliminating gender-based language;

Clarifying that funding made available to carry out this section has the same broad availability as the source from which the funds are made available (an STP takedown);

Removing the $2.5 million funding cap on highway construction and technology training programs established for fiscal year 1976 as no longer necessary;

Correcting a typographical error; and

Clarifying the purpose and intent of subsection (d) by modifying the title to remove the reference to Indian contracting.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1923. TRANSPORTATION ASSETS AND NEEDS OF DELTA REGION

*House Bill*

*Sec. 1806.*

This section authorizes the Secretary to contract with the Delta Regional Authority (DRA) to conduct a study on the Delta region's transportation assets and needs for all modes of transportation, including passenger and freight transportation. This section also directs the DRA to report to Congress the results of the study and establish a regional strategic plan to implement the report's recommendations.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1924. ALASKA WAY VIADUCT STUDY

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1831.*

This provision requires the Secretary to study and report to Congress the damage of the Viaduct from the Nisqually earthquake in Seattle, WA.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1925. COMMUNITY ENHANCEMENT STUDY

*House Bill*

*Sec. 1835.*

This section directs the Secretary to make a grant to, or enter into a cooperative agreement or contract with, a national organization representing architects who have expertise in the design of a wide range or transportation and infrastructure projects to conduct a study on the role of well-designed transportation projects in promoting community enhancement.

*Senate Bill*

*Sec. 1833.*

This section directs the Secretary to make a grant to, or enter into a cooperative agreement or contract with, a national organization who have expertise in the design of a wide range or transportation and infrastructure projects to conduct a study on the role of well-designed transportation projects in promoting community enhancement.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1926. BUDGET JUSTIFICATION

*House Bill*

*Sec. 1801.*

This section requires the Department of Transportation and each agency therein to submit to the Committee on Transportation and Infrastructure a budget justification concurrently with the President's Annual Budget submission.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision with a modification to add the Committee on Environment and Public Works to also receive a copy of the budget justification.

### SEC. 1927. 14TH AMENDMENT HIGHWAY AND 3RD INFANTRY DIVISION HIGHWAY

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1524.*

This provision requires the Secretary to conduct a study and report on the construction of a route linking cities in Georgia to cities in Mississippi and Tennessee.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1928. SENSE OF CONGRESS REGARDING BUY AMERICA

*House Bill*

*Sec. 1834.*

The Committee is concerned that the intent of Congress in the original Buy America (P.L. 97-424 §165) is being misinterpreted on federally funded bridge projects. The Buy America provision provides that domestic iron and steel be used in federal transportation projects unless its use would increase the "overall project contract" by more than 25 percent. The problem that is emerging in the highway bridge industry is that project managers are attempting to circumvent the Buy America requirement by breaking bridge projects into component parts and applying the 25% test separately to each of the component parts, rather than to the entire bridge project as required by law. The intent of the Buy America/domestic content law was to ensure that when taxpayer money is invested on direct federal government procurement and infrastructure projects, these expenditures stimulate U.S. production and employment. This provision is intended to end any confusion or misinterpretation of the law by making clear that it is the Sense of Congress that the Buy America test applies to the overall bridge project.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Committee is concerned that the States are inconsistently interpreting certain Buy America provisions of Federally-funded highway projects. To clear up these inconsistencies, we are reiterating our intent concerning the proper application of the "minimal use" exception to Buy America in these projects.

"Minimal use" of foreign steel and iron materials is only allowed on a project using Federal highway funds when the cost of the steel and iron materials does not exceed the higher of (a) 0.1 percent of the total contract cost or (b) $2,500. For the purpose of determining compliance with this "minimal use" exception, the "combined project cost" of the materials is to be used. "Combined project cost" is the unit cost as shown in the executed contract, multiplied by the quantity of units on the project. The contractor's cost of the actual material is irrelevant and is not to be considered. This procedure is to be followed with respect to procurements involving both prime contractors and subcontractors, so that the cost to the subcontractor of materials supplied to a prime contractor under a project is not to be considered, but rather, the amount being charged to the prime contractor by the subcontractor for the materials.

For the purpose of this provision, if a contract contains a quantity of five units of a particular bid item, if even one of the units is of foreign origin, the total "combined project cost" of all five units is to be used to determine compliance with the "minimal use" requirement. In addition, if any component of a bid item is foreign, the entire bid item is considered foreign. In turn, the unit cost as shown in the executed contract, multiplied by the quantity of units used on the project, is to be used to determine compliance with the "minimal use" requirement.

For the purpose of this provision, the North American Free Trade Agreement (NAFTA) has no effect. Iron and steel products from Canada and Mexico are considered to be of foreign origin.

### SEC. 1929. DESIGNATION OF DANIEL PATRICK MOYNIHAN INTERSTATE HIGHWAY

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1205.*

This section designates Interstate Highway 86 in the State of New York as the Daniel Patrick Moynihan Interstate Highway and the 3 mile segment of Interstate 86 between New York State Route 15 in the vicinity of Painted Post, New York and State Route 352 in the vicinity of Corning, New York as the Amo Houghton Bypass.

*Conference Substitute*

The Conference adopts the Senate provision with a modification to provide a separate section in law for each of these requests.

### SEC. 1930. DESIGNATION OF THOMAS P. "TIP" O'NEILL, JR. TUNNEL

*House Bill*

*Sec. 1814.*

This section designates that, in honor of his service to the Commonwealth of Massachusetts and to the United States, and in recognition of his contributions toward the construction of the Central Artery project in Boston, Massachusetts, the Central Artery Tunnel should be named as the "Thomas P. 'Tip' O'Neill, Jr. Tunnel".

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1931. RICHARD NIXON PARKWAY, CALIFORNIA

*House Bill*

This section designates the segment of the Imperial Highway located between California State Route 91 and Esperanza Road to be known and designated as the Richard Nixon Parkway.

*Senate Bill*

No comparable provision in the Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 1932. AMO HOUGHTON BYPASS

*House Bill*

*Sec. 1838.*

This provision designates a 3-mile segment in New York as the Amo Houghton Bypass.

*Senate Bill*

*Sec. 1205(b).*

This provision designates a 3-mile segment in New York as the Amo Houghton Bypass. Any reference in any way to this highway segment shall be deemed to be a reference to the Amo Houghton Bypass.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 1933. BILL TAUZIN ENERGY CORRIDOR

### SEC. 1934. TRANSPORTATION IMPROVEMENTS

*House Bill*

No comparable provision.

*Senate Bill*

No comparable provision.

*Conference Substitute*

This provision was added in conference to provide states with such sums as necessary as required in this provision in order to carry out projects in the table contained in subsection (c) of this program.

### SEC. 1935. PROJECT FLEXIBILITY

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

No comparable provision in the Senate bill.

*Conference Substitute*

The Conference added this provision to provide States with the flexibility to transfer funds from projects allocated under this section to any other project in the state so long as the funding for each project in this section is not ultimately reduced.

### SEC. 1936. ADVANCES

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

No comparable provision in the Senate bill.

*Conference Substitute*

The Conference added this provision to allow states to obligate funds from 104(b) to carry out any project designated in any of sections 1301 (Projects of National and Regional Significance), 1302 (Corridors), 1306 (Freight Intermodal Pilot) and 1933 (Transportation Projects) as well as for sections 117 (High Priority Projects) and 144(g) Bridge Discretionary of title 23. The amount authorized to obligate under this section shall not exceed the amount authorized for that project and it can only be funded by programs by which the project would be eligible. These funds must be restored from funds allocated for that project.

### SEC. 1937. ROADS IN CLOSED BASINS

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

No comparable provision in the Senate bill.

*Conference Substitute*

The Conference included this provision to require the Secretary to provide advancement or reimbursement under the emergency relief program to North Dakota for the State to carry out the construction of necessary improvements at Devils Lake. These improvements shall be in accordance with the options and needs identified in the "Roadways Serving as Water Barriers" report dated May 2000, any needs relating to Devils Lake identified after May 2000, and any monitoring, study, or design or preliminary engineering associated with evaluating or constructing the measures.

### SEC. 1938. TECHNOLOGY

*House Bill*

*Sec. 1829.*

This section encourages states to consider using a new technology to detect cracks in bridges.

*Senate Bill*

No comparable provision in the Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### RV-FRIENDLY LOGO

The conference applauds the FHWA for their commitment to alleviating the concerns of RV users by alerting them to facilities equipped to accommodate their special needs through the use of an RV-friendly logo. The conference is aware that states are beginning to enact regulations concerning RV-friendly signage and believes it is important for the FHWA to establish uniform road signs. The conference encourages the FHWA to expedite approval of the new RV-friendly signage by immediately issuing an interim rule and completing the process by September 30, 2006.

### SOLID WASTE DISPOSAL

This section amends the Solid Waste Disposal to require the Administrator of the Environmental Protection Agency and each agency head to take necessary actions to implement fully all procurement requirements and incentives that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects. An agency head is required to give priority to achieving greater use of recovered mineral component for which it has not been historically used or used minimally. This section also requires the Administrator, in cooperation with the Secretaries of Transportation and Energy, to conduct a study to determine the extent to which current procurement requirements may realize energy savings and environmental benefits attainable with the substitution of recovered mineral component in cement used in cement or concrete projects. Additionally, this section requires the Administrator, in consultation with other agency heads, to establish criteria for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for cement or concrete projects, and transportation projects, including those that use asphalt, that are carried out using Federal funds. In establishing the criteria, the Administrator is required to consider current and previous uses of 'chat,' and any environmental and public health risks and benefits derived from removal, transportation and use of 'chat.'

### CLARIFICATION OF DATE.

This section restates, as a calendar date, a date in title 23 that currently is expressed as a reference to a date of enactment of law, making it difficult to understand. No change in the actual date is made.

### DISCRETIONARY BRIDGES

Of the amounts appropriated to the Bridge Discretionary Program Section 1114(e) for the State of Vermont, Congress intends that the State shall allocate $1,000,000 for the Community Center Bridge in Springfield, VT; $5,000,000 for the River Street Bridge in Rutland City; $4,500,000 for Bridge 4 in Tunbridge, VT; $3,000,000 for Bridge 30 in Stockbridge, VT; $2,100,000 for Bridge 1 in Reading, VT; $6,000,000 for the bridge over the New Haven River on VT RT 116 in Bristol, VT; $4,000,000 for Bridge 9 in Cornwall, VT; $3,900,000 for Bridge 31 in Bethel, VT; and $2,500,000 for the East Street Bridge in Huntington, VT.

### STREETSCAPE, TRAIL AND ROAD

Of the amounts appropriated in section 1934 for item # to the State of Vermont for streetscape, multi-use trail, and road improvements in Lamoille, Caledonia, Grand Isle and Chittenden Counties, Congress intends that the State allocate $500,000 for planning and construction of pedestrian walkways in Morrisville, VT; $835,000 for construction of pedestrian walkways in Stowe, VT; $1,000,000 for construction of a multi-use trail in Hardwick, VT; $750,000 for streetscape improvements in Jericho, VT; $330,000 for downtown street improvements in Alburg, VT; and $585,000 for improvements to Hogback Road in Waterville, Cambridge, and Johnson, VT.

### SMALL BRIDGES

Of the amounts appropriated in section 1934 for item # to the State of Vermont for small bridge improvements, Congress intends that the State shall allocate $500,000 for Bridge 15 in Granville, VT; $1,100,000 for Bridge 48 in Lincoln, VT; $660,000 for Bridge 17 in Ripton, VT; $1,500,000 for Bridge 14 in Sunderland, VT; $940,000 for Bridge 31 in Readsboro, VT; $1,600,000 for Bridge 16 and Bridge 17 in Burke, VT; $770,000 for Bridge 24 in Montgomery, VT; $1,000,000 for Bridge 3 in Stowe, VT; $730,000 for Bridge 30 in Albany, VT; $1,290,000 for Bridge 61 in Barton, VT; $650,000 for Bridge 16 in Charleston, VT; $750,000 for Bridge 50 in Wallingford, VT; $600,000 for Bridge 37 in Shrewsbury, VT; $730,000 for Bridge 24 in Clarendon, VT; $760,000 for Bridge 37 in Cabot, VT; $890,000 for Bridge 56 in Guilford, VT; $640,000 for Bridge 33 in Jamaica, VT; $1,600,000 for Bridge 17 in Newfane, VT; $2,700,000 for Bridge 50 in Woodstock, VT; $490,000 for Bridge 8 in Barnard, VT; $2,000,000 for the bridge on Bridge Street over the Stevens Branch of the Winooski River in Barre Town, VT; $1,700,000 for Bridge 29 in Saint Johnsbury, VT; $1,140,000 for Bridge 45 in Cavendish, VT; $320,000 for Bridge 20 in Vershire, VT; $680,000 for Bridge 25 in Reading, VT; $1,340,000 for Bridge 26 in New Haven and Weybridge, VT; $810,000 for Bridge 63 in Chester, VT; $980,000 for Bridge 34 in Corinth, VT; and $1,130,000 for Bridge 22 in Bradford, VT.

### WESTERN RAIL CORRIDOR

Of the amounts appropriated in Section 1934 for item # to the State of Vermont for improvements to the Western Rail Corridor between Alburg, St Albans, Burlington, Middlebury, Rutland, Manchester, Bennington and west to Hoosick Junction, New York, priority shall be given to completing the Middlebury Rail Spur, upgrading the rail line for passenger service between Manchester, Rutland and Charlotte and improving the movement of freight rail through major cities, including Rutland.

### GATEWAY RURAL IMPROVEMENT PROGRAM

Section 1946 authorizes a new Gateway Rural Improvement Program in Vermont to demonstrate the impact of a freight transportation gateway program on a rural rail corridor. Funding preferences shall be given to a corridor in Western Vermont that includes, but is not limited to, the Middlebury Rail Spur, Rutland rail improvements, St. Albans intermodal facilities, and the Albany, Bennington, Rutland, Burlington & Essex rail upgrades. User fees may be used to provide part or all of the cost of a project under this section.

### COVERED BRIDGES

Of the amounts appropriated in section 1934 for item # to the State of Vermont for the rehabilitation of historic covered bridges, Congress intends that the State shall allocate $450,000 for the Creamery West Hill Covered Bridge in Montgomery, VT; $450,000 for the Bowers Covered Bridge in West Windsor, VT; $500,000 for the Quinlan Covered Bridge in Charlotte, VT; $500,000 for the Gifford Covered Bridge in Randolph, VT; $500,000 for the Worrall Covered Bridge in Rockingham, VT; $450,000 for the Kingsbury Covered Bridge in Randolph, VT; $1,500,000 for the Taftsville Covered Bridge in Woodstock, VT; and $1,800,000 on the Pulp Mill Covered Bridge in Middlebury-Weybridge, VT.

### HIGHWAY DISCHARGE MITIGATION

Of the amounts appropriated in section 1934 item # to the State of Vermont, the Secretary shall allocate $3,000,000 for the Vermont Local Roads Program in Colchester, VT for the purpose of providing financial assistance grants to towns, cities and villages in Vermont for projects to reduce water pollution generated by, or directly associated with existing public roads and road maintenance activities; and $3,000,000 for the Champlain Water District in Vermont for the purpose of providing financial assistance to towns, cities and villages in Chittenden County for water quality improvements through projects to mitigate water pollution associated with existing town roads, federal aid highways and road maintenance activities.

### TOLLING

The provisions of the Express Lanes Program are intended to give State departments of transporation maximum flexibility to toll facilities on the Interstate System in order to (a) manage high levels of congestion; (b) reduce emissions in areas in nonattainment or maintenance for the Clean Air Act; and, (c) finance the expansion of a highway, for the purpose of reducing traffic congestion.

### CMAQ EXPANDED ELIGIBILITY

This provision provides the State of Montana with expanded ability to use CMAQ funds for transit operating assistance. In addition to all currently eligible projects, Montana CMAQ funds may be used for the operation of public transit activities that serve a nonattainment or maintenance area beyond the current US Department of Transportation restriction of three years. In addition, as referenced in this provision, activities that serve a nonattainment or maintenance area include activities that are undertaken partly within and partly outside a nonattainment or maintenance area.

### GOING-TO-THE-SUN ROAD

The $50 million in funding provided by this section for work to resurface, repair, rehabilitate, and reconstruct the Going to the Sun Road is intended to accelerate completion of the needed reconstruction work on that important park road. These funds are not sufficient to complete the project, however, and these funds are intended to supplement, not supplant funding from the park roads and parkways program for this important project.

### BEARTOOTH HIGHWAY

This provision provides flexibility for the State of Montana to use funds allocated for the development and construction of the US 212 Red Lodge North highway in this bill to first be used for the emergency repair of the Beartooth Highway. The Beartooth Highway has suffered extreme damage from 13 mudslides in the spring of 2005. The Montana Department of Transportation has submitted and obtained approval for federal Emergency Relief (ER) funding—estimated to be $24 million for this project. It is intended that the use of the funds on the Beartooth Highway will not require a non-Federal match, as they are being applied to an emergency relief project. Upon reimbursement by the Federal Highway Administration, a match will be required when the funds are applied to the US 212 project.

Upon reimbursement of the ER application by the Federal Highway Administration, this provision allows the reimbursed funds to then be transferred to the US 212 Red Lodge North project for use in the development and construction of that highway.

### PRIORITIES PROVISION IN DIESEL RETROFIT

Under new 49 USC 149(f)(3) States shall give priority to certain listed items in distributing CMAQ funds apportioned to them under 23 USC 104(b)(2)(B) and (C) or new 23 USC 104(b)(2)(D). This paragraph does not apply to the use of funds apportioned under the CMAQ minimum apportionment provision (former 23 USC 104(b)(2)(D)) or to the use of any other funds.

The listed priorities are: (1) cost-effective diesel retrofits and other cost-effective emission reduction activities, taking into consideration air quality and health effects; and (2) cost-effective congestion mitigation activities that provide air quality benefits. Each of these items, to qualify for priority, must be "cost-effective." If a State determines that it does not have cost-effective opportunities to undertake the listed activities, the priorities do not apply. The State could then use applicable CMAQ funds for other CMAQ eligible activities, such as particulate reduction or transit initiatives.

Moreover, even if a State has the opportunity to pursue cost effective activities listed in this paragraph, it does not mean that the State must expend all or most of its applicable CMAQ funds on those activities, to the exclusion of other possible uses of those funds. Conferees expect that other priorities can still be pursued with applicable funds. Priority is not absolute and exclusive. That is one reason why the paragraph also includes language establishing that this paragraph is not intended to disturb existing authorities and roles in making project selections.

In short, this new provision on CMAQ priorities is intended to give more funding focus to the listed priorities while continuing to provide states needed flexibility in utilizing the funds that are subject to this paragraph.

### NIGHT-TIME CONSTRUCTION

Presently the federal government is investing more than $30 billion annually on roadway construction projects. This significant investment is creating increased motorist exposures to roadway work zones. Since 1997 the number of fatalities in roadway work zones for both motorists and construction workers has grown by over 70 percent. With nearly 1,200 fatalities and 40,000 injuries occurring annually in roadway construction zones, work zone safety is a serious public health concern.

Since most road work today involves reconstruction, rehabilitation and maintenance of existing roadways, it is conducted adjacent to traffic. As a result, more and more jurisdictions across the country are looking to night-time construction as a way to reduce motorist delay and inconvenience by scheduling work when traffic is lighter.

The Committee is concerned about the impact of night-time construction on motorists, workers and communities. Current information is not comprehensive or well communicated to public and private entities and individuals that need it most.

The Committee directs the Federal Highway Administration to conduct and compile research on many aspects of night-time road construction, including:

- Comparisons between work zone-related crash rates daytime and night-time construction operations;
- Rates and frequencies of incidents caused by drivers under the influence of alcohol, drugs and/or other substances causing driver impairment;
- Rates and frequencies of incidents caused by drivers and workers who are tired or sleep deprived;
- Impacts on worker health and welfare;
- Impacts on adjacent communities;
- Impacts on construction quality and work schedules; and
- General impact on roadway construction worker safety.

The Committee directs the Federal Highway Administration to report to the Committee two years after passage of this legislation on the results of its research.

### CATHODIC BRIDGE PROTECTION STUDY

The issue of the increased cost to repair/replace concrete bridges due to the corrosion of steel rebar in bridges caused by exposure to a chlorine environment is a critical one that Congress must begin to address. The Committee directs the Secretary to study the application of cathodic protection technology to concrete bridges in order to extend the life of the bridge and reduce future repair costs.

The Committee also directs the Secretary to report to Congress on the results of any study.

### TRAFFIC CONTROL AT HIGHWAY-RAILWAY CROSSINGS

With respect to increasing safety at grade crossings, the Committee notes that 1,431 people have been killed in 11,860 accidents at public crossings with crossbuck devices during the past ten years. The size, weight, and design of trains prevent them from being able to stop and start as quickly as an automobile or truck. Given the importance of safety at highway-rail crossings, the Committee urges the Secretary of Transportation to revise the Manual of Uniform Traffic Control Devices and such other regulations and agreements of the Federal Highway Administration as may be necessary to require "yield" signs be installed at all public highway-rail crossings without automatic traffic control, save for those crossings which, in the judgment of the roadway authority, require "stop" signs, together with appropriate advance warning signs at all crossings.

In October of 2004, Federal Highway Administration (FHWA) was requested to issue an interim order amending the Manual on Uniform Traffic Control Devices to include a standard that "yield" signs be installed at all public crossings with passive devices, except at those which the roadway authority deemed to require a "stop" sign based on an exhaustive study contained in National Cooperative Highway Research Program (NCHRP) Report 470. Considering that the NCHRP Report 470 was completed in at the end of 2001, the Committee urges the Secretary to act immediately consider appropriate changes to the Manual of Uniform Traffic Control Devices.

### HIGHWAY-TRANSIT FUNDING TRANSFER AUTHORITY

In 1991, the Intermodal Surface Transportation Efficiency Act (ISTEA) provided additional authority for states to transfer Federal funds between highway and transit programs. In 1998, Congress continued and expanded this transfer authority. Many States have actively used this authority to transfer Federal funds between highway and transit programs. The committee believes it is important to review how the States and public transit authorities have used this transfer authority and directs the Government Accountability Office to report to Congress on the use of this transfer authority by the States and public transit authorities, the highway and transit projects funded with these funds, and the U.S. Department of Transportation administrative mechanisms to track the use of these transferred funds. This report should be completed as soon as practicable and no later than two years after the date of enactment.

### REQUEST FOR TECHNICAL ASSISTANCE

The Committee notes that, in the Design Standards Manual for construction of Interstates and their improvement, the requirements for control of access at ramp terminals in urban areas is 100 feet and 300 feet in rural areas. The Committee instructs the Federal Highway Administrator within 180 days to provide an explanation to the Committee for the different treatment of rural and urban access control at ramp terminals.

## TITLE II—HIGHWAY SAFETY

### SEC. 2001. AUTHORIZATION OF APPROPRIATIONS

*House Bill*

*Sec. 2001.*

This section authorizes funds for section 402 highway safety grant program; occupant protection incentive grants under section 405; alcohol-impaired driving countermeasures incentive grants under section 410; state traffic safety information improvements under section 412; the national driver register; and the high visibility enforcement program.

The Secretary is provided the flexibility to transfer any amounts remaining available under the occupant protection incentive grant program, the alcohol-impaired driving countermeasures program, and the state traffic safety information system improvements program to ensure, to the maximum extent possible, that each state receives the maximum amount of incentive grants under these programs for which the state is eligible.

*Senate Bill*

*Sec. 7212.*

This section would authorize amounts from the Highway Trust Fund for safety programs administered by NHTSA. The aggregate proposed authorization is approximately $696 million for FY 2006, $711 million for FY 2007, $728 million for FY 2008, and $746 million for FY 2009. In addition, this section provides that, if revenue to the Highway Trust Fund for a given fiscal year is lower than the amounts authorized in subtitle A, such a reduction would not affect the highway safety programs provided for in this bill. Finally, this section would provide for a proportional increase for NHTSA's grant programs if revenue to the Highway Trust Fund increases above currently authorized amounts.

*Conference Substitute*

This section authorizes funds for section 402 highway safety grant program; highway safety research and development under section 403, occupant protection incentive grants under section 405; safety belt performance grants under section 406; state traffic safety information improvements under section 408; alcohol-impaired driving countermeasures incentive grants under section 410; the national driver register; the high visibility impaired driving and seat belt enforcement program; motorcyclist safety; child safety and child booster seat safety incentive grants; and administrative expenses.

The Secretary is provided the flexibility to transfer any amounts remaining available under the occupant protection incentive grants, alcohol-impaired driving countermeasures program, and the state traffic safety information system improvements program to ensure, to the maximum extent possible, that each state receives the maximum amount of incentive grants under these programs for which the state is eligible.

### SEC. 2002. HIGHWAY SAFETY PROGRAMS

*House Bill*

*Sec. 2009.*

This section adds driver fatigue to the list of safety factors that must be included in state highway safety programs in accordance with uniform guidelines promulgated by the Secretary under section 402. The Committee wishes to acknowledge the contribution of "Maggie's Law" to its deliberations on this issue.

*Sec. 2014.*

This section adds '11–15 passenger vans used for school transportation purposes' to the list of safety factors that must be included in state highway safety programs in accordance with uniform guidelines promulgated by the Secretary under section 402.

*Sec. 2016.*

This section increases the minimum State apportionments of 402 funds from one-half of one percent to three-quarters of one percent.

*Senate Bill*

*Sec. 7213.*

This program is reauthorized for FYs 2006 through 2009 at an average annual funding level of $217 million, a 40 percent increase from the TEA–21 level, and increases the minimum share of Indian tribes through the Bureau of Indian Affairs from ¾ of one percent to 2 percent. These grants, allocated according to a formula, fund States' safety programs, such as safety belts, drunk driving, motorcycle, pedestrian and bicycle safety, emergency medical services, traffic law enforcement and roadway safety.

*Conference Substitute*

The Conference incorporates House provisions into Senate structure with modifications, including removal of "15 passenger van" language and consolidation of House and Senate "driver fatigue" language. Senate language is also modified for "unsafe driving behavior," "administration of state programs," and "law enforcement chase training." Minimum 402 funding for Indian tribes and States is increased.

### SEC. 2003. HIGHWAY SAFETY RESEARCH AND OUTREACH PROGRAM

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 7214.*

This program is reauthorized for FYs 2006 through 2009 at an average annual funding level of $142 million. These programs focus on the research and development of safety countermeasures related to impaired driving, occupant protection, traffic law enforcement and criminal justice, licensing, motorcycle, pedestrian, bicycle, teen drivers and emergency medical services. The States use this research to model their safety programs for the most impact on saving lives and reducing injuries. This section also would provide $24 million a year to NHTSA to launch national advertising campaigns to increase seat belt use and reduce drunk driving during holiday periods. Launching these advertising campaigns at the national level is much more cost effective than individual States buying advertising at the local level.

*Conference Substitute*

The Conference adopts the Senate provision with the addition of motorcycle safety to the list of research priorities and moves the national advertising campaigns to a new stand alone section.

### SEC. 2004. OCCUPANT PROTECTION INCENTIVE GRANTS

*House Bill*

*Sec. 2002.*

This section extends the occupant protection incentive grant program through the term of the legislation. A state may become eligible for these grants by either having a seatbelt usage rate of at least 85 percent or by implementing at least four of the six safety incentives under the program.

*Senate Bill*

*Sec. 7216.*

This is a new program funded at an average annual level of $154 million. The program would grant money to States that enact a new primary seat belt law and to States that have already enacted a primary seat belt law. States that have already enacted a primary seat belt law would receive a one-time grant over the life of the bill equal to 250 percent of their FY 2003 grant from section 402. States that enact a new primary seat belt law after December 31, 2002 would receive a one-time grant over the life of the bill equal to 500 percent of their FY 2003 grant from section 402. Most of this grant money may be used for highway safety construction purposes.

*Conference Substitute*

The Conference adopts elements of both the House and Senate provisions by creating two seat belt related programs. This provision outlines an extension of the current 405 Occupant Protection Incentive Grants Program.

### SEC. 2005. GRANTS FOR PRIMARY SAFETY BELT USE LAWS

*House Bill*

*Sec. 2002.*

This section extends the occupant protection incentive grant program through the term of the legislation. A state may become eligible for these grants by either having a seatbelt usage rate of at least 85 percent or by implementing at least four of the six safety incentives under the program.

*Senate Bill*

*Sec. 7216.*

This is a new program funded at an average annual level of $154 million. The program would grant money to States that enact a new primary seat belt law and to States that have already enacted a primary seat belt law. States that have already enacted a primary seat belt law would receive a one-time grant over the life of the bill equal to 250 percent of their FY 2003 grant from section 402. States that enact a new primary seat belt law after December 31, 2002 would receive a one-time grant over the life of the bill equal to 500 percent of their FY 2003 grant from section 402. Most of this grant money may be used for highway safety construction purposes.

*Conference Substitute*

The Conference adopts elements of both the House and Senate provisions by creating two seat belt related programs. This section adopts the Senate provision for one-time grants to states that pass or have passed primary seat belt laws with the modification to allow a state to also become eligible for the grant by demonstrating at least 85 percent seat belt use rates for two consecutive years and by changing the grant amounts to 200 percent for the FY 2003 section 402 grant for states with existing primary belt laws and 475 percent for states that enact new laws.

### SEC. 2006. STATE TRAFFIC SAFETY INFORMATION SYSTEM IMPROVEMENTS

*House Bill*

*Sec. 2004.*

This section authorizes a new section 412 program for state traffic safety information system incentive grants to encourage states to adopt and implement effective safety data systems. The Secretary is required to determine the model data elements necessary to analyze trends in crash occurrences, rates, outcomes, and circumstances. To receive a grant, a state must comply with safety data system requirements under this section and use the grant only to implement such requirements.

*Senate Bill*

*Sec. 7221.*

This is a new discretionary grant program, funded at a $45 million level each FY 2006 through 2009 to encourage States to improve their traffic records systems by increasing the efficiency and uniformity of data collection and access through upgrading data collection systems. The purpose is to develop a more accurate database of vehicle crash characteristics that will allow traffic safety professionals to better identify traffic safety problems, and develop effective countermeasures on a more timely basis.

*Conference Substitute*

The Conference adopts the Senate provision modified to remove the requirement for data audit/assessment as a requirement for eligibility in the first year.

### SEC. 2007. ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES

*House Bill*

*Sec. 2003.*

This section extends the alcohol-impaired driving countermeasures program over the term of the legislation. The criteria for eligibility under the Basic Grant A program is expanded to included states that have an alcohol-related fatality rate of 0.5 or less per 100 million vehicle miles traveled. The eligibility criteria for Basic Grant A is amended, under the administrative license revocation requirement, to permit a state to allow a first time offender who has had his or her license suspended to operate a motor vehicle, after a 15-day suspension period, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on the vehicle. Similarly, a state may allow a repeat offender who has had his or her license suspended or revoked to operate a motor vehicle, after a 45-day suspension or revocation period, to and from employment, school, or an alcohol treatment program if an ignition interlock device is installed on the vehicle.

Under the Basic Grant A criteria, four new eligibility requirements are added in lieu of eliminating the young adult drinking awareness program. The new requirements are a judicial and prosecutorial outreach program, a self-sustaining drunk driving prevention program, programs for effective alcohol rehabilitation, and a program for impounding vehicles of drunk drivers. States may become eligible for Basic Grant A by implementing at least six eligibility criteria for fiscal years 2005 and 2006 and at least seven criteria for the following fiscal years.

The criteria for the eligibility for a Basic Grant B is amended to permit a state to receive a grant if its alcohol-related fatality rate is 0.8 or more per 100 million vehicle miles traveled and the state establishes a task force to evaluate and recommend changes to the state's drunk driving programs. The supplemental grant program is repealed.

*Senate Bill*

*Sec. 7220.*

This program is reauthorized for FYs 2006 through 2009 at an average annual funding level of $132 million. States can qualify for a grant by enacting four out of the following seven criteria in FY 2006 and FY 2007, and by enacting five out of the following seven criteria in FY 2008 and FY 2009. States may choose from the following menu of policy options: (1) impaired driving check points and saturation patrols; (2) outreach to judges and prosecutors to improve prosecution of drunk driving cases; (3) create an information system for government use that tracks drunk driving arrests and convictions; (4) reduce for two years in a row the percentage of fatally injured drivers with a blood alcohol content of 0.08 percent; (5) a program that returns State and local fines collected for drunk driving offenses back into drunk driving prevention programs; (6) enact a law that creates greater penalties for drivers convicted of driving with a blood alcohol content of 0.15 percent or higher; and (7) create specialized courts for handling only impaired driving cases. The ten States with the highest rate of impaired driving fatalities will be eligible for a separate grant.

*Conference Substitute*

The Conference combines elements from both the House and Senate provisions, establishing a program whereby States are eligible for grants by either achieving an alcohol-related fatality rate of 0.5 or less per 100 million vehicle miles traveled, or by carrying out 3 programs in 2006; 4 programs in 2007, and 5 programs in 2008 and 2009. The list of programs includes: check point, saturation patrol; prosecution and adjudication outreach; BAC testing; high-risk drivers; alcohol rehabilitation and DWI courts; underage drinking; administrative license revocation; self-sustaining impaired driving program. Additionally, the ten States with the highest rate of impaired driving fatalities will be eligible for a separate grant by implementing a plan approved by the Secretary to reduce impaired driving. The grant for these 10 states each year is intended to be working capital to reinvigorate their impaired driving enforcement programs, and for those states not already receiving the basic grant to work towards eventually qualifying for the basic grant in future years by reaching the fatality rate goal or implementing the programs in (c).

### SEC. 2008. NHTSA ACCOUNTABILITY

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 7222.*

This section would create a framework for advancing NHTSA's management of its grant programs and its program recommendations to the States. It would require a review of each State highway safety program at least once every three years along with recommendations on how each State may improve the management and oversight of its grant activities. It would also develop management and program review guidelines for the NHTSA Regional Offices. The General Accounting Office will conduct a study on the effectiveness of the advice and recommendations given to the States by NHTSA. In addition, this section would increase NHTSA's accountability to the public by requiring the agency to post for public review on its website documents such as the NHTSA management review and program review guidelines.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 2009. HIGH VISIBILITY ENFORCEMENT PROGRAM

*House Bill*

*Sec. 2005.*

The Secretary is required to establish a program to support national impaired driving mobilization and enforcement efforts and national safety belt mobilization and enforcement efforts, including the purchase of national paid advertisements to support such efforts.

*Senate Bill*

*Sec. 7214(b).*

This subsection of Section 403 would provide funding for NHTSA to launch national advertising campaigns to increase seat belt use and reduce drunk driving during holiday periods. Launching these advertising campaigns at the national level is much more cost effective than individual States buying advertising at the local level.

*Conference Substitute*

The Conference adopts the Senate provision as a stand-alone program, including a subsection that requires that funds only be used for specified national law enforcement campaigns, advertising, and annual evaluations. Nothing in this section prohibits additional money later appropriated by Congress, or additional funds from NHTSA, from being used for additional support for the national campaigns.

### SEC. 2010. MOTORCYCLIST SAFETY

*House Bill*

*Sec. 2008.*

This section establishes a motorcycle safety incentive grant program for states that adopt and implement effective programs to reduce the number of single- and multi-vehicle crashes involving motorcycles.

*Senate Bill*

*Sec. 7224.*

This section would create a new section 414 of title 23 U.S.C. to provide grants to States to implement motorcycle safety training programs based on specific criteria, including improvements to motorcyclist safety training, program delivery, public awareness.

*Conference Substitute*

The Conference adopts the House provision modified to include Senate language on minimum grant amounts to eligible states and a requirement for the Secretary to develop model language for educating drivers on how to safely share roads with motorcyclists.

### SEC. 2011. CHILD SAFETY AND BOOSTER SEAT INCENTIVE GRANTS

*House Bill*

*Sec. 2007.*

This section authorizes a child safety and child booster seat incentive grant program for the benefit of states that enact or enforce a law requiring children riding in passenger vehicles to be secured in child safety seats or child booster seats. States may use grants under this section only to carry out child safety seat and child booster seat programs, including education, training, enforcement, and the purchase and distribution of child restraints to families that cannot otherwise afford them. Each state to which a grant is made under this section must transmit a report to the Secretary indicating how the grant funds were expended and identifying the specific programs supported by the grant.

*Senate Bill*

*Sec. 7223.*

This section would authorize grants to States to implement Anton's Law, which is aimed at increasing the use of booster seats for small children.

*Conference Substitute*

The Conference adopts the House provision with a change to allow no more than 50 percent of funding to be used for purchasing safety restraints. The purchase of child safety restraints is directed at helping low-income families.

### SEC. 2012. SAFETY DATA

*House Bill*

*Sec. 2011.*

This section requires the Secretary to collect data and compile statistics on accidents involving motor vehicles being backed up that result in fatalities and injuries. The Secretary is required to transmit a report to Congress not later than January 1, 2009, on these accidents and any recommendations regarding measures to be taken.

*Senate Bill*

*Sec. 7254.*

This section requires NHTSA to study technologies for automobiles that would reduce injuries and deaths caused by cars and trucks backing up.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 2013. DRUG-IMPAIRED DRIVING ENFORCEMENT

*House Bill*

*Sec. 2013.*

This section directs the Secretary to conduct a study on drug impaired driving and to develop a model statute for States. The section also requires the Secretary to submit a report to Congress regarding the research and findings not later than 18 months after enactment.

*Senate Bill*

*Sec. 7214(b)(1).*

This section requires NHTSA to conduct a study on the effects of controlled substances on driving.

*Conference Substitute*

The Conference adopts the House provision with modifications including the definition of "illicit substances" and requiring the Secretary and the National Institutes of Health to jointly provide a report to Congress on the problem of drug-impaired driving.

### SEC. 2014. FIRST RESPONDER VEHICLE SAFETY PROGRAM

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 7605.*

This section requires the Secretary to develop a program and list of best practices to promote compliance with State and local laws to increase the safe and efficient operation of first responder vehicles.

*Conference Substitute*

The Conference adopts the Senate provision with a change from the Secretary "shall" to "should."

### SEC. 2015. DRIVER PERFORMANCE STUDY

*House Bill*

*Sec. 2012.*

This section directs the Secretary to conduct a study on the risks associated with glare to oncoming drivers and to submit a report of findings and recommendations to Congress not later than 18 months after enactment.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 2016. RURAL STATE EMERGENCY MEDICAL SERVICES OPTIMIZATION PILOT PROGRAM

*House Bill*

*Sec. 2015.*

This section directs the Secretary to conduct a study on the use of geo-coded data for highway accidents and injuries in order to improve EMS resource allocation and distribution in rural areas.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 2017. OLDER DRIVER SAFETY; LAW ENFORCEMENT TRAINING

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7217.*

This section would amend section 406 by adding an older driver research and demonstration program and a law enforcement training program to train law enforcement personnel in police chase techniques that are consistent with guidelines issued by the International Association of Chiefs of Police.

*Conference Substitute*

The Conference adopts the Senate provision but makes language a stand-alone provision rather than a codified 406 program. Language for police chase training is modified to reflect that NHTSA shall provide "guidance and support" for the training.

### SEC. 2018. SAFE INTERSECTIONS

*House Bill*

*Sec. 2017.*

This section outlines penalties for the unauthorized sale or use of traffic signal preemption transmitters.

*Senate Bill*

*Sec. 1410.*

This section outlines penalties for the unauthorized sale or use of traffic signal preemption transmitters.

*Conference Substitute*

The Conference adopts the House provision with technical modifications to make language consistent with Title 18, United States Code.

### SEC. 2019. NATIONAL HIGHWAY SAFETY ADVISORY COMMITTEE TECHNICAL CORRECTION

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 7215.*

This section would make a minor technical correction to section 404(d) of title 23 U.S.C.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 2020. PRESIDENTIAL COMMISSION ON ALCOHOL-IMPAIRED DRIVING

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 1411.*

Sense of the Senate in support of establishing a Presidential Commission on Alcohol-Impaired Driving to further change the culture of alcohol-impaired driving on our Nation's highways.

*Conference Substitute*

The Conference adopts the Senate provision modified to make the provision a sense of the Congress, to include the motorcycle industry on the proposed Commission, and to change appropriate references from "drunk" to "alcohol-impaired" driving.

### SEC. 2021. SENSE OF THE CONGRESS IN SUPPORT OF INCREASED PUBLIC AWARENESS OF BLOOD ALCOHOL CONCENTRATION LEVELS AND DANGERS OF ALCOHOL-IMPAIRED DRIVING

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 1412.*

Sense of the Senate in Support of Increased Public Awareness of Blood Alcohol Concentration Levels and Dangers of Alcohol-Impaired Driving.

*Conference Substitute*

The Conference adopts the Senate provision modified to make the provision a sense of the Congress and to change appropriate references of "drinking and driving" to "alcohol-impaired driving."

## TITLE III—FEDERAL TRANSIT ADMINISTRATION PROGRAMS

### SEC. 3001. SHORT TITLE

*House Bill*

*Sec. 3001.*

Subsection (a) provides that this title be cited as the Federal Public Transportation Act of 2005. Subsection (b) provides that amendments in this title, unless otherwise specified, are made to title 49 of the United States Code.

*Senate Bill*

*Sec. 6001.*

The title to be cited as the Federal Public Transportation Act of 2005.

*Conference Substitute*

Adopts Senate proposal.

### SEC. 3002. AMENDMENTS TO TITLE 49, UNITED STATES CODE; UPDATED TERMINOLOGY

*House Bill*

*Sec. 3001.*

Subsection (b) amends chapter 53 of title 49, United States Code by striking "mass transportation" and replacing it with "public transportation", reflecting the broader applicability of transit services beyond urban areas.

*Senate Bill*

*Sec. 6002.*

Subsection (a) provides that amendments in this title, unless otherwise specified, are made to title 49 of the United States Code. Subsection (b) amends chapter 53 of title 49, United States Code by striking "mass transportation" and replacing it with "public transportation."

*Conference Substitute*

Adopts Senate proposal.

### SEC. 3003. POLICIES, FINDINGS, AND PURPOSES

*House Bill*

*Sec. 3002.*

This section and subsequent sections of the bill change the terminology used to describe the federal transit programs, which have grown far beyond the original mission and orientation of "urban renewal" in the Federal Transit Administration's organic statute, the Urban Mass Transportation Act of 1964. Today, the federal transit programs also provide vital transportation services to rural and other non-urban constituencies. The title change and subsequent legislative changes to chapter 53, title 49 United States Code in which the terms "mass transit" or "mass transportation" are replaced by "public transportation" reflect this evolution.

*Senate Bill*

*Sec. 6003.*

Section 5301(a) states that it is in the economic interest of the United States to encourage and promote the development of transportation systems because they maximize mobility and minimize transportation-related fuel consumption and air pollution. The findings in section 5301(b) are updated to reflect Census 2000 data. Subsection 5301(e) is amended to apply current requirements to preserve the environment and important historical and cultural assets throughout chapter 53, rather than only to capital programs carried out under sections 5309 and 5310. Terms throughout the section are updated for clarity.

*Conference Substitute*

Adopts the House language in subsection 5301(a) with the inclusion of economic interest. The Census updates from the Senate language are adopted. The remaining provisions of the section are the same in both bills.

### SEC. 3004. DEFINITIONS

*House Bill*

*Sec. 3003.*

This section includes amendments to definitions that apply generally to chapter 53 of title 49, United States Code. These changes include adding new eligibilities for federal capital transit funding. Newly eligible uses for these capital funds include: (1) acquiring, constructing, relocating, and renovating intercity bus stations and terminals; (2) crime prevention and security projects (including security training for personnel and conducting emergency response drills); (3) establishing a debt service reserve fund for bond payments when such bonds are used for the purpose of financing an eligible transit project; and (4) mobility management activities and projects. Mobility management activities and projects improve the coordination among public transportation and other transportation service providers through short-range planning and management activities, such as buying computer software that matches public transportation riders and non-emergency medical and other human services clients to transportation services. Directly providing public transportation services is not an eligible capital expense under this definition. The definition of "urbanized area" is revised to reflect the Department of Commerce's role in designating urbanized areas via the decennial Census. Under current law, the terms "mass transportation," "public transportation," and "transit" are interchangeable. Under the changes made in this section, these three terms are still synonymous. However, "public transportation" becomes the principal defined term.

*Senate Bill*

*Sec. 6004.*

This section includes amendments to definitions that apply generally to chapter 53 of title 49, United States Code. These changes include adding new eligibilities for federal capital transit funding. Newly eligible uses for these capital funds include: (1) acquiring, constructing, relocating, and renovating intercity bus stations and terminals; (2) crime prevention and security projects (including security training for personnel and conducting emergency response drills); and (3) establishing a debt service reserve fund for bond payments when such bonds are used for the purpose of financing an eligible transit project. The Senate Banking Committee believes that improved integrated, interoperable, emergency communications infrastructure is one way for transit operators to improve the response to emergency situations, and that such expenditures are eligible capital expenditures under chapter 53. The Senate bill includes mobility management activities under the section 5307 urbanized area formula grant program. As defined in this section, mobility management activities and projects tailor public transportation services to specific markets and manage demand for public transportation to help enhance ridership in a cost-effective and efficient manner. The definition of public transportation is amended to codify current practice of providing transportation service that serves a specific urbanized or rural area and its environs. Except for specific exceptions, such as the expanded eligibility of intercity bus facilities for capital funding and the ongoing intercity bus service under section 5311(f), intercity bus or rail services are not public transportation. The definition of "urbanized area" is revised to reflect the Department of Commerce's role in designating urbanized areas via the decennial Census. Under current law, the terms "mass transportation," "public transportation," and "transit" are interchangeable. Under the changes made in this section, these three terms are still synonymous. However, "public transportation" becomes the principal defined term.

*Conference Substitute*

Adopts the House language regarding new eligibilities for federal capital transit funding, including the more limited definition of mobility management activities and projects as being directly related to improved coordination among public transportation and other transportation service providers. These new capital eligibilities apply to all programs under chapter 53. The conferees believe that improved integrated, interoperable, emergency communications infrastructure are one way for transit operators to improve the response to emergency situations, and that such expenditures are eligible capital expenditures under this chapter. The definition of public transportation has been amended to mean transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, or intercity bus transportation (except under programs where intercity bus projects are made specifically eligible), or intercity passenger rail transportation provided by Amtrak or its successor entities. The definition of "urbanized area" is revised to reflect the Department of Commerce's role in designating urbanized areas via the decennial Census. "Public transportation," "mass transportation," and "transit" remain interchangeable and synonymous. However, "public transportation" becomes the principal defined term, in recognition that the federal public transportation program has evolved over time, and now covers rural and other non-urban constituencies, as well as urbanized areas.

### SEC. 3005. METROPOLITAN TRANSPORTATION PLANNING

*House Bill*

*Sec. 3004.*

The House bill consolidates current law metropolitan planning provisions under sections 5303 and 5304 of title 49, U.S.C. and under section 134 of title 23, U.S.C. into a unified planning title for both transit and highways under chapter 52 of title 49, U.S.C. For ease of reference, subsection 5303(a) of title 49, U.S.C. is amended to reflect that grants made under sections 5307–5311, 5316 and 5317 are to be carried out in accordance with chapter 52. Subsection 5303(b) requires the Secretary to certify that metropolitan planning organizations (MPOs) in transportation management areas comply with all planning and other applicable requirements in law in their transportation planning activities. However, the Secretary may not withhold certification of a transportation plan based on private enterprise participation. This is a standing limitation in existing law under section 5305(e)(3).

*Senate Bill*

*Sec. 6005.*

The Senate bill consolidates all provisions for metropolitan planning under section 5303 of title 49. The bill maintains the requirement for separate transportation plans and transportation improvement programs and requires certification of the planning process every four years. The Senate repeals the current law provision that allows a plan to be certified by the Secretary regardless of the policies and criteria an MPO or transit recipient establishes for deciding the feasibility of private enterprise participation. However, language is added under section 5306(a) of title 49 to clarify that local criteria will be the basis for such decisionmaking. The current law provisions regarding the scope of the planning process are amended to provide more detail on how protection of the environment is to be considered and adds a reference to planned growth patterns. A new participation plan is established to afford parties who participate in the metropolitan planning process a specific opportunity to comment on the plan before its approval. MPOs must certify that they have complied with their participation plan before the transportation plan can be approved. A new provision is added that requires the secretary to issue rules regarding the publication of the projects in the transportation improvement program for which funds have actually been obligated. Section 5305 of title 49, U.S.C. is repealed because provisions regarding Transportation Management Areas are incorporated into metropolitan transportation planning.

*Conference Substitute*

Adopts the Senate proposal, without the requirement that MPOs must certify that they have complied with their participation plan before the transportation plan can be approved.

### SEC. 3006. STATEWIDE TRANSPORTATION PLANNING

*House Bill*

*Sec. 3005.*

The House bill consolidates the metropolitan and statewide planning provisions currently under title 23, U.S.C. and chapter 53, title 49, U.S.C. into a unified planning title for both transit and highways under chapter 52 of title 49, U.S.C. For ease of reference, section 5304 of title 49, U.S.C. is amended to reflect that grants made under sections 5307–5311, 5316 and 5317 are to be carried out in accordance with chapter 52. Under current law (section 5323(l)), statewide transit planning was subject to statewide highway planning processes outlined in section 135 of title 23, U.S.C.

*Senate Bill*

*Sec. 6006.*

The Senate bill includes statewide planning requirements explicitly under 49 U.S.C. 5304, rather than by reference to section 135 of title 23 U.S.C. A new subsection (c) is added to allow States to enter into compacts or agreements for the purpose of formal planning cooperation and coordination for projects with multi-State implications. A requirement is added for States to consider the economic vitality for rural areas as well as urbanized areas in statewide transportation planning. The joint consideration of safety and security factors in planning is broken out as separate factors, to highlight heightened concerns with security at all levels of Government. The current law provisions regarding the scope of the planning process are amended to provide more detail on how protection of the environment is to be considered. An expanded publication of the statewide plan is required. The update cycles for development and approval of statewide transportation plans are set at 4 years.

*Conference Substitute*

Adopts the Senate proposal.

### SEC. 3007. PLANNING PROGRAMS

*House Bill*

*Sec. 3006.*

Metropolitan planning and statewide planning funding provisions contained in current law sections 5303(g) and 5313(b) are moved into a unified section on planning programs as the amended section 5305 of 49 U.S.C. The current law section 5305 pertains to metropolitan planning requirements for transportation management areas. These provisions are included under the unified metropolitan planning sections of chapter 52.

Subsections 5305(a), (b) and (c) establish the general planning grant authority and purposes. The current law definition of a State is retained (a State of the United States, the District of Columbia, and Puerto Rico). Subsection (d) describes the metropolitan planning grant apportionment process. Subsection (e) describes the state planning and research grant apportionment process. Subsection (f) sets the Government's share of planning grant activity costs at 80 percent. Subsection (g) describes the allocation of planning funds made available under funding authorization section 5338(c) between metropolitan planning and statewide planning, using the same percentages set in current law section 5338(c)(2)(C) (82.72 percent for metropolitan planning and 17.28 percent for state planning and research). In subsection (h), funds remain available for three years after the fiscal year in which the funds are authorized, the same period of availability as under current law.

*Senate Bill*

*Sec. 6010.*

The Senate bill merges the existing Clean Fuels Formula Program into the Bus and Bus Facilities Program and sets the consolidated metropolitan and statewide planning grant programs under 49 U.S.C. 5308. The current law limitation on the definition of State is deleted, providing transportation planning funds and responsibilities for the first time to the U.S. Territories. A new planning capacity building program of $5 million a year is established for metropolitan planning organizations and transportation operators to plan, develop and implement innovations and enhancements that support and strengthen the planning process. This program is also authorized and funded under the highway title and will be carried out jointly by FTA and FHWA. The bill provides $20 million a year for alternatives analysis activities that are now funded from the 49 U.S.C. 5309 New Starts program. The Senate believes that it is inappropriate to fund alternatives analysis under New Starts because that presumes that the result of the locally preferred alternative will, in fact, be a New Start. After these two new set-asides, the remaining planning funds are distributed as by current law, with 82.72 percent for metropolitan planning and 17.28 percent for state planning and research. The Government's share for planning grant activities is set at 80 percent, and funds remain available for three years after the fiscal year in which the funds are authorized, the same period of availability as under current law.

*Conference Substitute*

Adopts the House language restricting planning funds and responsibilities to U.S. States, the District of Columbia, and Puerto Rico. Adopts House language defining the prompt allocation of planning funds by States to metropolitan planning organizations to be made available within 30 days after allocation to the State. Does not include an alternatives analysis set-aside under the Planning Programs, although a new stand-alone alternatives analysis program is established under section 5339 of title 49, United States Code. Planning funds will continue to be distributed as under current law, with 82.72 percent for metropolitan planning and 17.28 percent for state planning.

### SEC. 3008. PRIVATE ENTERPRISE PARTICIPATION

*House Bill*

*Sec. 3007.*

This section title has been shortened to more clearly reflect the provisions within. The text of section 5306 of title 49, United States Code is not amended.

*Senate Bill*

*Sec. 6008.*

Current language that prohibits decertification for failure to meet the private sector participation requirements in 49 U.S.C. 5306 is not reenacted. The Senate bill adds clarifying language to make clear that local criteria are to be the basis for deciding on how to involve the private sector. A rulemaking is required to implement all of the changes to the statute made throughout the Senate bill on private sector participation, including enhancements to the role of private transportation providers in the planning process, changes in funding eligibility, and funding allocations.

*Conference Substitute*

Adopts the Senate proposal clarifying that local criteria are to be the basis for deciding how to involve the private sector.

### SEC. 3009. URBANIZED AREA FORMULA GRANTS

*House Bill*

*Sec. 3008.*

This section amends section 5307 of title 49, United States Code, which contains provisions governing the eligibility and procedures for urbanized area formula grants to transit providers in areas of 50,000 and more in population. Two existing law subsections are deleted. Subsection 5307(h) is deleted as a technical cleanup, because streamlined administrative procedures for track and signal equipment certification have already been promulgated as directed in the subsection. Subsection 5307(k) regarding transit enhancement activities is also deleted, but the requirement that one percent of urbanized area formula grant funds for recipients in areas of over 200,000 be invested on enhancement activities is retained, and added to the list of grant recipient requirements in subsection 5307(d)(1).

In paragraph (2), the existing extension of operating flexibility in urbanized areas that were less than 200,000 under the 1990 Census, but increased to more than 200,000 in the 2000 Census, is further extended through the end of fiscal year 2004.

Currently under subsection 5307(d), recipients are required to certify that they have the legal, financial, and technical capacity to carry out the program of projects for which they are applying as an urbanized area formula grant. This is amended in subparagraph (d)(1)(A) to additionally require that recipients certify such legal, financial, and technical capacity for the safety and security aspects of their program of projects.

Subsection 5307(e) regarding the Government's share of costs is amended by deleting the 1985 baseline limitation on local match revenues resulting from the sale of advertising or concessions. Additionally, recipients are authorized to use amounts received under service agreements with a State, local social service agency, or private social service organizations as local match. This creates an incentive to transit agencies to better coordinate transportation services with human service agencies that provide transportation services.

Section 5307(i) is redesignated as section 5307(h) and amended to give the Secretary discretion to require annual audits rather than mandate them.

Subsection 5307(l) as redesignated, Relationship to Other Laws, strikes subparagraph (1) and moves the provision contained therein to the General Provisions on Assistance under section 5323, to make the prohibition on making false or fraudulent statements to the Government (18 U.S.C. section 1001) applicable to any Federal public transportation grant program. A new paragraph (2) is added that exempts non- supervisory transit employees from the Hatch Act limitations relating to public election procedures for government employees, if the Hatch Act applies only because the employees' salaries are funded through Federal grants under this section. This exemption will apply only to employees in urbanized areas under 200,000 in population, where up to 50 percent of the net project cost may be derived from Federal grant funds. This codifies existing Federal transit law.

Subsection 3008(h) adds a new subsection 5307(m) regarding the treatment of the United States Virgin Islands, which shall be treated as an urbanized area for the purposes of apportionments under section 5307.

*Senate Bill*

*Sec. 6009.*

Private companies engaged in public transportation are eligible subrecipients of Federal grants. Subsection 5307(a) is revised to include definitions for 'subrecipient,' as well as 'designated recipient.' A subrecipient includes any entity receiving funding from the designated recipient. This will facilitate private sector participation in public transportation.

Mobility management is made an eligible expense. Subsection (b) is amended to state more explicitly the general authority for grants under Section 5307. Eligibility is expanded to include 'mobility management' as defined in Subsection 5302(a)(7a). Paragraph (4) is struck since separate eligibility for reconstructing or rehabilitating rolling stock is no longer needed, since these terms have been included in the definition of capital project in Subsection 5303(a).

Currently, urbanized areas over 200,000 may not use funds from the urbanized area formula program for operating assistance. A number of urbanized areas' status changed unexpectedly as a result of the 2000 census, due to changes in the Census Bureau's definitions and procedures for defining urbanized areas. These areas were allowed to continue to use funds for operating assistance for 2003 by P.L. 107–232, for 2004 by the Surface Transportation Extension Act of 2003, and for the first eight months of 2005 by the Surface Transportation Extension Act of 2004, Part V. These provisions are extended for the remainder of 2005 as currently enacted. For 2006 and 2007, these provisions are phased out. Urbanized areas covered by these provisions would be allowed to use 50 percent of their current limits on operating assistance in 2006 and 25 percent in 2007. This should provide these areas with more than ample time to develop and implement transition plans. The Senate strongly opposes continuing these provisions beyond 2007 and believes the more appropriate role for the Federal Government is in capital investment.

Section 5307(g)(4) is deleted to remove an obsolete standard for setting interest rates on advance construction projects. TEA–21 included a provision which required that the interest rate be set based on the most favorable terms available to the recipient and thus this is unnecessary.

The eligibility requirements for local match within this section are streamlined to include all advertising revenue as well as contracts with social service organizations.

Certain urbanized areas which grew to a population of over 200,000 can use funds for operating assistance in 2006 through 2007, with the amounts progressively phased down.

Currently, Subsection 5307(h) requires streamlined administrative procedures for track and signal improvements. This subsection is deleted because separate treatment for track and signal projects is no longer needed.

Currently, Subsection 5307(j) requires that grantees submit annual reports on sales of advertising and concessions. This subsection is deleted because it is redundant with a similar requirement of the National Transit Database.

Transit enhancements program is administered as a certification rather than as a set-aside. Subsection 5307(k) dealing with 'transit enhancement activities' is mainstreamed into a new subparagraph (K) in Section 5307(d)(1). Currently, that subsection allows for a one percent set-aside for transit enhancements and requires a report listing the projects. Under new subparagraph (K), a recipient with at least a population of 200,000 in its urbanized area could instead certify that one percent of its Section 5307 funds has been expended on transit enhancements.

Under current law. Section 5307(n)(1) states that 18 U.S.C. 1001, regarding false or fraudulent statements, applies only to certificates or submissions provided pursuant to Section 5307, 'Urbanized Area Formula Grants.' This paragraph is moved to Section 5323, General Provisions on Assistance. Under Section 5223, 18 U.S.C. 1001 applies to any Federal public transportation grant program.

A technical amendment is made to Subsection 5307(k)(2) to provide a complete list of requirements with which grant recipients must comply. In addition, a provision is added to Subsection 5307(k) to clarify that the Hatch Act does not apply to non-supervisory employees of grant recipients. This provision was included in the former Section 5 of the Urban Mass Transportation Act of 1964, as amended. However, it was inadvertently not included in Chapter 53 when the Urban Mass Transportation Act of 1964, as amended, was codified.

*Conference Substitute*

The conferees adopted the Senate language providing for a phase-out of operating eligibility for urbanized areas which crossed over 200,000 in population for the first time in the 2000 census.

The conference agreement provides that transit enhancement program will be administered as a certification, rather than a set-aside, and that grant recipients must submit an annual report of transit enhancement projects.

The conferees agreed to delete the 1985 baseline limitation on local match revenues resulting from the sale of advertising or concessions. Additionally, the conferees agreed to allow recipients to use amounts received under service agreements with a State, local social service agency, or private social service organizations as local match in order to foster coordination with other agencies that provide transportation services.

The conferees made a number of technical changes to Section 5307. Subsection (b) is amended to state more explicitly the general authority for grants under Section 5307. In addition, the conferees agreed that recipients must certify legal, financial, and technical capacity for the safety and security aspects of their program of projects. The conferees agreed to delete subsections (b)(4), (g)(4), (h), (j), and (k) as redundant or obsolete. The definition of associated capital maintenance was reorganized. A technical amendment is made to Subsection 5307(k)(2) to provide a complete list of requirements with which grant recipients must comply. In addition, a provision is added to Subsection 5307(k) to codify existing transit law which states that the Hatch Act does not apply to non-supervisory employees of grant recipients. The conferees deleted the reference to 18 U.S.C. 1001, regarding false or fraudulent statements, from Section 5307, because Section 5323 is amended to apply 18 U.S.C. 1001 to the entire federal transit program.

The conference agreement adopts the House provision regarding the treatment of the United States Virgin Islands as an urbanized area for the purposes of apportionments under section 5307.

### SEC. 3010. CLEAN FUELS GRANT PROGRAM

*House Bill*

*Sec. 3009.*

Section 3009 amends section 5308 of title 49, United States Code, regarding the clean fuels formula grant bus procurement program. Funds are apportioned to recipients in urbanized areas that are designated as nonattainment areas for ozone or carbon monoxide under section 107(d) of the Clean Air Act or are maintenance areas for ozone or carbon monoxide. These grant funds can be used to purchase or lease clean fuel buses, construct or lease vehicle-related equipment supporting such clean fuel buses, and construct new or improve existing facilities to accommodate clean fuel buses. Clean fuel buses include those powered by clean diesel, compressed natural gas, liquefied natural gas, biodiesel fuels, batteries, alcohol-based fuels, hybrid electric power systems, fuel cells, or other low or zero emission technologies. Not more than 25 percent of the funds made available under the clean fuels formula grant program may be used for clean diesel bus technology. The apportionment formula is weighted such that two-thirds of the funds go to recipients serving urbanized areas with a population of 1,000,000 or more and one-third of the funds go to recipients serving urbanized areas of less than 1,000,000. The formula is also weighted by the severity of nonattainment in the urbanized area being served.

The Committee intends that the Secretary shall encourage recipients of clean fuels formula grants to adequately invest in infrastructure facilities to accommodate the needs of these alternatively fueled vehicles.

*Senate Bill*

No comparable provision.

*Conference Substitute*

The conference report retains the House clean fuels grant program, but makes the program discretionary in nature rather than a formula grant program.

### SEC. 3011. CAPITAL INVESTMENT GRANTS

*House Bill*

*Sec. 3010.*

This section amends section 5309 of title 49, United States Code, which authorizes capital investment grants for new fixed guideway capital projects ("new starts"), fixed guideway modernization ("rail modernization"), and bus and bus-related facilities. All references in the current law section heading and text to "capital investment loans" are deleted from section 5309. Historically, only capital investment grants have been awarded under this section.

Subsection 5309(c), concerning major capital investment grants of $75 million or more includes the new starts program requirements and FTA evaluation and rating criteria found in current law subsection 5309(e). The term describing all new starts and small starts projects is changed from the current law "capital project for a new fixed guideway system or extension of an existing fixed guideway system" to "new fixed guideway capital project" for the sake of brevity. The new term is defined in subsection (n) as a minimum operable segment of a capital project for a new fixed guideway system or extension to an existing fixed guideway system, which is the same definition for new starts projects as under current law subsection 5309(p). Subsection 5309(c) pertains only to those new fixed guideway capital projects that will require $75 million or more of Federal assistance provided under the authority of Section 5309. Such projects are defined as "major" new starts as opposed to small starts, which involve less than $75 million in such funds and are authorized under subsection (d).

Major new starts projects must be carried out through a full funding grant agreement with the Secretary. The full funding grant agreement is based upon the evaluations and ratings required under subsection 5309(c). The baseline requirements for a project to secure a grant under this subsection is that the project proposal must be based on the results of alternatives analysis and preliminary engineering; justified based on a comprehensive review of the project's benefits; and supported by an acceptable degree of local financial commitment. The project justification and local financial commitment evaluation criteria are outlined in detail, consistent with the current law criteria. In assessing the local financial commitment for a new starts project, the FTA is authorized to consider the extent to which the project sponsor has overmatched the statutory local match requirement of 20 percent. However, the authority to consider a higher local match as part of the assessment of a project's local financial commitment does not allow the Secretary to require a higher local match than 20 percent.

Proposed new starts projects under subsection (c) are authorized to advance from alternatives analysis to preliminary engineering, and from preliminary engineering to final design and construction, if the Secretary finds that the project meets the requirements of this section. In making these findings, the Secretary is directed to evaluate and rate the project as "highly recommended", "recommended", or "not recommended" based on the results of alternatives analysis, the project justification criteria, and local financial commitment.

Subsection 5309(d) regarding capital investment grants of less than $75 million authorizes a new program under Capital Investment Grants. These "small starts" fall into two subcategories—those involving between $25 million and $75 million in funds under section 5309, and those that are less than $25 million. New fixed guideway capital projects with a section 5309 Federal share of less than $25 million are not subject to the requirements of this subsection regarding project evaluation and rating and do not enter into a long-term financial contract with the Secretary (called a "project construction grant agreement" in the small starts program). Under the small starts program, lower-cost fixed guideway projects such as streetcars, bus rapid transit, and commuter rail projects will be advanced through an expedited and streamlined evaluation and rating process. As the Federal Transit Administration develops administrative and regulatory guidance for the implementation of the small starts program, the process and procedures adopted should be representative of the relative size and scope of the projects.

Project justifications for the small starts program are based on five criteria: consistency with local land use policies and likelihood to achieve local developmental goals; cost effectiveness of the project at the time revenue service is initiated; degree of positive impact on local economic development; reliability of cost and ridership forecasts; and other factors the Secretary considers appropriate to carry out this subsection. The Secretary is also required to analyze and consider the results of planning and the alternatives analysis for the project. The small starts evaluation process should consider the economic benefits of the project, including the level of private sector investment associated with the advancement of the project. The small starts local financial commitment evaluation is a streamlined version of the new starts financial evaluation process. The Secretary is directed to require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable, and that there be an acceptable degree of local financial commitment. This provision gives the Secretary the authority to consider a higher local match as part of the assessment of a project's local financial commitment, but does not allow the Secretary to require a higher local match than 20 percent.

The project development process is also simplified. The new starts project development process involves four discrete steps: (1) planning and alternatives analysis, (2) preliminary engineering, (3) final design, and (4) entering into a full funding grant agreement and construction. The small starts program involves three steps: (1) planning and alternatives analysis, (2) project development, and (3) entering into a project construction grant agreement and construction. Small starts projects may advance from planning and alternatives analysis to project development and construction only after the Secretary finds that the project meets the requirements of this subsection and the local metropolitan planning organization adopts the locally preferred alternative into its long-range transportation plan. Small starts projects are evaluated based on project justification criteria and local financial commitment and are rated as "recommended" or "not recommended" based on the results of the FTA's analysis. Only small starts projects that are authorized for construction and rated "recommended" may enter into a project construction grant agreement.

Another important difference between the new starts program and the small starts program is that, under the small starts program, fixed guideway capital projects have a broader definition that includes corridor-based public transportation bus projects if the majority of the project's right-of-way is dedicated alignment. However, the program is written to be "mode neutral"—any fixed guideway capital project fitting the broader definition under small starts is eligible to be funded under this category if it is less than $75 million in section 5309 Federal funds, whether it is a bus rapid transit project, a streetcar or trolley project, commuter rail, or light rail. However, all small starts projects must be included under the new starts authorization list in section 3037 of this bill to receive funds in subsequent appropriations bills within this authorization period.

Subsection 5309(g) outlines the Government's share of the net project cost for all projects authorized under section 5309. The Administration had proposed to decrease the Government's share for new start projects to 50 percent. The Committee has rejected this proposal, and retains the provision under subsection 5309(h) in current law that the Federal share for a project shall be 80 percent, unless the grant recipient requests a lower grant percentage. New language is included clarifying that nothing in section 5309, including the language that specifically directs the FTA to consider in its evaluation of a project the extent to which a project has a higher local match than required by law, shall be construed as authorizing the Secretary to require a local match higher than 20 percent of the net capital project cost.

Subsection 5309(i) directs the Secretary to submit an annual new starts report to the House and Senate authorizing committees on the first Monday in February, which includes the Administration's funding proposals for new starts projects in the coming fiscal year, and evaluations and ratings for all new starts projects authorized in section 3037 of this Act. The current law requirement under subsection 5309(o)(2) regarding an August supplemental report is deleted. The Committee directs that the FTA shall forward letter updates to the House and Senate authorizing committees when a project advances to preliminary engineering or to final design after the publication of the annual new starts report. In subsection 5309(i)(2), the U.S. General Accounting Office is directed to conduct an annual review of FTA's processes and procedures for evaluating, rating, and recommending new starts projects and how the agency implements such processes and procedures. This review shall be submitted to the Congress by May 31 of each year.

Subsection 5309(k), regarding bus and bus facility grants, amends the existing law language under subsection 5309(m)(3). The current language regarding consideration of the age of buses, bus fleets, related equipment, and bus-related facilities when making grants is retained. Current law provisions that set aside funds for the bus testing facility in Altoona, Pennsylvania and for the section 5308 Clean Fuels formula program are deleted, as both these programs are now funded as set-asides from formula grants.

Subsection 5309(l) is a new provision making bus and bus facilities and new starts grant funds available for three fiscal years (including the year in which the amount is made available or appropriated). Funds that remain unobligated after three years shall be deobligated and may be used by the Secretary for any purpose under this section.

Subsection 5309(m) directs the allocation of amounts made available for programs authorized under section 5309. The existing formula of 40 percent for new starts, 40 percent for rail modernization, and 20 percent for bus and bus facilities is retained, after the funding levels authorized for small starts are set aside from the total amount made available for section 5309 programs. The current law set-aside of $10.4 million a year for ferryboats and ferry terminal facilities in Alaska or Hawaii is retained. A provision is added establishing a new set-aside for the national fuel cell bus technology development program, and a new ferryboat and ferry terminal set-aside of $10 million per year is established.

*Senate Bill*

*Sec. 6011.*

The General Authority section is amended to limit the program to focus on three activities: New Starts, fixed guideway modernization, and buses and bus facilities. Non-fixed guideway corridor improvements are eligible for New Starts funds for projects under $75 million. Current procedures and criteria apply to New Starts projects over $75 million in New Starts share while simplified procedures and criteria apply to New Starts projects under $75 million in New Starts share. The current exemption for projects under $25 million is eliminated.

The Bus, New Starts and Fixed Guideway Modernization programs continue in the Capital Investment Programs; funds are split approximately 23% bus, 40% New Starts and 37% Fixed Guideway Modernization.

Bus funds going to private non-profit organizations or rural transit systems as sub-recipients are administered under the requirements of the Elderly and Disabled and Rural programs, respectively. The requirements for statewide transit providers depend on where the project is located. Funding for Alternatives Analysis is made available from the Planning Program rather than the Capital Investment Program.

The current three level rating system (Highly Recommended, Recommended, Not Recommended) is replaced by a five level system (High, Medium-High, Medium, Medium-Low, Low).

The maximum New Starts share is retained at 80 percent. A higher than requested share can be provided for projects which keep cost and ridership estimates within 10 percent of the forecasts used as the basis for establishing the Locally Preferred Alternative.

Grantees will be allowed to keep a portion of the cost savings in the case where projects are completed under budget.

The New Starts Report and Supplemental Report are replaced by reports issued three times a year focusing on changes to ratings and an annual report on budget recommendations.

References to 'capital investment loans' are deleted from Section 5309 since, historically, only capital investment grants have been awarded pursuant to this section.

A new Subsection 5309(e)(8) is added to require periodic publication of the policies and procedures used in rating projects. This will help improve the transparency and predictability of the rating process.

The Committee is seeking to identify cost drivers for critical, complex, and capital intensive transit New Starts projects. Public Private Partnerships (PPP) may provide an important way to achieve significant savings. These partnerships with qualification-based selection and performance-based contracting integrate risk sharing, streamline project development, engineering, and construction, and preserve the integrity of the NEPA process, which results in the potential for significant schedule and cost advantages over traditional infrastructure development. The Committee expects the Secretary to initiate the pilot program as soon as practicable after enactment, in order that the benefits of PPP's may be understood and potentially applied to other transit New Starts projects.

A new statutory requirement for 'Before and After Studies' as part of Full Funding Grant Agreements is added in Section 5309(g). Such studies are already required by the regulation implementing Section 5309(e) and are an essential part of improving the New Starts program. By better understanding the actual costs and benefits of New Starts projects, especially the early planning stages when the Locally Preferred Alternative (LPA) is chosen, the planning process can be improved, and future projects can be based on estimates of costs and benefits which are more accurate. In addition, FTA would be required to produce an annual report each year that would summarize the results of these studies.

Section 5309(i)(3) would continue to set aside $10,400,000 each year for Alaska and Hawaii ferryboats, the same amount as is in TEA-21. The factors in Section 5309(i)(6) to be considered by the Secretary in selecting bus and bus facilities grants is expanded to include both the age and condition of the buses, fleets, and facilities.

In lieu of establishing a new program for intermodal facilities as proposed by the Administration, $75 million is set aside each year from the bus discretionary program for these facilities. Eligibility for the intercity portion of intermodal terminals is established by the amendment to Section 5302.

The Federal Transit Administration is required to issue a 'Contractor Performance Assessment Report' (CPAR). This report will analyze the consistency and accuracy of cost and ridership estimates made by contractors to public transportation agencies developing major capital investments. This would provide public transportation agencies with a tool to assist in choosing contractors with the highest success rates in predicting cost and ridership.

*Conference Substitute*

This section amends section 5309 of title 49, United States Code, which authorizes capital investment grants for new fixed guideway capital projects ("new starts"), fixed guideway modernization ("rail modernization"), and bus and bus-related facilities. All references in the current law section heading and text to "capital investment loans" are deleted from section 5309. Historically, only capital investment grants have been awarded under this section.

Subsection 5309(d) regarding capital investment grants of less than $75 million authorizes a new program under Capital Investment Grants. Under the small starts program, lower-cost fixed guideway and non-fixed guideway projects such as bus rapid transit, streetcars, and commuter rail projects will be advanced through an expedited and streamlined evaluation and rating process. Non-fixed guideway corridor improvements are eligible for New Starts funds for projects under $75 million. This can be demonstrated by a substantial fixed guideway or by a substantial investment in a defined corridor. Project justifications for the small starts program are based on five criteria: consistency with local land use policies and likelihood to achieve local developmental goals; cost effectiveness of the project at the time revenue service is initiated; degree of impact on local economic development; reliability of cost and ridership forecasts; and other factors the Secretary considers appropriate to carry out this subsection. The Secretary is also required to analyze and consider the results of planning and the alternatives analysis for the project to ensure that sufficient effort has been made to perform a true exploration of alternatives analysis. The small starts local financial commitment evaluation is a streamlined version of the new starts financial evaluation process. The Secretary is directed to require that each proposed local source of capital and operating financing is stable, reliable, and available within the proposed project timetable, and that there be an acceptable degree of local financial commitment.

Current procedures and criteria apply to New Starts projects over $75 million in New Starts share while simplified procedures and criteria apply to New Starts projects under $75 million in New Starts share. The current exemption for projects under $25 million is eliminated, once the FTA has promulgated regulations required under the small starts program.

The current three level rating system for New Starts (Highly Recommended, Recommended, Not Recommended) is replaced by a five level system (High, Medium-High, Medium, Medium-Low, Low). The maximum New Starts share is retained at 80 percent.

Grantees will be allowed to keep a portion of the cost savings in the case where projects are completed under budget.

A higher than requested share can be provided for projects which keep cost and ridership estimates within 10 percent of the forecasts used as the basis for establishing the Locally Preferred Alternative. Transit projects that make a concerted effort to produce valid and reliable estimates have the potential to be rewarded.

Subsection 5309(g) outlines the Government's share of the net project cost for all projects authorized under section 5309. The Administration had proposed to decrease the Government's share for new start projects to 50 percent. The Conference has rejected this proposal, and retains the provision under subsection 5309(h) in current law that the Federal share for a project shall be 80 percent, unless the grant recipient requests a lower grant percentage. In assessing the local financial commitment for a new starts project, the FTA is authorized to consider the extent to which the project sponsor has overmatched the statutory local match requirement of 20 percent. However, the authority to consider a higher local match as part of the assessment of a project's local financial commitment does not allow the Secretary to require a higher local match than 20 percent.

The Conference is seeking to identify cost drivers for critical, complex, and capital intensive transit New Starts projects. Public Private Partnerships (PPP) may provide an important way to achieve significant savings. These partnerships with qualification-based selection and performance-based contracting integrate risk sharing, streamline project development, engineering, and construction, and preserve the integrity of the NEPA process, which results in the potential for significant schedule and cost advantages over traditional infrastructure development. The Committee expects the Secretary to initiate the pilot program as soon as practicable after enactment, in order that the benefits of PPP's may be understood and potentially applied to other transit New Starts projects.

In lieu of establishing a new program for intermodal facilities as proposed by the Administration, $35 million is set aside each year from the bus discretionary program for these facilities. Eligibility for the intercity portion of intermodal terminals is established by the amendment to Section 5302.

A new statutory requirement for 'Before and After Studies' as part of Full Funding Grant Agreements is added in Section 5309(g). Such studies are already required by the regulation implementing Section 5309(e) and are an essential part of improving the New Starts program. By better understanding the actual costs and benefits of New Starts projects, especially the early planning stages when the Locally Preferred Alternative (LPA) is chosen, the planning process can be improved, and future projects can be based on estimates of costs and benefits which are more accurate. In addition, FTA would be required to produce an annual report each year that would summarize the results of these studies.

The Federal Transit Administration is required to issue a 'Contractor Performance Assessment Report' (CPAR). This report will analyze the consistency and accuracy of cost and ridership estimates made by contractors to public transportation agencies developing major capital investments. The CPAR will provide public transportation agencies with an informational tool, allowing them to better identify contractors able to perform accurate estimates of cost and ridership figures. Additionally, consulting the CPAR as a condition of Federal assistance will help ensure the reliability of estimates used in awarding FFGAs. In considering the performance of individual contractors, the Secretary may take into consideration extenuating factors outside the control of a contractor that may have had an adverse impact on the accuracy of estimates.

### SEC. 3012. FORMULA GRANTS FOR SPECIAL NEEDS OF ELDERLY INDIVIDUALS AND INDIVIDUALS WITH DISABILITIES.

*House Bill*

*Sec. 3011.*

This section amends section 5310 of title 49, United States Code, which authorizes formula grants to States for public transportation projects and services that meet the special needs of elderly and disabled individuals. The definition of grant recipient is amended in paragraph 5310(a)(2) by adding a definition for subrecipients, which is consistent with current practice. A 10 percent limitation is included on the amount of a State's grant funds that may be used for recipient or for subrecipient administrative expenses and technical assistance. This codifies current FTA administrative practice.

Subsection 5310(b) describes the apportionment and transfer processes, which follows current law, except that an adjustment is made to the apportionment formula for particularly low density States. In low density States, providing essential public transportation is particularly challenging, especially to special needs populations, because of the distances involved. When providing services over these long distances, operating costs are higher and farebox recovery is lower. This formula adjustment may enable low density States to continue providing essential public transportation services to a sector of the population that is particularly dependent on transit—the elderly and disabled.

Subsection (c) amends current law regarding the Government's share of costs. The current Federal match of 80 percent for capital projects is retained, except in cases where a State has a very high percentage of Federally-owned public lands. In such cases, the "sliding scale" Federal match under section 120(b) of title 23, United States Code, is used. Operating expenses are also made eligible for section 5310 elderly and disabled grant funding, limited to 50 percent of net operating costs. Two new sources of local match funding are authorized: proceeds from a service agreement with a State, local social service agency, or private social service organization; and other Federal funds from non-Department of Transportation agencies that can be expended for transportation (e.g., Temporary Assistance for Needy Families, Medicaid, job training program funds, or Welfare to Work grants). Using these related human service grants funds as a local match for transit projects leverages the Federal investment and increases coordination among Federal agencies that provide transportation services.

Subsection (d) regarding grant requirements changes the general applicability of requirements for the elderly and disabled grant program from current law, which ties the program to section 5309, to the requirements under section 5307, to the extent the Secretary considers appropriate. A new requirement is added that, beginning in fiscal year 2007, the State must certify that projects funded under this section are derived from coordinated public transit-human services transportation plans with public input. The current law requirement that the State certify allocations of funds were made on a fair and equitable basis is retained.

*Senate Bill*

*Sec. 6012.*

Currently, under Section 5310, the Secretary may provide grants for the special needs of elderly individuals and individuals with disabilities directly (1) to a State or local Government authority; or (2) to the chief executive office of the State for allocation to private non-profit corporations or associations when such service is unavailable or insufficient, or (3) to Governmental authorities approved by the State to coordinate services for these two population groups, if there are no non-profit corporations readily available to provide the service. Section 5310 is amended to authorize grants through the States, which would then allocate the funds to private non-profit organizations or Governmental authorities under the same conditions required in current law.

Persons with disabilities are particularly in need of service beyond that provided in response to the Americans with Disabilities Act. The program is expanded and renamed to include activities which provide access to persons with disabilities, in addition to that which is necessary to meet the requirements of the Americans with Disabilities Act. Funding for Section 5310 is expanded and explicit eligibility is provided for Governmental authorities providing services in excess of that provided by the Americans with Disabilities Act. This will help fulfill the goals of the President's New Freedom Initiative, without creating a new program. In addition, language is added to clarify that a priority of Section 5310 program funds is the provision of access to medical care.

Section 5310(a)(3) allows a State to use up to 15 percent of the amounts it receives under this section to administer, plan, and provide technical assistance. This additional authority makes this program consistent with the Section 5311 program, so that both state-administered programs essentially have similar structures.

Consistent with existing Section 5310, grants would be made for capital public transportation projects planned, designed, and carried out to meet the special needs of this population and could include the acquisition of public transportation services as a capital expense. The Federal share cannot exceed 80 percent of the net capital costs of the projects, as determined by the Secretary. The remainder of the funds could be provided from a variety of other sources, including undistributed cash surpluses, or from amounts appropriated or made available for transportation from any other Federal department or agency other than the Department of Transportation, except for Federal Lands Highway funds, as well as contract revenue received from human service agencies. This section is also amended to allow for a sliding scale approach to the match requirements for capital expenses for those states that have a large percentage of public lands, and as a result, have a lower tax base from which to draw resources to fund the matching requirement mandated by these programs. It is similar in nature to a provision already in current law in the highway program.

As is current practice, funds under Subsection (b)(1) are apportioned to States based on a formula administered by the Secretary. In administering this formula, the Secretary will consider the number of elderly individuals and individuals with disabilities in a State. Under current law, unobligated Section 5310 funds available during the fourth quarter of each fiscal year may be transferred to Urbanized Area or Other Than Urbanized Area Formula Grant programs in order to supplement funds apportioned under those sections. Subsection (b)(2) allows recipients of grants under this section to transfer Section 5310 funds to those programs at any time provided that the funds are used for the purposes originally authorized. This would eliminate the artificial fourth quarter requirement since States typically budget for such transfers in the beginning of each fiscal year. In addition, States could make funds available to a subrecipient in a single transaction that included several FTA program-funding sources.

Under Subsection (d), a recipient of a grant is subject to all Section 5307 grant requirements to the extent the Secretary deems appropriate. Recipients would be required to certify that the projects for which funds are requested are drawn from a plan for human service transportation coordination. The effect of this provision and those included in the non-urbanized formula program and the Jobs Access and Reverse Commute Program will be to enhance coordination between these programs and with programs of other Departments, such as Health and Human Services, Labor, and Education. The Committee expects that FTA will give grantees an appropriate opportunity to develop these plans by phasing in this requirement during FY 2006. Finally, recipients are required to certify that allocations made to subrecipients were distributed in a fair and equitable manner.

Subsections (e) through (i) are the same as in current law.

*Conference Substitute*

The conference agreement maintains the current law program for special needs of elderly individuals and individuals with disabilities and does not incorporate New Freedom activities, as the Senate bill did. Because of strong interest from States in extending the authority to use section 5310 grant funds for operating assistance, a new seven-state pilot program is established for fiscal years 2006 through 2009 to determine whether this expanded authority improves services to elderly individuals and individuals with disabilities.

### SEC. 3013. FORMULA GRANTS FOR OTHER THAN URBANIZED AREAS

*House Bill*

*Sec. 3012.*

This section amends section 5311 of title 49, United States Code, regarding the apportionment of formula grant funds for non-urbanized areas, Subsection (a) amends the definition provisions under section 5311(a) to define an eligible recipient and sub-recipient of other than urbanized area funds.

Subsection (b) amends the general authority provisions that allow other than urbanized areas to use formula grant funds for capital transportation projects, or operating assistance projects (including the acquisition of transportation services) provided the projects are contained in a state program of public transportation service projects. Under subsection 5311(b)(3), the rural transportation assistance program (RTAP), a national technical assistance, training and support program for rural public transportation providers, is funded with a 2 percent set-aside of the section 5311 grant funds. From the amounts made available for the RTAP activities, up to 15 percent may be used by the Secretary to carry out projects of a national scope to sustain ongoing national activities. Under current law, the RTAP is funded out of the Research program.

Subsection 5311(c) describes the apportionment process, which follows current law, except that an adjustment is made to the apportionment formula for particularly low density States. In low density States, providing essential public transportation is particularly challenging because of the distances involved. When providing services over these long distances, operating costs are higher and farebox recovery is lower. This formula adjustment may enable low density States to provide essential public transportation services by establishing a level of funding that will support a baseline program.

In subsection (e), an amendment is made to 5311(f) that requires States to consult with affected intercity bus service providers before certifying to the Secretary that intercity bus service needs of the State are being adequately met without making the 15 percent allocation of funds to such services. Such consultation would help ensure the State's awareness of any intercity bus service needs.

Subsection (f) amends section 5311(g) to retain the existing Federal share for any capital project at 80 percent or less of the net project cost, as determined by the Secretary; except in cases where a State has a very high percentage of Federally owned lands. In such cases, the "sliding scale" Federal match under section 120(b) of title 23, United States Code, is used. Also retained is the Federal share for operating assistance at 50 percent or less of the net costs of an operating project, as determined by the Secretary. The remainder of the net project costs may be provided from a number of different sources, including amounts appropriated to or made available to a department or agency of the Federal government, other than the Department of Transportation (e.g., Temporary Assistance for Needy Families, Medicaid, job training program funds, or Welfare to Work grants). Using these related human service grants funds as a local match for transit projects leverages the Federal investment and increases coordination among Federal agencies that provide transportation services.

*Senate Bill*

*Sec. 6013.*

A new formula tier is established based on land area to address the needs of low-density states. The remaining 80 percent of funds are to be allocated using the current formula. Matching funds may come from contracts with human service agencies (as in current law) or from other Federal programs.

Section 5311(a) defines an eligible recipient and subrecipient of other than urbanized area program funds. Indian tribes are established as direct recipients. Private operators engaged in public transportation are made eligible as subrecipients of 5311 funds, providing for opportunities for involvement of the private sector, as was the original intent when the Urban Mass Transportation Act of 1964 was first enacted.

Recipients must submit data on service levels, costs, and revenues to the National Transit Database. Currently, urbanized area program grant recipients must submit data on service levels, costs, and revenues, in accordance with requirements of the National Transit Database. Current law is amended to require a simplified version of these data collection requirements for the other than urbanized area program. Given the large growth in funding for this program, it is crucial that recipients report basic information on the effectiveness of this program. The Committee expects that the data collection requirements will be tailored to the smaller size of the typical public transportation system in rural areas, while still providing enough information to judge the condition and performance of our Nation's network of rural public transportation services.

The Rural Transit Assistance Program becomes a 2 percent takedown from the program. Under current law, recipients of grants and contracts for transportation research, technical assistance, training, or related support services, such as those given under the Rural Transportation Assistance Program (RTAP), must compete annually for National Planning and Research funds. Section 5311(b)(3), as redesignated, provides up to two percent of Section 5311 funds to carry out RTAP activities. This amendment better correlates funding for RTAP with the amount of funding for rural service overall, thereby stabilizing the program.

Indian tribes become eligible direct recipients of program funds, with a portion of funding set aside for tribes beginning in FY 2006. An increasing amount of funding is set aside for Indian Tribes each fiscal year beginning in fiscal year 2006. Of the remainder, eighty percent of the Section 5311 program amount is apportioned to States pursuant to the same formula currently being used and now set forth in Section 5311(c)(3), which uses population in non-urbanized areas to allocate funds. The remaining twenty percent is apportioned on land area in non-urbanized areas. Section 5311(f)(2) requires the State to consult with affected intercity bus service providers before certifying that the State's intercity bus service needs are being adequately met.

Subsection 5311(g) is amended to allow for a sliding scale approach to the match requirements for capital expenses under this section for those states that have a large percentage of public lands, and as a result, have a lower tax base from which to draw resources. It is similar in nature to a provision already in current law in the highway program. The match for operating assistance is set at ⅝ of the match for capital projects.

*Conference Substitute*

The conferees agreed to define eligible recipients and subrecipients of Section 5311 funds. Indian tribes are added as eligible recipients.

The general authority to make grants under the 5311 program is rewritten to explicitly include both capital and operating grants; thus, subsection (h) is deleted as unnecessary.

The conferees agreed to fund the rural transportation assistance program (RTAP), a national technical assistance, training and support program for rural public transportation providers, with a 2 percent set-aside of the section 5311 grant funds, rather than from the Research program, as in current law. The conferees adopted the House provision specifying that from the amounts made available for RTAP, up to 15 percent may be used by the Secretary to carry out projects of a national scope to sustain ongoing national activities.

The conference report includes the Senate provision requiring recipients of Section 5311 funds to submit data on service levels, costs, and revenues to the National Transit Database. The conferees expect that the data collection requirements will be tailored to the smaller size of the typical public transportation system in rural areas, while still providing enough information to judge the condition and performance of our Nation's network of rural public transportation services.

The conference report adopts the Senate provision setting aside a portion of funding each year for Indian tribes. The funds set aside for Indian tribes are not meant to replace or reduce funds that Indian tribes receive from states through the Section 5311 program.

A new formula tier based on land area is established to address the needs of low-density states; twenty percent of Section 5311 funds are distributed through this tier. The remaining 80 percent of funds are to be allocated using the existing formula.

The conferees agreed that States must consult with affected intercity bus service providers before certifying to the Secretary that intercity bus service needs of the State are being adequately met without making the 15 percent allocation of funds to such services.

The conferees agreed to apply the sliding scale federal match under section 120(b) of title 23 United States Code, for cases in which a state has a very high percentage of federal lands. The federal match for operating assistance is set at ⅝ of the match for capital projects. The remainder of the net project costs may be provided from a number of different sources, including amounts appropriated to or made available to a department or agency of the Federal government, other than the Department of Transportation (except for Federal Lands Highway funds). The conferees believe that using these related human service grants funds as a local match for transit projects will increase coordination among Federal agencies that provide transportation services.

The conference report adopts the Senate provision codifying current practice by requiring the Secretary of Labor to use a Special Warranty to comply with the requirements of Section 5333(b).

### SEC. 3014. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND DEPLOYMENT PROJECTS

*House Bill*

*Sec. 3013.*

Currently, section 5312 of title 49, United States Code does not address deployment of emerging technologies, and inappropriately includes training provisions. As amended, section 5312 would authorize research, development, demonstration, and deployment projects, and would move the training provisions in subsections (b) and (c) to section 5322 (Human Resource Program). Under this subsection, the terms "other transactions" is included and is used to replace the terms "other agreements" to provide the Federal government with discretion to enter into project agreements under terms that would encourage private parties to participate in Federally assisted projects.

*Senate Bill*

*Sec. 6014.*

Currently, Section 5312 does not address deployment of emerging technologies, and inappropriately includes training. As amended, Section 5312 authorizes public transportation service planning, and research, development, demonstration, and deployment projects.

The former University Research and Fellowships programs authorized by Subsections (b) and (c) are repealed, as these programs have not been funded for many years.

Throughout the Federal Government, the term 'other transactions' is used to provide executive branch agencies with broad discretion to enter into project agreements under terms that would encourage private parties to participate in Federally-assisted projects. Since the term 'other agreements' in Section 5312(b)(2), as redesignated, provides the same authority, this section is amended to replace that term with 'other transactions,' for consistency.

*Conference Substitute*

Adopts the Senate language, except the term "other transactions" is not adopted. Instead, the broader current law authority for "other agreements" (as utilized under the joint partnership program) is extended to all transit research programs. The current law authority to make grants for fellowships is moved to section 5322, as proposed by the House.

### SEC. 3015. TRANSIT COOPERATIVE RESEARCH PROGRAM

*House Bill*

*Sec. 3014.*

Amendments made to section 5313 of title 49, United States Code provide the correct authorization citation for the research programs and moves subsection (b) to the state planning section under Chapter 52 of title 49.

*Senate Bill*

*Sec. 6015.*

The Transit Cooperative Research Program remains unchanged.

Amendments to Section 5313 provide the correct funding authorization citation. Subsection (b) is stricken and the title of Section 5313 is changed to reflect the fact that only the Transit Cooperative Research Program is authorized by this section.

*Conference Substitute*

The Conference adopts the Senate proposal.

### SEC. 3016. NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS

*House Bill*

*Sec. 3015.*

Section 5314 of title 49, United States Code is amended to delete the word "Planning" in the heading because the focus of the section is on research and to include "Technology" in the heading to reflect the activities carried out under this subsection. Other amendments under this subsection correct the funding authorization citations and eliminate references to the planning sections of the title. The Secretary is required to continue to make funds available to help public transportation providers comply with the Americans With Disabilities Act of 1990. Under this section, the term "other transactions" is included to provide the Federal government with discretion to enter into project agreements under terms that encourage private parties to participate in federally assisted projects. The Industry Technical Panel composed of transportation suppliers and others involved in technology development is eliminated because the panel is no longer needed.

*Senate Bill*

*Sec. 6016.*

Project Action is continued at current funding levels.

Operational demonstration contracts are allowed under conditions set by the Secretary.

Section 5314(a)(3) is amended to relieve the compliance requirement with Section 5333(b).

Current Section 5314(a)(4)(B) requires FTA to establish an Industry Technical Panel composed of transportation suppliers and others involved in technology development. This provision is deleted.

A new Subsection (a)(6) is added to establish a program of medical transportation demonstration grants. These grants will be focused on improving methods of transportation for persons in need of kidney dialysis.

A new National Technical Assistance Center for Senior Transportation would be established in a new Section 5314(c). Similar to Project Action, the Center would undertake research, provide technical assistance, and make demonstration grants on methods to improve transportation for elderly individuals.

A study is required by Section 5314(d) on how to increase the use of alternative fuels in public transportation.

*Conference Substitute*

Adopts the House proposal, and changes the term "other transactions" to "other agreements". The Senate's medical transportation demonstration grants program, the National Technical Assistance Center for Senior Transportation, and the alternatives fuel study are adopted.

### SEC. 3017. NATIONAL TRANSIT INSTITUTE

*House Bill*

*Sec. 3016.*

Section 5315 of title 49, United States Code is amended by striking references to mass transportation because public transportation is defined to mean mass transportation under the transit program.

*Senate Bill*

*Sec. 6017.*

The National Transit Institute will be continued at Rutgers University.

Currently, Section 5315(a) requires establishment of the National Transit Institute (NTI) at Rutgers University. This subsection would continue the Institute at this location for the new authorization period. The Committee is concerned about the effectiveness of programs at the NTI and directs the Federal Transit Administration to exercise careful oversight over its operation to assure that the Institute is producing benefits commensurate with the investment being made. The requirement in Section 5315(b) for the Secretary to delegate all authority to NTI to develop and conduct education and training programs is deleted.

*Conference Substitute*

Adopts the Senate proposal.

### SEC. 3018. JOB ACCESS AND REVERSE COMMUTE FORMULA GRANTS

*House Bill*

*Sec. 3017.*

This section codifies under 49 U.S.C. 5316 the Job Access And Reverse Commute (JARC) program authorized under section 3037 of the Transportation Equity Act for the 21st Century. The program was established to assist welfare recipients and low-income individuals in getting to and from jobs.

The program establishes a formula for JARC funds that apportions 60 percent of the funds to designated recipients in urbanized areas with a population of 200,000 or more in a ratio reflecting the number of eligible low-income and welfare recipients in each urbanized area with a population of 200,000 or more; 20 percent of the funds are apportioned among the states in a ratio reflecting the number of eligible low-income and welfare recipients in urbanized areas with populations of less than 200,000 in each state; and 20 percent of the funds are apportioned among states in a ratio reflecting the number of low-income individuals and welfare recipients in other than urbanized areas in each state.

The funds must be used for eligible projects in the designated areas, except funds made available in urbanized areas with populations less than 200,000 and nonurbanized areas may be transferred for projects anywhere in the state if the state has established a statewide program for meeting the objectives of this section and the Governor of the state certifies that all of the objectives of this section are being met in the specific area. The recipient of JARC funds in an urbanized area with a population of 200,000 or more must conduct a competitive process for an areawide solicitation for applications for grants to the recipients and subrecipients. Statewide solicitations must be conducted in urbanized areas of less than 200,000 and in nonurbanized areas for applications for grants to the recipients and subrecipients. All grants shall be awarded on a competitive basis.

A JARC grant is subject to section 5307 formula grant requirements and a recipient of a grant must certify to the Secretary that allocations of the grant to subrecipients are distributed on a fair and equitable basis. The Federal share for capital projects may not exceed 80 percent of the net capital cost and for operating assistance the Federal share may not exceed 50 percent of the net operating costs. The non-Federal share may be provided from a variety of sources, including other Federal funds (other than from the Department of Transportation). Funds made available through the Social Security Act may also be used for the remainder of the cost of the project.

The Comptroller General is required to conduct a study to evaluate the JARC grant program and transmit the results to the Congress. The study must begin within one year after the enactment of the Federal Transportation Act of 2005, and every two years thereafter. Not later than three years after the date of enactment of this section, the Secretary must conduct a study to evaluate the effectiveness of recipients making grants to subrecipients and transmit the report to Congress.

*Senate Bill*

*Sec. 6038.*

The JARC program continues as a competitive discretionary program. The coordination requirements are amended to conform to the changes made in Sections 5307, 5310, and 5311. Section 3037(b)(2) is amended to clarify that funds can be used for the provision of service as well as the development of service.

Section 3037(b) is amended to expand the definition of 'eligible low-income individual' to allow States the flexibility to use JARC funds to assist the same individuals as assisted under the State-administered Temporary Assistance to Needy Families program (TANF).

The Senate requires projects to be drawn from a human service transportation coordination plan. Section 3037(j) is amended to change the terms and conditions of JARC grants to match the type of recipient. Under current law, all JARC grants are subject to the terms and conditions of Section 5307, including those to recipients in other than urbanized areas, or recipients who are private non-profit organizations. This represents a significant burden to these recipients, since the requirements are tailored to public agencies in urbanized areas.

*Conference Substitute*

Adopts the House proposal, establishing the job access and reverse commute grants program as a formula program, rather than a competitive discretionary grants program. Current law labor protections are retained. The conferees are aware that the Federal Transit Administration has recognized the challenges of providing public transportation services to individuals transitioning from welfare to work, particularly in rural areas. The conferees expect the FTA to continue its practice of providing maximum flexibility to job access projects that are designed to meet the needs of individuals who are not effectively served by public transportation, consistent with the use of funds described in the Federal Register, Volume 67 (April 8, 2002).

### SEC. 3019. NEW FREEDOM PROGRAM

*House Bill*

*Sec. 3018.*

This section authorizes a new program requested by the Administration to address the transportation needs of persons with disabilities at all income levels. The New Freedom Program is codified as section 5317 of title 49, United States Code, a section that is repealed under current law. Under the New Freedom Program, the Secretary would make grants to a recipient for new transportation services and public transportation alternatives beyond the Americans With Disabilities Act of 1990 (ADA) to assist individuals with disabilities with transportation needs.

With the passage of the ADA, it has become a civil rights violation to deny access to persons with disabilities to public transportation. The New Freedom formula grant program was proposed by the administration and has been included in this legislation to provide additional tools to overcome existing barriers facing Americans with disabilities seeking integration into the work force and full participation in society. Lack of adequate transportation is a primary barrier to work for people with disabilities. The 2000 Census showed that only 60 percent of people between the ages of 16 and 64 with disabilities are employed. The New Freedom formula grant program will expand the transportation mobility options available to persons with disabilities beyond the requirements of the ADA. Examples of projects and activities that might be funded under the program include, but are not limited to:

- Purchasing vehicles and supporting accessible taxi, ride-sharing, and vanpooling programs.
- Providing paratransit services beyond minimum requirements (3/4 mile to either side of a fixed route), including for routes that run seasonally.
- Making accessibility improvements to transit and intermodal stations not designated as key stations.
- Supporting voucher programs for transportation services offered by human service providers.
- Supporting volunteer driver and aide programs.
- Supporting mobility management and coordination programs among public transportation providers and other human service agencies providing transportation.

A state may use up to 10 percent of the amount it receives under this section to administer, plan, and provide technical assistance. Funds would be apportioned based on a formula that apportions 60 percent of the funds to designated recipients in urbanized areas with a population of 200,000 or more in a ratio reflecting the number of individuals with disabilities in each such urbanized area; 20 percent of the funds are apportioned among the states in a ratio reflecting the number of individuals with disabilities in urbanized areas with a population of less than 200,000; and 20 percent of the funds are apportioned among the states in a ratio reflecting the number of individuals with disabilities in non-urbanized areas in each state.

The Secretary requires a recipient of a grant to coordinate the New Freedom program activities with other related program activities of other Federal agencies. Also a recipient that transfers funds to the urbanized area formula grant program must certify that the project for which funds are requested had been coordinated with nonprofit providers of services. Beginning in fiscal year 2007, a recipient will also be required to certify that projects selected were derived from a locally developed, coordinated public transit-human services transportation plan and that the plan was developed through a process that involved individuals of the public, private, and nonprofit transportation and human services providers.

The Federal share for the net project capital cost of a project may be up to 80 percent, and not more than 50 percent of the net operating cost of a project.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

Adopts the House proposal, establishing a new formula grants program that will provide funds for new transportation services and public transportation alternatives beyond the Americans With Disabilities Act of 1990 (ADA) to assist individuals with disabilities with transportation needs. Section 5333 labor protections are not extended in this new program.

### SEC. 3020. BUS TESTING FACILITY

*House Bill*

*Sec. 3019.*

This section amends section 5318 of title 49, United States Code, to delete the requirement for the Secretary to establish one bus testing facility because the facility has already been established in Altoona, Pennsylvania. The Secretary is required to maintain the facility. The provisions under section 5318 that establishes a revolving loan fund for expenses related to operating and maintaining the facility are deleted because the bus testing facility relies on state resources to pay for those costs, and has never requested a loan. The provision concerning the acquisition of new bus models is moved to this section from section 5323(c) for clarity.

*Senate Bill*

*Sec. 6018.*

Special testing requirements for 'New Model' buses are continued.

Technical changes are made in the requirements for the testing of new model buses.

*Conference Substitute*

Adopts the Senate provision, maintaining the current law funding and requirements of the bus testing facility.

### SEC. 3021. ALTERNATIVE TRANSPORTATION IN PARKS AND PUBLIC LANDS

*House Bill*

*Sec. 3021.*

This section establishes a new program to provide for public transportation in units of the National Park System, to be administered by the Secretary of Transportation in consultation with the Secretary of the Interior. The definition of public transportation for the pilot program means general or special transportation to the public by a conveyance that is publicly or privately owned. The definition does not include school bus or charter transportation, but does include sightseeing transportation. Within 90 days after the enactment of this section, the Secretary of Transportation and the Secretary of the Interior must enter into a memorandum of understanding (MOU) to establish a transit in the parks pilot program to encourage and to promote the development of transportation systems to improve visitor mobility and enjoyment, reduce pollution and congestion, and enhance resource protection through the use of public transportation.

The Secretary of Transportation will administer the pilot program in consultation with the Secretary of the Interior. The MOU entered into between the Secretaries must be consistent with the planning processes required under Chapter 52 of title 49 and include descriptions of programs and activities eligible for assistance under the pilot program. The Secretary of the Interior may carry out eligible transportation projects as permitted under the interagency agreements. The Government's share for any capital project or activity carried out under the pilot program is 100 percent of the net project costs. Operating assistance grants may not exceed 50 percent of the net operating costs of the project.

*Senate Bill*

*Sec. 6040.*

This section funds, for the first time, a program to provide funding for public transportation in National Parks and public lands at a level of $25 million per year. The Departments of Transportation and Interior will work cooperatively to develop and select capital projects.

Under this program, the Departments of Transportation and Interior will work cooperatively to select capital projects for funding within and in the vicinity of sites in the National Park System, the National Wildlife Refuges, Federal recreational areas, and other public lands, including National Forest System lands. This program will help the parks make investments in traditional public transportation, such as shuttle buses or trolleys, or other types of public transportation appropriate to a park setting, such as waterborne transportation or bicycle and pedestrian facilities.

*Conference Substitute*

The Conference adopts the Senate proposal, with modifications to make National Forest System lands explicitly eligible and to add bicycle and pedestrian projects to the definition of alternative transportation. In addition, language was added to ensure that projects carried out under this program are consistent with other transportation policies of the Department of the Interior and other federal land management agencies. Section 5333 labor protections are not extended in this new program.

### SEC. 3022. HUMAN RESOURCES PROGRAMS

*House Bill*

*Sec. 3022.*

Sections 5312(b) and (c) regarding grants to higher learning institutions and fellowships would be moved to sections 5322(b) and (c) to better fit the organization of the revised section 5312 of title 49, United States Code.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts House language that allows the Secretary to award fellowship grants.

### SEC. 3023. GENERAL PROVISIONS ON ASSISTANCE

*House Bill*

*Sec. 3023.*

Amendments are made to section 5323 of title 49, United States Code in this section.

Subsection 3023(c) regarding conditions on charter bus transportation service amends section 5323(d) by striking the existing law subsection (d)(2) regarding violations of agreements and inserting new language which directs the Secretary to investigate all complaints about violations of the charter service agreement and decide whether a violation has occurred; if a violation has occurred, to correct the violation; and, if a pattern of violations is found, to bar the recipient from receiving funds in an amount the Secretary considers appropriate. Under existing law, the Secretary did not have the flexibility to adjust the amount withheld—the recipient would be barred from receiving further Federal assistance. This overly-broad authority was never used, whereas a more flexible authority to penalize charter violators will encourage a more realistic and responsive approach to charter enforcement by the FTA. The Committee is aware that both public transportation providers and private charter bus providers have expressed strong concerns about the 1987 FTA rule enforcing section 5323(d) regarding charter bus service. The Committee directs the FTA to initiate a rulemaking seeking public comment on the regulations implementing section 5323(d), and to consider certain issues. Consideration of any changes to the current regulation shall not disturb the current law provisions under section 5323(f) regarding school bus transportation.

A new subsection is included that makes revenue bond proceeds eligible for use as local match for federal transit grants and that authorizes recipients to establish debt service reserves using up to 10 percent of their federal grant funds. The authority to use bond proceeds as local match was established in section 3011 of the Transportation Equity Act for the 21st Century (TEA 21), and FTA has reported that this authority has been beneficial to transit operators. This subsection also permits the Secretary to reimburse recipients for deposits in a debt service reserve established for the purpose of financing transit capital projects, pursuant to section 5302(a)(1)(K). Such reimbursements are capped at 10 percent of the recipient's annual apportionment from section 5307 urbanized area formula grants.

Subsection 5323(f) regarding school bus transportation is amended to allow the Federal Transit Administration to assess fines and withhold grant funds if public transportation agencies violate the narrowly defined conditions under which public transportation providers can provide school bus transportation.

Section 5323(j) regarding Buy America is amended by adding a new requirement that FTA provide a detailed written justification when the agency issues a public interest waiver. Additionally, a new provision is added stating that parties adversely affected by FTA action on Buy America decisions may seek judicial review under the Administrative Procedures Act. The general regulatory waivers for Chrysler 15-passenger vans and wagons from the requirement that public transportation vehicles be assembled in the United States are repealed. Section 3023(g)(5) adds a freestanding legislative provision requiring the Secretary to issue a final rule within 180 days of enactment on FTA's implementation of the Buy America requirements. Specifically, the agency is directed to clarify that any waiver issued for microcomputer equipment under the general waiver in subsection (d) of Appendix A of section 661.7 of title 49, Code of Federal Regulations, be applied solely to devices that are used to process or store data, and not extend to products containing a microprocessor, computer, or microcomputer. In directing the Secretary to issue new regulations regarding microprocessors, computers, or microcomputers, there is no intent to change the existing regulatory treatment of software or of microcomputer equipment.

Under current law, section 5323(l) requires state-managed transit grant programs be subject to State transportation planning requirements in section 135 of title 23, United States Code. Since all transportation planning programs are now addressed under chapter 52 of title 49, U.S.C., section 3042 contains a new provision amending section 5323(l) that broadens the applicability of section 1001 of title 18, prohibiting fraudulent statements to the Government, to all certificates, submissions, or statements provided to DOT under Chapter 53 of Title 49. This language is intended to provide a direct tie between 18 U.S.C. 1001 and the punitive recourse of ending financial assistance provided for in the second sentence of new subsection 5323(l). This language is not intended to, and should not be construed to, exclude by implication from the application of 18 U.S.C. 1001 any other matter to which such section would otherwise apply.

*Senate Bill*

*Sec. 6022.*

Environmental and public hearing requirements are revised to conform with the applicable cross-cutting statutes.

The provisions of Section 5323(b) are edited to mesh the statutory requirements of Federal transit law more closely with current practice under the National Environmental Policy Act (NEPA).

Section 5323(b) is amended to provide the same consideration to comments submitted by mail or electronic means, as the consideration given to comments transcribed at a hearing. In addition, non-English speaking persons or hearing-impaired persons are provided the opportunity to comment through special arrangements.

This section eliminates the two-step process for announcing a hearing. Under the current process, the applicant announces the opportunity for a hearing and then waits for a response. The Senate requires that a hearing be held whenever the project affects significant social, economic, or environmental interests in the community, regardless of whether one has been requested.

Special terms and conditions for technology deployment projects will be allowed. A new Section 5323(e) allows grants for new technology, including the integration of innovative techniques, subject to the requirements of Section 5309, but only to the extent the Secretary deems appropriate. Revised Subsection (c) strengthens and leverages private sector participation by permitting the Secretary to establish appropriate terms and conditions for projects involving the integration of new innovative or improved products, techniques, or methods.

Section 3011(a) of TEA–21 allows a recipient of an urbanized area formula grant under Section 5307 or a major capital investment grant under Section 5309 to use proceeds from the issuance of revenue bonds as a local match. This provision is codified in Section 5323(f)(1).

Debt Service Reserve Funds are made an eligible project activity. Under Section 5323(f)(2), the Secretary could allow a recipient to use Section 5307 or 5309 dollars to reimburse it for deposits made to the debt service reserve. Because Federal transit funds are typically viewed as higher creditworthy revenues, transit bond ratings would be strengthened and interest costs reduced.

Public transportation agencies can receive land which becomes available as a result of base closures. Subsection (h) is revised to provide for the transfer of lands or interests in lands owned by the United States. The Department of Defense regulations (32 CFR Parts 90 and 91) provide for the disposition of surplus land resulting from the Defense Base Closure and Realignment Act to be transferred free to 'grantees' that have Federal sponsors with Federal land transfer statutes.

Section 5323(m) would be amended to eliminate pre-award and post-delivery audit requirements for private non-profit organizations and grantees serving urbanized areas with fewer than one million people. All manufacturers and suppliers would have to continue to certify compliance with Buy America during the bidding process, and they would remain bound by their original certification. The vast majority of vehicles purchased will still undergo the audits.

*Conference Substitute*

Adopts the Senate proposal regarding interests in property and notice and public hearings. The current law provision under section 5310 states that public transportation operators are not required to charge elderly individuals and individuals with disabilities a fare is expanded to apply to all programs under this chapter.

Adopts the House proposal regarding conditions on charter bus transportation service. The conferees are aware that both public transportation providers and private charter bus providers have expressed strong concerns about the 1987 FTA rule enforcing section 5323(d) regarding charter bus service. The conferees direct the FTA to initiate a negotiated rulemaking seeking public comment on the regulations implementing section 5323(d), and to consider the issues listed below:

1. Are there potential limited conditions under which public transit agencies can provide community-based charter services directly to local governments and private nonprofit agencies that would not otherwise be served in a cost-effective manner by private operators?

2. How can the administration and enforcement of charter bus provisions be better communicated to the public, including use of internet technology?

3. How can the enforcement of violations of the charter bus regulations be improved?

4. How can the charter complaint and administrative appeals process be improved?

Adopts the House proposal regarding the new eligibility to use bond proceeds as local matching funds, including a maintenance of effort clause. New authority for section 5307 funds to be deposited in a debt service reserve is established under a pilot program for 10 eligible recipients, and is established generally for section 5309 funds and a report is directed to be submitted outlining the status and effectiveness of the debt service reserve pilot program.

The House and Senate both carried identical provisions regarding more effective enforcement of schoolbus transportation violations. This language is adopted. The general provisions regarding a 90 percent government share of costs for Americans with Disabilities Act and Clean Air Act related equipment is expanded to incorporate facilities.

Adopts the House language regarding updated Buy America regulations. In the final rule, the FTA is directed to define the term "end product" for purposes of part 661 of title 49, CFR, and to provide that such definition include a list of representative items that are subject to the Buy America requirements, similar to the list of such items under the rolling stock procurements regulations. The purpose of developing such a list and more clearly defining the term end product is to ensure that major system procurements are not used to circumvent the Buy America requirements.

Adopts the Senate language regarding relationship to other laws, which broadens the applicability of section 1001 of title 18, prohibiting fraudulent statements to the Government, to all certificates, submissions, or statements provided to DOT under Chapter 53 of Title 49.

Amends the Senate proposal to waive preaward and postdelivery audits for rolling stock to allow procurements of 20 or fewer vehicles being purchased in rural and small urbanized areas under 200,000 in population to be subject to an expedited postdelivery process that does away with the requirement to have an on-site inspector at manufacturers' facilities.

Adopts the House proposal to allow incidental use of alternative fueling facilities by nontransit users as long as the incidental use does not interfere with the recipient's public transportation operations, and all costs are fully recaptured by the recipient. Revenues under this authority can be used for planning, capital or operating expenses.

### SEC. 3024. SPECIAL PROVISIONS FOR CAPITAL PROJECTS

*House Bill*

*Sec. 3024.*

This section makes very minor amendments to section 5324 of title 49, United States Code and changes the title of the section from "Limitations on discretionary and special needs grants and loans" to "Special provisions for capital projects," which is more descriptive of the provisions contained therein regarding relocation program requirements and consideration of economic, social, and environmental interests.

*Senate Bill*

*Sec. 6023.*

Environmental and relocation assistance requirements are revised to conform to applicable cross-cutting statutes (NEPA and Uniform Relocation Assistance Act).

Section 5324(a) is amended to reference the relevant sections of the Uniform Relocation Assistance and Real Property Acquisition Policies Act ('the Act'), 42 U.S.C. 4601 et seq., directly, rather than referencing only two of the numerous conditions contained in the Act.

Section 5324(b) continues to allow protective and hardship acquisitions as defined in 23 CFR 771.117, but it also allows advance acquisition where the strict requirements associated with a protective acquisition are not met. This provision allows for the acquisition when market forces dictate, and thereby avoids multiple transactions on the same property and the associated escalation in cost. A strictly limited number of such advance acquisitions is allowed without prejudice to the consideration of alternative locations or alternative projects.

Section 5324(c) addresses FTA's current practice of allowing the acquisition of preexisting railroad right of way (ROW) in advance of any specific project decisions on how the ROW will be used. Any changes in the use of the railroad ROW are subject to appropriate environmental review prior to the change.

Section 5324(d) (formerly Section 5324(b)) meshes the statutory requirements of Federal transit law more closely with current FTA practice under NEPA, and 49 U.S.C. 303 (commonly called 'Section 4(f)'), and other environmental laws. Reference to the Secretaries of Agriculture, Health and Human

Services, and Housing and Urban Development are removed since these agencies rarely have any interest in transit projects.

The amendment deletes Council on Environmental Quality (CEQ) and substitutes the Administrator of EPA. The Council on Environmental Quality has delegated its routine project review responsibilities to the Environmental Protection Agency (EPA). Section 5324(d) would no longer single out the hearing transcript for greater attention than other valid forms of public comment on a project.

*Conference Substitute*

The conference report includes a rewritten provision that applies the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 to all financial assistance for capital projects under this chapter. Adopts House language regarding consideration of economic, social, and environmental interests. Adopts the Senate proposal to allow acquisition of railroad right-of-way before the completion of environmental reviews, if the acquisition is otherwise permitted under Federal law. A railroad corridor purchased in advance under this authority may not be developed before the project has completed all required environmental reviews.

### SEC. 3025. CONTRACT REQUIREMENTS

*House Bill*

*Sec. 3025.*

This section consolidates sections 5325 "Contract Requirements" and 5326 "Special Procurements" of title 49, United States Code, since the provisions of section 5326 fall within the scope of conditions set on contracts that utilize federal funds provided under chapter 53 of title 49, United States Code. Under the revised subsection 5325(a) and (b), recipients of such funds are expressly required to conduct procurements using full and open competition and to use standard architectural, engineering, and design contract award procedures. A new subsection 5325(d) is added that is identical to existing law section 5326(a), except that the term "turnkey" is replaced with the more commonly used term "design-build", and references to design-build "demonstration projects" are deleted, since design-build contracting has matured beyond the demonstration phase. In addition, design-build contracting does not necessarily result in lower project costs or new technologies and, as a result, this concept as expressed under section 5326(a)(2) in current law is removed.

*Senate Bill*

*Sec. 6024.*

Current provisions regarding procurement and contracts are consolidated in a single section.

Grantees must refer to the Contractor Performance Assessment Report when selecting contractors to do work on projects seeking FFGAs.

Competition in all procurements is explicitly established as the presumptive standard. Existing Section 5307 requires the use of competitive procurement as defined or approved by the Secretary in carrying out procurement under that section. Section 5325(a) is amended to expressly require the use of competitive procurement procedures for any procurement carried out under Chapter 53. The revised language in redesignated Section 5325(b)—referred to as 'The Brooks Act'—clarifies that program management is limited to architectural, engineering, and design contracts. Also, the reference to 23 U.S.C. 112(b)(2)(C) through (F), which deals with performance and audit standards and indirect cost rates, is removed. Instead, Subsection (b) is revised specifically to include these provisions.

TEA-21 allowed for turnkey system projects, also known as design-build contracting, in Federally funded public transportation projects, including demonstration projects. Section 5325(d) (existing Section 5326(a)), replaces the term 'turnkey' with the more commonly used term 'design-build.'

Currently, FTA and the Comptroller General can inspect contract records for capital projects receiving Federal transit assistance, but only in cases of 'noncompetitive bidding.' New Subsection 5325(g), 'Examination of the Records,' strengthens oversight by allowing FTA or the Comptroller General to inspect all contract documents. The 'grant prohibition' provision, dealing with contract requirements, was erroneously included under Section 5323, 'General Provisions On Assistance,' and is relocated under Section 5325(h).

A new provision is added to Section 5325(i) to strengthen the requirements that contractors to public transportation agencies must have adequate technical and financial capacity to carry out a proposed contract. This elevates already existing FTA and OMB requirements on third-party contracting to a statutory requirement.

*Conference Substitute*

Adopts the House language regarding architectural, engineering, and design contracts, including the provision that allows State qualifications-based requirements for contracting architectural, engineering, and design services to be employed in lieu of Federal contracting procedures if an equivalent State qualifications-based requirement is established before the date of enactment of the Federal Public Transportation Act of 2005.

Adopts the House proposal regarding design-build projects and the House language regarding multiyear rolling stock. Both the House and Senate bills included a provision stating that no State law requiring buses to be purchased through in-State dealers shall apply to vehicles purchased with a grant under this chapter. This provision is adopted. The Senate's language strengthening the requirements that contractors to public transportation agencies have adequate technical and financial capacity to carry out a proposed contract is also adopted.

### SEC. 3026. PROJECT MANAGEMENT OVERSIGHT AND REVIEW

*House Bill*

*Sec. 3026.*

This section amends section 5327 of title 49, United States Code regarding project management oversight activities. The Secretary is authorized to use .5 percent of section 5311 funds, .75 percent of section 5307 funds, and 1 percent of section 5309 funds to make contracts for oversight of major transit construction projects, and to review and audit recipients' compliance with federal requirements and provide technical assistance to correct deficiencies identified in such reviews and audits. This is an increase in the amount set aside for such activities above levels set under current law, which provides for .5 percent of section 5307 and section 5311 funds and up to .75 percent for section 5309 funds. Comprehensive agency oversight, compliance review, and technical assistance are necessary for all major grant programs, and particularly important for major capital grants such as new starts and rail modernization.

*Senate Bill*

*Sec. 6025.*

The takedown for oversight is increased to 1 percent in all programs.

Given the new security concerns—and in keeping with actual practice in the field—Section 5327(a) is revised to require that a project management oversight (PMO) plan include 'safety and security management.'

The section also provides new authority for the use of oversight funds to conduct analyses which cut across multiple projects. At present, oversight funds may be used only to review each project in isolation. Cross-cutting analyses could help identify major problems which need attention and could help develop best-practice methods which could be gleaned from a review of a set of similar projects.

*Conference Substitute*

Adds safety and security to PMO plans. Authorizes the Secretary to use 0.5% of Section 5305 funds, 0.75% of 5307 funds, 1% of 5309 funds, 0.5% of Section 5310 funds, 0.5% of Section 5311 funds, and 0.5% of Section 5320 funds to make contracts for oversight of major transit construction projects, and to review and audit recipients' compliance with federal requirements and provide technical assistance to correct deficiencies identified in such reviews and audits. This is an increase in the amount set aside for such activities above levels set under current law, which provides for .5 percent of section 5307 and section 5311 funds and up to .75 percent for section 5309 funds. Comprehensive agency oversight, compliance review, and technical assistance are necessary for all major grant programs, and particularly important for major capital grants such as new starts and rail modernization.

### SEC. 3027. PROJECT REVIEW

*House Bill*

No Comparable Provision in House Bill

*Senate Bill*

*Sec. 6026.*

The schedules for FTA review of projects in the New Starts process are updated to clarify the relationship to the New Starts process and criteria; the advancement of projects is not automatic, but rather depends on meeting the requirements of that section.

The concept of Programs of Interrelated Projects is not continued.

*Conference Substitute*

Adopts the Senate proposal, but retains current law provision regarding programs of interrelated projects.

### SEC. 3028. INVESTIGATIONS OF SAFETY HAZARDS AND SECURITY RISKS

*House Bill*

*Sec. 3027.*

This section amends section 5329 of title 49, United States Code regarding the Secretary's authority to investigate safety and security risks associated with public transportation equipment, facilities, or operations financed under chapter 53 of title 49, United States Code. The Secretary may withhold any amount of a recipient's Federal assistance until a plan to eliminate, mitigate, or correct the hazard has been approved and carried out.

*Senate Bill*

*Sec. 6027.*

FTA investigation authority is expanded expressly to include security issues. Section 5329 authorizes FTA to investigate 'safety hazards,' but does not authorize FTA expressly to investigate 'security' matters.

This section is amended to promote active cooperation between FTA and its grantees on security matters, by clarifying that FTA may assist grantees on security matters and investigate security concerns without notice of a specific breach of security at a transit system.

The penalty for failure to address issues is modified. The existing section also contains an 'all or nothing' provision that authorizes the Secretary to withhold 'further financial assistance' upon a transit system's failure to correct a safety hazard. Section 5329 allows the Secretary to determine the amount of funding to be withheld.

A new requirement is added for a Memorandum of Understanding between the Departments of Transportation and Homeland Security specifying the details of how the agencies would cooperate on setting national security standards for public transportation, would establish funding priorities for DHS grants to public transportation agencies, and would coordinate with each other and public transportation agencies on security matters.

*Conference Substitute*

The conference report adopts a modified version of the Senate provision. In addition to the original Senate security provisions authorizing security and safety investigations and penalties, the conference report requires an annex to the memorandum of understanding signed by the Departments of Transportation and Homeland Security on September 28, 2004 to define and clarify the respective transit security roles and responsibilities of each Department. The conference report also mandates a joint rulemaking outlining the requirements and characteristics of any public transportation security grants, including funding priorities and eligible expenditures.

### SEC. 3029. STATE SAFETY OVERSIGHT

*House Bill*

*Sec. 3028.*

This section amends section 5330 of title 49, United States Code by changing the heading from "Withholding amounts for noncompliance with safety requirements" to reflect the more commonly used title of "State safety oversight." Under this section, a State is required to establish and carry out a safety program plan for rail-based new starts projects. Commuter rail systems that operate on the general railway system are subject to the safety rules and oversight of the Federal Railroad Administration. Amendments to subsection 5330(a) ensure that safety is considered well before a rail-based new start project begins revenue service. In subsection 5330(d), rail-based new start projects that operate in two or more States are required to have a unified safety program plan.

*Senate Bill*

*Sec. 6028.*

Safety oversight is required during the design phase of New Starts.

States can designate a single agency to handle oversight of systems serving more than one State.

Section 5330 is amended to change the heading to 'Withholding Amounts for Non-Compliance with State Safety Oversight Requirements' the better to reflect the requirements in this section.

Amendments to Section 5330 ensure that safety is considered well before a rail fixed-guideway system begins revenue service, i.e., during the design phase of the project.

*Conference Substitute*

Adopts the House proposal.

### SEC. 3030. CONTROLLED SUBSTANCES AND ALCOHOL MISUSE TESTING

*House Bill*

*Sec. 3029.*

This section amends section 5331 of title 49, United States Code regarding drug and alcohol testing of public transportation employees, allowing the Secretary to apply a single agency's drug and alcohol testing regime if a particular transportation provider is subject to more than one agency's rules. Currently, section 5331 authorizes the Secretary to exclude from FTA drug and alcohol testing those public transportation providers that are adequately covered by the Federal Motor Carrier Safety Administration or the Federal Railroad Administration testing statutes. The amendment to subsection 5331(a) expands the Secretary's authority to exclude from FTA testing those public transportation providers that are adequately covered under other Federal or Departmental testing, such as the U.S. Coast Guard's testing provisions applicable to ferryboat employees.

*Senate Bill*

*Sec. 6030.*

Section 5331 is amended to expand the Secretary's authority to exclude from FTA testing requirements, those public transportation providers that are adequately covered under other Federal or Departmental testing statutes or regulations, such as the U.S. Coast Guard's testing provisions applicable to ferryboat employees.

*Conference Substitute*

The Conference adopts the House version.

### SEC. 3031. EMPLOYEE PROTECTIVE ARRANGEMENTS

*House Bill*

*Sec. 3030.*

This section amends Section 5333 of title 49, United States Code making conforming changes to ensure that all federal public transportation grant programs are subject to fair labor standards and employee protective arrangements.

*Senate Bill*

*Sec. 6031.*

The time for severance pay and benefits for transit workers is reduced to four years to comport with existing rail worker protections for Class III railroads. The Senate notes that this change does not alter requirements for severance pay for workers covered under other laws, such as those governing the rights of railroad workers or the collective bargaining process.

The Senate language harmonizes competitive bidding requirements under Federal law with Federal labor law governing transportation workers. This bill provides that 13(c) requirements do not automatically attach to newly solicited contracts, or require that an identical workforce or identical workplace management rules be maintained under new contracts. Carrying over benefits from contractor to contractor was not envisioned when Section 13(c) was enacted and as such, this restores the original intent of Section 13(c). The bill codifies the Department of Labor's decision (commonly referred to as the 'Las Vegas' decision), which found that a change in contractors would not extinguish obligations under prior Section 5333(b) arrangements. Thus, this provision is not intended to extend, expand, or contract labor protection collective bargaining terms and conditions applicable to subsequent contracts.

Grants for purchase of like-kind equipment or facilities do not have to be referred by the Department of Labor prior to certification. In addition, the Senate language establishes in law a Special Warranty now applied by administrative practice in the Section 5311 program for other-than-urbanized-areas and applies it in the Job Access and Reverse Commute Program.

*Sec. 6031.*

*Conference Substitute*

The conference report adopts the Senate proposal to establish in law a special warranty for Section 5311 programs.

In addition, the conference report adopts the Senate proposal regarding like kind grants with a modification to limit the provision to certify without referral to situations that do not materially revise or amend an existing assistance agreement.

The Senate bill included changes to 49 USC 5333(b) regarding rights afforded to employees under this section when one private contractor replaces its predecessor as a result of competitive bidding. The Conferees agree that the so-called contractor-to-contractor issues were addressed in the Department of Labor's Las Vegas decision dated September 21, 1994, as clarified by the supplemental ruling dated November 7, 1994. The Conferees expect that when the Department of Labor (DOL) is called upon to resolve such issues in similar bus transit situations, the agency shall apply the principles, as applied to the facts, set forth in the Department's Las Vegas rulings, without otherwise affecting existing protective arrangements. This affirmation of existing DOL policy shall not serve as a basis for objections under 29 CFR 215.3(d).

Finally, Section 5333(b) is not applied to the new programs created in conference report, Section 5317 (New Freedom) and Section 5320 (Alternative Transportation in Parks and Public Lands) programs.

### SEC. 3032. ADMINISTRATIVE PROCEDURES

*House Bill*

*Sec. 3031.*

This section amends section 5334 of title 49, United States Code regarding the Secretary of Transportation and Federal Transit Administration's authority to administer programs carried out under chapter 53 of title 49, United States Code. The Secretary is prohibited from regulating public transportation provider's routes, schedules, and rates, except in the case of a national or regional emergency. A new subsection 5334(c)(5) has been added that requires the FTA to subject non-regulatory substantive policy statements to a 60-day public review notice and comment period. Currently, FTA circulars, letters, or other policy statements can be issued without the benefit of the same public review and comment process that is required under the regulatory process. However, such documents often carry the same weight and penalties as regulations. An example of this "unwritten rule" is the $500 million per project limitation FTA has placed on the Federal commitment on a full funding grant agreement issued under the authority of section 5309. Although such a project cost limitation might be a valid policy, it has not been published in a form that allows for comment from the affected transit community. The provision added in subsection (c)(5) will add transparency to FTA's administrative procedures and provide opportunity for public review and feedback.

*Senate Bill*

*Sec. 6032.*

Amends Section 5334(a) to clarify that FTA has explicit authority to issue regulations.

Current Section 5324(c), 'Prohibitions Against Regulating Operations and Charges,' is moved to Section 5334, 'Administrative Provisions,' as a new Subsection (b). It is appropriate to house this prohibition in the 'Administrative Provisions' section and make it expressly applicable chapter-wide, rather than on capital projects only. While it has been the practice of FTA to forego any regulation of operations or charges with respect to any grant based on legislative history, current law is ambiguous. Moving this provision will clarify that FTA may not regulate operations or charges, except in emergencies. The appropriate Federal role in public transportation is to provide financial assistance only, and not to regulate operations. Also, this provision is amended to specify that the Secretary is prohibited from regulating a recipient's routes, schedules, rates, fares, tolls, and rentals, just as this provision had specified prior to the recodification of the Federal Transit Act into 49 U.S.C. Chapter 53 in 1994. In light of the September 11 terrorist attacks, this provision is further amended to allow the Secretary of Transportation, under direction by the President, to regulate the operation of and charges for public transportation systems for purposes of national defense or in the event of a national or regional emergency.

*Conference Substitute*

Adopts the House proposal. The provision regarding nonregulatory substantive policy statements is amended to apply more narrowly to agency statements that impose a binding obligation on recipients of Federal assistance under this chapter. Such statements shall be subject to rulemaking procedures under the Administrative Procedure Act.

### SEC. 3033. NATIONAL TRANSIT DATABASE

*House Bill*

*Sec. 3032.*

This section amends Section 5335 of title 49, United States Code by striking subsection (b) regarding a transferability report that was completed in 1993. The section header is amended from the current law title "Reports and audits" to "National transit database" to reflect the revised contents of the section.

*Senate Bill*

*Sec. 6033.*

Section 5335(b), requiring that the Comptroller General submit 'transferability reports' to Congress, is removed, as the report is no longer needed on a recurring basis. Information on the use of flexible funding under Title 23 is readily available.

*Conference Substitute*

Adopts the Senate provision. Beginning in 2006, the national transit database will be funded as a takedown from the formula grants programs at $3,500,000 a year.

### SEC. 3034. APPORTIONMENTS OF FORMULA GRANTS

*House Bill*

*Sec. 3040.*

This section establishes a new set-aside program from the section 5307 urbanized area formula grants that provides a small bonus grant payment to urbanized areas under 200,000 in population that operate at a level of service above the industry average level of service in similarly-sized urbanized areas in one or more of six performance categories: passenger miles traveled per vehicle revenue mile, passenger miles traveled per vehicle revenue hour, vehicle revenue miles per capita, vehicle revenue hours per capita, passenger miles traveled per capita, and passengers per capita. These performance categories and a methodology established for providing bonus grants were established in the September 2000 FTA report to Congress called "The Urbanized Area Formula Program and the Needs of Small Transit Intensive Cities."

*Senate Bill*

*Sec. 6034*

For basic apportionments, the existing urbanized area formula continues as in current law.

The 'Transit Intensive Cities' tier would allocate funds to small urbanized areas with transit service levels (represented by revenue vehicle hours) per capita greater than the per capita service levels in areas with population of 200,000 to 1,000,000 on the basis of transit service levels. Funds from this tier are available for capital purposes only.

A provision is added to require a study of incentives which might be added to the urbanized area and other-than-urbanized area formula programs. In light of numerous questions about how such a program as proposed by the Administration would work, the factors to be considered, and the manner in which grants could be used, the Senate instead calls for a study of the issues involved in establishing such a program. The report should address the possibility of rewarding improvements in ridership (as was proposed by the Administration) as well as improvements in efficiency (cost per unit of service provided), effectiveness (service utilization per unit of service provided), and cost-effectiveness (cost per unit of service utilization).

*Conference Substitute*

Adopts the House version of the "Small Transit Intensive Cities" formula program, with annual funding at one percent of the total amount made available for formula programs. Adopts the Senate's incentives in formula programs study and provides that 60 percent of the directional route mileage of the Alaska Railroad system be attributable to that system.

### SEC. 3035. APPORTIONMENTS BASED ON FIXED GUIDEWAY FACTORS

*House Bill*

*Sec. 3033.*

This section amends Section 5337 of title 49, United States Code regarding apportionment formulas for the fixed guideway modernization program. The provision regarding route segments to be included in the apportionment formula is amended to delete the "1997 Standard" that held eligible rail system mileage to the number of miles a system reported in fiscal year 1997.

*Senate Bill*

No similar provision.

*Conference Substitute*

Does not adopt the House elimination of the 1997 Standard. Makes an adjustment to a small urbanized area with a fixed guideway system to treat the system as a large urbanized area for purposes of apportionments based on fixed guideway factors.

### SEC. 3036. AUTHORIZATIONS

*House Bill*

*Sec. 3034.*

This section amends Section 5338 of title 49, United States Code, making FTA program funds available on an annual basis for the fiscal year 2004–2009 authorization period. The major FTA programs are Formula Grants, Capital Investment Grants, Planning, Research, and Administrative Expenses. A new organizational structure is adopted to separate the fiscal year 2004 funding, which splits every account's funding between the Mass Transit Account and the general fund at an 80:20 ratio (current law structure), from funding for fiscal years 2005-2009, which is either 100 percent trust funded or 100 percent general funded. The programs that will be 100 percent trust funded in fiscal years 2005–2009 are Formula Grants and Planning, as well as the bus and bus related facilities grants and the fixed guideway modernization grants under Capital Investment Grants. The programs that will be 100 percent general funded in fiscal years 2005–2009 are Research, Administration, and the new starts and small starts programs under Capital Investment Grants. This restructuring of the program financing will prevent an accounting problem with the spending rate of the Mass Transit Account. By not split-funding any programs, each program will outlay at its actual spending rate.

The Formula Grants programs comprise 54 percent of the total transit programs. There are a number of allocations made from the total formula grants funding for: new bus model testing, grants to the Alaska Railroad, over-the-road bus accessibility equipment costs, the new Transit in the Parks pilot program, the transit portion of funding for the non-motorized transportation pilot program authorized in section 1121(b) of the bill, the New Freedom program, the Job Access and Reverse Commute grant program, and the Clean Fuels grant program. After these allocations of funds have been made, the remainder of the aggregate amount is allocated in the following percentages: 2.5 percent to the elderly and disabled formula grant program, 8 percent to the nonurbanized formula grant program, and 89.5 percent to the urbanized area formula grant program. The percentage shares for the elderly and disabled program grants and for the nonurbanized formula grants have been increased over such shares under current law.

The Capital Investment Grants programs comprise 43 percent of the total transit programs. The four Capital Investment Grant programs (fixed guideway modernization, new starts, small starts, and bus and bus-related facilities) receive funding allocations under section 5309(m).

Planning grant fund apportionments to metropolitan areas and states are provided under subsection 5338(c). For fiscal year 2004, the funding is split-funded and for fiscal years 2005–2009, the funding is derived from the Mass Transit Account. The percentage of planning funds allocated to metropolitan areas is 82.72 percent and 17.28 percent is apportioned to states for state planning activities, the same percentages as provided under current law.

The Research program is funded under subsection 5338(d). For fiscal year 2004, the funding is split-funded, and for fiscal years 2005-2009, the funding is authorized to be appropriated from the general fund. There are a number of allocations made from the total formula grants funding for: the transit cooperative research program, management of the national transit database, the National Transit Institute transit training facility at Rutgers University, and Project Action, a national technical assistance program for providers of transportation services to the disabled. The remainder of funds under this subsection are available for the national research and technology programs. In subsection 5338(e), funding is authorized for university transportation research. This complements funding made available for these programs under the Federal-aid Highway program in Title V of the bill.

Funding for administration of the Federal transit programs is provided under subsection 5338(f). For fiscal year 2004, the funding is split-funded, and for fiscal years 2005-2009, the funding is authorized to be appropriated from the general fund.

*Senate Bill*

*Sec. 6036.*

Section 5338 authorizes amounts from the General Fund, and makes available amounts from the Mass Transit Account of the Highway Trust Fund, to carry out Federal public transportation programs in Fiscal Years 2005 through 2009. Funds from the Mass Transit Account are provided as 'contract authority.'

Section 5338(a), provides funds for all programs for Fiscal Year 2005 in accordance with the Consolidated Appropriations Act.

Section 5338(b) Formula Grants and Research, provides funds for Fiscal Years 2006 through 2009 from the Mass Transit Account to carry out Sections 5305, 5307, 5308, 5309 (bus and fixed-guideway modernization), 5310-5318, 5322, 5335 and 5505 of Title 49, and Sections 3037 and 3038 of Pub. L. 105–178. It also provides for a takedown for grants to the Alaska Railroad for improvements to its passenger operations under Section 5307.

Section 5338(c), Major Capital Investment Program Grants, authorizes appropriations from the General Fund in Fiscal Years 2006 through 2009 to carry out Section 5309 (New Starts). Section 5338(c) authorizes funds from the Trust Fund for administrative expenses. Amounts available under Subsections (a) and (b) remain available until expended and grants financed from amounts derived from the Mass Transit Account or through advance appropriations under those subsections would be contract authority.

Grants for both planning programs are mainstreamed into 49 U.S.C. 5308. Funding for the planning programs are authorized as a takedown from the Urbanized Area Public Transportation Formula Grants account.

The bill provides that 1.75 percent of the funds are available for planning in Fiscal Years 2006 through 2009. This percentage represents a minimal increase over previous Fiscal Years. The amount proposed in fiscal year 2005 takes into account that this fiscal year will be the first year of reauthorization and is based on the Consolidated Appropriations Act.

The bill provides funding for the National Transit Database (NTD) authorized under Section 5335 in fiscal years 2006 through 2009. The NTD workload has increased substantially with the advent of monthly reporting on safety and security and with the new requirements for the phased in rural and asset condition reporting.

*Conference Substitute*

Section 5338 authorizes amounts from the General Fund, and makes available amounts from the Mass Transit Account of the Highway Trust Fund, to carry out Federal public transportation programs in Fiscal Years 2005 through 2009. Funds from the Mass Transit Account are provided as 'contract authority.'

Section 5338(a) provides funds for all programs for Fiscal Year 2005 in accordance with the Consolidated Appropriations Act.

Section 5338(b), Formula and Bus Grants, provides funds for Fiscal Years 2006 through 2009 from the Mass Transit Account to carry out all programs except New Starts, Research (including University Transportation Centers), and FTA Administration. Amounts are specified for each program for each fiscal year.

The bill provides funding from the Trust Fund in Section 5338(b) for the National Transit Database (NTD) authorized under Section 5335 in fiscal years 2006 through 2009. The NTD workload has increased substantially with the advent of monthly reporting on safety and security and with the new requirements for the phased in rural and asset condition reporting.

Grants for both planning programs are mainstreamed into 49 U.S.C. 5305. Funding for the planning programs are authorized as specified amounts from the Formula Grants account.

Section 5338(c), Major Capital Investment Grants, authorizes appropriations from the General Fund in Fiscal Years 2006 through 2009 to carry out New Starts, including Small Starts, under Section 5309.

Section 5338(d), Research and University Research Centers, authorizes appropriations for the Research Programs, including University Transportation Centers. Specific amounts are provided for the Transit Cooperative Research Program, as well as Project Action and the new Center for Senior Transportation.

Section 5338(e), Administration, authorizes appropriations for administrative expenses.

Amounts available under Subsections (a), (b), (c), and (d) remain available until expended. Grants financed from amounts derived from the Mass Transit Account under subsections (a) or (b) or through advance appropriations under those subsections as well as subsections (c), (d), or (e) would be contract authority.

### SEC. 3037. ALTERNATIVES ANALYSIS GRANTS

*House Bill*

No provision.

*Senate Bill*

No provision.

*Conference Substitute*

Establishes a new program explicitly for grants to States, metropolitan planning organizations, and local governmental authorities to develop alternatives analyses. This eligibility for new fixed guideway capital project planning and alternatives analysis resides under section 5309 in current law. Because the conferees have eliminated this eligibility under the New Starts program, a stand-alone program is established for such activities.

### SEC. 3038. APPORTIONMENTS BASED ON GROWING STATES FORMULA FACTORS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 6037.*

A new Section 5340 is added to allocate funds to Growing and High Density States. For this section, the term 'State' is defined only to mean the 50 States.

The new Section 5340 allocates funds based on the population forecasts for fifteen years after the date of that census. Forecasts are based on the trend between the most recent decennial census and Census Bureau population estimates for the most current year. Funds allocated to the States are then suballocated to urbanized and non-urbanized areas based on forecast population, where available. If forecasted population data at the urbanized level is not available, funds are allocated to current urbanized and non-urbanized areas on the basis of current population. Funds allocated to urbanized areas are included in their Section 5307 apportionment. Funds allocated for non-urbanized areas are included in the States' Section 5311 apportionments.

For States with population densities in excess of 370 persons per square mile, funds are allocated based on the amount by which their population exceeds the product of their land area and the percentage of total State population in urbanized areas as determined by the most recent Decennial Census.

*Conference Substitute*

The Conference adopts Senate Proposal with a modification to flow high density funds through urbanized areas. These funds will be distributed to urbanized areas in their Section 5307 apportionments on the basis of their share of urbanized population. The Conferees expect that FTA will publish single urbanized and rural apportionments that show the total amount for 5307 and 5311 programs that includes both apportionments under 5336 and 5311 formulas together with 5340.

### SEC. 3039. OVER-THE-ROAD BUS ACCESSIBILITY PROGRAM

*House Bill*

*Sec. 3035.*

This section amends Section 3038 of TEA-21 regarding the over-the-road bus accessibility program, which provides grants to intercity and charter bus providers for incremental costs of equipment to reach compliance with the Americans with Disabilities Act. The TEA-21 provision regarding Federal share is amended by increasing the Federal share for such project costs from 50 percent to 80 percent.

*Senate Bill*

*Sec. 6039.*

Continues Over-the-Road Bus Accessibility Program.

*Conference Substitute*

Adopts the House proposal but specifies that the Federal share for grants under this program is 90 percent.

### SEC. 3040. OBLIGATION CEILING

*House Bill*

*Sec. 3045*

This section sets the annual obligation ceiling for Federal Transit Administration programs authorized by this Act for fiscal years 2004-2009, including both amounts made available from the Mass Transit Account of the Highway Trust Fund and general funds from the U.S. Treasury. The total obligation authority for each fiscal year is guaranteed to be provided in the fiscal year for which it is set under the budgetary firewalls established in section VIII of the bill.

*Senate Bill*

*Sec. 6041.*

This section establishes the obligation ceiling for each fiscal year, equal to the total amounts authorized.

*Conference Substitute*

Establishes the obligation ceiling for fiscal years 2006 through 2009, and sets a ceiling on the amount that can be made available from the Mass Transit Account.

### SEC. 3041. ADJUSTMENTS FOR FISCAL YEAR 2005

*House Bill*

*Sec. 3046*

This section provides for the funding reconciliation of apportionments and allocations made to transit grant recipients under this Act with the levels of funding already made available under the Surface Transportation Extension Act.

*Senate Bill*

*Sec. 6042.*

This section provides that the amounts for Fiscal Year 2005 are in lieu of, and not in addition to, the amounts authorized for the first eight months of Fiscal Year 2005 by the Surface Transportation Extension Act of 2004. In addition, the section provides for an adjustment to the calculations of apportionments for the fixed-guideway modernization program, since that formula assumes a full year of funding.

*Conference Substitute*

The conference report reconciles apportionments and allocations made under this Act with the funding already made available under the Surface Transportation Extension Act. This section also contains an adjustment to the calculation of apportionments for the fixed guideway modernization program.

### SEC. 3042. TERRORIST ATTACKS AND OTHER ACTS OF VIOLENCE AGAINST PUBLIC TRANSPORTATION SYSTEMS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 6029.*

The term 'mass transportation' is changed to 'public transportation' throughout Chapter 53 of Title 49, U.S.C. Section 1993 of Title 18 is amended to replace the term 'mass transportation' with 'public transportation.'

Section 1993(a)(5) makes it a Federal crime to interfere with anyone 'dispatching, operating, or maintaining a mass transportation vehicle or ferry.' The statute does not address those who 'control' such vehicles, and arguably excludes rail system 'controllers' (central command employees who control the movement of rail cars). Although such controllers 'operate' vehicles in some cases, and thus may fall within the statute, the statute does not expressly cover them. The amendment to Section 1993(a)(5) explicitly provides that interference with a rail controller constitutes a Federal crime.

*Conference Substitute*

The Conference adopts the Senate proposal.

### SEC. 3043. PROJECT AUTHORIZATIONS FOR NEW FIXED GUIDEWAY CAPITAL PROJECTS

*House Bill*

*Sec. 3037.*

This section lists the projects that are authorized under the section 5309 new starts and small starts programs for fiscal years 2004–2009. Existing full funding grant agreements are listed separately from projects authorized for final design and construction and those authorized for alternatives analysis and preliminary engineering.

In subsection 3037(a), 26 new start projects originally authorized in the Intermodal Surface Transportation Efficiency Act (ISTEA) or in TEA–21 have continued authorizations with the amount specified by fiscal year that remains outstanding under the schedule of Federal funds for the project (or "schedule 6") attached to each project's full funding grant agreement contract with the FTA. The first responsibility of the Appropriations Committees in providing funds for new fixed guideway capital projects must be to ensure that each project under a full funding grant agreement receives the full amount specified for the fiscal year in which it is programmed. Under-funding full funding grant agreements is very damaging to the financial management of the project and to the overall capital and operating budget of the sponsoring agency, and may jeopardize private financing for the local share of such project costs.

In subsection 3037(b), new fixed guideway capital projects that are ongoing projects in the new starts pipeline and are currently in preliminary engineering or final design are authorized for final design and construction.

In subsection 3037(c), new fixed guideway capital projects that have not yet been approved for preliminary engineering by the FTA or that were not previously authorized under TEA-21 are authorized for alternatives analysis and preliminary engineering.

Subsection 3038(d) sets out rules relating to new starts and small starts funding for the life of the authorization. In general, all projects that are authorized under subsection (a) may expend Federal funds only for final design and construction activities. Projects that are authorized under subsection (b) may expend Federal funds for final design and construction, and for alternatives analysis and preliminary engineering activities. Projects that are authorized under subsection (c) may expend Federal funds only on alternatives analysis and preliminary engineering activities. However, on October 1, 2007, projects authorized under subsection (c) shall also be authorized for final design and construction. Minimum funding levels are established for appropriations for each fiscal year in the full funding grant agreement category (subsection a) and the final design and construction category (subsection b), and maximum funding levels are established for each fiscal year in the alternatives analysis and preliminary engineering category (subsection c). Subsection 3037(b) projects authorized for final design and construction that execute a full funding grant agreement with FTA after the date of enactment of this Act are to be given the full amount indicated in the schedule of Federal funds for the project for each fiscal year under the agreement.

Subsection 3037(e) amends the project description for the New Jersey Urban Core project originally authorized in section 3031(d) of ISTEA. This authorization was expanded in TEA–21 and is further amended in this legislation.

Subsection 3037(f) directs that project elements of the New Jersey Trans-Hudson Midtown Corridor that have been advanced with 100 percent non-Federal funds shall be given consideration by the FTA when evaluating the local share of the project in the new starts rating process, including the purchase of bi-level rail equipment.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The House proposal is adopted. In subsection (d), the Senate includes authorizations for new fixed guideway projects with funding amounts, subject to the requirements of section 5309(d) and (e) of title 49, U.S.C.

Bi-County Transitway.—It is the intent of the managers that any alignment of the Bi-County Transitway along the Georgetown Branch right of way should be designed and constructed in a manner to ensure a safe and accessible pedestrian-bicycle trail. The Maryland Transit Administration should consider a range of options to include placing the rail line underground through cut and cover.

### SEC. 3044. PROJECTS FOR BUS AND BUS-RELATED FACILITIES AND CLEAN FUELS GRANT PROGRAM

*House Bill*

*Sec. 3038.*

This section lists bus and bus facilities projects and associated funding levels for fiscal years 2006, 2007, and 2008. Each year's designated funding represents one half of the authorized amount for section 5309 bus and bus facility projects for that fiscal year.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

This section lists bus and bus facilities projects and associated funding levels for fiscal years 2006, 2007, 2008, and 2009. Both the House and Senate combined amount of funding for each fiscal year represents one half of the authorized amount for section 5309 bus and bus facility projects for that fiscal year.

### SEC. 3045. NATIONAL FUEL CELL BUS TECHNOLOGY DEVELOPMENT PROGRAM

*House Bill*

*Sec. 3039.*

This section authorizes a new fuel cell bus technology development program for hydrogen fuel cell and liquid methanol fuel cell bus technologies, in order to facilitate the development of commercially viable fuel cell bus technology and related infrastructure. The program is limited to three recipients, at a Federal share of 50 percent.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

Adopts the House proposal.

### SEC. 3046. ALLOCATIONS FOR NATIONAL RESEARCH AND TECHNOLOGY PROGRAMS

*House Bill*

*Sec. 3041.*

This section establishes seven specific research areas within the Federal Transit Administration's national research and technology program, and allocates funding levels in each fiscal year of the authorization period for these research areas. These research focus areas were developed through conferring with the FTA and reflecting priorities established in the agency's Research and Technology Strategic Plan. The programmatic structure and funding floors for each research area will help ensure that adequate funding is provided throughout the authorization period to establish and carry out meaningful programs with depth and continuity.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The conference report does not break out specific research areas within the national research and technology program. Program designations are made for several national research projects and University Transportation Centers.

### SEC. 3047. FORGIVENESS OF GRANT AGREEMENT

*House Bill*

*Sec. 3043.*

Forgives certain debts of the Lane County Transit District.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

Forgives certain debts of the Lane County Transit District and the Pee Dee Regional Transit Authority.

### SEC. 3048. COOPERATIVE PROCUREMENT

*House Bill*

*Sec. 3044.*

This section directs the Secretary to review the practice of cooperative procurement of transit rolling stock, such as buses and rail cars. A pilot program is currently underway at the Federal Transit Administration to determine the benefits of encouraging cooperative procurement of major capital equipment. The program consists of three competitively selected grantees, consortiums of grantees, or members of the private sector acting as agents of grantees, who will develop cooperative specifications and conduct joint procurements. For this program, the Federal share was increased from 80 percent to 90 percent. The Secretary is also directed to consider information gathered from grantees about cooperative procurement, whether or not related to the pilot program. The Secretary is directed to notify the Committee on Transportation and Infrastructure and the Senate Committee on Banking, Housing, and Urban Affairs of the results of the cooperative procurement review, and make a finding of whether this program has sufficient merit to be formally incorporated in the Federal public transportation program.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

Adopts the House proposal.

### SEC. 3049. TRANSIT PASS TRANSPORTATION FRINGE BENEFITS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 6044.*

The Senate bill includes two provisions related to transportation fringe benefits. Section 6004(a) requires the Secretary of Transportation to conduct a study of tax-free transit benefits and ways to promote improved access to and increased usage of such benefits at Federal agencies in the National Capital Region (NCR). Executive Order #13150 requires such benefits to be offered at executive agencies in the NCR, and the study is designed to determine how agencies are implementing that requirement and what the impact has been on congestion and pollution in the NCR.

Section 6004(b) would remove the restriction that prohibits a Federal agency from operating a shuttle service to a transit facility. By improving access to commuting alternatives, Federal agencies will be able to provide a benefit to their employees that will also help to reduce congestion and improve air quality across the nation.

*Conference Substitute*

The conferees replaced the transit benefit study from the Senate bill with language codifying Executive Order #13150 and extending it to include the legislative and judicial branches and independent agencies. As a result, all qualified Federal employees in the National Capital Region will receive tax-free transit benefit to cover their commuting costs up to the maximum allowed by law.

The conferees adopted the Senate provision regarding shuttle service with modifications. The language was clarified to make clear that the decision to provide shuttle service rests with the agency head. In addition, language was added to specify that an employee riding in a shuttle would not be considered to be within the scope of his or her office simply by virtue of the fact that the employee was using the shuttle service. Finally, language was added to make clear that time during which an individual uses the shuttle service should not be considered when calculating the hours of work or employment for that individual for purposes of Title 5 of the U.S. Code, including chapter 55 of that title. However, the conferees do not intend for this language or an employee's use of the shuttle service to be the basis for any disciplinary action.

### SEC. 3050. COMMUTER RAIL

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 6046.*

The Senate provision is intended to ensure timely completion of Rhode Island's commuter rail projects, which were authorized in TEA-21. Owing to the fact that commuter rail in Rhode Island is carried on Amtrak owned track, progress on completion of 2 new commuter stations requires Amtrak consent. The Senate bill ensures that the Secretary of Transportation has the authority to ensure that the projects authorized under Section 3030(c) (1)(A)(xliv) of the Federal Transit Act of 1998 and section 1214(g) of the Transportation Equity Act for the 21st Century (16 U.S.C. 668dd note) are successfully completed.

*Conference Substitute*

The Conference adopts the Senate proposal.

### SEC. 3051. PARATRANSIT SERVICE IN ILLINOIS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

This provision clarifies the authority of a regional or State agency in the State of Illinois to provide coordinated paratransit services and for the Federal Transit Administration to hold such provider accountable under the requirements of the Americans with Disabilities Act. In May 2005, the Illinois General Assembly passed legislation that will consolidate in one agency the paratransit services in the six-county Chicagoland region. Because FTA regulations do not contemplate that regional agencies would directly provide coordinated services in the manner set forth in this new State law, this provision sets forth explicit authority for FTA to audit the services provided by a regional or State agency, make recommendations, and take enforcement action if necessary against that agency.

## TITLE IV—MOTOR CARRIER SAFETY

### Subtitle A—Commercial Motor Vehicle Safety

The Motor Carrier Safety Improvement Act of 1999 (MCSIA) (P.L. 106-159) established the Federal Motor Carrier Safety Administration (FMCSA) within the Department of Transportation (DOT) on January 1, 2000. Prior to the enactment of MCSIA, commercial motor vehicle-related crashes resulting in fatalities and injuries had been steadily climbing and it was determined that the creation of a separate modal administration within the DOT would improve truck and bus safety. According to data compiled by the DOT, large trucks[1] represent about three percent of registered vehicles; however, they account for 7 percent of the vehicle-miles traveled on our Nation's highways, and are involved in about 11 percent of all fatal crashes.

FMCSA's primary responsibility is to enforce the Federal motor carrier safety and hazardous materials regulations, including the requirements governing Mexico-domiciled commercial motor vehicles operating in the United States. FMCSA also administers the Commercial Driver's License (CDL) program, oversees the interstate transportation of household goods, and all aspects of hazardous materials transportation via highway. FMCSA has been directed to accomplish these responsibilities through increased enforcement of the safety regulations, expedited completion of rulemaking proceedings, scientific research, and improved commercial driver's licensing programs.

FMCSA has set a goal of reducing the rate of fatalities in large truck crashes by 39 percent between 1999, the year prior to the agency's creation, and 2008, from a rate of 2.7 fatalities per 100 million vehicle miles traveled (VMT) to a rate of 1.65. The commercial motor vehicle fatality rate, factoring in increases in VMT, was reduced to 2.28 in 2002, a reduction of 7 percent from 2001 when the rate was 2.45. The commercial motor vehicle fatality rate reduction in 2002 marked the fifth consecutive year the rate had been reduced. While the fatality rate has improved, in 2003, 4,986 people were killed in truck crashes, an increase of 47 deaths over 2002, and 122,000 people were injured. In addition, 723 truck drivers were killed in 2003, an increase of nearly 5 percent over the number of 2002 fatalities.

### SEC. 4101. AUTHORIZATION OF APPROPRIATIONS

*House Bill*

*Sec. 4101.*

From the day of burro-drawn wagons moving our goods to the current day intermodal, just-in-time delivery system, commercial vehicles have always played an important role in our Nation's economy. This section provides funding from the Highway Trust Fund, other than the Mass Transit Account, for FMCSA to implement safety programs for fiscal years 2005 through 2009. Funding for the Motor Carrier Safety Assistance Program is authorized in section 4102 of this title. This bill authorizes FMCSA and its programs to be funded through contract authority. Under the Transportation Equity Act for the 21st Century (TEA-21), the agency's administrative expenses were funded through a deduction of the Federal Highway Administration's (FHWA) administrative expenses. This set-aside of Federal-aid funds is called a "takedown". The Motor Carrier Safety Improvement Act of 1999 (MCSIA) (P.L. 106-159) amended TEA-21 by increasing the takedown to one-third of 1 percent from the FHWA's administrative expenses to administer FMCSA activities. Other than the first year of enactment, the takedown has proven to be ineffective for funding the motor carrier safety program adequately. In addition, the takedown has not been able to respond to additional safety and program needs created with the implementation of the North American Free Trade Agreement, and the security improvements needed in response to the terrorist attacks of September 11, 2001. Therefore, it is appropriate to create new contract authority for FMCSA expenses. In addition to authorizing administrative expenses, this section also authorizes three grant programs for commercial driver's license improvement, border enforcement, and performance and registration system management, as well as an authorization to carry out the commercial vehicle information systems and networks development program.

*Senate Bill*

*Sec. 7103.*

This section would authorize the following appropriations from the Highway Trust Fund for FMCSA safety programs (excluding MCSAP) for FYs 2006 through 2009.

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[1] Large truck is defined as a commercial motor vehicle with a gross vehicle weight of 10,001 pounds or more.

For administrative expenses of the Federal Motor Carrier Safety Administration: FY 2006 $211,400,000; FY 2007 $217,500,000; FY 2008 $222,600,000; and FY 2009 $228,500,000.

Border Enforcement Grants: FY 2006 $33,000,000; FY 2007 $34,000,000; FY 2008 $35,000,000; and FY 2009 $36,000,000.

Performance and registration information system management grants program: $4,000,000 for each FYs 2006 through 2009.

Commercial driver's license and driver improvement program grants: FY 2006 $23,000,000; FY 2007 $23,000,000; FY 2008 $24,000,000; and FY 2009 $25,000,000.

Commercial vehicle information systems and networks deployment program: $25,000,000 for each FYs 2006 through 2009.

*Conference Substitute*

The conference adopts authorizing funds for FMCSA and its grant programs for FYs 2005 through 2009. For Motor Carrier Safety Grants: FY 2005 $188,480,000; FY 2006 $188,000,000; FY 2007 $197,000,000; FY 2008 $202,000,000; and FY 2009 209,000,000.

For administrative expenses of the Federal Motor Carrier Safety Administration: FY 2005 $254,849,000; FY 2006 $213,000,000; FY 2007 $223,000,000; FY 2008 $228,000,000; and FY 2009 $234,000,000.

Commercial Driver's License Program Improvement Grants: $25,000,000 for each FYs 2006 through 2009.

Border Enforcement Grants: $32,000,000 for each FYs 2006 through 2009.

Performance and Registration Information System Management Grants Program: $5,000,000 for each FYs 2006 through 2009.

Commercial Vehicle Information Systems and Networks Deployment program: $25,000,000 for each FYs 2006 through 2009.

### SEC. 4102. INCREASED PENALTIES FOR OUT-OF-SERVICE VIOLATIONS AND FALSE RECORDS

*House Bill*

*Sec. 4108.*

Subsection (a) doubles the penalties for recordkeeping violations under 49 U.S.C. 521(b)(2)(B) up to $1,000 for each day the offense continues, or up to $10,000 for an offense that misrepresents a non-recordkeeping violation. Subsection (b) increases to a maximum of $25,000 the civil penalty for a motor carrier that knowingly orders a driver to proceed despite an OOS order. Subsection (b) also increases a driver's penalty for a first offense to a 180-day disqualification and a civil penalty of at least $2,500, and, for a second offense, to a two- to five-year disqualification and a civil penalty of up to $5,000.

*Senate Bill*

*Sec. 7113.*

The civil penalties for recordkeeping violations are $500 for each day the offense continues, up to a maximum of $5,000, or $5,000 for each recordkeeping violation that can be shown to have misrepresented a fact constituting a non-recordkeeping violation. Subsection (a) would double these penalties to up to $1,000 for each day the offense continues, or up to $10,000 for an offense that misrepresents a non-recordkeeping violation. Recordkeeping violations frequently have no other purpose than to conceal a safety violation, and they often succeed. Higher penalties should reduce both the number of recordkeeping violations and, indirectly, the number of safety violations as well. The current penalties for a driver who violates an out-of-service (OOS) order are, for a first offense, a 90-day disqualification from operating a CMV and a civil penalty of at least $1,000 and for a second offense, disqualification for one to five years and a civil penalty of at least $1,000. An employer who knowingly allows or requires a driver to violate an OOS order is subject to a civil penalty of up to $10,000. OOS orders can be issued for a variety of reasons: for failure to pay civil penalties on schedule; for having an unsatisfactory safety rating; for violating the agency's hours-of-service or equipment regulations; or because the motor carrier constitutes an imminent hazard. Enforcement officers cannot afford to spend hours monitoring a single OOS vehicle, and tracking possible movements of an entire OOS fleet is even more difficult. As a result, many OOS orders are violated. One effective deterrent to violating an OOS order is to raise the cost to violators. Subsection (b) would increase to a maximum of $25,000 the civil penalty for a motor carrier that knowingly orders a driver to proceed despite an OOS order. An employer who knowingly and willfully ignores OOS orders is liable to imprisonment for up to a year or a fine of up to $100,000 if the violation did not result in death, or up to $250,000 if it did result in death, or both. The section also would increase penalties for drivers who decide on their own to ignore an OOS order. Subsection (b) would increase a driver's penalty for a first offense to a 180-day disqualification and a civil penalty of at least $2,500, and, for a second offense, to a two to five year disqualification and a civil penalty of up to $5,000.

*Conference Substitute*

The conference adopts the House approach. The conference also adopts the House approach found in Sec. 4213 of the House bill, which permits imprisonment, under Title 18, if an employer knowingly and willfully allows an employee to operate a CMV out-of-service.

### SEC. 4103. PENALTY FOR DENIAL OF ACCESS TO RECORDS

*House Bill*

*Sec. 4106.*

This provision creates the new section, 521(b)(2)(E), which creates a financial penalty to dissuade any uncooperative carriers or shippers from denying or impeding FMCSA's legitimate access to records.

*Senate Bill*

*Sec. 7109.*

FMCSA investigators have broad authority to inspect and copy motor carrier and shipper records and most carriers and shippers readily grant access to requested records. Some, however, deliberately impede the investigative process by refusing to set an audit date, or, after setting a date, by ordering investigators off the premises, occasionally with a show of force. Others take a more subtle approach, feigning illness or declaring an emergency during the audit, pleading inability to produce records because of the absence of key personnel, or delivering documents at a pace designed to prolong the audit beyond the time available to the investigator. While investigators can issue an administrative subpoena for documents, refusal to comply requires the agency to file an action in Federal court to enforce the subpoena. This process, though effective, is relatively slow and labor-intensive, and the cost to a carrier or shipper who does not seriously contest the action is minimal. This section would create a financial penalty to dissuade uncooperative carriers and shippers from denying or impeding FMCSA's legitimate access to records.

*Conference Substitute*

The conference adopts the Senate approach, with the inclusion of the House penalty amounts.

### SEC. 4104. REVOCATION OF OPERATING AUTHORITY

*House Bill*

No comparable provision in House bill.

*Senate Bill*

SEC. 7116.

This section would authorize the Secretary to suspend the registration of a motor carrier, a freight forwarder, or a broker for failing to comply with safety regulations established by the Secretary. In addition, the Secretary would be required to revoke the registration of a motor carrier that has failed to comply with Federal safety fitness requirements. The Secretary also would be required to revoke the registration of a motor carrier whose operations are an imminent hazard to public health or property. In order to suspend or revoke a registration, the Secretary must give prior notice to the registrant.

*Conference Substitute*

The conference adopts the Senate approach.

### SEC. 4105. STATE LAWS RELATING TO VEHICLE TOWING

*House Bill*

*Sec. 4136.*

This section permits states to create laws requiring towing companies to have prior written consent by the property or the property owner or lessee be present at the time the vehicle is towed.

*Senate Bill*

*Sec. 7129.*

This section permits states to create laws requiring towing companies to have prior written consent by the property or the property owner or lessee be present at the time the vehicle is towed. Also, the Secretary of Transportation must conduct a review of Federal, State, and local regulations relating to tow truck operations and conduct a study to identify issues related to the protection of consumer rights and identify potential remedies.

*Conference Substitute*

The conference adopts the House and Senate provisions to allow states to make laws requiring towing companies to have prior written consent or require the property owner or lessee to be present during a tow. The conference also agreed to require the Secretary of Transportation to study the issues relating to consumer protection of those who are towed and potential remedies.

### SEC. 4106. MOTOR CARRIER SAFETY GRANTS

*House Bill*

*Sec. 4102.*

Subsection (a) of this section reauthorizes MCSAP, with a number of changes. In addition to increases in authorized funding levels, the program would be amended to require the States to include five new requirements in their annual commercial vehicle safety plans: the implementation of performance-based activities, the establishment of a program ensuring accurate, complete, and timely motor carrier safety data is collected, reports, and corrected if incorrect, States including in their training manuals, for all drivers' licensing examinations, information about best practices for safely sharing the road with trucks and cars, enforcing the registration requirements of section 13902, of title 49, United States Code, by removing from service vehicles that are unregistered or operating beyond the scope of their registration, and States conducting highly visible traffic enforcement programs in locations or corridors that have been identified as having a high incidence of truck crashes.

Subsection (b) of this section details the new activities, such as enforcement of non-commercial motor vehicles when behavior of the drivers increases the risk of crashes, which States can use funds provided under the MCSAP. The Committee intends this new MCSAP authority to be used in direct relation to conducting highly visible roadside enforcement activities in high crash corridors. Subsection (c) of this section authorizes funding for the MCSAP. This funding is for the basic grant program, high priority grants, and the new entrant program. This bill does not continue the incentive program for MCSAP.

Subsection (d) of this section provides FMCSA the authority to provide grants without a matching requirement to the States to conduct safety audits of new entrant motor carriers. This subsection also increases the current amount of MCSAP funding available for high priority activities to 10 percent of the total funds authorized. In addition, this subsection also allows the Secretary to use up to $15,000,000 each fiscal year to conduct safety audits of new entrant motor carriers described in subsection (c).

*Senate Bill*

*Sec. 7107.*

This section provides language that ensures that inspections on motor carriers of passengers are conducted at stations, terminals, border crossings, or maintenance facilities, except in the case of an imminent or obvious hazard. It will provide that the training manual for the licensing examination to drive a motor vehicle of the State will include information on best practices for driving safely in the vicinity of motor vehicles. It also provides that the State will suspend the operation of any vehicle found to be operating without registration or beyond the scope of its registration. Under this section there are grants for activities carried out in conjunction with an appropriate inspection of a CMV to enforce Government or State regulations, including regulating commercial motor vehicle size and weight limitations at locations other than fixed weight facilities, at ports, or at other specific locations and for the detection of unlawful presence of controlled substance in a commercial motor vehicle or on any occupant of the vehicle. These grants are also for enforcement of State traffic laws and regulations designed for the safe operation of commercial motor vehicles. The Secretary may allocate new entrant motor carrier audit funds to States and local governments without requiring a matching contribution from such States or local governments. This section authorizes the following amounts from the Highway Trust Fund to carry out section 31102:

- 2006 $193,620,000
- 2007 $197,490,000
- 2008 $201,440,000
- 2009 $205,470,000

*Conference Substitute*

The conference adopts the House section (a) State Plan Contents and adds a modified version of the Senate's paragraph (U) regarding the location of bus inspections. The conference adopts the House section (b) Use of Grants to Enforce Other Laws with a modification of paragraph (c)(2). The conference agrees the states may not use more than 5% of the base amount the state receives for non-commercial motor vehicle enforcement. The state must maintain its level of inspection effort equal to the average amount from FY 2003, 2004, and 2005.

The Conference supports the use of new technologies, such as the Hazmat Trucking Enforcer, that enable inspectors to conduct inspections in a more effective manner. The Committee notes that States must be in substantial compliance with a number of requirements under 49 U.S.C. 31102 as a condition of receiving MCSAP funding, including requirements to deploy technology to enhance the efficiency and effectiveness of commercial motor vehicle safety programs under 49 U.S.C 31102(b)(1)(A), as amended.

### SEC. 4107. HIGH PRIORITY ACTIVITIES AND NEW ENTRANTS AUDITS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7107.*

As under current law, up to $15,000,000 for each FY 2006 through 2009 of MCSAP grant funds could be set aside for high priority activities that improve commercial motor vehicle safety and are national in scope. The section would require that at least 80 percent of funds set aside for high priority projects be awarded to State and local agencies. Although DOT has broad discretion to determine the details of the program, the Secretary would be required, at a minimum, to focus on reductions in the number and rate of fatal accidents involving CMVs. The Secretary is also required to designate up to $29,000,000 for audits of new entrant motor carriers and can withhold these funds from a State or local government that is unable to use government employees to conduct these audits. Should they be unable to do so, the Secretary would be authorized, but not be required, to expend the funds directly to carry out new entrant audits in those jurisdictions. The Secretary may also designate $2,000,000 in FY 2006 and up to $6,000,000 for FY 2007 through 2009 for the modernization of the commercial driver's license information system. This section also would clarify that funds provided for border enforcement grants are to go to States that share a border with another country. Grant recipients could not use Federal funds to replace State funds. As a condition of receiving a border enforcement grant, States would be required to maintain their own expenditures at a level at least equal to the average level of expenditure by the State for the two years before October 1, 2005.

*Conference Substitute*

The Conference adopts the Senate approach.

### SEC. 4108. DATA QUALITY IMPROVEMENT

*House Bill*

*Sec. 4115.*

This section adds language to the current information systems requirements to ensure that the data FMCSA receives from the States is complete, timely, and accurate.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

This section aims to ensure the safety data FMCSA receives from States is complete, timely, and accurate. This section was initiated because the Conferees' concern regarding the quality of the safety data in the motor carrier safety status measurement system (SafeStat) and the unresolved material weaknesses in the SafeStat data, as confirmed in a 2004 report of the Department's Inspector General. In addition, the Conferees are concerned that data quality issues affecting the MCMIS database may constrain its usefulness for certain purposes beyond general internal review and screening. The Conferees urge the Secretary to revisit this issue to determine if there are more accurate factors that could be utilized when determining whether to issue safety permits.

### SEC. 4109. PERFORMANCE AND REGISTRATION INFORMATION SYSTEM MANAGEMENT

*House Bill*

*Sec. 4114.*

Subsection (a) updates the current statute to more closely follow how the performance and registration information systems management (PRISM) program is currently administered. Subsection (b) establishes a new separate grant program for PRISM. These grants do not require a State match.

*Senate Bill*

*Sec. 7120.*

The Performance and Registration Information System Management Program (PRISM) is a voluntary program in which States can participate to identify motor carriers and hold them responsible for the safety of their operations. The program includes two major processes: a commercial vehicle registration process, through which States ensure that no vehicle is plated without identifying the carrier responsible for the vehicle's safety during the registration year, and a motor carrier safety improvement process, designed to improve the safety performance of motor carriers with demonstrated poor safety performance. As of March 2004, 27 States participated in the PRISM program, also the States of Alaska and New York have also provided the FMCSA with a Letter of Intent to implement the PRISM program. PRISM is an effective enforcement tool that enables the States to deny, suspend, or revoke a motor carrier's commercial motor vehicle registrations when FMCSA determines that the carrier has become unfit to operate CMVs safely. By itself, an out-of-service (OOS) order from FMCSA sometimes has little effect. However, when the State simultaneously confiscates the motor carrier's CMV license plates, the carrier's ability to continue operating without detection is greatly reduced. Grants to implement PRISM are authorized by section 103 of the bill. This section would establish in statute certain requirements for participation in the program. In order to participate, States would have to comply with uniform standards set by the Secretary and have the legal authority to impose CMV registration sanctions on the basis of a Federal safety fitness determination. Another condition for participation in the program would be that States cancel the motor vehicle registration, and seize the plates, of an employer who knowingly allows an employee to operate a CMV in violation of an OOS order.

*Conference Substitute*

The conference adopts both the House and Senate approach. The conference combined and clarified both the House and Senate language in the Conditions for Participation section.

### SEC. 4110. BORDER ENFORCEMENT GRANTS

*House Bill*

*Sec. 4103.*

Subsection (a) deletes contract authority funding for information systems by striking the section 31107 of title 49, U.S.C., where it currently is located. Funding for information systems is now included in the administrative expenses. Subsection (a) also creates a new grant program for border enforcement activities under the same section.

This grant program is for State enforcement activities at the Canadian and Mexican borders. No Federal activity would be conducted using this money. States would be authorized to use the grants for virtually anything related to Commercial Motor Vehicles (CMV) safety enforcement and compliance with State and Federal CMV requirements involving foreign motor carriers, including the purchase of land and buildings. Grant recipients could not use Federal funds to replace State funds and they would be required to maintain the average level of border-related expenditures during fiscal years 2003–2004. It is intended, and quite possible, that this money will not be distributed to every State that shares a border with another Country, but will only be distributed to States with an identified need. These grants do not require a State match.

*Senate Bill*

*Sec. 7107(b).*

This section also would clarify that funds provided for border enforcement grants are to go to States that share a border with another country. Grant recipients could not use Federal funds to replace State funds. As a condition of receiving a border enforcement grant, States would be required to maintain their own expenditures at a level at least equal to the average level of expenditure by the State for the two years before October 1, 2005.

*Conference Substitute*

The conference adopts the House approach, and the Senate approach regarding Noncompliance with CDL Requirements.

### SEC. 4111. MOTOR CARRIER RESEARCH AND TECHNOLOGY PROGRAM

*House Bill*

*Sec. 4112.*

This section authorizes a comprehensive FMCSA research and technology program under section 31108 of title 49, U.S.C. The Federal share of the cost of activities carried out under a cooperative research and development agreement could not exceed 50 percent, except if there is substantial public interest or benefit, the Secretary could approve a greater Federal share.

*Senate Bill*

*Sec. 7118.*

This section would establish a motor carrier research and technology program. The goal is to support, through contracts, cooperative agreements, and grants, research designed to produce innovative advances in motor carrier, driver, and passenger safety. Equally critical, however, would be the transfer of promising results, whether technical or operational, to potential users and rapid deployment of the fruits of research and development. The Federal share of the cost of activities carried out under a cooperative research and development agreement will not exceed 50 percent, except when there is substantial public interest or benefit, as determined by the Secretary. Research, development, or use of a technology under a cooperative research and development agreement, including the terms under which the technology may be licensed and the resulting royalties may be distributed, would be subject to the Stevenson-Wydler Technology Innovation Act of 1980.

*Conference Substitute*

The conference adopts the House approach with clarification of language in the Research, Development, and Technology Transfer Activities section.

### SEC. 4112. NEBRASKA CUSTOM HARVESTERS LENGTH EXEMPTION

*House Bill*

*Sec. 4138.*

This section allows the State of Nebraska to permit the length of commercial motor vehicles used exclusively for hauling custom harvesters to 81 feet, 6 inches.

*Senate Bill*

No comparable provision in Senate bill.

*Conference*

The conference adopts the House approach.

### SEC. 4113. PATTERN OF SAFETY VIOLATIONS BY MOTOR CARRIER MANAGEMENT

*House Bill*

*Sec. 4111.*

Some motor carrier managers and brokers order, encourage, or tolerate widespread regulatory violations and, when caught, declare bankruptcy, rename the company and reshuffle the managers' titles, sell its assets to a pre-existing shell corporation owned and managed by the same people, or otherwise attempt to evade the payment of civil penalties, obscure the identity of the company and thus its violation record, and perpetuate a casual indifference to regulatory compliance and public safety. Although the total number of such managers and brokers are small, their actions create risks disproportionate to their numbers.

This section addresses these problems. It amends 49 U.S.C. 31135 to authorize the Secretary to suspend, amend, or revoke the registration of a for-hire motor carrier if any of its officers has engaged in a pattern or practice of avoiding compliance, or concealing non-compliance, with Federal standards. The Secretary could also deny an application to register as a for-hire motor carrier if any of the proposed officers of the company has engaged in a pattern of non-compliance. In this context, "officer" means owner, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor, driver supervisor, and any person exercising controlling influence over operations of a motor carrier.

This provision does not apply to all officers whose companies are found to be in violation of the Federal safety rules. Rather, it is intended to authorize the Secretary to force out of the industry those few who have shown unusual and repeated disregard for compliance.

*Senate Bill*

*Sec. 7117.*

Some motor carrier managers order, encourage, or tolerate widespread regulatory violations and, when caught, declare bankruptcy, rename the motor carrier, and reshuffle the managers' titles, sell its assets to a pre-existing shell corporation owned and managed by the same people, or otherwise attempt to evade the payment of civil penalties, obscure the identity of the motor carrier and thus its safety record. Although the total number of such managers is small, their actions create a risk disproportionate to their numbers. The section would address these problems by authorizing the Secretary to suspend, amend, or revoke the registration of a for hire motor carrier if any of its officers has engaged in a pattern or practice of avoiding compliance, or concealing non-compliance, with Federal motor carrier safety standards. In this context, "officer" means owner, director, chief executive officer, chief operating officer, chief financial officer, safety director, vehicle maintenance supervisor, and driver supervisor of a motor carrier. This provision would not apply to all motor carrier officers whose companies are found to be in violation of the Federal safety rules. Rather, it is intended to authorize the Secretary to force out of the industry those few motor carrier officers who have shown unusual and repeated disregard for safety compliance. It is expected that the Secretary would use this authority only in the most serious cases.

*Conference Substitute*

The conference adopts the House provisions without the Regulations and Cross Reference paragraphs.

### SEC. 4114. INTRASTATE OPERATIONS OF INTERSTATE MOTOR CARRIERS

*House Bill*

*Sec. 4110.*

In order to simplify and rationalize the analysis of accident data and provide a complete picture of the safety of motor carrier operations, subsection (a) requires the Secretary, in the course of determining the safety fitness of commercial motor vehicle (i.e., interstate) owners and operators, to consider the accident and inspection record of such owners and operators both on interstate and intrastate trips. In addition, owners and operators of commercial motor vehicles who are determined to be unfit and prohibited from operating in interstate commerce, are also prohibited by subsection (b) from operating commercial motor vehicles in intrastate commerce until they are able to demonstrate their fitness. Subsection (c) directs the Secretary to place all interstate operations of a motor carrier out of service if a State has placed out of service the intrastate operations of a carrier that has its principal place of business in that State.

This subsection also provides the Secretary the authority to make grants to the States to conduct new entrant safety audits. This funding requires no State match; however, if the Secretary determines that a State is unable to use government employees to conduct these activities, the Secretary may utilize the funding to conduct new entrant audits with Federal resources.

*Sec. 4133.*

This provision permits DOT to determine whether a motor carrier or operator is fit to operate a commercial motor vehicle by considering their safety record while operating in interstate, intrastate, and Canadian and Mexican commerce.

*Senate Bill*

*Sec. 7114.*

As defined in 49 U.S.C. 31132(1), a vehicle is not a CMV unless it operates in interstate commerce. One of the implications of the definition is that the Secretary's authority to determine the safety fitness of CMV owners and operators encompasses the accident and safety inspection record of such companies or individuals on interstate trips, but not on intrastate trips. Most interstate motor carriers also have substantial intrastate operations. For safety purposes, it is artificial and counterproductive to create two classes of accidents and safety inspection data (one subject to Federal jurisdiction, the other not) when both classes typically involve the same vehicles, drivers, dispatchers, mechanics, and safety management controls, and may be involved in the same kind of accidents or violations. In examining a motor carrier's accident and inspection data, it is often difficult, and sometimes impossible, to determine whether the vehicle involved was making an interstate or intrastate trip. This has produced significant variation and potential for inaccuracy in the accident rates and Motor Carrier Safety Status Measurement System scores calculated for motor carriers, and thus in DOT's ability to hold all carriers to the same standard. In order to simplify and rationalize the analysis of accident data and provide a more complete picture of the safety of motor carrier operations, subsection (a) would require the Secretary, in the course of determining the safety fitness of CMV owners and operators, to consider the accident and inspection record of such owners and operators both on interstate and intrastate trips. In addition, owners and operators of CMVs who are determined to be unfit and prohibited from operating in interstate commerce, also would be prohibited from operating CMVs in intrastate commerce until they are able to demonstrate their fitness. There is no good reason to allow an unfit interstate carrier to narrow its operations to a single State, and thus visit its safety deficiencies upon the residents of that State alone. Finally, the Secretary would be directed to place all interstate operations of a motor carrier out of service if a State has placed out of service the intrastate operations of a carrier that has its principal place of business in that State. A Federal safety determination that an interstate motor carrier is unfit would thus halt both its interstate and intrastate operations, while a State safety determination that an intrastate carrier is unfit will halt both its intrastate and any interstate operations.

*Conference Substitute*

The conference adopts the Senate General section and the House Prohibited Transportation and Determination of Unfitness by a State section.

### SEC. 4115. TRANSFER PROVISION

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7108.*

This section codified certain motor carrier regulation provisions in Title 49, United States Code.

*Conference Substitute*

The Conference adopts the Senate position with modification. The Conference agreed to transfer this provision to a section of the Motor Carrier Safety Improvement Act of 1999.

### SEC. 4116. MEDICAL PROGRAM

*House Bill*

*Sec. 4107.*

This section requires FMCSA to establish a Medical Review Board to serve as a source of up-to-date medical advice for FMCSA on matters related to driver qualification rules, guidelines for medical examiners, and standards for medical exemptions under 49 U.S.C. 31315(b). This section also includes a provision to establish a five-member Medical Review Board to make recommendations on medical standards for commercial drivers, medical examiner education, and medical research.

*Senate Bill*

*Sec. 7110.*

Section 110 would create a five-member Medical Review Board to provide FMCSA medical advice and recommendations on driver qualification medical standards and guidelines, medical examiner education, and medical research. The Secretary, with the advice of the Medical Review Board, would be required to develop medical standards for CMV drivers, requirements for periodic physical examinations, requirements for current valid medical certificates; courses for medical examiners, requirements for electronic transmittal of applicant and numerical identifier for any completed medical examination report, and to periodically review a representative sample of the medical examinations reports. Every CMV driver would be required to have a current valid medical certificate. A national registry of medical examiners would be established and only physicians listed on the registry could perform CMV driver physical exams and issue medical certificates.

*Conference Substitute*

The Conference adopts the Senate provisions with modifications. The Conference adopts the Senate provision establishing the Medical Review Board and the Chief Medical Officer with technical modifications. The Conference adopts the Senate provision on medical standards and requirements, but modifies the provision to require, at a minimum, self-certification by medical examiners to ensure they have completed required training in the physical and medical examination standards set by the Secretary of Transportation. The Conference does not adopt the Senate provision requiring the Secretary to issue medical certificates until such authority has been delegated to qualified medical examiners. The Conference adopts the Senate provisions creating the National Registry of Medical Examiners with a modification allowing the Secretary to make participation in the Registry voluntary if such a change will enhance the safety of operators of commercial motor vehicles. The Conference adopts the definition of "medical examiner".

### SEC. 4117. SAFETY PERFORMANCE HISTORY SCREENING

*House Bill*

*Sec. 4127.*

In order to improve motor carrier safety, this provision requires the Secretary to provide companies conducting pre-employment screening services for motor carrier employers, electronic access to commercial motor vehicle accident reports involving a driver-applicant that are collected and maintained by FMCSA in its Motor Carrier Management Information System (MCMIS). The accidents reported to FMCSA must meet the accident definition found in 49 CFR 390.5.

This provision also requires the Secretary to provide electronic access to roadside safety inspection reports involving a driver-applicant that resulted in a serious driver-related safety violation. This electronic access may be accomplished only after the prospective employer obtains written consent of the driver applicant. This safety compliance and performance information is unique to MCMIS and, therefore, is not found on any other national database. Prohibiting the release of this driver safety information unless expressly authorized or required by law protects driver privacy. The Secretary may require a fee from companies conducting pre-employment screening services to cover necessary administrative costs to implement this screening service.

*Senate Bill*

*Sec. 7124.*

This section requires the Secretary of Transportation to provide electronic access of commercial motor vehicle accident report information and all driver safety violations contained in the Motor Carrier Management Information System to companies conducting pre-employment screening services for the motor carrier industry. The information released to these companies will require the written consent of the driver applicant, be in accordance with all Federal laws, and will ensure the information is only made available to an authorized company or individual. The use of this pre-screening process is not mandatory and may be used only during the pre-employment assessment of a driver-applicant.

*Conference Substitute*

The conference adopts the House approach.

### SEC. 4118. ROADABILITY

*House Bill*

*Sec. 4128.*

This section directs the Secretary to initiate a rule-making to ensure that equipment used to transport intermodal chassis are safe. The rulemaking must be completed no later than 1 year after enactment of this bill and must address a way to identify the equipment owner, a civil penalty structure, a petition process, and an inspection system.

*Senate Bill*

*Sec. 7127.*

This Senate provision would require the Secretary, not later than 1 year after enactment, to issue regulations establishing a program to ensure that intermodal equipment used to transport intermodal containers is safe and systematically maintained. The provision places the maintenance responsibility on the companies that provide the equipment and control the daily disposition of it. The provision would require the Secretary to promulgate certain regulations as a subpart of the regulations of the Federal Motor Carrier Safety Administration, including identifying intermodal equipment providers responsible for the inspection and maintenance of intermodal equipment and a requirement to match intermodal equipment to the equipment provider through a unique identifying number. A rulemaking proceeding for regulations under this section shall be established within 120 days after enactment of the Act. Under this section, any intermodal equipment determined under this section that fails to comply with applicable safety regulations may be placed out of service and the Secretary, or an employee of the DOT designated by the Secretary may inspect intermodal equipment and copy related maintenance and repair records. The provision preempts any law, regulation, order or other requirement of a State, political subdivision of the State, or tribal organization and defines several terms.

*Conference Substitute*

The conference adopts the Senate provision with technical modifications.

The conference supports an inspection system that shall maximize the use of available technologies, including electronically verified visual inspections, whenever appropriate.

### SEC. 4119. INTERNATIONAL COOPERATION

*House Bill*

*Sec. 4113.*

This section authorizes the Secretary, and thus FMCSA, to engage in international activities. This kind of authority is necessary to aid in implementing the North American Free Trade Agreement and to carry on discussions with U.S. trading partners concerning a variety of safety issues.

*Senate Bill*

*Sec. 7119.*

This section would authorize the Secretary to participate in international activities to enhance motor carrier safety. FMCSA needs this authority to aid in implementing the North American Free Trade Agreement (NAFTA) and to carry on discussions with U.S. trading partners concerning a variety of safety issues.

*Conference Substitute*

The conference adopts the House approach, which has the same intent as the Senate language.

### SEC. 4120. FINANCIAL RESPONSIBILITY FOR PRIVATE MOTOR CARRIERS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7112.*

The section would extend to private motor carriers the existing requirement for for-hire motor carriers to maintain minimum levels of financial responsibility to cover public liability and property damage for the transportation of passengers or goods. The Secretary may require private carriers to file the same evidence of financial responsibility that is required of for-hire carriers.

*Conference Substitute*

The conference agrees to include not-for-hire motor carriers and passenger carriers in the requirement for minimum financial responsibility.

### SEC. 4121. DEPOSIT OF CERTAIN CIVIL PENALTIES INTO HIGHWAY TRUST FUND

*House Bill*

*Sec. 4119.*

This section amends current law to deposit all civil penalties collected from motor carriers for violations of the Federal insurance requirements into the Highway Trust Fund, other than the Mass Transit Account.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The conference adopts the House approach.

### SEC. 4122. CDL LEARNER'S PERMIT PROGRAM

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7152.*

Pursuant to recommendations made by the DOT Inspector General, this section would require that individuals pass a written test to obtain a CMV license learner's permit. Learner's permits would be incorporated into the CDLIS database.

*Conference Substitute*

The conference adopts the Senate approach.

### SEC. 4123. COMMERCIAL DRIVER'S LICENSE INFORMATION SYSTEM MODERNIZATION

*House Bill*

*Sec. 4125.*

This section creates a grant program to be used to modernize the commercial driver's license information system (CDLIS). Since the creation of CDLIS, improvements to the database and operability of the system have not kept up with improvements in technology. This program helps to modernize the system and improve the State licensing and Federal enforcement personnel's ability to access necessary information.

This section also allows the Secretary to conduct a pilot project in 3 States to evaluate a program for sharing information about all drivers' licenses, both commercial and non-commercial, between States.

*Senate Bill*

*Sec. 7154.*

This section would require the Secretary of Transportation to establish an account to be known as the "Information System Modernization Account" (ISMA). Fees in excess of the costs of operating the information system collected for any fiscal year beginning after FY 2006 by the Secretary of Transportation, or an organization that represents the interests of the States would be credited to the ISMA. These funds would be available only for the purpose of modernizing the information system. This section would also require the Secretary to establish a comprehensive plan for modernization of the information system and set a date by which each State must convert to the new information system. Also, within one year of enactment of this Act, the Inspector General of the Department of Transportation shall perform a baseline audit of the information system that includes an assessment of the validity of the data in the information system, an assessment of the extent to which convictions are validly posted on a driver's record, recommendations to the Secretary of Transportation on how to update the baseline audit annually to ensure that any shortcomings in the information system are addressed, and a methodology for conducting the update, and any recommendations the Inspector General feels necessary to improve the integrity of the data collected.

*Conference Substitute*

The conference adopts the House approach and includes additional Senate criteria for the modernization plan. The plan requires states to fund future efforts to modernize the commercial driver's information system. The pilot program is not included in the conference agreement. The Senate's Baseline Audit provision is adopted.

### SEC. 4124. COMMERCIAL DRIVER'S LICENSE IMPROVEMENTS

*House Bill*

*Sec. 4104.*

Subsection (a) creates a new program for commercial driver's license improvement grants. These grants enable States to improve the implementation of their commercial driver's license programs. Unlike the border grants, these funds may not be used to purchase land or buildings. In order to apply for a grant, a State must first conduct a self-assessment and identify deficiencies in their commercial driver's license program. Based on these assessments, the State will then apply for the appropriate amount of funding to correct these issues. The State must also maintain an average level of commercial driver's license expenditures during the fiscal years 2003–2004. The government share for these grants is 80 percent. Five percent of these funds will be set aside for high priority commercial driver's license activities.

Subsection (c) authorizes the Secretary to redirect up to 5 or 10 percent of the funds a State receives under this program, if the State is found to be in serious non-compliance with the commercial driver's license program. The penalty provisions found in the CDL statutes have been amended to encourage the Secretary, through more flexibility, to assess penalties for non-compliance.

*Senate Bill*

*Sec. 7153.*

This section would allow the Secretary to make a grant to a State to improve the implementation of the commercial driver's license program, providing that the State is making a good faith effort toward substantial compliance with the requirements made in this bill. The State may use this grant for expenses related to its commercial driver's license program, but the grant may not be used to rent, lease, or buy land or buildings.

The Secretary would reimburse a State for no more than 80 percent of the cost of the improvements and each State would be required to maintain its previous level of CDL expenditures. The Secretary could designate up to 10 percent of the funds available under this subsection for high-priority grants. The Secretary could also designate up to 10 percent of the CDL grant funds for discretionary allocations to State agencies, local governments, or other persons to deal with emerging problems. Up to 0.75 percent of the funds available for CDL grants could be deducted for administrative expenses.

*Conference Substitute*

The Conference adopts the House approach.

### SEC. 4125. HOBBS ACT

*House Bill*

*Sec. 4105.*

Subsection (a) amends the Hobbs Act to make explicit the interpretation given to that act by a series of decisions of the U.S. Circuit Courts of Appeals. The Courts reviewed whether an action by FMCSA pursuant to the safety authority transferred in 1966 could still be reviewed by the Courts of Appeal, since section 2342(3)(A) applied to the commercial statutes, while section 2342(5) applied to actions of the STB. Subsection (a) ensures that both of these issues would be covered by inserting in section 2342(3)(A) a reference to "subchapter III of chapter 311, chapter 313, and chapter 315 of Part B of subtitle VI of title 49." FMCSA's safety statutes are codified there, including statutes enacted after 1966. All safety statutes would thus be subject to exclusive review by the Courts of Appeal.

Subsections (b) and (c) simply replace the term "Federal Highway Administration" with "Federal Motor Carrier Safety Administration" in 49 U.S.C. 351(a) and 352.

*Senate Bill*

*Sec. 7108.*

Subsection (a) would amend the Hobbs Act to make clear that all safety statutes are subject to exclusive review by the U.S. Courts of Appeal.

*Conference Substitute*

The conference adopts both the House and Senate provision which clarify safety statutes and Court of Appeals jurisdiction.

### SEC. 4126. COMMERCIAL VEHICLE INFORMATION SYSTEMS AND NETWORKS DEPLOYMENT

*House Bill*

*Sec. 4109.*

This section transfers the commercial vehicle information system and networks deployment program from FHWA to FMCSA in order to streamline the grant process. This streamlined process is intended to ensure the completion of the core deployment of commercial vehicle information systems and networks. Subsection (a) provides general direction to carry out the commercial vehicle information systems and networks deployment program. Subsection (b) describes the overall purpose of the commercial vehicle information systems and networks deployment program.

Subsection (c) requires the Secretary to make grants of up to $2.5 million for the core deployment of commercial vehicle information systems and networks. A State that has previously received funding for the core deployment of commercial vehicle information systems and networks would receive a grant that has been reduced by the amount of funds previously received for core deployment. States that have not previously received funding for core deployment would receive a grant of $2.5 million.

Subsection (d) authorizes the Secretary to make grants to States for the expanded deployment of commercial vehicle information systems and networks. The amount of the grants is determined by the amount of funds that remain after the core deployment grants have been made and by the number of States that request an expanded deployment grant. The maximum expanded deployment grant that may be given to a State in a fiscal year would be $1 million. Only States that have completed core deployment would be eligible for an expanded deployment grant. Subsection (e) describes the eligibility requirements to receive these grants.

Subsection (f) provides that the Federal share of grant funds under this section is 50 percent. The Federal share for funds used for commercial vehicle information systems and networks from all eligible sources would be 80 percent.

*Senate Bill*

*Sec. 7121.*

This section would provide State grants to complete core deployment of the CVISN. The purpose of this program is to provide technological advances in commercial vehicle operations. "Core deployment means the deployment of systems necessary to provide safety information exchange to electronically collect and transmit commercial vehicle and driver inspection data at a majority of inspection sites; to connect to the Safety and Fitness Electronic Records (SAFER) system for access to interstate carrier and commercial vehicle data. summaries of past safety performance, and commercial vehicle credentials information; and to exchange carrier data and commercial vehicle safety and credentials information within the State and connect to SAFER for access to interstate carrier and commercial vehicle data.

*Conference Substitute*

The conference adopts the House approach. with the inclusion of the Senate Purpose and Federal Share provision.

### SEC. 4127. OUTREACH AND EDUCATION

*House Bill*

*Sec. 4120.*

This section authorizes the Secretary to conduct an outreach and education program through the FMCSA and NHTSA to promote highway safety. Elements of the program shall include a comprehensive national effort to educate commercial motor vehicle and passenger vehicle drivers about how to share the road safely with each other, as well as an emphasis on traffic enforcement aimed at reducing the most common driving behaviors that cause or contribute to crashes. similar to such programs as "Click It or Ticket" and drunk driving awareness campaigns. The Secretary is required to provide an annual report each year demonstrating the programs and activities carried out under this section.

The Committee has significantly increased the funding for the outreach and education program currently conducted by FMCSA, but with this legislation, the outreach program will be jointly managed by FMCSA and NHTSA. Although the Committee believes a strong enforcement program is important for improving commercial motor vehicle and highway safety. combining enforcement activities with a robust outreach and education program is necessary to maximize the results. Also, consistent with the recommendations in the U.S. General Accounting Office report GAO-03-680, the Committee recommends that the outreach and education activities conducted by FMCSA are directly linked to the program's goal and establish a systematic process for evaluating the effectiveness of the program.

*Senate Bill*

*Sec. 7122.*

The section would authorize FMCSA and NHTSA to undertake outreach and education initiatives. The "Share the Road Safely" program would be jointly managed by the agencies and a total of $1 million would be authorized for the program for FY 2004.

*Conference Substitute*

The conference adopts the House approach.

### SEC. 4128. SAFETY DATA IMPROVEMENT PROGRAM

*House Bill*

*Sec. 4124.*

This section establishes a grant program to the States dedicated to improving the accuracy, timeliness, and completeness of the data provided to the Secretary. Prior to receiving a grant under this section, the State must complete an audit of its safety data system and develop a plan recognizing the needs and goals for improving its safety data system. The Secretary must provide a report every two years on the results of the program carried out under this section.

The Safety Data Improvement program is intended to address safety data problems identified in the DOT Inspector General's audit of FMSCA's database. FMSCA's limited resources require focusing on the motor carriers who are considered most "at risk". In order to do this, the data FMCSA uses for selecting carriers must be accurate, and timely. The Committee is concerned that without additional funding, the States may have trouble improving their data reporting.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House approach.

### SEC. 4129. OPERATION OF COMMERCIAL MOTOR VEHICLES BY INDIVIDUALS WHO USE INSULIN TO TREAT DIABETES MELLITUS

*House Bill*

*Sec. 4121.*

This section requires the Secretary to allow individuals who use insulin to treat their diabetes to operate commercial motor vehicles in interstate commerce without requiring the individual to have experience operating a commercial motor vehicle while using insulin.

The Committee directs FMCSA to issue a final rule to amend the current exemption program to allow individuals who use insulin to treat their diabetes to operate commercial motor vehicles in interstate commerce that is consistent with the findings of the expert medical panel report issued in July 2000. That report concluded that individuals could be qualified to operate a commercial motor vehicle following a one- to two-month period of adjustment to insulin use. This provision is intended to preempt FMSCA's notice of final disposition issued September 3, 2003, which requires an individual to have three years of experience operating a commercial motor vehicle in intrastate commerce while using insulin for treatment of diabetes before the individual could qualify to drive in interstate commerce. According to the American Diabetes Association, approximately 20 States do not have an intrastate exemption program for insulin-dependant commercial drivers, therefore, these drivers would never be able to meet the Federal requirement to drive in interstate commerce. The Committee is concerned that by issuing a notice of final disposition that is inconsistent with the finding of FMCSA's own expert medical panel, qualified drivers may not be able to get employed or stay employed.

*Senate Bill*

*Sec. 7111.*

This section would require the Secretary to issue a final rule that will allow individuals who use insulin to treat their diabetes to operate CMV in interstate commerce. The final rule may not require that an individual have experience operating a CMV while using insulin. However, the Secretary may require a minimum period of insulin use, consistent with the findings of FMCSA's expert medical panel made in July, 2000.

*Conference Substitute*

The Conference adopts the Senate's Revision of Final Rule and No Period of Commercial Driving While Using Insulin Required for Qualification and the House's Minimum Period of Insulin Use and Limitations.

### SEC. 4130. OPERATORS OF VEHICLES TRANSPORTING AGRICULTURAL COMMODITIES AND FARM SUPPLIES

*House Bill*

*Sec. 4134.*

This section continues to allow for operators of vehicles transporting agricultural commodities and farm supplies to not be subject to federal, State, and local laws, rules, regulations, or standards that limit the number of hours motor vehicle operators may remain on duty. This applies to operators transporting agricultural commodities during planting and harvest periods within a 100 air mile radius from the location of the distribution point for the farm supply.

*Senate Bill*

*Sec. 7128.*

This section would cause the regulations regarding maximum driving and on-duty time for drivers used by motor carriers to not apply during planting and harvesting periods, as determined by the States, to drivers transporting agricultural commodities or farm supplies for agricultural purposes in a State, if the transportation is limited to an area within a 100 mile radius from the source of commodities or the distribution site for the farm supplies. This section also provides a definition for the terms "agricultural commodity" and "farm supplies".

*Conference Substitute*

The conference adopts the House language as the base for this section, but uses the Senate definition of "Agricultural Commodity."

### SEC. 4131. MAXIMUM HOURS OF SERVICE FOR OPERATORS OF GROUND WATER WELL DRILLING RIGS

*House Bill*

*Sec. 4126.*

For operators of commercial motor vehicles transporting ground water well drilling rigs, this section preserves the 24-hour restart provision enacted in the NHS Designation Act and provides that no additional off-duty time (greater than 10 hours) shall be required to operate the vehicle.

*Senate Bill*

*Sec. 7140.*

The Senate bill contains a similar provision to the House bill.

*Conference Substitute*

The Conference adopts the House position modified to be consistent with section 4115 of the Conference Report.

### SEC. 4132. HOURS OF SERVICE FOR OPERATORS OF UTILITY SERVICE VEHICLES

*House Bill*

*Sec. 4131.*

This section provides an exemption for drivers of utility service vehicles from federal, State, and local laws, rules, regulations, or standards that limit the number of hours operators of utility service vehicles may remain on duty.

*Senate Bill*

*Sec. 7128.*

The section also clarifies the regulations regarding commercial motor vehicles providing transportation of property or passengers to or from a theatrical or television motion picture production and also for utility service vehicles.

*Conference Substitute*

The conference adopts the House approach.

### SEC. 4133. HOURS OF SERVICE RULES FOR OPERATORS PROVIDING TRANSPORTATION TO MOVIE PRODUCTION SITES

*House Bill*

*Sec. 4135.*

This section permits operators of commercial motor vehicles transporting property or passengers to or from a movie or television production site to be regulated by the Hours of Service regulations in effect on April 27, 2003.

*Senate Bill*

*Sec. 7128.*

The section also clarifies the regulations regarding commercial motor vehicles providing transportation of property or passengers to or from a theatrical or television motion picture production.

*Conference Substitute*

The conference adopts the identical language found in the House and Senate bills.

### SEC. 4134. GRANT PROGRAM FOR COMMERCIAL MOTOR VEHICLE OPERATORS

*House Bill*

*Sec. 4122.*

This section establishes a grant program to train drivers and future drivers of commercial motor vehicles to operate such vehicles in a safe manner.

*Senate Bill*

*Sec. 1413.*

This section establishes a grant program to commercial driver training schools for the purpose of providing financial assistance to entry level drivers.

*Conference Substitute*

The conference adopts the House approach.

### SEC. 4135. CDL TASK FORCE

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7151.*

This section would require the Secretary to convene a task force to study and report on the need for improvements to the CDL program in order to improve safety. The task force would be required to address such issues as State enforcement practices, operational procedures to detect and deter fraud, needed improvements for seamless information-sharing between States, updated technology, and timely notification from judicial bodies of traffic and criminal convictions involving CDL holders. The task force would be required to submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within two years following enactment.

*Conference Substitute*

The conference adopts the Senate approach.

### SEC. 4136. INTERSTATE VAN OPERATIONS

*House Bill*

*Sec. 4130.*

This section directs the Secretary to extend the Federal motor carrier safety regulations found in 49 Code of Federal Regulations, Parts 387, 390 through 399 to all operations of commercial motor vehicles designed to transport between nine and fifteen passengers (including the driver), regardless of their operational distance. This section amends the final rule issued by the DOT on August 12, 2003.

The Committee intends the Secretary to address this situation through the rulemaking process. As part of the rulemaking, the Secretary shall amend the final rule addressing commercial motor vehicles transporting nine to fifteen passengers to specifically exempt vanpool operations as defined by section 132(f) of the Internal Revenue Code. The rulemaking also exempts stretch sedan limousines that are designed to seat nine to fifteen passengers. The rule-making does not exempt SUV stretch limousines, or super stretch sedan limousines that are designed to seat sixteen or more passengers (including the driver).

*Senate Bill*

*Sec. 7106.*

This section requires the Secretary to require that a safety audit be immediately changed to a compliance review and appropriate actions be taken if there are any safety violations by a new motor carrier entrant. It also ensures that the Secretary enforces Federal motor carrier safety regulations that apply to interstate CMVs designed to transport between 9–15 passengers, regardless of distance traveled.

*Conference Substitute*

The conference adopts the identical House and Senate language applying the Federal Motor Carrier Safety Regulations to interstate van operations. Further, the conference agrees to exempt vanpool operations from this regulation.

### SEC. 4137. DECALS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7126.*

This section requires that FMCSA abide by the agreement it has with the Commercial Vehicle Safety Alliance (CVSA) to the extent possible in accordance with the law, that CVSA shall not restrict the sale of commercial motor vehicle safety inspection decals to FMCSA. CVSA and FMCSA have a long-standing and successful partnership in ensuring the safety of commercial motor vehicles. A recent dispute regarding safety inspection decals between the two entities suggests that processes for resolving disputes should be improved. While the Committee expects FMCSA to live up to its commitments with CVSA, the Committee also believes that inspection decals should not be unilaterally withheld from the Federal agency responsible for ensuring motor carrier safety.

*Conference Substitute*

The conference adopts the Senate approach.

### SEC. 4138. HIGH RISK CARRIER COMPLIANCE REVIEWS

*House Bill*

No provision in House bill.

*Senate Bill*

*Sec. 7104.*

The Senate bill requires the Secretary to ensure that safety compliance reviews of motor carriers are completed for carriers that have demonstrated that they pose the highest safety risk. A single compliance review is required for any motor carrier that is rated as category A or B for two consecutive months.

*Conference Substitute*

The Conference adopts the Senate provision with a modification to clarify that multiple compliance reviews are not required for carriers that are rated as category A or B for more than two consecutive months.

### SEC. 4139. FOREIGN COMMERCIAL MOTOR VEHICLES

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7123.*

The Senate bill requires the Administrator of the Federal Motor Carrier Safety Administration to conduct outreach and training to state safety enforcement personnel on the enforcement of operating authority requirement for motor carriers. The Senate bill requires a study and a report by the Administrator on the degree to which Canadian and Mexican commercial motor vehicles currently expected to operate in the United States comply with U.S. federal motor vehicle safety standards.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 4140. SCHOOL BUS DRIVER QUALIFICATIONS AND ENDORSEMENT KNOWLEDGE TEST

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7155 and Sec. 7606*

The Senate bill requires the Secretary to recognize school bus drivers who pass an approved test as having met a certain requirement. The Senate bill also delays the effective date of a requirement for school bus drivers until September 30, 2006.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 4141. DRIVEWAY SADDLEMOUNT VEHICLES

*House Bill*

*Sec. 4116.*

This section creates a new national standard for the maximum length of drive-away saddlemount with fullmount vehicle transporter combinations operated on the Interstate Highway System.

*Senate Bill*

No provision.

*Conference Substitute*

The conference adopts the House provision.

### SEC. 4142. REGISTRATION OF MOTOR CARRIERS AND FREIGHT FORWARDERS

*House Bill*

*Sec. 4118.*

This section harmonizes the jurisdictional reach of the commercial and the safety statutes by eliminating the requirement for motor carriers to register if they are not subject to the Federal motor carrier safety regulations.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The conference adopts the House version.

### SEC. 4143. AUTHORITY TO STOP COMMERCIAL MOTOR VEHICLES

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Section 7115.*

The section would authorize FMCSA officials to order trucks on the road to stop for inspection. Today, State MCSAP officers, but not FMCSA officials, have such authority. With the opening of the Mexican border, however, Federal inspectors will play an expanded role in roadside enforcement. In addition, there is no guarantee that State or local police officers will always be available at border facilities or at other vehicle inspection facilities throughout the nation to order trucks to stop for an FMCSA inspection.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 4144. MOTOR CARRIER SAFETY ADVISORY COMMITTEE

*House Bill*

*Sec. 4123.*

This section requires the establishment of a commercial motor vehicle safety advisory committee to provide advice and recommendations on a range of commercial motor vehicle safety issues. Members are appointed by the Secretary and include representatives of industry, drivers, safety advocates, manufacturers, safety enforcement officials, representatives of law enforcement agencies from border States, and other individuals affected by rulemakings. No one interest may constitute a majority. The advisory committee should provide advice to the Secretary on commercial motor vehicle safety regulations and other matters relating to activities and functions of FMCSA.

*Senate Bill*

No provision.

*Conference Substitute*

The conference adopts the House version with modifications.

### SEC. 4145. TECHNICAL CORRECTIONS

*House Bill*

*Sec. 4132.*

Subsection (a) adds the Administrator as a member of the Intermodal Transportation Advisory Board.

Subsection (b) changes the reference from "Regional Director" to "Field Administrator", that position's correct title since the creation of the FMCSA in the Motor Carrier Safety Improvement Act of 1999.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The conference adopts this clarification of the code.

### SEC. 4146. EXEMPTION DURING HARVEST PERIODS

*House Bill*

No provision.

*Senate Bill*

No provision.

*Conference Substitute*

The conference agrees the maximum driving and on-duty time for a driver will not apply in the area west of Interstate 81 in New York during the harvest period and within 150 air mile radius from where grapes are picked or distributed.

### SEC. 4147. EMERGENCY CONDITION REQUIRING IMMEDIATE RESPONSE

*House Bill*

No provision.

*Senate Bill*

No provision.

*Conference Substitute*

The conference agrees regulations prescribed under 31136 or 31502 of 49 U.S.C. will not apply to a driver of a CMV which is used to transport propane winter heating fuel or a motor vehicle used to respond to a pipeline emergency if such regulations would prevent the driver from responding to an emergency condition requiring immediate response. "Emergency condition requiring immediate response" is also defined.

### SEC. 4148. SUBSTANCE ABUSE PROFESSIONALS

*House Bill*

*Sec. 4129.*

This section requires the Secretary to update the current regulatory definition of a substance abuse professional to include State licensed or certified mental health counselors, as well as individuals certified as addiction specialists by the American Academy of Health Care Providers in the Addictive Disorders.

*Senate Bill*

No provision.

*Conference Substitute*

The conference adopts the House provision with modification.

### SEC. 4149. OFFICE OF INTERMODALISM

*House Bill*

No provision.

*Senate Bill*

*Sec. 7601.*

The Senate provision allows the Director of the Office of Intermodalism to use funds made available for grants to the States under section 5504 of Title 49, United States Code to provide technical assistance for intermodal data collection. The provision also instructs the Director to develop a plan to improve the national intermodal transportation system and to do a progress report on such improvements. Additionally, the Director, in conjunction with the Director of the Bureau of Transportation Statistics, shall develop common measures to compare transportation investments across modes and to formulate new methodology for measuring the impacts of intermodal transportation.

*Conference Substitute*

The Conference adopts the Senate position with modifications.

## Subtitle B—Household Goods Transportation

Oversight of the interstate household goods moving industry had been the responsibility of the Interstate Commerce Commission (ICC) prior to the "sun-setting" of the ICC by the ICC Termination Act of 1995. Most Federal oversight responsibilities for the transportation of household goods were transferred to the FHWA and later transferred to FMCSA upon enactment of MCSIA in 1999. FHWA, and then FMCSA, focused their limited resources on its primary mission of highway safety, rather than on consumer protection. The lack of Federal oversight has permitted unscrupulous "rogue" household goods movers to exploit this regulatory gap. Subtitle B of title IV of this bill provides greater protection to consumers shipping their household goods via motor carrier. However, these provisions only relate to the movement of household goods motor carriers and brokers.

### SEC. 4201. SHORT TITLE

*House Bill*

No comparable provision in House bill.

*Senate Bill*

This section provides a Short Title.

*Conference Substitute*

The Conference adopts the Senate approach.

### SEC. 4202. DEFINITIONS; APPLICATION OF PROVISIONS

*House Bill*

*Sec. 4212.*

This section defines household goods motor carrier as in the business of providing transportation of household goods, and offering some or all of the following services: binding and nonbinding estimates, inventorying, protective packing and unpacking of individual items, and loading and unloading at personal residences.

*Senate Bill*

*Sec. 7402.*

This section provides that the terms "carrier", "household goods", "motor carrier", "Secretary", and "transportation" have the meaning specified in section 13102 of title 49, United States Code. This section defines household goods motor carrier as in the business of providing transportation of household goods, and offering some or all of the following services: binding and nonbinding estimates, inventorying, protective packing and unpacking of individual items at personal residences, and loading and unloading at personal residences. The provision applies a limited service exclusion indicating a motor carrier solely providing transportation of household goods entirely packed in, or unpacked from, one or more containers of trailers by the individual shipper of an agent thereof is excluded from this definition.

*Conference Substitute*

The Conference adopts the Senate approach along with a modification to the Limited Service Exclusion. This section differentiates between household goods carriers and freight motor carriers.

### SEC. 4203. PAYMENT OF RATES

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7403.*

Under current law, a carrier must give up possession of the property being transported upon receipt of payment (49 U.S.C. 13707(a)). This section codifies existing regulations that require a carrier to give up possession of the household goods so long as the shipper pays the mover 100 percent of a binding estimate of the charges or 110 percent of a nonbinding estimate of the charges. Shippers are not required, as a condition of delivery, to pay unforeseen additional charges not included in a binding or non-binding estimate that are necessary to complete the move. This section also provides that a mover may only charge a prorated share of charges (based on either a binding or non-binding estimate) for the partial delivery of a shipment. Under current law, movers may require a shipper to pay 100 percent of the charges in a binding estimate or 110 percent of the charges of a non-binding estimate at the time of delivery even if part of the shipment is lost or destroyed. The section also states that the charges collected at delivery for impracticable operations can not exceed 15 percent of all other charges due at delivery. Post-contract services requested by a shipper after the contract is executed are not covered by this provision.

*Conference Substitute*

The Conference adopts the Senate approach.

### SEC. 4204. ADDITIONAL REGISTRATION REQUIREMENTS FOR MOTOR CARRIERS OF HOUSEHOLD GOODS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7415.*

This section requires that the Secretary may only register a person to provide transportation of household goods only after that person has provided evidence of participation in an arbitration program; identified its tariff and provided a copy of the notice of the availability of that tariff for inspection; provided evidence that it has access to, has read, is familiar with, and will observe all laws relating to consumer protection, estimating, consumers' rights and responsibilities, and options for limitations of liability for loss and damage; disclose any relationship involving common stock, common ownership, common management, or common familial relationships between that person and any other motor carrier within the last 3 years.

*Conference Substitute*

The Conference adopts the Senate approach.

### SEC 4205. HOUSEHOLD GOODS CARRIER OPERATIONS

*House Bill*

*Sec. 4210.*

This section requires household goods motor carriers to provide written estimates for shipments of household goods. When providing these estimates, the motor carrier must conduct a physical survey of the household goods to be transported. A shipper may waive the on-site survey, but a copy of the waiver must accompany the estimate and remain as an addendum to the bill of lading.

This section also provides definitions of binding, and non-binding, estimates. The binding estimate guarantees the total cost of the move based upon the quantities and services shown on the estimate.

*Senate Bill*

*Sec. 7404.*

This section requires that, at the time a written estimate is provided, the carrier must provide the shipper a copy of DOT's pamphlet "Ready to Move?". Further, before a contract for service is executed, the carrier must provide the shipper a copy of DOT's booklet "Your Rights and Responsibilities When You Move". The written estimate may be either binding or nonbinding, and must be based on a visual inspection of the household goods if they are located within a 50 mile radius of the location of the carrier's household goods agent preparing the estimate.

*Conference Substitute*

The Conference combines the House and Senate approach for the writing requirement and estimates. The Conference also adopts the Senate approach of providing education material to shippers and potential shippers.

### SEC. 4206. ENFORCEMENT OF REGULATIONS RELATED TO TRANSPORTATION OF HOUSEHOLD GOODS

*House Bill*

*Sec. 4201.*

This section confers authority to a State attorney General of any state to bring a civil action on behalf of its residents in an appropriate district court of the United States to compel a motor carrier to relinquish possession of a household goods shipment or to pay a civil penalty assessed under section 14915.

For purposes of bringing any civil action under this section, nothing in this section shall prevent a State Attorney General from exercising the powers conferred on the Attorney General by the laws of such State to conduct investigations or to administer oaths or to compel the attendance of witnesses or the production of documentary and other evidence.

Whenever a civil action has been instituted on a defendant by, or on behalf of, the Secretary for violation of any provision specified in this section, a State may not institute a civil action under this section. A civil action under this section may be brought in the district in which the defendant is found, resides, or transacts business or whenever venue is proper under section 1391 of title 28.

This section allows State attorneys general to pursue civil penalties in any appropriate district court of the United States in cases where a "rogue mover" committed repeated violations of holding household goods hostage. This ability to enforce Federal law by State officials will be a huge step towards improving the consumer protection that has been lacking since the termination of the ICC, and will help augment the limited Federal resources currently available. Although, this additional power may be seen by some as an infringement on the long-standing "Carmack" amendment, the Committee was careful not to touch upon any more than was necessary to ensure proper enforcement at the State level.

*Senate Bill*

*Sec. 7407.*

This section allows a State authority that regulates the intrastate movement of household goods to enforce Federal laws and regulations with respect to the transportation of household goods in interstate commerce. Fines or penalties imposed as a result of State enforcement of Federal law would accrue to the State. A State attorney general would be authorized to bring a civil action in Federal court when the attorney general believes the interests of the residents of the State are being threatened by a carrier or broker. The State would be required to give the DOT or the STB written notice when an action is about to be filed. The DOT or the STB would be authorized to intervene in the action and file petitions for appeal. The venue for a civil action would be the judicial district where the carrier or broker operates, or where the carrier or broker is authorized to provide transportation, or where the defendant is found. Consistent with current law, nothing prohibits States from prosecuting for violations of a State criminal statute. Application of these provisions are limited to individual shippers, as defined in this section.

*Conference Substitute*

The Conference adopts the Senate approach, except the concept of substituting the Secretary of the Department of Transportation for the State in Federal Court.

### SEC. 4207. LIABILITY OF CARRIERS UNDER RECEIPTS AND BILLS OF LADING

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7405.*

This section would change the standard liability for loss and damage to full value protection, defined as the replacement cost in the event of loss or damage up to the pre-declared total value of the shipment. Movers would be allowed to offer "released rates" only if the shipper opts out, in writing, of full value protection.

*Conference Substitute*

The Conference adopts the Senate approach.

### SEC. 4208. ARBITRATION REQUIREMENTS

*House Bill*

*Sec. 4202.*

This section requires household goods carriers to offer shippers arbitration on all matters related to loss and damage, including disputes about charges. This section also increases the threshold for binding arbitration from $5,000 to $10,000. These two changes will provide the consumer with more options for settling disputes when they arise.

*Senate Bill*

*Sec. 7406.*

This section requires movers to offer shippers arbitration and raises the threshold for bidding arbitration from the current $5,000 to $10,000. Within 18 months following enactment, the Secretary is required to complete a review of the results and effectiveness of arbitration programs and submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. In preparing the review, the Secretary is required to provide an opportunity for public comment. The purpose is to investigate whether arbitrators are truly independent of both parties involved in a dispute.

*Conference Substitute*

The Conference adopts the House approach.

### SEC. 4209. CIVIL PENALTIES RELATING TO HOUSEHOLD GOODS BROKERS AND UNAUTHORIZED TRANSPORTATION

*House Bill*

*Sec. 4203.*

This section creates civil penalties for household goods brokers who provide estimates prior to entering into a contract with a household goods mover. This section also creates a civil penalty for anyone who transports household goods in interstate commerce without having the authority to conduct that activity.

*Senate Bill*

*Sec. 7412.*

This section makes a broker liable for a civil penalty of at least $10,000 if the broker is found to have made a cost estimate for a carrier to transport household goods without first entering into an agreement with the carrier to provide the service. Any person found to have provided the transportation of household goods or broker services without being registered to provide these services would be liable for a civil penalty of at least $25,000.

*Conference Substitute*

The Conference adopts the House approach.

### SEC. 4210. PENALTIES FOR HOLDING HOUSEHOLD GOODS HOSTAGE

*House Bill*

*Sec. 4204.*

This section creates civil penalties for anyone who holds a person's household goods hostage once full payment (up to 110 percent of the estimate) has been made. The civil penalty for holding household goods hostage shall not be less than $10,000, and if the person holding the goods hostage is a motor carrier, the carrier's operating authority will be suspended for 6 months.

This legislation codifies existing regulations that require a carrier to give up possession of a household goods shipment provided the shipper pays the mover 100 percent of a binding estimate of the charges, or 110 percent of a non-binding estimate of the charges.

One of the most important parts of Subtitle B of Title IV, is the new definition and penalties for the practice of holding household goods hostage. This situation arises when a household goods motor carrier informs the shipper that the charges for shipping or unloading the shipper's possessions have doubled, tripled, or even quadrupled, and the only way the carrier will unload the goods is upon payment of these higher charges. These actions, conducted primarily by "rogue movers," have gone largely unchecked in recent years. With the addition of civil penalties, Federal and State enforcement personnel have tremendous powers to prosecute these individuals.

*Sec. 4214.*

This section creates a criminal penalty for a household goods motor carrier who knowingly and willfully holds household goods hostage by falsifying documents or demanding payment of charges for services that were not performed or were not necessary.

*Senate Bill*

*Sec. 7413.*

The section defines the term "failed to give up possession of household goods" as willfully refusing to relinquish possession of a shipment of household goods for which the shipper has tendered payment described in 49 U.S.C. 13707. A carrier violating this provision is subject to a civil penalty of at least $10,000, for every day the shipment is held hostage constituting a separate violation, as well as a twelve to thirty-six month suspension of the carrier's DOT registration. A carrier convicted of holding household goods hostage by falsifying documents or demanding payment for charges not performed is subject to a fine under Title 18, imprisonment up to five years, or both.

*Conference Substitute*

The Conference adopts portions of both bills' penalty structure. The Conference agrees to a civil penalty of $10,000 per violation, with a separate violation for each day the violation occurs. The Conference also adopts the Senate position on registration requirements. The Conference adopts the Senate definition of "failure to give up possession of household goods" and the criminal penalty language, with the House criminal penalty of not more than two years.

### SEC. 4211. CONSUMER HANDBOOK ON DOT WEB SITE

*House Bill*

*Sec. 4206.*

This section requires the Secretary to publish a handbook about consumer's rights in readily understandable language and display it prominently on the DOT website.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House approach.

### SEC. 4212. RELEASE OF HOUSEHOLD GOODS BROKER INFORMATION

*House Bill*

*Sec. 4207.*

This section requires the Secretary to modify the regulations to require household goods brokers to provide shippers, or potential shippers, with information about the motor carriers the broker uses, the broker's DOT identification number, the general information handbook, and a statement that the broker is not a motor carrier.

The Committee intends to deter the current practice of some brokers who advertise over the Internet, providing a low estimate without seeing the items to be shipped, then trying to find a carrier to transport the household goods without regard to the rate the broker quoted the shipper.

*Senate Bill*

*Sec. 7409.*

Within one year after the date of enactment, the Secretary is required to modify regulations to require household goods motor carriers and brokers to maintain a website that displays their DOT assigned number and the DOT publication entitled "Your Rights and Responsibilities When You Move". Brokers also have to provide a list of all motor carriers used by the broker and a statement that the broker is not a motor carrier.

*Conference Substitute*

The Conference adopts the House approach.

### SEC. 4213. WORKING GROUP FOR DEVELOPMENT OF PRACTICES AND PROCEDURES TO ENHANCE FEDERAL-STATE RELATIONS

*House Bill*

*Sec. 4205.*

This section requires the Secretary to create a working group of State attorney generals, State consumer protection administrators and Federal and local law enforcement officials for the purpose of developing uniform enforcement procedures with respect to interstate transportation of household goods. Also, this working group is exempted from the Federal Advisory Committee Act.

*Senate Bill*

*Sec. 7408.*

This section requires the Secretary to establish a working group of State Attorneys General, State authorities that regulate the movement of household goods, and Federal and local law enforcement officials to develop practices and procedures to enhance the Federal-State partnership in enforcement efforts, exchange of information, and coordination of enforcement efforts, as well as to make recommendations for legislative and regulatory changes. The working group is required to consult with industries involved in the transportation of household goods, the public, and other interested parties.

*Conference Substitute*

The Conference adopts the House approach as modified with Senate language to include the public and other interested parties in the consultation.

### SEC. 4214. CONSUMER COMPLAINT INFORMATION

*House Bill*

*Sec. 4208.*

This section requires the Secretary to establish a system for logging consumer complaints about household goods movers in a database accessible to the public. This section also requires the Secretary to establish a way for carriers to correct any incorrect information on the database. The Secretary is encouraged to use this information when determining which carriers should be the subject of a commercial investigation.

*Senate Bill*

*Sec. 7410.*

This section directs the Secretary to establish a publicly accessible database of complaints related to motor carrier transportation of household goods. Complaints must be forwarded to the carrier involved, and the carrier is afforded an opportunity to challenge the information in the database. The Secretary is required to submit an annual report detailing the complaints that were filed and logged over that year.

*Conference Substitute*

The Conference adopts the House approach along with the Senate concept of providing public access to the complaint database.

### SEC. 4215. REVIEW OF LIABILITY OF CARRIERS

*House Bill*

*Sec. 4209.*

This section directs the Secretary to review current regulatory requirements regarding insurance coverage provided by household goods motor carriers to shippers. The review should determine whether the current regulations provide adequate protection, whether the shipper should purchase insurance as opposed to the carrier, and whether there are abuses of the current regulations that leave shippers unprotected.

*Senate Bill*

*Sec. 7411.*

Within one year after the date of enactment, the STB is required to complete a review of the Federal regulations regarding the level of liability protection provided by carriers to determine if current regulations provide adequate protection; whether shippers benefit from purchasing supplemental insurance coverage; and whether shippers are sometimes left unprotected. The STB also is required to make recommendations as to whether the current limitations on liability, known as the "Carmack Amendment", should be modified with respect to household goods movers.

*Conference Substitute*

The Conference adopts the Senate approach as modified to strike the review of the "Carmack Amendment".

### SEC. 4216. APPLICATION OF STATE CONSUMER PROTECTION LAWS TO CERTAIN HOUSEHOLD GOODS CARRIERS

*House Bill*

*Sec. 4211.*

This section requires the GAO to conduct a study of the impact on motor carriers and shippers of household goods if State Attorneys General and consumer protection agencies were allowed to enforce their State consumer protection laws and regulations with respect to interstate transportation of household goods. The GAO shall provide a report to Congress on the results of this study within 18 months after the date of enactment.

*Senate Bill*

*Sec. 7414.*

Not later than one year after the date of enactment, the Secretary is required to report to Congress on the progress made in implementing the provisions of this title.

*Conference Substitute*

The Conference adopts the House approach.

## Subtitle C—Unified Carrier Registration Act of 2005

### SEC. 4301. SHORT TITLE

*House Bill*

No provision.

*Senate Bill*

*Sec. 7131.*

The subtitle may be cited as the "Unified Carrier Registration Act of 2005".

*Conference Substitute*

The conference adopts the Senate provision.

### SEC. 4302. RELATIONSHIP TO OTHER LAWS

*House Bill*

No provision.

*Senate Bill*

*Sec. 7132.*

The section would clarify that the subtitle is not intended to prohibit a State from enacting or enforcing any law or regulation with respect to motor carriers that is not otherwise prohibited by law.

*Conference Substitute*

The conference adopts the Senate provision.

### SEC. 4303. INCLUSION OF MOTOR PRIVATE AND EXEMPT CARRIERS

*House Bill*

No provision.

*Senate Bill*

*Sec. 7133.*

This section would amend 49 U.S.C. 13905 to define "registration" for purposes of the UCRS and the UCRS Plan and Agreement as the filing by a carrier of a MCS Form 150 to obtain a DOT identification number. Registration includes those carriers who have obtained operating authority from the FMCSA, as well as those carriers exempt from the provisions of that chapter, such as intermodal carriers, transporters of agricultural products, private carriers, freight forwarders, brokers, and leasing companies. Although not affecting the levels or types of insurance required by private or for-hire carriers, the section extends the requirement to file evidence of financial responsibility in the amounts currently required by 49 U.S.C. 31138 and 31139 to all "registered" carriers. It does not affect the levels or types of insurance required by registered carriers. The section also would require the Secretary to prescribe the form of evidence that will be required of motor private carriers.

*Conference Substitute*

The conference adopts the Senate provision.

### SEC. 4304. UNIFIED CARRIER REGISTRATION SYSTEM

*House Bill*

*Sec. 4117.*

This section repeals the single state registration system and requires FMCSA to complete a rule-making for an on-line registration system to replace the old registration system originally administered by the Interstate Commerce Commission. This rulemaking must be completed within one year.

*Senate Bill*

*Sec. 7134.*

This section would direct the Secretary, in cooperation with States and industry representatives, to develop a single, on-line system, within one year following enactment, containing all records of motor carriers registered with DOT, including their safety data, DOT identification number (which will be replacing the MC number for all motor carriers), evidence of financial responsibility, and the service of process agents. Federal and State agencies, carriers, shippers and the public would have access to the system. The UCRS would replace the SSRS. The section also would require the Secretary to adopt procedures enabling a carrier to correct any erroneous data contained anywhere in the UCRS and sets the parameters for a fee system with respect to the filing and retrieval of information from the UCRS. The fee for a new registrant would be required as nearly as possible to cover the costs of processing the registration and conducting the safety audit or examination, if required, but could not exceed $300. The fee for filing evidence of financial responsibility could not exceed $10 per filing.

*Conference Substitute*

The conference adopts the Senate provision.

### SEC. 4305. REGISTRATION OF MOTOR CARRIERS BY STATES

*House Bill*

No provision.

*Senate Bill*

*Sec. 7135.*

The section would make it an unreasonable burden on interstate commerce for any State or political subdivision to impose, enact, or enforce any requirement or levy any fee on for-hire and private interstate motor carriers for: (1) registering the carrier's interstate operations with a State, (2) filing evidence of financial responsibility with a State, (3) filing the name of the local agent for service of process with a State, or (4) renewing intrastate authority, insurance filings, or other filing requirements if the carrier is registered with FMCSA and in compliance with other applicable State laws. Item (4) would not apply to certain carrier operations that are specifically exempted from preemption provisions, such as purely intrastate bus operations, intrastate transportation of household goods, non-consensual towing, and the transportation of waste and recyclables. The section would preserve the exemption for interstate carriers from State sales taxes and other fees if a State provides such an exemption to intrastate carriers. The section would not limit State fuel taxes or vehicle registration fees. The section also would establish a 15-member Board of Directors comprised of the Secretary of Transportation, representatives of participating States, and representatives of the trucking industry to govern the new program. The Board would be required to develop the rules and regulations that will govern UCRS and submit the rules and regulations to the Secretary for approval. States wishing to participate in UCRS would be required to submit a plan to the Secretary, within three years following enactment, identifying the State agency that will administer UCRS and containing assurances that an amount at least equal to the revenue derived from UCRS will be devoted to motor carrier safety. States declining to participate would lose the right to share in UCRS revenues. UCRS fees would be determined by the UCRS Board of Directors with the approval of the Secretary and be based on the size of a carrier's commercial vehicle fleet. At least four, but no more than six, ranges of fleet size could be established by the Board for purposes of the fee structure. Brokers, non-vehicle operating freight forwarders, and leasing companies would pay the fee established for smallest carrier fleet. The level of fees could be adjusted if the revenues are deficient or exceed those needed to cover the systems cost and the revenues to which the States are entitled. Fees would be paid to the carrier's base-State, generally the State in which the carrier maintains its principal place of business. States that currently participate in the SSRS and choose to participate in UCRS would be guaranteed the revenues they derived from SSRS during the last fiscal year ending prior to enactment of this Act. States that did not participate in SSRS but opt to join UCRS would be entitled to annual revenues of not more than $500,000. The UCRS Board of Directors would determine the amount of UCRS revenues to which a State is entitled, with the approval of the Secretary. Each participating State would be entitled to retain funds equivalent to the revenues to which it is entitled. Excess funds would be deposited in a designated repository for distribution on a pro rata basis to those States which do not collect the full amount of the revenues to which they are entitled. Remaining funds would be used to offset the cost of the operation of UCRS. Any remaining funds after distribution to the States and payment of costs would be held in the repository and the next year's fees would be reduced accordingly. The section would allow the Secretary to request the Attorney General to bring a civil action to enforce the terms of the Plan and Agreement, including injunctive relief. States could impose fines and other penalties against any party that does not submit the required information or pay the required fees. States would be prohibited from requiring a carrier from having any indicia or other document as evidence of compliance. Finally, the section would allow a State to elect to apply the provision of UCRS to carriers that operate solely in intrastate commerce.

*Conference Substitute*

The conference adopts the Senate provision with modifications.

### SEC. 4306. IDENTIFICATION OF VEHICLES

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7136.*

Section 7136 would prohibit a State or political subdivision from requiring a motor carrier, motor private carrier, or freight forwarder to display any additional form of identification on or in a commercial vehicle. The prohibition would not apply to credentials required under the International Registration Plan or the International Fuel Tax Agreement, or in connection with Federal hazardous materials regulations or Federal vehicle inspection standards.

*Conference Substitute*

The conference adopts the Senate provision with modifications.

### SEC. 4307. USE OF UCR AGREEMENT REVENUES AS MATCHING FUNDS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7137.*

UCRS revenues may be used to meet a State's match for MCSAP funds.

*Conference Substitute*

The conference adopts the Senate provision.

### SEC. 4308. REGULATIONS

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

This section allows the Secretary to establish regulations to carry out this subtitle.

*Conference Substitute*

The conference adopts the Senate approach.

## TITLE V—RESEARCH

### Subtitle A—Funding

### SEC. 5101. AUTHORIZATION OF APPROPRIATIONS

*House Bill*

*Sec. 5101.*

This section provides authorizations for the programs in the Research Title. The Surface Transportation Research Program and the Technology Deployment program, which were separate programs in the Transportation Equity Act for the 21st Century (TEA 21), are now merged into one program—the Surface Transportation Research, Development, and Deployment Program.

*Senate Bill*

*Sec. 2001.*

This section authorizes sums out of the Highway Trust Fund (other than the Mass Transit Account) for Surface Transportation Research, the Surface Transportation-Environmental Cooperative Research Program, Training and Education, the Bureau of Transportation Statistics, ITS Standards, Research, Operational Tests and Development, and University Transportation Centers. It provides for the period of availability of funds for obligation and the Federal share of project cost.

*Conference Substitute*

This section reauthorizes programs in the Research title including the Surface Transportation Research, Development, and Deployment Program; Training and Education; Bureau of Transportation Statistics; University Transportation Research; and ITS Research.

### SEC. 5102. OBLIGATION CEILING

*House Bill*

*Sec. 5102.*

This section establishes the obligation ceiling for fiscal years 2004 through 2009.

*Senate Bill*

*Sec. 2002.*

This section sets limits on obligations for spending under Title II for Transportation Research.

*Conference Substitute*

This section sets the obligation ceiling for spending under this Title.

### SEC. 5103. FINDINGS

*House Bill*

*Sec. 5103.*

This section includes congressional findings related to the importance of transportation research and development.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### Subtitle B—Research, Technology, and Education

### SEC. 5201. RESEARCH, TECHNOLOGY AND EDUCATION

*House Bill*

*Sec. 5201.*

This section establishes basic principles for transportation research, including the federal responsibility and role, stakeholder input, competition, and performance review. This section provides the Secretary with authority to enter into cooperative agreements and establishes a mechanism to facilitate "pooled funding" of projects when several states wish to fund a research project of common interest to those states.

One of the principles governing research and technology investments directs that the Federal highway research program would become more oriented toward exploratory advanced research. The 20-year Long-Term Pavement Performance Program, initiated in the late 1980's will be continued to its conclusion in 2009. The role and function of the Turner-Fairbank Highway Research Center is codified in law.

*Senate Bill*

*Sec. 2101. Subsection 502.*

This subsection authorizes the Secretary to carry out research, development, testing, and technology transfer activities. The Secretary may, independently or in cooperation with others, carry out activities in research, development, and technology transfer activities. In addition, the Secretary may test, develop, or assist in testing and developing any material, invention, patented article, or process. Research activities must be consistent with the strategic plan required under section 508. All parties entering into contracts, cooperative agreements, or other transactions with the Secretary to perform research or provide technical assistance shall be selected on a competitive basis and on the basis of a peer review. The Federal share of the cost of activities carried out under a cooperative research and development agreement shall not exceed 50 percent, unless otherwise approved by the Secretary.

The subsection establishes a new Advanced Long-Term Research program. Also established are a high-performance concrete bridge research program, a high-performing steel bridge program, and a biobased transportation research program. The high-performance concrete bridge research program includes funding to carry out demonstration projects involving the use of ultra-high performance concrete with ductility. The Seismic Research Program, Long-Term Pavement Performance Program (LTPP), and the Infrastructure Investment Needs Report are continued. The subsection concludes the LTPP on September 30, 2009. The due dates for the infrastructure needs report is changed from January 31 to July 31. This subsection also requires the Secretary, in consultation with the Secretary of Homeland Security, to develop a 5-year strategic plan for research and technology transfer and deployment activities pertaining to the security aspects of highway infrastructure and operations aspects.

*Conference Substitute*

The Conference adopts the House provision with modifications and additions from the Senate provision.

Congress encourages the Department to use the Volpe Center as a source for transportation research and development and related activities. The Volpe Center is uniquely positioned to assist Executive Branch agencies in fulfilling transportation research and development initiatives, solving challenges related to integrating transportation and homeland security issues and achieving the letter and intent of legislative mandates associated with the continued authorization of Departmental activities.

### SEC. 5202. LONG-TERM BRIDGE PERFORMANCE PROGRAM; INNOVATIVE BRIDGE RESEARCH AND DEPLOYMENT PROGRAM

*House Bill*

*Sec. 5202.*

This section establishes a 20-year Long-Term Bridge Performance Program, modeled on the Long-Term Pavement Performance Program. An Innovative Bridge Research and Deployment program to demonstrate innovative designs and construction methods for the construction, repair and rehabilitation of bridges is established.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision with some modifications and additions, including steel bridge testing. Programs under Senate section 2101, including high-performance steel bridge research and technology transfer program are added to the provision.

### SEC. 5203. TECHNOLOGY DEPLOYMENT

*House Bill*

*Sec. 5204.*

This section establishes an Innovative Pavement Research and Deployment program to demonstrate innovative pavement technologies, practices, and performance. The goals of this program include new, cost-effective designs to extend pavement life and performance, and the reduction of both initial cost and life-cycle cost of pavements. A Safety Innovation Deployment Program is established to foster the deployment and evaluation of safety technologies and innovations at State and local levels.

*Senate Bill*

*Sec. 2101. Subsection 503.*

This subsection amends the Technology Deployment Initiatives and Partnerships Program and the Innovative Bridge Research and Construction Program under section 503, Title 23, USC. The Technology Application Initiatives and Partnerships Program is established to accelerate the transportation community's adoption of innovative technologies. As amended, the focus on bridge structures under the Innovative Surface Transportation Infrastructure Research and Construction Program is expanded to include all highway structures.

*Conference Substitute*

The Conference adopts the House provision with some modifications. Alternative materials, asphalt, and alkali silica reactivity (ASR) authorized under Senate section 2001 are added to this section. Project and programs related to ASR should further development and deployment of techniques to prevent and mitigate alkali silica reactivity, including lithium based techniques, and assist states in inventorying existing structures for ASR.

The Conference also provides for research on wood composite materials in multi-modal transportation facilities.

### SEC. 5204. TRAINING AND EDUCATION

*House Bill*

*Sec. 5205.*

The National Highway Institute—the training office of the Federal Highway Administration—is continued and the general topics for courses that it develops and administers are specified. The Local Technical Assistance Program (LTAP) is reauthorized. The federal share for State LTAP grant recipients is up to 50 percent and the share for tribal technical assistance centers is 100 percent. Federal law is revised to allow states to spend NHS, IM, STP, CMAQ, and Bridge funds for transportation workforce development, training, and education. The federal share is 100 percent for the workforce development activities. This section also authorizes the Garrett A. Morgan Technology and Transportation Education program.

*Sec. 5206.*

This section establishes a Freight Planning Capacity Building Program to improve the capabilities of Metropolitan Planning Organizations (MPOs) and other planning agencies in transportation planning for freight.

*Senate Bill*

*Sec. 2101. Subsection 504.*

Section 504(a)(3) of title 23 is modified to emphasize asset management and the application of emerging technologies as two areas in which the Institute shall develop courses. The section identifies additional courses to be developed by the Institute, in consultation with state departments of transportation and the American Association of State Highway and Transportation Officials. Also included is the requirement for the Institute to periodically review courses and to make revisions or cease to offer courses as necessary. The cost for course development is now explicitly stated as part of the cost of training and education to be paid by a private entity or person, unless otherwise determined by the Secretary.

Section 504(a)(7) of title 23 is modified by removing the limitation on the amount of fees that the Institute can collect in any fiscal year. Funds made available to carry out this section may now be combined with or held separately from fees collected under memoranda of understanding, regional compacts, and other similar agreements, in addition to being combined with or held separately from fees collected under this section as previously allowed.

Changes to the Local Technical Assistance Program add incident response and operations as areas in which the Secretary can assist transportation agencies and governments under grants, cooperative agreements, and contracts. Where urbanized areas are cited, the qualifying definition of population sizes between 50,000 and 100,000 is no longer included. Finally, "regional cooperation" is promoted under Section 504(2)(C) as an area for assisting urban transportation agencies.

The Dwight David Eisenhower Transportation Fellowship Program is continued to allow the Secretary to make grants for research fellowships for the purpose of attracting qualified students to the field of transportation.

*Conference Substitute*

The Conference adopts the House provision with some modifications to include Senate language on LTAP, "Courses," and definitions.

### SEC. 5205. STATE PLANNING AND RESEARCH

*House Bill*

No comparable provision in House bill

*Senate Bill*

*Sec. 2101. Subsection 505.*

This subsection amends the program of funding to States for research, development, and technology transfer activities. The section now provides for the sliding scale to be applicable to the Federal share of the cost of a project (i.e., 80% unless determined otherwise by the Secretary). This subsection adds that State Planning and Research (SPR) funds may be used for the purposes authorized under the International Highway Transportation Outreach Program of section 506.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 5206. INTERNATIONAL HIGHWAY TRANSPORTATION OUTREACH PROGRAM

*House Bill*

No comparable provision in House bill

*Senate Bill*

*Sec. 2101. Subsection 506.*

The International Highway Transportation Outreach Program under section 506, title 23 USC is continued. A new provision requires that for each fiscal year, the Secretary submits a report to Congress that describes the destinations and costs of international travel conducted in carrying out activities under this program.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 5207. SURFACE TRANSPORTATION ENVIRONMENT AND PLANNING COOPERATIVE RESEARCH PROGRAM

*House Bill*

*Sec. 5203.*

This section establishes a new research program to study the interaction between transportation and the environment. The program will be managed and administered by the National Academy of Sciences. An Advisory Committee, appointed by the Secretary, and with a balanced membership representing transportation and environmental perspectives, will recommend the national research agenda for this program.

*Senate Bill*

*Sec. 2101. Subsection 507.*

The Surface Transportation-Environment Cooperative Research Program under title 23 is modified to include a provision for the Secretary to administer the program and sharpen the focus of the research through stakeholder input via workshops, symposia, and expert panel.

*Conference Substitute*

The Conference adopts the Senate provision. The Conference notes the need to understand the complex relationship between surface transportation and the environment.

### SEC. 5208. TRANSPORTATION RESEARCH AND DEVELOPMENT STRATEGIC PLANNING

*House Bill*

*Sec. 5213.*

This section directs the Secretary to develop a five-year strategic plan for transportation research and development. The plan will describe the primary purposes of the transportation research and development program and describe the topic areas the Department intends to pursue to accomplish each purpose.

*Senate Bill*

*Sec. 2101. Subsection 508.*

The subsection continues the requirement of the Secretary to establish a strategic planning process for research and adds a provision for establishing a Surface Transportation Research Technology Advisory Committee to provide program advice to the Secretary.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5209. NATIONAL COOPERATIVE FREIGHT TRANSPORTATION RESEARCH PROGRAM

*House Bill*

*Sec. 5208.*

The National Academy of Sciences will manage and administer a freight transportation research program. The program's purpose is to discover improved ways to provide surface transportation mobility for freight movement. An Advisory Committee will be appointed by the Academy and will include a representative cross-section of freight stakeholders. The Advisory Committee is directed to recommend a national research agenda for this program.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5210. FUTURE STRATEGIC HIGHWAY RESEARCH PROGRAM

*House Bill*

*Sec. 5209.*

This section establishes the Future Strategic Highway Research Program (F-SHRP), which is to be carried out by the National Academy of Sciences. F-SHRP is modeled on the Strategic Highway Research Program that was established by Congress in 1987. TEA 21 directed a study be conducted to determine the research agenda for a new strategic highway research program. F-SHRP will carry out the recommendations made by the study and will focus on four specific research areas—renewal of aging highway infrastructure, human factors related to highway safety, reducing highway congestion, and planning and designing new highway capacity. Projects and researchers will be selected to conduct research for the program on the basis of merit and open solicitation of proposals.

*Sec. 5214.*

This section makes claims against the National Academy of Sciences, for activities conducted under 510 U.S.C. 23, subject to the same limitations and exceptions applicable to claims against the United States.

*Senate Bill*

*Sec. 2101. Subsection 509.*

This subsection establishes a new strategic highway program based on the Future Strategic Highway Research Program (F-SHRP) recommended in TRB Special Report 260: Strategic Highway Research: Saving Lives, Reducing Congestion, Improving Quality of Lives. Under this program, the National Research Council shall establish and carry out the strategic highway program. The program shall consider, at a minimum, the results of studies relating to the implementation of the Strategic Highway Safety Plan prepared by the American Association of State Highway and Transportation Officials (AASHTO). In administering the program, the National Research Council shall acquire a qualified, permanent core staff, and ensure that identified stakeholders are involved in the program.

Before October 1, 2007, the Secretary is required to enter into a contract with the TRB for completing a report on implementing results of the new strategic highway program. The Secretary shall submit the report to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5211. MULTISTATE CORRIDOR OPERATIONS AND MANAGEMENT

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 2101. Subsection 511.*

This subsection provides for grants to the Interstate Route I–95 corridor coalition for intelligent transportation system management and operations.

*Conference Substitute*

The Conference adopts the Senate provision.

## Subtitle C—Intelligent Transportation System Research

### SEC. 5301. NATIONAL ITS PROGRAM PLAN

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 2201. Subsection 525.*

This subsection continues the requirement for the Secretary to develop a National Program Plan for ITS. The National ITS program addresses program goals, objectives, and milestones, and must be maintained and updated as necessary and submitted to Congress as part of the Surface Transportation Research Strategic Plan.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 5302. USE OF FUNDS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 2201. Subsection 529.*

This subsection authorizes funding for ITS outreach materials and items.

*Conference Substitute*

The Conference adopts the Senate provision with a reduction in the authorized amount.

### SEC. 5303. GOALS AND PURPOSES

*House Bill*

*Sec. 5602.*

The goals and purposes of the Intelligent Transportation Systems Program are articulated. While the wording is different from TEA 21, the substance is similar.

*Senate Bill*

*Sec. 2102. Subsection 522.*

This subsection modifies the goals and purposes of the ITS program. New goals are added to reflect the expanded interests for the program. Other modifications reflect changes in emphasis for a number of program activities.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5304. INFRASTRUCTURE DEVELOPMENT

*House Bill*

*Sec. 5606.*

This section states that funds made available in this subtitle shall be used for ITS infrastructure and not for conventional highway and transit infrastructure.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5305. GENERAL AUTHORITIES AND REQUIREMENTS

*House Bill*

*Sec. 5603.*

This section grants the Secretary authority to use an advisory committee to carry out this subtitle.

*Senate Bill*

*Sec. 2201. Subsection 524.*

This subsection makes changes to general authorities and requirements under TEA–21 that provide ITS program scope, policy, and the requirements of the Secretary. The Secretary is required to consult with the Secretary of Homeland Security along with other Federal officials. This subsection adds requirements for the program advisory committee authorized by section 5204(h) of TEA–21, and also includes the amount of funding available for the committee. Also, the Secretary is required to issue revised guidelines and requirements for evaluating operational test and other projects.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5306. RESEARCH AND DEVELOPMENT

*House Bill*

*Sec. 5605.*

The Secretary is directed to carry out a comprehensive Intelligent Transportation Systems research, development, and operational test program with priority given to enhancing mobility and productivity, enhancing safety, and integrating vehicle and infrastructure technologies.

*Senate Bill*

*Sec. 2102. Subsection 528.*

This subsection continues ITS research and development program authorized under TEA–21. Under this subsection, the types of projects and activities that receive funding priority are greatly broadened. Changes reflect new focus areas, including activities to support goals for a national 5–1–1 traveler information system and reducing metropolitan congestion by 5 percent by 2010.

*Conference Substitute*

The Conference adopts the House provision, with the inclusion of two items from the Senate priority list.

### SEC. 5307. NATIONAL ARCHITECTURE AND STANDARDS

*House Bill*

*Sec. 5604.*

The Secretary is directed to develop, implement and maintain a national architecture for Intelligent Transportation Systems, as well as the supporting standards and protocols, to promote the widespread use of Intelligent Transportation Systems. The Secretary shall designate a panel of experts to advise the Secretary on ways to expedite development of standards. Any Intelligent Transportation Systems projects that use Highway Trust Fund monies shall conform to the national architecture and applicable standards.

*Senate Bill*

*Sec. 2102. Subsection 526.*

This subsection continues the general requirements and activities related to the national architecture and standards. Changes under this subsection reflect the completion of several requirements specified in TEA–21. These include the report to Congress on critical standards and the provision for a communication spectrum for ITS. Deployment is no longer emphasized as a direct activity of the Secretary. Exceptions to conformity with the national ITS architecture no longer include upgrades or expansions of existing systems, as allowed under TEA–21.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5308. ROAD WEATHER RESEARCH AND DEVELOPMENT PROGRAM

*House Bill*

*Sec. 5607.*

This section establishes a program to enhance the development and use of road weather information and technologies.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5309. CENTERS FOR SURFACE TRANSPORTATION EXCELLENCE

*House Bill*

*Sec. 5610.*

This section directs the Secretary to establish three centers for surface transportation excellence—including centers for environmental excellence, rural safety, and project finance—and outlines the goals, roles, and administration of the centers.

*Senate Bill*

*Sec. 2103.*

This section establishes five centers for surface transportation excellence in areas of Environmental Excellence, Operations Excellence, Excellence in Surface Transportation Safety, Excellence in Project Finance, and Excellence in Asset Management.

*Conference Substitute*

The Conference adopts the House provision with modifications.

### SEC. 5310. DEFINITIONS

*House Bill*

*Sec. 5608.*

This section defines key terms, including ITS, Intelligent Transportation Infrastructure, National Architecture, Standard, and Transportation Systems Management and Operations.

*Senate Bill*

*Sec. 2102.*

*Subsection 523.*

This subsection deletes the word 'corridor' from terms used in the new subtitle to reflect the deletion of the corridor development program under TEA–21. Terms relating to commercial vehicle operations are moved to the subsection on commercial vehicle systems.

*Conference Substitute*

The Conference adopts the House provision with the addition of "photonics" to the ITS definitions.

## Subtitle D—University Transportation Research; Scholarship Opportunities

### SEC. 5401. NATIONAL UNIVERSITY TRANSPORTATION CENTERS

*House Bill*

*Sec. 5301.*

This section provides for national university transportation centers and states that the role of such centers shall be to advance significantly transportation research on critical national transportation issues and to expand the workforce of transportation professionals.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision with some modifications. The number of National University Transportation Centers is increased from five to ten.

### SEC. 5402. UNIVERSITY TRANSPORTATION RESEARCH

*House Bill*

*Sec. 5302.*

This section provides for grants to be made to University Transportation Centers (UTCs). Funding is available to ten Regional University Transportation Centers, ten Tier I Centers, and ten Tier II Centers. The purpose of UTCs is to significantly advance the state-of-the-art in transportation research and expand the workforce of transportation professionals through research, education and technology transfer. Regional UTCs, Tier I Centers, and Tier II Centers will be subject to competitive selection every four years and all institutions must meet eligibility criteria to qualify for competition. The research and education activities of each Center must support a national strategy for surface transportation research. Each Center must match each dollar of federal grant funds with one dollar of local funds.

*Senate Bill*

*Sec. 2101. Subsection 510.*

This subsection modifies the existing university transportation research program. Awards are increased from thirty three (33) to forty (40) eligible institutions. The subsection continues the establishment of one (1) regional center at institutions in each of the ten (10) Federal regions. A new provision allows locating no more than one center (or one lead university in a consortia) in any State. Regional centers are selected based on proposals requested by the Secretary; the section provides for naming the remaining institutions. All grantees must otherwise meet specified requirements that include a 6–year program plan and annual report to the Secretary on projects and activities. A peer review is required for reports on research under this program. The Secretary must coordinate activities of the centers and operate a clearinghouse for the dissemination of results from activities. Restrictions have been placed on the amount of funds available to centers that can be used for faculty positions, laboratory facilities, student internships, and administration.

*Conference Substitute*

The Conference adopts the House provision with some modifications. There will be twenty-two strategically designated Tier II Centers as well as updated competition dates for Regional and Tier I Centers.

## Subtitle E—Other Programs

### SEC. 5501. TRANSPORTATION SAFETY INFORMATION MANAGEMENT SYSTEM PROJECT

*House Bill*

*Sec. 5210.*

Funding is provided over two years to develop a software system that will link driver licensing, vehicle registration, roadway inventory, and motor carrier databases. The purpose of this system is to more easily identify the cause of accidents, injuries, and fatalities, so that appropriate countermeasures can be developed.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5502. SURFACE TRANSPORTATION CONGESTION RELIEF SOLUTIONS RESEARCH INITIATIVE

*House Bill*

*Sec. 5211.*

Two independent research programs are established to assist State DOTs and MPOs in measuring and addressing surface transportation congestion problems. These research programs will focus on the effectiveness of Congestion Management Systems and identify the best methods for acquiring and reporting congestion information. Funding is included for technical assistance and training.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5503. MOTOR CARRIER EFFICIENCY STUDY

*House Bill*

*Sec. 5212.*

This section provides funding to study the use of wireless technology to improve the safety and productivity of motor carrier freight transportation. The study will assess use of wireless technologies in fuel monitoring and management, Radio Frequency Identification technology, electronic manifest systems, and cargo theft prevention.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5504. CENTER FOR TRANSPORTATION ADVANCEMENT AND REGIONAL DEVELOPMENT

*House Bill*

*Sec. 5215.*

This section establishes a Center for Transportation Advancement and Regional Development to assist, through training and research, the development of rural and small metropolitan transportation systems.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5505. TRANSPORTATION SCHOLARSHIP OPPORTUNITIES PROGRAM

*House Bill*

*Sec. 5303.*

This section authorizes the Secretary to establish a scholarship program to attract qualified students for transportation-related critical jobs.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The conference adopts the House provision.

### SEC. 5506. COMMERCIAL REMOTE SENSING PRODUCTS AND SPATIAL INFORMATION TECHNOLOGIES

*House Bill*

*Sec. 5402.*

This section directs the Secretary, in cooperation with NASA and a consortium of university research centers, to carry out a program to validate commercial remote sensing products and spatial information technologies for application to transportation infrastructure.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision with modifications.

### SEC. 5507. RURAL INTERSTATE CORRIDOR COMMUNICATIONS STUDY

*House Bill*

*Sec. 5609.*

This section provides funding for a study on the feasibility of installing fiber optic cabling and wireless communication infrastructure along Interstate route corridors for improved communications services to rural communities.

*Senate Bill*

No comparable section in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5508. TRANSPORTATION TECHNOLOGY INNOVATION AND DEMONSTRATION PROGRAM

*House Bill*

*Sec. 5403.*

This section continues the Intelligent Transportation Infrastructure demonstration initiative enacted under section 5117 of TEA-21.

*Senate Bill*

*Sec. 2105.*

This section continues the Intelligent Transportation Infrastructure demonstration initiative by authorizing $4,465,409 in funds from the Highway Trust Fund for fiscal years 2005 through 2009. The section also exempts ITS project involved under the program that include privately-owned components from State laws that regulate or prohibit commercial activities on highways funded with Federal-aid highways funds.

*Conference Substitute*

The Conference adopts the Senate provision with modifications.

### SEC. 5509. REPEAL

*House Bill*

*Sec. 5611.*

The Intelligent Transportation Systems subtitle in TEA 21 is repealed and replaced by the sections 5601-5608 described above.

*Senate Bill*

*Sec. 2201. Subsection 529(b).*

The Intelligent Transportation Systems subtitle in TEA 21 is repealed and replaced by the sections 5601-5608 described above.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 5510. NOTICE

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 2003.*

This section outlines requirements for the Department of Transportation to notify the appropriate committees of Congress should any reprogramming of authorized funds or reorganization take place.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 5511. MOTORCYCLE CRASH CAUSATION STUDY GRANTS

*House Bill*

*Sec. 2006.*

The Secretary is required to conduct a study of the causes of motorcycle crashes and to submit a report to Congress on the results of the study not later than 3 years after the date of enactment of this legislation.

*Senate Bill*

*Sec. 2104.*

This section provides the Secretary with the authority to issue grants to conduct motorcycle crash causation studies.

*Conference Substitute*

The Conference adopts the Senate provision with modifications.

### SEC. 5512. ADVANCED TRAVEL FORECASTING PROCEDURES PROGRAM

*House Bill*

*Sec. 5207.*

TRANSIMS is a state-of-the-art travel forecasting model that will have special utility for large MPOs in areas with air quality problems. Funding grants to states and MPOs will support deployment of this forecasting model.

*Senate Bill*

*Sec. 2101. Subsection 512.*

This subsection continues the deployment of the advanced transportation model known as the "Transportation Analysis Simulation System."

This subsection allocates $893,082 from funds authorized for surface transportation research for fiscal years 2005 through 2009 for the Transportation Analysis Simulation System (TRANSIMS). This subsection ensures that TRANSIMS is further developed for additional applications, that training and technical assistance for the implementation and application of the program is available for States, local governments and transportation planning organizations, that a method is developed to simulate the national transportation infrastructure as a single integrated system, and that funding is provided for the implementation of the TRANSIMS.

*Conference Substitute*

The Conference adopts the House provision with modifications.

### SEC. 5513. RESEARCH GRANTS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference creates a provision for transportation research grants.

### SEC. 5514. COMPETITION FOR SPECIFICATION OF ALTERNATIVE TYPES OF CULVERT PIPES.

*House Bill*

No comparable provision in House bill.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference creates a provision ensuring States provide for relevant competition.

## Subtitle F—Bureau of Transportation Statistics

### SEC. 5601. BUREAU OF TRANSPORTATION STATISTICS

*House Bill*

*Sec. 5501.*

This section provides for the appointment of the Director of the Bureau of Transportation Statistics (BTS) and defines the Director's responsibilities. The National Transportation Library is retained as part of BTS's activities. Several provisions are included on the collection of freight data, including a requirement for mandatory response by corporations to BTS requests for data. Safeguards are provided to prevent disclosure of freight data that can be identified with any corporation or individual. An Advisory Council on Transportation Statistics is established.

*Sec. 5502.*

This section describes uses and limits of reports produced by the Bureau of Transportation Statistics.

*Senate Bill*

*Sec. 2102.*

This section provides for activities of the Bureau of Transportation Statistics relating to transportation data collection and statistical analysis. The section requires that not later than 90 days after the date of enactment of this Act, the Secretary shall provide a grant to, or enter into a cooperative agreement or contract with the Transportation Research Board to conduct a study of data collection and statistical analysis efforts. The Board shall submit to the Secretary, the Committee on Environment and Public Works of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives a final report on the results of the study. The Bureau shall, to the maximum extent practicable, implement recommendations included in the study. The Comptroller General of the United States shall also conduct a review of the study. Each year, beginning in 2004, the Bureau shall prepare and submit to the Secretary an annual report on progress made in response to the study recommendations.

*Conference Substitute*

The Conference adopts the House provision.

## TITLE VI—TRANSPORTATION PLANNING AND PROJECT DELIVERY

### SECTION 6001. TRANSPORTATION PLANNING

*House Bill*

*Sec. 6001.*

This section creates a new chapter 52 in title 49 to address transportation planning and environmental review for transportation projects. Existing planning provisions for the highway (sections 134 and 135 in title 23) and transit programs (sections 5303-5305 in title 49) are combined to form a unified planning title. Minor adjustments are made to eliminate inconsistencies and to reflect updated terminologies and practices.

The section also extends the update cycle of metropolitan long-range transportation plans from 3 years under current regulation to 4 years. It extends the update cycle of metropolitan transportation improvement programs (TIPs) from 2 years under current law to 4 years. It requires MPOs to include in their TIPs projects that are designed to meet the set-aside requirements (for a portion of a state's annual apportionments for NHS, CMAQ, STP, Interstate Maintenance, and Bridge programs) for congestion relief activities as mandated under section 139 of title 23.

The section similarly extends the update cycle of state transportation improvement programs from 2 years to 4 years. It requires the state transportation improvement program to reflect the priorities for congestion relief activities that are included in the metropolitan TIPs.

### Subchapter A—General Provisions

Section 5201. Definitions.

All transportation planning definitions used throughout chapter 52, title 49 U.S.C. are included in this section.

### Subchapter B—Transportation Planning

Section 5211. Policy.

This section is consistent with section 134 of title 23, United States Code and metropolitan planning provisions in sections 5303 and 5304 of title 49, United States Code.

Section 5212. Definitions.

Definitions from section 101(a) of title 23 and section 5302 are applicable to this subchapter. In subsection (b) six definitions used in this subchapter are listed. These include metropolitan planning area, metropolitan planning organization, non-metropolitan area, non-metropolitan local official, TIP, and urbanized area.

Section 5213. Metropolitan Transportation Planning.

Subsection (a) describes the general requirements for metropolitan transportation planning. More specifically, it directs MPOs, in cooperation with States and public transportation operators, to develop long-range transportation plans and transportation improvement programs. These plans and Transportation Improvement Programs (TIPs) will encompass all modes of transportation and will be intermodal in nature.

Subsection (b) specifies the method by which MPOs are designated. Every urbanized area with a population of more than 50,000 people will have an MPO either by agreement between the Governor and local officials representing at least 75 percent of the affected population or in accordance with State and local law. Each MPO will consist of local officials, officials of major local metropolitan transportation agencies and appropriate State officials. Once an MPO is designated, it will remain so designated until it is redesignated under the procedures outlined in Section 5213(b)(5) or (6).

Subsection (c) describes the methods for determining the boundaries of metropolitan planning areas that do not cross State lines. This subsection is consistent with section 134(c) of title 23, United States Code.

Subsection (d) outlines methods for coordinating the planning process between responsible parties in metropolitan areas spanning two or more states.

Subsection (e) involves coordination and consultation between MPOs in the event of jurisdictional conflicts. This must occur in cases in which more than one MPO has jurisdiction over an area or an area is designated as a nonattainment area for ozone or carbon monoxide under the Clean Air Act. Coordination between MPOs will also occur if a transportation improvement funded by the Highway Trust Fund (HTF) runs through more than one MPO.

Section 5213(e)(3) provides that when planning transportation projects, the Secretary will encourage each MPO to consult with officials involved in planning activities that are affected by transportation in the area. These affected activities include such things as State and local planned growth, economic development, environmental protection, airport operations, and freight movements. The subsection also requires that transportation plans consider other transportation services within the metropolitan area that are provided by other governmental agencies and nonprofit organizations, so that metropolitan transportation services can be more coordinated.

Section (f) outlines the goals and objectives MPOs should strive to attain when planning area transportation projects. Projects should support economic vitality, increase the safety and security of the transportation system, increase accessibility and mobility for both people and freight, protect and enhance the environment, promote integration between the various modes of transportation, as well as maintaining efficiency of the current transportation system. This subsection also states that failure to consider any and all of the objectives described in Section 5213(f)(1) may not be reviewed by any court.

Subsection (g) details the contents of transportation plans and the process MPOs must follow when developing such plans.

Subsection (h) details the contents of metropolitan transportation improvement programs (TIPs) and the process MPOs must follow when developing TIPs. Included in each

TIP should be a funding estimate, a priority project list, a description of each project, and a financial plan. TIPs will be published for public comment. Unlike current law section 134(h)(1)(D) of title 23, U.S.C., this subsection specifically details that TIPs must be updated at least every 4 years, as opposed to every 2 years under current law. This section requires the project description in the TIP to include sufficient descriptive material, such as the "type of work, termini, length, and other similar factors", to identify the project or phase of the project. In addition, the TIP shall include a listing of congestion relief activities in 5213(h)(2)(D).

Subsection (i) involves transportation management areas, which are defined as urbanized areas with a population over 200,000. The transportation plans in these areas are based on a continuing and comprehensive planning process carried out by the MPO. Congestion management is achieved through the use of travel demand reduction and operational management strategies. Congestion relief activities under section 139 of title 23 are also to be used. The Secretary must certify that the planning process for each transportation management area is being carried out in accordance with Federal law no less often than every 4 years. This is a change from current law, which mandates certification every 3 years. The Secretary has the authority to withhold up to 20 percent of the funds attributable to the MPO if the metropolitan planning process of an MPO serving a transportation management area is not certified.

Subsection (j) gives the Secretary the authority to permit an abbreviated transportation plan and a TIP for a metropolitan planning area if deemed appropriate, except if the metropolitan planning area is in nonattainment for ozone or carbon monoxide under the Clean Air Act.

Subsection 134(k) of 23 U.S.C. under current law, concerning funds for highways and transit being transferred to the Secretary in accordance with title 23, has been deleted because the transferability provisions contained in section 104(k) of title 23 already apply to all transfers of highway funds to transit, and to the transfer of transit funds to highways.

Subsection (k) is consistent with subsection 134(l) of current law and states that a metropolitan planning area classified as nonattainment for ozone and carbon monoxide under the Clean Air Act may not receive funds for any highway project that will result in a significant increase in single-occupant vehicles. The only exception would be if the project were addressed through a congestion management process.

Subsection (l) is consistent with subsection 134(m) of current law. This section states that MPOs do not have the authority to impose legal requirements on any transportation facility, provider, or project not eligible under title 23, United States Code or chapter 53 of title 49, United States Code.

Subsection (m) is consistent with section 134(n) of title 23, United States Code and specifies that funding for the metropolitan transportation planning shall be provided under section 104(f) of title 23 and under section 5338(c) of title 49, United States Code.

Subsection 134(n) is consistent with existing law subsection 5213(n) and section 134(o) of title 23. It restates current methods of review for projects included in plans and programs under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

Section 5214. Statewide Transportation Planning.

Subsection (a) requires states to develop statewide transportation plans, to cover a period of 4 years and to be updated every 4 years. The statewide transportation plan must provide for integrated transportation facilities, including accessible facilities, and be intermodal in nature.

Subsection (b) is consistent with subsection 135(b) of title 23, USC, but adds new language to recognize the importance of coordinating trade and economic development with transportation planning. This subsection also requires the State to develop the transportation portion of the State implementation plan as required by the Clean Air Act (42 U.S.C. 7401 et seq.)

Subsection (d) regarding the scope of the planning process (under existing section 135(c)) is amended to reflect the concept that not only projects, but also transportation services, are developed through the planning process. In section 5214(d)(1)(A), the term "non-metropolitan areas" is inserted into this factor after "States," to require States to consider economic vitality for rural areas.

Subsection (e) corresponds to 135(d) in title 23, and lays out additional requirements for states to consider in carrying out planning.

Subsection (f) is consistent with current law provisions regarding a state's development of 20-year, long-range transportation plans under section 135(e) of title 23, USC.

Subsection (g), regarding statewide transportation improvement programs, is consistent with subsection 135(f) of title 23, United States Code. This subsection has been reorganized and it deletes some current law provisions that have been superseded. Section 135(f)(1)(B)(ii)(II) required that States submit to the Secretary, within one year of TEA-21's passage, the details of their consultation process with non-metropolitan officials. This requirement has been accomplished, so the provision has been eliminated.

Subsection 5214(g)(4)(H) is a new provision to ensure that the transportation improvement program reflects the priorities for congestion relief required under section 139 of title 23, USC, as added in this Act. Subsection 5214(g)(5) combines 135(f)(3)(A) and (B) of current law. This subsection, concerning project selection in areas with populations of less than 50,000 people, adds projects from state-managed public transportation programs authorized under sections 5310, 5311, 5316, and 5317 of title 49, United States Code to the list of projects to be selected from the TIP by the State in consultation with affected local metropolitan transportation officials. Subsection 5214(g)(6) states that the Secretary must approve a transportation improvement program at least every 4 years, as opposed to a biennial review mandated in current law.

In subsection (h), funding for statewide transportation planning is provided under subsection 104(i) of title 23 and under section 5338(c) of title 49, United States Code.

Subsections (i) and (j) are identical to existing law subsections 135(h) and 135(i), respectively.

*Sec. 6005.*

This section amends section 5213(d) of title 49, U.S.C., to direct that Congress must consent to interstate compacts between two or more states for cooperative transportation planning efforts. The Secretary will encourage Governors and members of multi-state MPOs to partake in interstate compacts consenting to cooperate in efforts to mutually assist interstate activities as well as establishing joint transportation agencies. The current law provisions regarding the Lake Tahoe Regional Planning Compact are included in this section.

*Sec. 6006.*

This section amends section 5213(g) of title 49, U.S.C. to specify that MPOs must prepare and update their transportation plans no less frequently than every 4 years. (The current law update cycle is "according to a schedule that the Secretary determines to be appropriate," which has been determined by regulation to be every 3 years in nonattainment or maintenance areas and every 5 years in attainment areas.)

*Sec. 6007.*

This section amends section 5214(c) of title 49, U.S.C. to authorize States to enter into compacts or agreements for the purpose of formal planning cooperation and coordination, since some projects are multi-state in nature.

*Sec. 6008.*

This section directs the Secretary to issue regulations that are consistent with the unified transportation planning provisions in this title relating to the Clean Air Act.

*Senate Bill*

*Sec. 1501.*

This section amends 23 U.S.C. 134(f) and 135(c) to add factors that may be considered during the transportation planning process. It also gives States and metropolitan planning organizations (MPOs) the flexibility to determine, after soliciting and considering comment from the public, which of the specific factors are most appropriate for the State or metropolitan area to consider. Current language in the statute that bars court review of failure to consider specified planning factors is retained.

Current law requires the planning process to provide for consideration of projects and strategies that will, among other things, protect and enhance the environment and improve quality of life. The items added by section 1501 provide planners with more direction as to what those concepts mean, but do not constitute a checklist with every item requiring consideration by every State and MPO. Instead, the legislation allows each State and MPO to decide which specific factors are appropriate for consideration. Early identification of potential environmental concerns may help reduce or avoid delays during environmental review. The Secretary is given no authority to review, for purposes of planning certification, the determination of appropriate factors made by a State or MPO.

*Sec. 1502.*

This section amends 23 U.S.C. 134(g) and 135(e) to require MPOs and States to consult with various other agencies when developing the long range transportation plan. Consultation shall include comparison of the transportation plan to conservation plans or maps and inventories of natural or historic resources (if such plans, maps or inventories are available) or consideration of areas where wildlife crossing structures may be needed. The section also requires that the long-range plan include a discussion of potential habitat, hydrological, and environmental mitigation activities that may assist in compensating for loss of habitat, wetlands and other environmental functions, including areas that may have the greatest potential to restore and maintain the habitat types and hydrological and environmental function affected by the plan.

The requirement for transportation planners to consult with appropriate resource agencies to compare transportation plans with available State conservation plans or maps and available inventories of natural or historic resources, as well as to identify areas where wildlife crossing structures may be needed, will help planners to identify and potentially avoid or minimize impacts of transportation projects on these resources and thereby facilitate more efficient environmental reviews of individual projects. However, for various reasons including financial constraints, State conservation plans or maps or inventories of natural or historic resources do not exist for many areas. This legislation does not require the creation of such plans, maps, or inventories. Consideration of areas where wildlife crossing structures may be needed is required only with respect to transportation programs and strategies for the future. A review of the current infrastructure is not required. The discussion of potential mitigation activities and areas in which to carry out those activities is intended to encourage States to think strategically, particularly for habitat and wetlands mitigation. The level of detail of this discussion should correspond to the level of detail contained in the rest of the plan. For example, a conceptual transportation plan may, but is not required to, include specific size or location details that would generally be determined during the environmental review stage.

*Sec. 1504.*

This section amends 23 U.S.C. 134(g) and 135(e) to provide that States and MPOs improve public involvement in the planning process. To the maximum extent practicable, States and MPOs shall hold any public meetings at convenient and accessible locations and times, employ visualization techniques, and provide for publication of publicly available planning materials in electronically accessible formats, such as the world wide web.

Use of advancing technology to publish plans and better articulate potential benefits and impacts of transportation plans will improve community awareness during the planning process. Early identification of community concerns may help reduce or avoid delays during the environmental review stage. MPOs, particularly small MPOs, and States have limited resources to apply toward meeting numerous planning requirements. Therefore, each MPO and State should use its own discretion in allocating resources for improved utilization of technology.

*Sec. 1704.*

This section amends title 23 to ensure metropolitan planning in certain areas. Section 1705 supplements funding for the transportation planning process with 1% of all funds apportioned through the Federal Lands Highway Program to the Lake Tahoe Region.

*Conference Substitute*

The Conference adopts the House provisions with several modifications. First, it does not create a new chapter 52 of title 49, United States Code, but rather amends title 23 and chapter 53 of title 49, United States Code, to contain identical planning provisions (23 U.S.C. 134 and 49 U.S.C. 5303 Metropolitan planning and 23 U.S.C. 135 and 49 U.S.C. 5304 Statewide planning).

The House provision is modified to require metropolitan plans to be updated every 5 years in areas designated attainment.

Sections 134(h)(1)(B) and (C), and 135(d)(1)(B) and (C) modify existing law to give added emphasis to security and safety by making each a separate planning factor.

The Conference adopts the Senate section 1502 modified to require a discussion of types of potential environmental mitigation activities and potential areas to carry out such activities in the plan and to require consultation, including, as appropriate, comparison of transportation plans with State conservation plans or maps, if available, or with inventories of natural or historic resources, if available

The Conference incorporates a modified participation plan found in Senate section 6005 into the House provision. Senate section 1504 on methods of public participation and publication of the plan is also incorporated into the House provision.

The modified House provision retains current law section 134 of title 23 regarding the listing in the TIP of projects funded under chapter 2 of title 23, United States Code.

The Conference adopts a modified rulemaking requirement found in Senate section 6005. The Secretary is required to issue, within 180 days of enactment, regulations specifying the types of data to be included in the required annual listing of projects.

The Conference also removed references to activities and requirements under section 139 of title 23, United States Code, as proposed in the House bill since the Conference did not adopt that provision.

The Conference adopts the Senate language on transportation planning funding for the Lake Tahoe region.

The Conference does not adopt the House language requiring the Secretary to issue regulations implementing the changes to transportation planning relating to the Clean Air Act.

### SECTION 6002. EFFICIENT ENVIRONMENTAL REVIEWS FOR PROJECT DECISIONMAKING

*House Bill*

*Sec. 6002.*

Subsection (a) recognizes Enlibra principles as a sound basis for interaction among Federal, state, and local governments and Indian tribes. It encourages the adoption of these principles in the development of highway construction and transit projects. This section is intended as a statement of policy. It is not intended to establish enforceable rights or to modify any existing legal standards applicable to the environmental review process for such projects.

Subsection (b) creates a new Subchapter C of Chapter 52 of Title 49 to address efficient environmental reviews for project decisionmaking.

Subchapter C—Efficient Environmental Reviews for Project Decisionmaking

Section 5251. Definitions and Applicability.

This section sets forth definitions applicable to this subchapter.

Section 5252. Project Development Procedures.

This section establishes comprehensive project development procedures for projects that require the approval of the U.S. Department of Transportation. These procedures must be followed for all projects that require preparation of an environmental impact statement (EIS) under NEPA and may be followed for any project that involves preparation of an environmental assessment (EA) or categorical exclusion (CE). The decision about whether to use these procedures for EA or CE projects is committed to the discretion of the Secretary of Transportation, acting in consultation with the project sponsor.

Subsection (a) establishes the U.S. Department of Transportation as the lead agency in the environmental review process for any highway, transit, or multimodal project that requires the Department's approval. As the lead agency, the Department is responsible for the overall direction of the environmental review process. The specific responsibilities of the lead agency are defined in this section. This section also requires any project sponsor that is a state or local government entity receiving funds under Title 23 or Title 52 to serve as a "joint lead agency" in the environmental review process. The Federal lead agency and the State or local agency jointly constitute the "lead agency" for purposes of this section; accordingly, any decisions to be made by the lead agency under this section must be made jointly by the Federal lead agency and the State or local government that serves as project sponsor. A project sponsor that is not a State or local government (e.g., a project sponsor that is a private company) cannot serve as a joint lead agency.

Subsection (b) establishes a new concept of a "participating agency." This concept is intended to be distinct from, and more inclusive than, the concept of a "cooperating agency" as established in the Council on Environmental Quality (CEQ) regulations for the NEPA process. The status of "cooperating agency" generally has been assigned only to those agencies that are expected to play an extensive role—in particular, an agency that has a permitting responsibility with respect to a project. The term "participating agency" is intended to be more inclusive, so that it encompasses all cooperating agencies as well as any other agencies that submit comments, participate in inter-agency review meetings, or otherwise are engaged in the environmental review process. The lead agency must identify agencies that may have an interest in the project and extend an invitation to participate. The legislation specifically states that designation as a participating agency does not signify support for a project; it is simply a means of identifying the universe of agency participants who must be consulted by the lead agency during the process.

Subsection (c) establishes a new requirement for a project initiation notice. The purpose of this requirement is to provide an opportunity for the project sponsor to identify the specific highway project, transit project, or multimodal project that is being proposed for evaluation in the environmental review process. At the discretion of the project sponsor, the project initiation notice may include a general description of policies, plans, studies, legislation, or other materials that relate to the proposed project. Such information shall be considered by the lead agency in determining the scope of review needed in the environmental review process, including decisions on issues such as the definition of the proposed action, the purpose and need, the range of alternatives, and the approach to evaluating secondary and cumulative impacts.

Subsection (d) makes the lead agency responsible for defining the purpose and need, following an opportunity for involvement by other agencies and the public, and identifies the types of objectives that may be included in a statement of purpose and need. The level of involvement required under this section shall be determined by the lead agency on a case by case basis, taking into account the overall size and complexity of the project. The opportunity for involvement in developing the purpose and need may be combined with other public involvement and agency coordination activities, including involvement in developing the range of alternatives to be considered. The lead agency's definition of purpose and need is not binding on other agencies that have independent responsibilities to comply with NEPA. However, other agencies shall show substantial deference to the purpose and need as defined by the lead agency as required under applicable Council on Environmental Quality (CEQ) guidance, dated May 12, 2003: nothing in this section shall be construed to limit or override the guidance provided in that memorandum, or to preempt or limit any obligations to comply with the National Environmental Policy Act (NEPA) and the regulations issued to implement NEPA including those issued by CEQ. The list of project objectives provided in this section is not intended to be exhaustive: these are examples of the types of objectives that may be included in a purpose and need statement for a highway, transit, or multimodal project.

Subsection (e) makes the lead agency responsible for defining the range of alternatives to be considered, following an opportunity for involvement by other agencies and the public. The level of involvement required under this section shall be determined by the lead agency on a case by case basis, taking into account the overall size and complexity of the project. The opportunity for involvement in determining the range of alternatives may be combined with other public involvement and agency coordination activities, including involvement in developing the purpose and need. This section also establishes that the lead agency is responsible for determining the methodologies to be used in evaluating alternatives, and requires that determination to be made in collaboration with the participating agencies. In this context, collaboration means a cooperative and interactive process. It is not necessary for the lead agency to reach consensus with the participating agencies on these issues: the lead agency must work cooperatively with the participating agencies and consider their views, but the lead agency remains responsible for decisionmaking. However, the intent is to require meaningful deliberation about alternatives, as evidenced by the subsection specifying that, should the lead agency develop a preferred alternative, this must not hinder impartial decisionmaking on other alternatives.

Subsection (f) is intended to establish default comment deadlines that apply in the absence of a specific decision by the lead agency to allow a longer period for comments to be submitted. This section establishes 60 days as the norm for comments on a Draft EIS and 30 days for all other comment/review periods. Lead agencies should provide public notice about when a comment period starts and concludes. The legislation allows the lead agency the flexibility to establish a shorter or longer time frame if there is good cause to do so. In addition, this section allows the lead agency to extend the comment deadline at any time in the environmental review process; while it is preferable to establish a realistic schedule as early as possible, this section does not establish a specific point in the process by which time extensions must be granted.

Subsection (g) establishes a process for identifying and resolving issues that have the potential to delay the environmental review process or prevent an agency from granting a permit or other approval that is needed for a project. The participants in the environmental review process are encouraged to use similar procedures, to the extent practicable, to identify and resolve issues prior to initiation of the environmental review process. Nothing in this section is intended to preclude or limit any ongoing or future efforts by individual States to adopt procedures that call for agency coordination and dispute resolution efforts during the pre-NEPA planning stages of a project.

Subsection (i) is intended to allow federal highway and transit funds to be provided to other State and Federal agencies to support activities that directly and meaningfully contribute to expediting and improving transportation project delivery. These funds may be used to support activities related to the review of a specific project during the environmental review process, such as reviewing and commenting on environmental documents or attending meetings. These funds also may be used to support activities that contribute to more efficient environmental reviews through early coordination activities prior to initiation of the environmental review (NEPA) process, and also may be used to support activities that contribute to improvements at a programmatic level, such as training of agency personnel, information gathering and mapping, and development of programmatic agreements.

*Sec. 6009.*

This section amends section 5252 of title 49, United States Code, by adding new subsections (j) and (k)

Subsection 5252(j) provides that, except as set forth under subsection 5252(k), nothing in section 5252 shall affect the reviewability of any final Federal agency action in a court of the United States. A savings clause provides that nothing in section 5252 shall be construed as superseding, amending, or modifying NEPA or any other Federal environmental statute.

Subsection 5252(k) establishes a 90-day period for filing any lawsuit challenging a permit, license, or approval issued by a federal agency for a highway or transit project. This period starts when the lead agency gives public notice that a final decision has been issued and that a 90-day period for requesting judicial review has begun. This limitation is intended to apply to any permit, license, or approval issued by a state agency acting under authority delegated by a federal agency pursuant to federal law. The purpose of this limitation is to ensure that any claims challenging a highway project for failure to comply with federal law are filed within 90 days after the final agency action that is the subject of the legal challenge.

*Senate Bill*

*Sec. 1511.*

Section 1511, subsection (a), creates a new section 326 of title 23, U.S.C., which authorizes the use of and sets forth a process for agencies to prepare environmental review documents, studies, approvals, and permits required by Federal law for approval of a transportation project.

Section 326(a) defines, for purposes of the section, the terms agency, environmental impact statement, environmental review process, project, project sponsor, and State transportation department. Subsection (b) establishes the Department as the lead agency and allows the process laid out in this section to be used by the lead agency either at the request of the project sponsor or with the concurrence of the project sponsor; (c) lists the responsibilities of the lead agency; and (d) sets out the responsibilities of the cooperating agencies.

Section 326(e) directs the lead agency to develop a coordination plan, which shall include a workplan and a schedule. Default deadlines are included in the case of the collaborative process failing to establish comment deadlines. Subsections (f) and (g) describe the process for developing the project purpose and need and alternatives, respectively. Current standards are left unchanged, but opportunity for public comment is specifically provided.

Section 326(h) sets out a process for resolving inter agency disputes that arise during the environmental review process: (i) directs the Secretary to establish a program to measure and report progress toward improving and expediting the planning and National Environmental Policy Act (NEPA) review process; (j) continues authority for the Secretary to provide funds to other agencies to assist them in carrying out the environmental review process for a project; and (k) clarifies that nothing in this section affects judicial review or the applicability of any Federal environmental statutes. Section 1511, subsection (b) repeals section 1309 of the Transportation Equity Act for the 21st Century (112 Stat. 232). Section 1511(c) clarifies that the repeal of section 1309 of TEA-21 and the enactment of section 1511(a) does not affect any existing State environmental review process, program, agreement or funding arrangement approved by the Secretary under section 1309 of TEA-21.

Section 1309 of TEA-21 directed the Secretary of Transportation to 'develop and implement a coordinated environmental review process for highway construction and mass transit projects.' To date, regulations implementing section 1309 have not been issued. Section 1511 of this legislation replaces section 1309 of TEA-21 and is intended to facilitate faster and more efficient completion of transportation projects without diminishing environmental protections contained in law.

The process established is for complying with current environmental laws, it does not amend or override any current law. As in TEA-21, agencies are encouraged to conduct their reviews, analyses, and studies concurrently with the review required under the NEPA. Under this process, interested parties will be involved in the earlier stages of the review required under the NEPA.

The Department, as the lead agency, will be responsible for identifying and inviting cooperating agencies; developing an agency coordination plan, including a workplan and a schedule; and determining the purpose and need of a project and the alternatives to be considered. Whereas current practice involves cooperating agency designations for only those few agencies that will play a major role in reviewing the project, this process expands the meaning of the term to include all agencies that have an interest in or special expertise regarding the project or its potential impacts.

Public involvement is also enhanced under this process. In addition to leaving unchanged any current opportunities for public comment, this process includes new opportunity for public comment during the determination of project purpose and need and selection of alternatives to be considered.

Finally, the legislation leaves unchanged the authorization from TEA-21 for States to use their Federal transportation dollars as assistance to resource agencies in order to expedite resource agency activities in the environmental review process.

*Conference Substitute*

The Senate recedes to House section 6002 modified to amend title 23, United States Code, instead of title 49 and with the following further modifications:

Section 6002(a). The House recedes to the Senate.

Section 6002(b). The Senate recedes to the House.

Section 139(a). The Senate recedes to the House. Section 139(b). The Senate recedes to the House. In addition, the Conference substitute preserves current regulations under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with regard to agencies acting as Joint Lead Agencies under this section (section 139(c)(2)). The Conference substitute defines the roles and responsibilities of the Lead Agency (section 139(c)). The Conference Substitute requires federal agencies to the maximum extent practicable to carry out concurrent reviews (section 139(d)(7)). The Conference Substitute requires that for the purpose of informing the Secretary that the environmental review process should be initiated, the project sponsor shall notify the Secretary of certain details of the proposed project (section 139(e)). The Conference Substitute requires that a Lead Agency establish a plan for agency participation and comment on the environmental review process that may be incorporated into a memorandum of understanding (section 139(g)). The Conference Substitute permits the Lead Agency to establish a schedule for completion of the environmental review process and requires the consideration of certain factors in establishing the schedule (section 139(g)(1)(B)). The Conference Substitute provides for notice to the United States Senate Committee on Environment and Public Works and the United States House Committee on Transportation and Infrastructure of failure of a Federal agency to make decisions in the environmental review process (section 139(g)(3)). No provisions in this section shall reduce time periods provided under existing Federal law for public comment (section 139(g)(4)). The Conference Substitute provides procedures for issue resolution at the request of a project sponsor or Governor of the state in which the project is located (section 139(h)). The Conference Substitute provides for a program to measure and report on progress toward improving and expediting the environmental review process (section 139(i)). The Conference Substitute adopts a modified version of section 1309(f) of the Transportation Equity Act for the 21st Century (112 Stat. 232) to provide that nothing in this section shall affect the reviewability of any final agency action in a court of the United States or the court of any State (section 139(k)). The Conference Substitute establishes a 180-day period for filing any law suit challenging a permit, license or approval issued by a federal agency for a highway or transit project. This period starts when the lead agency gives public notice in the Federal Register that a final decision has been issued (section 139(l)). The Conference Substitute includes the Senate provisions on repeal of section 1309 of TEA–21 and preservation of existing State environmental review processes, programs, agreements or funding arrangements approved by the Secretary under section 1309 of TEA–21.

### SECTION 6003. STATE ASSUMPTION OF RESPONSIBILITIES FOR CERTAIN PROGRAMS AND PROJECTS

*House Bill*

*Sec. 1207.*

This section provides the Secretary the authority to conduct a pilot program for up to five states to assume the responsibilities of the Secretary for projects funded under Section 104(h), transportation enhancement activities under Section 133, as defined in Section 101(a)(35), and projects defined in Section 101(a)(38) of title 23, and Section 5607 of TEA LU.

*Senate Bill*

No Comparable Provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SECTION 6004. STATE ASSUMPTION OF RESPONSIBILITY FOR CATEGORICAL EXCLUSIONS

*House Bill*

No Comparable Provision in Senate bill.

*Senate Bill*

*Sec. 1512.*

Section 1512 gives the Secretary authority to assign and a State the ability to assume the Secretary's responsibility for processing the environmental review for projects classified as categorical exclusions under current Council on Environmental Quality regulations.

Categorical exclusions (CEs), according to current Council on Environmental Quality regulations, are projects that 'do not individually or cumulatively have a significant effect on the human environment'. Approximately 90% of all surface transportation projects are processed as CEs. So, while CEs take significantly less time to prepare than environmental impact statements, a slight improvement in processing time for each CE can result in a large improvement system wide.

*Conference Substitute*

The Conference adopts the Senate provision.

### SECTION 6005. SURFACE TRANSPORTATION PROJECT DELIVERY PILOT PROGRAM

*House Bill*

No Comparable Provision in Senate bill.

*Senate Bill*

*Sec. 1513.*

This section establishes a pilot program for not more than five States to assume the Secretary's responsibility for environmental review for a project. This delegation does not extend to conformity determinations, planning requirements, or rulemaking authority. Delegation of the Secretary's responsibility to a State shall be governed by a written agreement between the Secretary and the State. To ensure compliance by a State, the Secretary shall conduct periodic audits for each State participating in the program. The public shall have opportunity to comment prior to the submission of a State's application to participate in the pilot program and following an audit of compliance with the agreement.

The legislation includes a 5-State pilot program (including a pilot for the State of Oklahoma) for delegation of certain of the Secretary's environmental review responsibilities for transportation projects within the pilot State. The pilot program is intended to provide information to the committee and to the public as to whether delegation of the Secretary's environmental review responsibilities will result in more efficient environmental reviews that are performed according to the same procedural and substantive requirements as would apply if the Secretary were conducting the reviews.

*Conference Substitute*

The Conference adopts the Senate provision with the addition of California, Texas, Ohio, and Alaska as states participating in the pilot program.

### SECTION 6006. ENVIRONMENTAL RESTORATION AND POLLUTION ABATEMENT; CONTROL OF NOXIOUS WEEDS AND AQUATIC NOXIOUS WEEDS AND ESTABLISHMENT OF NATIVE SPECIES

*House Bill*

No Comparable Provision in House bill.

*Senate Bill*

*Sec. 1601.*

This section amends title 23 to establish eligibility for environmental restoration and pollution abatement, and invasive species. The section makes eligible the use of NHS and STP funds for activities under this section.

Section 165 establishes the eligibility for environmental restoration and pollution abatement and authorizes the use of funds for projects, including retrofitting and construction of stormwater treatment systems to meet Federal and State requirements under sections 410 and 402 of the Federal Water Pollution Control Act, which will address water pollution or environmental degradation caused wholly or partially by a transportation facility. The expenditure of funds is limited to 20 percent of the total cost of an ongoing reconstruction, rehabilitation, resurfacing or restoration project.

Current law allows a State to use STP funds for environmental restoration and pollution abatement projects (including the retrofit or construction of stormwater treatment systems) to address water pollution or environmental degradation caused or contributed to by transportation facilities. As amended, the use of STP funds is now extended and the use of NHS funds is now authorized for these projects, as well as mitigation projects related to Federal highways but not limited to those currently undergoing reconstruction, rehabilitation, resurfacing or restoration.

Section 166 establishes provisions for the control of invasive plant species and the establishment of native plant species. Activities carried out under this section must be related to transportation projects funded under Title 23. Activities to control invasive plant species or to establish native species may be carried out in advance, concurrently with, or following project construction. Activities carried out in advance of projects are allowed if such measures are consistent with Federal law and State transportation planning processes.

*Conference Substitute*

The Conference adopts the Senate provision with the following modifications: Invasive species has been changed to noxious weeds and aquatic noxious weeds, as defined in the Plant Protection Act; General activities are the establishment of plants selected by state and local transportation authorities to perform abatement of stormwater runoff, stabilization of soil, or aesthetic enhancement, and management of plants which impair or impede the establishment, maintenance, or safe use of a transportation system. These activities include: (1) right of way surveys to determine management requirements to control noxious weeds, brush or trees considered to be a threat to safety or maintenance of transportation systems; (2) control or elimination of plants; (3) establishment of plants, whether native or nonnative with a preference for native when possible; (4) elimination of plants to create fuel breaks for the prevention and control of wildfires; and (5) training.

### SECTION 6007. EXEMPTION OF INTERSTATE SYSTEM

*House Bill*

*Sec. 6004.*

This section provides that the Interstate System itself shall not be considered a historic site for purposes of 23 U.S.C. §138 or 49 U.S.C. §303(c)—the laws commonly known as "Section 4(f)." This section allows individual elements of the Interstate System to be considered historic sites for purposes of Section 4(f), if those elements possess an independent feature of historic significance.

*Senate Bill*

*Sec. 1604.*

This section establishes an exemption for the Interstate System from consideration under section 303 of title 49 and section 138 of title 23, regardless of whether the Interstate System or portions of the System may be listed on or eligible for the National Register of Historic Places. A portion of the Interstate System that possesses an independent feature of historic significance, such as a bridge or an architectural feature, shall be considered an historic site under section 303 of title 49 and section 138 of title 23, as applicable.

*Conference Substitute*

The Conference adopts the House provision with a technical modification. The language is amended to align the exemption from review under Section 4(f) with the administrative exemption from review under Section 106 of the National Historic Preservation Act, published in the Federal Register on March 10, 2005.

### SECTION 6008. INTEGRATION OF NATURAL RESOURCE CONCERNS INTO TRANSPORTATION PROJECT PLANNING

*House Bill*

No Comparable Provision in House bill.

*Senate Bill*

*Sec. 1503.*

This section amends 23 U.S.C. 109(c) to direct the Secretary to consider two documents regarding context sensitive design when developing criteria for project design. The current provision for consideration of 'A Policy on Geometric Design of Highways and Streets' is retained.

Context sensitive design involves consideration of the environmental context of a project and encourages design that minimizes impacts on the project's surroundings. Adding context sensitive design principles to the current design criteria will give transportation officials the flexibility to adjust to the characteristics of each specific location while still ensuring sound engineering and safety measures.

*Sec. 1605.*

This section amends section 109(p) of title 23, Standards. The change is made to place greater emphasis on the need to consider preservation of human and natural resources as a part of the decisionmaking process in developing highway projects.

Consideration of the impacts of highway projects has been part of the design process for many years. However, the transportation community, the traveling public, and communities have demanded improvements in project delivery and in the make-up of the product that is delivered. Compatibility with the surrounding context, or environment, and improved safety for the motorist and the pedestrian are critical. The changes to this section address the need to see that highway projects meet all of these goals by having a project sponsor consider community preservation and community concerns.

*Conference Substitute*

The Conference adopts the Senate amendment to section 109(c) of title 23, United States Code, but not the amendment to section 109(p).

### SECTION 6009. PARKS, RECREATION AREAS, WILDLIFE AND WATERFOWL REFUGES, AND HISTORIC SITES

*House Bill*

*Sec. 6003.*

This section amends section 303 of title 49 and section 138 of title 23 to provide that requirements under such section(s) are deemed to be satisfied if an agreement under section 106 of the National Historic Preservation Act concludes that a transportation program or project will not have an adverse effect on an historic site, unless the Advisory Council on Historic Preservation determines that using the section 106 consultation procedure to satisfy the requirements of such sections is inconsistent with the objectives of such Act. This section applies only to historic sites. In any case in which an historic site subject to section 106 includes, or is a part of a park, recreation area, or wildlife and waterfowl refuge protected under the sections cited above, this provision shall not apply to such parks, recreation areas or refuges.

*Senate Bill*

*Sec. 1514.*

Section 1514, subsection (a) amends section 138 of title 23 and section 303 of title 49, United States Code, to allow transportation programs and projects to move forward as long as the impacts are no more than de minimis impacts on protected parks, recreation areas, wildlife or waterfowl refuges and historic sites.

Subsection (b) directs the Secretary to promulgate within one year of enactment regulations to clarify the factors to be considered and the standards to be applied in determining the prudence and feasibility of alternatives under section 138 of title 23 and section 303 of title 49, United States Code.

Subsection (c) requires the Secretary and the Transportation Board of the National Academy of Sciences jointly to conduct a study on the implementation of the amended sections.

The Department of Transportation Act of 1966 prohibited the approval of any transportation program or project that requires the use of public parks, recreation areas, wildlife or waterfowl refuges or public or private historic sites unless there are no prudent and feasible alternatives and the program or project includes all possible planning to minimize harm to these protected resources (this provision is commonly referred to as 'section 4(f)').

Subsection 1514(a) provides that section 4(f) requirements are satisfied if the program or project will have only a de minimis impact on the area. For historic sites, a finding of de minimis impact may only occur if: (1) through the consultative process under section 106 of the National Historic Preservation Act (16 U.S.C. 470(f)), the Secretary determines that the program or project will have no adverse impact on the historic site or that there will be no historic properties affected; (2) the applicable State or tribal historic preservation officer provides written concurrence with the Secretary's determination; and (3) the finding is developed in consultation with consulting parties under the section 106 process.

For parks, recreation areas, and wildlife and waterfowl refuges, a finding of de minimis impact may only occur if: (1) through review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Secretary determines that the program or project will not adversely affect the activities, features, and attributes of the park, recreation area, or wildlife or waterfowl refuge eligible for protection under section 4(f); and (2) the official(s) with jurisdiction over the protected resource concurs with the Secretary's finding. The purpose of the language is to clarify that the portions of the resource important to protect, such as playground equipment at a public park, should be distinguished from areas such as parking facilities. While a minor but adverse effect on the use of playground equipment should not be considered a de minimis impact under section 4(f), encroachment on the parking lot may be deemed de minimis, as long as the public's ability to access and use the site is not reduced.

This subsection also provides that for all section 4(f)-protected resources, the Secretary shall consider any avoidance, minimization, mitigation or enhancement measures required to be implemented as a condition for approval of the program or project when determining if the project will have a de minimis impact. This language builds in an incentive for project sponsors to incorporate environmentally protective measures into a project from the beginning. The traditional section 4(f) requirements will apply to all projects with impacts that exceed the de minimis threshold even when mitigation measures are taken into account.

In its decision in Citizens to Preserve Overton Park v. Volpe, 401 U.S. 402 (1971), the Supreme Court ruled that determinations on no feasible and prudent alternatives must find that there are unique problems or unusual factors involved in the use of alternatives or that the cost, environmental impacts, or community disruption resulting from such alternatives reach extraordinary magnitudes.

In order to address inconsistent guidance and regional interpretations of the Overton Park decision, subsection 1514(b) directs the Secretary to issue regulations to clarify the factors to be considered and the standards to be applied in determining whether alternatives are 'prudent and feasible' under section 138 of title 23 and section 303 of title 49, United States Code. The fundamental legal standard contained in the Overton Park decision for evaluating the prudence and feasibility of avoidance alternatives will remain as the legal authority for these regulations, however, the Secretary will be able to provide more detailed guidance on applying these standards on a case-by-case basis.

Subsection 1514(c) requires a study of the implementation of section 4(f) as amended. The study shall include evaluation of items such as any efficiencies resulting from the amendments of this section; the post-construction effectiveness of impact mitigation and avoidance commitments adopted; and the quantity of projects with de minimis impacts and information on the location, size and costs of the projects.

*Conference Substitute*

The Conference adopts the Senate provision with two modifications. First the language is modified so that a de minimus determination with respect to a park, recreation area or wildlife or waterfowl refuge satisfies the current law requirement that there is no prudent and feasible alternative, but the requirement to do all possible planning to minimize harm to the area is retained. Compliance with that requirement, however, shall not include an analysis of alternatives. The second modification requires an opportunity for public notice and comment prior to a de minimis determination for parks, recreation areas and wildlife and waterfowl refuges.

### SECTION 6010. ENVIRONMENTAL REVIEW OF ACTIVITIES THAT SUPPORT DEPLOYMENT OF INTELLIGENT TRANSPORTATION SYSTEMS

*House Bill*

*Sec. 1206.*

This section requires the Secretary to conduct a rulemaking within one year to establish categorical exclusions, to the extent appropriate, for activities that support the deployment of ITS from the requirement that an environmental assessment or an environmental impact statement be prepared under NEPA, in compliance with the standards for categorical exclusions established by NEPA.

The Secretary shall also develop a nationwide programmatic agreement governing the review of activities that support ITS deployment in accordance with the National Historic Preservation Act. The agreement will be developed in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation.

*Senate Bill*

No Comparable Provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SECTION 6011. TRANSPORTATION CONFORMITY

*House Bill*

*Sec. 1824.*

Section 1824 of H.R. 3 contains changes to the conformity provisions in section 176(c) of the Clean Air Act. The changes, which are discussed more fully below, address the following subjects: (1) frequency of conformity determinations; (2) changes to time horizons; (3) substitution of transportation control measures; and (4) conformity lapses.

Frequency: Subsections (a) and (b) of Section 1824 change the frequency of conformity determinations for both the Transportation Improvement Plan (TIP) and the long range Regional Transportation Plan (RTP). Under these subsections, a conformity determination would now be required for both the TIP and the RTP only once every four years (Sec. 1824(b)). In the event that a new motor vehicle emissions budget is found to be adequate (as submitted during a State Implementation Plan (SIP) revision process), or is finally approved as part of a revised or new SIP, a conformity determination would be required within two years of such a finding or approval (Section 1824(a)). In addition, subsection (b) allows an area to update its conformity determination more frequently, if it so desires.

Conformity Horizon: Subsection (c) of section 1824 addresses the conformity time horizon for RTPs. The time horizon is the period for which conformity must be demonstrated. Under current law this time horizon period is 20 years (or longer if the general RTP planning horizon is longer). Under this proposed subsection, an area may elect to reduce its time horizon for its RTP from 20 years to 10 years, but may do so only with the agreement of the MPO and the relevant Air Pollution Control Agency (APCA), as defined in section 302(b) of the Clean Air Act. In the event, however, that the attainment date in the SIP is more than 10 years away, or the date of completion of a regionally significant project is more than 10 years away, then the horizon date must be the later of those two dates. In cases where the SIP is revised to include adequate or approved motor vehicle emissions budget, and the SIP has an attainment date earlier than 10 years, the horizon may be revised to reflect that earlier date, but again, only with the agreement of the MPO and APCA.

In any event, under subsection (b) a regional emissions analysis is required for any years of the transportation plan that extend beyond the conformity time horizon. Thus if the RTP general horizon is 20 years (as is common) and the conformity horizon is reduced to 10 years, a regional emissions analysis is nevertheless required for the 10-to-20 year period. Generating this information will be helpful in ensuring that conformity is maintained.

TCMs: Subsection (d) of section 1824 allows substitution of "Transportation Control Measures" (TCMs) in a SIP, without going through a full SIP approval process or a new conformity determination, so long as the substituted TCM achieves an equivalent or greater emissions reduction than the TCM it replaces. EPA would determine whether a TCM meets that test. In addition, appropriate methodology would need to be used to determine emissions impact, reasonable public notice would be required, and adequate funding would be required. Finally, there is no requirement that a state change its SIP for TCM substitution, as indicated in the legislative language of the bill with the use of "may" rather than "shall."

Conformity Lapse Grace Period: Subsection (e) of section 1824 adds a new one-year grace period of 12 months before a conformity lapse shall be considered to exist and the consequences of a conformity lapse shall apply. A lapse is defined as in current regulations. Under this provision, when a nonattainment or maintenance area fails to make a conformity determination by an applicable deadline, it will have 12 months to make such determination. During the 12-month grace period, only transportation projects in the most recent conforming plan and TIP could be funded or approved until the required determinations are made pursuant to Section 176(c) of the Clean Air Act.

*Senate Bill*

*Sec. 1615.*

This section changes how often updates must be made to metropolitan transportation plans and metropolitan transportation improvement programs (TIPs) in nonattainment and maintenance areas, and statewide TIPs. Currently, these documents expire every 3 years, 2 years, and 3 years, respectively. With this bill, all three of these planning documents must be updated every 4 years unless a metropolitan planning organization elects to update its transportation improvement plan more frequently. This section also changes the minimum frequency with which transportation conformity must be demonstrated to every 4 years. Other changes to transportation conformity include a change in the horizon of the conformity determination, and a change in the projects to which conformity applies. In addition, this section adds a requirement for EPA's conformity regulations.

Frequency. Section 1615 amends 23 U.S.C. 134 to require that metropolitan transportation plans and metropolitan transportation improvement programs (TIPs) be updated every 4 years in nonattainment and maintenance areas, unless a metropolitan planning organization elects to update its transportation improvement plan more frequently. Currently, plans must be updated every 3 years, but TIPs must be updated every 2 years. Attainment areas will continue to update transportation plans every five years. Section 135 is also amended to require that statewide TIPs be updated at least every 4 years, to be consistent with metropolitan plans and TIPs. The section also amends section 176 of title 42, the conformity section of the Clean Air Act, to require that conformity for transportation plans and TIPs be determined every 4 years, unless an MPO elects to update their plan or TIP more frequently, or conformity is triggered by an EPA action on a SIP submission. In the case where conformity is triggered by an EPA SIP action, this section provides metropolitan areas with 2 years to determine conformity (currently, areas have 18 months).

The committee recognizes that there may be value to transportation planners in placing the frequency of metropolitan transportation plan and TIP updates and the frequency of conformity determinations on the same timetable, and also recognizes the benefit of giving metropolitan areas more time to devote to planning. The current transportation law requires TIPs to be updated at least every 2 years, and current planning regulations require plans to be updated every 3 years. Because conformity must be determined before new TIPs or new plans are adopted, many metropolitan areas were starting another TIP update as soon as transportation planning and conformity requirements were met for the previous one. Some witnesses testifying before the committee has indicated that transportation planning will improve if metropolitan areas have more time to devote to it, rather than continuously creating TIP updates and determining their conformity. Because conformity must still be determined before an updated plan or TIP is adopted, air quality should not be affected by this change; air quality impacts will still be checked before any major changes to the transportation network are made.

Horizon. The section also changes the horizon of the conformity determination, that is, how far into the future each conformity determination must examine. Currently, a conformity determination is made analyzing a 20 year period of time, which is the length of time covered by a transportation plan. This section changes the horizon of a conformity determination to be the longest of 10 years, the latest year a State air quality plan (State implementation plan, or SIP) establishes a budget, or the year after a regionally significant project is completed if the project requires approval before the next conformity determination.

Conformity must marry two separate planning activities: transportation planning, and air quality planning. While transportation plans cover a period of 20 years, SIPs, which are used as the measure of conformity, generally cover a period of 10 years or fewer. The committee is changing the horizon of the conformity determination so that it more closely matches the length of time covered by a SIP. In addition, the language also ensures that the emissions impacts of large projects on travel are considered before Federal approvals are made. The change made to the horizon does not preclude State or local agencies from examining longer time periods for informational or local air quality purposes, if they choose to do so.

Projects. The section defines transportation project to include only a project that is regionally significant, or a project that makes a significant revision to an existing project. The definition of regionally significant project closely tracks the existing EPA definition in regulation. Likewise, the definition of significant revision tracks the existing EPA criteria for significant change in design concept or scope. With the addition of this definition for transportation project, conformity determinations are required for regionally significant projects or projects that make a significant revision to an existing project, rather than for every Federal project. However, this change does not affect the requirement that the emissions impacts from all projects in the transportation plan and TIP must be considered when determining conformity of a plan or TIP. VMT from projects that are not regionally significant must still be considered in a plan or TIP conformity determination.

Requirement for Regulation. This section adds a new requirement that EPA's regulations must address the effects of the most recent population, economic, employment, travel, transit ridership, congestion, and induced travel demand information in the development and application of the latest travel models. That is, this section requires that EPA adjust regulations to ensure that travel models can account for the effects of these elements. Currently, travel models can account for the effects of most of the elements on this list, because the Clean Air Act has required that conformity be based on the most recent estimates of emissions since 1990, and EPA's conformity regulations specify how latest information regarding population, employment, travel, congestion, and transit service must be incorporated into a conformity determination.

The new elements on this list are induced travel demand and transit ridership information. The committee recognizes that induced demand is a concept that is relatively recent and has been the subject of some debate. Before changing regulations in response to this section, EPA should examine the recent literature regarding induced demand, including papers on the topic submitted to the Transportation Research Board within the last 6 years. Recent literature should inform EPA's proposal on where, when, and how induced demand should be included in travel models. If recent literature does not include recommendations for how to incorporate induced demand into travel modeling, then EPA should request input on this topic from the public and the expert community prior to proposing its regulations.

*Sec. 1617.*

Section 1617 reduces barriers to regions implementing transportation control measures (TCMs) to improve their regional air quality. The section allows an area to substitute an existing TCM or add a TCM if they can show that the new TCM will achieve equivalent or greater emissions reductions. Substitution or addition of a TCM will not require express permission in the State air quality plan (SIP), a formal revision of the SIP, nor a new conformity determination.

Transportation control measures, or TCMs, are transportation-related measures that have the potential to reduce emissions of criteria pollutants. Many TCMs reduce emissions by reducing VMT, for example, high-occupancy vehicle lanes, transit projects, park and ride lots, ride-share programs, and pedestrian and bicycle facilities. States can include TCMs in their SIPs. However, unless the SIP includes a TCM substitution mechanism, i.e., a set of provisions for substituting TCMs, the SIP must be revised to change a TCM that is delayed or no longer viable. The purpose of this section is to allow all States to substitute TCMs without a full SIP revision, regardless of whether the State has its own substitution mechanism.

TCMs can be substituted if the substitute measure achieves the same or greater emission reductions as the measure being replaced, based on an analysis that uses the latest planning assumptions and the current models. The substitute TCMs must be implemented on the same schedule as the original measure, if that is possible. However, the committee recognizes that it may not be possible for the substitute measure to be on the original schedule; for example, a possible reason that a State would want to substitute a TCM is that it has proved difficult to implement in a timely way. In those cases, the substitute measure must be implemented as soon as practicable, but not later than the date on which the SIP is supposed to achieve its purpose. For example, if the TCM is included in the SIP as part of the attainment demonstration, and the attainment date is 2005, the substitute TCM must be implemented as soon as practicable to reduce emissions by 2005.

Subparagraph (B) of this provision states that after carrying out subparagraph (A), a State shall adopt the substitute or additional control measure in the applicable SIP. In this instance, the committee has used the word 'adopt' to mean that the State must record the measure as being part of the SIP. The sole intent of this subparagraph is to ensure that the State keeps an up-to-date list of the TCMs that must be implemented, so that a member of the public can review the list at any point and have the complete, correct list of TCMs that are in the SIP. This subparagraph is not intended to create any additional process requirements than those in subparagraph (A).

*Sec. 1616.*

Section 1616 provides methods for new nonattainment areas to use in determining transportation conformity to help achieve the national ambient air quality standards. Many areas will soon be designated nonattainment with the revised national ambient air quality standards for ozone (the 8-hour standard) and fine particulate matter (PM–2.5). In the case of areas that have not been in nonattainment before and have not been required to demonstrate transportation conformity or develop an emissions budget to use in that demonstration, or in the event that the agency revokes a prior standard before new nonattainment areas have approved emissions budgets for a revised standards, the committee has provided that those areas would be able to use an emissions budget in a SIP for the prior standard for the same pollutant, if one is available. Areas could also use the other tests that are currently available in cases where an area does not have a SIP.

This section is added because EPA designated areas for the new 8-hour ozone standard in April 2004, and made designations for the fine particulate matter standard (PM–2.5) in December 2004. Newly designated nonattainment areas that have not been previously designated nonattainment for the same pollutant will have a 1-year grace period before conformity applies, but they have 3 years to submit SIPs to EPA. SIPs include motor vehicle emissions budgets, which are the total amount of each pollutant or precursor that is allowable for the transportation sector. These budgets serve as the measure of comparison when determining conformity. Therefore, after areas are designated for an air quality standard, there will be a period of time when other means of determining conformity must be used.

This section will allow areas that have been designated for the new 8-hour ozone standard to use the motor vehicle emissions budget from their 1-hour ozone SIP, if it exists, even once EPA revokes the 1-hour standard. Rather than referring specifically to the 8-hour and 1-hour ozone standards, this section is written broadly to refer to any standards. The committee recognizes that EPA, from time to time, may revise air quality standards. Areas should be able to use the budgets from the SIP that addresses the most recent prior standard of the same pollutant, if one exists and EPA has found its budgets adequate or has approved the SIP.

The committee did not mandate the use of the budgets from a SIP for the most recent prior standard, but instead gave areas the choice to do so, or use the existing tests. There may be instances where the budget from a SIP addressing the prior standard would not provide a good test of conformity. For example, such a budget could be established for a year that is many years in the past, be based on a geographic boundary that is different than the boundary for the current standard, or be based on information that is significantly out-of-date. For these reasons, the committee believes it is important to provide a choice to areas. Areas will use the consultation process to determine whether budgets addressing a prior standard for the same pollutant or another test or tests, will be used for conformity.

*Sec. 1619.*

Section 1619 updates the language in section 176 of title 42 that directs EPA to write regulations. It removes references to the date of enactment of the Clean Air Act Amendments of 1990. It also removes the requirement for States to duplicate the entire text of Federal conformity regulations in their State implementation plans each time there is a revision in those regulations. Instead, States will be required to further amend their State implementation plans only when revising conformity consultation procedures.

Current law requires that States submit criteria and procedures for assessing conformity of transportation plans, TIPs, and projects. This requirement results in States having to adopt the entire Federal conformity rule into their State implementation plans (SIPs). States that have done so must update their SIP whenever EPA updates any portion of the conformity regulations, which EPA has done several times since promulgating the initial rule in 1993, most recently in 2000, 2002 and 2004. However, only the consultation procedures that exist in the regulations need to be tailored to individual States. This change ensures that States must submit consultation procedures, but no longer have to repeat the entire Federal conformity regulations. This change will reduce the paperwork burden on States with no adverse air quality impact.

*Conference Substitute*

Frequency: The Conference agrees to a modified version of the Senate provision. The Senate provision is modified to clarify that the two-year clock for re-determining conformity after the approval of new emissions budgets only starts if those emissions budgets had not previously been found adequate.

Horizon: The Conference adopts the Senate provision with modifications. First, the change in horizon will be at the election of the metropolitan planning organization, after consultation with the appropriate air pollution control agency and with a period for public comment. The decision to address a portion of the transportation plan rather than the entire 20-year plan when demonstrating conformity only needs to be made once, not each time a conformity determination is made. After such election, each conformity determination will address the longest of the three periods at that point in time.

For example, the first conformity determination following such election may address 10 years of the transportation plan, but the second may need to address 15 years because the new plan includes a regionally significant project in later years of the plan. The Conference also requires a conformity determination to include an informational regional emissions analysis for the last year of the transportation plan and any year shown to exceed emissions budgets by a prior informational regional emissions analysis if such year extends beyond the conformity date.

Projects: The Conference does not adopt the Senate provision.

Conformity Lapse: The Conference adopts the House language.

TCM Substitution: The Conference agrees to a modified version of the Senate provision. The Conference clarifies the meaning of "adoption." Specifically, adoption occurs when the MPO, state air agency and EPA concur that all four of the general requirements in subparagraph (A) of the provision have been fulfilled. At that point the substitute TCM becomes part of the SIP and federally enforceable. The state air agency is directed to send the substitute measure to EPA within 90 days of adoption so that EPA may proceed with incorporating the substitute measure into the codified SIP. This action does not require any additional state process. The conference also clarifies that evidence of adequate funding for the implementation of the substitute TCM must be provided.

Requirements for Regulations: The Conference does not adopt the Senate provision, but agrees to replace it with a requirement in the Research title requiring the Federal Highways Administration to address induced travel demand and transit ridership in the development of the TRANSIMS transportation model and to assist state and local governments in using TRANSIMS to estimate the impact of these factors when areas make conformity determinations, where applicable.

Transition to New Air Quality Standards: The Conference does not adopt the Senate provision.

Conforming Amendments: The Conference agrees to a modified version of the Senate provision. The Conference clarifies that states are required to incorporate three provisions from the federal conformity rule into their SIPs. The three provisions are related to consultation and enforcement and enforceability of commitments for emission reduction or mitigation measures. These are the only three provisions in the federal conformity rule that states are allowed to tailor when they incorporate conformity requirements into their SIPs.

Regulations: The Conference includes a provision requiring EPA to revise the conformity rule within two years of the enactment of the bill.

### SECTION 6012. FEDERAL REFERENCE METHOD

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 1610.*

This section directs EPA to conduct a study of the ability of monitors to differentiate particulate matter larger than 2.5 micrometers in diameter (coarse particulate matter). EPA is also directed to develop a method to measure directly the amount and composition of coarse particulate matter.

This section directs EPA to conduct a study of the ability of monitors to differentiate particulate matter larger than 2.5 micrometers in diameter (coarse particulate matter). This study will give policymakers and the agency a better understanding of the difficulties involved in distinguishing particles that are smaller than 2.5 micrometers in size from those that are larger. This knowledge will assist policymakers by minimizing the potential of measurements to either inflate or deflate the quantity of smaller particles, or to inflate or deflate the quantity of larger particles.

EPA is also directed to develop a method to measure directly the amount and composition of coarse particulate matter. This will ensure that EPA has the tools necessary so that it does not need to rely on a methodology for measuring coarse particles (2.5 to 10 microns in size) by measuring all particles (up to 10 microns in size) and subtracting fine particles (2.5 microns or less in size), as this subtraction method may increase the probability of measurement error. EPA is also directed to develop a method to measure different kinds of particles. By developing the ability to measure different types, or so-called "species" of particles, the agency will be able to better identify those particles that constitute the particles of greater concern and to identify the point of origin of the emissions for purposes of modeling.

*Conference Substitute*

The Conference adopts the Senate provision.

### SECTION 6013. AIR QUALITY MONITORING DATA INFLUENCED BY EXCEPTIONAL EVENTS

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 1618.*

Section 1618 requires EPA to promulgate regulations governing the handling of air quality monitoring data influenced by exceptional events. These regulations would allow governors to petition EPA to exclude air quality data directly due to exceptional events. Events such as forest fires or volcanic eruptions, should not influence whether a region is meeting its Federal air quality goals. The section includes requirements for demonstrating the occurrence of such a natural event by reliable and accurate data, a clear causal relationship between the exceptional event and a national air quality standard exceedance, and a public process for the determination.

This section includes a definition of exceptional events and excludes certain events from the definition. Natural climatological occurrences such as stagnant air masses, high temperatures, or lack of precipitation influence pollutant behavior but do not themselves create pollutants. Thus, they are not considered exceptional events. Likewise, air pollution related to source noncompliance may not be considered an exceptional event. In contrast, events which are part of natural ecological processes, which generate pollutants themselves that cannot be controlled, qualify as exceptional events.

The committee is concerned that the Environmental Protection Agency's (EPA's) current approach for modeling carbon monoxide (CO) emissions from motor vehicles may not be appropriate for cold weather States, such as Alaska, that must make CO attainment and maintenance demonstrations. The committee therefore requests that EPA evaluate the effectiveness of its MOBLIE6 model to determine if it adequately accounts for the effects of cold weather on CO emissions.

EPA is directed to follow principles in promulgating regulations under this section. These principles reflect the requirements of the current Clean Air Act and do not establish new requirements for States or EPA to meet. Instead, these are principles that EPA must follow when promulgating regulations under this section.

*Conference Substitute*

The Conference adopts the Senate provision.

### SECTION 6014. FEDERAL PROCUREMENT OF RECYCLED COOLANT

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

This section directs the President to conduct, within 90 days of enactment of this Act, a review of Federal procurement policy of off-site recycled coolant, taking into consideration processes that are energy efficient, generate no hazardous waste, produce no emissions of air pollutants, present lower health and safety risks to employees at the plant or facility and recover at least 97 percent of the glycols from used antifreeze feedstock.

*Conference Substitute*

The Conference adopts the Senate provision with a correction to delete "off-site".

### SECTION 6015. CLEAN SCHOOL BUS PROGRAM

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 1622.*

Section 1622 establishes a statutory program to authorize funds to assist localities seeking to reduce emissions from existing school buses. The legislation requires EPA to award grants to replace pre-1977 school buses and retrofit post-1990 school buses, and when appropriate, purchase alternative fuels.

*Conference Substitute*

The Conference adopts the Senate provision with a modification to clarify that the awarding of grants for the purchase of alternative fuel should be consistent with the historic funding levels of the program for such purchase.

### SECTION 6016. SPECIAL DESIGNATION

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 1704*

This section directs that the city of Norman, Oklahoma, shall be considered to be part of the Oklahoma City urbanized area for the purpose of any applicable program under title 23, United States Code.

*Conference Substitute*

The Conference adopts the Senate provision.

### SECTION 6017. INCREASED USE OF RECOVERED MINERAL COMPONENT IN FEDERALLY FUNDED PROJECTS INVOLVING PROCUREMENT OF CEMENT OR CONCRETE

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 4001.*

The section amends Subtitle F of the Solid Waste Disposal Act (42 U.S.C. et seq) to direct the EPA and each agency head to implement procurement requirements and incentives that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects. Priority is to be given to achieving greater use of recovered mineral components in cement or concrete projects for which recovered mineral components historically have not been used or have been used minimally.

*Conference Substitute*

The Conference adopts the Senate provision with a modification to exclude lead slag and lead slag aggregate from the definition of "recovered mineral component".

### SECTION 6018. USE OF GRANULAR MINE TAILINGS

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 4002.*

This section amends the Solid Waste Disposal to require the Administrator of the Environmental Protection Agency and each agency head to take necessary actions to implement fully all procurement requirements and incentives that provide for the use of cement and concrete incorporating recovered mineral component in cement or concrete projects. An agency head is required to give priority to achieving greater use of recovered mineral component for which it has not been historically used or used minimally. This section also requires the Administrator, in cooperation with the Secretaries of Transportation and Energy, to conduct a study to determine the extent to which current procurement requirements may realize energy savings and environmental benefits attainable with the substitution of recovered mineral component in cement used in cement or concrete projects. Additionally, this section requires the Administrator, in consultation with other agency heads, to establish criteria for the safe and environmentally protective use of granular mine tailings from the Tar Creek, Oklahoma Mining District, known as 'chat', for cement or concrete projects, and transportation projects, including those that use asphalt, that are carried out using Federal funds. In establishing the criteria, the Administrator is required to consider current and previous uses of 'chat,' and any environmental and public health risks and benefits derived from removal, transportation and use of 'chat.'

*Conference Substitute*

The Conference adopts the Senate provision.

## TITLE VII—HAZARDOUS MATERIALS TRANSPORTATION

### SEC. 7001. SHORT TITLE

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 7301.*

This section provides the Short Title.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 7002. AMENDMENT OF TITLE 49, UNITED STATES CODE

*House Bill*

*Sec. 7001.*

This section establishes that any reference to a section or other provision shall be considered a section or provision of title 49, United States Code, unless otherwise specified.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

## Subtitle A—General Authorities on Transportation of Hazardous Materials

### SEC. 7101. FINDINGS AND PURPOSE

*House Bill*

*Sec. 7002.*

This section establishes the Congressional findings of the hazardous materials title, and updates and clarifies the purpose of chapter 51.

*Senate Bill*

*Sec. 7301.*

This section contains the short title and table of contents.

*Sec. 7321.*

This section provides the purpose of the Hazmat Title.

*Conference Substitute*

The Conference adopts the House provision with modifications.

### SEC. 7102. DEFINITIONS

*House Bill*

*Sec. 7003.*

This section modifies the definition of "commerce" to include transportation on a U.S.-registered aircraft anywhere in the world. This section also defines the term "Secretary" as the Secretary of Transportation, except where otherwise indicated.

*Senate Bill*

*Sec. 7322.*

This section modifies definitions as indicated below.

The definition of "commerce" is amended to provide jurisdiction over hazardous materials activities being conducted on a U.S.-registered aircraft anywhere in the world. The purpose of this proposed provision is to clarify that DOT has the authority, under Federal hazardous materials transportation law (49 U.S.C. 5101-5127), to regulate hazardous materials transportation on all U.S.-registered aircraft.

The definitions of "hazmat employee" and "hazmat employer" is amended to clarify that the terms include the self-employed, including owner-operators of motor vehicles, vessels or aircraft, and temporary or part time employees.

The definition of "motor carrier" would be amended by clarifying that it includes a freight forwarder, as defined in 49 U.S.C. 13102, only if the freight forwarder is performing a function related to highway transportation. In addition, the definition of "imminent hazard" is further clarified.

Finally, the definition of "person" is amended so that the requirements of chapter 51 apply to additional activities of government agencies and Indian tribes, and includes those that design, manufacture, fabricate, inspect, mark, maintain, recondition, repair, or test a package, container, or packaging component for use in the transportation of hazardous materials in commerce.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 7103. GENERAL REGULATORY AUTHORITY

*House Bill*

*Sec. 7004.*

This section updates the terminology used to describe the materials the Secretary should designate as hazardous, as well as the terminology describing the transportation, and transportation-related, activities regulated by the DOT. This section amends current law to ensure that persons who design and inspect packages (or components of packages) are subject to the hazardous materials regulations. This section also clarifies that the hazardous materials regulations apply to persons who prepare or accept hazardous materials for transportation in commerce.

*Senate Bill*

*Sec. 7323.*

This section amends subsection 5103(a), title 49 U.S.C. to update the terminology used to describe materials the Secretary is required to designate as hazardous under that subsection. It would also amend subsection 5103(b)(1)(A) to conform with the definition changes made to section 5102.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 7104. LIMITATION ON ISSUANCE OF HAZMAT LICENSES

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7324.*

This section requires the Secretary of Health and Human Services to recommend to the Secretary of Transportation any chemical or biological material or agent to be regulated as a hazardous material in transportation.

*Conference Substitute*

The Conference adopts the Senate provision with modifications.

### SEC. 7105. BACKGROUND CHECKS FOR DRIVERS HAULING HAZARDOUS MATERIALS

*House Bill*

*Sec. 4113.*

This section authorizes the Secretary, and thus FMCSA, to engage in international activities. This kind of authority is necessary to aid in implementing the North American Free Trade Agreement and to carry on discussions with U.S. trading partners concerning a variety of safety issues.

*Senate Bill*

*Sec. 7325.*

This section requires motor carriers registered in Mexico and Canada and transporting hazardous material in the U.S. be subject to a background records check similar to that which will apply to U.S.-licensed motor carriers. In addition, this section directs the Transportation Security Administration to develop a process to notify an employer if an applicant fails to meet specified standards. The provision eliminates redundant background checks; requires Federal Regulations apply to State appeals process for certain background checks; and clarifies the term "transportation security incident".

*Conference Substitute*

The Conference adopts the House and Senate provisions with modifications.

### SEC. 7106. REPRESENTATION AND TAMPERING

*House Bill*

*Sec. 7005.*

This section updates the language in current law without changing the scope of the law.

*Senate Bill*

*Sec. 7326.*

This section would make technical changes to section 5104 for purposes of clarity.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 7107. TECHNICAL AMENDMENTS

*House Bill*

*Sec. 7006.*

This section provides technical amendments to update the terminology in current law.

*Senate Bill*

*Sec. 7327.*

This section would amend section 5105 by deleting subsection (d) because the required study has been completed and submitted to Congress.

*Sec. 7329.*

This section makes technical changes to title 49, United States Code.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 7108. TRAINING OF CERTAIN EMPLOYEES

*House Bill*

*Sec. 7007.*

This section amends section 5107(f) of current law (redesignated in the bill as section 5107(g)) by deleting the reference to section 5108(a)-(g)(1) and (h), and section 5109, but retains the provision in current law that states that an action of the Secretary under subsections (a)-(d) of this section and section 5106 of this title is not an exercise of statutory authority, under section 4(b)(1) of the Occupational Safety and Health Act of 1970, to prescribe or enforce standards or regulations affecting occupational safety or health.

This section also codifies the existing practice of providing hazardous materials training to maintenance-of-way employees and railroad signalmen.

*Senate Bill*

*Sec. 7328.*

This section allows training grants for the "Train the Trainer" program to also be made to instructors to train hazmat employees, to the extent determined appropriate by the Secretary.

*Conference Substitute*

The Conference adopts both the House and Senate provisions. The Conference retains the provision in current law that states that an action of the Secretary is not an exercise of statutory authority, under section 4(b)(1) of the Occupational Safety and Health Act of 1970, to prescribe or enforce standards or regulations affecting occupational safety or health.

The Conference codifies the existing practice of providing hazardous materials training to maintenance-of-way employees and railroad signalmen.

The Conference allows training grants for the "Train the Trainer" program to also be made to instructors to train hazmat employees, to the extent determined appropriate by the Secretary.

### SEC. 7109. REGISTRATION

*House Bill*

*Sec. 7008.*

This section amends the current law to include those persons who design and inspect hazardous materials packages, or package components, as persons required to register with the Secretary. This change is consistent with the updated language in Section 7004 concerning persons who are subject to the hazardous materials regulations.

Section 5108(g) is amended to require the Secretary to establish and collect a registration fee sufficient to cover the costs of processing the registration and that the Secretary must collect a fee at least large enough to cover processing costs from all entities otherwise exempted from paying the registration fee. This section reduces the maximum fee the Secretary may assess from $5,000 to $3,000.

This section also requires the Administrator of RSPA to transmit the annual registration information required in section 5108 for motor carriers to FMCSA. The Committee intends to ensure that FMCSA has the most up-to-date information on motor carriers that transport hazardous materials and expects the transmittal of information to be done as expeditiously as possible.

*Senate Bill*

*Sec. 7329.*

The Secretary is allowed to require a registration statement from persons who design and inspect a package or packaging component that is represented as qualified for use in transporting hazardous materials in commerce.

This section requires the Secretary to impose a registration fee sufficient to cover administrative processing costs. Indian tribes and States would be exempted from the requirements to register and pay registration fees.

This section also reduces the maximum fee that would be assessed under section 5108(g)(2)(A) from $5,000 to $3,000. The Secretary is directed to reinstate the fees that were suspended due to regulatory action.

*Conference Substitute*

The Conference adopts the Senate provision with modifications.

### SEC. 7110. SHIPPING PAPERS AND DISCLOSURE

*House Bill*

*Sec. 7009.*

This section requires that each person who prepares a shipping paper must make the disclosures that the Secretary prescribes by regulation.

This section amends section 5110 to extend the time period shippers and carriers are required to retain shipping papers. Under current law, shippers and carriers are required to retain the shipping papers for one year after the hazardous material is no longer in transportation. This section requires shippers and carriers to retain shipping papers for two years after the shipping papers are prepared.

*Senate Bill*

*Sec. 7330.*

This section requires shippers to keep their shipping papers for three years in order to facilitate investigations of past violations and continues to require carriers to retain their shipping papers for the current one year period.

*Conference Substitute*

The Conference adopts the Senate provision with modifications. The bill requires shippers to keep their shipping papers for two years in order to facilitate investigations of past violations, and continues to require carriers to retain their shipping papers for the current one year period. For purposes of this section, shippers who are also carriers and carriers who are also shippers must retain their shipping papers for two years.

### SEC. 7111. RAIL TANK CARS

*House Bill*

*Sec. 7010.*

This section repeals section 5111, which permits a rail car built before January 1, 1971, to be used for hazardous materials transportation only if the air brake equipment support attachments of the car comply with the standard for attachments contained in 49 CFR 179.100-16 and 179.200-19.

*Senate Bill*

*Sec. 7331.*

This section repeals section 5111, which permits a rail car built before January 1, 1971, to be used for hazardous materials transportation only if the air brake equipment support attachments of the car comply with the standard for attachments contained in 49 CFR 179.100–16 and 179.200–19.

*Conference Substitute*

The Conference adopts a combination of the House and Senate provisions.

### SEC. 7112. UNSATISFACTORY SAFETY RATINGS

*House Bill*

*Sec. 7011.*

This section amends section 5113 to provide that a motor carrier owner or operator transporting hazardous materials in commerce who, upon review of an unfavorable fitness determination, is determined by the Secretary to be "unfit" is subject to the civil penalties in section 5123 and the criminal penalties set forth in section 5124.

*Senate Bill*

*Sec. 7332.*

This section provides that an unfit owner or operator transporting hazardous material in commerce, as determined by the Secretary, shall be subject to the civil penalties in section 5123 and the criminal penalties in section 5124.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 7113. TRAINING CURRICULUM FOR THE PUBLIC SECTOR

*House Bill*

*Sec. 7012.*

This section updates the training curriculum to include appropriate emergency response training and planning programs developed with all Federal assistance, not just those under Federal grant programs.

This section also makes the Secretary responsible for distribution and publication of the training curriculum.

*Senate Bill*

*Sec. 7333.*

Several technical amendments are made to reflect that the public-sector training curriculum has already been developed and to focus the statutory provisions on maintaining, not developing, the curriculum.

The training curriculum is required to include appropriate emergency response training and planning programs for public-sector employees developed with Federal financial assistance, not just those under other Federal grant programs.

*Conference Substitute*

The Conference adopts the Senate provision with modifications to include the House provision ensuring that the training necessary for public sector employees also complies with other voluntary consensus standard-setting organizations as the Secretary determines appropriate. The House Distribution and Publication language is also adopted.

### SEC. 7114. PLANNING AND TRAINING GRANTS; HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS FUND

*House Bill*

*Sec. 7013.*

This section amends section 5116(b)(4) to require the Secretary to consider the report established in section 7022 of this bill when determining a State or Indian tribe's emergency response funding needs.

This section also establishes the Secretary of Transportation as the lead for monitoring public sector emergency response planning and training. It also establishes a new account within the Treasury specifically for hazardous materials emergency preparedness.

This section also allows the Secretary to use funds collected from the annual registration fees to publish and distribute the Emergency Response Guidebook.

*Senate Bill*

*Sec. 7334.*

This section eliminates the current requirement that the State share of planning and training grants must be above and beyond 'maintenance of effort' funds. In subsection (g), the phrase 'government grant programs' would be broadened to 'Federal financial assistance programs' in order to provide for more complete coordination of funding sources.

This section also amends section 5116 to provide a name for the account established under subsection 5116(i), calling it the 'Emergency Preparedness Fund.' Amounts collected by the Secretary under subsection 5108(g)(2)(C) would be deposited into the Emergency Preparedness Fund and could be used for emergency planning and training grants, under subsection 5116(a) and (b), monitoring and technical assistance under subsection 5116(f), and administrative costs of carrying out sections 5116, 5108(g)(2), and section 5115. It also clarifies that these amounts may be used to publish and distribute the Emergency Response Guidebook. Information on the allocation and uses of the grants would be made available to the public on an annual basis.

*Conference Substitute*

The Conference adopts the Senate and House provisions with modifications. A compromise on the Government Share of Costs is also adopted.

### SEC. 7115. SPECIAL PERMITS AND EXCLUSIONS

*House Bill*

*Sec. 7014.*

This section clarifies that the Secretary may issue a special permit to any person who performs a function regulated under section 5103(b)(1).

This section increases the maximum renewal period of special permits from two years to four years, except that special permits issued related to highway routing of hazardous materials are only renewable for a two-year period.

*Senate Bill*

*Sec. 7335.*

This section clarifies that the Secretary may issue a special permit to any person who performs a function identified under section 5103(b)(1).

In addition, this section changes the maximum initial effective period of a special permit to two years, and provides for the renewal of special permits for four-year successive periods. This change eliminates a great deal of unnecessary industry application time and government processing time involved in the present two-year renewal process.

This section also repeals a requirement that the Secretary maintain 30 hazardous materials safety inspectors more than the number of inspectors authorized at the end of FY 1990. The Pipeline and Hazardous Materials Safety Administration maintains inspectors in excess of this requirement and, pursuant to recommendations resulting from a department-wide DOT review of the hazmat program, is requesting more flexibility about how inspectors should be utilized.

*Conference Substitute*

The Conference adopts the House provision with modifications. The Conference also adopts the Senate's repeal of section 5118.

### SEC. 7116. UNIFORM FORMS AND PROCEDURES

*House Bill*

*Sec. 7015.*

This section requires the Secretary to establish a working group to develop uniform forms and procedures for States to register and issue permits to persons who transport, or cause to be transported hazardous materials in the State. The working group is required to develop a report of its recommendations for the Secretary to consider when issuing regulations to carry out a uniform State registration system. The working group is prohibited from proposing to limit any fee that a State may impose or collect.

*Senate Bill*

*Sec. 7336.*

This section reflects the fact that the working group established to formulate uniform registration and permitting forms and procedures has completed its task and submitted a report to Congress. The section authorizes the Secretary to prescribe regulations to establish uniform forms and regulations for States to: (1) register and issue permits for the transportation of hazmat by motor vehicle; and (2) permit the transportation of hazmat in a State. In addition, States would be authorized to participate in the uniform forms and procedures program recommended by the Alliance for Uniform Hazmat Transportation Procedures.

*Compromise*

The Conference adopts the House provision with modifications.

### SEC. 7117. INTERNATIONAL UNIFORMITY OF STANDARDS AND REQUIREMENTS

*House Bill*

*Sec. 7016.*

This section amends current law to reflect that the Secretary may have additional international requirements, in addition to current international standards, that need to be met.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 7118. ADMINISTRATIVE AUTHORITY

*House Bill*

*Sec. 7017.*

This section amends section 5121 to provide for enhanced authority to discover hidden shipments of hazardous materials and to clarify and enhance the inspection and enforcement authority of DOT officials and inspection personnel, thereby enabling them to more effectively identify hazardous materials shipments and to determine whether those shipments are made in accordance with the hazardous materials regulations. This proposal would expand DOT inspection authority to authorize a designated DOT officer or employee to: access, open, and examine a package (except for the packaging immediately adjacent to the hazardous materials contents) offered for or in transportation when the officer or employee has an objectively reasonable and articulable belief that the package may contain a hazardous material; remove from transportation a package or related packages in a shipment when the officer or employee has an objectively reasonable and articulable belief that the package or packages may pose an imminent hazard and contemporaneously documents that belief; gather information from the shipper, packaging manufacturer or retester, or others responsible for the package to determine the nature and hazards of the contents of the package; as necessary, order the shipper, packaging manufacturer or retester, or others responsible for the package to have the package transported to, opened, and the contents analyzed at an appropriate facility; and authorize properly qualified personnel to assist in the package opening and examination when safety might otherwise be compromised.

This section also amends current law to require the Secretary to develop procedures to assist in the safe resumption of transportation of the package and transport unit when an inspection or investigation does not result in discovery of an imminent hazard. This section directs the Secretary to develop expedited procedures for hazardous materials that are perishable.

The Committee believes strongly that DOT officials, law enforcement and inspection personnel must have the tools necessary to accurately determine whether hazardous materials are being transported safely and in accordance with the relevant law and regulations. To that end, the Committee supports the use of new technologies, such as the Hazmat Trucking Enforcer, that enable inspectors to conduct hazardous materials inspections in a more effective manner and to respond swiftly to any incident involving hazardous materials. The Committee notes that States must be in substantial compliance with a number of requirements under 49 U.S.C. 31102 as a condition of receiving MCSAP funding, including requirements to deploy technology to enhance the efficiency and effectiveness of commercial motor vehicle safety programs under 49 U.S.C 31102(b)(1)(A), as amended.

This section would also repeal a requirement that the Secretary maintain 30 hazardous materials safety inspectors more than the number authorized at the end of fiscal year 1990. PHMSA currently maintains inspectors in excess of this requirement.

*Senate Bill*

*Sec. 7337.*

This section improves safety by clarifying and enhancing the inspection and enforcement authority of DOT officials and inspection personnel. Section 5121(a) is amended to expressly state that the Secretary's enforcement authority includes the authority to conduct tests. This section also clarifies that persons subject to chapter 51 must make property, as well as records, reports, and information, available to the Secretary for inspection upon the Secretary's request.

This section provides for enhanced authority for DOT officials to discover hidden shipments of hazardous materials. Section 5121(c) is amended to clarify and enhance the inspection and enforcement authority of DOT officials and inspection personnel, thereby enabling them to more effectively identify hazardous materials shipments and to determine whether those shipments are made in accordance with the Hazardous Materials Regulations.

The Secretary is required to develop procedures for the safe resumption of transportation of a package or transport unit when an inspection or investigation does not result in the discovery of an imminent hazard. The Committee expects that the Secretary will take in to consideration the impact of these procedures on the resumption of transit for time sensitive medical material such as radiopharmaceuticals and radionucleides.

In addition, this section authorizes the Secretary to issue an emergency order when it is determined, by inspection, investigation, testing, or research, that a violation of hazardous material transportation laws, or an unsafe condition or practice, is causing an imminent hazard. In those situations, the Secretary is authorized to issue or impose emergency restrictions, prohibitions, recalls, or out-of-service orders, without notice or the opportunity for a hearing, but only to the extent necessary to abate the imminent hazard.

The Secretary is required to issue regulations implementing the new provisions governing package inspection and emergency orders.

A new subsection (g) authorizes the Secretary to enter into grants, cooperative agreements, and other transactions to address security risk assessment and emergency preparedness. The objectives would include research, development, demonstration, risk assessment, emergency response planning, program support, and training activities.

This section requires the Secretary, through the Bureau of Transportation Statistics, to submit a report at least every three years on the transportation of hazardous materials during the preceding three years, including a summary of hazmat shipments, deliveries, and movements during the period. In addition, the section would require a report every two years with, among other items, an analysis of hazmat accidents and incidents over the preceding two years, a list and summary of special permits, regulations and orders, and an evaluation of the effectiveness of enforcement activities relating to the transportation of hazmat during the period.

The Secretary would be authorized to determine whether release of certain sensitive information contained in government records would be contrary to national security.

*Conference Substitute*

The Conference adopts the House provision with modifications. The Conference believes strongly that DOT officials, law enforcement and inspection personnel must have the tools necessary to accurately determine whether hazardous materials are being transported safely and in accordance with the relevant law and regulations.

### SEC. 7119. ENFORCEMENT

*House Bill*

*Sec. 7018.*

This section amends section 5122 to clarify the types of judicial relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, available to be granted in an action brought by the Attorney General. Subsection (b) is amended for clarity by changing the word "ameliorate" to "mitigate."

*Senate Bill*

*Sec. 7338.*

This section clarifies the types of judicial relief, including civil penalties, that may be granted in an action brought by the Attorney General.

*Conference Substitute*

The Conference adopts the Senate provision with modifications.

### SEC. 7120. CIVIL PENALTY

*House Bill*

*Sec. 7019.*

This section amends section 5123 to increase the maximum civil penalty from $27,500 to $50,000 for each violation of a law or regulation under Chapter 51. In those cases resulting in death, serious illness, severe injury to any person, or substantial destruction of property, the Secretary would be able to increase the maximum penalty to $100,000.

*Senate Bill*

*Sec. 7339.*

This section amends the civil penalty provisions in section 5123 to cover violations of special permits or approvals issued by DOT to ensure that appropriate enforcement action can be taken against persons violating those special authorities. Civil penalties for death, serious illness, or severe injury would be increased to up to $100,000 to serve as a deterrent against violations that could lead to such outcomes. Maximum civil penalty amounts for other violations are set at the current level of $32,500 and violations related to employee training will be subject to a minimum penalty of $450. A violator would be liable for interest that accrues on a civil penalty.

*Conference Substitute*

The Conference adopts the House provisions with a modification.

### SEC. 7121. CRIMINAL PENALTY

*House Bill*

*Sec. 7020.*

Section 5124 would be revised to include a new "reckless" standard and to define the "knowing," "reckless," and "willful" mental-state standards necessary to establish a criminal violation. Section 5124(a) would be amended to provide that a person who knowingly, willfully, or recklessly violates chapter 51 or a regulation, order, special permit, or approval issued under that chapter, is subject to a fine imposed under title 18 and/or imprisonment of not more than 5 years. In cases where a violation involves the release of a hazardous material that results in death or bodily injury to any person, the maximum term of imprisonment is 10 years.

Section 5124(c) defines a "willful" violation as when the person has knowledge of the facts giving rise to the violation and the person has knowledge that the conduct was unlawful.

Section 5124(d) defines a "reckless" violation as when a person displays a deliberate indifference or conscious disregard for the consequences of his or her conduct.

*Senate Bill*

*Sec. 7340.*

An increased criminal penalty of not more than twenty years is applied to existing law for a person who knowingly violated 49 U.S.C. 5104(b) or willfully violates chapter 51 or a regulation issued under that chapter, and thereby causes a release of hazardous material. The section also provides that a separate violation occurs for each day a violation continues.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 7122. PREEMPTION

*House Bill*

*Sec. 7021.*

This section adds language to ensure that when the preemption test required by this section is conducted, each requirement is independent in their application to the State or Indian tribe.

*Senate Bill*

*Sec. 7341.*

This section would include a new subsection outlining the purposes of the Secretary's current preemption authority and clarifies that a person may apply to the Secretary for a decision as to whether a fee imposed by a State, political subdivision of a State, or an Indian tribe is preempted. Further, this section deletes the requirement that the Secretary publish the reason for a delay in issuing a preemption determination in the Federal Register.

Subsection 5125(j) is added to indicate that the preemption standard is to be applied independently to each non-Federal requirement in order to determine whether it is preempted.

Finally, new subsection 5125(i) clarifies that the Secretary's preemption authority does not apply to a procedure, penalty, required mental state, or other standard used by a State, political subdivision of a State, or Indian tribe to enforce hazardous material transportation requirements.

*Compromise*

The Conference adopts the Senate provision with modifications.

### SEC. 7123. JUDICIAL REVIEW

*House Bill*

*Sec. 7023.*

This section adds a new section 5127 providing for judicial review of final actions taken by the Secretary under chapter 51. This provision establishes the appropriate judicial forum for review of final agency actions in the areas of compliance, enforcement, civil penalties, rulemaking, and preemption.

Under this proposal, the U.S. Court of Appeals for the District of Columbia or the U.S. Court of Appeals for the U.S. circuit in which a person seeking review resides or has his or her principal place of business would review the final action. The petition for review must be filed within 60 days after issuance of the order. The section describes judicial procedures, the authority of the court, and a requirement for prior objection.

*Senate Bill*

*Sec. 7343.*

This section adds a new section 5127 providing for judicial review of final actions taken by the Secretary under chapter 51. This provision establishes the appropriate judicial forum for review of final agency actions in the areas of compliance, enforcement, civil penalties, rulemaking, and preemption.

Under the proposal, the United States Court of Appeals for the District of Columbia or for the circuit in which a person seeking review resides or has his or her principal place of business would review the final action. The petition for review must be filed within 60 days after issuance of the order.

*Conference Substitute*

The Conference adopts the House provision with modifications.

### SEC. 7124. RELATIONSHIP TO OTHER LAWS

*House Bill*

*Sec. 7022.*

This section updates the language in the current law without changing the scope.

*Senate Bill*

*Sec. 7342.*

This section requires that a person under contract to the United States government to design or inspect a packaging or packaging component used for transporting hazardous materials must comply with chapter 51 and the hazardous materials regulations.

Further, this section enables hazardous materials law to supersede postal laws and regulations under titles 18 or 39 only 'in case of an imminent hazard.'

*Conference Substitute*

The Conference adopts the Senate provision with modifications.

### SEC. 7125. AUTHORIZATION OF APPROPRIATIONS

*House Bill*

*Sec. 7024.*

This section provides funding for the DOT to implement the programs and grants established and required in chapter 51 for fiscal years 2005 through 2007.

*Senate Bill*

*Sec. 7344.*

This section authorizes appropriations of $24,940,000 for FY 2005, $29,000,000 for FY 2006, and $30,000,000 for each of FYs 2007 through 2009.

*Conference Substitute*

The Conference adopts the following structure:

- This section would authorize appropriations of $24,940,000 for FY 2005, $29,000,000 for FY 2006, and $30,000,000 for each of FYs 2007 and 2008.
- A new subsection (b) would authorize appropriations from the Hazardous Materials Emergency Preparedness Fund account to carry out certain activities:

$4,000,000 for each of FYs 2005 through 2008 to carry out section 5107(e) (training grants);

$200,000 for each of FYs 2005 through 2008 to carry out section 5115 (training curriculum for the public sector);

$21,800,000 for each FYs 2005 through 2008 for sections 5116(a) and (b) to be split as follows: $5,000,000 for section 5116(a); $7,800,000 for 5116(b); and 35 percent of the remainder for 5116(a) and 65 percent of the remainder for 5116(b). The Secretary may increase the amount for 5116(b) if the Secretary determines it appropriate based upon the relative training and planning needs of individual applicants.

$150,000 for each of FYs 2005 through 2008 to carry out section 5116(f) (monitoring and technical assistance to the public sector);

$1,000,000 for each of FYs 2005 through 2008 to carry out section 5116(j) (supplemental training grants);

$625,000 for each of FYs 2005 through 2008 to carry out section 5116(i)(3) (for publication and distribution of the Emergency Response Guidebook).

Funding for issuance of hazmat licenses is authorized to be appropriated for such amounts as may be necessary to carry out section 5103a.

Administrative costs for carrying out certain programs are capped at 2 percent.

### SEC. 7126. REFERENCES TO THE SECRETARY OF TRANSPORTATION

*House Bill*

*Sec. 7026.*

This section designates that any reference to the "Secretary of Transportation" in chapter 51 be simplified to "Secretary".

*Senate Bill*

*Sec. 7346.*

This section clarifies that references to the "Secretary of Transportation" in certain sections of chapter 51 are simplified to "Secretary".

*Conference Substitute*

The Conference adopts the Senate provision with modifications.

### SEC. 7127. CRIMINAL MATTERS

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 7363.*

This section provides for a correction to title 18 of the United States Code for the transportation of explosives. It makes explosives that are regulated by the DOT and the Department of Homeland Security (DHS) subject to their authority.

*Conference Substitute*

The Conference adopted the Senate provision with modifications.

### SEC. 7128. ADDITIONAL CIVIL AND CRIMINAL PENALTIES

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 7345.*

This section amends criminal penalties for violations in transporting hazardous materials by air (49 U.S.C. 46312) to clarify that the regulations referred to in that section include the Hazardous Materials Regulations issued by the Secretary under chapter 51. Consequently, violations in transporting hazardous materials by air would clearly constitute violations of both Federal hazardous material transportation laws and the Federal Aviation Act.

This section also would allow the Department of Justice to seek restitution against persons convicted of a criminal offense under 49 U.S.C. 5124.

*Conference Substitute*

The Conference adopted the Senate provision.

### SEC. 7129. HAZARDOUS MATERIAL TRANSPORTATION PLAN REQUIREMENT

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 7368.*

This section would exempt farmers as defined in the section from certain hazardous materials transportation plans for local farm-related shipments within 150 miles of their farm.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 7130. DETERMINING AMOUNT OF UNDECLARED SHIPMENTS OF HAZARDOUS MATERIALS ENTERING THE UNITED STATES

*House Bill*

*Sec. 7025.*

This section requires the GAO to conduct a study to propose methods to determine the amount of undeclared shipments of hazardous materials entering the United States.

*Senate Bill*

*Sec. 7364.*

This section authorizes the Secretary to initiate a program to randomly inspect cargo shipments at U.S. Customs ports of entry to determine the extent to which undeclared hazardous material is being offered for transportation in commerce. DOT inspection personnel, in coordination with DHS officials, are authorized to open and inspect containers at any U.S. Customs port of entry. The inspections are then carried out by DOT inspection personnel at U.S. Customs ports of entry where they are similar to border inspections, and they would be based upon random selections made by supervisory personnel not present at the site of the inspections.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 7131. HAZARDOUS MATERIALS RESEARCH PROJECTS

*House Bill*

*Sec. 5216.*

This section authorizes PHMSA to enter into a contract with the National Academy of Science to carry out the 9 research projects called for in the 2005 Special Report 283 of the Transportation Research Board entitled "Cooperative Research for Hazardous Materials Transportation: Defining the Need, Converging on Solutions".

*Senate Bill*

*Sec. 7370.*

This section creates a HAZMAT research cooperative through the National Academy of Sciences' Transportation Research Board.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 7132. NATIONAL FIRST RESPONDER TRANSPORTATION INCIDENT RESPONSE SYSTEM

*House Bill*

*Sec. 7027.*

This section authorizes $2,500,000 for each of fiscal years 2005 through 2007 for Operation Respond.

*Senate Bill*

*Sec. 7367.*

This section would authorize $5,000,000 annually for FYs 2005 through 2009 for Operation Respond to update the OREIS and permits the Secretary to require the Operation Respond system function across multiple transportation modes.

*Conference Substitute*

The conference adopts the House provision.

### SEC. 7133. COMMON CARRIER PIPELINE SYSTEM

*House Bill*

This section requires a study to examine the economic, environmental, and homeland security advantages and disadvantages of operating a common carrier pipeline system in Texas, Louisiana, Mississippi, and Alabama for the transportation of aromatic chemicals.

*Senate Bill*

No comparable provision in the Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

## Subtitle B—Sanitary Food Transportation

### SEC. 7201. SHORT TITLE

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7381.*

This section sets forth the short title for the Sanitary Food Transportation Act of 2003. This title would reallocate responsibilities for food transportation safety among the U.S. Department of Health and Human Services, the U.S. Department of Transportation, and the U.S. Department of Agriculture.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 7202. RESPONSIBILITIES OF SECRETARY OF HEALTH AND HUMAN SERVICES

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7382.*

This section amends section 402 of the Federal Food, Drug, and Cosmetic Act (the Act; 21 U.S.C. 391) to provide that food is adulterated if transported in violation of safe transportation practices prescribed in the new section 416 of the Act.

Subsection (b) adds to the Act a new section 416 requiring the Secretary of HHS to establish by regulation sanitary transportation practices to be followed by shippers, carriers, and others engaged in food transport. The Secretary of HHS may prescribe practices relating to matters such as sanitation, packaging and protective measures; limitations on the use of vehicles; information sharing between shippers and carriers; and record keeping, reporting, and compliance with inspections.

It also authorizes the Secretary of HHS to publish in the Federal Register (and amend as needed) lists of non-food products that could render food products adulterated if shipped simultaneously or subsequently in the same vehicle.

The section authorizes the Secretary of HHS to waive all or part of the requirements of section 416, in appropriate circumstances, with respect to particular classes of persons, vehicles, food, or non-food products.

This provision also preempts State or local laws concerning transportation of food. Finally, it requires the heads of other Federal agencies, including the Secretaries of Transportation and the Department of Agriculture, and the Administrator of the Environmental Protection Agency, to assist the Secretary of HHS, upon request, in carrying out this section.

Paragraph (c) of this section would add to the Act a new section requiring persons subject to these provisions to cooperate with HHS inspections of records.

Subsection (d) amends section 301 of the Act to make violations of requirements added by this section prohibited acts subject to the sanctions provided in chapter III of the Act.

*Conference Substitute*

The Conference adopts the Senate version with modifications.

### SEC. 7203. DEPARTMENT OF TRANSPORTATION REQUIREMENTS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7383.*

This section requires the Secretary, in consultation with the Secretaries of HHS and the Department of Agriculture, to establish inspection procedures for identifying suspected incidents of contamination or adulteration of food that might violate regulations issued under section 416 of the Federal Food, Drug, and Cosmetic Act, and of meat and poultry products subject to detention under section 402 of the Federal Meat Inspection Act (21 U.S.C. 672) and section 19 of the Poultry Products Inspection Act (21 U.S.C. 467a). In addition, it requires the Secretary to train DOT personnel who perform motor vehicle and railroad related safety inspections to identify practices and conditions that could pose a threat to food safety and to notify the secretaries of HHS and the Department of Agriculture of any instances of potential food contamination identified during those inspections.

*Conference Substitute*

The Conference adopts the Senate provision with modifications.

### SEC. 7204. EFFECTIVE DATE

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7384.*

This section makes the changes in law under the subtitle align with the Federal fiscal year, which is particularly important for the transfer of duties among different agencies.

*Conference Substitute*

The Conference adopts the Senate version with modifications.

## Subtitle C—Research and Innovative Technology Administration

### SEC. 7301. ADMINISTRATIVE AUTHORITY

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7361.*

This section provides RITA necessary administrative authority to conduct effective research on transportation service and infrastructure assurance and to prevent security-sensitive information developed in the course of that research from aiding persons who might want to disrupt the transportation system.

*Conference Substitute*

The conference adopts the Senate version with modifications.

## TITLE VIII—TRANSPORTATION DISCRETIONARY SPENDING GUARANTEE

### SEC. 8001. DISCRETIONARY SPENDING LIMITS FOR THE HIGHWAY AND MASS TRANSIT CATEGORIES

*House Bill*

*Sec. 8001.*

This section amends section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 to continue separate spending limits for the highway and mass transit categories in Highway Trust Fund budget authority, new budget authority, and outlays for fiscal years 2004 through 2009. The section also amends section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reference this Act instead of the Transportation Equity Act for the 21st Century, and to allow for successor accounts to be established in the budget accounts used to track highway and transit spending.

*Senate Bill*

*Sec. 3102(a) and (c).*

This section amends section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 to continue separate spending limits for the highway and mass transit categories in Highway Trust Fund budget authority for fiscal years 2005 through 2009. This section amends section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 to reference this Act instead of the Transportation Equity Act for the 21st Century, and defines the budget accounts to be used to track highway and transit spending pursuant to this Act.

*Conference Substitute*

The Conference adopts the House version without fiscal year 2004.

### SEC. 8002. ADJUSTMENTS TO ALIGN HIGHWAY SPENDING WITH REVENUES

*House Bill*

*Sec. 8002.*

This section amends section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 to adjust obligations from the Highway Account of the Highway Trust Fund to actual levels of highway receipts for fiscal years 2004 through 2009.

*Senate Bill*

*Sec. 3102(b).*

This section amends section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985 to adjust obligations from the Highway Account of the Highway Trust Fund to actual levels of highway receipts for fiscal years 2005 through 2009.

*Conference Substitute*

The Conference adopts the House version without fiscal year 2004.

### SEC. 8003. LEVEL OF OBLIGATION LIMITATIONS

*House Bill*

*Sec. 8003.*

This section sets the obligation limitation levels for the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 for the highway category and mass transit category, including both Highway Trust Funds and new budget authority, for fiscal years 2004 through 2009.

*Senate Bill*

*Sec. 3103.*

This section sets the obligation limitation levels for the purposes of section 251(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 for the highway category and mass transit category, for fiscal years 2005 through 2009.

*Conference Substitute*

The Conference adopts the House version without fiscal year 2004.

### SEC. 8004. ENFORCEMENT OF GUARANTEE

*House Bill*

*Sec. 8004.*

This section amends clause 3 of Rule XXI of the Rules of the House of Representatives to update the cite to this Act and add language providing that obligation limitation relating to surface transportation projects under section 1602 of the Transportation Equity Act for the 21st Century and section 7102 of the House bill shall be assumed to be administered on the basis of sound program management practices allowing States to decide high priority project funding priorities within State allocations.

*Senate Bill*

No comparable provision.

*Conference Substitute*

The Conference adopts the House version without fiscal year 2004. Also, this section conforms the cites to the new act.

### SEC. 8005. TRANSFER OF FEDERAL TRANSIT ADMINISTRATIVE EXPENSES

*House Bill*

*Sec. 8005.*

This section states that it shall be in order for purposes of clauses 2 and 3 of Rule XXI of the House of Representatives to transfer funds in appropriations bills from Federal Transit Administration administrative expenses to other mass transit budget accounts under section 250(c)(4)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985.

*Senate Bill*

No comparable provision.

*Conference Substitute*

The Conference adopts the House version without fiscal year 2004.

## TITLE IX—RAIL PROVISIONS

### SEC. 9001. HIGH-SPEED RAIL CORRIDOR DEVELOPMENT

*House Bill*

*Sec. 9001.*

Section 9001 reauthorizes the Swift Rail Development Act ("Swift Act") and makes some technical amendments.

Subsection (a) amends the Swift Act to address "corridor development" rather than "corridor planning." It also authorizes the acquisition of track, signals, rail rolling stock and locomotives under the program.

Subsection (b) reauthorizes the Swift Act at $100 million per year from Fiscal Year 2006 through Fiscal Year 2013. Of this $100 million, $70 million is for corridor development activities and $30 million is for technology development activities.

*Senate Bill*

No comparable provision in the Senate bill.

*Conference Substitute*

The Conference adopts the House provision.

### SEC. 9002. CAPITAL GRANTS FOR RAIL LINE RELOCATION PROJECTS

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 7602.*

This section establishes a grant program to provide financial assistance for local rail line relocation and improvement projects. In order for a State to be eligible for a grant for an improvement construction project, the project must: mitigate the adverse effects of rail traffic on safety, motor vehicle flow, community quality of life, including noise mitigation, or economic development; or involve a lateral or vertical relocation of any portion of the rail line.

There is $350 million for each fiscal year 2006 through 2009 authorized for these grants. At least half of the funds awarded under this section shall not be more than $20 million each and not more than twenty-five percent of the total amount may be used for one project. A State, or other eligible entity, will be required to pay at least ten percent of the shared costs of the project, whether it be through real property, a contribution of services, or previous costs spent on the project before the application was filed. The State may also seek financial contributions from private entities benefiting from the rail line relocation or improvement project. This program will be implemented no later than October 1, 2006.

*Conference Substitute*

The Conference adopts the Senate provisions with modifications. New language added during conference ensures the Secretary considers the effects of a new rail line, or improvement to an existing rail line, on motor vehicle and pedestrian traffic, safety, community quality of life, and area commerce, as well as freight and passenger rail operations.

### SEC. 9003. REHABILITATION AND IMPROVEMENT FINANCING

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 7603.*

Section 7603 changes the current Railroad Rehabilitation and Improvement Financing (RRIF) program administered by the Federal Railroad Administration through the Secretary of Transportation. Historically, RRIF loans have taken too long to process and obstacles to participation have been too high. These statutory changes were made to correct past problems and encourage greater utilization of the RRIF program.

Subsection (c) adds to the list of priorities those projects that would enhance service and capacity in the national transportation system. The Secretary should give priority consideration to applications showing an ability to help achieve these goals.

This section also increases the authorization to $6 billion to ensure adequate resources are available. The Secretary may not require an applicant for a direct loan or loan guarantee to provide collateral. Congress seeks to encourage, not discourage, major rail investment in the U.S.

This section also provides a time limit of 90 days for the Secretary's approval or disapproval of direct loan or loan guarantee applications. No fees are to be charged by the Secretary in connection with a direct loan or loan guarantee, unless otherwise stated under section 502 of title 45. Criteria outlining the Secretary's approval standards will be published within thirty days of enactment.

*Conference Substitute*

The Conference adopts the Senate provisions with modifications. Among the Senate features retained is the legislative overruling of the a priori limits on loan size and cohort composition, as well as excessive collateralization requirements, contained in the existing Department of Transportation-Office of Management and Budget memorandum of understanding on the RRIF program. The bill also retains the Senate language overruling both the memorandum and DOT regulations requiring rejection by a private lender before an applicant may obtain a RRIF loan through DOT. To ensure that adequate resources are available, the authorization level increases from the proposed $6 billion in the Senate language to $35 billion. Also, the maximum portion that may be used for non-Class I railroad loans is increased from the proposed $3 billion in the Senate language to $7 billion.

Another modification allows the Secretary to provide direct loans and loan guarantees to interstate compacts formed pursuant to the 1997 Amtrak reform law, and solely for the purpose of constructing a rail connection between a plant or facility and a second rail carrier, limited option rail freight shippers that own or operate a plant or other facility that is served by no more than a single railroad. Also, the Secretary is required to give priority to projects that materially alleviate rail capacity problems that degrade the provision of service to shippers and fulfill a need in the national transportation system. RRIF should be used to help improve service and capacity in the national rail system wherever feasible.

A change was made to allow the Secretary to charge a reasonable evaluation fee for the cost of appraisal, and for making necessary determinations and findings. The amounts collected under this section will be credited directly to the Safety and Operations account of the Federal Railroad Administration.

### SEC. 9004. REPORT REGARDING IMPACT ON PUBLIC SAFETY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 7604.*

The bill would require the Secretary of Transportation to conduct a study of the impact of blocked highway-railroad grade crossings on the ability of emergency responders to perform public safety and security duties not later than one year after the date of enactment of this act.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 9005. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENT

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

*Sec. 7326.*

The bill would require the Federal Railroad Administration (FRA) to validate a predictive model for certain rail tank car standards; initiate a rulemaking on standards and complete an analysis of the impact resistance of steel used in pressurized tank cars built before 1989; and, require railroads to improve inspection procedures for continuous welded rail track and the identification of cracks in rail joint bars.

*Conference Substitute*

The Conference adopts the Senate provision with modifications to what the Administration is required to do with the results of the analysis.

### SEC. 9006. ALASKA RAILROAD

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

No comparable provision in the Senate bill.

*Conference Substitute*

The Conference authorizes the Secretary of Transportation to make grants to the Alaska railroad for capital rehabilitation and improvements benefiting its passenger operation. Such sums as may be necessary are authorized to carry out this section.

### SEC. 9007. STUDY OF RAIL TRANSPORTATION AND REGULATION

*House Bill*

No comparable provision in House bill.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference requires the Secretary of Transportation, within 180 days of enactment of this Act, to enter into a contract with the Transportation Research Board of the National Academy of Sciences to conduct a comprehensive study of the Nation's railroad transportation system since the enactment of the Staggers Rail Act of 1980. The study shall address and make recommendations on (1) the performance of the Nation's major railroads regarding service levels, service quality, and rates; (2) the projected demand for freight transportation over the next two decades and the constraints limiting the railroad's ability to meet that demand; (3) the effectiveness of public policy in balancing the need for railroads to earn adequate returns with those of shippers for reasonable rates and adequate service; and (4) the future role of the Surface Transportation Board in regulating railroad rates, service levels, and the railroads' common carrier obligations, particularly as railroads may become revenue adequate.

### SEC. 9008. HAWAII PORT INFRASTRUCTURE EXPANSION PROGRAM

*House Bill*

No comparable provision in the House bill.

*Senate Bill*

No comparable provision in the Senate bill.

*Conference Substitute*

This provision designates MARAD as the lead federal agency to transfer and administer federal funds for intermodal and port improvements in the State of Hawaii.

## TITLE X—MISCELLANEOUS PROVISIONS

## Subtitle A—Sportfishing and Recreational Boating Safety

### SEC. 10101. SHORT TITLE

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7501.*

*Conference Substitute*

The Conference adopts the Senate version.

## CHAPTER 1—DINGELL-JOHNSON SPORT FISH RESTORATION ACT AMENDMENTS

### SEC. 10111. AMENDMENT OF DINGELL-JOHNSON SPORT FISH RESTORATION ACT

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7511.*

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10112. AUTHORIZATION OF APPROPRIATIONS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7512.*

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10113. DIVISION OF ANNUAL APPROPRIATIONS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7513.*

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10114. MAINTENANCE OF PROJECTS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7514.*

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10115. BOATING INFRASTRUCTURE

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7515.*

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10116. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7516.*

Conference Substitute

The Conference adopts the Senate version.

### SEC. 10117. PAYMENTS OF FUNDS TO AND CO-OPERATION WITH PUERTO RICO, THE DISTRICT OF COLUMBIA, GUAM, AMERICAN SOMOA, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, AND THE VIRGIN ISLANDS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7517.*

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10118. MULTISTATE CONSERVATION GRANT PROGRAM

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7518.*

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10119. EXPENDITURE OF REMAINING BALANCE IN BOAT SAFETY ACCOUNT

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7519.*

*Conference Substitute*

The Conference adopts the Senate version.

## CHAPTER 2—CLEAN VESSEL ACT OF 1992 AMENDMENTS

### SEC. 10131. GRANT PROGRAM

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7531.*

*Conference Substitute*

The Conference adopts the Senate version.

## CHAPTER 3—RECREATIONAL BOATING SAFETY PROGRAM AMENDMENTS

### SEC. 10141. TECHNICAL CORRECTION

*House Bill*

*Sec. 1812.*

This section extinguishes all federal claims relating to the donation and use of the Ex Competent (AFDM6), Unit Identification Code number 13862. Further, the provision gives Tanadgusix Corporation (TDX) title to the drydock free and clear.

*Senate Bill*

No comparable provision.

*Conference Substitute*

The Conference adopts modified language that requires TDX to transfer all rights, title and interest in and to the vessel to GSA, consistent with the ruling by the 9th Circuit Court of Appeals filed on April 21, 2005. GSA must then sell the vessel at fair market value for use outside the United States, and as a condition of that conveyance the vessel is prohibited from ever operating in the United States. The proposal also includes an authorization of appropriations for $4,000,000. It is the intent of the Conference that nothing in this section shall effect any lawsuits relating to the transfer or use of the vessel, and that this section shall not be applied retroactively.

### SEC. 10142. AVAILABILITY OF ALLOCATIONS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7552.*

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10143. AUTHORIZATION OF APPROPRIATIONS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7553.*

*Conference Substitute*

The Conference adopts the Senate version.

## Subtitle B—Other Miscellaneous Provisions

### SEC. 10201. NOTICE REGARDING PARTICIPATION OF SMALL BUSINESS CONCERNS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1830*

This provision requires the Secretary to give notice to each State or political subdivisions of States to which he awards a grant or other Federal funds of the criteria for participation by a small business concern in any program or project that is fund in any way by the Federal Government under section 155 of the Small Business Reauthorization and Manufacturing Assistance Act of 2004.

*Conference Substitute*

The Conference adopts the Senate provision.

### SEC. 10202. EMERGENCY MEDICAL SERVICES

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7218.*

This section would create a new section 407(a) of title 23 U.S.C. directing the Secretary of Transportation and the Secretary of Homeland Security to establish jointly a Federal Interagency Committee on Emergency Medical Services (Interagency Committee). The purposes of the Interagency Committee would be to, among other things, ensure coordination among the Federal agencies involved with State, local, tribal, or regional emergency medical services and 9–1–1 systems. This section also would provide funding to aid the States in conducting coordinated emergency medical services and 9–1-1 programs as described in this section.

*Conference Substitute*

The Conference adopts the Senate version with these modifications: it does not create a new 407(a) section of title 23, U.S.C. and does not provide funding for State emergency medical services and 9–1–1 programs. It also adds the Secretary of Health and Human Services as one of the coordinators of the Interagency Committee, along with the Secretary of Transportation and the Secretary of Homeland Security.

### SEC. 10203. HUBZONE PROGRAM

*House Bill*

*Sec. 1821.*

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House version.

### SEC. 10204. CATASTROPHIC HURRICANE EVACUATION PLANS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 1834.*

This section requires the Secretary and the Secretary of Homeland Security to develop a comprehensive plan for the evacuation of the coastal areas for disasters that may occur.

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10205. INTERMODAL TRANSPORTATION FACILITY EXPANSION

*House Bill*

*Sec. 1827.*

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House version.

### SEC. 10206. ELIGIBILITY TO PARTICIPATE IN WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM

*House Bill*

*Sec. 1825.*

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference adopts the House version.

### SEC. 10207. RAIL REHABILITATION AND BRIDGE REPAIR

*House Bill*

No comparable provision in House bill.

*Senate Bill*

No comparable provision in Senate bill.

*Conference Substitute*

The Conference authorizes such sums as may be necessary for work on six shortline rail rehabilitation and bridge repair projects in the State of Alabama for the period encompassing fiscal year 2006 through 2010.

### SEC. 10208. RENTED OR LEASED MOTOR VEHICLES

*House Bill*

*Sec. 1409*

*Senate Bill*

No comparable language in Senate bill.

*Conference Substitute*

The Conference adopts the House version.

## Subtitle C—Specific Vehicle Safety-Related Rulings

### SEC. 10301. VEHICLE ROLLOVER PREVENTION AND CRASH MITIGATION

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7251.*

This section requires the Secretary to issue a set of standards to reduce death and injuries caused by passenger vehicle rollovers. To reduce rollovers, the rules will establish performance criteria consistent with stability-enhancing technologies. To reduce complete or partial ejection of occupants, the Secretary will establish performance criteria that takes into account various ejection mitigation systems, including consideration of advanced side glazing, side air curtains, and side impact air bags. The Secretary shall complete a rulemaking to upgrade door locks and door retention. Finally, to better protect occupants during a rollover, the Secretary shall upgrade existing roof strength standards for the driver and passenger sides. The bill includes deadlines for issuing these rules. If, however, the statutory deadlines cannot be met, upon a notification to Congress, the Secretary may establish a new deadline.

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10302. SIDE-IMPACT CRASH PROTECTION RULEMAKING

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7252.*

This section requires NHTSA to issue a rulemaking by July 2008 that would require automobiles to better protect passengers in a side-impact crash, and to conduct a study of front-impact crashes within one year. The bill includes a deadline for issuing this rule.

*Conference Substitute*

The Conference adopts the Senate version with the modification that if the statutory deadlines cannot be met, upon a notification to Congress, the Secretary may establish a new deadline.

### SEC. 10303. TIRE RESEARCH

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7253.*

This section requires the Secretary to submit a report to Congress regarding research on tire aging.

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10304. VEHICLE BACKOVER AVOIDANCE TECHNOLOGY STUDY

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7254.*

This section requires NHTSA to study technologies that would reduce injuries and deaths caused by cars and trucks backing up.

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10305. NON-TRAFFIC INCIDENT DATA COLLECTION

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7255.*

This section requires NHTSA to conduct a study of non-traffic crashes, with the focus on persons injured or killed due to a car backing up. NHTSA currently does not collect this data on a regular basis because these injuries and deaths occur in private driveways and parking lots, not on public streets where data is currently collected.

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10306. STUDY OF SAFETY BELT USE TECHNOLOGIES

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7256.*

This section would repeal existing law that limits audible seat belt reminders to no more than eight seconds and requires the Secretary to conduct a study of advanced safety belt reminder systems to help achieve further gains in safety belt use.

*Conference Substitute*

The Conference adopts the Senate study, but does not adopt the repeal of existing seat belt law.

### SEC. 10307. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7257.*

This section requires automobile safety "star" ratings compiled by NHTSA's New Car Assessment Program (NCAP) for front, side, and rollover resistance tests to be placed on the window sticker of new automobiles.

*Conference Substitute*

The Conference adopts the Senate version with a modification to make the provision effective on September 1, 2007.

### SEC. 10308. POWER WINDOW SWITCHES

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7258.*

This section requires NHTSA to issue a rulemaking by April 2007 mandating power window switches in passenger automobiles that raise the window only when the switch is pulled up or out.

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10309. 15-PASSENGER VAN SAFETY

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7259.*

This section requires the Secretary to test 15-passenger vans as part of the rollover resistance program of the NCAP program and prohibits school systems from purchasing or leasing new 15-passenger vans to transport children, unless the van complies with motor vehicle standards prescribed for school buses.

*Conference Substitute*

The Conference adopts the Senate version.

### SEC. 10310. AUTHORIZATION OF APPROPRIATIONS

*House Bill*

No comparable provision in House bill.

*Senate Bill*

*Sec. 7262.*

This section authorizes funds for NHTSA to carry out this subtitle, chapter 301 of title 49, and part C of title 49, U.S.C.

*Conference Substitute*

The Conference adopts the Senate version.

## TITLE XI—HIGHWAY REAUTHORIZATION AND EXCISE TAX SIMPLIFICATION

### I. TRUST FUND REAUTHORIZATION

### A. Extension of Highway Trust Fund and Aquatic Resources Trust Fund Expenditure Authority and Related Taxes (sec. 10002 of the House bill, secs. 5101 and 5102 of the Senate amendment, and secs. 4041, 4051, 4071, 4081, 4221, 4481, 4482, 4483, 6412, 9503, and 9504 of the Code)

### PRESENT-LAW HIGHWAY TRUST FUND EXCISE TAXES

*In general*

Six separate excise taxes are imposed to finance the Federal Highway Trust Fund program. Three of these taxes are imposed on highway motor fuels. Historically, fuel taxes have accounted for 90 percent of Highway Trust Fund receipts. The remaining three are a retail sales tax on heavy highway vehicles, a manufacturers' excise tax on heavy vehicle tires, and an annual use tax on heavy vehicles. The six taxes are summarized below. Except for 4.3 cents per gallon of the Highway Trust Fund fuels tax rates, and a portion of the tax on certain special motor fuels, all of these taxes, with the exception of the heavy vehicle use tax, are scheduled to expire after September 30, 2005.[1] The 4.3-cents-per- gallon portion of the fuels tax rates is permanent.[2] The six taxes are summarized below.

*Highway motor fuels taxes*

The Highway Trust Fund motor fuels tax rates are as follows:[3]

Gasoline, 18.3 cents per gallon;

Diesel fuel (including transmix) and kerosene, 24.3 cents per gallon;

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[1] The heavy vehicle use tax expires after September 30, 2006. Sec. 4481(f).

[2] This portion of the tax rates was enacted as a deficit reduction measure in 1993. Receipts from it were retained in the General Fund until 1997 legislation provided for their transfer to the Highway Trust Fund.

[3] These fuels also are subject to an additional 0.1-cent-per-gallon excise tax to fund the Leaking Underground Storage Tank ("LUST") Trust Fund (secs. 4041(d) and 4081(a)(2)(B)).

Special motor fuels, 18.3 cents per gallon, generally.[4]

### EXEMPTIONS

Present law includes numerous exemptions (including partial exemptions) for specified uses of taxable fuels or for specified fuels. Because the gasoline and diesel fuel taxes generally are imposed before the end use of the fuel is known, many exemptions are realized through refunds to end users of tax paid by a taxpayer earlier in the distribution chain. Exempt uses and fuels include:

- use in State and local government and nonprofit educational organization highway vehicles;
- use in buses engaged in transporting students and employees of schools;
- use in local mass transit buses having a seating capacity of at least 20 adults (not including the driver) when the buses operate under contract with (or are subsidized by) a State or local governmental unit to furnish the transportation; and
- use in intercity buses serving the general public along scheduled routes. (Such use is totally exempt from the gasoline excise tax and is exempt from 17 cents per gallon of the diesel fuel tax.)

In addition, fuels used in off-highway business use or on a farm for farming purposes generally are exempt from these motor fuels taxes.[5] The Highway Trust Fund does not receive excise taxes imposed on fuel used in off-highway activities. Rather, when tax is imposed on off-highway use fuel consumption, it is used to finance other Trust Funds (e.g., motorboat gasoline and special motor fuel taxes from non-business off-highway use dedicated to the Aquatic Resources Trust Fund) or is retained in the General Fund (e.g., tax on diesel fuel used in trains).

#### *Non-fuel Highway Trust Fund excise taxes*

In addition to the highway motor fuels excise tax revenues, the Highway Trust Fund receives revenues produced by three excise taxes imposed exclusively on heavy highway vehicles or tires. These taxes are:

- a 12-percent excise tax imposed on the first retail sale of heavy highway vehicles, tractors, and trailers (generally, trucks having a gross vehicle weight in excess of 33,000 pounds and trailers having such a weight in excess of 26,000 pounds) (sec. 4051);
- an excise tax imposed on highway tires with a rated load capacity exceeding 3,500 pounds, generally at a rate of 9.45 cents per 10 pounds of excess (sec. 4071(a)); and
- an annual use tax imposed on highway vehicles having a taxable gross weight of 55,000 pounds or more (sec. 4481). (The maximum rate for this tax is $550 per year, imposed on vehicles having a taxable gross weight over 75,000 pounds.)

### PRESENT-LAW HIGHWAY TRUST FUND EXPENDITURE PROVISIONS

#### *In general*

Dedication of excise tax revenues to the Highway Trust Fund and expenditures from the Highway Trust Fund are governed by provisions of the Code.[6] The Code authorizes expenditures (subject to appropriations) from the Fund through July 30, 2005, for the purposes provided in authorizing legislation, as in effect on the date of enactment of the Surface Transportation Extension Act of 2005, Part V.

Under present law, revenues from the highway excise taxes generally are dedicated to the Highway Trust Fund. However, under section 9503(c)(2), certain transfers are made from the Highway Trust Fund into the General Fund, relating to amounts paid in respect of gasoline used on farms, amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems, amounts relating to fuels not used for taxable purposes, and income tax credits for certain uses of fuels.

#### *Highway Trust Fund expenditure purposes*

The Highway Trust Fund has a subaccount for Mass Transit. Both the Trust Fund and its sub-account are funding sources for specific programs. Neither the Highway Trust Fund nor its Mass Transit sub-account receive interest on unexpended balances. The Highway Fund's Mass Transit sub-account receives 2.86 cents per gallon of highway motor fuels excise taxes.

Highway Trust Fund expenditure purposes have been revised with each authorization Act enacted since establishment of the Highway Trust Fund in 1956. In general, expenditures authorized under those Acts (as the Acts were in effect on the date of enactment of the most recent such authorizing Act) are approved by the Code as Highway Trust Fund expenditure purposes.[7] Thus, no Highway Trust Fund monies may be spent for a purpose not approved by the tax-writing committees of Congress. The Code provides that authority to make expenditures from the Highway Trust Fund expires after July 30, 2005. Thus, no Highway Trust Fund expenditures may occur after July 30, 2005.

#### *Anti-deficit provisions (the "Harry Byrd rule")*

Highway projects can take multiple years to complete. As a result, the Highway Trust Fund carries positive unexpended balances, a large portion of which are reserved to cover existing obligations.[8] Highway Trust Fund spending is limited by anti-deficit provisions internal to the Highway Trust Fund, the so-called "Harry Byrd rule." Generally, the Harry Byrd rule prevents the further obligation of Federal highway funds if the current and expected balances of the Highway Trust Fund fall below a certain level. The rule requires the Treasury Department to determine, on a quarterly basis, the amount (if any) by which unfunded highway authorizations exceed projected net Highway Trust Fund tax receipts for the 24-month period beginning at the close of each fiscal year.[9] Similar rules apply to unfunded Mass Transit Account authorizations. If unfunded authorizations exceed projected 24-month receipts, apportionments to the States for specified programs funded by the relevant Trust Fund Account are to be reduced proportionately. Because of the Harry Byrd rule, taxes dedicated to the Highway Trust Fund typically are scheduled to expire at least 24 months after current authorizing Acts.

The Surface Transportation Extension Act of 2003, created a temporary rule (through February 29, 2004) for purposes of the anti-deficit provisions of the Highway Trust Fund. For purposes of determining 24 months of projected revenues for the anti-deficit provisions, the Secretary of the Treasury is instructed to treat each expiring provision relating to appropriations and transfers to the Highway Trust Fund to have been extended through the end of the 24-month period and to assume that the rate of tax during such 24-month period remains at the same rate in effect on the date of enactment of the provision. The temporary rule has been continuously extended since February 29, 2004. The last extension, enacted as part of the Surface Transportation Extension Act of 2005, Part V, extended the rule through July 30, 2005.

#### *Limitations on transfers to the Highway Trust Fund*

The Code also contains a special enforcement provision to prevent expenditure of Highway Trust Fund monies for purposes not authorized in section 9503.[10] Should such unapproved expenditures occur, no further excise tax receipts will be transferred to the Highway Trust Fund. Rather, the taxes will continue to be imposed with receipts being retained in the General Fund. This enforcement provision provides specifically that it applies not only to unauthorized expenditures under the current Code provisions, but also to expenditures pursuant to future legislation that does not amend section 9503's expenditure authorization provisions or otherwise authorize the expenditure as part of a revenue Act.

#### *Interrelationship of the Highway Trust Fund and the Aquatic Resources Trust Fund*

The Aquatic Resources Trust Fund is funded by a portion of the receipts from the excise taxes imposed on motorboat gasoline and special motor fuels and on gasoline used as a fuel in the nonbusiness use of small-engine outdoor power equipment. A portion of these taxes are transferred into the Highway Trust Fund and then retransferred into the Aquatic Resources Trust Fund. As a result, transfers to the Aquatic Resources Trust Fund are governed in part by Highway Trust Fund provisions.[11]

A total tax rate of 18.4 cents per gallon is imposed on gasoline and special motor fuels used in motorboats and on gasoline used as a fuel in the nonbusiness use of small-engine outdoor power equipment. Of this rate, 0.1 cent per gallon is dedicated to the Leaking Underground Storage Tank Trust Fund. Of the remaining 18.3 cents per gallon, 4.8 cents per gallon are retained in the General Fund. The balance of 13.5 cents per gallon is transferred to the Highway Trust Fund and then retransferred to the Aquatic Resources Trust Fund and the Land and Water Conservation Fund, as follows.

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[4] The statutory rate for certain special motor fuels is determined on an energy equivalent basis, as follows:

Liquefied petroleum gas (propane), 13.6 cents per gallon (3.2 cents after September 30, 2005).

Liquefied natural gas, 11.9 cents per gallon (2.8 cents after September 30, 2005).

Methanol derived from natural gas, 9.15 cents per gallon (2.15 cents after September 30, 2005).

Compressed natural gas, 48.54 cents per MCF.

See secs. 4041(a)(2), 4041(a)(3) and 4041(m).

The compressed natural gas tax rate is equivalent only to 4.3 cents per gallon of the rate imposed on gasoline and other special motor fuels rather than the full 18.3 cents-per-gallon rate. The tax rate for the other special motor fuels is equivalent to the full 18.3-cents-per-gallon gasoline and special motor fuels tax rate.

[5] Diesel fuel is the same fuel (#2 fuel oil) as that commonly used as home heating oil. Fuel oil used as heating oil is not subject to the Federal excise tax.

[6] Sec. 9503. The Highway Trust Fund statutory provisions were placed in the Internal Revenue Code in 1982.

[7] The authorizing Acts which currently are referenced in the Highway Trust Fund provisions of the Code are: the Highway Revenue Act of 1956; Titles I and II of the Surface Transportation Assistance Act of 1982; the Surface Transportation and Uniform Relocation Act of 1987; the Intermodal Surface Transportation Efficiency Act of 1991; and the Transportation Equity Act for the 21st Century; the Surface Transportation Extension Act of 2003; the Surface Transportation Extension Act of 2004; the Surface Transportation Extension Act of 2004 Part II; the Surface Transportation Extension Act of 2004, Part III; the Surface Transportation Extension Act of 2004, Part IV; the Surface Transportation Extension Act of 2004, Part V; the Surface Transportation Extension Act of 2005; the Surface Transportation Extension Act of 2005, Part II; the Surface Transportation Extension Act of 2005, Part III; the Surface Transportation Extension Act of 2005, Part IV; and the Surface Transportation Extension Act of 2005, Part V.

[8] Congressional Research Service, RL 32226, Highway and Transit Program Reauthorization Legislation in the 2nd Session, 108th Congress (December 15, 2004) at CRS–12.

[9] Sec. 9503(d).

[10] Sec. 9503(b)(6).

[11] Secs. 9503(c)(4) and 9503(c)(5).

The Aquatic Resources Trust Fund is comprised of two accounts, the Boat Safety Account and the Sport Fish Restoration Account. Motorboat fuel taxes, not exceeding $70 million per year, are transferred to the Boat Safety Account. In addition, these transfers are subject to an overall annual limit equal to an amount that will not cause the Boat Safety Account to have an unobligated balance in excess of $70 million. To the extent there are excess motorboat fuel taxes, the next $1 million per year of motorboat fuel taxes is transferred from the Highway Trust Fund to the Land and Water Conservation Fund provided for in Title I of the Land and Water Conservation Fund Act of 1965. The balance of the motorboat fuel taxes in the Highway Trust Fund is transferred to the Sport Fish Restoration Account.

The Sport Fish Restoration Account also receives 13.5 cents per gallon of the small-engine fuel taxes from the Highway Trust Fund. This Account is also funded with receipts from an ad valorem manufacturers' excise tax on sport fishing equipment.

The retention in the General Fund of 4.8 cents per gallon of taxes on fuel used in motorboats and in the nonbusiness use of small-engine outdoor power equipment expires with respect to taxes imposed after September 30, 2005.

The expenditure authority for the Aquatic Resources Trust Fund expires after July 30, 2005.

### HOUSE BILL

The expenditure authority for the Highway Trust Fund and Aquatic Resources Trust Fund is extended through September 30, 2009. The Code provisions governing the purposes for which monies in the Highway Trust Fund may be spent are modified to include the reauthorization bill.

The provision also extends the motor fuel taxes and all three non-fuel excise taxes at their current rates through September 30, 2011.

The provision does not extend the retention in the General Fund of 4.8 cents per gallon of taxes on fuel used in motorboats and in the nonbusiness use of small-engine outdoor power equipment.

*Effective date.*—The House bill is effective on the date of enactment.

### SENATE AMENDMENT

The Senate amendment generally follows the House bill, but extends the retention in the General Fund of 4.8 cents per gallon of taxes on fuel used in motorboats and in the nonbusiness use of small-engine outdoor power equipment through September 30, 2011.

The Senate amendment also authorizes expenditures from the Highway Trust Fund for highway use tax evasion projects. Specifically, for fiscal years 2006 through 2009, the Internal Revenue Service is to receive $120 million for the enforcement of fuel tax compliance, including the precertification of tax-exempt users, and $80 million for the excise fuel information reporting system, of which $40 million is to be allocated to the excise summary terminal activity reporting system. In addition, for each of the fiscal years 2006 through 2009, $50 million is authorized for the Federal Highway Administration to allocate $1 million to each State to combat fuel tax evasion on the State level.

The Senate amendment also changes the Harry Byrd rule from a 24-month to a 48-month receipt rule. Under the Senate amendment, the Harry Byrd rule is not triggered unless unfunded highway authorizations exceed projected net Highway Trust Fund tax receipts for the 48-month period beginning at the close of each fiscal year. For purposes of the 48-month rule, taxes are assumed extended beyond their expiration date.

*Effective date.*—The Senate amendment is effective on the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement follows the House bill with the following modifications. The expenditure authority for the Highway Trust Fund expires after September 29, 2009 (after September 30, 2009, in the case of expenditures for administrative purposes, and expenditures from the Mass Transit Account).

The conference agreement changes the Harry Byrd rule from a 24-month to a 48-month receipt rule. Under the conference agreement, the Harry Byrd rule is not triggered unless unfunded highway authorizations exceed projected net Highway Trust Fund tax receipts for the 48-month period beginning at the close of each fiscal year. For purposes of the 48-month rule, taxes are assumed extended beyond their expiration date.

The conference agreement does not extend the General Fund retention of taxes on fuel used in motorboats and in the nonbusiness use of small-engine outdoor power equipment. The conference agreement addresses authorization of expenditures for fuel tax compliance elsewhere in the conference agreement and does not amend the Code for this purpose.

## II. Excise Tax Reform and Simplification

## A. Highway Excise Taxes

### 1. Modify gas guzzler tax (sec. 5201 of the Senate amendment and sec. 4064 of the Code)

### PRESENT LAW

Under present law, the Code imposes a tax ("the gas guzzler tax") on automobiles that are manufactured primarily for use on public streets, roads, and highways and that are rated at 6,000 pounds unloaded gross vehicle weight or less.[12] The tax applies to limousines without regard to the weight requirement. The tax is imposed on the sale by the manufacturer of each automobile of a model type with a fuel economy of 22.5 miles per gallon or less. The tax range begins at $1,000 and increases to $7,700 for models with a fuel economy less than 12.5 miles per gallon.

Emergency vehicles and non-passenger automobiles are exempt from the tax. The tax also does not apply to non-passenger automobiles. The Secretary of Transportation determines which vehicles are "non-passenger" automobiles, thereby exempting these vehicles from the gas guzzler tax based on regulations in effect on the date of enactment of the gas guzzler tax.[13] Hence, vehicles defined in Title 49 C.F.R. sec. 523.5 (relating to light trucks) are exempt. These vehicles include those designed to transport property on an open bed (e.g., pick-up trucks) or provide greater cargo-carrying than passenger carrying volume including the expanded cargo-carrying space created through the removal of readily detachable seats (e.g., pick-up trucks, vans, and most minivans, sports utility vehicles and station wagons). Additional vehicles that meet the "non-passenger" requirements are those with at least four of the following characteristics: (1) an angle of approach of not less than 28 degrees; (2) a breakover angle of not less than 14 degrees; (3) a departure angle of not less than 20 degrees; (4) a running clearance of not less than 20 centimeters; and (5) front and rear axle clearances of not less than 18 centimeters each. These vehicles would include many sports utility vehicles.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment repeals the tax as it applies to limousines rated at greater than 6,000 pounds unloaded gross vehicle weight.

*Effective date.*—The Senate amendment is effective on October 1, 2005.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment provision.

### 2. Exclusion for tractors weighing 19,500 pounds or less from excise tax on heavy trucks and trailers (sec. 5202 of the Senate amendment and sec. 4051 of the Code)

### PRESENT LAW

A 12-percent excise tax is imposed on the first retail sale of automobile truck chassis and bodies, truck trailer and semitrailer chassis and bodies, and tractors of the kind chiefly used for highway transportation in combination with a trailer or semitrailer.[14] The tax does not apply to automobile truck chassis and bodies suitable for use with a vehicle which has a gross vehicle weight of 33,000 pounds or less.[15] The tax also does not apply to truck trailer and semitrailer chassis and bodies suitable for use with a trailer or semitrailer which has a gross vehicle weight of 26,000 pounds or less.[16] In general, tractors are subject to tax regardless of their gross vehicle weight.

Temporary Treasury regulations provide that "tractor" means a highway vehicle which is primarily designed to tow a vehicle, such as a trailer or semitrailer, but which does not carry cargo on the same chassis as the engine. The regulations presume that a vehicle equipped with air brakes and/or towing package is primarily designed as a tractor.[17] The regulations further require an incomplete chassis cab to be treated as a tractor if it is equipped with any of the safety devices listed in the regulations, and require that it be treated as a truck if it is not equipped with any of the listed safety devices and the purchaser certifies in writing that the vehicle will not be equipped for use as a tractor.[18]

In Freightliner of Grand Rapids, Inc. v. U.S., the district court held that certain vehicles primarily designed to tow large RV trailers but which had some cargo carrying capacity on their chassis are properly characterized as tractors.[19] The court also held that incomplete chassis cabs that do not include any of the listed safety devices are to be treated as tractors unless the purchaser certifies in writing that it will not equip the vehicles for use as tractors. Under the holding of this case, these types of vehicles are subject to tax regardless of their gross vehicle weight.

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[12] Sec. 4064.

[13] Sec. 4064(b)(1)(B).

[14] Sec. 4051(a)(1).

[15] Sec. 4051(a)(2).

[16] Sec. 4051(a)(3).

[17] Temp. Treas. Reg. sec. 145.4051-1(e)(1)(i).

[18] Temp. Treas. Reg. sec. 145.4051-1(e)(1)(ii).

[19] 351 F.Supp.2d 718 (W.D. Mich. 2004).

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment excludes from tax tractors with a gross vehicle weight of 19,500 pounds or less.

*Effective date.*—The Senate amendment is effective for sales after September 30, 2005.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment except that it also requires that in order to be exempt the gross combined weight (as determined by the Secretary) of the tractor if combined with a towed vehicle (such as trailer or semi-trailer) would not exceed 33,000 pounds. No inference is intended from this provision regarding the proper classification of vehicles as tractors or trucks.

## 3. Exemption for bulk beds from excise tax on retail sale of heavy trucks and trailers (sec. 5203 of the Senate amendment)

### PRESENT LAW

The Code imposes a 12-percent excise tax on the first retail sale of heavy trucks and trailers (chassis and bodies).[20] Under present law, the tax on the first retail sale of automobile truck bodies does not apply to any body primarily designed: (1) to process or prepare seed, feed, or fertilizer for use on farms; (2) to haul feed, seed, or fertilizer to and on farms; (3) to spread feed, seed, or fertilizer on farms; (4) to load or unload feed, seed, or fertilizer on farms; or (5) for any combination of the foregoing.[21]

The IRS has issued various rulings in this area. In Revenue Ruling 69–579, the IRS found that a truck body used primarily for hauling animal and poultry feed to and unloading it on farms qualified for exemption because the built-in equipment was elaborate and expensive. Thus, the IRS concluded that the nature of the unloading systems made it impractical to purchase the bodies for use other than in hauling feed, seed, or fertilizer to and unloading it on farms.

In 1975, the IRS ruled as not exempt a dump truck designed for and used primarily in hauling grain and sugar beets from the field to points on or off the farm but which may also be used to haul feed or fertilizer from a distribution point over the highway to the farm. The ruling concluded that bodies that are used for the general hauling of feed, seed, or fertilizer over the highway are subject to the tax unless they have specific features that indicate they are primarily designed to haul feed, seed, or fertilizer to and on farms. In this case, although feed and fertilizer were among the commodities that the dump truck could be used for, it did not have specific features to indicate that it was primarily designed to haul feed, seed, or fertilizer to and on farms.[22]

In 1990, the IRS issued a technical advice memorandum ("the 1990 TAM") that concluded that a type of truck bought by farmers to haul seed potatoes, sugar beets, grain, and other farm products qualified for exemption.[23] Each model had a full-length, powered conveyor belt that was designed to support and unload the cargo; a powered rear discharge door to control the discharge rate of the cargo; and a standard universal motor mount to which an electric drive could be mounted. In that ruling, the IRS noted the special unloading equipment was elaborate and expensive, added substantially to the cost and weight of each body, and limited its load-carrying capabilities.

In 1999, the IRS revoked the 1990 TAM prospectively, noting that the exemption was not intended to cover truck bodies designed for general use, even if capable of hauling feed, seed, or fertilizer to and on farms.[24] The IRS noted that the sales literature indicated that the body was designed to be versatile for hauling potatoes, beets, and small grains. The IRS also observed that unlike the bodies described in Rev. Rul. 69–579, which would not be purchased for use other than in hauling feed, seed, or fertilizer, the bodies at issue are designed for general hauling of farm cargo. Further, the IRS found that the presence of a conveyor belt was equally useful for unloading a crop at market as it is for unloading feed, etc. on a farm. Thus, the IRS concluded that the truck body was not primarily designed for an exempt purpose.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment exempts bulk beds used for transporting farm crops to and on farms from the excise tax on the retail sale of heavy trucks and trailers if sold to a person who certifies to the seller that such person is actively engaged in the trade or business of farming and the primary use of the bulk bed is to haul to and on farms farm crops grown in connection with such trade or business. The Senate amendment provides for the recapture of the tax from the purchaser upon resale of within two years of the first retail sale, or if such purchaser makes substantial nonexempt use of the article.

*Effective date.*—The Senate amendment is effective for sales after September 30, 2005.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 4. Volumetric excise tax credit for alternative fuels (sec. 5204 of the Senate amendment and secs. 4041, 4101, 6426, and 6427 of the Code)

### PRESENT LAW

Under section 4081 of the Code, an excise tax is imposed upon (1) the removal of any taxable fuel from a refinery or terminal, (2) the entry of any taxable fuel into the United States, or (3) the sale of any taxable fuel to any person who is not registered with the IRS to receive untaxed fuel, unless there was a prior taxable removal or entry.[25] The tax does not apply to any removal or entry of taxable fuel transferred in bulk by pipeline or vessel to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery are registered with the Secretary.[26] Section 4081 also imposes an excise tax on taxable fuel removed or sold by the blender of the fuels.[27] However, the blender is entitled to a credit on any tax previous paid if that person establishes the amount of such tax.[38] A "taxable fuel" is gasoline, diesel fuel (including any liquid, other than gasoline, which is suitable for use as a fuel in a diesel-powered highway vehicle or train), and kerosene.[29]

Diesel fuel and kerosene generally are taxed at 24.3 cents per gallon excise (aviation-grade kerosene at 21.8 cents per gallon). Gasoline is taxed at 18.3 cents per gallon and aviation gasoline is taxed at 19.3 cents per gallon.

The Code imposes a backup retail tax for diesel fuel and kerosene not taxed under section 4081, and for special motor fuels.[30] Under section 4041, tax is imposed on special motor fuels (any liquid other than gas oil, fuel oil or any product taxable under section 4081) when there is a taxable sale by any person to an owner, lessee or other operator of a motor vehicle or motorboat, for use as fuel in the motor vehicle or motorboat or used by any person as a fuel in a motor vehicle or motorboat unless there was a prior taxable sale.[31]

Most special motor fuels are subject to tax at 18.3 cents per gallon, however, certain special motor fuels and compressed natural gas are determined on an energy equivalent basis, as follows:

Liquefied petroleum gas (propane), 13.6 cents per gallon.

Liquefied natural gas, 11.9 cents per gallon.

Methanol derived from petroleum or natural gas, 9.15 cents per gallon.

Compressed natural gas, 48.54 cents per MCF.

Liquid hydrogen is a special motor fuel for purposes of the tax on special motor fuels and is subject to a tax of 18.3 cents per gallon.[32] Compressed hydrogen gas used or sold as a fuel is not subject to tax.

Prior to the American Jobs Creation Act of 2004, gasohol and gasoline to be blended into gasohol was taxed at a reduced rate based on the amount of ethanol contained in the mixture (e.g., 10 percent, 7.7 percent or 5.5 percent alcohol in the mixture). The Act eliminated reduced rates of excise tax for most alcohol-blended fuels. In place of the reduced rates, the Act amended the Code to create two new excise tax credits: the alcohol fuel mixture credit and the biodiesel mixture credit.[33] The sum of these credits may be taken against the tax imposed on taxable fuels (by section 4081). A person may also file a claim for payment equal to the amount of these credits for biodiesel or alcohol used to produce an eligible mixture.[34] The credits and payments are paid out of the General Fund. If the alcohol is ethanol with a proof of 190 or greater, the credit or payment amount is 51 cents per gallon. For agri-biodiesel, the credit or payment amount is $1.00 per gallon; for biodiesel other than agri-biodiesel, the credit or payment amount is 50 cents per gallon. Under the Code's coordination rules, a claim may be taken only once with respect to any particular gallon of alcohol or biodiesel.

No excise tax credit is available for the blending or sale of special motor fuels.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, P Series fuels (as defined by the Secretary of Energy under 42 U.S.C. sec. 13211(2)) are taxed at 18.3 cents per gallon under section 4081. Compressed natural gas and hydrogen are taxed at 18.3 cents per energy equivalent of a gallon of gasoline, and liquefied natural gas, any liquid fuel (other than methanol or ethanol) derived from coal and liquid hydrocarbons derived from biomass are taxed at 24.3 cents per gallon under section 4081. Collectively, these fuels are referred to as "alternative fuels."

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[20] Sec. 4051(a).

[21] Sec. 4053(2).

[22] Rev. Rul. 75–462.

[23] Tech. Adv. Mem. 9126001, 1991 WL 778984 (1991).

[24] Tech. Adv. Mem. 199904038, 1999 WL 36828 (1999).

[25] Sec. 4081(a)(1).

[26] Sec. 4081(a)(1)(B).

[27] Sec. 4081(b)(1). Blended taxable fuel is a taxable fuel that is produced outside the bulk transfer/terminal system by mixing taxpayer fuel with respect to which tax has been imposed under section 4041(a)(1) or 4081(a) (other than taxable fuel for which a credit or payment has been allowed), and any other liquid on which tax has not been imposed under section 4081. Treas. Reg. sec. 48.4081–1(c)(1).

[28] Sec. 4081(b)(2).

[29] Sec. 4083(a).

[30] Sec. 4041.

[31] Sec. 4041(a)(2).

[32] An additional 0.1 cent per gallon is imposed by section 4041(d) for the Leaking Underground Storage Tank Trust Fund.

[33] Sec. 6426. The Act also created an income tax credit for biodiesel and biodiesel mixtures. Sec. 40A.

[34] Sec. 6427(e).

In addition, the Senate amendment creates two new excise tax credits, the alternative fuel credit, and the alternative fuel mixture credit. The credits are allowed against section 4081 liability. The alternative fuel credit is 50 cents per gallon of alternative fuel or gasoline gallon equivalents of nonliquid alternative fuel sold by the taxpayer for use as a motor fuel in a highway vehicle. The alternative fuel mixture credit is 50 cents per gallon of alternative fuel used in producing an alternative fuel mixture for sale or use in a trade or business of the taxpayer. The mixture must be sold by the taxpayer for use as a fuel in a highway vehicle or used by the taxpayer as a fuel in a highway vehicle. Liquid fuel derived from coal would only qualify for the credits if derived from the Fischer-Tropsch process. The credits generally expire after September 30, 2009. The proposal also allows persons to file a claim for payment equal to the amount of the alternative fuel credit and alternative fuel mixture credits. These payment provisions generally also expire after September 30, 2009. Both credits and payments are made out of the General Fund. Under coordination rules, a claim for payment or credit may only be taken once with respect to any particular gallon or gasoline-gallon equivalent of alternative fuel.

*Effective date.*—The Senate amendment is effective for any sale, use or removal for any period after September 30, 2006.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with the following modifications.

Under the conference agreement, liquefied petroleum gas and P Series fuels (as defined by the Secretary of Energy under 42 U.S.C. sec. 13211(2)) are taxed at 18.3 cents per gallon under section 4041. Compressed natural gas is taxed at 18.3 cents per energy equivalent of a gallon of gasoline. Liquefied natural gas, any liquid fuel derived from coal (other than ethanol or methanol) and liquid hydrocarbons derived from biomass are taxed at 24.3 cents per gallon under section 4041. The conference agreement does not change the tax treatment of hydrogen, liquefied hydrogen remains subject to the tax imposed by section 4041.

In addition, the conference agreement creates two new excise tax credits, the alternative fuel credit, and the alternative fuel mixture credit. For this purpose, the term "alternative fuel" means liquefied petroleum gas, P Series fuels (as defined by the Secretary of Energy under 42 U.S.C. sec. 13211(2)), compressed or liquefied natural gas, liquefied hydrogen, liquid fuel derived from coal through the Fisher-Tropsch process, and liquid hydrocarbons derived from biomass. Such term does not include ethanol, methanol, or biodiesel.

The alternative fuel credit is allowed against section 4041 liability and the alternative fuel mixture credit is allowed against section 4081 liability. Neither credit is allowed unless the taxpayer is registered with the Secretary. The alternative fuel credit is 50 cents per gallon of alternative fuel or gasoline gallon equivalents[35] of nonliquid alternative fuel sold by the taxpayer for use as a motor fuel in a motor vehicle or motorboat, or so used by the taxpayer.

The alternative fuel mixture credit is 50 cents per gallon of alternative fuel used in producing an alternative fuel mixture for sale or use in a trade or business of the taxpayer. The mixture must be sold by the taxpayer producing such mixture to any person for use as a fuel or used by the taxpayer for use as a fuel.[36] The credits generally expire after September 30, 2009. The provision also allows persons to file a claim for payment equal to the amount of the alternative fuel credit and alternative fuel mixture credits. These payment provisions generally also expire after September 30, 2009. With respect to liquefied hydrogen, the credit and payment provisions expire after September 30, 2014. Both credits and payments are made out of the General Fund. Under coordination rules, a claim for payment or credit may only be taken once with respect to any particular gallon or gasoline-gallon equivalent of alternative fuel.

*Effective date.*—The provision is effective for any sale or use for any period after September 30, 2006.

## B. Aquatic Excise Taxes

### 1. Eliminate Aquatic Resources Trust Fund and transform Sport Fish Restoration Account (sec. 5211 of the Senate amendment and secs. 9503 and 9504 of the Code)

### PRESENT LAW

A total tax rate of 18.4 cents per gallon is imposed on gasoline and special motor fuels used in motorboats, and on gasoline used as a fuel in the nonbusiness use of small-engine outdoor power equipment.[37] Of this rate, 0.1 cent per gallon is dedicated to the Leaking Underground Storage Tank Trust Fund. Of the remaining 18.3 cents per gallon, tax collected in excess of 13.5 cents per gallon (i.e., 4.8 cents per gallon) is retained in the General Fund of the Treasury.[38] The balance is transferred to the Highway Trust Fund, and retransferred (except with respect to amounts transferred to the fund for land and water conservation, as described below) to the Aquatic Resources Trust Fund.[39] The taxes on gasoline and special motor fuels used in motorboats and the taxes on gasoline used as a fuel in the nonbusiness use of small-engine outdoor power equipment are collected under the same rules as apply to the Highway Trust Fund collections generally.

The Aquatic Resources Trust Fund is comprised of two accounts.[40] First, the Boat Safety Account is funded by a portion of the receipts from the excise tax imposed on motorboat gasoline and special motor fuels. Transfers to the Boat Safety Account are limited to amounts not exceeding $70 million per year. In addition, these transfers are subject to an overall annual limit equal to an amount that will not cause the Boat Safety Account to have an unobligated balance in excess of $70 million.[41]

Second, the Sport Fish Restoration Account receives the balance of the motorboat gasoline and special motor fuels receipts that are transferred to the Aquatic Resources Trust Fund.[42] The Sport Fish Restoration Account is also funded with receipts from an excise tax on sport fishing equipment sold by the manufacturer, producer or importer. The excise tax rate on sport fishing equipment is 10 percent of the sales price; the rate is reduced to 3 percent for electric outboard motors and fishing tackle boxes.[43] Examples of the items of sport fishing equipment subject to the 10-percent rate include fishing rods and poles, fishing reels, fly fishing lines and certain other fishing lines, fishing spears, spear guns, spear tips, items of terminal tackle, containers designed to hold fish, fishing vests, landing nets, and portable bait containers.[44] In addition, import duties on certain fishing tackle, yachts and pleasure craft are transferred into the Sport Fish Restoration Account.

The amounts of taxes on gasoline used as a fuel in the nonbusiness use of small-engine outdoor power equipment that are transferred to the Highway Trust Fund and retransferred to the Aquatic Resources Trust Fund are directed to a separate sub-account of the Sport Fish Restoration Account, the Coastal Wetlands Sub-Account.

Expenditures from the Boat Safety Account are subject to annual appropriations. Amounts transferred, paid, or credited to the Sport Fish Restoration Account (including the Coastal Wetlands Sub-Account) are authorized to be appropriated for the uses authorized in the expenditure provisions.[45]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment eliminates the Aquatic Resources Trust Fund and future transfers to the Boat Safety Account and transforms the Sport Fish Restoration Account into the Sport Fish Restoration and Boating Trust Fund. After funding of the land and water conservation fund as under present law, the balance of the taxes on motorboat fuels is transferred from the Highway Trust Fund into the Sport Fish Restoration and Boating Trust Fund. In addition, the transfers from the Highway Trust Fund to the Sport Fish Restoration and Boating Trust Fund of amounts of taxes on gasoline used as a fuel in the nonbusiness use of small-engine outdoor power equipment are extended through September 30, 2011.

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[35] "Gasoline gallon equivalent" means, with respect to any nonliquid alternative fuel, the amount of such fuel having a Btu content of 124,800 (higher heating value).

[36] For example, the taxpayer produces fish oil in its trade or business. The taxpayer uses this fish oil to make a blend of 50 percent fish oil and 50 percent diesel fuel to run in a generator that is part of the taxpayer's trade or business. This use of the fish oil-diesel blend made by the taxpayer qualifies as use of an alternative fuel mixture for purposes of the requirement that the fuel be used in the blender's trade or business.

[37] Sec. 4081(a)(2).

[38] The retention in the General Fund of the 4.8 cents a gallon of motorboat fuel taxes and taxes on gasoline used as a fuel in the nonbusiness use of small-engine outdoor power equipment expires after September 30, 2005.

[39] Sec. 9503(c)(4). Between October 1, 2001 and September 30, 2003, the amount transferred to the Highway Trust Fund was 13 cents per gallon. Prior to October 1, 2001, the amount transferred was 11.5 cents per gallon. Sec. 9503(b)(4)(D). The transfers from the Highway Trust Fund to the Aquatic Resources Trust Fund of amounts of taxes received on gasoline used as a fuel in the nonbusiness use of small-engine outdoor power equipment expires after September 30, 2005. Sec. 9503(c)(5).

[40] Sec. 9504(a).

[41] Sec. 9503(c)(4)(A). Funding of the Boat Safety Account is scheduled to expire after September 30, 2005.

[42] After funding of the Boat Safety Account, remaining motorboat fuel taxes, not exceeding $1,000,000 during any fiscal year, are transferred from the Highway Trust Fund into the land and water conservation fund provided in Title I of the Land and Water Conservation Fund Act of 1965. Sec. 9503(c)(4)(B). After the transfer to the land and water conservation fund, motorboat fuel taxes remaining in the Highway Trust Fund are transferred to the Sport Fish Restoration Account. Sec. 9503(c)(4)(C).

[43] Sec. 4161(a)(2) and 4161(a)(c)(3).

[44] Items of "sport fishing equipment" are enumerated in section 4162(a).

[45] Act of August 9, 1950, 64 Stat. 430 (codified at 16 U.S.C. sec. 777 et seq.) ("An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes," commonly referred to as the Dingell-Johnson Sport Fish Restortation Act.).

Existing amounts in the Boat Safety Account, plus interest accrued on interest-bearing obligations of such account, are made available as provided under expenditure provisions.[46] The expenditure provisions also authorize the appropriation of amounts in the Sport Fish Restoration and Boating Trust Fund, including for boating safety, for the uses authorized in the expenditure provisions.

*Effective date.*—The Senate amendment is effective October 1, 2005.

#### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

### 2. Repeal of harbor maintenance tax on exports (sec. 5212 of the Senate amendment and sec. 4461 of the Code)

#### PRESENT LAW

The Code contains provisions imposing a 0.125-percent excise tax on the value of most commercial cargo loaded or unloaded at U.S. ports (other than ports included in the Inland Waterway Trust Fund system). The tax also applies to amounts paid for passenger transportation using these U.S. ports. Exemptions are provided for (1) cargo donated for overseas use, (2) cargo shipped between the U.S. mainland and Alaska (except for crude oil), Hawaii, and/or U.S. possessions and (3) cargo shipped between Alaska, Hawaii, and/or U.S. possessions. Receipts from this tax are deposited in the Harbor Maintenance Trust Fund.

The U.S. Supreme Court has held that the harbor maintenance excise tax is unconstitutional as applied to exported cargo because it violates the "Export Clause" of the U.S. Constitution.[47] The tax remains in effect for imported cargo. Imposition of the tax on passenger transportation with respect to passengers on cruises that originate, stop, or terminate, at U.S. ports has been upheld.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment conforms the Code to the Supreme Court decision and exempts exported commercial cargo from the harbor maintenance tax.

*Effective date.*—The Senate amendment is effective before, on, and after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

### 3. Cap on excise tax on certain fishing equipment (sec. 5213 of the Senate amendment and sec. 4161 of the Code)

#### PRESENT LAW

In general, the Code imposes a 10-percent tax on the sale by the manufacturer, producer, or importer of specified sport fishing equipment.[48] A three-percent rate, however, applies to the sale of electric outboard motors and fishing tackle boxes.[49] Sport fishing equipment subject to the 10-percent tax includes fishing rods and poles, fishing reels, fly fishing lines, and other fishing lines not over 130 pounds test, fishing spears, spear guns, and spear tips, and tackle items including leaders, artificial lures, artificial baits, artificial flies, fishing hooks, bobbers, sinkers, snaps, drayles, and swivels. In addition the following fishing supplies and accessories are subject to the 10-percent tax: fish stringers; creels; bags, baskets, and other containers designed to hold fish; portable bait containers; fishing vests; landing nets; gaff hooks; fishing hook disgorgers; dressing for fishing lines and artificial flies; fishing tip-ups and tilts; fishing rod belts, fishing rodholders; fishing harnesses; fish fighting chairs; and fishing outriggers and downriggers.

Revenues from the excise tax on sport fishing equipment are deposited in the Sport Fish Restoration Account of the Aquatic Resources Trust Fund. Monies in the fund are spent, subject to an existing permanent appropriation, to support Federal-State sport fish enhancement and safety programs.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provides that the tax applicable to a fishing rod or fishing pole is the lesser of 10 percent or $10.00.

*Effective date.*—The Senate amendment is effective for articles sold by the manufacturer, producer, or importer after September 30, 2005.

#### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

## C. Aerial Excise Taxes

### 1. Clarification of excise tax exemptions for agricultural aerial applicators and exemption for fixed-wing aircraft engaged in forestry operations (sec. 5221 of the Senate amendment and secs. 4261 and 6420 of the Code)

#### PRESENT LAW

Excise taxes are imposed on aviation gasoline (19.4 cents per gallon) and jet fuel (21.9 cents per gallon).[50] All but 0.1 cent per gallon of the revenues from these taxes are dedicated to the Airport and Airway Trust Fund. The remaining 0.1 cent per gallon rate is imposed for the Leaking Underground Storage Tank Trust Fund.

Fuel used on a farm for farming purposes is a nontaxable use. Aerial applicators (crop dusters) are allowed to claim a refund instead of farm owners and operators in the case of aviation gasoline if the owners or operators give written consent to the aerial applicators.[51] This provision applies only to fuel consumed in the airplane while operating over the farm, i.e., fuel consumed traveling to and from the farm is not exempt.

Air passenger transportation is subject to an excise tax equal to 7.5 percent of the amount paid plus $3.20 per domestic flight segment.[52] The tax on transportation by air does not apply to air transportation by helicopter if the helicopter is used for (1) the exploration, or the development or removal of oil, gas, or hard minerals exploration, or (2) certain timber operations (planting, cultivating, cutting, transporting, or caring for trees, including logging operations).[53] The exemption applies only when the helicopters are not using the Federally funded airport and airway services. Helicopters and fixed-wing aircraft providing emergency medical services also are exempt from the air passenger tax regardless of the type of airport and airway services used.[54]

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

With regard to the exemption for aerial applicators, written consent from the farm owner or operator is no longer needed for the aerial applicator to claim exemption for aviation gasoline. The exemption also is expanded to include fuels consumed when flying between the farms where chemicals are applied and the airport where the airplane takes off and lands. The present exemption for helicopters engaged in timber operations is expanded to include fixed-wing aircraft if such aircraft are not using the Federally funded airport and airway services.

*Effective date.*—The Senate amendment is effective for fuel use or air transportation after September 30, 2005.

#### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

### 2. Modify the definition of rural airport (sec. 5222 of the Senate amendment and sec. 4261 of the Code)

#### PRESENT LAW

Air passenger transportation is subject to an excise tax equal to 7.5 percent of the amount paid plus $3.20 per domestic flight segment.[55] The $3.20 tax on flight segments does not apply to a domestic segment beginning or ending at a rural airport.

With respect to any calendar year, a rural airport is an airport that had fewer than 100,000 passengers departing by air during the second preceding calendar year for such airport and such airport either (1) is not located within 75 miles of a larger airport (one that had at least 100,000 passengers departing in the second preceding calendar year), or (2) was receiving essential air service subsidy payments as of August 5, 1997.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment expands the definition of qualified rural airport to include an airport that (1) is not connected by paved roads to another airport and (2) had fewer than 100,000 commercial passengers departing by air on flight segments of at least 100 miles during the second preceding calendar year.

*Effective date.*—The Senate amendment is effective on October 1, 2005.

#### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

### 3. Exempt from ticket taxes transportation provided by seaplanes (sec. 5223 of the Senate amendment and secs. 4261 and 4083 of the Code)

#### PRESENT LAW

Air passenger transportation is subject to an excise tax equal to 7.5 percent of the amount paid plus $3.20 per domestic flight segment ("air passenger tax").[56] A 6.25-percent tax is imposed on amounts paid for transportation of property by air ("air cargo tax").[57] The air cargo tax applies only to amounts paid to persons engaged in the business of transporting property by air for hire. The air passenger tax and air cargo tax do not apply to amounts paid for the transportation if furnished on an aircraft having a maximum certificated takeoff weight of 6,000 pounds or less unless the aircraft is operated on an established line.[58]

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[46] The expenditure provisions are codified at 16 U.S.C. sec. 777 et seq., as may be amended by the Sportfishing and Recreational Boating Safety Act of 2005.

[47] *United States Shoe Corp.* v. *United States*, 523 U.S. 360, 118 S. Ct. 1290, 140 L. Ed. 2d 453 (1998).

[48] Sec. 4161(a)(1).

[49] Sec. 4161(a)(2) and 4161(a)(3).

[50] Sec. 4081.

[51] Sec. 6420(c)(4)).

[52] Sec. 4261(a) and 4261(b).

[53] Sec. 4261(f).

[54] Sec. 4261(g).

[55] Sec. 4261(a) and 4261(b).

[56] Sec. 4261(a) and 4261(b).

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provides that the air passenger tax and the air cargo tax do not apply to transportation by a seaplane with respect to any segment consisting of a takeoff from, and a landing on, water, but only if the places at which such takeoff and landing occur have not received and are not receiving financial assistance from the Airport and Airway Trust Fund.

*Effective date.*—The Senate amendment is effective for transportation beginning after September 30, 2005.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment but clarifies that for purposes of the fuel taxes, transportation by seaplane is treated as noncommercial aviation.

### 4. Exempt certain sightseeing flights from taxes on air transportation (sec. 5224 of the Senate amendment and sec. 4281 of the Code)

### PRESENT LAW

Under present law, taxable aviation transportation is subject to a 7.5-percent excise tax on the price of an airline ticket and a $3.20 segment tax. An exception to these taxes is provided for transportation by an aircraft having a maximum certificated takeoff weight of 6,000 pounds or less except when the aircraft is operated on an established line. Under the Treasury regulations to be "operated on an established line" means to be operated with "some degree of regularity between definite points. The term implies that the air carrier maintains control over the direction, routes, time, number of passengers carried, etc."[59] Treasury regulations provide that transportation need not be between two definite points to be taxable: a payment for continuous transportation beginning and ending at the same point is subject to the tax.[60] The IRS position is that the words "between definite points" do not require two separate points for purposes of determining whether an aircraft is operated on an established line. At least one court has agreed.[61]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

For purposes of the exemption for small aircraft operated on nonestablished lines, an aircraft operated on a flight, the sole purpose of which is sightseeing, will not be considered as operated on an established line.

*Effective date.*—The Senate amendment is effective with respect to transportation beginning after September 30, 2005, but does not apply to any amount paid before such date for such transportation.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

## D. Taxes Relating to Alcohol

### 1. Repeal special occupational taxes on producers and marketers of alcoholic beverages (sec. 5231 of the Senate amendment and secs. 5081, 5091, 5111, 5112, 5113, 5117, 5121, 5122, 5123, 5125, 5131, 5132, 5141, 5147, 5148, and 5276 of the Code)

### PRESENT LAW

Under the law in effect prior to July 1, 2005, special occupational taxes are imposed on producers and others engaged in the marketing of distilled spirits, wine, and beer. These excise taxes are imposed as part of a broader Federal tax and regulatory structure governing the production and marketing of alcoholic beverages. The special occupational taxes are payable annually, on July 1 of each year. The tax rates in effect prior to July 1, 2005 are as follows:

Producers:[62]

Distilled spirits and wines (sec. 5081),[63] $1,000 per year, per premise.

Brewers (sec. 5091) $1,000 per year, per premise.

Wholesale dealers (sec. 5111): Liquors, wines, or beer $500 per year.

Retail dealers (sec. 5121): Liquors, wines, or beer $250 per year.

Nonbeverage use of distilled spirits (sec. 5131): $500 per year.

Industrial use of distilled spirits (sec. 5276): $250 per year.

Section 246(a) of the American Jobs Creation Act of 2004 suspends the special occupational tax for the period beginning July 1, 2005 and ending June 30, 2008.[64]

Every person engaged in a trade or business on which a special occupational tax is imposed is required to register with the Secretary.[65] In addition, every dealer in liquors, wine or beer is required to keep records of their transactions.[66] A dealer is any person who sells, or offers for sale, distilled spirits, wine, or beer.[67] A delegate of the Secretary of the Treasury is authorized to inspect the records of any dealer during business hours.[68] There are penalties for failing to comply with the recordkeeping requirements.[69] There are also registration and regulation requirements for the nonbeverage use of distilled spirits, and permit and recordkeeping requirements for the industrial use of distilled spirits.[70]

The Code limits the persons from whom dealers may purchase their liquor stock intended for resale. A dealer may only purchase from:

1. A wholesale dealer in liquors who has paid the special occupational tax as such dealer to cover the place where such purchase is made; or

2. A wholesale dealer in liquors who is exempt, at the place where such purchase is made, from payment of such tax under any provision of chapter 51 of the Code; or

3. A person who is not required to pay special occupational tax as a wholesale dealer in liquors.[71]

Violation of this restriction in punishable by $1,000 fine, imprisonment of one year, or both.[72] A violation also subjects the alcohol to seizure and forfeiture.[73]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment repeals the special occupational taxes on producers and marketers of alcoholic beverages and on the nonbeverage or industrial use of distilled spirits. The registration, recordkeeping and inspection rules applicable to wholesale and retail dealers are retained.[74] For purposes of the recordkeeping requirements for wholesale and retail liquor dealers, the Senate amendment provides a rebuttable presumption that a person who sells, or offers for sale, distilled spirits, wine, or beer, in quantities of 20 wine gallons or more to the same person at the same time is engaged in the business of a wholesale dealer in liquors or a wholesale dealer in beer. In addition, the Senate amendment retains the present-law rules that make it unlawful for any liquor dealer to purchase distilled spirits for resale from any person other than a wholesale liquor dealer subject to the recordkeeping requirements, or a proprietor of a distilled spirits plant subject to recordkeeping requirements.[75] Existing general criminal penalties relating to records and reports apply to wholesalers and retailers who fail to comply with these requirements.

*Effective date.*—The Senate amendment is effective on July 1, 2008. The provision does not affect liability for taxes imposed with respect to periods before July 1, 2008.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

### 2. Modify limitation on rate of rum excise tax cover over to Puerto Rico and Virgin Islands (sec. 5232 of the Senate amendment)

### PRESENT LAW

A $13.50 per proof gallon[76] excise tax is imposed on distilled spirits produced in or imported (or brought) into the United States.[77] The excise tax does not apply to distilled spirits that are exported from the United States, including exports to U.S. possessions (e.g., Puerto Rico and the Virgin Islands).[78]

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[57] Sec. 4271.

[58] Sec. 4281.

[59] Treas. Reg. sec. 49.4263-5(c).

[60] Treas. Reg. sec. 49.4261-1(c).

[61] *Lake Mead Air Inc.* v. *United States*, 991 F. Supp. 1209 (D. Nev. 1997) (the court determined that aircraft flights providing scenic tours of the Grand Canyon were operated on an established line).

[62] A reduced rate of tax in the amount of $500.00 is imposed on small proprietors (as defined in the Code) (secs. 5081(b) and 5091(b)).

[63] Proprietors of plants producing distilled spirits exclusively for fuel use, with annual production not exceeding 10,000 proof gallons, are exempt. Secs. 5081(c) and 5181(c)(4).

[64] See sec. 5148.

[65] Secs. 5141 and 7011. The registration is of such person's name or style, place of residence, trade or business, and the place where such trade or business is to be carried on.

[66] Secs. 5114 and 5124.

[67] Sec. 5112(a). Such definition includes producers and, in general, proprietors of warehouses.

[68] Sec. 5146.

[69] Sec. 5603.

[70] Secs. 5132 and 5275.

[71] Sec. 5117. For example, purchases from a proprietor of a distilled spirits plant at his principal business office would be covered under item (2) since such a proprietor is not subject to the special occupational tax on account of sales at his principal business office (sec. 5113(a)). Purchases from a State-operated liquor store would be covered under item (3) (sec. 5113(b)).

[72] Sec. 5687.

[73] Sec. 7302.

[74] The provision also retains the present-law registration and regulation requirements for the nonbeverage use of distilled spirits, and the permit and recordkeeping requirements for the industrial use of distilled spirits.

[75] Proprietors of distilled spirits plants remain subject to present law recordkeeping requirements under section 5207. Under present law, a limited retail dealer in liquors (such as a charitable organization selling liquor at a picnic) may lawfully purchase distilled spirits for resale from a retail dealer in distilled spirits. The provision retains this rule.

[76] A proof gallon is a liquid gallon consisting of 50 percent alcohol. See sec. 5002(a)(10) and 5002(a)(11).

[77] Sec. 5001(a)(1).

[78] Secs. 5062(b), 7653(b), and 7653(c).

The Code provides for cover over (payment) to Puerto Rico and the Virgin Islands of the excise tax imposed on rum imported (or brought) into the United States, without regard to the country of origin.[79] The amount of the cover over is limited under Code section 7652(f) to $10.50 per proof gallon ($13.25 per proof gallon during the period July 1, 1999 through December 31, 2005).

Tax amounts attributable to shipments to the United States of rum produced in Puerto Rico are covered over to Puerto Rico. Tax amounts attributable to shipments to the United States of rum produced in the Virgin Islands are covered over to the Virgin Islands. Tax amounts attributable to shipments to the United States of rum produced in neither Puerto Rico nor the Virgin Islands are divided and covered over to the two possessions under a formula.[80] Amounts covered over to Puerto Rico and the Virgin Islands are deposited into the treasuries of the two possessions for use as those possessions determine.[81] All of the amounts covered over are subject to the limitation.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, the cover over amount of $13.25 per proof gallon is modified to $13.50 for rum brought into the United States after December 31, 2005 and before January 1, 2007. After December 31, 2006, the cover over amount reverts to $10.50 per proof gallon.

The Senate amendment additionally requires that Puerto Rico transfers a portion of the amount covered over to Puerto Rico to the Puerto Rico Conservation Trust Fund (the "Fund").[82] The treasury of Puerto Rico is required to transfer to the Fund amounts equal to 50 cents per proof gallon of the taxes covered over to Puerto Rico, and attributable to rum imported into the United States that was produced neither in Puerto Rico nor the Virgin Islands. The transfers are required to be made within 30 days of each such cover over payment to Puerto Rico. Each transfer payment is to be treated as principal for an endowment, the income from which is to be used by the Fund for the purposes for which the Fund was established. If Puerto Rico fails to make a timely payment to the Trust Fund, the Secretary of the Treasury shall deduct and withhold such unpaid amount from the next cover over payment, plus interest, and shall transfer such amounts directly to the Fund. Such deduction, withholding, and direct payment will not be made if the Secretary of the Interior, after consultation with the Governor of Puerto Rico, finds that the failure of the treasury of Puerto Rico to make the transfer payment was for good cause. The transfer requirement expires after December 31, 2006.

*Effective date.*—The change in the cover over rate is effective for articles brought into the United States after December 31, 2005. The Senate amendment regarding the Puerto Rico Conservation Trust Fund is effective January 1, 2006.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

3. Provide an income tax credit for cost of carrying tax-paid distilled spirits in wholesale inventories and in control State bailment warehouses (sec. 5233 of the Senate amendment and new sec. 5011 of the Code)

### PRESENT LAW

As is true of most major Federal excise taxes, the excise tax on distilled spirits is imposed at a point in the chain of distribution before the product reaches the retail (consumer) level. The excise tax on distilled spirits produced in the United States is imposed when the distilled spirits are removed from the distilled spirits plant where they are produced. Distilled spirits that are bottled before importation into the United States are taxed on removal from the first U.S. customs bonded warehouse to which they are landed (including a warehouse located in a foreign trade zone). Distilled spirits imported in bulk containers for bottling in the United States may be transferred to a domestic distilled spirits plant without payment of tax; subsequently, these distilled spirits are taxed in the same way as domestically produced distilled spirits.

No tax credits are allowed under present law for business costs associated with having tax-paid products in inventory. Rather, excise tax that is included in the purchase price of a product is treated the same as the other components of the product cost, i.e., deductible as a cost of goods sold.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment creates a new income tax credit for eligible wholesalers, distillers, and importers, of distilled spirits. The credit is in addition to present-law rules allowing tax included in inventory costs to be deducted as a cost of goods sold, and is treated as part of the general business credits.

The credit is calculated by multiplying the number of cases of bottled distilled spirits by the average tax-financing cost per case for the most recent calendar year ending before the beginning of such taxable year. A case is 12 80-proof 750-milliliter bottles. The average tax-financing cost per case is the amount of interest that would accrue at corporate overpayment rates during an assumed 60-day holding period on an assumed tax rate of $25.68 per case of 12 80-proof 750-milliliter bottles.

The wholesaler credit only applies to domestically bottled distilled spirits[83] purchased directly from the bottler of such spirits. An eligible wholesaler is any person that holds a permit under the Federal Alcohol Administration Act as a wholesaler of distilled spirits that is not a State, or agency or political subdivision thereof.

For distillers and importers that are not eligible wholesalers, the credit is limited to bottled inventory in a warehouse owned and operated by, or on behalf of, a State or political subdivision thereof, when title to such inventory has not passed unconditionally. The credit for distillers and importers applies to distilled spirits bottled both domestically and abroad.

*Effective date.*—The Senate amendment is effective for taxable years beginning after September 30, 2005.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

4. Quarterly excise tax filing for small alcohol excise taxpayers (sec. 5234 of the Senate amendment and sec. 5061 of the Code)

### PRESENT LAW

In general, excise taxes on distilled spirits, wines, and beers are collected on the basis of returns filed in accordance with rules prescribed by the Secretary of the Treasury.[84] In the case of distilled spirits, beer, and wine withdrawn under bond for deferred payment of tax ("deferred payment bond"), domestic producers are generally required to pay alcohol excise taxes within 14 days after the last day of the semi-monthly period during which the article is withdrawn.[85] In the case of distilled spirits, wines, and beer which are imported into the United States (other than in bulk containers), the importer is generally required to pay alcohol excise taxes within 14 days after the last day of the semi-monthly period during which the article is entered into the customs territory of the United States.[86] In the case of imported articles entered for warehousing, the taxes are generally due within 14 days after the last day of the semi-monthly period during which the article is removed from the first such warehouse.[87] Treasury regulations also permit certain very small wine producers to file and pay on an annual basis.[88]

Special rules apply to accelerate payments made with respect to taxes allocable to the second half of the month of September.[89]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, domestic producers and importers of distilled spirits, wine, and beer with excise tax liability of $50,000 or less attributable to such articles in the preceding calendar year may file returns and pay taxes within 14 days after the end of the calendar quarter instead of semi-monthly. In order to qualify, the taxpayer's liability for such taxes during the immediately preceding year must have been $50,000 or less, and, as of the beginning of the current calendar year, the taxpayer must reasonably expect to pay less than $50,000 in such taxes for that year. The Senate amendment does not apply to a taxpayer for any portion of the calendar year following the first date on which the aggregate amount of tax due for that year exceeds the $50,000 threshold.

The special rules accelerating payments for taxes allocable to the second half of September do not apply to quarterly filers under the Senate amendment.

Very small wine producers who have not given deferred payment bonds may still file and pay on an annual basis as under present law.

*Effective date.*—The Senate amendment is effective for quarterly periods beginning on and after January 1, 2006.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with the clarification that quarterly filing and payment applies only to withdrawals, removals, and entries (and articles brought into the United States from Puerto Rico) under deferred payment bonds. Transactions that are not made under deferred payment bonds do not qualify for quarterly filing and payment, but do count toward determining whether the $50,000 threshold has been reached.

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[79] Secs. 7652(a)(3), 7652(b)(3), and 7652(e)(1). One percent of the amount of excise tax collected from imports into the United States of articles produced in the Virgin Islands is retained by the United States under section 7652(b)(3).

[80] Sec. 7652(e)(2).

[81] Secs. 7652(a)(3), (b)(3), and 7652(e)(1).

[82] The Puerto Rico Conservation Trust Fund was established pursuant to a Memorandum of Understanding, dated December 24, 1968, between the United States Department of the Interior and the Commonwealth of Puerto Rico.

[83] Distilled spirits that are imported in bulk and then bottled domestically qualify as domestically bottled distilled spirits.

[84] Sec. 5061(a).

[85] Sec. 5061(d)(1).

[86] Sec. 5061(d)(2)(A).

[87] Sec. 5061(d)(2)(B).

[88] Annual filing and payment is permitted to a wine producer who has not given a deferred payment bond, and who either paid wine excise taxes in an amount less than $1,000 during the previous calendar year or is a proprietor of a new bonded wine premise and expects to pay less than $1,000 in wine excise taxes before the end of the calendar year. 27 CFR sec. 24.273(a).

[89] Sec. 5061(d)(4).

### E. Sport Excise Taxes

#### 1. Custom gunsmiths (sec. 5241 of the Senate amendment and sec. 4182 of the Code)

#### PRESENT LAW

The Code imposes an excise tax upon the sale by the manufacturer, producer or importer of certain firearms and ammunition.[90] Pistols and revolvers are taxable at 10 percent. Firearms (other than pistols and revolvers), shells, and cartridges are taxable at 11 percent. The excise tax for firearms imposed on manufacturers, producers, and importers does not apply to machine guns and short barreled firearms. Sales to the Defense Department of firearms, pistols, revolvers, shells and cartridges also are exempt from the tax.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment exempts from the firearms excise tax firearms, pistols, and revolvers manufactured, produced, or imported by a person who manufactures, produces, and imports less than 50 of such articles during the calendar year. Controlled groups are treated as a single person for determining the 50-article limit.

*Effective date.*—The Senate amendment is effective for articles sold by the manufacturer, producer, or importer after September 30, 2005. No inference is intended from the prospective effective date of this provision as to the proper treatment of pre-effective date sales.

#### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

## III. MISCELLANEOUS PROVISIONS

### A. Motor Fuel Tax Enforcement Advisory Commission (sec. 5301 of the Senate amendment)

#### PRESENT LAW

Present law does not require that there be an advisory commission on motor tax fuel enforcement.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment establishes a "Motor Fuel Tax Enforcement Advisory Commission" (the "Commission"). The purpose of the Commission is to: (1) review motor fuel revenue collections, historical and current; (2) review the progress of investigations; (3) develop and review legislative proposals with respect to motor fuel taxes; (4) monitor the progress of administrative regulation projects relating to fuel taxes; (5) review the results Federal and State agency cooperative efforts regarding motor fuel taxes; and (6) review the results of Federal interagency cooperative efforts regarding motor fuel taxes. The Commission also is to evaluate and make recommendations regarding: (1) the effectiveness of existing Federal enforcement programs regarding motor fuel taxes; (2) enforcement personnel allocation; and (3) proposals for regulatory projects, legislation, and funding.

The Commission is to be composed of the following:

1. At least one representative from each of the following Federal entities: the Department of Homeland Security, the Department of Transportation—Office of Inspector General, the Federal Highway Administration, the Department of Defense, and the Department of Justice;
2. At least one representative from the Federation of State Tax Administrators;
3. At least one representative from any State Department of Transportation;
4. Two representatives from the highway construction industry;
5. Six representatives from industries relating to fuel distribution: refiners (two representatives), distributors (one representative), pipelines (one representative), terminal operators (two representatives);
6. One representative from the retail fuel industry; and
7. Two representatives each from the staff of the Senate Committee on Finance and the House Committee on Ways and Means.

Members of the Commission are to be appointed by the Chairmen and Ranking Members of the Senate Committee on Finance and the House Committee on Ways and Means. Representatives from the Department of Treasury and the IRS shall be available to consult with the Commission upon request. The Commission is to terminate after September 30, 2009.

*Effective date.*—The Senate amendment is effective on the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

### B. National Surface Transportation Infrastructure Financing Commission (sec. 5302 of the Senate amendment)

#### PRESENT LAW

Present law does not provide for any advisory commissions related Federal highway or mass transit funding.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The provision establishes a "National Surface Transportation Infrastructure Financing Commission" (the "Financing Commission"). The Financing Commission is to be composed of 15 members drawn from among individuals knowledgeable in the fields of public transportation finance or highway and transit programs, policy, and needs. Financing Commission members may include representatives of State and local governments or other public transportation agencies, representatives of the transportation construction industry, providers of transportation, persons knowledgeable in finance, and users of highway and transit systems.

The Financing Commission will make an investigation and study of revenues flowing into the Highway Trust Fund under present law. The Financing Commission will consider whether the amount of such revenues is likely to increase, decline or remain unchanged absent changes in the law. The Financing Commission will consider alternative approaches to generating revenues for the Highway Trust Fund, and the level of revenues that such alternatives would yield. The Financing Commission will consider highway and transit needs and whether additional revenues into the Highway Trust Fund, or other Federal revenues dedicated to highway and transit infrastructure, would be required in order to meet such needs.

The Financing Commission will develop a final report, with recommendations and the bases for those recommendations. The Financing Commission's recommendations will address: (1) what levels of revenue are required by the Highway Trust Fund in order for it to meet needs to maintain and improve the condition and performance of the nation's highway and transit systems; (2) what levels of revenue are required by the Highway Trust Fund in order to ensure that Federal levels of investment in highways and transit do not decline in real terms; and (3) the extent, if any, to which the Highway Trust Fund should be augmented by other mechanisms or funds as a Federal means of financing highway and transit infrastructure investments.

The Financing Commission will submit its report and recommendations within two years of the date of its first meeting to the Secretary of Transportation, the Secretary of the Treasury, the House Committee on Ways and Means, Senate Committee on Finance, the House Committee on Transportation and Infrastructure, the Senate Committee on Environment and Public Works, and Senate Committee on Banking, Housing, and Urban Affairs.

*Effective date.*—The Senate amendment is effective on the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with the following modification. The Commission also must consider a program that would exempt all or a portion of gasoline or other motor fuels used in a State from the Federal excise tax on such gasoline or other motor fuels if such State elects not to receive all or a portion of Federal transportation funding, including: (1) whether such State should be required to increase State gasoline or other motor fuels taxes by the amount of the decrease in the Federal excise tax on such gasoline or other motor fuels; (2) whether any Federal transportation funding should not be reduced or eliminated for States participating in such program; (3) whether there are any compliance problems related to enforcement of Federal transportation-related excise taxes; and (4) study such other matters closely related to the subjects described in the preceding subparagraphs as it may deem appropriate.

### C. Expand Highway Trust Fund Expenditure Purposes to Include Funding for Studies of Supplemental or Alternative Financing for the Highway Trust Fund (sec. 5303 of the Senate amendment)

#### PRESENT LAW

*In general*

Dedication of excise tax revenues to the Highway Trust Fund and expenditures from the Highway Trust Fund are governed by provisions of the Code (sec. 9503).[91] The Code authorizes expenditures (subject to appropriations) from the Fund through July 30, 2005, for the purposes provided in authorizing legislation, as in effect on the date of enactment of the Surface Transportation Extension Act of 2005, Part IV.

The Highway Trust Fund has a subaccount for Mass Transit. Both the Trust Fund and its subaccount are funding sources for specific programs.

Highway Trust Fund expenditure purposes have been revised with each authorization Act enacted since establishment of the Highway Trust Fund in 1956. In general, expenditures authorized under those Acts (as the Acts were in effect on the date of enactment of the most recent such authorizing Act) are approved by the Code as Highway Trust Fund expenditure purposes.[92]

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[90] Sec. 4181.

[91] The Highway Trust Fund statutory provisions were placed in the Internal Revenue Code in 1982.

*Highway Trust Fund expenditure purposes*

*Highway Trust Fund expenditure purposes*

The Highway Trust Fund receives revenues from all non-fuel highway transportation excise taxes and revenues from all but 2.86 cents per gallon of the highway motor fuels excise taxes transferred to the Highway Trust Fund. Programs financed from the Highway Trust Fund (excluding the Mass Transit account) include:

1. Interstate maintenance program;
2. National Highway System;
3. The bridge program (bridge replacement and repair);
4. Surface transportation programs;
5. Congestion mitigation and air quality improvement program;
6. Highway safety programs and research and development, including a share of the cost of National Highway Traffic Safety Administration ("NHTSA") programs and university research centers;
7. Appalachian development highway system program;
8. Recreational trails program;
9. Federal lands highways program;
10. National corridor planning and development and coordinated border infrastructure programs;
11. Construction of ferry boats and ferry terminal facilities;
12. National scenic byways program;
13. Value pricing pilot program;
14. High priority projects program;
15. Highway use tax evasion projects; and
16. Commonwealth of Puerto Rico highway program.

Certain administrative costs of the Federal Highway Administration and NHTSA are also funded from the Highway Trust Fund.

*Mass Transit Account expenditure purposes*

The Highway Fund's Mass Transit Account receives revenues equivalent to 2.86 cents per gallon of the highway motor fuels excise taxes. Mass Transit Account monies are available through July 27, 2005, for capital and capital-related expenditures under section 5338(a)(1) and 5338(b)(1) of Title 49, United States Code; the Intermodal Surface Transportation Efficiency Act of 1991; the Transportation Equity Act for the 21st Century; the Surface Transportation Extension Act of 2003; the Surface Transportation Extension Act of 2004; the Surface Transportation Extension Act of 2004, Part II; the Surface Transportation Extension Act of 2004, Part III; the Surface Transportation Extension Act of 2004, Part IV; the Surface Transportation Act of 2004, Part V; the Surface Transportation Extension Act of 2005; the Surface Transportation Extension Act of 2005, Part II; the Surface Transportation Extension Act of 2005, Part III; the Surface Transportation Extension Act of 2005, Part IV; and the Surface Transportation Extension Act of 2005, Part V, as those provisions were in effect on the date of enactment of the Surface Transportation Extension Act of 2005, Part V.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment expands the expenditure authority and authorizes the expenditure of monies from the Highway Trust Fund to fund two comprehensive studies of supplemental or alternative funding sources for the Highway Trust Fund. One study, to receive $1 million in funding, will review funding mechanisms of other industrialized nations and examine the viability of proposals such as congestion pricing, greater reliance on tolls, privatization of facilities, and other funding proposals. This study would be due no later than December 31, 2006. The other study, to receive $16.5 million in funding, would report on a long-term field test of a new approach to assessing highway use taxes by use of an on-board computer that links to satellites to calculate road mileage traversed and compute the appropriate highway use tax for each of the Federal, State, and local government as the vehicle makes use of the roads. The results of this study would be due no later than December 31, 2011. Each study would be delivered to the Secretary of the Treasury and the Secretary of Transportation.

*Effective date.*—The Senate amendment is effective upon date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement addresses authorization of expenditures for the study of alternative financing for the Highway Trust Fund elsewhere in the conference agreement and does not amend the Code for this purpose.

### D. Delta Regional Transportation Plan (sec. 1806 of the House bill and sec. 5304 of the Senate amendment)

#### PRESENT LAW

The Delta Regional Authority is a Federal-State partnership, serving a 240-county/parish area in an eight-State region.[93] No State is required to participate with the authority. The duties of the authority are to: (1) produce a regional development plan; (2) set priorities for approval of grants in the region; (3) assess the region's needs and assets; (4) inform participating States about interstate cooperation; (5) work with States and local agencies to develop model legislation; (6) enhance the capacity of and support Local Development Districts, as well as the creation of Local Development Districts where none currently exist; (7) encourage private investment in economic development projects in the region; and (8) assist State governments with the States' economic development program.

#### HOUSE BILL

The provision directs the Secretary of Transportation to enter into an agreement with the Delta Regional Authority to conduct a comprehensive study of transportation assets and needs in the eight states comprising the Delta region (Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee). The agreement must be entered into within six months from the date of enactment. The study and recommendations must be submitted, no later than 24 months after the date of entry into the agreement, to the Secretary of Transportation, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate.

The study is to include all modes of transportation (including passenger and freight transportation). The Delta Regional Authority is to work with local planning and development districts, local and regional governments, metropolitan planning organizations, State transportation entities, and Department of Transportation to develop a regional strategic transportation plan. Upon completion of the study, the Delta Regional Authority is to create a regional strategic plan to achieve efficient transportation systems in the Delta region.

The provision authorizes the Delta Regional Authority to receive $500,000 in fiscal year 2005, and $500,000 in fiscal year 2006 to conduct a comprehensive study and plan. These funds are to remain available until spent.

*Effective date.*—The House bill is effective on the date of enactment.

#### SENATE AMENDMENT

The Senate amendment generally follows the House bill but does not require an agreement with the Secretary of Transportation, nor does it set a deadline for the submission of the report.

*Effective date.*—The Senate amendment is effective on the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement addresses the Delta Region Transportation Plan elsewhere in the conference agreement and does not amend the Code for this purpose.

### E. Establish Build America Corporation (sec. 5305 of the Senate amendment)

#### PRESENT LAW

There is no provision in Federal law establishing a nonprofit corporation dedicated to providing financing or other financial support for transportation infrastructure projects.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment establishes a nonprofit corporation, to be known as the "Build America Corporation." The Build America Corporation is not an agency or establishment of the United States Government. The Build America Corporation generally shall be subject to the laws of the State of Delaware applicable to non-profit corporations.

The purpose of the corporation is to provide financial support for qualified projects. Under the provision, a "qualified project" generally is defined as any transportation infrastructure project of any governmental unit or other person that is proposed by a State, including a highway project, a transit system project, a railroad project, an airport project, a port project, and an inland waterways project. The provision imposes additional requirements if a qualified project is financed by debt issued by the Build America Corporation.

*Effective date.*—The Senate amendment is effective on the date of enactment.

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[92] The authorizing Acts which currently are referenced in the Highway Trust Fund provisions of the Code are: the Highway Revenue Act of 1956; Titles I and II of the Surface Transportation Assistance Act of 1982; the Surface Transportation and Uniform Relocation Act of 1987; the Intermodal Surface Transportation Efficiency Act of 1991, the Transportation Equity Act for the 21st Century; the Surface Transportation Extension Act of 2003; the Surface Transportation Extension Act of 2004; the Surface Transportation Extension Act of 2004 Part II, the Surface Transportation Extension Act of 2004, Part III; the Surface Transportation Extension Act of 2004, Part IV; the Surface Transportation Extension Act of 2004, Part V; the Surface Transportation Extension Act of 2005; the Surface Transportation Extension Act of 2005, Part II; the Surface Transportation Extension Act of 2005, Part III; the Surface Transportation Extension Act of 2005, Part IV and the Surface Transportation Extension Act of 2005, Part V.

[93] The covered States and counties are: Alabama—20 counties; Arkansas—42 counties, Illinois, 16 counties; Kentucky—21 counties; Louisiana—46 parishes; Mississippi—45 counties; Missouri—29 counties; and Tennessee—21 counties. Delta Regional Authority, Legislative Matters and Overview (February 1, 2004), <*www.dra.gov/legislation.php*>.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## F. Increase in Dollar Limits for Qualified Transportation Fringe Benefits (sec. 5306 of the Senate amendment)

### PRESENT LAW

Under present law, qualified transportation benefits are excludable from gross income and wages for employment tax purposes. Qualified transportation benefits are: (1) transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment ("van pooling"); (2) transit passes; and (3) qualified parking. For purposes of the exclusion for van pooling benefits, a commuter highway vehicle is any highway vehicle: (1) the seating capacity of which is at least six adults (excluding the driver); and (2) at least 80 percent of the mileage use of which can reasonably be expected to be (a) for purposes of transporting employees in connection with travel between their residences and their place of employment and (b) on trips during which the number of employees transported for such purposes is at least one-half of the adult seating capacity of such vehicle (not including the driver).

The maximum amount of qualified parking that is excludable from income and wages is $200 per month (for 2005). The maximum amount of transit passes and van pooling benefits that are excludable from income and wages per month is $105 (for 2005). These dollar amounts are indexed for inflation.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, the maximum dollar amount of excludable van pooling and transit pass benefits is increased to $155 per month. The maximum amount of excludable qualified parking is $200 per month. The dollar amounts are indexed for inflation after 2008 (with 2007 as a base year). Beginning in 2010, the maximum dollar amount of excludable van pooling and transit pass benefits is increased so that it is equal to the maximum amount of excludable qualified parking.

*Effective date.*—The Senate amendment is effective for taxable years beginning after December 31, 2005.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## G. Treasury Study of Highway Fuels Used by Trucks for Non-Transportation Purposes (sec. 5307 of the Senate amendment)

### PRESENT LAW

Present law does not provide for a study of the fuel use by trucks.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment directs the Secretary of the Treasury to study the use by trucks of highway motor fuel that is not used for the propulsion of the vehicle, both in the case of vehicles carrying equipment that is unrelated to the transportation function of the vehicle and in the case where non-transportation equipment is run by a separate motor. In addition, the Secretary is to estimate the amount of fuel consumed and pollutants emitted by trucks due to the long-term idling of diesel engines, and report on the cost of reducing long-term idling through various technologies. The Secretary is to propose options for implementing exemptions for classes of vehicles whose nonpropulsive fuel use exceeds 50 percent.

*Effective date.*—The Senate amendment is effective on the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with modification that the Secretary is to propose options for implementing exemptions from tax for fuel used in non-transportation uses, but only if the Secretary determines such exemptions are administratively feasible, for the following: (1) mobile machinery whose nonpropulsive fuel use exceeds 50 percent and (2) any highway vehicle that consumes fuel for both transportation- and nontransportation-related equipment, using a single motor. With respect to item (2), it is intended that the Secretary take into consideration such factors as whether the fuel use for non-transportation equipment by the vehicle operator is significant both relative to transportation-related fuel consumption of the vehicle and relative to the vehicle operator's business. There may be significant non-transportation use of taxed fuel even if such use is small relative to the vehicle's transportation use, if the vehicle is used extensively. Also with respect to item (2), it is intended that the Secretary take into account variations in fuel use among the different types of vehicles, such as concrete mixers, refuse collection vehicles, tow trucks, mobile drills, and other vehicles that the Secretary identifies.

## H. Tax-Exempt Financing of Highway Projects and Rail-Truck Transfer Facilities (sec. 5308 of the Senate amendment and sec. 142 of the Code)

### PRESENT LAW

#### *Tax-exempt bonds*

##### *In general*

Interest on bonds issued by State and local governments generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units or if the bonds are repaid with revenues of the governmental units. Interest on State or local bonds to finance activities of private persons ("private activity bonds") is taxable unless a specific exception is contained in the Code (or in a non-Code provision of a revenue Act). The term "private person" generally includes the Federal government and all other individuals and entities other than States or local governments.

##### *Qualified private activity bonds*

Private activity bonds are eligible for tax-exemption if issued for certain purposes permitted by the Code ("qualified private activity bonds"). The definition of a qualified private activity bond includes an exempt facility bond, or qualified mortgage, veterans' mortgage, small issue, redevelopment, 501(c)(3), or student loan bond.[94] The definition of exempt facility bond includes bonds issued to finance certain transportation facilities (airports, ports, mass commuting, and high-speed intercity rail facilities); low-income residential rental property; privately owned and/or operated utility facilities (sewage, water, solid waste disposal, and local district heating and cooling facilities, certain private electric and gas facilities, and hydroelectric dam enhancements); public/private educational facilities; and, qualified green building/sustainable design projects.[95]

Issuance of most qualified private activity bonds is subject (in whole or in part) to annual State volume limitations.[96] Exceptions are provided for bonds for certain governmentally owned facilities (airports, ports, high-speed intercity rail, and solid waste disposal) and bonds which are subject to separate local, State, or national volume limits (public/private educational facilities, enterprise zone facility bonds, and qualified green building/sustainable design projects).

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment establishes new categories of exempt facility bonds: bonds issued to finance "qualified highway facilities" and bonds issued to finance "qualified surface freight transfer facilities" (collectively "qualified highway or surface freight transfer facilities"). Under the provision, a qualified highway facility is any surface transportation or international bridge or tunnel project (for which an international entity authorized under Federal or State law is responsible) which receives Federal assistance under title 23 of the United States Code (relating to Highways). A qualified surface freight transfer facility is a facility for the transfer of freight from truck to rail or rail to truck which receives Federal assistance under title 23 or title 49 of the United States Code (relating to Transportation).

Under the provision, bonds issued to finance qualified highway or surface freight transfer facilities are not subject to the State volume limitations. Rather, there is an annual limitation on the aggregate amount of bonds that may be issued to finance such facilities for each of the calendar years 2005 through 2015, as follows: $130 million for 2005; $750 million for each of the years 2006, 2007, 2008, and 2009; $1.87 billion for 2010; $2 billion for each of the years 2011, 2012, 2013, 2014, and 2015. The Secretary of Transportation may allocate the annual bond authority among qualified highway or surface freight transfer facilities in such manner as the Secretary of Transportation determines appropriate. The authority to issue qualified highway or surface freight transfer facility bonds terminates after December 31, 2015.

The Senate amendment requires the proceeds of qualified highway or surface freight transfer facility bonds to be spent on qualified projects within five years from the date of issuance of such bonds. Proceeds that remain unspent after five years must be used to redeem outstanding bonds. However, the provision authorizes the Secretary of the Treasury (or his delegate) to extend the five-year period if the issuer establishes that the need for the extension is appropriate and due to circumstances not within the control of the issuer.

*Effective date.*—The Senate amendment applies to bonds issued after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment provision with modifications. The conference agreement eliminates the limitation on the aggregate amount of qualified highway or surface freight transfer facility bonds that may be issued in each of the calendar years 2005 through 2015. The Secretary of Transportation is authorized to allocate a total of $15 billion of issuance authority to qualified highway or surface freight transfer facilities in such manner as the Secretary determines appropriate. The conference agreement also clarifies that bonds are not treated as qualified highway or surface freight transfer facility bonds unless the aggregate amount of bonds issued with respect to qualified facilities does not exceed the amount of authority allocated to such facilities by the Secretary of Transportation. However, the aggregate limitation on bonds that may be issued does not apply to the "current refunding" of qualified highway or surface freight transfer facility bonds. Bonds are treated as a current refunding for this purpose if: (1) the average maturity date of the refunding bond is not later than the average maturity date of the refunded bonds; (2) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and (3) the refunded bond is redeemed not later than 90 days after the date of the issuance of the refunding bond.

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[94] Sec. 141(e).

[95] Sec. 142(a).

[96] Sec. 146.

The conference agreement on this provision is not intended to expand the scope of any Federal requirement beyond its application under present law and does not broaden the application of any Federal requirement under present law in Title 49.

### I. Tax Treatment of State Ownership of Railroad Real Estate Investment Trust (sec. 5309 of the Senate amendment and secs. 103, 115, 336, and 337 of the Code)

#### PRESENT LAW

A real estate investment trust ("REIT") is an electing entity that is engaged primarily in passive real estate activities (as specifically defined) and that, among other requirements, must have at least 100 shareholders. If a qualified entity elects REIT status, it can pay little or no corporate level tax, since a REIT is allowed a deduction for amounts distributed to its shareholders and is required to distribute at least 90 percent of its income to shareholders annually.

If an entity does not qualify to be treated as a REIT, it would generally be treated as a regular corporation subject to corporate level tax on its income under subchapter C and section 11 of the Code. Such a corporation can elect to be taxed as a partnership or disregarded entity under Treasury regulations. However, if it made such an election, the corporation would be treated as if it had liquidated and distributed its assets to shareholders, generally resulting in corporate-level tax on the excess of the fair market value over the basis of corporate assets.[97] A corporation that itself becomes a tax-exempt entity also must pay corporate tax on the excess of the fair market value over the basis of its assets.[98]

A State or local government is not subject to Federal income tax on income that accrues to the State or any political subdivision thereof and that is derived from any public utility or the exercise of any activity that is an essential governmental function.[99]

Interest on a State and local bond is excluded from gross income, with certain exceptions.[100] Special rules are also provided as requirements for tax exemption for State and local bonds.[101] State and local bonds can be classified by the type of entity using the proceeds as either governmental or private activity bonds. In general, bonds are governmental bonds if the proceeds of the bonds are used to finance direct activities of governmental entities or if the bonds are repaid with revenues of governmental entities. Private activity bonds are bonds with respect to which a State or local government serves as a conduit providing financing to private businesses or individuals. The exclusion from income for State and local bonds does not apply to private activity bonds unless the bonds are issued for certain purposes permitted by the Code. In addition, both governmental and private activity bonds must satisfy applicable rules provided for in the Code as a condition of tax exemption.[102]

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

Under the Senate amendment, the income of a qualified corporation that is derived from its railroad transportation and economic development activities, that constitute substantially all of its activities (as described below), is treated as accruing to the State for purposes of section 115, to the extent such activities are of a type which are an essential governmental function under section 115 of present law. For purposes of the provision, a qualified corporation is a corporation which is a REIT on the date of enactment and which is a non-operating Class III railroad that becomes 100 percent owned by a State after December 31, 2003 and before December 31, 2006. Moreover, substantially all activities of the corporation must consist of the ownership, leasing, and operation by such corporation of facilities, equipment, and other property used by the corporation or other persons for railroad transportation and for economic development for the benefit of the State and its citizens.

Under the Senate amendment, no gain or loss shall be recognized from the deemed conversion of such a REIT to such a qualified corporation and no change in the basis of the property of the entity shall occur.

Also, any obligation issued by a qualified corporation described above is treated as an obligation of a State for purposes of applying the tax exempt bond provisions if 95 percent of the net proceeds of such obligation are to be used to provide for the acquisition, construction, or improvement of railroad transportation infrastructure (including railroad terminal facilities). In addition, such an obligation shall not be treated as a private activity bond solely by reason of the ownership or use of such railroad transportation infrastructure by the corporation. All other present-law provisions relating to tax exempt bonds continue to apply to and govern bonds issued by the corporation. For example, the use by a private business of railroad property financed with the proceeds of bonds issued by a qualified corporation may cause such bonds to be taxable private activity bonds.

*Effective date*.—The Senate amendment applies on and after the date a State becomes the owner of all the outstanding stock of a qualified corporation through action of such corporation's board of directors, provided that the State becomes the owner of all the voting stock of the corporation on or before December 31, 2003 and becomes the owner of all the outstanding stock of the corporation on or before December 31, 2006.

#### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

### J. Incentives for Installation of Alternative Fuel Refueling Property (secs. 5310 and 2010 of Senate amendment)

#### PRESENT LAW

Certain costs of qualified clean-fuel vehicle refueling property may be expensed and deducted when such property is placed in service (sec. 179A). Up to $100,000 of such property at each location owned by the taxpayer may be expensed with respect to that location. Natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, electricity and any other fuel at least 85 percent of which is methanol, ethanol, or any other alcohol or ether comprise clean-burning fuels.

The deduction is unavailable for property placed in service after December 31, 2006.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provision permits taxpayers to claim a 50-percent credit for the cost of installing clean-fuel vehicle refueling property to be used in a trade or business of the taxpayer or installed at the principal residence of the taxpayer. In the case of retail clean-fuel vehicle refueling property installed as part of the taxpayer's business the allowable credit may not exceed $30,000. In the case of residential clean-fuel vehicle refueling property the allowable credit may not exceed $1,000.

Under the provision clean fuels are any fuel at least 85 percent of the volume of which consists of ethanol, natural gas, compressed natural gas, liquefied natural gas, and hydrogen.

The taxpayer's basis in the property is reduced by the amount of the credit and the taxpayer may not claim deductions under section 179A with respect to property for which the credit is claimed. In the case of refueling property installed on property owned or used by a tax-exempt person, the taxpayer that installs the property may claim the credit. To be eligible for the credit, the property must be placed in service before January 1, 2010. The credit allowable in the taxable year cannot exceed the difference between the taxpayer's regular tax (reduced by certain other credits) and the taxpayer's tentative minimum tax. The taxpayer may carry forward unused credits for 20 years.

*Effective date*.—The Senate amendment is effective for property placed in service after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### K. Modify Recapture of Section 197 Amortization (sec. 5311 of the Senate amendment)

#### PRESENT LAW

Taxpayers are entitled to recover the cost of amortizable section 197 intangibles using the straight-line method of amortization over a uniform life of fifteen years.[103] With certain exceptions, amortizable section 197 intangibles generally are purchased intangibles held by a taxpayer in the conduct of a business.[104]

Gain on the sale of depreciable property must be recaptured as ordinary income to the extent of depreciation deductions previously claimed,[105] and the recapture amount is computed separately for each item of property. Section 197 intangibles, because they are treated as property of a character subject to the allowance for depreciation.[106] are subject to these recapture rules.

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[97] Sec. 336. An exception to this gain recognition applies to certain liquidations into a corporation that owns 80 percent of the liquidating entity and that is not itself tax-exempt. Sec. 337.

[98] Treas. Reg. sec. 1.337(d)-4(a)(2).

[99] Sec. 115.

[100] Sec. 103.

[101] Secs. 141-150.

[102] Secs. 141-150.

[103] Sec. 197(a).

[104] Sec. 197(c).

[105] Sec. 1245.

### HOUSE BILL.

No provision.

### SENATE AMENDMENT

Under the Senate amendment, if multiple section 197 intangibles are sold (or otherwise disposed of) in a single transaction or series of transactions, the seller must calculate recapture as if all of the section 197 intangibles were a single asset. Thus, any gain on the sale (or other disposition) of the intangibles is recaptured as ordinary income to the extent of ordinary depreciation deductions previously claimed on any of the section 197 intangibles.

The following example illustrates present law and the Senate amendment:

*Example.*—In year 1, a taxpayer acquires two section 197 intangible assets for a total of $45. Asset A is assigned a cost basis of $15 and asset B is assigned a cost basis of $30. The allocation is irrelevant for amortization purposes, as the taxpayer will be entitled to a total of $3 per year ($45 divided by 15 years).

In year 6, the basis of A is $10 and the basis of B is $20. Taxpayer sells the assets for an aggregate sale price of $45, resulting in gain of $15. The character of this gain depends on the recapture amount, which depends in turn on the relative sales prices of the individual assets. Taxpayer has claimed $5 of amortization, and therefore has $5 of recapture potential, with respect to A. Taxpayer has claimed $10 of amortization, and therefore has $10 of recapture potential, with respect to B.

Under present law, if the sale proceeds are allocated $15 to A and $30 to B, the gain on assets A and B will be $5 and $10, respectively. These amounts match the recapture potential for each asset, so the full amount of the gain will be recaptured as ordinary income. However, if the sale proceeds instead are allocated $25 to A and $20 to B, the full $15 gain will be recognized with respect to A, and only $5 (full recapture potential with respect to A) will be recaptured as ordinary income. The remaining $10 of gain attributable to A will be treated as capital gain. No gain (and thus no recapture) will be recognized with respect to Asset B, and only $5 of the $15 recapture potential is recognized.

Under the Senate amendment, the taxpayer calculates recapture as if assets A and B were a single asset. For purposes of the calculation, the proceeds are $45 and the gain is $15. Because a total of $15 of amortization has been claimed with respect to assets A and B, the full $15 gain is recaptured as ordinary income.

*Effective date.*—The Senate amendment is effective for dispositions of property after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## L. Diesel Fuel Tax Evasion Report (sec. 5312 of the Senate amendment)

### PRESENT LAW

An excise tax is imposed upon (1) the removal of any taxable fuel from a refinery or terminal, (2) the entry of any taxable fuel into the United States, or (3) the sale of any taxable fuel to any person who is not registered with the IRS to receive untaxed fuel, unless there was a prior taxable removal or entry.[107] The tax does not apply to any removal or entry of taxable fuel transferred in bulk by pipeline or vessel to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery are registered with the Secretary.[108]

Diesel fuel and kerosene that is to be used for a nontaxable purpose will not be taxed upon removal from the terminal if it is dyed to indicate its nontaxable purpose.[109] In addition to requirement that fuel be dyed, the Secretary has the authority to prescribe marking requirements for diesel fuel and kerosene destined for a nontaxable use.[110] The Secretary has not prescribed any marking requirements.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment requires the Commissioner of the IRS to report on the availability of new technologies that can be employed to enhance the collections of the excise tax on diesel fuel and the plans of the IRS to employ such technologies. The report is to be submitted within 360 days from the date of enactment to the Senate Committees on Finance and Environment and Public Works, and the House Committees on Ways and Means and Transportation and Infrastructure.

*Effective date.*—The Senate amendment is effective on the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment except the conference agreement requires the report to contain certain additional information regarding the use of forensic or chemical molecular markers. Specifically, the conference agreement requires the report to cover the availability of forensic or chemical molecular markers, in addition to other technologies, to enhance collections of the excise tax on diesel fuel and the plans of the Internal Revenue Service to employ such technologies. The report must also cover the design of three tests: (1) the design of a test to place forensic or chemical molecular markers in any excluded liquid as that term is defined in Treasury regulations; (2) the design of a test, in consultation with the Department of Defense, to place forensic or chemical molecular markers in all nonstrategic bulk fuel deliveries of diesel fuel to the military, and (3) the design of a test to place forensic or chemical molecular markers in all diesel fuel bound for export utilizing the Gulf of Mexico.

*Effective date.*—The provision is effective on the date of enactment.

## M. Leaking Underground Storage Tank Trust Fund (sec. 9508 of the Code)

### PRESENT LAW

*Leaking Underground Storage Tank Trust Fund*

The Code imposes an excise tax, generally at a rate of 0.1 cents per gallon, on gasoline, diesel, kerosene, and special motor fuels (other than liquefied petroleum gas and liquefied natural gas).[111] The taxes are deposited in the Leaking Underground Storage Tank ("LUST") Trust Fund. The tax expires on October 1, 2005.

Amounts in the LUST Trust Fund are available, subject to appropriation, only for purposes of making expenditures to carry out section 9003(h) of the Solid Waste Disposal Act as in effect on the date of enactment of the Superfund Amendments and Reauthorization Act of 1986.

*Highway Trust Fund*

The Highway Trust Fund provisions of the Code contain a special enforcement provision to prevent expenditure of Highway Trust Fund monies for purposes not authorized in section 9503 or a revenue Act.[112] If such unapproved expenditures occur, no further excise tax receipts will be transferred to the Highway Trust Fund. Rather, the taxes will continue to be imposed with receipts being retained in the General Fund. This enforcement provision provides specifically that it applies not only to unauthorized expenditures under the current Code provisions, but also to expenditures pursuant to future legislation that does not amend section 9503's expenditure authorization provisions or otherwise authorize the expenditure as part of a revenue Act.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

No provision.

### CONFERENCE AGREEMENT

The conference agreement adds to the Code's LUST Trust Fund provisions a special enforcement provision similar to that applicable to the Highway Trust Fund to prevent expenditure of LUST Trust Fund monies for purposes not authorized by the Code or in a revenue Act.

*Effective date.*—The provision is effective on the date of enactment.

## N. Revenue Provisions

### 1. Treatment of contingent payment convertible debt instruments (sec. 5501 of the Senate amendment)

### PRESENT LAW

Under present law, a taxpayer generally deducts the amount of interest paid or accrued within the taxable year on indebtedness issued by the taxpayer. In the case of original issue discount ("OID"), the issuer of a debt instrument generally accrues and deducts, as interest, the OID over the life of the obligation, even though the amount of the OID may not be paid until the maturity of the instrument.

The amount of OID with respect to a debt instrument is equal to the excess of the stated redemption price at maturity over the issue price of the debt instrument. The stated redemption price at maturity includes all amounts that are payable on the debt instrument by maturity. The amount of OID with respect to a debt instrument is allocated over the life of the instrument through a series of adjustments to the issue price for each accrual period. The adjustment to the issue price is determined by multiplying the adjusted issue price (i.e., the issue price increased or decreased by adjustments before the accrual period) by the instrument's yield to maturity, and then subtracting any payments on the debt instrument (other than non-OID stated interest) during the accrual period. Thus, in order to compute the amount of OID and the portion of OID allocable to a particular period, the stated redemption price at maturity and the time of maturity must be known. Issuers of debt instruments with OID accrue and deduct the amount of OID as interest expense in the same manner as the holders of those instruments accrue and include in gross income the amount of OID as interest income.

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[106] Sec. 197(f)(7).

[107] Sec. 4081(a)(1).

[108] Sec. 4081(a)(1)(B).

[109] Sec. 4082(a)(1) and (2).

[110] Sec. 4082(a)(3).

[111] For qualified methanol and ethanol fuel the rate is 0.05 cents per gallon (sec. 4041(b)(2)(A)(ii)). Qualified methanol or ethanol fuel is any liquid at least 85 percent of which consists of methanol, ethanol or other alcohol produced from coal (including peat) (sec. 4041(b)(2)(B)).

[112] Sec. 9503(b)(6).

Treasury regulations provide special rules for determining the amount of OID allocated to a period for certain debt instruments that provide for one or more contingent payments of principal or interest.[113] The regulations provide that a debt instrument does not provide for contingent payments merely because it provides for an option to convert the debt instrument into the stock of the issuer, into the stock or debt of a related party, or into cash or other property in an amount equal to the approximate value of that stock or debt.[114] The regulations also provide that a payment is not a contingent payment merely because of a contingency that, as of the issue date of the debt instrument, is either remote or incidental.[115]

In the case of contingent payment debt instruments that are issued for money or publicly traded property,[116] the regulations provide that interest on a debt instrument must be taken into account (as OID) whether or not the amount of any payment if fixed or determinable in the taxable year. The amount of OID that is taken into account for each accrual period is determined by constructing a comparable yield and a projected payment schedule for the debt instrument, and then accruing the OID on the basis of the comparable yield and projected payment schedule by applying rules similar to those for accruing OID on a noncontingent debt instrument (the "noncontingent bond method"). If the actual amount of a contingent payment is not equal to the projected amount, appropriate adjustments are made to reflect the difference. The comparable yield for a debt instrument is the yield at which the issuer would be able to issue a fixed-rate noncontingent debt instrument with terms and conditions similar to those of the contingent payment debt instrument (i.e., the comparable fixed-rate debt instrument), including the level of subordination, term, timing of payments, and general market conditions.[117]

Certain debt instruments, often referred to as "contingent convertible" debt instruments, are convertible into the common stock of the issuer and also provide for contingent payments (other than the conversion feature). The IRS has stated that the noncontingent bond method applies in computing the accrual of OID on these contingent convertible debt instruments.[118] In applying the noncontingent bond method, the IRS has stated that the comparable yield for a contingent convertible debt instrument is determined by reference to a comparable fixed-rate nonconvertible debt instrument, and the projected payment schedule is determined by treating the issuer stock received upon a conversion of the debt instrument as a contingent payment.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The provision provides that, in the case of a contingent convertible debt instrument,[119] any Treasury regulations which require OID to be determined by reference to the comparable yield of a noncontingent fixed-rate debt instrument shall be applied as requiring that such comparable yield be determined by reference to a noncontingent fixed-rate debt instrument which is convertible into stock. For purposes of applying the provision, the comparable yield shall be determined without taking into account the yield resulting from the conversion of a debt instrument into stock. Thus, the noncontingent bond method in the Treasury regulations shall be applied in a manner such that the comparable yield for contingent convertible debt instruments shall be determined by reference to comparable noncontingent fixed-rate convertible (rather than nonconvertible) debt instruments.

*Effective date.*—The Senate amendment is effective for debt instruments issued on or after date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 2. Frivolous tax submissions (sec. 5502 of the Senate amendment)

### PRESENT LAW

The Code provides that an individual who files a frivolous income tax return is subject to a penalty of $500 imposed by the IRS.[120] The Code also permits the Tax Court[121] to impose a penalty of up to $25,000 if a taxpayer has instituted or maintained proceedings primarily for delay or if the taxpayer's position in the proceeding is frivolous or groundless.[122]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment modifies the IRS-imposed penalty by increasing the amount of the penalty to up to $5,000 and by applying it to all taxpayers and to all types of Federal taxes.

The Senate amendment also modifies present law with respect to certain submissions that raise frivolous arguments or that are intended to delay or impede tax administration. The submissions to which this provision applies are requests for a collection due process hearing, installment agreements, offers-in-compromise, and taxpayer assistance orders. First, the Senate amendment permits the IRS to dismiss such requests. Second, the Senate amendment permits the IRS to impose a penalty of up to $5,000 for such requests, unless the taxpayer withdraws the request after being given an opportunity to do so.

The Senate amendment requires the IRS to publish a list of positions, arguments, requests, and submissions determined to be frivolous for this purpose.

*Effective date.*—The Senate amendment is effective with respect to submissions made and issues raised after the date on which the Secretary first prescribes the required list of frivolous positions.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 3. Increase in certain criminal penalties (sec. 5503 of the Senate amendment)

### PRESENT LAW

*Attempt to evade or defeat tax*

In general, section 7201 imposes a criminal penalty on persons who willfully attempt to evade or defeat any tax imposed by the Code. Upon conviction, the Code provides that the penalty is up to $100,000 or imprisonment of not more than five years (or both). In the case of a corporation, the Code increases the monetary penalty to a maximum of $500,000.

*Willful failure to file return, supply information, or pay tax*

In general, section 7203 imposes a criminal penalty on persons required to make estimated tax payments, pay taxes, keep records, or supply information under the Code who willfully fails to do so. Upon conviction, the Code provides that the penalty is up to $25,000 or imprisonment of not more than one year (or both). In the case of a corporation, the Code increases the monetary penalty to a maximum of $100,000.

*Fraud and false statements*

In general, section 7206 imposes a criminal penalty on persons who make fraudulent or false statements under the Code. Upon conviction, the Code provides that the penalty is up to $100,000 or imprisonment of not more than three years (or both). In the case of a corporation, the Code increases the monetary penalty to a maximum of $500,000.

*Uniform sentencing guidelines*

Under the uniform sentencing guidelines established by 18 U.S.C. sec. 3571, a defendant found guilty of a criminal offense is subject to a maximum fine that is the greatest of: (a) the amount specified in the underlying provision, (b) for a felony[123] $250,000 for an individual or $500,000 for an organization, or (c) twice the gross gain if a person derives pecuniary gain from the offense. This Title 18 provision applies to all criminal provisions in the United States Code, including those in the Internal Revenue Code. For example, for an individual, the maximum fine under present law upon conviction of violating section 7206 is $250,000 or, if greater, twice the amount of gross gain from the offense.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

*Attempt to evade or defeat tax*

The Senate amendment increases the criminal penalty under section 7201 of the Code for individuals to $500,000 and for corporations to $1,000,000. The provision increases the maximum prison sentence to ten years.

*Willful failure to file return, supply information, or pay tax*

The Senate amendment increases the criminal penalty under section 7203 of the Code from a misdemeanor to a felony for aggravated failures to file. Under the provision, an aggravated failure to file is any case in which the taxpayer fails to file returns for three or more consecutive years and the aggregated tax liability during such years is $100,000 or greater. The provision imposes a penalty for an aggravated failure to file up to $500,000 for individuals and up to $1,000,000 for corporations. The provision also imposes a maximum prison sentence of ten years.

In misdemeanor cases, the provision increases the criminal penalty under section 7203 of the Code for individuals to $50,000.

*Fraud and false statements*

The Senate amendment increases the criminal penalty under section 7206 of the

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[113] Treas. Reg. sec. 1.1275-4.

[114] Treas. Reg. sec. 1.1275-4(a)(4).

[115] Treas. Reg. sec. 1.1275-4(a)(5).

[116] Treas. Reg. sec. 1.1275-4(b).

[117] Treas. Reg. sec. 1.1275-4(b)(4)(i)(A).

[118] Rev. Rul. 2002-31, 2002-1 C.B. 1023.

[119] Under the provision, a contingent convertible debt instrument is defined as a debt instrument that: (1) is convertible into stock of the issuing corporation, or a corporation in control of, or controlled by, the issuing corporation; and (2) provides for contingent payments.

[120] Sec. 6702.

[121] Because the Tax Court generally is the only prepayment forum available to taxpayers, it hears most of the frivolous, groundless, or dilatory arguments raised in tax cases.

[122] Sec. 6673(a).

[123] Section 7206 provides that the making of fraudulent or false statements is a felony. In addition, this offense is a felony pursuant to the classification guidelines of 18 U.S.C. sec. 3559(a)(5).

Code for individuals to $500,000 and for corporations to $1,000,000. The provision increases the maximum prison sentence to five years. The provision also provides that in no event shall the amount of the monetary penalty under this provision be less than the amount of the underpayment or overpayment attributable to fraud.

*Effective date.*—The Senate amendment is effective for actions and failures to act occurring after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 4. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements (sec. 5504 of the Senate amendment)

### PRESENT LAW

*In general*

The Code contains numerous civil penalties, such as the delinquency, accuracy-related, fraud, and assessable penalties. These civil penalties are in addition to any interest that may be due as a result of an underpayment of tax. If all or any part of a tax is not paid when due, the Code imposes interest on the underpayment, which is assessed and collected in the same manner as the underlying tax and is subject to the respective statutes of limitations for assessment and collection.

*Delinquency penalties*

*Failure to file.*—Under present law, a taxpayer who fails to file a tax return on a timely basis is generally subject to a penalty equal to five percent of the net amount of tax due for each month that the return is not filed, up to a maximum of five months or 25 percent. An exception from the penalty applies if the failure is due to reasonable cause. The net amount of tax due is the excess of the amount of the tax required to be shown on the return over the amount of any tax paid on or before the due date prescribed for the payment of tax.

*Failure to pay.*—Taxpayers who fail to pay their taxes are subject to a penalty of 0.5 percent per month on the unpaid amount, up to a maximum of 25 percent. If a penalty for failure to file and a penalty for failure to pay tax shown on a return both apply for the same month, the amount of the penalty for failure to file for such month is reduced by the amount of the penalty for failure to pay tax shown on a return. If a return is filed more than 60 days after its due date, then the penalty for failure to pay tax shown on a return may not reduce the penalty for failure to file below the lesser of $100 or 100 percent of the amount required to be shown on the return. For any month in which an installment payment agreement with the IRS is in effect, the rate of the penalty is half the usual rate (0.25 percent instead of 0.5 percent), provided that the taxpayer filed the tax return in a timely manner (including extensions).

*Failure to make timely deposits of tax.*—The penalty for the failure to make timely deposits of tax consists of a four-tiered structure in which the amount of the penalty varies with the length of time within which the taxpayer corrects the failure. A depositor is subject to a penalty equal to two percent of the amount of the underpayment if the failure is corrected on or before the date that is five days after the prescribed due date. A depositor is subject to a penalty equal to five percent of the amount of the underpayment if the failure is corrected after the date that is five days after the prescribed due date but on or before the date that is 15 days after the prescribed due date. A depositor is subject to a penalty equal to 10 percent of the amount of the underpayment if the failure is corrected after the date that is 15 days after the due date but on or before the date that is 10 days after the date of the first delinquency notice to the taxpayer (under sec. 6303). Finally, a depositor is subject to a penalty equal to 15 percent of the amount of the underpayment if the failure is not corrected on or before the date that is 10 days after the date of the day on which notice and demand for immediate payment of tax is given in cases of jeopardy.

An exception from the penalty applies if the failure is due to reasonable cause. In addition, the Secretary may waive the penalty for an inadvertent failure to deposit any tax by specified first-time depositors.

*Accuracy-related penalties*

*In general.*—The accuracy-related penalties are imposed at a rate of 20 percent of the portion of any underpayment that is attributable, in relevant part, to (1) negligence, (2) any substantial understatement of income tax, (3) any substantial valuation misstatement, and (4) any reportable transaction understatement. The penalty for a substantial valuation misstatement is doubled for certain gross valuation misstatements. In the case of a reportable transaction understatement for which the transaction is not disclosed, the penalty rate is 30 percent. These penalties are coordinated with the fraud penalty. This statutory structure operates to eliminate any stacking of the penalties.

No penalty is to be imposed if it is shown that there was reasonable cause for an underpayment and the taxpayer acted in good faith, and in the case of a reportable transaction understatement the relevant facts of the transaction have been disclosed, there is or was substantial authority for the taxpayer's treatment of such transaction, and the taxpayer reasonably believed that such treatment was more likely than not the proper treatment.

*Negligence or disregard for the rules or regulations.*—If an underpayment of tax is attributable to negligence, the negligence penalty applies only to the portion of the underpayment that is attributable to negligence. Negligence means any failure to make a reasonable attempt to comply with the provisions of the Code. Disregard includes any careless, reckless or intentional disregard of the rules or regulations.

*Substantial understatement of income tax.*—Generally, an understatement is substantial if the understatement exceeds the greater of (1) 10 percent of the tax required to be shown on the return for the tax year or (2) $5,000. In determining whether a substantial understatement exists, the amount of the understatement is reduced by any portion attributable to an item if (1) the treatment of the item on the return is or was supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed on the return or on a statement attached to the return.

*Substantial valuation misstatement.*—A penalty applies to the portion of an underpayment that is attributable to a substantial valuation misstatement. Generally, a substantial valuation misstatement exists if the value or adjusted basis of any property claimed on a return is 200 percent or more of the correct value or adjusted basis. The amount of the penalty for a substantial valuation misstatement is 20 percent of the amount of the underpayment if the value or adjusted basis claimed is 200 percent or more but less than 400 percent of the correct value or adjusted basis. If the value or adjusted basis claimed is 400 percent or more of the correct value or adjusted basis, then the overvaluation is a gross valuation misstatement.

*Reportable transaction understatement.*—A penalty applies to any item that is attributable to any listed transaction, or to any reportable transaction (other than a listed transaction) if a significant purpose of such reportable transaction is tax avoidance or evasion.[124]

*Fraud penalty*

The fraud penalty is imposed at a rate of 75 percent of the portion of any underpayment that is attributable to fraud. The accuracy-related penalty does not to apply to any portion of an underpayment on which the fraud penalty is imposed.

*Assessable penalties*

In addition to the penalties described above, the Code imposes a number of additional penalties, including, for example, penalties for failure to file (or untimely filing of) information returns with respect to foreign trusts, and penalties for failure to disclose any required information with respect to a reportable transaction.

*Interest provisions*

Taxpayers are required to pay interest to the IRS whenever there is an underpayment of tax. An underpayment of tax exists whenever the correct amount of tax is not paid by the last date prescribed for the payment of the tax. The last date prescribed for the payment of the income tax is the original due date of the return.

Different interest rates are provided for the payment of interest depending upon the type of taxpayer, whether the interest relates to an underpayment or overpayment, and the size of the underpayment or overpayment. Interest on underpayments is compounded daily.

*Offshore Voluntary Compliance Initiative*

In January 2003, Treasury announced the Offshore Voluntary Compliance Initiative ("OVCI") to encourage the voluntary disclosure of previously unreported income placed by taxpayers in offshore accounts and accessed through credit card or other financial arrangements. A taxpayer had to comply with various requirements in order to participate in the OVCI, including sending a written request to participate in the program by April 15, 2003. This request was required to include information about the taxpayer, the taxpayer's introduction to the credit card or other financial arrangements, and the names of parties that promoted the transaction. Taxpayers entering into a closing agreement under the OVCI are not liable for civil fraud, the fraudulent failure to file penalty, or the civil information return penalties. The taxpayer will pay back taxes, interest, and certain accuracy-related and delinquency penalties.[125]

*Voluntary disclosure policy*

A taxpayer's timely, voluntary disclosure of a substantial unreported tax liability has long been an important factor in deciding whether the taxpayer's case should ultimately be referred for criminal prosecution. The voluntary disclosure must be truthful, timely, and complete. The taxpayer must show a willingness to cooperate (as well as actual cooperation) with the IRS in determining the correct tax liability. The taxpayer must make good-faith arrangements with the IRS to pay in full the tax, interest, and any penalties determined by the IRS to be applicable. A voluntary disclosure does not guarantee immunity from prosecution. It creates no substantive or procedural rights for taxpayers.[126]

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[124] A reportable transaction is any transaction with respect to which information is required to be included with a return or statement because, as determined under regulations prescribed under section 6011, such transaction is of a type which the Secretary determines as having a potential for tax avoidance or evasion. A listed transaction is a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of section 6011. Sec. 6707A(c).

[125] Rev. Proc. 2003-11, 2003-4 C.B. 311.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment doubles the total amount of civil penalties, interest, and fines applicable to a taxpayer who underreported its Federal tax liability with respect to any item involving a transaction of a type that was, or would have been, within the scope of the OVCI, if the taxpayer did not enter into a closing agreement pursuant to the OVCI or otherwise voluntarily disclose to the IRS its participation in such a transaction. For example, current arrangements which are the same as, or substantially similar to, the employee leasing arrangements described in Notice 2003–22 would have been within the scope of the OVCI.[127]

Under the Senate amendment, the determination of whether any civil penalty is to be imposed with respect to such a transaction (or underpayment attributable to such transaction) is made without regard to whether a return has been filed, whether there was reasonable cause for such underpayment, and whether the taxpayer acted in good faith. However, the Secretary is granted the authority to waive the application of the provision if the use of such offshore payment mechanisms is incidental to the transaction and, in the case of a trade or business, such use is conducted in the ordinary course of the trade or business engaged in by the taxpayer.

The Secretary may retain an amount not to exceed 25 percent of all amounts collected under this provision, to be used for IRS enforcement and collection activities. In addition, the Secretary must annually conduct a study and report to Congress on the implementation of this provision, including statistics on the number of taxpayers affected and the amounts of interest and penalties asserted, waived, and assessed.

*Effective date.*—The Senate amendment generally is effective with respect to a taxpayer's open tax years on or after date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 5. Modification of coordination rules for controlled foreign corporation and passive foreign investment company regimes (sec. 5505 of the Senate amendment)

### PRESENT LAW

The United States employs a "worldwide" tax system, under which domestic corporations generally are taxed on all income, whether derived in the United States or abroad. Income earned by a domestic parent corporation from foreign operations conducted by foreign corporate subsidiaries generally is subject to U.S. tax when the income is distributed as a dividend to the domestic corporation. Until such repatriation, the U.S. tax on such income generally is deferred. However, certain anti-deferral regimes may cause the domestic parent corporation to be taxed on a current basis in the United States with respect to certain categories of passive or highly mobile income earned by its foreign subsidiaries, regardless of whether the income has been distributed as a dividend to the domestic parent corporation. The main anti-deferral regimes in this context are the controlled foreign corporation rules of subpart F[128] and the passive foreign investment company rules.[129] Deferral of U.S. tax is considered appropriate, on the other hand, with respect to most types of active business income earned abroad. A foreign tax credit generally is available to offset, in whole or in part, the U.S. tax owed on foreign-source income, whether earned directly by the domestic corporation, repatriated as an actual dividend, or included under one of the anti-deferral regimes.[130]

Subpart F,[131] applicable to controlled foreign corporations and their shareholders, is the main anti-deferral regime of relevance to a U.S.-based multinational corporate group. A controlled foreign corporation generally is defined as any foreign corporation if U.S. persons own (directly, indirectly, or constructively) more than 50 percent of the corporation's stock (measured by vote or value), taking into account only those U.S. persons that own at least 10 percent of the stock (measured by vote only).[132] Under the subpart F rules, the United States generally taxes the U.S. 10–percent shareholders of a controlled foreign corporation on their pro rata shares of certain income of the controlled foreign corporation (referred to as "subpart F income"), without regard to whether the income is distributed to the shareholders.[133]

Subpart F income generally includes passive income and other income that is readily movable from one taxing jurisdiction to another. Subpart F income consists of foreign base company income,[134] insurance income,[135] and certain income relating to international boycotts and other violations of public policy.[136] Foreign base company income consists of foreign personal holding company income, which includes passive income (e.g., dividends, interest, rents, and royalties), as well as a number of categories of non-passive income, including foreign base company sales income and foreign base company services income.[137]

In effect, the United States treats the U.S. 10–percent shareholders of a controlled foreign corporation as having received a current distribution out of the corporation's subpart F income. In addition, the U.S. 10-percent shareholders of a controlled foreign corporation are required to include currently in income for U.S. tax purposes their pro rata shares of the corporation's earnings invested in U.S. property.[138]

The Tax Reform Act of 1986 established an additional anti-deferral regime, for passive foreign investment companies. A passive foreign investment company generally is defined as any foreign corporation if 75 percent or more of its gross income for the taxable year consists of passive income, or 50 percent or more of its assets consists of assets that produce, or are held for the production of, passive income.[139] Alternative sets of income inclusion rules apply to U.S. persons that are shareholders in a passive foreign investment company, regardless of their percentage ownership in the company. One set of rules applies to passive foreign investment companies that are "qualified electing funds," under which electing U.S. shareholders currently include in gross income their respective shares of the company's earnings, with a separate election to defer payment of tax, subject to an interest charge, on income not currently received.[140] A second set of rules applies to passive foreign investment companies that are not qualified electing funds, under which U.S. shareholders pay tax on certain income or gain realized through the company, plus an interest charge that is attributable to the value of deferral.[141] A third set of rules applies to passive foreign investment company stock that is marketable, under which electing U.S. shareholders currently take into account as income (or loss) the difference between the fair market value of the stock as of the close of the taxable year and their adjusted basis in such stock (subject to certain limitations), often referred to as "mark to market."[142]

Under section 1297(e), which was enacted in 1997 to address the overlap of the passive foreign investment company rules and subpart F, a controlled foreign corporation generally is not also treated as a passive foreign investment company with respect to a U.S. shareholder of the corporation. This exception applies regardless of the likelihood that the U.S. shareholder would actually be taxed under subpart F in the event that the controlled foreign corporation earns subpart F income. Thus, even in a case in which a controlled foreign corporation's subpart F income would be allocated to a different shareholder under the subpart F allocation rules, a U.S. shareholder would still qualify for the exception from the passive foreign investment company rules under section 1297(e).

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment adds an exception to section 1297(e) for U.S. shareholders that face only a remote likelihood of incurring a subpart F inclusion in the event that a controlled foreign corporation earns subpart F income, thus preserving the potential application of the passive foreign investment company rules in such cases.

*Effective date.*—The Senate amendment is effective for taxable years of controlled foreign corporations beginning after March 2, 2005, and for taxable years of U.S. shareholders in which or with which such taxable years of controlled foreign corporations end.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

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[126] Internal Revenue News Release 2002–135, IR–2002–135 (December 11, 2002).

[127] 2003–18 C.B. 851. Notice 2003–22 classified such arrangements as listed transactions.

[128] Secs. 951–964.

[129] Secs. 1291–1298.

[130] Secs. 901, 902, 960, and 1291(g).

[131] Secs. 951–964.

[132] Secs. 951(b), 957, and 958.

[133] Sec. 951(a).

[134] Sec. 954.

[135] Sec. 953.

[136] Sec. 952(a)(3) through (5).

[137] 134Sec. 954.

[138] Secs. 951(a)(1)(B) and 956.

[139] Sec. 1297.

[140] Secs. 1293 through 1295.

[141] Sec. 1291.

[142] Sec. 1296.

### 6. Declaration by chief executive officer relating to Federal annual corporate income tax return (sec. 5506 of the Senate amendment)

#### PRESENT LAW

The Code requires that the income tax return of a corporation must be signed by either the president, the vice-president, the treasurer, the assistant treasurer, the chief accounting officer, or any other officer of the corporation authorized by the corporation to sign the return.

The Code also imposes a criminal penalty on any person who willfully signs any tax return under penalties of perjury that that person does not believe to be true and correct with respect to every material matter at the time of filing. If convicted, the person is guilty of a felony; the Code imposes a fine of not more than $100,000 ($500,000 in the case of a corporation) or imprisonment of not more than three years, or both, together with the costs of prosecution.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment requires that a corporation's Federal annual income tax return include a declaration signed under penalties of perjury by the chief executive officer of the corporation that the corporation has in place processes and procedures to ensure that the return complies with the Internal Revenue Code and that the CEO was provided reasonable assurance of the accuracy of all material aspects of the return. This declaration is part of the income tax return. The provision is in addition to the requirement of present law as to the signing of the income tax return itself. Because a CEO's duties generally do not require a detailed or technical understanding of the corporation's tax return, it is anticipated that this declaration of the CEO will be more limited in scope than the declaration of the officer required to sign the return itself.

The provision provides that the Secretary of the Treasury shall prescribe the matters to which the declaration of the CEO applies. It is intended that the declaration help insure that the preparation and completion of the corporation's tax return be given an appropriate level of care. For example, it is anticipated that the CEO would declare that processes and procedures have been implemented to ensure that the return complies with the Code and all regulations and rules promulgated thereunder. Although appropriate processes and procedures can vary for each taxpayer depending on the size and nature of the taxpayer's business, in every case the CEO should be briefed on all material aspects of the corporation's tax return by the corporation's chief financial officer (or another person authorized to sign the return under present law).

Under the Senate amendment, if the corporation does not have a chief executive officer, the IRS may designate another officer of the corporation; otherwise, no other person is permitted to sign the declaration. It is intended that the IRS issue general guidance, such as a revenue procedure, to: (1) address situations when a corporation does not have a chief executive officer; and (2) define who the chief executive officer is, in situations (for example) when the primary official bears a different title, when a corporation has multiple chief executive officers, or when the corporation is a foreign corporation and the CEO is not a U.S. resident.[143] It is intended that, in every instance, the highest ranking corporate officer (regardless of title) sign this declaration.

The provision does not apply to the income tax returns of mutual funds;[144] they are required to be signed as under present law.

*Effective date.*—The Senate amendment applies to Federal annual tax returns for taxable years ending after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 7. Grant Treasury regulatory authority to address foreign tax credit transactions involving inappropriate separation of foreign taxes from related foreign income (sec. 5507 of the Senate amendment)

#### PRESENT LAW

The United States employs a "worldwide" tax system, under which residents generally are taxed on all income, whether derived in the United States or abroad. In order to mitigate the possibility of double taxation arising from overlapping claims of the United States and a source country to tax the same item of income, the United States provides a credit for foreign income taxes paid or accrued, subject to several conditions and limitations.

For purposes of the foreign tax credit, regulations provide that a foreign tax is treated as being paid by "the person on whom foreign law imposes legal liability for such tax."[145] Thus, for example, if a U.S. corporation owns an interest in a foreign partnership, the U.S. corporation can claim foreign tax credits for the tax that is imposed on it as a partner in the foreign entity. This would be true under the regulations even if the U.S. corporation elected to treat the foreign entity as a corporation for U.S. tax purposes. In such a case, if the foreign entity does not meet the definition of a controlled foreign corporation or does not generate income that is subject to current inclusion under the rules of subpart F, the income generated by the foreign entity might never be reported on a U.S. return, and yet the U.S. corporation might take the position that it can claim credits for taxes imposed on that income. This is one example of how a taxpayer might attempt to separate foreign taxes from the related foreign income, and thereby attempt to claim a foreign tax credit under circumstances in which there is no threat of double taxation.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment provides regulatory authority for the Treasury Department to address transactions that involve the inappropriate separation of foreign taxes from the related foreign income in cases in which taxes are imposed on any person in respect of income of an entity. Regulations issued pursuant to this authority could provide for the disallowance of a credit for all or a portion of the foreign taxes, or for the allocation of the foreign taxes among the participants in the transaction in a manner more consistent with the economics of the transaction.

*Effective date.*—The Senate amendment generally is effective for transactions entered into after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 8. Whistleblower reforms (sec. 5508 of the Senate amendment)

#### PRESENT LAW

The Code authorizes the IRS to pay such sums as deemed necessary for: "(1) detecting underpayments of tax; and (2) detecting and bringing to trial and punishment persons guilty of violating the internal revenue laws or conniving at the same."[146] Amounts are paid based on a percentage of tax, fines, and penalties (but not interest) actually collected based on the information provided. For specific information that caused the investigation and resulted in recovery, the IRS administratively has set the reward in an amount not to exceed 15 percent of the amounts recovered. For information, although not specific, that nonetheless caused the investigation and was of value in the determination of tax liabilities, the reward is not to exceed 10 percent of the amount recovered. For information that caused the investigation, but had no direct relationship to the determination of tax liabilities, the reward is not to exceed one percent of the amount recovered. The reward ceiling is $10 million (for payments made after November 7, 2002), and the reward floor is $100. No reward will be paid if the recovery was so small as to call for payment of less than $100 under the above formulas. Both the ceiling and percentages can be increased with a special agreement. The Code permits the IRS to disclose return information pursuant to a contract for tax administration services.[147]

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment reforms the reward program for individuals who provide information regarding violations of the tax laws to the Secretary. Generally, the provision establishes a reward floor of 15 percent of the collected proceeds (including penalties, interest, additions to tax and additional amounts) if the IRS moves forward with an administrative or judicial action based on information brought to the IRS's attention by an individual. The provision caps the available reward at 30 percent of the collected proceeds. The provision permits awards of lesser amounts (but no less than 10 percent) if the action was based principally on allegations (other than information provided by the individual) resulting from a judicial or administrative hearing, government report, hearing, audit, investigation, or from the news media.

The Senate amendment creates a Whistleblower Office within the IRS to administer the reward program. The Whistleblower Office may seek assistance from the individual providing information or from his or her legal representative, and may reimburse the costs incurred by any legal representative out of the amount of the reward. To the extent the disclosure of returns or return information is required to render such assistance, the disclosure must be pursuant to an IRS tax administration contract.

*Effective date.*—The Senate amendment is effective for information provided on or after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

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[143] With respect to foreign corporations, it is intended that the rules for signing this declaration generally parallel the present-law rules for signing the return. See Treas. Reg. sec. 1.6062-1(a)(3).

[144] The provision does, however, apply to the income tax returns of mutual fund management companies and advisors.

[145] Treas. Reg. sec. 1.901-2(f)(1).

[146] Sec. 7623.

[147] Sec. 6103(n).

9. Denial of deduction for certain fines, penalties, and other amounts (sec. 5509 of the Senate amendment)

PRESENT LAW

Under present law, no deduction is allowed as a trade or business expense under section 162(a) for the payment of a fine or similar penalty to a government for the violation of any law (sec. 162(f)). The enactment of section 162(f) in 1969 codified existing case law that denied the deductibility of fines as ordinary and necessary business expenses on the grounds that "allowance of the deduction would frustrate sharply defined national or State policies proscribing the particular types of conduct evidenced by some governmental declaration thereof."[148]

Treasury regulation section 1.162-21(b)(1) provides that a fine or similar penalty includes an amount: (1) paid pursuant to conviction or a plea of guilty or nolo contendere for a crime (felony or misdemeanor) in a criminal proceeding; (2) paid as a civil penalty imposed by Federal, State, or local law, including additions to tax and additional amounts and assessable penalties imposed by chapter 68 of the Code; (3) paid in settlement of the taxpayer's actual or potential liability for a fine or penalty (civil or criminal); or (4) forfeited as collateral posted in connection with a proceeding which could result in imposition of such a fine or penalty. Treasury regulation section 1.162–21(b)(2) provides, among other things, that compensatory damages (including damages under section 4A of the Clayton Act (15 U.S.C. 15a), as amended) paid to a government do not constitute a fine or penalty.

HOUSE BILL

No provision.

SENATE AMENDMENT

The Senate amendment modifies the rules regarding the determination whether payments are nondeductible payments of fines or penalties under section 162(f). In particular, the Senate amendment generally provides that amounts paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government in relation to the violation of any law or the investigation or inquiry into the potential violation of any law[149] are nondeductible under any provision of the income tax provisions.[150] The Senate amendment applies to deny a deduction for any such payments, including those where there is no admission of guilt or liability and those made for the purpose of avoiding further investigation or litigation. An exception applies to payments that the taxpayer establishes are restitution (including remediation of property) and that are identified as restitution in the court order or settlement.[151]

An exception also applies to any amount paid or incurred as taxes due.

The Senate amendment is intended to apply only where a government (or other entity treated in a manner similar to a government under the amendment) is a complainant or investigator with respect to the violation or potential violation of any law.[152]

It is intended that a payment will be treated as restitution only if substantially all of the payment is required to be paid to the specific persons, or in relation to the specific property, actually harmed by the conduct of the taxpayer that resulted in the payment. Thus, a payment to or with respect to a class substantially broader than the specific persons or property that were actually harmed (e.g., to a class including similarly situated persons or property) does not qualify as restitution.[153] Restitution is limited to the amount that bears a substantial quantitative relationship to the harm caused by the past conduct or actions of the taxpayer that resulted in the payment in question. If the party harmed is a government or other entity, then restitution includes payment to such harmed government or entity, provided the payment bears a substantial quantitative relationship to the harm. However, restitution does not include reimbursement of government investigative or litigation costs, or payments to whistleblowers.

Amounts paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, any self-regulatory entity that regulates a financial market or other market that is a qualified board or exchange under section 1256(g)(7), and that is authorized to impose sanctions (e.g., the National Association of Securities Dealers) are likewise subject to the provision if paid in relation to a violation, or investigation or inquiry into a potential violation, of any law (or any rule or other requirement of such entity). To the extent provided in regulations, amounts paid or incurred to, or at the direction of, any other nongovernmental entity that exercises self-regulatory powers as part of performing an essential governmental function are similarly subject to the provision. The exception for payments that the taxpayer establishes are restitution likewise applies in these cases.

No inference is intended as to the treatment of payments as nondeductible fines or penalties under present law. In particular, the Senate amendment is not intended to limit the scope of present-law section 162(f) or the regulations thereunder.

*Effective date.*—The Senate amendment is effective for amounts paid or incurred on or after the date of enactment; however the Senate amendment does not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Any order or agreement requiring court approval is not a binding order or agreement for this purpose unless such approval was obtained before the date of enactment.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

10. Freeze of interest suspension rules with respect to listed transactions (sec. 5510 of the Senate amendment)

PRESENT LAW

In general, interest and penalties accrue during periods for which taxes were unpaid without regard to whether the taxpayer was aware that there was tax due. The Code suspends the accrual of certain penalties and interest starting 18 months after the filing of the tax return[154] if the IRS has not sent the taxpayer a notice specifically stating the taxpayer's liability and the basis for the liability within the specified period. Interest and penalties resume 21 days after the IRS sends the required notice to the taxpayer. The provision is applied separately with respect to each item or adjustment. The provision does not apply where a taxpayer has self-assessed the tax. The suspension only applies to taxpayers who file a timely tax return. The provision applies only to individuals and does not apply to the failure to pay penalty, in the case of fraud, or with respect to criminal penalties.

The suspension of interest does not apply to interest accruing after October 3, 2004 with respect to underpayments resulting from listed transactions or undisclosed reportable transactions.

HOUSE BILL

No provision.

SENATE AMENDMENT

Under the Senate amendment, the exception for listed transactions (but not the exception for undisclosed reportable transactions) also applies to interest accruing on or before October 3, 2004. However, taxpayers remain eligible for the present-law suspension of interest if, as of May 9, 2005, (1) the taxpayer is participating in (and eventually reaches resolution via) a published IRS settlement initiative with respect to the listed transaction, or (2) the year in which the underpayment occurred is barred by the statute of limitations as of May 9, 2005.

*Effective date.*—The Senate amendment is effective as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

11. Repeal loss deferral exception for qualified transportation property (sec. 5511 of the Senate amendment)

PRESENT LAW

Present law provides for the deferral of losses attributable to certain tax exempt use property, generally effective for leases entered into after March 12, 2004. However, the deferral provision does not apply to property located in the United States that is subject to a lease with respect to which a formal application: (1) was submitted for approval to the Federal Transit Administration (an agency of the Department of Transportation) after June 30, 2003, and before March 13, 2004; (2) is approved by the Federal Transit Administration before January 1, 2006; and (3) includes a description and the fair market value of such property.

HOUSE BILL

No provision.

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[148] S. Rep. 91–552, 91st Cong. 1st Sess., 273–74 (1969), referring to *Tank Truck Rentals, Inc. v. Commissioner*, 356 U.S. 30 (1958).

[149] The Senate amendment does not affect amounts paid or incurred in performing routine audits or reviews such as annual audits that are required of all organizations or individuals in a similar business sector, or profession, as a requirement for being allowed to conduct business. However, if the government or regulator raised an issue of compliance and a payment is required in settlement of such issue, the Senate amendment would affect that payment.

[150] The Senate amendment provides that such amounts are nondeductible under chapter 1 of the Internal Revenue Code.

[151] The Senate amendment does not affect the treatment of antitrust payments made under section 4 of the Clayton Act, which will continue to be governed by the provisions of section 162(g).

[152] Thus, for example, the Senate amendment would not apply to payments made by one private party to another in a lawsuit between private parties, merely because a judge or jury acting in the capacity as a court directs the payment to be made. The mere fact that a court enters a judgment or directs a result in a private dispute does not cause a payment to be made "at the direction of a government" for purposes of the provision.

[153] Similarly, a payment to a charitable organization benefiting a broader class than the persons or property actually harmed, or to be paid out without a substantial quantitative relationship to the harm caused, would not qualify as restitution. Under the Senate amendment, such a payment not deductible under section 162 would also not be deductible under section 170.

[154] If the return is filed before the due date, for this purpose it is considered to have been filed on the due date.

### SENATE AMENDMENT

The Senate amendment repeals the exception for Federal Transit Administration approved leases so that the general effective date of the present law loss deferral provisions applies to such leases.

*Effective date.*—The Senate amendment is effective as if included in the enactment of the American Jobs Creation Act of 2004.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 12. Impose mark to market tax on individuals who expatriate (sec. 5512 of Senate amendment)

### PRESENT LAW

*In general*

U.S. citizens and residents generally are subject to U.S income taxation on their worldwide income. The U.S. tax may be reduced or offset by a credit allowed for foreign income taxes paid with respect to foreign source income. Nonresident aliens are taxed at a flat rate of 30 percent (or a lower treaty rate) on certain types of passive income derived from U.S. sources, and at regular graduated rates on net profits derived from a U.S. trade or business. The estates of nonresident aliens generally are subject to estate tax on U.S.-situated property (e.g., real estate and tangible property located within the United States and stock in a U.S. corporation). Nonresident aliens generally are subject to gift tax on transfers by gift of U.S.-situated property (e.g., real estate and tangible property located within the United States, but excluding intangibles, such as stock, regardless of where they are located).

*Income tax rules with respect to expatriates*

For the 10 taxable years after an individual relinquishes his or her U.S. citizenship or terminates his or her U.S. residency[155] with a principal purpose of avoiding U.S. taxes, the individual is subject to an alternative method of income taxation that is generally applicable to nonresident aliens (the "alternative tax regime"). Generally, the individual is subject to income tax only on U.S.-source income[156] at the rates applicable to U.S. citizens for the 10-year period.

A former citizen or former long-term resident is subject to the alternative tax regime for a 10-year period following citizenship relinquishment or residency termination, unless the former citizen or former long-term resident: (1) establishes that his or her average annual net income tax liability for the five preceding years does not exceed $127,000 for 2005 (adjusted annually for inflation)[157] and his or her net worth does not exceed $2 million, or alternatively satisfies limited, objective exceptions for dual citizens and minors who have had no substantial contact with the United States; and (2) certifies under penalties of perjury that he or she has complied with all U.S. Federal tax obligations for the preceding five years and provides such evidence of compliance as the Secretary of the Treasury may require.

The alternative tax regime does not apply to any individual for any taxable year during the 10-year period following citizenship relinquishment or residency termination if such individual is present in the United States for more than 30 days in the calendar year ending in such taxable year. Instead, such individual is treated as a U.S. citizen or resident for such taxable year and therefore is taxed on his or her worldwide income.

Gifts of stock of certain closely-held foreign corporations by a former citizen or former long-term resident who is subject to the alternative tax regime are subject to gift tax if the gift is made within the 10-year period after citizenship relinquishment or residency termination. The gift tax rule applies if: (1) the former citizen or former long-term resident, before making the gift, directly or indirectly owns 10 percent or more of the total combined voting power of all classes of stock entitled to vote of the foreign corporation; and (2) directly or indirectly, is considered to own more than 50 percent of (a) the total combined voting power of all classes of stock entitled to vote in the foreign corporation, or (b) the total value of the stock of such corporation. If this stock ownership test is met, then taxable gifts of the former citizen or former long-term resident include that proportion of the fair market value of the foreign stock transferred by the individual, at the time of the gift, which the fair market value of any assets owned by such foreign corporation and situated in the United States (at the time of the gift) bears to the total fair market value of all assets owned by such foreign corporation (at the time of the gift).

This gift tax rule applies to a former citizen or former long-term resident who is subject to the alternative tax regime and who owns stock in a foreign corporation at the time of the gift, regardless of how such stock was acquired (e.g., whether issued originally to the donor, purchased, or received as a gift or bequest).

Former citizens and former long-term residents are required to file an annual return for each year following citizenship relinquishment or residency termination in which they are subject to the alternative tax regime. The annual return is required even if no U.S. Federal income tax is due. The annual return requires certain information, including information on the permanent home of the individual, the individual's country of residence, the number of days the individual was present in the United States for the year, and detailed information about the individual's income and assets that are subject to the alternative tax regime. This requirement includes information relating to foreign stock potentially subject to the special estate tax rule of section 2107(b) and the gift tax rules.

If the individual fails to file the statement in a timely manner or fails correctly to include all the required information, the individual is required to pay a penalty of $5,000. The $5,000 penalty does not apply if it is shown that the failure is due to reasonable cause and not to willful neglect.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

*In general*

The Senate amendment generally subjects certain U.S. citizens who relinquish their U.S. citizenship and certain long-term U.S. residents who terminate their U.S. residence to tax on the net unrealized gain in their property as if such property were sold for fair market value on the day before the expatriation or residency termination. Gain from the deemed sale is taken into account at that time without regard to other Code provisions; any loss from the deemed sale generally would be taken into account to the extent otherwise provided in the Code. Any net gain on the deemed sale is recognized to the extent it exceeds $600,000 ($1.2 million in the case of married individuals filing a joint return, both of whom relinquish citizenship or terminate residency). The $600,000 amount would be increased by a cost of living adjustment factor for calendar years after 2005.

*Individuals covered*

Under the provision, the mark-to-market tax applies to U.S. citizens who relinquish citizenship and long-term residents who terminate U.S. residency. An individual is a long-term resident if he or she was a lawful permanent resident for at least eight out of the 15 taxable years ending with the year in which the termination of residency occurs. An individual is considered to terminate long-term residency when either the individual ceases to be a lawful permanent resident (i.e., loses his or her green card status), or the individual is treated as a resident of another country under a tax treaty and the individual does not waive the benefits of the treaty.

Exceptions from the mark-to-market tax are provided in two situations. The first exception applies to an individual who was born with citizenship both in the United States and in another country; provided that (1) as of the expatriation date the individual continues to be a citizen of, and is taxed as a resident of, such other country, and (2) the individual was not a resident of the United States for the five taxable years ending with the year of expatriation. The second exception applies to a U.S. citizen who relinquishes U.S. citizenship before reaching age 18 and a half, provided that the individual was a resident of the United States for no more than five taxable years before such relinquishment.

*Election to be treated as a U.S. citizen*

Under the provision, an individual is permitted to make an irrevocable election to continue to be taxed as a U.S. citizen with respect to all property that otherwise is covered by the expatriation tax. This election is an "all or nothing" election; an individual is not permitted to elect this treatment for some property but not for other property. The election, if made, would apply to all property that would be subject to the expatriation tax and to any property the basis of which is determined by reference to such property. Under this election, the individual would continue to pay U.S. income taxes at the rates applicable to U.S. citizens following expatriation on any income generated by the property and on any gain realized on the disposition of the property. In addition, the property would continue to be subject to U.S. gift, estate, and generation-skipping transfer taxes. In order to make this election, the taxpayer would be required to waive any treaty rights that would preclude the collection of the tax.

The individual also would be required to provide security to ensure payment of the tax under this election in such form, manner, and amount as the Secretary of the Treasury requires. The amount of mark-to-market tax that would have been owed but for this election (including any interest, penalties, and certain other items) shall be a lien in favor of the United States on all U.S.-situs property owned by the individual. This lien shall arise on the expatriation date and shall continue until the tax liability is satisfied, the tax liability has become unenforceable by reason of lapse of time, or the Secretary is satisfied that no further tax liability may arise by reason of this provision. The rules of section 6324A(d)(1), (3), and (4) (relating to liens arising in connection with the deferral of estate tax under section 6166) apply to liens arising under this provision.

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[155] An individual continues to be treated as a U.S. citizen or long-term resident for U.S. Federal tax purposes, including for purposes of section 7701(b)(10), until the individual: (1) gives notice of an expatriating act or termination of residency (with the requisite intent to relinquish citizenship or terminate residency) to the Secretary of State or the Secretary of Homeland Security respectively; and (2) provides a statement in accordance with section 6039G.

[156] For this purpose, however, U.S.-source income has a broader scope than it does typically in the Code.

[157] Rev. Proc. 2004-71, 2004-50 I.R.B. 970.

### *Date of relinquishment of citizenship*

Under the provision, an individual is treated as having relinquished U.S. citizenship on the earliest of four possible dates: (1) the date that the individual renounces U.S. nationality before a diplomatic or consular officer of the United States (provided that the voluntary relinquishment is later confirmed by the issuance of a certificate of loss of nationality); (2) the date that the individual furnishes to the State Department a signed statement of voluntary relinquishment of U.S. nationality confirming the performance of an expatriating act (again, provided that the voluntary relinquishment is later confirmed by the issuance of a certificate of loss of nationality); (3) the date that the State Department issues a certificate of loss of nationality; or (4) the date that a U.S. court cancels a naturalized citizen's certificate of naturalization.

### *Deemed sale of property upon expatriation or residency termination*

The deemed sale rule of the provision generally applies to all property interests held by the individual on the date of relinquishment of citizenship or termination of residency. Special rules apply in the case of trust interests, as described below. U.S. real property interests, which remain subject to U.S. tax in the hands of nonresident noncitizens, generally are excepted from the provision. Regulatory authority is granted to the Treasury to except other types of property from the provision.

Under the provision, an individual who is subject to the mark-to-market tax is required to pay a tentative tax equal to the amount of tax that would be due for a hypothetical short tax year ending on the date the individual relinquished citizenship or terminated residency. Thus, the tentative tax is based on all income, gain, deductions, loss, and credits of the individual for the year through such date, including amounts realized from the deemed sale of property. The tentative tax is due on the 90th day after the date of relinquishment of citizenship or termination of residency.

### *Retirement plans and similar arrangements*

Subject to certain exceptions, the provision applies to all property interests held by the individual at the time of relinquishment of citizenship or termination of residency. Accordingly, such property includes an interest in an employer-sponsored retirement plan or deferred compensation arrangement as well as an interest in an individual retirement account or annuity (i.e., an IRA).[158] However, the provision contains a special rule for an interest in a "qualified retirement plan." For purposes of the provision, a "qualified retirement plan" includes an employer-sponsored qualified plan (sec. 401(a)), a qualified annuity (sec. 403(a)), a tax-sheltered annuity (sec. 403(b)), an eligible deferred compensation plan of a governmental employer (sec. 457(b)), or an IRA (sec. 408). The special retirement plan rule applies also, to the extent provided in regulations, to any foreign plan or similar retirement arrangement or program. An interest in a trust that is part of a qualified retirement plan or other arrangement that is subject to the special retirement plan rule is not subject to the rules for interests in trusts (discussed below).

Under the special rule, an amount equal to the present value of the individual's vested, accrued benefit under a qualified retirement plan is treated as having been received by the individual as a distribution under the plan on the day before the individual's relinquishment of citizenship or termination of residency. It is not intended that the plan would be deemed to have made a distribution for purposes of the tax-favored status of the plan, such as whether a plan may permit distributions before a participant has severed employment. In the case of any later distribution to the individual from the plan, the amount otherwise includible in the individual's income as a result of the distribution is reduced to reflect the amount previously included in income under the special retirement plan rule. The amount of the reduction applied to a distribution is the excess of: (1) the amount included in income under the special retirement plan rule over (2) the total reductions applied to any prior distributions. However, under the provision, the retirement plan, and any person acting on the plan's behalf, will treat any later distribution in the same manner as the distribution would be treated without regard to the special retirement plan rule.

It is expected that the Treasury Department will provide guidance for determining the present value of an individual's vested, accrued benefit under a qualified retirement plan, such as the individual's account balance in the case of a defined contribution plan or an IRA, or present value determined under the qualified joint and survivor annuity rules applicable to a defined benefit plan (sec. 417(e)).

### *Deferral of payment of tax*

Under the provision, an individual is permitted to elect to defer payment of the mark-to-market tax imposed on the deemed sale of the property. Interest is charged for the period the tax is deferred at a rate two percentage points higher than the rate normally applicable to individual underpayments. Under this election, the mark-to-market tax attributable to a particular property is due when the property is disposed of (or, if the property is disposed of in whole or in part in a nonrecognition transaction, at such other time as the Secretary may prescribe). The mark-to-market tax attributable to a particular property is an amount that bears the same ratio to the total mark-to-market tax for the year as the gain taken into account with respect to such property bears to the total gain taken into account under these rules for the year. The deferral of the mark-to-market tax may not be extended beyond the individual's death.

In order to elect deferral of the mark-to-market tax, the individual is required to provide adequate security to the Treasury to ensure that the deferred tax and interest will be paid. Other security mechanisms are permitted provided that the individual establishes to the satisfaction of the Secretary that the security is adequate. In the event that the security provided with respect to a particular property subsequently becomes inadequate and the individual fails to correct the situation, the deferred tax and the interest with respect to such property will become due. As a further condition to making the election, the individual is required to consent to the waiver of any treaty rights that would preclude the collection of the tax.

The deferred amount (including any interest, penalties, and certain other items) shall be a lien in favor of the United States on all U.S.-situs property owned by the individual. This lien shall arise on the expatriation date and shall continue until the tax liability is satisfied, the tax liability has become unenforceable by reason of lapse of time, or the Secretary is satisfied that no further tax liability may arise by reason of this provision. The rules of section 6324A(d)(1), (3), and (4) (relating to liens arising in connection with the deferral of estate tax under section 6166) apply to liens arising under this provision.

### *Interests in trusts*

Under the provision, detailed rules apply to trust interests held by an individual at the time of relinquishment of citizenship or termination of residency. The treatment of trust interests depends on whether the trust is a qualified trust. A trust is a qualified trust if a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust.

Constructive ownership rules apply to a trust beneficiary that is a corporation, partnership, trust, or estate. In such cases, the shareholders, partners, or beneficiaries of the entity are deemed to be the direct beneficiaries of the trust for purposes of applying these provisions. In addition, an individual who holds (or who is treated as holding) a trust instrument at the time of relinquishment of citizenship or termination of residency is required to disclose on his or her tax return the methodology used to determine his or her interest in the trust, and whether such individual knows (or has reason to know) that any other beneficiary of the trust uses a different method.

*Nonqualified trusts.*—If an individual holds an interest in a trust that is not a qualified trust, a special rule applies for purposes of determining the amount of the mark-to-market tax due with respect to such trust interest. The individual's interest in the trust is treated as a separate trust consisting of the trust assets allocable to such interest. Such separate trust is treated as having sold its net assets as of the date of relinquishment of citizenship or termination of residency and having distributed the assets to the individual, who then is treated as having recontributed the assets to the trust. The individual is subject to the mark-to-market tax with respect to any net income or gain arising from the deemed distribution from the trust.

The election to defer payment is available for the mark-to-market tax attributable to a nonqualified trust interest. Interest is charged for the period the tax is deferred at a rate two percentage points higher than the rate normally applicable to individual underpayments. A beneficiary's interest in a nonqualified trust is determined under all the facts and circumstances, including the trust instrument, letters of wishes, and historical patterns of trust distributions.

*Qualified trusts.*—If an individual has an interest in a qualified trust, the amount of unrealized gain allocable to the individual's trust interest is calculated at the time of expatriation or residency termination. In determining this amount, all contingencies and discretionary interests are assumed to be resolved in the individual's favor (i.e., the individual is allocated the maximum amount that he or she could receive). The mark-to-market tax imposed on such gains is collected when the individual receives distributions from the trust, or if earlier, upon the individual's death. Interest is charged for the period the tax is deferred at a rate two percentage points higher than the rate normally applicable to individual underpayments.

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[158] Application of the provision is not limited to an interest that meets the definition of property under section 83 (relating to property transferred in connection with the performance of services).

If an individual has an interest in a qualified trust, the individual is subject to the mark-to market tax upon the receipt of distributions from the trust. These distributions also may be subject to other U.S. income taxes. If a distribution from a qualified trust is made after the individual relinquishes citizenship or terminates residency, the mark-to-market tax is imposed in an amount equal to the amount of the distribution multiplied by the highest tax rate generally applicable to trusts and estates, but in no event will the tax imposed exceed the deferred tax amount with respect to the trust interest. For this purpose, the deferred tax amount is equal to: (1) the tax calculated with respect to the unrealized gain allocable to the trust interest at the time of expatriation or residency termination; (2) increased by interest thereon; and (3) reduced by any mark-to-market tax imposed on prior trust distributions to the individual.

If any individual's interest in a trust is vested as of the expatriation date (e.g., if the individual's interest in the trust is non-contingent and non-discretionary), the gain allocable to the individual's trust interest is determined based on the trust assets allocable to his or her trust interest. If the individual's interest in the trust is not vested as of the expatriation date (e.g., if the individual's trust interest is a contingent or discretionary interest), the gain allocable to his or her trust interest is determined based on all of the trust assets that could be allocable to his or her trust interest, determined by resolving all contingencies and discretionary powers in the individual's favor. In the case where more than one trust beneficiary is subject to the expatriation tax with respect to trust interests that are not vested, the rules are intended to apply so that the same unrealized gain with respect to assets in the trust is not taxed to both individuals.

Mark-to-market taxes become due if the trust ceases to be a qualified trust, the individual disposes of his or her qualified trust interest, or the individual dies. In such cases, the amount of mark-to-market tax equals the lesser of (1) the tax calculated under the rules for nonqualified trust interests as of the date of the triggering event, or (2) the deferred tax amount with respect to the trust interest as of that date.

The tax that is imposed on distributions from a qualified trust generally is deducted and withheld by the trustees. If the individual does not agree to waive treaty rights that would preclude collection of the tax, the tax with respect to such distributions is imposed on the trust, the trustee is personally liable for the tax, and any other beneficiary has a right of contribution against such individual with respect to the tax. Similar rules apply when the qualified trust interest is disposed of, the trust ceases to be a qualified trust, or the individual dies.

### *Coordination with present-law alternative tax regime*

The provision provides a coordination rule with the present-law alternative tax regime. Under the provision, the expatriation income tax rules under section 877, and the expatriation estate and gift tax rules under sections 2107 and 2501(a)(3) (described above), do not apply to a former citizen or former long-term resident whose expatriation or residency termination occurs on or after date of enactment. In addition, section 7701(n) does not apply with respect to any individual that expatriated on or after date of enactment.

### *Treatment of gifts and inheritances from a former citizen or former long-term resident*

Under the provision, the exclusion from income provided in section 102 (relating to exclusions from income for the value of property acquired by gift or inheritance) does not apply to the value of any property received by gift or inheritance from a former citizen or former long-term resident (i.e., an individual who relinquished U.S. citizenship or terminated U.S. residency), subject to the exceptions described above relating to certain dual citizens and minors. Accordingly, a U.S. taxpayer who receives a gift or inheritance from such an individual is required to include the value of such gift or inheritance in gross income and is subject to U.S. tax on such amount. Having included the value of the property in income, the recipient would then take a basis in the property equal to that value. The tax does not apply to property that is shown on a timely filed gift tax return and that is a taxable gift by the former citizen or former long-term resident, or property that is shown on a timely filed estate tax return and included in the gross U.S. estate of the former citizen or former long-term resident (regardless of whether the tax liability shown on such a return is reduced by credits, deductions, or exclusions available under the estate and gift tax rules). In addition, the tax does not apply to property in cases in which no estate or gift tax return is required to be filed, where no such return would have been required to be filed if the former citizen or former long-term resident had not relinquished citizenship or terminated residency, as the case may be. Applicable gifts or bequests that are made in trust are treated as made to the beneficiaries of the trust in proportion to their respective interests in the trust.

### *Immigration rules*

The provision amends the immigration rules that deny tax-motivated expatriates reentry into the United States by removing the requirement that the expatriation be tax-motivated, and instead denies former citizens reentry into the United States if the individual is determined not to be in compliance with his or her tax obligations under the provision's expatriation tax provisions (regardless of the subjective motive for expatriating). For this purpose, the provision permits the IRS to disclose certain items of return information of an individual, upon written request of the Attorney General or his delegate, as is necessary for making a determination under section 212(a)(10)(E) of the Immigration and Nationality Act. Specifically, the provision would permit the IRS to disclose to the agency administering section 212(a)(10)(E) whether such taxpayer is in compliance with section 877A and identify the items of noncompliance. Recordkeeping requirements, safeguards, and civil and criminal penalties for unauthorized disclosure or inspection would apply to return information disclosed under this provision.

*Effective date.*—The Senate amendment generally is effective for U.S. citizens who relinquish citizenship or long-term residents who terminate their residency on or after date of enactment. The provisions relating to gifts and inheritances are effective for gifts and inheritances received from former citizens and former long-term residents on or after date of enactment, whose expatriation or residency termination occurs on or after such date. The provisions relating to former citizens under U.S. immigration laws are effective on or after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 13. Disallowance of deduction for punitive damages (sec. 5513 of the Senate amendment)

### PRESENT LAW

In general, a deduction is allowed for all ordinary and necessary expenses that are paid or incurred by the taxpayer during the taxable year in carrying on any trade or business.[159] However, no deduction is allowed for any payment that is made to an official of any governmental agency if the payment constitutes an illegal bribe or kickback or if the payment is to an official or employee of a foreign government and is illegal under Federal law.[160] In addition, no deduction is allowed under present law for any fine or similar payment made to a government for violation of any law.[161] Furthermore, no deduction is permitted for two-thirds of any damage payments made by a taxpayer who is convicted of a violation of the Clayton antitrust law or any related antitrust law.[162]

In general, gross income does not include amounts received on account of personal physical injuries and physical sickness.[163] However, this exclusion does not apply to punitive damages.[164]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment denies any deduction for punitive damages that are paid or incurred by the taxpayer as a result of a judgment or in settlement of a claim. If the liability for punitive damages is covered by insurance, any such punitive damages paid by the insurer are included in gross income of the insured person and the insurer is required to report such amounts to both the insured person and the IRS.

*Effective date.*—The Senate amendment is effective for punitive damages that are paid or incurred on or after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 14. Application of earnings stripping rules to partners which are corporations (sec. 5514 of the Senate amendment)

### PRESENT LAW

Present law provides rules to limit the ability of U.S. corporations to reduce the U.S. tax on their U.S.-source income through earnings stripping transactions. Section 163(j) specifically addresses earnings stripping involving interest payments, by limiting the deductibility of interest paid to certain related parties ("disqualified interest"),[165] if the payor's debt-equity ratio exceeds 1.5 to 1 and the payor's net interest expense exceeds 50 percent of its "adjusted taxable income" (generally taxable income computed without regard to deductions for net interest expense, net operating losses, and depreciation, amortization, and depletion). Disallowed interest amounts can be carried forward indefinitely. In addition, excess limitation (i.e., any excess of the 50-percent limit over a company's net interest expense for a given year) can be carried forward three years.

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[159] Sec. 162(a).

[160] Sec. 162(c).

[161] Sec. 162(f).

[162] Sec. 162(g).

[163] Sec. 104(a).

[164] Sec. 104(a)(2).

[165] This interest also may include interest paid to unrelated parties in certain cases in which a related party guarantees the debt.

Proposed Treasury regulations provide that a corporate partner's proportionate share of the liabilities of a partnership is treated as liabilities incurred directly by the corporate partner for purposes of applying the earnings stripping limitation to its own interest payments.[166] The proposed Treasury regulations provide that interest paid or accrued to a partnership is treated as paid or accrued to the partners of the partnership in proportion to each partner's distributive share of the partnership's interest income for the taxable year.[167] In addition, the proposed Treasury regulations provide that interest expense paid or accrued by a partnership is treated as paid or accrued by the partners of the partnership in proportion to each partner's distributive share, for purposes of the earnings stripping rules.[168]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment codifies the approach of the proposed Treasury regulations by providing that a corporate partner's share of partnership debt is attributed to the corporate partner for purposes of applying the earnings stripping rules to the corporate partner.

*Effective date.*—The Senate amendment is effective for taxable years beginning after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 15. Prohibition on deferral of certain stock option and restricted stock gains (sec. 5515 of the Senate amendment)

### PRESENT LAW

Section 83 applies to transfers of property in connection with the performance of services. Under section 83, if, in connection with the performance of services, property is transferred to any person other than the person for whom such services are performed, the excess of the fair market value of such property over the amount (if any) paid for the property is includible in income at the first time that the property is transferable or not subject to substantial risk of forfeiture.

Stock granted to an employee (or other service provider) is subject to the rules that apply under section 83. When stock is vested and transferred to an employee, the excess of the fair market value of the stock over the amount, if any, the employee pays for the stock is includible in the employee's income for the year in which the transfer occurs.

The income taxation of a nonqualified stock option is determined under section 83 and depends on whether the option has a readily ascertainable fair market value. If the nonqualified option does not have a readily ascertainable fair market value at the time of grant, no amount is includible in the gross income of the recipient with respect to the option until the recipient exercises the option. The transfer of stock on exercise of the option is subject to the general rules of section 83. That is, if vested stock is received on exercise of the option, the excess of the fair market value of the stock over the option price is includible in the recipient's gross income as ordinary income in the taxable year in which the option is exercised. If the stock received on exercise of the option is not vested, the excess of the fair market value of the stock at the time of vesting over the option price is includible in the recipient's income for the year in which vesting occurs unless the recipient elects to apply section 83 at the time of exercise.

Other forms of stock-based compensation are also subject to the rules of section 83.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, gains attributable to stock options (including exercises of stock options), vesting of restricted stock, and other compensation based on employer securities (including employer securities) cannot be deferred by exchanging such amounts for a right to receive a future payment. Except as provided by the Secretary, if a taxpayer exchanges (1) an option to purchase employer securities, (2) employer securities, or (3) any other property based on employer securities for a right to receive future payments, an amount equal to the present value of such right (or such other amount as the Secretary specifies) is required to be included in gross income for the taxable year of the exchange. The provision applies even if the future right to payment is treated as an unfunded and unsecured promise to pay. The provision applies when there is in substance an exchange, even if the transaction is not formally structured as an exchange.

The provision is not intended to imply that such practices result in permissive deferral of income under present law.

*Effective date.*—The Senate amendment is effective for exchanges after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 16. Limitation on employer deduction for certain entertainment expenses (sec. 5516 of the Senate amendment)

### PRESENT LAW

*In general*

Under present law, no deduction is allowed with respect to (1) an activity generally considered to be entertainment, amusement or recreation, unless the taxpayer establishes that the item was directly related to (or, in certain cases, associated with) the active conduct of the taxpayer's trade or business, or (2) a facility (e.g., an airplane) used in connection with such activity.[169] The Code includes a number of exceptions to the general rule disallowing deductions of entertainment expenses. Under one exception, the deduction disallowance rule does not apply to expenses for goods, services, and facilities to the extent that the expenses are reported by the taxpayer as compensation and wages to an employee.[170] The deduction disallowance rule also does not apply to expenses paid or incurred by the taxpayer for goods, services, and facilities to the extent that the expenses are includible in the gross income of a recipient who is not an employee (e.g., a nonemployee director) as compensation for services rendered or as a prize or award.[171] The exceptions apply only to the extent that amounts are properly reported by the company as compensation and wages or otherwise includible in income. In no event can the amount of the deduction exceed the amount of the actual cost, even if a greater amount is includible in income.

Except as otherwise provided, gross income includes compensation for services, including fees, commissions, fringe benefits, and similar items. In general, an employee or other service provider must include in gross income the amount by which the fair value of a fringe benefit exceeds the amount paid by the individual. Treasury regulations provide rules regarding the valuation of fringe benefits, including flights on an employer-provided aircraft.[172] In general, the value of a non-commercial flight is determined under the base aircraft valuation formula, also known as the Standard Industry Fare Level formula or "SIFL".[173] If the SIFL valuation rules do not apply, the value of a flight on a company-provided aircraft is generally equal to the amount that an individual would have to pay in an arm's-length transaction to charter the same or a comparable aircraft for that period for the same or a comparable flight.[174]

In the context of an employer providing an aircraft to employees for nonbusiness (e.g., vacation) flights, the exception for expenses treated as compensation was interpreted in *Sutherland Lumber-Southwest, Inc.* v. *Commissioner ("Sutherland Lumber")* as not limiting the company's deduction for operation of the aircraft to the amount of compensation reportable to its employees,[175] which can result in a deduction many times larger than the amount required to be included in income. In many cases, the individual including amounts attributable to personal travel in income directly benefits from the enhanced deduction, resulting in a net deduction for the personal use of the company aircraft.

*Specified individuals*

In the case of specified individuals, the exceptions to the general entertainment expense disallowance rule for expenses treated as compensation or includible in income apply only to the extent of the amount of expenses treated as compensation or includible in income of the specified individual. For example, a company's deduction attributable to aircraft operating costs and other expenses for a specified individual's vacation use of a company aircraft is limited to the amount reported as compensation to the specified individual. *Sutherland Lumber* was overturned with respect to specified individuals.

Specified individuals are individuals who, with respect to an employer or other service recipient, are subject to the requirements of section 16(a) of the Securities and Exchange Act of 1934, or would be subject to such requirements if the employer or service recipient were an issuer of equity securities referred to in section 16(a). Such individuals generally include officers (as defined by section 16(a)),[176] directors, and 10-percent-or-

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[166] Prop. Treas. Reg. sec. 1.163(j)-3(b)(3).

[167] Prop. Treas. Reg. sec. 1.163(j)-2(e)(4).

[168] Prop. Treas. Reg. sec. 1.163(j)-2(e)(5).

[169] Sec. 274(a).

[170] Sec. 274(e)(2). As discussed below, a special rule applies in the case of specified individuals.

[171] Sec. 274(e)(9).

[172] Treas. Reg. sec. 1.61-21.

[173] Treas. Reg. sec. 1.61-21(g).

[174] Treas. Reg. sec. 1.61-21(b)(6).

[175] *Sutherland Lumber-Southwest, Inc.* v. *Comm.*, 114 T.C. 197 (2000), *aff'd*, 255 F.3d 495 (8th Cir. 2001), *acq.*, AOD 2002-02 (Feb. 11, 2002).

[176] An officer is defined as the president, principal financial officer, principal accounting officer (or, if there is no such accounting officer, the controller), any vice-president in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a

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greater owners of private and publicly-held companies.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

Under the Senate amendment, in the case of all individuals, the exceptions to the general entertainment expense disallowance rule for expenses treated as compensation or includible in income apply only to the extent of the amount of expenses treated as compensation or includible in income. Thus, under those exceptions, no deduction is allowed with respect to expenses for (1) a nonbusiness activity generally considered to be entertainment, amusement or recreation, or (2) a facility (e.g., an airplane) used in connection with such activity to the extent that such expenses exceed the amount treated as compensation or includible in income. The provision is intended to overturn *Sutherland Lumber* for all individuals. As under present law, the exceptions apply only if amounts are properly reported by the company as compensation and wages or otherwise includible in income.

*Effective date.*—The Senate amendment is effective for expenses incurred after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 17. Increase in penalty for bad checks and money orders (sec. 5517 of the Senate amendment)

#### PRESENT LAW

The Code imposes a penalty for bad checks and money orders on the person who tendered such check or money order.[177] The penalty is two percent of the amount of the bad check or money order. The minimum penalty is $15 (or, if less, the amount of the check), applicable to checks that are less than $750.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment increases the minimum penalty for bad checks and money orders to $25 (or, if less, the amount of the check), applicable to checks that are less than $1,250.

*Effective date.*—The Senate amendment applies to checks or money orders received after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 18. Elimination of double deduction of mining exploration and development costs under the minimum tax (sec. 5518 of the Senate amendment)

#### PRESENT LAW

Under present law, mining development costs are expensed in computing taxable income, unless either the deferred expense method is elected under section under section 616(b) or 10-year amortization is elected under section 59(e). In addition, a taxpayer may elect to expense mining exploration costs under section 617 or amortize the costs over a 10-year period under section 59(e). Also, a deduction for depletion is allowed with respect to mines. One method of computing the allowance for depletion is the percentage depletion method under section 613 that is based on the income of the mining property and is not limited by the adjusted basis of the property.

In determining alternative minimum taxable income ("AMTI") mining exploration and development costs with respect to a mine are required to be capitalized and amortized over a 10-year period, unless the deferred expense method is elected under section 616(b).[178] In addition, the deduction for percentage depletion is limited to the adjusted basis of the property at the end of the taxable year (without regard to the depletion deduction for the year).[179] Treasury regulations provide that the adjusted basis for this purpose is the same as the adjusted basis for purposes of determining gain or loss from the sale or other disposition of the property.[180] Treasury regulations[181] further provide that the expenditures for development and exploration of mines treated as deferred expenses are chargeable to capital account and shall be an adjustment to the basis of the property to which they relate. The adjusted basis of the property is reduced by depletion deductions and the deductions for mining and exploration expenses in the taxable year the deductions are allowable.

Under the rules, notwithstanding the adjusted basis limitation on percentage depletion, a taxpayer may deduct more than 100 percent of its exploration and development costs in computing AMTI. For example, assume a taxpayer incurs $1 million in development costs in 2005 with respect to a mine that has a zero basis and that the deferred expense method is not elected. Also, assume that the deduction for percentage depletion (without regard to the basis limitation) for 2005 is $900,000. Under present law, in computing AMTI, the taxpayer is allowed to deduct $100,000 per year in development costs for each of the 10 taxable years beginning in 2005, and, in addition, is allowed to deduct percentage depletion of $900,000 in 2005, for a total of $1.9 million in deductions.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

Under the Senate amendment, the deduction for depletion under the alternative minimum tax is amended by excluding from the adjusted basis of any mining property, the amount of mining exploration and development costs that may be allowed as a deduction to the taxpayer in computing AMTI in a future taxable year.

In the example described under present law, the $1 million development costs will be amortized over a 10-year period and no amount will be allowed as a deduction for depletion in computing AMTI.[182]

*Effective date.*—The Senate amendment applies to taxable years beginning after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 19. Clarification of the economic substance doctrine (sec. 5521 of the Senate amendment)

#### PRESENT LAW

*In general*

The Code provides specific rules regarding the computation of taxable income, including the amount, timing, source, and character of items of income, gain, loss and deduction. These rules are designed to provide for the computation of taxable income in a manner that provides for a degree of specificity to both taxpayers and the government. Taxpayers generally may plan their transactions in reliance on these rules to determine the federal income tax consequences arising from the transactions.

In addition to the statutory provisions, courts have developed several doctrines that can be applied to deny the tax benefits of tax motivated transactions, notwithstanding that the transaction may satisfy the literal requirements of a specific tax provision. The common-law doctrines are not entirely distinguishable, and their application to a given set of facts is often blurred by the courts and the IRS. Although these doctrines serve an important role in the administration of the tax system, invocation of these doctrines can be seen as at odds with an objective, "rule-based" system of taxation. Nonetheless, courts have applied the doctrines to deny tax benefits arising from certain transactions.[183]

A common-law doctrine applied with increasing frequency is the "economic substance" doctrine. In general, this doctrine denies tax benefits arising from transactions that do not result in a meaningful change to the taxpayer's economic position other than a purported reduction in federal income tax.[184]

#### ECONOMIC SUBSTANCE DOCTRINE

Courts generally deny claimed tax benefits if the transaction that gives rise to those benefits lacks economic substance independent of tax considerations—notwithstanding that the purported activity actually occurred. The tax court has described the doctrine as follows:

> The tax law . . . requires that the intended transactions have economic substance separate and distinct from economic benefit achieved solely by tax reduction. The doctrine of economic substance becomes applicable, and a judicial remedy is warranted, where a taxpayer seeks to claim tax benefits, unintended by Congress, by means of transactions that serve no economic purpose other than tax savings.[185]

*Business purpose doctrine*

Another common law doctrine that overlays and is often considered together with (if not part and parcel of) the economic substance doctrine is the business purpose doctrine. The business purpose test is a subjective inquiry into the motives of the taxpayer—that is, whether the taxpayer intended the transaction to serve some useful non-tax purpose. In making this determination, some courts have bifurcated a transaction in which independent activities with non-tax objectives have been combined with an unrelated item having only tax-avoidance objectives in order to disallow the tax benefits of the overall transaction.[186]

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policy-making function, or any other person who performs similar policy-making functions.

[177] Sec. 6657.

[178] Sec. 56(a)(2).

[179] Sec. 57(a)(1).

[180] Treas. Reg. sec. 1.57-1(h)(3).

[181] Treas. Reg. sec. 1.1016-5(f).

[182] If the taxpayer elects the deferred expense method under section 616(b) or 10-year amortization under section 59(e), the deduction for depletion will also be zero.

[183] See, e.g., *ACM Partnership* v. *Commissioner*, 157 F.3d 231 (3d Cir. 1998), *aff'g* 73 T.C.M. (CCH) 2189 (1997), *cert. denied* 526 U.S. 1017 (1999).

[184] Closely related doctrines also applied by the courts (sometimes interchangeable with the economic substance doctrine) include the "sham transaction doctrine" and the "business purpose doctrine". See, e.g., *Knetsch* v. *United States*, 364 U.S. 361 (1960) (denying interest deductions on a "sham transaction" whose only purpose was to create the deductions).

[185] *ACM Partnership v. Commissioner*, 73 T.C.M. at 2215.

[186] *ACM Partnership v. Commissioner*, 157 F.3d at 256 n.48.

### Application by the courts

### Elements of the doctrine

There is a lack of uniformity regarding the proper application of the economic substance doctrine.[187] Some courts apply a conjunctive test that requires a taxpayer to establish the presence of both economic substance (i.e., the objective component) and business purpose (i.e., the subjective component) in order for the transaction to survive judicial scrutiny.[188] A narrower approach used by some courts is to conclude that either a business purpose or economic substance is sufficient to respect the transaction).[189] A third approach regards economic substance and business purpose as "simply more precise factors to consider" in determining whether a transaction has any practical economic effects other than the creation of tax benefits.[190]

### Profit potential

There also is a lack of uniformity regarding the necessity and level of profit potential necessary to establish economic substance. Since the time of *Gregory v. Helvering*,[191] several courts have denied tax benefits on the grounds that the subject transactions lacked profit potential.[192] In addition, some courts have applied the economic substance doctrine to disallow tax benefits in transactions in which a taxpayer was exposed to risk and the transaction had a profit potential, but the court concluded that the economic risks and profit potential were insignificant when compared to the tax benefits.[193] Under this analysis, the taxpayer's profit potential must be more than nominal. Conversely, other courts view the application of the economic substance doctrine as requiring an objective determination of whether a "reasonable possibility of profit" from the transaction existed apart from the tax benefits.[194] In these cases, in assessing whether a reasonable possibility of profit exists, it is sufficient if there is a nominal amount of pre-tax profit as measured against expected net tax benefits.

## HOUSE BILL

No provision.

## SENATE AMENDMENT

The Senate amendment clarifies and enhances the application of the economic substance doctrine. The Senate amendment provides that, in a case in which a court determines that the economic substance doctrine is relevant to a transaction (or a series of transactions), such transaction (or series of transactions) has economic substance (and thus satisfies the economic substance doctrine) only if the taxpayer establishes that (1) the transaction changes in a meaningful way (apart from Federal income tax consequences) the taxpayer's economic position, and (2) the taxpayer has a substantial non-tax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.[195]

The Senate amendment does not change current law standards used by courts in determining when to utilize an economic substance analysis.[196] Also, the Senate amendment does not alter the court's ability to aggregate, disaggregate or otherwise recharacterize a transaction when applying the doctrine.[197] The Senate amendment provides a uniform definition of economic substance, but does not alter the flexibility of the courts in other respects.

### Conjunctive analysis

The Senate amendment clarifies that the economic substance doctrine involves a conjunctive analysis—there must be an objective inquiry regarding the effects of the transaction on the taxpayer's economic position, as well as a subjective inquiry regarding the taxpayer's motives for engaging in the transaction. Under the Senate amendment, a transaction must satisfy both tests—i.e., it must change in a meaningful way (apart from Federal income tax consequences) the taxpayer's economic position, and the taxpayer must have a substantial non-tax purpose for entering into such transaction (and the transaction is a reasonable means of accomplishing such purpose)—in order to satisfy the economic substance doctrine. This clarification eliminates the disparity that exists among the circuits regarding the application of the doctrine, and modifies its application in those circuits in which either a change in economic position or a non-tax business purpose (without having both) is sufficient to satisfy the economic substance doctrine.

### Non-tax business purpose

The Senate amendment provides that a taxpayer's non-tax purpose for entering into a transaction (the second prong in the analysis) must be "substantial," and that the transaction must be "a reasonable means" of accomplishing such purpose. Under this formulation, the non-tax purpose for the transaction must bear a reasonable relationship to the taxpayer's normal business operations or investment activities.[198]

In determining whether a taxpayer has a substantial non-tax business purpose, an objective of achieving a favorable accounting treatment for financial reporting purposes will not be treated as having a substantial non-tax purpose.[199] Furthermore, a transaction that is expected to increase financial accounting income as a result of generating tax deductions or losses without a corresponding financial accounting charge (i.e., a permanent book-tax difference)[200] should

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[187] "The casebooks are glutted with [economic substance] tests. Many such tests proliferate because they give the comforting illusion of consistency and precision. They often obscure rather than clarify." *Collins v. Commissioner*, 857 F.2d 1383, 1386 (9th Cir. 1988).

[188] See, *e.g.*, *Pasternak v. Commissioner*, 990 F.2d 893, 898 (6th Cir. 1993) ("The threshold question is whether the transaction has economic substance. If the answer is yes, the question becomes whether the taxpayer was motivated by profit to participate in the transaction.").

[189] See, *e.g.*, *Rice's Toyota World v. Commissioner*, 752 F.2d 89, 91-92 (4th Cir. 1985) ("To treat a transaction as a sham, the court must find that the taxpayer was motivated by no business purposes other than obtaining tax benefits in entering the transaction, and, second, that the transaction has no economic substance because no reasonable possibility of a profit exists."); *IES Industries v. United States*, 253 F.3d 350, 358 (8th Cir. 2001) ("In determining whether a transaction is a sham for tax purposes [under the Eighth Circuit test], a transaction will be characterized as a sham if it is not motivated by any economic purpose out of tax considerations (the business purpose test), and if it is without economic substance because no real potential for profit exists (the economic substance test)."). As noted earlier, the economic substance doctrine and the sham transaction doctrine are similar and sometimes are applied interchangeably. For a more detailed discussion of the sham transaction doctrine, see, *e.g.*, Joint Committee on Taxation, *Study of Present-Law Penalty and Interest Provisions as Required by Section 3801 of the Internal Revenue Service Restructuring and Reform Act of 1998 (including Provisions Relating to Corporate Tax Shelters)* (JCS-3-99) at 182.

[190] See, *e.g.*, *ACM Partnership v. Commissioner*, 157 F.3d at 247; *James v. Commissioner*, 899 F.2d 905, 908 (10th Cir. 1995); *Sacks v. Commissioner*, 69 F.3d 982, 985 (9th Cir. 1995) ("Instead, the consideration of business purpose and economic substance are simply more precise factors to consider . . . We have repeatedly and carefully noted that this formulation cannot be used as a 'rigid two-step analysis'.").

[191] 293 U.S. 465 (1935).

[192] See, *e.g.*, *Knetsch*, 364 U.S. at 361; *Goldstein v. Commissioner*, 364 F.2d 734 (2d Cir. 1966) (holding that an unprofitable, leveraged acquisition of Treasury bills, and accompanying prepaid interest deduction, lacked economic substance); *Ginsburg v. Commissioner*, 35 T.C.M. (CCH) 860 (1976) (holding that a leveraged cattle-breeding program lacked economic substance).

[193] See, *e.g.*, *Goldstein v. Commissioner*, 364 F.2d at 739-40 (disallowing deduction even though taxpayer had a possibility of small gain or loss by owning Treasury bills); *Sheldon v. Commissioner*, 94 T.C. 738, 768 (1990) (stating, "potential for gain . . . is infinitesimally nominal and vastly insignificant when considered in comparison with the claimed deductions").

[194] See, *e.g.*, *Rice's Toyota World v. Commissioner*, 752 F.2d at 94 (the economic substance inquiry requires an objective determination of whether a reasonable possibility of profit from the transaction existed apart from tax benefits); *Compaq Computer Corp. v. Commissioner*, 277 F.3d at 781 (applied the same test, *citing Rice's Toyota World*); *IES Industries v. United States*, 253 F.3d at 354 (the application of the objective economic substance test involves determining whether there was a "reasonable possibility of profit . . . apart from tax benefits.").

[195] If the tax benefits are clearly contemplated and expected by the language and purpose of the relevant authority, it is not intended that such tax benefits be disallowed if the only reason for such disallowance is that the transaction fails the economic substance doctrine as defined in this provision.

[196] See, *e.g.*, Treas. Reg. sec. 1.269-2, stating that characteristic of circumstances in which a deduction otherwise allowed will be disallowed are those in which the effect of the deduction, credit, or other allowance would be to distort the liability of the particular taxpayer when the essential nature of the transaction or situation is examined in the light of the basic purpose or plan which the deduction, credit, or other allowance was designed by the Congress to effectuate.

[197] See, *e.g.*, *Minnesota Tea Co. v. Helvering*, 302 U.S. 609, 613 (1938) ("A given result at the end of a straight path is not made a different result because reached by following a devious path.").

[198] See, *e.g.*, Treas. Reg. sec. 1.269-2(b) (stating that a distortion of tax liability indicating the principal purpose of tax evasion or avoidance might be evidenced by the fact that "the transaction was not undertaken for reasons germane to the conduct of the business of the taxpayer"). Similarly, in *ACM Partnership v. Commissioner*, 73 T.C.M. (CCH) 2189 (1997), the court stated: "Key to [the determination of whether a transaction has economic substance] is that the transaction must be rationally related to a useful nontax purpose that is plausible in light of the taxpayer's conduct and useful in light of the taxpayer's economic situation and intentions. Both the utility of the stated purpose and the rationality of the means chosen to effectuate it must be evaluated in accordance with commercial practices in the relevant industry. A rational relationship between purpose and means ordinarily will not be found unless there was a reasonable expectation that the nontax benefits would be at least commensurate with the transaction costs." [citations omitted]

See also Martin McMahon Jr., *Economic Substance, Purposive Activity, and Corporate Tax Shelters*, 94 Tax Notes 1017, 1023 (Feb. 25, 2002) (advocates "confining the most rigorous application of business purpose, economic substance, and purposive activity tests to transactions outside the ordinary course of the taxpayer's business—those transactions that do not appear to contribute to any business activity or objective that the taxpayer may have had apart from tax planning but are merely loss generators."); Mark P. Gergen, *The Common Knowledge of Tax Abuse*, 54 SMU L. Rev. 131, 140 (Winter 2001) ("The message is that you can pick up tax gold if you find it in the street while going about your business, but you cannot go hunting for it.").

[199] However, if the tax benefits are clearly contemplated and expected by the language and purpose of the relevant authority, such tax benefits should not be disallowed solely because the transaction results in a favorable accounting treatment. An example is the repealed foreign sales corporation rules.

[200] This includes tax deductions or losses that are anticipated to be recognized in a period subsequent

Continued

not be considered to have a substantial non-tax purpose unless a substantial non-tax purpose exists apart from the financial accounting benefits.[201]

By requiring that a transaction be a "reasonable means" of accomplishing its non-tax purpose, the Senate amendment reiterates the present-law ability of the courts to bifurcate a transaction in which independent activities with non-tax objectives are combined with an unrelated item having only tax-avoidance objectives in order to disallow the tax benefits of the overall transaction.[202]

*Profit potential*

Under the Senate amendment, a taxpayer may rely on factors other than profit potential to demonstrate that a transaction results in a meaningful change in the taxpayer's economic position; the proposal merely sets forth a minimum threshold of profit potential if that test is relied on to demonstrate a meaningful change in economic position. If a taxpayer relies on a profit potential, however, the present value of the reasonably expected pre-tax profit must be substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected.[203] Moreover, the profit potential must exceed a risk-free rate of return. In addition, in determining pre-tax profit, fees and other transaction expenses and foreign taxes are treated as expenses.

In applying the profit potential test to a lessor of tangible property, depreciation, applicable tax credits (such as the rehabilitation tax credit and the low income housing tax credit), and any other deduction as provided in guidance by the Secretary are not taken into account in measuring tax benefits.

*Transactions with tax-indifferent parties*

The Senate amendment also provides special rules for transactions with tax-indifferent parties. For this purpose, a tax-indifferent party means any person or entity not subject to Federal income tax, or any person to whom an item would have no substantial impact on its income tax liability. Under these rules, the form of a financing transaction will not be respected if the present value of the tax deductions to be claimed is substantially in excess of the present value of the anticipated economic returns to the lender. Also, the form of a transaction with a tax-indifferent party will not be respected if it results in an allocation of income or gain to the tax-indifferent party in excess of the tax-indifferent party's economic gain or income or if the transaction results in the shifting of basis on account of overstating the income or gain of the tax-indifferent party.

*Other rules*

The Secretary may prescribe regulations which provide (1) exemptions from the application of the proposal, and (2) other rules as may be necessary or appropriate to carry out the purposes of the proposal.

No inference is intended as to the proper application of the economic substance doctrine under present law. In addition, except with respect to the economic substance doctrine, the bill shall not be construed as altering or supplanting any other common law doctrine (including the sham transaction doctrine), and the Senate amendment shall be construed as being additive to any such other doctrine.

*Effective date*.—The Senate amendment applies to transactions entered into after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 20. Penalty for understatements attributable to transactions lacking economic substance, etc. (sec. 5522 of the Senate amendment)

### PRESENT LAW

*General accuracy-related penalty*

An accuracy-related penalty under section 6662 applies to the portion of any underpayment that is attributable to (1) negligence, (2) any substantial understatement of income tax, (3) any substantial valuation misstatement, (4) any substantial overstatement of pension liabilities, or (5) any substantial estate or gift tax valuation understatement. If the correct income tax liability exceeds that reported by the taxpayer by the greater of 10 percent of the correct tax or $5,000 (or, in the case of corporations, by the lesser of (a) 10 percent of the correct tax (or $10,000 if greater) or (b) $10 million), then a substantial understatement exists and a penalty may be imposed equal to 20 percent of the underpayment of tax attributable to the understatement.[204] Except in the case of tax shelters,[205] the amount of any understatement is reduced by any portion attributable to an item if (1) the treatment of the item is supported by substantial authority, or (2) facts relevant to the tax treatment of the item were adequately disclosed and there was a reasonable basis for its tax treatment. The Treasury Secretary may prescribe a list of positions which the Secretary believes do not meet the requirements for substantial authority under this provision.

The section 6662 penalty generally is abated (even with respect to tax shelters) in cases in which the taxpayer can demonstrate that there was "reasonable cause" for the underpayment and that the taxpayer acted in good faith.[206] The relevant regulations provide that reasonable cause exists where the taxpayer "reasonably relies in good faith on an opinion based on a professional tax advisor's analysis of the pertinent facts and authorities [that] . . . unambiguously concludes that there is a greater than 50-percent likelihood that the tax treatment of the item will be upheld if challenged" by the IRS.[207]

*Listed transactions and reportable avoidance transactions*

*In general*

A separate accuracy-related penalty under section 6662A applies to "listed transactions" and to other "reportable transactions" with a significant tax avoidance purpose (hereinafter referred to as a "reportable avoidance transaction"). The penalty rate and defenses available to avoid the penalty vary depending on whether the transaction was adequately disclosed.

Both listed transactions and reportable transactions are allowed to be described by the Treasury department under section 6707A(c), which imposes a penalty for failure adequately to report such transactions under section 6011. A reportable transaction is defined as one that the Treasury Secretary determines is required to be disclosed because it is determined to have a potential for tax avoidance or evasion.[208] A listed transaction is defined as a reportable transaction which is the same as, or substantially similar to, a transaction specifically identified by the Secretary as a tax avoidance transaction for purposes of the reporting disclosure requirements.[209]

*Disclosed transactions*

In general, a 20-percent accuracy-related penalty is imposed on any understatement attributable to an adequately disclosed listed transaction or reportable avoidance transaction.[210] The only exception to the penalty is if the taxpayer satisfies a more stringent reasonable cause and good faith exception (hereinafter referred to as the "strengthened reasonable cause exception"), which is described below. The strengthened reasonable cause exception is available only if the relevant facts affecting the tax treatment are adequately disclosed, there is or was substantial authority for the claimed tax treatment, and the taxpayer reasonably believed that the claimed tax treatment was more likely than not the proper treatment.

*Undisclosed transactions*

If the taxpayer does not adequately disclose the transaction, the strengthened reasonable cause exception is not available (i.e., a strict-liability penalty generally applies), and the taxpayer is subject to an increased penalty equal to 30 percent of the understatement.[211] However, a taxpayer will be treated as having adequately disclosed a transaction for this purpose if the IRS Commissioner has separately rescinded the separate penalty under section 6707A for failure to disclose a reportable transaction.[212] The IRS Commissioner is authorized to do this only if the failure does not relate to a listed transaction and only if rescinding the penalty would promote compliance and effective tax administration.[213]

A public entity that is required to pay a penalty for an undisclosed listed or reportable transaction must disclose the imposition of the penalty in reports to the SEC for such periods as the Secretary shall specify. The disclosure to the SEC applies without regard to whether the taxpayer determines the amount of the penalty to be material to

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to the period the financial accounting benefit is recognized. For example, FAS 109 in some cases permits the recognition of financial accounting benefits prior to the period in which the tax benefits are recognized for income tax purposes.

[201] Claiming that a financial accounting benefit constitutes a substantial non-tax purpose fails to consider the origin of the accounting benefit (i.e., reduction of taxes) and significantly diminishes the purpose for having a substantial non-tax purpose requirement. See, *e.g.*, *American Electric Power, Inc. v. U.S.*, 136 F. Supp. 2d 762, 791–92 (S.D. Ohio, 2001) ("AEP's intended use of the cash flows generated by the [corporate owned life insurance] plan is irrelevant to the subjective prong of the economic substance analysis. If a legitimate business purpose for the use of the tax savings 'were sufficient to breathe substance into a transaction whose only purpose was to reduce taxes, [then] every sham tax-shelter device might succeed.'") (citing *Winn-Dixie v. Commissioner*, 113 T.C. 254, 287 (1999)).

[202] See, e.g., *ACM Partnership v. Commissioner*, 157 F.3d at 256 n.48.

[203] Thus, a "reasonable possibility of profit" will not be sufficient to establish that a transaction has economic substance.

[204] Sec. 6662.

[205] A tax shelter is defined for this purpose as a partnership or other entity, an investment plan or arrangement, or any other plan or arrangement if a significant purpose of such partnership, other entity, plan, or arrangement is the avoidance or evasion of Federal income tax. Sec. 6662(d)(2)(C).

[206] Sec. 6664(c).

[207] Treas. Reg. sec. 1.6662-4(g)(4)(1)(B); Treas. Reg. sec. 1.6664-4(c).

[208] Sec. 6707A(c)(1).

[209] Sec. 6707A(c)(2).

[210] Sec. 6662A(a).

[211] Sec. 6662A(c).

[212] Sec. 6664(d).

[213] Sec. 6707A(d).

the reports in which the penalty must appear; and any failure to disclose such penalty in the reports is treated as a failure to disclose a listed transaction. A taxpayer must disclose a penalty in reports to the SEC once the taxpayer has exhausted its administrative and judicial remedies with respect to the penalty (or if earlier, when paid).[214]

### *Determination of the understatement amount*

The penalty is applied to the amount of any understatement attributable to the listed or reportable avoidance transaction without regard to other items on the tax return. For purposes of this provision, the amount of the understatement is determined as the sum of: (1) the product of the highest corporate or individual tax rate (as appropriate) and the increase in taxable income resulting from the difference between the taxpayer's treatment of the item and the proper treatment of the item (without regard to other items on the tax return);[215] and (2) the amount of any decrease in the aggregate amount of credits which results from a difference between the taxpayer's treatment of an item and the proper tax treatment of such item.

Except as provided in regulations, a taxpayer's treatment of an item shall not take into account any amendment or supplement to a return if the amendment or supplement is filed after the earlier of when the taxpayer is first contacted regarding an examination of the return or such other date as specified by the Secretary.[216]

### *Strengthened reasonable cause exception*

A penalty is not imposed under the provision with respect to any portion of an understatement if it is shown that there was reasonable cause for such portion and the taxpayer acted in good faith. Such a showing requires: (1) adequate disclosure of the facts affecting the transaction in accordance with the regulations under section 6011;[217] (2) that there is or was substantial authority for such treatment; and (3) that the taxpayer reasonably believed that such treatment was more likely than not the proper treatment. For this purpose, a taxpayer will be treated as having a reasonable belief with respect to the tax treatment of an item only if such belief: (1) is based on the facts and law that exist at the time the tax return (that includes the item) is filed; and (2) relates solely to the taxpayer's chances of success on the merits and does not take into account the possibility that (a) a return will not be audited, (b) the treatment will not be raised on audit, or (c) the treatment will be resolved through settlement if raised.[218]

A taxpayer may (but is not required to) rely on an opinion of a tax advisor in establishing its reasonable belief with respect to the tax treatment of the item. However, a taxpayer may not rely on an opinion of a tax advisor for this purpose if the opinion (1) is provided by a "disqualified tax advisor" or (2) is a "disqualified opinion."

### *Disqualified tax advisor*

A disqualified tax advisor is any advisor who: (1) is a material advisor[219] and who participates in the organization, management, promotion or sale of the transaction or is related (within the meaning of section 267(b) or 707(b)(1)) to any person who so participates; (2) is compensated directly or indirectly[220] by a material advisor with respect to the transaction; (3) has a fee arrangement with respect to the transaction that is contingent on all or part of the intended tax benefits from the transaction being sustained; or (4) as determined under regulations prescribed by the Secretary, has a disqualifying financial interest with respect to the transaction.

A material advisor is considered as participating in the "organization" of a transaction if the advisor performs acts relating to the development of the transaction. This may include, for example, preparing documents: (1) establishing a structure used in connection with the transaction (such as a partnership agreement); (2) describing the transaction (such as an offering memorandum or other statement describing the transaction); or (3) relating to the registration of the transaction with any federal, state or local government body.[221] Participation in the "management" of a transaction means involvement in the decision-making process regarding any business activity with respect to the transaction. Participation in the "promotion or sale" of a transaction means involvement in the marketing or solicitation of the transaction to others. Thus, an advisor who provides information about the transaction to a potential participant is involved in the promotion or sale of a transaction, as is any advisor who recommends the transaction to a potential participant.

### *Disqualified opinion*

An opinion may not be relied upon if the opinion: (1) is based on unreasonable factual or legal assumptions (including assumptions as to future events); (2) unreasonably relies upon representations, statements, finding or agreements of the taxpayer or any other person; (3) does not identify and consider all relevant facts; or (4) fails to meet any other requirement prescribed by the Secretary.

### *Coordination with other penalties*

To the extent a penalty on an understatement is imposed under section 6662A, that same amount of understatement is not also subject to the accuracy-related penalty under section 6662(a) or to the valuation misstatement penalties under section 6662(e) or 6662(h). However, such amount of understatement is included for purposes of determining whether any understatement (as defined in sec. 6662(d)(2)) is a substantial understatement as defined under section 6662(d)(1) and for purposes of identifying an underpayment under the section 6663 fraud penalty.

The penalty imposed under section 6662A does not apply to any portion of an understatement to which a fraud penalty is applied under section 6663.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment imposes a penalty for an understatement attributable to any transaction that lacks economic substance (referred to in the statute as a "non-economic substance transaction understatement").[222] The penalty rate is 40 percent (reduced to 20 percent if the taxpayer adequately discloses the relevant facts in accordance with regulations prescribed under section 6011). No exceptions (including the reasonable cause or rescission rules) to the penalty are available (i.e., the penalty is a strict-liability penalty).

A "non-economic substance transaction" means any transaction if (1) the transaction lacks economic substance (as defined in the earlier proposal regarding the economic substance doctrine),[223] (2) the transaction was not respected under the rules relating to transactions with tax-indifferent parties (as described in the immediately preceding proposal regarding the economic substance doctrine),[224] or (3) any similar rule of law. For this purpose, a similar rule of law would include, for example, an understatement attributable to a transaction that is determined to be a sham transaction.

For purposes of the Senate amendment, the calculation of an "understatement" is made in the same manner as in the present law provision relating to accuracy-related penalties for listed and reportable avoidance transactions (sec. 6662A). Thus, the amount of the understatement under the proposal would be determined as the sum of (1) the product of the highest corporate or individual tax rate (as appropriate) and the increase in taxable income resulting from the difference between the taxpayer's treatment of the item and the proper treatment of the item (without regard to other items on the tax return),[225] and (2) the amount of any decrease in the aggregate amount of credits which results from a difference between the taxpayer's treatment of an item and the proper tax treatment of such item. In essence, the penalty will apply to the amount of any understatement attributable solely to a non-economic substance transaction.

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[214] Sec. 6707A(e).

[215] For this purpose, any reduction in the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses which would (without regard to section 1211) be allowed for such year, shall be treated as an increase in taxable income. Sec. 6662A(b).

[216] Sec. 6662A(e)(3).

[217] See the previous discussion regarding the penalty for failing to disclose a reportable transaction.

[218] Sec. 6664(d).

[219] The term "material advisor" means any person who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, or carrying out any reportable transaction, and who derives gross income in excess of $50,000 in the case of a reportable transaction substantially all of the tax benefits from which are provided to natural persons ($250,000 in any other case). Sec. 6111(b)(1).

[220] This situation could arise, for example, when an advisor has an arrangement or understanding (oral or written) with an organizer, manager, or promoter of a reportable transaction that such party will recommend or refer potential participants to the advisor for an opinion regarding the tax treatment of the transaction.

[221] An advisor should not be treated as participating in the organization of a transaction if the advisor's only involvement with respect to the organization of the transaction is the rendering of an opinion regarding the tax consequences of such transaction. However, such an advisor may be a "disqualified tax advisor" with respect to the transaction if the advisor participates in the management, promotion or sale of the transaction (or if the advisor is compensated by a material advisor, has a fee arrangement that is contingent on the tax benefits of the transaction, or as determined by the Secretary, has a continuing financial interest with respect to the transaction).

[222] Thus, unlike the present-law accuracy-related penalty under section 6662A (which applies only to listed and reportable avoidance transactions), the new penalty under this provision applies to any transaction that lacks economic substance.

[223] The Senate amendment generally provides that in any case in which a court determines that the economic substance doctrine is relevant, a transaction has economic substance only if: (1) the transaction changes in a meaningful way (apart from Federal income tax effects) the taxpayer's economic position, and (2) the taxpayer has a substantial non-tax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose. Specific other rules also apply. See "Senate Amendment" for the immediately preceding provision, "Clarification of the economic substance doctrine."

[224] The Senate amendment provides that the form of a transaction that involves a tax-indifferent party will not be respected in certain circumstances.

[225] For this purpose, any reduction in the excess of deductions allowed for the taxable year over gross income for such year, and any reduction in the amount of capital losses that would (without regard to section 1211) be allowed for such year, would be treated as an increase in taxable income.

As in the case of the understatement penalty for reportable and listed transactions under present law section 6662A(e)(3), except as provided in regulations, the taxpayer's treatment of an item will not take into account any amendment or supplement to a return if the amendment or supplement is filed after the earlier of the date the taxpayer is first contacted regarding an examination of such return or such other date as specified by the Secretary.

As in the case of the understatement penalty for undisclosed reportable transactions under present law section 6707A, a public entity that is required to pay a penalty under the provision (but in this case, regardless of whether the transaction was disclosed) must disclose the imposition of the penalty in reports to the SEC for such periods as the Secretary shall specify. The disclosure to the SEC applies without regard to whether the taxpayer determines the amount of the penalty to be material to the reports in which the penalty must appear, and any failure to disclose such penalty in the reports is treated as a failure to disclose a listed transaction. A taxpayer must disclose a penalty in reports to the SEC once the taxpayer has exhausted its administrative and judicial remedies with respect to the penalty (or if earlier, when paid).

Regardless of whether the transaction was disclosed, once a penalty under the Senate amendment has been included in the first letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the IRS Office of Appeals, the penalty cannot be compromised for purposes of a settlement without approval of the Commissioner personally. Furthermore, the IRS is required to keep records summarizing the application of this penalty and providing a description of each penalty compromised under the proposal and the reasons for the compromise.

Any understatement on which a penalty is imposed under the provision will not be subject to the accuracy-related penalty under section 6662 or under 6662A (accuracy-related penalties for listed and reportable avoidance transactions). However, an understatement under the Senate amendment is taken into account for purposes of determining whether any understatement (as defined in sec. 6662(d)(2)) is a substantial understatement as defined under section 6662(d)(1). The penalty imposed under the Senate amendment will not apply to any portion of an understatement to which a fraud penalty is applied under section 6663.

*Effective date.*—The Senate amendment applies to transactions entered into after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 21. Denial of deduction for interest on underpayments attributable to noneconomic substance transactions (sec. 5523 of the Senate amendment)

### PRESENT LAW

No deduction for interest is allowed for interest paid or accrued on any underpayment of tax which is attributable to the portion of any reportable transaction understatement with respect to which the relevant facts were not adequately disclosed.[226] The Secretary of the Treasury is authorized to define reportable transactions for this purpose.[227]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment extends the disallowance of interest deductions to interest paid or accrued on any underpayment of tax which is attributable to any noneconomic substance underpayment (whether or not disclosed).

*Effective date.*—The Senate amendment applies to transactions after the date of enactment in taxable years ending after such date.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 22. Waiver of user fee for installment agreements using automated withdrawals (sec. 5531 of the Senate amendment)

### PRESENT LAW

The Code authorizes the IRS to enter into written agreements with any taxpayer under which the taxpayer is allowed to pay taxes owed, as well as interest and penalties, in installment payments if the IRS determines that doing so will facilitate collection of the amounts owed.[228]

An installment agreement does not reduce the amount of taxes, interest, or penalties owed. Generally, during the period installment payments are being made, other IRS enforcement actions (such as levies or seizures) with respect to the taxes included in that agreement are held in abeyance.

The IRS charges a $43 user fee if a request for an installment agreement is approved.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment waives the user fee for installment agreements in which the parties agree to the use of automated installment payments (such as automated debits from a bank account).

*Effective date.*—The Senate amendment applies to agreements entered into on or after the date which is 180 days after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 23. Termination of installment agreements (sec. 5532 of the Senate amendment)

### PRESENT LAW

The Code authorizes the IRS to enter into written agreements with any taxpayer under which the taxpayer is allowed to pay taxes owed, as well as interest and penalties, in installment payments, if the IRS determines that doing so will facilitate collection of the amounts owed.[229] An installment agreement does not reduce the amount of taxes, interest, or penalties owed. Generally, during the period installment payments are being made, other IRS enforcement actions (such as levies or seizures) with respect to the taxes included in that agreement are held in abeyance.

Under present law, the IRS is permitted to terminate an installment agreement only if: (1) the taxpayer fails to pay an installment at the time the payment is due; (2) the taxpayer fails to pay any other tax liability at the time when such liability is due; (3) the taxpayer fails to provide a financial condition update as required by the IRS; (4) the taxpayer provides inadequate or incomplete information when applying for an installment agreement; (5) there has been a significant change in the financial condition of the taxpayer; or (6) the collection of the tax is in jeopardy.[230]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment grants the IRS authority to terminate installment agreement when a taxpayer fails to timely make a required Federal tax deposit or fails to timely file a tax return (including extensions). Under the Senate amendment, the IRS may terminate an installment agreement even if the taxpayer remained current with payments under the installment agreement.

*Effective date.*—The Senate amendment is effective for failures occurring on or after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 24. Office of Chief Counsel review of offers-in-compromise (sec. 5533 of the Senate amendment)

### PRESENT LAW

The IRS has the authority to settle a tax debt pursuant to an offer-in-compromise. IRS regulations provide that such offers can be accepted if the taxpayer is unable to pay the full amount of the tax liability and it is doubtful that the tax, interest, and penalties can be collected or there is doubt as to the validity of the actual tax liability. Offers to compromise tax liabilities of $50,000 or more can only be accepted if the reasons for the acceptance are documented in detail and supported by a written opinion from the IRS Chief Counsel.[231]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment repeals the requirement that offers to compromise liabilities of $50,000 or more must be supported by a written opinion from the IRS Chief Counsel. Under the Senate amendment, written opinions must only be provided if the Secretary determines that an opinion is required with respect to a compromise.

*Effective date.*—The Senate amendment applies to offers-in-compromise submitted or pending on or after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## 25. Partial payments required with submissions of offers-in-compromise (sec. 5534 of the Senate amendment)

### PRESENT LAW

The IRS has the authority to compromise any civil or criminal case arising under the internal revenue laws.[232] In general, taxpayers initiate this process by making an offer-in-compromise, which is an offer by the taxpayer to settle an outstanding tax liability for less than the total amount due. The IRS currently imposes a user fee of $150 on most offers, payable upon submission of the offer to the IRS. Taxpayers may justify their offers on the basis of doubt as to collectibility or liability or on the basis of effective tax administration. In general, enforcement action is suspended during the period that the IRS evaluates an offer. In some instances, it may take the IRS 12 to 18 months to evaluate an offer.[233] Taxpayers are permitted (but not required) to make a deposit with their offer; if the offer is rejected, the deposit is generally returned to the taxpayer. There are two general categories[234] of offers-in-compromise, lump-sum offers and periodic payment offers. Taxpayers making lump-sum offers propose to make one lump-sum payment of a specified dollar amount in settlement of their outstanding liability. Taxpayers making periodic payment offers propose to make a series of payments over time (either short-term or long-term) in settlement of their outstanding liability.

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[226] Sec. 162(m). Under section 6664(d)(2)(A), in such a case of nondisclosure, the taxpayer also is not entitled to the "reasonable cause and good faith" exception to the section 6662A penalty for a reportable transaction understatement.

[227] See the description of present law under the immediately preceding proposal, "Penalty for understatements attributable to transactions lacking economic substance, etc."

[228] Sec. 6159.

[229] Sec. 6159.

[230] Sec. 6159(b)(2), (3), and (4).

[231] Sec. 7122.

[232] Sec. 7122.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment requires a taxpayer to make partial payments to the IRS while the taxpayer's offer is being considered by the IRS. For lump-sum offers, taxpayers must make a down payment of 20 percent of the amount of the offer with any application. For purposes of this provision, a lump-sum offer includes single payments as well as payments made in five or fewer installments. For periodic payment offers, the provision requires the taxpayer to comply with the taxpayer's own proposed payment schedule while the offer is being considered. Offers submitted to the IRS that do not comport with these payment requirements are returned to the taxpayer as unprocessable and immediate enforcement action is permitted. The provision eliminates the user fee requirement for offers submitted with the appropriate partial payment.

The Senate amendment also provides that an offer is deemed accepted if the IRS does not make a decision with respect to the offer within two years from the date the offer was submitted. With respect to offers submitted more than five years after the date of enactment, an offer is deemed accepted if the IRS does not make a decision with respect to the offer within 12 months of its submission.

*Effective date.*—The Senate amendment applies to offers-in-compromise submitted or pending on and after the date which is 60 days after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 26. Joint task force on offers-in-compromise (sec. 5535 of the Senate amendment)

#### PRESENT LAW

The IRS has the authority to compromise any civil or criminal case arising under the internal revenue laws.[235] In general, taxpayers initiate this process by making an offer-in-compromise, which is an offer by the taxpayer to settle an outstanding tax liability for less than the total amount due. The IRS currently imposes a user fee of $150 on most offers, payable upon submission of the offer to the IRS. Taxpayers may justify their offers on the basis of doubt as to collectibility or liability or on the basis of effective tax administration. In general, enforcement action is suspended during the period that the IRS evaluates an offer. Taxpayers are permitted (but not required) to make a deposit with their offer; if the offer is rejected, the deposit is generally returned to the taxpayer. There are two general categories[236] of offers-in-compromise, lump-sum offers and periodic payment offers. Taxpayers making lump-sum offers propose to make one lump-sum payment of a specified dollar amount in settlement of their outstanding liability. Taxpayers making periodic payment offers propose to make a series of payments over time (either short-term or long-term) in settlement of their outstanding liability.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment requires the Secretary to establish a joint task force to review the IRS's determinations with respect to offers-in-compromise, including offers which raise equitable, public policy, or economic hardship as grounds for compromising a tax liability. The task force shall consist of one representative each from the Department of Treasury, the IRS Oversight Board, the Office of Chief Counsel, the Office of the Taxpayer Advocate, the Office of Appeals, and the IRS office charged with operating the offer-in-compromise program. The task force is required to report annually to Congress regarding its findings and recommendations with respect to the offer-in-compromise program. The provision requires the filing of annual reports beginning in 2006.

*Effective date.*—The Senate amendment is effective on the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

## O. Additional Revenue Provisions Relating to the Highway Trust Fund

### 1. Suspension of transfers from Highway Trust Fund for certain repayments and credits (sec. 5601 of the Senate amendment)

#### PRESENT LAW

Under sec. 9503(c)(2), certain transfers are made from the Highway Trust Fund to reimburse the General Fund, for amounts paid in respect of gasoline used on farms,[237] amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems,[238] amounts relating to fuels not used for taxable purposes,[239] and income tax credits allowed with respect to the nontaxable uses of fuels.[240]

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

Section 9503(c)(2), relating to certain transfers from the Highway Trust Fund to the General Fund, is suspended between April 1, 2005 and October 1, 2005.

*Effective date.*—The Senate amendment applies to amounts paid for which no transfer has been made before April 1, 2005.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 2. Dedicate gas guzzler tax to the Highway Trust Fund (sec. 5602 of the Senate amendment)

#### PRESENT LAW

Under present law, the Code imposes a tax ("the gas guzzler tax") on automobiles that are manufactured primarily for use on public streets, roads, and highways and that are rated at 6,000 pounds unloaded gross vehicle weight or less. The tax applies to limousines without regard to the weight requirement. The tax is imposed on the sale by the manufacturer of each automobile of a model type with a fuel economy of 22.5 miles per gallon or less. The tax range begins at $1,000 and increases to $7,700 for models with a fuel economy less than 12.5 miles per gallon. Taxes imposed under this provision are deposited into the General Fund.

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment temporarily dedicates the gas guzzler tax (as modified by the Senate amendment[241]) to the Highway Trust Fund. The Highway Trust Fund will be credited with gas guzzler taxes imposed on or after July 1, 2005 and before October 1, 2005.

*Effective date.*—The Senate amendment applies to taxes imposed on or after July 1, 2005.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 3. Treatment of kerosene for use in aviation (sec. 5611 of the Senate amendment and secs. 4041, 4081, 4082, 6427, 9502, and 9503 of the Code)

#### PRESENT LAW

In general, aviation-grade kerosene is taxed at a rate of 21.8 cents per gallon upon removal of such fuel from a refinery or terminal (or entry into the United States) and on the sale of such fuel to any unregistered person unless there was a prior taxable removal or entry of such fuel.[242] Aviation-grade kerosene may be removed at a reduced rate, either 4.3 or zero cents per gallon, if the aviation fuel is removed directly into the fuel tank of an aircraft for use in commercial aviation[243] or for a use that is exempt from the tax imposed by section 4041(c) (other than by reason of a prior imposition of tax),[244] or is removed or entered as part of an exempt bulk transfer.[245] These taxes are credited to the Airport and Airway Trust Fund.[246] If taxed aviation-grade kerosene is used for a nontaxable use, a claim for credit or refund may be made.[247] Such claims are

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[233] Olsen v. United States, 326 F. Supp. 2d 184 (D. Mass. 2004).

[234] The IRS categorizes payment plans with more specificity, which is generally not significant for purposes of the proposal. See Form 656, Offer in Compromise, page 6 of instruction booklet (revised July 2004).

[235] Sec. 7122.

[236] The IRS categorizes payment plans with more specificity, which is generally not significant for purposes of the proposal. See Form 656, Offer in Compromise, page 6 of instruction booklet (revised July 2004).

[237] Sec. 6420.

[238] Sec. 6421.

[239] Sec. 6427.

[240] Sec. 34.

[241] The Senate amendment repeals the tax as it applies to limousines rated at greater than 6,000 pounds unloaded gross vehicle weight.

[242] Sec. 4081(a)(2)(A)(iv). (An additional 0.1 cent is imposed on aviation-grade kerosene and credited to the Leaking Underground Storage Tank ("LUST" Trust Fund.) Sec. 4081(a)(2)(B). The LUST Trust Fund tax is set to expire after September 30, 2005. Sec. 4081(d)(3).

[243] Sec. 4081(a)(2)(C).

[244] Sec. 4082(e). Exempt uses include use in commercial aviation as supplies for vessels or aircraft, which includes use by certain foreign air carriers and for the international flights of domestic carriers, secs. 4082(e), 6427(l)(2), and 4221(d)(3).

[245] Sec. 4081(a)(1)(B).

[246] Sec. 4081(a)(3).

[247] Sec. 6427(l)(1) and 6427(l)(4). Nontaxable uses include: (1) use other than as fuel in an aircraft (such as use in heating oil); (2) use on a farm for farming purposes, (3) use in a military aircraft owned by the United States or a foreign country; (4) use in a domestic air carrier engaged in foreign trade or trade

Continued

paid from the Airport and Airway Trust Fund to the general fund of the Treasury.[248] All other removals and entries of kerosene used for surface transportation are taxed at the diesel tax rate of 24.3 cents per gallon,[249] and these taxes are credited to the Highway Trust Fund.[250] If aviation-grade kerosene is taxed upon removal or entry but fraudulently diverted for surface transportation, the taxes remain in the Airport and Airway Trust Fund, and the Highway Trust Fund is not credited for the taxes on such fuel.

A special rule of present law addresses whether a removal from a refueler truck, tanker, or tank wagon may be treated as a removal from a terminal for purposes of determining whether aviation-grade kerosene is removed directly into the wing of an aircraft for use in commercial aviation, and so eligible for the 4.3 cents per gallon rate.[251] For the special rule to apply, a qualifying truck, tanker, or tank wagon must be loaded with aviation-grade kerosene from a terminal: (1) that is located within a secured area of an airport, and (2) from which no vehicle licensed for highway use is loaded with aviation fuel, except in exigent circumstances identified by the Secretary in regulations. In order to qualify for the special rule, a refueler truck, tanker, or tank wagon must: (1) be loaded with fuel for delivery only into aircraft at the airport where the terminal is located; (2) have storage tanks, hose, and coupling equipment designed and used for the purposes of fueling aircraft; (3) not be registered for highway use; and (4) be operated by the terminal operator (who operates the terminal rack from which the fuel is unloaded) or by a person that makes a daily accounting to such terminal operator of each delivery of fuel from such truck, tanker, or tank wagon.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment imposes the kerosene tax rate of 24.3 cents per gallon upon the entry or removal of aviation-grade kerosene and on the sale of such fuel to any unregistered person unless there was a prior taxable removal or entry of the fuel. The present law reduced rates for removals of aviation-grade kerosene directly into the fuel tank of an aircraft apply,[252] except that in addition, under the proposal, if kerosene is removed directly into the fuel tank of an aircraft for use in aviation other than commercial aviation, the rate of tax is 21.8 cents per gallon.

The Senate amendment provides that amounts may be claimed as credits or refunds for kerosene that is taxed at the 24.3 cents per gallon rate and used for aviation purposes. If kerosene is used for noncommercial aviation, the amount is 2.5 cents; if kerosene is used for commercial aviation, the amount is 20 cents; if kerosene is used for a use that is exempt from tax (as determined under present law), the amount is 24.3 cents. Present law rules with respect to claims apply, except for claims with respect to kerosene used in noncommercial aviation, which may be claimed by the ultimate vendor. To be eligible to receive a payment, a vendor must be registered and must show either that the price of the fuel did not include the tax and the tax was not collected from the purchaser, the amount of tax was repaid to the ultimate purchaser, or the written consent of the purchaser to the making of the claim was filed with the Secretary.

Under the Senate amendment, all taxes collected at the 24.3 cents per gallon rate (under section 4081) initially are credited to the Highway Trust Fund. The Senate amendment requires the Secretary to transfer from time to time from the Highway Trust Fund into the Airport and Airway Trust Fund amounts equivalent to the taxes received under sections 4041 and 4081 with respect to fuels used in a nontaxable use to the extent such amounts exceed the amounts paid with respect to such use. Transfers are required to be made with respect to taxes received on or after October 1, 2005, and before October 1, 2011.

*Effective date.*—The Senate amendment is effective for fuels or liquids removed, entered, or sold after September 30, 2005.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with the following modifications.

The conference agreement provides that the rate of tax on kerosene is 21.8 cents per gallon if the kerosene is removed from refueler trucks, tankers, and tank wagons that are loaded with fuel from a terminal that is located in an airport, without regard to whether the terminal is located in a secured area of the airport, as long as all the other requirements of the present law special rule related to such trucks, tankers, and wagons are met. The conference agreement clarifies that the rate of tax upon removal of kerosene is zero if the removal is from a refueler truck, tanker, or tank wagon that meets all of the requirements of present law, including the security requirement, the kerosene is delivered directly into the fuel tank of an aircraft, and the kerosene is exempt from the tax imposed by section 4041(c) (other than by prior imposition of tax).

The Senate amendment is clarified to provide that claims for payment for kerosene that is used for noncommercial aviation may be claimed by the ultimate vendor only.

The conference agreement clarifies the transfer mechanism for payments from the Highway Trust Fund to the Airport and Airway Trust Fund to provide that such transfers shall be made monthly in amounts equivalent to 21.8 cents per gallon for claims made with respect to kerosene used for noncommercial aviation purposes, 4.3 cents per gallon for claims made with respect to kerosene used for commercial aviation purposes, and the amounts attributable to taxes received with respect to amounts allowed as a credit under section 34 for kerosene used for aviation purposes. The conference agreement requires that transfers be made on the basis of estimates by the Secretary, with proper adjustments to be made subsequently to the extent prior estimates were in excess of or less than the amounts required to be transferred. The conference agreement clarifies that the Airport and Airway Trust Fund does not reimburse the General Fund for claims with respect to kerosene that is taxed at the 24.3 cents per gallon rate and used for aviation purposes, or with respect to credits allowed under section 34 to the extent the Highway Trust Fund is credited initially with the amount of tax with respect to which the credit is claimed.

### 4. Repeal of ultimate vendor refund claims with respect to farming (sec. 5612 of the Senate amendment and sec. 6427(l) of the Code)

### PRESENT LAW

*In general—ultimate purchaser refunds for nontaxable uses*

In general, the Code provides that if diesel fuel or kerosene on which tax has been imposed is used by any person in a nontaxable use, the Secretary is to refund (without interest) to the ultimate purchaser the amount of tax imposed.[253] The refund is made to the ultimate purchaser of the taxed fuel by either income tax credit or refund payment.[254] Not more than one claim may be filed by any person with respect to fuel used during its taxable year. However, there are exceptions to this rule.

An ultimate purchaser may make a claim for a refund payment for any quarter of a taxable year for which the purchaser can claim at least $750.[255] If the purchaser cannot claim at least $750 at the end of quarter, the amount can be carried over to the next quarter to determine if the purchaser can claim at least $750. If the purchaser cannot claim at least $750 at the end of the taxable year, the purchaser must claim a credit on the person's income tax return.

As discussed below, these ultimate purchaser refund rules do not apply to diesel fuel or kerosene used on a farm. The Code precludes the ultimate purchaser from claiming a refund for such use. Instead, the refund claims are made by registered vendors as described below.

*Special vendor rule for use on a farm for farming purposes*

In the case of diesel fuel or kerosene used on a farm for farming purposes refund payments are paid to the ultimate, registered vendors ("registered ultimate vendor") of such fuels. Thus a registered ultimate vendor that sells undyed diesel fuel or undyed kerosene to any of the following may make a claim for refund: (1) the owner, tenant, operator of a farm for use by that person on a farm for farming purposes; and (2) a person other than the owner, tenant, or operator of a farm for use by that person on a farm in connection with cultivating, raising or harvesting. The registered ultimate vendor is the only person who may make the claim with respect to diesel fuel or kerosene used

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between the United States and any of its possessions; (5) use in a foreign air carrier engaged in foreign trade or trade between the United States and any of its possessions (but only if the foreign carrier's country of registration provides similar privileges to United States carriers); (6) exclusive use of a State or local government; (7) sales for export, or shipment to a United States possession; (8) exclusive use by a nonprofit educational organization; (9) use by an aircraft museum exclusively for the procurement, care, or exhibition of aircraft of the type used for combat or transport in World War II, and (10) use as a fuel in a helicopter or a fixed-wing aircraft for purposes of providing transportation with respect to which certain requirements are met. Secs. 4041(f)(2), 4041(g), 4041(h), 4041(l), and 6427(l)(2)(B)(i).

[248] Sec. 9502(d)(2).

[249] Sec. 4081(a)(2)(iii).

[250] Sec. 9503(b)(1)(D).

[251] Sec. 4081(a)(3).

[252] For example, for kerosene removed directly into the fuel tank of an aircraft for use in commercial aviation by a person registered for such use, the rate of tax is 4.3 cents per gallon. Kerosene removed directly into the fuel tank of an aircraft for an exempt use is not taxed. For purposes of these reduced rates, it is intended that the following airports be included on the Secretary's list of airports that include a secured area in which a terminal is located. The airports are listed by airport name, and the terminal with respect to the airport is identified by terminal control number: Los Angeles International Airport (T-95-CA-4812) and Federal Express Corporation Memphis Airport (T-62-TN-2220).

[253] Sec. 6427(l)(1).

[254] Generally, refund payments are only made to governmental units and tax-exempt organizations. Sec. 6427(k). The quarterly payment claim rules for ultimate purchasers are an exception to this rule.

[255] Sec. 6427(i)(2).

on a farm for farming purposes. The purchaser of the fuel cannot make the claim for refund.

Registered ultimate vendors may make weekly claims if the claim is at least $200 ($100 or more in the case of kerosene).[256] If not paid within 45 days (20 days for an electronic claim), the Secretary is to pay interest on the claim.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment repeals ultimate vendor refund claims in the case of diesel fuel or kerosene used on a farm for farming purposes. Thus, refunds for taxed diesel fuel or kerosene used on a farm for farming purposes would be paid to the ultimate purchaser under the rules applicable to nontaxable uses of diesel fuel or kerosene.

*Effective date.*—The Senate amendment is effective for sales after September 30, 2005.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

## 5. Refunds of excise taxes on exempt sales of taxable fuel by credit card (sec. 5613 of the Senate amendment and secs. 6206, 6416, 6427, and 6675 of the Code)

### PRESENT LAW

Under the rules in effect prior to 2005, in the case of gasoline on which tax had been paid and sold to a State or local government, to a nonprofit educational organization, for supplies for vessels or aircraft, for export, or for the production of special fuels, the wholesale distributor that sold such gasoline was treated as the only person who paid the tax and thereby was the proper claimant for a credit or refund of the tax paid. A "wholesale distributor" included any person, other than an importer or producer, who sold gasoline to producers, retailers, or to users who purchased in bulk quantities and accepted delivery into bulk storage tanks. A wholesale distributor also included any person who made retail sales of gasoline at 10 or more retail motor fuel outlets.

Under a special administrative exception to these rules, a sale of gasoline charged on an oil company credit card issued to an exempt person described above is not considered a direct sale by the person actually selling the gasoline to the ultimate purchaser if the seller receives a reimbursement of the tax from the oil company (or indirectly through an intermediate vendor). Thus, the person that actually paid the tax, in most cases the oil company, is treated as the only person eligible to make the refund claim.[257]

The American Jobs Creation Act of 2004 ("AJCA")[258] modified the pre-existing statutory rules with respect to certain sales. Under AJCA, if a registered ultimate vendor purchases any gasoline on which tax has been paid and sells such gasoline to a State or local government or to a nonprofit educational organization, for its exclusive use, such ultimate vendor is treated as the only person who paid the tax and thereby is the proper claimant for a credit or refund of the tax paid.[259] However, AJCA did not change the special administrative oil company credit card rule described above.[260]

In addition, under AJCA, refund claims made by such an ultimate vendor may be filed for any period of at least one week for which $200 or more is payable. Any such claim must be filed on or before the last day of the first quarter following the earliest quarter included in the claim. The Secretary must pay interest on refunds unpaid after 45 days. If the refund claim was filed by electronic means, and the ultimate vendor has certified to the Secretary for the most recent quarter of the taxable year that all ultimate purchasers of the vendor are certified for highway exempt use as a State or local government or a nonprofit educational organization, refunds unpaid after 20 days must be paid with interest.[261]

In the case of diesel fuel or kerosene used in a nontaxable use, the ultimate purchaser is generally the only person entitled to claim a refund of excise tax.[262] However, in the case of diesel fuel or kerosene used on a farm for farming purposes or by a State or local government, aviation-grade kerosene, and certain nonaviation-grade kerosene, an ultimate vendor may claim the refund if the ultimate vendor is registered and bears the tax (or receives the written consent of the ultimate purchaser to claim the refund).[263]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment replaces the oil company credit card rule with a new set of rules applicable to certain credit card sales. The new rules apply to all taxable fuels. Under the Senate amendment, if a purchase of taxable fuel is made by means of a credit card issued to an ultimate purchaser that is either a State or local government or, in the case of gasoline, a nonprofit educational organization, for its exclusive use, a credit card issuer who is registered and who extends such credit to the ultimate purchaser with respect to such purchase shall be the only person entitled to apply for a credit or refund if the following two conditions are met: (1) such registered person has not collected the amount of the tax from the purchaser, or has obtained the written consent of the ultimate purchaser to the allowance of the credit or refund; and (2) such registered person has either repaid or agreed to repay the amount of the tax to the ultimate vendor, has obtained the written consent of the ultimate vendor to the allowance of the credit or refund, or has otherwise made arrangements that directly or indirectly provide the ultimate vendor with reimbursement of such tax. It is anticipated that such indirect arrangements may consist of the contractual undertaking of the relevant oil company to the credit card issuer that it will pay the amount of the tax to the ultimate vendor, and the corresponding contractual undertaking of the oil company to the ultimate vendor.

A credit card issuer entitled to claim a refund under the provision is responsible for collecting and supplying all the appropriate documentation currently required from ultimate vendors. The present-law refund amount and timing rules applicable to ultimate vendors, including the special rules for electronic claims, apply to refunds to credit card issuers under the provision.[264]

The Senate amendment also conforms present-law penalty provisions to the new rules.

The Senate amendment does not change the present-law rules applicable to non-credit card purchases.

*Effective date.*—The Senate amendment is effective for sales after December 31, 2005.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment with the following modifications.

Under the conference agreement, if a credit card issuer is not registered, or if either condition (1) or (2) described above is not met (or if the ultimate purchaser is not exempt), then the credit card issuer is required to collect an amount equal to the tax from the ultimate purchaser and only an (exempt) ultimate purchaser may claim a credit or payment from the IRS.[265] The conferees intend that tax-paid fuel shall not be sold tax free to an exempt entity by means of a credit card unless the credit card issuer is registered. An unregistered credit card issuer that does not collect an amount equal to the tax from the exempt entity is liable for present-law penalties for failure to register.[266] The present-law regulatory authority of the Secretary to prescribe the form, manner, terms, conditions of registration, and conditions of use of registration extends to registration under this provision.[267] Such authority may include rules that preclude persons which are registered credit card issuers from issuing nonregistered credit cards.[268] The conferees also intend that the IRS will review the registration of a registered credit card issuer that has engaged in multiple or flagrant violations of the requirements of the provision.

## 6. Recertification of exempt status (sec. 5614 of the Senate amendment)

### PRESENT LAW

If gasoline is sold to any person for an exempt use, an ultimate purchaser that has borne the tax is entitled to claim a refund.[269] However, a registered ultimate vendor is the appropriate person to claim a refund of Federal excise taxes on gasoline sold to a State or local government or to a nonprofit educational organization.[270]

In general, in order to claim a refund of Federal excise taxes on gasoline (and on other articles subject to manufacturers excise taxes under Chapter 32 of the Code) sold to a State or local government or to a nonprofit educational organization, for its exclusive use, a claimant must submit a statement indicating that it possesses evidence of the exempt use giving rise to the overpayment of tax.[271] Such evidence consists of a certificate executed and signed by the ultimate purchaser, and must identify the article, show the name and address of the ultimate purchaser, and state the exempt use made or to be made of the article. In the case where the certificate sets forth the use to be made of the article, rather than its actual use, it must show that the ultimate purchaser has agreed to notify the claimant if the article is not in fact used as specified in the certificate.[272]

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[256] Sec. 6427(l)(4)(A).

[257] Notice 89-29, 1989-1 C.B. 669.

[258] Pub. L. No. 108-357.

[259] AJCA, sec. 865(a), effective January 1, 2005. See Code sec. 6416(a)(4)(A).

[260] In Notice 2005-4, 2005-2 I.R.B. 289, the Treasury Department confirmed that it would continue to apply the oil company credit card rule until March 1, 2005. On February 28, 2005, the Treasury Department issued Notice 2005-24, 2005-12 I.R.B. 1, modifying Notice 2005-4. Notice 2005-24 stated that the oil company credit card rule will remain in effect until it is modified by a statutory change or by future guidance.

[261] Sec. 6146(a)(4)(B).

[262] Sec. 6427(l)(1).

[263] See sec. 6427(l)(4)(B), (l)(5)(B), and (l)(5)(C), and sec. 6416(a)(1)(A), (B), and (D).

[264] See sec. 6416(a)(4)(B). Present law would continue to apply to the timing of ultimate purchaser claims. Under present law, claims by an ultimate purchaser are generally made on an annual basis. However, claims aggregating over $750 may be made quarterly. See secs. 6421(d) and 6427(i)(2).

[265] Sec. 6421(c).

[266] Secs. 6719, 7232, and 7272.

[267] Sec. 4101(a)(1).

[268] Because registration occurs at the "person" (legal entity) level, it is anticipated that a credit card issuer will use a separate (registered) entity for the issuance of credit cards entitled to the benefits of this provision.

[269] Sec. 6421(c).

[270] Sec. 6416(a)(4)(A).

[271] Treas.Reg. sec. 48.6416(b)(2)-3(a)(5).

However, if the article to which the claim relates has passed through a chain of sales from the claimant to the ultimate purchaser, a certificate executed and signed by the ultimate vendor is sufficient to document the exempt use. The ultimate vendor certificate must contain the exempt sales information, and a statement that it possesses the ultimate purchaser certificates and will forward them to the claimant within three years from the date of the statement. An ultimate vendor statement may be made covering no more than 12 consecutive calendar quarters.[273]

In general, an ultimate purchaser is the proper party to claim a refund of Federal excise tax on diesel fuel or kerosene used by any person in a nontaxable use.[274] However, in the case of diesel or kerosene used by a State or local government, the ultimate vendor is the proper person if such vendor is registered and has borne the tax (or receives the written consent of the ultimate purchaser to claim the refund).[275] A registered ultimate vendor claiming a refund under this provision must provide a statement that it has in its possession an unexpired exemption certificate of the purchaser and that the claimant has no reason to believe any information in the certificate is false.[276]

A State or local government includes any political subdivision of a State, or the District of Columbia.[277] A nonprofit educational organization means an educational organization which normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on, and which either is exempt from income tax under section 501(a) or is a school operated as an activity of an organization described in section 501(c)(3) which is exempt from income tax under section 501(a).[278]

### HOUSE BILL

No provision.

### SENATE AMENDMENT

Under the Senate amendment, additional documentation requirements are imposed with respect to purchases of taxable fuel and certain other articles on a nontaxable basis by State or local governments and nonprofit educational organizations and with respect to refunds or credits by any person with respect to such purchases. The Senate amendment covers Federal excise taxes on sales of liquids for use as a fuel (including taxable fuels), compressed natural gas (except if sold for use on school buses or intracity buses), heavy trucks and trailers, recreational equipment (bows and arrows, sport fishing equipment and firearms), and tires (except for tires sold for use on qualified buses). The Senate amendment does not cover Federal excise taxes on sales of coal and vaccines.

In addition to present-law documentation requirements, in order for a State or local governmental entity to claim exemption from tax on sales of such covered articles, or for any person to claim a credit or refund based upon the State or local governmental status of the purchaser of such articles, the State must certify that the article is sold to a State or local government for the exclusive use of a State or local government. In the case of articles sold to a qualified volunteer fire department, as defined in section 150(e)(2),[279] the State must so certify, and the article must be sold for the exclusive use of the qualified volunteer fire department.

In order for a nonprofit educational organization to claim exemption from tax on such articles, or for any person to claim a credit or refund of tax on such articles based upon the nonprofit educational status of an organization, the State in which such organization is providing educational services must certify that such organization is in good standing.

For purposes of this provision, an Indian tribal government is treated as a State.[280] Consequently, it is intended that the applicable Indian tribal government will provide the certifications under this provision.

It is intended that the certifications required under this provision will be provided by exempt purchasers to the refund claimants (in addition to documentation required under present law), and that the IRS may require that such certifications be submitted as part of the claims. The Secretary may prescribe forms for such certifications.

*Effective date.*—The Senate amendment is effective for all sales after December 31, 2005.

### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

7. Reregistration in event of change in ownership (sec. 5615 of the Senate amendment and secs. 4101, 6719, 7232, and 7272 of the Code)

### PRESENT LAW

Blenders, enterers, pipeline operators, position holders, refiners, terminal operators, and vessel operators are required to register with the Secretary with respect to fuels taxes imposed by sections 4041(a)(1) and 4081.[281] An assessable penalty for failure to register is $10,000 for each initial failure, plus $1,000 per day that the failure continues.[282] A non-assessable penalty for failure to register is $10,000.[283] A criminal penalty of $10,000, or imprisonment of not more than five years, or both, together with the costs of prosecution also applies to a failure to register and to certain false statements made in connection with a registration application.[284] Treasury regulations require that a registrant notify the Secretary of any change (such as a change in ownership) in the information a registrant submitted in connection with its application for registration within 10 days of the change.[285] The Secretary has the discretion to revoke the registration of a noncompliant registrant.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment requires that upon a change in ownership of a registrant, the registrant must reregister with the Secretary, as provided by the Secretary. A change in ownership means that after a transaction (or series of related transactions), more than 50 percent of the ownership interests in, or assets of, a registrant are held by persons other than persons (or persons related thereto) who held more than 50 percent of such interests or assets before the transaction (or series of related transactions). The provision does not apply to companies, the stock of which is regularly traded on an established securities market. There is an assessable penalty for failure to reregister of $10,000 for each initial failure, plus $1,000 per day that the failure continues, and a criminal penalty for failure to reregister of $10,000, or imprisonment of not more than five years, or both, together with the costs of prosecution. The Senate amendment applies to changes in ownership occurring prior to, on, or after the date of enactment.

*Effective date.*—The Senate amendment is effective for actions or failures to act after the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment and in addition makes the penalties for failure to reregister identical to the present-law penalties for failure to register by also providing for a non-assessable penalty for failure to reregister of $10,000.

8. Reconciliation of on-loaded cargo to entered cargo (sec. 5616 of the Senate amendment and sec. 343 of the Trade Act of 2002)

### PRESENT LAW

The Trade Act of 2002 directed the Secretary to promulgate regulations pertaining to the electronic transmission to the Bureau of Customs and Border Patrol ("Customs") of information pertaining to cargo destined for importation into the United States or exportation from the United States, prior to such importation or exportation.[286] The Department of the Treasury issued final regulations on October 31, 2002. The regulations require the advance and accurate presentation of certain manifest information prior to lading at the foreign port and encourage the presentation of this information electronically. Customs must receive from the carrier the vessel's Cargo Declaration (Customs Form 1302) or the electronic equivalent within 24 hours before such cargo is laden aboard the vessel at the foreign port.[287]

Certain carriers of bulk cargo, however, are exempt from these filing requirements. Such bulk cargo includes that composed of free flowing articles such as oil, grain, coal, ore and the like, which can be pumped or run through a chute or handled by dumping.[288]

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[272] Treas. Reg. sec. 48.6416(b)(2)-3(b)(1)(i) and (ii). The certificate must also contain a statement that the ultimate purchaser understands that it and any other party may, for fraudulent use of the certificate, be subject under section 7201 to a fine of not more than $10,000, or imprisonment for not more than 5 years, or both, together with the costs of prosecution.

[273] Treas. Reg. sec. 48.6416(b)(2)-3(b)(1)(i) and (iii).

[274] Sec. 6427(l)(1). In the case of diesel fuel or kerosene, a nontaxable use is any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of a prior imposition of tax. Sec. 6427(l)(2).

[275] Sec. 6427(l)(5)(C).

[276] Treas. Reg. Sec. 48.6427-9(e)(1)(vi).

[277] Sec. 4221(d)(4). Treas. Reg. sec. 48.6416(b)(2)-2(d).

[278] Sec. 4221(d)(5); Treas. Reg. sec. 48.6416(b)(2)-2(e).

[279] In general, as defined in section 150(e)(2), a qualified volunteer fire department is any organization organized and operated to provide firefighting or emergency medical services for persons in an area that is not provided with any other firefighting services, and which is required by written agreement with the political subdivision to furnish firefighting services in such area.

[280] See sec. 7871(a)(2). Section 7871(b) provides that in order for an excise tax exemption (with respect to chapter 31 or 32) to apply to an Indian tribal government, the transaction must involve the exercise of an essential governmental function of the Indian tribal government.

[281] Sec. 4101; Treas. Reg. secs. 48.4101-1(a) and 48.4101-1(c)(1).

[282] Sec. 6719.

[283] Sec. 7272(a).

[284] Sec. 7232.

[285] Treas. Reg. sec. 48.4101-1(h)(1)(v).

[286] Sec. 343(a) of Pub. L. No. 107-210 (2002).

[287] 19 CFR sec. 4.7(b)(2).

[288] 19 CFR sec. 4.7(b)(4)(i)(A).

Thus, taxable fuels are not required to file the Cargo Declaration within 24 hours before such cargo is laden aboard the vessel at the foreign port. Instead the Cargo Declaration must be filed within 24 hours prior arrival in the United States.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provides that not later than one year after the date of enactment of this paragraph, the Secretary of Homeland Security, together with the Secretary of the Treasury, is to establish an electronic data interchange system through which Customs shall transmit to the Internal Revenue Service information pertaining to cargoes of taxable fuels (as defined in section 4083) that Customs has obtained electronically under its regulations adopted to carry out the Trade Act of 2002 requirement. For this purpose, not later than one year after the date of enactment, all filers of required cargo information for such taxable fuels, as defined, must provide such information to Customs through its approved electronic data interchange system.

*Effective date.*—The Senate amendment is effective upon date of enactment.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

### 9. Registration of operators of deep-draft vessels (sec. 5617 of Senate amendment and secs. 4081 and 4101 of the Code)

### PRESENT LAW

Blenders, enterers, pipeline operators, position holders, refiners, terminal operators, and vessel operators are required to register with the Secretary with respect to fuels taxes imposed by sections 4041(a)(1) and 4081.[289] Treasury regulations define a vessel operator as any person that operates a vessel within the bulk transfer/terminal system, excluding deep-draft ocean-going vessels.[290] Accordingly, operators of deep-draft ocean-going vessels are not required to register. A deep-draft ocean-going vessel is a vessel that is designed primarily for use on the high seas that has a draft of more than 12 feet.[291]

An assessable penalty for failure to register is $10,000 for each initial failure, plus $1,000 per day that the failure continues.[292] A non-assessable penalty for failure to register is $10,000.[293] A criminal penalty of $10,000, or imprisonment of not more than five years, or both, together with the costs of prosecution also applies to a failure to register and to certain false statements made in connection with a registration application.[294]

In general, gasoline, diesel fuel, and kerosene ("taxable fuel") are taxed upon removal from a refinery or a terminal.[295] Tax also is imposed on the entry into the United States of any taxable fuel for consumption, use, or warehousing. The tax does not apply to any removal or entry of a taxable fuel transferred in bulk (a "bulk transfer") by pipeline or vessel to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery are registered with the Secretary as required by section 4101.[296] Transfer to an unregistered party subjects the transfer to tax.

### HOUSE BILL

No provision.

### SENATE AMENDMENT

The Senate amendment provides that the Secretary of the Treasury shall require the registration of every operator of a deep-draft ocean going vessel. Under the provision, if a deep-draft ocean-going vessel is used as part of a bulk transfer of taxable fuel, the transfer is subject to tax unless the operator of such vessel is registered.

*Effective date.*—The Senate amendment is effective on the date of enactment.

### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment except that an operator of a deep-draft ocean-going vessel is not required to register under the provision if such operator uses such vessel exclusively for purposes of the entry of the taxable fuel. For purposes of the bulk transfer exemption, a deep-draft ocean-going vessel operator is not required to be registered for the exemption to be available with respect to the entry of taxable fuel by such vessel.

### 10. Gasoline blend stocks and kerosene (sec. 5618 of the Senate amendment and sec. 4083 of the Code)

### PRESENT LAW

*In general*

A "taxable fuel" is gasoline, diesel fuel (including any liquid, other than gasoline, which is suitable for use as a fuel in a diesel-powered highway vehicle or train), and kerosene.[297] An excise tax is imposed upon (1) the removal of any taxable fuel from a refinery or terminal, (2) the entry of any taxable fuel into the United States, or (3) the sale of any taxable fuel to any person who is not registered with the IRS to receive untaxed fuel, unless there was a prior taxable removal or entry.[298] The tax does not apply to any removal or entry of taxable fuel transferred in bulk to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery are registered with the Secretary.[299]

*Gasoline blend stocks*

*Definition*

Under the regulations, "gasoline" includes all products commonly or commercially known or sold as gasoline and are suitable for use as a motor fuel, and that have an octane rating of 75 or more. Gasoline also includes, to the extent provided in regulations, gasoline blend stocks and products commonly used as additives in gasoline. By regulation, the Treasury has identified certain products as gasoline blend stocks,[300] however, the term "gasoline blend stocks" does not include any product that cannot be blended into gasoline without further processing or fractionation ("off-spec gasoline").

*Gasoline blend stock exemptions*

If certain conditions are met, the removal, entry, or sale of gasoline blend stocks is not taxable. Generally, the exemption from tax applies if a gasoline blend stock (1) is not used to produce finished gasoline (2) is received at an approved terminal or refinery (3) or in bulk transfer to an industrial user.[301]

*Gasoline blend stocks not used to produce finished gasoline.*—Pursuant to Treasury regulation, no tax is imposed on nonbulk removals from a terminal or refinery, or nonbulk entries into the United States of any gasoline blend stocks if (1) the person liable for the tax is a taxable fuel registrant, and (2) such person does not use the gasoline blend stocks to produce finished gasoline. In connection with a sale, no tax is imposed on the nonbulk removal or entry if (1) the person liable for the tax is a gasoline registrant and (2) at the time of sale such party has an unexpired certificate from the buyer, and has no reason to believe any information in the certificate is false.[302]

Any sale (or resale) of a gasoline blend stock that was not subject to tax on nonbulk removal or entry is taxable unless the seller has an unexpired certificate from the buyer and has no reason to believe that any information in the certificate is false.

The certificate to be provided by a buyer of gasoline blend stocks contains a statement that the gasoline blend stocks covered by the certificate will not be used to produce finished gasoline, identifies the type (or types of blend stocks) covered by the certificate and provides that the buyer will not claim a credit or refund for any gasoline covered by the certificate. The certificate is signed under penalties of perjury by a person with authority to bind the buyer. The certificate expires on the earliest of one year from the effective date of the certificate, the date a new certificate is provided to the seller or the date the seller is notified by the IRS or the buyer that the buyer's right to provide a certificate has been withdrawn.

*Gasoline blend stocks received at an approved terminal or refinery.*—Treasury regulations provide that tax is not imposed on the removal or entry of gasoline blend stocks that are received at a terminal or refinery if the person liable for tax is a taxable fuel registrant, has an unexpired notification certificate from the operator of the terminal or refinery where the gasoline blend stocks are received; and has no reason to believe that any information in the certificate is false.[303] A notification certificate is used to notify another person of the taxable fuel registrant's registration status.

*Bulk transfer to an industrial user.*—Tax is not imposed if upon removal of the gasoline blend stocks from a pipeline or vessel, the gasoline blend stocks are received by a taxable fuel registrant that is an industrial user.[304] An industrial user means any person that receives gasoline blend stocks by bulk transfer for its own use in the manufacture of any product other than finished gasoline.

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[289] Sec. 4101; Treas. Reg. sec. 48.4101-1(a) and 48.4101-1(c)(1).

[290] Treas. Reg. sec. 48.4101-1(b)(8).

[291] Sec. 4042(c)(1).

[292] Sec. 6719.

[293] Sec. 7272(a).

[294] Sec. 7232.

[295] Sec. 4081(a)(1)(A).

[296] Sec. 4081(a)(1)(B). The sale of a taxable fuel to an unregistered person prior to a taxable removal or entry of the fuel is subject to tax. Sec. 4081(a)(1)(A).

[297] Sec. 4083(a).

[298] Sec. 4081(a)(1).

[299] Sec. 4081(a)(1)(B).

[300] Treas. Reg. sec. 48.4081-1(c)(3)(ii). The term "gasoline blend stocks" means alkylate; butane; catalytically cracked gasoline; coker gasoline; ethyl tertiary butyl ether (ETBE); hexane; hydrocrackate; isomerate; methyl tertiary butyl ether (MTBE); mixed xylene (not including any separated isomer of xylene); natural gasoline; pentane; pentane mixture; polymer gasoline; raffinate; reformate; straight-run gasoline; straight-run naphtha; tertiary amyl methyl ether (TAME); tertiary butyl alcohol (gasoline grade) (TBA); thermally cracked gasoline; and toluene. Treas. Reg. sec. 48.4081-1(c)(3)(i). Effective January 1, 2005, transmix containing gasoline was removed from the definition of gasoline blend stocks. Internal Revenue Service, Notice 2005-4 (December 15, 2004).

[301] Treas. Reg. sec. 48.4081-4.

[302] Treas. Reg. secs. 48.4081-4(b)(1) and 48.4081-4(b)(1)(2).

[303] Treas. Reg. sec. 48.4081-4(b)(1).

[304] Treas. Reg. sec. 48.4081-4(d).

*Refunds or credits for tax imposed on gasoline blend stocks not used for producing gasoline*

If any gasoline blend stock or additive is not used by a person to produce gasoline and that person establishes that the ultimate use of the gasoline blend stock or additive is not used to produce gasoline, then the Secretary is to pay (without interest) to such person, an amount equal to the aggregate amount of tax imposed on such person with respect to such gasoline or blend stock.[305]

If gasoline is used in an off-highway business use, the ultimate purchaser of the gasoline is entitled to a credit or refund for the excise taxes imposed on the fuel. "Off-highway business use" means any use by a person in a trade or business of such person otherwise than as a fuel in a highway vehicle that meets certain requirements.[306] Gasoline for this purpose includes gasoline blend stocks.[307]

The Code also provides for a refund of tax for tax-paid fuel sold to a subsequent manufacturer or producer if the subsequent manufacturer or producer uses the fuel, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.[308]

*Kerosene*

*Definition of kerosene*

By regulation, kerosene is defined as the kerosene described in ASTM Specification D 3699 (No. 1–K and No. 2–K), ASTM Specification D 1655 (kerosene-type jet fuel), and military specifications MIL–DTL–5624T (Grade JP–5) and MIL–DTL–83133E (Grade JP–8). Kerosene does not include any liquid that is an excluded liquid.[309]

An "excluded liquid" is (1) any liquid that contains less than four percent normal paraffins, or (2) any liquid that has a distillation range of 125 degrees Fahrenheit or less, sulfur content of 10 ppm or less, and minimum color of +27 Saybolt. These liquids are commonly known as "mineral spirits" and are obtained by distillation of crude oil. Mineral spirits are used for a wide variety of purposes, such as in dry-cleaning fluids, paint thinners, varnishes, photocopy toners, inks, adhesives, and as general purpose cleaners and degreasers.

*Exemptions*

Diesel fuel and kerosene that is to be used for a nontaxable purpose will not be taxed upon removal from the terminal if it is dyed to indicate its nontaxable purpose. Kerosene received by pipeline or vessel to satisfy a feedstock purpose is exempt from the dyeing requirement.[310] Pursuant to Treasury regulations, nonbulk removals of kerosene for a feedstock purpose by a registered feedstock user also are exempt.[311] The person receiving the kerosene must be registered with the IRS and provide a certificate noting that the kerosene will be used for a feedstock purpose in order for the exemption to apply. Pursuant to the Treasury regulations, tax also does not apply upon the removal or entry of kerosene if the person otherwise liable for tax is a taxable fuel registrant and such person uses the kerosene for a feedstock purpose.[312]

"Feedstock purpose" means the use of kerosene for nonfuel purposes in the manufacture or production of any substance (other than gasoline, diesel fuel or special fuels subject to tax).[313] Thus, for example, kerosene is used for a feedstock purpose when it is used as an ingredient in the production of paint and is not used for a feedstock purpose when it is used to power machinery at a factory where paint is produced.

*Refunds and payments for nontaxable uses of kerosene*

If tax-paid kerosene is used by any person in a nontaxable use, the Secretary is required to pay (without interest) to the ultimate purchaser of such fuel an amount equal to the aggregate amount of tax imposed on such fuel. For this purpose, a nontaxable use is any use which is exempt from the tax imposed by section 4041(a)(1) other than by reason of prior imposition of tax. Claims relating to kerosene used on a farm for farming purposes and by a State are made by registered ultimate vendors. Claims relating to undyed kerosene sold from a blocked pump[314] or sold for blending with heating oil to be used during periods of extreme or unseasonable cold are also made by registered ultimate vendors. Special rules apply with respect to aviation-grade kerosene.

The Code also provides for a refund of tax for tax-paid fuel sold to a subsequent manufacturer or producer if the subsequent manufacturer or producer uses the fuel, for nonfuel purposes, as a material in the manufacture or production of any other article manufactured or produced by him.[315]

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

*Gasoline blend stocks*

The Senate amendment partially repeals exemptions provided in Treas. Reg. sec. 48.4081–4, which, under certain conditions, exempts from tax gasoline blend stocks that are not used to produce finished gasoline or that are received at an approved terminal or refinery. Under the Senate amendment, tax is imposed on all nonbulk entries and removals of gasoline blend stocks, regardless of whether they will be used to produce finished gasoline or received at an approved terminal or refinery. The Senate amendment does not change the exemption for bulk transfers to registered industrial users.

*Kerosene and mineral spirits*

The Senate amendment requires that with respect to fuel entered or removed after September 30, 2005, the Secretary shall include mineral spirits in the definition of kerosene. Thus, for entries and removals after September 30, 2005, mineral spirits are taxed and exempt from tax in the same manner as kerosene.

*Effective date.*—The Senate amendment is effective for fuel removed or entered after September 30, 2005.

#### CONFERENCE AGREEMENT

The conference agreement does not include the Senate amendment provision.

### 11. Nonapplication of export exemption to delivery of fuel to motor vehicles removed from United States (sec. 5619 of the Senate amendment)

#### PRESENT LAW

A "taxable fuel" is gasoline, diesel fuel (including any liquid, other than gasoline, which is suitable for use as a fuel in a diesel-powered highway vehicle or train), and kerosene.[316] An excise tax is imposed upon (1) the removal of any taxable fuel from a refinery or terminal, (2) the entry of any taxable fuel into the United States, or (3) the sale of any taxable fuel to any person who is not registered with the IRS to receive untaxed fuel, unless there was a prior taxable removal or entry.[317] The tax does not apply to any removal or entry of taxable fuel transferred in bulk to a terminal or refinery if the person removing or entering the taxable fuel, the operator of such pipeline or vessel, and the operator of such terminal or refinery are registered with the Secretary.[318]

Special provisions under the Code provide for a refund of tax to any person who sells gasoline to another for exportation.[319] Section 6421(c) provides "If gasoline is sold to any person for any purpose described in paragraph (2), (3), (4), or (5) of section 4221(a), the Secretary shall pay (without interest) to such person an amount equal to the product of the number of gallons so sold multiplied by the rate at which tax was imposed on such gasoline by section 4081." Section 4221 provides, in pertinent part, "Under regulations prescribed by the Secretary, no tax shall be imposed under this chapter . . . on the sale by the manufacturer . . . of an article . . . for export, or for resale by the purchaser to a second purchaser for export. . . but only if such exportation or use is to occur before any other use. . . ."

It is the IRS administrative position that the exemption from manufacturers excise tax by reason of exportation does not apply to the sale of motor fuel pumped into a fuel tank of a vehicle that is to be driven, or shipped, directly out of the United States.[320]

A duty-free sales facility that meets certain conditions may sell and deliver for export from the customs territory of the United States duty-free merchandise. Duty-free merchandise is merchandise sold by a duty-free sales facility on which neither Federal duty nor Federal tax has been assessed pending exportation from the customs territory of the United States. The statutes covering duty-free facilities do not contain any limitation on what goods may qualify for duty-free treatment.

The issue of whether fuel sold from a duty-free facility and placed into the tank of an automobile that is then driven out of the country is exported fuel has been litigated in the courts.[321] The cases involved the same operator of a duty-free facility seeking a refund of excise tax. The facility is near the Canadian border and is configured in such a way that anyone leaving the facility must depart the United States and enter into Canada. Both the Federal Circuit and the Sixth Circuit Court of Appeals are in accord with the IRS position and ruled that the operator of the duty-free facility did not have standing to pursue a claim for refund.[322]

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[305] Sec. 6427(h)(1).

[306] Secs. 6421(a) and 6421(e).

[307] Sec. 6421(e)(1) and sec. 4083(a)(2)(B).

[308] Sec. 6416(b)(3)(B).

[309] Treas. Reg. sec. 48.4081–1(b).

[310] Sec. 4082(d)(1).

[311] Treas. Reg. sec. 48.4082–7(c).

[312] Treas. Reg. sec. 48.4082–7(c).

[313] Treas. Reg. sec. 48.4082–7(b).

[314] A blocked pump is a fuel pump that is used to dispense undyed kerosene that is sold at retail for use by the buyer in any nontaxable use; is at a fixed location; is identified with a legible and conspicuous notice stating "Undyed Untaxed Kerosene, Nontaxable Use Only"; and cannot reasonably be used to dispense fuel directly into the fuel supply tank of a diesel-powered highway vehicle or diesel-powered train; or is locked by the vendor after each sale and unlocked only in response to a request by a buyer for undyed kerosene for use other than as a fuel in a diesel-powered highway vehicle or diesel-powered train.

[315] Sec. 6416(b)(3)(B).

[316] Sec. 4083(a).

[317] Sec. 4081(a)(1).

[318] Sec. 4081(a)(1)(B).

[319] Secs. 6421(c) and 4221(a)(2).

[320] Rev. Rul. 69–150, 1969–1 C.B. 286.

[321] See *Ammex Inc. v. United States*, 52 Fed. Cl. 303 (2002) (on cross-motions for summary judgment, the court found that plaintiff established standing to proceed to trial pursuant to sec. 6421(c) respecting its gasoline purchases only); and *Ammex Inc. v. United States*, 2002 U.S. Dist. LEXIS 25771 (E.D. Mich. July 31, 2002) (granting defendant's motion for summary judgment), reconsideration denied, *Ammex, Inc. v. United States*, 2002 U.S. Dist. LEXIS 22893 (E.D. Mich. Oct. 22, 2002). Although the Claims Court ruled that Ammex had standing to challenge the excise tax on gasoline, it subsequently held that Ammex was not entitled to a payment pursuant to sec. 6421(c) because it failed to prove at trial that it did not pass the tax on to its customers. *Ammex Inc. v.*

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment reaffirms the longstanding IRS position taken in Rev. Rul. 69–150 and restates present law by amending the Code definition of export to exclude the delivery of a taxable fuel into a fuel tank of a motor vehicle that is shipped or driven out of the United States. It also imposes a tax on the sale of taxable fuel at a duty-free sales enterprise unless there was a prior taxable removal, or entry of such fuel.

Ammex was not entitled to a payment pursuant to sec. 6421(c) because it failed to prove at trial that it did not pass the tax on to its customers. Ammex Inc. v. United States, 2003 U.S. Claims LEXIS 63 (Fed. Cl. Mar. 26, 2003). The Claims Court finding that the plaintiff had standing was reversed on appeal.

*Effective date.*—The Senate amendment applies to sales or deliveries made after the date of enactment.

#### CONFERENCE AGREEMENT

The conferees believe that it is beyond dispute that the delivery of fuel into a fuel tank of a motor vehicle that is shipped or driven out of the United States is not an act of exportation of such fuel. The fuel in the fuel tank is not carried in the vehicle for the purpose of transporting the fuel as a commodity from one place to another; the fuel is there to power the vehicle. The conference agreement does not include the Senate amendment because it is present law, supported by the decisions of two Federal appellate courts.

### 12. Impose assessable penalty on dealers of adulterated fuel (sec. 5620 of the Senate amendment and new sec. 6720A of the Code)

#### PRESENT LAW

Diesel fuel, gasoline, and kerosene are taxable fuels. Diesel fuel is defined as (1) any liquid (other than gasoline) which is suitable for use as a fuel in a diesel-powered highway vehicle or a diesel powered train, (2) transmix, and (3) diesel fuel blend stocks identified by the Secretary.[323] As a defense to Federal and State excise tax liability, some taxpayers have contended that certain diesel fuel mixtures or additives do not meet the requirements of (1) above because they are not approved as additives or mixtures by the EPA. In addition, under present law, untaxed fuel additives, including certain contaminants, may displace taxed diesel fuel in a mixture.

The Code provides that any person who, in connection with a sale or lease (or offer for sale or lease) of an article, knowingly makes any false statement ascribing a particular part of the price of the article to a tax imposed by the United States, or intended to lead any person to believe that any part of the price consists of such a tax, is guilty of a misdemeanor.[324] Another Code provision provides that any person who has in his custody or possession any article on which taxes are imposed by law, for the purpose of selling the article in fraud of the internal revenue laws or with design to avoid payment of the taxes thereon, is liable for "a penalty of $500 or not less than double the amount of taxes fraudulently attempted to be evaded."[325]

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

The Senate amendment adds a new assessable penalty. Any person other than a retailer who knowingly transfers for resale, sells for resale, or holds out for resale for use in a diesel-powered highway vehicle (or train) any liquid that does not meet applicable EPA regulations (as defined in section 45H(c)(3))[326] is subject to a penalty of $10,000 for each such transfer, sale or holding out for resale, in addition to the tax on such liquid, if any. Any retailer who knowingly holds out for sale (other than for resale) any such liquid, is subject to a $10,000 penalty for each such holding out for sale, in addition to the tax on such liquid, if any.

The penalty is dedicated to the Highway Trust Fund.

*Effective date.*—The Senate amendment is effective for any transfer, sale, or holding out for sale or resale occurring after the date of enactment.

#### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

## IV. FUELS-RELATED TECHNICAL CORRECTIONS

### A. Fuels-Related Technical Corrections to American Jobs Creation Act of 2004 ("AJCA")

The provision includes technical corrections to AJCA. Such technical corrections take effect as if included in the section of AJCA to which the correction relates.

### 1. Volumetric ethanol excise tax credit (sec. 10003(a) of the House bill, sec. 5401(a) of the Senate amendment, sec. 301 of AJCA, and sec. 6427 of the Code)

#### HOUSE BILL

AJCA repealed the reduced tax rates for alcohol fuels and taxable fuels to be blended with alcohol. The technical correction makes a conforming amendment to eliminate the refund provisions based on those reduced rates (secs. 6427(f) and 6427(o)).

#### SENATE AMENDMENT

The Senate amendment is the same as the House bill.

#### CONFERENCE AGREEMENT

The conference agreement follows the House bill and the Senate amendment.

### 2. Aviation fuel (sec. 10003(b) of the House bill, sec. 5401(b) of the Senate amendment, sec. 853 of AJCA, and sec. 4081 of the Code)

#### HOUSE BILL

Section 853 of AJCA moved the taxation of jet fuel (aviation-grade kerosene) from section 4091 to section 4081 of the Code and repealed section 4091. The termination date for the 21.8 cent per gallon rate for noncommercial aviation jet fuel was inadvertently omitted from the Act. The technical correction clarifies that after September 30, 2007, the rate for jet fuel used in noncommercial aviation will be 4.3 cents per gallon (sec. 4081(a)(2)(C)).

An additional technical correction clarifies that users of aviation fuel in commercial aviation are required to be registered with the IRS in order for the 4.3-cents-per-gallon rate to apply (including for purposes of the self-assessment of tax by commercial aircraft operators).

#### SENATE AMENDMENT

The Senate amendment generally follows the House bill with certain technical drafting changes to accommodate changes made by other provisions of the Senate amendment. The Senate amendment also corrects cross-references in section 6421(f)(2) to the definition of noncommercial aviation to reflect changes made by the AJCA change in the tax treatment of fuel used in aviation.

#### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

### B. Fuels-Related Technical Corrections to Transportation Equity Act for the 21st Century ("TEA 21")

The provision includes a technical correction to TEA 21. The amendment made by the technical correction takes effect as if included in the section of TEA 21 to which it relates.

### 1. Coastal Wetlands sub-account (sec. 5401(c) of the Senate amendment, sec. 9005 of TEA 21, and sec. 9504 of the Code)

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

Section 9005(b)(3) of TEA 21 redesignated Code section 9504(b)(2)(B), referring to the purposes of the Coastal Wetlands Planning, Protection and Restoration Act, as 9504(b)(2)(C), but did not cross reference the limitation for such purposes of taxes on gasoline used in the nonbusiness use of small-engine outdoor power equipment. The technical correction makes a conforming cross-reference amendment (sec. 9504(b)(2)).

#### CONFERENCE AGREEMENT

The conference agreement follows the Senate amendment.

### C. Correction to the Energy Tax Incentives Act of 2005

The provision includes a technical correction to the Energy Tax Incentives Act ("ETIA") of 2005. The amendment made by the technical correction takes effect as if included in the section of the ETIA to which it relates.

### 1. Erroneous reference to highway reauthorization bill (sec. 38 of the Code)

#### HOUSE BILL

No provision.

#### SENATE AMENDMENT

No provision.

#### CONFERENCE AGREEMENT

The conference agreement corrects an erroneous reference to the highway reauthorization bill in section 38 as added by the Energy Policy Act of 2005.

## V. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of

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*United States*, 2003 U.S. Claims LEXIS 63 (Fed. Cl. Mar. 26, 2003). The Claims Court finding that the plaintiff had standing was reversed on appeal.

[322] See *Ammex Inc. v. United States*, 384 F.3d 1368 (Fed. Cir. 2004) *cert. denied* 125 S.Ct. 1697 (2005); and *Ammex Inc. v. United States*, 367 F.3d 530 (6th Cir. 2004) *cert. denied* 125 S.Ct. 1695 (2005).

[323] Sec. 4083(a)(3)(A).

[324] Sec. 7211. Such a violation is punishable by a fine not to exceed $1,000, or by imprisonment for not more than one year, or both.

[325] Sec. 7268.

[326] Section 45H(c)(3) refers to "the Highway Diesel Fuel Sulfur Control Requirements of the Environmental Protection Agency."

1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code (the "Code") and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that have "widespread applicability" to individuals or small businesses.

From the Committee on Transportation and Infrastructure, for consideration of the House bill (except title X) and the Senate amendment (except title V), and modifications committed to conference:

DON YOUNG,
THOMAS E. PETRI,
SHERWOOD BOEHLERT,
HOWARD COBLE,
JOHN J. DUNCAN, Jr.,
JOHN L. MICA,
PETE HOEKSTRA,
STEVEN C. LATOURETTE,
SPENCER BACHUS,
RICHARD H. BAKER,
GARY G. MILLER,
ROBIN HAYES,
ROB SIMMONS,
HENRY E. BROWN, Jr.,
SAM GRAVES,
BILL SHUSTER,
JOHN BOOZMAN,
JAMES L. OBERSTAR,
NICK RAHALL,
PETER A. DEFAZIO,
JERRY F. COSTELLO,
ELEANOR HOLMES NORTON,
JERROLD NADLER,
ROBERT MENENDEZ,
CORRINE BROWN,
BOB FILNER,
EDDIE BERNICE JOHNSON,
GENE TAYLOR,
JUANITA MILLENDER-McDONALD,
ELIJAH E. CUMMINGS,
EARL BLUMENAUER,
ELLEN O. TAUSCHER,

From the Committee on the Budget, for consideration of secs. 8001-8003 of the House bill, and title III of the Senate amendment, and modifications committed to conference:

JIM NUSSLE,
MARIO DIAZ-BALART,
JOHN SPRATT,

From the Committee on Education and the Workforce, for consideration of secs. 1118, 1605, 1809, 3018, and 3030 of the House bill, and secs. 1304, 1819, 6013, 6031, 6038, and 7603 of the Senate amendment, and modifications committed to conference:

RIC KELLER,
JOHN BARROW,

From the Committee on Energy and Commerce, for consideration of provisions in the House bill and Senate amendment relating to Clean Air Act provisions of transportation planning contained in secs. 6001 and 6006 of the House bill, and secs. 6005 and 6006 of the Senate amendment; and secs. 1210, 1824, 1833, 5203, and 6008 of the House bill, and secs. 1501, 1511, 1522, 1610–1619, 1622, 4001, 4002, 6016, 6023, 7218, 7225, 7251, 7252, 7256-7262, 7324, 7381, 7382, and 7384 of the Senate amendment, and modifications committed to conference:

JOE BARTON,
CHIP PICKERING,
JOHN D. DINGELL,

From the Committee on Government Reform, for consideration of sec. 4205 of the House bill, and sec. 2101 of the Senate amendment, and modifications committed to conference:

TOM DAVIS,
TODD R. PLATTS,

From the Committee on Homeland Security, for consideration of secs. 1834, 6027, 7324, and 7325 of the Senate amendment, and modifications committed to conference:

CHRIS COX,
DANIEL E. LUNGREN,
BENNIE G. THOMPSON,

From the Committee on the Judiciary, for consideration of secs. 1211, 1605, 1812, 1832, 2013, 2017, 4105, 4201, 4202, 4214, 7018–7020, and 7023 of the House bill, and secs. 1410, 1512, 1513, 6006, 6029, 7108, 7113, 7115, 7338, 7340, 7343, 7345, 7362, 7363, 7406, 7407, and 7413 of the Senate amendment, and modifications committed to conference:

LAMAR SMITH,
JOHN CONYERS,

From the Committee on Resources, for consideration of secs. 1119, 3021, 6002, and 6003 of the House bill, and secs. 1501, 1502, 1505, 1511, 1514, 1601, 1603, 6040, and 7501–7518 of the Senate amendment, and modifications committed to conference:

GREG WALDEN,
RON KIND,

From the Committee on Rules, for consideration of secs. 8004 and 8805 of the House bill, and modifications committed to conference:

DAVID DREIER,
SHELLEY MOORE CAPITO,
JIM MCGOVERN,

From the Committee on Science, for consideration of secs. 2010, 3013, 3015, 3034, 3039, 3041, 4112, and title V of the House bill, and title II and secs. 6014, 6015, 6036, 7118, 7212, 7214, 7361, and 7370 of the Senate amendment, and modifications committed to conference:

VERNON J. EHLERS,
DAVID REICHERT,
BART GORDON,

From the Committee on Ways and Means, for consideration of title X of the House bill, and title V of the Senate amendment, and modifications committed to conference:

WILLIAM M. THOMAS,
JIM MCCRERY,

For consideration of the House bill and Senate amendment, and modifications committed to conference:

TOM DELAY,
*Managers on the Part of the House.*

JAMES M. INHOFE,
JOHN WARNER,
KIT BOND,
GEORGE V. VOINOVICH,
LINCOLN CHAFEE,
LISA MURKOWSKI,
JOHN THUNE,
JIM DEMINT,
JOHNNY ISAKSON,
DAVID VITTER,
CHUCK GRASSLEY,
ORRIN HATCH,
RICHARD SHELBY,
WAYNE ALLARD,
TED STEVENS,
TRENT LOTT,
JIM JEFFORDS,
MAX BAUCUS,
JOE LIEBERMAN,
BARBARA BOXER,
TOM CARPER,
HILLARY RODHAM CLINTON,
FRANK R. LAUTENBERG,
BARACK OBAMA,
KENT CONRAD,
DANIEL K. INOUYE,
JAY ROCKEFELLER,
PAUL SARBANES,
JACK REED,
TIM JOHNSON,
*Managers on the Part of the Senate.*

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 p.m.), the House stood in recess subject to the call of the Chair.

☐ 2245

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BASS) at 10 o'clock and 45 minutes p.m.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, July 28, 2005.*

Hon. J. DENNIS HASTERT,
*The Speaker, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on July 28, 2005 at 8:45 pm: That the Senate passed without amendment H.R. 3045.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
*Clerk of the House.*

## SURFACE TRANSPORTATION EXTENSION ACT OF 2005, PART VI

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the Committee on Transportation and Infrastructure, the Committee on Science, the Committee on Ways and Means, and the Committee on Resources be discharged from further consideration of the bill ( H.R. 3512) to provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

Mr. SHAYS. Mr. Speaker, is this the legislation extending time for the transportation bill?

The SPEAKER pro tempore. Yes, it is.

Mr. SHAYS. Then, Mr. Speaker, reserving my right to object, I yield to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, this is a very simple extension which is necessary once we pass H.R. 3 to give time for an enrollment and delivering the package to the Senate, which we hope to do tonight, and then after being enrolled on to the President, and that will take some time.

If we do not do this, the Federal Government and the transportation system will be shut down. This has been requested by the administration and by the other body.

Mr. SHAYS. Further reserving the right to object, Mr. Speaker, I would love to have a dialogue with the gentleman bringing out the bill, but first will express my reservation of objection.

In the full bill that we will be considering, there is a section 1942 entitled Opening of Airfield at Malmstrom Air Force Base, Montana. It reads: "Not later than 60 days after the date of the enactment of this Act, the Secretary of the Air Force shall, (1) open the Air Field At Malmstrom Air Force Base, Montana; and (2) enable flying operations for all fixed-wing aircraft at that base."

My objection is that I understand this resolution extension will only go until August 14. That means that the President is forced to sign the bill, the ultimate bill that we pass, even if he has objections to the bill. I have deep concern that we are basically forcing the President to agree to an act that will reopen a base closed under BRAC without any options.

And if the President does the right thing, which would be to veto this bill so that stuff like this is not made into law, then our government transportation shuts down. My reservation is that the extension is not long enough.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. May I remind the gentleman, Mr. Speaker, that this was asked for by the administration. This was the length that they wanted to have it, 14 days. To in fact have this extension any longer has not been requested by the administration, and I believe this can do the job. The President has to make the decision. If he wishes to veto the bill, he can do so.

But this has been a request by the administration. This is the eleventh extension we have had on this legislation, and I will be right up front with everybody that I think it is the last one we should be doing. This is very important to the States themselves.

The President will make that decision on the merits of the gentleman's argument, and I understand those merits. I will not disagree with what he said. I am just suggesting respectfully that this is action for the bill itself and for the rule. But for the extension, this has been a request made by the administration, by the other body, and of course the leadership of this House.

Mr. SHAYS. Mr. Speaker, reclaiming my time, I would like to ask the gentleman, and will yield to him for a response to this question: Does the President know that in this transportation bill there is legislation language that will undo a BRAC closing? Is he aware that this language is in this?

Mr. YOUNG of Alaska. If the gentleman will continue to yield, I am confident that the President of the Senate has communicated with the White House. All through this process they have been very much involved in the process of passage of this legislation. I have not asked his opinion on that part of the legislation. I know that this is a request, and I am trying to fulfill that request.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. SHAYS. I would be happy to yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, this item which the gentleman has raised was an item requested by Senate conferees on which Senate conferees voted and asked us to consider. We were not aware at the time that it was a BRAC item. We learned about it subsequently.

Our review of the matter reveals that one runway at the Air Force base was closed; the other runway is active and still operating as a military facility. This language would simply keep the other one runway operating for a variety of purposes, multiuse purposes, at the airport.

Mr. SHAYS. Reclaiming my time, Mr. Speaker, I would just like to confide with my colleague that I am told that this is language that will basically reopen a base that was closed under BRAC, and that while the gentleman is under the interpretation he is under, there are many of us who believe it is quite different. While I greatly respect the gentleman, it seems to me this House of Representatives has to someday stand up to the Senate when they do this kind of stuff, sir.

What we are seeing here is absolutely outrageous, and what would have been a preferred extension, in my judgment, with all due respect to my colleagues, would be to have allowed the President such time that he could have had an extension until he signed this legislation. And if he did not sign this legislation, we could have come back and corrected this.

I am hopeful that before the night is out that we are going to delete section 1942. I do not know how it is going to happen, but, Lord knows, if it does not, we have basically done something that I think is shameful to the process and reflects badly not just on the Senate, but on the House that we would allow them.

Mr. OBERSTAR. Mr. Speaker, if the gentleman will continue to yield, I concur in the gentleman's feelings about this matter. It should not have been an item in a conference report on a transportation bill of this magnitude, but as we all know, these things make their way in. We did not have full information.

Our information subsequently is that the base was not closed, but that one runway was shut down, and this language was to open that one runway. There will be a further opportunity in a technical correction to address the concerns of the gentleman from Connecticut, and I am confident that the chairman will further consult on the matter.

Mr. TIAHRT. Mr. Speaker, will the gentleman yield?

Mr. SHAYS. Further reserving the right to object, I yield to the gentleman from Kansas.

Mr. TIAHRT. Mr. Speaker, the concept of a BRAC, the Base Realignment Commission, is to remove the political process from the closure of bases in order to get us to the type of military that we need to meet today's demands to fight terrorism around the globe. And if we insert our will from another body, the Senate, into this bill, it will jeopardize that process. I do not think any of us want that here on the floor.

If we cannot relieve that dissension among our ranks on this bill, it will not pass on the floor tonight. We all would like to see this happen, because as the gentleman from Alaska has expressed, we need this bill. We need this to occur within each of our States. We need to build highways. We need the infrastructure for our economy. But if this provision is inserted, it will go beyond the concept of BRAC and take the political process out of getting the proper size and scope of our military.

So I hope that whatever provision we have within this rule will alleviate these provisions, because if they are not, the bill will not pass. I think there will be enough dissent on both sides of this great institution, on the floor, in the House, the Republicans and the Democrats, to keep this from passing.

So I hope we can correct this measure within the rule, because if not, I think we will have a failed bill. And that will not be good for this country or for the efforts that we have here tonight.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. SHAYS. I yield to the gentleman from Oregon.

Mr. DEFAZIO. I would like to try to put this in perspective. I agree with the gentleman it is egregious this is in the bill. We had a very difficult negotiation with the Senate. This was snuck in. It is not like we are reopening a base, repositioning forces and/or equipment. We are talking about a runway.

The question is, will they, in the next month, until we can have a technical correction bill, have to run out and pull the weeds and repaint the lines on the runway? This is not exactly a major part of the BRAC process.

To forestall the passage of a bill which is almost 2 years overdue, which invests $286.4 billion in America's infrastructure, because there might be some weeds pulled on a runway in the interim. I agree it is offensive, but we can fix it and challenge the Senate at a later date. But to hold up the entire bill and forestall the investment, there are States who are waiting today and who will spend money under this bill and commit money under this bill this construction season, putting thousands of people to work and making needed investments in America.

Mr. SHAYS. Reclaiming my time, Mr. Speaker, the gentleman is making a case well beyond this issue.

I would like to ask the gentleman a question, and would be happy to yield to him to respond. It was my understanding that this provision of 60 days had been shorter, and somehow people felt that by extending to 60 days, they had solved the objection to this bill. Is it true that when this bill came out of conference, it was less than 60 days?

Mr. DEFAZIO. I am not sure what provision the gentleman is talking about.

Mr. SHAYS. Does the gentleman know the provision I am talking about? It says, "Not later than 60 days after the date of the enactment of this Act, the Secretary of the Air Force shall open the air field at Malmstrom Air Force Base, Montana." Open it.

Mr. DEFAZIO. Right. It would reopen a runway.

Mr. SHAYS. "And enable flying operations for all fixed-wing aircraft at that base." It is opening a base. Mr. Speaker, I am prepared to make a closing comment, and if I am not allowed to, I would object. And my closing comment is this. This is to open a base that was closed. This 60 days was added as a sop to the House, in my judgment, with all due respect, to somehow allow everybody to save face. We are not in session for all 60 days.

Mr. YOUNG of Florida. Mr. Speaker, I withdraw my unanimous consent request at this time to consult with the Senate and see if we cannot resolve this problem.

The SPEAKER pro tempore. Unanimous consent is not required. The request is withdrawn.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 58 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 0015

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BASS) at 12 o'clock and 15 minutes a.m.

## CORRECTING ENROLLMENT OF H.R. 3, SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 226) providing for a correction to the enrollment of H.R. 3, and ask unanimous consent for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 226

*Resolved by the House of Representatives (the Senate concurring)*, That, in the enrollment of the bill H.R. 3, the Clerk of the House of Representatives shall make the following correction: Strike section 1942 and the item relating to such section in the table of contents.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

## LEGISLATIVE PROGRAM

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, for the sake of communicating to the Members the situation we are in, I want to first say that I greatly appreciate the cooperation of all colleagues on both sides of the aisle. I appreciate the cooperation and work of the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from Wisconsin (Mr. PETRI). We greatly appreciate the institution standing together and trying to make corrections that need to be made in this bill. I appreciate the hour and everybody coming together and working together for the purpose of fixing this bill.

We will not be able to fix the bill tonight. We hope to come back at 9 a.m. in the morning and continue work on this very important highway bill. We hope to finish it as early as we can tomorrow. My message to the Members is go home, get a good night's sleep, and we will be back in the morning to finish the work of the House.

Mr. OBERSTAR. Mr. Speaker, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Speaker, I want to express my appreciation for the kind words of the majority leader and to assure Members the issue before us is not a matter of division within the committee or between the parties of the House, but a difference or interpretation of a provision in the conference report in language that was included by a Member of the other body.

Our expectation is we will be able to resolve that matter of a limited scope and pass the broader bill which is of great importance to the whole Nation. I appreciate the support, cooperation, and participation of the majority leader, and the support of the Parliamentarian's Office in helping us bring this to a resolution.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman's words.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, July 28, 2005.*

HON. J. DENNIS HASTERT,
*The Speaker, House of Representatives, Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on July 28, 2005 at 11:41 p.m.:

That the Senate passed S. 792; that the Senate passed without amendment H. Con. Res. 225; that the Senate passed without amendment H.J. Res. 59.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
*Clerk of the House.*

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 19 minutes a.m.), the House stood in recess subject to the call of the Chair.

☐ 0107

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. SESSIONS) at 1 o'clock and 7 minutes a.m.

### REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3, SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mrs. CAPITO, from the Committee on Rules, submitted a privileged report (Rept. No. 109–212) on the resolution (H. Res. 399) waiving points of order against the conference report to accompany the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, which was referred to the House Calendar and ordered to be printed.

### REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mrs. CAPITO, from the Committee on Rules, submitted a privileged report (Rept. No. 109–213) on the resolution (H. Res. 400) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3514, SURFACE TRANSPORTATION EXTENSION ACT OF 2005, PART VI

Mrs. CAPITO, from the Committee on Rules, submitted a privileged report (Rept. No. 109–214) on the resolution (H. Res. 401) providing for consideration of the bill (H.R. 3514) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century, which was referred to the House Calendar and ordered to be printed.

### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. CARSON (at the request of Ms. PELOSI) for today after 4:00 p.m. and the balance of the week.

Ms. SCHAKOWSKY (at the request of Ms. PELOSI) for today and the balance of the week.

Mr. BRADY of Pennsylvania (at the request of Ms. PELOSI) for today before 4:00 p.m. on account of a death in the family.

### SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 302. An act to make improvements in the Foundation for the National Institutes of Health; to the Committee on Energy and Commerce.

S. 447. An act to authorize the conveyance of certain Federal land in the State of New Mexico; to the Committee on Resources.

S. 655. An act to amend the Public Health Service Act with respect to the National Foundation for the Centers for Disease Control and Prevention; to the Committee on Energy and Commerce.

S. 792. An act to establish a National sex offender registration database, and for other purposes; to the Committee on the Judiciary.

S. 1517. An act to permit Women's Business Centers to re-compete for sustainability grants; to the Committee on Small Business.

S.J. Res. 19. Joint resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act; to the Committee on International Relations.

### ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3045. An act to implement the Dominican Republic-Central America-United States Free Trade Agreement.

H.R. 3423. To amend the Federal Food, Drug, and Cosmetic Act with repsect to medical advice user fees.

### SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following title:

S. 45. An act to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

S. 571. An act to designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the "Congresswoman Shirley A. Chisholm Post Office Building".

S. 775. An act to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the "Boone Pickens Post Office".

S. 904. An act to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the "Brian P. Parrello Post Office Building".

S. 1395. An act to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from the country to a a second country, if certain conditions and safeguards are satisfied.

### ADJOURNMENT

Mrs. CAPITO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 9 minutes a.m.), the House adjourned until today, Friday, July 29, 2005, at 9 a.m.

### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3362. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Pistachios Grown in California; Establishment of Reporting Requirements [Docket No. FV05-983-1 FR] received July 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3363. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Increase in Fees and Charges for Egg, Poultry, and Rabbit Growing [Docket No. PY-05-001] (RIN: 0581-AC44) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3364. A letter from the Acting Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Pistachios Grown in California; Establishment of Procedures for Exempting Handlers from Minimum Quality Testing [Docket No. FV05-983-4 IFR] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3365. A letter from the Director, Office of Energy Policy and New Uses, Department of Agriculture, transmitting the Department's final rule — Guidelines for Designating Biobased Products for Federal Procurement (RIN: 0503-AA26) received January 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3366. A letter from the Director, Regulations Policy and Mgmt. Staff, FDA, Department of Health and Human Services, transmitting the Department's final rule — Food Additives Permitted for Direct Addition to Food for Human Consumption; Glycerol Ester of Gum Rosin [Docket No. 2003F-0471] received April 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3367. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Two Isopropylamine Salts of Alkyl C4 and Alkyl C8-10 Ethoxyphosphate Esters; Exemption from the Requirement of a Tolerance; Technical Correction [OPP-2005-0115; FRL-7725-1] received July 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3368. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Sulfuryl Fluoride; Pesticide Tolerance [OPP-2005-0174; FRL-7723-7] received July 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3369. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Spirodiclofen; Pesticide Tolerance [OPP-2005-0075; FRL-7714-3] received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3370. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Potassium Triiodide; Pesticide Chemical Not Requiring a Tolerance or an Exemption from Tolerance [OPP-2004-0322; FRL-7714-4] received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3371. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Fenpropathrin; Re-Establishment of Tolerance for Emergency [OPP-2005-0192; FRL-7723-2] received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3372. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Dimethyl Ether; Exemption from the Requirement of a Tolerance; Technical Correction [OPP-2005-0109; FRL-7721-1] received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3373. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Alpha-cyclodextrin, Beta-cyclodextrin, and Gamma-cyclodextrin; Exemption from the Requirement of a Tolerance [OPP-2002-0294; FRL-7720-9] received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3374. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Etoxazole; Pesticide Tolerance [OPP-2005-0170; FRL-7723-3] received July 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3375. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Spiromesifen; Pesticide Tolerance; Technical Correction [OPP-2005-0046; FRL-7727-7] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3376. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pymetrozone; Pesticide Tolerance [OPP-2005-0106; FRL-7724-5] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3377. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Propiconazole; Pesticide Tolerances for Emergency Exemptions [OPP-2005-0196; FRL-7727-1] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3378. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pinoxaden; Pesticide Tolerance [OPP-2005-0184; FRL-7725-5] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3379. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Lignosulfonates; Exemptions from the Requirement of a Tolerance [OPP-2005-0171; FRL-7720-3] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3380. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — 2, 4-D; Pesticide Tolerance [OPP-2005-0038; FRL-7726-8] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3381. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule — Defense Federal Acquisition Regulation Supplement; Contractor Performance of Acquisition Functions Closely Associated with Inherently Governmental Functions [DFARS Case 2004-D021] received March 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

3382. A letter from the Attorney Advisor, MA, Department of Transportation, transmitting the Department's final rule — Merchant Marine Training [Docket No. MARAD-2004-17760] (RIN: 2133-AB60) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

3383. A letter from the Attorney Advisor, MA, Department of Transportation, transmitting the Department's final rule — Amended Service Obligation Reporting Requirements for State Maritime Academy Graduates [Docket Number: MARAD-2004-19397] (RIN: 2133-AB61) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

3384. A letter from the Assistant to the Board, Board of Governors of the Federal Reserve System, transmitting the Board's final rule — Fair Credit Reporting Medical Information Regulations (RIN: 1550-AB88) received June 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3385. A letter from the Director, Financial Crimes Enforcement Network, Department of the Treasury, transmitting the Department's final rule — Financial Crimes Enforcement Network: Anti-Money Laundering Programs for Dealers in Precious Metals, Stones, or Jewels (RIN: 1506-AA58) received June 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3386. A letter from the Regulatory Specialist, LRAD, Department of the Treasury, transmitting the Department's final rule — Interagency Guidance on Response Programs for Unauthorized Access to Customer Information and Customer Notice [Docket No. 05-07] (RIN: 1557-AC92) received April 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3387. A letter from the Regulatory Specialist, LRAD, Department of the Treasury, transmitting the Department's final rule — Fair Credit Reporting Medical Information Regulations [Docket No. 05-10] (RIN: 1557-AC85) received June 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3388. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received June 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3389. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7879] received June 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3390. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7569] received June 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3391. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received June 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3392. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received June 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3393. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received June 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3394. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7571] received June 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3395. A letter from the Assistant General Counsel for Regulations, Government National Mortgage Association, Department of Housing and Urban Development, transmitting the Department's final rule — Removal of Regulation Specifying Minimum Face Value of Ginnie Mae Securities [Docket No. FR-4856-F-02] (RIN: 2503-AA17) received June 17, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3396. A letter from the Chief Counsel, Bureau of the Public Debt, Department of Treasury, transmitting the Department's final rule — Government Securities Act Regulations: Custodial Holdings of Government Securities [Docket No. BPD GSRS 05-01] (RIN: 1505-AB06) received May 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3397. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Fair Credit Reporting Medical Information Regulations (RIN: 3064-AC81) received June 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3398. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule — Securities of November Insured Banks (RIN: 3064-AC88) received April 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3399. A letter from the General Counsel, Office of Federal Housing Enterprise Oversight, transmitting the Office's final rule — Corporate Governance (RIN: 2550-AA24) received April 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3400. A letter from the General Counsel, Office of Federal Housing Enterprise Oversight, transmitting the Office's final rule — Corporate Governance; Final Amendments (RIN: 2550-AA24) received April 5, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3401. A letter from the Assistant Secretary, DCF, Securities and Exchange Commission, transmitting the Commission's final rule — Use of Form S-8, Form 8-K, and Form 20-F by Shell Companies [Release Nos. 33-8587; 34-52038; International Series Release No. 1293; File No. S7-19-04] (RIN 3235-AH88) received July 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3402. A letter from the Assistant Secretary, DCF, Securities and Exchange Commission, transmitting the Commission's final rule — First-Time Application of International Financial Reporting Standards [Release Nos. 33-8567; 34-51535; International Series Release No. 1285; File No. S7-15-04] (RIN: 3235-AI92) received April 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3403. A letter from the Assistant Secretary, DMR, Securities and Exchange Commission, transmitting the Commission's final rule — Amendments to the Penny Stock Rule [Release No. 34-51983; File No. S7-02-04] (RIN: 3235-AI02) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

3404. A letter from the General Counsel, Corporation for National and Community Service, transmitting the Corporation's final rule — AmeriCorps National Service Program (RIN: 3045-AA41) received July 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3405. A letter from the Director, Executive Secretariat, BIA, Department of the Interior, transmitting the Department's final rule — Implementation of the No Child Left Behind Act of 2001 (RIN: 1076-AE49) received April 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3406. A letter from the Director, CND, Department of Agriculture, transmitting the Department's final rule — Food and Nutrition Service For-Profit Center Participation in the Child and Adult Care Food Program (RIN: 0584-AD66) received July 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3407. A letter from the Assistant Secretary for Special Education and Rehabilitative Services, Department of Education, transmitting the Department's final rule — National Institute on Disability and Rehabilitation Research (RIN: 1820-ZA36) received May 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3408. A letter from the Regulations Coordinator, OGC, Department of Health and Human Services, transmitting the Department's final rule — Supplemental Financial Disclosure Requirements for Employees of the Department of Health and Human Services (RIN: 3209-AA15) received July 7, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3409. A letter from the Deputy Assistant Administrator, Office of Diversion Control, DEA, Department of Justice, transmitting the Department's final rule — Definition and Registration of Reverse Distributers [Docket No. DEA-108F] (RIN: 1117-AA19) received July 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3410. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting [OAR-2003-0185; FRL-7938-5] (RIN: 2060-AE46) received July 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3411. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Delaware; Ambient Air Quailty Standard for Ozone and Fine Particulate Matter [R03-OAR-2005-DE-0001; FRL-7939-1] received July 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3412. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Control of Emissions of Air Pollution From Diesel Fuel [AMS-FRL-7937-3] (RIN: 2060-AN19) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3413. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Municipal Waste Combustor Emissions from Small Existing Municipal Solid Waste Combustor Units [R03-OAR-2005-VA-0009; FRL-7937-5] received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3414. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Missouri [R07-OAR-2005-MO-0003 FRL-7936-7] received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3415. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgaiton of Air Quality Implementation Plans; Texas; Revisions to Control Volatile Organic Compound Emissions; Correction [R06-OAR-2005-TX-0008; FRL-7936-8] received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3416. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Air Quality Designation of the Fine Particles (PM2.5) National Ambient Air Quality Standards — Supplemental Notice [OAR-2003-0061; FRL-7896-8] (RIN: 2060-AM04) received April 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3417. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Texas; Transportation Conformity [R06-OAR-2005-TX-0024; FRL-7928-6] received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3418. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Aproval and Promulgation of Air Quality Implementation Plans; Maryland; Approval of Clarification of Requirements for Fuel-burning Equipment [RME-OAR-2005-MD-0006; FRL-7933-6] received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3419. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Idaho: Final Authorization of State Hazardous Waste Management Program Revision [FRL-7942-9] received July 19, 2005,. pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3420. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plan; Idaho; Correction [Docket # ID-03-003; FRL-7941-7] received July 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3421. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; New Mexico; Albuquerque/Bernalillo County [R06-OAR-2005-NM-0001; FRL-7942-5] received July 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3422. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Tribal Drinking Water Operator Certification Program Guidelines — received July 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3423. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — A Regulator's Guide to the Management of Radioactive Residuals from Drinking Water Treatment Technologies — received July 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3424. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Indiana [R05-OAR-2004-IN-0001; FRL-7930-9] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3425. A letter from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule — Public Records (RIN: 3150-AH12) received June 30, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3426. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — December 2004 Wassenaar Arrangement Plenary Agreement Implementation: Categories 1, 2, 3, 4, 5 Part I (telecommunications), 6, 7, 8, and 9 of the Commerce Control List; Wassenaar Reporting Requirements; Definitions; and Certain New or Expanded Export Controls [Docket No. 050607153-5153-01] (RIN: 0694-AD41) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

3427. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule — Revised contact inforamtion, nomenclature change and correction of citation error [Docket No. 050408099-5099-01] (RIN: 0694-AD48) received April 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

3428. A letter from the Deputy Chief Counsel for Regulations, Department of Homeland Security, transmitting the Department's final rule — Privacy Act of 1974: Implementation of Exemptions; Registered Traveler Operations Files [Docket No. TSA-2004-18984, Amendment 1507-1] (RIN: 1652-AA36) received May 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3429. A letter from the Director, Division of Policy, Planning and Program Development, Department of Labor, transmitting the Department's final rule — Affirmative Action and Nondiscrimination Obligations of Contractors and Subcontractors; Compliance Evaluations in All OFCCP Programs (RIN: 1215-AB28) (RIN: 1215-AB27) (RIN: 1215-AB23) received June 23, 2005, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Government Reform.

3430. A letter from the Acting Director, DSHRP, Office of Personnel Management, transmitting the Office's final rule — Changes in Pay Administration Rules for General Schedule Employees (RIN: 3206-AK88) received June 13, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3431. A letter from the Acting Director, DSHRP, Office of Personnel Management, transmitting the Office's final rule — Excepted Service, Privacy Procedures for Personnel Records, Career and Career-Conditional Employment, Temporary Assignment of Employees Between Federal Agencies and State, Local, and Indian Tribal Governments, Institutions of Higher Education, and Other Eligible Organizations, Presidential Management Fellows Program, Repayment of Student Loans, and Pay Administration (General) (RIN: 3206-AK27) received May 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3432. A letter from the Acting Director, DSHRP, Office of Personnel Management, transmitting the Office's final rule — Retirement Coverage of Air Traffic Controllers (RIN: 3206-AK73) received June 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3433. A letter from the Acting Director, DSHRP, Office of Personnel Management, transmitting the Office's final rule — Prevailing Rate Systems; Redefinition of the San Francisco, CA, Nonappropiated Fund Wage Area (RIN: 3206-AK26) received May 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3434. A letter from the Acting Director, DSHRP, Office of Personnel Management, transmitting the Office's final rule — Federal Long Term Care Insurance Regulation (RIN: 3206-AJ71) received June 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3435. A letter from the Acting Director, DSHRP, Office of Personnel Management, transmitting the Office's final rule — Changes in Health Benefits Enrollment (RIN: 3206-AK04) received June 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3436. A letter from the Acting Director, IP, Office of Personnel Management, transmitting the Office's final rule — Federal Employees Health Benefits Acquisition Regulation: Large Provider Agreements, Subcontracts, and Miscellaneous Changes (RIN: 3206-AJ20) received June 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3437. A letter from the Acting Director, SHRPD, Office of Personnel Management, transmitting the Office's final rule — Absence and Leave (RIN: 3206-AK80) received May 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3438. A letter from the Acting Director, Office of Personnel Management, transmitting the Office's final rule — Computation of Pay for Biweekly Pay Periods (RIN: 3206-AK62) received May 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3439. A letter from the Acting Director, IP, Office of Personnel Management, transmitting the Office's final rule — Federal Employees Health Benefits Program Revision of Contract Cost Principles and Procedures, Miscellaneous Changes (RIN 3206-AJ10) Receieved June 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3440. A letter from the Administrator, Small Business Administration, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3441. A letter from the Assistant Secretary, Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Amendment of Lower St. Johns River Manatee Refuge in Florida (RIN: 1018-AU10) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3442. A letter from the Fish and Wildlife Service, Department of the Interior, transmitting the Department's final rule — Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population for Two Fishes (Boulder Darter and Spotfin Chub) in Shoal Creek, Tennessee and Alabama (RIN: 1018-AH44) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3443. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Rights-of-way, Principles and Procedures; Rights-of-way Under the Federal Land Policy and Management Act and the Mineral Leasing Act [WO 350 05 1430 PN] (RIN: 1004-AC74) received April 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3444. A letter from the Federal Liason Officer, PTO, Department of Commerce, transmitting the Department's final rule — Changes to the Practice of Handling Patent Applications Filed Without the Appropriate Fees [Docket No. 2005-P-055] (RIN: 0651-AB87) received May 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3445. A letter from the Federal Liason Officer, PTO, Department of Commerce, transmitting the Department's final rule — Requirements to Receive a Reduced Fee for Filing an Application Through the Trademark Electronic Application System [Docket No. 2005-T-056] (RIN: 0651-AB88) received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3446. A letter from the Rules Administrator, BOP, Department of Justice, transmitting the Department's final rule — Infectious Disease Management: Voluntary and Involuntary Testing [BOP-1104-F] (RIN: 1120-AB03) received June 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3447. A letter from the Federal Register Certifying Officer, FMS, Department of Treasury, transmitting the Department's final rule — Salary Offset (RIN: 1510-AA70) received April 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

3448. A letter from the Executive Director, Air Transportation Stabilization Board, transmitting the Board's final rule — Regulations for Air Transportation Stabilization Board Under Section 101(a)(1) of the Air Transporation Safety and System Stabilization Act — received March 15, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3449. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; San Francisco Giants Fireworks Display, San Francisco, CA [CGD 11-05-009] (RIN: 1625-AA08) received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3450. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; San Francisco Giants Fireworks Display, San Francisco, CA [CGD 11-05-013] (RIN: 1625-AA08) received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3451. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Georgetown Channel, Potomac River, Washington, DC [CGD05-05-033] (RIN: 1625-AA87) received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3452. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Kent Island Narrows, Kent Island, MD [CGD05-05-019] (RIN: 1625-AA09) received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3453. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Manasquan River, Manasquan Inlet and Atlantic Ocean, Point Pleasant Beach to Bay Head, NJ [CGD05-05-073] (RIN: 1625-AA08) received July 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3454. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Prospect Bay, Kent Island Narrows, Maryland [CGD05-05-074] (RIN: 1625-AA08) received July 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3455. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Pamlico River, Washington, NC [CGD05-05-066] (RIN: 1625-AA08) received July 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3456. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety and Security Zone; Tampa Bay, FL [COTP Tampa 05-079] (RIN: 1625-AA00) received July 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3457. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Hydroplane Races, Columbia Park, Kennewick, Washington. [CGD13-05-026] (RIN: 1625-AA00) received July 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3458. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zones: Fireworks displays in the Captain of the Port Portland Zone. [CGD13-05-027] (RIN: 1625-

AA00) received July 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3459. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Anchorage Grounds and Safety Zone; Delaware River [CGD05-04-035] (RIN: 1622-AA00) (RIN: 1625-AA01) received July 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3460. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3461. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determination [Docket No. FEMA-D-7573] received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3462. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone: Macy's July 4th Fireworks, East River and Upper New York Bay, NY [CGD01-05-017] (RIN: 1625-AA00) received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3463. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Duwamish Waterway, Seattle, WA [CGD13-05-020] (RIN: 1625-AA09) received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3464. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations: Annual Offshore Super Series Boat Race, Fort Myers Beach, FL [CGD 07-05-019] (RIN: 1625-AA08) received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3465. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation for Marine Events; Pasquotank River, Camden, NC [CGD05-05-022] (RIN: 1625-AA08) received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3466. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments [USCG-2005-21531] (RIN: 1625-ZA04) received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3467. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-P-7644] received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3468. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3469. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determination — July 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3470. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments [Docket No. 30450; Amdt. No. 3126] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3471. A letter from the Chairman, Surface Transportation Board, Department of Transportation, transmitting the Department's final rule — Regulations Governing Fees for Service Performed in Connection with Licensing and Related Services — 2005 Update — received April 18, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3472. A letter from the Senior Attorney, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting the Department's final rule — Applicability of the Hazardous Materials Regulations to Loading, Unloading, and Storage [Docket No. RSPA-98-4952(HM-223)] (RIN: 2137-AC68) received April 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3473. A letter from the Ombudsman, FMCSA, Department of Transportation, transmitting the Department's final rule — Transportation of Household Goods; Consumer Protection Regulations; Final Rule [Docket No. FMCSA-97-2979] (RIN: 2126-AA32) received July 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3474. A letter from the Trial Attorney, FRA, Department of Transportation, transmitting the Department's final rule — Locomotive Event Recorders [Docket No. FRA-2003-16357, Notice No. 3] (RIN: 2130-AB34) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3475. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Valentine, NE [Docket No. FAA-2005-20572; Airspace Docket No. 05-ACE-9] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3476. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Parsons, KS [Docket No. FAA-2005-20573; Airspace Docket No. 05-ACE-10] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3477. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification and Revocation of Federal Airways; AK [Docket No. FAA-2004-19851; Airspace Docket No. 04-AAL-13] (RIN: 2120-AA66) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3478. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Monett, MO [Docket No. FAA-2005-20065; Airspace Docket No. 05-ACE-7] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3479. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Mountain Grove, MO [Docket No. FAA-2005-20064; Airspace Docket No. 05-ACE-6] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3480. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Macon, MO [Docket No. FAA-2005-20066; Airspace Docket No. 05-ACE-8] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3481. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; St. Michael, AK [Docket No. FAA-2005-20030; Airspace Docket No. 05-AAL-01] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3482. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Neosho, MO [Docket No. FAA-2005-20063; Airspace Docket No. 05-ACE-5] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3483. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Kalskag, AK [Docket No. FAA-2005-20031; Airspace Docket No. 05-AAL-02] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3484. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Jet Route 94 [Docket No. FAA-2004-19052; Airspace Docket No. 04-ANM-12] (RIN: 2120-AA66) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3485. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Perryville, AK [Docket No. FAA-2005-20029; Airspace Docket No. 04-AAL-25] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3486. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Area Navigation (RNAV) Routes; AK [Docket No. FAA-2005-20617; Airspace Docket No. 05-AAL-12] (RIN: 2120-AA66) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3487. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Area Navigation (RNAV) Routes; AK [Docket No. FAA-2005-20413; Airspace Docket No. 05-AAL-03] (RIN: 2120-AA66) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3488. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Area Navigation (RNAV) Routes;

AK [Docket No. FAA-2005-20446; Airspace Docket No. 05-AAL-04] (RIN: 2120-AA66) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3489. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Sutton, WV [Docket No. FAA-2005-20931; Airspace Docket No. 05-AEA-08] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3490. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E-2 Airspace; Bar Harbor, ME [Docket No. FAA-2005-21034; Airspace Docekt No. 05-AEA-09] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3491. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Shishmaref, AK [Docket No. FAA-2005-20567; Airspace Docket No. 05-AAL-05] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3492. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Kaltag, AK [Docket No. FAA-2005-20557; Airspace Docket No. 05-AAL-10] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3493. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; Emmonah, AK [Docket No. FAA-2005-20555; Airspace Docekt No. 05-AAL-08] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3494. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Coldfoot, AK [Docket No. FAA-2005-20568; Airspace Docket No. 05-AAL-11] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3495. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Chalkyitsik, AK [Docket No. FAA-2005-20450; Airspace Docket No. 05-AAL-07] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3496. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Bob Barker Memorial Airport, Kiana, AK [Docket No. FAA-2005-20556; Airspace Docket No. 05-AAL-09] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3497. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Columbus, NE. [Docket No. FAA-2005-20752; Airspace Docket No. 05-ACE-15] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3498. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; McCook, NE [Docket No. FAA-2005-21608; Airspace Docket No. 05-ACE-18] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3499. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Muskegon, MI [Docket No. FAA-2005-20055; Airspace Docket No. 05-AGL-01] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3500. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Federal Airways V-2, V-257 and V-343; MT [Docket No. FAA-2005-19410; Airspace Docket No. 04-ANM-09] (RIN: 2120-AA66) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3501. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Surface Area, South Lake Tahoe, CA [Docket FAA 2005-21522; Airspace Docket No. 05-AWP-06[ received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3502. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Mifflintown, PA; Correction [Docket No. FAA-2004-19458; Airspace Docket No. 04-AEA-11] received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3503. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directive; Sikorsky Aircraft Corporation Model S-92A Helicopters [Docket No. FAA-2005-21588; Directorate Identifier 2005-SW-24-AD; Amendment 39-14150; AD 2005-13-13] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3504. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasiliera de Aeronautica S.A. (EMBRAER) Model EMB-135 Airplanes and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP Airplanes [Docket No. FAA-2005-21598; Directorate Identifier 2005-NM-121-AD; Amendment 39-14159; AD 2005-13-22] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3505. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; [Hoffmann Propeller GmbH & Co KG Models HO-V343 and HO-V343K Propellers] [Docket No. FAA-2004-18958; Directorate Identifier 2004-NE-32-AD; Amendment 39-14137; AD 2005-13-01] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3506. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A. Model AB412 Series Helicopters [Docket No. FAA-2005-21589; Directorate Identifier 2004-SW-44-AD; Amendment 39-14154; AD 2005-13-17] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3507. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Kelly Aerospace Power Systems Part Number (P/N) 14D11, A14D11, B14D11, C14D11, 23D04, A23D04, B23D04, C23D04, or P23P04 Fuel Regulator Shutoff Valves (formerly owned by ElectroSystems, JanAero Devices, Janitrol, C&D Airmotive Products, FL Aerospace, and Midland-Ross Corporation) [Docket No. FAA-2004-19693; Directorate Identifier 2004-CE-40-AD; Amendment 39-14076; AD 2004-25-16 R1] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3508. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dornier Model 328-300 Series Airplanes [Docket No. FAA-2005-20414; Directorate Identifier 2004-NM-116-AD; Amendment 39-14079; AD 2005-10-02] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3509. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model MD-90-30 Airplanes [Docket No. FAA-2005-21029; Directorate Identifier 2005-NM-045-AD; Amendment 39-14077; AD 2005-09-08] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3510. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A319, A320, and A321 Series Airplanes [Docket No. 2002-NM-49-AD; Amendment 39-14081; AD 2005-10-04] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3511. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Dornier Model 328-300 Series Airplanes [Docket No. FAA-2005-20345; Directorate Identifier 2004-NM-101-AD; Amendment 39-14083; AD 2005-10-06] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3512. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 727 Airplanes, Equipped With An Auxiliary Fuel Tank Having A Fuel Pump Installed [DOcket No. FAA-2005-20355; Directorate Identifier 2004-NM-198-AD; Amendment 39-14177; AD 2005-13-40] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3513. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; GROB-WERKE Modl G120A Airplanes [Docket No. FAA-05-19473; Directorate Identifier 2004-CE-35-AD; Amendment 39-14146; AD 2005-13-09] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3514. A letter from the Director, Regulations Management, ORPM, Department of Veterans Affairs, transmitting the Department's final rule — Loan Guaranty: Hybrid Adjustable Rate Mortgages (RIN: 2900-AL54) received May 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee of Conference. Conference report on H.R. 3. A bill to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes (Rept. 109–203). Ordered to be printed.

Mr. MANZULLO: Committee on Small Business. H.R. 3207. A bill to direct the Administrator of the Small Business Administration to establish a pilot program to make grants to eligible entities for the development of peer learning opportunities for second-stage small business concerns; with an amendment (Rept. 109–205). Referred to the Committee of the Whole House on the State of the Union.

Mr. MANZULLO: Committee on Small Business. H.R. 2981. A bill to amend the Small Business Act to expand and improve the assistance provided by Small Business Development Centers to Indian tribe members, Native Alaskans, and Native Hawaiians; with an amendment (Rept. 109–206). Referred to the Committee of the Whole House on the State of the Union.

Mr. MANZULLO: Committee on Small Business. H.R. 527. A bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a vocational and technical entrepreneurship development program; with an amendment (Rept. 109–207). Referred to the Committee of the Whole House on the State of the Union.

Mr. MANZULLO: Committee on Small Business. H.R. 230. A bill to amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a program to provide regulatory compliance assistance to small business concerns, and for other purposes; with an amendment (Rept. 109–208). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON: Committee on Energy and Commerce. H.R. 3084. A bill to direct the Secretary of Commerce to issue regulations requiring testing for steroids and other performance-enhancing substances for certain associations engaged in interstate commerce; with an amendment (Rept. 109–210 Pt. 1). Ordered to be printed.

Mr. BOEHLERT: Committee on Science. H.R. 921. A bill to establish a digital and wireless network technology program, and for other purposes (Rept. 109–211 Pt. 1). Ordered to be printed.

*[Filed on July 29 (legislative day of July 28), 2005]*

Mrs. CAPITO: Committee on Rules. House Resolution 399. Resolution providing for consideration of the conference report to accompany the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes (Rept. 109–212). Referred to the House Calendar.

Mrs. CAPITO: Committee on Rules. House Resolution 400. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 109–213). Referred to the House Calendar.

Mrs. CAPITO: Committee on Rules. House Resolution 401. Resolution providing for consideration of the bill (H.R. 3514) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century (Rept. 109–214). Referred to the House Calendar.

## REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 2 of rule XII, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 889. A bill to authorize appropriations for the Coast Guard for fiscal year 2006, to make technical corrections to various laws administered by the Coast Guard, and for other purposes, with an amendment; referred to the Committee on Homeland Security for a period ending not later than July 29, 2005, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(i) of rule X (Rept. 109–204, Pt. 1). Ordered to be printed.

Mr. BARTON: Committee on Energy and Commerce. H.R. 1065. A bill to establish the United States Boxing Commission to protect the general welfare of boxers and to ensure fairness in the sport of professional boxing, with an amendment; referred to the Committee on the Judiciary for a period ending not later than September 30, 2005, for consideration of such provisions of the bill and the amendment as fall within the jurisdiction of that committee pursuant to clause 1(l), rule X (Rept. 109–209, Pt. 1). Ordered to be printed.

## TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 921. Referral to the Committee on Education and the Workforce extended for a period ending not later than September 30, 2005.

H.R. 1065. Referral to the Committee on Education and the Workforce extended for a period ending not later than September 30, 2005.

H.R. 3084. Referral to the Committee on Education and the Workforce extended for a period ending not later than September 30, 2005.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. TOM DAVIS of Virginia (for himself, Mr. WOLF, Mr. HOYER, Ms. NORTON, Mr. MORAN of Virginia, Mr. WYNN, Mr. VAN HOLLEN, and Mr. CARDIN):

H.R. 3496. A bill to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for maintaining and improving the transit system of the Washington Metropolitan Area Transit Authority, and for other purposes; to the Committee on Government Reform.

By Mr. ISTOOK:

H.R. 3497. A bill to ensure that when Federal law allows a court to award attorney fees to one party, the law must allow the court to award attorney fees to any party; to the Committee on the Judiciary.

By Mr. TURNER (for himself, Mr. TOM DAVIS of Virginia, and Mr. MORAN of Virginia):

H.R. 3498. A bill to amend title 31, United States Code, to allow certain local tax debt to be collected through the reduction of Federal tax refunds; to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CULBERSON (for himself, Mr. BARTLETT of Maryland, Mr. BISHOP of Utah, Mr. FEENEY, Mr. PAUL, Mr. PENCE, Mr. PITTS, Mr. POE, and Mr. ROHRABACHER):

H.R. 3499. A bill to restore State sovereignty over public elementary and secondary education; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 3500. A bill to provide grants to States to establish, expand, or enhance prekindergarten programs for children who are not yet enrolled in kindergarten; to the Committee on Education and the Workforce.

By Ms. CARSON:

H.R. 3501. A bill to require financial institutions and financial service providers to notify customers of the unauthorized use of personal financial information, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Government Reform, and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WAXMAN (for himself, Mr. BROWN of Ohio, and Ms. ROYBAL-ALLARD):

H.R. 3502. A bill to amend the Public Health Service Act with respect to immunizations against vaccine-preventable diseases, including influenza, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CANNON (for himself and Mr. INSLEE):

H.R. 3503. A bill to ensure privacy for e-mail communications; to the Committee on the Judiciary.

By Mr. EMANUEL (for himself, Mr. WEINER, Ms. WASSERMAN SCHULTZ, Mr. ACKERMAN, Mr. VAN HOLLEN, Mrs. MCCARTHY, Mr. WAXMAN, Ms. SCHAKOWSKY, Mr. BERMAN, Mr. ISRAEL, Mr. ROTHMAN, Mr. FRANK of Massachusetts, and Mr. BISHOP of New York):

H.R. 3504. A bill to prohibit discrimination in the provision of life insurance on the basis of a person's previous lawful travel experiences; to the Committee on Financial Services, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HENSARLING (for himself and Mr. MOORE of Kansas):

H.R. 3505. A bill to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes; to the Committee on Financial Services.

By Mr. FILNER (for himself and Mr. THOMPSON of Mississippi):

H.R. 3506. A bill to establish an Unsolved Crimes Section in the Civil Rights Division of the Department of Justice; to the Committee on the Judiciary.

By Mr. ISSA (for himself and Mr. CALVERT):

H.R. 3507. A bill to transfer certain land in Riverside County, California, and San Diego County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, and for other purposes; to the Committee on Resources.

By Mr. TOM DAVIS of Virginia (for himself and Ms. NORTON):

H.R. 3508. A bill to authorize improvements in the operation of the government of the District of Columbia, and for other purposes; to the Committee on Government Reform.

By Mr. CHABOT (for himself, Mr. HYDE, and Mr. COBLE):

H.R. 3509. A bill to establish a statute of repose for durable goods used in a trade or business; to the Committee on the Judiciary.

By Mr. OBEY:

H.R. 3510. A bill to require the Secretary of Homeland Security to develop regulations regarding the transportation of extremely hazardous materials, and for other purposes; to the Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BURGESS (for himself, Mr. PETERSON of Pennsylvania, Mr. POMEROY, Mr. JINDAL, and Mrs. JOHNSON of Connecticut):

H.R. 3511. A bill to amend title XIX of the Social Security Act to expand State long-term care partnership programs under the Medicaid Program; to the Committee on Energy and Commerce.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. DEFAZIO):

H.R. 3512. A bill to provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, Resources, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KENNEDY of Minnesota (for himself and Ms. HOOLEY):

H.R. 3513. A bill to provide for enhanced Federal penalties for production, distribution, trafficking, and possession of methamphetamine, listed chemicals, and other controlled substances, and for other offenses relaed to such production, distribution, trafficking, and possession; and to provide for enhanced residential substance abuse treatment programs for State and Federal prisoners; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. DEFAZIO):

H.R. 3514. A bill to provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Resources, Science, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 3515. A bill to amend title I of the Employee Retirement Income Security Act of 1974 to require persons who are plan administrators of employee pension benefit plans or provide administrative services to such plans, and who also provide automobile insurance coverage or provide persons offering such coverage identifying information relating to plan participants or beneficiaries, to submit to the Federal Trade Commission certain information relating to such automobile insurance coverage; to the Committee on Education and the Workforce.

By Mr. ANDREWS:

H.R. 3516. A bill to amend the Public Health Service Act with respect to the participation of the public in governmental decisions regarding the location of group homes established pursuant to the program of block grants for the prevention and treatment of substance abuse; to the Committee on Energy and Commerce.

By Mr. ANDREWS:

H.R. 3517. A bill to establish a program to assist States and local governments for the conduct of electronic governance transactions at libraries and elementary and secondary schools, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ANDREWS (for himself, Mr. LOBIONDO, and Mr. SAXTON):

H.R. 3518. A bill to amend title 28, United States Code, to divide New Jersey in 2 judicial districts; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 3519. A bill to amend title 49, United States Code, to provide a credit toward the non-Federal share of projects carried out under the airport improvement program to an owner or operator of an airport that is utilized to respond to a disaster or emergency; to the Committee on Transportation and Infrastructure.

By Ms. BALDWIN (for herself and Mr. SNYDER):

H.R. 3520. A bill to assist in the conservation of cranes by supporting and providing, through projects of persons and organizations with expertise in crane conservation, financial resources for the conservation programs of countries the activities of which directly or indirectly affect cranes; to the Committee on Resources.

By Mr. BEAUPREZ (for himself, Mrs. MUSGRAVE, Mr. SALAZAR, and Mr. UDALL of Colorado):

H.R. 3521. A bill to provide environmental assistance to non-Federal interests in the State of Colorado; to the Committee on Transportation and Infrastructure.

By Mr. BISHOP of New York (for himself and Mr. KUHL of New York):

H.R. 3522. A bill to amend the Internal Revenue Code of 1986 to clarify that installment sales treatment shall not fail to apply to property acquired for conservation purposes by a State or local government or certain tax-exempt organizations merely because purchase funds are held in a sinking or similar fund pursuant to State law; to the Committee on Ways and Means.

By Mr. BISHOP of New York:

H.R. 3523. A bill to amend the Internal Revenue Code of 1986 to exclude from estate taxes the value of farmland so long as the farmland use continues and to repeal the dollar limitation on the estate tax exclusion for land subject to a qualified conservation easement; to the Committee on Ways and Means.

By Mr. BLUMENAUER (for himself and Mr. WELDON of Pennsylvania):

H.R. 3524. A bill to authorize the Secretary of Homeland Security to make grants to encourage community safety by incorporating disaster mitigation and emergency preparedness into comprehensive land use planning and urban development, and for other purposes; to the Committee on Homeland Security, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BONILLA:

H.R. 3525. A bill to redesignate the street in the District of Columbia known as 16th Street Northwest as "Ronald Reagan Boulevard"; to the Committee on Government Reform.

By Mr. BONNER:

H.R. 3526. A bill to extend Federal recognition to the Mowa Band of Choctaw Indians of Alabama, and for other purposes; to the Committee on Resources.

By Mr. BUYER:

H.R. 3527. A bill to extend the temporary suspension of duty on Ethalfluralin; to the Committee on Ways and Means.

By Mr. BUYER:

H.R. 3528. A bill to extend the temporary suspension of duty on Diphenyl sulfide; to the Committee on Ways and Means.

By Mr. BUYER:

H.R. 3529. A bill to extend the temporary suspension of duty on 4,4-Dimethoxy-2-butanone; to the Committee on Ways and Means.

By Mr. BUYER:

H.R. 3530. A bill to extend the temporary suspension of duty on Methacrylamide; to the Committee on Ways and Means.

By Mr. BUYER:

H.R. 3531. A bill to extend the temporary suspension of duty on Fenbuconazole; to the Committee on Ways and Means.

By Mr. CAMP:

H.R. 3532. A bill to direct the Secretary of the Interior to conduct a study of maritime sites in the State of Michigan; to the Committee on Resources.

By Mr. CAMP:

H.R. 3533. A bill to amend the Internal Revenue Code of 1986 to provide that net operating losses shall not be reduced in connection with a discharge of indebtedness in certain chapter 11 bankruptcy cases involving asbestos-related claims; to the Committee on Ways and Means.

By Mrs. CAPPS:

H.R. 3534. A bill to designate the Piedras Blancas Light Station and the surrounding public land as an Outstanding Natural Area to be administered as a part of the National Landscape Conservation System, and for other purposes; to the Committee on Resources.

By Mr. CASE:

H.R. 3535. A bill to amend the Agricultural Marketing Act of 1946 to require country of origin labeling for macadamia nuts; to the Committee on Agriculture.

By Mr. CASE:

H.R. 3536. A bill to amend the Federal Crop Insurance Act to expand the Agricultural Management Assistance Program to include the State of Hawaii; to the Committee on Agriculture.

By Mr. CASE:

H.R. 3537. A bill to extend the boundary of the Hawaii Volcanoes National Park in the State of Hawaii; to the Committee on Resources.

By Mr. CASE:

H.R. 3538. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating certain lands along the southern coast of Maui, Hawaii, as a unit of the National Park System; to the Committee on Resources.

By Mr. CASE:

H.R. 3539. A bill to direct the Secretary of the Interior to study the suitability and feasibility of designating certain lands along the northern coast of Maui, Hawaii, as a unit of the National Park System; to the Committee on Resources.

By Mr. CASTLE (for himself, Mrs. McCarthy, Mr. Kirk, and Mr. Shays):

H.R. 3540. A bill to require criminal background checks on all firearms transactions occurring at events that provide a venue for the sale, offer for sale, transfer, or exchange of firearms, and for other purposes; to the Committee on the Judiciary.

By Mr. CONYERS (for himself, Mr. Skelton, Mr. Serrano, Ms. Zoe Lofgren of California, Mr. Meehan, and Ms. Linda T. Sánchez of California):

H.R. 3541. A bill to affirm that the United States may not engage in torture or cruel, inhuman, or degrading treatment or punishment, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CULBERSON:

H.R. 3542. A bill to confer standing on Members of Congress to bring suit in Federal district court to compel compliance with congressional intent in enacting laws to protect the people of the United States against national security threats; to the Committee on the Judiciary.

By Mr. DEAL of Georgia (for himself, Mr. Gordon, and Mr. Gingrey):

H.R. 3543. A bill to eliminate Medicare and Medicaid coverage of drugs when used for treatment of erectile dysfunction; to the Committee on Energy and Commerce.

By Mr. DeFAZIO (for himself and Mr. Sanders):

H.R. 3544. A bill to provide for the stabilization of prices for gasoline, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Government Reform, the Judiciary, Resources, and International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DELAHUNT (for himself and Mr. Doggett):

H.R. 3545. A bill to limit assistance to the Government of Uzbekistan, and for other purposes; to the Committee on International Relations, and in addition to the Committees on the Judiciary, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. EMANUEL (for himself, Mr. Case, Mr. Lipinski, Ms. Herseth, and Mr. Doggett):

H.R. 3546. A bill to amend title XIX of the Social Security Act to provide for public disclosure of average manufacturer prices (AMP) and best prices for prescription drugs; to the Committee on Energy and Commerce.

By Mrs. EMERSON (for herself, Mr. Rush, Mr. Berry, Mr. Simpson, Mr. Strickland, and Mr. Jones of North Carolina):

H.R. 3547. A bill to amend section 340B of the Public Health Service Act to increase the affordability of inpatient drugs for Medicaid and safety net hospitals; to the Committee on Energy and Commerce.

By Mr. ENGEL (for himself, Mr. Israel, Mr. Higgins, Mr. Fossella, Mr. Bishop of New York, Mrs. Maloney, Mr. Boehlert, Mr. Ackerman, Mr. Hinchey, Mr. Meeks of New York, Mr. Reynolds, and Mr. Crowley):

H.R. 3548. A bill to designate the facility of the United States Postal Service located on Franklin Avenue in Pearl River, New York, as the "Heinz Ahlmeyer, Jr. Post Office Building"; to the Committee on Government Reform.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. Peterson of Pennsylvania, Ms. Hart, Mr. Fattah, Mr. Sherwood, Mr. Weldon of Pennsylvania, Mr. Pitts, Mr. Doyle, Mr. Gerlach, Mr. Dent, Mr. Murphy, Mr. Shuster, Ms. Schwartz of Pennsylvania, Mr. Murtha, Mr. Platts, Mr. Holden, Mr. Brady of Pennsylvania, Mr. Fitzpatrick of Pennsylvania, and Mr. Kanjorski):

H.R. 3549. A bill to designate the facility of the United States Postal Service located at 210 West 3rd Avenue in Warren, Pennsylvania, as the "William F. Clinger, Jr. Post Office Building"; to the Committee on Government Reform.

By Mr. EVANS (for himself, Mrs. Maloney, Mr. Udall of Colorado, and Mr. Boehlert):

H.R. 3550. A bill to amend the Public Health Service Act to improve provisions relating to Parkinson's disease research; to the Committee on Energy and Commerce.

By Mr. FATTAH:

H.R. 3551. A bill to amend the Higher Education Act of 1965 by strengthening and expanding the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR UP) in order to facilitate the transition of low-income high school students into post-secondary education; to the Committee on Education and the Workforce.

By Mr. GILCHREST:

H.R. 3552. A bill to reauthorize the Coastal Barrier Resources Act, and for other purposes; to the Committee on Resources.

By Mr. GINGREY:

H.R. 3553. A bill to amend the Federal Food, Drug, and Cosmetic Act to prohibit the approval of any drug that infringes the right to life, and for other purposes; to the Committee on Energy and Commerce.

By Mr. GOODE (for himself and Mr. McIntyre):

H.R. 3554. A bill to amend the crop disaster assistance program for 2003 to clarify the manner in which the Secretary of Agriculture is required to make assistance available to producers under the program; to the Committee on Agriculture.

By Ms. HARMAN (for herself, Mr. Shays, Mrs. Johnson of Connecticut, Ms. Slaughter, Ms. Schakowsky, Mr. Boehlert, Ms. Pelosi, Mr. Costa, Mr. Davis of Illinois, Ms. Lee, Mr. Lantos, Mr. Jefferson, Mr. McGovern, Ms. Woolsey, Mr. Frank of Massachusetts, Ms. Roybal-Allard, Mr. Israel, Mr. Larsen of Washington, and Mr. Filner):

H.R. 3555. A bill to authorize the Secretary of Health and Human Services to award on a competitive basis grants to public and private entities to establish or expand teenage pregnancy prevention programs; to the Committee on Energy and Commerce.

By Ms. HARRIS:

H.R. 3556. A bill to authorize the Secretary of Housing and Urban Development to carry out pilot programs to insure low-downpayment mortgages to enable teachers and public safety officers to purchase homes in the jurisdictions they serve and to assist Federal, State, and local public safety officers purchasing homes in locally-designated at-risk areas; to the Committee on Financial Services.

By Mr. HASTINGS of Florida:

H.R. 3557. A bill to amend the Help America Vote Act of 2002 to require States to permit individuals to register to vote at polling places on the date of an election, to cast ballots at designated polling places prior to the date of an election, and to obtain absentee ballots for an election for any reason, and for other purposes; to the Committee on House Administration, and in addition to the Committees on Government Reform, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HERSETH:

H.R. 3558. A bill to amend the Cheyenne River Sioux Tribe Equitable Compensation Act to provide compensation to members of the Cheyenne River Sioux Tribe for damage resulting from the Oahe Dam and Reservoir Project, and for other purposes; to the Committee on Resources.

By Mr. HOBSON (for himself and Mr. Tanner):

H.R. 3559. A bill to amend part B of title XVIII of the Social Security Act to assure access to durable medical equipment under the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HONDA (for himself and Mr. Towns):

H.R. 3560. A bill to require the Food and Drug Administration to carry out certain activities with respect to food choking hazards to children, including a program to provide education to the public; to the Committee on Energy and Commerce.

By Mr. HONDA (for himself, Mrs. Napolitano, Mr. Watt, Mr. Kildee, Ms. Bordallo, Ms. Solis, Mrs. Christensen, Mr. Pallone, Ms. Pelosi, Mr. Menendez, Mr. Hoyer, and Mr. Clyburn):

H.R. 3561. A bill to improve the health of minority individuals; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, Resources, the Judiciary, Ways and Means, and Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HOOLEY:

H.R. 3562. A bill to amend the Specialty Crops Competitiveness Act of 2004 to increase the authorization of appropriations for grants to support the competitiveness of specialty crops, to amend the Agricultural Risk Protection Act of 2000 to improve the program of value-added agricultural product market development grants by routing funds through State departments of agriculture, to amend the Federal Crop Insurance Act to require a nationwide expansion of the adjusted gross revenue insurance program, and for other purposes; to the Committee on Agriculture, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. INSLEE (for himself, Mr. Boehlert, Mr. Rahall, Mr. Shays, Mr. Wu, Mrs. Johnson of Connecticut, Mr. George Miller of California, Mr. Brown of Ohio, Mr. Leach, Mr. Payne, Ms. Baldwin, Mr. McDermott, Ms. Lee, Mr. Pallone, Mr. Honda, Mr. Nadler, Mr. Smith of Washington, Mr. Case, Ms. Hooley, Mr. Kildee, Mr. Van Hollen, Mr. Grijalva, Mr. Serrano, Mr. Smith of New Jersey, Mr. Frank of Massachusetts, Mr. Farr, Mr. Kind, Mr. Boucher, Mr. Moran of Virginia, Mr. Stark, Ms. DeGette, Mr. Sanders, Mr. Miller of North Carolina, Mr. Blumenauer, Mr. Costello, Mr. Owens, Ms. DeLauro, Mr. Cummings, Mrs. Davis of California, Mr. Moore of Kansas, Mr. Hastings of Florida, Mr. Lantos, Mr. Dingell, Mrs. McCarthy, Mr. Waxman, Mr. Engel, Mr. Lynch, Ms. Harman, Mr. Hinchey, Mr. Rangel, Mr. Doggett, Mr. Michaud, Mr. Kirk, Mr. Gutierrez, Mr. Markey, Mr. Wexler, Mrs. Napolitano, Ms. Schakowsky, Mr. McGovern, Mr. Larson of Connecticut, Ms. Schwartz of Pennsylvania, Mr. Holt, Ms. Kilpatrick of Michigan, Mr. Sabo, Mr. Sherman, Mr. Langevin, Mr. Doyle, Mr. Menendez, Mr. Spratt, Mr. Butterfield, Mr. Rothman, Mr. Weiner, Mr. Filner, Mr. Allen, Mr. Price of North Carolina, Mr. Towns, Mr. Tierney, Mrs. Maloney, Ms. McCollum of Minnesota, Mr. Johnson of Illinois, Ms. Corrine Brown of Florida, Ms. Berkley, Mr. Ramstad, Mrs. Capps, Mr. Fattah, Mr. Cooper, Mr. Kucinich, Mr. DeFazio, Mr. Lewis of Georgia, Mr. Schiff, Mr. Carnahan, Mr. Cardin, Mr. Kennedy of Rhode Island, Mr. Clyburn, Mr. Chandler, Ms. Solis, Mr. Gene Green of Texas, Ms. Slaughter, Mr. Clay, Mr. Reyes, Mr. Larsen of Washington, Mr. Brady of Pennsylvania, Mr. Olver, Mr. Levin, Mr. Andrews, Mr. Berman, Mrs. Tauscher, Ms. Eddie Bernice Johnson of Texas, Mr. Snyder, Mr. Scott of Virginia, Mr. Neal of Massachusetts, Mr. McNulty, Ms. Eshoo, Mrs. Jones of Ohio, Ms. Norton, Ms. Woolsey, Ms. Millender-McDonald, Mr. Evans, Mr. Strickland, Mr. Crowley, Ms. Loretta Sanchez of California, Mr. Ryan of Ohio, Mr. Meek of Florida, Ms. Jackson-Lee of Texas, Mr. Ferguson, Mr. Ackerman, Mr. Pastor, Mr. Conyers, Mr. Ford, Mr. Becerra, Ms. Linda T. Sánchez of California, Ms. Matsui, Mr. Watt, Mr. Cleaver, Ms. Zoe Lofgren of California, Mr. Rush, Mr. Meehan, Ms. Pelosi, Ms. Carson, Ms. Kaptur, Ms. Roybal-Allard, Mr. Israel, Mrs. Lowey, and Ms. Waters):

H.R. 3563. A bill to protect inventoried roadless areas in the National Forest System; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. JONES of Ohio:

H.R. 3564. A bill to make a technical correction to the Act providing for the designation of the David Berger Memorial; to the Committee on Resources.

By Mr. KENNEDY of Rhode Island (for himself, Mr. Thompson of Mississippi, Mr. McIntyre, Ms. Jackson-Lee of Texas, Mr. Langevin, and Mr. Ford):

H.R. 3565. A bill to promote the development of disaster plans that will protect the maximum number of citizens; to foster public trust, confidence, and cooperation with these plans; and to encourage greater public participation in homeland security by allowing the American people to have a direct and influential role in developing and modifying community disaster preparedness, response, recovery, and mitigation plans in collaboration with government officials, emergency managers, health authorities, and professional responders, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of Iowa:

H.R. 3566. A bill to provide that no Federal funds may be expended for the payment or reimbursement of drugs when prescribed for the treatment of erectile or sexual dysfunction; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Government Reform, Armed Services, Veterans' Affairs, Resources, International Relations, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. KING of New York (for himself and Mr. Pascrell):

H.R. 3567. A bill to provide for certain tunnel life safety and rehabilitation projects for Amtrak; to the Committee on Transportation and Infrastructure.

By Mr. LATHAM (for himself, Mr. Boswell, Mr. Leach, and Mr. Nussle):

H.R. 3568. A bill to amend the Controlled Substances Act to provide for the transfer of ephedrine, pseudoephedrine, and phenylpropanolamine to schedule V of the schedules of controlled substances, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY (for herself, Mrs. Capps, Mr. King of New York, Mr. Owens, Mr. McGovern, Mr. Reyes, Mr. McDermott, Mr. Van Hollen, Mr. Stark, Mr. Waxman, Mr. Cardoza, Mr. Payne, Mr. Allen, Mr. Burton of Indiana, Mr. Higgins, Ms. Matsui, Ms. Schakowsky, Mr. Boswell, and Mr. Moore of Kansas):

H.R. 3569. A bill to amend the Public Health Service Act to authorize capitation grants to increase the number of nursing faculty and students, and for other purposes; to the Committee on Energy and Commerce.

By Mrs. LOWEY:

H.R. 3570. A bill to amend the Federal Food, Drug, and Cosmetic Act relating to freshness dates on food; to the Committee on Energy and Commerce.

By Mrs. LOWEY:

H.R. 3571. A bill to amend the Federal Food, Drug, and Cosmetic Act to require that foods containing spices, flavoring, or coloring derived from meat, poultry, or other animal products (including insects) bear labeling stating that fact and their names; to the Committee on Energy and Commerce.

By Mrs. LOWEY (for herself, Mr. Cardoza, Mr. Lewis of Georgia, and Mr. Crowley):

H.R. 3572. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow the Attorney General to award grants under a homeland security overtime program to reimburse law enforcement agencies for past overtime expenditures and to require the Attorney General to waive the matching funds requirement for such grants; to the Committee on the Judiciary.

By Mrs. LOWEY:

H.R. 3573. A bill to provide an enhanced penalty for threatening to kill, injure, or intimidate an individual, or to cause property damage, by means of fire or an explosive on school property; to the Committee on the Judiciary.

By Mr. MACK (for himself, Mr. Feeney, Mr. Miller of Florida, Mrs. Bono, and Mr. Foley):

H.R. 3574. A bill to amend the Internal Revenue Code of 1986 to expand incentives for saving; to the Committee on Ways and Means.

By Mrs. MALONEY (for herself, Mr. King of New York, Mr. Weiner, Mr. Nadler, Mr. Higgins, Mr. Farr, Mr. Serrano, Mr. Engel, Mr. Owens, Mr. McDermott, Mr. Lantos, Ms. Schakowsky, Mr. Thompson of Mississippi, Ms. Solis, Mr. Schiff, Mr. Berman, Mr. Pallone, Mr. Kennedy of Rhode Island, and Mr. Grijalva):

H.R. 3575. A bill to provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11 terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, and for other purposes; to the Committee on the Judiciary.

By Mr. McDERMOTT (for himself, Mr. Rangel, Mr. George Miller of California, Mr. Cardin, Mr. Stark, Mr. Becerra, Mr. Emanuel, and Mr. Davis of Illinois):

H.R. 3576. A bill to improve outcomes for vulnerable children by investing in families, improving accountability in the child welfare system, and finding safe, stable, and permanent homes for foster children; to the Committee on Ways and Means.

By Mr. MENENDEZ (for himself, Mr. Pallone, Mr. Pascrell, Mr. Andrews, and Mr. Rothman):

H.R. 3577. A bill to amend section 10501 of title 49, United States Code, to exclude solid waste disposal from the jurisdiction of the Surface Transportation Board; to the Committee on Transportation and Infrastructure.

By Mr. MENENDEZ:

H.R. 3578. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income military pay received by a member of a reserve component of the Armed Forces of the United States who is called to active duty; to the Committee on Ways and Means.

By Mr. MICHAUD (for himself and Mr. Evans):

H.R. 3579. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to provide sufficient blind rehabilitation outpatient specialists at medical facilities of the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. MURPHY (for himself, Mr. Murtha, Mr. Peterson of Pennsylvania, Ms. Hart, and Mr. English of Pennsylvania):

H.R. 3580. A bill to amend the Internal Revenue Code of 1986 to provide for a transferable credit against the income tax for producing energy from waste coal; to the Committee on Ways and Means.

By Mr. NADLER (for himself, Mr. Rangel, and Mr. Meeks of New York):

H.R. 3581. A bill to establish the African Burial Ground National Historic Site and the African Burial Ground International Memorial Museum in New York, New York, and for other purposes; to the Committee on Resources.

By Mr. NEY (for himself, Mr. Al Green of Texas, Mr. Bonner, Mr. Gilchrest, Mr. Burton of Indiana, Mr. Kuhl of New York, Mr. Wilson of South Carolina, Mr. Chabot, Mr. Jenkins, Mr. Smith of New Jersey, Mr. Wexler, Mr. Nadler, Mr. Boustany, Mr. Weldon of Pennsylvania, Mr. Simpson, Mr. Weiner, Mr. Hastings of Florida, and Mr. Filner):

H.R. 3582. A bill to promote the improvement of information on, and protections against, child sexual abuse; to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. NORTHUP (for herself, Ms. DeLauro, Mr. Brown of Ohio, Mrs. Emerson, Mr. Berry, Mr. Sanders, Mr. Emanuel, Mr. Gutknecht, and Mr. Simpson):

H.R. 3583. A bill to clarify that the overall trade negotiating objectives of the United States include avoiding provisions in trade agreements that restrict the access of consumers in the United States to pharmaceutical imports, and for other purposes; to the Committee on Ways and Means.

By Mr. PALLONE:

H.R. 3584. A bill to amend the Internal Revenue Code of 1986 to extend the financing of the Superfund; to the Committee on Ways and Means.

By Mr. PORTER (for himself, Mr. McKeon, Mr. Garrett of New Jersey, Ms. Ginny Brown-Waite of Florida, Mr. Ruppersberger, Mr. Hostettler, Mr. Kline, Mr. Paul, Mr. Souder, Mr. Neugebauer, Mr. Platts, Ms. Ros-Lehtinen, and Mr. Rehberg):

H.R. 3585. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income employer contributions to college tuition plans and education savings accounts; to the Committee on Ways and Means.

By Mr. PORTER:

H.R. 3586. A bill to amend the Internal Revenue Code of 1986 to provide for Small Business Protection Accounts, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RAMSTAD (for himself and Mr. Pomeroy):

H.R. 3587. A bill to amend the Internal Revenue Code of 1986 to extend to church plans the exemption from unrelated business tax for debt-financed property held by pension plans; to the Committee on Ways and Means.

By Mr. RAMSTAD:

H.R. 3588. A bill to amend title XVIII of the Social Security Act to provide for access to telehealth services in the home; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RENZI:

H.R. 3589. A bill to amend title 28, United States Code, to provide an additional place of holding court for the District of Arizona; to the Committee on the Judiciary.

By Mr. RENZI:

H.R. 3590. A bill to amend the Community Forest Restoration Act to expand the Collaborative Forest Restoration Program established under such Act to cover the State of Arizona in addition to the State of New Mexico, and for other purposes; to the Committee on Resources.

By Mr. ROGERS of Michigan:

H.R. 3591. A bill to amend the Internal Revenue Code of 1986 to provide a credit to facilitate the accelerated development and deployment of crash avoidance and crash protection systems; to the Committee on Ways and Means.

By Mr. ROTHMAN:

H.R. 3592. A bill to enable America's schools to use their computer hardware to increase student achievement and prepare students for the 21st century workplace, and for other purposes; to the Committee on Education and the Workforce.

By Mr. ROTHMAN:

H.R. 3593. A bill to prohibit the use of vending machines to sell tobacco products in all locations other than in locations in which the presence of minors is not permitted; to the Committee on Energy and Commerce.

By Mr. ROTHMAN:

H.R. 3594. A bill to amend Federal crime grant programs relating to domestic violence to encourage States and localities to implement gun confiscation policies, reform stalking laws, create integrated domestic violence courts, and hire additional personnel for entering protection orders, and for other purposes; to the Committee on the Judiciary.

By Mr. ROTHMAN:

H.R. 3595. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to reauthorize the Matching Grant Program for School Security; to the Committee on the Judiciary.

By Mr. ROTHMAN:

H.R. 3596. A bill to improve the quality of life and safety of persons living and working near railroad tracks; to the Committee on Transportation and Infrastructure.

By Mr. ROTHMAN:

H.R. 3597. A bill to require the Administrator of the Environmental Protection Agency to conduct a feasibility study for applying airport bubbles as a method of identifying, assessing, and reducing the adverse environmental impacts of airport ground and flight operations and improving the overall quality of the environment, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ROYBAL-ALLARD (for herself, Mr. Wicker, Mr. Waxman, Mr. Grijalva, Mrs. Davis of California, Ms. Woolsey, Mr. Farr, Ms. Solis, Mr. Cardoza, Ms. Zoe Lofgren of California, Ms. Matsui, Mrs. Capps, Ms. Eshoo, Mr. Honda, Mr. Costa, Mr. Royce, Mr. Inslee, Mr. Pastor, Mr. Salazar, Mr. Menendez, Mr. Baca, Mr. Becerra, Mrs. Napolitano, Mr. Gutierrez, Ms. Linda T. Sánchez of California, Mr. Serrano, Ms. Velázquez, Mr. Reyes, Mr. Leach, Mr. English of Pennsylvania, Mr. Walsh, Mr. Bonner, Mr. Castle, Mrs. Johnson of Connecticut, Mr. Crenshaw, Ms. Jackson-Lee of Texas, Mr. Gonzalez, and Ms. Loretta Sanchez of California):

H.R. 3598. A bill to amend the Public Health Service Act to provide for increased funding for the Centers for Disease Control and Prevention to carry out activities toward increasing the number of medically underserved, at-risk adults who are immunized against vaccine-preventable diseases, to require a study regarding standards for the measurement of use by beneficiaries under the Medicare and Medicaid Programs of adult immunizations for influenza, to amend title 5, United States Code, with respect to the Federal Employees Health Benefits Program and certain immunization services, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RYAN of Wisconsin:

H.R. 3599. A bill to amend the Internal Revenue Code of 1986 to clarify the calculation of the reserve allowance for medical benefits of plans sponsored by bona fide associations; to the Committee on Ways and Means.

By Ms. LORETTA SANCHEZ of California (for herself and Mr. Royce):

H.R. 3600. A bill to award a Congressional Gold Medal to Dr. Robert H. Schuller, Pastor of the Crystal Cathedral; to the Committee on Financial Services.

By Mr. SANDERS (for himself, Mr. Ney, Mr. Brown of Ohio, Mr. McNulty, Mr. Platts, Mr. Wynn, Mr. George Miller of California, Mr. Farr, Mr. Abercrombie, Mr. Grijalva, Ms. Woolsey, Mr. Frank of Massachusetts, Mr. DeFazio, Mr. Kildee, Mr. McIntyre, Mr. Costello, Mrs. Maloney, Mr. Al Green of Texas, Mr. Weiner, Mr. Brady of Pennsylvania, Mr. Gonzalez, Mr. Pallone, Mr. Conyers, Mr. Serrano, Ms. Herseth, Mrs. McCarthy, Ms. Lee, Mr. Doyle, Mr. Delahunt, Mr. Owens, Mr. Kanjorski, Ms. Slaughter, Mr. Stark, Mr. FILNER, Ms. JACKSON-LEE of Texas, Ms. GINNY BROWN-WAITE of Florida, Mr. WEXLER, Mr. LATOURETTE, Mr. DUNCAN, Mrs. JO ANN DAVIS of Virginia, Mr. OBERSTAR, Mr. OLVER, Ms. MCCOLLUM of Minnesota, Mr. ROTHMAN, Mr. WAXMAN, Ms. BERKLEY, Mr. KUCINICH, Ms. SOLIS, Mr. MCGOVERN, Mr. RUSH, Mr. RYAN of Ohio, Ms. MILLENDER-MCDONALD, Mr. GUTIERREZ, Mr. HALL, Mr. PAYNE, Ms. SCHAKOWSKY, Mr. GENE GREEN of Texas, Ms. WASSERMAN SCHULTZ, Mr. GORDON, Mr. RANGEL, Mr. BISHOP of Georgia, Mr. MICHAUD, Mrs. CHRISTENSEN, Mr. STUPAK, Mr. RUPPERSBERGER, Ms. ROYBAL-ALLARD, Ms. CARSON, Ms. KAPTUR, Mr. FALEOMAVAEGA, Mr. INSLEE, Mr. CRAMER, Mr. JEFFERSON, Ms. CORRINE BROWN of Florida, Mr. THOMPSON of Mississippi, Mr. TOWNS, Ms. WATSON, Mr. HIGGINS, Mr. ROSS, Mr. CUMMINGS, Mr. VAN HOLLEN, Mr. ISRAEL, Mr. HONDA, Mr. HOLDEN, Mr. SCHIFF, Mr. SIMMONS, Mr. MURTHA, Mrs. NAPOLITANO, Ms. NORTON, Mr. DAVIS of Alabama, Mrs. LOWEY, Mr. HASTINGS of Florida, Mr. LANTOS, Mr. MARSHALL, Mr. MOLLOHAN, Mr. HINCHEY, Ms. LORETTA SANCHEZ of California, Mr. DAVIS of Illinois, Mr. ENGEL, Mr. BUTTERFIELD, Mr. EVANS, Mr. WU, Mr. CHANDLER, and Mr. CROWLEY):

H.R. 3601. A bill to require the establishment of a Consumer Price Index for Elderly Consumers to compute cost-of-living increases for Social Security and Medicare benefits under titles II and XVIII of the Social Security Act; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCOTT of Virginia (for himself, Mr. CONYERS, Mr. MCDERMOTT, and Mr. DAVIS of Illinois):

H.R. 3602. A bill to amend title 18, United States Code, to award credit toward the service of a sentence to prisoners who participate in designated educational, vocational, treatment, assigned work, or other developmental programs, and for other purposes; to the Committee on the Judiciary.

By Mr. SIMPSON:

H.R. 3603. A bill to promote the economic development and recreational use of National Forest System lands and other public lands in central Idaho, to designate the Boulder-White Cloud Management Area to ensure the continued management of certain National Forest System lands and Bureau of Land Management lands for recreational and grazing use and conservation and resource protection, to add certain National Forest System lands and Bureau of Land Management lands in central Idaho to the National Wilderness Preservation System, and for other purposes; to the Committee on Resources.

By Ms. SLAUGHTER (for herself, Mr. WELDON of Pennsylvania, Ms. SCHAKOWSKY, and Ms. WATSON):

H.R. 3604. A bill to amend title 18, United States Code, to provide expanded protections against the misuse of public safety officer uniforms, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of Washington (for himself and Mr. BACHUS):

H.R. 3605. A bill to require the President to develop and implement a comprehensive strategy to further the United States foreign policy objective of vastly reducing global poverty and eliminating extreme global poverty, to require periodic reports on the progress toward implementation of the strategy, and for other purposes; to the Committee on International Relations.

By Mr. STUPAK:

H.R. 3606. A bill to modify a land grant patent issued by the Secretary of the Interior; to the Committee on Resources.

By Mr. SWEENEY (for himself and Mr. OSBORNE):

H.R. 3607. A bill to improve the quality of health care through the implementation of computerized provider order entry systems in hospitals and skilled nursing facilities that will result in a reduction in the rate of medication errors and in redundancies and will create more efficiency; to the Committee on Energy and Commerce.

By Mr. SWEENEY:

H.R. 3608. A bill to amend the Controlled Substances Act to prohibit third-party Internet sales sites from posting offers to sell controlled substances, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Pennsylvania:

H.R. 3609. A bill to extend the temporary suspension of duty on thiophanate methyl and application adjuvants; to the Committee on Ways and Means.

By Mr. WELDON of Pennsylvania:

H.R. 3610. A bill to suspend temporarily the duty on zinc dimethyldithiocarbamate; to the Committee on Ways and Means.

By Mr. WELDON of Pennsylvania:

H.R. 3611. A bill to extend the temporary suspension of duty on thiophanate methyl; to the Committee on Ways and Means.

By Mr. WELDON of Pennsylvania (for himself and Ms. DEGETTE):

H.R. 3612. A bill to amend title XVIII of the Social Security Act to improve access to diabetes self management training by designating certified diabetes educators who are recognized by a nationally recognized certifying body and who meet the same quality standards set forth for other providers of diabetes self management training, as certified providers for purposes of outpatient diabetes self-management training services under part B of the Medicare Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WICKER (for himself, Mr. MCKEON, Mr. NORWOOD, Mrs. DRAKE, Mr. GARY G. MILLER of California, Mr. BONNER, Mr. TIAHRT, Mr. BURGESS, Mr. BARRETT of South Carolina, Mr. KELLER, Mr. BOUSTANY, Mr. KINGSTON, Mr. SULLIVAN, Mr. BURTON of Indiana, Mr. DAVIS of Kentucky, Mr. HASTINGS of Florida, and Mr. CONAWAY):

H.R. 3613. A bill to amend the National Apprenticeship Act to provide that applications relating to apprenticeship programs are processed in a fair and timely manner, and for other purposes; to the Committee on Education and the Workforce.

By Mr. WOLF:

H.R. 3614. A bill to amend the Internal Revenue Code of 1986 to allow physicians a credit against income tax for providing charity care; to the Committee on Ways and Means.

By Mr. WU (for himself, Ms. HOOLEY, Mr. DEFAZIO, and Mr. BLUMENAUER):

H.R. 3615. A bill to direct the Secretary of the Interior to carry out a study of the feasibility of designating as a national historic trail the route followed by Governor Isaac Stevens of the Washington Territory and Joel Palmer, Superintendent of Indian Affairs for the Oregon Territory, in 1855 when they negotiated treaties with the Indian tribes of northeastern Oregon, Washington, northern Idaho and western Montana; to the Committee on Resources.

By Mr. CULBERSON (for himself, Mr. AKIN, Mrs. JO ANN DAVIS of Virginia, Mr. DUNCAN, Ms. FOXX, Mr. GOODE, Mr. HAYWORTH, Mr. HERGER, Mr. SAM JOHNSON of Texas, Mr. JONES of North Carolina, Mr. LEWIS of Kentucky, Mr. MARCHANT, Mr. MCHENRY, Mr. POE, Mr. TANCREDO, and Mr. WILSON of South Carolina):

H.J. Res. 62. A joint resolution proposing an amendment to the Constitution of the United States to require that Federal district court judges be reconfirmed every ten years by the executive and legislative authorities of the State in which they serve; to the Committee on the Judiciary.

By Mr. FORTUÑO (for himself, Mr. MCCOTTER, Mr. LINCOLN DIAZ-BALART of Florida, Ms. ROS-LEHTINEN, Mr. MARIO DIAZ-BALART of Florida, Mr. MACK, and Mr. SOUDER):

H. Con. Res. 224. Concurrent resolution calling on the Government of Venezuela to uphold the human rights and civil liberties of the people of Venezuela; to the Committee on International Relations.

By Mr. YOUNG of Alaska:

H. Con. Res. 226. Concurrent resolution providing for a correction to the enrollment of H.R. 3; considered and agreed to.

By Mr. CROWLEY:

H. Con. Res. 227. Concurrent resolution commemorating the 60th anniversary of the Korean independence movement and recognizing Korean National Liberation Day; to the Committee on International Relations.

By Ms. HARRIS:

H. Con. Res. 228. Concurrent resolution supporting the observance of Breast Cancer Awareness Month, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HASTINGS of Florida:

H. Con. Res. 229. Concurrent resolution supporting the goal of the United States establishing a responsible energy policy toward the Gulf of Guinea region in Western Africa that encourages local content development and greater governmental transparency; to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISSA (for himself and Ms. WATSON):

H. Con. Res. 230. Concurrent resolution expressing the sense of the Congress that the Russian Federation must protect intellectual property rights; to the Committee on Ways and Means.

By Mr. PICKERING (for himself, Mr. TOWNS, Mr. HALL, Mr. SESSIONS, Mr. GOODE, Mrs. MYRICK, Mr. BURGESS, Mr. WHITFIELD, Mr. MORAN of Kansas, Mr. OLVER, Mr. CARDOZA, Mr. CUELLAR, Mr. PAYNE, Mr. BAIRD, Mr. LYNCH, Mr. EVANS, Ms. HERSETH, Mr.

Case, Mr. McDermott, Mrs. Christensen, Mr. Sanders, Mr. Capuano, Mr. Inslee, Mr. Waxman, Mr. Norwood, Mrs. Cubin, Mr. Brown of Ohio, Mr. Terry, Mr. Al Green of Texas, Mr. Conyers, Ms. Norton, Mr. Putnam, and Mr. Filner):

H. Con. Res. 231. Concurrent resolution recognizing the benefits and importance of Federally-qualified health centers and the Medicaid prospective payment system for such centers; to the Committee on Energy and Commerce.

By Mr. COX (for himself and Mr. Thompson of Mississippi):

H. Res. 398. A resolution expressing the sense of the House of Representatives that the employees of the Department of Homeland Security, their partners at all levels of government, and the millions of law enforcement agents and emergency response providers nationwide should be commended for their dedicated service on the Nation's front lines in the war against terrorism; to the Committee on Homeland Security.

By Mr. BURGESS (for himself, Mr. Paul, and Mr. Gingrey):

H. Res. 402. A resolution supporting the goals and ideals of Infant Mortality Awareness Month; to the Committee on Government Reform.

By Mr. CAPUANO (for himself, Mr. Tierney, Mr. Kuhl of New York, Mr. Conyers, Mr. Moore of Kansas, Mr. McDermott, Mr. Boswell, Mr. Cummings, Mr. Gutierrez, Mr. Neal of Massachusetts, Mr. Meehan, Mr. Frank of Massachusetts, Mr. McGovern, Mr. Markey, Mr. Lynch, Mr. Delahunt, and Mr. Olver):

H. Res. 403. A resolution recognizing the importance of Knowing My 8 Rules for Safety in addressing the problem of missing children, and for other purposes; to the Committee on Education and the Workforce.

By Mrs. DAVIS of California (for herself, Mr. Hunter, Mr. Buyer, Mr. Evans, Mr. Skelton, Mr. Filner, Mr. Grijalva, Mr. Salazar, Mr. Issa, and Mr. Cunningham):

H. Res. 404. A resolution expressing the condolences of the House of Representatives on the death of Vice Admiral (retired) James B. Stockdale, United States Navy; to the Committee on Armed Services.

By Mr. DAVIS of Illinois:

H. Res. 405. A resolution expressing the sense of the House of Representatives that observing a Movement Disorders Awareness Month would promote awareness, diagnosis, and advocacy concerning the issue; to the Committee on Energy and Commerce.

By Mr. ENGLISH of Pennsylvania:

H. Res. 406. A resolution recognizing the 60th anniversary of the first official meeting between soldiers of the United States Army and soldiers of the Soviet Army at Torgau, Germany, and commending the excellent service of the 69th Infantry Division of the United States Army during World War II; to the Committee on Armed Services.

By Mr. GOHMERT:

H. Res. 407. A resolution recognizing the 75th anniversary of the discovery of the East Texas Oil Field on October 3, 1930, and the 25th anniversary of the East Texas Oil Museum; to the Committee on Energy and Commerce.

By Mr. HINCHEY:

H. Res. 408. A resolution requesting the President and directing the Secretary of Defense to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution all documents in the possession of the President and Secretary of Defense relating to communications with officials of the United Kingdom relating to the policy of the United States with respect to Iraq; to the Committee on International Relations.

By Mr. LANTOS (for himself, Mr. Hyde, Mr. Berman, Mr. Smith of New Jersey, Mr. Wynn, Mr. Wolf, Mr. Waxman, Mr. Tancredo, Ms. Watson, Mr. Burton of Indiana, Mr. Abercrombie, Mr. Doolittle, Mr. Wexler, Mr. Farr, Mr. McNulty, Ms. Ros-Lehtinen, Mr. Pitts, and Mr. Jackson of Illinois):

H. Res. 409. A resolution condemning the Government of Zimbabwe's "Operation Murambatsvina" under which homes, businesses, religious structures, and other buildings and facilities were demolished in an effort characterized by the Government of Zimbabwe as an operation to "restore order" to the country; to the Committee on International Relations, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MEEHAN (for himself, Mr. English of Pennsylvania, Mr. Allen, Mr. Butterfield, Ms. Carson, Mr. Dingell, Mr. Frank of Massachusetts, Mr. Gilchrest, Mr. Gonzalez, Mr. Grijalva, Mr. Higgins, Mr. Holden, Mr. Lipinski, Mr. McGovern, Mr. McNulty, Mr. Michaud, Mr. Moran of Virginia, Mr. Neal of Massachusetts, Mr. Rehberg, Mr. Ross, Mr. Sanders, Mr. Snyder, and Mr. Watt):

H. Res. 410. A resolution expressing the sense of the House of Representatives that there should be established a National Weatherization Day to recognize the need for reducing home energy costs, particularly for low-income families, through the use of conservation technologies, and for other purposes; to the Committee on Government Reform.

By Mr. MENENDEZ (for himself, Mrs. Maloney, Mr. Bilirakis, Mr. Radanovich, Mr. McGovern, Mr. Pallone, Mr. McCotter, Mr. Strickland, Mr. Crowley, and Mr. Schwarz of Michigan):

H. Res. 411. A resolution urging the Republic of Turkey to comply with all European Union standards and criteria prior to its accession to the European Union; to the Committee on International Relations.

By Mr. POE:

H. Res. 412. A resolution expressing the sense of the House of Representatives that the President should disapprove of the report of the Defense Base Closure and Realignment Commission containing its recommendations for the closure and realignment of military installations in the United States unless the President is convinced that implementation of such recommendations will not adversely affect the homeland security of the United States; to the Committee on Armed Services.

By Mr. POE (for himself, Ms. Ros-Lehtinen, Ms. Berkley, Mr. Saxton, Mr. Pence, Mr. Weiner, and Mr. Feeney):

H. Res. 413. A resolution expressing the concern of House of Representatives regarding the amount of United States foreign assistance provided to Egypt over the past 25 years without meaningful political reforms by the Government of Egypt, and for other purposes; to the Committee on International Relations.

By Ms. ROS-LEHTINEN (for herself and Mr. Lantos):

H. Res. 414. A resolution condemning the imprisonment of Ali Akbar Ganji by the Government of Iran and the continuous violations of the fundamental human rights of the Iranian people by the Government of Iran; to the Committee on International Relations.

By Ms. LORETTA SANCHEZ of California (for herself and Mr. Burton of Indiana):

H. Res. 415. A resolution expressing the sense of the House of Representatives that the Socialist Republic of Vietnam needs to do more to resolve claims for confiscated real and personal property, and for other purposes; to the Committee on International Relations.

By Mr. WEXLER (for himself, Mr. Gerlach, Mr. Stearns, Ms. Ros-Lehtinen, Mr. Strickland, Ms. Wasserman Schultz, and Mr. Engel):

H. Res. 416. A resolution recognizing the Republic of Poland and philanthropic organizations and individuals for supporting the establishment of the Museum of the History of Polish Jews in Warsaw, Poland; to the Committee on International Relations.

## MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

121. The SPEAKER presented a memorial of the Legislature of the State of Washington, relative to Substitute Senate Joint Memorial No. 8010 petitioning the United States Department of Agriculture regarding Canadian beef importation and export of United States beef; to the Committee on Agriculture.

122. Also, a memorial of the Legislature of the State of Idaho, relative to Senate Joint Resolution No. 107 requesting Congress to increase the death benefit for soldiers killed in combat or who die of combat related injuries and requesting that supplemental programs be considered by Congress and the President to put the lives of the widow or widower and dependents back together; to the Committee on Armed Services.

123. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent No. 138 memorializing the Congress of the United States to make permanent the increases in Servicemembers' Group Life Insurance coverage and the Death Gratuity benefits to provide financial security of survivors of members of the Louisiana National Guard and other servicemembers who make the ultimate sacrifice with their lives while serving our country and the state of Louisiana; to the Committee on Armed Services.

124. Also, a memorial of the House of Representatives of the State of Florida, relative to House Memorial 821 urging Congress to ensure that the aircraft carrier USS John F. Kennedy remains in active service, that Naval Station Mayport remains the home port for the USS John F. Kennedy, and that the strength of the U.S. Navy's Atlantic carrier fleet is maintained at its current level; to the Committee on Armed Services.

125. Also, a memorial of the Legislature of the State of Maine, relative to House Joint Resolution No. 1160 memorializing the Congress of the United States to avoid sole-sourced shipbuilding; to the Committee on Armed Services.

126. Also, a memorial of the Legislature of the State of Louisiana, relative to House

Concurrent Resolution No. 92 memorializing the Congress of the United States to take such actions as are necessary to require financial institutions to notify consumers prior to publication of negative credit information and to allow adequate time for correction; to the Committee on Financial Services.

127. Also, a memorial of the General Assembly of the State of Nevada, relative to Senate Joint Resolution No. 13 urging Congress to preserve the Community Services Block Grant program as an independent federal program; to the Committee on Education and the Workforce.

128. Also, a memorial of the House of Representatives of the State of Kansas, relative to House Resolution No. 6038 memorializing the Congress of the United States to continue funding the TriO and GEARUP educational programs; to the Committee on Education and the Workforce.

129. Also, a memorial of the Legislature of the State of Idaho, relative to Senate Joint Resolution No. 105 urging the Congress of the United States to enact the appropriate legislation to authorize the individual states to autonomously implement the Safe Drinking Water Act in their respective states, and to provide federal funds to the states via block grants to be used for the implementation of the Act, in accordance with the determination of best use by each state, to protect the public health and environment of the people of each state; to the Committee on Energy and Commerce.

130. Also, a memorial of the Legislature of the State of Minnesota, relative to Senate Joint Resolution 31 urging that proposals to transition the Bonneville Power Administration from cost-based rates to market-based rates and accelerate the Bonneville Power Administration's debt repayment to the United States Treasury, as expressed in the President's fiscal year 2006 proposed budget, be rejected; to the Committee on Energy and Commerce.

131. Also, a memorial of the Legislature of the State of Washington, relative to Substitute Senate Joint Memorial 8018 to reject the proposal to transition the Bonneville Power Administration from cost-based rates to market-based rates; to the Committee on Energy and Commerce.

132. Also, a memorial of the Senate of the State of Hawaii, relative to Senate Resolution No. 22 urging the President of the United States, the Congress of the United States and the Centers for Medicare and Medicaid Services to preserve the amount of medicaid coverages and amount of benefits; to the Committee on Energy and Commerce.

133. Also, a memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to a Resolution expressing to the Congress of the United States concern over the proposal of reducing the appropriation of federal funds for the High Intensity Drug Trafficking Area (HIDTA) Program; to the Committee on Energy and Commerce.

134. Also, a memorial of the General Assembly of the State of Nevada, relative to Assembly Joint Resolution No. 4 urging the Congress of the United States to recognize the unsuitibility of Yucca Mountain as the site for a repository to store and dispose of spent nuclear fuel and high-level radioactive waste; to the Committee on Energy and Commerce.

135. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 9 urging the Congress of the United States to reject the Administration's proposal to move PMA rates to market rates thereby ensuring the continued responsible management of power generation, transmission and sale; to the Committee on Energy and Commerce.

136. Also, a memorial of the General Assembly of the State of Indiana, relative to Senate Resolution No. 25 memorializing the Congress of the United States to give due consideration to the readiness of the Republic of China on Taiwan for membership in the United Nations; to the Committee on International Relations.

137. Also, a memorial of the Legislature of the State of Hawaii, relative to House Concurrent Resolution 62 supporting the government and the people of the Republic of Kiribati in their efforts to address war reparations; to the Committee on International Relations.

138. Also, a memorial of the House of Representatives of the State of Minnesota, relative to House File No. 2143 memorializing the President, Congress and the United States Postal Service to maintain current levels of service; to the Committee on Government Reform.

139. Also, a memorial of the Legislature of the State of North Dakota, relative to Senate Concurrent Resolution No. 4040 urging the Comissioner of Major League Baseball to reinstate Roger Maris as holder of the single-season major league baseball home run record; to the Committee on Government Reform.

140. Also, a memorial of the Legislature of the State of North Dakota, relative to House Concurrent Resolution No. 3058 urging the Federal Aviation Administration to maintain the Grand Forks Automated Flight Service Station as a federal air traffic facility properly staffed by government employees; to the Committee on Government Reform.

141. Also, a memorial of the Legislature of the State of Idaho, relative to Senate Joint Memorial No. 102 urging Congress to support broadening the federal regulation, "Endangered and Threatened Wildlife and Plants; Regulation for Nonessential Experimental Populations of the Western District Population Segment of the Gray Wolf," to authorize citizens to protect their pet dogs and sporting dogs in the same manner as provided for livestock, including dogs that guard or herd livestock; continued funding through federal grants of Idaho's Wolf Depredation Compensation Plan and the broadening of compensation criteria to provide compensation for wolf to the Committee on Resources.

142. Also, a memorial of the Legislature of the State of Idaho, relative to Senate Joint Memorial No. 103 urging the President of the United States and the Congress of the United States to pass legislation establishing an equitable reimbursement formula based upon the number of users or acreage or another equitable basis for the Bureau of Land Management to reimburse counties for local law enforcement services; to the Committee on Resources.

143. Also, a memorial of the Legislature of the State of Idaho, relative to Senate Joint Memorial 109 supporting reauthorization of the "Secure Rural Schools and Community Self-Determination Act"; to the Committee on Resources.

144. Also, a memorial of the Legislature of the State of Idaho, relative to Senate Joint Memorial No. 104 urging the President of the United States and the Congress of the United States to pass legislation establishing an equitable reimbursement formula based upon the number of users or acreage or another equitable basis for the Forest Service to reimburse counties for local law enforcement services; to the Committee on Resources.

145. Also, a memorial of the Legislature of the State of Maine, relative to a Joint Resolution memorializing the President and Congress of the United States to allow Poland's citizens to travel to the United States without visas; to the Committee on the Judiciary.

146. Also, a memorial of the Legislature of the State of Idaho, relative to Senate Joint Memorial No. 111 requesting Congress to comprehensively review current immigration policy, to examine enforcement of that policy, and further, to actively seek reasonable revisions to such policy; to the Committee on the Judiciary.

147. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 218 memorializing the Senate of the United States to pass the constitutional amendment banning the desecration of the American flag which was passed by the House of Presentative of the United States on June 22, 2005; to the Committee on the Judiciary.

148. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Resolution No. 102 recognizing the need for an apology to the victims of lynching and their descendants by the Senate of the United States for the Senates' failure to enact anti-lynching legislation; to the Committee on the Judiciary.

149. Also, a memorial of the Senate of the Commonwealth of Pennsylvania, relative to Senate Resolution No. 25 urging the Congress of the United States to make the Republic of Poland eligible for the Department of State's Visa Waiver Program; to the Committee on the Judiciary.

150. Also, a memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to a Resolution expressing support of the extension of the term of effectiveness of Pub. L. 107-56, known as the "USA Patriot Act"; to the Committee on the Judiciary.

151. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Resolution No. 2 urging the Congress of the United States to continue their endeavors on behalf of Idaho's citizens for appropriate compensation through RECA; to the Committee on the Judiciary.

152. Also, a memorial of the Legislature of the State of Idaho, relative to Senate Joint Memorial 112 urging Congress to take whatever steps are possible to facilitate dredging of the Snake and Clearwater Rivers by the U.S. Army Corps of Engineers; to the Committee on Transportation and Infrastructure.

153. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 103 memorializing the Congress of the United States to take such actions as are necessary to advocate changes in the Federal Motor Carrier Safety Regulations relative to issuance of restricted commercial drivers' licenses, which currently prohibit aerial applicators from qualifying for issuance of such license; to the Committee on Transportation and Infrastructure.

154. Also, a memorial of the General Assembly of the State of Georgia, relative to House Resolution No. 14 requesting the Congress of the United States pass legislation allowing hybrid or alternative fueled passenger vehicle to use established HOV lanes; to the Committee on Transportation and Infrastructure.

155. Also, a memorial of the House of Representatives of the State of Florida, relative to urging the Congress of the United States to support the nation's new Vison for Space Exploration and encouraging the Congress to continue to enact and fund the National Aeronautics and Space Administration's program implementing the nation's new Vision for Space Exploration; to the Committee on Science.

156. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 6 petitioning the Congress of the United States to pledge continued support and provide sufficient long-term funding to assure execution of the federal government's stated, public record vision for the Idaho National Labratory; to the Committee on Science.

157. Also, a memorial of the Senate of the State of New Hampshire, relative to Senate Resolution 1 requesting the United States Congress to assure that compensation is provided to certain United States pilots held as prisoners of war during the 1991 Gulf War; to the Committee on Veterans' Affairs.

158. Also, a memorial of the House of Representatives of the Commonwealth of Puerto Rico, relative to a Resolution expressing support of the reform of the Social Security System by the President of the United States and the Congress of the United States; to the Committee on Ways and Means.

159. Also, a memorial of the Legislature of the State of Oregon, relative to House Joint Memorial 6 urging the United States Congress to amend section 143(1)(4)(A) and (B) of the Internal Revenue Code to allow veterans who entered the Armed Forces of the United States after December 31, 1976, to become eligible for Oregon home loans for veterans using the proceeds of qualified veterans' mortgage bonds; to the Committee on Ways and Means.

160. Also, a memorial of the Legislature of the State of Maine, relative to H.P. 1014 Joint Resolution memorializing the President and Congress of the United States to support the reform of the Social Security offsets of the government pension offset and the windfall elimination provision; to the Committee on Ways and Means.

161. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Memorial No. 1 urging the Congress of the United States to support legislation that will authorize and fund a feasibility study by the United States Corps of Engineers relating to the possibilities, benefits and costs of providing flood control above Bear Lake; to the Committee on Ways and Means.

162. Also, a memorial of the Legislature of the State of Idaho, relative to House Joint Resolution No. 4 urging the Congress of the United States to renegotiate the provisions of CAFTA and the FTAA to limit exports from the Involved foreign countries to fairly protect agricultural producers in the United States; to the Committee on Ways and Means.

163. Also,a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 19 memorializing the Congress of the United States to take such actions as are necessary to enact legislation establishing English as the official language of the United States; jointly to the Committees on Education and the Workforce and the Judiciary.

164. Also, a memorial of the Senate of the State of Kansas, relative to Senate Resolution No. 1862 memorializing the Congress of the United States to continue the current federal moratorium on specialty hospitals; jointly to the Committees on Energy and Commerce and Ways and Means.

165. Also, a memorial of the General Assembly of the State of Colorado, relative to Senate Joint Resolution 05-015, concerning opposition to the "Federal Lands Recreation Enhancement Act"; jointly to the Committees on Resources and Agriculture.

166. Also, a memorial of the House of Representatives of the State of Louisiana, relative to House Resolution No. 131 memorializing the members of the Senate of the United States from Louisiana to continue to work toward enacting federal legislation to ensure that deserving victims of asbestos exposure receive compensation; jointly to the Committees on the Judiciary and Energy and Commerce.

167. Also, a memorial of the Legislature of the State of Maine, relative to H.P. 1115 Joint Resolution memorializing the President of the United States and the Congress of the United Sates to fulfill the intent to fund 40 percent of the costs of special education and to end unfunded mandates; jointly to the Committees on Education and the Workforce, Government Reform, the Judiciary, the Budget, and Rules.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 5: Mr. HALL.

H.R. 11: Mr. MARCHANT, Mr. GOHMERT, and Mr. SWEENEY.

H.R. 14: Mr. CHABOT and Mr. HALL.

H.R. 23: Mr. STUPAK.

H.R. 47: Mr. KLINE.

H.R. 49: Mr. MORAN of Virginia.

H.R. 94: Mr. REICHERT.

H.R. 97: Mr. REICHERT and Mr. SNYDER.

H.R. 98: Mr. WOLF.

H.R. 110: Mr. PALLONE and Mr. HASTINGS of Florida.

H.R. 224: Mr. MORAN of Virginia.

H.R. 239: Mr. RYUN of Kansas and Mr. GARY G. MILLER of California.

H.R. 269: Mr. BISHOP of Georgia and Mr. DEFAZIO.

H.R. 282: Mr. FORTUÑO.

H.R. 309: Mr. HONDA.

H.R. 312: Mr. WOLF.

H.R. 363: Ms. DEGETTE.

H.R. 414: Ms. ZOE LOFGREN of California, Mr. INSLEE, Mr. SIMMONS, and Mr. KLINE.

H.R. 422: Mr. MOORE of Kansas and Mr. WEXLER.

H.R. 478: Mr. GRIJALVA.

H.R. 490: Mr. HERGER.

H.R. 519: Mr. MEEK of Florida and Mr. WEXLER.

H.R. 521: Ms. HERSETH and Mr. DAVIS of Alabama.

H.R. 551: Mr. MARKEY and Mr. STUPAK.

H.R. 552: Mr. MCCAUL of Texas, Mr. ROGERS of Michigan, Mr. BEAUPREZ, and Mr. PRICE of Georgia.

H.R. 561: Mr. RYAN of Ohio.

H.R. 586: Mr. MATHESON.

H.R. 602: Mr. KLINE.

H.R. 615: Mr. GONZALEZ.

H.R. 699: Ms. PRYCE of Ohio, Mr. DAVIS of Alabama, and Mr. MILLER of Florida.

H.R. 717: Mr. PASTOR.

H.R. 759: Mrs. NAPOLITANO, Ms. BALDWIN, and Ms. MATSUI.

H.R. 817: Ms. ESHOO, Mr. TIERNEY, and Mr. SCHWARZ of Michigan.

H.R. 839: Ms. LINDA T. SÁNCHEZ of California.

H.R. 851: Mr. REICHERT.

H.R. 856: Mr. PRICE of Georgia, Mr. CASTLE, Mr. BOUSTANY, Mr. DANIEL E. LUNGREN of California, Mr. KLINE, Mr. MCCAUL of Texas, Mr. WOLF, and Mr. KUHL of New York.

H.R. 859: Mr. JINDAL.

H.R. 864: Mr. LANTOS and Mrs. CAPPS.

H.R. 867: Mr. MURTHA.

H.R. 881: Mr. MOLLOHAN, Mr. HERGER, Mr. DOOLITTLE, Mr. FORTENBERRY, Mr. Gutknecht, Mrs. CUBIN, Mr. GOODE, Mr. ROHRABACHER, Mr. SHADEGG, Mr. PITTS, Mr. CULBERSON, and Mr. OLVER.

H.R. 896: Mr. VAN HOLLEN and Miss MCMORRIS.

H.R. 897: Mr. WALSH.

H.R. 898: Mr. GONZALEZ and Mr. AL GREEN of Texas.

H.R. 913: Mr. GALLEGLY.

H.R. 916: Mr. LEVIN, Mr. GERLACH, Mrs. CAPPS, and Mr. RYAN of Ohio.

H.R. 930: Mr. MOORE of Kansas.

H.R. 936: Ms. SCHAKOWSKY.

H.R. 949: Ms. SCHAKOWSKY, Mr. UDALL of Colorado, and Mr. TOM DAVIS of Virginia.

H.R. 963: Ms. SCHAKOWSKY.

H.R. 964: Mr. PICKERING, Mr. WICKER, Mr. SNYDER, Mr. GORDON, Mr. MORAN of Kansas, Mrs. MUSGRAVE, Mr. LARSEN of Washington, and Mr. GRIJALVA.

H.R. 968: Mr. MARCHANT and Mrs. DRAKE.

H.R. 972: Mr. MORAN of Virginia.

H.R. 976: Mr. ANDREWS.

H.R. 983: Mr. BERMAN.

H.R. 994: Mr. WESTMORELAND, Mr. CUELLAR, Mr. TAYLOR of Mississippi, Mr. CRAMER, and Mr. SOUDER.

H.R. 1059: Ms. SCHWARTZ of Pennsylvania.

H.R. 1062: Mr. WELDON of Florida.

H.R. 1070: Mr. KING of Iowa.

H.R. 1130: Mr. WATT.

H.R. 1131: Mr. SWEENEY, Mr. MANZULLO, and Mr. BEAUPREZ.

H.R. 1175: Mr. CLAY.

H.R. 1177: Mr. GERLACH, Mr. SABO, and Mr. MOORE of Kansas.

H.R. 1188: Mr. DEFAZIO and Ms. BORDALLO.

H.R. 1200: Mr. HASTINGS of Florida, Mr. MEEHAN, and Mr. LEWIS of Georgia.

H.R. 1202: Mr. WHITFIELD.

H.R. 1217: Mr. BAIRD.

H.R. 1227: Mr. RYAN of Ohio, Mr. BAIRD, and Mr. SIMPSON.

H.R. 1233: Ms. WASSERMAN SCHULTZ, Ms. JACKSON-LEE of Texas, Mr. DAVIS of Alabama, and Mr. GUTIERREZ.

H.R. 1243: Mr. HENSARLING.

H.R. 1245: Mr. CUNNINGHAM, Miss MCMORRIS, Mr. RAHALL, Mr. WELDON of Pennsylvania, Mr. REICHERT, Mr. LAHOOD, Mr. MICA, Mr. NUNES, Mr. BACA, Mrs. BLACKBURN, and Mr. MACK.

H.R. 1246: Mr. SHERMAN and Mr. REGULA.

H.R. 1249: Mr. TOM DAVIS of Virginia, Mr. RAHALL, and Mr. RYAN of Ohio.

H.R. 1251: Mrs. NAPOLITANO.

H.R. 1259: Mr. NUNES.

H.R. 1264: Mr. PASTOR.

H.R. 1273: Mr. HALL.

H.R. 1281: Mr. RYAN of Ohio.

H.R. 1290: Mr. PASTOR.

H.R. 1298: Mr. JONES of North Carolina, Mr. AL GREEN of Texas, and Mr. WILSON of South Carolina.

H.R. 1303: Mr. BERMAN.

H.R. 1306: Mr. WHITFIELD and Mr. RYAN of Ohio.

H.R. 1312, Mr. ABERCROMBIE, Mr. BISHOP of New York, Mr. BRADY of Pennsylvania, Mrs. CAPPS, Mr. CAPUANO, Mr. CROWLEY, Ms. ESHOO, Mr. EVANS, Mr. FRANK of Massachusetts, Ms. HARMAN, Mr. HOYER, Mr. JACKSON of Illinois, Mr. KUCINICH, Mr. LEWIS of Georgia, Mr. MARKEY, Ms. MCCOLLUM of Minnesota, Mr. MEEHAN, Mr. MEEKS of New

York, Mr. OLVER, Mr. PASCRELL, Mr. PASTOR, Mr. RANGEL, Mr. ROTHMAN, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SCHIFF, Ms. SOLIS, Mrs. TAUSCHER, Mr. TIERNEY, Mr. WEINER, Mr. ANDREWS, Mr. BECERRA, Ms. CORRINE BROWN of Florida, Mr. CLAY, Mr. DELAHUNT, Mr. HASTINGS of Florida, Mr. HONDA, Mrs. JONES of Ohio, Mr. LANTOS, Mr. MENENDEZ, Mrs. NAPOLITANO, Mr. OWENS, Mr. TOWNS, Ms. VELÁZQUEZ, and Ms. WATERS.

H.R. 1333: Mr. DAVIS of Tennessee, Mrs. EMERSON, Mrs. CAPPS, and Mr. FEENEY.

H.R. 1365: Mr. OBERSTAR, Mr. EVANS, Mr. WU, Mr. DAVIS of Florida, Mr. ROSS, Mr. DINGELL, Mr. CLAY, Mr. MARSHALL, Mr. BOSWELL, Mr. HOLT, and Mr. BERRY.

H.R. 1366: Mrs. DRAKE.

H.R. 1376, Mr. INSLEE.

H.R. 1380: Mr. KIRK.

H.R. 1390, Mrs. NAPOLITANO.

H.R. 1399: Mr. FILNER.

H.R. 1401: Ms. SCHAKOWSKY.

H.R. 1402: Mr. LAHOOD, Mr. FARR, Mr. SCHIFF, Mr. CONYERS, Mr. DAVIS of Florida, Mr. VISCLOSKY, Mr. NEAL of Massachusetts, Mr. ACKERMAN, Mr. BAIRD, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Mr. BOSWELL, Mr. BROWN of Ohio, Mrs. CAPPS, Mr. CARNAHAN, Ms. CARSON, Mr. COSTELLO, Mr. CROWLEY, Mr. DAVIS of Illinois, Mr. DELAHUNT, Mr. ENGEL, Ms. ESHOO, Mr. EVANS, Mr. FATTAH, Mr. GORDON, Mr. GENE GREEN of Texas, Mr. HIGGINS, Mr. HOLDEN, Ms. HOOLEY, Mr. HOYER, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Ms. KILPATRICK of Michigan, Mr. LARSEN of Washington, Ms. LEE, Mr. LEWIS of Georgia, Mr. LIPINSKI, Ms. ZOE LOFGREN of California, Mr. MARKEY, Mr. MCDERMOTT, Mr. MCINTYRE, Ms. MCKINNEY, Mr. GEORGE MILLER of California, Mr. OBEY, Mr. PASCRELL, Mr. RUPPERSBERGER, Ms. WASSERMAN SCHULTZ, Mr. SCOTT of Virginia, Mr. SMITH of Washington, Mr. SNYDER, Mr. TANNER, Mrs. TAUSCHER, Mr. UDALL of Colorado, Mr. RYAN of Ohio, Mr. BERRY, and Mr. CASE.

H.R. 1406: Mr. MARSHALL.

H.R. 1409: Mr. GENE GREEN of Texas, Mrs. MCCARTHY, Mr. ENGEL, Mr. CALVERT, Ms. WATERS, Ms. BERKLEY, Mr. GONZALEZ, and Mr. BAIRD.

H.R. 1413: Mr. ANDREWS, Mr. EMANUEL, Mrs. EMERSON, Mr. FILNER, Mr. AL GREEN of Texas, and Mr. MARKEY.

H.R. 1414: Ms. SCHAKOWSKY.

H.R. 1426: Mrs. CAPPS.

H.R. 1431: Mr. WALSH and Mr. SPRATT.

H.R. 1439: Mr. RYAN of Ohio.

H.R. 1451: Mr. WU, Mr. KUCINICH, and Mr. LARSON of Connecticut.

H.R. 1471: Mr. CLEAVER and Mr. KLINE.

H.R. 1510: Mr. COLE of Oklahoma and Mr. CANTOR.

H.R. 1517: Mr. HYDE.

H.R. 1526: Ms. BERKLEY.

H.R. 1545: Mr. FORD.

H.R. 1548: Mr. SHIMKUS and Ms. BERKLEY.

H.R. 1554: Mr. STARK and Mr. MORAN of Virginia.

H.R. 1558: Ms. SCHAKOWSKY, Mr. DEFAZIO, Mr. FRELINGHUYSEN, Mr. STARK, Mr. VAN HOLLEN, Mr. HOLT, and Mr. SCHWARZ of Michigan.

H.R. 1574: Mr. BROWN of Ohio.

H.R. 1595: Mr. JEFFERSON.

H.R. 1598: Mr. RYAN of Ohio.

H.R. 1632: Mr. MORAN of Virginia, Mr. WHITFIELD, and Mr. WAXMAN.

H.R. 1648: Mr. WATT.

H.R. 1651: Mr. TIAHRT.

H.R. 1652: Mr. MILLER of North Carolina, Mr. LANGEVIN, and Mr. BLUMENAUER.

H.R. 1668, Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1687: Ms. MOORE of Wisconsin, Mr. RYAN of Ohio, and Mr. JEFFERSON.

H.R. 1693: Mr. NADLER.

H.R. 1696: Ms. CORRINE BROWN of Florida and Mr. CLYBURN.

H.R. 1704: Mr. MORAN of Virginia, Mr. GERLACH, and Mr. FORBES.

H.R. 1708: Mr. HASTINGS of Florida.

H.R. 1709: Mr. DINGELL, Mr. ACKERMAN, Mrs. TAUSCHER, and Mr. JACKSON of Illinois.

H.R. 1736: Mr. BROWN of Ohio and Mr. HINOJOSA.

H.R. 1749: Mr. AKIN, Mr. BARROW, and Mr. BEAUPREZ.

H.R. 1801: Mr. WEXLER.

H.R. 1816: Mr. GARY G. MILLER of California and Mr. SULLIVAN.

H.R. 1849: Ms. MATSUI.

H.R. 1872: Mr. FEENEY.

H.R. 1898: Mr. NEUGEBAUER and Mrs. EMERSON.

H.R. 1953: Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. ALLEN, Mr. ANDREWS, Mr. BACA, Mr. BAIRD, Ms. BALDWIN, Mr. BARROW, Mr. BARTLETT of Maryland, Mr. BASS, Ms. BEAN, Mr. BECERRA, Ms. BERKLEY, Mr. BERMAN, Mr. BERRY, Mr. BISHOP of Georgia, Mr. BISHOP of New York, Mr. BLUMENAUER, Mrs. BONO, Mr. BOOZMAN, Ms. BORDALLO, Mr. BOREN, Mr. BOSWELL, Mr. BOUCHER, Mr. BOUSTANY, Mr. BOYD, Mr. BRADY of Pennsylvania, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mr. BURGESS, Mr. BUTTERFIELD, Mr. CALVERT, Mrs. CAPPS, Mr. CAPUANO, Mr. CARDIN, Mr. CARDOZA, Mr. CARNAHAN, Ms. CARSON, Mr. CASE, Mr. CHANDLER, Mrs. CHRISTENSEN, Mr. CLAY, Mr. CLEAVER, Mr. CLYBURN, Mr. COLE of Oklahoma, Mr. CONYERS, Mr. COOPER, Mr. COSTA, Mr. COSTELLO, Mr. COX, Mr. CRAMER, Mr. CRENSHAW, Mr. CROWLEY, Mr. CUELLAR, Mr. CUMMINGS, Mr. DAVIS of Alabama, Mr. DAVIS of Illinois, Mr. DAVIS of Florida, Mr. DAVIS of Tennessee, Mrs. DAVIS of California, Mr. DEFAZIO, Ms. DEGETTE, Mr. DELAHUNT, Ms. DELAURO, Mr. DICKS, Mr. DINGELL, Mr. DOYLE, Mr. EDWARDS, Mr. EMANUEL, Mrs. EMERSON, Mr. ENGEL, Mr. ENGLISH of Pennsylvania, Ms. ESHOO, Mr. ETHERIDGE, Mr. EVANS, Mr. EVERETT, Mr. FALEOMAVAEGA, Mr. FARR, Mr. FATTAH, Mr. FILNER, Mr. FORD, Mr. FRANK of Massachusetts, Mr. GILCHREST, Mr. GILLMOR, Mr. GINGREY, Mr. GONZALEZ, Mr. GORDON, Mr. AL GREEN of Texas, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HALL, Ms. HARMAN, Mr. HASTINGS of Florida, Mr. HAYWORTH, Ms. HERSETH, Mr. HIGGINS, Mr. HINCHEY, Mr. HINOJOSA, Mr. HOLDEN, Mr. HOLT, Mr. HONDA, Ms. HOOLEY, Mr. HOYER, Mr. HUNTER, Mr. INSLEE, Mr. ISRAEL, Mr. JACKSON of Illinois, Ms. JACKSON-LEE of Texas, Mr. JEFFERSON, Mr. JINDAL, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JOHNSON of Connecticut, Mrs. JONES of Ohio, Mr. KANJORSKI, Ms. KAPTUR, Mr. KENNEDY of Rhode Island, Mr. KILDEE, Ms. KILPATRICK of Michigan, Mr. KIND, Mr. KIRK, Mr. KUCINICH, Mr. KUHL of New York, Mr. LAHOOD, Mr. LANGEVIN, Mr. LANTOS, Mr. LARSEN of Washington, Mr. LARSON of Connecticut, Ms. LEE, Mr. LEVIN, Mr. LEWIS of California, Mr. LEWIS of Georgia, Mr. LEWIS of Kentucky, Mr. LINDER, Mr. LIPINSKI, Ms. ZOE LOFGREN of California, Mrs. LOWEY, Mr. DANIEL E. LUNGREN of California, Mr. LYNCH, Mrs. MALONEY, Mr. MARKEY, Mr. MARSHALL, Mr. MATHESON, Ms. MATSUI, Mrs. MCCARTHY, Ms. MCCOLLUM of Minnesota, Mr. MCCOTTER, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCINTYRE, Ms. MCKINNEY, Mr. MCNULTY, Mr. MEEHAN, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. MELANCON, Mr. MENENDEZ, Mr. MICHAUD, Ms. MILLENDER-MCDONALD, Mr. MILLER of North Carolina, Mr. GEORGE MILLER of California, Mr. MILLER of Florida, Mr. MOLLOHAN, Mr. MOORE of Kansas, Ms. MOORE of Wisconsin, Mr. MORAN of Virginia, Mr. MURTHA, Mr. NADLER, Mrs. NAPOLITANO, Mr. NEAL of Massachusetts, Mr. NEY, Ms. NORTON, Mr. OBERSTAR, Mr. OBEY, Mr. OLVER, Mr. ORTIZ, Mr. OWENS, Mr. PALLONE, Mr. PASCRELL, Mr. PASTOR, Mr. PAYNE, Mr. PETERSON of Minnesota, Mr. POMEROY, Mr. PORTER, Mr. PRICE of North Carolina, Mr. RAHALL, Mr. RAMSTAD, Mr. RANGEL, Mr. REYES, Mr. ROHRABACHER, Mr. ROSS, Mr. ROTHMAN, Ms. ROYBAL-ALLARD, Mr. RUPPERSBERGER, Mr. RUSH, Mr. RYAN of Ohio, Mr. SABO, Mr. SALAZAR, Ms. LINDA T. SÁNCHEZ of California, Ms. LORETTA SANCHEZ of California, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SCHIFF, Ms. WASSERMAN SCHULTZ, Ms. SCHWARTZ of Pennsylvania, Mr. SCOTT of Georgia, Mr. SCOTT of Virginia, Mr. SERRANO, Mr. SHAYS, Mr. SHERMAN, Mr. SHIMKUS, Mr. SIMMONS, Mr. SKELTON, Ms. SLAUGHTER, Mr. SMITH of Washington, Mr. SNYDER, Ms. SOLIS, Mr. SPRATT, Mr. STARK, Mr. STRICKLAND, Mr. STUPAK, Mr. SULLIVAN, Mr. TANNER, Mrs. TAUSCHER, Mr. TAYLOR of Mississippi, Mr. THOMAS, Mr. THOMPSON of Mississippi, Mr. THOMPSON of California, Mr. THORNBERRY, Mr. TIERNEY, Mr. TOWNS, Mr. UDALL of Colorado, Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Ms. VELÁZQUEZ, Mr. VISCLOSKY, Mr. WAMP, Ms. WATERS, Ms. WATSON, Mr. WATT, Mr. WAXMAN, Mr. WEINER, Mr. WELDON of Pennsylvania, Mr. WELDON of Florida, Mr. WEXLER, Mr. WICKER, Mrs. WILSON of New Mexico, Mr. WILSON of South Carolina, Mr. WOLF, Ms. WOOLSEY, Mr. WU, Mr. WYNN, Mr. DREIER, Mr. SAXTON, Mr. JENKINS, Mr. EHLERS, Mr. KENNEDY of Minnesota, Mr. RYAN of Wisconsin, Mrs. CUBIN, Mr. HULSHOF, Mr. JOHNSON of Illinois, Mr. OSBORNE, and Mr. WELLER.

H.R. 1981: Mr. DAVIS of Illinois.

H.R. 2012: Mr. LIPINSKI.

H.R. 2014: Mrs. MCCARTHY.

H.R. 2018: Mr. COSTA.

H.R. 2045: Mr. SENSENBRENNER.

H.R. 2051: Mr. RYAN of Ohio.

H.R. 2062: Mr. BRADY of Pennsylvania, Mr. FATTAH, and Mr. KANJORSKI.

H.R. 2076: Mrs. DRAKE.

H.R. 2092: Mr. GRIJALVA.

H.R. 2131: Mr. KANJORSKI.

H.R. 2177: Mr. WEXLER and Mr. MCCAUL of Texas.

H.R. 2207: Mr. OSBORNE.

H.R. 2229: Mr. GOODE, Mr. WOLF, Mr. CARTER, and Mr. BISHOP of Utah.

H.R. 2238: Mr. AL GREEN of Texas and Mr. SCOTT of Virginia.

H.R. 2291: Mr. MICHAUD and Mr. BARROW.

H.R. 2308: Mr. LEACH.

H.R. 2317: Mr. PALLONE and Ms. SLAUGHTER.

H.R. 2327: Mr. OBERSTAR.

H.R. 2340: Mr. RYAN of Ohio.

H.R. 2347: Mr. CARNAHAN.

H.R. 2356: Mr. PLATTS and Mr. BOOZMAN.

H.R. 2369: Mr. VAN HOLLEN.

H.R. 2386: Mr. SOUDER, Mr. BURTON of Indiana, Mrs. CUBIN, Mr. MILLER of North Carolina, Mr. MILLER of Florida, Mr. GOODLATTE, Mr. WELDON of Florida, Ms. BERKLEY, Mrs. BIGGERT, Mr. SCOTT of Georgia, Miss MCMORRIS, Mr. DAVIS of Kentucky, Ms. HERSETH, Mr. MARIO DIAZ-BALART of Florida, Mr. SIMONS, Mr. SCHWARZ of Michigan, Mr. HOSTETTLER, Mr. DENT, Mr. SESSIONS, and Mr. GARRETT of New Jersey.

H.R. 2410: Mr. KUCINICH and Mr. SABO.

H.R. 2413: Mr. GOHMERT, Mr. SAM JOHNSON of Texas, Mr. HALL, Mr. HENSARLING, Mr.

BARTON of Texas, Mr. CULBERSON, Mr. BRADY of Texas, Mr. PAUL, Mr. HINOJOSA, Mr. REYES, Mr. EDWARDS, Ms. JACKSON-LEE of Texas, Mr. NEUGEBAUER, Mr. GONZALEZ, Mr. AL GREEN of Texas, Mr. MCCAUL of Texas, Mr. CONWAY, Ms. GRANGER, Mr. THORNBERRY, Mr. BURGESS, Mr. ORTIZ, Mr. CUELLAR, Mr. GENE GREEN of Texas, Mr. SMITH of Texas, Mr. DELAY, Mr. BONILLA, Mr. MARCHANT, Mr. DOGGETT, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. CARTER, and Mr. SESSIONS.

H.R. 2429: Mr. PASCRELL and Ms. DEGETTE.

H.R. 2471: Mr. BOEHNER and Mr. ANDREWS.

H.R. 2498: Mrs. BLACKBURN.

H.R. 2521: Mrs. MALONEY, Mr. DAVIS of Illinois, Mr. SERRANO, Mr. ROSS, Mr. MILLER of Florida, Mr. KLINE, and Mr. EMANUEL.

H.R. 2533: Mr. MORAN of Virginia.

H.R. 2567: Mr. PASCRELL.

H.R. 2631: Mr. CLAY.

H.R. 2639: Mr. GRIJALVA and Mr. CASE.

H.R. 2640: Mr. CUMMINGS.

H.R. 2659: Mr. BISHOP of Georgia, Mr. OWENS, Mr. PETERSON of Minnesota, Mr. MCDERMOTT, and Mr. FILNER.

H.R. 2671: Mr. GONZALEZ and Mr. AL GREEN of Texas.

H.R. 2680: Mr. ENGEL.

H.R. 2681: Ms. SOLIS.

H.R. 2682: Mr. GORDON and Mr. ANDREWS.

H.R. 2686: Mr. HOEKSTRA, Mr. MCINTYRE, and Mr. BUTTERFIELD.

H.R. 2717: Mr. CLAY.

H.R. 2736: Ms. SCHAKOWSKY.

H.R. 2737: Mr. AL GREEN of Texas.

H.R. 2747: Ms. BERKLEY.

H.R. 2795: Mr. CARTER and Mr. MCCAUL of Texas.

H.R. 2803: Mr. UPTON, Mr. KENNEDY of Minnesota, Mr. SHUSTER, and Mr. MCKEON.

H.R. 2835: Mr. MORAN of Virginia.

H.R. 2872: Mr. RAMSTAD, Mr. MELANCON, Mr. TERRY, Mrs. CAPITO, Mr. SKELTON, Mr. BEAUPREZ, Mr. JINDAL, Mr. SMITH of Washington, Mr. PETERSON of Pennsylvania, Mr. ORTIZ, Mr. PETERSON of Minnesota, and Mr. BASS.

H.R. 2874: Mr. TOWNS.

H.R. 2876: Mr. ALLEN, Ms. ROS-LEHTINEN, Mrs. MUSGRAVE, Mr. FERGUSON, Mr. OWENS, Mr. CLEAVER, Mr. GIBBONS, Mr. DAVIS of Alabama, Mr. LEACH, Mr. FORD, Mr. FRANK of Massachusetts, Mrs. LOWEY, and Ms. BERKLEY.

H.R. 2896: Mr. JINDAL.

H.R. 2923: Mr. OWENS, Mr. KILDEE, Mr. HINOJOSA, Mr. DAVIS of Illinois, Mrs. DAVIS of California, Mr. MCDERMOTT, Mr. AL GREEN of Texas, and Ms. HARRIS.

H.R. 2926: Mr. OBERSTAR.

H.R. 2928: Mr. ACKERMAN, Mr. BISHOP of New York, Mr. LANGEVIN, and Mrs. BIGGERT.

H.R. 2947: Mr. MCDERMOTT, Mr. WAXMAN, Mr. CLEAVER, Ms. CARSON, and Mr. FRANK of Massachusetts.

H.R. 2952: Mrs. DAVIS of California, Mr. MARCHANT, Mr. CALVERT, and Mr. GENE GREEN of Texas.

H.R. 2961: Mr. BEAUPREZ.

H.R. 2962: Mr. GORDON.

H.R. 2963: Mr. CONYERS.

H.R. 2989: Mr. BOEHLERT and Mr. WEXLER.

H.R. 2990: Mr. GARRETT of New Jersey.

H.R. 3005: Ms. BALDWIN, Mr. BISHOP of Utah, Mr. BISHOP of Georgia, Ms. BORDALLO, Mr. BRADY of Pennsylvania, Mr. CALVERT, Mr. CLAY, Mr. CLYBURN, Mrs. JO ANN DAVIS of Virginia, Mrs. DAVIS of California, Mr. DICKS, Mr. FOLEY, Mr. GRIJALVA, Mr. GUTIERREZ, Mr. HALL, Mr. HEFLEY, Mr. HERGER, Ms. HERSETH, Mr. HINOJOSA, Mr. INSLEE, Mr. JEFFERSON, Ms. KILPATRICK of Michigan, Mr. DAVIS of Tennessee, Mr. KNOLLENBERG, Mr. LYNCH, Mr. MCKEON, Ms. MCKINNEY, Mr. MARCHANT, Mr. MEEK of Florida, Mr. MILLER of North Carolina, Ms. MOORE of Wisconsin, Ms. NORTON, Mr. OWENS, Mr. RAMSTAD, Mr. REYES, Mr. ROTHMAN, Mr. SCOTT of Georgia, Mr. STRICKLAND, Mr. TAYLOR of Mississippi, Mr. THOMPSON of Mississippi, Mr. WAMP, Ms. WASSERMAN SCHULTZ, Ms. WATERS, Mr. WEINER, and Mr. WYNN.

H.R. 3006: Ms. PELOSI and Mr. JACKSON of Illinois.

H.R. 3040: Mr. KILDEE, Mr. PRICE of North Carolina, Mr. OLVER, Mr. GRIJALVA, Mr. VAN HOLLEN, and Mr. CLAY.

H.R. 3041: Mr. PASCRELL.

H.R. 3042: Mr. WEXLER and Ms. SCHAKOWSKY.

H.R. 3055: Mr. LANTOS, Ms. MATSUI, and Mr. AL GREEN of Texas.

H.R. 3063: Mr. BOUCHER, Mr. PRICE of North Carolina, and Mr. MOORE of Kansas.

H.R. 3080: Mrs. MYRICK, Mr. KING of Iowa, Mr. GARRETT of New Jersey, Mr. MCCAUL of Texas, Mr. KENNEDY of Minnesota, Mr. BACHUS, Mr. GREEN of Wisconsin, and Mr. WICKER.

H.R. 3096: Mr. CAPUANO, Mr. ISRAEL, Mr. HINCHEY, and Ms. ZOE LOFGREN of California.

H.R. 3098: Mr. HOYER, Mr. CLEAVER, Mr. BOREN, Ms. ZOE LOFGREN of California, Mrs. MCCARTHY, Mr. EDWARDS, Mr. PRICE of North Carolina, Mr. PAUL, Mr. BROWN of Ohio, Mr. PASCRELL, Ms. MILLENDER-MCDONALD, Ms. WASSERMAN SCHULTZ, and Mr. MATHESON.

H.R. 3127: Mr. ENGEL and Mr. LEVIN.

H.R. 3128: Ms. SCHAKOWSKY, Mr. DINGELL, and Mr. EMANUEL.

H.R. 3132: Mr. ROGERS of Alabama, Mr. CHANDLER, Mr. SCHIFF, Mr. WESTMORELAND, Ms. HARRIS, Mr. LOBIONDO, Mr. WELDON of Pennsylvania, Mr. SOUDER, Mr. PICKERING, Mr. COBLE, Mr. PRICE of Georgia, and Mr. WHITFIELD.

H.R. 3135: Mr. SHADEGG, Mr. RENZI, and Mr. LEACH.

H.R. 3144: Mr. GREEN of Wisconsin.

H.R. 3146: Mr. BACHUS, Mr. BONILLA, Mrs. CAPITO, Mr. MICHAUD, Mr. KENNEDY of Rhode Island, Mr. BACA, Mrs. MALONEY, Mr. PRICE of Georgia, Mrs. JO ANN DAVIS of Virginia, Mr. MEEKS of New York, Mr. CAMP, and Mr. BARTLETT of Maryland.

H.R. 3161: Mr. GOODLATTE and Mr. SIMMONS.

H.R. 3165: Mr. MCGOVERN.

H.R. 3183: Mr. PICKERING.

H.R. 3185: Mr. LANTOS, Mr. OWENS, and Mr. SANDERS.

H.R. 3186: Mr. MCCAUL of Texas.

H.R. 3187: Mr. KENNEDY of Rhode Island.

H.R. 3192: Mr. WAXMAN, Mr. AL GREEN of Texas, Ms. BERKLEY, and Mr. OLVER.

H.R. 3195: Mrs. JO ANN DAVIS of Virginia and Mr. FILNER.

H.R. 3248: Mr. LARSON of Connecticut, Mr. ANDREWS, Mr. WOLF, Mr. PASCRELL, Mr. LARSEN of Washington, Mr. EMANUEL, Ms. JACKSON-LEE of Texas, Mr. MENENDEZ, Mr. DEFAZIO, Mr. SANDERS, Mr. PALLONE, Mr. GUTIERREZ, Mr. WU, Ms. LORETTA SANCHEZ of California, Mr. REYES, Mr. LYNCH, Mr. VAN HOLLEN, Mr. HINCHEY, Mr. RAMSTAD, Mr. DOYLE, Ms. ROYBAL-ALLARD, Mr. BISHOP of Georgia, Mr. BOEHLERT, Mr. MCDERMOTT, Mr. STRICKLAND, Mr. MELANCON, and Mr. PRICE of North Carolina.

H.R. 3254: Mr. CUELLAR and Mr. DAVIS of Illinois.

H.R. 3268: Mr. KING of Iowa and Mr. CARDOZA.

H.R. 3270: Mr. NADLER.

H.R. 3298: Mrs. MALONEY.

H.R. 3304: Mr. KING of Iowa, Mr. GOHMERT, and Ms. HART.

H.R. 3323: Mr. PALLONE, Mr. BEAUPREZ, Mr. UPTON, Ms. ZOE LOFGREN of California, and Ms. BERKLEY.

H.R. 3324: Mr. DICKS.

H.R. 3325: Mr. DICKS.

H.R. 3326: Mr. NADLER, Mr. MEEHAN, Mr. OLVER, Mr. SANDERS, Mr. MILLER of North Carolina, Mr. WEXLER, Mr. GONZALEZ, and Ms. DEGETTE.

H.R. 3333: Mr. JONES of North Carolina.

H.R. 3334: Mr. SHAYS, Mr. EHLERS, Mr. GINGREY, Mr. PLATTS, Mr. PORTER, Mr. MENENDEZ, Mr. GENE GREEN of Texas, Mr. ORTIZ, Ms. HERSETH, Mr. BISHOP of New York, Mr. GRIJALVA, Mr. RUPPERSBERGER, Mr. EMANUEL, and Mr. CLYBURN.

H.R. 3337: Mr. FILNER.

H.R. 3352: Mr. LEWIS of Kentucky, Mr. BAIRD, Mr. HONDA, Mr. GENE GREEN of Texas, Mr. KLINE, Ms. VELÁZQUEZ, Mr. HINOJOSA, Mr. ORTIZ, Mr. GUTIERREZ, and Mr. COSTA.

H.R. 3358: Mr. BROWN of South Carolina, Mr. MCGOVERN, and Mr. SPRATT.

H.R. 3361: Mr. BILIRAKIS and Mr. RUSH.

H.R. 3373: Mr. KING of New York, Mr. OBERSTAR, Mr. ABERCROMBIE, Mr. MURTHA, Mr. GORDON, Mr. WELDON of Pennsylvania, Mr. MURPHY, Mr. KENNEDY of Rhode Island, and Mr. WEXLER.

H.R. 3402: Mr. GIBBONS, Ms. PRYCE of Ohio, Mr. SCOTT of Virginia, Mr. CANNON, Mr. GOHMERT, Ms. JACKSON-LEE of Texas, Mr. NADLER, and Ms. LINDA T. SÁNCHEZ of California.

H.R. 3405: Mrs. CUBIN, Mr. TOM DAVIS of Virginia, Mr. BAKER, Mr. JONES of North Carolina, Mr. HALL, Mr. PITTS, Mr. PENCE, Mrs. MUSGRAVE, Mr. SHADEGG, Mr. FLAKE, Mr. WAMP, Mr. LUCAS, Mr. SCOTT of Georgia, and Mr. SESSIONS.

H.R. 3406: Mr. WEXLER.

H.R. 3407: Mr. WEXLER.

H.R. 3417: Mr. CALVERT.

H.R. 3422: Mr. PAUL.

H.R. 3426: Mrs. MALONEY, Mr. SANDERS, Ms. CARSON, Mr. PAUL, Mr. RANGEL, and Ms. SCHAKOWSKY.

H.R. 3436: Mr. OTTER, Mr. JINDAL, Mr. BARTLETT of Maryland, Mr. GOODE, and Mr. BURTON of Indiana.

H.R. 3441: Mr. MILLER of Florida.

H.R. 3442: Mrs. CAPPS and Mr. CLAY.

H.R. 3449: Mrs. MCCARTHY.

H.R. 3482: Mr. PASTOR, Mr. MENENDEZ, Mr. BACA, Ms. SOLIS, Mrs. NAPOLITANO, Mr. SERRANO, Mr. BECERRA, Mr. CARDOZA, Mr. GONZALEZ, Mr. GRIJALVA, and Ms. LINDA T. SÁNCHEZ of California.

H.R. 3492: Mr. KUCINICH, Mr. HASTINGS of Florida, and Mr. BERMAN.

H.J. Res. 55: Mr. LARSON of Connecticut, Mrs. CHRISTENSEN, Ms. KILPATRICK of Michigan, Mrs. JONES of Ohio, Mr. LEWIS of Georgia, Mr. CROWLEY, and Mr. SERRANO.

H.J. Res. 56: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. FARR, Mr. VAN HOLLEN, Mr. SABO, Mr. OWENS, Ms. BALDWIN, Mr. GRIJALVA, Mr. NADLER, Mr. MCDERMOTT, Mr. FRANK of Massachusetts, Mr. WEXLER, Mr. CUMMINGS, Ms. LEE, Mr. PALLONE, Mr. HASTINGS of Florida, Ms. DELAURO, Mr. HONDA, and Ms. SCHAKOWSKY.

H. Con. Res. 40: Mr. RYAN of Ohio.

H. Con. Res. 90: Ms. PELOSI, Mr. SCHIFF, Ms. MCKINNEY, Mr. DELAHUNT, and Mr. SHADEGG.

H. Con. Res. 99: Mr. BOSWELL.

H. Con. Res. 125: Ms. SCHWARTZ of Pennsylvania.

H. Con. Res. 146: Ms. EDDIE BERNICE JOHNSON of Texas and Ms. ZOE LOFGREN of California.

H. Con. Res. 172: Mr. MORAN of Virginia and Ms. BEAN.

H. Con. Res. 178: Mr. MILLER of Florida, Mr. STUPAK, Mr. LANTOS, and Mr. CULBERSON.

H. Con. Res. 194: Mr. Ross.

H. Con. Res. 195: Mr. Bishop of New York and Ms. Norton.

H. Con. Res. 209: Mr. Reichert, Mr. Gonzalez, Mr. Udall of Colorado, and Mrs. Jones of Ohio.

H. Con. Res. 210: Mr. Gerlach, Ms. Schakowsky, Mr. Matheson, Mr. Burton of Indiana, and Mr. Simmons.

H. Con. Res. 213: Mr. Gordon.

H. Con. Res. 215: Mr. Gordon.

H. Con. Res. 218: Mr. Rothman and Ms. Berkley.

H. Con. Res. 220: Mr. Shays and Mr. Fossella.

H. Res. 15: Mr. Burton of Indiana, Mr. LaTourette, Mr. Cummings, and Mr. McHugh.

H. Res. 61: Mr. Rothman.

H. Res. 166: Mr. Blumenauer.

H. Res. 220: Mr. Ehlers, Mr. Goode, Mr. Camp, and Mr. Sessions.

H. Res. 246: Mr. Matheson.

H. Res. 261: Mr. Moore of Kansas.

H. Res. 276: Mr. Moore of Kansas, Mr. Grijalva, Mr. Kildee, and Mr. Berman.

H. Res. 316: Ms. Linda T. Sánchez of California, Ms. DeLauro, Mr. Wilson of South Carolina, Ms. Berkley, Mr. Blumenauer, and Mr. LoBiondo.

H. Res. 325: Mr. McHugh.

H. Res. 327: Mr. Watt, Ms. Corrine Brown of Florida, Ms. Kilpatrick of Michigan, Ms. Eddie Bernice Johnson of Texas, Mr. Al Green of Texas, Mr. Clay, Ms. Watson, Mr. Bishop of Georgia, Mr. Hoyer, Mr. Menendez, Mrs. Christensen, Mr. Cummings, Mr. Lewis of Georgia, Mr. Hastings of Florida, Mr. Wynn, Mr. Davis of Illinois, Mr. Butterfield, Ms. McCollum of Minnesota, Ms. Linda T. Sánchez of California, Mr. Crowley, Ms. Wasserman Schultz, Mr. Clyburn, Mr. McGovern, Mr. Cleaver, Mr. Barrow, Mr. McNulty, Mr. Israel, Mr. Ackerman, Mr. Wu, Mrs. Capps, Mr. Rangel, Mr. Honda, Mr. Rush, Mr. Boren, Mr. Serrano, Mr. Thompson of Mississippi, Mr. Scott of Virginia, and Mr. Smith of New Jersey.

H. Res. 357: Mr. Beauprez.

H. Res. 360: Mr. Lipinski, Mr. Miller of Florida, Mr. Hostettler, and Mr. Ryan of Ohio.

H. Res. 368: Mr. Doyle, Mr. Kennedy of Minnesota, and Mr. Delahunt.

H. Res. 371: Mrs. Blackburn.

H. Res. 375: Mr. Honda, Mr. George Miller of California, and Ms. Kaptur.

H. Res. 382: Mr. Owens, Mrs. Maloney, Ms. Roybal-Allard, Ms. Schakowsky, Mr. Grijalva, Ms. Jackson-Lee of Texas, Ms. Eddie Bernice Johnson of Texas, and Mrs. Christensen.

H. Res. 388: Mr. Chabot, Mr. Fortuño, Mr. Pallone, Mr. Green of Wisconsin, Mr. Wexler, Mr. Miller of Florida, Mr. McCaul of Texas, Mr. Souder, Mr. Gonzalez, and Mrs. Drake.

H. Res. 390: Mr. DeLay, Mr. Lewis of California, Mr. Brady of Texas, Mr. Sam Johnson of Texas, Ms. Pryce of Ohio, Mr. Thomas, Mr. Hall, Mr. Neugebauer, Mr. Burgess, Mr. Culberson, Mr. Hensarling, Mr. Poe, Mr. Gonzalez, Mr. Bonilla, Mr. Marchant, Mr. Paul, Mr. Bachus, Ms. Eddie Bernice Johnson of Texas, Ms. Jackson-Lee of Texas, Mr. Gohmert, Mr. Edwards, Ms. Granger, Mr. Thornberry, Mr. Upton, Mr. Tancredo, Mr. Reyes, Mr. Cooper, Mr. Barton of Texas, Mr. Gene Green of Texas, Mr. Aderholt, Mr. Tom Davis of Virginia, Mr. Regula, Mr. Kennedy of Rhode Island, Mr. Wicker, Mr. Conaway, Mr. Feeney, Mr. Walsh, Mr. Beauprez, Mr. Ortiz, Mr. Hinojosa, Mr. Cuellar, Mr. Hobson, Mr. Calvert, Mr. Oxley, Ms. Matsui, Mr. Jackson of Illinois, Mr. Al Green of Texas, Mr. Sessions, and Mr. Fossella.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1295: Mr. Owens.

H.R. 1946: Mr. Price of Georgia.

## PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

28. The SPEAKER presented a petition of the Marinette County Board of Supervisors, Wisconsin, relative to Resolution No. 192 urging the Congress of the United States to take action to eliminate the gridlock occurring in Forest Service Land Use Planning and in the implementation of timber sale projects; to the Committee on Agriculture.

29. Also, a petition of the Village of Carpentersville Board of Trustees, Illinois, relative to a Resolution in support of the Department of Housing and Urban Development continued administration of the Community Development Block Grant Program; to the Committee on Financial Services.

30. Also, a petition of Lexington Fayette Urban County Government, relative to Resolution No. 193-2005 expressing concern about ongoing discussions and plans to either eliminate or cut funding to the Community Development Block Grant (CDBG) Program and to remove the program from the supervision of the Department of Housing and Urban Development (HUD); expressing support for and the importance of the CDBG program; and requesting that the President and Congress of the United States of America leave the CDBG program under the auspices of HUD and fund the program at no less than the current level of $4.7 billion; to the Committee on Financial Services.

31. Also, a petition of the Midwest Operating Engineers Fringe Benefit Funds, Illinois, relative to an amendment to the Multiemployer Pension Plan Reform Proposal urging the Congress on the United States to include appropriate relief to multiemployer plans and the employers who contribute to them; to the Committee on Education and the Workforce.

32. Also, a petition of the Legislature of Rockland County, relative to Resolution No. 613 of 2004 commemorating and honoring Haitian involvement in the Battle of Savannah during the American Revolution and marking the significance and importance of Haitian culture and activism in the United States; to the Committee on Education and the Workforce.

33. Also, a petition of Keweenaw County Board of Commissioners of Eagle River, Michigan, relative to a Resolution dated May 11, 2005, supporting the the reauthorization of the Community Services Block Grant for FY 2006 and beyond, and that funding for (CSBG) be continued at its current level; to the Committee on Education and the Workforce.

34. Also, a petition of Office of the Governor of Guam, relative to a Resolution for amendments to the reimbursement and guideline requirements for Guam's National School Meals program; to the Committee on Education and the Workforce.

35. Also, a petition of the County Board of the County of DuPage, Illinois, relative to a Resolution urging the Congressional Approriations Committee to recommit at least $85 million, the same funding as last year, to the Prostate Cancer Research Program at the Department of Defense and to restore the $35 million cut from the group of programs; to the Committee on Energy and Commerce.

36. Also, a petition of the Legislature of Rockland County, New York, relative to Resolution No. 612 of 2004 petitioning the President of the United States and the United States Congress to introduce and enact legislation to provide for a "registry of persons who abuse the mentally retarded/developmentally disabled/mentally disabled" (MR/DD/MDR) for the purposes of recording abuse or maltreatment of MR/DD/MD persons residing in subsidized communities, certified agencies and family care situations; to the Committee on Energy and Commerce.

37. Also, a petition of Parliamentary Assembly Union of Belarus and Russia, relative to a statement in connection with the growing anti-Byelorussian campaign conducted by leading Western states and international organizations and associations; to the Committee on International Relations.

38. Also, a petition of the Legislature of the County of Rockland, New York, relative to Resolution No. 257 requesting the Congress of the United States to introduce and pass S. 391 — A Bill To Amend The Federal Election Campaign Act of 1971 To Prohibit Certain State Election Administration Officials From Actively Participating in Electoral Campaigns; to the Committee on House Administration.

39. Also, a petition of the Hawaiian Homes Commission, Hawaii, relative to Resolution No. 243 supporting the passage of S.147, the Native Hawaiian Government Reorganization Act of 2005; to the Committee on Resources.

40. Also, a petition of the Ashland County Board of Supervisors, Wisconsin, relative to Resolution No. R06-2005-808 urging the Congress of the United States to restore the PILT funding to no less that the FY 2005 level plus the additional amount of the national increase in inflation; to the Committee on Resources.

41. Also, a petition of the Municipal Council of the Township of Belleville, New Jersey, relative to Resolution No. 05-157 supporting Senate Bill S.825 and House of Representative Bill H.R.87 known as the "Crossroads of the American Revolution National Heritage Area Act"; to the Committee on Resources.

42. Also, a petition of the Vilas County Forestry, Recreation & Land Committee, Wisconsin, relative to Resolution No. 2005-52 urging the Congress of the United States to reathorize and fund Pub. L. 106-393, the Secure Rural Schools and Community Self-Determination Act; to the Committee on Resources.

43. Also, a petition of the Marinette County Board of Supervisors, Wisconsin, relative to Resolution No. 190 urging the Congress of the United States to reauthorize and fund Pub. L. 106-393, the Secure Rural Schools and Community Self-Determination Act; to the Committee on Resources.

44. Also, a petition of the Board of County Commissioners of San Juan County, Colorado, relative to Resolution No. 05-1 requesting the repeal of the Federal Land Recreation Enhancement Act by the Congress of the United States; to the Committee on Resources.

45. Also, a petition of the Essex County Board of Supervisors, New York, relative to

Resolution No. 122 opposing the development and implementation of a plan to require United States, Canadian and Mexican citizens to present a passport or other secure document when entering the United States; to the Committee on the Judiciary.

46. Also, a petition of the Lauderdale Lakes City Commission, Florida, relative to Resolution No. 05-68 supporting and encouraging the Restoration of the Civil Rights of Ex-Felons: to the Committee on the Judiciary.

47. Also, a petition of Ms. Jacquelyn Finney, a citzen of Encinitas, California, relative to support of the fundamental constitutional right to access the courts that is guaranteed by the Americans with Disabilities Act Title II: to the Committee on the Judiciary.

48. Also, a petition of Cook County Board of Commissioners, relative to a resolution dated June 21, 2005, condemning the use of torture as well as cruel, inhuman and degrading treatment upon anyone being held by, or under the permission of, any governmental authority: to the Committee on the Judiciary.

49. Also, a petition of the Board of Chosen Freeholders of the County of Hudson, New Jersey, relative to Resolution No. 162-4-2005 petitioning the Congress of the United States to fully support and fund the Passaic River Restoration Initiative: to the Committee on Transportation and Infrastructure.

50. Also, a petition of the City of Oceanside, California, relative to Resolution No. 05-R0339-1 requesting the Congress of the United States provide adequate operating and capital funding for Amtrak and to establish a multi-year capital funding program available to the states on a matching basis to initiate, improve and expand passenger rail services and provide a adequate level of capital funding for Amtrak to sustain the mandated rail passenger services: to the Committee on Transportation and Infrastructure.

51. Also, a petition of the Chamber of Commerce of the United States, relative to Recommendations to the Congress of the United States on the TEA-21 Reauthorization; to the Committee on Transportation and Infrastructure.

52. Also, a petition of the Board of County Commissioners of San Juan County, Colorado, relative to Resolution No. 05-2 supporting the adoption of legislation that would amend the Clean Water Act to allow Good Samaritans to contribute to the cleanup of mine drainage within San Juan County; to the Committee on Transportation and Infrastructure.

53. Also, a petition of the City of Shaker Heights, Ohio, relative to Resolution No. 05-48 opposing the Congress of the United States proposed job cuts at NASA, and declaring an emergency; to the Committee on Science.

54. Also, a petition of the City Council of Honolulu, Hawaii, relative to Resolution No. 05-147 urging the Congress of the United States to support legislation conferring veterans' benefits on Filipino World War II veterans: to the Committee on Veterans' Affairs.

55. Also, a petition of the County of Whiteside, Illinois, relative to a resolution urging the Congress of the United States to fully support the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

56. Also, a petition of the California Veterans Board, California, relative to a resolution on federal budget proposals to reduce federal aid for state veterans homes and for daily care of veterans in state homes; to the Committee on Veterans' Affairs.

57. Also, a petition of the Macomb County Board of Commissioners, Michigan, relative to Resolution No. 05-13 urging the Congress of the United States to make the bipartisan adjustments necessary to extend the Social Security program: to the Committee on Ways and Means.

58. Also, a petition of City of Bay City, Michigan, relative to a Resolution petitioning Congress to actively oppose any efforts by the Internal Revenue Service to eliminate or modify the tax exempt status on municipal gasoline consumption; to the Committee on Ways and Means.

59. Also, a petition of the Legislature of the County of Rockland, New York, relative to Resolution No. 57 requesting the Congress of the United States not to reduce or eliminate the federal income tax return deductions for state and local taxes; to the Committee on Ways and Means.

60. Also, a petition of the Ashland County Board of Supervisors, Wisconsin, relative to Resolution No. R06-2005-810 requesting the Congress of the United States to approve the continuation of Pub. L. 106-393 for an additional 6 years and that the current rate plus an annual increase in the appropriated amount be at the full rate of national inflation: jointly to the Committees on Agriculture and Resources.

61. Also, a petition of the Legislature of the County of Rockland, New York, relative to Resolution No. 59 requesting the Congress of the United States pass S. 1684 and H.R. 1886, A Bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1774: jointly to the Committees on Energy and Commerce and Education and the Workforce.

62. Also, a petition of the Legislature of the County of Rockland, New York, relative to Resolution No. 58 requesting the Congress of the United States to pass S. 493 and H.R. 792, A bill to amend Title XVIII of the Social Security Act to authorize physical therapists to evaluate and treat medicare beneficiaries without a requirement for a physician referral: jointly to the Committees on Energy and Commerce and Ways and Means.

63. Also, a petition of the County of Marathon, Wisconsin, relative to Resolution No. R-29-05 requesting that the Congress of the United States take action to eliminate the gridlock that is occurring in Forest Service Land Use Planning and in the implementation of timber sale projects that are permissable within approved Foreset Plan; jointly to the Committees on Resources and Agriculture.

64. Also, a petition of the County of Marathon, Wisconsin, relative to Resolution No. R-28-05 urging the Congress of the United States to reauthorize and fund Pub. L. 106-393, the Secure Rural Schools and Community Self-Determination Act; jointly to the Committees on Resources and Agriculture.

65. Also, a petition of the County of Marathon, Wisconsin, relative to Resolution No. R-27-05 urging the Congress of the United States to restore Payment in Lieu of Taxes (PILT) Funding from the Federal Government to Townships Containing Federal Forest Lands to the FY 2005 Level Plus Inflation; jointly to the Committees on Resources and Agriculture.

# SENATE—*Thursday, July 28, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, our mighty rock. You have promised to supply all our needs. Today, give our lawmakers wisdom that they may know what to do. Give them courage to accomplish Your will. Give them skill to navigate through life's inevitable challenges. Give them perseverance to not become weary in doing well. Give them strength to resist all the temptations which would lure them from Your plan. Help each of us to begin to continue and to end all things in You.

Thank You for answering our prayers, for You are our strong shield, and we place our trust in You. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, July 28, 2005.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. SUNUNU thereupon assumed the Chair as Acting President pro tempore.

Mr. FRIST. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning we will begin with a period of morning business for 60 minutes. Following that time, we will resume consideration of S. 397, the Protection of Lawful Commerce in Arms legislation. Senator KOHL has an amendment pending related to trigger locks, and there will be an hour of debate on that amendment prior to the vote. That vote should begin before noon, in the next 2½ hours. The managers will continue to work through the day to see what additional amendments are ready for votes. The cloture vote could be as early as 1 a.m. Friday morning. We haven't set the vote for that time. I mention that early hour only to highlight the fact that we have so much work to do.

We have conference reports, the gun liability bill, nominations, all of which we need to accomplish before we leave for the recess. We have the Interior appropriations conference report that has the veterans health money in it that we have addressed before. We have the energy conference report, which I believe is very close; the highway conference report, which has not been filed yet but which will be hopefully later today. We have the Legislative appropriations conference report. Once we address the pending bill, we can hopefully expedite completion of all of the remaining measures prior to the August break. I will be working with the Democratic leader to schedule these important items over the next couple of days.

Mr. KENNEDY. Will the leader be good enough to yield for a question?

Mr. FRIST. I am happy to yield.

Mr. KENNEDY. Mr. President, several of us have amendments directly related to the underlying legislation. We understand the time goes to 1 o'clock this evening. I have two amendments dealing with the ability of terrorists to purchase weapons. I know both Senators from New Jersey have amendments. We are more than willing to enter into short time agreements. We want to cooperate on the conference reports, but we understand the process and the procedure that is going on is that the majority is making a judgment decision about which amendments we are going to consider and which ones we are not.

Mr. FRIST. Mr. President, in response to our distinguished colleague from Massachusetts, there have been several filed amendments. I mentioned 1 o'clock today because then we will have the whole universe of filed amendments. We are going to proceed and have a rollcall vote on the trigger lock amendment before noon today, and then we need to look at each of the amendments. Including the amendments mentioned, Senator LEVIN has an amendment, Senator LAUTENBERG, and the Senator from Massachusetts has filed two amendments. We will be looking at those amendments over the course of the day.

Mr. KENNEDY. Mr. President, I thank the majority leader.

The ACTING PRESIDENT pro tempore. The leader controls the time. Does the leader yield for a question?

The Senator from Massachusetts.

Mr. KENNEDY. The only point is that, as the leader just said, we are following a procedure where the leadership is going to look at the amendments and then make their judgment as to whether the Senate will get a chance to consider these issues. I must say, that is an unusual procedure to follow, when many of us are trying to cooperate with the leadership. We are more than glad to enter into short time agreements and then to let the Senate work its will.

I thank the Chair.

## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

## UNANIMOUS-CONSENT REQUEST—H.R. 810 AND S. 1317

Mr. REID. Mr. President, prior to the distinguished majority leader leaving the floor, I have a short statement I would like him to listen to. Then I will propound a unanimous-consent request.

Two months ago, the House of Representatives passed H.R. 810, the Stem Cell Research Enhancement Act. Two months in legislative time may not seem like a lot of time. But in the lives of people who are sick or who have loved ones who are sick, it can be an eternity. The bill that passed the House was a rare victory of bipartisanship. I sincerely hoped, after having read that it had passed, that we would embrace the same spirit of bipartisanship in the Senate and pass this legislation that offers hope to millions of

Americans who suffer from deadly disease, and their families.

In May, I spoke with my friend, the distinguished majority leader, about the need to take up this crucial legislation as soon as possible. I was assured that Senator FRIST would work with Members of both sides of the aisle so that we could consider the Stem Cell Research Enhancement Act before we broke for our August recess.

The month of July, of course, is almost over. We hope to be able to complete things in the next day or two or three. But this legislation, in the lives of the people I mentioned, can't go on forever. We believe this legislation could produce and will produce stunning medical breakthroughs to some of the dread diseases that affect mankind.

What we have been asking is simple. We propose that the Senate take up two bills: the stem cell bill, which is H.R. 810, and a blood cord bill, which is S. 1317, just like the House bill. Instead, we have heard that we are going to consider six bills, and now we read seven bills. We haven't seen the language of all seven.

It doesn't have to be that complicated, I don't think. The House dealt with the issue very simply, and we should do the same.

A bipartisan majority supported the stem cell bill in the House. I believe there is a tremendous body of Senators who will also support this legislation. Every day we delay consideration of this bill is another day we deny hope to millions of Americans and people throughout the world with Parkinson's disease, Alzheimer's, spinal cord injuries, heart disease, and diabetes, to name only a few.

These patients, as I have said, don't have the luxury of time like some of us do. Let's have an up-or-down vote on these bills and send them to the President as quickly as possible—like today.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 119, H.R. 810, the stem cell research bill, that the bill be read the third time and passed, and the motion to reconsider be laid upon the table.

I further ask unanimous consent that the Senate then proceed to the consideration of Calendar No. 156, S. 1317, the cord blood and bone marrow transplant bill; that the committee substitute be agreed to; the bill, as amended, be read the third time and passed and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. FRIST. Mr. President, reserving the right to object. The issue of support for stem cell research is one that I believe deserves examination by this body. Stem cell research itself is very promising. I ran a very large multidisciplinary transplant center, and part of that was a transplant arm that transplanted literally hundreds of people with cord blood—or with bone marrow transplants, which is very similar to using cord blood, which one of the bills addresses. Passage of that bill would extend that therapy—which is with adult stem cells—with the variance of cord blood. I agree that passage of that bill would help hundreds of people by establishing registries that could be easily accessed.

H.R. 810, Calendar No. 119, the stem cell research bill—the bill the Democratic leader mentioned—is also a bill that I believe should be addressed in this body. It is a bill that has passed the House of Representatives in a bipartisan way.

In trying to address those two bills, I have extended to both sides of the aisle the opportunity to have clean up-or-down votes on those bills, as well as a fascinating new arena of research—very promising—that gives an alternative not to the Castle bill or the H.R. 810 bill, but an alternative where you don't have to destroy embryos at all, with the opportunity to develop what are called pluripotential stem cells, or embryonic-like stem cells, which also should be addressed.

Thus, my proposal has been to address the cord blood bill, H.R. 810, the alternative new research, where embryos do not have to be destroyed; a cloning bill, Senator BROWNBACK's bill; and a bone marrow bill. I have been unsuccessful in trying to bring that to the Senate floor. There are concerns on our side of the aisle about that approach—having clean votes on these bills.

I am not going to give up on the stem cell issue because the research is hugely promising, I think, although each of us has individual thoughts about the potential of stem cells and the moral and ethical issues around stem cells, it deserves our body politic addressing the issue. So with that, I will continue to address the issue. I hope that after we come back over the recess, we will be able to address the issue.

I do object to the unanimous-consent request, as we finish over the last 48 hours with our business on the floor of the Senate.

The ACTING PRESIDENT pro tempore. Objection is heard.

## RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

## MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for 1 hour, with the first half of the time under the control of Democratic leader or his designee, and the second half of the time under the control of the majority leader or his designee.

The Senator from Massachusetts is recognized.

## STEM CELL LEGISLATION

Mr. KENNEDY. Mr. President, before leaving the floor, if I can have the attention of our minority leader. Is it the understanding of the leader in propounding this request that the measures proposed in the request had bipartisan support in the House of Representatives, and he believes as I believe—and I see my colleague, the Senator from Iowa, who is a great leader on this, who believes as well—that there is very strong bipartisan support for the legislation, and we could, in a reasonable period of time—really in a matter of hours—pass the legislation and still not exclude the possibility of continued debate and discussion on the other measures relating to stem cells; and that this would permit us to act before August 9, which would be the fourth year since we had the limitation and restriction on stem cell research, the kind of research that 80 Nobel laureates in a letter to President said offers the greatest opportunity for progress in the areas of Parkinson's disease, juvenile diabetes, cancer, and so many other diseases—do I understand the position of the Senator from Nevada is that he believes the progress taken in the House of Representatives in a bipartisan way should be given the opportunity for action in the Senate?

Mr. REID. I say through the Chair to my friend that I believe there is a significant majority in the Senate that would quickly support both of these bills. I say that without any hyperbole. I believe without question that a significant number would vote for this legislation.

Mr. KENNEDY. Is it the position of the Senator from Nevada that this is the same kind of research that, as I mentioned earlier, Nobel laureates indicate offers the greatest opportunity for progress in dealing with the kinds of illnesses and diseases that just about every family in America in one way or the other is affected by, and he believes, as I do, that this offers an enormous opportunity for hope and progress in conquering or curing these diseases?

Mr. REID. Mr. President, I have spoken with scientists, physicians, people who have diseases, and the families of those who have diseases, and there is a sparkle of hope and anticipation from the scientific community, from the people who are ill, and from their loved ones—a sparkle of hope and opportunity that I have never seen before. There is the hope that these children, for example, who are stuck with needles tens of thousands of times in their little lives will no longer have to have that done; the hope that someone who is beginning Parkinson's syndrome will be able to be cured. This is hope I have never seen before.

We need to go forward with this as quickly as possible. That is why for us in the Senate, a couple of months is not much. For those people who are sick and the loved ones of those people, it is an eternity. I can remember Steve Rigalio, an executive at Nevada Power, the largest power company in Nevada, who got sick with this disease. I personally watched this man. He had Lou Gehrig's disease. I personally watched this man deteriorate before my eyes. He was dead in a matter of months. The average life expectancy from the time the disease is diagnosed is 16 months. That is why the time we spend here is so important and why we must move forward.

Mr. President, I ask unanimous consent that this time I have taken this morning be charged to leader time and not to morning business time.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, if I might follow up on the discussion now on the Senate floor, might I ask the distinguished majority leader a question. It is this Senator's understanding, and I think the understanding of others with whom I have spoken, that the distinguished majority leader, during the last work period—I think that was prior to the Memorial Day—no, before the Fourth of July break, I guess it was. It was my understanding that the majority leader had made a commitment that we would bring up a stem cell bill prior to the August recess. I may be mistaken. If so, I stand to be corrected.

My question is to the distinguished majority leader, was a commitment made to bring up the stem cell bill? If so, I am wondering why we have not done so and why we have waited until 2 days before we leave and we still don't have a stem cell bill before us?

Mr. FRIST. Mr. President, I appreciate the comments of the Democratic leader, our colleagues from both Iowa and Massachusetts. It gives me an opportunity to make it clear. My belief both in the science, the potential—we have to be careful not to overpromise. I know my colleagues are aware of that. As a physician, you never overpromise and give false hope. You have to be very careful. On the other hand, I understand the huge promise of this science, the proven therapies of adult stem cells, as well as these magnificent embryonic stem cells. Unfortunately, the only way you can obtain them is from the destruction of the blastocyst. That is the ethical issue everybody struggles with.

As majority leader, people come to me all the time and have this discussion in a very personal way, about the complexities and the advancing science coming together in a nexus that we are going to increasingly have to face in this Chamber. Both of my colleagues who have spoken this morning have been real leaders in that field. I, in the last 2 months, have said we have a responsibility to come back and review policy—policy where you have advancing science. You have moral considerations for each one of us, but that is our responsibility.

As individuals, we have different feelings, but as a body politic, this body needs to address them. Now, in doing that, I have put on the table, as leader and in discussions with the Democratic leader for the last 6 weeks, the opportunity to address the Castle bill, H.R. 810, which passed the House, and bring it to the Senate floor free of amendments. The bill is not written very well. It doesn't have the ethical construct that I believe we absolutely need.

So I think the bill is not ideal. But to give the opportunity to have a vote on that bill, to give the opportunity to have a vote on the cord blood bill, which is proven therapy—and cord blood can be used, and bone marrow transplants are used right now for thousands of people. That is adult stem cells. Then to address the newer science, which is too preliminary but gets through a lot of ethical issues—right now, to get the stem cells, it requires the destruction of the embryo. There is a science out there that is preliminary but promising, and maybe you don't have to destroy embryos to get these cells. That really has been developed in talking to scientists, and that deserves consideration on the floor as well because it gets beyond all the ethical considerations.

As we said, let's get clean shots on these three bills so everybody can express themselves and see where the votes are. Others have come forward, and my colleague from Kansas says he cannot agree to that, to giving these bills up-or-down votes on the floor without the consideration also of another very important bill, and that is the cloning bill, which is an element a little bit outside of just the developing embryos and the destruction of embryos. So I put that offer on the table after discussion with the Democratic leader.

With that, other people have their individual bills. That is why we are not addressing it right now, because I have not been able to get unanimous consent to do that. What I hope both of my colleagues and others recognize is that I believe, as leader, it is an important issue that has to be addressed by this body. It needs ongoing review, and I am trying to do just that. I have been denied that by the body thus far. To bring up a bill and pass it today, which strikes at the moral and ethical fundamentals of each and every one of us, and try to just take that single bill—or just two bills through without respecting my colleagues, I just cannot do that. I look forward to working with both of my colleagues on this important issue, which I believe needs to be addressed.

Mr. HARKIN. Will the Senator yield for a question?

The ACTING PRESIDENT pro tempore. The Senator from Iowa controls the time.

Mr. FRIST. I am happy to respond.

Mr. HARKIN. I thank the majority leader. It is this Senator's understanding that there have been a number of different bills proposed to deal with cloning and a number of other issues that don't really pertain to the issue of embryonic stem cell research as the bill was passed by the House.

Is it not true, I ask the distinguished majority leader, that H.R. 810—the bill we are talking about that passed the House with a bipartisan majority and has a number of supporters on both sides of the aisle in the Senate—has bipartisan support in the Senate? Last year, I will say in further expanding on my question, I think there were 58 Senators who signed a letter in support of that legislation, many of the same Senators who are still here. So it has a lot of bipartisan support. These other bills, we don't know. In fact, I say to the distinguished majority leader, there are a couple of bills we heard about but we have never seen any language on.

My question to the majority leader is: Why can't we bring up the bill that passed the House, which everyone knows about—it is clear, it is straightforward, it passed the House, as I said, with a bipartisan majority, it has bipartisan support here; we all know it has enough votes to pass probably many more than even 60 votes, I would venture to guess—why can't we take that up, pass it, get it to the President, and then when we come back in September, we can take up these other bills?

I do not have any problem with these other bills coming up. Some I may support when they come up. To bring them all up together clouds and confuses the issue. Why can't we just bring up the House bill, simple, straightforward, have a limited debate on it, and vote it up or down as they did in the House, I ask my leader?

The ACTING PRESIDENT pro tempore. Without objection, the majority leader is recognized.

Mr. FRIST. Mr. President, I very much appreciate the question. It gives me the opportunity to show the work and the challenge it is to address an issue that strikes at the science and ethical concerns.

My approach has been to include what I think the Senator from Iowa wants, and that is a clean up-or-down vote on this bill. I have real concerns with how that bill is written, and I will give several examples of why it bothers me a bit the way it is written and passing as a clean bill. But I am willing to do that if I can take into consideration the moral concerns and scientific concerns of others in this body and give them the same opportunity that the Senator from Iowa is asking for, and, thus, put together a group, a defined group, but not an unlimited group—we will be voting up or down on all sorts of votes—but see where everybody is on alternative ways: You do not have to destroy embryos to get the same cells you get from embryos, the cord blood bill, H.R. 810, and the cloning bill. It is a separate issue but involves the creation of embryos and ultimately the destruction of embryos.

That is what we are talking about. That is my attempt. It is going to take a while on the floor of the Senate because of the fact of it not having gone through the committee process and the fact everybody does stand in little different positions, from an ethical standpoint, on any of the bills.

On H.R. 810, the consent process is inadequate, from my standpoint. There is not an ideal ethical construct. It says informed consent, but it does not specifically talk about the potential for financial incentives between, say, a physician and an in vitro fertilization clinic. That is not addressed specifically in the bill. Instead of voting up or down, I would like to at least discuss those issues.

Another issue—there is informed consent and the financial incentives—would be if we pass it, it is passed forever; there is no opportunity to come back and look at it on a periodic basis, say, every 4 or 5 years.

I mention those concerns because I am willing to step back and give a clean vote on that if we can take into consideration other people's issues or their particular bills. I am a little surprised my colleagues have not taken me up on that opportunity, but since they have not, we will have to come back and figure the best way to address it when we get back after the recess.

Mr. HARKIN. Mr. President, I thank the majority leader for his response. I know Senator KENNEDY wants time to make a speech. On the stem cell bill, I say to my friend from Tennessee, the distinguished leader, the clock is ticking. It does have a lot of support. There may be a lot of ideas out there. No bill that ever passes here has 100-percent approval by everybody of every, as they say, "jot and tittle" in the bill. If I were to rewrite H.R. 810, I might want to write it differently myself.

The fact is a lot of thought was given to it. The disease groups that represent the very ill people in this country—the Juvenile Diabetes Foundation, Spinal Cord Injury Foundation, and a whole host of other groups—have put their stamp of approval on this bill. They want it passed.

It just seems to me that the more we dawdle around here—I understand we are in the last couple of days. We have been here all of July. This bill, H.R. 810, has been sitting here. We could have taken it up at any time. It is this Senator's observation that all of a sudden all these other bills are popping up on cloning, chimeras, and others, which I am not saying are not important issues, but they are separate and aside from this issue.

If the distinguished majority leader wants to bring those up at some other time for debate and amendments and bring them up for a straight up-or-down vote, that is fine. I don't have a problem with that, but don't tie them in with a bill that has strong majority support on both sides of the aisle, strong bipartisan support, as was shown in the House, and one which, if passed, could be sent to the President right away for his signature and which could really open the door so our scientists could get to work on embryonic stem cell research.

It seems—I am not accusing anyone of this, but it is the process we go through sometimes—there is a lot of smoke and mirrors going on, and a lot of bills are popping up to confuse the issue and to try to pull people away from support of H.R. 810.

Again, I say to my friend from Tennessee, I hope that we can have some assurance from the leader that when we get back in September that we will take up H.R. 810 and, I say to the Senator from Tennessee, if they want to bring up these other bills at some other time, in some other context, I can assure him this Senator would not object. I would have no objection to it. But right now there are objections to bringing them up at the same time, not just on this side of the aisle, but I also understand on the other side of the aisle.

It seems to me the clearest way is to bring up H.R. 810 and the cord blood bill and get them out of the way and deal with the others. I hope the majority leader will assure us we will do that when we come back in September.

Mr. FRIST. To complete this, from my standpoint, I want it to be very clear, to be understood that the majority leader of the Senate has offered to his colleagues to bring up six bills. The statement is made this is going to have an overwhelming bipartisan support. It did in the House. All I am saying is, let's, in a short period of time—what has been offered to both sides, is spend a day debating these six bills which do, if you look at the six bills, take the range of ethical considerations and moral considerations of this body and do look at the science—alternative ways of developing embryonic stem cells—and let's take them to the floor and allow each one to get a vote, and let's see where the votes are.

It may be the bill of my distinguished colleague from Iowa will get a majority vote or a supermajority vote, but so may the cord blood bill. I hope it does. I think it will save lives. The alternative bill, let's see what it is. It has never been discussed on the floor. I would hope the distinguished colleague from Iowa would vote for it because there is potential hope there, as well as obtaining embryonic stem cells from embryos. Also, the cloning bill. Let's debate it in a defined period of time and vote on that. Let's see where the body is. That has been my approach, and that has been the offer to both sides.

The Senator is correct, on both sides of the aisle there is this hesitation to do it. I need for my colleagues to understand that I am pushing for clean votes over a period of time, where we can address the very issues my two colleagues want to address.

Mr. HARKIN. I thank the Senator.

Mr. KENNEDY. Mr. President, I join my colleagues in expressing my deep sorrow and regret that the Republican leadership has allowed another month to go by without taking action on the bipartisan stem cell bill approved overwhelmingly by the House of Representatives.

Over the last several weeks, Republican leaders in the Senate have ignored the true priorities of the American people. They have denied the Senate the opportunity to provide our troops the protections they need against attack. They have denied the Senate the chance to guarantee funding for veterans' health, and to raise the minimum wage, and to allow importation of lower cost medicine from Canada and other nations.

And they have stalled and delayed, and twisted and turned, to deny action on legislation to unlock the healing potential of stem cell research.

They say there is no time for stem cells, or for the needs of our troops, or our veterans, or working families. There's plenty of time to protect the makers of lethal assault weapons—but no time for lifesaving cures.

The bill is right there, Mr. President, right there on that desk in front of you. At any time, the majority leader could walk over, pick it up and have a vote on a bill that would bring new hope to millions of Americans.

For years, patients and their families waited for a medical breakthrough to provide new hope for serious illnesses like Parkinson's disease, spinal injury, and Alzheimer's disease.

Then at last, dedicated scientists made that breakthrough. They discovered stem cells, which can repair the injuries that cause untold suffering and shorten lives.

The cruel irony is that just as medicine was giving patients new hope, the Bush administration snatched it away through needless restrictions on stem cell research.

In a few days, on August 9, patients across America will mark the fourth tragic anniversary of that cruel decision.

We in the United States Senate had the opportunity—no, we had the responsibility—to see that August 9 of this year did not mark 4 years of failure and 4 years of missed opportunity.

But the Republican leadership would not let us meet that responsibility. They let the first week of July slip by, and then the second, and now the last—all with no action on this urgently needed legislation.

Every day that we delay is another day of falling behind in the race to cure diabetes, cancer, Parkinson's disease, and many other serious illnesses.

It is another day for America to lose ground to Korea, Singapore, Britain, and other nations in the competition for global leadership in biotechnology.

Most of all, it is another day of shattered hopes for millions of patients and their families across America.

Some respond to the failure of the current policy by saying we should explore new ways to develop embryonic stem cells. I agree. Let's explore the potential of new discoveries in genetics and cell science to improve the ways we can tap the potential of stem cells. But let's not restrict essential research while scientists explore speculative and preliminary theories.

Some say we should encourage research on stem cells from the blood in umbilical cords or on adult stem cells from bone marrow and other tissues. Again, I agree. We should seek help for patients wherever it may be found. But it makes no sense to limit medical research to one narrow channel when the Nation's leading scientists agree that these alternatives have a more limited potential than embryonic stem cells. As a letter signed by 80 Nobel laureates in February 2001 stated:

> Current evidence suggests that adult stem cells have markedly restricted differentiation potential. Therefore, for disorders that prove not to be treatable with adult stem cells, impeding human pluripotent stem cell research risks unnecessary delay for millions of patients who may die or endure needless suffering while the effectiveness of adult stem cells is evaluated.

The conclusion of an NIH report in June 2001 is clear:

Stem cells in adult tissues do not appear to have the same capacity to differentiate as do embryonic stem cells.

It would be cruel to base the hopes of millions of patients on an ideological conclusion that these experts are wrong. By all means, let's pursue vigorous research on adult stem cells, but let's not deceive the American public into thinking it's an adequate substitute for embryonic stem cell research.

Legislation should be an expression of our values, and our legislation says loud and clear that we value patients and their families—not rigid ideology.

It is a travesty that no action has been taken on this lifesaving measure.

Mrs. FEINSTEIN. Mr. President, I rise to speak in support of the unanimous consent request offered today by Senator REID. The Senator has asked unanimous consent for the Senate to take up H.R. 810, the Stem Cell Research Enhancement Act, and S. 1317, the Bone Marrow and Cord Blood Therapy and Research Act.

Both of these bills have been passed by the House and are sitting at the desk waiting to be passed by the Senate and sent to the President for his signature.

The month of July has come and is nearly gone. Yet these two House-passed bills, with strong bipartisan support, sit and wait at the desk.

The Stem Cell Research Enhancement Act has 41 sponsors—Republicans and Democrats alike. This legislation is the result of many years of bipartisan cooperation in both the House and Senate. I am pleased to join my colleagues, Senator ARLEN SPECTER, TOM HARKIN, ORRIN HATCH, TED KENNEDY, and GORDON SMITH, who have worked tirelessly on behalf of patients and their families across this Nation to see that embryonic stem cell research moves forward.

This legislation is proof positive that Senators from many different points of view, be they liberal or conservative, pro-life or pro-choice, can work together on legislation that will help speed the pace of cures and treatments for more than 110 million Americans.

Identical legislation passed the House on May 24 by a vote of 238 to 194. Congressman MIKE CASTLE, Republican, Delaware, and DIANA DEGETTE, Democrat, Colorado, are to be commended for their tireless work in getting this bill passed in the House.

It is essential that the Senate move quickly to pass this bill. The clock is ticking. August 9 marks the fourth anniversary of President Bush's policy limiting Federal funding for embryonic stem cell research. At the time it was thought there were 78 stem cell lines available to researchers, today that number is 22. And all 22 of the lines available are contaminated by mouse feeder cells and not usable for research in humans.

So why has the Senate still not acted? The simple unanimous consent request put forth by Senator REID would allow the Senate to vote on this bill as early as today. We could send it to the President for his signature tonight.

What is going on here is an attempt to obscure what is a very simple issue. What is going on here is an attempt to allow votes on other bills in order to pull votes away from H.R. 810, the Stem Cell Research Enhancement Act.

I think it is appropriate for the Senate to debate other related issues at a later time. In fact, yesterday I introduced S. 1520, the Human Cloning Ban Act—with 25 bipartisan cosponsors—which would prohibit once and for all the immoral and unethical act of human reproductive cloning. I believe strongly that Congress must pass a prohibition on human cloning or attempts to clone human beings.

But first we must act on the unanimous consent request offered today by Senator REID, and I hope that request will be one of the first issues the Senate deals with after the August recess.

Embryonic stem cell research is the bright new frontier of medicine. We owe it to the 110 million Americans suffering daily with debilitating and catastrophic diseases to pass H.R. 810.

## ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Iowa yields the floor. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I ask unanimous consent that exchange be part of leader time and not interfere with the morning hour.

The PRESIDING OFFICER. Without objection, it is so ordered. To be more precise for our timekeeping purposes, did the Senator say part of the leader's time?

Mr. KENNEDY. The time not to be charged as part of the morning hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. Mr. President, I understand we have half an hour; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I thank the Chair. I ask the Chair to notify me when I have 3 minutes remaining.

The PRESIDING OFFICER. The Chair will so notify the Senator.

## END TO ARMED CAMPAIGN

Mr. KENNEDY. Mr. President, this morning the IRA has issued a statement indicating that it has formally ordered an end to the armed campaign. I welcome the statement. Hopefully, the statement means we are finally nearing the end of this very long process to take guns and criminality out of politics in Northern Ireland once and for all.

I look forward to the final act of decommissioning and the verification that paramilitary activity and criminality have ended. The all-important restoration of the Northern Ireland Assembly is reestablished. Peace and violence cannot coexist in Northern Ireland, and all who care about peace and stability look forward to these final actions.

## PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

Mr. KENNEDY. Mr. President, I wish to speak on another subject, the underlying legislation, the gun immunity bill. This bill is deceptively named the Protection of Lawful Commerce in Arms Act, but it will make it virtually impossible to bring lawsuits against the gun industry, even in circumstances in which the industry's conduct contributes to unlawful gun violence.

The bill purports to exempt suits in which the manufacturers and sellers engage in illegal or negligent conduct, but these exemptions are poorly defined and clearly would not cover many types of bad conduct.

The Senate majority leader says this bill is of urgent importance, taking precedence over the Defense bill because the Department of Defense faces the real prospect of having to outsource side arms for our soldiers to foreign manufacturers. But the real story is that the Republican leadership and the Bush administration will do whatever it takes to give the gun industry all that it wants.

The NRA wants gun dealers and manufacturers to be protected from lawsuits. The NRA expects—the NRA demands—that this body remove the last resort for victims of gun violence against negligent and often complicit gun dealers and manufacturers by barring all types of cases.

Let's be clear about what this bill does not do.

It does not help our law enforcement officials fight crime or terrorism.

It does not meet the urgent need to strengthen any of our gun control laws.

It does not affect—it does not address at all—the rights or ability of law-abiding citizens to purchase and own a gun.

It does not have anything to do with the second amendment, no matter how you interpret the language of that amendment.

This bill has one motivation: payback by the Bush administration and the Republican leadership of the Congress to the powerful special interests of the National Rifle Association.

As the New York Times reported less than 2 weeks ago, Wayne LaPierre, the executive vice president of the NRA, made it clear that the NRA expected total support from its allies—or else.

Mr. LaPierre said, "It's simply bad politics to be on the wrong side of the second amendment at election time," asserting that Vice President Al Gore lost the 2000 Presidential election because he supported gun control, including a Federal ban on assault weapons.

That is the same assault weapons ban that President Bush told the American people he supported but then allowed to expire.

We know what happened when the NRA pushed this special interest bill last year. When the Senate voted to reauthorize the assault weapons ban as part of the bill, the NRA called their supporters and instructed them to vote against the bill for which it had just lobbied. What a disgraceful spectacle, Members of this great body reversing themselves on the Senate floor minutes before a vote because of a single call from the NRA.

That same kind of raw special interest power is now being used again to take the Senate away from the important business of protecting our men and women who are fighting in Iraq and Afghanistan so that a few unsavory gun dealers and gun manufacturers can channel powerful killing machines into the hands of criminals and terrorists in this country without any regulation or judicial oversight whatever.

The manufacturing of guns, unlike the manufacturing of nearly every other consumer product in the country, is not subject to consumer product safety standards. As it stands, manufacturers and sellers in the industry are free to design, make, and market these products with no independent review of their potential risk.

The gun industry is the only industry whose products are not subject to basic consumer health and safety regulation. Why stop with the gun industry? Why not make tire manufacturers immune from lawsuits or car manufacturers or bicycle manufacturers or toy manufacturers? Obviously, it would be absurd to shield any negligent manufacturers from liability for their action. But when it comes to shielding the gun industry, the NRA is calling the tune and too many Members of this body are tragically dancing to it.

The other side also tells us that it is too burdensome on the gun industry to fight these lawsuits. After all, we are told there are thousands of gun laws on the books and the Government can enforce them. Let us look at some of those gun laws and how the gun lobby has systematically made it more difficult, and in some cases even impossible, for the Government to police negligent gun dealers and manufacturers while making it easier for criminals to get their hands on guns.

Federal gun dealers are regulated under Federal law and required to perform background checks of gun buyers, but at the urging of the gun lobby several years ago, Congress drastically narrowed the definition of gun dealer. Now there are many unregulated individuals who do not meet the new definition. These reckless and unlicensed dealers are now selling millions of guns to people, including criminals and terrorists, without background checks. All of that is legal because the U.S. Congress kowtowed to the NRA.

In the case of Afghanistan, our troops found an al-Qaida manual that instructed terrorists on how to buy guns legally in the United States without having to undergo a background check. Al-Qaida understands that we have created a mess that allows, even encourages, criminals and terrorists to traffic in guns. But we will not do anything about the so-called gun show loophole because the NRA has snapped its fingers and said no.

We are told by the other side that victims of gun violence do not need recourse to the courts because the Government is already inspecting and overseeing the businesses of gun dealers. But is that the whole story? Absolutely not. At the direction of the NRA, Congress limited Federal inspection of gun dealers to once a year, and passed laws making it virtually impossible for agents to conduct inspections more than once a year. If an agent happens to inspect a negligent or even grossly negligent gun dealer in January, the dealer does not have to worry about the feds showing up for at least another year.

Federally regulated financial institutions can be inspected without notice whenever and as often as the regulators deem appropriate. Meatpacking companies, shipyards, iron foundries, gas refineries can all be inspected without notice whenever and as often as the regulators deem appropriate, but not gun dealers. Congress and the NRA have said they can be inspected only once a year.

What difference does that make in the life of the average citizen? It makes a lot of difference. Just ask the innocent victims of the DC sniper attacks. When the regulators cannot keep tabs on gun dealers it means the companies like Bull's Eye Shooter Supply Store, the dealer that supplied the Bushmaster rifle to the DC snipers, can get away with supposedly losing the rifle that ended up in the hands of DC snipers and losing more than 200 other guns that ended up who knows where.

The DC sniper victims had only the courts to turn to for recourse because Congress made it impossible for Federal agents to police unsavory gun dealers such as Bull's Eye. Now the NRA is telling us, take away the courts, too. Why? An obvious answer is that gun dealers and manufacturers want to sell more guns.

Our laws are designed by the NRA to increase the sales of guns by dealers and manufacturers even if they are sold to or by criminals. The NRA is lavishly rewarded for lobbying successes and so are the Members of Congress who do their bidding. It is hard to reach any other conclusion. The unholy alliance and control of the legislative process against the safety of our citizens is immoral and it is a disgrace. But let us look at the other outrageous actions that this body has taken because the NRA has demanded it.

Congress has cut Federal funding for the agency that oversees gun dealers and manufacturers. In fact, the GAO has recently reported that the ATF is so underfunded that it would take 22 years to inspect the records of all gun dealers in this country just once. The GAO report has also found that terrorists and people on the terrorist watch list are not automatically barred from purchasing guns and are routinely buying guns in this country. This must stop.

The gun industry must have some accountability. That is why I am offering my amendment that would ensure that cases could be brought against gun manufacturers and dealers aiding or abetting a representative of a designated foreign terrorist organization. One can find a list of the designated foreign terrorist organizations on the Internet, and it includes al-Qaida and Hamas among others.

How can Congress deny victims the right to challenge a manufacturer or dealer that provided guns to a foreign terrorist organization which caused them harm?

This administration continuously says that we are engaged in a war on terror, but it takes a position that the war on terror does not allow us to prevent terrorists from buying guns in this country. Because of the actions of this administration, this Congress is caving to the NRA. Terrorists can now add assault weapons to their arsenals, all to appease the NRA so they will give campaign contributions and get out the vote. This is not only a disgrace, it is criminal and it has to stop.

The hypocrisy is mind-boggling. After 9/11, the worst terrorist attack in the history of the Nation, the Justice Department, over the objection of the FBI, at the urging of the NRA, decided that the Government had to destroy within 24 hours the background check records of all gun purchases. What is the rationale for the destruction of background checks of records in 24 hours? Former Attorney General Ashcroft and the NRA decided that it was a violation of privacy rights of law-abiding citizens to have their records held on file for 90 days, as they have been for years since the passage of the Brady bill.

This is the same John Ashcroft who, in the immediate aftermath of 9/11, prohibited—that is right, he prohibited—the FBI from examining the gun purchasing records of any of the 19 hijackers or any of the 1,200 other terrorist suspects who were detained for questioning. What kind of society are we turning into? We are supposed to be protecting this Nation from terrorism, not aiding and abetting terrorists.

Within days of the 9/11 attacks, we knew who the hijackers were. We knew where they sat on the planes. We saw some of their faces on surveillance videos. We know what they had charged on their credit cards. We know where they had gone to school. We know where they lived, where they traveled. We know that they had tried to get pilots licenses. We know they had looked for ways to transport hazardous chemicals, but we did not know where they or their terrorist friends had purchased their firearms because we were worried about their privacy rights and their rights to bear arms. Give me a break.

Every day, law-abiding Americans have their every move videotaped by surveillance cameras. They are required to take off their shoes and jackets and be searched at airports, have their luggage inspected and opened. Yet our Government worries about the privacy rights of terrorist gun owners and refuses to let the FBI look at gun purchase records of suspected terrorists? The Justice Department refuses to stop suspected terrorists from buying guns, and then it destroys those records in 24 hours? Something is rotten here, and it has to stop.

I ask again, whose side are we on? Instead of addressing the real issues that can make our country and our communities safer, we are considering a bill that will close the courthouse door to victims of gun crimes and give a free pass to the handful of gun dealers and gun manufacturers who sell firearms to terrorists and criminals. We are doing it to appease the special interests of the NRA.

Law-abiding citizens who sell or purchase firearms do not want to give criminals a free pass, but that is exactly what this bill will do. If we vote for it, we will be aiding and abetting these wrongdoers, just as Congress has done for years at the command of the NRA. This bill gives greater protection to the gun industry than Congress gave to the health care industry, to teachers and volunteers under the headline of tort reform. The legislation is so extreme that it requires the immediate dismissal of any cases pending in either State or Federal court.

By doing so, the bill denies victims their day in court. It amounts to an unprecedented interference with the judicial branch of Government and is an outrageous violation of the rule of law.

The bill's supporters misrepresent the real goal of the lawsuits filed against this industry. These lawsuits are not filed in an effort to bankrupt the industry. Like all tort suits, the victims turn to the courts to obtain compensation for their injuries and demand responsible conduct.

Let's be clear and debunk a few myths that the other side is spinning. The gun industry is not uniquely burdened with lawsuits. They just do not like what the public discovers about the industry and its practices when documents are produced in litigation.

This immunity bill is not aimed only at frivolous lawsuits. The truth is, it bars almost all actions for negligence. If this bill had become law last year, the families of the victims of the DC snipers would have been barred from suing and receiving the settlement from the gun dealer in Washington State that lost and could not account for more than 200 guns in its inventory, like the assault rifle used by the DC snipers, that were used in the commission of other crimes.

If passed, the bill forces the dismissal of a lawsuit filed by the family of Massachusetts victim Danny Guzman, an innocent bystander shot on Christmas Eve in 1999. Danny was killed by a gun stolen by an employee working in a gun manufacturing plant. Danny, here in the picture with his cousin, was a true victim of negligent conduct. This gun factory lacked adequate security, recordkeeping, and other reasonable safeguards to prevent employees from taking guns in their pockets out of the plant. The lack of security was so bad that the owners of the plant did not even know the guns were missing. Danny's mother and his two surviving daughters sued the manufacturer claiming that it had negligently hired criminals to work in its plant and had such irresponsible security that allowed them to walk out of the plant with guns that did not have serial numbers. One of these guns was used to shoot Danny. This case should not be dismissed.

This bill will result in the automatic dismissal of a case just filed in Pennsylvania. Anthony Oliver, a 14-year-old boy, was killed by a handgun that discharged accidentally when he was playing with his friends. Anthony's life was cut short due to the gun seller's reckless conduct. His family filed a case against the gun companies that negligently allowed one of Anthony's friends to obtain a handgun. The dealer who sold the gun had a history of supplying guns to criminals and not even taking the minimum step to screen the purchasers. Over a 4-year period, Lou sold over 400 guns traced to criminals. Under this bill, Anthony's family will not get their day in court, and the irresponsible activities of this gun dealer and its supplier will not be stopped. This case should not be dismissed.

This bill would also bar municipal lawsuits. If this case passes, four pending cases involving New York City, the District of Columbia, Gary, IN, and Cleveland, OH, will all be dismissed. This bill is not about protecting the gun industry from bankruptcy. This bill is a blatant special interest bill to protect gun manufacturers and sellers who provide guns to criminals and even terrorists.

With this bill, Congress is aiding and abetting in the perpetuation of these crimes. Enough is enough is enough. I urge my colleagues to join me in saying no to this shameful bill and get back to the serious issues that face our country.

Mr. DURBIN. Will the Senator yield for a question?

Mr. KENNEDY. I am glad to.

Mr. DURBIN. I first commend the Senator from Massachusetts for explaining what is before the Senate, not only today but yesterday and the day before. Would the Senator be kind enough to tell those who are observing and following this debate which bill we took off the calendar, which bill we were considering, to move this bill on the calendar, this special interest bill to protect gun manufacturers and gun dealers from being held personally responsible for their wrongdoing? Would the Senator from Massachusetts tell us what bill we pushed off the calendar to bring on this special interest bill?

Mr. KENNEDY. The Senator from Illinois knows that one of the most important bills that we consider at any time of the year is the Defense authorization legislation. That is the legislation which provides basic resources and support for our armed services, not only in Iraq and Afghanistan but all over the world. It is the basic document which is the expression of our national priority in terms of national security and national defense.

As one who has been here for some years, having been a member of the Armed Services Committee, we met in the day and in the evening to report that bill out in a timely way so that it could be considered before the August recess. That is what we heard, as members of the Armed Services Committee, and we were in the process of doing that at the end of last week. As a matter of fact, there was one amendment offered by the chairman of the committee to restore money for up-armoring humvees, which I welcomed the opportunity to support. The chairman of the Armed Services Committee had opposed that up-armoring at the time we had the supplemental. That is very important, making sure our men and women serving in Iraq are going to have the body armor and have the best in terms of their protection. That is what is in that legislation. That is what we were considering. That is what we hoped to deal with.

All of a sudden, out of the blue, the Republican leadership says, No, we are going to pull that bill down and we will put it back on the calendar and consider this special interest legislation, which they have called up. They now use parliamentary procedures in order to even deny those of us who want to amend that legislation the opportunity to do so.

I don't know whether the Senator was here a few moments ago when our majority leader was talking about stem cell research, which we wanted to take up, which offered such hope and opportunity to conquer diseases. The majority leader said: We want everyone's views on our side of the aisle to be considered.

It is interesting. They want that on the stem cell research, but not on this special interest legislation.

It is deplorable. I know of at least 20 amendments from Members of our side and the other side, amendments that would provide additional help and support for the National Guard, for our reservists in the armed services of this country, that would have provided additional strengthening for our fighting men and women. To deflect that to consider this special interest legislation that is just going to serve the gun manufacturers makes no sense.

I know this is an extended answer. As the Senator remembers, we spent 2 weeks on the credit card industry legislation and bankruptcy. We spent 2 weeks in order to protect the credit card industry. We spent 2 weeks after that on class action legislation. We spent more than a week debating highways. We have spent 3 days on the Defense authorization bill. And then we have the Republican leadership pull that down? It makes no sense to me.

I wonder what the service men and women think about our priorities when an action like that is taken.

Mr. DURBIN. If the Senator would further yield for a question, I would say to the Senator, through the Chair, that the Army Times, the publication for our U.S. Army and its soldiers who are risking their lives in Iraq, ran a headline story that the Senate pushed off the Department of Defense authorization bill, which included amendments which were being offered to provide additional financial assistance to the widows and orphans of those soldiers who lost their lives in combat, took away the bill which included an amendment to allow additional payment for totally disabled veterans, and instead moved on the floor this bill for one special interest group, the gun lobby.

The Senator has made it clear the Republican leadership considers this bill, a National Rifle Association sponsored bill, more important than the Department of Defense authorization bill.

I ask the Senator from Massachusetts if he could tell me if he knows of any other industry, any business in America which enjoys the same kind of immunity from liability for their wrongdoing—any other business with immunity from liability that the gun industry and gun dealers are asking for in this legislation.

Mr. KENNEDY. The Senator knows the answer to that; that is, there is none. This will be special, unique to a single industry that prides itself, as the spokesman for the NRA said—you better support this or else; basically saying that to the Congress of the United States.

Just to complete the thought about the sense of priorities, as legislators we basically express the priorities for the people of our State and the Nation. We express those priorities in our budget, on what we ought to be expending resources, and we express priorities by what we address on the floor of the Senate.

One of those amendments that was going to be offered to the Defense authorization bill—I know the Senator from Michigan was going to provide assurance that there was going to be mandatory spending to protect the veterans who are coming back from Iraq so they are guaranteed the kind of health care they are guaranteed before they go over there and fight and become wounded and need those kinds of services. That is offered in light of the fact that we are not providing the resources to serve our veterans.

That is something worthy of debate on the floor of the Senate. It seems to me that has a lot more priority for debate and discussion and decision by this body than the special interest legislation that we are considering with the National Rifle Association.

I ask whether the Senator would not agree with me on that?

Mr. DURBIN. I agree. I ask the Senator from Massachusetts another question about this bill. The Senator raises an important point. If a gun dealer in the United States sells a gun to someone——

The PRESIDING OFFICER. If the Senator from Illinois will suspend, the Senator from Massachusetts wanted to be informed when he had 3 minutes left. He has 3 minutes 10 seconds.

Mr. KENNEDY. I thank the Chair.

Mr. DURBIN. If a gun dealer in the United States has a history of selling guns to criminals—in other words, someone comes in and buys 100 Saturday night specials, "fill up my trunk with guns"—obviously, not a sportsman or hunter or someone interested in personal defense, but someone who comes in and buys clearly for guns to be sold through straw purchasers to others—if the gun dealer has not even taken the time to check the FBI's Most Wanted list when making a sale across the counter, is this legislation saying that dealer, so negligent in his conduct, cannot be held personally responsible, or responsible as a business, in court for the victims of the gun violence that follows from that negligent act?

Mr. KENNEDY. The Senator makes an absolutely accurate point. We have here a list from the FBI of the Most Wanted fugitives. There is an amendment to say at least they have to look at the FBI's Most Wanted fugitives. Under this legislation, if the gun dealer sells it to one of the Most Wanted, they still get a free pass.

Under the current legislation, we are not even asking them to look on the Internet for those who are going to be listed on the Internet as members of terrorist organizations. We are not even asking them to do that. If they do, and they sell it, as we saw from the al-Qaida book over in Afghanistan saying go on in there and purchase it because you are not going to be bothered—we are not even holding them accountable to do that. Is that what we want to do, when we have seen what has happened in London, and what is happening, and we appropriate more and more resources for homeland security, not even to require that the gun dealer is going to check the Most Wanted list of the FBI?

We can't even offer that amendment so it will be voted on. We are being blocked by the power interests on the other side from even having the Senate consider that amendment. That is the power of the NRA. They are not letting any of these kinds of amendments dealing with the Most Wanted list or the terrorist list—we can't even get it before the Senate. That is the lock, the hold that the NRA has. It is disgraceful.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts yields the floor. The Democratic side has 30 seconds remaining.

The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent to be recognized to conclude the morning business.

I think the Senator from Massachusetts has laid out the case. Can you imagine? We took the bill off the floor for the Department of Defense, for our soldiers and their families, and said we didn't have time to finish it this week because we had to go to this bill, the National Rifle Association's most important bill, which says that gun manufacturers and gun dealers selling their firearms to those on the FBI Most Wanted list, or to those in terrorist organizations, would not be held accountable for their misconduct? Where are the priorities of this Senate?

The PRESIDING OFFICER. The time on the Democratic side has expired. Who seeks recognition? The Senator from Utah.

Mr. HATCH. Mr. President, I have heard a lot of arguments on the floor in my day, but some of these arguments are some of the worst ever heard. I don't know, maybe I missed something. We were moving ahead on the Defense authorization bill when all of a sudden we couldn't get cloture. We couldn't move ahead because of the very people who have been making these arguments, in a holy fashion, that they want to help our soldiers. Yet they filibuster by preventing cloture and preventing a full acceptance of the Department of Defense authorization bill, and then turn around and say we stopped them from amending the bill. If they were stopped, it is because their amendments were not germane.

I have never heard arguments like this, that we are just going to give gun dealers an absolute right to violate the law. They haven't read this legislation at all.

And then they bring in an antiterrorism argument. What they do not tell the American public is that there are millions of guns out there in the underworld that people can get. But that doesn't justify holding liable gun manufacturers—who manufacture guns for our soldiers, by the way; if they all go broke we will not have the guns for our soldiers—when somebody takes one of their guns and misuses it. The person misusing it ought to be liable, not the gun manufacturer who cannot supervise the persons to whom they legitimately sold guns.

Let's face it. The folks on that side of the aisle hate guns. They talk in terms of, We want to take care of our hunters and our gun collectors and people who love guns who are decent, law-abiding citizens. But look over the years how they have argued against anything that makes sense with regard to the right to manufacture weapons that we have always had in this country, and the right to keep and bear arms, which is explicitly in the Constitution. These are the same people who are constantly arguing about things that are not explicitly in the Constitution, claiming that they should be given the sanctification of constitutional protection. Yet something that is expressly written in the Constitution, they turn around and blast.

I could spend a lot of time on that, but that is not what I came over here to do. All I can say is I find it amazing that an argument would be made, after they voted against cloture—in other words, proceeding with the Defense authorization bill, they voted against proceeding—and now they are saying, Why didn't we proceed. I missed something maybe. But I don't think so. This is just typical: Politics trumps everybody. No one is saying, with regard to this issue of the gun manufacturer's right to manufacture guns that are legal, they have a legal right to do so—nobody is making the argument that dealers who are honest and decent and honorable should not be able to sell those guns to decent, honorable people. We have plenty of restrictions already in law against illegality with regard to the sale of weapons.

My gosh, is there no end to politics in these issues? This argument that this modest bill gives criminals a free pass and aids and abets terrorists is as phony an argument as I have heard. And the argument that it lets manufacturers off the hook for their wrongdoing—if they do wrong, they are on the hook under this bill.

They are not doing wrong. That is the problem. What is wrong is the chief fundraiser of our friends on the left happens to be—the chief hard-money funder in this country happens to be the personal injury trial lawyer for liberals. And those people literally are the reason why we have these, I think, misconceived arguments.

I could not sit here without saying something about it because it is hard to believe that they can stand and make these kinds of arguments. Much as I respect my fellow Senators, it is mind-boggling that they can make an argument that we are preventing going ahead with the DOD bill when they are the ones who stopped it. My gracious. Let me shift gears. I could talk for hours on that subject.

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## NOMINATION OF JOHN ROBERTS

Mr. HATCH. Mr. President, the nomination of Judge John Roberts to the Supreme Court presents the Senate with some real challenges and opportunities.

First, it allows us the specific opportunity to place on our Nation's highest Court a man of impeccable qualifications and unquestioned character. Everbody here knows that.

After an unprecedented degree of consultation with the Senate, President Bush has nominated a truly outstanding individual.

Judge Roberts has a strong background in terms of education and experience.

Judge Roberts is a summa cum laude graduate of Harvard College—a degree which he finished in just three years—and a magna cum laude graduate of Harvard Law School, where he was the managing editor of the Harvard Law Review; meaning he is at the pinnacle of Law school students at the time throughtout the country.

He was a law clerk for two distinguished Federal judges: First for the late Judge Henry Friendly on the U.S. Court of Appeals for the Second Circuit, widely recognized as one of the most influential appellate judges of his time; and next on the U.S. Supreme Court for then-Associate Justice William Rehnquist. Now Chief Justice, he too is one of the most outstanding jurists of his time.

Judge Roberts's career in legal practice covers both the public and private sectors.

He held several positions in two administrations, including Special Assistant to the Attorney General, Associate Counsel to the President, and Principal Deputy Solicitor General, all high positions. They don't get much higher in the law.

In between his stints in public service, Judge Roberts became a leading member of the prestigious law firm of Hogan and Hartson, an internationally recognized law firm.

Overall, Judge Roberts became, by all accounts, one of the leading practitioners before the Supreme Court, arguing nearly 40 cases.

Not only does Judge Roberts have the education and experience, but his colleagues in the bar tell us that he possesses the integrity and character to make a fine member of the Supreme Court.

Just two years ago, the American Bar Association unanimously gave Judge Roberts its highest well qualified rating for serving in his current position on the U.S. Court of Appeals for the D.C. Circuit.

Mr. President, a second opportunity, as well as a great challenge, presented by this nomination is more general.

We can better educate ourselves and our fellow citizens about the proper role of judges in our system of government.

We can clarify the kind of judge we need on the bench.

We can get straight just what judges are supposed to do.

We must seize this opportunity, because I am concerned that lack of clarity on this point, a misunderstanding of what judges are supposed to do, contributes to the rancor and the partisan conflict surrounding the judicial selection process.

Mr. President, last week here on the Senate floor, I began to address this by comparing judges to umpires or referees.

I used that analogy because I believe we can be simple without being simplistic, even regarding some of these very important, and sometimes confusing matters.

Judges, like umpires or referees, take rules they did not make and cannot change and apply them to the contest before them.

Neither judges nor umpires may first pick a winner and then manipulate the rules to produce that outcome or the final result.

Every American of a certain age remembers only too well the Olympic basketball game in which biased referees unfairly replayed the final seconds of the game so that the Soviets would win. And we all saw the tainted, colluding French ice skating judge at the last winter Olympics in Salt Lake City.

Neither judges nor umpires may allow their personal views of the parties or teams before them to influence their application of the law or the rules.

And they certainly may not prejudge the contest before the teams even take the field.

This role or function, this job description, must guide the hiring or selection process.

We hear it said, for example, that we must know a judicial nominee's views. At least on the surface, that notion sounds practical, even an assertin of common sense.

The problem is, that by itself, this general demand to know a nominee's views begs rather than answers the important questions.

It is so general that it simply cannot mean what it says. We have neither desire, need, nor right to know most of Judge Roberts's views on most imaginable subjects.

The real questions are these: What views do we actually need to know? What views may we properly seek to know?

I submit, that properly understanding what judges do helps us properly establish which of a nominee's views we need to know.

This is quickly coming to a head.

Some of my friends on the other side of the aisle, aided in turn by some of their friends among left-wing interest groups, are demanding to know Judge Roberts's views related to how he is likely to rule on certain issues.

They seek to elicit those views in a variety of different ways and seem committed to ask carefully crafted questions designed to poke and prod, cajole and extract, but they are after the same thing.

Simply put, it appears that some of our Democratic colleagues want, in essence, Judge Roberts to prejudge issues and cases that might come before him.

It appears some Senators may even base their confirmation vote on his future judicial votes.

I might add that one Senator, I believe, said that he would vote no if the Jugde Roberts does not explicitly endorse Roe v. Wade. That is outrageous.

When Judge Roberts appears before the Judiciary Committee, I hope we will follow a standard, for both questions and answers, that is consistent with the nature of the judicial office and with Senate tradition.

The nature of the judicial office itself requires independence and impartiality. Nominees for judicial office, and especially those who are already sitting judges, must protect these essential elements of judicial character.

Many questions and answers will be consistent with judicial independence and impartiality, but others are not.

I have said before that Senators can ask any questions they choose, whether I disagree with those questions or not, whether I feel those questions are wise or not.

I have served on the Judiciary Committee during hearings for eight of the nine current Supreme Court Justices and more than 1400 lower court judges.

I know from experience that Senators want to know a great many things from a judicial nominee. Being legislators and being political, we may even want to know many political things.

I do, however, encourage my colleagues, and remind myself, to resist using a purely political standard to evaluate a nominee for judicial office.

Even more than Senators, however, the nominee before us will certainly use a judicial standard to answer even political questions.

Many of us have already met with Judge Roberts. I know him personally. I have seen him sit there for 14 years because he wasn't even given the courtesy of a hearing.

He is a thoughtful, sincere, and honest man.

We can be confident that he will do his best to balance the need to be forthcoming and responsive, on the one hand, with his commitment to judicial independence and impartiality, on the other.

There is, however, more for him to consider than simply that a Senator wants to know something.

Judge Roberts has not only been nominated to a judicial position, he already has one. He is a sitting judge.

He will be on the Federal bench, on one court or another, for many years to come.

Those who come before him deserve to know, need to know, that he is impartial. Nothing shatters that confidence more than knowing a judge has, under oath, already pledged to rule one way or another, which is being demanded by some of my colleagues on the other side.

In fact, this duty not to prejudge issues or cases is so important that it is codified in the Canons of Judicial Ethics. Let me read a portion of it here. I think it should be interesting to everybody.

"[A] judge or a candidate for appointment . . . to judicial office shall not . . . with respect to cases, controversies, or issues that are likely to come before the court, make pledges, promises or commitments that are inconsistent with the impartial performance of the adjudicative duties of the office."

I know that Judge Roberts takes his judicial responsibilities, his judicial ethics, very seriously.

We can look not only to the nature of the judicial office, but to past judicial confirmations, for more concrete definition of this judicial standard.

As each Supreme Court nominee came before the Judiciary Committee, Senators asked different kinds of questions on a wide range of issues. Some of them sought, more or less obviously, to zero in on how the nominee would likely rule in the future cases raising particular issues.

We are probably all guilty of that at one time or another, but judges who use common sense refuse to answer those kind of questions. They should.

Senators of both parties pressed nominees of both parties.

The remarkable thing, which we will do well to keep in mind today, is the consistency with which nominees handled these questions. There were variations, to be sure, but those were variations in degree.

Nominees regularly took the same basic approach to the issue of prejudging issues and cases.

Let us look briefly at some examples from nominees of both parties.

Anthony Kennedy's nomination was sent by a Republican President to a Democratic Senate. At his confirmation hearing in January 1988, he said, "[T]he public expects that the judge will keep an open mind, and that he is confirmed by the Senate because of his temperament and his character, and not because he has taken particular positions on the issues." That is a pretty important statement.

The Senate confirmed Justice Kennedy by a vote of 97–0.

David Souter's nomination was also sent by a Republican President to a Democratic Senate. At his confirmation hearing in September 1990, he asked rhetorically, "[C]an you imagine the pressure that would be on a judge who had stated an opinion, or seemed to have given a commitment in these circumstances to the Senate of the United States?"

By the way the Senate confirmed Justice Souter by a vote of 90–9.

Ruth Bader Ginsburg's nomination was sent by a Democratic President to a Democratic Senate. At her confirmation hearing in July 1993, she gave what she called her rule when asked to prejudge issues or cases—a rule which we honored in the committee and the Senate "No hints, no forecasts, no previews." That was a Democratic nominee and we honored those views, Democrats and Republicians.

The Senate confirmed Justice Ginsburg by a vote of 96–3.

And finally, Stephen Breyer's nomination was sent by a Democratic President to a Democratic Senate. At his confirmation hearing in July 1994, he said, "I do not want to predict or to commit myself on an open issue that I feel is going to come up in the Court. . . . it is so important that the clients and the lawyers understand the judges are really open-minded."I agree with his statement and so did members of the Judiciary Committee by and large.

The Senate confirmed Justice Breyer by a vote of 87–9.

I hope everyone sees the pattern here. Each of these Supreme Court nominees was, like Judge Roberts, already a Federal appeals court judge.

Each of them, whether Republican or Democrat, used the same judicial standard when Senators, Republican or Democrat, sought prejudgment.

They refused.

These judicial nominees refused to prejudge issues or cases because it would compromise their own independence and impartiality.

They refused to prejudge issues or cases because litigants deserve confidence that the judge before whom they appear is impartial and openminded. Let me put back up here the simple, straightforward Ginsburg Rule.

No hints, no forecasts, no previews.

We honored her in that. Why is it that somebody can come to the floor and say, unless he is against overturning Roe v. Wade, I will not vote for him? I guess that is a Senator's right, but it certainly is not consistent with the way we treated other Supreme Court nominees.

She was asked about her personal views on issues and precedents.

She was asked her judicial views on issues and cases. She steadfastly refused.

Once again, the Ginsburg Rule is no hints, no forecasts, no previews.

I know that this way of balancing responsiveness to Senators with commitment to judicial independence and impartiality can be frustrating. But we confirmed her nomination overwhelmingly.

Let me be clear. Senators have the right to ask any questions they choose. I do hope that Senators, myself included, consider the absolute imperative of judicial independence and impartiality when we decide what questions to ask.

But we must realize as we have in the past that simply asking the question does not mean a judicial nomination answer. I am concerned that some are already planning to change standards to demand that Judge Roberts abandon the Ginsburg rule or the rule of the other Justices. Some have already released a list of questions they intend to ask this nominee. Many of the questions asked in various ways how Judge Roberts will rule on issues. Many of the questions ask how he will prejudge cases. I am concerned that we might hear Senators demand that Judge Roberts sacrifice his independence and impartiality, that he violate his sense of judicial ethics before they will vote for him. I hope this does not happen. This political standard will not only undermine judicial independence and impartiality but will be a radical departure from Senate tradition. I hope we do not see it.

Some have also argued that the Senate allowed Justice Ginsburg to follow her "no hints, no forecasts, no previews" rule because she had already been on the appeals court for more than a decade. This reasoning is faulty also. As I have described, the Ginsburg rule is compelled by the judicial function itself, by the absolute imperative of judicial independence and impartiality. This imperative exists whether someone had never before been a judge, been a judge for 2 weeks, or was a judicial veteran of 25 years. We should have faith in this fine nominee to take his responsibility as a judge seriously. I firmly believe we should follow the standard that the judicial function compels and Senate tradition confirms. Justice Ginsburg stated it as "no hints, no forecasts, no previews." We respected her and we confirmed her.

This administration has given up 75,000 pages of materials. Frankly, that is the haystack. I guess some are calling to now look for the needle.

We should do the same for Judge Roberts, and that is respect him and confirm him.

I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The majority whip.

Mr. McCONNELL. How much time is remaining on our side?

The PRESIDING OFFICER. Eight minutes 20 seconds.

Mr. McCONNELL. We are talking with the floor staff on the other side about getting additional time on this side since a bit more was used on the other side.

I ask unanimous consent that Senator CORNYN be given 2 extra minutes, then I be allowed to speak for 10 minutes, followed by Senator BROWNBACK for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. CORNYN. Mr. President, I will spend no more than 10 minutes to comment on the President's nomination of John Roberts to the U.S. Supreme Court.

Several weeks ago, shortly before the President nominated Judge Roberts, we were informed that the strategy on the other side of the aisle was a three-pronged strategy: one, to claim that there was inadequate consultation; two, to somehow paint the nominee as extreme; and three, to use document requests to go on a fishing expedition to delay the confirmation for as long as possible.

Before this nominee was proposed by the President, there was unprecedented consultation with both sides of the aisle, and because this nominee is clearly in the mainstream of American jurisprudence and has a distinguished record of public service as a judge and as an advocate on behalf of the United States in the Solicitor General's Office and elsewhere, it looks as if we already have jumped to prong three, the first two prongs being unavailable.

Some members on the other side of the aisle are already intimating that, unless the White House finds and turns over every piece of paper written by Judge Roberts when he was a Government lawyer, they cannot properly assess his qualifications to the U.S. Supreme Court. This is preposterous. The public record on Judge Roberts is already immense. It is telling that opponents of this nomination, or at least those who want to slow it down unnecessarily, have not even had a chance to review the documents that are already available. Yet they are calling for more documents. If history is any teacher, and I believe it is, this may indeed be the beginning of a case of moving the goalpost each time a document request is made and then satisfied, to then ask for more, which then leads to another request for more, and a game that the nominee cannot win because the goalposts move each time.

I would like to remind my colleagues what we already have. Judge Roberts was confirmed to the D.C. Court of Appeals just 2 short years ago. He testified extensively before this Senate on two previous occasions, and these transcripts total 14 hours of testimony. In conjunction with those hearings, he completed more than 100 pages of responses to written questions posed to him by Senators on the Senate Judiciary Committee. If this were not enough, the Senate already has before it various legal briefs and oral argument transcripts from the hundreds upon hundreds of briefs written by Judge Roberts, or in which he participated, when he practiced as a lawyer both in the private sector and in the Solicitor General's Office. The committee and the Congress already has before it 10 articles authored by Judge Roberts, scholarly legal articles which reflect some of his thought processes and his expertise on various issues of law.

All of this, of course, was more than enough for the Senate to unanimously confirm Judge Roberts as it did 2 short years ago to the U.S. Court of Appeals for the District of Columbia, which many of my colleagues on the other side of the aisle have called the second most important court in the land.

There is more. Since his confirmation to the bench, he has participated in more than 300 appellate cases and opinions that cover more than 2,000 pages. The White House, as recently as yesterday or perhaps the day before, has pledged to expedite the public processing of more than 75,000 pages of memoranda that Judge Roberts wrote while an adviser to President Reagan during the 1980s. By any measure, this is a vast public record.

I am quite confident none of my colleagues on the other side of the aisle or even on our side of the aisle have had an opportunity to digest this huge disgorging of public information at this point. Yet there is the clamor already for more, more, more and complaints that the President and this administration have not given them enough. Perhaps my colleagues, I respectfully suggest, should read what has already been produced before they start complaining that it is not enough unless, of course, this is more about picking a fight than it is about finding a reasonable path toward an orderly process leading to an up-or-down vote on the Senate floor.

The documents my colleagues are demanding to see, the documents that remain that have not been provided, are documents written while he was a Government lawyer working in the Office of Solicitor General at the Department of Justice. As my colleagues know, the Solicitor General is the public official who argues cases on behalf of the U.S. Government in the U.S. Supreme Court. Of course, there are a number of lawyers who work there assisting the Solicitor General. Those lawyers write memoranda suggesting various litigation strategies—weighing, on the one hand, we could make this argument; perhaps it would be better to make this argument—and make a recommendation on the litigation strategy of the U.S. Government in the U.S. Supreme Court.

In 2002, all seven former living Solicitors General of both political parties wrote a letter asking the President to refuse to turn over these confidential documents because they said such a move would chill for years to come the candid advice the Government receives from its lawyers. They noted that "our decisionmaking process requires the unbridled, open exchange of ideas—an exchange that simply cannot take place if attorneys have reason to fear their private recommendations are not private at all, but vulnerable to public disclosure."

Most Americans understand that it makes sense to allow this sort of private communication between a lawyer and a client in order to provide the most effective legal representation, and the same principle applies, of course, whether you are the Solicitor General representing the U.S. Government or whether you are a lawyer representing someone who has been accused of a crime or someone who is pursuing a civil claim in a court of law.

A couple of our distinguished Senators from Vermont and Massachusetts have in recent days argued that confidential memoranda written by Government lawyers are the property of the American people and, therefore, should be handed over to the Senate. Of course, that is in direct contradiction to what the seven bipartisan appointees of the Office of Solicitor General have said as recently as 2002.

But we all understand that the nature of the attorney-client relationship is not one that should be breached simply because the government is a party to the communication. For example, the Federal Government's veterans hospitals are there to take care of the men and women who fought for our freedom. Does this mean that Members of this Senate are entitled to see confidential medical files of veterans who receive care in these facilities? Does that mean somehow we should be able to invade the doctor-patient relationship by making public their private medical records? Certainly not. The same principle holds true, this principle of confidential communications in a position of trust or fiduciary relationship, between lawyers and clients as well. To hold otherwise would deny the American people the vigorous and outstanding representation they are entitled to before the U.S. Supreme Court.

I suggest, in accordance with traditional practice, that the claim of attorney-client privilege for these Solicitor General documents, these deliberate documents written by Judge Roberts when he was working in that office representing the U.S. Government, can and should remain confidential. They should not be made public. And we should stop playing this game of "gotcha" by moving goalposts on the President's nominees.

I yield the floor.

The PRESIDING OFFICER. The majority whip.

Mr. McCONNELL. Yesterday, I expressed my concern that some may try to turn the confirmation process for Judge John Roberts into a political circus. After recent media reports, I have become concerned that some of those fears I spoke of earlier in this Senate are coming true; namely, that our friends on the other side of the aisle are going to do everything they can to obstruct the confirmation process of the President's nominee to the Supreme Court.

Earlier, I spoke of the Washington Post article that outlined a carefully constructed plan of attack on the Roberts nomination. It was a three-staged battle plan.

The first stage was to assert that the amount of consultation from the White House, no matter the amount, no matter how much consultation, was somehow insufficient. But that dog clearly won't hunt. The White House consulted with over 70 Senators, including two-thirds of the Democratic caucus and every Democrat on the Judiciary Committee. The President himself met with the Democratic leader and the Democratic ranking member of the Judiciary Committee. He and his staff were receptive to any and all suggestions our Democratic friends cared to give. Frankly, he has done more than the Constitution requires by far, and more than his predecessors did. No one can say he did not consult the Senate, period. End of story.

The second salvo against the President's nominee, as told to the Washington Post, was to try to distort and destroy his record and paint him as extreme. This plan, too, has failed.

Judge Roberts is one of the preeminent jurists of his generation. He is a top graduate of Harvard Law School and Harvard University. He was unanimously approved by the Senate for his current position on the U.S. Court of Appeals for the D.C. Circuit. Over 150 of his peers, Democrat and Republican alike, endorsed him for the current position he holds. And he has argued, as we have pointed out numerous times, before the Supreme Court 39 times. He is clearly in the mainstream, is fair-minded, has a keen intellect, and a sterling record of integrity.

So now some of our Democratic friends, as some of us could have predicted, have come to the third and final stage of the attack plan. They are making unreasonable demands for documents about the nominee.

Now, the administration has been very generous in releasing documents from Judge Roberts's time in the Justice Department as a special assistant to Attorney General William French Smith and his tenure in the White House Counsel's Office.

In fact, the Judiciary Committee will receive some 70,000 pages of documents, at the behest of the administration. Let me say again: That is 70,000 pages turned over. I doubt that our colleagues have pored through those pages already, and yet they are hungry for more.

Since the release of these documents, some in the media have hurriedly—some might say recklessly—skimmed document after document, many of them quite complex, looking for any hint of controversy so precious to the demands of the 24-hour news cycle. In so doing, they run the risk of simplifying complex constitutional issues beyond recognition.

For example, during the last couple of days, there has been a great deal of media attention regarding the arcane issue of so-called "court stripping," a shorthand term describing the issue of whether Congress has the authority to deny jurisdiction to Federal courts.

The New York Times writes this morning that:

> Mr. Roberts consistently argued that courts should be stripped of authority of abortion, busing, school prayer and other matters.

The Washington Post yesterday:

> Roberts presented a defense of bills in Congress that would have stripped the Supreme Court of jurisdiction over abortion, busing and school prayer cases.

The Boston Globe:

> One memo suggested that [Roberts] supported proposals in Congress to strip the federal courts of jurisdiction over abortion, busing and school prayer cases. "Aha," say our friends in the media. The media and some of our friends on the other side of the aisle suggest that John Roberts may have taken a position on these controversial issues. The problem is not that this is an oversimplification. The problem is that it is just plain wrong.

As a young attorney in the Justice Department, John Roberts was assigned to write a memo advocating that Congress had the constitutional authority to determine the appellate jurisdiction of the Supreme Court and other federal courts. This memo was written in response to legislation introduced in Congress proposing to strip Federal jurisdiction on a number of controversial social issues. Now, Mr. Roberts was a constitutional scholar, and he did what constitutional scholars are frequently asked to do: argue a legal theory about congressional authority. Mr. Roberts was given this assignment by his boss, and he responded with the outstanding advocacy for which he is justly admired.

Making a legal argument, however, is miles away from endorsing the policy underlying the constitutional argument. And, as it turns out, John Roberts did not think that "court stripping" was good policy in the first place. Let me say again: John Roberts did not think that "court stripping" was a good policy in the first place.

The Associated Press reported, yesterday, that in 1985:

> [A]s a lawyer in the Reagan White House, John Roberts wrote that Congress had authority to strip the Supreme Court of jurisdiction over cases involving school prayer and similar issues, but he added that "such bills were bad policy and should be opposed."

The second half of the story was he added that "such bills were bad policy and should be opposed." This tempest in a teapot over "court stripping" refers to a position that Mr. Roberts never agreed with in the first place.

That is the problem with a rush to judgment on a complex legal document—these documents that have been released just recently. Instant media reports can muddy the waters by confusing a legal opinion with a policy position. A legal opinion is different from a policy position.

Now, half the story only conveys half the truth. Half the story only conveys half the truth. And a half-truth is frequently 100 percent wrong. I hope those in the media who got it wrong will not make the same mistake again. This is the exact kind of misrepresentation I hope the Senate can avoid as it debates the Roberts nomination.

Now, Judge Roberts deserves a fair and dignified process. The Senate needs to be thorough and deliberate, but it must be fair. I would say to our friends in the media, half a story is frequently 100 percent wrong. Read all the documents before reaching a conclusion.

So, Mr. President, I suggest we all take a deep breath and not rush to judgment in an effort to get tomorrow morning's headlines out before we have read the entire story.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

## STEM CELL LEGISLATION

Mr. BROWNBACK. Mr. President, I rise this morning to address some of the comments that have been made on the other side of the aisle regarding the Castle bill on embryonic stem cell research that passed in the House a few weeks ago: I have heard the proposal this morning from my colleagues from the other side that we should discuss and talk about embryonic stem cell research and the proposed umbilical cord blood bill that have been put on the calendar here in the Senate, but without any discussion about human cloning. I want to try to put this issue in context a little, and to propose some factual information.

Mr. President, we need to have a broad discussion about bioethical issues in this body and all across the country, and it needs to involve the full range of issues that have come to light as we attempt to grasp the implications and come to understand the decisions that must be made in this challenging area.

This discussion should involve cord blood stem cells. These types of cells are stem cells that come from the umbilical cord when a child is born; they are a rich source of pluripotent stem cells that have proven very helpful in providing a number of treatments for humans.

We need to continue to talk honestly about embryonic stem cell research: the possible limitations of this research to cure diseases in humans, as well as the certain destruction of embryos that this type of research necessitates.

We need to talk about human cloning, whether or not we want to continue to allow the practice of cloning to take place in the United States of America (it is currently a legal process in this country, to clone, create and kill an embryo, a young human).

We need to talk about the cutting edge related research applications, we need to consider where the science is leading us on issues such as the creation and manipulation of chimeras—human-animal crosses that are created by, for instance, taking human brain cells and putting them in a mouse—we cannot bypass these critical issues in this discussion.

And we need to talk about some exciting new application prospects of these broad-based pluripotent cells, cells that can do virtually anything—but I speak of cells where it is not necessary to extract them from a human embryos, destroying that embryo in the process, but cells yielded from other places in the body.

With this background in mind, I want to point out a couple of quick facts.

No. 1, Mr. President, I ask unanimous consent to have printed in the RECORD, from this morning's Washington Post, an article describing new revelations about pluripotent adult stem cells that can answer many of these questions. I ask that the article be included and printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BROWNBACK. Mr. President, I wish to read one section of this article:

> A team of Harvard scientists is claiming the discovery of a reservoir of cells that appear capable of replenishing the ovaries of sterilized mice, possibly providing new ways to [create human eggs].

Adult stem cells in the body with the ability to create human eggs. Now, people may say: What do you mean by that? Well, here we have a pluripotent adult stem cell (derived from bone marrow) with a broad capacity to create a lot of different cells, so much so that they can generate, when placed in the right place in the body—a woman's ovary—human eggs.

Listen to what the scientists here say about this:

> In addition, because the cells appear to be a particularly versatile type of adult stem cell—

I would like to pause for a moment to point out that there are no ethical problems or objections to research conducted with adult stem cells. We should put millions of dollars into this type of research. This type of research is yielding cures—65 treatment applications for humans with adult stem cell research. However, I'd like to conclude the reading of this excerpt:

> . . . a particularly versatile type of adult stems cells [which] could provide an alternative to those obtained from embryos, avoiding the political and ethical debates raging around the use of those cells.

End of quote, in this morning's Washington Post, from Harvard researchers.

Mr. President, I ask then, why would we want to kill young human embryos, young humans, who are clearly alive, who are clearly human, when we have the capacity, in adult stem cells, to conduct useful and productive research to cure diseases, that is not hindered by ethical problems?

In an article from this month's The Lancet—a well-respected British medical journal—Mr. President, I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. BROWNBACK. The author of this editorial—this is the lead British medical journal—says:

> . . . what is unarguable is that the human embryo is alive and is human, and intentionally ending the life of one human being for the potential benefit of others is not territory to which mainstream clinical researchers have hitherto sought claim—or which ethically conscientious objectors could ever concede.

These embryos are alive. They are alive. They are human.

I want to conclude, because time is very limited—Mr. President: I want cures for people. I want cures for juvenile diabetes, for cancer, for spinal cord injuries, for Parkinson's disease. And, with research generated from pluripotent adult stem cells, we are getting these treatments.

Mr. President, I ask unanimous consent to have printed in the RECORD a list of human clinical trials going on now, using adult or cord blood stem cells, involving no ethical dilemmas, for 65 different human maladies.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. BROWNBACK. The number of areas of treatment for human ailments or medical conditions in humans using human embryonic stem cells is zero. So the notion that delaying this Castle-Specter bill is going to hurt current patients is completely false. If we want to help current patients, the key—the key—is to put more research into adult and cord blood stem cell research. If you want to help current patients, you should be ever so careful not to promise impossibilities to these hurting individuals: you should state what the scientists are telling us, that the possibility of embryonic stem cells yielding cures, if ever—and I really doubt if it ever happens—is decades away. And we have had problems in the past with these types or cells forming dangerous and cancerous tissues—a problem which has not yet been worked out. If we want cures, let's go the route where we know we are going to reach our destination, and where we know treatment is true possibility.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Washington Post, July 28, 2005]

## SCIENTISTS CLAIM TO FIND CELLS THAT RESTORE EGG PRODUCTION

(By Rob Stein)

A team of Harvard scientists is claiming the discovery of a reservoir of cells that appear capable of replenishing the ovaries of sterilized mice, possibly providing new ways to help infertile women have babies.

While cautioning that more research is needed to confirm that similar cells exist in women and that they can safely restore fertility, the researchers said the findings could revolutionize the understanding of female reproduction and the power to manipulate it.

"This may launch a new era in how to think about female infertility and menopause," said Jonathan L. Tilly, a reproductive biologist at Harvard Medical School and Massachusetts General Hospital in Boston who led the research. It is being published in tomorrow's issue of the journal Cell.

Other researchers agreed that the findings could have profound implications, but several expressed caution and skepticism, saying many key questions remain about whether the researchers have proved their claims.

"This is really exciting and a revolutionary idea. The implications are potentially huge," said Lawrence Nelson of the National Institute of Child Health and Human Development. "But before this could have any type of application to humans, a whole lot of work has to be done. We have to be careful not to get ahead of ourselves."

But Tilly said he was confident of his findings, which could, for example, enable women to bank egg-producing cells when they are young in case they have health problems that leave them infertile or they get too old.

"In theory, these cells could provide an insurance policy. We could harvest them and store them away for 20 years. Then you put them back in, and they are going to do exactly what they are supposed to—find the ovaries and generate new eggs" to restore fertility, Tilly said.

The discovery could also lead to ways to prevent, delay or reverse menopause, perhaps by stimulating dormant cells in the bone marrow or "tweaking" the ovaries to accept them, Tilly said. It may also be possible to transplant them from one woman to another, he said.

In addition, because the cells appear to be a particularly versatile type of adult stem cell, they could provide an alternative to those obtained from embryos, avoiding the political and ethical debates raging around the use of those cells.

"The implications are mind-boggling, really," Tilly said.

The research is a follow-up to results the team reported in March 2004, when it claimed it had shown that mice can produce eggs throughout their lives. For decades, scientific dogma has been that female mammals such as mice and humans are born with a finite number of eggs. To alleviate doubts about their original claim, the researchers conducted another round of experiments, which they said confirm the findings and explain how it might work.

First, the scientists sterilized female mice with a cancer chemotherapy drug that destroyed eggs in the ovaries but spared any egg-producing cells elsewhere. They tested the animals' ovaries 12 to 24 hours later and found signs their egg supply was rapidly regenerating. Two months later, the animals' ovaries looked normal, and they remained that way for life.

After tests indicated the source of the cells may lie in the animals' bone marrow, the researchers infused marrow from healthy mice into those that were either genetically engineered to be infertile or had been made infertile with chemotherapy. Two months later, the recipients' ovaries looked normal, whereas those that had not received the transplants remained barren, the researchers reported. Blood transfusions produced similar results, they said.

The researchers then infused blood into infertile mice from animals that had been genetically engineered so that their reproductive stem cells glowed fluorescent green. Within two days, green egg cells appeared in the recipients' ovaries, which the researchers said indicated the cells had traveled through the blood to the ovaries.

Finally, the researchers screened human bone marrow and blood from healthy women and found that both tested positive for biological markers indicating the presence of immature reproductive cells.

"Mice and humans appear to be the same—they appear to have a set of genes in bone marrow consistent with . . . cells that can make themselves a new egg," Tilly said.

The findings could help explain previously mysterious cases of women sterilized by cancer treatment who spontaneously became pregnant after receiving bone marrow transplants, Tilly said. This may happen only rarely because some, but not all, techniques used to process bone marrow before transplantation may destroy the cells in some cases, he speculated.

The research triggered a mixture of excitement, caution and deep skepticism.

"It's quite amazing," said Hans Schoeler of the Max Planck Institute in Germany. "The idea that cells from bone marrow may be a reservoir for egg cells would be quite astonishing."

But Schoeler and other researchers cautioned that many crucial questions remained. Several researchers had doubts about some of the techniques the researchers used. Others were puzzled by the speed with which the ovaries appeared to be repopulated with eggs. Many pointed out that the researchers had failed to show the eggs were viable, the mice were ovulating or that they could give birth to healthy offspring.

"I'm very skeptical," said David F. Albertini of the University of Kansas Medical Center in Kansas City, Kan. "There are a lot of holes in the research."

Tilly attributed the skepticism to the radical nature of the findings and said he already had work underway to address the concerns, including breeding studies aimed at producing healthy offspring.

"We hope we will have the answers very soon," Tilly said.

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EXHIBIT 2

## STEM-CELL THERAPY: HOPE AND HYPE

In the fifth year since human cloning to generate stem cells was legalised in the UK, what progress has been made towards taking stem-cell therapy from laboratory to clinical practice? In 2000, articulating robust UK Government support, then Health Minister Yvette Cooper proclaimed that stem cells from cloned human embryos "could prove the Holy Grail in finding treatments for cancer, Parkinson's disease, diabetes, osteoporosis, spinal cord injuries, Alzheimer's disease, leukemia and multiple sclerosis . . . transform[ing] the lives of hundreds of thousands of people". But 4 years later, the technical difficulties and biological hazards inherent in cloning human embryos and developing treatments from their stem cells led Richard Gardner, Chairman of the Royal Society Working Group on Stem Cells and Therapeutic Cloning, to doubt whether this would ever be a "a procedure that becomes widely available . . . There are concerns about the efficiency and elaborateness of the procedure, and it's going to be very time-consuming and very expensive". So, to paraphrase May 25th's Saving Faces event in London, UK, are stem-cell therapies hype, or hope, or substance?

Only two UK groups currently seek to clone human embryos, both with immediate aims not of developing therapies but of improving understanding of embryonic development or specific diseases. Techniques for culturing human embryonic stem cells have advanced—e.g., allowing them (like adult stem cells) to be grown—but an increasing appreciation of the hazards of embryonic stem cells has rightly prevented the emergence or immediate prospect of any clinical therapies based on such cells. The natural propensity of embryonic stem cells to form teratomas, their exhibit of chromosomal abnormalities, and abnormalities in cloned mammals all present difficulties.

The prospect of having to clone (to obtain embryonic stem-cells) every patient requiring therapy is surely unrealistic (the Korean report of cloning human embryos for stem cells used almost 250 human eggs in generating a single stem-cell line). If cloning is unrealistic and/or too hazardous, the autologous advantage of (cloned) embryonic stem cells vanishes: and immune rejection of embryonic stem cells generated from "foreign" in-vitro fertilisation or abortion presents further problems.

These biological problems only add to the ethical objections. The Lancet declared in 2001 that: "the creation of embryos solely for the purpose of producing human stem cells is not only unnecessary but also a step too far". Semantic questions about embryology and personhood are interesting, if unprovable, but what is unarguable is that the human embryo is alive and is human, and intentionally ending the life of one human being for the potential benefit of others (i.e., for research) is not territory to which mainstream clinical researchers have hitherto sought claim—or which ethically conscious objectors could ever concede.

So is stem-cell research a damp squib, another over-hyped funding gambit? Far from it, for the embryonic stem-cell story forms only one aspect. Excitement about the potential of adult stem cells was tempered by reports in 2002 that in some circumstances such cells can fuse. Fusion might give a false appearance of metadifferentiation, the argument ran, therefore adult stem cells are not really multipotent, and are a nonstarter as an alternative to embryonic stem cells.

Fortunately, for the now highly expectant patient, reports of the death of adult stem cells were greatly exaggerated. Much research (some indeed antedating the fusion excitement) clearly shows that although fusion can and does occur in certain tissues, adult (say) bone-marrow-derived stem cells can also generate multiple lineages without cell fusion. Interestingly, fusion may be an unexpected mechanism of achieving repair, and could additionally offer means of delivering gene therapy. Normal (bone-marrow-derived) donor nuclei were found in the muscle of a patient with Duchenne muscular dystrophy, over a decade after bone-marrow transplantation for immune deficiency, offering proof of principle for fusion of bone-marrow-derived stem cells as gene therapy, and presenting tantalising therapeutic prospects. Also, it is now clear that aneuploidy represents a not uncommon, spontaneous, and normal process, rather than necessarily carrying sinister implications, as speculated.

Suggestions of low rates of differentiation of bone-marrow-derived stem cells and integration in situ, and of questionable differentiation, have also been addressed. Perhaps the most compelling (and extraordinary) evidence unambiguously confirming the ability of adult bone-marrow-derived stem cells not only to metadifferentiate but also to integrate fully into adult (human) organs, and survive for decades, comes from postmortem studies of sex-mismatched recipients of bone-marrow transplants, showing donor-derived fully differentiated neuronal cells of a highly complex morphology apparently fully functionally established within the host brain, with no evidence of fusion.

We now know that bone marrow-derived stem-cells circulate systemically and actively migrate into damaged tissue to contribute to spontaneous repair. Experimentally, therapeutic benefit occurs in numerous disease models but, importantly, repair by bone-marrow-derived stem cells does not stop at the laboratory door. Safety data from 50 years of clinical bone-marrow transplantation, during which nonhaemopoetic stem cells have inadvertently also been transplanted, and the accompanying clinical expertise in collecting, handling, freeze-storing, thawing, and delivering marrow, have safety allowed a rapid translation of bone-marrow-stem-cell science from laboratory to clinic. Controlled trials have shown significant benefit of marrow-derived stem-cell therapy in myocardial infarction, and trials are planned or underway in chronic cardiac failure, stroke, and other diseases: reports of successful adult stem-cell therapy in myocardial infarction, and trials are planned or underway in chronic cardiac failure, stroke, and other diseases: reports of successful adult stem-cell therapy in patients with corneal disease have just appeared. The next few years, not decades, will show whether adult stem-cell treatments are to join the mainstream therapeutic arsenal.

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### EXHIBIT 3

BENEFITS OF STEM CELLS TO HUMAN PATIENTS—ADULT STEM CELLS V. EMBRYONIC STEM CELLS (PUBLISHED TREATMENTS IN HUMAN PATIENTS)

ADULT STEM CELLS: 65—ESCR:0

*Cancers*

1. Brain Cancer
2. Retinoblastoma
3. Ovarian Cancer
4. Skin Cancer: Merkel Cell Carcinoma
5. Testicular Cancer
6. Tumors abdominal organs Lymphoma
7. Non-Hodgkin's Lymphoma
8. Hodgkin's Lymphoma
9. Acute Lymphoblastic Leukemia
10. Acute Myelogenous Leukemia
11. Chronic Myelogenous Leukemia
12. Juvenile Myelomonocytic Leukemia
13. Cancer of the lymph nodes: Angioimmunoblastic Lymphadenopathy
14. Multiple Myeloma
15. Myelodysplasia
16. Breast Cancer
17. Neuroblastoma
18. Renal Cell Carcinoma
19. Various Solid Tumors
20. Soft Tissue Sarcoma
21. Waldenstrom's macroglobulinemia
22. Hemophagocytic lymphohistiocytosis
23. POEMS syndrome

*Auto-Immune Diseases*

24. Multiple Sclerosis
25. Crohn's Disease
26. Scleromyxedema
27. Scleroderma
28. Rheumatoid Arthritis
29. Juvenile Arthritis
30. Systemic Lupus
31. Polychondritis
32. Sjogren's Syndrome
33. Behcet's Disease
34. Myasthenia
35. Autoimmune Cytopenia
36. Systemic vasculitis
37. Alopecia universalis

*Cardiovascular*

38. Heart damage

*Ocular*

39. Corneal regeneration

*Immunodeficiencies*

40. X-Linked hyper immunoglobuline-M Syndrome
41. Severe Combined Immunodeficiency Syndrome
42. X-linked lymphoproliferative syndrome

*Neural Degenerative Diseases/Injuries*

43. Parkinson's disease
44. Spinal cord injury
45. Stroke damage

*Anemias/Blood Conditions*

46. Sickle cell anemia
47. Sideroblastic anemia
48. Aplastic Anemia
49. Amegakaryocytic Thrombocytopenia
50. Chronic Epstein-Barr Infection
51. Fanconi's Anemia
52. Diamond Blackfan Anemia
53. Thalassemia Major
54. Red cell aplasia
55. Primary Amyloidosis

*Wounds/Injuries*

56. Limb gangrene
57. Surface wound healing
58. Jawbone replacement
59. Skull bone repair

*Other Metabolic Disorders*

60. Osteogenesis imperfecta
61. Sandhoff disease
62. Hurler's syndrome
63. Krabbe Leukodystrophy
64. Osteopetrosis
65. Cerebral X-linked adrenoleukodystrophy.

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The PRESIDING OFFICER. The Senator's time has expired.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

## PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 397, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 397) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

Pending:

Frist (for Craig) amendment No. 1605, to amend the exceptions.

Frist amendment No. 1606 (to amendment No. 1605), to make clear that the bill does not apply to actions commenced by the Attorney General to enforce the Gun Control Act and National Firearms Act.

Reed (for Kohl) amendment No. 1626, to amend chapter 44 of title 18, United States Code, to require the provision of a child safety lock in connection with the transfer of a handgun.

The PRESIDING OFFICER. The Senator from Idaho.

### AMENDMENT NO. 1626

Mr. CRAIG. Mr. President, we are back on this very important piece of legislation, S. 397, the Protection of Lawful Commerce in Arms Act.

Under a unanimous consent agreement entered into last evening, we are on the Kohl trigger lock amendment. I understand there is an hour equally divided, and we hope we can get to a vote on this before 12:30. This is an important amendment, which I am confident Senator Kohl will be here in a few moments to discuss.

In the short term, let me visit the broader issue of the bill itself. We now have 62 cosponsors. I am pleased Senator Conrad has joined us in support of this important piece of legislation to limit predatory and junk lawsuits from attempting to destroy the capability of the private sector to produce legal, effective firearms for our Nation's citizens and for our police and military. Unlike most nations, we are a nation that does not have a government company or a government manufacturer of firearms. It has always been the responsibility of the private sector. They have done extremely well. Innovation and creativity has always allowed the latest and best firearm capability, not only for our private citizens but for the military and police departments and the armed services that contract with these private sector companies to produce not only the firearms but the effective ammunition for them.

Some years ago, we saw a frustration growing in the gun control community that the public and the Congress collectively would not bend to their wishes. The public, in its inevitable wisdom, recognized that guns were not an issue in deaths caused by guns or in the commission of crimes, but the criminal element was the issue and that we ought to get at the business of law enforcement and taking those off the streets who used a gun in the commission of a crime. That is exactly what this administration has done in the last 5½ years. The use of a firearm or criminal activities in which a firearm is used has rapidly dropped in the last 6 years because this Justice Department has said, clearly, they will enforce the law.

The law is basically if you use a gun in the commission of a crime, you do the time. You don't get to plea bargain it away and go back to the streets to reengage as a criminal to once again misuse your rights as a citizen in a violent or criminal activity.

Because the anti-gun community didn't get it their way, they, over the years, have determined that they could use the legal system, the court system, to bypass and suggest that the third party, or the manufacturer, even though he or she was a law-abiding company and produced under the auspices of the Federal laws in responsible ways in that those products were sold through federally licensed firearms dealers, that wasn't good enough. Somehow you had to pass through and say that the crime and the fallout of crime was going to get paid for in some way by these responsible citizens who were building a legal and responsible product. That is the game—I say that—that has been played.

As a result, these legal, law-abiding manufacturers and citizens have increasingly had to pay higher and higher legal costs to defend themselves in lawsuit after lawsuit that have, in almost every instance, been denied and thrown out of court by the judges when filed largely by municipalities who, obviously frustrated by gun violence in their communities, chose this route. Instead of insisting that their communities and prosecutors and law enforcement go after the criminal element, they, in large part, in their frustration, looked for an easy way out. That has brought this legislation to the floor to limit the ability of junk or abusive kinds of lawsuits in a very narrow and defined way, but in no way—and I have said it very clearly—denying the recognition that if a gun dealer or a manufacturer acted in an illegal or irresponsible way or produced a product that was faulty and caused harm or damage, this bill would not preempt or in any way protect them or immune them from the appropriate and necessary legal sentence.

That is what we are about. I see that the sponsor of the trigger lock amendment is on the Senate floor.

Before I relinquish the floor, I ask unanimous consent to print in the Record a letter from the Department of Defense as to the importance of this issue, the Acting General Counsel of the Department of Defense speaking to the importance of S. 397 in safeguarding and protecting these gun manufacturers that produce a large amount of our firearms and weapons for all of our men and women who serve in harm's way in defense of our freedoms.

There being no objection, the material was ordered to be printed in the Record, as follows:

Department of Defense,
Office of General Counsel,
*Washington, DC, July 27, 2005.*

Hon. Jeff Sessions,
*U.S. Senate,*
*Washington, DC.*

Dear Senator Sessions: This responds to your request for the Department of Defense's view on S. 397 a bill to "prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms ammunition for damages, injunctive or other relief resulting from the misuse of their products by others."

The Department of Defense strongly supports this legislation.

We believe that passage of S. 397 would help safeguard our national security by limiting unnecessary lawsuits against an industry that plays a critical role in meeting the procurement needs of our men and women in uniform.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this letter for the consideration of the community.

Sincerely,

Daniel J. Dell'Orto,
*Acting.*

Mr. CRAIG. In the last few days, I have found interesting editorials in the Wall Street Journal. They get it. They understand it. They have put it very clearly as to the reality of this bill, that is not just for the protection of law-abiding citizens but recognizing that tort reform is necessary. When the Congress can't do it in sweeping ways, we have chosen targeted ways to get at the misuse of our court system in large part by the trial bar.

I ask unanimous consent to print those in the Record as well.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Wall Street Journal, July 27, 2005]

### Gun Liability Control

If we recall correctly, it was Shakespeare who wrote "the first thing we do, let's kill all the lawyers.' That's going too far, but the Senate can do the metaphoric equivalent this week by voting to protect gun makers from lawsuits designed to put them out of business.

Senate Republicans say they have 60 votes to pass the Protection of Lawful Commerce in Arms Act, which would protect gun makers from lawsuits claiming they are responsible for crimes committed with their products. The support includes at least 10 Democrats, which speaks volumes about the political shift against "gun control" in recent years.

The "assault weapons ban" expired with a whimper last year. State legislatures have been rolling back firearm laws because the restrictions were both ineffectual and unpopular. Gun-controllers have responded by avoiding legislatures and going to court, teaming with trial lawyers and big city mayors to file lawsuits blaming gun makers for murder. Companies have been hit with at least 25 major lawsuits, from the likes of Boston, Atlanta, St. Louis, Chicago and

Cleveland. A couple of the larger suits (New York and Washington, D.C.) are sitting in front of highly creative judges and could drag on for years.

Which seems to be part of the point. The plaintiffs have asked judges to impose the sort of "remedies" that Congress has refused to impose, such as trigger locks or tougher restrictions on gun sales. Some mayors no doubt also hope for a big payday. But short of that, the gun-control lobby's goal seems to be keep the suits going long enough to drain profit from the low-margin gun industry.

Gun makers have yet to lose a case, but these victories have cost more than $200 million in legal bills. This is a huge sum for an industry collectively smaller than any Fortune 500 company and that supports 20,000 jobs at most. Publicly listed companies such as Smith & Wesson have seen the legal uncertainty reflected in their share price. Money for legal fees could be better spent creating new jobs, researching ways to make guns safer, or returning profits to shareholders.

Congress has every right to stop this abuse of the legal system, all the more so because it amounts to an end-run around its legislative authority. A single state judge imposing blanket regulations on a gun maker would effectively limit the Second Amendment rights of gun buyers across the nation. Liability legislation would also send a message that Congress won't stand by as the tort bar and special interests try to put an entirely lawful business into Chapter 11.

The gun makers aren't seeking immunity from all liability; they would continue to face civil suits for defective products or for violating sales regulations. The Senate proposal would merely prevent a gun maker from being pillaged because a criminal used one of its products to perform his felony. Murder can be committed with all kinds of everyday products, from kitchen knives to autos, but no one thinks GM is to blame because a drunk driver kills a pedestrian. (On the other hand, give the lawyers time.) To adapt a familiar line, guns don't kill industries; lawyers do.

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[From the Wall Street Journal, July 27, 2005]

## Senate Moves Closer to Shielding Gun Makers From Negligence Suits

(By David Rogers)

Cashing in its election gains, the gun lobby was the big winner in a 66–32 Senate vote that moves Congress closer to enacting legislation that would shield the firearms industry from lawsuits charging negligence in the manufacture or distribution of weapons and ammunition.

Majority Leader Bill Frist (R., Tenn.) vowed to complete Senate passage before the August recess, which is to begin this weekend. Minutes after the vote, the White House warned that any amendment that "would delay enactment of the bill beyond this year is unacceptable."

The action came as House-Senate negotiators reached agreement on a $26 billion-plus natural resources budget last evening that would cut funding for clean-water and lands-conservation programs after Oct. 1. The Environmental Protection Agency is directed to complete a rulemaking on human toxicity studies, important to the pesticide industry, within 180 days, but the agreement prohibits any use of pregnant women, infants or children as part of such studies.

The Senate gun bill, as drafted, seeks to bar third parties from bringing civil-liability actions against manufacturers, distributors or dealers for damages from the unlawful misuse of a qualified product. People directly harmed in a firearms incident still would be able to sue, but the standard for charging negligence is so tightly written that critics say it would be difficult to prevail.

The National Rifle Association's goal is a clean Senate bill that the House can send on to President Bush quickly for his signature. Gun-liability legislation has twice before passed the House, and the NRA now hopes to grind down the Senate opposition, which has stymied the gun lobby over the past five years.

In March 2004, for example, the NRA withdrew its support for a Senate bill when opponents successfully attached gun-control amendments unacceptable to the lobby. Eight months later, the NRA wrought vengeance at the polls, helping to defeat then-Democratic Minority Leader Tom Daschle in South Dakota and picking up a total of four Senate votes for its position.

The changed climate is demonstrated by the fact that Democratic Sen. Robert Byrd, up for reelection next year in West Virginia, added his name to the co-sponsors this week. Sen. John McCain (R., Ariz.), who still harbors presidential ambitions, also has become a co-sponsor since the last Congress. And Mr. Daschle's leadership post now is filled by Nevada Sen. Harry Reid, a strong NRA ally and one of 12 Democrats to support the lobby yesterday.

At a time of war in Iraq and Afghanistan, both Sen. Frist and the White House have cast the fight as a matter of national security, given the threat of "frivolous lawsuits" against firearms manufacturers who are part of the larger military establishment. The same protections also would extend to dealers and distributors, who have no real role in national defense. Dennis Henigan, legal director of the Brady Center to Prevent Gun Violence, said the framing of the issue was "classic misdirection" to narrowly focus on a few manufacturers.

Critics argue that laws governing the distribution of firearms are too lax and that only by applying broader tort standards of negligence can dealers be held accountable for showing inadequate diligence to secure their products or determine the real buyer in straw transactions. "Clearly, this is an attempt to achieve sweeping legal immunity, the kind that can only be dreamed about by other industries," Mr. Henigan said.

The NRA's victory was all the more striking because it required the Senate to set aside debate—perhaps until September—on a $441.6 billion defense-authorization bill for the fiscal year that begins Oct. 1. Democrats chided Republicans for sacrificing national interests for the "special self-interests" of the gun lobby, a powerful political ally. But Mr. Frist had effectively locked himself into a position where he felt compelled to proceed on the gun bill as a show of strength as party leader.

In fact, Mr. Frist's hope had been to cut off debate on the defense bill and complete its passage by tonight, before turning to the gun legislation. That strategy had the double advantage of helping the White House avoid a protracted fight over base closings and its treatment of military detainees in the war against terrorism.

On a 50–48 roll call, the leader fell 10 votes short of the 60-vote supermajority needed to limit debate. A large part of his losing margin can be explained by the fact that seven Republicans broke ranks, including Sen. McCain, a former prisoner of war in Vietnam who has a big stake in the debate on setting a more uniform policy for the treatment of detainees.

Among accounts in the natural-resources budget bill, modest increases are provided for Indian health services and forest programs. The EPA's budget is cut almost $200 million below present funding, and lawmakers both trimmed their own home-state projects and denied two-thirds of the funds sought for an arts and humanities initiative backed by first lady Laura Bush.

Mr. CRAIG. I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, if we are going to give gun dealers immunity from lawsuits, then I believe we should insist they take every safety precaution available when selling firearms. This amendment goes a long way to help reduce the number of accidental shootings, particularly among the most vulnerable members of our society, our children, by requiring dealers to sell a safety device with all handguns. We have all read troubling stories about lives cut short by accidental shootings and teen suicides. They are made all the more terrible by the knowledge that many were preventable. The annual number of firearm injuries and deaths involving children is startling.

According to the most recent stats available, thousands of people are injured every year in accidental shootings, including more than 800 gun-related tragedies that resulted in death. In addition, it is estimated that every 6 hours, a young person between the ages of 10 and 19 commits suicide with a firearm. In all, 13,053 children were injured by firearms in 2002. Securing the firearm with a child safety lock could have prevented many of these tragedies. The sad truth is that we are inviting disaster every time an unlocked gun is easily accessible to children.

Eleven million children live in households with guns, and in 65 percent of those homes, the gun is accessible to the child. In 13 percent of them, the gun is left loaded and not locked. This amendment will help address this problem. It requires that a child safety device be sold with every handgun. These devices vary in form, but the most common resembles a padlock that wraps around the gun trigger and immobilizes it. Trigger locks are already used by tens of thousands of responsible gun owners to protect their firearms from unauthorized use, and they can be purchased in virtually any gun store for less than $10.

The Senate has already expressed its support for the sale of trigger locks with handguns, most recently last year, when 70 Senators voted in favor of this exact same amendment.

The mandatory sale of trigger locks is equally supported in the rest of the country and the law enforcement community. Polls have shown that between

75 and 80 percent of the American public, including gun owners, favors a mandatory sale of safety locks with guns. In a recent survey of 250 of Wisconsin's police chiefs and sheriffs, 91 percent agreed that child safety locks should be sold with each handgun.

The current administration has indicated its support for this concept. During his campaign in 2000, President Bush indicated that if Congress passed a bill making the sale of child safety locks mandatory with every gun sale, then he would sign it.

All of these people agree that we should be doing everything within our power to promote the use of locks or other safety devices with handguns. Nobody has ever claimed that this would be a total panacea. To be sure, it will not prevent every single firearm-related accident. But its importance cannot be overstated. Stats show that those who buy locks are more likely to use them. And when they are used, they do prevent accidental deaths. While imposing a minimal cost on consumers, it would prevent the deaths of many innocent children every year, which is a small price to pay. The Senate spoke overwhelmingly in favor of this type of proposal just last year. We should do so again today.

I strongly urge my colleagues to support this amendment. I ask unanimous consent that the following Senators be added as cosponsors of the amendment: Senators BOXER, MIKULSKI, CORZINE, and LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KOHL. I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I commend Senator KOHL for this amendment. He has worked with so many of our colleagues to ensure that children are adequately protected. There are too many deaths each year of children because the weapons are unsecure. They are able to get access to them, and they are able to discharge them. There are accidental deaths. Sadly, there are too many childhood suicides that result from having access to weapons.

The Kohl amendment is a practical and appropriate response to that by requiring the sale of a child safety lock along with the weapon. There is huge public support for this issue. Over 70 percent of Americans polled think this is an appropriate and necessary proposal. In fact, I believe 6 out of 10 gun owners similarly believe this is a sensible approach to dealing with the issue of the accidental death of children with firearms.

We are here today to move forward on this amendment, to have a vote which is scheduled. I would hope, also, that we can move to other amendments so they could be offered for votes. Several of my colleagues have offered amendments. It is appropriate, since we have begun the process of debate and amendment and vote, to continue that process forward. I hope we can do that.

I certainly commend Senator KOHL for his efforts over many years. As he rightfully points out, there was overwhelming support for this measure last year. More than 70 Senators supported it. I hope we see that same support this year. Certainly, the danger to children has not diminished from the last Congress. The practicality and efficacy of this approach continues to be compelling. I would hope we would have another strong vote in support of the amendment, as we go forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, a trigger lock does not a safe weapon make. A trigger lock can lay right beside a firearm. Unless it is inserted and locked, the firearm is still accessible. You can sell a firearm. You can demand that there be a trigger lock. Yet still someone who is irresponsible in the storage and/or use of a firearm can cause that firearm, by the absence of a trigger lock or the absence of a safe storage place, to be harmful to a child. That is reality.

Sometimes we stand on the floor of the Senate and think we can fix the world by simply writing a law. I am not, by that statement, questioning the sincerity of Senator KOHL. Last year, his amendment got 70 votes in the Senate. At the same time, it is a mandate. In that mandate, have you created a safer world? I am not sure.

I do know this: I do know what creates a safer world. That is an awareness, an understanding of and an educational process of how you, in fact, create a safer world. Gun manufacturers know that. Licensed and responsible firearms dealers know that. Today, more than 90 percent of the new handguns already sold in the United States have a safety device attached to them or that comes with it that is part of the sales package.

So already, clearly, the educational process has gone forward. There are several national private organizations out there who have constantly and repetitively taught young people about the misuse of firearms. The Eddie Eagle program of the National Rifle Association educates thousands and thousands of young people each year to stay away from a firearm if they see one, to report it if they see one and, obviously, to seek an adult's knowledge about it.

Still, tragically enough, a child's curiosity in a misplaced firearm can cause accidents; it always has and, even with the passage, tragically enough, of the Kohl amendment, if it becomes law, it always will. You cannot create the perfect world. It is simply an impossibility to do. We try, and we try to at least shape that world in a way that makes it safer. But there is a reality I think all of us clearly understand. The statistics, though, while alarming if it is even one child, are dramatically improving. I think it is important to say on the record what the facts are. Unintentional firearm deaths—this is from the National Safety Council records. In 2001, there were 802 total; 15 of those 802 were under the age of 5 years; 57 were from 5 years old to 14 years old. That is that phenomenal time of curiosity among young children. No question about it, if that trigger lock was in place, a life might have been saved. I don't question that either. But then again, you have to get the adult who has the responsibility with that firearm to put the trigger lock in place. It is not automatically attached or automatically activated. It has to be humanly attached and humanly activated. There were 110 of the 802 deaths from age 15 to age 19. My guess is, unintentional, yes, by statistical fact it was. But again, that is an age when young people ought to know, ought to have been trained, ought to have had some level of education about the understanding of the safe use of a firearm. From age 20 to 24, there were 96 of the 802. Age 25 to 45, there were 268 accidental, unintentional deaths of the 802 total in 2001; and age 45 to 64—these are, without question, mature adults who clearly ought to understand and, yet, unintentional, accidental firearm deaths numbered 177. That was out of the 802 total in 2001. In 2002, it was 800. In 2003, it dropped to 700.

The point is this: From 1992 to 2003, there has been a 54-percent decline in accidental, unintentional deaths caused by firearms. Something is beginning to work out there, because gun ownership continues to go up in our country. So there is, without doubt, an educational process underway about the importance of handling a firearm appropriately and correctly, using safety devices when that firearm is in storage or nonuse, and in a way that is protecting. The 90-percent sales of trigger locks today on new weapons, new firearms, may be a contributing factor to that. That number continues to go up. So there was a 54-percent increase from 1992 to 2003 in the reduction—54 percent down—of accidental, unintentional firearms deaths. From 2001 to 2003, that figure was a 13-percent decline. Those are very important statistics.

Once again, in no way should my statement on the floor be taken as someone who doesn't care or recognize that one child's death is one too many. We will not talk about safety belts and about safety seats and about any of the other kinds of deaths of children in that 5-year-old and under age group. Those are so dramatically higher than firearms that one could argue something ought to be done about those.

Clearly, some things are being done about those. If you have a child in a safety seat or not in a safety seat and it is a State law and you have a law enforcement officer out there, you can, in many instances, note that and cause the adult to be more responsible than you can in the privacy of a home, where most of our firearms are today.

My point in arguing or discussing this issue is not to suggest we ought not to be concerned, but to clearly recognize that we will not, by this, in any way create a perfect world. Safe storage devices are no substitute for common sense and a clear understanding that a firearm misuse can become, as we all know, a lethal device. A firearm irresponsibly used can become a lethal device. While I know this is a popular thing to do, the point is—and I hope it is made clear by what I have said—the world better understands today than ever before, and unintentional deaths, accidental deaths by firearms have dramatically dropped in this country, and they are continuing to drop.

Nothing replaces the responsible action of an adult in his or her exercising of their constitutional rights to provide safe storage away from that casual curiosity of a small child about the uniqueness of a mom or dad's firearm, owned and held in the homes of America.

So I am certainly going to suggest to my colleagues that they vote their will on this, but it is important we shape it in the right context. I have always appreciated working with Senator KOHL and his sincerity on these kinds of issues. I think what he suggests today, as it relates to fines, or revocation of license, or failing to sell, is an appropriate fashion to go. But again, it is a mandate that I think today's reality in the marketplace would suggest is in part an unnecessary thing to do.

I yield the floor and retain the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CRAIG. I ask that the time be charged equally on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. HUTCHISON. I rise to talk about this bill. There has been a lot of debate on the floor, and some have suggested this is a special interest group piece of legislation. I am here to say that I think it is very important this Senate do everything it can to stop frivolous lawsuits against gun manufacturers. Class action lawsuit reform, which we enacted earlier this year, also was an effort to curb the overly litigious society America now lives in.

We have found in so many instances that it is the litigiousness of America's society that drives jobs overseas and out of our country because we have lawsuit abuse of mammoth proportions. One of the areas in which there is lawsuit abuse is suing a gun manufacturer for the misuse of a gun. That is like suing the maker of a plate because someone throws a plate at another person. That is not what plates are for. And most certainly, the misuse of a gun is not caused by the manufacturer of a gun; it is caused by the person who is misusing the gun. So the Senate is taking steps in every area we can to curb this abuse of our legal system.

Today, we are addressing one portion of that in trying to stop gun manufacturers from being sued erroneously. There are many areas in which you can sue a gun manufacturer. If the gun malfunctioned, then that kind of lawsuit, of course, would be allowed. They would also be allowed where there is a knowing violation of a firearms law, when the violation is the proximate cause of the harm for which the relief is sought. Negligent entrustment, defective product, or breach of contract or warranty are certainly areas where litigation is warranted. But when we have lawsuits filed by cities against plaintiffs such as Colt or Beretta, and the cities are filing a lawsuit against the gun manufacturer to stop the manufacture of guns, that is wrong.

The second amendment is one of the most treasured of our amendments to the Constitution, and that is the right to keep and bear arms, the right to protect yourself and your family in your home. That is something I have a bill to address right here in the District of Columbia, to make sure no person is deprived of their right under the Constitution to protect themselves in their homes by owning a firearm. You know, America is one of the few countries that doesn't have Government manufacture of guns. We don't. We have private manufacturers of guns and, therefore, we have the private use and private lawsuits that sometimes are filed just because a gun is used in a crime.

Well, it is not the fault of the gun manufacturer a crime is being committed. We need to put the fault for a crime on the person committing the crime. So I am speaking for this bill. I think Senator CRAIG has laid out very well the issues of the gun laws. I certainly want every gun to be sold with a lock, and most guns in America are. And if they are not, having that device added to the gun, I think, is fine.

I want everyone to have safety protection for guns in homes, because nothing could be worse than a child going into a gun cabinet and getting a gun that is not understood by the child and is fired. That is why we have safety locks. Most gun owners are responsible gun owners, and they should have a safety lock on a gun, particularly if there are children in the home.

I want to add my support for the bill and the ability for our private gun manufacturers to face lawsuits that are legitimate, but not to have a frivolous lawsuit that is filed against a gun manufacturer through no fault of the manufacturer for the misuse of the gun—not a malfunction, but a misuse.

I applaud the efforts of Senator CRAIG, and I hope we can take one more step toward curbing the lawsuit abuse that has been happening in this country in many areas. Frivolous lawsuits have been filed against gun manufacturers not for the malfunction of a gun, but the misuse. That is not the fault of the manufacturer, just as it is not the fault of other manufacturers of products that are misused.

Mr. President, I hope my colleagues will support this important legislation. Let me say, in closing, I have heard a lot of debate about stopping the Defense bill to go to this bill.

We had a cloture vote on Defense. Many people voted against cloture, and therefore the bill was brought down. I hope we can address the Defense authorization bill. I voted for cloture so we could go forward—not to stop the debate, but to curb it and keep it to relevant amendments so we may get this very important legislation through. With the cooperation of the other side, we will be able to do that the very first week we return. But I do think relevant amendments, not 100 amendments, including issues that do not even pertain to our defense, are legitimately cut off through a cloture vote.

If we can get cooperation from the other side, we certainly intend to pursue the Defense authorization bill. I wish we could have done it this week, and I voted for cloture so that we could. We did not win. There were over 40 people who voted against cloture. So now we are on another very important bill, and we intend to take up the energy conference report and the highway conference report, two major pieces of legislation that we will be able to send to the President this week.

I think we are going to have quite a successful week, a successful first part of this session of Congress to get important legislation on energy to create more incentives for different sources of energy for our country so we can become more self-sufficient.

Certainly the highway bill will be a jobs creator to put the highway people to work with the larger amount of money that is now available in the highway trust fund. Mass transit is going to get its authorization as well in this highway bill.

So we have a lot to do. I hope we can continue to pass this gun manufacturers liability bill—it is a good bill—and go forward with the other important business of our country. The first week we get back, I hope we will be able to address the elimination of inheritance taxes, death taxes, and I hope very much that we can get the Defense authorization bill and the Defense appropriations bill out by the first of the fiscal year so there will not be one day's delay in the money that is needed by our Department of Defense for the needs of the men and women who are fighting for the continued freedom of our country by fighting terrorism overseas.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Idaho.

Mr. CRAIG. Mr. President, the other side has asked if we would consider yielding back time. I will certainly work with the floor leader. We are checking to see if there is anyone else on our side who would want to come for the purpose of debating the Kohl amendment. If there is not, we will yield back time and accommodate as much as we can.

While we work out our time here, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I ask unanimous consent that, while we are working out the time situation to see if anyone else wants to debate, the time under the quorum call be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, it is my understanding that we are ready to vote on the Kohl amendment. So I ask unanimous consent that all time be yielded back on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to amendment No. 1626. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 70, nays 30, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—70

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Brownback
Byrd
Cantwell
Carper
Chafee
Clinton
Coleman
Collins
Conrad
Corzine
Dayton
DeWine
Dodd
Domenici
Dorgan
Durbin
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hutchison
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Voinovich
Warner
Wyden

NAYS—30

Alexander
Allard
Allen
Bennett
Bond
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Cornyn
Craig
Crapo
DeMint
Dole
Ensign
Enzi
Hatch
Inhofe
Isakson
Kyl
Lott
Martinez
Sessions
Shelby
Talent
Thomas
Thune
Vitter

The amendment (No. 1626) was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote and move to lay that motion on the table.

The motion to lay on the table was agreed to.

### MODIFICATIONS TO AMENDMENTS NOS. 1605 AND 1606

Mr. FRIST. Mr. President, I understand there is a technical drafting error in the Craig amendment No. 1605, and I would therefore ask unanimous consent that amendments 1605 and 1606 be modified with the changes at the desk. I would note that these are technical changes only.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The modifications are as follows:

AMENDMENT NO. 1605

On page 10, line 16, at the end, add the following:

"; or (iv) an action or proceeding commenced by the Attorney General to enforce the provisions of chapter 44 of Title 18"

AMENDMENT NO. 1606

At the end of the Amendment, add the following:

"or chapter 53 of Title 26, United States Code.".

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, for those who are interested and watching, at this moment we are attempting to look at all the amendments that have been offered, and we are close to proceeding on another meeting. We are requesting unanimous consent now which will allow Members to debate that between 2 and 3, with votes, and then we will attempt in all sincerity to move forward on the process that takes us through to a cloture vote at some time late afternoon, evening, or early tomorrow morning on this important issue. There is progress being made as we move through this process.

With that, until the unanimous consent is ready, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I think the floor leader has seen the UC, has he not?

Mr. President, I ask unanimous consent that at 2 o'clock today, the pending amendments be temporarily set aside and Senator LEVIN be recognized in order to offer amendment No. 1623; provided further that there then be 1 hour for debate equally divided in the usual form, with no amendments in order to the amendment prior to the vote.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I thank Senator REED.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, under a previously proffered unanimous consent agreement, we will spend 1 hour, from 2 p.m. to 3 p.m., on the Levin amendment, with the time equally divided. We anticipate a vote at or around 3 o'clock.

I see the Senator from Michigan is now on the floor and ready to offer his amendment.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Michigan.

### AMENDMENT NO. 1623

Mr. LEVIN. Mr. President, I call up amendment No. 1623.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 1623.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify the prohibition on certain civil liability actions)

On page 13, after line 4, add the following:

**SEC. 5. GROSS NEGLIGENCE OR RECKLESS CONDUCT.**

(a) IN GENERAL.—Nothing in this Act shall be construed to prohibit a civil liability action from being brought or continued against a person if the gross negligence or reckless conduct of that person was a proximate cause of death or injury.

(b) DEFINITIONS.—As used in this section—

(1) the term "gross negligence" has the meaning given that term under subsection (b)(7) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(7)); and

(2) the term "reckless" has the meaning given that term under section 2A1.4 of the Federal Sentencing Guidelines Manual.

Mr. LEVIN. Mr. President, although I am tempted to allow the reading to take place, it is a short amendment, and I am going to read the heart of it myself:

Nothing in this Act shall be construed to prohibit a civil liability action from being brought or continued against a person if the gross negligence or reckless conduct of that person was a proximate cause of death or injury.

The bill itself provides in section 2, page 3, that the purpose of this bill—one of them—is that "the possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system. . . ."

And I agree with that.

On page 5 of the bill where it states its purpose:

Purpose.—

(1) To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products . . . for the harm solely caused by the criminal or unlawful misuse of firearm products by others. . . .

And I agree with that. Nobody should be held responsible or accountable for harm which is perpetrated by others.

What about their own reckless or negligent conduct? When we look at the language of this bill, it is not just that manufacturers and dealers are not held accountable for the misconduct of others, except for three or four very narrowly described categories, they are off the hook for their own misconduct, their own reckless conduct, their own negligent misconduct. And that is what my amendment seeks to correct or clarify.

The stated purpose of this bill is that if negligence or recklessness is caused by others, if the misconduct of a third party is the cause of damage, that the gun dealer or manufacturer should not be held accountable. We agree with that. But what if their own recklessness, their own gross negligence contributes to the damage or, to put it in legalistic terms, what happens if their own misconduct is a proximate cause of the damage, injury, or death to somebody else? Why should they be off the hook for their own misconduct?

I ask unanimous consent, by the way, that Senator DURBIN be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, what the amendment says is this act does not prohibit a civil liability action from being brought or continued against a person if his own gross negligence or reckless conduct was a proximate cause of the death or injury.

We have heard about a number of cases that have been brought to the attention of this body. These are cases where manufacturers or dealers have been held liable for their own misconduct, their own negligence, their own recklessness where the allegation against a dealer or manufacturers had to do with their own behavior.

We heard about the tragic DC area sniper shootings case where there was a settlement that was obtained from a gun supplier, called Bull's Eye Shooter Supply, for their own negligence. Mr. President, 238 guns had gone missing from Bull's Eye's inventory. Fifty had been traced to criminal actions since 1997. If this bill had been enacted prior to the DC area sniper shootings, the victims would have been unable to even have their case against that supplier heard in court. And there are many other cases. There are so many cases that this is why police officers, police chiefs, and police departments around the country oppose this bill as it is written.

We should protect innocent manufacturers and gun dealers, just the way we should protect any innocent party in this country. But we should not protect anybody—I don't care if it is a manufacturer of guns or a manufacturer of automobiles or a manufacturer of refrigerators or a dealer in those products or any other products—we should not protect their folks from their own reckless conduct, their own negligence. And this bill does that. It does not say that it does that. It says it is protecting folks from the conduct of others. But the bill's analysis clearly indicates, when you go beyond the stated purpose, that it is the manufacturers' and gun dealers' own negligence and recklessness which is immunized, with very narrow exceptions.

If they committed a violation of law, if they have committed a crime, you can go after them; they are still on the hook. If they negligently entrust, knowing that the person to whom they have entrusted a weapon is going to go out and commit a crime or do something unlawful, they are still on the hook. But if they just left their guns sloppily around the store, or if they hired employees who they knew or should have known were going to illegally sell guns, steal guns, and then have those guns used in a criminal endeavor—and these are real cases—if that is the type of negligence or recklessness that is at issue, then they are off the hook.

They are only kept on the hook, under the language of this bill, if they designed something negligently, if they have negligently entrusted in a very narrow definition, or if they have committed a crime.

I want to read excerpts from a letter which has been signed by, I believe, 75 law professors:

Dear Senators and Representatives: S. 397 . . . described as "a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others," would largely immunize those in the firearms industry from liability for negligence. This would represent a sharp break with traditional principles of tort liability. No other industry enjoys or has ever enjoyed such blanket freedom from responsibility for the foreseeable and preventable consequences of negligent conduct. . . .

American law has never embraced a rule freeing defendants from liability for the foreseeable consequences of their negligence merely because those consequences may include the criminal conduct of third parties.

Under American tort law, they say:

. . . actors may be liable if their negligence enables or facilitates foreseeable third party criminal conduct.

These professors remind us:

Thus, car dealers who negligently leave vehicles unattended, railroads who negligently manage trains, hotel operators who negligently fail to secure rooms, and contractors who negligently leave dangerous equipment unguarded are all potentially liable if their conduct—

Their conduct—

creates an unreasonable and foreseeable risk of third party misconduct, including illegal behavior, leading to harm.

In this amendment, we make it clear that if the conduct of gun manufacturers and gun dealers is grossly negligent or reckless, and if that is a proximate cause of the death or injury of someone else, they are not off the hook, and they should not be. No one in this country should be. No one in this country is, as far as I know.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 20 minutes 40 seconds remaining.

Mr. LEVIN. I appreciate that. My cosponsor, Senator DAYTON, would like 5 minutes yielded to him. I yield 5 minutes to Senator DAYTON.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I thank my colleague, the senior Senator from Michigan, for whom I have so much respect. He is a leader and champion in so many important areas and has, once again, risen to this occasion. I am proud to be cosponsor of the Levin amendment.

Mr. President, this legislation eviscerates the liability for negligence for one industry in America, the gun industry. I strongly support the second amendment.

I have enjoyed the support of the NRA in the past, probably not in the future. Last year in this country, by the industry statistics, over 1.3 million handguns were sold and over 2 million long guns—legally, properly, in almost all cases constitutionally protected. Nothing in this country, nothing being considered here, nothing that would ever pass this body, in my lifetime, would prevent law-abiding citizens from lawfully buying and owning firearms. Nothing should and nothing will, not because of the existence of the NRA, not because they are holding forth and preventing the marauding hordes from somehow overriding and overturning this constitutional amendment—it is not going to be changed because the political support in this country would not be for it. The people would not support it. That right is constitutional and it is inviolable, but it is not inconsistent with that right to also require the responsible distribution and sale of those millions of firearms.

We all know what damage they can do to innocent people when they are misused by criminals or mistakenly used by children. We should do all we reasonably can to prevent those tragedies to innocent people and to innocent families. We should insist that everyone in the gun industry do all they can to prevent them as well. That is what the legal standard of negligence requires. It is what most people in this industry consistently practice.

I own two handguns. I own two shotguns. They are in Minnesota, purchased from Minnesota dealers who take their responsibilities very seriously. They are not our concern. They need not be concerned because their own practices are a clear defense against any unwarranted accusations.

However, there are a few in this country, as there are in any industry, that are not responsible manufacturers, distributors, or dealers. Senator LEVIN has cited evidence of the results of those irresponsible actions, and they should be our concern. They certainly do not warrant our protection. They certainly do not deserve to be elevated to a special status that is not accorded to responsible manufacturers and sellers of every other consumer product in America.

The Levin amendment, and I will read it again, says that if gross negligence or reckless conduct of that person was the proximate cause, a direct cause of death or injury to somebody else, this act shall not prohibit a civil liability action from being brought forth. How can anyone here be opposed to that? It defines those terms clearly in the amendment, which was one of the specious excuses used to oppose it last year. It defines its terms more clearly than does the underlying bill. So if this amendment fails, it truly gives lie to the claim that this bill intends to hold the gun industry to any standard of liability. If not for gross negligence that is a direct cause of death or injury to an innocent person, if not for that, there is no standard of liability at all.

The American Bar Association has taken a position in opposition to this legislation, and I would just note a couple of references. I ask unanimous consent that following my remarks, this be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DAYTON. It says that this proposed legislation would remove defendants from one of the oldest principles of civil liability law—that persons or companies who act negligently should be accountable to victims harmed by this failure of responsibility. It states that under product liability laws in most States, manufacturers must adopt feasible safety devices that would prevent injuries caused when their products are foreseeably misused, regardless of whether the uses are "intended" by the manufacturer or whether the product "fails or improperly functions."

Thus, as the Senator from Michigan noted, automobile makers have been held civilly liable for not making cars crashworthy even though the intended use is not to "crash the cars." Manufacturers of cigarette lighters must make them childproof even though children are not intended to use them. Under this proposed legislation, however, State laws would be preempted so that gun manufacturers would enjoy a special immunity.

The letter also points out that this is happening in the existing legal backdrop of the present unparalleled immunity that the firearms industry already enjoyed from any Federal safety regulation. Unlike all other consumer products except for tobacco, there is no Federal law or regulatory authority that sets minimum safety standards for domestically manufactured firearms because that industry was able to gain an exemption for firearms from the 1972 enacted Consumer Product Safety Act, the primary Federal law that protects consumers from products that present unreasonable risk of injury. Of all the products we should have included in that legislation, firearms are among them given the inherent danger from their misuse or from their improper manufacture. Instead, they are exempted from the consumer product safety oversight by the Federal Government. That is the power of the industry. I guess they have the power, they are demonstrating, to get this bill enacted as well and remove themselves from all liability. That is not in the best interest of America. It is not a fair standard for America. It is an injustice to other businesses, manufacturers and sellers of every other product in America.

If we are going to recognize, as we should, that excessive litigation is a problem for this industry and for most all others, we should deal with tort reform in its entirety as it applies fairly and equally to all businesses and all industries, not single out one for special treatment.

I yield the floor.

EXHIBIT 1

AMERICAN BAR ASSOCIATION,
GOVERNMENT AFFAIRS OFFICE.
*April 4, 2005.*

DEAR SENATOR: I am writing on behalf of the American Bar Association to express our strong opposition to S. 397, the Protection of Lawful Commerce in Arms Act, and to similar legislation to enact special tort laws for the firearms industry. The ABA opposes S. 397, and has opposed similar legislation in the past two Congresses, because we believe the proposed legislation is overbroad and would unwisely and unnecessarily intrude into an area of traditional state responsibility.

The responsibility for setting substantive legal standards for tort actions in each state's courts, including standards for negligence and product liability actions, has been the province of state legislatures and an integral function of state common law since our nation was founded. S. 397 would preempt state substantive law standards for most negligence and product liability actions for this one industry, abrogating state law in cases in which the defendant is a gun manufacturer, gun seller or gun trade association, and would insulate this new class of protected defendants from almost all ordinary civil liability actions. In our view, the legitimate concerns of some about the reach of a number of suits filed by cities and state governmental units several years ago have since been answered by the deliberative, competent action of state courts and within the traditions of state responsibility for administering tort law.

There is no evidence that federal legislation is needed or justified. There is no hearing record in Congress or other evidence to contradict the fact that the state courts are handling their responsibilities competently in this area of law. There is no data of any kind to support claims made by the industry that it is incurring extraordinary costs due to litigation, that it faces a significant number of suits, or that current state law is in any way inadequate. The Senate has not examined the underlying claims of the industry about state tort cases, choosing not to hold a single hearing on S. 397 or its predecessor bills in the two previous Congresses. Proponents of this legislation cannot, in fact, point to a single court decision, final judgment or award that has been paid out that supports their claims of a "crisis". All evidence points to the conclusion that state legislatures and state courts have been and are actively exercising their responsibilities in this area of law with little apparent difficulty. S. 397 proposes to exempt this one industry from state negligence law. The proposed federal negligence law standard will unfairly exempt firearms industry defendants from the oldest principle of civil liability law: that persons, or companies who act negligently should be accountable to victims harmed by this failure of responsibility. Negligence laws in all 50 dates traditionally impose civil liability when individuals or businesses fail to use reasonable care to minimize the foreseeable risk that others will be injured and injury results. But this proposed legislation would preempt the laws of the 50 states to create a special, higher standard for negligence actions for this one protected class, different than for any other industry, protecting them from liability for their own negligence in all but extremely narrow specified exceptions. The ABA believes that state law standards for negligence and its legal bedrock duty of reasonable care should remain the standard for gun industry accountability in state civil courts, as these state standards do for the rest of our nation's individuals, businesses and industries.

The proposed federal product liability standards will unfairly insulate firearm industry defendants from accountability in state courts for design defects in their products. The proposed new federal standard would preempt the product liability laws in all 50 states with a new, higher standard that would protect this industry even for failing to implement safety devices that would prevent common, foreseeable injuries, so long as any injury or death suffered by victims resulted when the gun was not "used as intended".

Under existing product liability laws in most states, manufacturers must adopt feasible safety devices that would prevent injuries caused when their products are foreseeably misused, regardless of whether the uses are "intended" by the manufacturer, or whether the product "fails" or "improperly" functions. Thus automakers have been held civilly liable for not making cars crashworthy, even though the "intended use" is not to crash the car. Manufacturers of cigarette lighters must make them childproof, even though children are not "intended" to use them. Under, this proposed legislation, however, state laws would be preempted so that gun manufacturers would enjoy a special immunity.

Enactment of S. 397 would also undermine responsible federal oversight of consumer safety. The broad and, we believe, unprecedented immunity from civil liability that would result from enactment of S. 397 must be viewed against the existing legal backdrop of the present, unparalleled immunity the firearms industry enjoys from any federal safety regulation. Unlike other consumer products, there is no federal law or regulatory authority that sets minimum safety standards for domestically manufactured firearms. This is because the firearms industry was able to gain an exemption for firearms from the 1972-enacted Consumer Product Safety Act, the primary federal law that protects consumers from products that present unreasonable risk of injury. Over the last 30 years, an average of200 children under the age of 14 and over a thousand adults each year have died in gun accidents which might have been prevented by existing but unused safety technologies. A 1991 Government Accounting Office report estimated that 31 percent of U.S. children's accidental firearm deaths could have been prevented by the addition of two simple existing devices to firearms: trigger locks and load-indicator devices. Sadly, these minimal safety features are still not required.

This bill, if enacted, would insulate the firearms industry from almost all civil actions, in addition to its existing protection from any consumer product safety regulations. Such special status for this single industry raises serious concerns about its constitutionality; victims of gun violence have the right—as do persons injured through negligence of any party—to the equal protection of the law.

The risk that states may at some future date fail to appropriately resolve their tort responsibilities in an area of law—where there is no evidence of any failure to date—cannot justify the unprecedented federal preemption of state responsibilities proposed in this legislation. The ABA believes that the states will continue to sort out these issues capably without a federal rewriting of state substantive tort law standards. The wiser course for Congress, we believe, is to respect the ability of states to continue to administer their historic responsibility to define the negligence and product liability standards to be used in their state courts. For these reasons, we urge you to reject S. 397.

Sincerely,

ROBERT D. EVANS.

The PRESIDING OFFICER. Who yields time?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield 10 minutes of the opposition time to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I rise in opposition to the amendment that has been proposed by the Senator from Michigan and cosponsored by the Senator from Minnesota. While this amendment appears to be innocuous, it would actually gut the very underlying purpose of this legislation. Let me explain briefly.

First, the purpose of this bill is to prohibit frivolous lawsuits from being brought against manufacturers or sellers of firearms, lawful products, but which result from the criminal or unlawful use of a firearm.

Now, the Senate has many people who have had a lot of experience in the legal profession, and any of us who have had any experience with civil litigation, particularly tort litigation, know that the scope of the discovery, the scope of the litigation is determined by what is pled actually by the person who brings the lawsuit, or the plaintiff.

In my experience, and I am confident that it is generally true, in virtually every civil lawsuit where damages are sought, not only is there a pleading of ordinary negligence—or perhaps strict liability if it is a product or manufacturer—but in addition there is an allegation of gross negligence, which is what this amendment would except from the general prohibition against lawsuits against manufacturers of these lawful products for harm resulting from criminal or unlawful use of a firearm.

It is clear to me that the litigation expense, the harassment of a lawful manufacturer of this product, would not be avoided. In fact, one of the very purposes of this legislation would be undermined if this amendment were agreed to. So I urge my colleagues to oppose it, as I do.

The fact is, in America today, we are less competitive globally because of a variety of reasons, but it can be summarized this way: our tax policy, our regulatory policy, our lawsuit culture, the cost of health care, just to name four items. But the fact is, because of our litigation culture today in this country, we are less competitive with other countries around the world, and we are seeing the exodus of jobs in America because, simply stated, manufacturers and producers of other lawful goods can do it cheaper and more efficiently elsewhere. That is a threat to our economy and our prosperity that we enjoy in this country.

This is actually true in the case of gun manufacturers. For example, one such manufacturer is located in the small town of Eagle Pass in my home State of Texas. A company by the name of Maverick Arms, Inc., assembles Maverick and Mossberg brand firearms there and is one of a group of companies that is in the fourth generation of family ownership that dates as far back as 1919. Maverick employs approximately 150 skilled workers in Eagle Pass, as well as supplying other work to other vendors.

Maverick and its parent company, Mossberg, cannot withstand the continued onslaught of frivolous litigation against this manufacturer for merely doing what lawful manufacturers do—making a legal product but in this instance one that is misused by a criminal. They know if they get caught up in the litigation, too often emotions run high, reason and rationality is suspended, and these manufacturers become not only sued but actually on occasion held responsible for the acts of criminals.

I certainly respect the distinguished Senator from Michigan, and I was just thinking, of course, his State is known in particular for manufacturing automobiles. It strikes me that automobiles can be used safely or unsafely, but certainly no one would claim that General Motors or any other manufacturer of an automobile should be held responsible if someone decides to take that automobile that is operating in completely good condition and decides to run over somebody and kill them or cause them physical harm.

For the same reason, firearms can be used both for lawful purposes and safely or they can be misused. For the same reason we would say General Motors or any car manufacturer would not be responsible for the criminal use of an automobile, so should manufacturers of firearms not be held responsible for the criminal acts or misuse of their lawful product.

We know in the end that what this is all about is trying to drive gun manufacturers out of business. Unfortunately, that means American jobs are being threatened. Eventually it means that the second amendment rights of law-abiding citizens are compromised.

I wish we would focus more of our efforts, as we have in the recent past, on criminals, the people who misuse firearms, the ones who cannot lawfully own or sell firearms, and leave those who are making a lawful product that can be and is used safely day in and day out out of the picture.

Indeed, the effect of this amendment, I submit to my colleagues, is to undermine the effect of the entire bill which would protect these lawful manufacturers from frivolous litigation when their product is misused by a criminal and causes harm to some person. So I urge my colleagues to reject it, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. I yield 5 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my colleagues, and I thank the managers for the courtesy they showed us in the course of managing this bill.

I rise, as I did in the previous consideration of this bill, to support my colleague from Michigan. I do so because I basically want to be counted among those who are trying to bring a measure of relief to those professional people, such as doctors and educators, a whole list of people I enumerated last night when I addressed this bill on the Senate floor, who need help. In my judgment, Senator LEVIN—both of us are lawyers—is reaching back to the very fundamentals of the common law. These standards which the Senator wishes to have in this bill are the same standards that have withstood the test of time in court litigation from the very beginning of the judicial process, indeed in England and in our country. It is for that reason that I support it.

I also draw the attention of my colleagues to my amendment, which is not pending, but as I understand, it is filed at the desk, amendment No. 1625. I rise at this time to speak to it because it really addresses, in a very narrow way, one of the ultimate goals of the Senator from Michigan.

My concern is that the gun dealers across America need some protection themselves in this legislation. Ninety-nine percent are honest, law-abiding citizens. Yet they are subjected to the problems of our society today; namely, people can come in and steal from them.

My amendment adds to the bill, which has a provision in it on page 8 of the exclusions, and it would simply say, in actions brought against a gun dealer, a dealer which has a record of misconduct, negligence, and other types of criteria should not be entitled to the exemptions provided by this piece of legislation. So I want to be supportive. It protects those dealers who are trying to act in a lawful way who may have an accident, for some reason, and it does clearly remove from the protection of this bill dealers such as the one the Senator cited in the sniper case which struck my State of Virginia and Maryland and the District and paralyzed our businesses. People were afraid to go out on the street at night to conduct their ordinary affairs of life because of the threats.

That was a stolen weapon from a gun dealer that, for one reason or another, allowed some 200 weapons to disappear from the shelves of that store or inventory over a period of a year or two. That dealer, in my judgment, would be protected as it now stands, unless the provisions comparable to perhaps those from the Senator from Michigan or in my amendment are brought to the attention of the Senate. At some time, I will arduously try to get my amendment in that status—I believe it is germane—that it can be considered by this body, as is the amendment of the Michigan Senator now being reviewed.

So I say to my distinguished manager, I hope that whatever procedure by which you hereby determine such amendments can be heard—others not—that mine, which I understand is germane, can be heard by the Senate at an appropriate time.

I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Idaho.

Mr. CRAIG. Mr. President, I yield 6 minutes to the Senator from Arizona.

Mr. KYL. I thank the Senator. I thank the Chair.

Let me get back to the Levin amendment which is our pending business. This amendment was tabled last year, and it should be again defeated or tabled. It is an amendment which would, in effect, be a poison pill for the entire bill because, in effect, what it says is if you allege gross negligence or recklessness, then the exemption the bill provides evaporates. So you are a lawyer. All you do is allege gross negligence or recklessness and, bingo, you are back in court again. So it totally undercuts the purpose of this legislation.

Secondly, last year the bill didn't contain a definition of gross negligence or recklessness. This year that was corrected, at least after a manner of speaking. But what definition do we have of gross negligence, for example? The bill provides that we turn to section B of the Bill Emerson Good Samaritan Food Donation Act. The definition of gross negligence under the Bill Emerson Good Samaritan Food Donation Act is totally different from the case law definition of any State in the Union. It is totally different from the settled or standard concept of gross negligence in tort law.

Let me illustrate the difference. Under this bill, the term would mean: Voluntary and conscious conduct, including a failure to act by a person who at the time of the conduct knew that the conduct was likely to be harmful to the health or well being of another person.

That is not gross negligence. Black's Law Dictionary captures the essence of the definition. It defines gross negligence as the intentional failure to perform a manifest duty in reckless disregard of the consequences as affecting the life or property of another. And it consists of the conscious and voluntary act or omission which is likely to result in grave injury when in the face of clear and present danger of which the alleged tortfeasor is aware. And the standard, obviously in comparison to the Levin standard to be inserted into the statute this year, is quite different. Even if the judge were to look to the standard itself, he would find that that standard is significantly different than the usual concept of the term and does not rise, in any meaningful way, to what any of us who have practiced tort law would understand gross negligence to mean.

Third, this is a highly regulated industry by law, by Federal law and State law and even some local laws. And most of the acts that would meet the definition of gross negligence would already be in violation of law. And if they are in violation of law, they are not exempted from this legislation. We don't try to exempt any gun manufacturer for conduct which is in violation of law. So by definition that would be an exemption from the provisions of the bill, if it becomes law, and therefore would not need to be included.

The bottom line here is that if there really is a problem, that is to say, the conduct is so bad that it is a violation of law, no lawsuit is precluded under our bill in any way. And if it doesn't rise to that level, then it should not be considered to be within the concept of gross negligence under that term as it has always been applied in tort law. The definition that is to be substituted this year is clearly not a definition most of us would deem appropriate under these circumstances.

So in fact if the gross negligence or reckless conduct of a person was the proximate cause of death or injury—that is the allegation—you are in court irrespective of this bill, and clearly it totally undercuts the purpose of the bill.

So, Mr. President, I urge that our colleagues vote against the Levin amendment or table it, as was done last year, and recognize that this is designed to totally undercut the bill and, for that reason, would not be an appropriate amendment to be adopted.

The PRESIDING OFFICER. Who yields time? The Senator from Idaho.

Mr. CRAIG. How much time remains for the proponents?

The PRESIDING OFFICER. The Senator from Idaho has 18½ minutes, the Senator from Michigan has 8 minutes and 11 seconds.

Mr. CRAIG. The Senator from Idaho has how much time remaining?

The PRESIDING OFFICER. The Senator from Idaho has 18½ minutes.

Mr. CRAIG. I thank the Chair. I thank the Senator from Arizona for his statement.

I yield 10 minutes to the Senator from South Carolina.

Mr. GRAHAM. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. The reason I am supporting this bill, from a 30,000-foot view of it rather than getting down into the weeds, is I think this is a defining "cultural moment" in the history of our country—when under what circumstances can someone get in your wallet, hold you responsible financially for an event, no matter how unfortunate it might be. Generally speaking, in the law of negligence, the first thing you have to establish in civil liability is a duty. You have to prove that the person being sued had a duty and violated that duty and the violation was the proximate cause and the damages flow from that event.

Here is what this bill does not do. It does not let a gun manufacturer off the hook from the duty of producing a reliable and safe gun. If you defectively produce a weapon, you can be held liable. It doesn't let a seller or a distributor off the hook for violating a statute or making a sale illegally because it says, if you violate the law that exists, then you have broken a duty. Duty can be established by relationships. It can be established by a statute. So this bill does not allow someone to sell a gun without following the procedures that we have set out to sell a gun. It doesn't allow someone to make a gun that is unsafe. You are on the hook, and you can be held accountable based on a simple negligence theory or a negligence per se theory, if you violate a specific statute during the sale of a gun or manufacturing of a gun.

But what this bill prevents, and I think rightfully so, is establishing a duty along this line: That you have a responsibility, even if you do a lawful transaction or make a safe gun, for an event that you can't control, which is the intentional misuse of a weapon in a criminal fashion by another person.

That is the heart of this bill. It doesn't relieve you of duties that the law imposes upon you to safely manufacture and to carefully sell. But we are not going to extend it to a concept where you are responsible, after you have done everything right, for what somebody else may do who bought your product and they did it wrong and it is their fault, not yours. So it does not matter whether you use a gross negligence standard, a simple negligence standard, you have blown by the concept of the bill in my opinion. The debate should be, is there a duty owed in this country for people who follow the law, manufacture safely, sell within the confines of the laws we have written at the State and Federal level to the public at large if an injury results from the criminal act of another? If that ever happens, this country has made a major change in the way we relate to each other and a major change in the law.

There are other efforts to make this happen. There is an effort, on the part of some, to hold food manufacturers liable if you choose to buy a lawful product and misuse it by eating too much of it, creating a duty on the part of the people who sell food to manage your own behavior, the behavior of another. Once you leave the store, if you follow this out, they should go home with you and make sure you are doing everything else right.

That to me is why this amendment from my good friend from Michigan should not be adopted and why we need to pass this bill. I am all for legal duties where there is a reason for them to exist. Safely manufacture a gun? You better believe it. If you put it in a stream of commerce and it hurts somebody and it is your fault, you will have a day in court.

If you sell a gun and you don't do it right and you have it in the wrong hands, then you will have your day in court.

The bill even has a negligent provision. If you negligently entrust a weapon to someone you know or should know should not have that gun, you will have your day in court. What we are not going to do, under a gross negligence or simple negligence standard, is create a duty on the part of sellers and manufacturers for an event that they can't control, which is the intentional misuse of a weapon to commit a crime or something akin to that, something that you can't control, nor should you be required to be responsible for the actions of others in that area of life. If we ever hold people who make products accountable for the misdeeds and the mistakes of others when there is no rational relationship or no rational ability to control it, then we have fundamentally changed America. This bill is very important, I say to Senator CRAIG. We have to pass this bill and stop this kind of legal reasoning because it is going to undermine our country.

With that, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield myself 3 minutes. I wonder if Senator GRAHAM might wait. I want to comment on his remarks, and I don't want to do this without him being aware of it.

The good Senator said that if you have done everything right, you should not be held accountable. Of course. That is a given. I accept that. But what if you have been reckless, what if you have been grossly negligent and that gross negligence—by the way, I am perfectly happy to accept the Black's Law Dictionary definition if my good friend from Arizona wants to substitute that for the definition in this bill. That is not the issue. But if the gross negligence and recklessness is a proximate cause of injury, why should the manufacturer or dealer be immunized then?

What the Senator from South Carolina says is a truism: of course you should not be held accountable for the wrongdoing of other people. The question is whether you should be held accountable for your own recklessness, your own gross negligence. We should not immunize people against their own negligence. That is the issue. That is the only issue of this amendment. We don't see but what this bill does is eliminate rights, rights of people to get compensation against others who have been a cause of their death or injury. That is what the bill does, and that is what is wrong. There is no other industry, no other industry has that immunity. But this industry would be given that immunity for the first time that I know of in American history or tort history. You can perform, perpetrate an act of gross negligence or reckless conduct and not be held accountable. Now, if you commit a crime you will be held accountable, or if you negligently entrust, you will be held accountable, but all the other acts of negligence, which are perpetratable, are going to be immunized. It is not a matter, by the way, of alleging gross negligence or recklessness. It is a matter of proving recklessness or gross negligence, because the amendment says, not that the allegation is enough; it is that if you show gross negligence or recklessness caused your death or injury, you must have, still, a cause of action.

I am happy to yield at this time to my dear friend from Illinois.

I don't know how much time I have remaining.

The PRESIDING OFFICER. The Senator from Michigan has 5 minutes 15 seconds.

Mr. LEVIN. I am happy to yield 5 minutes. Does the Senator from Rhode Island want any time?

Mr. REED. No. Go ahead.

Mr. LEVIN. I yield 5 minutes.

Mr. DURBIN. I thank my colleague from Michigan.

Let me describe a tragedy, a tragedy which hits a little close to home for me. My grandson is 9 years old.

This is a tragedy involving a 10-year-old little boy in Philadelphia. On February 11 of last year, this little boy, Faheem, was on his way to school, walking from home to school. As he came into the schoolyard through the gates, a gang member came up and shot him in the face. He remained conscious for a short period of time, lapsed into a coma, and died 5 days later. That is a tragedy.

The reason I bring it up is because the amendment of Senator LEVIN, before us, addresses this tragedy. Where did the gun from come? It turns out it was in the hands of a gang member, one of these drug gang kids, crazed, trying to find money, shooting in every direction. He had the gun in his hand.

The obvious question to be asked is, Where did this drug gang member get his gun? We know where he got it. He got it through the American Gun and Lock Company of Girard Avenue, in Philadelphia, PA.

Did he buy it there? No. What happened was one of the gang members walked into this gun store with his girlfriend and he said, My girlfriend wants to buy some guns.

Why did he say his girlfriend? Because the gang member had a criminal record. He couldn't buy the guns. So the gun owner, the gun store owner, sees the girlfriend buying the guns for the gang member standing next to her, and decides he is going to charge a handling fee because she is a third-party purchaser.

They knew what was going on. The girl friends buy guns for the gangs to use on the street. So the store sold the gun, clearly understanding what was going on here, even charging a handling fee for it. It gets on the street in the hands of a gang member and a 10-year-old little boy walking into the schoolyard is shot in the face and killed.

So the question is this: Did the gun dealer do anything wrong? That is the question. I think it is a legitimate question. I think the gun dealer knew exactly what was going on here. The gun dealer wanted to make some money. The gun dealer was willing to look beyond the obvious criminal standing in front of him to the straw purchaser, this girlfriend, and let the girlfriend buy the gun and even charge a handling fee. What Senator LEVIN's amendment says is this is gross negligence. If you did not know this gun was going to be used in a crime, you were certainly negligent in allowing this to occur on your premises and we ought to be able to go to court. The family of this little boy who was murdered on the street should be able to go to court and say that gun dealer should be held responsible.

Do you know what? This bill before us will never allow that gun dealer to be held responsible for that misconduct. He sold the gun to the girlfriend of the gang member. The gun hits the street. The gun kills the little boy. And the courthouse doors will be closed to that family because of this bill unless we pass the amendment of Senator LEVIN.

That is what this is all about. If you think that is fair to let that gun dealer off the hook and to say to the family of that 10-year-old boy, "We are sorry; you don't have the right to go to court and hold that gun dealer personally responsible," then you naturally would have to oppose the amendment of Senator LEVIN. But if you think this business, as every business in America, has a responsibility to do the right thing, there is a standard of care in the products they sell and the way they sell them, that this company, like every other company in America, should be held responsible for their own misconduct, then I suggest you should vote for the amendment of Senator LEVIN.

I retain the remainder of my time and yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Idaho.

Mr. CRAIG. Mr. President, might I inquire how much time remains on both sides?

The PRESIDING OFFICER. There remains 13 minutes 19 seconds for the Senator from Idaho, 36 seconds for the Senator from Michigan.

Mr. CRAIG. Mr. President, we have heard some of the most fascinating arguments in relation to the Levin amendment on both sides. I think it is clear if the Levin amendment were to become part of this legislation and this legislation were to become law, it would be relatively meaningless as to where we are in relation to the kind of junk or dilatory lawsuits that are currently being filed against gun manufacturers and gun dealers who not only produce a legal product to the market but sell it in the legal context.

It is important that we understand the arguments about gross negligence and reckless conduct. The idea that has been expressed by the Senator from Arizona, the Senator from Texas, and certainly the Senator from South Carolina, is that once you argue that, then obviously as an attorney the process must prove you are either right or wrong. In so arguing it, and in the effort of making proof, you have in large part destroyed the intent, of the legislation.

Mr. GRAHAM. Will the Senator yield?

Mr. CRAIG. I am more than happy to yield to the Senator from South Carolina.

Mr. GRAHAM. This has been a fascinating legal discussion. May I have a minute or two to answer?

Mr. CRAIG. I will allow the Senator to take as much time as he desires.

Mr. GRAHAM. I missed it. I think the fact pattern goes along the lines of a criminal goes in with a girlfriend or some other person and tries to purchase a weapon. What responsibility would someone have there?

If the dealer or the seller or the person in question had a reasonable opportunity to know a crime was afoot, or this was a sham deal, then I argue the bill would cover it under negligent entrustment. But here is what we would not want to do, in my opinion. You wouldn't want to hold the seller or the distributor liable if he had no reason to understand that a criminal conspiracy by two people he is not responsible for was about to happen. Because that would be unfair. But if he had a reason to know, a reasonable opportunity to know, then that would be a totally different scenario.

That is a classic example of what we do not want to do. If a person, about to make a sale, should have known something was afoot to violate the law, they can be held responsible. But if you as a dealer are a victim of a criminal conspiracy you had no part or knowledge of, we are not going to make you responsible. That is the essence of this bill. Because to do so would undo legal concepts that stood 200 years, would put people out of business, and makes no sense.

I yield back to Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, over the last good number of years, law-abiding gun manufacturers in this country producing a legal product to the market, law-abiding gun dealers performing within the confines of the Federal firearms licensing process, have spent over $225 million defending themselves from the very arguments the Senator from Michigan would like to have continued.

The Senator from South Carolina has well spelled out that there is a duty and there is a responsibility. But if that duty is taken beyond your ability to know it, to understand it, to be able to act against it, then you ought not be responsible.

We have gotten ourselves into a very litigious society. So in a way it has cost our society more than almost any other society in the developed world today. Why? Because we would like to shove blame off onto someone else. When society wrongs society, it has to be somebody else's fault besides the one who perpetrated the wrong. So we have attempted to reach back through law, time and time again. As a result—we have heard it, whether it is the cost of an automobile or whether it is the cost of a firearm today or whether it is the cost of almost any consumer product—it is going to cost you more because somewhere the producers have to mount large amounts of money to pay their legal fees to fend off someone looking for an excuse to blame someone else for the action of someone who should have been responsible for themselves.

That is the essence or the underlying construction of what has brought us to the floor today. This argument will not be argued in behalf of gun manufacturers. Over the course of the next several years it will be argued in behalf of a lot of law-abiding, producing Americans who have simply grown tired and fed up with the idea that they always have to be sued although what they are doing is legal, even though they are within the law. That is because somehow somebody used what they have made illegally, and as a result they should have known and they are responsible because surely the person who perpetrated the crime cannot be held responsible because society either produced them or the environment in which they became irresponsible was a societal responsibility.

Oh, my goodness, where do we rest the blame? I think many of our parents suggested that we were responsible for our actions and we would have to pay the price. But the argument here is quite the opposite, that someone who might have a deep pocket somewhere down the road, because what they produced is a legal product for the market which was then used in a criminal act, should pay that price. And the criminal—not suggesting they would go free, but certainly suggesting they can't afford to pay, so someone else ought to pay, and the argument goes on and on.

You have heard my arguments over the course of the last 48 hours. We are the only nation who doesn't have a government-owned weapons factory. It has always been a product of the private market. If we choose to run them out of our country, then all of the firearms our men and women in the military use, our law enforcement community uses, our law-abiding citizens own, will be made in some other country.

I do not believe that is where our country wants to go, and it is clear that is not where a majority of the Senate wants to go. I do believe the Senate, as reflected by its vote on the cloture motion to proceed and ultimately get us to this bill, is reflective of society as a whole.

I hope a majority of the Senate will oppose the Levin amendment. I do not believe you can suggest you are going to correct a problem in one instance and then open another door and allow a death by a thousand cuts, as obviously would occur here, if that case were the one we are arguing.

Mr. President, may I inquire as to the time remaining?

The PRESIDING OFFICER. There remains 5 minutes 42 seconds.

Mr. CRAIG. Mr. President, I yield the next 5 minutes to the Senator from Utah.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Utah.

Mr. HATCH. I thank my colleague. He has made very strong arguments here. Nobody who is thinking should vote for this amendment.

I rise today to speak against this amendment No. 1623, an amendment which, in my view, would have the effect of gutting this gun liability bill. This amendment, if passed, could actually expand the number of lawsuits against gun makers and sellers dramatically. This is because the definition of gross negligence referenced in the amendment eliminates the requirement that a duty of care exists in order to be negligent in one's actions toward another.

As any of us who has been to law school knows, a duty toward another is the first element of any tort. But this amendment wipes out this element from the definition of gross negligence. In other words, this amendment would allow anti-gun lawyers to easily claim that gun makers and sellers know their products are "likely to be harmful," without having to prove any duty or clear connection to the injured party.

This turns common law tort principles on its head. This is nothing more than a calculated effort by opponents of this legislation to expand the reach of this doctrine to get at conduct that had not previously been covered.

Furthermore, this amendment is simply not needed. Virtually any act that would meet the definition of gross negligence referenced in this amendment would already be a violation of Federal, State or local law, and therefore would not receive the protection of this law anyway.

This amendment is an attempt to undermine this legislation. We defeated this amendment soundly last year—soundly. I urge my colleagues to vote to defeat it again.

I thank my distinguished colleague and friend from Idaho who has led this fight courageously and in every way with the highest of standards. Frankly, this is one that should not see the light of day. I hope our colleagues will vote against it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. I am prepared to yield back the balance of our time if the Senator from Michigan is.

Mr. LEVIN. I believe I have half a minute remaining, and I would like to use it.

The PRESIDING OFFICER. The Senator has 36 seconds.

Mr. LEVIN. Mr. President, we have been told people should not be held accountable for the wrongdoing of others; that is true. The question is whether they should be held accountable for their own wrongdoing.

This amendment would make sure that gun dealers and manufacturers—such as any other dealer or manufacturer—could be held accountable for their own wrongdoing. That is the issue. It is very clear in the wording of the amendment.

I ask unanimous consent the letter from 75 law professors describing what this bill would do in terms of eliminating responsibility for manufacturers' and gun dealers' own conduct be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE UNIVERSITY OF MICHIGAN
LAW SCHOOL,
*Ann Arbor, MI.*

DEAR SENATORS AND REPRESENTATIVES: As a professor of law at the University of Michigan Law School, I write to alert you to the legal implications of S. 397 and H.R. 800, the "Protection of Lawful Commerce in Arms Act." My colleagues, who join me in signing this letter, are professors at law schools around the country. This bill would represent a substantial and radical departure from traditional principles of American tort law. Though described as an effort to limit the unwarranted expansion of tort liability, the bill would in fact represent a dramatic narrowing of traditional tort principles by providing one industry with a literally unprecedented immunity from liability for the foreseeable consequences of negligent conduct.

S. 397 and H.R. 800, described as "a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others," would largely immunize those in the firearms industry from liability for negligence. This would represent a sharp break with traditional principles of tort liability. No other industry enjoys or has ever enjoyed such a blanket freedom from responsibility for the foreseeable and preventable consequences of negligent conduct.

It might be suggested that the bill would merely preclude what traditional tort law ought to be understood to preclude in any event—lawsuits for damages resulting from third party misconduct, and in particular from the criminal misuse of firearms. This argument, however, rests on a fundamental misunderstanding of American tort law. American law has never embraced a rule freeing defendants from liability for the foreseeable consequences of their negligence merely because those consequences may include the criminal conduct of third parties. Numerous cases from every American jurisdiction could be cited here, but let the Restatement (Second) of Torts suffice:

§449. TORTIOUS OR CRIMINAL ACTS THE PROBABILITY OF WHICH MAKES ACTOR'S CONDUCT NEGLIGENT

If the likelihood that a third person may act in a particular manner is the hazard or one of the hazards which makes the actor negligent, such an act whether innocent, negligent, intentionally tortious, or criminal does not prevent the actor from being liable for harm caused thereby. (emphasis supplied)

Similarly, actors may be liable if their negligence enables or facilitates foreseeable third party criminal conduct.

Thus, car dealers who negligently leave vehicles unattended, railroads who negligently manage trains, hotel operators who negligently fail to secure rooms, and contractors who negligently leave dangerous equipment unguarded are all potentially liable if their conduct creates an unreasonable and foreseeable risk of third party misconduct, including illegal behavior, leading to harm. In keeping with these principles, cases have found that sellers of firearms and other products (whether manufacturers, distributors or dealers) may be liable for negligently supplying customers or downstream sellers whose negligence, in turn, results in injuries caused by third party criminal or negligent conduct. In other words, if the very reason one's conduct is negligent is because it creates a foreseeable risk of illegal third party conduct, that illegal conduct does not sever the causal connection between the negligence and the consequent harm. Of course, defendants are not automatically liable for illegal third party conduct, but are liable only if—given the foreseeable risk and the available precautions—they were unreasonable (negligent) in failing to guard against the danger. In most cases, moreover, the third party wrongdoer will also be liable. But, again, the bottom line is that under traditional tort principles a failure to take reasonable precautions against foreseeable dangerous illegal conduct by others is treated no differently from a failure to guard against any other risk.

S. 397 and H.R. 800 would abrogate this firmly established principle of tort law. Under this bill, the firearms industry would be the one and only business in which actors would be free utterly to disregard the risk, no matter how high or foreseeable, that their conduct might be creating or exacerbating a potentially preventable risk of third party misconduct. Gun and ammunition makers, distributors, importers, and sellers would, unlike any other business or individual, be free to take no precautions against even the most foreseeable and easily preventable harms resulting from the illegal actions of third parties. And they could engage in this negligent conduct persistently, even with the specific intent of profiting from sales of guns that are foreseeably headed to criminal hands. Under this bill, a firearms dealer, distributor, or manufacturer could park an unguarded open pickup truck full of loaded assault rifles on a city street corner, leave it there for a week, and yet be free from any negligence liability if and when the guns were stolen and used to do harm. A firearms dealer, in most states, could sell 100 guns to the same individual every day, even after the dealer is informed that these guns are being used in crime—even, say, by the same violent street gang.

It might appear from the face of the bill that S.397 and H.R. 800 would leave open the possibility of tort liability for truly egregious misconduct, by virtue of several exceptions set forth in Section 4(5)(i). Those exceptions, however, are in fact quite narrow, and would give those in the firearm industry little incentive to attend to the risks of foreseeable third party misconduct.

One exception, for example would purport to permit certain actions for "negligent entrustment." The bill goes on, however, to define "negligent entrustment" extremely narrowly. The exception applies only to sellers, for example, and would not apply to distributors or manufacturers, no matter how egregious their conduct. Even as to sellers, the exception would apply only where the particular person to whom a seller supplies a firearm is one whom the seller knows or ought to know will use it to cause harm. The "negligent entrustment" exception would, therefore, not permit any action based on reckless distribution practices, negligent sales to gun traffickers who supply criminals (as in the above example), careless handling of firearms, lack of security, or any of a myriad potentially negligent acts.

Another exception would leave open the possibility of liability for certain statutory violations, variously defined, including those described under the heading of negligence per se. Statutory violations, however, represent just a narrow special case of negligence liability. No jurisdiction attempts to legislate standards of care as to every detail of life, even in a regulated industry; and there is no need. Why is there no need? Because general principles of tort law make clear that the mere absence of a specific statutory prohibition is not carte blanche for unreasonable or dangerous behavior. S. 397 and H.R. 800 would turn this traditional framework on its head; and free those in the firearms industry to behave as carelessly as they would like, so long as the conduct has not been specifically prohibited. If there is no statute against leaving an open truckload of assault rifles on a street corner, or against selling 100s of guns to the same individual, under this bill there could be no tort liability. Again, this represents radical departure from traditional tort principles.

My aim here is simply to provide information, and insure that you are not inadvertently misled about the meaning and scope of S. 397 and H.R. 800. As currently drafted, this Bill would not simply protect against the expansion of tort liability, as has been suggested, but would in fact dramatically limit the application of longstanding and otherwise universally applicable tort principles. It provides to firearms makers and distributors a literally unprecedented form of tort immunity not enjoyed or even dreamed of by any other industry.

Sincerely,

SHERMAN J. CLARK.

Professor Sherman J. Clark, University of Michigan Law School; Professor Richard L. Abel, UCLA Law School; Professor Barbara Bader Aldave, University of Oregon School of Law; Professor Mark F. Anderson, Temple University Beasley School of Law; Professor Emeritus James Francis Bailey, III Indiana University School of Law; Professor Elizabeth Bartholet, Harvard Law School; Professor Peter A Bell, Syracuse University College of Law; Professor Margaret Berger, Brooklyn Law School; Professor M. Gregg Bloche, Georgetown University Law Center; Professor Michael C. Blumm, Lewis and Clark Law School; Professor Carl T. Bogus, Roger Williams University School of Law; Professor Cynthia Grant Bowman, Northwestern University School of Law; Director of the MacArthur Justice Center and Lecturer in Law, Locke Bowman, University of Chicago Law School; Professor Scott Burris, Temple University Beasley School of Law; Professor Donna Byrne, William Mitchell College of Law; Professor Emily Calhoun, University of Colorado School of Law; Professor Erwin Chemerinsky, Duke Law School; Associate Clinical Professor Kenneth D. Chestek, Indiana University School of Law; Associate Professor Stephen Clark, Albany Law School; Professor Marsha N. Cohen, University of California Hastings College of the Law; Professor Anthony D'Amato, Northwestern University School of Law; Professor John L. Diamond, University of California Hastings College of Law; Professor David R. Dow, University of Houston Law Center; Professor Jean M. Eggen, Widener University School of Law; Associate Professor Christine Haight Farley, American University, Washington College of Law; Associate Professor Ann E. Freedman, Rutgers Law School—Camden.

Professor Gerald Frug, Harvard Law School; Professor Barry R. Furrow, Widener University School of Law; Associate Clinical Professor Craig Futterman, University of Chicago Law School; Professor David Gelfand, Tulane University Law School; Professor Phyllis Goldfarb, Boston College Law School; Professor Lawrence Gostin, Georgetown University Law Center; Professor Michael Gottesman, Georgetown University Law Center; Professor Stephen E. Gottlieb, Albany Law School; Professor Phoebe Haddon, Temple University Beasley School of Law; Professor Jon D. Hanson, Harvard Law School; Professor Douglas R. Heidenreich, William Mitchell College of Law; Professor Kathy Hessler, Case Western Reserve University School of Law; Professor Eric S. Janus, William Mitchell College of Law; Professor Sheri Lynn Johnson, Cornell Law School; Professor David J. Jung, University of California Hastings College of Law; Associate Professor Ken Katkin, Salmon P. Chase College of Law, Northern Kentucky University; Professor David Kairys, Temple University Beasley School of Law; Professor Kit Kinports, University of Illinois School of Law; Professor Martin A. Kotler, Widener University School of Law; Professor Baily Kuklin, Brooklyn Law School; Professor Arthur B. LaFrance, Lewis and Clark Law School; Professor Sylvia A. Law, NYU School of Law; Professor Ronald Lasing, Lewis and Clark Law School; Professor Robert Justin Lipkin, Widener University School of Law; Professor Hugh C. Macgill, University of Connecticut School of Law.

Professor Mari J. Matsuda, Georgetown University Law Center; Associate Professor Finbarr McCarthy, University Beasley School of Law; Director (Retired Professor) Christine M. McDermott, Randolph County Family Crisis Center, North Carolina; Professor Joan S. Meier, George Washington University Law School; Professor Naomi Mezey, Georgetown University Law Center; Professor Eben Moglen, Columbia Law School; Professor Dawn C. Nunziato, George Washington University Law School; Professor Michael S. Perlin, New York Law School; Clinical Professor Mark A. Peterson, Northwestern School of Law, Lewis and Clark College; Professor Mark C. Rahdert, Temple University Beasley School of Law; Professor Denise Roy, William Mitchell College of Law; Professor Joyce Saltalamachia, New York Law School; Clinical Assistant Professor David A. Santacroce, University of Michigan School of Law; Professor Niels Schaumanm, William Mitchell College of Law; Professor Margo Schlanger, Washington University School of Law; Professor Marjorie M. Shultz, University of California Boalt School of Law; Senior Lecturer Stephen E. Smith Northwestern University School of Law; Professor Peter J. Smith, George Washington University Law School; Professor Norman Stein, University of Alabama School of Law; Professor Frank J. Vandall, Emory University School of Law; Professor Kelly Weisberg, University of California Hastings College of the Law; Professor Robin L. West, Georgetown University Law Center; Professor Christina B. Whitman, University of Michigan School of Law; Professor William M. Wiecek, Syracuse University College of Law; Professor Bruce Winick, University of Miami School of Law; Professor Stephen Wizner, Yale Law School; Professor William Woodward, Temple University Beasley School of Law.

Mr. CRAIG. I am prepared to yield back the remainder of my time.

I move to table the motion and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from New Mexico (Mr. DOMENICI).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 37, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—62

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Burr
Byrd
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
Dole
Dorgan
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Landrieu
Lincoln
Lott
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Pryor
Reid
Roberts
Rockefeller
Salazar
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich

NAYS—37

Akaka
Bayh
Biden
Bingaman
Boxer
Cantwell
Carper
Chafee
Clinton
Corzine
Dayton
DeWine
Dodd
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mikulski
Murray
Nelson (FL)
Obama
Reed
Sarbanes
Schumer
Stabenow
Warner
Wyden

NOT VOTING—1

Domenici

The motion was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRAIG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I believe the legislation before us today is a good tort reform bill. It deals with a discrete area of abuse in our legal system. We in this Congress have the responsibility to monitor our legal system. If it is not functioning well, we ought to deal with it. It is a practical act to protect manufacturers and sellers of a lawful item, and it has constitutional implications because the destruction of our firearms industry in America indeed would implicate and undermine the constitutional right Americans have of keeping and bearing arms. It is good for jobs.

We know American manufacturers are under siege from lawsuits, and we could end up losing an entire industry, which is a pretty big industry. It is good for our police and national defense; that is where they get their firearms. The Secretary of Defense wrote us a letter indicating—actually, the legal counsel wrote the letter to say they support it because they are concerned about the manufacturing capability of firearms used by our military. The same companies fighting these suits are also the companies that produce firearms for the military and our police forces.

It is good because it restores the historic principles of what liability should be in our country. Where and how should one be liable? What acts can justify someone coming and taking your property? What kind of acts of wrongdoing do you have to commit before that is possible? Also, we might ask ourselves, what industry might be next? If we erode the classical defenses and principles that protect legitimate businesses in this case, what business might be next? I was pleased to hear that we achieved a bipartisan consensus, it seems, with 61 cosponsors for the legislation. I had hoped we would move it through rather rapidly. I knew a good number of Senators cared deeply about it and did not approve of it, and they wanted to speak about it. But the truth of the matter is, this is taking quite a long time. We have had a filibuster even on a motion to proceed to the bill, which included 30 hours of post-cloture debate on that, and 66 Senators voted to have cloture and bring this bill up on the floor for debate. So we have good, strong, bipartisan support for moving forward with this legislation.

I know the majority leader is committed. We can complete it, even if we have to go into the weekend. Hopefully, that won't happen, but I am prepared to be here and I think most Senators are. After this amount of effort, let's complete this. We can see the end in sight. I urge that the discussions going on allow us to proceed more rapidly. I hope we will have good success on that.

I believe the opposition to this legislation spins out of a hostility to firearms by some. If you look at it, it is mostly in the big cities where they are not familiar with hunting, outdoors, and recreational shooting. The emotional fervor for radically limiting the historic American right to keep and bear arms arises out of a fear of crime and a desire to be safe and, I think, a misunderstanding of the nature and character of decent, law-abiding citizens in this country who possess firearms and use them to hunt and for recreational purposes on a regular basis. But I understand crime is a big part of the objection to firearms. It is out of that fear and concern that we have mayors and cities passing laws that create strict liability, such as the District of Columbia. In a recent case that ruled against the Beretta Company, Beretta wrote us that if this law remains in effect, they could become liable for every murder using a Beretta handgun that may occur in Washington, DC, even though they may have lawfully sold the gun through a dealer in Alabama, Minnesota, Maine, or California. But if it ended up here some way by some criminal and somebody got shot, they have the ability to hold the manufacturer or the dealer liable for that. They become an insurer against criminal activity by criminals.

It is not a sound principle of law. It cannot be defended on principle. That is what we are trying to curtail here—this utilization of the legal system, the court system, the lawsuit system, to effect a public policy end that has not been supported by the people and actually could threaten the ability to keep and bear arms and threaten an entire industry in our country. I understand what is bringing this up.

I want to share some important things. What is causing crime? We don't know for sure. We know some of the causes. What can we do to deal with it? How can we utilize gun laws to reduce crime and violence and make our communities safer, do the right thing? Does passing more and more burdensome laws and regulations that fall on lawful gun owners help reduce crime? I submit to you it does not.

There are dramatic numbers that I think indicate the effectiveness of gun law prosecutions to reduce crime. When I came to the Senate in 1997, I had been a U.S. attorney and, as such, prosecuted criminals who utilized guns and violated Federal gun law. I know the Presiding Officer has done that, too; he has been a prosecutor. He dealt with these Federal gun laws. What we did was focus on the law that dealt with criminal behavior, and we were aggressive about it. I remember coming up with a name for our project. We called it Project Triggerlock in, I guess, the late 1980s. We had a newsletter and we talked with all our sheriffs and local police about the new, tough Federal gun laws that crack down on the utilization of a gun during a criminal act, and the 5-year mandatory penalty without parole if you carry a firearm during a drug offense, or if you possess a firearm after having been convicted of a felony, you would go to jail and it would be without parole.

I thought it was an effective thing and we worked hard to prosecute those cases. Then I was elected Alabama attorney general and then I came to the

Senate. When I came here, there was one new gun law after another that attempted to restrict gun ownership and the ability to get guns. We were voting on them all the time. I began to say, what are we doing prosecutionwise with the laws we have? I began to inquire in the Judiciary Committee, of which I am a member. In 1997 when Attorney General Janet Reno or the division chief, or the head of the ATF came up, I began to ask questions.

If you can see this chart, you begin to see where my concerns came from. Going along in the 1990s, in 1992 and 1993, there were 3,700 and 3,800 gun prosecutions per year. They began to drop off 20 percent. By 1996, they had fallen 20 percent, and by 1997, 20 percent. We began to ask questions about that and push this issue with the Attorney General. I raised it every time she came before the committee with her staff people. I think maybe that or other things happened that began to show a trend change. We started moving up a little bit. By 2000, we were back up to 6,000 gun prosecutions.

President Bush campaigned on it. When John Ashcroft came up for his confirmation, I reminded him of the promise the President had made. I asked Attorney General Ashcroft: Will you make prosecution of gun crimes a high priority by the U.S. Department of Justice? He said: Yes, sir, I will. Now we have Attorney General Gonzales. Look at these numbers; they have doubled since 2000. We have 11,000 prosecutions per year now. Many of those carry significant time in jail. If a person carries a fully automatic weapon—a MAC-11 or a machine gun of some kind—during a drug trafficking offense, the penalty they suffer is 30 years in jail without parole. We saw that happen all over Miami. People were shooting. There were gang wars, with machine guns that were used to shoot people down.

These tough laws that were passed in the early 1980s cracked down. Now you don't see machine guns among drug dealers. In fact, because of these prosecutions you are seeing fewer and fewer drug dealers carrying guns and fewer other criminals carry guns because they know if they get caught, they will be sent to Federal jail without parole for a long time.

I want to talk about that. Somewhere along in 1998, 1999, or 2000, we had before the Judiciary Committee the testimony of a very impressive U.S. attorney from Richmond, appointed by the Clinton administration. He was an African American. He had developed what he called Project Exile. I called it "Project Trigger Lock with Steroids." It was a better plan than I had developed. He believed if you utilize these laws aggressively, you could save lives. He saw people in his community dying in shootouts and criminal fights, he believed, unnecessarily. So he started this project.

He put up billboards that said: You use a gun, we will send you off for a long period of time. You will be exiled. You will go off to a Federal jail. You don't get to go to the county jail. You will go off to the Federal jail, 10 years without parole, 20 years without parole, depending on the offense. He had some dramatic results from that project.

Mr. CRAIG. Will the Senator yield on that point?

Mr. SESSIONS. I will be pleased, I say to the Senator from Idaho.

Mr. CRAIG. Project Exile in Richmond, which the Senator referenced, in Richmond was a fascinating demonstration, as I think the Senator is pointing out. In the testimony of a person arrested for holding up a 7-Eleven—he went in with a baseball bat; this is true evidence—when he was being questioned as to why he used a bat instead of a gun in the commission of a crime, he said, Because if I use a gun in the commission of a crime, I do time in a Federal jail, just as the Senator has spoken to. So he chose the baseball bat as his weapon and not the firearm. That happened in Richmond under Project Exile.

Mr. SESSIONS. I could not agree more. The U.S. attorney in Philadelphia was aggressive on some of these cases, and they would make a big bust with State and local law enforcement and Federal officers. The criminals did not want to go to the Federal court. They were afraid they would go there and sort them out, and the ones who had the guns would be the ones sent to Federal court, and they would get tough time.

Here are some of the numbers that occurred on Project Exile. From 2000 to 2003, Federal gun crime prosecutions nationally increased 68 percent. There is this perception that Republican administrations, because they are dubious and concerned about encroaching controls on the right of lawful Americans to have guns, that they are somehow soft on gun crime, that they do not care about people being victimized by crime.

Nothing could be further from the truth, as these numbers will show. From 2000 to 2003, Federal gun prosecutions increased 68 percent. Between the year 2002 and fiscal year 2003, the number of Federal firearms prosecutions nationally increased nearly 24 percent. In Colorado, for example, under their Project Exile program, Federal firearm charges between 1999 and 2003 were brought against more than 600 defendants, and in 365 of those cases that were completed, prison sentences were handed down totaling 18,671 months or 1,600 years.

As these prosecutions have increased, the number of crimes where a gun is used has decreased. Surprise. Between 1999 and 2000 and between 2001 and 2002, the violent crime victimization rate plunged 21 percent. Approximately 130,000 fewer Americans were victims of gun crime in 2001 and 2002 than in 1999 and 2000.

Project Exile began as a coordinated approach to fighting gun violence in the Richmond metropolitan area. That is where it started. It began in 1997 by a group of Federal prosecutors. They did a communitywide effort. In 1997, there were 140 homicides in Richmond. Just one year after the project was initiated, the overall murder rate dropped 36 percent, the number of firearm homicides dropped 41 percent, and robberies dropped by one-third.

In 2000, 3 years after Project Exile was implemented in Richmond, there were only 72 homicides during the year 2000, close to a 50-percent reduction. In its first year, Project Exile achieved the following: 372 persons were indicted for Federal gun violations, 440 guns were seized, and 196 persons sentenced to an average of 55 months of imprisonment.

There are three essential elements: Federal prosecution; integrated and coordinated partnership among local, State, and Federal law agencies; outreach for community involvement; and increased public awareness where we make sure the people in the community know in advance that if they carry a gun around while they are carrying on their criminal activities, they are in big trouble.

One of the main reasons that Project Exile has been so successful is the campaign to educate citizens about the lengthy terms they would be facing. Billboards all over Richmond broadcast it: An illegal gun gets you 5 years in Federal prison. It resonated throughout the community. Police and criminals knew the stories of what was happening on the streets. The criminals would throw away guns when officers approached. They would confess to almost anything, but they would not confess to having a gun, and they specifically referred to Project Exile. So we know it was having an impact.

There are a number of important laws that are bread-and-butter laws that allow proper focus on criminal use of firearms. What I want to say is real simple. I don't want to overstate all of this, but it is significant. The simple fact is, it is not how many laws we pass, it is not whether we pass some convoluted law about this, that, or the other in Federal laws. It is whether we are allowing the gun prosecutions to drop 20 percent or whether they have gone up from under 4,000 to almost 12,000, three times.

If we maintain aggressive, systematic prosecution of dangerous criminals who carry firearms and they are sent to jail for long periods of time, we will protect the public. That is what I am saying. These other things make life more difficult for lawful gun owners and implicate, sometimes improperly, the constitutional right to keep and bear arms. But the real power of reducing crime, making our streets safer, resides in effective prosecution of these cases.

I could not be more pleased to see some of the good numbers we are getting in terms of reducing crime.

Look what is happening in States. It further amplifies what I have said. The overall homicide rate in jurisdictions that have the most severe restrictions on firearms purchases and ownership—let's look at this. Let's look at the homicide rate on the States that have the toughest firearm purchase laws, States that make it the hardest to buy a firearm: California, Illinois, Maryland, New Jersey, New York, and Washington, DC. Their homicide rate is 23 percent higher than the rest of the country.

The Federal Gun Control Act of 1968 imposed unprecedented restrictions on gun manufacturers, dealers, and owners. However, in the 5 years after its enactment, the national homicide rate averaged 50 percent higher than in the 5 years before the bill was enacted. The national homicide rate was 75 percent higher 10 years after the enactment of the Federal Gun Control Act, and 81 percent higher after 15 years. So passing a law that is not effectively prosecuted—not aggressively, systematically prosecuted, to the extent the criminals know you mean business—does not mean anything. You end up with just restrictions, regulations, costs, and burdens on honest Americans.

I have offered legislation—I am having a hard time getting any cosponsors on the Democratic side, but I think the Federal crack cocaine laws tend to be too tough, and they tend to fall disproportionately on African Americans. I think we ought to fix it and do something about it. I have proposed and written legislation and offered it more than once to do just that.

I am not here as one who believes locking people up and throwing away the key is the answer to fighting crime, but it is a big part of fighting crime that people receive substantial punishment if they represent a danger to the community or if they commit a serious crime.

Look at the incarceration rates: From 1980 to 1994, the 10 States with the greatest increase in prison population averaged a decrease of 13 percent in violent crime, while the 10 States with the smallest increase in prison population averaged a 55-percent increase in violent crime.

They say lock everybody up. Everybody does not shoot someone. There is only a small number of people in this country who have the maliciousness, the violent nature, or the hostility or meanness to go around shooting somebody. The more of those you can identify, the more of those you lock up, you can reduce the violent crime rate. You can make our communities safer and protect innocent Americans from that kind of activity. It is just as plain as night and day.

If you put violent criminals behind bars and keep them there, good things can happen. In 1991, 162,000 criminals who were placed on probation committed 44,000 violent crimes during their probation. A fourth of them committed a violent crime while they were out on probation. Twenty-one percent of the persons involved in the felonious killing of law enforcement officers during the last decade were on probation or parole at the time they murdered a police officer.

Some say if you really like police officers, you will vote against this bill because somehow this bill has something to do with protecting police officers from being murdered. Police officers are not telling me if one of their brothers or sisters is killed by a criminal that they want to sue Smith & Wesson. They are saying they want the criminal convicted and prosecuted. They believe if more criminals were prosecuted aggressively and fewer were given parole and probation early, then more police officers would be alive and healthy today. This is what we need to do.

I want to share this story on this general subject. It came to my attention recently, in June of this year. Leura Canary, a fine U.S. attorney in Montgomery, AL, the Middle District of Alabama, presides over 23 counties in the southwestern part of the State as a Federal law officer, and she works with others. She was presented a national award for most improved gun violence program.

I saved this release and would like to share it with you because it is emblematic of what we can do to save lives, protect the innocent, and reduce crime in America.

She calls their program Alabama ICE. It emphasizes cooperation among Federal, State, and local law agencies. They developed in the region an effective task force, a task force to combat gun crimes. The task force developed a training program and a case preparation technique plan. It produced significant results. Look at this. Federal gun prosecutions in the middle district of Alabama tripled in fiscal year 2003 over fiscal year 2002. Three times as many were prosecuted. And the number of gun crime matters referred for prosecutions increased 257 percent in that same period. Between 2000 and 2003, the number of gun prosecutions in the middle district has increased 513 percent.

She obviously took Attorney General Ashcroft's injunctions and directions to heart, a fact mentioned by Attorney General Ashcroft in his keynote address.

According to local officials, these efforts—local officials, not the U.S. attorney—have had a measurable effect on violent crime. In calendar year 2003, there was a 42-percent reduction in criminal homicides in the city of Montgomery over the previous year, 2002, a 42-percent reduction in the number of people murdered in the city of Montgomery.

Montgomery Police Chief John Wilson, whom I have known for quite a number of years, and who has been a professional in his career, who was an early partner in this effort, Alabama ICE task force, said:

> Alabama ICE is the only new program we implemented during this time period which targets violent crime in our city. I believe that ICE is a major factor in these reductions in the number of violent offenses. Without this program, these criminals would still be in our community committing crimes.

And, I would add, murdering people.

Local Alabama ICE task force members also expressed their reactions to the program and the award. Chief Anthony Everage of the city of Troy, a midsized or smaller city, said this:

> I think this is an excellent example of what can be accomplished through a joint effort by the United States Attorney's Office of the Middle District and law enforcement. Ms. Canary presented this very effective program along with a plan of action to our agency and the implementation has and will continue to make Troy a safer place.

"When Alabama ICE was implemented in Dothan, it was as though someone threw a large rock into still waters. The ripple effect shuddered through the criminal culture almost overnight. The word is out, get caught committing a crime while holding a gun and you're done. Even Johnny Cochran can't get you off," said Dothan Police Chief John White.

Actually, Johnny Cochran supported this effort and warned that people who commit crimes with guns suffer serious Federal time, because he knew innocent people's lives are at stake.

District Attorney Randall Houston of the 19th Judicial Circuit of Autauga, Elmore, and Chilton Counties, stated:

> Working with Federal prosecutors has expanded our charging options and our ability to lock up the most dangerous criminals in our community. We received this award because of the effectiveness of our partnership in combating crime.

Sheriff Jay Jones of Lee County said:

> This award represents the positive result of criminal justice agencies on Federal, State, and local levels working in concert to confront and effectively reduce the incidents of gun violence in our community.

Is that not what it is all about, reducing gun violence?

> Actual, measurable reductions in violent gun crimes have occurred in all of the fine programs implemented throughout the United States, and of those the program in the Middle District, administered under the direction of U.S. Attorney Leura Canary, was chosen as one of the best. It puts an exclamation point on the statement of hard work that so many law enforcement agencies

> in central Alabama do each day to provide for the safety of the public.

Sheriff Jimmy Abbett of Tallapoosa County said:

> Alabama ICE has been very beneficial to our department in the successful arrest and convictions of persons in our area. The U.S. attorney has provided a willingness to work with local agencies. . . . The program . . . has provided local law enforcement agencies another tool to take the habitual criminals off the street.

That is what it is all about. Violent crime rates have reached the lowest level in 30 years, almost to the level of 1950. The crime rate went up steadily beginning in the 1950s into the early 1960s to the mid-1970s. In 15 years the murder rate doubled in this country. President Reagan came in and we saw about a 20-percent reduction. Then that flattened out during the crack cocaine years and then in the 1990s we began to see this go down.

One of the reasons is the Project Exile program that began in 1997 and is now spreading all over the country, which focuses on the criminal use of firearms. Whereas I am proud to review any legislation anybody wants to offer, I would note this, that I am willing to bet—I do not have the numbers on it, but I am willing to bet that perhaps 90 percent of the cases prosecuted in Federal court under these Project Exile type programs, the main ones are prosecuting any criminal in America who carries a firearm or possesses a firearm after having been convicted of a felony. If one is a felon, they are no longer able to possess a firearm. If firearms are kept out of the hands of felons, we are going to have less murders.

The next one is very close and very significant. It is carrying a firearm during the commission of a crime. It can be a crime of violence, a drug crime, a burglary, or a robbery. If someone is carrying a gun during criminal activity, they have a mandatory 5 years, 60 months, without parole, if they are convicted, in addition to what time they get for the underlying crime. That information is getting out there. The word is out there. Fewer and fewer criminals are carrying guns because of that.

Then there is carrying a sawed-off shotgun, possessing a firearm where the serial number has been erased or erasing a serial number. Those are the kinds of activities that form the bread and butter of the criminal prosecutions I mentioned today. That is what will break the back of crime. That is what can hold out hope that if we effectively and professionally maintain the pressure on the criminal gun element through these prosecutions, we can reduce crime, make our communities safer, and save innocent lives.

I do not think suing gun manufacturers is the right approach. That is not the way we are going to deal with it. We have the right approach. It was proven by the U.S. attorney in Richmond. It is being replicated all over America today. The Attorney General is driving this as one of his highest priorities, and if we stay on it, we are going to continue to see the murder rate in this country go down. Who knows, the murder rate could actually reach the level of the 1950s. We are not far from that today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, I will take a moment to talk about the bill.

Mr. SESSIONS. Mr. President, would the Senator yield for a question?

Mr. REED. I would be happy to yield for a question.

Mr. SESSIONS. I hope the Senator is not too disturbed with me. I noticed in the New York Times today they had my picture in there and they described it as that of Senator REED. It probably will cost him 50,000 votes in his home State. But it was not my fault and if the Senator sues anybody, sue the New York Times.

Mr. REED. Reclaiming my time, I say to my distinguished friend and dear friend from Alabama, I am not perturbed. I just fear for his safety, and I thank him.

Mr. President, we have heard over the course of the last few days numerous homilies about personal responsibility. The irony, of course, is this legislation says everyone is responsible except for gun manufacturers, gun dealers, and gun trade associations.

There has been a discussion about the law. If one breaks a law they should be punished, but such discussions fail to capture the fact that we have essentially two systems with our legal system. There is the system of laws, the statutes, the ordinances that are passed by legislative bodies such as this body, and then there is the civil law: the criminal law and the civil law.

The Senator from Alabama went on at length about how we can enforce criminal laws more effectively; we can do good things with respect to criminal law enforcement. But I think we are ignoring the sense that there is also this civil law, where people can go to court if they have been injured and seek redress.

What this legislation would do is prevent many Americans who have been injured from going to court and seeking redress, either some type of compensation or some type of equitable remedy.

It is important that we recognize this bill will deny a voice to many people, modest people, who have been injured and who seek redress.

I was trying to think of a somewhat mundane example about these different systems. Since so much of this legislation talks about, well, if a particular statute is violated, one will be liable, but there is this intersection of obligations both under the criminal law and statutes and under the general principles of civil law.

The example I think of is there are some jurisdictions that make it a violation of the law to operate a cell phone in one's hand while they drive, and if one had an accident in that circumstance and someone is injured, the person could be prosecuted for violating the law, but they also could be sued because they have an obligation and duty to pay full attention as they drive. In other jurisdictions without this law, one could not be criminally charged but, of course, they could be sued.

Here is what essentially this legislation does in lots of respects. It says we are disregarding those instances where one has a duty to someone under the civil law. We will let them proceed with their suit if there is a criminal violation or a statutory violation, a violation of regulations, but for the vast number of other responsibilities we owe to each other, that are defined for the civil law, one will not have the opportunity to go to court.

Essentially, what we have said is we all have these obligations and responsibilities, except this now special, privileged class of gun manufacturers, gun dealers, and gun associations.

There is the presumption that has been persistent throughout that the law of the United States in general does not recognize any type of obligation if there is a criminal intervention, if a criminal gets involved in proximity to the injury. As I mentioned before, the black letter law of this country that is established in the restatement of torts clearly says if there is a criminal intervention, one can still be held liable for negligence if they fail to perform their duty, even if in the chain of action of causation there is a criminal act. So this notion that we are charging these gun dealers and gun manufacturers with the crimes of another, a bad person or criminal, is without substance.

What Senator LEVIN said so eloquently and others said so eloquently talking about his amendment, is this is about the responsibility of the manufacturer, the gun dealer, and the gun associations to fulfill their duties to the general public and to specific individuals who have been harmed: the duty to secure weapons, the duty to act reasonably, the duty to look beyond the superficial aspects of someone coming into a store.

We have seen classic examples: The fellow who walks in with the girlfriend and picks out 12 weapons, gives her cash, she pays for it. It is so suspicious that the operator of the gun store calls ATF and says, well, I got the money, they got the guns, but watch out for them. That was the circumstance that led to a chain of causation to the serious wounding of two New Jersey police officers. That gun dealer had an obligation to avoid straw purchases. He did not even follow the standards of the industry in terms of being careful of selling multiple guns to some person under those circumstances.

So it is not about the crimes of others being attributed to gun dealers and gun manufacturers. It is not about social conditions that are being excused by these suits. It is about whether an individual had a duty to another person who was injured and failed to carry out that duty.

One of the major reasons we are here, taking very radical action to change 200 years of legal history in the United States, taking the radical action of going into 50 States and saying, We don't care about your laws—the General Assembly of Rhode Island, the General Assembly of North Carolina, of Alabama—we don't care about your laws, we don't care that for 200 years, you specified the standards for negligence in your State, we are changing them for these special people. We don't care that your courts should have the right to take the claims of your citizens who have been harmed. We don't care about that. And we are doing it for a very narrow, defined group of individuals. This is a radical departure from the standards we have adopted and abided by for 200 years.

The pretext for all of this is that there is this huge crisis with respect to manufacturers that threatens their existence, that they are financially on the ropes, that these suits are numerous and literally driving them to bankruptcy.

Where are the facts? The facts that we can establish from the public filings of certain companies suggest that there is no crisis. There is no crisis at all. This is a manufactured crisis. This is a pretext to do the bidding, I believe, of the gun lobby. If you look at the facts as reported, there is no financial crisis that is apparent.

Yesterday, my colleague, the Senator from Idaho, read a letter from the president and chief executive officer of Smith & Wesson that talked about or tried to explain their filings with the Securities and Exchange Commission, their 10-Q filing, and concluded with a stirring passage about the necessity, the criticality of this legislation to Smith & Wesson. It gave the suggestion, of course, that my discussion of their financial reports was somehow inaccurate or incomplete. So I went back and I got their 10-Q report, which was filed on March 10, 2005, for the period January 31 to March 10. It was filed, let me say, March 10, 2005.

They go on to describe these suits, as generally is done. They conclude:

> We monitor the status of known claims and the product liability accrual, which includes amounts for defense costs for asserted and unasserted claims. While it is difficult to forecast the outcome of these claims, we believe, after consultation with litigation counsel, it is uncertain whether the outcome of these claims will have a material adverse effect on our financial position, results of operations, or cash flows.

They are not quite certain whether those cases will cripple them. They go on to say:

> We believe that we have provided adequate reserves for defense costs.

They go on and say further:

> We do not anticipate material adverse judgments and intend to vigorously defend ourselves.

In a sworn statement to the Securities and Exchange Commission, they say: We don't know if this is going to be critical to our financial status. In fact, we don't anticipate material adverse judgments. We don't think any of these cases will be resolved in a way that will negatively affect our position, and we will vigorously defend ourselves.

They went on to say, and we said this before on the Senate floor:

> In the nine months ended January 31, 2005, we incurred $4,535 in defense costs, net of amounts receivable from insurance carriers, relative to product liability and municipal litigation.

That is $4,500, basically, out-of-pocket costs they have received from reimbursements from insurance companies. That is the nature of insurance: You pay the premium; if something happens, you get reimbursed.

> During this period, we paid no settlement fees relative to product liability cases. As a result of our regular review of our product liability claims——

looking at these claims we talked about here as strangling their ability to be competitive and to survive——

> we were able to reduce our reserves by $286,022 for the nine months ended January 31, 2005.

This is such a perilous threat to a company like Smith & Wesson that they are actually reducing the reserves they have on hand to handle these claims.

Again, this is not a crisis. Again, their own data suggest—this from their Web site. This is 2001. These are the industry municipal cases pending or on appeal: 32 and 10 in 2001; in 2002, 26 and 8; 2003, 20 and 5; 2004, 13 and 4; 2005, 4 industry municipal cases pending and 2 product liability cases pending against Smith & Wesson.

The curve is going the wrong way for a crisis. It is going down: four, and two pending cases. It suggests that the courts are doing their job, that the present system we have in place is actually handling these cases pretty well. There is no flood of cases coming over the transom. In fact, this is exactly consistent with their reduction of the reserves for liability because it appears that these cases are dwindling, not increasing. It appears that the system is working pretty well right now. Yet we are here today debating legislation that will deny the rights of individual citizens to go to court, rights they have enjoyed for 200 years in this country, rights that stem not from the actions of criminal third parties but from the failure of the individual defendants to take appropriate action in their duty with respect to the general public and specific individuals.

It is the same with respect to other companies for which we have public records. Many of these companies are privately held. Beretta USA is domiciled in the United States, but it is a subsidiary of an Italian corporation which is privately held, and they are not publicly reporting. But all of this suggests again—not only with Smith & Wesson but with Sturm, Ruger—that there is no material adverse impact reflected by these individuals in their reporting under the pain of penalty for perjury under the Securities and Exchange Commission.

Also, there is a general record of claims and legal cases which goes to suggest that these suits are not an epidemic. As we have indicated before, from 1993 to 2003, 57 suits were filed against gun industry defendants out of an estimated 10 million tort suits. I am not good at math, but that is way below 1 percent. This is not an epidemic. This is not a crisis. Certainly this is not a crisis that is going to threaten our national security.

We have heard claims that the gun industry is being forced to spend hundreds of millions of dollars. The alleged litigation costs have risen in $25 million increments. In fact, I think they have risen since we started this debate, from what I have heard, without any kind of factual data to support them. They are just claims that they are spending all of this money. In fact, if you look at these SEC reports, it hardly adds up to $200 million. Indeed, it seems, based on Smith & Wesson, that reflecting the declining cases they are actually reducing their reserves and potentially, hopefully, reducing what they have to pay out of pocket. But these estimates grow and grow and grow. In 2004, it was $150 million in July. In November 2004, other estimates, $175 million. Now it is up to $200 million. I think I heard in this debate $250 million. No substantiation, no documents, no data.

This is not a crisis. Yet we have displaced the Defense bill to take up this legislation. We have displaced other legislation that could be extremely valuable in order to take up this legislation. Because there is no crisis——

Mr. DURBIN. Will the Senator yield for a question?

Mr. REED. I am happy to yield.

Mr. DURBIN. First, I thank the Senator from Rhode Island for his leadership on this issue. The Senator from Rhode Island is a member of the Armed Services Committee. I think it raises some questions and bears repeating that we left the Department of Defense authorization bill, which was on the floor of the Senate, the bill for our Department of Defense that covers our soldiers and their families, buys the necessary equipment so they can execute the war successfully and come home, with amendments pending relative to payments to widows and orphans for soldiers who died in the line of duty, with amendments pending to provide additional assistance to totally disabled veterans, with an amendment pending that would have provided additional compensation to members of the Guard and Reserve who happen to work for the Federal Government and are activated.

I would like to ask the Senator from Rhode Island, can the Senator from Rhode Island tell me, before we moved to this special interest legislation to protect the gun industry manufacturers and dealers from personal responsibility for their wrongdoing, would the Senator from Rhode Island describe for those following the debate what was on the floor of the Senate when the Republican leadership decided to move to this bill?

Mr. REED. I thank the Senator from Illinois for his question. There were a series of extraordinarily important questions with respect to the quality of life for our soldiers and their families: childcare amendments, amendments with respect to veterans health care, amendments that applied not only to active-duty personnel but their dependents. We had passed legislation already, an amendment that would increase the number of up-armored HMMWVs we are providing to our soldiers. That stands in abeyance until we finish the legislation.

There were important inducements for additional service and enlistment that are necessary to meet the growing and real crisis in recruiting military personnel. If you want to talk about a crisis, it is a crisis, the fact that our Army, despite efforts, has fallen short of the recruiting goal at a time when we need every person to fill out the demand for operations in Iraq and Afghanistan and around the world. It is extraordinarily serious.

I don't know if I can find it, but I saw an editorial cartoon in a magazine, a newspaper, which had a picture of a humvee and three soldiers. The caption, if I recall it, is:

> Why don't we just take a 4-week recess during this difficult time and then return to this operation afterwards?

Essentially, I think it captured the dilemma the soldiers are feeling right now. What are we doing?

As the Senator previously indicated, in the Army Times, they wrote of this:

> Senate delays action on the defense bill.

I ask unanimous consent to have two articles printed in the Record, one from the Hill and the other from the Army Times, which talk about this issue of leaving the Defense bill and also the impact on procurement of weapons because of this legislation.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From The Hill, July 28, 2005]

### FRIST: LAWSUITS THREATEN GUN SUPPLY

(By Roxana Tiron)

Senate Majority Leader Bill Frist (R-Tenn.) interrupted debate on the 2006 defense authorization bill to consider legislation to block lawsuits against gun manufacturers, saying that "frivolous" litigation could leave the Defense Department without a U.S. source for sidearms.

Despite Frist's alarming claims, the military is not currently facing any shortage of small arms, according to Pentagon officials.

American gun manufacturers supply the military with hundreds of millions of dollars worth of small arms, which includes a broad variety of firearms from pistols to machine guns. The weapons are worth even more when ammunition, modifications and special features such as optical sights are included.

The U.S. firearms industry has been facing repeated lawsuits, an attempt to hold manufacturers liable when guns that were sold lawfully are subsequently misused by criminals, explained Lawrence Keane, senior vice president and general counsel for the National Shooting and Sports Association, a nonprofit organization representing the firearms industry.

The Senate is considering a new version of a gun-liability measure that was effectively killed by its own supporters last year. Sponsored by Sen. Larry Craig (R-Idaho), the measure would prohibit civil-liability actions against manufacturers, dealers and importers of firearms and ammunition in any state or federal court.

In April, the District of Columbia Court of Appeals ruled that any victim of a shooting in the District could sue the industry, which Keane said would make gun manufacturers "absolutely and automatically" liable for a criminal shooting in D.C. Beretta USA, the manufacturer of the M9 pistol, the standard firearm for the armed forces, expressed concern that a single jury ruling in the District could bankrupt the company.

"Every criminal shooting in the District gives rise to a suit against the industry, and these are the types that need to be stopped," Keane said.

"Without this legislation it is probable the American manufacturers of legal firearms will be faced with a real prospect of going out of business, ending a critical source of supply for our armed forces, our police and our citizens," Frist said.

Frist's decision to take up the gun-liability measure comes amid an Army review of more than a half-dozen requests for proposals for new small arms. In fact, the Army has extended the request for six months to allow more companies to compete and included the Marine Corps's requests, according to an Army spokesperson.

While the Defense Department refused to comment on "speculative legislation," an Army spokesperson said the Army currently is not experiencing any problems with the supply of its sidearms. The Army is the purchasing agent for most services' sidearms; some exceptions exist for special-operations forces.

Army leaders are revamping their small-arms inventories to be better suited to the kind of guerrilla wars being fought in Iraq. The spokesperson said the Army has not had problems buying these weapons, although the spokesperson acknowledged that because the Defense Department is the largest gun purchaser, it could serve as a "relevant hypothesis" for Frist's arguments.

"These frivolous suits threaten a domestic industry that is critical to our national defense, jeopardize hundreds of thousands of jobs," Frist said. "Many support this legislation, and I am hopeful that with the cooperation of members we can complete all action on this legislation before the recess."

Frist used the gun-liability legislation in part as a strategy to divert attention from amendments related to treatment of detainees and the Pentagon's base closures and realignments. The Bush administration opposes those amendments.

Keane argued that the liability bill still allows manufacturers to be sued if they violate any laws governing gun sales.

"There is nothing in the legislation that prevents the Alcohol, Tobacco and Firearms Bureau from enforcing the gun-control act because a dealer has violated regulations," he said.

According to Keane, the gun industry has spent at least $225 million on lawsuits in the past 10 years and small companies such as Charco 2000 have filed for bankruptcy because of lawsuit expenses. Both Beretta and Sigarms, the two top suppliers to the military have been sued numerous times.

"If . . . [a company] like Beretta, which has been sued, is driven out of business, it will not be able to fulfill [its] contractual obligation," to the military, Keane said.

He argued that these issues should pose immediate concern to the Defense Department. The firearms (buying) system hasn't "collapsed," said the spokesperson.

Beretta recently received a contract to supply 18,744 M9 semiautomatic pistols to the U.S. Air Force with an option to purchase an additional 5,190 pistols.

The pistol is produced at the Beretta USA headquarters in Accokeek, MD., where it has been made for 20 years. The Air Force plans to buy 34,374 M9s between 2004 and 2007 at a price of $39 million, according to Air Force budget projections. Meanwhile, the Army is planning to buy $8 million worth of modifications to the M9 and M11, which is produced by Sigarms, between 2006 and 2007.

The Navy is planning to buy 1,069 M11s through 2011 at a total cost of $722,000 and to spend $5.6 million on modifications to the M9 pistols, which are supposed to be completed this year.

According to Hoovers, a business-information service, Beretta's revenue is estimated at $72.7 million annually.

Another major gun manufacturer, Smith & Wesson, which provides firearms to law-enforcement officers, told the Securities and Exchange Commission that it is expecting its sales to reach $124 million this year, 5 percent higher than last year.

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[From the Army Times, July 26, 2005]

### SENATE DELAYS ACTION ON DEFENSE BILL

(By Rick Maze)

Senate Republican leaders decided Tuesday that a gun manufacturers' liability bill is more important than next year's $441.6 billion defense authorization bill.

With Democrats expressing amazement that there could be any higher legislative priority in a time of war than the annual defense bill that includes money for pay and benefits, operations and maintenance, and weapons purchases and research, Sen. Bill Frist of Tennessee, the Senate Republican leader, decided Tuesday that a bill protecting gun manufacturers from lawsuits over the illegal use of firearms was a higher priority.

The decision came after Republican leaders failed to muster the 60 votes needed to prevent amendments not strictly related to the defense budget from being offered to the defense bill.

In a count of 50-48, seven Republicans joined Democrats in voting not to restrict debate, a move that Democratic leaders said would have prevented consideration of amendments to help veterans and survivors of deceased service members, along with other issues.

With Congress planning to leave town Friday for one-month break, debate on S. 397, Protection of Lawful Commerce in Arms Act, is expected to last two or three days, and then Senate leaders plan to take up an energy bill, an estate tax reform bill and an Interior Department funding bill that has a $1.5 billion bailout attached for veterans' health care programs, leaving no time until September to get back to the defense bill.

The House approved its version of the defense bill in May and has been waiting for the Senate to catch up to begin negotiations with the Bush administration on a final version.

Delay in the Senate is partly a result of senators spending three weeks this spring debating federal judicial nominations before reaching a compromise on President Bush's nominees.

It all points toward a difficult autumn. When the Senate returns in September from its month long summer recess, it will need to consider recommendations of the Defense Base Closure and Realignment Commission, due to finish its work by Sept. 8, and begin deliberations on the John Roberts to the Supreme Court vacancy left by retiring Justice Sandra Day O'Connor.

Mr. DURBIN. I will ask a question through the Chair. The Senator from Rhode Island, who has been speaking about the lack of emergency, the lack of crisis in the gun industry, and the fact that this is certainly not emergency legislation—I don't believe it is even wise legislation for us to consider—the Senator from Rhode Island is a graduate of West Point and a former officer in the U.S. Army. I would like to ask the Senator, who serves on the Armed Services Committee, as he has read these Army Times articles which raise questions about why the U.S. Senate would give up on the Department of Defense authorization bill for our troops, leave it behind and move to this bill, the special interest bill to protect the gun industry from their liability for their own wrongdoing, I would like to ask the Senator, what kind of impact can this have on the morale of the men and women who read about the Senate leaving this important legislation?

Mr. REED. I think at a minimum it puzzles them why we would shift from their concerns, which are so central to our national security and so central to the families of America, to move to a bill that is so narrowly focused on a special interest group and does not help them one bit in terms of anything we might do on this bill.

Perhaps it is summed up. I have located the cartoon. It is as I described before—a group of soldiers in a humvee, and the caption is:

I move we adjourn for 5 weeks and take up this contentious issue after the summer recess.

Frankly, no one in our military has the option of adjourning for 5 weeks to take up contentious issues after that time.

Mr. DURBIN. If the Senator from Rhode Island will further yield for a question to the Chair, I wish to make sure those following the debate understand what this bill does. I ask the Senator from Rhode Island, who has followed this issue more closely than any other Senator on our side of the aisle, is my understanding correct that if this is enacted into law, as a result of this legislation, if you are a gun dealer and you sell a gun to someone you knew or should have known was in a drug gang, a criminal, a drug trafficker, someone who is likely to misuse that gun, use it for criminal purposes, that this bill says that the victims of the violence from that purchaser cannot hold the gun dealer responsible for his negligence in selling this gun to someone they knew or should have known was going to misuse it and create victims, tragic victims, in their community?

Mr. REED. The legislation generally bars all suits involving negligence and restricts the exemption to some categories of specific violations of Federal law which arguably, in your hypothetical, it would not reach. The only exception, to be fair to the legislation, that might allow someone to go to court under the concept of negligent entrustment, which as drafted in the legislation would say you have to suspect, know that the person would use the weapon illegally, and that person has to use the weapon. But most commonly what happens is there is a straw purchaser, so the negligent entrustment argument doesn't work because that weapon is not being used by that person; it is given to a third party.

But I think the Senator's comment is exactly right. There are so many cases where this legislation has been carefully crafted to prevent people going to court, and the best examples are the ones of which we are already aware. The sniper case in Washington, DC, where a young teenager walked into a shop, shoplifted apparently a 3-foot assault weapon which was used to murder too many people here in the District of Columbia. That suit would be prevented by this legislation; in addition, the case of the straw purchaser and the police officer in New Jersey, prevented by this legislation. We have a case pending now where an individual, a young man, was killed by a weapon that was taken out of a factory, and the gun manufacturer would be exempt, immune from liability, even though he had no background checks on his workers who were criminals and drug addicts, he had no security devices and, in fact, missed any rudimentary standard of care that most reasonable people would say is associated with running a gun factory.

Mr. DURBIN. If I could ask the Senator from Rhode Island another question, through the Chair. If someone owned a daycare facility and hired, without any background check and without adequate investigation, an employee with a long criminal record of being a sexual predator, someone hired this person to work in a daycare center and that employee then harmed one of the children at the daycare center, I think the Senator from Rhode Island and I would agree that many would argue that daycare center was negligent, it had a responsibility it did not meet, and that this daycare center should be held responsible, even in court, for the harm that came to the child.

The example that the Senator from Rhode Island used was a gun manufacturer, who hired employees with long criminal records, including felonies, that had guns stolen out of the manufacturing plant by some of these employees with criminal records, and the guns were then used on the street to harm innocent people.

In the second example we have used—not the daycare center but the gun manufacturer—this bill would say you can sue the daycare center because they didn't do a background check on the employee who molested the children, but you can't hold the gun manufacturer liable for hiring employees with a criminal record, putting guns on the street and killing innocent children.

Mr. REED. That is exactly right, in my reading of the legislation. There are certain jurisdictions that have specific laws with respect to background checks on daycare centers. The gun industry is virtually unregulated, which is a very important point here. There is very little regulation deliberately on the manufactured weapons, the standards. As you point out so often with respect to product safety, toy guns are regulated by the Consumer Product Safety Commission, real guns are unregulated in terms of their safety. So there is no legal—very little legal statutory requirement. So it depends upon claims of negligence to get at this harm and to redress the harm caused, and this bill essentially wipes out that civil liability under our court system.

Mr. DURBIN. I ask the Senator from Rhode Island because I think it is a critical point, how many other businesses in America enjoy this exemption from liability, how many other businesses, producers of goods or services are held harmless for their own negligence and wrongdoing in courts of law across America? How many other businesses would have this special interest legislation that is being considered and may be passed by this Chamber?

Mr. REED. Virtually no other. Comments were made on the floor with respect to legislation passed back in 1994 with respect to general aviation. I think it is important at this juncture to clarify that. There was very limited legislation that applied to general aviation aircraft, 18 years or older, in terms of liability because of the concern about the manufacturing base. But there is a distinct difference between this legislation and the General Aviation Revitalization Act of 1994, and it goes to the point we just discussed. There is no more highly regulated industry than the aviation industry. Every time an engine is worked on, there has to be a log entry made which is subject to the jurisdiction of the Federal Aviation Administration. It is the most detailed legislative scheme we have in place perhaps because the safety of the passengers, all of us, depends upon it. So giving a limited grant of immunity to an industry that is so highly regulated is quite different than telling an unregulated industry you have no liability. That is essentially what this bill does, with very minor exceptions; clearly, I think exceptions which were artfully crafted to avoid the cases that exist today.

Mr. DURBIN. I would like to ask, through the Chair, if the Senator from Rhode Island would further yield for a question. We have talked about the gun manufacturer who did not do a background check on his employees and the employees stole guns without serial numbers on them—the guns went onto the street and were used to kill innocent people—that that gun manufacturer would escape liability under this bill that is before us. I would like to ask the Senator from Rhode Island about the example where someone who is a gun dealer, knows that under the law you cannot sell guns to felons, people convicted of a felony, sees someone who comes in with another person, we call them straw purchasers, someone else who is going to buy the guns, a girlfriend, some other person. We had a case I believe the Senator referred to, a 10-year-old boy in Philadelphia on his way to school gets right to the gates to go into the schoolyard, a gang member comes up and shoots him in the face. He survived, was conscious for a few hours and then lapsed into a coma and died. It turns out that the gun was traced to a store where it was sold to one of these straw purchasers—the other purchaser, the real purchaser who wasn't eligible to buy it, standing next to them. So it was pretty clear what was going on. The store clerk charges extra because there is a straw purchaser involved, acknowledging they know that this gun is being bought by one person to be given to another.

So what the Senator from Rhode Island is telling us is that this bill says the family of that 10-year-old boy shot in the face, who died by that gun, cannot even go to court to hold responsible the gun dealer who knowingly sold this gun to a straw purchaser to avoid the law.

Is that my understanding of this as it is written?

Mr. REED. I think the Senator is right. The only exception that could be argued would, I believe, be the exception with respect to negligent entrustment. As I pointed out, that has been defined to mean that the individual who receives the weapon—you have to have also the suspicion that that person is going to use the firearm. In the classic case of a straw purchaser, they are the conduit to someone else——

Mr. DURBIN. Middleman.

Mr. REED. Middleman. So that the argument made by lawyers would say negligent entrustment, saying they gave it to inflict harm. Therefore, this very narrowly defined exception would not apply. Generally, the case I believe would be thrown out of court.

Mr. DURBIN. I would ask the Senator from Rhode Island, when it comes to protecting gun dealers from civil liability, from being held responsible in court for their wrongdoing, I have read repeatedly that when you consider all of the licensed gun dealers across America, it is a very small percentage that repeatedly sells guns that, when traced, are used in the commission of crimes. It turns out, in my State of Illinois and in many other States, that the gun dealers who are the real wrongdoers, the ones who are abusing the system, are not the gun dealers selling in downstate Illinois, where I live, to the hunters and sportsmen and people who go to target ranges or want a gun for self-defense, the real perpetrators of crime or wrongdoing who are protected by this turn out to be a handful of dealers in my State who again and again and again sell guns that end up involved in criminal activity.

So I would ask the Senator from Rhode Island, who are we trying to protect here when it comes gun dealers?

Mr. REED. The Senator asks an important question. According to Federal data from the year 2000, 1.2 percent of dealers accounted for 57 percent of all guns recovered in criminal investigations—1.2 percent of dealers, 57 percent of the guns recovered from criminal investigation. In fact, the national crime tracing data from 1989 through 1996 gathered by the U.S. Bureau of Alcohol, Tobacco and Firearms and Explosives has a virtual scorecard on these egregious offerings.

Badger Outdoors, Inc., in West Milwaukee, WI, the dealer sold more than 554 guns traced to crimes, 475 of these guns had a "short time to crime," as defined by ATF; that is, almost immediately they were in the hands of someone and had some type of criminal activity.

I could go on.

Well, for the benefit of the Senator, Realco Guns in Forestville, MD; Southern Police Equipment in Richmond, VA; Atlanta Gun and Tackle in Bedford Heights, OH; Colosimo's Inc. in Philadelphia, PA; Don's Guns & Galleries in Indianapolis, IN.

Mr. DURBIN. These are the gun dealers.

Mr. REED. Elmwood Park, IL; Breit & Johnson Sporting Goods in Elmwood Park, IL.

Mr. DURBIN. These are the gun dealers that repeatedly sell guns that are traced to crimes. I ask the Senator from Rhode Island this question. The argument used for this gun legislation is, how can you hold a gun dealer responsible? For goodness sakes. How will they know what is going to happen to this gun? They sell the gun to a purchaser, the gun leaves the shop. Why in the world would you hold the gun dealer responsible? In the cases we have cited, in the examples which the Senator has used, you have gun dealers, 1.2 percent, who are responsible for more than half the guns traced to crimes. In these dealers you have repeated sales, and over and over again, hundreds of times, to those who will use them in crime. It obviously raises a question which the supporters of this legislation can't answer, and that is why you are trying to protect these miserable bums. Why are you trying to say they can't be held responsible for the devastation and killing and violence that goes on, on our streets when they are sitting there churning out firearms that are used day after day in the commission of a crime.

I ask the Senator from Rhode Island, why do we not create an exception in this law for those who are repeat offenders as gun dealers who continue to sell these guns used in crime and we know it and we have the facts to prove it.

Why in the world should we protect them in this legislation?

Mr. REED. The Senator's point is extremely well taken. I think there should be at least that exception. I would argue, frankly, that the bill could be further modified to essentially allow individuals who have been harmed—move away from the issue of municipal suits but that is exactly the political implication—to let those suits survive. In fact, as Senator LEVIN urged, increase the standard from negligence to gross negligence, so further undercutting the argument about frivolous junk lawsuits.

That would be a broader remedy, but your proposal is very wise.

Let me give you an example of that store in Elmwood Park, IL, which I presume is close to Chicago.

Mr. DURBIN. Yes.

Mr. REED. This dealer has sold more than 347 guns traced to crime; 271 of those guns had a short time to crime as defined by ATF—again short transit from the time it was sold to the crime scene. The guns were involved in at least 27 homicides, 46 assaults, 23 robberies, and 271 additional gun crimes. The dealer also sold at least 5,429 handguns in multiple sales. That is another possible important remedy, the issue of multiple sales.

Anthony Garner was arrested for gunrunning after he bought 16 handguns from Breit & Johnson that were then sold to Chicago gang members. At least one of those guns was used in a gang-related killing. Andrew Young, age 19, was killed by Mario Ramos, a gang member with a gun from Breit & Johnson.

The list goes on and on. We have these statistics. These are collected by the ATF. We know what's going on.

Mr. DURBIN. I would ask the Senator from Rhode Island, I am a member of the Senate Judiciary Committee, and we are considering two different bills to deal with criminal gang activity across America, which is a serious problem.

We are coming down with a variety of different ways to deal with these criminal gangs, to investigate them, to break them up, to arrest them, to make certain they face serious sentences for intimidation of witnesses, for recruiting young people into their gangs.

I ask the Senator from Rhode Island, how can a Member stand in the Senate and say they are dedicated to stopping criminal gang activity in America and vote for this bill which allows gun dealers who have clear histories of selling repeatedly to gang members firearms that are being used to kill innocent people? How can a Member say they are against criminal gangs but are in favor of the gun dealers who are providing them with their firearms?

Mr. REED. The Senator raises an excellent point. I phrase it slightly differently, but I reach the same conclusion.

If gun dealers—who now have the threat of a civil suit if there has been negligence—are so cavalier in their attitude about guns, selling them to criminals, to straw purchasers, what happens when they are fully immunized or virtually immunized from any type of liability? What happens when they know that no family is going to come in and say, My son or daughter died because of your negligence, and we are going to see if we can take you to court and get something back—we will never get the child back—but something back.

What about the surviving spouse or children who need something to maintain the quality of their life because they have lost their breadwinner?

There is the case of Conrad Johnson, killed by one of the DC snipers. Those cases would be barred by this legislation.

It is not that the individuals, families, and the survivors are denied their day in court, but any incentive to be responsible, to be scrupulous, to look harder to determine whether that person is buying the weapon at the direction of another, as a straw purchaser, is virtually eliminated. The consequences are going to be much worse. These dealers will be more flagrant, more blatant, less restrained. It is hard to see how they could be more blatant than they are today.

Mr. DURBIN. I ask a final question. There has been a lot of discussion in the Senate about the fact there is no exception for gun dealers who sell their guns to people who turn out to be on the FBI's Most Wanted list or those who may be involved in terrorism.

As the Senator from Rhode Island is undoubtedly aware, immediately after September 11, we raided one of the al-Qaida headquarters in Afghanistan and discovered one of their training manuals in which they gave advice to terrorists coming to the United States about buying their firearms in the United States because it was easy to buy a gun in this country.

I ask the Senator from Rhode Island, when it comes to the exceptions in this bill, is there any exception such as the one suggested by Senator KENNEDY that would put gun dealers on notice not to sell guns to people who are on the FBI's Most Wanted list so that we would say, you cannot get off the hook and be held, that you are not liable, not responsible for wrongdoing with a weapon if you did not take the time to check the FBI's Most Wanted list when you made that sale.

Mr. REED. The Senator is again accurate. Unless Senator KENNEDY's amendment is allowed to be voted upon, there is no prohibition against looking at the person's picture on the FBI's Most Wanted list, looking at the person and saying: Have a nice day. Take the gun.

Again, one could argue that if that person actually uses the weapon, it might be negligence, but if he or she is a straw purchaser or buying lots of weapons to pass out, they would escape liability.

Mr. DURBIN. I might just say, in closing, to the Senator from Rhode Island, when we traced criminal guns used in Illinois to kill people and commit serious crimes and tried to figure out where they were coming from, the largest supplier of guns to the State of Illinois of was Mississippi. In Mississippi, the enforcement of local gun laws is so relaxed and the enforcement of Federal laws is so relaxed that people could literally buy a van full of cheap "Saturday night specials," get on the interstate highways and head north to Chicago, Springfield, and St. Louis, selling those guns on the street.

I ask the Senator from Rhode Island, is there anything in this bill which will make it more difficult for those gun traffickers to buy these guns, turn them loose on the streets to kill innocent people in my State or any State in this country?

Mr. REED. I don't see that. In fact, I don't see that as the purpose of this legislation. This is not about preventing criminals from getting weapons. It is preventing victims of gun violence from getting their day in court.

Mr. DURBIN. I thank the Senator from Rhode Island.

Mr. REED. I thank the Senator for his questions.

The line of questioning that the Senator from Illinois has opened raises the issue: What are the exceptions? How can someone get to court if they have been harmed?

Since we have had a robust discussion, and I see the Senator from Ohio in the Senate, I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, when this bill was before the Senate in the last Congress, I came to the Senate to oppose it. I opposed it because it denied certain gun crime victims, certain individuals who were victims of crimes committed with guns, their day in court. It singled out a particular group of weapon victims that it treated differently than we treat any other victims in the whole country. It set them apart.

Unfortunately, the bill before the Senate is no better than the one we had last year. In fact, it is worse. Not only does it grant immunity to the gun industry, the bill also prevents Federal, State, and local government agencies from shutting down gun dealers who violate the law. Local and State governments are responsible for ensuring that restaurants are clean, that doctors are properly licensed, stores do not sell alcohol and cigarettes to our children. Why can't they also ensure that gun dealers and manufacturers operate responsibly? Why do we want to take that right away from them? Yet the current language of the bill before the Senate would do that.

I have great respect for the many firearms dealers and manufacturers around this country who are legitimate, honest and hard working. The vast majority of dealers have no tolerance for buyers who circumvent gun laws. These dealers are also responsible, ensuring that they have adequate inventory control systems in place so that guns do not get lost or become missing.

This bill would not help them. The responsible dealers don't need this bill. Cases filed against responsible dealers and manufacturers who have done nothing wrong can already be tossed out if they have no merit, as any frivolous lawsuit will be tossed out in a court of law if they are filed against any manufacturer of any product or against any wholesaler or retailer of any product.

Who, then, will benefit by the passage of this bill? The people who will benefit are the irresponsible dealers and the irresponsible manufacturers.

Let me describe some cases. Everyone remembers all too well the tragedies of the DC sniper cases. Some of the victims of the DC snipers sued Bull's Eye Shooter Supply, the gun dealer that negligently allowed a Bushmaster rifle to reach the hands of John Allen Mohammed and Lee Boyd Malvo. That suit was successful. In the settlement, the negligent dealer—we could have assumed he would have been found negligent in a court of law—agreed to pay the victim and their families $2.5 million.

If this bill had been in effect a few years ago, these victims would have had no recourse in court.

Or perhaps we remember Danny Guzman, from Worcester, MA. On December 24, 1999, Danny Guzman was shot and killed by a gun that was taken from a factory run by Kahr Arms. Unfortunately, Kahr Arms hired Mark Cronin, an individual with a history of crack cocaine addiction and theft. Cronin was given unfettered access to the untraceable, unstamped guns in the factory. He bragged, in fact, that it was so easy to remove guns that he "does it all the time and he could just walk out with them."

Cronin removed one of these guns from the factory. That gun ended up on the streets, and tragically it was used to kill Danny Guzman. Those are the essential facts.

Danny Guzman's estate, on behalf of his widow and two young daughters, sued Kahr Arms, alleging that it operated its plant in a grossly negligent manner, and in the spring of 2003, a State judge allowed that case to proceed. If this bill passes, however, the widow and children of Danny Guzman would be out of court.

As we can see, this bill cuts to the core of civil liability law and guts it. As my colleagues know, now, under current law throughout this country, the victim needs to prove the defendant acted in an unreasonable manner—basic negligence law, the law those who are lawyers learn about in the first and second year of law school. It is the law of negligence that prevails in courts of law in every type of civil case. It is not unusual. It is what it is.

Under negligence law, if the defendant fails to meet his or her duty to act in a responsible fashion, they are liable for negligence as long as that failure leads to harm to the victim. That is what is required. It is negligence. It is as simple as that. That is the standard. It is a standard we have developed over 200 years in this country, a standard we inherited from the British system. So we have hundreds and hundreds of years of experience in how to apply the rules of law, the common law negligence.

This bill says that those rules will no longer apply for one set of victims. These rules that we have taken hundreds of years to develop will no longer apply to one set of victims and to one set of defendants.

When we study law, one of the first things we learn is the difference between civil and criminal law. Someone who did not commit a crime can still be held liable in civil law to someone else and have to pay monetary damages. That is a basic concept.

This bill, however, changes that fundamental idea of civil law because under this bill a victim cannot sue a gun dealer for damages resulting from illegal actions of a third party without also showing that a dealer is guilty of a violation of the law, even—even—when the dealer has been negligent. Again, that is a fundamental change in our law with one group of civil defendants.

If this bill were to become law, a plaintiff would not only have to demonstrate that a gun dealer acted negligently, but also that the gun dealer broke the law—broke the criminal law. In other words, the plaintiff would—with one lone exception that has already been talked about on the floor a few moments ago—have to prove the gun dealer violated a statute or is guilty of a crime.

We do not require this in any other place in our law. Why do we want to do it in this case? If those who come to the floor in favor of this bill think it is such a great idea to do it in this case, if they think it is such a great idea to require that they have to violate a criminal law before you can sue them, then why not just pass that law for everybody? Why not make it the law of the land that in any civil suit in this country you have to have violated a criminal law? Why not change our civil law, turn it upside down, in all 50 States of the Union, if it is such a great idea?

I do not see anybody coming to the floor who is in favor of this bill saying it is such a great idea to do that. I do not see anybody proposing to do that. Yet they want to do it for one set of victims. They want to single out one set of victims. If you are a victim of guns—and it could be that somebody, a manufacturer, a gun dealer, has been negligent—we are going to require, for you to get inside the courthouse door, for you to even enter the courthouse door, before you can get what every American has the right to have—and that is a trial by jury, a trial, the opportunity to have your case heard by a judge and a jury—we are going to require you to prove there has been a crime committed.

We do not require that for any other group of people. So if they think it is such a great idea, let them come to the floor and propose that, to make it a universal law for every civil suit in the country.

I would like to talk for a moment about the language in this bill that might well prevent the Government from enforcing our gun laws against irresponsible gun dealers. This provision goes well beyond barring civil suits by private citizens who have been wronged. This provision is a new provision. It was not in last year's bill. This provision potentially curtails the ability of the Bureau of Alcohol, Tobacco, and Firearms, the ATF, from enforcing the gun laws that are currently on the books.

Two former ATF Directors recognize the potential harm that comes from this provision. According to Stephen Higgins, ATF Director from 1982 to 1995, and Rex Davis, ATF Director from 1970 to 1978, this broad, new language contained in this legislation in front of us today would likely prohibit the ATF from initiating proceedings to revoke a gun dealer's license, even when that dealer supplies guns to criminals.

Let me repeat that. According to both of these former ATF Directors, this broad, new language would likely prohibit the ATF from initiating proceedings to revoke a gun dealer's license, even when that dealer supplies guns to criminals.

So not only are we shielding these bad apples, bad actors, people who ought to not be doing business, not only are we shielding them from civil liability, now we are coming along and saying the ATF cannot enforce the law against them. What in the world are we thinking?

I think that everyone in this body can agree it is important for us to enforce gun laws that we have on the books. Why in the world is there attached a provision to this bill that would make it harder for ATF to enforce our laws and shut down wayward and dangerous gun dealers? Why in the world would we want to do this? I don't know.

Why would we want to strip away the opportunity of a gun victim to get into court? Why do we want to do either one of those things? I guess the answer is pretty simple. This bill ties the ATF's hands, ties the hands of private citizens, ties the hands of State and local agencies. It shields a certain group of defendants—gun manufacturers and dealers—from liability. This bill grants immunity. It overturns well over 200 years of civil law, 200 years of tort law, 200 years of common law.

If it passes, this bill would fundamentally change our justice system. It would do this by denying one group of citizens access to the court system in order to protect another group.

Why in the world are we about to do this? The only reason I can think of is because there are the votes here to do it. There is the power to do it. It can be done. One group in the country can get it done.

Now, Mr. President, I can count. I know how this vote is going to turn out. But that still does not make it right. Just because there are votes to pass this legislation does not mean it is the right bill for our country, for the victims, or for the American people.

I said this last year, and I will say it again. I will make a prediction about this bill. I will make a prediction about the effect it will have on this group of victims. Yes, the passage of this bill will get rid of some frivolous lawsuits. There is no doubt about that. We could get rid of a lot of frivolous lawsuits in this country by prohibiting access to the courthouse. There will be lawsuits that will never be filed because of this bill. That is true. There is no doubt about that.

But, Mr. President and Members of the Senate, mark my words: If this bill passes, in the future there will be a case, or cases, that will be so egregious, so bad, that it will sicken your stomach, and Members of this Senate will read about it, and Members of this Senate will look up from their paper, or will look up from the evening news, and will say: I didn't intend to do that. I didn't intend for that victim not to be able to go into court. I didn't intend for that child, that man, that woman not to be able to sue that defendant. Oh, I never intended that.

There will be that case, and that day will come. And whether it is a terrorist who is the defendant or whether it is some horrible criminal or whether it is some horribly negligent gun dealer—whoever it is—there will be some case, and we will see it, and we will live to regret this day. You cannot arbitrarily close the door to the courthouse and say, "You cannot come in, victim, if you are of a certain class," and not have injustice done. You cannot do it. That day will occur, and we will regret what we are about to do.

There is an additional aspect of this bill that has not been talked a lot about: and that is the fact that it is retroactive. It would actually kick existing cases out of court. How dare we do that. How dare we have the audacity to do that. How dare we in this Congress come to the Senate floor and wipe out every lawsuit that has been filed in this country that would come within the parameters of this bill. How arrogant are we to do that? Did we really get elected to the Senate to tell crime victims that their case is frivolous, without ever even knowing the facts of that particular case?

We will have in front of us, in a few weeks, a Supreme Court nominee. There will be a lot of talk, as there already has been, about the separation of powers. There will be a lot of talk about judicial restraint, as well there should be. I probably will be talking about it as well.

What about legislative restraint? We do not talk much about that. We get mad here on Capitol Hill when we pass a bill and the Supreme Court says we did not have the power to pass that bill. I think we should remember what our role is. I do not think anyone elected us to the Senate to bar their ability to go into court—not to completely bar the door. I think it is one thing to set standards and parameters and maybe limits. You can talk about that. But to totally say, "You can't go into court," I think we ought to think long and hard before we do this.

If passed, this bill would kick people out of court retroactively. It would not just bar people from coming to the courthouse. Apparently, that is not enough. No. What this bill does is kick people out who are already in court. It kicks people out who have already survived motions to dismiss and motions for summary judgment. It likely even tosses out victims who have won at trial and are defending their cases on appeal. To me, that is just plain wrong.

The courts are supposed to decide these cases. Juries are supposed to decide them. People are supposed to have their day in court. That is how our system is supposed to work. I do not think it is my job or the job of other Members of the Senate to judge these cases. It is not our job to determine whether these cases should or should not proceed. It is not my job to determine whether someone is negligent or is not negligent.

I also think it is not my job to tell a victim that he or she does not have the right to go to court and present a case to a judge or a jury. People in this country are supposed to have their day in court. That is fundamentally the American way. This bill creates two classes of victims in this country. If you are injured by any industry in America, you can file a lawsuit in State court in an attempt to redress your injury. After the passage of this bill, however, if you are injured by the gun industry, you are likely out of luck.

Other industries face legal challenges. Other industries, other defendants, have had lawsuits filed against them they do not like. Other defendants, every single day in this country, face suits that in their eyes, many times, are frivolous, that they cannot stand, that they do not think are fair. But they are not here petitioning us, telling us we should pass a law that blocks the ability of someone to sue them. Other industries are involved in cases where many people die. We understand that. We do not grant to them this kind of immunity from civil liability.

I support the second amendment. I support individuals' rights to own guns. I support gun manufacturers. I support legitimate gun dealers. And I support responsible tort reform. I certainly understand there are some abuses in the system, and that sometimes Congress needs to act to prevent these abuses. For example, just recently, I voted in favor of class action reform, and we passed that legislation to modify certain class action procedures.

But what we are about to do in this Congress, in this Senate, is wrong. This bill keeps victims out of court altogether. This bill is unfair to victims. But more important than that, it is a horrible precedent. If we do this, this time, what is to stop a future Congress—where there are the votes, maybe configured differently—from saying: "Oh, there is another group of victims, and we need to protect them, another group of victims that we are not going to protect, another group of defendants that we are going to protect, another group of victims to whom we are going to say, you can't sue them, you can't get your day in court"?

If we deny this group of victims in front of us today their rights, what is to stop a future Congress from denying another group of victims their rights?

We need to think about this long and hard before we cast this vote.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

### THE GOOD NEIGHBOR

Mr. BYRD. Mr. President,

The roses red upon my neighbor's vine
Are owned by him, but they are also mine.
His was the cost, and his the labor, too,
But mine as well as his the joy, their loveliness to view.

They bloom for me and are for me as fair
As for the man who gives them all his care.
Thus I am rich because a good man grew
A rose-clad vine for all his neighbors' view.

I know from this that others plant for me,
That what they own my joy may also be;
So why be selfish when so much that's fine
Is grown for me upon my neighbor's vine?

The appreciation of a good neighbor is among the oldest, most cherished, and enduring of human values. It is a value that transcends both time and space.

This value was vividly and eloquently expressed more than 2,000 years ago in the Bible which commands us in eight different passages to love our neighbors: Leviticus 19:18, Matthew 19:19, Matthew 22:39, Mark 12:31, Luke 10:27, Romans 13:9, Galatians 5:14, James 2:8. In fact, this is one of the most repeated commands in the Scripture. In other passages, the Bible tells us how to treat our neighbors, Proverbs 25:17 and Romans 15:2; and in others warns us against mistreating our neighbors, Deuteronomy 19:14, Exodus 20:16, Proverbs 3:29.

The appreciation of a good neighbor is also a value that knows no cultural or geographical boundaries. An old Chinese proverb, for example, maintains that "a good neighbor is a found treasure."

In the United States, towns and states celebrate Good Neighbor Days. Across the country, municipalities, corporations, radio stations, and newspapers present Good Neighbor Awards. Stores and businesses proclaim "Good Neighbor Days" to promote sales. Since the early 1970s, the Federal Government has celebrated an annual Good Neighbor Day. This year Good Neighbor Day will be observed on September 25.

The web site for the national Good Neighbor Day points out that "being good neighbors is an important part of the social fabric that makes ours a great country." Indeed it is. Good neighbors are always there when you need them, offering a helping hand, providing comfort.

Seldom have I observed a stronger sense of neighborliness than among the coal miners in the West Virginia communities where I spent my boyhood years. Fred Mooney, a leading figure in organizing the West Virginia coal miners in the early Twentieth Century, in his autobiography, "Struggle in the Coal Fields," recalled how his coal-mining neighbors, although themselves quite poor, sacrificed to help him and his family with food and clothes after he had been fired from his job and blacklisted for his union activities. Mooney explained, "This is the spirit of fellowship, love, and devotion that permeates the life of a union coal miner. He will give until it hurts and then divide the rest."

That, Mr. President, is loving thy neighbor: "giv[ing] until it hurts" and expecting nothing in return.

I have observed this sense of neighborliness following mine explosions, floods, and other disasters that have befallen on my state over the years. I will never forget how the people of Buffalo Creek, WV, came together following a disastrous flood in that community. How they worked together and shared together while caring for and comforting each other, thus enabling themselves and their neighbors to survive that horrible tragedy. Being a good neighbor involves most often small, simple acts of kindness. The former Speaker of the House of Representatives, Tip O'Neill, liked to point out that "all politics is local." Being a good neighbor is also local. It begins right over the backyard fence. It involves small, simple acts of kindness, as well as dramatic gestures during catastrophic events.

A good neighbor is the friendly face who shows up with a cake or a pie at the house of a family who has a member who is ill. A good neighbor is a person who mows the lawn of the widow down the street. He may be the handyman who is quick to pull out his tool belt when a neighbor has a busted pipe, or a mechanic who starts his neighbor's car on a cold winter morning so he can get to work. He is a neighbor who will cheerfully shovel your sidewalk when it snows, or rake leaves, just to make life easier for you.

Such simple acts of kindness are part of the social fabric that makes for a better community, a better country, and a better world.

I am thinking now of a neighbor who lives about 3 miles from where I live in McLean, VA. I have known him a good many years. His name is James Nobles. Jim Nobles is a neighbor who is always seeking ways to help my wife Erma and to help me. Many is the time that he has come to my home and sat and talked with my wife, who has gone through a long period of illness, an illness of going on 5 years. Many times Jim Nobles has come by and sat on the front porch with Erma and talked with her. So when Erma and I have been busy or tired, Jim Nobles somehow appears at our door with a basket of food or a cake from the local Giant store. He provides us with transportation if we need it.

On cold winter days, often to my surprise and my delight, I have looked out the glass windows, and I have seen him out shoveling the snow from the walkway to the mailbox. I find he has already shoveled the snow off my sidewalk.

When he is able, he makes sure that my newspaper is on my porch in the morning. There it is, the Washington Post. There it is, Roll Call. There it is, The Hill. Jim Nobles gets up, comes over to my house, 3 miles from where he lives, and brings the papers off the sidewalk onto my porch. I can always tell that it is Jim Nobles because he also places the newspapers in the same fashion in the same place right there at my door. That is a good neighbor. He comes when my hedges have grown a little too long. He tops off the hedges. He shapes them up. When there are some dead limbs on the trees in my front yard, he cuts off those dead limbs and hauls them away. That is Jim Nobles.

Sometimes Jim goes on a vacation. He is retired now. He goes on a vacation. He has a place somewhere down in Virginia, perhaps 100 miles away or more from where we live. Sometimes he goes and spends a few days there at that place. Then what am I to do but go out and get the paper. I have to get up, go out and get the newspaper. It is not a great chore, but it is something.

But lo, to my surprise, the newspaper keeps on being delivered to my door. So for quite a while, I wondered, who is the other good neighbor who pinch-hits when Jim Nobles is away?

On two or three occasions, I have sat up just to try to catch that other good neighbor delivering that newspaper. I remember on one occasion I got up early and I put a little chair beside the front door and I sat there and watched, waiting for that person to walk up and deliver my paper. Jim Nobles was away. But, you know, that neighbor on that particular occasion didn't come, didn't deliver that paper.

So time has gone on, and this morning, I decided I am going to catch this neighbor this time—this good neighbor who delivers my newspaper when Jim Nobles is away on vacation. So there I sat. This time, luck was with me. I saw her come down the street, pick up the newspaper, pick up the Roll Call and The Hill. She came up to the door and put the papers in the spot there and away she darted. It was then that I turned the key in the door. I said, "Lady, would you wait just a minute? I want to know more about you. What is your name? I want to thank you for delivering this to my door when Mr. Nobles is not here."

I came to find out that this was a lady from the Philippines. She worked in the area. She doesn't live in the immediate area, but she comes into the area on a bus, she gets off the bus, and on her way to the residence where she works during the day, she stops, picks up the newspaper out there on the sidewalk near my mailbox, walks up to my door, and puts that paper down. Finally, I found this caring, good neighbor whose name I had been wishing to learn. Her name is Ms. Mary Lucas, from the Philippines. I told her this morning that I was in the Philippines 50 years ago this year. I had breakfast at that time with the late President Magsaysay, who was later killed in a plane crash.

So there she was, a good neighbor making her way to work, doing a special favor for someone like myself and then going on, not receiving my thanks. This could have gone on a long time, as it had already gone on a long time. I finally found her and found out her name.

I must confess that at times I feel a little guilty because I am not a better neighbor. My work in the Senate, my family life, and my other responsibilities prevent me from performing the kind, neighborly acts that Mr. Nobles and Ms. Lucas have performed for me over the years. But they, in the truest neighborly ways, never expressed any complaint. They never want anything in return; they never expect anything in return. They just want to be good neighbors. And they are. Indeed, they are treasures.

Mr. President, I wish to take a few minutes of the Senate's time to say how fortunate I am to have such good neighbors. I thought it might encourage all of us to think a little more about being better neighbors. It is the human touch that makes a better community, a better country, a better world. And so on this day in July, in this year of our Lord, I want to thank God for good neighbors, for the inspiration they have given to me and to Erma, for the goodness they have shared with her and with me.

I close with a bit of verse by Edgar Guest:

I have a kindly neighbor, one who stands

Beside my gate and chats with me awhile,
Gives me the glory of his radiant smile
And comes at times to help with willing hands.
No station high or rank this man commands;
He, too, must trudge, as I, the long day's mile;
And yet, devoid of pomp or gaudy style,
He has a worth exceeding stocks of lands.

To him I go when sorrow's at my door;
On him I lean when burdens come my way;
Together oft we talked our trials o'er,
And there is warmth in each good night we say.
A kindly neighbor! Wars and strife shall end
When man has made the man next door his friend.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, for my fellow Senators, let me try to bring us up to speed on where we are. We now have all of the amendments filed and are looking at them and have studied a good number of them over the last hour and a half to determine how we might dispose of them. We are hoping we can put something together.

Senator WARNER from Virginia is here to talk a bit more about his legislation. I see my colleague, the floor manager from the Democrat side, also here. I do want Members to know we are working to see if we cannot bring some finality to this process in a precloture environment or resolve that issue so we can complete our work on not only this but clear the issue of an energy conference which is privileged, a CAFTA recognition of the House bill versus the Senate vehicle, which is privileged, and that can come before us so that we can complete our work in a timely fashion tomorrow and not spill ourselves into Saturday, as could be the case strictly under the rules of the Senate. We hope we may be able to avoid that.

I hope that within a little while, we may be able to look at a package and offer it to our colleagues for their consideration.

Mr. REED. Will the Senator yield?

Mr. CRAIG. Yes.

Mr. REED. Mr. President, I appreciate the cooperation and collaboration. I am pleased also that you are looking closely at these amendments. My position is simple. I believe the amendments are relevant. I hope we can have votes on all of them. I particularly think Senator WARNER's amendment is relevant, pertinent, and important. I hope he can offer that. But it is my hope that we can bring all of the pertinent amendments up, with appropriate timing, and conclude.

As we stand now, as the rules require, there will be a cloture vote sometime tomorrow. I think I understand also that after that cloture vote, moving from the gun liability bill to any of the other provisions—energy or the Transportation bill—would require unanimous consent. That is another factor that should be considered. So I hope we can resolve this this evening.

Mr. CRAIG. I thank my colleague for that concern. We will be diligent in it. As you know, in the current environment, these conference reports are privileged and they can take us off the floor by the action of leadership for that consideration. That might occur later in the evening tonight. I am not sure that is the case, but that could occur.

Mr. REED. If I may say, my understanding is that once cloture is invoked, to move off the 30 hours of cloture cannot be done by a privileged motion, but by unanimous consent.

Mr. CRAIG. I don't dispute that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank the managers of the bill for keeping the Senate advised. I have an amendment that has been filed. I think at this point I will make the motion and ask for the reaction of the managers.

Mr. President, at this time, I ask unanimous consent that we lay aside the pending amendment such that my amendment No. 1625, which is on file, could be given the status of the pending amendment.

The PRESIDING OFFICER. Is there objection?

Mr. CRAIG. Mr. President, reserving the right to object. Under the current environment, I will object.

I do so with this concern in mind. I don't question the sincerity of the Senator from Virginia for the offering of his amendment. I will say that it is similar to but not exactly like the Levin amendment that we have just disposed of. It deals with the issue of negligence or reckless conduct.

There are differences, and the Senator from Virginia may wish to point those out. But it is important for the Senate to know that in their similarities, the Senate rejected overwhelmingly, by the largest vote yet, the issue of negligence and reckless conduct, for it is clearly recognized now by a majority of the Senate that this would drive a major loophole through this legislation and deny the very legislation and its intent. I certainly would not want that to happen. For that purpose, I will object to laying aside the pending amendment and bringing the Warner amendment to the Senate floor at this time.

The PRESIDING OFFICER (Mr. MARTINEZ). Objection is heard.

The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my good friend for being absolutely forthright. I am fully aware of the parliamentary situation. The distinguished majority leader and the Democratic leader—to the extent that he has participated—are acting within the rules of the Senate. I do not ascribe any impropriety whatsoever to the exercise by any Senator at any time of the rules of the Senate. But it does put persons like myself who feel very strongly about amendments we have in a unique situation. I would like to support this bill, but I have grave reservations about those provisions relating to the dealers, and I'd like to have my amendment considered. I will express them momentarily. But the parliamentary situation, as the Senator has explained, does not allow me the opportunity at this juncture—although I may persist by other means—to get this amendment to be given the pending status.

I inquire of the Presiding Officer if the Parliamentarian would examine amendment No. 1625 to determine whether it is germane.

The PRESIDING OFFICER. The Chair advises the Senator that the amendment is germane to the bill.

Mr. WARNER. I thank the Chair. So I have here an amendment that is clearly germane. I regret deeply that I am not able to bring it up such that I and other Senators could debate it and have a rollcall vote, which I would ask for, and if granted, we could allow each Senator to express his or her views on this amendment.

Now, the manager said that we had a debate on the Levin amendment, and I supported the goal of the Senator from Michigan. And I listened to my distinguished colleague from Ohio as he spoke on this general subject. But my amendment is quite different from the Levin amendment. The Levin amendment would cause the gun industry, as some said, to suffer a death by a thousand cuts because it would essentially gut the bill. The Warner amendment does not come anywhere near to gutting the bill.

I feel very strongly that of the gun dealers across this country, if we were able to make an assessment and evaluation, 99 percent of them are law-abiding citizens. They not only want to stay within the law, but they also do not want to be a part in any way of the use of a firearm that might be involved in a crime.

My amendment is to focus in on those dealers who have, over a period of time, experienced, again and again, the loss of firearms from their inventory. And if it can be factually established that a dealer has a record of practices that for one reason or another—probably due to negligence—enables weapons in that dealer's inventory to find their way illegally into the hands of criminals, then that dealer should not be granted the benefits afforded by this bill. Nor should such dealers be spared from a closer inquiry into why they have an established record of having guns go out of that dealership that they cannot account for.

My amendment does not affect the protection from the frivolous lawsuits that exist under this bill. My amendment only addresses that narrow category of dealers who have a record of.

again and again, mismanaging their inventory in such a way that they cannot account for a large number of weapons.

More specifically, my amendment does not take away the protections which 99 percent of the gun dealers should be able to avail themselves of, the honest ones, under this bill. I don't do that. My amendment is solely directed at those very few—I repeat, very few—dealers who have established a history of lost or stolen weapons as defined by the Attorney General of the United States pursuant to regulations that my amendment would call upon the Attorney General to promulgate for the industry. My amendment would enable the industry and, most particularly, the small gun dealers to know exactly what are the regulations that should be followed to maintain that inventory and conduct their business so that weapons cannot disappear and, by such disappearance, fall into the hands of criminals. That is what my amendment does. Maybe 1 percent of the dealers would be affected by this amendment. The other 99 percent are accorded the benefits of the underlying legislation.

Why can't we in the Senate voice our opinions on this concept? Regrettably, the decision has been made that at this time the amendment cannot be, even though germane, brought up in such a way as the entire Senate can focus upon it.

My amendment is not an attempt to gut the bill. Indeed, I recognize the gun industry, as I said last night, needs some reasonable, balanced, measure of tort reform. My amendment is offered in good faith. I say to the Senate. It is not just to protect the possible victims from criminal use of a weapon, but it is to protect the law-abiding gun dealers.

If this legislation remains as it is now, without some type of correction, such as mine, there will undoubtedly be unintended consequences.

We need look no further than our own backyard, based on the experiences we had here in the Nation's Capital and in adjoining Maryland and in my State of Virginia, with snipers committing wanton murder. The snipers illegally obtained their gun out of a gun shop that the record shows lost over 200 weapons over a period of a year or two. If another such tragic incident were to occur with a gun dealer who had a similar record of irresponsibility, and that gun dealer was immune from lawsuit, that would cast a very negative feeling all across America toward the gun industry and the gun dealers. They would be called to task to explain why they supported a law, if this is to become law, that would allow that to happen.

My words are one thing, but I want to bring to the attention of the Senate a document that I find very interesting. In my modest career in the Nation's Capital and in Virginia, I have met a number of lawyers in my time, but one whom recently passed on—I remember working with him on a number of cases, even when I was in private practice—I will never forget. I go that far back, knowing Lloyd N. Cutler of the prestigious law firm of Wilmer, Cutler, and Pickering.

Lloyd Cutler was asked by the Brady organization—Jim Brady, we all remember, was President Reagan's press secretary who suffered a frightful injury at the time there was an assassination attempt against our President. He and his courageous wife in the ensuing years have been unrelenting in their efforts to try and have a balance across America between the rights of those who acquire guns under the second amendment—and I strongly support the second amendment of the Constitution.

But in any event, on January 15, 2004, Mr. Cutler wrote the organization which asked him to diagnose cases and the basic tenets and provisions of the legislation that is pending today.

I ask unanimous consent to print portions of this opinion into the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WILMER, CUTLER & PICKERING,
*Washington, DC, January 15, 2004.*

Re effect of S. 1805 (108th Cong.) on Johnson, et al. v. Bull's Eye Shooter Supply, et al., No. 03-2-03932-8 (Wash. Super. Ct.)

Mr. MICHAEL BARNES,
*President, Brady Campaign to Prevent Gun Violence, Washington, DC.*

DEAR MR. BARNES: As you have requested, I have reviewed the likely effect on litigation brought against a firearms manufacturer and dealer in Johnson, et al. v. Bull's Eye Shooter Supply, et al., No. 03-2-03932-8 (Wash. Super. Ct.), if S. 1805 (108th Cong., 1st Sess.) were enacted into law in its current form. . . . The Johnson case is a suit for damages brought by victims of the Washington, D.C., area snipers, John Allen Muhammad and Lee Boyd Malvo, against Bushmaster Firearms, Inc., the manufacturer of the semi-automatic assault rifle used by Muhammad and Malvo, and Bull's Eye Shooter Supply, the firearms dealer from which Malvo allegedly stole that rifle. S. 1805, also known as the Protection of Lawful Commerce in Arms Act, would broadly prohibit many kinds of civil actions against manufacturers and dealers of firearms for damages resulting from the misuse of firearms manufactured by or obtained from them.

S. 1805 contains much of the language of an earlier bill, S. 659 (108th Cong., 1st Sess.), which similarly would broadly prohibit civil actions against firearms manufacturers and dealers.

Mr. WARNER. Mr. President, I will read the last paragraph:

Accordingly, I conclude that the Johnson case does not fall within the saving provision of the Daschle amendment or any other saving provision of S. 1805 would have to be dismissed if S. 1805 were enacted into law.

S. 1805 is legislation from the 108th Congress that is nearly exact to the bill before us today in the Senate. The Johnson case is a case brought by the victims of the DC snipers—I repeat, the DC snipers, the serious murders about which I spoke. Those victims could not have collected had this underlying legislation before the Senate been law at that time.

Is that what this Senate wants? I don't think so. I think I, and possibly other Senators, deserve the opportunity to go into greater length with regard to that provision which does not by any reading give the protection that is needed to victims should a dealer again and again have lost or stolen weapons from its inventory utilized for purposes of a crime. The bill as drafted does not give the protection we need, and I simply ask, let us impose on the Attorney General of the United States, if this legislation were to pass and remain on the books for an indeterminate period, let that Attorney General of the United States decide how best to analyze the gun dealers to establish a framework of regulations that would guide them in the conduct of their business such that we hope a weapon would never escape the inventory and find its way into the hands of the criminal.

I fear some day we are going to see another case. I hope not. But if we do, maybe somebody will come back and examine the record of this colloquy and this debate and reflect on the gun industry's desire to get legislation that does not protect the American public against the negligence and wrongful actions of a very small percentage of gun dealers, maybe at most 1 or 2 percent. That is all I ask.

I see the manager. Does the manager wish to pose a question?

Mr. CRAIG. I do not. I was only going to respond briefly to the Senator.

Mr. WARNER. Please. I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, again, I don't question the sincerity or how the Senator from Virginia feels about this issue and the amendment he has offered. But I think it is important to recognize how the current law works.

It does not mean it is perfect, and it does not mean it is always effective. But the Bull's Eye arms dealership in the State of Washington, from which John Muhammad and Lee Malvo, the two snipers who terrorized Washington, Northern Virginia, and Maryland for a time, stole their firearm, had a record of repeated recordkeeping violations and, as a result of that, their license was pulled. The owner of that dealership no longer has his license.

I don't know if the Bull's Eye is still in business, but if it is, it is under a new dealer. Why? Here is the reason why. If you are a licensed firearms manufacturer in the United States—and all are under the Federal firearms licensing—whether you are a manufacturer or a licensed dealer, you must report within 48 hours missing weapons. If they have been stolen or misinventoried, they have to be reported. They have to be reported to the ATF, and they have to be reported to local law enforcement officers in the area as a possible theft, meaning that those guns are out there in the market. So there already is a Federal law and a mechanism that is at work to attempt to accomplish this.

If, by that reporting, negligence can be demonstrated, this bill does not protect in any sense of the word negligent entrustment. That is very clear.

It was argued by a variety of our colleagues earlier in the day as it related to the Levin amendment—and that is the connective thread I spoke about earlier—it is important to understand that we are not without very strict laws today as it relates to the control of inventories of firearms in federally licensed firearms dealers' business locations and manufacturers. If there is a demonstration of negligence, licenses can be pulled and those people can be taken out of business, and they are.

Of course, in the case of the DC snipers—the tragedy we all lived through here—we know the end result tragically enough—people lost their lives. One of those men will be executed and the other is now in prison for life, and the dealership, or at least the owner of that dealership at the time, is out of business and will not get another license. That is the situation.

It appeared at least that they made mistakes in their recordkeeping. As a result of that, they lost their license. If that is the case—I cannot argue. I am not an attorney—that is a clear case of negligent entrustment, but it appears it may have been—if that is the case, I am quite sure that prosecution will move forward. If it is not, so on. Now, in the case of the West Virginia incident that we all know well, the lemon jello case, a straw dealer or a straw purchaser, the firearms dealer was wise to it, and as a result reported it. So I think it is important to suggest that the law is out there and the law is clear and the ATF enforces the law. The law says firearms stolen, report it; inventory off, report it; 48 or you run the risk of losing your license and being put out of business, manufacturer or dealer.

So I do not want any of our colleagues to assume that this is an open area of the law. It is not. By the level of enforcement that the Federal Government and the Justice Department can deliver, it is a clearly enforceable and an enforced section of firearms law in this country. I think that is important for the record to demonstrate.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I would like to reply to my good friend. The Senator is absolutely correct about the reporting requirements, but the reality is that some dealers ignore those requirements. They are totally unscrupulous, negligent, and ignore them. The recordkeeping requirements did not prevent Bull's Eye from losing 200 guns. They went ahead and ignored it. I strongly urge that we allow my amendment. It is but really one sentence. It simply says: On page 8, line 21, before the semicolon insert the following, or an action against a seller that has an established history of qualified products—that is the guns—being lost or stolen, under such criteria as shall be established by the Attorney General of the United States by regulation for an injury or death caused by a qualified product that was in the possession of the seller but subsequently lost or stolen.

We have to have a stronger enforcement mechanism than is in the underlying bill. It has to be strengthened. I say to my good friend, I respectfully disagree, and I think the confirmation by this distinguished counsel, Lloyd Cutler, who concluded that had this statute that the Senator seeks been in effect at the time of the snipers, they could have gotten out from under it.

Some sellers of guns repeatedly are losing firearms or having guns stolen and that is irresponsible behavior on its face. It has to be regulated, and it has to be regulated by the chief law enforcement officer of the United States, the Attorney General.

So I thank the Senator for the opportunity to speak to this. I once again plead with the Senator to allow this amendment, which is germane. If it were not germane, I would say to myself I gave it a good try. I ask the distinguished Senator from Rhode Island, is this amendment of mine involved in any discussions, might I inquire?

Mr. REED. I say to the Senator from Virginia, we think his amendment is very commendable, and we would like to see it brought forward for debate and a vote. I have made that point privately, and I make it now publicly. We think it is, as the Senator says, germane and relevant. I think the Senator is owed a vote, and I would like to see it happen.

Unfortunately, we are having difficulties clearing any amendments, including the Senator's, for voting on the floor.

Mr. WARNER. Mr. President, it was my understanding that the distinguished Senator from Rhode Island and the distinguished Senator from Idaho were working on a possible package of amendments, and the Senator now advises me my amendment is in that package under consideration. Is that a fact?

Mr. REED. I have asked that that amendment be considered. We are waiting. We were not impatient, but there is a limit to patience. I would point out, too, that there will be an attempt this evening to move to other matters such as CAFTA and the Energy bill which will take away time to debate a vote on the pending gun liability bill. I just think we have wasted too much time, that we should establish some rules with respect to the amendments, vote on those amendments and move forward towards a cloture vote.

Mr. WARNER. If I may make a brief reply, I thank my colleague from Rhode Island. I think the managers are working on this situation. I am glad that my amendment is part of the consideration, and I just hope it is granted. As far as the business of the Senate, I entrust it to the majority leader and the Democratic leader as to what matters should be taken up at what time in relation to this bill. So I cannot make any comment on that and do not make one.

The PRESIDING OFFICER. The minority leader.

Mr. REID. If I would not offend my distinguished friend from Rhode Island or my dear friend from Virginia, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. FRIST. Mr. President, for the last 30 minutes or so, we have been putting together an orderly way to address several issues: the underlying bill, the gun liability bill; CAFTA; and the energy report, which we received from the House. I know a lot of our colleagues are wondering about voting both tonight—we will have one more vote tonight, and I will go through the request—and then we will have a very busy day tomorrow. We will be here late tonight as well.

Mr. President, first of all, I will be addressing the issue on gun liability.

## UNANIMOUS-CONSENT AGREEMENT—S. 397

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate resumes the gun legislation tomorrow, immediately following morning business, the only remaining amendments other than pending amendments be the following: Reid amendment No. 1642, 30 minutes equally divided; Kennedy amendment No. 1615 and a first degree, relevant, to be offered by the majority leader or his designee, with 40 minutes equally divided to be used concurrently on both amendments; Corzine amendment No. 1619 and a first degree, relevant, to be offered by the majority leader or his designee, with the same time limitation as above: Lautenberg amendment No. 1620 and a first degree, relevant, to be offered by the majority leader or his designee, again with the same time limitation.

I further ask consent that the cloture vote be vitiated and that following the disposition of the above-listed amendments, the pending Craig and Frist amendments be agreed to and there then be 20 minutes for closing marks, the bill be read a third time, and the Senate proceed to a vote on passage of the bill with no intervening action or debate.

Further, I ask consent that where there are two first degrees to be voted upon, the majority alternative is first.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

## DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3045, the House-passed CAFTA legislation. I further ask consent that the statutory debate time be reduced to 20 minutes, equally divided, and that following the use or yielding back of time, the Senate proceed to a vote on the measure without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, first of all, let me say that I appreciate everyone's patience and courtesy this afternoon as we worked through this matter that led to our agreeing to this agreement just a minute ago. It has been very difficult. It is a very contentious issue. Feelings are high on both sides. Everyone acted like ladies and gentlemen. We worked it out, and I think it speaks well of the Senate.

I would ask the distinguished majority leader, having reserved the right to object on his latest request, it is my understanding that immediately upon this request being adopted, we will go to S. 792; is that right?

Mr. FRIST. Mr. President, that is correct. I have two unanimous consent requests. One is on S. 792, and one is on the energy report.

The PRESIDING OFFICER. Is there objection?

The Senator from Minnesota.

Mr. DAYTON. Mr. President, reserving the right to object, I ask the majority leader, will that vote on CAFTA be a rollcall vote?

Mr. FRIST. Mr. President, I will go through the whole schedule shortly, if I can get through the unanimous consent request. Very briefly, we will have a rollcall vote on CAFTA in about 30 minutes, 25 minutes. Whenever we finish that, it would be the last rollcall vote tonight. We will begin voting again tomorrow.

Mr. DAYTON. I thank the majority leader.

Mr. FRIST. I have two further unanimous consent requests, and then we can review everything.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The majority leader.

## ESTABLISHING A NATIONAL SEX OFFENDER REGISTRATION DATABASE

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 792 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will please report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 792) to establish a National sex offender registration database, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DORGAN. Mr. President, my agreement with the majority leader was that we would pass by consent S. 792 which the Senate passed by consent last year. We are now passing it once again to go to the House. This deals with sexual predators. This legislation is called "Dru's Law."

My colleagues and I who have joined together to pass this legislation tonight do so in honor of this wonderful young woman who was tragically murdered in a parking lot in Grand Forks, ND. The man accused of murdering Dru Sjodin spent 23 years in prison. He was a violent sexual predator who was let of prison with a wave. So long. Check in now and then. Compare that, for example, to Martha Stewart, who was let out of prison but had to wear an electronic ankle bracelet.

Violent sexual predators judged to be at high risk for committing another violent sexual act are let out of prison with a wave. As a result, this young woman, Dru Sjodin, was tragically murdered. This is the man who spent 23 years behind bars. The psychiatrists said before he was released that he was a high risk for committing another violent sexual act. Within 6 months, he is now accused of murdering this young woman.

It is not only this man. It is Mr. Duncan. Remember the last couple of weeks, the two young children kidnapped, one murdered. The other is still alive, with her family dead. We know about this man. He raped a 16-year-old boy at gunpoint, a violent sexual predator. Last April, he was put in the arms of law enforcement and let out on $15,000 bail. More Americans are dead because of it.

This is not some mysterious illness for which we don't know the cure. We know what causes it and we know how to stop it. Again, if Martha Stewart has to wear an electronic ankle bracelet ordered by a judge, then surely violent sexual predators, when and if released, can be highly monitored by local governments. Surely, we ought to decide that if violent sexual predators are a high risk for reoffending, then the local State's attorney ought to be notified in case they want to seek a civil commitment to protect the public at large.

This bill does three things: One, create a national sex offender registry; No. 2, if a violent offender judged to be at high-risk is to be released from prison, the local State's attorney must first be notified so they can seek additional civil commitment; No. 3, if a high-risk sexual predator is released, then there must be maintenance and monitoring of that sex offender. No more "so long, see you at the prison door," for a violent sexual predator.

We must stop this. How many more Americans will lose their lives? How many kids are going to be killed before we do the right thing?

Tonight the Senate takes an important step in the right direction. Senator SPECTER and I and others who have authored this legislation—Senators DAYTON, CLINTON, and others—have decided that enough is enough. It is long past time to do what is right with respect to dealing with sexual predators and protecting the American people. We do this in the name of and in honor of Dru Sjodin, a young woman who tragically lost her life.

Perhaps in her name, with this legislation, we can save other lives. I feel good about what we do tonight in passing Dru's Law.

Mr. FRIST. Mr. President, I ask unanimous consent that a Dorgan substitute amendment at the desk be agreed to, the bill, as amended, be read a third time, passed, and the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1643) was agreed to, as follows:

(Purpose: To propose a substitute)

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Dru Sjodin National Sex Offender Public Database Act of 2005" or "Dru's Law".

**SEC. 2. DEFINITION.**

In this Act:

(1) CRIMINAL OFFENSE AGAINST A VICTIM WHO IS A MINOR.—The term "criminal offense

against a victim who is a minor" has the same meaning as in section 170101(a)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(a)(3)).

(2) Minimally sufficient sexual offender registration program.—The term "minimally sufficient sexual offender registration program" has the same meaning as in section 170102(a) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(a)).

(3) Sexually violent offense.—The term "sexually violent offense" has the same meaning as in section 170101(a)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(a)(3)).

(4) Sexually violent predator.—The term "sexually violent predator" has the same meaning as in section 170102(a) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(a)).

### SEC. 3. AVAILABILITY OF THE NSOR DATABASE TO THE PUBLIC.

(a) In General.—The Attorney General shall—

(1) make publicly available in a registry (in this Act referred to as the "public registry") from information contained in the National Sex Offender Registry or State sex offender web sites, via the Internet, all information described in subsection (b); and

(2) allow for users of the public registry to determine which registered sex offenders are currently residing within a radius, as specified by the user of the public registry, of the location indicated by the user of the public registry.

(b) Information Available in Public Registry.—With respect to any person convicted of a criminal offense against a victim who is a minor or a sexually violent offense, or any sexually violent predator, required to register with a minimally sufficient sexual offender registration program within a State, including a program established under section 170101 of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(b)), the public registry shall provide, to the extent available in the National Sex Offender Registry—

(1) the name and any known aliases of the person;

(2) the date of birth of the person;

(3) the current address of the person and any subsequent changes of that address;

(4) a physical description and current photograph of the person;

(5) the nature of and date of commission of the offense by the person;

(6) the date on which the person is released from prison, or placed on parole, supervised release, or probation; and

(7) any other information the Attorney General considers appropriate.

### SEC. 4. RELEASE OF HIGH RISK INMATES.

(a) Civil Commitment Proceedings.—

(1) In general.—Any State that provides for a civil commitment proceeding, or any equivalent proceeding, shall issue timely notice to the attorney general of that State of the impending release of any person incarcerated by the State who—

(A) is a sexually violent predator; or

(B) has been deemed by the State to be at high risk for recommitting any sexually violent offense or criminal offense against a victim who is a minor.

(2) Review.—Upon receiving notice under paragraph (1), the State attorney general shall consider whether or not to institute a civil commitment proceeding, or any equivalent proceeding required under State law.

(b) Monitoring of Released Persons.—

(1) In general.—Each State shall intensively monitor, for not less than 1 year, any person described under paragraph (2) who—

(A) has been unconditionally released from incarceration by the State; and

(B) has not been civilly committed pursuant to a civil commitment proceeding, or any equivalent proceeding under State law.

(2) Applicability.—Paragraph (1) shall apply to—

(A) any sexually violent predator; or

(B) any person who has been deemed by the State to be at high risk for recommitting any sexually violent offense or criminal offense against a victim who is a minor.

(c) Compliance.—

(1) Compliance date.—Each State shall have not more than 3 years from the date of enactment of this Act in which to implement the requirements of this section.

(2) Ineligibility for funds.—A State that fails to implement the requirements of this section, shall not receive 25 percent of the funds that would otherwise be allocated to the State under section 20106(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13706(b)).

(3) Reallocation of funds.—Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.

The bill (S. 792), as amended, was read the third time and passed.

## UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 6

Mr. FRIST. Mr. President, I ask unanimous consent that following the CAFTA vote, the Senate proceed to the conference report to accompany H.R. 6, the energy legislation; provided further that there be 3 hours equally divided between the chairman and ranking member or their designees. I further ask consent that following the use or yielding back of time, Senator FEINGOLD be recognized in order to raise a Budget Act point of order and that Senator DOMENICI or his designee be immediately recognized in order to make a motion to waive the respective point of order. I further ask consent that if the point of order is waived, the Senate then proceed immediately to a vote on the adoption of the conference report with no intervening action or debate.

Mr. REID. Reserving the right to object.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, I apologize for not raising this with the majority leader a second ago, but I would ask consent that this legislation be known as the Domenici Energy bill. I ask consent. I would ask that we do a correcting resolution, that it be done.

The PRESIDING OFFICER. Is there any objection?

Mr. FRIST. Mr. President, a quick review of what we have just done.

The PRESIDING OFFICER. For the purpose of clarification of the record——

Mr. REID. Mr. President, we will supply forthwith the text for the correcting resolution.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader's request is agreed to.

Mr. FRIST. All right, Mr. President.

Mr. REID. Mr. President, will the Senator yield for just a second? I will be very brief. I know everybody is tired.

Senator DOMENICI kept his word on the Energy bill. It was very difficult. The conference was a real conference. They met until 3 o'clock in the morning. Senator DOMENICI has worked very hard on this bill. There are a lot of people who do not like the bill, but it is not because of him. He did everything he could to please Democrats and Republicans. So that is why the majority leader and I join in the request that has just been granted regarding Senator DOMENICI.

Mr. FRIST. All right, Mr. President.

The PRESIDING OFFICER. The majority leader.

## ORDER OF BUSINESS

Mr. FRIST. Mr. President, within several minutes, we will start 20 minutes of debate on CAFTA, equally divided. We will have a rollcall vote. We will go to energy after that. We will complete debate on energy tonight. We will not have a further rollcall vote tonight after the CAFTA vote.

We will begin—and we will announce the time a little bit later as to the two votes on energy tomorrow, one on the point of order and one on the bill. Following that, we will be going to the amendments that have been outlined with the time agreements on guns. The highway bill we will expect at some point. I don't know when the House will finish with that, but we will deal appropriately with that after it arrives. Since energy arrived, we are going to energy first. That is the general outline. We have the unanimous consent agreements. I would recommend very soon we go to the CAFTA bill.

Mr. REID. Will the leader yield?

Mr. FRIST. Yes.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. Mr. President, I would ask the distinguished majority leader: We are going to finish the debate on energy tonight?

Mr. FRIST. Right.

### ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that the Democratic time be allocated as follows: Senator SCHUMER, 10 minutes; Senator KERRY, 30 minutes; Senator WYDEN, 15 minutes; Senator BINGAMAN, 20 minutes; and whatever time is left over will be allocated to Senator BINGAMAN.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. CRAIG. Mr. President, will the leader yield for a question?

Mr. FRIST. Mr. President, I will be happy to yield.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I thank my leader for yielding.

So the two votes required on the energy conference report will occur after the leader's time tomorrow morning in morning business. Approximately at what time would those votes occur?

Mr. FRIST. Mr. President, through the Chair, in response, let me work out with the Democratic leader what time those votes will be.

Mr. CRAIG. Mr. President, I am assuming, then, immediately following those votes, we would be back on the gun liability bill, to complete the work under the UC of that legislation?

Mr. FRIST. Mr. President, or we could even be before. We could actually come on those amendments before as well.

Mr. CRAIG. So that is yet to be determined?

Mr. FRIST. That is correct. We will determine that before we close down tonight.

Mr. CRAIG. I thank the leader.

Ms. MIKULSKI. Mr. President, today I rise on behalf of my constituents to oppose the Protection of Lawful Commerce in Arms Act. It should be called the Special Interest Protection Act because it puts one industry's bottomline ahead of the families and victims of gun violence. It also slams closed the courthouse door to those seeking justice for victims of gun violence.

Remember when—not to long ago—the citizens of Maryland, Virginia and the District of Columbia were terrorized by a sniper. Remember when 10 innocent people were killed while they were going about their daily routines, mowing the lawn or getting gas, shopping, and getting ready to drive a bus. Their families have experienced tremendous loss and the Nation mourned with them.

Now, Congress is considering legislation that inflict further pain on families like those of the sniper victims. This legislation will literally slam the courthouse door on the families of gun violence victims and on all Americans who believe they were harmed by negligent actions related to guns. It gives gun dealers and manufacturers a free pass. And it will prevent families and survivors from holding irresponsible gun stores accountable, if they are negligent. It actually would prohibit families from going to court, from letting a jury of their peers decide if the gun store or manufacturer was negligent.

If this legislation passes you could still go to court over a toy gun but not a real gun. That is wrong.

Let me tell you about one of these families who have been victimized by gun violence. Conrad Johnson was the sniper's last victim. Do you remember hearing the news that he was shot at a bus stop in Montgomery County? Killed by the sniper getting ready for his route.

He was beloved by his family, friends and community. Two thousand people attended his funeral.

He worked hard as a bus driver. He drove 35 miles before dawn every day for work. He was known for his friendly smile and can-do attitude.

And he loved his family—his Jamaican immigrant parents, his wife Denise—his high school sweetheart, his two sons and his big extended family. Over 30 members gathered at the hospital after he was shot. He was full of life. He was always finding ways to take care of his family and help his community. He was a volunteer coach for the boys and girls clubs of Fort Washington. He loved being a DJ for functions thrown by family and friends, and he was always washing the family car on the weekends.

Conrad Johnson was the snipers last victim. Conrad's family is one of many Maryland families still grieving because of the snipers' reign of terror. Five Maryland families lost loved ones in the sniper's first 24 hours.

Today, I stand here for the rights of families like those of the sniper victims to have their day in court, the rights of families like James Martin's. James was shot when he stopped to buy groceries for his church program. Or James "Sonny" Buchanan's family. Sonny, a landscape architect, who was engaged to be married, was shot with one bullet as he worked early one morning. Or the wife, son, and daughter of Premkumar Walekar. He was a taxicab driver, shot that same morning as he went about his normal fill up routine at a local gas station on Aspen Hill Road. Or the husband and 7 year old son of Sarah Ramos, who was shot just 25 minutes later, as she sat on a bench waiting for a ride to her babysitting job. And the family of Lori Ann Lewis Ramos, shot just a short time later, as she stopped at a gas station to clean her car.

Today, I also stand here to protect all the victims who were and are severely injured by gun violence. They also deserve their day in court. There is the young boy who was a victim of the DC area sniper—Iran Brown, who was shot in the chest as he was dropped off at Benjamin Tasker Middle School in Bowie. Iran spent over a month in intensive care because of the gunshot to his chest or Rupinder "Benny" Oberoi, a young man who was shot in the back as he closed the store he worked at for the night. Benny needed 26 staples in his chest and extensive surgery to repair the damage caused by the bullet that pierced his back.

These families have been through so much. They can never recover that tremendous loss. We owe it to them to make sure families all over American who are like them can have their day in court.

That is why we need to oppose this legislation today.

Now, there has been a lot of talk about language was added to S. 397 to protect this case or that case. The U.S. Congress should not be in the business of deciding which negligence actions should be allowed into a court. That is up to the courts to decide. That is what our civil justice system is all about. It gives these families the right to offer evidence to prove the gun shop was negligent.

We need to reject this legislation and protect that right.

We need to ensure that the families of victims and the victims themselves, who have faced such unprecedented tragedy, are not victimized again by having the courthouse doors slammed on them.

We stood with law enforcement during the dark and dangerous days of the snipe; now today they stand with us. People feared for their lives. Thanks to the FBI, Bureau of Alcohol, Tobacco and Firearms, and local law enforcement they found the snipers. Thanks to brilliant forensic work they traced the weapon. This legislation makes a mockery of everything law enforcement tried to do.

If this legislation passes, irresponsible dealers get off scot-free and victims of gun violence are left without the protection of our justice system. I believe families of victims of gun violence deserve their day in court, like the sniper victims' families had—like Conrad Johnson's family, and Sarah Ramos' family, and all the families.

They may not win their case, but they have the right to make their case. The courts should decide based on the facts and the evidence.

Let me be clear, I do not believe Congress should stand in the way by offering special protection, by offering blanket protections for the negligent actions of the gun dealers, sellers and manufacturers. It is my duty to my constituents to fight with them and to fight against passage of this bill. It would be irresponsible for the Congress not to allow these victims of terror to seek redress in the courts. Gun violence terrorizes our citizens and we owe them nothing less.

Mr. SANTORUM. Mr. President, I rise to express my support of S. 397, the Protection of Lawful Commerce Act introduced my colleague Senator CRAIG of Idaho.

The number of frivolous lawsuits against gun manufacturers has significantly increased in recent years. Since 1998, dozens of municipalities and cities have filed suit against America's firearm industry, falsely alleging that manufacturers are responsible for the unforeseen acts of criminals. Firearms manufacturers have already spent more than $200 million in legal fees yet have not been found liable by a single court for the criminal misuse of their highly regulated products. Unfortunately, these lawsuits appear to be designed to impose a political agenda that 33 State legislatures have already rejected. Lawsuits against manufacturers who have nothing to do with the crime at hand thwart the will of the people by bypassing their elected representatives and attempting to impose novel legal theories by judicial fiat. Worse, these suits—even while unsuccessful—drain significant resources from these companies that are the backbone of supplying our military and police officers with the weapons to protect themselves on the job. We cannot allow this trend to continue.

S. 397 is a narrowly crafted bill that stops the lawsuit abuse, while continuing to hold those individuals and companies that knowingly violate the law liable for their actions. Specifically, the bill provides that lawsuits may not be brought against manufacturers and sellers of firearms or ammunition if the suits are based on criminal or unlawful use of the product by a third party. This bill provides carefully tailored protections that continue to allow legitimate suits based on knowing violations of Federal or State law related to gun sales, or on traditional grounds including negligent entrustment, such as sales to a child or an obviously intoxicated person or breach of contract. The bill also allows product liability cases involving actual injuries caused by an improperly functioning firearm, as opposed to cases of intentional misuse.

Many of my constituents have raised concerns about frivolous lawsuits in the gun industry. Pennsylvania leads the Nation in the number of licensed deer hunters and ranks among the leaders in firearm hunters. There are nearly three million hunting licenses sold in Pennsylvania each year. Over one million hunters go out in the field each fall. These suits, by threatening the survival of firearms makers, threaten to end that outdoor tradition and the family time that often accompanies it.

The hard-working men and women in Pennsylvania who make up our labor unions also support S. 397. This should be no surprise, however, as working men and women recognize a threat to their jobs and their way of life when they see one. The numbers are telling. Pennsylvania has 227 companies involved in firearms manufacture. There are over 3,000 federally licensed firearms dealers. According to the National Shooting Sports Foundation, there are approximately 34,000 jobs and $909 million in salaries and wages supported by those businesses and sportsmen in Pennsylvania. Additionally, these Pennsylvania sportsmen spend about $2 billion in the State, generating approximately $119 million in Pennsylvania State tax revenue.

Many families' lives are negatively impacted by these reckless lawsuits. While many of the personal tragedies behind these lawsuits are horrific, the individual responsible is—as it has always been in our system of justice—the criminal not the lawfully operating company. If a lawsuit is based on a defective firearm, a knowing violation of the law or the breach of a contract, that suit should proceed—and S. 397 would allow it to proceed. However, the frivolous suits with novel legal theories and invented liability have already cost jobs, including here in Pennsylvania, and they will cost more jobs if they continue. They will force company closures and they will close family businesses. Suing law-abiding gun makers and dealers for the acts of criminals is like suing automobile makers for the damage caused by reckless drivers. It is wrong and goes against the entrepreneurial and industrial spirit of this country.

I agree there is a need to reduce violent crime, and I share the concerns of gun control advocates with the number and severity of violent acts occurring within our Nation. During a June 13th field hearing of the Senate Judiciary Committee in Philadelphia, we learned about the many factors that contribute to the problem of youth violence including poverty, broken families, a lack of mentors, and loose enforcement of current gun laws. I believe it is necessary to focus on the root causes of these problems rather than develop a policy that appears helpful on the surface. I have worked and continue to work on the issues of poverty, broken families and mentoring, however I believe that greater enforcement of existing gun laws is a key part of the solution to eradicating gun violence.

The program "Project Exile" is an example of how stricter enforcement of current laws can make a difference. For this reason, I have been involved in implementing Project Exile in Philadelphia. This program began in Richmond, VA, and has proven to be extremely successful in reducing gun crime by simply enforcing existing Federal gun laws. The program adopts a zero-tolerance policy for Federal gun crimes. Federal, State and local law enforcement and prosecutors work hand-in-hand to expedite prosecution of each and every Federal firearms violation under Project Exile. Thanks to Project Safe Neighborhoods and Project Exile, Federal prosecutions of firearms offenses have gone up 91 percent since 2000. Nationally, those prosecutions have jumped 76 percent in the same time period. That means that more criminals are serving hard time for breaking Federal gun laws. More criminals off the street means our citizens are safer. That is a much more effective way to fight crime than punishing innocent manufacturers through frivolous lawsuits.

I encourage my colleagues to support S. 397. Doing so will help an industry that is being unfairly targeted for violent crimes, and allow us to continue to focus on the real causes of violent crimes.

Mr. OBAMA. Mr. President, I rise today to speak about S. 397, the protection of lawful commerce in arms bill, also known as the gun liability immunity bill. Regardless of whether you support this bill or oppose this bill, I can certainly understand that the issue of gun liability is an important one.

But let me ask my colleagues: Is this really more important than all the other important issues before the Senate right now? With only a few days left before the August recess, is giving liability protection to gun manufacturers really more important than passing the Department of Defense authorization bill during a time of war? Even this bill's most vocal supporters could not make this argument with a straight face.

As I travel around my State of Illinois talking to constituents, I hear many concerns from them. They tell me about the lack of affordable health care, the quality of our Nation's schools, the rising cost of gasoline, and the war in Iraq. Parents worry about how the budget deficit will affect their children's future. Veterans complain about the long delays in applying for and receiving disability benefits and about the amount of those benefits.

My constituents have no shortage of suggestions and ideas for what Congress should be doing, but I can honestly say that none of them are saying, "Senator, please go back to Washington and make sure that gun companies aren't being sued by victims of gun violence." I haven't heard that one yet.

And that is why I have chosen to speak on the floor today to—highlight the misplaced priorities of the Senate's leadership. Even though we have 139,000 troops fighting for our freedom in Iraq and a $440 billion Defense bill that could help these troops, we are here debating gun liability instead of talking about how to strengthen our national defense.

That is regrettable, and that is one of the reasons why so many Americans are disillusioned with their Government. Because we are not focusing on the problems that truly matter to them. Because some are more interested in scoring political points, or catering to a special interest.

I believe—as do my Democratic colleagues—that the first priority of the Senate should be to provide for our men and women who are in harm's way. And that means spending the necessary time to debate the Defense bill.

If that takes us the rest of the week—or even next week—then that is what we should do.

How can we go home to our constituents in August and tell them that we left Washington, DC without finishing a bill to help our military because we spent too much time protecting gun manufacturers? That is shameful.

I have talked to my colleagues on both sides of the aisle, and many of them were planning to offer good, commonsense, bipartisan amendments to the DOD bill—amendments that would have helped our military and strengthened our national defense. I also have filed several amendments that I would have offered, and I believe that many of my colleagues would have supported them as well.

One of my amendments would have protected members of the National Guard and Reserve against employment discrimination. This amendment is supported by the Reserve Officers Association and is cosponsored by Senator SALAZAR.

I have heard that there have been instances where prospective employers are reluctant to hire guard and reservists because of fears that these employees could be called up for extended tours of duty. These citizen-soldiers are getting through initial stages of interviews only to be summarily dropped from the process upon disclosing the fact that they are members of the Guard and Reserve.

My amendment would have gotten to the heart of this problem by preventing employers from forcing members of the Guard and Reserve to disclose their military service during the interview process. However, my amendment would not have prohibited them from disclosing their military status if they thought it would be beneficial during an interview process.

But instead of helping members of the Guard and Reserve, we are talking about gun manufacturer liability. That is wrong.

Another amendment I would have offered relates to the medical records of our servicemembers.

For years, the Department of Defense and the Department of Veterans Affairs have attempted to modernize their medical records to create a two-way exchange of patient health data to better care for our Nation's service members. This would decrease costs and improve the flow of information when active members of the military leave the DOD system and move to the VA system. Greater use of technology would also reduce medical errors, which kill up to 98,000 people a year.

Unfortunately, the DOD has not managed to create a fully functional electronic medical records system. Last year, a GAO report found that one of the primary reasons for the delay in developing this system is the lack of congressional oversight.

My amendment would have helped provide some of that oversight. I wanted to get some answers from DOD on why this project is being delayed and how the Department is proceeding with this important project.

But debate over these amendments, and many others, is being silenced in favor of the one we are having now—about helping gun manufacturers.

This is why the American people are tired of what goes on in this town. Because there are real issues they sent us here to debate—real problems they expect us to solve. But even when we have a chance to do this—even when we have a defense bill where we could add amendments that could help our troops and care for our veterans—the Senate passes on that chance and heads directly into another fight singed with more politics and more ideology.

We can do better than that. We owe ourselves better—and we certainly owe the American people better.

I ask unanimous consent that an article from Army Times, criticizing the Senate leadership's decision to stop consideration of the DOD bill, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Army Times, July 26, 2005]

SENATE DELAYS ACTION ON DEFENSE BILL

(By Rick Maze)

Senate Republican leaders decided Tuesday that a gun manufacturers' liability bill is more important than next year's $441.6 billion defense authorization bill.

With Democrats expressing amazement that there could be any higher legislative priority in a time of war than the annual defense bill that includes money for pay and benefits, operations and maintenance, and weapons' purchases and research, Sen. Bill Frist of Tennessee, the Senate Republican leader, decided Tuesday that a bill protecting gun manufacturers from lawsuits over the illegal use of firearms was a higher priority.

The decision came after Republican leaders failed to muster the 60 votes needed to prevent amendments not strictly related to the defense budget from being offered to the defense bill.

In a count of 50-48, seven Republicans joined Democrats in voting not to restrict debate, a move that Democratic leaders said would have prevented consideration of amendments to help veterans and survivors of deceased service members, along with other issues.

With Congress planning to leave town Friday for one-month break, debate on S. 397, Protection of Lawful Commerce in Arms Act, is expected to last two or three days, and then Senate leaders plan to take up an energy bill, an estate tax reform bill and an Interior Department funding bill that has a $1.5 billion bailout attached for veterans' health care programs, leaving no time until September to get back to the defense bill.

The House approved its version of the defense bill in May and has been waiting for the Senate to catch up to begin negotiations with the Bush administration on a final version.

Delay in the Senate is partly a result of senators spending three weeks this spring debating federal judicial nominations before reaching a compromise on President Bush's nominees.

It all points toward a difficult autumn. When the Senate returns in September from its month-long summer recess, it will need to consider recommendations of the Defense Base Closure and Realignment Commission, due to finish its work by Sept. 8, and begin deliberations on the nomination of John Roberts to the Supreme Court vacancy left by retiring Justice Sandra Day O'Connor.

## DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION ACT—Continued

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3045) to implement the Dominican Republic-Central America-United States Free Trade Agreement.

The PRESIDING OFFICER. There is 20 minutes evenly divided. Who yields time?

The Senator from North Dakota.

Mr. DORGAN. Mr. President, CAFTA, the Central American Free Trade Agreement, is one more failed chapter in a book of trade failures. How deeper must the hole get before we understand we are in trouble? How many more Americans must lose their jobs, with manufacturing, engineering and, yes, more white-collar jobs going overseas, outsourced, before we understand we are in trouble?

We have the largest trade deficit in the history of this country, $2 billion a day every day, 7 days a week. This is unsustainable. Everybody in this room knows it.

When will we understand that the next trade agreement is one in which we ought to stand up for the economic interests of our country, stand up for the interests of American workers? Let's not be ashamed of believing that our interest is in this country's economic opportunity, supporting our workers, our manufacturers, our farmers. This trade agreement pulls the rug out from under our sugar beet growers, from under our farmers, pulls the rug out from under American workers one more time.

The House passed this bill by two votes last night. There is a 15-minute vote in the House. This one lasted well over an hour, while they were trying to get the rest of the votes. Let me describe what they had to do to get the votes, because this trade agreement is awful. It is bad for the country. It is going to pile debt on top of debt and make more American jobs disappear overseas. Here is what they said, from today's paper: The last-minute negotiations for Republican votes resembled the wheeling and dealing on a car lot. Republicans who were opposed or undecided were courted during hurried meetings in Capitol hallways, on the House floor, and at the White House.

GOP leaders told their rank and file that if they wanted anything, now was the time to ask, lawmakers said, and members took advantage of the opportunity by requesting fundraising appearances by CHENEY and the restoration of the money for their programs. Lawmakers said many of the favors bestowed in exchange for votes will be tucked into the huge energy and highway bills Congress is scheduled to pass this week before leaving for the August recess.

Why do my colleagues think it was necessary to do what they did last night in the House to try to buy these votes with side deals and special deals and keeping the vote open for over an hour? Because this is a terrible agreement, and everybody knows it. When will we have the backbone to stand up for this country's economic interests? What will it take? How many more bad trade agreements? This isn't rocket science. This is our trade deficit. Year after year after year we are drowning in trade debt, and there is not one person on the floor of the Senate who wears a blue suit who is going to lose their job because of a bad trade agreement. It is working folks who lose their jobs, who find out their job left for China because they were making $11 an hour and the company can hire somebody for 30 cents an hour and work them 15 hours a day, 7 days a week. So the American people lose their jobs.

No politicians are going to lose their jobs. That is why they keep writing bad trade agreements. That is why the country is deeper in debt, the largest trade deficit in the history of this country. NAFTA, CAFTA, "SHAFTA," GATT, you name it. With every single step we have taken with this trade strategy, the country has gone deeper into debt, and more Americans have found their jobs in peril. When, oh when, will it stop? Apparently not tonight.

Last night they bought CAFTA by two votes in the House. It passed by a slim margin in the Senate. But what this demonstrates to me is this Congress has not yet awakened to the reality of what it is doing to this country. Kids and grandkids wondering about their economic future will find they have less opportunity than their parents did. The one thing we all aspire to have happen always is that we want things better for our kids. We want to leave a place that is better for our children. That is not going to happen with these kinds of trade agreements in which we trade away American jobs, in which we decide that jobs that used to be performed by proud Americans to build products in this country are gone.

There is no social program in this Congress we deal with that is as important as a good job that pays well, with good benefits. That is the way people are able to take care of their families and pursue a career and have the opportunity to expand this great country of ours. Yes, we live in a global economy, we are told. It is a global economy, all right. The global economy has galloped along for the major corporations so they can produce where it is cheap and sell into this marketplace. But it is unsustainable. This won't last. The global economy has galloped along but without rules.

Now a corporation can decide to do business through a mailbox in the Bahamas. It can decide it wants to produce in China or Indonesia or Sri Lanka and hire people for 20 cents an hour and force them to work in unsafe plants. They can hire 12-year-olds to work 12 hours a day and pay them 12 cents an hour. All of that is just fine with this trade strategy.

It is not fine with this Senator. It is not fine at all. Because I understand where it takes this country. We will not long remain a world economic power without a first-class manufacturing capability. And our manufacturing base is shrinking dramatically. Why? Because major corporations have decided they don't want to produce here. Is it because our workers don't do well? Not at all. That is not what it is about. It is about corporate profits by hiring people to work for 30 cents an hour and then selling the product at 30-cents labor to the grocery stores or on the store shelves of Toledo and Fargo and Brainard, Minneapolis, Los Angeles, New York.

I am telling my colleagues, this will not work much longer. Yet this Congress acts completely deaf and blind to the realities of what has come from our recent trade agreements. The North American Free Trade Agreement was one of the last agreements. We had all these economists tell us how many jobs it was going to create in our country. The fact is, our country has lost massive numbers of jobs as a result of the North American Free Trade Agreement. That bad agreement turned a modest trade surplus with Mexico into a huge deficit, and turned a modest deficit with Canada into an even larger deficit. Yet people still say that agreement worked. That is total rubbish.

I hope the Senate will turn down this agreement. I know they have voted for it once before, but now is the time to have some backbone, some nerve, some will to turn down this bad trade agreement.

I yield back my remaining time.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President. over the past two decades, Congress has voted again and again to open markets to exports from Central America. In 1983, 392 Members of the House and 90 Members of the Senate voted unilaterally to reduce tariffs on exports from Central America and the Caribbean. In 2000, 309 Members of the House and 77 Senators voted in favor of the Trade and Development Act which further unilaterally opened our markets to products from Central America and the Caribbean.

Today most imports from the region enter our market duty-free. In contrast—and the purpose of this legislation—our exports have faced and continue to face a myriad of tariffs and nontariff trade barriers into that region. Our products going that way, having tariffs and nontariff trade barriers, products coming this way to our country, no barriers. That is the status quo.

In 2005, with the Central American Free Trade Agreement, Congress has the opportunity to reduce tariff barriers to our exports going to these countries. You can see it is a very unfair situation. If we maintain the status quo, it is unfair to American workers, American manufacturers, the economy of America, because their imports come into our country duty-free. Meanwhile, our exports that go to those countries face tariff barriers of from 3 to 16 percent, some tariffs ranging as high as even 150 percent.

This agreement, finally, after about 20 years of our doing favors in that direction, levels the playing field for American workers, American farmers, and American manufacturers so we can sell our products in these countries.

This agreement takes a one-way street of trade and makes it a two-way street. It tears down unfair barriers to our agricultural exports and gives our farmers a chance to compete in a growing and vibrant market of over 40 million consumers.

A vote against CAFTA is a vote for the status quo. It is a vote to keep import duties duty free, but it also keeps tariff barriers to our export products high. If you vote that way, you are not voting for the American worker, you are not voting for the American farmer, you are not voting for the American manufacturer. You are voting for the status quo.

Well, that status quo is that the United States has been giving and giving for 20 years. This is our opportunity to get, to benefit our workers, to have a level playing field for trade—a two-way street for trade.

I don't see how anybody can justify not leveling the playing field for American exporters. That would end up creating jobs here in America.

Mr. KENNEDY. Mr. President, the Central American Free Trade Agreements ignores American workers, and ignores Central American workers, too. It ignores the labor injustices that still exist in those countries and it turns its back on American workers who continue to struggle to keep their jobs.

It did not have to be this way. We know how to negotiate free trade agreements to improve conditions for workers in other nations and level the playing field for American workers. We have done it before and we can do it again.

These Central American nations are important neighbors and partners to the United States. I have long supported their efforts towards progress since President Kennedy's Alliance for Progress. Continuing in that tradition, we owe it to our friends in Central America to ensure that proper labor protections are included and enforced.

The President abused his power and presented Congress and the American people with this take-it-or-leave-it plan, ignoring a strong bipartisan recommendation to assist displaced American workers. Congress had the opportunity to ask the President to meet that responsibility. Instead, partisan back room deals were made and the Republican Congress approved the agreement by a narrow majority in the Senate and a razor-thin majority in the House.

This Central American agreement is not free trade. It does not create a fair playing field for American workers. It fails to address the issues that we hear time and again are so important to them, and it does not deserve to pass.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, first of all, let me thank Chairman GRASSLEY for the fine work he has done on a very difficult issue. I will start from a different perspective than others might have concerning this agreement.

First of all, I have been leading the opposition to almost every multinational agreement that has come along. I have stood on the floor of the Senate for probably, collectively, 6 or 8 hours talking about how destructive the Kyoto agreement would be should we be a party to it. I have talked about the Law of the Sea Treaty. It was passed out of the Foreign Relations Committee unanimously and was ready for action when we found out what it was. I led the opposition, and we have not passed it yet. We would be losing our sovereignty to the U.N. on a lot of the areas of the sea and the air above it. This is something I have been active in for a long time.

In 1994, I had a very interesting experience. I was in the House of Representatives. I led the opposition to NAFTA at that time. Then I was elected to the Senate in a special election, and it came up in the Senate, and I led the opposition to NAFTA at that time. In Oklahoma, my State, I was the only Member of the House or Senate who opposed NAFTA.

I am here to say that this is not NAFTA. For those who use the argument that NAFTA was wrong and NAFTA should not have worked and, therefore, CAFTA is no good, they just don't know what they are talking about. CAFTA is totally different. I can recall standing on the Senate floor from this very desk saying if we support NAFTA and adopt it, we would have problems—transportation problems—where we would be allowing Mexican truckers to pick up a load in Brownsville, TX, and take it to Oklahoma City and not comply with our wage-an-hour requirements and environmental requirements, and all these things happened: they came true.

That is not what CAFTA is. We have two reasons we need to support CAFTA. One is what the Senator from Iowa talked about—the tariffs. I talked to my farmers, the Oklahoma Farm Bureau, and the Farmers Union, and showed them the tariffs they are paying right now, and what the other side is paying, and this is a win-win situation for our farmers. For example, for grains, we pay 10.6 percent; they pay nothing today; for vegetables, we pay 16.7 percent, they pay nothing; for wood products, we pay 10 percent, they pay nothing. There is a long list—I can go on and on—of commodities and products where we are penalized and they are not.

Under this bill, we will level that playing field and allow farmers in Oklahoma to be on the same level as those other countries. The other reason—and I think this is very important—is the national security reason. I am ranking member on the Armed Services Committee. I can remember the days in Central America when President Reagan was our President, and then the first President Bush, when we gave freedoms and democracies to all those countries down in Central America.

We remember Daniel Ortega and the activities of the Sandinistas. Right now, we are in a position where we can either punish or reward our friends. These countries with whom we will be in an alliance are our friends. They are supporting us in Iraq and supporting us in everything we do. Those other countries are not supporting us. The Chavezes, the Ortegas, and the Castros are the ones starting to emerge again. Can you imagine, after what we went through with the Sandinistas in the 1980s, and we have Ortega running for President again? I am not about to reward him and give him what he wants, keeping us from having that trade.

If you want to know the kinds of people who are opposing CAFTA, I will read you a few: Earth Justice, Friends of the Earth, EnviroCitizen, Freedom Socialist Party, and the Social Welfare Action Alliance, and others like that.

The conservative groups supporting CAFTA are the American Conservative Union, Americans for Tax Reform, the Heritage Foundation, Competitive Enterprise Institute, Club for Growth, and it goes on and on.

This is an issue where we are on the right side not just for our farmers and for national security and our friends in Central America and South America, but also it is right for America.

I yield the floor.

The PRESIDING OFFICER. All time has expired but 25 seconds.

Mr. GRASSLEY. I yield that back.

The PRESIDING OFFICER. The question is on the third reading and passage of the bill.

The bill (H.R. 3045) was ordered to a third reading and was read the third time.

Mr. LOTT. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 56, nays 44, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—56

Alexander
Allard
Allen
Bennett
Bingaman
Bond
Brownback
Bunning
Burr
Cantwell
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Cornyn
DeMint
DeWine
Dole
Domenici
Ensign
Feinstein
Frist
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Kyl
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Roberts
Santorum
Sessions
Smith
Specter
Stevens
Sununu
Talent
Voinovich
Warner
Wyden

NAYS—44

Akaka
Baucus
Bayh
Biden
Boxer
Burns
Byrd
Clinton
Collins
Conrad
Corzine
Craig
Crapo
Dayton
Dodd
Dorgan
Durbin
Enzi
Feingold
Graham
Harkin
Inouye
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Mikulski
Obama
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Shelby
Snowe
Stabenow
Thomas
Thune
Vitter

The bill (H.R. 3045) was passed.

## ENERGY POLICY ACT OF 2005—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the conference report on H.R. 6, which the clerk will please report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to bill (H.R. 6), to ensure jobs for our future with secure, affordable, and reliable energy, have met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of July 27, 2005.)

The PRESIDING OFFICER. There will now be 3 hours of debate equally divided.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, it is obvious that I am two things tonight. First, I am very happy and I am very tired. I do not know which one I am more of, but I am both. I am sure there are many who think differently than I. I hope in the Senate there is an overwhelming number who think as I do. There will be some who do not. But after 6 years of effort in the Senate, and for a time period going back about 15 years, we have not had an energy policy program of any significance for the United States of America. When I say 6 years, we have been struggling for 6 years to get a current one, and 4 of those years we have produced them and they have failed. I have not been part of all of that, but I left the Budget Committee, the Senate might recall, after many years, with 2 years remaining to be there. That would have made my 30th year on the Budget Committee, and I still would have been chairman. I left it because this would be a nice challenge, and I thought maybe during the 6 years, as chairman of this committee, I might be party to putting together a bill that might do something about America's energy future.

Everybody should know that the Senator from New Mexico knew that we would not do anything for tomorrow, nothing much. We would not have any answers for people who said, what are you going to do tomorrow morning or next week on the gasoline prices? But I did know that we had a chance of doing something that we could come to the floor and say within 5 to 10 years this bill will create jobs, job security, and clean energy.

Now, if that can be done in the complicated maze that we call the energy policy of the United States—and let me repeat, the reason that we can say to Americans that they have more jobs, they will have job security and have cleaner energy being produced, I almost asked, and I will, who could ask for anything more? I think that is a song or something, but who could ask for anything more?

So I start by saying I was very lucky today. I got a call from a reporter for the Albuquerque Tribune. I do not know him very well, but I speak to him occasionally, and I say to my friend from Tennessee, he asked me a neat question. He asked: Senator, people are talking about and maybe nitpicking this bill, and I want to ask you, what do you think things will look like in America with reference to energy 5 to 10 years from now?

That was a terrific question because it permitted me to open my remarks tonight the way I should have over the last couple of months. For once, the Congress is going to do something important from which we as a Nation will benefit, not tomorrow but in the next 5 to 10 years. Certainly, we will begin to feel it in a big way within the next 5 to 10 years. One might say therefore that we could have put most of it off, and we probably would have eked along and would have had some difficult times, but we could have said, it will work out. But what we have done is to make sure that where we have the power, we have done something to make it better.

I repeat, energy is the reason we have jobs. Energy is the reason we have warm homes, electricity, automobiles, everything we look at, humankind-made movement and activity, based on energy use.

That means it is pretty important that we do it somewhat right. Some may say it will all work out. This is a great, powerful nation, everybody will wiggle and do this and do that and it will come out. Well, believe me, after a year and a half of learning, I think it would have been a real risk for America to say it will all work out.

What we have done is very complicated. It is a lot more than people speaking about gasoline prices tomorrow morning. It is a lot more than that.

So 5 to 10 years from now, we ought to look back and ask: Did this legislation make a real difference?

I am going to start by saying something nobody cares about when they lobby us, but I am going to say that we are going to use less energy per person, per adult, per unit of our economy, sometimes called GDP, because of the efficiency and conservation provisions here than we would have without it. That means simple things, believe it or not, in an energy bill, such as the appliances in our kitchens, the motors used in manufacturing plants, the buildings we live in, and the houses we live in will be far more efficient and use far less energy 5 to 10 years from now than today. For everything we use less of, we need to burn less coal or produce less energy or electricity or import oil less.

More of our electricity will come from renewable energy in 5 to 10 years, such as solar, biomass, wind, landfill gas, waste. All kinds of things that can produce energy in that manner will be coming on board or be on board.

We have streamlined the tax provisions. The licensing processes for clean technologies like geothermal have been streamlined so we will get whatever we have instead of letting it be tied up forever.

Then we are going to be making great strides toward reducing the carbon intensity of our economy. It is the carbon intensity of our economy that causes significant pollution, and for many it is a source of global warming.

My colleagues do not have to believe that to vote for this, but what I am saying is that for those who do—and I am one—this bill will move us forward so that 5 to 10 years from now we can be saying we may have technology that will go after that carbon. One will be new nuclear powerplants. I say to the Senator from Idaho, if a nuclear powerplant cannot be built in America after this bill is signed, then I think the Senator and I, who have been ardent, devoted fans, will say it cannot be done. I think the Senator will agree with that. Everything that can be done reasonably will be there. The uncertainties will be eliminated. That which frightens investors will be eliminated. The other things are all in place.

With reference to coal, we will have provided incentives and tax relief so that new technology will be developed to take carbon out of the coal that is burned and, yes, if we use the outside of my years, in 10 years we may, I say to the Senator from Tennessee, have found a way to sequester the carbon and indeed be on the way to being able to use our biggest resource, to wit, coal, without atmospheric damage, global damage, and with much cleaner effect. This bill might make that happen.

As I say, when people think of the Energy bill, they think of cars, automobiles, but the electricity grid of the country—how many people on our committee thought we were going to learn about the electricity grid, such as when eastern America went black, but we found out. We have a great electricity system.

When the blackout came, some people called this an ancient system. Some called it a one-horse system. No, it is the most refined. The problem is that the system was not tied together properly, and it did not have mandatory requirements for safety. So there were some good, some not so good. That transmission grid will be far more reliable because we have put on the grid owners mandatory standards for operating that grid. So I would say you will not have one of those after this bill gets implemented. That would have been good enough to pass a bill, but that is just a little part of the bill—one or two pages.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I ask unanimous consent for 5 additional minutes. I ask Senator BINGAMAN, would that be all right?

Mr. BINGAMAN. That is fine. Go ahead.

Mr. DOMENICI. In addition, we will be building new transmission to move electricity around the Nation. When I say "we," don't think the Government is going to do it. We are just going to make sure we give the incentive to get it done. Transmission to move electricity around the Nation, where it is needed the most—that is going to make our consumption more efficient.

This bill repeals an ancient law. Some people wonder why it even mentioned it because it has a funny name and they would say what in the world does it have to do with energy, but it is called P-U-H-C-A, PUHCA. It is from the times when we had our Great Depression. It made it at least more difficult to get money invested in electricity and utility companies than it was in other enterprises. We have repealed that. We have made some provisions that mergers will not be damaged. But this should bring much more capital investment into the utility companies that make up this powerful institution, this entity called the grid of the United States.

Most of us are aware of another thing, which the distinguished Senator, a new Member of the Senate and a new member of the committee, the Senator from Tennessee, LAMAR ALEXANDER, has put much in the public eye when he introduced a bill about natural gas. One of our biggest problems, and we surely ought to be as worried about it as we are about the price of gasoline tomorrow, is our dependence upon imported natural gas. It is such a terrific product, from the standpoint of our ambient air, and it used to be so cheap, as everybody here knows. But what happened is we used it for everything. Now, as we get in trouble with global warming, everybody who builds a plant uses natural gas. Not that it does not produce some carbon, but far less. And the price goes up.

So it looks as if America, which is paying the highest price of any industrial nation in the world for natural gas, is about to put itself out of business. We could lose the fertilizer business, the plastics business, many manufacturing companies. They are already going overseas. People will come up here and blame free-trade agreements, or low pay overseas. That is not so. We do not have enough natural gas to keep the price steady or bring it down. We must have liquefied natural gas from overseas. It is terrible to admit it. I wish I were here saying we don't. We do. In the next 25 years we will have a crisis if that doesn't occur.

We have modernized, streamlined, eliminated unnecessary delays in the ports we will be bringing to America that will be the source of distributing LNG. We have eliminated the unnecessary delays. That is terrifically important. Of the five most important things, one might say that would be one of them because we might hit 8, 10, 12, 15—one study says 23—new ports will be needed to use LNG in inland America. In other words, you locate them and then the gas can be put into pipelines and delivered to America's users. We permitted that to be done with more dispatch.

For the first time, and we know this, since Americans began a love affair with the car, we are going to put in place an ethanol program.

I ask for 5 additional minutes.

People used to laugh at it. Let me put it this way. It is not too shabby, to put America's agricultural industry to work making fuel for vehicles. Some used to say that was foolish. It might have been when crude oil was $5 a barrel, or $10. But it certainly is a good investment when crude oil is this expensive because all you are doing is trading the investment in ethanol—plants, cement, steel, thousands of jobs, agricultural revitalization—every dollar you put in that is a dollar you didn't give to the Saudi Arabians or you didn't give to those who are selling us oil. You spent it here. We have a major new program, 7.5 million gallons mandated out here in the future. So that should be very helpful, in terms of jobs and helping with our importation.

We also gave significant credits for hybrid automobiles. I think we all know we had that. We doubled it. We know people want them now. But we still put it in, the tax writers put it in, and we hope the manufacturers will see the demand and get more on board quickly. We think that was a contribution.

I think overall we are going to try to produce as much of our energy domestically as possible. To do that we have streamlined the permitting processes where we can. For instance, the Senator from Colorado is on the Senate floor, and the Senators from Utah have been interested—we have a fantastic oil shale research and development program and provide leasing to see if we, one of these days, could implement the abundant oil resources from oil shale. Nobody knows if we could ever work that economically. If we could, we would not need any imported oil. We have more oil locked up in oil shale than America would use over 200 years. We just have to find a way to convert it. We are close. We are going to push that.

We are deeply divided on global climate change. We have had a couple of votes. I will not go through them. But the legislation we are doing, while it does not address a global warming tax, will do more to develop and deploy a new generation of clean technology that will make our consumption cleaner and more environmentally friendly. If we ever do achieve a limit—say that, make the limit there—we may, indeed, have ready the technologies that could do it. Right now we are just saying, Do it. That is why Senator CRAIG gets up and says, How? Right? I am speaking for him—but how? Put everybody out of business?

No. New technology we are going to try to get developed will clean the coal—take the carbon out of it, I should say. These are the kinds of things that are in this 1,200-page document.

I want to close. I am a pretty experienced fellow around here. I want to say that I have never worked in the process on a difficult bill where there has been more openness and inclusiveness in my 32 years. Every step of this process this Senator has worked with the other Senator from New Mexico to ensure that we have a bipartisan bill.

That doesn't mean that Senator BINGAMAN likes every provision. It doesn't mean that I like every provision. But nobody can say that anything was done in one closed back room, shoved down anybody's throat, or done without staff, excellent staff, on both sides working on it. I am thankful. Because of that, Senator REID joined our leader and let us get this bill to the floor.

We took 2 weeks. Heretofore we took 6 weeks, and still had 200 amendments left. We didn't get a bill, a real bill.

Believe it or not, Representatives DINGELL and BARTON met. Ourselves, we spent 20-plus hours as a foursome. Then we had 3 days, 5 open days of conference meetings with amendments being offered. Every conferee could offer amendments. They were voted on, some won, some lost—honestly most lost, but that is the way it is. They voted.

The last of those conferences ended a couple of nights ago at 2:30 in the morning. I probably was more tired then than now, obviously. Maybe not as happy because I didn't know the product. But I think I know the product now. It is finished. It is a good product. It should pass overwhelmingly.

I urge Senators to consider that this bill, and the future that it envisions, far outstrips anyone's individual parochial concern. I hate to say that because nobody is going to say that is why they vote against it. Nobody is going to say I didn't get some project or some one theme. But I think if you are looking at what might be good down the line—which maybe we ought to do more of—you ought to vote for this.

One last comment. There will be a point of order made, and tonight I am going to say while everybody is around, or a few are: You heard a lot of numbers about what this bill costs. Please understand the point of order has to do with none of that. The point of order has to do with a simple thing. This committee was given $2 billion to spend, in direct spending, nonappropriated money. When all the work was done we estimated it was $2.2 billion—two billion two hundred million—not billion—$200 million. You know, the budget is hundreds of billions. This is $200 million. I don't even know why a point of order should be made.

I am going to cheat and tell you, sometimes when I was budget chairman we rounded numbers to 100. I am confessing that belatedly. Maybe we would have rounded this one to 200. Anyway, that is what we are going to vote on. I hope, even if you are against the bill, you will let us vote whether or not the country should have this.

With that, I thank the Senate, thank the Chair, and most important, thank the Senators here. For the Republican Senators, as soon as Senator BINGAMAN is through I will start allocating on our side 5, 7 minutes, whatever you each would like. Senator BINGAMAN will use what he wants and allocate the rest. He has one Senator. We will stay as long as you like.

Thank you all for listening.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me say how pleased I am that we are able to bring back to the Senate a conference report on energy policy that is truly a bipartisan consensus document. This bipartisan consensus had its beginnings earlier this year in our committee, the Senate Energy and Natural Resources Committee, where the chairman, Senator DOMENICI, my colleague from New Mexico, reached out to those of us on the Democratic side and pledged to work in good faith to bring to the Senate a comprehensive Energy bill.

We readily accepted that invitation and we had a very open and bipartisan committee process. The result of that process was a bill that was recommended to the Senate by the Committee on Energy and Natural Resources by a vote of 21 to 1. On the floor of the Senate when this bill was first being considered, we continued to work together in that open and bipartisan process. The result was that the Senate as a whole passed the Energy bill by a margin of 85 to 12.

In conference, my colleague from New Mexico, Senator DOMENICI, was adamant that we use an open and a bipartisan process there as well, and include House Democratic Members and staff who had not been included in the past in that same process.

I congratulate Senator DOMENICI on the passage of the resolution that we adopted earlier this evening to designate this the Domenici Energy Policy Act of 2005. He successfully persuaded the chairman of our conference, Congressman JOE BARTON, of the wisdom of proceeding in an open and bipartisan manner, and it proved to work very well. The bipartisan and bicameral conference committee staff was able, in short order, to resolve many of the technical issues that are so important to get right in this complex area of legislation. As they encountered issues that were unresolvable by the staff and needed guidance from members, Chairmen BARTON and DOMENICI and Ranking Member DINGELL and I were able to work together to forge compromises that we thought could be recommended to the entire conference. Those compromises, in fact, were embraced in almost all cases by our respective colleagues.

The result was a conference report that was signed by 13 of the 14 Senate conferees. That conference report is 1,724 pages in length. I do not think you can judge the quality of legislation by the size of it, but I do think the size of it indicates the comprehensiveness of this legislation and the complexity of it. The conference report was adopted earlier today in the House of Representatives with 75 House Democrats voting for the legislation, led by Congressman JOHN DINGELL.

Most of us came away from the conference with many provisions that we were happy to have in the final conference report and some provisions that we reluctantly had to give up on. I, for example, am very sorry that the bill before us does not contain the renewable portfolio standard which would require utilities to produce a percentage of their electricity from renewable sources. I know Chairman BARTON is disappointed that he was not able to get a number of his priorities agreed to in the conference. But the nature of a good conference is that it is a give and take and not everything ultimately can be agreed to. So compromise is the order of the day.

The result of this conference is a bill that has many more bright spots than flaws and a bill that deserves passage by the Senate and the signature of the President. I will mention a number of the bright spots, and then I will acknowledge some of the flaws and gaps that are contained in the conference report.

The conference report has strong provisions for increasing energy supplies from a number of sources. As I have often said, increased domestic energy production is one of the four key elements of sound energy policy. We have good provisions for producing oil and gas in an environmentally responsible way, for unlocking the untapped energy potential on Indian lands, for relicensing of hydroelectric dams, for improving geothermal leasing on Federal lands, and for opening a path to renewable resources in offshore environments. We are making a major push in the area of energy from coal toward new technologies that have better environmental characteristics and that will be adaptable to a future in which we may want to capture and sequester carbon dioxide.

The conference report has strong provisions for increasing energy efficiency. Over a dozen new appliance efficiency standards are called for under this act. The Federal Government's own energy efficiency will be enhanced through the strengthening of the Federal Energy Management Program and through extension of authority to enter into energy-saving performance contracts.

The conference report expands authorizations both for the Low Income Home Energy Assistance Program and weatherization and State energy programs.

The conference report has perhaps some of the strongest provisions in the area of protection of energy consumers. Both the electricity and natural gas provisions of the conference report contain broad new provisions to ensure market transparency and to prohibit market manipulation. In the area of electric utility mergers, we have expanded the jurisdiction of the Federal Energy Regulatory Commission over mergers involving existing generation plants; that is, plants that are in existence at the time the merger takes place. We have also created new requirements in the Federal Power Act for special scrutiny for possible cross subsidization as a result of mergers. Before the Federal Energy Regulatory Commission can approve a merger, it must find that any possible cross subsidization is actually consistent with the public interest, which I think will prove to be both a flexible and a strong protection for ratepayers and for workers and for other persons who should be protected if we are being consistent with the public interest.

The conference report authorizes a broad range of research and development and demonstration and deployment activities for new energy technologies that will help us toward our energy future. It couples them with energy tax incentives and a comprehensive new approach to loan guarantees at the Department that will help these technologies over the final threshold into commercialization. This latter part of the bill is a particular accomplishment of Chairman DOMENICI that I think will pay off in this country for years to come.

The conference report also will result in major changes in our national slate of transportation fuels. It requires that we reach a target of 7.5 billion gallons of renewable fuels by 2012. It sets a path forward for the development and commercial introduction of ethanol made from cellulosic biomass which promises to have a profound impact on our ability to manufacture and use renewable fuels in the future. Our work on fuels and fuel additives in this conference report is not complicated by the issue of developing safe harbors for product liability claims for any fuel additive, whether ethanol or MTBE.

Resolving this dispute involved including a provision that, when it first appeared in the publicly released base text of the conference report, caused some confusion. I know that some Members may want to address this issue in this debate. The best explanation, though, of the intent of this provision was given by Chairman BARTON himself in the course of the final public meeting of the Energy bill conference Monday night. He did it in the course of an exchange with Congressman BART STUPAK of Michigan, who was about to offer a clarifying amendment to this provision in the conference report. Based on the understanding conveyed in that exchange, Congressman STUPAK decided that he did not need to offer his intended amendment.

Since that exchange was crucial to how this provision was dealt with in conference, I ask unanimous consent that the transcript of that exchange be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. Mr. President, there is much more that I could say on behalf of the energy conference report that is before us, but I want to allow time for others to speak as well. It is worth acknowledging that in the process of conferencing with the House, we had to yield to their strong demands and desires in a few areas. Some of those provisions, in my view, were misguided. They include some weakening of environmental laws and some additional subsidies to energy industries that are probably unnecessary. I am sure that some of my colleagues will explore those problems in more detail. But these flaws, serious as they are, do not, in my opinion, lead to a conclusion that this bill should not be enacted. On balance, this is a good bill for the country and the best Energy bill this Congress is going to produce. We should enact it into law.

To the extent that there are gaps in the bill, that there are subjects that we should have covered and have not adequately covered, we need to look to the future. It has taken Congress over 4 years to craft this Energy bill. The Energy bill prior to that was the Energy Policy Act of 1992, passed 13 years ago. When we complete this bill, I don't believe we have the luxury of waiting another 13 years to pass the next Energy bill. The energy security needs of this country that are not addressed in this bill will not wait for another decade for attention. The threats posed by our dependence on oil imports or by global warming will continue to face us and will continue to grow as issues. This bill does maintain and increase our investment on a range of clean energy sources, but it does not contain a critical mechanism that was contained in the Senate Energy bill; that is, the renewable portfolio standard that I referred to earlier.

This bill has positive and helpful measures to increase domestic refining, but consumers will still face burdens at the gas pump. There is critical work to be done on these issues, but I believe the positive message coming out of this bill is that we have developed a truly bipartisan way to move forward on those issues in the Senate and the House of Representatives. I think that I speak both for myself and for my colleague who is chairman of the Committee on Energy and Natural Resources in saying that we intend to work together both in the short term and in the long term to address the issues that need additional attention in this general legislation. He has my pledge to continue to work in this Congress to advance the ball and to get to a finish line on proposals that we could not achieve closure on in the context of this bill.

Let me just mention three of those. First, flexible mandatory measures to address global warming. We had an excellent hearing which Chairman DOMENICI chaired in the Energy Committee. In fact, during the time that this bill was being considered in conference, time was taken out to have this hearing on the issue of global warming. I believe it was a very useful hearing. Chairman DOMENICI stated that it was the first of several that we may be able to have to better understand that issue and see if a consensus can be reached on a path forward in dealing with it.

Second, doing more to tap the potential of renewable energy. Again, I believe that more can be done there, and I hope we can revisit that issue before this Congress adjourns.

Third, we need to continue to focus on oil savings. The United States imports more than 65 percent of our oil, and the Energy bill will not reduce those imports significantly. Reducing oil consumption will make us less dependent on foreign oil and ultimately save Americans money at the gas pump. Although the oil savings approach that we took in the Senate bill did not win acceptance by the House of Representatives, that is a concept that continues to hold promise as a way of addressing the problem, and we need to revisit that issue in legislation, in my view, as soon as we possibly can.

We worked hard to create the Energy bill compromise before us today. We should enact that compromise and move forward aggressively to ensure that it is implemented rapidly by the executive branch of our Government. If there are negative consequences to what we have enacted, then we can document those and work to correct those errors. If there are topics we need to address more effectively, then we certainly can do that.

Again, I congratulate my friend and colleague on his accomplishment. But securing our energy future in some sense is a job that is never done. I look forward after we have had time to rest and reflect on what has been done to again begin the effort to address policies that will increase our energy security, reduce our dependence on foreign oil, provide for more use of clean energy, lower gas prices, and deal with the emissions that are leading to global warming.

Again, I congratulate my colleague and all members of the conference and all Members of the Senate for the constructive approach they have taken to the development of this legislation.

At this point, I yield the floor.

EXHIBIT 1

Chairman BARTON. Are there other amendments from the House conferees to Title XV? Mr. Stupak.

Mr. STUPAK. Thank you, Mr. Chairman. I have an amendment at the desk, but if I may, before I offer it, I would like to ask you, as chairman, a couple questions on Section 1504, if I may?

Chairman BARTON. The gentleman is recognized.

Mr. STUPAK. Mr. Chairman, I would like to thank you for your willingness to come to a consensus on the MTBE. I know it has been a difficult couple days, and I am trying to get this thing resolved and I——

Chairman BARTON. Well, I am not consenting, I am just admitting that I don't have the votes in the Senate.

Mr. STUPAK. Well, your willingness to work with the conference committee.

Chairman BARTON. I know when to fold them and this is one time you got to fold them. So what was the question?

Mr. STUPAK. Well, in light of that, Mr. Chairman, I just want to be clear about one of the compromise provisions that's been inserted into the amendment and this is Section 1504, called Claims Filed After Enactment. Can the chairman clarify for us what this language means and is intended to do, this Section 1504?

Chairman BARTON. If you will suspend just briefly.

Mr. STUPAK. Yes, sir.

Chairman BARTON. The Section 1504 is a negotiated section between the House and the Senate, that in lieu of the base text language in the House bill on MTBE, we put in a section that is permissive, that for prospective claims, defendants may request that they be consolidated in a Federal court as opposed to a State court. It is a permissive, not mandatory, thing.

Mr. STUPAK. So in that case, then it can remain in the State courts. So this provision does not in any way give the Federal courts a new subject jurisdiction over MTBE cases?

Chairman BARTON. The base text that's before the conferees, on existing MTBE lawsuits, changes nothing on prospective MTBE lawsuits, that is, lawsuits that have not yet been filed.

Mr. STUPAK. Correct.

Chairman BARTON. It gives the defendant in the lawsuit, the prospective lawsuit, if it were to be filed, the right to request that the lawsuit be sent to a Federal court.

Mr. STUPAK. Or it could remain the State court if——

Chairman BARTON. Well, it just gives them right to request it. Now I am not an attorney, so I am not—but that's what the section does.

Mr. STUPAK. I just want to make sure that the Federal courts don't have an exclusive right to try these cases and it is my understanding they would not, based upon——

Chairman BARTON. Well, of the existing cases that have already been filed, they are in the hundreds, all but 12 are in Federal court.

Mr. STUPAK. Correct.

Chairman BARTON. They are 12 that are in State court.

Mr. STUPAK. So it is really——

Chairman BARTON. I don't think this section is unduly restrictive or adverse to the current situation.

Mr. STUPAK. So Section 1504, then, is it fair to say, gives those involved in future MTBE litigation or disputes, the discretionary ability to remove their case to Federal court?

Chairman BARTON. No, it gives them the right to request it.

Mr. STUPAK. Okay.

Chairman BARTON. That's all.

Mr. STUPAK. Discretionary. They don't have to. It is within their discretion to go to Federal court, if the defendants so choose.

Chairman BARTON. That's correct.

Mr. STUPAK. And then it is up to the judge whether or not the case is properly there or remanded back to State court?

Chairman BARTON. That's my understanding.

Mr. STUPAK. So we are not conferring a new substantive or subject matter jurisdiction over these cases?

Chairman BARTON. Not to my knowledge.

Mr. STUPAK. Thank you, Mr. Chairman. With that, I will not offer my amendment.

Chairman BARTON. We appreciate the gentleman.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I know Senator KERRY wants to speak, but I would like to ask that we may have time to arrange all of this right now. My next speaker is Senator CRAIG. I would like to yield 5 minutes to him and then we go to somebody on your side.

Mr. BINGAMAN. Senator KERRY will be the first Senator on this side, followed by Senator WYDEN. So why don't we go back and forth, if that is acceptable.

Mr. DOMENICI. I might ask the Democrat side, since we have two Senators with 5 minutes each, would it be fair to say we go back and forth with 5 minutes?

Mr. KERRY. Under the order, I have 30, and I intend to use it.

Mr. DOMENICI. You have 30.

Mr. WYDEN. I have 15 under the agreement.

Mr. KERRY. I don't want to be limited to 5 minutes.

Mr. DOMENICI. I am not going to limit you. You have an order. I am just talking about sequence.

Mr. KERRY. I thought you said limited to 5 minutes.

Mr. DOMENICI. I did. I am wrong, so I am telling you you have 30; you are going to get 30. It is just a question of when.

Mr. KERRY. I am happy to go back and forth. That is the way we have always done it.

The PRESIDING OFFICER. The Chair will advise under the previous order as the Chair recollects it, the Democratic side set up specific times for their members while on the Republican side 90 minutes was allocated but not allocated in any definitive way.

Mr. DOMENICI. So what we are saying is the Senator from New Mexico can speak for 90 minutes. I don't want to do that. I want to let my Senators speak, so I would like to change that. If we don't change it, I will speak for 90 minutes.

Mr. CRAIG. The Senator was to allocate 90.

Mr. DOMENICI. I know I was. I would like to allocate if I could. If Senator KERRY is going to speak 30 minutes, I would like to have Senator CRAIG and Senator THOMAS speak for 5 minutes each. That is 10 minutes. And then we go to Senator KERRY for his 30. Then we come back to Senator ALEXANDER for his 5, and then we go back to Senator WYDEN for as long as he would like.

Mr. WYDEN. That will be very adequate. I thank the Senator.

Mr. DOMENICI. Is that fair enough, Senators?

Mr. WYDEN. Yes.

Mr. DOMENICI. Fair enough. Thank you. I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. CRAIG. Mr. President, I think all of us stand here tonight happy that a work product is before us, and it would be remiss of me not to congratulate both of the Senators from New Mexico but clearly to recognize Senator DOMENICI for his chairing of the Energy Committee here in the Senate and the work he and Senator BINGAMAN have done to operate in a bipartisan way to bring us to where we are tonight.

You have heard from both of these Senators, and they have spoken clearly about the substance of the conference report that is before us. I will not go into the detail of that substance.

At the outset, let me thank at least two of my staff members, George O'Connor and Corey McDaniel. Both of them have worked on these issues. George O'Connor has been with me literally all of these years as we have worked and struggled through the process. I thank them and thank the staff of the full committee for the tremendous effort at hand that has produced this important conference report.

In the 5-year struggle that many Members have been engaged in developing a comprehensive energy policy for this country, at times we thought it was for naught. We would bring it to the Senate, we would spend weeks voting on it, we would work with the House, but we could not produce a final conference report.

That work was not for naught. In that process of the last 5 years, not only did we learn there were issues we simply could not arrive at a solution on, but over that 5 years there was a learning process for all of us and for all Americans on a variety of issues.

Senator DOMENICI spoke tonight of a new, comprehensive national policy to deal with nuclear energy and to bring it online. Five years ago we could not have accomplished what we accomplished in the last several months. Why? The public was not with us in general nor was there a growing realization that obviously did occur that the way to build new base load, to turn on the lights of America 10 years out, was with an existing technology while we worked on future technologies. And we wanted it to be clean. That new technology was an existing technology: It was nuclear.

Once again I believe the world is increasingly excited that America has decided to take a leadership role in the area of nuclear instead of to hide behind the politics of the issue, as we have as we have lost that leadership role over the last two decades. In our action here, comprehensive work has been done of a bipartisan character.

Senator DOMENICI also reminds me, as he should, he wrote a book on the issue, a book that is selling pretty well, but also a book that was part of that educational process that caused us, along with the critics of the issue, to begin to understand if we want clean energy, and we do, and we want abundant energy, and we must have it, under current technologies there is only one place to go to get it.

Clearly, we have incentivized that. The Senator from New Mexico is right. If you cannot begin to design and ultimately build new nuclear production facilities in this country, new electrical productions in this country fueled by nuclear reactors, then we will not get it done. But we will, and not only will we go through a new generation, we will go into new technologies. That is laid out in this bill. It is critically important.

So while we are working on the new, we also do something else. We realized the old must be renewed, and that was hydro. For the Pacific Northwest, it was critical. In the Energy Policy Act of the mid-1980s, we created a problem. We included everybody except the producer and said, You have a right to shape the new facility when it is relicensed, no matter what the cost and no matter what the demand, as long as it fits the environmental desire of the stakeholders involved. We could not get licensing completed.

It went on for years and years and cost hundreds of thousands, if not millions of dollars, and nothing got done. When it did get done, the production plant usually produced less than it had before. That is unacceptable when we see so many of our hydro facilities needing to be relicensed in the next 20 years. I and many others worked and we have what we believe is a new and better way to relicense our facilities with that clear recognition.

There are many key components in this critical legislation that, as both the Senators from New Mexico have said, put us back into the business of producing energy, clean energy, appropriate for our national needs, meeting the demands, creating jobs, and saying to our young people, there is a variety of abundant energy future for our country.

I applaud my colleagues for working with us in accomplishing what I believe to be a very comprehensive piece of work.

I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from New Mexico.

Mr. DOMENICI. I will yield very soon to Senators.

I make one observation and ask one question and then I will yield to my friend from Wyoming.

First, fellow Senators, Senator BINGAMAN mentioned something about renewables. I failed to mention, while we did not accept the Bingaman amendment, the tax portion of this bill allocates the largest percentage, largest piece of the tax incentives to renewables, to wind. Some did not like that. Some think it is great. One of the Senators is here and smiling. He did not like that. But that means as much wind energy as you can throw for the next 3 years, as much as you can manufacture and use, will be manufactured and used. Hopefully during that period of time Senator BINGAMAN can return and speak more to the issue of longevity and continuity.

I thank two people: Alex Flint, my staff director, and Bob Simon, the staff director of Senator BINGAMAN. It is fair to say they have become friends, too, just as my friend Senator BINGAMAN and I have.

With that, we have the order for the next hour or so. I will leave for a while and leave it to one of my friends. Senator MURKOWSKI is the last one, although we have not provided for her.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. THOMAS. Mr. President, I will be short. It is a real honor to be here this evening to talk about the introduction of this bill, a bill for which we have waited a very long time, and worked a very long time. I thank the chairman and the ranking member. We worked very hard on this bill to get it into conference and worked very hard through conference.

Since we started formulating policy, we have worked on a number of issues. There have been changes. Many things have remained the same because the policies need to be the same. The issues are the same. We have had to move forward.

We still need a comprehensive policy. That is an important issue because now, as we read in the paper, there are questions as to why we are not going to affect the gas prices tomorrow or the day after. We are talking about down the road. We are talking about where we will be over a period of time. This is a policy. It is very important to remember and to understand as we talk about the changes that will eventually take place in the kind of energy we will use, in terms of renewables, in terms of alternatives. We will be moving there, but we are not there. Alternative energy creates now about 3 percent of what we use. It will be much higher than that, but it won't be higher than that next year or next month.

We have to make sure what we are using now for energy can continue to be maintained and that we will find new ways of dealing with the energy. For instance, that we can take coal, our largest fossil fuel resource, and find ways to use it in a more environmentally sound way, find ways to change the way it is moved, for hydrogen or synthetic diesel, and do that over time.

It is important we understand that we have to do two things: We have to look to the future about alternatives. We have to find ways to use what is available now to keep up production in this country and to keep our economy strong. We ought not to forget that is what we need to do.

This is a bill that is very balanced. That is important. It has already been talked about. I will not go into the details. We have talked about renewables. We have talked about ways we can renew—whether it is gasoline, ethanol, or opportunities for electric generation, whether nuclear or whatever—areas we can move to. That is very important over time.

We ought to talk about coal. We do here. We spend a good deal of money. By the way, we divide this total expenditure in about six equal ways between renewables, conservation, doing something to make coal more usable. There are six distinct areas spread in fairly equal amounts.

I will talk a second on coal. It is our largest fossil fuel resource. We have more of it for the future than any other energy. We need to find better ways to use that. Much of it will be generating electricity. Sometimes we do not think about where electricity comes from; we just think it is automatically there. It is not. We have to continue to do that. Coal is in one place; the need for electricity is in another. We need transmission. We have to have new transmission ideas and do things that are more efficient than they have been in the past. We need to find a way to make sure it is safe and secure.

The same thing is true with oil. We use oil a great deal. About 60 percent of it now is imported. We will continue to do that. Certainly over time we will find ways to get better mileage in automobiles. It is not going to happen right away.

Of course, there will be some arguments that we should put some defined times when you have to get CAFE standards. It is very difficult to do that. But it will happen. It will happen in the marketplace. It will happen as we can do it. And we can do it efficiently. We have to find better ways to get more oil out of the ground. We produce a lot of oil in Wyoming. The old oilfields are about exhausted, but below that is a great deal more oil if we find different ways of doing that, if we use renewed production or carbon sequestration. And much of that is in this bill.

We do have conservation and efficiency, as we should have. We have opportunities to make the use of energy more clean and better environmentally. We have ideas for producing more production of our resources available now. And we need to do all of these things as quickly as possible, but we cannot do them overnight.

I urge passage of this bill.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized for 30 minutes.

Mr. KERRY. Mr. President, I wish the senior Senator from New Mexico were in the Senate because I wanted to say a few words to him personally as well as about him, but in his absence I will certainly say them.

In the Senate, we all have an ability, thank Heaven, to be able to separate the policy from personality and from the personal. I know how hard Senator DOMENICI has worked through the years. I know how committed he is personally to developing an energy policy. That goes, also, for the junior Senator from New Mexico, my friend Senator BINGAMAN, who has worked closely and diligently under difficult circumstances to try to deal with these energy issues.

On a personal level, I am genuinely happy for the Senator from New Mexico because I know this is a moment of completion for him, and on a personal level he is happy and he has worked hard to get there. All Members are gratified when a colleague has that kind of success. Nevertheless, on a policy level, I have enormous disagreements with where this bill has finally put the Senate and our country.

Our Nation's energy crisis has reached historic levels. What we need today is not a policy that puts enough good stuff in it that enough Senators will grab onto it and say: OK, I can vote for that bill. What we need is an energy policy that is as bold and big as the challenge is significant to the country. That is not, under any analysis, what we are getting in this bill.

This is, frankly, largely a lobbyist-driven bill. What underscores that is when you measure what is happening in this bill—as you must in making any decent policy for our country—when you measure this bill against families who are struggling to balance their checkbooks, who cannot pay easily the additional cost of gasoline, when you measure this bill against small businesses, which have had an enormous rise in the cost of doing business—just the cost of getting to and from the business, let alone the cost of trucks delivering goods to that business. There has been something like a $25 billion to $30 billion energy gas tax increase on businesses over the course of the last couple years. They are paying those additional costs.

We passed, in the Senate, an energy provision to be able to provide loans—not grants, not giveaways, but loans—to those businesses so that they might be able to adjust for the cash flow problems they have because of the increased cost of energy. The Senate passed it. The Senate passed it 3 years ago. But it was taken out in the conference.

Gone from this bill is any kind of emergency lending assistance to the small businesses of our country that are hard-pressed because of energy costs. Why? What is the reason for that? When you see our children breathing air already that is dangerously polluted, and you know the levels of asthma among children are increasing, and the greatest cause for the hospitalization of children in the summertime in America is an asthma attack, which is air-induced, and the quality of our air is not being cleaned as much as it was, as rapidly as it could be, nevertheless, you see us going backward with respect to the new source performance standards in air quality, when you read about rival nations that are rapidly moving ahead of the United States of America with respect to alternative energy technologies—and they are creating high-paying jobs by moving in that direction—but the United States is only moving incrementally, without a genuine commitment—and I will come to that in a minute—when you recognize that our dependence on foreign oil sees us sending $25 billion a year just to the Gulf States alone—Mr. President, $200,000 a minute, $13 million an hour, we send to those countries; And how much of that money falls into the hands of Hamas, al-Qaida—when you see what the complication of oil dependency does to the foreign policy of the United States as well as the health, economy, and security of our Nation, you have to ask yourself why we are not moving more rapidly to deal with these issues.

Senator DOMENICI said a moment ago this is the largest portion that has gone to renewables. Well, let me show my colleagues this pie chart, which simply contradicts that. That is not accurate. It may be a larger amount of money than it has been in the past, but of the money that is being put out in this bill, only 16 percent goes to renewables. And 10 percent goes to efficiency. That is a total, between them, of 26 percent going to renewables and efficiency. Mr. President, 37 percent alone, eclipsing renewables and eclipsing efficiency combined, is going to nuclear—going to nuclear.

When you add the combination of oil and gas, you have an enormous proportion of this bill's tax benefits and funding that is going to the status quo—the status quo—"same old same old" energy policy of the United States, not to the creation of the new high-paying jobs, to clean air and to renewables and the kind of technologies we need. There is no explanation for that.

Mr. President, I voted for the Senate bill. I joined with colleagues, 85 of us, in sending a bill to the conference that had about a 50–50 split. I was not pleased with a 50–50 split. I thought we could have done better than that. Guess what. We are going backward in this bill. Why? What is the rationale? What is the policy rationale for having taken a Senate bill that had a larger amount of money going to renewables and alternatives, that passed with 85 votes, and here we are with a bill on the floor of the Senate that has a paltry 26 percent, only 16 percent going to renewables? If you ask the American people, the American people would overwhelmingly vote to do otherwise. But the Senate will not.

The conference committee takes a huge step backward in other places—for instance, the requirement that U.S. utilities generate 10 percent of their electricity from renewable sources by 2020, 15 years from now. We are trying to set a goal that just 10 percent of America's electricity is going to be produced from alternatives and renewables. We could achieve it. Other nations are moving to a much higher level of alternatives and renewables. Not the United States of America. We are going to do the "same old same old." We are going to do the nuclear and do the oil and gas.

Well, most of our electricity actually is not oil-fired. It is either coal-fired or natural gas-fired. But the fact is that instead of setting a standard, which we had in the Senate—in the Senate bill, we said 10 percent of the electricity by 2020 will be from renewable sources—that is gone, taken out of the bill. Why? Because special interests on the House side demanded that happen.

As to language that recognized global warming, I remember how many Senators came to the floor, and they all embraced the language of global warming in a nonbinding resolution. They just said: We are going to deal with it, and this is important. Guess what. Even the nonbinding language that acknowledged the problem of global warming has been taken out. There is nothing in this legislation to deal with one of the single greatest environmental challenges on the face of this planet—nothing.

And how do you explain this next one? The United States uses about 19 million barrels of oil a day. We had a requirement in the Senate bill that we reduce oil consumption in America by 1 million barrels a day. Imagine that: We were going to try to get 1 million out of 19 million. We were going to require that the country set a goal of reducing that dependency on oil. Gone. It has been taken out. Why? Why would we not want, as a nation, to set a goal of trying to reduce our dependency?

I guarantee you, Mr. President, we are going to be back here in the Senate facing real energy crises as we deal with the realities of what is going to happen in the world, with a China that is going to move to something like 13 million barrels of consumption on a daily basis from about 5 today. You have India that is going to go from about 2 million barrels up to 5 million barrels a day.

You are going to have some trillions of dollars that are going to continue to be exported abroad, and you will see more efforts by China and other countries to take the fruits of their oil and buy American companies. Is America going to be stronger for that?

I would like to know why, instead, billions of American tax dollars are not going to go to renewables and alternatives, but they are going to go into oil and gas. Let me make it clear. I support clean coal technology. I think it is important. It is one of the most vast resources of the United States, one of our biggest reserves. And it is absolutely technologically feasible for us to be able to burn coal more cleanly. We need to do that. I support our efforts to move in that direction.

But why, at the last minute, is there a $1.5 billion deal that goes to Halliburton? Halliburton, which is making billions of dollars off of Iraq, Halliburton, which is a hugely profitable company, is going to get $1.5 billion out of this instead of some of these other nascent technologies that are screaming for assistance.

Why is it that children are going to get weaker environmental protections, dirtier air and water? Is there any person in the Senate who has received mail from their constituents saying: Give me dirtier air for my kids. Give us dirtier water to drink. That is what you are getting. That is what this bill gives you.

Americans get no relief at the pump. And we are left more dependent on foreign oil than we are today. Imagine that. Here is an energy policy that people are going to come and celebrate. I can see the President's signing ceremony now. And he will go out and tell America how terrific it is going to be.

But this does nothing to reduce American dependency on oil.

Let me make it clear. Don't take my word for it. The President's own economists say that oil imports will increase 85 percent by 2025 under this proposal. The President's own economists found—and I quote them—

> [C]hanges to production, consumption, imports, and prices are negligible [in this bill].

In other words, the very things we want to affect—prices, consumption, imports, production—are going to be negligibly affected by this bill.

You do not have to be an expert, you can be a kid in any classroom in America, in middle school or elementary, and know that if the United States of America only has 3 percent of the world's oil reserves—that is all we have in all of Alaska, underneath all of our national monuments, in all of our waters that are accessible to the United States. We have 3 percent of the world's oil reserves. Saudi Arabia alone has 65 percent of it. As I have said many times, and as this bill ignores, there is no possible way for the United States of America to build its security in the long term by drilling our way out of this crisis. We have to invent our way out of it. This bill barely scratches the surface of the kind of invention America is capable of and the kinds of opportunities we know of.

I heard the Senator a moment ago say we do not have the ability now to be able to do better in our automobiles. That is just not true. For a $200 expenditure, anybody could go out now and get their car converted to be able to go use ethanol fuel, biomass fuel. It is just that we do not do enough of it. Imagine what we could do for farmers across our Nation. Imagine what we could do with respect to the possibility of new jobs and new production facilities and delivery facilities and infrastructure. None of that is being adequately tapped with respect to this legislation.

All you have to do is look at what this bill does for the environment. There is in this bill an amendment to the Safe Drinking Water Act. Do you know what it does? It allows unregulated underground injection of chemicals during oil and gas development so that we threaten clean water. Did anybody in America say, I think it is a good idea for us to have chemicals put into the underground water supply in order to bring out oil and gas? Why would we exempt it from the standards we have applied to our Nation over the course of the last 30 years? The oil and gas industry is getting an exemption for their construction activities from compliance with the Clean Water Act. Why would you exempt construction activities from compliance with the Clean Water Act?

The Energy bill also requires an inventory of offshore oil and natural gas resources. That is supposed to pave the way for offshore drilling along America's coastlines, including areas off Florida's coastline, which is banned.

This Energy bill should have been a net plus for the environment. Instead, it goes backward.

Are there some positive provisions in this bill? Of course there are. I could stand up here and talk about the importance of clean coal technology. There are other things. I am encouraged by the strong, new standards and consumer protections in electricity. I am encouraged we finally authorized Energy Star. But the bottom line is, we did better in the Senate bill that went to the conference committee. We did better. And there is no policy rationale, no common sense in going backward from the standards that were set in that Senate bill.

The fact is, if we end our energy dependence on foreign oil, we strengthen our national security. If we lead the world in inventing new technologies, we create thousands of high-paying technology jobs. If we learn to tap clean energy sources, we preserve a clean environment for our families and for future generations. If we remove the burden of high gas prices, American consumers can spend elsewhere and give our economy the boost it needs.

This Energy bill does not take anywhere near the advantage that we had in the Senate bill or that we could have had even beyond the Senate bill.

I understand it is hard to get an Energy bill passed. We all understand the powers and the force of money in American politics and the lobbying that takes place. But we have a powerful opportunity to make a renewable electricity the standard in the United States. This bill ought to be increasing our electricity supply from renewables up to 20 percent of electricity from wind and solar and geothermal and biomass facilities by 2020. Instead there is nothing.

The renewable portfolio standard is a simple mechanism to diversify energy sources, to stabilize electricity prices, to reduce air pollution and other harmful environmental impacts of electricity generation. The fact is, this administration has even let the big old powerplants off the hook by reneging on the new source performance standards so that they don't have to live up to the higher standards as they put new technologies in place. The result is, Americans will have dirtier air than they would have had otherwise.

Second, we need to take serious steps to help the domestic auto manufacturers build the cars, trucks, and SUVs of the future. The market for hybrids is set to take off. Over the next 3 years, the number of hybrid models is going to increase to almost 20. By 2012, there could be possibly more than 50 models. These are representative of real potential volume and unbelievable value. If we don't build them, someone else is going to do it. The fact is, others are doing it more effectively and rapidly than we have. The global market for hybrids, by one estimate, could be as much as 4.5 million units by 2013, perhaps $65 billion alone in the United States. I believe we ought to put American ingenuity back into our vehicles. We ought to be encouraging, to a greater degree, the ability to transform that marketplace. That is why any Energy bill that we consider ought to have both manufacturer and consumer incentives that are adequate to help accelerate that transition. This bill doesn't.

Third, Congress can't responsibly continue to ignore the global climate change issue. Higher temperatures threaten serious consequences. I met the other day with our top experts from NASA. How many Senators realize that it is now not a question of whether; it is a certainty. Nothing we do today is going to stop this. To show you how far behind the curve we are, it is a certainty that the Arctic ice sheet is going to melt. If the Arctic ice sheet melts completely, that exposes the Greenland sheet. Nobody can tell you with certainty what is going to happen to Greenland. But any policymaker ought to stop and shiver at the prospect that it is a certainty the Arctic ice sheet will melt. The Greenland ice sheet will be exposed. And if it were to melt, with catastrophic consequences, say goodbye to Florida, goodbye to the port of Boston, and New York, and a bunch of other places. That would be a catastrophic event. There is nothing in this bill that tries adequately to deal with that reality.

What is going to happen with respect to drought, disease, floods, lost ecosystems? And from sweltering heat to rising seas, global warming effects have already begun. Sit down with the top scientists. Sit down with Nobel Prize winners and listen to them tell you about the certainty of what is already happening, not a matter of scientific speculation. The seas are rising. It is getting warmer. They will tell you what is happening. This bill doesn't deal with it.

We tried, on this bill, to pass an economywide cap-and-trade bill, a bill that uses the marketplace to be able to work effectively. Didn't get enough votes. The compromise was, they passed the language that didn't require anything, and they even took out of this bill the language that didn't require anything. This is the most obtuse, head-in-the-sand ostrich policy I have ever seen in my life. A bunch of responsible people in the Senate and House of Representatives, ignoring scientists all across the globe, turning their backs on foreign ministers, trade ministers, environmental ministers, prime ministers, presidents of countries, all of whom have embraced, at political risk, the reality of that science, and only the United States of America stands apart and alone, ignoring that reality. Where is the leadership?

Fourth, to ensure that technologies capable of providing clean, secure, and affordable energy become available in the timeframe and on a scale needed, we need to dramatically increase our commitment to research and development. I am in favor of advancing the research on nuclear waste and on third-generation, fourth-generation nuclear capacity. A lot of people in my party are not, a lot of environmentalists aren't. I think it is responsible to do that. But it is not responsible to go rushing headlong with the greatest proportion of technology alternative here, without having dealt with those issues and dealt with the American public in a responsible way with respect to that.

I think the bill ought to include provisions to dramatically increase Federal Government funding for new energy research and development, increased incentives for private sector energy research and development, and expanded investment in cooperative international R&D initiatives. It does not.

Maybe most important of all, we need to attack our energy crisis with the same intensity that we showed under the leadership of Franklin Roosevelt and Harry Truman when we undertook the Manhattan Project or, subsequently, when we did the space program and the Apollo program. Our competitors are showing that kind of urgency. Prime Minister Blair has been fighting hard to get the G8 to come together. He had to back off because of American pressure. We pushed backward, not forward. Great Britain wants to do almost 100 percent of its electricity from wind power over the course of the next years. Other countries are moving to 80 or 90 percent goals of biomass for fuels. Not the United States of America, despite so many farmers who are desperately waiting for that marketplace to exist.

In Germany, where heating is a huge drain on energy, a new law sets the standard of a house designed to use just 7 liters of oil to heat 1 square meter for a year. A new national campaign in Japan urges replacement of older appliances with new hybrid products as part of their nationwide effort to save energy and fight global warming. In Singapore, air-conditioning is a big drain on energy. So new codes encourage the use of heated blocking window films and hookups to neighborhood cooling systems which chill water overnight. Other countries are way ahead of the United States of America in exploring these possibilities.

In Hong Kong, an intelligent elevator system uses computers to minimize unnecessary stops and minimize, therefore, unnecessary use of energy. If these nations can reduce their dependence on foreign oil and invest in advanced energy technology, surely the United States of America can do better than this paltry 16 percent renewables and 10 percent efficiency.

Their urgency is more than justified because, frankly, this goes way beyond our economy. Energy is a legitimate and central global security issue. The era when the United States and Japan comprised the bulk of the world's demand for oil is over. Oil consumption from developing Asian nations will more than double in the next 25 years, from 15 million to 32 million barrels a day. We only have 3 percent, as I said earlier. There is no way the United States is going to be part of that bargain. The way the United States can be part of that future is by creating those alternative sources and gaining our independence.

Chinese consumption is going to grow from 5 million to nearly 13 million barrels a day. India is going from 2 to 5 million barrels per day. This global race for oil is potentially a devastating, destabilizing force, certainly a challenge to the security of our country.

We are going to be back here on the floor of the Senate in a short period of time lamenting that we didn't do more now. Increased American energy dependence further entangles also our Nation in these areas of the world. You look at our troops now. This is not good for our troops. In recent years, U.S. forces had to help protect a pipeline in Colombia. Our military had to train indigenous forces to protect a pipeline in Georgia. We plan to spend $100 million on a special network of police officers and special forces to guard oil facilities around the Caspian Sea and continue to search for bases in Africa so we can protect oil facilities there. Our Navy patrolled tanker routes in the Indian Ocean, South China Sea, and the western Pacific. The reality is that we have to protect oil at risk to our troops and at cost to Americans to protect our way of life because we are not working the way we could to provide an alternative to that.

This is a serious issue with real consequences. In the spring of 2004, insurgents attacked an Iraqi oil platform. There was violence against oil workers in Nigeria. The result was depressed global oil output and record high gasoline prices. The United States is now on a course where we are opening a target to terrorists. The more you rely on oil, the more disruptive it becomes to your economy, the more it becomes a target to terror, rather than growing it here at home.

If anyone needs an example of how energy dependence can shortchange national security, you can look at the war on terror. Let's assume that oil were to miraculously drop to $30 a barrel over the next 25 years. The United States will send over $3 trillion out of the country, much of it to regimes that don't share our values. Today, America spends these enormous amounts. About $25 billion a year goes to Persian Gulf imports alone. It is bad enough to think that those dollars aren't going to stay here and help grow our economy. But it is worse to consider that they empower, in many cases, some of the most extreme elements in the world to be able to take advantage of that richness. The fact is the madrassas in many of these countries and the deals that have been cut in regimes like Saudi Arabia between those extremists are part of what has provided the recruitment and destabilization with respect to the violent extremists of the world today.

We know that al-Qaida has relied on prominent Saudi Arabians for financing. The fact is that the bottom line of this policy is, it works for Saudi Arabia. It works for oil and gas companies. But in the long run, this is not going to be what the American people need or want.

Americans deserve better, and they also deserve the truth. We had a debate on the floor of the Senate on an Energy bill, during which we were debating efficiencies. This administration delayed an EPA report that slammed fuel economy. It didn't allow the report to come out until after the bill had passed.

Washington failed the American people with respect to an opportunity to provide both the economic, health and security and energy policy that this Nation so desperately needs. My hope is that as much as there are some good things in this bill, the Senate at some point will come back and get the real job done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 5 minutes.

Mr. ALEXANDER. Mr. President, the legislation that the Senator from Massachusetts described bears very little resemblance to the legislation I have been working on for the last couple of years with Senators DOMENICI and BINGAMAN and that 13 out of the 14 Senate conferees of both parties just approved.

Let me say what I believe we did and then spend a minute, at the end of my 5 minutes, correcting a couple of things the Senator from Massachusetts said.

Energy is not usually what we talk about at the dinner table, but it is today. For example, in Tennessee, if you are working at International Paper in Memphis or at Eastman Chemical in east Tennessee, you know that if the price of natural gas stays as high as it is today, the highest in the world, those jobs are going to move overseas. And those are thousands of jobs in Tennessee and millions of blue-collar jobs in America. If you are a farmer and you know that the natural gas price stays as high as it is today, you know you are going to have a big pay cut because of the cost of fertilizer. And if you are a homeowner, you know the bills are up.

The first thing this legislation does is to take significant steps to stabilize the price of natural gas and hopefully bring it down. That is worth talking about at the dinner table.

The second thing it does is to change the way we produce electricity so that it is by low-carbon and no-carbon means. That is worth talking about at the dinner table because it helps deal with global warming, and it helps deal with clean air. The third thing it does is begin a long-term switch from a dependence on oil, especially foreign oil. That is worth talking about because of our national security. Does it really do that? I would submit that it does. To begin with, the conservation and efficiency provisions in this bill will save the building of 50 major powerplants over the next 20 years. That is the first and most important thing we should do.

The second thing it does is to focus on accelerated investment and research for the next generation of nuclear power.

If you really care about global warming, you want to support nuclear power because 70 percent of our carbon-free electricity in America today comes from electricity generated by nuclear powerplants.

The third thing it does is to adopt a strategy that the Natural Resources Defense Council and many others have urged on us, which is to explore seriously making gas from coal and turning that into electricity and taking the carbon out and putting it into the ground.

The fourth thing it does is to create new supplies of natural gas to begin to lower the price of gas and further produce clean air.

Mr. President, that is really the way to address global warming. That is really the way to reduce the price of natural gas. That is a serious policy to change the way we produce electricity so it is low carbon/no carbon—conservation and efficiency, nuclear power, coal gasification, carbon sequestration, and new supplies of natural gas. And then, for the long term, a focus on hydrogen fuel cell economy, but that is several years away.

The Senator from Massachusetts talked passionately about renewable energy. We all hope we can expand renewable energy. I fought very hard and I am glad to see in this legislation, for the first time, a carve-out for solar power, which was getting nothing from our renewable tax credit. But how much are we going to spend on energy that produces 2 percent of the electricity we use?

If you look at the figures in terms of the tax incentives in the bill, the Senator from Massachusetts didn't multiply very well because we spend 20 percent of the money on renewable. That is for 2 percent of the electricity. We spend 18.6 percent on energy efficiency and conservation. Most of us wish that were more. We spend 18 percent of the money on oil and gas production. That is 40 percent of our energy. Of the amount we spend on electric reliability, we spend $400 million of that for clean energy renewable bonds. That is renewable. We spend 20 percent on clean coal.

Mr. President, if anything, I think we are overspending on renewable. We have committed of taxpayers' money $3 billion over the next 5 years building giant windmills with flashing red lights. The Senator from Massachusetts may want a national windmill policy. That is for a desert island. For the United States, we need a serious clean energy policy, and that is this bill. So I congratulate Senator DOMENICI and Senator BINGAMAN. I am proud of this bill and I hope we adopt it.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, sometimes the test of legislation in the Senate is did we do less harm than good. Some might say, by that test, this Energy bill is worth voting for. I will tell you that test is not good enough when America is at war and our dependence upon foreign oil is putting our citizens at risk each and every day.

The test in the Senate that, well, maybe this legislation has some good is unacceptable when there is a rare opportunity and a rare obligation to avoid the terrifying human costs of future wars. In those rare instances, the test in the Senate should be did Congress meet its obligations. I have concluded that in this energy bill we have not.

Our dependence on foreign oil will not be reduced as a result of this legislation. As a result, we have not reduced the prospect of going to war once again in the Persian Gulf in the next decade. I do not understand how we will explain to every man and woman who fights so courageously in Iraq and Afghanistan, or how to explain to every veteran who fought in the Persian Gulf in the last decade, how we failed to meet our obligation to avoid future wars.

For this reason, I want to express a deep regret to those soldiers and veterans because your children are now no less likely to be asked to fight a very similar war. I want to express a deep regret to the families of those soldiers and veterans because their children may someday face the very same burdens. I want to express a deep regret to the American public, which is spending hundreds of billions of dollars to prosecute the war in Iraq and may someday be asked to spend far more on the next war because the Senate is about to pass a pre-9/11 energy policy. After 9/11, it became clear that energy policy was a national security issue and that reducing our dependence on foreign oil had to be a national security priority. That hasn't been done.

So today Americans continue to pay what I call a terror tax—the price we pay in insecurity for our dependence on foreign oil. I call it a terror tax because when each of us pulls up to the corner gasoline station and pays $2.40 a gallon, or so, for gasoline, a portion of that money goes to foreign governments that in turn send it out the back door to Islamist extremists who use the money to perpetuate hate and terrorist acts. But in this bill Congress has squandered a golden opportunity to dam that river of terrorist funding.

It is not good enough to accept business as usual when our citizens pay record prices at the gas pump, only to see foreign governments wink and nod while terrorists make off with substantial amounts of the money and use the funds to target America. The recent bombings we have seen have been a sober reminder of just how vulnerable America, our allies, and our strategic partners remain to terrorism. In my view, there is an indisputable link, not only between the American dependence on foreign oil and the price our citizens pay at the pump but between our oil addiction and our vulnerability to attack here at home.

What I have come to learn as a member of the Energy Committee, and as the one member of the conference who was unwilling to sign the report, is that any energy policy proposed in the future should have to contain a statement of how that bill will reduce the terror attacks. There ought to be a statement in the future with respect to energy legislation on how that legislation would actually reduce our dependence on foreign oil in the short term and in the long term.

If that had been required for this legislation, there is no way this bill would get a passing grade. This legislation does virtually nothing to reduce our dependence on foreign oil. You look at what was said in 2003, not by partisans on one side or the other but by the Bush administration's Energy Information Agency. They said that bill would have increased our imports of foreign oil by 2025 by about 85 percent. This legislation, with respect to oil imports, would produce virtually the same result.

Now, to give the country a sense of just what we were up against—those of us who wanted to break our dependence on foreign oil—I would like to discuss an amendment I tried to offer in the conference. In the conference, I proposed that the automobile industry be required to increase auto efficiency by 1 mile per gallon for each of the next 5 years. The reason I did that is a basic fact of energy policy. You cannot transform this country's energy sector if you give the automobile industry a free pass. So when I made that proposal, I said to myself, what a modest step, just 1 mile per gallon for just 5 years. Yet it would have had a huge impact in terms of reducing our dependence on foreign oil. Unlike this legislation, which doesn't reduce our dependence on foreign oil, that would have made a difference.

In the 2001 report, the national academy found that the technology exists today to raise the average fuel economy nearly 40 miles per gallon by 2012 without sacrificing safety. My proposal was much more modest than what the leading scientific experts in this country found was both technologically feasible and affordable to consumers. Yet the conference rejected even this modest proposal out of hand.

I particularly thank Senator BINGAMAN, who supported it and said we ought to at least, at the very minimum, not go to the American people and say, gosh, 5 miles a gallon over 5 years is too much. But even that modest advance could not make it into this legislation. So, as a result, Americans will get no relief from this terror tax brought about by our addiction to foreign oil. And at the same time, their hard-earned dollars will flow out the back door straight to the entrenched energy interests.

Now, even the President has said that when oil is trading at upwards of $55 a barrel, the oil companies are not in need of any more incentives. When the President says the oil companies don't need a deal from the Government, that ought to tell you something—you are going too far. But even so—even with the remarks of the President, who was dead right—this bill is now stuffed with a smorgasbord of subsidies for a whole host of energy special interests. The buffet of subsidies is so generously larded that, in many cases, it will allow second and even third helpings from the energy subsidy buffet table. Loan guarantees are letting these special interests double dip and even triple dip on some energy projects. Projects that would already be subsidized in other provisions of the Energy bill will also receive loan guarantees under the incentives title.

They are also going to get tax credits in the finance title. That is dip 1. Then they are going to get loans under the incentives title. That is dip 2. Then there will be loan guarantees on top of that. That is dip 3. These guarantees are some of the largest subsidies in the Senate Energy bill, and they are risky ones.

Mr. President, the subsidy title of this legislation, in my view, is a blank check for boondoggles that simply doesn't decrease our foreign oil dependence.

In closing, the most patriotic thing this Congress could have done in the summer of 2005 was to write an energy bill that did three specific things: reduce our dependence on foreign oil, lower gasoline prices for working families and businesses, and end the energy subsidy smorgasbord that has offered these heaping helpings of taxpayer dollars to the energy industry for decades.

I am sad to say, as one who was involved in this from the outset as a member of the committee and the conference committee, that the final product does not accomplish any of those three things. It doesn't reduce our dependence on foreign oil. Nobody has to take my word for it. That has been on the front pages of the papers all this week. It doesn't lower gasoline prices. And, again, you don't have to take my word for it. The President has already stated that. It doesn't end the subsidy buffet for the big energy interests, and you won't have to take my word for that either. You are going to hear those special interests breaking out the champagne bottles all over town in the next few days.

My constituents have been hit especially hard by high energy costs, and they and millions of Americans had hoped that the Congress would step up and take bold action, truly bold action, to shake us free of our dependence on foreign oil and these other concerns that I have addressed tonight.

What I hope is that, as the country sees how little is actually accomplished here, there will be an opportunity—and an opportunity soon—to come back and address some of the shortcomings that have been discussed on the floor of the Senate tonight.

I hope there will be a transformational policy put in place with respect to the automobile sector. That is the ball game in terms of energy conservation and reducing oil consumption. This legislation took a pass on it.

With respect to reducing carbons, again, there was a marketplace approach—a bipartisan marketplace approach—that the Congress could have moved ahead on.

The bottom line, the Congress could have done much better. I think our colleagues in the Senate know this bill is literally a series of missed opportunities. It is right to vote no on this legislation.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I have waited my time in the queue this evening because I wanted to take a few minutes to speak not only about the importance of this Energy bill we are poised to vote on tomorrow, but to acknowledge those who did I think yeoman's work in getting us to where we are.

As my friend from Oregon has pointed out, this is not a perfect piece of legislation. He and I would disagree on certain areas of it. But I think when we look at the work product of what we do in the Senate, the day that we come to complete agreement—complete agreement—on all aspects of legislation we move forward, I think we will have all lost our collective senses. We will always find room to improve our legislation. We will always find room to make something better. We need to look at where we are at this point in time with the Energy bill we have before us.

As was pointed out earlier this evening, we have not had an energy policy updated or presented or worked through this Congress for 13 years. Thirteen years is a long time to be floating without a specific policy, a specific policy direction, particularly in an area that is as important as energy.

I had the opportunity yesterday to address a group of a couple hundred young people in a junior statesman-type forum. It was an opportunity for me to speak on the subject of my choosing. Since we have been so focused on energy these past couple weeks and we have been moving this bill through the conference process, I spent my time to talk about what we had been doing and the significance of energy to us as a nation, as a people, and particularly to these young people.

As Senator ALEXANDER, the Senator from Tennessee, mentioned earlier, energy is not typically something we talk about at the dinner table. We need to understand as a country how important energy is to our daily world.

I have often described the way Americans think about energy—we have this kind of immaculate conception notion of energy: It just happens. You flip the switch and the lights go on; you adjust the thermostat and you are cooler or warmer, and it just happens. There is no connection between how we respond to the energy we have, whether it powers us, heats us, cools us, it moves us. We do not think about it. We do not connect the dots between what we are consuming and where from it comes.

As I explained to this group of young people, we get most of our energy from the ground. It comes from underneath, whether it is oil or whether it is natural gas that is extracted off our shores, say, in Louisiana, or whether it is from our coal resources that we mine. Sometimes that is not a particularly visually appealing thought, to think that we have to dig it out, we have to drill it out, we have to extract. But the fact of the matter is, we are energy consumers. We are a nation that is dependent on our energy for what we do, for who we are, for the strength of this Nation. If we couldn't move, if we couldn't communicate the way we do, we would not be the Nation we are.

So it is important for us as Americans to realize, to appreciate, to connect those dots and say, this is important to us. It is important to us to have an energy policy that is comprehensive, that is sound, that is balanced, that not only looks to the production from the traditional sources, such as oil, gas, and coal, but looks to the production from the sources for the future in the renewables, in the alternative sources of energy. That also has as a component of our energy policy the conservation aspects, the efficiencies. This must be part of the plan.

That is what this Energy bill we have before us is and does. It is comprehensive in those ways.

The point has been made tonight that we have done nothing in this Energy bill that is going to bring down the price of gasoline at the pump tomorrow. I am not going to stand before you tonight and say that if we pass this legislation tomorrow and if the President signs off on this in the next couple of weeks the American consumer is all of a sudden going to see the price of gasoline drop at the pump. I cannot make that promise, and I would be foolish to do so. We know that is not going to happen just because we enact this bill.

Here is the point: If we had done this 8 years, 10 years ago, 5 years ago when we had been working on energy policies over this period of time, perhaps we would not be at this point where we are paying $2.40 at the pump, as we are paying in my hometown of Anchorage right now. Perhaps we would not be at this point if we had enacted an energy policy some years prior to this. But we did not, and we are here now.

Now we have an opportunity to do something, to move forward with a policy that does make some sense. So we have to start somewhere. We have to put in place the procedures and the mechanisms that will work. We have to understand that we cannot expect an immediate fix. We did not get to $2.40 a gallon gasoline overnight. We are not going to remedy it overnight. So our expectations need to be realistic.

As the Senator from Tennessee said when he was talking about natural gas, one of the things we will see through what we are putting in place with this legislation is a stabilizing effect, hopefully, with our natural gas prices as we are able to provide for those incentives and encourage more LNG facilities around our coasts so we can get more of the natural gas into this country. Those things have to all start somewhere, but the recognition is let's be realistic in terms of when we are going to see the results.

People want to know, What does it mean to me today? We need to appreciate the fact that we have to look to what it is going to mean to us tomorrow. With the provisions we have put in place, hopefully we will not see the blackout we had a couple years back. We have enhanced the reliability standards of our electricity grids so that we are not going to see that.

Points have been made on the floor tonight that what will come out of this Energy bill is not a cleaner America. I challenge that absolutely. The provisions that have been put in place, the incentives that have been put in place, whether it is the clean coal gasification that will work to reduce those emissions, to reduce the carbon, to make our air more clean, our waters more clean—these are things we are putting in place through the incentives. My colleague called them subsidies. The fact is, when you are changing technology, when you are making things different to make them better, to make them cleaner, to make them more efficient, it is going to cost some money. Should we not help to make it cleaner, to make it more efficient? That is what the incentives are for. So let's work to make those happen.

Think about these processes. We have provisions in place for enhanced oil recovery, and in my State of Alaska, we have some aging oilfields out in the Cook Inlet. They have been producing and doing a darn fine job for a couple decades, but these fields are declining. With the technology and the processes now available, we can, through enhanced oil recovery, through injection of the carbon dioxide, inject into these aging wells, enhance the oil so that we get more oil from these aging wells while we are sequestering the carbon. We have a win-win situation. It is an environmentally more sophisticated and more helpful process, and we are getting more of the energy source we are seeking. It is through these types of technologies that we benefit, that we proceed to win in so many different ways.

Again, I want to reinforce that what we will have an opportunity to accept tomorrow is a comprehensive policy, a policy that has balance to it, that is not totally loaded to the production side.

I come from a State where, quite honestly, we want to see additional production coming out of the State of Alaska because we have the resource there and we want to be able to help meet the Nation's energy needs. But we know—I know—that is not necessarily the energy for the long-term future of this country; that the direction we take is in the area of renewables and the alternatives. We have to start. We are making a start with this legislation.

It is not just a focus on production, it is the renewables, the biomass, the geothermal, the solar, the wind, ocean currents; we have ocean energy for the first time. Think about the possibility of harnessing the currents in our oceans, the temperature differentials in the ocean waters. There is so much potential out there.

Again, when we are talking about new technology and new processes, it takes a little bit of money, it takes a little bit of help, and this is where we can step in to provide that.

Senator BINGAMAN made a comment at the conclusion of his initial remarks that we do not want to wait another 13 years to take up an energy policy again. It is probably premature to be talking about the next energy policy when we have not even concluded this one, but I think we need to recognize that what is happening in this country now and as we collaborate with other nations in clean energy research, the technology changes so quickly—or we hope we can encourage the technology to change so quickly—that we have to keep on top of this. We have to have an energy policy that is current, that does look toward tomorrow. So we want to make sure this is not the end of the conversation, that once we conclude with the Energy bill, we close the books and don't start looking at it for another 10 years. I am not willing to do that, and I think most of my colleagues would be joining me in saying we need to be constantly on top of and involved with this.

I want to comment before I conclude that there have been several of my colleagues on the other side who have mentioned there is absolutely nothing in this Energy bill that reduces our reliance on foreign sources of oil, that, in fact, we become more dependent on foreign oil. I do have to tell my colleagues, as one of the Senators from Alaska who has been very focused on ANWR and opening ANWR, I am sitting back in my chair here listening to this, scratching my head—scratching my head—because they are saying to me we are not doing anything to reduce our reliance on foreign sources of oil, we must do more domestically.

We have been saying we have a portion of the answer. Opening ANWR is not going to make us not rely on foreign sources of oil. We know that. But it can help us. Should we not be doing all that we can domestically to help us?

I know the critics and that we are going to go into this argument in September all over again so I do not need to take the body's time tonight to dwell on these facts, but for those who say there is not enough there to make a difference, the mean estimate coming out of ANWR will be what we have been getting from the State of Texas for the past 75 years. The mean estimate coming out of ANWR is what we have received from Saudi Arabia for 25 years. That is not insignificant amounts of oil. This can help us.

ANWR is not contained in this Energy bill, much to my dismay. The House included it on their side. We know that in the Senate ANWR, when it was tried to be placed in the Energy bill, was subject to a filibuster. It was subject to a filibuster by some of the same individuals who tonight have stood and said this Energy bill does not provide for any lessening of foreign dependence on oil. Well, I would like to suggest that this energy policy that we are about to vote on tomorrow is one piece of what we need to look to as a Nation. The piece tomorrow will be the piece that includes the focus on conservation, the focus on renewables, alternatives, the focus on efficiencies.

Last year we were successful in moving forward the Natural Gas Act that provided incentives for construction of the natural gas pipeline coming out of Alaska, where we hope we will be able to provide to this Nation a good source of domestic natural gas. That is a huge piece for us. I would also like to think that before the end of the year we would also be able to put into place the rest of the comprehensive energy policy that would include oil coming out of a tiny sliver of the Coastal Plain of Alaska's North Slope.

I publicly thank Chairman DOMENICI and the ranking member, Senator BINGAMAN, of the Energy Committee. Both Senators did an incredible task shepherding this legislation through the floor. Their staffs were excellent. There was a great deal of hard work. It was a pleasure to sit in my first conference and see the manner in which it was conducted. It was a very open, very respectful deliberation of some very difficult issues conducted by the Members on our side as well as Chairman BARTON from the House side. It was a pleasure to be a part of it. I am proud of the product that has come out of this body, and I urge the Members' support.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I rise in opposition to this Energy bill. Even though I am opposed to the bill, I first want to pay my compliments to both Senators from New Mexico, Mr. DOMINICI and Mr. BINGAMAN, for the work that they have done. While I am opposed to the Energy bill for a variety of reasons, which I will elucidate in a minute, it was Senator BINGAMAN and Senator DOMENICI who worked very hard to make the bill better.

The bill that left the Senate was considerably better. I thought the House bill could not have been much worse. The bill that comes back to us obviously is somewhere in between. Without the efforts of the two Senators from New Mexico, it would have been considerably worse.

I want to say one other thing. It was of monumental strength that the odious MTBE provisions that the House had clung so steadfastly to, that brought the bill down last time it came around, are not in the bill. That is because the Senate, on the Democratic and Republican sides, hung tough. The MTBE provisions were a disaster. To reward polluters and stick taxpayers who had lost their supplies of drinking water with a bill for what had happened would have been a disgrace. To pay the MTBE companies over $2 billion because they could no longer sell as much of their product as before was doing what we do for very few businesspeople who produce far more worthy products.

So I want to compliment my two colleagues for knocking out that provision. It is the reason we are sitting here with a conference report.

Let me talk about one provision in the bill that bothers me greatly but then talk about what bothers me more than that because what bothers me most is not what is in the bill but what is not in the bill. What is in the bill is an ethanol provision that will force people on the coasts, States that do not grow much corn, to buy ethanol whether they need it or not. I understand the need to help agriculture. I have voted for many of those types of provisions myself. I know the dairy farmers, apple growers and cherry growers in New York State, and they do need some help. I am not adverse at all to the Government helping. But this "Gyro Gearloose" way of helping the corn growers of the Middle West by foisting the costs upon drivers, particularly on the east and west coasts, at a time when gasoline is already $2.30, $2.40 or $2.50, makes no sense.

We want to keep the air clean, and we need to make sure that gasoline burns, but there are many ways to do it, not only with ethanol or MTBEs. To require the refiners throughout the country to use MTBE or at least pay for MTBE, even when they are not going to use it, is a disgraceful subsidy. We already subsidize ethanol heavily, and it is very unfair to do it.

If one wants to encourage ethanol, I have no problem with encouraging the creation of ethanol plants in places such as New York or maybe Nevada, where there is not much ethanol now. The real cost of ethanol is not in making it but in transporting it. While it is dubious, recent studies have shown that the energy cost into making ethanol exceeds the energy benefit into using it as a substitute for gasoline. Nonetheless, growing it near the source of use would make it far more efficient. I am very regretful that it is in here.

New York drivers will pay 5, 6, 7 cents a gallon more than they have to because of this ethanol provision. It is unfair to make the salesperson in Rochester who drives 500 or 600 miles a day and has enough trouble earning a living pay a direct subsidy to a corn grower in Iowa, however much that corn grower needs help. It is not a way to do business, and yet that is what we have done here.

So the ethanol provision is rotten. The ethanol provision is a boondoggle. The ethanol provision occurs only because of the political power of the ethanol makers and the growers of corn in the Middle West and some other parts of the country, not because it is right. It is indefensible on the merits. It should not be in the bill.

Having said that, what bothers me even more is what is not in the bill. I love this country, and I try to think what could make this country decline, what has made other great powers decline, whether it is the Roman Empire or Great Britain in the 19th century. When one reads history, it is that they became so preoccupied with enjoying things day to day that they were unable to look beyond the horizon a little bit and try to solve problems that might be upon them 5 or 10 years down the road. That is exactly what we are doing with energy.

Our dependence on foreign oil, our lack of being able to solve our growing energy needs is a crisis in the making. It is not a crisis today, but it is going to be a crisis 5 and 10 years from now. Even now, energy costs are akin to a slit on the wrist. We slowly bleed and it weakens our economy.

Yet, in this bill, we do some things but not close to enough, and nothing major and nothing of vision to reduce our dependence on fossil fuels in general and imported fossil fuels, in particular. Conservation—we know that we should do both things. I do not disagree with the far left or the far right. The far left, conserve only, get rid of fossil fuels; far right, produce more oil, forget about conservation. We should be doing both. I am not adverse to better utilizing fossil fuels, to figuring out coal gasification, even to looking at oil and gas reserves off our coasts, if it is done in a careful and pro-environmental way, as it was done when we sold some tract in the east Gulf several years ago.

Conservation has to be part of any plan to reduce our energy dependence. CAFE standards, not in the bill; major incentives for conservation, not in the bill, even mild provisions, such as the Senator from Oregon offered to raise CAFE standards a mile per gallon a year were rejected. That is because of the cloud of the big three auto companies in America and, frankly, I regret to say, the unions that serve them. They have been arguing for the status quo for years. For that reason now, I hate to say it but foreign automakers are again overtaking them.

We have to look to the future. I am happy to help our auto industry with new incentives to figure out ways to burn less fossil fuel and have alternative sources, but we are not doing it. It is no good for the auto companies, it is no good for the autoworkers, and it is no good for America.

So conservation is not in the bill, nor is a dramatic program to reduce our energy independence. There are some subsidies here and there for wind power, solar power and biomass. There are subsidies for coal, gas and oil. But the emergency that we face to really engage in crash programs, to use hydrogen better, to use fuel cells better, to find other alternatives, is virtually a necessity or will be a necessity 5 years or 8 years from now, lest our economic vitality continue to be sapped.

It is amazing to me that China, a country not regarded for its fealty to the environment, has stronger CAFE standards, stronger incentives for alternatives to gas and oil than we do. That is a sign that this great American experiment, this noble experiment, as the Founding Fathers called it, may be at least in this area losing its bearings. If we are more interested in providing immediate subsidies to the powerful few in the energy industry who are around us than figuring out a grand plan to reduce our dependence on foreign oil and on fossil fuels in general, we are not serving the people of America.

The amazing thing is I think the people of America are ready for a vision, if we look at all the surveys, finding a way to be independent of imported oil.

I ask unanimous consent for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Dependence on foreign oil gets our foreign policy twisted in a knot, which, of course, saps our country of wealth every minute, every second, 365 days a year, and the American people want some change. They are willing to make some sacrifice and tighten their belts. As China is ahead of America in this area, the American people are ahead of this Congress. Again, we seem more concerned with feeding particular special interests, some good, some bad, than we do with coming up with a vision as to how we are going to reduce our energy independence.

So is this bill an evil, horrible bill? No. The ethanol provision is odious, but the bill on balance may take a small, few steps forward, but not close to what is needed. I cannot think of an area, in a large policy way, where the needs and the political possibilities are not far ahead of what we have done tonight.

I regret to say I am going to vote against this bill, not only because of the ethanol provisions in it, but because at a time demanding vision, at a time demanding foresight, at a time demanding an effort to solve problems that are only problems today but could become crises 5 years from now, we have done mostly the prosaic, the mundane, the expected. That is not what a great power does. That is not what true leaders do. That is what this bill does.

So despite my respect for the leaders of the bill and the wonderful, harmonious way in which they worked, I have to say, to me, this bill is a serious disappointment and I have no choice but to vote against it tomorrow.

I yield the floor.

Mr. CORZINE. Mr. President, I rise to express my opposition to the energy conference report. I thank the managers of the bill, the two Senators from New Mexico, for their diligent effort in putting together an energy bill. While I cannot support the final product, I respect that they have made every effort to make this a bipartisan process and I thank them for their leadership.

I voted against the Senate energy bill last month because it inadequately addresses several major priorities that should be included in a sound energy policy—reducing U.S. dependence on foreign oil, implementing CAFE standards, decreasing greenhouse gas emissions that cause global warming, and protecting the coastline from offshore energy drilling.

Unfortunately, the bill has only become worse in conference and amounts to a missed opportunity to create an effective comprehensive energy policy. This bill does not do enough to lead this Nation toward energy independence and energy security.

The bill also does not address an issue that faces Americans daily—soaring gas prices. A a time when gas prices are skyrocketing and our dependency on oil is steadily increasing, we are voting on a bill that the President himself has said will do nothing to address those prices. The people of New Jersey, and in fact this Nation, deserve a bill that tackles this problem. I'm sure all Americans will be disappointed to know that instead of helping them at the gas pump, the bill provides giveaways to the Nation's fossil fuel industries.

To truly make a dent in our energy independence, we need at least a savings of three to five million barrels of oil per day, yet this bill does not include any oil savings provision. Furthermore, this bill misses an opportunity to effectively reduce this Nation's oil use by increasing the fuel economy of passenger vehicles. Indeed, improving fuel efficiency, or CAFE, standards is not only a cost effective way to improve our energy security, but it would be instrumental in reducing soaring greenhouse gas emissions. During the debate on the Senate energy bill, Senator DURBIN proposed an amendment that would have raised CAFE standards and closed the SUV loophole, both of which would save this country over 101 billion gallons of oil by the year 2016.

In addition, the bill does not do enough to encourage the use of renewable energy sources. One of the few good provisions of the Senate energy bill was the ten percent renewable portfolio standard. My home State of New Jersey has been a leader in the area of renewable portfolio standards as it already has a 20 percent RPS. It is about time that the rest of the Nation follow suit. A Federal RPS is a crucial step in weaning this country from its dependence on foreign oil sources and I am disappointed that this conference report excludes this provision.

The bill also includes a seven and a half billion gallon ethanol mandate. Those in favor of an ethanol mandate claim that it will enhance U.S. energy security. In fact, increasing the renewable fuel standard would not significantly reduce U.S. oil imports because each gallon of gasoline blended with ethanol to make gasohol has less energy in it than regular gasoline. Therefore, we need increased petroleum product imports to make up that energy loss. In addition, producing ethanol requires a significant amount of fossil fuel. Worst of all, the ethanol mandate amounts to a new gas tax for my constituents. With the cost of living in New Jersey being one of the highest in the Nation and gas prices at an all-time high, an ethanol mandate is not acceptable for New Jerseyans.

I am also extremely disappointed that energy conferees voted down an amendment in conference that would have stricken the seismic inventory of the Outer Continental Shelf. This seismic inventory is paramount to opening the door to drilling off the coast of New Jersey. This is a crucial issue for the state of New Jersey.

My State is the East Coast hub for oil refining and with three nuclear power plants, many traditional power plants, and hopefully an LNG terminal in the near future. We have made these contributions to energy production and we have made them without offshore drilling.

A seismic inventory threatens New Jersey's way of life. It is a slippery slope toward drilling that threatens not only New Jersey's environment, but also its economy. Drilling endangers New Jersey's pristine beaches as well as jeopardizes the tourist industry, which generates $5.5 billion in revenue for my State and supports 800,000 jobs. Furthermore, the seismic explosions put our marine life and fisheries at risk. I made my opposition to undermining the moratoria on drilling in the Outer Continental Shelf when I spent hours on the floor during the Senate energy debate to defend against amendments that would weaken the moratoria in any way. That effort was successful, but this inventory that remains in the bill will weaken the current moratoria on drilling, and I am very concerned about the potential consequences.

Another major issue that the energy conference report fails to address is climate change—one of the most pressing issues facing our planet today. The science makes it increasingly clear that that greenhouse gas emissions caused by human activity are changing the earth's climate. The rest of the industrialized world understands the danger of this problem and the United States must catch up.

I have long been a proponent of legislation that would counter this problem and encourage reductions of greenhouse gas emissions. My advocacy on behalf of climate change legislation is not limited to the current Congress. Senator BROWNBACK and I led the way to passing a greenhouse gas registry and reporting amendment to the Energy Bills in the 107th and 108th Congresses. The current voluntary programs encourage reductions from only a small group of industry leaders, and have little to no effect on most of the economy. Despite these well-intended programs, greenhouse gas emissions have risen on average one percent per year for the last several years. Our Nation can do better.

The potential effects of global warming are dire for my State. If we do not control climate change, New Jersey could face a receding coastline along the shore, loss of habitat in our beautiful beach towns like Cape May, and more extreme weather events such as storms and flooding. Similar to the effects of the seismic inventory, this devastation would directly affect New Jersey's economy. If our beaches are threatened, and our coastline damaged, New Jersey will see an economic impact of catastrophic proportions. Our second largest industry, tourism, will be devastated.

This is an issue for New Jersey and the rest of the United States, but it is also an issue for the world. Unless Congress acts, the effects of global warming may be devastating to the worldwide economy and environment.

Finally, while the bill does not include the MTBE liability provision that has stalled past energy bills, it does include a provision that moves MTBE claims from State court to Federal court when the claims are based on State tort law, nuisance law, or consumer law. This provision amounts to backdoor immunity for MTBE producers by unfairly depriving injured parties and their representatives of their right to have their claims heard in their State forum. This language could even derail many legal claims entirely, effectively shielding those companies responsible for MTBE contamination from their full financial liability for the damages they have caused. This is unacceptable.

I voted against this bill when it was in the Senate with the hope that it would have been improved in conference. Unfortunately, the bill has only been made worse. A sound energy bill must move this country toward energy security and independence. This bill does not come close. I must, therefore, vote against this conference report and urge my colleagues to do the same.

Mr. SALAZAR. Mr. President, I rose earlier to discuss my general thoughts regarding the Energy bill conference report. I now want to take an additional moment to provide my thoughts regarding a specific provision in this conference report.

I am pleased the conference report includes provisions that will help some of our most vulnerable citizens, low-income energy consumers. While we need to protect against energy price volatility to protect our economy, industries and households, nobody is harder hit by high-energy prices than low-income energy consumers.

The conference report increases the authorization for the Low-Income Home Energy Assistance Program, LIHEAP, from $2.0 billion to $5.1 billion to reflect the increased demand for energy assistance due to high energy prices. At current funding levels, LIHEAP serves less than 15 percent of the eligible population. The increased funding authorization is much needed. I hope we can also increase appropriations to meet this increased demand for energy assistance.

The conference report also contains a provision originating in the House bill that authorizes the Secretary of Interior to begin a new program to assist low-income energy consumers. Section 342 of the report authorizes the Secretary to grant a "preference" to low-income energy consumers when disposing of royalty in kind gas.

This provision originated from a constituent of mine, John Harpole, who is the president of a natural gas production company and also an advocate for low-income energy consumers. Pursuant to this authorization the Secretary of Interior may begin a demonstration program that would provide royalty in kind natural gas to low-income energy consumers at below market cost. In order to do so, the Secretary could enter into agreements with natural gas distribution companies to provide them natural gas at below market value as long as they guarantee such gas will be delivered to low-income energy consumers. In practice, the transfer would occur through accounting mechanisms, not the actual exchange of natural gas molecules.

The specific details of the demonstration project will be worked out through a public and transparent process that will include the public and all interested parties. The benefits provided under this section are intended to supplement and not supplant funds otherwise provided under the Low-Income Home Energy Assistance Program. Finally, the Secretary would be required to issue a report to Congress on the effectiveness of the program, with specific recommendations for modification. I look forward to working with you and the Department of Interior to implement this program.

Mr. President, America has an energy problem. We waste tremendous amounts of energy, and that keeps prices high. We continue to consume more energy than we produce, and that means our oil imports keep going up. And the more we are held hostage to foreign oil, the more our national security is impacted.

I recognize that the energy conference report represents a compromise between competing House and Senate approaches to addressing our Nation's energy needs. As with all compromises, the report is not perfect. Much remains to be done to promote energy independence and increase our national security. But even so, this Energy bill is an important first step forward, and I support its final passage.

I am very pleased with many aspects of the Energy bill. The bill retained incentives for new, cleaner coal technologies, and incentives for energy efficiency and conservation. It improves electric reliability standards and provides much needed regulatory reform. It contains incentives for the production of wind and other renewable energy, and it contains a strong renewable fuels standard to promote the production and use of American-grown renewable energy sources such as ethanol and biodiesel.

By beginning to address our Nation's need to develop additional sources of energy and to reduce our consumption of fossil fuels, the Senate's bipartisan work on the Energy bill was more comprehensive and more forward-thinking than the final version agreed to in conference. I am disappointed, for example, that the House and Senate conferees did not retain the Senate's national renewable energy standard, and that other strategies for reducing our dependence on foreign oil are not included in the final bill. Conferees also decided to take a more aggressive stance on oil shale development than I and my Senate colleagues had advocated, and they rolled back certain environmental protections. These changes could significantly impact Colorado's Western Slope, and I will monitor the implementation of both provisions closely.

Because there is so much more that we must do in this country to ensure greater independence from foreign oil, I am going right back to work. I believe strongly that we must reduce America's dependence on foreign sources of energy, particularly our dependence on foreign oil, and that we must do more to protect the environment. Greater energy independence is vital to protect our national security. Energy independence is also good for Colorado's economy—we are home to the National Renewable Energy Laboratory, NREL, and to countless companies and entrepreneurs working on developing alternative fuels, including wind, biofuels, solar, and many, many other clean energy technologies. In the Senate, I will continue to work hard to establish a viable national renewable energy standard, to promote oil savings, to adopt a responsible climate change policy, and for increased production of renewable fuels. I will also continue to work on cost-effective measures that will help us achieve greater energy efficiency and conservation. I look forward to working with my colleagues in the Senate on these and other priorities for Colorado.

Mr. CORNYN. Mr. President, I rise to commend the conferees who have been meeting over the last few weeks to complete this comprehensive energy legislation. In particular, I want to thank the chairmen and ranking members of the House and Senate committees for their leadership in guiding this highly complex and important legislation through the process. Congress has tried several times to approve a comprehensive energy bill. Under their wise guidance and counsel, I believe that we will be successful this time. It is critical that we provide the country with the resources and tools to meet our growing energy needs and this bill will go a long way in accomplishing that goal.

There are many good and worthy provisions in this legislation. In broad terms, having a national energy policy will enable the country to more effectively utilize our resources to reduce our dependency on imported oil. It will enable us to diversify our sources of energy with renewable fuels, develop resources like nuclear power in the future and conduct research into hydrogen fuel cells. The bill recognizes that we need to develop ways to utilize one of our country's largest resources, centuries worth of coal deposits, and develop ways through research to burn it cleanly so it doesn't contribute to pollution and harm our environment.

However, I must express my disappointment that many of the provisions dealing with MTBE were not ultimately included in the final bill. As a lawyer and a former judge, the issue of liability is an issue that is near and dear to my heart. That we are denying liability protection to MTBE producers is disturbing to me. When Congress set out to encourage clean air by passing the 1990 Clean Air Act Amendments and passed a particular fuel standard, Congress knew that MTBE would be widely used to satisfy the standard. As a result, manufacturers produced and marketed MTBE to satisfy the Congressional standard. Now, manufacturers face significant lawsuits solely because they produced a product that Congress encouraged them to produce.

Manufacturers did not make mistakes in production, they did not cut corners in an attempt to increase profits, and they did not try to trick consumers. All they did was exactly what Congress wanted them to do. It is only fair that any fuel producer who responds to a congressional mandate should be protected against legal action based upon the use of that mandated product. No one should be penalized for obeying the law. I am disappointed that there was a failure to address this issue.

Texas is proud of its heritage as an energy producing State. Texas will continue to play a vital role in providing for the Nation's energy needs. Even in light of my disappointments with the bill, I believe that this legislation provides strong leadership and guidance to address the critical energy needs of our country.

Mr. HARKIN. Mr. President, we have before us today an opportunity to chart a new course for the Nation's energy future.

The energy bill includes vitally important measures to boost renewable energy and energy efficiency, to improve our electricity grid, and to protect consumers from bad corporate actors like Enron.

I am very pleased that it includes the lion's share of the renewable fuels standard bill I introduced earlier this year with DICK LUGAR and many of my colleagues. This is an accomplishment of historic proportions. Oil refiners will be required to blend 7.5 billion gallons of ethanol and biodiesel annually by the year 2012—more than twice the current rate. This RFS is 2.5 billion gallons higher than what was in the House bill. Obviously, this is great news for farmers, biofuels producers, and the rural economy in Iowa and throughout the country. It is the single most important provision in the bill, certainly in the near term, to displace ever increasing amounts of foreign oil that we import into this country. The RFS is a big step in the right direction and I am very proud to have helped get it done.

I am also excited that the "bioeconomy" amendment I authored with Senators LUGAR, OBAMA, COLEMAN, and BAYH was included in the bill. It gives a real boost to biomass R&D to expand the production and use of biobased fuels, chemicals and power. It provides grants to small biobased businesses to get their products into the marketplace. It will increase purchases of biobased products by the Federal Government by extending the farm bill's biobased purchasing preference to Federal contractors and the Capitol complex. In short, with appropriate funding, it will make it possible to convert much more biomass—corn, soybeans, wheat, and other crops—into petroleum substitutes for everyday use in our homes, businesses and vehicles. And we will do it without negatively impacting our abundant food supply.

The RFS, complemented by these biobased initiatives, will be a heck of a one-two punch for our farmers, small businesses and rural communities.

I am also very pleased that the final bill extends the wind production tax credit, and that it includes my amendment to allow farmer-owned co-ops to pass on this tax credit to individual members of the co-op. The biodiesel tax credit extension is also a valuable asset in the bill. So is the tax credit for the installation of new E-85 pumps. I have pushed for all of these provisions for some time. The tax incentives for renewable energy and conservation, while less than needed, still represent a major boost for clean energy.

The energy bill we will soon vote on is by no means perfect. It drops several of the Senate's best bipartisan provisions to reduce our dependence on fossil fuels and foreign oil—the Renewable Portfolio Standard, and the oil savings amendment, in particular. These were common sense provisions that should have been included. It is a terrible mistake not to have done so.

The bill also does too little to improve fuel economy and address climate change. It lavishes tax breaks to oil companies reaping record profits from $2+ a gallon gas, and spends more reviving a nuclear industry that has never proven cost-effective and has not solved the problem of nuclear waste. It also includes some very questionable environmental provisions to aid oil and gas companies.

Like I said, not a perfect bill, but it is a start, and we can thank the bipartisan process that was taken in the Senate for that. The challenge now will be to take the next steps toward a truly sustainable energy future—one that our farmers, who are increasingly at the forefront of the country's clean energy strategy, can help lead. I will continue to work to make this a reality.

When we draw our energy from the corn and soybean fields of rural America rather than the oil fields of the Persian Gulf, we do four things: We increase America's energy security; we boost our rural economy; we create a cleaner environment; and we put downward pressure on prices at the pump. That's why I intend to vote for this bill, and I hope many of my colleagues will follow.

Mr. REID. Mr. President, I rise today to congratulate Senators BINGAMAN and DOMENICI for their hard work to develop a bipartisan energy bill over the last several months.

When the energy bill came to the Senate floor, Democrats had one goal in mind: enhance our national security by moving America toward energy independence.

Together, we were able to achieve some our goals: a renewable electricity standard, the 3-year tax credit for renewables, oil savings, global warming, and a Federal ban on MTBE. That's why I voted for the Senate energy bill.

Unfortunately, despite our best efforts of our Senate negotiators, the conference rejected all these provisions. I sincerely hoped to have been able to vote for the energy bill conference report. I cannot support the bill.

I truly believe we have missed an incredible opportunity to establish a renewable electricity standard, provide help to consumers facing record prices at the gas pump and, most importantly, to reduce our dependence on foreign oil.

For these reasons, I will vote against the energy bill conference report.

Mr. BINGAMAN. Mr. President, I would like to comment on two specific provisions of the conference report. I am pleased that the provisions contained in the conference report on hydroelectric relicensing, section 241—Alternative Conditions and Fishways, have been improved over the provisions contained in both the House and Senate bills. I continue to have concerns that the new process for alternative mandatory conditions and fishway prescriptions will add complexity and delay to the process. The requirement that the resource agencies afford all parties an opportunity for an on the record trial-type hearing on material issues of fact could prolong these proceedings. However, I understand that the intent behind the provision is that these not be lengthy hearings. Rather they are to afford an opportunity for a review of narrow issues of fact, and not a review of the application of the facts or the decisions based upon them.

I am pleased that the provisions allow all parties to the proceedings, including States, tribes and third parties, to participate equally. I understand the conference language ensures that the heads of the resource agencies retain discretion to employ scientific data and other information submitted by any of the parties to licensing or relicensing proceedings in determining what conditions will provide for adequate protection and use of tribal lands and what fishways are needed for the protection of fishery resources for which the United States has a legal or trust responsibility to preserve and protect on behalf of Indian tribes. I also am satisfied that the conference language preserves the principle that Indian lands and fishery resources held in trust by the United States, or for which the United States has legal responsibility, will continue to be protected and preserved in a manner consistent with the provisions of the Federal Power Act of 1920 and subsequent rulings of the Federal courts that reaffirm these protections for tribal lands and fishery resources.

Finally, I understand the motivation behind these provisions to be an effort to improve the cost-effectiveness and efficiency of conditions and fishways—and not to be an opportunity to undermine the conditions and fishways that resource agencies determine are necessary for the adequate protection of federal reservations and fish resources. I expect that the resource agencies will carry out these provisions with this intent in mind.

Mr. President, section 354, Enhanced Oil and Natural Gas Production Through Carbon Dioxide Injection grants the Secretary authority to provide royalty relief in order to achieve the dual purposes of the section, which are both to promote the capturing, transporting, and injection of produced carbon dioxide, natural carbon dioxide and "other appropriate gases or other matter" for sequestration, and to promote oil and gas production by providing incentives to undertake enhanced recovery techniques using injection of these substances. It is my understanding that the provision is intended to encourage the sequestration of greenhouse gases, and the "other gases or matter" referred to are gases and matter that fall within that definition. I understand the intent to be that any royalty relief under this section be made available only where doing so achieves the dual purposes of benefitting the environment through sequestration of greenhouse gases while also bringing about enhanced recovery.

### BLM COST RECOVERY

Mr. THOMAS. Mr. President, I would like to commend Senator DOMENICI, chairman of the Committee on Energy and Natural Resources, and Senator BINGAMAN, the ranking Democrat, and all the Senate conferees for their excellent work on a number of areas in the conference report agreement on H.R. 6, especially those relating to processing of energy permits. I would like to point out one particular provision that will provide a basis for future work to ensure more energy supplies from Federal lands.

Section 365 of the H.R. 6 conference agreement outlines a multistate pilot program to improve coordination of energy permit processing in a number of Western States. That section includes a provision to allow a share of the money from Federal oil and gas lease rentals to be used by the Department of the Interior's Bureau of Land Management, BLM, and other agencies to ensure adequate resources for processing and considering applications for permits necessary for natural gas and oil drilling and other operations.

As the conference on H.R. 6 was getting underway, the BLM released a proposal that, if implemented, would begin charging fees for permit processing. Called a "cost sharing" proposal, it was really a "cost shifting" one. And it came at a time when Federal revenues from leasing and production of Federal oil and gas as a result of such permits being issued total approximately $1.8 billion each year.

In one Wyoming office alone the proposed fee which could be as high as $4,000 for a single application would generate $11 million, far in excess of the office's total oil and gas program budget. I would prefer that producers put this money back into the communities where they are doing business and expand their investment to produce more energy.

In the strong belief that the Federal Government has a responsibility to budget and pay for advance environmental work and consideration of the permits necessary to explore and produce on its leased acreage, Senator HATCH and I filed an amendment to prevent the BLM from instituting fees during the period of the permitting pilot program. I was pleased that the House conferees joined my Senate colleagues in approving that amendment.

Now that the Energy bill conference agreement is before us, I hope that my colleagues will agree that in the future we need to provide adequate Federal funding for energy permitting, and that we should continue to prohibit attempts to shift Government costs to the private sector as was attempted by the BLM.

Mr. HATCH. If the Senator will yield, I would like to associate myself with his remarks and make an additional point. As a sponsor of the Energy bill amendment, I want to make clear that even though we were able to stop the specific proposal on fees for processing of applications for permits to drill during the pilot program relating to such permitting, the BLM should understand that our concern is with the broader issue of cost shifting. We would be as concerned if BLM proposed to shift the permitting burden for any fluid or solid mineral leasing or permitting to those who are already required to pay for their Federal mineral rights through bonuses, rents and royalties. I do not want to see additional attempts to shift costs in this manner.

Mr. CRAIG. Will the Senator yield? In listening to this discussion and the points being made by my colleagues, I agree that we should not be shifting costs as BLM apparently proposed. Nor should other charges and fees for other energy and mineral permitting be put forward. We want our companies to put that money in the ground, not in the Federal Treasury with no guarantee that any of it will be spent on better energy permitting.

Surely out of the $1.8 billion already being received from industry's exploration and development of Federal oil and gas resources alone we can fund the planning, environmental, permit processing and other responsibilities of the Federal Government.

I am pleased that my colleagues were successful in amending the energy conference agreement to stop the cost sharing proposal and commend them for doing so.

I would also like to point out that as chairman of the Energy and Natural Resources Subcommittee on Public Lands and Forests, I plan to hold hearings this Congress on Federal lands energy and mineral access. As part of that hearing, I intend to find out more about the ability of our Federal agencies to process leasing, drilling and other applications in a timely manner. Delaying permits is the same as delaying energy and mineral supplies to those who need them.

In addition, shifting costs to those who need the permits for any of these activities is also a way of discouraging what needs to be done to find and produce the supplies we need. As a result, I will be glad to consider including this subject in our hearings.

### SEAWATER COOLING SYSTEMS

Mr. AKAKA. Mr. President, I would like to engage my friend from Iowa, the chairman of the Finance Committee, as well as my friend, Senator BAUCUS, the ranking member of the committee in a brief colloquy.

There is an important project under consideration in Hawaii that would use deep seawater to cool buildings in downtown Honolulu. This project may be funded, in part, by private activity bonds. I would like to ask whether piping used to bring cold water from the ocean to the distributional facility would be considered part of the local system consisting of a pipeline or network, which may be connected to a cooling source, providing chilled water to two or more users for residential, commercial or industrial cooling as provided in section 142(g) of the Internal Revenue Code.

Mr. GRASSLEY. It is my understanding that if a traditional plant were constructed several miles from its customers, the network to deliver cooling would qualify. It seems to me that piping used to draw cold water from the ocean is analogous to piping used with respect to a traditional cooling system and also should qualify.

Mr. BAUCUS. I concur with the chairman. The piping in this case is integral to the delivery of cold water from the ocean to be used in the chilling of residential, commercial and other buildings and therefore should qualify for tax-exempt financing.

### ENERGY EFFICIENT APPLIANCES

Mr. SMITH. Mr. President, with respect to the credit for energy efficient appliances, section 1334 of the Energy Policy Act, I understand that the dishwasher credit amount is based on a comparison of changes to the Department of Energy's Energy Star specification for its 2007 qualifying level as compared to the existing Energy Star qualifying level for this product. In particular, the amount of the credit for these products to be provided is determined, in that section, by calculating the percentage increase in efficiency—measured as an "Energy Factor" or "EF"—from the 2005 Energy Star level to the 2007 Energy Star level. The current Energy Star specification for dishwashers is measured by EF. There is the possibility that the Energy Star Program might change the metric for measuring efficiencies of these products from EF to another measurement and this might create confusion in the calculation and implementation of the credit. I would like to ask the bill's manager if it is his understanding that the IRS has the authority, in consultation with DOE, to establish an equivalent level of efficiency for dishwashers in case the Energy Star Program establishes an efficiency metric for these products that is different than the current EF metric.

Mr. GRASSLEY. I agree with the Senator's understanding of the IRS's authority to consult with DOE in this regard, and to establish an equivalent level of efficiency for dishwashers for determining the amount of the credit.

### SECTION 1503

Mr. SCHUMER. Mr. President, I rise today to engage my friend, the Senator from New Mexico, who serves as the ranking member of the Energy and Natural Resources Committee and who acted as the ranking Senate conferee, in a colloquy regarding the conference report on the Energy Policy Act of 2005. I thank my friend for his service in this body and hard work on this bill, and particularly his efforts in resolving the contentious issues surrounding MTBE remediation litigation. It is my understanding that the language contained in section 1503 of the conference report addresses this issue in a matter consistent with current law on three vital fronts. First, it would in no way preclude or abrogate the right of citizens and local governments to pursue all available State and Federal remedies where there is environmental harm and other injury that results from contamination of MTBE into groundwater and public water supplies. Second, nothing in the language will alter the substantive law that courts currently apply in these cases and that they will apply to future claims. And finally, it is not intended to provide Federal courts with exclusive or subject matter jurisdiction or grant Federal courts jurisdiction over non-product liability cases, such as environmental cleanup and cost recovery cases involving general petroleum spills initiated by State governments and private citizens. Rather, it is intended that under section 1503, cases involving general spills will remain in State court, where many of these cases are currently handled. Does the Senator from New Mexico share my understanding of this language and its intent?

Mr. BINGAMAN. Mr. President, I share the understanding of the language expressed by my friend from New York.

Mr. SCHUMER. I thank the Senator from New Mexico for sharing his understanding of section 1503.

Mr. BINGAMAN. Mr. President, the joint explanatory statement accompanying the conference report on the energy bill is noteworthy for its brevity, but somewhat short on explanations. The managers simply did not have time to say more than we did if we were to file the conference report in time for both the House and Senate to act on it before the August recess.

As a result, the statement of managers omits explanations of several important provisions that many of us believe are key to understanding the agreements we reached on these issues and the meaning of these provisions. In some cases, specific text had already been negotiated and agreed upon for inclusion in the managers' statement, and the assurance that the agreed upon text would be included in the managers' statement was a critical component of the compromise reached on the legislative text.

Would the senior Senator from New Mexico, as the chairman of the Senate conferees, be willing to put these explanations on the record for the information of all Senators?

Mr. DOMENICI. Mr. President, I would be happy to. Senator BINGAMAN is correct. We had agreed upon text for insertion into the managers' statement on a number of provisions, but it was left out in order to file the conference report in time for us to complete our work this week. I agree that those explanations should be placed on the record for the information of all Senators.

Mr. BINGAMAN. The first of these explanations relates to section 210, which establishes two grant programs to improve the use of forest biomass for energy production. Section 210 was included in response to Federal land managers and other experts that have recommended removing some of the slash, brush, pre-commercial thinnings, and other non-merchantable wood and plant material from many of our forests to improve forest health and reduce the threat of uncharacteristic wildfire.

One hurdle that must be overcome is that in many regions of the country there currently are few economically viable enterprises using this type of biomass. If a viable market for these materials existed, the ultimate cost of forest restoration treatments would decrease as landowners who currently pay to have this biomass removed could sell it at a profit.

During the conference, we deliberated about the potential for the grants authorized by these programs to adversely affect current and future markets for using such material for other value-added products that are not provided grants through these programs. Along with biomass energy, alternative markets are a critical element of the effort to make forest health treatments cost-effective. This was a significant concern, was it not?

Mr. DOMENICI. Senator BINGAMAN is correct. Section 210 was specifically drafted to address the concern he identified by focusing on nonmerchantable biomass that would not otherwise be used. It was our intent that the Secretaries implement the grant programs with sensitivity to alternative uses—both current and future—for the byproducts of preventive treatments, to the affects of other grants or support for encouraging the use of forest biomass that are provided pursuant to any other authority, and to the potential for alternative uses to provide a greater return to the taxpayer in the long run.

Mr. BINGAMAN. Mr. President, the second of these issues relates to oil and gas leasing in the National Petroleum Reserve in Alaska. The Naval Petroleum Reserves Production Act of 1976 established the National Petroleum Reserve in Alaska. Four years later, the Department of the Interior Appropriations Act for Fiscal Year 1981, Public Law 96-514, directed the Secretary of the Interior to open the Reserve to competitive oil and gas leasing, subject to specific terms and conditions.

Both the House bill and the Senate amendment transferred the competitive leasing program in the appropriations act into the Naval Petroleum Reserves Production Act. The Senate amendment went further, however, by requiring the Secretary of the Interior to prevent, to the maximum extent practicable, and to mitigate, adverse effects from leasing and development activities. The conference report omits this additional Senate language.

It is my understanding, however, that the Senate language was omitted because the Department of the Interior is already interpreting the standard in existing law in the manner set forth in the Senate language. For that reason, the conferees decided that the language was unnecessary. Is that the case?

Mr. DOMENICI. The Senator is correct. It is my understanding that the transfer of the matter under section 347(a)(2) does not affect or otherwise modify the standard for activities undertaken pursuant to Public Law 96-514. The Senate included language in section 107(b) of the Senate bill relating to mitigation of adverse effects that the managers have not adopted as unnecessary. It is the understanding of the managers that the Department of the Interior is interpreting the current standard in the manner set forth in the Senate language.

Mr. BINGAMAN. Finally, the conference report contains an entire title designed to help Native Americans promote the development of tribal energy resources, including an innovative program of tribal energy resource agreements. Would the distinguished chairman of the Senate conferees comment on this title?

Mr. DOMENICI. I would be happy to, Mr. President. The managers recognized the large supply of energy resources existing on Indian lands, as well as the desire of many Tribes to increase access to those resources. The Indian Energy title is designed to provide economic development opportunities to Indian tribes by assisting and empowering them to develop and utilize tribal energy resources in a manner that meets the needs of Indian country and the Nation as a whole.

The title will also continue and strengthen efforts to improve access to electricity for native people who are ten times more likely to be without such access than their counterparts residing outside of Indian reservations. Of particular note, is the creation of a new Office of Indian Energy Policy and Programs within the Department of Energy that is dedicated to working with Indian tribes on energy development matters.

The Title also creates a new program in section 503 related to energy leases, agreements, and rights-of-way on tribal lands that continues a policy of promoting tribal self-determination while preserving the trust relationship between Tribes and the Federal Government. The leases, agreements, and rights-of-way section preserves the full application of Federal environmental laws while authorizing eligible Tribes to approve individual energy projects without duplicative Federal approvals.

The title contains several other provisions, all of which the managers believe will provide significant benefits to Indian country.

Mr. BINGAMAN. I thank Senator DOMENICI for placing these explanations in the RECORD.

Mr. President, before I yield back the remaining time, since I see there are no additional Senators waiting to speak, unless there are some who appear, I want to take a few minutes to thank committee staff for the excellent work that went into the development of this bill. We have had superb staff work here in the Senate on the Democratic side and the Republican side. I particularly want to single out the staff members on the Democratic side who have worked so hard, over many weeks, months, and even years in the development of this legislation. To the extent this work product is a step forward, it is a result of their hard work and their commitment, and clearly this is an accomplishment which could not have been achieved without that excellent work.

Bob Simon is the staff director on the Democratic side. He has done a superb job. Sam Fowler is the chief counsel and also has done yeoman work. Vicky Thorne; Bill Wicker; Patty Beneke; Deborah Estes; Mike Connor; Jennifer Michael; Leon Lowery; Jonathan Black; Al Stayman; Scott Miller; David Brooks; Michael Carr; Sreela Nandi, who is an AAAS fellow sponsored by the American Chemical Society who works with our committee staff; Tara Billingsley, who is a Department of Energy detailee who worked with the committee in May and June of this year; Amanda Goldman; Mark Wilson; Jonathan Epstein, who is a fellow in my personal office who also worked hard on various aspects of this legislation; and James Dennis in my office, who worked on the tax provisions of the bill.

In addition, I want to acknowledge the extremely capable staff on the Republican side, in particular Alex Flint, who was mentioned by Senator DOMENICI earlier, the staff director; Judy Pensabene, who is the chief counsel on the Republican side; and the other many staff members who I am sure will be recognized by Senator DOMENICI before action on this legislation is complete.

Let me also acknowledge key House staff who worked so hard during this conference committee that we concluded: Mark Menezes, who is counsel for Chairman JOE BARTON; Sue Sheridan and Bruce Harris, who are counsels for the ranking member on the House side, Congressman JOHN DINGELL.

All of these individuals whom I named made a tremendous contribution to this legislation and all of them deserve our great thanks. No constructive work is done here in the Congress without this kind of excellent staff work and we are very fortunate in the case of this legislation.

I am informed there are no other Senators wishing to speak at this point. I am also informed we will have additional time tomorrow for statements before any actual votes occur on or in relation to the conference report.

I yield the floor at this time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## IN MEMORY OF BRETT KARLIN

Mr. DURBIN. Mr. President, I rise today to remember a young man from Illinois whose future was full of promise and hope. Last summer, 18-year-old Brett Karlin of Buffalo Grove, IL, was anticipating a summer of youthful fun. Just weeks after his graduation from Adlai E. Stevenson High School, on July 30, 2004, Brett and his best friend Andy set out on a fateful drive through the outskirts of a neighboring suburban town. Neither Andy nor Brett was under the influence of drugs or alcohol, and Brett's seatbelt was fastened, but it was little help as they raced over the posted 30-mile-per-hour speed limit. As they pushed the speedometer of the Honda Accord they were driving to 112 miles per hour, the car skidded out of control and collided with a tree. The crash left twisted metal, protruding shards of shattered glass, and a head trauma that cost Brett his life 6 days later. A reckless pastime gone awry had cut a promising life short and left a grieving family in its wake.

Unfortunately, tragedies like Brett's occur each day. According to a 2003 report by the Centers for Disease Control and Prevention, more than 4,700 U.S. teenagers between the ages of 16 and 19 died of injuries caused by motor vehicle crashes in 2001. In my home State, teenagers make up only 6 percent of all Illinois drivers, but they account for 16 percent of all crash fatalities. We must work to prevent these tragic losses, and one of the ways we can do that is by encouraging legislators, teachers, and parents to educate America's teenage drivers about driver safety.

To memorialize Brett's life, Brett's father, Michael Karlin, founded the Brakes for Brett nonprofit organization. Through peer presentations to high schools and religious and community groups, and by maintaining an informational Web site, Mr. Karlin, Andy, and other friends of Brett educate young adults about the dangers associated with reckless driving. I commend Mr. Karlin and those who collaborate with the Brakes for Brett organization for their work to save the lives of young drivers.

Together, we can work to alert teens to the hazards associated with speeding and joyriding, including its social, emotional, psychological, and financial effects.

In 2003, the National Highway Traffic Safety Administration estimated that the economic costs of both fatal and nonfatal police-reported crashes involving drivers age 15 to 20 were approximately $40.8 billion. Our Nation bears nearly three-fourths of these costs, primarily through medical expenses, increased insurance premiums, taxes, and lost worker productivity.

Yet these costs pale in comparison to the agony endured by parents, families, and friends of a teen driver whose life ends tragically and prematurely.

Brett Karlin's family, despite their immense pain and grief, made the generous decision to donate Brett's organs, providing the opportunity for others to live. That opportunity to give the gift of life often comes in the wake of sudden tragedy. When families embrace that opportunity, organ donation often provides renewed hope for the donor's family as well as for the recipients whose lives are saved by the donation.

A new person is added to the national organ donation waiting list in America every 13 minutes, and sadly, 17 people each day die waiting for transplants that cannot take place because of the shortage of donated organs. Illinois is fortunate to have the country's largest donor registry with more than 6 million participants. Although tremendous strides in promoting organ donation have been made, more than 320 Illinois residents died in 2004 while waiting for an organ transplant.

I commend Brakes for Brett for its valuable educational efforts. Today we remember Brett Karlin's life and honor him by recommitting ourselves to teen driver safety education and organ donation. Through these and similar efforts, we can make great strides to preserve young lives that might otherwise be lost.

## BUDGET SCOREKEEPING REPORT

Mr. GREGG. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2005 budget through July 26, 2005. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2006 Concurrent Resolution on the Budget, H. Con. Res. 95.

The estimates show that current level spending is under the budget resolution by $4.986 billion in budget authority and by $27 million in outlays in 2005. Current level for revenues is $407 million above the budget resolution in 2005.

Since my last report dated June 30, 2005, the Congress has cleared and the President has signed the TANF Extension Act of 2005, P.L. 109-19, the Surface Transportation Act of 2005, Part II, P.L. 109–20, the Surface Transportation Act of 2005, Part III, P.L. 109-35, and the Surface Transportation Act of 2005, Part IV, P.L. 109–37 which changed budget authority and outlays.

I ask unanimous consent that the report be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, July 28, 2005.*

Hon. JUDD GREGG,
*Chairman, Committee on the Budget,*
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2005 budget and are current through July 26, 2005. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions for fiscal year 2005 that underlie H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006.

Since my last letter, dated June 29, 2005, the Congress has cleared and the President has signed the following acts that changed budget authority, outlays, or revenues:

TANF Extension Act of 2005 (Public Law 109-19); Surface Transportation Extension Act of 2005, Part II (Public Law 109–20); Surface Transportation Extension Act of 2005, Part III (Public Law 109-35); and Surface Transportation Extension Act of 2005, Part IV (Public Law 109-37).

In addition, a correction was made to the final scoring of the Surface Transportation Extension Act of 2005 (P.L. 109–14). The estimate of budget authority was reduced by $28 million for fiscal year 2005.

Sincerely,

ELIZABETH M. ROBINSON
(For Douglas Holtz-Eakin, Director).

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF JULY 26, 2005

[In billions of dollars]

| | Budget resolution [1] | Current level [2] | Current level over/under (−) resolution |
|---|---|---|---|
| ON-BUDGET | | | |
| Budget Authority | 1,996.6 | 1,991.6 | −5.0 |
| Outlays | 2,023.9 | 2,023.9 | * |
| Revenues | 1,483.7 | 1,484.1 | 0.4 |
| OFF-BUDGET | | | |
| Social Security Outlays | 398.1 | 398.1 | 0 |
| Social Security Revenues | 573.5 | 573.5 | 0 |

[1] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2005, in the amount of $81,811 million in budget authority and $32,121 million in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109–13 (see footnote 2 of Table 2), the amounts specified in the budget resolution have also been reduced for purposes of comparison.

[2] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Note: * = less than $50 million.

Source: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF JULY 26, 2005

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| Enacted in Previous Sessions:[1] | | | |
| Revenues | n.a. | n.a. | 1,484,024 |
| Permanents and other spending legislation | 1,109,476 | 1,070,500 | n.a. |
| Appropriation legislation | 1,298,963 | 1,369,221 | n.a. |
| Offsetting receipts | −415,912 | −415,912 | n.a. |
| Total, enacted in previous sessions: | 1,992,527 | 2,023,809 | 1,484,024 |
| Enacted This Session: | | | |
| Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109–13)[2] | −1,058 | 4 | 41 |
| Surface Transportation Extension Act of 2005 (P.L. 109–14) | 16 | 0 | 0 |

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2005, AS OF JULY 26, 2005—Continued

[In millions of dollars]

| | Budget authority | Outlays | Revenues |
|---|---|---|---|
| TANF Extension Act of 2005 (P.L. 109-19) | 81 | 45 | 0 |
| Surface Transportation Extension Act of 2005, Part II (P.L. 109-20) | 15 | 0 | 0 |
| Surface Transportation Extension Act of 2005, Part III (P.L. 109-35) | 3 | 0 | 0 |
| Surface Transportation Extension Act of 2005, Part IV (P.L. 109-37) | 5 | 0 | 0 |
| Total, enacted this session | −938 | 49 | 41 |
| Total Current Level [1] [2] | 1,991,589 | 2,023,858 | 1,484,065 |
| Total Budget Resolution | 2,078,456 | 2,056,006 | 1,483,658 |
| Adjustment to budget resolution for emergency requirements [4] | −81,881 | −32,121 | n.a. |
| Adjusted Budget Resolution | 1,996,575 | 2,023,885 | 1,483,658 |
| Current Level Over Adjusted Budget Resolution | n.a. | n.a. | 407 |
| Current Level Under Adjusted Budget Resolution | 4,986 | 27 | n.a. |

[1] The effects of an act to provide for the proper tax treatment of certain disaster mitigation payments (P.L. 109-7) and the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (P.L. 109-8) are included in this section of the table, consistent with the budget resolution assumptions.

[2] Pursuant to section 402 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes $83,140 million in budget authority and $33,034 million in outlays from the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (P.L. 109-13).

[3] Excludes administrative expenses of the Social Security Administration, which are off-budget.

[4] H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2006, assumed the enactment of emergency supplemental appropriations for fiscal year 2005, in the amount of $81,811 million in budget authority and $32,121 million in outlays, which would be exempt from the enforcement of the budget resolution. Since current level excludes the emergency appropriations in P.L. 109-13 (see footnote 2), the amounts specified in the budget resolution have also been reduced for purposes of comparison.

Notes: n.a. = not applicable; P.L. = Public Law; * = less than $500,000.

Source: Congressional Budget Office.

## CHANGES TO 302(a) ALLOCATIONS AND SPENDING LIMITS

Mr. GREGG. Mr. President, the President's fiscal year 2006 budget request includes four cap adjustments to encourage adequate funding for program integrity efforts. In each of the four programs, continuing disability reviews, IRS tax enforcement, health care fraud and abuse control, and unemployment insurance, additional funding dedicated to program integrity can reduce improper payments and return money to the treasury. For example, the administration estimates that each $1 expended on continuing disability reviews returns $10 to taxpayers.

Consistent with the President's request, section 404b of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2006, permits the chairman of the Senate Budget Committee to make adjustments to the 302a allocations to the Appropriations Committee and discretionary spending limits when certain conditions are met relating to appropriations levels for these four program integrity initiatives. I note that our distinguished ranking member, Senator CONRAD, is a real leader in the area of tax enforcement and worked to ensure that our congressional budget included $446 million to address the tax gap.

These conditions having been met in the reported Labor, HHS, Education, and Transportation, Treasury, Judiciary, HUD appropriations bills, I ask consent to insert a table into the RECORD which reflects the revised discretionary spending limits and 302a allocations to the Senate Appropriations Committee. The revised allocations for discretionary budget authority and outlays are the appropriate levels to be used for enforcement during consideration of the fiscal year 2006 appropriations bills.

I ask unanimous consent to have the following chart printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADJUSTMENTS TO FY 2006 302(a) ALLOCATIONS TO THE SENATE COMMITTEE ON APPROPRIATIONS AND 2006 DISCRETIONARY SPENDING LIMITS

[$ in millions]

| | Initial allocation/cap | Adjustment | New allocation/cap |
|---|---|---|---|
| Discretionary BA | 842,265 | 755 | 843,020 |
| OT | 916,081 | 755 | 916,836 |

## THE UNITED STATES AND NEPAL

Mr. LEAHY. Mr. President, I rise to speak about the situation in Nepal, which has received too little attention by the Congress.

I will not take the time to discuss in detail the history of this tiny country wedged between China and India. Suffice it to say that not only is Nepal among the world's least developed countries, it is also facing a ruthless Maoist insurgency and a political crisis instigated by King Gyanendra which together threaten to turn Nepal into a failed state.

Last year, after receiving disturbing reports of widespread human rights violations by the Royal Nepalese Army, including arrests, disappearances, torture and extrajudicial killings of civilians, the Congress imposed a number of conditions on our military aid to Nepal. Those conditions required the Nepalese Government to (1) comply with habeas corpus orders issued by the Supreme Court of Nepal; (2) cooperate with the National Human Rights Commission to identify and resolve all security related cases of individuals in government custody; (3) grant the National Human Rights Commission unimpeded access to all places of detention; and (4) take effective steps to end torture by security forces and prosecute members of such forces who are responsible for gross violations of human rights.

Unfortunately, not only have those conditions not been met, the situation was made significantly worse on February 1 when King Gyanendra, with the backing of the security forces, dissolved the multiparty government, arrested and jailed political opponents, human rights activists and journalists, and declared a state of emergency. The state of emergency has since been lifted, but civil liberties, including freedom of the press and association, remain restricted, the former Prime Minister has been jailed for corruption by an extrajudicial, politically motivated anticorruption commission, and arrests of journalists and democracy activists continue.

Speaking with one voice, the United States, Great Britain, and India condemned the King's actions as a setback for democracy. They said it would make it more difficult to resolve the Maoist problem, and each country imposed varying types of restrictions on military aid. Since then, however, the American Embassy has adopted a more nuanced approach, sending mixed messages that have been widely interpreted as giving equal consideration and validity to the views and actions of the King and the political parties. Unfortunately, the impression today of Nepalese pro-democracy and human rights activists is that the United States is not fully behind them.

The army insists it is complying with habeas corpus orders of the supreme court. This is deceiving, however, because the security forces, often in plain clothes, have been re-arresting people who the court has ordered released. In some instances they have waited at the courthouse steps to take people back into custody immediately after they are set free by the court. Since these arrests are often made without charges, the whereabouts and treatment of these people is often unknown.

In April, the term of the National Human Rights Commission expired and the Government reconstituted the Commission in a manner that was incompatible with the 1990 Nepalese Constitution. The membership of the Commission has also changed, with the exception of the chairman. Not surprisingly, none of the current members, appointed by the palace, expressed publicly any disagreement with the King's February 1 actions, including the arrests and curtailing of civil liberties. The chairman of the Commission even expressed support for the King's actions. This has caused legitimate concerns about the Commission's independence.

There is conflicting information about the Government's cooperation with the National Human Rights Commission in resolving security related cases of persons in custody. According to human rights groups, the situation has not improved. The Commission has said it is getting better access to places of detention, but it is not clear how meaningful this access is. We know there are large numbers of people who have disappeared, yet we are informed that when members of the Commission visit army barracks they have seen few detainees, are led around by army escorts, and that some barracks where detainees were reported to be held were completely empty. There is a concern that the army is summarily executing prisoners. Meanwhile, the International Red Cross has suspended its visits to prisoners because of the army's failure to provide the access it requires.

The issue of ending torture and prosecuting members of the security forces who commit gross violations of human rights is also difficult to assess. According to human rights groups, torture is routinely practiced and impunity remains the norm. The army claims it disciplines its members who violate human rights, but many of the cases it cites do not involve human rights violations. According to the army officer who heads the army's human rights cell, complaints about human rights violations by the army are "much ado about nothing." Those words speak volumes.

Under our law, the Secretary of State is to determine whether the conditions have been met. As a sponsor of the law, I would expect that prior to making any determination she would consult with representatives of reputable human rights groups, including the U.N. High Commissioner for Human Rights, as well as with the British and Indian Governments. It is important that we and they be seen as united on these issues. In that regard, I would hope that she would consider the implications of such a determination in the context of the larger political crisis. We do not want to do anything that could be seen as further evidence that the United States supports the King when he is using the army and police to crush the forces of democracy.

Last week, the Senate revisited the conditions on our military aid for Nepal. Since those conditions were enacted prior to February 1, they have in large measure been eclipsed by subsequent events. The Senate determined that modifications were needed, and those changes were adopted unanimously on July 20, 2005, in an amendment to the fiscal year 2006 State-Foreign Operations-appropriations bill.

Nepal is a breathtakingly beautiful country facing immense challenges. The majority of its people are illiterate, subsistence farmers who are caught between the Maoists, who extort money and food, forcibly recruit their children, and commit atrocities, and the army which mistreats and often shoots those suspected of sympathizing with the Maoists.

The King, while professing to support democracy, seems determined to take the country back to the pre-1990 feudal days. This is not the first time he has dismissed the Prime Minister, and since February 1 he has surrounded himself with elderly advisers from the Panchayat era. He has ignored repeated urgings by our ambassador, and other governments, to sit down with representatives of the political parties to develop a plan for the prompt restoration of multiparty democracy.

As in any country where multiparty democracy has existed for only a decade and a half, Nepal's fledgling political parties suffer from internal divisions and are struggling to establish their credibility with the Nepalese people. This should surprise no one. Democracy is never perfect, and that is particularly true in an impoverished, isolated kingdom whose people have been ruled by a monarchy that ignored their needs for centuries. Yet, despite these obstacles, Nepalese journalists, political activists and civil society continue to speak out.

What is the alternative? A Maoist "people's republic" that could plunge Nepal into darkness? A return to an active monarchy that is accountable to no one?

Nepal is at an historic juncture. The Maoists have made steady gains over the past decade. Once a minor irritant, today they are a national menace. Even since 2001, when King Gyanendra ascended the throne and became commander in chief of the army, the Maoists have grown stronger. Although they are unable to hold territory or to seize power in Katmandu, they pose an increasing threat to the security and livelihoods of Nepal's people.

The King has made a tragic blunder, and the Nepalese people are paying a heavy price.

Former Prime Minister Deuba is in prison, which the State Department has rightly called a setback for democracy. This week there were new arrests. On July 25, several dozen journalists and civil society leaders were arrested and detained for over 24 hours during a peaceful protest. On July 27, a pro-democracy student leader, Gagan Thapa, was arrested while attempting to visit fellow detained student leaders. Mr. Thapa is reportedly being held on suspicion of sedition. His arrest is a threat to all democracy activists and should be strongly condemned by the State Department.

The King's strongest card is the army, but it lacks an effective counterinsurgency capability, it cannot defeat the Maoists in territory as rugged and isolated as parts of Afghanistan, and it has abused and alienated the very people it is supposed to protect. The army needs to demonstrate that it is worthy, if it wants U.S. support.

Earlier this year, in order to avoid criticism at the U.N. Human Rights Commission, the King agreed to permit the U.N. High Commissioner for Human Rights to open an office in Nepal and deploy human rights monitors. This is a welcome development, which the U.S. should strongly support. If the UN monitors are provided with unimpeded access, they should be able to determine if the Maoists are prepared to stop attacking civilians and recruiting children, and if the army is serious about respecting international humanitarian law.

Recently, the U.N. Secretary General's Special Adviser traveled to Nepal to assess the situation. He concluded that a solution to the crisis rests on three elements: "a return to constitutional order and multiparty democracy, an end to hostilities, and inclusive national dialogue towards a negotiated solution to the underlying causes of conflict." The U.N. has a long history in Nepal, and it could play a key facilitating role on each of these elements. I would hope that the State Department would publicly support this.

No one should minimize the challenges. The Maoists have yet to demonstrate that they are ready to abide by a ceasefire, which should be a prerequisite for negotiations on their political demands. But our policy should be unambiguous. Democracy is the only viable alternative, and we should make clear that we unequivocally reject the King's imperial ambitions, that the days of an active monarchy are over, and that we support the political parties. Whether that means the restoration of the 1999 Parliament or the formation of a new constituent assembly, is for the Nepalese people to decide, but there should be no doubt that we support a political process that is open, transparent, inclusive and accountable to the people.

Democracy and dialogue are the key to peace in Nepal, and we should do everything possible to reaffirm our willingness to work with the political parties, with Nepalese civil society, the Indian Government, the British Government, other key countries, and with the United Nations, towards that end.

I ask unanimous consent that the amendment, which if agreed to by the Senate-House conference committee will apply to U.S. military aid for Nepal for the fiscal year beginning October 1, 2005, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEPAL.—

(1) The Congress condemns the Maoist insurgency's atrocities against civilians, including torture, extrajudicial killings, and forced recruitment of children.

(2) The Congress recognizes the difficulties the Royal Nepalese Army (RNA) faces in countering the Maoist threat, but deplores the violations of human rights by the RNA.

(3) Funds appropriated under the heading "Foreign Military Financing Program" may be made available for assistance for Nepal only if the Secretary of State certifies to the

Committees on Appropriations that the Government of Nepal, including its security forces:

(A) has released all political detainees, including those detained before February 1, 2005;

(B) has restored civil liberties, including due process under law, freedoms of speech, the press and association, and the right of movement;

(C) has demonstrated, through dialogue with Nepal's political parties, a commitment to a clear timetable for the return to multiparty, democratic government consistent with the 1990 Nepalese Constitution;

(D) is ensuring that the Commission for Investigation of Abuse of Authority is receiving adequate support to effectively implement its anti-corruption mandate and that no other anti-corruption body is functioning in violation of the 1990 Nepalese Constitution on international standards of due process;

(E) has determined the number of and is complying with habeas corpus orders issued by Nepal's Supreme Court and appellate courts, including all outstanding orders, and the security forces are respecting these orders;

(F) is restoring the independence of the National Human Rights Commission of Nepal (NHRC) in accordance with constitutional provisions, including providing adequate funding and staff;

(G) is granting civilian prosecutors and judicial authorities, the NHRC, the Office of the United Nations High Commissioner for Human Rights in Nepal, and international humanitarian organizations, unannounced and unimpeded access to all detainees, witnesses, relevant documents, and other requested information, and is cooperating with these entities to identify and resolve all security related cases involving persons in government custody; and

(H) is taking effective steps to (i) ensure that Nepalese security forces comply with the Geneva Convention on Law of Land Warfare; (ii) end torture, extrajudicial killings, and other gross violations of human rights; and (iii) prosecute and punish, in a manner proportional to the crime, members of such forces who are responsible for such violations.

(4) The Secretary of State may waive the requirements of paragraph (3) if the Secretary certifies to the Committees on Appropriations that to do so is in the national security interests of the United States.

## IN MEMORIAM: POLICE OFFICER NELS DANIEL NIEMI

Mrs. BOXER. Mr. President, I take this opportunity to honor the memory of the late Nels Daniel Niemi, an officer with the city of San Leandro Police Department. Officer Niemi was a 3-year veteran of the San Leandro Police Department who dedicated his life to his family, community, and Nation. He was tragically killed in the line of duty on July 25, 2005.

Officer Niemi was born 42 years ago in Guam. A graduate of De La Salle High School in Concord, CA, Officer Niemi first worked as a network administrator in the computer industry. Officer Niemi also taught self-defense and gun-awareness classes, which raised his longtime interest in law enforcement. Four years ago, he decided to switch careers, and enrolled in the Police Academy. An officer with the San Leandro Police Department for the last 3 years, he excelled at his job. He was a dedicated and caring officer, who often used his computer expertise in investigations. Through his hard work and dedication to public safety, Officer Niemi earned the respect and admiration of those with whom he worked.

Officer Niemi will long be remembered for his courage, service, and bravery. He will be missed by all who knew him. Officer Niemi is survived by his parents Rudie and Mildred Niemi; brother Jim; wife Dionne; daughter Gabrielle; and stepson Josh Hewitt. I extend my deepest sympathies to his family.

## HUMANITARIAN CRISIS IN NIGER

Mr. FEINGOLD. Mr. President, I rise to express my deep concern about the unnecessary suffering that is occurring in the African country of Niger. Last year's severe drought and locust infestation destroyed most of Niger's harvest and the fodder necessary for keeping livestock. As a result, an estimated 3.6 million people including 800,000 children under the age of 5—are now facing starvation. Aid workers in the field describe the situation as desperate, and report that children are dying daily and families have turned to a diet of acacia leaves and grass.

I urge the administration to continue to respond and to work with other donors to ensure Niger's humanitarian needs are met. In particular, it is crucial that USAID make certain the recently announced $7 million in additional emergency funds go immediately towards alleviating the hunger in the hardest hit areas: the agro-pastoral regions of Maradi and Tillaberi and the pastoral regions of Tahoua and Zinder. Reportedly, there is a shortage of therapeutic feeding centers and clinics, and weakened villagers cannot manage the travel required to reach them.

We also need to address long-term food security issues in the Sahel, where drought and famine regularly afflict these poorest nations. Earlier this year I traveled to three of Niger's neighbors—Algeria, Mali, and Chad. I heard firsthand accounts of how devastating the locust crisis was, and I heard a consensus regarding the need for permanent mechanisms to facilitate crisis response and to prevent emergencies in the future. As the tragedy in Niger demonstrates, even when governments, international organizations, and NGOs are able to anticipate food insecurity almost a year in advance and implement their assistance programs, we can still have a crisis. Unfortunately, it sometimes takes media coverage of already emaciated children to jolt donor countries into emergency action. We need to remain alert and responsive to World Food Program appeals for extra funding before the starvation begins, and we need to stay committed to long-term efforts to improve food security throughout the region.

## ADDITIONAL STATEMENTS

## HONORING GUS FLOROS

• Mr. ALLEN. Mr. President, today I would like to honor a wonderful Virginian and American, Mr. Gus Floros, who this year is celebrating his 50th Anniversary of immigrating to America.

Born on May 25, 1928, in Greece, Gus Floros immigrated to the United States in 1955 settling in Harrisonburg, VA. He quickly went to work in his aunt and uncle's restaurant, Jess' Lunch, on Main Street in Harrisonburg. By 1967 he had purchased the restaurant and with a hands on approach and a commitment to excellence, he made Jess' Lunch one of Harrisonburg's finest eating establishments. Gus has expanded Jess' Lunch dramatically and in 2003 even built a sister location called Jess' Lunch 2.

Gus Floros is a fine example of the great American dream coming true. He is an inspiration to many. Upon his arrival in America, Gus had just one dollar in his pocket. Today he owns two successful restaurants in Harrisonburg that attract both local residents and those who are passing by on interstate 81. Through his entrepreneurial spirit, Gus Floros has made Jess' Lunch an eatery known across the Commonwealth. I often stop in to see Gus and have one of his tasty hotdogs or hamburgers whenever I am in Harrisonburg. You can always find quick, friendly service and a satisfying meal at Jess' Lunch and Gus is always there working just as hard as he did back in 1955.

I congratulate Gus Floros on 50 years of prosperity and good fortune, and I wish him continued success as he continues to serve the residents of Harrisonburg with a warm smile and a hearty meal.•

## TRIBUTE TO JIM BERNSTEIN

• Mr. BURR. Mr. President, I rise today to discuss a North Carolinian who passed away on June 12, 2005, but will always be dear to our hearts. Jim Bernstein's work ended as it began—in selfless service to underserved communities in need. A career arc that began with volunteer service with the U.S. Peace Corps in Morocco ended with post-retirement volunteer service to the North Carolina Department of Health & Human Services' rural health initiatives. In between, Jim provided the Nation and the State of North Carolina with more than 30 years of distinguished leadership in a variety of health and social policy arenas, including rural health, health care finance, public health, social service delivery, medicaid, nonprofit management and health care system innovation.

After earning a bachelor of arts degree in political economy from John Hopkins University in 1964 and a masters of hospital administration from the University of Michigan in 1968, Jim began his lifelong health care service as the director of Indian Health Services for Northern New Mexico. In 1970, he was awarded a 3-year fellowship in the U.S. Public Health Service, and relocated to North Carolina to concentrate his studies on rural health and fuel a passion that would serve as the basis for the next 35 years of his career.

In 1973, while still in his 20's, Jim became the director of the Nation's first Office of Rural Health, located in North Carolina. In that role—which he held for nearly 30 years—Jim spearheaded the development and implementation of a medical recruitment service designed to help rural and medically underserved communities recruit physicians and other health care providers. Since then, more than 2,500 physicians, nurse practitioners, physicians' assistants, dentists and other health care professionals have been recruited to North Carolina. He also directed the development of 83 community-owned health centers, and led the creation of Community Care of North Carolina, a care management program that today provides access to high-quality, cost-effective care to more than 643,000 North Carolinians. Those efforts—and countless others—have positioned the State's rural health function as a nationally recognized model of excellence.

Throughout his career, Jim served as a director, chairman or consultant to more than two dozen professional organizations, including: National Rural Health Association, where he was president from May 1994 to May 1995; National Advisory Committee on Rural Health—U.S. Public Health Service, Office of Rural Health Policy, 1994 to 1995; Institute of Medicine—Committee for Guidance in Designing a National Health Care Disparities Report, Washington, DC 2001 to 2005; Commissioner, Prospective Payment Assessment Commission, where he was selected by the U.S. Congress to advise the body on Medicare finance; 1990 to 1996; chairman, Advisory Panel to the Office of Technology Assessment's Study on Rural Health Care, U.S. Congress; 1988; Delegate, National Medical Tour to the People's Republic of China, 1978; Consultant, National Academy of Sciences/Institute of Medicine—Task Force on Study of Health Needs in Egypt, Cairo, Egypt; 1978. His extraordinary commitment to lifelong community service to these and dozens of other organizations garnered him the North Carolina Order of the Long Leaf Pine in 2005.

In 1982, upon the recommendation of a State legislative study commission, Jim helped establish the North Carolina Foundation for Advanced Health Programs, Inc, NCFAHP. From 1982 to 2005, he served as the foundation's president, helping it spearhead projects targeting the health care needs of low-income underserved communities. Under Jim's leadership, NCFAHP secured more than 40 grants totaling more than $17 million, allowing it to implement dozens of programs for enhancing health care delivery across the State. He also served as national director of the Robert Wood Johnson Foundation's Practice Sights Program through NCFAHP.

Before retiring in 2005, Jim had, since 2001, served as assistant secretary for Health at the N.C. Department of Health and Human Services. In that role, he oversaw the North Carolina Departments of Facility Services, Medical Assistance, Mental Health, Minority Health, Public Health and Rural Health. He also served as an adjunct professor at the University of North Carolina at Chapel Hill School of Medicine, Department of Social and Administrative Medicine; 1979 to 2005 and as an adjunct assistant professor at the School of Medicine at Duke University in Durham, NC, Department of Community and Family Medicine; 1978 to 2005.

Jim's impact on North Carolina will never be forgotten. He was a champion for rural health car and the belief that every individual should have access to high-quality health care.•

## RECOGNITION OF BENNIE COOLEY

• Mr. CRAIG. Mr. President, I rise to recognize an outstanding marksman and employee at Idaho National Laboratory: Bennie Cooley, who with teammate Todd Salmon has recently won the 2005 World Sniper Championship.

Bennie Cooley is no stranger to such competitions, as he currently holds three world titles and seven national titles within the shooting disciplines, but this competition was particularly special to him because many of the participants were some of the finest members of our Armed Forces and the national law enforcement community. Like him, I believe that all these competitors are world champions in their own right.

Bennie has made a career at the Idaho National Laboratory, beginning as a security police officer for the Laboratory before moving to the Laboratory's special response team where he became a team leader. He is now a firearms safety engineer, "part of a team that makes security successful, especially in the safety realm . . . able to articulate anything that's necessary to help keep us safe," according to one of his superiors, because of his knowledge of firearms.

Respect for firearms and marksmanship have been important qualities throughout our Nation's history and it is rewarding to see those values preserved and practiced by people like Bennie Cooley.

As Mr. Cooley continues to assure the safety of Idaho National Laboratory and to demonstrate his excellence in the art of marksmanship, I wish him good luck and offer congratulations and thanks for his dedication to public service.•

## 350 YEARS OF JEWISH LIFE IN AMERICA

• Mr. DEWINE. Mr. President, I rise today to congratulate the Jewish community on 350 years of Jewish life in America. In September of 1654, 23 Jews founded the first Jewish community in America when they sailed to what was then New Amsterdam. The Jewish community in this country has a rich and fascinating history, surmounting numerous obstacles and working diligently to make great contributions to our Nation. I offer my sincerest congratulations to the Jewish community on reaching this important milestone and express my endorsement of the 350th Rabbinical Resolution and ask that it be printed in the RECORD.

The resolution follows:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Let it be known that in Elul 5764 (September 2004) the Jewish community of the United States began a year long commemoration marking the 350th Anniversary of Jewish settlement in this country.

With the help of God and under the protection of the Constitution of the United States, we have lived and prospered in this land. We have been an integral part of American life. We have worked with all other Americans in the never-ending effort to keep secure the democratic way of life. Our ancient prophetic ideals and the teachings of our sages serve as cornerstones of this Nation's values. Our work, our hopes, and above all, our living religion have been among our proudest offerings to the American community.

In some lands across the seas the Jewish people have felt the searing flame of prejudice, persecution and death. The American Jew has had the sad, yet inspiring opportunity to bring comfort to the oppressed, the joyous opportunity to participate in the reconstitution of the Jewish state on the ancient soil of Israel, and the inescapable and ennobling responsibility to mend the broken places in our world.

Even as we have worked for the wellbeing of our people abroad, the Jewish people in America have struggled to preserve our noble heritage, our historic traditions, our ancient teachings, our ethics, and our spiritual ideals in the free climate of our Nation.

Mindful of our manifold blessings and with deep gratitude in our hearts to the God of Israel, who, in 1654, led our forebears to the shores of this great new land.

We have proclaimed the period from Elul 5764 (September 2004) through Elul 5765 (September 2005) to be one of special thanksgiving, prayer, study, reflection and celebration to mark the 350th Anniversary of Jewish Communal Life in America. We call on all American Jewry to participate in the observance of this anniversary; to thank God for the bountiful blessings that have been bestowed on us in this remarkable land. Let us express our collective hope that peace, security, and prosperity will reign in our Nation for all.

May the principles of freedom and liberty that have been the lodestar values of this great Republic continue to radiate their blessings on our Nation.

Central Conference of American Rabbis
Rabbi Harry Danziger, President
Rabbinical Assembly
Rabbi Perry Raphael Rank, President
Rabbinical Council of America
Rabbi Dale Polakoff, President
Reconstructionist Rabbinical Association
Rabbi Brant Rosen, President.●

## RETIREMENT OF DR. BRUCE HALVERSON

● Mr. JOHNSON. Mr. President, I rise today to recognize and honor Dr. Bruce Halverson on the occasion of his retirement as president of Augustana College in Sioux Falls, SD.

Dr. Halverson, a native of Sioux Falls, is the first alumnus to ever serve as Augustana's president. As a member of the class of 1966, he majored in speech and drama, earning cum laude distinctions. He continued his education at the University of Washington where he secured his Ph.D. in theater history in 1971.

Following graduation, Dr. Halverson compiled an impressive resume, including an array of educational and theatrical credits. As a theater director throughout the 1970s, 1980s and 1990s, he worked with award-winning actors, producing and directing pieces he occasionally even co-authored. In addition to his professional stage work, Dr. Halverson served as dean of the School of Theatre at Florida State University, as well as artistic director and chairman of theater departments at various universities, including the University of Illinois, Grinnell College, and Ithaca College. Moreover, he was director of education at the National Institute for the Deaf, where he displayed his skills and dedication as an educator and advocate of equal opportunity. Most recently, Dr. Halverson has shown his commitment to South Dakota by returning to his alma mater in 2000 as the 22nd president of Augustana College.

During his presidency, Augustana implemented $13 million in projects to expand the campus, including constructing the Fantle Building for the Center for Western Studies, enhancing the Elmen Center, and creating the Center for the Visual Arts. A new football training facility is also in progress. Under Dr. Halverson's leadership, Augustana's $50 million Sunrise Capital Campaign is expected to successfully conclude around the time of his retirement. Further, he has been praised for his work in securing a record number of State scholarships for Augustana students. In recognition of his dedication to the college, Augustana's board of trustees asked Dr. Halverson to continue his work with the school following his retirement. As the school newspaper, Augustana Today, notes: Halverson has laid the groundwork for his successor by enhancing Augustana's financial viability, encouraging faculty research, undertaking strategic planning, and strengthening alumni support.

Additionally, Dr. Halverson is a steadfast proponent of eliminating barriers for people with disabilities, particularly concerning theater and the arts. His compassion and outspoken commitment have moved him to write extensively on the topic, as well as travel all over our country, speaking and presenting at various conferences. As Augustana's first president proficient in sign language, it is clear that Dr. Halverson personifies his values and takes to heart his role as an educator.

Mr. President, it is an honor for me to share the impressive accomplishments of Dr. Bruce Halverson with my colleagues. I commend him for his tireless dedication to theatre, education, and enhancing the arts, especially in the State of South Dakota. The lives of countless people have been enormously enhanced by Dr. Halverson's talent and leadership as president of Augustana College. I wish the very best for him, his wife Nancy, and their three sons Tait, Jeffry and Cole, as Dr. Halverson continues to contribute to and improve education throughout South Dakota. ●

## HONORING THE CITY OF ALEXANDRIA, SOUTH DAKOTA

● Mr. JOHNSON. Mr. President, I rise today to honor and publicly recognize the city of Alexandria, SD. This year marks the 125th anniversary of the founding of Alexandria, and from August 14 through August 18, its citizens will gather to celebrate their proud past as well as their hope for a promising future.

Located three miles from the banks of the James River in southeast South Dakota, Alexandria was originally named Clarksville after Dearborn Clark, who donated the land upon which the town was built. It was renamed Alexander in 1879, and later changed to Alexandria, to honor Alexander Mitchell, the president of the Chicago, Milwaukee Railway. The first buildings were built in 1880, and the city was officially incorporated in 1883. Later that decade, Alexandria was named county seat of Hanson County, a title it still maintains.

The frontier town grew quickly in the following years, and by 1893, the population exceeded 1,000 people. Enjoying a robust agricultural economy, Alexandria shipped more than 1,000 boxcars of grain annually. In 1914, the city purchased an electric generator, and local businessmen financed a $1,200 project to make Alexandria one of the first communities in South Dakota with electric streetlights. In 1885, the city applied to become the State capital, but came in fourth in the voting.

Since the boom years of the early 1900s, economic circumstances have, of course, changed. Still, Alexandria continues to provide essential services and support to local farmers and ranchers. The rugged days of pioneer life have ended, but the residents of this extraordinary community continue to exemplify the bold and enterprising pioneer spirit.

In her book, Hanson Heritage, Mildred Soladay celebrates the courage of the settlers who founded Alexandria: "They had no past," she writes, "but the infinite future lay before them." Today, the citizens of Alexandria do indeed have a past worthy of celebration, yet as they commemorate their city's 125th anniversary, the promise of their future remains infinite.●

## MAYOR HARRY MIMS

● Ms. LANDRIEU. Mr. President, today I wish to say a few words about one of Louisiana's finest public servants, Mayor Harry Mims of East Hodge. Mayor Mims recently celebrated his 91st birthday and has dedicated the past 37 years to the people of East Hodge as their mayor. First elected in 1968, he has the distinction of being the first and so far only mayor of this community, population of 366. In fact, some say that if it I were not for Harry Mims, there would not be an East Hodge as he was instrumental in the city's founding.

Mayor Mims' motto that has made East Hodge thrive is one many small town politicians understand, when there is work to be done, "You have to do it yourself." One of the best examples of his drive to bring to East Hodge some of the amenities and services enjoyed by their neighbors is his unyielding efforts to pave the streets of East Hodge. At one point in recent history, the streets were too narrow for cars to pass. The mayor wrote grant after grant to find the money he needed to manage this small community and as a result of his tenacity, they now have a new town hall, a large water system, two apartment buildings, a fire station, two trucks and a community center.

Last Saturday, the Louisiana Chapter of the National Conference of Black Mayors honored Mayor Mims for his years of service to the people of East Hodge and the State of Louisiana. Mayor Mims told them he plans to run for 8 more years, if the Lord will allow him to. It is my fervent prayer that the good Lord allows Mayor Mims to continue to serve the people of East Hodge as he has so diligently for the past 37 years and that he does so in the best of health. As the daughter of a Mayor, I know that the people of East Hodge join me in this prayer. Thank you Mayor Mims, for all that you have done and continue to do for the people you serve.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE DURING ADJOURNMENT

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on July 27, 2005, during the adjournment of the Senate, received a message from the House of Representatives announcing that the House has agreed to the following bill, in which it requests the concurrence of the Senate:

H.R. 3453. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act of the 21st Century.

## ENROLLED BILL SIGNED

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on July 27, 2005, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bill:

H.R. 3453. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

Under authority of the order of July 27, 2005, the enrolled bill was signed on July 27, 2005, during the adjournment of the Senate, by the Acting President pro tempore (Mr. MCCONNELL).

## MESSAGES FROM THE HOUSE

At 9:32 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3045. An act to implement the Dominican Republic-Central America-United States Free Trade Agreement.

At 12:17 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1132. An act to provide for the establishment of a controlled substance monitoring program in each State.

H.R. 3204. An act to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools.

H.R. 3283. An act to enhance resources to enforce United States trade rights.

The message also announced that pursuant to section 306(k) of the Public Health Service Act (42 U.S.C. 242k), and the order of the House of Representatives to the National Committee on Vital and Health Statistics for a term of 4 years: Mr. Jeffrey S. Blair of Albuquerque, NM.

## ENROLLED BILLS SIGNED

The President pro tempore (Mr. STEVENS) announced that on yesterday, July 27, 2005, he had signed the following enrolled bills:

H.R. 38. An act to designate a portion of the White Salmon River as a component of the National Wild and Scenic Rivers System.

H.R. 481. An act to further the purposes of the Sand Creek Massacre National Historic Site Establishment Act of 2000.

H.R. 541. An act to direct the Secretary of Agriculture to convey certain land to Lander County, NV, and the Secretary of the Interior to convey certain land to Eureka County, NV for continued use as cemeteries.

H.R. 794. An act to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes.

H.R. 1046. An act to authorize the Secretary of the Interior to contract with the city of Cheyenne, WY, for the storage of the city's water in the Kendrick Project, WY.

The President pro tempore (Mr. STEVENS) announced that on yesterday, July 27, 2005, he had signed the following enrolled bill:

S. 544. An act to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety.

At 1:34 p.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the House agrees to the report of the committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 6 to ensure jobs for our future with secure, affordable, and reliable energy.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on July 28, 2005, she had presented to the President of the United States the following enrolled bill:

S. 544. An act to amend title IX of the Public Health Service Act to provide for the improvement of patient safety and to reduce the incidence of events that adversely affect patient safety.

At 6:18 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 2361 making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

The message also announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 2985 making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 225. Concurrent resolution providing for a conditional adjournment of the House of Representatives and a conditional recess or adjournment of the Senate.

## MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3283. An act to enhance resources to enforce United States trade rights; to the Committee on Finance.

## MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3045. An act to implement the Dominican Republic-Central America-United States Free Trade Agreement.

H.R. 3204. An act to amend title XXVII of the Public Health Service Act to extend Federal funding for the establishment and operation of State high risk health insurance pools.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3268. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Coldfoot, AK" ((RIN2120–AA66) (2005–0144)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3269. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Kaltag, AK" ((RIN2120–AA66) (2005–0146)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3270. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Sutton, WV" ((RIN2120–AA66) (2005–0149)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3271. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Perryville, AK" ((RIN2120–AA66) (2005–0153)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3272. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E2 Airspace; and Modification of Class E5 Airspace; Monett, MO" ((RIN2120–AA66) (2005–0160)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3273. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 727 Airplanes, Equipped with an Auxiliary Fuel Tank Having a Fuel Pump Installed" ((RIN2120–AA64) (2005–0310)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3274. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Kelly Aerospace Power Systems Part Number 14D11, A14D11, B14D11, C14D11, 23D04, A23D04, B23D04, C23D04, or P23D04 Fuel Regulator Shutoff Valves, ElectoSystems, JanAero Devices, Janitrol, C&D Airmotive Products, FL Aerospace, and Midland-Ross Corporation" ((RIN2120–AA64) (2005–0315)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3275. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 Airplanes and Model EMB–145, 145ER, 145MR 145LR, 145XR, 145MP, and 145EP Airplanes" ((RIN2120–AA64) (2005–0318)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3276. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rockwell International Models AT–6 (SNJ–2), AT–6A (SNJ–3), AT–6B, AT–6C (SNJ–4), AT–6D (SNJ–5), AT–6F (SNJ–6), BC–1A, SNJ–7, and T–6G Airplanes; and Autair Ltd., Model Harvard" ((RIN2120–AA64) (2005–0320)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3277. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: GROB–WERKE Model G120A Airplanes" ((RIN2120–AA64) (2005–0309)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3278. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC–8–400 Series Airplanes" ((RIN2120–AA64) (2005–0307)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3279. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 757 Series Airplanes" ((RIN2120–AA64) (2005–0308)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3280. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Eurocopter France Model EC 155B, EC155B1, SA–365N, SA–365N1, AS–365N2, and AS–365N3 Helicopters" ((RIN2120–AA64) (2005–0323)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3281. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Turbomeca S.A. Arriel 2B Turboshaft Engines" ((RIN2120–AA64) (2005–0322)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3282. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: General Electric Company CT64–820–4 Turboprop Engines" ((RIN2120–AA64) (2005–0321)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3283. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Sikorsky Aircraft Corporation Model S–92A Helicopters" ((RIN2120–AA64) (2005–0319)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3284. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hoffman Propeller GmbH and Co KG Models HO–V343 and HO–V343K Propellers" ((RIN2120–AA64) (2005–0317)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3285. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Agusta S.p.A. Model AB412 Series Helicopters" ((RIN2120–AA64) (2005–0316)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3286. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dornier Model 328–300 Series Airplanes" ((RIN2120–AA64) (2005–0314)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3287. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD–90–30 Airplanes" ((RIN2120–AA64) (2005–0313)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3288. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes" ((RIN2120–AA64) (2005–0312)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3289. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Dornier Model 328–300 Series Airplanes" ((RIN2120–AA64) (2005–0311)) received on July 25, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3290. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Increase in Fees and Charges for Egg, Poultry, and Rabbit Grading" ((RIN0581–AC44) (Docket No. PY–05–001)) received on July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3291. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pistachios Grown in California; Establishment of Procedures for Exempting Handlers from Minimum Quality Testing" (Docket No. FV05–983–4 IFR) received on July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3292. A communication from the Acting Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Pistachios Grown in California; Establishment of Reporting Requirements" (Docket No. FV05–983–1 FR) received on July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3293. A communication from the Administrator, Food and Nutrition Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "For-Profit Center Participation in the Child and Adult Care Food Program" (RIN0584–AD66) received on July 25, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3294. A communication from the Congressional Review Coordinator, Animal and

Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis in Cattle and Bison; State and Zone Designations; New Mexico" (APHIS Docket No. 04-068-1) received on July 27, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3295. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, a report relative to the addition of benefits coverage for dependent children up to 25 years of age under the Federal Employees Health Benefits (FEHB) Program; to the Committee on Homeland Security and Governmental Affairs.

EC-3296. A communication from the Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Federal Employees' Group Life Insurance Federal Acquisition Regulation" (RIN3206-AI65) received on July 27, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-3297. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-131, "Summer Youth Employment Act of 2005" received on July 27, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-3298. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-132, "Nuisance Properties Abatement Reform Amendment Act of 2005" received on July 27, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-3299. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-133, "Abatement of Nuisance Construction Projects Amendment Act of 2005" received on July 27, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-3300. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-134, "Uniform Real Property Electronic Recording Act of 2005" received on July 27, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-3301. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-135, "Removal from the Permanent System of Highways, Savannah Street, S.E., and the Dedication of Land for Street Purposes (S.O. 04-8736) Act of 2005" received on July 27, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-3302. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-136, "Closing of Patricia Roberts Harris Drive, N. E., in Square 4325, S.O. 03-5187, Act of 2005" received on July 27, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-3303. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-137, "Qualified Zone Academy Revenue Bond Project Forward Commitment Approval Act of 2005" received on July 27, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-3304. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-138, "Utility Taxes Technical Corrections Temporary Act of 2005" received on July 27, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC-3305. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16-139, "Tobacco Settlement Model Amendment Act of 2005" received on July 27, 2005; to the Committee on Homeland Security and Governmental Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment:

S. 449. A bill to facilitate shareholder consideration of proposals to make Settlement Common Stock under the Alaska Native Claims Settlement Act available to missed enrollees, eligible elders, and eligible persons born after December 18, 1971, and for other purposes (Rept. No. 109-112).

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment and with a preamble:

S.J. Res. 15. A joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States (Rept. No. 109-113).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1280. A bill to authorize appropriations for fiscal years 2006 and 2007 for the United States Coast Guard, and for other purposes (Rept. No. 109-114).

By Mr. COCHRAN, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 2006" (Rept. No. 109-115).

By Mr. SPECTER, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 103. A bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

## EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Treaty Doc. 108-6—Protocol of Amendment to International Convention on Simplification and Harmonization of Customs Procedures (Exec. Rept. No. 109-2)

Text of Resolution of Ratification as recommended by the Committee on Foreign Relations: *Resolved (two-thirds of the Senators present concurring therein),* The Senate advises and consents to the accession to the Protocol of Amendment to the International Convention on the Simplification and Harmonization of Customs Procedures (the "Protocol") done at Brussels on June 26, 1999 (Treaty Doc. 108-6), including Specific Annexes A, B, C, D, E, and G; Chapters 1, 2 and 3 of Specific Annex F; and Chapters 3, 4 and 5 of Specific Annex J; subject to the reservations to certain Recommended Practices (as set forth in the enclosure to the report of the Secretary of State in Treaty Doc. 108-6) in Specific Annex A, Chapters 1 and 2; Specific Annex B, Chapters 2 and 3; Specific Annex D, Chapters 1 and 2; Specific Annex E, Chapters 1 and 2; Specific Annex F, Chapters 1, 2 and 3; Specific Annex G, Chapter 1; and Specific Annex J, Chapter 4.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Peter Cyril Wyche Flory, of Virginia, to be an Assistant Secretary of Defense.

*Phillip Jackson Bell, of Georgia, to be Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

*Keith E. Eastin, of Texas, to be an Assistant Secretary of the Army.

Air Force nomination of Lt. Gen. Norton A. Schwartz to be General.

Air Force nomination of Lt. Gen. John D. W. Corley to be General.

Air Force nomination of Maj. Gen. Kevin P. Chilton to be Lieutenant General.

Air Force nomination of Maj. Gen. Donald J. Hoffman to be Lieutenant General.

Air Force nomination of Maj. Gen. David A. Deptula to be Lieutenant General.

Air Force nomination of Lt. Gen. Victor E. Renuart, Jr. to be Lieutenant General.

Air Force nomination of Maj. Gen. John L. Hudson to be Lieutenant General.

Air Force nomination of Brig. Gen. Melissa A. Rank to be Major General.

Air Force nominations beginning with Brigadier General Ted F. Bowlds and ending with Brigadier General Roy M. Worden, which nominations were received by the Senate and appeared in the Congressional Record on May 9, 2005.

Air Force nominations beginning with Brigadier General Charles W. Collier, Jr. and ending with Colonel Jannette Young, which nominations were received by the Senate and appeared in the Congressional Record on June 8, 2005.

Army nomination of Lt. Gen. William E. Ward to be General.

Army nomination of Lt. Gen. Robert W. Wagner to be Lieutenant General.

Army nomination of Lt. Gen. Keith B. Alexander to be Lieutenant General.

Army nomination of Maj. Gen. Ronald L. Burgess, Jr. to be Lieutenant General.

Army nomination of Lt. Gen. David H. Petraeus to be Lieutenant General.

Army nomination of Maj. Gen. Martin E. Dempsey to be Lieutenant General.

Army nomination of Maj. Gen. William E. Mortensen to be Lieutenant General.

Army nomination of Lt. Gen. Claude V. Christianson to be Lieutenant General.

Army nomination of Maj. Gen. Scott C. Black to be Major General and the Judge Advocate General of the United States Army.

Army nomination of Maj. Gen. Daniel V. Wright to be Major General and the Assistant Judge Advocate General of the United States Army.

Army nomination of Brigadier General Jay W. Hood to be Major General.

Army nomination of Col. Douglas L. Carver to be Brigadier General.

Marine Corps nomination of Lt. Gen. Robert Magnus to be General.

Marine Corps nomination of Maj. Gen. John G. Castellaw to be Lieutenant General.

Marine Corps nomination of Maj. Gen. Emerson N. Gardner, Jr. to be Lieutenant General.

Marine Corps nomination of Maj. Gen. Joseph F. Weber to be Lieutenant General.

Marine Corps nomination of Maj. Gen. Richard S. Kramlich to be Lieutenant General.

Marine Corps nomination of Maj. Gen. John F. Goodman to be Lieutenant General.

Navy nomination of Rear Adm. Ann E. Rondeau to be Vice Admiral.

Navy nomination of Vice Adm. David C. Nichols, Jr. to be Vice Admiral.

Navy nomination of Rear Adm. (lh) Henry Balam Tomlin III to be Rear Admiral.

Navy nomination of Rear Adm. (lh) Craig O. McDonald to be Rear Admiral.

Navy nomination of Rear Adm. (lh) Ben F. Gaumer to be Rear Admiral.

Navy nomination of Rear Adm. (lh) Raymond K. Alexander to be Rear Admiral.

Navy nominations beginning with Rear Adm. (lh) David O. Anderson and ending with Rear Adm. (lh) Dirk J. Debbink, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2005.

Navy nomination of Rear Adm. (lh) Thomas K. Burkhard to be Rear Admiral.

Navy nomination of Rear Adm. (lh) Donna L. Crisp to be Rear Admiral.

Navy nomination of Rear Adm. (lh) Michael S. Roesner to be Rear Admiral.

Navy nomination of Capt. Donald R. Gintzig to be Rear Admiral (lower half).

Navy nomination of Capt. Raymond P. English to be Rear Admiral (lower half).

Navy nominations beginning with Capt. Richard R. Jeffries and ending with Capt. David J. Smith, which nominations were received by the Senate and appeared in the Congressional Record on February 28, 2005.

Navy nominations beginning with Capt. Mark F. Heinrich and ending with Capt. Charles M. Lilli, which nominations were received by the Senate and appeared in the Congressional Record on February 28, 2005.

Navy nomination of Capt. Michael D. Hardee to be Rear Admiral (lower half).

Navy nominations beginning with Capt. Timothy V. Flynn III and ending with Capt. John C. Orzalli, which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2005.

Navy nomination of Capt. Tony L. Cothron to be Rear Admiral (lower half).

Navy nomination of Capt. Moira N. Flanders to be Rear Admiral (lower half).

Navy nomination of Capt. Michael A. Brown to be Rear Admiral (lower half).

Navy nominations beginning with Capt. Julius S. Caeser and ending with Capt. Garland P. Wright, Jr., which nominations were received by the Senate and appeared in the Congressional Record on April 4, 2005.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning with Thomas L. Blase and ending with Gregory L. Tate, which nominations were received by the Senate and appeared in the Congressional Record on March 14, 2005.

Air Force nominations beginning with David J. Luther and ending with Meridith A. Warner, which nominations were received by the Senate and appeared in the Congressional Record on July 19, 2005.

Army nominations beginning with John M. Balas, Jr. and ending with Paul J. Warden, which nominations were received by the Senate and appeared in the Congressional Record on February 15, 2005.

Army nominations beginning with Edward D. Arrington and ending with Clifton E. Yu, which nominations were received by the Senate and appeared in the Congressional Record on March 4, 2005.

Army nominations beginning with Barry D. Bowden and ending with Craig N. Wiley, which nominations were received by the Senate and appeared in the Congressional Record on March 14, 2005

Army nominations beginning with William P. Adelman and ending with Joseph J. Zubak, which nominations were received by the Senate and appeared in the Congressional Record on June 9, 2005.

Army nominations beginning with Terry W. Austin and ending with Paul J. Yacovone, which nominations were received by the Senate and appeared in the Congressional Record on June 9, 2005.

Army nominations beginning with Scott W. Burgan and ending with Julie A. Smith, which nominations were received by the Senate and appeared in the Congressional Record on June 9, 2005.

Army nominations beginning with Monroe N. Farmer, Jr. and ending with Wendy C. Spriggs, which nominations were received by the Senate and appeared in the Congressional Record on July 12, 2005.

Army nominations beginning with Jerry R. Acton, Jr. and ending with Steven R. Mount, which nominations were received by the Senate and appeared in the Congressional Record on July 12, 2005.

Army nominations beginning with Maria E. Bovill and ending with Michael J. Walker, which nominations were received by the Senate and appeared in the Congressional Record on July 12, 2005.

Army nominations beginning with Thelda J. Atkin and ending with Tami Zalewski, which nominations were received by the Senate and appeared in the Congressional Record on July 12, 2005.

Army nominations beginning with Christopher Amaker and ending with Stephen C. Wooldridge, which nominations were received by the Senate and appeared in the Congressional Record on July 12, 2005.

Army nominations beginning with Denise D. Adamsmann and ending with Robin A. Villiard, which nominations were received by the Senate and appeared in the Congressional Record on July 12, 2005.

Army nominations beginning with Thomas H. Aarsen and ending with X3541, which nominations were received by the Senate and appeared in the Congressional Record on July 12, 2005.

Marine Corps nomination of Daniel J. Peterlick to be Lieutenant Colonel.

Marine Corps nominations beginning with Danny A. Hurd and ending with George C. Mclain, which nominations were received by the Senate and appeared in the Congressional Record on February 8, 2005.

Navy nominations beginning with James W. Caldwell, Jr. and ending with Richard J. Papesca, which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2005.

Navy nominations beginning with David K. Chapman and ending with William V. Weinman, Jr., which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2005.

Navy nomination of Robert W. Worringer to be Captain.

Navy nomination of Melissa J. MacKay to be Captain.

Navy nominations beginning with Thomas J. Cuff and ending with Carven A. Scott, which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2005.

Navy nominations beginning with Steven F. Momano and ending with Agustin L. Otero, which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2005.

Navy nominations beginning with Larry Thomas and ending with David J. Wray, which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2005.

Navy nominations beginning with Keri A. Buck and ending with William J. Wilson III, which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2005.

Navy nominations beginning with Nicholas A. Filippone and ending with Nancy S. Vegel, which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2005.

Navy nominations beginning with Edward Y. Andrus and ending with Thomas E. Stowell, which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2005.

Navy nominations beginning with Rebekah R. Barrish and ending with Samuel G. Sumwalt, which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2005.

Navy nominations beginning with Charles E. Adams and ending with Katherine A. Walter, which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2005.

Navy nominations beginning with Walter J. Adelmann, Jr. and ending with Clayton G. Tettelbach, which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2005.

Navy nominations beginning with Russell E. Allen and ending with Stephen E. Zini, which nominations were received by the Senate and appeared in the Congressional Record on April 6, 2005.

Navy nominations beginning with Anthony Cooper and ending with William S. Gureck, which nominations were received by the Senate and appeared in the Congressional Record on May 25, 2005.

Navy nominations beginning with Annie B. Andrews and ending with Susan L. Sherman, which nominations were received by the Senate and appeared in the Congressional Record on May 25, 2005.

Navy nominations beginning with Robert G. Bergman and ending with Philip G. Strozzo, which nominations were received by the Senate and appeared in the Congressional Record on May 25, 2005.

Navy nominations beginning with Scott D. Katz and ending with Paul C. Stewart, which nominations were received by the Senate and appeared in the Congressional Record on May 25, 2005.

Navy nominations beginning with William T. Ainsworth and ending with George D. Seaton, which nominations were received by the Senate and appeared in the Congressional Record on May 25, 2005.

Navy nominations beginning with Katherine M. Donovan and ending with Martha M. Warner, which nominations were received by the Senate and appeared in the Congressional Record on May 25, 2005.

Navy nominations beginning with Terry W. Auberry and ending with David B. Wilkie, which nominations were received by the Senate and appeared in the Congressional Record on May 25, 2005.

Navy nominations beginning with Nicholas V. Buck and ending with Mathias W. Winter, which nominations were received by the Senate and appeared in the Congressional Record on May 25, 2005.

Navy nominations beginning with Michael E. Devine and ending with Alvin C. Wilson III, which nominations were received by the Senate and appeared in the Congressional Record on May 25, 2005.

Navy nominations beginning with Raymond M. Alfaro and ending with Joseph Yusician, which nominations were received by the Senate and appeared in the Congressional Record on May 25, 2005.

Navy nominations beginning with Alan J. Abramson and ending with Douglas E. Wright, which nominations were received by the Senate and appeared in the Congressional Record on May 25, 2005.

Navy nominations beginning with Carl J. Cwiklinski and ending with Robert P. Mcclanahan, Jr., which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Joseph A. Clements and ending with Garold G. Ulmer, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Jeffrey T. Borowy and ending with Julius C. Washington, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Dianne A. Archer and ending with Jeffery S. Wolfe, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Robert B. Blazewick and ending with Eric C. Price, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with William J. Adams, Jr. and ending with Steven J. Winter, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Gregory S. Blaschke and ending with David G. Wright, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Ioana Bettios and ending with Michael J. Wolfgang, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Linnea M. Axman and ending with Laurie L. Williamson, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with John G. Dillender and ending with Diane L. Snyder, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Jane D. Bingham and ending with Steven R. Morgan, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Gregory F. Becht and ending with Michael L. Zabel, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Deana L. Abernathey and ending with Linda J. Tieaskie, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Maureen E. Carroll and ending with Jacob R. Walker, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Thomas L. Amerson and ending with Kenneth E. Wavell, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Brian D. Hodgson and ending with Pomay Tsoi, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Gregory L. Belcher and ending with Wayne M. Weiss, which nominations were received by the Senate and appeared in the Congressional Record on June 6, 2005.

Navy nominations beginning with Richard W. Haupt and ending with Alvin A. Plexico, Jr., which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2005.

Navy nominations beginning with Ronald M. Bishop, Jr. and ending with Anthony S. Vivona, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2005.

Navy nominations beginning with Cheryl J. Cotton and ending with Tracy D. Whiteley, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2005.

Navy nominations beginning with Albert R. Costa and ending with Christopher S. Wirth, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2005.

Navy nominations beginning with David J. Byers and ending with Marc T. Steiner, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2005.

Navy nominations beginning with Jason W. Carter and ending with Laura G. Yambrick, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2005.

Navy nominations beginning with Clifford W. Bean III and ending with Donna M. Young, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2005.

Navy nominations beginning with Thomas J. Anderson and ending with Michael Ziv, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2005.

Navy nominations beginning with Jason L. Ansley and ending with Tracy A. Vincent, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2005.

Navy nominations beginning with Daniel A. Abrams and ending with John W. Wood, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2005.

Navy nominations beginning with John C. Absetz and ending with John J. Zerr II, which nominations were received by the Senate and appeared in the Congressional Record on June 14, 2005.

Navy nominations beginning with James R. Martin and ending with Glen Wood, which nominations were received by the Senate and appeared in the Congressional Record on July 12, 2005.

Navy nominations beginning with Marjorie Alexander and ending with Maria A. Young, which nominations were received by the Senate and appeared in the Congressional Record on July 12, 2005.

Navy nominations beginning with Eric M. Aaby and ending with Charles S. Willmore, which nominations were received by the Senate and appeared in the Congressional Record on July 12, 2005.

Navy nominations beginning with William D. Bryan and ending with Billy W. Sloan, which nominations were received by the Senate and appeared in the Congressional Record on July 14, 2005.

Navy nominations beginning with Bruce H. Boyle and ending with Bradley E. Telleen, which nominations were received by the Senate and appeared in the Congressional Record on July 14, 2005.

Navy nominations beginning with Jeffrey G. Ant and ending with Benjamin W. Young, Jr., which nominations were received by the Senate and appeared in the Congressional Record on July 14, 2005.

Navy nominations beginning with Syed N. Ahmad and ending with Barbara H. Zeliff, which nominations were received by the Senate and appeared in the Congressional Record on July 14, 2005.

Navy nominations beginning with Anthony A. Arita and ending with Linda D. Youberg, which nominations were received by the Senate and appeared in the Congressional Record on July 14, 2005.

Navy nominations beginning with James T. Albritton and ending with Todd E. Yanik, which nominations were received by the Senate and appeared in the Congressional Record on July 14, 2005.

Navy nominations beginning with Thomas C. Alewine and ending with Tara J. Zieber, which nominations were received by the Senate and appeared in the Congressional Record on July 14, 2005.

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*John C. Dugan, of Maryland, to be Comptroller of the Currency for a term of five years.

*John M. Reich, of Virginia, to be Director of the Office of Thrift Supervision for a term of five years.

*Christopher Cox, of California, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2009.

*Roel C. Campos, of Texas, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2010.

*Annette L. Nazareth, of the District of Columbia, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 2007.

*Martin J. Gruenberg, of Maryland, to be Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

*Martin J. Gruenberg, of Maryland, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for the remainder of the term expiring December 27, 2006.

*Martin J. Gruenberg, of Maryland, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term expiring December 27, 2012.

By Mr. SPECTER for the Committee on the Judiciary.

Michael J. Garcia, of New York, to be United States Attorney for the Southern District of New York for the term of four years.

Peter Manson Swaim, of Indiana, to be United States Marshal for the Southern District of Indiana for the term of four years.

By Mr. CRAIG for the Committee on Veterans' Affairs.

Charles S. Ciccolella, of Virginia, to be Assistant Secretary of Labor for Veterans' Employment and Training.

*James Philip Terry, of Virginia, to be Chairman of the Board of Veterans' Appeals for a term of six years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. AKAKA:

S. 1521. A bill to provide for teacher acculturation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CHAMBLISS (for himself, Mr. STEVENS, Mr. BURR, and Ms. MURKOWSKI):

S. 1522. A bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land to the Committee on Energy and Natural Resources.

By Ms. SNOWE:

S. 1523. A bill to amend the Internal Revenue Code of 1986 to make permanent increased expensing for small businesses; to the Committee on Finance.

By Mr. CRAPO (for himself, Mr. FRIST, Mr. LOTT, Mr. BUNNING, Mr. SMITH, Mr. MARTINEZ, Mr. ENZI, Mr. VITTER, Mr. ENSIGN, Mr. BURR, Mr. TALENT, Mr. DEMINT, and Mr. SANTORUM):

S. 1524. A bill to repeal the sunset on the reduction of capital gains rates for individuals and on the taxation of dividends of individuals at capital gain rates; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. KENNEDY, Mr. DURBIN, Mr. ROCKEFELLER, Mrs. BOXER, Mr. FEINGOLD, Mr. CORZINE, Mr. SALAZAR, Mr. OBAMA, and Ms. MIKULSKI):

S. 1525. A bill to ensure that commercial insurers cannot engage in price fixing, bid rigging, or market allocations to the detriment of competition and consumers; to the Committee on the Judiciary.

By Mr. SPECTER (for himself and Mrs. CLINTON):

S. 1526. A bill to provide education to students in grades 7 through 12 about the importance of higher education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY (for himself and Mr. REED):

S. 1527. A bill to amend the Public Health Service Act with respect to immunizations against vaccine-preventable diseases, including influenza, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. McCONNELL (for himself, Mrs. LINCOLN, and Mr. BUNNING):

S. 1528. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of horses, and for other purposes; to the Committee on Finance.

By Mr. KYL (for himself and Mr. MCCAIN):

S. 1529. A bill to provide for the conveyance of certain Federal land in the city of Yuma, Arizona; to the Committee on Energy and Natural Resources.

By Mr. SMITH (for himself and Mrs. MURRAY):

S. 1530. A bill to provide a Federal tax exemption for forest conservation bonds, and for other purposes; to the Committee on Finance.

By Mr. ENZI (for himself, Ms. MIKULSKI, Mr. COCHRAN, Mr. BAUCUS, Mr. GRASSLEY, Mrs. MURRAY, and Mrs. DOLE):

S. 1531. A bill to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER (for himself and Mr. GRASSLEY):

S. 1532. A bill to amend title 18 of the United States Code to criminalize acts of agroterrorism, and to enhance the protection of the United States agricultural industry and food security through the increased prevention, detection, response and recovery planning; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROCKEFELLER (for himself and Mr. DEWINE):

S. 1533. A bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to individuals teaching in elementary and secondary schools located in rural or high unemployment areas and to individuals who achieve certification from the National Board of Professional Teaching Standards, and for other purposes; to the Committee on Finance.

By Mr. DURBIN (for himself and Mr. AKAKA):

S. 1534. A bill to reduce the risk to the food supply from intentional contamination, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. JOHNSON (for himself and Mr. THUNE):

S. 1535. A bill to amend the Cheyenne River Sioux Tribe Equitable Compensation Act to provide compensation to members of the Cheyenne River Sioux Tribe for damage resulting from the Oahe Dam and Reservoir Project, and for other purposes; to the Committee on Indian Affairs.

By Mrs. MURRAY (for herself, Mr. KENNEDY, and Mrs. CLINTON):

S. 1536. A bill to provide certain members of the Armed Forces with a deferment of all loan payments under title IV of the Higher Education Act of 1965, and to provide such members with the option to reenroll in institutions of higher education after completion of their service; to the Committee on Health, Education, Labor, and Pensions.

By Mr. AKAKA:

S. 1537. A bill to amend title 38, United States Code, to provide for the establishment of Parkinson's Disease Research Education and Clinical Centers in the Veterans Health Administration of the Department of Veterans Affairs and Multiple Sclerosis Centers of Excellence; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER:

S. 1538. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Finance.

By Mr. ROCKEFELLER:

S. 1539. A bill to amend part E of title IV of the Social Security Act to promote the adoption of children with special needs; to the Committee on Finance.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1540. A bill to authorize the Secretary of the Army and the Secretary of the Interior to establish a program to improve water management and contribute to the recovery of endangered species in the Middle Rio Grande, New Mexico, and for other purposes; to the Committee on Environment and Public Works.

By Mr. AKAKA (for himself, Mr. INOUYE, Mr. LAUTENBERG, and Mr. LEVIN):

S. 1541. A bill to protect, conserve, and restore public land administered by the Department of the Interior or the Forest Service and adjacent land through cooperative cost-shared grants to control and mitigate the spread of invasive species, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. STABENOW (for herself, Mr. GRAHAM, Mr. BAYH, Mr. BAUCUS, and Mr. LEVIN):

S. 1542. A bill to amend the Trade Act of 1974 to create a Chief Trade Prosecutor to ensure compliance with trade agreements, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM:

S. 1543. A bill to provide for clinical research support grants, clinical research infrastructure grants, and a demonstration program on partnerships in clinical research, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DORGAN:

S. 1544. A bill to establish the Northern Plains National Heritage Area in the State of North Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. 1545. A bill to withdraw the Los Padres National Forest in California from location, entry, and patent under mining laws, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself and Mr. HATCH):

S. 1546. A bill to amend the Food Stamp Act of 1977 to permit participating households to use food stamp benefits to purchase nutritional supplements providing vitamins or minerals, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SANTORUM:

S. 1547. A bill to suspend temporarily the duty on certain vinyl chloride-vinyl acetate copolymers; to the Committee on Finance.

By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 1548. A bill to provide for the conveyance of certain Forest Service land to the city of Coffman Cove, Alaska; to the Committee on Energy and Natural Resources.

By Mr. SMITH:

S. 1549. A bill to improve the conservation and management of Pacific whiting, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DURBIN:

S. 1550. A bill to extend until September 30, 2008, changes to requirements for admission of nonimmigrant nurses in health professional shortage areas made by the Nursing Relief for Disadvantaged Areas Act of 1999, and for other purposes; to the Committee on the Judiciary.

By Mr. VITTER (for himself, Ms. STABENOW, and Mr. MCCAIN):

S. 1551. A bill to clarify that the overall trade negotiating objectives of the United States include avoiding provisions in trade agreements that restrict the access of consumers in the United States to pharmaceutical imports, and for other purposes; to the Committee on Finance.

By Ms. CANTWELL:

S. 1552. A bill to amend Public Law 97-435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009; to the Committee on Energy and Natural Resources.

By Mr. DURBIN (for himself, Ms. MIKULSKI, and Ms. MURKOWSKI):

S.J. Res. 22. A joint resolution proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously; to the Committee on the Judiciary.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SESSIONS (for himself, Mr. REID, Mr. SHELBY, Mr. CORZINE, Mr. BUNNING, Ms. LANDRIEU, Mr. HATCH, Ms. CANTWELL, Mr. CRAPO, Mrs. FEINSTEIN, Mr. LOTT, and Mr. DURBIN):

S. Res. 218. A resolution designating September 2005 as "National Prostate Cancer Awareness Month"; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself, Mr. CHAFEE, Mrs. CLINTON, and Mr. CRAPO):

S. Res. 219. A resolution designating March 8, 2006, as "Endangered Species Day", and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide; to the Committee on the Judiciary.

By Mr. GRAHAM (for himself, Mr. ALLEN, Mr. JOHNSON, Mr. BIDEN, Mr. KYL, Mr. BOND, Mr. COBURN, Mr. ALLARD, Mr. ROCKEFELLER, Mr. DORGAN, and Mr. BINGAMAN):

S. Res. 220. A resolution to express the concern of the Senate regarding the passage of the anti-secession law by the National People's Congress of the People's Republic of China and Taiwan on an equal footing without preconditions; to the Committee on Foreign Relations.

By Mr. FEINGOLD (for himself and Mr. SPECTER):

S. Res. 221. A resolution supporting the goals and ideals of "National Campus Safety Awareness Month"; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself, Mr. DEMINT, Mr. CORNYN, Mr. MARTINEZ, and Mr. LEAHY):

S. Res. 222. A resolution honoring the victories of Team Discovery and American cyclists Lance Armstrong and George Hincapie in the 2005 Tour de France; considered and agreed to.

By Mr. CHAMBLISS (for himself, Mr. NELSON of Nebraska, Ms. COLLINS, Mr. VITTER, Mr. MARTINEZ, Mr. THUNE, Mr. JOHNSON, and Mr. ALLEN):

S. Res. 223. A resolution supporting the goals and ideals of "National Life Insurance Awareness Month"; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 103

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

At the request of Mr. TALENT, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 103, supra.

S. 246

At the request of Mr. BUNNING, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 246, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 392

At the request of Mr. LEVIN, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 441

At the request of Mr. SANTORUM, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 441, a bill to amend the Internal Revenue Code of 1986 to make permanent the classification of a motorsports entertainment complex.

S. 467

At the request of Mr. DODD, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 627

At the request of Mr. HATCH, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 662

At the request of Ms. COLLINS, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 662, a bill to reform the postal laws of the United States.

S. 705

At the request of Mr. SARBANES, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 705, a bill to establish the Interagency Council on Meeting the Housing and Service Needs of Seniors, and for other purposes.

S. 792

At the request of Mr. DORGAN, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 792, a bill to establish a National sex offender registration database, and for other purposes.

At the request of Mrs. CLINTON, her name was added as a cosponsor of S. 792, supra.

S. 802

At the request of Mr. DOMENICI, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 802, a bill to establish a National Drought Council within the Department of Agriculture, to improve national drought preparedness, mitigation, and response efforts, and for other purposes.

S. 859

At the request of Mr. SANTORUM, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 859, a bill to amend the Internal Revenue Code of 1986 to allow an income tax credit for the provision of homeownership and community development, and for other purposes.

S. 974

At the request of Mr. ALLARD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 974, a bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the majority of the trails in the System, and for other purposes.

S. 985

At the request of Mrs. CLINTON, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 985, a bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes.

S. 1002

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 1002, a bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes.

At the request of Mr. GRASSLEY, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 1002, supra.

S. 1064

At the request of Mr. COCHRAN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1064, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1151

At the request of Mr. MCCAIN, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 1151, a bill to provide for a program to accelerate the reduction of greenhouse gas emissions in the United States by establishing a market-driven system of greenhouse gas tradeable allowances, to limit greenhouse gas emissions in the United States and reduce dependence upon foreign oil, to support the deployment of new climate change-related technologies, and ensure benefits to consumers.

S. 1197

At the request of Mr. BIDEN, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1197, a bill to reauthorize the Violence Against Women Act of 1994.

S. 1249

At the request of Mr. CORZINE, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1249, a bill to require the Secretary of Education to rebate the amount of Federal Pell Grant aid lost as a result of the update to the tables for State and other taxes used in the Federal student aid need analysis for award year 2005–2006.

S. 1309

At the request of Mr. BAUCUS, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 1309, a bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes.

S. 1350

At the request of Mr. SPECTER, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1350, a bill to amend the Communications Act of 1934 to protect the privacy rights of subscribers to wireless communications services.

S. 1353

At the request of Mr. REID, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1353, a bill to amend the Public Health Service Act to provide for the establishment of an Amyotrophic Lateral Sclerosis Registry.

S. 1423

At the request of Mr. SCHUMER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1423, a bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representatives of those individuals killed as a result of the terrorist attacks of September 11, 2001.

S. 1516

At the request of Mr. LOTT, the names of the Senator from Montana (Mr. BURNS) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1516, a bill to reauthorize Amtrak, and for other purposes.

S. 1520

At the request of Mrs. FEINSTEIN, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Illinois (Mr. OBAMA) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of S. 1520, a bill to prohibit human cloning.

S. RES. 33

At the request of Mr. LEVIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. Res. 33, a resolution urging the Government of Canada to end the commercial seal hunt.

S. RES. 182

At the request of Mr. COLEMAN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Res. 182, a resolution supporting efforts to increase childhood cancer awareness, treatment, and research.

AMENDMENT NO. 1623

At the request of Mr. LEVIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 1623 proposed to S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

AMENDMENT NO. 1626

At the request of Mr. KOHL, the names of the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. FEINSTEIN), the Senator from California (Mrs. BOXER), the Senator from Maryland (Ms. MIKULSKI), the Senator from New Jersey (Mr. CORZINE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 1626 proposed to S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 1521. A bill to provide for teacher acculturation, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. AKAKA. Mr. President, I am introducing the Teacher Acculturation Act of 2005 as a means to address an issue that impedes effective learning in our Nation's classrooms, and that is cultural incongruence. Such a lack of congruence exists in a wide range of situations, from rural and underserved communities in remote areas to well-populated urban centers, from my State of Hawaii to areas on the Eastern seaboard. The dynamic I am describing exists along lines of race and ethnicity, socioeconomic strata, age, and many other vectors, which can muddy the stuff of learning that needs to be transmitted between students aiming to learn and teachers seeking to teach.

As many of my colleagues and I have said many times, our children are our future. Furthermore, our great Nation is dependent on the success of our educational system and what it is delivering to our children. An essential part of our educational system is a highly qualified teacher with knowledge of the subject area, and the ability to teach that subject to students. This is the most important factor in the academic success of the student. My bill will address one attribute of that success: the ability of the teacher to present the lesson in a way that students are ready to learn it.

I started my professional life as a teacher, so improvement of the field of education is never far from my thoughts. Even after all of my teacher training, I remember walking into a classroom and thinking, "What do I do now?" and, "Will I be able to connect with my students?" I have never forgotten those thoughts. Through my bill, I hope to work to help teachers answer these and similar questions, particularly for those teachers who are placed in States that are new to them, or in parts of their home States with which they have little or no familiarity. In my State of Hawaii, according to an article published Monday in the Honolulu Advertiser, Hawaii's 258 public schools need 1,400 to 1,600 new teachers every year to replace those who retire or leave the system, particularly in the areas of special education, speech pathology, autism, and hearing impairment. However, only about 500 Hawaii teachers are graduating and earning their licenses every year from both public and private colleges, and many of them are being drawn away from the State to schools on the mainland. Recruiting trips by the Hawaii Department of Education are seeking hires in cities such as New York, Chicago, Los Angeles, and San Francisco. I would like to help to ensure the success of these and other teachers in similar situations across the country, to help smooth their adjustment to their new homes, and thus, make a fluid transition to their new classrooms.

The Teacher Acculturation Act seeks to address cultural incongruence between the teacher and the student population in the classroom. To be successful, the teacher must be prepared to teach in a way that students are ready to learn. And with a increasingly diverse student population, that becomes harder and harder as time goes by. To achieve these ends, the bill proposes programs in three parts.

The first two parts recognize the success of ongoing and sustained professional development to affect positive change in teaching pedagogy. The bill authorizes demonstration programs that aim to assist teachers in learning, developing, and implementing pedagogies that help all students learn. I have modeled the programs on the Lesson Study theory of change, which is a model that uses a cohort of professionals for lesson development, presentation of the developed lesson by a member of the cohort to a class, observation of the presentation by other members of the cohort, and post-presentation analysis and reflection by the entire cohort, along with coaches, mentors, and supervising practitioners. A group of teachers working together to improve their pedagogy has been shown to be very effective, and this model is becoming more popular at every level in teacher education and professional development, from classroom work in colleges of education, to cohort work by candidates for National Board Certification—the highest performance achievement available to a teacher in the United States.

The first demonstration program would take place during the time the prospective teacher is in a college or school of education, and introduces a multicultural awareness component into the pre-service teaching activities. In this program, prospective teachers would work with members of the community, trained academics, and practicing teachers to learn about cultural characteristics of the student population, to develop pedagogies and curriculum to fit those cultures, and to study how to deliver the new lessons in a culturally relevant style. Prospective teachers would then deliver these lessons to the students in a real classroom setting while student teaching. Post-teaching analysis, reflection, and discussion would then allow the student teacher to analyze and reflect upon the performance.

The second demonstration program is structured similarly to the first program, but conducts a professional development activity during the time the teacher is new to the profession—generally the first three years—recognizing that many teachers develop teaching styles in these initial years that they may use for the duration of their teaching careers. Through this program, a cohort of teachers would undertake a year-long program, which includes two summers, under the direction of a coach trained in multicultural education. Participating teachers would already be placed in teaching positions and have a defined learning community to work with. If done right, such a program has the potential to involve the whole school community and, eventually, contribute to whole school change.

These two programs taken together have the potential to develop a cadre of teachers adept at teaching in ways that are culturally-relevant, ways that address the needs of the students, and ways in which the students are ready to learn. I truly feel that such programs working with new and prospective teachers can make a difference in addressing the current achievement gap, particularly impacting the groups most at risk of being on the losing end of the achievement gap.

The third section of the Teacher Acculturation Act of 2005 would set up Centers of Excellence in Multicultural Education. These centers would support the professional development activities from the first two parts of the bill by providing trained mentors, coaches, and academics, as well as undertaking research into the areas of multicultural education. The centers would also develop activities for use by schools and districts to provide ongoing professional development opportunities to all faculty or teachers.

We must never forget that a solid education is the cornerstone of our future. And a highly qualified teacher is needed to provide that education. The teacher not only needs to be knowledgeable about the subject being taught, but needs to know how to teach the subject to the students. This bill would help address the question of how. It seeks to prepare the teacher to deal with groups of students with different learning styles, as well as to identify the needs of divergent groups of students and how to vary teaching to support the learning of these students. My bill seeks to improve learning among those groups who are underserved today. Although my bill alone would not eliminate the achievement gap, it seeks to provide a good start.

This bill is supported by leading experts and organizations in the field of multicultural education, including Ms. Joyce Harris, Executive director of the National Academy for Multicultural Education, Dr. James Banks of the Center for Multicultural Education at the University of Washington, and Dr. Randy Hitz, Dean of the College of Education at the University of Hawaii. I ask unanimous consent that their letters of support be printed in the RECORD. I ask unanimous consent that the text of the bill be printed in the RECORD.

I urge my colleagues to cosponsor this important piece of legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION FOR
MULTICULTURAL EDUCATION,
*Washington, DC, June 28, 2005.*

Hon. DANIEL K. AKAKA,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR AKAKA: It is my understanding that you will soon present legislation dealing with teacher acculturation. On behalf of the National Association for Multicultural Education (NAME), I am extending our support for you and the legislation. What you are proposing is not only admirable but very necessary. Today's school populations are more diverse than they've ever been, and this diversity will only increase. Further, while the student body is becoming ethnically and racially more diverse, the teaching force is not.

Some will argue that the 3 R's are all teachers need to focus on, and students will be all right; but others of us know that this is not the case for a growing number of today's youth. What was fine decades ago will not necessarily work in today's schools.

NAME thanks you for your foresight and courage. I'm sure that you know you may have a Herculean task before you, but please keep the faith. This is so important to make sure that ALL of our children succeed. With the No Child Left Behind Act and the cuts in some educational programs (for example, The Dropout Prevention Program—who is more than likely to drop out? The lower SES students and students of color!), is it especially important that we have people of your stature working to ensure that all of our children receive an equitable education.

I have seen your website. I've read about your many accomplishments on behalf of your Hawaiian constituency and for the American people at large. Again, please know that NAME stands behind you. Please contact me if there is anything that the organization or I may do for you as you go forward with, this legislation.

Sincerely,

JOYCE E. HARRIS,
*Executive Director.*

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UNIVERSITY OF HAWAI'I AT MANOA,
*Honolulu, HI, June 23, 2005*

Sen. DANIEL AKAKA,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR AKAKA: I am writing to support the Teacher Acculturation bill you are introducing in the Senate. I have carefully reviewed the bill with faculty in the University of Hawai'i, college of Education, and we think it has great potential to improve education throughout the United States.

The relationship between the teacher and the student is the key to success in education. The Teacher Acculturation bill seeks to improve student achievement by ameliorating the cultural mismatch between teachers and the students they teach, thus improving the teacher's ability to address educational needs of individual students.

The University of Hawai'i, College of Education is heavily involved in indigenous education multicultural initiatives, and other efforts to ensure that teachers are well prepared to work with diverse populations of students. As one of the nation's most diverse states, Hawai'i has significant challenges in bridging cultural gaps between teachers and students. But, nearly every school in every state in the nation faces the challenge of bridging cultural differences between teachers and students. Your bill will create models for better preparing teachers to understand and address the learning needs of the diverse student populations they serve, thus improving their academic achievement.

Thank you for your leadership in preparing this innovative and important bill, and thank you for the opportunity to comment on the bill.

Sincerely,

RANDY HITZ,
*Dean.*

S. 1521

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. TEACHER ACCULTURATION.**

Title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.) is amended by adding at the end the following:

### “PART C—TEACHER ACCULTURATION

**“SEC. 231. SHORT TITLE.**

“This part may be cited as the ‘Teacher Acculturation Act of 2005’.

**“SEC. 232. FINDINGS.**

“Congress makes the following findings:

“(1) Every person (child, adolescent, or adult) has her or his own cluster of learning modalities.

“(2) These individual learning modalities are the result of many factors, including the person's cultural heritage, language, and socioeconomic background.

“(3) Research has shown that learning occurs best within a learning environment that closely matches a person's individual learning modalities.

“(4) There is a strong correlation between—

“(A) the lack of academic achievement of a student; and

“(B) a lack of congruence between—

“(i) the learning modalities of the student; and

“(ii) the teaching pedagogy of the teacher.

“(5) One of the factors that significantly impacts learning modalities is a student's culture.

“(6) A congruence between the cultural norms embedded in the teaching environment and the culture of a student has been shown to significantly improve the academic achievement of the student.

“(7) The teacher has the most control in setting the cultural environment of the classroom.

**“SEC. 233. PURPOSE.**

“It is the purpose of this part to develop a core group of teachers who are able to provide instruction in a way that is culturally congruent with the learning modalities of the students they are teaching, in order to—

“(1) ameliorate the lack of cultural congruence between teachers and the students they teach; and

“(2) improve student achievement.

**“SEC. 234. DEFINITIONS.**

“In this part:

“(1) INDUCTION PHASE.—The term ‘induction phase’ means the period when a teacher is new to the profession, the classroom, or a school.

“(2) IN-SERVICE PHASE.—The term ‘in-service phase’ means the period during and throughout the professional life of a teacher.

“(3) PRACTICUM PHASE.—The term ‘practicum phase’ means the period beginning with the last year of a teacher preparation program at an institution of higher education when the student is spending time in a prekindergarten through grade 12 classroom, and culminating at the end of the student teaching portion of the student's teacher preparation program.

“(4) SUPERVISING ACADEMIC.—The term ‘supervising academic’ means a member of the faculty of an institution of higher education who—

“(A) is designated to oversee, coordinate, and participate in the field placement or student teaching experience of a preservice teacher; and

“(B) works in conjunction with a supervising practitioner.

“(5) SUPERVISING PRACTITIONER.—The term ‘supervising practitioner’ means a prekindergarten through grade 12 teacher in a school who—

“(A) is designated to coach, observe, and evaluate a preservice teacher at the school during the preservice teacher's field placement or student teaching experience in the classroom; and

“(B) works in conjunction with the supervising academic.

**“SEC. 235. MEASURE OF CULTURAL MISMATCH.**

“The Secretary, in consultation with relevant educational and cultural governmental and nongovernmental entities and not later than 180 days after the date of enactment of the Teacher Acculturation Act of 2005, shall develop a measure of cultural mismatch for purposes of—

“(1) the demonstration program under section 236; and

“(2) the composition of partnerships described in sections 242 and 263.

**“SEC. 236. DEMONSTRATION PROGRAM AUTHORIZED.**

“(a) IN GENERAL.—The Secretary is authorized to carry out a demonstration program to investigate, develop, and test methods to attempt to ameliorate the cultural mismatch between teachers and the students they teach.

“(b) COMPONENTS.—The demonstration program shall consist of—

“(1) professional development activities occurring during 3 different phases of a teacher's professional life, including the practicum phase, induction phase, and in-service phase; and

“(2) the development of centers of excellence in multicultural education.

### “Subpart 1—Induction Phase Component

**“SEC. 241. GRANTS AUTHORIZED.**

“In carrying out the demonstration program under this part, the Secretary is authorized to award grants to eligible partnerships to enable the eligible partnerships to carry out the induction phase component of the teacher preparation assisted under this subpart.

**“SEC. 242. ELIGIBLE PARTNERSHIPS.**

“In this subpart, the term ‘eligible partnership’ means a partnership consisting of—

“(1) a local educational agency, with a high percentage of students who have a cultural mismatch with the majority of the teaching staff at the schools served by the local educational agency, collaborating with—

“(A) a cohort of induction phase teachers from the local educational agency; and

“(B) members of a school community who are—

“(i) from the cultural background of the students to be taught by the teachers assisted under the grant; and

“(ii) knowledgeable about the cultural norms of the community; and

“(2) an institution of higher education or organization with expertise in multicultural education, collaborating with a mentor, coach, or facilitator who will work with the cohort described in paragraph (1)(A).

**“SEC. 243. INDUCTION PHASE COMPONENT.**

“An eligible partnership that receives a grant under this subpart shall use the grant funds to carry an induction phase component of the demonstration program that may include the following:

“(1) A summer workshop held during the summer prior to a program year (as described in paragraph (2)), in which participant teachers study the basics of the following:

“(A) Multicultural education.

“(B) The cultural norms of the students served by the local educational agency where the participant teachers will be teaching.

“(C) The history of the municipality and the cultural groups where the participant teachers will be teaching.

“(2) A program year during the school year designed to include—

“(A) a series of classroom-based teaching activities and observations, including pre- and post-activity discussion under the coaching of a person experienced in leading such a program and trained in the principles of multicultural education;

“(B) individual one-on-one mentoring by a mentor, coach, or facilitator participating in the eligible partnership;

“(C) classroom visits including possible videotaping of the lessons; and

“(D) group meetings to reflect on—

“(i) a classroom visit described in subparagraph (C); or

“(ii) the progress of the program.

“(3) A workshop or institute during the summer immediately after a program year (as described in paragraph (2)) that may include the following:

“(A) Analysis of lessons developed and taught during the program year.

“(B) Practice lessons presented to the cohort described in section 242(1)(A).

“(C) Analysis of participant teacher growth over the duration of the program.

“(D) Development of a reflective portfolio, for each member of the cohort described in section 242(1)(A), of the member's experience in the program.

**“SEC. 244. USE OF FUNDS.**

“Grant funds provided under this subpart may be used for—

“(1) stipends and release time for participant teachers;

“(2) compensation for mentors, coaches, facilitators, or substitutes;

“(3) reimbursement for normal expenses incurred by the eligible partnership during the grant period; and

“(4) equipment, supplies, and travel necessary for the program.

**“SEC. 245. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated such sums as may be necessary to carry out this subpart for fiscal year 2006 and each of the 5 succeeding fiscal years.

### “Subpart 2—Practicum Phase Component

**“SEC. 251. GRANTS AUTHORIZED.**

“In carrying out the demonstration program under this part, the Secretary is authorized to award grants to eligible partnerships to enable the eligible partnerships to carry out the practicum phase component of the teacher preparation assisted under this subpart.

**“SEC. 252. ELIGIBLE PARTNERSHIPS.**

“In this subpart, the term ‘eligible partnership’ means a partnership consisting of—

“(1) a teacher preparation program approved by a State educational agency and accredited by the National Council for Accreditation of Teacher Education, collaborating with—

“(A) a cohort of practicum phase students; and

“(B) a faculty member who serves as a supervising practitioner;

“(2) a local educational agency—

“(A) serving a student population whose cultural norms—

“(i) are different from the cultural norms of the participating teacher preparation program students; and

“(ii) are similar to the cultural norms of the students or community served by a local educational agency where the participating teacher preparation program students will be looking for employment; and

“(B) collaborating with a group of supervising practitioners; and

“(3) a support committee for the practicum program, that provides cultural norms to the practicum participants, which may include—

“(A) a center of excellence described in subpart 3;

“(B) faculty or staff of a school, local educational agency, or State educational agency;

“(C) parents or family members of a student taught by the student teachers assisted under the grant;

“(D) community stakeholders; or

“(E) organizations with expertise in multicultural education.

### “SEC. 253. PRACTICUM PHASE COMPONENT.

“An eligible partnership that receives a grant under this subpart shall use the grant funds to carry out a practicum phase component of the demonstration program that may include the following:

“(1) A course for the practicum students covering multicultural education, including specifics pertaining to the cultural norms of the students served by the local educational agency where the students will be participating in the practicum.

“(2) A program running contemporaneous to the practicum that includes—

“(A) a program under the coaching of a supervising academic where the practicum students interact with each other to discuss their experiences;

“(B) individual one-on-one coaching by a supervising academic;

“(C) classroom visits to the locations of other student teachers in the cohort described in section 252(1)(A), including possible videotaping of the lessons; and

“(D) periodic cohort meetings during the practicum to reflect on the progress of the program.

“(3) A followup program at the conclusion of the practicum carried out by the teacher preparation program participating in the eligible partnership.

### “SEC. 254. USE OF FUNDS.

“Grant funds provided under this subpart may be used for—

“(1) compensation for a supervising academic or a supervising practitioner;

“(2) scholarships for participants; and

“(3) equipment, supplies, travel, and other expenses appropriate to the program.

### “SEC. 255. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as may be necessary to carry out this subpart for fiscal year 2006 and each of the 5 succeeding fiscal years.

## “Subpart 3—Centers of Excellence in Multicultural Education

### “SEC. 261. CENTERS OF EXCELLENCE AUTHORIZED.

“(a) IN GENERAL.—The Secretary is authorized to establish not more than 10 centers to support excellence in multicultural education.

“(b) DUTIES.—Such centers shall—

“(1) support participants during the practicum phases and induction phases of their teacher preparation;

“(2) develop and implement an in-service phase program;

“(3) develop or expand the theory and practice of multicultural education; and

“(4) collect appropriate data to allow for the evaluation of the activities implemented under this part.

### “SEC. 262. LOCATION OF CENTERS.

“The centers shall—

“(1) be located within universities, colleges or schools with teacher education programs approved by the appropriate State educational agency and accredited by the National Council for Accreditation of Teacher Education;

“(2) be located in geographically diverse areas of the United States; and

“(3) be distributed among institutions of higher education serving various cultural communities.

### “SEC. 263. PARTNERSHIPS.

“The centers may form partnerships, for the purpose of carrying out the duties described in section 261(b), with—

“(1) a college or school of teacher education;

“(2) at least 1 local educational agency with a high degree of cultural mismatch between the local educational agency's teachers and the students they teach;

“(3) an academic department, center, or program that focuses on the study of cultural mismatches, such as cultural mismatches related to gender, race, national origin, or other similar areas; or

“(4) such additional entities as the centers determine appropriate.

### “SEC. 264. USE OF FUNDS.

“Funds made available under this subpart may be used for the following:

“(1) Financial support for researchers, such as doctoral and post-doctoral fellowships.

“(2) In-service multicultural education workshops for teachers.

“(3) Supporting the programs assisted under subpart 1 or 2.

“(4) Supporting research into best practices in multicultural education, performing evaluation of the best practices, and carrying out a dissemination program for the best practices that improve student academic achievement.

“(5) Evaluation of—

“(A) the activities of the centers; and

“(B) the impact of the activities of the centers on teaching practices and student achievement.

### “SEC. 265. ANNUAL MEETING OF THE CENTERS.

“The Secretary is authorized to convene an annual meeting of all centers assisted under this subpart for the purpose of enabling the centers to share information, research, and best practices.

### “SEC. 266. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated such sums as may be necessary to carry out this subpart for fiscal year 2006 and each of the 5 succeeding fiscal years.

## “Subpart 4—General Provisions

### “SEC. 271. ANNUAL REPORTS.

(a) REPORT.—Each eligible partnership that receives a grant, and each center that receives assistance, under this part shall prepare and submit to the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Education and the Workforce of the House of Representatives, a report on the activities of the eligible partnership or center, respectively, that are supported under this part.

(b) DATE.—The report described in subsection (a) shall be submitted 2 years after the date of enactment of the Teacher Acculturation Act of 2005, and annually thereafter for the duration of the grant or assistance, as the case may be.”.

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By Mr. CHAMBLISS (for himself, Mr. STEVENS, Mr. BURR, and Ms. MURKOWSKI):

S. 1522. A bill to recognize the heritage of hunting and provide opportunities for continued hunting on Federal public land; to the Committee on Energy and Natural Resources.

Mr. CHAMBLISS. Mr. President, today I introduce the Hunting Heritage Protection Act of 2005. With the introduction of this important legislation, we are able to acknowledge our Nation's rich heritage of hunting. The purpose of this bill is to pass that legacy on to future generations by protecting and preserving the rights of our Nation's sportsmen and women.

In 2001, over 13 million Americans contributed over $20.6 billion to the U.S. economy while hunting—a true recreational activity. Many believe that in order to hunt you must own land, but that is not true. I believe that hunting should be available as a recreational activity for everyone.

I have been an avid outdoor sportsman since my adulthood. I am also an avid conservationist, like most other hunters. Recreational hunting provides many opportunities to spend valuable time with children, just as I do with my son. He has been hunting since he was a young boy where he discovered and learned to appreciate one of the Earth's greatest treasures, nature.

Over the years, hunters have contributed billions of dollars to wildlife conservation, by purchasing licenses, permits, and stamps, as well as paying excise taxes on goods used by hunters. Since the time of President Teddy Roosevelt, father of the conservation movement, sportsmen and women have been and will continue to be some of the greatest supporters of sound wildlife management and conservation practices in the U.S.

Hunters need to be recognized for the vital role they play in conservation in this country. The Hunting Heritage Protection Act will do just that. This bill formalizes a policy by which the Federal Government will support, promote, and enhance recreational hunting opportunities, as permitted under State and Federal law. Further, the bill mandates that Federal public land and water are to be open to access and use for recreational hunting where and when appropriate. I should clarify and stress that this bill does not suggest that we open all national parks to hunting. As I mentioned, the goal is simple—I want recreational hunting on our public land to be available to the citizens of this country where and when appropriate.

It is crucial that the tradition of hunting is protected and that the valuable contributions that hunters have made to conservation in this country are recognized. And, we want to ensure that Federal land management decisions and their actions result in a "no net loss of hunting opportunities" on our public lands. This bill allows Congress to address this issue and to honor our Nation's sportsmen and women.

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By Ms. SNOWE:

S. 1523. A bill to amend the Internal Revenue Code of 1986 to make permanent increased expensing for small businesses; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce legislation on behalf of the Nation's millions of small businesses and self-employed individuals. I am pleased to join with my colleague in the House, Congressman WALLY HERGER, in reforming the Internal Revenue Code of 1986 to permanently extend the amount of new investment a business can expense.

This bill is a critical incentive for the small business sector of our economy to invest in new technology, expand their operations, and most important, create jobs.

We can never minimize the role that small businesses play in our economy. They represent 99 percent of all employers, employ 51 percent of the private-sector workforce, provide nearly 75 percent of the net new jobs, contribute 51 percent of the private-sector output, and represent 96 percent of all exporters of goods. In short, size is the only "small" aspect of small business.

The bill I introduce today recognizes the vitality and uniquely American innovation of the small business owners and entrepreneurs throughout our country. It will make permanent the provisions in Section 179 of the Internal Revenue Code, which enables small businesses to write off the cost of new equipment, rather than depreciate it over a period of years.

As the chair of the Senate Committee on Small Business and Entrepreneurship, I am responding today to the repeated requests from small businesses in my State of Maine and from across the Nation for greater expensing of new equipment.

By making permanent the current expensing limit of $100,000 and indexing these amounts for inflation, this bill will achieve two important objectives.

First, qualifying businesses will be able to write off more equipment purchases today, instead of waiting 5, 6, 7 or more years to recover their costs through depreciation. That represents substantial savings both in dollars and in the time small businesses would otherwise be forced to spend complying with complex depreciation rules. Moreover, new equipment contributes to continued productivity growth in the business community, which Federal Reserve Chairman Alan Greenspan has repeatedly stressed is essential to long-term economic growth and job creation.

Second, more businesses will qualify for this benefit because the phase-out limit will be made permanent at $400,000 in new equipment purchases. This will occur at the same time small business capital investment pumps more money into the many sectors of the economy. My bill is a win-win for small business and the economy as a whole.

Small businesses are always at the forefront of our national economic recoveries and our national economic booms. This bill strengthens their ability to lead the way. I urge my colleagues to join me in supporting this important legislation as we work with the President to enact this bill into law.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1523

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Small Business Expensing Permanency Act of 2005".

**SEC. 2. INCREASED EXPENSING FOR SMALL BUSINESS MADE PERMANENT.**

(a) IN GENERAL.—Paragraph (1) of section 179(b) of the Internal Revenue Code of 1986 (relating to dollar limitation) is amended by striking "$25,000 ($100,000 in the case of taxable years beginning after 2002 and before 2008)" and inserting "$100,000".

(b) INCREASE IN QUALIFYING INVESTMENT AT WHICH PHASEOUT BEGINS.—Paragraph (2) of section 179(b) of such Code (relating to reduction in limitation) is amended by striking "$200,000 ($400,000 in the case of taxable years beginning after 2002 and before 2008)" and inserting "$400,000".

(c) INFLATION ADJUSTMENTS.—Section 179(b)(5)(A) of such Code (relating to inflation adjustments) is amended by striking "and before 2008".

(d) REVOCATION OF ELECTION.—Section 179(c)(2) of such Code (relating to election irrevocable) is amended by striking "and before 2008".

(e) OFF-THE-SHELF COMPUTER SOFTWARE.—Section 179(d)(1)(A)(ii) of such Code (relating to section 179 property) is amended by striking "and before 2008".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

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By Mr. LEAHY (for himself, Mr. KENNEDY, Mr. DURBIN, Mr. ROCKEFELLER, Mrs. BOXER, Mr. FEINGOLD, Mr. CORZINE, Mr. SALAZAR, Mr. OBAMA, and Ms. MIKULSKI):

S. 1525. A bill to ensure that commercial insurers cannot engage in price fixing, bid rigging, or market allocations to the detriment of competition and consumers; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I am pleased to introduce the "Medical Malpractice Insurance Antitrust Act of 2005." In the ongoing debate about health care costs, this legislation is a targeted and responsible move toward fixing one significant part of the system that is broken the skyrocketing insurance premiums for medical malpractice.

For too long, doctors and hospitals have endured dramatic increases in the cost of their malpractice insurance. I doubt there is a single Senator who has not heard repeatedly from beleaguered physicians back home. Rising insurance rates are reportedly forcing some doctors to abandon their practices.

Some of my colleagues in the other body seem content to echo the refrains of the insurance industry and heap blame for the problem of rising insurance premiums rates on trial lawyers and the victims of medical malpractice themselves. I have opposed arbitrary caps on damages because they will inflict additional harm on the most vulnerable victims of medical malpractice.

Many of us have questioned the insurance industry's claim that lawsuits are causing the rise in premium costs since doctors in States that have imposed damages caps have not seen a reduction in their medical malpractice insurance premiums.

A newly released report provides shows that our questions were well-founded. This report provides real evidence rather than anecdotal stories routinely trotted out by the insurance industry advocates. This study was prepared by a former State Insurance Commissioner and uses the insurance industry's own numbers to debunk the myths being advanced by the insurance industry.

The study entitled, "Falling Claims and Rising Premiums in the Medical Malpractice Insurance Industry," suggests that malpractice insurers have been overcharging, even gouging, physicians unconscionably. I expect a number of Senators will be surprised to learn that the malpractice claims payments actually went down, in real terms, over the past five years. In addition, even the insurers' own projections of future losses are declining. Despite these downward trends, year in and year out, these insurers are burdening doctors with increased premium costs and shifting the blame for their increases on to lawyers and victims.

In the past five years, premiums have more than doubled even though claims payments have been stable. In 2004, malpractice insurers' total premiums were three times higher than their payouts. During the years 2000 to 2004, net premiums increased by 120 percent, while net claims payments increased by less than 6 percent.

I urge Senators to read this report. It is based entirely on data from annual statements filed under oath with State insurance departments by the Nation's 15 largest malpractice insurers. The statements contain each insurer's estimate of how much it will pay out in malpractice claims, as well as data showing how much it actually paid out in claims and took in premiums. Claims and projected losses are down. It is only premiums that are rising, not claims.

What this boils down to is an insurance industry problem, not a problem with the legal system. No wonder that the State attorneys general of Connecticut and Missouri have reacted to the study by attacking industry practices and calling for an aggressive regulatory response.

As this study makes clear, high malpractice insurance premiums are not the result of malpractice lawsuit verdicts. They are the result of investment decisions by the insurance companies and of business models geared toward ever-increasing profits. I hope that this study once and for all shines light on the real culprit in rising malpractice insurance rates and informs the Senate with solid evidence of the best way to assist the good doctors who commit their professional lives to caring for others. I ask unanimous consent that the executive summary of the study be printed in the RECORD.

To be sure, different States have different experiences with medical malpractice insurance, and insurance remains a largely State-regulated industry. Each State should endeavor to develop its own solution to rising medical malpractice rates because each state has its own unique problems. Some States—such as my own, Vermont—while experiencing problems, do not face as great a crisis as others.

But another fact of the insurance industry's business model requires a Federal legislative correction its blanket exemption from federal anti-trust laws. Insurers have for years enjoyed a special benefit in our marketplace. The McCarran-Ferguson Act permits insurance companies to operate without being subject to most of the Federal antitrust laws, and our Nation's physicians and their patients are suffering from this special treatment. Using their exemption, insurers can collude to set rates, resulting in higher premiums than true competition would achieve and because of this exemption, enforcement officials cannot investigate any such collusion. If Congress is serious about controlling rising premiums, we must revoke this blanket exemption created in the McCarran-Ferguson Act.

That is why today I introduce the "Medical Malpractice Insurance Antitrust Act of 2005." I want to thank Senators Kennedy, Boxer, Corzine, Durbin, Feingold, Mikulski, Obama, Rockefeller, and Salazar for cosponsoring this essential legislation. Our bill modifies the McCarran-Ferguson Act for the most pernicious anti-trust offenses: price fixing, bid rigging, and market allocations. I am hard-pressed to imagine that anyone could object to a prohibition on insurance carriers' fixing prices or dividing territories for anticompetitive purposes. After all, the rest of our Nation's industries manage either to abide by these laws or pay the consequences.

Many State insurance commissioners police the industry well within the power they are accorded in their own laws, and some States have antitrust laws of their own that could cover some anticompetitive activities in the insurance industry. Our legislation would not affect regulation of insurance by State insurance commissioners and other State regulators. There is no reason to continue a system in which the Federal enforcers are precluded from prosecuting the most harmful antitrust violations just because they are committed by insurance companies.

This legislation is a carefully tailored solution to one critical aspect of the problem of excessive medical malpractice insurance premiums. I hope that quick action by the Judiciary Committee and then by the full Senate, will ensure that this real solution is adopted before more damage is done to the physicians of this country and to the patients that they serve.

Only professional baseball has enjoyed an anti-trust exemption comparable to that created for the insurance industry by the McCarran-Ferguson Act. Senator HATCH and I have joined forces several times in recent years to scale back that exemption for baseball, and in the Curt Flood Act of 1998 we successfully eliminated the exemption as it applied to employment relations. I hope we can work together again to create more competition in the insurance industry, just as we did with baseball.

If Congress is serious about helping to control rising medical malpractice insurance premiums, then we must limit the insurance industry's broad exemption to Federal antitrust law and promote real competition in the insurance marketplace.

There being no objection, the executive summary was ordered to be printed in the RECORD, as follows:

### Falling Claims and Rising Premiums in the Medical Malpractice Insurance Industry

(By Jay Angoff)

### EXECUTIVE SUMMARY

This Report analyzes the 2000-2004 performance of each of the 15 largest medical malpractice insurers in the United States rated by A.M. Best, the principal rating service for the insurance industry. The Report is based primarily on data from the carriers' 2004 Annual Statements filed with state insurance departments.

The Report finds the following:

Over the last five years the amount the major medical malpractice insurers have collected in premiums has more than doubled, while their claims payouts have remained essentially flat.

Some malpractice insurers substantially increased their premiums while both their claims payments and their projected future claims payments were decreasing.

Malpractice insurers accumulated record amounts of surplus over the last three years.

Taken together, the malpractice carriers analyzed increased their net premiums by 120.2% during the period 2000-2004, although their net claims payments rose by only 5.7%. Thus, they increased their premiums by 21 times (120.2/5.7 = 21.09) the increase in their claims payments.

As a result of these two dramatically different trends, the ratio between these insurers' claims payments and premiums fell by more than half between 2000 and 2004: it declined from 69.9% to 33.6% on a net basis, and from 68.8% to 32.1% on a gross basis. Put another way, in 2004 the leading medical malpractice insurers took in approximately three times as much in premiums as they paid out in claims.

Moreover, several insurers substantially increased their premiums even though their claims payments actually fell—and fell substantially. For example:

Healthcare Indemnity, Inc. (HCI), an affiliate of HCA corporation, increased its premiums by $173 million, or 88%, while its claims payments fell by $74 million, or 32%. As a result, in 2004 it paid out only 43 cents in claims for each premium dollar it collected.

ProNational, an affiliate of ProAssurance Corporation, increased its premiums by $87 million, or 79%, while its claims payments fell by $43 million, or 63%. As a result, in 2004 it paid out only 13 cents in claims for each premium dollar it collected.

Medical Assurance, another ProAssurance affiliate, increased its premiums by $151 million, or 89%, while its claims payments fell by a third. As a result, in 2004 it paid out only 10 cents in claims for each premium dollar it collected.

In addition, Lexington Insurance Company, an affiliate of AIG, reported that its net written premiums increased from $21.1 million in 2000 to 483.0 million in 2004—an increase of $461.9 million, or 2200%—while its net paid losses increased by only $52.9 million. As a result, in 2004 it paid out only 14 cents in claims for each premium dollar it collected.

Finally, even the ratio between the amount the leading malpractice insurers estimated they would pay out in the future and the premiums they earn—what insurers somewhat counter-intuitively call their "incurred loss" ratio—declined by almost 25% between 2000 and 2004. Due to this decline—which is in addition to the decline in the amounts these insurers have actually been paying out—they estimated in 2004 that they would ultimately pay out in claims only 51.4 cents of each premium dollar they earned. Perhaps most striking, in 2004 these 15 insurers taken together increased their earned premium by 9.3%, even though their incurred losses—the amount they estimated they would pay out in the future—declined by 21.1%.

Because of the overall surge in malpractice premiums with no corresponding surge in claims payments during the last five years, the leading malpractice insurers have increased their surplus by more than a third in only three years, and they are now charging more for malpractice insurance than * * *

By Mr. SPECTER (for himself and Mrs. CLINTON):

S. 1526. A bill to provide education to students in grades 7 through 12 about the importance of higher education; to the Committee on Health, Education, Labor, and Pensions.

Mr. SPECTER. Mr. President, I have sought recognition today to introduce the Roads to Success Act of 2005, which is legislation designed to expand higher educational and career opportunities for American students. There is no doubt as to the benefit of receiving a post-secondary education. The level of education that individuals accumulate has an important influence on their experience in the labor market. According to 2002 U.S. Census Bureau statistics on educational attainment and earnings, the mean earnings of men with a bachelor's degree is $63,354, while the mean earnings of men with a high school degree is $32,363. This is a difference of more than $30,000 or 97 percent.

In recent years, there have been clear signs that more Americans are pursuing higher education opportunities. In June 2002, USA Today reported that 63 percent of high school graduates go to college immediately after graduation, the highest percentage in U.S. history. Yet not all of the news on college graduation rates has been good. Only 18 percent of African Americans and 11 percent of Hispanic high school graduates earn a bachelor's degree by their late twenties, compared to 33 percent of whites according to the National Center for Education Statistics, NCES, in 2001. Further, in 2000, NCES reported that 22 percent of low-income, college qualified high school graduates do not pursue post-secondary education, compared to 4 percent of high-income graduates.

As I travel through Pennsylvania, I still hear from too many middle school and high school students that they do not have the preparation necessary to enroll in higher education institutions. On a trip to the Commonwealth, I joined Andrew McKelvey—the founder of the McKelvey Foundation—to announce Federal funding for entrepreneurial scholarships to rural, low-income Pennsylvania high school graduates. During that trip, I had a frank discussion with Mr. McKelvey regarding the need to not only ensure access to funding for students to pursue higher education, but the need to inform students about the importance of higher education, as well as prepare students for the application process.

The bill I am introducing today, the "Roads to Success Act of 2005", will help to educate middle school and high school students in grades 7, 8, 9, 10, 11, and 12, about higher education and career opportunities. This bill will create a program which will provide students with access to information on higher education and career development, and prepare students with the skills necessary to plan for higher education. The availability of information on higher education opportunities makes an enormous difference to students contemplating continuing their education at the undergraduate level.

My legislation will authorize a grant to Roads to Success, a nonprofit educational organization, to develop a core curriculum to be taught in the classroom to equip middle and high school students with the appropriate skills and knowledge to pursue post-secondary education and their career goals. Given the importance of higher education, it makes sense to prepare students for the undergraduate process as part of their class instruction to ensure that all students have access to the necessary information to attain their objectives. To this end, middle schools and high schools participating in the program will dedicate one hour each week of their classroom activity to higher education and career preparation of students utilizing the core curriculum.

Additionally, I seek to create a network of intensive academic support for students by encouraging public-private partnerships to emphasize the importance of higher education and career development. Partnerships with private entities create a unique opportunity for middle schools and high schools to supplement and enhance the core curriculum by offering appropriate enrichments, including guest speakers, videos and web-based services. For example, through these partnerships, middle school and high school students will gain first-hand knowledge of the skills that businesses are seeking by having the opportunity to speak with business leaders, as well as perhaps tour local facilities. This will underscore the significance and importance of higher education for students as they embark on their future career paths.

To implement this initiative, my bill will authorize $10 million annually for fiscal years 2006 through 2011, for Roads to Success to develop a core curriculum which has as its cornerstone increasing awareness of the importance of higher education, developing career awareness, building life skills, and providing education planning to students. Under this legislation, Roads to Success will award subgrants to five State educational agencies to offer higher education preparation programs using the core curriculum in middle and high schools with historically low rates of student application and admission to post-secondary institutions.

It is my sincere hope that this act will ensure that students who wish to enroll in a higher education institution will have access to the tools and resources necessary to help them plan for undergraduate study. We must take this step to encourage students to pursue their educational and career goals—especially those who might not otherwise have this opportunity. I urge my colleagues to join me in cosponsoring this act, and urge its swift adoption.

By Mr. KENNEDY (for himself and Mr. REED):

S. 527. A bill to amend the Public Health Service Act with respect to immunizations against vaccine-preventable diseases, including influenza, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, today, Senator REED and I are introducing the "Vaccine Administration and Supply Act." Congressman WAXMAN is introducing a companion bill in the House. Our goal is to improve vaccine accessibility and administration across the country, by guaranteeing that every American has access to recommended vaccines, and strengthening our public health infrastructure.

Vaccines are one of the Nation's most significant success stories in public health. They have wiped out mass killers such as polio and smallpox, and protected millions of Americans from other life-threatening or debilitating infectious diseases. They save lives, and save costs too, in needless treatment and hospitalization for illnesses that could have been prevented.

Today, the threat of infectious disease is ever present. Deadly strains of naturally occurring viruses, such as avian flu, are moving from animals to humans. The possibility of bioterrorism is looming. Accessibility to vaccines and improving our public health infrastructure are essential to protect the health of our communities and our Nation—and efforts to do so are long overdue.

We have made remarkable progress in protecting children from vaccine-preventable diseases by making vaccines available to uninsured and underinsured children at no cost through the Vaccines for Children and Immunization Grant programs. As a result, childhood immunization rates and disease reductions are near all-time highs.

On the other hand, there is a huge gap in adult and adolescent vaccination. Each year, 46,000 to 48,000 adults die from diseases that could be cheaply and effectively prevented by vaccination. Many of these persons miss the opportunity to protect themselves against vaccine-preventable diseases because they don't have adequate insurance coverage.

Our legislation will close this gap in public health by mandating that the Secretary of HHS establish an immunization program for adults. Uninsured and underinsured adolescents and adults will be vaccinated at no charge in any Federally qualified health center, or local or State public health department.

Participating States will also receive increased funding for the Immunization Grant Program, so that Program Managers can administer vaccinations to uninsured and underinsured citizens, as well as conduct education and awareness campaigns on the importance of vaccination and carry out strategies to increase vaccination rates throughout the States.

In addition to increasing vaccine accessibility through State programs, this bill will also improve the national immunization infrastructure. Last year's shortage of influenza vaccine was a wake up call for greater national coordination of vaccine allocation and delivery. Our bill requires the Secretary of HHS to purchase and stockpile needed vaccines, and develop an emergency response plan, within one-year of enactment, to guide States in administering vaccines in the case of a shortage or emergency.

As our Health Subcommittee on Bioterrorism and Public Health Preparedness continues to discuss provisions to encourage the development of vaccines and other countermeasures to bioterrorism, this legislation will establish the infrastructure needed to ensure the efficient administration of such countermeasures in a time of crisis.

The Association of State and Territorial Health Officials said it well when stating, "Immunization is a vital public health tool and an essential element in protecting the nation's health." In light of the obvious dangers, it is urgent for Congress to increase immunization rates and ensure the efficient allocation of vaccines in an emergency. I commend Congressman WAXMAN for his leadership on this important health issue in the House, and Senator REED and I urge our colleagues in the Senate to join in this important effort to improve our public health preparedness.

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By Mr. McCONNELL (for himself, Mrs. LINCOLN, and Mr. BUNNING):

S. 1528. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of horses, and for other purposes; to the Committee on Finance.

Mr. McCONNELL. Mr. President, I rise today to introduce the Equine Equity Act of 2005 with my colleague from Arkansas, Mrs. LINCOLN, and my colleague from Kentucky, Mr. BUNNING.

Each spring on the first Saturday of May, the sporting world turns its attention to my hometown of Louisville for the annual running of the Kentucky Derby. It has been appropriately called "the most exciting two minutes in sports," and has given us such great champions as Secretariat, Seattle Slew, and Smarty Jones.

The activities surrounding the Derby also allow Kentucky to show off one of its signature industries, the horse industry. Long after the pageantry and festivities of Derby day, the horse industry remains a vital part of Kentucky's economy and cultural heritage. Horses are Kentucky's largest agricultural product. The horse industry contributes $3.5 billion to Kentucky's economy, and directly employs more than 50,000 Kentuckians.

While many Americans appropriately identify the horse industry as one of Kentucky's signature industries, the industry's economic impact extends well beyond the borders of the Commonwealth. A recent economic impact study by the firm of Deloitte Touche Tohmatsu found that the horse industry contributes approximately $39 billion in direct economic impacts to the U.S. economy each year. The industry sustains 1.4 million full-time equivalent jobs each year, with over 460,000 of those jobs created from direct spending within the industry.

Nearly 2 million Americans own horses, either for racing, showing, or recreational purposes. While the popular image of horse owners might focus on Millionaire's Row at Churchill Downs on Derby Day, the facts tell a different story. Only about one-quarter, 28 percent, of U.S. horse owners have incomes greater than $100,000. More than one in every three, 34 percent, horse owners has an income of less than $50,000.

Like many businesses, outside investments are essential to the operation and growth of the horse industry. Without investors willing to buy and breed horses, it is impossible for the industry to thrive. Unfortunately, there are several unfair, unwise provisions in Federal law that discourage investment in the horse industry.

In an effort to address these concerns, today I introduce the Equine Equity Act with my colleague from Arkansas, Mrs. LINCOLN, and my good friend from Kentucky, Mr. BUNNING. The Equine Equity Act includes three key provisions.

First, it will provide capital gains treatment for horses that is equal to other investments. Nearly all capital assets are eligible to receive more favorable capital gains tax treatment once they are held for 12 months. However, horses and cattle must be held for 2 years to receive capital gains treatment. This legislation would reduce the capital gains holding period for horses from 24 months to 12 months.

Second, it will apply equal depreciation standards for all racehorses. Current law states that racehorses that begin training when older than 24 months of age are depreciated over 3 years, while those horses that begin training before reaching 24 months of age are depreciated over 7 years.

Most horses begin training before they reach 24 months, but their racing careers do not last 7 years. This legislation would reduce the depreciation period for racehorses to 3 years to more accurately reflect the racing life of horses.

Finally, the Equine Equity Act would establish equity in eligibility for disaster assistance between horses and other livestock. Most livestock, beef, dairy, sheep, and goats, are eligible for Federal disaster assistance during a drought, but horses are not. This legislation would make horses eligible for disaster-assistance programs offered by the U.S. Department of Agriculture.

I appreciate the willingness of my colleagues from Arkansas and Kentucky to join me in introducing this legislation of tremendous importance to our States. I look forward to working with them and our colleagues in the Senate to enact this bipartisan bill into law.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1528

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Equine Equity Act of 2005".

**SEC. 2. 3-YEAR DEPRECIATION FOR ALL RACE HORSES.**

(a) IN GENERAL.—Clause (i) of section 168(e)(3)(A) of the Internal Revenue Code of 1986 (defining 3-year property) is amended to read as follows:

"(i) any race horse,".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service on or after the date of the enactment of this Act.

**SEC. 3. REDUCTION OF HOLDING PERIOD TO 12 MONTHS FOR PURPOSES OF DETERMINING WHETHER HORSES ARE SECTION 1231 ASSETS.**

(a) IN GENERAL.—Subparagraph (A) of section 1231(b)(3) of the Internal Revenue Code of 1986 (relating to definition of property used in the trade or business) is amended by striking "and horses".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 4. LIVESTOCK ASSISTANCE.**

(a) IN GENERAL.—In carrying out a livestock assistance, compensation, or feed program, the Secretary of Agriculture shall include horses within the definition of "livestock" covered by the program.

(b) CONFORMING AMENDMENTS.—

(1) Section 602(2) of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) is amended—

(A) by inserting "horses," after "bison,"; and

(B) by striking "equine animals used for food or in the production of food,".

(2) Section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51) is amended by inserting "(including losses to elk, reindeer, bison, and horses)" after "livestock losses".

(3) Section 10104(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 1472(a)) is amended by striking "and bison" and inserting "bison, and horses".

(4) Section 203(d)(2) of the Agricultural Assistance Act of 2003 (Public Law 108-7; 117 Stat. 541) is amended by striking "and bison" and inserting "bison, and horses".

(c) APPLICABILITY.—

(1) IN GENERAL.—This section and the amendments made by this section apply to losses resulting from a disaster that occurs on or after the date of enactment of this Act.

(2) PRIOR LOSSES.—This section and the amendments made by this section do not apply to losses resulting from a disaster that occurred before the date of enactment of this Act.

Mr. KYL. Mr. President, today: I am pleased to join with Senator McCain to introduce the City of Yuma Improvement Act of 2005. This bill authorizes the conveyance to the city of Yuma of six small parcels of Federal land currently held by the Bureau of Reclamation in exchange for three railroad parcels owned by the city on which the Bureau of Reclamation rail line exists. A companion bill has already been introduced in the House by Congressmen Grijalva and Franks.

These land conveyances will enable the city to complete the redevelopment of the riverfront in downtown Yuma. The Riverfront Master Redevelopment Plan was approved by the City Council in November, 2001. The plan was developed through a joint planning process with the city and the developer. The city's responsibility is to amass the property along the riverfront. The developer must raise the needed capital. The redevelopment includes the development of a welcome center, a new hotel, a conference center, and mixed-use retail stores. This redevelopment is designed to connect Main Street with the Heritage Area and the river to enhance the quality of life of Yuma's citizens and one of the primary economic assets of the area—tourism.

Most of the land in this 22 acre area is already city-owned. However, the Bureau of Reclamation does own several parcels within the redevelopment area that the city seeks to acquire. Since 2001, when the redevelopment plan was approved, the city and the Bureau have been working together to effectuate this acquisition for this public purpose. These efforts include: relocating, at the city's expense, the Bureau facilities that were within the redevelopment area and completing the necessary environmental analyses of the project area, including historic resource studies, site assessments, and asbestos and lead-based paint inspections.

Essentially, the deal is complete with one exception: the authority to accomplish the conveyances. Currently, the Bureau of Reclamation does not have the authority to exchange the lands it possesses for the railroad parcels it seeks—it must be done legislatively. There is broad support in Yuma for this legislated land swap given its public purpose objectives, thorough planning, and the economic opportunity it brings. I hope my colleagues agree and will work with me to pass this legislation this year.

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By Mr. ENZI (for himself, Ms. Mikulski, Mr. Cochran, Mr. Baucus, Mr. Grassley, Mrs. Murray, and Mrs. Dole):

S. 1531. A bill to direct the Secretary of Health and Human Services to expand and intensify programs with respect to research and related activities concerning elder falls; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, these people all have something in common: the former Queen Mother of Britain; diet guru Dr. Robert Atkins; former Tonight Show co-host Ed McMahon; former first lady Nancy Reagan; and former Senator Bob Dole. What is it? They are all famous seniors who have suffered a fall during the past three years that had serious repercussions on their lives.

Queen Elizabeth's mother had a history of falling. She underwent a major operation in 1995 to replace her right hip and had a second hip replacement in 1998 when she broke her left hip. In 2000, she tripped and fell in her sitting room and fractured the left-hand side of her collarbone. Then, in 2002 at 101-years-old, she stumbled again in her sitting room while getting up from a chair and cut her arm.

Dr. Robert Atkins, the creator of the high-protein, low-carbohydrate Atkins diet, suffered a severe head trauma in 2003 when an accidental fall outside his New York office left him comatose. Although surgeons removed a blood clot to relieve the pressure on his brain, the 72-year-old died eight days later.

In March of this year, former Tonight Show co-host Ed McMahon spent his 82nd birthday in the hospital after a fall in his Beverly Hills home left him with a mild concussion and a gash in his head that required stitches.

Just last month, former first lady Nancy Reagan slipped and fell in her London hotel room. Fortunately, she was not seriously injured, but was told by doctors to limit her activities for two weeks until the pain subsided and full mobility returned.

The final story hits even closer to home. In January of this year, 81-year-old former Senator and presidential candidate Bob Dole felt light-headed and suffered a near fatal fall while putting away a suitcase. After a quick trip to the hospital to stitch up a cut from his eyeglasses, he was taken back home. Later, he felt ill and had to be taken back to Walter Reed Army Medical Center. Doctors worked fast to save his life. In the fall he had severely damaged his left "good" arm, and he suffered bleeding in his head which was worsened by the blood thinners he was given a month earlier after a hip replacement operation. After spending 22 days at Walter Reed, he told a reporter that he was "getting better slowly" and that the recovery was "humiliating" at times.

As evidenced, falling is a very common and serious problem for older persons. These stories demonstrate the fact that falls can happen to anyone—even the rich and famous. A new report finds that although the life expectancy for Americans has reached an all-time high and senior citizens are more active than previous generations were, they are also reporting to emergency rooms in greater numbers for fall-related injuries. Falls can result in decreased physical function and mobility, disability, reduced independence, and a diminished quality of life. Loss of confidence and fear of falling can lead to further functional decline, depression, feelings of helplessness, and social isolation.

The statistics are overwhelming. More than one-third of adults age 65 years and older fall each year. Falls are the leading cause of injury deaths among individuals in that age group. In 2002, falls among older adults accounted for 12,800 deaths and 1,640,000 emergency department visits.

Hospital admissions for hip fractures among the elderly have increased from 231,000 in 1988 to 327,000 in 2001. One in 5 older Americans who suffer a hip fracture die within a year, and 1 in 5 people with a hip fracture end up in a nursing home within a year. Among people 75 years and older, those who fall are four to five times more likely to be admitted to a long-term care facility for a year or longer.

Annually, more than 80,000 individuals who are over 65 years of age sustain a traumatic brain injury as a result of a fall.

A recent study of people age 72 and older found that the average health care cost of a fall injury was $19,440. This figure does not include physician services. The total medical cost of all fall injuries for people age 65 and older was calculated in 2000 to be $19.5 billion. By 2020, the cost of fall injuries is expected to reach $43.8 billion, in current dollars.

Given our aging population, by the year 2040, the number of hip fractures is expected to exceed 500,000—the annual cost of which is projected to be a shocking $240 billion.

To make matters worse, given the aging baby boomers, more and more elderly will be susceptible to falls. By the year 2040, the 65 and older population will more than double to about 77.2 million, and the relative growth rate is even faster for people over 85.

It seems that we've come to expect that a fall by an older relative is just a natural part of aging, when it is not. As the old adage says so well: "An ounce of prevention is worth a pound of cure." Almost without exception, these falls are preventable. Older adults who have fallen previously or who stumble frequently are two to three times more likely to fall within the next year. We need to take action to ensure that doesn't happen.

Last year. Senator MIKULSKI and I introduced the "Keeping Seniors Safe From Falls Act of 2004," which passed the Senate by unanimous consent. Today, we are reintroducing this legislation, and we look forward to working with our colleagues so that it not only passes the Senate, but is signed into law.

Our bill will direct the Department of Health and Human Services to oversee and support national and local education campaigns focusing on reducing falls among older adults and preventing repeat falls. It also calls for research in areas such as identifying older adults at high risk for falling; designing, implementing and evaluating the most effective fall prevention interventions; improving diagnosis, treatment, and rehabilitation of older adults who have fallen; tailoring effective strategies to specific populations; and eliminating barriers to adopting proven fall prevention strategies. In addition, the bill supports demonstration and research projects to improve the science behind preventing falls. It also requires the Secretary to evaluate the effect of falls on health care costs, the potential for reducing falls, and the most effective strategies for reducing fall-related health care costs. Finally, the bill authorizes the appropriation of funds for each of fiscal years 2007 through 2009 in order to carry out its provisions.

I look forward to working again with Senator MIKULSKI, my colleagues on the HELP Committee, and the wide variety of groups who support this bill. I urge you to support this legislation that will help to keep our nation's seniors—ourselves, our family members, and our friends—safe from falls so that they may have a chance to fully enjoy and savor their "golden years" in a safer and healthier fashion.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1531

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Keeping Seniors Safe From Falls Act of 2005".

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) Falls are the leading cause of injury deaths among individuals who are over 65 years of age.

(2) In 2002, falls among older adults accounted for 12,800 deaths and 1,640,000 emergency department visits.

(3) Hospital admissions for hip fractures among the elderly have increased from 231,000 admissions in 1988 to 327,000 in 2001.

(4) Annually, more than 80,000 individuals who are over 65 years of age sustain a traumatic brain injury as a result of a fall.

(5) The total medical cost of all fall injuries for people age 65 and older was calculated in 2000 to be $19,500,000,000.

(6) A national approach to reducing falls among older adults, which focuses on the daily life of senior citizens in residential, institutional, and community settings, is needed.

**SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.**

Part J of title III of the Public Health Service Act (42 U.S.C. 280b et seq.) is amended—

(1) by redesignating section 393B (as added by section 1401 of Public Law 106-386) as section 393C and transferring such section so that it appears after section 393B (as added by section 1301 of Public Law 106-310); and

(2) by inserting after section 393C (as redesignated by paragraph (1)) the following:

**"SEC. 393D. PREVENTION OF FALLS AMONG OLDER ADULTS.**

"(a) PURPOSES.—The purposes of this section are—

"(1) to develop effective public education strategies in a national initiative to reduce falls among older adults in order to educate older adults, family members, employers, caregivers, and others;

"(2) to intensify services and conduct research to determine the most effective approaches to preventing and treating falls among older adults; and

"(3) to require the Secretary to evaluate the effect of falls on health care costs, the potential for reducing falls, and the most effective strategies for reducing health care costs associated with falls.

"(b) PUBLIC EDUCATION.—The Secretary shall—

"(1) oversee and support a national education campaign to be carried out by a nonprofit organization with experience in designing and implementing national injury prevention programs, that is directed principally to older adults, their families, and health care providers, and that focuses on reducing falls among older adults and preventing repeat falls; and

"(2) award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, for the purpose of organizing State-level coalitions of appropriate State and local agencies, safety, health, senior citizen, and other organizations to design and carry out local education campaigns, focusing on reducing falls among older adults and preventing repeat falls.

"(c) RESEARCH.—

"(1) IN GENERAL.—The Secretary shall—

"(A) conduct and support research to—

"(i) improve the identification of older adults who have a high risk of falling;

"(ii) improve data collection and analysis to identify fall risk and protective factors;

"(iii) design, implement, and evaluate the most effective fall prevention interventions;

"(iv) improve strategies that are proven to be effective in reducing falls by tailoring these strategies to specific populations of older adults;

"(v) conduct research in order to maximize the dissemination of proven, effective fall prevention interventions;

"(vi) intensify proven interventions to prevent falls among older adults;

"(vii) improve the diagnosis, treatment, and rehabilitation of elderly fall victims and those at high risk for falls; and

"(viii) assess the risk of falls occurring in various settings;

"(B) conduct research concerning barriers to the adoption of proven interventions with respect to the prevention of falls among older adults;

"(C) conduct research to develop, implement, and evaluate the most effective approaches to reducing falls among high-risk older adults living in communities and long-term care and assisted living facilities; and

"(D) evaluate the effectiveness of community programs designed to prevent falls among older adults.

"(2) EDUCATIONAL SUPPORT.—The Secretary, either directly or through awarding grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, shall provide professional education for physicians and allied health professionals, and aging service providers in fall prevention, evaluation, and management.

"(d) DEMONSTRATION PROJECTS.—The Secretary shall carry out the following:

"(1) Oversee and support demonstration and research projects to be carried out by qualified organizations, institutions, or consortia of qualified organizations and institutions, in the following areas:

"(A) A multistate demonstration project assessing the utility of targeted fall risk screening and referral programs.

"(B) Programs designed for community-dwelling older adults that utilize multicomponent fall intervention approaches, including physical activity, medication assessment and reduction when possible, vision enhancement, and home modification strategies.

"(C) Programs that are targeted to new fall victims who are at a high risk for second falls and which are designed to maximize independence and quality of life for older adults, particularly those older adults with functional limitations.

"(D) Private sector and public-private partnerships to develop technologies to prevent falls among older adults and prevent or reduce injuries if falls occur.

"(2)(A) Award grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, to design, implement, and evaluate fall prevention programs using proven intervention strategies in residential and institutional settings.

"(B) Award 1 or more grants, contracts, or cooperative agreements to 1 or more qualified organizations, institutions, or consortia of qualified organizations and institutions, in order to carry out a multistate demonstration project to implement and evaluate fall prevention programs using proven intervention strategies designed for single and multifamily residential settings with high concentrations of older adults, including—

"(i) identifying high-risk populations;

"(ii) evaluating residential facilities;

"(iii) conducting screening to identify high-risk individuals;

"(iv) providing fall assessment and risk reduction interventions and counseling;

"(v) coordinating services with health care and social service providers; and

"(vi) coordinating post-fall treatment and rehabilitation.

"(3) Award 1 or more grants, contracts, or cooperative agreements to qualified organizations, institutions, or consortia of qualified organizations and institutions, to conduct evaluations of the effectiveness of the demonstration projects described in this subsection.

"(e) STUDY OF EFFECTS OF FALLS ON HEALTH CARE COSTS.—

"(1) IN GENERAL.—The Secretary shall conduct a review of the effects of falls on health care costs, the potential for reducing falls, and the most effective strategies for reducing health care costs associated with falls.

"(2) REPORT.—Not later than 36 months after the date of enactment of the Keeping Seniors Safe From Falls Act of 2005, the Secretary shall submit to Congress a report describing the findings of the Secretary in conducting the review under paragraph (1).

"(f) AUTHORIZATION OF APPROPRIATIONS.—In order to carry out this section, there are authorized to be appropriated—

"(1) to carry out the national public education provisions described in subsection (b)(1), $3,000,000 for each of fiscal years 2007 through 2009;

"(2) to carry out the State public education campaign provisions of subsection (b)(2), $5,000,000 for each of fiscal years 2007 through 2009;

"(3) to carry out research projects described in subsection (c), $8,000,000 for each of fiscal years 2007 through 2009;

"(4) to carry out the demonstration projects described in subsection (d)(1), $4,000,000 for each of fiscal years 2007 through 2009; and

"(5) to carry out the demonstration and research projects described in subsection (d)(2), $5,000,000 for each of fiscal years 2007 through 2009.".

Ms. MIKULSKI. Mr. President, I am pleased to join Senator ENZI in introducing the Keeping Seniors Safe from Falls Act of 2005. Falls are a serious public health problem that affects millions of seniors each year. This bill expands research and education on elder falls to help keep seniors safe and in their own homes longer.

The facts are staggering. One out of every three Americans over age 65 falls every year. In 2002, over 12,800 seniors died and approximately 1.6 million seniors visited an emergency department as a result of a fall. Falls are the leading cause of injury deaths among seniors. It is estimated that annually more than 80,000 individuals over 65 years of age sustain a traumatic brain injury as a result of a fall. Falls can be financially disastrous for families, and falls place a serious financial strain on our health care system. By 2020, senior falls are estimated to cost the health care system more than $32 billion.

These facts do not begin to tell the story of what falls can mean for seniors and their loved ones. Falls don't discriminate. Many of us have friends or relatives who have fallen. A fall can have a devastating impact on a person's physical, emotional, and mental health. If an older woman loses her footing on her front porch steps, falls, and suffers a hip fracture, she would likely spend about two weeks in the hospital, and there is a 50 percent chance that she would not return home or live independently as a result of her injuries.

With some help, there are simple ways that seniors can improve the safety of their homes and make a fall far less likely. Home modifications like hand rails in the bathroom, rubber mats on slippery tile floors, and cordless telephones that seniors can keep nearby can make a big difference. Well trained pharmacists can review medications to make sure that two drugs do not interact to cause dizziness and throw a senior off balance.

That is why I teamed up with Senator ENZI to introduce this important bill. This legislation is about getting behind our Nation's seniors and giving help to those who practice self-help. This bill creates public education campaigns for seniors, their families, and health care providers about how to prevent falls. It expands research on elder falls to develop better ways to prevent falls and to improve the treatment and rehabilitation of elder falls victims. This legislation also requires an evaluation of the effect of falls on health care costs, ways we can reduce falls, and effective solutions that can be adopted that can help reduce health care costs associated with falls.

Reducing the number of falls will help seniors live longer, healthier, more independent lives. This bill has the strong support of the National Safety Council, the Home Safety Council and the National Council on Aging, and has been supported in the past by over 30 national and local aging and safety organizations. I look forward to working with Senator ENZI and my colleagues on the Health, Education, Labor, and Pensions Committee to get this bill signed into law.

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By Mr. SPECTER (for himself and Mr. GRASSLEY):

S. 1532. A bill to amend title 18 of the United States Code to criminalize acts of agroterrorism, and to enhance the protection of the United States agricultural industry and food security through the increased prevention, detection, response and recovery planning; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. SPECTER. Mr. President, I seek recognition today to introduce the Agroterrorism Prevention Act of 2005, which would amend Title 18 of the United States Code to criminalize acts of agroterrorism, and to enhance the protection of the United States agricultural industry and food security through increased prevention, detection, response and recovery planning.

Since the events of September 11, 2001, Congress has taken substantive actions to protect America and indeed, the world from the threat of terrorism. Yet, there is a significant component of the United States that is at risk from terrorist attacks, and that is American agriculture. The United States agriculture industry accounts for 13 percent of the Nation's gross domestic product, makes up 8 percent of our foreign trade, and accounts for over $192 billion in cash receipts. More specifically in Pennsylvania, agriculture is the number one industry with over 59,000 farms and ranches producing cash receipts exceeding $4 billion annually. Less than 2 percent of the American people are considered farmers or ranchers; however, they are responsible for feeding 100 percent of the American population. It is incumbent upon us in Congress to do everything in our power to ensure that the American farmer and rancher, and our Nation's food supply, are protected from any act of terrorism.

During the 108th Congress, I held four forums on the issue of agroterrorism and food security at the Pennsylvania Department of Agriculture working in conjunction with the PA Secretary of Agriculture to address the needs and concerns of Pennsylvania's producers, processors, commodity representatives, veterinarians, public health officials, university administrators, and local government representatives. Collectively, the comments and issues raised at these forums provided the impetus to craft this necessary and timely legislation.

This legislation would afford the American farmer, rancher, and the United States agriculture industry the protection it deserves. My bill would amend Title 18 of the United States Code to criminalize the act of agroterrorism, ensuring that we have a legal recourse against individuals seeking to disrupt our interstate commerce and foreign trade, or who try to coerce our civilian population or government. An agroterrist act would be defined as a criminal act that consists of causing, financing, or attempting to cause damage or harm to, or destruction of, a crop, livestock, raw agricultural commodity, food product, farm or ranch equipment, a material, or any other property associated with agriculture, or a person engaged in an agricultural activity, that is committed to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to disrupt interstate commerce or foreign commerce of the United States agricultural industry. Further, I have included the death penalty provision in this legislation to be consistent with existing laws concerning acts of terrorism.

Beyond criminalizing the act of agroterrorism, this legislation would provide farmers and ranchers with on-farm bio-security resources; tools that reduce the potential for disease outbreaks. Through these resources, our farmers and ranchers would be able develop preparedness, response and recovery planning techniques. These techniques would enable farmers and ranchers to control access to their farms, separate animal shipping vehicles from animal feed facilities, and know what risks visitors present. Ultimately, the intent of this provision is to ensure that our first responders have the information, training, and critical infrastructure they need to react aggressively to an incident of agroterrorism.

The impact of globalization affects agriculture in ways that many would be unaware. For example, livestock and crop diseases can be obtained and disseminated with ever increasing ease. These diseases are endemic to other parts of the world and can be extracted from common materials, such as soil. Additionally, agricultural inspections at ports of entry, the first line of defense against the entry of foreign animal and plant diseases, have declined over the last two years at a time when imports have increased. Therefore, I have called for the Secretaries of Homeland Security, Agriculture, Interior, Health and Human Services, the Attorney General, and the Director of National Intelligence to coordinate and enhance monitoring, surveillance, and intelligence capabilities concerning threats, delivery systems, border controls, and actions that could be directed against the agriculture sector.

This legislation would authorize significant grant funding for States to establish state and local emergency response plans, information management, and to provide training for first responders, in the event of an animal or plant disease outbreak. The 2001 foot and mouth disease outbreak in England required extensive intervention to eradicate and control the spread of disease. Therefore, the question remains if our Nation is ready to respond to such an outbreak, whether caused by a natural event or an act of terrorism.

Additionally, this legislation would authorize funding for pilot grant demonstrations concerning on-farm bio-security. The majority of our Nation's farmers, ranchers, and processors are family owned or small businesses, and they need our assistance in strengthening and changing their practices to meet the challenges they are facing in this war on terror. It is our duty as their representatives to provide the tools they need to preserve the American farm and ranch.

This legislation would ensure that our National Veterinary Stockpile contains sufficient amounts of animal vaccine, antiviral, or therapeutic products to appropriately respond to the most damaging animal diseases affecting human health and the economy. Additionally, let us not think that agroterrorism pertains only to animals. A plant disease event can impact our agricultural economy as well. Therefore, I have included provisions to ensure that our U.S. National Germplasm system can respond to such an event with the use of disease-resistant seed varieties.

Compounding the threat of agroterrorism is the fact that the United States is currently experiencing a shortage of veterinarians in rural agricultural areas. This results in an inability to respond to a disease outbreak whether natural or an act of terrorism. In response to this decline, this legislation would provide both educational debt repayment for veterinarians serving American agriculture during a disease outbreak and capacity building grants for colleges and schools of veterinary medicine to design higher education training programs in exotic animal diseases, epidemiology, and public health.

The last provision of this legislation would require the Secretaries of Homeland Security, Agriculture, HHS, Interior, and the Administrator of EPA to submit a report to Congress that describes the feasibility and need for modernizing or replacing current federal Biological Level 3 and Biological Level 4 laboratories responsible for research, technology development, diagnostic, and forensic activities on plant and animal diseases, including zoonotic diseases. As a nation we cannot adequately fight a modern war on terrorism using technology and laboratories that have exceeded their capability and useful life span.

I urge my colleagues to cosponsor and support this legislation, which would secure our Nation's most critical infrastructure, our food supply. As a nation, we cannot take for granted that our food supply will not be susceptible to terrorist activities. The measures called for in this legislation would not impose any new regulations on our farmers, ranchers, or processors but rather would provide them with the tools necessary to counteract agroterrorism. Without question, the time has come for concerted action to ensure the protection of American agriculture.

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By Mr. ROCKEFELLER (for himself and Mr. DEWINE):

S. 1533. A bill to amend the Internal Revenue Code of 1986 to provide a tax incentive to individuals teaching in elementary and secondary schools located in rural or high unemployment areas and to individuals who achieve certification from the National Board of Professional Teaching Standards, and for other purposes; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, today, I rise, along with my cosponsor, Senator DEWINE, to reintroduce legislation called I TEACH, Incentives to Educate America's Children Act of 2005. This legislation is an investment to support teachers in rural areas, and high poverty areas. It provides a $1,000 refundable tax credit for those teachers willing to serve in challenging schools. The bill also gives every teacher the chance to earn a refundable tax credit by offering a $1,000 refundable tax credit for every teacher who earns accreditation by the National Board for Professional Teaching Standards. A National Board Teacher in a rural school or high poverty school would receive a $2,000 credit which hopefully would promote retention of our best teachers.

According to the most recent survey by the American Federation of Teachers, the average teacher salary is $45,771. While teacher salaries rose an average of 3.3 percent, the health insurance benefits spiked an average 13 percent, according to the Bureau of Labor Statistics. The starting salary for a new teacher is estimated to be $30,496. Given the costs of college, the average student graduates with a debt of $19,400 and face loan payments of $210 a month, it is difficult for young, eager graduates to pursue careers in teaching and pay off their student debt and other living expenses.

It is sad when a dedicated young person decides that they simply cannot "afford" to be a teacher, but this happens. The I TEACH Act will help by providing meaningful tax credits to teachers willing to serve in rural areas or high poverty schools, and it will provide a strong financial incentive to keep quality teachers in the classrooms by rewarding teachers who earn National Board certification. Thirty States provide some type of financial incentive to National Board teachers, and this refundable tax credit will support such efforts. For example, West Virginia offers a $2,500 bonus for National Board teachers. If I TEACH is enacted, a National Board teacher in my State would receive a 9 percent bonus which is a meaningful incentive.

Our teachers are essential professionals that inspire and educate our children, who represent the next generation. Our teachers deserve our respect and real support. I urge my colleagues to work with me to enact I TEACH and reward our teachers.

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By Mr. AKAKA:

S. 1537. A bill to amend title 38, United States Code, to provide for the establishment of Parkinson's Disease Research Education and Clinical Centers in the Veterans Health Administration of the Department of Veterans Affairs and Multiple Sclerosis Centers of Excellence; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I rise proudly today to introduce legislation that would establish Parkinson's Disease Research Education and Clinical Centers and Multiple Sclerosis, MS, Centers of Excellence in the Veterans Health Administration of the Department of Veterans Affairs, VA. The need for research and care is extremely pressing at a time when VA is dealing with meeting the demands of veterans suffering from debilitating neurological diseases.

VA has been a leader in the advancement of medicine and should be applauded for its progressive and innovative research endeavors. Yet, continued strides in specialized research are necessary to address the specific health care needs of our veterans. Through the establishment of the Parkinson's Disease and Multiple Sclerosis Centers, VA clinicians and educators will be able to gain a better understanding of these diseases that affect not just our veterans, but Americans across the nation. It is through this understanding that clinicians will be able to provide more effective patient care, treatment, and education.

The establishment of the Parkinson's Disease Research Education and Clinical Centers stems from the same spirit that inspired the conception of a great alliance formed between VA and the National Parkinson Foundation, Inc., NPF, in June of 1999. This alliance created an opportunity for the two entities to come together to develop research and treatment symposiums, provide information concerning Parkinson's disease, and also provide VA physicians that treat at least 20,000 Parkinson's patients with continuing education.

Those affected with Parkinson's Disease not only suffer from symptoms that manifest themselves physically, such as through tremors, muffled speech, slowness and impaired mobility. There are also psychological effects characterized in the form of depression for those suffering from this diseases. Through these centers, clinicians and educators can determine better ways to manage symptoms associated with Parkinson's Disease, as well as those symptoms such as fatigue and spasticity associated with MS that will give veterans suffering from these diseases a better quality of life.

Since the time of its inception, the VA health care system was tasked with meeting the special needs of its veteran patients. Though VA is providing the necessary care to those currently affected by the disease, more can be done to develop new treatments to reduce the symptoms and slow down the progression of the disease.

This legislation will provide VA with the opportunity to establish these centers and mark a new phase in the pursuit of enhanced treatment for those that struggle with the daily challenges imposed by these diseases, which includes not only the veteran patients but their families as well. The Parkinson's Disease Research Education and Clinical Centers and Multiple Sclerosis Centers of Excellence will also be beacons of hope towards finding a cure for degenerative neurological diseases.

I ask my colleagues for their support of this bill as a commitment to advancing research and education for veterans battling Parkinson's Disease and Multiple Sclerosis. I also wish to thank Congressman LANE EVANS, who serves as the ranking member of the House Committee on Veterans' Affairs, for his leadership on this issue.

I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1537

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. PARKINSON'S DISEASE RESEARCH, EDUCATION, CLINICAL CENTERS, AND MULTIPLE SCLEROSIS CENTERS OF EXCELLENCE.**

(a) REQUIREMENT FOR ESTABLISHMENT OF CENTERS.—

(1) IN GENERAL.—Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following:

**"§ 7329. Parkinson's disease research, education, and clinical centers and multiple sclerosis centers of excellence**

"(a) DESIGNATION.—The Secretary, upon the recommendation of the Under Secretary for Health and pursuant to the provisions of this section, shall—

"(1) designate—

"(A) at least 6 Department health care facilities as the locations for centers of Parkinson's disease research, education, and clinical activities and (subject to the appropriation of sufficient funds for such purpose); and

"(B) at least 2 Department health care facilities as the locations for Multiple Sclerosis Centers of Excellence (subject to the appropriation of sufficient funds for such purpose); and

"(2) establish and operate such centers at such locations in accordance with this section.

"(b) EXISTING FACILITIES; GEOGRAPHIC DISTRIBUTION.—In designating locations for centers under subsection (a), the Secretary, upon the recommendation of the Under Secretary for Health, shall—

"(1) designate each Department health care facility that, as of January 1, 2005, was operating a Parkinson's Disease Research, Education, and Clinical Center or a Multiple Sclerosis Center of Excellence unless the Secretary, on the recommendation of the Under Secretary for Health, determines that such facility—

"(A) does not meet the requirements of subsection (c);

"(B) has not demonstrated effectiveness in carrying out the established purposes of such center; or

"(C) has not demonstrated the potential to carry out such purposes effectively in the reasonably foreseeable future; and

"(2) assure appropriate geographic distribution of such facilities.

"(c) MINIMUM REQUIREMENTS.—The Secretary may not designate a health care facility as a location for a center under subsection (a) unless—

"(1) the peer review panel established under subsection (d) determines that the proposal submitted by such facility is among those proposals which meet the highest competitive standards of scientific and clinical merit; and

"(2) the Secretary, upon the recommendation of the Under Secretary for Health, determines that the facility has (or may reasonably be anticipated to develop)—

"(A) an arrangement with an accredited medical school which provides education and training in neurology and with which such facility is affiliated under which residents receive education and training in innovative diagnosis and treatment of chronic neurodegenerative diseases and movement disorders, including Parkinson's disease, or in the case of Multiple Sclerosis Centers, multiple sclerosis disease;

"(B) the ability to attract the participation of scientists who are capable of ingenuity and creativity in health-care research efforts;

"(C) a policymaking advisory committee composed of consumers and appropriate health care and research representatives of the facility and of the affiliated school or schools to advise the directors of such facility and such center on policy matters pertaining to the activities of such center during the period of the operation of such center;

"(D) the capability to conduct effectively evaluations of the activities of such center;

"(E) the capability to coordinate, as part of an integrated national system, education, clinical, and research activities within all facilities with such centers;

"(F) the capability to jointly develop a consortium of providers with interest in treating neurodegenerative diseases, including Parkinson's disease, and other movement disorders, or multiple sclerosis in the case of Multiple Sclerosis Centers, at facilities without such centers in order to ensure better access to state of the art diagnosis, care, and education for neurodegenerative disorders, or in the case of Multiple Sclerosis Centers, autoimmune disease affecting the cental nervous system throughout the health care system; and

"(G) the capability to develop a national repository in the health care system for the collection of data on health services delivered to veterans seeking care for neurodegenerative diseases, including Parkinson's disease, and other movement disorders, or in the case of Multiple Sclerosis Centers, autoimmune disease affecting the central nervous system.

"(d) PANEL.—(1) The Under Secretary for Health shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of new centers under this section.

"(2)(A) The membership of the panel shall consist of experts in neurodegenerative diseases, including Parkinson's disease and other movement disorders, and, in the case of Multiple Sclerosis Centers, experts in autoimmune disease affecting the central nervous system.

"(B) Members of the panel shall serve as consultants to the Department for a period of no longer than 2 years except in the case of panelists asked to serve on the initial panel as specified in subparagraph (C).

"(C) In order to ensure panel continuity, half of the members of the first panel shall be appointed for a period of 3 years and half for a period of 2 years.

"(3) The panel shall review each proposal submitted to the panel by the Under Secretary and shall submit its views on the relative scientific and clinical merit of each such proposal to the Under Secretary.

"(4) The panel shall not be subject to the Federal Advisory Committee Act.

"(e) ADEQUATE FUNDING.—Before providing funds for the operation of any such center at a health care facility other than a health care facility designated under subsection (b)(1), the Secretary shall ensure that—

"(1) the Parkinson's disease center at each facility designated under subsection (b)(1) is receiving adequate funding to enable such center to function effectively in the areas of Parkinson's disease research, education, and clinical activities; and

"(2) in the case of a new Multiple Sclerosis Center, that existing centers are receiving adequate funding to enable such centers to function effectively in the areas of multiple sclerosis research, education, and clinical activities.

"(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated such sums as may be necessary for the support of the research and education activities of the centers established under subsection (a).

"(2) The Under Secretary for Health shall allocate to such centers from other funds appropriated generally for the Department medical services account and medical and prosthetics research account, as appropriate, such amounts as the Under Secretary for Health determines appropriate.

"(g) FUNDING ELIGIBILITY AND PRIORITY FOR PARKINSON'S DISEASE RESEARCH.—Activities of clinical and scientific investigation at each center established under subsection (a) for Parkinson's disease shall—

"(1) be eligible to compete for the award of funding from funds appropriated for the Department medical and prosthetics research account; and

"(2) receive priority in the award of funding from such account to the extent funds are awarded to projects for research in Parkinson's disease and other movement disorders.

"(h) FUNDING ELIGIBILITY AND PRIORITY FOR MULTIPLE SCLEROSIS RESEARCH.—Activities of clinical and scientific investigation at each center established under subsection (a) for multiple sclerosis shall—

"(1) be eligible to compete for the award of funding from funds appropriated for the Department medical and prosthetics research account; and

"(2) receive priority in the award of funding from such account to the extent funds are awarded to projects for research in multiple sclerosis and other movement disorders.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 38, United States Code, is amended by inserting after the item relating to section 7328 the following:

"Sec. 7329. Parkinson's disease research, education, and clinical centers and multiple sclerosis centers of excellence".

(b) EFFECTIVE DATE.—Section 7329 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 2005.

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By Mr. ROCKEFELLER:

S. 1538. A bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools; to the Committee on Finance.

Mr. ROCKFELLER. Mr. President, today, I am reintroducing America's Better Classroom Act, an important incentive to support school construction and renovations. I believe that this bill is a wise investment in education and economic development. It creates jobs as we build and renovate our schools.

America's Better Classroom Act of 2005 is designed to respond to the overwhelming need for school construction. The Department of Education reports that the average public school building is 42 years old. In 1995, GAO estimated that we needed $112 billion for school construction and renovations. A more recent survey in 2001 in the Journal of Education Finance indicates that the need is increasing, and the unmet need for school infrastructure over the next decade is over $200 billion. My State, West Virginia, will need as much as $2 billion for school construction and renovations, and the cost of construction increases as the cost of building materials continues to escalate.

America's Better Classroom Act provides the financial tools to help build and renovate our schools. It will continue the Qualified Zone Academy Bonding. (QZAB) Program that has helped economically disadvantaged communities. This provision would provide $2.8 billion to continue and expand the successful QZAB Program. In recent years, this program has provided $4.2 million for support school construction and renovations in disadvantaged communities. Effective programs deserve continued support.

But we should more broadly expand investment in school construction because so many school districts need help with school construction and renovations but cannot qualify for the QZAB program. This is why the America's Better Classroom Act creates a $22 billion Qualified School Bonding Program. Funding will be allocated to states based on the Title 1 formula so it is targeted, but the states will have flexibility in allocating support among school districts.

When I visit schools in West Virginia, I am often stunned by the aging buildings and compelling needs. In our fast-growing Eastern Panhandle, we need new schools to deal with a growing population. In other parts of the State, older school building need renovations to be safe and conducive learning environments for our students. Also as technology plays an increasingly important role in education, classrooms need to be updated.

States and communities need the America's Better Classroom Act so that we can make needed investments. Also, school construction can play a positive role in helping to stimulate our economy and create needed jobs. School construction is a reliable economic stimulus, and an important investment in our children's education.

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By Mr. ROCKEFELLER:

S. 1539. A bill to amend part E of title IV of the Social Security Act to promote the adoption of children with special needs; to the Committee on Finance.

Mr. ROCKEFELLER. Mr. President, throughout my career in the Senate, I have sought to strengthen and improve policies for the most vulnerable children children who are at-risk of abuse and neglect in their own homes. The foster care system is the basic safety net for such children, but common sense tells us that a safe permanent home is the best place for a child. As Congress clearly stated in the 1997 Adoption and Safe Families Act, every child deserves a safe, permanent home. Now the challenge is to reform our program to deliver on this promise.

To truly fulfill that goal, we need to improve the Federal adoption assistance program, which is why I am introducing the Adoption Equality Act today. Current law only provides adoption assistance to special needs children whose parents would have been eligible for the old Aid to Families with Dependent Children (AFDC) as of July 1996. It is ridiculous to base a child's eligibility for assistance on the income of the abusive parents from whom they will have been taken for their own health and safety. Because of this Federal regulation, only half of special needs children get Federal assistance under current law. I firmly believe that every child with special needs who will not be adopted without assistance deserves Federal support. It is a basic investment to delivering on our commitment to help provide a safe, permanent home.

As we talk about the importance of families, shouldn't we invest in helping to create and maintain such families, especially for our most vulnerable children?

By supporting the Adoption Equality Act, we send a clear signal that every child deserves a safe, permanent home.

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By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1540. A bill to authorize the Secretary of the Army and the Secretary of the Interior to establish a program to improve water management and contribute to the recovery of endangered species in the Middle Rio Grande, New Mexico, and for other purposes; to the Committee on Environment and Public Works.

Mr. DOMENICI. Mr. President, in the American West, we are frequently faced with the challenge of how best to allocate our scarce water resources among numerous competing interests. There is no better example of this challenge than the one that has developed in the past six years in the Middle Rio Grande Valley in my home State of New Mexico. However, how this challenge was addressed is illustrative of what can be accomplished when people are willing to put adversity and divergent interests aside and work together to solve common problems.

In 1994, the Fish and Wildlife Service listed as endangered the Rio Grande Silvery Minnow, a fish native to the waters of the Rio Grande in New Mexico. The listing was followed by a five-year drought which began in 1999. The drought resulted in an insufficient amount of water to meet the needs of the Silvery Minnow and led several environmental groups to file the lawsuit Minnow v. Keys in Federal district court. After the district court issued a decision, the case was appealed to the United States Court of Appeals for the Tenth Circuit which held that the Endangered Species Act required that water should be taken away from municipalities, farmers and industry in order to meet the needs of the Silvery Minnow. In a water-scarce State like New Mexico, the ruling rang out like a gun shot and created acrimony amongst those who are entirely dependant on water from the Rio Grande.

In response, I established the Middle Rio Grande Collaborative Program in 2000. The program is based on the premise that it is better to work in the spirit of cooperation to develop solutions to shared problems regarding resource management including how best to meet the needs of our endangered species. When left up to the courts, there are always losers. Since 2000, the collaborative program has been a remarkable success, bringing together various stakeholders including Federal and State agencies, cities, Pueblos, environmental groups, farmers and business interests in an effort to protect our biological heritage and ecological diversity while meeting the needs of those who are dependant on the waters of the Rio Grande. Often, the process has been difficult. However, I'm sure all would agree that it is far preferable to the alternative of continued litigation. The success of the program is especially marked when one considers that the program has lacked specific goals, an organizational structure, a decision making hierarchy, and formal authorization.

I rise today to introduce the Middle Rio Grande Endangered Species Collaborative Program Act, a bill to provide the program with the authority it needs to continue its important mission. This bill would streamline the decision making process of the program, delegate responsibilities among federal agencies, and provide adequate authority for Federal participation. I have no doubt that this program will continue to serve as a model of how to deal with the West's resource management challenges.

I would like to thank my dear friend and colleague Senator BINGAMAN, who I have had the pleasure of serving with in the United States Senate for the past 22 years for being an original cosponsor of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

## S. 1540

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Middle Rio Grande Endangered Species Collaborative Program Act".

### SEC. 2. DEFINITIONS.

In this Act:

(1) COLLABORATIVE PROGRAM.—The term "Collaborative Program" means the Middle Rio Grande Endangered Species Collaborative Program established under section 3(a).

(2) EXECUTIVE COMMITTEE.—The term "Executive Committee" means the Executive Committee established under section 4(c).

(3) INTERESTS IN LAND AND WATER.—The term "interests in land and water" includes purchases, leases, easements, and agreements to provide water storage, land, or water that are obtained from willing sellers, lessors, or contributors in compliance with applicable Federal, State, or tribal laws.

(4) MIDDLE RIO GRANDE.—

(A) IN GENERAL.—The term "Middle Rio Grande" means the headwaters of the Rio Chama and the Rio Grande, including all tributaries, from the State line between Colorado and New Mexico downstream to the elevation corresponding with the spillway crest of Elephant Butte Dam at 4,457.3 feet mean sea level.

(B) EXCLUSION.—The term "Middle Rio Grande" excludes the land area reserved for the full pool of the Elephant Butte Reservoir.

(5) MIDDLE RIO GRANDE CONSERVANCY DISTRICT.—The term "Middle Rio Grande Conservancy District" means the political subdivision of the State of that name, created in 1925.

(6) PROJECT.—

(A) IN GENERAL.—The term "project" means a scientific or management study, a planning, design, permitting, construction, operations, maintenance, or replacement activity, or the acquisition of interests in land or water.

(B) INCLUSIONS.—The term "project" includes—

(i) a project begun but not completed by the Endangered Species Collaborative Program before the date of enactment of this Act; and

(ii) a project recommended by the Executive Committee after the date of enactment of this Act that carries out the purposes described in section 3(b).

(7) RIO GRANDE COMPACT.—The term "Rio Grande Compact" means the Rio Grande Compact—

(A) for which Congress provided consent under the Act of May 31, 1939 (53 Stat. 785, chapter 155); and

(B) that was ratified by the States of Colorado, New Mexico, and Texas.

(8) SECRETARY.—The term "Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

(9) SIGNATORY MEMBER.—The term "signatory member" means any Federal, State, or municipal agency, tribe, or public or private organization that has signed the memorandum of agreement described in section 4(c)(1)(C).

(10) SILVERY MINNOW.—The term "silvery minnow" means the species *Hybognathus amarus*, commonly known as the Rio Grande silvery minnow, a fish listed as an endangered species, as described in the notice entitled "Final Rule to List the Rio Grande Silvery Minnow as an Endangered Species" (59 Fed. Reg. 36988 (July 20, 1994)).

(11) STATE.—The term "State" means the State of New Mexico.

(12) TRIBE.—The term "tribe" means an Indian pueblo or tribe that—

(A) occupies land in the Middle Rio Grande; and

(B) is included on the list of federally recognized tribes published by the Secretary of the Interior in accordance with section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a–1).

(13) WILLOW FLYCATCHER.—The term "willow flycatcher" means the species *Empidonax traillii extimus*, commonly known as the southwestern willow flycatcher, a migratory bird listed as an endangered species, as described in the notice entitled "Final Rule Determining Endangered Status for the Southwestern Willow Flycatcher" (60 Fed. Reg. 10694 (February 27, 1995)).

### SEC. 3. COLLABORATIVE PROGRAM.

(a) ESTABLISHMENT.—The Secretary, in collaboration with the Secretary of the Interior, shall establish the Middle Rio Grande Endangered Species Collaborative Program in accordance with section 4.

(b) PURPOSES.—The purposes of the Collaborative Program shall be—

(1) to carry out a long-term plan, including projects to protect, and promote recovery of, the silvery minnow and willow flycatcher in the Middle Rio Grande;

(2) to ensure compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) while maintaining water use in the Middle Rio Grande in compliance with applicable law;

(3) to support improved water management;

(4) to allow continued water development;

(5) to benefit overall ecological integrity;

(6) to promote cooperation and collaboration in implementation of protection and recovery activities between Federal and non-Federal entities;

(7) to coordinate Federal actions that promote protection and recovery of the silvery minnow and willow flycatcher; and

(8) to establish a scientific basis for implementation of activities through recovery plans to ensure protection and recovery of the silvery minnow and willow flycatcher.

### SEC. 4. COLLABORATIVE PROGRAM STRUCTURE.

(a) REPEAL.—Section 209 of the Energy and Water Development Appropriations Act, 2004 (Public Law 108-137; 117 Stat. 1850) is repealed.

(b) ESTABLISHMENT.—The Collaborative Program shall consist of an Executive Committee, a Program Implementation Team, and working groups.

(c) EXECUTIVE COMMITTEE.—

(1) IN GENERAL.—The Secretary, in collaboration with the Secretary of the Interior shall—

(A) not later than 180 days after the date of enactment of this Act, establish an Executive Committee consisting of Federal and non-Federal entities described in paragraph (2) to—

(i) provide guidance to the Program Implementation Team to develop and approve a long-term plan to carry out the purposes of the Collaborative Program;

(ii) coordinate Collaborative Program projects for the recovery of the silvery minnow and the willow flycatcher with other Federal and non-Federal activities in the Middle Rio Grande to achieve the greatest effect and limit unnecessary duplication of efforts to the maximum extent practicable;

(iii) create, assign, and oversee tasks of the Program Implementation Team and working groups as necessary to implement a long-term plan and otherwise accomplish the purposes of the Collaborative Program;

(iv) develop multiyear budget priorities and present funding requests to the Corps of Engineers, the Bureau of Reclamation, the United States Fish and Wildlife Service, other Federal agencies, and non-Federal entities; and

(v) review work products undertaken by the Collaborative Program, including development of plans, budgets, reports, and requests for proposals;

(B) consider decisions made by ¾ of a quorum as the recommendation to be carried out under the Collaborative Program;

(C) develop, consistent with this Act, a memorandum of agreement describing—

(i) the goals of the Collaborative Program;

(ii) the responsibilities of the participants to contribute to the success of the Collaborative Program; and

(iii) the administrative rules, bylaws, and agreements governing Collaborative Program participation; and

(D) in cooperation with the members of the Executive Committee, develop bylaws governing the operations of the Executive Committee.

(2) MEMBERSHIP.—

(A) IN GENERAL.—Subject to subparagraph (B), the Executive Committee shall be composed of—

(i) 1 permanent voting member representing the Bureau of Reclamation, appointed by the Secretary of the Interior;

(ii) 1 permanent voting member representing the United States Fish and Wildlife Service, appointed by the Secretary of the Interior;

(iii) 1 permanent voting member representing the Corps of Engineers, appointed by the Secretary;

(iv) upon invitation by the Secretary, other voting members who have signed the memorandum of agreement described in paragraph (1)(C), representing any of—

(I) the State of New Mexico Interstate Stream Commission;

(II) the State of New Mexico Department of Game and Fish;

(III) the New Mexico Attorney General;

(IV) the Pueblo of Santo Domingo;

(V) the Pueblo of Sandia;

(VI) the Pueblo of Isleta;

(VII) the Pueblo of Santa Ana;

(VIII) the Middle Rio Grande Conservancy District;

(IX) the Albuquerque-Bernalillo County Water Authority;

(X) an organization that represents a significant portion of the environmental community; and

(XI) an organization that represents a significant portion of the farming community; and

(v) the non-Federal cochairperson elected under paragraph (4); and

(vi) upon unanimous recommendation of the existing members, members representing any additional organizations that sign the memorandum of agreement described in paragraph (1)(C).

(B) MEMBERSHIP CAP.—The total membership of the Executive Committee shall not exceed 20 members.

(C) QUORUM.—

(i) IN GENERAL.—Except as provided in clause (ii), ⅔ of the members of the Executive Committee shall constitute a quorum.

(ii) EXCEPTION.—For purposes of subparagraphs (A) and (C) of paragraph (4), ⅔ of the non-Federal members of the Executive Committee shall constitute a quorum.

(3) FEDERAL COCHAIRPERSON.—

(A) IN GENERAL.—The Secretary of the Interior shall select a Federal Cochairperson from the Department of the Interior who shall—

(i) be a nonvoting member of the Executive Committee;

(ii) convene the Executive Committee;

(iii) develop committee agendas;

(iv) call meetings;

(v) schedule votes and other decision-making processes; and

(vi) hold the Program Implementation Team accountable for assignments received from the Executive Committee.

(B) REMOVAL.—The Federal Cochairperson may be replaced by the Secretary on a vote of no-confidence by ¾ of a quorum.

(4) NON-FEDERAL COCHAIRPERSON.—

(A) IN GENERAL.—A non-Federal Chairperson of the Executive Committee shall be elected on approval by ¾ of a quorum.

(B) DUTIES.—The non-Federal Chairperson shall—

(i) be a voting member of the Executive Committee;

(ii) establish the Executive Committee agenda jointly with the Federal Cochairperson; and

(iii) lead meetings in the absence of the Federal Cochairperson.

(C) REMOVAL.—

(i) IN GENERAL.—The non-Federal Cochairperson may be removed by the Secretary on a vote of no-confidence by ¾ of a quorum.

(ii) VACANCY.—If the non-Federal Chairperson is removed under clause (i), the vacancy shall be filled in accordance with subparagraph (A).

(d) PROGRAM IMPLEMENTATION TEAM.—

(1) IN GENERAL.—The Secretary shall establish a Program Implementation Team—

(A) administered by a program manager from the Corps of Engineers; and

(B) supported by 1 representative of each entity with membership on the Executive Committee that elects to provide a representative.

(2) ADDITIONAL STAFF.—To support the goals of the Collaborative Program, the Secretary of the Interior shall provide staff for the Program Implementation Team from—

(A) the Bureau of Reclamation;

(B) the Bureau of Indian Affairs;

(C) the United States Fish and Wildlife Service; or

(D) any other appropriate agency of the Department of the Interior.

(3) DUTIES.—Under the direction of the Executive Committee, the Program Implementation Team shall—

(A) provide administrative support for all Collaborative Program operations;

(B) not later than 1 year after the date of enactment of this Act, prepare a long-term plan to carry out the purposes of the Collaborative Program;

(C) consistent with the long-term plan, prepare annual revisions, annual work plans, budget requests, and activity and fiscal reports;

(D) provide information to the public concerning activities of the Collaborative Program and undertake community outreach;

(E) collaborate with other efforts relating to the protection and recovery of the silvery minnow and willow flycatcher carried out under other Federal programs and non-Federal programs, including—

(i) silvery minnow and willow flycatcher recovery teams under the direction of the United States Fish and Wildlife Service;

(ii) Bosque and ecosystem recovery programs under the United States Fish and Wildlife Service and Corps of Engineers; and

(iii) other related programs;

(F) administer project proposal processes;

(G) administer contracts and grants, except for those contracts and grants assigned to the Bureau of Reclamation;

(H) ensure that all activities undertaken by the Collaborative Program comply with applicable laws; and

(I) undertake such other duties as are assigned by the Executive Committee and necessary to carry out the Collaborative Program.

(e) WORKING GROUPS.—

(1) IN GENERAL.—The Executive Committee may create working groups to—

(A) provide advice to the Executive Committee and the Program Implementation Team; and

(B) implement tasks consistent with the purposes described in section 3(b).

(2) MEMBERSHIP.—Working groups established under paragraph (1) may consist of—

(A) members of the Program Implementation Team; and

(B) individuals appointed by, and under the direction of, the Program Implementation Team, including—

(i) representatives appointed by the Executive Committee;

(ii) signatory members; or

(iii) individuals contracted by the Program Implementation Team.

**SEC. 5. COLLABORATIVE PROGRAM ACTIVITIES.**

(a) IN GENERAL.—The Secretary and the Secretary of the Interior may—

(1) enter into any grants, contracts, cooperative agreements, interagency agreements, or other agreements that the Secretary and the Secretary of the Interior determine to be necessary to carry out the Collaborative Program, including interagency agreements to transfer funds between agencies within the jurisdiction of the Secretary and the Secretary of the Interior; and

(2) accept or provide grants to carry out the Collaborative Program.

(b) RESPONSIBILITIES.—In carrying out the purposes of the Collaborative Program—

(1) the Commissioner of Reclamation may—

(A) carry out flow requirements to comply with the Biological Opinion described in section 205(b) of the Energy and Water Development Appropriations Act, 2005 (Public Law 108-447; 118 Stat. 2949) or any modifications to the Biological Opinion and other projects relating to water management, including—

(i) acquiring interests in land and water to meet minimum flow requirements;

(ii) monitoring and gaging flows;

(iii) pumping from the Low Flow Conveyance Channel and other drains and channels to support silvery minnow and willow flycatcher habitat; and

(iv) improving monitoring and gaging;

(B) consult with the signatory members regarding opportunities and methods to accomplish the responsibilities;

(C) coordinate implementation of all other activities carried out within the Middle Rio Grande under the jurisdiction of the Bureau of Reclamation with the activities of the Collaborative Program to achieve the purposes of the Collaborative Program; and

(D) construct fish passages at San Acacia Diversion Dam and at Isleta Diversion Dam;

(2) the Secretary of the Army—

(A) may carry out and fund additional projects not designated to the Commissioner of Reclamation under paragraph (1), including—

(i) actions to induce overbank flooding and creation of backwaters;

(ii) salvaging eggs;

(iii) improving monitoring and gaging;

(iv) performing habitat and ecosystem restoration;

(v) regeneration of native vegetation and monitoring of associated water depletions;

(vi) reconstructing a new San Marcial Railroad bridge and realignment of the river channel;

(vii) developing ways to—

(I) increase sediment transport through Jemez Canyon Dam, Galisteo Dam, and Cochiti Lake; and

(II) address issues of contaminated sediment;

(viii) preventing salt cedar encroachment in Angostura, Isleta and San Acacia reaches;

(ix) implementing captive propagation of silvery minnow, including expansion of facilities;

(x) creating at least 2 new naturalized refugia, 1 of which shall be carried out in partnership with the Bureau of Reclamation, United States Fish and Wildlife Service, and Middle Rio Grande Conservancy District without direct oversight by the Collaborative Program, under the Silvery Minnow Off-Channel Sanctuaries Program as authorized under section 6014 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 Stat. 283);

(xi) monitoring silvery minnow protection and recovery efforts by conducting surveys of populations and habitat above Cochiti Lake;

(xii) developing comprehensive water quality assessments and managing changes in water quality;

(xiii) conducting studies and research necessary to define the needs of listed species; and

(xiv) monitoring the effects of activities on listed species;

(B) shall implement the decisions of the Executive Committee in performing the activities described in subparagraph (A); and

(C) shall coordinate implementation of all other activities carried out within the Middle Rio Grande by the Corps of Engineers with the activities of the Collaborative Program in order to achieve the purposes of the Collaborative Program.

(c) LIMITATIONS.—

(1) ACQUISITION OF LAND OR WATER.—In carrying out this Act, the Secretary or the Secretary of the Interior may only acquire interests in land and water.

(2) WATER RIGHTS.—Nothing in this Act preempts or affects State water law or an interstate compact governing water.

(3) COMPLIANCE.—All actions carried out in accordance with this Act shall be in compliance with applicable State, Federal, or tribal law.

(4) RIO GRANDE COMPACT.—No action carried out under this Act shall impair the ability of the State to meet the obligations of the State under the Rio Grande compact.

(5) STATE LAW.—The Secretary and the Secretary of the Interior shall carry out activities under the Collaborative Program consistent with State law.

(6) CONSULTATION.—

(A) IN GENERAL.—Consultations between governments under this Act shall be carried out between the Secretary or the Secretary of the Interior and tribes prior to initiating actions that would impact tribal land or water rights.

(B) CONSENT REQUIREMENT.—No action involving access to, or use of, pueblo or tribal land may be carried out without prior written consent of the affected pueblo or Indian tribe.

(7) COLLABORATION.—In carrying out this Act, the Secretary and the Secretary of Interior may collaborate with or enter into contracts, cooperative agreements, interagency agreements, or other agreements with, or accept or provide grants to, tribes that—

(A) are signatory members; but

(B) are not represented on the Executive Committee.

(8) NO EFFECT ON CERTAIN AUTHORITY.—Nothing in this Act diminishes the authority, sovereignty, or rights of any person, organization, tribe, or other governmental entity.

(9) NO EFFECT ON CERTAIN DUTIES.—

(A) IN GENERAL.—Nothing in this Act diminishes or impairs—

(i) the trust relationship or responsibility of the Federal Government to any tribe;

(ii) the obligation of the Federal Government to consult with the tribes on a government-to-government basis; or

(iii) the ability of the Federal Government to fund activities for the benefit of the tribes.

(B) FUNDING.—Nothing in this Act restricts the Secretary or the Secretary of the Interior from funding activities in accordance with the Indian trust responsibility of the Federal Government.

(10) NO EFFECT ON RESERVOIR OPERATIONS.—While this Act provides additional authorization for the Secretary and the Secretary of the Interior, nothing expands the discretion of the Secretary or the Secretary of the Interior with respect to operating reservoir facilities under the jurisdiction of the Secretary or the Secretary of the Interior in the Middle Rio Grande.

**SEC. 6. REPORTING.**

Not later than 1 year after the date of enactment of this Act, and every 2 years thereafter, the Secretary and the Secretary of the Interior shall submit to the Committee on Environment and Public Works and the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that—

(1) describes expenditure of appropriated funds and cost-share contributions;

(2) describes activities carried out under this Act; and

(3) describes compliance with the purposes of this Act.

**SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Secretary and the Secretary of the Interior such sums as are necessary to carry out this Act for each of fiscal years 2006 through 2015.

(2) NONREIUMBURSABLE.—Amounts made available pursuant to paragraph (1) shall be considered nonreimbursable Federal expenditures.

(b) COST ALLOCATION.—

(1) ACTIVITIES AT FULL FEDERAL EXPENSE.—

(A) WATER ACQUISITION.—Water acquisition and the cost of administration for water acquisition and water management by the Bureau of Reclamation described in section 5(b)(1) shall be carried out at full Federal expense.

(B) ADMINISTRATION.—Administration of the Collaborative Program, as described in section 4(d), including the participation of Federal agencies in the Program Implementation Team, shall be carried out at full Federal expense.

(2) COST-SHARE.—

(A) IN GENERAL.—Subject to subparagraph (B), all projects or activities of the Collaborative Program not described in paragraph (1) that are carried out by the Secretary or the Secretary of the Interior shall require a non-Federal cost-share of 25 percent.

(B) LIMITATION.—

(i) IN GENERAL.—The total non-Federal share required under subparagraph (A) for all projects during the period of fiscal years 2006 through 2015 shall be not more than $30,000,000.

(ii) FEDERAL EXPENSE.—On satisfaction of the total non-Federal share described in clause (i)—

(I) no further non-Federal share shall be required; and

(II) all projects and activities shall be carried out at full Federal expense.

(C) CONTRIBUTIONS.—The cost-share under subparagraph (A) may be provided as—

(i) in-kind contributions, including participation on the Program Implementation Team or in working groups, the value of which shall be determined by Secretary; or

(ii) direct cash contributions.

(D) PROGRAMMATIC BASIS.—The amount of the Federal and non-Federal cost-shares shall be determined on—

(i) a programmatic, rather than project-by-project, basis; and

(ii) a 3-year interval with excess non-Federal cost-share being credited to subsequent accounting periods.

(c) ADMINISTRATIVE COSTS.—Not more than 15 percent of amounts made available under subsection (a) shall be used to pay the administrative costs of carrying out the Program Implementation Team established under section 4(d).

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By Mr. AKAKA (for himself, Mr. INOUYE, Mr. LAUTENBERG, and Mr. LEVIN):

S. 1541. A bill to protect, conserve, and restore public land administered by the Department of the Interior or the Forest Service and adjacent land through cooperative cost-shared grants to control and mitigate the spread of invasive species, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. AKAKA. Mr. President, I rise today to introduce the Public Land Protection and Conservation Act of 2005. I am pleased to have Senators INOUYE, LAUTENBERG and LEVIN join me in cosponsoring the bill. My legislation encourages Federal, State, and local agencies, nonprofit organizations, Indian tribes and private entities to work together through a cost-shared, cooperative grant program to control and mitigate the spread of invasive species.

Invasive species are defined as harmful, nonnative plants, animals, or organisms likely to cause economic harm, environmental harm, or harm to human health. They are widespread throughout the United States and cause billions of dollars of damage annually to crops, rangelands, and waterways. The globalization of trade, the massive volume of cargo shipments, and rising tourism have combined to increase the chance of introductions of nonnative species into the United States. They are responsible for damage to native ecosystems and vital industries such as agriculture, fisheries, and ranching. The economic, social, recreational, and ecological losses attributable to invasive species are huge. A recent Cornell University study estimated that invasive plants and animals cost the U.S. economy $137 billion annually. The costs are predicted to increase substantially as more invasive species enter the country.

The implications of the nationwide invasive species problem are enormous. The Ecological Society of America notes that invasive species contribute to the listing of 35 to 46 percent of all threatened and endangered species. Nowhere, however, are the impacts greater than in my home State of Hawaii. Hawaii is known for its biodiversity. Hawaii has more than 10,000 species found nowhere else on Earth. Unfortunately, invasive species are the number one cause of the decline of Hawaii's threatened and endangered species. This is a serious concern because of the 114 endangered species that have become extinct during the first 20 years of the Endangered Species Act, almost half were in Hawaii. Recently, gall wasps were found laying eggs in wiliwili trees. These trees were once a dominant species in dry Hawaiian forests. Now they are nearly 90 percent gone with the remnants of the remaining trees, primarily found on Maui and the Big Island, threatened by the invasive gall wasp. The fragility of our native species is compounded by the fact that most introduced species have no natural predators in the State, and such predators cannot simply cross a State border to enter Hawaii. Hawaii's Invasive Species Partnerships, a group comprised of a state council and island-based committees stated in its 2004 report that "the silent invasion of Hawaii by alien invasive species is the single greatest threat to Hawaii's economy, natural environment, and the health and lifestyle of Hawaii's people and visitors." Hawaii is plagued with pest invasions to a greater extent than almost any other location in the world. The invasion has limited our agricultural export market, decreased bio-diversity in the forests, and decimated native bird populations. It is imperative that this serious issue receive our full attention.

Let me give you just a few examples of invasive species problems in Hawaii. Control efforts for the Formosan ground termite are estimated to cost residents in Hawaii more than $150 million per year. Damage to our agricultural industry and the related control costs of the Mediterranean fruit fly are more than $450 million annually. Miconia, an invasive tree infesting more than 15,000 acres of rainforest in Hawaii, eliminates the habitat of endangered plants and animals and causes serious erosion problems that threaten our water supply. Bush Beardgrass is a drought-tolerant grass that increases the risk of brushfires. Wildlife authorities say the grass is beyond control on Kauai and the Big Island. Native birds in our rainforests are succumbing to malaria spread through introduced mosquitos. Coqui frogs can reach densities of 8,000 frogs per acre and threaten Hawaii's real estate, export floriculture, and nursery industries. The brown tree snake has invaded Guam and devastated native bird populations there. If the snakes become established in Hawaii, economic costs have been estimated to exceed hundreds of millions of dollars. Red fire ants threaten the agriculture industry in Hawaii and in 14 Southern States, causing more than $2 billion in annual damage. As you can see, the list of problems is long and the time to address the issue of invasive species is now, before even more serious problems crop up.

With 73 percent of land in the continental U.S. held privately, our Federal lands will not be adequately protected without public-private partnerships. My bill requires coordination between the National Invasive Species Council, the Department of the Interior, the U.S. Department of Agriculture, and State invasive species councils and plans. The bill authorizes the Secretary of the Interior to provide grants to promote the development of voluntary State assessments to establish inventories and priorities for controlling invasive species. This is a critical step in establishing an invasives program, but many States do not have the resources to carry out this critical assessment. The legislation also provides additional grants to public or private entities, or Indian tribes, to carry out in partnership with a Federal agency an eradication, containment, or management project on Federal land or adjacent land. Control grants are cost-shared with partners. The criteria for ranking control projects include shared priorities in State and Federal plans, the severity of the invasive species impact on a State, and whether the project fosters results through public-private partnerships. Finally, and perhaps most importantly, the bill provides rapid response funds for States facing new outbreaks of invasive species, to eradicate serious new outbreaks. Rapid response funds are critical to States in order to combat newly identified invasives.

I was pleased to see that Federal departments would receive an overall increase for the seven invasive species general categories in the President's fiscal year 2006 proposed budget. I appreciate the consideration that my colleagues on the Appropriations Committee have given this important issue. However, I was dismayed to see that the budget for the category of control of invasive species declined by $25 million from its fiscal year 2005 enacted level. Control is an essential element in combating invasive species and requires additional funding.

I would like to acknowledge the fine work being accomplished by the National Park Service in establishing its Exotic Plant Management Teams. These Teams are designed to provide a highly trained, mobile strike force of plant management specialists to assist parks in the control of exotic plants. Approximately 2.6 million acres in the national parks are infected and 234 parks have invasive animals in need of management. To date, 17 Teams have been deployed throughout the country. I am grateful to the Pacific Island Team for its efforts to protect increasingly rare native communities in the Hawaiian Islands from invasion. Control of exotic species is one of the most significant land management issues facing national parks. Although I applaud the current efforts of the Department of the Interior and the U.S. Forest Service, a more coordinated and forceful attack on invasive species is needed. The attack must have robust funding and work in partnership with the States.

I am particularly pleased that the State of Hawaii is taking a leadership role in addressing its invasive species problems. Two years ago the Hawaii State Legislature established the Hawaii Invasive Species Council to coordinate the State's fight against animal and plant invaders, with the Department of Agriculture and the Department of Land and Natural Resources in leading roles. The Hawaii State Legislature has directed approximately $8 million to the invasives campaign so far. The Hawaii Invasive Species Council and each county council are committed to a proactive approach to preserve the environmental heritage and economic security of our communities for generations to come. In addition, many public and private partnerships have been formed to protect our common natural resources. For example, the East Maui Watershed Partnership brings together multiple public and private landowners and the County of Maui to control invasive species and protect 100,000 acres of our prime watershed areas. This is just one example of many highly successful and dedicated partnerships in Hawaii working to preserve our invaluable resources.

The National Environmental Coalition on Invasive Species, a coalition of representatives from major environmental organizations, has extended its full support for this legislation. Its letter of support calls this bill "one of the best legislative proposals to date to deal with the growing threat that invasive species pose to our nation's ecological and economic health." The State of Hawaii, Department of Land and Natural Resources, also supports the bill. The Department acknowledges that success in invasive species projects in Hawaii have come largely from the formation of strong partnerships between State, County and Federal agencies and private groups -exactly what my legislation endorses. My bill is also supported by the Conservation Council of Hawaii, the National Wildlife Federation affiliate in Hawaii. I greatly appreciate these endorsements.

As Federal efforts to combat the growing tide of invasive species increase, some landowners and private property advocates are concerned that increased efforts to combat invasives and support native plants and animals could lead to the next big government invasion of private lands. Let me assure you this is not a property rights issue. Any action taken by governments or nonprofits through this bill can occur only with the participation and willingness of the property owner.

There are increasingly severe problems and economic burdens associated with invasive species in our Nation that are borne at the State and local levels. If ever there was a time to commit to defending the security of our domestic resources for the future, it is now. My legislation provides the support necessary for agencies, organizations, and individuals to implement cooperative projects to address new threats and long-standing invasive species problems. This is an issue that must be confronted.

I ask unanimous consent that text of the bill be printed in the RECORD, as well as the letters of support from Hawaii and national groups, and urge my colleagues to support my legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1541

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Land Protection and Conservation Act of 2005".

### SEC. 2. PURPOSE.

The purpose of this Act is to encourage partnerships among Federal, State, and local agencies, nongovernmental entities, and Indian tribes to protect, enhance, restore, and manage public land and adjacent land through the control of invasive species by—

(1) promoting the development of voluntary State assessments to establish priorities for controlling invasive species;

(2) promoting greater cooperation among Federal, State, and local land and water managers and owners of private land or other interests to implement strategies to control and mitigate the spread of invasive species through a voluntary and incentive-based financial assistance grant program;

(3) establishing a rapid response capability to combat incipient invasive species invasions; and

(4) modifying the requirements applicable to the National Invasive Species Council.

### SEC. 3. DEFINITIONS.

In this Act:

(1) CONTROL.—The term "control" means—

(A) eradicating, suppressing, reducing, or managing invasive species in areas in which the species are present;

(B) taking steps to detect early infestations of invasive species on Public land and adjacent land that is at risk of being infested; and

(C) restoring native ecosystems to reverse or reduce the impacts of invasive species.

(2) COUNCIL.—The term "Council" means the National Invasive Species Council established by section 3 of Executive Order No. 13112 (64 Fed. Reg. 6184).

(3) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(4) INVASIVE SPECIES.—The term "invasive species" means, with respect to a particular ecosystem, any animal, plant, or other organism (including biological material of the animal, plant, or other organism that is capable of propagating the species)—

(A) that is not native to the ecosystem; and

(B) the introduction of which causes or is likely to cause economic harm, environmental harm, or harm to human health.

(5) NATIONAL MANAGEMENT PLAN.—The term "National Management Plan" means the management plan referred to in section 5 of Executive Order No. 13112 (64 Fed. Reg. 6185) and entitled "Meeting the Invasive Species Challenge".

(6) PUBLIC LAND.—The term "Public land" means all land and water that is—

(A) owned by, or under the jurisdiction of, the United States; and

(B) administered by the Department of the Interior or the Forest Service.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) STATE.—The term "State" means—

(A) a State of the United States;

(B) the District of Columbia;

(C) the Commonwealths of Puerto Rico and the Northern Mariana Islands;

(D) the Territories of American Samoa, Guam, and the Virgin Islands;

(E) the Federated States of Micronesia;

(F) the Republic of the Marshall Islands; and

(G) the Republic of Palau.

### SEC. 4. NATIVE HERITAGE ASSESSMENT AND CONTROL GRANT PROGRAM.

(a) ASSESSMENT GRANTS.—The Secretary may provide to a State a grant to carry out an assessment project consistent with relevant invasive species management plans of the State to—

(1) identify invasive species that occur in the State;

(2) survey the extent of invasive species in the State;

(3) assess the needs to restore, manage, or enhance native ecosystems in the State;

(4) identify priorities for actions to address those needs;

(5) incorporate, as applicable, the guidelines of the National Management Plan; and

(6) identify methods to—

(A) control or detect incipient infestations of invasive species in the State; or

(B) control or assess established populations of invasive species in the State.

(b) CONTROL GRANTS.—

(1) IN GENERAL.—The Secretary may provide grants to appropriate public or private entities and Indian tribes to carry out, in partnership with a Federal agency, control projects for the management or eradication of invasive species on Public land or adjacent land that—

(A) include plans for—

(i) monitoring the project areas; and

(ii) maintaining effective control of invasive species after the completion of the projects, including through the conduct of restoration activities;

(B) in the case of a project on adjacent land, are carried out with the consent of the owner of the adjacent land; and

(C) provide public notice to, and conduct outreach activities relating to the control projects in, communities in which control projects are carried out.

(2) PRIORITY.—In prioritizing grants for control projects, the Secretary shall consider—

(A) the extent to which a project would address—

(i) the priorities of a State for invasive species control; and

(ii) the priorities for invasive species management on Public land, such as the priorities for management on National Park System and National Forest System land;

(B) the estimated number of, or extent of infestation by, invasive species in the State;

(C) whether a project would encourage increased coordination and cooperation among 1 or more Federal agencies and State or local government agencies to control invasive species;

(D) whether a project—

(i) fosters public-private partnerships; and

(ii) uses Federal resources to encourage increased private sector involvement, including the provision of private funds or in-kind contributions;

(E) the extent to which a project would aid the conservation of species included on Federal or State lists of threatened or endangered species;

(F) whether a project includes pilot testing or a demonstration of an innovative technology that has the potential to improve the cost-effectiveness of controlling invasive species; and

(G) the extent to which a project—

(i) considers the potential for unintended consequences of control methods on native species; and

(ii) includes contingency measures to address the unintended consequences.

(c) DUTIES OF THE SECRETARY.—The Secretary shall—

(1) not later than 180 days after the date on which funds are made available to carry out this Act, publish guidelines and solicit applications for grants under this section;

(2) not later than 1 year after the date on which funds are made available to carry out this Act, evaluate and approve or disapprove applications for grants submitted under this section;

(3) consult with the Council on—

(A) any projects proposed for grants under this section, including the priority of proposed projects for the grants; and

(B) providing a definition of the term "adjacent land" for purposes of the control grant program under subsection (b);

(4) consult with the advisory committee established under section 3(b) of Executive Order No. 13112 (64 Fed. Reg. 6184) on projects proposed for a grant under this section, including the scientific merit, technical merit, and feasibility of a proposed project; and

(5) if a project is conducted on National Forest System land, consult with the Secretary of Agriculture.

(d) GRANT DURATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), a grant under this section shall provide funding for the Federal share of the cost of a project for not more than 2 fiscal years.

(2) RENEWAL OF CONTROL PROJECTS.—

(A) IN GENERAL.—If the Secretary, after reviewing the reports submitted under subsection (f) with respect to a control project, finds that the project is making satisfactory progress, the Secretary may renew a grant under this section for an additional 3 fiscal years.

(B) IMPLEMENTATION OF MONITORING AND MAINTENANCE PLAN.—The Secretary may renew a grant under this section to implement the monitoring and maintenance plan required for a control project under subsection (b) for not more than 10 years after the project is otherwise complete.

(e) DISTRIBUTION OF CONTROL GRANT AWARDS.—In making grants for control projects under subsection (b), the Secretary shall, to the maximum extent practicable, ensure that—

(1) at least 50 percent of control project funds are spent on land adjacent to Public land; and

(2) there is a balance of smaller and larger control projects conducted with grants under that subsection.

(f) REPORTING BY GRANT RECIPIENT.—

(1) ASSESSMENT PROJECTS.—Not later than 2 years after the date on which a grant is provided under subsection (a), a grant recipient carrying out an assessment project shall submit to the Secretary and the Governor of the State in which the assessment project is carried out a report on the assessment project.

(2) CONTROL PROJECTS.—A grant recipient carrying out a control project under subsection (b) shall submit to the Secretary—

(A) an annual synopsis of the control project; and

(B) a report on the control project not later than the earlier of—

(i) at least once every 2 years; or

(ii) the date on which the grant expires.

(3) CONTENTS.—A report submitted under this subsection shall include—

(A) a detailed accounting of—

(i) the funding made available for the project; and

(ii) any expenditures made for the project; and

(B) with respect to a control project—

(i) a chronological list of any progress made with respect to the project;

(ii) specific information on the methods and techniques used to control invasive species in the project area;

(iii) trends in the population size and distribution of invasive species in the project area; and

(iv) the number of acres of the native ecosystem protected or restored.

(g) COST-SHARING REQUIREMENT.—

(1) PROJECTS ON ADJACENT LAND.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the Federal share of the cost of a control project carried out on adjacent land shall be not more than 75 percent.

(B) CERTAIN CONTROL PROJECTS.—The Federal share of a control project carried out on adjacent land that uses pilot testing, demonstrates an innovative technology, or provides for the conservation of threatened or endangered species shall be 85 percent.

(2) PROJECTS ON PUBLIC LAND.—The Federal share of the cost of the portion of a control project that is carried out on Public land shall be 100 percent.

(3) APPLICATION OF IN-KIND CONTRIBUTIONS.—The Secretary may apply to the non-Federal share of the costs of a control project the fair market value of services or any other form of in-kind contribution to the project made by a non-Federal entity.

(4) DERIVATION OF NON-FEDERAL SHARE.—The non-Federal share of the cost of a control project carried out with a grant under this section may not be derived from a Federal grant program or other Federal funds.

(h) REPORTING BY SECRETARY.—

(1) IN GENERAL.—Not later than 3 years after the date of enactment of this Act and every 2 years thereafter, the Secretary shall submit to Congress a report that—

(A) describes the implementation of this section; and

(B) includes a determination whether the grants authorized under subsections (a) and (b) should be expanded to land and water that are owned and administered by Federal agencies other than the Department of the Interior or the Forest Service.

(2) CONTENTS.—A report under paragraph (1) shall include a review of control projects, including—

(A) a list of control projects selected, in progress, and completed;

(B) an assessment of project impacts, including—

(i) areas treated; and

(ii)(I) if feasible, a measurement of invasive species eradicated; or

(II) an estimate of the extent to which invasive species have been reduced or contained;

(C) the success and failure of control techniques used;

(D) an accounting of expenditures by Federal, State, regional, and local government agencies and other entities to carry out the projects;

(E) a review of efforts made to maintain an appropriate database of projects assisted under this section; and

(F) a review of the geographical distribution of Federal funds, matching funds, and in-kind contributions provided for projects.

**SEC. 5. RAPID RESPONSE ASSISTANCE.**

(a) IN GENERAL.—The Secretary may provide financial assistance to States, local governments, public or private entities, and Indian tribes for a period of 1 fiscal year to enable States, local governments, nongovernmental entities, and Indian tribes to rapidly respond to outbreaks of invasive species that are at a stage at which rapid eradication or control is possible.

(b) REQUIREMENTS FOR ASSISTANCE.—The Secretary shall—

(1) at the request of the Governor of a State—

(A) provide assistance under this section to the State, a local government, public or private entity, or Indian tribe for the eradication of an immediate invasive species threat in the State if—

(i) there is a demonstrated need for the assistance;

(ii) the invasive species is considered to be an immediate threat to native ecosystems, human health, or the economy, as determined by the Secretary; and

(iii) the proposed response of the State, local government, public or private entity, or Indian tribe to the threat—

(I) is technically feasible; and

(II) minimizes adverse impacts to native ecosystems and non-target species; or

(B) if the requirements under subparagraph (A) are not met, submit to the Governor of the State, not later than 30 days after the date on which the Secretary received the request, written notice that the State is not eligible for assistance under this section;

(2) determine the amount of financial assistance to be provided under this section, subject to the availability of appropriations, with respect to an outbreak of an invasive species;

(3) require that entities receiving assistance under this section monitor and report on activities carried out with such assistance in the same manner that control project grant recipients monitor and report on such activities; and

(4) expedite environmental and regulatory reviews to ensure that an outbreak of invasive species can be addressed within the 180-day period beginning on the date on which the State notifies the Secretary of the outbreak.

**SEC. 6. RELATIONSHIP TO OTHER AUTHORITIES.**

Nothing in this Act affects authorities, responsibilities, obligations, or powers of the Secretary under any other statute.

**SEC. 7. BUDGET CROSSCUT.**

Not later than March 31, 2006, and each year thereafter, the Director of the Office of Management and Budget, in consultation with the Council, shall submit to Congress—

(1) a comprehensive budget analysis and summary of Federal programs relating to invasive species; and

(2) a list of general priorities, ranked in high, medium, and low categories, of Federal efforts and programs in—

(A) prevention;

(B) early detection and rapid response;

(C) eradication, control, management, and restoration;

(D) research and monitoring;

(E) information management; and

(F) public outreach and partnership efforts.

**SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

(a) ASSESSMENT GRANTS.—There are authorized to be appropriated to the Secretary to carry out assessment projects under section 4(a)—

(1) $25,000,000 for fiscal year 2006; and

(2) such sums as are necessary for each of fiscal years 2007 through 2010.

(b) CONTROL GRANTS.—There are authorized to be appropriated to the Secretary to carry out control projects under section 4(b)—

(1) $175,000,000 for fiscal year 2006; and

(2) such sums as are necessary for each of fiscal years 2007 through 2010.

(c) RAPID RESPONSE ASSISTANCE.—There are authorized to be appropriated to the Secretary to carry out section 5—

(1) $50,000,000 for fiscal year 2006; and

(2) such sums as are necessary for each of fiscal years 2007 through 2010.

(d) CONTINUING AVAILABILITY.—Amounts made available under this section shall remain available until expended.

(e) ADMINISTRATIVE EXPENSES OF SECRETARY.—Of amounts made available each fiscal year to carry out this Act, the Secretary may expend not more than 5 percent to pay the administrative expenses necessary to carry out this Act.

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THE NATIONAL ENVIRONMENTAL
COALITION ON INVASIVE SPECIES,
*July 22, 2005.*

Hon. DANIEL K. AKAKA,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR AKAKA: The member organizations of the National Environmental Coalition on Invasive Species are writing in support of the Pubic Land Protection and Conservation Act of 2005.

Separately, our individual organizations have protested millions of acres of land; worked with thousands of corporate partners, affiliates, and community groups; and provided scientific, economic, and legal analyses that advocate responsible policy solutions to the international, national, and local level.

Together, our organizations have over six million individual members and supporters. The threat that invasive species pose to our environment and economy and our interest in finding equitable, practical, and cost-effective solutions to this environmental problem unites us in this Coalition.

Invasive species that choke out, devour, and destroy native wildlife and their habitat have infested more than 100 million acres of the American landscape. An additional three million acres are lost each year to invasive weeds—an area equal to a strip of land two miles wide stretching from coast to coat. Invasive species are one of the most critical threats to America's natural diversity and pose clear risks to the nation's waters, forests, farmlands, rangelands, wetlands, natural area, and public and private property values. Experts estimates that these fast moving invaders are already causing $130 billion of damage each year to the economy.

The Public Land Protection and Conservation Act of 2005 is one of the best legislative proposals to date to deal with the growing threat that invasive species pose to our nation's ecological and economic health. We applaud this effort to use federal funding as an incentive to encourage local government agencies, private organizations, and individuals to be more proactive in managing invasive and invading species. The Native Heritage Control Grant Program offered in the bill is noteworthy not only in that it provides such incentives, but also in that it provides additional encouragement for innovative technologies and work to benefit endangered species. The Control Grant Program is aptly tailored to encourage partnerships and work on federal and non-federal land. Invasive species do not respect administrative or political boundaries and we cannot hope to protect the best federal lands without the cooperation of neighboring landowners. Similarly helping private landowners and local governments deal with their invasive species problems is also extremely important, as recognized in this bill.

The Public Land Protection and Conservation Act of 2005 reflects some of the latest scientific conclusions on invasive species—we strongly support your esblishment of 'rapid response' funding to deal with incipient invasions. There is broad consensus among organizations, scientists, and state and federal agencies that eradicating invaders before they become widely established is second only to prevention as the most cost-effective and ultimately successful way to stop invasions. This rapid response program will be critical if the brown tree snake) Boiga irregularis) ever reaches Hawaii from Guam, if the European green crab (Carcinus maenas) ever reaches Alaska from California, or countless other potential invasions occur on our coasts, inland rangelands, grasslands, wetland, and waterways.

The Public Land Protection and Conservation Act of 2005 contains useful deadlines and guidance to help ensure that Assessment Grants, Rapid Response Assistance, and Control Grants are delivered effectively, translating into meaningful conservation results on the ground. The Coalition strongly supports the inclusion of this language, which will help get these programs up and running quickly, and help ensure quick success against rapidly spreading problems. As this bill recognizes, it is particularly important for Rapid Response Assistance to be delivered as quickly as possible after a state requests such assistance, because time is of the essence to prevent new invaders from getting a foothold within a state.

The National Environmental Coalition on Invasive Species supports this proposed legislation as now written. The grant programs it establishes are sorely needed to address the widespread damage being caused by invasive species all across America. We look forward to working with you and your staff on this legislation that will help address America's dire invasive species problem.

Sincerely,

GABY CHAVARRIA, PH.D.
*Vice President for Conservation, Defenders of Wildlife.*
PETER T. JENKINS,
*Attorney/Policy Analyst, International Center for Technology Assessment.*
TIMOTHY MALE, PH.D,
*Senior Ecologist, Environemtnal Defense.*
MIKE DAULTON,
*Assistant Director, National Audubon Society.*
ADAM KOLOTN,
*Director, Congressional & Federal Affairs, National Wildlife Federation.*
PHYLLIS N. WINDLE, PH.D.
*Senior Scientist, Union of Concerned Scientists.*
JOHN M. RANDALL,
*Director, Invasive Species Initiative, The Nature Conservancy.*

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JUNE 14, 2004.

Hon. DANIEL K. AKAKA,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR AKAKA: The Conservation Council of Hawaii commends you for introducing the Public Land Protection and Conservation Act of 2004. This bill will be instrumental in preventing the invasion of new invasive species, and help prevent the spread of invasives that have already taken root in the United States.

In Hawaii, we know first hand that invasive species choke out, devour, and destroy native wildlife and their habitat. Throughout the nation, invasive species have infested more than 100 million acres of the American landscape and an additional three million acres are lost each year to invasive weeds. Invasive species are one of the most critical threats to America's natural diversity and pose clear risks to the nation's waters, forests, farmlands, rangelands, wetlands, natural areas, and public and private property values. Experts estimate that these fast moving invaders are already causing $130 billion of damage each year to the economy and are the second leading cause, after habitat loss, for wildlife being listed as threatened and endangered.

The Public Land Protection and Conservation Act of 2004 is one of the best legislative proposals to date to deal with the growing threat that invasive species pose to our nation's ecological and economic health. We applaud this effort to use federal funding as an incentive to encourage local government agencies, private organizations, and individuals to be more proactive in managing invasive and invading species. The Native Heritage Control Grant Program offered in the bill is noteworthy not only in that it provides such incentives, but also in that it provides additional encouragement for innovative technologies and work to benefit endangered species. The Control Grant Program is aptly tailored to encourage partnerships and work on federal and non-federal land. Invasive species do not respect administrative or political boundaries and we cannot hope to protect the best federal lands without the cooperation of neighboring landowners. Similarly, helping private landowners and local governments deal with their invasive species problems is also extremely important, as recognized in this bill.

The Public Land Protection and Conservation Act of 2004 reflects some of the latest scientific conclusions on invasive species—we strongly support your establishment of 'rapid response' funding to deal with incipient invasions. There is broad consensus among organizations, scientists, and state and federal agencies that eradicating invaders before they become widely established is second only to prevention as the most cost-effective and ultimately successful way to stop invasions. This rapid response program will be critical if the brown tree snake (Boiga irregularis) ever reaches Hawaii from Guam, if the European green crab (Carcinus maenas) ever reaches Alaska from California, or countless other potential invasions occur on our coasts, inland rangelands, grasslands, wetlands, and waterways.

The Conservation Council of Hawaii strongly supports this proposed legislation. We look forward to working with you and your staff on this legislation to ensure its successful passage.

Sincerely,

MARJORIE ZIEGLER,
*President, Conservation Council of Hawaii.*

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STATE OF HAWAII, DEPARTMENT OF
LAND AND NATURAL RESOURCES,
*Honolulu, HI, April 22, 2004.*

Hon. DANIEL K. AKAKA,
*Prince Kuhio Federal Building,*
*Honolulu, HI.*

DEAR SENATOR AKAKA: I would like to thank you and acknowledge the State of Hawaii's support for the Public Land Conservation Act of 2004. We feel this legislation will achieve its stated purpose of encouraging Federal, State, local and nongovernmental partnerships to assess and control invasive species on Federal and adjacent lands.

I believe that Hawaii is the best state model for developing strategies for federal agencies, not only to work together more effectively, but also to work in partnership with state and local government entities. Increasing success in invasive species projects in Hawaii has come largely from the formation of strong partnerships between State, County and Federal agencies and private groups. Just as many landowners and businesses are affected by the same invasive species concerns, many agencies are responsible for the pathways that bring potentially invasive species into Hawaii, regulate their movement and control their spread.

Partnerships to address invasive species issues have been responsible for the greatest improvements in Hawaii's ability to respond to recognized priority pests. In Hawaii, combining limited resources, authority, and expertise has led to the creation of Invasive Species Committees that carry out on the ground actions, the Coordinating Group on Alien Pest Species that has allowed agency staff to develop integrated policies within the state and most recently the Hawaii Invasive Species Council composed of State agency heads.

Implementation of current management plans developed by coordinated efforts of relevant public agencies and affected local constituents in Hawaii can help build the framework to begin or enhance larger-scale regional strategies to combat wide-ranging invasive species. Federal investments to support local, State, and regional partners who are prepared to take action now against known priority invasive species will provide valuable lessons for other regions and promote innovation and efficiency in protection and public outreach strategies. By promoting their progress, these partnerships will in turn help identify the policy and legal obstacles to success as well as build a constituency for more effective invasive-species prevention and control programs in other areas.

Please let me know of any way that we can help support this important piece of legislation. Mahalo.

Sincerely,

PETER T. YOUNG,
*Chairperson*

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By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

II S. 1545. A bill to withdraw the Los Padres National Forest in California from location, entry, and patent under mining laws, and for other purposes; to the Committee on Energy and Natural Resources.

Mrs. BOXER. Mr. President, I am introducing legislation today that would ban additional oil and gas drilling in the Los Padres National Forest. My colleague from California, Senator FEINSTEIN, joins me in this effort. Representative CAPPS introduced companion legislation in the House of Representatives earlier this month.

Los Padres National Forest is on California's central coast, stretching from Monterey County's Big Sur down to Ventura and the western edge of Los Angeles County. Covering almost 1.75 million acres, it is California's third-largest national forest and one of the State's most visited. Los Padres National Forest is an ecological treasure and a recreational refuge in one of California's, indeed America's, most densely populated areas.

It provides habitat for 20 threatened and endangered wildlife species, including the spectacular California condor. Los Padres also contains unexplored archaeological sites that contain Native American historical artifacts.

Yet, despite these facts and strong local opposition to oil and gas drilling in the Forest, the Forest Service announced today that it will open up more than 52,000 acres of land to oil and gas drilling in Los Padres National Forest. While this is far less land than the Forest Service previously considered opening, additional drilling is simply unacceptable. That is why I am introducing legislation to prevent this new drilling, and any future drilling from occurring in Los Padres National Forest.

Additional oil and gas drilling will threaten the pristine and unspoiled lands in the Forest. It could damage or destroy Native American artifacts. And, it could ruin recreational opportunities by contaminating streams and increasing air pollution.

My legislation is a critical step toward protecting the irreplaceable natural, cultural, and recreational resources of the Los Padres National Forest. I urge my colleagues to support this legislation.

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By Ms. MURKOWSKI (for herself and Mr. STEVENS):

S. 1548. A bill to provide for the conveyance of certain Forest Service land to the city of Coffman Cove, Alaska; to the Committee on Energy and Natural Resources.

Ms. MURKOWSKI. Mr. President, today I introduce a bill that is very important to a small community in my home State of Alaska. This bill will authorize the U.S. Forest Service to convey approximately 12 acres of land, which it no longer needs but continues to own in Coffman Cove, AK to the city of Coffman Cove. The bill authorizes that the land, a former administrative site, be conveyed without charge to the city which has a population of about 230 people.

Coffman Cove was founded in 1965 as a logging community to provide support for the timber industry on Prince of Wales Island in the Tongass National Forest. It operated for almost 35 years in that capacity. Due to changes in Federal policy, the timber industry on the island no longer provides the economic base necessary to sustain Coffman Cove. Attempts at economic diversification are very difficult so long as the Forest Service holds in Federal ownership these 12 acres which literally occupy the center of this small community.

Just a few years ago, the Forest Service in conjunction with the timber industry completed the environmental cleanup of the logging site and facility at Coffman Cove. That cleanup was funded by the timber industry as good corporate citizens. The result of the cleanup is that the 12 acres can now be made available for disposal to the city.

This bill, in which I am joined by my colleague Mr. STEVENS, would convey title to the City without cost so that it can begin a redevelopment plan for the community. The city of Coffman Cove needs this land if it is to hope to reorient its economy from a principally logging community to a more diversified economic community. A small town of 230 people simply does not have the funds to purchase this land and the Federal Government needs to pitch in by conveying full title without cost to the community.

This is only fair since the Federal Government's change in timber policy has created the city's dilemma. As a result of the change in timber policy with which the Senate is so familiar, the city has been set adrift to fend for itself economically. And it has done a good job. It will soon become the southern terminus for the Inter-Island Ferry Authority's new northern route which will connect Prince of Wales Island with Wrangell and Petersburg. The new route will go into service in the next few months and this should provide an economic boost to the community.

But, Coffman Cove must control the land in the heart of its community if it is to economically diversify. For the new ferry route to bring economic development to the City, the City must able to sell, rent, or develop its local land base. The 12 acres which are the subject of my bill are the 12 key acres right in the center of town. Now this is a small town and without control of this land, the City cannot ever successfully diversify and recovers from the change in its economy as a result of the change in Federal timber policy.

This Forest Service desires to retain a 3 acre site for its continued administrative purposes. My bill does not affect that site and I expect the Forest Service to have no problem with the land conveyance locations provided in this bill. I appreciate the assistance of the Forest Service in helping me to draft the legislation.

This conveyance fulfills the Federal Government's commitment that changes in Federal timber policy would be matched by Federal help to the local communities to diversify. It is absolutely appropriate and fair to offer Coffman Cove this former Forest Service administrative site that no longer has value to the Federal government but that is crucial to Coffman Cove as it plans its future.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1548

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Coffman Cove Administrative Site Conveyance Act of 2005".

**SEC. 2. FINDINGS.**

Congress finds that—

(1) the community of Coffman Cove, Alaska, which originated as a logging camp in the 1960's, was incorporated as a city in 1989;

(2) the Forest Service property located in the center of the City was used by the Forest Service as a work center;

(3) the Forest Service work facilities included part of the logging camp, a log sort yard, and a log transfer site, all of which supported the long-term timber sale operations and other subsequent timber sales in the Tongass National Forest;

(4) as the long-term timber sale operations concluded, the need for the Forest Service to use the Forest Service site in Coffman Cove diminished;

(5) the Forest Service work center facilities that supported timber operations have been removed and the site has been restored;

(6) the location of the administrative site interferes with the ability of the City to further develop commercial operations and tourism support facilities relating to a new ferry terminal;

(7) the City wants to acquire a portion of the site to continue the transition of the City from a timber-dependent economy to a more fully developed and diversified economy; and

(8) the Forest Service expects that only approximately 3 acres of the administrative site will be used in the future for National Forest System purposes.

**SEC. 3. DEFINITIONS.**

In this Act:

(1) CITY.—The term "City" means the city of Coffman Cove, Alaska.

(2) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

**SEC. 4. CONVEYANCE.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall convey to the City, without consideration and without additional warrants or liability on behalf of the United States, fee simple title to the parcel of Forest Service land described in subsection (b).

(b) DESCRIPTION OF LAND.—

(1) IN GENERAL.—The parcel of Forest Service land referred to in subsection (a) is the approximately 12 acres of land identified in U.S. Survey 10099, as depicted on the plat entitled "Subdivision of U.S. Survey No. 10099" and recorded as Plat 2003-1 on January 21, 2003, Petersburg Recording District, Alaska.

(2) EXCLUDED LAND.—The parcel of Forest Service land conveyed under subsection (a) does not include the portion of U.S. Survey 10099 that is north of the right-of-way for Forest Development Road 3030-295 and southeast of Tract CC-8.

(c) RIGHT-OF-WAY.—The United States may reserve a right-of-way to provide access to the Forest Service land excluded from the conveyance to the City under subsection (b)(2).

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 218—DESIGNATING SEPTEMBER 2005 AS "NATIONAL PROSTATE CANCER AWARENESS MONTH"

Mr. SESSIONS (for himself, Mr. REID, Mr. SHELBY, Mr. CORZINE, Mr. BUNNING, Ms. LANDRIEU, Mr. HATCH, Ms. CANTWELL, Mr. CRAPO, Mrs. FEINSTEIN, Mr. LOTT, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 218

Whereas countless families in the United States have a family member that suffers from prostate cancer;

Whereas 1 in 6 men in the United States is diagnosed with prostate cancer;

Whereas throughout the past decade, prostate cancer has been the most commonly diagnosed type of cancer other than skin cancer and the second most common cause of cancer-related deaths among men in the United States;

Whereas, in 2005, more than 232,090 men in the United States will be diagnosed with prostate cancer and 30,350 men in the United States will die of prostate cancer according to estimates from the American Cancer Society;

Whereas 30 percent of the new diagnoses of prostate cancer occur in men under the age of 65;

Whereas a man in the United States turns 50 years old about every 14 seconds, increasing his odds of being diagnosed with prostate cancer;

Whereas African American males suffer from prostate cancer at an incidence rate up to 65 percent higher than white males and at a mortality rate double that of white males;

Whereas obesity is a significant predictor of the severity of prostate cancer and the chance that the disease will lead to death;

Whereas if a man in the United States has 1 family member diagnosed with prostate cancer, he has double the risk of prostate cancer, if he has 2 family members with such diagnosis, he has 5 times the risk, and if he has 3 family members with such diagnosis, he has a 97 percent risk of prostate cancer;

Whereas screening by both a digital rectal examination (DRE) and a prostate specific antigen blood test (PSA) can detect prostate cancer in earlier and more treatable stages and reduce the rate of mortality due to the disease;

Whereas ongoing research promises further improvements in prostate cancer prevention, early detection, and treatments; and

Whereas educating people in the United States, including health care providers, about prostate cancer and early detection strategies is crucial to saving the lives of men and preserving and protecting our families: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates September 2005 and September 2006 as "National Prostate Cancer Awareness Month";

(2) declares that the Federal Government has a responsibility to—

(A) raise awareness about the importance of screening methods and the treatment of prostate cancer;

(B) increase research funding to be proportionate with the burden of prostate cancer so that the causes of the disease, improved screening and treatments, and ultimately a cure may be discovered; and

(C) continue to consider methods to improve both access to and the quality of health care services for detecting and treating prostate cancer; and

(3) calls on the people of the United States, interested groups, and affected persons to—

(A) promote awareness of prostate cancer;

(B) take an active role in the fight to end the devastating effects of prostate cancer on individuals, their families, and the economy; and

(C) observe September 2005 and September 2006 with appropriate ceremonies and activities.

### SENATE RESOLUTION 219—DESIGNATING MARCH 8, 2006, AS "ENDANGERED SPECIES DAY", AND ENCOURAGING THE PEOPLE OF THE UNITED STATES TO BECOME EDUCATED ABOUT, AND AWARE OF, THREATS TO SPECIES, SUCCESS STORIES IN SPECIES RECOVERY, AND THE OPPORTUNITY TO PROMOTE SPECIES CONSERVATION WORLDWIDE

Mrs. FEINSTEIN (for herself, Mr. CHAFEE, Mrs. CLINTON, and Mr. CRAPO) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 219

Whereas in the United States and around the world, more than 1,000 species are officially designated as at risk of extinction and thousands more also face a heightened risk of extinction;

Whereas the actual and potential benefits derived from many species have not yet been fully discovered and would be permanently lost if not for conservation efforts;

Whereas recovery efforts for species such as the whooping crane, Kirtland's warbler, the peregrine falcon, the gray wolf, the gray whale, the grizzly bear, and others have resulted in great improvements in the viability of such species;

Whereas saving a species requires a combination of sound research, careful coordination, and intensive management of conservation efforts, along with increased public awareness and education; and

Whereas education and increasing public awareness are the first steps in effectively informing the public about endangered species and species restoration efforts: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates March 8, 2006, as "Endangered Species Day"; and

(2) encourages—

(A) educational entities to spend at least 30 minutes on "Endangered Species Day" teaching and informing students about threats to, and the restoration of, endangered species around the world;

(B) organizations, businesses, and agencies with a shared interest in conserving endangered species to collaborate on educational information for use in schools; and

(C) the people of the United States to observe the day with appropriate ceremonies and activities.

Mrs. FEINSTEIN. Mr. President, I rise today to submit a resolution to establish "Endangered Species Day" on March 8, 2006. I am submitting this resolution with Senators CHAFEE, CLINTON, and CRAPO whose co-sponsorship I greatly appreciate.

Additionally, I want to commend my constituent Mr. David Robinson for suggesting the establishment of an "Endangered Species Day." I have appreciated his hard work and dedication. Individuals like Mr. Robinson do make a difference.

The designation of an "Endangered Species Day" provides a multitude of opportunities for young people, students, and the general public to learn more about endangered species in both our country and abroad. It is my hope that establishing an "Endangered Species Day" encourages schools, civic organizations, agencies, and businesses to educate the general public about the threats to and our efforts to restore these precious species in our midst. I believe that "Endangered Species Day" will foster increased communication and awareness about many of the most endangered species by encouraging such activities as school field trips to the zoo or attending a lecture at the local library.

With the recent discovery of the once thought to be extinct Ivory-billed Woodpecker in Arkansas and the Mount Diablo Buckwheat in California, I think this is an opportune moment to highlight the success of many of our conservation efforts. For example, in my home State of California, I am especially proud of the conservation and management efforts that have helped significantly restore populations of California condor, winter run chinook salmon, the least Bell's vireo songbird, and the California gray whale.

Despite these success stories, we need to be aware that more needs to be done. At this time, we have more than 1,000 species in the U.S. and abroad, which are designated as "at risk" for extinction. One small step is to increase awareness about the seriousness of the circumstances facing many of these endangered species and educating the public about these species.

I am introducing this bill with the hope that "Endangered Species Day" can spark the wonder and interest in our youth to continue the conservation efforts we have begun but still are far from finishing.

## SENATE RESOLUTION 220—TO EXPRESS THE CONCERN OF THE SENATE REGARDING THE PASSAGE OF THE ANTI-SECESSION LAW BY THE NATIONAL PEOPLE'S CONGRESS OF THE PEOPLE'S REPUBLIC OF CHINA AND TAIWAN ON AN EQUAL FOOTING WITHOUT PRECONDITIONS

Mr. GRAHAM (for himself, Mr. ALLEN, Mr. JOHNSON, Mr. BIDEN, Mr. KYL, Mr. BOND, Mr. COBURN, Mr. ALLARD, Mr. ROCKEFELLER, Mr. DORGAN, and Mr. BINGAMAN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

### S. RES. 220

Whereas any attempt to determine Taiwan's future by other than peaceful means and other than with the express consent of the people of Taiwan is of grave concern to the United States;

Whereas the People's Republic of China increased its military budget by 12.6 percent this year and currently maintains approximately 700 conventional missiles and 250,000 troops along the Taiwan Strait;

Whereas the National People's Congress of the People's Republic of China on March 14, 2005, passed an anti-secession law creating a legal framework for possible use of force against Taiwan;

Whereas the anti-secession law mandates that China use military action under certain circumstances, including when "possibilities for a peaceful reunification should be completely exhausted";

Whereas any threat of force against Taiwan only serves to escalate tension between Taiwan and the People's Republic of China, impede dialogue between the 2 countries, and undermine regional peace and security;

Whereas the anti-secession law endorses dialogue between China and Taiwan "on an equal footing," and calls on China to promote peace and stability through personal exchanges, closer economic ties, and other measures;

Whereas, in recent years, Taiwan has invested more than $80,000,000,000 in enterprises in China, and China is now Taiwan's largest trading partner, with total trade worth over $50,000,000,000;

Whereas, on February 24, 2005, Chen Shui-bian, the President of Taiwan, and James Soong, the leader of the People's First Party, issued a 10-point consensus affirming their commitment to preserve the status quo regarding the issue of independence or unification and outlining steps to reinforce economic, cultural, and academic exchanges with mainland China;

Whereas, in recent months, Lien Chan, the leader of the Nationalist Party, and Mr. Soong have made private visits to China and met with senior Chinese officials; and

Whereas there have been no official talks on future relations between Taiwan and the People's Republic of China since 1998, and China recently rejected a proposal by Taiwan for a meeting at a neutral location: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) the President should direct all appropriate officials of the United States Government to convey to their counterpart officials in the Government of China the grave concern with which the United States Government views the threat of force embodied in the anti-secession law enacted by the Government of the People's Republic of China in particular, and the growing Chinese military threat to Taiwan in general; and

(2) the United States Government should continue to encourage dialogue between the People's Republic of China and Taiwan on an equal footing and without preconditions.

## SENATE RESOLUTION 221—SUPPORTING THE GOALS AND IDEALS OF "NATIONAL CAMPUS SAFETY AWARENESS MONTH"

Mr. FEINGOLD (for himself and Mr. SPECTER) submitted the following resolution; which was referred to the Committee on the Judiciary:

### S. RES. 221

Whereas college and university campuses are subject to criminal threats both from within and outside their borders;

Whereas under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act a total of 86 homicides, 7,648 sex offenses, 9,649 aggravated assaults, and 3,590 arsons were reported on-campus from 2000 to 2002;

Whereas between ⅕ and ¼ of female students become the victim of a completed or attempted rape, usually by someone they know, during their college careers;

Whereas each year more than 70,000 students between the ages of 18 and 24 are victims of alcohol-related sexual assault;

Whereas each year more than 600,000 students between the ages of 18 and 24 are assaulted by another student who has been drinking;

Whereas 1,400 college students between the ages of 18 and 24 die each year from alcohol-related unintentional injuries, including motor vehicle crashes;

Whereas each year there is approximately $2.8 million dollars worth of property damage from fires on-campus;

Whereas Security On Campus, Inc., a national group dedicated to promoting safety and security on college and university campuses, and the University of Wisconsin-Green Bay Student Government Association have designated September 2005 as National Campus Safety Awareness Month; and

Whereas the designation of National Campus Safety Awareness Month provides an opportunity for colleges and universities to inform students about existing campus crime trends, campus security policies, crime prevention techniques, fire safety, and alcohol and other drug education, prevention, and treatment programs: Now, therefore, be it

*Resolved*, That the Senate supports the goals and ideals of "National Campus Safety Awareness Month".

## SENATE RESOLUTION 222—HONORING THE VICTORIES OF TEAM DISCOVERY AND AMERICAN CYCLISTS LANCE ARMSTRONG AND GEORGE HINCAPIE IN THE 2005 TOUR DE FRANCE

Mrs. HUTCHISON (for herself, Mr. DEMINT, Mr. CORNYN, Mr. MARTINEZ, and Mr. LEAHY) submitted the following resolution; which was considered and agreed to:

### S. RES. 222

Whereas Team Discovery included Lance Armstrong of Texas and George Hincapie of South Carolina from the United States, José Luis Rubiera, Manuel Beltran, and Benjamin Noval from Spain, Pavel Padrnos from the Czech Republic, José Azevedo from Portugal, Paolo Savoldelli from Italy, and Yaroslav Popovych from Ukraine;

Whereas Team Discovery won the 2005 Tour de France under the leadership of Lance Armstrong, who rode to victory by completing the 2,232-mile, 21-stage course in 86 hours, 15 minutes, and 2 seconds, finishing 4 minutes and 40 seconds ahead of his nearest competitor;

Whereas, by winning the Tour de France on July 24, 2005, Lance Armstrong became the only competitor in the history of the Tour de France to win cycling's most prestigious race in 7 consecutive years;

Whereas George Hincapie rode stage 15, which was 127.4 miles long and included 1 above category climb, 4 category 1 climbs, and 1 category 2 climb, for a total of 33.5 miles of climbing at an average gradient of 7.96 percent;

Whereas stage 15 was considered the hardest stage of the 2005 Tour de France and the victory of George Hincapie atop Pla d'Adet marks his first Tour de France stage victory;

Whereas George Hincapie is only the 8th competitor from the United States to win a stage in the Tour de France;

Whereas George Hincapie has participated in the Tour de France 10 times and is the only teammate to assist Lance Armstrong in each of his Tour de France victories;

Whereas Lance Armstrong and George Hincapie displayed incredible perseverance, determination, and leadership over 7 years with their teammates in prevailing over the mountainous terrain of the Alps and Pyrenees and in overcoming crashes, illness, hard-charging rivals, and driving rain on the way to winning the premier cycling event in the world;

Whereas, in 1996, Lance Armstrong defeated choriocarcinoma, an aggressive form of testicular cancer that had spread throughout his abdomen, lungs, and brain, and has remained cancer-free since treatment for the disease;

Whereas Lance Armstrong is the 1st cancer survivor to win the Tour de France;

Whereas the accomplishments of Team Discovery have made the team an inspiration to millions of people around the world: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors—

(A) the victory of Team Discovery in the 2005 Tour de France;

(B) professional cyclist Lance Armstrong for his record 7th consecutive Tour de France victory: and

(C) professional cyclist George Hincapie for his 1st Tour de France stage victory; and

(2) commends Lance Armstrong and George Hincapie for being pioneers of the sport of cycling in the United States.

## SENATE RESOLUTION 223—SUPPORTING THE GOALS AND IDEALS OF "NATIONAL LIFE INSURANCE AWARENESS MONTH"

Mr. CHAMBLISS (for himself, Mr. NELSON of Nebraska, Ms. COLLINS, Mr. VITTER, Mr. MARTINEZ, Mr. THUNE, Mr. JOHNSON, and Mr. ALLEN) submitted the following resolution; which was considered and agreed to:

S. RES. 223

Whereas life insurance is an essential part of a sound financial plan;

Whereas life insurance provides financial security for families in the event of a premature death by helping surviving family members meet immediate and longer-term financial obligations and objectives;

Whereas nearly 50,000,000 Americans say they lack the life insurance coverage needed to ensure a secure financial future for their loved ones;

Whereas recent studies have found that when a premature death occurs, insufficient life insurance coverage on the part of the insured results in ¾ of surviving family members having to take measures such as working additional jobs or longer hours, borrowing money, withdrawing money from savings and investment accounts, and, in too many cases, moving to smaller, less expensive housing;

Whereas individuals, families, and businesses can benefit greatly from professional insurance and financial planning advice, including the assessment of their life insurance needs; and

Whereas the Life and Health Insurance Foundation for Education (LIFE), the National Association of Insurance and Financial Advisors (NAIFA), and a coalition representing hundreds of leading life insurance companies and organizations have designated September 2005 as "National Life Insurance Awareness Month", the goal of which is to make consumers more aware of their life insurance needs, seek professional advice, and take the actions necessary to achieve the financial security of their loved ones: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideals of "National Life Insurance Awareness Month"; and

(2) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe the month with appropriate programs and activities.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1633. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table.

SA 1634. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 397, supra; which was ordered to lie on the table.

SA 1635. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1636. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1637. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1638. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1639. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1640. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1641. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1642. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 397, supra; which was ordered to lie on the table.

SA 1643. Mr. FRIST (for Mr. DORGAN (for himself and Mrs. DOLE)) proposed an amendment to the bill S. 792, to establish a National sex offender registration database, and for other purposes.

## TEXT OF AMENDMENTS

**SA 1633.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, between lines 2 and 3, insert the following:

"(iv) an action brought in any case in which the product, whether imported or manufactured domestically, failed to meet the most effective safety standards established for imported handguns, as determined by the Bureau of Alcohol, Tobacco, Firearms and Explosives;".

**SA 1634.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, insert the following:

**SEC. 5. DOMESTIC HANDGUN STANDARDS.**

Not later than 180 days after the date of enactment of this Act, and after thorough public hearings and review, the Bureau of Alcohol, Tobacco, Firearms, and Explosives shall promulgate regulations applying the most effective safety standards to domestically manufactured handguns that now apply to imported handguns, as described in section 925(d)(3) of title 18, United States Code, and regulations issued under such section.

**SA 1635.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case against a manufacturer or seller based on an incident involving terrorism, as defined in section 2(15) of the Homeland Security Act of 2002 (6 U.S.C. 101(15)).

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi)

**SA 1636.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, insert the following:

**SEC. 5. IDENTIFICATION OF TERRORISTS.**

(a) IN GENERAL.—Section 922(t) of title 18, United States Code, is amended by adding after paragraph (6) the following:

"(7) If the national criminal background check system indicates that a person attempting to purchase a firearm or applying for a State permit to possess, acquire, or carry a firearm is identified as a known or suspected member of a terrorist organization in records maintained by the Department of Justice or the Department of Homeland Security, including the Violent Gang and Terrorist Organization File, or records maintained by the Intelligence Community, including records maintained under section 343 of the Intelligence Authorization Act for Fiscal Year 2003 (50 U.S.C. 404n-2)—

"(A) all information related to the prospective transaction shall automatically and immediately be transmitted to the appropriate Federal and State counterterrorism officials, including the Federal Bureau of Investigation;

"(B) the Federal Bureau of Investigation shall coordinate the response to such an event; and

"(C) all records generated in the course of the check of the national criminal background check system, including the ATF Form 4473, that are obtained by Federal and State officials shall be retained for a minimum of 10 years.".

(b) Conforming Amendments.—

(1) Title 18.—Section 922(t)(2)(C) of title 18, United States Code, is amended by inserting after "transfer" the following: ", except as provided in paragraph (7)".

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**SA 1637.** Mr. REED submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 6, strike lines 10 through 19 and insert the following:

### SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL LIABILITY ACTIONS IN FEDERAL COURT.

(a) In General.—A qualified civil liability action may not be brought in any Federal court.

(b) Dismissal of Pending Actions.—A qualified civil liability action that is pending in a Federal court on the date of enactment of this Act shall be immediately dismissed by the court in which the action was brought or is currently pending.

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**SA 1638.** Mr. REED submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, add the following:

## TITLE II—GUN SHOW LOOPHOLE CLOSING ACT OF 2005

### SEC. 201. SHORT TITLE.

This title may be cited as the "Gun Show Loophole Closing Act of 2005".

### SEC. 202. DEFINITIONS.

Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

"(36) The term 'special firearms event'—

"(A) means any event at which 75 or more firearms are offered or exhibited for sale, exchange, or transfer, if 1 or more of the firearms has been shipped or transported in, or otherwise affects, interstate or foreign commerce;

"(B) does not include an offer or exhibit of firearms for sale, exchange, or transfer by an individual from the personal collection of that individual, at the private residence of that individual, if the individual is not required to be licensed under section 923 or 932; and

"(C) does not include an offer or exhibit of firearms for sale, exchange, or transfer at events conducted and attended by permanent or annual dues paying members, and their immediate family, of private, not-for-profit organizations whose primary purpose is owning and maintaining real property for the purpose of hunting activities.

"(37) The term 'special firearms event licensee' means any person who has obtained and holds a valid license in compliance with section 932(d) and who is authorized to contact the national instant criminal background check system on behalf of another individual, who is not licensed under this chapter, for the purpose of conducting a background check for a potential firearms transfer at a special firearms event in accordance with section 932(c).

"(38) The term 'special firearms event vendor' means any person who is not required to be licensed under section 923 and who exhibits, sells, offers for sale, transfers, or exchanges 1 or more firearms at a special firearms event, regardless of whether or not the person arranges with the special firearms event promoter for a fixed location from which to exhibit, sell, offer for sale, transfer, or exchange 1 or more firearms.".

### SEC. 203. REGULATION OF FIREARMS TRANSFERS AT SPECIAL FIREARMS EVENTS.

(a) In General.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

### "§ 932. Regulation of firearms transfers at special firearms events

"(a) Special Firearms Events Operators.—It shall be unlawful for a special firearms events operator to organize, plan, promote, or operate a special firearms event unless that operator—

"(1) before the commencement of the special firearms event, or in the case of a vendor who arrives after the commencement of the event, upon the arrival of the vendor, verifies the identity of each special firearms event vendor participating in the special firearms event by examining a valid identification document (as defined in section 1028(d)(2)) of the vendor containing a photograph of the vendor;

"(2) before the commencement of the special firearms event, or in the case of a vendor who arrives after the commencement of the event, upon the arrival of the vendor, requires each special firearms event vendor to sign—

"(A) a ledger with identifying information concerning the vendor; and

"(B) a notice advising the vendor of the obligations of the vendor under this chapter;

"(3) notifies each person who attends the special firearms event of the requirements of this chapter; and

"(4) maintains a copy of the records described in paragraphs (1) and (2) at the permanent place of business of the operator.

"(b) Fees.—The Attorney General shall not impose or collect any fee from special firearms event operators in connection with the requirements under this section.

"(c) Responsibilities of Transferors Other Than Licensees.—

"(1) In general.—If any part of a firearm transaction takes place at a special firearms event, or on the curtilage of the event, it shall be unlawful for any person who is not licensed under this chapter to transfer a firearm to another person who is not licensed under this chapter, unless the firearm is transferred through a licensed importer, licensed manufacturer, licensed dealer, or a special firearms event licensee in accordance with subsection (d).

"(2) Criminal background checks.—A person who is subject to the requirement under paragraph (1) shall not—

"(A) transfer the firearm to the transferee until the licensed importer, licensed manufacturer, licensed dealer, or a special firearms event licensee through which the transfer is made makes the notification described in subsection (d)(2)(A); or

"(B) transfer the firearm to the transferee if the person has been notified under subsection (d)(2)(B) that the transfer would violate section 922 or State law.

"(3) Absence of recordkeeping requirements.—Nothing in this section shall permit or authorize the Attorney General to impose recordkeeping requirements on any nonlicensed special firearms event vendor.

"(d) Responsibilities of Licensees.—A licensed importer, licensed manufacturer, licensed dealer, or special firearms event licensee who agrees to assist a person who is not licensed under this chapter in carrying out the responsibilities of that person under subsection (c) with respect to the transfer of a firearm shall—

"(1) except as provided in paragraph (2), comply with section 922(t) as if transferring the firearm from the inventory of the licensed importer, licensed manufacturer, or licensed dealer to the designated transferee (although a licensed importer, licensed manufacturer, or licensed dealer complying with this subsection shall not be required to comply again with the requirements of section 922(t) in delivering the firearm to the nonlicensed transferor);

"(2) not later than 3 business days (meaning days on which State offices are open) after the date of the agreement to purchase, or if the event is held in a State that has been certified by the Attorney General under section 204 of the Gun Show Loophole Closing Act of 2005, not later than 24 hours after such date (or 3 business days after such date if additional information is required in order to verify disqualifying information from a State that has not been certified by the Attorney General), notify the nonlicensed transferor and the nonlicensed transferee—

"(A) of any response from the national criminal background check system, or if the licensee has had no response from the national criminal background check system within the applicable time period under this paragraph, notify the nonlicensed transferor that no response has been received and that the transfer may proceed; and

"(B) of any receipt by the licensed importer, licensed manufacturer, or licensed dealer of a notification from the national instant criminal background check system that the transfer would violate section 922 or State law;

"(3) in the case of a transfer at 1 time or during any 5 consecutive business days, of 2 or more pistols or revolvers, or any combination of pistols and revolvers totaling 2 or more, to the same nonlicensed person, in addition to the recordkeeping requirements described in paragraph (4), prepare a report of the multiple transfers, which report shall be—

"(A) on a form specified by the Attorney General; and

"(B) not later than the close of business on the date on which the multiple transfer occurs, forwarded to—

"(i) the office specified on the form described in subparagraph (A); and

"(ii) the appropriate State law enforcement agency of the jurisdiction in which the transfer occurs; and

"(4) comply with all recordkeeping requirements under this chapter.

"(e) Special Firearms Event License.—

"(1) In general.—The Attorney General shall issue a special firearms event license to a person who submits an application for a special firearms event license in accordance with this subsection.

"(2) Application.—The application required by paragraph (1) shall be approved if—

"(A) the applicant is 21 years of age or older;

"(B) the application includes a photograph and the fingerprints of the applicant;

"(C) the applicant (including, in the case of a corporation, partnership, or association, any individual possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is not prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under subsection (g) or (n) of section 922;

"(D) the applicant has not willfully violated any of the provisions of this chapter or regulations issued thereunder;

"(E) the applicant has not willfully failed to disclose any material information required, or has not made any false statement as to any material fact, in connection with the application; and

"(F) the applicant certifies that—

"(i) the applicant meets the requirements of subparagraphs (A) through (D) of section 923(d)(1);

"(ii) the business to be conducted under the license is not prohibited by State or local law in the place where the licensed premises is located; and

"(iii) the business will not be conducted under the license until the requirements of State and local law applicable to the business have been met.

"(3) Application and approval.—

"(A) In general.—Upon the approval of an application under this subsection and payment by the applicant of a fee of $200 for 3 years, and upon renewal of a valid registration and payment of a fee of $90 for 3 years, the Attorney General shall issue to the applicant an instant check registration, and advise the Attorney General of that registration.

"(B) NICS.—A special firearms event licensee may contact the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) for information about any individual desiring to obtain a firearm at a special firearms event from any special firearms event vendor who has requested the assistance of the registrant in complying with subsection (c) with respect to the transfer of the firearm, during the 3-year period that begins on the date on which the registration is issued.

"(4) Requirements.—The requirements for a special firearms event licensee shall not exceed the requirements for a licensed dealer and the recordkeeping requirements shall be the same.

"(5) Restrictions.—

"(A) Background checks.—A special firearms event licensee may have access to the national instant criminal background check system to conduct a background check only at a special firearms event and only on behalf of another person.

"(B) Transfer of firearms.—A special firearms event licensee shall not transfer a firearm at a special firearms event.

"(f) Defined Term.—In this section, the term 'firearm transaction'—

"(1) includes the sale, offer for sale, transfer, or exchange of a firearm; and

"(2) does not include—

"(A) the mere exhibition of a firearm; or

"(B) the sale, transfer, or exchange of firearms between immediate family members, including parents, children, siblings, grandparents, and grandchildren.".

(b) Penalties.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

"(8)(A) Whoever organizes, plans, promotes, or operates a special firearms event, knowing that the requirements under section 932(a)(1) have not been met—

"(i) shall be fined under this title, imprisoned not more than 2 years, or both; and

"(ii) in the case of a second or subsequent conviction, shall be fined under this title, imprisoned not more than 5 years, or both.

"(B) Whoever organizes, plans, promotes, or operates a special firearms event, knowing that the requirements under subsection (a)(2) or (c) of section 932 have not been met, shall be fined under this title, imprisoned not more than 5 years, or both.

"(C) Whoever organizes, plans, promotes, or operates a special firearms event, knowing that the requirements under section 932(a)(3) have not been met, shall be fined under this title, imprisoned not more than 2 years, or both.

"(D) In addition to any other penalties imposed under this paragraph, the Attorney General may, with respect to any person who violates any provision of section 932—

"(i) if the person is registered pursuant to section 932(a), after notice and opportunity for a hearing, suspend for not more than 6 months or revoke the registration of that person under section 932(a); and

"(ii) impose a civil fine in an amount equal to not more than $10,000.".

(c) Unlawful Acts.—Section 922(b) of title 18, United States Code, is amended in the matter preceding paragraph (1), by striking "or licensed collector" and inserting "licensed collector, or special firearms event licensee".

(d) Technical and Conforming Amendment.—Chapter 44 of title 18, United States Code, is amended in the chapter analysis, by adding at the end the following:

"932. Regulation of firearms transfers at special firearms events.".

### SEC. 204. STATE OPTION FOR 24-HOUR BACKGROUND CHECKS AT SPECIAL FIREARMS EVENTS FOR STATES WITH COMPUTERIZED DISQUALIFYING RECORDS.

(a) In General.—Effective 3 years after the date of enactment of this Act, a State may apply to the Attorney General for certification of the 24-hour verification authority of that State.

(b) Certification.—The Attorney General shall certify a State for 24-hour verification authority only upon a clear showing by the State, and certification by the Bureau of Justice Statistics, that—

(1) not less than 95 percent of all records containing information that would disqualify an individual under subsections (g) and (n) of section 922 of title 18, United States Code, or under State law, is available on computer records in the State, and is searchable under the national instant criminal background check system established under section 103 of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note);

(2) not less than 95 percent of all records containing information that would disqualify an individual under paragraphs (8) and (9) of subsection 922(g) of title 18, United States Code, or under State law, is available on computer records in the State, and is searchable under the national instant criminal background check system established under section 103 of the Brady Handgun Violence Protection Act (18 U.S.C. 922 note); and

(3) the chief judicial officer of the State requires the courts of the State to use the toll-free telephone number described in subsection (d)(1) to immediately notify the National Instant Criminal Background Check System each time a restraining order (as described in section 922(g)(8) of title 18, United States Code) is issued, lifted, or otherwise removed by order of the court.

(c) Clarifications.—

(1) Disqualifying information.—Disqualifying information for each State under subsection (b) shall include the disqualifying records for that State generated during the 30 years preceding the date of application to the Attorney General for certification.

(2) Toll-free telephone number.—Upon a showing by the State that a court of the State has developed computer systems which permit the court to immediately electronically notify the National Instant Criminal Background Check System with respect to the issuance or lifting of restraining orders, the use of the toll-free telephone number described in subsection (d)(1) shall no longer be required under subsection (b)(3).

(d) Notification Infrastructure.—Before certifying any State under subsection (b), the Attorney General shall—

(1) create a toll-free telephone number through which State and local courts may immediately notify the National Instant Background Check System whenever a restraining order (as described in section 922(g)(8) of title 18, United States Code) is issued, lifted, or otherwise removed by order of the court; and

(2) encourage States to develop computer systems that permit courts to immediately electronically notify the National Instant Criminal Background Check System whenever a restraining order (as described in section 922(g)(8) of title 18, United States Code) has been issued, lifted, or otherwise removed by order of the court.

(e) 24-Hour Provision.—Upon certification by the Attorney General, the 24-hour provision in section 932(c)(2) of title 18, United States Code, shall apply to the verification process (for transfers between unlicensed persons) in that State unless additional information is required in order to verify disqualifying information from a State that has not been certified by the Attorney General, in which case the 3 business day limit shall apply.

(f) Annual Review.—The Director of the Bureau of Justice Statistics shall annually review the certifications under this section.

(g) Revocation.—The Attorney General shall revoke the certification required under this section for any State that is not in compliance with subsection (b).

### SEC. 205. INSPECTION AUTHORITY.

Section 923(g)(1)(B), of title 18, United States Code, is amended by striking "or licensed dealer" and inserting "licensed dealer, or special firearms event operator".

### SEC. 206. INCREASED PENALTIES FOR SERIOUS RECORDKEEPING VIOLATIONS BY LICENSEES.

Section 924(a)(3) of title 18, United States Code, is amended to read as follows:

"(3)(A) Except as provided in subparagraph (B), any licensed dealer, licensed importer, licensed manufacturer, licensed collector, or special firearms event licensee who knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter, or violates section 922(m) shall be fined under this title, imprisoned not more than 1 year, or both.

"(B) If the violation described in subparagraph (A) is in relation to an offense—

"(i) under paragraph (1) or (3) of section 922(b), such person shall be fined under this title, imprisoned not more than 5 years, or both; or

"(ii) under subsection (a)(6) or (d) of section 922, such person shall be fined under this title, imprisoned not more than 10 years, or both.".

### SEC. 207. INCREASED PENALTIES FOR VIOLATIONS OF CRIMINAL BACKGROUND CHECK REQUIREMENTS.

Section 924(a) of title 18, United States Code, as amended by section 203(b), is further amended—

(1) in paragraph (5), by striking "subsection (s) or (t) of section 922" and inserting "section 922(s)"; and

(2) by adding at the end the following:

"(9) Whoever knowingly violates section 922(t) shall be fined under this title, imprisoned not more than 5 years, or both.".

### SEC. 208. RULE OF INTERPRETATION.

A provision of State law is not inconsistent with this title or an amendment made by this title if the provision imposes a regulation or prohibition of greater scope or a penalty of greater severity than any prohibition or penalty imposed by this title or an amendment made by this title.

### SEC. 209. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

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**SA 1639.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 13, after line 4, insert the following:

### SEC. 5. CHILDREN AND FIREARMS SAFETY.

(a) SHORT TITLE.—This section may be cited as the "Children's Firearm Access Prevention Act".

(b) DEFINITION.—Section 921(a)(34)(A) of title 18, United States Code, is amended by inserting "or removing" after "deactivating".

(c) PROHIBITION.—Section 922 of title 18, United States Code, is amended by inserting after subsection (y) the following:

"(z) PROHIBITION AGAINST GIVING JUVENILES ACCESS TO CERTAIN FIREARMS.—

"(1) DEFINITIONS.—In this subsection:

"(A) JUVENILE.—The term 'juvenile' means an individual who has not attained the age of 18 years.

"(B) CRIMINAL NEGLIGENCE.—The term 'criminal negligence' means conduct that involves a gross deviation from the standard of care that a reasonable person would exercise under the circumstances, but which is not reckless.

"(2) PROHIBITION.—Except as provided in paragraph (3), it shall be unlawful for any person to keep a loaded firearm, or an unloaded firearm and ammunition for a firearm, any of which has been shipped or transported in interstate or foreign commerce or otherwise substantially affects interstate or foreign commerce, within any premises that is under the custody or control of that person if that person knows or, acting with criminal negligence, should know that a juvenile is capable of gaining access to the firearm without the permission of the parent or legal guardian of the juvenile, and fails to take steps to prevent such access.

"(3) EXCEPTIONS.—Paragraph (2) does not apply if—

"(A) the person uses a secure gun storage or safety device for the firearm;

"(B) the person is a peace officer, a member of the Armed Forces, or a member of the National Guard, and the juvenile obtains the firearm during, or incidental to, the performance of the official duties of the person in that capacity;

"(C) the juvenile obtains, or obtains and discharges, the firearm in a lawful act of self-defense or defense of 1 or more other persons;

"(D) the person has no reasonable expectation, based on objective facts and circumstances, that a juvenile is likely to be present on the premises on which the firearm is kept;

"(E) the juvenile obtains the firearm as a result of an unlawful entry by any person;

"(F) the juvenile was supervised by a person older than 18 years of age and was engaging in hunting, sporting, or another lawful purpose; or

"(G) the juvenile gained the gun during a time that the juvenile was engaged in an agricultural enterprise.".

(d) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

"(8)(A) Whoever violates section 922(z) and as a result of such violation a juvenile (as defined in section 922(z)) obtains access to the firearm that is the subject of the violation and thereby causes death or serious bodily injury to the juvenile or to any other person, shall be fined not more than $4,000, imprisoned not more than 1 year, or both.

"(B) Whoever violates section 922(z) and as a result of such violation a juvenile (as defined in section 922(z)) obtains access to the firearm that is the subject of the violation shall be fined not more than $500.".

(e) ROLE OF LICENSED FIREARMS DEALERS.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

"(d) CONTENTS OF FORM.—The Secretary shall ensure that a copy of section 922(z) appears on the form required to be obtained by a licensed dealer from a prospective transferee of a firearm.

"(e) NOTICE OF CHILDREN'S FIREARM ACCESS PREVENTION ACT.—A licensed dealer shall post a prominent notice in the place of business of the licensed dealer as follows:

"IT IS UNLAWFUL AND A VIOLATION OF THE CHILDREN'S FIREARM ACCESS PREVENTION ACT TO STORE, TRANSPORT, OR ABANDON AN UNSECURED FIREARM IN A PLACE WHERE CHILDREN ARE LIKELY TO BE AND CAN OBTAIN ACCESS TO THE FIREARM.".

(f) NO EFFECT ON STATE LAW.—Nothing in this section or the amendments made by this section shall be construed to preempt any provision of the law of any State, the purpose of which is to prevent juveniles from injuring themselves or others with firearms.

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**SA 1640.** Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, strike line 3 and all that follows through page 11, line 6, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case in which a manufacturer or seller caused injury through willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights and safety of the individual harmed.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi) of subparagraph (A) shall be construed so as not to be in conflict, and no provision of this Act shall be construed to create a public or private cause of action or remedy.

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**SA 1641.** Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

On page 10, line 16, at the end, add the following:

"; or (vi) an action or proceeding commenced by the Attorney General to enforce the provisions of chapter 44 of Title 18"

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**SA 1642.** Mr. REED submitted an amendment intended to be proposed by him to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. LIMITATION ON SUITS AGAINST A FIREARMS OR AMMUNITION MANUFACTURER, TRADE ASSOCIATION OR SELLER.

(a) DEFINITIONS.—As used in this Act, the following definitions apply:

(1) AMMUNITION.—The term "ammunition" has the meaning given that term by section 921(a)(17)(A) of title 18, United States Code.

(2) FIREARM.—The term "firearm" has the meaning given that term by subparagraph (A) or (B) of section 921(a)(3) of title 18, United States Code, including any antique firearm (as defined in section 921(a)(16) of such title).

(3) GOVERNMENTAL UNIT.—The term "governmental unit" means—

(A) a political subdivision of a State, including a municipality or county; and

(B) any other agency of government whose authority is derived from the laws or constitution of a State.

(4) MANUFACTURER.—The term "manufacturer" means a person who is engaged in the business of manufacturing a firearm or ammunition in interstate or foreign commerce and who is licensed to engage in business as such a manufacturer under chapter 44 of title 18, United States Code.

(5) SELLER.—The term "seller" means, with respect to a firearm or ammunition—

(A) an importer (as defined in section 921(a)(9) of title 18, United States Code) who is engaged in the business as such an importer in interstate or foreign commerce and who is licensed to engage in business as such an importer under chapter 44 of title 18, United States Code;

(B) a dealer (as defined in section 921(a)(11) of title 18, United States Code) who is engaged in the business as such a dealer in interstate or foreign commerce and who is licensed to engage in business as such a dealer under chapter 44 of title 18, United States Code; or

(C) a person engaged in the business of selling ammunition in interstate or foreign commerce at the wholesale or retail level.

(6) STATE.—The term "State" means each of the several States of the United States.

(7) TRADE ASSOCIATION.—The term "trade association" means any corporation, unincorporated association, federation, business league, professional or business organization—

(A) not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(B) that is an organization described in section 501(c)(6) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; and

(C) 2 or more members of which are manufacturers or sellers of a firearm or ammunition.

(b) PROHIBITION.—Except as provided by subsection (c), a governmental unit may not bring suit against a firearms or ammunition manufacturer, trade association, or seller for recovery of damages resulting from, or injunctive relief or abatement of a nuisance relating to, the lawful design, manufacture, marketing, or sale of firearms or ammunition to the public.

(c) EXCEPTIONS.—

(1) STATE APPROVAL.—A governmental unit, on behalf of a State or any other governmental unit, may bring a suit described by subsection (b) if the suit is approved in advance by the legislature of the State in which the governmental unit is located by adoption of a concurrent resolution or by enactment of a statute. This subsection shall not be construed to create a cause of action.

(2) EXCLUDED TYPES OF ACTIONS.—Nothing in this Act shall prohibit a governmental unit from bringing an action against a firearms manufacturer, trade association, or seller for recovery of damages for—

(A) breach of contract or warranty as to firearms or ammunition purchased by a governmental unit;

(B) damage or harm to property owned or leased by the governmental unit caused by a defective firearm or ammunition; or

(C) injunctive relief to enforce a valid ordinance, statute, or rule.

(d) ACTIONS BY STATES.—Nothing in this Act shall prohibit the attorney general or other chief law enforcement officer of a State from bringing a suit described by subsection (b) on behalf of a State or a governmental unit. This subsection shall not be construed to create a cause of action.

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**SA 1643.** Mr. FRIST (for Mr. DORGAN (for himself and Mrs. DOLE)) proposed an amendment to the bill S. 792, to establish a National sex offender registration database, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Dru Sjodin National Sex Offender Public Database Act of 2005" or "Dru's Law".

### SEC. 2. DEFINITION.

In this Act:

(1) CRIMINAL OFFENSE AGAINST A VICTIM WHO IS A MINOR.—The term "criminal offense against a victim who is a minor" has the same meaning as in section 170101(a)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(a)(3)).

(2) MINIMALLY SUFFICIENT SEXUAL OFFENDER REGISTRATION PROGRAM.—The term "minimally sufficient sexual offender registration program" has the same meaning as in section 170102(a) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(a)).

(3) SEXUALLY VIOLENT OFFENSE.—The term "sexually violent offense" has the same meaning as in section 170101(a)(3) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(a)(3)).

(4) SEXUALLY VIOLENT PREDATOR.—The term "sexually violent predator" has the same meaning as in section 170102(a) of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14072(a)).

### SEC. 3. AVAILABILITY OF THE NSOR DATABASE TO THE PUBLIC.

(a) IN GENERAL.—The Attorney General shall—

(1) make publicly available in a registry (in this Act referred to as the "public registry") from information contained in the National Sex Offender Registry or State sex offender web sites, via the Internet, all information described in subsection (b); and

(2) allow for users of the public registry to determine which registered sex offenders are currently residing within a radius, as specified by the user of the public registry, of the location indicated by the user of the public registry.

(b) INFORMATION AVAILABLE IN PUBLIC REGISTRY.—With respect to any person convicted of a criminal offense against a victim who is a minor or a sexually violent offense, or any sexually violent predator, required to register with a minimally sufficient sexual offender registration program within a State, including a program established under section 170101 of the Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Act (42 U.S.C. 14071(b)), the public registry shall provide, to the extent available in the National Sex Offender Registry—

(1) the name and any known aliases of the person;

(2) the date of birth of the person;

(3) the current address of the person and any subsequent changes of that address;

(4) a physical description and current photograph of the person;

(5) the nature of and date of commission of the offense by the person;

(6) the date on which the person is released from prison, or placed on parole, supervised release, or probation; and

(7) any other information the Attorney General considers appropriate.

### SEC. 4. RELEASE OF HIGH RISK INMATES.

(a) CIVIL COMMITMENT PROCEEDINGS.—

(1) IN GENERAL.—Any State that provides for a civil commitment proceeding, or any equivalent proceeding, shall issue timely notice to the attorney general of that State of the impending release of any person incarcerated by the State who—

(A) is a sexually violent predator; or

(B) has been deemed by the State to be at high-risk for recommitting any sexually violent offense or criminal offense against a victim who is a minor.

(2) REVIEW.—Upon receiving notice under paragraph (1), the State attorney general shall consider whether or not to institute a civil commitment proceeding, or any equivalent proceeding required under State law.

(b) MONITORING OF RELEASED PERSONS.—

(1) IN GENERAL.—Each State shall intensively monitor, for not less than 1 year, any person described under paragraph (2) who—

(A) has been unconditionally released from incarceration by the State; and

(B) has not been civilly committed pursuant to a civil commitment proceeding, or any equivalent proceeding under State law.

(2) APPLICABILITY.—Paragraph (1) shall apply to—

(A) any sexually violent predator; or

(B) any person who has been deemed by the State to be at high-risk for recommitting any sexually violent offense or criminal offense against a victim who is a minor.

(c) COMPLIANCE.—

(1) COMPLIANCE DATE.—Each State shall have not more than 3 years from the date of enactment of this Act in which to implement the requirements of this section.

(2) INELIGIBILITY FOR FUNDS.—A State that fails to implement the requirements of this section, shall not receive 25 percent of the funds that would otherwise be allocated to the State under section 20106(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13706(b)).

(3) REALLOCATION OF FUNDS.—Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on July 28, 2005, at 9:30 a.m., in open session to consider the following nominations: Lieutenant General Norton A. Schwartz, USAF, for appointment to the grade of general and to be Commander, U.S. Transportation Command; Dr. Ronald M. Sega to be Under Secretary of the Air Force; Mr. Philip Jackson Bell to be Deputy Under Secretary of Defense for Logistics and Materiel Readiness; Mr. John G. Grimes to be Assistant Secretary of Defense for Networks and Information Integration; Mr. Keith E. Eastin to be Assistant Secretary of the Army for Installations and Environment; Mr. William C. Anderson to be Assistant Secretary of the Air Force for Installations, Environment and Logistics.

The presiding officer. Without objection, it is so ordered.

### COMMITTEE ON BANKING HOUSING, AND URBAN AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Thursday, July 28, 2005, at 10 a.m. to mark up S. 190 "The Federal Housing Enterprise Regulatory Reform Act of 2005", as amended by the Committee Print; S. 705 "Meeting the Housing and Service Needs of Seniors Act of 2005;" H.R. 804 "To Exclude From Consideration as Income Certain Payments Under the National Flood Insurance Program;" S. 1047 "The Presidential $1.00 Coin Act of 2005," and pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 28, 2005, at 10 a.m., on pending committee business.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. CRAIG. Mr. President. I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Thursday, July 28, 2005, at 2:30 p.m., on issues related to MGM v. Grokster and the appropriate balance between copyright protection and communications technology innovation, in SR–253.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON INDIAN AFFAIRS

Mr. CRAIG. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Thursday, July 28, 2005, at 9:30 a.m. in Room 485 of the Russell Senate Office Building to conduct an oversight hearing on the Native American Graves Protection and Repatriation Act. Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY.

Mr. CRAIG. Mr. President. I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, July 28, 2005, at 9:30 a.m. in Senate Dirksen Office Building Room 226.

### Agenda

I. Bills: S. 1088, Streamlined Procedures Act of 2005, Kyl, Cornyn, Grassley, Hatch; S. 103, Combat Meth Act of 2005, Talent, Feinstein, Kohl, Schumer, Feingold:. S. ____, Personal Data Privacy and Security Act of 2005, Specter, Leahy, Feingold; S. 751, Notification of Risk to Personal Data Act, Feinstein, Kyl; S. 1326, Notification of Risk to Personal Data Act, Feinstein, Kyl; S. 1326, Notification of Risk to Personal Data Act, Sessions; S. 155, Gang Prevention and Effective Deterrence Act of 2005, Feinstein, Hatch, Grassley, Cornyn, Kyl, Specter; S. 1086, A Bill to Improve the National Program to Register and Monitor Individuals Who Commit Crimes Against Children or Sex Offenses, Hatch, Biden, Schumer; S. 956, Jetseta Gage Prevention and Deterrence of Crimes Against Children Act of 2005, Grassley, Kyl, Cornyn; S. 1197, Violence Against Women Act of 2005, Biden, Hatch, Specter, Leahy, DeWine, Kohl, Grassley, Kennedy, Schumer, Durbin, Feinstein.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON VETERANS' AFFAIRS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Committee on Veteran's Affairs be authorized to meet during the session of the Senate on Thursday, July 28, 2005, for a markup to consider the following:

Nomination of James Philip Terry to be Chairman of the Board of Veterans' Appeals, Department of Veterans' Affairs and Charles S. Ciccolella to be Assistant Secretary for Veterans' Employment and Training, Department of Labor.

Pending Legislation as follows:

A. Committee Print of S. 1182, the "Veterans' Health Care Improvements Act of 2005", incorporating provisions derived from S. 1182, as introduced; S. 1177; S. 1189; and S. 1190.

B. S. 716, the "Vet Center Enhancement Act of 2005".

C. S. 1234, the "Veterans' Compensation Cost-of-Living Adjustment Act of 2005".

D. Committee Print of S. 1235, the "Veterans' Benefits Improvement Act of 2005", incorporating provisions derived from S. 1235, as introduced; S. 552; S. 917; S. 151; S. 1259; S. 1271; and S. 423.

The markup will take place in Room 418 of the Russell Senate Office Building at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it so ordered.

### SUBCOMMITTEE ON NATIONAL PARKS

Mr. CRAIG. Mr. President. I ask unanimous consent that the subcommittee on National Parks be authorized to meet during the session of the Senate on Thursday, July 28 at 10 a.m.

The purpose of the hearings is to receive testimony on the following bills: S. 584 and H.R. 432, bills to require the secretary of the interior to allow the continued occupancy and use of certain land and improvements within rocky mountain National Parks; S. 652, a bill to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, PA, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin; S. 958, a bill to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the states of Maryland and Virginia and the District of Columbia as a national historic trail; S. 1154, a bill to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes; S. 1166, a bill to extend the authorization of the Kalaupapa National Historical Park Advisory Commission; and S. 1436, a bill to direct the Secretary of the Interior to conduct a study of maritime sites in the states of Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that John Pilkington of Senator HARKIN's staff be granted the privilege of the floor for the duration of today's session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask unanimous consent that Mike Stebbins of my staff be granted the privilege of the floor for the duration of today's session.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DAYTON. Mr. President. I ask unanimous consent that Sophie Thurber of my staff be granted the privilege of the floor for the duration of this debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent that privilege of the floor be granted to two members of my staff, Mike Heidler and Matt Schuh, during debate on S. 397.

The PRESIDING OFFICER. Without objection, it is so ordered.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar, calendar 170, 211, 221, 222, 226, 238, and 240, provided further that the following committees be discharged from further consideration of the list of nominations and the Senate proceed en bloc to their consideration. The HELP Committee: Henry Johnson, PN 572; Terrell Halaska, PN 685; Kevin Sullivan, PN 473; Bernice Phillips, PN 106; Thomas Fuentes, PN 105. Rules: Donetta Davidson, PN 749.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid on the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

#### DEPARTMENT OF JUSTICE

Rachel Brand, of Iowa, to be an Assistant Attorney General.

#### ENVIRONMENTAL PROTECTION AGENCY

Marcus C. Peacock, of Minnesota, to be Deputy Administrator of the Environmental Protection Agency.

David R. Hill, of Missouri, to be General Counsel of the Department of Energy.

Jill L. Sigal, of Wyoming, to be Assistant Secretary of Energy (Congressional and Intergovernmental Affairs).

#### DEPARTMENT OF HOMELAND SECURITY

Richard L. Skinner, of Virginia, to be Inspector General, Department of Homeland Security.

#### DEPARTMENT OF THE TREASURY

Janice B. Gardner, of Virginia, to be Assistant Secretary for Intelligence and Analysis, Department of the Treasury.

John S. Redd, Georgia, to be Director of the National Counterterrorism Center, Office of the Director of National Intelligence.

#### DEPARTMENT OF EDUCATION

Henry Louis Johnson, of Mississippi, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

Terrell Halaska, of the District of Columbia, to be Assistant Secretary for Legislation and Congressional Affairs, Department of Education.

Kevin F. Sullivan, of New York, to be Assistant Secretary for Communications and Outreach, Department of Education.

Bernice Phillips, of New York, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2005.

Thomas A. Fuentes, of California, to be a Member of the Board of Directors of the Legal Services Corporation for a term expiring July 13, 2005.

#### ELECTION ASSISTANCE COMMISSION

Donetta Davidson, of Colorado, to be a Member of the Election Assistance Commission for the remainder of the term expiring December 12, 2007.

## CONFIRMATION OF DONETTA L. DAVIDSON

Mr. DODD. Mr. President, today the Senate is acting to fill a vacant seat on the Election Assistance Commission EAC with the confirmation of Ms. Donetta L. Davidson, of Colorado. Ms. Davidson was nominated by President Bush to serve the remainder of the 4-year term of DeForest B. Soaries, Jr, resigned. Her term will expire on December 12, 2007.

I want to thank the distinguished Chairman of the Rules Committee, Senator LOTT, for facilitating and expediting action on this nomination. By confirming Ms. Davidson at this time, the Senate is ensuring that the Commission will have a full complement of members as it faces action on some of the most important provisions of the Help American Vote Act this fall.

Nearly 3 years ago, President Bush signed into law the Help America Vote Act—HAVA. For the first time in our history, this landmark legislation recognizes the need for a Federal partnership in the conduct of Federal elections by the States. While this partnership respects the authority of State and local governments to administer Federal elections, it also provides Federal leadership and support through the establishment of minimum requirements that all States must meet in all Federal elections.

One of the primary goals of HAVA is to bolster public confidence in our system of Federal elections by addressing the problems and irregularities that arose in the November 2000 general election. And this is why, following that election, a bipartisan group of Senators and Members of Congress came together to enact the Help America Vote Act. Although the original bipartisan authors of HAVA initially viewed the outcome of the 2000 elections very differently, in the end, we all agreed that the Federal Government had an appropriate role to play to ensure that in our democracy, we made it easier to vote and harder to defraud the system.

HAVA established a number of requirements for election administration and voting technology in Federal elections, including requirements for voting systems, provisional ballots, and statewide voter registration lists. To date, Congress has appropriated over $3 billion in Federal funding for payments to the States for nationwide implementation of these requirements.

The Act also established a new Federal agency, the Election Assistance Commission—EAC. Among other things, the EAC serves as a clearinghouse to identify best practices for State and local election officials to use to conduct elections. The EAC is designed to bring together all stakeholders who play a role in elections—from voting machine manufacturers to voter registration organizations and other civil rights and disability rights groups to State and local election officials and administrators—to facilitate fair and transparent Federal elections throughout America.

Ms. Davidson joins the EAC at a crucial time. In less than 6 months, by January 1, 2006, all States are required to fully implement two of the most significant requirements in HAVA: the voluntary voting system standards and the statewide voter registration list. Taken as a whole, these two requirements promote accurate, accessible, nondiscriminatory, user-friendly and transparent elections. They serve as the mechanisms by which all eligible voters can cast their votes and have their votes counted.

Ms. Davidson's qualifications will serve her well at the EAC and reflect years of experience as both a State and local election official as well as an active participant on numerous national and State professional organizations. She currently serves as the Secretary of State for Colorado and previously served as the Arapahoe Country Clerk and Recorder in Littleton, CO and as the Director of Elections at the Colorado Department of State. In addition, she also currently serves as the vice chair of the National Association of Secretaries of State.

Her background will bring to the EAC the election administration and technology skills and experience that will help facilitate the nationwide implementation of HAVA, in particular the voluntary voting system guidelines expected to be approved by the EAC this fall. Her involvement with the existing voluntary voting system standards, first issued by the Federal Election Commission, dates to the mid-1990s and her support for those standards contributed to their adoption in Colorado.

Most recently, Ms. Davidson served as one of the 15 experts on the Technical Guidelines Development Committee TGDC established under HAVA to develop an initial set of recommendations for the voluntary voting system guidelines with technical support and expertise from the National Institute of Standards and Technology NIST. At the end of the public comment and revision process, these recommendations are expected to form the bases of the new Federal voluntary voting system guidelines issued by the EAC.

Ms. Davidson's confirmation today ensures that the EAC has a full and permanent complement of commissioners as we move toward the full implementation of HAVA and the November 2006 Federal elections. The EAC will be well served by Ms. Davidson's expertise on election issues and her broad experience working with all stakeholders in Federal elections, including local election officials and their voters.

I congratulate Ms. Davidson on the honor of being nominated and confirmed to the Election Assistance Commission. It is an awesome responsibility and one that her background has prepared her well to meet.

To ensure that our Federal partnership gives voice to all Americans and their very diverse experiences on election day, the Commission's work must reflect more than just the perspectives of any single State or local election official. Commissioners must represent all 50 States, the District of Columbia, and the territories—all of America and its diversity. I am confident that Commissioner Davidson will meet that goal.

While political races among candidates may be partisan, Federal elections cannot be. The Help America Vote Act is appropriately the first civil rights act of the 21st Century, and Congress must fulfill its commitment to the American people to provide the States sufficient resources to fund the mandated reforms.

In order for the EAC to meet its obligations under HAVA, it is critically important that Congress fully fund the agency and its requirements for fiscal year 2006. To support States in the nationwide implementation of HAVA, the Act authorized nearly $4 billion to pay for the requirements and tasked the EAC with several responsibilities. To date, Congress has appropriated over $3 billion to the States and territories.

For fiscal year 2006, the EAC submitted an appropriations request at the funding level of $17,612,000, including four new staff positions to, among other duties, establish an Inspector General Office to monitor the Federal payments. The House-passed version of the Transportation, Treasury, HUD, Judiciary, District of Columbia appropriations bill provides only $15,877,000 for the EAC, and no funds for State requirements payments, with an earmark of $2.8 million for the National Institute of Standards and Technology. Complicating matters more, the Senate Appropriations Committee approved a slightly lower funding level for the EAC at $13,888,000, with $4 million earmarked for NIST. An average of both Senate-House bills will not produce enough funding for the EAC to maintain its current level of operations.

Without appropriate funding, the EAC will be unable to fulfill its obligations to the States and the voters for the Federal elections in 2006. To date, the EAC has been underfunded by over $822 million, including a funding gap of $600 million for requirements, $95 million for disability access grants and $127 million for other HAVA programs such as research and development for voting systems. When we return from the August recess, the Senate will complete its work on the Transportation, Treasury appropriations bill. It is my hope that we will be able to find the necessary resources to ensure the full implementation of HAVA without creating an unfunded mandate on the States.

In the meantime, I congratulate Commissioner Davidson on her appointment and look forward to working closely with her as she oversees the implementation of the most critical requirements of HAVA for the upcoming 2006 Federal elections and beyond in America.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

## HONORING TEAM DISCOVERY, LANCE ARMSTRONG AND GEORGE HINCAPIE

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of S. Res. 222 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 222) honoring the victories of Team Discovery and American cyclists Lance Armstrong and George Hincapie in the 2005 Tour de France.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 222) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 222

Whereas Team Discovery included Lance Armstrong of Texas and George Hincapie of South Carolina from the United States, José Luis Rubiera, Manuel Beltran, and Benjamin Noval from Spain, Pavel Padrnos from the Czech Republic, José Azevedo from Portugal, Paolo Savoldelli from Italy, and Yaroslav Popovych from Ukraine;

Whereas Team Discovery won the 2005 Tour de France under the leadership of Lance Armstrong, who rode to victory by completing the 2,232-mile, 21-stage course in 86 hours, 15 minutes, and 2 seconds, finishing 4 minutes and 40 seconds ahead of his nearest competitor;

Whereas, by winning the Tour de France on July 24, 2005, Lance Armstrong became the only competitor in the history of the Tour de France to win cycling's most prestigious race in 7 consecutive years;

Whereas George Hincapie rode stage 15, which was 127.4 miles long and included 1 above category climb, 4 category 1 climbs, and 1 category 2 climb, for a total of 33.5 miles of climbing at an average gradient of 7.96 percent;

Whereas stage 15 was considered the hardest stage of the 2005 Tour de France and the victory of George Hincapie atop Pla d'Adet marks his first Tour de France stage victory;

Whereas George Hincapie is only the 8th competitor from the United States to win a stage in the Tour de France;

Whereas George Hincapie has participated in the Tour de France 10 times and is the only teammate to assist Lance Armstrong in each of his Tour de France victories;

Whereas Lance Armstrong and George Hincapie displayed incredible perseverance, determination, and leadership over 7 years with their teammates in prevailing over the mountainous terrain of the Alps and Pyrenees and in overcoming crashes, illness, hard-charging rivals, and driving rain on the way to winning the premier cycling event in the world;

Whereas, in 1996, Lance Armstrong defeated choriocarcinoma, an aggressive form of testicular cancer that had spread throughout his abdomen, lungs, and brain, and has remained cancer-free since treatment for the disease;

Whereas Lance Armstrong is the 1st cancer survivor to win the Tour de France;

Whereas the accomplishments of Team Discovery have made the team an inspiration to millions of people around the world: Now, therefore, be it

*Resolved*, That the Senate—

(1) honors—

(A) the victory of Team Discovery in the 2005 Tour de France;

(B) professional cyclist Lance Armstrong for his record 7th consecutive Tour de France victory; and

(C) professional cyclist George Hincapie for his 1st Tour de France stage victory; and

(2) commends Lance Armstrong and George Hincapie for being pioneers of the sport of cycling in the United States.

## NATIONAL LIFE INSURANCE AWARENESS MONTH

Mr. FRIST. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of S. Res. 223, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 223) supporting the goals and ideals of "National Life Insurance Awareness Month," September 2005.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 223) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 223

Whereas life insurance is an essential part of a sound financial plan;

Whereas life insurance provides financial security for families in the event of a premature death by helping surviving family members meet immediate and longer-term financial obligations and objectives;

Whereas nearly 50,000,000 Americans say they lack the life insurance coverage needed to ensure a secure financial future for their loved ones;

Whereas recent studies have found that when a premature death occurs, insufficient life insurance coverage on the part of the insured results in ¾ of surviving family members having to take measures such as working additional jobs or longer hours, borrowing money, withdrawing money from savings and investment accounts, and, in too many cases, moving to smaller, less expensive housing;

Whereas individuals, families, and businesses can benefit greatly from professional insurance and financial planning advice, including the assessment of their life insurance needs; and

Whereas the Life and Health Insurance Foundation for Education (LIFE), the National Association of Insurance and Financial Advisors (NAIFA), and a coalition representing hundreds of leading life insurance companies and organizations have designated September 2005 as "National Life Insurance Awareness Month", the goal of which is to make consumers more aware of their life insurance needs, seek professional advice, and take the actions necessary to achieve the financial security of their loved ones: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the goals and ideals of "National Life Insurance Awareness Month"; and

(2) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe the month with appropriate programs and activities.

## COMMEMORATING NATIONAL CITIZENS' CRIME PREVENTION CAMPAIGN

Mr. FRIST. Mr. President, I ask unanimous consent the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Res. 208.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 208) commemorating the 25th anniversary of National Citizens' Crime Prevention Campaign.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 208) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 208

Whereas crime prevention improves the quality of life in every community;

Whereas crime prevention is central to maintaining a sound criminal justice system at the national, State, and local level and to ensuring safer and more secure communities;

Whereas 2005 marks the 25th anniversary of the National Citizens' Crime Prevention Campaign, featuring McGruff the Crime Dog, conducted by the National Crime Prevention Council;

Whereas McGruff the Crime Dog is an icon, recognized as the Nation's symbol for crime prevention;

Whereas the National Citizens' Crime Prevention Campaign has inspired and directed millions of citizens to take action, individually and collectively, to reduce crime, drug abuse, and the fear of crime;

Whereas the National Citizens' Crime Prevention Campaign has led a multitude of community organizations, including law enforcement, other State and local agencies, civic and community groups, faith-based organizations, schools, and businesses, to play a vital role in reducing crime and building safer communities; and

Whereas the National Citizens' Crime Prevention Campaign is a leading example of a campaign conducted by public and private individuals and entities on a national, State, and local level to improve the quality of life throughout the Nation: Now, therefore, be it

*Resolved*, That the Senate—

(1) commemorates the 25th anniversary of the National Citizens' Crime Prevention Campaign, and commends all individuals and organizations involved in the campaign for advancing the principles and practice of effective crime prevention;

(2) asks the people of the United States to join in the celebration of the 25th anniversary of the National Citizens' Crime Prevention Campaign, and of the campaign's icon (McGruff the Crime Dog), and of the campaign's managing organization (National Crime Prevention Council); and

(3) encourages the National Crime Prevention Council and the Crime Prevention Coalition of America to continue to promote, through the National Citizens' Crime Prevention Campaign, individual and collective action, in collaboration with law enforcement and other supporting agencies, to reduce crime and build safer communities throughout the United States.

## EXPRESSING THE SENSE OF CONGRESS WITH RESPECT TO THE WOMEN SUFFRAGISTS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.J. Res. 59, which is at the desk.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 59) expressing the sense of Congress with respect to the women suffragists who fought for and won the right of women to vote in the United States.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the joint resolution be read three times and passed, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 59) was read the third time and passed.

The preamble was agreed to.

## EXPRESSING THE SENSE OF CONGRESS ON THE PURPLE HEART

Mr. FRIST. Mr. President, I ask unanimous consent that the Armed Services Committee be discharged from further consideration of S. Con. Res. 39 and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 39) to express the sense of Congress on the Purple Heart.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the concurrent resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 39) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 39

Whereas the Purple Heart is the oldest military decoration in the world in present use;

Whereas the Purple Heart is awarded in the name of the President of the United States to members of the Armed Forces who are wounded in conflict with an enemy force or are wounded while held by an enemy force as prisoners of war, and posthumously to the next of kin of members of the Armed Forces who are killed in conflict with an enemy force or who die of a wound received in conflict with an enemy force;

Whereas the Purple Heart was established on August 7, 1782, during the Revolutionary War, when General George Washington issued an order establishing the Honorary Badge of Distinction, otherwise known as the Badge of Military Merit;

Whereas the award of the Purple Heart ceased with the end of the Revolutionary War, but was revived in 1932, the 200th anniversary of George Washington's birth, out of respect for his memory and military achievements; and

Whereas National Purple Heart Recognition Day is a fitting tribute to George Washington and to the more than 1,535,000 recipients of the Purple Heart, approximately

550,000 of whom are still living: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring)*, That Congress—

(1) supports the goals and ideals of National Purple Heart Recognition Day;

(2) encourages all people of the United States to learn about the history of the Purple Heart and to honor its recipients; and

(3) requests that the President issue a proclamation calling on the people of the United States to conduct appropriate ceremonies, activities, and programs to demonstrate support for people who have been awarded the Purple Heart.

## INDIAN ARTS AND CRAFTS AMENDMENTS ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 160, S. 1375.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1375) to amend the Indian Arts and Crafts Act of 1990 to modify provisions relating to criminal proceedings and civil actions, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1375) was read the third time and passed, as follows:

S. 1375

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Indian Arts and Crafts Amendments Act of 2005".

**SEC. 2. INDIAN ARTS AND CRAFTS.**

(a) CRIMINAL PROCEEDINGS; CIVIL ACTIONS; MISREPRESENTATIONS.—Section 5 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305d) is amended to read as follows:

**"SEC. 5. CRIMINAL PROCEEDINGS; CIVIL ACTIONS.**

"(a) DEFINITION OF FEDERAL LAW ENFORCEMENT OFFICER.—In this section, the term 'Federal law enforcement officer' includes—

"(1) a Federal law enforcement officer (as defined in section 115(c) of title 18, United States Code); and

"(2) with respect to a violation of this Act that occurs outside Indian country (as defined in section 1151 of title 18, United States Code), an officer that has authority under section 3 of the Indian Law Enforcement Reform Act (25 U.S.C. 2802), acting in coordination with a Federal law enforcement agency that has jurisdiction over the violation.

"(b) CRIMINAL PROCEEDINGS.—

"(1) REFERRAL.—On receiving a complaint of a violation of section 1159 of title 18, United States Code, the Board may refer the complaint to any Federal law enforcement officer for appropriate investigation.

"(2) FINDINGS.—The findings of an investigation under paragraph (1) shall be submitted to—

"(A) the Attorney General; and

"(B) the Board.

"(3) RECOMMENDATIONS.—On receiving the findings of an investigation in accordance with paragraph (2), the Board may—

"(A) recommend to the Attorney General that criminal proceedings be initiated under section 1159 of that title; and

"(B) provide such support to the Attorney General relating to the criminal proceedings as the Attorney General determines appropriate.

"(c) CIVIL ACTIONS.—In lieu of, or in addition to, any criminal proceeding under subsection (a), the Board may recommend that the Attorney General initiate a civil action pursuant to section 6.".

(b) CAUSE OF ACTION FOR MISREPRESENTATION.—Section 6 of the Act entitled "An Act to promote the development of Indian arts and crafts and to create a board to assist therein, and for other purposes" (25 U.S.C. 305e) is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively;

(3) by inserting before subsection (b) (as redesignated by paragraph (2)) the following:

"(a) DEFINITIONS.—In this section:

"(1) INDIAN.—The term 'Indian' means an individual that—

"(A) is a member of an Indian tribe; or

"(B) is certified as an Indian artisan by an Indian tribe.

"(2) INDIAN PRODUCT.—The term 'Indian product' has the meaning given the term in any regulation promulgated by the Secretary.

"(3) INDIAN TRIBE.—

"(A) IN GENERAL.—The term 'Indian tribe' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(B) INCLUSION.—The term 'Indian tribe' includes an Indian group that has been formally recognized as an Indian tribe by—

"(i) a State legislature;

"(ii) a State commission; or

"(iii) another similar organization vested with State legislative tribal recognition authority.

"(4) SECRETARY.—The term 'Secretary' means the Secretary of the Interior.";

(4) in subsection (b) (as redesignated by paragraph (2)), by striking "subsection (c)" and inserting "subsection (d)";

(5) in subsection (c) (as redesignated by paragraph (2))—

(A) by striking "subsection (a)" and inserting "subsection (b)"; and

(B) by striking "suit" and inserting "the civil action";

(6) by striking subsection (d) (as redesignated by paragraph (2)) and inserting the following:

"(d) PERSONS THAT MAY INITIATE CIVIL ACTIONS.—

"(1) IN GENERAL.—A civil action under subsection (b) may be initiated by—

"(A) the Attorney General, at the request of the Secretary acting on behalf of—

"(i) an Indian tribe;

"(ii) an Indian; or

"(iii) an Indian arts and crafts organization;

"(B) an Indian tribe, acting on behalf of—

"(i) the tribe;

"(ii) a member of that tribe; or

"(iii) an Indian arts and crafts organization;

"(C) an Indian; or

"(D) an Indian arts and crafts organization.

"(2) DISPOSITION OF AMOUNTS RECOVERED.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an amount recovered in a civil action under this section shall be paid to the Indian tribe, the Indian, or the Indian arts and crafts organization on the behalf of which the civil action was initiated.

"(B) EXCEPTIONS.—

"(i) ATTORNEY GENERAL.—In the case of a civil action initiated under paragraph (1)(A), the Attorney General may deduct from the amount—

"(I) the amount of the cost of the civil action and reasonable attorney's fees awarded under subsection (c), to be deposited in the Treasury and credited to appropriations available to the Attorney General on the date on which the amount is recovered; and

"(II) the amount of the costs of investigation awarded under subsection (c), to reimburse the Board for the activities of the Board relating to the civil action.

"(ii) INDIAN TRIBE.—In the case of a civil action initiated under paragraph (1)(B), the Indian tribe may deduct from the amount—

"(I) the amount of the cost of the civil action; and

"(II) reasonable attorney's fees."; and

(7) in subsection (e), by striking "(e) In the event that" and inserting the following:

"(e) SAVINGS PROVISION.—If".

(c) CONFORMING AMENDMENT.—Section 1159(c) of title 18, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) the term 'Indian tribe'—

"(A) has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b); and

"(B) includes an Indian group that has been formally recognized as an Indian tribe by—

"(i) a State legislature;

"(ii) a State commission; or

"(iii) another similar organization vested with State legislative tribal recognition authority; and".

## PSORIASIS AWARENESS MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 206 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 206) designating August 2005 as "Psoriasis Awareness Month".

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table with no intervening action or debate, and that any statements related to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 206) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 206

Whereas psoriasis and psoriatic arthritis are chronic, immune-mediated diseases for which there is no cure;

Whereas more than 5,000,000 men, women, and children in the United States have been diagnosed with either psoriasis or psoriatic arthritis;

Whereas psoriasis and psoriatic arthritis are painful and disabling diseases that have a significant and adverse impact on the quality of life of an individual diagnosed with either of these diseases;

Whereas the National Institute of Mental Health funded a study that found that psoriasis may cause as much physical and mental disability as other major diseases, including cancer, arthritis, hypertension, heart disease, diabetes, and depression;

Whereas psoriasis is associated with elevated rates of depression and suicidal ideation;

Whereas each year the people of the United States spend more than $4,000,000,000 to treat psoriasis;

Whereas early diagnosis and treatment of psoriatic arthritis may help prevent irreversible joint damage; and

Whereas treating psoriasis and psoriatic arthritis presents a challenge for patients and physicians because no 1 treatment works for everyone, some treatments lose effectiveness over time, many treatments are used in combination with other treatments, and all treatments may cause a unique set of side effects: Now, therefore, be it

*Resolved*, That the Senate designates August 2005 as "Psoriasis Awareness Month".

## UNANIMOUS-CONSENT AGREEMENT—H.R. 2361

Mr. FRIST. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the consideration of the conference report to accompany H.R. 2361, the Interior appropriations bill. I further ask unanimous consent that there then be 20 minutes of debate equally divided between the majority and the minority, followed by a vote adoption of the conference report, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT—H.R. 2985

Mr. FRIST. I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Democratic leader, the Senate proceed to the consideration of the conference report to accompany H.R. 2985, the Legislative Branch appropriations bill. I further ask unanimous consent that there then be 20 minutes of debate equally divided between the majority and the minority, followed by a vote adoption of the conference report, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR FRIDAY, JULY 29, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. on Friday, July 29; I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to the consideration of the conference report to accompany H.R. 2361, the Interior appropriations bill, as under the previous order. I further ask that following the use or yielding back of the time on the Interior conference report, it be temporarily set aside and the Senate proceed to the conference report to accompany H.R. 2985, the Legislative Branch appropriations bill, as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I further ask unanimous consent that the Senate then resume consideration of the Energy conference report and there be 30 minutes equally divided for closing remarks between the chairman and ranking member or their designees with all of the provisions of the previous consent remaining.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will complete consideration of the conference reports to accompany the Interior appropriations bill, the Legislative Branch appropriations bill, the Energy bill, and the highway bill. The Senate will also complete action on the gun liability bill with an agreement that was reached this evening. As my colleagues can see, we will have a very busy day tomorrow with rollcall votes throughout. We should be able to complete our business tomorrow. I expect that we will. Again, it will be a very busy day. Senators should remain close to the Chamber throughout the day so that we can proceed in an orderly way for what could be up to 13 votes during tomorrow's session.

## A PRODUCTIVE SEVERAL MONTHS

Mr. FRIST. Mr. President, we will be closing tomorrow afternoon, hopefully not too late in the afternoon. This has been a very productive several months. If you look back and reflect upon the issues that have been discussed and the bills that have been passed, there have been many. We are governing in a way that meets the expectations of the American people, governing with meaningful solutions to their everyday problems. We passed a budget which was the fifth fastest in history. We passed a bankruptcy bill, a class action reform bill to rid frivilous lawsuits. We had six circuit court nominations, judges that had been either filibustered or threatened to be filibustered in the past. Now we will continue all of that work tomorrow with an Energy bill, a highway bill, a gun liability bill, a legislative conference report, and the Interior conference report. So it has been a very productive Congress and one that we will continue to work very aggressively on as we come back after the recess.

## CONDITIONAL ADJOURNMENT OF THE HOUSE OF REPRESENTATIVES AND CONDITIONAL RECESS OR ADJOURNMENT OF THE SENATE

Mr. FRIST. Mr. President. I ask unanimous consent that the Senate now proceed to the consideration of H. Con. Res. 225, the adjournment resolution; provided that the concurrent resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 225) was agreed to, as follows:

H. Con. Res. 225

*Resolved by the House of Representatives (the Senate concurring)*, That, in consonance with section 132(a) of the Legislative Reorganization Act of 1946, when the House adjourns on the legislative day of Thursday, July 28, 2005, Friday, July 29, 2005, or Saturday, July 30, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, September 6, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns on any day from Friday, July 29, 2005, through Friday, August 5, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until noon on Tuesday, September 6, 2005, or at such other time on that day as may be specified by its Majority Leader or his designee in the motion to recess or adjourn, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

Sec. 2. The Speaker of the House and the Majority Leader of the Senate, or their respective designees, acting jointly after consultation with the Minority Leader of the House and the Minority Leader of the Senate, shall notify the Members of the House and the Senate, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

## ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 10:57 p.m., adjourned until Friday, July 29, 2005, at 9 a.m.

## DISCHARGED NOMINATIONS

The Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nominations and the nominations were confirmed:

THOMAS A. FUENTES, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2005.

BERNICE PHILLIPS, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2005.

KEVIN F. SULLIVAN, OF NEW YORK, TO BE ASSISTANT SECRETARY FOR COMMUNICATIONS AND OUTREACH, DEPARTMENT OF EDUCATION.

HENRY LOUIS JOHNSON, OF MISSISSIPPI, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

TERRELL HALASKA, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS, DEPARTMENT OF EDUCATION.

The Senate Committee on Rules and Administration was discharged from further consideration of the following nomination and the nomination was confirmed:

DONETTA DAVIDSON, OF COLORADO, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 12, 2007.

## NOMINATIONS

Executive nominations received by the Senate July 28, 2005:

### DEPARTMENT OF DEFENSE

JOHN J. YOUNG, JR., OF VIRGINIA, TO BE DIRECTOR OF DEFENSE RESEARCH AND ENGINEERING, VICE RONALD M. SEGA.

### DEPARTMENT OF THE TREASURY

EMIL W. HENRY, JR., OF NEW YORK, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE WAYNE ABERNATHY.

### FEDERAL TRADE COMMISSION

WILLIAM E. KOVACIC, OF VIRGINIA, TO BE A FEDERAL TRADE COMMISSIONER FOR A TERM OF SEVEN YEARS FROM SEPTEMBER 26, 2004, VICE ORSON SWINDLE, RESIGNED.

### NATIONAL TRANSPORTATION SAFETY BOARD

KATHRYN HIGGINS, OF SOUTH DAKOTA, TO BE A MEMBER OF THE NATIONAL TRANSPORTATION SAFETY BOARD FOR A TERM EXPIRING DECEMBER 31, 2009, VICE CAROL JONES CARMODY, RESIGNED.

### NUCLEAR REGULATORY COMMISSION

EDWARD MCGAFFIGAN, JR., OF VIRGINIA, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF FIVE YEARS EXPIRING JUNE 30, 2010. (REAPPOINTMENT)

### ENVIRONMENTAL PROTECTION AGENCY

GEORGE M. GRAY, OF MASSACHUSETTS, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY, VICE J. PAUL GILMAN, RESIGNED.

### DEPARTMENT OF STATE

BARRY F. LOWENKRON, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF STATE FOR DEMOCRACY, HUMAN RIGHTS, AND LABOR, VICE LORNE W. CRANER, RESIGNED.

WILLIAM PAUL MCCORMICK, OF OREGON, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO NEW ZEALAND, AND SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO SAMOA.

ROLAND ARNALL, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THE NETHERLANDS.

### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

CHRISTINE M. GRIFFIN, OF MASSACHUSETTS, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2009, VICE PAUL STEVEN MILLER, TERM EXPIRED.

### EXECUTIVE OFFICE OF THE PRESIDENT

JAMES F. X. O'GARA, OF PENNSYLVANIA, TO BE DEPUTY DIRECTOR FOR SUPPLY REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY, VICE BARRY D. CRANE.

### THE JUDICIARY

TIMOTHY MARK BURGESS, OF ALASKA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF ALASKA, VICE JAMES K. SINGLETON, JR., RETIRED.

JOSEPH FRANK BIANCO, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NEW YORK, VICE DENIS R. HURLEY, RETIRED.

HARRY SANDLIN MATTICE, JR., OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE, VICE R. ALLAN EDGAR, RETIRING.

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED TO THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 624 AND 1552:

*To be colonel*

THOMAS L. LUTZ, 5459

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT TO THE GRADE INDICATED TO THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

*To be lieutenant colonel*

BRUCE A. ELLIS, JR., 3453

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 531 AND 1552:

*To be lieutenant colonel*

ANSELMO FELICIANO, 6882
DENNIS J. MALFER, JR., 6315
VIRGINIA W. SPISAK, 4668
DAKE S. VAHOVICH, 5277

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTERISK (*)) UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

*To be major*

JOLENE A. * AINSWORTH, 4369
THOMAS M. * ALSPAUGH, 3769
JOYCE E. ANNELER, 7314
JANE E. * ARGENTO, 9210
KARLA M. * ATCHLEY, 6136
JUDITH K. * BAILLIE, 3654
RAYMOND E. * BAKER, 4568
BRIAN B. * BARNETT, 0332
ERIC B. * BARNETT, 6615
BETH M. * BAYKAN, 8744
MARED G. * BELING, 2324
MELINDA MARIE * BELLOMYMUTH, 0740
DONNA R. * BELOIN, 1670
TINA A. * BETANCOURT, 3076
DAWN M. * BLACK, 9614
MARTHA J. * BOURNE, 9557
SADINA L. * BRECHEISENBEACH, 0747
PAMELA L. * BREWER, 8603
NERRIZA L. * BROOKS, 6589
CASSANDRA E. * CAMPBELL, 4470
HEATHER R. * CAMPBELL, 4222
JAMES E. * CAMPION, 2014
DAISY E. * CASTRICONE, 5419
KEVIN P. * CAVANAUGH, 4400
LAWANDA M. * CLARK, 1643
ERICA C. * CLARKE, 8243
RANDY O. * CLAXTON, 4375
MARGARET E. * CLEVENGER, 4093
STACEY L. * COLEMAN, 5911
TARA N. * CONSTANTINE, 7362
CHARLES P. * COOLEY, 8430
MARK W. * CORNELL, 8962
CHARLES L. * COX, JR., 0196
MARK A. * DAMMEN, 7209
GINETTE * DAMUSJORDAN, 1773
LINDA S. * DENNY, 4743
SUSAN M. * DICKERSON, 2280
SUZIE C. * DIETZ, 7633
BETH R. * DION, 9584
DANIEL E. * DONAHUE, 1305
ROBIN C. * DOSWELL, 3405
PAUL * DREATER, JR., 9429
DIANA Y. * DUNCAN, 2429
VIRGINIA * DUNN, 4175
CHERYL A. * ELLIOTT, 5441
ROSS M. * EVANS, 4466
VICKI M. * FAIR, 9333
LORINDA L. * FARRIS, 4072
THOMAS G. * FEVURLY, 4107
CHARLES M. * FLOWE, 3551
KAWANIEE R. * FLOWE, 2153
MARY T. * FLOYD, 5519
ALISON T. * FORSYTHE, 7635
SHERRY L. * FRANK, 2837
JANE M. * FREE, 9438
DEBRA L. * FREIMARCK, 6187
ALANE C. * GARLLSI, 4028
MURIEL A. * GATLIN, 3369
VIRGINIA A. * GAVIN, 4650
MARY K. * GEYER, 3751
MATTIE D. * GOODE, 5923
DAWN M. * GRAHAM, 1931
LARHONDA M. * GRAY, 4389
STACY GILMORE * GREENE, 3648
CHERYL L. * GROTSKY, 0266
MARIANNE R. * HAFLER, 0484
LINDA A. * HAGEMANN, 3564
BARBARA A. * HASSAN, 3658
JEANINE D. * HATFIELD, 7094
ROBERT W. * HAYES, 5269
TAMMY G. * HAYES, 8352
MICHELLE A. * HEDRICK, 7439
KRISTINA R. * HERTZLER, 8669
JOHN R. * HIMBERGER, 8362
DAWN K. * HINCKLEY, 5936
FRANCES L. * HODGES, 4128
LEAH NICOLE * HOLLAND, 5855
KATHLEEN M. * HOLLEY, 1281
ANITA A. * HOYUELA, 6112
JACQUELYN J. * HUDSON, 3281
LELA A. * HUDSON, 5916
SHERRY L. * HULSE, 7160
NANCY J. * JOHNSON, 7020
LAURA K. * JONES, 6629
RONALD L. * JONES, JR., 1291
JULIE A. * JUMP, 8651
KRISTIN L. * KALINA, 4604
LESLIE I. * KARAS, 1680
STEVEN M. * KEENE, 6362
JACQUELINE M. * KILLIAN, 0718
DIANE R. * KLINGENBERG, 0051
MARK A. * KNITZ, 3281
LAURA L. * KOONTZ, 2988
LEANN M. * LAMB, 9478
KAREN V. * LARRY, 1071
MARGARET A. * LAUREANOMILLER, 7065
RONALD E. * LECZNER, 8645
JOHN W. * LEDWITCH III, 0960
CHUNG MIN * LEE, 6565
SUSAN J. * LEE, 9674
PAUL L. * LINK, 4922
JOANN A. * LLANEZA, 2432
MICHAEL A. * LOPEZ, 7099
BACH HOA T. MAI, 1929
EDWIN A. * MALDONADO, 2034
NAQUITA J. * MANNING, 4110
JOHN L. * MANSUY, 5557
LILI M. * MARTINEZ, 2609
THOMAS * MCALARNEY, 2842
JACQUELINE J. * MCAULEY, 8247
MICHAEL P. * MCGANN, 6147
KEVIN R. * MCHAFFEY, 4387
CHRISTINE L. * MEVES, 3005
LORI J. * MILLER, 7806
PAUL T. * MILLER, JR., 2010
GRETCHEN H. * MORELAND, 3077
DENNIS * MULLINS, 5618
THERESA A. * MURPHY, 6847
VIRGINIA R. * MUSHENSKI, 2482
DENISE M. * MYERS, 6528
NELVA J. * NIELSEN, 5127
MARTIN * OCKERT, 4982
JAMES G. * OLANDA, 5394
JEFFREY J. * OLIVER, 9116
LAURA J. * PALM, 8074
VINCE E. * PARIS, 6260
DEXTER A. * PATTON, 8129
KARIN E. * PETERSEN, 5088
MIKEL W. * PHILLIPS, 9121
DONALD R. * POTTER, 5860
ANDREA M. * RAMEY, 2166
LORRI M. * REED, 3723
ANDREW L. * REIMUND, 0014
MARK J. * REITTER, 1227
SCOTT C. * RHODES, 4885
HEATHER A. * RISDAL, 9053
VICTOR R. * RIVERA, 7095
KIM G. * ROBINSON, 6869
KENT A. * ROMAN, 0518
PAMELA J. * ROSSIO, 8176
KIMBERLEE M. * RUSSELL, 6018
JEANNIE Y. * SABATINE, 4754
SUSAN M. * SARGENT, 1755
KATHY S. * SAVELL, 0334
KIMBERLY A. * SCHMIDT, 2372
ANTOINETTE N. * SHEPPARD, 3090
SANDRA S. * SHORES, 6518
VICKIE L. * SKUPSKI, 2524
MELISSA C. * SMITH, 8152
SHERRY L. * SMITH, 9552
JANICE L. * SOWERS, 9565
PENNY E. * SPAID, 1355
LISA K. * STOLZER, 4863
KARL M. * STONE, 5598
SEAN A. * STRAIT, 0283
CHRISTOPHER M. * SWEENEY, 2067
LEA M. * THIES, 5009
JENNIFER E. * THOMAS, 9945
SCOTT R. * TONKO, 4712
VALERIE A. * TRUMP, 6513
ANITA S. * UPP, 6318
EDWIN * VALENTIN, 4724
JOHN D. * VANDEVELDE, 9386
KATHI S. * VAVRA, 6914
JERRY * VEGA, 3198
TAMRA C. * WEATHERBEE, 4894
BRUCE W. * WEISS, 0318
GINGER S. * WEISS, 3077
JACQUELINE F. * WHITE, 7379
CINDI L. * WILLIS, 4230
WILLIAM T. * WILSON, 9649
SHARON L. WINDERLICH, 2386
JAMES R. * WITTENAUER III, 0589
LOUISE H. * WOLFE, 8154
SHANNON G. * WOMBLE, 6336
SHANNEN M. * WRIGHT, 5401
DAVID C. * ZIMMERMAN, 4650

## CONFIRMATIONS

Executive nominations confirmed by the Senate Thursday, July 28, 2005:

## ENVIRONMENTAL PROTECTION AGENCY

MARCUS C. PEACOCK, OF MINNESOTA, TO BE DEPUTY ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

## DEPARTMENT OF ENERGY

DAVID R. HILL, OF MISSOURI, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF ENERGY.

JILL L. SIGAL, OF WYOMING, TO BE ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS).

## DEPARTMENT OF HOMELAND SECURITY

RICHARD L. SKINNER, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF HOMELAND SECURITY.

## DEPARTMENT OF THE TREASURY

JANICE B. GARDNER, OF VIRGINIA, TO BE ASSISTANT SECRETARY FOR INTELLIGENCE AND ANALYSIS, DEPARTMENT OF THE TREASURY.

## EXECUTIVE OFFICE OF THE PRESIDENT

JOHN S. REDD, OF GEORGIA, TO BE DIRECTOR OF THE NATIONAL COUNTERTERRORISM CENTER, OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

## DEPARTMENT OF EDUCATION

KEVIN F. SULLIVAN, OF NEW YORK, TO BE ASSISTANT SECRETARY FOR COMMUNICATIONS AND OUTREACH, DEPARTMENT OF EDUCATION.

HENRY LOUIS JOHNSON, OF MISSISSIPPI, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

TERRELL HALASKA, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR LEGISLATION AND CONGRESSIONAL AFFAIRS, DEPARTMENT OF EDUCATION.

## ELECTION ASSISTANCE COMMISSION

DONETTA DAVIDSON, OF COLORADO, TO BE A MEMBER OF THE ELECTION ASSISTANCE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 12, 2007.

## LEGAL SERVICES CORPORATION

THOMAS A. FUENTES, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2005.

BERNICE PHILLIPS, OF NEW YORK, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION FOR A TERM EXPIRING JULY 13, 2005.

## DEPARTMENT OF JUSTICE

RACHEL BRAND, OF IOWA, TO BE AN ASSISTANT ATTORNEY GENERAL.

# HOUSE OF REPRESENTATIVES—*Friday, July 29, 2005*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. BASS).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*July 29, 2005.*

I hereby appoint the Honorable CHARLES F. BASS to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord our God.

You have given us the light of a new day.

We thank You.

We bless You and ask that You bring all the families of this great Nation closer to You.

Protect Your people during their summer travels.

May we find peace awaiting us in our homes and delight in our children.

Give us hearts filled with gratitude:

That hospitality be our offering to all those who come to us in need:

And may we ourselves know how to be gracious guests.

For to You, O Lord,

Be the glory both now and forever.

Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Kentucky (Mr. DAVIS) come forward and lead the House in the Pledge of Allegiance.

Mr. DAVIS of Kentucky led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 1375. An act to amend the Indian Arts and Crafts Act of 1990 to modify provisions relating to criminal proceedings and civil actions, and for other purposes.

S. Con. Res. 39. Concurrent resolution to express the sense of Congress on the Purple Heart.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain up to five 1-minute speeches per side.

## SANCTUARY DAY LABOR HIDEOUTS

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, one of the most important issues endangering our national security is not only the free flow of illegal immigrants across our border, but the policies put into place by city and local governments that provide "sanctuary day labor hideouts" for illegals.

These day labor hideouts or centers provide illegal people work and job training. They do so under the protection of a "don't ask, don't tell" policy with regard to workers' immigration status and flirt dangerously close with breaking United States labor laws. The most alarming point is that centers are paid for by U.S. taxpayers. They operate using Federal funding and enjoy a 501(c)(3) tax exempt status.

Mr. Speaker, why are we providing job training for illegals when many Americans are looking for work and job training? There are over 80 day labor centers in the United States and most of them have been open in the last 5 to 7 years, showing an alarming escalation in sanctuary hideout policies.

Mr. Speaker, we will never acquire true national security until we first secure our borders. In order to do so we must bring an end to "sanctuary hideouts" that provide day labor centers at the expense of Americans.

Mr. Speaker, this ought not to be.

## DEMOCRATS SUPPORT JUDGE JOHN ROBERTS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, I rise today to say how pleased I am to hear so many Democrats are praising President Bush's highly qualified nominee to the Supreme Court, Judge John Roberts, Jr.

A leading liberal Senator from California recently characterized Judge Roberts as "very cautious" and "very studious" and declared that "in no way, shape, or form do I believe that he puts any ideology before the law, nor do I believe that he would be an activist in the law. I see none of those signs in anything he has done or said."

Another top Senate liberal calls Judge Roberts "legally skilled, a very bright man. He has no questions related to his honesty or ethics that I'm aware of." And yet another Democratic Senator declared, "they have found an individual that is brilliant, clearly capable as a jurist."

Mr. Speaker, I agree 100 percent. Judge Roberts embodies the qualities we expect in a justice on the highest court, someone who is fair, intelligent, impartial, and committed to faithfully interpreting the Constitution and the law.

In conclusion, God bless our troops and we will never forget September 11, or London, July 7.

## GREAT ECONOMIC NEWS

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, job growth in the U.S. has increased for 25 straight months with unemployment at 5 percent, lower than the average for the last three decades. And the news just keeps getting better.

New home sales hit a record high in June. And that should not come as a surprise, seeing as how more Americans are working than ever before—over 130 million jobs.

But we do not see this on the front page of our newspapers or on the nightly newscasts.

The Republican accomplishments of this House speak for themselves. We passed medical liability reform to prevent frivolous lawsuits from forcing doctors out of practice or closing hospitals and leaving patients with limited access to care.

We passed Association Health Plans to let small businesses pool their resources together in order to purchase affordable health insurance for their employees.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, remember the death tax, the tax that unfairly burdened American families at the most inopportune of times? We listened to Americans, to our constituents, and we voted to repeal that unjust and unfair tax.

Mr. Speaker, as we head into the August work period we have a record of accomplishment and we look forward to sharing it with the American people.

## TRANSPORTATION BILL: ITEMS ARE LARGER THAN THEY APPEAR

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Mr. Speaker, this bill that we consider today, the transportation bill, ought to carry the same warning that drivers see on their rear view mirror: Items are larger than they appear.

This bill contains a rescission on the last day authorized by the bill several years hence which rescinds about $9 billion. It is a gimmick. It is nothing more than a gimmick to allow us to spend more than the President said we need to or he would veto the bill.

Mr. President, please veto this bill. We are out of control here on spending. And this bill goes far over the mark that you have laid out.

It also bothers a lot of us Republicans to hear it described as a "jobs bill." We are hearing jobs, jobs, jobs. We are not all Keynesians here. We do not believe that taking money out of taxpayers' pockets is the best way to create jobs. The best way is to leave it with them.

Mr. Speaker, we ought to have a transportation bill that reflects what is in the trust fund—nothing more. And it ought to be distributed in a way that does not include 6,000 earmarks.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will remind the Members to address their remarks to the Chair, and not to the President.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 9 minutes a.m.), the House stood in recess subject to the call of the Chair.

☐ 1015

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BASS) at 10 o'clock and 15 minutes a.m.

## PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON H.R. 3, SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mrs. CAPITO. Mr. Speaker, I ask unanimous consent for the immediate consideration of House Resolution 399.

The SPEAKER pro tempore. The Clerk will report the resolution.

The Clerk read as follows:

### H. RES. 399

*Resolved,* That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

SEC. 2. The Clerk shall not transmit to the Senate a message that it has adopted the conference report to accompany H.R. 3 until the House has received a message that the Senate has agreed to House Concurrent Resolution 226 as adopted by the House or passed H.R. 3514 without amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from West Virginia?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## SURFACE TRANSPORTATION EXTENSION ACT OF 2005, PART VI

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the Committee on Transportation Infrastructure, the Committee on Science, the Committee on Ways and Means, and the Committee on Resources be discharged from further consideration of the bill (H.R. 3512) to provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alaska?

There was no objection.

The Clerk read the bill, as follows:

### H.R. 3512

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Surface Transportation Extension Act of 2005, Part VI".

**SEC. 2. ADMINISTRATIVE EXPENSES FOR FEDERAL-AID HIGHWAY PROGRAM.**

(a) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 4(a) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1147, 119 Stat. 325) is amended by striking "$292,179,920" and inserting "$309,260,880".

(b) LIMITATION ON OBLIGATIONS.—Of the obligation limitation made available for Federal-aid highways and highway safety construction programs for fiscal year 2005 by division H of Public Law 108–447 (118 Stat. 3204) not more the $17,080,960 shall be available, in addition to any obligation limitation previously provided, for administrative expenses of the Federal Highway Administration for the period of July 30, 2005, through August 14, 2005.

(b) CONFORMING AMENDMENT.—Section 2(e)(3) of such Act (118 Stat. 1146, 119 Stat. 325) is amended by striking "July 30" and inserting "August 14".

**SEC. 3. ADMINISTRATIVE EXPENSES FOR NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION.**

(a) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay the administrative expenses of the National Highway Traffic Administration in carrying out the highway safety programs authorized by sections 157 and 163 of chapter 1 of title 23, United States Code, and sections 402, 403, 405, and 410 of chapter 4 of such title, the National Driver Register under chapter 303 of title 49, United States Code, the motor vehicle safety program under chapter 301 of such title 49, and the motor vehicle information and cost savings program under part C of subtitle VI of such title 49 $4,125,000 for the period of July 30, 2005, through August 14, 2005.

(b) CONTRACT AUTHORITY.—Funds made available by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code; except that such funds shall remain available until expended.

**SEC. 4. ADMINISTRATIVE EXPENSES FOR MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.**

Section 7(a)(1) of the Surface Transportation Extension Act of 2004, Part V (118 Stat. 1153; 119 Stat. 330) is amended—

(1) by striking "$213,799,290" and inserting "$224,383,414"; and

(2) by striking "July 30" and inserting "August 14".

**SEC. 5. ADMINISTRATIVE EXPENSES FOR FEDERAL TRANSIT PROGRAMS.**

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 5338(f)(2) of title 49, United States Code, is amended—

(1) in the heading by striking "JULY 30" and inserting "AUGUST 14";

(2) in subparagraph (A)(vii)—

(A) by striking "$54,350,686" and inserting "$57,650,686"; and

(B) by striking "July 30" and inserting "August 14"; and

(3) in subparagraph (B)(vii) by striking "July 30" and inserting "August 14".

(b) OBLIGATION CEILING.—Section 3040(7) of the Transportation Equity Act for the 21st Century (112 Stat. 394; 118 Stat. 885; 118 Stat. 1158; 119 Stat. 333) is amended—

(1) by striking "$6,398,695,996" and inserting "$6,401,995,996"; and

(2) by striking "July 30" and inserting "August 14".

**SEC. 6. BUREAU OF TRANSPORTATION STATISTICS.**

(a) IN GENERAL.—Section 5001(a)(4) of the Transportation Equity Act for the 21st Century (112 Stat. 420; 118 Stat. 1150; 119 Stat. 327; 119 Stat. 346; 119 Stat. 379; 119 Stat. 394) is amended by striking "$25,730,000 for the period of October 1, 2004, through July 30, 2005" and inserting "$27,000,000 for the period of October 1, 2004, through August 14, 2005".

(b) Limitation on Obligations.—Of the obligation limitation made available for Federal-aid highways and highway safety construction programs for fiscal year 2005 by division H of Public Law 108–447 (118 Stat. 3204) not more the $1,270,000 shall be available, in addition to any obligation limitation previously provided, for administrative expenses of the Bureau of Transportation Statistics for the period of July 30, 2005, through August 14, 2005.

### SEC. 7. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA–21.

(a) Highway Trust Fund.—

(1) In general.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking "July 31, 2005" and inserting "August 15, 2005",

(B) by striking "or" at the end of subparagraph (O),

(C) by striking the period at the end of subparagraph (P) and inserting ", or",

(D) by inserting after subparagraph (P) the following new subparagraph:

"(Q) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2005, Part VI.", and

(E) in the matter after subparagraph (Q), as added by this paragraph, by striking "Surface Transportation Extension Act of 2005, Part V" and inserting "Surface Transportation Extension Act of 2005, Part VI".

(2) Mass transit account.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking "July 31, 2005" and inserting "August 15, 2005",

(B) in subparagraph (M), by striking "or" at the end of such subparagraph,

(C) in subparagraph (N), by inserting "or" at the end of such subparagraph,

(D) by inserting after subparagraph (N) the following new subparagraph:

"(O) the Surface Transportation Extension Act of 2005, Part VI,", and

(E) in the matter after subparagraph (O), as added by this paragraph, by striking "Surface Transportation Extension Act of 2005, Part V" and inserting "Surface Transportation Extension Act of 2005, Part VI".

(3) Exception to limitation on transfers.—Subparagraph (B) of section 9503(b)(6) of such Code is amended by adding at the end the following: "The preceding sentence shall be applied by substituting 'August 15, 2005' for the date therein.".

(b) Aquatic Resources Trust Fund.—

(1) Sport fish restoration account.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following: "Subparagraphs (A), (B), and (C) shall each be applied by substituting 'Surface Transportation Extension Act of 2005, Part VI' for 'Surface Transportation Extension Act of 2005, Part V'.".

(2) Boat safety account.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking "July 31, 2005" and inserting "August 15, 2005", and

(B) by striking "Surface Transportation Extension Act of 2005, Part V" and inserting "Surface Transportation Extension Act of 2005, Part VI".

(3) Exception to limitation on transfers.—Paragraph (2) of section 9504(d) of such Code is amended by adding at the end the following new sentence: "The preceding sentence shall be applied by substituting 'August 15, 2005' for the date therein.".

(c) Temporary Rule Regarding Adjustments.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on August 14, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

(d) Subsequent Repeal of Certain Temporary Provisions.—Each of the following provisions of the Internal Revenue Code of 1986 are amended by striking the last sentence thereof:

(1) Section 9503(b)(6)(B).

(2) Section 9504(b)(2).

(3) Section 9504(d)(2).

(e) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Subsequent repeal.—The amendments made by subsection (d) shall take effect on the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users and shall be executed immediately before the amendments made by such Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## CONFERENCE REPORT ON H.R. 3, SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. YOUNG of Alaska. Mr. Speaker, pursuant to House Resolution 399, I call up the conference report on the bill (H.R. 3) to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 399, the conference report is considered read.

(For conference report and statement, see proceedings of the House of July 28, 2005.)

The SPEAKER pro tempore. The gentleman from Alaska (Mr. Young) and the gentleman from Oregon (Mr. DeFazio) each will control 30 minutes.

The Chair recognizes the gentleman from Alaska (Mr. Young).

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is truly a great day for the users of our Nation's transportation infrastructure. Today, I bring before you for consideration the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, which will for the future be known as SAFETEA–LU.

Mr. Speaker, the conference report is a result of a great deal of extremely hard work on the part of many people, including the leadership of the House and the Senate, our committee members, and all other committees of jurisdiction and our great staff.

Mr. Speaker, H.R. 3 provides a funding level of $286.45 billion in guaranteed funding over 6 years for Federal highways and transit programs, as well as highway safety and motor carrier safety programs.

This legislation will strengthen this country's ability to move people, and especially freight. The American people need to know that SAFETEA–LU increases funding for constructing and improving our Nation's highways by 30 percent over TEA–21. This legislation improves transportation products delivery by ensuring better cooperation among State departments of transportation and Federal permitting agencies.

It improves the rate of return and scope for donor States and donee States, has a minimum growth of not less than 19 percent over TEA–21. It improves highway safety with a new program designed to increase safety belt use.

In the area of transit, we have created a new freedom initiative to give more mobility to the disabled and increase the transit funding over TEA–21 by 36 percent. We have dramatically improved the Federal motor carriers commercial driver's license system, and funding is increased for motor carrier safety.

This bill results in safer roads, which are built faster and last longer. Most significantly, H.R. 3 will put Americans to work by creating the kinds of jobs that support families and increase our tax base. This is much-needed legislation that will move our country toward a stronger economy.

Mr. Speaker, before I close, as usual, I want to take a moment to thank all of the Members of the House. I wanted to thank the staffs that worked so hard on this conference report with the other body. I especially want, and unfortunately he is not here and hopefully will get here, my ranking member, the gentleman from Minnesota (Mr. Oberstar), who has been unwavering in his support and working in cooperation with this chairman.

The chairman of the Subcommittee on Highways and Transit and Pipelines, the gentleman from Wisconsin (Mr. Petri), who has been a driving force behind much of the policy of this bill, the gentleman has taken his subcommittee around the country to investigate the infrastructure needs of the United States as well as I.

Also the subcommittee ranking member, the gentleman from Oregon (Mr. DEFAZIO), who is with us today, has made an enormous contribution of time and energy to this legislation.

I especially owe much thanks to the gentleman from California (Chairman THOMAS) of the Ways and Means Committee for his constant support and for his ability to make law.

I would like to recognize the gentleman from Iowa (Mr. NUSSLE) from the Committee on the Budget, who has worked hard with me to accommodate the increase in authorization needs to produce this legislation. I want to thank the majority leader, the gentleman from Texas (Mr. DELAY), for helping us find solutions to some of the very difficult problems.

Last but not least, I would like to thank the gentleman from Illinois (Mr. HASTERT), the Speaker of the House, for the countless hours he spent working with us to keep this process moving. Without his support, we would not be here today prepared to pass this outstanding piece of legislation.

Mr. Speaker, I especially want to thank one of the main staffers for the Speaker, Bill Hughes, who has been able to put pieces together when things were falling apart to make sure that we are able to do what we have to do, as well as Jack Victory with the majority leader's office. Without their support this would not happen.

And I personally want to thank the hard-working staff of the Committee on Transportation and Infrastructure who have been here many nights, sometimes as much as 36 hours in a row and weekends drafting this legislation.

This subcommittee staff who made this happen most of all are Graham Hill, Jim Tyman, Joyce Rose, Derek Miller, Suzanne Newhouse, Bailey Edwards, Will Bland, Debbie Gephart, Patrick Mullane from the gentleman from Wisconsin (Mr. PETRI's) staff.

In addition, my chief of staff, Lloyd Jones, chief counsel Liz Megginson, Chris Kennedy, Charles Zieglar, Mark Zachares, Fraser Verusion, Debbie Callis, Andrew Forbes, Jason Rosa, and Phillip Maxwell.

Again, I want to thank the gentleman from Minnesota (Mr. OBERSTAR's) staff. This has been a bipartisan effort. They worked equally hard with my staff: Davis David Heymsfeld, chief counsel; Ward McCarragher; as well as Kathy Zern; Art Chan; Ken House; Eric Vanschyndle; Stephanie Manning; Kathie Dedrick of the gentleman from Oregon (Mr. DEFAZIO's) staff.

Last but not least, I want to express my appreciation for the legislative counsel who over and over had to write this bill. Also, last but not least, my appreciation goes to David Mendelsohn, Curt Haensel, and Rosemary Gallagher.

In closing, Mr. Speaker, I would like to thank my wife for putting up with me for the last 3½ years making this bill. That has been the most difficult thing she has had to do.

Mr. Speaker, it is a good bill. It should be passed. Again, I want to thank this body for bringing this to fruition. It is a good piece of legislation for this Nation.

Mr. Speaker, I reserve the balance of my time.

Mr. DEFAZIO. Mr. Speaker, I yield myself such time as I may consume. At long last no more, well, one extension, only so we can properly celebrate the adoption of this legislation.

Mr. Speaker, I want to join with the gentleman from Alaska (Chairman YOUNG). I first want to thank the gentleman and other leaders on the Republican side for their extraordinary fairness in this process and recognizing that transportation, transportation efficiency is not a partisan issue; it serves all Americans. It serves all business in blue States, red States, Democratic, Republican, Independent.

We are here today gathered to make an extraordinary investment in the future of our country. I do not think there is anything this Congress could do more definitively to put people back to work, to stimulate our economy, to increase our efficiency, our competitiveness, both nationally and internationally than this legislation.

And the wonderful thing, at this time in our Nation's history, about this legislation is we are not borrowing the money to do it. We are spending taxes paid by all Americans at the gas pump: individuals, passenger car drivers, and commercial drivers and businesses.

And we are going to take that money, and we are going to invest it in ways that benefit this Nation for decades to come. We are going to help mitigate congestion, and congestion is at the top of my list, because the gentleman from Minnesota (Mr. OBERSTAR) should have been here to join in this effort, but he is stuck in traffic. And hopefully by the time we finish spending the money in TEA–LU, the gentleman and other Americans will be able to get to work more readily in the future, in addition to benefiting business and other aspects of our country.

Mr. Speaker, particularly I want to thank the gentleman from Minnesota (Mr. OBERSTAR) for his mentorship, his leadership on our side, his friendship, his advocacy, his knowledge, his history. I learned a lot during this bill. It was an extraordinary process for me. And he has been wonderful and helpful.

The gentleman also came to my State to recognize that my State has an extraordinary problem that transcends the boundaries of our State, something I started campaigning for a couple of years ago, to recognize that Interstate 5 is the lifeline of the western United States, joining the fifth largest economy in the world, California, to Oregon and Washington, two foreign nations, Mexico and Canada, serving the busiest port in the Nation, and a number of other very busy ports, the third busiest truck route in America.

Oregon has an extraordinary problem on Interstate 5, through an accident of history, having built our interstate before other States. Our bridges are virtually reaching simultaneous failure because we used an old 1950s and pre-1950s technology, where States who built the interstate later, California and others, used a very different technology, and they do not have the bridge problems we have.

My State has raised fees and licenses and bonded a tremendous amount of money to deal with this problem, but we are still short. And this bill will go a long way toward filling that gap and completing Interstate 5 so you will not have trucks detouring up over the Cascade Mountains, down the far side and back onto I-5.

But that is probably one of the many issues this bill will deal with. Other projects of national significance, something pioneered by the chairman of this committee and the House, which the Senate only tagged onto in the end, is going to make tremendous investments in the Alameda Corridor, other critical areas in California that are suffering from huge growth, and congestion all across the Nation.

We will be making very significant investments with major projects there, and then down the Missouri River Bridge all the way to the east coast and some of the problems dealing with freight movement across New York Harbor from New Jersey into New York. This is not everything we needed, but it is a tremendous and meaningful down payment.

Mr. Speaker, I want to thank again all who joined in this effort. I want to join the chairman in thanking the Republican staff. He has done an able job of that. I would like to name a few folks on our side, and there have been a lot of sleepless nights.

First and foremost, my staff: Kathie Dedrick, who yesterday was her birthday, probably one she will never forget. She got all 24 hours out of it, because she did not sleep. So that is, I guess, one way to approach that.

I want to thank the Highway Subcommittee staff, Ken House, Art Chan, Stephanie Manning, Eric VanSchyndle, Jennifer Esposito, Jackie Schmitz, Homer Carlisle.

I particularly want to thank David Heysfeld, who brings almost as much history and knowledge to these issues as the ranking member and sometimes remembers some details that the gentleman from Minnesota (Mr. OBERSTAR) has forgotten.

Ward McCarragher, Kathie Zern, Jen Walsh, Dara Schlieker, an administrative assistant without whom we never would have got through to people and coordinated things.

I want to thank some folks downtown, actually, at the Federal Highway Administration, Susan Binder, Rosi Crighton, because they spent an incredible amount of time analyzing what it was we were doing, because there are times when you start moving pieces around in this formula, we are not quite sure where it is all headed and who is going to be impacted.

Sometimes at 3 or 4 in the morning, they were doing analysis that was critical to the committee completing this bill in a fair way.

So I want to thank the chairman. I want to thank the gentleman from Wisconsin (Mr. PETRI) and his staff. He has just been wonderful to me as chairman. I am proud to serve under him as ranking member.

□ 1030

I want to thank the gentleman from California (Mr. THOMAS) because he and I may disagree over a number of things, but we found common cause here in investing in the future of this country. And he played an absolutely critical role in negotiating with the Senate, which is one of the most confounding processes, I do not know if you can even call it a process, that I have ever dealt with. I do not know that it is that organized.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I thank the gentleman for yielding me time. I would like to reciprocate and say I appreciate working with the gentleman from Oregon (Mr. DEFAZIO) and his staff. It has been a pleasant experience at a time when people are deploring this body in some corridors for its partisanship.

I think our committee, under the leadership of the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR), has worked in a very constructive and bipartisan way. It does not mean we always agree, but I think we have a better product because I think we are each looking at things and sharing our different perspectives and trying to work out something that is in the best interest of our country.

I obviously would be remiss if I did not acknowledge and thank very heartily Debbie Gephardt on my staff, who has spent many years on the Committee on Transportation and Infrastructure staff.

We sometimes up here do not properly acknowledge the hard-working career people, in this case at the United States Department of Transportation, who provide the analysis and, hopefully, the facts that enable us to at least have some idea of what we are trying to accomplish and whether we are succeeding in that effort. Susan Binder, Ross Kreiton, and Rita Merish in particular have been tireless and have been available 24 hours a day to do runs and to provide information and have helped the process enormously.

Mr. Speaker, today we come to the end of a 2-year odyssey as we have worked to put together a transportation reauthorization bill. We face tremendous expectations and pressures with a finite amount of money, much less than is necessary to meet the overwhelming transportation needs across our United States.

During this reauthorization effort, I and others on the committee have traveled to cities across the Nation and met with governors, mayors, business and labor interests and others, seen firsthand the many critical and necessary information projects that we as a Nation need to complete.

The report before us today is a step forward in helping to meet those needs. A total of $295 billion in contract authority and $286-plus billion in guaranteed spending over 6 years is provided for Federal highway, transit and safety programs.

The conferees were sensitive to the needs of donor States as well as donee States. Donor States will see increases in their rates of return, reaching a 92 percent rate of return in 2008 and 2009. There is a minimum growth rate of 19 percent to protect other States.

A revamped highway safety construction program has been included. Likewise, we have revised the current border program into a formula fund to meet increasing needs for States facing high infrastructure costs from increasing foreign trade growing traffic.

Environmental streamlining, planning and other administrative improvements seek to make project delivery more efficient without lessening needed environmental protections. Safety programs administered by the Federal Motor Carrier Safety Administration and the National Traffic Safety Administration will see increased funding. Important new initiatives to encourage seatbelt use, decrease drunk driving, and enhance motorcycle training and education opportunities are included in this legislation.

I am particularly pleased that this conference report contains many provisions that were included in legislation I introduced last Congress to help consumers who find themselves at the mercy of unscrupulous movers. While the overwhelming majority of household good movers are honest businesses, it has become clear that we need greater enforcement tools. In this bill we are providing authority to the States to enforce Federal regulations geared to protect consumers and supplement the efforts of the U.S. Department of Transportation in overseeing over 1.5 million interstate moves per year. New penalties are created and opportunities for consumer information will be enhanced.

The bill also looks to the future in assessing the critical issues that we must confront if we are to have a first-class infrastructure that is so necessary to remain competitive and to spur economic prosperity. The bill contains several important provisions regarding future transportation needs, in particular, freight needs and financing of the highway trust fund.

Currently, the trust fund is financed by the Federal gas taxes. With the rise of alternative fuels and greater fuel efficiency, this is just not cutting it any more. We are relying on a 20th century mechanism in a 21st century world. Future trust fund revenue projections are not encouraging, so we must confront this issue sooner rather than later.

It is perhaps appropriate that we are passing this conference report today as a tribute to the current Federal Highway Administrator, Mary Peters, who will be retiring on July 31 after more than 4 years of dedicated service at the Department of Transportation. I would like to wish Mary and her husband well as they ride their Harleys to their new life back in their home State of Arizona.

Our former colleague and chairman of the Public Works Committee, Secretary Norm Mineta, has also provided his usual reliable advice and counsel in crafting this legislation.

Mr. DEFAZIO. Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I want to commend the Chair and ranking member for their efforts, and the subcommittee chair and the subcommittee ranking member. We are so delighted to come to this point, and I know that our ranking member of the full committee is probably so worn out he cannot get here today. But I would like to commend all of that leadership for the diligence, the good works, and the good attitude, the inclusiveness, and the long overdue legislation as a result for the American people.

And, foremost, the staff; I want to associate myself with the previous speakers' recognizing and complimenting the staff because we could not have done it without them.

I thank the Senate for their quick action. I just watched the Senator get up and talk about how important it was not to hold up the bill. But today we in the House of Representatives send a clear message to the American people that investment in America's transportation system is a top priority. This bill will help to create new, good-paying jobs, promote economic development, address congestion, air quality and highway safety problems.

Since 2003 the Nation has anxiously awaited a transportation reauthorization bill, and rightly so. Each year the

American people waste 3.7 billion hours in traffic gridlock, 2.3 billion gallons of fuel, to a total cost of $63 billion. We need to address these issues.

In addition to this congestion cost, the ever-deteriorating infrastructure of this country desperately needs attention. Late last year, the Texas Section of the Civil Engineers released a 2004 report card in which the State's infrastructure received a dismal cumulative assessment of below average.

An ever-increasing population is placing enormous strain on highway capacity. The Texas Transportation Commission can fund less than 40 percent of the worthy road and highway projects; 12,000 of the State's 48,000 bridges are structural deficient, and deteriorating air quality poses an even greater risk to the health of residents, particularly seniors and children.

In closing, I am delighted the product before us is finally one step away from bringing the much-needed funding certainty to our States and communities that have sought them since the expiration of TEA 21. While I regret the investment level falls short of the Transportation Department's $375 billion estimate that they advocated, our committee responded that this investment level represents a good step in the direction of the Nation's transportation needs.

Mr. YOUNG of Alaska. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. HASTERT), the great Speaker of this House. I deeply appreciate his efforts in getting this legislation passed.

Mr. HASTERT. Mr. Speaker, I want to take a minute to, first of all, congratulate the people who worked for years to make this bill possible. First of all, our chairman, the gentleman from Alaska (Mr. YOUNG) and the ranking member, the gentleman from Wisconsin (Mr. PETRI), the gentleman from Minnesota (Mr. OBERSTAR) and the ranking member, the gentleman from Oregon (Mr. DEFAZIO) for their hard work in getting this done, and their staffs.

As we know, in the legislative process, sometimes everything does not turn out exactly perfect the way we envision when we began. But this bill is a result of people working together on both sides of the aisle, setting goals, moving toward those goals, talking to each other, listening to each other. And it is a very good thing.

What this bill also means as we move our people and our products across this country, whether it be highway or rail or people by transit, we can do it in a better and more efficient way.

So many areas have unique needs. We have growth areas. We have huge expanses across this country with not very many people, but yet we need to move the goods and products across this Nation. We have a railroad industry that some bridges go back almost 150 years. But we need to modernize and we need to move forward because if we are going to be an economic trader in the years to come, if we are going to be able to move our products from the East Coast to the West Coast on things we manufacture and produce and buy, then we need to have the transportation to move it. This bill will make that possible.

I think of the hours of days every week that commuters sit on clogged interstates, intersections, commuter highways, and the waste of American energy and productivity; this bill will begin to help that issue. As a father, I can think of all those hours that families sit on those interstates slowly moving along, and kids say, Daddy, when are we going to get there? Maybe with this bill, we may have to answer that three or four less times in our lives.

I appreciate the great effort to get this bill done. Let us move to it.

Mr. DEFAZIO. Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the leadership. I want to acknowledge the gentleman from Illinois (Mr. HASTERT). I know the gentleman has played a key role; perhaps unlike any Speaker in history, with the difficult dynamic we had, he played a key role. I appreciate the committee leadership that has been acknowledged.

I would also like to express my appreciation for what people out in the country did. We have assembled the largest coalition in support of infrastructure investment in the history of the United States. Groups that ranged from the Women's Federated Garden Club of America, organized labor, environmentalists, people who move freight, people who build the facilities all came together with community activists to provide a critical push, given the political difficulties that all have acknowledged.

It was testimony also to the people who know how important these transportation investments are.

I appreciate being able to have a series of things in this legislation that I care deeply about. I have been working on small starts legislation that would help with streetcars, with commuter rail, with bus rapid transit, and I appreciate the committee having 3 years of investment that is going to help give communities more choices. And certainly with the gentleman from Minnesota (Mr. OBERSTAR) and the ranking committee member, the gentleman from Oregon (Mr. DEFAZIO), we were assured that this was going to be the best bicycle bill in the history of the United States, and we have it.

I am also appreciative that we have been able, through all of the travails, to keep the fundamental framework of the historic 1991 ISTEA legislation. This legislation produced the flexibility, it produced new tools for communities, it had a bias for being able to plan and put together the pieces right.

We have had lots of upheaval in Washington, D.C. and in the countryside since 1991. It has not been without controversy, but the basic framework is intact. And it means, even though this is not as much money as I would like to see us invest in America's infrastructure, it will be spent more efficiently in ways that communities want.

□ 1045

Because it has taken us 2 years to get to this point, one other thing should be reflected upon. We only have 4 years before we are doing it all over again. I hope that we take this time, learn from the experience, keep the coalition alive in Congress and in the country to make sure that when we come back here in 4 years, which is, sadly, a very short time in terms of major policy, that we are able to build on this, not get hung up over the level of funding, and that we are able to deal with critical questions that cry out for adjustment.

We need to think about what the appropriate role is for Federal oversight. There is a lot of work that is done with the Department of Transportation, frankly, that costs people money in time and energy that may no longer be necessary. I hope we are able to look at that role and gear appropriate Federal oversight in ways that add value, not take it away.

I think it is time for us to look at the match methodology, to have a uniform set of match provisions so that we are not affecting the transportation decisions based on how many dollars we give to the particular project. We need to develop more new tools like the Small Starts project. We have to critically focus on urban freight mobility.

This legislation moves us in the right direction, but we have a long way to go, and I do not think individuals have spent enough time and energy working in their own districts to craft the appropriate solutions. We need to look at the critical connections and refine the connections between rail, air, and roads. The Speaker referenced them in his presentation, but it is not just investing in each of them, it is how they fit together and enhance one another.

Mr. Speaker, there is no better Federal investment than in infrastructure that deals with the environment and transportation in communities. Spent properly, it is the best dollar spent to strengthen that community, make our families safe, healthy, and economically secure. This bill is a step in the right direction, and I look forward to working to make sure that it is implemented properly.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. THOMAS), the chairman of the Committee on Ways and Means.

who worked very hard on this legislation.

Mr. THOMAS. Mr. Speaker, I thank the chairman for yielding me this time.

Mr. Speaker, appropriately so, a number of people have been complimented. I too want to indicate that the reason this bill was so difficult is because there was not enough money to deal with the infrastructure needs of this country. As the keeper of the purse strings, I am very conscious of the amount of money that we have available. Between now and the next time we try this, we are simply going to have to rethink the way we provide for the infrastructure in this country. We are succeeding in areas that damage us in raising revenue to improve infrastructure.

Every page of this bill, Mr. Speaker, has been built on accommodation and compromise. I want to thank the staff, who have all earned graduate degrees in bill assembly. It was an extremely difficult job. But I want to say this: When we come back in September, we are going to begin addressing legislative needs of an aging American society. There will be critics of this legislation. It has been said in various ways, and I want to underscore it, that not only is America aging but America's infrastructure in many parts of this country, bridges, tunnels, and others, are octogenarians and older. It is foolish not to make sure that we maintain the infrastructure that we have.

Ironically, in some parts of the country, it requires new construction, highways, transit and other costly infrastructure improvements. But without doing it, without doing it, it will cost us billions. It has been recited how much it costs us today. Today, we present $286.4 billion worth of cost. Society will present us on a daily basis, through congestion and failure to build the right structures, a price tag over the next 5 years far greater than the price tag that is presented today. Today, you see the dollar amount. Over the next 5 years, we will accumulate a cost of a far greater amount.

I want to compliment those who put this together. I look forward to working with you in solving the financing structure. As we get better, there is no reason why the Highway Trust Fund should grow less. We need to rethink the way in which we pay for the infrastructure in this country.

I want to thank all of you for the most pleasant experience of operating in an institutional way to make this place work. Thank you. It was a lot of fun.

Mr. DEFAZIO. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Speaker, I want to thank the chairman, the gentleman from Alaska (Mr. YOUNG), the gentleman from Wisconsin (Mr. PETRI), and the ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Oregon (Mr. DEFAZIO) for their leadership and hard work in finally getting TEA-LU to this point so that we can pass a bill and get a bill signed into law.

This bill is almost 2 years overdue and should certainly include more money, but this bill will be a large win for the American people. This bill will provide billions of dollars for highway infrastructure improvement, transit systems, new buses and bus stops, congestion relief programs, and safety enhancements. It will also create millions of new jobs in transportation-related industries and will save thousands of lives each year.

Transportation funding is a win-win for everyone involved. States get to improve transportation infrastructure that create economic development, put people back to work, enhance safety, and improve local communities.

Finally, I want to ask the ranking member to engage me in a colloquy to discuss an issue that did not get included in the bill but is important to the cattlemen in my home State of Florida. The current weight limitations for Florida cattlemen's shipment is 800 pounds. However, neighboring States are grandfathered in at a higher weight limit, placing Florida at a competitive disadvantage with its neighboring States.

The Florida delegation is asking that the committee make every effort to improve this unfair situation in the rulemaking process and to ensure that there is a fair playing field for Florida cattlemen.

Mr. DEFAZIO. Mr. Speaker, will the gentlewoman yield?

Ms. CORRINE BROWN of Florida. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, I thank the gentlewoman. She has been a very able advocate for the economic interests of her State, as have other Members of the Florida delegation. I want to assure her that at least on this side of the aisle, and I am certain on the other side of the aisle, we understand these problems and assure her we will work with her to try to reach some resolution that is fair to all.

Ms. CORRINE BROWN of Florida. Reclaiming my time, Mr. Speaker, I thank the gentleman for his comments; and, as I take my seat, I want to once again thank the chairman and the ranking member for their leadership.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. DUNCAN), chairman of the great Subcommittee on Water Resources and Environment.

Mr. DUNCAN. Mr. Speaker, I thank the gentleman from Alaska for yielding me this time; and I want, first of all, to thank him for the Herculean job he has done on this legislation. My dad told me years ago, and I do not remember what it was about, but he said everything looks easy from a distance. Well, I can tell you, this legislation did not look easy from a distance or from close up.

The chairman of our full committee, the gentleman from Alaska (Mr. YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and our subcommittee chairman, the gentleman from Wisconsin (Mr. PETRI), and his ranking member, the gentleman from Oregon (Mr. DEFAZIO), had to work with 535 Members of the House and Senate. Each time we would come within a hair of finishing this bill, some glitch would develop and some problem; and I can tell you that I cannot express strongly enough my admiration and respect for Chairman YOUNG and Chairman PETRI and Ranking Members OBERSTAR and DEFAZIO for the work they have done.

One national magazine, Mr. Speaker, estimated we lose $67 billion a year due to congestion costs and people being stuck in traffic. As one other Member just said a moment ago, this job will save thousands of lives over these next 5 years. We have spent several hundreds of billions of dollars each year in other countries, Mr. Speaker, through every department and agency of the Federal Government, but this is an American bill. This is a bill to do things for the people of this country and to put our own people first.

I cannot overemphasize the importance of this. This is a 6-year bill with 5 years left. It sounds like a lot of money, and it is, but when you divide it by six, it really does not cover the infrastructure needs of this Nation. I can tell you that I especially appreciate what is in this bill for my constituents in east Tennessee.

This bill is progress for America. It is one of the finest products that has come out of this Congress in a long, long time; and it was a privilege for me to be a small part of it.

The SPEAKER pro tempore (Mr. BASS). Without objection, the gentleman from Minnesota (Mr. OBERSTAR) is recognized to manage the time on the minority side.

There was no objection.

Mr. OBERSTAR. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. COSTELLO).

Mr. COSTELLO. Mr. Speaker, I thank the gentleman for yielding me this time, and let me say that I rise in strong support of this conference report. I would like to say thank you for a job well done to the chairman of the full committee and the chairman of the conference, the gentleman from Alaska (Mr. YOUNG), who did an outstanding job working on this legislation, as well as the gentleman from Wisconsin (Mr. PETRI), and the ranking member of the subcommittee, the gentleman from Oregon (Mr. DEFAZIO) and certainly the gentleman from Minnesota (Mr. OBERSTAR), who has not only worked very hard in this conference but is a champion for transportation in general in the House of Representatives. Without the strong support and leadership of Chairman YOUNG and Ranking Member OBERSTAR and Subcommittee Chairman PETRI and Ranking Member DEFAZIO, we would not be here today.

Let me say that our interstate highway system is 50 years old, and 32 percent of our major roads are either in poor or mediocre condition. Twenty-nine percent of our bridges are structurally deficient or functionally obsolete, and 36 percent of the Nation's urban rail vehicles and maintenance facilities are in substandard or poor condition. This legislation is essential, for it increases investments in our roads, our bridges, and it allows States and our local communities to not only maintain but to improve their transportation system.

Despite this long process and all of the time that it has taken, let me say that we are here today to vote on what I believe is a good 5-year conference bill. H.R. 3 provides $286.4 billion over 5 years, which is a 30.32 percent increase over the last highway bill that we passed in the Congress.

I am also pleased that we were able to retain a section in this conference report for national programs of significance, otherwise known as megaprojects, in this bill. These projects are extremely important to not only our regions but also they are important to the Nation as well, and I am grateful to the chairman of the committee and also my friend, the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Wisconsin (Mr. PETRI), and the gentleman from Oregon (Mr. DEFAZIO) for including in this conference report a significant amount of money from the megaproject fund for the new Mississippi River bridge in the St. Louis region. It not only will provide relief to congestion in the region but also to the Nation.

With that, Mr. Speaker, I urge my colleagues to support and to vote for this conference report.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume to acknowledge the presence of the ranking member, my good friend, the gentleman from Minnesota (Mr. OBERSTAR). He has been absent from the floor because he was stuck in traffic. What better thing could happen to him today as we pass this magnificent bill. As we can see, he is here. I welcome him here, and we will be discussing this a little later on. Welcome.

Mr. Speaker, I yield 1 minute to the gentleman from Arizona (Mr. FLAKE).

□ 1100

Mr. FLAKE. Mr. Speaker, I rise today feeling a little like a skunk at a wedding, or probably more accurately, road kill. I will cast later today what I am sure will be a lonely vote against this legislation.

Mr. Speaker, I hope this is the last highway authorization bill we do in this fashion. In 1986, President Reagan vetoed the bill because of what he said were excessive earmarks or projects. I believe there were some 150 in that bill. There are nearly 6,000 in this bill today. That is no way to spend money.

As more earmarks come, fewer dollars as a percentage actually go to critical needs. It is spent in other directions, and it is not the direction we ought to go. Equally troubling in this bill are budget gimmicks, the biggest one being that we rescind on the last day of reauthorization $8.6 billion to bring this under the number that the President said he will not veto.

I would submit that nobody actually believes we are going to rescind that money. Let us be honest about this: This is busting the budget. I urge Members to vote "no."

Mr. OBERSTAR. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-McDONALD. Mr. Speaker, hallelujah; finally, we have a transportation bill. I would like to thank the chairman and the ranking member for their leadership and their strong support on relieving gridlock on our highways and mobilizing people and moving goods. That is why I rise in support of final passage of H.R. 3.

As a member of the committee and a conferee on this bill, I have been supportive throughout this process. I will be quick and to the point.

The bill is long overdue, 22 months to be exact. This has been a long process, but I want to focus on the new beginnings that passage of this bill will provide for my constituents and the many businesses across this country. The bill is not everything we wanted, but it is a start. It will provide mobility for millions of people, create jobs, reduce congestion, and improve the movement of our Nation's goods. It will benefit the country and it will certainly benefit my home State of California.

I want to thank the leadership for including my language for the Projects of National and Regional Significance in the final version of this bill. The focus of the Projects of National and Regional Significance during the conference committee has been on the funding for critical, high-cost transportation facilities, and as we know, it is an imperative for the future.

However, including the definition of this new program and listing the criteria for what constitutes a Project of National and Regional Significance in this bill is just as important. The new program will provide the framework for the ongoing funding of larger projects that contribute to the economic vitality of our national and regional economies. This program is about the future of our transportation infrastructure and the growth of our national economy.

I would like to thank my ranking member on the subcommittee, the gentleman from Oregon (Mr. DEFAZIO) and the chairman, the gentleman from Wisconsin (Mr. PETRI), for their even and measured approach throughout this reauthorization process. Their insight, understanding and vision on what transportation infrastructure can be and should do is evident throughout this bill. I thank you all for what you have done for California and this Nation.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. GARY G. MILLER), a member of the committee.

Mr. GARY G. MILLER of California. Mr. Speaker, I see on the chairman's face a sigh of relief this morning. I know this has been an arduous process, dealing with some of the issues, especially in the last 2 weeks. This is very good for this country, and specifically for my State of California.

Many things that are good take time. This is one thing that took time to percolate. Everybody would have liked to have seen more money, but we are not going to break the budget. We are going to work within the dollars we have, but this is huge. The gentleman from Wisconsin (Mr. PETRI) has worked very hard, along with the ranking member, the gentleman from Minnesota (Mr. OBERSTAR). And the gentleman from California (Chairman THOMAS) worked hard trying to provide the funds.

In California, probably the most significant project, in my opinion, would be the Alameda corridor. We have the Port of San Pedro and Long Beach, which handles about 40 percent of all of the commerce shipped into this country and out of this country, and our communities are being tremendously impacted by that. We have a good amount of money coming back to California to start this project. We have been given assurances that when the moneys are needed, the funds will be provided to complete this project.

Yes, there are things we would prefer to have changed in this bill, but the bill we are bringing back to the people of our Nation, specifically California, is good. It will provide jobs. People are sitting in traffic, sitting at grade crossings watching trains go by. Our job is to provide relief and ensure that commerce can flow, people can drive to and from work, they can get their kids to school without being impacted by traffic issues.

The State of California has very few dollars, almost zero in the last few years, to provide for traffic issues and infrastructure and the needs that we have for bridges and highways in California. These dollars going back to California are tremendous. Once again, I thank the gentleman from Alaska (Mr. YOUNG) for his leadership on this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding me this time.

First of all, let me join my colleagues in thanking the gentleman from Alaska (Chairman YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Wisconsin (Chairman PETRI), and the ranking member, the gentleman from Oregon (Mr. DEFAZIO) for bringing this bill to fruition. I know it was not easy. It was a heavy lift.

I am particularly grateful because in my district, the 11th Congressional District of Georgia, we have a project called the 411 Connector. We have been working on that at the State level for 25 years. It is a very congested area. It involves Floyd and Bartow Counties in particular, and will connect a congested road to I–75.

We have had great help on that project from the gentleman from Alaska (Chairman YOUNG) in getting the necessary funding. I want to thank my two Senators, Senators CHAMBLISS and ISAKSON. I want to thank the gentleman from Georgia (Mr. WESTMORELAND) for helping us keep the necessary funding for this project. Certainly, I thank Secretary Norman Mineta for placing this on a fast track list of only six projects in this country.

Last but not least, Mr. Speaker, I want to thank Mary Peters. I heard the gentleman from Wisconsin (Mr. PETRI) say she would be retiring to her home State of Arizona. Highway Administrator Peters came to my district, met with the folks from Bartow and Floyd Counties, and talked to us about how to get this project, apply for fast track; and I am very grateful to her for those efforts.

I want to say to Mary Peters, good luck on her retirement and be safe on that motorcycle in Arizona, and just ask all of my colleagues to support this bill, as I know they will.

Mr. OBERSTAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is an old saying, success has a thousand fathers, failure is an orphan. We bring to this House success with at least 435 parents, starting with the Speaker of the House, who is a strong advocate for the original bill that the gentleman from Alaska (Chairman YOUNG) and I introduced, and nearly all of the members of our committee, for $375 billion, to respond to the Nation's transportation needs over the next 6 years. We did that in 2003 at a time when gasoline was selling for $1.34 a gallon.

I appreciate the Speaker being an advocate for a robust investment, but I even more appreciate the gentleman from Alaska (Chairman YOUNG) for advocating before his conference this level of investment that we did not pick out of the thin air, but that was recommended by the Department of Transportation as directed in TEA–21 to evaluate paving condition, bridge condition, safety needs, and congestion across the country; and they came back with their estimates, after consulting with all of the States and all of the transportation experts, what it should be, and we did what we thought should be.

When the chairman broke his pick on that number after vigorous advocacy, we agreed to scale the bill back incrementally, further down the ladder to below $300 billion, and then down to $275 billion. We brought that bill to the House floor last year, and it passed; we went to conference with the Senate and they could come to no resolution, as we quaintly say in this body.

We had a little higher threshold. We came back this year, and while TV and newspaper stories report conflict and gridlock in Congress, there is no black smoke coming out of the Committee on Transportation and Infrastructure committee room. There is no discord or disagreement on how to approach policy issues. They are resolved in a thoughtful, constructive, and positive way that brought a bill that every one of us on both sides of the aisle could support, as if there were no aisle. For that, I express my deep appreciation and admiration for the gentleman from Alaska (Chairman YOUNG), whose patience nurtured the process along, whose impatience prodded the other body along, whose smile deflected critics, and whose scowl sent them skittering.

The gentleman from Wisconsin (Mr. PETRI), the chairman of the subcommittee, whose thoughtful and deliberative approach over many years on this committee contributed enormously to our work product. The ranking member, the gentleman from Oregon (Mr. DEFAZIO), plunged into this subject matter, mastered the issues, and became a vigorous and constructive advocate of all of the principal features of the bill. The gentleman has been an extraordinary, constructive partner.

This bill, in the end, was a measure so loved that all who were interested came to it bearing gifts and adorned it like a tree. At the end, one by one, we took those ornaments off until there was only one remaining last night; and that one, too, has been put back in its box to await another vehicle, perhaps a future omnibus bill where that ornament will be plucked out and hung on another tree. For now we have a tree of solid oak for this century, an investment in transportation, highways and bridges and transit and safety, tripling the investment in safety that we had in TEA–21.

Most importantly, this bill will move us in the direction of reclaiming our productivity in the marketplace and in the world economy.

In 1987, logistics consumed 17 percent of our gross domestic product, that is, moving people and goods. Last year, logistics consumed 9 percent of our gross domestic product, and that is a $750 billion a year gain in productivity, meaning it is less costly to move people, less costly to move goods. Take the example of UPS for whom a 5-minute delay nationwide costs $40 million. We will make an assault upon our slipping productivity, keep momentum going, address the congestion points across America and move America forward.

This is a good bill for America. It is good for people, it is good for economic sectors, and we all ought to pass this bill this morning and move America forward. Vote for the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. KIND. Mr. Speaker, I rise in support of the conference report for H.R. 3, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005. I want to acknowledge the work of the Transportation Committee on this complex bill and especially thank my friend and colleague from Wisconsin, Mr. PETRI, for his leadership on the legislation; the Wisconsin delegation is lucky to have such a strong advocate for our citizens.

H.R. 3 is a significant economic development and job creation bill, and now is certainly the time that we need more jobs throughout the country. I consistently hear from constituents who are searching for work; who have sent out dozens of resumes and updated their skills but remain unemployed. Each billion dollars spent on highway funding creates not only safer and better roads, but it also creates an estimated 47,500 news jobs. An investment in highway funding is an investment for steady work for those in Wisconsin and around the nation.

In addition, I am pleased that the bill recognizes the importance of funding crucial highways and bridges in Wisconsin's Third Congressional District. Specifically, the inclusion of funding for the Stillwater Bridge, which connects Houlton, Wisconsin, and Stillwater, Minnesota, is great news for those of us who have been working on this project for years. The bridge is only one example of an important project that will provide our citizens with safer roads, shorter commutes, and better jobs.

Furthermore, I would like to recognize the important conservation provisions that are included in H.R. 3. As a hunter and fisherman, I am particularly pleased with a provision which recaptures the final 4.8 cents of the 1[illegible].3 cents per gallon tax on motorboat fuel and directs it back into the Federal Aid in Sport Fish Restoration Act's Aquatic Resources Trust Fund (ARTF). This full recovery of the motorboat fuel excise tax will provide about $110 million a year for recreational trails, new funding for signage identifying access for anglers and hunters, and vital safety programs dealing with wildlife-vehicle collisions. These important provisions make H.R.

3 the most comprehensive transportation bill for sportsmen ever created.

I am proud to have served on the conference committee to help reconcile this bill so it could reach the House and Senate for a final vote. Moreover, I would like to thank Senators KOHL and FEINGOLD for all the work they have done with this bill to make sure that it benefits the citizens of Wisconsin. The long-awaited passage of this bill is great news for western Wisconsin. I urge my colleagues to support the bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to commend Chairman YOUNG and Ranking Member OBERSTAR, as well as the subcommittee leadership for their hard work in crafting the underlying legislation. I consider the Committee on Transportation and Infrastructure and the appointed Conferees for this bill to be a "club" of sorts, and it is in that vein that I commend them for the tremendous job appropriate funding for surface transportation projects and environmental mitigation projects of importance to every congressional district.

Not only am I pleased that the Conference Report contains authorization and appropriations of $12.8 million for priority infrastructure and surface transportation projects in my District of Houston, Texas, but I am happy that other provisions provide for the investment of tax dollars for the creation of jobs, economic growth, and improved productivity.

Mr. Speaker, the actions taken in this bill will be instrumental in moving forward with an expansion of transit service that is so greatly needed in the Houston area. I want to thank the entire Houston delegation and most importantly Senator KAY BAILEY HUTCHISON for her work on the earmark for Houston METRO. It is very important that we work together in a united fashion to improve mobility for the Nation's fourth largest city. I have worked for many years to help Houston METRO and am glad we can take the next big step in implementing valuable transportation and mobility improvements because of this bill.

The Greater Houston area is subdivided into 6 counties: Chambers, Fort Bend, Liberty, Montgomery, Waller, and my District, Harris. Harris County contains the city of Houston and the largest concentration of people. In the year 2000, approximately 3.5 million people lived in Harris County alone—by far the most populous area. Over the next twenty years, the population of the Houston region will continue to grow.

The Historic Fourth Ward in Houston is long overdue for major transportation improvements that have thankfully been addressed in earmarks contained within the Conference Report. The Fourth Ward emerged as Houston's most prominent African-American neighborhood when thousands of freed slaves flooded into the city after emancipation. These newcomers settled on the fringes of the third, fifth, and fourth wards. The Freedmentown area north of San Felipe and the streets west of downtown not only attracted the largest number of the new black residents but also housed the first black churches, schools, and political organizations. Several factors combined to facilitate the subsequent growth of the Fourth Ward's black community. I thank the Conferees for their hard work in retaining important project funding such as this.

Continued improvement to Houston's and Texas' infrastructure will be the priority for me and my colleagues, and H.R. 3 represents a major advancement toward that goal. For these reasons, Mr. Speaker, I support H.R. 3.

Mr. HENSARLING. Mr. Speaker, today, the House of Representatives approved the conference report for H.R. 3, the 6-year reauthorization of highway and transit programs. I regrettably voted against this legislation because I believe it represents a disservice to American taxpayers. With an advertised cost of over $286 billion, the bill on its face is more than $2 billion over what President Bush has threatened to veto. More importantly though, the bill contains a gimmick that disguises significant spending and undermines the integrity of the entire Congressional budget process. Several times already this year I have opposed legislation that violates either the Budget Act or spending limits established by the Congress. We agreed to these budget levels and the discipline of the Budget Act. We must learn to live by them or we will leave our children and grandchildren a huge and unfair financial burden as their inheritance.

Unless Congress breaks with decades of historical precedent and rescinds $8.5 billion in funding in 2009 (on the last day of the bill's authorization), the budget gimmick brings the true total to $295 billion. There are many worthwhile projects.in this bill that are good for Texas and for the nation. We should be spending Federal highway funds on needed highways and bridges, gravel and concrete, not millions of dollars on the Henry Ford Museum in Michigan, graffiti elimination in New York City or hundreds of millions for a bridge in Alaska so the few residents of a remote island can avoid a 7 minute ferry ride.

The budget ruse and the wasteful items in this legislation are a disservice to the American people, who count on Congress to ensure we have the necessary infrastructure to sustain continued growth in our economy. We need roads to move commuters quickly, safely and efficiently and so businesses can ship goods. We do not need H.R. 3 as written. I know my position is often lonely in attempting to protect the integrity of our Budget Act and the discipline it represents. Still I believe the work is critical and I will continue to try to be a leader in this area in the House.

Mr. HONDA, Mr. Speaker, I rise today to express my support for the Disadvantaged Business Enterprise (DBE) program provisions contained in H.R. 3 the Safe, Accountable, Flexible, Efficient Transportation Equity: A Legacy for Users Act.

While we have made some progress in getting participation by minority-owned businesses in the Federal-Aid highway and transit programs, we still need the DBE program to encourage further advances in this area.

We have seen that when DBE programs end, many prime contractors return to the same exclusionary practices that deny minorities and women the chance to compete for business underscoring the continued need for the DBE program. Let me also make clear that the DBE program is not a quota program. The goals in the program represent a national target for the Department of Transportation; state and local recipients of DOT funding set their own goals for DOT participation in construction projects based on the availability of disadvantaged businesses in their markets. There is never an absolute requirement that a particular goal be met.

The DBE program is based on a simple premise of equal opportunity. It requires all contractors bidding for Federal highway projects to do so on an equal footing, regardless of gender or of race. Federal highway projects should be awarded to companies owned by individuals who for decades, for decades were effectively shut out from this industry. I believe that the DBE program in this bill is needed to open opportunities for women and minorities in the highway construction industry. It is a program important to a wide range of socially and economically disadvantaged persons.

Mr. Speaker, time has shown that the DBE program works. It is a program that meets constitutional muster. It is a program that has a rational, national compelling interest. Again, I stand here today to express my strong support for a program that has proven to be of enormous benefit to countless minority- and women-owned businesses in the country.

Mr. WEINER. Mr. Speaker, I rise tonight to congratulate the conferees on completing their work to fund our Nation's transportation needs for the next 5 years. Mr. YOUNG, Mr. OBERSTAR, Mr. PETRI and Mr. DEFAZIO in particular deserve credit for clearing the final legislative hurdle to making SAFETEA–LU a reality. After 11 extensions of TEA–21 and 2 years of debate, I am glad to see this day come.

As a member of the Transportation and Infrastructure Committee that approved a $375 billion highway authorization bill in 2003, I supported H.R. 3 when it passed the House despite feeling that more funding was needed. I was happy to see that the total funding package in the conference report totals $286.4 billion, a 30 percent increase over the total highway funding in the last authorization bill passed in 1998. I wish the Congress had followed the Department of Transportation's own needs assessment and funded the bill at $375 billion, but I accept this compromise as a way to get much needed money to States and localities that need it now.

New York City will see a 23-percent increase in overall funding under this bill, about $8.5 billion overall. In highway funds the city will benefit from about $3 billion, a 19-percent increase; and in transit funds the city will see $5.5 billion, a 30-percent increase. The 19-percent increase in New York City and state highway funding is of the utmost importance: it grows the State's Federal funding stream above the rate of inflation and will allow for planned development to proceed.

On the matter of the minimum guarantee, I am a firm believer that States like New York should not be punished for having efficient transportation systems that keep fuel consumption down. I advocated for a 90.5 percent minimum guarantee in the bill. Given that some of my colleagues had called for a 95 percent minimum guarantee to favor states like Texas, I accept the conference report's 90.5 percent minimum guarantee that balloons to 92 percent by 2008.

I would also like to commend the conferees for settling on Senate language related to grants under the Intelligent Transportation Infrastructure Program. The language in the conference report will allow for new contracts to be awarded as the program expands into new cities instead of making all new projects subject to the old sole-source contract. In each case the state transportation agency will be required to consent to any grant award made. This arrangement will promote competition among vendors and place all firms capable of installing and operating traffic data collection infrastructure on a level playing field.

Mr. Speaker, I have worked hard to ensure that this bill will make significant improvements to the lives of ordinary New Yorkers. Included in this bill are a number of projects that will enhance transportation throughout New York City and in my district in particular.

At my urging, the bill includes:

$15,000,000 for the New York City Department of Transportation to build the facilities and purchase the ferry boats necessary to establish high speed ferry service between the Rockaway Peninsula and Manhattan.

$500,000 to help the New York State Department of Transportation install two permanent variable message signs that will display amber alert messages on the Belt Parkway.

$250,000 for the New York City Department of Transportation to study and implement pedestrian safety enhancements in Gerritsen Beach, Brooklyn.

$1,000,000 for the New York City Department of Transportation to study and implement traffic improvements to the area surrounding the Stillwell Avenue train station in Coney Island, New York.

$600,000 for each of the boroughs of New York City to make improvements to pedestrian safety, allocated within each borough according to feedback collected on my website from New York City residents.

$250,000 for the areas surrounding each of 10 schools in New York City. Those funds are to be spent on efforts to improve pedestrian safety surrounding those 10 schools. Students walking to IS Q114 in Belle Harbor, PS Q200 in Electchester, PS K124 in Park Slope, PS K277 in Gerritsen Beach, Prospect Park Yeshiva in Midwood, PS X81 in Riverdale, IS X194 in Parkchester, IS R72/PS R69 in New Springville, PS Q153 in Maspeth, and St. Roberts Bellarmine in Bayside will all be better protected by improvements installed with funding provided in TEA–LU.

$500,000 to make improvement to pedestrian safety in the Riverdale neighborhood of the Bronx in consultation with Representative ELIOT ENGEL and New York State Assemblyman Jeffrey Dinowitz.

$500,000 for pedestrian safety improvements on Queens Boulevard.

$700,000 to abate noise emanating from I–95, I–278, Mosholu Parkway, I–495, Grand Central Parkway, and Richmond Parkway: all state roadways located within New York City that are paved with concrete. "Diamond grinding" measures should significantly improve the quality of life of those residing within earshot of those roadways.

$550,000 to improve the roadways surrounding the Brooklyn Children's Museum.

$1,000,000 to be used to build a new facility for the Broad Channel Volunteer Fire Department.

$5,750,000 to be used by the Doe Fund to establish a graffiti elimination program throughout the city of New York. It is my intent that my $4.75 million project for graffiti removal in Queens, Brooklyn, Staten Island and the Bronx be used in the neighborhoods of Woodside, Bensonhurst, Boerum Hill, Astoria, Cobble Hill, Windsor Terrace, Hollis Wood, Park Slope, Kensington, Glendale, Borough Park, Williamsburg, Carroll Gardens, Whitestone, Jamaica Estates, Bath Beach, Dyker Heights, Crown Heights, Flatbush, Midwood, Jamaica Hills, Grand Street, and Kings Highway from Ocean Parkway to McDonald Avenue. It is further my intent that $250,000 of this money will be applied to the Soundview, Castle Hill, Throgs Neck and Morris Park neighborhoods in the Bronx, at the urging of Rep. Joseph Crowley. I have also included $500,000 for Smith Street in Brooklyn and $500,000 for the Riverdale neighborhood.

$2,000,000 to improve transportation facilities in the vicinity of West 65th Street and Broadway in conjunction with the major capital improvements being done at Lincoln Center.

$500,000 to be equally distributed at five locations in New York City for the New York City Department of Transportation to enhance the enforcement of truck routes. The five locations are:

The Long Island Expressway Eastbound Service Road at 74th Street to Caldwell Ave. Grand Ave from 69th Street to Flushing Ave. and Eliot Ave from 69th Street to Woodhaven Blvd

Avenue P between Coney Island Avenue and Ocean Avenue in the 9th District of New York

The 9th Street and 3rd Avenue intersection in Brooklyn

From Broadway to Irwin Ave between 232 to 231 in the neighborhood of Kingsbridge, New York

Victory Blvd Between Travis Ave and West Shore Expressway Travis Section of Staten Island

$300,000 for Gateway National Park to improve the Riis Park Boardwalk.

$2,000,000 to be used to improve traffic flow in the vicinity of the Atlantic Yards Development in Brooklyn.

$1,000,000 to be used by City and State Agencies to improve homeland security at bridges and tunnels throughout New York City.

$500,000 to improve the roads and facilities at the Kew Gardens Long Island Rail Road Terminal.

$950,000 to design and construct a bicycle and pedestrian walkway along the decommissioned Putnam Rail Line in the Bronx at the advice of Representative ELIOT ENGEL.

$2,000,000 to improve 125th Street in Harlem in conjunction with improvements being made by Columbia University.

$2,000,000 to implement congestion reduction measures on Staten Island at the urging of New York State Assemblyman Michael Cusick.

$500,000 to install traffic safety measures at the intersection of Rockaway Point Boulevard and Reid Avenue in the Breezy Point neighborhood.

$1,400,000 to repair and improve streets in Astoria, Queens that were damaged by water main breaks.

$836,000 to help Easter Seals purchase and equip cars that provide livery service to disabled New Yorkers.

And $836,000 to establish a bus rapid transit system at a location to be determined in consultation with the Transportation Workers Union. Bus rapid transit uses a variety of traffic improvements, like exclusive bus lanes and coordinated signal changing, to speed bus travel on congested city routes.

These high priority projects will make a considerable contribution to the lives of New York City residents. I could not have secured these and other programs within TEA–LU without the help and counsel of individuals here in Washington, as well as in Albany and New York City.

In particular, I would like to thank both the Democratic and Republican staff of the Transportation Committee, both of whom worked tirelessly on this piece of legislation, and who deserve the entire Congress' thanks. In particular, I would like to thank Ken House, Eric VanSchyndle, Ward McCarragher, Kathleen Zern, David Heymsfeld, and Dara Schleiker of Mr. OBERSTAR's staff.

I would also like to thank Tom Kearney, Tom Herritt and their colleagues at the Albany Office of the Federal Highway Administration, Nancy Ross, Fred Neveu, Ron Epstein and their colleagues at the New York State Department of Transportation, and Andra Horsch and David Woloch and their colleagues at the New York City Department of Transportation.

Mr. GONZALEZ. Mr. Speaker, as we consider the conference report for H.R. 3, I would like to express my appreciation to the Chairman and Ranking Member for their work on this important piece of legislation, and in particular, I would like to recognize the inclusion of measures that will reauthorize the U.S. Department of Transportation's disadvantaged business enterprise (DBE) program.

The DBE program ensures equal contracting opportunities for women- and minority-owned firms. It is an innovative program that expressly prohibits quotas, and instead seeks to enhance contracting opportunities whenever possible through race and gender neutral means. The constitutionality of the DBE program has been upheld in every court that has considered its constitutionality, including three federal circuit courts.

The DBE program has helped change the construction industry since it was first established over two decades ago. However, it continues to be a necessary tool for combating the continuing effects of discrimination in the highway construction industry and for creating a level playing field among highway construction contractors.

MGT of America, Inc., a consulting company, produced a disparity report of the North Texas Tollway Authority. This 2002 report finds underutilization of minority and women owned business entities in four of the North Texas Tollway Authority's contracting markets. It reports that minority and women owned business entities are available to supply 33 percent of the construction market; 14.3 percent of the professional services market; 9.7 percent of the consulting services market; and 6.4 percent of the goods and services procurement market for the North Texas Tollway Authority. However, in the construction market, there was substantial underutilization in prime contracts and subcontracts. With the exception of two contracts awarded in 1998, minority and women owned firms are underutilized for professional services. The disparity indices for firms providing consulting services show overall underutilization of minority and women owned firms, and the level of utilization is substantially less than the number of firms available to do business. In the analysis of goods and services procurement, the study reveals underutilization of all women and minority owned firms except for contracts awarded to one Asian-American owned firm.

It is entirely appropriate, indeed necessary, that the reauthorization of the DBE program be included in H.R. 3. I support H.R. 3 and the DBE program, and intend to vote for its passage.

Mr. MENENDEZ. Mr. Speaker, this is a day that has been long in coming. I would first like to congratulate the distinguished chairmen and ranking members for getting near the end of this exceptionally long road to reauthorization, and I would like to thank them and the committee staff for the tremendous amount of work they've put in to make this conference report a reality.

For me, transportation is about far more than simply getting from one place to another. It's about creating jobs, stimulating the economy, revitalizing neighborhoods, cleaning our air, and making us more secure. And this bill is about more than just laying asphalt and pouring concrete. The tremendous increase in transit funding will help ease congestion, allowing all commuters to spend less frustrating time in gridlock, and more quality time with their families.

The conference report contains some very important language that will help advance the Trans-Hudson Midtown Corridor project, a series of improvements that includes a new set of passenger rail tunnels between New Jersey and Manhattan. When completed, this project will make it far easier for New Jerseyans to get to New York for business or recreation, allowing the economy to grow on both sides of the river.

While the Trans-Hudson tunnel will help move people below the water, another major project in this bill will help keep things moving on the water. The Liberty Corridor leverages the strengths of the megaport of the East Coast, Port Newark and Port Elizabeth, to create an economic engine like no other in the country, where people can bring ideas, turn them into reality, and bring them to the world marketplace. As this bill recognizes, this is truly a project of national significance. The key to Liberty Corridor is transportation infrastructure, and the conference report contains a very generous amount of funding that will be used to upgrade the highways and railways in the Port region, allowing more cargo to flow, more jobs to be created, more brownfields to be returned to productive use, and a better quality of life for people throughout New Jersey.

There are a number of great provisions in this bill, but there is one that is conspicuously missing, and that is the Pay-to-Play protection amendment that New Jersey desperately needs. The House passed the Pascrell-Menendez-LoBiondo amendment that would allow New Jersey to combat corruption as it saw fit, but the amendment was stripped in Conference without even a vote. This is a sad statement to people who believe in clean government, and I will continue to fight to protect New Jersey's ability to restore the public's trust in the contracting process.

I look forward to working with the members of the committee to take these programs and projects that we worked so hard to turn into law and turn them into reality.

Mr. CUMMINGS. Mr. Speaker, I rise today to join my colleagues in celebrating the completion of the conference report on the transportation reauthorization.

I thank Chairman YOUNG and Ranking Member OBERSTAR for their tireless leadership.

I also thank them for working with me to include funding in this bill for 9 studies that will expand research on critical issues in hazardous materials transportation.

In its Special Report 283, the Transportation Research Board found that perhaps "the most notable gap" in America's system for ensuring the safety and security of hazardous materials transportation is the lack of research that is cross-cutting and multi-modal in application.

The studies funded in SAFETEA–LU will begin to fill this gap by providing information on such issues as integrating safety and security in hazardous materials transportation, developing multi-modal emergency response guidelines, and examining hazardous materials routing. I also look forward to receiving the Department of Transportation's assessment of whether a permanent hazardous materials transportation cooperative research program is needed—as I believe it is.

I am also pleased that our conference produced a bill that includes significant provisions that support the increased development of livable communities—particularly by supporting an expansion of transit funding, transportation enhancements and the revitalization of existing roadways, and projects that significantly expand opportunities for people to hike and bike in their neighborhoods.

Finally, I want to take just a moment to reflect on how regrettable it is that the process of funding our nation's transportation system has become so acrimonious.

It has been said that even if you're on the right track, you'll get run over if you just sit there. For the past two years, we have been sitting in place. I truly hope that as we confront the significant challenges in transportation that await us in the future, we will remain focused on what must be our shared goal: adequately investing in the infrastructure needed to move our nation forward.

Thus, while I do not agree with every provision in this bill, I strongly support this bill because it will provide the investment in our nation's transportation system that is so essential to keep our economy moving forward by reducing congestion, expanding funding for our nation's transit systems, and creating good-paying jobs.

I encourage my colleagues to remain focused on the future by supporting this conference report.

Mr. CASTLE. Mr. Speaker, I rise in support of H.R. 3, the House-Senate agreement on the "Transportation Equity Act: A Legacy for Users." This legislation has been a long time in the making, and I applaud the conference committee for their commitment to finding a compromise that will enhance our transportation system and make our roads safer for all Americans.

Since the last highway bill expired in October 2003, this Congress has struggled to produce effective reauthorization legislation. Along the way, I have expressed a great deal of concern with specific aspects of this process. In fact, I voted against this bill in April 2004, and again this past March, due to my concern over proposed changes to the formula Congress uses to provide transportation funds to States. Under these changes, large States like Texas and Florida would have seen their funding for highway construction and transit projects increased, at the expense of small States like Delaware.

While it is important to ensure that all States receive an adequate rate-of-return from the Highway Trust Fund, the provisions in the House version of the highway bill would have diverted funds away from aging infrastructure and heavily congested roads in the northeast. I am pleased to see that the final conference report eliminates these detrimental provisions and settles on a compromise that guarantees an increased funding authorization for all States. Under this agreement, Delaware's highly stressed transportation system is expected to see a 30-percent increase in highway funds over the next few years.

I am also very pleased to see that the conference committee has included safety standards to protect against vehicle rollover, side impact crashes, roof crush, and occupant ejection—all of which were left out of the House-passed bill. There were 42,800 highway deaths in 2004, with the largest increase in fatalities occurring in rollover crashes. In early July, I joined several of my House colleagues in requesting that conferees included this language and I believe it will do a great deal to enhance safety requirements for automobiles over the next five years.

In addition, the conference report takes steps to improve the bill's environmental regulations, which have been of some concern to me throughout this debate.

Despite these and other encouraging advancements, I remain concerned over the conference report's bulky price tag and excessive number of Member earmarks. This bill is by no means perfect, however it succeeds in finding a degree of balance and providing funding for essential programs across the Nation.

In Delaware, this funding cannot come soon enough. Our State is at the nexus of travel on the northeast corridor and our roads and bridges are suffering from increased traffic and highway congestion. H.R. 3 will provide the foundation for tremendous improvements in Delaware and it authorizes funding for much needed projects such as the Indian River Inlet Bridge and the hectic I–95/SR–1 interchange in New Castle County.

In 2003, we started out with an impractical proposal and a guaranteed veto threat from the President. Today, we have an agreement that is reasonable and will create jobs, boost our economy, and provide indispensable infrastructure improvements in places like Delaware. This bill has come a long way, and I commend the conferees for their dedication to finding an agreement that is both fair and effective.

Mr. UDALL of Colorado. Mr. Speaker, I rise in support of this conference report on the

"Transportation Equity Act: A Legacy for Users" (TEA–LU).

While the funding provided in the bill will not meet all the needs in Colorado's Second Congressional District—let alone those of the rest of the State or the country as a whole—it does provide resources for many needed improvements.

The conference report will help our State address challenges that face Colorado as a result of a decade of rapid expansion in the northwest Denver suburbs and mountain and resort communities. Without the passage of this essential long term extension critical transportation and infrastructure needs for Colorado and the Nation will continue to be ignored.

This bill will also fuel job creation.

I am committed to continue working with the Colorado delegation, local communities and the Transportation Committee to secure essential Federal funding to get people and goods from one place to another with a focus on transit and other alternatives and improve current modes of Colorado's transportation network.

Mr. BLUMENAUER. Mr. Speaker, when Congress passed ISTEA, it revolutionized policy and how our transportation dollars are spent. Congress said that we were not just investing in highways, we were going to fund a broader range of transportation modes that truly help to build more livable communities. Transit, bikes, pedestrian access, a greater role for planning and coordination so that we make sure that we are doing the right thing to improve neighborhoods, protect the environment, provide working families with better access to jobs—these were key elements in the original legislation. I am very happy that TEA–LU continues to move us in the right direction as a nation.

The team from Oregon, the entire Congressional delegation, played a critical role in making sure that this bill maintained the funding flexibility and innovative tools that Oregon has come to rely on. We also worked hard to maximize the impact in our State and the Portland Metropolitan area.

The most important element is making sure that Oregon gets its fair share, which has been achieved in no small part due to heroic efforts on the part of PETER DEFAZIO, who played a critical role in negotiating the final elements. The Oregon Senators recently released a joint list of over $100 million of projects of statewide significance with a number in the Portland metropolitan area. We have all worked to make sure that regional highway and transit projects are able to move along in times of difficult funding at the State level.

I am particularly pleased that we were able to secure authorization of the next round of expansion for the MAX light rail system. There are streetcar provisions that will help continue Portland's growing and nationally significant streetcar, so critical to the revitalization of neighborhoods. There are also elements that deal with vital freight movement and efforts for programs of statewide significance. There's also important bike funding, including safe routes to school and work that I had done with Congressman DEFAZIO to create a bike route from The Dalles to Eugene along the scenic Columbia River highway and down the Willamette Valley.

Most important, the delegation's work together has enabled us to begin laying the groundwork so that we will be in a stronger position from a local level and for Federal policy when it comes time for the next reauthorization. Since the current bill has been delayed for nearly two years with eleven extensions we will be right back in this process in just a couple of years, so it is critical that we take advantage of these investments and continue an aggressive future program.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I would like to submit this letter from the President of the Maryland Washington Minority Contractor's Association detailing the discrimination that his members continue to face in transportation contracting.

MD. WASHINGTON MINORITY
CONTRACTOR'S ASSOCIATION, INC.,
*Baltimore, MD, July 21, 2005.*

Re: Reauthorization of DBE program.

U.S. CONGRESS,
*Washington, DC.*

DEAR SIR OR MADAME: I address this correspondence to you on a matter of extreme importance. Discrimination against one's racial, ethnic and gender make-up is still the number one impediment for minority entrepreneurs starting and sustaining their businesses in America today. As the leader of a minority trade association in Baltimore, Maryland, I have witnessed and received testimony from many who have experienced first hand the evils of procurement discrimination in Government and private sectors.

The findings from disparity studies conducted throughout Maryland indicate that countless minority businesses are not being provided opportunities to grow their businesses because of a lack of capital, bonding and retained earnings. Upon attending a recent public hearing at the headquarters of the Washington Suburban Sanitary Commission (WSSC) on the subject of its recent disparity study, I heard a disadvantaged African American business testify that if the WSSC suspends the DBE program, his company would be out of business. This particular company supplies valves and manhole covers to WSSC. The owner of the business further stated that other water supply and treatment centers in the region who do not have DBE programs won't buy from him because he can't get the foundries to supply him. The foundries that do supply him do so only to satisfy WSSC's DBE program.

If the DBE program is not reauthorized, the fate of the majority businesses doing business under the program is doomed. I urge the continuance of the program without haste.

Sincerely,

WAYNE R. FRAZIER, Sr.,
*President.*

Mr. SALAZAR. Mr. Speaker, I rise today to express my strong support for H.R. 3, the Transportation Equity Act: A Legacy for Users. This important measure represents months of hard work and coalition building.

I thank Chairman YOUNG, Ranking Member OBERSTAR, and Representatives PETRI and DEFAZIO for their tremendous leadership during this time. I am proud to be a member of a committee that shows true bipartisanship and respect for one another.

As a member who represents one of the largest districts in the country, I see the immense needs across rural America. It was for this reason that I came to Congress—I want to make a difference for communities like mine, communities that don't always have a voice at the table. I intend to fight hard to make sure that rural Colorado gets its fair share of Federal funding.

I worked closely with my fellow committee members to craft a bill that truly represents the needs of all America. I urge my colleagues to vote for TEA–LU so we can finally put a bill on the President's desk for signature. By passing a transportation bill, localities can move forward with plans to build new roads, reinforce bridges, and invest in research and development to promote safer and cleaner technology.

Investment is the key word here—it is what this bill is all about. Infrastructure investment is the key to the free flow of trade. It is the key to connecting communities and promoting economic growth. And it is the key to stimulating jobs and industry development across the country.

This transportation report is a victory for rural Colorado. At a time when budgets are being slashed across the board, the communities in the Third Congressional District can expect a record number of federal dollars for our local highways.

The Transportation Reauthorization Conference report includes earmarks for important projects across the 3rd District of Colorado: $12 million for US–160, East of Wolf Creek Pass, $3.2 million for Dillon Drive Overpass, $6 million for US–50 State Line from Kansas to Pueblo, $5.2 million for the Glenwood Springs South Bridge, and $6 million for US–550 west side of Montrose.

By investing in our infrastructure now, we avoid problems down the line by reducing congestion and pollution, and improving safety on the roads. This funding will be a huge boost to economic development for the entire region. Nothing will make me happier than the President signing these rural development funds into law.

I am also pleased that the bill contains over $4.3 million in funding for bus and bus facilities across the third district. You don't always associate public transportation with rural areas but it is just as important in our communities as it is to larger urban areas. From Steamboat Springs to Crested Butte to Telluride, we are investing in the larger transportation system of a growing region.

Mr. Speaker, I once again would like to thank the Transportation and Infrastructure Committee leadership and their staffs for their hard work on the bill we have before us today. I urge my colleagues to vote in favor of TEA–LU. We have forced communities and state and local governments to wait too long for critical resources.

Mr. BACA. Mr. Speaker, I rise in strong support of the conference report for H.R. 3, the Transportation Reauthorization.

The sad fact is that American transportation infrastructure is not keeping pace with population growth, traffic, the increase in the movement of goods, and the basic need to have better freeways that connect us as a Nation.

Our freeways and transit systems have been key components of American society. They enable us to exercise our fundamental freedom to travel, explore and move cross-country with ease.

Just as important, our freeways allow for the movement of goods and interstate commerce. That is why this bill is such an important federal priority, and why we should have funded it more generously.

We know that the United States of America is the single largest exporter and the single largest importer on the face of the earth. We have an $11 trillion economy.

The region I represent in California, called the Inland Empire, is growing by leaps and bounds. The Inland Empire is among the few remaining areas with affordable housing within driving distance of Los Angeles.

The Cities of Fontana, Ontario, Rialto, Colton, and San Bernardino stand to nearly double their populations by the end of the decade. The Inland Empire will grow by another 1.6 million people by 2020, bringing the population to 4.8 million.

The growth in my district outpaces that of 45 States. This growth requires a significant investment in transportation infrastructure to allow our residents to commute safely through our roads, rail and highways.

My region also has a constant flow of traffic and rail to and from the ports of Long Beach and Los Angeles, two of the busiest ports in the entire world.

Trucks from all over the nation travel Interstates 10, 15 and 215 to deliver their goods to port or to a warehouse.

Because of the high volume of movement in my region I understand the challenges we face in improving our roads and freeways to make them safer, cleaner and less congested.

This conference report includes funding for important grade separations that are badly needed in my district so we can improve the safety of rail traffic and rail crossings. Also, this conference report invests in freeway interchanges and overpasses in the fast-growing region I represent.

I am also glad that this bill contains funds to do the final upgrades to the Santa Fe depot.

Mr. Speaker, our Nation has waited long enough for these overdue infrastructure investments. I urge my colleagues to support the conference agreement.

Mr. PETRI. Mr. Speaker, one of the last items negotiated between House and Senate in this Conference Report were pending requests for exemptions from hours-of-service regulations for truck drivers in various industries. I personally believe that safety and economic realities require that there be greater flexibility in the rigid rules and regulations governing hours of service and I was disappointed that many of these exemptions did not receive more positive consideration.

One exemption that I supported, but was ultimately not accepted, would provide emergency flexibility that permits the re-rail industry to quickly respond to the true emergency needs that arise from railroad derailments and accidents. The failure to provide an emergency exemption for the Rerail Industry will result in a continuing denigration of our ability to protect the lives of citizens living along rights of way, assure highway safety and expedite interstate commerce by quickly clearing train derailments.

Today these emergency responders of the rail mode are often given the Hobson's choice of rapidly clearing wrecks that endanger lives and property and can cost millions of dollars in stacked up traffic or being penalized for violating hours of service. This is neither fair nor is it in the public interest. One of the best examples is the Weyauwega, Wisconsin derailment that took place in my own Congressional District. In this case a derailment overturned 15 cars of hazardous material and ruptured three cars of LPG and propane which ignited and threw fireballs 300 feet into the air. The derailed train was blocking a grade crossing and emergency responders could not reach a flaming feed mill and storage building. The resulting fire continued to burn and the entire town was evacuated for over 2 weeks.

According to the current rules, driver-operators may not legally be allowed to respond immediately to such an accident. But this is exactly the choice that must be made over and over again by the men and women who work in this industry. The situation these companies and their drivers are placed in is neither fair nor is it in the public interest. The issue here is balancing of hours of service flexibility against the terrible consequences of not responding quickly.

The exemption I sought was to provide rerail drivers with exactly the same treatment currently provided tow truck drivers under existing regulation during a declared emergency. As we learned in Weyauwega, consequences of a train derailment can be far more severe than your average highway accident and should be treated accordingly. I intend to continue to work with both the U.S. Department of Transportation and the U.S. Congress to provide those who respond to and rail wrecks with exactly the same treatment as tow truck operators.

Mr. BARTON of Texas. Mr. Speaker, I rise in support of H.R. 3, the Transportation Equity Act: A Legacy for Users. Specifically, I want to speak to the inclusion of the important vehicle safety provisions that fall within the jurisdiction of the Energy and Commerce Committee.

We are a country of drivers, and unfortunately when you have 204 million vehicles on the road, there will be accidents. In fact, it is a sobering statistic that over 42,000 people died in auto accidents in 2003. It's a number that staggers the imagination.

The good news is that every year more people buckle their seatbelts. And although more cars hit the road every year, and they come in all shapes and sizes, the accident rate continues to decline. Despite the advances, does anybody doubt that the cars we drive can be even safer? I don't.

Vehicle safety laws and regulations fall under the jurisdiction of the Committee I chair—the Committee on Energy and Commerce. We were happy to work with Chairman YOUNG and the Senate to include these provisions and reauthorize the National Highway Traffic Safety Administration, NHTSA, in H.R. 3.

By passing this bill, we are ensuring that NHTSA will create rules to mitigate the chances of vehicle rollover, occupant ejection, door locks, roof strength, and side impact. This bill also gives new car buyers more helpful safety information at the point of sale by requiring that ratings for front, side, and rollover crashes be posted on new vehicle stickers. Additionally, NHTSA will be tasked with studying such important problems as tire aging, vehicle backover technologies, and data collection.

I believe these provisions will result in safer cars and trucks, and fewer deaths on our Nation's roads. I urge my colleagues to support passage of the H.R. 3 conference report.

Mr. SHERMAN. Mr. Speaker, I thank Chairman YOUNG and Ranking Member OBERSTAR for their leadership in bringing SAFETEA–LU to the floor. It is an important bill that will help ease congestion throughout the country.

In particular, I applaud their efforts regarding hybrid vehicles in High Occupancy Vehicle lanes. Allowing hybrids in HOV lanes will increase demand for the vehicles, improve air quality, and over time reduce our reliance on foreign oil sources.

Section 166 of SAFETEA–LU allows vehicles meeting certain fuel efficiency and emissions standards to use HOV lanes. The bill, specifically section 166(b)(5)(B)(i), is written to allow states to establish a program that addresses the selection of vehicles under the HOV provision. As long as states meet the minimum standards set out in the bill, they can adjust which vehicles will be authorized to use HOV lanes.

This intentional flexibility will allow California to implement a state law letting hybrid vehicles that get more than 45 miles per gallon in highway driving and meet California emission standards to ride in HOV lanes.

The bill also allows states to choose which HOV lanes will be eligible for use by these vehicles. I call on California to study the issue carefully, so that only HOV lanes that can handle the increase in traffic be eligible for hybrid vehicles.

Again, I thank the chairman and ranking member for their leadership.

Mr. YOUNG of Alaska. Mr. Speaker, as the Chairman of the Committee on Transportation and Infrastructure, I had the great honor to serve as the Chairman of the conference committee for H.R. 3, SAFETEA–LU.

The conference committee had to reach agreement on a broad range of issues to be able to send a bill to the President that he could sign. I want to take this opportunity to clarify what I believe was the intent of the conferees concerning the language that became section 5508, the Transportation Technology Innovation and Demonstration Program. This provision extended a program that began under TEA–21. TEA–21 promised that the initial system contemplated by the program would be built out in greater than 40 areas. I have been a long-standing supporter of this public/private partnership that helps travelers avoid highway traffic congestion. It is currently providing up-to-date and accurate traveler information in areas across the country.

I believe it was the conferees intent that all of the existing $54 million that has been provided for the current contracting team would be used to carry out the existing contract to deploy the current highway congestion information system under Part I. I believe it was our intention that Part I funds would stay in Part I. In this way, if deployment areas do not take advantage of all of the obligated funds, congested cities will have the opportunity to benefit from the $54 million that is currently obligated under Part I and will be able to proceed under the existing contract with the existing contractor. TEA–21 promised that the initial system would be built out in greater than 40 areas and staying the course with the existing contractor is an important element of keeping that promise. Any funds appropriated for Part II would be recycled within Part II.

Because there is a 180-day clock running for areas to consent to participate in the program, I respectfully urge that USDOT quickly get implementing guidance to the field that is consistent with this intent.

□ 1115

Mr. Speaker, I urge passage of this legislation, a unanimous vote, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YOUNG of Alaska. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 412, nays 8, not voting 14, as follows:

[Roll No. 453]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cox
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Poe
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—8

Boehner
Flake
Hensarling
Jones (NC)
Royce
Sensenbrenner
Shadegg
Thornberry

NOT VOTING—14

Brady (PA)
Capps
Delahunt
Fattah
Johnson, Sam
Mica
Miller, George
Paul
Pitts
Pombo
Schakowsky
Schwarz (MI)
Stark
Wexler

□ 1138

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. POMBO. Mr. Speaker, on July 29, 2005 I missed one recorded vote. I take my responsibility to vote very seriously. Had I been present, I would have voted "yea" on H.R. 3, the Transportation Equity Act: A Legacy for Users.

Mrs. CAPPS. Mr. Speaker, I was not able to be present for the following rollcall vote and would like the RECORD to reflect that I would have voted as follows:

Rollcall No. 453—"yea."

Mr. MICA. Mr. Speaker, I was unavoidably detained because of medical reasons and was unable to vote on rollcall 453. Had I been present, I would have voted "yea" on this measure.

## FURTHER MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 226. Concurrent resolution providing for a correction to the enrollment of H.R. 3.

## GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3.

The SPEAKER. Is there objection to the request of the gentleman from Alaska?

There was no objection.

## DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY, SEPTEMBER 7, 2005

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday, September 7, 2005.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

## APPOINTMENT OF HON. WAYNE T. GILCHREST, HON. FRANK R. WOLF, AND HON. TOM DAVIS TO ACT AS SPEAKER PRO TEMPORE, TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH SEPTEMBER 6, 2005

The SPEAKER laid before the House the following communication:

WASHINGTON, DC,
*July 29, 2005.*

I hereby appoint the Honorable WAYNE T. GILCHREST, the Honorable FRANK R. WOLF, and the Honorable TOM DAVIS to act as Speaker pro tempore to sign enrolled bills and joint resolutions through September 6, 2005.

DENNIS J. HASTERT,
*Speaker of the House of Representatives.*

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

## PUBLICATION OF RULES OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT FOR THE HOUSE OF REPRESENTATIVES FOR THE 109TH CONGRESS

Mr. HASTINGS of Washington. Mr. Speaker, I ask unanimous consent to submit for publication the attached copy of the Rules of the Committee on Standards of Official Conduct for the House of Representatives for the 109th Congress.

The Committee on Standards of Official Conduct adopted these rules pursuant to House rule XI, clause (2)(a)(1) on May 4, 2005.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

RULES, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT, ADOPTED MAY 4, 2005, 109TH CONGRESS

### FOREWORD

The Committee on Standards of Official Conduct is unique in the House of Representatives. Consistent with the duty to carry out its advisory and enforcement responsibilities in an impartial manner, the Committee is the only standing committee of the House of Representatives the membership of which is divided evenly by party. These rules are intended to provide a fair procedural framework for the conduct of the Committee's activities and to help insure that the Committee serves well the people of the United States, the House of Representatives, and the Members, officers, and employees of the House of Representatives.

### PART I—GENERAL COMMITTEE RULES

### RULE 1. GENERAL PROVISIONS

(a) So far as applicable, these rules and the Rules of the House of Representatives shall be the rules of the Committee and any subcommittee. The Committee adopts these rules under the authority of clause 2(a)(1) of Rule XI of the Rules of the House of Representatives, 109th Congress.

(b) The rules of the Committee may be modified, amended, or repealed by a vote of a majority of the Committee.

(c) When the interests of justice so require, the Committee, by a majority vote of its members, may adopt any special procedures, not inconsistent with these rules, deemed necessary to resolve a particular matter before it. Copies of such special procedures shall be furnished to all parties in the matter.

(d) The Chairman and Ranking Minority Member shall have access to such information that they request as necessary to conduct Committee business.

### RULE 2. DEFINITIONS

(a) "Committee" means the Committee on Standards of Official Conduct.

(b) "Complaint" means a written allegation of improper conduct against a Member, officer, or employee of the House of Representatives filed with the Committee with the intent to initiate an inquiry.

(c) "Inquiry" means an investigation by an investigative subcommittee into allegations against a Member, officer, or employee of the House of Representatives.

(d) "Investigative Subcommittee" means a subcommittee designated pursuant to Rule 19(a) to conduct an inquiry to determine if a Statement of Alleged Violation should be issued.

(e) "Statement of Alleged Violation" means a formal charging document filed by an investigative subcommittee with the Committee containing specific allegations against a Member, officer, or employee of the House of Representatives of a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities.

(f) "Adjudicatory Subcommittee" means a subcommittee designated pursuant to Rule 23(a), that holds an adjudicatory hearing and determines whether the counts in a Statement of Alleged Violation are proved by clear and convincing evidence.

(g) "Sanction Hearing" means a Committee hearing to determine what sanction, if any, to adopt or to recommend to the House of Representatives.

(h) "Respondent" means a Member, officer, or employee of the House of Representatives who is the subject of a complaint filed with the Committee or who is the subject of an inquiry or a Statement of Alleged Violation.

(i) "Office of Advice and Education" refers to the Office established by section 803(i) of the Ethics Reform Act of 1989. The Office handles inquiries; prepares written opinions in response to specific requests; develops general guidance; and organizes seminars, workshops, and briefings for the benefit of the House of Representatives.

(j) "Member" means a Representative in, or a Delegate to, or the Resident Commissioner to, the U.S. House of Representatives.

### RULE 3. ADVISORY OPINIONS AND WAIVERS

(a) The Office of Advice and Education shall handle inquiries; prepare written opinions providing specific advice; develop general guidance; and organize seminars, workshops, and briefings for the benefit of the House of Representatives.

(b) Any Member, officer, or employee of the House of Representatives, may request a written opinion with respect to the propriety of any current or proposed conduct of such Member, officer, or employee.

(c) The Office of Advice and Education may provide information and guidance regarding laws, rules, regulations, and other standards of conduct applicable to Members, officers, and employees in the performance of their duties or the discharge of their responsibilities.

(d) In general, the Committee shall provide a written opinion to an individual only in response to a written request, and the written opinion shall address the conduct only of the inquiring individual, or of persons for whom the inquiring individual is responsible as employing authority.

(e) A written request for an opinion shall be addressed to the Chairman of the Committee and shall include a complete and accurate statement of the relevant facts. A request shall be signed by the requester or the requester's authorized representative or employing authority. A representative shall disclose to the Committee the identity of the principal on whose behalf advice is being sought.

(f) The Office of Advice and Education shall prepare for the Committee a response to each written request for an opinion from a Member, officer or employee. Each response shall discuss all applicable laws, rules, regulations, or other standards.

(g) Where a request is unclear or incomplete, the Office of Advice and Education may seek additional information from the requester.

(h) The Chairman and Ranking Minority Member are authorized to take action on behalf of the Committee on any proposed written opinion that they determine does not require consideration by the Committee. If the Chairman or Ranking Minority Member requests a written opinion, or seeks a waiver, extension, or approval pursuant to Rules 3(l), 4(c), 4(e), or 4(h), the next ranking member of the requester's party is authorized to act in lieu of the requester.

(i) The Committee shall keep confidential any request for advice from a Member, officer, or employee, as well as any response thereto.

(j) The Committee may take no adverse action in regard to any conduct that has been undertaken in reliance on a written opinion if the conduct conforms to the specific facts addressed in the opinion.

(k) Information provided to the Committee by a Member, officer, or employee seeking advice regarding prospective conduct may not be used as the basis for initiating an investigation under clause 3(a)(2) or clause 3(b) of Rule XI of the Rules of the House of Representatives, if such Member, officer, or employee acts in good faith in accordance with the written advice of the Committee.

(l) A written request for a waiver of clause 5 of House Rule XXV (the House gift rule), or for any other waiver or approval, shall be treated in all respects like any other request for a written opinion.

(m) A written request for a waiver of clause 5 of House Rule XXV (the House gift rule) shall specify the nature of the waiver being sought and the specific circumstances justifying the waiver.

(n) An employee seeking a waiver of time limits applicable to travel paid for by a private source shall include with the request evidence that the employing authority is aware of the request. In any other instance where proposed employee conduct may reflect on the performance of official duties, the Committee may require that the requester submit evidence that the employing authority knows of the conduct.

### RULE 4. FINANCIAL DISCLOSURE

(a) In matters relating to Title I of the Ethics in Government Act of 1978, the Committee shall coordinate with the Clerk of the House of Representatives, Legislative Resource Center, to assure that appropriate individuals are notified of their obligation to file Financial Disclosure Statements and that such individuals are provided in a timely fashion with filing instructions and forms developed by the Committee.

(b) The Committee shall coordinate with the Legislative Resource Center to assure that information that the Ethics in Government Act requires to be placed on the public record is made public.

(c) The Chairman and Ranking Minority Member are authorized to grant on behalf of the Committee requests for reasonable extensions of time for the filing of Financial Disclosure Statements. Any such request must be received by the Committee no later than the date on which the statement in question is due. A request received after such date may be granted by the Committee only in extraordinary circumstances. Such extensions for one individual in a calendar year shall not exceed a total of 90 days. No extension shall be granted authorizing a nonincumbent candidate to file a statement later than 30 days prior to a primary or general election in which the candidate is participating.

(d) An individual who takes legally sufficient action to withdraw as a candidate before the date on which that individual's Financial Disclosure Statement is due under the Ethics in Government Act shall not be required to file a Statement. An individual shall not be excused from filing a Financial Disclosure Statement when withdrawal as a candidate occurs after the date on which such Statement was due.

(e) Any individual who files a report required to be filed under title I of the Ethics in Government Act more than 30 days after the later of—

(1) the date such report is required to be filed, or (2) if a filing extension is granted to such individual, the last day of the filing extension period, is required by such Act to pay a late filing fee of $200. The Chairman and Ranking Minority Member are authorized to approve requests that the fee be waived based on extraordinary circumstances.

(f) Any late report that is submitted without a required filing fee shall be deemed procedurally deficient and not properly filed.

(g) The Chairman and Ranking Minority Member are authorized to approve requests for waivers of the aggregation and reporting of gifts as provided by section 102(a)(2)(C) of the Ethics in Government Act. If such a request is approved, both the incoming request and the Committee response shall be forwarded to the Legislative Resource Center for placement on the public record.

(h) The Chairman and Ranking Minority Member are authorized to approve blind trusts as qualifying under section 102(f)(3) of the Ethics in Government Act. The correspondence relating to formal approval of a blind trust, the trust document, the list of assets transferred to the trust, and any other documents required by law to be made public, shall be forwarded to the Legislative Resource Center for such purpose.

(i) The Committee shall designate staff counsel who shall review Financial Disclosure Statements and, based upon information contained therein, indicate in a form and manner prescribed by the Committee whether the Statement appears substantially accurate and complete and the filer appears to be in compliance with applicable laws and rules.

(j) Each Financial Disclosure Statement shall be reviewed within 60 days after the date of filing.

(k) If the reviewing counsel believes that additional information is required because (1) the Statement appears not substantially accurate or complete, or (2) the filer may not be in compliance with applicable laws or rules, then the reporting individual shall be notified in writing of the additional information believed to be required, or of the law or rule with which the reporting individual does not appear to be in compliance. Such notice shall also state the time within which a response is to be submitted. Any such notice shall remain confidential.

(l) Within the time specified, including any extension granted in accordance with clause (c), a reporting individual who concurs with the Committee's notification that the Statement is not complete, or that other action is required, shall submit the necessary information or take appropriate action. Any amendment may be in the form of a revised Financial Disclosure Statement or an explanatory letter addressed to the Clerk of the House of Representatives.

(m) Any amendment shall be placed on the public record in the same manner as other Statements. The individual designated by the Committee to review the original Statement shall review any amendment thereto.

(n) Within the time specified, including any extension granted in accordance with clause (c), a reporting individual who does not agree with the Committee that the Statement is deficient or that other action is required, shall be provided an opportunity to respond orally or in writing. If the explanation is accepted, a copy of the response, if written, or a note summarizing an oral response, shall be retained in Committee files with the original report.

(o) The Committee shall be the final arbiter of whether any Statement requires clarification or amendment.

(p) If the Committee determines, by vote of a majority of its members, that there is reason to believe that an individual has willfully failed to file a Statement or has willfully falsified or willfully failed to file information required to be reported, then the Committee shall refer the name of the individual, together with the evidence supporting its finding, to the Attorney General pursuant to section 104(b) of the Ethics in Government Act. Such referral shall not preclude the Committee from initiating such other action as may be authorized by other provisions of law or the Rules of the House of Representatives.

### RULE 5. MEETINGS

(a) The regular meeting day of the Committee shall be the second Wednesday of each month, except when the House of Representatives is not meeting on that day. When the Committee Chairman determines that there is sufficient reason, a meeting may be called on additional days. A regularly scheduled meeting need not be held when the Chairman determines there is no business to be considered.

(b) The Chairman shall establish the agenda for meetings of the Committee and the Ranking Minority Member may place additional items on the agenda.

(c) All meetings of the Committee or any subcommittee shall occur in executive session unless the Committee or subcommittee, by an affirmative vote of a majority of its members, opens the meeting or hearing to the public.

(d) Any hearing held by an adjudicatory subcommittee or any sanction hearing held by the Committee shall be open to the public unless the Committee or subcommittee, by an affirmative vote of a majority of its members, closes the hearing to the public.

(e) A subcommittee shall meet at the discretion of its Chairman.

(f) Insofar as practicable, notice for any Committee or subcommittee meeting shall be provided at least seven days in advance of the meeting. The Chairman of the Committee or subcommittee may waive such time period for good cause.

### RULE 6. COMMITTEE STAFF

(a) The staff is to be assembled and retained as a professional, nonpartisan staff.

(b) Each member of the staff shall be professional and demonstrably qualified for the position for which he is hired.

(c) The staff as a whole and each individual member of the staff shall perform all official duties in a nonpartisan manner.

(d) No member of the staff shall engage in any partisan political activity directly affecting any congressional or presidential election.

(e) No member of the staff or outside counsel may accept public speaking engagements or write for publication on any subject that is in any way related to his or her employment or duties with the Committee without specific prior approval from the Chairman and Ranking Minority Member.

(f) All staff members shall be appointed by an affirmative vote of a majority of the members of the Committee. Such vote shall occur at the first meeting of the membership of the Committee during each Congress and as necessary during the Congress.

(g) Subject to the approval of the Committee on House Administration, the Committee may retain counsel not employed by the House of Representatives whenever the Committee determines, by an affirmative vote of a majority of the members of the Committee, that the retention of outside counsel is necessary and appropriate.

(h) If the Committee determines that it is necessary to retain staff members for the purpose of a particular investigation or other proceeding, then such staff shall be retained only for the duration of that particular investigation or proceeding.

(i) Outside counsel may be dismissed prior to the end of a contract between the Committee and such counsel only by a majority vote of the members of the Committee.

(j) In addition to any other staff provided for by law, rule, or other authority, with respect to the Committee, the Chairman and Ranking Minority Member each may appoint one individual as a shared staff member from his or her personal staff to perform service for the Committee. Such shared staff may assist the Chairman or Ranking Minority Member on any subcommittee on which he serves. Only paragraphs (c) and (e) of this Rule and Rule 7(b) shall apply to shared staff.

### RULE 7. CONFIDENTIALITY

(a) Before any Member or employee of the Committee, including members of an investigative subcommittee selected under clause 5(a)(4) of Rule X of the House of Representatives and shared staff designated pursuant to Committee Rule 6(j), may have access to information that is confidential under the rules of the Committee, the following oath (or affirmation) shall be executed in writing:

"I do solemnly swear (or affirm) that I will not disclose, to any person or entity outside the Committee on Standards of Official Conduct, any information received in the course of my service with the Committee, except as authorized by the Committee or in accordance with its rules."

Copies of the executed oath shall be provided to the Clerk of the House as part of the records of the House. Breaches of confidentiality shall be investigated by the Committee and appropriate action shall be taken.

(b) No member of the staff or outside counsel may make public, unless approved by an affirmative vote of a majority of the members of the Committee, any information, document, or other material that is confidential, derived from executive session, or classified and that is obtained during the course of employment with the Committee.

(c) Committee members and staff shall not disclose any evidence relating to an investigation to any person or organization outside the Committee unless authorized by the Committee.

(d) Members and staff of the Committee shall not disclose to any person or organization outside the Committee, unless authorized by the Committee, any information regarding the Committee's or a subcommittee's investigative, adjudicatory or other proceedings, including but not limited to: (i) the fact or nature of any complaints; (ii) executive session proceedings; (iii) information pertaining to or copies of any Committee or subcommittee report, study or other document which purports to express the views, findings, conclusions or recommendations of the Committee or subcommittee in connection with any of its activities or proceedings; or (iv) any other information or allegation respecting the conduct of a Member, officer or employee of the House.

(e) Except as otherwise specifically authorized by the Committee, no Committee member or staff member shall disclose to any person outside the Committee, the name of any witness subpoenaed to testify or to produce evidence.

(f) The Committee shall not disclose to any person or organization outside the Committee any information concerning the conduct of a respondent until it has transmitted a Statement of Alleged Violation to such respondent and the respondent has been given full opportunity to respond pursuant to Rule 22. The Statement of Alleged Violation and any written response thereto shall be made public at the first meeting or hearing on the matter that is open to the public after such opportunity has been provided. Any other materials in the possession of the Committee regarding such statement may be made public as authorized by the Committee to the extent consistent with the Rules of the House of Representatives. If no public hearing is held on the matter, the Statement of Alleged Violation and any written response thereto shall be included in the Committee's final report on the matter to the House of Representatives.

(g) Unless otherwise determined by a vote of the Committee, only the Chairman or Ranking Minority Member of the Committee, after consultation with each other, may make public statements regarding matters before the Committee or any subcommittee.

(h) The Committee may establish procedures necessary to prevent the unauthorized disclosure of any testimony or other information received by the Committee or its staff.

### RULE 8. SUBCOMMITTEES—GENERAL POLICY AND STRUCTURE

(a) Notwithstanding any other provision of these Rules, the Chairman and Ranking Minority Member of the Committee may consult with an investigative subcommittee either on their own initiative or on the initiative of the subcommittee, shall have access to evidence and information before a subcommittee with whom they so consult, and shall not thereby be precluded from serving as full, voting members of any adjudicatory subcommittee. Except for the Chairman and Ranking Minority Member of the Committee pursuant to this paragraph, evidence in the possession of an investigative subcommittee shall not be disclosed to other Committee members except by a vote of the subcommittee.

(b) The Committee may establish other noninvestigative and nonadjudicatory subcommittees and may assign to them such functions as it may deem appropriate. The membership of each subcommittee shall provide equal representation for the majority and minority parties.

(c) The Chairman may refer any bill, resolution, or other matter before the Committee to an appropriate subcommittee for consideration. Any such bill, resolution, or other matter may be discharged from the subcommittee to which it was referred by a majority vote of the Committee.

(d) Any member of the Committee may sit with any noninvestigative or nonadjudicatory subcommittee, but only regular members of such subcommittee may vote on any matter before that subcommittee.

### RULE 9. QUORUMS AND MEMBER DISQUALIFICATION

(a) The quorum for an investigative subcommittee to take testimony and to receive evidence shall be two members, unless otherwise authorized by the House of Representatives.

(b) The quorum for an adjudicatory subcommittee to take testimony, receive evidence, or conduct business shall consist of a majority plus one of the members of the adjudicatory subcommittee.

(c) Except as stated in clauses (a) and (b) of this rule, a quorum for the purpose of conducting business consists of a majority of the members of the Committee or subcommittee.

(d) A member of the Committee shall be ineligible to participate in any Committee or subcommittee proceeding in which he is the respondent.

(e) A member of the Committee may disqualify himself from participating in any investigation of the conduct of a Member, officer, or employee of the House of Representatives upon the submission in writing and under oath of an affidavit of disqualification stating that the member cannot render an impartial and unbiased decision. If the Committee approves and accepts such affidavit of disqualification, or if a member is disqualified pursuant to Rule 17(e) or Rule 23(a), the Chairman shall so notify the Speaker and ask the Speaker to designate a Member of the House of Representatives from the same political party as the disqualified member of the Committee to act as a member of the Committee in any Committee proceeding relating to such investigation.

### RULE 10. VOTE REQUIREMENTS

(a) The following actions shall be taken only upon an affirmative vote of a majority of the members of the Committee or subcommittee, as appropriate:

(1) Issuing a subpoena.

(2) Adopting a full Committee motion to create an investigative subcommittee.

(3) Adoption or amendment of a Statement of Alleged Violation.

(4) Finding that a count in a Statement of Alleged Violation has been proved by clear and convincing evidence.

(5) Sending a letter of reproval.

(6) Adoption of a recommendation to the House of Representatives that a sanction be imposed.

(7) Adoption of a report relating to the conduct of a Member, officer, or employee.

(8) Issuance of an advisory opinion of general applicability establishing new policy.

(b) Except as stated in clause (a), action may be taken by the Committee or any subcommittee thereof by a simple majority, a quorum being present.

(c) No motion made to take any of the actions enumerated in clause (a) of this Rule may be entertained by the Chair unless a quorum of the Committee is present when such motion is made.

### RULE 11. COMMITTEE RECORDS

(a) All communications and all pleadings pursuant to these rules shall be filed with the Committee at the Committee's office or such other place as designated by the Committee.

(b) All records of the Committee which have been delivered to the Archivist of the United States shall be made available to the public in accordance with Rule VII of the Rules of the House of Representatives.

### RULE 12. BROADCASTS OF COMMITTEE AND SUBCOMMITTEE PROCEEDINGS

(a) Television or radio coverage of a Committee or subcommittee hearing or meeting shall be without commercial sponsorship.

(b) No witness shall be required against his or her will to be photographed or otherwise to have a graphic reproduction of his or her image made at any hearing or to give evidence or testimony while the broadcasting of that hearing, by radio or television, is being conducted. At the request of any witness, all media microphones shall be turned off, all television and camera lenses shall be covered, and the making of a graphic reproduction at the hearing shall not be permitted. This paragraph supplements clause 2(k)(5) of Rule XI of the Rules of the House of Representatives relating to the protection of the rights of witnesses.

(c) Not more than four television cameras, operating from fixed positions, shall be permitted in a hearing or meeting room. The Committee may allocate the positions of permitted television cameras among the television media in consultation with the Executive Committee of the Radio and Television Correspondents' Galleries.

(d) Television cameras shall be placed so as not to obstruct in any way the space between any witness giving evidence or testimony and any member of the Committee, or the visibility of that witness and that member to each other.

(e) Television cameras shall not be placed in positions that unnecessarily obstruct the coverage of the hearing or meeting by the other media.

## PART II—INVESTIGATIVE AUTHORITY

### RULE 13. HOUSE RESOLUTION

Whenever the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation, the provisions of the resolution, in conjunction with these Rules, shall govern. To the extent the provisions of the resolution differ from these Rules, the resolution shall control.

### RULE 14. COMMITTEE AUTHORITY TO INVESTIGATE—GENERAL POLICY

(a) Pursuant to clause 3(b) of Rule XI of the Rules of the House of Representatives, the Committee may exercise its investigative authority when:

(1) information offered as a complaint by a Member of the House of Representatives is transmitted directly to the Committee;

(2) information offered as a complaint by an individual not a Member of the House is transmitted to the Committee, provided that

a Member of the House certifies in writing that he or she believes the information is submitted in good faith and warrants the review and consideration of the Committee;

(3) the Committee, on its own initiative, establishes an investigative subcommittee;

(4) a Member, officer, or employee is convicted in a Federal, State, or local courts of a felony; or

(5) the House of Representatives, by resolution, authorizes or directs the Committee to undertake an inquiry or investigation.

(b) The Committee also has investigatory authority over:

(1) certain unauthorized disclosures of intelligence-related information, pursuant to House Rule X, clauses 11(g)(4) and (g)(5); or

(2) reports received from the Office of the Inspector General pursuant to House Rule II, clause 6(c)(5).

### RULE 15. COMPLAINTS

(a) A complaint submitted to the Committee shall be in writing, dated, and properly verified (a document will be considered properly verified where a notary executes it with the language, "Signed and sworn to (or affirmed) before me on (date) by (the name of the person)" setting forth in simple, concise, and direct statements-

(1) the name and legal address of the party filing the complaint (hereinafter referred to as the "complainant");

(2) the name and position or title of the respondent;

(3) the nature of the alleged violation of the Code of Official Conduct or of other law, rule, regulation, or other standard of conduct applicable to the performance of duties or discharge of responsibilities; and

(4) the facts alleged to give rise to the violation. The complaint shall not contain innuendo, speculative assertions, or conclusory statements.

(b) Any documents in the possession of the complainant that relate to the allegations may be submitted with the complaint.

(c) Information offered as a complaint by a Member of the House of Representatives may be transmitted directly to the Committee.

(d) Information offered as a complaint by an individual not a Member of the House may be transmitted to the Committee, provided that a Member of the House certifies in writing that he or she believes the information is submitted in good faith and warrants the review and consideration of the Committee.

(e) A complaint must be accompanied by a certification, which may be unsworn, that the complainant has provided an exact copy of the filed complaint and all attachments to the respondent.

(f) The Committee may defer action on a complaint against a Member, officer, or employee of the House of Representatives when the complaint alleges conduct that the Committee has reason to believe is being reviewed by appropriate law enforcement or regulatory authorities, or when the Committee determines that it is appropriate for the conduct alleged in the complaint to be reviewed initially by law enforcement or regulatory authorities.

(g) A complaint may not be amended without leave of the Committee. Otherwise, any new allegations of improper conduct must be submitted in a new complaint that independently meets the procedural requirements of the Rules of the House of Representatives and the Committee's Rules.

(h) The Committee shall not accept, and shall return to the complainant, any complaint submitted within the 60 days prior to an election in which the subject of the complaint is a candidate.

(i) The Committee shall not consider a complaint, nor shall any investigation be undertaken by the Committee, of any alleged violation which occurred before the third previous Congress unless the Committee determines that the alleged violation is directly related to an alleged violation which occurred in a more recent Congress.

### RULE 16. DUTIES OF COMMITTEE CHAIRMAN AND RANKING MINORITY MEMBER

(a) Whenever information offered as a complaint is submitted to the Committee, the Chairman and Ranking Minority Member shall have 14 calendar days or 5 legislative days, whichever occurs first, to determine whether the information meets the requirements of the Committee's rules for what constitutes a complaint.

(b) Whenever the Chairman and Ranking Minority Member jointly determine that information submitted to the Committee meets the requirements of the Committee's rules for what constitutes a complaint, they shall have 45 calendar days or 5 legislative days, whichever is later, after the date that the Chairman and Ranking Minority Member determine that information filed meets the requirements of the Committee's rules for what constitutes a complaint, unless the Committee by an affirmative vote of a majority of its members votes otherwise, to—

(1) recommend to the Committee that it dispose of the complaint, or any portion thereof, in any manner that does not require action by the House, which may include dismissal of the complaint or resolution of the complaint by a letter to the Member, officer, or employee of the House against whom the complaint is made;

(2) establish an investigative subcommittee; or

(3) request that the Committee extend the applicable 45-calendar day period when they determine more time is necessary in order to make a recommendation under paragraph (1) or (2) of Rule 16(b).

(c) The Chairman and Ranking Minority Member may jointly gather additional information concerning alleged conduct which is the basis of a complaint or of information offered as a complaint until they have established an investigative subcommittee or the Chairman or Ranking Minority Member has placed on the agenda the issue of whether to establish an investigative subcommittee.

(d) If the Chairman and Ranking Minority Member jointly determine that information submitted to the Committee meets the requirements of the Committee rules for what constitutes a complaint, and the complaint is not disposed of within 45 calendar days or 5 legislative days, whichever is later, and no additional 45-day extension is made, then they shall establish an investigative subcommittee and forward the complaint, or any portion thereof, to that subcommittee for its consideration. If at any time during the time period either the Chairman or Ranking Minority Member places on the agenda the issue of whether to establish an investigative subcommittee, then an investigative subcommittee may be established only by an affirmative vote of a majority of the members of the Committee.

(e) Whenever the Chairman and Ranking Minority Member jointly determine that information submitted to the Committee does not meet the requirements for what constitutes a complaint set forth in the Committee rules, they may (1) return the information to the complainant with a statement that it fails to meet the requirements for what constitutes a complaint set forth in the Committee's rules; or (2) recommend to the Committee that it authorize the establishment of an investigative subcommittee.

### RULE 17. PROCESSING OF COMPLAINTS

(a) If a complaint is in compliance with House and Committee Rules, a copy of the complaint and the Committee Rules shall be forwarded to the respondent within five days with notice that the complaint conforms to the applicable rules.

(b) The respondent may, within 30 days of the Committee's notification, provide to the Committee any information relevant to a complaint filed with the Committee. The respondent may submit a written statement in response to the complaint. Such a statement shall be signed by the respondent. If the statement is prepared by counsel for the respondent, the respondent shall sign a representation that he/she has reviewed the response and agrees with the factual assertions contained therein.

(c) The Committee staff may request information from the respondent or obtain additional information pertinent to the case from other sources prior to the establishment of an investigative subcommittee only when so directed by the Chairman and Ranking Minority Member.

(d) The respondent shall be notified in writing regarding the Committee's decision either to dismiss the complaint or to create an investigative subcommittee.

(e) The respondent shall be notified of the membership of the investigative subcommittee and shall have ten days after such notice is transmitted to object to the participation of any subcommittee member. Such objection shall be in writing and shall be on the grounds that the subcommittee member cannot render an impartial and unbiased decision. The subcommittee member against whom the objection is made shall be the sole judge of his or her disqualification.

### RULE 18. COMMITTEE-INITIATED INQUIRY

(a) Notwithstanding the absence of a filed complaint, the Committee may consider any information in its possession indicating that a Member, officer, or employee may have committed a violation of the Code of Official Conduct or any law, rule, regulation, or other standard of conduct applicable to the conduct of such Member, officer, or employee in the performance of his or her duties or the discharge of his or her responsibilities. The Chairman and Ranking Minority Member may jointly gather additional information concerning such an alleged violation by a Member, officer, or employee unless and until an investigative subcommittee has been established.

(b) If the Committee votes to establish an investigative subcommittee, the Committee shall proceed in accordance with Rule 19.

(c) Any written request by a Member, officer, or employee of the House of Representatives that the Committee conduct an inquiry into such person's own conduct shall be processed in accordance with subsection (a) of this Rule.

(d) An inquiry shall not be undertaken regarding any alleged violation that occurred before the third previous Congress unless a majority of the Committee determines that the alleged violation is directly related to an alleged violation that occurred in a more recent Congress.

(e) An inquiry shall be undertaken by an investigative subcommittee with regard to any felony conviction of a Member, officer, or employee of the House of Representatives in a Federal, State, or local court who has been sentenced. Notwithstanding this provision, the Committee has the discretion to initiate an inquiry upon an affirmative vote of a majority of the members of the Committee at any time prior to conviction or sentencing.

### RULE 19. INVESTIGATIVE SUBCOMMITTEE

(a) Upon the establishment of an investigative subcommittee, the Chairman and Ranking Minority Member of the Committee shall designate four members (with equal representation from the majority and minority parties) to serve as an investigative subcommittee to undertake an inquiry. Members of the Committee and Members of the House selected pursuant to clause 5(a)(4)(A) of Rule X of the House of Representatives, are eligible for appointment to an investigative subcommittee, as determined by the Chairman and Ranking Minority Member of the Committee. At the time of appointment, the Chairman shall designate one member of the subcommittee to serve as the chairman and the Ranking Minority Member shall designate one member of the subcommittee to serve as the ranking minority member of the investigative subcommittee. The Chairman and Ranking Minority Member of the Committee may serve as members of an investigative subcommittee, but may not serve as non-voting, ex-officio members.

(b) In an inquiry undertaken by an investigative subcommittee—

(1) All proceedings, including the taking of testimony, shall be conducted in executive session and all testimony taken by deposition or things produced pursuant to subpoena or otherwise shall be deemed to have been taken or produced in executive session.

(2) The Chairman of the investigative subcommittee shall ask the respondent and all witnesses whether they intend to be represented by counsel. If so, the respondent or witnesses or their legal representatives shall provide written designation of counsel. A respondent or witness who is represented by counsel shall not be questioned in the absence of counsel unless an explicit waiver is obtained.

(3) The subcommittee shall provide the respondent an opportunity to present, orally or in writing, a statement, which must be under oath or affirmation, regarding the allegations and any other relevant questions arising out of the inquiry.

(4) The staff may interview witnesses, examine documents and other evidence, and request that submitted statements be under oath or affirmation and that documents be certified as to their authenticity and accuracy.

(5) The subcommittee, by a majority vote of its members, may require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary to the conduct of the inquiry. Unless the Committee otherwise provides, the subpoena power shall rest in the Chairman and Ranking Minority Member of the Committee and a subpoena shall be issued upon the request of the investigative subcommittee.

(6) The subcommittee shall require that testimony be given under oath or affirmation. The form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will give before this subcommittee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be administered by the Chairman or subcommittee member designated by the Chairman to administer oaths.

(c) During the inquiry, the procedure respecting the admissibility of evidence and rulings shall be as follows:

(1) Any relevant evidence shall be admissible unless the evidence is privileged under the precedents of the House of Representatives.

(2) The Chairman of the subcommittee or other presiding member at any investigative subcommittee proceeding shall rule upon any question of admissibility or pertinency of evidence, motion, procedure or any other matter, and may direct any witness to answer any question under penalty of contempt. A witness, witness' counsel, or a member of the subcommittee may appeal any rulings to the members present at that proceeding. The majority vote of the members present at such proceeding on such appeal shall govern the question of admissibility, and no appeal shall lie to the Committee.

(3) Whenever a person is determined by a majority vote to be in contempt of the subcommittee, the matter may be referred to the Committee to determine whether to refer the matter to the House of Representatives for consideration.

(4) Committee counsel may, subject to subcommittee approval, enter into stipulations with the respondent and/or the respondent's counsel as to facts that are not in dispute.

(d) Upon an affirmative vote of a majority of the subcommittee members, and an affirmative vote of a majority of the full Committee, an investigative subcommittee may expand the scope of its investigation.

(e) Upon completion of the investigation, the staff shall draft for the investigative subcommittee a report that shall contain a comprehensive summary of the information received regarding the alleged violations.

(f) Upon completion of the inquiry, an investigative subcommittee, by a majority vote of its members, may adopt a Statement of Alleged Violation if it determines that there is substantial reason to believe that a violation of the Code of Official Conduct, or of a law, rule, regulation, or other standard of conduct applicable to the performance of official duties or the discharge of official responsibilities by a Member, officer, or employee of the House of Representatives has occurred. If more than one violation is alleged, such Statement shall be divided into separate counts. Each count shall relate to a separate violation, shall contain a plain and concise statement of the alleged facts of such violation, and shall include a reference to the provision of the Code of Official Conduct or law, rule, regulation or other applicable standard of conduct governing the performance of duties or discharge of responsibilities alleged to have been violated. A copy of such Statement shall be transmitted to the respondent and the respondent's counsel.

(g) If the investigative subcommittee does not adopt a Statement of Alleged Violation, it shall transmit to the Committee a report containing a summary of the information received in the inquiry, its conclusions and reasons therefore, and any appropriate recommendation.

### RULE 20. AMENDMENTS TO STATEMENTS OF ALLEGED VIOLATION

(a) An investigative subcommittee may, upon an affirmative vote of a majority of its members, amend its Statement of Alleged Violation anytime before the Statement of Alleged Violation is transmitted to the Committee; and

(b) If an investigative subcommittee amends its Statement of Alleged Violation, the respondent shall be notified in writing and shall have 30 calendar days from the date of that notification to file an answer to the amended Statement of Alleged Violation.

### RULE 21. COMMITTEE REPORTING REQUIREMENTS

(a) Whenever an investigative subcommittee does not adopt a Statement of Alleged Violation and transmits a report to that effect to the Committee, the Committee may by an affirmative vote of a majority of its members transmit such report to the House of Representatives;

(b) Whenever an investigative subcommittee adopts a Statement of Alleged Violation but recommends that no further action be taken, it shall transmit a report to the Committee regarding the Statement of Alleged Violation; and

(c) Whenever an investigative subcommittee adopts a Statement of Alleged Violation, the respondent admits to the violations set forth in such Statement, the respondent waives his or her right to an adjudicatory hearing, and the respondent's waiver is approved by the Committee—

(1) the subcommittee shall prepare a report for transmittal to the Committee, a final draft of which shall be provided to the respondent not less than 15 calendar days before the subcommittee votes on whether to adopt the report;

(2) the respondent may submit views in writing regarding the final draft to the subcommittee within 7 calendar days of receipt of that draft;

(3) the subcommittee shall transmit a report to the Committee regarding the Statement of Alleged Violation together with any views submitted by the respondent pursuant to subparagraph (2), and the Committee shall make the report, together with the respondent's views, available to the public before the commencement of any sanction hearing; and

(4) the Committee shall by an affirmative vote of a majority of its members issue a report and transmit such report to the House of Representatives, together with the respondent's views previously submitted pursuant to subparagraph (2) and any additional views respondent may submit for attachment to the final report; and

(d) Members of the Committee shall have not less than 72 hours to review any report transmitted to the Committee by an investigative subcommittee before both the commencement of a sanction hearing and the Committee vote on whether to adopt the report.

### RULE 22. RESPONDENT'S ANSWER

(a)(1) Within 30 days from the date of transmittal of a Statement of Alleged Violation, the respondent shall file with the investigative subcommittee an answer, in writing and under oath, signed by respondent and respondent's counsel. Failure to file an answer within the time prescribed shall be considered by the Committee as a denial of each count.

(2) The answer shall contain an admission to or denial of each count set forth in the Statement of Alleged Violation and may include negative, affirmative, or alternative defenses and any supporting evidence or other relevant information.

(b) The respondent may file a Motion for a Bill of Particulars within 10 days of the date of transmittal of the Statement of Alleged Violation. If a Motion for a Bill of Particulars is filed, the respondent shall not be required to file an answer until 20 days after the subcommittee has replied to such motion.

(c)(1) The respondent may file a Motion to Dismiss within 10 days of the date of transmittal of the Statement of Alleged Violation or, if a Motion for a Bill of Particulars has been filed, within 10 days of the date of the subcommittee's reply to the Motion for a Bill of Particulars. If a Motion to Dismiss is filed, the respondent shall not be required to file an answer until 20 days after the subcommittee has replied to the Motion to Dismiss, unless the respondent previously filed a Motion for a Bill of Particulars, in which case the respondent shall not be required to file an answer until 10 days after the subcommittee has replied to the Motion to Dismiss. The investigative subcommittee shall rule upon any motion to dismiss filed during the period between the establishment of the subcommittee and the subcommittee's transmittal of a report or Statement of Alleged Violation to the Committee or to the Chairman and Ranking Minority Member at the conclusion of an inquiry, and no appeal of the subcommittee's ruling shall lie to the Committee.

(2) A Motion to Dismiss may be made on the grounds that the Statement of Alleged Violation fails to state facts that constitute a violation of the Code of Official Conduct or other applicable law, rule, regulation, or standard of conduct, or on the grounds that the Committee lacks jurisdiction to consider the allegations contained in the Statement.

(d) Any motion filed with the subcommittee pursuant to this rule shall be accompanied by a Memorandum of Points and Authorities.

(e)(1) The Chairman of the investigative subcommittee, for good cause shown, may permit the respondent to file an answer or motion after the day prescribed above.

(2) If the ability of the respondent to present an adequate defense is not adversely affected and special circumstances so require, the Chairman of the investigative subcommittee may direct the respondent to file an answer or motion prior to the day prescribed above.

(f) If the day on which any answer, motion, reply, or other pleading must be filed falls on a Saturday, Sunday, or holiday, such filing shall be made on the first business day thereafter.

(g) As soon as practicable after an answer has been filed or the time for such filing has expired, the Statement of Alleged Violation and any answer, motion, reply, or other pleading connected therewith shall be transmitted by the Chairman of the investigative subcommittee to the Chairman and Ranking Minority Member of the Committee.

### RULE 23. ADJUDICATORY HEARINGS

(a) If a Statement of Alleged Violation is transmitted to the Chairman and Ranking Minority Member pursuant to Rule 22, and no waiver pursuant to Rule 26(b) has occurred, the Chairman shall designate the members of the Committee who did not serve on the investigative subcommittee to serve on an adjudicatory subcommittee. The Chairman and Ranking Minority Member of the Committee shall be the Chairman and Ranking Minority Member of the adjudicatory subcommittee unless they served on the investigative subcommittee. The respondent shall be notified of the designation of the adjudicatory subcommittee and shall have ten days after such notice is transmitted to object to the participation of any subcommittee member. Such objection shall be in writing and shall be on the grounds that the member cannot render an impartial and unbiased decision. The member against whom the objection is made shall be the sole judge of his or her disqualification.

(b) A majority of the adjudicatory subcommittee membership plus one must be present at all times for the conduct of any business pursuant to this rule.

(c) The adjudicatory subcommittee shall hold a hearing to determine whether any counts in the Statement of Alleged Violation have been proved by clear and convincing evidence and shall make findings of fact, except where such violations have been admitted by respondent.

(d) At an adjudicatory hearing, the subcommittee may require, by subpoena or otherwise, the attendance and testimony of such witnesses and production of such books, records, correspondence, memoranda, papers, documents, and other items as it deems necessary. Depositions, interrogatories, and sworn statements taken under any investigative subcommittee direction may be accepted into the hearing record.

(e) The procedures set forth in clause 2(g) and (k) of Rule XI of the Rules of the House of Representatives shall apply to adjudicatory hearings. All such hearings shall be open to the public unless the adjudicatory subcommittee, pursuant to such clause, determines that the hearings or any part thereof should be closed.

(f)(1) The adjudicatory subcommittee shall, in writing, notify the respondent that the respondent and his or her counsel have the right to inspect, review, copy, or photograph books, papers, documents, photographs, or other tangible objects that the adjudicatory subcommittee counsel intends to use as evidence against the respondent in an adjudicatory hearing. The respondent shall be given access to such evidence, and shall be provided the names of witnesses the subcommittee counsel intends to call, and a summary of their expected testimony, no less than 15 calendar days prior to any such hearing. Except in extraordinary circumstances, no evidence may be introduced or witness called in an adjudicatory hearing unless the respondent has been afforded a prior opportunity to review such evidence or has been provided the name of the witness.

(2) After a witness has testified on direct examination at an adjudicatory hearing, the Committee, at the request of the respondent, shall make available to the respondent any statement of the witness in the possession of the Committee which relates to the subject matter as to which the witness has testified.

(3) Any other testimony, statement, or documentary evidence in the possession of the Committee which is material to the respondent's defense shall, upon request, be made available to the respondent.

(g) No less than five days prior to the hearing, the respondent or counsel shall provide the adjudicatory subcommittee with the names of witnesses expected to be called, summaries of their expected testimony, and copies of any documents or other evidence proposed to be introduced.

(h) The respondent or counsel may apply to the subcommittee for the issuance of subpoenas for the appearance of witnesses or the production of evidence. The application shall be granted upon a showing by the respondent that the proposed testimony or evidence is relevant and not otherwise available to respondent. The application may be denied if not made at a reasonable time or if the testimony or evidence would be merely cumulative.

(i) During the hearing, the procedures regarding the admissibility of evidence and rulings shall be as follows:

(1) Any relevant evidence shall be admissible unless the evidence is privileged under the precedents of the House of Representatives.

(2) The Chairman of the subcommittee or other presiding member at an adjudicatory subcommittee hearing shall rule upon any question of admissibility or pertinency of evidence, motion, procedure, or any other matter, and may direct any witness to answer any question under penalty of contempt. A witness, witness's counsel, or a member of the subcommittee may appeal any ruling to the members present at that proceeding. The majority vote of the members present at such proceeding on such an appeal shall govern the question of admissibility and no appeal shall lie to the Committee.

(3) Whenever a witness is deemed by a Chairman or other presiding member to be in contempt of the subcommittee, the matter may be referred to the Committee to determine whether to refer the matter to the House of Representatives for consideration.

(4) Committee counsel may, subject to subcommittee approval, enter into stipulations with the respondent and/or the respondent's counsel as to facts that are not in dispute.

(j) Unless otherwise provided, the order of an adjudicatory hearing shall be as follows:

(1) The Chairman of the subcommittee shall open the hearing by stating the adjudicatory subcommittee's authority to conduct the hearing and the purpose of the hearing.

(2) The Chairman shall then recognize Committee counsel and the respondent's counsel, in turn, for the purpose of giving opening statements.

(3) Testimony from witnesses and other pertinent evidence shall be received in the following order whenever possible:

(i) witnesses (deposition transcripts and affidavits obtained during the inquiry may be used in lieu of live witnesses if the witness is unavailable) and other evidence offered by the Committee counsel,

(ii) witnesses and other evidence offered by the respondent,

(iii) rebuttal witnesses, as permitted by the Chairman.

(4) Witnesses at a hearing shall be examined first by counsel calling such witness. The opposing counsel may then cross-examine the witness. Redirect examination and recross examination by counsel may be permitted at the Chairman's discretion. Subcommittee members may then question witnesses. Unless otherwise directed by the Chairman, questions by Subcommittee members shall be conducted under the five-minute rule.

(5) The Chairman shall then recognize Committee counsel and respondent's counsel, in turn, for the purpose of giving closing arguments. Committee counsel may reserve time for rebuttal argument, as permitted by the Chairman.

(k) A subpoena to a witness to appear at a hearing shall be served sufficiently in advance of that witness' scheduled appearance to allow the witness a reasonable period of time, as determined by the Chairman of the adjudicatory subcommittee, to prepare for the hearing and to employ counsel.

(l) Each witness appearing before the subcommittee shall be furnished a printed copy of the Committee rules, the pertinent provisions of the Rules of the House of Representatives applicable to the rights of witnesses, and a copy of the Statement of Alleged Violation.

(m) Testimony of all witnesses shall be taken under oath or affirmation. The form of the oath or affirmation shall be: "Do you solemnly swear (or affirm) that the testimony you will give before this subcommittee in the matter now under consideration will be the truth, the whole truth, and nothing but the truth (so help you God)?" The oath or affirmation shall be administered by the Chairman or Committee member designated by the Chairman to administer oaths.

(n) At an adjudicatory hearing, the burden of proof rests on Committee counsel to establish the facts alleged in the Statement of Alleged Violation by clear and convincing evidence. However, Committee counsel need not present any evidence regarding any count that is admitted by the respondent or any fact stipulated.

(o) As soon as practicable after all testimony and evidence have been presented, the subcommittee shall consider each count contained in the Statement of Alleged Violation and shall determine by a majority vote of its members whether each count has been proved. If a majority of the subcommittee does not vote that a count has been proved, a motion to reconsider that vote may be made only by a member who voted that the count was not proved. A count that is not proved shall be considered as dismissed by the subcommittee.

(p) The findings of the adjudicatory subcommittee shall be reported to the Committee.

### RULE 24. SANCTION HEARING AND CONSIDERATION OF SANCTIONS OR OTHER RECOMMENDATIONS

(a) If no count in a Statement of Alleged Violation is proved, the Committee shall prepare a report to the House of Representatives, based upon the report of the adjudicatory subcommittee.

(b) If an adjudicatory subcommittee completes an adjudicatory hearing pursuant to Rule 23 and reports that any count of the Statement of Alleged Violation has been proved, a hearing before the Committee shall be held to receive oral and/or written submissions by counsel for the Committee and counsel for the respondent as to the sanction the Committee should recommend to the House of Representatives with respect to such violations. Testimony by witnesses shall not be heard except by written request and vote of a majority of the Committee.

(c) Upon completion of any proceeding held pursuant to clause (b), the Committee shall consider and vote on a motion to recommend to the House of Representatives that the House take disciplinary action. If a majority of the Committee does not vote in favor of the recommendation that the House of Representatives take action, a motion to reconsider that vote may be made only by a member who voted against the recommendation. The Committee may also, by majority vote, adopt a motion to issue a Letter of Reproval or take other appropriate Committee action.

(d) If the Committee determines a Letter of Reproval constitutes sufficient action, the Committee shall include any such letter as a part of its report to the House of Representatives.

(e) With respect to any proved counts against a Member of the House of Representatives, the Committee may recommend to the House one or more of the following sanctions:

(1) Expulsion from the House of Representatives.

(2) Censure.

(3) Reprimand.

(4) Fine.

(5) Denial or limitation of any right, power, privilege, or immunity of the Member if under the Constitution the House of Representatives may impose such denial or limitation.

(6) Any other sanction determined by the Committee to be appropriate.

(f) With respect to any proved counts against an officer or employee of the House of Representatives, the Committee may recommend to the House one or more of the following sanctions:

(1) Dismissal from employment.

(2) Reprimand.

(3) Fine.

(4) Any other sanction determined by the Committee to be appropriate.

(g) With respect to the sanctions that the Committee may recommend, reprimand is appropriate for serious violations, censure is appropriate for more serious violations, and expulsion of a Member or dismissal of an officer or employee is appropriate for the most serious violations. A recommendation of a fine is appropriate in a case in which it is likely that the violation was committed to secure a personal financial benefit; and a recommendation of a denial or limitation of a right, power, privilege, or immunity of a Member is appropriate when the violation bears upon the exercise or holding of such right, power, privilege, or immunity. This clause sets forth general guidelines and does not limit the authority of the Committee to recommend other sanctions.

(h) The Committee report shall contain an appropriate statement of the evidence supporting the Committee's findings and a statement of the Committee's reasons for the recommended sanction.

### RULE 25. DISCLOSURE OF EXCULPATORY INFORMATION TO RESPONDENT

If the Committee, or any investigative or adjudicatory subcommittee at any time receives any exculpatory information respecting a Complaint or Statement of Alleged Violation concerning a Member, officer, or employee of the House of Representatives, it shall make such information known and available to the Member, officer, or employee as soon as practicable, but in no event later than the transmittal of evidence supporting a proposed Statement of Alleged Violation pursuant to Rule 26(c). If an investigative subcommittee does not adopt a Statement of Alleged Violation, it shall identify any exculpatory information in its possession at the conclusion of its inquiry and shall include such information, if any, in the subcommittee's final report to the Committee regarding its inquiry. For purposes of this rule, exculpatory evidence shall be any evidence or information that is substantially favorable to the respondent with respect to the allegations or charges before an investigative or adjudicatory subcommittee.

### RULE 26. RIGHTS OF RESPONDENTS AND WITNESSES

(a) A respondent shall be informed of the right to be represented by counsel, to be provided at his or her own expense.

(b) A respondent may seek to waive any procedural rights or steps in the disciplinary process. A request for waiver must be in writing, signed by the respondent, and must detail what procedural steps the respondent seeks to waive. Any such request shall be subject to the acceptance of the Committee or subcommittee, as appropriate.

(c) Not less than 10 calendar days before a scheduled vote by an investigative subcommittee on a Statement of Alleged Violation, the subcommittee shall provide the respondent with a copy of the Statement of Alleged Violation it intends to adopt together with all evidence it intends to use to prove those charges which it intends to adopt, including documentary evidence, witness testimony, memoranda of witness interviews, and physical evidence, unless the subcommittee by an affirmative vote of a majority of its members decides to withhold certain evidence in order to protect a witness, but if such evidence is withheld, the subcommittee shall inform the respondent that evidence is being withheld and of the count to which such evidence relates.

(d) Neither the respondent nor his counsel shall, directly or indirectly, contact the subcommittee or any member thereof during the period of time set forth in paragraph (c) except for the sole purpose of settlement discussions where counsels for the respondent and the subcommittee are present.

(e) If, at any time after the issuance of a Statement of Alleged Violation, the Committee or any subcommittee thereof determines that it intends to use evidence not provided to a respondent under paragraph (c) to prove the charges contained in the Statement of Alleged Violation (or any amendment thereof), such evidence shall be made immediately available to the respondent, and it may be used in any further proceeding under the Committee's rules.

(f) Evidence provided pursuant to paragraph (c) or (e) shall be made available to the respondent and his or her counsel only after each agrees, in writing, that no document, information, or other materials obtained pursuant to that paragraph shall be made public until—

(1) such time as a Statement of Alleged Violation is made public by the Committee if the respondent has waived the adjudicatory hearing; or

(2) the commencement of an adjudicatory hearing if the respondent has not waived an adjudicatory hearing; but the failure of respondent and his counsel to so agree in writing, and therefore not receive the evidence, shall not preclude the issuance of a Statement of Alleged Violation at the end of the period referenced to in (c).

(g) A respondent shall receive written notice whenever—

(1) the Chairman and Ranking Minority Member determine that information the Committee has received constitutes a complaint;

(2) a complaint or allegation is transmitted to an investigative subcommittee;

(3) that subcommittee votes to authorize its first subpoena or to take testimony under oath, whichever occurs first; and

(4) the Committee votes to expand the scope of the inquiry of an investigative subcommittee.

(h) Whenever an investigative subcommittee adopts a Statement of Alleged Violation and a respondent enters into an agreement with that subcommittee to settle a complaint on which the Statement is based, that agreement, unless the respondent requests otherwise, shall be in writing and signed by the respondent and the respondent's counsel, the Chairman and Ranking Minority Member of the subcommittee, and the outside counsel, if any.

(i) Statements or information derived solely from a respondent or his counsel during any settlement discussions between the Committee or a subcommittee thereof and the respondent shall not be included in any report of the subcommittee or the Committee or otherwise publicly disclosed without the consent of the respondent.

(j) Whenever a motion to establish an investigative subcommittee does not prevail, the Committee shall promptly send a letter to the respondent informing him of such vote.

(k) Witnesses shall be afforded a reasonable period of time, as determined by the Committee or subcommittee, to prepare for an appearance before an investigative subcommittee or for an adjudicatory hearing and to obtain counsel.

(l) Prior to their testimony, witnesses shall be furnished a printed copy of the Committee's Rules of Procedure and the provisions of the Rules of the House of Representatives applicable to the rights of witnesses.

(m) Witnesses may be accompanied by their own counsel for the purpose of advising them concerning their constitutional rights. The Chairman may punish breaches of order and decorum, and of professional responsibility on the part of counsel, by censure and exclusion from the hearings; and the Committee may cite the offender to the House of Representatives for contempt.

(n) Each witness subpoenaed to provide testimony or other evidence shall be provided the same per diem rate as established, authorized, and regulated by the Committee on House Administration for Members, officers and employees of the House, and as the Chairman considers appropriate, actual expenses of travel to or from the place of examination. No compensation shall be authorized for attorney's fees or for a witness' lost earnings. Such per diem may not be paid if a witness had been summoned at the place of examination.

(o) With the approval of the Committee, a witness, upon request, may be provided with a transcript of his or her deposition or other testimony taken in executive session, or, with the approval of the Chairman and Ranking Minority Member, may be permitted to examine such transcript in the office of the Committee. Any such request shall be in writing and shall include a statement that the witness, and counsel, agree to maintain the confidentiality of all executive session proceedings covered by such transcript.

### RULE 27. FRIVOLOUS FILINGS

If a complaint or information offered as a complaint is deemed frivolous by an affirmative vote of a majority of the members of the Committee, the Committee may take such action as it, by an affirmative vote of its members, deems appropriate in the circumstances.

### RULE 28. REFERRALS TO FEDERAL OR STATE AUTHORITIES

Referrals made under clause 3(a)(3) of Rule XI of the Rules of the House of Representatives may be made by an affirmative vote of two-thirds of the members of the Committee.

## EXPRESSING APPRECIATION FOR H.R. 3, TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I see that the staff of the Committee on Transportation and Infrastructure, the minority side, is still in place, and I see that they are representing the gentleman from Minnesota (Mr. OBERSTAR) and all of the very fine members of that committee. I see the gentleman from Alaska still remaining on the floor. I just simply wanted to add my appreciation for the elements of this transportation bill.

I think it is important for those who are listening to understand that although we swiftly moved through the debate this morning, we will be better for the passage of this bill. Children will be encouraged to bike and walk to school, creating a healthier climate for Americans. A children's museum in Houston will now have a parking facility to allow the guests to come and children to play. Our neighborhoods will have better gradation and more access to hike and bike trails. We will be fixing the main street line in Houston, Texas. But, most importantly, we have made a commitment to jobs in America, creating some 45,000 jobs per increment of money in this transportation bill.

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This is the kind of message we want to send to America in a bipartisan manner, that the Transportation Committee in its bipartisanship, both the House and the Senate, has worked through a commitment to the mobility of Americans.

Mr. Speaker, more environmental support could have been there, but we continued to work toward making America safer, making its transportation system better.

Let me thank the gentlewoman from Florida (Ms. CORRINE BROWN) for the addition, through other vehicles of dollars for Amtrak; but we must continue to support the safety of our transportation system, bus, train, airplane and, yes, walking, for America is safer and stronger when we are mobile.

## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## HONORING THE MEBANE CHARITABLE FOUNDATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. Mr. Speaker, I rise today on the floor and recognize the important work being done by the Mebane Charitable Foundation, headquartered in Mocksville, North Carolina.

The foundation, which was established by former UNIFI CEO G. Allen Mebane IV, works to promote high-quality early childhood education opportunities for children in North Carolina and supports several nonprofit initiatives in Davie and Yadkin counties.

The foundation awards private grants ranging from $500 to $1 million to a number of organizations such as communities and schools in Wilkey County, Davie County Partnership for Children, Davie County Schools, Big Brother Big Sister services, Habitat for Humanity, the Yadkin 4-H, Salem College, and many, many more.

The foundation's founder, Allen Mebane, was inspired to become involved in strengthening education while he was operating a textile plant in the late 1960s. When the time came to hire the plant's workforce, he realized that many applicants were illiterate and unable to run the plant's machinery properly.

Mr. Mebane knew something had to be done. Therefore, he encouraged his staff to improve their literacy by attending day or night classes at the plant. And as an added incentive, he paid them for doing so. Mr. Mebane has long understood that a strong education is vital in today's changing economy, especially as northwest North Carolina is evolving from an agricultural and manufacturing center to a high-tech area.

We are not simply competing with our neighbors in Iredell or Forsyth counties, he explained to the Davie County Enterprise Record. We are competing with other countries. In Japan, children attend school year round. They are required to take algebra in the 9th grade, calculus in the 10th grade. That is our competition, he said.

Mr. Mebane argues that we must strengthen technical education programs in order to remain competitive in today's economy. Alan Mebane started the Mebane Charitable Foundation because he wanted northwest North Carolina to remain well educated. "An educated workforce is the biggest drawing card we have for bringing industry to Davie County, and we have to develop industry to grow the tax base and keep Davie students employed here," he said.

The Mebane Charitable Foundation is taking a number of steps to improve educational opportunities for students in Davie and surrounding counties. Beginning in January 2003, it focused its grant-making on three projects.

The first, an early childhood development program, is working to develop social, emotional, cognitive and physical development of all children, especially those through the third grade. This program seeks to lay a strong educational foundation early on so that children continue to be successful throughout their school years.

The second project, a program for teacher-training and professional development, is establishing accountability goals for teachers and enhances their teaching skills in areas such as reading and phonics.

Finally, the Davie and Yadkin County program teams with nonprofit organizations to strengthen the organization and other local operations. The Mebane Foundation's grant-making aims to increase the nonprofit community's presence in Davie and Yadkin counties.

But the Mebane Foundation does not simply focus on the award of money through grant-making. It also serves as a leader in the community. The most visible example of this is the work they are doing with the Davie County schools.

Eighty-five percent of North Carolina is rural with limited economic development opportunities and within 50 miles of larger urban hubs where most people migrate to work every day. Yet the Mebane Foundation realizes that even rural America can have public-private partnerships developed in support of pre-K to 12th grade education.

The private sector has historically supported hospitals, colleges, and universities; and the Mebane Foundation is encouraging the private sector to support pre-K through 12 education as well.

Michelle Speas, CEO of the Mebane Foundation, stated: "The public schools belong to all of us and help educate over the generations the leaders of the richest and most diverse populace in the world. Whether you are a corporation, private foundation, community foundation or community leader, every rural county has at least one major player that can make a difference in the local public schools."

Mr. Speaker, I congratulate Allen Mebane and the Mebane Charitable Foundation for working to improve education through the private sector and wish them continued success for many years to come.

## MEMORIALIZING STAFF SERGEANT MARVIN "REX" YOUNG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. CONAWAY) is recognized for 5 minutes.

Mr. CONAWAY. Mr. Speaker, I rise today to memorialize a friend and a true hero of our country. Americans honor those who have made the ultimate sacrifice for freedom through a variety of methods.

Most of the times we talk about this sacrifice in terms of all of those brave men and women as a group. While this is entirely appropriate, I encourage everyone to make the issue personal by thinking about a specific individual.

Every soldier has their own important story, and every American should have one story that pulls at their heartstrings and personifies the ideals of our young men and women in uniform. For me that story is Rex Young. Rex graduated from Odessa Permian High School in 1965 and attended Odessa College for 1 year before joining the Army on September 15, 1966.

He took basic training at Ft. Bliss in El Paso, and he had been serving in Vietnam for 10 months when he was killed. Rex's mother, Marilyn, said Rex planned to attend Texas Tech University in Lubbock following his service.

I would like to read from the citation that describes Rex's heroism: "For conspicuous gallantry and intrepidity in action at the risk of his life above and beyond the call of duty. Staff Sergeant Rex Young distinguished himself at the cost of his life while serving as a squad leader with Company C. While conducting a reconnaissance mission in the vicinity of Ben Cui, Company C was suddenly engaged by an estimated regimental-sized force of the North Vietnamese Army.

"During the initial volley of fire, the point element of 1st Platoon was pinned down, sustaining several casualties and the acting platoon leader was killed. Staff Sergeant Young unhesitatingly assumed command of the platoon and immediately began to organize and deploy his men into a defensive position in order to repel the attacking force.

"As a human wave attack advanced on Staff Sergeant Young's platoon, he moved from position to position encouraging and directing fire on the hostile insurgents while exposing himself to the hail of enemy bullets.

"After receiving orders to withdraw to a better defensive position, he remained behind to provide covering fire for the withdrawal. Observing that a small element of the point squad was unable to extract itself from its position, and completely disregarding his personal safety, Staff Sergeant Young began moving toward their position, firing as he maneuvered. When half way to their position, he sustained a critical head injury, yet he continued his mission and ordered the element to withdraw.

"Remaining with the squad as it fought its way to the rear, he was twice seriously wounded in the arm and leg. Although his leg was badly shattered, Staff Sergeant Young refused assistance that would have slowed the retreat of his comrades, and he ordered them to continue their withdrawal while he provided protective covering fire.

"With indomitable courage and heroic self-sacrifice, he continued his self-assigned mission until the enemy force engulfed his position. His gallantry, at the cost of his life, is in the highest traditions of the military service. Staff Sergeant Young has reflected great credit upon himself, his unit and the United States Army."

For his service to his country and tremendous valor displayed in battle, Rex was awarded the Medal of Honor, and I believe he is the first individual to receive that honor from Odessa, Texas.

Like so many of the bravest men and women that our Nation has to offer, Rex Young lived the life unfinished. But he provided an outstanding example of service beyond self and brought credit and honor upon the United States Army and our country.

As the 37th anniversary of Rex's death arrives on August 21, I would like to thank Staff Sergeant Young and his family for their sacrifice to our great Nation.

## ORDER OF BUSINESS

Mr. HAYWORTH. Mr. Speaker, I ask unanimous consent to speak out of order for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

## HONORING JOHN RHODES AND JOSEPH KARTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. HAYWORTH) is recognized for 5 minutes.

Mr. HAYWORTH. Mr. Speaker, as the calendar gives way to August, and 435 Representatives of our great country return to their respective districts to catch up with constituents, to spend time with family, to, yes, enjoy a portion of the summer, it gives us a chance, in what has been a hectic and crowded legislative schedule, especially recently, to pause and remember what makes this institution unique, not only the representative government in the legislative branch of our constitutional Republic, but also those who serve herein, and those who have served.

Two nights ago, Mr. Speaker, it was my honor to welcome back to Capitol Hill one of my constituents, Betty Rhodes, the widow of our former Republican leader, John J. Rhodes, who passed away now two summers ago next month.

And as I was honored to be the Congressman for former Congressman Rhodes and certainly honored that his widow, Betty, remains one of my constituents, it is also important to reflect on another Member of Congress who called the Fifth District of Arizona home, and who recently passed on. His name, Joseph Karth.

He came to this institution being elected in the year of my birth, 1958, and served until 1977, representing the people of the Fourth Congressional District of Minnesota.

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I stand to remember Joe not having a real personal relationship with him, but having this bond that we are among a comparatively few Americans who have been given the honor and privilege of serving in this constitutional office as a United States Representative.

Perhaps the best expression of what this honor means came earlier in our history from the man who served as the sixth President of the United States, John Quincy Adams. Many of us remember that, but few remember the fact that following his time as President, former President Adams ran for and was elected to the United States House of Representatives. And when he was elected to this body from the Commonwealth of Massachusetts, former President, Congressman-elect John Quincy Adams said, "There is no greater honor than serving in the people's House."

And though Joe Karth came to this Chamber on the other side of the aisle, and though I am sure there would be many points of disagreement, as we survey the opportunities in America, as we perhaps typify different philosophies and different practices, there is this common bond that everyone honored to serve here understands. There is no higher honor than being elected to serve in the people's House.

Joe Karth did it remarkably well for the people of the Fourth District of Minnesota. He succeeded a man who served in the other body, Eugene McCarthy, who went on to run for the Presidency of the United States. But Joe Karth was more concerned during his 18 years of service in the people's House with getting his job done for his constituents.

Journalists remember that he was the kind of Congressman who would roll up his sleeves, the kind of Congressman who had intense interest in his constituents. And if there might be a problem with a Social Security check arriving late or not arriving at all, or if there might be a dispute about a veteran's disability, Joe Karth was the type of Congressman who would step in to make sure his constituents were represented.

Mr. Speaker, I would maintain that is a great lesson for all of us, regardless of political philosophy or partisan designation, that to truly represent the people, we have to listen to the people and respond. By that measure of service, Joe Karth was indeed an exceptional Member of this body.

History will record that it was Joe Karth, an avid outdoorsman, who introduced and had passed the Wild and Scenic Rivers Act. His love of golf brought him to Arizona, and that is where he lived, and that is where he passed away earlier this summer.

To his family, to his many friends, to the people of Minnesota and to his neighbors in Arizona, we say we remember Joe Karth, and we salute him for his lifetime of service.

## STORY OF MIKHAIL KHODORKOVSKY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Mississippi (Mr. WICKER) is recognized for 60 minutes as the designee of the majority leader.

Mr. WICKER. Mr. Speaker, I shall not take near 60 minutes, but I intend to yield the vast majority of this time back to the Chair so the Chair can recognize my friend, the gentleman from Texas (Mr. POE). I appreciate the leadership accommodating me so I can tell to the Members the story, the unfortunate story, of Mikhail Khodorkovsky and the state of affairs in the Russian Federation today.

Since June of 1987, when President Reagan stood at the Brandenburg Gate and urged Mikhail Gorbachev to "Tear down this wall," through glasnost and perestroika, through monetary reform and trade, the United States has taken an approach towards active engagement toward democratic reform in Russia.

As cochairman of the Russia Democracy Group, I am committed to seeing these efforts continue. Today the U.S. looks to Russia as a partner in this changing world. At the same time, the responsibility lies on our shoulders to hold our Russian counterparts accountable as they move towards democracy. Recent events in Russia such as the consolidation of power by the Kremlin, restrictions on the media, and the government seizure of private companies, have raised concerns over the path Russia is taking to freedom.

One recent incident in particular draws to mind memories of Russia under the Soviet Union, not the free and democratic society we had hoped it would become. Mikhail Khodorkovsky, who is pictured here to my left, was CEO of the YUKOS Oil Company, the largest company in Russia. In October of 2003, he was arrested at gunpoint and tried for a multitude of politically motivated charges. The trial, if you can call it that, was completed on May 31 of this year, and Mr. Khodorkovsky was sentenced to 9 years in prison.

Recently I, along with many Members of Congress, had the opportunity to meet with one of Mr. Khodorkovsky's business partners, Leonid Nevzlin. Mr. Nevzlin, now living in Israel, has also been charged by the Russian courts for his connection to YUKOS.

While in the United States, Mr. Nevzlin spoke before the U.S. Helsinki Commission and confirmed what many of us feared. Russia is quickly moving away from democracy rather than embracing it.

Mikhail Khodorkovsky's account of the trial and the deterioration of law in Russia is a compelling story that needs to be heard. Following his sentencing, Mr. Khodorkovsky wrote his thoughts from his prison cell as he awaited his departure for the Siberian prison camps. I believe it is important today that I read his profoundly eloquent statement in its entirety.

"Despite obvious lack of evidence of my guilt and a mass of evidence that I was not involved in any crimes whatsoever, the court has decided to send me to the camps.

"I do not intend to harshly criticize the esteemed judge, Irina Kolesnikova. I can imagine what sort of pressure she was under from the initiators of the Khodorkovsky case while she was preparing the verdict. Scores of government functionaries, or just plain self-interested intermediaries, were ready to bring any amount of money to the court to make sure I was sent to Siberia.

"When it comes right down to it, Kolesnikova is not the problem. The problem is that the judiciary in Russia has turned completely into a mindless appendage, a blunt weapon of the executive. Actually, not so much of the executive branch of power as of several economic groups with criminal ties. Millions of our fellow citizens have seen today that despite our country's top leadership's statements about the need to strengthen due process, there is nothing to pin our hopes on for now. This is a shame and a stain on our country, and it is a misfortune.

"I do not admit guilt, and consider that my innocence has been proven. This is why I will appeal the sentence handed down to me today. For me, it is a fundamental matter of principal to obtain truth and justice in my Motherland.

"I know that the sentence in the criminal case against me was ultimately decided in the Kremlin. Some people in the President's entourage insisted that only an acquittal could bring back society's trust in the government, while others insisted that I be locked up for a long time in order to deprive me of the will to live, to be free, and to fight.

"I want to say thank you for the former, and bring attention to the latter that they have not won.

"They will never be capable of understanding that freedom is an internal state of a person. It is precisely those who wish me ill, the ones who have dreams at night of a Khodorkovsky rabidly thirsting for vengeance, who are doomed to spend the rest of their lives trembling over the stolen assets of YUKOS.

"It is they who are profoundly unfree and will never be free. It is their pitiful existence that is the true prison.

"I, on the other hand, have the full right to say whatever I think and to act as I deem necessary without needing to get my plans approved by any overseers. And this is why my living space from now on is the territory of freedom. The captives are those who remain slaves of the system, who have to grovel, to lie, and to debase others in order to preserve their incomes and their dubious status in this obscene society.

"I will engage in civic activities; I plan to create several philanthropic organizations, for example a foundation to support Russian poetry and one for Russian philosophy, as well as a Union for Aid to Russian Prisoners. I remain an active participant in the programs of Open Russia. I will soon be holding an extramural press conference at which I will discuss the highest-priority steps. This will be the first press conference from jail in post-Soviet history.

"While I no longer have significant personal assets, there are many people willing to provide financial support for my programs because of their association with my name?

"I want to say a big thank you to everyone who gathered here today inside and outside the courthouse, and to everybody who supported me over the preceding year and a half. You are the decent and valiant people of Russia. I solemnly state that you can always count on me. Even though I do not have big money anymore, we can accomplish a great deal together.

"I would like to say a separate word of thanks to those tens of thousands of ordinary inhabitants of Russia, from every corner of our country, who have supported me with their letters. My time in jail has shown me yet again that the Russia people are not mindless beasts of burden, as certain ideologists close to those in power assert. No, they are a righteous and noble people.

"I will work together with those who want and are able to speak openly about our country, about our people, and about our common present and future. I will fight for freedom, for mine, for Platon Lebedev's, for that of my other friends, and for that of all Russia. And particularly for that of the next generations, those to whom our country will belong in only a few years."

Mr. Speaker, Mr. Khodorkovsky concludes his letter with these profound paragraphs:

"For them, my fate must become a lesson and an example.

"Thank you to my family. They have been and remain my support, now and always. It may take many years, but I will walk out from the barbed wire and will return home. I have never been as sure of anything as I am of this.

"Even though years of prison await me, I am still experiencing a great sense of relief. My life is now a clean slate; there is nothing extraneous, accidental, or superficial in it anymore. I see my future as bright, and the air of tomorrow's Russia as pure.

"I have lost my place in the oligarchs' clique. But I have gained a huge number of true and loyal friends.

"I have regained a sense of my country. I am now together with my people, and now, we shall overcome together as well.

"Do not despair. Truth always wins out sooner or later."

Thus ends the statement of Mikhail Khodorkovsky.

Mr. Speaker, as Russia's participation in the international community increases, it is imperative that the United States works to ensure that this country continues toward democracy for the people of Russia and for the entire world.

Rest assured that Mikhail Khodorkovsky is right. In the end truth will win out, as will freedom.

I thank the leadership and the Speaker.

Mr. Speaker, I yield back the balance of my time.

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## ILLEGAL IMMIGRATION DANGERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. POE) is recognized for the remainder of the hour.

Mr. POE. Mr. Speaker, for the last few weeks I have been discussing the ongoing problem of illegal immigration into the United States; and have mentioned numerous ills of this lack of a policy and how it affects the United States and citizens here; how we are expending exorbitant amounts of money to fund the actions of illegals, and Americans pay for it.

Besides the cost of illegal immigration, the effect of our homeland security is detrimental to the safety of our country, and we need to have a plan and a plan that makes sense, has common sense, and that works.

Mr. Speaker, at this time I would like to yield to the gentleman from Texas (Mr. CULBERSON) as much time as he wishes to consume on this issue of immigration and one of the novel ideas he has come up with to help solve this problem.

Mr. CULBERSON. Mr. Speaker, I thank the gentleman. I am proud to have the gentleman with me as coauthor of legislation we have filed with 44 other Members of the House to use the mechanisms the Founding Fathers left us in the Constitution to help defend this country against the threat of terrorists who the FBI Director has confirmed in sworn testimony that suspected terrorists and individuals from countries with known al Qaeda connections are entering the United States illegally, using false Hispanic identities, a subject the gentleman is talking about here today, to make sure we accurately identify people entering the U.S.

Federal law enforcement authorities have now confirmed what we have known, and that is these individuals are trying to sneak into the U.S., crossing our southern border, hiding among the tremendous wave of illegal immigration entering this country, and the Federal Government simply does not have the manpower or resources to protect our international borders.

□ 1215

In a very real sense, 9/11 deputized every American, but not every American can serve in our Armed Forces or join the FBI or the CIA and fight on the front in the war on terror. So the gentleman from Texas (Mr. POE) and I, and 45 other Members of Congress, have filed legislation invoking congressional power under the Constitution to authorize all eligible American citizens who have no criminal record, no history of mental illness to serve in a genuine militia force for the sole purpose of protecting our borders.

The Border Protection Corps would serve truly as a neighborhood watch border patrol. These individuals who would serve under the direct control of our State Governors in those border States along the border would be trained, equipped, and serve under the direction of the Governor in cooperation with local and State law enforcement authorities.

Mr. Speaker, I want to stress this. These individuals would indeed be trained, be lawful militia forces as the Constitution envisioned under the control of the Governor, working in cooperation with the Governor, State law enforcement, and the border patrol simply to protect our border and to prevent individuals from entering the United States illegally and to, when necessary, take those individuals into custody.

State and local authorities would then be eligible for Federal funding. A Governor that invokes this authority, taking command of these lawful militia forces, the Border Protection Corps, would have access to this Federal money, Homeland Security money, which would then flow to that State. There is $6.8 billion in unspent homeland security money that has been there for over 2 years, unspent for local responders. There is no more important local response, or first response, than protecting our borders.

So with this legislation that we have coauthored, if a Governor calls up, takes command of these forces, again, trains them, puts them under the control of local law enforcement, working with the border patrol, that $6.8 billion is then eligible to flow to pay for the cost of equipping, training, deploying these forces as well as building temporary housing, detention facilities, for these individuals until they would be turned over to Federal authorities. And those Federal authorities must then determine that they are not a violent criminal, a dangerous criminal, or a potential terrorist. If they are not, they will simply be returned to their country of origin from which they entered the United States.

Mr. Speaker, I would also point out that Nuevo Laredo is almost in a full-scale war with drug smugglers and human smugglers. The new police chief in Nuevo Laredo was shot dead his first day on the job. The border with Mexico right now is essentially wide open. We have a serious problem with criminals and potential terrorists entering the country and hiding among all the people coming into the U.S. looking for work.

We must protect our borders. We will never win the war on terror until we truly protect our borders; and this legislation, which we have coauthored with 44 other Members of the House, uses a mechanism the Constitution gives us so that honest, law-abiding American citizens who want to participate, who want to serve in a lawful, legitimate way to help protect our borders can do so. By volunteering to serve in the Border Protection Corps, they will be reimbursed for their time, their equipment, their training, their travel costs; but they will truly be volunteers.

By the way, any eligible U.S. citizen from any of the 50 States can serve in the Border Protection Corps. This is a national call-up under Congress' power to call up a militia. These individuals from any of the 50 States could come to Texas. The Governor of Texas is very interested in this program and interested in implementing it. We have had the Texas Rangers for many years, and it often took, as the expression was, "One Ranger, one riot."

We have in Texas a long, as does the country, a long honorable tradition of citizens volunteering to serve in militia forces. This bill, which we have filed, legitimizes that under the Constitution and allows American citizens to participate in a way that is lawful, legal, under the control of law enforcement authorities in a way to protect our borders and our kids from terrorists sneaking into the country and freeing America from one of the four freedoms that President Roosevelt talked about: freedom from fear.

Because until we protect our borders, we will never win the war on terror and never truly be free from fear. I thank the gentleman for the time and for his support on this important legislation, as well as his leadership in the effort to protect our borders.

Mr. POE. Mr. Speaker, reclaiming my time. I appreciate the gentleman from Texas (Mr. CULBERSON), my fellow colleague, and his words on stemming the tide of the invasion, really, into the United States. Being from Texas, the gentleman knows very well the issues of border security and the problems it is causing and the fact that we have an open border policy basically in the southwest portions of the United States. So I thank the gentleman for his leadership on this and the approach to getting serious about protecting the United States borders north and south.

Mr. Speaker, it is important to understand that this Nation is a Nation of immigrants, and I certainly support legal immigration into the United States. We all take pride in our heritage, in who we are and where we came from. My ancestors on my mother's and dad's sides came from Scotland and Germany. And when we look around the Chamber on any given day, we see people from all over the world, their backgrounds from all over the world, ethnic and racial backgrounds.

Of course, our national motto, "E Pluribus Unum, Out of Many, One," is what this Nation was built upon. And the many did not simply come from the mixing of cultures, but the commonly held belief they came here for a reason. They came here for freedom, they came here for liberty, and they came here, yes, for religious opportunity. But they came here also because of the rule of law.

In 1890, Ellis Island was elected the site for construction of a Federal immigration station for the Port of New York. This island was open for business on January 1 of the next year. The first person to go through Ellis Island was a 15-year-old girl, Annie Moore from Ireland, January 1, 1892. She was born in 1877 in a place called Cork, Ireland. Her parents, Matthew and Mary, had already emigrated legally to the United States, seeking to find a better life for their family.

They did not really know what to expect when they came to this America, so they left Annie and her two brothers back in Ireland. After 2 years, they established themselves and sent for their children. Annie and her brothers boarded the ship the *Nevada* in Queenstown, and 12 days later they arrived in New York Harbor. They were reunited with their parents at Ellis Island and they had moved, to all places, Texas. So the first Ellis Island immigrant moved to and lived in Texas.

That first day, around 700 immigrants were processed on that island, and they would be followed by almost 500,000 that very year. People who came here were screened, and some were made to return to their native lands because they did not meet certain requirements to be a legal immigrant. The peak of the years of immigration through Ellis Island were between 1892 and 1924. In 1954, Ellis Island officially closed.

Between those years, many famous people passed through the front doors of freedom to America: Albert Einstein, Bob Hope, F. Scott Fitzgerald, W.C. Fields, and Rudyard Kipling, just a few of the hundreds of thousands of individuals who came here. Those people were screened by immigrant officials to make sure they were healthy and that they could offer something to America rather than take something from America.

The people who came through Ellis Island were from all over the world. Germans, Irish, Chinese, Italians, Mexicans, Polish and Russians all passed through Ellis Island. All together, 12 million immigrants passed through the front doors of freedom during that era. One hundred million Americans today in our country, about a third, can trace their ancestry to the United States from a man, woman, or child who passed through Ellis Island.

Margaret Thatcher made the comment that no other Nation has so successfully combined people of other races and nations into a single culture, and she is right about that. The immigrants who flocked to Ellis Island and created the great melting pot that is America had one thing in common: they showed great respects for our Nation and its laws by emigrating legally. They all wanted to be Americans. They wanted to be in the land of the free and the home of the brave, and they understood that by coming here, and coming here legally, they would eventually get citizenship and become an American. They honored their own culture, but realized they had to understand this American culture in order to become a part of it.

Ronald Reagan made the comment many, many years ago about America being different than any other place in the world. He said that anybody can be an American, and people have come from all over the world to be Americans. But you can go to Italy and never be Italian; you can go to France, and you will never be French; and you can go to Germany, and you will never be German. But anybody can come to the United States and be an American. And he is right about that.

Today, Mr. Speaker, we see times have changed. People no longer seek immigration status into the United States on a legal basis. There is a free flow of people across our border, and we now have a nation that is so increasingly tolerant of other people's views that we fail to make sure they understand ours. Some say that we are losing our identity as a nation because we have open borders.

In order to stem this tide, we must make certain our Nation's borders are secure and that any immigration into this country is done the right way, the fair way, and in a legal way. Everybody wants to live in the United States, but everybody cannot live in the United States; so we have to have some rules. We have to have a policy, and we have to use common sense and make sure it is fair to all. If we allow anyone from anywhere to flood into our country, we will lose the traditions of our country and eventually destroy the American Dream for all people.

Open borders cause chaos in this country. The United States is not only being invaded by illegals but these individuals are colonizing our country, and American citizens are paying for it. Americans always pay, Mr. Speaker. The price of illegal immigration is a serious problem that is costing American taxpayers millions of dollars from the areas of social services to health care to education to law enforcement. The American taxpayer is forced by our government to fund illegal immigration because the government does not protect the borders.

It is estimated that between 11 million and 14 million people are living in the United States illegally. That number rises by as much as 500,000 a year. All of these people are living in our country illegally, and many are living off the United States and the people who are citizens here and the generosity of those individuals by receiving government benefits at the expense of American taxpayers.

Although it is the Federal Government's responsibility to control immigration, the lack of enforcement by the Federal Government causes citizens of the United States to pay the high costs associated with this lack of policy. Americans have to pay those costs in education, criminal justice, health care, and social services for those who are here illegally. It is reported that 20 percent of these costs that Americans pay are attributed to the illegal people that use the system that got here illegally in the first place.

A huge cost to citizens is providing health care. America is a compassionate country, and American doctors do not turn people away from health care. We have the best health care in the world. And, of course, these doctors and these hospitals do not turn away even illegal people here. A trip to the emergency room costs money, and many illegals do not have money to pay these fees. So somebody has to pay, and Americans pay. Americans always pay. And these illegals get access to free American health care, free health care to them but not to the rest of us.

Another problem is immigrants' use of hospital emergency rooms rather than preventive medical care. The utilization rate of hospitals and clinics by illegals is more than twice the rate of the overall United States population. About half of the illegal immigrant population in the United States has no insurance or it is provided to them at taxpayers' expense. In some hospitals, as much as two-thirds of their total operating costs are uncompensated care for people who are illegal in the United States.

In these instances, the Federal Government, which is really the American citizens, the taxpayer, pays the bill; and the illegal individual is essentially given free health care. Some hospitals in urban areas have been forced to shut down because it is impossible for them to absorb the cost of health care by people who are in the system but do not pay for that system.

We have a health care cost crisis in the United States; and part of the reason for it that no one wants to mention are those people who take from the system, but who do not pay for it. If we are going to treat illegals in our hospitals, we should send those hospital bills to the countries where they come from. Why should Americans pay? We always pay. Maybe we should send the bill to those countries, those presidents who encourage their citizens to come to this Nation, especially illegally.

Mr. Speaker, I see the gentleman from Arizona (Mr. HAYWORTH) has joined me on the floor. Does the gentleman wish to make a comment?

Mr. HAYWORTH. Mr. Speaker, if my friend would yield briefly, I just wanted to return to the floor first of all to thank my colleague from Texas and to state what is obvious to his constituents. He brings a dedication and a passion to this Congress in his first term that has won him notice in many quarters, and he demonstrates by tackling this issue that he indeed is being responsive to his constituents.

□ 1230

If I might just elaborate in terms of the Fifth Congressional District of Arizona, like Texas, sharing a common border with Mexico, earlier this summer I sent to my constituents a questionnaire, how do we deal with the challenges of border security and illegal immigration? Mr. Speaker, I would inform this House that in little more than 3 weeks' time, my office received over 10,000 responses.

The frustration that grows from the policies and the challenges that the gentleman from Texas (Mr. POE) is outlining bespeaks not a universal, but a very convincing sentiment in my district where the respondents by an almost 9-to-1 margin said it is time to enforce existing law. I think we see across this country, whether in Arizona, Texas, or California, a need for this body to address the border security questions we continue to confront.

By almost a 9-to-1 margin, my constituents said enforcement first. By almost a 9-to-1 margin, they said the incredible costs that American taxpayers bear to essentially subsidize illegal behavior is intolerable. By a 9-to-1 margin, respondents said in this survey they understand full well that national security is synonymous with border security.

Mr. Speaker, I thank the gentleman from Texas (Mr. POE) for allowing me to share this time. I am pleased to be a cosponsor of the legislation offered by the gentleman from Texas (Mr. CULBERSON), and I will continue to listen to my constituents on how we will deal with this vexing problem and how we employ enforcement first, not a euphemism saying we will have an amnesty and a guest worker program, and, yes, we will really get tough on the border. That would be the status quo, and that would be unacceptable, and that would tend to encourage the Mexican Government and others, as outlined by the illustrations behind the gentleman from Texas (Mr. POE).

So let us have enforcement first and tie this to measurable, attainable goals as we protect our borders, as we protect our Nation in a post-9/11 world, as we are a Nation at war.

Mr. Speaker, I thank the gentleman for yielding and appreciate his leadership on this issue because he truly is hearing from his constituents, and he is representing them in very capable fashion.

Mr. POE. Mr. Speaker, I thank the gentleman from Arizona (Mr. HAYWORTH) for pointing out the situation in Arizona. The gentleman is exactly correct in what he says about enforcing the rule of law. Amnesty is a word that will bring the blood pressure up of my constituents in the Second Congressional District of Texas faster than any other trigger word, because we do not reward illegal behavior. I did not do so as a judge for 22 years. We first start by securing the border of the United States for several reasons, and we go from there. I appreciate the gentleman from Arizona (Mr. HAYWORTH) making those comments.

Not only is health care cost a tremendous issue because of illegal immigration, we have the cost of education. Education happens to be the largest public cost associated with illegal immigration in the United States, and it is going to have long-term consequences.

The Supreme Court ruled back in 1982 that all people, all children in the United States are provided a free public school education. It is estimated there are more than 50,000 illegal students in the United States public schools; the Federation for Immigration Reform, total K–12 school expenditure for illegal immigrants cost the States $12 billion. So that means it is costing taxpayers $12 billion a year to educate those individuals.

The $3.9 billion spent annually educating children of illegal immigrants in Texas could cover the shortfall that the Texas Federation for Teachers has identified for school books and pension contributions. It could even increase the salaries of teachers. And Texas is undergoing a tremendous cost problem with education in our State, trying to make sure that we do it in a fair and equitable way, but part of the problem is taxpayers are having to fund education for those people who are illegally here in the United States.

It is not just a border issue. The State of Georgia spends about $26 million to teach bilingual education. This is not fair to Americans. The problem is not only in the public school systems. Nine States, including Texas, has started rewarding illegals by giving them instate tuitions when they decide to go to a public university.

Let me explain that. These people are illegally in the United States to begin with, but yet when they get accepted to a public university, they get to go to that public university, paying instate tuition. That is about 3,700 students in the State of Texas. That is unfair to American kids. A kid from Oklahoma, if they want to go to the University of Texas, they pay out-of-State tuition which is about three times the amount of instate tuition. So we discriminate against American citizens to the behest of people here illegally. And people who come to the United States legally to get an education from all over the world, and they do so in a legal manner, they pay out-of-State tuition. They pay the same out-of-State tuition as someone from Oklahoma would pay. But if you are here illegally, nine States allow those individuals to pay instate tuition.

This ought not to be. It defies common sense. These citizens or these individuals are illegally living in the United States, they are not legal residents to begin with, and they are not eligible to work in the United States after they get that education. So the United States is paying to educate these people who, upon graduation, cannot legally work here.

This defies logic. Not only that, admission spaces in public universities are limited. Legal residents are being denied entry due to the fact that illegals are taking up spaces. These spaces are being filled by other individuals, and yet Americans pay, Americans all pay.

Further, to show how extensive this problem is, many illegals receive State and Federal grants to attend a university. What that means is they are receiving moneys to go to these universities. These grants should go to American kids, American citizens. Many times parents in this country cannot afford to send their children to a college, to a university. They seek help. Well, some of this aid is going to people who are illegally in the United States. It defies common sense.

Going further, not only mentioning health care and education, there is the criminal justice system. When I was a judge in Houston, Texas, for over 22 years, it was estimated that 20 percent of the people I saw were illegally in the United States. While they are serving time in Texas penitentiaries, Texans were paying the price. We provide those individuals a defense attorney, a court system, a trial, and incarceration, all on the American taxpayers' dollar. Americans pay, Americans always pay.

Of course, there is another problem that illegal immigration poses, and it is not just the sanctity of the American dream, but to its safety as well. While I have the sympathy and respect for those who wish to come to the United States and pull themselves up, there is the fear that there are those who hide amongst those individuals who wish to exploit American ideals and American citizens. These are people we now call terrorists. Let me give an example.

Mr. Speaker, earlier this year I was in Iraq. I was there for the day that nation started its democracy. Contrary to what the skeptics and the cynics thought, that nation is on its way to a democracy. We know of the terrorists that come into that nation. Those terrorists are mainly not Iraqis. Those are individuals from all over the world, but they are not Iraqi citizens. They come to Iraq through their open borders of Syria and Iran.

Why are we so naive to think that terrorists will not come through our open borders of Canada and Mexico and do the same thing to us? It is easily conceivable for al Qaeda members to cross our borders and put our families at risk.

It is for this reason it is essential that we secure our border, because it is a national security issue. The whole world knows that America has no secure borders. We catch a few here, and we let most of them slip through. It is no secret that our enemies will continue to exploit our weakest points, and that is our borders. The tragedy of 9/11 has proven we are not as safe as we thought we were, and our immigration policy has to be corrected.

The hijackers took advantage of our flawed immigration policies. They had expired and counterfeit documents. Some were staying in cities and sanctuaries. We will never make our country completely safe without proper border enhancement.

Mr. Speaker, half of the people crossing our borders are from countries other than Mexico. They come from El Salvador, Brazil, Egypt, China, Russia, Poland and, yes, even France. They pose a challenge because deporting them is harder because their countries are further away. So here is what happens to those individuals that come to the United States illegally and are caught and are from some nation other than Mexico.

After arrested, they are taken to a Federal magistrate, and the Federal magistrate releases these individuals on their word that they will show up for their deportation hearing. Most do not show up. Why are we shocked about the fact that they do not return to court for their deportation hearing? This defies common sense to have a catch-and-release policy. Detention facilities are full, so they are ordered to be released on their word to return to court.

Mr. Speaker, this does not make any sense. This catch-and-release policy not only is costly, but does not work. And these individuals then carry around their summons to appear in court, and if they are stopped by some officer of the law, they show their summons, which is a pass. In other words, these individuals are released. They present and promote chaos in the United States.

Let me deal specifically with the nation of Mexico. Those coming from Mexico illegally are breaking our law. Individuals from Mexico can obtain, before they even get in the United States, fake green cards. They can go to a local Mexican flea market, and there is a growing number of individuals that will provide them counterfeit Social Security cards and a counterfeit driver's license. And the Mexican administration has even created a policy to help folks who want to come to the United States illegally.

I have a copy of this Guide for the Mexican Immigrant. I have some of the demonstrations of what is in this book for those individuals who come to the United States illegally. They can obtain this book through the administration of the Mexican Government, and it shows them what to do and what will occur if they enter the United States. Here is the cover. Guide for Coming to the United States as a Mexican Immigrant. Here on this panel I have some of the drawings that are in this book. It instructs individuals when to cross the United States border from Mexico. It also talks about the fact of what occurs when they are actually confronted by border security and what they can do about it. It talks about the issue of coyotes, those people who live and make money off the illegal importation of citizens into the United States. It talks about the appropriate time to cross into the United States. It talks about the fence over in California. It talks about the importance of crossing the river into the United States at the appropriate time and in the appropriate place at night so you cannot be seen.

This last panel here is very interesting. We see that this individual is listening to the radio. These are supposed to be Mexican illegals that have come to the United States, and actually gives them in this book a radio channel that they can listen to in Mexico to help them come across the border or what to do once they get into the United States. Some of their questions are answered from this radio station that is broadcast from Mexico.

So it does not make sense that we help fund this process of encouraging people to come to the United States in an illegal way. There is a guide provided for them if they wish to have that, and it helps those individuals assimilate into the United States.

□ 1245

So we have to have a policy, Mr. Speaker, regarding those individuals who come here and make sure that we enforce the rule of law, enforce the concept of securing our borders.

Mr. NORWOOD. Mr. Speaker, will the gentleman yield?

Mr. POE. I yield to the gentleman from Georgia.

Mr. NORWOOD. I have been listening to the gentleman from Texas for the last half hour and the gentleman from

Arizona, and it dawned on me that the good argument you are making is also an argument to be made for States like mine, Georgia. I know we are not a border State, but we have the same problems that you have because they do not all stay in Texas. A lot of them come up our way and they are just as illegal as they can be. I know you have been discussing different problems that occur by having anywhere from 12 to 15 million illegal aliens in our country; and I would like to just point out one, maybe two little things.

I have a bill known as the CLEAR Act. We have a lot of cosponsors on it. We are after one little thing about illegal immigration. We are after those that have been ordered to be deported, about 500,000. Out of those, there are about 100,000 that are violent criminals. We have 2,000 Federal agents trying to run these people down, which, as I know you know, means we are not doing anything. We are simply saying that local law enforcement that has the authority, we make it clear they do have the authority to help us out. And then we tell BICE, Do your job. We fund them, which is a great savings to the Nation because the cost of illegal aliens is simply unbelievable. The funds we spend trying to do something about it will absolutely save this country a lot of money.

I congratulate my colleague, a freshman from Texas. You are on the right issue. You are saying the right things. I hope when we get back in September finally, finally this Congress will listen, because I know what you are hearing at home and I am hearing the same thing. You and I are not the only Members of this body hearing that we have to do something about this because it involves our national security, not to speak of all the other problems.

The gentleman from Arizona is right. My bill will not solve a thing. No other bill will solve a thing until we do one thing first: we must secure the borders. Then we can talk about all the different ways we deal with the other problems, including my bill. We can talk about what to do about 15 million people in the country illegally. But none of that talk means anything, no bills mean anything, until we enforce the law as it is today and secure our borders.

Mr. POE. I thank the gentleman from Georgia for his comments and also the sponsorship of his CLEAR Act. It is clear to me that the CLEAR Act ought to be the law of the land and allow police officers to do their jobs. It is silly that police officers in many States, and unfortunately Texas is one of them, that if they come across an individual that is illegally in the United States, they cannot do anything about that individual. They cannot take them to the Federal authorities and let the Federal authorities deport those people. It defies common sense that they are not allowed to do that. They certainly should have the authority under the rule of law to enforce all of the laws, the violations of the laws that they have found out about.

What my colleague from Georgia mentioned about border security regarding the issue of amnesty and the issue of terrorism is very well taken. Of course, as I mentioned with our good friend from Arizona, amnesty is one of those words that in my area of the country people do not accept. They think that is a bad idea. We tried amnesty in this country. It did not work. Now there are those who want to try it again. We need to remember history, and history has shown that giving people a free ride that were here illegally has not solved any of our immigration policies.

We have a policy in the United States in many cities called safe havens, created by sanctuary laws. These laws basically prevent police from arresting individuals that they come across who are illegally in the United States for no other reason than they have crossed paths and that they find out that they are here illegally.

Not only that, these sanctuary laws and these sanctuary hideouts prevent and prohibit police officers from, and I quote the law that first started in Los Angeles, initiating any police action where the objective is to discover the alien status of the individual. It just seems to me, and common sense would dictate, that the police should know who is in the United States legally and illegally.

These cities obviously have not heard of the war on terror. This policy has created an absurdity by allowing these individuals who have come here illegally to basically have sanctuary hideouts and prevent the police from arresting them because they are here illegally.

To further demonstrate the problem with these sanctuary hideouts, and it is also detrimental to national security, we need to mention the violent MS–13 gang that has spread across the United States. MS–13 is a gang of criminals, drug dealers from Ecuador, Guatemala, Honduras, and some from Mexico. They live in our prisons, those that have been captured; but they also live outside the United States, and they live in the United States. They have gotten so out of control that prospective members must commit a violent act against a community, usually a community in the United States, to become a member of the MS–13 gang.

MS–13 and other gangs like this share two things in common: they are regularly arrested for committing crimes, they do time, they are deported and they come back to the United States. The second thing these gangs have in common is that once they are back in the United States, they are often ignored by the police because, even though the police know they are illegally here, they know that they cannot stop them for just being illegally in the United States. This occurs in many of our larger cities.

Of course, these gang members not only deal in drug trafficking but they have organized so well they know how to come into the United States. According to recent reports, MS–13 has made contacts with terrorist groups such as al Qaeda. Because these gangs are so adept at evading our border patrol and so knowledgeable about sanctuary laws, al Qaeda seeks them out as guides. When it comes down to it, we cannot afford to continue sanctuary hideouts in the United States. They give safe haven to gang members, and they destroy our streets and corrupt our neighborhoods. They even allow now our worst enemies to ally with those individuals who have come here illegally.

So we really have two terrorist groups in the United States. We have a domestic terrorist group, MS–13 and their likewise gang members who deal in drug trafficking, and we have an international terrorist group that we all know about. We must now have to deal with both of those.

Mr. Speaker, there are about 800,000 local law enforcement officials in the United States, and they take a pledge to protect and serve every day, the task of enforcing our laws and making our communities safe. They watch out for our country and our kids and our families in this great land. We must allow those State and local law enforcement authorities the authority to arrest people that are here illegally and deal with them through the Federal process. The police are on the front lines every day, and they should be allies with the Federal Government in assisting to protect and serve and protect the borders.

Mr. NORWOOD. Mr. Speaker, will the gentleman yield?

Mr. POE. I yield to the gentleman from Georgia.

Mr. NORWOOD. In the gentleman's experience in the justice system, would you conclude that people who are in law enforcement do it for the love of it? They want to enforce the law. And those that are not today are being held back by politicians in some cities around the country that really will not even let them enforce the law. Do I have a misreading of that, or is that correct?

Mr. POE. The gentleman from Georgia is exactly correct. I know a lot of police officers. Some rookies, some have been around, some have retired. They do it for the reason that they want to help the community protect the neighborhoods and enforce the rule of law. They, too, are frustrated about these sanctuary laws throughout the United States that basically give them a hands-off policy in dealing with illegals. They want to work with the Federal authorities. Of course they know the consequences of enforcing the law. Some of them have been threatened with being terminated if they arrest people who have been illegally in the United States for no other purpose.

Mr. NORWOOD. If the gentleman will yield one more time, part of the problem of this is that groups like La Raza and others make it their business to try to sue cities, county commissions, law enforcement when they do enforce Federal law because the present law is just written in such a way that they can get away with some of that. Does that deter a city like Houston, Texas, from encouraging its law enforcement officials to help obey the law, help enforce the law, or is that why they are saying to their officials, Hey, don't help anything with this. We may get sued?

Mr. POE. I think part of the reason is exactly that. Cities and communities are afraid of those lawsuits and being tied up in court on enforcing the rule of law. How silly has this all become where cities cannot enforce the rule of law in the United States for fear of being sued by some other entity. As my colleague well knows, this needs to be cleared up so that these authorities can have the proper legal authority to arrest individuals that are here illegally and have them dealt with through Federal immigration policy. It is a very frustrating thing, and we see that occur. We hear police officers talk about that very problem on numerous occasions.

Let me mention, Mr. Speaker, a few more matters before I conclude here. This is a national security issue. It is an immigration issue. It is protecting the borders and making sure that we keep our borders safe for the Americans who live in the United States. As the gentleman from Georgia has pointed out, we only have about 2,000 officials in the whole United States that are actually seeking out people illegally in the United States once they cross the border.

One of the solutions maybe is to require a passport for people coming into the United States from Mexico and from Canada. Immigration officials have to look at hundreds of different types of documents to verify someone's legal status or who they are, their identity, before they come into the United States. Maybe we should reevaluate that policy. A passport policy would certainly not discriminate as we seem to do now on entry into the United States, and requiring individuals to have those passports to come and go from the United States would certainly help identify the true identity of these individuals.

So often people who come to the United States have already obtained a false identification. I experienced even in my time at the courthouse that individuals were sometimes using one Social Security card and there were seven or eight people using the same Social Security card to work in the United States. That Social Security card to begin with was fraudulent and a forgery. Maybe the passport idea is something that we need to evaluate and something that we certainly need to do as soon as we can to ensure the quality and safety of our borders.

I have received, as all Members of Congress receive, numerous letters from constituents about many issues. The comments I receive the most have to do with immigration and safety of the United States and national security and homeland security. It all centers around the borders. I had a senior citizen who contacts my office on a regular basis who sent me this letter, and with this last letter I will close.

However, before doing so, I yield to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. I thank the gentleman from Texas, and I appreciate the gentleman yielding. I have been watching the gentleman on C-SPAN from my office. I was compelled to come over here. I want to compliment you for your leadership and the fact that you are down here on a regular basis carrying this message that the American people need to hear. It needs to echo across all this land, the border States that are well represented in this presentation here today, but also throughout the heartland of America.

It is an intense issue. I know that the gentleman from Arizona (Mr. HAYWORTH) talked about a 9 to 1 survey that they want tighter border controls in Arizona. Your statistics, I think, would be close to that. We put out a survey a year ago last March to 10,000 of my constituents in a random mailing that went into these households, Democrats and Republicans alike. It was all on immigration. The question that was the most significant was: On a scale of 1 to 10, with 10 being the most intense, how intensely do you agree with this statement: We should reduce legal immigration and eliminate all illegal immigration. If you counted the 6s, 7s, 8s, 9s and 10s as being agreeing in intensity, 97 percent of my constituents said we want to have less legal and no more illegal immigration.

I wanted to tell you that we stand with you in Iowa, we stand with you in the Midwest, we stand together as American citizens. It is time to defend our borders and protect our sovereignty. If you do not have a border that you control, you cannot have a nation. It is the core of this country. Law and order and respect for the rule of law is an essential component of any nation. I sit on the Immigration Subcommittee of the House Judiciary Committee, and I am pledged to going forward on this same cause. I look forward to locking arms with you and dozens of Members of this Congress as we move forward into this national debate that is so long awaited on immigration.

Mr. POE. I thank my friend from Iowa. We hopefully will deal with this issue as a body in September, come up with a commonsense immigration policy and plan that works. But any plan that we come up with has to start with the basic premise that we have to secure the borders and make sure that people in other nations respect the rule of law in the United States. As you mentioned and alluded to, we have people that come here legally. The process of coming here legally is taking so long, it discourages legal immigration and encourages those people to go around the rule of law and come into the United States illegally. A commonsense immigration policy that is fair to Americans, puts America first, is something that we need to deal with.

Mr. Speaker, in closing, I would like to read a short letter from a senior citizen down in east Texas. There is that east Texas wit and common sense that sometimes we do not see throughout other portions of the United States. He starts out his letter: "There is an iceberg in the national bathtub. Illegal immigration and our current government's nonresponse to it is jeopardizing our national security, our State's security and our local security. With these 25 million illegal immigrants comes a huge problem and even larger risks.

□ 1300

"We have more than likely allowed several terrorists and their weapons into the country. We all but rolled out the red carpet. The social welfare costs are damning. The disease and heightened risk from an epidemic increase every day. The threats to our law and order are real as crime rates attributable to certain gangs and the human smugglers is intolerable.

"The most telling tale of neglect and dereliction of duty is the Minute Men, having to do the job the Federal Government refuses to do. I am joining these individuals with my vote. No one will ever get my vote unless this cart and horse is turned around 180 degrees in the next election cycle. I am sick of excuses and political statements and rhetoric and all of these fake hands across the border. We have got to seal the borders, get control, and fix our immigration laws and the rule of law at this time."

Mr. Speaker, the members of our community seem to get it. I do not know why the Federal Government does not seem to get it. Mr. Speaker, this ought not to be. We have to deal with this immigration issue as a body, set a plan, and enforce the law.

## URGING JOHN BOLTON TO WITHDRAW HIS NAME FROM CONSIDERATION AS AMBASSADOR TO THE U.N.

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under a previous order of the House, the gentleman from New Jersey (Mr. PAYNE) is recognized for 5 minutes.

Mr. PAYNE. Mr. Speaker, this morning's Washington Post reported that President Bush's choice to the United Nations, Ambassador John Bolton, made a false statement to Congress, stating on a written questionnaire that he had not been questioned in recent years by investigators in an official inquiry.

In fact, the State Department acknowledged yesterday that Mr. Bolton had been interviewed on July 18, 2003, by the State Department's Inspector General about possible Iraqi attempts to procure uranium from Niger. Mr. Bolton stated he did not recall the Inspector General's inquiry and his form was inaccurate in this regard and that he will correct the form.

Mr. Speaker, with all the attention given to the leak of CIA operative Valerie Plame's identity, it seems to me that it is almost inconceivable that an event that important could inadvertently be overlooked.

Mr. Speaker, this revelation comes on the heels of a barrage of negative reports about Mr. Bolton from those who work most closely with him. It has become apparent, as members of his own parties have spoken and have very serious concerns about his temperament and his integrity to fill one of the most important positions in some of the most important times in our history.

The time has come for Mr. Bolton to voluntarily withdraw his name from consideration to be United States Ambassador to the U.N. Members of both bodies have urged his defeat, and I commend a Republican Senator from Ohio who passionately said that he is the wrong person at the wrong time.

As a member of the House Committee on International Relations and a congressional representative to the United Nations, I believe that there are many excellent candidates that President Bush could choose for this critical position.

Again, I urge John Bolton to do the honorable thing and withdraw. Our Nation is bigger than an individual. Our Nation's needs supersede that of an individual. At this time we need the best and the brightest, one who will unite and gather support for our Nation in a strong, clear, but diplomatic way.

I ask Mr. Bolton to do the right thing for our wonderful Nation and offer his withdrawal.

## ILLEGAL IMMIGRATION, NATIONAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. FRANKS) is recognized for 5 minutes.

Mr. FRANKS of Arizona. Mr. Speaker, an ominous threat looms over the security of America today, and I stand in this well to ask responsiveness from this body to the situation at our borders, which today still remain unsecured. My home State of Arizona has become a gateway to the Nation for drugs, syndicated crime, and arms and sex trafficking; and they are intrinsically related to illegal immigration.

In 2004 in Cochise County, Arizona alone, over 235,000 people were apprehended by the border patrol after they crossed the border illegally. The border patrol estimates that three to four people cross the border undetected for every person that they apprehend.

Mr. Speaker, I ask my colleagues to do the math. By conservative estimates, over 700,000 people crossed into this country illegally last year who were not apprehended. This is through Cochise County, Arizona alone, one county in Arizona.

Mr. Speaker, our first priority related to our borders should be first to protect them against terrorists with chemical, biological, or even nuclear materials. We do not know who the thousands of people are that stream across our unsecured borders every day. We do not know what they are bringing into this country with them. We do know that members of the MS–13 gang have been apprehended entering this country illegally.

The MS–13 gang, Mr. Speaker, from South America are professed friends of al Qaeda. And for these reasons alone, we cannot allow our borders to remain unsecured. This is an unacceptable level of national security risk in a post-9/11 world.

Mr. Speaker, it is the duty of the Federal Government to protect our borders; and, sir, we are failing that duty.

In response to government ineffectiveness, individuals have organized themselves into citizen watch and border patrol groups, and this is at great sacrifice to themselves. There is something seriously wrong in this country when America's grandmothers feel compelled to sit at the border with binoculars to report illegal activity to authorities.

Mr. Speaker, it is indeed a significant day in which we live. It is a dangerous world in which we live. And an unsecured American border risks a disaster of catastrophic scope. We are jeopardizing everything we hold in our hearts dear: our families, our friends, and the American way of life itself. We must take action to secure our borders now before this Nation again finds itself heart broken by tragedy and those of us in this body are left trying to explain to the American people why we did not do all that could have been done to prevent it.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2361) "An Act making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.".

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2985) "An Act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes.".

## THE WAY FORWARD IN IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from North Carolina (Mr. PRICE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PRICE of North Carolina. Mr. Speaker, our country is facing a difficult, even desperate, situation in Iraq with an insurgency that seems to be gaining strength, a reconstruction effort that is lagging, and an international coalition that is deteriorating.

President Bush seems determined to put the best face on the situation, but the American people are increasingly pessimistic and distrustful of what they hear. We are overdue for a major course correction. It is my intent today to make the case for such a correction and to outline what its major elements should be.

What are our objectives in Iraq? A careful reading of the President's Fort Bragg speech of June 28 reveals a shift of emphasis, from standing up an independently functioning democracy to preventing Iraq from becoming a basing point for international terrorism. That is ironic, for most analysts, including the 9/11 Commission, agree that the Iraqi regime had no discernable link to the perpetrators of 9/11. It is our invasion and its chaotic aftermath that have attracted al Qaeda and other international terrorists to Iraq.

In any event, by whatever definition of the American mission one chooses, our effort is falling short, dangerously short, of what it will take for Iraq to achieve self-rule and the capability of self-defense and for the American occupation to end.

The news of recent days leaves little doubt that the insurgency, which Vice President CHENEY described as in its "last throes," is anything but. In the last 2 weeks, insurgent attacks have intensified again, killing more than 200 people in Baghdad and towns to the south. Last weekend we read of gunmen ambushing a wedding party, killing the bride and wounding the groom, apparently because of his Iraqi army affiliation—a heart-wrenching account that underscores the insurgents' brutality and their continuing ability to launch lethal attacks.

General Abizaid, the top U.S. commander in Iraq, recently acknowledged that the insurgency has not diminished. In fact, estimates of the number of hardcore insurgents now range from 20,000 to 40,000, up from original U.S. estimates of 5,000. Attacks now average 70 per day, up from 25 per day 1 year ago. And car bombs average 135 per month, up from an average of 20 per month last summer.

We are getting better at identifying potential attacks. Only 25 percent of car bomb attacks are now successful compared to 90 percent last year. But while we have been able to reduce the insurgents' success rates threefold, they have increased the number of attacks sixfold. So the number of lethal attacks has actually doubled over the last year.

How far have the Iraqi police, security forces, and officer corps come toward being able to secure the countryside and control terrorists and criminal activity? "About half of Iraq's new police battalions are still being established and cannot conduct operations, while the other half of the police units and two-thirds of the new army battalions are only 'partially capable' of carrying out counterinsurgency missions, and only with American help, according to a newly declassified Pentagon assessment" the New York Times reports.

The administration claims that approximately 170,000 Iraqis have been trained to assume security responsibilities. U.S. commanders in Iraq have stated that the training is limited, and Joint Chiefs Chairman Myers has publicly said that only about 40,000 are fully capable of deploying anywhere in Iraq. Other estimates go as low as 10,000 Iraqi security forces that are actually trained and capable of performing their security responsibilities.

The equipping of these forces is also deficient. According to the Brookings Institution, the Iraqis only have 42 percent of required weapons, 24 percent of required vehicles, 19 percent of required communications equipment, and 29 percent of required body armor. The Iraqis are not now ready to provide their own national security, handle civil policing duties, or deal with the continuing and strong insurgency, nor will they be ready in the near future.

What is the state of the reconstruction of Iraq? Successful reconstruction is critical to gaining the support of the Iraqi people and denying the insurgents the benefits of widespread popular discontent. We have made substantial headway in rebuilding bridges, roads, and railways; in rehabilitating the seaport of Umm Qasr, and installing and repairing telecommunications infrastructure both inside of Baghdad and for the international satellite gateway system.

Despite these efforts, we have a long way to go. Nationwide, Iraq is only generating 75 percent of its electricity production goal and the nation only has an average of 12 hours of electricity per day. Oil production has barely reached 80 percent of its pre-war levels, and Iraqis are experiencing gas lines up to a mile long. Iraqi government sources cited in the Pentagon's report of July 21, 2005, put the unemployment rate at 28 percent, up from 22.5 percent 6 months ago. Most independent estimates of unemployment are closer to 40 percent.

The top five problems Iraqis identified in an April, 2005, IRI survey are inadequate electricity, unemployment, health care, crime, and national security, all significant indicators of major reconstruction needs.

□ 1315

Are we on schedule for getting an Iraqi Constitution adopted and a legitimate, broadly representative government established? The National Assembly is to draft a Constitution by August 15, 2005, to be put to a national vote by October 15. On May 10, the National Assembly appointed a 55-member committee to begin drafting the permanent Constitution. The committee missed its own deadline to produce a preliminary draft by July 15. However, several working drafts have surfaced that have sparked serious complaints regarding constriction of the rights of women and a strict interpretation of Islam as a source of legislation.

Despite these conflicts and the missing of the self-imposed deadline, Iraqi leaders say that a draft will be completed by the August 15 deadline. Six subcommittees are working on specific issues of the new Constitution, including the thorny questions of Kurdish autonomy and the role of Islam in law. Many other contentious issues remain to be negotiated. There is a provision for a 6-month drafting extension if the Assembly cannot complete a draft by the specified deadline, but exercising this extension would delay all subsequent stages of the transition.

Given the enormity of the task we face in Iraq, what is the condition of the Coalition of the Willing on which our efforts depend? The coalition has always been a pale imitation of the one the first President Bush assembled for the first Iraq war. For Operation Iraqi Freedom, the U.S. share of overall troop numbers has never been less than 84 percent. And now the coalition is deteriorating further. Spain's troop commitment has gone from 1,300 to zero. Italy's 3,120 troops will go to zero by early next year, as will Poland's 1,500. Other countries that have withdrawn their forces or are in the process of doing so include Bulgaria, the Dominican Republic, Honduras, Hungary, Moldova, the Netherlands, New Zealand, Nicaragua, Norway, the Philippines, Portugal, Thailand, Tonga, and Ukraine. In most cases, these withdrawals have taken place amid overwhelming public opposition in these countries to the war.

Troop contingents of 12,000 from the United Kingdom and 2,800 from South Korea remain, but this war and occupation have mainly had an American face, and that has become more and more the case as erstwhile allies have fallen away. American troops strength now stands at about 135,000, and many say that is not sufficient to complete the mission unless the training of Iraqis can be greatly accelerated. American casualties number 13,657, including 1,790 deaths. Of these, 1,653 deaths have occurred since President Bush landed on the aircraft carrier U.S.S. *Abraham Lincoln* to proclaim major combat operations successfully concluded.

While there is no definitive source of information, we know that the human toll in Iraq is enormous. Estimates of noncombatant Iraqi deaths have reached 25,000, and the Pentagon reports that Iraqi Security Forces (ISF) combat deaths have now exceeded 2,000.

As for the budget impact, outlays for Iraq operations are now about $1 billion per week. The cumulative cost of the Iraq war, occupation, and reconstruction has already exceeded $200 billion.

In the face of all this, the American public's confidence is waning. This is not because Americans are cowed by the challenge we face in Iraq. Fully 57 percent in the NBC News-Wall Street Journal poll of July 11 said it was important that America "maintain its military and economic commitment there until Iraq is able to fully govern and police itself." But the public is increasingly skeptical of President Bush's rationale for going to war. They are doubtful that the administration has a plan for success, and they wonder if they are being told the truth by our country's leaders. More than half say they do not think the war was "worth it." Only 40 percent say the Iraq war has made us safer from terrorism; 54 percent say less safe. Nearly 60 percent now disapprove of the job President Bush is doing in Iraq. This has helped drive his overall disapproval rating to 56 percent.

The President's June 28 speech was widely anticipated as an opportunity for the Commander in Chief to give an honest assessment of progress to date and to chart a realistic and compelling course going forward. The setting of the speech. Fort Bragg. North Carolina, was well chosen, giving the President the opportunity to express the admiration and the gratitude we all feel "to our servicemen and women across the globe . . . for [their] courage under fire and service to our Nation," and for the sacrifices of their families as well.

In other respects, however, the speech was a disappointment, offering neither a candid assessment nor a specific strategy for success. The President spoke of "significant progress," while glossing over the state of the insurgency and ignoring the falling off of international support. He furnished fewer details than I have already given in this presentation this afternoon. He offered no benchmarks by which success might be measured or his administration might be held accountable. He was defensive about past decisions and oblivious to the obvious need for course correction. As others have observed, he exposed the weakness of his arguments by rhetorically falling back on 9/11, despite the lack of any significant al Qaeda connection to prewar Iraq.

The President asked Americans to stay the course, to continue to pay the heavy price of this war, without holding up his end of the bargain. He and his administration owe these brave men and women in uniform and, indeed, all Americans more than glib assurances and exhortations to steadfastness. He owes all of us a plan for success, for turning Iraq over to the Iraqis, avoiding a reversion to tyranny or chaos, and terminating the American occupation.

The President's speech has now been improved on somewhat by the Department of the Defense's congressionally mandated report, "Measuring Stability and Security in Iraq," dated July 21, 2005. The report states, "The criteria for withdrawing coalition forces from Iraq are conditions-based, not calendar-based. The development of the Iraqi Security Forces to a level at which they can take over primary responsibility for their own security is the threshold condition. ISF development in turn will be helped by progress in political, economic, and other areas."

This is only slightly more specific than the standard suggested in the President's speech, "As the Iraqis stand up, we will stand down."

Only in limited instances does the report measure present performance against a defined goal, much less specify the conditions under which American responsibility can be scaled back. Moreover, the Pentagon almost always chooses the more optimistic among analysts' conclusions as to conditions in Iraq and apparently sees no need to defend those choices. Congress has required that this report be updated every 90 days. Our leaders should insist that future reports meet a higher standard of candor and of relevance to future policy choices.

The coherence of administration policy was thrown further into doubt this week by Secretary of Defense Donald Rumsfeld and the Commander of U.S. forces in Iraq, General George Casey, in their comments reported from Baghdad. Rumsfeld, who last month suggested that the insurgency might last as many as 10 to 12 years, displayed a new urgency about moving the constitutional process and the training of security personnel along. Meanwhile, General Casey emerged from a meeting with Rumsfeld and U.S. Ambassador Zalmay Khalizad to declare that "fairly substantial reductions" in U.S. troop levels might be possible by next spring and summer.

That may be a tantalizing prospect politically, but the Pentagon owes the Congress and the public an accounting of the conditions that must be met, and how they are to be met, in order for such a policy to succeed.

Mr. Speaker, the challenge of Iraq calls for leadership of a high order, leadership that is determined and confident, but does not mistake confidence for rigidity, or does not mistake determination for an unwillingness to acknowledge and learn from past mistakes.

The Bush administration's Iraq policy has been plagued by far too many misjudgments and mistakes, and it would compound those mistakes to fail to learn from them now. We went to war with defective intelligence on the threat posed by Iraq, evidence selectively and sometimes misleadingly presented to Congress and the public. We went to war virtually unilaterally with too few allies and unwarranted disdain for the United Nations' program of weapons inspection and destruction. We went to war with unrealistic expectations as to how our occupation would be received, and with grossly deficient postwar planning. We undertook a war of choice, allowing ourselves to be diverted from the war on terrorism and other more dangerous international challenges, and foregoing other means for containing and controlling whatever threat Saddam Hussein represented.

Our current situation in Iraq bears the marks of these past mistakes, and I believe history will judge George Bush and his administration harshly for them. In much of this, Congress was complicit, and I am even more convinced than I was on the day I cast my "no" vote that this body abdicated its responsibility when it gave the President, months in advance, open-ended authority to invade Iraq. But, while we must learn from the past, we must face resolutely forward. That means transcending past grievances, rethinking past positions, confronting the unvarnished truth as to our present situation, and weighing our realistic options.

What alternative possibilities, in fact, lay before us? The President has proposed more of the same: persevere on our present course, despite abundant evidence that we are falling short. Others are urging unilateral withdrawal of American forces, some say on a preannounced, fixed timetable. More and more politicians and commentators are expressing this view. They point out that the presence of American troops is not only challenging the insurgency, but also fueling it. Our alien "infidel" presence is itself a rallying point for Iraqi insurgents and international terrorists. Moreover, some argue, Iraqis will be more likely to assume responsibility for assembling a workable government and developing their own security forces if they know that their dependence on U.S. troops is coming to an end.

These arguments have merit, but they underestimate factors beyond the American military presence that are feeding the insurgency and could plunge Iraq into a civil war, or even the conditions of a failed state, after we are gone. They also underestimate the danger of encouraging our enemies to wait us out and then to strike with devastating force.

There is, I believe, a better way. We should indeed signal clearly that we intend ultimately to bring our troops home, that we expect the Iraq Government to assume responsibility for the country's security, and that we have no plans for permanent bases or an ongoing military presence. But we should also put forward a strategy for success—a plan for course correction in Iraq, for recognizing and correcting policies that are not working, and for moving Iraq decisively towards self-defense and self-rule.

A strategy for success requires benchmarks by which we can measure progress and hold our own government accountable. One useful formulation was suggested by the House minority leader as an amendment to the fiscal year 2006 defense appropriations bill, but was, unfortunately, denied a vote by the Republican leadership. The amendment would have required the timely submission by the President to the Congress of a report specifying:

"(1) the criteria for assessing the capabilities and readiness of Iraqi security forces; goals for achieving appropriate capability and readiness levels for such forces, as well as for recruiting, training, and equipping such forces, and the milestones and timetable for achieving such goals.

☐ 1330

"(2) The estimated total number of Iraqi personnel trained at [these] levels . . . needed for Iraqi security forces to perform duties currently being undertaken by United States and coalition forces, including defending Iraq's borders and providing adequate levels of law and order throughout Iraq.

"(3) The number of United States and coalition advisors needed to support

Iraqi security forces and associated ministries.

"(4) The measures of political stability for Iraq, including the important political milestones to be achieved over the next several years."

I would augment this list with benchmarks and goals for the reconstruction effort and for the involving of allies and multilateral organizations.

What of the other ingredients of a strategy for success? Senator JOSEPH BIDEN, ranking Democrat on the Senate Foreign Relations Committee, gave a wide-ranging speech on June 21 that stressed the need to take advantage of legitimate foreign offers to help Iraqi security forces and to share responsibility for Iraqi reconstruction internationally.

Egypt has offered to train Iraqi police. The Jordanians have offered advanced military training for the officer corps. Even the French have offered to train 1,500 paramilitary police in France and send them back to Iraq. NATO is establishing an ISF training mission, and the alliance and its member states should be encouraged to do more. Senator BIDEN, for example, has proposed a small NATO force dedicated to border patrol and protection.

We must have an ongoing crash course in the training and equipping of Iraqi police, security forces, and the officer corps. And the Bush administration should be far more aggressive in enlisting international partners in these efforts.

The same goes for Iraqi political development and reconstruction. The Pentagon's July 21 report commends United Nations support of the constitutional development process and assistance in preparing for approaching referenda and elections. Recent international donors' conferences in Brussels on June 22 and Amman on July 18 made only limited progress in securing financing for Iraqi reconstruction and economic development.

Most of the effort was aimed at getting donors to follow through on the approximately $33 billion pledged in 2003 in Madrid. Many potential donors conditioned future support on improvements in the security situation.

Unfortunately, both the military and the reconstruction efforts continue to bear the marks of the Bush administration's early unilateralism. This must be overcome, as a matter of burden sharing and of ensuring the legitimacy and eventual success of the effort.

Our reconstruction programs should have a steady focus on improving the lives of ordinary Iraqis. This will often require us to emphasize smaller-scale projects that have an immediate local impact, and/or that mainly employ Iraqis.

It also means we should continue to provide reconstruction funds directly to our midlevel military officers. The Commanders Emergency Response Program (CERP) provided for the disbursement in fiscal year 2004 of $549 million by U.S. commanders at the tactical level. Many Members of this body have returned from visits to Iraq, as I did from Kirkuk, impressed by the education and health facilities and the other projects these funds have made possible, with a minimum of red tape, and the trust and good will they have generated.

Among the worthwhile Iraqi projects sponsored by the U.S. Agency For International Development, I am particularly familiar with the local government and civil society work of North Carolina-based RTI International.

These projects have been forced to use a substantial portion of their funding to provide security, and some efforts have succumbed in a hostile environment. Yet RTI staff, many of them Iraqis, have helped establish representative and accountable governments in many localities and are currently implementing a training and management program for 150 model health care centers in Iraq. This is difficult but important work, and it deserves our continuing support.

In the midst of the challenges in Iraq, and the course correction we must undertake there, it is critical that we not lose sight of related undertakings in the region with a direct bearing on our prospects in Iraq. I will here mention only Operation Enduring Freedom in Afghanistan and the Israeli-Palestinian peace process.

Over the past 3 years, the Afghan mission, directly related to 9/11 and to the denial of a support structure or sanctuary to al Qaeda and other terrorist groups, has suffered by virtue of the President's initial fixation on Iraq and the human and material resources required by Operation Iraqi Freedom.

Osama bin Laden and Mullah Omar remain at large. And it has often fallen to this Congress to augment administration budget requests for Afghanistan.

The Taliban has managed to partially reconstitute itself in recent months. Insurgent attacks and government offenses since March have killed more than 800 in Afghanistan. The obvious intent at present is to disrupt the September 18 parliamentary elections, a critical step in Afghanistan's political development.

In Afghanistan more than in Iraq, however, U.S. troops have the benefit of international assistance. The International Security Assistance Force (ISAF) has operated under NATO command since August 2003, providing security and supporting nation-building activities.

The ISAF currently numbers about 8,800 troops from 26 NATO and 11 non-NATO partner countries, including Canada, Spain, France and Germany, all noticeably missing from Iraq.

The provincial reconstruction teams (PRTs), military-led groups that secure enclaves for the work of reconstruction, aid, and Afghanistan interior ministry personnel, also display increasing international participation. Of the 21 now in operation, 11 PRTs are U.S.-run, 10 are run by partner countries, and several U.S. teams are slated for takeover by NATO/ISAF forces.

The Kabul government is still far from exercising effective authority throughout Afghanistan, and the Taliban and other enemy forces are displaying a disturbing resilience. Our Afghan mission is under severe challenge. We must not again be diverted.

We must also expand the mission's international character and apply the lessons of multilateralism in Afghanistan to Iraq.

Also critical to a strategy for success is determined U.S. diplomacy aimed at the two-state solution President Bush has advocated for the Middle East. The immediate challenge is to make certain the evacuation of Israeli settlers from Gaza undertaken by Prime Minister Sharon comes off successfully and peacefully, despite predictable attempts at sabotage from extremists on both sides.

This will require redoubled Palestinian efforts to rein in terrorist groups and prevent attacks against Israeli troops and communities. The Israelis must give such efforts a chance and work with the Palestinian Authority to coordinate the logistics of the withdrawal and the freedom of movement in and out of Gaza after the withdrawal.

Longer term, the parties must follow the path of mutual accommodation outlined in the Road Map, eventually undertaking final status negotiations. "Gaza First" must not become "Gaza Last." But none of this will be easy, and it is unlikely to move forward without skillful and persistent U.S. diplomacy.

The peace process has languished for 4 years, partially because of the disengagement of President Bush and his administration. This has been terribly costly to the Israelis and the Palestinians, who have endured 4 years of dashed hopes and recurring violence. But it has also been damaging to American interests in the region.

The Israeli-Palestinian conflict fuels extremism and anti-American attitudes across the Middle East. It greatly complicates our prospects for success in Afghanistan, Iraq, and beyond.

Secretary of State Condoleezza Rice has signaled that the second term will be different. To her credit, she returned to Israel and the West Bank last week as violent attacks escalated dangerously—a suicide bombing, rocket attacks, retaliatory air attacks—and Israeli tanks were lining up at the Gaza border.

It is extremely important that she and the President stay the course, understanding that Israeli-Palestinian peace-making, important in its own right, is also critical to any strategy for success in the region.

Mr. Speaker, the war in Iraq has been terribly costly in terms of lives, resources, and our country's diplomatic and security interests. Our challenge now is not merely to cut our losses, but to extricate ourselves in such a way that prevents Iraq from reverting to tyranny or chaos, that denies a basing point to international terrorism, and that leaves the country intact, able to defend and govern itself.

We are not now on course to achieve this objective. The Bush administration neither has a strategy for success nor even acknowledges the need for course correction. We must do better. And it is the duty of this Congress to demand candor, accountability, and a strategy calibrated to achieve our goals.

We must have an honest accounting of the state of the insurgency, the readiness of Iraq forces, the progress of the country's reconstruction and political development, and the extent of international collaboration and support.

Where there are deficiencies, and the deficiencies are serious in all of these areas, the administration must provide benchmarks by which success can be measured and a plan specifying what it will take to reach our goals.

Glib reassurances from the President are dangerous, postponing and preventing corrective action and opening wider the credibility gap with the American public.

Those who commit troops to battle on behalf of this great country owe them and us an intelligent and realistic plan to succeed.

Members of this body should demand such a plan and a frequent, truthful accounting of our success in reaching its goals from the President and his administration. A midcourse correction in Iraq is worthy of our Nation's best efforts, and the window of opportunity is closing.

## PARLIAMENTARY INQUIRY

Mr. MORAN of Virginia. Mr. Speaker, I would like to inquire how much time the gentleman has on his hour.

The SPEAKER pro tempore (Mr. PRICE of Georgia). The gentleman has 27 minutes remaining.

Mr. MORAN of Virginia. Would the gentleman be willing to yield me the remainder of his time?

Mr. PRICE of North Carolina. Mr. Speaker, I would be happy to yield the remainder of the time.

Mr. MORAN of Virginia. Mr. Speaker, should I just ask for unanimous consent since there are no other Members present in the Chamber?

The SPEAKER pro tempore. The minority leader may reallocate the leadership hour.

Mr. PRICE of North Carolina. Mr. Speaker, I am happy to do that, to the gentleman from Virginia (Mr. MORAN).

## STRATEGY FOR SUCCESS IN IRAQ

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Virginia (Mr. MORAN) is recognized for 26 minutes.

Mr. MORAN of Virginia. Mr. Speaker, I rise because what the gentleman from North Carolina (Mr. PRICE), my friend, has said is terribly important to be said. And what is even more important is that it be made available to the public at large.

Mr. Speaker, I think it is important, appropriate, to inform the gentleman and the rest of the Congress who may not be aware that the elements of the strategy for success, the identical language which the minority leader, the gentlewoman from California (Ms. PELOSI), has requested in the form of an amendment, has actually been included in an appropriations bill, the Iraq supplemental appropriations bill, passed earlier this year.

That language was included in an amendment that I submitted to the Iraq supplemental bill. It also included the benchmarks that the gentleman has suggested, as well as even more specific information. We have received that report on the strategy for success, Mr. Speaker.

The most important elements of that report, in fact though, were included in an addendum which was classified. And so I and those who have seen the report are not at liberty to give the kind of specific information that at least I feel should be shared with the American public.

But I would like to address what was in the body of the report, which does in part respond to the very specific questions, as to Iraq's military capability, its economic viability, and its political stability.

The American people need to know whether in fact Iraq will ever be able to fully control its borders and provide security for its society and its economy. And we need to know how successful we have been in training and equipping Iraqi forces, because we have been working at that for more than 2 years.

The American people also need to know what has happened to the tens of billions of dollars that we have appropriated for economic reconstruction.

□ 1345

Will Iraq ever be or is even close to being economically viable? Is its physical infrastructure in place so that its economy can rebound in a way that will provide economic opportunities for its population?

The American people also need to know, in addition to where Iraq is in terms of military capabilities and economic viability, how stable its government can ever be and at what point will the decisionmakers, the policymakers in Washington decide that its governance is stable enough to be able to return Iraq over to a democracy that is worthy of our military efforts.

Mr. Speaker, I oppose this war. I voted against it. I voted against most of the funding for it. I did vote for the Iraq supplemental because it included this language that I felt was vitally important, requiring what, while we do not call it an exit strategy, is certainly appropriately entitled "a strategy for success." That language was included and could only have been included if it was offered in a bipartisan, nonpolitical context, without a whole lot of fanfare. But working with the majority we could get some answers to the questions that the American people, our constituents, are asking. We did not have those questions answered when we went to war.

I opposed the war because I felt that it was unjustified. I knew that Saddam Hussein had nothing to do with the attacks on 9/11. Suggestions to the contrary were a ruse. The reasons given were at best unjustified; at worst, deliberately deceptive.

I also opposed it because as our senior military officers will tell you we ought not go to war without a plan to win the peace. We had no plan to win the peace. And, in fact, the 41st President of the United States, George Bush, when he had the opportunity to go into Baghdad and take out Saddam when we had Saddam's Republican Guard on the run, he chose not to do so because his advisors, understanding the country, acting with foresight and knowledge of the political context within the Middle East, were afraid that we would be thrust into the role of an occupier. And they knew, and I think were absolutely right, that the United States should never be playing the role of an occupier, but always that of a liberator. So they chose not to go to Baghdad. The son chose differently with very different people advising him, and I think for different reasons.

But now that we are in Iraq, what do we do? That is what senior military officers are asking us. And it is certainly what the mothers and fathers of the young men and women who are fighting this war are demanding to know. They need to know what is our strategy. How long will we be there? How much more money is absolutely necessary to continue this military engagement? And they are getting none of those answers.

Unfortunately, I cannot disclose any of the specific information that has now been provided, but I certainly can share, at least with my constituents, the fact that in my judgment we are nowhere near being able to withdraw a substantial number of our troops in a responsible manner because, in my judgment, the Iraqi military is nowhere near being able to secure its borders. The Iraqi police forces are nowhere near being able to restore law and order in that country. The economic infrastructure is nowhere near being able to support a viable economy. And even the government is nowhere near being able to pass a Constitution that not just would be acceptable to the American people who have sacrificed so much to bring it about, but it is not even in the situation where it would be enduring and accepted by the vast majority of the Iraqi people.

Mr. Speaker, we are in a quagmire here. We need answers. We need answers from the people who put us in that quagmire. It is wrong to continue to be sending troops to a war that is this unwinnable, Mr. Speaker.

Now, I suspect what is going to happen, and it was further confirmed yesterday by the Secretary and by some of the senior military officers who have been in a consultation with them, that we will start a substantial withdrawal. But I think that withdrawal, I feel that withdrawal will be motivated more for political reasons than for military or foreign policy reasons. We have our fist in the middle of a beehive, and we are getting stung. The advisors that sent us there are not getting stung because they figure they can say or do anything to avoid repercussions and accountability. But, boy, our young men and women are being stung every day.

We need to figure out how to extricate in a way that is responsible and will justify their sacrifice. We cannot cut and run. And yet the gentleman from Pennsylvania (Mr. MURTHA), one of the most respected Members of the House, the ranking member of the Subcommittee on Defense of the Committee on Appropriations, is afraid and, in fact, predicts that is what we will do, and we will do it for political reasons, not for substantive policy reasons.

We need to get more countries involved in a real way, not in a way so that with a few troops they can list their participation. We need to go through international bodies like the North Atlantic Treaty Organization, NATO. We need to work with the United Nations, which we continue to bash and beat up on and scapegoat for our own problems in terms of our credibility throughout the world. We need to get the rest of the world involved because the rest of the world had a stake here in getting rid of a ruthless dictator, in restoring stability in Iraq, in giving Iraq some ability to seize control of its own destiny, but in a way that it chooses. That is what we should be about.

We should not be about, in my estimate, spending hundreds of millions of dollars to build an American Embassy in Baghdad that only serves to confirm what our enemies are telling their recruits, that we are there for the long run; that we are there as occupiers; that we are there to take advantage of their oil reserves; to exploit Iraq's resources, and to exploit its people for our own political purposes. They are wrong, but we have to prove that they are wrong.

We have to show the world that we have a strategy for success, a responsible one. It will leave Iraq in better shape than before we entered it. We never, as I said, should have entered, but now we have a responsibility to fix it before we leave. And that strategy for success, as I say, Mr. Speaker, is not going to be achieved unilaterally. It is going to have to be achieved by working with the rest of the world in an international context, letting the Iraqi people control their own destiny, not dictating to them.

As much as I would love for us to hand them a Constitution that made us feel good about what we have accomplished, I do not think that is going to work. They have to own that Constitution. I pray to God that they will not exclude women, that they will not continue some of the arcane habits, the laws and the regulations that only serve to support religious clerics and a very conservative, even extremist in some cases, religious system of governance, but, in fact, will open it up to a true democracy where both men and women can fully participate a free enterprise, an uncorrupted economy, and, in fact, a strong military and police force that will provide the security to the Iraqi people that they have not had in generations.

That has got to be our objective. We cannot achieve it on our own. We have got to work with the rest of the world. We have got to sit down and maybe even eat a little humble pie and come up with an international solution for this, and to not require our soldiers to bear the brunt of the injuries and the death that they have.

Changing Iraq's leadership was more in the interest of so many other countries than it was in America's interest. We went because we had the ability to go, and I am afraid there was some political motivation involved as well. But now that we are there, we in the Congress need to require of the executive branch that they give us the answers, that they share with us and then to the American people, they need to share with the American people what is their plan, what is their strategy for success. And if they do not do that, there will be political accountability as there ought to be.

Mr. Speaker, the report that we received 2 weeks late, but that we did finally receive 2 weeks ago, is an important first step, but it is grossly inadequate. The language that I put in the appropriations bill several months ago required a 90-day update. Every one of those updates needs to be more specific, needs to be fleshed out better than the prior reports. And most importantly, Mr. Speaker, it needs to be shared with the American public. It is their money. It is their sons and daughters. That is what this war, unfortunately, is about, from their standpoint.

How do you make this worth the effort? How do you succeed in a way that their sons and daughters can be proud of what they contributed and the risk they undertook? The administration owes that to them. We will continue to insist that it provides that information, not in a classified document that can be kept from the public's eyes and ears, but within a spirit of full disclosure. And if they do not have a plan that will work, they need to come up with one.

They need to consult with the rest of the world, be willing to work with the legislative branch, with our other allies and even those we do not consider allies. It is in this planet's interest to bring about a free world, a safe world for its future generations.

So I ask the administration that has been twice elected to do the right thing, to get us out of Iraq, but to get us out in a way that we can turn back knowing that we have accomplished something that was deserving of the sacrifice, the loss, the risk that our best young men and women have been willing to undertake.

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□ 1400

## STEM CELL RESEARCH

The SPEAKER pro tempore (Mr. PRICE of Georgia). Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes as the designee of the majority leader.

Mr. BARTLETT of Maryland. Mr. Speaker, I was in my office last evening about 11 p.m., as was all the rest of the House of Representatives, waiting for a resolution of some of the concerns on the transportation bill so that we could vote on it, when we were looking at the "Drudge Report" on our screen and we saw there a headline that I could hardly believe, that Senator FRIST had reversed his position on embryonic stem cells and was now advocating the passage of the Senate version of H.R. 810.

I thought it would be appropriate today, with stem cells, embryonic stem cells being so much in the news, if we could spend a few minutes looking at what stem cells are and what this is all about, what was Senator FRIST talking about and what is the issue here.

I have here on the easel a chart that shows the development, not all of the stages, but it shows the development of the human embryo. It starts with the zygote. The zygote is the fertilized egg. It now has chromosomes, genes from the sperm and genes from the egg, having what we call the diploid number of chromosomes. And that develops through several stages, we will see a little later in another chart, but it goes through the blastacyst stage here and then it goes down to the gastrula stage. And by the time you get to the gastrula stage, the embryo that began as a single cell here just a few days before has now developed into a large number of cells.

What is shown here is the embryo and the part of the wall of the uterus to which it is attached. By this stage in its development, the embryo has already now developed four very specific stem cells that will go on to produce a variety of tissues and organs in the body, all of the tissues and the organs in the body, and we see those down here at the bottom.

Some of them develop into ectoderm. This is the external layer. The ectoderm becomes primarily two things in the developing baby and in the adult. It becomes the skin and the nervous system and some of the pigment cells. Most of what we are in terms of mass is all developed from the middle layer, or the mesoderm, and from that develops all of your skeletal muscle, all of your skeleton, all of your bones, all of your heart muscle, the red blood cells, the smooth muscle in your intestines and stomach and so forth.

Then a third stem cell here ultimately develops into the entoderm. And here we see that this is the lining of the lung, the thyroid gland, and pancreatic cells, nowhere near the mass that is produced by the mesoderm, but very important tissues nevertheless.

Then there are some very unique cells. They are different in the male and the female. They are the germ cells. In the male they produce the sperm and in the female they produce the egg. Some of these stem cells persist even into the adult. In the bone marrow of every adult are stem cells which will produce erythrocytes, your red blood cells, which produce some of your white blood cells. The polymorphonuclear leukocytes will produce those cells that help in clotting, the thrombocytes.

And there are stem cells in other adult tissues. And there has been a lot of research for more than three decades now on using these stem cells to see if we cannot cure or help patients with a number of different diseases. And there have been a number of good applications of adult stem cells. They have produced betterment in a number of individuals, in some cases what looks like actual cures.

But these adult stem cells are limited in their capability because they are already what we call differentiated. They have already split, and a number of the genes have been turned off, and they now are destined to produce only a certain kinds of cells. What the researcher tries to do at times is to take these adult stem cells and put them in an environment that convinces them that they are not really an adult stem cell, but that they have gone now back to a more primordial state, that they are back to an embryonic stem cell.

Here in the blastula we see embryonic stem cells. Of course, the ultimate embryonic stem cell is the zygote: one cell, which will divide again and again and again, and then differentiate, and then finally produce all of the cells of the body. But here in the blastula stage we have the cells already differentiated into two different categories: those cells which are going to produce the embryo, and they are shown here in this inner cell mass; and then those cells which will produce the dissidua. And the dissidua is the cells around this which will become amnion and corion parts of the placenta. In the stage just before this are the cells that can produce the full embryo.

I would like now to look at our next chart here because this shows the development of the embryo, and it has all of the stages there. It starts with the zygote. Here we have the fertilized egg, or the zygote. Of course, this all begins with an ovary. This is only half of the reproductive system of the female. An ovary which every month routinely during the childbearing years will produce an ovum. Here it shows the follicle rupturing and the ovum coming out. Here is the oocyte. And then here are the sperm, and the sperm of course make their way all up through the uterus and the fallopian tube, clear up here to the end of the fallopian tube.

And by the way, they actually sometimes get out into the abdominal cavity. Sometimes this egg is not picked up by this little funnel-shaped end, and you see part of the funnel here, called the infundibulum. Sometimes that cell does not get out there, and it does not get picked up by the fallopian tube and carried down with the beating of a number of cilia and it goes out into the body cavity. And the sperm may actually get out there too, and it can be fertilized there. We call that an ectopic pregnancy. And of course the baby cannot develop there and it is going to die, and it is going to cause a lot of problems for the mother. So this ectopic pregnancy has to be terminated because it will cause the death of the mother if it continues.

After the fertilization, the egg begins its journey, taking several days, maybe as many as 8, 9, 10 days before it finally reaches the end of the journey and is implanted in the wall of the uterus. It divides first two cells, then four cells, and then eight cells. And I would like to pause for just a moment at that eight-cell stage. Imagine now that we are not in the reproductive tract of the female, but we are in a petri dish in the laboratory, because that is what in vitro fertilization means. In vitro means in glass. And they are now taking the egg from the mother and sperm from the father and they have combined these two and produced this fertilized egg, the zygote. It now divides and divides until they come to the eight-cell stage.

At this stage, more than a thousand times worldwide, in one clinic in England more than 600 times, they have taken in the laboratory under the microscope a cell, and sometimes they get two from that eight-cell stage, and they have done what they call a preimplantation genetic diagnosis. They look at the genes, and you can do that, we now know what they ought to look like, and they can determine if there is any genetic defect.

One of those genetic defects is what we call trisomy 21, mongolism. If there is an extra chromosome at the 21st chromosome, you get what we call trisomy 21, or mongolism. If there is no genetic defect in the cell that they analyze, which would be like all the other cells because they began as a single cell here, then they implant what is remaining, that is the six or seven cells that is remaining, and now more than a thousand times worldwide we have had what looks like a perfectly normal baby born from this process.

This technique, which has been widely used in England, is now used in this country; and just outside Washington, here in Virginia, is a clinic that is doing this. They have done it more than 300 times now. Several weeks ago, I talked for perhaps a half-hour with two of their doctors about the procedure.

Let us now take a look at how they get embryonic stem cell lines. They take an embryo in the laboratory which had been produced by the fertilization of an egg, and they let it develop, not to the eight-cell stage, they go just a little beyond that. They go to the inner cell mass, and then they destroy the embryo. And there are now a lot of cells, not just eight; and they take a number of the cells from the inner cell mass, which I indicated previously had all of the genetic potential to produce the body of the baby, but none of the genetic potential to produce the dissidua. And so here we see right at the bottom of this chart we see the dissidua developing there, the little fingers like that are growing into the lining of the uterus.

Well, what this debate is all about, Mr. Speaker, is about the morality, really, the ethics of taking this little embryo, which is a baby in miniature, because, you see, if it goes on just a couple of days later and implants in the uterus, it will become a baby, although it is now in the petri dish in the laboratory, but it can be implanted in the uterus, to take this embryo and to destroy it and take the cells from the inner cell mass to produce a stem cell line. Up to this time that has been the only technique that has been available for developing these stem cell lines.

The President had a very difficult decision to make 4 years ago when there was an interest in using Federal monies to fund further embryonic stem cell research. Maybe we ought to pause for a moment, Mr. Speaker, to look at why we are so much interested in stem cell research. Because these stem cells, as the earlier chart showed, can produce all of the tissues in the body, there is the hope, the promise, and in fact even the realization with some of the work we have done with adult stem cells that we can use these stem cells to replace tissues which have been damaged by disease or some other trauma in the body. We can replace those so as to restore health.

Now, we have a lot of applications from adult stem cells and, as we stand here today, essentially no applications from embryonic stem cells. And why should we have this big debate, Mr. Speaker, about embryonic stem cells when almost all of the applications to medicine have been from adult stem cells? You see, we have been working with adult stem cells for more than three decades, so we have had a lot of opportunity in the medical community to make applications there, but we have been working with embryonic stem cells for only about 6 years, and there just has not been the opportunity to make the medical applications from embryonic stem cells that we have been able to make from adult stem cells.

But because of what embryonic stem cells are, because embryonic stem cells still have all of the capability to produce any and every tissue in the body, doctors and researchers believe intuitively from what they know of embryology that there ought ultimately to be more and better applications from embryonic stem cells than there are from adult stem cells. We do not know. It may be that these embryonic stem cells are going to be like unruly teenagers, very difficult to control. You see, their destiny in life is to divide and divide and divide.

□ 1415

We want them to do that, but we want to be able to control how they divide and what they produce, because if it is a liver the patient needs, you need to convince the cells that is what they ought to be producing, and when they have done enough, they need to quit. They may be very difficult to control. They may keep on dividing, and when you put them in the body, they may form tumors.

Because of what embryonic stem cells do, the medical community and indeed millions of Americans with relatives with devastating diseases believe there are important applications from embryonic stem cells to medicines. We need to provide that opportunity without harming the embryo.

To this date the only way we have gotten these embryonic stem cell lines started is by taking some of the cells from the inner cell mass, which destroys the embryo. In 2001, the President was faced with a very difficult decision. He needed to determine whether Federal funds could be used in embryonic stem cell research when the only way to get embryos at that time was to destroy the embryo.

When the President was making that difficult decision, the scientists at NIH had an open house for Members of Congress and staff to come to NIH and learn about embryonic stem cell research and the potential. I went there, Mr. Speaker, and listened to their presentations. Because in a former life I was privileged to be able to get a Ph.D., a doctor's degree in human physiology, because I taught medical school, because I had a course in advanced embryology, I knew a little bit about what they were talking about.

As I sat there listening to the researchers at NIH explaining what they were doing and the dreams and the hopes that they had for the applications of embryonic stem cell research, and when I thought about the dilemma that the President was in in trying to decide whether it was okay to destroy these embryos to get a stem cell line that may come up with some miraculous cures, I thought back to my studies and to a course that I had in advanced embryology. And really you do not need to have had that course to understand this, but it occurred to me nature had been doing for a very long time what we needed to do, and that is to take cells from the early embryo without hurting the embryo. Nature had been doing that by producing identical twins. In identical twins, half of the cells are taken away from the embryo, and each half goes on to produce a perfectly normal baby. And one of those identical twins is a clone. Think about that and decide how that relates to the dialogue that we are having on cloning.

Well, there are two different times during the development of the embryo, maybe more, but at least two different times that it can split to produce identical twins. One is at the two-cell stage. Instead of just dividing to make four cells, it splits, so there are now two one-cell embryos, and each one goes on to divide and produce a baby. Or it can wait until the inner cell mass stage, and in some embryos there are two inner cell masses, and that can now split to form identical twins.

Sometimes this is not perfect, and they do not split totally, and we have what we call Siamese twins. This is the origin when the split has occurred probably at the inner cell mass stage, and it is not complete, and they remain close enough that some parts of the body grow together.

We know that the embryo is capable of splitting at these two different stages because of the way the babies present themselves at birth. If they are both within the same amniotic sac, they probably split at the two-cell stage. If each have their own amniotic sac, they probably split later.

It occurred to me since nature many times takes half of the cells away from the early embryo and they go on to produce two perfectly normal babies, we ought to be able to take a cell or two from an early embryo without hurting the early embryo. And I asked the scientists at NIH, should we not be able to do it? They said we ought to be able to do it, although we have not done it.

A little after that I was at an event when the President was there, and I mentioned this possibility to the President. He asked Karl Rove to follow up on it, and a few days later I got a call from Karl Rove saying he had talked to the NIH; the NIH told him what I was proposing was not doable.

I said Karl, either they did not understand your question, or there is some confusion, because these are the same people that can take a single cell and take the nucleus out of that cell and put another in it. Of course they can do this. He went back and asked them again, and he came back and said he got the same answer, that they could not do this, and so the President came down with his executive order.

A couple of years after that, not very many months ago, the people from NIH were sitting in my office, and I asked them how could this have happened. What apparently happened as so often happens, there was a miscommunication. What they told Karl Rove was they were not sure they could produce an embryonic stem cell line from an embryo that early because they had never done it, not that it was not doable. He interpreted this as saying they could not take the cell, and, therefore, the research could not be done.

I would like to spend just a moment looking at some of the reasons why people are so concerned and why this was such an important decision on the part of the President, and why Senator FRIST's decision last night has stirred up so much controversy. It is because there are a very large number of diseases that have the potential of being cured ultimately with the application of embryonic stem cell research.

Let me give us one example, and that is diabetes. Kids come in my office with this hockey puck-like thing under their skin, which is an insulin pump. They have to prick their skin to get a glucose level so they can set the pump, and they are very brittle. It has to be pumped in regularly. This is the most expensive disease in our country, and it is potentially totally curable with stem cell applications. All we need to do is produce some islets of Langerhans cells because these are the cells that just happen to be embedded in the pancreas. There is no reason why they need to be in the pancreas. They have nothing to do with the function of the pancreas, because the pancreas is a big digestive gland at the beginning of the small intestine that produces enzymes that digest fats, carbohydrates and proteins. Embedded in the tissue of the gland are what looked like these little islands to Dr. Langerhans, and so we call them the islets of Langerhans. They produce insulin.

Now, insulin does not cure diabetes, as any family who has diabetes in the family knows; it simply delays the course of the disease. There may ultimately be some problems with the eyes and circulation. You lose some toes, they have to be amputated. If we could create islets of Langerhans cells, which could be under the skin anywhere in the body, anywhere that the blood can get to them so the circulation can pick up the hormone that is produced, this should cure the disease.

And there are many others, particularly the autoimmune diseases, and there are 63 autoimmune diseases. These are diseases where the body gets confused what is really body. There is something very interesting that happens with early embryos. Obviously we need to know what is us so foreign things can be rejected. When you get inside your body, there are no bacteria in there. That is a pristine world. We have a big army of white cells in there that make sure that it is pristine. The white cells are told by what we call T-cells as to what is you and what is not you, so they attack what is not you. Sometimes, and in more people than we would like to have it occur in, sometimes the body gets confused as to what is really you.

I have a little problem, rheumatoid arthritis, which is an autoimmune disease. The body starts attacking itself; and there are 63 of them, and potentially all of them could be addressed with embryonic stem cell research.

Alzheimer's disease, a very tragic disease. Central nerve injury, an injury to the spinal cord, those cells do not grow back. There is a potential you could put new cells in the spinal cord, and people in a wheelchair could walk again. There is that potential, and that is why embryonic stem cell research is of such great interest, because of the enormous potential that they ought to have because they are so totally undifferentiated because they can produce any and every cell in the body.

I have been working with the White House, with the National Institutes of Health, with the Conference of Catholic Bishops, and with the prolife community in developing a bill, H.R. 3144, which would permit research on not just the procedure that I recommended more than 4 years ago now, but several other procedures that are outlined in a little book here called Alternative Sources of Human Pluripotent Stem Cells, A White Paper, produced by the President's Council on Bioethics, and they talk about four different kinds of research, four different ways of procuring embryonic stem cells that might be ethically acceptable to the prolife community.

The first of these is pluripotent. By pluripotent, they mean cells that have the capability of producing all of the tissues of the embryo, but not the decidua. That is a totipotent cell. Pluripotent stem cells are derived from embryos that are essentially moribund, dead; the equivalent, if you will, of an adult that is brain dead.

☐ 1430

It is perfectly ethical, most people believe, to take organs, that is how we get organs for transplant from adults that are brain dead, so if you now have an embryo which is obviously not going to develop, but it still is alive enough that you might take cells from it to produce a stem cell line, if you really knew that it was dead and could never produce a baby, then ethically it would appear to many people to be okay to take cells from that to establish a stem cell line. You might have a little concern that an embryo that had sat there a day or two and never divided because there was something wrong with it, that the cell you took from it to produce a stem cell line might not produce just the high-quality stem cell line that you might like for research, but at least it is worth exploring, and it gets by the ethical arguments.

The second one of their proposals, and I would like to look at the next chart now as we do that. Let me just look at this chart for a moment here with you. This comes from a white paper on the President's Council on Bioethics. Let me look at the highlighted portion: "It may be some time before stem cells can be reliably derived from single cells extracted from early embryos." That is the procedure that I was talking about that occurred to me when I was out at NIH talking to the investigators there. "And in ways that do no harm to the embryo, thus biopsied. But the initial success of the Verlinsky's Group's efforts at least raises the future possibility"—Verlinsky is a Russian scientist working in this country who says that he has done what NIH said they were not sure they could do, and that is to produce an embryonic stem cell line from one cell taken from an early embryo—"at least raises the future possibility that pluripotent stem cells could be derived from single blastomeres." A mere is a cell, and it is taken from the blastula so it is a cell taken from the blastula. A blastomere. "Removed from early human embryos without apparently harming them."

And then the asterisk there. If you look down at the bottom of the page, it says, "A similar idea was proposed by Representative Roscoe Bartlett of Maryland as far back as 2001." What they are referring to is the recommendation that I made to the President that he relayed on to Karl Rove. This is recognized in this fairly recently published white paper, Alternative Sources of Human Pluripotent Stem Cells, a white paper by the President's Council on Bioethics. This is one of four different procedures. The first, you remember, was taking cells from an embryo that is essentially moribund, it is going to die, and like the person who is brain dead, why not get some benefit from it. We do that with organ transplants all the time.

The third one is very interesting, and that is to produce pluripotent stem cells derived from biological artifacts. There are two artifacts that they are looking at to do this. One of those goes back to this little embryo in the petri dish that we talked about. What they want to do is go in that early embryo and turn off some of the genes. We know how to do this. To turn off some of the genes so that it can never produce a baby, but could go on dividing and produce a mass of cells. They call this an artifact. If it is not going to be a baby, it is just this mass of cells growing, maybe it is okay to take cells from it to produce an embryonic stem cell line.

But some people might have a little concern, Mr. Speaker, that you have gone in early and messed up what could have become a perfectly normal baby, you have turned off some of the genes so it cannot, so now you have created kind of a freak that you can take some cells from, and since it is not going to be a baby, it is okay to take the cells from that. But at least it is a way of getting embryonic stem cells without destroying what at that moment is perfectly normal stem cells.

There is another possibility, and that is parthenogenesis. That is the development without the union of sex cells. The fourth technique is an interesting one and that we are trying to do all the time. That is to take what is called the pluripotent stem cells via somatic cell dedifferentiation. A somatic cell simply means a body cell. The soma is the body. Take a body cell from anywhere in the body, skin, muscle, lungs, anywhere, and dedifferentiate it, try to produce this cell in an environment that it is confused as to what it is, that it kind of thinks and behaves like it is an embryonic stem cell. If we can do this, that is great, because ethically there should not be any problem doing this. But this has not been done. There are big technical challenges to doing this.

Now, this white paper gives a very good discussion of the proposal that we made; that is, of getting cells via blastomere extraction, sometimes called biopsy. You are going in and just taking out a cell or two. They even talk about producing the repair kit, which would be really advantageous to the baby through all of its life now. If it needed a new liver, new islet of Langerhans cells, if it needed new spinal cord cells, hopefully in the future we would be able to produce those from this repair kit.

But when they get back for some strange reason, Mr. Speaker, it almost looks to me like two different groups wrote the body of this text where they talk about this technique and where they make the recommendations, because in the recommendations they say the second proposal, blastomere extraction from living embryos, we find this proposal to be ethically unacceptable in humans. Owing to the reasons given in the ethical analysis, we should not impose risks on living embryos destined to become children for the sake of getting stem cells for research.

I agree. That is not the reason the stem cells are taken from this baby. As a matter of fact, if the cells are taken with no thought that they are stem cells, the cells will be taken by the parents to produce a repair kit or to do a preimplantation genetic diagnosis for the baby, and I think that most Americans do not have an ethical problem, Mr. Speaker, with in vitro fertilization. I think that most Americans do not have an ethical problem with deciding that your baby is not going to have a genetic defect. I do not think that hardly any Americans could ever have a problem with establishing a repair kit for your baby.

What is envisioned is that at the end of the day, the parents would have made at least two ethical decisions, what I consider ethical and I think what most people consider ethical: that is, to have their own baby, the only way they can do it is in vitro, and to establish a repair kit for their baby, and then all that needs to be done to get another stem cell line is to ask them, Couldn't we have some surplus cells from the repair kit that you have established.

There is a big discussion going on in our country now, Mr. Speaker, about embryonic stem cells. They voted how many billions of dollars in California to pursue embryonic stem cell research because a big percent of our population believes that there could be a major medical application there which would provide miraculous cures for many of our diseases. And then we have a large number of people, the prolife community, that have a big problem with taking these embryos, any one of which could become a baby, we have more than 100 of them, is what we call the snowflake babies that have been adopted, implanted in the receptive womb of a mother, and they become a baby: to take this human life, and it is a life, and it is human, and destroy it so that you can produce a stem cell line.

Most of this debate ignores the fact simply because the debaters do not know that it is possible, Mr. Speaker, to get embryonic stem cell lines without harming embryos.

I would like to go back again to the second chart I showed, which is the path of the reproductive tract of a female, so that we can look at this again together so that we understand clearly what we are talking about here. We will imagine now that this is happening in the laboratory and it is in a petri dish, in glass. In vitro is what we call it. Because the parents could not have a baby any other way, they decided to have in vitro fertilization, and they decided they would like to at least do one thing, and that is to establish a repair kit for their baby. They might also want to do a preimplantation genetic diagnosis.

So now the physician in the clinic will wait until the cells divide and produce several embryos. By the way, they do not all produce really good-looking embryos, and so what they do is to fertilize more than one egg, and they then watch the development of these embryos, and they will take the best of them and generally more than one of them.

One of my colleagues, Congressman ROHRABACHER from California, his wife had three beautiful babies from in vitro fertilization. I do not know how many the doctor implanted, but at least three of those that he implanted grew, and she had triplets. I saw a recent picture of them in their little life vests out in the surf in California.

There is a potential ethical argument in doing this even if we let the parents make the decision they are going to do the in vitro fertilization, if the parents make the decision that they are going to establish a repair kit, and then all we ask for is a few cells from that repair kit. You see, if the cell is taken from the eight-cell stage, then you could make the argument that maybe the cell you took could become another embryo. So then you start all over again with the ethical argument. You now have another embryo. And so you now ethically should not destroy that embryo with the hope that you are going to have some applications to health care for somebody else.

There is, Mr. Speaker, one way to avoid this, and it is one of the things that our research, H.R. 3144, would pursue, and that is waiting a little later to take this cell. I am not sure for all the reasons that they take the cell at the eight-cell stage, but that is the convention. If you waited to take that cell from the inner cell mass stage, which is a little later, a few days later, then the differentiation has already occurred to the point that the cells in the inner cell mass which can produce the whole baby, but they cannot produce a baby by implantation because they have lost the ability to produce decidua. So you have now removed that possible ethical argument, although those who wrote the white paper on the Alternative Sources of Human Pluripotent Stem Cells do not believe that you could do this. But if there is any possibility that you could do that, then for those whose sensitivities would be offended by this, if we could demonstrate that you could take it from the inner cell mass stage, now you have bypassed even that.

Our bill, H.R. 3144, is a bill that looks for the moment only at animal experimentation, because we believe that before you go to humans, you ought to know that what you are doing is going to work and that it has worked. The best way to do that is to go to animals and ultimately to what we call nonhuman primates: that is, the big apes which genetically, by the way, are remarkably close to humans. It may be embarrassing, Mr. Speaker, to look at the genetic complement of one of the great apes and look at our genetic complement. There is not all that much difference in us. Once we have demonstrated it there, then we could have more certainty that it is going to work in humans.

What we do not need, Mr. Speaker, is for millions of Americans to feel that their last best hope for a cure for their relative had been removed when the President vetoes H.R. 810 and its Senate complement, which he has said he would do, which I hope he does. I think it is the ethical thing to do.

What we need, Mr. Speaker, is to have this bill on the President's desk so that those millions of people out there who believe that there is potentially a lot of applications in health care from embryonic stem cells will know that the Federal Government believes with them that this is possible; that we are going to support responsible, ethical research, using cells taken from early embryos that certainly do not kill the embryo, do not harm the embryo. As a matter of fact, if, Mr. Speaker, we get those cells, the surplus cells from the repair kit, then the parents have made two decisions which I think, and I believe most Americans will believe, are ethical, one, to have their own baby, the only way to do it is in vitro; secondly, to establish a repair kit so that at any time during its life, their child is going to have the potential for new tissues, new organs, new cells that is going to be them, so there will be no rejection.

Mr. Speaker, what we saw last night I hope results in a very positive eventuality. I hope that by the time H.R. 810 and its Senate complement gets to the President's desk, that also on his desk is H.R. 3144, so that the President can say, today I proudly sign a bill which provides for research which has the potential of producing embryonic stem cells for all the miraculous applications to health care that citizens all across the country believe. Because in State after State now they are voting in referenda to provide, sometimes in the legislature, sometimes just a vote of all the people, to provide very large amounts of money statewide because the Federal Government is not doing it, and they believe there is a big potential there.

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I hope that in the not-too-distant future, Mr. Speaker, that we will be using Federal funds to support responsible, ethical embryonic stem cell research, and H.R. 3144 will do it.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 6) "An Act to ensure jobs for our future with secure, affordable, and reliable energy.".

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BRADY of Pennsylvania (at the request of Ms. PELOSI) for today on account of a death in the family.

Mr. MICA (at the request of Mr. DELAY) for today on account of medical reasons.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. CONAWAY) to revise and extend their remarks and include extraneous material:)

Mr. FRANKS of Arizona, for 5 minutes, today.

Mr. CONAWAY, for 5 minutes, today.

Mr. HAYWORTH, for 5 minutes, today.

Ms. FOXX, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material: Mr. PAYNE, for 5 minutes, today.)

## SENATE BILL AND A CONCURRENT RESOLUTION

A bill and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1375. An act to amend the Indian Arts and Crafts Act of 1990 to modify provisions relating to criminal proceedings and civil actions, and for other purposes; to the Committee on resources; in addition to the Committee on the Judiciary for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. Con. Res. 39. Concurrent resolution to express the sense of Congress on the Purple Heart; to the Committee on Armed Services.

## ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker.

H.R. 2361. An act making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

H.R. 2985. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes.

H.J. Res. 59. Joint resolution expressing the sense of Congress with respect to the women suffragists who fought for and won the right of women to vote in the United States.

## ADJOURNMENT

Mr. BARTLETT of Maryland. Mr. Speaker, pursuant to House Concurrent Resolution 225, 109th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore (Mr. PRICE of Georgia). Pursuant to House Concurrent Resolution 225, 109th Congress, the House stands adjourned until 2 p.m. on Tuesday, September 6, 2005.

Thereupon (at 2 o'clock and 45 minutes p.m.), pursuant to House Concurrent Resolution 225, the House adjourned until Tuesday, September 6, 2005, at 2 p.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3515. A letter from the Chief, Regulatory Analysis and Development, APHIS, Department of Agriculture, transmitting the Department's final rule—Tuberculosis in Cattle and Bison; State and Zone Designations; California [Docket No. 05-010-2] received July 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3516. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Acetic Acid; Exemption from the Requirement of a Tolerance [OPP-2005-0154; FRL-7717-2] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3517. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101-510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3518. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101-510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3519. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101-510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3520. A letter from the Assistant Deputy Secretary, OSDFS, Department of Education, transmitting the Department's final rule—Grants to States to Improve Management of Drug and Violence Prevention Programs—received July 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3521. A letter from the Assistant Deputy Secretary, OSDFS, Department of Education, transmitting the Department's final rule—Grants for School-Based Student Drug-Testing Programs—received July 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3522. A letter from the Assistant Deputy Secretary, OSDFS, Department of Education, transmitting the Department's final rule—Alcohol and Other Drug Prevention Models on College Campuses—received July 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3523. A letter from the Assistant Deputy Secretary, OSDFS, Department of Education, transmitting the Department's final rule—Safe and Drug-Free Schools Programs, Final Priority and Other Application Requirements—received July 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

3524. A letter from the Secretaries, Departments of Homeland Security and Health and Human Services, transmitting notification of the President's decision to approve the recommendation that Antrax Vaccine Adsorbed (AVA), a pediatric formulation (liquid) of potassium iodide (KI), and an attenuated smallpox vaccine, modified vaccinia Ankara (MVA), be procured with funds available under the special reserve fund authorized under section 510 of the Homeland Security Act; to the Committee on Energy and Commerce.

3525. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks [OGC-2004-0004; FRL-7947-3] (RIN: 2060-AM83) received July 28, 2005, pursuant to 5 U.S.C.

801(a)(1)(A); to the Committee on Energy and Commerce.

3526. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Identification of Ozone Areas For Which the 1-Hour Standard Has Been Revoked And Technical Correction to Phase 1 Rule [FRL-7947-4] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3527. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Clean Air Approval and Promulgation fo Air Quality Implementation Plan Revision for Colorado; Long-Term Strategy of State Implementation Plan for Class I Visibility Protection [RME-Docket Number R08-OAR-2004-CO-0005; FRL-7937-1] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3528. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implemenation Plans: State of Utah; Salt Lake City Revised Carbon Monoxide Maintenance Plan and Approval of Related Revisions [R08OAR-2005-UT-0002; FRL-7939-8] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3529. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Jackson and Madison, Mississippi) [MB Docket No. 05-135; RM-11215] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3530. A letter from the Legal Advisor to the Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Parker, Prescott Valley, Mayer, Miami, and Ajo, Arizona) [MB Docket No. 04-252; RM-11120] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3531. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Fruita and Hotchkiss, Colorado) [MB Docket No. 04–300; RM–11022; RM–11105] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3532. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Morganfield and Corydon, Kentucky) [MB Docket No. 04–420; RM–11119] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3533. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), FM Table of Allotments, FM Broadcast Stations. (Guntown and Booneville, Mississippi [MB Docket No. 05–80; RM–11160] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3534. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Baudette, Minnesota) [MB Docket No. 04-403; RIM 11097]; (Fernley, Nevada) [MB Docket No. 04-349; RM-10827]; (Pittsburg, Oklahoma) [MB Docket No. 04–351; RM–10828]; (Paducah, Texas) [MB Docket No. 04-342; RM-10732] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3535. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Coosada, Alabama) [MB Docket No. 05-82]; (Livingston, Alabama) [MB Docket No. 05–83; RM–11171]; (Rockford, Alabama) [MB Docket No. 05-84; RM-1172] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3536. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Burlington and Cary, North Carolina) [MB Docket No. 04–429 RM-11120] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3537. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Pima, Arizona) [MB Docket No. 04-82; RM-10877] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3538. A letter from the Legal Advisor, WTB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Part 1 of the Competitive Bidding Rules—Competitive Bidding Procedures [WT Docket No. 97-82] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3539. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Roby and Anson, Texas) [MB Docket No. 05-66 RM-11146] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3540. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (St. Albans and Grand Isle, Vermont and Tupper Lake, New York) [MB Docket No. 05–3; RM–11132] received July 28, 3005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3541. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Islamorada, Marathon and Sugarloaf Key, Florida) [MB Docket No. 05–107 RM–11199] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3542. A letter from the Senior Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Americus and Oglethorpe, Georgia) [MB Docket No. 04-328; RM-11046; RM–11235] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3543. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Tipton, Oklahoma) [MB Docket No. 05-128 RM-11210] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3544. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Section 73.202(b), Table of Allotments, Digital Television Broadcast Stations. (Oklahoma City, Oklahoma) [MB Docket No. 00-104; RM-9812] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3545. A letter from the Legal Advisor, WTB, Federal Communications Commission, transmitting the Commission's final rule—Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures [WT Docket No. 97-82] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3546. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 05-35), pursuant to 22 U.S.C. 2776(b); to the Committee on Armed Services.

3547. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the quarterly report of obligations and outlays of FY2004 and FY2005 funds under the Emergency Plan for AIDS Relief through March 31, 2005, pursuant to Division D, Pub. L. 108–199; to the Committee on International Relations.

3548. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-153, "Exploratory Committee Disclosure Informational Report and Contribution Prohibition Temporary Amendment Act of 2005," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3549. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16–152, "Mayor's Youth Leadership Institute Act of 2005," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

3550. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16–151, "Mechanic's Lien Amendment Act of 2005," pursuant to D.C. Code section 1–233(c)(1); to the Committee on Government Reform.

3551. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-166, "Fiscal Year 2006 Budget Support Act of 2005," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

3552. A letter from the Chief Capital Officer/Director, HCM, Department of Energy, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3553. A letter from the Deputy Associate General Counsel for Regulations, Department of Homeland Security, transmitting the Department's final rule—Department of Homeland Security Human Resources Management System (RIN: 3206–AK31) (RIN: 1601–

AA-19) received January 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

3554. A letter from the Acting Inspector General, Department of Homeland Security, transmitting notice of the initiation of an audit of the Department's consolidated balance sheet and statement of custodial activity as of and for the year ending September 30, 2005; to the Committee on Government Reform.

3555. A letter from the General Counsel, Institute of Museum and Library Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3556. A letter from the Assistant Director, Directives and Regulations Branch, Department of Argiculture, transmitting the Department's final rule—Clarification as to When a Notice of Intent To Operate and/or Plan of Operation is Needed for Locatable Mineral Operations on National Forest System Lands (RIN: 0596–AC17) received June 16, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3557. A letter from the Assistant Attorney General, Department of Justice, transmitting the annual report on U.S. Government Efforts to Combat Trafficking in Persons in Fiscal Year 2004; to the Committee on the Judiciary.

3558. A letter from the Assistant Secretary of the Army, Civil Works, Department of the Army, transmitting a copy of the the Final Decision Document and Environmental Assessment for Muddy River Flood Control and Ecosystem Restoration; to the Committee on Transportation and Infrastructure.

3559. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zones; Port of Port Lavaca-Point Comfort, Point Comfort, TX and Port of Corpus Christi Inner Harbor, Corpus Christi, TX [COTP Corpus Christi-04–006] (RIN: 1625–AA87) received July 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3560. A letter from the Chief, Regulations and Adminsitrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Fifth Coast Guard District [CGD05-04-171] (RIN: 1625–AA87 formerly 1625–AA00) Recevied March 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3561. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Duluth Harbor, Duluth, Minnesota [CGD09-05-014] (RIN: 2115–AA87) received July 21, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3562. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zones; TAPS Terminal, Valdez Narrows, and Tank Vessels in COTP Prince William Sound [COTP Prince William Sound 05-008] (RIN: 1625-AA87) received July 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3563. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Cleveland Harbor, Cleveland, Ohio [CGD09–05–027] (RIN: 1625–AA87) received July 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3564. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; San Diego Bay, CA [COTP San Diego 04–019] (RIN: 1625-AA87) received January 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3565. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zones; Charleston Harbor, Cooper River, SC [COTP Charleston 04–145] (RIN: 1625–AA87) received January 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3566. A letter from the Chief, Regulations and Adminsitrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Protection of Military Cargo, Captain of the Port Zone Puget Sound, WA [CGD13–04–045] (RIN: 1625-AA87) received January 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3567. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Protection of Military Cargo, Captain of the Port Zone Puget Sound, WA [CGD13-04-046] (RIN: 1625–AA87) received January 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3568. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Potomac and Anacostia Rivers, Washington, DC and Arlington and Fairfax Counties, Virginia [CGD05–4–210] (RIN: 1625–AA87) received January 31, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3569. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone Regulations; St. Croix, United States Virgin Islands [CGD07–04–118] (RIN: 1625–AA87) received January 31, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3570. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Moving and Fixed Security Zone: Port of Fredericksted, Saint Croix, U.S. Virgin Islands [COTP San Juan 05-005] (RIN: 1625-AA87) received January 31, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3571. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zone; Potomac and Anacostia Rivers, Washington, DC and Arlington and Fairfax Counties, Virginia [CGD05–05–004] (RIN: 1625–AA87) received January 31, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3572. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Security Zones; Monterey Bay and Humboldt Bay, CA [COTP San Francisco Bay 05-004] (RIN: 1625-AA87) received April 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3573. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Eurocopter France Model EC115B, EC155B1, SA-365N, SA-365N1, AS–365N2, and AS 365 N3 Helicopters [Docket No. FAA-2005-20512; Directorate Identifier 2004–SW–35–AD; Amendment 39–14160; AD 2005-13-23] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3574. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Turbomeca S.A. Arriel 2B Turboshaft Engines [Docket No. FAA-2005-21624; Directorate Identifier 2005-NE–17–AD; Amendment 39–14162; AD 2005-13-25] (RIN: 2120–AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3575. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; General Electric Company CT64-820-4 Turboprop Engines [Docket No. FAA–2005–21586; Directorate Identifier 2005-NE-16-AD; Amendment 39-14148; AD 2005–13–11] (RIN: 2120–AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3576. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Rockwell International (Aircraft Specification No. A-2-575 previously held by North American and recently purchased by Boeing) Models AT-6 (SNJ–2), AT–6A (SNJ–3), AT–6B, AT–6C (SNJ-4), AT–6D (SNJ–5), AT–6F (SNJ–6), BC–1A, SNJ-7, and T-6G Airplanes; and Autair Ltd. (Aircraft Specification No. AR–11 previsouly held by Noorduyn Aviation Ltd.) Model Harvard (Army AT–16) Airplanes [Docket No. FAA-2005-24163; Directorate Identifier 2005-CE–30–AD; Amendment 39–14144; AD 2005-12-51] (RIN: 2120–AA64) Received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3577. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Boeing Model 757 Series Airplanes [Docket No. 2003-NM-89-AD; Amendment 39–14134; AD 2005–12–18] (RIN: 2120-AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3578. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Bombardier Model DHC-8-400 Series Airplanes [Docket No. FAA–2005–21469; Directoraet Identifier 2005–NM-124-AD; Amendment 39-14133; AD 2005-12–17] (RIN: 2120–AA64) received July 22, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3579. A letter from the Attorney, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting the Department's final rule—Hazardous Materials; Miscellaneous Amendments [Docket No. PHMSA–04–18683 (HM-218C)] (RIN: 2137–AD87) received June 20, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3580. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's final rule—Medicare Program: Prospective Payment System for Long-Term Care Hospitals: Annual Payment Rate Updates, Policy Changes, and Clarification [CMS 1483-F] (RIN: 0938-AN28) received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3581. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Coordianted Issue Paper All Industries "Notice 2003-81" Tax Shelter [UIL 9300.31-00] received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3582. A letter from the Acting Chief, Publications and Regulations, Internal Revenue Service, transmitting the Service's final rule—Minimum Vesting Standards; Genral Rules (Rev. Rul. 2005-55) received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3583. A letter from the Secretary, Department of Homeland Security, transmitting notification of the establishment of the Domestic Nuclear Detection Office (DNDO) within the Department of Homeland Security (DHS) and the reallocation of certain functions amoung Department officers; to the Committee on Homeland Security.

3584. A letter from the Secretary, Department of Homeland Security, transmitting notification of the reallocation of functions and the establishment, consolidation and alternation of organizational units within the Department of Homeland Security; to the Committee on Homeland Security.

3585. A letter from the Assistant Secretary of Legislative Affairs, Department of Homeland Security, transmitting a report to Congress on Fiscal Year 2006 funding for the Department of Homeland Security Counternarcotics Activities; to the Committee on Homeland Security.

3586. A letter from the Assistant Secretary for Legislative Affairs, Department of Homeland Security, transmitting a report to Congress on the Department of Homeland Security Counternarcotics Activites for Fiscal Year 2004; to the Committee on Homeland Security.

3587. A letter from the Assistant Secretary for Legislative Affairs, Department of Homeland Security, transmitting the first annual report of Department of Homeland Security's Privacy Office which covers the activites of the office from its inception through June 2004; to the Committee on Homeland Security.

3588. A letter from the Vice President and Director, Homeland Security Institute, transmitting the first annual report on the activities of the Homeland Security Institute (HSI), pursuant to 6 U.S.C. 192 Public Law 107-296 section 312(f); to the Committee on Homeland Security.

3589. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's final rule—Medicare Program: Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for FY2006 [CMS-1282-F] (RIN: 0938-AN65) received July 29, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

3590. A letter from the Assistant Secretary for Legislative Affairs, Department of Homeland Security, transmitting a report to Congress regarding the use of non Coast Guard personnel, pursuant to 33 U.S.C. 1226 note Public Law 107-295, section 107(b); jointly to the Committees on Transportation and Infrastructure and Homeland Security.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mrs. KELLY (for herself, Mr. Cardin, Mr. Jackson of Illinois, Ms. Schakowsky, Mr. Weiner, Mr. McNulty, Mr. Moran of Virginia, Mr. Hinchey, Ms. Kaptur, Mr. Taylor of Mississippi, Ms. Jackson-Lee of Texas, Mr. Berry, and Mr. Cunningham):

H.R. 3616. A bill to expand the research, prevention, and awareness activities of the National Institute of Diabetes and Digestive and Kidney Diseases and the Centers for Disease Control and Prevention with respect to inflammatory bowel disease; to the Committee on Energy and Commerce.

By Mrs. JOHNSON of Connecticut (for herself, Mr. Beauprez, Mr. Boustany, Mr. Burgess, Mr. Camp, Mr. English of Pennsylvania, Mr. Gingrey, Mr. Sam Johnson of Texas, Mr. Lewis of Kentucky, Mr. Ney, Mr. Ramstad, Mr. Shaw, Mr. Shays, Mr. Upton, Mr. Weldon of Florida, and Mrs. Kelly):

H.R. 3617. A bill to amend part B of title XVIII of the Social Security Act to provide for value-based purchasing in the payment for physicians' services under the Medicare Program, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WALDEN of Oregon:

H.R. 3618. A bill to authorize early repayment of obligations to the Bureau of Reclamation within Rogue River Valley Irrigation District or within Medford Irrigation District; to the Committee on Resources.

By Mr. KIRK (for himself, Mr. Duncan, Mr. Ramstad, and Mr. Garrett of New Jersey):

H.R. 3619. A bill to permit each State to provide a statue of an individual representing that State to be displayed in the Capitol Visitor Center, and for other purposes; to the Committee on House Administration.

By Mr. REHBERG:

H.R. 3620. A bill to provide for the renovation of runways at Malmstrom Air Force Base and Great Falls International Airport, Montana, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. CULBERSON:

H.R. 3621. A bill to confer standing on State legislators and Governors to bring suit in Federal district court to preserve the residual core sovereignty of States under the Constitution as expressed in the Tenth Amendment, and to enforce the Guarantee Clause of the Constitution; to the Committee on the Judiciary.

By Mr. CULBERSON (for himself, Mr. Akin, Mr. Bartlett of Maryland, Mr. Bonilla, Mr. Brown of South Carolina, Mr. Burgess, Mr. Burton of Indiana, Mr. Carter, Mrs. Cubin, Mrs. Jo Ann Davis of Virginia, Mr. Deal of Georgia, Mr. Doolittle, Mr. Duncan, Mr. Gohmert, Mr. Goode, Mr. Gutknecht, Mr. Hall, Mr. Hayworth, Mr. Herger, Mr. Istook, Mr. Sam Johnson of Texas, Mr. Jones of North Carolina, Mr. Lewis of Kentucky, Mr. McCaul of Texas, Mr. McHenry, Mr. Marchant, Mr. Mica, Mr. Miller of Florida, Mrs. Myrick, Mr. Norwood, Mr. Otter, Mr. Pence, Mr. Pitts, Mr. Poe, Mr. Price of Georgia, Mr. Rogers of Alabama, Mr. Rohrabacher, Mr. Royce, Mr. Schwarz of Michigan, Mr. Simpson, Mr. Smith of Texas, Mr. Sullivan, Mr. Tancredo, Mr. Wamp, Mr. Westmoreland, Mr. Wilson of South Carolina, Mr. Young of Alaska, and Mr. Garrett of New Jersey):

H.R. 3622. A bill to authorize the Governor of a State to organize and call into service a militia of able-bodied and eligible citizens to help prevent individuals from unlawfully crossing an international border and entering the United States anywhere other than a port of entry, to appropriate funds to support this service, and for other purposes; to the Committee on Homeland Security, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 3623. A bill to amend title 18, United States Code, to increase to 5 years the period during which former Members of Congress may not engage in certain lobbying activities; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 3624. A bill to restore the standards used for determining whether technical workers are not employees as in effect before the Tax Reform Act of 1986; to the Committee on Ways and Means.

By Mr. BARTLETT of Maryland (for himself and Mr. Ross):

H.R. 3625. A bill to provide that members of the Armed Forces and Selected Reserve may transfer certain educational assistance benefits to dependents, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BISHOP of Utah:

H.R. 3626. A bill to authorize the Secretary of the Interior to study the feasibility of enlarging the Arthur V. Watkins Dam Weber Basin Project, Utah, to provide additional water for the Weber Basin Project to fulfill the purposes for which that project was authorized; to the Committee on Resources.

By Mrs. CHRISTENSEN (for herself, Mr. Thompson of Mississippi, Mr. Dicks, Ms. Zoe Lofgren of California, and Mr. Langevin):

H.R. 3627. A bill to promote technological advancements that will dramatically reduce the timeframe for the development of new medical countermeasures to treat or prevent disease caused by infectious disease agents or toxins that, through natural processes or intentional introduction, may pose a significant risk to public health now or in the future; to the Committee on Energy and Commerce, and in addition to the Committees on

Armed Services, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DAVIS of Illinois (for himself, Mr. PLATTS, and Mr. OSBORNE):

H.R. 3628. A bill to expand quality programs of early childhood home visitation, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. DOGGETT (for himself, Ms. VELÁZQUEZ, Mr. LEWIS of Georgia, Mr. BECERRA, Mr. EMANUEL, Mr. BACA, Mr. BROWN of Ohio, Mr. CARDOZA, Mr. CASE, Mr. CHANDLER, Mr. FILNER, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Ms. HERSETH, Mr. MCGOVERN, Ms. MILLENDER-MCDONALD, Mrs. NAPOLITANO, Mr. SHERMAN, Mr. MOORE of Kansas, Mr. HOLT, Mr. THOMPSON of California, and Mr. DAVIS of Illinois):

H.R. 3629. A bill to amend the Internal Revenue Code of 1986 to allow the subchapter S election to be made on a return filed before the due date with extensions, to reduce the payroll deposit penalties for failures to make deposits in the prescribed manner, and to allow a married couple who operates a unincorporated business as co-owners to file separate self-employment tax returns; to the Committee on Ways and Means.

By Mr. GINGREY (for himself, Mr. NORWOOD, Mr. PRICE of Georgia, Mr. BOUSTANY, and Mrs. CAPPS):

H.R. 3630. A bill to provide a site for construction of a national health museum, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. HEFLEY:

H.R. 3631. A bill to limit the States use of eminent domain; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATOURETTE:

H.R. 3632. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for expenses related to the purchase and installation of qualifying electronic premise security systems; to the Committee on Ways and Means.

By Mr. LATOURETTE:

H.R. 3633. A bill to amend title XVIII of the Social Security Act to provide for coverage under the Medicare Program of immunosuppressive drugs for Medicare beneficiaries who receive an organ transplant without regard to when the transplant was received; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. ZOE LOFGREN of California (for herself, Mr. THOMPSON of Mississippi, Ms. NORTON, and Mr. HONDA):

H.R. 3634. A bill to establish, not less than 1 but not more than 3, National Transportation Security Research Centers at institutions of higher education; to the Committee on Homeland Security.

By Mrs. TAUSCHER:

H.R. 3635. A bill to suspend temporarily the duty on certain sardines in oil, in airtight containers, neither skinned nor boned; to the Committee on Ways and Means.

By Mrs. TAUSCHER:

H.R. 3636. A bill to suspend temporarily the duty on prepared or preserved oysters, not smoked; to the Committee on Ways and Means.

By Mr. THOMPSON of California (for himself and Mrs. EMERSON):

H.R. 3637. A bill to amend title XVIII of the Social Security Act to prevent a decrease in Social Security benefits resulting from Medicare part D premiums increases; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WALSH:

H.R. 3638. A bill to amend title 36, United States Code, to grant a Federal charter to the Irish American Cultural Institute; to the Committee on the Judiciary.

By Ms. WASSERMAN SCHULTZ (for herself, Ms. ROS-LEHTINEN, Mr. FRANK of Massachusetts, Mr. BACHUS, Mr. WEXLER, Mr. CROWLEY, Mr. ISRAEL, Ms. BEAN, Mrs. LOWEY, Mr. FILNER, Mr. MILLER of Florida, Ms. SCHAKOWSKY, Mr. FITZPATRICK of Pennsylvania, Mr. CLEAVER, Ms. BERKLEY, Mr. BERMAN, Mr. WAXMAN, Mr. HASTINGS of Florida, Mr. DAVIS of Alabama, Mrs. MALONEY, Mr. PRICE of Georgia, and Ms. HERSETH):

H.R. 3639. A bill to establish minimum standards relating to a factor for life insurance eligibility and rates, and for other purposes; to the Committee on Financial Services.

By Ms. WATERS:

H.R. 3640. A bill to amend the Public Health Service Act to establish a program to provide screenings and treatment for cancer to minority or underserved populations, and for other purposes; to the Committee on Energy and Commerce.

By Ms. WATERS (for herself and Ms. ROS-LEHTINEN):

H.R. 3641. A bill to amend the Public Health Service Act to authorize grants to provide treatment for diabetes in minority communities; to the Committee on Energy and Commerce.

By Ms. WATERS (for herself and Ms. ROS-LEHTINEN):

H.R. 3642. A bill to amend the Public Health Service Act to authorize grants for treatment and support services for Alzheimer's patients and their families; to the Committee on Energy and Commerce.

By Mr. WELDON of Florida:

H.R. 3643. A bill to amend the Internal Revenue Code of 1986 to treat spaceports like airports under the exempt facility bond rules; to the Committee on Ways and Means.

By Mr. WILSON of South Carolina (for himself and Mr. ENGEL):

H.R. 3644. A bill to exempt boilermakers from the numerical limitation applicable to nonimmigrants issued a visa or otherwise provided status under section 101(a)(15)(H)(ii)(b) of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. KENNEDY of Minnesota:

H.J. Res. 63. A joint resolution proposing an amendment to the Constitution of the United States to allow an item veto of appropriation bills; to the Committee on the Judiciary.

By Mrs. MILLER of Michigan:

H. Con. Res. 232. Concurrent resolution congratulating Ray Lane for his induction into the Michigan Association of Broadcasters' Hall of Fame; to the Committee on Government Reform.

By Mr. HOLT (for himself, Mr. INSLEE, Mr. GRIJALVA, Mr. CONYERS, Mr. KUCINICH, Mr. TIERNEY, Mr. MCDERMOTT, Mr. ACKERMAN, Mr. DEFAZIO, Mr. HINCHEY, Mr. DELAHUNT, Mr. DOYLE, Mr. UDALL of Colorado, Mr. VISCLOSKY, Mr. MCGOVERN, Mr. PALLONE, Ms. LEE, and Ms. MATSUI):

H. Res. 417. A resolution directing the Secretary of Defense to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the Secretary of Defense relating to the disclosure of the identity and employment of Ms. Valerie Plame; to the Committee on Armed Services.

By Mr. HOLT (for himself, Mr. INSLEE, Mr. GRIJALVA, Mr. CONYERS, Mr. KUCINICH, Mr. TIERNEY, Mr. MCDERMOTT, Mr. ACKERMAN, Mr. DEFAZIO, Mr. HINCHEY, Mr. DELAHUNT, Mr. DOYLE, Mr. UDALL of Colorado, Mr. VISCLOSKY, Mr. MCGOVERN, Mr. PALLONE, Ms. LEE, and Ms. MATSUI):

H. Res. 418. A resolution requesting the President to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the President relating to the disclosure of the identity and employment of Ms. Valerie Plame; to the Committee on Intelligence (Permanent Select).

By Mr. HOLT (for himself, Mr. INSLEE, Mr. GRIJALVA, Mr. CONYERS, Mr. KUCINICH, Mr. TIERNEY, Mr. MCDERMOTT, Mr. ACKERMAN, Mr. DEFAZIO, Mr. HINCHEY, Mr. DELAHUNT, Mr. DOYLE, Mr. UDALL of Colorado, Mr. VISCLOSKY, Mr. MCGOVERN, Mr. PALLONE, Ms. LEE, and Ms. MATSUI):

H. Res. 419. A resolution directing the Secretary of State to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the Secretary of State relating to the disclosure of the identity and employment of Ms. Valerie Plame; to the Committee on International Relations.

By Mr. HOLT (for himself, Mr. INSLEE, and Mr. GRIJALVA):

H. Res. 420. A resolution directing the Attorney General to transmit to the House of Representatives not later than 14 days after the date of the adoption of this resolution documents in the possession of the Attorney General relating to the disclosure of the identity and employment of Ms. Valerie Plame; to the Committee on the Judiciary.

By Ms. SCHWARTZ of Pennsylvania (for herself, Mr. DENT, Mr. BRADY of Pennsylvania, Mr. PAYNE, Mr. FITZPATRICK of Pennsylvania, Mr. SHERWOOD, Mr. CASTLE, Mr. HOLT, Mr. FATTAH, Mr. PASCRELL, Mr. MURTHA, Mr. LARSON of Connecticut, Mr. DOYLE, Mr. HOLDEN, Mr. KANJORSKI, Mrs. MCCARTHY, Mr. MOLLOHAN, Mr. ROTHMAN, Mr. MENENDEZ, Mr. KIND, Mrs. TAUSCHER, Mr. CROWLEY, Mrs. DAVIS of California, Mr. GERLACH, Mr. PALLONE, Mr. BISHOP of New York, Ms. HARMAN, Mr. HIGGINS, Mr. KILDEE, Ms. SOLIS, Ms. VELÁZQUEZ, Mrs. NAPOLITANO, Ms. ROYBAL-ALLARD, Mr. WELDON of Pennsylvania, Ms. BERKLEY, Mr. CARDOZA, Mr. SMITH of Washington, Mr. CARNAHAN, Mr. CLEAVER, Mr. SCHIFF, Ms. HOOLEY, Ms. DEGETTE, Mr. MOORE of Kansas, Mr. VAN HOLLEN, Mr. FORD, Mr. DAVIS of Tennessee, Mr. SCOTT of Virginia, Mr. OLVER, Mr. CHANDLER, Mr. AL GREEN of Texas, Mr. LOBIONDO, and Mr. FRELINGHUYSEN):

H. Res. 421. A resolution commending the Biotechnology Industry Organization, the world's largest biotechnology organization, for a successful annual convention in Philadelphia, Pennsylvania; to the Committee on Government Reform.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. KANJORSKI and Mr. LANGEVIN.

H.R. 45: Mr. OTTER, Mr. INGLIS of South Carolina, and Mr. CHABOT.

H.R. 87: Mr. SAXTON.

H.R. 95: Mrs. LOWEY.

H.R. 202: Mr. CONYERS.

H.R. 269: Mr. GILLMOR and Mr. MILLER of Florida.

H.R. 333: Mr. RYAN of Ohio.

H.R. 376: Mr. KUCINICH.

H.R. 425: Ms. DEGETTE.

H.R. 456: Mr. GARRETT of New Jersey.

H.R. 519: Ms. WASSERMAN SCHULTZ and Mr. DAVIS of Florida.

H.R. 551: Ms. DELAURO.

H.R. 625: Mr. RYAN of Ohio.

H.R. 697: Mr. BOREN.

H.R. 718: Mr. RYAN of Ohio.

H.R. 752: Mr. RYAN of Ohio.

H.R. 760: Mr. RYAN of Ohio.

H.R. 880: Mr. BERRY.

H.R. 881: Mr. COLE of Oklahoma and Mr. KUCINICH.

H.R. 896: Mr. BAKER, Mr. FATTAH, and Mr. OLVER.

H.R. 906: Mr. INGLIS of South Carolina.

H.R. 945: Mr. ALLEN.

H.R. 949: Mr. PRICE of North Carolina and Mr. WYNN.

H.R. 994: Mr. DAVIS of Alabama.

H.R. 1000: Mr. RYUN of Kansas.

H.R. 1107: Mr. RYAN of Ohio.

H.R. 1124: Mr. INSLEE.

H.R. 1144: Mrs. EMERSON.

H.R. 1186: Mrs. KELLY.

H.R. 1188: Mr. RYAN of Ohio.

H.R. 1192: Mr. CALVERT.

H.R. 1200: Ms. SOLIS, Ms. WATSON, Ms. KILPATRICK of Michigan, and Mr. CLAY.

H.R. 1246: Mr. ACKERMAN and Mr. GERLACH.

H.R. 1264: Mrs. CAPITO.

H.R. 1272: Mr. CARDIN and Ms. HART.

H.R. 1273: Mr. INGLIS of South Carolina.

H.R. 1288: Ms. HERSETH and Mr. NUNES.

H.R. 1322: Mr. MEEHAN, Ms. BALDWIN, and Mr. MORAN of Virginia.

H.R. 1333: Mr. BOSWELL.

H.R. 1353: Mr. RYAN of Ohio.

H.R. 1393: Ms. SCHWARTZ of Pennsylvania.

H.R. 1399: Mr. GRIJALVA and Ms. JACKSON-LEE of Texas.

H.R. 1402: Mr. UDALL of New Mexico, Mr. VAN HOLLEN, Ms. WATERS, Mr. WATT, Mr. ALLEN, Mr. MEEK of Florida, Mr. CLAY, and Mrs. KELLY.

H.R. 1409: Ms. DEGETTE and Mr. OLVER.

H.R. 1438: Mr. CULBERSON.

H.R. 1549: Mr. HINCHEY, Ms. SCHAKOWSKY, Mr. LAHOOD, Mr. LINCOLN DIAZ-BALART of Florida, Mr. FORBES, Mr. KLINE, Mr. PEARCE, Mr. GERLACH, Mr. CLEAVER, and Mr. SMITH of Washington.

H.R. 1592: Mr. RYAN of Ohio.

H.R. 1668: Mr. WYNN.

H.R. 1687: Ms. KILPATRICK of Michigan, Mr. CAPUANO, and Mr. DOGGETT.

H.R. 1690: Mr. RYAN of Ohio.

H.R. 1697: Ms. MOORE of Wisconsin.

H.R. 1704: Mr. KING of Iowa.

H.R. 1789: Mr. MOLLOHAN.

H.R. 1898: Mr. SHAW and Mr. AKIN.

H.R. 1951: Mr. LOBIONDO, Mr. BOEHLERT, and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 1953: Mr. PENCE, Mr. TANCREDO, Mr. BROWN of South Carolina, and Mr. SHUSTER.

H.R. 1993: Mr. RYAN of Ohio.

H.R. 2037: Mr. GERLACH.

H.R. 2121: Mr. CLEAVER, Mr. BLUNT, and Mr. FORD.

H.R. 2206: Mr. PRICE of North Carolina.

H.R. 2229: Mr. SAM JOHNSON of Texas.

H.R. 2238: Mr. HEFLEY and Mr. GERLACH.

H.R. 2251: Mr. BLUMENAUER, Mr. CANTOR, and Mrs. JONES of Ohio.

H.R. 2321: Ms. DEGETTE.

H.R. 2356: Mr. DAVIS of Tennessee.

H.R. 2386: Mr. CLEAVER and Mr. SHUSTER.

H.R. 2421: Mr. SANDERS, Mr. ROTHMAN, Mr. LANGEVIN, Mr. STRICKLAND, Mr. GORDON, Mr. FORTUÑO, Mr. MOLLOHAN, Mr. MCCOTTER, Mr. CROWLEY, Mrs. LOWEY, Mr. LANTOS, Ms. WASSERMAN SCHULTZ, Mr. BUTTERFIELD, Mr. BISHOP of Georgia, and Mr. PRICE of North Carolina.

H.R. 2423: Mrs. LOWEY.

H.R. 2498: Mr. RYAN of Ohio.

H.R. 2512: Mrs. LOWEY.

H.R. 2517: Mr. ISRAEL, Mr. ROSS, and Mr. CONYERS.

H.R. 2646: Mr. DAVIS of Tennessee.

H.R. 2669: Mr. FRANK of Massachusetts, Mr. MORAN of Virginia, Ms. HARRIS, Mr. SCHWARZ of Michigan, Ms. WASSERMAN SCHULTZ, Mr. NADLER, Ms. BERKLEY, and Mr. KILDEE.

H.R. 2679: Mr. KING of Iowa.

H.R. 2680: Mr. RANGEL.

H.R. 2694: Mr. MORAN of Virginia.

H.R. 2695: Mr. CUMMINGS, Ms. MILLENDER-MCDONALD, Ms. ROYBAL-ALLARD, Mr. SCOTT of Virginia, Ms. WASSERMAN SCHULTZ, and Mr. MARKEY.

H.R. 2746: Mr. MORAN of Virginia and Mr. HASTINGS of Florida.

H.R. 2786: Mr. BISHOP of New York and Mr. LANTOS..

H.R. 2794: Mr. HASTINGS of Florida.

H.R. 2799: Mr. KING of New York, Mr. MCNULTY, Ms. SCHAKOWSKY, Mr. PAUL, and Mr. KUHL of New York.

H.R. 2861: Ms. WATERS.

H.R. 2872: Mr. BURTON of Indiana and Mr. WYNN.

H.R. 2901: Ms. SCHAKOWSKY.

H.R. 2925: Mr. REHBERG.

H.R. 2943: Mr. BARROW.

H.R. 2963: Mr. BILIRAKIS and Mr. MANZULLO.

H.R. 3005: Mr. SMITH of Washington, Mr. BAIRD, Mr. GONZALEZ, and Mr. HIGGINS.

H.R. 3087: Mr. LEACH.

H.R. 3098: Mr. TANNER.

H.R. 3137: Mr. KLINE and Mr. SAM JOHNSON of Texas.

H.R. 3140: Mr. THOMPSON of Mississippi.

H.R. 3142: Mr. HOLT.

H.R. 3146: Mr. SHAW and Mr. NEUGEBAUER.

H.R. 3150: Mr. FEENEY.

H.R. 3166: Mr. KUCINICH.

H.R. 3167: Mr. TAYLOR of Mississippi and Mr. GARRETT of New Jersey.

H.R. 3171: Mr. SERRANO, Mr. BROWN of Ohio, and Mr. UDALL of Colorado.

H.R. 3189: Mrs. JO ANN DAVIS of Virginia.

H.R. 3194: Mr. VAN HOLLEN, Ms. MOORE of Wisconsin, Mr. HASTINGS of Florida, and Mrs. CAPPS.

H.R. 3195: Mr. VAN HOLLEN.

H.R. 3252: Ms. BEAN, Mr. WEXLER, and Mr. SOUDER.

H.R. 3323: Mr. BOREN.

H.R. 3335: Mr. ALLEN.

H.R. 3352: Mr. GONZALEZ and Mr. SERRANO.

H.R. 3361: Mr. VISCLOSKY.

H.R. 3372: Mrs. BIGGERT, Mr. GARRETT of New Jersey, and Mr. CONYERS.

H.R. 3373: Mr. MCCOTTER, Mr. GOODE, and Mr. LANGEVIN.

H.R. 3385: Mr. PENCE, Mr. HERGER, Mr. CANTOR, and Mr. CUNNINGHAM.

H.R. 3405: Mr. MCCAUL of Texas and Mr. GARRETT of New Jersey.

H.R. 3426: Ms. WATERS and Mr. CLAY.

H.R. 3436: Mr. STEARNS and Mr. ALEXANDER.

H.R. 3479: Mr. ROSS and Mr. FORD.

H.R. 3482: Mr. REYES, Mr. ORTIZ, Ms. VELÁZQUEZ, and Mr. GUTIERREZ.

H.R. 3492: Ms. MOORE of Wisconsin, Mr. GUTIERREZ, Ms. SCHAKOWSKY, and Mr. MCDERMOTT.

H.R. 3499: Mr. GARRETT of New Jersey.

H.R. 3548: Mrs. LOWEY.

H.R. 3561: Mr. BUTTERFIELD, Mr. THOMPSON of Mississippi, Ms. CORRINE BROWN of Florida, Ms. WATERS, Ms. KILPATRICK of Michigan, Ms. JACKSON-LEE of Texas, Mr. WYNN, Mr. PAYNE, Mr. AL GREEN of Texas, Mr. SCOTT of Georgia, Mr. JACKSON of Illinois, Ms. LEE, Mr. LEWIS of Georgia, Mr. RUSH, Mr. DAVIS of Illinois, Mr. CLEAVER, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. OWENS, Mr. MEEKS of New York, Mr. HASTINGS of Florida, Mr. DAVIS of Alabama, Mr. JEFFERSON, Mr. RANGEL, Mr. BISHOP of Georgia, Mrs. JONES of Ohio, Mr. SCOTT of Virginia, Mr. FATTAH, Mr. FORD, Mr. CUMMINGS, Ms. MATSUI, Mr. WAXMAN, Mr. ABERCROMBIE, Mrs. CAPPS, Mr. GRIJALVA, and Ms. SCHAKOWSKY.

H.J. Res. 55: Mr. MCGOVERN and Mr. GUTIERREZ.

H.J. Res. 61: Mrs. JO ANN DAVIS of Virginia, Mr. CALVERT, Mr. LEWIS of California, Mr. BOEHNER, Mr. SWEENEY, Mr. LATHAM, Mr. TERRY, and Mr. SAXTON.

H. Con. Res. 50: Mr. CONAWAY.

H. Con. Res. 154: Mr. FRANKS of Arizona.

H. Con. Res. 178: Mr. SHAW and Mr. RANGEL.

H. Con. Res. 190: Mr. WAXMAN and Mrs. JO ANN DAVIS of Virginia.

H. Con. Res. 210: Mr. KILDEE.

H. Con. Res. 213: Mr. PRICE of North Carolina.

H. Con. Res. 215: Mr. PRICE of North Carolina.

H. Con. Res. 218: Mr. UDALL of New Mexico.

H. Con. Res. 221: Mr. GARRETT of New Jersey.

H. Res. 15: Mr. COSTELLO.

H. Res. 172: Ms. BEAN.

H. Res. 217: Mr. CONAWAY.

H. Res. 246: Mr. WALDEN of Oregon.

H. Res. 327: Ms. MILLENDER-MCDONALD.

H. Res. 360: Mr. WALSH, Mr. PRICE of North Carolina, and Mr. SHAW.

H. Res. 375: Mr. LEWIS of Georgia and Mr. ISRAEL.

H. Res. 388: Mr. SESSIONS, Mr. MCCOTTER, Mr. GARRETT of New Jersey, Mr. ACKERMAN, Mr. PENCE, Ms. HARRIS, Mr. KING of New York, Mr. CANNON, Mr. PUTNAM, and Mr. BISHOP of Utah.

H. Res. 390: Mr. RAHALL, Mr. CASTLE, and Mr. SHAW.

H. Res. 411: Ms. LEE.

H. Res. 413: Mrs. JO ANN DAVIS of Virginia.

# SENATE—*Friday, July 29, 2005*

The Senate met at 9 a.m. and was called to order by the President pro tempore [Mr. STEVENS].

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal spirit, the author and finisher of our faith, as the days blend together and the August recess beckons, we pause to simply praise You. We praise You for Your glory and strength, for You are majestic and powerful. We praise You for keeping us from falling when we have walked in slippery places. We praise You for the gifts of borrowed heartbeats or a fresh sunrise. We praise You for our Senators who labor with faithfulness for freedom.

Lord, teach us today how to master ourselves that we may honor You. Give us wisdom to number our days and maximize the opportunities presented by the passing minutes. Strengthen our resolve to nurture our families and to leave an exemplary legacy for those who follow us. Empower each of us to meet life's vicissitudes with the calm assurance that You rule in the affairs of humanity.

We pray this in Your loving Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 2361, which the clerk will report.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2361) making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment, and the Senate agree to the same, signed by a majority of the conferees on the part of both Houses.

(The conference report is printed in the House proceedings of the RECORD of July 28, 2005.)

### RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. FRIST. Mr. President, we have several unanimous consent requests with respect to our schedule today. Following the time for the two leaders, we will consider the Interior appropriations conference report under a 20-minute time limit. Following that debate, we will return to the energy conference report for final closing remarks. At the conclusion of that debate, we will have a series of rollcall votes on these measures. I would anticipate those votes occurring sometime around 10:45 or so this morning.

After those votes are completed, we will return to the gun manufacturers liability bill. We have an agreement for a limited number of amendments, with time agreements on each of those. Therefore, we will have votes throughout the afternoon until passage of that legislation.

Finally, we will also consider the highway conference report when it becomes available from the House. It is not yet here. All Senators should be aware that we will have a substantial number of rollcall votes today, as many as 13 over the course of the day. Therefore, we ask that Senators remain close to the Chamber throughout the day to facilitate the votes and our remaining business.

### VITIATION OF UNANIMOUS-CONSENT AGREEMENT—H.R. 2985

Mr. FRIST. Mr. President, I ask unanimous consent that the order with respect to the Legislative branch appropriations conference report be vitiated.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The PRESIDENT pro tempore. The majority leader is recognized.

### STEM CELL RESEARCH

Mr. FRIST. Mr. President, since 2001 when stem cell research first captured our Nation's attention, I have said many times the issue will have to be reviewed on an ongoing basis—and not just because the science holds tremendous promise, or because it is developing with breathtaking speed. Indeed, stem cell research presents the first major moral and ethical challenge to biomedical research in the 21st century.

In this age of unprecedented discovery, challenges that arise from the nexus of advancing science and ethical considerations will come with increasing frequency. How can they not? Every day we unlock more of the mysteries of human life and more ways to promote and enhance our health. This compels profound questions—moral questions that we understandably struggle with both as individuals and as a body politic.

How we answer these questions today—and whether, in the end, we get them right—impacts the promise not only of current research, but of future research, as well. It will define us as a civilized and ethical society forever in the eyes of history. We are, after all, laying the foundation of an age in human history that will touch our individual lives far more intimately than the Information Age and even the Industrial Age before it.

Answering fundamental questions about human life is seldom easy. For example, to realize the promise of my own field of heart transplantation and at the same time address moral concerns introduced by new science, we had to ask the question: How do we define "death?" With time, careful thought, and a lot of courage from people who believed in the promise of transplant medicine, but also understood the absolute necessity for a proper ethical framework, we answered that question, allowed the science to advance, and have since saved tens of thousands of lives.

So when I remove the human heart from someone who is brain dead, and I place it in the chest of someone whose heart is failing to give them new life, I do so within an ethical construct that honors dignity of life and respect for the individual.

Like transplantation, if we can answer the moral and ethical questions about stem cell research, I believe we will have the opportunity to save many lives and make countless other lives more fulfilling. That is why we must get our stem cell policy right—scientifically and ethically. And that is why I stand on the floor of the U.S. Senate today.

Four years ago, I came to this floor and laid out a comprehensive proposal to promote stem cell research within a thorough framework of ethics. I proposed 10 specific interdependent principles. They dealt with all types of stem cell research, including adult and embryonic stem cells.

As we know, adult stem cell research is not controversial on ethical

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

grounds—while embryonic stem cell research is. Right now, to derive embryonic stem cells, an embryo—which many, including myself, consider nascent human life—must be destroyed. But I also strongly believe—as do countless other scientists, clinicians, and doctors—that embryonic stem cells uniquely hold specific promise for some therapies and potential cures that adult stem cells cannot provide.

I will come back to that later. Right now, though, let me say this: I believe today—as I believed and stated in 2001, prior to the establishment of current policy—that the Federal Government should fund embryonic stem cell research. And as I said 4 years ago, we should Federally fund research only on embryonic stem cells derived from blastocysts leftover from fertility therapy, which will not be implanted or adopted but instead are otherwise destined by the parents with absolute certainty to be discarded and destroyed.

Let me read to you my fifth principle as I presented it on this floor 4 years ago: No. 5. Provide funding for embryonic stem cell research only from blastocysts that would otherwise be discarded. We need to allow Federal funding for research using only those embryonic stem cells derived from blastocysts that are left over after in vitro fertilization and would otherwise be discarded (CONG. REC. 18 July 2001: S7847).

I made it clear at the time, and do so again today, that such funding should only be provided within a system of comprehensive ethical oversight. Federally funded embryonic research should be allowed only with transparent and fully informed consent of the parents. And that consent should be granted under a careful and thorough Federal regulatory system, which considers both science and ethics. Such a comprehensive ethical system, I believe, is absolutely essential. Only with strict safeguards, public accountability, and complete transparency will we ensure that this new, evolving research unfolds within accepted ethical bounds.

My comprehensive set of 10 principles, as outlined in 2001 (CONG. REC. 18 July 2001: S7846–S7851) are as follows: (1) Ban embryo creation for research; (2) continue funding ban on derivation; (3) ban human cloning; (4) increase adult stem cell research funding; (5) providing funding for embryonic stem cell research only from blastocysts that would otherwise be discarded; (6) require a rigorous informed consent process; (7) limit number of stem cell lines; (8) establish a strong public research oversight system; (9) require ongoing, independent scientific and ethical review; (10) strengthen and harmonize fetal tissue research restrictions.

That is what I said 4 years ago, and that is what I believe today. After all, principles are meant to stand the test of time—even when applied to a field changing as rapidly as stem cell research.

I am a physician. My profession is healing. I have devoted my life to attending to the needs of the sick and suffering and to promoting health and well being. For the past several years I have temporarily set aside the profession of medicine to participate in public policy with a continued commitment to heal.

In all forms of stem cell research, I see today, just as I saw in 2001, great promise to heal. Whether it is diabetes, Parkinson's disease, heart disease, Lou Gehrig's disease, or spinal cord injuries, stem cells offer hope for treatment that other lines of research cannot offer.

Embryonic stem cells have specific properties that make them uniquely powerful and deserving of special attention in the realm of medical science. These special properties explain why scientists and physicians feel so strongly about support of embryonic as well as adult stem cell research.

Unlike other stem cells, embryonic stem cells are "pluripotent." That means they have the capacity to become any type of tissue in the human body. Moreover, they are capable of renewing themselves and replicating themselves over and over again—indefinitely.

Adult stem cells meet certain medical needs. But embryonic stem cells—because of these unique characteristics—meet other medical needs that simply cannot be met today by adult stem cells. They especially offer hope for treating a range of diseases that require tissue to regenerate or restore function.

On August 9, 2001, shortly after I outlined my principles (CONG. REC. 18 July 2001: S7846–S7851), President Bush announced his policy on embryonic stem cell research. His policy was fully consistent with my ten principles, so I strongly supported it. It federally funded embryonic stem cell research for the first time. It did so within an ethical framework. And it showed respect for human life.

But this policy restricted embryonic stem cell funding only to those cell lines that had been derived from embryos before the date of his announcement. In my policy I, too, proposed restricting number of cell lines, but I did not propose a specific cutoff date. Over time, with a limited number of cell lines, would we be able to realize the full promise of embryonic stem cell research?

When the President announced his policy, it was widely believed that 78 embryonic stem cell lines would be available for Federal funding. That has proven not to be the case. Today only 22 lines are eligible. Moreover, those lines unexpectedly after several generations are starting to become less stable and less replicative than initially thought; they are acquiring and losing chromosomes, losing the normal karyotype, and potentially losing growth control. They also were grown on mouse feeder cells, which we have learned since, will likely limit their future potential for clinical therapy in humans (e.g., potential of viral contamination).

While human embryonic stem cell research is still at a very early stage, the limitations put in place in 2001 will, over time, slow our ability to bring potential new treatments for certain diseases. Therefore, I believe the President's policy should be modified. We should expand federal funding—and thus NIH oversight—and current guidelines governing stem cell research, carefully and thoughtfully staying within ethical bounds.

During the past several weeks, I have made considerable effort to bring the debate on stem cell research to the Senate floor, in a way that provided colleagues with an opportunity to express their views on this issue and vote on proposals that reflected those views. While we have not yet reached consensus on how to proceed, the Senate will likely consider the Stem Cell Research Enhancement Act, which passed the House in May by a vote of 238 to 194, at some point this Congress. This bill would allow Federal funding of embryonic stem cell research for cells derived from human embryos that: (1) are created for the purpose of fertility treatments; (2) are no longer needed by those who received the treatments; (3) would otherwise be discarded and destroyed; (4) are donated for research with the written, informed consent of those who received the fertility treatments, but do not receive financial or other incentives for their donations.

The bill, as written, has significant shortcomings, which I believe must be addressed.

First, it lacks a strong ethical and scientific oversight mechanism. One example we should look to is the Recombinant DNA Advisory Committee—RAC—that oversees DNA research. The RAC was established 25 years ago in response to public concerns about the safety of manipulation of genetic material through recombinant DNA techniques. Compliance with the guidelines—developed and reviewed by this oversight board of scientists, ethicists, and public representatives—is mandatory for investigators receiving NIH funds for research involving recombinant DNA.

Because most embryonic stem cell research today is being performed by the private sector—without NIH Federal funding—there is today a lack of ethical and scientific oversight that routinely accompanies NIH-Federal funded research.

Second, the bill doesn't prohibit financial or other incentives between scientists and fertility clinics. Could such incentives, in the end, influence the decisions of parents seeking fertility treatments? This bill could seriously undermine the sanctity of the informed consent process.

Third, the bill doesn't specify whether the patients or clinic staff or anyone else has the final say about whether an embryo will be implanted or will be discarded. Obviously, any decision about the destiny of an embryo must clearly and ultimately rest with the parents.

These shortcomings merit a thoughtful and thorough rewrite of the bill. But as insufficient as the bill is, it is fundamentally consistent with the principles I laid out more than four years ago. Thus, with appropriate reservations, I will support the Stem Cell Research Enhancement Act.

I am pro-life. I believe human life begins at conception. It is at this moment that th organism is complete—yes, immature—but complete. An embryo is nascent human life. It is genetically distinct. And it is biologically human. it is living. This position is consistent with my faith. But, to me, it isn't just a matter of faith. It is a fact of science.

Our development is a continuous process—gradual and chronological. We were all once embryos. The embryo is human life at its earliest stage of development. And accordingly, the human embryo has moral significance and moral worth. It deserves to be treated with the utmost dignity and respect.

I also believe that embryonic stem cell research should be encouraged and supported. But, just as I said in 2001, it should advance in a manner that affords all human life dignity and respect—the same dignity and respect we bring to the table as we work with children and adults to advance the frontiers of medicine and health.

Congress must have the ability to fully exercise its oversight authority on an ongoing basis. And policymakers, I believe, have a responsibility to reexamine stem cell research policy in the future and, if necessary, make adjustments.

This is essential, in no small part, because of promising research not even imagined four years ago. Exciting techniques are now emerging that may make it unnecessary to destroy embryos—even those that will be discarded anyway—to obtain cells with the same unique "pluripotential" properties as embryonic stem cells.

For example, an adult stem cell could be "reprogrammed" back to an earlier embryonic stage. This, in particular, may prove to be the best way, both scientifically and ethically, to overcome rejection and other barriers to effective stem cell therapies. To me—and I would hope to every member of this body—that's research worth supporting. Shouldn't we want to discover therapies and cures—given a choice—through the most ethical and moral means?

So let me make it crystal clear: I strongly support newer, alternative means of deriving, creating, and isolating pluripotent stem cells—whether they are true embryonic stem cells or stem cells that have all of the unique properties of embryonic stem cells.

With more Federal support and emphasis, these newer methods, though still preliminary today, may offer huge scientific and clinical pay-offs. And just as important, they may bridge moral and ethical differences among people who now hold very different views on stem cell research because they totally avoid destruction of any human embryos.

These alternative methods of potentially deriving pluripotent cells include: (1) Extraction from embryos that are no longer living; (2) non-lethal and nonharmful extraction from embryos; (3) extraction from artificially created organisms that are not embryos, but embryo-like; (4) reprogramming adult cells to a pluripotent state through fusion with embryonic cell lines.

Now, to date, adult stem cell research is the only type of stem cell research that has resulted in proven treatments for human patients. For example, the multi-organ and multi-tissue transplant center that I founded and directed at Vanderbilt University Medical Center performed scores of life-saving bone marrow transplants every year to treat fatal cancers with adult stem cells.

And stem cells taken from cord blood have shown great promise in treating leukemia, myeloproliferative disorders and congenital immune system disorders. Recently, cord blood cells have shown some ability to become neural cells, which could lead to treatments for Parkinson's disease and heart disease.

Thus, we should also strongly support increased funding for adult stem cell research. I am a cosponsor of a bill that will make it much easier for patients to receive cord blood cell treatments.

Adult stem cells are powerful. They have effectively treated many diseases and are theoretically promising for others. But embryonic stem cells—because they can become almost any human tissue ("pluripotent") and renew and replicate themselves infinitely—are uniquely necessary for potentially treating other diseases.

No doubt, the ethical questions over embryonic stem cell research are profound.They are challenging. They merit serious debate. And not just on the Senate floor, but across America—at our dining room tables, in our community centers, on our town squares.

We simply cannot flinch from the need to talk with each other, again and again, as biomedical progress unfolds and breakthroughs are made in the coming years and generations. The promise of the Biomedical Age is too profound for us to fail.

That is why I believe it is only fair, on an issue of such magnitude, that senators be given the respect and courtesy of having their ideas in this arena considered separately and cleanly, instead of in a whirl of amendments and complicateliamentary maneuvers. I have been working to bring this about for the last few months. I will continue to do so.

And when we are able to bring this to the floor, we will certainly have a serious and thoughtful debate in the Senate. There are many conflicting points of view. And I recognize these differing views more than ever in my service as majority leader: I have had so many individual and private conversations with my colleagues that reflect the diversity and complexity of thought on this issue.

So how do we reconcile these differing views? As individuals, each of us holds views shaped by factors of intellect, of emotion, of spirit. If your daughter has diabetes, if your father has Parkinson's, if your sister has a spinal cord injury, your views will be swayed more powerfully than you can imagine by the hope that cure will be found in those magnificent cells, recently discovered, that today originate only in an embryo.

As a physician, one should give hope—but never false hope. Policymakers, similarly, should not overpromise and give false hope to those suffering from disease. And we must be careful to always stay within clear and comprehensive ethical and moral guidelines—the soul of our civilization and the conscience of our nation demand it.

Cure today may be just a theory, a hope, a dream. But the promise is powerful enough that I believe this research deserves our increased energy and focus. Embryonic stem cell research must be supported. It is time for a modified policy—the right policy for this moment in time.

The PRESIDING OFFICER (Mr. ISAKSON). The Democratic leader.

Mr. REID. Mr. President, before the distinguished majority leader leaves the floor, I want to, through the Chair, express to him my appreciation for the courageous statement he made. It was a moral decision made by the majority leader of the Senate. His decision will bring hope to millions of Americans who face these terrible diseases, and it has even more meaning as a result of the medical background the Senator from Tennessee has.

I know there is still a long way to go legislatively, but a large step has been taken by the majority leader today to give hope to the people of Nevada who suffer from these diseases, the people from Georgia, Pennsylvania, Tennessee, and all over America. I admire the majority leader for doing this.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I congratulate my distinguished colleague, Senator FRIST. I believe the speech which he has made on the Senate floor is the most important speech made this year and perhaps the most important speech made for many years because this issue of embryonic stem cell research is the difference between life and death.

When Senator FRIST says what he has stated this morning, it has an enormous impact as to science because of his unique position and respected position as a scientist, as a doctor, as a medical researcher, but enormous impact on Government. I use the word "government" instead of "politics" because this has an impact on Government when the majority leader is taking the position which he has taken. I believe it is especially weighty because of the thoughtfulness, the deliberation, and the time he has utilized bringing all of his abilities to bear—his considerable abilities to bear. The thoughtfulness and deliberation emphasizes the importance of what he has said.

On a personal note, I have had an opportunity to talk with Senator FRIST about it many times over the course of the past 4 years. I know how he has wrestled with this issue and how conscientious he is in his judgment.

One final comment, and that is, Dr. FRIST, Senator FRIST, Majority Leader FRIST's comments will reverberate far and wide, around the world. This is a speech which will be heard around the world, including at the White House. I have had the opportunity to talk with the President on this issue on a number of occasions. He was in Pennsylvania 44 times last year, and I had a good opportunity to talk with him in the car and on the plane. The President made a very important decision on August 9 of 2001 on liberating some 63 stem cell lines. There is some discussion as to how many there were. Sixty-three was the initial line. I know the President will listen to what Senator FRIST has to say. I am not saying he is going to agree with it. But what Senator FRIST has had to say is weighty and I think may bring us all together on this issue. So I congratulate my distinguished leader.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I, too, wish to recognize the comments made by the majority leader this morning and to thank him for his call for a ban on human cloning, which was one of the principles that he outlined when he spoke this morning. I am interested in bringing this important topic to the Senate floor for debate.

I would note a couple of points about the different issues we face when we consider the many new aspects of evolving science. Yesterday morning's Washington Post found pluripotent adult stem cells being able to make eggs. Also, the June edition of the Science journal talks about the antibodies and the alleged problems with embryonic stem cell lines that are currently being developed. This article states that the concern with the lines being built on mouse feeder cells is overblown, and that those concerns are overstated. In addition, I think more of these lines may end up being available.

I note for my colleagues and the Majority Leader, whom I regard very highly—he is a brilliant individual and works very hard—that he articulated 10 principles regarding ethics in research and medical treatment, and I appreciate them. I was there 4 years ago when the Majority Leader articulated the 10 principles—this is before he was Majority Leader—and he has stuck by them today.

However, there is a basic principle involved that is here, and that is whether or not a young, living human embryo is a life or a piece of property. And how is it going to be treated? I think we have to deal with the precursor principles before we can go ahead with unrestricted research on this issue. Even as carefully as such research may be drawn, one has to make this determination: Is it life?

Is it person or property? It is one or another. If it is person, respect it as a person. If it is property, it can be done with as its master chooses. That is the principle we have to dig into first. I hope we can get into that in the upcoming debate we will conduct on the entire range of these issues, hopefully on the entire range of human cloning and adult stem cell research—adult stem cell research, where we have 65 human treatments currently taking place.

I appreciate the comments of my colleagues. I do differ on the need to expand embryonic stem cell research.

I ask unanimous consent to print in the RECORD the three items that I referenced.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### BENEFITS OF STEM CELLS TO HUMAN PATIENTS—ADULT STEM CELLS V. EMBRYONIC STEM CELLS (PUBLISHED TREATMENTS IN HUMAN PATIENTS)

ADULT STEM CELLS: 65—ESCR:0

*Cancers*

1. Brain Cancer
2. Retinoblastoma
3. Ovarian Cancer
4. Skin Cancer: Merkel Cell Carcinoma
5. Testicular Cancer
6. Tumors abdominal organs Lymphoma
7. Non-Hodgkin's lymphoma
8. Hodgkin's Lymphoma
9. Acute Lymphoblastic Leukemia
10. Acute Myelogenous Leukemia
11. Chronic Myelogenous Leukemia
12. Juvenile Myelomonocytic Leukemia
13. Cancer of the lymph nodes: Angioimmunoblastic Lymphadenopathy
14. Multiple Myeloma
15. Myelodysplasia
16. Breast Cancer
17. Neuroblastoma
18. Renal Cell Carcinoma
19. Various Solid Tumors
20. Soft Tissue Sarcoma
21. Waldenstrom's macroglobulinemia
22. Hemophagocytic lymphohistiocytosis
23. POEMS syndrome

*Auto-Immune Diseases*

24. Multiple Sclerosis
25. Crohn's Disease
26. Scleromyxedema
27. Scleroderma
28. Rheumatoid Arthritis
29. Juvenile Arthritis
30. Systemic Lupus
31. Polychondritis
32. Sjogren's Syndrome
33. Behcet's Disease.
34. Myasthenia
35. Autoimmune Cytopenia
36. Systemic vasculitis
37. Alopecia universalis

*Cardiovascular*

38. Heart damage

*Ocular*

39. Corneal regeneration

*Immunodeficiencies*

40. X-Linked hyper immunoglobuline-M Syndrome
41. Severe Combined Immunodeficiency Syndrome
42. X-linked lymphoproliferative syndrome

*Neural Degenerative Diseases/Injuries*

43. Parkinson's disease
44. Spinal cord injury
45. Stroke damage

*Anemias/Blood Conditions*

46. Sickle cell anemia
47. Sideroblastic anemia
48. Aplastic Anemia
49. Amegakaryocytic Thrombocytopenia
50. Chronic Epstein-Barr Infection
51. Fanconi's Anemia
52. Diamond Blackfan Anemia
53. Thalassemia Major
54. Red cell aplasia
55. Primary Amyloidosis

*Wounds/Injuries*

56. Limb gangrene
57. Surface wound healing
58. Jawbone replacement
59. Skull bone repair

*Other Metabolic Disorders*

60. Osteogenesis imperfecta
61. Sandhoff disease
62. Hurler's syndrome
63. Krabbe Leukodystrophy
64. Osteopetrosis
65. Cerebral X-linked adrenoleukodystrophy

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[From Science Magazine, June 10, 2005]

### READY OR NOT? HUMAN ES CELLS HEAD TOWARD THE CLINIC

Shortly before Congressman James Langevin cast his vote last month to relax federal rules on funding of stem cell research, the Rhode Island Democrat told his colleagues, "I believe one day I will walk again." Langevin, who has been paralyzed since a gun accident at age 16, pleaded with his colleagues to vote with him. "Stem cell research gives us hope and a reason to believe. . . . We have a historic opportunity to make a difference for millions of Americans."

With impassioned pleas like this, high-stakes battles in Congress, and billions of private and state dollars pouring into research on human embryonic stem (hES) cells, it often seems their therapeutic applications must be just around the corner. But a careful parsing of the claims from even the strongest advocates reveals the caveat "someday."

How soon that someday might arrive is far from clear. Scientists are nearly unanimous that the study of hES cells will illuminate human development and disease. But whether the cells will actually be used to cure patients like Langevin is less certain. Cell therapies are more complicated than drugs, and hES cells, which have the potential to become any cell type in the body, carry special risks.

"The most sobering thing about [hES] cells is their power," says neuroscientist Clive Svendsen of the University of Wisconsin, Madison, who works with both fetal and embryonic stem cells. The extreme flexibility and capacity for growth characteristic of ES cells makes them ideal for producing large quantities of therapeutic cells to treat, say, diabetes or spinal cord injuries. But these same traits also increase the risk that renegade cells could, as they have in animal studies, cause unwanted side effects, ending up in the wrong place or even sparking cancerous growth. "You have to learn to control that power in the dish" before thinking about putting the cells into patients, says Svendsen.

For that reason, most groups say they are at least five or, more likely, 10 years away from clinical trials. But one company is challenging that timeline. Geron in Menlo Park, California, says its animal studies suggest that stem cell therapy can be safe and might be effective for a select group of patients. The company hopes to start clinical trials of hES cells to treat spinal cord injuries as early as summer 2006. Already, the company is in discussions with the Food and Drug Administration (FDA), which is attempting to set safety standards for the field. Potential treatments with human ES cells face the same difficulties as all cell therapies, notes Malcolm Moos of FDA's division of cellular and gene therapies: There are few standardized techniques to measure the purity or potency of a cell population that would be delivered to a patient.

Most stem cell researchers view Geron's plans with hefty skepticism and caution that a premature rush to patients could seriously damage the already-controversial field. And it is far from clear whether FDA will allow the trial to proceed. But Geron, which funded the researchers who isolated the first hES cells in 1998, has several reasons to push ahead; the company holds a number of patents and exclusive licenses that give it more freedom—and more incentive—to develop possible products from hES cells. And whatever the outcome, scientists agree, Geron's ambitious plans will offer a test case of the hurdles scientists will have to overcome to prove that hES therapies are both safe and effective.

Even the skeptics say Geron chose a plausible target for the first trial, as spinal cord injuries may be significantly easier to tackle than diseases such as diabetes or Parkinson's. The trials would be based on work led by Hans Keirstead, a neuroscientist at the University of California, Irvine, who proved a persuasive spokesperson for the field during the campaign for California's Proposition 71, which provides $3 billion in funding for hES cell research.

During last fall's campaign, Keirstead described his then-unpublished work, showing videos of rats with spinal cord injuries that had regained some mobility after injections of cells derived from hES cells. "I am extremely enthusiastic," Keirstead says. "I am past the point of hope. In my mind the question is when. What we are seeing in these animal models is tremendous."

Keirstead and his colleagues, with funding and technical support from Geron, have developed a protocol that encourages hES cells to differentiate into cells called oligodendrocyte precursors. These cells can form oligodendrocytes, the cells that, among other functions, produce the protective myelin sheath that allows neurons to send signals along their axons. This sheath is often lost during spinal cord injuries.

In a paper last month in the Journal of Neuroscience, Keirstead's team reported that these precursors, when injected into the spinal cord, could help improve recovery of rats that had suffered spinal cord injury. The cells aren't replacing injured neurons, Keirstead says, but are encouraging the natural healing process, presumably by restoring some of the myelination. Earlier studies in mice (Science, 30 July 1999, p. 754) showed that injecting mouse cells destined to form oligodendrocytes into injured or diseased animals could restore some myelination; Keirstead's team is the first to show that human ES cells can have similar effects.

For newly injured rats, the results are promising. In animals that received oligodendrocyte precursors 7 days after their injury, the cells survived and apparently helped repair the spinal cord's myelin. Within 2 weeks, treated rats scored significantly better on standardized movement tests than control animals, which had received human fibro-blasts or a cell-free injection.

But when the researchers injected cells 10 months after the injury, they saw no effect-sobering news for people like Langevin suffering from old injuries. The cells survived but were apparently unable to repair the long-term damage. For that reason, Keirstead says, Geron's proposed clinical trial would target newly injured patients.

The phase I trial, if it goes forward, will probably include only a handful of patients and, most importantly, Keirstead emphasizes, will not cure anyone. Its primary goal is to show that the treatment can be safe. "The public and scientists must realize that these are the first attempts," Keirstead says. "No one is expecting them to cure. We are expecting them to treat, but we have no idea what the level of response is going to be."

Proving safety is a tall enough order. In numerous animal studies, ES cells from mice and humans have proved difficult to control, differentiating into the wrong kind of cell, for instance, or migrating away from the injection site.

In its spinal cord trial, Geron plans to inject ES-derived cells that can form just a single cell type, an approach that may circumvent some of these problems. For a full recovery, patients are likely to need new neurons as well as other support cells called astrocytes, but using precursors that differentiate into all three types of nerve cells can be problematic. In several rodent studies, partially differentiated mouse ES cells injected into the spinal cord have formed neurons, astrocytes, and oligodendrocytes and have helped animals recover from spinal cord injuries. But more recently, neural stem cells derived from adult animals which also differentiate into the three cell types-have caused problems. As Christoph Hofstetter of the Karolinska Institute in Stockholm, Sweden, and his colleagues reported in Nature Neuroscience in March, neural stem cell treatments led to some recovery in rats' paralyzed hind legs, but the animals also developed a chronic pain sensitivity in their forelegs, which had been unaffected by the injury. In other experiments, preventing the formation of astrocytes seemed to eliminate the side effect, highlighting the importance of proper differentiation, Svendsen says.

Perhaps the biggest worry is that hES therapies will spur tumor formation. One of the defining characteristics of ES cells is that they form disorganized tumors, called teratomas, when injected in undifferentiated form under the skin of immune-compromised mice. "The ES cell is basically a tumor-forming cell," says neuroscientist Anders Bjorklund of Lund University in Sweden. "This aspect has to be dealt with seriously before the cells are applied in the clinic." Even a benign tumor in the central nervous system would be serious, says Svendsen: "Any sort of growth in the spinal cord is not good news."

But Keirstead believes he has solved those problems. The key, he says, is a differentiation procedure that he claims produces cell populations in which 97% of cells express genes typical of oligodendrocyte precursors. "Teratomas are a real possibility if you put in naive stem cells," he acknowledges. "But that is the science of yesteryear. No one is even considering putting in any naïve ES cells." Keirstead and his colleagues say in their paper that they found no evidence that their specialized cells formed astrocytes or neurons after injection. The team is also checking whether any of the injected cells leave the spinal cord. So far, Keirstead says, they seem to stay close to the site of injection.

Keirstead's paper is promising, Svendsen says, but he's not convinced the work is ready for patients. "It didn't go into the detail you'd like to see before a clinical trial," he says. The catch is that it's hard to be sure that a population of several million cells is free of any undifferentiated stragglers. To evaluate the risk of tumors, Keirstead and his colleagues are testing the differentiated cells in nude mice: animals bred to lack an immune system. If the animals live for a year without signs of teratomas, then Keirstead says he will feel confident that the cells are safe to try in humans.

Several teams are making headway addressing another problem: possible animal contamination. To date, almost all human ES cell lines have been exposed to animal products. Cultured cells are often kept alive with fetal calf serum, for instance, and most hES cell lines have been grown on layers of mouse cells called feeder cells, which provide the key proteins that prevent ES cells from differentiating.

These techniques have sparked worries that hES cell therapies could introduce exotic animal viruses into patients. In response, several teams, including Geron, have recently developed ways to grow new cell lines either on human feeder layers or without feeder cells at all.

But the older cell lines have the advantage of being better characterized, says Geron CEO Thomas Okarma. That's why the company plans to use one of the original lines derived by James Thomson of the University of Wisconsin, Madison, in its first clinical trial. To reduce the risk of contamination, the company has been growing these cells for more than a year without any feeder cells.

That may suffice for FDA, which has said that past exposure to animal cells does not disqualify ES cell lines from clinical use as long as certain safety standards are met.

Okarma says Geron can demonstrate that its cells are uncontaminated. His claim is bolstered by a paper by another group published last week in Stem Cells. Joseph Itskovitz-Eldor of Technion-Israel Institute of Technology in Haifa and his colleagues tested five hES cell lines and several cultures of mouse feeder cells for signs of murine retroviruses, which lurk in the genome of all mouse cells. Although the team identified receptors for the so-called mouse leukemia viruses, they found no evidence that the virus had infected any of the human cells, even after growing on mouse feeders for years. Animal products still may pose a risk, says Itskovitz-Eldor. But the new work shows that "the cells can be tested, and we believe it will be possible to use them clinically."

More recently, researchers identified another potential downside to using mouse feeder cells. In February, Fred Gage and his colleagues at the Salk Institute for Biological Studies in La Jolla, California, reported that hES cells grown with mouse feeders expressed a foreign sugar molecule on their cell surface. Because humans carry antibodies to the molecule, the researchers suggested that it might tag the cells for destruction by the human immune system. If so, then any therapy created with existing cell lines was unlikely to succeed. But Keirstead, Okarma, and others now say that those concerns, widely reported, may have been overstated. Gage and his noted that the sugar gradually disappears once cells are removed from the feeder layers. Keirstead says that once cells are removed from mouse feeder layers for several months, the sugar disappears. Okarma adds that cells in Geron's feeder-free cultures have no sign of the foreign molecule.

Finally, some scientists worry that ES cells might acquire harmful new mutations in culture, a common phenomenon with almost all cultured cells. Although ES cells "are probably 100 times more stable than adult stem cells in culture, they're not perfect," cautions Mahendra Rao of the National Institute on Aging in Baltimore, Maryland. Such mutations would be particularly hard to detect ahead of time.

FDA, meanwhile, is trying to set safety standards for this burgeoning field. The agency announced in 2000 that cell therapies involving stem cells from embryos or adults would be regulated as drugs, not as surgical techniques. That means that researchers will have to meet certain standards of purity and potency. For most drugs, those standards are straightforward to set and easy to measure. Cellular products are much more complicated. — — —

### STILL WAITING THEIR TURN

Even enthusiasts agree that Geron's goal—to begin testing a human embryonic stem (hES) cell therapy in patients with spinal cord injury within a year—is a long shot. Prospects are more distant for using stem cells to treat other diseases, such as diabetes, Parkinson's disease, amyotrophic lateral scleroris (ALS), and multiple sclerosis (MS). None is likely to reach the clinic for at least 5 to 10 years, most scientists in the field agree. And that's assuming abundant funding and faster-than-expected scientific progress.

Some of the strongest advocates for hES cell research are those hoping to find a cure for type 1 diabetes. The driving force behind California's Proposition 71, Robert Klein, says, for example, that his primary motivation is to find a cure for his diabetic son. Diabetes kills the pancreas's B cells, which regulate the amount of insulin in the blood. Patients have to take frequent insulin injections and face many complications, including kidney failure and blindness. Replacing the missing cells could cure the disease. Initial trials using B-cell transplant from cadavers have shown promise, but side effects and the transplants' limited life span has dampened enthusiasm (Science, 1 October 2004, p. 34). And even if the therapy worked perfectly, each transplant requires cells from multiple cadavers. So researchers are looking for renewable sources of cells that could treat the millions of patients who might benefit.

In theory, hES cells fit the bill nicely. In practice, however, although several groups have managed to coax mouse ES cells to differentiate into cells that make insulin, no one has yet managed to derive bona fide B cells from either mouse or human ES cells. One reason may be that unlike nerve cells or heart muscle cells, pancreatic cells are some of the last to develop during pregnancy. In mice, the cells appear on day 15 or 16, just a day or two before birth, and in humans, they appear in the 5th or 6th month. "If the road is longer, the possibility of getting lost is much higher," explains Bernat Soria of Miguel Hernández University of Alicante, Spain, who has tried to produce B-like cells from both mouse and human ES cells. Fortunately , says Soria, the cells may not have to be perfect: several types of insulin-producing cells have helped alleviate diabetes symptoms in mice.

But there is no leeway when it comes to safety. Diabetes is a chronic but not inevitably deadly disease, so any cell therapy must be safer and more effective than insulin shots. "We don't have a cure, but we have a treatment," Soria says. "Despite the strong pressure we have from patients and families, the need for cell therapy is not as strong.

Scientists have already attempted to use cell therapies to treat Parkinson's disease, which attacks neurons in the brain that produce the neurotransmitter dopamine, leaving patients increasingly unable to move. In a handful or clinical trials in the last decade, physicians implanted dopamine-producing cells from fetal tissue—with decidely mixed results. Whereas some patients showed significant improvement, others show little or none. And some developed serious side effects including uncontrollable jerky movements. Scientists aren't yet sure what went wrong, although some suspect that patients may have received either too many or too few fetal cells, which are difficult to characterize in the lab.

Dopamine-producing neurons derived from ES cells could provide an unlimited and well-characterized source of cells. And a trial in monkeys from a team at Kyoto University found that dopamine-producing neurons grown from monkey ES cells could improve animals' symptoms. But before ES-derived cells are tested in Parkinson's patients, scientists need to understand more about how the transplanted cells are behaving in the brain, says neuroscientist Anders Bjorklund of Lund University in Sweden. "The knowledge is just not good enough yet to justify any clinical trials" with hES cells, he says.

Patients and doctors facing the nightmare of ALS may be willing to accept higher risks associated with early hES cell treatments. There is no effective treatment for this invariably fatal disease that kills motor neurons, and patients usually die within 5 years of a diagnosis. But "ALS is an order of magnitude harder than other diseases" to treat with cell therapy, says motor disease specialist Douglas Kerr of Johns Hopkins University in Baltimore, Maryland. Doctors still aren't sure what causes the disease, and even if scientists could coax stem cells to replace the lost motor neurons—"a pretty tall order," Kerr says—any new neurons could be subject to the same deadly assault. More promising, he says, would be a cell or a mixture of cells that might somehow help slow the damage, but no one is sure what that might look like.

Treating MS has similar challenges, says Hans Keirstead of the University of California, Irvine, who is working with Geron on its possible spinal cord injury trial. "We're much farther away from treating MS with stem cells," he says. Like spinal cord injuries, the disease attacks the myelin sheath around nerve cells, and injected oligodendrocyte precursors have shown positive effects in animal models. But the human situation is more complicated, Keirstead says. Nerves damaged by MS are already surrounded by oligodendrocyte precursors, but something stops the cells from working. Indeed, Keirstead, who is relentlessly optimistic about the prospects of helping spinal cord injury patients, sounds much more sober about the prospects for other patients. "When I look at the work with Parkinson's, MS, and stroke, I think spinal cord injuries are very amenable to these strategies. The rest of the central nervous system is not."

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[From the Washington Post, July 28, 2005]

### SCIENTISTS CLAIM TO FIND CELLS THAT RESTORE EGG PRODUCTION

(By Rob Stein)

A team of Harvard scientists is claiming the discovery of a reservoir of cells that appear capable of replenishing the ovaries of sterilized mice, possibly providing new ways to help infertile women have babies.

While cautioning that more research is needed to confirm that similar cells exist in women and that they can safely restore fertility, the researchers said the findings could revolutionize the understanding of female reproduction and the power to manipulate it.

"This may launch a new era in how to think about female infertility and menopause," said Jonathan L. Tilly, a reproductive biologist at Harvard Medical School and Massachusetts General Hospital in Boston who led the research. It is being published in tomorrow's issue of the journal Cell.

Other researchers agreed that the findings could have profound implications, but several expressed caution and skepticism, saying many key questions remain about whether the researchers have proved their claims.

"This is really exciting and a revolutionary idea. The implications are potentially huge," said Lawrence Nelson of the National Institute of Child Health and Human Development. "But before this could have any type of application to humans, a whole lot of work has to be done. We have to be careful not to get ahead of ourselves."

But Tilly said he was confident of his findings, which could, for example, enable women to bank egg-producing cells when they are young in case they have health problems that leave them infertile or they get too old.

"In theory, these cells could provide an insurance policy. We could harvest them and store them away for 20 years. Then you put them back in, and they are going to do exactly what they are supposed to—find the ovaries and generate new eggs" to restore fertility, Tilly said.

The discovery could also lead to ways to prevent, delay or reverse menopause, perhaps by stimulating dormant cells in the bone marrow or "tweaking" the ovaries to accept them, Tilly said. It may also be possible to transplant them from one woman to another, he said.

In addition, because the cells appear to be a particularly versatile type of adult stem cell, they could provide an alternative to those obtained from embryos, avoiding the political and ethical debates raging around the use of those cells.

"The implications are mind-boggling, really," Tilly said.

The research is a follow-up to results the team reported in March 2004, when it claimed it had shown that mice can produce eggs throughout their lives. For decades, scientific dogma has been that female mammals such as mice and humans are born with a finite number of eggs. To alleviate doubts about their original claim, the researchers conducted another round of experiments, which they said confirm the findings and explain how it might work.

First, the scientists sterilized female mice with a cancer chemotherapy drug that destroyed eggs in the ovaries but spared any egg-producing cells elsewhere. They tested the animals' ovaries 12 to 24 hours later and found signs their egg supply was rapidly regenerating. Two months later, the animals' ovaries looked normal, and they remained that way for life.

After tests indicated the source of the cells may lie in the animals' bone marrow, the researchers infused marrow from healthy mice into those that were either genetically engineered to be infertile or had been made infertile with chemotherapy. Two months later, the recipients' ovaries looked normal, whereas those that had not received the transplants remained barren, the researchers reported. Blood transfusions produced similar results, they said.

The researchers then infused blood into infertile mice from animals that had been genetically engineered so that their reproductive stem cells glowed fluorescent green. Within two days, green egg cells appeared in the recipients' ovaries, which the researchers said indicated the cells had traveled through the blood to the ovaries.

Finally, the researchers screened human bone marrow and blood from healthy women and found that both tested positive for biological markers indicating the presence of immature reproductive cells.

"Mice and humans appear to be the same—they appear to have a set of genes in bone marrow consistent with . . . cells that can make themselves a new egg," Tilly said.

The findings could help explain previously mysterious cases of women sterilized by cancer treatment who spontaneously became pregnant after receiving bone marrow transplants, Tilly said. This may happen only rarely because some, but not all, techniques used to process bone marrow before transplantation may destroy the cells in some cases, he speculated.

The research triggered a mixture of excitement, caution and deep skepticism.

"It's quite amazing," said Hans Schoeler of the Max Planck Institute in Germany. "The idea that cells from bone marrow may be a reservoir for egg cells would be quite astonishing."

But Schoeler and other researchers cautioned that many crucial questions remained. Several researchers had doubts about some of the techniques the researchers used. Others were puzzled by the speed with which the ovaries appeared to be repopulated with eggs. Many pointed out that the researchers had failed to show the eggs were viable, the mice were ovulating or that they could give birth to healthy offspring.

"I'm very skeptical," said David F. Albertini of the University of Kansas Medical Center in Kansas City, Kan. "There are a lot of holes in the research."

Tilly attributed the skepticism to the radical nature of the findings and said he already had work underway to address the concerns, including breeding studies aimed at producing healthy offspring.

"We hope we will have the answers very soon," Tilly said.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. I ask unanimous consent to speak as if in morning business for 4 minutes.

Mr. President, this morning, the majority leader made some comments regarding stem cell research. I appreciate his comments. It was a statement of conscience. I think for each of us in the Senate this issue comes down to a statement of conscience. I believe we need to take additional steps in support of stem cell research and control it in an ethical way because it has the promise of saving lives. I therefore support the House-passed legislation that Senator SPECTER and Senator HATCH have introduced. I support the legislation that our Health, Education, Labor, and Pensions Committee has reported to the Senate for Federal support for cord blood research. I am looking forward to seeing more from Senator COLEMAN regarding his work to develop an alternative way of supporting Federal research for stem cells which already exist, but not in the future. In other words, I am looking for ways to support this important research because it has the promise of saving lives.

I am pro-life, Mr. President. I am opposed to human cloning. I will vote to criminalize human cloning. But I support this legislation that is offered by Senator HATCH and Senator SPECTER. President Bush has already said that Federal funds may be used in some cases for research on some stem cell lines derived from fertilized eggs. With the help of fertility clinics, some prospective parents use fertilized eggs to help them have children. Those excess eggs that these parents do not use are often thrown away. I support using some of those fertilized eggs that would otherwise be thrown away under carefully controlled conditions with the consent of the donors for potentially lifesaving research that may help cure juvenile diabetes, Parkinson's disease, spinal injuries, and other debilitating diseases.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I thank the majority leader for his statement. I think it is extremely important that he has joined a bipartisan effort in the Senate to make progress on a critically important issue.

Senator FRIST and I have our differences politically, but I respect and admire him very much, particularly in his humanitarian efforts as a doctor. All of us in the Senate know while we may be back home in our States, he is off in some of the poorest places in the world using his medical skill to save lives. It says a lot about him. It says a lot about his heart, as does his statement this morning.

The fact he would come out and suggest that we need to move forward in stem cell research is going to give new hope to people who absolutely count on medical research for their future and for the life and well-being of members of their families.

I have had roundtable discussions in my State. I have invited people who are suffering from diabetes, Parkinson's, Lou Gehrig's disease, and from spinal cord injuries. They have all come forward to tell me how critically important stem cell research could be to making their lives whole and better.

Senator FRIST's decision today will move us toward a goal, a very important goal of establishing good lines for pursuing this research. The Castle-Degette bill, which comes from the House of Representatives, provides a conscience clause. It says neither the sperm nor egg donor can be asked to give up anything they put into the in vitro process without their consent. There must be a conscience clause included in this process. I agree with that.

We also must establish that we are opposed to human cloning, which I am, and I don't know of any Senator who disagrees. Human cloning is wrong, and we must draw strict ethical guidelines to make sure we do not cross that line.

Also, we never want to see the commercialization of this process. This is about scientific research. It is not about who is going to make a profit, and the Castle-Degette bill is very explicit in that regard.

My colleague from Kansas raises an important point. It is one he and I can debate and it can be debated for centuries about when life begins. I am not sure we will ever come to the same conclusion, but it is important we talk about it.

The thing that troubles me about this debate is that those who oppose stem cell research apparently are not prepared to criminalize in vitro fertilization. They are prepared to allow the process to move forward knowing full well in the ordinary course of events in the laboratory, there will be stem cells that cannot be used to impregnate the woman who is seeking to have a baby.

Mr. BROWNBACK. Will my colleague yield for a comment on that point?

Mr. DURBIN. When I finish my remarks, I will be happy to do so.

The point I am making is this: I have a friend, a woman I have known since she was a young girl. She is married. She and her husband were unable to bring a child into this world. They went to the doctor and said: Could in vitro be the answer? The doctor said: We can try.

They spent $40,000 trying unsuccessfully. Heartbroken, they went home and waited and saved up enough money and borrowed enough money to try again, and they were successful. They have a beautiful baby whom they love to pieces.

They went to those extraordinary lengths because of their love for one another and their desire to bring life into this world together. I cannot believe there is anything immoral about that motive or that effort by this couple and hundreds or thousands of other couples across America.

The Senator from Kansas knows and I know that in the course of in vitro fertilization for these good reasons, there will be stem cells that are not going to be used to impregnate the woman who is seeking to have the baby. Some of them are frozen for future use, many are currently discarded. If the argument from the Senator from Kansas is that they are life and, therefore, cannot be used for research, then I can't understand why the Senator is not calling for the criminalization of in vitro fertilization which necessarily leads to excess stem cells.

Mr. BROWNBACK. Mr. President, I will be happy to respond.

Mr. DURBIN. Without my yielding the floor.

Mr. BROWNBACK. If I could, Mr. President, and I thank my colleague from Illinois for engaging in the debate because I think that it is a debate that we have needed for a long time.

It appears we have agreement that life does begin at conception. Senator KERRY campaigned on that running for President.

I presume my colleague from Illinois agrees similarly. Others have argued, yes, an embryo is alive but it is not yet a life.

To say that a young human embryo is alive, but it's not yet a life, seems to be a bit of a legal fiction—if we are going that route. A young human embryo is biologically and genetically distinct. It is a separate entity. It is alive. It should be treated as either a person or a piece of property.

My colleague may know that in some countries in Europe on this IVF procedure, they are very careful about the number of eggs that can be harvested and fertilized before they are implanted. I think that would be a good process for us to pursue and to look at so that it is not a huge multiple set of lines but a much narrower group that are created—so that they are treated with the dignity and respect that life should merit and that life should have.

I think my colleague from Tennessee was saying this since he obviously referred to the entity in question as a nascent life. So let us look at that and let us start going at those areas. Would you try to lead to criminalization, and I recognize that may be a good point in the debate but that is not anywhere near where we are today. Let us begin with the young humans with respect and dignity that life merits.

Mr. DURBIN. If I could reclaim my time and respond, and then I would respond to a question from the Senator from North Dakota. The point I am making to the Senator from Kansas is—and I think probably Senator FRIST, even as a medical doctor, would say that we struggle to figure out at what moment this is life. When we are dealing with the sperm and semen and the ovum, are they live cells? Certainly, they are live cells. There is life in those cells. If they were not, they would have no value in this process.

So to say there is life in the cells does not necessarily say we are dealing with a person. At what point does this become a person? This has been debated for as long as humans have been on Earth.

The point I am trying to make is I believe we should protect life, but we better be careful that in protecting life we are not avoiding our responsibility to protect the living. What Senator FRIST is suggesting—I do not want to put words in his mouth. What I believe is that stem cell research helps us to protect the living.

I yield to the Senator from North Dakota for a question.

Mr. DORGAN. I looked forward very much to having a debate on stem cell research in the month of July. It now appears that that will not be the case. Nonetheless, I compliment the Senator from Tennessee, the majority leader, on his statement this morning.

I did want to make this point and ask a question of the Senator from Illinois. Is it not the case that those unused frozen embryos at in vitro fertilization clinics can become one of a couple of things? First and foremost, at the moment when they are unused and discarded, they become hospital waste. Second, and importantly, they can, if used in stem cell research, be used in the important medical research to preserve and to save lives.

I say to my colleague from Kansas, I have lost a daughter to heart disease—many of us have lost loved ones. I will never, ever, on the floor of this Chamber, be a part of those who wish to shut down promising medical research, especially when the ability to provide that research comes from embryos that otherwise would become hospital waste.

My colleague from Illinois asked the pertinent question, and perhaps when we have this debate some day we will have a greater description of that, but if in fact that is a human life which is now thrown in the waste basket as hospital waste, unused embryos that are discarded, if in fact that is a human life—it is not, by the way—should the destruction of that as hospital waste not be treated criminally? That would be the logical extension of some of those who are on the Senate floor wishing to shut down this promising area of research.

My hope is that we can thoughtfully, with ethical guidelines, proceed with research that is pro-life, that will save lives, that will give a lot of Americans greater hope for the future who suffer from dreaded diseases. I look forward to this debate. I wish very much it had been in the month of July, but nonetheless we will have this debate. When we do, I hope we will have a full and open discussion about it and advance the cause of saving lives in this country and around the world.

Mr. DURBIN. If I could, I will say very briefly in response. I am disappointed that we did not resolve this issue favorably in the month of July in the Senate, but I am heartened by the statement made by the majority leader today. It is my belief that we have set the stage to return in September and take up this important lifesaving issue, with a critical bipartisan debate on the Senate floor, for the good of medical research and to bring hope to a lot of people who watch every move we make on this issue.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, first, I appreciate the comments of my colleagues and the distinguished Senator from Kansas, really all of my colleagues who have spoken. This is a very important issue that we will come back and address, and I appreciate their comments.

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## PROVIDING FOR CORRECTION TO ENROLLMENT OF H.R. 3

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H. Con. Res. 226, which corrects the enrollment of H.R. 3; provided further that Senator BAUCUS be recognized to speak for up to 8 minutes, and following his remarks, the concurrent resolution be agreed to and the motion to reconsider be laid upon the table without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 226) providing for a correction to the enrollment of H.R. 3.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I rise to address an issue of critical importance to my constituents in Montana. Early this morning, in the dead of night, the House of Representatives took an extraordinary action to delete a commonsense provision in the transportation conference report that would have reopened the runway at Malmstrom Air Force Base in Great Falls, MT. I am sorry the House acted as if it knows what is best for Great Falls, MT.

I cannot possibly put into words my outrage for the extraordinary action that the House took early this morning. My amendment would have opened the runway that is in the heart of Malmstrom Air Force base, which is active, healthy, and vibrant. Malmstrom is located outside of Great Falls, MT, and is a highly secure missile facility, employing the largest number of security forces in the entire U.S. Air Force.

Currently, the roadways and the infrastructure of Great Falls are strained due to the frequent crosstown movement of heavy cargo and equipment during deployments of the 219th and the 819th Red Horse Squadrons of the U.S. Air Force and National Guard. They must travel from Malmstrom to the other side of town on a congested roadway in the middle of town to fly out of a municipal airport. The Montana Air National Guard conducts all of their missions out of the same municipal airport.

This amendment would have enabled those units to deploy from a runway within their secured perimeter. Despite the mischaracterization of the House, this provision would not overturn a BRAC decision, nor would it influence the current BRAC round. It could not. Malmstrom is not on the BRAC list. The amendment was drafted, discussed, and deliberated in the light of day, agreed to by the relevant committees and conferees.

I was also pleased to have worked with the chairman and ranking member of the Armed Services Committee, as well as the conferees of the highway bill, all of whom accepted this amendment. To now have the House of Representatives cut this provision in the dead of night is an outrage.

My amendment would have simply provided a commonsense solution to a local problem. Local elected officials, civic leaders, the U.S. Air Force, and the National Guard have all requested that I find a way to open the runway at Malmstrom. Senator BURNS and I are dedicated to making this commonsense solution happen. But I cannot allow the highway bill to be a victim of the House's actions after the countless hours I have spent making sure it is right for America and right for the State of Montana.

The House actions in the dead of night have put in jeopardy our national highway bill. This bill will pump more than $2.3 billion into my State economy, and I am proud of this bill. It will help sustain and create more than 18,000 jobs and boost safety on Montana's roads. I dare say that very few in this Congress have worked harder to get this highway bill across the finish line than has this Senator. I will not give up the fight to reopen Malmstrom's runway. I have given it my best, but I cannot, in good faith, derail this important bill for the country at this late hour. My colleague from Montana, Senator BURNS, and I will continue to work to find another way to make this happen.

This action by the House shows how important was the Founders' genius in creating the Senate, where States with real needs but small populations, such as Montana, have their champions. I will never apologize for fighting for Montana.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the concurrent resolution is agreed to and the motion to reconsider is laid upon the table.

The concurrent resolution (H. Con. Res. 226) was agreed to.

Mr. DORGAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006—CONFERENCE REPORT—Continued

Mr. BURNS. Mr. President, I would inquire of the Chair the order of business now is the Interior conference report; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BURNS. Mr. President, I am pleased to bring before the Senate the conference report of Interior, Environment and Related Agencies for fiscal year 2006 . This bill provides more than $26 billion for the Department of Interior, the Environmental Protection Agency, the U.S. Forest Service, the Indian Health Service, and a number of other agencies that play vital roles in protecting our Nation's natural and cultural heritage.

Conferencing this bill with the House was not an easy matter, to say the least. The bill, as a whole, is close to $600 million below the fiscal year 2005 level. Our conference allocation was $50 million below the Senate's original allocation, and we have had to shoehorn both House and Senate priorities into that reduced amount. To hit our number, we had to eliminate or reduce a number of items in the Senate bill that I would have preferred that we had kept. I suspect the House has similar feelings about some of their priorities, but we made these choices in as fair a manner as possible, both from the House and Senate perspective and the majority and minority perspective.

Lest I sound too negative, let me be clear that there are some good things and important things in this bill. We improved upon the budget request in a number of places, such as tribally controlled schools and Indian schools and hospitals and the community colleges that are located on our several reservations across the country. We have increased funding for our national parks. We preserved funding for local park programs. As my colleagues know, that was zeroed out. We have boosted funding for a number of Forest Service programs that received pretty rough treatment from the White House in their budget request.

This bill also provides an additional $1.5 billion for veterans health care, funding that is sorely needed to ensure that our veterans receive the kind of care they so richly deserve. Given the continued sacrifices being made by our men and women fighting in Afghanistan and Iraq, it is an honor to have the Interior bill serve as the vehicle for this critically important funding.

Finally, I want to thank my ranking member, Senator DORGAN from North Dakota. Not only are we neighbors in our home States, but we are neighbors here also and work in cooperation. Without his leadership, we could not have completed this bill. He has been a tireless champion for the tribally controlled community colleges and Indian health care and a number of other programs in this bill. Throughout the conference report, there is ample evidence of his hard work and his advocacy.

Let me also thank the majority and minority staffs of the subcommittees. I do not think we thank our staffs enough. They work long hours, crunching numbers, getting them to balance, and working to figure out where do we take what and put it where. They have been working for weeks producing this bill and then just several hours to produce this conference report. Conferencing with the other body is no easy matter, and I appreciate the staffs' work to get us to this point.

I urge my colleagues to support the conference report so we can devote our attention to other spending bills that await us. We have a great deal of work yet to do on appropriations bills, so I am quite happy to get this one out of the way.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I thank my colleague from Montana.

### DRU'S LAW

Before I comment on this piece of legislation, let me mention that last evening we passed a piece of legislation called Dru's Law, that deals with sexual predators. I did not say, and I should have last evening, that Senator DAYTON, Senator COLEMAN, Senator CONRAD, and others were cosponsors. But especially, although I mentioned Senator SPECTER, I did not say that ARLEN SPECTER from Pennsylvania played a very significant role. I want to make sure the Senate and the American people understand that Senator SPECTER played a very significant role, not only being an original cosponsor with me of Dru's Law, but also allowing it to pass the Senate last evening. I thank him for his wonderful leadership.

This Interior appropriations bill was a hard bill to get done because we have over one half billion dollars less in spending than the previous year. If anybody asks is anybody cutting any spending any place, you don't have to ask beyond this bill. This bill cuts one half billion dollars plus out of what we are spending in the current fiscal year. That means we will spend half a billion dollars less in the next fiscal year. It is not easy to put a bill together under those restraints, but we did it. It is not a perfect bill. Some things in it I feel good about, some I feel not so good about. I will talk about that in a moment. This bill carries the $1.5 billion appropriation for veterans health care. That is very important. We need to keep our promise to America's veterans. This country cannot fight wars and ask young men and women to serve their country if we do not demonstrate we are going to keep our promises. One of those promises is providing veterans health care to those who served.

No one has been more tireless, no one, perhaps, has offered more amendments on the floor of the Senate on this subject—relentlessly, over time—than my colleague from Washington, Senator MURRAY.

I yield 4 minutes to Senator MURRAY.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I thank the Senator, the ranking member, and chairman of the Interior appropriations bill for their accommodation on this.

The Senate has done the right thing now for American veterans. I stand in support of this bill because it does represent a step in the right direction for our veterans. Today when we pass the Interior appropriations bill, it will include my amendment to fix the VA's funding shortfall by providing $1.5 billion for fiscal year 2005. This victory is long overdue and I thank Senator CRAIG, Senator HUTCHISON, Senator AKAKA, Senator FEINSTEIN, Senator BURNS, and Senator DORGAN for their work on this critical issue within this bill.

I want to make sure, however, that the VA uses this money in the way Congress intended. As the author of this amendment, I can tell you these dollars have to go to helping our veterans. They cannot be used for budget shell games to make the VA look solvent and they should not be used for red tape or accounting tricks and they should not be used as a rainy day fund. The money we have put in this bill is there to help veterans get the medical care they need. It should be used to end the hiring freeze, to provide mental health services for our veterans, and expand the VA's outpatient clinic initiative.

I want my colleagues to know I am going to be watching to make sure this money is used in the way we have all voted for it to be used. Now that we have taken care of the shortfall for fiscal year 2005, we have to turn our attention to fiscal year 2006. I want to make sure we do not make the same mistakes that left our veterans so vulnerable this year.

I have to say I am very troubled by what I hear coming out of the administration so far. With all of our new veterans returning from Iraq and Afghanistan every day, this problem is only going to get more severe. Veterans funding has not kept up with medical costs. When adjusted for inflation, the VA is spending 25 percent less per patient than it did in fiscal 2000. That is having a huge impact on our patients and on VA health care personnel. In my home State of Washington, at the VA's American Lake facility, you can only get an appointment now if you are 50 percent or more service-connected disabled. In Puget Sound, as of January there was an $11 million deficit, forcing our VA hospital to leave positions vacant. The VA has dedicated, highly professional employees and they work very hard every day to help our veterans. We have to make sure the VA system helps them do that and not get in their way.

Now as we look toward fiscal year 2006, I want to be clear that veterans need real funding, not budget games. Congress cannot accept gimmicks such as forcing higher fees and copayments on our veterans and calling that new revenue. Any plan that increases the burden on our veterans is a nonstarter in my book.

What is needed now is for us to step up and meet our responsibility to our men and women in uniform and that requires an infusion of cash to stop the bleeding at the VA, and a real investment toward assisting our veterans. Now is the time we have to come together and provide the needed dollars so our veterans have the quality accessible care they need and they deserve.

The security and integrity of our Nation depends on our willingness to keep our promise to our veterans. We have all heard of the military reports that recruiting is not meeting its goal, and each day we limit veterans' access to care, we are sending the wrong message to the troops of tomorrow.

As I have done before, I want to quote President George Washington, who knew that helping veterans helps America's security when he said:

> The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional as to how they perceive the Veterans of earlier wars were treated and appreciated by their country.

I call on my colleagues to support this bill and work with me to keep the full $1.977 billion in emergency supplemental funding for the Veterans' Administration for fiscal year 2006. We have to do everything to assist the VA with this funding now so we do not face future shortfalls. I hope everyone will continue to support that funding in the coming year as well.

I yield the floor.

The PRESIDING OFFICER. The Senator yields.

Who seeks time? The Senator from Montana.

Mr. BURNS. Mr. President, I yield 5 minutes, and more if needed, to the Senator from Texas, who has been a real champion for veterans benefits.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Mr. President, I ask that I be notified in 5 minutes, in case the distinguished chairman of the Interior subcommittee needs any extra time.

First, let me thank the distinguished chairman and ranking member of the Interior subcommittee for assuring that their conference report came out in a timely way, not only for the Interior funding but especially for this veterans' funding which is fiscal year 2005 money, meaning it can be spent right away.

We know there is a deficit at the VA because Secretary Nicholson told us there is a deficit. So I do thank Senator BURNS and Senator DORGAN for coming forward and helping us with this extraordinary measure so the Veterans Administration will be able to have full flexibility to fill the coffers from which they have been borrowing, and also to go forward.

I also thank those who have worked so hard to get the Veterans Administration the money they need. That would certainly be Senator MURRAY, who has just spoken, Senator FEINSTEIN, my ranking member on the Veterans Affairs Appropriations Subcommittee, and Senator CRAIG, who is the chairman of the Veterans' Affairs Committee. We have all worked together in a bipartisan way because, frankly, Secretary Nicholson came forward in a most forthright manner to tell us of the problems we had at the Veterans Administration.

When we first started working on the supplemental appropriation, Secretary

Nicholson thought there was not a deficit in the Veterans Administration, that with the model they had always used they had plenty to cover until October 1. But in June when Secretary Nicholson learned that in fact they did not have enough to fully treat the new veterans coming into the system, he stepped right up and said we have a deficit and we need to fix it. He came to Congress to ask for the help to do that. I think it is admirable that Secretary Nicholson didn't try to fudge, he didn't try to sweep it under the rug. He came out.

He took some heat for it. I saw some Members criticizing him, but I have to say I admire him. I think what he did was exactly the right thing to do. He is a veteran. He is a decorated veteran. And he is not ever going to sweep under the rug a deficit in the Veterans Administration. He also is going to spend the money wisely.

So I thank everyone who helped bring this to the forefront. I have to say that OMB Director Josh Bolton also tried to be very helpful, giving us an amendment that would raise the limit we could spend on veterans. The total for both fiscal years will be approximately $3 billion. The total for getting through this problem we have for the fiscal year we are in is going to cost about $900 million, they estimate, to get to October 1 to finish this fiscal year—almost $1 billion, which we are giving them when we vote on this bill today and send it to the President.

But in the 2006 budget, which we are now going to pass in the Senate, probably in September—this is the committee I chair—we have what will be another $1.5 billion, depending on how much is left of what we are passing today that can go into 2006. We believe it will be about half a billion dollars, so that the total would be the $1.977 that was mentioned earlier for fiscal year 2006. We will monitor this as we go into the new fiscal year to assure that the Veterans Administration for 2006 has the full amount they need.

I also thank the distinguished chairman and ranking member of the full Appropriations Committee. When Senator FEINSTEIN and I went to Chairman COCHRAN and asked him for more money in our original 2006 budget for the veterans part of the appropriations bill, he immediately agreed. He immediately agreed that we would get the money we need.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mrs. HUTCHISON. Thank you, Mr. President. I will take the rest of the time.

Senator COCHRAN and Senator BYRD stepped right up to the plate to assure that the veterans had their first boost of $1.2 billion. Then working with Secretary Nicholson and OMB Director Bolton, we now have a total of almost $3 billion more in additional funding for the veterans in both fiscal years.

We are going to do right by our veterans. We appreciate that we have people with boots on the ground, fighting in Iraq and Afghanistan today. They are fighting for our freedom. We will never let them down. The bill we are passing today, in addition to the Interior part of this appropriation, is going to fully fund Veterans for the fiscal year we are in and take us with a cushion into the next fiscal year so every veterans' clinic that is being built continues to be built, so that every veteran who walks in the door is going to get the care to which he or she is entitled, to assure that nothing falls through the cracks for our veterans. Our President would do nothing less. Our Secretary, Secretary Nicholson, will do nothing less. I assure you the Senate will do nothing less. We are going to do right by our veterans and the bill we are passing today is a start.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, first let me say a special thank you to my colleagues from the State of Washington and the State of Texas. They have said it well. Again, I am enormously proud our bill has carried this $1.5 billion for veterans health care. There is a verse that goes:

> When the night is full of knives, and the lightning is seen, and the drums are heard, the patriots are always there, ready to fight and ready to die, if necessary, for freedom.

Our soldiers are our patriots and when they come back from duty, duty our country called them for, we must keep our promise for veterans health care and that is what this $1.5 billion helps to do.

Let me for a moment talk about the underlying bill again. There are some good things and some things I wish were better in this bill. I compliment my colleague, Senator BURNS from Montana and his staff: Bruce Evans, Virginia James, Leif Fonnesbeck, Ryan Thomas, Rebecca Benn; and also on this side, Peter Kiefhaber and Rachel Taylor.

We worked very hard to put a bill together with over $500 million less money than in the past year. That was not easy.

Indian Health Service—I regret to say, we are still underfunded. I am told we are funding about 60 percent of the need in Indian Health Service. We just must do better in the years ahead. We have responsibility for Federal prisoners' health care. We also have trust responsibility for the health of American Indians. We spend twice as much per person on Federal prisoners' health care than we do in per capita spending for American Indians for whom we have trust responsibility for health care.

My colleague described the tribal colleges, and we have together been able to increase that funding for tribal colleges. That is a good feature in this bill. The reason we have done this is that it is a priority to help people step out of poverty and toward opportunity, and that comes from the tribal colleges. There are so many stories of people whose lives have improved by the ability to access tribal colleges.

We have some other areas in the bill that I wish were better.

BIA school construction, we need funding increases, not funding cuts, and yet the President's budget proposed very significant cuts and we were not able to add all of that back. Also building for new hospitals and health clinics is down. My hope is that in the next year, we can find a way to add back some funding in these critical Indian health areas.

Having said all that, this is a big bill, dealing with so many other areas of the Government—EPA, the Forest Service, and so many other areas of Government. We have worked in a bipartisan way.

Let me also say that Senator BYRD wishes consent to speak for 5 minutes prior to vote on Interior at some point later this morning. I talked to the ranking member and also the chairman of the full committee.

Finally, let me say the chairman of the full committee should understand that this is the first time in 17 years that we have gotten to the Senate floor this early with an Interior appropriations bill. The last time Congress passed an Interior appropriations bill this early, those pages who serve in the Chamber were not yet born. So I think that says something about the leadership of Senator COCHRAN and Senator BYRD, who are the two leaders on the Appropriations Committee, and I for one like the notion that we are going to make the trains run on time in the appropriations process. It is the right thing to do and the right way to do it, and I am very blessed that in the month of July, we are in the Chamber passing this conference report. So hats off to Senator COCHRAN and Senator BYRD as well.

Mr. President, with that, I yield the floor and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I do not know whether we have any more time remaining. The time has been set aside for Senator BYRD. Seeing no one to speak on this bill, I will yield back the remainder of my time also.

The PRESIDING OFFICER. Does the Senator want to make a formal unanimous consent request for the Senator from West Virginia?

Mr. DORGAN. Mr. President, I thought I had done that, but if I have not asked that consent, I so ask.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. I yield back my time and I suggest the absence of a quorum.

Mr. COCHRAN. Mr. President, will the Senator withhold?

Mr. BURNS. Yes.

## UNANIMOUS CONSENT AGREEMENT—H.R. 2985

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order with respect to the Legislative Branch appropriations bill be reinstated with the time limited to 10 minutes equally divided between both sides.

Mr. ALEXANDER. Mr. President, I object.

The PRESIDING OFFICER. Is there objection?

Mr. ALEXANDER. Mr. President, reserving the right to object, may I ask the distinguished Senator if I could have 3 minutes in morning business to make a brief comment on another matter?

Mr. BURNS. I have no objection to that. I shall not object to it. We had about 30 seconds. I pulled the trigger a little too quickly. Senator CRAIG is in the Chamber and would like just about 30 seconds with regard to the Interior appropriations bill.

The PRESIDING OFFICER. The question before the Senate is the unanimous consent request of the Senator from Mississippi. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Montana.

Mr. BURNS. I would ask unanimous consent that the Senator from Idaho be granted 30 seconds with regard to the Interior appropriations bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CRAIG. I thank the chairman for allowing me this brief moment. I have spoken to the veterans funding in this bill. Chairman HUTCHISON was in the Chamber, and Senator MURRAY has spoken to that. I appreciate all of their cooperation. We have tried to get our arms around this funding issue at Veterans, and I now believe we have. We are going to be very insistent on good numbers in the future. I have asked the Secretary to report to the authorizing committee on a quarterly basis. I think he will do the same to the appropriating committee.

Beyond that, this is a tremendously important bill for my State of Idaho. I often say the Federal Government owns Idaho. We Idahoans sometimes resent that. Because of the large land mass, it is Government land, but BLM and Interior play an important role out there.

We thank you for your consideration, both the Senator from Montana, the chairman, and the ranking member, Senator DORGAN, but especially the expeditious way you have gotten this bill through. Because of this veterans funding that is critical and the way that it has been handled, I know it has been unique to Interior at this time and place, but it was also necessary to complete it. We thank you very much for that cooperation.

## LEGISLATIVE BRANCH APPROPRIATIONS FOR FISCAL YEAR 2006—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 2985, which the clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2985), making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes, having met, have agreed that the House recede from its disagreement to certain amendments of the Senate, and the House agree to the same with an amendment and the Senate agree to the same; that the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same. Signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of July 28, 2005.)

The PRESIDING OFFICER. Who yields time on the pending conference report?

The Senator from Idaho.

Mr. CRAIG. Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALLARD. Mr. President, I understand we now have the legislative conference report before the Senate.

The PRESIDING OFFICER. The Senator is correct.

Mr. ALLARD. Mr. President, I am pleased to present to the Senate the legislative branch fiscal year 2006 appropriations conference report. This is my first year as chairman of this subcommittee and I am delighted we'll be able to send the bill to the President prior to the beginning of the fiscal year. I very much appreciate the support of my ranking member, Senator DURBIN, as well as the full committee chairman, Senator COCHRAN, and ranking member, Senator BYRD.

In general, I believe this is a fair agreement. It provides $3.8 billion for the Congress and its support agencies. Funding in the conference agreement is $198 million above the fiscal year 2005 enacted level and a reduction of $225 million below the request. While there are very few programmatic increases in the bill, funding is sufficient to maintain current operations in all agencies. Significant increases above the fiscal year 2005 budget are recommended in only a few areas, such as funding to complete the Capitol Visitor Center.

Highlights of the bill include funding of $250 million for the Capitol Police, which will enable the Capitol Police to maintain its current staffing level of 1,592 police officers and ensure appropriate levels of security for the Capitol complex. The Capitol Police salaries funding has increased by almost 100 percent since fiscal year 2002, and the number of officers has increased by about one-third. This indicates our support for Capitol Police and all the good work they do to protect this great institution.

The recommendation also includes $428 million for the Architect of the Capitol, including $42 million for Capitol Visitor Center construction and $2.3 million for initial operational costs of the CVC. The Architect believes this amount will be sufficient to complete the CVC construction. Also within the AOC budget is storage modules for the Library of Congress at Ft. Meade, totaling $40.7 million. While this is an expensive project, it is critically needed to take care of burgeoning storage requirements at the library.

For the Library of Congress, funding would total $560 million, including funding for the Library's highest priorities such as the new National Audio-Visual Conservation Center and Congressional Research Service enhancements.

Funding for the GPO would total $123 million, including $2 million to retrain staff for the new digital environment; the Government Accountability Office would receive $482 million, and the Open World Leadership Program would be funded at the budget request level of $14 million.

I do have some concerns about this conference agreement which I would like to bring to my colleagues attention. First, I am deeply disappointed that the House insisted on the elimination of the Capitol Police mounted unit. I believe, as my predecessor Ben Nighthorse Campbell did, that there are some significant benefits to the Capitol Police having a mounted unit, and the costs are relatively small—about $150,000 a year. The officers who are part of this unit have received extensive training, the horses and attendant equipment have been purchased. This investment will be down the drain just 1 year after the unit became operational.

We reluctantly went along with the House only because this bill needs to get done. But I believe it is a shortsighted decision that we will all regret.

Another regret I have with this conference agreement is the elimination of Senate language authorizing the Architect of the Capitol to hire an executive director for the Capitol Visitor Center. The CVC project is something I have been following closely, with monthly hearings in our subcommittee. In addition to concerns regarding the management of this mammoth construction project, I am very concerned that the Architect hasn't been given direction and authority to make operational decisions including the hiring of an executive director. GAO has reported it is critical AOC develop a strategic plan for moving from construction to operations. Without an executive director such decisions will surely languish.

Despite these concerns, I believe it is a fair and balanced conference agreement and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my honor to serve as the ranking member on this appropriations subcommittee with the Senator from Colorado as my chairman. I have had the distinction of being on this committee for several years with several different chairs. Senator BOB BENNETT of Utah, who was the dedicated leader of this subcommittee for many years, became quite expert on all of the areas that it covered, and I learned a lot from him. In fact, many of his suggestions are still being followed; for example, the integration of security forces on Capitol Hill between the Library of Congress and the U.S. Capitol Building.

I also salute particularly my colleague from Colorado. He has done a great job. Our friendship has grown through this relationship. His dedication is exemplary. When it came to the Capitol Visitor Center, this was a mammoth project which he inherited from decisions made years ago. He has shown personal attention to it, given of his time over and over to make sure that we end up with a Capitol Visitor Center that is a source of great pride to everyone on Capitol Hill and is not an embarrassment to the taxpayers of this country.

It calls for a fantastic amount of oversight on his part and the part of the committee staff. Senator WAYNE ALLARD has done that. I joined him partially in his efforts, but he has really led the way. He has been diligent in holding monthly meetings on the Capitol Visitor Center, and I think they have been a great benefit for the public understanding of what is happening underground, as well as holding all of those accountable who were involved in the process. I thank him so much.

Our Senate bill that we brought into conference was a good and fair bill. I thought it addressed all of the demands of maintaining this great Capitol Building and all of the buildings nearby in a very professional way.

There is one aspect of this bill which troubles me, and that is the fact that there is some negative language in the conference committee report relative to our Capitol Police. What frustrates me about this is it was not done in the normal fashion. We did not have time to weigh the wording of this conference report. I think we should have been a little more circumspect in the language used. My reason for saying it is this: The men and women on the Capitol Police Force understand, as all of us who work here understand, we go to work every single day in what has to be described as one of the leading international targets for terrorism. The U.S. Capitol Building is a great symbol of freedom and democracy, and as a result is a great target for those who hate the United States and want to engage in terrorism. What keeps this building and those working here functioning is the men and women of the Capitol Police Force who night and day, around the clock, risk their lives for the visitors and staff who work here. These are fine people. They work extraordinarily long hours at great personal and family sacrifice. They ask little from us, other than the recognition that they are doing a good job. This conference committee report does not give them the recognition they are due.

Let me add another element. The Capitol Hill Police chief is Terry Gainer, a man I have known from Illinois for years. He was superintendent of the Illinois State Police. It is a large and professional organization that he handled extremely well as superintendent. When he was an applicant for this job at the Capitol Police Force, I thought you could not find a finer law enforcement official to professionalize this police force right at the moment when it needed to happen. He came to Capitol Hill, and he achieved that goal. I don't say that just because we are personal friends. I have spoken to many members of the Capitol Hill Police Force who do not know my relationship with him, and I ask them, What do you think of the Capitol Hill Police? And they say it is a truly professional law enforcement organization.

It is true that mistakes are made in a large organization that is growing so fast with so many extraordinary external demands, but everyone who is honest has to concede that Chief Gainer and his professional staff have done an excellent job of putting together an extraordinary police force that protects this building and the people who visit and work here every single day.

I add my words to those that have been spoken and probably will be by others, we owe a great debt of gratitude to the chief. I thank him personally for coming here and taking on such an awesome responsibility not long after September 11 and really bringing peace of mind to those who get up and come to work in this building every single day.

If I can say a word or two about the mounted police, Chairman Ben Nighthorse Campbell, who was a predecessor to Chairman ALLARD from the same State of Colorado, has a passion for the mounted police. He loved horses and believed they were an important symbol in terms of the police force on Capitol Hill. Although we only have five horses—it is hardly a cavalry—the fact is, I think they achieved the goal that Senator Campbell set out for us to reach. They have become friends of visitors to Capitol Hill. I watch as the throngs of tourists gather around our mounted police, petting the horses, feeling as if they are part of an experience, a good and positive experience.

Almost from the start there have been people who have not given this mounted police force a fair chance. I hope we reconsider this someday. I understand the House Members were adamant that the mounted police be removed from the Capitol Hill Police Force. I hope we can reconsider. I honestly believe they could be critically important at important historic moments.

When we evacuated this building on September 11 and sent thousands of people out in front of this building, there was clearly a need for some crowd control and some crowd direction. These mounted police would have been invaluable at that moment. Because of this appropriations bill, they will not have the chance to serve in that capacity in the future unless we make a change.

I will close and yield to the chairman again and particularly thank the staff on both sides of the aisle: Carrie Apostolou, Fred Pagan, Christen Taylor, as well as Terry Sauvain, Drew Willison, Nancy Olkewicz of the minority staff, and Sally Brown-Shaklee and Pat Souders of my personal staff for the extraordinary work they put into this bill.

I yield the floor.

Mr. ALLARD. I thank the Senator from Illinois. I have cherished our relationship in being able to work with the Senator from Illinois on this bill.

I agree we have a lot of dedicated police officers out there and the Members of Congress need to appreciate all they are doing to maintain our safety, not only for us but for the visiting public.

Finally, I thank our full committee chairman, Senator COCHRAN, as well as the staff who were involved: Carrie Apostolou, Lance Landry, Christen Taylor, Fred Pagan, and from Senator DURBIN's staff, Nancy Olkewicz and Drew Willison.

I yield the floor.

Mr. COCHRAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Isakson). Without objection, it is so ordered.

## ENERGY POLICY ACT OF 2005—CONFERENCE REPORT

Mr. DOMENICI. Mr. President, parliamentary inquiry: Is the Energy bill now before the Senate?

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the conference report to accompany H.R. 6, which the clerk will report.

The assistant legislative clerk read as follows:

Conference report to accompany H.R. 6, an act to ensure jobs for our future with secure, affordable, and reliable energy.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I ask, is the bill under controlled time?

The PRESIDING OFFICER. Thirty minutes evenly divided.

Mr. DOMENICI. On behalf of the leader, I am going to ask consent regarding the stacking of votes. It has not been done. I ask unanimous consent that we now resume consideration of the energy conference report—which is the regular order—for the final remarks; I further ask consent that following that 30-minute period, the Senate proceed to votes in relation to the Interior conference report, Legislative Branch conference report, and the two votes in relation to the Energy conference report, as provided under the order, with 2 minutes equally divided between the votes.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. DOMENICI. Yes.

Mr. BYRD. Mr. President, I have some remarks to make, about 10 minutes of remarks. I want to commend Senator Burns and Senator Dorgan for their work on the Interior appropriations bill. When might I make those remarks?

Mr. DOMENICI. I say to the Senator from West Virginia, there is a unanimous consent agreement here that has the time allotted until we are finished with the Energy bill, and the votes thereon. That will not be a long time. But everybody knows we have 30 minutes right now for the Energy bill, and after that we will commence voting on three bills that are before us. I would think the Senate would want to stay to that order.

The PRESIDING OFFICER. If the Senator will suspend, the Senator from West Virginia was granted a unanimous consent order that he would have 5 minutes before the Interior conference report was voted on, which will take place after the 30 minutes allocated for final debate on H.R. 6.

Mr. BYRD. Very well. Will the Senator yield further?

Mr. DOMENICI. Please. Surely.

Mr. BYRD. May I make a further inquiry? Then, I am correct in understanding the Chair to say that I will have 5 minutes prior to the vote?

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. That vote will be on what?

The PRESIDING OFFICER. The Interior conference report.

Mr. BYRD. The Interior conference report.

Mr. President, with the indulgence of the distinguished Senator from New Mexico, I ask unanimous consent that at that time I have 10 minutes rather than 5.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. BYRD. Mr. President, I thank the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I see Senator Bingaman in the Chamber. He is going to proceed, first, with the allocation of some of the time on his side of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I yield 5 minutes to the Senator from Florida, Mr. Nelson.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. NELSON of Florida. Mr. President, I thank the chairman of the committee and the ranking member, Senator Domenici and Senator Bingaman. They made a statement on the floor of the Senate in a colloquy with this Senator when the Energy bill was on the floor, and those two Senators kept their word. It had to do with drilling off the coast of Florida. I have said to those Senators how much I appreciate what they, in fact, have done, under considerable pressure in the conference committee.

I want them to know personally how appreciative I am that they held fast and prohibited, in the conference committee, for an issue to be injected that was neither in the House bill nor the Senate bill that would cause the drilling off the coast of Florida.

Why is this important to us? This Senator has made this statement many times, but there is a new wrinkle that I wanted to explain to the Senate, not having to do with geology that shows that there is not much oil and gas off of Florida, not having to do with the delicate ecosystem, not having to do with the $50 billion-a-year tourism industry that depends on pristine beaches, but a reason for the preparation of our U.S. military in a time when we are at war.

We have these ranges that are off the coast of Florida. Is it any wonder that, in fact, when Vieques was shut down off the coast of Puerto Rico, they sent most of that training off of the Gulf of Mexico, off the coast of Florida, because of this Joint Gulf Range Complex. It is joint with all branches of Government. It involves land-, sea-, and air-coordinated training. If drilling were allowed in what is known as lease sale 181, that is what would happen. Smack-dab in the middle of that restricted airspace, that training area that is 180,000 square miles in the eastern Gulf of Mexico. Smack-dab in the middle of it would be the drilling for oil and gas. This portion in red was already agreed to back in 2001. This portion in the red hatch is the additional 4 million acres that would be added smack-dab in the middle of our military training complex.

The significance of it is that it has 724 square miles of additional land range. It has 3,200 square miles of airspace over adjacent land area. It has 17 miles of Government shoreline, with connected prohibited and restricted water areas. The combination of air, land, and water is the best location for the United States for extremely long-range precision weapons testing, such as the high-performance combat aircraft live-fire testing and training and large-scale complex joint training exercises and experimentation.

Given the thrust of DOD's recent BRAC recommendations, there will be more testing, training, and operations in the eastern Gulf, not less. So oil drilling in the eastern Gulf, as proposed by the administration, is the greatest encroachment threat to the Nation's largest unrestricted air and sea space for weapons testing and combat training.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NELSON of Florida. I ask unanimous consent for 30 additional seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Oil drilling is not compatible with weapons testing and combat training. Military leaders have been fighting this for years. Yet here we go again. The encroachment this time is even more serious because we are at war. This Senator, on behalf of the people of Florida—and, I hope, on behalf of the U.S. military establishment—will continue to oppose this. I thank the chairman and the ranking member for their holding fast in the conference committee.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield 8 minutes to the Senator from Wisconsin, Mr. Feingold, to explain his motion.

Mr. FEINGOLD. Mr. President, I thank the Senator from New Mexico. I have a number of concerns about the conference report we debated last night and that we will vote on today. I intend to raise a point of order that it violates the Budget Act. I do, however, want to recognize the hard work that Chairman DOMENICI and Ranking Member BINGAMAN have put into this process. We all know that they have spent many long days and late nights to reach this point. The bipartisan manner in which they work is a definite improvement over previous Energy bills. I applaud their efforts.

Mr. President, Energy policy is an important issue for America and one which I can tell you my Wisconsin constituents take very seriously. Crafting an energy policy requires us to address important questions about, for example, the role of domestic production of energy resources versus foreign imports, the importance of ensuring adequate energy supplies while protecting the environment, the necessity for domestic efforts to support improvements in our energy efficiency, and the wisest use of our energy resources. Given the need for a sound national energy policy, a vote on an Energy bill is a very serious matter and I do not take a decision to oppose such a bill lightly. In my view, however, the conference report we consider today does not achieve the correct balance on several important issues, which is why I have to oppose it.

I have four fundamental concerns. This bill digs us deeper into a budget black hole. It fails to decrease our dependence on foreign oil. It rolls back important consumer protections. And finally, it undermines some of the fundamental environmental laws that our citizens rely upon.

First, Mr. President, the costs of this conference report are staggering. The Congressional Budget Office estimates that enactment will increase direct spending by $2.2 billion between 2006 and 2010, and by $1.6 billion between 2006 and 2015. Additionally, the CBO and the Joint Committee on Taxation estimate that this bill will reduce revenues by $7.9 billion between 2005 and 2010 and by $12.3 billion from 2005 to 2015. On top of the direct spending, the conference report authorizes more than $66 billion in Federal spending, according to the watchdog groups The National Taxpayers Union, Taxpayers for Common Sense, and Citizens Against Government Waste. Our Nation's budget position obviously has deteriorated significantly over the past few years, in large part because of the massive tax cuts that were enacted, and we now face years of projected budget deficits. The only way we will climb out of this deficit hole is to return to the fiscally responsible policies that helped put our Nation on a sound fiscal footing in the 1990s, and that simply means that we have to be sure that the bills we pass are paid for. To do otherwise is to simply dig our deficit hole even deeper, thus adding to the massive debt already facing our children and grandchildren.

Mr. President, second, the conference report we consider today will do nothing to reduce U.S. dependence on foreign oil. I cannot return to my home State of Wisconsin this weekend and say that I participated in a rushed effort to accept a 1,700-plus page conference report that will not do a thing to increase our oil independence. The conference did not accept the 10-percent renewable portfolio standard passed by the Senate, nor did it accept an amendment instructing the President to develop a plan to reduce U.S. oil dependence by 1 million barrels per day by 2015. I supported efforts to reduce our dependence on foreign oil when the Senate debated its bill, and I am extremely disappointed that the conference committee could not accept a reduction of 1 million barrels per day through 2015.

Third, the bill rolls back important consumer protections. The conference committee retained repeal of the pro-consumer Public Utility Holding Company Act, important New Deal-era legislation which has protected electricity consumers. My State of Wisconsin is acutely interested and concerned about the repeal of PUHCA and about ongoing abuses involving the unregulated corporate affiliates of regulated utilities. In addition to hearing from Wisconsinites, I have heard from contractors and other small businesses across the Nation that have been harmed by this unfair competition by affiliates of public utilities. I must say that I don't understand how we can give the nuclear industry loan guarantees and over $2 billion in risk insurance, but we can't even give small businesses the assurance that unregulated affiliates of public utilities will not unfairly outcompete them.

I do, however, recognize the efforts of the chairman and the ranking member to protect language providing the Federal Government more oversight of utility mergers, which is important and I support. I am grateful for their willingness to further look into my concerns on unfair competition by public utility affiliates.

Fourth and finally, Mr. President, the energy conference report includes provisions that significantly weaken our commitment to the environment and to the health of U.S. citizens. Section 328 of the Energy conference report weakens the Clean Water Act by exempting certain oil and gas industry activities from compliance with both phase 1 and phase 2 storm water programs and, in the process, rolls back 15 years of protection. This is not an insignificant issue. Storm water runoff is a leading cause of impairment to our streams, rivers, and lakes.

The bill also exempts hydraulic fracturing from the Safe Drinking Water Act, and by doing so, risks contaminating drinking water supplies. Over 95 percent of Wisconsin communities and about 75 percent of Wisconsin residents rely on groundwater for their supply of drinking water. Nationally, approximately half of the U.S. population obtains its drinking water from underground water sources, according to the Government Accountability Office. Wisconsin citizens and all U.S. citizens deserve more than exemptions that could threaten the water they drink.

There are provisions of the bill that I fully support, and I am pleased that the conference committee included, but I can't support this conference report. According to estimates by the Congressional Budget Office, the Energy bill conference report includes direct spending of more than $2.2 billion over the 2006–2010 period, exceeding the amount allocated by the budget resolution. I hope my colleagues will note this and will join me in sustaining a budget point of order.

Mr. President, I make a point of order that the pending conference report violates section 302(f) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator's point of order must come at the conclusion of debate.

Mr. FEINGOLD. I will defer.

The PRESIDING OFFICER. Who seeks time?

The Senator from New Mexico.

Mr. DOMENICI. Has the Senator concluded?

Mr. FEINGOLD. I have.

Mr. DOMENICI. I assume that Senator BINGAMAN has another person he would like to yield to. I will yield to one of his, Senator CANTWELL or Senator SALAZAR.

Mr. BINGAMAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The ranking member has 2 minutes and 2 seconds.

Mr. BINGAMAN. In light of that, I know there are other Members, particularly on the Democratic side, who wish to speak. I believe Senator DOMENICI has some time to provide.

Mr. DOMENICI. Mr. President, I yield 3 minutes to Senator CANTWELL.

The PRESIDING OFFICER. The Senator is recognized.

Ms. CANTWELL. Mr. President, I thank my colleagues for their hard work on this important legislation. We are here to talk about passing an Energy bill that is not a complete answer to all our energy needs. This is not the end of discussion about energy independence and getting off our over-dependence on foreign oil, but it is an important first step. My colleagues need to understand that the provisions in this bill are nuts-and-bolts important for our energy economy, moving forward. As a Senator who supports this legislation, there are certain technologies, certain investments in this legislation that I hope will win the day and will help us build a different kind of energy economy, based on newer technologies and energy supplies than the ones we have today. But this bill represents a compromise that was forged in the Senate and was fought hard for by my colleagues, both Democrats and Republicans, when they went to conference.

I am proud that it has an extension of renewable production tax credits so that our utilities can continue to invest in even more renewable energy; that for the first time it has a renewable clean energy bond section, so that local governments and public power can make greater investments in renewable energy; that it has an extension of the renewable energy production incentive program for public power; that there are efficiency provisions in the bill for appliances and other types of standards that will save 3.5 quads of energy.

That is the same as building 85 powerplants. It has a hybrid vehicle incentive provision. It has a biodiesel incentive program. It reinstates the oil spill liability trust fund, which was going broke and which helps us clean up oil pollution, and taxes those who are the polluters. It has research on the smart grid technology that is going to get us more efficiency in our transmission system, and it has incremental steps to push the States toward better standards on net metering. For the Northwest, the electricity title in this legislation is clearly a victory, and I would say the efficiency title in this bill is also a victory.

We are moving closer to the key tools we need to upgrade our transmission system. We will have many more debates about what this body can do, though, to continue to diversify off of foreign oil. But we should take the step today to secure that transmission system and get reliability standards in place, something this body has debated now for more than 5 years. After a Western blackout, after a New York blackout, after people in Ohio and Michigan have been affected, the least we can do is push this legislation to improve the security and reliability of our electricity grid.

I ask my colleagues to support this legislation as a first step, a short stroke of success, and get about going back to the broader decisions we need to make truly start moving in the direction toward energy independence.

The PRESIDING OFFICER. The Senator's time has expired.

Who seeks time?

The Senator from Louisiana.

Ms. LANDRIEU. I seek 5 minutes under the majority time.

The PRESIDING OFFICER. The majority time remaining is 11 minutes 44 seconds.

Mr. DOMENICI. I yield 4 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 4 minutes.

Mr. DOMENICI. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Is it not correct that the point of order is going to be made? Can that point of order be made so the Senator will not have to wait? Can it be made just before the vote on the Energy bill?

The PRESIDING OFFICER. By consent, it can be made now.

Mr. DOMENICI. Otherwise it will be made then?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. The Senator can make it just before the Energy bill vote and we have 2 minutes on each side then. So the Senator will not have to wait now on that.

Mr. FEINGOLD. I appreciate that and I intend to make that point.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I rise today to support this Energy bill. I heard my colleague from Washington State speak beautifully and passionately about many of the important aspects of this bill. There are Members who can come to this floor and pick out one or two things they had hoped to get in that did not make it. We had a lot of arguments about this bill, a lot of debate, but overall it is very balanced legislation. It does look to the future, as well as holding on to some of the things in the past that have served us well.

It seeks to increase independence of the United States of America so we can produce more energy on our shore, under our control, to not only help boost our economy, make our industries more competitive, but most importantly make this Nation more secure when it comes to international involvements. Americans want lower prices at the pump, but they want to know that this Congress is taking action to make them more secure nationally. By being more self-reliant, we can.

Now, yes, we have to open up our shores to liquefied natural gas because our price is going through the roof, and unless we increase supply substantially and rather quickly, that price will remain high. It will put almost every industry in this country at a very serious disadvantage for international competition.

As Senator CANTWELL stated, it does give new protections for consumers from market manipulation. Senator DORGAN has led the fight with regard to hydrogen, with Senator BINGAMAN's help. It has opened up new frontiers for that. We have opened up new frontiers for renewable energy sources. As a Senator from an oil-and-gas-producing State, we do need to get beyond petroleum and this bill is helping us to do that.

Under Senator DOMENICI's leadership, we are expanding in an extraordinary way the nuclear industry, which is going to help Japan, France, and others who have been leading the way. It is time for America to get with the program.

In my last 1 minute, let me compliment these leaders. We have not had an energy bill for 13 years. For 5 years, we have literally been laboring mightily to get a bill. Senator DOMENICI, Senator BINGAMAN, Chairman BARTON, and Mr. DINGELL, "the big four" as they have been called, have worked tirelessly, their staffs have worked tirelessly, and I might say with the patience of Job. This bill is balanced because these two leaders said they were going to build a bill together for the future of our country. As a Senator on that committee, I am so proud of the honesty in which they built this bill, the openness in which they built this bill, and the fact that no deals, to my knowledge, were cut behind closed doors. It was all open and actually on television so people could see the results of this work.

I commend that process to the Senate and the whole Congress and thank them for their extraordinary leadership and thank them, too, on behalf of the people of Louisiana and the Gulf Coast States for recognizing the contribution we have made of offshore oil and gas drilling and to get a very robust coastal impact assistance program that is going to mean a great deal to us and to the wetlands of America.

I yield back.

The PRESIDING OFFICER. The Senator yields back.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I yield 2 minutes to the distinguished junior Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 minutes.

Mr. SALAZAR. Mr. President, I rise today in support of the Energy bill. I start first by congratulating my colleagues, the two Senators from New Mexico, the Land of Enchantment, Mr. DOMENICI and Mr. BINGAMAN, for their leadership in helping us get together what has been a true bipartisan effort. I commend them both for the process as well as for the end result of this legislation.

As I look at this legislation, it seems to me what we are embracing today is a vision for energy independence. I think Democrats and Republicans all agree what we need to do is to get to a point where this country gets rid of its overdependence on foreign oil. We need to do that for national security reasons, we need to do that for economic reasons for our country, and we also need to do it for environmental reasons.

From my point of view, this legislation is based on four cornerstones. One of those cornerstones is conservation and efficiency. There are more important measures in this bill that deal with conservation and efficiency. It is a new ethic for the 21st century. Secondly, embracing renewable energies from the ethanol provisions to dealing with the development of cellulosic ethanol, this bill gets us on the right direction where America can grow its way toward energy independence. Third, technology, research and development, we have lots of resources in America we can use to make sure we are having the energy we need for our country. The new technology that includes coal gasification and other kinds of technologies will help us move in that direction. And finally, balanced development, we need to continue to develop our natural resources in this country.

So from my point of view, this bill is a good bill and is moving us in the right direction. It is not a perfect bill and there are aspects of this bill some of us advocated for that we hoped would have been a part of this bill, but they are issues we can continue to work on. We can use this as a foundation from which to build. There is the issue of the renewable portfolio standard which was adopted by this Senate and we need to move forward continuing to try to address that issue in the way it has been addressed in my State. Finally, the issue of global warming and how we deal with that issue in the future is very important.

With that, again I commend the Senators from New Mexico, Mr. DOMENICI and Mr. BINGAMAN.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senator OBAMA be given 2 minutes and it not be included in the majority time.

The PRESIDING OFFICER. Is there objection to the Senator from Illinois being granted 2 additional minutes beyond the time originally granted to both sides?

Without objection, it is so ordered.

The Senator from Illinois.

Mr. OBAMA. Mr. President, I rise to commend the chief sponsors of this bill in the Senate, Senators DOMENICI and BINGAMAN, who I think have displayed the sort of statesmanship and civility in working out this difficult legislation that I think all of us expect from this body. I also want to indicate the degree to which this bill takes significant steps in the right direction on energy policy. It helps us realize the promise of ethanol as a fuel alternative by requiring 7.5 billion gallons to be mixed with gasoline over the next few years. It provides a tax credit for the construction of E85 stations all over America—E85, a blend of ethanol and gasoline that can drastically increase fuel efficiency standards for our cars.

It will provide funding for the clean coal technologies that will move America to use its most abundant fossil fuel in a cleaner, healthier way, including more low emission transportation fuels, and it will support the development of what we hope ultimately will be a 500-mile-per-gallon automobile technology.

All of these things are wonderful and worthy of support. But I do have to say we have missed an opportunity and that is not the fault of the sponsors of this bill who have done yeoman's work. Rather, I think it is the timidity of all of us as a body in not addressing what has to be one of the most significant problems we face as a nation.

The Department of Energy predicts that American demand for fossil fuels will jump 50 percent over the next 15 years. The Heritage Foundation says this bill will do virtually nothing to reduce our dependence on foreign oil. Even President Bush and supporters of the bill in Congress concede as much.

As we debate this bill today, the price of crude oil has surpassed a record high of $60 a barrel, and gas is now up to $2.28 per gallon. At this price, the United States is sending $650 million overseas every single day.

As demand continues to skyrocket around the world, other countries have started to realize that guzzling oil is not a sustainable future. What is more, these countries have realized that by investing early in the energy-efficient technology that exists today, they can create millions of tomorrow's jobs and build their economies to rival ours.

China now has a higher fuel economy standard than we do, and it has 200,000 hybrids on its roads. Japan's Toyota is doubling production of the popular Prius in order to sell 100,000 in the U.S. next year, and it is getting ready to open a brand new plant in China. At the same time, Ford is only making 20,000 Escape Hybrids this year, and GM's brand won't be on the market until 2007.

So here we are. People paying record prices at the pump and America sending billions overseas to the world's most volatile region. We have countries like China and India using energy technology to create jobs and wealth, while our own businesses and workers fall further and further behind. And we have the energy bill that is before us today.

So I ask, is this the best America can do? The country that went to the moon and conquered polio? The country that led the technological revolution of the 1990s?

It would be one thing if the solutions to our dependence on foreign oil were pie-in-the-sky ideas that are years away. But the technology is right at our fingertips. Today, we could have told American car companies, we will help you produce more hybrid cars. We could have made sure there were more flexible fuel tanks in our cars. And so America has a choice.

We can continue to hang on to oil as our solution. We can keep passing energy bills that nibble around the edges of the problem. We can hope that the Saudis will pump faster and that our drills will find more. And we can just sit on our hands and say that it is too hard to change the way things are and so we might as well not even try.

Or we could accept and embrace the challenge of finding a solution to one of the most pressing problems of our time, our dependence on foreign oil. It will not be easy and it will not be without sacrifice. Government cannot make it happen on its own, but it does have a role in supporting the initiative that is already out there.

I vote for this bill reluctantly today, disappointed that we have missed our opportunity to do something bolder that would have put us on the path to energy independence. This bill should be the first step, not the last, in our journey towards energy independence.

I close by saying I hope we do not wait another 5 years before we work on the important issue of energy independence. I plan to support this bill because of the fine work that was done by the sponsors, but I would insist that in the next year or two we immediately address the issue of how we can wean ourselves off of Middle Eastern oil.

Mr. LEAHY. Mr. President, I firmly believe our Nation needs a sound and balanced national energy plan, emphasizing a clean, reliable, sustainable, and affordable energy policy. Unfortunately, this bill fails to do that. The Senate sent a good energy bill to conference, and we got back a frog. This conference report fails to reduce our dependence on imported oil, fails to address the threat of global warming, fails to make much needed new investments in clean energy production and fails to provide any help to consumers that are suffering from record high gas prices.

Specifically, this conference report does not include the Senate's mandatory oil savings clause, which would have reduced oil use by 1 million barrels per day. The bill also deletes the renewable energy standard that would have required utilities to obtain at least 10 percent of their electricity from renewable sources by 2020. Increasing the production of electricity from renewable energy sources will help improve the quality of our country's water and air. Instead of supporting the advancement of renewable energy technologies to create jobs and reduce pollution, we have a bill that gives oil, gas, ethanol, and nuclear companies enormous subsidies.

In addition, the bill does not include any provisions to address global warning. I believe we have a responsibility to act now to curb greenhouse gases; thus, I was pleased the Senate bill agreed on the need for mandatory programs to address greenhouse gases. Two major scientific reports released last fall warned that global warming is occurring more rapidly than previously known, and that the effects of such warming trends are widespread. In Vermont, we will also see ecological and economic consequences of these alarming trends. Vermonters working in our ski and maple syrup industries have already reported changes they have been forced to make in recent years to adjust to climate change. This bill's refusal to take any steps to combat global warming is not only disappointing, but dangerous to our future generations. One hundred years from now, it may turn out that global warming was the single most important problem that the United States almost totally ignored. At that stage I will not be able to say "I told you so," but some academic scholars might note my timely warmings. Indeed, when I was chairman of the Agriculture, Nutrition, and Forestry Committee, I included a provision on the impacts of global warming in U.S. food production in the 1990 farm bill—15 years ago.

The bill also contains a number of anti-environmental provisions that were not included in the Senate's bill. It threatens drinking water by allowing the underground injection of diesel fuel and other chemicals during oil and gas development and exempts oil and gas construction activities from the Clean Water Act. It also includes a seismic inventory of oil and gas resources in sensitive Outer Continental Shelf areas.

In addition, I am disappointed that this Energy Bill doesn't take a single concrete step to address the high and rising cost of gasoline for American consumers. The Senate unanimously adopted my amendment to allow the Federal Government to take legal action against any foreign state, including members of OPEC, for price fixing and other anticompetitive activities. It is high time we say, "no!" to OPEC's illegal price fixing schemes. Yet, due to opposition from the Bush administration, under whose tenure the average price of gasoline has skyrocketed from $1.45 per gallon to more than $2.30 per gallon, this provision was deleted from the Energy bill conference report.

This bill fails on almost every count. Yet, almost unbelievably, it could have gotten much worse. Under the leadership of my friend from New Hampshire, Senator GREGG, we were able to stop the House GOP leadership from letting MTBE polluters off the hook for contaminating our ground water and drinking water. I understand that the conferees came to an agreement which in no way impacts the rights of citizens and local governments to pursue all available State and Federal remedies where there is environmental harm and other injury that results from leakage of MTBE into the ground water. While I was concerned about any effort to alter the subject matter jurisdiction of these cases, I am relieved to learn that they did not do so in conference. I understand that nothing in the current language will alter the substantive law that courts currently apply in these cases and that they will apply to future claims.

After a colloquy between conferees on the record, Representative STUPAK did not offer his amendment clarifying their unanimous understanding of the relevant section. The amendment that he withheld would have simply added the phrase "under applicable state or federal law" to the permissive removal provision. I am told by Senator BINGAMAN that the conferees found this amendment unnecessary because it was clear to them, as it is to me, that the relevant language adopted does not change the substantive law that applies and it does not change the current law that applies in consideration of removal petitions.

This administration and this Congress had a real opportunity to produce a bill that would lead the Nation towards balanced, sustainable, clean energy production. Instead, we have 1,700 pages worth of policies that will increase our dependence on fossil fuels, provide billions to wealthy energy corporations, and threaten environmental and public health. I do not see how my Republican colleagues can any longer justify their drastic cuts to vital social programs while pushing through this multibillion dollar legislation that does nothing to secure our energy future.

Mr. AKAKA. Mr. President, I rise to today in support of the Energy bill and to provide some perspective on the conference report for H.R. 6, the Energy Policy Act of 2005.

I have been in Congress since 1976, serving first in the House of Representatives, and since 1990 in the Senate. I have served with many outstanding Congressmen, Congresswomen, and Senators who have advanced my knowledge and appreciation for comprehensive energy policy in the long-term. I served with Representative Jim Lord, who was my mentor in the House when I first arrived. I saw him again just before I stepped into last Sunday's conference committee meeting in Rayburn. I served with my good friend and colleague, JOHN DINGELL, from Michigan, and I served with the dedicated and ever-insightful Congressman from Massachusetts, ED MARKEY. Both of them have made enormous contributions to this year's energy bill, as have all the House Members.

I have served on the Senate Committee on Energy and Natural Resources for more than 10 years. I was here when the Senate passed the last energy bill, the Energy Policy Act of 1992. That bill was a benchmark that established a range of energy efficiency, conservation, renewable energy, research and development, and regulatory frameworks for energy that are still in place today.

My observation is that the compromise that we have now may be the best we can get in the next 5 to 10 years, given the regional nature of energy and the partisan nature of politics. Energy is an issue with regional, special interest, and State and local "tugs" and "pulls" unlike other national issues. The breadth of this energy bill is almost incomprehensible. An energy policy sounds simple, but it is a complex, interlocked patchwork of agreements, prohibitions and incentives.

If we do nothing, we will be worse off than when we started. We will not advance energy conservation, efficiency, or production of alternative fuels if we do not pass the bill. I urge members to remember that we have spent over 5 years debating an energy bill and we have seen bills that are much, much worse. This bill represents a victory in many ways.

It is victory of democratic process over regional politics. This bill was fully heard by the committee and fully debated and amended in the Senate. It was a bipartisan effort on which we spent 3 months exploring the topics making a comprehensive bill. We spent another 2 weeks debating and changing this bill in the Committee on Energy and Natural Resources. We accepted many amendments on the Democratic side. The Senate debated the bill for another 2 weeks, changing it and improving it again.

I applaud the efforts of Senators DOMENICI and BINGAMAN, the chair and ranking member of the Energy Committee, for upholding the promise of the Senate energy bill in the conference discussions. They showed great leadership in holding firm to the Senate bill, rejecting House provisions that were unacceptable. Their staffs were determined to provide us an energy bill that did not include excessive spending or destructive environmental compromises.

The energy conference report is not perfect, but its a good bill. I know the bill does not have provisions for fuel efficiency standards for cars, SUVs, and trucks, provisions which I supported in the Committee and on the floor. It does not have controls on carbon dioxide or standards for renewable electricity, although the latter was approved in the Senate.

In many respects, these are small steps, but important ones, in the right direction to meet our energy challenges. It encourages cleaner alternative energy initiatives such as hydrogen, solar, wind, geothermal, and natural gas resources. It emphasizes greater use of renewables. It promotes greater efficiency in the way we currently use appliances, home heating and cooling, with more stringent standards. It encourages more efficient cars, homes, and commercial appliances such as dishwashers. It strengthens the reliability of our electricity grid, encourages more transmission lines, and protects ratepayers from market abuses. These are things that are needed now, not in another 5 years when the composition of Congress or the White House might change.

The bill does not go as far as I would have liked to address some of the biggest energy problems our Nation faces. It seems Congress cannot mobilize the political will to take the difficult steps needed to reduce our reliance on foreign oil, improve vehicle fuel efficiency or deal with global warming. I supported those amendments, both on the Senate floor and in conference committee deliberations, but we lost in fair votes in an open process.

What we have before us, in the long run, is a bill that is balanced in terms of production of energy from a variety of sources and it uses appropriated funds and tax expenditures to encourage research, development, and production. There will always be detractors who can find problems with particular pieces of this far-reaching energy bill. The comprehensive bill is so broad that I do not believe it will ever satisfy the positions of every interest group. The bottom line is that this bill does not include the onerous provisions of an MTBE liability waiver, an ozone bump-up, and it does not include categorical waivers for NEPA for oil and gas developments.

It does include many tax provisions to encourage alternative and renewable fuels, nuclear energy, and oil and gas industries. But the proportions allocated to the renewable sector, clean coal, and energy efficiency are greater than the tax credits and royalty relief for oil and gas, particularly when you consider that a large portion is for a refining capacity incentive, badly needed to increase the efficiency of oil and gas refineries. I greatly appreciate the efforts of Senators GRASSLEY and BAUCUS, and their staffs, who bore the responsibility of crafting the finance portion of the bill under great pressure with grace and generosity.

In this era of alarming Federal budget deficits and declining domestic discretionary spending, we have to look to tax incentives and loan guarantees to mobilize capital investment in new and cleaner energy. For the Nation to maintain our leadership in technology and engineering, we must spend money. Because of many circumstances, namely the war in Iraq, the war on terrorism, and future extensions of tax cuts, we do not have adequate funds to spend on this effort. The only place we can find revenue to encourage the adoption of new technologies is through tax incentives. To me, this is an innovative way to create opportunity out of hardship.

The bill the Senate will consider today, on balance, improves our energy policy and deserves to be enacted. Enormous credit for the success of the conference and the development of the bill goes to my colleagues from New Mexico, Senators PETE DOMENICI and JEFF BINGAMAN, and their staff, who worked long and hard around the clock to bring this bill to fruition. Senator DOMENICI has taken a fresh look, from the beginning of the 109th Congress, and changed his entire approach to the energy bill. I greatly appreciate his orientation and his strategy working with his colleagues on this energy bill. I also extend my great appreciation to Chairman JOE BARTON and Ranking Member JOHN DINGELL for their openness and willingness to work with members on the special needs of their States. Their leadership ensured that the conference was fair, open, and bipartisan from start to finish. I look forward to voting for this bill and I urge my colleagues to support it.

### CLARIFICATION OF SECTION 1287 OF THE ENERGY POLICY ACT OF 2005

Mr. JOHNSON. Mr. President, would the gentleman from New Mexico yield to me for purposes of engaging in a colloquy?

Mr. DOMENICI. I would be happy to yield to the gentleman for that purpose.

Mr. JOHNSON. I thank the gentleman. Section 1287 of the conference report to accompany H.R. 6 includes rulemaking authority for the Federal Trade Commission to adopt rules protecting the privacy of electric consumers in connection with their receipt of electric utility services. Am I correct in understanding that it was the conference committee's intent to grant the FTC rulemaking authority with respect to the information practices of "traditional" utility companies and not financial institutions regulated by the Gramm-Leach-Bliley Act?

Mr. DOMENICI. The gentleman is correct. We did not intend to revisit issues regulated under the GLBA, or provide the Commission with rulemaking authority over financial institutions regulated under Gramm-Leach-Bliley.

Mr. JOHNSON. Am I further correct that it was not your intention that utility companies be restricted in their ability to report payment history information to consumer reporting agencies, as such information can be very beneficial to consumers, such as those consumers with "thin" files at credit bureaus?

Mr. DOMENICI. The gentleman is correct.

Mr. JOHNSON. Am I further correct that it was not your intention that the FTC be given broad rulemaking authority with respect to the goods or services that can be offered to any utility customer, but rather the FTC has the authority to regulate the products or services offered by "traditional" utility companies and not financial institutions regulated by the GLBA?

Mr. DOMENICI. The gentleman is correct.

Mr. JOHNSON. I thank the gentleman for his clarifications.

Mr. DOMENICI. I thank the gentleman for bringing these issues to my attention.

Mr. GRASSLEY. Mr. President, today we have the opportunity to finish a very long journey in the quest to build a dynamic, comprehensive energy policy for the United States of America. I can say with pride that this Congress, through many trials and tribulations, has now performed admirably in its duty to the American people. This is a balanced energy bill that focuses as much on the future as it does the present. We have the opportunity with the passage of this legislation to safely produce more energy from more sources and with more infrastructure security then ever before.

On June 21st, the Senate passed H.R. 6 which included the Energy Policy Tax Incentives Act of 2005. The tax provisions were a bipartisan product formulated with Senator BAUCUS, after consultation with many Members of the Senate.

In my estimation, the energy policy tax incentives reflected in this conference agreement are a fair balance of the interests of the Members and effectively supports the development of energy production from renewable and environmentally beneficial sources.

I would like to briefly describe these tax incentives that are included in the final energy Conference agreement.

For years, I have worked to decrease our reliance on foreign sources of energy and accelerate and diversify domestic energy production. I believe public policy ought to promote renewable domestic production that uses renewable energy and fosters economic development.

Specifically, the development of alternative energy sources should alleviate domestic energy shortages and insulate the United States from the Middle East-dominated oil supply. In addition, the development of renewable energy resources conserves existing natural resources and protects the environment.

Finally, alternative energy development provides economic benefits to farmers, ranchers and forest landowners, such as those in Iowa who have launched efforts to diversify the State's economy and to find creative ways to extract a greater return from abundant natural resources.

Section 45 of the Internal Revenue Code currently provides a production tax credit for electricity produced from renewable sources including wind, biomass, and other renewables. The final Energy Tax Incentives Act extends the section 45 credit through the end of 2007.

I have been a constant advocate of alternative energy sources. Since the inception 13 years ago of the wind energy tax credit, wind energy production has grown considerably. In addition, wind represents an affordable and inexhaustible source of domestically produced energy.

Extending the wind energy tax credit until 2008 will support the tremendous continued development of this clean, renewable energy source.

The conference agreement supports a maturing green energy source. Experts have established wind energy's valuable contributions to maintaining cleaner air and a cleaner environment. Every 10,000 megawatts of wind energy produced in the United States can reduce carbon monoxide emissions by 33 million metric tons by replacing the combustion of fossil fuels.

In addition, this agreement helps to empower our rural communities to reap continued economic benefits. The installation of wind turbines has a stimulative economic effect because it requires significant capital investment which results in the creation of jobs and the injection of capital into often rural economic areas.

In addition, for each wind turbine, a farmer or rancher can receive more than $2,000 per year for 20 years in direct lease payments. Iowa's major wind farms currently pay more than $640,000 per year to landowners, and the development of 1,000 megawatts of capacity in California, for example, would result in annual payments of approximately $2 million to farm and forest landowners in that State.

Environmentally friendly biomass energy production is a proven, effective technology that generates numerous waste management public benefits across the country.

The biomass definition covers open loop biomass. Open loop biomass includes organic, nonhazardous materials such as sawdust, tree trimmings, agricultural byproducts and untreated construction debris.

The development of a local industry to convert biomass to electricity has the potential to produce enormous economic benefits and electricity security for rural America.

In addition, studies show that biomass crops could produce between $2 and $5 billion in additional farm income for American farmers. As an example, over 450 tons of turkey and chicken litter are under contract to be sold for an electricity plant using poultry litter being built in Minnesota. This is a win-win. Not only do the farmers not have to pay to dispose of this stuff, they get paid to sell the litter. You could find similar examples throughout the Midwest and other farm regions across America.

Finally, marginal farmland incapable of sustaining traditional yearly production is often capable of generating native grasses and organic materials that are ideal for biomass energy production. Turning tree trimmings and native grasses into energy provides an economic gain and serves an important public interest.

I am very proud of a long history of supporting new alternative energy concepts in the production of electricity. The energy conference agreement continues that commitment.

By using animal waste as an energy source, an American livestock producer can reduce or eliminate monthly energy purchases from electric and gas suppliers and provide excess energy for distribution to other members of the community.

Swine and bovine energy is truly green electricity, as it also furthers environmental objectives.

Specifically, anaerobic digestion of manure improves air quality because it eliminates as much as 90 percent of the odor from feedlots and improves soil and water quality by dramatically reducing problems with waste runoff. Maximizing farm resources in such a manner may prove essential to remain competitive in today's livestock market. In addition, the technology used to create the electricity results in the production of a fertilizer product that is of a higher quality than unprocessed animal waste.

The Energy Tax Incentives Act is important to agriculture, rural economy and small business. It is also important for domestic supply and energy independence.

Rural America can play an important part in energy independence and domestic supply. In addition to the production of electricity, this agreement includes additional tax incentives for the production of alternative fuels from renewable resources.

We continue the small producers credit for the production of ethanol. We continue the incentive for the production of biodiesel. Biodiesel is a natural substitute for diesel fuel and can be made from almost all vegetable oils and animal fats. Modern science is allowing us to slowly substitute natural renewable agricultural sources for traditional petroleum. It gives us choices for the future and it can relieve the strain on the domestic oil production to fulfill those important needs that agricultural products cannot serve.

Renewable fuels like ethanol and biodiesel will improve air quality, strengthen national security, reduce the trade deficit, decrease dependence on the Middle East for oil, and expand markets for agricultural products.

This package is fiscally responsible. The conference report provides a net $11.5 billion in tax relief over 10 years. That figure aligns with the budget resolution. Over 5 years, the package loses only about $6.9 billion.

The Energy conference agreement is a balanced package. I would like to note, with some satisfaction, that today we have performed the people's business in the way they want us to do business. This Energy Tax Incentives Act was crafted in a bipartisan, bicameral way on an important initiative, in a way that reflects the diversity of our views and the diversity of our Nation.

Mrs. FEINSTEIN. Mr. President, I thank Senators DOMENICI and BINGAMAN for insisting upon a more open, bipartisan conference than we have seen in a number of other important bills.

Chairman DOMENICI deserves great credit for making sure that this conference report does not include some of the most egregious House provisions, particularly retroactive liability protection for MTBE producers and broad Clean Air Act exemptions.

However, I am extremely concerned that this bill does nothing to address global warming and fuel economy standards. I believe that climate change is the most urgent energy-related problem of my lifetime.

This bill refuses to accept responsibility or chart a course to deal with the United States' profligate use of emissions-producing energy sources.

The United States is the largest consumer of energy, yet this bill does nothing to reduce our energy consumption. This bill deletes a very modest oil savings provision that would have required us to save 1 million barrels of oil per day in 2015.

Nor does it include a renewable portfolio standard that I would have required that 10 percent of the nation's electricity come from renewable resources by 2020. California will achieve a renewable portfolio standard of 20 percent by 2017. It is doable nationally.

Climate change is the most important energy and environmental issue facing us today. The earth's temperatures are expected to rise between 2.5 degrees and 10.4 degrees Fahrenheit over the next century.

During the same time period, the American Southwest could see a rise of 14 degrees or more.

Glaciers are melting, sea levels are rising, and water supplies in the West are at severe risk.

By not acting to aggressively reduce our emissions, we are putting California's water supplies at severe risk.

California depends on the Sierra Nevada snowpack as its largest source of water. It is estimated that by the end of this century, the shrinking of the snowpack will eliminate the water source for 16 million people—equal to all of the people in the Los Angeles Basin.

We must act now. Carbon dioxide emissions accumulate in the atmosphere—the more we emit, the worse the impacts on our environment. If we curb our emissions now, we may have a chance to limit the damage we are causing to our fragile ecosystem.

Yet this bill does not include the Sense of the Senate on climate change that recognizes that climate change is being caused by man-made emissions, and that Congress must pass legislation that establishes a mandatory cap on emissions.

The lack of action on climate change and fuel economy is an enormous deficit of the bill.

Increasing fuel economy standards is the single most important step we can take to reduce our dependence on oil. We have the technology now to increase the fuel economy of our vehicles.

GM, DaimlerChrysler and Honda have already developed something known as cylinder cut-off technology that provides the fuel efficiency similar to a vehicle with a smaller engine, but with all the power of a big engine. The auto manufacturers could use a more fuel efficient design, using lighter materials that increase fuel economy without sacrificing safety.

The list goes on and on, yet the auto manufacturers will not act unless Congress forces them to. We are missing a huge opportunity to address the real problem that consumers are facing—rising gas prices. Those gas prices are not going to fall until or unless we reduce our demand for oil by increasing our fuel economy.

I am also concerned about the following provisions in the bill:

Ethanol—the bill has an egregious 7.5 billion gallon mandate for ethanol. My State does not need the fuel additive to meet clean air standards.

I thank the conferees for retaining an amendment I offered to protect California's air quality. It waives the requirement that California use ethanol in the summer months when it can end up polluting the air more than protecting it.

However, I believe that this mandate will raise gas prices for Californians. So far, ethanol in California's gasoline has increased the cost of our gasoline by 4 to 8 cents per gallon.

Further, the ethanol mandate maintains the 54 cent-per-gallon import duty that prevents oil producers from buying ethanol on the global market, or wherever it is cheapest.

Moreover, ethanol receives a tax credit of 51 cents per gallon. A 7.5 billion gallon mandate means an almost $2 billion loss to the U.S. Treasury over today's receipts. I believe this mandate is an unnecessary giveaway.

In addition, increasing the use of ethanol will not decrease our use of oil. When this mandate is fully implemented in 2012 it will only reduce U.S. oil consumption by less than one-half of one percent.

I believe this is bad public policy and that it is an unnecessary, costly mandate that should not be in the energy bill.

LNG Siting—this bill gives the Federal Energy Regulatory Commission exclusive authority over siting LNG terminals. There are three projects proposed in California. It seems to me that the location of these projects should be left up to the State, not to the Federal Government.

The Federal Energy Regulatory Commission should ensure that the technicalities of natural gas delivery are taken care of, not where these facilities are located on the coastlines of our states.

Outer Continental Shelf—this bill provides for an inventory of the resources off our shores. This is not necessary unless we plan on drilling, to which I remain very much opposed.

I strongly oppose lifting the moratoria on drilling on the Outer Continental Shelf and my State is unified in its opposition as well. Our coast is too important to California's economy and to our quality of life.

Environmental Rollbacks—the bill exempts the underground injection of chemicals during oil and gas development from regulation under the Safe Drinking Water Act, and waives the storm water runoff Clean Water Act regulations for oil and gas construction sites.

These are unnecessary environmental rollbacks that should not have been included in the Energy bill conference report.

I reluctantly voted for the Energy bill when it was considered on the Senate floor. The reason I voted for it was because it included strong consumer protections, and great energy efficiency tax incentives that Senator SNOWE and I have been pushing for the past several years.

While I am pleased that the strong consumer protections are still included in the bill, I am extremely disappointed with the energy efficiency tax incentives.

The tax incentives for energy efficiency in the Senate bill were the cornerstone of a sensible energy policy to address high natural gas prices, peak power reliability, and global warming. It would have saved over 180 million metric tons of carbon emissions annually in the year 2025—some 10 percent of U.S. emissions for all purposes, while saving consumers over $100 billion annually.

But the Energy bill conference report cut these incentives back by over two-thirds, leaving the Nation with only the skeleton of an effective energy efficiency tax program. While it is possible that this hobbled program could still work, it is so under-funded that it could also fail.

The Senate bill provides performance-based incentives of up to $2,000 for retrofits made to homes that would achieve a 50 percent energy savings, and applied to all types of homes, whether owner-occupied or renter-occupied, whether owned by families or by businesses, and whether the tenant or the landlord performs the retrofit.

The conference report gutted this program—providing cost-based incentives limited to 10 percent of the cost of the retrofit, or a maximum of $500. This is problematic because nearly identical cost-based tax incentives for home retrofits were tried in 1978. They cost the Treasury over $5 billion and not a single study has found that they produced any energy savings.

The Senate bill also provided 4 years of eligibility for high technology air conditioners, furnaces, and water heaters. The conference report cut this eligibility back to 2 years.

This is a big problem because an equipment manufacturer has to make a large investment to mass-produce the efficient equipment.

If that investment must be fully amortized over two years of incentivized sales, manufacturers may be unwilling or unable to make it.

A 4-year amortization period would cause much more manufacturer interest and spur the energy efficiency that we want to promote with these tax credits.

In other words, these energy efficiency tax credits may be meaningless when it comes time to implement them. That would be a terrible shame—energy efficiency has been a huge success in reducing California's demand for energy.

In California, efficiency programs have kept electricity consumption flat for the past 30 years, in contrast to the rest of the United States, where consumption increased 50 percent.

During the Western energy crisis, California faced energy shortages and rolling blackouts, but it could have been much worse. Ultimately, the State was able to escape further blackouts because Californians made a major effort to conserve energy. This reduced demand for electricity and helped ease the crisis.

Unfortunately, the conference report dramatically reduced the effectiveness of the most important step this nation could take to reduce our energy usage—incentivizing energy efficiency.

By not including the oil savings amendment, the renewable portfolio standard, the Sense of the Senate on climate change, and by gutting the energy efficiency tax incentives, this bill preserves the status quo and does nothing to reduce our dependence on oil or on other fossil fuels.

This bill will not solve our Nation's energy problems, lower gas prices, or reduce emissions. And while I thank Senators DOMENICI and BINGAMAN for the fair, open process by which they brought us this bill, I will cast my vote against the conference report.

Ms. CANTWELL. Mr. President, I rise today to discuss the conference report on H.R. 6, the Comprehensive Energy Policy Act of 2005. I stand before my colleagues today with very mixed feelings about this legislation. This conference report has many meaningful achievements and measures that can help provide this Nation, our researchers, and innovators, with the basic tools to start moving America forward toward a new energy strategy for the 21st century. Yet it is far from perfect. It sidesteps many of the most fundamental energy security challenges we face—challenges like our dependence on foreign oil and global climate change, which grow more intractable the longer we wait to address them. It contains provisions that I simply do not support. It is certainly not the Energy bill that this Senator would write if I alone held the drafting pen—the kind of legislation that would put this Nation on a far more ambitious path toward greater energy security in the global economy. I know many of my colleagues feel exactly the same way.

And yet I believe all Senators must clearly acknowledge that this legislation is in many ways superior to the Energy bill conference report we considered during the 108th Congress. And that is true in some very meaningful ways for my region, the Pacific Northwest.

When the Senate, last month, approved its version of this legislation, I noted that I appreciated the skill and thoughtfulness with which the chairman and ranking member of the Energy Committee, Senators DOMENICI and BINGAMAN, had navigated a path forward for this bill. I suggested at the time that they would need every bit of that skill in coming to resolution with the House of Representatives, on a piece of legislation worthy of this Senate's support. Frankly, I doubted very much that it could be done.

But I stand here today ready to vote for this conference report—with reservations, of course—but in recognition of the fact that this legislation is probably better than many of us had reason to expect; and as good as the current political will of Congress would allow. For that, I give enormous credit to the chairman and ranking member. As a member of the Senate Energy Committee, I want to say that I have appreciated the bipartisan nature in which they have handled this bill from the outset. At every turn, they have treated this Senator—and her constituents' interests—with complete fairness. The process by which this legislation was assembled should serve as a model for this body.

I want to talk briefly about what I view as some of the most important achievements of this legislation—particularly for my region and the great State of Washington. These are some of the basic tools that can help serve as building blocks to a more ambitious energy strategy for America.

First and foremost, it is important to understand that the Pacific Northwest is a region completely unique when it comes to our energy system. More than 70 percent of the electricity production in Washington State is derived from hydroelectric sources—designed around our great river, the mighty Columbia. This was a system built as part of President Franklin Delano Roosevelt's efforts to electrify the West. As a result, we are a region with a rich and diverse energy history, an uncommon collection of public and private institutions, a large Federal presence that starts with the Bonneville Power Administration, BPA, and a diverse array of stakeholders rightly concerned about the river's multiple uses. I know all of my colleagues from the Northwest who sit on the Energy Committee—there are five of us, in fact—appreciate this tremendous heritage, our region's history of cost-based power, and the valuable asset that we inherited from our predecessors, great leaders like Senators Jackson, Hatfield, and Magnuson.

That is why we worked hard, in a bipartisan manner at every turn, to safeguard the Northwest's system of cost-based power—the engine of our regional economy. That is why the electricity title of this legislation is so important to my region, and to the ratepayers of Washington State.

I am proud this legislation specifically protects the Northwest's transmission system, by prohibiting the Federal Energy Regulatory Commission, FERC, from converting the Bonneville Power Administration's existing system of cost-based, firm transmission contracts to a market-based auction of financial transmission rights.

Now, this auction of financial transmission rights was a central tenet of FERC's controversial and ill-fated standard market design, SMD, proposal. All of us from the Northwest were united in our opposition to SMD because we recognized right away that it was a scheme with the potential to result in tremendous amounts of cost-shifting onto our ratepayers, and to substantially undermine our cost-based system. The provision that protects the Northwest's existing system is thus an important achievement because it slams the door on any sort of future FERC-imposed proposal like standard market design. I would also note that the Senate-passed Energy bill would have slammed the door on SMD once and for all. This became unnecessary, however, when FERC's new chairman officially terminated the commission's SMD proceeding earlier this month. I think that was a very wise choice and think it speaks quite well of the commission's new leadership.

Also important to my region are provisions that this bill does not contain. Specifically, this conference report omits the administration's legislative proposals—unveiled earlier this year—to hamstring BPA's ability to invest in regional infrastructure and upend Bonneville's system of cost-based power sales. The Northwest Power and Conservation Council has estimated the administration's proposal would raise regional power rates by $1.7 billion. That would translate to a $480-a-year rate hike for families in some of Washington's most rural communities. Again thanks to the bipartisan efforts of Northwest Senators, those legislative proposals were dead on arrival.

When it comes to protecting Washington State consumers, I must also mention a number of other provisions. At long last, the bill establishes mandatory, enforceable reliability rules for operation of the Nation's transmission grid. This effort also began in the Pacific Northwest—after an August 1996 blackout resulting from two overloaded transmission lines near Portland, OR which caused a sweeping outage that knocked out power for up to 16 hours in 10 States, including Washington. As a result, both a DOE task force and the industry itself in 1997 recommended mandatory reliability rules for operating the transmission grid. The Senate first passed this legislation just over 5 years ago, in an effort begun by my predecessor, Senator Slade Gorton. It is legislation that I have championed since I have arrived in the Senate, an effort that gained more urgency with the Northeast blackouts of two summers ago; and I will be very pleased to see this measure through to the end.

This bill also takes steps to respond to the disastrous western energy crisis, which extracted billions of dollars and hundreds of thousands of jobs from our regional economy. As I have recounted many times on this floor, the illegal and unethical practices of Enron and others sent Washington power rates through the roof. This Energy bill puts in place the first ever broad prohibition on manipulation of electricity and natural gas markets. These provisions are modeled on a measure that I have authored that has now passed the Senate twice, and I am pleased that they are included in this conference report—particularly given the far inferior provisions contained in the House legislation, which would have in many ways gone in the entirely opposite direction.

In light of the now-infamous audiotapes of Enron traders and others conspiring to gouge consumers, the legislation also gives Federal regulators new authority to ban unscrupulous energy traders and executives from employment in the utility industry. In addition, it substantially increases fines for energy companies that break the rules. And importantly for my constituents, this legislation prohibits a Federal bankruptcy court from enforcing fraudulent Enron power contracts, including $122 million the now-bankrupt energy giant is attempting to collect from Snohomish PUD. That would translate to more than $400 from the pockets of every family in Snohomish

County, WA, who have already seen their utility bills rise precipitously as a result of the western energy debacle.

For all these provisions, I am tremendously grateful to the chairman and ranking member. I know they faced a steep uphill battle with the House in retaining these measures, and I applaud and thank them for their efforts in ensuring that the Senate positions prevailed.

I should also mention the renewable fuels provisions of this bill, which I believe will help put Washington State farmers and entrepreneurs in the biofuels business. Today, production of biofuels is dominated by the midwestern region of the country, as traditional policies have supported corn- and soy-based fuel production and helped that technology gain maturity. However, the key to lowering costs and establishing a truly national strategy is to make an investment in new technologies that will diversify biofuels production in the United States.

Researchers at Washington State University estimate that our State has the capacity to produce 200 million gallons of ethanol from wheat straw, and up to 1.2 billion gallons with technology improvements. Meanwhile, biodiesel is another emerging opportunity for Washington State farmers, using canola or yellow mustard. These crops are particularly well-suited to Washington State, providing high yields without irrigation.

Around Spokane, it is estimated that 500,000 acres a year could be put into oil seed production, enough oil to produce 25 million gallons of biodiesel. Statewide, at least 2 million acres could be put into oilseed production for biodiesel.

There are a number of very important provisions in this bill that will help my State capitalize on the promise of biofuels, including an Advanced Biofuel Technology Program I authored, to help demonstrate these new technologies; important market-based incentives for refiners to diversify the types of biofuels they use; and financial support in many forms for cellulosic ethanol and biodiesel production.

These are very important achievements that will help transform biofuels from a boutique regional industry to something that can become part of a truly national strategy to help supplant our Nation's petroleum imports—lowering costs and helping provide greater economic security to our farmers at the same time.

But in addition to renewable fuels, we should acknowledge the provisions of this legislation promoting renewable electricity generation. Obviously, this legislation does not go as far as I would like. I vigorously support a renewable portfolio standard—even a more aggressive standard than what passed the Senate. It is unfortunate, indeed, that the House would not accept this provision, and those of us who strongly advocate it will continue to attempt to move the RPS forward.

But this legislation does extend through the end of 2007 the existing production tax credit for renewable energy, such as wind resources. It is estimated that this credit can help save Washington State ratepayers $260 million over the next 10 years. As Northwest utilities add wind resources to help bolster regional power supplies, these investments are also helping fill the coffers of local communities. For example, a new wind project near Ellensburg, WA, has generated an additional $2 million in revenue for Kittitas County. Similarly, wind energy is helping provide another source of income for Northwest farmers. Growers in Columbia County, WA, home to the new 150 Megawatt Hopkins Ridge wind project, receive about $5,000 per turbine located on their land. One farmer estimates the revenue generated by the project will equal the income generated by 250 acres of harvest.

For the first time, the Energy bill creates clean renewable energy bonds, to support investment in renewable energy resources by governmental entities, including tribes, agencies such as BPA and other public power entities. I am also pleased that for 20 years the Renewable Energy Production Incentive, REPI, Program, which provides a direct payment to public power entities, which do not qualify for tax credits, for renewable electricity production. Eligible resources are expanded to include ocean energy. The REPI Program has already been used by multiple Washington State public utilities to make renewable energy investments.

Washington State is also home to the Pacific Northwest National Lab, and for that reason, the research and development title of this legislation bears mentioning. The Energy bill conference report authorizes hundreds of millions of dollars of investment in research ongoing at the Pacific Northwest National Lab and Washington State universities, including systems biology research, distributed and smart energy technology research and development; bio- and nanotechnology related to the production of bioproducts; and advanced scientific computing.

The Energy bill's "personnel and training" title is also worth noting, since it will help provide a skilled energy workforce for the 21st century, as the energy industry braces for a critical shortage. Washington State is poised to help train the next generation of engineers and innovators in this area. The legislation requires the Secretaries of Energy and Labor to monitor workforce trends in the area of electric power and transmission engineers and identify critical national shortages of personnel. It also authorizes the Secretaries to establish a grants program of up to $20 million a year to enhance training—including distance-learning, such as the program now being pioneered at Gonzaga University—in electric power and transmission engineering fields. While fewer than 15 universities nationwide offer world-class, Ph.D.-level programs in power engineering, both Washington State University and the University of Washington offer strong programs in this area. In addition, Gonzaga University this year established a specialized masters of science degree and certification program in transmission and distribution engineering.

This conference report also streamlines technology transfer rules for national labs such as PNNL, and extends the 20 percent R&D tax credit to energy research done by nonprofit consortiums involving small businesses, National Labs, and universities to promote interaction and collaboration between public and private researchers. The research and development and workforce provisions of this bill hold some of the most promise in putting in place the building blocks for a real, innovative energy strategy for the 21st century.

Years in the making, the Energy bill also includes bipartisan reform of the hydroelectric relicensing process. The hydro provisions included in this legislation are designed to improve the accountability and quality of Federal agencies' decisions. At the same time, the compromise restores the rights of the public to participate in the process on equal footing with license applicants—provisions that have been missing in previous versions of the bill. Over the next 15 years, 70 percent of Washington State's non-Federal hydro must go through the hydro relicensing process.

Another provision of importance to my State is this legislation's reinstatement of the oil spill liability trust fund, OSLTF. Earlier this year, a Coast Guard report found that the OSLTF—which has been used to clean up spills in the Puget Sound—would run out of money by 2009. The OSLTF was established in the 1990 Oil Pollution Control Act, and has been funded through a per-barrel fee on oil companies until it reached its statutory cap of $1 billion. The fund was designed to be maintained from interest on that original $1 billion, but increasing cleanup costs and low liability caps have eroded the principal amount. The Energy bill would reinstate the fee in April 2006 or thereafter, once the Secretary finds that the balance in the account falls below $2 billion. The bill authorizes application of the fee through 2014.

Lastly, I want to mention this legislation's provisions to provide energy assistance to some of our Nation's neediest families. The Energy bill would boost authorization for the Low-Income Home Energy Assistance Program, LIHEAP, from its traditional level of $2 billion to $5.1 billion, for 2005-2007. LIHEAP funding is critical for some of Washington State's most vulnerable citizens. As a result of the western energy crisis, electricity rates have gone up more than 20 percent statewide while 72 percent of low-income families in Washington use electricity to heat their homes. And already, the 105,000 Washingtonians with incomes below 50 percent of the Federal poverty level spend 34 percent of their entire annual pay on home energy bills. In recent years, less than 30 percent of Washington's eligible families have been able to receive energy assistance—as demand has for LIHEAP dollars has far outpaced their availability. More than doubling available LIHEAP funding would provide a much-needed boost to local organizations in Washington struggling to meet the needs of their communities.

As my colleagues can see, this legislation is tremendously complex. I have listed many of the provisions important to my constituents. Of course, there are a number of other measures with which I simply disagree. Perhaps that is to be expected of a 1,700-page piece of legislation that touches every sector of the American economy. For example, the inventory of Outer Continental Shelf oil and gas resources is wrong-headed, and I oppose it. I would note, however, that in order for the inventory to move forward, it must be funded. I know this Senator believes any such inventory would constitute a tremendous waste of taxpayer funds, and the fight is far from over on this issue.

Similarly, I oppose the liquefied natural gas provisions of this bill because I believe States and local communities need a bigger role in these decisions. Some of the nuclear provisions of this bill are particularly offensive, in that they create an inherent conflict of interest at the Nuclear Regulatory Commission, which should not be subject to the cross pressures of protecting public safety and the public interest, at the same time the commission is under fiscal pressure to unwisely accelerate its proceedings under the guise of some new form of "risk insurance."

I oppose the Clean Water Act and Safe Drinking Water Act rollbacks in this bill. The National Energy Policy Act provisions are similarly unnecessary. But I recognize that they are far less sweeping than those originally proposed by the House. If this Senator had her way, we would not be repealing the Public Utility Holding Company Act. Yet I am at least comforted by the fact this legislation hews closely to the compromise on utility mergers reached by the Senate.

Moreover, the tax package does not resemble the tax package I would have written. On this point, I agree with the President: The oil and gas industry does not need these incentives, given where prices are at today.

I am not the first Senator to say it, and I won't be the last. This bill is not as I would have written it. It has the flaws that I have listed. It is also incomplete. It is a status quo bill when it comes to one of the most difficult challenges to our economic and national security faced by this generation: America's dangerous dependence on foreign oil. This bill does not address this festering problem. It will not provide relief to consumers at the gas pump. Any suggestion to the contrary would be simply false.

It is clear to this Senator that if this body is truly serious about putting in place a framework that will allow the United States to compete in the global marketplace: a framework that will allow America to control its own destiny in the coming decades as it relates to our energy security, our work is not done. Tomorrow isn't soon enough to go back to the drawing board and get serious about our dependence on foreign oil. And this Senator will keep fighting to do just that. Our work on energy security has hardly begun—it is far from finished if we want to live up to our responsibilities to future generations of Americans. We must not leave to them a Nation crippled by its addiction to foreign sources of oil—an overdependence that jeopardizes our economic future and national security.

On the contrary, it is our responsibility to face up to a simple fact: The accidents of geology make it impossible for this Nation to drill its way to energy independence, since we are situated on just 3 percent of the world's proven oil reserves. We must recognize that fact and read the economic indicators. We must consider emerging competitors such as China and India, and recognize the seismic shifts that are likely to occur in the dynamics of world energy markets.

I firmly believe that future generations of Americans will measure us on how we choose to address the challenges of energy security and climate change. They are that vital to this Nation's security and our economic future.

But this Senator also recognizes that the leadership of this Congress is not yet prepared to take that step; that my colleagues and I who believe so fundamentally in the importance of enhancing our oil security have more work to do to change the hearts and minds of our colleagues. The American people must also demand better leadership from their elected officials when it comes to energy security. And this Senator stands ready to work across the aisle to do what is necessary to make meaningful progress on these issues.

This bill is not perfect. We have much more work to do to bolster our energy security, and this Senator is ready to roll up her sleeves and do it. But on the whole, this bill provides some basic building blocks toward a better energy future. For that reason, I will support the Energy bill conference report and urge my colleagues to do the same.

Mrs. CLINTON. Mr. President, I rise to speak on the Energy bill that the Senate will be voting on today. Unfortunately, I cannot support this bill.

The bill does include some worthy provisions. For example, the bill includes the major provisions of the Hydrogen and Fuel Cell Technology Act of 2005 that I have worked on for years with Senator DORGAN. It includes my Dirty Bomb Prevention Act of 2005, as well as a provision that I authored to require backup power for emergency sirens around the Indian Point nuclear powerplant. It extends and expands the wind production tax credit, and includes a provision to help us continue to develop and commercialize clean coal technology. It will push energy efficiency standards of air conditioners and other appliances forward. It will establish mandatory, enforceable reliability standards, something that I have been pushing for since the August 2003 blackout. And it includes a bill I introduced with Senator VOINOVICH to create a grant program at the U.S. Environmental Protection Agency to promote the reduction of diesel emissions.

In spite of these positive measures, I oppose the bill for two reasons. First, it contains a number of highly objectionable provisions. Second, it simply ignores several of our most pressing energy challenges, such as our dependence on foreign oil.

I won't list all of the problematic provisions here, but I want to highlight a couple of the most troubling. The bill includes billions in subsidies for mature energy industries, including oil and nuclear power. These are giveaways of taxpayer money that do nothing to move us toward the next generation of energy technologies. The bill accelerates the siting procedures for liquid natural gas terminals and weakens the State role in the process, something I am very concerned about, given the Broadwater proposal looming off the Long Island shores. As ranking member of the Water Subcommittee of the Environment and Public Works Committee, I object to the provisions that exempt hydraulic fracturing from coverage under the Safe Drinking Water Act and exempt oil and gas construction sites from stormwater runoff regulations under the Clean Water Act. Despite a long-standing moratorium on oil drilling off most of the U.S. coast, including the New York coast, the bill authorizes an inventory of oil and gas resources there.

None of these provisions should be in the bill. But the main reason that I must oppose this bill is that it simply doesn't address the most pressing and important energy challenges that we face. It is a missed opportunity to reduce our dependence on foreign oil.

spur the development of renewable resources, and address climate change.

While the Senate-passed bill did not go as far as I would like in terms of reducing our dependence on foreign oil, it did contain a provision that would reduce U.S. oil consumption by 1 million barrels of oil per day by 2015. That was dropped in conference.

The Senate bill had a modest provision to increase the percentage of electricity generated from renewable sources to 10 percent by the year 2020. That, too, was dropped in conference.

In addition, the Senate went on record as supporting a mandatory program to start reducing the greenhouse gas emissions that are contributing to climate change. That is gone as well.

So as I look at the bill as a whole, I see a major missed opportunity. By the President's own admission, this bill won't do anything to reduce gasoline prices, but we know for a fact that it will give billions in tax breaks to companies like Exxon Mobil. It doesn't do nearly enough to push the development and commercialization of clean, next-generation energy technologies, but it gives huge tax breaks to nuclear power, a technology that has been with us for 50 years. And given what we now know about the looming threat of climate change, it makes no sense to make energy policy without integrating a cost-effective strategy to reduce greenhouse gas emissions. But that is exactly what this bill does.

In short, this bill simply misses the mark. It ignores our biggest energy challenges, subsidizes mature energy industries like oil and nuclear, and rolls back our environmental laws. I know it will pass today, but I will not be voting for it.

Mr. JEFFORDS. Mr. President, I want to share my views on the final Energy bill conference report now before us. I regret that I will be unable to support this legislation, and I will explain my substantive concerns about the bill in greater detail. But, first, I want to comment on the process that brought us to this point because the process has been very different than the last energy conference report.

The last energy conference report to come before the Senate in the 108th Congress contained more than 100 provisions in the jurisdiction of the Environment and Public Works Committee. In my role as the ranking member, I came to the floor to share with the Senate that the EPW Committee was not consulted in the development of any of those provisions.

That closed-door process did not occur with this conference report, and I believe that was due to the efforts of Senators DOMENICI and BINGAMAN. Though neither Senator INHOFE nor I were conferees, we were apprized of conference discussions. Our staff reviewed and provided technical assistance on provisions. For example, we agreed to revise the House's nuclear title to incorporate three nuclear bills reported by the Environment and Public Works Committee. We also worked closely on the ethanol provisions, given their implications for the Clean Air Act.

The Senators from New Mexico worked hard to limit the items in the conference report in the EPW Committee's jurisdiction. They faced a very uphill task. The House bill had many troubling environmental provisions that were strongly supported by House conferees. Unfortunately, though, many troubling environmental provisions were removed during conference negotiations, several provisions of concern to me and to several other Democratic members of the EPW Committee remain in the final conference report.

I say all this to make clear to the Senate that I am not opposing this bill on process, but on policy. It contains bad environmental policy. It is a missed opportunity with respect to our energy policy. It contains the wrong fiscal priorities with $80 billion in giveaways to the oil, gas, coal, and nuclear industries. And, for those reasons, I feel it is not the right energy policy for America today, and certainly not for the future.

I am deeply concerned that the conference report before us does not represent the kind of forward looking, balanced energy policy that our Nation needs. It does not go far enough in reducing our country's reliance on imported oil. Provisions to set a goal to curb our Nation's oil use, overwhelmingly supported in the Senate, were defeated. Provisions in the Senate bill to set a national goal to obtain 10 percent of our Nation's electricity from renewable sources were also stripped in the conference.

I have spent my congressional career promoting the use of renewable energy in our country. This Nation has abundant renewable energy sources, from wind to animal methane to geothermal, in every State, and it is in our economic and environmental interest to use them. It is very disappointing to me, as we stand here on the threshold of passing an energy bill that will likely serve as our country's energy policy well into the next decade, that many of the same polluting coal-fired power plants that were operating when I came to Congress are still operating without modern pollution controls. Though this conference report takes an important step by asking the Federal agencies to get roughly 8 percent of their energy from renewable sources in 2020, this should have been an economy-wide goal.

It also fails to substantively address many other important issues, such as climate change and the need to improve vehicle fuel economy to give consumers more affordable and less-polluting choices when they buy their family's next automobile.

But worst of all, this bill seriously harms the environment. During the conference, along with the majority of Senate Environment Committee minority colleagues, I wrote the conferees listing six of what I believed to be the most troubling environmental provisions of the House-passed bill. Several remain in this bill.

I am disappointed that the renewable fuels provisions in the conference report continue to differ significantly from the provisions that were reported by the Environment and Public Works Committee in the last three Congresses. The provisions that my committee reported were the ones contained in the energy legislation that the Senate passed this year and last year.

Though we know methyl tertiary butyl ether, or MTBE, is environmentally harmful, the conference report does not phase out its use.

The Senate bill would have phased out MTBE use nationwide over 4 years. The conference report contains no such ban. In addition, critical language allowing the U.S. Environmental Protection Agency to pull future gasoline additives off the market if they caused water pollution problems was eliminated.

The conferees have included language similar to a provision in the House-passed bill that exempts oil and gas exploration and production activities from the Clean Water Act storm water program.

The Clean Water Act requires permits for storm water discharges associated with construction. The conference report changes the act to exempt oil and gas construction from these permits.

The scope of the provision is extremely broad. Storm water runoff typically contains pollutants such as oil and grease, chemicals, nutrients, metals, bacteria, and particulates.

According to EPA estimates, this change would exempt at least 30,000 small oil and gas sites from clean water requirements. In addition, every construction site in the oil and gas industry larger than 5 acres are exempt from permit requirements. Some of those sites have held permits for 10 years or more. This is a terrible rollback of current law and an unneccessary one. These permits have not been hampering production by these drilling sites, but they do protect the fragile water resources around them.

Section 327 of this conference report exempts the practice of hydraulic fracturing to extract coalbed methane from the Safe Drinking Water Act. This practice involves injecting a fluid under pressure into the ground in order to create fractures in rock and capture methane.

The primary risk with hydraulic fracturing is drinking water contamination that occurs when fluids used to fracture the rock remains in the ground and reach underground sources of drinking water. According to the U.S. Government Accountability Office, approximately half of the U.S. population obtains its drinking water from underground water sources. In rural areas, this percentage rises to 95 percent. In its June 2004 study, the EPA reported studies showing that 18–65 percent of injected chemicals can remain stranded in hydraulically fractured formations.

This is wrong. The American people do not want enhanced energy production at the expense of the environment, particularly if it jeopardizes their drinking water wells.

And, they also do not want enhanced energy production at the expense of their own pocketbook, especially in these times of high energy prices. This bill contains several very costly provisions that are more of a giveaway to energy companies than a guarantee of new energy for the American people. One of the most concerning of these are new provisions that provide risk insurance for the construction of six new nuclear power plants.

Now, I agree that siting an energy project is a risky and time-consuming investment. But this provision, in my view, goes too far. This provision would allow the Secretary of Energy to enter into a contract with private interests for the construction of six advanced nuclear reactors. Further, it authorizes the payment of costs to those private interests for delays in the full operation of these facilities.

The payments are up to 100 percent of the delay costs, or a total of $500 million each for the first two facilities. The next four plants would get a payment of up to 50 percent of the delay costs, up to a total of $250 million for each facility. This is a total of $2 billion.

The "delays" for which private interests can be compensated include the inability of the Nuclear Regulatory Commission to comply with schedules that it sets for the reviews and inspections of these facilities.

If the NRC finishes its work on time, but the full operation of one of these facilities is delayed by parties exercising their democratic right to seek judicial review to ensure the safe operation of a nuclear facility in their community, the plant owners can be compensated while the case is litigated.

Nuclear powerplants are large capital investments and risky investments. But so are other energy projects. Just ask anyone who drills for oil, sites a windmill, or seeks to deploy a new energy technology. We do not provide any other type of energy facility this type of guarantee. And what a guarantee, while the Federal Government processes your permit, or if the Federal Government gets sued, the taxpayers will pay you, not for generating energy but for doing nothing.

This is an enormous Federal spending commitment, and one we really are not likely to be able to afford. The intent really is to put pressure on the NRC to approve these new reactors and get them on line. If that is our intent, we should do so without obligating taxpayers to pay for the appropriate process to get them sited and built.

I also am disappointed that the recycling tax credit provisions I authored to preserve and expand America's recycling infrastructure were stripped from the final bill. In a bill that provides $14.5 billion in tax incentives for energy production, these modest provisions would have gone a long way to encourage energy savings and job creation through investment in state-of-the-art recycling technology.

In conclusion I try not to support legislation that exploits our natural resources and pollutes our environment. This bill contains too many provisions that represent real departure from current environmental law and practice to garner my support. Other Senators who believe that we can obtain energy security for America while preserving our environment should vote no as well.

I ask unanimous consent that some additional materials clarifying my views on several bill provisions in the jurisdiction of the Environment and Public Works Committee be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## ADDITIONAL VIEWS OF SENATOR JEFFORDS ON THE CONFERENCE REPORT ACCOMPANYING H.R. 6, THE ENERGY POLICY ACT OF 2005

Mr. JEFFORDS. Mr. President, as I indicated to the Senate in my remarks, this conference report fails to properly balance the need for energy exploration and production with important environmental and conservation concerns. There are a number of environmental provisions in this bill that were either considered by the Senate Environment and Public Works Committee or are in the jurisdiction of that Committee, on which I serve as Ranking Member. Given that the conference report contains no detailed statement by the conferees regarding how these provisions are to be implemented by the relevant federal agencies, I felt it important to provide additional comment on these provisions to serve as legislative history.

### MTBE AND MOTOR VEHICLE FUELS AND FUEL ADDITIVES

The conference report fails to ban methyl tertiary butyl ether (MTBE), an important and constant element of the Senate bill reported by the Environment and Public Works Committee in the 109th Congress. While I am pleased that an MTBE liability waiver is not included in this bill, I am concerned that MTBE will continue to be used in gasoline, leak from underground storage tanks and continue to pose significant and costly drinking water problems.

The elimination of the oxygen-content requirement for reformulated gasoline and the new ethanol mandate (Section 1504) may result in oil companies reducing the amount of MTBE used, but it is unlikely to eliminate its use entirely since it was used as an octane enhancer and anti-knock agent by petroleum refiners long before the Clean Air Act requirements of 1990. The continued use of MTBE in gasoline means that drinking water supplies will continue to be in jeopardy. Therefore, the Environmental Protection Agency and state regulatory agencies should continue with their efforts to ban and limit the use of MTBE.

I am pleased to see that the bill includes several provisions from the bill, S. 606, which was reported out of the Environment and Public Works Committee, that are intended to protect public health and the environment. Perhaps most important of these is the toxics anti-backsliding language to ensure that the elimination of the oxygenate requirement and the growing number of States' MTBE bans will not encourage refiners to use toxic replacement materials. The baseline against performance is judged is set at the average of the years 2001 and 2002, though EPA has evidence of continued improvement in toxics reduction performance in later years. Thus, setting a baseline even a few years old may allow refiners to backslide on performance and increase toxic air emissions from fuels.

For unknown reasons, the conferees failed to adopt an important Senate provision that would prevent MTBE-like water contamination problems from occurring in the future. As was recommended in 1999, by the Blue Ribbon Panel on Oxygenates in Gasoline, the Senate provided EPA the clear authority under the Clean Air Act to regulate fuels and fuel additives due to their impact on water quality and resources. Sadly, we will be doomed to repeat the mistakes of the past on into the future, because the conferees have apparently not learned enough from the $25–85 billion remediation costs facing municipal and residential water systems around the country.

Another Senate bill improvement to current law which was retained in the conference report was making EPA regularly require manufacturers registering fuels or fuel additives to conduct tests publicly to determine public health and environmental effects before registration and use. The report also requires EPA within two years of enactment to conduct a study of the effects on air and water and sensitive subpopulations of fuel additives (Section 1505). Today there are a dozen or so different types of fuel additives and little is known about the toxicological effects of these chemicals on human health and the environment. These studies will help us better understand where MTBE and other fuel additives have leaked and contaminated water resources and how these chemicals are affecting our nation's water resources.

As in the Senate bill, the conference report provides that EPA must update its complex emissions model to reflect vehicles in the motor vehicle fleet from the 1990 baseline to a more accurate 2007 fleet, and study the permeation effects of increased ethanol use on evaporative emissions. Unfortunately, in section 1513, the conferees opted for the less protective House provision on blending and comingling.

The Senate bill, consistent with the recommendations of the Government Accountability Office June 2005 report on "Gasoline Markets," directs EPA to study the air quality and public health impacts of reducing the number of fuel formulations in the market, as well as looking the effects on refiners and gasoline supply and price. This report is due in mid-2008. The conferees wisely included this useful provision in the report, which will provide the information necessary for EPA, the States and Congress to eventually make sound judgments about reducing the number of fuel formulations. However, the conference report also includes an illogical and unnecessarily complex system in section 1541 for limiting the fuel formulations in advance of data to be collected pursuant to the Senate report and the GAO recommendation. That same section also provides unnecessarily expansive and confusing waiver authority for the Administrator to allow increases in pollution from fuels and fuel additives.

### COAL (TITLE IV)

This bill authorizes $3 billion in grants and loans through the Department of Energy and $2.9 billion in tax credits to assist coal-fired power plant owners in installing more modern pollution control equipment and to develop better control technologies. Unfortunately, most of these funds are not directed at truly advanced and significantly cleaner and more efficient electricity generation from coal. As a result, taxpayers will be heavily subsidizing only incremental improvements, rather than the substantial and radical improvements that need to be made in thermal efficiency to combat global warming and in state-of-the art technology to reduce other harmful air pollutants, like mercury, ozone, and particulate matter. This Title will not prepare the United States to live up to its responsibility to be a global leader in reducing greenhouse gas emissions from our heavily coal-based electricity-generating base.

### UNDERGROUND STORAGE TANK COMPLIANCE (TITLE 15, SUBTITLE B)

Leaking underground storage tanks present a significant threat to drinking water supplies nationwide. EPA estimates that there are approximately 150,000 leaking underground storage tanks currently needing cleanup. While I feel that the twenty-year old law needs more comprehensive changes, I am pleased with many of the underground storage tank provision included in this bill.

This bill will for the first time set a mandatory inspection frequency for all federally regulated underground storage tanks. Unfortunately, this requirement falls short of the every two-year inspection requirement unanimously approved by the Senate in the 108th Congress. Instead, tanks that were last inspected in 1999 may be able to evade re-inspection until 2010 or 2011. EPA believes tanks should be inspected at least once every three years to minimize the environmental damage caused by undetected leaks. I encourage EPA and the states to meet the three-year inspection frequency upon enactment of this legislation.

I am pleased with the increased authorization provided from the Leaking Underground Storage Tank (LUST) Trust Fund and the flexibility given to EPA and the states to use the money not just for cleanups but also for compliance activities. Increased authorization is meaningless, however, unless the President and Congress fulfill their responsibilities to appropriate adequate resources to carry out these activities. To ensure that adequate money is provided in the future, I encourage EPA to work with the states to improve data collection to demonstrate the public health and environmental benefits of increased funding.

The bill contains an important new provision to protect groundwater by requiring secondary containment of new tanks within 1,000 feet for a community water system or potable drinking water well. I'm concerned, however, about an exemption from this modest secondary containment provision that allows owners and operators to install underground tanks without secondary containment if the manufacturer and installer of the new tank system maintain evidence of financial responsibility to pay for cleaning up a potential spill. This exemption foolishly emphasizes cleanup over leak prevention. In addition, this financial responsibility requirement is likely to lead to delayed cleanups while owners, manufacturers and installers fight in court over who is responsible for the leak.

EPA and the states should work closely to encourage owners and operators of underground storage tanks to opt for the secondary containment of new underground storage tank systems rather than face potential legal complications in the future when the less protective systems leak. EPA should also work with the states and owners and operators to identify whether this provision results in litigation or delays cleanups and to identify, address and share information about common manufacturing and installation problems with the states and other owners and operators.

I also question the wisdom of limiting the secondary containment requirement to systems within 1,000 feet of a community water system or potable drinking water well as leaks, especially MTBE, which quickly moves beyond 1,000 feet radius of the facility. A broader provision requiring secondary containment on all new tanks has proven very effective in Vermont. EPA and the states should carefully identify all potable drinking water sources in these areas and monitor whether the 1,000 feet radius is adequate to protect public health.

### WESTERN MICHIGAN (TITLE IX RESEARCH AND DEVELOPMENT—SECTION 996)

Hidden as a demonstration project in the Research and Development Title is a provision that provides an exemption from any new specifically ozone-related requirement or sanctions under the Clean Air Act for counties in southwestern Michigan that have been designated as non-attainment for the 8-hour ozone standard. These areas are not given a free pass from any existing Federal or State requirement or enforcement of such existing requirement, including any that the counties may face as ozone maintenance areas or as part of any conditions in the state's ozone implementation plan in place at the time of enactment of this Act. No pollution source in those counties is provided any exemption of any kind from requirements or sanctions related to any other pollutant except as it directly relates to ozone.

The two-year hiatus in enforcement or application of new requirements is unwisely provided to several counties with large populations that are contributing to or causing nonattainment in areas downwind from those counties. This is in direct contradiction to the purposes of the Clean Air Act, particularly as amended in 1990, which recognize the need for all states and areas to be sensitive to the transported pollution that they inflict on downwind areas. The Senate Committee on Environment and Public Works, which has jurisdiction over matters such as this and on which I serve as the ranking member, has never had a hearing on this provision, nor would I have supported such a broad and poorly drafted temporary exemption.

I expect that in the "demonstration" project process over the next two years, EPA and the Governor of Michigan will not only assess the difficulties such areas may experience in meeting the 8-hour ozone standard because of transported ozone pollution, but also the extent of the downwind damage and pollution caused by this "demonstration" project exemption and the adequacy of the EPA's SIP review process under section 110(a)(2). In addition, I would note for any electric generating unit or any similar major stationary source in these counties, that the "demonstration" period designation does not permit evasion of existing New Source Performance Standard requirements in these counties or any other such programs.

### REFINERY REVITALIZATION (TITLE III OIL AND GAS—SECTION 391/392)

I refute the implication in the findings that environmental regulations have limited the U.S. refining capacity. Therefore, I find the Refining Revitalization provisions in this bill to streamline environmental permitting unnecessary, preferential treatment for the oil and gas industry.

While it is true that 175 refineries closed in the last 22 years and no new refineries opened, it is also true that at the same time refining capacity has grown steadily from 6.2 billion to 8.2 billion barrels per day. In fact, the Energy Information Administration earlier this year projected that refining capacity will increase and that refining costs are expected to remain stable or decline.

Despite industry attempts to cut costs and achieve greater efficiencies through rampant mergers—over 2,600 oil companies merged in the 1990s—low returns on investment inhibited expansion in the refinery sector, not overly burdensome environmental regulations.

Proponents of streamlining environmental permitting argue that a large number of closed or idle refineries seeking to reopen are having difficulties obtaining environmental permits. Yet, neither EPA nor the states currently have permits pending to restart refineries.

To address this perceived problem, this energy bill encourages Governors to request that EPA and the state regulatory agencies streamline environmental permitting by accepting consolidated permit applications and tells EPA to find ways to better coordinate among state and federal agencies and to provide additional financial assistance, without providing EPA and the states additional resources to accomplish this task. I am also concerned that this focus on refinery permitting without additional resources will be done at the expense of other important environmental priorities. Refineries are getting preferential treatment that other energy sectors will not be getting and just another example of how this bill is just a transfer of taxpayer dollars to the wealthiest energy companies in the country.

When submitting its budget for next year, EPA should include a large enough request to ensure that adequate resources will be available to conduct expedited review of new and expanding refinery capacity in the United States. Due to the serious environmental impacts these facilities have on our nation's air and water, EPA and the States must ensure that adequate resources are available at the Federal and State level to conduct expedited, but comprehensive and complete reviews to ensure that the American people are protected from the hazards these facilities present.

### NUCLEAR TITLE (TITLE VI)

This title adopts the majority of the provisions of Senate Environment and Public Works Committee reported nuclear bills in the 109th Congress: the Nuclear Fees Reauthorization Act of 2005 (S. 858), the Nuclear

Safety and Security Act of 2005 (S. 864) and the Price Anderson Amendments Act of 2005 (S. 865).

In particular, Section 651 of the conference report includes provisions of S. 864 that would regulate accelerator-produced material, discrete sources of radium-226, and discrete sources of naturally occurring radioactive material (NORM) under the Atomic Energy Act. The section does so because these materials pose a "dirty bomb" risk. There is wide agreement that radium, accelerator-produced materials and naturally occurring radioactive materials could be used in a dirty bomb and therefore should be regulated by the Nuclear Regulatory Commission. Even so, some have raised questions about why we need to address the disposal of these materials in the conference report.

The conference report addresses the waste disposal issue because some of the materials which are not now regulated under the Atomic Energy Act can currently be disposed of under the authority of Acts such as the Resource Conservation and Recovery Act, as long as their activity levels are sufficiently low. Since the provisions agreed to by the conferees place these materials under the jurisdiction of the Atomic Energy Act, they would no longer be able to be disposed of under the authority of Acts such as the Resource Conservation and Recovery Act without the additional provisions we included in the language.

Though the conferees included this language, neither the NRC nor the Environmental Protection Agency and the states should conclude that the intent of the disposal provisions is to expand or alter the waste disposal requirements associated with these materials. This language is not intended to alter current disposal practices in any way, but is rather intended only to preserve the disposal options that are currently available under existing authority for this material.

In all discussions with the conferees, it was my intent that these provisions to remain neutral on the issue of waste disposal, and to ensure that there are no new restrictions and no new authorities granted by this language. To make it clear, these provisions would in no way result in granting new authority for materials that are currently regulated under the Atomic Energy Act to be disposed of in facilities not licensed to accept radioactive waste by the Nuclear Regulatory Commission or an Agreement State under the Low Level Radioactive Waste Policy Act (LLRWPA).

Bringing accelerator-produced material, discrete sources of Radium-226, and discrete sources of naturally occurring radioactive material (NORM) under the Atomic Energy Act because they pose a dirty bomb risk, without making special provision for their disposal, would mean that in accordance with the LLRWPA, as amended, these materials would have to be disposed of at low-level radioactive waste disposal facilities licensed by either the NRC or an Agreement State. Because of interstate import and export restrictions adopted by compacts under the LLRWPA, bringing radium 226, accelerator-produced materials and NORM under the jurisdiction of the Atomic Energy Act could eliminate for generators in the majority of States a disposal capability for these materials that is currently available to and being used by generators across the nation. In addition, regulating these materials under the Atomic Energy Act might result in making any Act that excludes Atomic Energy Act material from the Act's coverage (such as the Solid Waste Disposal Act, popularly referred to as the Resource Conservation and Recovery Act (RCRA)) inapplicable. These provisions are intended only to preserve the disposal options that are currently available under existing authority for this material, such as those that are available under the authority of the Resource Conservation and Recovery Act, and would not affect the disposal of Atomic Energy Act materials not covered by this section.

### HYDRAULIC FRACTURING TITLE III/SECTION 327

By excluding hydraulic fracturing from the definition of underground injection, Section 327 changes how the Environmental Protection Agency can regulate this practice under the Safe Drinking Water Act. Hydraulic fracturing involves injecting diesel fuel or potentially hazardous substances such as benzene, toluene, and MTBE underground to fracture rock and release oil and gas. It is clear this language allows the EPA to restrict the use of diesel as a hydraulic fracturing fluid, and the agency should continue to use its existing authorities under the Clean Water Act and the Safe Drinking Water Act to reduce loadings of these pollutants associated with these activities from reaching surface and drinking water.

Hydraulic fracturing has historically been performed in very deep wells. Today, it is also used in coalbed methane extraction that occurs at much shallower depths. This practice leaves hazardous substances in the ground that leach into groundwater and jeopardize drinking water. Groundwater provides drinking water for half the U.S. population. In rural areas, 95 percent of drinking water comes from groundwater.

More than 167,000 oil and gas-related injection wells are currently regulated under the Safe Drinking Water Act and pose no impediment to oil and gas production. As they implement this regulation, EPA and the States should continue to monitor these activities to ensure that drinking water sources are protected and report to Congress and the public all incidences where harmful chemicals from hydraulic fracturing leach into drinking water sources.

### STORMWATER (TITLE III/SECTION 328)

Title III of the conference report also changes how the Environmental Protection Agency is able to regulate oil and gas construction activities under the Phase I and Phase II of the Clean Water Act Stormwater Program. Since 1990, the Phase I Stormwater Program has required permit coverage for large municipal separate stormwater systems and 11 categories of industrial discharges, including large construction sites disturbing five or more acres of land. In 2005, GAO reported that over a one-year period, in three of the six largest oil and gas producing states, 433 oil and gas construction activities obtained Phase I Stormwater Permits. Some of those sites have held permits for ten years or more.

Phase II of the program, adopted in 1999, requires permits for small municipal separate stormwater systems and construction sites affecting one to five acres of land. EPA extended the Phase II permitting deadline, originally March 10, 2003, to June 12, 2006 for just the oil and gas industry. EPA's rationale was that it needed more time to complete its legal and economic analysis of the rule.

The water quality implications from exempting the oil and gas industry from stormwater permitting are significant. Over a short period of time, storm water runoff from construction site activity can contribute more harmful pollutants, including sediment, into rivers, lakes, and streams than had been deposited over several decades. Sediment clouds water, decreases photosynthetic activity, reduces the viability of aquatic plants and animals; and can ultimately destroy animals and their habitat. These permits have not been hampering production by these drilling sites, but they do protect the fragile water resources around them.

The EPA should construe any exemption for oil and gas construction activities contained in this conference report as very limited. The agency should continue, as appropriate, to require stormwater discharge permits for oil and gas construction activities that are similar to those performed at other construction sites such as the construction of roads, clearing, grading, and excavating. The Clean Water Act requires that construction sites of all types obtain stormwater discharge permits. When oil and gas construction activities are similar to other construction activities they should continue to be regulated.

Mr. President, it is my hope that I have clarified for my colleagues how these provisions were developed and the effect of these provisions on the environment. It is my hope that the Nuclear Regulatory Commission and the Environmental Protection Agency will review and incorporate my statement as they implement the Energy Policy Act of 2005.

Mr. CONRAD. Mr. President, I rise today to support the Energy bill conference report.

For many years, I have supported passage of a comprehensive national energy policy. Such a policy is necessary to reduce our increasing dependence on foreign energy sources. A comprehensive energy policy will help lower energy prices in the long run. Furthermore, any far-reaching bill will move us toward newer technologies that will keep our economy growing strong while making us more energy independent.

Although not perfect, this Energy bill moves us in the right direction. It will expand our electricity transmission system and make it more reliable. The bill contains incentives for renewable energy, including the renewable energy production tax credit that I helped include. It will also spur an increase the production and use of domestic biofuels such as ethanol and biodiesel. Because of this bill, our coal-burning plants will improve their efficiency and emit less pollution. Finally, the bill provides needed incentives to increase natural gas infrastructure, measures that will lead to lower prices for natural gas consumers in the long run.

Equally important, this bill benefits North Dakota for a number of reasons. The transmission incentives will enable my State's power producers to export electricity to distant markets. In this way, transmission incentives benefit the lignite and wind energy sectors in my State. The clean coal production incentives will make it easier to build advanced clean coal power plants. The inclusion of the wind energy production tax credit will help North Dakota realize its potential to be the biggest producer of wind energy in the country. The Renewable Fuels Standard and tax incentives for ethanol and biodiesel will aid my State's farm economy, create more jobs, and reduce our dependence on foreign oil. In addition, the bill will assist my state in developing exciting new technologies, such as coal-to-liquid fuel plants.

I believe we still have a lot of work to do in order to make our Nation less dependent on foreign energy. However, this bill takes positive steps to address our energy needs. As I just mentioned, this bill will provide significant benefits to my State.

For these reasons, Mr. President, I support the conference report.

Mrs. MURRAY. Mr. President, today I rise in opposition to H.R. 6, the Energy Policy Act of 2005.

I do so because this bill fails to move us beyond the status quo of today's energy situation. Congress rarely steps forward to address our Nation's energy policy, and I believe when we do so we should provide real direction that addresses real problems. Unfortunately, that is not the case here.

I voted for the bill as reported by the Senate, but only narrowly. A few provisions in the Senate bill attempted to address our need to promote renewable energy resources and decrease our consumption of foreign oil. Those few forward-looking provisions have been dropped from this final bill, leaving me with little choice but to vote no for our failure to truly provide some new direction to our Nation's energy policy.

Crafting comprehensive energy policy should offer the opportunity to address the most difficult issues facing our country. The bulk of this bill sidesteps those tough issues and in place of solutions it offers bandaids. Moving toward independence from foreign oil should be a top priority, but it is not addressed meaningfully.

Climate change is a serious issue that Congress simply refuses to address. While some voluntary measures are included, these are simply not enough. We must have meaningful action if we are to protect our health, environment, and economy of our country.

Gone from this bill is the renewable portfolio standard promoted by the Senate. The Senate's provision would have increased the penetration of alternative energy sources. This bill also fails to take adequate steps to develop conservation and efficiency technologies, and yet it offers substantial subsidies to the fossil fuels industry.

This is not the bill I would have written, and this is no longer a bill I can support.

There are sections of the bill that are positive. For example, I am pleased that the conference bill contains provisions protecting the Pacific Northwest's electricity system from unwarranted interference by the Federal Energy Regulatory Commission, FERC, and protects Washington ratepayers from excessively high electricity rates. I am also pleased that the current bill contains a fair and balanced hydroelectric relicensing process and sets new grid reliability standards. I commend my colleague, Senator CANTWELL, who championed Washington State interests.

This bill in particular supports cutting edge research and development at the Pacific Northwest National Laboratory and Washington State universities in the areas of smart energy, advanced scientific computing, and systems biology.

I am equally pleased to see that the bill does not provide MTBE liability protections.

As the world's leading energy consumer, the United States should lead by example and innovation. However, this bill stops short of taking commonsense measures that would truly reduce foreign oil dependence and mitigate the looming threat of climate change. To diversify energy sources in America, fossil fuel use must be offset by conservation, energy efficiency, and clean and renewable fuels.

Yet proposals to set ambitious, yet achievable, targets for reduced oil imports, tighter fuel economies for cars and trucks were defeated. Instead, oil and gas companies will be allowed to scour our fragile coastlines for more oil and gas reserves. Furthermore, this bill awards multimillion dollar tax breaks to those same companies, which are reaping windfalls from record-high oil prices at the expense of Washington consumers, to continue us down the path of fossil fuels, which are a key contributor to climate change. This bill also rolls back significant clean water laws that keep our water safe to drink.

Despite ample protections for Washington ratepayers, it is hard to ignore that this bill, this national energy blueprint, does absolutely nothing to improve energy security or reduce dependence on foreign oil. We need a national energy policy but one that acknowledges the needs for the future, sets a plan, and moves us forward, not a bill that delivers the status quo.

Mr. JOHNSON. Mr. President, today the Senate is poised to pass the Energy Policy Act of 2005, the most sweeping comprehensive Energy bill in over a decade. We need a comprehensive set of policies to attack the energy crunch facing Americans on multiple fronts.

Electricity systems on the West Coast are strained as electrical transmission lines lack capacity and interconnection to move power throughout regions. The dependence of our economy on foreign sources of energy continues to climb unabated, with close to 60 percent of the oil used to power the economy originating from foreign ports and oil fields.

As a Member of the Senate Energy and Natural Resources Committee and as Member of the conference committee charged with hammering out an agreement, I have steered my colleagues in the House and in the Senate to look toward the Heartland as a rich land ready to contribute to our energy security. The Energy Policy Act of 2005 incorporates many of the ideas I have long championed to spring forward South Dakota and the Great Plains as a key future energy producer.

First and foremost, the Energy Policy Act of 2005 establishes a robust Renewable Fuel Standard that will lessen imports of foreign sources of energy and encourage the use of clean-burning renewable fuels.

Beginning in 2006, the Energy bill establishes a robust renewable fuels standard requiring refiners to blend 4 billion gallons of renewable fuels, such as ethanol and biodiesel. That standard would be increased over the next several years until 2012, when refiners would be required to blend a total of 7.5 billion gallons of renewable fuels.

Just in South Dakota alone, over 8000 farm families are invested in ethanol facilities through direct deliveries of corn or in more indirect paths, such as equity shares. The Nation's economy will get a significant and positive boost from enactment of the RFS.

There are several other provisions in the bill that bring South Dakota's strength to solving the Nation's energy challenges.

Key tax incentives included in the final version of the Energy bill extend the tax credit for small ethanol producers and expand the eligibility of that credit to plants with an annual capacity of up to 60 million gallons is a major victory.

The conference report also provides incentives for bio-diesel. Ethanol is not the only renewable fuel that can be produced in the United States soybean-based bio-diesel holds great promise for use in the Nation's fuel supply.

We focused also on tapping wind energy resources by extending for 2 additional years the production tax credit for wind energy facilities. The production tax credit is a tool used by developers of wind energy projects, such as the wind energy farm near Highmore, SD.

One final tax provision that I feel holds particular promise is the authorization of $800 million in tax credit bonds to finance the construction of renewable energy projects by not-for-profit utilities and rural electric cooperatives.

I have heard from dozens of electric cooperative and municipal utilities that want to undertake the construction of wind energy projects. However, until this bill, these non-profit entities were excluded from some of the incentives provided for Investor-Owned Utilities pursuing similar renewable energy projects. Now, rural cooperatives can finance, construct, and operate clean energy projects, such as wind turbines and geo-thermal facilities.

The conference report does not include what I believe is an important provision to set benchmarks and targets for producing electricity from renewable energy resources. Like a renewable fuels standard, a renewable portfolio standard would not only reduce the use of fossil fuel sources, but increase economic activity in South Dakota through wind energy and biomass projects.

A modest renewable portfolio standard of 5 or 10 percent is achievable and can be done without increasing retail electricity rates. The benefits of balancing traditional energy sources, such as coal, nuclear, and natural gas, with new technologies will reduce air emissions and spur the creation of jobs in developing energy technology sectors. I include clean coal technologies, such as Integrated Gasification Combined-Cycle as an emerging clean coal technology that along with wind and geothermal plants hold the promise of producing clean-burning electricity.

As Congress and the States and cities move forward on addressing the energy challenges of the 21st Century, policymakers and industry leaders can lose sight and leave behind developing renewable energy sources. As the Nation and world strain finite fossil fuel resources the need to bring on-line these technologies will only become more acute and practical.

I intend to vote for the Energy Policy Act of 2005. As a Member of the Senate Energy and Natural Resources Committee, I am proud of the job we did in fashioning a bill that will make strong strides forward in tackling the disparate parts of energy supply, transmission, and distribution. The bill also holds strong promise for making South Dakota a substantial energy producer of clean energy and renewable fuels. I urge my colleagues to support the Energy Policy Act of 2005.

Mr. LIEBERMAN. Mr. President, I commend Senators DOMENICI and BINGAMAN for their efforts in securing an energy bill that retains many features important to the Senate. Had I been present for the final vote on the Senate bill 1 month ago, a vote I missed because of the passing of my mother, I would have voted "yes" because I believed that the Senate bill took positive early steps toward development of a comprehensive energy policy, including an important initiative for renewable energy development.

I consulted urgently with Senator BINGAMAN during the House-Senate Conference on an issue that was put before the conferees by the House that would have undermined the Clean Air Act and worsened air pollution in Connecticut and a number of other States. Senator BINGAMAN was able to keep that proposal out of the conference report and I thank him for that. I learned, through that bit of first-hand experience, how hard both Senator DOMENICI and Senator BINGAMAN worked to keep faith with the Senate in producing a conference report that reflected some of the Senate's chief concerns. For that I believe we owe them both a debt of gratitude.

Senators BINGAMAN and DOMENICI are to be commended for recognizing the deep concerns that public officials across New England have about the LICAP proposal and for including a sense-of-the-Congress resolution in the bill directing FERC to reevaluate this proposal in light of their concerns. I note that the sense-of-the-Congress resolution specifically draws to FERC's attention the objections of all six of New England's governors—both Democrats and Republicans.

(See exhibit 1.)

Mr. President, I ask unanimous consent that two letters, from those governors to the Chairman of FERC expressing their objections to LICAP, be inserted in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I cannot emphasize enough the need for FERC to reconsider this deeply flawed proposal—a proposal that would cost New England ratepayers more than $12 billion over the next 5 years. The governors rightly argue that there are much more cost-effective alternatives to achieving the goal of ensuring our region of the country has adequate electricity that FERC should consider. And I am pleased that conference report directs FERC to address the governors' objections and recommendations.

While I am disappointed with many of the changes made in the final version of the bill emerging from conference; and feel that we are still far from developing the bold national energy policy we so urgently need. I am voting "yes" today because this bill at least starts the process of changing the status quo.

Still, it is my strong hope that having addressed issues of conventional energy supply through this legislation, we will turn, in the very near future, our urgent attention to the most pressing issues—the clear and inextricable linkage between energy supply and national security, the resulting urgent need for aggressive development of a portfolio of alternative and renewable fuels and conservation strategies, and the need to take comprehensive steps to set mandatory caps on greenhouse gas emissions. Solving these problems—and soon—is a responsibility that we have to today's public as well as our children and grandchildren, an obligation that we will not have fulfilled when this legislation passes.

When this bill becomes law, new energy efficiency standards for appliances will be put into place and businesses, homeowners and consumers will see a range of new incentives to invest in and adopt in their homes, factories and automobiles, clean technologies, such as fuel cells, solar energy, alternative fuel vehicles and hybrids. All this will be done without forcing the Senate and the States to accept a number of provisions that would have done damage to the environment and to the treasuries of State and local governments contending with groundwater contamination, from MTBE. Finally, the bill offers some hope that we will get at least a little bit further in developing some of the technologies that can help combat climate change. Again, it includes a sense-of-the-Congress resolution regarding LICAP, an issue now important to the State of Connecticut but potentially important to us all.

There is also good news to be found in what this bill does not do. It does not include provisions for drilling in the Arctic National Wildlife Refuge. It avoids rollbacks to the Clean Air Act, rollbacks harmful to not just the Northeast, but to all who live and work in areas downwind of pollution sources.

Despite these positives, I am disappointed by the missed opportunities for setting a bold, forward-looking 21st century energy policy. Opportunities to establish a renewable portfolio standard. Opportunities to protect the Outer Continental Shelf fully from potential exploration and drilling. Opportunities to develop clear steps to reduce our dependence on oil. Opportunities to protect our drinking water from possible contamination by toxic hydraulic fracturing fluids. Opportunities to take our first real steps to reduce greenhouse gas emissions.

I urge my colleagues to consider this a beginning, and to continue in earnest our work to reduce the dependence on oil that is so undermining of our national and economic security, to develop alternative and renewable energy sources as well as conservation techniques, and to address the problem of climate change with mandatory steps that are so clearly required, as clearly expressed in the sense-of-the-Senate resolution passed by this body last month.

EXHIBIT 1

THE COMMONWEALTH OF
MASSACHUSETTS,
*Boston, MA, June 24, 2005.*

Re ISO-New England LICAP Proposal, Docket No. ER 03–563, NESCOE Petition, Docket No. EL04–112.

Hon. PATRICK WOOD, III,
*Chairman, Federal Energy Regulatory Commission, Washington, DC.*

DEAR CHAIRMAN WOOD: As you know, Massachusetts has been closely monitoring the proposal of ISO-New England (ISO-NE) to develop and implement a locational capacity (LICAP) market in the New England region. Recently, my New England colleagues wrote to you on this important issue expressing their concerns, and I want to take this opportunity to do the same.

While Massachusetts shares the Federal Energy Regulatory Commission's (FERC) interest in an effective capacity mechanism to secure an adequate supply of electricity to serve our region, it is our view that the LICAP proposal is a broader, more costly approach than is necessary to assure the region's reliability. Cost estimates of the LICAP proposal range from $10 to $13 billion across New England over the next five years, or approximately a 25 percent increase in the energy portion of the average ratepayer's electricity bill—both residential and commercial customers. This figure translates to approximately $6.4 billion over five years for Massachusetts alone, which is simply unacceptable. This type of rate shock will have a detrimental effect on Massachusetts and the region's economy.

Massachusetts strongly believes that the ISO–NE has prematurely pursued the development of a LICAP market, rather than first pursuing the development of other solutions that may be less costly for our consumers. The ISO–NE is in the process of developing a locational reserves market to address specific, targeted operating reserve needs that would support fewer required generators. The development of an appropriate capacity market to address regional adequacy issues should be viewed in the context of a regional market plan that considers the existing locational energy market and the development of the locational reserves market, in addition to other contemplated mechanisms. If after the implementation of more cost-effective solutions a resource adequacy issue persists, a further intervention can be developed to solve these problems, while minimizing consumer costs and market disruption.

Given the significant cost associated with this issue to our region, it is important that the FERC consider the other proposals currently under development that may in fact provide a more cost effective solution, while ensuring the adequacy of the region's electricity supply. As always, we look forward to working with the FERC on these important matters so that our consumers and businesses are well served by these important policy initiatives.

Respectfully submitted,

Mitt Romney,
*Governor.*

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New England Governors'
Conference, Inc.,
*Boston, MA, June 23, 2005.*

Re ISO New England LICAP Proposal, Docket No. ER 03–563, NESCOE Petition, Docket No. EL04–112.

Hon. Patrick Wood, III,
*Chairman, Federal Regulatory Commission,*
*Washington, DC.*

Dear Chairman Wood: The New England states, through their regulatory agencies, have been litigating the proposal of ISO New England (ISO–NE) to develop and implement a specific type of locational capacity market in the region (LICAP). We share the Commission's interest in an effective capacity mechanism to assure an adequate supply of resources to serve the region's load. It is we governors, after all, on whom citizens ultimately rely to provide for the public health and safety. However, we do not believe that ISO–NE's LICAP proposal is that mechanism. ISO–NE's proposal: (1) does not provide any assurance that needed generation will be built in the right place at the right time; (2) is not linked to any long-term commitment from generators to provide energy; and (3) is extremely expensive for the region. In short, ISO–NE's LICAP is a costly scheme that offers little in terms of true reliability benefits.

The Administrative Law Judge's (ALJ) recommended decision, issued on June 15th, adopted the ISO's proposal and rejected the arguments of state regulators with little or no discussion of the rationale for rejecting the arguments and despite extensive evidence provided in support of their positions. As you can see, we have serious reservations about the efficacy of the demand curve mechanism, we are alarmed by the financial impact on our citizens and businesses, and we are troubled by the process that was employed to arrive at this result. Accordingly, we are obliged in the best interests of our constituents to oppose this decision.

Late last year we answered your invitation and presented a proposal to you for a regional state committee (RSC). Per your suggestion, we identified resource adequacy assurance as a core area of policy leadership we would provide. Many months have passed since we filed our proposal but the Commission has yet to act on the matter. The purpose of this letter is to urge you to defer action on ISO–NE's deeply flawed LICAP proposal, to issue an order authorizing the RSC, and to direct the RSC to develop a proposal that serves the region.

Deferring immediate action on ISO–NE's LICAP proposal will not undermine system reliability. Short-term contractual arrangements are available to ensure reliability in any sub-regional zone that may, during peak periods, require additional support. In addition, New England currently has adequate overall capacity and a surplus of generation in some states.

ISO–NE's LICAP proposal is only one of many capacity market proposals that could assure long-term resource adequacy in the region. The specific proposal before the Commission is based on an administratively set pricing system that we fear will set capacity charges too high. This fear appears well grounded in light of estimates we have seen that show increased costs in the vicinity of $10 billion for the region's constituents over the next five years. In isolation these numbers are disturbing enough but imposition of LICAP charges of this magnitude on top of the increases we are already experiencing in energy commodity prices will place serious stress on our state economies. Indeed, in Maine alone up to 1,500 jobs could be lost as a result of the decrease in consumer spending resulting from LICAP price shock. In Connecticut, there is a significant risk that large industrial customers will relocate out of state due to the projected massive price increase resulting from the LICAP charge. Given these high cost estimates and the lack of any assurance that new capacity will indeed be built, it is essential to allow the states, through the regional state committee, to fully consider all alternatives to the ISO–NE proposal—something which has not been allowed in the current proceeding.

We write today not only to highlight the real world effects that your decision in this case may have on our constituents. As governors of the New England states, we also stand ready to assist the Commission in developing a sensible approach to New England's capacity needs through the vehicle you identified as responsible for formulating resource adequacy policy—namely the RSC. We, through the regional state committee, are prepared to lead.

We are hopeful that you will take our concerns to heart by deferring action on this matter until you have permitted the regional state committee to have the opportunity to propose a more effective, less costly approach.

Sincerely,

Governor Donald L. Carcieri,
*Chairman, Rhode Island.*
Governor John Lynch,
*New Hampshire.*
Governor M. Jodi Rell,
*Connecticut.*
Governor James H. Douglas,
*Vermont.*
Governor John E. Baldacci,
*Maine.*

Ms. MIKULSKI. Mr. President, the United States needs an energy plan that balances traditional sources of energy with alternative energy sources and conservation. The energy conference report is not a perfect bill, but it is the result of true bipartisan compromise that managed to put some of the most harmful provisions on the cutting room floor.

On balance, I support this bill because it moves us towards a more stable, reliable electricity grid, protects our consumers, and includes much needed investments in renewable sources of energy.

I am especially pleased that this bill strengthens the reliability of our electricity grid and protects ratepayers from market abuses, particularly in the wake of Enron and the massive blackouts that struck parts of the Midwest and Northeast 2 years ago. I am also pleased that the bill reauthorizes the Low Income Home Energy Assistance Program, LIHEAP. This program protects our most vulnerable citizens by assisting them with their heating and cooling bills.

I am also pleased that the conference report does not contain many of the most harmful provisions that were included in this legislation in the past. The bill does not allow for drilling in the Arctic National Wildlife Refuge, ANWR. The bill also does not include provisions that would shield producers of gasoline additives from lawsuits. I strongly opposed these provisions in the past and am pleased they are not included in this bill.

Unfortunately, the bill does contain some questionable environmental provisions. I am also disappointed that the bill does not include important provisions I supported in the Senate bill, particularly the renewable portfolio standard, steps to deal with global warming, and requirements that would have lessened our dependence on foreign oil.

In the end, this is not the bill that the Democrats would have written. It doesn't address the most pressing issues facing our country today: sky-high gas prices, global warming, and our growing dependence on foreign oil. But the bill does take important steps to strengthen the reliability of our electricity grid, protect consumers from market abuses, and move us towards greater use of renewable sources of energy. This is just the beginning of a serious debate that will continue in the halls of Congress and in communities all across the country in the days to come.

Mr. LEVIN. Mr. President, I am supporting the conference report on the Energy bill. The conference report includes provisions that will increase the diversity of our Nation's fuel supply, encourage investment in infrastructure and alternative energy technologies, increase domestic energy production, take steps to improve the reliability of our electricity supply, and improve energy efficiency and conservation. This conference report is far from perfect but on balance it moves toward a sounder energy policy that will lead the way to greater energy security and efficiency for the United States.

Our policies have long ignored the problem of U.S. dependence on foreign oil, and we remain as vulnerable to oil supply disruptions today as we have been for decades. Taking the steps necessary to reduce our dependence on foreign oil is an important objective for this country. We need a long-term, comprehensive energy plan, and I have long supported initiatives that will increase our domestic energy supplies in a responsible manner and provide consumers with affordable and reliable energy.

There are some positive provisions included in the conference report in this regard, particularly those provisions that address energy efficiency and will lead us toward greater use of advanced vehicle technologies and alternative fuels such as ethanol and biodiesel. I have also long advocated Federal efforts that will lead to revolutionary breakthroughs in automotive technology that will in turn help us reduce our oil consumption. We need a level of leadership similar to the effort of a previous generation to put a man on the moon.

The conference report includes a wide-range of energy efficiency provisions that will make conservation and efficiency a central component of our Nation's energy strategy. These provisions address Federal, State, and local energy efficiency programs, provide funding for important programs such as home weatherization, and establish efficiency standards for a wide variety of consumer and commercial products. I am particularly pleased that the conference report authorizes both the weatherization program and the Low Income Home Energy Assistance Program, LIHEAP, at higher levels of funding than the Congress has provided in recent years.

The conference report takes critical steps to improve the reliability of our electrical grid and promote electricity transmission infrastructure development. Our economy depends upon electric power, and, in some cases, electric power literally saves lives. Failures in the electric system interrupt many crucial activities, and the need for improvement was underscored painfully by the August 2003 blackout. There were 2 key lessons from the blackout—the need for strong regional transmission organizations to ensure that reliability standards are carried out and enforced, and the need for additional transmission upgrades to maintain reliability. I regret that it has taken 2 years to legislate on these issues, but I am pleased that the conference report includes the steps necessary to ensure there will be mandatory and enforceable reliability standards.

The conference report also puts increased emphasis on diversity of supply and includes a range of provisions intended to encourage the use of new and cleaner technologies, particularly for power generation. Nearly 60 percent of electricity generation in Michigan is generated from coal, which will remain a vital resource well into the future. Programs authorizing research in clean coal-based gasification and combustion technologies will ensure that the most advanced technologies are developed for power generation. Other provisions of the conference report also encourage the use of innovative technologies for both power generation and other enduses.

Increased emphasis on diversity of fuel supply will help to take the pressure off our tight natural gas supply, which is important for States such as Michigan with a large manufacturing base. Over the past 6 years, the tight natural gas supply and volatile domestic prices have had significant impacts on the U.S. manufacturing sector, which depends on natural gas as both a fuel source and a feedstock and raw material for everything from fertilizer to automobile components. As domestic production of natural gas has declined, demand for natural gas has increased dramatically, particularly in the area of power generation. Today, U.S. natural gas prices are the highest in the industrialized world, and many companies have been forced to move their manufacturing operations offshore. More than 2 million manufacturing jobs have been lost to overseas operations in the 5 years, in part no doubt because natural gas prices jumped from $2 per million Btu to more than $7 per million Btu.

I am pleased that the conference report includes significant provisions from the Senate bill for research, development, demonstration and commercialization effort in the area of hydrogen and fuel cells. I believe that this program will help us make critical strides toward realizing the goal of putting hydrogen fuel cell vehicles on the road over the next 10 to 15 years. The conference report also includes an amendment I offered in the Senate to have the National Academy of Sciences conduct a study and submit a budget roadmap to Congress on what level of effort and what types of actions will be required to transition to fuel cell vehicles and a hydrogen economy by 2020. If hydrogen is the right answer, we will need the equivalent of a moon shot to get there. We will need a significant Federal investment—well beyond anything we are doing today—in conjunction with private industry and academia to reach that goal. This study and roadmap will be an important step toward determining if that is the right path to follow.

We also need to put greater Federal resources into work on other breakthrough technologies such as advanced hybrid technologies, advanced batteries, advanced clean diesel, and hybrid diesel technology. Federal Government investment is essential not only in research and development but also as a mechanism to push the market toward greater use and acceptance of advanced technologies. Expanding the requirements for the Federal Government to purchase advanced technology vehicles will help provide a market for advanced technologies. Encouraging and supporting State and local efforts is also important in the effort to push these advanced technologies forward. Therefore, I am pleased the conference report includes the amendment offered by Senator VOINOVICH in the Senate to authorize $200 million annually for 5 years to fund Federal and State grant and loan programs that will help us to replace older diesel technology with newer, cleaner diesel technology. These initiatives will help the U.S. to develop advanced clean diesel technology, which can make a major contribution toward our meeting stricter emissions standards in a cost-effective manner.

Finally, the conference report also includes important tax incentives for advanced technology vehicles—including advanced clean diesel, as well as hybrid and fuel cell vehicles—that are critical to encourage consumers to make the investment in these technologies. I would have liked for the tax package to have included more generous tax credits for consumers and to have included an investment tax credit to manufacturers to help defray the cost of re-equipping or expanding existing facilities to produce advanced technology vehicles. The tax incentives included in the conference report are a modest first step. I will continue to press for an investment tax credit for manufacturing of advanced technology vehicles because I believe it is necessary to offset the high capital costs of such an investment and to ensure that these vehicles will be made in the U.S.

I am pleased that the conference report includes an amendment that I offered in the Senate with Senator COLLINS to direct the U.S. Department of Energy to develop and use cost-effective procedures for filling the U.S. Strategic Petroleum Reserve. This provision requires DOE to consider the price of oil and other market factors when buying oil for the SPR and to take steps to minimize the program's cost to the taxpayer while maximizing our energy security. Since early 2002, DOE has been acquiring oil for the SPR without regard to the price or supply of oil. During this period the price of oil has been very high—often over $30 per barrel—and the oil markets have been tight. Many experts have stated that filling the SPR during the tight oil markets over the past several years increased oil prices. With this provision, the conference report directs DOE to use some common sense when buying oil for the SPR.

I am also pleased that the conference report provides at least a short-term approach to some air quality issues in West Michigan. Interstate pollution from upwind areas such as Chicago and Gary, has resulted in several Michigan counties being designated by the EPA as in nonattainment with the National Ambient Air Quality Standards. This interstate pollution not only has environmental and health ramifications, but also has economic development implications because nonattainment regions are required to comply with more stringent regulatory standards. The 2 year respite from these additional regulatory provisions for West Michigan counties whose air quality problems were caused by upwind sources will provide temporary regulatory relief. However, these counties are still burdened with air pollution they did not cause. I am hopeful that EPA's 2 year demonstration study of the long-range transport of ozone and ozone precursors required in the Energy bill will provide helpful information for addressing the source of the pollution and result in improved air quality for downwind areas. Until the source pollution is addressed, West Michigan will continue to be plagued by pollutants from upwind areas. I am hopeful that this study and 2 year delay in regulatory requirements will provide the motivation for addressing the broader problems of interstate air pollution.

I am pleased that the conference report contains a ban on future drilling in the Great Lakes. Millions of people rely on the Great Lakes for drinking water, and it is simply irresponsible to risk contamination of this source of drinking water, tourism and recreation. Preventing future drilling does not jeopardize more than a minute amount of our energy supply, and the bill does that for a very good cause, which is the protection of one of the world's truly great natural assets, the source of about 20 percent of the world's fresh water.

The conference report puts some increased emphasis on renewable energy technologies, such as wind, biomass, and solar power. These technologies are becoming more economical every year. In fact, in some areas of the country these technologies are competitive with traditional fuels such as coal and natural gas. However, I regret that the conference report deleted the Renewable Portfolio Standard, which I supported in the Senate bill that would have pushed the sellers of electricity to obtain 10 percent of their electric supply from renewable energy sources by the year 2020. I believe that these goals could have been met and that an increased use of renewable technologies will both reduce our dependence on foreign oil and lead to the creation of tens of thousands of new jobs.

I regret that the conference report does not include a comprehensive effort to adequately address the impact of global climate change. For years, almost all scientists have agreed that human actions are causing temperatures around the world to increase. Experts also agree that this global climate change will lead to environmental problems and economic hardship, but there has been no consensus in the United States about what we should do to stop climate change.

The threat is real and growing, and the longer we wait to reach a reasonable consensus, the more painful the solutions will be. I believe two major policy changes are needed at the Federal level: support for a new, binding international treaty that includes all countries, and a massive new Federal investment in research, development and commercialization of new technologies. Both of these steps would provide real environmental and economic benefits while being fair to American workers. The Senate considered several well-intentioned proposals on this issue, though I did not believe they would have taken us in a comprehensive direction. I supported a Sense of the Senate resolution that acknowledges the problem and calls on the administration to work with the Congress to enact a comprehensive national program to address this issue. I regret that the conference report did not include such a modest provision.

Finally, I am disappointed the provision allowing continued export of highly enriched uranium was included in the conference report. The amendment that Senator KYL and Senator SCHUMER offered to strike this provision from the Senate passed bill was adopted by the Senate by rollcall vote. It is unfortunate that this provision, which is a special interest provision, granting relief to one Canadian company was reinserted in the final agreement. This provision undermines longstanding U.S. efforts to eliminate highly enriched uranium in commerce, and increases the possibility that highly enriched uranium could be stolen by terrorists and used in a nuclear weapon or radiological device.

The energy bills considered by the Congress over the last couple of years have been doomed by a heavy-handed, partisan approach. We lost valuable time in putting us on the course toward a sounder energy policy. The conference committee pursued a different approach this year, and as a result, was able to produce a bill with bipartisan support, which, while far from perfect, on balance, is an improvement over current policy.

Mr. DURBIN. Mr. President, first, I would like to thank both the chairman and the ranking member of the Energy and Natural Resources Committee, Senators DOMENICI and BINGAMAN, for working together in a more open and bipartisan way in developing the bill we are considering today.

While there are many provisions that should be in this bill but aren't and many other provisions in here that I don't agree with, this bill could have been worse. There are numerous extraneous and environmentally harmful provisions that were in previous energy bills but are not included here. I appreciate both of my colleagues' efforts to avoid those pitfalls and produce the Energy bill we are now considering.

However, there remains one very large and glaring omission in this bill. While framed as a "comprehensive national energy policy," this bill completely ignores the most important energy issues facing America, our growing dependence on foreign oil and the impact this dependence has on our economic security and national security.

I have no doubt that our Republican colleagues will go home and hold press conferences claiming victory. They will say that they finally broke through the obstructionism and passed an energy bill that will reduce America's dependence on foreign oil; a bill that will make America more secure.

I wish that were true—but it is not. This is not an energy policy for America in the 21st century. And that is very unfortunate.

The price of a barrel of oil is above $60 and rising, gas prices are again reaching record highs, yet this bill offers no solution. In all of the pages of text, there is no meaningful program or plan to reduce our dependence on foreign oil. There is no provision that increases fuel efficiency or promotes oil conservation. There is no provision to create a comprehensive, long-term program for the development of renewable, sustainable fuels.

This bill could have been a roadmap to a new energy future in America, but instead it leaves us stuck in our current energy mess.

Supporters of this bill will claim that it can reduce America's dependence on foreign oil by increasing domestic oil production. But I would point out a well-known fact—the U.S. contains only 3 percent of the known global oil reserves in the entire world. No matter how much we drill here, we will never drill enough to meet our growing thirst for oil.

As long as we continue to consume as much oil as we do today, without addressing the hard issues such as fuel economy standards, we will become more, not less, reliant on foreign oil. With global demand for oil steadily increasing, this continued dependence on imported oil could have devastating economic consequences.

Today we import 58 percent of our oil. The Department of Energy's Energy Information Administration projects that the U.S. will import 68 percent of our oil by 2025—more than ⅔ of our oil consumption.

Former CIA Director James Woolsey, Robert McFarlane, former President Reagan's National Security Adviser, and other national security experts have created a group they call the Set America Free Coalition. According to them, "It is imperative that the nation's energy policy address the national security and economic impacts of growing oil dependence."

Imagine what would happen to the U.S. economy if there were a major disruption in oil supplies in a foreign producing country—perhaps in the Middle East. Can you imagine what could happen to our economy?

I can. Thirty years ago, war in the Middle East caused oil prices in the U.S. to increase by 70 percent. Overnight, the price of oil rose from $3 per barrel to $5.11 per barrel. Just a few months later, oil prices more than doubled again to $11.65 per barrel.

At the time of the 1970s oil embargo the U.S. imported less than a third of our oil. This embargo hit Americans hard, as many remember well. Back then, Congress recognized the economic impact of oil dependence and took steps to address oil consumption in America. Among other actions, Congress passed national fuel economy standards, raising passenger cars from an average 12.9 miles per gallon in 1973 to 27.5 miles per gallon by 1985.

Increasing fuel economy standards for cars is one of the most effective steps we can take to reduce oil dependence. Unfortunately, this Congress has rejected that goal.

Listen to this, from an article published in BusinessWeek about a month ago:

> As Congress puts the final touches on a massive new energy bill, lawmakers are about to blow it. That's because the bill almost certainly won't include one policy initiative that could seriously reduce America's dependence on foreign oil: A government-mandated increase in the average fuel economy of new cars, SUVs, light trucks and vans.

BusinessWeek was right. Congress did blow it.

Congress has blown it at a time when the National Academy of Sciences and many other energy and engineering experts tell us the technology is available today to reduce our need for oil by 3 million barrels per day by 2015.

Not only is there no new fuel economy standard, the energy conferees even rejected a modest provision that would have reduced oil consumption by 1 million barrels per day by 2015—just 4 percent of the petroleum it is projected we will use by 2015.

Incredibly, it is President Bush's stated policy to oppose any fuel savings measures.

Does this make any sense?

There is only one provision in this entire bill that may—may—reduce America's dangerous dependence on foreign oil: a renewable fuels provision that requires a doubling in ethanol production by 2012. This provision will reduce oil consumption by about 1 percent over the next 7 years.

But does this limited 1-percent reduction in imported oil over 7 years represent the best we can do for America's energy security? Economic security? National security?

Senate Democrats believe that Americans can do better than we are today.

We offered a plan to reduce America's dependence on imported oil by 40 percent by 2025. This goal was a realistic goal—with realistic changes in the way we use energy, advance the production and application of energy technology, and promote energy efficiency and conservation.

Nearly half of the Members of this body voted for our plan.

But big oil companies, car companies, and their allies in the White House and Congress rejected even setting a goal.

How is it that the same administration that talks about sending a man to Mars does not have enough faith in American genius and American know-how to believe that our scientists and engineers can determine how to increase the fuel efficiency of our automobile fleet safely?

Almost 3 months ago, I spoke to an auditorium of scientists at the Argonne National Energy lab—America's first national energy lab just outside of Chicago. The scientists there do not think that decreasing America's overreliance on foreign oil is impossible. They think it is imperative.

Instead of shoveling billions of dollars at oil and energy companies, we ought to be investing in the work of those and other scientists. Yet, the Republican leadership, from the White House on down, is cutting public investments in scientific research and providing billions of dollars in tax incentives to big oil companies that have been recording record profits.

This bill takes much of the $11.5 billion in tax incentives that could have been used to develop renewable and alternative energy sources and instead gives it to big oil and energy companies.

For instance, there are generous royalty payment relief provisions for energy companies that drill on Federal lands. A better bill would have maintained royalty payments and used these funds to extend the production tax credit for wind generation beyond the 2 years written in this bill. Unfortunately the 2-year extension will continue the boom and bust cycle we've witnessed in the investment of wind generation.

The President himself says that oil and energy companies do not need tax cuts—but he will sign this bill anyway, even if they are included.

Think about that: the upcoming reconciliation bill will contain $10 billion in cuts in health care for the poor while this bill provides over $10 billion in tax breaks, mostly for big oil and energy companies.

Talk about a Congress out of touch with America.

And we will have to borrow the money to pay for those tax breaks and pay interest on that money too, so the true cost is even higher.

This is a failure in leadership.

From the day they took office, the Bush administration made passing a new national energy bill a top priority. The President put the Vice President in charge of getting the job done. We still don't know how much of this bill can be traced back to the Vice President's secret energy task force because the administration has gone to extraordinary lengths—all the way to the U.S. Supreme Court—to keep all of its records about the task force secret.

There are at least two things the big oil and energy companies wanted that are not in this bill.

For 5 years, MTBE manufacturers prevented the passage of an energy bill by demanding that they be shielded from liability for groundwater contamination caused by their product. Thankfully, the liability waiver is not in this bill—so Americans won't have all the cleanup costs shifted onto the taxpayers.

Oil companies also fought hard against increasing ethanol production—knowing that this renewable fuel would replace some of their products. The oil companies wanted only a token nod toward ethanol.

Thankfully, this bill contains a renewable fuel standard that increases the use of domestically produced renewable fuels to 7.5 billion gallons by 2012. This change will be good for America's economy, good for our energy security and good for Illinois farmers.

Illinois farmers grow corn that provides 40 percent of the total ethanol consumed in the U.S. annually. They stand ready and eager to meet the new challenges in this bill.

I believe the renewable fuels standard can lead to greater energy security for our Nation.

I will vote for this bill for one reason. After 4 years of fighting this battle, it is clear we are not going to get an energy plan for the 21st century as long as Texas oil men are in charge of the Federal Government. This is as good as we are going to get.

It has been 13 years since the last time America passed a national energy plan. I can guarantee you, it will not be another 13 years before this plan is abandoned and replaced with a more visionary and responsible plan.

We should have increased America's national and economic security by reducing our reliance on oil imported from Saudi Arabia and other politically volatile nations. We have the scientific ability to meet that challenge. Unfortunately, we lack the political leadership to do so.

The price we will pay for this failure of leadership in rising gas prices and increased risk to our national economy and national security will far exceed the cost of the wasteful tax breaks this bill gives to big oil.

This bill does not reduce gas prices at the pump, it does not reduce dependence on foreign oil, it does not address fuel efficiency and conservation, and it does not increase America's economic and national security. It is not an energy plan for the 21st century.

And it is definitely not the end of the energy debate—only the beginning.

Mr. HATCH. Mr. President, as the Senate is poised to pass the Energy Policy Act of 2005 and send it to the President, Utahns should sit up and take notice, because our State is at the heart of this legislation. So many of the problems in our energy structure have solutions that can be found in Utah, whether it is the need for more clean coal, more clean geothermal energy, more natural gas, better hydroelectric, more refining capacity, or more major sources of domestic oil, Utah will play a major part in the solution.

I want to talk more about some of these solutions, but first, let me take a moment to thank Chairman DOMENICI and Senator BINGAMAN of the Senate Committee on Energy and Natural Resources for leading us to this point. The Senate Finance Committee, on which I sit, has made a major contribution to the bill with its tax incentives title. Chairman GRASSLEY and Senator BAUCUS deserve just as much praise for their outstanding coordination and hard work on that important part of this bill.

As the ranking member of the Finance Committee and as a Conferee on this legislation, I was able to watch all 4 of these men work together under pressure, and I could not be more impressed with their leadership and the work their excellent staffs have provided to our nation at this critical time. Working together, they have given us what I consider to be one of the most important bills to be enacted in a long time.

I have, at times, been criticized for reaching across the aisle to accomplish important policy goals. Some believe that compromise signals weakness. Well I just plain disagree, and after 4 years of failing to pass a major Energy bill with a simple majority, I think the Senate has proven that we stand the strongest when we stand together. And our energy situation calls for this type of leadership and strength.

Over the last decade, American consumers have increased their demand for oil by 12 percent, but domestic oil production has grown by less than ½ of 1 percent. Is it any wonder that we rely on foreign countries for more than half our oil needs? We import 56 percent of our oil today, and it is projected to be 68 percent within 20 years.

On the larger scale, global demand for oil is growing at an unprecedented pace—about 2½ million barrels per day in 2004 alone. While global oil production is increasing, the discovery of new oil reserves is dropping off at an alarming rate. Moreover, trends indicate that the global thirst for petroleum will continue to grow, especially in Asia.

If our Nation must rely on oil imports to meet our future energy needs, we are headed for trouble, because, unless something changes, a sufficient oil supply will not be there. We should keep in mind that the transportation sector in the U.S. accounts for nearly ⅔ of all of our oil consumption, and that sector is 97 percent dependent on oil. It could not be more clear: if we want to improve our energy security, we must focus on our transportation sector, and we must focus on diversifying our transportation fuels.

Recently, we heard President Bush call on our Nation to "develop new ways to power our automobiles," and he spoke of his proposal to provide $2.5 billion over 10 years in tax incentives for the purchase of hybrid technologies. The President also called for a better alternative fuel infrastructure and the need to develop hydrogen fuel cell vehicles.

As for these policies the President addressed, my legislation, S. 971, the Clean Efficient Automobiles Resulting from Advanced Car Technologies Act, or CLEAR ACT, is exactly where the rubber meets the road. The CLEAR ACT, now a part of this Energy bill, is the most comprehensive and effective plan put forward by Congress to accelerate the transformation of the automotive marketplace toward the widespread use of fuel cell vehicles. And it does so without any new Federal mandates. Rather, it offers powerful market incentives to promote the advances in technology, in our infrastructure, and in the alternative fuels that are necessary if fuel cells are to ever reach the mass market. With the CLEAR ACT we accomplish this goal, but in the meantime, we also get cleaner air, we reduce our dependency on foreign oil, and we help lead our Nation into the future.

Historically, consumers have faced three basic obstacles to accepting the use of alternative fuels and advanced technologies. These are the higher cost of the vehicles, the lack of an infrastructure of alternative fueling stations, and the higher cost of alternative fuels. The CLEAR ACT will lower all three of these market barriers through the use of tax incentives.

First, we provide a tax credit for the purchase of alternative fuels. Next we promote a new infrastructure of alternative fuel filling stations by extending an existing tax deduction for the purchase of the necessary equipment and providing a new tax credit for the cost of installing it.

Finally we provide a Clear Act Credit to consumers who purchase alternative fuel and advanced technology vehicles. This includes fuel cell, hybrid electric, alternative fuel, and battery electric vehicles.

All of the technologies promoted in the CLEAR ACT—whether they be battery or electric motor technologies or advances in fuel storage and alternative fuel infrastructure—lead us closer to the hydrogen fuel cell vehicle. I believe fuel cells are in our future. However, even if the widespread use of fuel cell vehicles never becomes a reality, advances in these other technologies provide a dramatic social benefit on their own.

I have heard from some who question the need for incentives for hybrid vehicles when they are popular in some areas. It may be true that demand for these vehicles is high in a few regions. However, these high-demand areas tend to have local or state incentives in place for the purchase of these vehicles. Where incentives are not in place, hybrid sales are minimal. This demonstrates that incentives can indeed provide a market breakthrough to consumer acceptance of alternative vehicles.

With the CLEAR ACT, we are trying to provide that breakthrough on a national scale. And the numbers show that a breakthrough is desperately needed. It may be true that hybrid sales have doubled in the last couple of years, but they still represent a minuscule 0.48 percent of cars that were sold in 2004. So I am very pleased, Mr. President, that the energy bill will lead us into the future in this regard.

We should also be using more clean alternatives when we generate another form of energy—electricity. I am very pleased that the Energy bill includes S. 1156, my legislation that extends and expands the production tax credit for electricity from renewable sources, including geothermal. This is particularly important to my home State of Utah, which has vast potential for the creation of electricity from geothermal sources, along with other renewable energy sources, such as wind and biomass.

While this production tax credit has been in the tax code for some time, it had an unfair feature that provided the tax credit for 10 years for electricity produced from wind, but only for 5 years for electricity produced from most of the other renewable resources. This inequity has skewed investment in these resources unfairly and in a way that has not led to the best use of these national assets.

I am happy to see that this provision has survived in conference. This should result in a better-balanced and higher output of electricity from all our renewable resources.

And, I have highlighted just two among many important provisions in this bill that will promote the greater use of alternative and renewable sources of energy.

We cannot escape the fact that our nation remains reliant on oil and gas, and we absolutely must increase our supply of these resources in a big way.

It is a little known fact that the largest hydrocarbon resource in the world rests within the borders of Utah, Colorado, and Wyoming. I know it may be hard to believe, but energy experts agree that there is more recoverable oil in these 3 states than there is in all the Middle East. In fact, the U.S. Department of Energy estimates that recoverable oil shale in the western United States exceeds 1 trillion barrels, but it is not counted among world reserves, because it is not yet commercially developed. If anyone is wondering what the significance is of that number, he or she should know that the world's oil reserves stand at just about 1.6 trillion barrels. That means we have almost as much unconventional oil in Utah, Colorado, and Wyoming as the rest of the world's conventional oil combined.

Companies have been waiting for the Federal government to recognize the potential of this resource and allow access to it. My legislation, S. 1111, the Oil Shale and Tar Sands Development Act, will do just that, and more.

Some have been understandably hesitant to develop this resource. During the 1970s, there was a very large and expensive effort in western Colorado to develop oil shale there. When the price of oil dropped dramatically, though, the market for oil shale went bust and the region suffered an economic disaster.

We need to remember that our past failure in this area was not necessarily a failure of technology, but was due to a dramatic slump in gas prices. We now have a different scenario. Today, the world is reaching peak oil production of conventional oil, and cheap oil prices are nowhere in sight.

We have already seen that a shift in focus to unconventional fuels such as tar sands produce mind-boggling results. Only a few years ago, Alberta, Canada recognized the potential of its own tar sands deposits and set forth a policy to promote their development. As a result, Canada has increased its oil reserves by more than a factor of 10, going from a reserve of about 14 billion barrels to its current reserve of more than 176 billion barrels in a very short period. And just think—we are sitting on a similar resource of oil shale and tar sands in the United States.

It is frustrating to learn that Utah imports about one-fourth of its oil from Canadian tar sands, even though we have our own very large resource of tar sands in our own state sitting undeveloped. I look forward to the day in the not-too-distant future, when Utah's oil shale and tar sands are developed to their potential. If it happens, and I believe that it will, Utah will become a world leader in oil production.

But even if we do solve the oil importation issue, we still have another problem. Our Nation is so lacking in refining capacity for crude, that we are forced to import 10 percent of our refined fuel. We could produce all the domestic oil in the world, but until we can refine it, we cannot use it.

It is clear that one of the reasons we currently have sharply higher gasoline prices is that we simply do not have enough refining capacity in this country. This is both a short-term and a longer-term concern for our economy and national security.

Regrettably, gasoline, diesel, jet fuel and home heating oil supplies are simply too tight in America today. There is not a lot that can be done in the very near term to address the higher cost of fuel that is attributable to refining bottlenecks. However, ensuring the long-term viability of the U.S. refining industry should be at the very heart of a smart national energy policy.

One of the major problems with our refining capacity is that industry profitability has been poor over the past several decades. This has contributed to the steady decline in the number of operating refineries in America from more than 300 in 1980 to less than 150 today. I am told the last major refinery to be built in America came on line in the 1970s.

Earlier this year, the National Petroleum Council reported that U.S. refining capacity growth was not keeping pace with demand growth, that poor historic returns in the refining sector was impeding further investment, and that major expenditures in new regulations were limiting the funds available for capacity expansions. This was bad news crying out for a solution.

Another problem mentioned in the report is that the 10-year depreciation schedule prescribed by the current tax law for refining assets is much longer than the write-off periods for similar process equipment in other manufacturing industries. Also, the tax code does not contain any incentives to encourage new investment in refining capacity, which is an endeavor that carries high costs and risks.

With these facts in mind, I introduced S. 1039, the Gas Price Reduction Through Increased Refinery Capacity Act of 2005. S. 1039 would adjust the depreciation period for assets used in refining from 10 years to 5 and would allow an immediate write-off of these assets if companies made an early and firm commitment to invest in new capacity within a relatively short time.

I thank Senator GRASSLEY for including the temporary refinery expensing provisions of S. 1039 in the Chairman's mark of the tax title to the Energy bill. This provision passed the Senate as part of the energy tax package. I am pleased the Conference Committee accepted this provision even though cost constraints forced us to limit the incentive to 50 percent expensing.

This is the first provision passed by Congress in the past half century that gives the U.S. refining industry a specific tax incentive designed to spur investment in increased refining capacity. The National Petrochemical & Refiners Association, which represents virtually all U.S. refineries, has indicated this measure will help stimulate facility expansions and output. It is the only provision in the entire Energy bill that encourages refining capacity growth and increased gasoline, diesel and jet fuel supply for consumers. This provision alone should make a significant difference in fuel supplies.

Utah is a major gas producer. But most of Utah's natural gas lies under our vast public lands. Utah has a large supply, but as you might guess, Federal red tape is the number one obstacle to supplying the country with the natural gas it demands.

One example is the natural gas found within Utah's tar sands. Historically, extracting natural gas from tar sands has required a dual application requiring both a permit for gas extraction and mineral extraction. I introduced a bill that amends the Mineral Leasing Act to allow a company only going after the gas to forgo the permitting for mineral extraction, while fully leaving in place every relevant environmental law and regulation. This legislation, S. 53, was included in the energy bill.

In another effort to create a lose-lose situation, the Department of the Interior recently published a rule that would tack on a new and expensive fee on new Applications for Permit to Drill (APDs) for natural gas development. As members of the Conference Committee, Senator CRAIG THOMAS and I joined forces to put an end to this fee for at least 10 years.

We do not need another hurdle to obtaining gas from our public lands. The Federal government receives about $1.6 billion every year in royalties from gas production on public lands. With every new well in Utah, gas companies pay a generous royalty to Federal and State governments. It is simple math—in the long run, Utah and the Nation loses money when wells are stopped because of fees. We also suffer from the resulting slow down in the supply of natural gas.

Finally, I was a proponent of an item in the Energy bill that reduces the depreciable lives of natural gas gathering and distribution lines. By being able to depreciate their equipment more quickly, companies are better able to invest in future production activity. This provision should help spur investment in more exploration and production of this clean and important fuel.

As I mentioned at the beginning of my remarks, the Energy Policy Act will have a very large impact on Utah, not only in positive economic growth and jobs, but also in the benefits of cheaper and cleaner energy costs for families and businesses. Again, I thank the leaders in the Senate who have brought us to this point, along with their counterparts in the House of Representatives. I think we have proven today, that Congress can respond to the needs of the nation and our citizens when we work together with that goal in mind.

Mr. BYRD. Mr. President, 13 years have passed between the time Congress passed national energy legislation and the conference report we are taking up today. This conference report is not perfect, and it does not go as far as I would have hoped in terms of moving the U.S. down a different energy path. It does, however, include a number of positive elements, including several relating to coal and clean coal technologies that I have supported for a number of years. But, if we wait another 13 years and continue to ignore the looming energy threats that remain unaddressed, we may find ourselves woefully behind the rest of the world.

If the U.S. is to remain competitive and keep pace with our growing energy demands, then we must take stock, as a Nation, of our energy security and make it a top national priority. We cannot achieve energy independence with continued incremental, piecemeal efforts. It is time to devote new innovation and ingenuity to energy policy and blaze a path forward. We need to be free of the chains of foreign oil. To do that, we must invest in the energy resources that we have here at home. Coal is at the heart of that effort.

By encouraging the cleaner, more efficient use of coal in powerplants and other facilities, we help to ensure jobs in West Virginia's coal communities for many years to come. At the same time, we must find more ways to utilize coal as an energy source in the 21st century. West Virginians know that, for the United States to be free of our heavy reliance on Middle Eastern oil, we must make investments in coal, biomass, and other domestic, power-producing resources. We must be prepared to make the hard decisions to make energy security a national priority, not a mere afterthought.

For many years, the Middle East has been a hotbed of tumult and strife. An underlying reason for our continued presence in this region is the protection of our oil lifeline. Unfortunately, even if the Congress passes this energy legislation, it will do little, if anything, to reduce our dependence on foreign energy. In fact, we will continue to become more dependent by the day. Instead of disentangling ourselves from this foreign oil dependency, we will be sinking our military and energy fortunes deeper and deeper into the sands of the Middle East.

West Virginians and Americans everywhere should understand that there are some very good features of this conference report, but they should not be fooled. Our citizens will see little change in terms of gas prices or natural gas prices. There will likely be few changes in our production or use of energy. I fear the U.S. will continue to ride down the same rocky road for years to come.

Regrettably, House Republicans also objected to including in the Energy conference report my commuter tax benefit to help rural workers who are paying exorbitant prices at the fuel pump. Big Oil, which is reaping huge windfalls from fuel prices this year, is denying modest relief to working Americans. This is but one of the many examples of how this bill sidesteps the difficult decisions that ultimately must be made to address energy costs, to reduce our reliance on foreign energy, to substantially improve our domestic energy supply and energy efficiency needs, and to deal with global climate change. We are doing little, if anything, to address seriously these critical challenges.

I am delighted to support the inclusion of certain targeted tax incentives that will help promote the next generation of clean coal technologies. I have been working on these issues for more than 6 years and am delighted that the Congress has recognized their value. This would include, for the first time, $1.3 billion to help fund the deployment of the "next generation" of powerplants, including integrated gasification combined cycle and advanced combustion-based powerplants. There is also $350 million for a new program to accelerate the use of coal and other domestic resources at industrial gasification facilities. I note that several important coal research, development, and demonstration programs, especially the clean coal technology demonstration program, have been reauthorized and improved upon in this conference report.

This legislation makes many promises to the country on energy policy. It makes promises to the men and women who pull the coal from the ground and to those who are finding ways to use that coal more cleanly and more efficiently. To make good on those promises, the administration must be willing to put financial support behind these initiatives. Will this administration do that? Is the President going to request the funding required in his budget to make the clean coal and other important energy programs a reality? In the end, the President will likely have a Rose Garden ceremony and press releases touting its accomplishments. But, given this administration's track record, is this energy bill simply a soapbox to stand on?

The final legislation before us is only a way station on a long journey and more work remains ahead. This bill is not the whole answer. It is a start, and I am committed to continuing to work toward that goal. I want to thank Senators DOMENICI and BINGAMAN for their continued diligence and hard work in this endeavor. I applaud their efforts to ensure that the consideration of this legislation was open and bipartisan from start to finish. I will vote to support H.R. 6, the Energy Policy Act of 2005.

### TAX INCENTIVES FOR COMMERCIAL BUILDINGS

Ms. SNOWE. Mr. President, I want to thank you for your dedicated work in defending the Senate-passed Energy bill language in conference, particularly concerning the energy efficiency tax incentives. For the first time, there will be energy efficiency tax incentives for commercial buildings for each of the three energy-using systems of the building—the envelope, the heating, cooling and water heating system, and lighting. Each is eligible for one-third of the $1.80 per square foot tax incentive if it meets its share of the whole-building savings goal. This will apply to buildings that cut energy use by 50 percent, an ambitious but very important target as buildings account for 35 percent of our Nation's energy usage, and commercial buildings are a large part of that percentage.

My concern is that, because the eligibility period was cut back from the end of 2010 to just 2 years, this shorter window of effectiveness could undercut the program, since the time it takes to design and construct these large buildings and skyscrapers could take longer than the 2 years of eligibility. This is especially a concern as the incentives for commercial buildings is one of the fastest ways in the entire Energy bill that we can cut down the Nation's energy usage in the short term.

Mr. GRASSLEY. We are committed to this as the correct policy for large scale commercial projects. In addition, we are committed to seeing energy-efficient skyscrapers in the sky and recognize that these types of projects take years to design and build. We will continue to work with you to make this a long-term policy of the Tax Code.

Ms. SNOWE. Again, your assistance is greatly appreciated and I look forward to working with you on this matter in the Finance Committee in the coming months.

### CLARIFICATIONS RELATING TO THE SECTION 29(C)(1)(C)

Mr. SANTORUM. Mr. President, I wish to confinn that certain language in the Conference Report to the Energy bill, with respect to the Internal Revenue Service stopping the issuance of private letter rulings and other taxpayer-specific guidance regarding the section 29 credit, actually refers to a solid fuel produced from coal and "coal waste sludge," a waste product composed of tar decanter sludge and other byproducts of the coking process. This fuel is commonly referred to as "steel industry fuel" because it is a superior feedstock for the production of coke that is used by the domestic steel industry. Steel industry fuel provides significant energy benefits by recapturing the energy content of the coal waste sludge and significant environmental benefits because the Environmental Protection Agency classifies coal waste sludge as a hazardous waste unless it is processed with coal into a solid fuel product. The conference report expresses the conferees' understanding and belief that the Internal Revenue Service should consider issuing such rulings and guidance on an expedited basis to those taxpayers who had pending ruling requests at the time the moratorium was implemented. I would like to confirm the understanding and belief of the conferees that this language in the conference report actually refers to steel industry fuel and the requests for private letter rulings that the producers of steel industry fuel submitted in Fall 2000.

Mr. GRASSLEY. Mr. President, Yes, the distinguished Senator is correct. The conferees understand that there are requests for private letter rulings with respect to the process the Senator from Pennsylvania has described. Moreover, these requests were submitted in Fall 2000. The conferees expect that the Internal Revenue Service would consider issuing these rulings immediately, with due diligence, and without delay.

Mr. SANTORUM. I would also like to ask the distinguished Chairman of the Committee on Finance to confirm that steel industry fuel is a "qualified fuel" that is eligible for the section 29 nonconventional fuel tax credit through 2007 when one, the production facility was placed in service after 1992 and before July 1, 1998, pursuant to a binding written contract—including a supply or service contract for the processing of coal waste sludge—and, two, the steel industry fuel is sold to an unrelated party.

Mr. GRASSLEY. The Senator from Pennsylvania raises an important and time-sensitive question. When we considered the section 29 changes, the conferees were aware of the process described by the Senator. As the senior conferee for the Committee on Finance, I urge the Internal Revenue Service to consider that process as a qualified fuel that is eligible for the section 29 credit under such circumstances.

Mr. SANTORIUM. I thank the distinguished chairman for these clarifications.

### CLARIFYING SECTION 703 OF THE ENERGY POLICY ACT

Mr. DORGAN. Mr. Chairman, can I ask you to clarify something regarding Section 703? It is my understanding that by creating an alternative compliance mechanism that essentially we are creating a system that will allow more technologies to receive credit under the EPAct program without specifically naming them.

Mr. DOMENICI. That is correct.

Mr. DORGAN. So, for instance, neighborhood electric vehicles or low speed electric vehicles would now qualify under this program even though they are not specifically named?

Mr. DOMENICI. That is correct.

Mr. DORGAN. I thank the chairman and yield the floor.

### FOREIGN UTILITY—SECTION 203

Mr. BINGAMAN. Mr. President, I would like to engage the chairman of the Energy and Natural Resources Committee—Senator DOMENICI—in a colloquy.

Mr. DOMENICI. Certainly.

Mr. BINGAMAN. Mr. President, it has come to my attention that section 1289 of the Domenici Energy Policy Act of 2005 could be interpreted as requiring FERC approval of certain foreign transactions wholly outside of the United States.

I am a strong supporter of section 1289 because I believe it is vital, especially since we are repealing the Public Utility Holding Company Act, that FERC be given the authority it needs to protect U.S. consumers. In my opinion, section 1289 gives FERC the appropriate authority to ensure that utility mergers and acquisitions do not adversely impact consumers. I also think it is appropriate for FERC to be able to ensure that retail customers in the United States do not subsidize foreign acquisitions.

However, Section 1289 could also be interpreted as requiring FERC approval of a holding company's acquisition of a foreign utility where the holding company has no retail customers in this country. A company that has a subsidiary that simply owns generation assets in the United States for wholesale electric sales is also defined as a holding company. As a result, that holding company's acquisition of an electric utility company operating entirely overseas could be interpreted as being subject to FERC's purview as a result of section 1289 of the bill we are considering today.

Subjecting foreign utility acquisitions by holding companies without any U.S. retail customers to FERC oversight could potentially have a chilling effect on investment here in the United States. At a time that we are trying to encourage investment in U.S. generation, we may be dissuading investments coming into the United States if a foreign-based holding company believes its next transaction in Great Britain is going to be subject to a FERC merger review proceeding. Moreover, the "public interest" test present in section 203 of the Federal Power Act does not readily fit the situation present with respect to foreign transactions.

I note that section 1289 does give FERC the authority to, by rulemaking, identify types of transactions that will receive expedited Commission review. I certainly believe that the acquisition of a foreign utility company by a holding company with no retail customers in the United States should fall in that category. Other categories of foreign transactions that could possibly be interpreted as being covered by section 1289 also may fall into this category.

Mr. DOMENICI. Mr. President, I agree with my colleague—Senator BINGAMAN—that FERC, if it determines that certain foreign transactions are covered by the language of section 1289, should provide expedited review and approval to the acquisition of a foreign utility by a holding company that has no retail customers in the United States and other transactions that raise no significant U.S. consumer issues. These types of transactions don't require FERC's scrutiny in order to ensure that American consumers are adequately protected.

Mr. BINGAMAN. I thank my colleague.

Mr. BAUCUS. Mr. President, for 4 years, Congress has failed to enact a comprehensive Energy bill. Today, however, I am confident we can change that record.

The conference committee has assembled a well-balanced package. It is right for America. We should send it to the President's desk.

The House and the Senate gave the conferees a difficult task. The House and Senate Energy bills took two very different approaches to tax policy. The two bills had very little in common. Thus, we could not include everything in both bills without busting our budget.

Most of the provisions in the House bill promoted investment in traditional energy infrastructure. It favored pipelines, electricity lines, and oil and gas production.

In contrast, the Senate bill—which I helped develop with my good friend Senator GRASSLEY—advanced new technologies. It encouraged conservation efforts, improved energy efficiency, and expanded use of alternative fuels.

Conference negotiations were hard fought. We made some tough decisions.

But overall, the process was very positive. We kept within our budget, and we worked with a spirit of compromise and cooperation.

The energy tax incentives that the conference has recommended take an evenhanded approach to an array of promising technologies.

For example, the bill provides a uniform period for claiming production tax credits under section 45 of the Tax Code. This encourages production of electricity from all sources of renewable energy.

The bill recognizes the value of coal and other traditional energy sources to our economy. It provides investment tax credits for clean-burning coal facilities and projects. It provides substantial tax incentives to facilitate much needed expansion of refinery capacity. And it promotes expansion of American energy delivery systems.

The bill recognizes the need for a diverse energy portfolio. it fosters energy production from wind or coal in Montana to geothermal sources in California, and it will help create jobs by promoting domestic energy production.

The bill also rewards energy conservation and efficiency. It includes incentives for energy-efficient homes, alternative fuel vehicles, and development of fuel cell technology. These incentives are environmentally responsible they reduce pollution, and they help improve people's health.

These energy tax incentives are good for America. They will promote the delivery of reliable, affordable energy to consumers. They will help to create jobs through domestic energy production, and they make meaningful progress toward energy independence.

I am proud of the bipartisan effort that produced the conference agreement. I encourage my colleagues to support this important legislation.

Mr. CONRAD. Mr. President, I rise today to support the Energy bill conference report.

For many years, I have supported passage of a comprehensive national energy policy. Such a policy is necessary to reduce our increasing dependence on foreign energy sources. A comprehensive energy policy will help lower energy prices in the long run. Furthermore, any far-reaching bill will move us toward newer technologies that will keep our economy growing strong while making us more energy independent.

Although not perfect, this energy bill moves us in the right direction. It will expand our electricity transmission system and make it more reliable. The bill contains incentives for renewable energy, including the renewable energy production tax credit that I helped include. It will also spur an increase in the production and use of domestic biofuels such as ethanol and biodiesel. Because of this bill, our coal-burning plants will improve their efficiency and emit less pollution. Finally, the bill provides needed incentives to increase natural gas infrastructure, measures that will lead to lower prices for natural gas consumers in the long run.

Equally important, this bill benefits North Dakota for a number of reasons. The transmission incentives will enable my State's power producers to export electricity to distant markets. In this way, transmission incentives benefit the lignite and wind energy sectors in my State. The clean coal production incentives will make it easier to build advanced clean coal powerplants. The inclusion of the wind energy production tax credit will help North Dakota realize its potential to be the biggest producer of wind energy in the country. The Renewable Fuels Standard and tax incentives for ethanol and biodiesel will aid my State's farm economy, create more jobs, and reduce our dependence on foreign oil. In addition, the bill will assist my State in developing exciting new technologies, such as coal-to-liquid fuel plants.

I believe we still have a lot of work to do in order to make our Nation less dependent on foreign energy. However, this bill takes positive steps to address our energy needs. As I just mentioned, this bill will provide significant benefits to my State.

For these reasons, I support the conference report.

Mr. CORZINE. Mr. President, I thank Senator SHELBY and Senator SARBANES for their hard work on H.R. 3, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2005 (SAFETEA). I know how much time, effort and energy went into completing that bill and I commend the chairman and ranking member. I especially appreciate their willingness to work with me to get language included in the bill in support of a full funding grant agreement for the New Jersey Trans-Hudson Midtown Corridor.

The New Jersey Trans-Hudson Midtown Corridor project entails construction of a 5-mile commuter rail extension from Secaucus, NJ to a new station in midtown Manhattan. The centerpiece of the project is a new trans-Hudson rail tunnel. This project will benefit transit riders from the New York and New Jersey region and will relieve congestion on the existing tunnels for intercity rail riders of the Northeast corridor, the Nation's busiest passenger railroad. A recent economic impact analysis indicates that the entire project will create 44,000 new jobs and increase gross regional product by $10 billion. The project's estimated cost is approximately $5 billion.

The Federal contribution would be matched by comparable local contributions from the State of New Jersey and the Port Authority of New York and New Jersey. New York's Governor Pataki, who along with New Jersey's Governor Codey controls the Port Authority governance, recently declared his support of this project—bolstering prospects for future funding from the Port Authority for local share. In addition, the State of New Jersey will soon be reauthorizing its transportation trust fund, which will provide New Jersey with the funding capacity for its own contribution to the project.

Currently, the project is undergoing environmental review, which should be completed in 2006. It is expected that preliminary engineering will start in fall 2005 and construction will begin in 2007.

The language in the SAFETEA bill will be a significant boost to this project. I would like to take a moment to clarify the intent of a couple of points in that provision in the bill. First of all, it is the intent of the language to include the funding expended for the New Jersey Transit river line and the bi-level railroad cars New Jersey Transit purchased for its lines as part of the non-Federal contribution for the New Jersey Trans-Hudson Midtown Corridor project.

Second, the language says that the Secretary of Transportation must give "strong consideration" to the Trans-Hudson Midtown Corridor project when it comes time to awarding a full funding grant agreement, since it will be a crucial link for the Northeast corridor and benefit the region's mobility, security, economy and environment. The term "strong consideration" indicates that the New Jersey Trans-Hudson Midtown Corridor project is a high priority for the Secretary and encourages the Secretary to award a full funding grant agreement provided it meets the FTA's New Starts criteria. I appreciate the opportunity to clarify these important points, and I look forward to further progress on the tunnel project.

Mr. McCAIN. Mr. President, I am afraid that the heralded passage of this energy bill against years of failure by the Congress to legislate a comprehensive energy policy has created a false sense of accomplishment in Washington today. As my colleagues are well aware, oil prices are hovering near the infamous $60 per barrel mark; the greenhouse effect is beginning to have a substantial measurable impact on the global climate; and American families are being gouged at the pump while their tax dollars are carelessly spent on Federal subsides for big oil and gas companies. As leaders, we cannot claim that we have successfully addressed these real-life challenges by enacting this latest incarnation of special interest influence in policymaking.

I do want to acknowledge the work of the Senate conferees for keeping out a few of the most objectionable provisions that prevented passage of the bill during the last Congress, particularly the MTBE liability waiver and the proposed drilling in ANWR. They took the right action in preventing the inclusion of those provisions. Unfortunately, after all the time and effort spent on this issue during the past several years, when it comes to solving America's pressing energy problems, this bill simply does not go far enough. It will not reduce our dependence on foreign oil, it won't assure the growing threat of global warming is addressed in a meaningful way, and it wont effectively reduce the price of gasoline at the pump.

The estimated cost of this energy bill has ballooned far beyond the original $6.7 billion in the President's proposal. The conference agreement provides an estimated $14.5 billion in corporate subsidies and tax credits. And the tax package provides more than twice as many incentives to the oil, gas, coal and nuclear industries as it does to energy efficiency and renewable energy—a significant change from the Senate-passed bill.

Indeed, big oil, coal and gas companies seem to be disproportionally favored under this bill as most of the tax breaks going to traditional industries. Only about 36 percent of the estimated tax package would go to renewable energy and cleaner burning vehicles. Even then, some of the programs to promote renewable energy and alternative fuels are questionable. A loan guarantee program that would cover up to 80 percent of the cost of developing new energy technologies was scored at $3.75 billion for the first 5 years. These loans carry a 20- to 60-percent risk of default according to the CBO, and after the 5 years there are no limits on the amount of loans that can be guaranteed, thus leaving the taxpayer to cover the losses when such endeavors fail. Perhaps more alarming, the estimated costs of the bill are estimates at best, and don't take into account some of the hidden costs associated with program authorizations and future tax credit extensions.

And then there is the ambiguous realm of alternative fuels for vehicles. Rather than addressing the gas mileage interests of consumers, this energy conference report would boost ethanol production by requiring 7.5 billion gallons of the corn-derived fuel be added to the domestic gasoline supply by 2012. This is double the current ethanol mandate and while it will be a boon for the ethanol producers, it will have a negligible effect on oil imports. While I fully recognize and support efforts to promote clean energy sources, the costs also need to be weighed against any presumed benefits. And at this juncture, the beneficiaries are still the producers, not the consumers and not the environment.

Let me mention some of the more "interesting" provisions in the conference report:

Section 134. Energy Efficiency Public Information Initiative. Authorizes a total of $400 million, $90 million for Fiscal Years 2006 through 2010, for the Secretary of Energy to carry out a national consumer information program to encourage energy efficiency through disseminating information to the American public addressing, among other things, the importance of proper tire maintenance. I am fully aware that it is important to rotate your tires, and to take other actions to preserve energy, but do we really need to spend almost half a billion on such a campaign?

Section 138. Intermittent Escalator Study. Requires the GSA to study the advantages and disadvantages of employing intermittent escalators in the United States. I can't imagine many of my colleagues would support removing "Senators Only" features in the Capitol Complex and be content to wait for an elevator to intermittently show up, but maybe the rest of the American public is more patient.

Section 207. Installation of Photovoltaic System. Authorizes $20 million for the GSA to install a photovoltaic system, as set forth in the Sun Wall Design Project, for the Department of Energy headquarters building. Of all the sunny places in this country where solar power is viable, the Energy Department Building in DC would not be the first place that comes to mind.

Section 208. Sugar Cane Ethanol Program. Establishes a new $36 million program under EPA that is limited to sugar producers in the States of Florida, Louisiana, Texans and Hawaii for 3 years.

Section 224. Royalties and Near-Term Production Incentives. Under this section, all monies received by the U.S. on all lands except for the State of Alaska, from sales, bonuses, rentals and royalties on leased Federal lands or geothermal resources shall be paid into the Treasury of the U.S. and a percentage of such funding is then partially redistributed to the State within the boundaries of which the revenues were generated. But in the case of Alaska, seems that they will get to keep all of the monies generated.

Section 237. Intermountain West Geothermal Consortium. Establishes an Intermountain West Geothermal Consortium that focuses on building collaborative efforts among universities in the State of Idaho, other regional universities, State agencies and the Idaho National Laboratory, must be hosted and managed by Boise State University, and have a directed appointed by the Boise State University. Why do we need a federal law to promote collaboration at Boise State?

Section 244. Alaska State Jurisdiction Over Small Hydroelectric Projects. Amends the Federal Power Act with respect to certain authorities for the State of Alaska, allowing the State to completely ignore any recommendations received from the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and State fish and wildlife agencies concerning conditions for the protection, mitigation, and enhancement of fish and wildlife in constructing small hydroelectric projects.

Section 245. Flint Creek Hydroelectric Project, located in Granite and Deer Lodge Counties, Montana. The bill basically extends the project's permit for an additional 3 years. And, notwithstanding other laws and regulations regarding payment to the U.S. for the use of Federal lands, such payments surrounding this project would be specified in the bill. I can only assume this payment is less than what would otherwise be required.

Section 354. Enhanced Oil and Natural Gas Production Through Carbon Dioxide Injection. Establishes a $3 million demonstration program solely for 10 projects in the Willistin Basin in North Dakota and Montana and 1 project in the Cook Inlet Basin in Alaska.

Section 356. Denali Commission. Authorizes $55 million annually for fiscal years 2006–2015 for a seven-member commission created in 1998 comprised entirely of Alaska interests to support Alaska interests. This funding would be used to carry out energy programs.

Section 365. Pilot Project to Improve Federal Permit Coordination. Establishes a pilot that only the States of Wyoming, Montana, Colorado, Utah, and New Mexico can participate in.

Section 412. Loan to Place Alaska Clean Coal Technology Facility in Service. This section authorizes a direct Federal loan for up to $80 million for a plant near Healy, Alaska. One of the few protections under this section for the American taxpayer is extremely lax. It states that prior to providing the loan, the Secretary determine that "there is a reasonable prospect that the borrower will repay the principal and interest on the loan." That sure doesn't sound like the type of stringent criteria and risk assessment that would be weighed by many lending institutions that I am aware of. And why does this particular facility merit a Federal loan over other clean energy technologies?

Section 416. Electron Scrubbing Demonstration. Directs the Secretary to use $5 million to initiate, through the Chicago operations office, a project to demonstrate the viability of high-energy electron scrubbing technology on commercial-scale electrical generation using high-sulfur coal.

Section 628. Decommissioning Pilot Program. This section authorizes $16 million for a pilot program to commission and decontaminate the sodium cooled fast breeder experimental test site reactor located in northwest Arkansas.

Section 755. Conserve by Bicycling Program. Provides $6.2 million to establish a pilot program to be known as the "Conserve by Bicycling Program" and study the feasibility of converting motor vehicle trips to bicycle trips, including whether such factors make bicycle riding feasible: weather, land use and traffic patterns, the carrying capacity of bicycles and bicycle infrastructure. I find it difficult to support spending $6.2 million to encourage Americans to ride bicycles when we are running a deficit of $368 billion this year and a 10-year projected deficit of $1.35 trillion, according to the Congressional Budget Office.

Section 756. Reduction of Engine Idling. Authorizes $139.5 million to study the environmental impact of engine idling from heavy-duty vehicles and locomotives at truck stops, ports of entry, rest areas and private terminals. Is there any doubt that engine idling may be contributing to air quality problems? Do we need to expend almost $140 million on such a study? It might be cheaper to pay the truckers and engineers to shut off their engines.

Section 955. Department of Energy Civilian Nuclear Infrastructure and Facilities. Requires the Secretary to develop a comprehensive plan for facilities at the Idaho National Laboratory to avoid duplicative efforts at other national laboratories and establish or consider plans to establish or convert various areas into user facilities.

Section 980. Spallation Neutron Source. Requires the Secretary develop an operational plan for the Oak Ridge National Laboratory in Oak Ridge, TN, to ensure the facility is employed to its full capability. It further authorizes the Spallation Neutron Source Project at Oak Ridge at $1,411,700,000 for total project costs.

Section 997. Arctic Engineering Research Center. It directs the Secretary of Transportation to provide annual grants, worth $18 million total, to "a university research center to be headquartered in Fairbanks"—that must be the University of Alaska-Fairbanks according to its Web site—to establish and operate a university research center to research improved performance of roads, bridges, residential, commercial, and industrial structures in the Arctic region.

Section 1511. Renewable Fuel. The section authorizes a total of $12 milliom—$4 million for 3 years—for a resource center to further develop bioconversion technology at the Center for Biomass-Based Energy at the Mississippi State University and the Oklahoma State University.

Section 1811. Coal Bed Methane Study. Directs the DOE and EPA to collaborate with the NAS on a study on the effect of coalbed natural gas production on surface and ground water aquifers in Montana, Wyoming, Colorado, New Mexico, North Dakota, and Utah.

Now that we know a little about some of the provisions contained in the conference agreement, let's talk about one very important issue that is not addressed—an issue of worldwide significance: global warming.

Earlier this month, the leaders of the G8 nations met and issued an agreement with respect to climate change. The agreement among the G8 nation states that: "We will act with resolve and urgency now to meet our shared and multiple objectives of reducing greenhouse gas emissions [.]"

This agreement followed the joint statement that was issued in June in which the U.S. National Academy of Sciences and national academies from other G8 countries, along with those of Brazil, China, and India, which concluded that: "The scientific understanding of climate change is now sufficiently clear to justify nations taking prompt action. It is vital that all nations identify cost-effective steps that they can take now, to contribute to substantial and long-term reduction in net global greenhouse gas emissions."

It is very disappointing that the climate change provisions in the conference report fail to address the necessary commitment for taking urgent actions and making substantial reductions in greenhouse gas emissions.

The conference report requires the Department of Energy to develop greenhouse gas intensity technologies and strategies. Such requirements are a waste of time and effort as we already know that using the greenhouse gas intensity does not work. How do we know it doesn't work? We know because the Department of Energy has shown us and because climate change science tells us that the climate system does not respond to greenhouse gas intensity, but rather to greenhouse gas concentration levels in the atmosphere.

Recently, the Energy Information Administration at the Department of Energy released a statement indicating that preliminary data for the year 2004 revealed that energy-related carbon emission intensity fell by 2.6 percent, while energy-related carbon dioxide emissions grew by 1.7 percent. This is an early reality check for those who argue that we can control greenhouse gas emissions by only controlling carbon emission intensity.

Again this clearly shows how our efforts to address climate change are misfocused and without substance. If we continue down this path, the $5 billion per year that we are currently investing in the climate change science and technology programs will not provide the return on investments that the American people deserve.

Furthermore, if you look at any credible scientific report on climate change, it speaks of the impact of greenhouse gases on the climate system, not the impact of greenhouse gas intensity. In all the hearings that we have held in the Commerce, Science, and Transportation Committee over the past few years, I don't recall a single scientist indicating that if we control our greenhouse gas intensity, then we can mitigate the impacts of climate change.

If we are to address climate change consistent with the sense-of-the-Senate resolution passed by this body just over a month ago, then we must pursue solutions that will truly have an impact on the climate system, not those that are no more than "smoke and mirrors." Of course, the conferees failed to agree to even include the modest resolution in the final conference agreement.

If it weren't for the pressing need to show the American public that we are acting in at least some way to address our Nation's energy problems—action that every person is reminded of every time they pay yet a higher price at the pump—I doubt many of my colleagues would be so rushed to pass this bill. Quite frankly, it seems as though the Congress is grasping at straws to address our energy quandary, unwilling or unable to use the foresight necessary to plan for a future America that is less reliant on foreign oil, cleaner under renewable energy generation, or leading in cutting-edge energy efficiency technology. And in our failure, the American people will be disappointed.

Ms. COLLINS. Mr. President, I rise today in support of the Energy bill conference agreement. The final version of this legislation is imperfect, but it takes important steps forward in addressing some of this Nation's energy problems. This bill will strengthen electric reliability, further develop our renewable energy resources, and improve energy efficiency.

I would like to begin by thanking Chairman DOMENICI and ranking member BINGAMAN for their long and arduous work on this subject. We have now been working on comprehensive energy legislation for nearly 5 years, under three different Congresses and three different Energy Committee chairmen. I know it has been a very difficult path. I express my sincere appreciation to Chairman DOMENICI for his dedication, leadership, and willingness to accommodate a great diversity of views on the subject of energy policy.

I am very pleased that the Energy bill provides nearly $3 billion for wind, biomass, and other renewable energy sources. This credit could help a major wind energy development project move forward in Aroostook County and will help Maine's forest products industry by providing an important revenue stream for waste forest products. Developing Maine's wind and biomass resources creates jobs in rural areas, provides additional revenue to farmers and struggling industries, reduces greenhouse gas emissions, and helps diversify our energy supply. While I am disappointed that the bill does not contain the provision which I authored, along with Senator BINGAMAN, to require that 10 percent of our electricity come from renewable energy sources by the year 2020, the bill nevertheless makes important strides forward in developing our renewable energy resources.

This bill will also help improve our electricity reliability by creating new standards for the national electric transmission grid and creating incentives to spur the creation of a stronger and more robust grid. This bill also provides for improved market transparency, the first ever broad prohibition on market manipulation and filing false information, and new consumer protections for utility customers.

I am also pleased by a number of provisions included in the bill to help spur greater energy efficiency. Consumers will be able to take advantage of tax credits for hybrid cars, solar water heaters, and energy efficient improvements to existing homes. Additional tax credits will spur energy-efficient appliances and alternative fueled vehicles, which will not only reduce smog and greenhouse gas emissions but also reduce oil imports. In addition, a number of new Federal programs and 15 new product standards will reduce natural gas use in 2020 by 1.1 trillion cubic feet, and reduce peak electric demand by an amount equivalent to that produced by 85 power plants. All of these programs will not only help protect the environment, but also help consumers save money on their energy bills.

Several other provisions bear mentioning. I am pleased that the final legislation retains the amendment which Senator LEVIN and I offered regarding the Strategic Petroleum Reserve. This amendment requires the Department of Energy to develop procedures for using the Strategic Petroleum Reserve in such a way as to reduce the impact on taxpayers and energy consumers, while maximizing oil supplies and improving U.S. energy security. This amendment will help mitigate the impact of the Department of Energy's misguided policies on the Nation's gasoline prices.

I am also pleased that the bill includes language regarding ISO New England's misguided Locational Installed Capacity plan, also known as LICAP. This language requires the Federal Energy Regulatory Commission to very carefully weigh the concerns of Maine and other New England States regarding this proposal. I am very concerned that the LICAP proposal would unnecessarily raise electricity rates in Maine, and I urge FERC to consider this issue very carefully.

While I believe the bill makes important progress in some areas, I am extremely concerned that this bill fails to stop our growing and increasingly dangerous reliance on foreign oil. Regretfully, a provision requiring that we save 1 million barrels of oil per day by 2015 was dropped from the bill. This provision, which I co-authored, was included in the Senate-passed bill, but removed by the House. In addition, I am disappointed that the bill does not require any increase in fuel economy standards for automobiles. Although the energy efficiency provisions for hybrid automobiles and alternative fuel vehicles are important steps forward, they are not enough. Four years ago I released a report predicting that crude oil prices would hit $60 per barrel by the year 2010 unless we took aggressive action to increase our energy efficiency and reduce our reliance on foreign oil. Without greater energy efficiency measures, I am concerned that prices are likely to go even higher.

I am also concerned by a provision in the bill that would allow for an inventory of offshore oil and gas resources on the Outer Continental Shelf, OCS. I am strongly opposed to oil exploration on restricted areas of the OCS, and I believe this inventory is pointless since this Congress has no intention of allowing drilling in these areas.

I would note that this bill is much improved over the 2003 conference report which I could not in good conscience support. First, I am pleased that this legislation does not include a very harmful liability waiver for the manufacturers of MTBE. MTBE is a noxious chemical which has polluted drinking water supplies in Maine and many other States. I saw no justification for allowing the manufacturers to be let off the hook in terms of cleaning up this chemical, and I am grateful to Chairman DOMENICI and Ranking Member BINGAMAN for refusing to give in to those advocating for the waiver.

I am also very pleased with the improvements to the electricity title in this bill. The electricity provisions in this bill are good for the Northeast and have the potential to promote competitive markets which are more efficient, more reliable, and lower priced than we have now. I am pleased that the Carper-Collins provision to promote combined heat and power was retained in the bill.

While the legislation before us does not address our dangerous reliance on foreign oil, it nevertheless takes important steps to increase our use of renewable energy, improve energy efficiency, and strengthen our electricity grid. While I am disappointed at some of the things that were included in the bill as well as many things that were not included, I nevertheless believe that the bill is a step in the right direction. Given our extremely high energy prices and an even more dire energy crisis looming just over the horizon, I believe we simply cannot afford to block needed improvements out of fear that they do not go far enough, and I therefore intend to vote in favor of this legislation. However, I ask my colleagues to consider this legislation as a first step, and to again address these issues next year and the year after, until we finally begin to reduce our reliance on foreign oil and provide a secure energy future for the United States.

Mr. BAUCUS. Mr. President, after 4 years, the Senate is on the verge of passing a comprehensive Energy bill. This important legislation will lessen America's reliance on foreign sources of energy, boost renewable resources, and provide reliable energy for the nation.

Putting this legislation together and keeping it within budget constraints took hard work and perseverance. First, I thank the chairman and ranking member of the Energy and Natural Resources Committee, Senator DOMENICI and Senator BINGAMAN, respectively. They provided excellent leadership, and I know their staff stayed up many a sleepless night. They played an important role developing this bill.

I also thank my good friend Senator GRASSLEY, the Chairman of the Finance Committee, for his commitment to taking a balanced approach to energy tax policy.

Let me take a moment and speak about the hard work of the Finance Committee staff. The House and Senate bills took two very different approaches to tax policy. Conference negotiations were hard fought. We made some tough decisions. But we got it done within budget limits largely because we worked with a spirit of compromise and cooperation.

I also thank some staff members in particular. I appreciate the cooperation we received from the Republican staff, especially Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, and Nick Wyatt.

I thank the staff of the Joint Committee on Taxation and Senate Legislative Counsel for their service.

I thank Chairman BILL THOMAS and his staff for their hard work, cooperation and continuing willingness to work with us through the difficult negotiations that produced this important legislation.

I also thank my staff for their tireless effort and dedication, including Russ Sullivan, Patrick Heck, Bill Dauster, Ryan Abraham, and Wendy Carey. I especially want to thank Matt Jones. He is the tax counsel on our staff who has worked for years on the tax legislation in this bill. His hard work and perseverance on this legislation went above and beyond the call of duty. I owe him a deep debt of gratitude. I also thank our dedicated fellows. Mary Baker, Jorlie Cruz, Cuong Huynh, Richard Litsey, Stuart Sirkin, and Brian Townsend.

Finally, I thank our hard-working interns: Rob Grayson, Jacob Kuipers, Heather O'Loughlin, Andrea Porter, Ashley Sparano, Julie Straus, Danny Shervin, Katherine Bitz, Drew Blewett, Adam Elkington, Julie Golder, and Paul Turner.

This legislation was a team effort that really paid off.

I yield the floor.

Mrs. LINCOLN. Mr. President, I rise to announce my support for the Energy Policy Act of 2005. I want to thank Chairmen Grassley and Domenici and Senators Baucus and Bingaman for working with me to include renewable energy and energy efficiency provisions in the bill that are important to my home State of Arkansas.

Some may say this bill is not perfect, but I believe it is a step forward toward reducing our dependence on foreign oil and increasing the use of renewable resources in this country. This bill makes an effort to address energy concerns in every sector of this industry. In Arkansas, we have investor-owned utilities and co-operatives. This bill will help both of these providers serve their customers in a more efficient and reliable manner.

And while this bill may not go as far as some would like in the direction of renewable energy, there are many provisions in this package which will help the United States begin the long process of eliminating our dependence on foreign oil. I look forward to the further growth and development of the biodiesel industry that will be spurred by the extension of the production tax credit provided in the bill that I have fought for during my time in the Senate.

Another provision of which I am particularly proud relates to the cleanup of the Southwest Experimental Fast Oxide Reactor, a decommissioned nuclear reactor near the community of Strickler, AR, in the northwest corner of my State. The site is contaminated with residual radiation, liquid sodium, lead, asbestos, mercury, PCBs, and other environmental contaminants and explosive chemicals. The Federal Government helped create these contaminants and should pay to help clean them up. This is great news for northwest Arkansas, because this site has threatened public health and the environment there for too long.

Finally, I would like to thank the staff on both the Finance and Energy Committee, majority and minority, for all of their help in crafting this bill. Elizabeth Paris and Matt Jones have been patient and helpful with any idea or request I have come to them with. Sam Fowler and Lisa Epifani have been equally accessible when I had questions or concerns on the nontax portion of the bill. I would also like to take this opportunity to thank Todd Wooten of my staff who has done an incredible job of helping ensure my priorities for Arkansas were included in the final bill. This body would be nothing without the tireless work of our staff, and I wanted to make sure they knew how much I appreciate their hard work.

In conclusion, our current global situation shows us how important it is that we take steps to reduce our dependence on foreign oil. We all know this bill is not a comprehensive solution, but a step in the right direction. We must continue to look toward more useful and progressive technology that brings us to our goal.

Much more work needs to be done if we ever expect this country to lose its dependence on fossil fuel and foreign sources of energy, and I urge my colleagues to continue to work hard until we achieve this goal.

Mr. BUNNING. Mr. President, I rise today to talk about the Energy bill conference report.

I have spoken on this floor many times before on Energy bills. I hope the bill before us is the last one I come to the floor to speak on for a long time.

While not perfect, this is a good bipartisan bill.

I want to thank Chairmen DOMENICI and GRASSLEY and Ranking Members BINGAMAN and BAUCUS for working hard in a bipartisan manner to produce the bill before us.

This Energy bill strikes a balance between conservation and production.

And while passing an Energy bill might not help energy prices in the short term, it will make a difference over the long term by affecting how much our energy costs increase. This bill's increased domestic energy production, coupled with increased conservation provisions, will slow the astronomical price increases we have seen lately.

Without a new national Energy policy, though, there is not much we can do about the rising energy prices.

Many oil producers are working at full capacity.

And with China and India starting to increase their demands for oil, the world's oil supply will continue to decrease while prices continue to increase.

This means that we cannot just try and conserve our way out of any kind of energy problem.

We have to reduce our reliance on foreign oil and do a better job of taking care of our own energy needs.

The bill contains some good policy provisions.

It includes electricity provisions that are a good start to help update our electricity grid.

America has outgrown its electricity system and some changes need to be made to it.

One of the provisions included in the bill is PUCHA repeal, which will go a long way in helping our electricity system meet increasing demands.

The bill also makes strides to increase the reliability of the electricity grid.

We also desperately need new transmission lines built, and I hope that the provisions in this bill will ensure that this happens.

It also contains an incentives title which will encourage the design and deployment of innovative technology to increase energy supply and also protect the environment. These incentives cover projects such as clean coal, electric transmission and generation, and fuel efficient vehicles.

I am glad that the Senate Energy bill contains clean coal provisions which I wrote to help increase domestic energy production while also improving environmental protection.

Coal is an important part of our energy plans. It's cheap and plentiful, and we don't have to go far to get it.

For my home State, this means more jobs and a cleaner place to live. Clean coal technology is estimated to create 62,000 jobs nationwide and cut emissions from coal drastically.

The Energy bill encourages research and development of clean coal technology by authorizing over $1 billion for the Department of Energy to conduct programs to advance new technology that will significantly reduce emissions and increase efficiency of turning coal into electricity.

Almost $2 billion will be used for the clean coal power initiative, where the Department of Energy will work with industry to advance efficiency, environmental performance, and cost competitiveness of new clean coal technologies.

And $3 billion will be used to help coal companies comply with emission regulations by providing funding for pollution control equipment.

The energy tax package also contains tax credits for companies to implement clean coal technology.

The bill provides $1.6 billion in tax credits for investment in clean coal facilities. It also provides over $1 billion in tax credits for amortization of pollution control equipment to help clean up the emission from existing coal facilities.

Coal plays an important role in our economy, providing over 50 percent of the energy needed for our Nation's energy.

The 21st economy is going to require increased amounts of reliable, clean, and affordable electricity to keep our nation running.

With research advances, we have the know-how to better balance conservation with the need for increased production.

I think this bill makes a good start in ensuring that coal remains a viable energy source that can provide cheap power to consumers.

And the other tax provisions from the Finance Committee will do a good job to promote conservation and energy efficiency further by encouraging the use of cleaner burning fuels.

I am pleased the bill contains ethanol and biodiesel tax credits. These expanded tax credits will further encourage the use of these alternative fuels to help increase domestic production and lessen our dependence on foreign oil. This also is good for farmers and is good for jobs.

We have deliberated and discussed for far too long the need for America to follow a sensible, long-term energy strategy.

I am glad the Senate acted to pass an Energy bill.

This is good for our environment, economy, and national security.

Thank you, Mr. President.

Mrs. BOXER. Mr. President, I will vote against this energy bill because it does not do enough to reduce our dependence on foreign oil through the promotion of alternative forms of energy or by encouraging energy efficiency.

I was very disappointed that the conference committee eliminated the Senate's renewable portfolio standard, under which utilities would have provided 10 percent of their total sales from renewable resources by 2020. In addition, the conference also eliminated the Senate provision that called on the President to find ways to reduce oil use by 1 million barrels per day by 2025, as well as the provision promoting hybrids for use in Federal, State, and other vehicle fleets.

I am also very concerned about an authorization for an inventory of energy resources in America's Outer Continental Shelf, which is damaging in itself and may lead to future oil and gas development in some coastal areas.

Overall, this bill is very imbalanced. The bill provides $5.7 billion in tax incentives over 10 years for the fossil fuel industry and $1.5 billion in subsidies and tax breaks for the nuclear industry. Compare this to tax incentives for renewable electricity, alternative vehicles and fuels, energy efficiency, and energy conservation, which were cut from $11.4 billion in the Senate bill to $5.8 billion in the final bill.

With all of these bad provisions, I am pleased that a few good provisions survived, such as my amendment calling on the Federal Energy Regulatory Commission to conclude action on energy crisis refunds by the end of the year or report to Congress explaining what it has done and specifying a timetable for the rest of their process.

I am also pleased that this energy bill will exempt California from the proposed new ethanol mandate during the summer months, when ethanol usage in gasoline can increase air pollution, and that it included my original proposal to encourage the production of ethanol from agricultural waste.

Republicans removed many provisions from the Senate bill that would have put us on a more energy-efficient path, and unfortunately we were left with a bill that does not offer the sound and innovative policies we need to reduce our dependence on foreign oil, protect the environment, and improve our energy and fuel efficiency.

Ms. SNOWE. I rise today not only to cast my support for the conference report to H.R. 6, an energy bill that touches on nearly every aspect of domestic energy production, consumption, and savings, but especially to compliment Energy and Natural Resources chair, Senator DOMENICI, for once again showing what a truly superb leader he is. He and Senator GRASSLEY, chair of the Finance Committee, have been successful in reaching bipartisan agreement on comprehensive energy legislation—something that we have not been able to do since 1992, even though we have actively attempted to do so in the last three Congresses.

I would have written a more ambitious bill that would have more aggressively reduced our Nation's dependence on foreign oil, but this is an improvement over the status quo. What this legislation does include is essential energy efficiency and conservation tax incentives that will make our Nation's energy policy more balanced. As a Nation, we must recognize that we must do more than just produce our way out of an energy crisis, we have an obligation to consume less as well.

For instance, by improving fuel economy standards of our cars and trucks, we could have saved our Nation 1 million barrels of oil a day, as Senator FEINSTEIN and I have attempted to do for these last several years. Also, by keeping Senator BINGAMAN's provisions for Climate Change and Renewable Portfolio Standards in the conference report, we would have had a much stronger bill to address our future energy, environmental, and economic needs. But this bipartisan energy legislation is a reflection of what was possible. These important issues will not go away, we will be addressing them another day—and in the not-too-distant-future, I will predict.

While the report came out of conference far from perfect, the question we need to ask ourselves at the end of the day is, Does the legislation begin to take the Nation forward for responsible energy policy to help decrease our dependence on foreign oil from the most volatile areas of the globe as we begin the 21st century? And this bill does take at least that small step forward, especially for provisions I believe in—greater energy efficiencies and energy from renewable sources that begin to wean the Nation off of its thirst for oil.

For instance, I am extremely pleased that I could secure $1.7 billion through the energy efficiency and conservation provisions from my original bills, the Efficient Energy Through Certified Technologies and Electricity Reliability, or EFFECTER, Act of 2005. I would like to express thanks for assistance over the past 5 years in drafting these energy efficiency tax incentives to Dr. David B. Goldstein of NRDC, a 2002 MacArthur fellowship winner who has worked on energy efficiency and energy policy since the early 1970s, both domestically and internationally.

Also provided are tax incentives from the Lieberman-Snowe fuel cell bill that provide a 30-percent business energy credit for the purchase of qualified fuel cell power plants for businesses, along with a 10-percent credit for the purchase of stationary microturbine power plants. A fuel cell is a device that uses any hydrogen-rich fuel, such as natural gas, methane, or propane, to generate electricity and thermal energy through an electrochemical process. Since no combustion is involved, fuel cells produce almost no air pollution and reduce emissions of carbon dioxide, the major greenhouse gas blamed for climate change. The tax incentive will accelerate commercialization of a wide range of fuel cell technologies for a distributed source of power.

As a senior member of the Senate Finance Committee, I worked with Chairman GRASSLEY to also secure $2.7 billion in alternative energy production tax credits in this energy legislation. Included for the first time is a tax credit for biomass, which is extremely important to those who work at our Maine biomass plants, which provide good paying jobs in rural areas all over Maine. In addition, the tax credit extension for wind power is essential for wind projects in Maine, for instance the one planned in Mars Hill. This legislation will decrease the project's costs by 30 percent.

Also included in H.R. 6 is the permanent authorization of the Northeast Home Heating Oil Reserve that was established in 2000. The NHOR holds 2 million barrels of emergency fuel stocks stored at commercial tank farms that would give Northeast consumers adequate supplies for approximately 10 days, the time required for ships to carry heating oil from the Gulf of Mexico to New York Harbor. The reserve is essential for cold winter States like Maine—especially at a time when fuel prices continue to be sky high. While we are in the midst of a very warm summer, our winters are never that far off, and this provision ensures that emergency fuel stocks are made available in times of need.

And speaking of cold weather, the conference report reauthorizes the Low Income Home Energy Assistance program, or LIHEAP, until 2007, and reauthorizes State weatherization grant and energy programs at $2.1 billion through fiscal year 2008. I cannot emphasize strongly enough how important these programs are to my State of Maine where winters come early and can stay well past the start of spring.

There is an extension 5 years for my original legislation. the National Oilheat Research Act; NORA which expired in February.

Also, the conference report puts in place enforceable electricity reliability standards that were included in my EFFECTER Act and other bills that would further improvements in the electricity grid at a time that the surging demand continues to stress the Nation's power grid. One only needs to recall that in August 2003, a big Northeast blackout disrupted service to 50 million people, and 2 years earlier, soaring prices and isolated blackouts rolled across California.

One of the International Climate Change Taskforce, ICCT recommendations, for which I am a cochair with the Right Honorable Stephen Byers of the United Kingdom, called for incentives for Integrated Gasification Combined Cycle; IGCC, a process that allows $CO_2$ to be extracted for storage more easily and at less cost than from conventional coal-burning plants. Clean coal technology helps to address climate change by capturing $CO_2$ rather than allowing it to be released into the atmosphere and has immediate benefits health benefits in terms of reduced emissions of toxic pollutants that cause respiratory and cardiovascular illness. The bill provides a 20-percent credit for clean coal power plants for IGCC plants while other advanced clean-coal projects get the 15-percent credit.

There disappointments to me in this bill, most certainly, as they could affect my State. In particular was the vote loss that would have given States equal say on the siting of Liquified Natural Gas, LNG, siting decisions, but the language in H.R. 6 has been enhanced to give the States a more consultative role, even though FERC still has exclusive jurisdiction. A pre-NEPA National Environmental Policy Act filing process is included in the bill so the FERC will have to work with States on problems before moving any projects forward. Also included is a cost-sharing provision calling for both the industry and communities to share the cost for emergency response plans. Originally, only the communities had to pay for these plans.

I will continue to work to ensure that States have greater authority over LNG siting decisions. I believe this is clearly a States rights issue—and given how contentious these decisions are, it only makes sense to have State input into the process. As I have said before, this is a Liquified Natural Gas facility siting we are talking about, not a Wal-Mart.

Another issue I plan to actively work on with my colleagues from other coastal States is the deletion of a provision that calls for an inventory of oil reserves off the Outer Continental Shelf. I believe those of us from coastal States did everything in our power to strip this potentially environmentally dangerous provision out of the Energy bill. Our amendment during Senate consideration of the Energy bill—despite our best efforts—failed. We did everything we could to have this provision removed—we presented our case to our colleagues and had a fair up-or-down vote. It is a terrible policy that imperils our fragile coastal ecosystems and fisheries around Georges Bank, a veritable nursery for sea life.

Mr. Chairman, what we have here is a step forward as we begin the 21st century and great energy needs that will have to be met, and we continue to craft national energy policy—we have only begun to do so with many steps ahead of us to take.

I thank the Chair.

Mr. GRASSLEY. Mr. President, today we have the opportunity to finish a very long journey in the quest to build a dynamic, comprehensive energy policy for the United States of America. I can say with pride that this Congress, through many trials and tribulations has now performed admirably in its duty to the American people. This is a balanced energy bill that focuses as much on the future as it does the present. We have the opportunity with the passage of this legislation to safely produce more energy from more sources and with more infrastructure security then ever before.

Among the many people whose hard work has made the difference, I must first thank the chairmen and ranking members of all the appropriating committees that have been involved in this process.

Credit must also go to all members of my staff, who spent many hours sifting through the nuts and bolts of this bill. Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, Kurt Kovarik, John Good, and Nick Wyatt showed great dedication to the tasks before them.

As is usually the case, the cooperation of Senator BAUCUS and his staff was imperative. I particularly want to thank Russ Sullivan, Patrick Heck, Bill Dauster, Kathy Ruffalo-Farnsworth, Matt Jones, and Ryan Abraham.

I also want to mention George K. Yin, the chief of staff of the Joint Committee on Taxation and his staff, especially the fuel fraud and energy team of Tom Barthold, John Navratil, Deirdre James, Roger Colinvaux, Allen Littman, Gray Fontenot, and Gary Bornholdt as well as the always invaluable assistance of Mark Mathiesen, Jim Fransen and Mark McGunagle of Senate legislative counsel.

This conference agreement is infused with the spirit of bipartisan and bicameral cooperation. It is my commitment that spirit will be influential to the entire ongoing legislative process.

Mr. FRIST. Mr. President, we are about to vote on final passage of the most comprehensive energy bill in decades.

After years of careful and patient negotiation, we have before us an energy plan that promises to make America safer and more secure, and our energy supply cleaner and more reliable.

It is a forward-looking plan. And it is a plan that will increase both our economic and national security.

Anyone who has been to the gas pump, or turned on their AC for some relief from the current heat wave, knows that energy prices are skyrocketing.

Suddenly, instead of the lowest energy prices in the industrialized world, we have the highest.

Because of high natural gas prices, manufacturing and chemical jobs are moving overseas. Farmers are taking a pay cut. Consumers are paying too much to be comfortable in their own homes. Small businesses are struggling to pay their bills.

Communities across the country are suffering. And as many as 2.7 million manufacturing jobs have been lost.

All the while, we have grown dangerously reliant on foreign sources of energy. And some of those foreign sources do not have our best interests at heart.

In the 1960s and early 1970s, the U.S. produced almost as much oil as we consumed. Imports were relatively small. But since then, U.S. oil production has been on the decline, while consumption has steadily increased. As a result, we have become more and more dependent on imported oil.

Twenty years ago, 75 percent of crude oil used in American refineries came from American sources. Only 25 percent came from abroad.

Today, that equation is nearly reversed. We have become dangerously dependent on foreign sources of oil and natural gas. As a result, America is more vulnerable than ever to the use of energy as a political weapon.

Many nondemocratic and corrupt governments maintain their hold on power by spending the oil profits they earn from selling to us.

We see this happening in Venezuela. We currently import over 1 million barrels of oil a day from Venezuela. Meanwhile, its dictatorial President, Hugo Chavez, actively opposes the United States, supports rogue states such as Cuba, and is destabilizing Latin America.

Many of these same dynamics are also at work in the Middle East. Nondemocratic regimes in the Middle East are using their oil revenues to tighten their grip on the reins of power.

As a result, the conditions that breed hatred, violence, and terror have been allowed to fester and spread terror all over the world. London, Madrid, Russia, Bali, Iraq, and, of course, the United States have all suffered terribly at the hands of the terrorists.

Passing the energy bill today will be a major step forward in addressing these serious national security challenges by putting us on a path to energy independence.

It will also be a major step forward for our economic productivity and prosperity.

The energy bill promises to deliver exciting new technologies to increase our efficiency and lessen our dependence. Hydrogen fuel cells are one example.

If just 20 percent of cars used fuel cell technology, we could cut oil imports by 1.5 million barrels every day.

The energy bill authorizes $3.7 billion to support hydrogen and fuel cell research and the infrastructure we need to move toward this goal.

Last month, Senator HATCH and I had the opportunity to attend a hydrogen car demonstration here at the Capitol. The cars were stylish. They drove well. The technology was very promising.

Hybrid cars are already gaining in popularity. Nissan recently announced that its first hybrvehicle will be built at their plant in Smyrna, TN.

This is one example of how technology can simultaneously promote conservation and efficiency, and boost the manufacturing sector.

In addition, the energy bill's conservation and energy efficiency provisions far exceed those of other energy bills considered by the Congress in recent years.

According to the American Council for an Energy Efficient Economy, the Energy bill will save $1.1 trillion cubic feet of natural gas by 2020, equivalent to the current annual consumption of the whole State of New York.

It will reduce peak electric demand by 50,000 megawatts by 2020, the equivalent of 170 new power plants.

This bill encourages the use of homegrown renewable fuels such as ethanol and biodiesel, as well as wind and solar and geothermal energy.

The ethanol mandate will require fuel manufacturers to use 7.5 billion gallons of ethanol in gasoline by 2012. This provision alone will reduce oil consumption by 80,000 barrels of oil a day by 2012; create over a quarter of a million new jobs; increase U.S. household income by $43 billion; all adding $200 billion to the GDP between 2005 and 2012.

It provides incentives to facilitate the development of cutting-edge technologies like coal gasification and advanced nuclear plants, which will produce clean, low-carbon energy to help address the issue of global climate change.

And it will modernize and expand our Nation's electricity grid to enhance reliability and help prevent future blackouts.

This change in particular is long overdue. We are once again seeing the strain on our aging electrical grid as people turn up the AC to deal with the current heat wave.

In fact, the Tennessee Valley Authority reported that yesterday's demand for electricity reached an all-time record level of almost 32,000 megawatts, breaking a record that had been set just the day before.

The Energy bill will help us both conserve more energy, and produce more energy. It will also help produce more jobs.

It is estimated that the Energy bill will save over 2 million jobs and create hundreds of thousands more.

As I mentioned, the ethanol provision is expected to generate over 230,000 new jobs.

Incentives for wind-generated energy are expected to create another 100,000 jobs.

The investment in clean coal technology will create 62,000 jobs. And 40,000 new jobs in the solar industry will come on line These are good jobs, well paying, and right here at home.

The Energy bill is good for America. It will move our country toward a more reliable supply of clean, affordable energy.

I thank my colleagues for the hard work and leadership. Special recognition goes to the Energy Committee chairman, Senator DOMENICI, and his ranking member, Senator BINGAMAN.

Senator DOMENICI's expertise on energy issues is unparalleled in the U.S. Senate, as he has demonstrated for a number of years on both the Energy Committee and the Energy and Water Appropriations Subcommittee.

His determination to produce a comprehensive national energy policy, and his hard work with Senator BINGAMAN, as well as members of the Energy Committee, is the reason why we stand here, today, on the cusp of final passage of a balanced, bipartisan Energy bill.

And finally, special recognition goes to President Bush for his unwavering commitment to delivering an energy plan for the 21st century.

He came into office determined to deliver an energy plan that makes America safer and more secure. And soon he will have a bill to sign into law that does just that.

Every day we are working hard to deliver meaningful solutions to the American people. The Energy bill promises to keep America moving forward.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, with regard to this bill, I want to acknowledge, of course, all of the very complimentary statements many colleagues have made about the good work Senator DOMENICI and I did on this bill. Clearly, I have myself complimented Senator DOMENICI for his leadership in this regard many times. The fact is this bill is the result of much good work by many Members, much good work by the staffs of our committee and the staffs of many Members individually, and work that has occurred over a very long period of time. So I think some of the relief some of us are feeling as a result of seeing this finally come to completion is because of the multiple years that have gone into this effort to get a bill we could agree upon.

Every time a bill, particularly a bill of this size and comprehensiveness, comes to the Senate floor, it requires a balancing of those provisions which are positive and constructive with those that are less so, and in some cases are negative. I feel very strongly that the positive outweighs the negative in this bill. There are many provisions that will move us in the right direction.

My colleagues have been alluding to those this morning in many of their statements and there are things we need to come back and try to correct in the future, and we will have that opportunity. There are issues we were unable to address in this bill that we will hopefully be able to address in the coming months that I think also need to be mentioned. All of the discussion has been useful. All of the good work, particularly of the Energy and Natural Resources Committee members, has been appreciated.

I again appreciate very much the process that has been followed in getting us to this point. I compliment all colleagues, and I yield the floor. I know Senator DOMENICI wishes to make a final statement.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask unanimous consent that a list of staff men and women who helped put this conference together be printed in the RECORD. I commend them.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Judy Pensabene, Karen Billups, Dick Bouts, Kathryn Clay, Kellie Donnelly, Lisa Epifani, Marnie Funk, Frank Gladics, Angela Harper, Colin Hayes, Frank Macchiarola, John Peschke, and Clint Williamson.

Mr. DOMENICI. Mr. President, this bill will produce more jobs for our country, more secure jobs, and we will be using cleaner energy in the future. This will happen across America, and it will happen in the State of Wisconsin.

Also, I would like to say to everyone here, our electrical system will be safer and more sound. We may very well have nuclear powerplants built anew for the first time in years. Renewable energy will be advanced and enhanced dramatically. Some do not believe ethanol will be a significant contributor to less dependence on foreign oil. They are mistaken. We will, within the next 7 or 8 years, make a major contribution to jobs, stability of the agricultural community, and the production of ethanol as a substitute for gasoline.

In addition, we will enhance our supply of natural gas, thus stabilizing the price, which is one of the most significant things for America's future. If we cannot do that and the reverse happens, we will export hundreds of thousands of jobs. While everyone thinks that the only problem is gasoline, the problem is far bigger than gasoline prices tomorrow morning; it is what will be the state of energy 5 and 10 years from now in the United States.

I can tell my colleagues, we will be safer, we will have more jobs, we will have an electric system that is safe and sound. We will have diversity of energy sources and supplies built in our country, spending our money, creating jobs, and much more.

Frankly, it is very easy to criticize a bill of this magnitude, and it is very easy to say we did not solve everything.

I close by saying there is criticism that we did not do anything to alleviate our great dependence on crude oil. I think we did. Hybrid cars are accentuated and pushed ahead by tax credits. I just explained ethanol. But if anybody thinks right now we can pass in the Congress a bill to substantially change the American way of using automobiles, I ask them to stand up, and we will put it on the Senate floor next week and see if they can do it. We cannot order Americans to buy smaller cars, little tiny cars, and we cannot order them to stop buying cars. That will happen. It is going to happen, and we are going to have more efficient ones clearly in short order in this country, but we cannot do everything in this bill. We have done a great deal.

My compliments to Senator BINGAMAN. I am glad this was a totally bipartisan bill, totally open in every respect. I think we have proved that on a major, contentious bill, we can have open, above-board, total participation by any Senator who wants to participate. In conference, the same with the press of having all of the amendments and everything we do so they can do what they would like with the American people and yet get an agreed-upon bill.

That is a pretty good accomplishment on the part of Senator BINGAMAN, myself, as the leaders in the Senate, and Congressman BARTON and Congressman DINGELL in the House.

I yield the floor and thank the Senate for permitting me to produce this bill.

## DEPARTMENT OF THE INTERIOR, ENVIRONMENT, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006—Continued

The PRESIDING OFFICER. Under the previous order, there is 2 minutes equally divided on the conference report accompanying H.R. 2361.

Mr. OBAMA. Mr. President, I rise in support of the Interior appropriations conference report and to speak about two key provisions: one to protect our veterans and one to protect our kids.

First, the conference report includes a much needed $1.5 billion supplemental spending package for veterans health care. This $1.5 billion will cover the massive budgetary shortfall that Congress only recently discovered, and I hope this will prevent the loss of some important veterans health care services.

Earlier this year, I, along with my Democratic colleagues on the Senate Veterans' Affairs Committee, repeatedly asked the Department of Veterans Affairs if the President's budget provided sufficient funds for veterans health care. The response we received was yes, the funds are sufficient.

Unfortunately, that response was not consistent with what folks on the ground were saying about VA health care services. They complained of long waiting periods for doctor's appointments, reduced office hours at veterans clinics, an increased demand for services, and reduced access. These voices were too loud to ignore, so I joined my colleagues Senator MURRAY and Senator AKAKA here on the floor of the Senate to ask for additional funding for VA health care. Those efforts were defeated, but we knew that a possible crisis was on its way.

That crisis became a reality when it was discovered that the VA was more than $1.5 billion in the hole on its health care funding. Like many of my colleagues in the Senate, I was shocked by that admission.

I was pleased to join Senator MURRAY in cosponsoring both a stand-alone bill and an amendment to the Interior appropriations bill to get veterans the funding they need so they can get the health care that they have earned and deserve.

The $1.5 billion appropriated by today's Interior appropriations conference report will help ensure that our Nation's veterans get that health care. With this funding, our veterans facilities also will get the maintenance they need, and I hope the VA will be able to keep its hands out of its rainy day fund.

I don't think there is sone person in this Senate who would want to tell a returning soldier who fought and bled for our country: Sorry, but when it comes to getting health care, you are on your own.

I was right. The inclusion of this provision in the conference report proves that we can work together to do what is necessary for our Nation's veterans.

I thank Senator MURRAY, Senator CRAIG, and Senator AKAKA for their leadership on this issue. I hope we can work together—as we do today—to ensure that veterans are not shortchanged next year. They deserve better.

Second, I want to thank my colleagues for including an amendment in the conference report that is important to parents of small children all over the country but particularly in my hometown of Chicago. I am referring to my amendment prohibiting EPA from spending tax dollars to delay the promulgation of regulations that are now 9 years overdue. These regulations, when promulgated, would require contractors to reduce lead paint exposure during home renovation and remodeling.

I have raised this issue with EPA on numerous occasions and reminded them of the serious health dangers that high blood lead levels pose for children. Now, reluctantly, EPA officials have promised me these rules will be issued by the end of the year. I intend to use this amendment to hold them to their word. So today when we pass this funding bill, I can tell the youngest, poorest citizens of Illinois that Congress is doing its part to keep them safe from lead paint exposure.

I ask unanimous consent that my letter to EPA Administrator Johnson regarding this issue be printed into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
*Washington, DC, July 25, 2005.*

Hon. STEPHEN L. JOHNSON,
*Administrator, U.S. Environmental Protection Agency, Washington, DC.*

DEAR ADMINISTRATOR JOHNSON: As you may know, I have been concerned about the failure of the Environmental Protection Agency (EPA) to promulgate regulations pursuant to 15 U.S.C. §2682(c)(3). This provision requires EPA to issue rules for contractors to reduce lead exposure during home renovation and remodeling by October 1996. Almost nine years later, these rules still have not been issued, and I have spent the past few months trying to understand why.

When your nomination was considered by the Senate Environment and Public Works (EPW) Committee in April, I asked you when EPA was going to issue these rules. You stated that EPA was focusing on a voluntary education and outreach program and "will evaluate the effectiveness of this effort and will determine what additional steps may be necessary, including regulation." Of course, 15 U.S.C. §2682(c)(3) does not give EPA the option of whether to promulgate regulations.

In May, Sen. Boxer, Rep. Waxman, and I wrote a follow-up letter to you, asking once again when EPA would issue these rules on lead. We received no response for two months.

In June, I included an amendment in the EPA appropriations bill that would prohibit the agency from spending any funds to delay the implementation of 15 U.S.C. §2682(c)(3). That bill passed the Senate unanimously.

When Deputy Administrator-designate Marcus Peacock appeared before the EPW Committee two weeks ago, I asked him about the status of these lead rules. Responding to written questions that I submitted to him after the hearing, Mr. Peacock stated: "As I understand it, the Agency will announce by the end of this year a comprehensive program, which will include a proposed regulation, as well as an extensive education and outreach campaign aimed at the renovation, repair, and painting industry and the consumer."

I am pleased by Mr. Peacock's statement, which is a significant departure from your response in April. I am also encouraged by a letter I received last week from Susan Hazen, Principal Deputy Assistant Administrator, responding to my May letter. Ms. Hazen reiterated that "the Agency plans to announce by the end of this year, a comprehensive program that will include a proposed rule."

In light of the commitments I received from Mr. Peacock and Ms. Hazen, I voted last Wednesday to confirm Mr. Peacock for the deputy administrator position. However, I want you to know that I will be closely monitoring EPA's actions regarding lead paint and will expect you to honor your commitment to issue these proposed rules by December 31, 2005.

I look forward to working with you on this important issue.

Sincerely,

BARACK OBAMA,
*United States Senator.*

Mr. McCAIN. Mr. President, the Interior appropriations conference report before us today is a very important piece of legislation. This conference report contains over $26.2 billion to fund the Department of the Interior, the National Park Service, the Forest Service, the Environmental Protection Agency, and the Indian Health Service, among many others. This represents an increase of approximately $500 million over the administration's budget request. While I appreciate the importance of funding the programs in this legislation, I am disappointed that we have once again exceeded the requested level of spending.

One bright note of this bill is the correction of the funding shortfall for the Department of Veterans Affairs' health care programs that was only recently brought to the attention of Congress. I am pleased that we have all acted quickly to provide an additional $1.5 billion in emergency funding for the VA.

This bill contains several accounts which are designated as "Congressional Priorities." I fully recognize that Congress has a responsibility to fund important projects, but we need to follow the proper process in doing so. To put it simply, if there is a congressional priority that is not included in the administration's request, we should get it authorized through the appropriate committee and then set aside the necessary funds.

It has become standard practice around here to forgo the authorizing process and simply do everything on appropriations. That is wrong and it needs to stop. Congressional priorities should be subjected to the scrutiny of public hearings and debate—they should not be held up as some type of sacred cows that are not to be questioned. We can no longer afford to fund every pet project simply because a Member of Congress considers it to be imperative.

Let me highlight a few of the projects that are contained in this bill: $1.2 million for eider and sea otter recovery at the Alaska Sea Life Center; $200,000 for landscaping at the Gettysburg Military Park in Pennsylvania; $200,000 for the George Washington Memorial Parkway right here in the Washington, DC, area; $450,000 for the Automobile National Heritage area in Detroit, MI; $150,000 for the Actors Theatre in Kentucky; $150,000 for the Black Horse Tavern in Pennsylvania; over $6 million to rehabilitate bathhouses at the Hot Springs National Park in Arkansas; $2.5 million for the Southwest Pennsylvania Heritage Commission; $11.1 million for the Old Faithful Inn at Yellowstone National Park; $5.3 million for Sleeping Bear Dunes in Michigan; $200,000 for a diamondback terrapin study. That's one expensive turtle; $400,000 to survey and monitor the ivory-billed woodpecker in Arkansas; $150,000 for the Alaska Whaling Commission; $98,000 for the Alaska Sea Otter Commission; $200,000 for maple research in Vermont; $1.8 million for restoration of the Long Island Sound; $4 million for water system technology in Kentucky, New Hampshire, Alaska, Pennsylvania, Missouri, Montana, Illinois, and Mississippi. Interesting—what is it that all of these States have in common? The answer is that they are all represented by a member of the Appropriations Committee; $350,000 for a tree planting program in Milwaukee, WI; $500,000 for the Hinkle Creek watershed study in Oregon; $500,000 for a hardwood scanning center at Purdue University in Indiana; and $400,000 for a wood technology center in Ketchikan, AK.

Another troubling aspect of the appropriations process is the way in which we have become complacent with the routine violations of the rules of both the Senate and the House that occur on these bills. The rules of both bodies clearly state that it is not in order to legislate on an appropriations bill. Senate rule XVI states, "The Committee on Appropriations shall not report an appropriation bill containing amendments to such bill proposing new or general legislation . . ." And House rule XXI states, "A provision changing existing law may not be reported in a general appropriation bill." Sadly, these directives are routinely ignored in this process by the inclusion of legislative language and policy changes on appropriations bills.

Let me point out just a few examples of these violations that are contained in this conference report: Language prohibiting the closure of the underground lunchroom at Carlsbad Caverns National Park in New Mexico. Language prohibiting the demolition of a bridge between New Jersey and Ellis Island. Language authorizing the Secretary of the Interior to acquire lands for the operation of Ellis, Governors, and Liberty Islands. Language prohibiting the demolition of structures on the Zephyr Shoals property in Lake Tahoe, NV.

So as not to be viewed as unappreciative, I would like to comment on one aspect of this measure with which I was pleased. In this bill, there is over $3.2 billion for the State and Tribal Assistance Grant Program. These funds are earmarked for 257 various projects around the country. Last year, this same account contained 667 earmarks. I have long been critical of the number of earmarks contained in this section, and I commend the subcommittee chairman and ranking member for their restraint in this area.

I am, however, still concerned with the number of earmarks contained in this and many of the other annual appropriations bills. Mr. President, the process of earmarking funds in appropriations bills has simply lurched out of control. According to a report issued by the Congressional Research Service, in fiscal year 1994 there were 4,126 earmarks in the then 13 annual appropriations bills. That number grew to 14,040 earmarks in fiscal year 2004. That is an increase of 240 percent in just 10 years.

It is clear that, with our ever-growing mandatory entitlement spending coupled with our shrinking discretionary accounts, we are on the road to fiscal disaster. At a conference in February 2005, David Walker, the Comptroller General of the United States, said this:

> If we continue on our present path, we'll see pressure for deep spending cuts or dramatic tax increases. GAO's long-term budget simulations paint a chilling picture. If we do nothing, by 2040 we may have to cut federal spending by more than half or raise federal taxes by more than two and a half times to balance the budget. Clearly, the status quo is both unsustainable and difficult choices are unavoidable. And the longer we wait, the more onerous our options will become and the less transition time we will have.

Is that really the kind of legacy we should leave to future generations of Americans?

Referring to our economic outlook, Federal Reserve Chairman Alan Greenspan testified before Congress that:

> (T)he dimension of the challenge is enormous. The one certainty is that the resolution of this situation will require difficult choices and that the future performance of the economy will depend on those choices. No changes will be easy, as they all will involve lowering claims on resources or raising financial obligations. It falls on the Congress to determine how best to address the competing claims.

It falls on the Congress, my friends. The head of the Government's chief watch-dog agency and the Nation's chief economist agree—we are in real trouble.

The time has come to stop the practice of earmarking unauthorized funds and let the cabinet officials responsible for the various agencies of our government determine where and how our dwindling discretionary funds are to be spent. If we in the Congress are not willing to do our jobs and authorize our spending priorities, we should at least be willing to trust the President's Cabinet, who we voted to confirm to their positions, to do their jobs and appropriately fund their respective agencies' needs without our interference.

Mr. JEFFORDS. Mr. President, exactly 1 month ago I praised the Appropriations Committee's efforts to fund the State Revolving Fund for Wastewater Treatment and for Drinking Water at the highest possible levels. Today, however, I am gravely concerned about the overall cut in environmental spending contained in the bill before us today and specifically with a large cut in the clean water program.

First, let me say that I intend to vote for this conference report, as it contains a $1.5 billion supplemental spending package to cover a shortfall in veterans health care funding.

I was highly disappointed to learn last month of the shortfall in funding for veterans health care. It was particularly outrageous that this announcement followed on the heels of assurances from the Veterans' Administration and President Bush that the additional funding we attempted to add in the emergency supplemental funding bill was not needed. Clearly, this was not the case. I am pleased that the Senate moved immediately to rectify this problem and dealt with this problem while we still had a chance.

I am frustrated, however, that the funding to combat this shortfall was not attached to the more appropriate vehicle. At a time when our soldiers are returning from war and veterans are coming into the VA in record numbers, our veterans and our local VA hospitals need and deserve this funding. I only hope that we have learned our lesson from this unfortunate sequence of events and that we will do what is necessary in the future to ensure that the essential funds are provided for our veterans in a timely manner and following appropriate procedures. Our veterans deserve no less.

A clean and healthy environment may be our most important legacy for our children. It saddens me to think that under the guise of fiscal responsibility, the bill before us today cuts spending at the Environmental Protection Agency, EPA, to levels not seen since fiscal year 2001. This bill funds the EPA at about $7.7 billion. As recently as fiscal year 2004, the EPA received $8.365 billion. This is a cut of over $600 million in just 2 years.

Because of the administration's fiscal policies and priorities, which have led to record deficits, we are now going to underfund many programs that are important to the protection of public health and the environment. There are many programs I could touch on, but let me focus my remarks on the sad state of the clean water State revolving fund, CWSRF.

The CWSRF offers long-term, low-interest loans to State and local governments to help them meet Federal water quality standards by fixing old, decaying sewer pipelines, building and repairing wastewater treatment plants, and controlling other sources of water pollution. The conference report before us today funds the CWSRF at about $900 million, down from almost $1.1 billion last year and over $1.3 billion in FY 2004. This huge drop in spending is occurring at a time when nearly half of America's rivers and lakes do not meet basic Clean Water Act standards.

Furthermore, municipalities are currently struggling to fix old water and sewage pipes. The EPA estimates that clean water infrastructure needs nationwide will cost $390 billion over the next 15 years. The aging of the Nation's sewage treatment infrastructure has a direct effect on our waters and the people who come into contact with them. Many systems have exceeded their effective lives and are decaying because they were designed and built decades ago when urban areas were more compact and had much smaller populations.

I intend to carry on this fight for increased spending on water infrastructure and other important environmental programs. I hope that we can come to our senses before it is too late.

### EXPANDING THE OIL AND GAS LEASING PROGRAM

Mr. BENNETT. Mr. President, as we prepare to accept the conference report on the fiscal year 2006 Interior appropriations spending bill, I want to raise an issue regarding the implementation of a pilot project in the State of Utah to determine the feasibility of expanding the oil and gas leasing program to include online auctioning of leases.

There is a very active oil and gas lease trading market in the private sector. Many of these leases are bought and sold online in an auction process quite similar to other auction processes on the Internet. Information about the individual lease sale is made available to the public with accompanying documentation, prices are set and bids are accepted, sales and transactions are completed all online. The system operates very efficiently and expands the opportunity to participate to potential bidders all across the country.

BLM is currently limited to conducting oil and gas lease auctions orally. However, under the Government Performances Result Act, or GPRA, Federal agencies are allowed to conduct pilot studies to identify opportunities to further improve the efficiency and effectiveness of their business processes. Under GPRA, a pilot program which tested the feasibility of both oral and online auctions might help BLM increase the efficiency of the auction process and increase the exposure of leases to a broader number of participants.

However, the BLM does not currently have the capability to implement a program like this. But were they to develop a partnership with the private sector to develop an online component of the oil and gas leasing program, the program becomes much more feasible.

With that in mind, I requested funds for the BLM State office in Utah to conduct a pilot program with a private sector partner to develop a potential online oil and gas leasing project and to conduct a series of tests to see if this idea is workable. The Senate included funding for this program in the State of Utah. However, the committee did not specify that BLM should try to identify a private sector partner that has experience in conducting online oil and gas lease auctions.

Would it be the opinion of the chairman that BLM should identify and work with a partner in the private sector to proceed forward quickly with the development of a pilot program in Utah?

Mr. BURNS. The Senator is correct. The Bureau of Land Management currently does not have the mechanism in place to implement a pilot project like this. However, there are entities in the private sector that have a well-established history of conducting oil and gas lease auctions online. I would encourage BLM in Utah to quickly identify a private sector partner and develop a pilot program in Utah for online oil and gas lease auctions and encourage the director of the BLM to make sure that the necessary resources are devoted to implementing this project in a timely manner.

Mr. BENNETT. I appreciate that clarification.

Mr. CRAIG. Mr. President, I would like to take just a moment to comment on the Interior appropriations conference report now before the Senate.

First, let me congratulate Senator BURNS, chairman of the Interior Subcommittee and his ranking member, Senator DORGAN, for their work on finishing this important piece of legislation before we adjourn for the August recess. My home State of Idaho has great interest in the Interior appropriations bill every year. And timely completion of this legislation is welcome news to my constituents.

As odd as this may sound, though, I do not wish to speak about Interior matters in this bill. Rather, I want to say a few words about the $1.5 billion included in this legislation for fiscal year 2005 supplemental funding for the

Department of Veterans Affairs health care system.

I know all of my colleagues are aware of the notice I received a little over 1 month ago that VA funding for this fiscal year was severely strained. And that, as a result, this Congress was going to need to move fast to provide an infusion of resources to ensure our veterans continued to receive high-quality, timely health care from VA.

Working with Senators HUTCHISON, COCHRAN, MURRAY, FEINSTEIN, AKAKA, and others, the Senate voted unanimously to add $1.5 billion for VA health care to this Interior appropriations bill. We did so because we were confident this legislation would be completed in time to get this bill to the President's desk—and more importantly get the money to VA for veterans' health care—before the August recess. As is evident with the expected passage of this bill today, we have accomplished that goal.

Certainly this victory has not come without some hard work and negotiations. It was extremely difficult to get the administration to provide us with accurate budget numbers in any timely fashion. I spoke several times with VA Secretary Jim Nicholson and with OMB about the need to get the information to the Committee on Veterans' Affairs and the Appropriations Committee fast and to get it right with respect to fiscal year 2005 and fiscal year 2006 so that we would not be back here again in 6 months talking about shortfalls.

I am cautiously optimistic that VA and OMB have gotten it right this time. Working with Congress, they submitted a fiscal year 2005 and 2006 budget amendment that identified the need for an additional $2.952 billion. This bill provides a $1.5 billion down payment that goes towards meeting that identified need.

In addition, Senators HUTCHISON and FEINSTEIN are working on VA's funding need for fiscal year 2006 in the military construction/VA appropriations bill that was recently sent to the Senate floor by the full Appropriations Committee. We will all have a chance to vote on that measure after the recess.

I also want to tell my colleagues that I was very unhappy with the way in which all of this information about VA's shortfalls came to my attention. As chairman of the Veterans Committee, I take very seriously my responsibility to provide oversight of the VA and its financial picture on behalf of the Senate. And I want each of you to know that I have received personal assurances from Secretary Nicholson that he will provide quarterly reports throughout the fiscal year on VA's financial picture so that Senators can be certain that VA is on track and on budget.

Working together with Members on both sides of the aisle, I believe we can conduct the proper oversight of VA's health care budget and make certain that adequate finances are provided for the health care needs of our Nation's veterans.

Again, Mr. President, I thank my colleagues for all of their support, especially Chairman COCHRAN and Ranking Member BYRD of the full Appropriations Committee. Their unwavering commitment in the face of VA's shortfalls made this substantial supplemental increase possible.

Mr. FEINGOLD. Mr. President, while I voted in favor of the fiscal year 2006 Interior appropriations conference report, which contains funding for a number of important programs, including vital funding for veterans health care, I am disappointed in the lack of adequate investment in the clean water State revolving fund. This program has been helpful to communities all over Wisconsin, and across the country, in their efforts to safeguard their water supplies and to comply with new standards for drinking water contaminants like arsenic and radium. I was concerned earlier this year when the President requested a 33 percent cut for the clean water State revolving fund for his fiscal year 2006 budget. Because of my concern, I joined a bipartisan group of Senators in asking the Interior Appropriations Subcommittee to ignore the requested cut in funds and instead provide $1.35 billion for this program. The Senate bill included $1.1 billion for the revolving fund, and I am disappointed that the conferees did not retain this more favorable funding level.

Mr. AKAKA. Mr. President, I rise today to address the conference report on the Interior appropriations bill. Indeed, our efforts in the Senate to add $1.5 billion in funding for VA this year have borne fruit. I again laud our bipartisan effort to address the funding crisis in VA health care.

I also wish to thank my colleague, the Democratic leader, Senator REID, for his determination to ensure that $1.5 billion was the final amount of fuhding for this year. Though some were willing to accept less, he and I understand that every last dollar of this amount is needed to provide the highest quality of care to all veterans—be they older veterans in VA nursing homes or younger service members just returning from Iraq and seeking VA care for the first time.

We all know that while many of us have been saying that VA needs more money since the early part of the year, the administration needed to be pressed to own up to the shortfall. As I have said before, I hope in the future all Members reach out to VA nurses and doctors and reach out to the veterans service organizations. We need not wait for the administration to make an official pronouncement about something that is so obvious. I do believe that the administration has lost its credibility in forecasting demand and expected costs. I believe this is true for its estimates of this year's funding, as well as next year.

The battle for next year's funding will be upon on us shortly. During the budget resolution I debate in March, I offered an amendment to increase VA's funding by $2.8 billion for next year. I stood before this body and outlined the case for a significant increase for VA. But we were I rejected because the administration claimed VA needed far less.

The administration wants us to now believe that VA needs a certain amount for fiscal year 2005 and 2006. They now want to convince us that they have a handle on the numbers. I remain skeptical.

VA rightly admits the fiscal year 2006 budget was off-the-mark in its estimate of the number of returning service members who will come for VA care. We know from experience how much it costs to treat a returning service member. Yet, the administration wants to now convince us that, in fact, the cost of treating a patient is less than half of this amount.

My original estimate of a need for $3 billion in VA health care spending for next year remains correct. The VA appropriations bill must contain the full amount for VA health care next year. If not, our veterans will find this nightmare repeated once again.

Along those lines, I appreciate the work that Senators CRAIG and HUTCHISON and our other colleagues are doing to tackle this problem. I believe we can find a solution, together.

Mr. ROCKEFELLER. Mr. President, within the conference report on the interior appropriations bill is an essential provision to provide $1.5 billion to address the current shortfall in funding for VA health care. The Interior appropriations conference report was selected as the quickest legislative vehicle to address this immediate and compelling lack of funding for VA.

With our country in combat in various regions around the world, including Iraq and Afghanistan, it is greatly disturbing that the VA is facing such a severe shortfall. I am proud that the Senate prevailed in securing the $1.5 billion needed to respond to urgent health care needs of veterans now—both veterans returning from current conflicts and aging veterans needing long-term care. While we are addressing this compelling need today, this crisis could have—and should have—been averted. The administration should have proposed a better budget for VA in February of 2005. The administration could have supported Senator MURRAY's amendment to the Iraq supplemental in April of 2005 to add $1.97 billion for VA health care. Neither happened, and it is troubling that VA blames use of old models and early estimates on VA health care needs beginning in 2002. Our heroic service men and women have been serving in Iraq since 2003, and the VA budget officials should have known to rework and review the VA health care budgets. It is a sad excuse for VA officials to tell Congress in April that VA health care funding is adequate and fine, and then have VA officials come to Congress at the end of June of 2005 to suggest a shortfall of at least $1.5 billion in the VA health care programs. We simply must have a better budget process at the VA to measure and adjust any estimates over time so that our veterans get the health care they have earned with their brave service.

Military personnel—Active Duty members and especially members of the National Guard and Reserves—respond to the call of duty. They risk their lives in service to our Nation, and they, and their families, endure enormous sacrifices due to their service. A new survey from the Army suggest that as many as 30 percent of those military personnel serving in Iraq and Afghanistan will face mental health concerns, like post traumatic stress disorder, PTSD, at the time of their return due to the violence and experiences they face. I have hosted private roundtables throughout West Virginia to meet with returning veterans from Iraq and Afghanistan, and I believe that they have compelling needs for mental health care due to the overwhelming stress of serving in such a challenging combat situation. Even service personnel who are supposedly not in combat zones face attacks from car bombs and suicide bombers. It is sad and tragic, and of course it affects our troops. The stories from West Virginia veterans about their service have convinced me that we must invest in more resources for mental health care, counseling, and our vet centers.

Knowing this, and knowing this for several years, we simply must ensure that VA health care get the funding it needs to serve all our veterans, Active Duty as well as National Guard and Reserves. But caring for our new veterans returning from Iraq and Afghanistan cannot be at the expense of serving veterans of other eras, Vietnam, Korea, and World War II and all the times in between.

Our aging veterans have huge long-term care concerns, and VA has an obligation to serve them. Part of our current shortfall was a lack of long-term care funding. While we did not know about the Iraq war in 2002, surely we should have been aware of the demographics of the VA population and the looming need for health care. This issue will not go away, and VA must serve all of our veterans.

Since coming to the Senate in 1985, I have been proud to serve on the Senate Veterans' Affairs Committee and I treasure this opportunity to work on behalf of veterans in West Virginia and throughout our country. Today's passage of the $1.5 billion provision for VA health care in the Interior appropriations package is an important step to address the VA health care shortfall. But honestly, this is merely a downpayment, and much more must be done to strengthen the process and the funding for VA health care. This Senator is fully committed to finding a real solution to the chronic problems of insufficient funding for VA health care. Our dedicated veterans deserve no less.

Mr. BYRD. Mr. President, I commend Chairman CONRAD BURNS and the ranking member, Senator BYRON DORGAN, on their work on this legislation. I am pleased that this conference report includes the full $1.5 billion proposed by the Senate to make up the current 2005 fiscal year shortfall in funding for veterans health care. The Interior bill may seem a strange vehicle for this funding, but it was the first vehicle available once the administration confirmed the funding crisis in VA health care, and I thank the managers for preserving this provision in their conference report.

It is critically important that the President sign this conference report into law quickly so that this money can be used to replenish the coffers of the VA and make sure that there is no interruption in the VA's ability to provide medical services to our Nation's veterans.

Make no mistake about it, this money is needed now—now. We know the VA anticipates an even greater shortfall in fiscal year 2006, and the Senate Appropriations Committee has addressed that problem in the 2006 Military Construction and VA appropriations bill by providing $1.977 billion in emergency funding for VA health care in 2006.

The $1.5 billion that is provided in this conference report is specifically intended to address the current—the current—2005 crisis in VA health care funding. The precise amount of the current shortfall remains somewhat murky. The administration, after months and months of denying that a shortfall even existed, first pegged it as $975 million, and then upped—upped—the estimate to $1.275 billion.

The Senate, however, fully mindful of the VA's dismal track record in estimating shortfalls, and wisely skeptical of the administration's fluctuating estimates, voted to include a total of $1.5 billion in this bill, with the proviso—get this—with the proviso that the funds would be available both this year and next. This was in sharp contrast to the House, which provided only $975 million in a separate bill to cover the fiscal year 2005 shortfall in VA funding.

It is a victory for our Nation's veterans. Hallelujah. It is a victory for our Nation's veterans that the conferees agreed on the Senate level of $1.5 billion, but it will be merely a Pyrrhic victory if the White House tries to balance the books by shortchanging veterans in 2005 to make up some of the anticipated shortfall in 2006. Do not let it happen.

It is worth repeating: The Senate Appropriations Committee has addressed the 2006 shortfall by adding $1.977 billion in emergency funding to the 2006 Military Construction and Veterans Affairs appropriations bill. The entire amount of the VA funding included in the Interior bill—$1.5 billion—is available for 2005—for 2005—and I strongly urge the administration. I strongly urge the White House, to spend up to that amount to meet the current health care needs of our veterans.

The Senate voted twice, both unanimous votes, to provide $1.5 billion to make up the 2005 shortfall in veterans health care. I think the Senate made its position crystal clear. We did not vote to bank the money for some future rainy day. We voted to provide adequate funding to address an exiting crisis in the veterans health care system, and I, for one, fully expect—I fully expect—the administration to use this funding for the current crisis, and not attempt to horde it—horde it—horde it—for the future.

America's veterans have given much for their country. We have an obligation to give back to them something and to provide for their health care needs. This conference report is a good first step in shoring up the VA's health care budget and, hopefully, leading the way toward more realistic and adequate budgeting for the needs of our veterans in the future.

Now, Mr. President, there is another part of this conference report for which the Senate can be very proud. Just a few weeks ago, this body voted unanimously—unanimously—to approve an amendment that I offered, along with Senator THAD COCHRAN of Mississippi and Senator JOHN WARNER of Virginia, to provide $10 million—$10 million—to the national memorial to the Reverend Dr. Martin Luther King, Jr. That funding remains part of this final conference report before the Senate.

There are many in this country who, during his life, did not appreciate the passion that Dr. King stirred in people. There are many who believed his goals could be achieved through different means. And I was one of those people. ROBERT C. BYRD. I was one of them. And I was wrong. I was wrong. I have come to admire Dr. King. I have come to recognize that his dream—his dream—truly is the American dream.

Dr. King spoke of a day when children, regardless of color, regardless of creed, regardless of religious belief, would walk together in peace. Oh, how we need that message today, how we need that spirit today, as religious beliefs are used to divide our people, not to unite us, and as terrorist attacks breed distrust for people who come from different lands. Oh, how we need to recall the lessons that the late Dr. King taught some 40 years ago.

During the conference negotiations on this legislation, Mr. President, there was a great discussion on how the Congress could encourage more Americans to contribute to the construction of the King Memorial. This legislation will help. This legislation says that every dollar raised in the private sector will be matched with a dollar from the U.S. Government, up to $10 million. That is why I urge those who believe in the message of Dr. King to take just a few minutes and contribute to this national memorial.

Now, Mr. President, I thank the chairman of the Appropriations Committee, the gracious Senator from Mississippi, Mr. THAD COCHRAN, for his support and for his work on behalf of this memorial. Without his support we would not have had this in the bill. We would not be at this moment without his strong efforts.

I also thank the senior Senator from Virginia, the chairman of the Armed Services Committee, Mr. JOHN WARNER, for his work, too. Right from the start, Senator WARNER stood up and cosponsored this amendment. His influence and his support were vital to this effort.

I also thank Senator PETE DOMENICI for his support of this effort.

Finally, let me thank the tens of millions of Americans who continue to build the dream—the dream; ah, how great the dream—that Dr. Martin Luther King, Jr., voiced some 40 years ago. Achieving that dream is not easy. Despite efforts to put the past behind us and move forward together, there remain those who are determined to look backward. There remain those who would rather promote fear and division than build unity and common purpose. I hope this memorial to the legacy of the Reverend Dr. Martin Luther King, Jr., will remind all of us—all of us—that there is far more strength in unity, far more strength in resolve, far more strength in love of one's fellow man than there can be in division, in discord, and in disunity.

And so, Mr. President, I thank those who have been so helpful. And I hope that one of Dr. King's favorite Bible passages, which is also one of mine, comes to be a reality. And I have seen it coming to be a reality. It comes from the Book of Isaiah.

> Prepare ye the way of the Lord, make straight in the desert a highway for our God.
>
> Every valley shall be exalted, and every mountain and hill shall be made low: and the crooked shall be made straight, and the rough places plain:
>
> And the glory of the Lord shall be revealed, and all flesh shall see it together:. . . .

That was one of Dr. Martin Luther King's favorite Scriptures. And so I look forward to that day, Mr. President. That day was the hope of Dr. King. And that day is my hope as well.

Mr. President, I thank the Chair and thank all Senators.

Mr. President, before I yield the floor, I ask unanimous consent to have printed in the RECORD a list of the Senate cosponsors of the Martin Luther King, Jr., Memorial amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COSPONSORS LIST

Amendment Number: SP1053.

Cosponsors: Cochran, Warner, Kennedy, Mikulski, Landrieu, Johnson, Stabenow, Murray, Bingaman, Jeffords, Rockefeller, Obama, Feinstein, Schumer, Sarbanes, Boxer, Harkin, Corzine, Brownback, DeWine, Levin, McConnell, McCain, Biden, Nelson of FL, Clinton, Bayh, Kerry, Roberts, Leahy, Allen, Pryor, Durbin, Martinez, Lieberman, Feingold, Hutchison.

Total Cosponsors: 37.

Mr. BYRD. Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, I yield back any remaining time on the Interior conference report.

The PRESIDING OFFICER. The Senator yields back all remaining time on the Interior conference report.

Mr. DOMENICI. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the Interior conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the conference report. The clerk will call the roll.

The bill clerk called the roll.

The result was announced—yeas 99, nays 1, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—99

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—1

Coburn

The conference report was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. Mr. President, when I came to work this morning, as I pulled into the Capitol, there were dogs under Capitol police control, sniffing to find out if there were explosives in the cars coming into the Capitol. There was an officer with a semiautomatic shotgun. As I proceeded, there was an officer on the Capitol steps with an assault rifle. As I came into the Capitol, there were police officers at the door. These are the same type of officers as the two who were gunned down, Chestnut and Gibson, a few years ago. These were police officers protecting us.

In this Chamber today, there are plain clothes Capitol police officers here for our protection. All of these police officers are trained to put our lives ahead of theirs.

When we, in recent days, have been directed to leave the Capitol, taken from the Capitol, there are police officers who wait behind to make sure everyone is out before whatever wrong is supposed to happen happens. They are the last here before the doors are closed.

I was a Capitol policeman. I was not trained to do any of the things these men and women are trained to do today. We are in an extremely vulnerable situation here in the United States Capitol complex. In every one of the office buildings, every place we go in the Capitol complex, there are evil people who are trying to do harm to us and the millions of visitors who come here every year.

That is why, as I read this morning the language in the Legislative Branch appropriation bill, I was offended. I was offended by the language in that bill, the insulting language about our Capitol Police. They are our Capitol Police.

This legislation is going forward. As a member of the Appropriations Committee—I was chairman of the Legislative Branch Appropriations Subcommittee for a number of years, and I enjoyed the service greatly—I feel that the Capitol Police have been wronged in this appropriations bill. The Capitol Police is an imperfect organization, similar to every organization. It is a big organization. I am sure the administration makes mistakes and things happen that should not happen within the Capitol Police force. However, I repeat, the men and women who put their lives on the line for us every day, 24 hours a day—for each of us, for the staff here, as I said before, for the thousands of people who are visiting today in this Capitol—their support, their protection is consistent and strong.

I resent this libel, by vague generality, that is contained in this conference report. The language in the Senate version of the Legislative Branch bill contained a number of constructive clauses and areas of improvement for the police, written in a way that is completely appropriate in an appropriations bill. What is returned from the conference is an anti-Capitol Hill Police screed that is unacceptable.

I am pleased the Senate was largely able to prevail on fiscal issues in this conference report. The Capitol Police will have most of the resources they need to protect Members, staff, and the visitors who come here. However, it seems that our conferees were forced, obviously, to swallow nasty report language about the Chief of Police, his deputies, and other police administrators in order to get adequate funding for them. This is absurd. I am happy to have the funding, but the trade is ridiculous.

It is unwarranted. There are problems in all large organizations. Let's work to solve them together, but not have the nasty tone of this conference report. For whatever reason, we have had a succession of people in the House of Representatives who do not like the Capitol Police force. They have stated so publicly and privately. But it is not getting better; it is getting worse.

This is the last year I will accept it. Maybe others will, but I will not. Let me be very clear. I will never ever allow a Legislative Branch conference report that is as nasty and relentlessly negative toward our Capitol Police as this one that is going to become law. One will never become law again. I am going to reach out to my friends on the House side, Congressman LEWIS and the Speaker and others, to see what we can do to improve this.

I support Chief Gainer, his deputies, his staff, and all his officers. They have my support and my devotion because they protect my life every day. They risk their lives every day to protect this institution, and they deserve better than the pettiness that I have read in these pages.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I ask unanimous consent the next three rollcall votes be 10-minute votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, there will now be 2 minutes of debate equally divided on the conference report to accompany H.R. 2985, the Legislative Branch appropriations bill. The Chair recognizes the Senator from Colorado.

Mr. ALLARD. Mr. President, I yield to the minority to speak first. Are there any additional comments?

The PRESIDING OFFICER. The Senator from Illinois is recognized for 1 minute.

Mr. DURBIN. I thank the Chairman again for his hard work on the bill, and I agree with Senator REID in every word he has said. What is in this conference committee report about the Capitol Police is totally undeserved and unwarranted. It is a shame there are some people in this Capitol, not necessarily on this side of the Rotunda, who unfortunately put that language in here. Remember, we are here safely today because they are literally risking their lives as we do our work. For goodness sakes, they deserve our appreciation, and they do not deserve the condemnation that is part of this conference committee report.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. Mr. President, I think we have a good bill for us. I ask everybody to vote "aye" on the conference report. We have been very generous with the police. We all recognize the hard work and sacrifice they have made on behalf of all of us, our staffs, and the many visitors who come to the Capitol.

We have taken a very strong position in support of the Capitol Police on this side of the Capitol. We worked closely with the minority side and appreciate their input as we move forward with this particular piece of legislation.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the conference report.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 96, nays 4, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—96

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—4

Coburn
Conrad
Ensign
Inhofe

The conference report was agreed to.

Mr. ALLARD. Mr. President, I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## ENERGY POLICY ACT OF 2005—CONFERENCE REPORT—Resumed

The PRESIDING OFFICER. There will now be 2 minutes of debate on the conference report accompanying H.R. 6, the Energy bill. Who yields time?

Mr. DOMENICI. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The senior Senator from New Mexico.

Mr. DOMENICI. What is the issue before the Senate?

The PRESIDING OFFICER. The issue before the Senate now is the conference report accompanying H.R. 6. There is 2 minutes equally divided.

Mr. DOMENICI. I understand the distinguished Senator from Wisconsin desires to make a point of order.

Mr. FEINGOLD. Mr. President, I have 1 minute; is that correct?

The PRESIDING OFFICER. That is correct.

The Senate will be in order.

The Senator is recognized.

Mr. FEINGOLD. I have four fundamental concerns with regard to the Energy conference report: it digs us deeper into a budget black hole, it fails to decrease our dependence on foreign oil, it rolls back important consumer protections, and it undermines some of the fundamental environmental laws our citizens rely upon.

The conference report includes direct spending of more than $2.2 billion over the 2006–2010 period, exceeding the amount allocated by the budget resolution, so I hope my colleagues will join me in sustaining a budget point of order.

Mr. President, I make a point of order that the pending conference report violates section 302(f) of the Congressional Budget Act of 1974.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Was the motion just made?

The PRESIDING OFFICER. A point of order was made.

Mr. DOMENICI. I move to waive the point of order subject to appropriate provisions of the Budget Act.

The PRESIDING OFFICER. The Senator from New Mexico moves to waive the budget point of order.

Mr. DOMENICI. Mr. President, I have 2 minutes; is that correct?

The PRESIDING OFFICER. One minute.

Mr. DOMENICI. One minute. First, this is almost not a point of order. It is $40 million a year. That is because we had $2 billion in direct spending, $2 billion in this whole bill. What we did, when we ended up doing all of the estimating, it was 2.2. So anybody who thinks this point of order is a real budget point of order, it is a nothing point of order. Many times the budget process takes $50 million and rolls it because they are trying to make things meet, and here we are having a point of order making it sound like a bunch—$40 million.

The last comment is this bill reduces the deficit because the tax writing committee came in $6 billion under. We are $200 million a year over. Do the arithmetic. The bill reduces the deficit; it doesn't raise it. I think this is the very reason the waiver provisions in the Budget Act were provided, for mistakes like these in estimating. That is why we have a waiver section. Members should vote in favor of the Domenici motion to waive.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico to waive the Budget Act.

Mr. CRAIG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. COLEMAN). The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 71, nays 29, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—71

Akaka
Alexander
Allard
Allen
Baucus
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Coburn
Cochran
Coleman
Collins
Conrad
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Johnson
Landrieu
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Murkowski
Nelson (NE)
Obama
Pryor
Roberts
Rockefeller
Salazar
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—29

Bayh
Biden
Boxer
Carper
Chafee
Chambliss
Clinton
Cornyn
Corzine
Feingold
Gregg
Isakson
Jeffords
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Leahy
Martinez
McCain
Murray
Nelson (FL)
Reed
Reid
Sarbanes
Schumer
Sununu
Wyden

The PRESIDING OFFICER (Mr. THOMAS). On this vote, the yeas are 71, the nays are 29. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to and the point of order falls.

The question now is on agreeing to the conference report.

Mr. DOMENICI. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays on the conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 74, nays 26, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—74

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Johnson
Kohl
Landrieu
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Murkowski
Nelson (NE)
Obama
Pryor
Roberts
Rockefeller
Salazar
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—26

Biden
Boxer
Carper
Chafee
Clinton
Corzine
Dodd
Feingold
Feinstein
Gregg
Jeffords
Kennedy
Kerry
Kyl
Lautenberg
Leahy
Martinez
McCain
Murray
Nelson (FL)
Reed
Reid
Sarbanes
Schumer
Sununu
Wyden

The conference report was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

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## PROTECTION OF LAWFUL COMMERCE IN ARMS ACT

The PRESIDING OFFICER. The Senate will now resume consideration of S. 397, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 397) to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

Pending:

Frist (for Craig) modified amendment No. 1605, to make clear that the bill does not apply to actions commenced by the Attorney General to enforce the Gun Control Act.

Frist modified amendment No. 1606 (to amendment No. 1605), to make clear that the bill does not apply to actions commenced by the Attorney General to enforce the Gun Control Act and National Firearms Act.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, we have now returned to S. 397. Under a unanimous consent agreement, there are four amendments to be debated, and three of the four will have relevant first degrees. My colleague from Kansas has asked to speak very briefly before we move to the first amendment.

I yield to Senator ROBERTS.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I thank the distinguished Senator for yielding.

There is not another thing, basically, on any of these amendments that has not already been said or that will change anybody's vote. I don't intend to hold the Senate up, but I want to take a moment to comment on where we are in the legislative schedule and to make a personal request of my colleagues. I don't question the right of any Senator to be heard on the Senate floor. But I must say I do not understand the need to continue debating and discussing all of these amendments on the Friday afternoon before the start of a long month's recess. I ask, could we please cut down on the rhetoric so that we might be able to get along with the people's business and cast our votes. I know the manager wants that. I would probably determine that the minority would like that as well.

I make this request not only as a Senator from Kansas but as the father of a young lady that I will be walking down the aisle tomorrow. Very early this week I informed our leaders in the Senate that I had every intention of being at her rehearsal, and that rehearsal and dinner starts at 5 o'clock. I will be there. So if we must continue on making these statements this afternoon and offering these amendments, I ask that the RECORD reflect that any votes I miss will be the result of me performing my duties as a dad and being with my daughter on the most important evening and day of her life.

Thus, Mr. President, I ask unanimous consent that the RECORD reflect that should I miss votes in the afternoon, it would have been my intention to vote as follows on the Transportation bill, amendments to the gun liability bill, and the gun liability bill itself:

"Yea" on the Transportation bill; "nay" on the Reed amendment No. 1642; "yea" on the Frist-Craig first-degree amendment to the Kennedy amendment No. 1615. Should the first-degree amendment not be accepted, I would vote "nay" on the Kennedy amendment. I would vote "yea" on the Frist-Craig first-degree amendment to the Corzine amendment No. 1619. Should the first-degree amendment not be accepted, it would have been my intention to vote "nay" on the Corzine amendment. It would be my intention to vote "yea" on the Frist-Craig first-degree amendment to the Lautenberg amendment No. 1620. Should the first-degree amendment not be accepted, it would be my intention to vote "nay" on the Lautenberg amendment. Finally, it would be my intention to vote "yea" on final passage of the gun liability bill.

I respect and love you all. I admire you all. But while charm and looks and levity may woo us in the start, in the end it is brevity that will win my colleagues' hearts.

I yield the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

Mr. CRAIG. An interesting speech about not making speeches. I yield the floor for the offering of an amendment.

The PRESIDING OFFICER. The Senator from New Jersey.

### AMENDMENT NO. 1620

Mr. LAUTENBERG. Mr. President, I wonder if I might dare to offer my comments after that earlier admonition. But I will do it because we are here for reasons that are obvious to everybody. We are here because our friends on the other side wanted to stop us from offering amendments altogether and are trying to block any suggestion that might be added to make this bill more reasonable or more acceptable.

I call up my amendment and ask unanimous consent that Senator DODD be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. DODD, proposes an amendment numbered 1620.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To exempt lawsuits involving injuries to children from the definition of qualified civil liability action)

On page 10, strike line 3 and all that follows through page 11, line 2, and insert the following:

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) any case against a manufacturer or seller involving an injury to or the death of a person under 17 years of age.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term "negligent entrustment" means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (vi).

Mr. LAUTENBERG. Mr. President, I am offering this amendment that poses a question to the Senate. The question is fairly simple: What is more important in our life, in our society, to be on watch for: Is it to protect our Nation's children and to let those know who would assist in harming those children that they are going to be taken to court and be sued and punished, if they can be punished, or for criminal action as well? This refers only to the civil side of things. But what is more important? Is it most important for us to support the NRA, to make sure they are satisfied, to make sure that their dictates to this body—and it is obvious that it is all over the place. Ladies and gentlemen who can hear us in this debate, understand that the other side is willing to block your ability, your family's ability to sue someone who has been neglectful, careless, reckless with the way a gun is handled and to protect them.

Why? Frankly, I cannot figure it out. But apparently our friends on the other side have it all figured out. They just say no. We went through that exercise in our society, and it didn't work. It is not going to work here. Is it to protect our children? Special interests versus the children in America.

This bill—everyone knows—wants to protect the gun industry even, as I said, when they are grossly negligent, reckless, careless. What my amendment says is that there should not be a blanket grant of immunity in cases in which a child is the victim. We identify a child as those children under 17 years of age. How dare we look a mother in the eye and tell her that she cannot hold the people who caused the death or injury to her child accountable? We cannot do it. One has to look deeply into whether there is a constitutional question associated with this. The fifth amendment suggests that you have the right to seek damages—this is not precise language—for injuries.

What this bill says now is that the parents of children killed by gunfire, when someone else is at fault, even if they are careless, reckless, or negligent, cannot seek redress. It has been said before by colleagues that there are numerous industries that would like the same protection so they can go ahead perhaps and not be as careful in making sure their product meets safety standards. But, no, they didn't have the muscle to break their way into this place and "at gunpoint"—if I may use the expression—jam something through this Senate. And they describe these shamelessly as junk lawsuits—that is hard to understand. The bill says, too bad, sorry about your kid, but we cannot let you harm these big campaign donors of ours. No, no, no. It is kind of sacrosanct. But it is prohibited for every other industry in this world of ours.

If they make a faulty product and if they are negligent in its handling, they can be taken to court and sued. I will provide an example. A criminal goes into a gunshop and asks to look at assault weapons. The dealer lays out deadly weapons on the counter and the dealer says: Just a minute. I have to go in the back. Here are these weapons on the counter. When the dealer returns from the back room, where he said he was going to check something in inventory, the criminal has taken the weapon and left the store.

Can you imagine that outrageous behavior? The lethal weapons were on the counter. The dealer could turn his back for a moment and have someone with criminal intent steal a gun and go out. The dealer cannot be punished for that outrageous behavior. The next day, that criminal could use that weapon in a drive-by shooting and kill a 6-year-old boy.

If this bill passes in its current form, the parents of that child cannot go to court to sue against that negligent gun dealer. When the parents ask why they can't sue this dealer whose negligence caused their son's death or permanent disability, we can tell them to thank their Senator; get the phone number and office address of their Senator, and they can send their gratitude to that Senator—or their anger and their rage—which they have a right to do.

Mr. President, nearly 3,000 children die from gunshot wounds every year in our country. The Senate ought to try to reduce that statistic and not stand by and permit it to grow.

According to the CDC, the latest statistics show that in 2002, 2,867 children and teenagers died from gunshot incidents in the United States. The CDC also found that firearm-related deaths among children under the age of 15 were 12 times higher here than in 25 other industrialized countries combined. Let me repeat that. Firearm-related deaths among children under 15 in our country were 12 times higher than in 25 other industrialized countries combined. We are not talking about backwoods or primitive countries; we are talking about industrialized countries. They are much more conscious about protecting their population from random gunshots than we are. These are shameful statistics.

So why does it matter whether negligent gun dealers are held accountable? Because when we hold people accountable for their actions, we prevent wrongdoing that will hurt more people in the future. It sends a clear message—hey, if you are not careful with your inventory of guns, if you are not careful of whom you sell that gun to, if you are not careful with what kind of a retailer you distribute your guns to, you are going to pay a price, a stiff price. Maybe it will put you out of business. Maybe you deserve to go out of business. That is what I say. Why should we lock the courthouse doors to our children and the families of children killed or injured by guns?

Mr. President, earlier I used a hypothetical example, but there are thousands of real-life examples of children suffering because of gun industry negligence. There is the story of Tennille Jefferson, the mother of a young son who became another statistic of gun violence. On April 19, 1999, her son, Nafis, was shot and killed by a young man who found a gun on the street belonging to a gun trafficker named Perry Bruce.

Perry Bruce bought this deadly weapon from a gun dealer who had repeatedly sold him guns, despite many obvious signs that he was a gun trafficker. Mr. Bruce had shown a welfare card as his identification; yet, somehow nobody at this store bothered to question how he had thousands of dollars to purchase 10 guns at a time.

Mr. Bruce has stated that the gun dealer "had to know what I was doing" and that he was high on marijuana each time he bought guns from this gun dealer.

Gun dealers like this must be held accountable. This bill gives them a free pass to do any darn thing they want, except certain classes of negligence, or negligence per se; otherwise, it is a free pass.

The senior Senator from Virginia spoke so eloquently yesterday about this issue. He pointed out that the vast majority of licensed gun dealers followed the rules, but there are those rogue dealers that act negligently and cause death and injury. Senator WARNER explained it to us that this bill before us gives these rogue gun dealers a pass. This bill says—and I quote Warner—"Go ahead. Do whatever you want."

Shamefully, the Senate leadership denied Senator WARNER—a distinguished, long-serving Senator, a veteran of World War II—from having a chance to have a vote on his amendment. I didn't think I would be here defending a Republican Senator's chance to offer an amendment, but they made sure that that wasn't going to happen. Even though there is purported respect, affection, and almost reverence for Senator John Warner, they denied him a chance to stand on this floor and offer an amendment. No, the NRA is more powerful than Senator WARNER. It is shameful. In my view, it was so disrespectful to a senior Member of this body.

My amendment takes on pretty much the same issue as Senator WARNER but with a narrower focus. Do those whose actions lead to the death or injury of a child get a free pass? To me, there is only one answer there. I would take my kid over anything that the NRA needs or wants any time.

I would fight like the devil for it. I once carried a gun for it when I served in World War II. So the question before the Senate on my amendment is: Whom do you want to please? Do you want to please mothers, fathers, grandparents, brothers, and sisters? Or do you want to protect the NRA, the gun manufacturers, the gun distributors—those who at times don't give a darn about how they handle these things?

We are going to hear the cry about how we are going to put these innocent people out of business. Out of business? No. We don't want to put them out of business. If they are going to be in the business, and they are legally licensed, they need to be careful and make sure they obey the rules. If they don't, they will pay a price—perhaps criminally, but surely civilly.

If we fail to adopt my amendment, gun dealers are not going to have any accountability, no incentive to behave responsibly, no matter the number of children who die from gun violence. Our criminal justice system brings about punishment—yes, they take the person who committed a violent act or a felony and make them pay. Purportedly, it registers with others who would conduct similar acts, and that is the way we operate.

But here, no. We are saying: Listen, you don't even have to be careful. You can be negligent and reckless. Do what you want. Come on. It is for the gun industry, for the NRA. Whom do we have to respect around here? It is obvious that they think it is the NRA. It is unjust, unfair, and immoral for us, as elected officials, to strip away the rights of children and families who are harmed or killed by gunfire.

Are Senators willing to look in the eye of Tennile Jefferson and tell her the door to the courthouse is barred for her?

I wish to talk about something we know will be pending, and that is the Republican alternative ostensibly to offer the protection these children's families might need from my amendment. To put it bluntly, the Republican sham protection is an insult. It is an insult to America's children. It is an insult to America's parents. It is an insult to this Senate. It is an insult to morality. That is the way it is going to come about.

You are going to say: No, that child's family can be protected by those conditions already laid out for penetrating the shield of protection that the gun industry and the NRA are demanding.

I urge my colleagues to read this so-called alternative, and I urge the public to get this language. Understand what is taking place. Compare my amendment to that which is going to be offered and see which one is serious about offering the opportunity for people to seek compensation in the event of injury.

The Republican language makes clear that children get no special treatment under this bill. It says that children are subject to the same limited exemptions that everyone else has under this bill, approximately three conditions. Negligence and negligence per se are exempt from the prohibition. In our amendment, negligent entrustment and negligence per se are still able to be adjudicated in a court in a civil action.

Our amendment says that the gun violence immunity bill should not apply to children. Please, look at your own families. See what you would do to someone who would harm your child, maybe render them totally disabled for life. How would you react to that? Would you say, Too bad, the courts in America will not allow us to seek redress, to get some measure of compensation? There is never enough money to bring back the health and well-being of a child who was killed or a child who is permanently injured.

This will block legal actions on the behalf of children and their families who are injured or killed. It is about as simple a decision as we get around here. Are there times when the courthouse doors ought to be locked, be shut to children or their families, or shouldn't they?

I urge my colleagues once again to think about the faces of their children. I have 10 grandchildren, and nothing in this world is more important to me than all 10 or any 1 of those 10 grandchildren. I think everybody else, even those who right now are supporting this hard-hearted legislation, even those people I know love their children. They don't want anything to happen to them. They want to protect them as much as they can. I bet whatever devices they can use to protect them they would use.

So come on, think about it when you cast your vote. Look in the mirror one time and challenge your conscience to see how you ought to be voting. Let that be your guide.

Mr. President, I believe we have more time for this amendment. What is the status of the time for our side?

The PRESIDING OFFICER (Mr. BURR). The Senator has 1 minute remaining.

Mr. LAUTENBERG. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator reserves the remainder of his time.

Who yields time? The Senator from Idaho.

### AMENDMENT NO. 1644

Mr. CRAIG. Mr. President, under the order, I send a relevant first-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 1644.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To protect the rights of children who are victimized by crime to secure compensation from those who participate in the arming of criminals)

On page 11, between lines 6 and 7, insert the following:

(D) MINOR CHILD EXCEPTION.—Nothing in this Act shall be construed to limit the right of a person under 17 years of age to recover damages authorized under Federal or State law in a civil action that meets 1 of the requirements under clauses (i) through (v) of subparagraph (A).

Mr. CRAIG. Mr. President, we have just heard the arguments of Senator LAUTENBERG in relation to his amendment. I most assuredly in no way question the sincerity of the Senator and the environment in which this amendment has been offered. But if I can be as direct as I can be, if you want to drive a truck through the middle of the bill, then the Lautenberg amendment accomplishes just that. In the name of children, yes, and we should be sensitive to children. Of course we are. Children are as protected under this proposed law as anyone else because this law says go after the criminal, don't go after the law-abiding gun manufacturer or the law-abiding gun seller.

But if there is negligent entrustment, if that can be proven, certainly if that seller or if that gun dealer or manufacturer is negligent, then anyone can and should bring lawsuits. It is the same issue we faced on previous amendments trying to carve out a special class that gets favored treatment beyond another class, and with children, certainly that would sound like we would want to be more sensitive.

Most of us in the Senate are parents, but you don't have to be a parent to grieve over a child's injury or a child's death. We have many laws on the books at both the State and the Federal level, and some of them are placed by this very Senate to protect our Nation's most vulnerable—our children. We must insist on the enforcement of those laws instead of constantly trying to carve out something special that may not even be that enforceable. How do you protect children on the street? You go after the criminal who is packing the gun on the street. Every year we do that, those deaths go down in America, whether it is a child's death or whether it is an adult's death. The Lautenberg amendment speaks to those 17 years of age and younger.

If those laws are broken by the gun industry, then the bill we are considering today will not shield them from the lawsuits or from the kind of harm that is rendered. If this is the same issue—and it is—we have debated several times to carve out something special, then we should not do that. But what we are saying in the alternative that has just been offered is that the bill allows lawsuits against firearms industries by and for children to the same extent that it does for any other victim of the illegal misuse of a firearm in relation to a gun manufacturer and a gun dealer.

Under this, if a child is injured by some wrongdoing of the gun industry, the lawsuits are not barred. Again, remember yesterday we debated the question of negligence and reckless conduct, and it was very clearly established by a substantially large vote in the Senate that it does not take away the standards of law and the specifications within the Federal law today as it relates to the responsible and legal operation and performance of a gun manufacturer or a licensed Federal firearms dealer.

How do you solve the crisis or the problem so defined by Senator LAUTENBERG? You enforce the law. You go after the criminal. You go after the drug dealer. You go to the streets of America and you sweep them clean of those who would break the law and those who are stealing the guns and those who are misusing the guns, instead of going after a law-abiding legal citizen manufacturing a law-abiding and legal product.

I believe that is the issue, and I ask my colleagues to support us in voting for the alternative and opposing the Lautenberg amendment.

I now yield to Senator THUNE for any comments he would wish to make. What is the time remaining on our side?

The PRESIDING OFFICER. The Senator from Idaho has 15 minutes 10 seconds.

Mr. CRAIG. I yield 10 minutes to the Senator.

Mr. LAUTENBERG. Will the Senator yield for a question and clarification of terms?

Mr. CRAIG. I yield.

Mr. LAUTENBERG. On the question of gross negligence, does gross negligence pierce the prohibition suit?

Mr. CRAIG. If it is spelled out within the context of the Federal law today, it would. Under this bill, it would not unless it could be established as a violation of the current laws of our country and under the current standards. We are not creating a new category as the Levin amendment tried to do as it relates to gross negligence or reckless misconduct. But what was established was negligence, negligent entrustment is not exempt from this law.

Mr. LAUTENBERG. Didn't the Senator from Michigan offer the gross negligence exemption and had it denied because——

Mr. CRAIG. In the broadest sense, he did.

Reclaiming my time. I yield to the Senator from South Dakota.

The PRESIDING OFFICER. The Senator from South Dakota is recognized for 10 minutes.

Mr. THUNE. Mr. President, I thank the Senator from Idaho for his leadership on this issue and for yielding time. I rise in strong support of the Protection of Lawful Commerce in Arms Act and in opposition to these amendments that will be offered this afternoon, all of which are designed to gut the underlying legislation.

It has been noted throughout the course of this debate that prosecutions are up, crime is down. That should be the fundamental focus of our efforts—protecting people from crimes committed by firearms.

I come from a State where we view these issues as a part of our personal freedoms, part of the rights that are guaranteed under the Constitution, the opportunity to possess and own firearms. It is a part of the culture of our State, a belief in personal freedom, also coupled with personal responsibility, which is why every year thousands of young South Dakotans take the firearm safety course and learn the responsible use of firearms and then go out and have the opportunity to hunt and recreate and enjoy the great outdoors in our great State.

That was the opportunity I had as a young 12-year-old. I have taught my teenage daughters responsible use of firearms. It is part of our history. It is part of our tradition. It is part of our culture.

The bill before us today would end many of the abusive lawsuits that are often filed, largely with the intent to bankrupt the firearms industry. Contrary to the assertions by some, this bill is not about the NRA. This bill is about law-abiding gun owners, it is about law-abiding gun dealers, it is about law-abiding gun manufacturers who are having that second amendment right infringed upon by those who are trying to destroy an industry that, for a couple of centuries now, has provided quality workmanship in accordance with Federal and State laws.

This bill is about reestablishing some of the fairness and justice, getting it back into our judicial system. This bill attempts to remedy a system that allows innocent parties—in this case, gun manufacturers and gun dealers—who have abided by the law to become victims of predatory lawsuits.

Furthermore, we are protecting American workers who are in danger of losing their jobs due to the enormous amount of money that must be spent to defend against unfounded lawsuits.

I also support this legislation because it would take the first step in ending what has been now a decades-long trend of using the courts to effect social change. For far too long, the American judicial system has been used as a conduit around the legislative process in an attempt to make public policy or implement social change outside the democratic process.

The aim of this bill is clear: to allow legitimate lawsuits against a manufacturer when the legal principles to do so are present. The bill allows suits against manufacturers who breach a contract or a warranty, for negligent entrustment of a firearm, for violating a law in the production or sale of a firearm, or for harm caused by a defect in design or manufacture.

These are not arbitrary standards, nor are they an approved NRA wish list. They are established legal principles that apply across the board to all industries. People who misuse firearms should pay for their crimes and answer to those they injure. However tragic, a death or an injury caused by a firearm should not create a windfall at the expense of the manufacturer if the manufacturer followed the law.

The manufacturer should not be held responsible for intentional and unforeseen acts of unrelated third parties.

The firearms industry has spent over $200 million in lawsuits. Many of these cases are not filed by injured parties but by city and municipal governments and special interest groups simply looking for the deepest pockets and not the guilty party. This bill would not allow manufacturers in the firearms industry to act as recklessly as they please, as some have asserted.

The firearms industry is one of America's most regulated industries. For example, a firearm is one of the few consumer goods that requires a waiting period or a background check. Unfortunately, some ultimately hope to drive America's gun manufacturers into bankruptcy and eventually out of business. The firearms industry is not only part of our tradition of outdoor and hunting sports, it is an integral part of our military manufacturing base. We cannot allow this industry to be bankrupted by unfounded lawsuits and endless litigation.

S. 397, this underlying bill, is good policy. It is a bipartisan bill with over 60 cosponsors and it mirrors legislation that already exists in 33 States around this country. By supporting this bill we are sending a message that Congress is committed to protecting American jobs and providing further security against predatory lawsuits. I encourage my colleagues to support the underlying legislation and to resist these amendments—these are killer amendments, gutting amendments that would undermine the entire purpose behind this legislation—and allow this legislation to pass and be put in place so the gun manufacturers and dealers of this country can operate in a fair, sensible, and just environment with the goods they produce for American firearms owners.

I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, may I inquire how much time remains on my side?

The PRESIDING OFFICER. The majority side has 7 minutes 45 seconds, and 53 seconds on the minority.

Mr. CRAIG. I yield 3 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I thank the Senator from Idaho for his leadership and his articulate explanation of why this is good legislation. We are following the historic principles of civil litigation in America. We had a group of activist, anti-gun litigators who sometimes buddy up with a city or mayor somewhere—usually a big city—and try to conjure up some way to make a legitimate manufacturer of a firearm liable for intervening acts of criminals and murderers.

That has never been the principle of American law, but it is a reality that is occurring today and it threatens an industry that supplies our military with weapons. The Department of Defense is concerned about it and they support this legislation. This industry supplies weapons for our policemen as they go about their duties every day. If we do not watch it, we will end up with no domestic manufacturing and have to import firearms to this country.

The Lautenberg amendment is unprincipled, unjustified, and inconsistent with the good policies of the bill. Why would we want to allow any group of people, whether age or sex or anything else, the nature of their job, be able to pursue a lawsuit that others would not be able to pursue?

Mr. REED. Would the Senator yield for a question?

Mr. SESSIONS. On the Senator's time. How much time do we have?

Mr. CRAIG. I yield time to respond if the Senator wishes.

Mr. SESSIONS. All right. I would be pleased to attempt to answer the question.

Mr. REED. The Senator from Alabama is a lawyer, a Federal attorney, and has made the statement that an intervening criminal act essentially absolves someone of negligence, which I think is a fair response, but yet the statement of torts, which is recognized generally by most lawyers as the statement of basic law in torts, says very clearly that an intervening criminal act does not absolve someone from their own negligence. Because of the standing of the Senator as an attorney, I suggest that his conclusion does not comport with what most people assume is the law of the country.

Mr. SESSIONS. All I know is I won a lawsuit on it. I defended the Veterans' Administration when a veteran went off the grounds and was murdered by a murderer. They tried to sue the VA. They said the VA was negligent in letting him get off the grounds of the VA. We alleged that one could foresee certain things and cited abundant authority to the fact that no one should be held liable and should expect criminality, an intervening criminal act, of that kind.

That is my view of it, but maybe somebody else would not have that view.

The PRESIDING OFFICER. The Senator's time has expired. Does the Senator from Idaho yield additional time?

Mr. CRAIG. I yield additional time.

Mr. SESSIONS. Just 1 minute. It is my view that this is the classic principle of law and we have gotten away from it. We have eroded these practical, realistic, historical principles of liability and, as such, insurance goes through the roof, huge verdicts are being filed against victims. The allegation has been that if somebody had their firearm stolen by a thief, they then become liable if that thief goes and murders somebody. What kind of principle of law is that? Maybe that is not the idea behind this amendment, but that is the way I see it. I do not think it is good.

This bill allows lawsuits for violation of contract, for negligence, in not following the rules and regulations and for violating any law or regulation that is part of the complex rules that control sellers and manufacturers of firearms.

I yield back my time.

The PRESIDING OFFICER. The Senator's time has expired.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, this Frist-Craig amendment ensures that nothing in the gun liability bill would limit the right of a person under 17 to recover damages authorized by law in a civil action.

A person suing on behalf of an injured person can sue under traditional tort law as always.

But the underlying Lautenberg amendment would allow lawsuits even if no law is broken, no product is defective, and no person negligently sold a gun.

These are the types of suits we are trying to stop.

So I urge my colleagues to vote for the Frist-Craig amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CRAIG. Mr. President, I will close out our side and then the Senator from New Jersey can close.

From 1992 to the year 2003—and this is only in the area of accidental deaths by firearms—dramatically down, 54 percent. From 2001 to 2003, down 13 percent. That category is not quite what the Senator talks about, but it is from 5 to 14 that makes up 1.6 percent of the total deaths by firearms, again dramatically down. Why? These are accidental. These are not on the streets of America. But out on the streets of America, those are also down because we are enforcing the law and going after the criminal.

That is what this is all about. It is not going after law-abiding citizens. I think the Senator from Alabama put it very clearly. All new law is being treaded upon instead of adhering to consistent, known, well-established tort law in America.

I would hope my colleagues will support my amendment, the alternative to the Lautenberg amendment. I oppose the Lautenberg amendment.

I yield back the remainder of my time and would hope that Senators could conclude their remarks as we move to a vote.

The PRESIDING OFFICER. The Senator yields back the remainder of his time.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, very quickly, not once in my comments did I talk about taking away guns from people. We are discussing this particular issue. There are three reasons that permit penetration of the veil of immunity: negligent entrustment, negligence per se, and defective products. Those who describe negligence as a cause are mistaken.

It was suggested that this would drive a truck through this bill. I want to drive that truck full of children alive and healthy.

I yield back.

The PRESIDING OFFICER. The Senator yields back his time. All time is expired.

Mr. CRAIG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from New Hampshire (Mr. SUNUNU).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 72, nays 26, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—72

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
Dole
Domenici
Dorgan
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kohl
Kyl
Landrieu
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Pryor
Reid
Roberts
Rockefeller
Salazar
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—26

Akaka
Boxer
Carper
Chafee
Clinton
Corzine
Dayton
DeWine
Dodd
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Kennedy
Kerry
Lautenberg
Leahy
Levin
Mikulski
Obama
Reed
Sarbanes
Schumer
Wyden

NOT VOTING—2

Biden
Sununu

The amendment (No. 1644) was agreed to.

Mr. CRAIG. Mr. President, I move to reconsider the vote and to table the motion.

The motion to lay on the table was agreed to.

### VOTE ON AMENDMENT NO. 1620

Mr. CRAIG. Mr. President, the next vote is on the Lautenberg amendment. I ask unanimous consent that the time for voting be reduced to 10 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRAIG. I also encourage my colleagues—Jack and I are trying to move these amendments as rapidly as we can. When we have people trying to take 20 minutes to these votes, that does not help us. We are debating them in less time than it is taking us to vote. So please stay around and we can move through these amendments very rapidly.

The PRESIDING OFFICER. The question is on agreeing to the Lautenberg amendment.

Mr. CRAIG. I ask for the yeas and nays on the Lautenberg amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator is necessarily absent: the Senator from New Hampshire (Mr. SUNUNU).

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 64, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—35

Akaka
Bayh
Biden
Bingaman
Boxer
Cantwell
Carper
Chafee
Clinton
Corzine
Dayton
DeWine
Dodd
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Nelson (FL)
Obama
Reed
Sarbanes
Schumer
Stabenow
Wyden

NAYS—64

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Burr
Byrd
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
Dole
Domenici
Dorgan
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Landrieu
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Pryor
Reid
Roberts
Rockefeller
Salazar
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Sununu

The amendment (No. 1620) was rejected.

Mr. CRAIG. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### AMENDMENT NO. 1615

Mr. CRAIG. Mr. President, I understand the next amendment in order is the Kennedy amendment.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I understand there is a time limitation. We have 20 minutes; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. I ask the Chair to remind me when I have 5 minutes remaining.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 1615.

Mr. KENNEDY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To expand the definition of armor piercing ammunition and for other purposes)

On page 13, after line 4, insert the following:

**SEC. 5. ARMOR PIERCING AMMUNITION.**

(a) Expansion of Definition of Armor Piercing Ammunition.—Section 921(a)(17)(B) of title 18, United States Code, is amended—

(1) in clause (i), by striking "or" at the end;

(2) in clause (ii), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(iii) a projectile that may be used in a handgun and that the Attorney General determines, under section 926(d), to be capable of penetrating body armor; or

"(iv) a projectile for a center-fire rifle, designed or marketed as having armor piercing capability, that the Attorney General determines, under section 926(d), to be more likely to penetrate body armor than standard ammunition of the same caliber.".

(b) Determination of the Capability of Projectiles To Penetrate Body Armor.—Section 926 of title 18, United States Code, is amended by adding at the end the following:

"(d)(1) Not later than 1 year after the date of enactment of this subsection, the Attorney General shall promulgate standards for the uniform testing of projectiles against Body Armor Exemplar.

"(2) The standards promulgated under paragraph (1) shall take into account, among other factors, variations in performance that are related to the length of the barrel of the handgun or center-fire rifle from which the projectile is fired and the amount and kind of powder used to propel the projectile.

"(3) As used in paragraph (1), the term 'Body Armor Exemplar' means body armor that the Attorney General determines meets minimum standards for the protection of law enforcement officers.".

Mr. KENNEDY. Mr. President, I express my strong appreciation to the Senator from Rhode Island, Mr. Reed, for his leadership in opposition to this legislation. It has been enormously impressive. Many of us who share his views are grateful for his steadfastness, his hard work, and his perseverance and commitment.

It is preposterous to call this bill the Protection of Lawful Commerce in Arms Act. If we were honest, we would call it the "Protection of Unlawful Commerce in Arms Act." It is a blatant special interest bill to protect gun manufacturers and sellers, even if they recklessly make guns available to criminals and terrorists. This aids and abets the perpetuation of these crimes. With all the urgent challenges facing our country, it is difficult to believe that the Bush administration and the Republican leadership are willing to spend any time at all on this flagrant anti-victim, anti-law-enforcement legislation, let alone push aside the major Defense authorization bill to make room for this debate.

President Bush called for clean passage of the bill without extending the Federal ban on assault weapons, without closing the gun show loophole, and without any other needed reforms in our Nation's laws.

Instead of this special interest legislation, Congress should be considering important bills, such as Senator Feinstein's proposal to regulate .50 caliber weapons. These weapons are particularly dangerous because of their appeal to terrorists. These rifles can shoot down airplanes and destroy armored vehicles. These bullets can even penetrate several inches of steel. They have been called the ideal tools for terrorists. Who are we kidding?

In 1995, a RAND Corporation report identified these weapons as a serious threat to the security of U.S. Air Force bases. In 2003, a U.S. Army intelligence training handbook called this rifle a weapon "attractive to terrorists for use in assassinations." Snipers love them. A study funded by the Department of Homeland Security identified these rifles as an imminent threat to civilian aviation. The report noted that these weapons have been acquired by al-Qaida and even been used to attack our own troops in Iraq.

Barrett Firearms Manufacturing and E.D.M. Arms advertise these assault weapons as capable of destroying multimillion-dollar aircraft with a single hit. Every bullet sold for these weapons puts our troops at risk. But are we working to stop that? No. Instead we are, once again, debating a bill that threatens the safety of the American people in a way that undermines law enforcement and our national security. Instead we are guaranteeing that people who sell these rifles and ammunition will never be held liable for their crimes.

With its raw special interest power, the National Rifle Association has demonstrated that this bill is a top priority for Senate action. They could care less that they are interrupting the important business of protecting our men and women fighting in Iraq and Afghanistan. They are willing to let unsavory gun dealers and gun manufacturers put powerful killing machines in the hands of criminals and terrorists without any regulation or liability. It is a national disgrace that America does more to regulate the safety of toy guns than real guns.

The Republican leadership and the Bush administration will do whatever it takes to give the industry all it wants. The NRA wants gun dealers and manufacturers to be protected from lawsuits. The NRA expects and demands that the Senate take away the courts as the last resort for victims of gun violence. For years the courts have been the only place where negligent and often conspiring gun dealers and manufacturers can be challenged.

The Senate majority leader says this bill is of urgent importance, taking precedence over the Defense bill because the Department of Defense "faces the real prospect of having to outsource sidearms for our soldiers to foreign manufacturers." Guess what. The bulk of contracts to arm our country's military and law enforcement is already held by foreign manufacturers based in Austria, Italy, Germany, Sweden, Jordan, and Belgium. Lawsuits have nothing to do with that.

Furthermore, we have not heard one single company filing for bankruptcy in the absence of this legislation. The truth is that gun industry profits are on the rise. The only two publicly held gun companies in this country have filed recent statements with the Securities and Exchange Commission specifically and emphatically contradicting the claim that they are threatened by lawsuits.

Smith & Wesson filed a statement with the SEC, June 29, 2005, 1 month ago, stating: We expect net product sales for fiscal 2005 to be approximately $124 million, a 5-percent increase over the $117 million reported for fiscal 2004. Firearms sales for fiscal 2005 are expected to increase by 11 percent over the fiscal 2004 level.

In another filing, dated March 10, 2005, Smith & Wesson wrote: In the 9 months ended January 31, 2005, we incurred $4,500 in legal defense costs.

Legal defense costs of $4,500 are supposed to be bankrupting the company? Let's get real.

At the same time, gun manufacturer Sturm, Rugr told the SEC in a March 1, 2005, filing: It is not probable and it is unlikely that litigation, including punitive damage claims, will have a material adverse effect on the financial position of the company.

We have to wonder what the real agenda is here. The level of litigation against gun manufacturers and dealers is miniscule. In a 10-year period, only 57 suits were filed against gun industry defendants out of an estimated 10 million tort suits in America. We are supposed to buy the claim that these lawsuits are unduly burdening the gun industry. No. This legislation is another in a long line of congressional paybacks to the NRA, to the severe detriment of the safety of the American people. The gun lobby has systematically made it more difficult and, in some cases, even impossible for the government to police negligent gun dealers and manufacturers, while making it easier for criminals to buy guns.

Under the Brady bill, a licensed seller of firearms must run a background check through the Federal Bureau of Investigation's National Instant Criminal Background Check System. But at the NRA's demand, Congress drastically narrowed the definition of gun dealer. Reckless and unlicensed dealers are now selling millions of guns to people, including criminals and terrorists, without background checks. All of that is legal because the U.S. Congress kowtowed to the National Rifle Association.

We have a shameless proposal before the Senate today that shields even the most reckless sales in the gun industry. This bill will even protect manufacturers that promote military-style weapons for use in battle in urban scenarios against any foe at any range. It protects manufacturers who brag about their weapons of war and spread them to our streets.

Look at this advertisement from Vulcan. "Vulcan Armament, the weapons of the special forces. From Afghanistan to Iraq, the guns of the special forces are now on sale in America."

All you need is a credit card. Call that company and you get that weapon. It is being used by special forces in Iraq. Do you think this bill has anything to do with protecting Americans from that? Absolutely not.

The gun dealer claims: "From Afghanistan to Iraq, the guns of the special forces are now on sale . . ." How outrageous can dealers get? But the NRA demands that these sales continue to be unregulated. Credit card, computer, you get your sniper rifle used by the special forces. And are we doing anything about that? Absolutely not.

Congress continues to do their bidding as it has done for years. At the insistence of the NRA, Congress has already tied the hands of law enforcement by cutting Federal funding for the agency that overseas gun dealers and manufacturers. According to the GAO, at the current level of underfunding, the ATF would take 22 years to inspect every gun dealer just once. What kind of enforcement is that? The GAO also tells us that people on the terrorist watch list are routinely buying guns in this country. Under current law, terrorists are not prohibited buyers. At the urging of the NRA, Congress is doing nothing about it. If that weren't enough, under this bill, gun manufacturers and sellers will be exempt from lawsuits even if they sell weapons to terrorists.

I have a GAO report that shows that there were 45 instances where the GAO found firearms-related background checks handled by the FBI resulted in valid matches with terrorist watch list records. Of this total, 35 transactions were allowed to proceed. If they get on the list, they are supposed to notify Homeland Security. But in this case, 35 transactions were allowed to proceed because the background checks found no prohibiting information. What does that mean? The prohibiting information are the categories that would deny them the ability to sell these weapons. For example, if you have had a felony conviction, you can't sell them; illegal immigration, you can't sell them; domestic violence, you can't sell them.

Member of a terrorist organization? You can sell them. Do you think this bill is doing anything about that? Do you think we are doing anything about that? No. It is disgraceful. Absolutely disgraceful.

We already know the terrorists are exploiting the weaknesses and loopholes in the Nation's gun laws. In the caves of Afghanistan our troops found an al-Qaida manual that instructed terrorists on how to buy guns legally in the United States without having to undergo a background check. Al-Qaida understands that we have created a mess that allows, even encourages, criminals and terrorists to traffic in guns.

Why do we in this body continue to ignore it? We are not talking about some hypothetical situation. In 2000, a member of a terrorist group in the Middle East was convicted in Detroit on weapons charges and conspiracy to ship weapons and ammunition to Lebanon. He had bought many of these weapons at gun shows in Michigan. In 1999, only a lack of cash prevented two persons from purchasing a grenade launcher at a gun show in a plot to blow up two large propane tanks in suburban Sacramento. But instead of addressing these real and serious problems, the Senate is considering this outrageous immunity bill that even gives the gun industry protection from administrative proceedings to revoke licenses of dealers who sell to illegal buyers.

This bill will bar State attorneys general from bringing civil actions against gun sellers, even those engaged in so-called straw sales to middlemen who buy guns from prohibited buyers. Why should the industry stop there? At the demand of the NRA, Congress has already exempted the gun industry from Federal consumer safety regulation. But the NRA wants more. It is a disgrace.

The NRA has also persuaded our Government to destroy gun purchasing background records within 24 hours. Our Justice Department refused to examine the gun records of any of the 19 hijackers or 1,200 suspected terrorists rounded up after 9/11. We can know everything about law-abiding citizens in this country, but we can't know about the terrorists purchasing these weapons. Within days of 9/11, we knew who the hijackers were, where they sat on the planes. We saw some of their faces on surveillance videos. We knew what they had charged on their credit cards. We knew where they had gone to school. We knew where they lived, where they traveled. We knew they had tried to get pilot's licenses. We knew they had looked for a way to transport hazardous chemicals. But we didn't know whether our terrorist friends had purchased firearms because we were worried about their privacy rights and their right to bear arms.

Give me a break. Give me a break. Make no mistake, Mr. President, the National Rifle Association clearly comes first in this Senate Republican agenda. This is not just about the immunity bill on the floor today. If this bill passes, it will open the floodgates for NRA's other priorities. None of these priorities will protect our citizens or make this country safer. Designed by the NRA, it promotes the sale of guns by manufacturers if they are sold to criminals. The NRA is lavishly rewarded for lobbying victories, and so are the Members of Congress who do their bidding.

This is an unholy alliance, Mr. President. This bill gives greater protection to the gun industry than Congress has given to any industry, and it is a dangerous precedent. At a minimum, we owe a duty to the police officers who are more in jeopardy because of the increasing number of dangerous weapons and ammunition in the hands of criminals. The Treasury Department already has regulations containing some prohibitions on armor-piercing ammunition. My amendment would expand the ban on that. It can easily be sold over the Internet, no questions asked. That is a disgrace and danger to police officers throughout the Nation.

The NRA would have us believe cop-killer bullets are a myth, they don't exist. Try to tell that to some of the sellers on eBay. Here you go, Mr. President. This chart represents what is on eBay. All you need is one click of the computer, and you can buy these bullets on eBay—armor-piercing bullets. They are $15 on eBay, armor-piercing bullets.

Now let's look at what has happened in the last year, in 2004. The number of police officers killed was 54, and 32 of these officers were wearing body armor. The only bullet that can pierce the armor is the cop-killer bullet. That is what this amendment addresses, the cop-killer bullet. It will stop the sale of the cop-killer bullet. These are the types of armor-piercing ammunition. All you have to do is look at these words, "hardened steel or tungsten carbide." Any terrorist knows what that means. Put those words together, and it goes right through a police officer's armored vest. We have had 54 police officers killed in the line of duty; 32 were wearing body armor.

This is the FBI report of May 16, 2005. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### FBI Preliminary Statistics Show 54 Law Enforcement Officers Feloniously Killed in 2004

WASHINGTON, D.C.—Fifty-four law enforcement officers were feloniously killed in the line of duty in 2004, according to preliminary statistics released today by the FBI's Uniform Crime Reporting (UCR) Program. Nearly half of the officers killed, 26, were in the South; 9 officers were in the Midwest; 9 were in the West; and 7 were in the Northeast. Two were in Puerto Rico, and 1 was in the U.S. Virgin Islands. The number of officers killed was up 2 from the 52 officers killed in 2003.

The 54 officer deaths occurred during 47 different incidents. Police cleared 46 out of the 47 incidents by arrest or exceptional means. One offender is still at large. Of the officers killed, 16 died in arrest situations, 12 died responding to disturbance calls, 7 died investigating suspicious persons or circumstances, 6 were ambushed, and 6 more were killed in traffic pursuits or stops. Two officers were killed while handling mentally deranged persons, 2 died while involved in investigative activities, 2 died in tactical situations, and 1 died handling and transporting a prisoner.

As in previous years, most offenders used firearms to kill police officers in 2004. Of the 52 officers who died from gunshot wounds, 36 were fatally injured with handguns, 12 were shot with rifles, and 4 were killed with shotguns. Offenders used vehicles to kill 2 officers. Thirty-two officers were wearing body armor, 11 fired their own weapons, and 9 attempted to fire their own weapons. Seven of the officers had their service weapons stolen, and 6 were killed with their own weapons.

In addition to the officers feloniously killed, 82 law enforcement officers died accidentally in the performance of their duties in 2004. This is an increase of 1 over the 2003 total of 81 officers killed accidentally.

The UCR Program's publication, Law Enforcement Officers Killed and Assaulted, 2004, is scheduled to be released in the fall. The publication, produced annually, includes final statistics and complete details.

Mr. KENNEDY. That is what this amendment does. Nobody can deny that our policemen and policewomen face a greater threat every day from these armor-piercing weapons and bullets that remain in our community. It is outrageous and unconscionable that such ammunition continues to be sold in the United States.

Mr. President, victims of gun violence and their families oppose this underlying legislation. I wish to mention the organizations that support my amendment. The International Brotherhood of Police Officers, the National Black Police Association, the Hispanic American Police Command Officers, the National Latino Police Officers, and the Major City Chiefs Association representing the Nation's largest police departments all support this amendment.

If you are interested in the security of those who are protecting us on the streets and in our communities and in our homes across this Nation, support my amendment, not a phony amendment that will be put on by the other side.

I withhold my time.

Ms CANTWELL. Mr. President, today I rise to cast another vote in favor of strict control on armor-piercing, cop-killer bullets. I am proud to stand to strengthen the penalties against those who use this ammunition. I also would like to set the record straight on my position on the same amendment last year. Last year, like this year, several Senators offered versions of this measure. I support both strengthening the penalties and the other provisions of the Craig/Frist amendment, as well as the broader definition of banned cop-killer ammunition in the Kennedy amendment, which I believe provides even stronger protection for America's law enforcement officers. That is why I am voting for both of these amendments and why I wish I had been recorded supporting both of these amendments last year.

In preparation for today's vote, it was discovered that my position was inaccurately recorded last year. While Senate rules do not allow for a formal correction of an error from a previous Congress, I today submit for the record that I supported the Frist/Craig amendment last year, just as I do today.

And I particularly thank both the Senator from Idaho and the Senator from Massachusetts for their work on this important issue.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, how much time does Senator KENNEDY have remaining?

The PRESIDING OFFICER. He has 1 minute 39 seconds.

AMENDMENT NO. 1645

Mr. CRAIG. Mr. President, I send a relevant first-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG] proposes an amendment numbered 1645.

Mr. CRAIG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To regulate the sale and possession of armor piercing ammunition, and for other purposes)

On page 13, after line 4, insert the following:

**SEC. 5. ARMOR PIERCING AMMUNITION.**

(a) UNLAWFUL ACTS.—Section 922(a) of title 18, United States Code, is amended by striking paragraphs (7) and (8) and inserting the following:

"(7) for any person to manufacture or import armor piercing ammunition, unless—

"(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

"(B) the manufacture of such ammunition is for the purpose of exportation; or

"(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

"(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

"(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

"(B) is for the purpose of exportation; or

"(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;".

(b) PENALTIES.—Section 924(c) of title 18, United States Code, is amended by adding at the end the following:

"(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

"(A) be sentenced to a term of imprisonment of not less than 15 years; and

"(B) if death results from the use of such ammunition—

"(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

"(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.".

(c) STUDY AND REPORT.—

(1) STUDY.—The Attorney General shall conduct a study to determine whether a uniform standard for the testing of projectiles against Body Armor is feasible.

(2) ISSUES TO BE STUDIED.—The study conducted under paragraph (1) shall include—

(A) variations in performance that are related to the length of the barrel of the handgun or center-fire rifle from which the projectile is fired; and

(B) the amount of powder used to propel the projectile.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report containing the results of the study conducted under this subsection to—

(A) the chairman and ranking member of the Committee on the Judiciary of the Senate; and

(B) the chairman and ranking member of the Committee on the Judiciary of the House of Representatives.

Mr. CRAIG. Mr. President, I yield 10 minutes to the Senator from Utah.

Mr. HATCH. Mr. President, I have listened to the argument of the distinguished Senator from Massachusetts. To hear it, you would say the sky is truly falling, that this world is just falling apart and that everything being done in law enforcement just doesn't work, and that if we don't do what his amendment says, we are going to be for terrorism and everything else in this world.

I rise to speak against the Kennedy amendment and for the Frist-Craig first-degree amendment.

The first-degree amendment Senator CRAIG just filed would strengthen the penalties for violating the existing ban on armor-piercing ammunition for handguns. It would also create a study on the effects of adopting a performance-based standard for ammunition.

This exact same first-degree amendment passed overwhelmingly last year on the floor of the Senate, and I suspect it will again this year. Let me make clear why the Kennedy amendment, without this first-degree amendment, would be harmful.

The Kennedy amendment would ban nearly all hunting rifle ammunition. It is also opposed by law enforcement organizations such as the Fraternal

Order of Police, the largest law enforcement agency or organization in the country.

The fact is that we have laws in this area that are working. The Bureau of Alcohol, Tobacco, Firearms and Explosives, the BATFE, reached the same conclusion in a recent study. The existing laws were adopted in 1986 and prohibit the manufacture and importation, for private use, of handgun bullets made of certain hard metals and specially jacketed bullets. The BATFE found that "no additional legislation regarding such laws is necessary."

My friend from Massachusetts believes all we have to do is just keep passing laws and that will solve every problem. The Departments of Justice and Treasury opposed legislation similar to this amendment back when it was first introduced in the 1980s. Congress rejected it then. We ought to reject it now.

Let me give a couple other facts that are important. The Frist-Craig amendment we are offering here today recognizes, as the Fraternal Order of Police points out, that the current law regarding armor-piercing ammunition is working; that is, it states that it is unlawful to manufacture and import, for private use, handgun bullets made of special hard metals and specially jacketed lead bullets. It also requires the Attorney General to study and report on whether it is feasible to develop standards for the uniform testing of projectiles against body armor.

The difference that the alternative amendment—the Frist-Craig amendment—makes is in the law's message. It says that if armor-piercing ammunition is used to kill a law enforcement officer, then the maximum penalty available is the death penalty. It doesn't get any tougher than that. If armor-piercing ammunition is used in the commission of a crime that wounds but doesn't kill a law enforcement officer, there will be a mandatory minimum sentence of 15 years.

Let's talk about how this is different. It sends a message to criminals in this country that not only is this ammunition illegal, if they use it to kill law enforcement officers who put their lives on the line every day for our citizens, families, and communities, they will pay the ultimate price.

Mr. President, we should reject the Kennedy amendment. We should follow what law enforcement in this country says. It does not get any better than the FOP. Last year, the Senate rejected the Kennedy amendment 34 to 63 and instead adopted the Frist-Craig amendment by a vote of 85 to 12. We should do that again.

I compliment my colleague for the hard work he has done on this particular bill. I hope we will all vote for the alternative amendment of Senator CRAIG.

I yield the floor.

Mr. CRAIG. Mr. President, how much time remains on my side?

The PRESIDING OFFICER. The Senator from Idaho has 15 minutes.

Mr. CRAIG. I will have a brief comment. Do any of my colleagues wish to comment?

I yield 5 minutes to the Senator from Alabama.

Mr. SESSIONS. Mr. President, I have some great friends in law enforcement. They have served their country and States and communities well over the years. We hunt and fish together at various times. I am not hearing them say this is what they would like to see. If you talk to law officers, what they are concerned about is repeat dangerous offenders getting released on the streets. A police officer never knows when he may face someone like that around the corner, at a traffic stop, or in a domestic violence situation. Those are things that concern them. They do feel sometimes that the criminal justice system is too slow, that the punishment and penalties that are imposed by law never get carried out. Those things frustrate them. That follows through and is consistent with the letters we have received regarding the Kennedy amendment.

I am looking at the Law Enforcement Alliance of America letter, which they wrote to Senator CRAIG. This is a very clear and strong message. They represent 75,000 members in support of law enforcement. They wanted to "add our voice to the growing group of law enforcement representatives who strongly oppose efforts to gut or kill S. 397, the Protection of Lawful Commerce in Arms Act."

They refer to this amendment as a "poison pill" and object to the term "cop killer bullet" as a "thinly veiled fraud." They go on to say:

> This amendment, along with other amendments, should be identified for what they are: an outright attempt to kill S. 397.
>
> Please know that many in the law enforcement community encourage you to continue steadfastly in support of America's gun manufacturers who provide our officers the tools to return home safely at the end of their shift.

Also, the Fraternal Order of Police has written to Senator CRAIG in "strong opposition" to the amendment offered by Senator KENNEDY. They say that this will be presented as a "officer safety issue" to get dangerous "cop killer bullets off the shelves."

Then they add:

> Regardless of its presentation, the amendment's actual claim and effect would be to expand the definition of "armor-piercing" to include ammunition based, not on any threat to law enforcement officers, but on a manufacturer's marketing strategy.

Then they add this, which is interesting:

> The truth of the matter is that only one law officer has been killed by a round fired from a handgun which penetrated his soft body armor—and in that single instance, it was the body armor that failed to provide the expected ballistic protections, not because the round was "armor-piercing."

They say:

> It is our view that no expansion or revision of the current law is needed to protect law enforcement officers.

That letter is to Senator CRAIG. No additional legislation is needed to protect law officers.

> To put it simply, this is not a genuine [law enforcement] officer safety issue.

They noted that it had been rejected previously—last year, 63 to 34. They say it should be rejected again.

I thank the Chair.

Mr. CRAIG. Mr. President, I believe all that can be said about these two amendments has been said. I hope my colleagues join in voting for the first-degree relevant amendment I have offered that toughens up penalties and recognizes the reality that the law we have today is working to protect our law enforcement community from armor-piercing bullets.

I yield back the balance of my time. Senator KENNEDY can conclude and we can move to a vote.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I have in my hand the Federal Firearms Regulations Reference Guide that bans 14 different types of ammunition today. All we are trying to do is add a 15th. What will the 15th do? It will be limited to cop-killer bullets.

My friends, the Republican amendment says we should study the problem of cop-killer bullets. Our police officers are the ones that are in the line of fire, and we are going to protect them with a study?

If you care about fighting terrorism, you will reject the Republican amendment and vote for my amendment to take real action. If you care about protecting our brave police officers, you will support my amendment. They risk their lives for us every single day.

This is not about hunting. We know duck and geese and deer do not wear armor vests; police officers do. This can save their lives. I hope it will be accepted.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. It is my understanding, under the unanimous consent that the Craig first degree would be the first to be voted on; Kennedy would be the second to be voted on. I ask unanimous consent the second vote be a 10-minute vote. I urge my colleagues to come now, as quickly as we can, to move these votes.

I call for the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered. The second vote will be 10 minutes.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

### VOTE ON AMENDMENT NO. 1645

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from New Hampshire (Mr. SUNUNU) and the Senator from Kansas (Mr. ROBERTS).

Further, if present and voting, the Senator from Kansas (Mr. ROBERTS) would have voted "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 87, nays 11, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—87

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kerry
Kohl
Kyl
Landrieu
Leahy
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reid
Rockefeller
Salazar
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—11

Akaka
Boxer
Corzine
Feingold
Kennedy
Lautenberg
Levin
Lieberman
Reed
Sarbanes
Wyden

NOT VOTING—2

Roberts
Sununu

The amendment (No. 1645) was agreed to.

Mr. CRAIG. I move to reconsider the vote.

Mr. ENZI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

### VOTE ON AMENDMENT NO. 1615

Mr. CRAIG. Mr. President, the next vote is on the Kennedy amendment. It is a 10-minute vote. Please, everyone, stay here and vote so we can move very rapidly through the next amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. SANTORUM. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Texas (Mr. CORNYN), the Senator from Kansas (Mr. ROBERTS), the Senator from Oregon (Mt. SMITH), and the Senator from New Hampshire (Mr. SUNUNU).

Further, if present and voting, the Senator from Kansas (Mr. ROBERTS) would have voted "nay."

Mr. DURBIN. I announce that on this vote, the Senator from California (Mrs. FEINSTEIN) is paired with the Senator from Kansas (Mr. ROBERTS).

If present and voting, the Senator from California would have voted "aye" and the Senator from Kansas would have voted "no."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 31, nays 64, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—31

Akaka
Bayh
Biden
Boxer
Cantwell
Carper
Chafee
Clinton
Corzine
Dayton
Dodd
Durbin
Feingold
Harkin
Inouye
Kennedy
Kerry
Kohl
Lautenberg
Levin
Lieberman
Mikulski
Murray
Nelson (FL)
Obama
Reed
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—64

Alexander
Allard
Allen
Baucus
Bennett
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Byrd
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Dorgan
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Johnson
Kyl
Landrieu
Leahy
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Pryor
Reid
Salazar
Santorum
Sessions
Shelby
Snowe
Specter
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—5

Cornyn
Feinstein
Roberts
Smith
Sununu

The amendment was rejected.

Mr. CRAIG. Mr. President, I move to reconsider the vote and move to lay it on the table.

The motion to lay on the table was agreed to.

PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I ask unanimous consent that we now proceed to the Corzine amendment as under the order and that there be 5 minutes for Senator CORZINE, 5 minutes for Senator SCHUMER, 5 minutes for Senator CRAIG, to be followed by a vote on the Corzine amendment, with the order for the first-degree alternative vitiated: provided that the Senate then proceed to the Reed substitute with Senator REED to speak for 15 minutes, Senator HUTCHISON for 10 minutes, to be followed by a vote in relation to the Reed amendment as under the order: that following that vote there be 10 minutes equally divided for closing remarks prior to the bill being read the third time and a vote on passage as the order provides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

### UNANIMOUS-CONSENT AGREEMENT—H.R. 3

Mr. FRIST. Mr. President, I ask unanimous consent that following passage of S. 397, the Senate proceed to the immediate consideration of the conference report to accompany H.R. 3, the highway bill. I further ask unanimous consent there be 15 minutes equally divided between the majority and minority with 30 minutes under the control of Senator McCAIN. I ask unanimous consent that following the use or yielding back of time, the Senate proceed to a vote on adoption of the conference report with no intervening action or debate.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FRIST. Mr. President, just a clarification. A lot of people will have questions. We had these time allotments and we have asked Senators not to use all of the time that has been allocated. That is the general understanding. With that we have an orderly way of very quickly completing our rollcall votes for the course of the day. But with that, we can explain it over to the side that we are in shape and have a plan in order to finish at a very reasonable hour.

### AMENDMENT NO. 1619

The PRESIDING OFFICER. The Senator from New Jersey is recognized for his amendment.

Mr. CORZINE. Mr. President, I call up amendment No. 1619.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Jersey [Mr. CORZINE] for himself, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. KENNEDY, Mrs. CLINTON, and Mrs. BOXER, proposes an amendment numbered 1619.

Mr. CORZINE. I ask unanimous consent that further reading of the amendment be dispensed with.

PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To protect the rights of law enforcement officers who are victimized by crime to secure compensation from those who participate in arming criminals)
>
> On page 13, after line 4, add the following:
>
> **SEC. 5. LAW ENFORCEMENT EXCEPTION.**
>
> Nothing in this Act shall be construed as limiting the right of an officer or employee

of any Federal, State, or local law enforcement agency to recover damages authorized under Federal or State law.

Mr. CORZINE. I ask unanimous consent that Senator DURBIN be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORZINE. I thank the Chair.

I come to the floor today moved by an event that occurred in my life this week and more importantly the life of a family in New Jersey.

Sometimes there are events that move you to feel passionately. I went to a wake for an officer on Monday night. I actually missed a vote.

The reality is that an officer was gunned down a week before by a gang member, a Blood, on the streets of Newark. This police officer was a man with five children. He was 32 years old, the oldest child of 11.

Violence brought on by the illegal movement of guns in our society and the irresponsible dealing in guns is something that actually costs people's lives. I have an amendment which I have talked about previously. I am a realist and I know where this amendment is going, so we will deal with it on a practical basis.

But my amendment is an effort to protect the rights of law enforcement officers who are victimized by gun violence. I want to make certain that law enforcement officers can seek compensation from gun manufacturers and dealers who participate in arming criminals.

I am not a lawyer, so I can't define negligence with the perfection that maybe others can. I know this amendment is not going to pass, and I know this gun industry immunity bill will pass.

This is a picture of another officer from Orange, NJ. We have heard a lot about Detective Lemongello and his partner, Officer McGuire. They were shot in 2001. They subsequently brought a case in court and reached a $1 million settlement with the gun dealer, because that gun dealer in West Virginia sold 12 guns to what we call a straw buyer. This straw buyer, by the way, was standing next to a second person who qualified as a potential purchaser of weapons and just handed them off, and then that individual walked out, put them in a car, drove off to New Jersey and sold them on the streets. I call that negligence. It was so negligent and so obviously negligent that the gun dealer, the day after being paid in cash for those 12 guns, called up the AFT and said: We think we made a mistake. We ought to do something about this. And so they called up the AFT. But it was too late, and nothing happened to stop the flow of the guns to New Jersey, but at least they recognized that they had done something wrong.

Detective Lemongello and Officer McGuire brought a lawsuit against this gun dealer. They went to court and received justice, although both cannot return to the streets as police officers. They got a $1 million settlement. One took three bullets, one took two, and the other 11 guns purchased that day in West Virginia were also resold and distributed. I wonder whether one of those guns was the used to murder Police Officer Reeves last week in Newark, NJ.

I think it is time we recognize there needs to be the ability to use both the criminal justice and the civil justice system to protect our citizens, particularly our law enforcement officers.

We have heard from Senator REED, who has done an enormous service to the country, in my view, to bring up so many of the flaws in the arguments that have been made by my colleagues who support this bill.

This bill is not right. We are taking people who protect us at their own risk every day and we are shutting the door to the courthouse in their face. So I believe strongly that we ought to be protecting our law enforcement officers. I passionately believe that because I see it and the distress it brings to families and communities and all who are involved.

My amendment is not a political desire to challenge the NRA or anybody else. And, frankly, I do not understand how anyone could not support this amendment. I do not get it from a commonsense point of view. It is a right and a responsibility that we protect those who protect us.

The PRESIDING OFFICER. The Senator's time has expired

Mr. CORZINE. Mr. President, I will not be asking for a rollcall but a voice vote on my amendment acknowledging the realities and the practical aspects of moving the floor, if that is appropriate.

Mr. CRAIG. Mr. President, no one questions Senator CORZINE's intention or his sincerity as we are all sincere and concerned about making sure that the law enforcement community of this country has the best tools available, has the greatest protection available. We want the laws with them, and we believe the laws are with them. And the Fraternal Order of Police, the world's largest organization, believes the same thing.

Last year, this amendment was opposed by them strongly and they expressed that very clearly. The reason was they do not believe a special category is necessary in that relationship. What is happening here is an attempt to carve out that unique category because we think the law enforcement community is well protected under the current law.

Mr. CORZINE. Will the Senator yield?

Mr. CRAIG. I am happy to yield.

Mr. CORZINE. I point out this year, by decision, the FOP is not taking a position with regard to my amendment.

Mr. CRAIG. That is true, they are not taking a position this year, but I did get permission from Tim Richardson, if there is any question of verifying what I said, that as the executive he would be happy to accept a call.

The point is quite simple. This is an amendment that destroys the underlying intent of the legislation involved. I hope my colleagues would oppose the amendment as they did last year by a substantial vote, 56 in opposition, 38 for it.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. SCHUMER. Mr. President, I will not speak on the amendment of the Senator from New Jersey, which I support, but on the underlying provision. It is hard for me to accept the fact that we are taking a special interest, we are taking an industry that deals with something that admittedly can be dangerous, and exempting them from liability and giving them greater exemption than just about anybody else.

We talk about special interests. That is exactly what "special interests" means. Giving it to one small group because they have influence rather than for a whole larger group who may also deserve it. Even when somebody is grossly negligent, even when an organization does not abide by the rules, they will still get an exemption. How can we say that to people who are injured, perhaps, as a result of that negligence and carelessness?

I want people to remember the terror brought upon ordinary Americans with the Washington snipers. These terrorists acquired their assault rifle to shoot 13 people. They got the rifle at the Bull's Eye Shooter Supply. Bull's Eye could not account for the sale. Bull's Eye could not account for 230 of its guns. Yet Bull's Eye would be protected when these families sought recompense by this legislation. Who in America would exempt a gun dealer who repeatedly violated the law and put them above those who had lost loved ones?

That says enough. I know my colleagues are eager to move on so I will not speak for much longer. If Members want to know why the American people get fed up with this body, it is legislation such as this that caters to a small, powerful group.

The right to guns is a good thing. I support the second amendment. But no amendment is absolute. Not the first, not the fourth, not any of them, including the second. There are some here who believe only the second amendment should be exalted above all the others. I disagree.

This is an awful piece of legislation, despite my respect for its sponsor. I urge we defeat it.

To reiterate, I rise in opposition to this bill, which will give a free pass to gun dealers and gun manufacturers.

even when their products wreak havoc on innocent people.

With all of the important business before the Senate right now, it is shocking that we would spend our time giving unwarranted and unprecedented immunity to an industry whose products, when allowed into the hands of the wrong people, do incredible harm to innocent Americans. We even put off working on a defense bill to do this favor to the gun lobby.

This bill, will literally endanger people's lives because it eliminates the last check we have, on bad gun dealers—the threat of lawsuits.

This bill will hurt victims of gun violence all across America—the innocent men, women and children who will end up being shot and killed if this bill passes because a gun dealer can't or won't keep track of his guns and there is no check on him.

We remember too well the terror that was brought upon ordinary Americans when the Washington snipers, John Allen Muhammad and Lee Boyd Malvo, went on their 23-day shooting spree.

These terrorists acquired the assault rifle that they used to shoot 13 people at Bull's Eye Shooter Supply, and Bull's Eye could not account for that sale.

In fact, Bull's Eye couldn't account for over 230 of its guns. This bill would protect gun dealers like Bull's Eye from lawsuits by the families of the sniper victims.

And this wasn't a dealer operating under the radar. In fact, Bull's Eye was inspected by the ATF not once, not twice, not even three, but four times in the 6 years prior to the sniper shootings. And what did those inspections reveal? They revealed that Bull's Eye could not account for over 160 guns missing from its inventory.

One of these guns was used by the DC snipers to kill ten innocent people and injure three others. It was only after people died that ATF did a real investigation and found that it was not 160, but 238 guns that were missing.

But it was still open and doing business.

What recourse did the sniper victims and their families have while they were waiting for the government to act? These victims sued the gun dealer for negligence, and won a $2.5 million settlement.

That won't bring back the innocent people who were killed by the snipers. But it gives these victims what we are all entitled to when someone else's negligence does us harm—our day in court and the opportunity to achieve justice.

This bill would shield bad dealers like Bull's Eye from justice. It would say to people like the victims of the DC snipers—"I'm sorry but you have no right to your day in court because Congress has made a special exception for bad gun dealers."

We don't do this for other industries, but due to pressure from the gun lobby we are being asked to carve out a special exception to an industry that makes and sells what are, in the hands of the wrong people, very deadly weapons.

In Philadelphia, a small child found a gun on the street and accidentally shot a 7-year-old boy. That boy's mother was able to recover a settlement from the gun dealer, who negligently sold multiple guns to a gun trafficker. One of those guns ultimately caused her son's death. This bill would deny that mother her day in court.

And it's not just about money. Gun dealers and manufacturers also agree to implement safer practices as a result of these negligence suits. This bill would give bad dealers and manufacturers no incentive to enact these safer practices.

Lawsuits against bad dealers, or dealers who are too lazy to adequately keep track of their inventories, do not affect the right of law-abiding Americans to safely use guns to hunt or collect.

But this bill does wipe away the right of American citizens to have their day in court. This bill destroys that right and slams the courthouse door in the faces of gun crime victims who are trying to make sure that gun dealers are responsible.

We have heard some of my colleagues talking here about the importance of responsibility. Well this bill says that everyone should be responsible—except the gun industry. You get a free pass. The rules that apply to every other industry in America don't apply to you.

Our court system works. And when a frivolous or baseless lawsuit is brought, there are rules to make sure that it doesn't go forward.

We should allow the system to continue to work. It worked for two New Jersey police officers who won a $1 million settlement from a dealer who negligently sold 12 guns to a straw buyer. It worked when the dealer agreed to implement safer sales practices to prevent criminals from getting guns.

That is why I also want to encourage my colleagues to support the amendment being offered by my friend from New Jersey, Senator CORZINE. This sensible amendment will allow law enforcement officers like those two New Jersey police officers to obtain justice when careless sellers allow guns to get into the wrong hands.

So the system needs to work for all Americans—and Congress shouldn't create special rules for special interest groups, especially when the lives of so many people are literally at stake.

I urge my colleagues to vote against this bill.

The PRESIDING OFFICER. The question is on agreeing to the Corzine amendment.

The amendment (No. 1619) was rejected.

AMENDMENT NO. 1642

Mr. CRAIG. Mr. President, we have one amendment remaining, the amendment of Senator REED. There is a time agreement on that amendment.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, I call up amendment numbered 1642.

I ask the Presiding Officer to let me know when I have reached 10 minutes.

My amendment has an overarching purpose, to preserve the right of an individual to sue for negligence when they have been harmed and when that negligence can be fairly attributed to a gun manufacturer, gun dealer, or a gun trade association. It does not depart from the principles of the law. In fact, it braces the fundamental principle of the law which says if someone owes you a duty of care and violates that duty and you have been harmed, you have a right to go into court.

The legislation before the Senate not only sweeps away the rights of individuals but sweeps away the rights of municipalities, counties, and other government entities. This is one of the major reasons the advocates have been talking about in this legislation. They have said there has been a rash of suits by municipalities, not about recovering damages, but about undercutting and undermining the gun industry.

I am reluctant to change what I think is well-settled law and well-settled practice, but if we are confronted with this legislation, I propose we step back and perhaps reluctantly eliminate suits by municipalities, but for goodness sakes, we can have and maintain suits by individuals.

The reason this legislation is before the Senate is because they claim there is a crisis. But if you look at the financial reports of these companies—of Smith & Wesson and Sturm, Ruger—there is no crisis. The financial report of Smith & Wesson indicates they are actually reducing the amount of their reserve to cover these types of suits, which is a strong indication, because it is real dollars, that this threat is dissipating. It is not becoming more enhanced. This crisis is manufactured. And it is, indeed, evaporating.

This suit will deny ordinary people, our constituents, their voice before the courts when they have been harmed. No one is going out and getting shot so they can bring a lawsuit. That is preposterous. They are being shot because people have been either criminal or negligent or both. We have criminal laws to deal with criminals, but we have a well-established body of civil practice which allowed an individual to go in and be compensated, receive damages for the harm they have suffered.

This legislation, the underlying legislation, would bar the door to courthouses for real people. Who are some of these real people? We all know about the most notorious incidents in the last several years, the Washington, DC snipers. If this legislation passed in the last Congress, and it was on the verge of passing, these people would have been denied their day in court.

Ted Franklin is the husband of Linda Franklin, a resident of Arlington, VA. On October 14, 2002, Linda Franklin was a 47-year-old analyst for the FBI. She had two children and a loving husband. She, like so many of us do, was in the parking lot of Home Depot loading up purchases for their new home when she was killed by the sniper.

How did the sniper get his weapon? Well, a teenaged boy walked into a gunshop in Washington State and apparently shoplifted a 3-foot-long assault weapon. The manager did not know about it and he did not know where over 200 weapons were. That is gross negligence, certainly, the kind of fact that would get you before a court. She was killed. A 47-year-old, dependable worker of the FBI.

Margaret Walekar is the wife of Premkumar, who was shot at the age of 54 while he was refueling his cab at a gas station. Tonight, as you fill up your automobile at a gas station, just think, someone else was doing that and innocently was killed and the heart of the causation of that tragic event was the negligence.

After this legislation passes, if it does, that negligent gun dealer and that negligent manufacturer who contributed the weapons would not be held liable for the death of this man.

Carlos Cruz is the husband of Sarah Ramos. They had one son, age 7. She was 34 and was sitting on a bench in front of a post office on October 3, 2003, waiting for a ride to take her to her baby-sitting job when she was shot and killed by the Bushmaster assault weapon shoplifted from that negligent gun dealer in Washington State.

I could go on and on and on. These are innocent victims. These are our neighbors. These are our constituents. These are the people we will tell, unless we adopt the Reed amendment, you have no value in the eyes of the court. You have no voice in that court. You are not important.

Who is important? The National Rifle Association. The gun lobby. The gun dealers. They are important. But these good people are not important.

At a minimum, we have to allow the tort law of the various States that has been worked out to be operative for these individuals. Certain States, very few, have restricted—again at the behest of the gun lobby—certain activities. I don't object to that. But that is more the normal course of activity since tort law is the province typically of the State. But no State is going as far as this legislation. No State is going to the extent of practically barring all claims.

Now the proponents will stand up and say, no, no, wait, we have exceptions. These exceptions have been carefully crafted to prevent the very cases I have spoken about and we have spoken about from getting to court. These are the real cases. This is what happens. People buy guns through straw purchases. That activity is virtually totally immunized by this legislation. As a result, we are going to see, I think, more reckless behavior.

We have already identified through the reporting system of the ATF and other gun shops across this country that have records and are supplying hundreds of guns to crime scenes, some within a short period of time. A weapon is purchased and a few days later found at a crime scene. If they are behaving that way now under the cloud of potential litigation, what will they do when they feel totally immunized, free, uninhibited, to be grossly negligent? The result, of course, is not some academic statistics. The result is people such as Linda Franklin.

I note that a few moments ago, in Senatorial time, we took a vote on legislation that would at least have given children the ability to use the existing tort laws of their State without the conditions and encumbrances of this legislation. That provision by Senator LAUTENBERG was struck down. That amendment failed.

What about the case with respect to the Washington sniper where Iran Brown, a 13-year-old boy, was walking to class? All of us who were here vividly remember watching the television set, vividly remember seeing the reports of a young boy walking to the Benjamin Tasker Middle School in Lanham, MD, and being shot by a sniper. The fear that grasped everyone here, parents particularly, that their child could be the next victim, that their school could be the next target, was palpable. He was rushed to a nearby medical center. Thank goodness, after a month in critical condition he survived. What if he had been critically injured or paralyzed? Who was going to pay for that young child's life and recovery if he could not allege that the negligence of the gun dealer contributed to his injury?

That is the reality. This legislation is actually modeled on the legislation adopted by the State of Idaho. Certainly that is a State that is proud of its tradition of recreational shooting and hunting. This State adopted this legislation. They recognized the problem and they took exactly the same steps we have taken. If municipalities and public interest groups are going after the gun dealers or gun manufacturers because they want to make a political point, we are not going to allow victims in Idaho who have been shot to be able to raise their voice in court?

Texas has a similar statute. They put restrictions upon municipalities, they put restrictions upon groups that might take political suits, and we have heard about those suits, but they have let ordinary citizens have a much more expansive right to go to court than anything included in this legislation before the Senate.

So we are not even being consistent with the States of Idaho and Texas and many others and we are usurping the role of States which traditionally set the standards for tort actions in their own States'. That is an interesting position for people who I used to think were faithful to this notion of State rights, State practice, local control, and let the people of Rhode Island, Idaho, and Massachusetts, let those people decide.

We are deciding if this Reed amendment fails and we pass the underlying bill that these people—Linda Franklin and James Franklin, the husband of the victim, and Lisa Brown, the mother of Iran Brown—are not worth it.

They don't mean anything. You have heard people say these are junk lawsuits. Are these lives junk? They are not.

We have a chance at least to preserve the right of individuals who have been harmed by the alleged negligence of gun dealers, gun manufacturers, and gun trade associations to get their case before a judge, to ask 12 fellow Americans to decide: Was there a duty by that defendant of more care, more attention, more foresight? Was that duty violated? Was I injured as a result of that and, therefore, should I be compensated by that person?

If we fail to adopt this amendment, we are sending a very strong message.

The PRESIDING OFFICER. The Senator has consumed 10 minutes.

Mr. REED. That message is, these people don't matter. The only thing that matters is the gun lobby. That would be a terrible message to send. I urge passage of the amendment and retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I rise to speak against the substitute. This is a complete substitute for the bill. In effect, it guts the bill. It does exactly the opposite of what the bill is intended to do, and that is to stop abusive predatory lawsuits against law-abiding businesses for damages caused by the criminal misuse of their products by others.

Senator REED mentioned some terrible situations regarding the Washington serial killer and said that those victims would not be able to sue the gun seller who was presumed to be negligent. In fact, that gun seller was found to have violated the laws that are required to be met and his license was revoked. So I believe under our bill—and it would be our opinion under our bill—that those people would be able to sue that gun seller. The other side has a legal opinion to the contrary, but we disagree with that.

The bill says, what is not included in this bill is a lawsuit which is brought against a seller for negligent entrustment or negligence, per se. So I think you could have brought that lawsuit. In fact, those lawsuits were settled.

What we are talking about is a substitute that appears to bar lawsuits but, in fact, allows lawsuits by cities and counties against firearms manufacturers and sellers if there is a State legislature approving the lawsuit or the State Attorney General brings the suit. So everything that we have been voting on would be reversed. If a State legislature says: We are going to allow a city to sue, the city would be able to sue.

We are here not to bar legitimate lawsuits. We are not here to bar lawsuits if a gun malfunctions. What we are trying to do is stop gun manufacturers from having to answer lawsuit after lawsuit after lawsuit for the criminal misuse of that product. If this amendment is passed, the bill before us will be gutted and will be of no use. We are trying to stop frivolous lawsuits against law-abiding citizens and law-abiding gun manufacturers. It does not stop lawsuits for negligence of the gun itself or violations of the law by the gun seller.

I hope my colleagues will see through this substitute and stay with the intent of the bill—to stop the frivolous lawsuits against the gun manufacturer or the misuse of the product, not the defectiveness of the product itself.

I yield the floor.

Mr. HATCH. President, I rise to speak against this substitute amendment that we are now considering. This is yet another attempt to undermine the very purpose of the Protection of Lawful Commerce in Arms Act.

This amendment creates two loopholes so large that you could drive a truck through them. It would allow lawsuits for lawfully making or selling nondefective guns as long as either the State legislature approves, or a State attorney general brings a lawsuit on behalf of a government.

Unfortunately, some governmental entities are part of the problem here. Cash-strapped cities and counties across the country bring these junk lawsuits in an attempt to snare money from gun makers and sellers for their lawful activities. To suggest that State legislative approval will serve as a sufficient check on this problem makes no sense. These lawsuits already have the tacit approval of their state legislatures. And we already know well that some State attorneys general are not above pursuing political agendas. This would only encourage them to bring more of these types of suits.

So this amendment would not eliminate in any meaningful way the very lawsuits that the gun liability bill is designed to address. And furthermore, it would not even apply to any pending cases. So lawsuits brought against the gun industry by New York City and Washington, DC, to cite two examples, would go forward under this substitute amendment.

This bill is about the integrity of our legal system. It is about protecting law-abiding small businesses from being overwhelmed by junk—yes, junk—lawsuits. And these are not just any small businesses—they also happen to be critical suppliers to our military. In my book, this alone makes them worthy of our protection.

We have acted before when we needed to protect others who were besieged or potentially besieged by unscrupulous trial lawyers. We did it for light aircraft manufacturers. We did it for food donors. We did it for medical implant manufacturers. We did it for charitable volunteers. We did it for makers of anti-terrorism technology. And we need to do it here.

We cannot continue to allow these lawsuits that turn traditional tort law on its head. We cannot continue to blame law-abiding citizens for the acts of criminals. We cannot continue to witness the corruption of our legal system and do nothing.

This substitute would do nothing, or at least it would do nothing good. I urge my colleagues to vote against the Reed amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Mr. President, let me take a very few minutes because I do want to get on with the vote. First, the underlying legislation would deny the attorney general of Texas the right to defend the people of Texas in court with a suit, I believe. Second, the legislature in Texas could not authorize suits. They could under my amendment. But more importantly, going back to the Washington sniper, none of the carve-outs, none of the caveats would reach that. I don't think it is a matter of dispute. Negligent entrustment has been defined in the bill as supplying a qualified product by seller for use by another person where the seller knows or should know. There is no allegation that the seller knew that the young person came in and shoplifted the weapon. In fact, he could argue that there was no sale involved whatsoever. It was shoplifting. But that was negligence because I think we all agree that gun sellers have an obligation to keep their weapons under control.

With respect to negligence per se, that is an unexcused violation of some enactment or administrative law. There are many States in the country that don't recognize that as a theory of tort recovery. Again, you would have to show they violated the law, they violated an administrative rule. In the case of Bushmaster, the situation is such that I don't believe there is any relevant legislation that says that an owner has to do anything in a way that would give rise to this negligence, per se.

My point is that the legislation before us would effectively carve out all these suits. That is entirely correct.

We are faced with a choice. This amendment does not allow these so-called political suits by municipalities, by political subdivisions, by groups, but it should allow individuals who have been harmed to have their day in court.

I hope we can prevail.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Is the Senator ready to yield back the balance of his time?

Mr. REED. Is the Senator ready?

Mr. CRAIG. I would be so inclined to with this simple statement. There are 62 Senators who are cosponsors in a bipartisan way of the underlying bill. The Reed substitute, as the Senator from Texas has said, simply guts it, changes the whole intent of the bill very dramatically. I urge my colleagues to vote against the Reed substitute.

I yield back the balance of my time.

Mr. REED. I yield back my time.

Mr. CRAIG. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The question is on agreeing to amendment No. 1642. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Kansas (Mr. ROBERTS), the Senator from Oregon (Mr. SMITH), and the Senator from New Hampshire (Mr. SUNUNU).

Further, if present and voting, the Senator from Kansas (Mr. ROBERTS), and the Senator from Oregon (Mr. SMITH) would have voted "nay."

Mr. DURBIN. I announce that on this vote, the Senator from California (Mrs. FEINSTEIN) is paired with the Senator from Kansas (Mr. ROBERTS).

If present and voting, the Senator from California would vote "aye" and the Senator from Kansas would vote "no."

The result was announced—yeas 33, nays 63, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—33

Akaka
Bayh
Biden
Bingaman
Boxer
Cantwell
Carper
Chafee
Clinton
Corzine
Dayton
DeWine
Dodd
Durbin
Feingold
Harkin
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Mikulski
Murray
Nelson (FL)
Obama
Reed
Sarbanes
Schumer
Stabenow
Wyden

NAYS—63

Alexander
Allard
Allen
Baucus
Bennett
Bond

Brownback
Bunning
Burns
Burr
Byrd
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
Dole
Domenici
Dorgan
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Johnson
Kyl
Landrieu
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Pryor
Reid
Rockefeller
Salazar
Santorum
Sessions
Shelby
Snowe
Specter
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—4

Feinstein
Roberts
Smith
Sununu

The amendment (No. 1642) was rejected.

Mr. CRAIG. I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. At this point, there are 10 minutes of debate equally divided.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Mr. President, I yield to my colleague for his closing remarks.

Mr. REED. Mr. President, first, I thank Senator CRAIG for a very deliberate and civil debate. I thank my staff, Steve Eichenauer.

The legislation before us is not about the facts. There is no crisis in litigation affecting the gun manufacturers. These are the litigation trends of Smith & Wesson: In 2001, 32 cases by municipalities; 10 by product liability. It declined steadily, with four cases ending on appeal and two cases with respect to personal liability. That is not a graph showing a crisis in litigation. The slope is going the wrong way. There is no crisis. There is no threat to procurement of military weapons. That is also conjured up out of thin air.

This is not about legal principle. A fundamental legal principle in this country is if you are wronged by the negligence of another, you can go to court. This is not about legal principles. We have had talk about intervening criminal activities taking away the negligence of another. That is not what the statement of torts, which is the black letter law of the country, states. These exceptions in the bill have been carefully crafted to prevent lawsuits, not to enable appropriate lawsuits to go forward.

It is not a failure of State courts to act. They have been acting. These cases have been going down under current State law. They are being handled by the States. It is about power, sheer naked power by the National Rifle Association—the power to take us off the Defense bill, the power to take us from that bill which would consider the quality of life and the safety of our troops to go to this legislation, the power to take us away from debate on stem cells which will save people and help people, so we can protect people who deal in dangerous weapons. It is about power; it is not about principle.

But there is something else. If this legislation passes, what incentive will there be for a gun dealer or gun manufacturer to act reasonably? There is a rogues' gallery of gun dealers—Realco Guns in Maryland, Southern Police Equipment in Richmond—all across the country—Atlantic Gun and Tackle in Bedford Heights, OH. Hundreds of guns are sold and are ending up at crime scenes. If they are this blatant and reckless now, what do they do when we say, "Don't worry, no one can touch you"? It will create huge disincentives.

Finally, what we are doing today is silencing the voices of victims of gun violence, silencing people who have been wronged through the negligence of another. This is not about trying gun manufacturers for someone else's fault, this is about their own responsibility.

Think tonight about what happened in Washington with the snipers. An FBI employee loading material at a Home Depot parking lot—shot. Some of that was attributed to the negligence of a gun dealer. That lady's husband and family would be silenced. Think about the young boy walking to his school in Maryland—shot. His family would be silenced. Think about the cabdriver filling up his cab. Tonight when we fill up our cars, think for a second, what if you were struck down, caught up in that web of violence. What if your family knew part of that was the result of the negligence of a gun dealer, a gun manufacturer. Who will take care of your family? Who will take care of you if you are paralyzed? We are telling those good people, our constituents: You are not worth it; the NRA is more important. You will suffer. If you don't have the money, you will be on charity. That will take care of you.

This is wrong. It is wrong morally, it is wrongly legally. We should vote against this legislation. I passionately hope we do.

I yield back my time.

Mr. ALLEN. Mr. President, I rise today in strong support of the Protection of Lawful Commerce in Arms Act.

Contrary to the concept of individual responsibility—for the past decade, the U.S. firearms industry has been under assault by legal activists attempting to hold this industry somehow legally responsible for the criminal conduct of others. Some of these suits are intended to drive gunmakers out of business by holding manufacturers and dealers liable for the criminal acts of others. It has been reported to me that to date, the total cost for the firearms industry in defending themselves from these suits exceeds $200 million.

Moreover, these lawsuits seek a broad range of remedies relating to product design and marketing. Their demands, if granted, would create major impediments on interstate commerce in firearms and ammunition, including unwanted design changes, overly burdensome sales policies, and higher costs for purchasers.

S. 397, which we are in the midst of debating, is desirable legislation and I am proud to be a cosponsor of this bill. This legislation will help curb frivolous litigation against a lawful American industry and the thousands of the men and women it employs. Imagine if General Motors or an auto dealer were to be held liable for an accident caused by a reckless or drunk driver in one of their manufactured vehicles or sue Budweiser. Likewise, businesses legally engaged in manufacturing or selling firearms should not be liable for the harm caused by people who use that firearm in an unsafe or criminal manner. This legislation does carefully preserve the right of individuals to have their day in court with civil liability actions for injury or danger caused by negligence on the firearms dealer or manufacturer or defective product, a standard in product liability law.

Moreover, these frivolous lawsuits against honest, legal companies put our national security and our military at risk. Since the late 1960's, the U.S. military has relied on private industry to supply our soldiers, our sailors, our airmen, and our marines. In 2004–2005 alone, the military has contracted to buy more than 200,000 rifles, sidearms and machine guns. And these numbers do not include new purchases for our Federal law enforcement agencies, such as the Department of Homeland Security. In addition, the Army fires about 2 billion rounds of ammunition each year. While the Army does manufacture a portion of that ammunition, it purchases half of its ammunition from private companies.

The bottom line is, these frivolous lawsuits can shut down the very same companies that are supplying our armed forces, our Federal law enforcement agencies, and our local and State police. Even the Department of Defense understands the implications that these lawsuits have on the firearms. In a letter dated July 27, 2005, from the Department to my colleague, Senator SESSIONS, DoD states, "We believe that passage of S. 397 would help safeguard our national security by limiting unnecessary lawsuits against an industry that plays a critical role in meeting the procurement needs of our men and women in uniform." That is from the Department of Defense, not something created by the NRA or the proponents of this legislation.

This legislation enjoys broad support. In addition to the NRA, business and insurance groups such as the National Association of Manufacturers, U.S. Chamber of Commerce, National Association of Wholesaler-Distributors.

National Federation of Independent Business, and the American Insurance Association all support S. 397. These lawsuits pose a threat to any business that makes or sells any lawful, non-defective product that can be misused by third parties.

National and local unions such as the United Auto Workers, International Association of Machinists and Aerospace Workers, and United Mine Workers support this bill because the firearms and ammunition industry provides good jobs for working Americans.

National hunting and wildlife conservation groups support S. 397, because excise taxes on firearm and ammunition sales fund wildlife management projects in the States. If these lawsuits wipe out the industry, these funds will vanish.

This bill is not a gun control bill; we should save that debate for another time. We should not saddle this lawsuit abuse legislation with anti-gun amendments that seek to infringe upon the Second Amendment rights of Virginians and Americans ability to protect themselves and their families. If Senators need to look to gun control, the best gun control measures are to enforce existing gun laws, which do more to keep illegal guns out of the hands of criminals than passing new and additional burden on the sale of firearms to honest gun-owners. Criminals commit gun-related crimes and we should focus our attention on these criminals rather than further restricting the rights of law-abiding citizens.

S. 397 will stop lawsuits that are designed not to recover damages from criminal or culpable parties, but which are designed to financially damage the industry or force regulatory changes that would restrict their legal business and strangle second amendment rights across the Nation. We have a responsibility to protect those rights and to stop the use of the courts to usurp legislative prerogatives.

I respectfully urge my colleagues to support this legislation and to oppose extraneous amendments that would weaken or delay it from passing. Please protect the rights of our constituents and the legal business that is unjustly threatened by these reckless lawsuits; and let us preserve the balance between the legislative and judicial branches of government.

Mrs. BOXER. Mr. President, this bill is part of the special interest agenda being pushed by the NRA and the Republican leader. First they managed to stall the reauthorization of the assault weapons ban, even though the bill saved lives and kept out police officers safer. Now they are looking to grant sweeping protections to gun manufacturers and dealers who recklessly sell guns that cause thousands of deaths in this country each year.

Contrary to what supporters of this bill are saying, this is not "tort reform" and this will not, as the White House said, "help curb the growing problem of frivolous lawsuits."

They call this bill the "Protection of Lawful Commerce in Arms Act." They give it a nice name to make it sound like they are protecting trade. What if we called it the "Shield Gun Makers From Lawsuits When Their Defective Gun Blows Your Child's Arm Off Act?" Or, "You're Off the Hook if You Sell Guns to Criminals and They Use Those Guns to Murder People Act?" I guess those names just don't have the same ring to them.

How about a little truth in advertising here—"Protect the Unlawful Commerce in Arms Act?" I don't think so. Make no mistake, this bill is an erosion of victims' rights. This bill puts the gun industry ahead of the rights of individuals. Ahead of the Dix family. These are real people, real victims. The doors of the courthouse would have been shut to the family of Kenzo Dix, who ultimately settled with Beretta.

This case was brought by the parents of Kenzo, a 15-year-old boy who was unintentionally shot and killed by a young friend with a defectively designed gun. Kenzo's friend Michael thought that he had unloaded his father's gun when he replaced the loaded magazine with an empty one. But the design of the gun failed to reveal the hidden bullet in the chamber, and this bullet killed Kenzo.

Beretta could have easily designed the gun with inexpensive, well-known features that would have prevented Kenzo's death. They could have included an internal lock to prevent Michael from firing the gun, or an effective loaded-chamber indicator to alert Michael that the gun was loaded. Although Beretta was long aware of the need for these features, it refused to include them.

Imported guns are subject to safety standards. But because domestic firearms are currently exempt from Federal consumer product safety oversight, the Consumer Product Safety Commission cannot compel gunmakers to include needed safety devices, as it routinely does with manufacturers of other products.

So court cases like Dix v. Beretta are the only way we can ensure gunmakers do the right thing. It is the only way. We know that just 1 percent of the gun dealers supply 57 percent of the guns used in crimes. None of us can ever forget the terror and horror wrought by the DC-area snipers. And no one here can forget the role that Bull's Eye Shooter Supply of Tacoma, W.A. played in that terror. Bull's Eye says it "lost" the assault rifle used by the DC area snipers to murder 12 people.

In just 3 years, Bull's Eye says it managed to "lose" 237 other guns as well. This is unbelievable. How did Bull's Eye "lose" all of those weapons? Clearly, the victims of Bull's Eye's gross negligence should have their day in court. In all it supplied guns traced to at least 52 crimes.

But if the Senate caves to the gun lobby and passes this bill, dealers like Bull's Eye will be able to continue business as usual. This bill eliminates any real incentives for the gun industry to act more responsibly. This can only result in more victims in the future like those killed by the DC area snipers.

This bill would bar cases including those brought by two New Jersey police officers, David Lemongello and Ken McGuire. They won a settlement from a pawn shop dealer who negligently sold twelve guns to a straw purchaser.

How does a straw purchaser work? This is one way: A criminal wants to buy several guns for his gang. He knows he can not buy it because he is a felon. So he gets his girlfriend who does not have a criminal record to go to the sales counter with him, and she buys the guns for him. The gun dealer knows something is wrong here, this young woman wanting to buy all these guns, but the dealer wants the money and goes ahead and sells the guns to the girl.

As a result of the police officers' suit, the West Virginia dealer changed its policies and now no longer engages in large-volume gun sales. Two other dealers in the same town also changed their policies. So the lawsuit brought about responsible behavior and our people are safer.

I want my colleagues to consider the outcome of this lawsuit. For two brave police officers, justice was done. The dealer was held accountable for its reckless sale to a straw purchaser, and now the dealer operates more responsibly. And no one declared bankruptcy.

This outcome was only possible because this special interest immunity bill had not yet become law.

Police and big city mayors oppose the bill before us. They say it will just make battling illegal guns more difficult and make police officers' lives more dangerous, more deadly. They oppose immunizing gun manufacturers against civil liability because it would remove much of their legal incentive to behave responsibly. It would just encourage bad manufacturers to remain bad, while giving good manufacturers the green light to become lax.

In my home state of California, we used to have a law that shielded gunmakers from liability, but the governor signed legislation repealing that law 2 years ago. Today in California, gun manufacturers like everyone else are responsible for making their products as safe as they can be.

We are safer today in California, but that margin of safety will disappear if Congress gives the gun industry special legal immunity.

In 1999, the late Senator John Chafee and I introduced the Firearms Rights, Responsibilities, and Remedies Act, which would have preserved the right of local governments and individuals to hold the gun industry accountable for avoidable gun violence.

Congress not only failed to pass our bill; the House and now many of my colleagues have charged off in the opposite direction to protect gunmakers while putting the rest of us at greater risk.

Who do we represent here? I ask my colleagues that we think about the 30,000 Americans killed every year by guns, and 12,000 children wounded each year by guns.

I urge my colleagues to listen to the police officers walking the beat, to Lynn Dix, the mother of Kenzo Dix, and to all the other mothers who have lost their children to gun violence, and to victims of the DC snipers' rampage. Listen to them and vote against this extremist bill.

Mr. FEINGOLD. Mr. President, I have already registered my disappointment at the majority leader's decision to cease work on an important defense authorization bill in order to move to the bill before us, S. 397. Today, I would like to speak about S. 397, the gun liability bill, and some of the amendments relating to firearms that have been offered to it.

Listening to the debate on this bill, the American people might get the impression that there are just two sides to this issue. On one side are those who view the right to bear arms as absolute and oppose any proposals that could remotely be considered as restrictions on that right. On the other side are those who view gun use as an evil in our society that must be limited in any way possible. Sometimes the rhetoric gets turned up so high that reasoned analysis and debate is obscured. That is unfortunate.

I have never accepted the proposition that the gun debate is a black and white issue, a matter of "you're with us, or you're against us." Instead, I have followed what I believe is a moderate course, faithful to the Constitution and to the realities of modern society. I believe that the second amendment was not an afterthought, that it has meaning today and must be respected. I support the right to bear arms for lawful purposes—for hunting and sport and for self-protection. Millions of Americans own firearms legally and we should not take action that tells them that they are second-class citizens or that their constitutional rights are under attack. At the same time, there are actions we can and should take to protect public safety that do not infringe on constitutional rights. I supported the amendment offered by the senior Senator from Wisconsin regarding child safety locks and was pleased that the Senate approved this measure, which does not infringe on the rights of law-abiding citizens to own and use guns.

I do not believe that granting special liability protection to the gun industry is necessary to protect the right to bear arms, however. There is no evidence that liability lawsuits threaten the existence of the gun industry in America. I believe it would be a mistake to impose a nationwide standard of tort liability on this industry that is more lenient than the standard that applies to the manufacturers or suppliers of any other product. The gun industry, like other industries, owes a duty to consumers of reasonable care, and juries of citizens are best able to define that standard as they do in tort cases of every imaginable type every day in this country.

Giving sweeping liability protection will cut off the rights of those injured by negligence and set a very dangerous precedent for how Congress treats corporate wrongdoers. I will, therefore, vote against S. 397.

I realize that many have very strong feelings about gun issues. But I also believe that most Americans favor a moderate approach. That is the approach I intend to follow. My approach may not satisfy those on the extremes of this debate, but I believe it reflects the commonsense views of reasonable Americans who regret that this issue has become the subject of such overheated rhetoric.

Mr. LEVIN. Mr. President, the misnamed Protection of Lawful Commerce in Arms Act would rewrite well-accepted principles of liability law, providing one industry, the gun industry, legal protections not enjoyed by other industries. In addition, this bill would set a dangerous precedent by giving a single industry broad immunity from civil liability and deprive many victims of gun violence with legitimate cases of their day in court.

Law enforcement and community groups oppose the gun industry immunity bill because they understand its negative impact on the legal rights of gun violence victims. The list of law enforcement groups opposing this bill includes the International Brotherhood of Police Officers, the Major Cities Chiefs Association, the National Black Police Association, and the Michigan Association of Chiefs of Police as well as police departments from around the country. The bill is also opposed by many organizations in Michigan including the League of Women Voters of Michigan, the Michigan Partnership to Prevent Gun Violence, and local chapters of the Million Mom March.

Tort law has been traditionally left to the States to define, and if changes have been necessary, Congress has usually deferred to State legislatures to make those changes. This bill seeks to impose a Federal tort regime that would significantly restrict the ability of State courts to hear and decide cases involving grossly negligent or reckless conduct by gun dealers and manufacturers, even where existing State law would permit such cases.

Some have argued that this legislation would protect the gun industry from frivolous lawsuits meant to bankrupt the entire industry. While most gun dealers and manufacturers conduct their business responsibly, this gun industry immunity legislation would provide broad protection from liability even in these cases where gross negligence or recklessness lead to someone being injured or killed. The issue here is not whether innocent manufacturers or gun dealers should be held accountable for the criminal actions of those who use their product. Manufacturers and dealers of guns have a right to make and sell guns. However, that right is not unlimited. It comes with some responsibility. Like every other business in this country, people who are in the gun business have a responsibility to conduct that business with reasonable care. If a member of the gun industry fails to do so, and their negligence or recklessness leads to someone being killed or injured, they should not be immune from suit.

As this bill is currently written, it is not sufficient that persons injured as a result of a gun manufacturer or dealer's negligence or reckless conduct prove their case; with a few exceptions, they would also have to show that the actions of the manufacturer or dealer were illegal to recover damages. This is a radical departure from not only common law but also from principles of fairness and the protection of victims' rights.

What if a gun dealer is not violating the law, but is reckless or grossly negligent in the way they maintain their inventory or secure the weapons they are selling? Tragically, we had such a situation in the 2002 DC area sniper shootings. Last year, the victims of the DC area sniper shootings won a multi-million-dollar settlement from Bulls Eye Shooter Supply for their negligence relative to the assault rifle used in the shootings. According to published reports, audits by the Bureau of Alcohol, Tobacco, Firearms and Explosives indicate that 238 guns had gone missing from Bull's Eye's inventory and over 50 had been traced to criminal acts since 1997. Had this gun industry immunity bill been enacted prior to the DC area sniper shootings, the victims would have been unable to even have their case against Bull's Eye Shooter Supply heard in court.

Another tragic example involving an innocent victim of gun violence is that of Danny Guzman. On Christmas Eve 1999, Danny Guzman was shot and killed in Worcester, MA. The gun used in the shooting was found nearly a week later by a 4-year-old child and was turned over to police. The gun had no serial number.

The investigation following the shooting revealed the gun was one of several stolen by employees of Kahr Arms. It was discovered that one of the employees in the Kahr manufacturing facility had stolen the gun used to kill Danny Guzman and sold it to buy crack cocaine. Publicly available records indicate this employee of the Kahr facility had been addicted to cocaine and was "habitually stealing money to support his cocaine habit."

In March of 2000, the police arrested the Kahr employee who later pled guilty to the gun thefts. The investigation also led to the arrest of a second Kahr employee who also pled guilty to stealing a gun.

According to a complaint that was filed by Danny Guzman's family. Kahr Arms not only apparently hired a drug addict with a record of criminal charges, but the company also chose not to utilize basic security measures that could have prevented the theft, or an inventory tracking system that could have determined that guns were missing. According to the family's complaint. Kahr Arms did not conduct background checks on employees. The company did not install metal detectors, security cameras, x-ray machines, or other devices to ensure that employees did not walk off with guns.

Despite the fact that Kahr Arms manufactures several types of "ultra compact" handguns, the company did not track its inventory in any meaningful way. And according to the complaint, from February 1998 to February 1999, approximately 16 shipments of handguns from Kahr Arms failed to arrive at their points of destination.

The lawsuit that was filed by Danny Guzman's surviving family members alleges the wrongful death based on Kahr Arms alleged negligence. While the defendants moved to dismiss this case on April 7, 2003, the Massachusetts Superior Court denied the motions. If the bill before us is enacted, the court would be required to dismiss the case against Kahr Arms.

Responsible gun dealers and manufacturers do not need immunity from liability, and we should not be protecting the reckless and negligent ones.

A letter to members of Congress from 75 law professors from universities around the country illustrates the extensive negative impact that this bill would have on the rights of innocent gun violence victims. Here's a few excerpts:

> It might appear from the face of the bill that S. 397 and H.R. 800 would leave open the possibility of tort liability for truly egregious misconduct, by virtue of several exceptions set forth in Section 4(5)(i). Those exceptions, however, are in fact quite narrow, and would give those in the firearm industry little incentive to attend to the risks of foreseeable third party misconduct.

One exception, for example would purport to permit certain actions for "negligent entrustment." The bill goes on, however, to define "negligent entrustment" extremely narrowly. The exception applies only to sellers, for example, and would not apply to distributors or manufacturers, no matter how egregious their conduct. Even as to sellers, the exception would apply only where the particular person to whom a seller supplies a firearm is one whom the seller knows or ought to know will use it to cause harm. The "negligent entrustment" exception would, therefore, not permit any action based on reckless distribution practices, negligent sales to gun traffickers who supply criminals, as in the above example, careless handling of firearms, lack of security, or any of a myriad potentially negligent acts.

Another exception would leave open the possibility of liability for certain statutory violations, variously defined, including those described under the heading of negligence per se. Statutory violations, however, represent just a narrow special case of negligence liability. No jurisdiction attempts to legislate standards of care as to every detail of life, even in a regulated industry; and there is no need. Why is there no need? Because general principles of tort law make clear that the mere absence of a specific statutory prohibition is not carte blanche for unreasonable or dangerous behavior. S. 397 and H.R. 800 would turn this traditional framework on its head and free those in the firearms industry to behave as carelessly as they would like, so long as the conduct has not been specifically prohibited. If there is no statute against leaving an open truckload of assault rifles on a street corner, or against selling hundreds of guns to the same individual, under this bill there could be no tort liability."

I ask unanimous consent that a copy of this letter be printed in the RECORD.

I offered an amendment to help address this problem in the bill. Many recklessness and gross negligence suits are not based on a violation of the law, but on a violation of a standard. My amendment would have provided that reckless or grossly negligent conduct by gun dealers or manufacturers, in other words, those whose own actions are a proximate cause of someone's death or injury, may be held liable in civil court for the damages they caused. This approach would have preserved well-established principles of our tort law. No one proposes, and this amendment did not propose, to make members of the gun industry responsible for the actions of criminals. This amendment would have made sure members of the gun industry are still responsible for their own reckless or negligent conduct.

It is truly unfortunate that the majority in the Senate did not adopt my amendment to protect the rights of victims of gun violence and to hold members of the gun industry accountable for their own actions when they lead to the injury or death of another person. I am also disappointed that the Senate failed to adopt amendments that would have protected the rights of children and law enforcement officers to file suit against irresponsible gun dealers and manufacturers who continue to contribute to the gun violence problem in our country.

We should not infringe upon the rights of gun violence victims in order to provide a single industry with immunity from liability. If this bill is enacted, other industries will almost certainly line up for similar protections. This is unwise legislation and it should not be adopted.

THE UNIVERSITY OF MICHIGAN
LAW SCHOOL,
*Ann Arbor, Michigan.*

DEAR SENATORS AND REPRESENTATIVES: As a professor of law at the University of Michigan Law School, I write to alert you to the legal implications of S. 397 and H.R. 800, the "Protection of Lawful Commerce in Arms Act." My colleagues, who join me in signing this letter, are professors at law schools around the country. This bill would represent a substantial and radical departure from traditional principles of American tort law. Though described as an effort to limit the unwarranted expansion of tort liability, the bill would in fact represent a dramatic narrowing of traditional tort principles by providing one industry with a literally unprecedented immunity from liability for the foreseeable consequences of negligent conduct.

S. 397 and H.R. 800, described as "a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages resulting from the misuse of their products by others," would largely immunize those in the firearms industry from liability for negligence. This would represent a sharp break with traditional principles of tort liability. No other industry enjoys or has ever enjoyed such a blanket freedom from responsibility for the foreseeable and preventable consequences of negligent conduct.

It might be suggested that the bill would merely preclude what traditional tort law ought to be understood to preclude in any event—lawsuits for damages resulting from third party misconduct, and in particular from the criminal misuse of firearms. This argument, however, rests on a fundamental misunderstanding of American tort law. American law has never embraced a rule freeing defendants from liability for the foreseeable consequences of their negligence merely because those consequences may include the criminal conduct of third parties. Numerous cases from every American jurisdiction could be cited here, but let the Restatement (Second) of Torts suffice:

§449. TORTIOUS OR CRIMINAL ACTS THE PROBABILITY OF WHICH MAKES ACTOR'S CONDUCT NEGLIGENT

If the likelihood that a third person may act in a particular manner is the hazard or one of the hazards which makes the actor negligent, such an act whether innocent, negligent, intentionally tortious, *or criminal* does not prevent the actor from being liable for harm caused thereby. (emphasis supplied)

Similarly, actors may be liable if their negligence enables or facilitates foreseeable third party criminal conduct.

Thus, car dealers who negligently leave vehicles unattended, railroads who negligently manage trains, hotel operators who negligently fail to secure rooms, and contractors who negligently leave dangerous equipment unguarded are all potentially liable if their conduct creates an unreasonable and foreseeable risk of third party misconduct, including illegal behavior, leading to harm. In keeping with these principles, cases have found that sellers of firearms and other products (whether manufacturers, distributors or dealers) may be liable for negligently supplying customers or downstream sellers whose negligence, in turn, results in injuries caused by third party criminal or negligent conduct. In other words, if the very reason one's conduct is negligent is because it creates a foreseeable risk of illegal third party conduct, that illegal conduct does not sever the causal connection between the negligence and the consequent harm. Of course, defendants are not automatically liable for illegal third party conduct, but are liable only if—given the foreseeable risk and the available precautions—they were unreasonable (negligent) in failing to guard against the danger. In most cases, moreover, the third party wrongdoer will also be liable. But, again, the bottom line is that under traditional tort principles a failure to take reasonable precautions against foreseeable dangerous illegal conduct by others is treated no differently from a failure to guard against any other risk.

S. 397 and H.R. 800 would abrogate this firmly established principle of tort law. Under this bill, the firearms industry would be the one and only business in which actors would be free utterly to disregard the risk, no matter how high or foreseeable, that their conduct might be creating or exacerbating a potentially preventable risk of third party misconduct. Gun and ammunition makers, distributors, importers, and sellers would, unlike any other business or individual, be free to take no precautions against even the most foreseeable and easily preventable harms resulting from the illegal actions of third parties. And they could engage in this negligent conduct persistently, even with the specific intent of profiting from sales of guns that are foreseeably headed to criminal hands. Under this bill, a firearms dealer, distributor, or manufacturer could park an unguarded open pickup truck full of loaded assault rifles on a city street corner, leave it there for a week, and yet be free from any negligence liability if and when the guns were stolen and used to do harm. A firearms dealer, in most states, could sell 100 guns to the same individual every day, even after the dealer is informed that these guns are being used in crime—even, say, by the same violent street gang.

It might appear from the face of the bill that S. 397 and H.R. 800 would leave open the possibility of tort liability for truly egregious misconduct, by virtue of several exceptions set forth in Section 4(5)(i). Those exceptions, however, are in fact quite narrow, and would give those in the firearm industry little incentive to attend to the risks of foreseeable third party misconduct.

One exception, for example would purport to permit certain actions for "negligent entrustment." The bill goes on, however, to define "negligent entrustment" extremely narrowly. The exception applies only to sellers, for example, and would not apply to distributors or manufacturers, no matter how egregious their conduct. Even as to sellers, the exception would apply only where the particular person to whom a seller supplies a firearm is one whom the seller knows or ought to know will use it to cause harm. The "negligent entrustment" exception would, therefore, not permit any action based on reckless distribution practices, negligent sales to gun traffickers who supply criminals (as in the above example), careless handling of firearms, lack of security, or any of a myriad potentially negligent acts.

Another exception would leave open the possibility of liability for certain statutory violations, variously defined, including those described under the heading of negligence per se. Statutory violations, however, represent just a narrow special case of negligence liability. No jurisdiction attempts to legislate standards of care as to every detail of life, even in a regulated industry; and there is no need. Why is there no need? Because general principles of tort law make clear that the mere absence of a specific statutory prohibition is not carte blanche for unreasonable or dangerous behavior. S. 397 and H.R. 800 would turn this traditional framework on its head; and free those in the firearms industry to behave as carelessly as they would like, so long as the conduct has not been specifically prohibited. If there is no statute against leaving an open truckload of assault rifles on a street corner, or against selling 100s of guns to the same individual, under this bill there could be no tort liability. Again, this represents radical departure from traditional tort principles.

My aim here is simply to provide information, and insure that you are not inadvertently misled about the meaning and scope of S. 397 and H.R. 800. As currently drafted, this Bill would not simply protect against the expansion of tort liability, as has been suggested, but would in fact dramatically limit the application of longstanding and otherwise universally applicable tort principles. It provides to firearms makers and distributors a literally unprecedented form of tort immunity not enjoyed or even dreamed-of by any other industry.

Professor Sherman J. Clark, University of Michigan Law School; Professor Richard L. Abel, UCLA Law School; Professor Barbara Bader Aldave, University of Oregon School of Law; Professor Mark F. Anderson, Temple University Beasley School of Law; Professor Emeritus James Francis Bailey, III Indiana University School of Law; Professor Elizabeth Bartholet, Harvard Law School; Professor Peter A Bell, Syracuse University College of Law; Professor Margaret Berger, Brooklyn Law School; Professor M. Gregg Bloche, Georgetown University Law Center; Professor Michael C. Blumm, Lewis and Clark Law School; Professor Carl T. Bogus, Roger Williams University School of Law; Professor Cynthia Grant Bowman, Northwestern University School of Law; Director of the MacArthur Justice Center and Lecturer in Law; Locke Bowman, University of Chicago Law School; Professor Scott Burris, Temple University Beasley School of Law; Professor Donna Byrne, William Mitchell College of Law; Professor Emily Calhoun, University of Colorado School of Law; Professor Erwin Chemerinsky, Duke Law School; Associate Clinical Professor Kenneth D. Chestek, Indiana University School of Law; Associate Professor Stephen Clark, Albany Law School; Professor Marsha N. Cohen, University of California Hastings College of the Law.

Professor Anthony D'Amato, Northwestern University School of Law; Professor John L. Diamond, University of California Hastings College of Law; Professor David R. Dow, University of Houston Law Center; Professor Jean M. Eggen, Widener University School of Law; Associate Professor Christine Haight Farley, American University, Washington College of Law; Associate Professor Ann E. Freedman, Rutgers Law School-Camden; Professor Gerald Frug, Harvard Law School; Professor Barry R. Furrow, Widener University School of Law; Associate Clinical Professor Craig Futterman, University of Chicago Law School; Professor David Gelfand, Tulane University Law School; Professor Phyllis Goldfarb, Boston College Law School; Professor Lawrence Gostin, Georgetown University Law Center; Professor Michael Gottesman, Georgetown University Law Center; Professor Stephen E. Gottlieb, Albany Law School; Professor Phoebe Haddon, Temple University Beasley School of Law; Professor Jon D. Hanson, Harvard Law School; Professor Douglas R. Heidenreich, William Mitchell College of Law; Professor Kathy Hessler, Case Western Reserve University School of Law; Professor Eric S. Janus, William Mitchell College of Law; Professor Sheri Lynn Johnson, Cornell Law School.

Professor David J. Jung, University of California Hastings College of Law; Associate Professor Ken Katkin, Salmon P. Chase College of Law, Northern Kentucky Univ.; Professor David Kairys, Temple University Beasley School of Law; Professor Kit Kinports, University of Illinois School of Law; Professor Martin A. Kotler, Widener University School of Law; Professor Baily Kuklin, Brooklyn Law School; Professor Arthur B. LaFrance, Lewis and Clark Law School; Professor Sylvia A. Law, NYU School of Law; Professor Ronald Lasing, Lewis and Clark Law School; Professor Robert Justin Lipkin, Widener University School of Law; Professor Hugh C. Macgill, University of Connecticut School of Law; Professor Mari J. Matsuda, Georgetown University Law Center; Associate Professor Finbarr McCarthy, University Beasley School of Law; Director (Retired Professor) Christine M. McDermott, Randolph County Family Crisis Center, North Carolina; Professor Joan S. Meier, George Washington University Law School; Professor Naomi Mezey, Georgetown University Law Center; Professor Eben Moglen, Columbia Law School; Professor Dawn C. Nunziato, George Washington University Law School; Professor Michael S. Perlin, New York Law School; Clinical Professor Mark A. Peterson, Northwestern School of Law, Lewis and Clark College.

Professor Mark C. Rahdert, Temple University Beasley School of Law; Professor Denise Roy, William Mitchell College of Law; Professor Joyce Saltalamachia, New York Law School; Clinical Assistant Professor David A. Santacroce, University of Michigan School of Law; Professor Niels Schaumanm, William Mitchell College of Law; Professor Margo Schlanger, Washington University School of Law; Professor Marjorie M. Shultz, University of California Boalt School of Law;

Senior Lecturer Stephen E. Smith, Northwestern University School of Law; Professor Peter J. Smith, George Washington University Law School; Professor Norman Stein, University of Alabama School of Law; Professor Duncan Kennedy, Harvard Law School; Professor Frank J.Vandall, Emory University School of Law; Professor Kelly Weisberg, University of California Hastings College of the Law; Professor Robin L. West, Georgetown University Law Center; Professor Christina B. Whitman, University of Michigan School of Law; Professor William M. Wiecek, Syracuse University College of Law; Professor Bruce Winick, University of Miami School of Law; Professor Stephen Wizner, Yale Law School; Professor William Woodward, Temple University Beasley School of Law.

Mr. CRAIG. Mr. President, as the sponsor of this legislation, I rise to clear up any questions that might arise when tying to understand the intent of S. 397 and what its enactment would accomplish. The Protection of Lawful Commerce in Arms Act will eliminate predatory lawsuits that would otherwise cripple an entire industry.

First, let me make two points about what the bill will not do. Nothing in the bill is intended to allow "leapfrogging" over the gun dealer to the manufacturer. The negligent entrustment provision applies specifically to the situation where a dealer knows or reasonably should know that a dangerous person is purchasing a firearm with the intent to commit, and does commit a crime with that firearm. When the manufacturer has done nothing but sell a legal, nondefective product according to the law, the negligent entrustment provision would not allow bypass of the gun dealer to get to the deeper pockets of the manufacturer.

It is also important to make sure that it is clear that the "administrative proceedings" section will have no effect on the ability of the Department of Alcohol, Tobacco, and Firearms or any administrative agency to revoke licenses or otherwise engage in administrative proceedings to punish bad acting manufacturers, distributors, or dealers, or otherwise enforce the laws and regulations that apply to them.

The bill's definition section describes abusive suits in which a party is seeking relief resulting from the criminal or unlawful misuse of a qualified product by the person or a third party." This definition clearly does not describe ATF enforcement proceedings. ATF is authorized to begin enforcement proceedings when a violation of our Nation's Federal gun laws has occurred. The use or misuse of the product is irrelevant to whether ATF may begin an administrative proceeding.

In fact, ATF does not use administrative enforcement proceedings to seek "relief" for the "misuse" of a product. The law does not require there be a "use"—let alone a "misuse" of the product—in order for ATF to act. ATF can begin a license revocation proceeding against a dealer for even a single violation of Federal firearms laws, regardless of whether the gun is ever "used" or "misused" by anyone. ATF can begin proceedings based on recordkeeping violations, for instance, even if no firearm ever leaves the dealer's place of business.

Some have tried to suggest that a dealer selling a gun without doing the proper paperwork or meeting other legal requirements might count as "misuse." This stretches the term "use" beyond all rational meaning, and I believe the courts of our Nation would agree. For instance, the Supreme Court has held that firearms "use" in a violent or drug-trafficking crime requires "active employment." *Bailey* v. *U.S.*, 516 U.S. 137 (1995). If there is no "use" of the gun—only a sale—then there can be no "misuse."

But even if we were to consider an illegal sale to be "misuse," we must look at the last part of the definition: A "qualified civil liability action" involves the "criminal or unlawful misuse of a qualified product by the person or a third party." If we were talking about an ATF action, then "the person" would be ATF itself. Obviously, that is not what ATF claims in an administrative proceeding. So we could only be speaking of a misuse by "a third party"—and in an enforcement proceeding, neither the dealer nor the ATF is a "third party."

For all of these reasons, I think it is very clear that the language in this bill about "administrative proceedings" should in no way prevent any action by ATF to enforce the firearms laws of the United States. It is only intended to prevent—and, I believe, only does prevent—abuse of the courts and of various administrative processes that could be manipulated unfairly at the State or local level. Furthermore, it is worth noting that since the term "administrative preceeding" is part of the definition of a "qualified civil action," then all of the exemptions of the bill permitting an action to proceed would equally apply to an administrative proceeding.

However, to make this intent absolutely clear, Senator FRIST and I have offered an amendment to the exemptions section of the bill that would add "an action or proceeding commenced by the Attorney General to enforce the provisions of chapter 44 of title 18, United States Code, or chapter 53 of the Internal Revenue Code of 1986." The sections of the US Code I just referenced are also known as the Gun Control Act and the National Firearms Act. Again, this would underscore what is the plain intent of the bill—to allow enforcement of our Nation's firearms laws through administrative proceedings.

Second, I want to give some examples of exactly the type of predatory lawsuits this bill will eliminate. I think it is important that we all understand the current abuse of the legal system to implement radical policies that could not be accomplished through the democratic process and understand that after passing S. 397, we will finally put an end to that abuse.

One key element of the legislation is to provide for the dismissal of pending litigation. Dismissals should be immediate—not after trial. Courts should dismiss on their own motion, instead of forcing defendants to incur the additional costs and delay of filing motions and arguing. Let me emphasize that S. 397 recognizes these lawsuits are an abuse of courts and law-abiding businesses and individuals, and I would respectfully submit that it should be the goal of our Nation's courts to eliminate those abuses as swiftly as possible, when enactment of S. 397 gives them the authority to do so.

In City of New York v. Beretta USA Corp. et al. currently set for trial on September 7 in Federal court in Brooklyn, NY, the plaintiff has asserted that industry members have created a "public nuisance." The lawful sale of a highly regulated product later misused by criminals is not a public nuisance;and has never been considered a public nuisance in American jurisprudence.

Another suit expected to be affected by S. 397 is the District of Columbia and nine individual plaintiffs, Lawson, et al. that have sued members of the firearms industry, under a statute that unbelievably imposes automatic and absolute liability. The law in question says you are liable "without regard to fault or proof of defect." There is also a case pending in Federal court in the District of Columbia in which a gun manufacturer is being sued under this very statute, Charlot v. Bushmaster. The companies being sued under the District "automatic" liability law have no defense.

Another example of a lawsuit captured by this bill is the case of Ileto v. Glock, pending in Federal court in Los Angeles, CA, against Glock and a distributor, RSR. The United States Ninth Circuit Court of Appeals said Glock and RSR could be sued for a criminal shooting when Glock sold the pistol to a Washington State police department and the distributor RSR never owned, nor sold, nor possessed the firearm.

Yet another example are the suits pending against members of the firearms industry by cities like Gary, IN and Cleveland, OH even though the States of Indiana and Ohio have themselves passed State laws similar in purpose and intent to S. 397.

In the past few days, lawyers from anti-gun interest groups have rushed to the courthouse to file at least three lawsuits, one in New York and two in Pennsylvania against manufacturers

Sturm Ruger, Phoenix Arms, and Hi-Point, and I suspect there will be more suits filed in the days and weeks ahead. While we do not know all the facts yet, in one of these cases we do know that the sale by the dealer was of a single firearm made by an employee of that dealer who was an off-duty federal law enforcement agent and the firearm in that case was only transferred to the buyer after he or she filled out the required paperwork and after the background check by the FBI, as required under the Brady Act.

Congress is properly acting here under its Commerce Clause powers, as we have done many times in the past. We are also rightly concerned, as is the Department of Defense, that if these lawsuits succeed in driving gun manufacturers out of business, the national defense will be harmed. The same is true for our homeland security, as these same companies make the firearms used by law enforcement, including the Capitol Police, of which my distinguished colleague, the Democratic Leader Mr. REID was once a proud member.

The Constitution also, I believe, imposes upon Congress the duty to protect the liberties enshrined in the Bill of Rights which includes the second amendment. If the firearms manufacturers are driven out of business, that second amendment will be nothing more than an illusion.

Mr. President, I hope these comments will be helpful for anyone seeking additional information about the intent and—I believe—the impact of enacting S. 397, the Protection of Lawful Commerce in Arms Act.

Mr. WARNER. Mr. President, I rise today to share my views on the legislation before the Senate, S. 397, the gun liability bill.

From the outset, let me make clear: I am a strong supporter of measured, balanced, and fair tort reform. In my over 27 years in the Senate, I have consistently supported measures to reform our legal system when such measures benefit the American people as a whole, benefit our Nation's economy, and still remain fair to legitimate victims who have been wrongfully injured due to the wrongful actions of another.

Without a doubt, the gun, liability bill tries to address a very real problem in America. There is no question that the gun industry in this country is under legal siege from frivolous lawsuits. These lawsuits threaten the very vitality of the gun industry in America and, by extension, the ability of those of us who enjoy hunting, sport shooting, and the collecting of vintage guns, as I have done nearly all of my life. In my view, there is no question that law abiding gun manufacturers and law-abiding gun dealers deserve some measure of fair, balanced legal reform.

But equally true is that the gun liability bill before us today is an overly broad solution to a serious problem because it will immunize from legitimate lawsuits for negligence those very few, I repeat, very few irresponsible gun dealers and manufacturers in the industry whose actions, again and again, contribute to violent crime in this country.

This wide grant of immunity undoubtedly comes with unintended consequences.

For example, we know that under this bill, if it were law at the time, the victims of the DC area sniper shootings would have been unable to pursue their claim against an unbelievably negligent gun dealer who allowed the snipers to steal the weapon they used to kill so many innocent victims. This wasn't the first time this dealer had been negligent in accounting for its gun inventory. Indeed, it had previously lost over 200 weapons over a short period of time. This dealer had a track record of again and again losing firearms. That is why they were sued, and that is why the dealer ultimately settled the sniper victim's lawsuit for $2.5 million. The gun liability bill, though, would have rewarded this dealer's bad behavior by granting it immunity for these egregious acts.

I offered an amendment to correct this flaw. My amendment would have ensured that the 99 percent of law-abiding gun dealers in America would be protected from frivolous lawsuits, but ensured that those very few irresponsible gun dealers were not rewarded with immunity for their bad behavior. Unfortunately, procedural maneuvers made by others in accordance with Senate rules prevented me from obtaining an up-or-down vote on my germane amendment. So these defects in the bill remain uncorrected.

Over the course of the past week, these issues, both the pros and cons of this bill, have been extensively debated here in the Senate. The issues are clear. On the one hand, the need for tort reform for the gun industry is very real. On the other hand, I believe this is an overly broad measure that will likely treat some future victims of gun crimes unfairly.

These factors are not easy to weigh. But as I went through the process of examining this legislation and listening to the debate, one particular point seemed to always stick out above all others. And that is the preeminent importance of America's national security.

As the chairman of the Senate Armed Services Committee, I recently requested that the Department of Defense review this legislation. In its reply, the Department's Office of General Counsel stated that the Department supports this gun liability legislation because it "would help safeguard our national security by limiting unnecessary lawsuits against an industry that plays a critical role in meeting the procurement needs of our men and women in uniform." I ask unanimous consent to include a copy of this letter in the RECORD.

(See exhibit 1.)

The PRESIDING OFFICER. Without objection, so ordered.

Mr. WARNER. Indeed, the gun industry does play a crucial role in helping to equip the men and women of our Armed Forces. Companies like Beretta U.S.A., Colt Manufacturing, and others supply a host of weapons and small arms that are vital to our military.

This fact is significant because the truth of the matter is that, for a variety of complex reasons, America's military is increasingly being forced to turn to foreign sources for new technology. We simply cannot afford to lose more and more technical expertise if we want to ensure that our men and women in uniform will always have the best equipment and the best technology in the world. Our national security is dependent on having homegrown talent and expertise, and this legislation will help ensure that we do.

Ultimately, it is for these reasons that I have decided to cast my vote in support of this legislation.

EXHIBIT 1

DEPARTMENT OF DEFENSE,
OFFICE OF GENERAL COUNSEL,
*Washington, DC, July 29, 2005.*

Hon. JOHN WARNER,
*Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: We are pleased to provide you with the Department of Defense's view on S. 397, a bill to "prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others."

The Department of Defense strongly supports this legislation.

We believe that passage of S. 397 would help safeguard our national security by limiting unnecessary lawsuits against an industry that plays a critical role in meeting the procurement needs of our men and women in uniform.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this letter for the consideration of the committee.

Sincerely,

DANIEL J. DELL'ORTO,
*Acting.*

Mr. CRAIG. Mr. President, last year, we promised the cosponsors of this legislation that we would return to this issue and seek a fair opportunity to consider a bill free of any poison pill amendments.

Thanks to the leadership of Senator FRIST and the cooperation of our colleagues on both sides of the aisle, that day has come.

This bill will end an outrageous abuse of our courts and law-abiding American businesses.

This bill will not prevent a single victim from obtaining relief for wrongs done to them by anyone in the gun industry.

S. 397 will only stop one narrowly-drawn kind of lawsuit: predatory lawsuits seeking to hold legitimate, law-abiding businesses responsible for harm done by the misdeeds of people over whom they had no control.

We called this bill the Protection of Lawful Commerce in Arms. That is precisely what it is designed to do—to protect lawful commerce in the firearms that supply our nation's military and peace officers, and the millions of law-abiding citizens who acquire guns as collectors, hunters, target shooters, or for self-defense.

I am pleased that the Senate will shortly be voting on this legislation, but before we do, let me express my thanks to a number of people who made this possible.

I would like to thank the 61 cosponsors of this legislation for their support and encouragement—and the colleagues who counseled with me on shaping the debate and who spoke on the floor, especially Senators SESSIONS, CORNYN, GRAHAM, KYL, COBURN, BURR, THUNE, CHAMBLISS, HUTCHISON, HATCH, BOND, and, of course, the lead Democrat sponsor of this legislation, Senator BAUCUS.

As I have said, special thanks to the Republican majority leader and whip for their leadership and the resources of their offices, including the help of their talented staff, in particular, Eric Ueland and Sharon Soderstrom, and Jim Hippe; Kyle Simmons, John Abegg, Laura Pemberton, Brian Lewis and Malloy McDaniel.

I would also like to thank the Democrat leader, Senator REID, for his constructive input in moving us to the end of this debate.

I am especially grateful to have had the help of the Judiciary Committee, and in particular Brett Tolman of Chairman SPECTER's staff, and James Suehr.

Let me also thank the staff who spent many early and late hours working on this legislation and the debate: William Henderson, William Smith, Mary Chesser, Bob Taylor, Don Dempsey and Andy Moskowitz, James Galyean, Chip Roy, Ajit Pai, and Wendy Fleming. I want you all to know you were all part of an historic effort, and your hard work is appreciated.

Finally, I would like to thank the distinguished gentleman from Rhode Island, Senator REED, for his courtesy as we worked together to manage a difficult debate. Although we disagree on the issue, he has never been disagreeable, and I appreciate the tone he brought to the debate.

And now, Mr. President, I urge my colleagues to pass this legislation, and I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, last year, I promised the cosponsors of this important legislation that we would return with a fair opportunity to work our will against the wrong kind of amendments and attempt to establish a clear record on what I think is a very important decision that the Senate is about to make.

I offer a very special thanks to Senator FRIST for his cooperation and all of my colleagues who have helped bring this bill to the Senate floor in the method we have and the success we have had.

This bill is intended to do one thing, and that is to end the abuse that is now going on in the court system of America against law-abiding American businesses when they violate no law. But because the product they sell in the marketplace may ultimately be misused in a criminal act, therefore someone, including some of my colleagues, would suggest that law-abiding business person is liable. I suggest and I think the Senate tonight will say they ought not be. But if that law-abiding citizen violates the law or produces a faulty product, then they are liable. That is the law today.

What we have crafted is a very narrow exemption from predatory lawsuits seeking to hold legitimate, law-abiding people responsible for the harm done by the misdeeds of people over whom they have no control. That is what S. 397 is all about. You can put all kinds of different explanations around it, but the reality is very clear and the legislation is really very simple. It is straightforward. It is intended to be. It is intended to stop those kinds of abusive lawsuits.

Mr. President, I think we have concluded. If my colleague does not have anything more to say, my colleague and I yield back the remainder of our time.

### AMENDMENT NO. 1606, AS MODIFIED

The PRESIDING OFFICER. The Frist amendment No. 1606, as modified, to amendment No. 1605, as modified, is agreed to.

The amendment (No. 1606), as modified, was agreed to.

### AMENDMENT NO. 1605, AS MODIFIED

The PRESIDING OFFICER. The Criag amendment No. 1605, as modified, as amended, is agreed to.

The amendment (No. 1606), as modified, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass?

Mr. CRAIG. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Kansas (Mr. ROBERTS), the Senator from Oregon (Mr. SMITH), and the Senator from New Hampshire (Mr. SUNUNU).

Further, if present and voting, the Senator from Oregon (Mr. SMITH) and the Senator from Kansas (Mr. ROBERTS) would have voted "yea."

Mr. DURBIN. I announce that on this vote, the Senator from California (Mrs. FEINSTEIN) is paired with the Senator from Kansas (Mr. ROBERTS).

If present and voting, the Senator from California would vote "no" and the Senator from Kansas would vote "yes."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 31, as follows:

[Rollcall Vote No. 219 Leg.]

### YEAS—65

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Burr
Byrd
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
Dole
Domenici
Dorgan
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Johnson
Kohl
Kyl
Landrieu
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Pryor
Reid
Rockefeller
Salazar
Santorum
Sessions
Shelby
Snowe
Specter
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner

### NAYS—31

Akaka
Bayh
Biden
Bingaman
Boxer
Cantwell
Carper
Chafee
Clinton
Corzine
Dayton
DeWine
Dodd
Durbin
Feingold
Harkin
Inouye
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Murray
Obama
Reed
Sarbanes
Schumer
Stabenow
Wyden

### NOT VOTING—4

Feinstein
Roberts
Smith
Sununu

The bill (S. 397), as amended, was passed, as follows:

S. 397

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Protection of Lawful Commerce in Arms Act".

**SEC. 2. FINDINGS; PURPOSES.**

(a) FINDINGS.—Congress finds the following:

(1) The Second Amendment to the United States Constitution provides that the right of the people to keep and bear arms shall not be infringed.

(2) The Second Amendment to the United States Constitution protects the rights of individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms.

(3) Lawsuits have been commenced against manufacturers, distributors, dealers, and importers of firearms that operate as designed and intended, which seek money damages and other relief for the harm caused by the misuse of firearms by third parties, including criminals.

(4) The manufacture, importation, possession, sale, and use of firearms and ammunition in the United States are heavily regulated by Federal, State, and local laws. Such Federal laws include the Gun Control Act of 1968, the National Firearms Act, and the Arms Export Control Act.

(5) Businesses in the United States that are engaged in interstate and foreign commerce through the lawful design, manufacture, marketing, distribution, importation, or sale to the public of firearms or ammunition products that have been shipped or transported in interstate or foreign commerce are not, and should not, be liable for the harm caused by those who criminally or unlawfully misuse firearm products or ammunition products that function as designed and intended.

(6) The possibility of imposing liability on an entire industry for harm that is solely caused by others is an abuse of the legal system, erodes public confidence in our Nation's laws, threatens the diminution of a basic constitutional right and civil liberty, invites the disassembly and destabilization of other industries and economic sectors lawfully competing in the free enterprise system of the United States, and constitutes an unreasonable burden on interstate and foreign commerce of the United States.

(7) The liability actions commenced or contemplated by the Federal Government, States, municipalities, and private interest groups and others are based on theories without foundation in hundreds of years of the common law and jurisprudence of the United States and do not represent a bona fide expansion of the common law. The possible sustaining of these actions by a maverick judicial officer or petit jury would expand civil liability in a manner never contemplated by the framers of the Constitution, by Congress, or by the legislatures of the several States. Such an expansion of liability would constitute a deprivation of the rights, privileges, and immunities guaranteed to a citizen of the United States under the Fourteenth Amendment to the United States Constitution.

(8) The liability actions commenced or contemplated by the Federal Government, States, municipalities, private interest groups and others attempt to use the judicial branch to circumvent the Legislative branch of government to regulate interstate and foreign commerce through judgments and judicial decrees thereby threatening the Separation of Powers doctrine and weakening and undermining important principles of federalism, State sovereignty and comity between the sister States.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To prohibit causes of action against manufacturers, distributors, dealers, and importers of firearms or ammunition products, and their trade associations, for the harm solely caused by the criminal or unlawful misuse of firearm products or ammunition products by others when the product functioned as designed and intended.

(2) To preserve a citizen's access to a supply of firearms and ammunition for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(3) To guarantee a citizen's rights, privileges, and immunities, as applied to the States, under the Fourteenth Amendment to the United States Constitution, pursuant to section 5 of that Amendment.

(4) To prevent the use of such lawsuits to impose unreasonable burdens on interstate and foreign commerce.

(5) To protect the right, under the First Amendment to the Constitution, of manufacturers, distributors, dealers, and importers of firearms or ammunition products, and trade associations, to speak freely, to assemble peaceably, and to petition the Government for a redress of their grievances.

(6) To preserve and protect the Separation of Powers doctrine and important principles of federalism, State sovereignty and comity between sister States.

(7) To exercise congressional power under art. IV, section 1 (the Full Faith and Credit Clause) of the United States Constitution.

### SEC. 3. PROHIBITION ON BRINGING OF QUALIFIED CIVIL LIABILITY ACTIONS IN FEDERAL OR STATE COURT.

(a) IN GENERAL.—A qualified civil liability action may not be brought in any Federal or State court.

(b) DISMISSAL OF PENDING ACTIONS.—A qualified civil liability action that is pending on the date of enactment of this Act shall be immediately dismissed by the court in which the action was brought or is currently pending.

### SEC. 4. DEFINITIONS.

In this Act:

(1) ENGAGED IN THE BUSINESS.—The term "engaged in the business" has the meaning given that term in section 921(a)(21) of title 18, United States Code, and, as applied to a seller of ammunition, means a person who devotes, time, attention, and labor to the sale of ammunition as a regular course of trade or business with the principal objective of livelihood and profit through the sale or distribution of ammunition.

(2) MANUFACTURER.—The term "manufacturer" means, with respect to a qualified product, a person who is engaged in the business of manufacturing the product in interstate or foreign commerce and who is licensed to engage in business as such a manufacturer under chapter 44 of title 18, United States Code.

(3) PERSON.—The term "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity, including any governmental entity.

(4) QUALIFIED PRODUCT.—The term "qualified product" means a firearm (as defined in subparagraph (A) or (B) of section 921(a)(3) of title 18, United States Code), including any antique firearm (as defined in section 921(a)(16) of such title), or ammunition (as defined in section 921(a)(17)(A) of such title), or a component part of a firearm or ammunition, that has been shipped or transported in interstate or foreign commerce.

(5) QUALIFIED CIVIL LIABILITY ACTION.—

(A) IN GENERAL.—The term "qualified civil liability action" means a civil action or proceeding or an administrative proceeding brought by any person against a manufacturer or seller of a qualified product, or a trade association, for damages, punitive damages, injunctive or declaratory relief, abatement, restitution, fines, or penalties, or other relief" resulting from the criminal or unlawful misuse of a qualified product by the person or a third party, but shall not include—

(i) an action brought against a transferor convicted under section 924(h) of title 18, United States Code, or a comparable or identical State felony law, by a party directly harmed by the conduct of which the transferee is so convicted;

(ii) an action brought against a seller for negligent entrustment or negligence per se;

(iii) an action in which a manufacturer or seller of a qualified product knowingly violated a State or Federal statute applicable to the sale or marketing of the product, and the violation was a proximate cause of the harm for which relief is sought, including—

(I) any case in which the manufacturer or seller knowingly made any false entry in, or failed to make appropriate entry in, any record required to be kept under Federal or State law with respect to the qualified product, or aided, abetted, or conspired with any person in making any false or fictitious oral or written statement with respect to any fact material to the lawfulness of the sale or other disposition of a qualified product; or

(II) any case in which the manufacturer or seller aided, abetted, or conspired with any other person to sell or otherwise dispose of a qualified product, knowing, or having reasonable cause to believe, that the actual buyer of the qualified product was prohibited from possessing or receiving a firearm or ammunition under subsection (g) or (n) of section 922 of title 18, United States Code;

(iv) an action for breach of contract or warranty in connection with the purchase of the product;

(v) an action for death, physical injuries or property damage resulting directly from a defect in design or manufacture of the product, when used as intended or in a reasonably foreseeable manner, except that where the discharge of the product was caused by a volitional act that constituted a criminal offense then such act shall be considered the sole proximate cause of any resulting death, personal injuries or property damage; or

(vi) and action or proceeding commenced by the Attorney General to enforce the provisions of chapter 44 of title 18 or chapter 53 of title 26, United States Code.

(B) NEGLIGENT ENTRUSTMENT.—As used in subparagraph (A)(ii), the term 'negligent entrustment' means the supplying of a qualified product by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

(C) RULE OF CONSTRUCTION.—The exceptions enumerated under clauses (i) through (v) of subparagraph (A) shall be construed so as not to be in conflict, and no provision of this Act shall be construed to create a public or private cause of action or remedy.

(D) MINOR CHILD EXCEPTION.—Nothing in this Act shall be construed to limit the right of a person under 17 years of age to recover damages authorized under Federal or State law in a civil action that meets 1 of the requirements under clauses (i) through (v) of subparagraph (A).

(6) SELLER.—The term "seller" means, with respect to a qualified product—

(A) an importer (as defined in section 921(a)(9) of title 18, United States Code) who is engaged in the business as such an importer in interstate or foreign commerce and who is licensed to engage in business as such an importer under chapter 44 of title 18, United States Code;

(B) a dealer (as defined in section 921(a)(11) of title 18, United States Code) who is engaged in the business as such a dealer in interstate or foreign commerce and who is licensed to engage in business as such a dealer under chapter 44 of title 18, United States Code; or

(C) a person engaged in the business of selling ammunition (as defined in section 921(a)(17)(A) of title 18, United States Code) in interstate or foreign commerce at the wholesale or retail level.

(7) STATE.—The term "State" includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any political subdivision of any such place.

(8) TRADE ASSOCIATION.—The term "trade association" means—

(A) any corporation, unincorporated association, federation, business league, professional or business organization not organized or operated for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(B) that is an organization described in section 501(c)(6) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code; and

(C) 2 or more members of which are manufacturers or sellers of a qualified product.

(9) UNLAWFUL MISUSE.—The term "unlawful misuse" means conduct that violates a statute, ordinance, or regulation as it relates to the use of a qualified product.

### SEC. 5. CHILD SAFETY LOCKS.

(a) SHORT TITLE.—This section may be cited as the "Child Safety Lock Act of 2005".

(b) PURPOSES.—The purposes of this section are—

(1) to promote the safe storage and use of handguns by consumers;

(2) to prevent unauthorized persons from gaining access to or use of a handgun, including children who may not be in possession of a handgun; and

(3) to avoid hindering industry from supplying firearms to law abiding citizens for all lawful purposes, including hunting, self-defense, collecting, and competitive or recreational shooting.

(c) FIREARMS SAFETY.—

(1) MANDATORY TRANSFER OF SECURE GUN STORAGE OR SAFETY DEVICE.—Section 922 of title 18, United States Code, is amended by inserting at the end the following:

"(z) SECURE GUN STORAGE OR SAFETY DEVICE.—

"(1) IN GENERAL.—Except as provided under paragraph (2), it shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell, deliver, or transfer any handgun to any person other than any person licensed under this chapter, unless the transferee is provided with a secure gun storage or safety device (as defined in section 921(a)(34)) for that handgun.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A)(i) the manufacture for, transfer to, or possession by, the United States, a department or agency of the United States, a State, or a department, agency, or political subdivision of a State, of a handgun; or

"(ii) the transfer to, or possession by, a law enforcement officer employed by an entity referred to in clause (i) of a handgun for law enforcement purposes (whether on or off duty); or

"(B) the transfer to, or possession by, a rail police officer employed by a rail carrier and certified or commissioned as a police officer under the laws of a State of a handgun for purposes of law enforcement (whether on or off duty);

"(C) the transfer to any person of a handgun listed as a curio or relic by the Secretary pursuant to section 921(a)(13); or

"(D) the transfer to any person of a handgun for which a secure gun storage or safety device is temporarily unavailable for the reasons described in the exceptions stated in section 923(e), if the licensed manufacturer, licensed importer, or licensed dealer delivers to the transferee within 10 calendar days from the date of the delivery of the handgun to the transferee a secure gun storage or safety device for the handgun.

"(3) LIABILITY FOR USE.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, a person who has lawful possession and control of a handgun, and who uses a secure gun storage or safety device with the handgun, shall be entitled to immunity from a qualified civil liability action.

"(B) PROSPECTIVE ACTIONS.—A qualified civil liability action may not be brought in any Federal or State court.

"(C) DEFINED TERM.—As used in this paragraph, the term 'qualified civil liability action'—

"(i) means a civil action brought by any person against a person described in subparagraph (A) for damages resulting from the criminal or unlawful misuse of the handgun by a third party, if—

"(I) the handgun was accessed by another person who did not have the permission or authorization of the person having lawful possession and control of the handgun to have access to it; and

"(II) at the time access was gained by the person not so authorized, the handgun had been made inoperable by use of a secure gun storage or safety device; and

"(ii) shall not include an action brought against the person having lawful possession and control of the handgun for negligent entrustment or negligence per se.".

(2) CIVIL PENALTIES.—Section 924 of title 18, United States Code, is amended—

(A) in subsection (a)(1), by striking "or (f)" and inserting "(f), or (p)"; and

(B) by adding at the end the following:

"(p) PENALTIES RELATING TO SECURE GUN STORAGE OR SAFETY DEVICE.—

"(1) IN GENERAL.—

"(A) SUSPENSION OR REVOCATION OF LICENSE; CIVIL PENALTIES.—With respect to each violation of section 922(z)(1) by a licensed manufacturer, licensed importer, or licensed dealer, the Secretary may, after notice and opportunity for hearing—

"(i) suspend for not more than 6 months, or revoke, the license issued to the licensee under this chapter that was used to conduct the firearms transfer; or

"(ii) subject the licensee to a civil penalty in an amount equal to not more than $2,500.

"(B) REVIEW.—An action of the Secretary under this paragraph may be reviewed only as provided under section 923(f).

"(2) ADMINISTRATIVE REMEDIES.—The suspension or revocation of a license or the imposition of a civil penalty under paragraph (1) shall not preclude any administrative remedy that is otherwise available to the Secretary.".

(3) LIABILITY; EVIDENCE.—

(A) LIABILITY.—Nothing in this section shall be construed to—

(i) create a cause of action against any Federal firearms licensee or any other person for any civil liability; or

(ii) establish any standard of care.

(B) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding compliance or noncompliance with the amendments made by this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity, except with respect to an action relating to section 922(z) of title 18, United States Code, as added by this subsection.

(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to bar a governmental action to impose a penalty under section 924(p) of title 18, United States Code, for a failure to comply with section 922(z) of that title.

(d) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect 180 days after the date of enactment of this Act.

### SEC. 6. ARMOR PIERCING AMMUNITION.

(a) UNLAWFUL ACTS.—Section 922(a) of title 18, United States Code, is amended by striking paragraphs (7) and (8) and inserting the following:

"(7) for any person to manufacture or import armor piercing ammunition, unless—

"(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

"(B) the manufacture of such ammunition is for the purpose of exportation; or

"(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

"(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

"(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

"(B) is for the purpose of exportation; or

"(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;".

(b) PENALTIES.—Section 924(c) of title 18, United States Code, is amended by adding at the end the following:

"(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

"(A) be sentenced to a term of imprisonment of not less than 15 years; and

"(B) if death results from the use of such ammunition—

"(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

"(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.".

(c) STUDY AND REPORT.—

(1) STUDY.—The Attorney General shall conduct a study to determine whether a uniform standard for the testing of projectiles against Body Armor is feasible.

(2) ISSUES TO BE STUDIED.—The study conducted under paragraph (1) shall include—

(A) variations in performance that are related to the length of the barrel of the handgun or center-fire rifle from which the projectile is fired; and

(B) the amount of powder used to propel the projectile.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report containing the results of the study conducted under this subsection to—

(A) the chairman and ranking member of the Committee on the Judiciary of the Senate; and

(B) the chairman and ranking member of the Committee on the Judiciary of the House of Representatives.

## SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS

Mr. INHOFE. Mr. President, I submit a report of the committee of conference on the bill (H.R. 3), and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3), to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of July 28, 2005.)

Mr. INHOFE. I understand we have 15 minutes divided evenly between the majority and minority, and the Senator from Arizona has up to 30 minutes.

I ask now to recognize the Senator from Arizona for up to 30 minutes.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, this is a remarkable piece of work. I want to assure my colleagues that I will not take a half hour, but I will take a few minutes to talk about some of the interesting and egregious and remarkable aspects of this bill.

There is an old saying about evil, and that is, if you do not check it or reverse it, then it just continues to get worse. I have to say, I haven't seen anything quite like this, although I have seen some pretty bad things in the years that I have been here.

It is $286.4 billion, terrifying in its fiscal consequences and disappointing for the lack of fiscal discipline it represents. I wonder what it is going to take to make the case for fiscal sanity here. If you had asked me years ago, I would have said that the combination of war, record deficits, and the largest public debt in the country's history would constitute a sufficient perfect storm to break us out of this spending addiction—and I would have been wrong. I think we can weather almost any storm thrown at us. This week's expenditures, I think, are a pretty good example.

I mentioned before, we are all the beneficiaries of the foresight of President Eisenhower and the Congress that helped to shepherd the original highway bill legislation. I have carried it to the floor before. It is about that thick. It has two demonstration projects in it.

This is just a small example of some of the provisions in this bill, which are unnumbered pages. The conferees didn't even have time to number the pages. I have no idea how many billions are in here. Some, I am sure, are very good projects. Many of them are interesting. Some of them are entertaining. Just glance right here: Parking facility in Peoria, IL. $800,000. A parking facility in a highway bill.

The original bill as proposed by President Eisenhower and adopted by the Congress had two demonstration projects. Now we have a lot. No one has counted them yet. No one has counted these projects because we have not, of course, had time—because they have been stuffed in late, in the middle of the night.

Not surprisingly, my colleagues have come to me and begged: Please make this short; I have a plane to catch. Please don't take too long; I have a plane to catch. I have to get out of here.

Of course, it is just a coincidence that we happen to be considering this legislation just before we leave.

How do we celebrate? Let me count the ways.

Section 1963. Apollo theater leases. The section would require the Economic Development Administration to lease and improve the Apollo Theater, in Harlem, New York.

The Apollo Theater in Harlem, NY.

Midway Airport, directs the Coast Guard, in consultation with the Department of Transportation, to make grants or other funding to provide for the operation of Midway Airport.

This is not an airport bill; this is a highway bill.

Expands the authority of the State of Oklahoma in environmental matters to extend over "Indian country" within that State.

Let me say that again.

Expands the authority of the State of Oklahoma in environmental matters to extend over "Indian country" within that State.

I don't know what that costs. But what in the world is it doing on a highway bill?

Requires for Treatment as a State under EPA regulations, an Indian Tribe in Oklahoma, and the State of Oklahoma, must enter a cooperative agreement to jointly plan and administer program requirements.

What is that all about? No one has ever brought it to my attention as chairman of the Indian Affairs Committee. I admit it is a long-neglected committee—at least until recently.

Eligibility to Participate in Western Alaska Community Development Quota Program. Designates a community to be eligible to participate in the Western Alaska Community Development Program established under the Magnuson-Stevens Act.

It may be worthwhile. I have no clue. What in the world does it have to do with a highway bill?

This is one of the most remarkable I have ever seen. I have been talking about these for years and years, but this is truly remarkable. This is a "technical adjustment."

This section would overturn a decision by the 9th Circuit Court of Appeals.

It overturns a court decision in a highway bill, and legislates a settlement between the parties that would authorize $4 million to be provided, tax free, to the Alaska Native fund. That $4 million is going to be spent to be provided tax free to the Alaska Native fund, in a highway bill.

This section was not in either the Senate-passed or the House-passed bill. Neither one. So right there it is in violation of the rules of the Senate and the Congress. It wasn't in either bill.

This "technical adjustment" is neither technical nor an adjustment, but it is a bailout for Hawaii and a blatant giveaway to the Alaska Native population. In 2000, the General Services Administration donated to Tanadgusix Corporation, called TDX, which is an Alaska Native corporation, a World War II decommissioned dry dock under the condition that it be transported from its holding area in Hawaii and placed in Alaska.

The TDX agreed to this condition. However, after receiving title, TDX began operating the dry dock in Hawaii. GSA attempted to enforce the contract. TDX sued the Government. A Federal district court and the Ninth Circuit Court of Appeals had both ordered TDX to tow the dry dock to Alaska. Additionally, the Department of Justice has filed a false claim suit against TDX for its illegal use of the dry dock.

None of this seems to matter to the conferees who require the dry dock to be sold, so long as the buyer agrees to operate the dry dock outside the United States to protect the ports in Hawaii and Alaska from competition.

The conferees also require the Government to compensate TDX with $4 million tax free.

Why? Again, what in the world does this have to do with highways? And why should we be bailing out corporations and overturning court decisions? It is only $4 million. We are talking about $280-some billion. But this is a bailout for Hawaii and a tax-free gift to Alaska.

Conferees also have tax cuts. Do you know in this bill we have tax cuts, repeal of special occupational taxes on producers and marketers of alcoholic beverages? We don't want people to drink and drive on highways, so I guess there is some connection to the highway bill, repeal their alcohol taxes.

There are income tax credits for distilled spirits wholesalers. Income tax credits for distilled spirits wholesalers in a highway bill.

Caps on excise tax on certain fishing equipment. I guess you have to drive on a highway to go fishing. Maybe that is it.

There are tax breaks for luxury transportation. We don't want to leave our big donors out of this bill. Tax breaks for luxury transportation, exemption from taxes on transportation provided by seaplanes and certain sightseeing flights. I guess you could land a seaplane on a highway—although that is hard, as an old pilot, I have to say. Exemption on taxes on transportation provided by seaplanes and certain sightseeing flights.

I might add to my colleagues, we have had a couple of hours to examine a 2,000-page bill.

Section 1114, Highway Bridge Program. The section contains bridge construction or improvement projects totaling $100 million for the fiscal year.

We are getting up there a little bit now.

These include $12,500,000 per fiscal year for the Golden Gate Bridge, $18,750,000 per fiscal year for the construction of a bridge joining the island of Gravina to the community of Ketchikan in Alaska.

Let me tell you that once again: $18,750,000 per fiscal year. We figure it is about $80 million. It could be a lot more than that. Guess how many people live on the Gravina Island? Fifty; five-zero. I don't know what that works out to per capita, but it is about a million-something per person at least.

. . . and $12,500,000 per fiscal year for the State of Missouri for construction of a structure over the Mississippi River to connect the City of St. Louis, MO, to the State of Illinois.

National Corridor Infrastructure Improvement Program. Directs the Department of Transportation to establish and implement a program for highway construction in corridors of National significance to promote economic growth and international or interregional trade pursuant to criteria in the section.

It lists 33 earmarks for 24 States totaling $1.95 billion—B—billion dollars.

Freight Intermodal Distribution Pilot Program.

It is always interesting when you see the words "pilot program."

Directs the Secretary of Transportation to establish a freight intermodal distribution pilot grant program authorized for a total of $24 million. A portion of the funding must be used for the following projects:

Short-haul intermodal projects, Oregon $5 million; the Georgia Port Authority, $5 million; the ports of Los Angeles and Long Beach, California, $5 million.

Ports—ports, my friends, not highways, ports.

Fairbanks, Alaska [of course] $5 million.

Just throw that in.

Charlotte Douglas International Airport Freight Intermodal Facility, North Carolina, $5 million.

South Piedmont Freight Intermodal Center, North Carolina, $5 million.

Development of Magnetic Levitation Transportation Systems. Authorizes a total of $40 million for MAGLEV deployment and earmarks 50 percent of the funding made available each year for a MAGLEV project between Las Vegas and Primm, Nevada, and 50 percent for a project east of the Mississippi River.

So we are going to have $40 million for MAGLEV deployment and half of it goes to Nevada and half of it goes for a project east of the Mississippi River.

"Project Authorizations," this section would fund 5,173 projects, totaling $14.8 billion.

Here is my favorite so far: $2,320,000 to add landscaping enhancements along—get this—the Ronald Reagan Freeway. I wonder what Ronald Reagan would say: $2,320,000.

In my youth, I have watched Ronald Reagan deride this kind of activity on the part of Congress. He used to get a pretty good response.

$480,000 to rehabilitate a historic warehouse on the Erie Canal in the town of Lyons, New York.

A historic warehouse. I hope we all have a chance to visit it sometime.

$600,000 for High Knob Horse Trails, construction of horse riding trails and associated facilities in High Knob area of the Jefferson National Forest in Virginia;

$2,560,000 for the Daniel Boone Wilderness Trail in Virginia. These funds would be used for acquiring the site; designing and constructing an interpretive center, and for the enhancement of the trail corridor;

$120,000 for the Town of St. Paul—restoration of Hillman House to serve as a trail information center;

$400,00 to rehabilitate and redesign Erie Canal Museum in Syracuse, New York;

$2,400,000 for the National Infantry Museum Transportation Network in Georgia;

$960,000 for transportation enhancements to the Children's Museum of Los Angeles;

$1,200,000 for the Rocky Knob Heritage Center in Virginia;

$1,600,000 for the Blue Ridge Music Center in Connecticut.

So we can listen to music as we are traveling on the highways.

$200,000 for the deer avoidance system to deter deer from milepost markers in Pennsylvania and New York;

$1,280,000 for the Cultural and Interpretive Center in Richland, WA;

$1,200,000 for the planning and engineering of the American Road, the Henry Ford Museum, Dearborn, MI;

$1 million for the Oswego, NY pedestrian waterfront walkway;

$400,000 for the Uptown Jogging, Bicycle, Trolley Trail in Columbus, GA;

$2 million for Ketchikan, AK, to improve marine drydock facilities;

$3 million for dust control mitigation on rural roads in Arkansas.

Dust control mitigation on rural roads. Good luck. And

$850,000 for the Red River National Wildlife Refuge Visitor Center in Louisiana;

$5 million for the Grant Tower reconfiguration in Salt Lake City, UT.

I guess we don't know what the problem with the present configuration of the Grant Tower is in Salt Lake City.

Construction of ferry boats and ferry terminal facilities, which would set aside $20 million for the construction or refurbishment of ferry boats and ferry terminal facilities and, guess what, of this amount $10 million would be earmarked for, guess where, Alaska. And $5 million would be earmarked for New Jersey. Way to go, New Jersey. And $5 million would be earmarked for Washington.

It authorizes such sums as may be necessary for 465 earmarked projects totalling $2,602,000,000, and the big winners are Alaska, Colorado, Georgia, Iowa, Michigan, Missouri, Montana, North Carolina, Oregon, Pennsylvania, and Vermont.

Going-To-The-Sun Road in Glacier National Park in Montana. Authorizes $50 million for a project to be 100 percent federally funded to reconstruct a road in Glacier National Park. I am sure no one else with a national park in their State has need for roads that would outdo this one.

Bear Tooth Highway in Montana. Upon request by the State of Montana, the Secretary shall obligate such sums as necessary to reconstruct the Bear Tooth Highway. I think this might fit nicely into the $3 million we provided a few years ago on another appropriation bill to study the DNA of bears in Montana so they could use the Bear Tooth Highway.

The Great Lakes ITS implementation: $9 million to continue ITS activities in the Milwaukee, Chicago, and Gary, IN, area.

There is a lot more.

The Knik Arm Bridge funding clarification: Directs the DOT to provide all funds earmarked for the Knik Arm Bridge to provide the Knik Arm Bridge and Toll Authority, $229.45 million. The Knik Arm Bridge, a name that is hard to pronounce, I admit, will be renamed Don Young's Way.

Another section in the legislation: Traffic circle construction, Clarendon, VT—$1 million for the State of Vermont to plan and complete construction of a traffic circle at a specified location.

Three million dollars—$3 million—to fund the production of a documentary—get this: $3 million to fund the production of a documentary about infrastructure that demonstrates advancements in Alaska, the last frontier.

Statewide transportation funding. This section would fund ferry projects, including $25 million for projects in Alaska and Hawaii, and extension projects utilizing ferry boats, ferry boat terminals, or approaches to ferry boat terminals: $2.5 million for the San Francisco Water Transit Authority; $2.5 million for the Massachusetts Bay Transportation Authority Ferry System; $1 million for the Governor's Island New York ferry system, and $1 million for the Philadelphia Penn's Landing ferry terminal.

The Department of Transportation is going to provide grants to the Oklahoma Transportation Center to study motorcycle accident investigation methodology, $1,408,000. And then, of course, $1 million for fiscal years 2006 and 2007 for a wood composite products demonstration project at the University of Maine.

Well, anyway, that is how we are doing the grand plan, and I would point out to my colleagues there are, according to the information I have, 30 donor States that are losers and there are 20 States that are winners. Some States have as much as 526 percent return on every dollar that is sent to Washington, and others have as low as 92 percent. Some have 206 percent, 218 percent, 207 percent, 227 percent.

I ask unanimous consent that this chart be printed in the RECORD. I think my colleagues would be interested to see how they came out on this.

The PRESIDING OFFICER (Ms. MURKOWSKI). Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION

RATE OF RETURN AND 5 YEAR FUNDING COMPARED TO TEA-21 FY 2005-2009 APPORTIONMENTS FOR RTA-000-16

| State | Average Annual Funding | | | | Rate of Return | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | TEA 21 | Scenario | Delta | % Change | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
| Alabama | 558,328,105 | 727,629,138 | 169,301,033 | 30.32% | 100.39% | 100.67% | 103.75% | 105.26% | 106.51% | 106.91% | 106.91% |
| Alaska | 326,827,381 | 425,930,781 | 99,103,400 | 30.32% | 567.34% | 505.34% | 524.12% | 524.60% | 526.30% | 526.85% | 526.85% |
| Arizona | 463,157,671 | 651,471,647 | 188,313,975 | 40.66% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| Arkansas | 365,575,583 | 476,428,545 | 110,852,962 | 30.32% | 96.91% | 95.47% | 101.09% | 103.06% | 104.85% | 105.44% | 105.44% |
| California | 2,553,243,954 | 3,429,117,834 | 875,873,879 | 34.30% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| Colorado | 334,594,734 | 491,008,545 | 156,413,812 | 46.75% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| Connecticut | 416,387,905 | 495,501,606 | 79,113,702 | 19.00% | 142.72% | 135.75% | 134.45% | 136.09% | 131.65% | 128.69% | 128.49% |
| Delaware | 121,404,732 | 158,218,115 | 36,813,383 | 30.32% | 166.25% | 159.24% | 157.97% | 161.05% | 163.21% | 163.92% | 163.92% |
| Dist. of Col. | 108,507,402 | 151,757,154 | 43,249,752 | 39.86% | 335.54% | 347.70% | 423.13% | 440.27% | 429.70% | 423.03% | 425.03% |
| Florida | 1,303,522,941 | 1,736,113,000 | 432,590,059 | 33.19% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| Georgia | 985,048,097 | 1,271,268,095 | 286,219,998 | 29.06% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| Hawaii | 141,958,070 | 168,930,103 | 26,972,033 | 19.00% | 208.46% | 194.61% | 182.75% | 185.54% | 179.55% | 175.54% | 175.26% |
| Idaho | 212,310,656 | 276,689,313 | 64,378,657 | 30.32% | 134.84% | 133.77% | 137.97% | 140.66% | 143.01% | 143.78% | 143.78% |
| Illinois | 927,169,304 | 1,236,321,679 | 309,152,375 | 33.34% | 93.04% | 96.97% | 92.97% | 90.50% | 91.50% | 92.00% | 92.00% |
| Indiana | 660,387,364 | 889,262,843 | 228,875,479 | 34.66% | 91.32% | 92.28% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| Iowa | 329,554,208 | 412,463,273 | 82,909,065 | 25.16% | 105.62% | 105.43% | 100.97% | 96.79% | 91.50% | 92.00% | 92.00% |
| Kansas | 321,304,097 | 383,140,608 | 61,836,511 | 19.25% | 106.97% | 114.28% | 103.44% | 102.39% | 97.53% | 95.01% | 95.53% |
| Kentucky | 485,461,684 | 632,667,536 | 147,205,852 | 30.32% | 90.50% | 91.50% | 94.56% | 95.22% | 95.92% | 96.14% | 96.14% |
| Louisiana | 445,088,558 | 580,052,125 | 134,963,567 | 30.32% | 90.50% | 90.50% | 95.16% | 95.31% | 95.44% | 95.48% | 95.48% |
| Maine | 146,044,554 | 190,076,692 | 44,032,138 | 30.15% | 94.74% | 104.76% | 94.42% | 98.44% | 96.54% | 95.62% | 98.47% |
| Maryland | 443,219,686 | 583,166,623 | 139,946,938 | 31.58% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| Massachusetts | 515,085,233 | 615,685,617 | 100,600,384 | 19.53% | 96.71% | 94.90% | 94.74% | 96.13% | 93.12% | 92.00% | 92.00% |
| Michigan | 884,266,420 | 1,123,338,695 | 239,072,275 | 27.04% | 91.18% | 90.50% | 90.54% | 90.50% | 91.50% | 92.00% | 92.00% |
| Minnesota | 410,879,135 | 600,384,311 | 189,505,176 | 46.12% | 97.60% | 102.45% | 93.13% | 90.50% | 91.50% | 92.00% | 92.00% |
| Mississippi | 344,740,210 | 449,275,291 | 104,535,081 | 30.32% | 90.50% | 90.50% | 91.93% | 93.73% | 95.29% | 95.80% | 95.80% |
| Missouri | 661,682,742 | 862,323,854 | 200,641,112 | 30.32% | 91.55% | 91.29% | 99.09% | 98.40% | 97.95% | 97.80% | 97.80% |
| Montana | 272,474,525 | 355,096,586 | 82,622,061 | 30.32% | 218.42% | 210.67% | 219.23% | 222.74% | 226.03% | 227.10% | 227.10% |
| Nebraska | 213,215,560 | 277,868,609 | 64,653,049 | 30.32% | 102.33% | 98.84% | 102.98% | 100.87% | 99.54% | 99.12% | 99.12% |
| Nevada | 198,883,564 | 259,190,743 | 60,307,179 | 30.32% | 97.80% | 94.35% | 99.72% | 96.53% | 94.24% | 93.53% | 93.53% |
| New Hampshire | 141,895,714 | 168,855,900 | 26,960,186 | 19.00% | 110.05% | 106.78% | 104.39% | 105.98% | 102.72% | 100.47% | 100.31% |
| New Jersey | 725,530,617 | 941,055,593 | 215,524,976 | 29.71% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| New Mexico | 271,038,261 | 353,224,806 | 82,186,545 | 30.32% | 107.79% | 110.48% | 111.45% | 112.62% | 113.83% | 114.22% | 114.22% |
| New York | 1,415,097,862 | 1,683,966,455 | 268,868,594 | 19.00% | 124.88% | 123.77% | 114.04% | 115.68% | 112.21% | 109.79% | 109.61% |
| North Carolina | 778,064,319 | 1,018,845,341 | 240,781,022 | 30.95% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| North Dakota | 179,831,478 | 234,361,520 | 54,530,042 | 30.32% | 203.24% | 208.21% | 209.84% | 208.33% | 207.66% | 207.44% | 207.44% |
| Ohio | 963,308,164 | 1,310,210,058 | 346,901,894 | 36.01% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| Oklahoma | 424,770,200 | 558,612,851 | 133,842,650 | 31.51% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| Oregon | 339,813,375 | 442,854,499 | 103,041,124 | 30.32% | 98.78% | 102.93% | 103.99% | 102.89% | 102.12% | 101.87% | 101.87% |
| Pennsylvania | 1,383,667,693 | 1,646,564,555 | 262,896,862 | 19.00% | 120.84% | 120.28% | 117.75% | 119.40% | 115.83% | 113.33% | 113.15% |
| Rhode Island | 164,327,250 | 202,264,020 | 37,936,770 | 23.09% | 216.62% | 209.63% | 220.02% | 227.27% | 221.06% | 217.23% | 218.01% |
| South Carolina | 457,541,146 | 583,642,438 | 126,101,291 | 27.56% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| South Dakota | 199,986,896 | 260,628,637 | 60,641,741 | 30.32% | 216.32% | 212.56% | 214.93% | 205.67% | 199.67% | 197.75% | 197.75% |
| Tennessee | 629,386,744 | 797,520,703 | 168,133,960 | 26.71% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| Texas | 2,106,157,841 | 2,894,214,879 | 788,057,038 | 37.42% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| Utah | 216,012,661 | 282,073,713 | 66,061,053 | 30.58% | 91.90% | 90.50% | 90.50% | 90.81% | 91.93% | 92.30% | 92.30% |
| Vermont | 125,440,355 | 174,861,141 | 49,420,786 | 39.40% | 183.40% | 173.96% | 203.03% | 211.60% | 207.18% | 204.85% | 206.43% |
| Virginia | 711,843,995 | 938,639,666 | 226,795,671 | 31.86% | 90.50% | 90.50% | 90.50% | 90.50% | 91.50% | 92.00% | 92.00% |
| Washington | 491,625,367 | 622,357,460 | 130,732,093 | 26.59% | 91.38% | 94.18% | 91.88% | 92.33% | 91.50% | 92.00% | 92.00% |
| West Virginia | 309,975,967 | 403,969,537 | 93,993,570 | 30.32% | 158.36% | 156.49% | 167.91% | 168.48% | 169.11% | 169.31% | 169.31% |
| Wisconsin | 546,259,882 | 711,901,485 | 165,641,603 | 30.32% | 102.88% | 105.03% | 113.18% | 107.87% | 104.10% | 102.95% | 102.95% |
| Wyoming | 191,521,113 | 249,595,787 | 58,074,673 | 30.32% | 133.51% | 137.39% | 144.92% | 147.75% | 150.86% | 151.89% | 151.89% |
| All States | 27,923,420,971 | 36,390,600,000 | 8,467,179,030 | 30.32% | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% | 100.00% |

Mr. McCAIN. What is so harmful in this is, because I happen to represent, as do some other Senators, fast-growing States, it is the rapidly growing States that are penalized the most here: Arizona, California, Colorado, Florida, Georgia. The fastest growing States are the ones that are receiving the smallest amounts of money, and it is obviously very unfair. I think we all know what the answer is. Let the States keep the dollars they collect in the form of taxes and spend it within their own State. I think the answer is that simple.

This is how this Congress administers the money of the American people. Mr. President. In the 1950s when President Eisenhower's "Grand Plan" was being formulated, the country focused on building a unified transportation system to improve the safety, security, and economy of our Nation as a whole. Now, Congress circles transportation funds like sharks. Instead of serving the public good, this Congress slices and dices the Treasury's money to fill up the pork barrel. And we do so with grand speeches and lofty language, with no trace of shame or irony.

We live in the Era of the Earmark, Mr. President. In 1982, the transportation bill included 10 earmarks costing $386 million. In 1987, the bill included 152 earmarks, with a cost of $1.4 billion. By 1991, the bill included 538 earmarks—costing taxpayers over $6 billion. Our most recent transportation bill, TEA-21, included 1,850 earmarks with a price tag of more than $9 billion. The legislation that we are voting on today eclipses those numbers. I am told that SAFETEA-LU includes over 6,300 earmarked projects totaling over $20 billion.

Some Members of Congress may be happy to associate their names with this legislation—the chairman of the House Transportation and Infrastructure Committee for example has made sure that this legislation renames the Knick Ann Bridge in Alaska "Don Young's Way." The bridge would also receive more than $229 million. I want no part of this, Mr. President. This legislation is not—I emphasize not—my way of legislating.

And I'm sure that if we had adequate time to review this conference report we would find more pork and more inappropriate provisions. But, of course, we will once again go through this process too quickly for a proper evaluation. This conference report is over 2,000 pages long—and over six and one-half inches high—and yet we've had less than a day to review it. And that doesn't even include the statement of managers, which sits in a box in the cloakroom—making it difficult for any member to read.

Fiscal prudence is crucial. But even if the conferees had excluded pork from this legislation, that alone would not make it adequate. Equity is also essential, and—unfortunately—the conference report that is before us still retains a grossly unfair feature of past legislation.

This conference report perpetuates the historical discrepancy between donor States and donee States. Remarkably, not only does the bill continue this disparity, it actually exacerbates it. Whereas the bill that was passed last year by the Senate would have increased, at least theoretically, every State's rate of return to 95 percent in the final year of the bill—2009—the substitute amendment before the Senate only promises a rate of return of 92 percent in 2008 for those States. Until then, many States will linger at a rate of return of 90.5 percent in the first year and less than 92 percent thereafter while others receive more—in some cases much more—than what they contribute to the Highway Trust Fund.

As if that weren't enough, this year's bill would actually propose to create further disparities between States. Though "Equity" is in the title of the legislation, the number of donor States would increase from 28 under current law to 30. In addition, 16 States would linger at the bottom of the barrel through 2009. Some may argue that these so-called super-donor States should be satisfied with the fact that they are scheduled to move from a rate of return of 90.5 percent to one of 92 percent in 2008. I would suggest that this is a meager improvement over current law and nothing to cheer about. After all, many other States are set to receive significantly higher rates of return. While a State like Ohio is expected to receive 92 percent in 2009, Alaska will receive a rate of return of almost 530 percent in the final year. 530 percent on top of the hundreds of earmarks and special provisions that are in this conference report.

Mr. President, I fully recognize that during the years when the Federal Government was building the Interstate system, a redistribution of funding between the States may have made sense. Clearly, it would have been very difficult for the State of Montana, for example, with fewer than a million people, to pay the full cost of building its share of the Intestate system. But, Mr. President, that era is over. Congress declared the construction of the Interstate system complete in 1991. Yet here we are, almost 15 years later, and donor States are still expected to agree to the redistribution of hundreds of millions—if not billions—of dollars to other States regardless of the already enormous transportation needs of donor States.

That's not where this story ends, though. The rate of return formula is based on the authorized funds that are "below the line"—that is, that count towards the calculation of the rate of return. There is a significant amount of funds that is "above the line." These funds are not counted in the rate of return calculation. It's above the line that more mischief takes place. For example, $100 million is earmarked for the Alaska Way Viaduct and Seawall Replacement project above the line. This means that Alaska's rate of return significantly understates the amount of Federal funding that Alaska receives under this legislation. The race for pork that takes place above the line also explains why some States that are nominally donor States might be happier with this legislation than one would expect. For example, California will receive over $1 billion in funding for earmarked projects above the line—that's well over the average annual funding that California receives below the line.

In closing, I note that the conference report exceeds the funding level requested by the President of $284 billion by over $2 billion.

The PRESIDING OFFICER. Who yields time?

Mr. INHOFE. Madam President, I would like to ask the Senator from Arizona, are you yielding back your time or just yielding the floor?

Mr. McCAIN. I am sorry. I would like to yield 2 minutes of time and yield back the rest of my time after yielding 2 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. I thank you, Madam President. I thank my colleague. I know that the chairman of the committee is anxious to conclude the legislation so I will be brief.

I simply reiterate the point that I hope colleagues sincerely consider the points made by the senior Senator from Arizona—not meant to embarrass but to get us to focus on how we could better fund our transportation needs in the country. We are all pretty bright and pretty good on identifying what is necessary, but far better it would be, as he pointed out, to let the States keep the money raised in the States and for them to decide how best to use the money in their own States. It would be much more fair than taxing some States and giving it to residents of other States. Even for the donor States such as ours, instead of getting close to 100 percent of the targeted amount that was provided in the bill in the first year, some are lucky if they get there at the very end of the period of time. There needs to be a fix to this problem sooner or later. I hope my colleagues again will sincerely consider the remarks of those who regrettably are required to vote against this legislation because of its unfairness and because of the way taxpayer dollars are used for projects, some of which do not even relate to highways or to transportation.

Madam President, I yield the floor.

### STEELGRID REINFORCED CONCRETE DECKING

Mr. SANTORUM. Mr. President, I rise to engage my distinguished colleague from Oklahoma in a colloquy regarding steel grid reinforced concrete decking. First, I would like to congratulate my colleague on the successful completion of conference negotiations on this important legislation, and thank him for all he has done to assist me and my constituents through this bill.

It is my understanding that steel grid reinforced concrete decking has significant technological benefits and the ability to accomplish the goals of bridge and highway officials across the Nation. Among the many benefits of this technology are long service life, rapid and/or staged installation, and reduced maintenance costs and closures. Unfortunately, this type of bridge deck system is underused because of the larger initial costs incurred. It was my great hope that the benefits of this technology would be noted in the conference report of SAFETEA-LU. While it was my understanding that efforts were made by the distinguished chairman to incorporate language regarding this technology into this important piece of legislation, the issue of steel grid reinforced concrete decking was not directly addressed in the conference report. Accordingly, I would like to ask the chairman whether he agrees with me on the many benefits of steel grid reinforced concrete decking.

Mr. INHOFE. Mr. President, I thank the Senator from Pennsylvania for his persistence in advocating on behalf of steel grid reinforced concrete decking as a way of modernizing and strengthening our Nation's bridges. Be assured that it was my intention to assist this technology gain greater prominence among transportation officials at the national, State, and local level. I understand my good friend from Pennsylvania's enthusiasm for this technology and desire to expand its use. I look forward to working with Senator SANTORUM to educate our colleagues and transportation officials about the vast benefits of this technology.

### EXISE TAX ON HIGHWAY VEHICLES

Mr. CONRAD. Mr. President, I would like to engage my friend from Iowa, the chairman of the Finance Commitee, as well as my friend Senator BAUCUS, the ranking member of the committee in a brief colloquy.

The transportation reauthorization legislation that this body is considering includes a very important provision that is intended to provide clarity with respect to the excise tax on certain highway vehicles under Internal Revenue Code Section 4051. Can my colleagues confirm that it is the drafters' intent that this provision will allow vehicle dealers to rely on the gross combined weight rating established by the manufacturer?

Mr. GRASSLEY. That is our intent. Present law allows the seller to rely on the weight rating specified by the manufacturer when determining the applicability of vehicle excise taxes on trucks. The same rule should apply for tractors.

Mr. BAUCUS. I concur. A seller should be able to rely on the gross vehicle weight rating and the gross combined weight rating established by the manufacturer. Only in situations where the seller modifies the vehicle substantially will the seller be responsible for determining different weight ratings.

Mr. CONRAD. I thank my colleagues for this clarification.

Mr. SALAZAR. Mr. President, I rise in strong support of the transportation reauthorization bill. This bill is long overdue and will provide Colorado and our Nation with investments to improve our transportation infrastructure.

I regret that this bill could not do more to correct the fundamental injustice that States like Colorado—a donor State—suffer under our highway funding system.

Nonetheless, Colorado does get much needed relief in this bill. It will receive a 46.7 percent increase over the last time this bill was reauthorized. That's the largest percentage increase under this bill and more than any other State. That is $156 million more over the life of the bill than we received under the previous transportation bill, TEA–21.

This increase in transportation funding to Colorado will help ensure that the highest level of our transportation infrastructure is maintained. Having a first-class transportation system is critical to Colorado. Transportation infrastructure is critical to the health and vitality of our State, from the Eastern Plains to the West Slope, and from Weld County to Conejos County. Coloradans depend on safe and well-funded highways.

Recognizing our State's varied needs, I worked hard with the Colorado Department of Transportation and with counties and municipalities across the state to ensure these precious tax dollars will be well spent. I am especially happy with our efforts to secure authorizations for the following highway projects: I–70/Havana/Yosemite; Wadsworth and U.S. 36 Broomfield interchange; Wadsworth Bypass, Grandview Grade Separation; U.S. 287 Ports to Plains Corridor; I–70 and SH58 interchange; improvements to Powers Blvd. and Woodman Rd. interchange; improvements to I–25S, Douglas, Arapaho County line to El Paso; improvements to U.S. 36; improvements to U.S. 24—Tennessee Pass; improvements to Bromley Lane and U.S. 85 Interchange; improvements to 104th and U.S. 85 Interchange; improvements to I–25 North, Denver to Ft. Collins; improvements to I–70 East multimodal corridor; improvements to Parker and Arapaho Rd. Interchange; improvements to I–225, Parker Road to I–70; improvements to I–70 West Mountain Corridor, Denver to Garfield; improvements to I–76—Northeast Gateway; improvements to C470 and U.S. 85 Interchange; improvements to Wadsworth and Bowles intersection; improvements to U.S. 160, Wolf Creek Pass; Fort Carson I–25 and Highway 16 interchange; U.S. 50 East Pueblo to Kansas border; Heartland Expressway improvements; I–25 Denver to Ft. Collins improvements; Pueblo Dillon Drive at I–25 overpass and ramp; Denver Union Station improvements; improvements to 56th and Quebec Street; U.S. 550 New Mexico State Line to Durango; SH 121 Bowles Ave. intersection and Ridgeway; improvements, Jefferson County, CO; construction of McCaslin Blvd., U.S. 36 interchange in Superior; I–70 East Multimodal Corridor to Denver; SH 83—SH 88 interchange reconstruction, Arapaho County; improve to SH44 from CO Boulevard; improvements to SH550 btw Grand Avenue, N/S of city; improvements on U.S. 36 corridor from I–25 to Boulder.

Earlier this month I met with community leaders in Colorado Springs to discuss their efforts to prepare for the influx of troops and their families associated with BRAC changes and the redeployment of the Army's 4th Infantry Division to Fort Carson. Community leaders were united in their desire to see improvements and upgrades of the interchange of I–25 and Highway 16 at Fort Carson. The upgrade of this interchange is of vital importance to ensure that traffic flows freely into Fort Carson and along I–25.

I am pleased that we were able to secure $5 million for that project, and that my Colorado colleague Senator ALLARD was able to secure an additional $3 million for that project. Unfortunately, the final report of the transportation bill being passed today did not include the correct highway number for this project. The report wrongly lists Highway 12, rather than rightly listing highway 16. I will seek a correction of this in the technical corrections bill later this year.

This is an important bill, and I am happy to support it.

Mr. OBAMA. Mr. President, I am pleased that the conference report on H.R. 3, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, protects an important program administered by the Department of Transportation the Disadvantaged Business Enterprise Program also known as the DBE Program.

The DBE Program ensures that small businesses owned and controlled by socially and economically disadvantaged individuals are able to compete on a level playing field for federally funded highway and transit contracts.

I strongly endorse the DBE Program and am pleased that this program continues to enjoy bipartisan support.

Since the DBE Program was started in 1982, the field of highway contractors has grown more racially diverse. The DBE Program was expanded to include women in 1987, and that improvement to the program has opened the doors for women contractors to join what has traditionally been an all-male field. Despite the increased fairness and greater opportunity for minority and women contractors since the inception of DBE, there continues to be a strong need for the DBE Program.

Unfortunately, studies have shown that when DBE Programs end, many contractors simply revert to their old practices, denying contracts to small companies owned by minorities or the economically disadvantaged. It is clear that the DBE Program is still needed to secure the gains made and encourage even greater opportunity for these small businesses, and I am pleased that the conferees have recognized that continuing need and have retained this program.

Federally funded highway and transit contracts are big business, and it is imperative that we give everyone the big guys and the little guys a fair opportunity to take part. The DBE is vital to increasing participation in our federally funded highway projects.

Ms. MIKULSKI. Mr. President, I rise in support of final passage of the transportation reauthorization bill. The road to final passage has been long and brutal, but I am pleased that we have finally reached this point. This is a good bill for Maryland and a good bill for our Nation.

The State of Maryland is the fifth most densely populated State in the Nation. Our highways and byways serve almost 54 billion vehicle miles of travel annually. Maryland has the second largest urban interstate traffic density and the sixth largest percentage of roads in urban areas in the United States. As part of the Northeast corridor, Maryland experiences an extremely high volume of through traffic, especially on roadways such as 1-95. Maryland is also one of the few States in the Nation with two major metropolitan areas, Washington, DC, and Baltimore, and two major beltways with some of the highest traffic volumes in the country, within 30 miles of each other. In the Washington metropolitan area, we have the third longest average commute time in the Nation.

This bill will provide much needed relief to the stresses that our commuters experience every day by making critical investments to highway safety and expansion, improvements to our Metro system, and expansion of our transit systems.

Maryland will receive more funding for highways and mass transit under this bill than it does now. For highways, Maryland can expect to receive $140 million more per year in Federal highway formula money, more than $2.9 billion over the life of the bill. This funding will help make our roads safer, improve traffic conditions, and help promote economic development throughout the State. For our transit systems this bill provides more than $900 million. This means critical funding to improve the capacity of the Washington Metro and expand and build capacity for transit systems throughout Maryland.

In closing, I would like to thank my colleague, Senator SARBANES, for all of his hard work on this bill, particularly for his steadfast dedication to the transit needs of Maryland and our Nation. Thanks to his efforts, this bill provides essential support to State and local governments to ensure greater access to safe and reliable transit services.

Mr. PRYOR. Mr. President, I rise in support of the highway bill conference report. This legislation is 2 years overdue, and I am pleased that we are finally completing this very critical piece of legislation.

I would like to thank Senators INHOFE, BOND, JEFFORDS, BAUCUS, and their staffs for their very hard work on this bill and commend them for the bipartisan way in which they have proceeded.

I would also like to thank Senator LOTT and Senator INOUYE, the chairman and co chairman of the Commerce Subcommittee on Surface Transportation and Merchant Marine, for their work on the safety portions of this bill, as well as Senator STEVENS, the chair of the full Commerce Committee. I was proud to have worked on these very important motor carrier and passenger safety provisions.

I have addressed this body before with my concerns about the need for a highway bill.

In America over one-third of our major roads are both deteriorating and congested. In Arkansas, 47 percent of our roads are in poor or mediocre condition—almost half. Additionally, over one in four bridges are structurally deficient or functionally obsolete.

The U.S. Department of Transportation estimates that close to 42,800 persons died in car crashes in 2004. Over 2,000 Arkansans have died on our highways over the past several years. Too many families die on our highways—plain and simple.

The amount of freight expected to travel on our Nation's highways over the next 20 years is expected to double. Not only do we need to improve the existing system, we feed to increase the capacity of the system.

This bill would decrease congestion on American roads and enable businesses to transport their materials across the United States safely. It would also spur economic development and create many jobs for hard-working Americans.

The U.S. Department of Transportation estimates that for every $1 billion of investment in our highways, we create 47,500 jobs annually. This bill provides a record amount of investment in our Nation's highways and interstates, over $286 billion.

But we still have much work to do. We must continue to make investments in infrastructure, and we must work toward finding creative solutions to our transportation problems. After all, good schools, good health care, and good jobs don't mean much if you can't get there.

I am pleased this bill provides funding increases that could be used to make substantial progress on important economic development projects in my State and around the country. With passage of this bill, Arkansas would be able to make progress on many critical projects such as the Northeast Arkansas Connector, the Caraway Bridge Overpass, the Interstate 430/630 Interchange Modification, the Perry Road Overpass, and the Hot Springs East-West Arterial, just to name a few. These projects will greatly enhance the capacity and safety of Arkansas roadways.

This bill also enables Arkansas to make significant progress on our two large corridors, I–49 and I–69, that, if completed, would help generate economic expansion, add jobs, and provide isolated areas with transportation options. I am pleased this bill provides $75 million for the I–69 Corridor, including the Great River Bridge which serves as a "Bridge Across the Delta." It provides $72 million for the I–69 Connector, which will enable the northern part of the State to access I–69. I am also pleased that this bill provides $37 million for the I-49 Bella Vista Bypass and several other projects that will reduce congestion and allow for further economic development in northwest Arkansas, one of the top 10 fastest growing areas in America.

This is a wise investment that will pay for itself by fostering interstate commerce, bolstering tourism, and creating jobs.

Mr. President, this is a good bill. It is a long overdue bill. It is a bipartisan bill. My constituents support it, I support it, and I urge my colleagues to support it.

Mr. President, I yield the floor.

Mrs. BOXER. Mr. President, today we are passing a significant bill for the people of this country. It will create hundreds of thousands of jobs. It will reduce congestion on our highways. It will move goods more efficiently. And it will improve local transit systems.

I was pleased to have been a part of putting this bill together as a member of the Environment and Public Works Committee and as a conferee on this legislation.

This is a good bill for the State of California. In total, California will receive $21.6 billion in highway and transit funding over the next 5 years. That is an average of $1.175 billion more per year for California than the last highway bill in 1998. And it will create an estimated 800,000 jobs in my State.

When I arrived in the Senate in 1993, California was getting about 83 cents on the dollar in highway funds. I am pleased to report that with this bill California's rate of return will reach 92 percent. Not what it should be—but a significant improvement.

This bill also includes over $1 billion in special projects for California, including over $130 million for the I-405 HOV lanes in the Los Angeles area and $58 million for the Golden Gate bridge seismic retrofit—an extremely important project in helping to preserve one of American's most notable landmarks.

Let me tell you why increased funding is so crucial for California.

According to the Texas Transportation Institute, Los Angeles and the San Francisco-Oakland region are ranked No. 1 and 2 for the worst roadway congestion in this country. California has two more cities in the top five, with San Jose ranked fourth and San Diego ranked fifth. The inland empire of San Bernardino and Riverside Counties is ranked 12th and Sacramento is ranked 13th.

What does this congestion translate to? Delays—in the Los Angeles area, 136 hours per year, on average per driver, in peak hours. Drivers in the San Francisco and Oakland area experience 92 hours of delays, and San Jose drivers endure 74 hours of delays. Inland empire drivers are delayed 64 hours, and San Diego drivers are delayed 51 hours a year. This is time people could spend with their families, reading a book, or any number of other things; instead, they are stuck in traffic.

Congestion will not get better over time. California's population is expected to increase from 35 million people today to 50 million people by 2020. We need to make significant improvements in our transportation system. This bill will help fund the roads that will help ease congestion.

And it will also fund transit systems that will enable more people to get off the roads and onto buses, trains, and subways.

Transit ridership is up growing rapidly in California. The number of miles traveled annually by transit passengers grew by 20 percent between 1997 and 2001. The number of annual passenger trips was up 14 percent. In the San Francisco Bay Bridge corridor, 38 percent of all trips are on transit. And 30 percent of all trips into central Los Angeles are on transit.

This is why I am pleased that California will receive $4.6 billion in guaranteed transit funding over the next 5 years.

To mention a few specific examples of projects in California, this bill funds the Metro Gold Line eastside extension in Los Angeles, the Mission Valley east extension in San Diego, the Muni Third Street light rail in San Francisco, and the South Corridor light rail extension in Sacramento.

Another issue that I spent a lot of time working on involves grade crossings. Over 40 percent of all the Nation's imported goods come through California ports. The majority enter through the ports of LA and Long Beach. Many of the goods are then put on trams, leave Los Angeles, and travel through Riverside and San Bernardino Counties. This causes terrible local congestion.

To help that problem, this bill funds over $150 million for the Alameda corridor east for grade separations.

In addition to congestion, grade crossings create significant safety problems. This bill includes my provision for a study of grade crossing safety. The study would direct the Secretary of Transportation, in consultation with State and local government officials, to conduct a study of the impact of grade crossings both on accidents and on the ability of emergency responders to perform public safety and security duties. This would include the ability of police, fire, ambulances, and other emergency vehicles to cross the railroad tracks during emergencies.

Finally, this legislation recognizes that we can both improve our transportation system and improve our environment at the same time.

For example, I worked to ensure that fuel-efficient hybrid cars can be allowed on HOV lanes. This will provide incentives for people to purchase fuel-efficient vehicles, and will allow the State of California to implement a law passed last year.

In addition, this bill promotes bike and pedestrian paths. Funding is provided for the Virginia Corridor Rails to Trails plan, which will convert a Union Pacific railroad right of way into a bicycle and pedestrian trail in Modesto. Also, Marin County will receive $25 million to develop a network of bike and pedestrian paths.

This bill has been several years in the making. It has been the subject of intense—and sometimes tough—negotiations. But in the end, I am glad I had the opportunity to help craft a bill that will do so much to improve the lives of Californians, create so many jobs in California, and make such significant improvements to our transportation system.

I encourage all of my colleagues to support the bill.

Mrs. MURRAY. Mr. President, I would like to briefly explain the scope of the Transit New Start project listed as "Seattle Monorail Project Post-Green Line Extensions." The project authorization does not authorize any Federal funding for the 14-mile Green Line approved by Seattle voters in November 2002. The 14-mile Green Line was approved by voters using entirely local funds. The authorization in this bill is for a possible second monorail line or an extension of the Green Line following construction of the 14-mile line.

Mr. KOHL. Mr. President, I proudly rise in support of the transportation bill that Congress passed today. It has been 3 years in the making, and I must admit there were times when I thought this moment would never come.

I could not be more pleased to vote for this transportation bill. When the Senate passed this legislation in May, I feared that Wisconsin would suffer under an unfair, 5-year bill. Today, Congress passed legislation that is significantly different. This legislation treats my State equitably. Over the next five years, Wisconsin will receive an average rate of return of $1.06. Wisconsin taxpayers are getting their fair share under this bill, and that deserves everyone's support.

The Wisconsin delegation has worked tirelessly on improving this legislation over the past 3 years. I would especially like to thank Congressman PETRI, whose efforts as chairman of the Subcommittee on Highways, Transit and Pipelines helped ensure the fair treatment of Wisconsin. Throughout the process, Congressman PETRI worked with others in the delegation, and this bill is truly the result of bipartisan cooperation. I would also like to thank the members of the Environment and Public Works Committee: Chairman INHOFE and Ranking Member Jeffords, along with Senators BOND and BAUCUS worked hard to ensure that the needs of all fifty States were met.

Three years in the making and this legislation is long overdue. This bill will mitigate the congestion that clogs our roadways, and it will enhance safety on highways throughout Wisconsin. It provides needed funding for such critical projects as the Marquette Interchange, the St. Croix River Crossing and the Sturgeon Bay Bridge. Commuters and visitors alike will see a direct benefit from this legislation, in addition to the thousands of jobs that the funding in this bill will create.

For 3 years, I have been consistent in my request for Congress to complete an equitable transportation authorization bill. I am proud to join my colleagues in supporting exactly that.

### DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Mr. KERRY. Mr. President, I would like to take a moment to reiterate my support for the Department of Transportation's Disadvantaged Business Enterprise, DBE Program. This program is an effective tool used by the Department of Transportation to make real the promises of our Founding Fathers and the fundamental values of our Nation: economic opportunity, equal opportunity, a chance to be able to share in the remarkable assets of our Nation.

The DBE Program is a much needed program. It is an essential tool in combating the continuing effects of discrimination in the highway construction industry and in creating a level playing field for all businesses. It accomplishes these goals in a completely constitutional way without establishing quotas and, whenever possible, enhancing contracting opportunities in race and gender neutral ways.

Let me explain how the DBE program works. In past debates, my colleagues in the Senate have criticized the program for lacking flexibility. This is simply not true. Mr. President, this is not a quota it expressly prohibits quotas. This program offers a set-aside of a specific amount of money, but there is no specific direction as to who gets that amount of money. There is no quota of numbers of women, no quotas of numbers of particular races. It is open to any disadvantaged business enterprise. And, while we set aside a very specific sum of money, the money is not allocated with specificity.

This program is intended to help level the playing field for businesses owned by individuals who have historically suffered discrimination in Federal contracting based on their gender, race or ethnicity, and who continue to suffer as a result of that discrimination. To ensure that these firms receive their fair share of Federal contracts, Congress set a national goal. I reaffirm that it is appropriate in this country to set national goals for what we will do to try to break down the walls of discrimination, the barriers against equal opportunity, in order to give people an opportunity to share in the full breadth of the upside of the economy of our Nation. The goal for each agency, including the Department of Transportation, is negotiated on an annual basis, allowing the flexibility that is so desired.

In addition, the DBE Program is very flexible. It allows each State to respond to local conditions. In the implementation of the DBE Program, the Secretary of Transportation has the authority to increase, decrease or even waive the DBE goal where it is not possible to achieve the goal in a particular contract or for a given year.

Many opponents to this and other programs aimed at offering assistance to disadvantaged business owners often argue that it is inconsistent with the Supreme Court's decision in Adarand v. Pena which required that affirmative actions programs, such as this one, be "narrowly tailored" to serve the Government's "compelling interest." It is clear that rectifying past discrimination is a compelling Government interest. And, I believe that the flexibility I described above demonstrates that program is narrowly tailored to achieve that interest. In fact, it has been upheld by every court that has reviewed it.

It is the duty of Congress to use whatever means available to this body to enhance competition on federally funded projects by promoting equal opportunity and the full participation of all segments of the community in a marketplace environment that is free from the effects of past or present discrimination. The reality is that those effects, those inequalities and those injustices still exist. Justice Sandra day O'Conner, who penned the Supreme Court's majority opinion in the Adarand decision, stated, "the unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country is an unfortunate reality, and government is not disqualified from acting in response to it."

Many of the firms that have been able to use the program, the women-owned firms or minority-owned businesses, literally would have been excluded from doing so altogether were it not for the DBE Program. Arguments against these programs often point to the possibility of firms being excluded for other reasons such as size, experience or specific qualifications necessary. However, the reality in America's history is that the individuals running these disadvantaged firms often do not meet these standards because they were prevented from doing so by a lack of access to capital, training, or even blatant discriminatory Government policies. As the Congress, and this body in particular, has upheld in numerous debates, the Federal Government has an affirmative obligation, both a statutory one and a moral one, to make certain that we are going to do something very specific to respond to that kind of discrimination.

Mr. President, time has shown that the DBE Program works. It is a program that meets constitutional muster. It is a program that has a rational, national compelling interest. I am happy to reiterate my support for this essential program that has served an enormous benefit to countless minority- and women-owned businesses in the country. Thank you, Mr. President.

Mr. KYL. Mr. President, I understand the need for a good highway and transit bill.

As debate on this bill has dragged on over the last year and a half, I have heard from many Arizonans in industry, as well as users of our surface transportation system detailing the pressing needs in our state.

But throughout that time, I have expressed concern that the reauthorization legislation that has been brought before this Chamber has had certain fundamental deficiencies.

The conference report before us today preserves two of the most objectionable defects: a grossly unfair formula for apportioning highway funds among the States and a staggering quantity of pork-barrel earmarks.

It is simply impossible to explain to my constituents why more than 9.5 cents out of every dollar in gas taxes they pay at the pump goes to subsidize road construction in other States.

And while it is true that this conference report makes the barest progress toward equity by ensuring that rate of return to high-growth States like Arizona will inch up to 92 cents on the dollar, I believe that much more progress could have been attained given that this bill expends some 30 percent more than its predecessor.

This conference report preserves Arizona's rock-bottom standing in the donor done sweepstakes.

And it does so in a way that adds insult to injury, for even as Arizona and other high-growth states continue to heavily subsidize the others, and are only moved up to the higher rate of return in the bill's fourth year, others are raised up immediately.

Even as the sponsors of this legislation suggested that we ignore the extent to which Arizona highway users will be compelled to subsidize those in other States, but they ensured that their own apportionments were promptly and generously supplemented.

I must also object to the out-of-control earmarking in this conference report.

Earmarking is, of course, the insertion into the bill of projects selected not through a merit-based process, but through the influence of Members.

Consider: The 1982 highway bill contained 10 such projects. The 1991 bill had 538. The 1998 bill had 1,800. This bill has somewhere in the neighborhood of 6,000. The list alone goes on for 250 pages.

Among those listed is the notorious "Bridge to Nowhere," the 200 foot high $223 million bridge connecting Ketchikan, AK, to an island that is home to 50 people and is currently accessible to the mainland by a 10 minute ferry ride.

I hope that between now and the next time Congress takes up a highway bill, we will take a serious look at the flawed process that results in the diversion of funds from fast-growing States, as well as at the unsustainable rate at which earmarking has been proliferating.

But for now I can only note my disappointment in what we have produced, a bill the Wall Street Journal today describes as a monument to "extravagance"—and vote against this conference report.

I ask unanimous consent that the article from the Wall Street Journal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 29, 2005]

### CAPITOL HILL BLOWOUT

### HIGHWAYS, BIKE PATHS, ETHANOL, "BIOMASS"—CONGRESS THROWS A SPENDING PARTY

President Bush had to twist a lot of arms to squeak his Central American Free Trade Agreement through Congress this week, but Republicans are about to make sure he pays for a whole lot more than their chiropractor bills. Having sacrificed to support free trade, the Members prepared for the August recess by throwing themselves a giant spending party.

Speaker Dennis Hastert had barely waited for dawn to break after the midnight Cafta vote before he directed the House to pass a $286.4 billion highway bill. He expects Mr. Bush to sign this because it is "only" $2.4 billion more than the President's 2005 veto limit, which is "only" $28 billion more than his 2004 veto limit of $256 billion, which was "only" a 17% increase over the previous six-year highway spending level. "Only" in Washington could spending so much money be considered an act of fiscal discipline.

The bill is all about "jobs, jobs, jobs," declared Mr. Hastert, and he's right if he's referring to the Members' re-election prospects. The House version alone contained 3,700 special earmarks, doled out liberally across state and party lines.

Democrat Jim Clyburn retained another $25 million for his famous "Bridge to Nowhere," a project in rural South Carolina that has already sucked up $34 million in federal funds. The California delegation secured $1.4 billion for more than 479 projects, including $2.5 million for freeway landscaping. And ranking Transportation Committee Democrat James Oberstar snatched more than $14 million for Duluth, Minnesota, including $3.2 million for an extension of the longest paved recreational path in the nation.

Next to this highway extravagance, the energy bill seems almost a bargain at an estimated $66 billion or so. Minor highlights here include the repeal of a Depression-era law (Puhca) that will open up electricity sector investment; new reliability standards for the national power grid; more federal authority to settle siting disputes over much-needed natural gas terminals; and an inventory of offshore oil and gas resources that may someday encourage more exploration.

We can also say this for the bill: It doesn't pick energy winners or losers. Everyone who produces so much as a kilowatt hour is a winner in this subsidy-fest of tax credits and new federal mandates. There's $550 million for forest biomass, $100 million for hydroelectric production, and $1.8 billion for "clean coal." There are subsidies for wind, solar, nuclear and (despite $60 oil) even for oil and gas.

Most egregious is the gigantic transfer of wealth from car drivers to Midwest corn farmers (and Archer-Daniels-Midland) via a new 7.5-billion-gallon-a-year ethanol mandate, which will raise gas prices by as much as a dime a gallon on the East and West coasts. Oh, and don't forget the $15 billion (a 155% increase) in federal home heating subsidies, $100 million for "fuel cell" school buses, and $6 million for a government program to encourage people to ride their bikes—presumably along Mr. Oberstar's newly paved trail.

All of this points up the bill's underlying mortal failing, which is that it abandons the lesson of the 1980s that the best way to ensure abundant energy supplies is to let the price system work. At least the House-Senate conferees dropped a Senate provision that would have mandated that 10% of all electricity come from "renewable" sources by 2020, regardless of supply and demand. Although in return for killing this, the House had to drop its liability protection for producers of MTBE, a gas additive that Congress itself mandated in 1990 but now wants to feed to the trial bar.

It's too much to hope that Mr. Bush will target one of these fiascoes with his first veto; any chance of a highway veto vanished when Mr. Hastert scheduled the bill immediately after Cafta. At least the Members are leaving town for August; too bad they plan to come back.

Mr. REED. Mr. President, I rise in strong support of the conference report on H.R. 3, which will reauthorize our Nation's surface transportation laws and provided significant and needed resources to maintain and improve our nation's roads, bridges, and transit systems.

For Rhode Island, this legislation is welcome news and will bring tremendous resources to address a number of high-priority highway and transit projects.

This conference report is the product of hard work and bipartisan cooperation, and I was pleased and proud to be named as a conferee on the transit title of this conference report. I believe the transit title of this bill continues the trend of TEA–21 of investing more in transit systems to the benefit of our economy and our environment.

I want to thank Chairman SHELBY and Sherry Little, Rich Steinman, and John East of his staff for their hard work and bipartisan spirit. I also want to commend my ranking member, Senator SARBANES, who has fought for transit since the first day he took office, as well as his staff, Sarah Kline and Aaron Klein, for their tireless work in helping my office and others. Lastly, I want to thank my subcommittee chairman, Senator ALLARD, and his able staff, Tewana Wilkerson, for their work on balancing the needs of old and new transit systems.

Mr. LEVIN. Mr. President, for over 2 years Congress has been trying to reauthorize the Federal surface transportation and safety programs that to keep commerce and traffic flowing smoothly across our Nation. The reauthorization bill is long overdue and I am pleased Congress will finally complete this process today. Funding for transportation infrastructure such as roads, bridges and border crossings is an important investment that increases the mobility of people and goods, enhances economic competitiveness, reduces traffic congestion, and improves air quality.

Improvements in transportation infrastructure are critical to all of our States, and the Federal highway money that States receive is critical for funding them. In addition, few Federal investments have as large and immediate an impact on job creation and economic growth as transportation infrastructure. The Department of Transportation estimates that every $1 billion in new Federal investment creates more than 47,500 jobs.

Unfortunately, the formula that distributes Federal highway funds to States is antiquated and inequitable and has discriminated against Michigan and other states for 50 years since the interstate system was first legislated. Historically, about 20 states, including Michigan, have been "donor" States, sending more gas tax dollars to the Highway Trust Fund in Washington than are returned in transportation infrastructure spending. The remaining 30 States, known as "donee" States, have received more transportation funding than they paid into the Highway Trust Fund.

This unfair practice began in 1956 when small states and large Western states banded together to develop a formula for distributing Federal highway dollars that advantaged themselves to the disadvantage of the remaining States. Once that formula was in place, they have tenaciously defended it.

At the beginning, there was some legitimacy to the concept that large, low-population, and predominately Western states needed more funding than they contributed to the system. It was necessary in order to build a national interstate highway system. However, with the national interstate system completed, the formulas used to determine how much a state will receive from the Highway Trust are simply unfair.

Each time the highway bill has been reauthorized, I, along with my colleagues from other donor States, have fought to correct this inequity in highway funding. Over the years, through these battles, some progress has been made. For instance, in 1978, Michigan was getting around 75 cents back on our Federal gas tax dollar. The 1991 bill brought us up to approximately 80 cents per dollar, and the 1998 bill guaranteed a 90.5-cent minimum return for each State. This bill will bring us to 92 cents per dollar by fiscal year 2008.

During the past 2 years, in its effort to reauthorize TEA–21, the Senate has twice passed bills that would have been better for Michigan and other donor States in terms of rate of return than is today's Conference Report. The first Senate-passed bill died in conference due to President Bush's veto threat and his unwillingness to accept the funding levels in either the House or Senate bill. This year's Senate-passed bill was modified in the conference with the House of Representatives.

The bill before us has less overall funding than either of the previous Senate passed bills and does not go as far as it should go in closing the funding equity gap for donor States. Although I am disappointed we did not do as well as we proved could be done in the two Senate bills, this Conference Report still allows Michigan to make a little progress toward achieving equity. Michigan will go from a current 90.5 percent minimum rate of return on its gas-tax contributions to the Highway Trust Fund to 91.5 percent in fiscal year 2007 and to 92 percent in fiscal years 2008 and 2009.

This bill will provide more than $1.123 billion annually to fund transportation projects in Michigan, $239 million more per year than the prior 6 year highway bill, and will create 61,500 new jobs across the State.

Furthermore, the bill provides funding for a number of critical highway related projects in Michigan. I am delighted to have helped to secure significant additional funding for Michigan roads and highway related projects which will help make up for the fact that we are a donor State.

For example, the bill provides $40.8 million to reconstruct and widen I–94 in Kalamazoo. The bill also provides $29 million for the Detroit Riverfront Conservancy to establish a West Riverfront walkway and greenway along the Detroit River from Riverfront Towers to the Ambassador Bridge. It provides $12 million for the construction of a new at-grade crossing and I–75 interchange in Gaylord to reconnect Milbocker and McCoy Roads and a new overpass to reconnect Van Tyle to South Wisconsin Road. It also provides $13.28 million to repave a portion of H–53 in Alger County.

The legislation we will pass today represents some progress in the ongoing fight for equity for donor states. I will continue to fight in the future, as I have in the past, until we are able to achieve full equity for Michigan. I recognize, however, that we have succeeded in reducing the inequity a little more in each reauthorization bill, and we do so in this bill as well. I therefore will support this bill.

Mr. DURBIN. Mr. President, today the Senate will overwhelmingly approve the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users, SAFETEA–LU, H.R. 3. I support this important legislation as I have done when similar measures came before the Senate last year and again in May. I believe it is a critical step toward funding our Nation's transportation infrastructure and creating much needed jobs.

This process was not perfect. It took 12 short term extensions and nearly 2 years to complete this bill. The Senate funding level began at $318 billion 18 months ago and shrunk to $295 billion in May. The House passed its version, TEA–LU, at $284 billion. The President unfortunately, supported the lower House number. In fact, he threatened to veto any transportation bill that exceeded the $284 billion funding level. I am glad he changed his mind.

Reauthorization of TEA–21 is one of the most important job and economic stimuli that the 109th Congress can pass. I am pleased that Congress has finally accomplished this elusive goal.

I would like to take this opportunity to discuss the benefits of this legislation for my home State of Illinois.

H.R. 3 would make the largest investment to date in our Nation's aging infrastructure, $286.45 billion over the life of the bill. In short, SAFETEA would increase the State of Illinois' total Federal transportation dollars and provide greater flexibility. It would help improve the condition of Illinois' roads and bridges, properly fund mass transit in Chicago and downstate, alleviate traffic congestion, and address highway safety and the environment.

Illinois has the third largest Interstate system in the country; however, its roads and bridges are rated among the worst in the Nation. The State can expect to receive more than $6.18 billion over the next 5 years from the highway formula contained in the Senate bill. That is a 33.34 percent increase or $1.545 billion over the last transportation bill.

With these additional funds, the Illinois Department of Transportation will be able to move forward on major reconstruction and rehabilitation projects throughout the State.

My Illinois colleague, Senator OBAMA, and I were able to add more than $215 million for projects through the State. And we worked closely with our House colleagues to support projects such as the Chicago railroad initiative CREATE and the new Mississippi River bridge in St. Clair County.

Mass transit funding is vitally important to the Chicago metropolitan area as well as to many downstate communities. It helps alleviate traffic congestion, lessen air emissions, and provides access for thousands of Illinoisans everyday. Illinois would receive about $2.467 billion under SAFETEA–LU, a 128 percent increase from TEA–21.

The transit section authorizes CTA and Metra projects as well as provides funding for transit systems in Springfield, Rock Island, Ottawa, and Rockford.

This legislation also preserves some important environmental and enhancement programs, including the Congestion Mitigation and Air Quality, CMAQ, program. CMAQ's goal is to help States meet their air quality conformity requirements as prescribed by the Clean Air Act. This legislation would increase funding for CMAQ by 7.5 percent.

With regard to highway safety, Illinois is one of 20 States that has enacted a primary seat belt law. H.R. 3 would enable the State of Illinois and other states who have passed primary seat belt laws to obtain Federal funds to implement this program and further improve highway safety.

I know this legislation is not perfect. Congress should have stood up to the President and passed a bill with greater funding for highways and transit. Illinois' highway formula should be higher, and this bill should have been finished 2 years ago. But thankfully we have reached the end of this very long road. Thankfully, the State of Illinois will not miss another construction season.

I would like to take a minute to thank Senator OBAMA for his work on this bill. As a member of the Environment and Public Works Committee and a conferee, he was able to ensure Illinois received its fair share of highway and transit funding. I was pleased to work with him and my House colleagues to deliver a transportation bill that will move our State forward and address critical highway, bridge, and transit needs.

With the passage of this legislation, Congress has upheld its obligation to reauthorize and improve our Nation's important transportation programs. I am pleased to support SAFETEA–LU.

Mr. INOUYE. Mr. President, I rise to support the passage of the conference report for H.R. 3, SAFETEA–LU, the reauthorization of our Federal surface transportation programs. During my 42 years in the Senate, it has been the rare occasion when we pass a piece of legislation that is guaranteed to save lives. But the safety provisions authored by the Senate Commerce Committee in this transportation reauthorization bill will save thousands of lives, and prevent thousands of serious injuries, for generations.

I want to thank Chairman STEVENS, Chairman LOTT, Senators PRYOR, ROCKEFELLER, BURNS, DORGAN, LAUTENBERG, and BOXER of the Senate Commerce Committee for working so closely with me to develop a consensus, bipartisan safety bill in the Senate. Likewise, Chairman YOUNG, Chairman PETRI, Chairman BARTON, and Ranking Members OBERSTAR, DEFAZIO, and DINGELL from the House Transportation and Infrastructure and Energy and Commerce Committees for their efforts in merging our bills into a truly landmark conference report.

In crafting our bill and conference report, we have incorporated many of the administration's recommendations and provisions from our similar effort that passed the Senate last year covering auto, truck, rail safety, and hazardous materials transportation safety. The bill also strengthens consumer protections for those who entrust their belongings to a moving company, provides more robust, predictable funding for boating safety and sport fish restoration programs, and provides additional financing options.

In the 1970s, we required that seatbelts be standard equipment in all automobiles. We then followed in the 1980s with airbags and other safety features. Now a new generation of technology has opened the door to even greater automobile safety. With Chairman STEVENS and Senator LOTT, we undertook a bipartisan mission in the Commerce Committee to use these new technologies to reduce injuries and save lives of automobile drivers and passengers.

The development of electronic stability control by America's brilliant engineers is the most promising vehicle safety technology of our generation. Rollovers represent one-third of all traffic safety fatalities, so our safety bill requires that electronic stability control become standard equipment on all passenger cars and trucks in 5 years. It is also cost effective since it uses existing anti-lock brakes to correct the course of a vehicle before a potential rollover.

During a rollover, we need to keep occupants inside the car where they are better protected. Therefore, the bill also requires stronger doors and door locks. The third critical change is to mandate stronger roofs that are less likely to crush occupants during a rollover.

This highway safety bill goes even further: side-impact crash standards that likely will result in side-curtain airbags in every automobile; new rules to make 15-passenger vans subject to the same safety tests as automobiles; a prohibition on sales of new 15-passenger vans to schools for use in carrying children; and new power-window switches that will reduce strangulation deaths and injuries to children.

Cumulatively, these improved vehicle safety standards will save thousands of lives.

We also dramatically increase funding for programs to reduce drunk driving and increase seatbelt use. I am especially proud that our bill gives States large incentives to crack down on hard-core drunk drivers, those who have the audacity to drive drunk again after a prior conviction. We also provide $29 million annually for national advertising and safety enforcement campaigns, which research data shows has had a significant effect on saving lives. In other words, everyone will see more commercials during the holidays about drunk driving and seatbelt use, and there will be more police on patrol during those times.

There is a final issue that is very important to me, highway safety on Indian lands. While the rate of highway deaths and injuries has declined across the Nation, the death and injury rate on Indian lands has actually increased. Since 1982, 65 percent of fatal crashes that occurred on Indian lands were alcohol related. That compares to the national alcohol-related death rate of 47 percent of all fatal crashes.

The percentage of fatal crashes on Indian reservations that involves a single vehicle is 26 percent higher than in the rest of the Nation. These single-vehicle accidents are the most preventable, and where we can save the most lives per dollar spent on traffic safety outreach and enforcement.

Therefore, from the funding pool for the basic safety grant in this bill, we more than doubled the proportion of basic safety grant money sent to the Bureau of Indian Affairs. BIA distributes this money to Indian tribes that apply for funds to reduce drunk driving, increase seatbelt use, and enact other safety strategies. This was a provision in the original Senate bill, and we convinced our colleagues on the conference committee to include it in the final report. This extra funding will make a tremendous difference in the lives of our Native Americans, whose families suffer the tragedy of highway deaths more severely than any other part of our country.

To improve the safety of trucks and buses operating on our Nation's roads, we have reauthorized the Federal Motor Carrier Safety Administration's safety programs FMCSA and strengthened their efforts to improve truck safety through strong enforcement and cooperation with the trucking industry. The conference report also reauthorizes the Motor Carrier Safety Assistance Program, MCSAP, for the years 2006 through 2009 at an average annual funding level nearing $200 million, more than double the TEA 21 level, and consistent with the administration's proposal.

The conference report also provides $128 million over the life of the reauthorization to improve States' Commercial Driver's License programs and modernize the Commercial Driver's License Information System, CDLIS. The conference report updates the medical program for commercial drivers by establishing a Medical Review Board to recommend standards for the physical examinations of commercial drivers and a registry for qualified medical examiners to ensure medical examiners have received proper training.

The conference report also improves the maintenance and safety of intermodal truck chassis are the current Single State Registration System for truck registration, SSRS, with a new system that requires truckers to only register in one State, while preserving State revenues collected through the current system.

To improve the safety and security of the transportation of hazardous materials, the conference report reauthorizes the hazardous materials, HAZMAT, transportation safety programs at an average of $30 million annually, now administered by the Pipeline and Hazardous Materials Safety Administration, PHMSA, for the first time in over 10 years.

The conference report provides $21,800,000 annually for community HAZMAT planning and training grants and allows States to use some of their planning money to training programs as needed. Additionally, the bill provides $4 million annually for HAZMAT "train the trainer" grants, and allows these funds to be used to train HAZMAT employees directly.

The conference report also increases civil penalties to up to $100,000 for HAZMAT violations that result in severe injury or death and raises the minimum penalties for violations related to training. The conference report requires Mexican and Canadian commercial motor vehicle operators transporting HAZMAT in the U.S. to undergo a background check similar to those for U.S. HAZMAT drivers.

Additionally, the conference report streamlines Federal responsibilities for ensuring the safety of food shipment by transferring primary responsibility of food transportation safety from the Department of Transportation to the Department of Health and Human Services, HHS, which would set practices to be followed by shippers, carriers, and others engaged in food transportation.

To provide greater protection to consumers entrusting their belongings to a moving company, the conference report allows a state authority that enforces State consumer protection laws and State attorney general to enforce Federal laws and regulations governing the transportation of household goods in interstate commerce. Additionally, the conference report imposes new penalties for fraudulent activities perpetrated by movers and imposes new registration requirements on household goods carriers to protect consumers.

This conference report also reauthorizes activities funded by two of the Nation's most effective "user-pay, user-benefit" programs—the sport fish restoration fund, administered by the Fish and Wildlife Service, and the recreational boating safety fund, administered by the U.S. Coast Guard. These programs constitute the "Wallop-Breaux" program, which is funded through the aquatic resources trust fund.

The reauthorization will allow continued funding of programs that benefit boating safety, sportfish, and wetland restoration, as well as Clean Vessel Act grants that help to keep our waterways clean. I am pleased to report that this provision is supported by a large coalition of recreational and boating groups who are members of the American League of Anglers and Boaters.

The changes made include: (1) renaming the trust fund the sport fish restoration and boating trust fund, and eliminating the separate boating safety account; (2) reauthorizing the marine sanitary devices pump-out program, the Boating Infrastructure Grant Program, and outreach programs; and (3) funding most of the programs on a percentage basis, which provides both simplicity and fairness. Conforming changes to the Internal Revenue Code are also included.

The growing popularity of recreational boating and fishing has created safety, environmental, and access needs that have been successfully addressed by the Recreational Boating Safety and Sport Fish Restoration Programs. The trust fund program reauthorizations and funding adjustments contained in the conference report are important for the safety of boaters, the continued enjoyment of fishermen, and improvement of our coastal areas and waterways.

Finally, the conference report streamlines the Federal Railroad Administration's Railroad Rehabilitation and Improvement Financing Loan Program and increases the amount of loans for railroad infrastructure improvements. The conference report creates a new program to fund the relocation of rail lines and other projects that help alleviate congestion, noise, and other impacts from railroads on communities and provides additional funds for highspeed rail planning and development efforts.

As the title of this bill implies, increasing the safety of our highways and surface transportation system is one of our Nation's top priorities, and I am proud to say that this conference report will bring us closer to the goal of having the safest transportation system in the world.

Mr. DOMENICI. Mr. President, I rise today in support of the highway bill conference report. I want to first applaud the chairman, my good friend Senator INHOFE, for all of his hard work on this important legislation. I also want to thank the ranking member of the EPW committee, Senator JEFFORDS, for his work on the bill.

The highway bill is one of the most important pieces of legislation that the Senate undertakes. This bill makes it possible to construct and repair vital transportation arteries that crisscross this great Nation. As our country grows we must be conscious of our transportation needs. Accordingly, this bill increases funding for road construction that will substantially reduce traffic delays that plague the country. Additionally, this bill substantially increases transit funding further reducing congestion and pollution caused by overpopulated highways.

This bill will provide roughly $1.76 billion in funding for New Mexico over the next 5 years. The New Mexico projects that made it into this bill will be instrumental in continuing our push for economic development. The money for Double Eagle II Airport will play heavily in making this new facility a leader in aircraft manufacturing. Additionally, as our population continues to grow, the money for the extension of University Boulevard will allow this growing portion of Albuquerque direct access to other parts of the city.

This bill also contains vital funding for the southern portion of New Mexico. This bill contains $5 million for reconstruction of NM-176. This road will be a key component in making the LES plant in Eunice a success. Finally, this bill provides $7 million for reconstruction of the I–10/I–25 interchange and $2 million for road work on I–10 itself.

This bill also increases funding for the Indian Roads Program. I have advocated for increased Indian roads funding for a number of years and while this increase only begins to address the need, it will help immensely in addressing the economic development problems facing Indian Country.

Once again, I would like to thank the Chairman and Ranking member of the EPW Committee and their staff for doing a great job in getting this bill completed.

Mr. BAUCUS. Mr. President, after nearly 3 years and countless temporary extensions, the Senate is about to pass a monumental transportation bill. We will provide over $286 billion that will create thousands of jobs and keep our transportation infrastructure healthy.

Getting to this point truly has been a work of dedication and perseverance. First, I thank Senator INHOFE and Senator JEFFORDS, from the Environment and Public Works Committee, as well as Senator BOND, the chairman of the Subcommittee on Transportation and Infrastructure. They provided excellent leadership and cooperation.

I sincerely thank their staffs many of whom spent sleepless nights getting this done. In particular, I thank Ken Connolly, J.C. Sandberg, Malia Somerville, Alison Taylor, Jo-Ellen Darcy, Catharine Ransom, Chris Miller, Malcolm Woolf, Carolyn Dupree, Thomas Ashley, Cara Cookson, Andy Wheeler, Ruth Van Mark, James O'Keeffe, Nathan Richmond, Alex Herrgott, Angie Giancarlo, Greg Murrill, Heideh Shahmoradi, Ellen Stein, John Stoody. They played an important role developing the transit title in this bill.

I also thank my good friend Senator GRASSLEY, the chairman of the Finance Committee, for his commitment to the transportation program.

Let me take a moment and speak about the hard work of the Finance Committee staff. Getting the Tax Title done presented many challenges, not the least of which was getting it paid for. The House bill simply did not provide enough money for our highway infrastructure. The Finance Committee worked together tirelessly to find additional revenue to pay for it.

I want to thank some staff members in particular. I appreciate the cooperation we received from the Republican staff, especially Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, and Nick Wyatt.

I thank the staff of the Joint Committee on Taxation and Senate Legislative Counsel for their service.

I also thank my staff for their tireless effort and dedication, including Russ Sullivan, Patrick Heck, Bill Dauster, Matt Jones, Ryan Abraham, and Wendy Carey. I also thank our dedicated fellows, Mary Baker, Jorlie Cruz, Cuong Huynh, Richard Litsey, Stuart Sirkin, and Brian Townsend.

I especially express my sincere gratitude to Kathy Ruffalo-Farnsworth. Her extraordinary efforts and contributions in keeping this bill together went over and above the call of duty. I hold her in the highest esteem and can't thank her enough for her counsel and professionalism.

Finally, I thank our hard-working law clerks and interns: Katherine Bitz, Drew Blewett, Adam Elkington, Julie Golder, Rob Grayson, Jacob Kuipers, Heather O'Loughlin, Andrea Porter, Ashley Sparano, Julie Straus, Danny Shervin and Paul Turner.

This legislation really was a team effort. I yield the floor.

Mr. HATCH. Mr. President, as a member of the Senate-House team that negotiated the final transportation funding package, I want to commend Majority Leader BILL FRIST for avoiding yet another stalemate and steering this legislation toward final passage. The comprehensive highway measure allocates $286.5 billion over 5 years to support investment in our Nation's highways and transit systems. Miles traveled on Utah's roads has grown twice as fast as its population, but Federal funding has remained flat. Now, Utah can plan for long-term projects, which in the past have been interrupted by numerous temporary extensions.

With the passage of the Transportation bill, Utah will receive approximately $1.8 billion to fund its multiyear highway and transit projects. This highway bill will allocate close to $282 million each year to invest in Utah's highways over the next 5 years. This is the most Federal funding ever committed to Utah in a transportation bill and it is long overdue.

Utah is the crossroads of the West; every year millions of people visit the Beehive State to enjoy its natural beauty and to invest in its growing economy. The highway bill provides a tremendous amount of Federal assistance for road improvements and transit projects across the State, including: new I–15 interchanges in Ogden, Layton and Provo; light-rail lines to the airport and South Jordan; highway projects on US–6 in Carbon County and State Road 92 in Utah County; a railroad overpass in Kaysville; a pedestrian and bicycle access in Moab; a connector from I-15 to the Provo Municipal Airport; improvements for the Bear River Migratory Bird Refuge Access Road; the 3200 South Project in Nibley/Cache County; and building the Northern and Southern Corridors in St. George. There are, of course, many, many more projects throughout the State that will receive funding that I do not have time to name here but that are equally as important.

The Utah Transit Authority, UTA, plans to bring commuter rail to Utah to ease congestion and help Utah commuters. I am pleased with the $200 million set-aside to begin construction on this important project, which plans to provide service from Ogden to Provo. This project will do so much to relieve congestion and give Utahns a fast, comfortable, and efficient choice for transportation. Utah will also receive $30 million for its statewide bus and bus facilities for the purchase of buses, upgrading existing buses, and for improving maintenance facilities and storage yards.

At my urging as a Senate conferee to the Transportation bill, Utah State University was designated as a University Transportation Center. USU will receive approximately $2 million over the next 5 years and will greatly improve the statewide knowledge base and transportation research being done in Utah.

Mr. President, a few months ago, executives of Wavetronix, a traffic-data collecting company based in Lindon, UT, asked for my help in amending the Intelligent Transportation Infrastructure Program, ITIP. Wavetronix sells sensors that detect speed and flow in highways for purposes of gathering information to determine real-time traffic data and would like to have access to ITIP funds. Unfortunately, since 1998, a Pennsylvania-based company, Traffic.com, has had total control over how and where to use Federal ITIP funds. Wavetronix and many others have been shut out from receiving ITIP funds because of the closed nature of the program. One large company should not have a monopoly on the funds provided for traffic data collection. We should benefit from innovative solutions coming from small businesses in Utah and other States, not funnel millions of dollars each year to a company that does not have to compete for—the money.

In May, I included in the Senate highway bill language that gives qualified companies, including Wavetronix, the ability to compete for ITIP funding. I am pleased that the conference report maintained the important language which provides a fair and level playing field for State DOTs and qualified private-sector companies wishing to access ITIP funds, without requiring them to work with Traffic.com. This is a significant victory for Wavetronix and other similarly situated small companies across the Nation.

Finally, I want Utahns to know that the delegation worked very hard to include language in this bill to resolve the Legacy Parkway issue and perhaps save Utah hundreds of millions of dollars—and it came right down to the wire. We took this action after we received reports that the negotiations involving the Utah State Legislature, UDOT, and the Sierra Club, although promising, could not be implemented in a timely fashion. So the delegation attempted to use this bill to bring this longstanding battle to a close in a way that respected the environmental concerns that have been expressed. We worked day and night to design language that would allow this 14-mile highway addition and at the same time alleviate the horrendous traffic jams we have witnessed in northern Utah. In the end, the language was blocked. The people who have now cost the State of Utah what some estimate to be over $300 million made it impossible, with the help of a very few allies in Congress, to get it through. In my estimation, this fight is not over. My goal is to save our State millions of additional dollars and get this highway done so the quality of life of those who work south and live north of the project will be improved.

Despite my disappointment that this provision was not included in the final bill, I still believe this bill is one of the most important pieces of legislation Congress will consider this year. This bill will help ensure the safety, efficiency, and mobility that every American expects from their transportation system.

I yield the floor.

Mr. FEINGOLD. Mr. President, today, Congress is finally completing work on a bill to reauthorize the Transportation Equity Act for the 21st century. This bill has been a long time coming and while it is 668 days overdue, for Wisconsin it may have been worth the wait. I am pleased that Wisconsin will now have a chance to address our State's vital transportation needs for the next year and plan its priorities for the next 5 years. I am even more pleased that this conference report builds on the precedent set under TEA-21, where Wisconsin, after decades of not getting our fair share, finally started to receive at least as much in highway funding as we pay to the Federal Government. During this summer travel season, the people of Wisconsin should be happy to know that their tax dollars will be used to improve Wisconsin's roads, bridges, trails, rails and transit system.

While the bill is not perfect, it goes a long way toward ending Wisconsin's decades-long legacy as a donor State. Historically, Wisconsin's taxpayers have received about 78 cents for every dollar we have paid into the highway trust fund. As a result, we have lost more than $625 million between 1956 and when TEA-21 was passed in 1998. Under TEA-21, the previous 6-year highway authorization, Wisconsin received approximately 102 cents for every dollar it paid contributed to the highway trust fund through gasoline taxes. I was pleased to work with the Wisconsin delegation to finally turn around decades of our State getting the short end of the stick, and am happy that we are now able to build upon that success. The conference report guarantees Wisconsin an absolute dollar increase of over 30 percent, or about $165 million per year, over the last bill and improves our rate of return to 106 cents per dollar paid in over the 5 years of the bill. This will help us make up for the decades where Wisconsin was instead on the losing end of the highway funding equation.

I applaud the efforts of Wisconsin's delegation in achieving an even greater measure of fairness for Wisconsin's taxpayers. Throughout this over 2-year process, I have worked closely with Senator KOHL and the entire House delegation to get the best possible treatment for Wisconsin. The conference bill represents a great victory for Wisconsin, largely due to this bipartisan bicameral cooperation. I would like to give special thanks to those members of both bodies who have worked in the trenches as conferees to craft this bill, especially Congressman TOM PETRI, the chairman of the House Subcommittee on Highways, Transit and Pipelines. As one of the key conferees, he worked tirelessly over the past 2 years or more to come to this agreement and to ensure that Wisconsin was treated fairly.

While there are probably some projects in this large bill that may not be priorities for their States or local communities, but instead were proposed by special interests, I don't feel that this is the case for Wisconsin. I worked closely with the Wisconsin Department of Transportation when I made requests for funding of specific projects to ensure that they addressed Wisconsin's transportation priorities. I think this was probably true for the entire Wisconsin delegation as well, and I want to thank the State Department of Transportation for this valuable advice and support. The projects I requested were chosen to meet a range of State and local needs and span the entire State from our urban areas, with the Marquette Interchange in Milwaukee or East Washington Avenue in Madison, to suburban and rural areas like the Stillwater Bridge linking St. Croix County to Minnesota, or the Sturgeon Bay Bridge and State Highway 57 in Door County. These projects will create jobs in Wisconsin, allow for the more efficient movement of manufactured goods and agricultural products throughout the State, provide access to Wisconsin's natural wonders to residents and visitors, and in many cases make the roads safer for Wisconsin's families as they go about their daily lives.

Finally, while attention has been focused on money for highways and bridges, this bill also includes funds for important safety improvements, transit projects, recreational trails, boating programs and funds to give seniors and the disabled more mobility, to name a few. I was proud to support many of these programs that were ultimately included in the bill. Having fought to secure funds for recreational trails, senior transportation, and various transit projects from the statewide bus funding to the Dane County's Transport 2020 and the commuter rail extension through Kenosha, Racine and Milwaukee, I can attest that these are as important to many citizens in Wisconsin as the essential highways and bridges.

As I noted before, this bill is not perfect. I am concerned about some of the environmental provisions in the bill, particularly those with a potential impact on the Nation's air quality. The language modifies current transportation regulations dealing with long-range transportation planning and its impact on air quality. The current rules require that major new road projects must not contribute to violations of air quality standards over a 20-year period. The conference report instead mandates that Clean Air Act conformity will be considered over 10 years. The bill also contains environmental review streamlining provisions that include tight review deadlines and conflict resolutions provisions. I agree with these measures in principle, but I am concerned that the articulated deadlines may not be realistic.

On balance, my concerns about these provisions are not enough to cause me to oppose this bill that provides critical highway funds in a fair manner. I will vote for the bill.

Mr. DODD. Mr. President, I rise to discuss the conference report that accompanied the Safe, Accountable, Flexible, Efficient Transportation Equity Act reauthorization bill. The Senate adopted this measure earlier today and I voted in support of it.

I would like to begin by thanking the principal Senate authors of this important legislation: Senator INHOFE and Senator JEFFORDS of the Environment and Public Works Committee; Senator SHELBY and Senator SARBANES of the Banking Committee; Senator GRASSLEY and Senator BAUCUS of the Finance Committee; and Senator STEVENS and Senator INOUYE of the Commerce, Science and Transportation Committee. I commend them and their staffs for their hard work over these past 3 years in crafting this legislation.

I would also like to thank my colleagues who served on the conference committee during these past 2 months. Reconciling legislative differences with the other body over a bill of this large, complex and important nature is no easy task; I appreciate all of their hard work.

The conference report that passed the Senate funds our Nation's transportation infrastructure at $286.4 billion between fiscal year 2005 and fiscal year 2009. This includes all of our Interstate highways, the National Highway System, secondary roadways, intercity passenger rail, local transit systems and transportation safety programs. Taken together, these elements form one of the most essential factors that determine the well-being of our country and our country's national economy: ensuring the safe and efficient passage of people and goods.

The conference report provided $233.8 billion for our Nation's roadways. Included in this amount was $25 billion for the maintenance and expansion of our Interstate highway system, $30.5 billion for the maintenance and expansion of our larger National Highway System, $21.6 billion for the replacement of defunct or obsolete bridges, $32.5 billion for discretionary projects under the Surface Transportation Program and $5 billion for highway safety programs. Out of these funds the conference report provided my home State of Connecticut with nearly $2 billion between fiscal year 2006 and fiscal year 2009—a 19 percent increase over the original authorization bill's amount. Included in these resources were on average $51 million a year for Interstate highway maintenance, $48 million a year for roads included in the National Highway System, $91 million a year for bridge replacement, $61 million a year for large and small-scale road improvement projects under the Surface Transportation Program and $7 million a year for highway safety programs. Beyond these resources the bill provided over $160 million for several dozen highway initiatives across Connecticut. All of these initiatives, from the reconstruction of I–95, municipal streets and bridges to multi-use recreational trails, stand to improve the quality of life in the communities and regions where they are taking place.

The conference report also provided $52.6 billion for our Nation's transit systems. Out of these funds the report provided Connecticut—a State heavily-dependent on mass transit services—with nearly $485 million between fiscal year 2006 and fiscal year 2009—a 33 percent increase over the original authorization bill's amount. In addition to these resources the report included nearly $150 million for local transit agencies across Connecticut to improve their infrastructure and services, thereby working to alleviate congestion that continues to plague my State's roadways.

Overall I believe that the resources provided in this conference report will help improve our Nation's transportation infrastructure over the next 4 years. They will allow for critical maintenance and capital improvement projects to go forward on our roadways; they will allow for dangerous overpasses to be replaced; they will allow for transit systems to meet more efficiently the needs of their riders; and they will allow for a greater degree of safety on our roads and rails. Nevertheless, I would be remiss if I did not take a moment to discuss some of the shortcomings I see in this conference report—shortcomings that, in my view, threaten to undermine the very goals this legislation tried to accomplish.

First, I do not believe that the level of investment provided in this conference report is fully adequate to meet the growing needs of our transportation infrastructure. When the Senate originally debated this legislation, I was pleased to support a bipartisan measure that provided $295 billion between fiscal year 2004 and fiscal year 2009. This funding level was considerably higher than the House level of $283 billion and the Bush administration's original recommendation of $256 billion.

Therefore, when the conference report was completed earlier this week, I was disappointed to learn that the conference committee provided $286.4 billion—a figure only marginally higher than the House figure and significantly lower than the Senate figure. I have been told by the Connecticut Department of Transportation that this level of investment is barely adequate to keep pace with expected inflation over next 4 years and wholly inadequate to meet the growing crises facing our transportation systems both in Connecticut and across the country.

Second, I remain concerned over how the levels of guaranteed funding for highways and transit were determined in this conference report. Earlier this year, I strongly opposed a unilateral move by the Senate Environment and Public Works Committee to reduce transit's share in the Senate bill from the previously-negotiated ratio of 18.82 percent to 18.18 percent. Unfortunately, this new ratio prevailed in the Senate version of the bill. In conference it was raised to 18.57 percent. While this conference agreement is higher than the Senate version's ratio and higher than the ratio in the original authorization bill, it still underfunds transit activities by $700 million compared to the original agreed-upon ratio in the Senate.

Highway and transit interests should not be working against each other. They should be working together. The best transportation systems in the world are those that feature a sound, safe, and efficient balance between various modes of transportation. Disrupting that balance by favoring one mode over another ultimately causes road congestion, unreliable transit service, and higher transportation costs—three problems that many parts of this country, including Connecticut, are experiencing today. If we are to overcome these problems and support a balanced, safe, and efficient transportation network in this country, then we must adequately and equally invest in all modes, whether they are highways, transit, airports, or seaways. We must recognize that each mode is an important and integral part of a larger transportation network.

From reviewing the funding allocations provided for both transit and highways in this bill, it concerns me that inadequate resources are going to areas of the country, such as Connecticut, where the transportation needs are the greatest. I find this rationale inconsistent with the way our national government usually addresses matters of national significance that affect particular regions of our country. When a drought plagues a certain part of this country, we always stand ready to provide drought relief to the affected States. When a hurricane slams into our coastline, we always stand ready to provide emergency disaster relief to the affected States. When farmers are experiencing financial difficulty, we always stand ready to provide them with vital subsidies. And when forest fires burn mercilessly over hundreds of square miles, we always stand ready to provide emergency assistance to the affected States. Why then, when key components of our national transportation system are plagued by aging and obsolete infrastructure, do we not seem to stand ready to provide adequate assistance to the most affected States?

A transportation system in crisis is more than a transportation problem; it's an economic problem. Without a balanced, safe, and efficient transportation system, goods cannot be delivered to their destinations in a timely manner, services cannot be rendered efficiently, and people cannot get to their jobs conveniently. Over time, the environment worsens, the quality of life declines, and the region suffers as a whole.

Today, the transportation system serving Connecticut and the surrounding region is in need of assistance. In Connecticut alone, a rapidly aging infrastructure routinely causes significant disruptions to our transportation network—disruptions that have had a negative impact on the region and country as a whole.

The busiest commuter rail line in the country is located in Connecticut. It runs over 70 miles between New Haven and New York City—carrying over 33 million riders annually along our southwest coast. Last year, a combination of cold weather and rapidly aging rail cars—many of which are a decade or more beyond their operational lifetimes—caused one-third of the line's fleet to be taken out of service for emergency maintenance. In fact, about 37 percent of the fleet was taken out of service for most of last February—230 cars out of the 800-car fleet. Needless to say, this occurrence put an enormous strain on thousands of commuters who rely on the service daily to get to and from work, travel to and from school, and to see their families.

The nation's seventh busiest highway is also located in Connecticut. Our segment of Interstate 95 is a major artery for commercial vehicles and other interstate traffic. In March of 2004, an accident caused an overpass in Bridgeport to collapse. While there were thankfully no fatalities, the accident did force the closure of Interstate 95 for 4 days until a temporary overpass could be built. Needless to say, this closure created enormous burdens on the already beleaguered highway and transit systems in Connecticut, New York, and New England. It also created an adverse economic effect that was felt far beyond our region as people and goods were unable to reach their important destinations on time.

These are the types of incidents that speak to an acute transportation need in Connecticut and in our region of the country. These are the types of incidents that should be considered closely when vital transportation resources are being allocated in a reauthorization bill. It is my hope that Congress in future years will take these considerations more into account when drafting transportation authorization measures. The problems facing my State and others will not go away on their own.

In closing I thank again the authors, managers and conferees of this legislation. I look forward to working with them and all of my colleagues on future initiatives that seek to ensure the long-term well-being of our Nation's transportation system.

Mr. DURBIN. Mr. President, I rise in support of the U.S. Department of Transportation's disadvantaged business enterprise, DBE, program contained within the surface transportation reauthorization bill. The DBE program is critical to providing equal opportunities to small businesses that are owned and controlled by minorities, women, and others in our Nation who have been socially and economically disadvantaged. I am pleased that Congress is committed to its reauthorization.

This important DBE program has been in existence since 1983. It was created to remedy the demonstrated history of discrimination that has existed in our Nation against minority-owned small businesses. The program was amended in 1987 to include women-owned small businesses. In 1998, Congress reauthorized the DBE program for both minorities and women, in light of an extensive record of hearings and evidence showing the effects of discrimination on the ability of disadvantaged businesses to compete on an equal basis.

Although we have made progress as a Nation in the treatment of minorities and women, the evidence shows that discrimination endures. The U.S. Department of Transportation has conducted 15 detailed disparity studies since 1998 showing ongoing discrimination against businesses owned by these groups. The studies show a statistically significant disparity between the availability of minority and women-owned businesses in government contracting, and their utilization. Courts have consistently held that such evidence is strong evidence of unlawful discrimination and of the need for the continuation of the DBE program.

There is also ample anecdotal evidence showing that discrimination in contracting still exists. Loretta Molter started her own business in Frankfort, IL, in 1987, and her business was recently named subcontractor of the year by the Illinois Department of Transportation. But in a letter that Ms. Molter wrote last year to the Women First National Legislative Committee, she stated: "Prime contractors tend to take advantage of small minority or women businesses. . . . If the goals were eliminated, general contractors would not use minority or women business owners. . . . There is a good ol boy's network, be it on the golf course, on trips, or dinner/lunch meetings."

And consider the words of Takyung Lee, an Asian-American owner of a small trucking company in Wauconda, IL. Lee submitted a statement to the city of Chicago last year that discussed the disparate treatment faced by Asian Americans in the trucking business: "When we do get jobs, we are targeted and harassed. Our drivers are stopped and checked for identification when others are not. We have to show proof of health, welfare and pension payments when other companies get away with these and other violations. . . . It seems that some people think an Asian American does not belong in the construction business. I have worked hard to prove them wrong but face discrimination and unfairness every day. I wonder how much success I could have if I did not have to fight so hard against people who are prejudiced?"

It is unfortunate that Asian Americans, women, and other participants in the DBE program must ask themselves that painful question. We can hope for a day when we have a color-blind society and equality of opportunity, but that day is not yet here. The surface transportation reauthorization bill recognizes this reality and gives new life to a program that is trying to level the playing field for those who continue to be socially and economically disadvantaged in the 21st century.

Mr. GRASSLEY. Mr. President, today is our final step to positively reaffirm our commitment to a strong and dedicated highway program, the safety and soundness of its infrastructure, and the security of the Nation's transportation network.

But in the process of pursuing and completing those goals, conferees had to make many decisions. As chairman of the Finance Committee, at the outset, I committed to several fundamental principles during this conference.

First, that the bill be paid for. Whatever we added to the trust fund should not increase the deficit. If you look at the revenue table, prepared by Joint Tax, you will see that the new trust fund money raised by fuel fraud enforcement is raised in a deficit-neutral manner. The tax-writing committees were fiscally responsible in our efforts to grow the trust fund.

Second, highway taxes pay for highways. These are taxes that will be collected regardless of whether or not we have a highway bill. They can't be used for anything else. The tax provisions of the highway bill aggressively focus on collecting all of the taxes due and owed to the highway trust fund.

So we increase the size of the trust fund. Primarily, we do it by being tough on fraud. Some of this fraud is just plain old criminal activity—but we have reason to believe that billions of our highway tax dollars are being stolen for a more sinister purpose, that being the potential funding of terrorism. So we have the opportunity with this legislation to not only shut down these thieves but to rightfully collect all of our highway taxes to fully fund this bill. Under the Senate bill, several billion dollars will be added to the highway trust fund merely by moving jet fuel to the rack. Unfortunately, we can't keep all of the untaxed jet fuel out of the diesel market unless all 50 States move all of their fuel tax collection to the rack. But we can collect billions that are currently stolen from both airport and highway trust funds.

The third principle was to provide the highway trust fund with sufficient resources to serve America's highway needs. The additional resources the Finance Committee produced for the authorizers, I believe, enabled this deal to happen. Add up last year's FSC-ETI conference report changes and the trust fund gained $24 billion extra. This year we have added another roughly $3 billion in additional receipts for the trust fund. Without these additional resources, we would have faced another case of legislative gridlock. Legislative gridlock wouldn't help the folks we represent who were facing gridlock on their roads.

I would also like to mention two policy initiatives that do not relate to the highway trust fund. The Senate carried into conference a package of excise tax reforms and a transportation bond proposal.

The legislation before us also includes a number of excise tax reforms. These are small items, but important to the affected taxpayers. For the most part, these provisions simplify various Federal excise taxes.

I will note that these excise tax reforms do lose some revenue. It is roughly $1 billion over the 10-year period. When the highway bill came out of the Senate, these measures were offset with revenue raisers to make them deficit neutral. The House did not accept the group of revenue raisers we had allocated to these provisions. It should be noted that the budget resolution provides $36 billion over 5 years for tax relief outside of reconciliation. So this relatively minor deficit impact is accounted for in the budget.

Finally, I am pleased we were able to reach agreement on the Talent-Wyden transportation infrastructure private activity bond proposal. Senators TALENT and WYDEN are to be commended for pursuing this innovative concept. There will now be $15 billion in bond authority for transportation projects.

We did hear some sharp criticisms of the heavy-lifting the Finance Committee did to make this bill happen. We were told our offsets weren't real and that phony accounting occurred in the highway trust fund. I rebutted these charges during Senate floor debate. I said our principles would be honored in conference and they were. We got the job done.

In the end, that is what counts: doing the peoples' business. The conferees achieved an important policy objective. The highway trust fund more accurately reflects the resources it receives from the taxpayers who use our Nation's roads. The resources will go into maintaining and improving America's highway system. All of this will be accomplished in a fiscally responsible manner. That is what the folks back home should expect. That is what we have done. That is what really matters. That is why the folks back home sent us here in the first place.

In conclusion, after great effort by many people, the Senate is poised to enacting legislation with the potential to impact all Americans in every State. Crumbling infrastructure and poor transportation choices impede our ability to live and do business, and today we are going to deliver legislation to the President's desk to start solving these problems. Our conference agreement utilizes more than $285 billion to ensure all Americans have access to efficient and reliable transportation as they go about their professional and personal lives.

Among the many people whose hard work has made the difference, I must first thank the chairmen and ranking members of all the appropriating committees that have been involved in this process.

Credit must also go to all members of my staff, who spent many hours sifting through the nuts and bolts of this bill. Kolan Davis, Mark Prater, Elizabeth Paris, Christy Mistr, Sherry Kuntz, John Good, and Nick Wyatt showed great dedication to the tasks before them.

As is usually the case, the cooperation of Senator BAUCUS and his staff was imperative. I particularly want to thank Russ Sullivan, Patrick Heck, Bill Dauster, Kathy Ruffalo-Farnsworth, Matt Jones, and Ryan Abraham.

I also want to mention George K. Yin, the chief of staff of the Joint Committee on Taxation and his staff, especially the fuel fraud team of Tom Barthold, Deirdre James, Roger Colinvaux, and Allen Littman as well as the always invaluable assistance of Mark Mathiesen, Jim Fransen, and Mark McGunagle of Senate Legislative Counsel.

This conference agreement is infused with the spirit of bipartisan and bicameral cooperation. Hopefully, that spirit will be influential to the entire ongoing legislative process.

Mr. INHOFE. Madam President, today the Senate is taking the final step in a very long, and at times frustrating but overall rewarding process to address our national transportation needs. It has been 22 months since TEA–21 expired on September 30, 2003. The Federal-aid program has since been operating under a number of short-term extensions—a total of 11 to date. I urge the Senate to approve the conference report before us so that our States can start working on addressing their transportation needs.

Both sides of the aisle in the Senate and House embraced a spirit of bipartisanship and collaboration that has delivered a quality piece of legislation. As in all legislative endeavors there has been much give and take. There are provisions in this bill for which I would have preferred another outcome, but on the whole, I believe we have produced a product that will continue the good work started in ISTEA and improved upon in TEA–21.

The conference report provides $244 billion in guaranteed spending over the 2005–2009 period for our Nation's highways and mass transit systems. If you include 2004, the bill provides $286.5 billion in guaranteed spending—an almost $90 billion increase over TEA–21. Finally, the highway program is guaranteed $193 billion over the 2005–2009 period.

We worked very hard with our House colleagues to balance the needs of donor and donee States. I will be the first to acknowledge that this balance—as with any compromise—is not perfect. My colleagues representing donee and donor States that receive lower rates of return or growth rates than they feel fair have made this fact very clear to me.

I am very sympathetic to the concerns of both donors and donees in this situation. Both have significant transportation needs that cannot be ignored. Addressing their concerns was even more difficult because we had very limited dollars to solve either group's issues.

SAFETEA–LU tries to split the difference. Donee States have an average rate of growth of 19 percent above their TEA-21 levels, and donor States will reach a 92 percent rate of return by 2008. Also, if there is a positive revenue aligned budget authority in 2007, it will be directed to improve donor States rate of return.

One concern of my donor State colleagues when we were on the floor was that not all donor States were treated equally—that concern has been addressed.

Over the 6 years under TEA-21, we made great progress in preserving and improving the overall physical condition and operation of our transportation system; however, more needs to be done. A safe, effective transportation system is the foundation of our economy. We are past due to fulfill an obligation to this country and the American people—the conference report before us does just that.

Finally, I would like to acknowledge all the staff time and effort that has gone into the bill. Specifically, I would like to single out my highway team: again, Ruth Van Mark and James O'Keeffe, Andrew Wheeler, Marty Hall, Nathan Richmond, Greg Murrill, Angie Giancarlo, Alex Herrgott, and Rudy Kapichak.

From Senator BOND's staff: Ellen Stein, Heideh Shahmoradi, John Stoody, and Julie Daman.

From Senator JEFFORD's staff: JC Sandberg, Malia Somerville, Ken Connolly, Cara Cookson, Chris Miller, and Jo-Ellen Darcy.

From Senator BAUCUS's staff: Kathy Ruffalo.

From Senator FRIST's staff: Libby Jarvis, Sharon Soderstrom, and Erik Ueland.

From the Federal Highway Administration: Today is Administrator Mary Peters last day before she heads back to Arizona. It is very appropriate that we finish the bill on her last day, because without the hard work of Mary and her staff at FHWA, we would not be here today.

On Mary's staff I want to especially thank Susan Binder, Carolyn Edwards and Ross Crichton, who over the last 3 years have done more than 1600 formula runs. We really appreciate all of your hard work.

Also, I want to personally thank the hard working attorneys in the Senate Legislative Counsel office. In particular, Darci Chan, Heather Arpin and Gary Endicott.

Finally, Rachel Milberg with CBO has done great work in assisting staff work through the complicated scoring process.

I am certain my colleagues share my strong desire to get a transportation reauthorization bill passed and urge them to support the bill before the Senate today.

Let me say I do have a great deal of respect for both of my colleagues from Arizona. However, I will put them on my doubtful list. But I would say this and I will be very brief. We only have 7½ minutes on each side. I want to make sure that Senator BOND, with whom I have worked as chairman of the Subcommittee of Transportation, and a few others get their time.

Working with Senator JEFFORDS and Senator BAUCUS and Senator BOND has been a great experience. We have worked very well together. This has been difficult. We have worked for 2 years on this bill. It is not easy. I would only say this: It is paid for. It didn't increase taxes. It is within the President's parameters.

Mr. JEFFORDS. Mr. President, I yield 2 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I rise in strong support of the conference agreement on the transportation reauthorization measure. This legislation authorizes more than $286 billion—more than an $80 billion increase over TEA-21—in funding over the 6 years for maintaining and improving our Nation's and State's highways, bridges and transit systems. This is one of the most important pieces of legislation that we have considered this year and its enactment will help to restore the Federal commitment to our surface transportation infrastructure—the lifeblood for our economy as well as our quality of life.

As the ranking member on the Senate Banking, Housing and Urban Affairs Committee which crafted the transit portion of this legislation, I am proud that the agreement continues our commitment to a national transit program and builds on the important achievements we made in the Intermodal Surface Transportation Efficiency Act, ISTEA, of 1991, and TEA-21, enacted in 1998.

I want to express my appreciation to Chairman SHELBY of the full committee for his efforts on the balanced budget amendment of the transit title and to Senators ALLARD and REED, the chairman and ranking member of the Housing and Transportation Subcommittee, for their hard work as well.

This legislation increase overall transit funding by 45 percent over the levels provided in the past 6 years to meet the growing needs for public transit infrastructure in all regions of the country. It provides the resources and planning tools to help ensure the continued development of an advanced, integrated transit system—a system that will cut air pollution, conserve fuel and reduce congestion on our roadways. This measure will go a long way to meeting the growing demand for transit in cities, towns, rural areas, and suburban jurisdictions across the country.

I am particularly pleased that the legislation includes two key provisions which I sponsored, the Transit in Parks Act, or TRIP, and an expansion of the commuter benefits program to encourage greater mass transit use by Federal employees in the National Capital Area. The new Federal transit grant initiative known as TRIP will support the development of alternative transportation services—everything from rail or clean fuel bus projects to pedestrian and bike paths, or park waterway access—within or adjacent to national parks and other public lands. It will give our Federal land management agencies important new tools to improve both preservation and access. Just as we have found in metropolitan areas, transit is essential to moving large numbers of people in our national parks—quickly, efficiently, at low cost, and without adverse impact.

The expansion of the commuter benefits program will allow thousands more federal employees to take advantage of a guaranteed tax-free financial incentive of up to $105 per month, paid by their employer, towards the costs of transit commuting. It will give employees more choice in their commuting options and provide an additional incentive to move off our congested roadways and onto public transit. In addition, Federal agencies will be permitted to offer shuttle services for their employees to a public transit facility. This is particularly important to employees of the Food and Drug Administration who will be relocating to the new FDA headquarters at White Oak, MD.

Maryland's formula share of transit funding will grow by nearly $275 million over the 6 years—from $571 million to $846 million. These funds are absolutely critical to Maryland's efforts to maintain and upgrade the Baltimore and Washington Metro systems, the MARC commuter rail system serving Baltimore, Washington, D.C., Frederick and Brunswick, the Baltimore Light Rail system, and bus systems and para-transit systems for elderly and disabled people throughout Maryland.

This bill advances important existing and planned new transit projects in the Baltimore and Washington Metropolitan areas as well as in growing regions of our State. In the Washington area, it provides $100 million to enable the Washington Metropolitan Area Transit Authority, WMATA to purchase 52 new rail cars to help alleviate the severe overcrowding that the Metrorail system is currently experiencing. The new cars will enable WMATA to lengthen trains from 6 cars to 8 cars on the Metrorail System, utilize more of its design capacity, and give the authority increased ability to assist in case of an emergency. It provides $21 million to enable Montgomery County to complete the Silver Spring Transit Center—a major new transportation hub connecting MARC commuter trains, the Metrorail system. Ride-on and Metro buses and taxi services that is designed for integrated, mixed use private transit-oriented development. The Silver Spring Transit Center will not only enhance regional mobility, but will also help to promote smart growth and continue to strengthen the remarkable revitalization in Silver Spring's downtown business district. The measure also authorizes two new transit projects to help relieve traffic congestion and improve mobility in the region—the Bi-County Transitway, otherwise known as the Purple Line, connecting Bethesda to Silver Spring and extending to New Carrollton, and the Corridor Cities Transitway connecting the high-tech employment centers and mix-use developments in the I–270 corridor to the Washington Metro and MARC Commuter rail.

In the Baltimore area, the measure authorizes $105.3 million for planning, environmental study, right of way, and initial construction of the Red and Green Line Transit projects as proposed in the Baltimore Region Transit System Plan. The Red Line—an East-West Transit Line that will extend for approximately 11 miles from the Social Security Administration Headquarters in Woodlawn to Fells Point—will provide service to areas in Baltimore currently not served by high quality transit. The Green Line would extend from the existing Metro system at the Johns Hopkins Hospital for approximately 5 miles northeast to Morgan State University. This authorization will guarantee that these projects continue to move forward in a timely fashion over the next 5 years. The measure also authorized the final $12.5 million in Federal funds needed to complete the double tracking of the Baltimore Light Rail Project and provides $5.2 million to enhance the Baltimore water taxi system.

And statewide, the bill authorizes continued funding for the MARC Capacity Expansion Program to enable the Maryland Department of Transportation to make needed capacity improvements, purchase new rolling stock, and enhance the MARC system. The bill also provides $25 million in statewide bus and bus facility grants that benefit towns and cities throughout the State. The measure also includes a provision reauthorizing the National Transportation Center, NTC, at Morgan State University over the next 4 years. The NTC conducts important research, education and technology transfer activities that support workforce development of minorities and women, and addresses urban transportation problems. Morgan State will receive $1 million each year to continue those activities.

For our Nation's roadways and bridges, this legislation authorizes nearly $184 billion in funding to enable States and localities to make desperately needed repairs and improvements. The measure preserves the dedicated funding for the Congestion Mitigation and Air Quality, CMAQ, Program which helps States and local governments improve air quality in nonattainment areas under the Clean Air Act; the Transportation enhancement set-aside provisions which support bicycle and pedestrian facilities and other community based projects, as well as the other core programs—Interstate maintenance, National Highway System, Bridge and the Surface Transportation Program. Likewise, ISTEA's and TEA–21's basic principles of flexibility, intermodalism, strategic infrastructure investment, commitment to safety and inclusive decision-making processes are retained.

Maryland's share of highway funding will grow from an average of $443 million a year to $583 million a year or an average of $140 million more each year than was provided under TEA–21 for a total of more than $2.9 billion over 5 years. The measure provides funding for a number of important transportation improvement projects through all regions of our State. Senator MIKULSKI and I placed a high priority in this measure of ensuring that Maryland is "BRAC" ready as it prepares to handle an influx of new people in areas surrounding many of Maryland's military installations. In this regard, the measure provides $12.5 million to make sorely needed access improvements to MD 175 in the vicinity of Fort Meade, nearly $10 million for upgrading the US 40, MD 715 interchange at Aberdeen Proving Ground and the Edgewood Train Station, $15 million for construction of MD Route 4 at Suitland Parkway—an important access way to Andrews Air Force Base—and $6 million to design improvements to MD 210—a major regional commuting corridor that provides access to the Indian Head Naval Base in Charles County. The measure also provides $12 million for planning and construction of the Southern Maryland Commuter Initiative, a program of improvements in Southern Maryland to relieve congestion by enhancing peak-period transit services for commuters, including individuals commuting to military bases in Southern Maryland. And it provides over $1.5 million for intermodal improvements at the Edgewood and Odenton MARC stations.

We also placed a premium on addressing those areas of Maryland that have experienced particularly severe congestion, bottlenecks or safety problems and provided more than $31 million to upgrade MD Route 404 and US 113 on the Eastern Shore, nearly $30 million to continue improvements to I–70 in Frederick and to initiate upgrades of US 220 South of Cumberland in Western Maryland, $27 million for upgrades to MD 5 in Southern Maryland, and more than $22 million for roadway, interchange and bridge improvements in the Baltimore metroplitan area

We provided funds for several community-based projects around Maryland designed to expand travel choices and enhance the transportation experience of our citizens by improving the cultural, historic, aesthetic and environmental aspects of our transportation infrastructure, including funding to complete the Allegheny Highlands Trail in Western Maryland, the Fort McHenry and Assateague Visitors Centers, the Baltimore water-taxi system, and the roads and trails at Patuxent and Blackwater Refuges.

Before I close, I want to take a moment to note the hard work of the staff involved with this bill. This legislation has been years in the making and while it represents the efforts of many individuals there are several whom I would like to especially recognize. First, let me thank the staff of Banking Committee Chairman Shelby, particularly Sherry Little and John East, as well as Tewana Wilkerson of Senator ALLARD's staff, for their hard work and dedication to the transit program. Also, as I noted earlier, Senator REED has worked closely with me throughout this process and I want to thank Neil Campbell of his staff for his significant contributions to this bill. On my own staff, I want to recognize Sarah Kline, Aaron Klein, and Charlie Stek for their tireless work and for their commitment to helping the people of Maryland. Kate Mattice, on detail from the Federal Transit Administration to my office last year, also made an important contribution to this legislation. Finally, I would like to extend particular thanks to Richard Steinmann for the exceptional assistance he has provided to the Banking Committee over the past 2 years while he has been on detail from the Federal Transit Administration.

Like any other complex and comprehensive piece of legislation, this bill has its share of imperfections. I think it was unfortunate that the administration was unwilling to support a higher level of investment in these programs, and as a result the measure that emerged from the conference is billions of dollars less than what the Senate passed a few months ago. And I am particularly disappointed that the measure does not contain the stormwater runoff mitigation provision that was approved by the Senate and is so important to helping States and localities meet water quality standards stemming from the stormwater impacts of Federal aid highways. But if we are to ensure not only the safe and efficient movement of people, goods and services, but also the future competitiveness and productivity of our economy, we must make these investments, and move forward with this legislation. I urge my colleagues to join me in approving this measure.

Mr. JEFFORDS. Madam President, as we prepare to give the final approval to the highway bill conference report I would like to thank Chairman INHOFE and Senators BOND and BAUCUS and all of the Senators and staff who have helped to move this bill forward.

The bill we are about to vote on is good for the Nation.

This bill will save lives by making our roads safer.

This bill will reduce traffic congestion by making our roads and bridges more efficient.

This bill will boost local economies by creating hundreds of thousands of jobs across the Nation.

It may have taken us 3 long years to get here, but the impact of this bill will be felt for decades to come.

This bill will affect every American in some way.

This bill provides the biggest investment in our roads, highways, bridges and transit systems in our nation's history.

Once again I thank Chairman INHOFE and all the members of the EPW Committee for their work.

Madam President, I would like to take one brief moment to thank the staff who have worked so hard to help craft this highway bill.

On my staff I would like to thank my staff director, Ken Connolly; J.C. Sandberg, Alison Taylor, Malia Somerville, Cara Cookson, Catherine Cyr Ransom, Chris Miller, Mary-Francis Repko, Geoff Brown and Jeff Munger.

From Senator BAUCUS's staff, Kathy Ruffalo-Farnsworth;

From Senator INHOFE's staff, Ruth Van Mark, Andy Wheeler and James O'Keefe;

And from Senator BOND's staff, Ellen Stein.

These Congressional staffers have made extraordinary personal sacrifices to move this massive legislation along for over 3 years, and I would like to express my personal gratitude for their efforts.

I yield the floor.

Madam President, I yield back the remainder of my time on this side. I yield the floor.

Mr. INHOFE. I thank Senator JEFFORDS for the great working relationship.

Madam President, it is my understanding we have 6 minutes. I would like to yield 2 minutes each to three Senators, three of the hard workers on this bill. I did forget to mention Senator GRASSLEY, who was so helpful. I would like to recognize Senators BOND, LOTT, and SHELBY for 2 minutes each.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, it has been a long road to get here on SAFETEA, and I am pleased to be here. I thank Chairman INHOFE, Senators JEFFORDS and BAUCUS, with a special thank you to my staff: Ellen Stein, John Stoody, and Heideh Shahmoradi; Senator INHOFE's staff, Senator JEFFORDS' staff, Senator BAUCUS's staff, the help of Senate legal counsel, employees of FHWA, who ran 1661 runs, Ross Crichton, Susan Binder, and Carolyn Edwards, and the staffs of the Banking, Finance, Commerce, and Budget Committees.

I might inform my colleagues from Arizona, this includes highways and bridges, mass transit, safety, and other items. I thank particularly my colleague from Arizona for mentioning a bridge across the Mississippi River. We have the largest truck traffic in the Nation coming east and west on Highway 70, the eastern edge of Missouri. If they do not have a bridge, they do not get to Illinois. That is one point people from drier States perhaps do not understand.

This bill is one characterized by equity, by safety. Environmental issues are addressed by getting environmental input early on and giving them an opportunity to resolve the problems before money is wasted. It brings the stakeholders to the table earlier. Under the CMAQ provisions, we allow in six States the use of clean-burning biodiesel fuel.

My colleagues and staff have worked tremendously hard in moving this bill over the last 2½ years and I want to highlight some of the key elements of this bill that I am proud of.

H.R. 3 achieves several major goals:

First, equity—this bill carefully balances the needs of the donor States while recognizing the needs of the donee States.

There are many sections in this bill that I am proud of supporting, such as the fact that all donor States will receive an equitable increase to, at the minimum, a 92 percent rate of return by fiscal year 2008.

The average rate of growth among States is 30.32 percent and all States will grow at not less than 117 percent over what they received in TEA–21 starting in 2005 ramping up to 121 percent by 2009.

I, along with Chairman INHOFE, both Senators BAUCUS and JEFFORDS, and our partners on the House side have worked diligently in trying to ensure that the bill remain fair and equitable among all States.

There are many States that continue to fall under the $1.00 rate of return, I am one of them. Due to the budgetary constraints as well as balancing the needs of both the donor States with the needs of the donee States, we were unable to achieve any better.

Another key component of this bill is safety. This bill goes a long way to saving lives by providing funds to States to address safety needs at hazardous locations, sections, and elements.

Safety in this authorization is for the first time given a prominent position, being elevated to a core program.

Inadequate roads not only lead to congestion, they also kill people. We average more than three deaths a day in Missouri and I think that a large number of these deaths can be attributable to inadequate infrastructure.

Nearly 43,000 people were killed on our roads and highways last year alone. I am glad that the bill reflects the continued commitment to making not only investments in our infrastructure, but also to the general safety and welfare of our constituents.

I am hopeful that the level of funding provided toward the safety program and other core programs is a sufficient amount to address the growing needs of all states.

The passage of this bill comes at a very critical time, especially for my home State of Missouri. We have some of the worst roads in the Nation, with over 50 percent of its major roads in poor or mediocre condition, requiring immediate repair or reconstruction.

Environmental issues are also addressed, such as to ease the transition under the new air quality standards, the conformity process is better aligned with air quality planning, as well as streamlining the project delivery process by providing the necessary tools to reduce or eliminate unnecessary delays during the environmental review stage.

Another accomplishment of our package ensures transportation projects are built more quickly by bringing environmental stakeholders to the table sooner. Environmental issues will be raised earlier and the public will have better opportunities to shape projects. Projects more sensitive to environmental concerns will move through a more structured environmental review process more efficiently and with fewer delays.

This bill also ensures that transportation projects will not make air worse in areas with poor air quality, while giving local transportation planners more tools and elbow room to meet their Federal air quality responsibilities. Transportation planning will be on a regular 4-year cycle, require air quality checks for projects large enough to be regionally significant and reduce current barriers local official face in adopting projects that improve air quality.

Another accomplishment in the bill is allowing local areas to spend congestion, mitigation and air quality funds on the purchase of biodiesel fuel. Soybean based biodiesel provides another market for midwestern, including Missouri, farmers. The clean burning fuel reduces smog forming ozone, soot and hazardous air pollutants. Homegrown biodiesel also decreases our dependence on foreign oil. It's a win for the environment, energy security and farmers.

Lastly, jobs. We have all heard the statistics and this bill undoubtedly will create jobs.

The comprehensive package here before the Senate today is the key to addressing our Nation's needs in infrastructure development and improvement. I am hopeful that other Members of the Senate agree and pass this bill so our State transportation departments can get back in the business of letting contracts.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Madam President, I rise in support of the conference report.

I am in support of the conference report to accompany H.R. 3, the surface transportation reauthorization bill. This is a bill, that Senator SARBANES and I have been working on in the Banking Committee for over 3 years now, and I look forward to seeing it signed into law.

It has taken 12 extensions of TEA-21 to reach agreement on this bill. It is time to get this bill completed and furnish States with resources for needed transportation infrastructure and implement these important policy improvements.

The transportation bill has many important components which I am proud to stand here today and support. I am especially proud of Title 3, the Public Transportation Title. I extend my personal thanks to Senator SARBANES, the ranking member of the Banking Committee, for all the work he has done to help craft our committee's approach to strengthening public transportation, both in terms of funding and policy.

I would also like to thank Senator ALLARD and Senator REED, chairman and ranking member of the Subcommittee on Housing and Transportation, and Senator JOHNSON who also served as a conferee. This bill was truly a bipartisan, collaborative effort. I am very proud of what we have been able to accomplish.

In this bill, we have increased the ability of States to use money flexibly. We made new and innovative technology, like bus rapid transit, eligible for significant Federal investment for the first time. This is a promising new cost-effective approach to transportation that has real promise in this country. Also, we increased accountability for the Federal investment in public transportation through several new mechanisms. A contractor performance assessment report will provide real data on transit industry performance and will enable transit agencies to have an opportunity to assess the quality of cost and ridership estimates for their high-dollar investments.

I am a big believer in positive reinforcement and I included several provisions in the bill to reward transit agencies for delivering projects that are ontime and on budget. One of those provisions will, for the first time, allow transit agencies an opportunity to keep a portion of their under-run in new starts projects or would give them the chance for a more generous share if they deliver the projects they promise to their communities.

Another accomplishment here of which I proud is the extent to which we have been able to extend the benefits of public transportation to some of the people who need it most, for example, in rural areas. For many years, the prevailing view—a wrong view in my mind—was that public transportation was only valuable in very urbanized cities.

In some rural parts of our country, long distances separate people from critical infrastructure. Many of these people are elderly or do not have access to a car. Connecting these people to critical infrastructure is one of the most valuable services public transportation can provide.

These are just a few of the several important advancements this bill makes over current law. This is a bill I am proud of and I want to acknowledge some people who have been critical to putting this bill together and making it a successful piece of legislation with broad bipartisan support.

Me and my staff were very lucky to have one of the best resources that the Banking Committee could have during this process. The Federal Transit Administration loaned the committee one of their finest people: Rich Steinmann. Rich is an extremely knowledgeable, competent professional and his experience is widely respected on both sides of the aisle and in both chambers of the Congress. We are indebted to him for his time and work on this bill. Additionally, I want to thank Sherry Little and John East of the Banking Committee staff. I think everyone would agree that this was a tough process on members and staff alike. Finally, I want to thank some additional staff who had a critical role in putting this challenging bill together: Sarah Kline, Aaron Klein, Tewana Wilkerson, and Neil Campbell. Thank you for your work on this.

I am proud of this bill and I look forward to seeing it signed into law.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Madam President, as a member of the conference, I thank the leadership and the job they have done. The process has not been easy. It has been long and not always pretty, but we produced a bill with more jobs, safety, and opportunity for all American people. I am very proud of it.

I yield the remainder of my time to the chairman to dispense as he sees fit.

Mr. INHOFE. I yield back the remainder of my time and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. FRIST. The next vote is on the highway conference reported bill, the last of the evening, the 11th rollcall of the day and the last vote before the August break. I thank all of our colleagues for their patience and efforts. We have been very busy, very productive the last several weeks. We can all, in a bipartisan way, be proud of what we have accomplished.

We will return for business on Tuesday, September 6th, with a vote that day sometime around 5:30. That is Tuesday, September 6th. I wish everyone a safe break.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Kansas (Mr. ROBERTS), the Senator from Oregon (Mr. SMITH), and the Senator from New Hampshire (Mr. SUNUNU).

Further, if present and voting, the Senator from Oregon (Mr. SMITH) and the Senator from Kansas (Mr. ROBERTS) would have voted "yea."

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) and the Senator from California (Mrs. FEINSTEIN) are necessarily absent.

I further announce that, if present and voting, the Senator from California (Mrs. BOXER) and the Senator from California (Mrs. FEINSTEIN) would each vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 4, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—91

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Frist
Graham
Grassley
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Snowe
Specter
Stabenow
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—4

Cornyn
Gregg
Kyl
McCain

NOT VOTING—5

Boxer
Feinstein
Roberts
Smith
Sununu

The conference report was agreed to.

## EXTENSION OF ADMINISTRATIVE EXPENSES FOR THE HIGHWAY BILL

Mr. DOMENICI. Madam President, on behalf of the leader, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3512, which was received from the House.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3512) to provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. Madam President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3512) was read the third time and passed.

Mr. DOMENICI. Mr. President, are we in morning business?

The PRESIDING OFFICER (Mr. ALLARD). No, we are not.

Mr. DOMENICI. I ask unanimous consent that I be permitted to speak for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for 5 minutes.

Mr. ALEXANDER. Will the Senator yield for a question?

Mr. DOMENICI. Yes.

Mr. ALEXANDER. Would it be possible to get 3 or 4 minutes following the Senator's remarks before the discussion begins?

Mr. DOMENICI. I think it is a matter of whether the Senate confers.

Mr. President, I ask unanimous consent that following my 5 minutes, the junior Senator from Tennessee be given 4 minutes to speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico is recognized.

## SENATE ACCOMPLISHMENTS

Mr. DOMENICI. Madam President, I rise today before we leave on this recess to tell the Senate and those interested in how we do the people's business, what a successful 6 months we have had in the Senate. I have been here a long time. I believe this first 6 months has been like a great marathon runner. We started off slow and crossed the finish line a winner.

About 4 hours ago, we passed the first comprehensive Energy bill in about 14 years. We have been trying for 6 years, and now it is done. The Senate did that in a bipartisan way, and we worked with the House and got a great policy for our Nation.

A few moments ago, we passed a comprehensive Transportation bill for all of our States and our people, and regardless of what is said about it, in meticulous detail it is a terrific jobs package and infrastructure building bill for America.

In addition, I submit that we have also accomplished some things we never were able to do: we enacted a bankruptcy reform act. I know people wonder why that is important, but we will not talk about why. Let's just say credit is the lifeblood of our Nation. If something is wrong with the credit system, you have to fix it. We have been waiting around to fix the bankruptcy law, which is an integral part of the credit system, for at least 5 years. We passed the bill about three times in the Senate and, yes, in this particular 6 months, we did that. We sent it to the House and it is a law.

The budget resolution, I did them for years—let's be honest, for 31 years. This new Senator produced, under our leader's leadership, the fifth fastest budget resolution, and he got it in on time.

The emergency supplemental was as big as many appropriations bills, gigantic—for Iraq, the tsunami, and we provided real help for the borders of our country. Five-hundred new Border Patrol people were in that bill, along with other things.

We included, since then, in an Interior appropriations bill, which also passed, veterans funding of $1.5 billion.

Let me go on with the list. After the emergency supplemental, we did six judges who had been filibustered for months upon months.

We did CAFTA. That is the last of a long list of American free-trade agreements. This one, for a change, went our way. It was taking off tariffs that were imposed mostly on us, instead of the other way around.

Now, 5 of the 12 appropriations bills have passed. All of the appropriations bills have been reported out of committee, except one. I didn't check the history, but I think that is close to a record.

We confirmed the Secretaries of State, Justice and Homeland Security. We confirmed the Director of National Intelligence. That is the equivalent of another Cabinet seat.

We also passed the Legislative Branch appropriations bill. We did, a while ago, a very important piece of legislation, gun liability reform. People wonder what that has to do with—as we say out in the country—the price of eggs. I will tell you, it is important legislation, too. It conformed liability, as far as the liability of those who manufacture, which is growing out of proportion to our regular negligence laws, and put that under some kind of reasonable control as far as the liability of manufacturers, those who build firearms. If these gun manufacturers went out of business, we would have had to get guns produced overseas, and that would not have been good.

The reason I did this kind of litany of successes is that it didn't just happen. It didn't fall down from the sky. It happened because we have real leadership. I believe it is because of our majority leader, BILL FRIST, and MITCH MCCONNELL, our whip. I give them extreme credit. I also say that much of this has been bipartisan—at least I can speak for myself. We would not have had an Energy bill without bipartisan leadership. Part of the year we didn't have it, let's be honest. We had the minority trying to move the other way on almost everything. I must say the new minority leader said he was going to try to move in a way to help get things done. I think this list, to some extent, indicates that is occurring.

Before we leave, I think it is always good to remind ourselves of what we have done so we can take home a recollection, kind of a roadmap of accomplishments. I might have left something out because I just did this this afternoon. It took about 30 minutes, so it is no masterpiece, but I think it is pretty accurate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

## POLICIES RELATED TO DETAINEES FROM THE WAR ON TERROR

Mr. ALEXANDER. Mr. President, I agree with the Senator from New Mexico. I am especially proud of the majority leader whose patience and intelligence and perseverance has helped us through these several months. I am thankful to the Democratic leader for his help in making those things happen.

When the Senate reconvenes in September, one of the first orders of business will be the Defense authorization bill. During August, I respectfully suggest that the President reconsider his opposition to legislation that would set the rules for the treatment and interrogation of detainees.

I have decided to cosponsor three amendments to the Defense authorization bill that clarify our policies relative to detainees from the war on terror. There has been some debate about whether it is appropriate for Congress to set rules on the treatment of detainees. Mr. President, for me, this question isn't even close.

The people, through their elected representatives, should set the rules for how detainees and prisoners under U.S. control are treated and interrogated. In the short term, the President can set the rules. But the war on terror is now nearly 4 years old. We don't want judges making up the rules. So for the long term, the people should set the rules. That is why we have an independent Congress.

In fact, the Constitution says, quite clearly, that is what Congress should do. Article I, section 8 of the Constitution says that Congress, and Congress alone, shall have the power to "make Rules concerning Captures on Land and Water."

So Congress has the responsibility to set clear rules here.

But the spirit of these amendments is really one I hope the White House will decide to embrace. In essence, these amendments codify military procedures and policies: procedures in the Army Field Manual; policies regarding compliance with the Convention Against Torture, signed by President Reagan; and policies the Defense Department has set regarding the classification of detainees.

If the President thinks these are wrong rules, I hope he will submit new ones to Congress so we can debate and pass them. I am one Senator who gives great weight to his views on any matter, especially this matter. This has been a gray area for the law.

In this gray area, the question is, Who should set the rules? In the short term, surely, the President can, and in the longer term, the people should through their elected representatives. We don't want the courts to write those rules.

In summary, it is time for Congress to represent the people, to clarify and set the rules for detention and interrogation of our enemies during the next few weeks. I hope the White House will tell us what rules and procedures the President needs to succeed in the war on terror. That way, we can move forward together.

Mr. President, to reiterate, when the Senate reconvenes in September, one of the first orders of business will be the Defense authorization bill. During August, I respectfully suggest the President reconsider his opposition to legislation that would set the rules for the treatment and interrogation of detainees.

I have decided to cosponsor three amendments to the Defense authorization bill that clarify our policies relative to detainees from the War on Terror. There has been some debate about whether it is appropriate for Congress to set rules on the treatment of detainees, but for me this question isn't even close.

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That is right. All three of these amendments uphold or codify policies and procedures the administration says we are following today and intend to follow moving forward.

Senator GRAHAM's amendment, No. 1505, authorizes the system the Defense Department has created—Combat Status Review Tribunals—which are there for determining whether a detainee is a lawful or unlawful combatant and then ensures that information from interrogating those detainees was derived from following the rules regarding their treatment. Senator GRAHAM's amendment also allows the President to make adjustments when necessary as long as he notifies Congress.

The first McCain Amendment, No. 1556, prohibits cruel, inhuman, or degrading treatment or punishment of detainees. The amendment is in specific compliance with the Convention Against Torture that was signed by President Reagan. The administration says that we are already upholding those standards when it comes to treatment of detainees, so this should be no problem.

The second McCain Amendment, No. 1557, states simply that the interrogation techniques used by the military on detainees shall be those specified by the Army Field Manual on Intelligence Interrogation. The military, not Congress, writes that manual, and we are told that the techniques specified in that manual will do the job. Further, the manual is under revision now to include techniques related to unlawful combatants, including classified portions, that will continue to give the President and the military a great deal of flexibility.

If the President thinks these are the wrong rules, I hope he will submit new ones to Congress so that we can debate and pass them. I am one Senator who would give great weight to the President's views on this matter. It's quite possible the Graham and McCain amendments need to be altered to set the right rules, but it is time for Congress to act.

This has been a gray area in the law. In this gray area, the question is who should set the rules. In the short term, surely the President can. In the longer term, the people should, through their elected representatives. We don't want the courts to write the rules.

So, in summary, it is time for Congress, which represents the people, to clarify and set the rules for detention and interrogation of our enemies. During the next few weeks, I hope the White House will tell us what rules and procedures the President needs to succeed in this effort. That way we can move forward together.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

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## HEARINGS ON SUPREME COURT NOMINEE JOHN ROBERTS

Mr. SPECTER. Mr. President, I have sought recognition to outline the scheduling procedures for the confirmation hearings on Judge John Roberts to the Supreme Court of the United States. I will be followed by my colleague, the ranking member of the Judiciary Committee, who will state a joint agreement, which is incorporated in my statement. Senator LEAHY will deal with the joint agreement.

The decision on when to start the confirmation hearings on Judge Roberts depends on what beginning day—whether August 29 or September 6—is most likely to lead to a vote no later than September 29, so that, if confirmed, the nominee can be seated when the Supreme Court begins its term on October 3. I have stated my own preference for September 6 early on, but I emphasized that I was flexible and would be willing to start on August 29.

Our duty to have the nominee in place by October 3 took precedence on my or anyone else's preferences.

In light of the many possibilities for delay, some justified and some tactical, it seemed to me the safer course was the earlier date. At the same time, I was and am mindful that the Senate and the Judiciary Committee can accomplish more in 3 cooperative hours than 3 days or perhaps even 3 weeks of disharmonious activity. If any disgruntled Senator wants to throw a monkey wrench into the proceedings, even with the August 29 starting date, there would be no absolute assurance of meeting the October 3 target.

I acknowledge at the outset that it was unrealistic to obtain a binding unanimous consent agreement specifying an exact timetable with a commitment to vote by September 29. There are too many legitimate issues which could arise which would justify delays where Senators would be compromising their rights by such an agreement. Senator LEAHY and I have had numerous discussions over the past week with his objective to start the hearings on September 6 and my objective to obtain assurances, if not commitments, that the Senate would vote by September 29.

Our discussions at various times included Senator FRIST, Senator REID, and Senator MCCONNELL. We have had many additional discussions in the last 72 hours, too numerous to mention. But in one meeting on Thursday among the five of us—Senator FRIST, Senator REID, Senator MCCONNELL, Senator LEAHY, and myself—we came to an agreement.

No. 1, the hearings would start on September 6.

No. 2, Senators would waive their right to hold over the nomination for 1 week when first on the Judiciary Committee executive agenda, so the committee vote could occur any time after September 12 and, as chairman, I intend to exercise my prerogative to set the committee vote on our Judiciary Committee agenda for September 15.

No. 3, Democrats and Republicans would waive their right to terminate committee hearings which went past 2 hours after the Senate came into session.

No. 4, all written questions would have to be submitted by September 12, with answers to be submitted in a timely fashion.

No. 5 Senators from both parties would waive their right to submit dissenting or additional or minority views to the committee report.

Beyond these enumerated agreements, the principal basis for the Republicans' willingness to begin the hearing on September 6 was the emphasis by Senator REID and Senator LEAHY of their good faith in moving the nomination process promptly to meet the October 3 date.

All factors considered, it was our judgment that the September 6 starting date was the best alternative for concluding the hearings in time to seat Judge Roberts, if confirmed, on October 3.

I now yield to my distinguished colleague, the ranking member, the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the distinguished chairman. He and I have spent, I believe, more time with each other than we have with our families in the past couple weeks. I am not sure if that is to the detriment of our families or ourselves or to the benefit of our families or ourselves. In any event, it is a fact we spent an enormous amount of time.

As the distinguished chairman has talked about—and I will in a moment submit this as a joint statement from the two of us—we have agreed to the following:

The hearings will start on Tuesday, September 6. The Judiciary Committee members will waive their right to hold over the nomination for 1 week, when first placed on the Judiciary Committee executive agenda. The vote, of course, then could occur any time after Monday, September 12. The chairman intends to set that vote on the executive agenda on Thursday, September 15.

Senators—and this will require all 100 Senators—will waive their right to invoke the 2-hour rule to terminate Judiciary Committee hearings 2 hours after the Senate comes into session during the time of the nomination hearings on Judge Roberts.

All written questions will be submitted within 24 hours of the conclusion of the hearing, and answers will be provided in a timely fashion.

And we recognize that nothing in the Senate or Judiciary Committee rules precludes the Senate from considering the nomination on the floor without a committee report.

As we know—and I see two of the distinguished leaders of the Senate on the floor and others will be joining us—I served several times in the majority, several times in the minority, and I have handled many bills on the floor—you can work out every single possible contingency, but there is always something that comes up, and that is why we have chairmen and ranking members.

I have a great deal of respect for Senator SPECTER. He has always been straightforward with me. He has always kept his word to me, as I have to him. We think we have covered all the contingencies. Anything can happen. I suspect the two of us can handle that.

I think of some of the contingencies in the last few years. I remember an important hearing scheduled and we had the disaster of September 11. Obviously, nobody plans or hopes for such events. We have the ability to work out those kinds of situations.

Long before the Supreme Court vacancy, long before this nomination, the chairman and I worked cooperatively to lay the groundwork for full hearings to prepare that committee for when that day will arrive. We have now announced the schedule for the hearings to begin. I know we will continue to work with each other in good faith as the process unfolds, but when we look at this beginning the first week the Senate returns to session after Labor Day, it is a brisk schedule. To meet the schedule, we need the cooperation of the administration.

The Senate only today, Friday, received the President's official nomination of Judge Roberts. The Senate has not received basic background information on the nominee in answer to the Judiciary Committee's questionnaire. The Senate only today received updated background check materials from the FBI. All of these, of course, we need.

In advance of receiving the nomination, Chairman SPECTER and I joined together earlier this week in setting forth additional requests for the information through the Judiciary Committee questionnaire, something worked out by the two of us.

The Democratic members of the committee sent the White House a letter on Tuesday, with a priority of the documents for the nominee's years of work in the Reagan White House with White House counsel Fred Fielding from among the documents the administration had indicated it was making arrangements to provide to the Senate.

Yesterday I shared with the chairman a suggested request for materials in connection with only 16 priority cases from the hundreds considered during the years during which the nominee was Kenneth Starr's political deputy at the Department of Justice. That request has also been expedited and sent to the administration this week, even before the President sent the nomination to the Senate.

The President said he hopes the new Justice can be confirmed by the start of the Court's next session on the first Monday in October. The Senate has already cooperated in achieving this goal. At this point, there is no reason to believe the goal cannot be met, but we need the full cooperation of the administration. The administration has weighed in heavily with demands regarding the Senate's schedule.

What we need more than the White House telling us how and when to do our job is a White House willing to help us expedite our consideration by making relevant materials available without delay so we can meet the chairman's aggressive schedule.

The President has extolled the nominee's credentials, including his years of work in three senior executive branch posts during the Presidencies of his father and President Reagan.

We are seeking a very small number of the documents evidencing his work in those policy positions. In order for us to fulfill our responsibilities to examine this nomination and report it to the Senate, the Senate Judiciary Committee should be provided these materials without delay so we can perform our due diligence.

The White House this week said the Senate will have wide access to the documents from the Reagan administration, but only after an elaborate screening process. Based on the White House's own statement about the length of time it will take to screen these documents, that will be 4 weeks from now, maybe even longer.

The date the chairman is setting for the beginning of the hearings emphasizes the ability to review the materials before the hearings requires quicker action from the administration than that. One only need glance at the calendar to see 4 weeks from today is only a few days before the hearings, and that includes Labor Day weekend.

This is a nominee who, if confirmed, could be serving on the Supreme Court until 2030 or beyond, well past the term of the President who appointed him and well past the terms or even the lifetimes of Members of the Senate who may make this decision. This is a decision that not only affects every American alive today but also our children and grandchildren.

The Constitution gives the Senate, and only the Senate, the responsibility of considering a President's nominations to a lifetime appointment to the Supreme Court.

The Constitution gives us the duty to make this decision as well as we can, not as fast as we can.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I express my appreciation to the two managers of the Judiciary Committee, the chairman and ranking member. I understand why there is a little distrust on both sides because of all the stuff we have gone through on judges. They have done good work, and there is no reason that anyone should be concerned about the work of the Judiciary Committee.

The waivers that have been made by the Senators as to the 1-week layover and 2-hour meeting time for the committee to meet is something to show we are trying to move forward on this in good faith.

I have no doubt, with the work of these two men, that we will be able to work our way through any hurdles we have. We all know the date the distinguished Senator from Pennsylvania, the chairman of the committee, is shooting for is to make sure Judge Roberts is seated by October 3. We want to make sure that everyone understands that there are no games being played. Nobody is trying to do anything untoward. We are going to do our very best to work toward that date.

The entire Democratic caucus has the utmost faith in our leader, Senator LEAHY. The Judiciary Committee has been, for 7 months, his. He has done extremely good work, as he has always done. I have been on this floor many times when I served in different capacities where I would talk about the Senator from Vermont in the most positive terms.

I feel the same way about the Senator from Pennsylvania. The Senate is fortunate to have the Senator from Pennsylvania leading the Senate in this most complicated, difficult committee, with the most vexatious issues, it seems, all the times.

I have spent quite a bit of time, in the last few days, with them and the majority leader and Senator MCCONNELL. It has been worthwhile. This is going to move forward.

As the Senator from Vermont has stated, materials are needed. We understand the power of a committee chairman in this instance. He has tremendous power. We don't take anything away from the power he has. He can set the markup whenever he wants, within reason. He can call for votes when he wants. But he has, in the past, been very fair, and he will continue to be. I have no doubt that is the case.

I also want the record to reflect that I did not get the floor before the majority leader; he was not here. That is why I grabbed the floor before someone else did. I certainly would not try to speak before the majority leader. Protocol would say that isn't the case. The majority leader was not here, and I did not want somebody else to grab the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, we have a bit of business to do before we close down tonight. What we heard from our colleagues reflects the cooperative spirit that is very important as we fulfill our constitutional responsibility in terms of this very important nomination.

As our colleagues can tell, there have been a lot of discussions with the chairman and ranking member and the leadership on both sides of the aisle. What we witnessed is the decision to begin hearings after Labor Day, that the hearings and the subsequent action, including the workup to the floor, which according to the schedule that has been laid out, implies to me we would be able to be on the floor by September 26, and with that would be able to have the nomination finished by the end of that week, confirmed, and the Justice would be sitting on that first Monday in October.

I do wish to thank all of the people who have been mentioned for bringing us to this point and expect that over August, with civility, we will be able to continue our study of records and background that are provided. We will have a very busy early September as those hearings begin.

In terms of timing, it looks as if we will be able to achieve the objectives from both sides of the aisle. We very much appreciate that leadership in a bipartisan way in the chairman and ranking member.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I commend the chairman and the ranking member of the Judiciary Committee. These are difficult things to do, and I am glad to see that type of cooperation in what really is a very important set of hearings with regard to the Supreme Court of the United States of America. Above all, I want to see Judge Roberts treated fairly. I believe we are off to a good start, and hopefully that will continue.

## RETIREMENT OF GENERAL GREGORY S. MARTIN, USAF

Mr. HATCH. Mr. President, today I have the distinct privilege and honor of rising to pay tribute, on the announcement of his retirement, to one of our Nation's greatest generals, and my good friend, Gen. Gregory S. Martin of the U.S. Air Force. When I first met the general over 2 years ago, I knew immediately that his reputation of being an extraordinary leader was true.

From the beginning of his career at the Air Force Academy, where he was named the National Collegiate Parachuting Champion, to his current command of Air Force Materiel Command, excellence has been the defining characteristic of General Martin's career.

As a young fighter pilot, he flew combat missions over Vietnam and served as a mission commander during Operations Linebacker I and Linebacker II. I do not have to remind my colleagues that these two air campaigns were instrumental in securing the release of our prisoners of war from Vietnam.

General Martin has served in a number of capacities including Commander of the 479th Tactical Training Wing at Holloman Air Force Base, NM; the 33rd Fighter Wing at Eglin Air Force Base, FL; and 1st Fighter Wing at Langley Air Force Base, VA.

The Senate began to learn more about General Martin's reputation when he was confirmed as Commander of United States Air Forces in Europe and Commander of Allied Forces Northern Europe. In this capacity, during Operation Enduring Freedom he directed airdrop support for United States and allied forces as well as Afghani refugees. The following year, General Martin provided deployment support, combat airdrop operations, and all air delivered sustainment support for Operation Iraqi Freedom.

As a testament to his effectiveness as a leader, not only did General Martin accomplish these tasks for his Nation, but he also earned the respect and dedication of the Air Force enlisted personnel who served with him. This was reflected in the decision of the Air Force's enlisted personnel to honor General Martin with the Order of the Sword, the highest tribute the Air Force enlisted corps can pay to a commander.

After this successful tour of duty, General Martin was confirmed to his present post as Commander of the Air

Force Materiel Command at Wright-Patterson Air Force Base, OH. As Commander, Air Force Materiel Command, General Martin leads more than 78,000 men and women of the world's most respected air and space force, and he is all too eager to state that this has been the most satisfying assignment in his career.

During his tenure, General Martin transformed Air Force Materiel Command, which is charged with delivering on-time, on-budget war-winning capabilities to our Nation's warfighters as well as providing "cradle to grave" management of every Air Force weapons system. General Martin led the development of a new Air Force Science and Technology vision that will guide critical research and development work for decades to come. He strengthened, unified, and streamlined the Air Force Program Executive Office to ensure more effective acquisition support for current and future Air force weapon systems. He led the implementation of Continuous Process Improvement initiatives within the Air Force logistics and sustainment activities, achieving the best on-time, on-cost performance in the history of our Air Force logistics centers. Under General Martin's leadership, the Air Force Materiel Command returned $570 million last year to the Department of Defense to support the global war on terrorism. That is how good this man is, and the people who serve with time.

All that being said, none of these accomplishments would have been possible without the support of his wife, General Martin's high school sweetheart. They have been married for 35 years. I know I join a grateful Nation in saying thank you to Wendy for the sacrifices she had made for her husband and for her country throughout the years.

As I conclude my remarks on the announcement of the General's retirement, I am reminded of the Air Force's motto: No one comes close. That is how I would describe General Martin: no one comes close.

Mr. President, on a personal note, General Martin's call sign is "Speedy". There is good reason for that. He is one of the most efficient, revered and honored generals in the history of the Air Force. He is a person who has given a great deal to our country. He deserves a great deal of respect. He is a man of honor. My remarks do not even begin to do justice for this great man, his wife, and those who have served with him in the Air Force and in the defense of our country over all of these years. This is a man who makes a difference. This is a man who I hate to see retire because there is nobody better. However, I wish him well in retirement. Speedy Martin deserves a great retirement, and if he wishes a greater opportunity to continue to serve in whatever capacity he wants for the rest of his life. Until then, we salute him and let him know that we have appreciated the great service he has given to our country. We appreciate him as a person and as an example to all of us.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## TRYING TERRORISTS IN OUR COURTS

Mr. DURBIN. Mr. President, it has come to my attention that there was a significant decision by a criminal court in Seattle. The decision, as I understand it, was made this week, and it involved a U.S. district judge, John C. Coughenour. I hope I have pronounced his name correctly. Judge Coughenour was tasked with an awesome responsibility—the prosecution of Ahmed Ressam, who had been accused of terrorist acts against the United States.

The case was rather straightforward. The man had plotted to bomb the Los Angeles Airport on the eve of the celebration of our millennium. It was in imposing the sentence that Judge Coughenour said some things which are worth repeating. He called into question some conclusions that many people have reached about our system of justice and really reminded us of our legacy in terms of constitutional responsibility in this country.

I ask unanimous consent that the judge's entire statement at the sentencing hearing be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Judge's Statement

U.S. District Judge John C. Coughenour made a statement during Wednesday's sentencing hearing for Ahmed Ressam. "Okay. Let me say a few things. First of all, it will come as no surprise to anybody that this sentencing is one that I have struggled with a great deal, more than any other sentencing that I've had in the 24 years I've been on the bench.

"I've done my very best to arrive at a period of confinement that appropriately recognizes the severity of the intended offense, but also recognizes the practicalities of the parties' positions before trial and the cooperation of Mr. Ressam, even though it did terminate prematurely.

"The message I would hope to convey in today's sentencing is twofold:

"First, that we have the resolve in this country to deal with the subject of terrorism and people who engage in it should be prepared to sacrifice a major portion of their life in confinement.

"Secondly, though, I would like to convey the message that our system works. We did not need to use a secret military tribunal, or detain the defendant indefinitely as an enemy combatant, or deny him the right to counsel, or invoke any proceedings beyond those guaranteed by or contrary to the United States Constitution.

"I would suggest that the message to the world from today's sentencing is that our courts have not abandoned our commitment to the ideals that set our nation apart. We can deal with the threats to our national security without denying the accused fundamental constitutional protections.

"Despite the fact that Mr. Ressam is not an American citizen and despite the fact that he entered this country intent upon killing American citizens, he received an effective, vigorous defense, and the opportunity to have his guilt or innocence determined by a jury of 12 ordinary citizens.

"Most importantly, all of this occurred in the sunlight of a public trial. There were no secret proceedings, no indefinite detention, no denial of counsel.

"The tragedy of September 11th shook our sense of security and made us realize that we, too, are vulnerable to acts of terrorism.

"Unfortunately, some believe that this threat renders our Constitution obsolete. This is a Constitution for which men and women have died and continue to die and which has made us a model among nations. If that view is allowed to prevail, the terrorists will have won.

"It is my sworn duty, and as long as there is breath in my body I'll perform it, to support and defend the Constitution of the United States. We will be in recess."

Mr. DURBIN. Let me read a few things from this statement that I think are so significant. The judge said at the sentencing hearing for Ahmed Ressam, an alleged terrorist now prosecuted and convicted, the following:

> Okay. Let me say a few things. First of all, it will come as no surprise to anybody that this sentencing is one that I have struggled with a great deal, more than any other sentencing that I've had in the 24 years I've been on the bench.

The judge went on to say:

> I've done my very best to arrive at a period of confinement that appropriately recognizes the severity of the intended offense, but also recognizes the practicalities of the parties' positions before trial and the cooperation of Mr. Ressam, even though it did terminate prematurely.

The judge said:

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>
> Despite the fact that Mr. Ressam is not an American citizen and despite the fact that he

> entered this country intent upon killing American citizens, he received an effective, vigorous defense, and the opportunity to have his guilt or innocence determined by a jury of 12 ordinary citizens.
>
> Most importantly, all of this occurred in the sunlight of a public trial. There were no secret proceedings, no indefinite detention, no denial of counsel.
>
> The tragedy of September 11th shook our sense of security and made us realize that we, too, are vulnerable to acts of terrorism. Unfortunately, some believe that this threat renders our Constitution obsolete. This is a Constitution for which men and women have died and continue to die and which has made us a model among nations. If that view is allowed to prevail, the terrorists will have won.
>
> It is my sworn duty, and as long as there is breath in my body I'll perform it, to support and defend the Constitution of the United States.

That is the end of the statement by Judge Coughenour. This judge was appointed by a Republican President. He clearly speaks to constitutional principles which know no party bounds.

All of us, Republicans and Democrats, swear to uphold that same Constitution in our service to the Senate and our service to this Government. It is clear that in some cases the open and public trial which this accused, Ahmed Ressam, received in Seattle could never occur because of concerns over classified information, over concerns of security for individuals. But it is very clear that in this case extraordinary efforts were made to make certain that we said to the world, this man can be tried in open court, judged by a jury of 12 ordinary citizens and his guilt determined according to a system bound by the Constitution we have sworn to uphold.

I am humbled by the wisdom of this simple statement from this Federal judge. I hope it serves as a reminder to all that we must seek not only security in this time of peril, but we must seek it in a way that never imperils our basic freedoms in America.

## DEFENSE AUTHORIZATION

Mr. DODD. Mr. President, during the consideration of the Department of Defense authorization bill, several of our colleagues offered an amendment concerning the treatment of prisoners. It was an important amendment. It was offered by Senator MCCAIN and Senator GRAHAM. Senator WARNER offered a related amendment. The McCain Amendment made it clear that the United States would not engage in conduct related to detainees and prisoners which could be characterized as "cruel, inhumane or degrading."

I salute my colleagues for their courage in stepping forward to address this very difficult and controversial issue. I hope when we return to the Department of Defense authorization bill, we will give them a resounding vote of support. They speak for all in their dedication to make certain that we live up to the rules of law and to the standards of American values which have guided us for so many decades.

I look forward to that debate. I thank them for their political courage in offering this to the Department of Defense authorization bill.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SESSIONS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## SHIELD LAW

Mr. DODD. Mr. President, I would like to briefly mention three items in these closing minutes before the Senate takes its traditional August break. One has to do with the legislation Senator LUGAR of Indiana and I have introduced in this Senate and its companion which has been introduced by Congressman PENCE and Congressman BOUCHER on a bipartisan basis in the other body. I refer to the so-called shield law bill, which we have offered to the Congress as a Federal proposal to complement the statutes that exist across the United States in 31 States as well as the District of Columbia. Eighteen other States have rules of law that provide some protections for reporters who rely on confidential sources for their stories.

This law Senator LUGAR and I are proposing in the Senate is only nominally about reporters. It is fundamentally about those who rely on the free flow of information in our society to gather important information that is critical for our democracy.

As we are about to take this recess for the next 4 or 5 weeks, we would do well to remember that a few short miles from where we are this evening, there is a reporter who sits in a prison cell. Her only offense is that she has steadfastly refused to reveal a journalistic source. In a society such as ours, this should not be, in my view, an imprisonable offense. A free society obviously requires a free press. Thomas Jefferson once said that given the choice between a free government and a free press, he would choose the latter. Others, such as Madison, have suggested that in a nation where you do not have the free flow of information, it puts a nation at great risk.

That has been the tradition of our society for more than 200 years. We are entering dangerous territory in the 21st century when a reporter gets thrown in jail because she or he honors a commitment to keep a source confidential.

I believe it is time we enact a Federal shield law to mirror what 49 States and the District of Columbia have done by law or rule.

It is thought that our bill would absolutely guarantee under any and all circumstances that a reporter's sources ought to remain confidential. It does by and large protect that confidentiality. However, we create exceptions for national security. Obviously when there is no other means by which you could glean important information, the reporter should release the information that may be critical in a prosecution. But we try to keep sacrosanct that relationship between the source and the reporter. Again, not for the sake of the reporter, but for the sake of our citizenry, for the sake of the free flow of information which is critical in a democracy.

The distinguished chairman of the Judiciary Committee on which the Presiding Officer today serves held a very good hearing a few days ago. I commend the members of that committee. It was a very good participation by members of the Judiciary Committee who listened to various witnesses talk about a shield law.

This is not a liberal or conservative issue. As I mentioned, we have Congressman PENCE and Congressman BOUCHER in the House of Representatives. Congressman PENCE, a conservative from Indiana, Congressman BOUCHER a Democrat from Virginia, along with Senator LUGAR and I and others have introduced this legislation because as Senators and Congressmen, as American citizens, we believe it is important in our society that we have this free flow of information. Therefore, we are hopeful this body in the coming months before we adjourn sine die would enact a shield law.

I sat with an executive in the news business who told me the incarceration of Judith Miller, the reporter who is in jail tonight in Alexandria, is having an impact in his own newsroom. Reporters and their editors are thinking twice about going forward with stories, important stories, stories in the public interest, because they fear the harshest sanctions should a prosecutor knock on their door one morning and demand to know the sources of those stories. This should not be happening in our country.

I hope we as a Senate will give this matter the attention it deserves. Senator LUGAR and I do not claim that the bill we have introduced is perfect. We welcome advice and counsel of our colleagues on how we might craft a good shield law. It is not a partisan issue. Senator LUGAR and I have a bill that has support on both sides of the aisle. We want to work with our colleagues to see this law be enacted. It is of fundamental importance to our country that we enact a strong and good and viable shield law at the national level.

## TERRORISM RISK INSURANCE

Mr. DODD. Mr. President, the second issue I will mention briefly, in addition to the shield law issue, is terrorism risk insurance legislation. I speak as the author of the original legislation 3 years ago, which provided a backstop, not a bailout, for businesses in this country that rely on having terrorism risk insurance in major real estate developments and other major projects that are potentially vulnerable to attack.

That bill expires on December 31. It is critically important for American businesses and consumers that we enact this backstop legislation. It is important for our country, important that we provide the kind of insurance coverage that would allow some protection against a major catastrophe. Without that, we run the risk of major projects not going forward.

We had a briefing from major industries and others calling upon the Congress to extend the terrorism risk insurance law for the next 2 years. We need to sit down and try to determine whether we can establish some permanent partnership between public and private sectors in which we can guarantee to some extent, should a catastrophic event occur, we would be in a position to provide a backstop, some relief, under those circumstances.

None of us want to think about those events, but certainly the events in Spain in March of 2004 and Great Britain over the last several weeks and Sharm el Sheik over the last several days clearly indicate to all of us that we are living in a different world today.

Terrorism risk insurance is not like insurance against other hazards. By the very nature of terrorism, it is very difficult, if not impossible, to develop accurate models for terrorist events. They are inherently and extremely unpredictable. Good, solid business people will say a federal backstop is absolutely critical to sustain the kind of economic growth that is important to our nation's future. Jobs are at stake, major developments are at stake, major public gatherings at sporting events and the like are at stake without the ability to provide this critical insurance, terrorism risk insurance.

We have approximately 32 cosponsors of the bill I have introduced with Senator BENNETT of Utah. Most of the members of the Banking Committee are supportive. The chairman of the Banking Committee, Senator SHELBY, indicated he would like to work out a proposal in September to go forward. My hope is that will happen. We need the backing of the White House as well as the House leadership if that law is going to be enacted.

Terrorism risk insurance legislation will require real emphasis over these coming weeks and months if we are going to succeed in enacting this bill before December 31 when the present law expires.

## DEFENSE AUTHORIZATION BILL

Mr. DODD. Lastly, I urge that when we return in September, the top item be the Defense authorization bill. I was terribly disappointed that we put aside that bill this week. I don't recall another event quite like that where we literally pulled the Defense authorization bill for special interest legislation. With men and women in harm's way, when we are at war, it was stunning to me we would replace that effort with the proposal to provide immunity, in effect, to gun manufacturers and dealers with the legislation that was enacted earlier this afternoon.

Putting aside my view on that bill, which I have expressed earlier this week, I am stunned that the Senate would prematurely cease action on legislation to help our men and women in uniform would get everything they possibly need—not to mention provide support for veterans, for survivors' families, and for the weapons systems that are essential to our national security. I found it unbelievable we would set aside that legislation in order to provide legal immunity for gun dealers and gun manufacturers in the United States. I have never seen anything like it in my service.

I recall once, last year, there was an effort to cease work on the Defense authorization bill in order to consider the class action reform bill, which I supported and was deeply involved in crafting. We succeeded in dissuading those who wanted to make that move. We went forward and completed the work on the Defense authorization bill. We did not do that this time.

I hope when we return in September the first order of business will be to complete the Defense authorization bill. It is critically important that people who serve in the military, those who are our veterans, those whose loved ones have made the ultimate sacrifice, those who have served and given their lives for our country, that they understand how important we think that legislation is. I urge my colleagues and the leadership to place that item as the No. 1 item when we return in September.

In closing, Mr. President, the shield law, terrorism risk insurance legislation, and the Defense authorization bill are three pieces of legislation I hope will become priority bills when we return this fall.

I yield the floor.

## AFRICA WATER

Mr. FRIST. Mr. President, diplomacy and foreign policy are essential pillars of our national security. They reflect the values, principles, views and interests of the American people. They are central to advancing the United States role and stature in the world.

This year, for the first time ever, we are earmarking specific funds in the Foreign Operations bill to advance a specific cause. This year, we are legislating a direct appropriation of $200 million to advance the cause of clean water and sanitation—$50 million specifically targeted toward Africa.

In America, we take clean water for granted. Water to drink. Water to bathe in. But in other parts of the world, clean water is a scarcity and the results are devastating.

Every 15 seconds a child dies because of a disease contracted from unclean water. Ninety percent of infant deaths are caused by unclean water. Water-related disease kills 14,000 people a day, most of them children. Millions more are debilitated and prevented from leading healthy lives.

Cholera, typhoid, dysentery, dengue fever, trachoma, intestinal helminth infection, and schistosomiasis can all be prevented simply by providing safe water and sanitation.

Unfortunately, reliable projections suggest that the problem is only growing worse. Water stress and water scarcity, leading to impure and disease borne water, is expected to increase. By 2025, upwards of two-thirds of the world's population may be subject to water stress.

Imagine living in a rural village in Sub Saharan Africa or East Asia where the village members share their water source with livestock.

Imagine being a grandmother like Mihiret G-Maryam from a small village in Ethiopia. She watched five of her grandchildren between the ages of three and eight die from water-related diseases.

Before the UK-based WaterAid organization intervened in her community, constant stomach pain and diarrhea were a fact of life. The foul smelling, contaminated water exposed Mihiret and her neighbors to parasitic diseases.

With no latrines, human waste was everywhere. As Mihiret testifies, "it was horrid to see, as well as being unhealthy."

Now, because of the education and investment of WaterAid, together with the local church, her village is clean and the people no longer suffer chronic stomach aches. Clean water has literally saved lives. And proper management and intervention can be a currency for peace and international cooperation.

I have been on numerous medical missions around the world and seen the truth of this. In January, I traveled with my colleague Senator LANDRIEU to East Asia to survey the aftermath of the December 26 tsunami.

We helicoptered over the Sri Lankan coast and through the windows witnessed a scene of unending devastation.

Over 155,000 people died. At least 1 million lost their homes. Whole villages were literally washed out to sea.

Through all of this, the lack of clean water emerged as the most pressing public health concern. In many areas, the tsunami had poisoned wells with salt water, and swept away water treatment plants.

Shortages of potable water threatened to trigger outbreaks of diseases like cholera, typhoid, and dysentery. The large pools of stagnant water I saw along the coast were potential breeding grounds for mosquitoes carrying malaria and dengue fever.

In confronting these challenges, America showed tremendous generosity and compassion. And part of our efforts included innovative new technologies to provide clean, safe water. And those efforts continue.

This March, World Water Day launched the International Decade for Action. The United States and countries around the world are working together to reduce by one-half the number of people who lack access to safe drinking water.

I applaud the President his leadership. In August 2002, the administration launched the "Water for the Poor Initiative" to improve management of fresh water resources in over 70 developing countries. An estimated $750 million was invested in 2004 alone.

While no single piece of legislation can eliminate water-related diseases in the world, continued leadership is essential.

In March, the minority leader and I introduced the Safe Water: Currency of Peace Act to make safe water and sanitation a major priority of our foreign relief efforts.

The $200 million earmarked in the Foreign Operations bill is an extension of these efforts.

I commend the assistant majority leader, Senator MCCONNELL, the chairman of the Foreign Operations Appropriations Subcommittee, for his leadership. And I thank my colleagues for their continued commitment to this pressing issue.

It is hard to imagine that something so basic, so necessary, is lacking in so many places.

Providing clean water will save millions of lives. It is as simple as a glass of $H_2O$.

## 40TH ANNIVERSARY OF MEDICARE

Mr. FRIST. Tomorrow, America celebrates the 40th anniversary of the Medicare law.

Forty years ago, standing in the Harry S. Truman library in Independence, Missouri, President Johnson told a grateful nation that "Through this new law, every citizen will be able, in his productive years when he is earning, to insure himself against the ravages of old age."

Passage of the Medicare law ensured that never again would health care for the elderly be a matter of charity, but one of national conscience.

Medicare has served millions of seniors, improving their health and lengthening their lives. Today, 41 million elderly and disabled Americans have Medicare coverage. That number is expected to hit 77 million in 2031 when the baby boom generation is fully enrolled.

I am proud to have worked to pass the Medicare Modernization Act in 2003. This legislation guarantees seniors for the first time have access to affordable prescription drugs.

It also expands health care choices, improves preventive care, and begins to take a number of additional steps to improve quality and affordability of care in the Medicare program.

In just a few short months, in January 2006, every senior will have access to prescription drug coverage under Medicare. This represents the most significant improvement to the Medicare program since its inception 40 years ago. And 41 million American seniors and individuals with disabilities finally have the prescription drug coverage they need and the Medicare choices they deserve.

As a physician, I have written thousands of prescriptions that I knew would go unfilled because patients could not afford them. Under the Medicare Modernization Act that will soon change.

As a senator, I watched a decades-old Medicare program operate without flexibility, without comprehensive and coordinated care, without preventive care or disease management, and with no catastrophic protection against high out-of-pocket medical costs. I watched as science raced ahead, and Medicare stood still.

Now, under the Medicare Modernization Act that, too, is beginning to change. By expanding opportunities for private sector innovation, Medicare now combines the best of the public and private sectors. It provides better and more comprehensive coverage for today's seniors, and helps to lay the foundation for a stronger and more modern program for tomorrow's seniors.

The Medicare Modernization Act also offered some benefits for younger Americans. Most significantly, it is making health insurance more affordable through portable and tax-free health savings accounts. Health savings accounts are already giving younger Americans more control over their health care choices and hard-earned dollars.

The Medicare Modernization Act was a historic step forward for a program that has served millions of America's seniors. And it continues to draw on technological advances, like health information technologies and e-prescribing, to deliver more effective and more affordable care.

Medicare is a compact between generations. It is one of the most valued and compassionate legislative achievements of the 20th century. More changes will be needed in the future. But we have already begun to lay the groundwork. Medicare is providing a platform for making health care more affordable, more available, and more dependable for all Americans.

## H.J. RES. 59, WOMEN SUFFRAGISTS

Mr. REID. Mr. President, I rise today to express my support for H.J. Res. 59, a joint resolution that expresses the sense of Congress with respect to the women suffragists who fought for and won the right of women to vote in the United States. It is my privilegte to join Congresswoman SHELLEY BERKLEY, my colleague and fellow Nevadan, in the effort to honor and celebrate their hard-won achievements.

Our Nation was founded on the principle of "consent of the governed." Yet for the greater part of America's history, women were denied the fundamental right to participate in our democracy through the power of the vote. Today, it would be unthinkable and unconscionable to hold elections where not every vote properly cast is counted. Eighty-five years ago—perhaps within the lifespan of our mothers or grandmothers—this was not the case.

Next month we will observe the 85th anniversary of the 19th amendment, which finally secured women's right to vote in the United States. The 19th amendment does not just represent voting rights. It also represents a profound victory for women suffragists long seeking to be affirmed as equal partners in America's civic, cultural, and social affairs. But as victories with enduring and far-reaching consequences tend to, this one required the suffragists to first overcome numerous setbacks.

In 1866, Elizabeth Cady Stanton ran for Congress to test women's constitutional right to hold public office—and received only 24 of 12,000 votes cast. In 1872, Susan B. Anthony registered to vote in Rochester, New York, and cast a ballot—and subsequently was arrested. Two years later, the Supreme Court considered whether citizenship itself conferred voting rights and ruled that it does not for women. During the several years leading up to 1920, many suffragists, including Alice Paul, exercised their right to engage in civil discourse through protest and were thrown in jail for doing so.

These names may not sound familiar to everyone. Nor are these events the full extent of the challenges that the women suffragists faced as they fought for the ratification of the 19th amendment. The joint resolution would let us remember them and give them their due tribute.

The women suffragists commended in this resolution were instrumental not just in securing women's right to vote.

By winning for women the power of the ballot, they moved countless others to strengthen women's voice in charting the course of the nation. By asserting women's equality in the mechanism that sustains our democracy, they helped future generations fight for equality in all aspects of American life. By opening the voting booths, they spurred on the work to open our institutions of higher education, our athletic fields, and our boardrooms. And by having persisted in their convictions, they inspire young women today, like Hannah Low and Destiny Carroll of Henderson, Nevada, to continue the effort to ensure that their triumphs will not be forgotten.

On behalf of Hannah and Destiny, as well as my friend Congresswoman BERKLEY, each person a credit to Nevada, I am pleased to support the passage of this resolution.

## COMMENDING JUDY ANSLEY

Mr. WARNER. Mr. President, I rise today to commend an outstanding public servant, Judy Ansley, who for many years has worked as diligently and as ably as anyone with whom I have had the privilege of serving during my years in the Senate.

When I was vice chairman of the Senate Intelligence Committee, I selected Judy Ansley to serve as the first woman minority staff director. Today, Judy is the first woman staff director of the Senate Armed Services Committee which I chair.

How proud I am; how proud the Senate is that Judy has been selected to be the Special Assistant to the President and Senior Director for European Affairs at the National Security Council. The administration could not have made a better choice for this important post, and I am confident that Judy will serve her country with dignity and honor, as she has done throughout her extensive career in public service.

My only regret is that Judy Ansley will be leaving the Armed Services Committee after next week to move to the White House. Over the course of the last 6 years, Judy has dedicated her time, energy, and intelligence to the work of the committee with great enthusiasm. As the deputy staff director and staff director, Judy has provided excellent leadership to the committee during challenging times, and I am deeply thankful for her profound concern for the issues facing the men and women of our armed services. I am sure that my colleagues on the committee would agree that she has been an indispensable resource for our efforts. In those instances where she had professional views in opposition to mine, she has never hesitated to express them. I trust that she will most respectfully do the same for the President.

As the chairman of the Armed Services Committee, I have had the opportunity to observe closely Judy's indefatigable efforts. Before she joined the committee, Judy served as my national security adviser for 5 years, and her keen judgment and incisiveness were readily apparent throughout her work. Truly, while I am pleased that the administration will be gaining such a remarkable asset, I will miss Judy's counsel and extraordinary nature. I send my deepest gratitude to Judy as she begins her transition to the National Security Council, and I join with her wonderful family, husband Steve and daughters Rachel and Megan, in celebrating this achievement.

Mr. President, I also take this opportunity to announce Judy's successor as staff director for the Armed Services Committee. I have asked Mr. Charles S. Abell, the Principal Deputy Under Secretary of Defense for Personnel and Readiness, to become the new staff director, and it gives me great pleasure to note that he has accepted this responsibility.

A humble and devoted patriot, Charlie Abell has served his country with valor in every endeavor. Before joining the administration, Charlie was an exceptional member of the Armed Services Committee professional staff. During his years with the committee staff, Charlie was the lead staffer for the Subcommittee on Personnel, including issues of military readiness and quality of life. A highly decorated soldier, he retired from the Army as a lieutenant colonel after 26 years of distinguished service, and he brought a profound insight to his duties with the committee. I was privileged to work with this outstanding individual during his previous term with the committee, and I look forward to collaborating with him in the months ahead.

## HONORING OUR ARMED FORCES

### SPC ADAM JAMES HARTING

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave soldier from Portage. Adam Harting, 21 years old, died on July 25 in Samarra when an improvised explosive device detonated near his Bradley Fighting Vehicle. With so much of his life left before him, Adam risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Only 19 years old when he arrived in Kuwait to begin his service in Operation Iraqi Freedom, Adam was featured in Time Magazine in 2003 as one of the youngest soldiers stationed overseas. A graduate of Portage High School, Adam had always dreamed of joining the military and was active in the ROTC program throughout his high school years. Adam and his twin brother, Alex, both promised their father when they were young that they would enter the military, and both lived up to that promise, with Adam serving in the Army and Alex in the Air Force. Their father, Jim Harting, recounted his pride in Adam's service and character to a local newspaper, saying, "He was a hero. He was my hero." I stand here today to express the same feelings of pride and gratitude for this young Hoosier's sacrifices and those made by his family on behalf of our country.

Adam was killed while serving his country in Operation Iraqi Freedom. He was a member of the 3rd Battalion, 69th Armor Regiment, 1st Brigade Combat Team, 42nd Infantry Division, Fort Stewart, GA. This brave young soldier leaves behind his father and step-mother, Jim and Brenda Harting; his mother, Katherine Brown; and his seven siblings, Alex, 21, Mark, 20, Josh, 15, Jimmy, 14, Tiffany, 22, Tabitha, 20, and Hanna, 8.

Today, I join Adam's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Adam, a memory that will burn brightly during these continuing days of conflict and grief.

Adam was known for his dedication to his family and his love of country. Today and always, Adam will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Adam's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: "We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here." This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Adam's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of SPC Adam James Harting in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Adam's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Adam.

## TRIBUTE TO SOLDIERS

Mrs. BOXER. Mr. President, today I rise to pay tribute to 32 young Americans who have been killed in Iraq since April 23. This brings to 434 the number of soldiers who were either from California or based in California who have been killed while serving our country in Iraq. This represents 24 percent of all U.S. deaths in Iraq.

SGT Anthony J. Davis, age 22, died April 23 in Mosul when a vehicle-borne improvised explosive device detonated near his Stryker military vehicle. He was assigned to the 1st Battalion, 24th Infantry Regiment, 1st Brigade, 25th Infantry Division, Fort Lewis, WA. He was from Long Beach, CA.

CPL Kevin W. Prince, age 22, died April 23 in Baghdad of injuries sustained when an improvised explosive device detonated near his humvee. He was assigned to the 2nd Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA.

SGT Timothy C. Kiser, age 37, died April 28 in Riyhad, Iraq when an improvised explosive device detonated near his patrol. He was assigned to the Army National Guard's 340th Forward Support Battalion, 40th Infantry Division, Red Bluff, CA. He was from Tehama, CA.

CPT Stephen W. Frank, age 29, died April 29 in Diyarah, Iraq when a vehicle-borne improvised explosive device detonated as he was conducting a traffic control point inspection. He was assigned to 2nd Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA.

CPT Ralph J. Harting III, age 28, died April 29 in Diyarah, Iraq when a vehicle-borne improvised explosive device detonated as he was conducting a traffic control point inspection. He was assigned to 2nd Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA.

SSG Juan De Dios Garcia-Arana, age 27, died April 30 in Khaladiyah, Iraq when his Bradley Fighting Vehicle was attacked by enemy forces using small arms fire. He was assigned to the 5th Battalion, 5th Air Defense Artillery Regiment, 2nd Infantry Division, Camp Hovey, Korea. He was from Los Angeles, CA.

MAJ John C. Spahr, age 42, died May 2 from injuries received when the F/A-18 Hornet aircraft he was piloting apparently crashed in Iraq. He was assigned to Marine Fighter Attack Squadron 323, Marine Aircraft Group 11, 3rd Marine Aircraft Wing, Marine Corps Air Station Miramar, CA. His unit was embarked aboard the U.S.S. *Carl Vinson*.

CPT Kelly C. Hinz, age 30, died May 2 from injuries received when the F/A-18 Hornet aircraft he was piloting crashed in Iraq while flying in support of Operation Iraqi Freedom. He was assigned to Marine Fighter Attack Squadron 323, Marine Aircraft Group 11, 3rd Marine Aircraft Wing, Marine Corps Air Station Miramar, CA. His unit was embarked aboard the U.S.S. *Carl Vinson*.

SGT Stephen P. Saxton, age 24, died May 3 in Baghdad when his unit was conducting a route security mission and an improvised explosive device detonated near his humvee. He was assigned to the Army's 3rd Armored Cavalry Regiment, Fort Carson, CO. He was from Temecula, CA.

LCPL John T. Schmidt III, age 21, died May 11 from wounds received as a result of an explosion while conducting combat operations against enemy forces in Al Anbar Province on January 30. He was assigned to 3rd Battalion, 8th Marine Regiment, 2nd Marine Division, Camp Lejeune, NC. During Operation Iraqi Freedom, his unit was attached to the 1st Marine Division, Camp Pendleton, CA.

SGT John M. Smith, age 22, died May 12 in Iskandariyah, Iraq from injuries sustained when an improvised explosive device detonated near his vehicle. He was assigned to the Army's 2nd Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA.

SFC Randy D. Collins, age 36, died May 24 at the National Naval Medical Center in Bethesda, Maryland of injuries sustained in Mosul on May 4 during a mortar attack. He was assigned to the Army's 11th Armored Cavalry Regiment, Fort Irwin, CA. He was from Long Beach, CA.

MAJ Ricardo A. Crocker, age 39, died May 26 from a rocket propelled grenade explosion while conducting combat operations in Hadithah, Iraq. He was assigned to the Marine Corps Reserve's 3rd Civil Affairs Group, Camp Lejeune, NC. During Operation Iraqi Freedom, his unit was attached to II Marine Expeditionary Force. He was from Mission Viejo, CA.

SGT Mark A. Maida, age 22, died May 27 in Baghdad of injuries sustained in Diyarah, Iraq on May 26 when an improvised explosive device detonated near his humvee. He was assigned to the Army's 2nd Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA.

1st Sgt Michael S. Barnhill, age 39, died May 28 after his vehicle stuck an improvised explosive device near Haqlaniyah, Iraq. He was assigned to the Marine Corps Reserve's 6th Engineer Support Battalion, 4th Force Service Support Group, Eugene, OR. During Operation Iraqi Freedom, his unit was attached to II Marine Expeditionary Force. He was from Folsom, CA.

CPL Jeffrey B. Starr, age 22, died May 30 from small-arms fire while conducting combat operations against enemy forces near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to II Marine Expeditionary Force.

CPT Derek Argel, age 28, died May 30 in the crash of an Iraqi air force aircraft during a training mission in eastern Diyala province. He was assigned to the 23rd Special Tactics Squadron, Hurlburt Field, FL. He was from Lompoc, CA.

CPL Antonio Mendoza, age 21, died June 3 at Brook Army Medical Center, San Antonio, TX from wounds received as a result of an explosion while conducting combat operations against enemy forces in Ar Ramadi, Iraq on February 22. At the time of his injury, he was assigned to 5th Battalion, 11th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. He was from Santa Ana, CA.

LCPL Daniel Chavez, age 20, died June 9 as a result of explosion while conducting combat operations with the 2nd Marine Division in Haqlaniyah, Iraq. He was assigned to 1st Tank Battalion, 1st Marine Division, Camp Pendleton, CA.

LCpl Jonathan R. Flores, age 18, died June 15 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was operating with the 2nd Infantry Division of the U.S. Army, which was attached to 2nd Marine Division.

LCpl Jesse Jaime, age 22, died June 15 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to the 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was operating with the 2nd Infantry Division of the U.S. Army, which was attached to 2nd Marine Division.

LCpl Tyler S. Trovillion, age 23, died June 15 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was operating with the 2nd Infantry Division of the U.S. Army, which was attached to 2nd Marine Division.

LCpl Dion M. Whitley, age 21, died June 15 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was operating with the 2nd Infantry Division of the U.S. Army, which was attached to 2nd Marine Division. He was from Los Angeles, CA.

LCpl Chad B. Maynard, age 19, died June 15 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was operating with the 2nd Infantry Division of the U.S. Army, which was attached to 2nd Marine Division.

Petty Officer 2nd Class Cesar O. Baez, age 37, died June 15 as a result of enemy small arms fire while conducting combat operations in al-Anbar Province. He was a Hospital Corpsman assigned to 2nd Marine Division, II Marine Expeditionary Force. He was from Pomona, CA.

LCpl Erik R. Heldt, age 26, died June 16 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to 2nd Marine Division.

CPT John W. Maloney, age 36, died June 16 when his vehicle hit an improvised explosive device while conducting combat operations near Ar Ramadi, Iraq. He was assigned to 1st Battalion, 5th Marine Regiment, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to 2nd Marine Division.

SGT Arnold Duplantier II, age 26, died June 22 in Baghdad where he was providing cordon security, and was attacked by enemy forces using small arms fire. He was assigned to the Army National Guard's 1st Battalion, 184th Infantry Regiment, Auburn, CA. He was from Sacramento, CA

PFC Veashna Muy, age 20, died June 23 while traveling in a convoy that was attacked by a suicide, vehicle-borne, improvised explosive device in Fallujah. He was assigned to the 8th Marine Regiment, 2nd Marine Division, Camp Lejeune, NC. He was from Los Angeles, CA.

Petty Officer 1st Class Regina R. Clark, age 43, died June 23 in a convoy that was attacked by a vehicle-borne improvised explosive device in Fallujah. She was a culinary specialist deployed with Naval Construction Regiment Detachment 30, Port Hueneme, CA and was temporarily assigned to II Marine Expeditionary Force.

LCpl Carlos Pineda, age 23, died June 24 as a result of wounds sustained from enemy small-arms fire while conducting combat operations in Fallujah. He was assigned to the 8th Marine Regiment, 2nd Marine Division, Camp Lejeune, NC. He was from Los Angeles, CA.

SSG Jorge L. Pena-Romero, age 29, died July 16 in Baghdad when an improvised explosive device detonated near his Humvee while his unit was conducting a mounted patrol. He was assigned to the 1st Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA. He was from Fallbrook, CA.

Four hundred thirty-four soldiers who were either from California or based in California have been killed while serving our country in Iraq. I pray for these young Americans and their families.

I would also like to pay tribute to the five soldiers from or based in California who have died while serving our country in Operation Enduring Freedom since April 26.

SFC Allen C. Johnson, age 31, died April 26 in Khanaqin, Afghanistan, of injuries sustained when enemy forces using small arms fire attacked his patrol. He was assigned to the 1st Battalion, 7th Special Forces Group, Fort Bragg, NC. He was from Los Molinos, CA.

SFC Victor H. Cervantes, age 27, died June 10 in Orgun-e, Afghanistan, when he came under small arms fire while on patrol. He was assigned to the Army's 1st Battalion, 7th Special Forces Group (Airborne), Fort Bragg, NC. He was from Stockton, CA.

MAJ Duane W. Dively, age 43, died June 22 in Southwest Asia in the crash of a U-2 aircraft. He had completed flying a mission and was returning to his base when the crash occurred. He was assigned to the 1st Reconnaissance Squadron, Beale Air Force Base, CA. He was from Rancho California, CA.

LCDR Erik S. Kristensen, age 33, was killed while conducting combat operations when the MH-47 helicopter that he was aboard crashed in the Kumar province of Afghanistan on June 28. He was assigned to SEAL Team Ten, Virginia Beach, VA. He was from San Diego, CA.

Petty Officer 2nd Class Matthew G. Axelson, age 29, died while conducting counter-terrorism operations in Kunar province, Afghanistan. Coalition forces located him while conducting a combat search and rescue operation July 10. He was assigned to SEAL Delivery Vehicle Team One, Pearl Harbor, HI. He was from Cupertino, CA.

Thirty soldiers who were either from California or based in California have been killed while serving our country in Operation Enduring Freedom. I pray for these Americans and their families.

### CHRISTOPHER HOSKINS

Mr. DODD. Mr. President, I rise to speak in honor of U.S. Army SPC Christopher Hoskins, of Danielson, CT, who was killed in Iraq on June 21, 2005. He was 21 years old.

Specialist Hoskins was killed along with another soldier when his unit came under small-arms fire in Ramadi, Iraq.

Growing up, Christopher was known as quiet, passionate, and full of energy. He competed on the wrestling team at Killingly High School and was interested in graphic arts. He carried a sketchbook with him in Iraq.

Christopher enlisted in the Army simply because he thought it was the right thing to do. He was proud to be a soldier. In Iraq he drove Bradley fighting vehicles and humvees.

He served with valor and humanity. He often said that the Iraqi people are just like us. They have many of the same basic needs—food, water, clothing, and shelter. And he knew that he had extra and that they are wanting. It would have been easier for him, serving in a dangerous region, to shut himself off from the populace, but he didn't. He often shared his extra non-military supplies with Iraqi civilians.

Christopher also formed a special bond with those in his unit. Even during the short amount of time that he was able to come back home to Connecticut, he would swap pictures over the Internet with those in his unit who were still in Iraq. He sent them care packages of magazines and junk food. He had recently signed up for a second tour.

Christopher's life was defined by unselfish service to his community and his country, and that selflessness continues after his death. He asked his mother a few months ago that, if he died, donations be made to his former school system in lieu of flowers. He was concerned about his younger brother, Sean, who is a special needs student, and the students in the art department, who do not have up-to-date software.

People like Christopher Hoskins make it possible for us to live each and every day in freedom, peace, and security. Their sacrifices, in lands thousands of miles away, keep us safe here at home. We must never forget those sacrifices.

So today I salute the courage and commitment of Christopher Hoskins, a young man who lost his life fulfilling the noblest of callings, defending our Nation and the values we hold dear. And I offer my heartfelt sympathies to his parents, Richard and Claudia, his siblings, Kristin, Erin, and Sean, and to everyone who knew and loved him.

### STEVE REICH

Mr. President, I rise today to speak in tribute of U.S. Army MAJ Steve Reich, of Washington, CT, who lost his life on duty in Afghanistan on June 28, 2005. He was 34 years old.

Major Reich, a member of the 160th Special Operations Aviation Regiment known as "The Nightstalkers," was killed along with 15 other soldiers in a helicopter crash in the eastern mountains of Afghanistan. His service to his country will not be forgotten.

Steve was respected in his small home town both for his abilities on the baseball diamond and for his caring personality.

He was a star pitcher before entering the military. With the rare combination of a blazing fastball and uncanny control, Steve was an All-Star at every level. He pitched in two championship games for Shepaug Valley High School before moving on to West Point. In his debut against the Naval Academy, he pitched a one-hitter.

He was a member of the U.S. National baseball team in 1993 and played for it in Italy, Nicaragua, and Cuba. He was rightly very proud of having carried the American flag for the team in the World University Games. He later signed with the Baltimore Orioles farm system and pitched two games before being recalled to active duty.

Major Reich was as accomplished in the military as he was on the baseball field. He learned to pilot three models of Army helicopter and became a company commander in his regiment. He was serving his fourth tour of duty after having already been stationed in Korea, Hungary, Bosnia, and Albania.

He was known in his unit for his willingness to serve by example and his composure, something that, no doubt, made him a great leader and kept those who served with him safer.

Despite the fact that he was a hero to those in his hometown, Steve was modest. He had won a bronze star for service, but he never told his family what heroic acts he performed to deserve the award. He went out of his way to show his appreciation for the warm welcomes that he received from his community on the rare occasions that he was able to return home. On Christmas, he and his sisters would deliver treats to say thanks to his friends and neighbors.

Countless members of his community said that they admired Steve's selflessness and that they felt safer knowing that he was watching out for them.

His friends and family took great joy in the fact that he met and married Jill Blue during the past year. It warmed the hearts of those around him that he found someone to marry because he had always had so little time for a personal life. They said that his wedding day in March was the happiest day of his life. My heart truly goes out to Jill, who has suffered the kind of loss that is difficult for most of us to comprehend.

And I offer my deepest sympathies to his parents, Ray and Sue, and his sisters, AnnMarie and Megan, whose loss is too great for words.

## TRIBUTE TO NAVY SEALS

Mr. WARNER. Mr. President, I rise today to recognize and pay tribute to the 10 courageous sailors who lost their lives in Afghanistan during Operation Enduring Freedom on 28 June 2005 by printing the eloquent words of U.S. Navy RADM Joseph Maguire, Commander, Naval Special Warfare Command, during a memorial speech at Naval Amphibious Base Little Creek on July 8, 2005.

I ask unanimous consent to print this tribute in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(By Rear Admiral Joseph Maguire)

Good Morning. On behalf of the Commander, United States Special Operations Command, General Doug Brown, the United States Navy, the proud men and women of Naval Special Warfare, I'd like to welcome everybody to this morning's memorial service for our ten fallen Sailors.

We're honored to have with us today the leaders of our nation and our Navy. We are joined this morning in grief. The chairman of the Senate Armed Services Committee, Senator John Warner, Congresswoman Thelma Drake, our local Congresswoman, Ambassador Joseph Prurer and Mrs. Prurer, Undersecretary of the Navy Aviles, the Vice Chief of Naval Operations, Admiral Willard and Mrs. Willard. The Commander Fleet Forces Command, Admiral Nathman and Mrs. Nathman, and the General Council of the United States Navy, Mr. Mora. In addition to that we have many general officers [From the joint services, retired community, retired Flag Officers. I'd also like to extend a welcome to our many veterans here today, our combat veterans.

I would also like to extend a warm welcome to our families in Naval Special Warfare, especially to the families of Squadron Ten, whose husbands are still deployed and engaged in combat operations far away. But most importantly I'd like to welcome the families of the ten SEALs that we honor here today. Earlier in this week I along with General Brown and many others have been attending memorial services for our United States Army Special Operations Aviation Regiment, the 160th, located at Fort Campbell, Kentucky, and Hunter Army Air Field, where as you all know we lost eight brave Special Operations Aviators.

This morning we pause to honor the memory of ten Navy SEALS, in particular the six SEALS who were home ported here at the Naval Amphibious Base in Little Creek. I'd also like to extend a welcome to those who can't be with us physically in this theater right now. The theater holds 1800 people and we filled that up earlier this morning. And for those of you in the overflow where we have nearly 2000 people seated, I welcome you this morning and I apologize that we did not have space for everybody to be in here physically. But I know, spiritually, that you're with us and we sincerely appreciate you being part of the ceremony this morning.

My remarks will be short. I think it's important that you hear from the friends and loved ones, and also Commodore Pete Van Hooser has got some very important things to say.

But what I would like to say as the Commander for Naval Special Warfare and the head of this community, how proud I am to be the Commander for Naval Special Warfare and have the opportunity to lead and serve with these ten fine men. Naval Special Warfare is the smallest war fighting community in the Navy. There's 1750 enlisted men and six 600 officers. We're a small town, we literally know each other, and honestly, for those of you it may be hard to believe if you see the way we act with each other, we love one another.

Everything that you see here and everything this morning was put together by their Teammates. I'd like to call your attention to the operational equipment that we have forward here on stage. It traces its proud heritage back to World War II. The Underwater Demolition Teams and the Navy Combat Demolition Units and you'd have to go all the way back to World War II to get the number of Naval Special Warriors who died in one day in one military operation. The loss of one SEAL, the loss of one military man is more than we could possibly bear, but to have ten or our brave men perish in one day along with eight of our Nightstalkers is truly a remarkable day and one that will always be etched in our memory.

But before you though you have UDT swim fins, a UDT lifejacket, a web belt and a mask. And it may seem strange to you knowing that these Naval commandos died on a mountain top 7,500 feet in elevation in a country 300 miles from the sea. But our nation called. These are the same people that flew the planes into the Twin Towers that flew the plane into the Pentagon that also flew the plane into the ground in Pennsylvania. The Al Qaeda and the Taliban are barely distinguishable and these are the people that these brave men, these ten men, went out to meet and engage in combat. So although the operational equipment that they had on them that day on the 28th of June was not swim fins, not a UDT life jacket, not a mask, perhaps a K-Bar. We thought it's appropriate because we are first and foremost warriors from the sea, Navy men, that we honor them today as SEALs and Navy men.

The last thing I'd like to just mention is the knife that's on the web belt. The K-Bar also dates back to the knife used by the UDT in World War II. And a tradition in Naval Special Warfare when a young man finishes his training and is awarded his trident, when he is awarded his trident he is also presented a K-Bar, and on that K-Bar is inscribed the name of a SEAL who went before him, where he died, and the date he died on. So that knife would always link him to the past and serve as an inspiration to him as a SEAL in combat in the future. These ten knives that we have up here are now etched with your husbands, your son, your brother, your father, your uncle, your nephew, your neighbor, your friend, and to us our Teammates names. You can take these home with you today, and I hope that you treasure them, but what I want you to know is that in the future when fellow SEALs become SEALS and they are presented with their K-Bars, the name of these men will be engraved to serve as an inspiration to future SEALs in combat, our teammates.

And I want to leave you with this. We have a creed, we have many things in Naval Special Warfare, but to sum it up, it is loyalty to our teammates dead or alive. These ten men are no longer with us, that doesn't mean that our allegiance and our covenant ends with them today. We will remain their teammates forever and to the family members sitting here, always know that we will always be there from them, always there for you and, we will always stay connected. God bless and thank you.

I'd like to go into the awards presentation now and I ask all of the guests and military to remain seated as we make the presentations so that all can see.

The Silver Star Medal, Bronze Star Medal with Valor, Purple Heart Medal, Combat Action Ribbon and Afghanistan Campaign Medal will be presented posthumously for the actions in the following citation below.

On Tuesday 28 June 2005, thirty members of Naval Special Warfare Task Unit-Afghanistan were preparing to conduct a direct action mission when they were tasked to respond as a Quick Reaction Force to reinforce a four-man Navy SEAL reconnaissance element engaged in a fierce firefight near Asadabad, Konar Province, Afghanistan.

The reconnaissance element was bravely fighting Anti-Coalition Militia, who held both a numerical and positional advantage. The ensuing firefight resulted in numerous enemy personnel killed, with several of the SEALs suffering casualties.

After receiving the task to reinforce, the Quick Reaction Force loaded aboard two MH-47 U.S. Special Operations Army helicopters planning to air assault onto a hostile battlefield, ready to engage and destroy the enemy in order to protect the lives of their fellow SEALs. Demonstrating exceptional resolve and fully comprehending the ramifications of the mission, the Quick Reaction Force, while airborne, continued to refine the plan of attack to support both the reinforcement task and hasty execution of their intended deliberate assault.

As the helicopter approached the nearly inaccessible mountainside and hovered in preparation for a daring fast-rope insertion of the SEALs, the aircraft was struck by an enemy rocket-propelled grenade fired by Anti-Coalition Militiaman. The resulting explosion and impact caused the tragic and untimely death of all SEALs and Army Night Stalkers onboard.

These men answered the call to duty with conspicuous gallantry. Their bravery and heroism in the face of severe danger while fighting a determined enemy in the Global War on Terror was extraordinary. Their courageous actions, zealous initiative and loyal dedication to duty reflected great credit upon themselves, Naval Special Warfare, and the United States Navy. For the President, Vern Clark, U.S. Navy, Chief of Naval Operations.

The presentations this morning will be made by Commodore Pete Van Hooser, Commander, Naval Special Warfare Group Two and Master Chief Chuck Williams, Command Master Chief of SEAL Team Ten.

The President of the United States takes pride in presenting the Bronze Star Medal with Valor, Purple Heart Medal, Combat Action Ribbon, and Afghanistan Campaign Medal posthumously to LCDR Erik Kristensen, United States Navy.

The President of the United States takes pride in presenting the Bronze Star Medal with Valor, Purple Heart Medal, Combat Action Ribbon and Afghanistan Campaign Medal posthumously to LT Mike McGreevy, United States Navy.

The President of the United States takes pride in presenting the Bronze Star Medal with Valor, Purple Heart Medal, Combat Action Ribbon, and Afghanistan Campaign Medal posthumously to Chief Fire Controlman Jacques Fontan, United States Navy.

The President of the United States takes pride in presenting the Bronze Star Medal with Valor, Purple Heart Medal, Combat Action Ribbon, and Afghanistan Campaign Medal posthumously to Electronics Technician 1st Class Jeffrey Lucas, United States Navy. Accepting his father's awards is his son, Seth Lucas.

The President of the United States takes pride in presenting the Bronze Star Medal with Valor, Purple Heart Medal, Combat Action Ribbon and Afghanistan Campaign Medal posthumously to Hospital Corpsman 1st Class Jeffrey Taylor, United States Navy.

The President of the United States takes pride in presenting the Silver Star Medal, Purple Heart Medal, Combat Action Ribbon, and Afghanistan Campaign Medal posthumously to Gunner's Mate 2nd Class Danny Dietz, United States Navy.

Mr. WARNER. Mr. President, I would like to associate myself with these exceptional remarks by Admiral Maguire. Our great country will forever owe these courageous SEALs a debt of gratitude for their selfless actions in battle on June 28, 2005. While I am sorry that the families of these men have suffered such an irreplaceable loss, I am proud that America produced such fine gentlemen who valiantly answered the call to defend these United States. Recalling our national anthem, I say, we would not be "the land of the free" were we not also the "home of the brave."

Mr. President, I rise today to recognize and pay tribute to the 10 courageous sailors who lost their lives in Afghanistan during Operation Enduring Freedom on June 28, 2005, by reading the eloquent words of U.S. Navy CAPT Pete Van Hooser, Commander, Naval Special Warfare Group Two, during a memorial speech at Naval Amphibious Base Little Creek on July 8, 2005.

I ask unanimous consent to print this tribute in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(By CAPT Pete Van Hooser)

I am always humbled in the presence of warriors. We have been in sustained combat for over 3 years—things have changed.

I find myself speaking in public a lot more than I would like, but I always start by thanking four groups of people. The first are our warriors who haven fallen; the second, those who have guaranteed that those who have fallen will not be left behind. Some with their bravery, others with lives.

I thank those who have selflessly pulled themselves off the line to train the next warriors to go forward—so that they may surpass the prowess of those currently engaged.

And I am thankful for the families that nurture such men.

My remarks will be focused on these families and the men who wear the trident. We would not be able to do our jobs without the brave men and women of the Army, Air Force, and Marine Corps. Task Unit—Afghanistan of Naval Special Warfare Squadron Ten, was comprised of SEAL Team Ten and SEAL Delivery Vehicle Team Two and One, had many U.S. Navy rates other than SEALs that trained and deployed by our side, and we recognize and are grateful for the professional efforts of all. But this time and this place is about the SEALs.

Leonidas, the Spartan King, hand-picked and led a force to go on what all knew to be a one-way mission. He selected 300 men to stand against an invading Persian force of over 2 million. They were ordered to delay the advance the Persian Army. Selecting the battlefield was easy—the narrow mountain pass at Thermopylae restricted the combat power that the enemy could apply—allowing the superior fighting skills of the 300 Spartans to destroy the will of this Persian Army to fight. These Spartan warriors died fighting to the last man.

The Persian invaders were defeated by the Greek Army in later battles. Democracy and freedom were saved.

Most know this story. But most of us don't know how Leonidas selected the 300 men. Should he take the older seasoned Warriors who had lived a full life, should he take the young lions that felt they were invincible, should we take the battle-hardened, backbone-proven warrior elites in their prime, or should he sacrifice his Olympic champions?

The force he chose reflected every demographic of the Spartan Warrior class. He selected those who would go based solely on the strength of the women in their lives. After such great loss, if the women faltered in their commitment, Sparta would falter and the rest of Greece would think it useless to stand against the Persian invaders. The democratic flame that started in Greece would be extinguished.

The Spartan women were strong. They did not falter. I would even argue that we live in a democracy and have freedom because of the strength, skill, and courage of these 300 men and the extraordinary will and dedication of the women in their lives.

The women in our lives are the same. I see the pride in their wearing of the Trident symbol—I hear it in their voices when they are asked what is that symbol, and they say my husband, my son, my brother, or my dad is a Navy SEAL—usually they say nothing more.

If I were to say to the families, I feel your pain, that could not be so. I can never know the depth of your relationship or the anguish of your personal loss. What I can say is the truth I know. Those who wear the trident provide only brief glimpses into our world to those on the outside. Even our families see only a limited view of the path we have chosen. We are all different, but on the inside we share many common beliefs and actions. We spend most of our adult lives with other SEALs preparing for battle.

On this occasion I feel compelled to share our innermost thoughts. I want to show you a little more of our world so you can understand the way we see, the way we feel about what happened.

There is a bond between those who wear a trident—that is our greatest strength.

It is unique to this very small community. It is unique in its intensity. It is nurtured by the way we train—the way we bring warriors into the brotherhood. This bond is born in BUD/S. It starts to grow the first time you look into the eyes of your classmate when things have gone beyond what you or he thinks is possible. It grows in the platoon as you work up for deployment, and it grows around the PT circle. It's the moving force behind every action in a firefight. This bond is sacred. This bond is unspoken, unconditional, and unending.

When it comes to fighting we are all the same inside. During the first stages of planning, at the point where you know you are going into the battle, we think about our families. The master chief passing the word to the boys sums it up, "I am going home to my kids and you are going home to yours. Here is our next mission."

We never stop planning—we never stop thinking through every contingency—we want to cover every anticipated enemy action. This is the way we face the risk.

There is a significant difference between inserting on a mission where there may or may not be enemy contact or serious resistance and inserting into a fight where forces are already engaged. On 11 April, the men of this task unit—during their initial week in Afghanistan, immediately shifted from a helicopter training scenario directly into the fight as a quick response force to help soldiers and marines in a desperate battle. They made the difference—saving the lives of our fellow servicemen and destroying the enemy.

Last week when these fallen warriors launched on this mission, their SEAL teammates were fighting the enemy—fellow

SEALs were in peril—as always in the teams—in this—situation there is no hesitation. It is not about tactics—its about what makes men fight.

As you are going in hot—you can't help it—you must allow one more small block of personal time. You think of those at home—the people you—the people you left behind. For this brief moment, there is no war.

Our souls have touched a thousand times before this moment
Boundless undefined shadows quietly surging through and waking each other
On a moonless star rich night we patiently wait for the dawn
There is no distance
You smile a cool wind that takes away thirst
I will never know hunger
I have never known fear
Unspoken—Unconditional—Unending

It's the same bond—now your focus returns to your SEAL teammates. Total focus on the approaching fight is all that exists.

In April, when I heard of the Task unit's first contact that very first week in country—when I saw the reports of the enemy casualties they had inflicted—I was happy but not too happy. Its was more of a quiet internal sharing of a sense of satisfaction they had executed flawlessly.

Last week when I was told of their deaths and saw what they were trying to accomplish, I was sad—but not too sad. It was more of a quiet and internal recognition that they had gone to the wall, and there was no hesitation. They were warriors—they are SEALs.

We are not callous. We don't have the luxury of expressing our emotions at will. In these times our duty is to press on and finish the fight, for all depends on each man's individual actions.

We answer to a higher moral calling on the path that requires us to take and give life. It is this dedication to ideals greater than self that gives us strength. It is the nurturing of our families that gives us courage. Love is the opposite of fear—it is the bond that is reinforced when we look in the eyes of another SEAL that drives super human endurance. My teammate is more important than I.

The enemy we face in Afghanistan is as hard and tough as the land they inhabit. They come from a long line of warriors who have prevailed in the face of many armies for centuries. It is their intimate knowledge of every inch of the most rugged terrain on earth that is matched against our skill, cunning, and technology.

They are worthy adversaries and our intelligence confirms that they fear and respect us. They have learned to carefully choose their fights because as SEALs we answer the bell every time.

When you see the endless mountains—the severe cliff—the rivers that generate power that can be felt while standing on the bank—the night sky filled with more stars then you have ever seen—when you feel the silence of the night were no city exists—when the altitude takes your breath away and the cold and heat hit the extreme ends of the spectrum—you cannot help being captured by the raw strength of this place.

This is a great loss. These men were some of the future high-impact leaders of naval special warfare, but I take refuge in the thought that there is no better place a warrior's spirit can be released then the Hindu Kush of the Himalayas.

In their last moments, their only thoughts were coming to the aid of SEAL brothers in deep peril. I can say that any one wearing a trident would gladly have taken the place of these men even with full knowledge of what was to come.

Some of those on the outside may understand that the one man who was recovered would possibly make this loss acceptable. Only those who wear the trident know, if no one had come back, it would all have been worth the cost.

These men are my men. They are good men. The SEAL teams—this path is my religion. This loss will not go unanswered.

I am always humbled in the presence of Warriors.

Mr. President, I would like associate myself with these exceptional remarks by Captain Van Hooser. Our great country will forever owe these courageous SEALs a debt of gratitude for their selfless actions in battle on June 28, 2005. While I am sorry that the families of these men have suffered such an irreplaceable loss, I am proud that America produced such fine gentlemen who valiantly answered the call to defend these United States. Recalling our national anthem, I say, we would not be "the land of the free" were we not also the "home of the brave."

## GENERAL LOUIS HUGH WILSON, JR.

Mr. WARNER. Mr. President, I rise to recognize and pay tribute to GEN Louis Hugh Wilson, Jr., U.S. Marine Corps, 26th Commandant of the Corps. General Wilson was the embodiment of everything the Marine Corps and our Nation stands for. I am honored to read the eloquent eulogy delivered by General Carl Epting Mundy, Jr., U.S. Marine Corps, 30th Commandant of the Corps, delivered in the Old Chapel, Fort Myer, Virginia, 19 July 2005, in General Wilson's memory.

I ask unanimous consent to print this tribute in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### EULOGY FOR GEN LOUIS HUGH WILSON, JR.

(By GEN Carl Epting Mundy, Jr.)

Three years after I graduated from the Basic School at Quantico, I was ordered back to become an instructor. I reported to the adjutant, who informed me that the commanding officer was absent for a few days, but would return the following week. He advised, further, that it was the colonel's policy to address all newly forming companies of lieutenants on the first day of training, which would occur, coincidentally, on the day of his return, and that I should be there.

At 0700 on the prescribed day, I mustered with a half-dozen instructors and couple of hundred new lieutenants in the outdoor classroom just in front of the headquarters building. Precisely at 0715, the front door opened and a tall, rangy, all-business-looking colonel walked out. We were called to attention, then put at ease and given our seats. The colonel spoke for probably no more than 8 to 10 minutes, citing what was to be accomplished and what was expected of the lieutenants in the next 6 months. He concluded by saying: "While you're here, you'll find many things that are wrong . . . that are not to your liking . . . not the way you would do them—and you'll find yourselves talking about how 'they' ought to change this or that . . . and how 'they' just don't understand the problem. When you have those thoughts or discussions" he went on, "I want you to remember: I . . . am they!"

He stood looking at us for probably no more than 5 seconds, which seemed like minutes. Not a head turned; not an eye blinked, and I'm sure 200 second-lieutenant minds were working in unison to figure out how they could go through 26 weeks of training without ever once uttering the word, "they"!

This was my first association with then-COL Louis Wilson. Like a few others, the "I am they" assertion became pure "Wilsonian" over the years, and like me, I suspect that many here this morning have heard it on more than one occasion. It contained a little humor, but it also characterized the man as the leader he was: "I am 'they'; I'm in command; I'm responsible; I give the orders."

Even beyond his years in the Corps, these characteristics continued. His good friend, Bill Schreyer—chairman of the board of Merrill-Lynch when General Wilson served, after retirement, as a director of that company—tells the story of a board meeting at which a particularly difficult issue was being deliberated. After considerable discussion, during which a number of thoughts and ideas emerged, but without definitive resolution of the issue, Director Wilson said, "Mr. Chairman, if Moses had been a member of this board, instead of "The Ten Commandments", we would have wound up with "The Ten Suggestions!"

Louis Hugh Wilson, Jr., was born and grew up in Branson, MS. His father died when he was five, and those family members who knew him then characterized him—even as a small boy—as exhibiting a clear feeling of responsibility for his Mother and sister. He worked at a variety of jobs throughout his school years to help with their support. After graduation from high school, he enrolled at nearby Milsaps College, majored in economics, ran track, played football and joined the "Pikes"—Pi Kappa Alpha Fraternity.

In the summer after his freshman year, he and a buddy took a job laying asphalt over the dirt and gravel roads of Mississippi, and while working one day, a car passed, carrying an attractive local high school graduate named Jane Clark. "I sure would like to get to know that girl," Louis remarked to his buddy. "No chance, Lou, she's taken," his friend answered.

Wrong answer! Within a short time, Lou and Jane were dating, and by the time she followed him a year or so later to Milsaps, they were courting. When he graduated in 1941 and went off to officer candidate training in the Marines, and then into the war in the Pacific, they "had an understanding," and she waited. They became "Captain and Mrs. Wilson" 3 years later, when he returned from hospitalization after the battle for Guam.

Captain Wilson got a bride, but the Corps got one of its most gracious future first ladies—one beloved by all who have had the privilege of knowing her—but none more so than the Wilson aides-de-camp over the years to whom she became known as "President of the Aides' Protective Society" with an occasional early morning call just after the General departed quarters for the office, wishing them—in her soft, Southern manner—"a wonderful day—even though it may not start that way!"

Throughout their career, and to the present, Jane has been an inspiring role model to all of us in both the good and the hard times. Indeed, a legion of Marines are glad that Lou's friend on the hot asphalt road in Mississippi in 1938 was wrong when he predicted: "No chance, Lou."

Captain Wilson's action on Guam was the beginning of the many highlights in his career. I was privileged to be on the island with him in 1994 for the 50th anniversary of its liberation, and while there, walked the battleground on Fonte Hill with him where he remembered and described every move as he assembled and maneuvered the remnants of his company and those of the other companies of his battalion to secure the heights. Only then . . . having been wounded three times . . . did he allow treatment of his wounds and medical evacuation.

The following day, I hosted a sad ceremony at Asan Point—near the beach where, 50 years earlier, he had landed. Because of mandated personnel reductions in the Corps—the 9th Marines—the regiment in which he had served on Guam—was being deactivated. As its proud battle color was furled, General Wilson placed the casement over it.

There is, however, a humorous sequel to this event. Enroute back from Guam, we stopped in Hawaii to attend the change of command of Marine Forces, Pacific. The day allowed time for a round of golf before the ceremonies that evening. As General Wilson and I were having breakfast before teeing-off, a retired marine—red baseball cap and all—came over to our table to warmly greet the general. Turned out they had been in the 9th Marines together, and the conversation turned quickly to something like this: "Lou, who's this new Commandant that's doing away with the 9th Marines? What does he think he's doing? You need to get hold of him and straighten him out!"

The breakfast could have undoubtedly been more entertaining for those around us had he done so, but without introducing me, General Wilson graciously responded that he knew it was a tough decision, but that were he still Commandant, he probably would have had to make the same one. He wished his retired friend a good game, and sat back down to breakfast with a wink and big grin for me. I was grateful to have "They" on my team that morning!

Throughout the decades of service that marked his career, Louis Wilson established the reputation of a firm, but fair leader who was devoted to the welfare and readiness of marines and would lay his career on the line for them; who asked straight questions and expected no "off the record" answers or hidden agendas; and who, while he could show understanding, did not easily suffer fools.

During his tenure as Commanding General of Fleet Marine Force, Pacific, as North Vietnamese forces closed in, the evacuation of the U.S. Embassy in Saigon was ordered, using ships of the U.S. Seventh Fleet and embarked marines from Okinawa, including then-COL Al Gray's 4th Marines. As the day wore far longer than had been planned due to the panicky influx of hundreds more evacuees than the embassy had planned for, the operation continued through the night and into the wee hours of the following morning.

About 3 a.m., word came into the command center in Hawaii that the Seventh Fleet Commander had signaled that the helicopter crews which had been flying since early that day had reached their administrative maximum allowed flying hours and that he intended to suspend flight operations to allow crew rest, even though a hundred or more marines still remained in the besieged embassy.

Although he was not in the direct chain of command for the operation, an infuriated General Wilson immediately sent back a message stating that under no circumstances would such an order be given, that Marine helicopters would continue to fly so long as marines remained in Saigon, and that if the Seventh Fleet Commander issued such an order, he, Wilson, would personally prefer court martial charges against him. The order was never issued, the helicopter crews kept flying, and the remaining marines were evacuated.

A year later found the Secretary of Defense looking for a new Commandant, and "Wilson" was a name high on the list. While many important people are involved in the naming of any new Commandant, there are a couple who merit special note in this case.

The Wilsons had become very happy in Hawaii, and nearing the point at which his career might come to an end, he had been extended a lucrative job offer; Janet was a senior in high school; and Jane had found a "Dream House" on the slopes overlooking Wailai Golf Course and the blue Pacific. As the likelihood of his being nominated to become Commandant took shape, the Wilsons sat down for a family conference to discuss the choices. After a brief discussion, Janet brought a decisive end to their deliberations when she said, "Dad, you've talked for a long time about all the things that are wrong in the Marine Corps. This is your chance to fix them." He thought for a moment, and then responded, "OK, we'll do it." And so, perhaps history should record that it was Miss Janet Wilson who, as much as anyone, brought us the 26th Commandant!

But there was another player who should not go without note. When the selection was made, Secretary of Defense Jim Schlesinger directed an assistant to "get General Wilson in Hawaii on the phone." Moments later, the assistant reported, "Sir, he's on the line". Schlesinger picked up the phone and said, "Lou, I'm delighted to inform you that the President has selected you to be the next Commandant of the Marine Corps." There was a pause, and the voice at the other end of the line responded, "Sir, I'm deeply honored by your call. I've always had great admiration for the Marines, but do you really think I'm qualified to become Commandant?" Schlesinger's assistant had dialed the Commander of Pacific Air Forces in Hawaii—also a Lieutenant General named Lou Wilson!

A few minutes later, when the right Wilson was reached, Schlesinger repeated the same congratulatory message, but ended by saying: "However, Lou, you should know that my first call turned me down!" So perhaps—in the spirit of jointness—we also owe the U.S. Air Force a debt of gratitude!

Lou Wilson became Commandant at a time when the Corps needed him. Fewer than 50% of those who filled our ranks were high school graduates. Illegal drug use was rampant. Lingering Vietnam era recruiting had brought a fair number of criminals into the Corps. Riots and gang intimidation were common. His comment when he assumed command, set the stage for his attack on these problems: "I call on all marines to get in step and do so smartly!"

His tenure as Commandant would be marked by firm initiatives to "get the Corps in step" again. Overweight marines, "highwater" trousers, shaggy haircuts, and moustaches became early points of focus. The word went out: "If I see a fat marine, he's in trouble—and so is his commanding officer!" More than a few commanders got early morning calls from the Commandant that began: "Who's minding the store down there? Seems like you might be looking for a different line of work!" Prompt administrative discharges from the Corps for "those who can't, or don't want to measure up to our standards" were authorized. The Air-Ground Combat Center at 29 Palms came into being to cause marines to prepare for the next war, instead of the last one—and it might be recalled that the "next big one" after Vietnam was in the desert sands of Kuwait, and the Combined Arms Exercises at 29 Palms were the training grounds.

The Wilson years, and those that followed would rehone the Marine Corps into what it remains today—the finest military organization in the history of the world.

But if Fonte Hill on Guam, and the Medal of Honor was the early signature of Lou Wilson, it may be that his enduring mark on the Corps—and our entire joint military establishment—is that which he achieved in his final "Hill" battle near the end of his tenure as Commandant.

A quarter-century earlier, after a period of intense debate as to the role of the Marine Corps in the national defense establishment, the National Security Act had made the Commandant of the Marine Corps a "part-time" member of the Joint Chiefs of Staff only when matters of Marine Corps interest were at issue. This denigration of the Corps to second-class citizenship had long been an insult and irritation. Within the organization of the Joint Chiefs, a policy existed that when the chairman was absent from Washington, the next ranking chief would assume authority as "acting chairman".

In early 1978, the Chairman and all other chiefs of service, except General Wilson, were absent from Washington. A memorandum from the Director of the Joint Staff indicated that in the absence of the chairman, and the Chiefs of the Army, Navy, and Air Force, the vice chief of staff of the Army was appointed "acting chairman". An irritated inquiry from the Marine Corps gained a response from the Director that "the Commandant cannot be appointed acting chairman because he is only a part-time member of the Joint Chiefs."

Like when Miss Jane Clark drove by four decades earlier—already with a "steady" and "no chance"—or when the Seventh Fleet Commander was about to suspend flight operations: Wrong Answer!

General Wilson quietly and without fanfare, took the issue to Capitol Hill, and when the 1979 Defense authorization bill came out, it contained a provision that made the Commandant of the Marine Corps a full-fledged member of the Joint Chiefs of Staff.

Indeed, the legacy achieved by its 26th Commandant for the Corps sits before us today. Without Lou Wilson's personal perseverance and victory, it is not likely that GEN Pete Pace, the chairman designate, or GEN Jim Jones, the Supreme Allied Commander in Europe, or GEN Jim Cartwright, the combatant commander, U. S. Strategic Command, would be in their positions today. Lou Wilson elevated his Corps from a bureaucratic, second-class category to co-equal status with every other branch of the armed services . . . and his country—and the profession of those who bear arms in its defense—will be forever the beneficiaries.

And so, as we assemble today to bid farewell to one of the true giants of our Corps and our Nation, let us do so with gratitude that America produces men the likes of Louis Wilson—and that "they" choose to become Marines. Semper Fidelis

Mr. President, I would like to associate myself with these exceptional remarks by General Mundy. I recall my modest service in the Marine Corps during the Korean War and later as Secretary of the Navy, where I witnessed firsthand the impact of General Wilson's efforts in the Corps. His tremendous legacy will forever challenge future Marines to become part of the best fighting force on the Earth. While I am saddened by the General's passing, I am proud that America produced such a fine gentleman who valiantly answered the call to defend these United States. Recalling our national anthem, I say, we would not be "the land of the free" were we not also the "home of the brave."

## TRIBUTE TO CAPTAIN KENNETH J. PANOS, USN

Mr. WARNER. Mr. President, I rise to recognize and pay tribute to CAPT Kenneth J. Panos, U.S. Navy. Captain Panos will retire from the Navy on September 1, 2005, having completed an exemplary 26-year career of service to our Nation.

Captain Panos was born in Union, NJ, and is a 1979 graduate of the U.S. Naval Academy. He also earned a masters degree in Financial Management from the Naval Postgraduate School in Monterey, CA.

During his military career, Captain Panos excelled at all facets of his chosen profession. As a naval aviator, he deployed to South America and the Caribbean. While serving aboard USS *Paul* (FF 1096), Captain Panos participated in peacekeeping operations in the waters off Beirut, Lebanon.

In 1986, Captain Panos was redesignated a full-time support officer in the Navy Reserve. He reported aboard Helicopter Anti-Submarine Squadron (Light)-94 as the head of the Maintenance, Training and Administration Departments and achieved 1,000 flight hours in the SH–2F Seasprite while deployed aboard various Navy Reserve Force frigates. His outstanding capacity for leadership was recognized when he was selected as the HSL 94 Junior Officer of the Year in 1988. During Captain Panos' tour as the assistant reserve programs director/reserve service officer and later department head at Naval Air Station Willow Grove, he transitioned to fixed-wing aircraft and achieved an airline transport pilot rating while flying the UC–12B transport.

Captain Panos made good use of his graduate degree in financial management with assignments in the Aviation Budgets and Requirements Office; the Chief of Naval Operations' Staff where he was assistant for aircraft procurement; research, design, test & evaluation; and ship construction appropriations; the Office of the Assistant Secretary of the Navy for Financial Management; and as the director, Programming and Financial Management Division for the Chief of Navy Reserve. Many of my colleagues know Captain Panos from his service as the Navy's legislative affairs liaison for Reserve matters and anti-terrorism/force protection programs.

The U.S. Navy is a better Navy thanks in part to the talent and dedication of CAPT Kenneth J. Panos. While Captain Panos' retirement means the Navy will lose a fine officer, I am happy to report to this body that he has found a replacement. His oldest son, Michael, is currently a midshipman at the U.S. Naval Academy. His youngest son, Robert, is a sophomore at Robinson Secondary School in Fairfax, Virginia. I know all of my colleagues join me in congratulating Ken, his hometown sweetheart and wife Karen, as well as Michael and Robert, on the completion of an outstanding military career.

## ROMANIA

Mr. LUGAR. Mr. President, I rise today to express solidarity with the people of Romania in the aftermath of the fatal floods that occurred earlier this month. As a consequence of the heavy rainfalls that occurred in Romania from July 1 to July 17, 2005, 24 people are reported to have lost their lives, and some 800 towns and villages suffered damage to road infrastructure, farmlands, and utilities.

The United States and Romania have a strong and continuing relationship. In April 2003, the Senate voted unanimously to bring Romania into NATO. It represented a vote of confidence in the Romanian people and I was honored to witness that expression of American support as chairman of the Committee on Foreign Relations. Romania's commitment to the Alliance is evident in its active participation in the Balkans, Afghanistan and Iraq. I am hopeful that Romania will be invited to join the European Union in the near future.

The United States and Romania cooperate closely in a number of areas. Following the terrorist attacks on September 11, Romania has been fully supportive of the global war on terrorism. Among other actions, it contributed transport aircraft and more than 400 troops to Afghanistan. In addition, Romania permitted the use of its territory—land, airspace and seaports—for the U.S.-led military action against Iraq, and dispatched non-combat troops to the region. Romania currently has approximately 900 troops in Iraq, and approximately 500 troops in Afghanistan.

I commend Romania for its consistent contribution to international peace and stability. Since 1991, it has participated in United Nations peacekeeping operations in the Gulf, the former Soviet Union, Africa, and the Balkans. Just yesterday, the Department of State issued a press statement welcoming the decision by the Romanian cabinet to accept approximately 450 Uzbek asylum seekers on a temporary basis as part of the resettlement processing. The asylum seekers had sought initial refuge in the Kyrgyz Republic following the May violence in Uzbekistan. Romania stands as a role model in the international community for those who are committed in words and actions to the United Nation's principles.

## CONGRESS' EFFORTS TO IMPROVE AGRICULTURE SECURITY

Mr. AKAKA. Mr President, I have come to the floor again to speak about the ability of the United States to prevent and respond to a terrorist attack on American agriculture, a topic that I believe deserves more attention from the Congress and the administration.

That is why I commend the Committee on Agriculture, Nutrition, and Forestry for holding a hearing on agroterrorism last week. This was their first hearing on the subject, and I welcome their interest because I have been pursuing the passage of legislation on agriculture security for the past 3 years.

I first introduced agriculture security legislation, S. 2767, the Agriculture Security Preparedness Act, which was referred to the Agriculture Committee, in the 107th Congress. Unfortunately, it was not acted upon in that Congress. I reintroduced my legislation in the 108th Congress and again in the 109th. I am pleased that S. 573, the Agriculture Security Assistance Act, was included in S. 975, the Project Bioshield Act of 2005, and I thank the bill's chief sponsor, Senator LIEBERMAN, for that inclusion.

The strong potential for the American food supply system to be a target of terrorist attack and the severe repercussions such an attack would cause are widely accepted among experts. At the July 20 Agriculture Committee hearing, Mr. John Lewis, Deputy Assistant Director, Counterterrorism Division, Federal Bureau of Investigation, FBI, testified:

> Most people do not equate terrorist attacks with agroterrorism. But the threat is real, and the impact could be devastating.

Another witness, Dr. Robert Brackett, Director, Center for Food Safety and Applied Nutrition, Food and Drug Administration, FDA, added:

> A terrorist attack on the food supply could have both severe public health and economic consequences, while damaging the public's confidence in the food we eat.

According to the Department of Agriculture, USDA, the United States food and fiber system accounts for approximately 12 percent of our gross domestic product and employs 17 percent of the U.S. workforce. Yet the infrastructure that composes this sector of the economy, which is central to American prosperity, is often not viewed as critical as power lines, bridges, or ports.

We cannot underestimate our dependence on America's breadbasket.

On March 9, 2005, the same day I introduced my two agriculture security bills, S. 572, the Homeland Security Food and Agriculture Act, and S. 573, the Government Accountability Office, GAO, released a report I requested entitled, "Much is Being Done to Protect Agriculture from a Terrorist Attack, but Important Challenges Remain" (GAO-05-214). The GAO report reviews the current state of agriculture security in the United States and points to a number of key areas where improvement is necessary, such as the inability of USDA to deploy animal disease vaccines in 24 hours and the lack of foreign animal disease knowledge among USDA-certified veterinarians.

GAO also confirmed information I had received from the National Association of Agriculture Employees that the agricultural mission of Customs and Border Protection, CBP, was insufficiently prioritized. GAO found that the number of agricultural inspections at U.S. borders had declined by 3.4 million since the Department of Homeland Security, DHS, took over the border inspection responsibility from USDA.

In February 2005, I wrote to then-DHS Undersecretary for Border and Transportation Security Asa Hutchinson expressing my concern over the decline in border inspections because I know how important they are to the economy of Hawaii—home to more endangered species than any other State. In response, I received a commitment from DHS to hire additional agriculture specialists at CBP to ensure the agricultural mission does not go unmet.

Also noted in the GAO report were shortcomings in DHS's Federal coordination of national efforts to protect against agroterrorism. The Federal agencies involved in agriculture security—DHS, USDA, FBI, and FDA, to name a few—claim they are working closely with each other. However, one only need look at the June 2004 incident in Washington State, where 18 cattle developed chromium contamination, to see that there are communication gaps at the Federal level. Agroterrorism was suspected, yet neither USDA nor DHS were notified.

In May 2004, representatives from the FBI, FDA, and USDA gave a presentation at an agroterrorism conference in Kansas City, MO, on lessons learned from the Washington outbreak which included a slide stating that the following agencies should be contacted if agroterrorism is suspected: a State's Department of Agriculture, FDA, USDA, FBI, local law enforcement, and State and county public health officials.

Why was the Department of Homeland Security not on the list?

It is apparent that Federal coordination remains inadequate if notification of DHS is considered unnecessary by other responding agencies.

To ensure a comprehensive and coordinated approach to agroterrorism, my bills address many of the concerns raised by GAO and others. The Homeland Security Food and Agriculture Act will: increase communication and coordination between DHS and State, local, and tribal homeland security officials regarding agroterrorism; ensure agriculture security is included in State, local, and regional emergency response plans; and establish a task force of State and local first responders that will work with DHS to identify best practices in the area of agriculture security.

The Agriculture Security Assistance Act will: provide financial and technical assistance to States and localities for agroterrorism preparedness and response; increase international agricultural disease surveillance and inspections of imported agricultural products; require that certified veterinarians be knowledgeable in foreign animal diseases; and require that USDA study the costs and benefits of developing a more robust animal disease vaccine stockpile.

I look forward to working with the Agriculture Committee as agriculture security legislation moves forward. As ranking member of the Homeland Security Subcommittee on Oversight of Government Management, I will continue to make agroterrorism a priority for the Federal Government, and I ask my colleagues to join me in this quest.

* * *

## 40TH ANNIVERSARY OF THE VOTING RIGHTS ACT

Mr. FEINGOLD. Mr. President, 40 years ago, in 1965, African Americans were excluded from almost all public offices in the South. At that time, with 21 million people fenced out of the political process, our nation was suffering a devastating failure. A failure to fulfill one of its signature promises: representation for all.

As I speak here today, African-American and Hispanic voters are now substantially represented in the state legislatures and local governing bodies throughout the South. And 81 minority Members currently serve in the U.S. Congress.

This turn-around came as the result of a monumental struggle, a struggle in which Americans risked their lives to secure the right to vote. They marched in Alabama and across the South to protest the use of poll taxes, literacy tests, and other barriers erected in Southern States to exclude African Americans from the political process. African Americans were harassed, intimidated, and physically assaulted for simply trying to vote. Televised broadcasts brought the horrible images of attacks on peaceful protesters with nightsticks, tear gas, and police dogs into the living rooms of citizens throughout the country. Some brave souls, and some innocent bystanders, lost their lives in this struggle for justice, which still today stands as a testament to the power of ideas and nonviolence to bring about crucial social and legal change.

Two days after "Bloody Sunday," a day on which protesters in Selma, Alabama, were attacked by State troopers while crossing the Edmund Pettus bridge, President Johnson sent the Voting Rights Act to Congress. In response to the horrific events in Selma and after years of efforts in Congress and around the country, on August 6, 1965, the Voting Rights Act was signed into law.

The act outlawed barriers to voting, such as literacy tests, and empowered the Federal Government to oversee voter registration and elections in counties that historically had prevented African Americans from participating in elections. Since its enactment, the Voting Rights Act has been extended four times—in 1970, 1975, 1982, and 1992. Changes included increasing the act's scope to cover non-English speaking minorities such as Latinos, Asian Americans and Native Americans, Alaskan Natives, and other minority groups. It has also been used to examine and challenge new election formats that dilute minority votes and have a discriminatory effect.

The Voting Rights Act has been hailed as the most important piece of federal legislation in our Nation's history. Not just the most important piece of civil rights legislation, but the most important piece of legislation ever passed. This may well be true: it is from our political rights, our rights of citizenship, that all other freedoms flow. Without a meaningful chance to vote, there can be no equality before the law, no equal access to justice, no equal opportunity in the workplace or to share in the benefits and burdens of citizenship.

The Voting Rights Act is also considered one of the most successful pieces of civil rights legislation ever enacted. In Selma, Alabama, in 1965, 2.1 percent of blacks of voting age were registered to vote. Today, more than 70 percent are registered.

Still, we must remember that the fight is not over. On this 40th anniversary of the Voting Rights Act, many Americans are still disenfranchised by discriminatory redistricting plans, voter intimidation tactics, long lines at polling places and inadequate numbers of voting machines, and lifetime restrictions on voting rights for ex-felons.

In 2007, key elements of the Voting Rights Act, including the Federal pre-clearance requirement, are due to expire. The pre-clearance requirement is especially important. It requires Federal approval of any proposed changes in voting or election procedures in areas with a history of discrimination. The Supreme Court in South Carolina v. Katzenbach, the case that upheld Congress's power to impose these requirements, aptly called this a shifting of the "advantage of time and inertia from the perpetrators of the evil to its victims." It simply means that voters in these areas do not have to refight the battles they won in the civil rights struggle. These provisions of the Act are crucial.

As we approach the 40th anniversary of the signing of the Voting Rights Act on August 6, I urge my colleagues and the citizens of this great Nation to renew our commitment to protect and strengthen the right to vote for all Americans. That right is the foundation of our democracy and it must never again be denied to a group of Americans based on the color of their skin.

## CYPRUS

Ms. SNOWE. Mr. President, I rise today to bring to the Senate's attention a troubling development in our efforts to support the reunification of Cyprus. I have recently learned that the State Department is encouraging members of Congress and their staffs to initiate certain visits to the country through an airport in the illegally occupied area of the island—an airport that is not authorized by the Republic of Cyprus as a legal port of entry. In fact, the airport is built on property that was expropriated from its lawful owners following the Turkish invasion of Cyprus in 1974.

As you may know, Cyprus was forcibly divided by an invasion of Turkish troops more than 30 years ago. Today, the United States and the world community recognize that the Turkish invasion was illegal, and that the Republic of Cyprus, which controls ⅔ of the island, is the only legitimate government of Cyprus. For years, as reflected in our domestic law and echoed in several U.N. Security Council Resolutions, U.S. foreign policy has refused to give either recognition or direct assistance to the self-declared administrative authority in the occupied area, the so-called "Turkish Republic of Northern Cyprus." Indeed, the Foreign Assistance Act of 1961, as amended following the Turkish invasion, has established that the United States supports a free government for Cyprus, the withdrawal of all Turkish forces from Cyprus, and the reunification of the island communities.

On the specific matter of flights into Cyprus, the U.S. is bound by the Chicago Convention on International Civil Aviation, to which both the U.S. and Cyprus are signatories. The Chicago Convention provides that "[t]he contracting States recognize that every State has complete and exclusive sovereignty over the airspace above its territory," including designation of official ports of entry. The Republic of Cyprus's sovereignty over the entire territory of Cyprus has been recognized and reaffirmed by numerous U.N. Security Council Resolutions as well as long-standing U.S. policy. Because the Republic of Cyprus has never authorized direct flights into the airports in the occupied area, and because it has not designated these airports as official ports of entry, entering the country through these airports is a direct violation of the Chicago Convention. Simply put, our State Department should not be authorizing, encouraging, or even condoning such a blatant violation of international law.

Moreover, flights into an occupied airport violate local Cypriot law. If Cypriots visit the United States, they cannot just land a plane in the middle of the country—they must land at an airport that is an immigration and customs point of entry. We would rightly object if a Cypriot landed at an unauthorized airport in our country, and we should not be encouraging Americans to do so in Cyprus.

Over the past year, I believe the administration has been playing fast and loose with U.S. policy toward Cyprus, and has, at times, been less than forthcoming to me and others who are concerned with the viability of our efforts to facilitate reunification of the island.

In late October 2004, officials from the U.S. Transportation Security Administration—over the protests of the Government of Cyprus—conducted an inspection of the airport at Tymbou, which is one of the airports in the occupied area. When I expressed my concern to the State Department that such a visit was not appropriate because flights into that airport would violate international and Cypriot law and are inconsistent with U.S. law, the Department assured me that it was not changing its policy toward Cyprus. Instead, I was told that "the visit . . . was a liaison visit to conduct a general review of the aviation security posture and was fully consistent with the TSA's mandate to promote international aviation security." It now appears that this visit may have been an early step toward encouraging Members of Congress and staff to land at this illegal airport.

This past June, Members of Congress travelled, at the behest and funding of a Turkish Study Group, to occupied Cyprus and arrived at an occupied airport. Concerned that the State Department was permitting a blatant violation of international law and domestic Cypriot law, I raised this issue with the Secretary of State. I have now received a reply letter from Mr. Matthew Reynolds, Acting Assistant Secretary of State for Legislative Affairs, which I will submit for the RECORD.

The letter indicates that the State Department has "authorize[d] U.S. Government officials to travel directly to northern Cyprus using tourist passports." It further states, "[w]e have taken great care to ensure that our steps are consistent with U.S. and international law. Neither U.S. nor international law prohibits U.S. citizens from traveling directly to the area administered by Turkish Cypriots. . . . In fact, courts in the Republic of Cyprus have explicitly refused to penalize Greek Cypriots who have chosen to so travel."

This position misses the mark on several levels. First, as I explained earlier, the Chicago Convention—to which the U.S. is bound—bars flights into a country's territory without the country's consent. Cyprus simply has not consented, and thus these flights are flatly inconsistent with applicable international agreements. Second, although international law does not penalize individuals for taking such unauthorized flights, that point is irrelevant—the Chicago Convention is directed at States, not individuals. Third, there can be no doubt that such trips are suspect—even the State Department seems to admit they cannot be undertaken on an official government passport. And finally, the decision by the government of Cyprus not to prosecute those who make illegal landings is a gesture of restraint, designed to promote the freedom of movement among the two communities. It is absurd to use this commendable restraint as a justification for encouraging further violations of the law.

As justification, Mr. Reynolds stated that "we have taken [these] steps in support of the U.N. Secretary General's call on the international community to ease the isolation of the Turkish Cypriots." I agree this is a noble cause in principle, but it must be pursued in a way that is consistent with international norms, local Cypriot law, and broader U.S. and international efforts to bring together the two communities on the divided island. Several U.N. Security Council Resolutions—which the Secretary General's remarks did nothing to abrogate—confirm the sovereignty of the Republic of Cyprus.

Moreover, the economic isolation of the Turkish Cypriots is already being addressed effectively by the ongoing economic support and confidence-building measures sponsored or supported by the Republic of Cyprus. Flights that conflict directly with international and Cypriot law and divide the two communities on Cyprus serve only to discourage the government of Cyprus from undertaking such positive measures. Moreover, there is literally no reason to encourage such flights—the government of Cyprus permits, and is even prepared in appropriate circumstances to facilitate, free passage to the occupied territory for those who arrive at a legal airport of entry.

Cyprus joined the European Union in May 2004, and the EU has been very active on resolving the Cyprus problem, from providing a forum for resolving the dispute with Turkey to proposing direct economic assistance to the Turkish-occupied area. It is interesting to note, however, that the EU members respect Cyprus sovereignty—not one EU member country flies into the occupied airports. It is inappropriate for the U.S. to get ahead of the EU on the resolution of this conflict within its territory.

I hope that my colleagues and their staffs who may be asked to visit Cyprus through an occupied airport will note the concerns I address here today. I would respectfully ask them to consider whether they think it is appropriate for a member of the Cypriot legislature to visit the United States through an illegal point of entry. I would also ask them to consider why the State Department has indicated that travel to occupied Cyprus should not be on an official passport or in an official capacity. I also urge members to read the Chicago Convention and the U.N. Security Council Resolutions on Cyprus to see that these actions are in direct contravention to our international commitments. And I ask them to consider whether it is appropriate for a U.S. official to land at an airport that was built on land illegally taken from its lawful owners following Turkey's invasion of Cyprus.

While I have the floor, I would like to take a moment to review all the positive developments that we are witnessing in Cyprus, which continue despite the administration's divisive actions. It is undeniable that the situation in Cyprus is moving forward. The Republic of Cyprus has proposed measures to open new crossing points along the cease-fire lines; withdraw military forces from sensitive areas; increase the ability of Turkish Cypriot-owned trucks, tourist buses and taxis to cross the Green Line that divides Cyprus; increase trade across the Green Line, and open up ports to greatly facilitate trade. Further, the Republic of Cyprus is unilaterally clearing all land mines from the National Guard's minefields in the buffer zone.

The Republic of Cyprus is also ensuring the economic development in the occupied area. Since April 2003 (when the Turkish military relaxed its movement restrictions) there have been more than 2.3 million border crossing by Cypriots into the occupied area. These visits have contributed more than $57 million to the economy of occupied Cyprus. In 2003 and 2004, the Republic of Cyprus paid more than $43 million in social insurance for Cypriots in the occupied area. Turkish Cypriots have been provided by the Republic of Cyprus with more than $9 million in free hospital and medical care, and more than $343 million in free electricity. The Republic of Cyprus does not isolate its citizens living in the occupied area—more than 63,000 have been issued Republic of Cyprus birth certificates, more than 57,000 have been issued Republic of Cyprus identity cards, and more than 32,000 have been issued Republic of Cyprus passports.

It is also important to remember that the U.S. and Cyprus have always enjoyed a strong relationship. We have worked together on terrorism, the war in Iraq, suppressing money laundering, and other initiatives. For instance, in the lead up to the war in Iraq, Cyprus approved overflight rights for U.S. and other Coalition military aircraft as well as use of Cypriot airports. Important areas of cooperation between the U.S. and Cyprus are spelled out by the U.S.-Cyprus Mutual Legal Assistance Treaty. The treaty has been in force since September 2002 and facilitates bilateral cooperation in the fight against global terrorism, organized crime, drug-trafficking and related violent crimes. Cyprus is the first European Nation to sign on to President Bush's Proliferation Security Initiative, which provides for shipping inspections and intergovernmental cooperation that is designed to stem the spread of weapons of mass destruction. The addition of Cyprus to the PSI is particularly significant because Cyprus has the sixth largest commercial shipping fleet in the world. It is plain that Cyprus and the United States share common goals and common values.

This is a critical time for Cyprus. The two communities of Cyprus are moving together, their economies and peoples forming links like never before. The actions of the U.S. must encourage and foster reunification, not push the communities apart with divisive actions that challenge the sovereignty of the legitimate government of Cyprus. All Americans, whether officials from the administration or from this body, should educate themselves about these important issues before considering a trip to Cyprus though an illegal port of entry.

I ask unanimous consent to print in the RECORD the following letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF STATE,
*Washington, DC, June 30, 2005.*

Hon. OLYMPIA J. SNOWE,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR SNOWE: Thank you for your letter of May 27 regarding the policy and legal basis for allowing U.S. citizens, including U.S. Government officials, to travel directly into northern Cyprus. Our policy approach is based on our assessment of what is most likely to produce progress toward the Cyprus settlement that we all want to see. The Turkish Cypriot community's vote in favor of the Annan Plan in April 2004 marked a historic shift by that community in favor of such a settlement, and thus fundamentally altered the situation on the island.

Denying the Turkish Cypriots direct links with the international community, despite the fact they have done what the world asked of them, would in effect punish them for the fact that the Annan Plan was not accepted by the majority of Greek Cypriots. Such an approach inevitably would weaken Turkish Cypriot support for a settlement. It would also hamper efforts to narrow the economic gap between the two communities, unnecessarily raising the cost to the Greek Cypriots and the world of any prospective settlement.

Based on this analysis, we have taken steps in support of the UN Secretary General's call on the international community to ease the isolation of the Turkish Cypriots. One of the steps we took was to authorize U.S. Government officials to travel directly to northern Cyprus using tourist passports, for the purpose of establishing the sorts of international links that we believe are appropriate. We regret that some view our limited steps vis-à-vis the Turkish Cypriot community to be in some way directed against the Republic of Cyprus. We continue to work diligently not only to maintain, but to enhance, our good relations with the Republic of Cyprus.

We have taken great care to ensure that our steps are consistent with U.S. and international law. Neither U.S. nor international law prohibits U.S. citizens from traveling directly to the area administered by Turkish Cypriots. Moreover, U.S. citizens are not alone in traveling to that area: Greek Cypriots, other EU nationals, and foreign nationals from non-EU countries regularly fly directly to and from Ercan (Tymbou) airport. In fact, courts in the Republic of Cyprus have explicitly refused to penalize Greek Cypriots who have chosen to so travel.

I hope this information is useful in understanding the policy and legal basis of our decisions and clarifies that our efforts are aimed solely at promoting a comprehensive solution to the Cyprus problem so that all Cypriots can live and work together in peace on a reunified island. If you have any further concerns on this matter, please do not hesitate to contact us.

Sincerely,

MATTHEW A. REYNOLDS,
*Acting Assistant Secretary,*
*Legislative Affairs.*

## CNOOC

Mr. BAYH. Mr. President, great concern has been raised by this Senator, and others, in recent weeks regarding efforts by the China National Offshore Oil Corporation, known as CNOOC, to acquire the prominent U.S. oil company, Unocal, based in California. The Unocal Board has endorsed a takeover bid by Chevron, also a California company, which its shareholders will vote on in the coming days.

This Senate needs to be aware, however, that CNOOC, which is essentially an arm of the Chinese government, may well be planning to raise its bid to acquire Unocal, and what greatly disturbs this Senator are reports in the press that they are waiting for Congress to adjourn for August before making a renewed bid—a move that directly challenges the Congress and the authority granted to it by the Constitution to regulate foreign commerce.

Moreover, this renewed bid heightens my concerns about the heavily subsidized nature of CNOOC's financing. When foreign firms compete for assets in the U.S., it is essential that they do so on a level playing field with U.S. companies. Government subsidies tilt this playing field, and in doing so distort competition. This harms U.S. workers, companies and investors.

Congress recently approved an amendment to the Energy Policy Act that requires the Administration to study these issues and report to Congress and the President. This amendment reflects Congress' strong reservations about the PRC's role in financing the acquisition of U.S. energy assets, and about CNOOC bid for Unocal in particular.

CNOOC's decision to increase its bid would heighten my concerns about CNOOC's efforts. If anything, it reinforces my belief that subsidies of this sort raise serious economic policy concerns and leave U.S. firms at an unfair competitive disadvantage. You can be sure that I will not be alone amongst my colleagues, in the Senate and in the House, who will be paying attention to what happens in the coming days, and if need be, will be prepared to act when Congress returns in September.

## THE NATIONAL BOY SCOUT JAMBOREE

Mr. COLEMAN. Mr. President, I would like to welcome over 30,000 young men to Washington D.C. for the 2005 National Boy Scout of America Jamboree. I would also like to give my sincerest condolences to the families of the four Boy Scout leaders who were tragically killed Monday afternoon in an accident while setting up camp.

Occurring every 4 years, the national jamboree is one of Scouting's grandest traditions. It is a chance for thousands of young men to come together and celebrate our shared values and traditions as Americans. In a world that too often celebrates our differences, the National Boy Scout Jamboree is a unique opportunity to celebrate the qualities we all share as Americans.

It is also a chance for these young men to visit our Nation's Capital to be inspired by the monuments, to learn from our Nation's artifacts, and to see democracy in action. To those of us who work in Washington it is sometimes easy to forget just how amazing it is that a place like this, where free men can gather, debate, and decide their own fates, even exists.

I was recently reminded of the significance of Washington by a young boy scout from Plymouth, MN, named Eyan R. Lason. In anticipation of his trip to the National Boy Scout Jamboree this week, Eyan wrote an essay on what the trip and Washington mean to him. Eyan did not write his essay as a requirement or to win a prize. In fact, until the other day Eyan didn't even know that I had read his essay. No, Eyan wrote his essay because he has a true appreciation for the values and spirit that this city represents.

Eyan began his essay by describing his trip as "A journey back to where America was made, an expedition to see and feel everything that this country was based on, and is destined to become."

Eyan is right. During his time here in Washington he will see our Nation's values. But he would not find them in the architecture of our buildings, or the history on display in the Smithsonian. No, Eyan will find our Nation's values in the hearts of his fellow Scouts.

These young men represent the heart and soul of the American people. They know that courage is not the absence of fear, but strength and capacity to go ahead in spite of fear. They understand that you can not have justice for one without justice for all. They believe in the equality of opportunity, not results. And they know that freedom is not free.

Boy Scouts are our friends and family, but as Eyan's letter shows us, they are also our role models and leaders.

I ask unanimous consent that a copy of Eyan R. Lason's letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### NATIONAL JAMBOREE AND WHAT IT MEANS TO ME

(By Eyan R. Lason)

I start this paper staring at the "Scout Guide" to this trip that I will soon embark upon. I look at my watch and see the date, the time, and realize that my entire world is racing towards a stand still . . . no a start to a voyage which will be sure to last me the rest of my life. A journey back to where America was made, an expedition to see and feel everything that this country was based on, and is destined to become.

Scouting has been a part of my life for more than 10 years now. It has helped form me into the man that I am. Scouting has given me many of the best experiences of my life, many of which can never be forgotten. I have learned so much it is hard to put it into words. I have been fortunate enough to take pleasure in everything that scouting has to offer. From the basic skills of life, to our week long summer camp in Northern Minnesota, to Philmont's mountains in New Mexico, and now most of all the ability to spend two weeks in this Country's great capital.

I sit here in this chair wanting to express the true bewilderment that I feel. Trying to communicate the huge opportunity that has been granted to me in words, still there are too many racing through my head to fully explain what I am feeling. A teacher once told me that if you struggle explaining an object be it a person place or event try using a single word for the task, this time even that advice has rendered me speechless. There is no possible way to express my gratitude to the people who have simply handed me the single greatest opportunity of my life.

One word, a sentence, or even this paper that I am writing cannot express truly how grateful I am for the kindness of others who have given me this opportunity. Truthfully, with all my heart, I thank you.

Now is time for myself to try and explain what this expedition means to me. I have concluded that the best way for me to define this trip to you is use a symbol that every man, woman, and child can recognize, the very flag of this great country that we, the people, have proclaimed The United States of America.

The flag is it's own special kind of genius. You see the stars, stripes, and colors all inspire me in different ways. Fifty Stars, thirteen stripes, and three colors are all part of the master symbol of our country; all has given me more than significant inspiration. Thus I will explain.

Fifty bright white stars represent each and every state of this noble country. A National Jamboree is my destination therefore I will get a chance to meet people from each and every one of those states. An opportunity to experience cultures specific to each region of this country, for each state is represented by 1 of those fantastic stars on the flag of this country.

Thirteen stripes on the banner that is this country, thirteen stripes that embody the thirteen original colonies that formed this country. All of which helped bestow all Americans with the freedoms that we are blessed with. Those colonies fought for what they considered was right, they defended their freedoms. Who knew they were at the threshold of creating the world's greatest country. A country free from gross prejudice of one's ethnicity, beliefs, religion, likes and dislikes.

Nobody in that time had any idea of the immense change those thirteen colonies would make in the world, freedom that today is defended by the greatest fighting force in the world, the United States Armed Forces. The U.S. Armed Forces fight for our country protecting us from people who dislike our ability to be unrestrained in our everyday lives. The U.S. Armed Forces, like the people in those thirteen original colonies, are fighting for what the think is right. Why do they risk their lives? Simple their own, and others, belief in freedom is worth fighting for. After all freedom is not free.

Myself as an American hold my freedom on the highest pinnacle. Those thirteen colonies that started this whole country have granted all Americans with the greatest possible gift. So I am grateful for the ability to go back to many of these great colonies and see what they fought for, experience what they fought and hopefully get a glimpse of what it will become. I am so grateful to be given the opportunity to be able to see the naval ports, see the modern day defenders of our country and how they do what they do.

Red; the color that represents the hardiness and valor of this Nation, red is for the blood, sweat and tears that have gone into making this great country what it is. Hardiness for the millions who have served this Nation with pride. Hardiness for all of those who endured through the cannon blasts of the Revolutionary and Civil Wars, hardiness for the ones who spent hundreds of hours in the grueling trenches of World War One. Hardiness for the near Thirteen million United States Soldiers who, once again, proved to the world we will not sit quietly in World War Two, welldeserved valor for the individuals in Middle Eastern countries currently defending us from terrorism each day. All of which have proven to the world that we are the true protectors of freedom. Proved to me, and the world, what it means to be hardy and valorous. Red is the color that represents the millions of individual's sacrifices for me, for this Nation. And when I stand at this Nation's capital and look at Old Glory waving, I will remember those individuals and their sacrifices, and I will thank them.

Bright white stripes, six of them on the flag, hold the beliefs of purity and innocence of this Nation. Purity and innocence that in this modern day uphold America as a defender not as an aggressor. In this day America is a world power not a world conqueror. Purity is for those who hold themselves true by using their rights as a good citizen, by supporting their country in what it does, by participating in this country's democracy. We can show purity by respecting other citizens of this country, innocence by living our lives without regrets. Myself as a scout can obtain and uphold this Nation's purity and innocence by living the Scout Oath and Law. I can live the Scout Oath and Law and show others to take pride in themselves and in their country, by being able to go to Washington DC. I can demonstrate these actions and I can influence others to do so.

There is a field of blue on the flag for justice, perseverance, and vigilance. One's peers provide fair justice in this country. This country has for nearly 100 years served in protecting itself and others from assailants. Providing justice to where it is deserved. From the improper acts of Pre-Revolutionary War Britain, Nazi Germany, the Jungles of Vietnam, or Terrorist occupied Middle Eastern Countries America has proven its evenhandedness. Perseverance is surely this country's most pronounced value. If perseverance were not valued so highly in this country it would simply not exist. Perseverance made this country, made it and has kept it here for the past 229 years.

What if we had not persevered in the Revolutionary war? Would America still be here? The most likely answer is no. The Civil War without perseverance would have ended in the Confederate States of America. Not only in wars must we persevere in life we must. If people do not try hard to complete things, this country, this world would not be the great place it is. Vigilance is simply defined by Webster as "Alert Watchfulness" and I could not label it better myself. America has watched over its people and the world doing its best to keep all safe. In a single week I will see these values and all their meaning when I am in D.C. I will value them every day of my life as I always have as far back as I can remember. I can see the documents that made America free. As far as seeing perseverance, I cannot list all the sights and sounds that are supreme examples to me of that value. Justice can be seen in small things as someone stating their opinion of right and wrong to another individual, or a single person standing before a judge a twelve of his peers, however I will be able to see it on the grandest scale the supreme court of America. I can see vigilance as I will go to Pentagon City and for those opportunities that have been given to me I am truly grateful.

As I have stated in the above topics the values that are presented on the flag are the one's that I will value most on this trip to the United States Capital. The fifty states that hold the values true, thirteen colonies that made it all happen, hardiness, valor, purity, innocence, justice, perseverance, and vigilance are all valued highly by many but the ones who make values more than just a value are citizens of the United States of America. Boy Scouts, doctors, lawyers, auto mechanics, pilots, military personal are all people that make this country what it is, and that is the way it is supposed to be in a democracy. I am eternally grateful to be able to be an American and having this tour to the Nations Capital given to me just reinforces my strong beliefs in this country and the people who belong to it.

I would like to thank the complete organization of the Boy Scouts of America. I would also like to personally thank my Scoutmaster Mr. Jeff Radke, the whole Jungers family, Mr. Mike Simonet, and my parents for letting me go on such an endeavor.

Thank You All So Much.

To the members of the United States Armed Forces, nationwide Firefighters and Policemen and Women, I thank you for the sacrifices that you have made, and are willing to make on behalf of myself and this entire nation. Thank you.

Mr. COLEMAN. In closing, I thank Eyan and all of the Boy Scouts of America for their service not only to God and country, but also to their homes and committees.

## IRAQ RECONSTRUCTION

Mr. LEAHY. Mr. President, I bring to the attention of Senators the troubling reality in Iraq that is described in two recent Government reports, one by the Government Accountability Office and the other by the Office of the Special Inspector General for Iraq Reconstruction.

Documented in these reports are assessments of the precarious and deteriorating security situation on the ground, which has dramatically slowed the pace of reconstruction and resulted in significant additional costs. This picture is in stark contrast to the rhetoric coming from the administration that we are in the last throes of the insurgency and that reconstruction is moving forward at a rapid pace.

The reality is that because of the security problems in Iraq, the results of reconstruction are falling far short of what the administration optimistically predicted and what we were told to expect. While there has been important progress in building schools and hospitals and providing clean drinking water in some areas, exorbitant security costs are forcing the scale back or cancellation of reconstruction projects. Unfortunately, there is little reason to be optimistic that the situation will improve in the short term.

According to today's Washington Post, the GAO reported that "in March, the U.S. Agency for International Development canceled two electric power generation programs to provide $15 million in additional security elsewhere. On another project to rehabilitate electric substations, the Army Corps of Engineers decided that securing 14 of the 23 facilities would be too expensive and limited the entire project to nine stations. And in February, USAID added $33 million to cover higher security costs on one project, which left it short of money to pay for construction oversight, quality assurance and administrative costs."

Furthermore, the Office of the Special Inspector General for Iraq Reconstruction reported that after reviewing several reconstruction contracts, it determined that more money was going to Government contractors involved in the rebuilding process than was necessary. The formula used for disbursing special monetary awards, which are above and beyond basic fees, was producing excessively high awards. In some instances, contractors were paid hundreds of thousands of dollars despite not winning a contract or delivering a single service. Once again, these reports shed light on the lack of oversight and accountability given to contracts in Iraq.

Given the enormous amount of money the United States is spending in Iraq, the many reports of waste and profiteering by unscrupulous contractors, and the President's request for additional hundreds of millions of dollars for Iraq reconstruction in the fiscal year 2006 budget, it is incumbent on the administration to respond to these reports in a forthright manner so that Congress can make informed decisions about the use of these funds.

## INTERNET GOVERNANCE AND THE UNITED NATIONS

Mr. COLEMAN. Mr. President, on July 14 the United Nations' Working Group on Internet Governance, WGIG, issued its final report. WGIG was formed following the December 2003 U.N. World Summit on Information Policy with the intention of simply developing a consensus definition for "intent governance" and identifying relevant public policy issues. Ultimately the task force exceeded its mandate and laid out four policy recommendations for the future of Internet governance. One unifying theme for all these options is that there should be "a further internationalization of Internet governance arrangements" because of WGIG's belief that "no single government should have a pre-eminent role in relation to international Internet governance".

In other words, this U.N. task force report suggests that the historic role of the United States in overseeing the Internet's growth and shepherding its development should be terminated and that Internet governance should be politicized under U.N. auspices. The most extreme of the options laid out by the WGIG would transfer the authority and functions of the Internet Corporation for Assigned Names and Numbers, ICANN, a respected nonprofit organization which is currently overseen by the U.S. Department of Commerce, to a new body linked to and controlled by the United Nations. This would put international bureaucrats in charge of the Internet and relegate the private sector to a mere advisory role. And it raises the very troubling possibility that the United States would have no more say over the future of the Internet than Cuba or China.

I am firmly opposed to any proposal to hand control of Internet governance over to the United Nations. The continuing investigation of the Permanent Subcommittee on Investigations into the scandal-ridden Oil-for-Food program has revealed management of the U.N. to have been at best incompetent and at worst corrupt. Any suggestion for a greater U.N. role over the Internet is hopelessly premature. The first priority for the United Nations must be fundamental reform of U.N. management and operations rather than any expansion of its authority and responsibilities.

The Internet was created in the United States and has flourished under U.S. supervision and oversight. The United States' fair and lighthanded role in Internet governance has assured security and reliability. While the roots of the Internet lie in the ARPANet project launched by the Department of Defense in 1969, the true birth of the modern Internet began 10 years ago, in 1995, when the National Science Foundation opened the Internet to commerce, and the Netscape browser became available so that the general public could "surf" the World Wide Web. The explosive and hugely beneficial growth of the Internet over the past decade did not result from increased Government involvement but, to the contrary, from the opening of the Internet to commerce and private sector innovation. Subjecting the Internet to the politicized control of the U.N. bureaucracy would be a giant and foolhardy step backwards.

The Internet today is an unprecedented and tremendously beneficial avenue for the free flow of information and commerce. Why would we want to even consider turning any degree of Internet control over to a politicized and failure- prone multinational bureaucracy that cannot possibly move at "Net speed"? Some of the nations involved in the WGIG deliberations have established pervasive Internet censorship and monitoring systems to suppress the ability of their citizens to access the truth, and to stifle legitimate political discussion and dissent. Others maintain a state monopoly over telecommunications services, or subject them to excessive taxation and regulation. Allowing such nations a voice in fundamental Internet governance would be dangerous and imprudent.

The WGIG report also contemplates an expanded U.N. role on cybersecurity matters. This is also deeply troubling. We simply cannot risk a disruption of the information economy by cyberterrorists. One thing we have learned at the start of the 21st century is that some organized groups hate democracy and wish to inflict grave injury upon the people and economies of freedom-loving nations. It would be naive and foolhardy if we did not assume that some of the individuals active in these terrorist organizations possess the technical expertise to plan and execute crippling attacks on the Internet, and that they are pondering how to crash the net with the same diligence that Osama bin Laden gave to bringing down the World Trade Center. The Internet assumes greater economic importance with each passing year, both in the value of the commerce it facilitates as well as the functions it performs. Today, for example, traditional telephone service is making a rapid migration from dedicated proprietary circuits to Voice Over Internet Protocol, VOIP. It is true that the Internet was designed to be resilient against outside attacks, as ARPANet was conceived as a communications system that could survive the exchange of nuclear weapons. But we have learned in recent years that the greatest threats to Internet security are generated from within. The vital national security interests of the United States and our allies demand that we maintain an Internet governance regime capable of taking effective preventive measures against any attack that could wreak havoc upon us.

The continued assurance of competent and depoliticized Internet governance is clearly a matter of strategic importance to the security of the United States and to the entire world economy. I was therefore pleased that the Bush administration announced on June 30 that the United States would maintain its historic role over the Internet's master "root" file that lists all authorized top-level domains. The U.S. Principles on the Internet's Domain Name and Addressing System issued last month are: (1) The U.S. Government will preserve the security and stability of the Internet's Domain Name and Addressing System, DNS. It will take no action with the potential to adversely affect the effective and efficient operation of the DNS. (2) Governments have a legitimate interest in the management of their own country code top level domains (ccTLD). The U.S. will work with the international community to address these concerns in a manner consistent with Internet stability and security. (3) ICANN is the appropriate technical manager of the Internet DNS. The U.S. will continue to provide oversight so that ICANN maintains its focus and meets its core technical mission. (4) Dialogue related to Internet governance should continue in relevant multiple fora. The U.S. will encourage an ongoing dialogue with all stakeholders around the world, and in the ensuing discussions the U.S. will continue to support market-based approaches and private sector leadership in the Internet's further development.

I applaud President Bush for clearly and forcefully asserting that the U.S. has no present intention of relinquishing the historic leading role it has played in Internet governance, and for articulating a vision of the Internet's future that places privatization over politicization. At the same time the administration has recognized the need for a continuing and constructive dialogue with the world community on the future of Internet governance.

I intend to closely monitor further U.N. actions in this area, especially the upcoming November meeting of the World Summit on the Information Society, WSIS, in Tunisia. I also plan to consult with experts and stakeholders regarding Internet governance, and will assess whether a legislative approach is needed to ensure the principles laid out by the administration remain the basis of discussion on this critical issue.

The growth of the Internet over the past decade, under the leadership and supervision of the United States, has been extraordinary. Over the next decade we can expect to see the global population with Internet access grow far beyond the 1 billion persons who presently enjoy that ability. The population of the developing world deserves the access to knowledge, services, commerce, and communication that the Internet can provide, along with the accompanying benefits to economic development, education, health care, and the informed discussion that is the bedrock of democratic self-government. Inserting the United Nations into Internet governance would be a dangerous detour likely to hinder, if not cripple, the fulfillment of the full promise of the most dynamic and important communications infrastructure in all of human history. We simply cannot afford the delay and diversion that would result from such an unfortunate deviation from the path that has brought the Internet to its present and almost miraculous state of success.

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## AMERICAN VETERINARY MEDICAL ASSOCIATION

Mr. President, I rise today to praise the American Veterinary Medical Association for their efforts in ensuring the highest standards for animal and public health in this country. Before coming to Congress, I practiced veterinary medicine, and I appreciate the AVMA's role in helping veterinarians excel and grow in their professions.

At this time, I would like to read for the record remarks recently given by the president-elect of the AVMA, Dr. Henry E. Childers, at their 142nd Annual Convention in Minneapolis:

Members of the House of Delegates, the World Veterinary Association, other international guests, friends and colleagues . . . I am honored to be a part of this historic gathering. I am especially pleased to welcome my fellow veterinarians from around the world and to be addressing those participating in the first gathering of the World Veterinary Association in the United States since 1934.

Seventy-one years ago, the AVMA and the World Veterinary Association met to discuss the hot issues of the day: poultry diseases, advances in food animal medicine, food safety and global disease surveillance. Today we are meeting once again and discussing the issues of our day: poultry diseases, advances in food animal medicine, food safety and global disease surveillance.

3,917 veterinarians attended that 1934 meeting in New York City at the Waldorf Astoria hotel, many from the same countries that are joining us today. To each I extend our most sincere welcome, especially to our colleagues from Afghanistan and Iraq. I hope you find this experience to be one of the most memorable of your career.

Well, here we are, 71 years later. And while we may have different languages and customs, different ways of communicating with our clients and treating our patients, we have come together once again precisely because we have more in common than ever before. We are united in our quest for a better world and better medicine for both animals and humans. We are united in our concerns, we are unified in our challenges, and we are unified in the celebration of our achievements. We are what veterinary medicine is all about.

When I told my wife Pat that I was giving this speech, she reminded me of something Muriel Humphrey once told her husband, Hubert, this country's vice president and a favorite son from this great State. She said, "Hubert, a speech does not have to be eternal to be immortal." I will try to remember that.

I come before you today slightly imperfect. As many of you know, I just had a knee replacement.

My recent surgery got me thinking, do any of us truly appreciate our knees? Really appreciate the foundation they provide? I know I did not, not until they both gave out on me. I quickly came to realize, however, that my knees must work together in unity in order for me to complete the tasks I take for granted. I just assumed they would provide a solid foundation without much attention from me. I was sadly mistaken.

Paying attention to our profession's basic principles is what I would like to talk to you about today. We all assume that our professional unity and our rock solid foundation are perpetual. They are not. Without attention and care, our foundation can slowly begin to erode. That is why I am dedicating my presidency to the care and nurturing of our professional unity—the essential cornerstone of our great profession.

Traditionally, past AVMA presidents have used this time to present you with a roster of very specific recommendations for new programs and initiatives. Many of those recommendations have resulted in impressive and important changes within the AVMA.

But different times call for different approaches. I come before you today with a total commitment to spending my year at the helm of this great organization working to reaffirm our unity.

As president-elect, I have spent much of the past year speaking to a wide variety of veterinary associations and student organizations. In May, when I gave the commencement address at Auburn, I was reminded of my own graduation. I was reminded of my classmates and my professors. Of the long hours and challenges that we faced and survived. I think back to the unity we felt as a class and our coordinated effort to help each other. Doing whatever it took to ensure that each individual met the challenges of the curriculum and graduated.

Unity got us through school and a C+ mean average did not hurt.

And on our graduation day, we became veterinarians. Not equine veterinarians. Not bovine veterinarians. Not small-animal veterinarians. We became veterinarians—members of a select group of professionals that dedicate their lives to ensuring the highest standards in animal and public health.

Why is unity more important today than ever before? Aesop said it better than I ever could: "We often give our enemies the means for our own destruction."

Today our profession is facing challenges, the likes of which we have never seen before. From town hall to Capitol Hill, from the classroom to the laboratory, from the farm to the dinner table, our attention is being pulled in a myriad of directions. In light of those challenges, we must remain focused, we must stay united. While we may practice in different disciplines involving different species of animals, we must be of one vision, one voice. We must maintain the highest standards in medicine and public health, encouraging and assisting others in accomplishing the same. While we may practice in different parts of the world, we must foster unity with our fellow veterinarians from around the globe. Good medicine knows no boundaries, knows no borders. We must cooperate and collaborate with our fellow veterinarians worldwide to make this world a better place for animals and humans alike.

Has there always been perfect unity within the profession? If you look back in the annals of our convention or in the Journal of the American Veterinary Medical Association, you will see many instances where we did not all agree. We are a diverse profession, and there are bound to be differences in opinion. But I would argue that the French essayist, Joubert, was right when he said, "the aim of argument, or of discussion, should not be victory, but progress."

Some of the differences our profession is experiencing today may just be a reflection of what is happening to society as a whole.

For example, we have moved away from an agricultural society. In the past 20 years, many of our colleagues have chosen a metropolitan setting, where they concentrate on companion animals. As a result, the number of food animal graduates has slowed to a trickle. The reality, however, is that food animal practitioners are more important to society than ever before. There is an acute shortage of food animal veterinarians during a time when the world is threatened by zoonotic and foreign animal diseases. At the same time, we are experiencing the same crisis level shortages of public health veterinarians. Most new graduates are not choosing a career in this essential segment of veterinary medicine. The profession must find ways to encourage undergraduates to enter food animal and public health practice.

In an attempt to resolve the critical food animal veterinary shortage, AVMA has been working on a number of strategies and initiatives.

For example, as many of you know, the AVMA helped fund a study to estimate the future demand and availability of food supply veterinarians and to investigate the means for maintaining the required numbers.

AVMA also approved and financially supported the development of benchmarking tools for production animal practitioners by the National Commission on Veterinary Economic Issues. These benchmarking tools are designed to provide our current practitioners with help in ensuring that their practices are financially successful. That, in turn, will assist in attracting future veterinarians to food animal practice.

The government relations division of the AVMA is diligently working to convince Congress to provide Federal funding for the National Veterinary Medical Service Act. If fully funded, that act could go a long way toward encouraging recent graduates to practice food animal medicine in underserved areas and provide veterinary services to the Federal Government in emergency situations. Just last month, the Senate Agriculture Appropriations Subcommittee approved $750,000 for a pilot program. We applaud the efforts of Representatives Pickering and Turner and Senators Cochran and Harkin, all of whom sponsored the original bill, and want to thank the Appropriations Subcommittee, especially Senator Brownback for his kind words and commitment to veterinary medicine.

AVMA is also lobbying our Federal legislators to pass the Veterinary Workforce Expansion Act—an important piece of legislation that will provide us with sorely needed public health and public practice veterinarians. Today's public health practitioners play an invaluable role in U.S. agriculture, food safety, zoonotic disease control, animal welfare, homeland security, and international standards and trade. Without an adequate number of public health veterinarians, the wellbeing of our Nation—yes, even the world—is at risk. Senator Allard has been invaluable and unwavering in his dedication to moving this act forward through the complicated legislative process. I intend to do everything I can as president to provide support to Senator Allard's effort to pass the Veterinary Workforce Expansion Act.

On the international education level, AVMA has been committed to the global unity of the profession for decades. The AVMA Council on Education has partnered with Canada since the accreditation system was developed and has accredited six foreign veterinary colleges. We are working with six additional schools. We are extremely proud of those colleges. As more inquiries come forward, it is self-evident that the world looks to us as the gold standard in educational goals and expectations.

At the same time, I will be supporting the efforts of our specialty organizations to attract and train the new practitioners they need. Currently, there are 20 veterinary specialty organizations comprising 37 distinct areas of expertise under the AVMA umbrella.

The AVMA economic report on veterinarians and veterinary practices has revealed a substantial difference between the incomes of specialists and nonspecialists practicing in similar disciplines. I will, as president, encourage the development of additional in-depth financial surveys that, hopefully, will motivate our undergraduates to further their education and achieve specialty status, thus helping ensure that public demands for advanced veterinary medical services are being met while, at the same time, increasing our economic base.

Hopefully, these additional specialists will serve as a resource for our veterinary colleges who are becoming increasingly understaffed.

In the past 15 years, we have seen a shift in the demographics of our profession. I will bet there were plenty of raised eyebrows when McKillips College, in 1903, and the Chicago Veterinary College, in 1910, graduated our country's first female veterinarians. It is hard to believe that as recently as 1963, the profession included only 277 female veterinarians.

We are proud of the fact that an increasing number of our graduates are women. Their contributions and leadership have strengthened our profession. However, the recent AVMA-Pfizer study confirmed lower mean female incomes within the profession. Now is the time to explore solutions to that problem, and I will do everything in my power to ensure that this issue is thoroughly investigated and addressed.

To achieve unity, I firmly believe that we must be inclusive, not exclusive. The public has always been well served by the diversity in our practice areas. Now, we must diversify our membership. The AVMA—with more than 72,000 members representing 68 constituent organizations in the House of Delegates—must now seek to represent every race, creed, and color. As a profession, we must mirror the public, and they us. We must become a profession more reflective of the population we serve.

Over 30 years ago, Dr. H.J. Magrane, then president of the AVMA, spoke often and passionately about the need for inclusion and equality in our profession. As a profession, we have still not made the advances in diversity that are necessary.

As the great social scientist, Margaret Mead said: "In diversity . . . we will add to our strength."

In order to achieve our diversity goals, we must initiate both practical and creative ideas to arrive at an enriched membership. It is up to us, all of us, to reach out to young people and to nurture their interests and talents so that we become the shining example of professional diversity. We need to be involved in youth groups, in churches and in our public schools, and united in our quest, so that others say: We must emulate the AVMA.

Once in veterinary school, our students, all our students, need to know that we, as a profession, are there to mentor and to help them through the special challenges they face. None of us got to where we are today without at least one special person—one special veterinarian—who took us under his or her wing and proved to be our own personal cornerstone. We can do no less for those who are striving today to become members of our profession.

In what programs is the AVMA currently involved concerning diversity? First, at its April 2005 meeting, the board approved the establishment of a task force on diversity. That task force will recommend steps that we must take to meet our goals in diversity.

But here is something you can do in the immediate future. Tomorrow, our convention will offer a full day diversity symposium, including an appearance by Dr. Debbye Turner, veterinarian, former Miss America, and contributor to the CBS Early Show. I hope many of you will plan on spending part of your day attending these important meetings, if time permits.

Diversity will also be an integral part of the 2006 Veterinary Leadership Conference. Each of these opportunities is designed to help us achieve the diversity we have talked about for so long.

So what is on our want list for 2005? As I have mentioned, critical shortages exist in food animal and public health veterinarians. But we also are desperately in need of teachers and researchers. We need policy experts and homeland security professionals. We need legislative leaders, and we need veterinarians who are visionaries and who can lead us in this era of globalization. There exists such critical shortages in so many areas that some days I wonder if our small numbers can, in fact, make a difference.

But then I am asked to speak somewhere. And I look at the enthusiastic faces in my audience—established veterinarians who are deeply involved in their State and local associations, students who live and breathe only to count off the days until they can touch their dream, high school students with straight A's who are anxious to know what else they have to do to make it into veterinary school, third graders with a commitment to animals that rivals the grit and determination of a Jack Russell terrier—and I know that we will not only survive but thrive.

As I have said, my presidency will be dedicated to re-energizing the unity that has always been our strength and foundation. As another President from the Northeast, John F. Kennedy, once said, "Let us not be blind to our differences—but let us also direct attention to our common interests."

Ladies and gentlemen, our common interests are so much greater than our differences. Like the society and world around us, we are changing. And change is never easy. But with your help, and our combined dedication and attention to preserving and protecting our unity of purpose, we will thrive and remain one of the most admired and respected professions in the world.

During the coming year, I will be looking to you for help. I will listen and I will participate. I will follow your lead and I will lead to enlighten. I implore each of you to participate in this great organization and make it your own. For you are the teachers, you are the visionaries, you are veterinary medicine.

## CHANGE OF VOTE

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I ask unanimous consent that on rollcall vote No. 209, regarding the Central American Free Trade Agreement, I be recorded as having voted nay instead of my previous vote in favor of the measure. I understand this change will not affect the outcome of the vote. I thank the majority leader and the Democratic leader.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SPECTER. I thank the Chair.

## 40TH ANNIVERSARY OF THE VOTING RIGHTS ACT

Mr. SALAZAR. Mr. President, I rise to pay tribute to a piece of a landmark civil rights legislation on the occasion of its 40th Anniversary: the Voting Rights Act of 1965.

Before the passage of the Voting Rights Act, African Americans, Hispanics, Native Americans, and others were routinely prevented from voting. The various tactics used to impede and discourage people from registering to vote or turning out on election day ranged from literacy tests, poll taxes, and language barriers, to overt voter intimidation and harassment.

On August 6, 1965, when President Lyndon B. Johnson signed the Voting Rights Act of 1965, America took a critical step forward in its quest for inclusiveness. Just a year earlier, President Johnson had signed the Civil Rights Act of 1964, proclaiming that in America.

> We believe that all men are created equal, yet many are denied equal treatment. We believe that all men have certain unalienable rights, yet many Americans do not enjoy those rights. We believe that all men are entitled to the blessings of liberty, yet millions are being deprived of those blessings, not because of their own failures, but because of color of the skin.

President Johnson knew then what we still recognize today. The enactment of both of these critical pieces of legislation was only one step in our country's journey to become an inclusive America where all its citizens enjoy the rights and protections guaranteed by the U.S. Constitution.

When he recalled this day, Dr. Martin Luther King, Jr. wisely pointed out that "the bill that lay on the polished mahogany desk was born in violence in Selma, AL, where a stubborn sheriff had stumbled against the future." Dr. King was, of course, referring to "Bloody Sunday," the March 7, 1965, incident where more than 500 non-violent civil rights marchers attempting a 54-mile march to the state capital to call for voting rights were confronted by an aggressive assault by authorities.

In our country's history, we have stumbled, but great leaders such as Dr. King, and countless others who toiled and gave their lives, made certain that we got back up and continued on our path toward progress.

On the dawn of its 40th anniversary, Congress is preparing for the reauthorization of key provisions in the Voting Rights Act that will expire in 2007. I hope that the Senate can rise above the partisanship that often plagues this body to renew the promise of inclusiveness that the Voting Rights Act has sought to achieve since its inception. In the past, we have been able to accomplish this and the results have been truly extraordinary.

Since the passage of the Voting Rights Act, the doors to opportunity for political participation by previously disenfranchised groups have swung open. Their voices have been heard and counted. The result has been an America where the number of black elected officials nationwide has risen from 300 in 1964 to more than 9,000 today. In addition, there are over 5,000 Latinos who now hold public office, and there are still hundreds more Asian Americans and Native Americans serving as elected officials.

However, in order to continue to make progress, Congress will need to reauthorize and maintain its enforcement of the Voting Rights Act. Today, as we work to promote democracy in Iraq and other regions of the world, I wish to honor the legacy of this milestone in our own Nation's democracy and to thank all those who have been a part of the civil rights movements.

I thank the President and yield the floor.

## AMERICANS WITH DISABILITIES ACT RESOLUTION

Mr. ISAKSON. Mr. President, I rise today on the 15th anniversary of the enactment of the Americans with Disabilities Act to commemorate its passage, commend its many authors, and suggest some actions we should take to protect, preserve, and advance its legacy as a vital component of our laws on civil rights.

Fifteen years ago, President George Herbert Walker Bush signed into law the Americans with Disabilities Act, a landmark piece of legislation that extended civil rights protections to individuals with disabilities.

Prior to the passage of the ADA, far too many of our fellow Americans with disabilities faced utterly unnecessary obstacles. Many lacked accessible transportation, reasonable workplace accommodations, and entree to government buildings.

Passionate reformers of all stripes sought to change this, and we cannot discuss the ADA without first mentioning the name Justin Dart, Jr. Never without his trademark cowboy hat, Justin Dart worked tirelessly for enactment of the act. His efforts came to national attention in 1981, when President Reagan appointed him to be the vice-chair of what is now known as the National Council on Disability. Mr. Dart and others on the council drafted a policy that called for civil rights legislation to end discrimination against people with disabilities, a policy that eventually would form the basis for the Americans with Disabilities Act of 1990. Widely respected and beloved by both sides, Justin Dart passed away in 2002.

Another champion for Americans with disabilities was, without question, our former colleague, Bob Dole. It was 1942 when, at the age of 19, Bob Dole joined the Army to fight in World War II. A year later, in the hills of Italy fighting the Nazis, Senator Dole was hit by gunfire. The shot shattered his right shoulder, fractured vertebrae in his neck and spine, paralyzed him from the neck down, and damaged a kidney.

Of course, he recovered to become one of the most influential legislators of the 20th century. Urging Congress to pass the ADA, he said, "This historic civil rights legislation seeks to end the unjustified segregation and exclusion of persons with disabilities from the mainstream of American life."

A study of the legislative history of the act reveals that it was, in every sense, a bipartisan accomplishment. The legislation supports a notion in which President Reagan deeply believed. He used to say that there is no limit to what you can accomplish if you don't care who gets the credit.

The act was then signed into law by another great American, President George H. W. Bush. In signing the legislation, President Bush spoke of what he felt the law would offer Americans with disabilities. He said "This Act . . . will ensure that people with disabilities are given the basic guarantees for which they have worked so long and so hard: independence, freedom of choice, control of their lives, the opportunity to blend fully and equally into the rich mosaic of the American mainstream."

Since the passage of the ADA, we have seen significant improvements in the employment and economic well-being of citizens with disabilities. In 2003, the U.S. Census Bureau reported that over the previous 15 years, the employment rate for working age men with a disability had increased by more than 25 percent. Other evidence of the ADA's impact was even more readily apparent. For instance, the barriers to mobility once posed by public transportation have been largely eliminated. Here in Washington, DC, for example, 95 percent of the Metro system is accessible to persons with disabilities.

However, anniversaries are not just for looking back and celebrating the achievements of the past. They must also be an occasion for looking forward to the challenges that still lie before us.

A report issued by the Institute for Higher Education Policy in 2004 revealed that less than two-thirds of youths with disabilities receive standard high school diplomas. Although this graduation rate represents a significantly higher rate than 15 years ago, it remains inadequate, and significantly behind the rate for individuals without disabilities.

We in Congress must maintain high expectations for all Americans. Americans with disabilities can compete and cooperate at the same level as Americans without disabilities. I was happy to work on the No Child Left Behind Act and the Individuals with Disabilities Education Act, both of which incorporated the principle of high expectations for all, regardless of race, gender, or disability.

We also must incorporate the latest technology to help further incorporate Americans with disabilities into our workplaces. I was pleased to support President George W. Bush's New Freedom Initiative, which builds on the progress of the ADA by supporting new technologies that make communications easier, and thereby helping people with disabilities live full, active lives in their communities.

We in Georgia know that people with disabilities can realize their incredible potential and better our workplaces, our schools, and our society. For 6 years, we were represented in this body by Senator Max Cleland, a disabled Vietnam veteran.

No one knew the potential of Americans with disabilities better than Bobby Dodd, whom most Georgians would associate with Georgia Tech and his phenomenal years coaching, winning football teams. But after his retirement, he developed the Bobby Dodd Institute, which works to ensure that Atlantans with disabilities are given the opportunities to achieve economic self-sufficiency through employment.

Another name that comes to mind when we discuss heroes to Americans with disabilities is Tommy Nobis. Tommy was the first draft pick in the history of the Atlanta Falcons, taken No. 1 in the 1965 draft. A steady and reliable linebacker, Tommy was a five-time Pro-Bowler and NFL Rookie of the Year in 1966. Yet far more important than his football accomplishments are his accomplishments off the field. In 1975, he founded the Tommy Nobis Center to provide vocational training to persons with disabilities. Originally run out of a small, crowded trailer, the center now operates a $2 million state-of-the-art center in Marietta, GA. The center enables individuals to enter or return to employment and to enjoy productive and independent lifestyles while contributing to the greater business community. Over their proud 25-year history, the center has assisted over 11,000 individuals with disabilities.

Again, I am pleased to cosponsor today's resolution and offer my sincerest congratulations to all of those who have worked to ensure better lives for Americans with disabilities.

## HONORING ALAN CHARLES SADOSKI

Mr. LEAHY. Mr. President, I rise today in honor of Alan Charles Sadoski, a loving husband, father, and friend whose lasting memory is continually celebrated by everyone who knew and loved him.

Alan's life was filled with family, friends, excitement, and laughter. He was one of what quickly became seven brothers and sisters growing up in Salem, MA. Everyone who knew him will tell you that his siblings were not only his best friends but also his biggest fans. He graduated from high school in 1967 and went on to become a standout soccer player at Salem State College, while at the same time serving in the Massachusetts National Guard.

After odd jobs throughout the summers in and around Salem, Alan took a job working as a teller for the Essex

Bank. Little did he know at the time, but that job changed Alan's life. Not only did Alan find a career, but he also fell in love with a fellow teller, Claire McGuire. The two married and began their life together, ultimately moving to Washington, DC where Claire pursued her legal career and Alan took a job with the National Bank of Washington. Everyone who knew Alan can remember him on his way to work, the banker in his three piece suit.

On December 29, 1981 Claire and Alan had a son named Nicholas Alan. Shortly thereafter the family moved into their first home where Alan's love of fatherhood blossomed. Alan converted the boxes from their new appliances into little homes for Nick and the two of them spent countless hours playing together. When Nick had trouble sleeping at night, Alan would drive him around the neighborhood until he fell asleep. He even brought Nick back to Salem for his first haircut at the barbershop just down the street from his own childhood home. Everyone could see how much Alan enjoyed being a father.

Although Alan fought hard, his spirit and courage in the face of adversity never showing the effects of his illness, he sadly succumbed to his battle with cancer on August 12, 1985. He was troubled by the idea of leaving his wife and son behind, but he knew they would be taken care of and supported by both his family and the legion of friends he made over the years. Each of them made a special promise to Alan that in their own way they would always make sure Claire and Nick were okay. It is now 20 years later and Alan's friends and family have never let the two of them down.

Over the years the people closest to Alan have kept his spirit alive by thinking about him often and sharing their memories of him with others. His friends remember his tolerant and understanding nature. They remember his love of camping and how much he had hoped to take his son and nephews out on a true wilderness adventure. They talk about his fabled flapjacks, and how everyone would watch the pancake impresario perform his tricks. They remember how much fun it was to be around Alan; how he was always at the center of the crowd, telling some of his famous stories, somehow making the gathering better just by being there. Even the pharmacists at the local drugstore, who saw Alan during some of the worst days of his illness, thought the world of him and even made a donation to the American Cancer Society in his honor. He truly touched everyone he met.

Since then the family has remained close and they talk about Alan often. He has nieces and nephews now that he never had a chance to meet, but they have heard all about "Uncle Al, the Kiddies' Pal." Alan would be happy to know that the people who meant the most to him in his life still gather and share their memories of him after his death. He would love to know that Claire and Nick are the best of friends. He would love to know that Nick enjoys hearing stories about his dad, and perhaps more than anything else, loves to hear people say, "Your dad would be proud of you."

## DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

Mr. KENNEDY. Mr. President, the Department of Transportation's Disadvantaged Business Enterprise Program is vital to ensuring that businesses owned by women and minorities have an equal opportunity to compete for Federal highway construction contracts, and I commend the conferees for supporting this important program in this year's highway bill.

Since the program was created in 1982 and expanded to include women in 1987, the construction industry has changed significantly. Although we still have far to go to fully address the effects of discrimination in the industry, the program has opened many doors of opportunity for women and minorities in what was once a virtually all-male, all-white construction industry. The program deserves high marks in combating the effects of discrimination in highway construction. But on the extensive information available to us in considering its reauthorization, it is also clear that the program is still very much needed to achieve a level playing field for all qualified contractors, regardless of race or gender.

Since Congress first began examining this problem, it has been clear that the construction industry generally, and highway construction in particular, have been predominantly an insiders' business that often exclude women and minorities for discriminatory reasons. The persistence of this festering problem has denied opportunities for African American-, Asian American-, Latino-, Native American-, and women-owned firms in the industry.

Our extensive hearings and other information gathered over the years made clear that women and minorities historically have been excluded from both public and private construction contracting. When Congress last reviewed the program in 1998, there was strong evidence of discriminatory lending practices that deny women and minorities the capital necessary to compete on an equal footing. Much of that information is cited and described in three leading rulings by Federal courts of appeals—the Eighth Circuit's opinion in Sherbrooke Turf, Inc. v. Minnesota Department of Transportation, the Tenth Circuit's opinion in Adarand Constructors v. Pena, and the Ninth Circuit's opinion in Western States Paving Company v. Washington State Department of Transportation, all of which upheld the program as constitutional, and found that it is narrowly tailored to deal with the Government's compelling interest in remedying discrimination.

I will not detail all of the information previously considered, but a few examples illustrate the breadth of the problem. A bank denied a minority-owned business a loan to bid on a public contract worth $3 million, but offered a loan for the same purpose to a nonminority-owned firm with an affiliate in bankruptcy. An Asian-Indian American businessman in the San Francisco Bay area testified at a public hearing that he was unable to obtain a line of unsecured credit from mainstream banks until he found a loan officer who shared his heritage. A Filipino owner of a construction firm testified that he had difficulty obtaining bank financing, although white-owned firms with comparable assets could obtain similar loans.

Overt discrimination and entrenched patterns of exclusion prevented many female- and minority-owned businesses from obtaining surety bonds.

Minorities also have been consistently under-utilized in Government contracting. In 1996, the Urban Institute released a report documenting wide statistical disparities between the share of contract dollars received by minority- and women-owned firms compared to firms owned by white males. Minority firms received only 57 cents in Government contracts for every dollar they should have received based upon their eligibility.

For specific racial groups, the disparities were even more severe. African American-owned firms received only 49 cents on the dollar; Latino-owned firms, 44 cent; Asian-American owned firms, 39 cents; Native American-owned firms, 18 cents; women-owned firms, 29 cents.

These statistics are particularly troubling, because they exist despite affirmative action programs in many of the jurisdictions. Without such programs, their plight would have been far worse. The Urban Institute report found that the disparities between minority- and women-owned firms and other firms were greatest in areas in which no affirmative action program was in place.

When only areas and years in which affirmative action is not in place were considered, the percentage of awards to women fell from 29 percent to 24 percent. For African Americans, the percentage dropped from 49 percent to 22 percent; for Latinos, from 44 percent to 26 percent; for Asians, from 39 percent to 13 percent; and for Native Americans, from 18 percent to 4 percent. These figures show that affirmative action programs are not only effective, but are still urgently needed.

We also had extensive evidence of discrimination by prime contractors.

unions, and suppliers of goods and materials, who expressly favored white males over minorities and women. In addition, the information we received established that exclusionary practices by State and local governments also contributed to the problem. As a result, female and minority contractors were disadvantaged in their efforts to compete fairly for both public and private construction projects.

The history of discrimination in contracting provides important context for the information that has been developed since the program was last reauthorized. We must not and do not assume that because the program was necessary in 1998, it must be reauthorized. Before deciding to continue the program, we have a constitutional duty to determine whether it is still needed today.

The information we have seen since then confirms that there is still a need for a national program. New studies completed since 1998 show that minority- and women-owned companies are underutilized in government contracting. The Department of Transportation identified 15 detailed studies of State and local governments showing significant disparities between the availability and utilization of minority- and women-owned firms in government contracting. Studies showed underutilization in Nebraska; in Maryland; in Colorado; in Georgia; in Kentucky; in Ohio; in Wilmington, DE; in Dekalb County, GA; in Broward County, FL; in Dallas, TX; in Cincinnati, OH; in Tallahassee, FL; and in Baltimore, MD. Several other studies have also been completed since 1998. Furthermore, expert evidence presented to the trial courts in Sherbrooke and in Gross Seed v. Nebraska Department of Roads included statistical evidence of underutilization of minority- and women-owned firms in Minnesota and Nebraska.

In the past, we have seen a striking reduction in participation in the regions where government programs designed to provide a level playing field in the construction industry are curtailed or eliminated. That pattern has continued in recent years. For example, in the State of Minnesota, during 1999, after a Federal court had enjoined the State department of transportation from implementing a previous program—participation dropped from over 10 percent to slightly more than 2 percent. In addition, the General Accountability Office, GAO, issued a 2001 study showing that contracting under the Federal program had "dramatically declined" when similar local programs were terminated in the jurisdictions it examined.

We also have received considerable new anecdotal evidence of discrimination in highway construction contracting:

Herta Bouvia, the female co-owner of a company that competes for building contracts and highway construction contracts in Nebraska, testified in Gross Seed v. Nebraska Department of Roads that she faced hostility, slurs, and other forms of harassment on construction jobs because of her gender.

Stanford Madlock, an African-American owner of a DBE trucking company in Nebraska, testified in the same case that he had suffered discrimination because of his race, including being denied contracts despite submitting the low bid for the work and being denied access to capital.

The Tenth Circuit's 2003 opinion in Concrete Works v. City and County of Denver included extensive anecdotal evidence of discriminatory behavior by lenders, majority-owned firms, and individual employees in the Denver metropolitan area, which the court characterized as "profoundly disturbing." In that case, a senior vice president of a large, white-owned construction firm testified under oath that when he worked in Denver, he received credible complaints from minority- and women-owned construction firms that they were subject to different work rules than majority-owned firms; that he frequently observed graffiti containing racial or gender epithets on job sites in the Denver area; and that, based on his own experience, many white-owned firms refused to hire minority or women-owned subcontractors because of biased views that such firms were not competent.

Witnesses from minority- and women-owned firms testified that they were treated differently than their white male competitors in attempting to prequalify for public and private projects or to obtain credit. They also testified that prime contractors rejected the lowest bids on construction projects when those bids had been submitted by a minority or woman, and that female- and minority-owned firms were paid less promptly by prime contractors and were charged more for supplies than white male competitors on both public and private projects.

The case also included extensive evidence that Latino, African-American, and female contractors were subjected to verbal and physical abuse because of their race or gender. Even more disturbing was the testimony that minority and female employees working on construction projects were physically assaulted and fondled, spit on with chewing tobacco, and pelted with 2-inch bolts thrown by males from a height of 80 feet.

Disparity studies completed since the Disadvantaged Business Enterprise Program was last reauthorized also contain significant anecdotal evidence:

A disparity study by the State of Delaware described the difficulties of African-American firms in obtaining loans, including the experience of an African-American contractor who could obtain credit only after a white friend working at the bank interceded on his behalf.

The 2003 Ohio study also included the account of an African-American general contractor in the construction business whose ability to perform the work was questioned by an administrator for a project conducted by the State. The African-American contractor related that he "had a lot of problems out of that particular agency," and was told that Government affirmative action programs are "a form of n—gger welfare." The same contractor found that he was expected only to work on projects that were part of an affirmative action program.

The study included anecdotal evidence that female construction contractors were often forced to justify their ability to do the job. One contractor related that she was frequently required to demonstrate her knowledge of the construction business. She said, "You are challenged, no matter your age, no matter your position, you are challenged quite frequently and asked very simple construction quiz questions just to prove you [know] construction acumen." She said that male contractors assume women lack knowledge of the business. One female contractor stated that she was forced to answer basic questions about construction before being permitted to perform work on a job.

A 1999 study of contracting in Seattle includes accounts by a female contractor with 14 years' experience in construction. It found that general contractors assume minority-and women-owned firms do substandard work. It also includes information about women contractors subjected to sexually inappropriate or demeaning comments by men in the construction industry.

The 1999 Seattle study contained troubling anecdotal evidence of lending discrimination against minorities. A Latino construction contractor had difficulty obtaining credit for his business until his white employee began dealing with the bank and easily obtained the loan from the same loan officer who had previously ignored the Latino contractor's application. The Latino owner also said that he later tried to help six other minority contractors—two African Americans, two Latinos, and two Native Americans—obtain credit after his company expanded, and always had difficulty. He stated that bankers told him, "Jeez, you know how much these types of firms fail?" and that the African American and Native American contractors he sought to help were verbally mistreated by bank employees.

The same study noted that one Seattle bank placed so many increasing financial requirements on an Asian American construction contractor that the contractor was unable to get credit until he no longer needed it.

The study also included anecdotal evidence of bid shopping by prime contractors that disadvantaged minority firms and discriminated against African-American and Latino construction contractors in seeking bonding and insurance.

A 1999 study of contracting in Minnesota included the account of an African-American construction contractor, who stated that a white construction worker refused to report to an African-American worker, that there was racial harassment on job sites "all the time," and that African Americans had been called "monkeys" on the job and had their work sabotaged.

The Minnesota study also included statements by an Asian contractor who endured racial slurs or harassment from others in his business "at least once a month."

In light of the extensive evidence of continuing discrimination in construction contracting, the additional information available to Congress since 1998 makes clear that the Disadvantaged Business Enterprise Program is still needed. Given the importance of this question, I will ask unanimous consent to include further evidence in the RECORD.

In reauthorizing the Disadvantaged Business Enterprise program, we are well aware that in seeking to expand inclusion in the American dream, we must not unduly burden any other group. The program achieves the proper balance. The Department of Transportation's regulations expressly prohibit the use of rigid quotas, and require States administering the program to use race-conscious measures only as a last resort when race-neutral efforts to combat discrimination have been shown to be insufficient. If a State finds that it can create a level playing field on which all contractors have a fair chance to compete without using race-conscious means, the regulations require it to set the race-conscious portion of its goal of minority participation at zero, so that no race-conscious measures are used at all. We know that the program is also flexible in fact, because some States have set the race-conscious portion of the goal at zero.

The process by which firms may be certified for the program does not rigidly classify firms based on race, ethnicity or gender. Instead, the certification process is designed to identify victims of discrimination. Although firms owned by women and minorities are presumed to be eligible to participate in the program, that presumption may be rebutted, and their owners must submit a notarized statement declaring that they are, in fact, socially and economically disadvantaged. Firms owned by white males who can show that they are socially and economically disadvantaged can also qualify to participate in the program.

Finally, the program is inherently flexible. It imposes no penalty on States for failing to meet annual goals for participation. It requires only that prime contractors exercise good faith in seeking to meet the DBE participation goals on individual contracts; no penalty is imposed if their good-faith efforts are unsuccessful.

Given the magnitude and pervasiveness of the historical exclusion of women and minorities from construction contracting, it is not surprising that this problem has not yet been fully corrected. But the difficulty of the problem does not absolve us of our duty to address the effects of discrimination, and to continue our effort to achieve a level playing field in government contracting. As the Supreme Court stated in Adarand Constructors v. Pena, "[g]overnment is not disqualified from acting in response to the unhappy persistence of both the practice and the lingering effects of racial discrimination against minority groups in this country." Indeed, we have a duty to ensure that federal dollars are not used to subsidize discrimination.

As President Kennedy stated in his landmark message to Congress on civil rights in June 19, 1963:

> Simple justice requires that public funds, to which all taxpayers of all races [and both genders] contribute, not be spent in any fashion which encourages, entrenches, subsidizes, or results in . . . discrimination.

The Disadvantaged Business Enterprise program enables a diverse group of contractors to contribute to the important projects financed by this major legislation. Everyone benefits when the recipients of Federal opportunities reflect all of America.

The program ensures that all Americans have a fair opportunity to participate in the construction projects and other activities authorized in this legislation and that those who benefit from Federal contracting opportunities reflect our Nation's diversity, and I commend my colleagues on both sides of the aisle for including this still urgently needed program in this major legislation.

Mr. President, I commend to my colleagues the National Economic Research Associates Disadvantaged Business Enterprise Availability Study prepared for the Minnesota Department of Transportation.

I ask unanimous consent that several letters be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MOLTER CORPORATION,
*Frankfort, IL, March 29, 2004.*

JOANN PAYNE,
*Women First Natl Legislative Committee,*
*Washington, DC.*

DEAR MS. PAYNE: In 1987 I started my business. At that time, I was not married. I am married now. You ask if I feel there have been acts of discrimination. I most definitely feel that is the case.

When I started my company, I was involved in a specialty type of construction, and tried to work for industrial business. In 1987, rarely did you see women in plants, workers or business owners. I was mocked and ridiculed by my male counterparts. They blatantly said I did not know much about the business, and that I would not be in business in one year's time frame. (That was 16 years ago.)

When I went to the bank for a loan—and that is still happening, my husband has to sign all papers, though he is retired from the restaurant business and has never been involved in my business.

Prime contractors tend to take advantage of small minority or women business. They do not pay timely, do not process change orders in a proper time frame. This leads to a cash shortage for a small business.

If the goals were eliminated, general contractors would not use minority or women business owners. That has been proven for those areas without goals. When they have a project, they will only solicit your bid up to the amount of the goal, and do not want to use me to any further limit.

There is a good ole boy's network, be it on the golf course, on trips, or dinner/lunch meetings.

Given the opportunity, my company has proven our exceptional capabilities. Just recently we were named subcontractor of the year by IDOT. We performed shotcrete work on a bridge over the river in Peoria, Illinois.

The DBB program has been good for my company when we are given the opportunity. It is extremely important that the program continue.

Sincerely,

LORETTA MOLTER.

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LEAJAK CONCRETE CONSTRUCTION INC.,
*Mountlake Terrace, WA, July 20, 2005.*

U.S. CONGRESS,
*Washington, DC.*

DEAR SIR OR MADAM: I appreciate the opportunity to submit evidence of my company's experiences with the DBE program as it exists in Washington State.

Located in Washington State, Leajak Concrete Construction Incorporated has been in existence since 1992 and has been a certified DBE since its inception. Leajak Concrete Construction is a small general contractor specializing in structural concrete work suitable for commercial buildings, civil work, public works projects, transportation projects, and many others. As a small DBE business our revenues average approximately 3–3.5 Million, employing 8–10 full time employees and 6–7 part time employees.

Although the DBE program has assisted Leajak Concrete Construction Incorporated to access some opportunities, it is important to know that the barriers and obstacles that the program is suppose to mitigate still exist. We continue to encounter discrimination in the market place that keeps us from participating in competitive bidding, negotiated work, and receiving the necessary information we need to seek business. Leajak Concrete Construction Incorporated constantly pursues subcontracting work with Prime contractors, but it continues to be our experience that the Prime contractors do more to discourage us than to encourage us to bid. For example, we are constantly at a disadvantage because Prime contractors contact us at the last minute to bid on complex and substantial contracts. This is indicative of the "Good Faith Effort" we experience day in and day out. Furthermore, when we have asked for feedback on our bid and request post-bid reviews, we are ignored and disregarded.

Washington State has the dubious distinction of being only one of two states in the Union that have an anti-affirmative law on the books RCW 49.60.400 (aka I-100). As a result, spending with certified minority and women-owned businesses had decreased dramatically; 7.8% in 1998 for minority firms to 0.8% in 2003, and 6.1% in 1998 for women firms to 1.2% in 2003. I believe that the chilling effect of I-200 is event in a lack of commitment, responsiveness and concern by the state agencies responsible for managing and upholding the federal DBE program. It is correct to say that the recipients and sub-recipients of federal transportation dollars in Washington State take a very passive approach to promoting and communicating the DBE program to the affected parties.

To summary, the DBE program as contained in TEA-21 should be reauthorized, upheld, strengthened and improved. America's certified DBE firms deserve fair and equitable access to opportunities that are funded by our tax dollars, and the federal DBE program is an important underpinning.

Sincerely yours,

FREDELL ANDERSON,
*President.*

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MD. WASHINGTON MINORITY
CONTRACTORS' ASSOCIATION, INC.,
*Baltimore, MD, July 21, 2005.*

Re Reauthorization of DBE Program.

THE U.S. CONGRESS,
*Washington, DC.*

DEAR SIR OR MADAM: I address this correspondence to you on a matter of extreme importance. Discrimination against one's racial, ethnic and gender make-up is still the number one impediment for minority entrepreneurs starting and sustaining their businesses in America today. As the leader of a minority trade association in Baltimore, Maryland, I have witnessed and received testimony from many who have experienced first hand the evils of procurement discrimination in Government and private sectors.

The findings from disparity studies conducted throughout Maryland indicate that countless minority businesses are not being provided opportunities to grow their businesses because of a lack of capital, bonding and retained earnings. Upon attending a recent public hearing at the headquarters of the Washington Suburban Sanitary Commission (WSSC) on the subject of its recent disparity study, I heard a disadvantaged business testify that if the WSSC suspends the DBE program, his company would be out of business. This particular company supplies valves and manhole covers to WSSC. The owner of the business further stated that other water supply and treatment centers in the region who do not have DBE programs won't buy from him because he can't get the foundries to supply him. The foundries that do supply him do so only to satisfy WSSC's DBE program. If the DBE program is not reauthorized, the fate of the majority businesses doing business under the program is doomed. I urge you the continuance of the program without haste.

Sincerely,

WAYNE R. FRAZIER, Sr.,
*President.*

## UNANIMOUS CONSENT REQUEST

Mr. CRAIG. Mr. President, I ask unanimous consent to insert the letters from the Fraternal Order of Police and the Law Enforcement Alliance of America in that section of the RECORD containing the debate on the Kennedy amendment relating to armor-piercing ammunition.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GRAND LODGE,
FRATERNAL ORDER OF POLICE,
*Washington, DC, July 29, 2005.*

Hon. LARRY CRAIG,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CRAIG: I am writing to advise you of our strong opposition to Amendment 1615, offered by Senator Kennedy to S. 397, the "Protection of Lawful Commerce in Arms Act."

Senator Kennedy will certainly present his amendment as an "officer safety issue" to get dangerous, "cop-killer" bullets off the shelves. Regardless of its presentation, the amendment's actual aim and effect would be to expand the definition of "armor-piercing" to include ammunition based, not on any threat to law enforcement officers, but on a manufacturer's marketing strategy.

The truth of the matter is that only one law enforcement officer has been killed by a round fired from a handgun which penetrated his soft body armor—and in that single instance, it was the body armor that failed to provide the expected ballistic protection, not because the round was "armor piercing."

It is our view that no expansion or revision of the current law is needed to protect law enforcement officers. To put it simply, this is not a genuine officer safety issue. If it were, Senator Kennedy would not be offering this amendment to a bill he strongly opposes and is working to defeat.

The Kennedy amendment was considered and defeated by the Senate Judiciary Committee in March 2003 on a 10-6 vote. We believe that it should be rejected again.

On behalf of the more than 321,000 members of the Fraternal Order of Police, I thank you for taking our views on this issue into consideration. Please do not hesitate to contact me, or Executive Director Jim Pasco, through our Washington office if I can be of any further assistance.

Sincerely,

CHUCK CANTERBURY,
*National President.*

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THE LAW ENFORCEMENT ALLIANCE
OF AMERICA,
JULY 29, 2005.

Hon. LARRY CRAIG,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CRAIG: Speaking on behalf of the 75,000 Members and Supporters of the Law Enforcement Alliance of America (LEAA), we wish to add our voice to the growing group of law enforcement representatives who strongly oppose efforts to gut or kill S. 397, the "Protection of Lawful Commerce in Arms Act."

Senator Ted Kennedy's effort to portray his poison pill amendment, number 1615, as a law enforcement safety issue by using the term "cop-killer bullet" is a thinly veiled fraud. Senator Kennedy opposes the effort to reign in runaway trial lawyers who are bent on driving the legitimate firearm industry out of business and this amendment has everything to do with killing a bill he opposes, not protecting cops.

The Kennedy amendment is an effort to label some bullets as "bad" while others are "good;" this is ill considered and misleading at best. Law enforcement officers are killed and assaulted by criminals. Criminals bent on attacking officers will use whatever tool they can to hurt and kill. There are no good bullets or bad bullets; in this case there are only bad amendments whose true intent is to be a "poison pill" to S. 397.

This amendment, along with other hostile amendments, should be identified for what they really are: an outright effort to kill S. 397 and they should be defeated.

Please know that many in the law enforcement community encourage you to continue steadfastly in support of America's gun manufacturers who provide our officers the tools to return home safely at the end of their shift.

Thank you for your unwavering support of America's brave men and women who wear a badge. Please do not hesitate to contact me or Ted Deeds if we can be of further assistance.

Sincerely,

JAMES J. FOTIS,
*Executive Director.*

## MILITARY CAREER OF COLONEL WILLIAM A. GUINN, USA

Mr. SANTORUM. Mr. President, I rise today to offer remarks on the military career of Col. William A. Guinn, U.S. Army, and to offer my appreciation to Colonel Guinn on his years of dedicated service to our country.

Col. William A. Guinn has made numerous and significant contributions to the U.S. Army in a career of over 27 years, culminating with his assignment as Commander, Letterkenny Army Depot from July 2002 to August 2005. During the past 10 years, Colonel Guinn distinguished himself through meritorious service while serving in positions of great responsibility. His leadership and support to members of the Armed Forces, the units and commands in which he served, and local communities mark him as an exceptional leader and contributor to the Armed Forces of the United States.

From 1996 to 1998 Colonel Guinn commanded the 123rd Main Support Battalion, MSB, 1st Armored Division Support Command, Dexheim, Germany. In July of 1996, the same month he took command, Colonel Guinn was ordered to begin redeployment of his unit while not losing any levels of support to the Multi-National Division-North. In less than 1 year, Colonel Guinn was again directed to deploy his units into Bosnia as part of the NATO lead stabilization force, SFOR. After 26 months of command duty, Colonel Guinn moved forward and became one of the select few chosen to attend the Industrial College of the Armed Forces.

In June 1999, Colonel Guinn reported to the headquarters, U.S. Pacific Command, as a member of the J4 staff. Within his first 90 days, he assumed the challenge of coordinating the United States' support in the emerging nation of East Timor. While assisting the U.S. commitment to Operation Stabilize, the Australia-led operation to bring peace and stability to East Timor by international forces, East Timor, INTERFET, he planned and executed the first major deployment of contracted support to military forces. Within a year Colonel Guinn would be given another mission of international and U.S. strategic importance when Navy surveillance aircraft, the EP-3E BUNO 15651, was forced down in the Peoples Republic of China, PRC, after an in-air collision with a PRC Air Force fighter aircraft on April 1, 2001.

After the tragic events of September 11, 2001, Colonel Guinn was tasked to coordinate the regional U.S. response in the opening stages of the global war on terror. Colonel Guinn's knowledge of establishing forward logistics bases in remote locations was instrumental in establishing a base in Zamboanga for special forces units to train Philippine soldiers in tactics to resist terrorist insurgents.

In July 2002, Colonel Guinn took command of Letterkenny Army Depot, LEAD, in Chambersburg, PA. When he arrived, LEAD was still wrestling with the effects of the downsizing and reductions from the base realignment and closing, BRAC, actions. The infrastructure was being shed to comply with the BRAC 1995 realignment and Letterkenny was struggling to define its future.

Because of aggressive and progressive planning, Colonel Guinn has been able to more than double the workload and output of Letterkenny. He developed a strategy to grow the workload, which in turn made the depot a more competitive and efficient producer of materiel in support of global war on terror. First, he identified niche areas where the core capabilities of the depot and its skilled tradesmen could best utilize their strengths. Second, he went directly to nontraditional military customers such as the Special Operations Command, SOCOM, to show what the depot had to offer and how the depot could meet the needs of the warfighter. Finally, he built on the existing core depot work supporting air defense and tactical missiles to grow that part of the business in a competitive environment. During his tenure workload is up over 200 percent in dollars and over 100 percent in terms of manhours.

Colonel Guinn directed an analysis and a strategic plan for human resources and workforce replenishment at the depot. Recruitment targets and strategies of tying into technical schools were put in place. The first 4-year apprenticeship program was adopted under Colonel Guinn. Interns began to arrive for the first time in a decade. Colonel Guinn instilled a sense of importance in the everyday tasks of civilians at the depot. He demanded high standards in workmanship and in orderliness of the workplace. He began with the first levels of Lean, Six Sigma, 6S, to improve shop effectiveness and to instill pride in the workforce.

Following the BRAC 1995 round, there were challenges in merging the goals of BRAC and those of the depot. Under his leadership, Colonel Guinn looked for opportunities, was entrepreneurial, and he set the depot up to be a model of efficiency. In 2002, the Army launched its "lean implementation" initiative. Colonel Guinn decided LEAD would be at the forefront of this initiative. The activities undertaken under his leadership set the pace for lean implementation across all of Army Materiel Command.

The summary of a military career is the opportunity to command and transform an organization. Some officers will manage an organization; others lead and challenge the organization to excel. Colonel Guinn led Letterkenny Army Depot and its people to achieve more than they thought themselves possible. Colonel Guinn did what a great connnander should, he got all his organization was capable of doing.

## GUATEMALA

Mr. LEAHY. Mr. President, I want to take a moment to speak about Guatemala, a country that receives too little attention by the Congress, where we have seen both progress and disturbing trends in recent years.

Guatemala is struggling to emerge from more than three decades of civil war in which tens of thousands of civilians, mostly Mayan Indians, were disappeared, tortured and killed. The majority of those atrocities were committed by the army.

A year and a half ago, Guatemala elected a new President, Oscar Berger, who pledged to support the implementation of the 1996 Peace Accords which his predecessors had largely ignored. President Berger's election offered hope for change, beginning with the downsizing of the military, his appointment of Nobel Peace Laureate Rigoberta Menchú as a Goodwill Ambassador, and his pursuit of corruption charges against former President Alfonso Portillo. I was among those who praised President Berger for those important and courageous initiatives.

However, I am concerned that after a promising beginning, corruption, organized crime, and human rights violations are getting worse.

In 2004, President Berger reduced the size of the Guatemalan military by 50 percent. However, to the consternation of many civil society organizations, the Interior Ministry announced that the Guatemalan military would continue to participate in joint law enforcement operations with the National Civil Police, in violation of the Peace Accords. This is also a concern because, according to the State Department, there are credible allegations of involvement by police officers in rapes, killings and kidnappings. Rather than prosecute these officers, they are often transferred to different parts of the country. Impunity remains a serious problem.

Organized crime is thriving in Guatemala, and the government faces an uncertain future if it is perceived as powerless against these wealthy criminal networks. In one day this year, 17 people were reportedly murdered in Guatemala City. Our Ambassador is reportedly confident that organized crime has not infiltrated the Berger administration, and President Berger deserves credit for removing Attorney General Carlos de Leon who was suspected of corruption. But he also needs to crack down on these violent gangs.

President Berger also deserves praise for his support of the proposed Commission for the Investigation of Illegal Armed Groups and Clandestine Security Organizations, CICIACS. His initial efforts ran into problems with the judiciary and continue to face opposition in the Guatemalan Congress. But the establishment of CICIACS would assist in the consolidation of democracy as well as in combating clandestine groups.

Reports of intimidation, kidnappings, and death threats remain all too frequent. In January and February of this year alone, Amnesty International documented that 26 human rights activists were threatened or attacked in Guatemala. More recently, on July 7, Mario Antonio Godínez López, head of the Association for the Promotion and Development of the Community, an organization that opposes CAFTA, received a death threat. The next day, Alvaro Juárez, a human rights leader who worked with Alliance for Life and Peace and with the Association of the Displaced of the Petén, was assassinated. On July 11, five journalists were attacked with machetes by ex-civil patrol members. Ileana Alamilla, the President of the Association of Journalists of Guatemala, has warned that journalists are in increasing danger and that the government needs to take steps to protect them. These are only a few examples of the types of incidents that are common in Guatemala today.

A recent report indicates that the number of women murdered and sexually abused in Guatemala has also increased. As of mid-July, 326 women have been murdered this year in Guatemala, a country of only 14 million people. While the report suggests causes such as clandestine groups, ultimately it concludes that the lack of investigations and convictions, in other words, impunity, are at the root of the problem.

The Guatemalan Government also needs to more effectively address the agrarian conflicts by seeking greater input from indigenous and campesino organizations. I have been concerned with the government's support for land evictions, and the national police's role in the destruction of crops and houses of members campesino organizations. This explosive issue may worsen if President Berger does not find more effective ways to address the legitimate needs of landless people.

We should all be encouraged by the recent announcement that Anders Kompass will be heading the newly established office of the United Nations High Commissioner for Human Rights in Guatemala. Having gained wide respect for his work in OHCHR offices in Colombia and Mexico, Mr. Kompass brings a wealth of expertise to Guatemala. I would hope that the State Department provides funds to help support this office.

Since 1990, the Congress has prohibited foreign military financing assistance for Guatemala because of the military's involvement in gross violations of human rights, and the lack of accountability for heinous crimes. The Senate continued that prohibition recently due to ongoing concerns with the inadequate pace of military reform. It is all too apparent that despite the downsizing of the military, the attitude that the military remains above the law has yet to change.

However, we do provide the Guatemalan military with expanded international military education and training assistance. In addition, we continue to provide counter-narcotics assistance. And this year we released prior year military assistance funds to address urgent equipment needs for drug interdiction, such as spare parts for aircraft.

Guatemala is at a crossroads. No one should be under any illusions about the difficulties of the many political, economic and social challenges it faces. Reform of Guatemala's corrupt and dysfunctional judicial system alone will take many years. But while President Berger has made progress, the culture of violence and impunity continues to thrive in Guatemala. And until there is clear evidence that he is more vigorously and effectively confronting the powerful interests that are responsible for these problems, it will be difficult if not impossible for the United States to support the Guatemalan Government as strongly as we would like to.

## COMBATING TRAFFICKING OF WOMEN AND CHILDREN

Mr. LEAHY. Mr. President, I rise to draw attention to the widespread problem of human trafficking. It is the world's fastest growing criminal enterprise. It is a modern-day form of slavery, involving victims who are forced, defrauded or coerced into sexual or labor exploitation. Annually, nearly 1 million people, mostly women and children, are trafficked worldwide, including nearly 18,000 persons into the United States.

The fact is that the violent subjugation and exploitation of women and girls is ongoing and not enough is being done by governments to address it. Take, for example, reports that in a marketplace in Skopje, Macedonia, women are forced to walk around a stage naked while brothel owners point their fingers to make a selection. Women are bought and sold like cattle and treated like slaves.

In Krong Koh Kong, Cambodia, 14-year-old girls stand outside a row of shacks where they charge the equivalent of $2 or $3 for sex, half of which goes to their pimps. These girls, many of whom have AIDS, are discarded when they become too sick to continue working.

Even in the United States, we are not immune to the scourge of human trafficking. Earlier this month, Federal agents raided brothels and businesses in San Francisco and arrested two dozen people allegedly operating an international sex-trafficking ring. Nearly 100 South Korean women were lured to illegally enter the United States; whereupon, they were held captive and forced to work as prostitutes.

Around the world, women and girls are sold as slaves and forced to engage in unprotected sex because clients offer more money for such acts. These women have no control over their lives, their health or their futures. Trafficking victims in the sex industry are exposed to HIV/AIDS at much higher rates than the general population, with no access to medical care. The fear of infection of AIDS among customers has driven traffickers to recruit younger girls, erroneously perceived to be too young to have been infected.

Last month, the State Department issued its fifth annual Trafficking in Persons report, which ranks the efforts of 150 countries to combat human trafficking. Some have observed that the United States has been soft on certain Asian countries thought to be lax on trafficking, such as Indonesia, the Philippines, India, and Thailand. Because these countries are vital allies in fighting terrorism, they may have been treated with greater leniency.

On the other hand, this year, the State Department identified four Middle Eastern allies—Kuwait, Qatar, Saudi Arabia, and the United Arab Emirates—as being among the worst offenders of human trafficking and whose governments are doing little to control it. Despite the fact that these countries have been important partners of the United States, their inadequate efforts on human trafficking demand a call to action by the United States.

Mr. President, this report is merely one first step in combating a growing international problem. We must call upon governments around the world to renew their efforts against this form of modern-day slavery.

We must rededicate our efforts to the prevention of human trafficking, protection of victims, and prosecution of traffickers. Nowhere on Earth should it be acceptable to deceive, abuse, and force a person into a life of enslavement. To deny a person their right to freedom, is an affront to the ideals established nearly 57 years ago in the Universal Declaration of Human Rights. We can and must do better.

## HONORING THE LIFE OF STEPHEN STIGLICH

Mr. BAYH. Mr. President, today I wish to pay tribute to the life of a distinguished civil servant and friend, Stephen "Bob" Stiglich, who passed away early this morning. Bob's love for our State kept him involved in public service up until his death, working to help Hoosiers from all walks of life. I know that he will be greatly missed.

Bob was a good and decent man who dedicated his life to public service. From his time in law enforcement to his successes in business to his involvement in Democratic politics, his long career was filled with acts of conscientious service on behalf of friends, family members, and Hoosiers across Northwest Indiana. The contributions he made to the region touched countless lives and his presence and humor will be sorely missed.

Bob began his career as an East Chicago police officer, and he never stopped serving the people of Northwest Indiana. It is a rare man who can make such an impact on so many people over the course of one life. Hoosiers will miss Bob as a friend, a community leader, and colleague.

It is my sad duty to enter the name of Stephen "Bob" Stiglich in the official record of the United States Senate for his service to the State of Indiana. My thoughts and prayers are with his family.

## RECOGNIZING THE SERVICE OF SERGEANT HUMPHREYS

Mr. WARNER. Mr. President, I rise today to recognize the 32 years of service to our Nation of Sergeant Edward Owen Humphreys, U.S. Capitol Police, as he retires from the force.

Edward Humphreys was born and raised in Chesapeake Beach, MD, the son of Louise and Edward Humphreys. Sergeant Humphreys attended Calvert County public schools, graduating from Calvert High School in June of 1967. Soon after graduation, in 1968, Humphreys voluntarily joined the U.S. Navy, and proudly served 4 years during the Vietnam war. During his service in the Navy, Second Class Petty Officer Humphreys served on the USS Kitty Hawk and was a member of the VF 213 Black Lions F-14 fighter squadron. He spent his Navy time in the Pacific, with service in Japan, China, Hong Kong, Australia, Hawaii, and the Philippines.

After returning home from duty in the Navy, it was not long before Humphreys decided to continue his service to country by joining the U.S. Capitol Police in August of 1973. During his many years of duty in the Nation's Capitol, Sergeant Humphreys has worked in the Rayburn House Office Building, Communications, Patrol Division, and is currently assigned to the Senate Chamber section.

Sergeant Humphreys will enjoy his well-earned retirement with his wife of over 30 years, Leslie, and their daughters Casey and Lindsey. Even in retirement, Sergeant Humphreys will continue to serve his local community as a member and administrator of the North Beach Volunteer Fire Department—which he joined at age 16.

On behalf of the Senate, I am pleased to thank Sergeant Humphreys for his service to country and wish him well in his future endeavors.

## COMMEMORATING THE 25TH ANNIVERSARY OF POLISH SOLIDARITY

Mr. BROWNBACK. Mr. President, at the end of World War II, Poland, like other Central European countries, fell behind the Iron Curtain. As the country struggled to recover from the brutal ravages of war and occupation, Soviet-backed communist elements seized the reigns of power. For many decades, those who sought to be free fought what seemed to be a losing, even hopeless, battle. Many were sent to prison, others were murdered or executed.

The light of freedom in Poland was never truly extinguished. Year after year, decade after decade, disparate individuals pursued separate paths towards the same goal: a free Poland, a free people.

By 1980, these individuals had learned much. First, they had learned to build bridges, bridges that would unite disparate segments of society. By 1980, workers and intellectuals, who had separately fought for reform, and separately failed, came together: electricians and factory workers, writers and teachers. And they learned, following the historic visit of Pope John Paul II to his homeland, in 1979, to "be not afraid." Together, Poles could carve out a space of independence from the regime that sought to control them. Together, in the shipyards of Gdansk, they gave birth to the Solidarity movement.

1980 was not, of course, the first time Polish workers had gone on strike, nor would it be the last. But it was the strike that, for Poland and beyond, demonstrated the capacity of a nonviolent movement to stare down a seemingly more powerful force.

Of course, the imposition of martial law on December 13, 1981, was a dark and shadowy detour on the path to freedom. Introduced to stave off a Soviet invasion, it could not, ultimately, stave off the inevitable march of democracy: Solidarity had let the genie out of the bottle, and there was no getting it back. In 1983, Lech Walesa, the electrician who bravely scaled the shipyard wall in August 1980, to join his fellow striking workers, was awarded the Nobel peace prize. Elsewhere in Central Europe, dissident movements intensified their demands for human rights. Economic reform moved from an option to a necessity. Even in Moscow, a pro-reform apparatchik, Mikhail Gorbachev, rose to lead his country.

By 1989, Solidarity leaders sat across the table from Wojtech Jaruzelski, the general who had imposed martial law. They negotiated what had seemed to most of the world impossible: the peaceful transition from communism to free and fair elections. In August of 1989, less than a decade after the Gdansk shipyard strikes that gave birth to Solidarity, Poland would elect its first non-communist prime minister since the fall of the Iron Curtain.

Today, we remember and honor those events, not only because of what it meant for Poland, but for what it means for all of us, and for people round the globe who continue to struggle to live in freedom and dignity. The Solidarity movement represented the culmination of enormous, powerful, even irresistible ideals, ideals that we must seek to spread to the dark corners of the globe that have yet to see their light.

## 40TH ANNIVERSARY OF THE HEAD START PROGRAM

Mr. SALAZAR. Mr. President, I rise to commemorate the 40th Anniversary of the Head Start Program.

In 1965, President Lyndon B. Johnson launched an 8-week summer program he called Project Head Start. Initially, funding was modest, but the charge was significant and admirable. In order to break the cycle of poverty, Project Head Start would provide comprehensive services to low-income children and their families to help these children prepare for school.

Project Head Start would ensure that low-income children were given the same opportunity to succeed in school that every child in America deserves. Since then, this project has evolved into a well-established national program that serves more than 1 million children across the Nation.

Head Start is a wise investment in our future with lasting, real effects. Research has shown that Head Start helps to reduce crime as former Head Start students are less likely to engage in criminal activity than their siblings who do not participate in the program. In addition, students enrolled in Head Start have better self-esteem and motivation, and are less likely to be held back a grade than similar children not in the program. Most importantly, the recently released "Head Start Impact Study" found that Head Start nearly cut in half the achievement gap between low-income Head Start children and more affluent, non-Head Start children.

Today in Colorado, close to 10,000 children attend the 62 Head Start and Early Head Start programs. Each of Colorado's programs is unique and tailored to meet the needs of the communities they serve. However, all Head Start programs, whether located in the rural San Luis Valley or downtown Denver, work to incorporate parents into their children's educational development. It is this critical component parental involvement that distinguishes Head Start from other early education and care programs.

In every region of Colorado, Head Start and Early Head Start programs work to provide comprehensives services from dental and medical care for students to educational and work training courses for their parents. Teachers and administrators create a stimulating educational environment. They make certain parents feel a part of their children's education by asking them to serve as teacher's aides or as members of Head Start policy committees. All of this is accomplished as the Federal government continually requires that Head Start improve the quality of their services.

As Head Start embarks on its fifth decade of service to America, I wish the program continued success. Because the Senate Health, Education, Labor, and Pensions Committee recently passed bi-partisan reauthorization legislation, I expect the Senate to consider this important bill in the coming months. I look forward to strengthening the Head Start program by passing strong reauthorization language. In addition, I hope to work with the Colorado Head Start community in the future to find mechanisms to improve our commitment to giving all children an opportunity to achieve the American dream.

## TRIBUTE TO JUDY ANSLEY

Mr. WARNER. Mr. President, I rise today to commend an outstanding public servant, Judy Ansley who for many years has worked as diligently and as ably as anyone with whom I have had the privilege of serving during my years in the Senate. Today Judy serves as the first woman staff director of the Senate Armed Services Committee. During my time as vice chairman of the Senate Intelligence Committee, Judy was the minority staff director.

How proud I am; how proud the Senate is that Judy Ansley has been selected for the position of Special Assistant to the President and Senior Director for European Affairs at the National Security Council. The administration could not have made a better choice for this important post, and I am confident that Judy will serve her country with dignity and honor, as she has done throughout her extensive career in public service.

My only regret is that Judy Ansley will be stepping down as the staff director for the Armed Services Committee after next week. Over the course of the last 6 years, Judy has dedicated her time, energy, and intelligence to the work of the Committee with great enthusiasm. As the deputy staff director and staff director, Judy has provided exceptional leadership to the committee during challenging times, and I am deeply grateful for her profound concern for the issues facing the men and women of our armed services. I am confident that my colleagues on the committee would agree that she has been an indispensable resource for our efforts.

In those instances where she had professional views in opposition to mine, she never hesitated to express them. I trust she will most respectfully continue to offer her candid assessments in her new job at the White House.

As the chairman of the Armed Services Committee, I have had the opportunity to observe closely Judy's indefatigable efforts. Before she joined the committee, Judy served as my national security advisor for 5 years, and her keen judgment and incisiveness were readily apparent throughout her work. Truly, while I am pleased that the administration will be gaining such a remarkable asset, I will miss Judy's wise counsel. I send my deepest gratitude to Judy as she begins her transition to the National Security Council, and I join with her wonderful family—husband Steve and daughters Megan and Rachel—in celebrating this achievement.

I also take this opportunity to announce Judy's successor as staff director for the Armed Services Committee. I have asked Mr. Charles S. Abell, the Principal Deputy Under Secretary of Defense for Personnel and Readiness, to become the new staff director, and it gives me great pleasure to note that he has accepted this responsibility.

A humble and devoted patriot, Charlie Abell has served his country with valor in every endeavor. Before joining the administration, Charlie was an exceptional member of the Armed Services Committee professional staff. During his years with the committee staff, Charlie was the lead staffer for the Subcommittee on Personnel, including issues of military readiness and quality of life. A highly decorated soldier, he retired from the Army as a lieutenant colonel after 26 years of distinguished service. I was privileged to work with this outstanding public servant during his previous term with the Committee, and I look forward to collaborating with him in the months ahead.

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## BLOODSHED IN CHECHNYA

Mr. BROWNBACK. Mr. President, the Romans, said Tacitus, "created a desert and called it peace." The Russian Government has created a wasteland of death and destruction in Chechnya and called it "normalization."

Over 10 years since the beginning of the Chechen war in post-Soviet Russia, the carnage in Chechnya continues, taking the lives of Chechens and Russians alike. Moreover, the echoes of the conflict are now stretching across the entire North Caucasus region. Given the information blockade that the Russian Government has thrown up around Chechnya, the world hears little of the violence and suffering taking place in those mountains far away.

Nevertheless, some information does get out. As Chairman of the Helsinki Commission, I would like to share some of this information with my distinguished colleagues.

According to Agence France Press, on June 4, 2005, an estimated 200–300 armed men, arriving in jeeps, trucks and armored personnel carriers, staged an attack on the village of Borozdinovskaya, near the border with neighboring Dagestan. These villagers are not Chechen, but Avars, Dagestan's most numerous ethnic group. The raiders beat dozens of men and torched at least three houses. Eleven men vanished and are feared dead. The villagers have no idea who the assailants were, but evidence points to a battalion of amnestied former Chechen rebels allegedly operating under the command of Russia's military intelligence.

In fear of their lives, almost the entire village has fled to the Dagestan side of the border, camping out in tents in a field, fearing to return.

There has been no official explanation for the raid.

This is only one example of the violence that may engulf an unsuspecting village that comes into the crosshairs of the pro-Moscow Chechen militias that operate with impunity and unrestrained cruelty. A number of these militias are no more than marauding gangs only nominally under the authority of the pro-Moscow regime in the Chechen capital of Grozny.

In its March 2005 publication, "More of the Same: Extrajudicial Killings, Enforced 'Disappearances', Illegal Arrests, Torture," the International Helsinki Federation reports:

> "There are a few signs of peaceful life. Compensations for lost housing are slowly beginning to be paid (on rare occasions, even without kick-back to relevant officials), separate islands of reconstruction are appearing in Grozny, and many cars are visible on the streets. The central open-air market is ever so busy.
>
> But some other things have not changed at all: Abductions and illegal detentions of civilians by unknown armed persons dressed in camouflage are still pervasive. The only difference is that these people now do not arrive exclusively in military vehicles, but in regular cars as well. As a result, murders, torture, and beatings have remained unchanged. And the prosecutor's office is still unable or unwilling to provide effective investigation into these endless cases."

Let me make it clear. I have no sympathy for Chechen partisans, or those purporting to sympathize with them, who have committed, and may yet commit, terrorist attacks against the innocent citizens of the Russian Federation, or against those Chechens who may not support the secessionist movement. When we speak of the terrorist attacks on New York, Washington, Madrid, London, Bali, and other cities around the world, we must not forget Moscow, Budennovsk, and Beslan. There must be no double standard in judging terrorism, nor is there any justification for people resorting to terrorism against innocent civilians.

But I refer to one of the most perceptive editorials written on the subject of Chechnya. In the November 11, 2002 issue of Newsweek, Fareed Zacharia wrote:

> "[The Chechens] have been ruthless warriors for their cause, utterly unable to form a stable government, and have indeed resorted to terror. But Russia's actions have helped turn them into terrorists. Russia has destroyed Chechnya as a place, as a polity and as a society. Chechnya is now a wasteland, populated by marauding gangs Putin has spoken of Al Qaeda's presence in Chechnya, but none existed until recently when Chechens, devastated by the Russian onslaught, took help from wherever they could get it.

Some residents of Chechnya, having despaired of finding justice in the Russian judicial system and rejecting terrorism, have applied to the European Court of Human Rights in Strasbourg. They are seeking redress for human rights violations committed under cover of Moscow's "anti-terrorism campaign." Many of these applicants have been harassed and detained by the authorities.

One applicant, Zura Bitieva, had filed an application with Strasbourg regarding the abuses at the notorious "filtration" prison at Chernokosovo. Subsequently, she was killed in May 2003 along with her husband and son during a raid on their home.

The world recoiled in horror from the murderous attack on children in Beslan, North Ossetia. This is but one example of the spread of the cancer of violence emanating from Chechnya. A few days ago, President Putin made an unannounced visit to Dagestan to review the deteriorating security situation in that unquiet Russian republic. Unrest and violence have occurred also in Ingushetia and Kabardino-Balkaria.

Russia is entitled to protect its territorial integrity and to preserve order within its borders, but Moscow's methods hark back to the practices of the Middle Ages. It is as if the principles of the Geneva Accords, the UN, the Council of Europe and the OSCE are completely unknown let alone apply—in Chechnya.

To the best of my knowledge, no one in the Russian Ministry of Internal Affairs has had to answer for the brutality that has taken place at the Chernokosovo prison. When horrific practices at Chernokosovo became known to the international community, Moscow merely shifted the facility's jurisdiction to the Ministry of Justice. According to human rights activists, "filtration" procedures simply moved to smaller, less visible places.

Does no one in the Kremlin stop to consider that continued brutalization of the population and corrupt governance will likely increase the appeal of Islamic radicals in the region? Is Russia's policy in Chechnya the strategy of a serious partner in the war against international terrorism? Or is Russia fighting a fire with an extinguisher filled with gasoline?

Next year Russia will chair the G8. Many informed observers doubt whether Russia should remain a member of the G8, given the downward trajectory of human rights and civil liberties in Russia today.

The Russian Federation's policy in Chechnya reinforces those doubts.

### FIRST ANNIVERSARY OF THE MURDER OF PAUL KLEBNIKOV

Mr. BROWNBACK. Mr. President, I would like to engage in a colloquy with my colleague from New York and fellow member of the U.S. Helsinki Commission, Senator CLINTON.

Mrs. CLINTON. Mr. President, I am pleased to join in a colloquy with the senior Senator from Kansas, and my chairman on the Helsinki Commission, Mr. BROWNBACK. We are united in believing the subject we will address is of great importance to this body. I appreciate my chairman's willingness to present these issues to our colleagues.

Mr. BROWNBACK. Mr. President, 1 year ago this month a tragic crime occurred on the streets of Moscow. On July 9, 2004, Paul Klebnikov, the 41-year-old American editor of Forbes Russia, was murdered in a gangland-style shooting near his Moscow office. His death was an enormous loss for investigative journalism and for efforts to establish the kind of transparent civil society that the Russian people so want and deserve.

Mrs. CLINTON. The most plausible explanation for his murder appears to be the power of his investigative journalism, which explored the connections between business, politics, and crime in Russia. His murder has galvanized those who care deeply about justice, as well as the fate of democracy and the rule of law in Russia.

Paul Klebnikov was a descendant of Russian émigrés and a New Yorker. His widow Musa Klebnikov and children still live in New York City. Paul's murder shows us in tragic terms one of the threats faced by the press and civil society in Russia. The silencing of Paul Klebnikov's voice is a direct challenge to independent journalism, democracy, and the rule of law.

Mr. BROWNBACK. Reading his reporting from Russia, one could tell that he was deeply troubled by the crime and corruption that plagued his ancestral homeland. His personal association with his subject, combined with an educational background in economics, his excellent command of the Russian language, and 15 years experience with the Forbes organization, made him uniquely qualified to report on the nexus of business, politics, and crime in today's Russia.

Paul Klebnikov's killing epitomizes the brazen lawlessness that still plagues Russia even after the ascension to power of a putatively "law and order" ex-KGB official. For all the talk about stability in Russia today, it is sometimes a stability based on not asking the wrong questions about the wrong people.

Mrs. CLINTON. Paul Klebnikov's widow Musa has explained that Paul, through his journalism, sought to foster hope in the hearts of the ordinary Russian citizen, bring corruption to light and focus attention on positive models of how a democracy ought to operate.

Chairman Brownback and I have sought to keep the attention of the United States Government focused on reinforcing with Russian authorities the vital need to hold to account all those responsible for Paul Klebnikov's murder. I was pleased to join with nine of my colleagues on the Helsinki Commission in writing to President Putin and calling for an aggressive investigation into the killing.

I also wrote to President Bush to ask him to raise the issue of Paul's murder with President Putin during their meeting in Bratislava, Slovakia on February 24th. That meeting with President Putin presented an opportunity to make clear that all those involved in instigating, ordering, planning and carrying out the murder should be prosecuted to the full extent of the law.

The Helsinki Commission and my office have been assured that representatives of the State Department have expressed to the Government of Russia the United States Government's desire to see a thorough and complete investigation of this murder.

Mr. BROWNBACK. Yes, State Department and other administration officials have raised the issue frequently with their Russian counterparts. Furthermore, State and other relevant Government agencies have formed an interagency working group to follow the case and consult on strategy. Secretaries of State Colin Powell and Condoleezza Rice met with Klebnikov family members to keep them informed on progress. In addition, Secretary Rice's public remarks during her February 5 visit to Warsaw are heartening. She said it "is important that Russia make clear to the world that it is intent on strengthening the rule of law, strengthening the role of an independent judiciary, permitting a free and independent press to flourish. These are all the basics of democracy."

Mrs. CLINTON. For their part, Russian law enforcement authorities have made arrests and filed charges. While Russian authorities should be commended for the energy they have shown to date, there are additional steps that would increase the chances that all those responsible are held to account. I hope that the United States Government will continue to make clear to Russian authorities that resources such as the Federal Bureau of Investigation are available to assist Russian authorities in the investigation.

Mr. BROWNBACK. Earlier this year, Russian authorities charged two Chechens, Musa Vakhayev and Kazbek Dukuzov, with killing Paul Klebnikov, and subsequently announced that the man who ordered the murder was one Khozh-Akmed Nukaev a former official of the rebel Chechen government. Klebnikov had interviewed Nukaev extensively in his book "Conversations with a Barbarian," and supposedly Nukhayev wanted revenge for the journalist's critical portrayal of him in the book. Mr. Nukaev's present whereabouts are unknown. I should add that relatives and friends of Paul have expressed their doubts about this accusation, which raises more questions than it answers.

Mrs. CLINTON. These recent developments underline the fundamental importance of transparency. I hope the Russian authorities will share as much information as possible with Paul Klebnikov's family. Without a transparent process, doubt will remain that the person or persons truly responsible for ordering Paul's murder will be brought to justice.

Mr. BROWNBACK. Paul believed that the press was the last outpost of freedom of speech in Russia. The fear and self-censorship generated by killing journalists benefits corrupt government officials and businessmen, as well as organized crime figures.

Solving the murder no matter where the investigation leads—will send the signal to other malefactors who seek to muzzle free speech that the days of impunity and lawlessness are over. As we wrote to President Putin, this case is not just about one person, but about what he represented to a new and democratic Russia. I would note also that at least two more journalists have been killed in Russia since Paul's death.

Mrs. CLINTON. Paul Klebnikov's work continues to serve the people of Russia and the cause of democracy. We should continue to press authorities to find everyone who was involved in Paul's murder and hold them to account.

Mr. BROWNBACK. I agree with my colleague from New York. And as Members of the Helsinki Commission, let us work to achieve the goal of freedom of the press, transparency and democracy in Russia.

Mrs. CLINTON. That would be an appropriate gesture in honor of Paul Klebnikov. I look forward to continuing my work with the senior Senator from Kansas and chairman of the Helsinki Commission, and I thank him for his leadership.

Mr. BROWNBACK. I commend the active interest the junior Senator from New York has taken in the Klebnikov case, and I look forward to our further collaboration on other vital OSCE issues before the Helsinki Commission.

## DR. KENT AMES

Mr. SMITH. Mr. President, I rise on the floor today to express my thanks and appreciation to Dr. Kent Ames, who today completes his fellowship in my office, after 9 months of dedicated work with me, my staff, and my constituents in Oregon.

Dr. Ames is a distinguished member of two occupations: veterinary medicine and higher education. He was selected by the Association of American Veterinary Medical Colleges as the North American Outstanding Teacher in 1995. In 2001, Kent served as president of the American Association of Bovine Practitioners.

Kent's fellowship in my office was sponsored by the American Association for the Advancement of Science. During his time here in Washington, DC, Kent has provided a unique scientific perspective on a notable array of policy issues across the spectrum. In the Commerce Committee, he has worked on nanoscience, NASA authorization and the confirmation of the current NASA Administrator. It is thus only fitting that the last week of Kent's fellowship coincided with the successful launch of Shuttle *Discovery*.

Kent's passions seem to be sparked most when politics and science converge. There is no better arena to experience this than in natural resources, especially if one is a veterinarian. In a short time period, Kent has lent his scientific background and outlook to issues such as mad cow disease and international beef trade, foodborne disease, biosecurity, wolf reintroduction, and animal treatment. The management of feral horse populations in the West, which significantly affects Oregon, has been of particular interest to Kent. He developed an enthusiastic and widely recognized expertise in the issue, as well as the scientific and ethical implications of varying policy options.

More than all of this, however, my staff and I deeply value the friendship we have made with Kent Ames. We will miss his warm character and his stories, and wish him happy trails for the days ahead.

## POLICIES RELATED TO DETAINEES FROM THE WAR ON TERROR

Mr. ALEXANDER. Mr. President, when the Senate reconvenes in September, one of the first orders of business will be the Defense authorization bill. During August, I respectfully suggest the President reconsider his opposition to legislation that would set the rules for the treatment and interrogation of detainees.

I have decided to cosponsor three amendments to the Defense authorization bill that clarify our policies relative to detainees from the war on terror. There has been some debate about whether it is appropriate for Congress to set rules on the treatment of detainees, but for me this question isn't even close.

The people through their elected representatives should set the rules for how detainees and prisoners under U.S. control are treated and interrogated. In the short term, the President can set the rules, but the war on terror is now nearly 4 years old. We don't want judges making up the rules. So, for the long term, the people should set the rules. That is why we have a independent Congress.

In fact, the Constitution says, quite clearly, that is what Congress should do: article I, section 8 of the Constitution says that Congress, and Congress alone, shall have the power to "make Rules concerning Captures on Land and Water."

So Congress has a responsibility to set clear rules here.

But the spirit of these amendments is really one that I hope the White House will decide to embrace. In essence, these amendments codify military procedures and policies, procedures in the Army Field Manual, policies regarding compliance with the Convention Against Torture signed by President Reagan, and policies the Defense Department has set regarding the classification of detainees.

That is right. All three of these amendments uphold or codify policies and procedures the administration says we are following today and intend to follow moving forward.

Senator GRAHAM's amendment No. 1505 authorizes the system the Defense Department has created—Combat Status Review Tribunals—which are there for determining whether a detainee is a lawful or unlawful combatant and then ensures that information from interrogating those detainees was derived from following the rules regarding their treatment. Senator GRAHAM's amendment also allows the President to make adjustments when necessary as long as he notifies Congress.

The first McCain Amendment No. 1556, prohibits cruel, inhuman, or degrading treatment or punishment of detainees. The amendment is in specific compliance with the Convention Against Torture that was signed by President Reagan. The administration says that we are already upholding those standards when it comes to treatment of detainees, so this should be no problem.

The second McCain amendment No. 1557 states simply that the interrogation techniques used by the military on detainees shall be those specified by the Army Field Manual on Intelligence Interrogation. The military, not Congress, writes that manual, and we are told that the techniques specified in that manual will do the job. Further, the manual is under revision now to include techniques related to unlawful combatants, including classified portions, that will continue to give the President and the military a great deal of flexibility.

If the President thinks these are the wrong rules, I hope he will submit new ones to Congress so that we can debate and pass them. I am one Senator who would give great weight to the President's views on this matter. It is quite possible the Graham and McCain amendments need to be altered to set the right rules, but it is time for Congress to act.

This has been a gray area in our law. In this gray area, the question is who should set the rules. In the short term, surely the President can. In the longer term, the people should, through their elected representatives. We don't want the courts to write the rules.

In summary, it is time for Congress, which represents the people, to clarify and set the rules for detention and interrogation of our enemies. During the next few weeks, I hope the White House will tell us what rules and procedures the President needs to succeed in this effort. That way we can move forward together.

## VOTE CLARIFICATION

Mr. BIDEN. Mr. President, on the Craig amendment No. 1644 to S. 397, I was unavoidably absent. Had I been present I would have voted "no" on the Craig amendment.

## VOTE EXPLANATION

Mr. ROCKEFELLER. Mr. President, on July 25 and 26, 2005, I was absent from the Senate because I was taking care of an important family matter. During those days, I missed the following six rollcall votes.

Rollcall vote No. 206, taken on July 26, 2005, on the motion to invoke cloture on S. 397, Protection of Lawful Commerce in Arms Act.

Rollcall vote No. 205, taken on July 26, 2005, on the motion to invoke cloture on S. 1042, National Defense Authorization Act for fiscal year 2006.

Rollcall vote No. 204, taken on July 26, 2005, on the Frist amendment No. 1342, as modified, "to support certain youth organizations, including the Boy Scouts of America and Girl Scouts of America, and for other purposes."

Rollcall vote No. 203, taken on July 26, 2005, on the Lautenberg amendment No. 1351, "to stop corporations from financing terrorism."

Rollcall vote No. 202, taken on July 26, 2005, on the Collins amendment No. 1377, as modified, "to ensure that certain persons do not evade or avoid the prohibitions imposed under the International Emergency Powers Act, and for other purposes."

Rollcall vote No. 201, taken on July 25, 2005, on S. Res. 207, "a resolution recognizing and honoring the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990."

## THE HEALTH CENTERS OF DELAWARE

Mr. CARPER. Mr. President, the Senate recently passed S. Res. 31, a resolution expressing the sense of the Senate that the week of August 7, 2005, be designated as "National Health Center Week."

In keeping with this resolution, I rise today to commend the work of the Mid-Atlantic Association of Community Health Centers and of all of the health centers of Delaware for the role they play in delivering quality, affordable health care to the people of Delaware.

Community health centers are community-run and open to all Americans regardless of their ability to pay. Delaware has a number of community health centers, including Westside Health in Wilmington and Newark, Henrietta Johnson in Wilmington, Delmarva Kent Community Health Center in Dover, and La Red Health Center in Sussex County. These centers and those across our Nation are extremely valuable, operating in both rural and urban medically underserved areas and providing care that might not otherwise be available to residents.

By serving as a point of access for affordable primary and preventive care, health centers also help patients stay healthier or, if they are ill, allow them to receive treatment earlier. This prevents patients from having to seek care in the most expensive setting—the emergency room—and therefore can save money for our health system as a whole.

Again, I wish to commend the health centers of Delaware for their dedication. I thank them for the valuable services they provide to all Delawareans.

## ADDITIONAL STATEMENTS

## RECOGNIZING DELEGATE GLENN M. WEATHERHOLTZ

• Mr. ALLEN. Mr. President, I am pleased today to recognize one of Virginia's most dedicated public servants, Delegate Glenn M. Weatherholtz, who is retiring this year after five terms in the Virginia House of Delegates.

Born and raised in Shenandoah County, Delegate Weatherholtz has made a career out of serving his country and his community. His public service includes a two year tour of duty in the U.S. Army. Later, he joined the Virginia State Police, where he served for over 10 years. And I was pleased during my term as Governor to appoint Glenn to be on the Hazardous Materials Commission in Virginia.

Much of Delegate Weatherholtz's career has been spent in law enforcement. In 1971, Glenn was elected sheriff of Rockingham County and Harrisonburg. He was subsequently reelected five times to the position. During his career, he has served as chairman of the Accreditation Committee for the Virginia Sheriffs' Association and the Virginia Chiefs of Police Association.

Glenn's law enforcement record is exceptional. He was named Outstanding Law Enforcement Officer of the Year by the Harrisonburg Moose Lodge, and Outstanding Lawman of the Year by the Harrisonburg Kiwanis Club. As sheriff, he was appointed to be an Honorary United States Deputy Marshal and received the Law Enforcement Commendation by the Sons of the American Revolution. He also graduated from the F.B.I National Academy.

In 1995, Glenn was elected to the Virginia House of Delegates. His committee assignments include: Agriculture, Chesapeake and Natural Resources; Courts of Justice; Militia, Police and Public Safety; and Counties, Cities and Towns. As a delegate, Glenn has shown a strong commitment to commonsense business practices, law and order, education, families, and support for those with mental illness.

Delegate Weatherholtz is married to the former Blanche Gordon. The couple has four children together and they are active in the Brown Memorial United Church of Christ, where Glenn sings in the choir; he is also a lay reader and an elder on the church governing board.

The 26th District, and indeed all of Virginia, will surely miss the leadership and talents that Delegate Weatherholtz displayed in the Virginia General Assembly and throughout his career of service. I thank Glenn for his commitment to improve the Commonwealth of Virginia. And I congratulate him on his retirement and wish him many more years of success and happiness.•

## HONORING THE FIRST CHRISTIAN CHURCH, WEIRTON, WV

• Mr. ROCKEFELLER. Mr. President, it is with great honor that I rise today to publicly recognize the 175th anniversary of the First Christian Church in Weirton, WV. The church has ministered to the Ohio Valley since West Virginia was recognized as our country's 35th state.

The Christian Church, which is also known as the Disciples of Christ, is a Protestant denomination of approximately 800,000 members in the United States and Canada. It is one of the largest faith groups founded on American soil. The founders of the Christian Church were Thomas Campbell and his son Alexander Campbell. Both of these men and other distinguished leaders of the Disciples of Christ ministered at the First Christian Church in Weirton.

Members of the church have been faithful in serving their country. One of the church's original members, in fact, received a Congressional Medal of Honor in 1898. Mr. Uriah Brown received the award for his heroism in the Civil War, especially at the siege of Vicksburg.

Weirton is very much a city that reflects the struggles of the steel industry in our Nation. The city was once a booming steel town, employing up to 20,000 people. Unfortunately, the steel industry has had a very tough time recovering from the massive dumping of steel by our foreign competition in the late 1990s, and the church has had to adapt its ministries to meet the needs of the city's now dwindling population. The challenges that First Christian Church has faced reflect the difficulties faced by the city.

The church helped to create Weirton's Christians Helping Arrange New Growth Enterprises, or the CHANGE program, which encourages the integration of services, the building of partnerships, and the pooling of resources to empower families toward self-sufficiency. As Governor, I saw first-hand the work of the First Christian Church in helping establish Weirton Steel's Employee Stock Ownership Plan, or ESOP, in 1983. When the ESOP was in its beginning stages, First Christian Church provided financial support to the employees as they pulled together to prevent the city's primary business from closing. The church also provided food for those who were in need and assisted members of the congregation who were unemployed throughout this period.

As the church enters it 176th year, it remains an important part of the community, directly addressing the many needs of an aging steel town. Among the several ministries of the church, one includes the church's Food Cupboard, which provides financial and food aid for laid-off steel workers and their families living in the Upper Ohio Valley. The church also has a food relief fund, and it works with the Salvation Army.

The church has not only been influential in Weirton and the Ohio Valley but also in the world. It is a leader in the denomination's Reconciliations Ministry, which is a ministry designed to specifically fight racial prejudice. First Christian Church has been one of the top five financial givers to the Reconciliations Ministry. In addition, they work closely with St. Peter's AME Church, which has an African American congregation. Even though St. Peter's is not the same denomination as the First Christian Church, the church considers it a sister church.

Since 1830, the First Christian Church has provided a place of hope, faith, shelter, and witness for the people of West Virginia. I join with them in celebrating its good works and wishing it all the best as it prepares for another century of service.•

## TRIBUTE TO DONALD T. BUTLER

• Mr. SESSIONS. Mr. President, I recently had the opportunity to meet a wonderful American, Donald Butler, who served his country ably in Vietnam. His story is typical of so many Americans who have placed their lives and health at risk for their country.

Donald Butler was drafted 6 months after graduating from Straughn High School in Covington County, AL. After completing basic training and advanced infantry training, he left for Vietnam on April 17, 1966.

Having trained as an infantryman, he was slated to go with the Big Red One, the first division called to fight in Vietnam, but at the last minute became a replacement for the 25th Infantry Division and later went with the 27th Infantry, Tropic Lightening, Charlie Company in CuChi, Vietnam.

CuChi, Vietnam, as the world later learned, was home to the CuChi tunnel complex—130 miles of underground passageways started during the war against the French and expanded when the Americans arrived. Built by night over many years, the tunnels allowed the Vietcong to become invisible to the enemy, conceal snipers and move weapons silently. The G.I.'s that fought in the tunnels were a special breed, known by their peers as "Tunnel Rats." They were fearless warriors. Donald Butler was one of them.

At a slight 100 pounds, Donald was able to do what many of his fellow soldiers could not, squeeze through the tight trap doors and crawl along the narrow passages of the clay tunnels with relative ease. Make no mistake, while his size aided him in his mission, it was his even temperament and inquisitive mind that made him a true "Tunnel Rat". It was not uncommon for him to crawl through narrow, pitch black tunnels for hours looking for the enemy.

Over a period of 9 months, Donald went out on 37 operations, most of which were search and destroy missions. He saw his fellow soldiers lose their limbs and, in many instances, their lives. He lived through air strikes and mortar attacks and somehow managed to return from the front lines of Vietnam without ever sustaining a direct hit. For that, many would say he was lucky.

Like so many of our veterans, Donald Butler returned from the war to face an uncertain future. "When I got off the plane in Montgomery on April 18, 1967, I thought I was going to get shot because we had heard of the protests back in the U.S." he later recalled. To this day he suffers from post traumatic stress and severe hearing loss. He is an undecorated hero who should be applauded and thanked for his service and I rise to do that today.•

## RECOGNIZING DELEGATE ALLEN L. LOUDERBACK

• Mr. ALLEN. Mr. President, I am pleased today to recognize one of Virginia's most dedicated public servants, Delegate Allen L. Louderback, who is retiring after serving three terms in the Virginia House of Delegates.

Delegate Louderback has been a strong advocate for lower taxes in Virginia, serving as the ranking majority member of the House Finance Committee, and as the chairman of both the House Subcommittee on Sales Tax Exemptions and the Subcommittee on Tax Preferences. From 2001 to 2003, he also served on the Joint Subcommittee to Reform Commonwealth Tax Structure.

In addition, Delegate Louderback served on the Agriculture, Chesapeake and Natural Resources Committee, where he chaired the Chesapeake Subcommittee, and sat on the House Committee on Militia, Police and Public Safety. In 2002, he was named Legislator of the Year for the 140-member Virginia General Assembly by the Family Foundation. And in 2003, Allen was awarded the same honor by the Commissioners of Revenue Association. Delegate Louderback is also a member of the Commonwealth Competition Council, the State Procurement Commission, and the State Water Commission, where he chairs the Karst Subcommittee.

Prior to his small business entrepreneurship and public service in Luray, VA. Allen worked in Washington, DC, as an investigator and manager for the U.S. General Accounting Office for 18 years. As a manager at GAO, he was the recipient of the Director's Award for his "outstanding managerial skills" in 1979.

Delegate Louderback earned his B.S. from Virginia Polytechnic Institute and State University. He is a past president of the Luray Rotary Club and the Luray Kiwanis Club. His wife, Nadia, and two sons attend Leaksville United Church of Christ.

The 15th District, and indeed all of Virginia, will surely miss the leadership and talents that Delegate Allen Louderback displayed in the Virginia General Assembly. I would like to recognize and thank Allen for his commitment to bettering the Commonwealth of Virginia. I congratulate him on his retirement and wish him many more years of success and happiness.•

## RECOGNIZING MAYOR RALPH H. DEAN

• Mr. ALLEN. Mr. President, I am pleased today to recognize Mayor Ralph Dean of Luray, VA, as he celebrates his silver anniversary this month as the town's highest elected official. Since 1980, Mayor Dean has worked to make the town of Luray a better place to work and live, and I applaud him for such dedicated public service.

For 25 years, Mayor Dean has been a successful advocate for lower taxes and business growth in Luray. His policies have helped to attract industry and investment, which have in turn created more jobs for the local citizens. He has also helped develop recreational opportunities for his town, such as Lake Arrowhead and Luray Recreational Park. And, in 2004, Ralph oversaw the beautiful new renovation of Luray Town Hall. The expansion and revitalization of Luray under Mayor Dean's leadership has helped the town become a more prosperous and enjoyable place to call home.

The mayor has also built a great family with his wife Billie. They have a daughter named Dixie Dean Foltz, and a grandson named Patrick Foltz. Mayor Dean is a member of the Luray Christian Church. He has also been a member of the Luray Lions Club for over 30 years and a Boy Scout Leader for over 20 years. Prior to his tenure as mayor, Ralph served on the Luray town council from 1974 until 1980.

Mayor Dean is an effective leader in Luray because he genuinely enjoys what he does and cares about the citizens of Luray. I congratulate the mayor on 25 years of dedication to public service in Luray, VA, and wish him and his family many more years of happiness and success. Our Commonwealth is fortunate to have a man of his character and leadership leading the way in the town of Luray.•

## RECOGNIZING COL HENRY MITNAUL

• Mrs. DOLE. Mr. President, Henry Mitnaul of the U.S. Air Force has served as the Military Assistant in the Office of the Assistant Secretary of Defense for Legislative Affairs for the past 2 years. As the principal military contact for the Directors of Legislative Liaison of the Services, the Joint Chiefs of Staff, and the Office of the Secretary of Defense, he played a critical role in ensuring that all defense-related legislative issues were addressed.

During this period, Colonel Mitnaul dealt with congressional requests for information and was the chief coordinator for military travel requests. Colonel Mitnaul's expertise and experience with the Department's Travel Program certainly made him an invaluable asset to Congress, White House staff, and national security personnel. During his time in office, Colonel Mitnaul planned and coordinated over 650 congressional and White House travel requests.

I understand that Colonel Mitnaul's proficiency in the congressional process helped him become an admired and respected member of the Assistant Secretary's office. His nature and professionalism served him well, as he capably worked alongside Members of Congress and congressional staffers, executive branch officials, and those in private sector organizations. Colonel Mitnaul's accomplishments reflect highly upon himself, the U.S. Air Force, and the Office of the Secretary of Defense.

I am proud that Colonel Henry Mitnaul is a fellow North Carolinian. I am grateful for his lengthy and distinguished career in public service, as I am for all who serve.•

## TRIBUTE TO DUANE JOHNSON

• Mr. SESSIONS. Mr. President, I first met Duane Johnson when he came on the baseball field at Wilcox County High School in 1965. We were a small school. I was a senior in a class of 30 and Duane, a junior, had just moved to town. Though we had a competitive team, winning our division of the Black Belt Conference that year, we were not particularly talented. While we knew a good bit about baseball, we had not grown up as kids do today, playing well-coached and competitive baseball from elementary school on up. Duane, however, impressed us at once with his skill and knowledge of the game. I liked the way he handled first base and he could hit too. More importantly, he was never showy but played within himself. We were impressed and liked him.

That was quite a few years ago and we have not seen one another since, I don't think. So it was with real pleasure that I read that my old teammate, now the head coach of Patrician Academy in Butler, Alabama, had just completed a sterling season with a 25–7 record, winning the AISA State Championship. Further, Duane was named AISA "Coach of the Year". He has been the head coach at Patrician for 20 years and has been a part of 6 state championships as a Saint. This year's team produced two All-State players, Bo Meeks and Brent Bonner, and an honorable mention, Brandon Mosely. Quick to give credit to others, Duane praised assistant coach Jim Archibald to the Choctaw Sun saying, "We couldn't have done it without him." After graduating from Wilcox County High School in 1966, Duane attended Livingston University, now the University of West Alabama, where he played baseball. He is married to the former Nara Gyles, a Choctaw County native, and has three children. Typical of so many of Alabama's teachers and coaches, Duane was a member of the Alabama National Guard and was a veteran of "Desert Storm". Our country is deeply indebted those civilians who serve in the Guard and Reserve and who are prepared to respond when called upon. Coaches mean a lot to young people and I know that the consistent record of success that Duane has had at Patrician demonstrates his ability to positively impact these young people. All over this country, coaches give their time and attention to boys and girls, introducing them to the thrill of victory and the agony of defeat. More importantly, they teach them teamwork. Teamwork is a very important strength of Americans. We have the ability to quickly organize ourselves and function as one whether in business or combat. Such character traits are largely developed on the athletic field. Great teamwork comes from great coaches.

Let me close by giving my sincerest congratulations to Coach Johnson and his state championship Saints. They have had a most memorable season and they will be able to savor their achievement for the rest of their lives.•

## BICENTENNIAL OF THE BIRTH OF HIRAM POWERS

• Mr. JEFFORDS. Mr. President, today, July 29, 2005, is the bicentennial of the birth of Hiram Powers, an American neoclassical sculptor whose works are admired in museums throughout this Nation and in this beautiful Capitol. Yesterday, today, and tomorrow lovers of art and students of history are gathering in Woodstock, VT, the town of Hiram Powers birth and his early years, to celebrate and rediscover his contributions to American art and sculpture.

I sincerely wish I could join the Hiram Powers Celebration Committee in Woodstock this weekend. However, to enjoy Hiram Powers work, I only have to walk a few steps out of this Chamber. At the foot of the East Staircase, just outside the Senate Chamber, stands a statue of Benjamin Franklin sculpted by Hiram Powers. That statue, commissioned by President James Buchanan in 1859, was delivered to its present location in 1862. In the corresponding location in the House Wing of the Capitol stands a statue of Thomas Jefferson, completed by Hiram Powers in 1863. Also here in the Capitol, a bust of Supreme Court Chief Justice John Marshall by Hiram Powers resides, fittingly, in the Old Supreme Court Chamber.

The Smithsonian American Art Museum collection includes 70 works by Hiram Powers. The Corcoran Gallery of Art and the National Gallery of Art, both located here in Washington, also include works by Hiram Powers in their distinguished collections. In other U.S. cities—including New York City, Boston, Cincinnati, and Milwaukee, to name a few—museums of fine arts hold Hiram Powers' works.

Hiram Powers' most well-known sculpture is "The Greek Slave," first completed in 1843. One rendition from 1846 sits today at the Corcoran, and a later rendition from 1873 can be found at the Smithsonian. To quote a curator of American Art at the corcoran, "The Greek Slave," the first publicly exhibited, life-size American sculpture depicting a fully nude human figure, met with unprecedented popular and critical success. Arguably the most famous American sculpture ever, the Slave not only won Powers enormous international acclaim but also enhanced the overseas reputation of American art and culture." Hiram Powers was an outspoken abolitionist in the decades preceding the Civil War. "The Greek Slave", which depicts a Greek Christian woman, captured during the Greek War of Independence, awaiting her sale in the slave market, became a symbol of the savagery of slavery in the United States. Scholars note that it was the most widely viewed statue of its time thanks to its tour of Eastern and Midwestern States.

Hiram Powers died in 1873, leaving behind the richest legacy of art of, perhaps, any American sculptor. I close today by thanking the Hiram Powers Celebration Committee. I wish them success during this weekend's events to remember Hiram Powers, his contributions to American art, and his Vermont heritage.•

## TRIBUTE TO THE LIFE OF L. D. "DICK" OWEN, JR.

• Mr. SHELBY. Mr. President, I rise today to pay tribute to a long time friend and lifelong Alabamian who recently passed away. Mr. L. D. "Dick" Owen, Jr. died at the age of 86 following a life dedicated to service, family, his community and his State.

Dick has led a remarkable life. As a war hero, he received six Bronze Stars and an Arrowhead. He served as a U.S. Paratrooper during World War II in North Africa and Europe, and in the Far East during the Korean Conflict. As a public official, he was devoted to the environment, agriculture and education. And as a member of the Bay Minette community, Dick was a dedicated public servant to his hometown and served in numerous volunteer positions throughout his life.

Born in Baldwin County on April 10, 1919, he attended Baldwin County Schools and graduated from the University of Alabama in 1941. Upon college graduation, he was commissioned as a 2nd Lieutenant in the U.S. Army Reserve and entered Active Duty on June 27, 1941.

In August 1942, Dick attended Airborne School, and after completion of training at Fort Benning, GA, he was assigned to the 504th Paratroop Infantry Regiment, 82nd Airborne Division at Ft. Bragg, NC.

He served overseas from May, 1943, until November, 1945, and it was during his service in Europe that he received six Bronze Stars and an Arrowhead for his participation in the invasions into Sicily, Naples, Rome (Anzio), Rhineland, the Aredenes (Battle of the Bulge) and Central Europe. He was awarded the highest Dutch military decoration, the Militaire Willems Order, and also the Belgium Citation Fourogere, while his unit, the 504th, received the Distinguished Unit Citation.

Upon his separation from Active Duty, Dick served in the Army Reserves and was recalled to Active Duty in November, 1950, serving at Ft. Jackson, SC, and deploying to Japan and Korea with the 187th Airborne Regimental Combat Team. He retired as a Lt. Colonel from the U.S. Army Reserve in 1963.

Upon retirement from the Army, he settled back in Bay Minette serving on the School Board, as President of the Bay Minette Chamber of Commerce, and as an active participant in the United Fund, the American Red Cross and the American Cancer Society. In 1950, he was elected State Commander of the V.F.W.

He was appointed to the Alabama Battleship Commission in 1963, a position he held for the remainder of his life. He was also a member of the Bay Minette City Council, was Probate Judge in Baldwin County, and was one of two Alabama members on the Gulf Marine Fisheries Commission.

It was not until my time in the Alabama Legislature that I was really able to get to know Dick Owen. He was extremely committed to his positions in both the State House and State Senate, and his constituents were well served by his dedication to them and his devotion to the issues. He was elected to the House in 1965 and served two terms before being elected to the Senate in 1970 where he also served two terms.

In the Senate, he was Chairman of the Finance and Taxation Committee and Chairman of the Conservation Committee. He also served as a member of the Commerce, Transportation and Common Carriers Committee; the Insurance Committee; the Constitution and Elections Committee; the Agriculture Committee; and the Local Legislation No. 1 Committee. He also held positions on the Interim Insurance Study Committee and was Chairman of the Fishing Reef Committee.

During his career, Dick focused his energy on a number of issues. Whether it was agriculture, education, conservation or prison reform, he recognized the importance of these issues to his constituency and the entire State of Alabama.

As a member of the Senate Agriculture Committee, he supported development, growth and protection of Alabama's agriculture and forestry industry. He led the fight to keep farm truck prices low, and he favored expansion of the Farmer's Market Authority. In addition, he sponsored a number of bills relating to conservation, forestry, agriculture and law enforcement. Among these were the $43 million State Parks Program and the Anti-water Pollution Act.

As a Representative and Senator, Dick Owen was a strong advocate for educational opportunities for all people, and he recognized the need to make improvements to the education system in Alabama. Before his election to the Alabama legislature, he was proud to help bring Faulkner State Community College to Bay Minette.

He sponsored many bills in both houses to conserve our natural resources and ensure continued growth of renewable resources. He received the "Governor's Conservation Legislator off the Year" award in 1971 from the Alabama Wildlife Federation.

Dick was also active in prison reform work and was recognized by law enforcement and prison officials for legislation he authored regarding this issue.

Year after year, he was a champion for his constituents.

Well after Dick left politics and public life, he continued to serve his community and State well. He owned Builders Hardware and Supply and was active in the Bay Minette Rotary Club. He was a devoted alumnus of the University of Alabama, contributing his time and energy to the growth of the Alumni Association. He was also a Mason, Shriner and active in the Baptist Church.

A devoted family man, he is survived by his beloved wife, the former Annie Ruth Heidelberg of Mobile; his son L.D. Owen III of Bay Minette; his brother James R. Owen of Bay Minette; and his sister, Nell Owen Davis of Gulf Breeze, Florida. He also has three grandchildren and two great-grandchildren.

I cannot say enough about the impact this man had on so many lives. As a war hero, a legislator, a community advocate, a husband and a father, Dick Owen spent his life making Alabama and this country a better place. He will be greatly missed by all who knew him.•

## RETIREMENT OF DR. ROBERT H. BARTLETT

• Mr. LEVIN. Mr. President, I would like to take this opportunity to recognize Dr. Robert H. Bartlett, an accomplished surgeon, professor and inventor, who recently retired from seeing patients at the University of Michigan Medical Center. Dr. Bartlett, who earned his bachelor's degree from Albion College and graduated cum laude from the University of Michigan Medical School, was honored by his peers during a ceremony on June 23, 2005.

Dr. Bartlett is admired across Michigan for his dedicated service to his patients and his contributions to the advancement of medicine. His excellence in the practice of medicine has been demonstrated throughout his exemplary career, which spans more than 40 years. In particular, his work in developing a heart-lung bypass technique called extracorporeal membrane oxygenation, or ECMO, has saved the lives of over 30,000 infants, children, and adults.

Dr. Bartlett began his work on ECMO in 1965 while an assistant resident at Boston's Brigham and Children's Hospital. After his residency, Dr. Bartlett received a series of surgical teaching and research fellowships at Harvard to continue his research. In 1970 Dr. Bartlett became an assistant professor of surgery at the University of California in Irvine, while also practicing medicine at the Orange County Medical Center. Five years later the first successful use of ECMO in an infant would take place at the Orange County Medical Center. Over the next 5 years, Dr. Bartlett would use this technique successfully 25 times.

In 1980, Dr. Bartlett returned to the University of Michigan Medical Center to continue to conduct research and treat patients until his retirement earlier this year. It was there that ECMO transistioned from being an experimental procedure to becoming standard practice at more than 90 medical facilities worldwide. In addition to this work, Dr. Bartlett continued to treat patients and served as chief of critical care medicine at the University of Michigan. Dr. Bartlett plans to continue his groundbreaking medical research.

Dr. Bartlett has published numerous articles, monographs, chapters, and books throughout his illustrious career. In 2003, he was awarded the prestigious Jacobson Innovation Award from the American College of Surgeons. He was also elected to the Institute of Medicine and was the recipient of the Medal of Special Recognition from the National Academy of Surgery of France. Dr. Bartlett has served as president of both the American Society for Artificial Internal Organs and the International Society for Artificial Organs. Dr. Bartlett has been married for more than 30 years to his college sweetheart, Wanda, with whom he has 3 children and 4 grandchildren.

I know my colleagues join me in congratulating Dr. Bartlett on his success and achievements in the field of medicine. I am pleased to offer my best wishes on his retirement from seeing patients and his continued efforts to advance medical research.•

## TRIBUTE TO THE HON. CHARLES R. "RANDY" BUTLER, JR.

• Mr. SESSIONS. Mr. President, I will to make some remarks today about a very valuable public servant, Judge Charles R. "Randy" Butler, Jr., U.S. District Judge for the Southern District of Alabama.

Judge Butler was born in New York. He earned a B.A. degree from Washington and Lee University in 1962, and a law degree from the University of Alabama School of Law in 1966. He served as an assistant public defender for Mobile County, Alabama, from 1969 to 1971; as district attorney for Mobile County from 1971 to 1975; and, he was engaged in the private practice of law in Mobile from 1975 until October 15, 1988, when he was appointed by President Ronald Reagan as a U.S. District Judge for the Southern District of Alabama. He served as chief judge from July 9, 1994 to February 20, 2003, and served on the Judicial Conference, the principal policy-making body for the Federal court system, from 1999 through 2003.

As the U.S. Attorney for the Southern District of Alabama from 1981 until 1992, I had the opportunity to practice before Judge Butler and saw first hand that his experience gained from having been a former prosecutor, a former public defender, and a former private practitioner were extremely valuable to him.

During several years of Judge Butler's service, the Court was understaffed by one or more judges. During this time, Judge Butler worked very hard not only handling his own caseload, but handling a great deal of extra work caused by the shortage. While doing all of that, he also found time for the many demanding duties of his position as chief judge and as a member of the Judicial Conference of the United States.

In describing his service to the Southern District, I would like to quote from his letter of nomination for the 2003 Judicial Award of Merit, which he received: "Despite the overwhelming demands on his time, Judge Butler worked tirelessly to reasonably maintain the civil and criminal docket of the Court. Judge Butler routinely held hearings on criminal matters before civil trials commenced, during his lunch hour, and after civil trials concluded for the day. As Chief Judge, Judge Butler further worked to improve the administrative efficiency and user-friendliness of the Court. During his tenure, court rooms have been updated with cutting edge trial presentation technology.

"All the while, Judge Butler has served with the dignity and decorum deserving of our Federal courts and he has given his undivided and thoughtful attention the myriad and varied matters routinely presented to him."

Judge Butler brought a natural courtesy to the courtroom that made all feel at ease. While he was a strong judge who never, ever lost control of his courtroom, his ease of manner facilitated a courtroom atmosphere most conducive to fair outcomes. His strong faith and character reflect the essence of who he is. He was raised right and his faith has deepened over the years. While he routinely imposes sentences according to the guidelines on wrongdoers, he is compassionate and felt for those he sentenced. Indeed, he is an active backer of his wife, Jacque, and her faith-based outreach to women prisoners and their families. They are active Episcopalians and strong believers that every human being is precious and worthy of compassion.

I also have been pleased and proud to watch Judge Butler's active and important leadership role on the Judicial Conference of the United States. He has served as a member and on its executive committee. Judge Butler's experience in a wide variety of trials and his personal knowledge of a working courtroom have been most valuable to the Judicial Conference.

Finally, I would like to commend him for his stewardship of and leadership of my courthouse and its remarkable family. For many years, the court family, in which I include the Magistrates, the Clerk, the Probation Officers, and the security personnel, has worked together closely and harmoniously over the years, committed always to the highest ideals. Judge Butler inherited an excellent court family and has raised their teamwork for justice to an even higher level. I wish all courts could operate so harmoniously. The U.S. District Court for the Southern District of Alabama has a proud record of integrity, industry, legal skill and collegiality. Judge Butler has been an outstanding judge under some demanding circumstances. His dedication and commitment to duty have greatly benefitted this court.

My appreciation and respect for the service of Judge Butler is unbounded. He has served the people of the United States and the rule of law with fairness and integrity. I am glad that he remains fit and active. While he deserves to catch his breath, I am sure that he will continue to reward the citizens of this great country by carrying an active caseload. That will be a blessing indeed.

On March 28, 2005, Judge Butler took senior status and on June 17, 2005, his portrait presented by the Mobile Bar Association, was unveiled in the ceremonial courtroom of the John A. Campbell Courthouse in Mobile, Alabama. I was honored to have a place on that program.•

## TRIBUTE TO SID HARTMAN

• Mr. COLEMAN. Mr. President, while the Senate is in recess next month, a remarkable event will take place in Minnesota, the Sid Hartman "Close Personal Friends" Celebration. It is worth a few moments of the Senate's time for me to honor this great Minnesota personality.

They say that history is just the biography of very significant people. Individuals create history with their words, their style, and their accomplishments. Sid Hartman never ran a company or held elective office. But he has had an impact on Minnesota just by being who he is: a hardworking, opinionated, and irrepressible sports journalist for more than 50 years.

Sid's life began the way most great lives start: with humble beginnings and hard work. He worked his way up from being a newspaper delivery boy, to copy boy to reporter. He helped run the original Minneapolis Lakers NBA team. He had a hand in the start of two of Minnesota's other major sports franchises: the Twins and the Vikings.

And to this day, his column appears in the Minneapolis Star Tribune every Sunday, Monday, Tuesday, and Saturday. It is full of news, speculation and prophesies about the world of sports, and everything that touches it.

Sid Hartman's popularity and impact comes from three sources we should all tap into:

First, he works harder than anyone else. He frequently reminisces that he develops news stories the way he sold newspapers: start early, keep moving and be aggressive.

Second, he understands the power of relationships. He is a "Google" of first hand sports information about the main figures of sports over the last 50 years. Just mention Bud Grant or Bobby Knight or George Steinbrenner or any famous player to him and you get a fascinating personal download. He builds and maintains relationships.

And third, Sid is just who he is: nothing more, nothing less. I don't know if Bill Cosby is a "close personal friend" but he sure describes his life with this quotation: "I don't know the key to success. but the key to failure is trying to please everybody." In an era of carefully measured words and hypersensitivity, Sid Hartman just speaks his mind.

Half the fun of sports is talking about the games after they are over and anticipating them before they begin. Sid has livened up the conversation. He has made us laugh, made us angry and some times made us wonder where in the world he was coming from. But he always added spice to our lives.

Sid Hartman is being honored on August 7, 2005, in Minneapolis. But the event is not about him: it is about bringing people together to support the scholarship fund of the University of Minnesota, Sid's great love. Despite his sometimes gruff exterior, Sid has a soft spot in his heart for the athletes of the U and all Gopher sports. His love and support and his encouragement, public and private, has made a big difference in hundreds of young lives.

Growing up, I heard the expression: "Hearts that are tender and kind and tongues that are neither make the finest company of all." Sid has been great company for thousands of ardent and casual sports fans of the Upper Midwest. He has helped make Minnesota the fun, interesting place it is today.

Congratulations, Sid Hartman, for your example and your contribution to the quality of life of our State—and Go Gophers!•

## CONGRATULATING MR. EDWARD BROWN

• Mr. BUNNING. Mr. President, I rise to congratulate Mr. Edward Brown of Albany, KY. In the winter of 2005, Edward won the Kentucky competition for the 2005 Voice of Democracy Patriotic Audio Essay Contest.

This nationwide competition is sponsored by the Veterans of Foreign Wars and is now in its 58th year. The competition requires high school student entrants to write and record a 3- to 5-minute essay on an announced patriotic theme. The theme for 2005 is "Celebrating Our Veterans' Service."

Mr. Brown's accomplishment has also earned him the "$1,000 Department of Wyoming and its Ladies Auxiliary Scholarship Award." A student of Clinton County High School, Edward also finds time to pursue academic and cultural interests such as political science, music, and art.

The Albany Veterans of Foreign Wars Post 1952 and its Ladies Auxiliary can be proud to sponsor Mr. Edward Brown. Being recognized by this organization is truly an honor. I congratulate Edward for his hard work and achievement.•

## TRIBUTE TO LIEUTENANT COLONEL JOHN D. WASON

• Mr. INHOFE. Mr. President, I rise today to pay tribute to an exceptional officer of the United States Army, Lieutenant Colonel John D. Wason, upon his retirement after more than 20 years of distinguished service.

Throughout his career, Lieutenant Colonel Wason has personified the Army values of duty, integrity, and selfless service across the many missions the Army provides in defense of our Nation. During his time as—a Congressional Legislative Liaison Officer in the office of the Secretary of the Army, many of us on Capitol Hill have enjoyed the opportunity to work with Lieutenant Colonel Wason on a wide variety of Army issues and programs, and it is my privilege to recognize his many accomplishments. I commend his superb service to the U.S. Army and this great Nation.

Lieutenant Colonel John D. Wason was commissioned as a Second Lieutenant, Field Artillery, after graduating from California State University-Sacramento in 1985. His first assignment was as a Company Fire Support Officer, Battery Fire Direction Officer, and Battery Executive Officer for the 3rd Battalion, 19th Field Artillery, 5th Infantry Division at Ft. Polk, LA from 1985 to 1989. He commanded B Battery, 5th Battalion, 3rd Field Artillery in the Federal Republic of Germany from 1990 to 1992. Following his assignment in Germany, LTC Wason spent 28 months as a Recruiting Company Commander in Northern California from 1992 to 1994. In 1994, LTC Wason was selected as a member of the Army Acquisition workforce. From 1994 to 2001 LTC Wason served in a variety of Army Acquisition positions at White Sands Missile Range, NM and Picatinny Arsenal, NJ working on major Army weapons programs such as the Army Tactical Missiles System, Crusader, and the LW 155 Artillery system.

In 2001, LTC Wason was selected as a Department of Defense Congressional Fellow. His selection was followed by a 1 year assignment working on my personal staff. Following his Fellowship, LTC Wason served in Programs Division, Office of the Chief of Legislative Liaison. Lieutenant Colonel Wason maintained a constant liaison with Professional Staff Members of the Senate and House Armed Services Committees on issues relating to Army Procurement programs focusing on Army Aviation, Weapons and Tracked Combat Vehicles.

Throughout these varied and demanding assignments, Lieutenant Colonel Wason provided outstanding leadership, advice, and sound professional judgment on numerous critical issues of enduring importance to both the Army and Congress. John's counsel and support were invaluable to Army leaders and Members of Congress as they considered the impact of their decisions on these important issues.

On behalf of Congress and the United States of America, I thank Colonel Wason, his wife Betsy, and his entire family for the commitment, sacrifices, and contribution that they have made throughout his honorable military service. I congratulate Lieutenant Colonel John Wason on completing an exceptional and extremely successful career, and wish him blessings and success in all his future endeavors.•

## TRIBUTE TO DR. MARY CLUTTER, NSF

• Mr. BOND. Mr. President, I rise to honor Dr. Mary E. Clutter who will be retiring in August from the National Science Foundation, NSF. To say that Dr. Clutter has had a distinguished career at the NSF would be an understatement due to her countless achievements in the area of biological science. Today's biological science has not only been assisted by Dr. Clutter but in many respects, it has been defined by Dr. Clutter, and her leadership in this important scientific area.

Dr. Clutter personifies the model public servant with a career at the NSF that spanned almost three decades. Dr. Clutter began her career as a temporary program officer at the NSF. Over the ensuing years, she has served with distinction in many important leadership roles at NSF: as the division director of Cellular Biosciences, Senior Science Advisor to the NSF Director, acting deputy director, and assistant director for the Directorate for Biological Sciences. She has served four Presidential administrations beginning with President Ronald Reagan to our current President George W. Bush. As a member of the Senior Executive Service, Dr. Clutter has received numerous awards, including the Meritorious and Distinguished Executive Presidential Rank Awards from Presidents Ronald Reagan, George H.W. Bush, and William Clinton.

During her career, Dr. Clutter has worked to develop a long-term and forward-thinking strategic vision for the biological sciences within NSF covering plant biology, environmental biology, computational biology, biodiversity research, long-term ecological research, and nonmedical microbiology. Further, these areas of research have influenced other scientific research areas and will continue to influence the biological sciences for years to come.

In my opinion, Dr. Clutter's most important achievement has come in the area of plant genome research. It is without question that what we now know and will know about plant genome research would not have occurred without Dr. Clutter's vision, leadership, and hard work. In 1997, I asked the Office of Science and Technology Policy, OSTP, to create an interagency working group to develop a new national plant genome initiative. OSTP wisely appointed Dr. Clutter to cochair the working group and, under her leadership, a plan for the national plant genome program was born in June 1997. Under the new National Plant Genome Initiative, Dr. Clutter brought together key Government research personnel from NSF, the Department of Agriculture, the National Institutes of Health, and others to develop and implement the plant genome program.

The plant genome research program at NSF has grown from an initial $40 million in fiscal year 1999 to $95 million today and Dr. Clutter has ensured that every penny has been spent wisely and, with this investment, the United States is the world leader in plant genome research. The plant genome program has already yielded tremendous results that will eventually contribute to better agricultural products that will improve human health and nutrition. For example, Dr. Clutter's leadership has contributed to the completion of the Multinational Arabidopsis Sequencing Project. This project was completed 3 years ahead of schedule and produced the first complete sequence of a higher organism. This work has further contributed to the sequencing work of other plants such as maize, soybeans, and other economically significant crops.

With this research, scientists are now beginning to understand the basic mechanisms underlying important plant traits such as cold tolerance, disease resistance, and seed development. Dr. Clutter's leadership has created a new scientific foundation on plant biotechnology that will eventually yield major breakthroughs in our understanding of plants, which will eventually lead to the development of new advances in agriculture, energy, and the environment. I strongly believe that the impressive research being done with plant genomics, led by Dr. Clutter, can eventually be a very powerful tool for addressing hunger in many developing countries such as those in Africa and Southeast Asia.

While Dr. Clutter's contributions to plant biology and genomics are extremely distinguished and too numerous to list in this tribute, I do want to emphasize the role she has played in broadening the participation of women and minorities in the fields of science. Countless number of today's scientists and our future scientists have been positively influenced by Dr. Clutter. She has promoted and emphasized international research collaboration between U.S. and foreign scientists and provided opportunities for international research experiences for young scientists.

As the former chairman of the VA-HUD and Independent Agencies Appropriations Subcommittee, my staff and I have found Dr. Clutter to be an invaluable resource and ally in advancing plant genome research. I especially enjoyed her professionalism and passion for science, which never waned or wavered during the years I worked with her.

Finally, on a personal level, in addition to being a leading intellect, she is warm, engaging, enthusiastic, and has a high tolerance for the less knowledgeable. Dr. Clutter's new liberties are well deserved but her departure will be a major loss to the NSF and the Federal Government. She will clearly be missed by the science community, and I will definitely miss her in this capacity, both as a friend and a public servant. I wish Mary and her family all the best.●

## A TRIBUTE TO CLARENCE WANZER

● Mr. ROCKEFELLER. Mr. President, I rise today to recognize and honor Clarence Wanzer, a resident of Coal Branch Heights, Charleston, WV, who has devoted his life to leadership and service in his community.

Mr. Wanzer, who will turn 95 on September 4, was born in Charleston, WV. In 1919, Mr. Wanzer joined Simpson Church but soon moved to Columbus, OH to be raised by his grandmother. Mr. Wanzer did not return to Charleston until the 1930s.

After Mr. Wanzer returned to his birthplace, he took a job with the U.S. Postal Service. Later, he purchased a piece of property in Coal Branch Heights, a residential community in Charleston. The community received its first glimpse of Mr. Wanzer's personal determination and conviction when he began construction on his home. Without outside help and during his spare time, Mr. Wanzer hand-dug the basement and completed construction on his block house.

Since the 1930s, Mr. Wanzer, working tirelessly to better his community, has participated in numerous community organizations. These activities have benefited the residents of Charleston and West Virginia as a whole.

In 1950, Mr. Wanzer's life forever changed. He assisted Rev. Ernest Smith, a local pastor, by polling the residents of Coal Branch Heights as to which Christian denomination they would like to belong. The residents chose the Methodist faith, and a developer donated land to the Methodist Conference for the construction of a new Methodist church.

Although Mr. Wanzer helped to build St. Stephens Methodist Church, the Methodist district superintendent refused him the right to worship within the building's walls. At that time, half of Coal Branch Heights' population was Black and the other half was White. Mr. Wanzer, an African American, was not permitted to worship with St. Stephens' all-White congregation. In response to this injustice, Mr. Wanzer purchased a small parcel of land, and he courageously constructed a second building in which all people of color could worship.

In 1965, the Methodist district superintendent invited Coal Branch Heights' Black families, the same families he had once turned away, to join the St. Stephens' parish. Mr. Wanzer's family joined St. Stephens in 1965, and he was able to enjoy the fruits of his decade-old labor.

Since 1965, Mr. Wanzer has touched the lives of those around him by holding a variety of leadership offices as well as inspiring other community members to become activists of the Christian faith. Today, he continues to serve his community. He recently, in his early 90s, undertook the task of seeking funds to fix a large sinkhole on Twilight Street.

I thank Mr. Wanzer for his unswerving loyalty and dedication to his community. Additionally, I wish him good health as he continues to serve the people of West Virginia. He serves as an inspiration to all of us as he continues to rely on his faith to do good works.●

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FOR THE HOUSE DURING ADJOURNMENT

## ENROLLED BILLS SIGNED

Under authority of the order of the Senate of January 4, 2005, the Secretary of the Senate, on July 28.2005, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

S. 45. An act to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

S. 571. An act to designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the "Congresswoman Shirley A. Chisholm Post Office Building".

S. 775. An act to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the "Boone Pickens Post Office".

S. 904. An act to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New

Jersey, as the "Brian P. Parrello Post Office Building".

S. 1395. An act to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied.

H.R. 3045. An act to implement the Dominican Republic-Central America-United States Free Trade Agreement.

H.R. 3423. An act to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees.

The enrolled bills were subsequently signed today, July 29, 2005, by the President pro tempore (Mr. STEVENS).

## MESSAGES FROM THE HOUSE

At 9:45 a.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 226. Concurrent resolution providing for a correction to the enrollment of H.R. 3.

At 10:41 a.m., a message from the House of Representatives, delivered by Ms. Chiappardi, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5. An act to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery system.

H.R. 3512. An act to provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

At 11:58 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 3 authorizing funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

## ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

At 2:10 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following bills and joint resolution:

H.R. 2985. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes.

H.R. 2361. An act making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

H.J. Res. 59. Joint resolution expressing the sense of Congress with respect to the women suffragists who fought for and won the right of women to vote in the United States.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore (Mr. STEVENS).

At 7:54 p.m., a message from the House of Representatives, delivered by Mr. Croatt, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3512. An act to provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The enrolled bill was signed subsequently by the Majority Leader (Mr. FRIST).

## MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5. An act to improve patient access to health care services and provide improved medical care by reducing the excessive burden the liability system places on the health care delivery; to the Committee on the Judiciary.

## ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on July 29, 2005, she had presented to the President of the United States the following enrolled bills:

S. 45. An act to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes.

S. 571. An act to designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the "Congresswoman Shirley A. Chisholm Post Office Building".

S. 775. An act to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the "Boone Pickens Post Office".

S. 904. An act to designate the facility of the United States Postal Service located at 1560 Union Valley Road in West Milford, New Jersey, as the "Brian P. Parrello Post Office Building".

S. 1395. An act to amend the Controlled Substances Import and Export Act to provide authority for the Attorney General to authorize the export of controlled substances from the United States to another country for subsequent export from that country to a second country, if certain conditions and safeguards are satisfied.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3306. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Russia and Kazakhstan; to the Committee on Foreign Relations.

EC–3307. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Luxembourg; to the Committee on Foreign Relations.

EC–3308. A communication from the Chairman, Dwight D. Eisenhower Memorial Commission, transmitting, pursuant to law, the Fourth Report of the Dwight D. Eisenhower Memorial Commission to the Committee on Rules and Administration.

EC–3309. A communication from the Chief, Regulatory Development Division, Mine Safety and Health Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Diesel Particulate Matter Exposure of Underground Metal and Nonmetal Miners" (RIN1219-AB29) received on July 27, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3310. A communication from the Director, Office of Workers' Compensation Programs, Department of Labor, transmitting pursuant to law, the report of a rule entitled "Regulations Implementing the Longshore and Harbor Workers' Compensation Act and Related Statutes" (RIN1215-AB38) received on July 27, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3311. A communication from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Direct Final Rule—List of Approved Spent Fuel Storage Casks: NAC-UMS Revision 4" (RIN3150-AH75) received on July 27, 2005; to the Committee on Environment and Public Works.

EC–3312. A communication from the Acting Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "NRC Bulletin 05–02: Emergency Preparedness and Response Actions for Security-Based Events" received on July 27, 2005; to the Committee on Environment and Public Works.

EC–3313. A communication from the Offices of Inspector General of the Departments of Commerce, Defense, Energy, Homeland Security, State, Agriculture, and the Central Intelligence Agency transmitting, pursuant to law, a report entitled "Interagency Review of the Licensing Process for Chemical and Biological Commodities"; to the Committee on Armed Services.

EC–3314. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a list of officers authorized to wear the insignia of rear admiral (lower half); to the Committee on Armed Services.

EC–3315. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–3316. A communication from the Principal Deputy, Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the authorization of the wearing of the insignia of the grade of lieutenant general; to the Committee on Armed Services.

EC–3317. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (11 subjects on 1 disc beginning with "Clarifications on Wright-Patterson AFB BRAC Questions") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3318. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (7 subjects on 1 disc beginning with "Briefing to the Commission on COBRA Reports on DFAS") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3319. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (4 subjects on 1 disc beginning with "Inquiry Response Regarding Air Sovereignty Alert Locations") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

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## PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–166. A resolution adopted by the Senate of the Commonwealth of Pennsylvania relative to the recommended closure of the Naval Air Station Joint Reserve Base Willow Grove; to the Committee on Armed Services.

Whereas, the Naval Air Station Joint Reserve Base Willow Grove, commonly referred to as the Willow Grove Naval Air Station, located in Horsham Township, Pennsylvania, has been recommended for closure by the Secretary of Defense; and

Whereas, the Willow Grove Naval Air Station, first commissioned in 1943 as a naval air base with 196 acres, now covers 1,100 acres and includes a joint reserve base, the only one in the Commonwealth of Pennsylvania, that is home to Navy, Air Force, Army, Marine and Air National Guard units; and

Whereas, the Willow Grove Naval Air Station is one of only three military facilities in the United States that brings together branches of the armed forces to prepare for joint operations and is considered a model facility by some defense analysts; and

Whereas, the Willow Grove Naval Air Station is strategically located near all major metropolitan and part areas in the Northeast corridor, enabling fighters to be deployed within minutes to Philadelphia, New York, Baltimore and Washington, DC, which is critical to homeland defense; and

Whereas, its modern 8,000-foot runway can accommodate any military aircraft, incldung Air Force One, and land commercial aircraft from Washington, DC, to New York in emergencies; and

Whereas, the Willow Grove Naval Air Station has a state-of-the art radar system which is one of four digital air control systems in the United States; and

Whereas, the Willow Grove Naval Air Station is home to the 913th Airlift Wing of the Air Force Reserve, which brains and equips reservists to perform aerial resupply and also provides air logistic support for active and reserve Navy units; and

Whereas, the Willow Grove Naval Air Station is also home to the 111th Fighter Wing of the Pennsylvania Air National Guard, that has the honor of being the oldest flying unit within Pennsylvania and has had many unit members deployed worldwide to support operations against terrorism since the September 11, 2001, terrorist attacks on the United States; and

Whereas, the Willow Grove Naval Air Station employs people from the Berks, Bucks, Montgomery, Chester, Delaware and Philadelphia County areas, and the closure of this base will result in the loss of economic activity and jobs; and

Whereas, a study commissioned by the Suburban Horsham-Willow Grove Chamber of Commerce determined that closure of the Willow Grove Naval Air Station will result in the area losing $375 million in economic activity annually and more than 10,000 area jobs, including more than 7,000 jobs on the base; and

Whereas, closure of the Willow Grove Naval Air Station will result in the Commonwealth of Pennsylvania losing nearly $7.2 million in State law revenue and $2.4 million in local tax revenue; and

Whereas, the surrounding communities support the mission and operations of the base; and

Whereas, the Commonwealth of Pennsylvania has lost a greater percentage of positions in the four prior rounds of the Base Realignment and Closure Commission than any other State, with a total loss of 16,033 jobs consisting of 3,009 military and 13,024 civilian positions; therefore be it

*Resolved*, That the Senate of the Commonwealth of Pennsylvania support maintaining the Naval Air Station Joint Reserve Base Willow Grove and urge the President and the Congress of the United States and all members of the 2005 Base Realignment and Closure Commission to support the same; and be it further

*Resolved*, That the Senate urge the President and the Congress and all members of the commission to remove the Naval Air Station Joint Reserve Base Willow Grove from the list of military base closures recommended by the Department of Defense; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to each Member of Congress from Pennsylvania and to all members of the 2005 Base Realignment and Closure Commission.

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POM–167. A resolution adopted by the Senate of the Commonwealth of Pennsylvania relative to the recommended closure of 13 military installations in Pennsylvania by the Department of Defense; to the Committee on Armed Services.

Whereas, the United States Department of Defense recently recommended numerous military base closings and realignments to the Base Realignment and Closure (BRAC) Commission; and

Whereas, the recommendation included 13 military installations in the Commonwealth of Pennsylvania; and

Whereas, the Pittsburgh International Airport Air Reserve Station, located in Moon Township, Pennsylvania, and the Charles E. Kelly Support Center, with facilities located in Oakdale and Neville Island, Pennsylvania, were among those recommended for closure; and

Whereas, the Department of Defense recommended moving the 99th Regional Readiness Command, located in Moon Township, to Fort Dix, New Jersey; and

Whereas, Allegheny County and western Pennsylvania will lose more than 850 civilian and military jobs if these bases close or are realigned; and

Whereas, the biggest potential loss will be the closing of the Air Reserve Station, home of the 911th Military Airlift Wing; and

Whereas, the Air Reserve Station has been based at the Pittsburgh International Airport since 1942; and

Whereas, since 1963, the base has been home to the 911th Military Airlift Wing; and

Whereas, the 911th Military Airlift Wing is an Air Force Reserve wing that flies the C–130 cargo plane; and

Whereas, approximately 1,220 Air Force reservists are assigned to the Air Reserve Station, which also employs 320 civilians; and

Whereas, it is estimated that closing the Pittsburgh International Airport Air Reserve Station will eliminate 44 military and 278 civilian jobs; and

Whereas, it is estimated that closing the Pittsburgh International Airport Reserve Station will cost the local economy approximately $94 million a year; and

Whereas, land constraints were cited as one reason for including the Air Reserve Station on the closure list; and

Whereas, the Pittsburgh International Airport has made available, through a Memorandum of Understanding, an additional 53 acres at the airport facility that were not considered in the Air Force/BRAC review of the facilities; and

Whereas, additional acreage exists upon which the facility can expand to address the needs of the Department of Defense; and

Whereas, the Charles E. Kelly Support Center provides logistical support to active and reserve Army units in the Middle Atlantic Region, including a transportation office that facilitates travel for Army reservists to and from active duty; and

Whereas, according to the Department of Defense, closing the Charles E. Kelly Support Center would result in the loss of an estimated 174 military and 136 civilian jobs; and

Whereas, closing the Charles E. Kelly Support Center and its commissary would affect an estimated 100,000 active and retired military members in Pennsylvania, West Virginia and Ohio; and

Whereas, the 99th Regional Readiness Command oversees more than 20,000 Reserve soldiers in 185 units in five states and the District of Columbia; and

Whereas, the 99th Regional Readiness Command has approximately 220 full-time positions; and

Whereas, the Army estimates that this unit contributes about $100 million to the local economy each year; and

Whereas, all three of these military installations are critical to national defense and homeland security; and

Whereas, the Commonwealth of Pennsylvania has already lost more than 16,000 military and civilian jobs over the previous four rounds of base closings; therefore be it

*Resolved*, That the Senate of the Commonwealth of Pennsylvania strongly urge the President and Congress of the United States and the members of the 2005 BRAC Commission to remove the Pittsburgh International Airport Air Reserve Station and the Charles E. Kelly Support Center from the list of proposed military base closures and to remove the 99th Regional Readiness Command from the list of proposed base realignments; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania and to all members of the 2005 BRAC Commission.

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POM–168. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to requiring financial institutions to notify consumers prior to publication of negative credit information and to allow adequate time for correction; to the Committee on Banking, Housing, and Urban Affairs.

### A Concurrent Resolution

To memorialize the United States Congress to take such actions as are necessary to require financial institutions to notify consumers prior to publication of negative credit information and to allow adequate time for correction.

Whereas, consumer credit scores help to determine the cost of financing consumer purchases including the purchase of vehicles and homes; and

Whereas, some insurance companies use credit scores to determine risk and establish the price of insurance premiums; and

Whereas, the accuracy of consumer credit scores is essential to control the rising cost of credit, financing consumer purchases, and insurance premiums; and

Whereas, the Federal Fair Credit Reporting Act allows financial institutions to release negative credit information without prior notice to consumers but provides for consumer notification no later than thirty days after such negative credit information has already been released to consumer credit reporting agencies (15 USC 1681s–2(a)(7)); and

Whereas, this delayed notification requirement allows for the dissemination of incorrect credit scores without giving consumers adequate time to determine if there was a credit reporting error or take necessary steps to correct the inaccurate information; and

Whereas, only Congress has the authority to change this consumer notification requirement because the Federal Fair Credit Reporting Act specifically preempts state law with respect to this subject matter which is regulated by this Federal law (15 USC 1681t(b)(1)(F)).

*Therefore, be it resolved* that the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to require financial institutions to notify consumers prior to publication of negative credit information and to allow adequate time for correction.

*Be it further resolved* that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

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POM–169. A joint resolution adopted by the Legislature of the State of Maine relative to the continued funding for the Community Development Block Grant Program; to the Committee on Banking, Housing, and Urban Affairs.

### Joint Resolution

We, your Memorialists, the Members of the One Hundred and Twenty-second Legislature of the State of Maine now assembled in the First Special Session, most respectfully present and petition the Congress of the United States as follows:

Whereas, the Community Development Block Grant program has helped communities throughout the nation since 1974, and is one of the oldest programs in the United States Department of Housing and Urban Development; and

Whereas, the Community Development Block Grant program provides annual grants on a formula basis to many different types of grantees through several programs as entitlement grants, loans and disaster relief grants; and

Whereas, the Community Development Block Grant program has helped Maine families, businesses and communities and Maine's neediest citizens over the years, and this program is now being severely cut back due to federal budget constrictions; and

Whereas, more than $314,000,000 in Community Development Block Grant funds was granted in Maine for the years 1982 to 2004, and from 1998 to 2004 $23,400,000 in funds created or retained 3,764 jobs for Maine workers, including 656 jobs still being created; and

Whereas, from 1998 to 2004, more than $54,400,000 in Community Development Block Grant funds was spent in Maine and benefited more than 132,000 Maine residents, or more than one in every 10 citizens of Maine, outside the large population centers of Portland, Lewiston, Auburn and Bangor; and

Whereas, those cities, along with South Portland and Biddeford, receive Community Development Block Grant funds directly from the Department of Housing and Urban Development by way of the Entitlement Communities Grants program, which is slated for elimination; and

Whereas, Community Development Block Grant funding is often the only extra funding to allow communities a chance to finance such projects as water infrastructure projects, wastewater infrastructure projects, fire station construction, downtown revitalization and low-income housing improvement projects such as the Maine Home Repair Network, Americans with Disabilities Act accessibility modifications, senior activities programs, medical services programs and economic development and planning programs; and

Whereas, during 2005, 8 grants in the amount of $2,994,000 were awarded in Maine for public infrastructure while 19 applications were left unfunded, and 9 grants in the amount of $1,917,000 were awarded for public facilities while 13 applications were left unfunded; now, therefore, be it

*Resolved:* That We, your Memorialists, respectfully urge that the Federal Government continue full funding for the Community Development Block Grant program as important needs continue to exist throughout Maine and the nation; and be it further

*Resolved:* That suitable copies of this resolution, duly authenticated by the Secretary of State, be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of the Maine Congressional Delegation.

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POM–170. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to condemning the National Football League's recent actions restricting the availability of televised games; to the Committee on Commerce, Science, and Transportation.

### A Resolution

Whereas, the Commonwealth of Pennsylvania is home to two professional National Football League (NFL) teams; and

Whereas, the substantial fan base within the Commonwealth of Pennsylvania for each of these teams is due to each team's legacy of excellence on and off the field; and

Whereas, revenues from these professional football teams exceed more than $1.2 billion; and

Whereas, the Commonwealth of Pennsylvania and its citizens have invested substantial amounts of money in the construction of stadiums for these professional football teams and have supported their efforts during the preseason, regular season and playoff season through ticket purchases, concession sales and other direct economic impacts; and

Whereas, the National Football League has recently used its monopoly status to institute national television arrangements which has the practical effect of removing this substantial fan base from everyday enjoyment of professional football; and

Whereas, this recent action to move "Monday Night Football" from a free national television network (ABC) to cable television (ESPN) will directly result in a large number of Pennsylvanians being unable to watch "Monday Night Football" in 2006; and

Whereas, "Monday Night Football" on ABC has been an institution and a pillar in the sports fan community since 1970; and

Whereas, while the move of "Monday Night Football" from ABC to ESPN may have some positive impact on the bottom line of The Walt Disney Company due to its ownership rights in both, it should not come at the expense of the citizens of the Commonwealth of Pennsylvania; and

Whereas, while the additional six-year deal the NFL entered into with another national television network, NBC, whereby Sunday night football games will be televised starting in 2006, is a step in the right direction, such action would not contemplate the marquee contests scheduled by the NFL for "Monday Night Football"; and

Whereas, removal of "Monday Night Football, coupled with archaic local market television rules, is systematically distancing the football fan who cannot afford to buy cable or attend a game in person from the game of professional football; and

Whereas, the NFL was created with the general public in mind, and bringing professional football to the masses via national television networks is the most viable means to satisfy this end; and

Whereas, expensive cable channels, season television packages or wholly owned cable networks such as the NFL Network do not deliver professional football to the masses; and

Whereas, it is often said that it is the fans for whom all professional sports are played; and

Whereas, currently there are still 10% of households in the Commonwealth of Pennsylvania without basic cable television; and

Whereas, Federal law allows the NFL to make television programming changes without further review by any court or regulatory body; therefore be it

*Resolved*, That the House of Representatives of the Commonwealth of Pennsylvania condemn this most recent practice in particular and the trends in the telecasting of football games generally; and be it further

*Resolved*, That the House of Representatives urge the NFL to reconsider the effect of its actions to narrow the access of high-profile football games for the average fan; and be it further

*Resolved*, That the House of Representatives urge the NFL to respond to these concerns; and be it further

*Resolved*, That copies of this resolution be transmitted to the commissioner of the National Football League, Paul Tagliabue, 410

Park Avenue, New York NY 10022, and to the members of the Pennsylvania Congressional Delegation.

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POM–171. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to advocating changes in the Federal Motor Carrier Safety Regulations, specifically 49 C.F.R. 383.3; to the Committee on Commerce, Science, and Transportation.

A CONCURRENT RESOLUTION 103

To memorialize the United States Congress to take such actions as are necessary to advocate changes in the Federal Motor Carrier Safety Regulations, specifically 49 C.F.R. 383.3, relative to issuance of restricted commercial drivers' licenses, which currently prohibit aerial applicators from qualifying for issuance of such licenses.

Whereas, aerial applicators provide a valuable and necessary service to farmers by crop-dusting their fields in order to prevent crops from being destroyed or harmed by pests; and

Whereas, crop-dusting, like farming, is seasonal work with its top season lasting no more than four months; and

Whereas, since crop-dusters are small planes which are heavily weighted with crop protection products, it is necessary for a fuel source to be near the farm which the crop-duster is servicing in order to maximize the time and efficiency of the aerial applicator; and

Whereas, since most farmers are not equipped to provide fuel service to crop-dusters on site and most farms are located miles away from fuel service stations, it is necessary for trucks to carry aviation kerosene, also known as Jet A, or Avgas fuel to the crop-duster on site; and

Whereas, trucks used to transport aviation kerosene and Avgas fuel are considered commercial trucks; therefore, the drivers of such vehicles are required to possess a commercial driver's license; and

Whereas, since most farm workers are seasonal employees, it is a very difficult and expensive proposition to burden aerial applicators and farmers with the requirement of educating workers to pass the knowledge and skills tests for issuance of a commercial driver's license; and

Whereas, according to the Federal Motor Carrier Safety Regulations, specifically 49 C.F.R. 383.3, authority is granted to allow a state to waive the required knowledge and skills tests and to issue restricted commercial drivers' licenses to employees for certain farm-related service industries; and

Whereas, holders of restricted commercial drivers' licenses are prohibited from having any endorsements on such licenses, and holders of such licenses are prohibited from operating a commercial vehicle beyond one hundred fifty miles from the place of business or the farm currently being served; and

Whereas, aerial applicators who participate in crop-dusting activities for rural farmers had previously been eligible for issuance of the restricted commercial driver's license; and

Whereas, as a result of the terrorist attacks launched upon the United States on September 11, the federal government has closely guarded waivers to the commercial drivers' license requirements because of the potential for terrorists to once again breach the confidence of this nation; and

Whereas, as a result, changes have been made in federal regulations to more closely regulate transportation of hazardous materials; and

Whereas, aviation kerosene, or Jet A fuel, and Avgas are classified as hazardous materials according to federal regulations; however, a holder of a restricted commercial driver's license is permitted to carry placardable quantities of hazardous materials such as diesel fuel so long as the quantity does not exceed one thousand gallons; and

Whereas, aviation kerosene, or Jet A, and Avgas, which are used as fuel for crop-dusting planes, are chemicals very similar to diesel fuel which is already recognized as an exception to the transportation of hazardous materials endorsement; and

Whereas, while farmers and aerial applicators can understand why the federal government is attempting to regulate the transportation of hazardous materials, the current waiver allowed in the Federal Motor Carrier Safety Regulations for issuance of restricted drivers' licenses is written so narrowly, legitimate groups are prevented from utilizing the exemption and are being penalized; and

Whereas, changes can be recommended to the Federal Motor Carrier Safety Regulations such as reclassifying aviation kerosene, or Jet A fuel, and Avgas as non-hazardous materials, or adding aviation kerosene, or Jet A, and Avgas in the exception currently recognized for diesel fuel, which changes would allow farmers and aerial applicators to qualify for issuance of restricted commercial drivers' licenses.

*Therefore, be it resolved* that the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to advocate changes in the Federal Motor Carrier Safety Regulations, specifically 49 C.F.R. 383.3. I relative to issuance of restricted commercial drivers' licenses, which currently prohibit aerial applicators from qualifying for issuance of such licenses because the fuel they need to transport in order to conduct crop-dusting activities is classified as a hazardous material.

*Be it further resolved* that a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

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POM–172. A concurrent memorial adopted by the House of Representatives of the Legislature of the State of Arizona relative to protecting the citizens of the State of Arizona by enacting legislation to ensure reasonable rates; to the Committee on Commerce, Science, and Transportation.

A CONCURRENT MEMORIAL

Urging the Congress of the United States to protect the citizens of the State of Arizona by enacting legislation to ensure reasonable rates.

Whereas, the Legislature of the State of Arizona is committed to our nation's free market economic model and believes, specifically, that markets subject to competition should not be regulated by the local, state or federal governments but that those markets that are not subject to competition and yet supply important commodities, products or services to the citizens of Arizona must be subject to effective local, state or federal government regulation; and

Whereas, important commodities, such as coal for electric generating facilities and grain for dairy and beef cattle production, are dependent on railroad transportation into the State of Arizona; and

Whereas, dairy and beef cattle producers in Arizona are dependent on the railroad to import seventy-five percent of the grain necessary to produce milk and beef in Arizona; and

Whereas, the coal that is brought by rail into the State of Arizona to be consumed by Arizona electric generating facilities often is dependent on a single railroad for transportation, such that normal market forces are not present to constrain the price charged Arizona electric generators or the transportation service that they receive; and

Whereas, coal brought into the State of Arizona by Arizona electric generating facilities is used to generate forty percent of the electricity produced in the state and all of this imported coal is delivered by a class I railroad in a "captive" relationship; and

Whereas, the cost to transport coal to an electric generating facility in the State of Arizona where there is no effective rail competition present is often at least twice the cost of transporting coal where effective rail competition exists, even though the cost to the railroad of such transportation is no higher than for transportation where competition exists; and

Whereas, the unreasonably high rail rates of captive coal are passed through to the Arizona consumers of electricity, thus increasing the price of electricity to the families and businesses of Arizona and decreasing the disposable income available for other family and business needs; and

Whereas, the Congress of the United States, in 1980, deregulated railroad transportation where rail competition exists but directed a federal agency, now the Surface Transportation Board, to ensure that "captive" rail customers not be charged higher rates than are appropriate; and

Whereas, the Surface Transportation Board, in implementing its responsibilities under the deregulation act, has allowed the railroads to increase their market power through mergers and acquisitions and has allowed the railroads to avoid rail-to-rail competition wherever possible; and

Whereas, the Surface Transportation Board has developed a process that ensures "captive" rate are reasonable and that places all burdens of proof on the rail customer in rate cases that, according to recent Congressional testimony, cost the rail customer at least $3 million to prosecute and take at least two years for resolution and rarely result in victory for the rail customer; and

Whereas, the Surface Transportation Board implementation of its responsibilities under the deregulation act is not constraining captive rail rates and is resulting in unreasonably high costs for the electricity consumers of Arizona; and

Whereas, despite the inadequacy of the current federal regulatory regime for captive rail rates, the American railroad industry continues to be the only American industry that is exempt from major portions of the nation's antitrust laws.

Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the Congress of the United States protect the citizens of the State of Arizona by enacting legislation that ensures that the Surface Transportation Board will facilitate rail-to-rail competition wherever possible, that the Surface Transportation Board will develop a cost-effective and time-effective process that ensures that captive rail customers pay reasonable rates and that the American railroad industry is subject to all provisions of the nation's antitrust laws.

2. That Congress enact legislation similar to the Railroad Competition Act of 2003, S. 919 and H.R. 2924, from the 108th Congress.

3. That the Members of Congress from the State of Arizona support this legislation.

4. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives and each Member of Congress from the State of Arizona.

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POM–173. A joint resolution adopted by the Legislature of the State of Maine relative to avoiding sole-sourced shipbuilding; to the Committee on Commerce, Science, and Transportation.

### JOINT RESOLUTION

We, your Memorialists, the Members of the One Hundred and Twenty-second Legislature of the State of Maine now assembled in the First Special Session, most respectfully present and petition the Congress of the United States as follows:

Whereas, the State of Maine has a long shipbuilding tradition, going back to colonial times when our vast forests supplied timber to build ships in shipyards large and small along the 3,500-mile-long coast; and

Whereas, Maine is still home to Bath Iron Works, a major shipbuilder of this Nation, a major employer of our State that has a century-long tradition of building the best ships in the world; and

Whereas, our Nation has an equally long tradition of encouraging competition among businesses to ensure efficiency, equality, cost-containment and fair play; and

Whereas, Federal officials have recently indicated that government contracts to build ships may be sole-sourced, or given to one shipyard only, in effect ending competitive bidding among shipbuilders in this country; and

Whereas, sole-sourced production creates unfair monopolies that hurt the taxpayers of this Nation by not allowing the best price and best shipyard to do the work; and

Whereas, our national security depends on having the most effective military in the world, and United States, Navy effectiveness requires having a superior fleet, a fleet that needs to be built with the highest quality and at the best cost; now, therefore, be it

*Resolved:* That We, your Memorialists, respectfully urge the Congress of the United States to disavow sole-sourcing of shipbuilding contracts and to encourage competitive bidding among the qualified shipyards of the Nation; and be it further

*Resolved:* That suitable copies of this resolution, duly authenticated by the Secretary of State be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, the Secretary of the United States Navy and each Member of the Maine Congressional Delegation.

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POM–174. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to urging the Congress of the United States to refrain from taking action in developing legislation that would have the effect of preventing or hindering the exploration, drilling, development and production of natural gas in the Great Lakes; to the Committee on Energy and Natural Resources.

### A RESOLUTION

Urging the Congress of the United States to refrain from taking action in developing legislation that would have the effect of preventing or hindering the exploration, drilling, development and production of natural gas in the Great Lakes.

Whereas, the Congress, in recognition of the need for a comprehensive energy policy for this nation, is currently in the process of developing legislation to establish the framework for this policy; and

Whereas, while a vast majority of the issues relating to this potential energy policy is of a broad nature, affecting each state and commonwealth broadly and with similar consequences, certain matters of national interest are uniquely applicable to an individual state or commonwealth because the immediate impact of the regulated activity will be felt almost entirely by that state or commonwealth; and

Whereas, these activities, to the extent they occur within the borders of a state or commonwealth, have been long and successfully regulated by the impacted state or commonwealth, and there is no national interest served by broadening the powers of the Federal Government to regulate these activities; and

Whereas, geologic and geophysical indicators show that substantial oil and gas reserves underlying that portion of Lake Erie within the boundaries of the Commonwealth of Pennsylvania may be available for development to assist in meeting the nation's energy needs; and

Whereas, the exploration, drilling, development and production of natural gas lying under the water bodies within the boundaries of each state and commonwealth are activities that meet the criteria set forth in this resolution; therefore be it

*Resolved*, That the House of Representatives of the Commonwealth of Pennsylvania urge the Congress, in developing legislation to establish an energy policy, to refrain from taking action that would have the effect of preventing or hindering the exploration, drilling, development and production of natural gas in the Great Lakes, including, but not limited to, Lake Erie, so long as the state or commonwealth in which the activity is conducted provides a regulatory system for the conduct of operations; and be it further

*Resolved*, That copies of this resolution be transmitted to the members of Congress from Pennsylvania, to the members of the Committee on Energy and Commerce of the United States House of Representatives, to the members of the Committee on Resources of the United States House of Representatives, to the members of the Energy and Natural Resources of the United States Senate, to the members of the Committee on Environment and Public Works of the United States Senate and to others holding leadership positions on committees developing national energy policy legislation.

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POM–175. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enabling Louisiana to receive its appropriate share of revenue received from oil and gas activity on the Outer Continental Shelf; to the Committee on Energy and Natural Resources.

### A CONCURRENT RESOLUTION

To memorialize the United States Congress to enable Louisiana to receive its appropriate share of revenue received from oil and gas activity on the Outer Continental Shelf.

Whereas, in an effort to preserve federal ownership of public lands while still allowing the mining of minerals and enabling the states where those lands and minerals were located to continue receiving revenues from mineral extraction, the Mineral Leasing Act of 1920 grants states a share of revenue derived from minerals extracted from federal lands within those states' borders; and

Whereas, the original Mineral Leasing Act provided that twelve and one-half percent of the royalty revenue would be shared with the states from which the minerals were extracted, which percentage was increased in 1976 to fifty percent for onshore royalty payments; and

Whereas, although all states benefit from this increased share of royalty payments, the oil, gas, and coal extracted from below the ground in Wyoming and New Mexico accounts for the largest share, and those two states received eighty percent of the $1.16 billion paid in 2004; and

Whereas, in addition to the revenue sharing from royalty payments, another forty percent of the revenues have been directed to the federal Reclamation Fund, which has financed over $30 billion in water and energy projects in seventeen western states; and

Whereas, Louisiana produces more than eighty percent of the nation's offshore oil and gas supply with more than one-third of the oil and gas consumed in this country, both foreign and domestic, passing through the state's fragile coastal wetlands by tanker, barge, or pipeline; and

*Be it further resolved*, that a copy of this Resolution be sent to the presiding officer of the United States House of Representatives and to the presiding officer of the United States Senate.

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POM–176. A resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enabling Louisiana to receive its appropriate share of revenue received from oil and gas activity on the Outer Continental Shelf; to the Committee on Energy and Natural Resources.

### A RESOLUTION

To memorialize the United States Congress to enable Louisiana to receive its appropriate share of revenue received from oil and gas activity on the Outer Continental Shelf.

Whereas, in an effort to preserve federal ownership of public lands while still allowing the mining of minerals and enabling the states where those lands and minerals were located to continue receiving revenues from mineral extraction, the Mineral Leasing Act of 1920 grants states a share of revenue derived from minerals extracted from Federal lands within those states' borders; and

Whereas, the original Mineral Leasing Act provided that twelve and one-half percent of the royalty revenue would be shared with the states from which the minerals were extracted, which percentage was increased in 1976 to fifty percent for onshore royalty payments; and

Whereas, although all states benefit from this increased share of royalty payments, the oil, gas, and coal extracted from below the ground in Wyoming and New Mexico accounts for the largest share, and those two states received eighty percent of the $1.16 billion paid in 2004; and

Whereas, in addition to the revenue sharing from royalty payments, another forty percent of the revenues have been directed to the federal Reclamation Fund, which has financed over $30 billion in water and energy projects in seventeen western states; and

Whereas, Louisiana produces more than eighty percent of the nation's offshore oil and gas supply, with more than one-third of the oil and gas consumed in this country, both foreign and domestic, passing through the state's fragile coastal wetlands by tanker, barge, or pipeline; and

Whereas, Louisiana is losing its coastal wetlands at the alarming rate of over twenty-four square miles per year, or more than a football field each day, largely due to policies and practices implemented by the federal government through the years to encourage and manage mineral extraction or to control flooding in the lower Mississippi River basin; and

Whereas, our coastal wetlands are essential to the well-being of the nation as a whole because not only does a large portion of the oil and gas supply either come from Louisiana or travel through our wetlands, but Louisiana's coast is home to one of the nation's premier commercial and recreational fisheries, a fishery that accounts for nearly one-third of the commercial fisheries production of the lower forty-eight states and that is second in the nation in total recreational harvest of saltwater fish; and

Whereas, although Louisiana has repeatedly demonstrated its intention and willingness to share in the cost of preserving this vital ecosystem, preservation of Louisiana's coast will necessitate an amount of funding that the state cannot provide by itself, nor should the state be expected to fund this fight on its own since the problems which have resulted in the dramatic coastal loss were not problems created by the state on its own; and

Whereas, an appropriate and available source for the revenues needed to address our coastal land loss is royalties from oil and gas development on the Outer Continental Shelf, which could and should be shared with Louisiana in much the same manner and at the same level as the revenue sharing that was afforded the Western states; and

Whereas, Louisiana, like the Western states, should receive compensation for infrastructure and environmental impacts associated with mineral production from its contributions to the federal treasury; and

Whereas, the energy bill currently before Congress offers far less to coastal states than the amount of revenue sharing given inland states even though the impact of oil and gas production is far greater in the sensitive and fragile wetlands of the coastal states.

*Therefore, be it Resolved*, That the House of Representatives of the Legislature of Louisiana does hereby memorialize the United States Congress to enable Louisiana to receive its appropriate share of revenue received by the United States from oil and gas activity on the Outer Continental Shelf.

*Be it further resolved*, that a copy of this Resolution be sent to the presiding officer of the United States House of Representatives and to the presiding officer of the United States Senate.

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POM–177. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the release of funds to the states from the Leaking Underground Storage Tank Trust Fund; to the Committee on Environment and Public Works.

A RESOLUTION

Encouraging the Congress of the United States and the Environmental Protection Agency to release funds to the states from the Leaking Underground Storage Tank Trust Fund.

Whereas, in 1989 the Commonwealth of Pennsylvania passed the act of July 6, 1989 (P.L. 169, No. 32), known as the Storage Tank and Spill Prevention Act, becoming one of the largest industrial states to regulate underground storage tanks to protect ground and surface water and to comply with a Federal mandate to regulate these tanks; and

Whereas, there are now more than 56,300 underground storage tanks in Pennsylvania owned by service stations, farmers, local governments, petroleum product distributors, convenience stores, small businesses, truck stops and food merchants; and

Whereas, the owners of underground tanks pay more than $3.8 million in fees every year to support the Storage Tank Program of the Department of Environmental Protection and now face fee increases that would in most cases triple the existing rates; and

Whereas, the Storage Tank Advisory Committee has offered to work with the Department of Environmental Protection to help reduce the administrative costs of the Commonwealth's Storage Tank Program; and

Whereas, Pennsylvania underground tank owners also pay more than $29 million in fees for leak cleanup insurance every year to the Underground Storage Tank Indemnification Fund in response to a Federal mandate to have spill cleanup coverage; and

Whereas, Pennsylvania gasoline and diesel fuel consumers pay more than $6.4 million to the Leaking Underground Storage Tank Trust Fund of the Federal Government every year, and Pennsylvania receives only $1.8 million in return to help fund the Commonwealth's Storage Tank Program; and

Whereas, the Leaking Underground Storage Tank Trust Fund now has a balance of more than $2 billion that could be allocated to states to offset the administrative costs of their storage tank programs; and

Whereas, the Congress of the United States is now considering changes to Federal requirements covering underground storage tanks that may impose additional unfunded mandates on states responsible for administering Federal storage tank regulations; therefore be it

*Resolved*, That the House of Representatives of the Commonwealth of Pennsylvania strongly encourage the Congress of the United States and the Environmental Protection Agency to take the steps necessary to redistribute more of the $2 billion already in the Leaking Underground Storage Tank Trust Fund of the Federal Government to states for the purpose of helping to offset the administrative costs of the federally mandated program; and be it further

*Resolved*, That such actions be accomplished as soon as practicable to help the Commonwealth of Pennsylvania avoid unnecessary increases in fees on the owners of underground storage tanks; and be it further

*Resolved*, That copies of this resolution be transmitted to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania and to the Administrator of the Environmental Protection Agency.

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POM–178. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to the Storage Tank and Spill Prevention Act; to the Committee on Environment and Public Works.

Whereas, in 1989 the Commonwealth of Pennsylvania passed the Storage Tank and Spill Prevention Act, becoming one of the largest industrial states to regulate underground storage tanks to protect ground and surface water and to comply with a Federal mandate to regulate these tanks; and

Whereas, there are more than 56.300 underground storage tanks in the Commonwealth of Pennsylvania owned by service stations, farmers, local governments, petroleum product distributors, convenience stores, small businesses, truck stops and food merchants; and

Whereas, the owners of underground tanks pay more than $3.8 million in fees every year to support the Storage Tank Program of the Department of Environmental Protection and now face fee increases that would in most cases triple the existing rates; and

Whereas, the Storage Tank Advisory Committee has offered to work with the Department of Environmental Protection to reduce administrative costs of the Storage Tank Program; and

Whereas, underground tank owners in the Commonwealth of Pennsylvania pay more than $29 million in fees for leak cleanup insurance every year to the Underground Storage Tank Indemnification Fund in response to a Federal mandate to have spill cleanup coverage; and

Whereas, while Pennsylvania gasoline and diesel fuel consumers pay more than $6.4 million to the Leaking Underground Storage Tank Trust Fund every year, the Commonwealth of Pennsylvania receives only $1.8 million in return to help fund the Storage Tank Program; and

Whereas, the Leaking Underground Storage Tank Trust Fund now has a balance of more than $2 billion that could be allocated to states to offset the administrative costs of the Storage Tank Program; and

Whereas, the Congress is now considering changes to Federal requirements covering underground storage tanks that may impose additional unfunded mandates on states responsible for administering Federal storage tank regulations; therefore be it

*Resolved*, That the Senate of the Commonwealth of Pennsylvania strongly encourage the Congress and the United States Environmental Protection Agency to take the steps necessary to redistribute more of the $2 billion in the Leaking Underground Storage Tank Trust Fund to states to offset administrative costs of the federally mandated program; and be it further

*Resolved*, That these actions be accomplished as soon as practicable to help the Commonwealth of Pennsylvania avoid unnecessary fee increases for owners of underground storage tanks; and be it further

*Resolved*, That copies of this resolution be transmitted to the administrator of the Environmental Protection Agency, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

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POM–179. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to Medicaid; to the Committee on Finance.

Whereas, Medicaid is the Nation's largest health care program, providing health and long-term care services to 53 million low-income pregnant women, children, individuals with disabilities and seniors; and

Whereas, Medicaid is a vital health care safety net and provides important services to those persons who can get care from no other source; and

Whereas, Federal and State spending in Medicaid has experienced a dramatic increase over the past five years because of increases in caseloads and an increase in costs of health care services; and

Whereas, States devote 22 percent of their budgets to Medicaid, and this increasing cost is unsustainable; and

Whereas, Congress has passed a budget resolution that may reduce Federal financial participation in the Medicaid program; and

Whereas, States' experiences with Medicaid place them in unique positions to utilize ways to modernize the provision of benefits while protecting recipients and curtailing overuse and abuse; and

Whereas, the National Governors Association has indicated that cost-sharing, varying benefit packages, improving prescription drug plans, changing asset transfer rules, instituting comprehensive waiver reforms, providing for local management of optional Medicaid categories, coordinating chronic care management, providing tax breaks and credits for purchase of long-term care insurance and creating long-term care partnerships would help modernize and sustain the Medicaid program; therefore be it

*Resolved*, That the Senate of the Commonwealth of Pennsylvania memorialize the Congress to review and consider the National Governors Association recommendations which would allow States to utilize greater flexibility in their provision of Medicaid services; and be it further

*Resolved*, That copies of this resolution be transmitted to the presiding officers of each house of Congress and to each Member of Congress from Pennsylvania.

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POM-180. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to supporting and enacting legislation placing reasonable requirements on the reporting of publicly funded clinical trials; to the Committee on Health, Education, Labor, and Pensions.

A RESOLUTION

Urging the President and the Congress of the United States to support and enact legislation placing reasonable requirements on the reporting of publicly funded clinical trials.

Whereas, there have been several cases over the past few years of leading pharmaceutical companies concealing information derived from publicly funded clinical trials about the safety and effectiveness of some of their drugs; and

Whereas, the National Institutes of Health pursues fundamental knowledge about health and illness by supporting basic and clinical biomedical research activities, including clinical trials; and

Whereas, research in humans that is sponsored and funded by the National Institutes of Health must undergo several levels of approval, including review by a panel of authorities in the field of the scientific merit of a proposed study, and all protocols must be evaluated for proper ethical conduct and assurance of patient safety by institutional review boards, with studies of investigational drugs being reviewed and approved by the Food and Drug Administration; and

Whereas, the Food and Drug Administration has primary responsibility for regulating and enforcing the conduct of publicly funded clinical trials and review and approval of investigational drug studies; and

Whereas, under Federal law only certain clinical research data must be reported to the Food and Drug Administration, other health agencies and various oversight bodies, such as institutional review boards; and

Whereas, other data regarding study results are simply reported at scientific conferences and through peer-reviewed biomedical journals, which may not be accessible to physicians or the public; and

Whereas, many citizens of the Commonwealth of Pennsylvania are suffering needlessly because physicians and patients do not always have access to full information about the drugs prescribed and taken; therefore be it

*Resolved*, That the House of Representatives of the Commonwealth of Pennsylvania urge the President and Congress of the United States to support and enact legislation requiring all negative and positive information regarding all publicly funded clinical trials and investigational drug studies to be submitted to www.ClinicalTrials.gov as a single-point clearinghouse so the public, including physicians, may be made fully aware of the safety and efficacy of these drugs; and be it further

*Resolved*, That the Department of Health of the Commonwealth of Pennsylvania be urged unless comprehensive information on all publicly funded clinical trials and investigational drug studies is provided to www.ClinicalTrials.gov within six months of adoption of this resolution, to withhold all grant money supporting the Commonwealth Universal Research Enhancement Program established under Chapter 9 of the act of June 26, 2001 (P.L. 755, No. 77), known as the Tobacco Settlement Act, until such time as proof of compliance has been provided to the General Assembly of the Commonwealth of Pennsylvania; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States, to the presiding officer of each House of Congress and to each member of Congress from Pennsylvania.

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POM-181. A resolution adopted by the House of Representatives of the General Assembly of the Commonwealth of Pennsylvania relative to the Violence Against Women Act; to the Committee on the Judiciary.

A RESOLUTION 346

Memorializing the Congress of the United States to pass and the President of the United States to sign Violence Against Women Act reauthorization legislation and to reaffirm our commitment to helping victims of violent crimes.

Whereas, domestic violence and sexual assault are pervasive crimes directly affecting one in four women and touching the lives of everyone in the community; and

Whereas, The Violence Against Women Act of 1994 (VAWA) and VAWA reauthorization and enhancement under the Violence Against Women Act of 2000 have proven instrumental in building increasing awareness that domestic violence is a crime that occurs in every community; and

Whereas, VAWA has made immeasurable contributions in communities across the country in providing programs, services and protection for victims of domestic violence and sexual assault and by raising attention to services and interventions that can help battered women, their children and other victims of violent crimes; and

Whereas, VAWA has significantly improved the response of the criminal justice system to victims of domestic violence and sexual assault through increased training for law enforcement personnel and officers of the court; and

Whereas, VAWA has helped victims of violent crimes rebuild their lives while encouraging community responsibility for prevention; and

Whereas, VAWA continues to further the safety and stability of the lives of survivors of domestic violence, dating violence, sexual assault and stalking in the Commonwealth of Pennsylvania and throughout the nation; and

Whereas, The Violence Against Women Act of 2000 expires in 2005 unless reauthorization legislation is enacted; and

Whereas, without the critical programs and community services that are made possible under VAWA, victims of domestic violence and sexual assault may be less likely to seek the professional counseling and assistance services they need; therefore be it

*Resolved*, That the House of Representatives of the Commonwealth of Pennsylvania memorialize the Congress of the United States to pass and the President of the united States to sign the Violence Against Women Act of 2005 and to reaffirm our commitment to helping victims of violent crimes; and be it further

*Resolved*, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania.

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POM-182. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enacting federal legislation to ensure that deserving victims of asbestos exposure receive compensation; to the Committee on the Judiciary.

A RESOLUTION

To memorialize the members of the United States Senate from Louisiana, Senator Mary Landrieu and Senator David Vitter, to continue to work toward enacting federal legislation to ensure that deserving victims of asbestos exposure receive compensation.

Whereas, asbestos, a mineral processed and used in thousands of construction and consumer products, is a dangerous substance and has caused thousands of people to develop serious and often fatal diseases and cancers; and

Whereas, millions of workers have been exposed to asbestos, and the economic toll resulting from litigation related to exposure to asbestos could run into the hundreds of billions of dollars; and

Whereas, many companies, in order to avoid bankruptcy and to compensate victims with manifest injuries from exposure to asbestos, have attempted to set aside sufficient resources to compensate such victims; and

Whereas, the new claims are resulting in a depletion of the funds available to compensate victims who have sustained serious injuries and who are in desperate need of compensation; and

Whereas, the United States Supreme Court has noted that federal and state courts have been inundated by an enormous number of asbestos cases that defies customary judicial administration and calls for national legislation; and

Whereas, the United States Senate Judiciary Committee, under the bipartisan leadership of Republican Senator Arlen Specter and Democratic Senator Patrick Leahy, have crafted a bipartisan piece of legislation that creates a fair and equitable system to deal with the asbestos litigation crisis; and

Whereas, this bipartisan legislation creates an asbestos trust fund that will ensure that victims of asbestos exposure will receive just and fair compensation.

*Therefore, be it resolved*, that the Louisiana House of Representatives does hereby memorialize the members of the United States Senate from Louisiana, Senator Mary Landrieu and Senator David Vitter, to continue to work toward enacting federal legislation to ensure that deserving victims of asbestos exposure receive compensation and to continue to work with Senators Specter and Leahy to pass meaningful and fair asbestos litigation reform legislation.

*Be it further resolved*, That a copy of this Resolution be transmitted to United States Senator Mary Landrieu and United States Senator David Vitter and to each member of the Louisiana congressional delegation.

POM–183. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to recognizing the need for an apology to the victims of lynching and their descendants by the United States Senate for the Senate's failure to enact anti-lynching legislation; to the Committee on the Judiciary.

### A Resolution

To recognize the need for an apology to the victims of lynching and their descendants by the United States Senate for the Senate's failure to enact anti-lynching legislation.

Whereas, the crime of lynching succeeded slavery as the ultimate expression of racism in the United States following Reconstruction; and

Whereas, lynching was a widely acknowledged practice in the United States until the middle of the twentieth century, occurring in documented incidents in all but four states; and

Whereas, at least four thousand seven hundred forty-two people, predominately African-Americans, were reported as being lynched in the United States between 1882 and 1968; and

Whereas, at least four hundred people, predominately African-Americans, were reported as being lynched in Louisiana between 1882 and 1968; and

Whereas, ninety-nine percent of all perpetrators of lynching escaped punishment by state or local officials; and

Whereas, lynching prompted African-Americans to form the National Association for the Advancement of Colored People (NAACP) and members of B'Nai B'rith to found the Anti-Defamation League; and

Whereas, nearly two hundred anti-lynching bills were introduced in the United States Congress during the first half of the twentieth century; and

Whereas, between 1890 and 1940, the United States House of Representatives passed three strong anti-lynching measures; and

Whereas, protection against lynching was the minimum and most basic of federal responsibilities, and the United States Senate considered but failed to enact anti-lynching legislation despite repeated requests by civil rights groups, presidents, and the United States House of Representatives to do so; and

Whereas, the recent publication of *Without Sanctuary: Lynching Photography in America* helped to bring greater awareness and proper recognition to the victims of lynching; and

Whereas, it is only by coming to terms with history that the United States can effectively champion human rights abroad; and

Whereas, a resolution is being introduced by Senator Mary L. Landrieu that apologizes to the victims of lynching for the failure of the United States Senate to enact anti-lynching legislation, expresses the Senate's sympathies and regrets to the descendants of lynching victims, and remembers the history of lynching to ensure that the tragedies surrounding the crime will neither be forgotten nor repeated; and

Whereas, an apology offered in the spirit of true repentance would move the United States towards reconciliation and become central to a new understanding on which improved racial relations can be forged.

*Therefore, be it resolved*, That the House of Representatives of the Legislature of Louisiana does hereby recognize the need for an apology to the victims of lynching and their descendants by the United States Senate for the Senate's failure to enact anti-lynching legislation.

*Be it further resolved*, That a suitable copy of this Resolution be transmitted to the members of the Louisiana congressional delegation.

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POM–184. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to a constitutional amendment banning the desecration of the American flag; to the Committee on the Judiciary.

### A Concurrent Resolution

To memorialize the United States Senate to take such actions as are necessary to pass the constitutional amendment banning the desecration of the American flag which was passed by the United States House of Representatives on June 22, 2005.

Whereas, in 1989 the United States Supreme Court ruled in a five to four decision that burning of the American flag is a protected free-speech right; and

Whereas, the Supreme Court's ruling overturned a 1968 Federal statute as well as preempting flag-protection laws in forty-eight States; and

Whereas, the United States House of Representatives on June 22, 2005, by a vote of two hundred eighty-six to one hundred thirty, passed a constitutional amendment banning the desecration of the American flag; and

Whereas, since 1995, the United States Senate has failed to pass five similar constitutional amendments which were previously passed by the United States House of Representatives; and

Whereas, the United States Senate should not continue to prevent each of the United States from having a voice in whether or not to ratify this constitutional amendment; therefore, be it

*Resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to pass the constitutional amendment banning the desecration of the American flag which was passed by the United States House of Representatives on June 22, 2005; be it further

*Resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

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POM–185. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to enacting legislation establishing English as the official language of the United States; to the Committee on the Judiciary.

### A Concurrent Resolution

To memorialize the Congress of the United States of America to take such actions as are necessary to enact legislation establishing English as the official language of the United States.

Whereas, English is currently the national language of the United States by custom but not by law; and

Whereas, the United States is comprised of individuals from many ethnic, cultural, and linguistic backgrounds and benefits from this rich diversity; and

Whereas, these individuals, while keeping their own backgrounds alive, are encouraged to take advantage of our nation's educational system that teaches the English language and American history; and

Whereas, throughout the history of the United States, the common thread binding individuals of differing backgrounds has been the English language; and

Whereas, English was established as the official language of Louisiana as a condition of statehood in 1812; and

Whereas, command of the English language is necessary to participate in and take full advantage of the opportunities afforded by American life.

*Therefore, be it resolved*, That the Legislature of Louisiana does hereby memorialize the Congress of the United States of America to take such actions as are necessary to enact legislation establishing English as the official language of the United States.

*Be it further resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

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POM–186. A concurrent resolution adopted by the House of Representatives of the Legislature of the State of Louisiana relative to making permanent the increases in Servicemembers' Group Life Insurance coverage and the Death Gratuity benefits to provide financial security of survivors of members of the Louisiana National Guard and other servicemembers who make the ultimate sacrifice with their lives while serving our country and the state of Louisiana; to the Committee on Veterans' Affairs.

### A Concurrent Resolution

To memorialize the United States Congress to take such actions as are necessary to make permanent the increases in Servicemembers' Group Life Insurance coverage and the Death Gratuity benefits to provide financial security of survivors of members of the Louisiana National Guard and other servicemembers who make the ultimate sacrifice with their lives while serving our country and the state of Louisiana.

Whereas, members of the Louisiana National Guard (LANG) have been asked to serve extended periods of active duty in combat areas and in recognition of the invaluable contributions that the members of LANG make to this country and to the state of Louisiana, members of LANG should receive assistance with their premiums for coverage under the federal Servicemembers' Group Life Insurance program; and

Whereas, the 256th Infantry Brigade is not scheduled to return from Iraq until October 2006, and there is always the possibility that if any conflict arises overseas that members of LANG will be deployed in combat areas; and

Whereas, under the FY 2005 Emergency Supplemental Appropriations bill (H.R. 1268) of the 109th Congress adopted by both houses of congress and enrolled, members of LANG will be eligible for one hundred thousand dollars in death gratuity benefits and life insurance policies with limits up to four hundred fifty thousand dollars through the federal Servicemembers' Group Life Insurance program; and

Whereas, the Secretary of Defense is authorized to pay the cost of premiums for the increased coverage under federal Servicemembers' Group Life Insurance program; however, the increased coverage and authority to pay the costs of premiums terminates on September 30, 2005.

*Therefore, be it resolved*, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to make permanent the increases in Servicemembers' Group Life Insurance coverage and the Death Gratuity benefits to provide for financial security of survivors of members of the Louisiana National Guard and other servicemembers who make the ultimate sacrifice with their lives while serving our country and the state of Louisiana.

*Be it further resolved*, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM-187. A resolution adopted by the Miami-Dade County Board of County Commissioners, Miami-Dade County, Florida relative to the support for $385 Million in funding for Housing Opportunities for Persons Living with AIDS (HOPWA) Program for fiscal year 2006; to the Committee on Banking, Housing, and Urban Affairs.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment:

S. 1291. A bill to provide for the acquisition of subsurface mineral interests in land owned by the Pascua Yaqui Tribe and land held in trust for the Tribe (Rept. No. 109–116).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 518. A bill to provide for the establishment of a controlled substance monitoring program in each State (Rept. No. 109–117).

By Mr. McCAIN, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1231. A bill to amend the Indian Self-Determination and Education Assistance Act to modify provisions relating to the National Fund for Excellence in American Indian Education (Rept. No. 109–118).

By Mr. CHAMBLISS, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 1566. An original bill to reauthorize the Commodity Exchange Act, and for other purposes (Rept. No. 109–119).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1567. An original bill to reauthorize and improve surface transportation safety programs, and for other purposes (Rept. No. 109–120).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions:

Report to accompany S. 288, a bill to extend Federal funding for operation of State high risk health insurance pools (Rept. No. 109–121).

By Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

H.R. 804. A bill to exclude from consideration as income certain payments under the national flood insurance program.

S. 1047. A bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes.

## EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

[Treaty Doc. 107–18 Inter-American Convention Against Terrorism (Exec. Rept. No. 109–3)]

TEXT OF RESOLUTION OF RATIFICATION AS RECOMMENDED BY THE COMMITTEE ON FOREIGN RELATIONS

Section 1. Senate Advice and Consent Subject to Understanding.

The Senate advises and consents to the ratification of the Inter-American Convention Against Terrorism (the "Convention"), adopted at the thirty-second regular session of the General Assembly of the Organization of American States meeting in Bridgetown, Barbados, and signed by the United States on June 3, 2002 (Treaty Doc. 107–18), subject to the understanding in Section 2.

Section 2. Understanding.

The advice and consent of the Senate under section 1 is subject to the following understanding, which shall be included in the United States instrument of ratification:

The United States of America understands that the term "international humanitarian law" in paragraph 2 of Article 15 of the Convention has the same substantive meaning as the law of war.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. BOND:

S. 1553. A bill to amend the Internal Revenue Code of 1986 to enhance tax incentives for small property and casualty insurance companies; to the Committee on Finance.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 1554. A bill to establish an intergovernmental grant program to identify and develop homeland security information, equipment, capabilities, technologies, and services to further the homeland security of the United States and to address the homeland security needs of Federal, State, and local governments; to the Committee on Homeland Security and Governmental Affairs.

By Ms. CANTWELL (for herself, Ms. COLLINS, Mr. BINGAMAN, Mrs. MURRAY, Ms. MIKULSKI, Mr. KOHL, and Mr. CORZINE):

S. 1555. A bill to amend the Farm Security and Rural Investment Act of 2002 to reform funding for the Seniors Farmers' Market Nutrition Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WYDEN:

S. 1556. A bill to amend the Specialty Crops Competitiveness Act of 2004 to increase the authorization of appropriations for grants to support the competitiveness of specialty crops, to amend the Agricultural Risk Protection Act of 2000 to improve the program of value-added agricultural product market development grants by routing funds through State departments of agriculture, to amend the Federal Crop Insurance Act to require a nationwide expansion of the adjusted gross revenue insurance program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. COBURN (for himself and Mr. DEMINT):

S. 1557. A bill to amend the Public Health Service Act to provide for a program at the National Institutes of Health to conduct and support research in the derivation and use of human pluripotent stem cells by means that do not harm human embryos, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 1558. A bill to amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and extend the public filing requirement for 5 years; to the Committee on Homeland Security and Governmental Affairs.

By Ms. LANDRIEU:

S. 1559. A bill to amend the Internal Revenue Code of 1986 to provide taxpayers a tax check-off to designate certain annual contributions to the Armed Forces Relief Trust for an above-the-line deduction not to exceed $1,000, and for other purposes; to the Committee on Finance.

By Mr. SANTORUM:

S. 1560. A bill to establish a Congressional Commission on Expanding Social Service Delivery Options; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CORZINE (for himself, Mr. LAUTENBERG, and Ms. LANDRIEU):

S. 1561. A bill to amend title 36, United States Code, to grant a Federal charter to the Irish American Cultural Institute; to the Committee on the Judiciary.

By Mr. ENZI (for himself, Mr. JOHNSON, Mr. ALLARD, and Mr. HAGEL):

S. 1562. A bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DEWINE (for himself and Mrs. LINCOLN):

S. 1563. A bill to amend title XIX of the Social Security Act to protect and strengthen the safety net of children's public health coverage by extending the enhanced Federal matching rate under the State children's health insurance program to children covered by medicaid at State option and by encouraging innovations in children's enrollment and retention, to advance quality and performance in children's public health insurance programs, to provide payments for children's hospitals to reward quality and performance, and for other purposes; to the Committee on Finance.

By Mr. SARBANES:

S. 1564. A bill to provide for the disposition of the Federal property located in Anne Arundel County, Maryland, a portion of which is currently used by the District of Columbia as the Oak Hill juvenile detention facility; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LEVIN (for himself, Mr. COLEMAN, and Mr. OBAMA):

S. 1565. A bill to restrict the use of abusive tax shelters and offshore tax havens to inappropriately avoid Federal taxation, and for other purposes; to the Committee on Finance.

By Mr. CHAMBLISS:

S. 1566. An original bill to reauthorize the Commodity Exchange Act, and for other purposes; from the Committee on Agriculture, Nutrition, and Forestry; placed on the calendar.

By Mr. STEVENS:

S. 1567. An original bill to reauthorize and improve surface transportation safety programs, and for other purposes; from the

Committee on Commerce, Science, and Transportation; placed on the calendar.

By Mr. BROWNBACK (for himself, Mr. Inhofe, and Mr. Roberts):

S. 1568. A bill to enhance the ability of community banks to foster economic growth and serve their communities, and for other purposes; to the Committee on Finance.

By Mr. CRAIG (for himself and Mr. Bayh):

S. 1569. A bill to amend title XIX of the Social Security Act to facilitate the establishment of additional long-term care insurance partnerships between States and insurers in order to promote the use of long-term care insurance; to the Committee on Finance.

By Mr. ROBERTS (for himself and Mr. Kennedy):

S. 1570. A bill to promote employment of individuals with severe disabilities through Federal Government contracting and procurement processes, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CORZINE (for himself and Mr. Lautenberg):

S. 1571. A bill to amend title 38, United States Code, to establish a comprehensive program for testing and treatment of veterans for the Hepatitis C virus; to the Committee on Veterans' Affairs.

By Mr. JOHNSON (for himself and Mr. Bingaman):

S. 1572. A bill to amend title XIX of the Social Security Act to clarify the application of the 100 percent Federal medical assistance percentage under the medicaid program for services provided by the Indian Health Service or an Indian tribe or tribal organization directly or through referral, contract, or other arrangement; to the Committee on Finance.

By Mrs. DOLE (for herself and Mr. Corzine):

S. 1573. A bill to amend the Internal Revenue Code of 1986 to encourage the funding of collectively bargained retiree health benefits; to the Committee on Finance.

By Ms. CANTWELL (for herself, Mr. Bingaman, Mr. Rockefeller, Mrs. Lincoln, Mrs. Murray, and Mr. Corzine):

S. 1574. A bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. Cornyn, Ms. Mikulski, Ms. Collins, Mr. Jeffords, Mrs. Murray, Mr. Reed, Mr. Nelson of Nebraska, Ms. Cantwell, Mr. Durbin, Mr. Corzine, Ms. Landrieu, Mr. Kerry, Mr. Lautenberg, and Mr. Inouye):

S. 1575. A bill to amend the Public Health Service Act to authorize a demonstration program to increase the number of doctorally-prepared nurse faculty; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SMITH (for himself and Mr. Wyden):

S. 1576. A bill to authorize early repayment of obligations to the Bureau of Reclamation within the Rogue River Valley Irrigation District or within the Medford Irrigation District, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSON (for himself and Mr. Thune):

S. 1577. A bill to facilitate the transfer of Spearfish Hydroelectric Plant Number 1 to the city of Spearfish, South Dakota, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ALLARD (for himself, Mr. Bennett, Mr. Hatch, and Mr. Salazar):

S. 1578. A bill to reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery implementation programs; to the Committee on Energy and Natural Resources.

By Mr. BURNS (for himself, Mr. Dorgan, Mr. Johnson, Mr. Dayton, Mr. Baucus, and Mr. Conrad):

S. 1579. A bill to amend the Federal Insecticide, Fungicide, and Rodentcide Act to permit the distribution and sale of certain pesticides that are registered in both the United States and another country; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. AKAKA (for himself, Mr. Reid, Mr. Durbin, Mr. Bingaman, Mr. Corzine, Mrs. Murray, Mr. Kennedy, Ms. Landrieu, Mr. Lautenberg, Mr. Inouye, Mr. Pryor, Ms. Mikulski, Mr. Obama, Mr. Dodd, Mr. Lieberman, and Mrs. Clinton):

S. 1580. A bill to improve the health of minority individuals to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. Bunning):

S. 1581. A bill to facilitate the development of science parks, and for other purposes; to the Committee on Finance.

By Mr. CHAMBLISS (for himself and Mr. Roberts):

S. 1582. A bill to reauthorize the United States Grain Standards Act, to facilitate the official inspection at export port locations of grain required or authorized to be inspected under such Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SMITH (for himself, Mr. Dorgan, and Mr. Pryor):

S. 1583. A bill to amend the Communications Act of 1934 to expand the contribution base for universal service, establish a separate account within the universal service fund to support the deployment of broadband service in unserved areas of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HATCH (for himself, Mr. Craig, Mr. Burns, Mr. Smith, Mrs. Lincoln, and Mr. Schumer):

S. 1584. A bill to amend the Internal Revenue Code of 1986 to provide for a nonrefundable tax credit against income tax for individuals who purchase a residential safe storage device for the safe storage of firearms; to the Committee on Finance.

By Mr. BINGAMAN (for himself and Mr. Inouye):

S. 1585. A bill to amend title XIX of the Social Security Act to reduce the costs of prescription drugs for enrollees of medicaid managed care organizations by extending the discounts offered under fee-for-service medicaid to such organizations; to the Committee on Finance.

By Mr. HAGEL (for himself, Ms. Snowe, and Mr. Reed):

S. 1586. A bill to allow all businesses to make up to 24 transfers each month from interest-bearing transaction accounts to other transaction accounts, to require the payment of interest on reserves held for depository institutions at Federal reserve banks to repeal the prohibition of interest on business accounts, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN (for himself, Mr. Domenici, Mrs. Murray, Mr. Jeffords, Mr. Alexander, Ms. Cantwell, Mr. Akaka, Mr. Reed, Mr. Chafee, Mr. Leahy, Mr. Dodd, and Mr. Dayton):

S. 1587. A bill to amend title XXI of the Social Security Act to permit qualifying States to use a portion of their allotments under the State children's health insurance program for any fiscal year for certain medicaid expenditures; to the Committee on Finance.

By Mrs. LINCOLN:

S. 1588. A bill to amend title XVI of the Social Security Act to clarify that the value of certain funeral and burial arrangements are not to be considered available resources under the supplemental security program; to the Committee on Finance.

By Mr. BINGAMAN (for himself, Mr. Rockefeller, Mr. Feingold, Mr. Corzine, Mr. Kohl, Ms. Mikulski, Mr. Durbin, and Mr. Harkin):

S. 1589. A bill to amend title XVIII of the Social Security to provide for reductions in the medicare part B premium through elimination of certain overpayments to Medicare Advantage organizations; to the Committee on Finance.

By Mr. BAYH:

S. 1590. A bill to amend the Internal Revenue Code of 1986 to increase participation and savings in cash or deferred plans through automatic contribution and default investment arrangements and for other purposes; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. Grassley):

S. 1591. A bill to amend the Internal Revenue Code of 1986 to modify the rules relating to the suspension of interest and certain penalties where the taxpayer is not contacted by the Internal Revenue Service within 18 months; to the Committee on Finance.

By Ms. SNOWE (for herself, Mr. Conrad, Mrs. Lincoln, and Ms. Collins):

S. 1592. A bill to amend title XIX of the Social Security Act to permit States to obtain reimbursement under the medicaid program for care or services required under the Emergency Medical Treatment and Active Labor Act that are provided in a nonpublicly owned or operated institution for mental diseases; to the Committee on Finance.

By Ms. SNOWE (for herself and Mr. Bingaman):

S. 1593. A bill to amend title XVIII of the Social Security Act to enhance the access of Medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits at Federally qualified health centers; to the Committee on Finance.

By Mr. CORZINE:

S. 1594. A bill to require financial services providers to maintain customer information security systems and to notify customers of unauthorized access to personal information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. CANTWELL:

S. 1595. A bill to amend the Internal Revenue Code of 1986 to provide for a 3-year recovery period for depreciation of qualified energy management devices; to the Committee on Finance.

By Ms. CANTWELL:

S. 1596. A bill to amend the Public Utility Regulatory Policies Act of 1978 to require electric utilities to provide net metering service; to the Committee on Energy and Natural Resources

By Mr. ENZI:

S. 1597. A bill to award posthumously a Congressional gold medal to Constantino

Brumidi: to the Committee on Banking, Housing and Urban Affairs.

By Mr. HATCH (for himself, Mr. Craig, Mr. Burns, Mr. Smith, Mrs. Lincoln, and Mr. Schumer):

S. 1598. A bill to amend the Internal Revenue Code of 1986 to provide for a nonrefundable tax credit against income tax for individuals who purchase a residential safe storage device for the safe storage of firearms; to the Committee on Finance.

By Mr. McCAIN (for himself, Mr. Ensign, and Mr. Kyl):

S. 1599. A bill to repeal the perimeter rule for Ronald Reagan Washington National Airport, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE (for herself and Mr. Hatch):

S. 1600. A bill to amend the Communications Act of 1934 to ensure full access to digital television in areas served by low-power television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CRAIG:

S. 1601. A bill to extend temporarily the duty suspension on certain semi-manufactured forms of gold; to the Committee on Finance.

By Mr. GRASSLEY (for himself, Mr. Bayh, and Mrs. Clinton):

S. 1602. A bill to amend title XIX of the Social Security Act to require States to disregard benefits paid under long-term care insurance for purposes of determining medicaid eligibility, to expand long-term care insurance partnerships between States and insurers, to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, the use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs, to establish home and communitybased services as an optional medicaid benefit, and for other purposes; to the Committee on Finance.

By Ms. SNOWE:

S. 1603. A bill to establish a National Preferred Lender Program, facilitate the delivery of financial assistance to small businesses, and for other purposes; to the Committee on Small Business and Entrepreneurship.

By Mr. CRAIG (for himself and Mr. Roberts):

S. 1604. A bill to restore to the judiciary the power to decide all trademark and trade name cases arising under the laws and treaties of the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL (for himself, Mr. Pryor, Mr. Cornyn, Mr. Graham, Mr. Brownback, and Mr. Chambliss):

S. 1605. A bill to amend title 18, United States Code, to protect public safety officers, judges, witnesses, victims, and their family members, and for other purposes; to the Committee on the Judiciary.

By Mr. KYL (for himself and Mr. Cornyn):

S. 1606. A bill to establish an opt-out system for expungement of DNA profiles from the national index and to authorize collection of DNA samples from persons arrested or detained under Federal authority; to the Committee on the Judiciary.

By Mr. LAUTENBERG (for himself and Mr. Corzine):

S. 1607. A bill to amend section 10501 of title 49, United States Code, to exclude solid waste disposal from the jurisdiction of the Surface Transportation Board; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH (for himself, Mr. McCain, Mr. Inouye, and Mr. Nelson of Florida):

S. 1608. A bill to enhance Federal Trade Commission enforcement against illegal spam, spyware, and cross-border fraud and deception, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. CANTWELL:

S. 1609. A bill to increase the production and use of biofuels and diversify biofuel feedstock as key elements to achieving energy independence for the United States; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DeWINE (for himself and Mr. Biden):

S. Res. 224. A resolution to express the sense of the Senate supporting the establishment of September as Campus Fire Safety Month, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY (for herself, Mr. Smith, Mrs. Clinton, Mr. Corzine, Ms. Cantwell, Mr. Dayton, Ms. Landrieu, and Mr. Durbin):

S. Res. 225. A resolution designating the month of November 2005 as the "Month of Global Health"; to the Committee on the Judiciary.

By Mr. BIDEN (for himself, Mr. McCain, and Mr. Hagel):

S. Res. 226. A resolution calling for free and fair parliamentary elections in the Republic of Azerbaijan; to the Committee on Foreign Relations.

By Mr. DeWINE (for himself, Mr. Kohl, Mr. Cochran, Mr. Leahy, Mr. Chambliss, Mr. Harkin, Mr. Brownback, Mr. Durbin, Mrs. Dole, Mrs. Lincoln, Mr. Smith, Mr. Corzine, Mr. Coleman, Mr. Dorgan, Mr. Hatch, Mr. Obama, Ms. Collins, Ms. Cantwell, Mr. Santorum, Ms. Stabenow, Mr. Chafee, Mr. Lieberman, Mr. Martinez, Mr. Dayton, Mr. Roberts, Mr. Inouye, Mr. McCain, Mr. Nelson of Florida, Ms. Snowe, Mr. Lugar, Mr. Nelson of Nebraska, Mr. Sarbanes, Ms. Mikulski, Mr. Levin, and Mr. Reed):

S. Res. 227. A resolution pledging continued support for international hunger relief efforts and expressing the sense of the Senate that the United States Government should use resources and diplomatic leverage to secure food aid for countries that are in need of further assistance to prevent acute and chronic hunger; to the Committee on Foreign Relations.

By Ms. CANTWELL:

S. Res. 228. A resolution expressing the sense of the Senate that it should be a goal of the United States to reduce the amount of oil projected to be imported in 2025 by 40 percent and that the President should take measures to reduce the dependence of the United States on foreign oil; to the Committee on Energy and Natural Resources.

By Ms. COLLINS (for herself and Mr. Lieberman):

S. Res. 229. A resolution designating the month of September 2005 as "National Preparedness Month"; to the Committee on the Judiciary.

By Mr. SESSIONS (for himself, Mr. Reid, Mr. Shelby, Mr. Corzine, Mr. Bunning, Ms. Landrieu, Mr. Hatch, Ms. Cantwell, Mr. Crapo, Mrs. Feinstein, Mr. Lott, and Mr. Durbin):

S. Res. 230. A resolution designating September 2005 as "National Prostate Cancer Awareness Month"; considered and agreed to.

By Ms. LANDRIEU (for herself, Ms. Murkowski, Ms. Cantwell, Mrs. Feinstein, Ms. Mikulski, Mrs. Murray, Ms. Snowe, Mrs. Clinton, Ms. Collins, Mr. Biden, Ms. Stabenow, Mrs. Hutchison, Mrs. Boxer, Mr. Lieberman, Mr. Obama, Mr. Schumer, Mrs. Dole, Mr. Lautenberg, Mr. Leahy, Mr. Allen, Mrs. Lincoln, and Mr. Santorum):

S. Res. 231. A resolution encouraging the Transitional National Assembly of Iraq to adopt a constitution that grants women equal rights under the law and to work to protect such rights; considered and agreed to.

By Mr. KENNEDY (for himself, Mr. Reid, Mr. Leahy, Mr. Feingold, Mr. Durbin, Mr. Kohl, Mr. Jeffords, Mr. Lautenberg, Mr. Biden, Mr. Levin, Ms. Mikulski, Ms. Landrieu, Mr. Obama, Mr. Schumer, Mr. Kerry, and Mr. Specter):

S. Res. 232. A resolution celebrating the 40th anniversary of the enactment of the Voting Rights Act of 1965 and reaffirming the commitment of the Senate to ensuring the continued effectiveness of the Act in protecting the voting rights of all citizens of the United States; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. Rockefeller, Mr. Baucus, Mr. Bingaman, Mr. Reid, Mr. Durbin, Ms. Stabenow, Mrs. Murray, Mr. Corzine, Mr. Schumer, Mr. Jeffords, Mr. Obama, Ms. Landrieu, Mr. Harkin, Mr. Reed, Mr. Sarbanes, Mr. Kohl, Mr. Dorgan, Ms. Cantwell, Mrs. Clinton, Mr. Wyden, Mr. Feingold, Mr. Nelson of Florida, Mrs. Feinstein, Mr. Biden, Mr. Dayton, Mr. Levin, Mr. Kerry, Mr. Johnson, Mrs. Lincoln, Mr. Lautenberg, Ms. Mikulski, Mr. Salazar, Mrs. Boxer, Mr. Pryor, Mr. Dodd, Mr. Bayh, Mr. Lieberman, Mr. Conrad, Mr. Inouye, Mr. Akaka, Mr. Leahy, Mr. Byrd, and Mr. Carper):

S. Con. Res. 49. A concurrent resolution expressing the sense of the Congress with respect to the importance of Medicaid in the health care system of our Nation; to the Committee on Finance.

By Ms. STABENOW (for herself, Mr. Reid, Mr. Baucus, Mr. Rockefeller, Mr. Kennedy, Mr. Bingaman, Mr. Durbin, Mrs. Murray, Mr. Corzine, Mr. Schumer, Mr. Jeffords, Mr. Obama, Ms. Landrieu, Mr. Harkin, Mr. Reed, Mr. Sarbanes, Mr. Kohl, Mr. Dorgan, Ms. Cantwell, Mrs. Clinton, Mr. Wyden, Mr. Feingold, Mr. Nelson of Florida, Mrs. Feinstein, Mr. Biden, Mr. Dayton, Mr. Levin, Mr. Kerry, Mr. Johnson, Mrs. Lincoln, Mr. Lautenberg, Ms. Mikulski, Mr. Salazar, Mrs. Boxer, Mr. Pryor, Mr. Dodd, Mr. Bayh, Mr. Lieberman, Mr. Conrad, Mr. Inouye, Mr. Akaka, Mr. Leahy, Mr. Byrd, and Mr. Carper):

S. Con. Res. 50. A concurrent resolution expressing the sense of Congress concerning the vital role of Medicare in the health care system of our Nation over the last 40 years; to the Committee on Finance.

## ADDITIONAL COSPONSORS

S. 7

At the request of Mr. KYL, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 7, a bill to increase American jobs and economic growth by making permanent the individual income tax rate reductions, the reduction in the capital gains and dividend tax rates, and the repeal of the estate, gift, and generation-skipping transfer taxes.

S. 37

At the request of Mrs. FEINSTEIN, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 37, a bill to extend the special postage stamp for breast cancer research for 2 years.

S. 103

At the request of Mr. TALENT, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 211

At the request of Mrs. DOLE, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 211, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral on human services, volunteer services, and for other purposes.

S. 241

At the request of Ms. SNOWE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 375

At the request of Mr. BAYH, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 375, a bill to amend the Public Health Service Act to provide for an influenza vaccine awareness campaign, ensure a sufficient influenza vaccine supply, and prepare for an influenza pandemic or epidemic, to amend the Internal Revenue Code of 1986 to encourage vaccine production capacity, and for other purposes.

S. 392

At the request of Mr. LEVIN, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Kansas (Mr. BROWNBACK), the Senator from Pennsylvania (Mr. SPECTER), the Senator from North Dakota (Mr. DORGAN), the Senator from Virginia (Mr. WARNER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Delaware (Mr. CARPER), the Senator from Indiana (Mr. BAYH), the Senator from Arizona (Mr. KYL), the Senator from Louisiana (Mr. VITTER), the Senator from Missouri (Mr. BOND), the Senator from Maine (Ms. COLLINS), the Senator from Maine (Ms. SNOWE), the Senator from Florida (Mr. MARTINEZ), the Senator from Rhode Island (Mr. REED) and the Senator from Tennessee (Mr. ALEXANDER) were added as cosponsors of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 467

At the request of Mr. DODD, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 467, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 558

At the request of Mr. REID, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 566

At the request of Mr. ROCKEFELLER, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 566, a bill to continue State coverage of medicaid prescription drug coverage to medicare dual eligible beneficiaries for 6 months while still allowing the medicare part D benefit to be implemented as scheduled.

S. 577

At the request of Ms. COLLINS, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 577, a bill to promote health care coverage for individuals participating in legal recreational activities or legal transportation activities.

S. 603

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 603, a bill to amend the Consumer Credit Protection Act to assure meaningful disclosures of the terms of rental-purchase agreements, including disclosures of all costs to consumers under such agreements, to provide certain substantive rights to consumers under such agreements, and for other purposes.

S. 604

At the request of Mr. CRAIG, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. 604, a bill to amend title XVIII of the Social Security Act to authorize expansion of medicare coverage of medical nutrition therapy services.

S. 678

At the request of Mr. REID, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 678, a bill to amend the Federal Election Campaign Act of 1971 to exclude communications over the Internet from the definition of public communication.

S. 695

At the request of Mr. BYRD, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 695, a bill to suspend temporarily new shipper bonding privileges.

S. 705

At the request of Mr. SARBANES, the names of the Senator from Colorado (Mr. ALLARD) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 705, a bill to establish the Interagency Council on Meeting the Housing and Service Needs of Seniors, and for other purposes.

S. 841

At the request of Mrs. CLINTON, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 841, a bill to amend the Fair Labor Standards Act of 1938 to provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for other purposes.

S. 1002

At the request of Mr. GRASSLEY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1002, a bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes.

At the request of Mr. BAUCUS, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 1002, supra.

S. 1007

At the request of Mr. BINGAMAN, the names of the Senator from Arkansas (Mrs. LINCOLN), the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 1007, a bill to prevent a severe reduction in the Federal medical assistance percentage determined for a State for fiscal year 2006.

S. 1047

At the request of Mr. SUNUNU, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1047, a bill to require the Secretary of the Treasury to mint coins in commemoration of each of the Nation's past Presidents and their spouses, respectively to improve circulation of the $1 coin, to create a new bullion coin, and for other purposes.

S. 1086

At the request of Mr. HATCH, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1086, a bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

S. 1190

At the request of Mr. SALAZAR, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1190, a bill to provide sufficient blind rehabilitation outpatient specialists at medical centers of the Department of Veterans Affairs.

S. 1191

At the request of Mr. SALAZAR, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Maine (Ms. SNOWE) and the Senator from Vermont (Mr. JEFFORDS) were added as cosponsors of S. 1191, a bill to establish a grant program to provide innovative transportation options to veterans in remote rural areas.

S. 1215

At the request of Mr. GREGG, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 1215, a bill to authorize the acquisition of interests in underdeveloped coastal areas in order better to ensure their protection from development.

S. 1227

At the request of Ms. STABENOW, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1227, a bill to improve quality in health care by providing incentives for adoption of modern information technology.

S. 1272

At the request of Mr. NELSON of Nebraska, the names of the Senator from Alaska (Ms. MURKOWSKI), the Senator from California (Mrs. BOXER) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1305

At the request of Mr. BROWNBACK, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1305, a bill to amend the Internal Revenue Code of 1986 to increase tax benefits for parents with children, and for other purposes.

S. 1308

At the request of Mr. BAUCUS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1308, a bill to establish an Office of Trade Adjustment Assistance, and for other purposes.

S. 1309

At the request of Mr. BAUCUS, the name of the Senator from Arkansas (Mrs. LINCOLN) was added as a cosponsor of S. 1309, a bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes.

S. 1313

At the request of Mr. CORNYN, the names of the Senator from Maine (Ms. SNOWE) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 1313, a bill to protect homes, small businesses, and other private property rights, by limiting the power of eminent domain.

S. 1317

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1317, a bill to provide for the collection and maintenance of cord blood units for the treatment of patients and research, and to amend the Public Health Service Act to authorize the Bone Marrow and Cord Blood Cell Transplantation Program to increase the number of transplants for recipients suitable matched to donors of bone marrow and cord blood.

S. 1319

At the request of Mrs. LINCOLN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1319, a bill to amend the Internal Revenue Code of 1986 to improve the operation of employee stock ownership plans, and for other purposes.

S. 1321

At the request of Mr. SANTORUM, the names of the Senator from Alabama (Mr. SESSIONS) and the Senator from Colorado (Mr. ALLARD) were added as cosponsors of S. 1321, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications.

S. 1338

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1338, a bill to require the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey, to conduct a study on groundwater resources in the State of Alaska, and for other purposes.

S. 1350

At the request of Mr. SPECTER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1350, a bill to amend the Communications Act of 1934 to protect the privacy rights of subscribers to wireless communications services.

S. 1405

At the request of Mr. NELSON of Nebraska, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1405, a bill to extend the 50 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility and to establish the National Advisory Council on Medical Rehabilitation.

S. 1411

At the request of Ms. SNOWE, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1411, a bill to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 1418

At the request of Mr. ENZI, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 1418, a bill to enhance the adoption of a nationwide inter operable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1424

At the request of Mr. ENSIGN, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of S. 1424, a bill to remove the restrictions on commercial air service at Love Field, Texas.

S. 1462

At the request of Mr. CORZINE, the names of the Senator from California (Mrs. FEINSTEIN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1462, a bill to promote peace and accountability in Sudan, and for other purposes.

At the request of Mr. BROWNBACK, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 1462, supra.

S. 1479

At the request of Mr. DODD, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1479, a bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee.

S. 1488

At the request of Mr. VITTER, the names of the Senator from Wyoming (Mr. THOMAS) and the Senator from Utah (Mr. HATCH) were added as cosponsors of S. 1488, a bill to withhold funding from the United Nations if the United Nations abridges the rights provided by the Second Amendment to the Constitution, and for other purposes.

S. 1496

At the request of Mr. CRAPO, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 1496, a bill to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

### S. 1500

At the request of Ms. LANDRIEU, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1500, a bill to authorize the National Institute of Environmental Health Sciences to develop multidisciplinary research centers regarding women's health and disease prevention and to conduct and coordinate a research program on hormone disruption, and for other purposes.

### S. 1512

At the request of Mr. SARBANES, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1512, a bill to grant a Federal charter to Korean War Veterans Association, Incorporated.

### S. 1520

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from West Virginia (Mr. ROCKEFELLER) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 1520, a bill to prohibit human cloning.

### S. 1521

At the request of Mr. CRAPO, the names of the Senator from Arizona (Mr. KYL) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. 1524, a bill to repeal the sunset on the reduction of capital gains rates for individuals and on the taxation of dividends of individuals at capital gain rates.

### S. 1538

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1538, a bill to amend the Internal Revenue Code of 1986 to expand the incentives for the construction and renovation of public schools.

### S.J. RES. 15

At the request of Mr. BROWNBACK, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S.J. Res. 15, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian tribes and offer an apology to all Native Peoples on behalf of the United States.

### S.J. RES. 20

At the request of Mr. LEAHY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S.J. Res. 20, a joint resolution disapproving a rule promulgated by the Adminstrator of the Environmental Protection Agency to delist coal and oil-direct utility units from the source category list under the Clean Air Act.

### S. CON. RES. 37

At the request of Mr. DEWINE, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. Con. Res. 37, a concurrent resolution honoring the life of Sister Dorothy Stang.

### S. CON. RES. 48

At the request of Mr. DURBIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. Con. Res. 48, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued to promote public awareness of Down syndrome.

### S. RES. 184

At the request of Mr. SANTORUM, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. Res. 184, a resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes.

### S. RES. 204

At the request of Mr. DURBIN, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 204, a resolution recognizing the 75th anniversary of the American Academy of Pediatrics and supporting the mission and goals of the organization.

### S. RES. 220

At the request of Mr. GRAHAM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. Res. 220, a resolution to express the concern of the Senate regarding the passage of the anti-secession law by the National People's Congress of the People's Republic of China and Taiwan on an equal footing without preconditions.

### AMENDMENT NO. 1435

At the request of Ms. STABENOW, the names of the Senator from South Dakota (Mr. THUNE), the Senator from Indiana (Mr. BAYH) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of amendment No. 1435 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

### AMENDMENT NO. 1524

At the request of Mrs. DOLE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of amendment No. 1524 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

### AMENDMENT NO. 1556

At the request of Mr. MCCAIN, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 1556 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

### AMENDMENT NO. 1557

At the request of Mr. MCCAIN, the names of the Senator from Oregon (Mr. SMITH) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 1557 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

### AMENDMENT NO. 1619

At the request of Mr. CORZINE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of amendment No. 1619 proposed to S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

### AMENDMENT NO. 1620

At the request of Mr. LAUTENBERG, the names of the Senator from Connecticut (Mr. DODD) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of amendment No. 1620 proposed to S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

### AMENDMENT NO. 1642

At the request of Mr. REED, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 1642 proposed to S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOND:

S. 1553. A bill to amend the Internal Revenue Code of 1986 to enhance tax incentives for small property and casualty insurance companies; to the Committee on Finance.

Mr. BOND. Mr. President, I rise today to introduce a bill that addresses an inequity and helps clarify a tax exemption that exists for small property and casualty (P&C) insurance companies under the Internal Revenue Code Sections 501(c)(15) and 831(b). These small P&C insurers, often originally organized as mutual companies to offer insurance coverage to specific groups, mainly serve rural areas and farming communities that otherwise may not have been able to obtain affordable coverage. This tax exemption helps to provide additional surplus and cash flow for these small companies.

The Pension Funding Equity Act of 2004, "2004 Act", amended the small P&C insurer exemption because there were concerns that certain investment companies offering only a small amount of insurance could use the exemption to improperly shelter investment income from federal income tax. Now, under current law, the exemption applies only to P&C (i.e., non-life) insurance companies if their "gross receipts" for the taxable year do not exceed $600,000 and if premiums make up more than 50 percent of those gross receipts. A mutual P&C insurance company also may be exempt if its premiums make up more than 35 percent of its gross receipts and its gross receipts do not exceed $150,000. Additionally, P&C companies that have direct or net written premiums, whichever is greater, exceeding $350,000 but not exceeding $1.2 million, Income Election Limit, can elect to be taxed under a similar tax structure on their net investment income.

While the 2004 Act helped to close a potential loophole, the special provisions for small P&C insurers are in need of further clarification or reform. The term "gross receipts" is not defined uniformly for purposes of the Internal Revenue Code and the Income Election Limit has not been adjusted for inflation since the Tax Reform Act of 1986.

Without a clear definition of the term "gross receipts," many unanswered questions remain with respect to determining whether a small P&C insurance company qualifies for exemption under section 501(c)(15). For example, such a company typically invests a large portion of its assets in government bonds. If the gross proceeds on the sale of an asset are included in the measure of "gross receipts," based on a broad cash-flow definition of gross receipts, the mere maturation of bonds and reinvestment could cause a small P&C insurance company to fall out of the exemption even though there has been no change in the size of the business and even if the company realizes a loss on the sale or redemption. On the other hand, this arbitrary result would not occur if a definition of gross receipts that includes gains from the sale or exchange of assets is used. Such a definition of gross receipts looks to the size of the business in terms of income and overall profitability, which in turn ties into the reason for the tax exemption.

If the Income Election Limit is not adjusted to keep pace with inflation, the impact could be severe. Take, for instance, a small P&C insurer in my State that started insuring the local farmers in the late 1980s. Over the ensuing years, the company's client base changed very little, but the insurance premiums increased gradually to keep pace with inflationary pressures. As a result, while the business itself has not grown in absolute terms, its premium base has, therefore resulting in the loss of the elective alternative and simpler tax on investment income.

For the farmers and consumers covered by the small P&C insurer, this loss of the tax exemption or a simpler, more limited tax structure is certain to mean higher insurance premiums, leaving the client with the choice of cutting coverage or paying higher costs, neither of which is a preferred option. This is the last thing our agricultural community needs.

The legislation I am introducing today addresses both of these concerns. This legislation would add definitional language for "gross receipts" clarifying that gross receipts means premiums, plus gross investment income. In addition, the proposal simply increases the Income Election Limit from $1.2 million to $1.971 million, and indexes it annually for inflation.

According to the National Association of Mutual Insurance Companies, this legislation will help hundreds of small P&C insurance companies nationwide. Under this proposed legislation, at least 56 of the 82 small insurance companies in my State will be covered, thereby enabling them to continue providing critical insurance coverage to small businesses across Missouri.

With this legislation, we have an opportunity to infuse some fairness into our tax code and at the same time help the thousands of farmers, homeowners, and entrepreneurs covered by small P&C insurers in this country. I ask my colleagues to support this legislation, and I look forward to working with the Finance Committee to see it enacted into law.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1553

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. CLARIFICATION OF DEFINITION OF GROSS RECEIPTS FOR PURPOSES OF DETERMINING TAX EXEMPTION OF SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.**

(a) IN GENERAL.—Section 501(c)(15) of the Internal Revenue Code is amended by adding at the end the following:

"(D) For purposes of subparagraph (A), the term 'gross receipts' means the gross amount received during the taxable year from the items described in section 834(b) and premiums (including deposits and assessments).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

**SEC. 2. INCREASE IN LIMITATION FOR ALTERNATIVE TAX LIABILITY FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.**

(a) IN GENERAL.—Clause (i) of section 831(b)(2)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

"(i) the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed $1,971,000, and".

(b) INFLATION ADJUSTMENT.—Paragraph (2) of section 831(b) of such Code is amended by adding at the end the following new subparagraph:

"(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2006, the $1,971,000 amount set forth in subparagraph (A) shall be increased by an amount equal to—

"(i) $1,971,000, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof. If the amount as adjusted under the preceding sentence is not a multiple of $1,000, such amount shall be rounded to the next lowest multiple of $1,000.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

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By Ms. CANTWELL (for herself, Ms. COLLINS, Mr. BINGAMAN, Mrs. MURRAY, Ms. MIKULSKI, Mr. KOHL, and Mr. CORZINE):

S. 1555. A bill to amend the Farm Security and Rural Investment Act of 2002 to reform funding for the Seniors Farmers' Market Nutrition Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. CANTWELL. Mr. President, I am proud to rise today with my colleagues Senators COLLINS, BINGAMAN, MURRAY, MIKULSKI, KOHL and CORZINE, to introduce bipartisan legislation enhancing the Seniors Farmers' Market Nutrition Program. As all of my colleagues know, the Seniors Farmers' Market Nutrition Program (SFMNP) was created through the Farm Security and Rural Investment Act of 2002 (P.L. 107–171). It is a program that provides grants to States, territories, and Native American tribal governments to provide coupons to low-income seniors to purchase fresh, locally grown fruits, vegetables, and herbs from farmers' markets, roadside stands, and community supported agricultural programs. The purpose of the program is to make healthy foods available to low-income seniors while simultaneously assisting domestic farmers.

Scientific research increasingly confirms that what we eat may have a significant impact on our health, quality of life, and longevity. In the United States, high intakes of fat and saturated fat, and low intakes of calcium and fiber-containing foods such as whole grains, vegetables and fruits are associated with several chronic health conditions that can impair the quality of life and hasten mortality.

According to the United States Department of Agriculture, research continues to find strong links between eating lots of fruits and vegetables and preventing chronic diseases such as cancer, heart disease, and stroke. Eating more fruits and vegetables may also play a role in preventing other diseases such as high blood pressure and osteoporosis, to name just two.

Two studies, one here in the U.S. and the other in the Netherlands, found eating a diet rich in vitamins E and C may help to lower your risk of Alzheimer's disease. Both found that eating foods high in vitamin E may reduce your risk of Alzheimer's, a degenerative brain disease. The U.S. study found that people with the highest vitamin E intake in their diet had a 70 percent lower frequency of Alzheimer's than those with the lowest amounts of vitamin E in their diet.

Vitamin A, which is found in many different fruits and vegetables, is very important to the health of your eyes. Other nutrients in produce, such as carotenoids, also play a role in maintaining healthy eyes and good vision. An example of a carotenoid is lutein. Lutein is found in dark green leafy vegetables like spinach.

While the health benefits of eating fruits and vegetables may seem obvious, only 27 percent of women and 19 percent of men eat the recommended 5 servings of fruits and vegetables every day.

The U.S. Department of Agriculture (USDA) Food and Nutrition Service administers the Seniors Farmers' Market Nutrition Program; and in fiscal year 2003, approximately 800,000 people received SFMNP coupons throughout the country. The food made available for sale came from an estimated 14,000 farmers at more than 2,000 farmers' markets as well as nearly 1,800 roadside stands and 200 community supported agricultural programs. In fiscal year 2005, 46 States, U.S. Territories, and federally recognized Indian tribal governments will operate the SFMNP. Close to 900,000 eligible seniors are expected to receive benefits that can be used at over 4,000 markets, roadside stands and community supported agricultural programs during the 2005 harvest season.

In Washington State, the Seniors Farmers' Market Nutrition Program has been incredibly successful in ensuring access to healthy foods for seniors, as well as bolstering the state's farmers and our farmers' markets. In fact, according to the Washington State University Nutrition Education program, in Washington State, the Senior Farmers' Market Nutrition Program reaches about 8,000 lower-income older adults each year in 35 of my State's 39 counties. In 2003, 472 farms, 49 farmers markets, four roadside stands and one community supported agriculture program participated in the SFMNP and the participating seniors in Washington state purchased approximately 90 tons of fresh produce while learning about the role of nutrition in their health in preventing chronic disease.

The bill that I am introducing today aims to better address the growing demand and need for the Seniors Farmers' Market Nutrition Program in four ways.

First, the bill would increase funding from $15 million to $25 million for the program in fiscal year 2005 and continue to expand the program by $25 million each year, until the program's expiration in 2007, meaning that the SFMNP would be funded at not less than $50 million in fiscal year 2006, and at not less than $75 million in 2007.

Second, the bill specifies that funds made available through this act will remain available to the program until exhausted. As such, any remaining funds from one fiscal year will roll over into the subsequent fiscal year budget for the SFMNP.

Third, provisions in the bill support administrative costs. Not more than ten percent of available funds in a fiscal year can be used to cover the operating expenses of the SFMNP.

Finally, the bill grants authority to the Secretary of Agriculture to expand the list of foods eligible for purchase to include minimally processed foods, such as honey, as deemed appropriate.

We should not forget, too, that an obvious, positive outgrowth of the program is the inherent ability of the SFMNP program to strengthen local economies and communities while at the same time works to preserve farmland and open spaces. I sincerely appreciate that the Washington Association of Area Agencies on Aging, as well as the Washington State Farmers Market Association, are supporting this legislation.

The legislation I am introducing today will go a long way in expanding the amount of funding available for the Senior Farmers' Market Nutrition Program. We all know that value and importance that individuals of all ages eat their requisite servings of vegetables and fruit each day. Such foods are high in fiber and lower the risk of chronic diseases such as heart disease and type 2 diabetes, in addition to colon and rectal cancer, high blood pressure, and obesity. However, food costs can be a significant barrier to developing and maintaining a healthy lifestyle. In establishing the Senior Farmers' Market Nutrition Program in 2002, Congress recognized that it is important to provide a means for low-income seniors to have access to fruits and vegetables. The legislation I introduce today will further our nation's commitment to ensuring the health of our nation's seniors, and I urge my colleagues to join me in cosponsoring this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1555

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SENIORS FARMERS' MARKET NUTRITION PROGRAM.**

(a) FUNDING.—Section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007) is amended by striking subsection (a) and inserting the following:

"(a) ESTABLISHMENT.—The Secretary of Agriculture shall use funds available to the Commodity Credit Corporation to carry out and expand a seniors farmers' market nutrition program in the following amounts, to remain available until expended:

"(1) For fiscal year 2005, not less than $25,000,000.

"(2) For fiscal year 2006, not less than $50,000,000.

"(3) For fiscal year 2007, not less than $75,000,000.".

(b) PURPOSES.—Section 4402(b)(1) of that Act (7 U.S.C. 3007(b)(1)) is amended—

(1) by striking "unprepared" and inserting "minimally processed"; and

(2) by striking "and herbs" and inserting "herbs, and other locally-produced farm products, as the Secretary considers appropriate".

(c) ADMINISTRATIVE COSTS; UNEXPENDED FUNDS.—Section 4402 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 3007) is amended by adding at the end the following:

"(d) ADMINISTRATIVE COSTS.—Not more than 10 percent of the funds made available for a fiscal year under subsection (a) may be used to pay the administrative costs of carrying out this section.".

By Mr. WYDEN:

S. 1556. A bill to amend the Specialty Crops Competitiveness Act of 2004 to increase the authorization of appropriations for grants to support the competitiveness of specialty crops, to amend the Agricultural Risk Protection Act of 2000 to improve the program of value-added agricultural product market development grants by routing funds through State departments of agriculture, to amend the Federal Crop Insurance Act to require a nationwide expansion of the adjusted gross revenue insurance program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. WYDEN. Mr. President, today I introduce legislation that will safeguard and promote specialty crops and value-added agriculture in Oregon and in the United States. The great farmers and ranchers of Oregon produce over 200 commodities. This bill intends to improve their marketing opportunities, help Oregon farmers and processors get better prices for their products, and help Oregon farmers and processors compete in an increasingly global market. As it will help Oregon farmers so it will help specialty crop farmers from New York to Florida, Wisconsin to California.

I introduce this bill as my colleague from Oregon, Congresswoman HOOLEY, introduces the same bill in the House of Representatives.

In the increasingly technological world of microchips, products like potato chips and other agricultural commodities still remain a large part of Oregon's economy. In fact, agriculture is Oregon's second largest traded sector and Oregon's second largest export, behind the electronics industry. Oregon agriculture creates more than $8 billion of direct and indirect economic activity, in both urban and rural areas in the state.

At the center of this bill is the expansion of a specialty crop grant program, authorized by Congress in 2001, of which Oregon producers have already made use. Oregon received about $3.2 million that was used for over 50 projects involving product development, marketing, research, and export promotion. The Oregon Department of Agriculture estimates that over 3000 producers benefited from these projects. They also estimate that enhanced sales resulting from these projects reached $20 million—about six times what was invested.

The problem with this pilot program was the grants were only available once. Last year Congress passed legislation that reinstated these specialty crop grants but at funding level that would provide only around $500,000 to Oregon. This legislation raises the authorized level to $500 million and makes the grant program permanent. Under this expansion Oregon has the potential to receive $5 million a year in specialty crop grants.

The bill I am introducing today also improves USDA's value added grant program. Right now this program is run by bureaucrats in Washington, DC who have probably never been to Oregon and probably couldn't name the top Oregon specialty crops. My office has heard numerous complaints that this program is unwieldy, bureaucratic, and difficult to navigate. Last year every applicant from Oregon was disqualified on a technicality. This bill would make one simple but very important change: instead of having the Federal Government distribute the money, each State would get a share of the money to hand out to their chosen priorities.

Between these two grant programs each State in the union should have plenty of money to implement agricultural promotion strategies that match the needs of its individual growers, processors, and citizens.

This bill also authorizes funds for farmers and processors to become "certified." Certification comes in many forms like "Good Agricultural Practices," "Good Handling Practices," or "Organic." Often getting certified is necessary before farmers or processors can effectively market products whether in local grocery stores or to foreign countries. Certified products often fetch premium prices. To encourage farmers to get these certifications and increase their market share this legislation would have the USDA reimburse half the cost of the certifications.

Last, this legislation improves opportunities for specialty crop farmers to get crop insurance, increase loan availability, provide additional funding for export promotion, and make sure that American trade policy takes specialty crops into account.

I know that Oregonians doing a great job growing some of the best quality crops in the world. There are a lot of challenges facing agriculture: cheap imports, low commodity prices, taxation, labor, and dozens of others. This bill won't solve everything, but I think it will make an important contribution to improving Oregon agriculture by making it more competitive on a global level and helping farmers get a decent price for what they produce. I look forward to working with my colleagues to assure the enactment of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

### S. 1556

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Specialty Crop and Value-Added Agriculture Promotion Act".

### SEC. 2. DEFINITION OF SPECIALTY CROP.

Section 3(1) of the Specialty Crops Competitiveness Act of 2004 (Public 108-465; 7 U.S.C. 1621 note) is amended—

(1) by inserting "fish and shellfish whether farm-raised or harvested in the wild," after "dried fruits,"; and

(2) by adding at the end the following: "The term includes specialty crops that are organically produced (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502).".

### SEC. 3. PERMANENT AUTHORIZATION OF APPROPRIATIONS FOR STATE SPECIALTY CROP BLOCK GRANTS.

Section 101 of the Specialty Crops Competitiveness Act of 2004 (Public 108-465; 7 U.S.C. 1621 note) is amended by striking subsection (i) and inserting the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—For fiscal year 2006 and every fiscal year thereafter, there is authorized to be appropriated to the Secretary of Agriculture $500,000,000 to make grants under this section.".

### SEC. 4. BLOCK GRANTS TO STATES FOR VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT.

(a) IN GENERAL.—Section 231 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1621 note) is amended by striking subsection (b) and inserting the following:

"(b) GRANT PROGRAM.—

"(1) STATE DEFINED.—In this subsection, the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(2) BLOCK GRANTS TO STATES.—

"(A) AMOUNT OF GRANT TO STATE.—From the amount made available under paragraph (7) for a fiscal year, the Secretary shall provide to each State, subject to subparagraph (B), a grant in an amount equal to the product obtained by multiplying the amount made available for that fiscal year by the result obtained by dividing—

"(i) the total value of the agricultural commodities and products made in the State during the preceding fiscal year; by

"(ii) the total value of the agricultural commodities and products made in all of the States during the preceding fiscal year.

"(B) LIMITATION.—The total grant provided to a State for a fiscal year under subparagraph (A) shall not exceed $3,000,000.

"(3) USE OF GRANT FUNDS BY STATES.—A State shall use the grant funds to award competitive grants—

"(A) to an eligible independent producer (as determined by the State) of a value-added agricultural product to assist the producer—

"(i) in developing a business plan for viable marketing opportunities for the value-added agricultural product; or

"(ii) in developing strategies that are intended to create marketing opportunities for the producer; and

"(B) to an eligible agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture (as determined by the State) to assist the entity—

"(i) in developing a business plan for viable marketing opportunities in emerging markets for a value-added agricultural product; or

"(ii) in developing strategies that are intended to create marketing opportunities in emerging markets for the value-added agricultural product.

"(4) AMOUNT OF COMPETITIVE GRANT.—

"(A) IN GENERAL.—The total amount provided under paragraph (3) to a grant recipient shall not exceed $500,000.

"(B) MAJORITY-CONTROLLED PRODUCER-BASED BUSINESS VENTURES.—The amount of grants provided by a State to majority-controlled producer-based business ventures under paragraph (3)(B) for a fiscal year may not exceed 10 percent of the amount of funds that are used by the State to make grants for the fiscal year under paragraph (3).

"(5) GRANTEE STRATEGIES.—A recipient of a grant under paragraph (3) shall use the grant funds—

"(A) to develop a business plan or perform a feasibility study to establish a viable marketing opportunity for a value-added agricultural product; or

"(B) to provide capital to establish alliances or business ventures that allow the producer of the value-added agricultural product to better compete in domestic or international markets.

"(6) REPORTS.—Not later than 90 days after the end of a fiscal year for which funds are provided to a State under paragraph (2), the State shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing how the funds were used.

"(7) FUNDING.—On October 1 of each fiscal year, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection $100,000,000, to remain available until expended.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

### SEC. 5. REIMBURSEMENT OF CERTIFICATION COSTS.

(a) INCENTIVE PROGRAM.—

(1) IN GENERAL.—The Secretary of Agriculture shall establish an incentive program to encourage the independent third-party certification of agricultural producers and processors for product qualities, production practices, or other product or process attributes that increase marketability or value of an agricultural commodity.

(2) INCLUSIONS.—The Secretary shall include independent third-party certification systems, including programs such as Good Agricultural Practices, Good Handling Practices, and Good Manufacturing Practices programs, that the Secretary finds will provide 1 or more measurable social, environmental, or marketing advantages.

(b) STANDARDS.—The Secretary shall set standards regarding the types of certifications, and the types of certification-related expenses, that will qualify for reimbursement under the program.

(c) LIMITATION ON AMOUNT OF REIMBURSEMENT.—An agricultural producer or processor may not receive reimbursement for more than 50 percent of the qualified expenses incurred by the producer or processor related to accepted certifications.

### SEC. 6. NATIONWIDE EXPANSION OF RISK MANAGEMENT AGENCY ADJUSTED GROSS REVENUE INSURANCE PROGRAM.

(a) EXPANSION.—Section 523(e) of the Federal Crop Insurance Act (7 U.S.C. 1523(e)) is amended by adding at the end the following:

"(3) PERMANENT NATIONWIDE OPERATION.—

"(A) IN GENERAL.—Effective beginning with the 2006 reinsurance year, the Corporation shall carry out the adjusted gross revenue insurance pilot program as a permanent program under this title and may expand the program to cover any county in which crops are produced.

"(B) TEMPORARY PREMIUM SUBSIDIES.—To facilitate the expansion of the program nationwide, the Corporation may grant temporary premium subsidies for the purchase of a policy under the program to producers whose farm operations are located in a county that has a high level of specialty crop production and has not had a high-level of participation in the purchase of crop insurance coverage.".

(b) COMPTROLLER GENERAL STUDY.—The Comptroller General shall conduct a study of the Federal crop insurance program—

(1) to determine how well the program under section 523(e)(3) of the Federal Crop Insurance Act (as added by subsection (a)) serves specialty crop producers; and

(2) to recommend such changes as the Comptroller General considers appropriate to improve the program for specialty crop producers.

### SEC. 7. EXPANSION OF FRUIT AND VEGETABLE PROGRAM IN SCHOOL LUNCH PROGRAMS.

The Richard B. Russell National School Lunch Act is amended—

(1) in section 18 (42 U.S.C. 1769), by striking subsection (g); and

(2) by inserting after section 18 the following:

### "SEC. 19. FRUIT AND VEGETABLE PROGRAM.

"(a) IN GENERAL.—The Secretary shall make available in not more than 100 schools in each State, and in elementary and secondary schools on 1 Indian reservation, free fresh and dried fruits and vegetables and frozen berries to be served to school children throughout the school day in 1 or more areas designated by the school.

"(b) PRIORITY IN ALLOCATION.—In selecting States to participate in the program, the Secretary shall give priority to States that produce large quantities of specialty crops.

"(c) PUBLICITY.—A school participating in the program authorized by this section shall publicize in the school the availability of free fruits and vegetables under the program.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for to carry out this section $20,000,000 for each of fiscal years 2006 and 2007.".

### SEC. 8. INCREASE IN LIMIT ON DIRECT OPERATING LOANS; INDEXATION TO INFLATION.

Section 313 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1943) is amended—

(1) in subsection (a)(1), by striking "$200,000" and inserting "$500,000 (increased, beginning with fiscal year 2007, by the inflation percentage applicable to the fiscal year in which the loan is made)"; and

(2) in subsection (b), by striking paragraph (2) and inserting the following:

"(2) the average of such index (as so defined) for the 12-month period ending on—

"(A) in the case of a loan other than a loan guaranteed by the Secretary, August 31, 2005; or

"(B) in the case of a loan guaranteed by the Secretary, August 31, 1996.".

### SEC. 9. TRADE OF SPECIALTY CROPS.

(a) ASSISTANT USTR FOR SPECIALTY CROPS.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended by adding at the end the following:

"(6) ASSISTANT USTR FOR SPECIALTY CROPS.—

"(A) ESTABLISHMENT.—There is established in the Office the position of Assistant United States Trade Representative for Specialty Crops.

"(B) APPOINTMENT.—The Assistant United States Trade Representative for Specialty Crops shall be appointed by the United States Trade Representative.

"(C) PRIMARY FUNCTION.—The primary function of the Assistant United States Trade Representative for Specialty Crops shall be—

"(i) to promote the trade interests of specialty crop businesses;

"(ii) to remove foreign trade barriers that impede specialty crop businesses; and

"(iii) to enforce existing trade agreements beneficial to specialty crop businesses.

"(D) PAY.—The Assistant United States Trade Representative for Specialty Crops shall be paid at the level of a member of the Senior Executive Service with equivalent time and service.".

(b) STUDY OF URUGUAY ROUND TABLE AGREEMENT BENEFITS.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study on the benefits of the agreements approved by Congress under section 101(a)(1) of the Uruguay Round Agreements Act (19 U.S.C. 3511(a)(1)) to specialty crop businesses.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report describing the results of the study conducted under paragraph (1).

(c) FOREIGN MARKET ACCESS STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Agriculture shall develop and implement a foreign market access strategy to increase exports of specialty crops to foreign markets.

### SEC. 10. INCREASED AUTHORIZATION FOR TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.

Section 3205(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5680(d)) is amended by striking "$2,000,000" and inserting "$10,000,000".

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By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 1558. A bill to amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and extend the public filing requirement for 5 years; to the Committee on Homeland Security and Governmental Affairs.

Ms. COLLINS. Mr. President, I rise today to introduce legislation that would preserve an important means of protecting the safety of those who work in the Federal judiciary system.

This legislation, which I am pleased to sponsor with my distinguished colleague, Senator LIEBERMAN, pertains to information on Federal financial disclosure forms.

This legislation would amend the Ethics in Government Act to extend for five years the authority to redact financial disclosure statements filed by judges, and other officers and employees of the Federal judiciary. This redaction occurs after a finding is made by the Judicial Conference, in consultation with the United States Marshals Service, that revealing personal and sensitive information could endanger the filer. In such cases, this legislation would allow redactions of information that could put the filer or his or her family at risk.

In 1988, Congress recognized the potential for threats against individual judges. As a result, Congress authorized the judicial branch to redact, when circumstances require, certain information from individual financial disclosure reports before they are released to the public. The redaction provision was set to expire at the end of 2001, but Congress extended the redaction authority for an additional four years. The current authority expires at the end of this year.

The five-year extension in this legislation will help Congress ensure that the Judicial Conference carries out the authority in a manner that achieves the appropriate balance between safety measures and public disclosure. Given recent incidents of violence against judges and their families, the inclusion of threats to the filer's family is necessary to provide security and peace of mind.

The record shows that this redaction authority has been used sparingly and wisely. In its report to the Committee on Homeland Security and Governmental Affairs, the Judicial Conference reported that, of the 3,942 Federal judiciary employees required to file financial disclosure reports in 2004, only 177 reports were partially redacted before release.

For 40 judges, the approved redaction requests were based on specific threats such as high-threat trials, ongoing protective investigations, identify theft, and continuing threats from criminal defendants and disgruntled civil litigants. For 137 judges, the approved redaction requests were based on general threats and the disclosure of a family member's unsecured place of work, the judge's regular presence at an unsecured location, or information that would reveal the residence of the judge or members of the judge's family.

In response to a request by our Committee, the Government Accountability Office reviewed redaction requests from 1999 through 2002. GAO found that less than 10 percent of annual judicial filers requested any type of redaction.

In each instance where a report was redacted in its entirety, the determination was made that the judge who filed the report was subject to a specific, active security threat. Redactions of information identifying assets, gifts, reimbursements or creditor listings were allowed in only a very limited number of cases, and then only until the specifically identified threat ceased. According to the Judicial Conference, the most frequent redaction requests now relate to information that would reveal where a judge or a member of the judge's family can regularly be found.

A fair and impartial judiciary requires a safe and secure environment. This legislation will help ensure the judicial branch has procedures in place to protect personal information while ensuring the public retains its right to access to the annual disclosure reports. I look forward to working with my colleagues on this important legislation.

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By Mr. SANTORUM:

S. 1560. A bill to establish a Congressional Commission on Expanding Social Service Delivery Options; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANTORUM. Mr. President, I rise to introduce a bill that would establish a Congressional Commission to explore the expansion of social services delivery options.

The bipartisan and bicameral Congressional Commission would undertake a thoughtful review of existing federal social service programs and make recommendations for program areas that would be appropriate for beneficiary-selected or beneficiary-directed options. The goal is to expand consumer choice and to minimize Constitutional concerns while partnering with faith-based and community providers. The importance of this commission is highlighted by its inclusion in the Senate's anti-poverty agenda.

Expanding options for social services is essential to help those in need. I have advocated similar proposals in the past during my time in the United States Senate as it relates to the Corporation for National and Community Service. In 2001, I introduced the AmeriCorps Reform and Charitable Expansion Act. The goal of this legislation was to dramatically increase the scope of service opportunities and charitable locations that would be eligible for voucher recipients and to focus efforts more on assisting low-income communities.

A current example of the success of this type of program is Section 8 Housing vouchers. The largest federal program designed to provide affordable housing to low-income families is the Section 8 Housing Choice Voucher program serving over 2 million households. Low-income families use Section 8 vouchers tenant-based subsidies in the private market to lower their rental costs to 30 percent of their incomes. As you know, the modern program began in the early 1980s and has grown to replace public housing as the primary tool for subsidizing the housing costs of low-income families. This approach, has opened up more communities and housing options for low-income families.

Since the 1996 welfare reauthorization, I have worked to ensure that faith-based and community organizations are full partners in social service delivery. Our nation needs more, not less, involvement from faith and community organizations. Faith-based organizations are many times the best-equipped institutions in their community to improve the lives of those in need, but have not always been able to receive any help from the government. This bill provides an opportunity to level the playing field for these providers by determining where we can engage the community and allow beneficiaries to be full participants in choosing their provider. The current discrimination against faith-based programs at the federal level prevents our communities from using all our resources to improve and even save lives. And for those are most in need, we need to use every resource we have.

Expanding social service delivery options should be a simple matter of common sense. The formula is simple: the more opportunity organizations have to deliver aid, the more options people have to get services, the more people we can help. For this reason, I encourage my colleagues to support the creation of this commission.

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By Mr. CORZINE (for himself, Mr. LAUTENBERG, and Ms. LANDRIEU):

S. 1561. A bill to amend title 36, United States Code, to grant a Federal charter to the Irish American Cultural Institute; to the Committee on the Judiciary.

Mr. CORZINE. Mr. President, today I am proud to introduce a bill, along with Senators LAUTENBERG and LANDRIEU, to grant a Federal Charter to the Irish American Cultural Institute, an organization that promotes appreciation and recognition of the important contributions Irish-Americans have played throughout the history of the United States. A longstanding goal of the Irish American Cultural Institute been to establish a museum of Irish-American history and culture in Washington, DC, and I am pleased to help lay the foundation for achieving that goal.

The Irish American Cultural Institute is a national organization founded in 1962, with local chapters in 17 States, including New Jersey. The Institute has spent the last 40 years fighting to promote, preserve and educate about Irish and Irish-American culture. Those involved with the Institute do this, in part, by fostering strong cultural and educational ties between the United States and Ireland—sending American high school students to Ireland, and bringing Irish scholars, musicians, craftspeople, actors, and artists to the Untied States. They also fund academic research projects that raise awareness about Irish-American history, and provide fellowships for American professors to spend a year as a visiting scholar at the National University of Ireland. In short, the Irish American Cultural Institute serves as an important educational, informational, and financial resource for key initiatives important to the Irish and the Irish-American community in the United States.

Irish-Americans comprise more than 17 percent of the population of the United States, and have made enormous contributions to our Nation in countless ways. In my home State, more than 1.3 million New Jersey residents trace their roots back to Ireland. A Federal Charter would be an important step in the Irish American Cultural Institute's quest to promote activities that recognize and celebrate the heritage of Irish-Americans. I ask my colleagues to join me in supporting this legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1561

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. CHARTER FOR IRISH AMERICAN CULTURAL INSTITUTE.

Part B of subtitle II of title 36, United States Code, is amended—

(1) by redesignating chapter 1001 as chapter 1003;

(2) by redesignating sections 100101 through 100110, and the items relating thereto in the table of sections, as sections 100301 through 100310, respectively; and

(3) by inserting after chapter 901 the following new chapter:

## "CHAPTER 1001—IRISH AMERICAN CULTURAL INSTITUTE

"Sec.
"100101. Organization.
"100102. Purposes.
"100103. Membership.
"100104. Governing body.
"100105. Powers.
"100106. Exclusive right to name, seals, emblems, and badges.
"100107. Restrictions.
"100108. Duty to maintain tax-exempt status.
"100109. Principal office.
"100110. Records and inspection.
"100111. Service of process.
"100112. Liability for acts of officers and agents.
"100113. Annual report.

### "SECTION 100101. ORGANIZATION.

"(a) FEDERAL CHARTER.—The Irish American Cultural Institute (in this chapter, the 'corporation'), incorporated in New Jersey, is a federally chartered corporation.

"(b) EXPIRATION OF CHARTER.—If the corporation does not comply with any provision of this chapter, the charter granted by this chapter expires.

### "SECTION 100102. PURPOSES.

"The purposes of the corporation are as provided in the articles of incorporation and include—

"(1) establishing the Museum of Irish America in Washington, DC, as the center of Irish American thought, dialogue, debate, and reflection;

"(2) recognizing and recording a living memorial to the contributions of Irish-born and Irish Americans to the development of the United States;

"(3) providing a focal point for all Irish Americans, who make up 17 percent of the United States population, according to the 2000 census;

"(4) exploring past, current, and future events in Ireland and the United States, as they relate to Irish Americans and society as a whole;

"(5) documenting the tremendous contributions of Irish immigrants to the United States in the areas of architecture, military, politics, religion, labor, sports, literature, and art;

"(6) providing ongoing studies to ensure that the experiences of the past will benefit the future of both Ireland and the United States; and

"(7) establishing an Irish American Studies Program for students from both Ireland and the United States.

### "SECTION 100103. MEMBERSHIP.

"Eligibility for membership in the corporation and the rights and privileges of membership are as provided the bylaws.

### "SECTION 100104. GOVERNING BODY.

"(a) BOARD OF DIRECTORS.—The board of directors and the responsibilities of the board are as provided in the articles of incorporation.

"(b) OFFICERS.—The officers and the election of officers are as provided in the articles of incorporation.

### "SECTION 100105. POWERS.

"The corporation shall have only the powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

### "SECTION 100106. EXCLUSIVE RIGHT TO NAME, SEALS, EMBLEMS, AND BADGES.

"The corporation has the exclusive right to use the name 'Irish American Cultural Institute' and any seals, emblems, and badges relating thereto that the corporation adopts.

### "SECTION 100107. RESTRICTIONS.

"(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

"(b) POLITICAL ACTIVITIES.—The corporation or a director, or officer as such may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

"(c) DISTRIBUTION OF INCOME OR ASSETS.—The income or assets of the corporation may not inure to the benefit of, or be distributed to, a director, officer, or member during the life of the charter granted by this chapter. This subsection does not prevent the payment of reasonable compensation to an officer or member in an amount approved by the board of directors.

"(d) LOANS.—The corporation may not make any loan to a director, officer, or employee.

"(e) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORIZATION.—The corporation may not claim congressional approval or the authority of the United States Government for any of its activities.

### "SECTION 100108. DUTY TO MAINTAIN TAX-EXEMPT STATUS.

"The corporation shall maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

### "SECTION 100109. PRINCIPAL OFFICE.

"The principal office of the corporation shall be in Morristown, New Jersey, or another place decided by the board of directors.

### "SECTION 100110. RECORDS AND INSPECTION.

"(a) Records.—The corporation shall keep—

"(1) correct and complete books and records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote.

"(b) INSPECTION.—A member entitled to vote, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

### "SECTION 100111. SERVICE OF PROCESS.

"The corporation shall comply with the law on service of process of each State in which it is incorporated and each State in which it carries on activities.

### "SECTION 100112. LIABILITY FOR ACTS OF OFFICERS AND AGENTS.

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

### "SECTION 100113. ANNUAL REPORT.

"The corporation shall submit an annual report to Congress on the activities of the corporation during the prior fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101 of this title. The report shall not be printed as a public document.".

### SEC. 2. CLERICAL AMENDMENTS.

The table of chapters at the beginning of subtitle II of title 36, United States Code, is amended—

(1) in the item relating to chapter 1001, by striking "1001" and inserting "1003" and by striking "100101" and inserting "100301"; and

(2) by inserting after the item relating to chapter 901 the following new item:

"1001. Irish American Cultural Institute ................ 100101".

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By Mr. ENZI (for himself, Mr. JOHNSON, Mr. ALLARD, and Mr. HAGEL):

S. 1562. A bill to provide for the merger of the bank and savings association deposit insurance funds, to modernize and improve the safety and fairness of the Federal deposit insurance system, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, today I rise to introduce the Safe and Fair Deposit Insurance Act of 2005. As many of us in this chamber know, reforming the operations of the Federal Deposit Insurance Corporation has been an important but unfinished matter before the United States Senate for many years. Today, we will take a step closer to a solution by introducing this Act.

Wyoming is a rural State with small banks and lenders. Many people in Wyoming have limited choices when they need to safely deposit their hard-earned money. They usually depend on their local bank or credit union. These financial institutions in turn depend on deposit insurance to make sure that this money will be available in the case of a crisis. This is a relationship based on trust. Customers trust their bank, and banks trust their insurance.

This relationship is even more important in places like Gillette, Wyoming. As Mayor of Gillette, I saw many coal miners retire with considerable pensions that reflected years of hard work in the mines around Gillette. However, these miners received their pensions as a lump sum. Their retirement accounts are often much higher than the maximum insurance levels under current law. In fact, more and more retirement accounts are reaching this upper limit, not just in Wyoming. Workers need a safe place to save their money and build retirement security. That place should be in a local financial institution that invests in its community and economy.

The current FDIC system is in desperate need of improvement. Over the past twenty years, deposit insurance has been eroded by inflation and growing deposits. As newer financial institutions have sprung up, they have enjoyed this insurance without paying any premiums into the system. As time passes, current FDIC coverage continues to weaken, and so does the Agency's ability to respond to a deposit crisis, should one arise. That is why it is so important to reform the system now, before it is too late.

This bill will make changes to the deposit insurance system that will make it more flexible and quicker to adapt to the unexpected. It will apply an index that will protect coverage levels against future inflation, and raise retirement coverage to protect earnings made over a lifetime of hard work. It will also make premium charges fair by recognizing those institutions who have paid into the system and those who have not. Finally, it will merge the two primary deposit insurance funds. This consolidation will make the system stronger and prevent costly premium charges that will likely be assessed if the system is not reformed.

I would like to thank Senator JOHNSON and Chairman SHELBY for their cooperation and hard work on this bill. I urge my colleagues to support this bill and look forward to its passage with all deliberate speed.

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By Mr. DEWINE (for himself and Mrs. LINCOLN):

S. 1563. A bill to amend title XIX of the Social Security Act to protect and strengthen the safety net of children's public health coverage by extending the enhanced Federal matching rate under the State children's health insurance program to children covered by Medicaid at State option and by encouraging innovations in children's enrollment and retention, to advance quality and performance in children's public health insurance programs, to provide payments for children's hospitals to reward quality and performance, and for other purposes; to the Committee on Finance.

Mr. DEWINE. Mr. President, today I join my friend and colleague from Arkansas, Senator LINCOLN, to introduce a bill called the Advancing Better Coverage and Care for Children's Health Act or the ABCs for Children's Health Act. It is an important piece of legislation designed to help improve the access and quality of children's health services around the country," including children's hospitals.

Children's Hospitals provide care to hundreds of thousands of children across our Nation every day. They care for the great majority of children who are seriously ill. They are the mainstay of the health care safety net for low-income children.

But, a child who lacks health insurance is still much less likely to have timely access to the medical care they need. That's not right. Two-thirds of the more than 9 million uninsured children in the United States are eligible for Medicaid or SCHIP. They should be enrolled in public coverage when eligible, and we should streamline the eligibility process to make it easier, not more difficult.

President Bush said in 2004, "America's children must also have a healthy start in life . . . we will lead an aggressive effort to enroll millions of poor children who are eligible but not signed up for the government's health insurance programs. We will not allow a lack of attention or information to stand between these children and the health care they need." The bill we are introducing today would do just that.

Our bill would provide the higher SCHIP federal match to states for children covered by Medicaid at the State option so that States think twice before removing children from the Medicaid rolls during State budget cuts. It also would provide a 90/10 administrative-match to help states update enrollment systems for children, including technology for "express lane" enrollment, the determination of eligibility for Medicaid and SCHIP when a child applies for another public benefit, like the school lunch program, and the allowance for enrollment by mail or phone.

We also need to do more to help strengthen the system of care to ensure quality and accountability for children's coverage. Our bill would do this by supporting innovative ideas at children's hospitals. Quality improvement funding shouldn't just be available to adult hospitals. Children's hospitals have good ideas, too, and we should support those good ideas.

Cincinnati Children's Hospital in Ohio is leading the way in improving care for children with diabetes, cystic fibrosis and other chronic conditions. The hospital is deeply committed to transforming health care delivery to improve outcomes for children.

In 2001, they were selected as one of just seven hospitals in the Pursuing Perfection initiative launched by the Robert Wood Johnson Foundation, and with this funding from the Foundation, they have made significant progress. They can document improvements in patient safety, in the effectiveness of care, in operational efficiency, in timely access to care, and in more patient-centered care. These are the reforms we need to pursue for children in Medicaid and for all children. Our bill would help Cincinnati Children's Hospital and our other Children's Hospitals speed their journey to better, safer, more cost-effective care.

A hospital that makes the effort to improve care and outcomes for children should be compensated for that effort. We need to advance quality and performance for children in Medicaid, like we are doing for seniors in Medicare. The development of hospital quality measures, testing their ability to gauge effective care and rewarding performance, should apply to all hospitals, including children's hospitals.

That's why we have worked with the National Association of Children's Hospitals to introduce a bill that would provide grants to help improve pediatric quality, so that Children's Hospitals can begin to establish measures for quality care and share what works—and what doesn't work—across hospital services for children nationwide.

Our bill would provide for a demonstration program in Medicaid to evaluate evidenced-based quality and performance measures in children's health services, with grants for States and/or providers in three areas: health information technology and evidenced-based outcome measures, disease management for children with chronic conditions, and evidenced-based approaches to improving the delivery of hospital care for children. The bill also would provide for a national Children's Hospital pay-for-performance demonstration program, rewarding Children's Hospitals, which provide critical access to services and voluntarily participate, for reporting and meeting quality and performance measures.

Evaluating the national measures of quality in Children's Hospitals, their success in capturing performance, and their applicability to pay-for-performance across States' varying methods of payments, would gives States, the Federal Government, and Children's Hospitals an essential base of information in measuring performance in children's hospital care. And that is something we vitally need.

I urge my colleagues to support and co-sponsor this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1563

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Advancing Better Coverage and Care for Children's Health Act of 2005" or the "ABCs for Children's Health Act of 2005".

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—COVERING CHILDREN

Sec. 101. Phased-in application of enhanced FMAP for children whose eligibility is optional under medicaid.
Sec. 102. Enhanced matching rate for the effective enrollment and retention of children under medicaid.
Sec. 103. Preserving comprehensive benefits appropriate to children's needs.

TITLE II—ADVANCING QUALITY AND PERFORMANCE: INNOVATIONS IN CARE

Sec. 201. Purpose.
Sec. 202. National quality forum; advancing consensus-based pediatric quality and performance measures.
Sec. 203. Research grant program; developing new pediatric quality and performance measures.
Sec. 204. Medicaid demonstration program; evaluating evidence-based quality and performance measures for children's health services.
Sec. 205. Funding.

TITLE III—ENSURING ACCESS TO CARE

Sec. 301. Pay for performance for children's critical access hospitals.

Sec. 302. Inclusion of children's hospitals as covered entities for purposes of limitation of purchased drug price.

## TITLE I—COVERING CHILDREN

### SEC. 101. PHASED-IN APPLICATION OF ENHANCED FMAP FOR CHILDREN WHOSE ELIGIBILITY IS OPTIONAL UNDER MEDICAID.

(a) IN GENERAL.—The first sentence of section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

(1) in subsection (b)—

(A) by striking "and (4)" and inserting "(4)"; and

(B) by inserting before the period the following: ", and (5) the Federal medical assistance percentage shall be equal to the applicable percentage determined under subsection (y) with respect to medical assistance provided to children who are eligible for such assistance on the basis of subsection (a)(10)(A)(ii), (a)(10)(C), (e)(3), or (e)(9) of section 1902, or a waiver under subsection (c) or (e) of section 1915, or who are eligible for such assistance during a presumptive eligibility period under section 1920A (but only if the child is not eligible for medical assistance on the basis of section 1902(a)(10)(A)(i))"; and

(2) by adding at the end the following:

"(y) For purposes of the fifth clause of the first sentence of subsection (b), the applicable percentage determined under this subsection is—

"(1) in the case of fiscal year 2006, the enhanced FMAP determined under section 2105(b) by substituting '6 percent' for '30 percent' in such section;

"(2) in the case of fiscal year 2007, the enhanced FMAP determined under section 2105(b) by substituting '12 percent' for '30 percent' in such section;

"(3) in the case of fiscal year 2008, the enhanced FMAP determined under section 2105(b) by substituting '18 percent' for '30 percent' in such section;

"(4) in the case of fiscal year 2009, the enhanced FMAP determined under section 2105(b) by substituting '24 percent' for '30 percent' in such section; and

"(5) in the case of fiscal year 2010 or any fiscal year thereafter, the enhanced FMAP determined under section 2105(b).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on October 1, 2005.

### SEC. 102. ENHANCED MATCHING RATE FOR THE EFFECTIVE ENROLLMENT AND RETENTION OF CHILDREN UNDER MEDICAID.

(a) IN GENERAL.—Section 1903(a)(3) of the Social Security Act (42 U.S.C. 1396b(a)(3)) is amended—

(1) in subparagraph (E), by striking "plus" at the end and inserting "and"; and

(2) by adding at the end the following:

"(F) 90 percent of the sums expended during such quarter which are attributable to the design, development, implementation, and evaluation of such enrollment systems as the Secretary determines are likely to provide more efficient and effective administration of the plan's enrollment and retention of eligible children, including—

"(i) 'express lane' enrollment for children through procedures to ensure that children's eligibility for medical assistance is determined and expedited through the use of technology and shared information with other public benefit programs, such as the school lunch program under the Richard B. Russell National School Lunch Act and the food stamp program under the Food Stamp Act of 1977;

"(ii) a single, simplified application form for medical assistance under this title and for children's health assistance under title XXI;

"(iii) procedures which allow for the enrollment of children by mail or through the Internet;

"(iv) the timely evaluation, assistance, and determination of presumptive eligibility under section 1920A;

"(v) procedures which allow for passive reenrollment of children to protect against the loss of coverage among eligible children; and

"(vi) such other enrollment system changes as the Secretary determines are likely to provide more efficient and effective administration of the plan's enrollment and retention of eligible children; plus".

(b) EXCLUSION FROM ERRONEOUS EXCESS PAYMENT DETERMINATION.—Section 1903(u)(1)(D) of such Act (42 U.S.C. 1396a(u)(1)(D)) is amended by adding at the end the following:

"(vi)(I) Notwithstanding clauses (ii) and (iii), and subject to subclause (II), in determining the amount of erroneous excess payments, there shall not be included any erroneous payments made with respect to medical assistance provided to children who are erroneously enrolled or erroneously provided with continued enrollment under this title as a result of the application of enrollment systems described in subsection (a)(3)(F).

"(II) Subclause (I) shall only apply with respect to erroneous payments made during the first 5 fiscal years that begin on or after the date of enactment of this clause.".

### SEC. 103. PRESERVING COMPREHENSIVE BENEFITS APPROPRIATE TO CHILDREN'S NEEDS.

(a) IN GENERAL.—Title XIX of the Social Security Act is amended by inserting after section 1925 the following:

"CLARIFICATION OF AUTHORITY UNDER SECTION 1115

"SEC. 1926. The Secretary may not impose or approve under the authority of section 1115 an elimination or modification of the amount, duration, or scope of the services described in section 1905(a)(4)(B) (relating to early and periodic screening, diagnostic, and treatment services (as defined in section 1905(r))) or of the requirements of subparagraphs (A) through (C) of section 1902(a)(43).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), section 1926 of the Social Security Act, as added by subsection (a), shall apply to the approval on or after the date of enactment of this Act of—

(A) a waiver, experimental, pilot, or demonstration project under section 1115 of the Social Security Act (42 U.S.C. 1315); and

(B) an amendment or extension of such a project.

(2) EXCEPTION.—Section 1926 of the Social Security Act, as so added, shall not apply with respect to any extension of approval of a waiver, experimental, pilot, or demonstration project with respect to title XIX of the Social Security Act that was first approved before 1994 and that provides a comprehensive and preventive child health program under such project that includes screening, diagnosis, and treatment of children who have not attained age 21.

## TITLE II—ADVANCING QUALITY AND PERFORMANCE: INNOVATIONS IN CARE

### SEC. 201. PURPOSE.

[The purpose of this title is to increase the quality of the health care furnished to children under the health insurance programs under titles XIX and XXI of the Social Security Act].

### SEC. 202. NATIONAL QUALITY FORUM; ADVANCING CONSENSUS-BASED PEDIATRIC QUALITY AND PERFORMANCE MEASURES.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this title referred to as the "Secretary"), acting through the Director of the Center for Medicaid and State Operations of the Centers for Medicare & Medicaid Services, shall enter into agreements with the National Quality Forum to facilitate the development of consensus-based pediatric quality and performance measures.

(b) CONSULTATION.—In carrying out agreements under subsection (a), the Director of the Center for Medicaid and State Operations shall consult with—

(1) the Agency for Healthcare Research and Quality; and

(2) national pediatric provider groups.

### SEC. 203. RESEARCH GRANT PROGRAM; DEVELOPING NEW PEDIATRIC QUALITY AND PERFORMANCE MEASURES.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Agency for Healthcare Research and Quality, shall award grants to eligible entities for the development and evaluation of pediatric quality and performance measures.

(b) ELIGIBLE ENTITY DEFINED.—In this section, the term "eligible entity" means—

(1) an institution or multiple institutions with demonstrated expertise and capacity to evaluate pediatric quality and performance measures;

(2) a National nonprofit association of pediatric academic medical centers with demonstrated experience in working with other pediatric provider and accrediting organizations in developing quality and performance measures for children's inpatient and outpatient care; and

(3) a collaboration of national pediatric organizations working to improve quality and performance in pediatric critical care.

(c) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require.

### SEC. 204. MEDICAID DEMONSTRATION PROGRAM; EVALUATING EVIDENCE-BASED QUALITY AND PERFORMANCE MEASURES FOR CHILDREN'S HEALTH SERVICES.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, acting through the Director of the Center for Medicaid and State Operations of the Centers for Medicare & Medicaid Services, shall establish demonstration projects in each of the 3 categories described in subsection (c) to advance quality and performance in the delivery of medical assistance provided to children under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(b) AUTHORITY.—

(1) IN GENERAL.—The Secretary is authorized to award grants to States or providers to conduct such projects.

(2) USE OF FUNDS.—Funds provided under a grant awarded under this section may be used for administrative costs, including costs associated with the design, data collection, and evaluation of the demonstration project conducted with such funds, and other expenditures that are not otherwise eligible for reimbursement under the medicaid program.

(3) EVIDENCE OF ORGANIZATIONAL COMMITMENT REQUIRED FOR AWARD OF GRANTS.—A

State or provider shall not be eligible to receive a grant to conduct a demonstration project under this section unless the State or provider demonstrates a commitment to the concept of change and transformation in the delivery of children's health services. Dedication of financial resources of the State or provider to the project may be deemed to demonstrate evidence of such a commitment.

(c) Project Categories Described.—The 3 demonstration project categories described in this subsection are the following:

(1) Projects that adopt and use health information technology and evidenced-based outcome measures for pediatric inpatient and sub-specialty physician care and evaluate the impact of such technology and measures on the quality, safety, and costs of such care.

(2) Projects that demonstrate and evaluate care management for children with chronic conditions to determine the extent to which such management promotes continuity of care, stabilization of medical conditions, and functional outcomes, prevents or minimizes acute exacerbations of chronic conditions, and reduces adverse health outcomes and avoidable hospitalizations.

(3) Projects that implement evidenced-based approaches to improving efficiency, safety, and effectiveness in the delivery of hospital care for children across hospital services and evaluate the impact of such changes on the quality and costs of such care.

(d) Sites.—To the extent practicable, the Secretary shall use multiple sites in different geographical locations in conducting each of the 3 demonstration project categories described in subsection (c).

(e) Uniform Measures, Data, Project Evaluations.—Working in consultation with experts described in subsection (f) and with participating States or providers, the Secretary shall establish uniform measures (adjusted for patient acuity), collect data, and conduct evaluations with respect to the 3 demonstration project categories described in subsection (c).

(f) Consultation.—In developing and implementing demonstration projects under this section, the Secretary shall consult with national pediatric provider organizations, consumers, and such other entities or individuals with relevant expertise as the Secretary deems necessary.

(g) Report.—Not later than 6 months after the completion of all demonstration projects conducted under this section, the Secretary shall evaluate such projects and submit a report to Congress that includes the findings of the evaluation and recommendations with respect to—

(1) expanding the projects to additional sites; and

(2) the broad implementation of identified successful approaches in advancing quality and performance in the delivery of medical assistance provided to children under the medicaid program.

### SEC. 205. FUNDING.

In order to carry out the provisions of this title, out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary—

(1) $25,000,000 for fiscal year 2006;

(2) $30,000,000 for fiscal year 2007; and

(3) $35,000,000 for each of the fiscal years 2008, 2009, and 2010.

## TITLE III—ENSURING ACCESS TO CARE

### SEC. 301. PAY FOR PERFORMANCE FOR CHILDREN'S CRITICAL ACCESS HOSPITALS.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the Administrator of the Centers for Medicare & Medicaid Services (in this section referred to as the "Administrator"), shall implement a 4-year program to develop, implement, and evaluate a pay-for-performance program for eligible children's hospitals providing critical access to children eligible for medical assistance under the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(b) Consultation.—Measures of quality and performance utilized in the program will be determined by the Administrator in collaboration with participating eligible children's hospitals and in consultation with States, the National Association of Children's Hospitals and Related Institutions, the Agency for Healthcare Research and Quality, the National Quality Forum, and such other entities or individuals with expertise in pediatric quality and performance measures as the Administrator deems appropriate.

(c) Eligible Children's Hospitals.—For purposes of this section, an eligible children's hospital is a children's hospital that, not later than January 1, 2006, has submitted an application to the Secretary to participate in the program established under this section and has been certified by the Secretary as—

(1) meeting the criteria described in subsection (d);

(2) agreeing to report data on quality and performance measures; and

(3) meeting or exceeding such measures as are established by the Secretary with respect to the provision of care by the hospital.

(d) Criteria Described.—In order to be certified as meeting the criteria described in this subsection, a hospital shall be a general acute care children's hospital or a specialty children's hospital as defined under 1886(d)(1)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(d)(1)(B)(iii)), or a non-freestanding general acute care children's hospital which shares a provider number with another hospital or hospital system that—

(1) has 62 or more total pediatric beds;

(2) has 38 or more total combined pediatric general medical or surgical and pediatric intensive care beds;

(3) has at least 4 pediatric intensive care beds;

(4) has a pediatric emergency room in the hospital or access to an emergency room with pediatric services through the hospital system; and

(5) provides a minimum of 25 percent of its days of care to patients eligible for medical assistance under the medicaid program.

(e) Payment Methodology.—

(1) In general.—An eligible children's hospital that participates in the program established under this section shall receive supplemental Federal payments for inpatient and outpatient care (which shall be in addition to any other payments the hospitals receive for such care under the medicaid program) for cost reporting periods or portions of such reporting periods occurring during fiscal years 2007 through 2010 in accordance with the following:

(A) Fiscal years 2007 and 2008.—

(i) In general.—For hospital cost reporting periods or portions of such reporting periods occurring during fiscal year 2007 or 2008, hospitals reporting data for quality and performance measures established under the program and participating in the development of pay-for-performance methodology under this section, subject to clause (ii), shall receive with respect to inpatient or outpatient care that is determined to meet such measures, a Federal supplemental payment increase equal to the amount received under the medicaid program for such care multiplied by the market basket percentage increase for the year (as defined under section 1886(b)(3)(B)(iii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(iii)).

(ii) Limitation.—The total amount of all Federal supplemental payments made with respect to cost reporting periods or portions of such periods described in clause (i) shall not exceed the amounts appropriated under this section for fiscal years 2007 and 2008.

(B) Fiscal years 2009 and 2010.—

(i) In general.—For cost reporting periods or portions of such periods occurring during fiscal year 2009 or 2010, hospitals shall receive supplemental Federal payments reflecting measures of quality and performance and a pay-for-performance methodology developed by the Secretary in consultation with the entities described in subsection (b). Such methodology shall recognize clinical measures, patient satisfaction and adoption of information technology.

(ii) Limitation.—The total amount of all Federal supplemental payments made for cost reporting periods or portions of such periods described in clause (i) shall not exceed the amounts appropriated under this section for fiscal years 2009 and 2010.

(2) State maintenance of effort.—With respect to the periods for payment of the Federal supplemental payments established under paragraph (1), in no case shall a State—

(A) pay a participating hospital less for services for children eligible for medical assistance under the medicaid program than the hospital was paid with respect to the most recent cost reporting period ending before the date of enactment of this Act; or

(B) not provide an eligible children's hospital participating in the program established under this section (determined on a facility-specific basis) with the same increase in payment that the State may provide to any other hospital participating in the State medicaid program, including any State-owned or operated hospital or any hospital operated by a State university system.

(f) Appropriations.—

(1) In general.—Out of funds in the Treasury not otherwise appropriated, there are appropriated for making payments under this section—

(A) for fiscal year 2007, $80,000,000;

(B) for fiscal year 2008, $100,000,000; and

(C) for each of fiscal years 2009 and 2010, $120,000,000.

(2) Carryover.—Any amount appropriated under paragraph (1) with respect to a fiscal year that remains unobligated as of the end of that fiscal year, shall remain available for obligation during the succeeding fiscal year, in addition to the amount appropriated under that paragraph for such succeeding fiscal year.

(g) Evaluation and Report.—Not later than September 1, 2010, the Secretary shall report to Congress on the program established under this section. In providing such a report, the Secretary shall—

(1) conduct an independent evaluation;

(2) consult with States, eligible children's hospitals participating in the program, the National Association of Children's Hospitals

and Related Institutions, and other national pediatric organizations and individuals with expertise in pediatric measures of quality and performance;

(3) include a detailed description of the measures and payment enhancements used in determining and rewarding performance under the program;

(4) assess the impact of rewarding performance through the Federal supplemental payments provided under the program, including with respect to any improvements and innovations in the delivery of children's hospital care and children's access to appropriate care;

(5) assess how State hospital payment methodologies under the medicaid program, including hospital and physician payments and coverage, affect the capacity of the medicaid program to reward performance; and

(6) include recommendations to the Committee on Finance of the Senate and the Committee on Energy and Commerce of the House of Representatives regarding the implementation and design of the performance-based payments made under the program, whether to continue such program, and potential alternative approaches to making performance-based payments to such hospitals.

**SEC. 302. INCLUSION OF CHILDREN'S HOSPITALS AS COVERED ENTITIES FOR PURPOSES OF LIMITATION OF PURCHASED DRUG PRICE.**

(a) IN GENERAL.—Section 340B(a)(4) of the Public Health Services Act (42 U.S.C. 256b(a)(4)) is amended by adding at the end the following new subparagraph:

"(M) A children's hospital described in section 1886(d)(1)(B)(iii) of the Social Security Act which meets the requirements of clauses (i) and (iii) of subparagraph (L) and which would meet the requirements of clause (ii) of such subparagraph if that clause were applied by taking into account the percentage of care provided by the hospital to patients eligible for medical assistance under the medicaid program.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to drugs purchased on or after the date of enactment of this Act.

Mrs. LINCOLN. Mr. President, I am pleased to join my colleague Senator MIKE DEWINE to introduce "The ABCs for Children's Health Act of 2005," which seeks to expand access to quality health care for all children who are eligible for Medicaid. The bill also ensures that children get the best health care at the right time.

Medicaid is the single largest insurer for children. Twenty-five million children in America, one out of every four, depend on Medicaid for their health care coverage. In Arkansas, more than half of the births are financed by Medicaid. Over half of the children in Arkansas are on Medicaid or received Medicaid services in the last year. Medicaid covers half of the care, on average, that children's hospitals provide. As a result, the availability and quality of health care for all children relies greatly on Medicaid.

As a result of progress in children's Medicaid coverage and the enactment of the State Children's Health Insurance Program, Congress has achieved an essential health care safety net for lower income children and children with special health care needs. Medicaid has saved millions of children from being uninsured when parents are faced with hard times and it has come to the aid of working families when children have exceptional medical costs. I believe that we must continue to build on that progress.

The ABCs for Children's Health Act of 2005 encourages States to provide care for more children under Medicaid. It also helps states to ensure that all eligible children are enrolled and that they get the high quality care they need. The bill would provide the same investments in quality and performance in children's health care service's that are being made in Medicare. National quality and performance measures for children are far behind those for adults.

I encourage my colleagues to join us as supporters of this important legislation to ensure that children get the quality health care they need to grow and prosper. Our Nation's children deserve the best health care we can offer. And this is a step in the right direction.

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By Mr. SARBANES:

S. 1564. A bill to provide for the disposition of the Federal property located in Anne Arundel County, Maryland, a portion of which is currently used by the District of Columbia as the Oak Hill juvenile detention facility; to the Committee on Homeland Security and Governmental Affairs.

Mr. SARBANES. Mr. President, today I am introducing legislation to facilitate the orderly disposition of an 800 acre parcel of Federal property located in Laurel, Maryland, a portion of which is currently used by the District of Columbia as the Oak Hills Juvenile Detention and Commitment Center. The legislation is a companion to a measure which has been introduced in the House by Representative BENJAMIN CARDIN.

The Oak Hill Youth Center, located adjacent to the National Security Agency and the Baltimore-Washington parkway, is a detention facility for juvenile offenders from the District of Columbia between the ages of 12 and 21. It has been plagued by facility and management problems for many years. The buildings at the center are in deplorable condition and fail to meet health and safety standards. Overcrowding, mismanagement, escapes, drug use and abuse of detainees at the center have been the subject of numerous investigations, press reports and lawsuits over the years, and are of great concern to juvenile justice advocates, families of detainees and local residents, alike. Nearly two decades ago, a consent decree stemming from the lawsuit Jerry M. v. District of Columbia, required the District to make improvements at the facility and address the chronic neglect of its adolescent detainees. Since the decree, "sixty judicial orders, 44 monitoring reports and almost $3 million in court imposed fines" have been issued in connection with the District's Youth Services Administration failure to fully comply with the decree, according to a July 2001 article in the Washington Post. Last year a report issued by the District's Inspector General's office found that, "many of the same types of problems that resulted in the 1986 Jerry M. lawsuit still exist today . . ." The report documented numerous security problems, health issues, deficiencies in management, failures to effectively maintain the safety of female youth housed at the center, and drugs being smuggled into the facility on a continual basis.

There is a consensus that the Oak Hill Youth Center should be shutdown. A Blue Ribbon Commission on Youth Safety and Juvenile Justice Reform, established by Mayor Williams in August 2000, recommended in its final 2001 report that the Oak Hill Juvenile Detention center be closed and demolished. The Justice for DC Youth coalition, whose members include parents and juvenile justice advocates, has adamantly supported closing the existing Oak Hill facility and replacing it with a smaller, more homelike facility that is closer to the youth's homes.

This measure seeks to ensure the closure of the facility and the orderly disposition of the property, while addressing the concerns of Anne Arundel County, the NSA, the District of Columbia and all surrounding neighborhoods and residences. Above all, it would serve the youth currently being held at the facility by helping to place them in an environment that is more suitable for successful rehabilitation. I hope this measure can be acted upon quickly by the Congress and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1564

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. DISPOSITION OF OAK HILL PROPERTY.**

(a) IN GENERAL.—The Oak Hill property shall be disposed of as follows:

(1) The portion of the property which is located west of the Baltimore-Washington Parkway shall be transferred to the jurisdiction of the Director of the National Park Service, who shall use such portion for parkland purposes.

(2) Subject to subsection (b), the portion of the property which is located east of the Baltimore-Washington Parkway and 200 feet and further north of the Patuxent River shall be transferred to the Secretary of the Army (acting through the Chief of Engineers) for use by the Director of the National Security Agency, who may lease such portion to the District of Columbia.

(3) The portion of the property which is located east of the Baltimore-Washington

Parkway and south of the portion described in paragraph (2) shall be transferred to the jurisdiction of the Administrator of General Services, who shall in turn convey such portion to Anne Arundel County, Maryland, in accordance with subsection (c).

(b) PAYMENT FOR CONSTRUCTION OF NEW JUVENILE DETENTION FACILITY FOR DISTRICT OF COLUMBIA.—As a condition of the transfer under subsection (a)(2), the Director of the National Security Agency shall enter into an agreement with the Mayor of the District of Columbia under which—

(1) the juvenile detention facility for the District of Columbia currently located on the Oak Hill property shall be closed; and

(2) subject to appropriations, the Agency shall pay for the construction of a replacement facility at a site to be determined, with priority given to a location within the District of Columbia.

(c) CONVEYANCE OF PORTION OF PROPERTY TO ANNE ARUNDEL COUNTY.—

(1) IN GENERAL.—The Administrator of General Services shall convey, without consideration, to Anne Arundel County, Maryland, all right, title, and interest of the United States in and to that portion of the Oak Hill property referred to in subsection (a)(3).

(2) TERMS AND CONDITIONS OF CONVEYANCE.—The conveyance under paragraph (1) shall be carried out under such terms and conditions as may be agreed to by the Administrator and Anne Arundel County, except that, as a condition of the conveyance—

(A) Anne Arundel County shall agree to dedicate a portion of the property which is adjacent to the Patuxent River to parkland and recreational use; and

(B) Anne Arundel County shall agree to reimburse the National Security Agency for the amounts paid by the Agency under subsection (b) for the construction of a new juvenile detention facility for the District of Columbia, but only if the County makes 25 percent or more of the property conveyed under this subsection available for purposes other than open space or recreational use.

**SEC. 2. OAK HILL PROPERTY DEFINED.**

In this Act, the term "Oak Hill property" means the Federal property consisting of approximately 800 acres near Laurel, Maryland, a portion of which is currently used by the District of Columbia as a juvenile detention facility, and which is shown on Map Number 20 in the records of the Department of Assessments and Taxation, Tax Map Division, of Anne Arundel County.

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By Mr. LEVIN (for himself, Mr. COLEMAN, and Mr. OBAMA):

S. 1565. A bill to restrict the use of abusive tax shelters and offshore tax havens to inappropriately avoid Federal taxation, and for other purposes; to the Committee on Finance.

Mr. LEVIN. Mr. President, tax shelter and tax haven abuses are undermining the integrity of our tax system, robbing the Treasury of tens of billions of dollars each year, and shifting the tax burden from high income individuals and businesses onto the backs of middle income families. These abuses account for a significant portion of the more than $300 billion in taxes owed by individuals, businesses, and organizations that goes unpaid each year. As a matter of fairness, these abuses must be stopped. Today, I am introducing, with Senator NORM COLEMAN, a comprehensive tax reform bill called the Tax Shelter and Tax Haven Reform Act of 2005 that can help put an end to these abuses. Senator BARACK OBAMA is also an original cosponsor.

The Permanent Subcommittee on Investigations, on which I serve with Senator COLEMAN, has worked for years to expose and combat abusive tax shelters and tax havens. In the previous Congress, we introduced legislation confronting these twin threats to U.S. tax compliance; today's bill reflects not only the Subcommittee's additional investigative work but also innovative ideas to stop unethical tax advisers and tax havens from aiding and abetting U.S. tax evasion.

Abusive tax shelters are very different from legitimate tax shelters, such as deducting the interest paid on your home mortgage or Congressionally approved tax deductions for building affordable housing. Abusive tax shelters are complicated transactions promoted to provide large tax benefits unintended by the tax code. Abusive tax shelters are marked by one characteristic: there is no real economic or business rationale other than tax avoidance. As Judge Learned Hand wrote in Gregory v. Helvering, they are "entered upon for no other motive but to escape taxation.".

Likewise, a tax haven is simply a country or jurisdiction that imposes little or no tax on income and offers non-residents the ability to escape taxes in their home country. The abuse of tax havens occurs when income is attributed to that country, even though little or no business activity actually occurs there. Tax havens are also characterized by corporate, bank, and tax secrecy laws that make it difficult for other countries to find out whether their citizens are using the tax haven to cheat on their taxes.

Today's tax dodges are often tough to prosecute. Crimes such as terrorism, murder, and fraud produce instant recognition of the immorality involved. Abusive tax shelters and tax havens, by contrast, are often "MEGOs," meaning "My Eyes Glaze Over." Those who cook up these concoctions count on their complexity to escape scrutiny and public ire. But regardless of how complicated or eye-glazing, the hawking of abusive tax shelters by tax professionals like accountants, bankers, investment advisers, and lawyers to thousands of people like late-night, cut-rate T.V. bargains is scandalous and has got to stop. Hiding tax schemes through offshore companies and bank accounts in tax havens with secrecy laws also needs to be attacked with the full force of the law.

Today, I would like to take a few minutes to try to cut through the haze of these schemes to see them for what they really are and explain what our bill would do to stop them. First, I will look at our investigation into abusive tax shelters and discuss the provisions we have included in this bill to combat them. Then, I will turn to tax haven abuses and our proposed remedies.

For three years, the Permanent Subcommittee on Investigations has been conducting an investigation into the design, sale, and implementation of abusive tax shelters. While I initiated this investigation when I was Chairman of our Subcommittee in 2002, it has since had the support of our new Chairman, Senator COLEMAN.

In November 2003, our Subcommittee held two days of hearings and released a report prepared by my staff that pulled back the curtain on how even some respected accounting firms, banks, investment advisors, and law firms had become the engines pushing the design and sale of abusive tax shelters to corporations and individuals across this country. In February 2005, the Subcommittee issued a report that provided further details on the role these professional firms played in the proliferation of these abusive shelters. Our Subcommittee report was endorsed by the full Committee on Homeland Security and Governmental Affairs in April.

The Subcommittee investigation found that many abusive tax shelters were not dreamed up by the taxpayers who used them. Instead, most were devised by tax professionals, such as accountants, bankers, investment advisors, and lawyers, who then sold the tax shelter to clients for a fee. In fact, as our investigation widened, we found hordes of tax advisors cooking up one complex scheme after another, packaging them up as generic "tax products" with boiler-plate legal and tax opinion letters, and then undertaking elaborate marketing schemes to peddle these products to literally thousands of persons across the country. In return, these tax shelter promoters were getting hundreds of millions of dollars in fees, while diverting billions of dollars in tax revenues from the U.S. Treasury each year.

For example, one shelter investigated by the Subcommittee and featured in the November 2003 Subcommittee hearings has since become part of an IRS effort to settle cases involving a set of abusive tax shelters known as "Son of Boss." To date, more than 1,200 taxpayers have admitted wrongdoing and agreed to pay back taxes, interest and penalties totaling more than $3.7 billion. That's billions of dollars the IRS has collected on just one type of tax shelter, demonstrating both the depth of the problem and the potential for progress.

The Tax Shelter and Tax Haven Reform Act of 2005 that we are introducing today contains a number of measures to curb abusive tax shelters. The bill strengthens the penalties on promoters of abusive tax shelters. It codifies and strengthens the economic substance doctrine, which eliminates tax benefits for transactions that have no real business purpose apart from avoiding taxes. The bill deters banks' participation in abusive tax shelter activities by requiring regulators to develop new examination procedures to detect and stop such activities. It ends outdated communication barriers between key enforcement agencies to allow the exchange of information relating to tax evasion cases.

The bill also requires the Treasury Department to issue tougher standards for tax shelter opinion letters. It increases incentives for whistleblowers to report tax evasion to the IRS. The bill also provides for increased disclosure of tax shelter information to Congress. It simplifies and clarifies an existing prohibition on accountants being paid contingent fees which increase as phony tax losses increase. And it expresses the sense of the Senate that the IRS needs more funding to combat tax shelter abuses.

Let me be more specific about these key provisions to curb abusive tax shelters.

Title I of the bill strengthens two very important penalties that the IRS can use in its fight against the professionals who make these complex abusive shelters possible. A year ago, the penalty for promoting an abusive tax shelter, as set forth in Section 6700 of the tax code, was the lesser of $1,000 or 100 percent of the promoter's gross income derived from the prohibited activity. That meant in most cases the maximum fine was just $1,000.

Many abusive tax shelters sell for $100,000 or $250,000 apiece. Our investigation uncovered some tax shelters that were sold for as much as $2 million or even $5 million apiece, as well as instances in which the same cookie-cutter tax opinion letter was sold to 100 or even 200 clients. There are big bucks to be made in this business, and a $1,000 fine is laughable.

The Senate acknowledged that last year when it adopted the Levin-Coleman amendment to the JOBS Act, S. 1637, raising the Section 6700 penalty on abusive tax shelter promoters to 100 pefcent of the fees earned by the promoter from the abusive shelter. A 100 percent penalty would have ensured that the abusive tax shelter hucksters would not get to keep a single penny of their ill-gotten gains. That figure, however, was cut in half in the conference report, setting the penalty at 50 percent of the fees earned and allowing the promoters of abusive shelters get to keep half of their illicit profits.

While 50 percent is an obvious improvement over $1000, this penalty still is inadequate and makes no sense. Why should anyone who pushes an illegal tax shelter that robs our Treasury of much needed revenues get to keep half of his ill-gotten gains? What deterrent effect is created by a penalty that allows promoters to keep half of their fees if caught, and of course, all of their fees if they are not caught? Tax shelter promoters ought to face a penalty that is at least as harsh as the penalty imposed on the person who purchased their tax product, not only because the promoter is usually as culpable as the taxpayer, but also so promoters think twice about pushing abusive tax schemes.

Effective penalties should make sure that the peddler of an abusive tax shelter is deprived of every penny of profit earned from selling or implementing the shelter and then is fined on top of that. Specifically, Section 101 of this bill would increase the penalty on tax shelter promoters to an amount up to the greater of either 150 percent of the promoters' gross income from the prohibited activity, or the amount assessed against the taxpayer—including back-taxes, interest and penalties.

A second penalty provision in the bill addresses what our investigation found to be one of the biggest problems: the knowing assistance of accounting firms, law firms, banks, and others to help taxpayers understate their taxes. In addition to those who meet the definition of "promoters" of abusive shelters, there are professional firms that aid and abet the use of abusive tax shelters and enable taxpayers to carry out the abusive tax schemes. For example, law firms are often asked to write "opinion letters" to help taxpayers head off IRS questioning and fines that they might otherwise confront for using an abusive shelter. Currently, under Section 6701 of the tax code, these aiders and abettors face a maximum penalty of only $1,000, or $10,000 if the offender is a corporation. This penalty, too, is a joke. When law firms are getting $50,000 for each of these cookie-cutter opinion letters, it provides no deterrent whatsoever. A $1,000 fine is like a jaywalking ticket for robbing a bank.

Section 102 of the bill would strengthen Section 6701 significantly, subjecting aiders and abettors to a maximum fine up to the greater of either 150 percent of the aider and abettor's gross income from the prohibited activity, or the amount assessed against the taxpayer for using the abusive shelter. This penalty would apply to all aiders and abettors not just tax return preparers.

Again, the Senate has recognized the need to toughen this critical penalty. In last year's JOBS Act, Senator COLEMAN and I successfully increased this fine to 100 percent of the gross income derived from the prohibited activity. Unfortunately, the conference report completely omitted this change, allowing aiders and abettors to continue to profit without penalty from their wrongdoing.

If further justification for toughening these penalties is needed, one document uncovered by our investigation shows the cold calculation engaged in by a tax advisor facing low fines. A senior tax professional at accounting giant KPMG compared possible tax shelter fees with possible tax shelter penalties if the firm were caught promoting an illegal tax shelter. This senior tax professional wrote the following: "[O]ur average deal would result in KPMG fees of $360.000 with a maximum penalty exposure of only $31.000." He then recommended the obvious: going forward with sales of the abusive tax shelter on a cost-benefit basis.

Title III of the bill would strengthen legal prohibitions against abusive tax shelters by codifying in Federal tax statutes for the first time what is known as the economic substance doctrine. This anti-tax abuse doctrine was fashioned by federal courts evaluating transactions that appeared to have little or no business purpose or economic substance apart from tax avoidance. It has become a powerful analytical tool used by courts to invalidate abusive tax shelters. At the same time, because there is no statute underlying this doctrine and the courts have developed and applied it differently in different judicial districts, the existing case law has many ambiguities and conflicting interpretations.

Under the leadership of Senators GRASSLEY and BAUCUS, the Chairman and Ranking Member of the Finance Committee, the Senate has voted on multiple occasions to enact this economic substance provision, but the House conferees have rejected it each time. Since no tax shelter legislation would be complete without addressing this issue, Title III of this comprehensive bill proposes once more to include the economic substance doctrine in the tax code. I hope that with continued pressure, it will become law in this Congress.

The bill will also help fight abusive tax shelters that are disguised as complex investment opportunities and use financing or securities transactions provided by financial institutions. In reality, tax shelter schemes lack the economic risks and rewards associated with a true investment. These phony transactions instead often rely on the temporary use of significant amounts of money in low risk schemes mischaracterized as real investments. The financing or securities transactions called for by these schemes are often supplied by a bank, securities firm, or other financial institution.

Currently the tax code prohibits financial institutions from providing products or services that aid or abet tax evasion or that promote or implement abusive tax shelters. The agencies that oversee these financial institutions on a daily basis, however, are experts in banking and securities law and generally lack the expertise to spot tax issues. Section 202 would crack down on financial institutions' illegal tax shelter activities by requiring federal bank regulators and the SEC to work with the IRS to develop examination techniques to detect such abusive activities and put an end to them.

These examination techniques would be used at least every 2 years, preferably in combination with routine regulatory examinations, and the regulators would report potential violations to the IRS. The agencies would also be required to prepare joint reports to Congress in 2007 and 2010 on preventing the participation of financial institutions in tax evasion or tax shelter activities.

During hearings before the Permanent Subcommittee on Investigations on tax shelters in November 2003, IRS Commissioner Mark Everson testified that his agency was barred by Section 6103 of the tax code from communicating information to other federal agencies that would assist those agencies in their law enforcement duties. He pointed out that the IRS was barred from providing tax return information to the SEC, federal bank regulators, and the Public Company Accounting Oversight Board (PCAOB)—even, for example, when that information might assist the SEC in evaluating whether an abusive tax shelter resulted in deceptive accounting in a public company's financial statements, might help the Federal Reserve determine whether a bank selling tax products to its clients had violated the law against promoting abusive tax shelters, or help the PCAOB judge whether an accounting firm had impaired its independence by selling tax shelters to its audit clients.

A recent example demonstrates how ill-conceived these information barriers are. A few months ago the IRS offered a settlement initiative to companies and corporate executives who participated in an abusive tax shelter involving the transfer of stock options to family-controlled entities. Over a hundred corporations and executives responded with admissions of wrongdoing. In addition to tax violations, their misconduct may be linked to securities law violations and improprieties by corporate auditors or banks, but the IRS has informed the Subcommittee that it is currently barred by law from sharing the names of the wrongdoers with the SEC, banking regulators, or PCAOB.

These communication barriers are outdated, inefficient, and ill-suited to stopping the torrent of tax shelter abuses now affecting or being promoted by so many public companies, banks, and accounting firms. To address this problem, Section 203 of this bill would authorize the Treasury Secretary, with appropriate privacy safeguards, to disclose to the SEC, Federal banking agencies, and the PCAOB, upon request, tax return information related to abusive tax shelters, inappropriate tax avoidance, or tax evasion. The agencies could then use this information only for law enforcement purposes, such as preventing accounting firms or banks from promoting abusive tax shelters, or detecting accounting fraud in the financial statements of public companies.

Another finding of the Subcommittee investigation is that some tax practitioners are circumventing current State and Federal constraints on charging tax service fees that are dependent on the amount of promised tax benefits. Traditionally, accounting firms charged flat fees or hourly fees for their tax services. In the 1990s, however, they began charging "value added" fees based on, in the words of one accounting firm's manual, "the value of the services provided, as opposed to the time required to perform the services." In addition, some firms began charging "contingent fees" that were calculated according to the size of the paper "loss" that could be produced for a client and used to offset the client's other taxable income—the greater the so-called loss, the greater the fee.

In response, many States prohibited accounting firms from charging contingent fees for tax work to avoid creating incentives for these firms to devise ways to shelter substantial sums. The SEC and the American Institute of Certified Public Accountants also issued rules restricting contingent fees, allowing them in only limited circumstances. Recently, the Public Company Accounting Oversight Board sent the SEC for approval a similar rule prohibiting public accounting firms from charging contingent fees for tax services provided to the public companies they audit. Each of these Federal, State, and professional ethics rules seeks to limit the use of contingent fees under certain, limited circumstances.

The Subcommittee investigation found that tax shelter fees, which are typically substantial and sometimes exceed $1 million, are often linked to the amount of a taxpayer's projected paper losses which can be used to shelter income from taxation. For example, in three tax shelters examined by the Subcommittee, documents show that the fees were equal to a percentage of the paper loss to be generated by the transaction. In one case, the fees were typically set at 7 percent of the transaction's generated "tax loss" that clients could use to reduce other taxable income. In other words, the greater the loss that could be concocted for the taxpayer or "investor," the greater the profit for the tax promoter. Think about that—greater the loss, the greater the profit. How's that for turning capitalism on its head!

In addition, evidence indicated that, in at least one instance, a tax advisor was willing to deliberately manipulate the way it handled certain tax products to circumvent contingent fee prohibitions. An internal document at an accounting firm related to a specific tax shelter, for example, identified the States that prohibited contingent fees. Then, rather than prohibit the tax shelter transactions in those States or require an alternative fee structure, the memorandum directed the firm's tax professionals to make sure the engagement letter was signed, the engagement was managed, and the bulk of services was performed "in a jurisdiction that does not prohibit contingency fees."

Right now, the prohibitions on contingent fees are complex and must be evaluated in the context of a patchwork of Federal, State, and professional ethics rules. Section 201 of the bill would establish a single enforceable rule, applicable nationwide, that would prohibit tax practitioners from charging fees calculated according to a projected or actual amount of tax savings or paper losses.

Past laws, such as the Whistleblower Protection Act and qui tam lawsuits under the False Claims Act, demonstrate that individuals with inside information can help expose serious misconduct that the U.S. government might otherwise miss. The tax arena is no different. Persons with inside information can help expose millions of dollars in tax fraud if they are willing to step forward and tell the IRS what they know about specific instances of misconduct.

Under current law, potential whistleblowers with inside information about tax misconduct do not have an established IRS office that is sensitive to their concerns, provides consistent treatment, and oversees the calculation and payment of monetary rewards for important information. Section 206 of this bill, which is very similar to a provision developed by the Senate Finance Committee, would, among other measures, establish a Whistleblowers Office within the IRS, codify standards for the payment of monetary rewards, and exempt whistleblower monetary payments from the alternative minimum tax.

Each of these measures is intended to increase incentives for persons to blow the whistle on tax misconduct. The one key difference between our bill and the Finance Committee provision is that we would continue to give the IRS the discretion to determine the amount of money paid to an individual whistleblower; our bill would not enable whistleblowers to appeal to a court to obtain additional sums. The fact-specific analysis that goes into evaluating a whistleblower's assistance and calculating a reward makes court review inadvisable. The existence of an appeal also invites litigation and necessitates the expenditure of taxpayer dollars—not for tax enforcement but for a court dispute. The new Whistleblowers Office is intended to promote the consistent, equitable treatment of persons who report tax misconduct, without also inviting expensive and time-consuming litigation.

Section 205 of the bill would direct the Treasury Department to issue new standards for tax practitioners issuing opinion letters on the tax implications of potential tax shelters as part of Circular 230. The public has traditionally relied on tax opinion letters to obtain informed and trustworthy advice about whether a tax-motivated transaction meets the requirements of the law. The Permanent Subcommittee on Investigations has found that, in too many cases, tax opinion letters no longer contain disinterested and reliable tax advice, even when issued by supposedly reputable accounting or law firms.

Instead, some tax opinion letters have become marketing tools used by tax shelter promoters and their allies to sell clients on their latest tax products. In many of these cases, financial interests and biases were concealed, unreasonable factual assumptions were used to justify dubious legal conclusions, and taxpayers were misled about the risk that the proposed transaction would later be designated an illegal tax shelter. Reforms are essential to address these abuses and restore the integrity of tax opinion letters.

The Treasury Department recently adopted standards that address a number of the abuses affecting tax shelter opinion letters; however, the standards do not take all the steps needed. Our bill would require Treasury to issue standards addressing a wider spectrum of tax shelter opinion letter problems, including: preventing concealed collaboration among supposedly independent letter writers; avoiding conflicts of interest that would impair auditor independence; ensuring appropriate fee charges; preventing practitioners and firms from aiding and abetting the understatement of tax liability by clients; and banning the promotion of potentially abusive tax shelters. By addressing each of these areas, a beefed-up Circular 230 could help reduce the ongoing abusive practices related to tax shelter opinion letters.

The bill would also provide for increased disclosure of tax shelter information to Congress. Section 204 would make it clear that companies providing tax return preparation services to taxpayers cannot refuse to comply with a Congressional document subpoena by citing Section 7216, a consumer protection provision that prohibits tax return preparers from disclosing taxpayer information to third parties. Several accounting and law firms raised this claim in response to document subpoenas issued by the Permanent Subcommittee on Investigations, contending they were barred by the nondisclosure provision in Section 7216 from producing documents related to the sale of abusive tax shelters to clients for a fee.

The accounting and law firms maintained this position despite an analysis provided by the Senate legal counsel showing that the nondisclosure provision was never intended to create a privilege or to override a Senate subpoena, as demonstrated in federal regulations interpreting the provision. This bill would codify the existing regulations interpreting Section 7216 and make it clear that Congressional document subpoenas must be honored.

Section 204 would also ensure Congress has access to information about decisions by Treasury related to an organization's tax exempt status. A 2003 decision by the D.C. Circuit Court of Appeals, Tax Analysts v. IRS, struck down certain IRS regulations and held that the IRS must disclose letters denying or revoking an organization's tax exempt status. The IRS has been reluctant to disclose such information, not only to the public, but also to Congress, including in response to requests by the Permanent Subcommittee on Investigations.

For example, earlier this year the IRS revoked the tax exempt status of four credit counseling firms, and, despite the Tax Analysts case, claimed that it could not disclose to the Subcommittee the names of the four firms or the reasons for revoking their tax exemption. Our bill would make it clear that, upon receipt of a request from a Congressional committee or subcommittee, the IRS must disclose documents, other than a tax return, related to the agency's determination to grant, deny, revoke or restore an organization's exemption from taxation.

Section 208 of the bill would establish that it is the sense of the Senate that additional funds should be appropriated for IRS enforcement, and that the IRS should devote proportionately more of its enforcement funds to combat rampant tax shelter and tax haven abuses. Specifically, the bill would direct increased funding toward enforcement efforts combating the promotion of abusive tax shelters and the aiding and abetting of tax evasion; the involvement of accounting, law and financial firms in such promotion and aiding and abetting; and the use of offshore financial accounts to conceal taxable income.

Tax enforcement is an area where a relatively small increase in spending pays for itself many times over. If we would hire adequate enforcement personnel, close the tax loopholes, and put an end to tax dodges, tens of billions in revenues that should support this country would actually reach the Treasury.

In addition to abusive tax shelters, the bill addresses the abusive tax havens that help taxpayers dodge their U.S. tax obligations through using corporate, bank, and tax secrecy laws that impede U.S. tax enforcement. The London-based Tax Justice Network recently estimated that wealthy individuals worldwide have stashed $11.5 trillion of their assets in tax havens. At one Subcommittee hearing in 2001, a former owner of an offshore bank in the Cayman Islands testified that he believed 100 percent of his former clients were engaged in tax evasion. He said that almost all were from the United States and would take elaborate measures to avoid IRS detection of their money transfers. He also expressed confidence that the government that licensed his bank would vigorously defend client secrecy in order to continue attracting business to the islands.

Corporations are also using tax havens to reduce their U.S. tax liability. A GAO report I released with Senator DORGAN last year found that nearly two-thirds of the top 100 companies doing business with the United States government now have one or more subsidiaries in a tax haven. One company, Tyco International, had 115.

Data released by the Commerce Department further demonstrates the extent of U.S. corporate use of tax havens, indicating that, as of 2001, almost half of all foreign profits of U.S. corporations were in tax havens. A study released by the journal Tax Notes in September 2004 found that American companies were able to shift $149 billion of profits to 18 tax haven countries in 2002, up 68 percent from $88 billion in 1999. Estimates show that funneling these profits from the U.S. to tax havens deprives the U.S. Treasury of anywhere from $10 billion to $20 billion in lost tax revenue each year.

Here's just one simplified example of the gimmicks being used by corporations to transfer taxable income from the United States to tax havens to escape taxation. Suppose a profitable U.S. corporation establishes a shell corporation in a tax haven. The shell corporation has no office or employees, just a mailbox address. The U.S. parent transfers a valuable patent to the shell corporation. Then, the U.S. parent and all of its subsidiaries begin to pay a hefty fee to the shell corporation for use of the patent, shifting taxable income out of the United States to the shell corporation. The shell corporation declares a portion of the fees as profit, but pays no tax since it is a tax haven resident. The icing on the cake is that the shell corporation can then "lend" the income it has accumulated from the fees back to the U.S. companies for their use. The companies, in turn, pay "interest" on the "loans" to the shell corporation, shifting still more taxable income out of the United States to the tax haven. This example highlights just a few of the tax haven ploys being used by some U.S. corporations to escape paying their fair share of taxes here at home.

Sections 401 and 402 of our bill tackle the issue of tax havens by removing U.S. tax benefits associated with jurisdictions that fail to cooperate with U.S. tax enforcement efforts. Dozens of jurisdictions around the world have enacted corporate, bank, and tax secrecy laws that, in too many cases, have been used to justify failing to provide timely information to U.S. officials investigating tax misconduct. Some tax havens have refused to provide timely information about persons suspected of either hiding funds in the jurisdiction's offshore bank accounts or using offshore corporations and deceptive transactions to disguise their income or create phony losses to shelter their U.S. income from taxation.

Section 401 of the bill would give the Treasury Secretary the discretion to designate such an offshore tax haven as "uncooperative" and to publish an annual list of these uncooperative tax havens. We intend that the Treasury Secretary will develop this list by evaluating the actual record of cooperation experienced by the United States in its dealings with specific jurisdictions around the world. While many offshore tax havens have signed treaties with the United States promising to cooperate with U.S. civil and criminal tax enforcement, the level of resulting cooperation varies. For example, after one country signed a tax treaty with the United States, the government that led the effort was voted out of office by treaty opponents. Treasury needs a way to ensure that tax treaty obligations are met and to send a message to jurisdictions that impede U.S. tax enforcement. This bill gives Treasury the tools it needs to get the cooperation it needs.

Under Sections 401 and 402 of the bill, persons doing business in tax havens designated by Treasury as uncooperative would be denied U.S. tax benefits and incur increased disclosure requirements. First, the bill would disallow the tax benefits of deferral and foreign tax credits for income attributed to an uncooperative tax haven. Second, taxpayers would be required to provide greater disclosure of their activities, including disclosing on their returns any payment above $10,000 to a person or account located in a designated haven. These restrictions would not only deter U.S. taxpayers from doing business with uncooperative tax havens, they would also provide the United States with powerful weapons to convince tax havens to cooperate fully with U.S. tax enforcement efforts and help end offshore tax evasion abuses.

Sections 403 and 404 further address offshore tax evasion. Section 403 would toughen penalties on eligible taxpayers who did not participate in Treasury programs designed to encourage voluntary disclosure of previously unreported income placed by the taxpayer in offshore accounts and accessed by credit card or other financial arrangements. Section 404 would authorize Treasury to promulgate regulations to stop ongoing foreign tax credit abuses in which, among other schemes, taxpayers claim credit on their U.S. tax returns for paying foreign taxes, but then fail to report the income related to those foreign taxes. Under the leadership of Senators GRASSLEY and BAUCUS, both Sections 403 and 404 passed the Senate earlier this year as part of the Highway Bill, H.R. 3, but were dropped in conference.

The eyes of some people may glaze over when tax shelters and tax havens are discussed, but unscrupulous taxpayers and tax professionals see illicit dollar signs. Our commitment to crack down on their tax abuses must be as strong as their determination to get away with ripping off America and American taxpayers.

Our bill provides our government the tools to end the use of abusive tax shelters and uncooperative tax havens and to punish the powerful professionals who push them.

It's long past time for Congress to act to end the shifting of a disproportionate tax burden onto the shoulders of honest Americans.

I ask unanimous consent that a summary of the bill's provisions and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## SUMMARY OF TAX SHELTER AND TAX HAVEN REFORM ACT OF 2005

### TITLE I—STRENGTHENING TAX SHELTER PENALTIES

Strengthens the penalties for: promoting abusive tax shelters; and knowingly aiding or abetting a taxpayer in understating tax liability.

### TITLE II—PREVENTING ABUSIVE TAX SHELTER TRANSACTIONS

### PROHIBIT TAX SERVICE FEES DEPENDANT UPON SPECIFIC TAX SAVINGS

Prohibits charging a fee for tax services in an amount that is calculated according to or dependant upon a projected or actual amount of tax savings or losses offsetting taxable income. Builds on contingent fee prohibitions in more than 20 states, AICPA rules applicable to accountants, SEC regulations applicable to auditors of publicly traded corporations, and proposed PCAOB rules for auditors. Based upon investigation by Permanent Subcommittee on Investigations showing tax practitioners are circumventing current constraints.

### DETER FINANCIAL INSTITUTION PARTICIPATION IN ABUSIVE TAX SHELTER ACTIVITIES

Requires Federal bank regulators and the SEC to develop examination techniques to detect violations by financial institutions of the prohibition against providing products or services that aid or abet tax evasion or that promote or implement abusive tax shelters. Regulators must use such techniques at least every 2 years in routine or special examinations of specific institutions and report potential violations to the IRS. The agencies must also prepare a joint report to Congress in 2007 and 2010 on preventing the participation of financial institutions in tax evasion or tax shelter activities.

### INCREASE DISCLOSURE OF CERTAIN TAX SHELTER INFORMATION

Authorizes Treasury to share certain tax return information with the SEC, Federal bank regulators, or PCAOB, under certain circumstances, to enhance tax shelter enforcement or combat financial accounting fraud. Clarifies Congressional subpoena authority to obtain information (but not a taxpayer return) from tax return preparers. Clarifies Congressional authority to obtain certain tax information (but not a taxpayer return) from Treasury related to an IRS decision to grant, deny, revoke, or restore an organization's tax exempt status.

### REQUIRE TOUGHER TAX SHELTER OPINION STANDARDS FOR TAX PRACTITIONERS

Codifies and expands Treasury's authority to beef up Circular 230 standards for tax practitioners providing "opinion letters" on specific tax shelter transactions.

### INCREASE INCENTIVES FOR IRS WHISTLEBLOWERS

Encourages persons to blow the whistle on tax misconduct by establishing a Whistleblowers Office within the IRS to provide consistent, equitable treatment of persons bringing information to the IRS. Codifies standards for awarding a portion of proceeds collected from actions based on information they bring to the IRS's attention. Modeled on provision passed by the Senate in the Highway Bill. Estimated to raise $407 million over 10 years.

*Deny tax deduction for fines, penalties and settlements.*

Clarifies that penalties, fines and settlements paid to the government are not deductible. Passed by the Senate in the Highway Bill. Estimated to raise $200 million over 10 years.

*"Sense of the Senate" on IRS Enforcement Priorities*

Establishes the Sense of the Senate that additional funds should be appropriated for IRS enforcement, and that the IRS should devote proportionately more of its enforcement funds to combat: (1) the promotion of abusive tax shelters for corporations and high net worth individuals and the aiding or abetting of tax evasion, (2) the involvement of accounting, law and financial firms in such promotion and aiding or abetting, and (3) the use of offshore financial accounts to conceal taxable income.

### TITLE III—REQUIRING ECONOMIC SUBSTANCE

*Strengthen the Economic Substance Doctrine*

Strengthens and codifies the economic substance doctrine to invalidate transactions that have no economic substance or business purpose apart from tax avoidance or evasion. Also increases penalties for understatements attributable to a transaction lacking in economic substance. Passed by the Senate in the Highway Bill. Estimated to raise $15.9 billion over 10 years.

### TITLE IV—DETERRING OFFSHORE TAX EVASION

*Deter Use of Uncooperative Tax Havens*

Deters taxpayer use of uncooperative tax havens with corporate, bank or tax secrecy laws, procedures, or practices that impede U.S. enforcement of its tax laws by: (1) requiring disclosure on taxpayer returns of any payment above $10,000 to accounts or persons located in such tax havens, and (2) ending the tax benefits of deferral and foreign tax credits for any income earned in such tax havens. Gives Treasury Secretary discretion to designate a tax haven as uncooperative and publish an annual list of those jurisdictions. Estimated to raise $87 million over 10 years.

*Strengthen Penalties for Concealing Income in Offshore Accounts*

Toughens penalties on taxpayers who, despite being eligible, did not participate in Treasury programs to encourage voluntary disclosure of previously unreported income placed by the taxpayer in offshore accounts and accessed through credit card or other financial arrangements. Passed by the Senate in the Highway Bill. Estimated to raise $10 million over 10 years.

*Stop Schemes to get Foreign Tax Credit Without Reporting Related Income*

Authorizes Treasury to promulgate regulations to address abusive foreign tax credit (FTC) schemes that involve the inappropriate separation or stripping of foreign taxes from the related foreign income so taxpayers get the benefit of the FTC but don't report the related income. The provision becomes effective for transactions entered into after the date of enactment. Passed by the Senate in the Highway Bill. Estimated to raise $16 million over 10 years.

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## S. 1565

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Shelter and Tax Haven Reform Act of 2005".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; etc.

TITLE I—STRENGTHENING TAX SHELTER PENALTIES

Sec. 101. Penalty for promoting abusive tax shelters.
Sec. 102. Penalty for aiding and abetting the understatement of tax liability.

TITLE II—PREVENTING ABUSIVE TAX SHELTERS

Sec. 201. Prohibited fee arrangement.
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TITLE IV—DETERRING UNCOOPERATIVE TAX HAVENS

Sec. 401. Disclosing payments to persons in uncooperative tax havens.
Sec. 402. Deterring uncooperative tax havens by restricting allowable tax benefits.
Sec. 403. Doubling of certain penalties, fines, and interest on underpayments related to certain offshore financial arrangements.
Sec. 404. Treasury regulations on foreign tax credit.

## TITLE I—STRENGTHENING TAX SHELTER PENALTIES

### SEC. 101. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.

(a) PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS.—Section 6700 (relating to promoting abusive tax shelters, etc.) is amended—

(1) by redesignating subsections (b) and (c) as subsections (d) and (e), respectively,

(2) by striking "a penalty" and all that follows through the period in the first sentence of subsection (a) and inserting "a penalty determined under subsection (b)", and

(3) by inserting after subsection (a) the following new subsections:

"(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

"(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

"(A) 150 percent of the gross income derived (or to be derived) from such activity by the person or persons subject to such penalty, and

"(B) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with such activity.

"(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of an activity described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who participated in such an activity.

"(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to such activity, all such persons shall be jointly and severally liable for the penalty under such subsection.

"(c) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(b) CONFORMING AMENDMENT.—Section 6700(a) is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

### SEC. 102. PENALTY FOR AIDING AND ABETTING THE UNDERSTATEMENT OF TAX LIABILITY.

(a) IN GENERAL.—Section 6701(a) (relating to imposition of penalty) is amended—

(1) by inserting "the tax liability or" after "respect to," in paragraph (1),

(2) by inserting "aid, assistance, procurement, or advice with respect to such" before "portion" both places it appears in paragraphs (2) and (3), and

(3) by inserting "instance of aid, assistance, procurement, or advice or each such" before "document" in the matter following paragraph (3).

(b) AMOUNT OF PENALTY.—Subsection (b) of section 6701 (relating to penalties for aiding and abetting understatement of tax liability) is amended to read as follows:

"(b) AMOUNT OF PENALTY; CALCULATION OF PENALTY; LIABILITY FOR PENALTY.—

"(1) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) shall not exceed the greater of—

"(A) 150 percent of the gross income derived (or to be derived) from such aid, assistance, procurement, or advice provided by the person or persons subject to such penalty, and

"(i) if readily subject to calculation, the total amount of underpayment by the taxpayer (including penalties, interest, and taxes) in connection with the understatement of the liability for tax.

"(2) CALCULATION OF PENALTY.—The penalty amount determined under paragraph (1) shall be calculated with respect to each instance of aid, assistance, procurement, or advice described in subsection (a), each instance in which income was derived by the person or persons subject to such penalty, and each person who made such an understatement of the liability for tax.

"(3) LIABILITY FOR PENALTY.—If more than 1 person is liable under subsection (a) with respect to providing such aid, assistance, procurement, or advice, all such persons shall be jointly and severally liable for the penalty under such subsection.".

(c) PENALTY NOT DEDUCTIBLE.—Section 6701 is amended by adding at the end the following new subsection:

"(g) PENALTY NOT DEDUCTIBLE.—The payment of any penalty imposed under this section or the payment of any amount to settle or avoid the imposition of such penalty shall not be considered an ordinary and necessary expense in carrying on a trade or business for purposes of this title and shall not be deductible by the person who is subject to such penalty or who makes such payment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to activities after the date of the enactment of this Act.

## TITLE II—PREVENTING ABUSIVE TAX SHELTERS

### SEC. 201. PROHIBITED FEE ARRANGEMENT.

(a) IN GENERAL.—Section 6701, as amended by this Act, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively,

(2) by striking "subsection (a)." in paragraphs (2) and (3) of subsection (g) (as redesignated by paragraph (1)) and inserting "subsection (a) or (f).", and

(3) by inserting after subsection (e) the following new subsection:

"(f) PROHIBITED FEE ARRANGEMENT.—

"(1) IN GENERAL.—Any person who makes an agreement for, charges, or collects a fee which is for services provided in connection with the internal revenue laws, and the amount of which is calculated according to, or is dependent upon, a projected or actual amount of—

"(A) tax savings or benefits, or

"(B) losses which can be used to offset other taxable income,

shall pay a penalty with respect to each such fee activity in the amount determined under subsection (b).

"(2) RULES.—The Secretary may issue rules to carry out the purposes of this subsection and may provide exceptions for fee arrangements that are in the public interest.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fee agreements, charges, and collections made after the date of the enactment of this Act.

### SEC. 202. PREVENTING TAX SHELTER ACTIVITIES BY FINANCIAL INSTITUTIONS.

(a) EXAMINATIONS.—

(1) DEVELOPMENT OF EXAMINATION TECHNIQUES.—Each of the Federal banking agencies and the Commission shall, in consultation with the Internal Revenue Service, develop examination techniques to detect potential violations of section 6700 or 6701 of the Internal Revenue Code of 1986, by depository institutions, brokers, dealers, and investment advisers, as appropriate.

(2) FREQUENCY.—Not less frequently than once in each 2-year period, each of the Federal banking agencies and the Commission shall implement the examination techniques developed under paragraph (1) with respect to each of the depository institutions, brokers, dealers, or investment advisers subject to their enforcement authority. Such examination shall, to the extent possible, be combined with any examination by such agency otherwise required or authorized by Federal law.

(b) REPORT TO INTERNAL REVENUE SERVICE.—In any case in which an examination conducted under this section with respect to a financial institution or other entity reveals a potential violation, such agency shall promptly notify the Internal Revenue Service of such potential violation for investigation and enforcement by the Internal Revenue Service in accordance with applicable provisions of law.

(c) REPORT TO CONGRESS.—The Federal banking agencies and the Commission shall submit a joint written report to Congress in 2007 and 2010 on their progress in preventing violations of sections 6700 and 6701 of the Internal Revenue Code of 1986, by depository institutions, brokers, dealers, and investment advisers, as appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) the terms "broker", "dealer", and "investment adviser" have the same meanings as in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c);

(2) the term "Commission" means the Securities and Exchange Commission;

(3) the term "depository institution" has the same meaning as in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c));

(4) the term "Federal banking agencies" has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); and

(5) the term "Secretary" means the Secretary of the Treasury.

### SEC. 203. INFORMATION SHARING FOR ENFORCEMENT PURPOSES.

(a) PROMOTION OF PROHIBITED TAX SHELTERS OR TAX AVOIDANCE SCHEMES.—Section 6103(h) (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by adding at the end the following new paragraph:

"(7) DISCLOSURE OF RETURNS AND RETURN INFORMATION RELATED TO PROMOTION OF PROHIBITED TAX SHELTERS OR TAX AVOIDANCE SCHEMES.—

"(A) WRITTEN REQUEST.—Upon receipt by the Secretary of a written request which meets the requirements of subparagraph (B) from the head of the United States Securities and Exchange Commission, an appropriate Federal banking agency as defined under section 1813(q) of title 12, United States Code, or the Public Company Accounting Oversight Board, a return or return information shall be disclosed to such requestor's officers and employees who are personally and directly engaged in an investigation, examination, or proceeding by such requestor to evaluate, determine, penalize, or deter conduct by a financial institution, issuer, or public accounting firm, or associated person, in connection with a potential or actual violation of section 6700 (promotion of abusive tax shelters), 6701 (aiding and abetting understatement of tax liability), or activities related to promoting or facilitating inappropriate tax avoidance or tax evasion. Such disclosure shall be solely for use by such officers and employees in such investigation, examination, or proceeding.

"(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if it sets forth—

"(i) the nature of the investigation, examination, or proceeding,

"(ii) the statutory authority under which such investigation, examination, or proceeding is being conducted,

"(iii) the name or names of the financial institution, issuer, or public accounting firm to which such return information relates,

"(iv) the taxable period or periods to which such return information relates, and

"(v) the specific reason or reasons why such disclosure is, or may be, relevant to such investigation, examination or proceeding.

"(C) FINANCIAL INSTITUTION.—For the purposes of this paragraph, the term 'financial institution' means a depository institution, foreign bank, insured institution, industrial loan company, broker, dealer, investment company, investment advisor, or other entity subject to regulation or oversight by the United States Securities and Exchange Commission or an appropriate Federal banking agency.".

(b) FINANCIAL AND ACCOUNTING FRAUD INVESTIGATIONS.—Section 6103(i) (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by adding at the end the following new paragraph:

"(9) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN FINANCIAL AND ACCOUNTING FRAUD INVESTIGATIONS.—

"(A) WRITTEN REQUEST.—Upon receipt by the Secretary of a written request which meets the requirements of subparagraph (B) from the head of the United States Securities and Exchange Commission or the Public Company Accounting Oversight Board, a return or return information shall be disclosed to such requestor's officers and employees who are personally and directly engaged in an investigation, examination, or proceeding by such requester to evaluate the accuracy of a financial statement or report or to determine whether to require a restatement, penalize, or deter conduct by an issuer, investment company, or public accounting firm, or associated person, in connection with a potential or actual violation of auditing standards or prohibitions against false or misleading statements or omissions in financial statements or reports. Such disclosure shall be solely for use by such officers and employees in such investigation, examination, or proceeding.

"(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if it sets forth—

"(i) the nature of the investigation, examination, or proceeding,

"(ii) the statutory authority under which such investigation, examination, or proceeding is being conducted,

"(iii) the name or names of the issuer, investment company, or public accounting firm to which such return information relates,

"(iv) the taxable period or periods to which such return information relates, and

"(v) the specific reason or reasons why such disclosure is, or may be, relevant to such investigation, examination or proceeding.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures and to information and document requests made after the date of the enactment of this Act.

### SEC. 204. DISCLOSURE OF INFORMATION TO CONGRESS.

(a) DISCLOSURE BY TAX RETURN PREPARER.—

(1) IN GENERAL.—Subparagraph (B) of section 7216(b)(1) (relating to disclosures) is amended to read as follows:

"(B) pursuant to any 1 of the following documents, if clearly identified:

"(i) The order of any Federal, State, or local court of record.

"(ii) A subpoena issued by a Federal or State grand jury.

"(iii) An administrative order, summons, or subpoena which is issued in the performance of its duties by—

"(I) any Federal agency, including Congress or any committee or subcommittee thereof, or

"(II) any State agency, body, or commission charged under the laws of the State or a political subdivision of the State with the licensing, registration, or regulation of tax return preparers.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to disclosures made after the date of the enactment of this Act pursuant to any document in effect on or after such date.

(b) DISCLOSURE BY SECRETARY.—Paragraph (2) of section 6104(a) (relating to inspection of applications for tax exemption or notice of status) is amended to read as follows:

"(2) INSPECTION BY CONGRESS.—

"(A) IN GENERAL.—Upon receipt of a written request from a committee or subcommittee of Congress, copies of documents related to a determination by the Secretary to grant, deny, revoke, or restore an organization's exemption from taxation under section 501 shall be provided to such committee or subcommittee, including any application, notice of status, or supporting information provided by such organization to the Internal Revenue Service; any letter, analysis, or other document produced by or for the Internal Revenue Service evaluating, determining, explaining, or relating to the tax exempt status of such organization (other than returns, unless such returns are available to the public under this section or section 6103 or 6110); and any communication between the Internal Revenue Service and any other party relating to the tax exempt status of such organization.

"(B) ADDITIONAL INFORMATION.—Section 6103(f) shall apply with respect to—

"(i) the application for exemption of any organization described in subsection (c) or (d) of section 501 which is exempt from taxation under section 501(a) for any taxable year and any application referred to in subparagraph (B) of subsection (a)(1) of this section, and

"(ii) any other papers which are in the possession of the Secretary and which relate to such application,

as if such papers constituted returns.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures and to information and document requests made after the date of the enactment of this Act.

### SEC. 205. TAX OPINION STANDARDS FOR TAX PRACTITIONERS.

Section 330(d) of title 31, United States Code, is amended to read as follows:

"(d) The Secretary of the Treasury shall impose standards applicable to the rendering of written advice with respect to any listed transaction or any entity, plan, arrangement, or other transaction which has a potential for tax avoidance or evasion. Such standards shall address, but not be limited to, the following issues:

"(1) Independence of the practitioner issuing such written advice from persons promoting, marketing, or recommending the subject of the advice.

"(2) Collaboration among practitioners, or between a practitioner and other party, which could result in such collaborating parties having a joint financial interest in the subject of the advice.

"(3) Avoidance of conflicts of interest which would impair auditor independence.

"(4) For written advice issued by a firm, standards for reviewing the advice and ensuring the consensus support of the firm for positions taken.

"(5) Reliance on reasonable factual representations by the taxpayer and other parties.

"(6) Appropriateness of the fees charged by the practitioner for the written advice.

"(7) Preventing practitioners and firms from aiding or abetting the understatement of tax liability by clients.

"(8) Banning the promotion of potentially abusive or illegal tax shelters.".

### SEC. 206. WHISTLEBLOWER REFORMS.

(a) IN GENERAL.—Section 7623 (relating to expenses of detection of underpayments and fraud, etc.) is amended—

(1) by striking "The Secretary" and inserting "(a) in general.—The Secretary",

(2) by striking "and" at the end of paragraph (1) and inserting "or",

(3) by striking "(other than interest)", and

(4) by adding at the end the following new subsections:

"(b) AWARDS TO WHISTLEBLOWERS.—

"(1) IN GENERAL.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action, and shall be determined at the sole discretion of the Whistleblower Office.

"(2) AWARD IN CASE OF LESS SUBSTANTIAL CONTRIBUTION.—

"(A) IN GENERAL.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.

"(B) NONAPPLICATION OF PARAGRAPH WHERE INDIVIDUAL IS ORIGINAL SOURCE OF INFORMATION.—Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

"(3) APPLICATION OF THIS SUBSECTION.—This subsection shall apply with respect to any action—

"(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds $200,000 for any taxable year subject to such action, and

"(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed $20,000.

"(4) ADDITIONAL RULES.—

"(A) NO CONTRACT NECESSARY.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

"(B) REPRESENTATION.—Any individual described in paragraph (1) or (2) may be represented by counsel.

"(C) AWARD NOT SUBJECT TO INDIVIDUAL ALTERNATIVE MINIMUM TAX.—No award received under this subsection shall be included in gross income for purposes of determining alternative minimum taxable income.

"(c) WHISTLEBLOWER OFFICE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Whistleblower Office' which—

"(A) shall analyze information received from any individual described in subsection (b) and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office,

"(B) shall monitor any action taken with respect to such matter,

"(C) shall inform such individual that it has accepted the individual's information for further review,

"(D) may require such individual and any legal representative of such individual to not disclose any information so provided,

"(E) may ask for additional assistance from such individual or any legal representative of such individual, and

"(F) shall determine the amount to be awarded to such individual under subsection (b).

"(2) FUNDING FOR OFFICE.—From the amounts available for expenditure under subsection (a), the Whistleblower Office shall be credited with an amount equal to the awards made under subsection (b). These funds shall be used to maintain the Whistleblower Office and also to reimburse other Internal Revenue Service offices for related costs, such as costs of investigation and collection.

"(3) REQUEST FOR ASSISTANCE.—

"(A) IN GENERAL.—Any assistance requested under paragraph (1)(E) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under subparagraph (A). To the extent the disclosure of any returns or return information to the individual or legal representative is required for the performance of such assistance, such disclosure shall be pursuant to a contract entered into between the Secretary and the recipients of such disclosure subject to section 6103(n).

"(B) FUNDING OF ASSISTANCE.—From the funds made available to the Whistleblower Office under paragraph (2), the Whistleblower Office may reimburse the costs incurred by any legal representative in providing assistance described in subparagraph (A).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to information provided on or after the date of the enactment of this Act.

### SEC. 207. DENIAL OF DEDUCTION FOR CERTAIN FINES, PENALTIES, AND OTHER AMOUNTS.

(a) IN GENERAL.—Subsection (f) of section 162 (relating to trade or business expenses) is amended to read as follows:

"(f) FINES, PENALTIES, AND OTHER AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no deduction otherwise allowable shall be allowed under this chapter for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or entity described in paragraph (4) in relation to the violation of any law or the investigation or inquiry by such government or entity into the potential violation of any law.

"(2) EXCEPTION FOR AMOUNTS CONSTITUTING RESTITUTION.—Paragraph (1) shall not apply to any amount which—

"(A) the taxpayer establishes constitutes restitution (including remediation of property) for damage or harm caused by or which may be caused by the violation of any law or the potential violation of any law, and

"(B) is identified as restitution in the court order or settlement agreement.

Identification pursuant to subparagraph (B) alone shall not satisfy the requirement under subparagraph (A). This paragraph shall not apply to any amount paid or incurred as reimbursement to the government or entity for the costs of any investigation or litigation.

"(3) EXCEPTION FOR AMOUNTS PAID OR INCURRED AS THE RESULT OF CERTAIN COURT ORDERS.—Paragraph (1) shall not apply to any amount paid or incurred by order of a court in a suit in which no government or entity described in paragraph (4) is a party.

"(4) CERTAIN NONGOVERNMENTAL REGULATORY ENTITIES.—An entity is described in this paragraph if it is—

"(A) a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) in connection with a qualified board or exchange (as defined in section 1256(g)(7)), or

"(B) to the extent provided in regulations, a nongovernmental entity which exercises self-regulatory powers (including imposing sanctions) as part of performing an essential governmental function.

"(5) EXCEPTION FOR TAXES DUE.—Paragraph (1) shall not apply to any amount paid or incurred as taxes due.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred on or after the date of the enactment of this Act, except that such amendment shall not apply to amounts paid or incurred under any binding order or agreement entered into before such date. Such exception shall not apply to an order or agreement requiring court approval unless the approval was obtained before such date.

### SEC. 208. SENSE OF THE SENATE ON TAX ENFORCEMENT PRIORITIES.

It is the sense of the Senate that additional funds should be appropriated for Internal Revenue Service enforcement efforts and that the Internal Revenue Service should devote proportionately more of its enforcement funds—

(1) to combat the promotion of abusive tax shelters for corporations and high net worth individuals and the aiding and abetting of tax evasion,

(2) to stop accounting, law, and financial firms involved in such promotion and aiding and abetting, and

(3) to combat the use of offshore financial accounts to conceal taxable income.

## TITLE III—REQUIRING ECONOMIC SUBSTANCE

### SEC. 301. CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE.

(a) IN GENERAL.—Section 7701 is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CLARIFICATION OF ECONOMIC SUBSTANCE DOCTRINE; ETC.—

"(1) GENERAL RULES.—

"(A) IN GENERAL.—In any case in which a court determines that the economic substance doctrine is relevant for purposes of this title to a transaction (or series of transactions), such transaction (or series of transactions) shall have economic substance only if the requirements of this paragraph are met.

"(B) DEFINITION OF ECONOMIC SUBSTANCE.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—A transaction has economic substance only if—

"(I) the transaction changes in a meaningful way (apart from Federal tax effects) the taxpayer's economic position, and

"(II) the taxpayer has a substantial nontax purpose for entering into such transaction and the transaction is a reasonable means of accomplishing such purpose.

In applying subclause (II), a purpose of achieving a financial accounting benefit shall not be taken into account in determining whether a transaction has a substantial nontax purpose if the origin of such financial accounting benefit is a reduction of income tax.

"(ii) SPECIAL RULE WHERE TAXPAYER RELIES ON PROFIT POTENTIAL.—A transaction shall not be treated as having economic substance by reason of having a potential for profit unless—

"(I) the present value of the reasonably expected pre-tax profit from the transaction is substantial in relation to the present value of the expected net tax benefits that would be allowed if the transaction were respected, and

"(II) the reasonably expected pre-tax profit from the transaction exceeds a risk-free rate of return.

"(C) TREATMENT OF FEES AND FOREIGN TAXES.—Fees and other transaction expenses and foreign taxes shall be taken into account as expenses in determining pre-tax profit under subparagraph (B)(ii).

"(2) SPECIAL RULES FOR TRANSACTIONS WITH TAX-INDIFFERENT PARTIES.—

"(A) SPECIAL RULES FOR FINANCING TRANSACTIONS.—The form of a transaction which is in substance the borrowing of money or the acquisition of financial capital directly or indirectly from a tax-indifferent party shall not be respected if the present value of the deductions to be claimed with respect to the transaction is substantially in excess of the present value of the anticipated economic returns of the person lending the money or providing the financial capital. A public offering shall be treated as a borrowing, or an acquisition of financial capital, from a tax-indifferent party if it is reasonably expected that at least 50 percent of the offering will be placed with tax-indifferent parties.

"(B) ARTIFICIAL INCOME SHIFTING AND BASIS ADJUSTMENTS.—The form of a transaction with a tax-indifferent party shall not be respected if—

"(i) it results in an allocation of income or gain to the tax-indifferent party in excess of such party's economic income or gain, or

"(ii) it results in a basis adjustment or shifting of basis on account of overstating the income or gain of the tax-indifferent party.

"(3) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) ECONOMIC SUBSTANCE DOCTRINE.—The term 'economic substance doctrine' means the common law doctrine under which tax benefits under subtitle A with respect to a transaction are not allowable if the transaction does not have economic substance or lacks a business purpose.

"(B) TAX-INDIFFERENT PARTY.—The term 'tax-indifferent party' means any person or entity not subject to tax imposed by subtitle A. A person shall be treated as a tax-indifferent party with respect to a transaction if the items taken into account with respect to the transaction have no substantial impact on such person's liability under subtitle A.

"(C) EXCEPTION FOR PERSONAL TRANSACTIONS OF INDIVIDUALS.—In the case of an individual, this subsection shall apply only to transactions entered into in connection with a trade or business or an activity engaged in for the production of income.

"(D) TREATMENT OF LESSORS.—In applying paragraph (1)(B)(ii) to the lessor of tangible property subject to a lease—

"(i) the expected net tax benefits with respect to the leased property shall not include the benefits of—

"(I) depreciation,

"(II) any tax credit, or

"(III) any other deduction as provided in guidance by the Secretary, and

"(ii) subclause (II) of paragraph (1)(B)(ii) shall be disregarded in determining whether any of such benefits are allowable.

"(4) OTHER COMMON LAW DOCTRINES NOT AFFECTED.—Except as specifically provided in this subsection, the provisions of this subsection shall not be construed as altering or supplanting any other rule of law, and the requirements of this subsection shall be construed as being in addition to any such other rule of law.

"(5) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection. Such regulations may include exemptions from the application of this subsection.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

### SEC. 302. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

(a) IN GENERAL.—Subchapter A of chapter 68 is amended by inserting after section 6662A the following new section:

### "SEC. 6662B. PENALTY FOR UNDERSTATEMENTS ATTRIBUTABLE TO TRANSACTIONS LACKING ECONOMIC SUBSTANCE, ETC.

"(a) IMPOSITION OF PENALTY.—If a taxpayer has an noneconomic substance transaction understatement for any taxable year, there shall be added to the tax an amount equal to 40 percent of the amount of such understatement.

"(b) REDUCTION OF PENALTY FOR DISCLOSED TRANSACTIONS.—Subsection (a) shall be applied by substituting '20 percent' for '40 percent' with respect to the portion of any noneconomic substance transaction understatement with respect to which the relevant facts affecting the tax treatment of the item are adequately disclosed in the return or a statement attached to the return.

"(c) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'noneconomic substance transaction understatement' means any amount which would be an understatement under section 6662A(b)(1) if section 6662A were applied by taking into account items attributable to noneconomic substance transactions rather than items to which section 6662A would apply without regard to this paragraph.

"(2) NONECONOMIC SUBSTANCE TRANSACTION.—The term 'noneconomic substance transaction' means any transaction if—

"(A) there is a lack of economic substance (within the meaning of section 7701(o)(1)) for the transaction giving rise to the claimed benefit or the transaction was not respected under section 7701(o)(2), or

"(B) the transaction fails to meet the requirements of any similar rule of law.

"(d) RULES APPLICABLE TO COMPROMISE OF PENALTY.—

"(1) IN GENERAL.—If the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals has been sent with respect to a penalty to which this section applies, only the Commissioner of Internal Revenue may compromise all or any portion of such penalty.

"(2) APPLICABLE RULES.—The rules of paragraphs (2) and (3) of section 6707A(d) shall apply for purposes of paragraph (1).

"(e) COORDINATION WITH OTHER PENALTIES.—Except as otherwise provided in this part, the penalty imposed by this section shall be in addition to any other penalty imposed by this title.

"(f) CROSS REFERENCES.—

"(1) For coordination of penalty with understatements under section 6662 and other special rules, see section 6662A(e). ........................................
"(2) For reporting of penalty imposed under this section to the Securities and Exchange Commission, see section 6707A(e).". ..............................

(b) COORDINATION WITH OTHER UNDERSTATEMENTS AND PENALTIES.—

(1) The second sentence of section 6662(d)(2)(A) is amended by inserting "and without regard to items with respect to which a penalty is imposed by section 6662B" before the period at the end.

(2) Subsection (e) of section 6662A is amended—

(A) in paragraph (1), by inserting "and noneconomic substance transaction understatements" after "reportable transaction understatements" both places it appears,

(B) in paragraph (2)(A), by inserting "and a noneconomic substance transaction understatement" after "reportable transaction understatement",

(C) in paragraph (2)(B), by inserting "6662B or" before "6663",

(D) in paragraph (2)(C)(i), by inserting "or section 6662B" before the period at the end,

(E) in paragraph (2)(C)(ii), by inserting "and section 6662B" after "This section",

(F) in paragraph (3), by inserting "or noneconomic substance transaction understatement" after "reportable transaction understatement", and

(G) by adding at the end the following new paragraph:

"(4) NONECONOMIC SUBSTANCE TRANSACTION UNDERSTATEMENT.—For purposes of this subsection, the term 'noneconomic substance transaction understatement' has the meaning given such term by section 6662B(c).".

(3) Subsection (e) of section 6707A is amended—

(A) by striking "or" at the end of subparagraph (B), and

(B) by striking subparagraph (C) and inserting the following new subparagraphs:

"(C) is required to pay a penalty under section 6662B with respect to any noneconomic substance transaction, or

"(D) is required to pay a penalty under section 6662(h) with respect to any transaction and would (but for section 6662A(e)(2)(C)) have been subject to penalty under section 6662A at a rate prescribed under section 6662A(c) or under section 6662B,".

(c) CLERICAL AMENDMENT.—The table of sections for part II of subchapter A of chapter 68 is amended by inserting after the item relating to section 6662A the following new item:

"Sec. 6662B. Penalty for understatements attributable to transactions lacking economic substance, etc.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

### SEC. 303. DENIAL OF DEDUCTION FOR INTEREST ON UNDERPAYMENTS ATTRIBUTABLE TO NONECONOMIC SUBSTANCE TRANSACTIONS.

(a) IN GENERAL.—Section 163(m) (relating to interest on unpaid taxes attributable to nondisclosed reportable transactions) is amended—

(1) by striking "attributable" and all that follows and inserting the following: "attributable to—

"(1) the portion of any reportable transaction understatement (as defined in section 6662A(b)) with respect to which the requirement of section 6664(d)(2)(A) is not met, or

"(2) any noneconomic substance transaction understatement (as defined in section 6662B(c)).", and

(2) by inserting "**and noneconomic substance transactions**" after "**transactions**".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions after the date of the enactment of this Act in taxable years ending after such date.

## TITLE IV—DETERRING UNCOOPERATIVE TAX HAVENS

### SEC. 401. DISCLOSING PAYMENTS TO PERSONS IN UNCOOPERATIVE TAX HAVENS.

(a) IN GENERAL.—Subpart A of part III of subchapter A of chapter 61 is amended by inserting after section 6038C the following new section:

### "SEC. 6038D. DETERRING UNCOOPERATIVE TAX HAVENS THROUGH LISTING AND REPORTING REQUIREMENTS.

"(a) IN GENERAL.—Each United States person who transfers money or other property directly or indirectly to any uncooperative tax haven, to any financial institution licensed by or operating in any uncooperative tax haven, or to any person who is a resident of any uncooperative tax haven shall furnish to the Secretary, at such time and in such manner as the Secretary shall by regulation prescribe, such information with respect to such transfer as the Secretary may require.

"(b) EXCEPTIONS.—Subsection (a) shall not apply to a transfer by a United States person if the amount of money (and the fair market value of property) transferred is less than $10,000. Related transfers shall be treated as 1 transfer for purposes of this subsection.

"(c) UNCOOPERATIVE TAX HAVEN.—For purposes of this section—

"(1) IN GENERAL.—The term 'uncooperative tax haven' means any foreign jurisdiction which is identified on a list maintained by the Secretary under paragraph (2) as being a jurisdiction—

"(A) which imposes no or nominal taxation either generally or on specified classes of income, and

"(B) has corporate, business, bank, or tax secrecy or confidentiality rules and practices, or has ineffective information exchange practices which, in the judgment of the Secretary, effectively limit or restrict the ability of the United States to obtain information relevant to the enforcement of this title.

"(2) MAINTENANCE OF LIST.—Not later than November 1 of each calendar year, the Secretary shall issue a list of foreign jurisdictions which the Secretary determines qualify as uncooperative tax havens under paragraph (1).

"(3) INEFFECTIVE INFORMATION EXCHANGE PRACTICES.—For purposes of paragraph (1), a jurisdiction shall be deemed to have ineffective information exchange practices if the Secretary determines that during any taxable year ending in the 12-month period preceding the issuance of the list under paragraph (2)—

"(A) the exchange of information between the United States and such jurisdiction was inadequate to prevent evasion or avoidance of United States income tax by United States persons or to enable the United States effectively to enforce this title, or

"(B) such jurisdiction was identified by an intergovernmental group or organization of which the United States is a member as uncooperative with international tax enforcement or information exchange and the United States concurs in the determination.

"(d) PENALTY FOR FAILURE TO FILE INFORMATION.—If a United States person fails to furnish the information required by subsection (a) with respect to any transfer within the time prescribed therefor (including extensions), such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 20 percent of the amount of such transfer.

"(e) SIMPLIFIED REPORTING.—The Secretary may by regulations provide for simplified reporting under this section for United States persons making large volumes of similar payments.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.".

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 6038C the following new item:

"Sec. 6038D. Deterring uncooperative tax havens through listing and reporting requirements.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date which is 180 days after the date of the enactment of this Act.

### SEC. 402. DETERRING UNCOOPERATIVE TAX HAVENS BY RESTRICTING ALLOWABLE TAX BENEFITS.

(a) LIMITATION ON DEFERRAL.—

(1) IN GENERAL.—Subsection (a) of section 952 (defining subpart F income) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by inserting after paragraph (5) the following new paragraph:

"(6) an amount equal to the applicable fraction (as defined in subsection (e)) of the income of such corporation other than income which—

"(A) is attributable to earnings and profits of the foreign corporation included in the gross income of a United States person under section 951 (other than by reason of this paragraph or paragraph (3)(A)(i)), or

"(B) is described in subsection (b).".

(2) APPLICABLE FRACTION.—Section 952 is amended by adding at the end the following new subsection:

"(e) IDENTIFIED TAX HAVEN INCOME WHICH IS SUBPART F INCOME.—

"(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'applicable fraction' means the fraction—

"(A) the numerator of which is the aggregate identified tax haven income for the taxable year, and

"(B) the denominator of which is the aggregate income for the taxable year which is from sources outside the United States.

"(2) IDENTIFIED TAX HAVEN INCOME.—For purposes of paragraph (1), the term 'identified tax haven income' means income for the taxable year which is attributable to a foreign jurisdiction for any period during which such jurisdiction has been identified as an uncooperative tax haven under section 6038D(c).

"(3) REGULATIONS.—The Secretary shall prescribe regulations similar to the regulations issued under section 999(c) to carry out the purposes of this subsection.".

(b) DENIAL OF FOREIGN TAX CREDIT.—Section 901 (relating to taxes of foreign countries and of possessions of United States) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) REDUCTION OF FOREIGN TAX CREDIT, ETC., FOR IDENTIFIED TAX HAVEN INCOME.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part—

"(A) no credit shall be allowed under subsection (a) for any income, war profits, or excess profits taxes paid or accrued (or deemed paid under section 902 or 960) to any foreign jurisdiction if such taxes are with respect to income attributable to a period during which such jurisdiction has been identified as an uncooperative tax haven under section 6038D(c), and

"(B) subsections (a), (b), (c), and (d) of section 904 and sections 902 and 960 shall be applied separately with respect to all income of a taxpayer attributable to periods described in subparagraph (A) with respect to all such jurisdictions.

"(2) Taxes Allowed as a Deduction, Etc.—Sections 275 and 78 shall not apply to any tax which is not allowable as a credit under subsection (a) by reason of this subsection.

"(3) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including regulations which treat income paid through 1 or more entities as derived from a foreign jurisdiction to which this subsection applies if such income was, without regard to such entities, derived from such jurisdiction.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

### SEC. 403. DOUBLING OF CERTAIN PENALTIES, FINES, AND INTEREST ON UNDERPAYMENTS RELATED TO CERTAIN OFFSHORE FINANCIAL ARRANGEMENTS.

(a) Determination of Penalty.—

(1) In General.—Notwithstanding any other provision of law, in the case of an applicable taxpayer—

(A) the determination as to whether any interest or applicable penalty is to be imposed with respect to any arrangement described in paragraph (2), or to any underpayment of Federal income tax attributable to items arising in connection with any such arrangement, shall be made without regard to the rules of subsections (b), (c), and (d) of section 6664 of the Internal Revenue Code of 1986, and

(B) if any such interest or applicable penalty is imposed, the amount of such interest or penalty shall be equal to twice that determined without regard to this section.

(2) Applicable Taxpayer.—For purposes of this subsection—

(A) In General.—The term "applicable taxpayer" means a taxpayer which—

(i) has underreported its United States income tax liability with respect to any item which directly or indirectly involves—

(I) any financial arrangement which in any manner relies on the use of an offshore payment mechanism (including credit, debit, or charge cards) issued by a bank or other entity in a foreign jurisdiction, or

(II) any offshore financial arrangement (including any arrangement with foreign banks, financial institutions, corporations, partnerships, trusts, or other entities), and

(ii) has not signed a closing agreement pursuant to the Voluntary Offshore Compliance Initiative established by the Department of the Treasury under Revenue Procedure 2003-11 or voluntarily disclosed its participation in such arrangement by notifying the Internal Revenue Service of such arrangement prior to the issue being raised by the Internal Revenue Service during an examination.

(B) Authority to Waive.—The Secretary of the Treasury or the Secretary's delegate may waive the application of paragraph (1) for any taxpayer if the Secretary or the Secretary's delegate determines that—

(i) the use of such offshore payment mechanism or financial arrangement was incidental to the transaction,

(ii) in the case of a trade or business, such use took place in the ordinary course of the trade or business of the taxpayer, and

(iii) such waiver would serve the public interest.

(C) Issues Raised.—For purposes of subparagraph (A)(ii), an item shall be treated as an issue raised during an examination if the individual examining the return—

(i) communicates to the taxpayer knowledge about the specific item, or

(ii) has made a request to the taxpayer for information and the taxpayer could not make a complete response to that request without giving the examiner knowledge of the specific item.

(b) Definitions and Rules.—For purposes of this section—

(1) Applicable Penalty.—The term "applicable penalty" means any penalty, addition to tax, or fine imposed under chapter 68 of the Internal Revenue Code of 1986.

(2) Fees and Expenses.—The Secretary of the Treasury may retain and use an amount not in excess of 25 percent of all additional interest, penalties, additions to tax, and fines collected under this section to be used for enforcement and collection activities of the Internal Revenue Service. The Secretary shall keep adequate records regarding amounts so retained and used. The amount credited as paid by any taxpayer shall be determined without regard to this paragraph.

(c) Report by Secretary.—The Secretary shall each year conduct a study and report to Congress on the implementation of this section during the preceding year, including statistics on the number of taxpayers affected by such implementation and the amount of interest and applicable penalties asserted, waived, and assessed during such preceding year.

(d) Effective Date.—The provisions of this section shall apply to interest, penalties, additions to tax, and fines with respect to any taxable year if, as of the date of the enactment of this Act, the assessment of any tax, penalty, or interest with respect to such taxable year is not prevented by the operation of any law or rule of law.

### SEC. 404. TREASURY REGULATIONS ON FOREIGN TAX CREDIT.

(a) In General.—Section 901 (relating to taxes of foreign countries and of possessions of United States), as amended by section 402, is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) Regulations.—The Secretary may prescribe regulations disallowing a credit under subsection (a) for all or a portion of any foreign tax, or allocating a foreign tax among 2 or more persons, in cases where the foreign tax is imposed on any person in respect of income of another person or in other cases involving the inappropriate separation of the foreign tax from the related foreign income.".

(b) Effective Date.—The amendments made by this section shall apply to transactions entered into after the date of the enactment of this Act.

Mr. COLEMAN. Mr. President, today I rise to join Senator Levin in introducing the Tax Shelter and Tax Haven Reform Act of 2005. This bill addresses abusive tax shelters and offshore tax havens which allow tax evaders to avoid paying their fair share. These abuses increase the amount of taxes for everyone else. By increasing the penalty for these shelters, this legislation will do much to ensure that the public trust in our tax laws is restored.

Two years ago, as Chairman of the Permanent Subcommittee on Investigations, I held Subcommittee hearings on abusive tax shelters. It became clear to the Subcommittee that some tax avoidance schemes are clearly abusive. These abusive shelters relied on sham transactions with no financial or economic utility other than to manufacture tax benefits.

Abusive tax shelters hurt the American people. For example, a recent IRS study estimates the Nation's "tax gap"—the difference between the amount of taxes owed and the amount collected was $353 billion in 2001. The study also found that over 80 percent of the "tax gap" is due to taxpayers underreporting their taxes. This means that honest taxpayers are forced to pay more to make up for those taxpayers who dodge Uncle Sam.

The use of abusive tax shelters exploded during the high-flying 1990s, when many firms were awash in cash and were more concerned with generating fees than remaining compliant with the code. The lure of millions of dollars in fees clearly played a role in the decision on the part of tax professionals to drive a Brinks truck through any purported tax loophole.

Abusive tax shelters require accountants and financial advisors who develop and structure transactions to take advantage of loopholes in the tax code. Lawyers provide cookie cutter tax opinions deeming the transactions to be legal. Bankers provide loans with little or no credit risk, yet the amount of the loan creates a multi-million dollar tax loss.

This became a game. Reputable professionals were able to earn huge profits by providing services that offered a "veneer of legitimacy" to the transactions. The parties involved were careful to hide the transactions from IRS detection by failing to register and failing to provide lists of clients who used the transactions to the IRS.

It was clear to the Subcommittee that the promoters of these tax shelters failed to register transactions with the IRS partly because the penalties for failing to register were so low compared to the expected profits. In other words, the risk-benefit ratio was entirely lopsided in the favor of the promoters. This bill will end this advantage and will strengthen the enforcement tools that are at Uncle Sam's disposal.

Current law provides for penalties that amount to 50 percent of the gains of those who market, plan, implement and sell sham tax shelters to individuals and corporations. However, I agree with my esteemed colleague, Senator Levin, that even stronger penalties are needed. The provision to substantially increase penalties to the promoters and aiders and abettors who manufacture and implement these sham transactions so that they must give back more than just half of their ill-gotten gains is vital to restoring the integrity of our tax laws and deterring future tax avoidance.

This is not a victimless crime. It is not the government that loses the money. It is working moms and dads who bear the brunt of lost revenue so that a handful of lawyers, accountants, investment advisors, bankers and their clients can manipulate legitimate business practices to make a profit.

We need to give honest, hard working Americans a better deal—by cracking down on those who choose not to pay their fair share of taxes. This bill is a step in the right direction.

Mr. OBAMA. Mr. President, I rise today to speak about the "Tax Shelter and Tax Haven Reform Act of 2005," of which I am a cosponsor. This bill seeks to improve the fairness of our tax system by deterring the use of tax avoidance strategies with no economic justification other than to reduce tax liability and shirk responsibility.

Abusive tax shelters and tax havens cost this country tens of billions of dollars each year and may be the largest single source of the $300 billion tax gap between what is owed and what is collected by the U.S. Treasury. The investigation by my colleagues on the Senate Permanent Subcommittee on Investigations found that more than half of all federal contractors may have subsidiaries in tax havens and that almost half of all foreign profits of U.S. corporations in a recent year were in tax havens. My esteemed colleagues also heard testimony that between 1-2 million individual taxpayers may be hiding funds in offshore tax havens. Many of these tax havens refuse to cooperate with U.S. tax enforcement officials.

This is not a political issue of how low or high taxes ought to be. This is a basic issue of fairness and integrity. Corporate and individual taxpayers alike must have confidence that those who disregard the law will be identified and adequately punished. Those who enforce the law need the tools and resources to do so. We cannot reasonably expect an American business to subject itself to a competitive disadvantage by following the law while watching its competitors defy the law without repercussion.

This bill cracks down on those individuals and businesses that establish virtual residences in tax havens abroad while taking unfair advantage of the very real advantages of actual residence here in the United States.

This bill clarifies that the sole purpose of a transaction cannot legitimately be to evade tax liability.

This bill increases the penalties for those who profit by manipulating and exploiting our tax laws, resulting in higher rates and greater complexity for the rest of us.

My mother taught me that there is no such thing as a free lunch—someone always has to pay. And when one of us shirks our duty to pay, the burden gets shifted to others, in this case to ordinary taxpayers and working Americans without access to sophisticated tax preparers or corporate loopholes.

This bill strengthens our ability to stop shifting the tax burden to working families. The money saved by this bill, for example, can reduce the burden on American children of unnecessary budget deficits being financed by rising debt to foreign nations.

The money saved by this bill can also be used to protect children in low income families from unfair tax increases caused by inequities in the child tax credit. In fact, this fall, I intend to introduce legislation to ensure that the child tax credit is not reduced solely because a family's income fails to keep pace with inflation. With less than half of the savings generated by this bill, we can shield more than four million children from the annual tax increase their families face as a result of stagnant wages and inflation under current law.

All of us should pay our fair share of American taxes. There is no excuse for benefiting from the laws and services, institutions and economic structure of our nation while evading your responsibility to do your part for this country. I believe it is our job to keep the system fair, and that's what this bill seeks to do.

I commend Senator LEVIN and Senator COLEMAN for their leadership on this important issue. I am proud to be a cosponsor of this bill and urge my colleagues to support it.

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By Mr. ROBERTS (for himself and Mr. KENNEDY):

S. 1570. A bill to promote employment of individuals with severe disabilities through Federal Government contracting and procurement processes, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1570

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Employer Work Incentive Act for Individuals with Severe Disabilities".

**SEC. 2. PURPOSE.**

The purpose of this Act is to promote employment opportunities for individuals with severe disabilities, by requiring Federal agencies to offer incentives to Government contractors and subcontractors that employ substantial numbers of individuals with severe disabilities.

**SEC. 3. JOBS INITIATIVE FOR INDIVIDUALS WITH SEVERE DISABILITIES.**

(a) PREFERENCE FOR CONTRACTORS EMPLOYING INDIVIDUALS WITH SEVERE DISABILITIES.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

**"SEC. 42. PREFERENCE FOR CONTRACTORS EMPLOYING INDIVIDUALS WITH SEVERE DISABILITIES.**

"(a) PREFERENCE.—In entering into a contract, the head of an executive agency shall give a preference in the source selection process to each offeror that submits with its offer for the contract a written pledge that the contractor is an eligible business for purposes of this section.

"(b) UNIFORM PLEDGE.—The Federal Acquisition Regulation shall set forth the pledge that is to be used in the administration of this section.

"(c) RESPONSIBILITY OF THE SECRETARY OF LABOR.—(1) The Secretary of Labor shall maintain on the Internet web site of the Department of Labor a list of contractors that have submitted the pledge as described in subsection (a).

"(2) The head of each executive agency receiving a pledge as described in subsection (a) shall transmit a copy of the pledge to the Secretary of Labor.

"(d) DEFINITIONS.—In this section:

"(1)(A) The term 'eligible business' means a nonprofit or for-profit business entity that—

"(i) except as provided in subparagraph (B), demonstrates that it has established an integrated employment setting, as defined by the Secretary of Labor;

"(ii) employs individuals with severe disabilities in not less than 25 percent of the full-time equivalent positions of the business, on average;

"(iii)(I) pays wages to each of the individuals with severe disabilities at not less than the applicable rate described in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)), regardless of whether the individuals are engaged in supported employment, or training, under a contract with an executive agency or a program that receives Federal funds; and

"(II) does not employ any individual with a severe disability pursuant to a special certificate issued under section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)); and

"(iv) makes contributions for at least 50 percent of the total cost of the annual premiums for health insurance coverage for its employees.

"(B) In the case of an entity that has a contract with an executive agency in effect on the date of enactment of the Employer Work Incentive Act for Individuals with Severe Disabilities, subparagraph (A)(i) shall not apply until 3 years after that date of enactment.

"(2)(A) The term 'individual with a severe disability' means an individual who is a disabled beneficiary (as defined in section 1148(k)(2) of the Social Security Act (42 U.S.C. 1320b-19(k)(2)) or an individual who would be considered to be such a disabled beneficiary but for having income or assets in excess of the income or asset eligibility limits established under title II or XVI of the Social Security Act, respectively (42 U.S.C. 401 et seq., 1381 et seq.).

"(B) The term 'individuals with severe disabilities' means more than 1 individual with a severe disability.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end the following new item:

"Sec. 42. Preference for contractors employing individuals with severe disabilities.".

By Mr. CORZINE (for himself and Mr. LAUTENBERG):

S. 1571. A bill to amend title 38, United States Code, to establish a comprehensive program for testing and treatment of veterans for the Hepatitis C virus; to the Committee on Veterans' Affairs.

Mr. CORZINE. Mr. President, I rise today along with my colleague, Senator LAUTENBERG, to introduce the Veterans Comprehensive Hepatitis C Health Care Act. This bill would fundamentally change the way the Department of Veterans Affairs is addressing the growing Hepatitis C epidemic, and would create a national standard for testing and treating veterans with the virus.

Hepatitis C is a disease of the liver caused by contact with the Hepatitis C virus. It is primarily spread by contact with infected blood. The CDC estimates that 1.8 percent of the population is infected with the Hepatitis C virus, and that number is much higher among veterans. Vietnam-era veterans are considered to be at greater risk because many were exposed to Hepatitis C-infected blood as a result of combat-related surgical care during the Vietnam War. In fact, data from the Veterans Administration suggests that as many as 18 percent of all veterans and 64 percent of Vietnam veterans are infected with the Hepatitis C Virus (HCV). Veterans living in the New York-New Jersey metropolitan area have the highest rate of Hepatitis C in the Nation. For many of those infected, Hepatitis C leads to liver failure, transplants, liver cancer, and death.

And yet, most veterans who have Hepatitis C don't even know it—and often do not get treatment until it's too late. Despite recent advances in treating Hepatitis C, the VA still lacks a comprehensive, consistent, uniform approach to testing and treating veterans for the virus. Only a fraction of the eight million veterans enrolled nationally in the VA Health Care System have been tested to date. Part of the problem stems from a lack of qualified, full-time medical personnel to administer and analyze the tests. Most of the 172 VA hospitals in this country have only one doctor, working a half day a week, to conduct and analyze all the tests. At this rate, it will take years to test the entire enrolled population—years that many of these veterans may not have.

To address this growing problem, I am again introducing the Veterans Comprehensive Hepatitis C Health Care Act. This legislation will improve access to Hepatitis C testing and treatment for all veterans, ensure that the VA spends all allocated Hepatitis C funds on testing and treatment, and sets new, national policies for Hepatitis C care. Congressman RODNEY FRELINGHUYSEN from New Jersey has introduced companion legislation in the House of Representatives.

The bill would improve testing and treatment for veterans by requiring annual screening tests for Vietnam-era veterans enrolled in the VA health system, and providing annual tests, upon request, to other veterans enrolled in the system. Further, it would require the VA to treat any enrolled veteran who tests positive for the Hepatitis C virus, regardless of service-connected disability status or priority group categorization. The VA would be required to provide at least one dedicated health care professional—a doctor and a nurse—at each VA Hospital for testing and treatment of this disease.

This bill would also increase the amount of money dedicated to Hepatitis C testing and treatment, and would make sure these funds are spent where they are needed most. Beginning in FY06, Hepatitis C funding would be shifted to the Specific Purpose account under the Veterans Health Administration, and would be dedicated solely for the purpose of paying for the costs associated with treating veterans with the Hepatitis C virus. The bill would allocate these funds to the 22 Veterans Integrated Service Networks (VISN) based on each VISN's Hepatitis C incidence rate, or the number of veterans infected with the virus.

In addition, this bill will end the confusing patchwork of policies governing the care of veterans with Hepatitis C throughout the nation. This legislation directs the VA to develop and implement a standardized, national Hepatitis C policy for its testing protocol, treatment options and education and notification efforts. The bill further directs the VA to develop an outreach program to notify veterans who have not been tested for the Hepatitis C virus of the need for such testing and the availability of such testing through the VA. And finally, this legislation would establish Hepatitis C Centers of Excellence in geographic areas with high incidence of Hepatitis C infection.

The VA currently lacks a comprehensive national strategy for combating this deadly disease. The Veterans Comprehensive Hepatitis C Health Care Act will ensure that veterans will finally be provided with the access to testing and treatment that they have more than earned and deserve. And, the Federal Government will actually save money in the long run by testing and treating this infection early. The alternative is much more costly treatment of end-stage liver disease and the associated complications, or other disorders.

The VA has known about the problem of Hepatitis C among veterans since 1992, but they have not acted. We must address this critical issue for the brave men and women who have placed their lives in danger to protect the United States. I urge my colleagues to join me in supporting this crucial legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1571

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Veterans Comprehensive Hepatitis C Health Care Act".

**SEC. 2. COMPREHENSIVE HEPATITIS C HEALTH CARE TESTING AND TREATMENT PROGRAM FOR VETERANS.**

(a) IN GENERAL.—Chapter 17 of title 38, United States Code, is amended by inserting after section 1720E the following new section:

**"§ 1720F. Hepatitis C testing and treatment**

"(a) INITIAL TESTING.—(1) During the 1-year period beginning on the date of the enactment of the Veterans Comprehensive Hepatitis C Health Care Act, the Secretary shall provide a blood test for the Hepatitis C virus to—

"(A) each veteran who—

"(i)(I) served in the active military, naval, or air service during the Vietnam era; or

"(II) is considered to be 'at risk,';

"(ii) is enrolled to receive care under section 1710 of this title; and

"(iii)(I) requests the test; or

"(II) is otherwise receiving a physical examination or any care or treatment from the Secretary; and

"(B) any other veteran who requests the test.

"(2) After the end of the period referred to in paragraph (1), the Secretary shall provide a blood test for the Hepatitis C virus to any veteran who requests the test.

"(b) FOLLOWUP TESTING AND TREATMENT.—In the case of any veteran who tests positive for the Hepatitis C virus, the Secretary shall provide—

"(1) such followup tests as are considered medically appropriate; and

"(2) appropriate treatment for that veteran in accordance with the national protocol for the treatment of Hepatitis C.

"(c) STATUS OF CARE.—(1) Treatment shall be provided under subsection (b) without regard to whether the Hepatitis C virus is determined to be service-connected and without regard to priority group categorization of the veteran. No copayment may be charged for treatment under subsection (b), and no third-party reimbursement may be sought or accepted, under section 1729 of this title or under any other provision of law, for testing or treatment under subsection (a) or (b).

"(2) Paragraph (1) shall cease to be in effect upon the effective date of a determination by the Secretary or by Congress that the occurrence of the Hepatitis C virus in specified veterans shall be presumed to be service-connected.

"(d) STAFFING.—(1) The Secretary shall require that each Department medical center employ at least 1 full-time gastroenterologist, hepatologist, or other qualified physician to provide tests and treatment for the Hepatitis C virus under this section.

"(2) The Secretary shall, to the extent practicable, ensure that each Department medical center has at least 1 staff member assigned to work, in coordination with Hepatitis C medical personnel, to coordinate treatment options for Hepatitis C patients and provide information and counseling for those patients and their families. Such a staff member should preferably be trained in psychology or psychiatry or be a social worker.

"(3) In order to improve treatment provided to veterans with the Hepatitis C virus, the Secretary shall provide increased training options to Department health care personnel.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1720E the following new item:

"1720F. Hepatitis C testing and treatment.".

**SEC. 3. FUNDING FOR HEPATITIS C PROGRAMS OF THE DEPARTMENT OF VETERANS AFFAIRS.**

(a) PROGRAM ACCOUNT.—Beginning with fiscal year 2006, amounts appropriated for the Department of Veterans Affairs for Hepatitis C detection and treatment shall be provided, within the "Medical Care" account, through the "Specific Purpose" subaccount, rather than the "VERA" subaccount.

(b) ALLOCATION OF FUNDS TO VISNS.—In allocating funds appropriated for the Department of Veterans Affairs for the "Medical Care" account to the Veterans Integrated Service Networks, the Secretary of Veterans Affairs shall allocate funds for detection and treatment of the Hepatitis C virus based upon incidence rates of that virus among veterans (rather than based upon the overall population of veterans) in each such network.

(c) LIMITATION ON USE OF FUNDS.—Amounts appropriated for the Department of Veterans Affairs for Hepatitis C detection and treatment through the "Specific Purpose" subaccount may not be used for any other purpose.

**SEC. 4. NATIONAL POLICY.**

(a) STANDARDIZED NATIONWIDE POLICY.—The Secretary of Veterans Affairs shall develop and implement a standardized policy to be applied throughout the Department of Veterans Affairs health care system with respect to the Hepatitis C virus. The policy shall include the testing protocol for the Hepatitis C virus, treatment options, education and notification efforts, and establishment of a specific Hepatitis C diagnosis code for measurement and treatment purposes.

(b) OUTREACH.—The Secretary shall, on an annual basis, take appropriate actions to notify veterans who have not been tested for the Hepatitis C virus of the need for such testing and the availability of such testing from the Department of Veterans Affairs.

**SEC. 5. HEPATITIS C CENTERS OF EXCELLENCE.**

(a) ESTABLISHMENT.—The Secretary of Veterans Affairs shall establish at least 1, and not more than 3, additional Hepatitis C centers of excellence or additional sites at which activities of Hepatitis C centers of excellence are carried out. Each such additional center or site shall be established at a Department of Veterans Affairs medical center in 1 of the 5 geographic service areas (known as a Veterans Integrated Service Network) with the highest case rate of Hepatitis C in fiscal year 1999.

(b) FUNDING.—Funding for the centers or sites established under subsection (a) shall be provided from amounts available to the Central Office of the Department of Veterans Affairs and shall be in addition to amounts allocated for Hepatitis C pursuant to section 3.

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By Mr. JOHNSON (for himself and Mr. BINGAMAN):

S. 1572. A bill to amend title XIX of the Social Security Act to clarify the application of the 100 percent Federal medical assistance percentage under the Medicaid program for services provided by the Indian Health Service or an Indian tribe or tribal organization directly or through referral, contract, or other arrangement; to the Committee on Finance.

Mr. JOHNSON. Mr. President, today I am introducing legislation that will make a necessary clarification to current law regarding the application of the federal medical assistance percentage or FMAP. I am joined by Senator BINGAMAN in introducing this bill.

The Indian Health Care Improvement Act, IHCIA, provides for 100 percent Federal medical assistance percentage, FMAP, applicable to Medicaid services "received through an Indian Health Service facility." This definition has created some issues for state Medicaid programs when applying for the full FMAP rate for services provided to Native Americans that are referred by an Indian Health Service facility to a non-IRS facility.

North Dakota and South Dakota have been in the courts with the Centers for Medicare and Medicaid Services or CMS over this issue. Since last year when CMS determined that the 100 percent FMAP was not allowable for referred services, North Dakota and South Dakota appealed and prevailed in a lawsuit at the district court level. The Federal appeals court has now reversed the district court's decision and affirmed that those states must repay CMS for the excess payments. While the court sided in favor of CMS, the decision states that there is a lack of clarity in the statute pertaining to how referred patients are covered through the Federal match.

CMS disallowed $4 million in payments that South Dakota's Department of Social Services had billed Medicaid through the 100 percent FMAP for Indian patients seen in non-IHS facilities through referrals. At issue is a lack of specificity regarding how far "received through" should extend. The most recent court decision even states "the statutory language is susceptible to multiple interpretations."

The legislation I am introducing today will clarify the statute and make it completely clear that any services provided under a state Medicaid plan which are referred by any Indian Health Service facility, whether operated by the IHS or by and Indian tribe or tribal organization are to be covered by the 100 percent FMAP amount. Any previous disallowance of a claim or claims by CMS will be reviewed by the Department of Health and Human Services within 90 days of enactment of this legislation and payments adjusted accordingly if the claim meets the standards set forth in this bill.

The Senate Indian Affairs Committee, of which I am a member, will be considering the IHCIA this fall. It is my hope that this legislation will be considered within the broader context of the debate on IHCIA. Clearly the Federal government has an obligation to live up to the treaties and responsibilities to our tribes and all Native Americans. I see this legislation as an extension of the obligation.

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By Ms. CANTWELL (for herself, Mr. BINGAMAN, Mr. ROCKEFELLER, Mrs. LINCOLN, Mrs. MURRAY, and Mr. CORZINE):

S. 1574. A bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007; to the Committee on Finance.

Ms. CANTWELL. Mr. President, I am proud to rise today with my colleagues Senators BINGAMAN, ROCKEFELLER, LINCOLN, MURRAY and CORZINE to introduce the "Affordable Access to Medicare Providers Act."

Securing access to affordable healthcare, especially for our Nation's seniors, is critical and it remains to be one of my top priorities. Access to healthcare is impacted by two key factors: we must have enough well qualified healthcare providers that are willing and able to accept Medicare patients, and the beneficiaries must be able to afford the premiums required to utilize their Medicare benefits. This bill addresses both of these issues—it will provide some stability in physician Medicare payment rates so that physicians can continue to offer high quality healthcare services while ensuring that the Medicare beneficiaries are not saddled with the cost and even higher premiums for physicians services.

Medicare was written to cover the most basic health care for seniors. When the original bill passed in 1965, the legislation's conference report explicitly stated that the intent of the program is to provide adequate "medical aid . . . for needy people, and should "make the best of modem medicine more readily available to the aged."

While the Medicare Modernization Act provided some improvements such as: It also had some unfortunate consequences on the Medicare beneficiaries in Washington State. Medicare payments per beneficiary will be further exacerbated and continue to penalize Washington state for our efficient healthcare system. Fifty-seven percent of Washington state physicians are limiting or dropping Medicare patients from their practices. Washington falling to 45th in the Nation on reimbursements will not help the situation.

A survey conducted by the Medicare Payment Advisory Council, MedPAC, found that 22 percent of patients already have some problems finding a primary care physician and 27 percent report delays getting an appointment. Physicians are the foundation of our Nation's health care system. Continual cuts, or even the threat of repeated cuts, put Medicare patient access to physicians' services at risk. They also threaten to destabilize the Medicare program and create a ripple effect across other programs. Indeed, Medicare cuts jeopardize access to medical care for millions of our active duty military family members and military retirees because their TRICARE insurance ties its payment rates to Medicare.

Now we are told by the Medicare board of Trustees that if Congress does not act by the end of the year, the Medicare physician payment formula will likely produce a 4.3 percent decrease next year with similar reductions to follow in the years to come. The Medicare Board of Trustees also estimates that the cost of providing medical care will increase by an estimated 15 percent over the next six years, while current reimbursement levels are scheduled to drop by an estimated 26 percent over the same time period.

After adjusting for inflation, Medicare payments to physicians in 2013 will be less than half of what they were in 1991. That declining reimbursement rate would likely mean a growing percentage of family physicians would decline to see new Medicare patients and, as a result, access to care would suffer.

Washington stands to lose $39 million in 2006 and 1.9 billion from 2006-2014 if these cuts go through. For physicians in Washington, the cuts over this period will average $13,000 per year for each physician in the State.

The American Medical Association conducted a survey of physicians in February and March 2005 concerning significant Medicare pay cuts from 2006 through 2013 (as forecast in the 2004 Medicare Trustees report). Results from the survey indicate that if the projected cuts in Medicare physician payment rates begin in 2006: more than a third of physicians (38 percent) plan to decrease the number of new Medicare patients they accept; more than half of physicians (54 percent) plan to defer the purchase of information technology, which is necessary to make value-based purchasing work; a majority of physicians (53 percent) will be less likely to participate in a Medicare Advantage plan; about a quarter of physicians plan to close satellite offices (24 percent) and/or discontinue rural outreach services (29 percent) if payments are cut in 2006. If the pay cuts continue through 2013, close to half of physicians plan to close satellite offices (42 percent) and/or discontinue rural outreach (44 percent): and one-third of physicians (34 percent) plan to discontinue nursing home visits if payments are cut in 2006. By the time the cuts end, half (50 percent) of physicians will have discontinued nursing home visits.

Physicians can simply not absorb cuts these cuts and still deliver high quality care. We must ensure our doctors have the resources they need to ensure that our seniors have access to their physicians.

There have been efforts made to address the physician payment issue however; they have not addressed the impact on Medicare beneficiaries and their premiums. I'm concerned some of the proposals would result in an additional burden being placed on the Medicare beneficiary by way of a $24 billion increase in part B premiums in 2006 and a $60 billion increase in 2007.

This happens because by law, the monthly Part B premium is set at 25 percent of the part B Trust Fund costs. Administrative or legal changes to increase physician payment rates that don't include a hold-harmless clause, increase Medicare part B expenditures and ultimately, the Part B premiums paid by beneficiaries.

This is not a viable solution either as the beneficiaries are already being hit with premium increases and additional cost sharing due to implementation of the prescription drug benefit. For this reason, along with my colleagues, I have chosen to introduce legislation that provides the update for physician reimbursement rates but also holds the part B premiums harmless.

I look forward to working my colleagues to pass this legislation to ensure that access to care for our seniors is preserved and enhanced.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1574

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Affordable Access to Medicare Providers Act of 2005".

**SEC. 2. MINIMUM UPDATE FOR PHYSICIANS' SERVICES FOR 2006 AND 2007.**

(a) Minimum Update.—

(1) In general.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w-4(d)) is amended by adding at the end the following new paragraphs:

"(6) Update for 2006.—The update to the single conversion factor established in paragraph (1)(C) for 2006 shall not be less than 2.7 percent.

"(7) Update for 2007.—

"(A) In general.—The update to the single conversion factor established in paragraph (1)(C) for 2007 shall not be less than the product of—

"(i) 1 plus the Secretary's estimate of the percentage change in the value of the input price index (as provided under subparagraph (B)(ii)) for 2007 (divided by 100); and

"(ii) 1 minus the Secretary's estimate of the productivity adjustment factor under subparagraph (C) for 2007.

"(B) Input price index.—

"(i) Establishment.—Taking into account the mix of goods and services included in computing the medicare economic index (referred to in the fourth sentence of section 1842(b)(3)), the Secretary shall establish an index that reflects the weighted-average input prices for physicians' services for 2006. Such index shall only account for input prices and not changes in costs that may result from other factors (such as productivity).

"(ii) Annual estimate of change in index.—The Secretary shall estimate, before the beginning of 2007, the change in the value of the input price index under clause (i) from 2006 to 2007.

"(C) Productivity adjustment factor.—The Secretary shall estimate, and cause to be published in the Federal Register not later than November 1, 2006, a productivity adjustment factor for 2007 that reflects the Secretary's estimate of growth in multifactor productivity in the national economy, taking into account growth in productivity attributable to both labor and nonlabor factors. Such adjustment may be based on a multi-year moving average of productivity (based on data published by the Bureau of Labor Statistics).".

(2) Conforming amendment.—Section 1848(d)(4)(B) of the Social Security Act (42 U.S.C. 1395w-4(d)(4)(B)) is amended, in the matter preceding clause (i), by striking "and paragraph (5)" and inserting "paragraphs (5), (6), and (7)".

(b) Exclusion of Costs From Determination of Part B Monthly Premium.—Section 1839(g) (42 U.S.C. 1395r(g)) is amended—

(1) in paragraph (1), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) the application of the amendments made by section 2(a) of the Affordable Access to Medicare Providers Act of 2005 (relating to a minimum update for physicians' services in 2006 and 2007).".

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Mr. BINGAMAN (for himself, Mr. Cornyn, Ms. Mikulski, Ms. Collins, Mr. Jeffords, Mrs. Murray, Mr. Reed, Mr. Nelson of Nebraska, Ms. Cantwell, Mr. Durbin, Mr. Corzine, Ms. Landrieu, Mr. Kerry, Mr. Lautenberg, and Mr. Inouye):

S. 1575. A bill to amend the Public Health Service Act to authorize a demonstration program to increase the number of doctorally-prepared nurse faculty; to the Committee on Health, Education, Labor, and Pensions.

Mr. BINGAMAN. Mr. President, today I introduce legislation that will help address the critical nurse faculty shortage facing our Nation today. The Bureau of Labor statistics estimates that 1,000,000 new and replacement nurses will be needed by 2012. With a nurse faculty workforce that averages 53.5 years of age, we cannot and must not wait any longer to address nurse faculty shortages. Quite simply, we need to educate more doctoral level faculty, or we, as a Nation, will not have enough trained nurses to meet the needs of our aging society.

In a 2002 report, the Commission on Higher Education and the University of New Mexico Health Sciences Center assembled nursing educators, healthcare providers, business organizations, professional associations, legislators, and New Mexico state agencies to develop a statewide strategic framework for addressing New Mexico's nursing shortage. The initiative revealed that 72 percent of hospitals have curtailed services, 38 percent of home care agencies have refused referrals, 15 percent of long term care facilities have refused admissions, and public health offices have decreased public health services. The number one priority listed in the statewide initiative was to double the number of licensed nursing graduates in the State. And yet, this one simple priority is not so simple. With a doctoral nurse faculty of 53.4 years of age, on average, and 46 vacant nurse faculty positions, in New Mexico, the necessary expansion of programs is not possible. New Mexico is not alone in facing nurse and nurse faculty shortages. The nationwide nursing shortage is expected to more than triple, because the average age of the workforce is near retirement, the population is aging and has increasing healthcare needs, and the shortage is one that affects the entire nation.

There is a well-known saying, "a problem clearly stated is a problem half solved." In 2004–2005, over 30,000 qualified nursing school applicants were not accepted into nursing baccalaureate programs. Estimates from the National League for Nursing indicate that over 123,000 qualified applications could not be accommodated in registered nurse educational programs in 2004. The primary reason students are not admitted is lack of trained faculty, funds, and program resources. The real nursing workforce problem that we need to address at the current time is lack of an adequate number of qualified nurse faculty members.

The Nurse Faculty Education Act will amend the Nurse Reinvestment Act, P.L. 107–205, to help alleviate the faculty shortage by providing funds to help nursing schools increase enrollment and graduation from nursing doctoral programs. The act will increase partnering opportunities, enhance cooperative education, help support marketing outreach, and strengthen mentoring programs. The bill will increase the number of nurses who complete nursing doctoral programs and seek employment as faculty members and nursing leaders in academic institutions. By addressing the faculty shortage, we are addressing the nursing shortage.

The provisions of the Nurse Faculty Education Act are vital to overcoming nursing workforce challenges. By addressing nurse faculty shortages, we will enhance both access to care and the quality of care. Our families and our Nation will be well-served by integration of the Nurse Faculty Education Act into the Nurse Reinvestment Act.

Mr. President, I ask unanimous consent that the text of this bill be printed the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1575

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Nurse Faculty Education Act of 2005".

### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Nurse Reinvestment Act (Public Law 107-205) has helped to support students preparing to be nurse educators. Yet, nursing schools nationwide are forced to deny admission to individuals due to lack of qualified nurse faculty.

(2) According to the February 2004 Monthly Labor Review of the Bureau of Labor Statistics, more than 1,000,000 new and replacement nurses will be needed by 2012.

(3) According to the American Association of Colleges of Nursing, in the 2004-2005 academic year, 29,425 individuals, or 35 percent of the qualified applicants were not accepted into nursing baccalaureate programs. 2,748 potential nursing master's students and over 200 nurses qualified for admission to doctoral programs were not accepted. Estimates from the National League of Nursing indicate that over 123,000 qualified applications could not be accommodated in associate degree, diploma, and baccalaureate registered nurse educational programs in 2004.

(4) Seventy-six percent of schools report insufficient faculty as the primary reason for not accepting qualified applicants. The primary reasons for lack of faculty are lack of funds to hire new faculty, inability to identify, recruit and hire faculty in the current competitive job market, and lack of nursing faculty available in different geographic areas.

(5) Despite the fact that 75 percent of graduates of doctoral nursing program enter education roles (versus about 5 percent of graduates of nursing master's programs), the 93 doctoral programs nationwide produce only 400 graduates. This annual graduation rate is insufficient to meet current needs for nurse faculty. In keeping with other professional academic disciplines, nurse faculty at colleges and universities are typically doctorally-prepared.

(6) With the average age of nurse faculty at retirement at 62.5 years of age and the average age of doctorally-prepared faculty currently at 53.5 years, the health care system faces unprecedented workforce and health access challenges with current and future shortages of deans, nurse educators, and nurses.

### SEC. 3. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Part D of title VIII of the Public Health Service Act (42 U.S.C. 296p et seq.) is amended by adding at the end the following:

### "SEC. 832. NURSE FACULTY EDUCATION.

"(a) ESTABLISHMENT.—The Secretary, acting through the Health Resources and Services Administration, shall establish a Nurse Faculty Education Program to ensure an adequate supply of nurse faculty through the awarding of grants to eligible entities to—

"(1) provide support for the hiring of new faculty, the retaining of existing faculty, and the purchase of educational resources;

"(2) provide for increasing enrollment and graduation rates for students from doctoral programs; and

"(3) assist graduates from the entity in serving as nurse faculty in schools of nursing;

"(b) ELIGIBILITY.—To be eligible to receive a grant under subsection (a), an entity shall—

"(1) be a school of nursing that offers a doctoral degree in nursing in a State or territory;

"(2) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require;

"(3) develop and implement a plan in accordance with subsection (c);

"(4) agree to submit an annual report to the Secretary that includes updated information on the doctoral program involved, including information with respect to—

"(A) student enrollment;

"(B) student retention;

"(C) graduation rates;

"(D) the number of graduates employed part-time or full-time in a nursing faculty position; and

"(E) retention in nursing faculty positions within 1 year and 2 years of employment;

"(5) agree to permit the Secretary to make on-site inspections, and to comply with the requests of the Secretary for information, to determine the extent to which the school is complying with the requirements of this section, and

"(6) meet such other requirements as determined appropriate by the Secretary.

"(c) USE OF FUNDS.—Not later than 1 year after the receipt of a grant under this section, an entity shall develop and implement a plan for using amounts received under this grant in a manner that establishes not less than 2 of the following:

"(1) Partnering opportunities with practice and academic institutions to facilitate doctoral education and research experiences that are mutually beneficial.

"(2) Partnering opportunities with educational institutions to facilitate the hiring of graduates from the entity into nurse faculty, prior to, and upon completion of the program.

"(3) Partnering opportunities with nursing schools to place students into internship programs which provide hands-on opportunity to learn about the nurse faculty role.

"(4) Cooperative education programs among schools of nursing to share use of technological resources and distance learning technologies that serve rural students and underserved areas.

"(5) Opportunities for minority and diverse student populations (including aging nurses in clinical roles) interested in pursuing doctoral education.

"(6) Pre-entry preparation opportunities including programs that assist returning students in standardized test preparation, use of information technology, and the statistical tools necessary for program enrollment.

"(7) A nurse faculty mentoring program.

"(8) A Registered Nurse baccalaureate to Ph. D. program to expedite the completion of a doctoral degree and entry to nurse faculty role.

"(9) Career path opportunities for 2nd degree students to become nurse faculty.

"(10) Marketing outreach activities to attract students committed to becoming nurse faculty.

"(d) Priority.—In awarding grants under this section, the Secretary shall give priority to entities from States and territories that have a lower number of employed nurses per 100,000 population.

"(e) Number and Amount of Grants.—Grants under this section shall be awarded as follows:

"(1) In fiscal year 2006, the Secretary shall award 10 grants of $100,000 each.

"(2) In fiscal year 2007, the Secretary shall award an additional 10 grants of $100,000 each and provide continued funding for the existing grantees under paragraph (1) in the amount of $100,000 each.

"(3) In fiscal year 2008, the Secretary shall award an additional 10 grants of $100,000 each and provide continued funding for the existing grantees under paragraphs (1) and (2) in the amount of $100,000 each.

"(4) In fiscal year 2009, the Secretary shall provide continued funding for each of the existing grantees under paragraphs (1) through (3) in the amount of $100,000 each.

"(5) In fiscal year 2010, the Secretary shall provide continued funding for each of the existing grantees under paragraphs (1) through (3) in the amount of $100,000 each.

"(f) Limitations.—

"(1) Payment.—Payments to an entity under a grant under this section shall be for a period of not to exceed 5 years.

"(2) Improper use of funds.—An entity that fails to use amounts received under a grant under this section as provided for in subsection (c) shall, at the discretion of the Secretary, be required to remit to the Federal Government not less than 80 percent of the amounts received under the grant.

"(g) Reports.—

"(1) Evaluation.—The Secretary shall conduct an evaluation of the results of the activities carried out under grants under this section.

"(2) Reports.—Not later than 3 years after the date of the enactment of this section, the Secretary shall submit to Congress an interim report on the results of the evaluation conducted under paragraph (1). Not later than 6 months after the end of the program under this section, the Secretary shall submit to Congress a final report on the results of such evaluation.

"(h) Study.—

"(1) In general.—Not later than 3 years after the date of the enactment of this section, the Comptroller General of the United States shall conduct a study and submit a report to Congress concerning activities to increase participation in the nurse educator program under the section.

"(2) Contents.—The report under paragraph (1) shall include the following:

"(A) An examination of the capacity of nursing schools to meet workforce needs on a nationwide basis.

"(B) An analysis and discussion of sustainability options for continuing programs beyond the initial funding period.

"(C) An examination and understanding of the doctoral degree programs that are successful in placing graduates as faculty in schools of nursing.

"(D) An analysis of program design under this section and the impact of such design on nurse faculty retention and workforce shortages.

"(E) An analysis of compensation disparities between nursing clinical practitioners and nurse faculty and between higher education nurse faculty and higher education faculty overall.

"(F) Recommendations to enhance faculty retention and the nursing workforce.

"(i) Authorization of Appropriations.—

"(1) In general.—For the costs of carrying out this section (except the costs described in paragraph (2), there are authorized to be appropriated $1,000,000 for fiscal year 2006, $2,000,000 for fiscal year 2007, and $3,000,000 for each of fiscal years 2008 through 2010.

"(2) Administrative costs.—For the costs of administering this section, including the costs of evaluating the results of grants and submitting reports to the Congress, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2006 through 2010.".

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By Mr. BURNS (for himself, Mr. Dorgan, Mr. Johnson, Mr. Dayton, Mr. Baucus, and Mr. Conrad):

S. 1579. A bill to amend the Federal Insecticide, Fungicide, and Rodentcide Act to permit the distribution and sale of certain pesticides that are registered in both the United States and another country; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BURNS. Mr. President, today I am introducing, along with my colleague Senator Dorgan, a bill that addresses a persistent inequity in the agriculture industry.

Since the passage of the North American Free Trade Agreement—in fact, even before then—Montana farmers have battled against false barriers to trade that harm their ability to compete in a global market. While most inputs to production agriculture—fertilizer, seed, equipment—can move easily across the U.S.-Canadian border, pesticides remain segmented. The pesticide industry has a vested interest in preserving these borders, because the barriers allow for price distortions that harm producers on both sides of the border.

The legislation I am introducing today is designed to tear down these barriers, and begin the process of harmonizing the pesticide registration process. The bill establishes a process by which interested growers can petition the Environmental Protection Agency to require a pesticide to be jointly labeled, if the product is already registered in both countries. See—there's the problem. We are talking here about the exact same chemical, produced by the same company, but priced at very different levels. Because the products have two different labels, the lower-price chemical remains out of reach of U.S. growers. When Montana farmers have to compete against Canadian growers who are getting their pesticides at a substantially lower price, that is an example of free trade gone wrong. In addition, this bill gives EPA the authority needed to require a joint label on a new product that is being introduced into the market.

It is important to note that this legislation is not restricted to Canada, so as not to violate U.S. trade agreements. The bill authorizes EPA to enter into negotiations to harmonize regulatory processes and requirements with other countries, as appropriate. The United States and Canada have been working for over a decade to streamline their registration processes, harmonize the requirements, and develop protocols for work sharing and joint reviews. A lot of groundwork has already been done between the U.S. and Canada, so we can move quickly towards development of a joint label between our two countries.

And there is no reason not to. Again, we are talking about the exact same product, being sold at two different prices to growers who have to compete against each other in the world market. NAFTA was supposed to tear down borders between the U.S., Canada, and Mexico, and yet this barrier remains. It is an irritant to Montana growers who are farming along the border.

It is also a problem for Canadian growers, and I look forward to working with Canada to resolve this issue in a mutually beneficial way. There are times when pesticides are cheaper in the U.S., and U.S. growers often have access to a wider variety of products. So there is a shared interest in tearing down this barrier to free trade.

A recent study done by Montana State University underscored this point. For 13 pesticides widely used in Montana and Alberta, seven were less expensive in Canada, five were less expensive in the U.S., and one, glyphosate, showed little or no difference in price. False barriers that prevent pesticides from moving across the border are creating significant price distortions in the market, and those barriers need to come down.

Certainly, there are a number of factors that impact pricing, but there can be no doubt that trade barriers allow price differentiation, and that's not right. There will always be some price fluctuations—they exist now, between states, even between communities in the same state. But for a person farming along the Montana-Alberta border, who can see his competitor across that border and knows that his competitor's input costs are lower for no other reason than a trade barrier that should have been eliminated, that's going to bother him. If the guy one town over has better prices on pesticides, I can drive to get those, or negotiate with my local dealer. But if the guy across the border has better prices, I have no options, no bargaining power. That's just not right.

This is not an anti-industry bill. Growers need the crop protection industry, and it is important that the research and innovation in that sector continue. This bill will help to streamline regulatory processes and reduce the obstacles to registration, by requiring only one label. It simplifies distribution systems, by allowing companies to have just one label for the same product, even when it is being sold in two countries. So while this bill will address the sort of price distortions that farmers on the northern border find unfair, it also reduces cost to industry, and will ideally result in smoother registration processes.

In fact, representatives of the crop protection industry have said that the solution to trade barriers along the northern border is a joint label, and have testified in support of regulatory harmonization before the Senate Agriculture Committee. Since the passage of NAFTA, a technical working group on pesticide harmonization has worked diligently on the development of joint registration and labeling procedures, and has enjoyed the cooperation of the industry in those discussions. This bill accomplishes what both the industry and the producers have said is needed: regulatory harmonization between two nations, joint registration, and joint labeling.

This legislation is supported by the National Association of Wheat Growers, the National Barley Growers Association, the U.S. Durum Growers Association, the National Farmers Union, the Montana Grain Growers Association, and the North Dakota Grain Growers Association. It is time these barriers be eliminated. If we are going to have free trade in grain, then we need free train in the input costs for production agriculture. This bill accomplishes that. I ask Members to take a close look at this bill, and consider it seriously. Our growers deserve an end to the practice of artificially inflating the price of pesticides simply to take advantage of false barriers.

Mr. DORGAN. Mr. President, today I am reintroducing bipartisan legislation to remedy a long-standing and glaring inequity in our so-called free-trade system. There are significant and costly differences in prices between agricultural chemicals sold in Canada and similar—and in some cases, identical—chemicals sold in the United States. This disparity in prices puts an extra burden on American farmers, and it puts them at a distinct disadvantage when it comes to competing in the world market.

Currently, American and Canadian farmers use many of the same products on their fields. These products use the same chemicals, are made by the same company, and are sometimes even marketed under the same name; but they are often sold at a much lower cost north of the border.

For example, U.S. farmers use the pesticide Garlon, which is sold as Remedy in Canada. It is manufactured by the same company, with the same chemicals. But American farmers pay $8.02 more per acre than their Canadian counterparts. The pesticide Puma, which is widely used on wheat and barley, costs farmers in North Dakota $2.82 more per acre than Canadian farmers pay for Puma 120 Super, which is the same product, made by the same company. That means North Dakota farmers paid nearly $7.9 million more to treat their fields with Puma than they would have paid if they could have accessed it at prices paid by Canadian farmers.

This legislation would address that inequity by setting up a process that would allow American farmers to access these chemicals, which are lower priced, but identical to those already approved for use in the United States.

Data collected by the North Dakota Department of Agriculture show that farmers in just my home State of North Dakota alone would have saved nearly $11 million last year if they had been able to access agricultural chemicals at Canadian prices.

But this problem does not just affect farmers in North Dakota. Farmers all across the northern tier of the United States would benefit if they were able to access U.S.-approved pesticides at Canadian prices.

I have come before the Senate time and again to talk about the hidden inequities of trade. For trade to benefit our country, it must be fair. But the pricing inequities in the Canadian and U.S. pesticide markets are a failure of our current trade system.

This legislation I am introducing today, along with the Senator from Montana, Mr. BURNS, authorizes the Environmental Protection Agency to require that certain agricultural chemicals which have already been approved in the U.S. carry a joint label, which would allow them to cross the border freely.

The new labels would still be under the strict scrutiny of the Environmental Protection Agency, as would the use of these products. The EPA would continue to insure the health and safety standards that govern the products we use in our food supply. This bill keeps those priorities intact.

This bill is not an ending but a beginning. Hidden trade barriers and schemes riddle the fabric of our trade agreements. We cannot continue to accept trade practices that, on the one hand, hamstring Americans, and on the other hand, unduly promote our competitors. We ought not accept second best all of the time, and this bill is a step in bringing American producers back to a level playing field.

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By Mr. AKAKA (for himself, Mr. REID, Mr. DURBIN, Mr. BINGAMAN, Mr. CORZINE, Mrs. MURRAY, Mr. KENNEDY, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. INOUYE, Mr. PRYOR, Ms. MIKULSKI, Mr. OBAMA, Mr. DODD, Mr. LIEBERMAN, and Mrs. CLINTON):

S. 1580. A bill to improve the health of minority individuals; to the Committee on Finance.

Mr. AKAKA. Mr. President, I am proud to introduce the Healthcare Equality and Accountability Act, along with my colleagues Senators REID, DURBIN, BINGAMAN, CORZINE, MURRAY, KENNEDY, LANDRIEU, LAUTENBERG, INOUYE, PRYOR, MIKULSKI, OBAMA, DODD, LIEBERMAN, and CLINTON. I want to thank them, as well as my colleagues in the other body, for all of their contributions to this important legislation.

This bill will improve access to and the quality of health care for indigenous people and racial and ethnic minorities who often lack access and suffer disproportionately from certain diseases. It is essential that we expand and improve the health care safety net so that everyone can access the health care services that they need. This legislation will expand health coverage and includes provisions that will increase access to culturally-appropriate and relevant services for our communities.

In addition to improving treatments for the diseases that disproportionately effect indigenous people and racial and ethnic minorities, we need to also focus on preventing these diseases in the first place. This legislation will help combat heart disease, asthma, HIV/AIDS, and diabetes. Diabetes is a disease that disproportionately affects Pacific Islanders, including Native Hawaiians. Among populations in Hawaii, Native Hawaiians had the highest age-adjusted mortality rates due to diabetes for the years 2000 to 2002.

Statistics for U.S.-related Pacific Jurisdictions are difficult to obtain due to underdeveloped reporting and data collection systems. However, available data suggests that diabetes and its complications are growing problems that are creating a greater burden on the health care delivery systems of the Pacific Jurisdictions. For example, in the Republic of the Marshall Islands, mortality data for 1996–2000 reflects that complications from diabetes are the leading cause of death and accounted for 30 percent of all deaths during that period. In American Samoa, mortality data for 1998–2001 shows that diabetes is the third leading cause of death accounting for nine percent of all deaths for that period. In Guam, diabetes has been identified as the fifth leading cause of death and the prevalence rate has been estimated to be seven times that of the United States. Local governments have had to focus on expensive off-island tertiary hospital care and curative services, resulting in the reduction of funds available for community-based primary preventive care and public health services throughout the Pacific Jurisdictions.

There is a need for more comprehensive diabetes awareness education efforts targeted at communities with Native Hawaiian and other Pacific Islander populations. Papa Ola Lokahi, a non-profit agency created in 1988 that functions as a consortium with private and state agencies in Hawaii to improve the health status of Native Hawaiians and other Pacific Islanders, has established the Pacific Diabetes Today Resource Center. Pacific Diabetes Today is designed to provide community members with basic knowledge and skills to plan and implement community-based diabetes prevention and control activities. Since 1998, the Pacific Diabetes Today program has provided training and technical assistance to 11 communities in Hawaii and the Pacific Jurisdictions. However, more can be done to ensure that the diabetic health needs of Native Hawaiians and other Pacific Islanders are being met.

Community-based diabetes programs need to be better integrated into the larger infrastructure of diabetes prevention and control. Comprehensive, specific programs are needed to mobilize Native Hawaiian and other Pacific Islander communities and develop appropriate interventions for diabetes complications prevention and improve diabetes care. My bill, therefore, includes a provision that would authorize a comprehensive program to prevent and better manage the overlapping health problems that are often related to diabetes such as obesity, hypertension, and cardiovascular disease.

I am also pleased that a provision has been included in this bill that would restore Medicaid eligibility for Freely Associated States, FAS, citizens in the United States. The political relationship between the United States and the FAS is based on mutual support. In exchange for the United States having strategic denial and a defense veto over the FAS, the United States provides military and economic assistance to the Republic of Marshall Islands, Federated States of Micronesia and Palau with the goal of assisting these countries in achieving economic self-sufficiency following the termination of their status as U.N. Trust territories. Pursuant to the Compact, FAS citizens are allowed to freely enter the United States. They come to seek economic opportunity, education, and health care. Unfortunately, FAS citizens lost many of their public benefits as a result of the Personal Responsibility and Work Opportunity Act, PRWORA, of 1996, including Medicaid coverage. FAS citizens were previously eligible for Medicaid as aliens permanently residing under color of law in the United States.

After the enactment of PRWORA, the State of Hawaii was informed that it could not claim Federal matching funds for services rendered to FAS citizens. Since then, the State of Hawaii, and the territories of Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, CNMI, have continued to incur substantial costs to meet the health care needs of FAS citizens that have immigrated to these areas.

The Federal Government must provide Federal resources to help States meet the healthcare needs of the FAS citizens that have been brought about by a Federal commitment. It is inequitable for a state or territory to be responsible for all of the financial burden of providing necessary social services to individuals that are residing there due to a Federal commitment. Mr. President, FAS citizen eligibility must be restored. Furthermore, the State of Hawaii, and the territories of Guam, American Samoa, and the CNMI, should be reimbursed for all of the Medicaid expenses of FAS citizens, and must not be responsible for the costs of providing essential health care services for FAS citizens.

Finally, there is another provision in this bill is of extreme importance to the State of Hawaii, taken from legislation that my colleague from Hawaii, Senator INOUYE, has introduced. The provision would provide a 100 percent Federal Medicaid Assistance Percentage, FMAP, of health care costs of Native Hawaiians who receive health care from Federally Qualified Health Centers or the Native Hawaiian Health Care System. This would provide similar treatment for Native Hawaiians as already granted to Native Alaskans by the Indian Health Service or tribal organizations. The increased FMAP will ensure that Native Hawaiians have access to the essential health services provided by community health centers and the Native Hawaiian Health Care System.

This bill would significantly improve the quality of life for indigenous people and ethnic and racial minorities, and I encourage all of my colleagues to support this legislation.

Mr. KENNEDY. Mr. President, it is a privilege to join Senator AKAKA and Senator REID in introducing the Healthcare Equality and Accountability Act. Our goal is to eliminate racial and ethnic disparities in health care, so that all citizens, regardless of income or background, have the best possible health care our Nation can provide.

The Institute of Medicine has documented the severity of ethnic and racial disparities in health care. People of color face unequal treatment and unequal outcomes in heart disease, infant mortality, HIV/AIDS, diabetes, asthma, and other serious illnesses. The health care needs of communities of color are often more severe than those of white Americans. Minorities often face significant obstacles, including poverty and the lack of health insurance. We need to attack disparities in all their forms.

A critical first step is to see that health insurance and decent health care are available and affordable for all Americans. This bill strengthens the health care safety net by expanding access to Medicaid and the Children's Health Insurance Program, and improving health care for Indian tribes, migrant workers, and farm workers.

The bill also contains essential measures for removing cultural and linguistic barriers to good care. The United States is a Nation of immigrants, and all Americans deserve to understand what their doctor is telling them. Interpreter and translator services save money in the long run by avoiding harm when patients do not understand their diagnosis or the health advice they receive. Health care institutions deserve to be reimbursed for providing these critically needed services.

Other important initiatives to reduce health disparities include diversifying the health care workforce. Minority providers are more likely to serve low-income communities of color, and this bill addresses the shortage of these providers.

Federal agencies can do more in this battle too. The bill requires all Federal health agencies to develop specific plans to eliminate disparities. The bill expands the Office of Civil Rights and the Office of Minority Health at the Department of Health and Human Services, and creates minority health offices within the Food and Drug Administration and the Centers for Medicare and Medicaid Services.

In addition, the bill strengthens investments in prevention and behavioral health and improves research and data collection. It strengthens health institutions that serve communities of color, provides grants for community initiatives, and funds programs on chronic disease. In each of these ways, we can reduce the gap in health care between people of color and whites, so that all Americans can benefit from the remarkable advances being made in modern health care.

It's time for Congress, the administration, and the Nation to end the shameful inequality in health care that plagues the lives of so many people in our society. This bill contains numerous provisions intended to make that happen, and it can have a major impact on the lives of millions of Americans. I commend Senators AKAKA and REID for their leadership on this important health issue. We intend to do all we can in this Congress to see that effective legislation to combat health disparities is enacted into law and funded adequately to do the job.

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By Mr. BINGAMAN (for himself and Mr. BUNNING):

S. 1581. A bill to facilitate the development of science parks, and for other purposes; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I rise today with my colleague, Senator Bunning, to introduce the Science Park Administration Act of 2005.

This legislation is a result of my travels to Taiwan, China, Hong Kong, and India to learn more about their science and technology policies, as well as to discover how they have successfully encouraged similar industries and research entities to work so closely together in these research parks.

Let me discuss some findings from my fact finding trips regarding the role of science parks in economic development.

Last summer, I visited the Hong Kong Science and Technology Park which the Hong Kong Government is funding at $423 million. By 2006, this investment will help construct 10 buildings, over 1 million square feet of office and laboratory space, that will cluster IC design, photonics, biotechnology and information technology.

This science park, like the others I visited in Asia, teams up with the local universities on collaborative research efforts. It has an incubation center with 83 start-up companies, and provides them low cost space, business planning, marketing, and employee training, as well as research and development grants from the Hong Kong Government to overcome the "valley of death" challenges so many new technology companies frequently face.

One of the most impressive features of this park is the Integrated Circuit, IC, Design and Development Support Center. This is a user facility with shared state of the art equipment to support the entire IC product development cycle, from initiation design to production release. For example, as many as 16 vendors can combine their designs onto a single wafer, thus reducing initial prototype foundry costs by 94 percent.

I was also briefed on the Hong Kong Cyber Port, another science park devoted solely to information technology, IT, and multimedia companies that trains employees and conducts collaborative research. The Hong Kong Government is investing $2 billion between 2000 and 2007 to house 10,000 IT professionals and 100 IT companies in over 1 million square feet of work space.

The Hong Kong Government's combined investment in developing the infrastructure to attract science-based companies to these two parks is about $400 million annually over a period of six years. On a comparable GDP scale, the United States would have to spend $31 billion annually for that same period for a total of $186 billion.

This past January, I spent 10 days in India reviewing their science and technology policies, and was particularly impressed with their development of Software Technology Parks. These parks were first developed in 1991 by the Ministry of Information Technology and Communications as a semi-autonomous entity to promote India's developing IT industry. They provide the infrastructure in terms of space, internet access, tax breaks and-one stop clearances for government approvals. Generous tax considerations exempt companies until 2010 from corporate income tax and excise duties on purchased goods.

As my colleagues are aware, the growth rate of India's IT industry have been phenomenal. There are now more than 1,000 companies in 44 such software parks in India, the largest located around Hyderabad and Bangalore considered to be India's "Silicon Valleys.". Last year these parks had a combined net export value of $50 billion, up 37 percent from the prior year.

Companies such as Infosys, which maintains software for large firms overseas, are located in these parks, and their 2004 revenues jumped by 50 percent. Last year, they received 1.2 million online job applications: they gave a standardized test to 300,000, interviewed 30,000, and hired 10,000. Much of India's success in the IT industry can be attributed not only to their universities, but to the government's decision 1991 to establish these Software Technology Parks.

Building on that success, and with the government's encouragement, these Software Parks are now set to launch biotechnology parks.

Taiwan's success in the global market place is a result of building the Hsinchu Science Park in the 1980s. Today, Hsinchu has over 100,000 technically trained people, 325 companies, 6 national labs and $22 billion in gross revenue. The government has duplicated these parks in two other locations of the island. The science parks being built throughout Asia are modeled after Taiwan's Hsinchu Science Park.

Let me note that these Asian science parks have several common features:

First the Government commits to provide a first-class infrastructure to accommodate all levels of science-based companies, from small start-ups in incubators to large manufacturing plants.

Second, these parks align companies of similar interests to mutually reinforce each other along the supply and management chain.

Third, the Government provides virtually one-stop shopping for government approvals, even including loans.

Fourth, the Government provides tax incentives, usually in the form of waiving taxes on the first several years of profit, and capital gains on acquired stock.

Fifth, and most importantly, the Government takes the long view of partnering with the local governments to ensure that a trained workforce is readily available to support the parks' growth, by teaming with universities and national laboratories.

If we fail to learn from these Asian success stories, we are in danger of losing the very high technology industries we first started, because the low cost manufacturing operations in Asia are now moving up the value chain to research intensive industries, which the Government facilitates by building science parks.

That leads me to the legislation we are introducing today.

The premise of the legislation is straight forward. It does not pick industry winners or losers. Rather, it simply provides a synergistic science-based infrastructure that companies may compete for and thrive in. Just like in Asia, the government acts as a facilitator not micromanager.

The legislation first proposes a series of competitively peer-reviewed science park planning grants to local governments.

A revolving loan fund in six regional centers is proposed to allow existing science parks to upgrade their infrastructure.

The legislation proposes a loan guarantee fund for the construction of new science parks.

Additionally, the legislation proposes a Science Park Venture Capital Fund similar to SBIC's, that would guarantee debentures issued by the Fund to raise capital for start-up companies trying to bridge that valley of death, where ideas must move from the laboratory to working prototype.

Moreover, the legislation proposes several tax incentives to locate in the park. The full cost of property placed in the park could be deducted in the year it was purchased without regard to the existing caps. Many times high-tech equipment is expensive and loses its value quickly, and this provision would cover that loss. The legislation proposes a flat 20 percent R&D tax credit without regard to any expenditure in the base period to spur greater research investment on a broader range of projects. Finally, the legislation ensures that the status of tax exempt bonds used to fund science park infrastructure remain tax exempt eliminating the uncertainty associated with its interpretation under the Bayh-Dole Act.

I believe this legislation combines many of the best ideas I have discovered on my Asian fact finding trips. I hope it attracts the support from both sides of the aisle as a truly bipartisan effort as we need this type of infrastructure investment more than ever before if we are to successfully compete in today's global environment.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1581

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the “Science Park Administration Act of 2005”.

### SEC. 2. DEVELOPMENT OF SCIENCE PARKS.

(a) FINDING.—Section 2 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701) is amended by adding at the end the following new paragraph:

“(12) It is in the best interests of the Nation to encourage the formation of science parks to promote the clustering of innovation through high technology activities.”.

(b) DEFINITION.—Section 4 of such Act (15 U.S.C. 3703) is amended by adding at the end the following new paragraphs:

“(14) ‘Science park’ means a group of interrelated companies and institutions, including suppliers, service providers, institutions of higher education, start-up incubators, and trade associations that cooperate and compete and are located in a specific area whose administration promotes real estate development, technology transfer, and partnerships between such companies and institutions, and does not mean a business or industrial park.

“(15) ‘Business or industrial park’ means primarily a for-profit real estate venture of businesses or industries which do not necessarily reinforce each other through supply chain or technology transfer mechanisms.

“(16) ‘Science park infrastructure’ means facilities that support the daily economic activity of a science park.”.

(c) PROMOTION OF DEVELOPMENT OF SCIENCE PARKS.—Section 5(c) of such Act (15 U.S.C. 3704(c)) is amended—

(1) in paragraph (14), by striking “and” at the end;

(2) in paragraph (15), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(16) promote the formation of science parks.”.

(d) SCIENCE PARKS.—Such Act is further amended by adding at the end the following new section:

### “SEC. 24. SCIENCE PARKS.

“(a) DEVELOPMENT OF PLANS FOR CONSTRUCTION OF SCIENCE PARKS.—

“(1) IN GENERAL.—The Secretary shall award grants for the development of feasibility studies and plans for the construction of new or expansion of existing science parks.

“(2) LIMITATION ON AMOUNT OF GRANTS.—The amount of a grant awarded under this subsection may not exceed $750,000.

“(3) AWARD.—

“(A) COMPETITION REQUIRED.—The Secretary shall award any grant under this subsection pursuant to a full and open competition.

“(B) ADVERTISING.—The Secretary shall advertise any competition under this paragraph in the Commerce Business Daily.

“(C) SELECTION CRITERIA.—The Secretary shall publish the criteria to be utilized in any competition under this paragraph for the selection of recipients of grants under this subsection. Such criteria shall include requirements relating to—

“(i) the number of jobs to be created at the science park each year for a period of 5 years;

“(ii) the funding to be required to construct or expand the science park over the first 5 years;

“(iii) the amount and type of cost matching by the applicant;

“(iv) the types of businesses and research entities expected in the science park and surrounding community;

“(v) letters of intent by businesses and research entities to locate in the science park;

“(vi) the capacity of the science park for expansion over a period of 25 years;

“(vii) the quality of life at the science park for employees at the science park;

“(viii) the capability to attract a well trained workforce to the science park;

“(ix) the management of the science park;

“(x) expected risks in the construction and operation of the science park;

“(xi) risk mitigation;

“(xii) transportation and logistics;

“(xiii) physical infrastructure, including telecommunications;

“(xiv) ability to collaborate with other science parks throughout the world.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2006 through 2011, $7,500,000 to carry out this subsection.

“(b) REVOLVING LOAN PROGRAM FOR DEVELOPMENT OF SCIENCE PARK INFRASTRUCTURE.—

“(1) IN GENERAL.—The Secretary shall make grants to six regional centers for the development of existing science park infrastructure through the operation of revolving loan funds by such centers.

“(2) SELECTION OF CENTERS.—

“(A) IN GENERAL.—The Secretary shall select the regional centers to be awarded grants under this subsection utilizing such criteria as the Secretary shall prescribe.

“(B) CRITERIA.—The criteria prescribed by the Secretary under this paragraph shall include criteria relating to revolving loan funds and revolving loan fund operators under paragraph (4), including—

“(i) the qualifications of principal officers;

“(ii) non-Federal cost matching requirements; and

“(iii) conditions for the termination of loan funds.

“(3) LIMITATION ON LOAN AMOUNT.—The amount of any loan for the development of existing science park infrastructure that is funded under this subsection may not exceed $3,000,000.

“(4) REVOLVING LOAN FUNDS.—

“(A) IN GENERAL.—A regional center receiving a grant under this subsection shall fund the development of existing science park infrastructure through the utilization of a revolving loan fund.

“(B) OPERATION AND INTEGRITY.—The Secretary shall prescribe regulations to maintain the proper operation and financial integrity of revolving loan funds under this paragraph.

“(C) EFFICIENT ADMINISTRATION.—The Secretary may—

“(i) at the request of a grantee, amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria;

“(ii) assign or transfer assets of a revolving loan fund to a third party for the purpose of liquidation, and a third party may retain assets of the fund to defray costs related to liquidation; and

“(iii) take such actions as are appropriate to enable revolving loan fund operators to sell or securitize loans (except that the actions may not include issuance of a Federal guaranty by the Secretary).

“(D) TREATMENT OF ACTIONS.—An action taken by the Secretary under this paragraph with respect to a revolving loan fund shall not constitute a new obligation if all grant funds associated with the original grant award have been disbursed to the recipient.

“(E) PRESERVATION OF SECURITIES LAWS.—

“(i) NOT TREATED AS EXEMPTED SECURITIES.—No securities issued pursuant to subparagraph (C)(iii) shall be treated as exempted securities for purposes of the Securities Act of 1933 or the Securities Exchange Act of 1934, unless exempted by rule or regulation of the Securities and Exchange Commission.

“(ii) PRESERVATION.—Except as provided in clause (i), no provision of this paragraph or any regulation issued by the Secretary under this paragraph shall supersede or otherwise affect the application of the securities laws (as such term is defined in section 2(a)(47) of the Securities Exchange Act of 1934) or the rules, regulations, or orders of the Securities and Exchange Commission or a self-regulatory organization thereunder.

“(5)' AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of fiscal years 2006 through 2011, $60,000,000 to carry out this subsection.

“(c) LOAN GUARANTEES FOR SCIENCE PARK INFRASTRUCTURE.—

“(1) IN GENERAL.—The Secretary shall guarantee up to 80 percent of the loan amount for loans exceeding $10,000,000 for projects for the construction of science park infrastructure.

“(2) LIMITATIONS ON GUARANTEE AMOUNTS.—The maximum amount of loan principal guaranteed under this subsection may not exceed—

“(A) $50,000,000 with respect to any single project; and

“(B) $500,000,000 with respect to all projects.

“(3) SELECTION OF GUARANTEE RECIPIENTS.—The Secretary shall select recipients of loan guarantees under this subsection based upon the ability of the recipient to collateralize the loan amount through bonds, equity, property, and other such criteria as the Secretary shall prescribe.

“(4) TERMS AND CONDITIONS FOR LOAN GUARANTEES.—For purposes of this section, the loans guaranteed shall be subject to such terms and conditions as the Secretary may prescribe, except that—

“(A) the final maturity of such loans made or guaranteed shall not exceed (as determined by the Secretary) the lesser of—

“(i) 30 years and 32 days, or

“(ii) 90 percent of the useful life of any physical asset to be financed by such loan;

“(B) no loan made or guaranteed may be subordinated to another debt contracted by the borrower or to any other claims against the borrowers in the case of default;

“(C) no loan may be guaranteed unless the Secretary determines that the lender is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States;

“(D) no loan may be guaranteed if the income from such loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1986, or if the guarantee provides significant collateral or security, as determined by the Secretary, for other obligations the income from which is so excluded;

“(E) any guarantee shall be conclusive evidence that said guarantee has been properly obtained, that the underlying loan qualified for such guarantee, and that, but for fraud or material misrepresentation by the holder, such guarantee shall be presumed to be valid, legal, and enforceable;

“(F) the Secretary shall prescribe explicit standards for use in periodically assessing the credit risk of new and existing direct loans or guaranteed loans;

"(G) the Secretary must find that there is a reasonable assurance of repayment before extending credit assistance; and

"(H) new loan guarantees may not be committed except to the extent that appropriations of budget authority to cover their costs are made in advance, as required in section 504 of the Federal Credit Reform Act of 1990.

"(5) PAYMENT OF LOSSES.—For purposes of this section—

"(A) IN GENERAL.—If, as a result of a default by a borrower under a guaranteed loan, after the holder thereof has made such further collection efforts and instituted such enforcement proceedings as the Secretary may require, the Secretary determines that the holder has suffered a loss, the Secretary shall pay to such holder the percentage of such loss (not more than 80 percent) specified in the guarantee contract. Upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient of the payment. The Secretary shall be entitled to recover from the borrower the amount of any payments made pursuant to any guarantee entered into under this section.

"(B) ENFORCEMENT OF RIGHTS.—The Attorney General shall take such action as may be appropriate to enforce any right accruing to the United States as a result of the issuance of any guarantee under this section.

"(C) FORBEARANCE.—Nothing in this section may be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the guaranteed loan and approved by the Secretary, if budget authority for any resulting subsidy costs (as defined under the Federal Credit Reform Act of 1990) is available.

"(D) MANAGEMENT OF PROPERTY.—Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of property by the United States, the Secretary shall have the right in the Secretary's discretion to complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell any property acquired by the Secretary pursuant to the provisions of this section.

"(6) REVIEW.—The Comptroller General of the United States shall, within 2 years of the date of enactment of this section, conduct a review of the subsidy estimates for the loan guarantees under this subsection, and shall submit to Congress a report on the review conducted under this paragraph.

"(7) TERMINATION.—No loan may be guaranteed under this subsection after September 30, 2011.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated—

"(A) such sums as may be necessary for the cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of guaranteeing $500,000,000 of loans under this subsection, and

"(B) $6,000,000 for administrative expenses for fiscal year 2006 and such sums as necessary thereafter for administrative expenses in subsequent years.

"(d) NATIONAL ACADEMY OF SCIENCES EVALUATION.—

"(1) IN GENERAL.—The Secretary shall enter into an agreement with the National Academy of Sciences under which the Academy shall evaluate, on a tri-annual basis, the activities under this section.

"(2) TRI-ANNUAL REPORT.—Under the agreement under paragraph (1), the Academy shall submit to the Secretary a report on its evaluation of science park development under that paragraph. Each report may include such recommendations as the Academy considers appropriate for additional activities to promote and facilitate the development of science parks in the United States.

"(e) TRI-ANNUAL REPORT.—Not later than March 31 of every third year, the Secretary shall submit to Congress a report on the activities under this section during the preceding 3 years, including any recommendations made by the National Academy of Sciences under subsection (d)(2) during such period. Each report may include such recommendations for legislative or administrative action as the Secretary considers appropriate to further promote and facilitate the development of science parks in the United States.

"(f) REGULATIONS.—

"(1) REGULATIONS.—Consistent with Office of Management and Budget Circular A-129, 'Policies for Federal Credit Programs and Non-Tax Receivables', the Secretary shall prescribe regulations to carry out this section.

"(2) DEADLINE.—The Secretary shall prescribe such regulations not later than one year after the date of enactment of this section.".

### SEC. 3. SCIENCE PARK VENTURE CAPITAL FUND PILOT PROGRAM.

Title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding at the end the following:

## "PART C—SCIENCE PARK VENTURE CAPITAL FUND PILOT PROGRAM

### "SEC. 1. DEFINITIONS.

"As used in this part, the following definitions shall apply:

"(1) BUSINESS OR INDUSTRIAL PARK.—The term 'Business or industrial park' means primarily a for-profit real estate venture of businesses or industries which do not necessarily reinforce each other through supply chain or technology transfer mechanisms.

"(2) EQUITY CAPITAL.—The term 'equity capital' means common or preferred stock or a similar instrument, including subordinated debt with equity features.

"(3) HIGH-TECHNOLOGY.—The term 'high-technology' means any of the high technology industries in the North American Industrial Classification System, as listed in table 8–25 of the National Science Board publication entitled 'Science and Engineering Indicators 2004', or as listed in any succeeding editions of such publication.

"(4) LEVERAGE.—The term 'leverage' includes—

"(A) debentures purchased or guaranteed by the Administrator;

"(B) participating securities purchased or guaranteed by the Administrator; and

"(C) preferred securities outstanding as of the date of enactment of this part.

"(5) MEZZANINE FINANCING.—The term 'mezzanine financing' means late-stage venture capital usually associated with the final round of financing prior to an initial public offering.

"(6) OPERATIONAL ASSISTANCE.—The term 'operational assistance' means management, marketing, and other technical assistance that assists high-technology start-up companies with business development.

"(7) PARTICIPATION AGREEMENT.—The term 'participation agreement' means an agreement, between the Administrator and a company granted final approval by the Administrator under section 374(e), that—

"(A) details the operating plan and investment criteria of the company; and

"(B) requires the company to make investments in high-technology start-up companies within a science park.

"(8) PRIVATE CAPITAL.—The term 'private capital'—

"(A) means the total of—

"(i)(I) the paid-in capital and paid-in surplus of a corporate science park venture capital company;

"(II) the contributed capital of the partners of a partnership science park venture capital company; or

"(III) the equity investment of the members of a limited liability company science park venture capital company; and

"(ii) unfunded binding commitments from investors that meet criteria established by the Administrator to contribute capital to the science park venture capital company, except that—

"(I) unfunded commitments may be counted as private capital for purposes of approval by the Administrator of any request for leverage; and

"(II) leverage shall not be funded based on the commitments; and

"(B) does not include—

"(i) any funds borrowed by a science park venture capital company from any source;

"(ii) any funds obtained through the issuance of leverage; or

"(iii) any funds obtained directly or indirectly from Federal, State, or local government, except for—

"(I) funds obtained from the business revenues of any federally chartered or government-sponsored enterprise established before the date of enactment of this part;

"(II) funds invested by an employee welfare benefit plan or pension plan; and

"(III) any qualified nonprivate funds, if the investors of such funds do not directly or indirectly control the management, board of directors, general partners, or members of the science park venture capital company.

"(9) PROGRAM.—The term 'Program' means the Science Park Venture Capital Program established under section 372.

"(10) QUALIFIED NONPRIVATE FUNDS.—The term 'qualified nonprivate funds' means—

"(A) any funds directly or indirectly invested in any applicant or science park venture capital company on or before the date of enactment of this part, by any Federal agency other than the Administration, under a law explicitly mandating the inclusion of those funds in the definition of the term private capital; and

"(B) any funds invested in any applicant or science park venture capital company by 1 or more entities of any State, including any guarantee extended by any such entity, in an aggregate amount not to exceed 33 percent of the private capital of the applicant or science park venture capital company.

"(11) SCIENCE PARK.—The term 'science park' means a group of interrelated companies and institutions, including suppliers, service providers, institutions of higher education, start-up incubators, and trade associations that cooperate and compete and are located in a specific area whose administration promotes real estate development, technology transfer, and partnerships between such companies and institutions, and does not mean a business or industrial park.

"(12) SCIENCE PARK VENTURE CAPITAL.—The term 'science park venture capital' means equity capital investments in high-technology start-up businesses located in science parks to foster economic development and technological innovation.

"(13) SCIENCE PARK VENTURE CAPITAL COMPANY.—The term 'science park venture capital company' means a company that—

"(A) meets the requirements under section 373;

“(B) has been granted final approval by the Administrator under section 374(e); and

“(C) has entered into a participation agreement with the Administrator.

“(14) Start-up Company.—The term ‘start-up company’ means a company that has developed intellectual property protection of research and development, but has not reached the stage associated with equity or securitized investments typical of venture capital or mezzanine financing.

“(15) State.—The term ‘State’ means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States.

### “SEC. 2. ESTABLISHMENT.

“There is established a Science Park Venture Capital Program, under which the Administrator may—

“(1) enter into participation agreements with companies granted final approval under section 374(e);

“(2) guarantee the debentures issued by science park venture capital companies under section 375; and

“(3) award grants to science park venture capital companies under section 377.

### “SEC. 3. REQUIREMENTS FOR SCIENCE PARK VENTURE CAPITAL COMPANIES.

“(a) Organization.—For purposes of this part, a science park venture capital company—

“(1) shall be an incorporated body, a limited liability company, or a limited partnership organized and chartered, or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities authorized by this part;

“(2) if incorporated, shall have succession for a period of not less than 30 years unless earlier dissolved by the shareholders of the company;

“(3) if a limited partnership or a limited liability company, shall have succession for a period of not less than 10 years; and

“(4) shall possess the powers reasonably necessary to perform the functions and conduct the activities.

“(b) Articles.—The articles of any science park venture capital company—

“(1) shall specify in general terms—

“(A) the purposes for which the company is formed;

“(B) the name of the company;

“(C) the area or areas in which the operations of the company are to be carried out;

“(D) the place where the principal office of the company is to be located; and

“(E) the amount and classes of the shares of capital stock of the company;

“(2) may contain any other provisions consistent with this part that the science park venture capital company may determine to be appropriate to adopt for the regulation of the business of the company and the conduct of the affairs of the company; and

“(3) shall be subject to the approval of the Administrator.

“(c) Capital Requirements.—

“(1) In general.—Except as provided in paragraph (2), the private capital of each science park venture capital company shall be not less than—

“(A) $5,000,000; or

“(B) $10,000,000, with respect to each science park venture capital company authorized or seeking authority to issue participating securities to be purchased or guaranteed by the Administrator under this part.

“(2) Exception.—The Secretary may, in the discretion of the Administrator, and based on a showing of special circumstances and good cause, permit the private capital of science park venture capital company described in paragraph (1)(B) to be less than $10,000,000, but not less than $5,000,000, if the Administrator determines that the action would not create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.

“(3) Adequacy.—In addition to the requirements under paragraph (1), the Administrator shall—

“(A) determine whether the private capital of each science park venture capital company is adequate to ensure a reasonable prospect that the company will be operated soundly and profitably, and managed actively and prudently in accordance with the articles of the company;

“(B) determine that the science park venture capital company will be able to comply with the requirements of this part; and

“(C) ensure that the science park venture capital company is designed primarily to meet equity capital needs of the businesses in which the company invests and not to compete with traditional financing by commercial lenders of high-technology startup businesses.

“(d) Diversification of Ownership.—The Administrator shall ensure that the management of each science park venture capital company licensed after the date of enactment of this part is sufficiently diversified from, and unaffiliated with, the ownership of the company so as to ensure independence and objectivity in the financial management and oversight of the investments and operations of the company.

### “SEC. 4. SELECTION OF SCIENCE PARK VENTURE CAPITAL COMPANIES.

“(a) Eligibility.—A company is eligible to participate as a science park venture capital company in the Program if the company—

“(1) is a newly formed for-profit entity or a newly formed for-profit subsidiary of an existing entity;

“(2) has a management team in the science park with experience in development financing or relevant venture capital financing;

“(3) has a primary objective of economic development of the science park and its surrounding geographic area; and

“(4) promotes innovation of science and technology in the science park.

“(b) Application.—Any eligible company that desires to participate as a science park venture capital company in the Program shall submit an application to the Administrator, which shall include—

“(1) a business plan describing how the company intends to make successful venture capital investments in start up companies within the science park;

“(2) a description of the qualifications and general reputation of the management of the company;

“(3) an estimate of the ratio of cash to in-kind contributions of binding commitments to be made to the company under the Program;

“(4) a description of the criteria to be used to evaluate whether, and to what extent, the company meets the objectives of the Program;

“(5) information regarding the management and financial strength of any parent firm, affiliated firm, or other firm essential to the success of the business plan of the company; and

“(6) such other information as the Administrator may require.

“(c) Status.—Not later than 90 days after the initial receipt by the Administrator of an application under this section, the Administrator shall provide to the applicant a written report that describes the status of the applicants and any requirements remaining for completion of the application.

“(d) Matters Considered.—In reviewing and processing any application under this section, the Administrator—

“(1) shall determine if—

“(A) the applicant meets the requirements under subsection (e); and

“(B) the management of the applicant is qualified and has the knowledge, experience, and capability necessary to comply with this part;

“(2) shall take into consideration—

“(A) the need for and availability of financing for high-technology start-up companies in the science park in which the applicant is to commence business;

“(B) the general business reputation of the owners and management of the applicant; and

“(C) the probability of successful operations of the applicant, including adequate profitability and financial soundness;

“(3) shall not take into consideration any projected shortage or unavailability of grant funds or leverage; and

“(4) shall emphasize the promotion of regional science park venture capital companies to serve multiple research parks in order to avoid geographic dilution of management and capital.

“(e) Approval; License.—The Administrator may approve an applicant to operate as a science park venture capital company under this part and license the applicant as a science park venture capital company, if—

“(1) the Administrator determines that the application satisfies the requirements under subsection (b);

“(2) the Administrator approves—

“(A) the area in which the science park venture capital company is to conduct its operations; and

“(B) the establishment of branch offices or agencies (if authorized by the articles); and

“(3) the applicant enters into a participation agreement with the Administrator.

### “SEC. 5. DEBENTURES.

“(a) Guarantees.—The Administrator may guarantee the timely payment of principal and interest, as scheduled, on debentures issued by any science park venture capital company.

“(b) Terms and Conditions.—The Administrator may make guarantees under this section on such terms and conditions as the Administrator determines to be appropriate, except that the term of any debenture guaranteed under this section shall not exceed 15 years.

“(c) Full Faith and Credit of the United States.—The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee under this part.

“(d) Maximum Guarantee.—The Administrator may—

“(1) guarantee the debentures issued by a science park venture capital company only to the extent that the total face amount of outstanding guaranteed debentures of such company does not exceed the lesser of—

“(A) 300 percent of the private capital of the company, or

“(B) $100,000,000; and

“(2) provide for the use of discounted debentures.

### “SEC. 6. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

“(a) Issuance.—The Administrator may issue trust certificates representing ownership of all or a part of debentures issued by a science park venture capital company and guaranteed by the Administrator under this part, if such certificates are based on and backed by a trust or pool approved by the Administrator and composed solely of guaranteed debentures.

“(b) Guarantee.—

“(1) In general.—The Administrator may, under such terms and conditions as it deems appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Administrator or its agents for purposes of this section.

“(2) Limitation.—Each guarantee under this subsection shall be limited to the extent of principal and interest on the guaranteed debentures that compose the trust or pool.

“(3) Prepayment or default.—

“(A) In general.—In the event that a debenture in a trust or pool is prepaid, or in the event of default of such a debenture, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture represents in the trust or pool.

“(B) Interest.—Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Administrator only through the date of payment of the guarantee.

“(C) Redemption.—At any time during its term, a trust certificate may be called for redemption due to prepayment or default of all debentures.

“(c) Full Faith and Credit.—The full faith and credit of the United States is pledged to pay all amounts that may be required to be paid under any guarantee of a trust certificate issued by the Administrator or its agents under this section.

“(d) Subrogation and Ownership Rights.—

“(1) Subrogation.—If the Administrator pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

“(2) Ownership rights.—No provision of Federal, State, or local law shall preclude or limit the exercise by the Administrator of its ownership rights in the debentures residing in a trust or pool against which 1 or more trust certificates are issued under this section.

“(e) Management and Administration.—

“(1) Registration.—The Administrator may provide for a central registration of all trust certificates issued under this section.

“(2) Contracting of functions.—

“(A) In general.—Notwithstanding any other provision of law, the Administrator may contract with an agent or agents to carry out on behalf of the Administrator the pooling and the central registration functions provided for in this section, including—

“(i) maintenance, on behalf of and under the direction of the Administrator, of such commercial bank accounts or investments in obligations of the United States as may be necessary to facilitate the creation of trusts or pools backed by debentures guaranteed under this part; and

“(ii) the issuance of trust certificates to facilitate the creation of such trusts or pools.

“(B) Fidelity bond or insurance requirement.—Any agent performing functions on behalf of the Administrator under this paragraph shall provide a fidelity bond or insurance in such amounts as the Administrator determines necessary to fully protect the interests of the United States.

“(C) Regulation of brokers and dealers.—The Administrator may regulate brokers and dealers in trust certificates issued under this section.

“(D) Electronic registration.—Nothing in this subsection may be construed to prohibit the use of a book entry or other electronic form of registration for trust certificates issued under this section.

### “SEC. 7. OPERATIONAL ASSISTANCE GRANTS.

“(a) In General.—

“(1) Grants authorized.—The Administrator may award grants to science park venture capital companies and other entities to provide operational assistance to high-technology start-up companies financed, or expected to be financed, by such companies.

“(2) Terms.—Grants under this subsection shall be made over a period not to exceed 10 years, under such other terms as the Administrator may require.

“(3) Grant amount.—Each grant awarded under this subsection shall be equal to the lesser of—

“(A) 10 percent of the private capital raised by the science park venture capital company; or

“(B) $1,000,000.

“(4) Other entities.—The amount of a grant made under this subsection to any entity other than a science park venture capital company shall be equal to the resources (in cash or in kind) raised by the entity in accordance with the requirements applicable to science park venture capital companies under this part.

“(b) Supplemental Grants.—

“(1) In general.—The Administrator may award supplemental grants to science park venture capital companies and other entities, under such terms as the Administrator may require, to provide additional operational assistance to start-up companies financed, or expected to be financed, by such companies or entities.

“(2) Matching requirement.—The Administrator may require, as a condition of any supplemental grant made under this subsection, that the company or entity receiving the grant provide a matching contribution equal to 50 percent of the amount of the supplemental grant from non-Federal cash or in-kind resources.

“(c) Limitation.—None of the assistance made available under this section may be used for any overhead or general and administrative expense of a science park venture capital company or other entity.

### “SEC. 8. REPORTING REQUIREMENTS.

“(a) Science Park Venture Capital Companies.—Each science park venture capital company shall provide the Administrator with such information as the Administrator may require, including information relating to the criteria described in section 374(b)(4).

“(b) Public Reports.—

“(1) In general.—The Administrator shall prepare and make available to the public an annual report on the Program, which shall include detailed information on—

“(A) the number of science park venture capital companies licensed by the Administrator during the previous fiscal year;

“(B) the aggregate amount of leverage that science park venture capital companies have received from the Federal Government during the previous fiscal year;

“(C) the aggregate number of each type of leveraged instruments used by science park venture capital companies during the previous fiscal year, and how each such number compares to the number in previous fiscal years;

“(D) for the previous fiscal year, the number of—

“(i) science park venture capital company licenses surrendered; and

“(ii) the number of science park venture capital companies placed in liquidation;

“(E) the amount and type of leverage each such company has received from the Federal Government;

“(F) the amount of losses sustained by the Federal Government as a result of operations under this part during the previous fiscal year and an estimate of the total losses that the Federal Government can reasonably expect to incur as a result of the operations during the current fiscal year;

“(G) actions taken by the Administrator to maximize recoupment of funds of the Federal Government expended to implement and administer the Program during the previous fiscal year and to ensure compliance with the requirements of this part, including implementing regulations;

“(H) the amount of Federal Government leverage that each licensee received in the previous fiscal year and the types of leverage instruments used by each licensee;

“(I) for each type of financing instrument, the sizes, types of geographic locations, and other characteristics of the small business investment companies using the instrument during the previous fiscal year, including the extent to which the investment companies have used the leverage from each instrument to make loans or equity investments in science parks; and

“(J) the actions of the Administrator to carry out this part.

“(2) Prohibition.—In compiling the report required under paragraph (1), the Administrator may not—

“(A) compile the report in a manner that permits identification of any particular type of investment by an individual science park venture capital company in which a science park venture capital company invests; or

“(B) release any information that is prohibited under section 1905 of title 18, United States Code.

### “SEC. 9. EXAMINATIONS.

“(a) In General.—Each science park venture capital company that participates in the Program shall be subject to examinations made at the direction of the Administrator, in accordance with this section.

“(b) Assistance of Private Sector Entities.—An examination under this section may be conducted with the assistance of a private sector entity that has the qualifications and expertise necessary to conduct such an examination.

“(c) Costs.—

“(1) In general.—The Administrator may assess the cost of an examination under this section, including compensation of the examiners, against the science park venture capital company examined.

“(2) Payment.—Any science park venture capital company against which the Administrator assesses costs under this subsection shall pay the costs assessed.

“(d) Deposit of Funds.—Funds collected under this section—

“(1) shall be deposited in the account that incurred the costs for carrying out this section;

“(2) shall be made available to the Administrator to carry out this section, without further appropriation; and

“(3) shall remain available until expended.

### “SEC. 10. BANK PARTICIPATION.

“(a) In General.—Except as provided under subsection (b), any national bank, any member bank of the Federal Reserve System, and, to the extent permitted under applicable State law, any insured bank that is not a member of such system, may invest in—

"(1) any science park venture capital company; or

"(2) any entity established to invest solely in science park venture capital companies.

"(b) Limitation.—No bank described in subsection (a) may make investments described in that subsection that are greater than 5 percent of the capital and surplus of the bank.

**"SEC. 11. FEES.**

"(a) In General.—Except as provided under subsection (b), the Administrator may charge such fees as it determines to be appropriate with respect to any guarantee or grant issued under this part.

"(b) Exception.—The Administrator shall not collect a fee for any guarantee of a trust certificate under this section. Any agent of the Administrator may collect a fee, upon the approval of the Administrator, for the functions described in section 376(e)(2).

**"SEC. 12. APPLICABLE LAW.**

"(a) In General.—The provisions relating to New Market Venture Capital companies under sections 361 through section 366 shall apply to science park venture capital companies.

"(b) Purchase of Guaranteed Obligations.—Section 318 shall not apply to any debenture issued by a science park venture capital company under this part.

**"SEC. 13. REGULATIONS.**

"Not later than 12 months after the date of enactment of this part, the Administrator shall issue such regulations as it determines necessary to carry out this part.

**"SEC. 14. AUTHORIZATIONS OF APPROPRIATIONS.**

"(a) In General.—There are authorized to be appropriated to the Administration for each of the fiscal years 2006 through 2011, to remain available until expended—

"(1) such sums as may be necessary for the cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of guaranteeing $500,000,000 of debentures under this part; and

"(2) $50,000,000 to make grants under this part.

"(b) Funds Collected for Examinations.—Funds deposited pursuant to section 362(d) may only be used for—

"(1) examinations under section 362; and

"(2) other oversight activities of the Program.".

**SEC. 4. TAX INCENTIVES FOR INVESTMENT IN SCIENCE PARKS.**

(a) Expensing.—

(1) In general.—Section 179(d) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(11) Application of section to property placed in service in science parks.—

"(A) In general.—In the case of any section 179 property placed in service in any science park, this section shall be applied without regard to paragraphs (1) and (2) of subsection (b).

"(B) Science park.—

"(i) In general.—The term 'science park' means a group of interrelated companies and institutions, including suppliers, service providers, institutions of higher education, start-up incubators, and trade associations that cooperate and compete and are located in a specific area whose administration promotes real estate development, technology transfer, and partnerships between such companies and institutions, and does not mean a business or industrial park.

"(ii) Business or industrial park.—The term 'business or industrial park' means primarily a for-profit real estate venture of businesses or industries which do not necessarily reinforce each other through supply chain or technology transfer mechanisms.".

(2) Effective date.—The amendment made by this subsection shall apply with respect to property placed in service after the date of the enactment of this Act.

(b) Tax Credit for Research Activities.—

(1) In general.—Section 41(a) of the Internal Revenue Code of 1986 (relating to credit for increasing research activities) is amended by striking "and" at the end of paragraph (1)(B), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end the following new paragraph:

"(3) 20 percent of the qualified research expenses paid or incurred by the taxpayer during the taxable year in carrying on any trade or business located in a science park.".

(2) Science park.—Section 41(f) of such Code (relating to special rules) is amended by adding at the end the following new paragraph:

"(6) Science park.—

"(A) In general.—The term 'science park' means a group of interrelated companies and institutions, including suppliers, service providers, institutions of higher education, start-up incubators, and trade associations that cooperate and compete and are located in a specific area whose administration promotes real estate development, technology transfer, and partnerships between such companies and institutions, and does not mean a business or industrial park.

"(B) Business or industrial park.—The term 'business or industrial park' means primarily a for-profit real estate venture of businesses or industries which do not necessarily reinforce each other through supply chain or technology transfer mechanisms.".

(3) Effective date.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

(c) Private Business Use of a Bond-Financed Facility Does Not Include Performance of Research Using Federal Government Funding in Such Facility.—

(1) In general.—Subparagraph (A) of section 141(b)(6) of the Internal Revenue Code of 1986 (defining private business use) is amended by inserting "or use in the performance of research using, in whole or in part, funds of the United States or any agency or instrumentality thereof" before "shall not be taken into account".

(2) Effective date.—

(A) In general.—The amendment made by this subsection shall apply to any use on or after the date of the enactment of this Act.

(B) No inference.—Nothing in the amendment made by this subsection shall be construed to create any inference with respect to the use of tax-exempt bond financed facilities before the effective date of such amendment.

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By Mr. CHAMBLISS (for himself and Mr. Roberts):

S. 1582. A bill to reauthorize the United States Grain Standards Act, to facilitate the official inspection at export port locations of grain required or authorized to be inspected under such Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CHAMBLISS. Mr. President, today I introduce legislation to reauthorize the U.S. Grain Standards Act, which expires September 30, 2005.

The Secretary of Agriculture was granted authority by Congress to establish grain standards in 1916. Sixty years later, Congress authorized the Federal Grain Inspection Service in order to ensure the development and maintenance of uniform U.S. standards, to develop inspection and weighing procedures for grain in domestic and export trade, and to facilitate grain marketing. The U.S. grain inspection system is recognized worldwide for its accuracy and reliability.

On May 25, 2005, the Agriculture Committee held a hearing to review the reauthorization of the Act during which the industry expressed its desire to provide authority to the United States Department of Agriculture, USDA, to utilize third-party entities at export terminals. Inspections at these terminals are currently conducted by Federal inspectors or employees of State Departments of Agriculture. Industry proposes, and commodity groups support, granting USDA the authority to utilize third-party entities at U.S. export terminals in order to improve competitiveness of U.S. agriculture worldwide.

Congress has a unique opportunity to provide this authority to USDA, and I have included the industry's proposal in this legislation. USDA estimates that by 2009, 75 percent of Federal grain inspectors will be eligible for retirement. The short-term staffing situation facing USDA should ease the Department's transition in delivering inspection and weighing services at export terminals.

In addition to providing USDA the authority to use third-party entities at export terminal locations, this 5-year reauthorization bill that I am introducing contains measures to ensure the integrity of the Federal grain inspection system. The bill clearly states that official inspections continue to be the direct responsibility of USDA. USDA will also have the ability to issue rules and regulations to further enhance the work and supervision of these entities. The ability of the U.S. to increase long-term competitiveness coupled with a system that can maintain its strong reputation worldwide certainly holds great potential for success.

This bill is identical to the reauthorization bill recently considered and approved unanimously by the Committee on Agriculture in the House of Representatives. It is my hope that this measure will garner equivalent support in this body as reauthorization of the U.S. Grain Standards Act moves forward.

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By Mr. SMITH (for himself, Mr. Dorgan, and Mr. Pryor):

S. 1583. A bill to amend the Communications Act of 1934 to expand the contribution base for universal service, establish a separate account within the universal service fund to support the deployment of broadband service in unserved areas of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH. Mr. President, I rise today with Senators DORGAN and PRYOR to introduce the "Universal Service for the 21st Century Act." For more than 70 years, the preservation and advancement of universal service has been a fundamental goal of our telecommunications laws. In order to ensure the long term sustainability of the fund and to add support for broadband services that are increasingly important to our Nation's economic development, our bill reforms the system of payments into the universal service fund and creates a $500 million account to bring broadband to unserved areas of the country.

The achievements of the universal service fund are undeniable. Affordable telephone services are available in many remote and high cost areas of the country, including Oregon, because of the fund. Large and small telecommunications carriers serve sparsely populated rural communities and schools and libraries receive affordable Internet services because of the fund. The need for a robust and sustainable universal service system certainly remains, but it has become increasingly clear that major reforms are needed if the fund is to meet the evolving communications needs of the American people.

In Section 706 of the Telecommunications Act of 1996, Congress directed the Federal Communications Commission, FCC, and the States to encourage deployment of advanced telecommunications services, including broadband, on a reasonable and timely basis. Earlier this month, the FCC released data on broadband connections that shows significant gains, in deployment. According to the report, there were nearly 29 million broadband connections throughout the country in 2004.

But we can do more. Although there have been well documented successes in the deployment of broadband services in many parts of the country, others remain unserved, whether due to geography, low population density or other reasons. These largely rural areas deserve the benefits of an advanced communications infrastructure and increasingly need that infrastructure to build and maintain robust economies.

Accordingly, to meet the needs of these communities, we have created a $500 million "Broadband for Unserved Areas Account" within the universal service fund that will be used solely for the deployment of broadband networks in unserved areas. This funding will be awarded competitively based on merit to a single broadband provider in each unserved area. The FCC will establish the guidelines for this new account. All technologies will be eligible for funding.

The bill also directs the FCC to update its definition of broadband to ensure that our communications policies are forward-looking and competitive with the speeds and capabilities available in other industrialized countries. The FCC will revisit its definition annually and will prepare reports for Congress regarding gains in broadband penetration in unserved areas and the need for an increase or decrease in funding.

In addition, the bill addresses a crisis in the structure of the universal service fund which has threatened its long term viability. Currently, the burden of universal service fund contributions is placed on a limited class of carriers, causing inequities in the system and incentives to avoid contribution. As demands on the fund increase, contributors are being forced to pay more. This tension threatens to cripple the fund. Our bill therefore authorizes and directs the FCC to establish a permanent mechanism to support universal service.

By reforming the universal service system and spurring the deployment of broadband services, our legislation will ensure that our Nation's communications infrastructure will continue to grow, and to be the robust and connected network that Americans expect and deserve.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1583

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Universal Service for the 21st Century Act".

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The preservation and advancement of universal service is a fundamental goal of the Communications Act of 1934 and the Telecommunications Act of 1996.

(2) Access throughout the nation to high-quality and advanced telecommunications and information services is essential to secure the many benefits of our modern society.

(3) As the Internet becomes a critical element of any economic and social growth, universal service should shift from sustaining voice grade infrastructure promoting the development of efficient and advanced networks that can sustain advanced communications services.

(4) The current structure established by the Federal Communications Commission has placed the burden of universal service support on only a limited class of carriers, causing inequities in the system, incentives to avoid contribution, and a threat to the long term sustainability of the universal service fund.

(5) Current fund contributors are paying an increasing portion of their interstate and international service revenue into the universal service fund.

(6) Any fund contribution system should be equitable, nondiscriminatory and competitively neutral, and the funding mechanism must be sufficient to ensure affordable communications services for all.

**SEC. 3. UNIVERSAL SERVICE FUND CONTRIBUTION REQUIREMENTS.**

(a) INCLUSION OF INTRASTATE REVENUES.—Section 254(d) of the Communications Act of 1934 (47 U.S.C. 254(d)) is amended—

(1) by striking "Every" and inserting "Notwithstanding section 2(b) of this Act, a";

(2) by striking "interstate" each place it appears; and

(3) by adding at the end "Nothing in this subsection precludes a State from adopting rules or regulations to preserve and advance universal service within that State as permitted by section 2(b) and subsections (b) and (f) of this section.".

(b) UNIVERSAL SERVICE PROCEEDING.—

(1) PROCEEDING.—The Federal Communications Commission shall initiate a proceeding, or take action pursuant to any proceeding on universal service existing on the date of enactment of this Act, to establish a permanent mechanism to support universal service, that will preserve and enhance the long term financial stability of universal service, and will promote the public interest.

(2) CRITERIA.—In establishing such a permanent mechanism, the Commission may include collection methodologies such as total telecommunications revenues, the assignment of telephone numbers and any successor identifier, connections (which could include carriers with a retail connection to a customer), and any combination thereof if the methodology—

(A) promotes competitive neutrality among providers and technologies;

(B) to the greatest extent possible ensures that all communications services that are capable of supporting 2-way voice communications be included in the assessable base for universal service support;

(C) takes into account the impact on low volume users, and proportionately assesses high volume users, through a capacity analysis or some other means; and

(D) ensures that a carrier is not required to contribute more than once for the same transaction, activity, or service.

(3) EXCLUDED PROVIDERS.—If a provider of communications services that are capable of supporting 2-way voice communications would not contribute under the methodology established by the Commission, the Commission shall require such a provider to contribute to universal service under an equitable alternative methodology if exclusion of the provider from the contribution base would jeopardize the preservation, enhancement, and long term sustainability of universal service.

(4) DEADLINE.—The Commission shall complete the proceeding and issue a final rule not more than 6 months after the date of enactment of this Act.

**SEC. 4. INTERCARRIER COMPENSATION.**

(a) JURISDICTION.—Notwithstanding section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)), the Federal Communications Commission shall have exclusive jurisdiction to establish rates for inter-carrier compensation payments and shall establish rules providing a comprehensive, unified system of inter-carrier compensation, including compensation for the origination and termination of intrastate telecommunications traffic.

(b) CRITERIA.—In establishing these rules, and in conjunction with its action in its universal service proceeding under section 3, the Commission, in consultation with the Federal-State Joint Board on Universal Service, shall—

(1) ensure that the costs associated with the provision of interstate and intrastate telecommunications services are fully recoverable;

(2) examine whether sufficient requirements exist to ensure traffic contains necessary identifiers for the purposes of intercarrier compensation; and

(3) to the greatest extent possible, minimize opportunities for arbitrage.

(c) SUFFICIENT SUPPORT.—The Commission should, to the greatest extent possible, ensure that as a result of its universal service and inter-carrier compensation proceedings, the aggregate amount of universal service support and inter-carrier compensation provided to local exchange carriers with fewer than 2 percent of the Nation's subscriber lines will be sufficient to meet the just and reasonable costs of such local exchange carriers.

(d) NEGOTIATED AGREEMENTS.—Nothing in this section precludes carriers from negotiating their own inter-carrier compensation agreements.

(e) DEADLINE.—The Commission shall complete the pending Intercarrier Compensation proceeding in Docket No. 01-92 and issue a final rule not more than 6 months after the date of enactment of this Act.

### SEC. 5. ESTABLISHMENT OF BROADBAND ACCOUNT WITHIN UNIVERSAL SERVICE FUND.

Part I of title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by inserting after section 254 the following:

### "SEC. 254A. BROADBAND FOR UNSERVED AREAS ACCOUNT.

"(a) ACCOUNT ESTABLISHED.—

"(1) IN GENERAL.—There shall be, within the universal service fund established pursuant to section 254, a separate account to be known as the 'Broadband for Unserved Areas Account'.

"(2) PURPOSE.—The purpose of the account is to provide financial assistance for the deployment of broadband communications services to unserved areas throughout the United States.

"(b) IMPLEMENTATION.—

"(1) IN GENERAL.—The Commission shall by rule establish—

"(A) guidelines for determining which areas may be considered to be unserved areas for purposes of this section;

"(B) criteria for determining which facilities-based providers of broadband communications service, and which projects, are eligible for support from the account;

"(C) procedural guidelines for awarding assistance from the account on a merit-based and competitive basis;

"(D) guidelines for application procedures, accounting and reporting requirements, and other appropriate fiscal controls for assistance made available from the account; and

"(E) a procedure for making funds in the account available among the several States on an equitable basis.

"(2) STUDY AND ANNUAL REPORTS ON UNSERVED AREAS.—

"(A) IN GENERAL.—Within 6 months after the date of enactment of the Universal Service for the 21st Century Act, the Commission shall conduct a study to determine which areas of the United States may be considered to be 'unserved areas' for purposes of this section. For purposes of the study and for purposes of the guidelines to be established under subsection (a)(1), the availability of broadband communications services by satellite in an area shall not preclude designation of that area as unserved if the Commission determines that subscribership to the service in that area is de minimis.

"(B) ANNUAL UPDATES.—The Commission shall update the study annually.

"(C) REPORT.—The Commission shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce setting forth the findings and conclusions of the Commission for the study and each update under this paragraph and making recommendations for an increase or decrease, if necessary, in the amounts credited to the account under this section.

"(3) STATE INVOLVEMENT.—The Commission may delegate the distribution of funding under this section to States subject to Commission guidelines and approval by the Commission.

"(c) LIMITATIONS.—

"(1) ANNUAL AMOUNT.—Amounts obligated or expended under subsection (c) for any fiscal year may not exceed $500,000,000.

"(2) USE OF FUNDS.—To the extent that amounts in the account are not obligated or expended for financial assistance under this section, they shall be used to support universal service under section 254.

"(3) SUPPORT LIMITED TO FACILITIES-BASED SINGLE PROVIDER PER UNSERVED AREA.—Assistance under this section may be provided only to—

"(A) facilities-based providers of broadband communications service; and

"(B) 1 facility-based provider of broadband communications service in any unserved area.

"(d) APPLICATION WITH SECTIONS 214, 254, AND 410.—

"(1) SECTION 214(e).—Section 214(e) shall not apply to the Broadband for Unserved Areas Account.

"(2) SECTION 254.—Section 254 shall be applied to the Broadband for Unserved Areas Account—

"(A) by disregarding—

"(i) subsections (a) and (e) thereof; and

"(ii) any other provision thereof determined by the Commission to be inappropriate or inapplicable to implementation of this section; and

"(B) by reconciling, to the maximum extent feasible and in accordance with guidelines prescribed by the Commission, the implementation of this section with the provisions of subsections (h) and (l) thereof.

"(3) SECTION 410.—Section 410 shall not apply to the Broadband for Unserved Areas Account.

"(e) DEFINITIONS.—In this section:

"(1) BROADBAND.—

"(A) IN GENERAL.—The term 'broadband' shall be defined by the Commission in accordance with the requirements of this paragraph.

"(B) REVISION OF INITIAL DEFINITION.—Within 30 days after the date of enactment of the Universal Service for the 21st Century Act, the Commission shall revise its definition of broadband to require a data rate—

"(i) greater than the 200 kilobits per second standard established in its Section 706 Report (14 FCC Rec. 2406); and

"(ii) consistent with data rates for broadband communications services generally available to the public on the date of enactment of that Act.

"(C) ANNUAL REVIEW OF DEFINITION.—The Commission shall review its definition of broadband no less frequently than once each year and revise that definition as appropriate.

"(2) BROADBAND COMMUNICATIONS SERVICE DEFINED.—The term 'broadband communications service' means a high-speed communications capability that enables users to originate and receive high-quality voice, data, graphics, and video communications using any technology.".

### SEC. 6. IMPLEMENTATION OF SECTION 254A.

The Federal Communications Commission shall complete a proceeding and issue a final rule to implement section 254A of the Communications Act of 1934 not more than 6 months after the date of enactment of this Act. .

Mr. DORGAN. Mr. President, today my colleagues Senators SMITH, PRYOR and I are introducing legislation to ensure the sustainability and longevity of the Universal Service Fund and to support the deployment of broadband to unserved areas.

Section 254 of the 1996 Telecommunications Act sets forth the principles of universal service. Section 254 states that all citizens, including rural consumers, deserve access to telecommunications services that are reasonably comparable to those services provided in urban areas, at reasonably comparable rates.

This goal to ensure that rural consumers are not left behind continues to be critical, particularly as technology advances in leaps and bounds in this 21st century. Access to a robust communications infrastructure is a necessity for all Americans.

Our bill will further that goal in two ways. First, it will ensure that the Federal Communications Commission, FCC, will address reform of universal service and intercarrier compensation to support the cost of a national, quality communications network.

Over time, the Universal Service Fund has become increasingly strained, with the burden of support placed on only a limited class of carriers, creating inequities in the system and incentives to avoid contribution.

Reform is needed, and our bill directs the FCC to embark upon this reform, with specific guidelines to ensure equity and fairness and continuing sufficient support for networks.

In addition, our legislation will set up an account within the Universal Service Fund for broadband deployment to unserved areas. This will enable deployment of broadband to areas of the country that remain prohibitively expensive to serve, leaving consumers in those areas behind the technological curve.

This legislation is only a starting point. I believe more dialogue is necessary among my colleagues and industry, in order to achieve comprehensive universal service reform. I invite my colleagues to join me in this dialogue and in cosponsoring this bill.

Mr. President, I ask unanimous consent that a summary of this bill be printed in the RECORD following my statement.

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By Mr. BINGAMAN (for himself and Mr. INOUYE):

S. 1585. A bill to amend title XIX of the Social Security Act to reduce the costs of prescription drugs for enrollees of medicaid managed care organizations by extending the discounts offered under fee-for-service medicaid to such organizations; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I am introducing legislation today with Senator INOUYE entitled the Medicaid Health Plan Rebate Act of 2005.

I ask unanimous consent that a summary of the legislation developed by the Association for Community Affiliated Plans, a policy statement by the American Public Human Services Association on the issue, and a letter of support from the Medicaid Health Plans of America be printed in the RECORD.

I further ask for unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ASSOCIATION FOR COMMUNITY AFFILIATED PLANS—REDUCING MEDICAID COSTS WITHOUT CUTTING BENEFITS OR BENEFICIARIES: CONGRESS SHOULD EQUALIZE DESCRIPTION DRUG COSTS FOR BENEFICIARIES IN MEDICAID MANAGED CARE

### REQUEST

As Congress and the States struggle to control the skyrocketing costs of Medicaid, the Association for Community Affiliated Plans (ACAP) supports a solution that will save Federal, State governments and Medicaid Managed Care Organizations (MCOs) up to $2 billion over ten years by equalizing the treatment of prescription drug discounts between Medicaid managed care and Medicaid fee- for-service. In offering Medicaid managed care plans access to the Medicaid drug rebate, Congress will provide relief for federal and state budgets, thereby mitigating the need for added cuts to Medicaid benefits or populations.

### BACKGROUND

Created by the Omnibus Budget Reconciliation Act (OBRA) of 1990, the Medicaid Drug Rebate Program requires a drug manufacturer to have a rebate agreement with the Secretary of the Department of Health and Human Services for States to receive federal funding for outpatient drugs dispensed to Medicaid patients. At the time the law was enacted, managed care organizations were excluded from access to the drug rebate program. In 1990, only 2.8 million people were enrolled in Medicaid managed care and so the savings lost by the carve-out were relatively small. Today, 12 million people are enrolled in capitated managed care plans. This migration of beneficiaries into managed care has, in turn, increased States' Medicaid pharmacy costs because fewer beneficiaries have access to the drug rebate.

### CHALLENGE FOR MEDICAID PLANS

Under the drug rebate, States receive between 18 and 20 percent discount on brand name drug prices and between 10 and 11 percent for generic drug prices. At the time the rebate was enacted, many of the plans in Medicaid were large commercial plans who believed that they could get better discounts than the federal rebate. Today, Medicaid-focused plans are the fastest growing sector in Medicaid managed care. According to a study by the Lewin Group, Medicaid-focused MCOs typically only receive about a 6 percent discount on brand name drugs and no discount on generics. Because many MCOs (particularly smaller Medicaid-focused MCOs) do not have the capacity to negotiate deeper discounts with drug companies, Medicaid is overpaying for prescription drugs for enrollees in Medicaid health plans.

### OPPORTUNITY OR MEDICAID SAVINGS

The Lewin Group estimates that this proposal could save up to $2 billion over 10 years. This legislation has been endorsed by organizations representing both state government and the managed care industry, including the National Association of State Medicaid Directors, and the Association for Community Affiliated Plans.

As Congress is forced to make tough choices to control the costs of the Medicaid program, this proposal offers a "no-harm" option to control costs and ensure that there is not a prima facie pharmacy cost disadvantage states using managed care as a cost effective alternative to Medicaid fee-for-service.

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AMERICAN PUBLIC HUMAN SERVICES ASSOCIATION

NATIONAL ASSOCIATION OF STATE MEDICAID DIRECTORS

### POLICY STATEMENT: MCO ACCESS TO THE MEDICAID PHARMACY REBATE PROGRAM

*Background*

The Omnibus Budget Reconciliation Act of 1990 (OBRA '90) established a Medicaid drug rebate program that requires pharmaceutical manufacturers to provide a rebate to participating state Medicaid agencies. In return, states must cover all prescription drugs manufactured by a company that participates in the rebate program. At the time of this legislation, only a small percentage of Medicaid beneficiaries were enrolled in capitated managed care plans and were primarily served by plans that also had commercial lines of business. These plans requested to be excluded from the drug rebate program as it was assumed that they would be able to secure a better rebate on their own. Though regulations have not yet been promulgated, federal interpretation to date has excluded Medicaid managed care organizations from participating in the federal rebate program.

Today, the situation is quite different. 58% of all Medicaid beneficiaries are enrolled in some type of managed care delivery system, many in capitated health plans. Some managed care plans, especially Medicaid-dominated plans that make up a growing percentage of the Medicaid marketplace, are looking at the feasibility of gaining access to the Medicaid pharmacy rebate. However, a number of commercial plans remain content to negotiate their own pharmacy rates and are not interested in pursuing the Medicaid rebate.

*Policy Statement*

The National Association of State Medicaid Directors is supportive of Medicaid managed care organizations (MCOs), in their capacity as an agent of the state, being able to participate fully in the federal Medicaid rebate program. To do so, the MCO must adhere to all of the federal rebate rules set forth in OBRA '90 and follow essentially the same ingredient cost payment methodology used by the state. The state will have the ability to make a downward adjustment in the MCO's capitation rate based on the assumption that the MCO will collect the full rebate instead of the state. Finally, if a pharmacy benefit manager (PBM) is under contract with an MCO to administer the Medicaid pharmacy benefit for them, then the same principal shall apply, but in no way should both the MCO and the PBM be allowed to claim the rebate.

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MEDICAID HEALTH PLANS OF AMERICA,
*Washington, DC, April 7, 2005.*

MARGARET A. MURRAY,
*Executive Director, Association for Community Affiliated Plans, Washington, DC.*

DEAR MS. MURRAY: The Medicaid Health Plans of America (MHPOA) supports your proposed initiative to provide Medicaid managed care organizations with access to the Medicaid drug rebate found in Section 1927 of the Social Security Act. We support this effort and urge Congress to enact this common sense provision.

Medicaid Health Plans of America, formed in 1993 and incorporated in 1995, is a trade association representing health plans and other entities participating in Medicaid managed care throughout the country It's primary focus is to provide research, advocacy, analysis, and organized forums that support the development of effective policy solutions to promote and enhance the delivery of quality healthcare The Association initially coalesced around the issue of national healthcare reform, and as the policy debate changed from national healthcare reform to national managed care reform, the areas of focus shifted to the changes in Medicaid managed care.

Your proposal to allow Medicaid managed care organizations access to the Medicaid drug rebate makes sense given the migration of Medicaid beneficiaries from fee-for-service to managed care since 1990. Increasingly, states have not been able to take advantage of the drug rebate for those enrollees in managed care, thus driving up federal and state Medicaid costs. The savings estimated in the Lewin Group study are significant and may help to mitigate the needs for other cuts in the program. In addition, it demonstrates a proactive effort to offer solutions to improving the Medicaid program. We applaud this effort.

MHPOA is proud to support this legislative proposal and will endorse any legislation in Congress to enact this proposal.

Sincerely,

THOMAS JOHNSON,
*Executive Director.*

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### S. 1585

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Medicaid Health Plan Rebate Act of 2005".

**SEC. 2. EXTENSION OF PRESCRIPTION DRUG DISCOUNTS TO ENROLLEES OF MEDICAID MANAGED CARE ORGANIZATIONS.**

(a) IN GENERAL.—Section 1927(j) of the Social Security Act (42 U.S.C. 1396r–8(j)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively, and

realigning the left margins of such paragraphs accordingly;

(3) in paragraph (1) (as redesignated by paragraph (2) of this section), by striking "The State" and inserting "IN GENERAL.—The State"; and

(4) in paragraph (2) (as so redesignated), by striking "Nothing" and inserting "RULE OF CONSTRUCTION.—Nothing".

(b) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act and apply to rebate agreements entered into or renewed under section 1927 of the Social Security Act (42 U.S.C. 1396r-8) on or after such date.

Mr. REID. Mr. President, I rise to express my support for the Healthcare Equality and Accountability Act that Senator AKAKA and I are introducing today. We are pleased that Congressman Honda, Chair of the Congressional Asian Pacific American Caucus, is introducing this legislation in the House of Representatives with the support of the Congressional Black Caucus, the Congressional Hispanic Caucus, and the Congressional Native American Caucus.

My first elected position was on the board of trustees of the largest public hospital in Southern Nevada—a hospital known today as University Medical Center (UMC) of Southern Nevada.

Since my time on the hospital board, Nevada has become not just one of the fastest growing states in the nation, but one of the most diverse. The Asian and Hispanic populations have grown by over 200 percent, and the African-American population in Nevada has increased by 91 percent. As a result, health care providers are struggling to meet the needs of Nevada's diverse population.

In one example, a woman arrived at a Las Vegas emergency room hemorrhaging. Doctors determined that she needed a hysterectomy, but she did not speak English. Her young son had to interpret, but was embarrassed to explain the diagnosis, so instead he told his mother she had a tumor in her stomach.

In areas with rapidly growing diverse populations, miscommunications like this one are all too common.

In another incident, a woman at a lab in Las Vegas was diagnosed with breast cancer, but lab employees couldn't find anyone to explain her test results to her in Spanish.

Unfortunately, a shortage of interpreters and translated material is just one problem that contributes to the high rate of health disparities among racial and ethnic groups.

According to a recent report by the Centers for Disease Control, African-Americans are 30 percent more likely to die from heart disease and cancer than whites, and 40 percent more likely to die from stroke.

Yet, despite a substantial need for health care, minority groups are less likely to have health insurance and are less likely to receive appropriate care.

If we do nothing, the health care divide will only get worse. Since 2000, millions more Americans are without health insurance and health care cost have skyrocketed. About 33 percent of Hispanics, 19 percent of African Americans and 19 percent of Asians are uninsured.

In just one year—from 2002 to 2003—the number of Hispanics without health insurance increased by one million people.

And for the first time in four decades, infant mortality rates in this nation have increased. The infant mortality rate for African Americans is more than twice as high than for whites; and is 70 percent higher for American Indian and Alaska Native infants.

The legislation we are introducing today will help to: expand the health care safety net, diversify the health care work force, combat diseases that disproportionately affect racial and ethnic minorities, emphasize prevention and behavioral health, promote the collection and dissemination of data and enhance medical research, and provide interpreters and translation services in the delivery of health care.

Everyone deserves equal treatment in health care. I hope that all of my colleagues will support the Healthcare Equality and Accountability Act so we may begin to close the health care divide.

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By Mr. BINGAMAN (for himself, Mr. DOMENICI, Mrs. MURRAY, Mr. JEFFORDS, Mr. ALEXANDER, Ms. CANTWELL, Mr. AKAKA, Mr. REED, Mr. CHAFEE, Mr. LEAHY, Mr. DODD, and Mr. DAYTON):

S. 1587. A bill to amend title XXI of the Social Security Act to permit qualifying States to use a portion of their allotments under the State children's health insurance program for any fiscal year for certain medicaid expenditures; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, today with Senators DOMENICI, MURRAY, JEFFORDS, ALEXANDER, CANTWELL, AKAKA, REED, CHAFEE, LEAHY, DODD, and DAYTON we introduce legislation entitled the "Children's Health Equity Act of 2005."

This legislation would extend provisions that were included in Public Laws #108-74 and 108-127 that amended the State Children's Health Insurance Program, or SCHIP, to permit the states of Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, New Mexico, Rhode Island, Tennessee, Vermont, Washington, and Wisconsin to apply some of their enhanced SCHIP matching funds toward the coverage of certain children enrolling in Medicaid that were part of expansions of coverage to children through Medicaid in those 11 states prior to the enactment of SCHIP.

As a article in the September/October 2004 issue of Health Affairs by Genevieve Kenney and Debbie Chang points out, when SCHIP was created, "Inequities were . . . introduced across states because those that had already expanded Medicaid coverage to children could not receive the higher SCHIP matching rate for these children . . . [and this] meant that states that had been ahead of the curve in expanding Medicaid eligibility for children were penalized financially relative to states that expanded coverage after SCHIP."

The article adds that "additional cross-state inequities were introduced" during the creation of SCHIP because three states had their prior expansions grandfathered in during the bill's consideration. Left behind were the aforementioned 11 states.

Fortunately, with the passage of Public Laws #108-74 and 108-127 in 2003, the inequity was recognized and the 11 states, including New Mexico, were allowed to use up to 20 percent of our State's enhanced SCHIP allotments to pay for Medicaid eligible children above 150 percent of poverty that were part of Medicaid expansions prior to the enactment of SCHIP. As the Congressional Research Service notes, "The primary purpose of the 20 percent allowance was to enable qualifying states to receive the enhanced FMAP [Federal Medical Assistance Percentage] for certain children who likely would have been covered under SCHIP had the state not expanded their regular Medicaid coverage before SCHIP's enactment in August 1997."

Unfortunately, one major problem with the compromise was that it only allowed the 11 states flexibility with their SCHIP funds for allotments between 1998 and 2001 and not in the future. Therefore, the inequity continues with SCHIP allotments from 2002 and on. In fact, with the expiration of SCHIP funds from FY 1998-2000 as of September 2004, that leaves the 11 states with only the ability to spend FY 2001 SCHIP allotments on expansion children. For those states, such as Vermont and Rhode Island, that have already spent their 2001 SCHIP allotments, they no longer benefit from the passage of this provision. Furthermore, the FY 2001 funds will also expire at the end of September 2005. Thus, under current law, no spending under these provisions will be permitted in fiscal year 2006 or thereafter.

Therefore, our legislation today prevents the full expiration of this provision for our 11 states and ensures that the compromise language is extended in the future. It is important to states such as New Mexico that have been severely penalized for having expanded coverage to children through Medicaid prior to the enactment of SCHIP. In fact, due to the SCHIP inequity, New Mexico has been allocated $266 million from SCHIP between fiscal years 1998 and 2002, and yet, has only been able to spend slightly over $26 million as of the end of last fiscal year. In other words. New Mexico has been allowed to spend less than 10 percent of its federal SCHIP allocations because the expansion children have been previously ineligible for the enhanced SCHIP matching funds.

As the health policy statement by the National Governors' Association reads. "The Governors believe that it is critical that innovative states not be penalized for having expanded coverage to children before the enactment of S-CHIP. which provides enhanced funding to meet these goals. To this end. the Governors support providing additional funding flexibility to states that had already significantly expanded coverage to the majority of uninsured children in their states."

It is important to note the bill does not take money from other states' CHIP allotments. It simply allows our states to spend our States' specific CHIP allotments from the federal government on our uninsured children—just as other states across the country are doing.

According to an analysis by the Congressional Research Service. thus far eight states have benefited financially from the passage of the legislation. In the fourth quarter of 2003 and for all four quarters in 2004, Hawaii reported federal SCHIP expenditures using the 20 percent allowance in the amount of $380,000, Maryland received $106,000. New Hampshire received $2.1 million, New Mexico received $2.3 million. Rhode Island received $485,000. Tennessee received $4.5 million, Vermont received $475.000, and Washington received $22.2 million.

I urge that this very important provision for our states be included in the budget reconciliation package the Congress is preparing to consider in September and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection. the bill was ordered to be printed in the RECORD, as follows:

S. 1587

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Health Equity Technical Amendment Act of 2005".

### SEC. 2. AUTHORITY FOR QUALIFYING STATES TO USE PORTION OF SCHIP ALLOTMENT FOR ANY FISCAL YEAR FOR CERTAIN MEDICAID EXPENDITURES.

(a) IN GENERAL.—Section 2105(g)(1)(A) of the Social Security Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking "fiscal year 1998, 1999, 2000, or 2001" and inserting "a fiscal year".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on October 1, 2004.

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By Mr. BINGAMAN (for himself, Mr. ROCKEFELLER, Mr. FEINGOLD, Mr. CORZINE, Mr. KOHL, Ms. MIKULSKI, Mr. DURBIN, and Mr. HARKIN):

S. 1589. A bill to amend title XVIII of the Social Security Act to provide for reductions in the medicare part B premium through elimination of certain overpayments to Medicare Advantage organizations; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, I am introducing legislation today with Senators ROCKEFELLER and FEINGOLD that is similar to S. 2906 in the 108th Congress and will have more to say about this legislation when we return in September.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1589

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Affordability in Medicare Premiums Act of 2005".

### SEC. 2. REDUCTION OF MEDICARE PART B PREMIUM FOR INDIVIDUALS NOT ENROLLED IN A MEDICARE ADVANTAGE PLAN.

Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)) is amended—

(1) in paragraph (3), in the first sentence, by striking "The Secretary" and inserting "Subject to paragraph (5), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(5)(A) For each year (beginning with 2006), the Secretary shall reduce the monthly premium rate determined under paragraph (3) for each month in the year for individuals who are not enrolled in a Medicare Advantage plan (including such individuals subject to an increased premium under subsection (b) or (i)) so that the aggregate amount of such reductions in the year is equal to the aggregate amount of reduced expenditures from the Federal Supplementary Medicare Insurance Trust Fund that the Secretary estimates would result in the year if the annual Medicare+Choice capitation rate for the year was equal to the amount specified under subparagraph (D) of section 1853(c)(1), and not subparagraph (A), (B), or (C) of such section.

"(B) In order to carry out subsections (a)(1) and (b)(1) of section 1840, the Secretary shall transmit to the Commissioner of Social Security and the Railroad Retirement Board by the beginning of each year (beginning with 2006), such information determined appropriate by the Secretary, in consultation with the Commissioner of Social Security and the Railroad Retirement Board, regarding the amount of the monthly premium rate determined under paragraph (3) for individuals after the application of subparagraph (A).".

### SEC. 3. FUNDING REDUCTIONS IN THE MEDICARE PART B PREMIUM THROUGH REDUCTIONS IN PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.

Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)), as amended by section 2, is amended—

(1) in paragraph (3), in the first sentence, by striking "paragraph (5)" and inserting "paragraphs (5) and (6)"; and

(2) by adding at the end the following new paragraph:

"(6) For each year (beginning with 2006), the Secretary shall reduce the monthly premium rate determined under paragraph (3) for each month in the year for each individual enrolled under this part (including such an individual subject to an increased premium under subsection (b) or (i)) so that the aggregate amount of such reductions in the year is equal to an amount equal to—

"(A) the aggregate amount of reduced expenditures from the Federal Supplementary Medicare Insurance Trust Fund in the year that the Secretary estimates will result from the provisions of, and the amendments made by, sections 4 and 5 of the Affordability in Medicare Premiums Act of 2005; minus

"(B) the aggregate amount of reductions in the monthly premium rate in the year pursuant to paragraph (5)(A).".

### SEC. 4. APPLICATION OF RISK ADJUSTMENT REFLECTING CHARACTERISTICS FOR THE ENTIRE MEDICARE POPULATION IN PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.

Effective January 1, 2006, in applying risk adjustment factors to payments to organizations under section 1853 of the Social Security Act (42 U.S.C. 1395w–23), the Secretary of Health and Human Services shall ensure that payments to such organizations are adjusted based on such factors to ensure that the health status of the enrollee is reflected in such adjusted payments, including adjusting for the difference between the health status of the enrollee and individuals enrolled under the original medicare fee-for-service program under parts A and B of title XVIII of such Act. Payments to such organizations must, in aggregate, reflect such differences.

### SEC. 5. ELIMINATION OF MA REGIONAL PLAN STABILIZATION FUND (SLUSH FUND).

(a) IN GENERAL.—Subsection (e) of section 1858 of the Social Security Act (42 U.S.C. 1395w–27a) is repealed.

(b) CONFORMING AMENDMENT.—Section 1858(f)(1) of the Social Security Act (42 U.S.C. 1395w–27a(f)(1)) is amended by striking "subject to subsection (e),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of section 221(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2181).

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By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. 1591. A bill to amend the Internal Revenue Code of 1986 to modify the rules relating to the suspension of interest and certain penalties where the taxpayer is not contacted by the Internal Revenue Service within 18 months; to the Committee on Finance.

Mr. BAUCUS. Mr. President, last year, the Senate passed significant legislation aimed at shutting down tax shelters. We ramped up disclosure requirements that make it easier for IRS to find those who promoted and invested in these deals. We greatly increased penalties. We made law firms and accounting firms responsible for their part in perpetuating this distasteful business.

Another thing we did was to take a break on interest expense away from participants in listed transactions and those who fail to disclose a reportable transaction.

Usually, if the IRS audits your tax return and doesn't tell you about any adjustments to your tax bill within 18 months after the return is filed, the interest on that tax bill stops. It stops until the IRS does tell you what you owe. It is called "the 18 month interest suspension rule" and became law so taxpayers wouldn't have to pay excessive interest if the IRS took a long time to figure out what they owed.

But, people who get involved with tax shelters play hide and seek with the IRS. They hope the game lasts until the time for auditing a tax return has passed. This means that the IRS often doesn't know a taxpayer has bought into a tax shelter until well after 18 months has gone by.

And, this problem is made even worse by those who sell the shelters. Promoters are supposed to keep a list of those who buy their shelters. The IRS can ask for the list—it's one way the IRS can find those who get into these bad deals.

But, often the promoter won't turn that list over to the IRS right away. Once again, it is well after that 18 month mark before the IRS learns about the investment and can do the audit.

It is not right that taxpayers benefit from this 18 month interest suspension rule when the delays are the result of their own hand. Taxpayers involved in deals that abuse our tax system should not benefit from their own fun and games.

That is why we took the interest suspension break away from these taxpayers in last year's Jobs Act. But we only took it away for interest charges after October 3, 2004.

Today, my good friend CHUCK GRASSLEY and I introduce a proposal that takes this one step further and eliminates the interest suspension break for interest charges on or before October 3, 2004. Why should these folks get any break when they have manipulated the system in the first place?

The only exception is for taxpayers who have decided to take the IRS up on a published settlement initiative to unwind their transaction. Those taxpayers would continue to qualify for suspension of their accrued interest expense through the October 3 date. The IRS has found these settlement initiatives are a useful way to get these old cases resolved and off the table. I think we should help this process along so the IRS can deal with other aspects of the tax gap.

Our proposal also will plug up another unintended loophole in the interest suspension rules. Earlier this year, the IRS ruled that taxpayers filing amended returns showing a balance due more than 18 months after the original return was filed were also entitled to interest suspension—this applies to all taxpayers, not just those with tax shelters. Since the IRS wouldn't have any way of knowing these taxpayers even owed more tax, it doesn't make sense to give them a break on interest charges.

Over the past several years this country has experienced a scourge of tax shelters. With hard work, we have come a long way in our fight against them. We must be relentless in our quest to wipe them out. We need to remove any incentives that might encourage people to get into these abusive deals. Our proposal is one more blow in our fight to maintain fairness and integrity in our system of tax administration. We request your support for this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1591

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. MODIFICATIONS OF SUSPENSION OF INTEREST AND PENALTIES WHERE INTERNAL REVENUE SERVICE FAILS TO CONTACT TAXPAYER.**

(a) EFFECTIVE DATE OF EXCEPTION FROM SUSPENSION RULES FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (2) of section 903(d) of the American Jobs Creation Act of 2004 is amended to read as follows:

"(2) EXCEPTION FOR REPORTABLE OR LISTED TRANSACTIONS.—

"(A) IN GENERAL.—The amendments made by subsection (c) shall apply with respect to interest accruing after October 3, 2004.

"(B) SPECIAL RULE FOR CERTAIN LISTED AND REPORTABLE TRANSACTIONS.—

"(i) IN GENERAL.—Except as provided in clause (ii) or (iii), the amendments made by subsection (c) shall also apply with respect to interest accruing on or before October 3, 2004.

"(ii) PARTICIPANTS IN SETTLEMENT INITIATIVES.—Clause (i) shall not apply to any transaction if, pursuant to a published settlement initiative which is offered by the Secretary of the Treasury to a group of similarly situated taxpayers claiming benefits from the transaction, the taxpayer has entered into a settlement agreement with respect to the tax liability arising in connection with the transaction.

"(iii) CLOSED TRANSACTIONS.—Clause (i) shall not apply to a transaction if, as of July 29, 2005 (May 9, 2005 in the case of a listed transaction)—

"(I) the assessment of all Federal income taxes for the taxable year in which the tax liability to which the interest relates arose is prevented by the operation of any law or rule of law, or

"(II) a closing agreement under section 7121 has been entered into with respect to the tax liability arising in connection with the transaction.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

(b) TREATMENT OF AMENDED RETURNS AND OTHER SIMILAR NOTICES OF ADDITIONAL TAX OWED.—

(1) IN GENERAL.—Section 6404(g)(1) of the Internal Revenue Code of 1986 (relating to suspension) is amended by adding at the end the following new sentence: "If, after the return for a taxable year is filed, the taxpayer provides to the Secretary 1 or more signed written documents showing that the taxpayer owes an additional amount of tax for the taxable year, clause (i) shall be applied by substituting the date the last of the documents was provided for the date on which the return is filed."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to documents provided on or after July 29, 2005.

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By Ms. SNOWE (for herself, Mr. CONRAD, Mrs. LINCOLN, and Ms. COLLINS):

S. 1592. A bill to amend title XIX of the Social Security Act to permit States to obtain reimbursement under the Medicaid program for care or services required under the Emergency Medical Treatment and Active Labor Act that are provided in a nonpublicly owned or operated institution for mental diseases; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Medicaid Emergency Psychiatric Care Act of 2005, which will serve to improve access to mental health treatment and remove an unfunded mandate on our private mental health treatment centers. I am particularly pleased to introduce this bill with several of my colleagues, Senators CONRAD, LINCOLN, and COLLINS, who share my belief that we must improve access to treatment for many of the 18.5 million Americans who are afflicted with a mental health disorder.

Our bill will move a step closer to achieving this goal by requiring the Medicaid program to provide reimbursement to private mental health facilities that receive patients under the Emergency Medical Treatment and Labor Act, known as EMTALA. EMTALA requires hospitals to provide emergency care to patients, regardless of their ability to pay. However, this stands in conflict with Medicaid law, which in most cases prohibits payment for psychiatric treatment for people between the ages of 21 to 65 years. Our legislation will remedy that situation by providing Medicaid coverage for emergency treatment for mental illness, thus expanding access for acute psychiatric care and ensuring that patients with mental disorders receive the assistance they vitally need in a timely fashion.

Under current law, Medicaid payment for psychiatric treatment for patients between the ages of 21 and 65 years is restricted to hospitals that have an in house psychiatric ward. If a patient seeks care from a private psychiatric hospital or is transferred to a private facility from a community hospital, Medicaid does not provide reimbursement due to the so-called Institutions for Mental Disease, IMD, exclusion. In comparison, if the same patient seeks care under EMTALA from a hospital because of a physical ailment, Medicaid provides coverage regardless of the type of facility that provides the treatment. I have therefore joined together with Senator CONRAD, Senator LINCOLN, and Senator COLLINS to introduce legislation that will require Medicaid to pay for the cost of care associated with emergency psychiatric treatment necessary to comply with EMTALA. No longer will private entities be required to shoulder the burden of this Federal mandate, and no longer will Medicaid-eligible beneficiaries go without access to necessary and appropriate emergency care.

This bipartisan legislation has been carefully crafted with input from both the provider and beneficiary communities to ensure that assistance is directed to those who are most in need and to ensure that the coverage only extends to people who require emergency treatment. The definition in the EMTALA statute of an emergency is straightforward for psychiatric patients. Patients must present as a danger to themselves or others—for example, as being suicidal or threatening physical harm to others.

Our bill also offers a targeted and low-cost solution to ease the crisis in emergency departments. Emergency department overcrowding is a growing and severe problem in the United States, and dedicated physicians and nurses who work in emergency rooms are reaching a breaking point where they may not have the resources or surge capacity to respond effectively. Patients often face a long wait in the emergency room, sometimes for days, because there is no bed or other appropriate setting available. Tens of thousands of dollars every day are being spent inefficiently on extended treatment in emergency rooms that is not the most appropriate or clinically effective care.

This crisis in emergency departments impacts everyone's access to lifesaving care. According to a May 2005 report by the Centers for Disease Control and Prevention, the number of annual emergency department visits increased 26 percent over a 10-year period, from 90.3 million in 1993 to 113.9 million visits in 2003—an average increase of more than 2 million visits per year. During the same time, the number of hospital emergency departments decreased by more than 12 percent, resulting in a greater number of visits to emergency departments that remain open.

How do these problems affect emergency care for all of us? Overcrowded emergency rooms result in reduced availability of physicians, nurses, and healthcare staff; fewer available examination areas and beds; longer waits for patients and their families; and hospitals more frequently having to divert patients by ambulance to other hospitals.

The existing situation is not only jeopardizing access to emergency rooms and treatment but ultimately, in many cases, it is overwhelming the criminal justice system. The U.S. Department of Justice estimates that, on average, 16 percent of inmates in local jails suffer from a mental illness, and in Maine, the National Alliance for the Mentally Ill, NAMI, an advocacy group for persons with mental illness, estimates that figure is as high as 50 percent. In my home state of Maine, 65,000 people have a severe mental illness but with the severe shortage of psychiatric beds in the State, many people go without treatment. We must take action to provide the mentally ill with better access to care, and we must start by ensuring that Medicaid reimburses the facilities that provide treatment.

Passing the Medicaid Emergency Psychiatric Care Act and providing Medicaid coverage for emergency psychiatric treatment in both general and psychiatric hospitals will accomplish several goals. First, and most importantly, it will result in better psychiatric emergency care for patients. Second, it will result in more efficient and effective use of both Federal and State Medicaid dollars. Third, by resolving the current conflict in Federal law between EMTALA requirements and the Medicaid IMD exclusion from reimbursement, the bill will enable freestanding psychiatric hospitals to receive reimbursement for Medicaid psychiatric patients on the same basis as general hospitals and help preserve the viability of these hospitals.

We have received strong support from a number of leading national mental health and medical associations who confirm the critical need for this legislation, including NAMI, the National Association of County Behavioral Health Directors, the American Psychiatric Association, the American College of Emergency Physicians, the American Hospital Association, and the National Association of Psychiatric Health Systems. I am especially pleased to have also received endorsements from a number of Maine organizations, including the Maine Hospital Association, Spring Harbor Hospital, and NAMI Maine.

This legislative change is vitally important to ensure that Medicaid patients with mental illness receive the right care at the right time in the right setting, instead of prolonged stays in emergency rooms and in hospital settings without psychiatric specialty care. The cost of achieving a more efficient, effective, and clinically appropriate care system for psychiatric emergencies is small and well worth it. I urge my colleagues to join us in cosponsoring the bill.

I ask unanimous consent that these letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ALLIANCE
FOR THE MENTALLY ILL,
*Arlington, VA, July 11, 2005.*

Hon. OLYMPIA SNOWE,
*U.S. Senate, Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR SNOWE: On behalf of the 210,000 members and 1,200 affiliates of the National Alliance for the Mentally Ill (NAMI), I am writing to express support for your legislation, the Medicaid Emergency Psychiatric Care Act of 2005. NAMI strongly supports this important effort to address the growing crisis in access to acute care services for non-elderly adults living with severe mental illness. As the nation's largest organization representing individuals with severe mental illness and their families, NAMI is pleased to support this important measure.

As NAMI's consumer and family membership knows first-hand, the acute care crisis for inpatient psychiatric care is growing in this country. This disturbing trend was identified in the recently released Bush Administration New Freedom Initiative Mental Health Commission report. Over the past 15–20 years, states have closed inpatient units and drastically reduced the number of acute care beds. Also, general hospitals, due to severe budget constraints, have had to close psychiatric units or reduce the number of beds. This has resulted in a growing shortage of acute inpatient psychiatric beds in many communities.

The Medicaid Emergency Psychiatric Care Act will address an important conflict in federal policy that has contributed to restricted access to needed inpatient services—the Medicaid Institution for Mental Diseases (IMD) Exclusion and the Emergency Medical and Labor Treatment Act (EMTALA). EMTALA requires hospitals to stabilize patients in an emergency medical condition, while the IMD exclusion prevents certain hospitals (psychiatric hospitals) from receiving Medicaid reimbursement for Medicaid beneficiaries between the ages of 21–64 in these circumstances.

This important measure will allow Medicaid funding to be directed to non-publicly owned and operated psychiatric hospitals (IMDs) for Medicaid beneficiaries between the ages of 21–64 who require stabilization in these settings as required by EMTALA. Today, these hospitals are denied payment for care required under the EMTALA rules. The result is that psychiatric hospitals are forced to absorb these added costs of care to their already growing un-reimbursed care even though these patients have insurance through Medicaid.

This legislation will go a long way in addressing the growing psychiatric acute inpatient crisis, while creating fairness in the reimbursement structure for psychiatric hospitals under the limited circumstances required by the EMTALA law. Your leadership in carefully crafting and introducing this targeted legislation addressing a critical problem for persons with serious mental illnesses is much appreciated. NAMI looks forward to working with you and your Senate colleagues to ensure passage of this important legislation.

Sincerely,

MICHAEL J. FITZPATRICK,
*Executive Director.*

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JULY 26, 2005.

Hon. OLYMPIA SNOWE,
*U.S. Senate, Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR SNOWE: The National Association of County Behavioral Health and Developmental Disability Directors (NACBHD), which is the behavioral health affiliate of the National Association of Counties, and the National Association of Counties (NACo) are writing to strongly support The Medicaid Emergency Psychiatric Care Act—legislation you are introducing to alleviate the crisis in access to acute hospital inpatient psychiatric services. A lack of acute inpatient services was recently highlighted in President Bush's New Freedom Commission on Mental Health report and is a problem in many counties. In twenty of the most populous states, counties have the designated responsibility to plan and implement mental health services.

Over the past 20 years most states have closed many of their state hospitals and returned individuals to the community for care. General hospitals have over the past 10-15 years have also begun to close psychiatric inpatient units. Freestanding psychiatric hospitals have been significantly reduced due to the reimbursements rates brought about with the advent of managed care. Overall, the availability of acute psychiatric beds, in many states, has decreased dramatically in the last 10 years. Given the shortage of inpatient acute beds, many individuals with serious psychiatric disorders end up in county jails or homeless rather than receiving basic psychiatric services in hospital.

Your legislation specifically addresses the conflict in federal law between the Emergency Medical Treatment and Labor Act (EMTALA) Medicaid Institution for Mental Disease (IMD). Your legislation will enable psychiatric hospitals to receive reimbursement on the same basis as general hospitals for Medicaid patients who meet EMTALA standards of a medical crisis. The legislation offers a low-cost solution to alleviate the crisis in emergency rooms in general hospitals caused by an overflow of individuals in need of psychiatric care because inpatient beds are not available.

NACBHD and NACo appreciate your leadership in introducing this specific legislation that will address this inherent conflict in federal requirements and will assist in promoting access to acute psychiatric inpatient services. We look forward to working with you and your colleagues in getting this legislation passed through this Congress.

Sincerely,

LARRY E. NAAKE,
*Executive Director, National Association of Counties.*
MELISSA STAATS,
*President & CEO, National Association of County Behavioral Health and Developmental Disability Directors.*

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AMERICAN HOSPITAL ASSOCIATION,
*Washington, DC, July 20, 2005.*

Hon. OLYMPIA SNOWE,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR SNOWE: On behalf of the American Hospital Association's (AHA) members—4,800 hospitals, health systems and other health care organizations, and 33,000 individuals—I am writing to express our support for your bill, the Medicaid Emergency Psychiatric Care Act of 2005.

As you know, the Emergency Medical and Labor Treatment Act (EMTALA) require all hospitals, including psychiatric hospitals, to stabilize patients who come in with an emergency medical condition. But Medicaid's Institution for Mental Diseases (IMD) exclusion does not allow Medicaid reimbursement to non-public psychiatric hospitals for stabilizing care delivered to Medicaid patients between the ages of 21-64. This exclusion burdens these facilities with an unfunded mandate in fulfilling their EMTALA obligations for this patient population.

Your legislation would eliminate the IMD exclusion and allow non-public psychiatric hospitals to receive appropriate reimbursement for care provided under EMTALA to Medicaid beneficiaries between the ages of 21-64. This will relieve overcrowding in emergency departments and provide the appropriate care these patients deserve in a more timely manner.

Thank you for addressing this important issue. We support the Medicaid Emergency Psychiatric Care Act of 2005 and look forward to working with you and your colleagues to ensure swift passage of this legislation. If you have further questions, please contact the AHA's Curtis Rooney.

Sincerely,

RICK POLLACK,
*Executive Vice President.*

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AMERICAN PSYCHIATRIC ASSOCIATION,
*Arlington, VA, July 19, 2005.*

Hon. OLYMPIA SNOWE,
*U.S. Senator, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR SNOWE: On behalf of the 36,000 physician members of the American Psychiatric Association (APA), and most particularly on behalf of the patients they treat, please accept my gratitude for your Senate sponsorship of the Medicaid Emergency Psychiatric Care Act.

The Emergency Medical and Labor Treatment Act, which requires hospitals to stabilize patients in an emergency medical condition, directly conflicts with the Medicaid Institution for Mental Diseases (IMD) exclusion. The IMD exclusion prevents non-public psychiatric hospitals from receiving Medicaid reimbursement for Medicaid patients between the ages of 21-64 that have required stabilization as a result of EMTALA regulations.

Your legislation will allow non-public psychiatric hospitals to receive appropriate reimbursement for Medicaid beneficiaries between the ages of 21-64 who require emergency treatment and stabilization as required by EMTALA.

Thank you for your foresight and leadership in your lead sponsorship of the Medicaid Emergency Psychiatric Care Act. Thanks are also due to the outstanding work by Sue Walden, who ably represents you. The APA looks forward to continue working with you to progress this important legislation for Medicaid psychiatric patients and providers.

Sincerely,

STEVEN S. SHARFSTEIN,
*President.*

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AMERICAN COLLEGE OF EMERGENCY PHYSICIANS,
*Washington, DC, July 11, 2005.*

Hon. OLYMPIA SNOWE,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR SNOWE: On behalf of the 23,000 members and 53 chapters of the American College of Emergency Physicians (ACEP), I am writing to express support for your legislation, the Medicaid Emergency Psychiatric Care Act of 2005. ACEP strongly support this important effort to address the growing crisis in access to acute care services for non-elderly adults living with severe mental illness. As the nation's largest emergency medicine organization, we believe your legislation will provide needed attention and support to an area inadequately addressed to date.

The Medicaid Emergency Psychiatric Care Act will address an important conflict in federal policy that has contributed to restricted access to needed inpatient services—the Medicaid Institution for Mental Diseases (IMD) Exclusion and the Emergency Medical and Labor Treatment Act (EMTALA). EMTALA requires hospitals to stabilize patients in an emergency medical condition, while the IMD exclusion prevents certain hospitals (psychiatric hospitals) from receiving Medicaid reimbursement for Medicaid beneficiaries between the ages of 21-64 in these circumstances. Your bill will allow Medicaid funding to be directed to non-publicly owned and operated psychiatric hospitals (IMDs) for Medicaid beneficiaries between those ages who require stabilization in these settings as required by EMTALA.

We commend you and the many colleagues we hope will support this important measure and we stand prepared to do what we can to ensure its enactment.

Sincerely yours,

ROBERT E. SUTER,
*President.*

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NATIONAL ASSOCIATION OF PSYCHIATRIC HEALTH SYSTEMS,
*Washington, DC, July 19, 2005.*

Hon. OLYMPIA SNOWE,
*U.S. Senate, Russell Senate Office Building, Washington, DC.*

DEAR SENATOR SNOWE: On behalf of the members of the National Association of Psychiatric Health Systems (NAPHS) and the individuals and families that our members serve, we strongly endorse the Medicaid Emergency Psychiatric Care Act of 2005. This legislation, if approved by Congress, would result in patients receiving appropriate care for psychiatric emergencies instead of prolonged stays in emergency rooms.

We want to recognize your leadership in developing this legislation, which provides a targeted and cost-effective solution to the problem of overcrowding in emergency rooms for all, but particularly for those with mental illness. The measure has won bipartisan support from members of Congress as well as the support of key national organizations for its thoughtful approach.

Every day patients with serious mental illness are being "boarded" in hospital emergency departments or transferred to other hospitals by ambulance because of a lack of appropriate care.

This bill will enable psychiatric hospitals to receive reimbursement on the same basis as general hospitals for Medicaid patients who are in a crisis and present a danger to themselves or others. This will help general hospitals to address part of their overflow issues and ensure that patients receive appropriate treatment. It will resolve a current conflict in federal law between the Emergency Medical Treatment and Labor Act (EMTALA) and the Medicaid Institution for Mental Disease (IMD) exclusion.

Passage of the Medicaid Emergency Psychiatric Care Act is an investment that will pay off in more appropriate care for patients and more effective use of Medicaid dollars.

Sincerely,

MARK COVALL,
*Executive Director.*

MAINE HOSPITAL ASSOCIATION,
*Augusta, ME, July 29, 2005.*

Hon. OLYMPIA SNOWE,
*U.S. Senate, Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR SNOWE: On behalf of the Maine Hospital Association's 39 acute-care and specialty hospitals, I am writing in support of your bill, the Medicaid Emergency Psychiatric Care Act of 2005.

As you know, the Medicaid program, through the Institution for Mental Diseases (IMD) exclusion, prevents non-public psychiatric hospitals from receiving Medicaid reimbursement for Medicaid patients between the ages of 21–64 who require stabilization. When the Federal Government created Medicaid they prohibited Medicaid funding for services at IMDs because Washington viewed mental health services to be the responsibility of the State—particularly since at that time most psychiatric hospitals were State-owned hospitals. The Federal Government did provide funding through the DSH–IMD (Disproportionate Share Hospital Fund for Institutes for Mental Disease). Initially these funds were used solely by the private IMDs, however, in 1991, Maine, in response to a severe budget shortfall, began to shift costs associated with Augusta Mental Health Institute (AMHI) and Bangor Mental Health Institute (BMHI) into the Federal DSH–IMD pool rather than funding those costs with all general fund dollars.

In the mid-1990s the State passed a rule that entitled AMHI and BMHI to be paid first out of the DSH–IMD pool leaving the remainder for the two private hospitals. With a declining Federal cap on the DSH–IMD pool and increasing hospital expenses, there was less and less money with which to reimburse the two private psychiatric hospitals for services provided to this indigent population.

Maine has two private psychiatric hospitals: Spring Harbor Hospital in South Portland and The Acadia Hospital in Bangor. For fiscal year 2005, Acadia had inpatient admissions of 1,731 and Spring Harbor had 3,208. Adults between the ages of 21 and 64 represented nearly 75 percent of all Spring Harbor admissions in fiscal year 2005, up from 69% in 2004. In addition, Spring Harbor estimates that in fiscal year 2006, patients between the ages of 21 and 64 who cannot afford to pay for their care at Spring Harbor will receive close to $6 million in free hospital services. Both hospitals also provide a significant amount of outpatient services.

The two private hospitals play a pivotal role in the delivery of mental health services especially for low-income individuals. As the State has desired to encourage greater behavior services within communities, the Department of Behavioral and Developmental Services worked with both of these hospitals to increase the number of beds and services available to allow for certain patients to be placed in these hospitals rather than the State institutes. The inability of these two hospitals to effectively meet these patient needs would have a detrimental impact throughout the State especially because communities are already stressed attempting to develop needed community-based services.

Your legislation will allow non-public psychiatric hospitals to receive appropriate reimbursement for Medicaid beneficiaries between the ages of 21–64 who require emergency treatment and stabilization as required by EMTALA. This will relieve overcrowding in emergency departments and provide the appropriate care these patients deserve in a more timely manner.

Thank you for addressing this important issue. We support the Medicaid Emergency Psychiatric Care Act of 2005 and look forward to working with you and your colleagues to ensure swift passage of this legislation.

Sincerely,

STEVEN R. MICHAUD,
*President.*

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SPRING HARBOR HOSPITAL,
*Westbrook, ME, July 26, 2005.*

Hon. OLYMPIA J. SNOWE,
*U.S. Senate, Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR SNOWE: Writing as CEO on behalf of Spring Harbor Hospital in Maine, and a past President of the National Association of Psychiatric Health Systems, I would like to thank you for supporting legislation to enable freestanding private psychiatric hospitals in the US to receive payment for the emergency stabilization services they provide each year to thousands of Medicaid-eligible adult clients under the Emergency Medical Treatment And Labor Act (EMTALA).

As you know, it is becoming increasingly difficult for freestanding private psychiatric facilities to absorb the cost of treating Medicaid-eligible adults between the ages of 21 and 64 who are referred to them for emergency stabilization under EMTALA. At Spring Harbor alone, the cost of serving this population last year was close to $6 million.

Faced with both diminishing reimbursement streams and a concurrent rise in demand for inpatient stabilization services from overflowing emergency rooms across the country, private freestanding psychiatric facilities are quite literally caught between a rock and a hard place. In Maine and in many other places, freestanding private psychiatric hospitals are protecting their financial health by offering fewer and fewer adult psychiatric services in the inpatient setting. This tactic simply skirts the issue and creates a further void of services for individuals with acute mental illness, precisely at a time when it is widely accepted that the availability of mental health services in this country is substandard.

When all is said and done, these financial figures pale in comparison to the ultimate cost to our society when these adults fail to receive the treatment they deserve. It has been estimated that the lifetime cost of providing for an individual with an untreated serious mental illness is $10 million. Though this figure includes the financial impact of lost work days and the cost of providing Social Security disability benefits, it does not even begin to speak to the emotional toll of mental illness on friends or the scars mental illness can have on loved ones for generations to come. If we could quantify these numbers adequately, I am certain that I would not need to be writing to you today.

In closing, I would like to acknowledge the receptiveness of your office and that of Senator Collins to issues concerning the plight of the one in four adults and one in ten children in the US who will experience a mental illness this year. It is high time that the issues surrounding this illness were addressed with understanding, compassion, and a concern for our country's long-term mental health. I am both pleased and proud that the Maine congressional delegation is leading the way on these critical Issues.

Best regards,

DENNIS P. KING,
*Chief Executive Officer, Past President (2003), National Association of Psychiatric Health Systems.*

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NATIONAL ALLIANCE
FOR THE MENTALLY ILL OF MAINE,
*Augusta, ME, July 27, 2005.*

Hon. OLYMPIA SNOWE,
*U.S. Senate, Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR SNOWE: On behalf of the 1,400 members and 20 affiliates of the National Alliance for the Mentally Ill of Maine (NAMI Maine), I write to express support for your legislation, the Medicaid Emergency Psychiatric Care Act of 2005. NAMI Maine strongly supports your effort to address the growing crisis in access to acute care services for non-elderly adults living with severe mental illness. NAMI Maine's mission is to improve the quality of life of all people affected by mental illness and in this regard, we see this legislation as an attempt to address an important issue.

We know firsthand in Maine the dire consequences that occur when access to psychiatric care is not available. Like the rest of the country, Maine has dramatically reduced the number of state run psychiatric beds. One of the most appalling results of this has been the significant increase in the numbers of people with mental illness who are living in Maine's jails. A snapshot review of the Cumberland County jail last spring showed that 60 percent of the inmates were taking medication for mental health problems; a spring survey of the Kennebec County jail had the same result. Sadly, most of these people are in jail for non-violent crimes connected to their illness and their inability to obtain services to treat that illness. Maine is one of the states with the highest rates in the nation of incarceration for people with mental illness. Unfortunately, the outcomes for people with mental illness who are jailed instead of treated are abysmal—and the financial costs are also very high. It is not unusual for a person in need of a psychiatric bed in Maine t0 wait several days in the emergency room for a bed to open. Despite these statistics, the recent state budget has significantly reduced funding for mental health services. This will result in a growing shortage of community mental health services—placing additional stress on hospitals, emergency rooms, and people with mental illness and their families. The inadequate number of acute inpatient psychiatric beds will continue to be a significant problem.

Tne Medicaid Emergency Psychiatric Care Act will address an important conflict in federal policy that has contributed to restricted access to needed inpatient services—the Medicaid Institution for Mental Diseases (IMD) Exclusion and the Emergency Medical and Labor Treatment Act (EMTALA). EMTALA requires hospitals to stabilize patients in an emergency medical condition, while the IMD exclusion prevents certain hospitals (psychiatric hospitals) from receiving Medicaid reimbursement for Medicaid beneficiaries between the ages of 21–64 in these circumstances.

This important measure will allow Medicaid funding to be directed to non-publicly owned and operated psychiatric hospitals (IMDs) for Medicaid beneficiaries between the ages of 21–64 who require stabilization in these settings as required by EMTALA. Today, these hospitals are denied payment for care required under the EMTALA rules. The result is that psychiatric hospitals are forced to absorb these added costs of care to their already growing un-reimbursed care even though these patients have insurance through Medicaid. Sometimes it means that patients are discharged too soon, as a cost savings measure, only to return them to their families in a similar condition to when they were admitted.

This legislation will go a long way in addressing the growing psychiatric acute inpatient crisis, while creating fairness in the reimbursement structure for psychiatric hospitals under the limited circumstances required by the EMTALA law. Your leadership in carefully crafting and introducing this targeted legislation addressing a critical problem for persons with serious mental illness is much appreciated. NAMI looks forward to working with you and your Senate colleagues to ensure passage of this important legislation.

Sincerely,

CAROL CAROTHERS,
*Executive Director.*

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By Ms. SNOWE (for herself and Mr. BINGAMAN):

S. 1593. A bill to amend title XVIII of the Social Security Act to enhance the access of Medicare beneficiaries who live in medically underserved areas to critical primary and preventive health care benefits at Federally qualified health centers; to the Committee on Finance.

Ms. SNOWE. Mr. President, I rise today to introduce the Medicare Payment Adjustment To Community Health Centers, PATCH, Act of 2005. I am particularly pleased to introduce this bill with my good friend and colleague, Senator BINGAMAN. Two years ago we introduced a more comprehensive version of this legislation, S. 654. I am happy to report that many of the provisions in S. 654 were included in the Medicare Modernization Act of 2003. The bill I am introducing today reflects two key provisions which remain the priorities of our community health centers.

This legislation will improve Medicare beneficiaries' access to primary care services and preventive treatments by increasing access to Community Health Centers. Local, non-profit, commnnity-owned health centers, also known as Federally Qualified Health Center, FCHQs, furnish essential primary and preventive care services to low income and medically underserved communities. In many cases, community health centers are the only source of primary and preventive services to which Medicare beneficiaries have access. This is especially true for people living in America's medically underserved rural areas.

For nearly 40 years, the national network of health centers has provided high-quality, affordable primary care and preventive services. Community health centers are located in areas where care is needed but scarce, and they improve access to care for millions of Americans regardless of their insurance status or ability to pay. Their costs of care rank among the lowest, and they reduce the need for more expensive emergency, in-patient, and specialty care, saving billions for dollars for taxpayers.

Community health centers are increasingly becoming important providers of primary care and preventive services to seniors—as well as providers of on-site dental, pharmaceuical, and mental health services. In short, community health centers provide the ease of "one-stop health care shopping," meaning that seniors, instead of moving from location to location to receive comprehensive primary hearh services, can usually receive all of their essential primary care in one place.

The PATCH Act will ensure that community health centers can fully participate in the Medicare program and provide seniors with these vital services. Ensuring that Medicare pays its fair share is important to the stability of community health centers. While 17 percent of health center patients in Maine are Medicare beneficiaries, the Medicare program pays only 78 cents on the dollar for the health center costs incurred in delivering comprehensive primary care services to them. For health centers to remain a viable part of the health care delivery system, we must make changes.

Over the last 15 years, Congress has made many improvements to the Medicare program through the addition of new primary and preventive benefits, including screening mammograms, pap smears, colorectal and prostate cancer screenings, flu and pneumococcal vaccinations, bone mass measurement, and glucose monitoring and nutrition therapy for diabetics. However, Congress has not updated the Medicare law to add these crucial services to the health center reimbursement package, so health centers are denied payment for these services when provided to Medicare beneficiaries. This lack of reimbursement has caused significant losses for health centers every time they deliver these services to Medicare patients. Our bill will add these essential services to the health center package of benefits so that they can receive payment for these services.

The Medicare law has also neglected to include health care for the homeless grantees as Federal qualified health centers. The bill would also restore these centers for recognition within the Medicare statute. Our legislation is strongly supported by the National Association of Community Health Centers, and I ask unanimous consent that their letter of support be printed in the RECORD at the conclusion of my remarks.

The PATCH Act makes these two technical and straightforward changes to the Medicare program to ensure that Community Health Centers can fully participate in Medicare and provide seniors with these vital primary and preventive services. These changes are vitally important in my state of Maine and also to health centers throughout our nation. By making these two straightforward changes, we will be able to enhance the care that all Medicare beneficiaries receive, especially those living in rural and medically underserved communities. I urge my colleagues to cosponsor the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
COMMUNITY HEALTH CENTERS, INC.,
*Washington, DC, July 29, 2005.*

Hon. OLYMPIA SNOWE,
*Russell Senate Office Building,*
*Washington, DC.*

DEAR SENATOR SNOWE: On behalf of the National Association of Community Health Centers (NACHC), I am writing to express our support for your bill, the Medicare Payment Adjustment to Community Health Centers (PATCH) Act of 2005. We sincerely appreciate your continued commitment to improve the Medicare program for all health centers.

Community health centers are local, nonprofit, community-oriented health care providers serving low income and medically underserved communities. For nearly 40 years, the national network of health centers has provided high-quality, affordable primary care and preventive services, and often provide on-site dental, pharmaceutical, mental health and substance abuse services. America's health centers provide care to nearly one million Medicare beneficiaries; furnishing essential primary and preventive care services in underserved areas of the country. Health centers provide "one-stop health care," allowing seniors to receive all of their essential primary care in one convenient location.

Over the last 15 years, Congress has made many improvements to the Medicare program through the addition of new primary and preventive benefits, including: screening mammograms, pap smears, colorectal & prostate cancer screenings, flu/pneumococcal vaccinations, glucose monitoring and self management training for diabetics, bone mass measurement, and medical nutrition therapy for diabetics. Unfortunately, Congress did not update the Medicare law to add these vital services to the health center reimbursement package, thus denying health centers payment for these services when provided to Medicare beneficiaries. This lack of reimbursement has caused significant losses for health centers every time they deliver these services to Medicare patients, even though it was the clear intent of Congress to cover these services for all beneficiaries.

Health Centers are pleased that your bill remedies this issue by updating the Medicare law to add these essential services to the health center package of benefits. We strongly believe that this will allow health centers to build on their record of providing quality care to seniors.

We also are appreciative that your legislation would correct a long-standing oversight relating to Health Care for the Homeless grantees. Your legislation would ensure that the original intent of Congress was reflected in the law.

Thank you for your leadership in addressing these critical issues and we stand ready to assist you in your efforts to enact this important legislation.

Sincerely,

DANIEL R. HAWKINS, Jr.,
*Vice President for Federal, State,*
*and Public Affairs.*

By Mr. CORZINE:

S. 1594. A bill to require financial services providers to maintain customer information security systems and to notify customers of unauthorized access to personal information, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. CORZINE. Mr. President, identity theft is a serious and growing concern facing our Nation's consumers. According to the Federal Trade Commission, nearly 10 million Americans were the victims of identity theft in 2003, which represents a tripling of the number of victims from just 3 years earlier. Research shows that there are more than 13 identity thefts every minute.

According to the Identity Theft Resource Center, identity theft victims spend on average nearly 600 hours recovering from the crime. Additional research indicates the costs of lost wages and income as a result of the crime can soar as high as $16,000 per incident. No one wants to suffer this kind of hardship.

Technological innovation has delivered tremendous benefits to our economy in the form of increased efficiency, expanded access, and lower costs. And it has spurred the creation of an entire industry of data collectors and brokers who profit from the packaging and commoditization of one's personal and financial information. But, regrettably, this technology has also provided identity thieves with an attractive target, and relative anonymity, with which to ply their sinister trade.

While many sectors of our economy are affected, financial institutions face a particularly difficult challenge. By definition, the information they use to conduct their daily business is sensitive, because it is tied so closely to their customers' finances. A breach of this data has the potential to cause large and damaging losses in a very short amount of time.

Events over the past several months have further served to highlight how serious this risk has become. The announcement not long ago by Citigroup that a box of computer tapes containing information on 3.9 million customers was lost by United Parcel Service in my own state of New Jersey while in transit to a credit reporting agency is the latest in a line of recent, high profile incidents. In fact, I myself was a victim of a similar loss of computer tapes by Bank of America earlier this year.

In both of these cases, Citigroup and Bank of America acted responsibly and notified possible victims in a prompt and timely manner. But this is not always the case. And both of these cases involved accidental loss—not even active attempts to steal personal financial information.

At the very least consumers deserve to be made aware when their personal information has been compromised. Right now, they must hope that the laws of a few individual states, such as California, apply to their case, or that victimized institutions will act responsibly on their own.

In the event that an information breach does occur, the legislation I am introducing today, the "Financial Privacy Protection Act of 2005," would require prompt notification of all victims in all cases, subject, of course, to the concerns of law enforcement agencies. Based on this notification, victims could then take immediate action to include an extended fraud alert in their credit files to minimize the damage done.

But on top of notification, customers need to know that if they trust a bank with their sensitive personal information—which they must do in order to engage in a financial transaction—that that bank will be doing everything in its power to protect their information.

For that purpose, the "Financial Privacy Protection Act of 2005" would also direct financial regulators, in concert with the Federal Trade Commission, to establish strong and meaningful standards for the protection of information maintained by financial institutions on behalf of their customers. Because these measures are so important, the chief executive officer or the chief compliance officer of every institution must personally attest as to the effectiveness of these safeguards.

It is imperative that we take action to combat the growing threat of identity theft. This crime harms individuals and families, and drags down our economy in the form of lost productivity and capital. We can do more and we must do more.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1594

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Financial Privacy Protection Act of 2005".

### SEC. 2. PREVENTION OF IDENTITY THEFT; NOTIFICATION OF UNAUTHORIZED ACCESS TO CUSTOMER INFORMATION.

Subtitle B of title V of the Gramm-Leach-Bliley Act (15 U.S.C. 6821 et seq.) is amended—

(1) by striking section 525;

(2) by redesignating sections 522 through 524 as sections 523 through 525, respectively;

(3) in section 525, as redesignated, by striking "section 522" and inserting "section 523"; and

(4) by inserting after section 521 the following:

### "SEC. 522. PREVENTION OF IDENTITY THEFT; NOTIFICATION OF UNAUTHORIZED ACCESS TO CUSTOMER INFORMATION.

"(a) CUSTOMER INFORMATION SECURITY SYSTEM REQUIRED.—

"(1) IN GENERAL.—In accordance with regulations issued under paragraph (2), each financial institution shall develop and maintain a customer information security system, including policies, procedures, and controls designed to prevent any breach with respect to the customer information of the financial institution.

"(2) REGULATIONS.—

"(A) IN GENERAL.—Each of the Federal functional regulators shall issue regulations regarding the policies, procedures, and controls required by paragraph (1) applicable to the financial institutions that are subject to their respective enforcement authority under section 523.

"(B) SPECIFIC REQUIREMENTS.—The regulations required by subparagraph (A) shall—

"(i) require the chief compliance officer or chief executive officer of a financial institution to personally attest that the customer information security system of the financial institution is in compliance with Federal and other applicable standards and is subject to an ongoing system of monitoring;

"(ii) require audits by the issuing agency (or submitted to the issuing agency by an independent auditor paid for by the financial institution to audit the financial institution on behalf of the issuing agency) of the customer information security system of a financial institution not less frequently than once every 5 years;

"(iii) require the imposition by the issuing agency of appropriate monetary penalties for failure to comply with applicable customer information security standards; and

"(iv) include such other requirements or restrictions as the issuing agency considers appropriate to carry out this section.

"(C) EFFECTIVE DATE.—Regulations issued under this paragraph shall become effective 6 months after the effective date of the Financial Privacy Protection Act of 2005.

"(b) NOTIFICATION TO CUSTOMERS OF UNAUTHORIZED ACCESS TO CUSTOMER INFORMATION.—

"(1) FINANCIAL INSTITUTION REQUIREMENT.—In any case in which there has been a breach at a financial institution, or such a breach is reasonably believed to have occurred, the financial institution shall promptly notify—

"(A) each customer whose customer information was or is reasonably believed to have been accessed in connection with the breach or suspected breach;

"(B) the appropriate Federal functional regulator or regulators with respect to the financial institutions that are subject to their respective enforcement authority;

"(C) each consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

"(D) appropriate law enforcement agencies, in any case in which the financial institution has reason to believe that the breach or suspected breach affects a large number of customers, including as described in paragraph (5)(A)(iii), subject to regulations of the Federal Trade Commission.

"(2) OTHER ENTITIES.—For purposes of paragraph (1), any person that maintains customer information for or on behalf of a financial institution shall promptly notify the financial institution of any case in which such customer information has been, or is reasonably believed to have been, breached.

"(3) TIMELINESS OF NOTIFICATION.—Notification required by this subsection shall be made—

"(A) promptly and without unreasonable delay, upon discovery of the breach or suspected breach; and

"(B) consistent with—

"(i) the legitimate needs of law enforcement, as provided in paragraph (4); and

"(ii) any measures necessary to determine the scope of the breach or restore the reasonable integrity of the customer information security system of the financial institution.

"(4) DELAYS FOR LAW ENFORCEMENT PURPOSES.—Notification required by this subsection may be delayed if a law enforcement agency determines that the notification would seriously impede a criminal investigation, and in any such case, notification shall be made promptly after the law enforcement agency determines that it would not compromise the investigation.

"(5) FORM OF NOTICE.—Notification required by this subsection may be provided—

"(A) to a customer—

"(i) in writing;

"(ii) in electronic form, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in section 101 of the Electronic Signatures in Global and National Commerce Act;

"(iii) if the number of people affected by the breach exceeds 500,000 or the cost of notification exceeds $500,000, or a higher number or numbers determined by the Federal Trade Commission, such that the cost of providing notifications relating to a single breach or suspected breach would make other forms of notification prohibitive, or in any case in which the financial institution certifies in writing to the Federal Trade Commission that it does not have sufficient customer contact information to comply with other forms of notification with respect to some customers, then for those customers, in the form of—

"(I) a conspicuous posting on the Internet website of the financial institution, if the financial institution maintains such a website; and

"(II) notification through major media in all major cities and regions in which the customers whose customer information is suspected to have been breached reside, that a breach has occurred, or is suspected, that compromises the security, confidentiality, or integrity of customer information of the financial institution; or

"(iv) in such additional forms as the Federal Trade Commission may by rule prescribe; and

"(B) to consumer reporting agencies and law enforcement agencies (where appropriate), in such form as the Federal Trade Commission shall by rule prescribe.

"(6) CONTENT OF NOTIFICATION.—Each notification to a customer under this subsection shall include—

"(A) a statement that—

"(i) credit reporting agencies have been notified of the relevant breach or suspected breach; and

"(ii) notwithstanding any other provision of law, the customer may elect to place a fraud alert in the file of the consumer to make creditors aware of the breach or suspected breach, and to inform creditors that the express authorization of the customer is required for any new issuance or extension of credit (in accordance with section 605A of the Fair Credit Reporting Act); and

"(B) such other information as the Federal Trade Commission determines is appropriate.

"(7) COMPLIANCE.—Notwithstanding paragraph (5), a financial institution shall be deemed to be in compliance with this subsection, if—

"(A) the financial institution has established a comprehensive customer information security system that is consistent with the standards prescribed by the appropriate Federal functional regulator under subsection (a);

"(B) the financial institution notifies affected customers and consumer reporting agencies in accordance with its own internal information security policies in the event of a breach or suspected breach; and

"(C) such internal security policies incorporate notification procedures that are consistent with the requirements of this subsection and the rules of the Federal Trade Commission under this subsection.

"(8) RULES OF CONSTRUCTION.—

"(A) IN GENERAL.—Compliance with this subsection by a financial institution shall not be construed to be a violation of any provision of subtitle A, or any other provision of Federal or State law prohibiting the disclosure of financial information to third parties.

"(B) LIMITATION.—Except as specifically provided in this subsection, nothing in this subsection requires or authorizes a financial institution to disclose information that it is otherwise prohibited from disclosing under subtitle A or any other applicable provision of Federal or State law.

"(c) CIVIL PENALTIES.—

"(1) DAMAGES.—Any customer adversely affected by an act or practice that violates this section may institute a civil action to recover damages arising from that violation.

"(2) INJUNCTIONS.—Actions of a financial institution in violation or potential violation of this section may be enjoined.

"(3) CUMULATIVE EFFECT.—The rights and remedies available under this section are in addition to any other rights and remedies available under any other provision of applicable State or Federal law.

"(d) CIVIL ACTIONS BY STATE ATTORNEYS GENERAL.—

"(1) AUTHORITY OF STATE ATTORNEYS GENERAL.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by an act or practice that violates this section, the State may bring a civil action on behalf of the residents of that State in a district court of the United States of appropriate jurisdiction, or any other court of competent jurisdiction—

"(A) to enjoin that act or practice;

"(B) to enforce compliance with this section;

"(C) to obtain—

"(i) damages in the sum of actual damages, restitution, or other compensation on behalf of affected residents of the State; and

"(ii) punitive damages, if the violation is willful or intentional; or

"(D) obtain such other legal and equitable relief as the court may consider to be appropriate.

"(2) RULE OF CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this section shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State—

"(A) to conduct investigations;

"(B) to administer oaths and affirmations; or

"(C) to compel the attendance of witnesses or the production of documentary and other evidence.

"(3) VENUE.—Any action brought under this subsection may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1931 of title 28, United States Code.

"(4) SERVICE OF PROCESS.—In an action brought under this subsection, process may be served in any district in which the defendant—

"(A) is an inhabitant; or

"(B) may be found.".

### SEC. 3. DEFINITIONS.

Section 527 of the Gramm-Leach-Bliley Act (15 U.S.C. 6827) is amended—

(1) by redesignating paragraph (4) as paragraph (6);

(2) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(3) by inserting before paragraph (2), as redesignated, the following:

"(1) BREACH.—The term 'breach'—

"(A) means the unauthorized acquisition, disclosure, or loss of computerized data or paper records which compromises the security, confidentiality, or integrity of customer information, including activities proscribed under section 521; and

"(B) does not include a good faith acquisition of customer information by an employee or agent of a financial institution for a business purpose of the institution, if the customer information is not subject to further unauthorized disclosure.";

(4) in paragraph (2), as redesignated—

(A) by striking "person) to whom" and inserting the following: "person)—

"(A) to whom"; and

(B) by striking the period at the end and inserting the following: "; and

"(B) with respect to whom the financial institution maintains information in any form, regardless of whether the financial institution is providing a product or service to or on behalf of that person.";

(5) in paragraph (3), as redesignated—

(A) by striking "institution' means any" and inserting the following: "institution'—

"(A) means any";

(B) by inserting "(regardless of whether the financial institution is providing any product or service to or on behalf of that customer)" before "and is identified"; and

(C) by striking the period at the end and inserting the following: "; and

"(B) for purposes of section 522, includes the last name of an individual in combination with any 1 or more of the following data elements, when either the name or the data elements are not encrypted:

"(i) Social security number.

"(ii) Driver's license number or State identification number.

"(iii) Account number, credit or debit card number, or any required security code, access code, or password that would permit access to a financial account of the individual.

"(iv) Such other information as the Federal functional regulators determine is appropriate with respect to the financial institutions that are subject to their respective enforcement authority."; and

(6) by inserting before paragraph (6), as redesignated, the following:

"(5) FEDERAL FUNCTIONAL REGULATOR.—The term 'Federal functional regulator' has the same meaning as in section 509, and includes the Federal Trade Commission.".

### SEC. 4. INCLUSION OF FRAUD ALERTS IN CONSUMER CREDIT REPORTS.

Section 605A of the Fair Credit Reporting Act (15 U.S.C. 1681c-1) is amended—

(1) in subsection (b)(1), by inserting "or proof of a notification of a breach or suspected breach under section 522(b)(1)(C) of the Gramm-Leach-Bliley Act" after "theft report"; and

(2) by adding at the end the following:

"(i) NO ADVERSE ACTION BASED SOLELY ON FRAUD ALERT.—It shall be a violation of this title for the user of a consumer report to take any adverse action with respect to a consumer based solely on the inclusion of a fraud alert, extended alert, or active duty alert in the file of that consumer, as required by this subsection.".

**SEC. 5. STUDIES AND REPORTS ON IMPROVING PROTECTION OF CUSTOMER INFORMATION.**

(a) ALTERNATIVE INFORMATION STORAGE METHODS.—

(1) STUDY.—The Federal Trade Commission shall conduct a study of alternative technologies, including biometrics, that may be used by financial institutions and other businesses to enhance the safeguarding of the customer information of financial institutions and other sensitive personal information. Such study shall include an analysis of how to ensure that such information does not become widespread or subject to theft.

(2) REPORT TO CONGRESS.—The Commission shall submit a report to the Congress on the results of the study conducted under paragraph (1) not later than 6 months after the date of enactment of this Act.

(b) TRANSPORTATION OF CUSTOMER INFORMATION.—

(1) STUDY.—The Comptroller General of the United States, in consultation with the Federal functional regulators and appropriate law enforcement agencies, shall conduct a study of the cross country transport of the customer information of financial institutions and other sensitive personal information by or on behalf of financial institutions and other businesses.

(2) REPORT TO CONGRESS.—The Comptroller General shall submit a report to the Congress on the results of the study conducted under paragraph (1) not later than 6 months after the date of enactment of this Act, including any recommendations on ways that financial institutions may best reduce the risk of compromise, breach, or loss of the customer information of financial institutions and other sensitive personal information during transport.

**SEC. 6. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect 6 months after the date of enactment of this Act.

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By Mr. ENZI:

S. 1597. A bill to award posthumously a Congressional gold medal to Constantino Brumidi; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, it is a special pleasure for me, as an Italian American to introduce legislation to the Senate that will mark the 200th anniversary of the birth of Constantino Brumidi.

As I introduce this legislation, I do so to recognize not only Constantino Brumidi, but all those who have come to our shores to pursue a dream and share in the blessings of liberty and freedom that is our birthright as American citizens.

For Constantino Brumidi, there was no higher honor or greater calling than to be an American citizen. It was a title he sought and then signed with pride on some of his best work.

That experience is by no means unique to Constantino Brumidi. The same call that he heard to come to America continues to be heard every day as more and more people from all over the world come to the United States in the pursuit of a dream and the freedom that marks our way of life.

For my own family, it wasn't all that long after Constantino Brumidi left for America that my own ancestors heard the call for freedom and came here as well. Just like Constantino Brumidi they left the beauty of Italy—its mountains and its sunny shores—to come and be a part of the great adventure that is the United States.

That is my background, and when I came to Washington to serve in the Senate, I found a renewed sense of purpose and inspiration every time I walked through the corridors of the Capitol Building and saw Constantino Brumidi's artwork so prominently and proudly displayed. This is a special place and if you walk through these halls late at night you can almost hear the whispers of the past and the hushed echoes of the voices of our Founding Fathers and past Senators and Representatives as they debated and discussed the issues of the day. Statuary Hall, home to so many of our Nation's heroes particularly draws you near as the Chamber's historical record calls to mind the legends of our past—Washington, Jefferson, Lincoln, Adams and Franklin.

That is when it hits you—that the story of the United States isn't a random series of events, but the result of the vision and heartfelt commitment of those who played an active role in our history. As an Italian American it gives me a great sense of pride to know that one of those great Americans was Constantino Brumidi.

The history books tell us that Constantino Brumidi was born in Rome of Italian and Greek heritage. He had a great talent for painting that revealed itself at an early age, and it was already beginning to earn him a reputation as one of Europe's great artists when he heard a different call—a call to make beautiful the home of democracy and liberty—the United States of America.

One day, after completing a commission, Constantino Brumidi stopped in Washington, DC, to visit the Capitol on his way home. Looking at its tall, blank walls and empty corridors, he must have felt the excitement and inspiration only an artist facing an empty canvas can know. On that day he began what was more than an assignment for him—it was a labor of love—as he brought to life the great moments in American history for all to see on the walls and ceiling of this great building. His efforts were destined to earn him the title of America's Michelangelo.

There aren't many quotes that are attributed to Constantino Brumidi, but one that appears on the marker where he is buried is a beautiful expression of his love for our country:

"My one ambition and my daily prayer is that I may live long enough to make beautiful the Capitol of the one country on earth in which there is liberty."

That is the philosophy that guided Constantino Brumidi's hand as it fired his imagination and inspired his creations in the Capitol. Imagine what he would think if he could walk these corridors today. He would see that his beautiful work has stood the test of time and gained the appreciation and admiration of countless visitors to our shores and our Capitol Building. He would see that it continues to thrill the millions who flock here every year. I believe he would be both proud and humbled to be the center of such attention.

It is only fitting that over the years Constantino Brumidi has become a symbol of all those who came to the United States in pursuit of a dream that we all too often take for granted. It was freedom and liberty that drew Constantino Brumidi to our land and it is what continues to draw us together, American, Italian, Greek, Irish and every other nationality you can name to make this world a better place for us all to live.

Throughout the Capitol, each carefully planned stroke of Brumidi's brush will continue to remind us that we are blessed and truly fortunate to live in a land of promise and opportunity where we are all called to greatness. Constantino Brumidi dared to be great and he will be forever remembered for the gifts and talents he shared with us.

The legislation I am introducing today will ensure that the legacy he left us all as Americans is never forgotten. Constantino Brumidi wanted one thing—to be forever remembered as an Artist Citizen of the United States—the home of liberty that he loved. We must all ensure his story continues to be told so that it may continue to serve as a source of inspiration and encouragement to all those who come to our shores that any one of them can make a difference in the world by making the most of the opportunities that are available to them here in America.

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By Mr. HATCH (for himself, Mr. CRAIG, Mr. BURNS, Mr. SMITH, Mrs. LINCOLN, and Mr. SCHUMER):

S. 1598. A bill to amend the Internal Revenue Code of 1986 to provide for a nonrefundable tax credit against income tax for individuals who purchase a residential safe storage device for the safe storage of firearms; to the Committee on Finance.

Mr. HATCH. Mr. President, if I may, I would like to speak very briefly on another topic. I am an unqualified supporter of the "Protection of Lawful Commerce in Arms Act," on which we will be voting later today.

My colleague, Senator CRAIG, should be commended for his hard work on this important legislation, which will protect gun manufacturers and distributors from unwarranted lawsuits.

While we must always be vigilant in protecting our rights—including our Second Amendment rights—it is also critical that we encourage responsible exercise of those rights. For that reason, I want to say a few words in support of the "Child Protection and Home Safety Act of 2005," which I am introducing today. This Act would promote the safe storage of firearms by providing a 25 percent tax credit toward the purchase of a gun safe, up to a maximum of $250. I am pleased that my colleagues, Senators SCHUMER, CRAIG, BURNS, LINCOLN, and SMITH, are cosponsoring this important bipartisan legislation. Our bill will encourage gun owners to purchase gun safes for the safe storage of firearms, thereby preventing the mishandling of guns and keeping our families and communities safer.

This bill has widespread support from numerous national organizations, including the National Association of Police Organizations, the American Association of Suicidology, the American Ethical Union, the National Black Police Officers Association, and SAVE, the Suicide Awareness Voice of Education. In my home State of Utah, law enforcement has given this bill unqualified support. In addition to the Utah Sheriff's Association and the Utah Police Corps, the Utah Highway Patrol Association has enthusiastically endorsed this legislation.

Mr. President, I will ask unanimous consent to include a copy of their letter of support in the RECORD.

Many of the guns used in violent acts are acquired on the black market, having been stolen from the homes of law abiding Americans. Nearly 10 percent of state prison inmates incarcerated on gun crimes say the weapons they used were stolen. Safely securing a firearm within a person's home is a fundamental way to help ensure that firearms do not fall into the wrong hands. One important step that can be taken in this regard is for families to lock firearms within a theft-resistant safe. This bill, by encouraging the purchase and use of gun safes, will significantly reduce the rate of stolen guns, thereby reducing the incidents of homicides and violent crimes.

Another problem plaguing America today is that of children gaining access to their parents' firearms and using those firearms to commit homicide or suicide. The school shootings in Columbine, Santee, Lake Worth, Florida, Fort Gibson, Oklahoma and Deming, New Mexico, are a sad legacy we hope to leave far behind us. It is the responsibility of gun owners to ensure that our children cannot gain access to firearms and unintentionally or intentionally use those firearms to harm themselves or someone else. This bill, by encouraging gun owners to lock up their firearms in gun safes, will make it more difficult for children to access their parents' guns.

Utah is home to several fine manufacturers of gun safes. The employees at companies such as Liberty, Fort Knox, and others know that while there are many ways to attempt to secure a firearm, gun safes are the best way to reliably secure firearms and keep them out of the hands of those who should not have access to them. Other methods of securing firearms may only give the purchaser a false sense of security.

Trigger locks do not prevent loading and can easily be opened by a child with a screwdriver. Cable locks can easily be cut open with a simple wire-cutter. Locked case boxes are small and light and can easily be picked up and carried away by a thief.

Quality gun safes can provide the security our children and our communities deserve. And through the vehicle of a tax credit, this bill encourages gun safety while preserving Second Amendment liberties.

I want to thank everyone who has worked with us to craft this bill. By encouraging gun owners to purchase residential gun safes for the safe storage of firearms we move a little bit closer to creating a safer America.

Mr. President, I urge all of my colleagues to support the "Child Protection and Home Safety Act of 2005," and I ask unanimous consent that the text of the bill and the letter to which I referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1598

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Protection and Home Safety Act of 2005".

### SEC. 2. CREDIT FOR RESIDENTIAL GUN SAFE PURCHASES.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

### "SEC. 25C. PURCHASE OF RESIDENTIAL GUN SAFES.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the amount paid or incurred by the taxpayer during such taxable year for the purchase of a qualified residential gun safe.

"(b) LIMITATIONS.—

"(1) MAXIMUM CREDIT.—The credit allowed under subsection (a) with respect to any qualified residential gun safe shall not exceed $250.

"(2) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) for any taxable year exceeds the limitation imposed by section 26(a) for such taxable year reduced by the sum of the credits allowable under this subpart (other than this section and section 23), such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year. No credit may be carried forward under this subsection to any taxable year following the third taxable year after the taxable year in which the purchase or purchases are made. For purposes of the preceding sentence, credits shall be treated as used on a first-in first-out basis.

"(c) QUALIFIED RESIDENTIAL GUN SAFE.—For purposes of this section, the term 'qualified residential gun safe' means a container not intended for the display of firearms which is specifically designed to store or safeguard firearms from unauthorized access and which meets a performance standard for an adequate security level established by objective testing.

"(d) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter with respect to any expense which is taken into account in determining the credit under this section.

"(2) MARRIED COUPLES MUST FILE JOINT RETURN.—If the taxpayer is married at the close of the taxable year, the credit shall be allowed under subsection (a) only if the taxpayer and taxpayer's spouse file a joint return for the taxable year.

"(3) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703.

"(e) ELECTION TO HAVE CREDIT NOT APPLY.—A taxpayer may elect to have this section not apply for any taxable year.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to ensure that residential gun safes qualifying for the credit meet design and performance standards sufficient to ensure the provisions of this section are carried out.

"(g) STATUTORY CONSTRUCTION; EVIDENCE; USE OF INFORMATION.—

"(1) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed—

"(A) as creating a cause of action against any firearms dealer or any other person for any civil liability, or

"(B) as establishing any standard of care.

"(2) EVIDENCE.—Notwithstanding any other provision of law, evidence regarding the use or nonuse by a taxpayer of the tax credit under this section shall not be admissible as evidence in any proceeding of any court, agency, board, or other entity for the purposes of establishing liability based on a civil action brought on any theory for harm caused by a product or by negligence, or for purposes of drawing an inference that the taxpayer owns a firearm.

"(3) USE OF INFORMATION.—No database identifying gun owners may be created using information from tax returns on which the credit under this section is claimed.".

(b) CONFORMING AMENDMENT.—Section 6501(m) of the Internal Revenue Code of 1986 is amended by inserting "25C(e)," before "30(d)(4),".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Purchase of residential gun safes.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

HEBER CITY POLICE DEPARTMENT,
*Heber City, UT.*

Hon. ORRIN G. HATCH,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR HATCH: The Utah Chiefs of Police Association enthusiastically endorses legislation which would provide a 25% tax credit toward the purchase of a gun safe, up to a maximum of $250.

This legislation would encourage gun owners to purchase gun safes for the safe storage of firearms. An increase in the use of gun safes will help prevent the theft of firearms, reducing incidents of suicide, homicide and violent crimes.

Senator Hatch, we urge you to introduce this legislation in the Senate, support it and use your best efforts to see that it gets passed. The passage of this vital legislation will prevent the mishandling of guns and keep our families and communities safer.

Thank you in advance for all your work and your support of this matter.

Sincerely,

Chief ED RHOADES,
*President,*
*Utah Chiefs of Police Association.*

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By Mr. MCCAIN (for himself, Mr. ENSIGN, AND MR. KYL):

S. 1599. A bill to repeal the perimeter rule for Ronald Reagan Washington National Airport, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. MCCAIN. Mr. President, I am pleased to be joined by Senators ENSIGN and KYL in introducing the Abolishing Aviation Barriers Act of 2005. This bill would remove the arbitrary restrictions that prevent Americans from having an array of options for nonstop air travel between airports in western States and LaGuardia International Airport "LaGuardia", and Ronald Reagan Washington National Airport, "Washington National".

LaGuardia restricts the departure or arrival of nonstop flights to or from airports that are farther than 1,500 miles from LaGuardia. Washington National has a similar restriction for nonstop flights to or from airports 1,250 miles from Washington National. These restrictions are commonly referred to as the "perimeter rule." This bill would abolish these archaic limitations that reduce consumers' options for convenient flights and competitive fares.

The original purpose of the perimeter rule was to promote LaGuardia and Washington National as airports for business travelers flying to and from East Coast and Midwest cities and to promote traffic to other airports by diverting long haul flights to Newark and Kennedy airports in the New York area and the Dulles airport in the Washington area. However, over the years, Congress has rightly granted numerous exceptions to the perimeter rule because the air traveling public is eager for travel options. Today, there are nonstop flights between LaGuardia and Denver and between Washington National and Denver, Las Vegas, Los Angeles, Phoenix, Salt Lake City and Seattle. Rather than continuing to take a piecemeal approach to promoting consumer choice, I urge Congress to take this opportunity once and for all to do away with this outdated rule.

As many in this body know, I have been fighting against the perimeter rule for years. I continue to believe that Americans should have access to air travel at the lowest possible cost and with the most convenience for their schedule. Therefore, I have always advocated for the removal of any artificial barrier that prevents free market competition. Last I co-sponsored legislation to repeal the "Wright Amendment" which prohibits flights from Dallas" Love Field airport to 43 States. This week I am proud to come together with colleagues once again to eliminate another unnecessary restraint through the Abolishing Aviation Barriers Act of 2005.

Some opponents, mainly those with parochial interests, have criticized me over the years for my efforts to remove the perimeter rule for Washington National, particularly because such removal would allow flights between Phoenix and Tucson and Washington National. Due to such criticism, I made a pledge in 1998 that I would not take such flights if they were made available. Shortly thereafter, the Federal Aviation Administration granted an exemption for two nonstop flights per day between Washington National and Phoenix. I have never taken these flights. Instead I have routinely used connecting flights or flown out of Dulles International Airport. Being a frequent flier and having flown from both Dulles and Kennedy in the past few months, I can assure my colleagues, that both airports have enormous business and no longer need to be "fed" long haul traffic to promote airport usage.

In fact, a 1999 study by the Transportation Research Board stated that perimeter rules "no longer serve their original purpose and have produced too many adverse side effects, including barriers to competition . . . The rules arbitrarily prevent some airlines from extending their networks to these airports; they discourage competition among the airports in the region and among the airlines that use these airports; and they are subject to chronic attempts by special interest groups to obtain exemptions."

That same year, the Government Accountability Office, GAO, stated that the "practical effect" of the perimeter rule "has been to limit entry" of other carriers. The GAO found that airfares at LaGuardia and Washington National are approximately 50 percent higher on average than fares at similar airports unconstrained by the perimeter rule. Such an anticompetitive rule should not remain in effect, particularly where its anticompetitive impact has long been recognized. For this reason, I will continue the struggle to try to remove the perimeter rule and other anticompetitive restrictions that increase consumer costs and decrease convenience for no apparent benefit.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1599

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Abolishing Aviation Barriers Act of 2005".

**SEC. 2. RONALD REAGAN WASHINGTON NATIONAL AIRPORT.**

(a) IN GENERAL.—Chapter 449 of title 49, United States Code, is amended by striking section 49109.

(b) CLERICAL AMENDMENT.—The chapter analysis for chapter 449 of title 49, United States Code, is amended by striking the item relating to section 49109 and inserting the following:

"44901. Repealed".

**SEC. 3. TERMINATION OF FEDERAL SUPPORT FOR PERIMETER RULE AT NEW YORK LAGUARDIA AIRPORT.**

Notwithstanding any other provision of law, no Federal funds may be obligated or expended after the date of enactment of this Act to enforce the Port Authority of New York and New Jersey rule banning flights beyond 1,500 miles (or any other flight distance related restriction), from arrival or departure at New York LaGuardia Airport.

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By Ms. SNOWE (for herself and Mr. HATCH):

S. 1600. A bill to amend the Communications Act of 1934 to ensure full access to digital television in areas served by low-power television, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I have the support of many of my colleagues on the Senate Committee on Commerce, Science and Transportation to introduce legislation to help rural America transition to an age of digital television. Television is an important media outlet for local news, weather and information. Years ago, it was decided that the United States should transition to a higher standard of television service. Digital television is much more than simply a sharper picture; it allows for an increase in the number of channels, more efficient use of spectrum and many new features for consumers. As the Senate considers broader digital television transition legislation, it is important not to leave rural America behind.

The bill I introduce today is aimed to assist translator stations and low power analog stations. Translator stations are small stations that repeat a signal from full power stations so that the signal may be reached in remote areas. Low power analog TV stations are television stations that typically serve smaller, rural communities. While translators and low power analog TV stations are located in many parts of the country, most are concentrated in rural areas, including many parts of Maine.

There has been a long time understanding that low power stations would not be a part of the full power digital television transition. This understanding, however, does not mean that Congress can simply look away. We must ensure that low power stations have the necessary time and adequate funds to move into the digital age. The Digital Low Power Television Transition Act aims to address these needs.

First, the bill I am introducing today puts a deadline for the low power digital televison transition four years out from whatever the hard date is that Congress ultimately decides for the full power digital television transition. Full power stations have had years to transition to digital. Low power stations have yet to even receive their digital allocations, and therefore need additional time to upgrade equipment. This delay will also allow consumers in rural areas to continue to use analog television sets to receive over-the-air signals until digital television equipment becomes more prevalent in small town consumer electronics stores.

Second, the Digital Translator and Low Power Television Transition bill establishes a grant program within the National Telecommunications and Information Agency, NTIA, to help defray the cost of upgrading translators and low power television stations from analog to digital. This money for the grant program would come from a trust fund set up with proceeds of the spectrum auctions that will take place because of the full power digital television transition. The Federal Communications Commission, FCC, estimates that approximately $100 million will be needed for the 4474 translators and 2071 low power analog and to upgrade. The trust fund's size reflects the FCC's estimate.

The goal of this Act is to assist the rural, low power stations without interrupting the greater digital televison transition. Because of the secondary status of translators and low power stations, the auction of full power analog spectrum will remain unaffected. These stations do play an important role in rural communities, therefore this bill calls upon the FCC to report to Congress on the status of translators and low power analog.

This bill is not meant to be a comprehensive approach to the digital television transition. It is merely a solution to one of the many questions Congress will face this Congress. Rural America deserves the same benefits that digital televison will bring that will be available in urban areas. This Act gives translators, low power analog and Class A stations the assistance they need to smoothly transition to digital.

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By Mr. GRASSLEY (for himself, Mr. BAYH, and Mrs. CLINTON):

S. 1602. A bill to amend title XIX of the Social Security Act require States to disregard benefits paid under long-term care insurance for purposes of determining medicaid eligibility, to expand long-term care insurance partnerships between States and insurers, to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, the use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs, to establish home and community based services as an optional medicaid benefit, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased to join my colleagues Senator BAYH and Senator CLINTON in introducing the Improving Long-term Care Choices Act. This legislation sets forth a series of proposals aimed at improving the accessibility of long-term care insurance and promoting awareness about the protection that long-term care insurance can offer. It also seeks to broaden the availability of the types of long-term care services such as home- and community-based care, which many folks prefer to institutional care.

Before I begin my discussion of the merits of the legislation that I am introducing today, I want to take this opportunity to once again emphasize my commitment to enacting the Family Opportunity Act. I have worked to get the Family Opportunity Act enacted for many years now.

I have been motivated to work so hard because I have been deeply moved by a number of stories from families, both from my State of Iowa and elsewhere, who have had to turn down promotions, or even put their child with a disability up for adoption in order to secure for these children the medical services they so desperately need.

The Family Opportunity Act would provide a State option to allow families with disabled children to "buy in" to the Medicaid program; establish mental health parity in Medicaid Home and Community Based Waiver programs; establish Family to Family Health Information Centers and restore Medicaid eligibility for certain SSI beneficiaries.

As part of the on-going negotiations relative to the FOA, many stakeholders have agreed that a modification of a feature of the President's New Freedom Initiative, a demonstration program known as "Money Follows the Person" should be enacted along with the FOA. Money Follows the Person allows the Secretary to provide grants to states to increase the use of home and community based care and provides States a financial incentive for the first year to do so.

I want stakeholders in the disability community as well as the many organizations who support the Family Opportunity Act to understand that the legislation I am introducing today compliments rather than supplants my efforts to enact FOA and Money Follows the Person. I believe that we should provide a wide array of options to the states to encourage them to identify and eliminate barriers to community living including access to consumer direction and respite care.

Long-term care services can be prohibitively expensive. Just one year in a nursing home can cost well over $50,000. In many cases, individuals deplete their savings and resources paying for long-term and ultimately qualify for Medicaid coverage. Right now, Medicaid pays for the bulk of long-term care services in this country. In 2002 alone, we spent nearly $93 billion on long-term care services under Medicaid. With our aging population, one thing is clear: spending will only increase.

When most people think about purchasing long-term care insurance, they think, "that's something I can put off until tomorrow." We need to change the perception because the older you are when you first buy coverage, the more expensive the premiums are.

Our legislation calls for the Secretary to educate folks about the protection that long-term care insurance can offer. We envision people having the opportunity to compare policies available in their States. Among other means, this could be accomplished through an internet website for example.

Making people aware of long-term care insurance won't go very far though, unless we make some other changes to enhance the value and protection that long-term care insurance can bring. Our bill takes several steps in this regard.

First, the legislation would require that States disregard benefits paid under a long-term care insurance policy when determining eligibility for Medicaid. Second, it incorporates a series of consumer protections recommended by the National Association of Insurance Commissioner, NAIC, into the definition of 'qualified long-term care services.' Individuals who purchase a policy that have these consumer protections will be eligible for an above the line tax deduction and a tax credit for out-of-pocket expenses made by caregivers. Third, the bill would expand the long-term care partnership program, which currently operates as a demonstration in four states. The long-term care partnerships combine private long-term care insurance with Medicaid coverage once individuals exhaust their insurance benefits.

Several States would like to pursue their own long-term care partnerships and this legislation will enable them to do that.

The Improving Long-term Care Choices Act also builds on the President's New Freedom Initiative by taking further steps toward removing the "institutional bias" in Medicaid, giving States the option of providing home- and community-based services as part of their State Medicaid Plan.

In doing so, the bill gives States the flexibility to design long-term care benefits that will reduce the reliance on costly institutional settings and meet the needs of elderly and disabled individuals who overwhelmingly wish to remain in their homes and communities.

In his New Freedom Initiative announced shortly after taking office, President George W. Bush outlined a plan to tear down barriers preventing people with disabilities from fully participating in American society.

The President also endorses the idea of shifting Medicaid's delivery system towards one that promotes cost-effective, community-based care instead of one weighted so heavily towards institutional settings.

This legislation also challenges us to think beyond funding and program silos and directs the Secretary to address administrative barriers that impede the integration of acute and long-term care services. The Secretary also must develop recommendations for statutory changes that will make it easier for States to offer better coordinated acute and long-term care services.

The Improving Long-Term Care Choices Act is consistent with our ideals about families, individual choices in health care and financial responsibility. This bill aims high. But it is sorely evident that we need to think creatively and comprehensively, even boldly, if we hope to make the type of inroads in promoting the availability of good long-term care insurance policies and in rebalancing the institutional bias in long-term care services that no longer reflects the needs and preferences of many stakeholders.

The Improving Long-Term Care Choices Act is a good bill. The American Network of Community Options and Resources, the Arc & United Cerebral Palsy Disability Policy Collaboration, and the National Disability Rights Network, the United Spinal Association, and the Association of University Centers on Disabilities support the bill. I urge my colleagues to do the same.

I ask unanimous consent that a section-by-section summary of the legislation and letters of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

## IMPROVING LONG-TERM CARE CHOICES ACT—SUMMARY

### TITLE I: LONG-TERM CARE INSURANCE CONSUMER PROTECTIONS

Subtitle A

Section 101: State Medicaid Plan requirements regarding Medicaid eligibility determination, long-term care insurance reciprocity, and consumer education

Requires each state in its Medicaid plan to exclude benefits, including assigned benefits, paid under a qualified-long term care policy in determining income for purposes of determining eligibility for medical assistance.

Requires that states with a long-term care insurance partnership program to meet requirements for reciprocity to with other long-term care insurance partnership states. Reciprocity rules to be developed as specified in section 103.

Requires the Secretary to educate consumers on the advisability of obtaining long-term care insurance that meets federal standards and the potential interaction between coverage under a policy and federal and state health insurance programs.

Section 102: Additional consumer protections for long-term care insurance

Establishes additional consumer protections with respect to long-term care insurance policies based on the October 2000 National Association of Insurance Commissioners (NAIC) model regulations including non-cancellability, prohibitions on limitations and exclusions, extension of benefits, continuation of conversion coverage, discontinuance and replacement, prohibitions on post-claim underwriting, inflation protection, and prohibitions on pre-existing condition and probationary periods in replacement policies or certificates.

Issuers of long-term care insurance policies must also comply with NAIC model provisions related to disclosure of rating practices, application forms and replacement coverage, reporting, filing requirements for marketing, suitability, standard format outline of coverage, and delivery of shopper's guide.

Issuers must comply with model act policies related to right to return, outline of coverage, certificates under group plans, monthly reports on accelerated death benefits, and incontestability period.

Applies to policies issued more than 1 year after enactment.

Section 103: Expansion of State Long-term Care Partnerships

Permits the expansion of long-term care partnership insurance policies to all states.

Requires all new partnership policies to be "qualified long-term care insurance policies" defined as a policy that: (1) disregards any assets or resources in the amount equal payments made under the policy; (2) requires the holder, upon the policy's effective date, to reside in the state or a state with a qualified long-term care partnership; (3) includes the consumer protections specified in 7702B of the tax code as amended by Section 102 (additional consumer protections); (4) requires compound inflation protection; and (5) requires that any agent selling such policies receive training and demonstrate knowledge of such policies,

Medicaid asset protection would apply in an equal amount to the insurance benefit paid under the policy, referred to as a dollar-for-dollar model. [The four states (NY, IN, CT, and CA) that currently offer long-tenn care partnership policies that are not dollar-for-dollar may continue to offer those policies.]

Directs the Secretary to set standards for reciprocity in conjunction with states, insurers, NAIC, and other groups as deemed necessary by the Secretary not later than 12 months after enactment to provide for the portability of long-term care partnership policies from one partnership state to another partnership state.

Establishes minimum uniform reporting requirements.

Section 104: National Clearinghouse for Long-term Care Information

Provides for: (1) development of a national clearinghouse on long-term care information to educate consumers on the importance of purchasing long-term care insurance, and, where appropriate, to assist consumers in comparing long-term care insurance policies offered in their states, including information on benefits, pricing (including historic increases in premiums) as well as other options for financing long-term care and (2) establishment of a website to facilitate comparison of long-term care policies.

Authorizes such sums a necessary for the clearinghouse in fiscal year 2006 and each year thereafter.

Subtitle B

Section 121: Treatment of premiums on qualified long-term care insurance contracts

Provides individuals an above-the-line tax deduction for the cost of their qualified LTC insurance policy (as defined by HIPAA, section 7702B(b)). Phases in applicable percentage of the deduction based on the number of years of continuous coverage under a qualified LTC policy.

Section 122: Credit for taxpayers with long-term care needs

Provides applicable individuals with LTC needs or their eligible caregivers a $3000 tax credit to help cover LTC expenses. An applicable individual is one who has been certified by a physician as needing help with at least 3 activities of daily living, such as eating, bathing, dressing. LTC tax credit would be phased-in over 4 years as follows: $1000 in 2005, $1500 in 2006, $2000 in 2007, $2500 in 2008, and $3000 in 2009 or thereafter. The credit phases out by $100 for each $1000 (or fraction thereof) by which the taxpayer's modified adjusted gross income exceeds the threshold amount set at $150,000 for a joint return and $75,000 for an individual return.

Section 123: Treatment of exchanges of long-term care insurance contracts

Includes a waiver of limitations, allowing individuals to make claims if there are changes to law.

### TITLE II: MEDICAID HOME AND COMMUNITY-BASED SERVICES OPTIONAL BENEFIT

Section 201: Medicaid Home and Community-Based Services Optional Benefit

Provides states with a new option to offer home and community-based services to Medicaid-eligible individuals without obtaining a federal waiver. Under this option states may include one or more home and community-based services currently available under existing waiver authority. States would also be permitted to allow individuals to choose to self-direct services. Under this option, states must establish a more stringent eligibility standard for placement of individuals in institutions, than for placement in a home and community-based setting. States would be permitted to offer a limited benefit consisting of home and community-based services only, to certain populations not otherwise eligible for Medicaid, but not to exceed individuals whose income exceeds 300% of SSI income and resource standards. At states option, provides presumptive eligibility for aged, blind and disabled for home and community-based services. If enrollment under the state plan exceeds state projections, the state would be permitted to change eligibility standards to limit enrollment for new applicants, while grandfathering those individuals already receiving services.

### TITLE III: INTEGRATED ACUTE AND LONG-TERM CARE SERVICES FOR DUALLY ELIGIBLE INDIVIDUALS

### Section 301: Removal of barriers to integrated acute and long-term care services for dually eligible individuals

Directs the Secretary, in collaboration with directors of State Medicaid programs, health care issuers, managed care plans, and others to issue regulations removing administrative barriers that impede the offering of integrated acute, home and community-based, nursing facility, and mental health services, and to the extent consistent with the enrollee's coverage for such services under Part D, prescription drugs. The Secretary also must submit recommendations to address legislative barriers to offering integrated services. The Medicare Payment Advisory Commission (MedPAC) will comment on the Secretary's recommendations.

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American Network of Community
Options and Resources,
*Alexandria, VA, July 29, 2005.*

Hon. Charles Grassley,
Hon. Evan Bayh,
*U.S. Senate, Washington, DC.*

Dear Senators Grassley and Bayh: On behalf of the American Network of Community Options and Resources (ANCOR)—the national association representing more than 850 private providers of supports and services to more than 380,000 people with significant disabilities—we extend our appreciation and offer our support in the introduction today of your "Improving Long-Term Care Choices Act of 2005."

It is especially noteworthy that you introduced this bill on the eve of Medicaid's 40th anniversary. Medicaid has worked for millions of people with disabilities, improving their lives over the past four decades. However, Medicaid can and should do better on behalf of the 8 million individuals with disabilities that depend daily upon this program for their health services and long-term supports. This is a propitious moment to send a message to the nation—people with disabilities can count on Medicaid. It makes clear to all that Congress intends to maintain its commitment for a strong federal role in enhancing the lives of people with disabilities.

People with disabilities, their families, and providers have for years called for the removal of Medicaid's institutional bias. ANCOR provided testimony in. September of 2001 in conjunction with the President's New Freedom Initiative that the Congress must change the structure of Medicaid to include state plan home and community-based services. Your bill builds upon the President's initiative, the Supreme Court's Olmstead decision, and ANCOR's commitment to community integration.

In addition to helping millions of people of all ages who depend upon Medicaid for long-term supports, your legislation will assist millions of moderate-income Americans to address their future long-term needs. By encouraging reliable long-term care insurance and tax incentives to defray costs for long-term needs, your bill begins the important process to adopt a national comprehensive long-term care policy. This step is critical as the nation stands on the precipice of the fast approaching "sleeping giant"—the retirement of the baby boom generation and shift in demographics. In this way, the bill will help reduce the financial pressures on Medicaid and our nation's reliance on it as the only public long-term care program.

ANCOR is pleased and proud to offer its support to you on this momentous day and to pledge our help in making the "Improving Long-Term Care Choices Act of 2005" a reality this session. We are grateful for your leadership and ongoing commitment to people with disabilities and those who provide them with daily supports.

Sincerely,

Suellen R. Galbraith,
*Director for Government Relations.*

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Disability Policy Collaboration,
*Washington, DC, July 29, 2005.*

Hon. Charles Grassley,
Hon. Evan Bayh,
*U.S. Senate.*

Dear Chairman Grassley and Senator Bayh: The Arc of the United States and United Cerebral Palsy strongly support your introduction of the Improving Long-Term Care Choices Act. The Arc is the national organization of and for people with mental retardation and related developmental disabilities and their families. United Cerebral Palsy is a nationwide network of organizations providing advocacy and direct services to people with disabilities and their families.

The creation of a Medicaid home and community-based services optional benefit is an important improvement in the federal/state Medicaid program and one for which we have advocated for many years. We believe that the addition of this benefit as an option for states will make it easier for states to serve people with severe disabilities where they want to be served—in their own home communities, rather than in institutions or other facilities. This will increase opportunities for improved quality of life for many children and adults with severe disabilities and their families.

We applaud your efforts and are grateful for your leadership in introducing this important legislation and pledge to work with you to secure its passage and enactment.

Sincerely,

Paul Marchand,
*Staff Director.*

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National Disability
Rights Network,
*Washington, DC, July 29, 2005.*

Hon. Charles Grassley,
*U.S. Senate,*
*Washington, DC.*

Dear Senator Grassley: The National Disability Rights Network (NDRN) is the nonprofit membership organization for the federally mandated Protection and Advocacy (P&A) Systems and the Client Assistance Programs (CAP) for individuals with disabilities. Through training and technical assistance, legal support, and legislative advocacy, NDRN works to create a society in which children and adults with all types of disabilities are afforded equality of opportunity and are able to fully participate by exercising choice and self-determination.

NDRN strongly supports your introduction of the Improving Long Term Care Choices Act of 2005. One of the major goals of the P&A/CAP network is for all individuals with disabilities to live in their own communities—independently, with their families, or with other individuals of their choice. Your determination in bringing forward this bill—with the critical component of establishing home and community-based services and supports as a optional Medicaid benefit, instead of only available through a waiver—is a major step in the right direction.

NDRN and the entire P&A/CAP network look forward to the day when community-based supports and services for children and adults with disabilities are the norm and institutional services are non-existent or require a waiver.

We believe that this bill also is very important because it will shine a light on the need for a true long-term care system in our nation. While long-term care insurance is not the answer for everyone, it can be useful—if affordable and if it covers people for a long enough span of time: The availability of long-term care insurance also could help to take the pressure off of the Medicaid program.

Thank you again for your continuing recognition of the needs of children and adults with disabilities and their families. The disability community looks upon you as one of its leading advocates in the U.S. Congress. NDRN is pleased to offer any help it can in moving the Long-Term Care Choices Act through this session of Congress. Please contact Dr. Kathleen McGinley.

Sincerely,

Lynn Breedlove,
*President,*
*NDRN Board of Directors.*

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United Spinal Association,
*Washington, DC, July 29, 2005.*

Hon. Charles Grassley,
Hon. Evan Bayh.
*U.S. Senate,*
*Washington, DC.*

Dear Senators Grassley and Bayh: United Spinal Association, a national disability advocacy organization dedicated to enhancing the quality of life for individuals with spinal cord injury or spinal cord disease by assuring quality health care, promoting research, and advocating for civil rights and independence, thanks you for introducing the Improving Long Term Care Choices Act of 2005. United Spinal applauds your leadership in bringing forward such an important measure, which will assist thousands of Americans with disabilities become more fully integrated and participating members of their communities.

The Improving Long Term Care Choices Act would help states rebalance their long term supports systems away from an institutional bias by giving states the flexibility to offer community services and supports as a state plan option under Medicaid. The proposal would also encourage individuals to purchase private long-term care insurance, which could help elevate some of the financial pressures off of state Medicaid programs. In addition, this bill will help states in their efforts to comply with the Supreme Court Olmstead decision.

People with disabilities should be able to live and work in their communities, not segregated in large and costly institutions. This system reform is long overdue. Thank you again for your vision, courage and ongoing leadership to create public policy that promotes independence, productivity and integration of people with disabilities in their communities. United Spinal would like to offer any assistance you need in moving the Improving Long Term Care Choices Act through this session of Congress. Please contact me for assistance.

Sincerely,

KIMBERLY RUFF-WILBERT,
*Policy Analyst.*

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ASSOCIATION OF UNIVERSITY
CENTERS ON DISABILITIES,
*Silver Spring, MD, July 29, 2005.*

Hon. CHARLES GRASSLEY,
Hon. EVAN BAYH,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATORS GRASSLEY AND BAYH: On behalf of the Association of University Centers on Disabilities (AUCD), a national network that provides education, training and service in developmental disabilities, we want to thank you for introducing the Improving Long Term Care Choices Act of 2005. The Association of University Centers on Disabilities (AUCD) applauds your leadership in bringing forward such an important measure, which will assist thousands of Americans with disabilities to be more fully integrated and participating members of their communities.

The Improving Long Term Care Choices Act would help states rebalance their long term supports systems away from an institutional bias by giving states the flexibility to offer community services and supports as a state plan option under Medicaid. The proposal would also encourage individuals to purchase private long-term care insurance which will help take some of the financial pressure off the Medicaid program. It will also help states in their efforts to comply with the Supreme Court Olmstead decision.

People with disabilities should be able to live and work in the community with or close to family and friends, not segregated in large and costly institutions. This system reform is long overdue.

Thank you again for your vision, courage and ongoing leadership to create public policy that promotes independence, productivity and integration of people with disabilities in their communities. AUCD would like to offer any assistance you need in moving the Improving Long Term Care Choices Act through this session of Congress. Please contact Kim Musheno for assistance.

Sincerely,

ROBERT BACON,
*Co-Chair, AUCD Governmental Affairs Committee.*
LUCILLE ZEPH,
*Co-Chair, AUCD Governmental Affairs Committee.*

Mrs. CLINTON: Mr. President, I am proud to rise today to introduce the Improving Long-Term Care Choices Act with Senator GRASSLEY and Senator BAYH. This legislation would take several important steps toward assisting Americans and their caregivers to meet their long-term care needs.

Issues related to long-term care are of growing concern to many in New York and around the Nation. Individuals and families are struggling to afford costly care, obtain appropriate information regarding long-term care insurance, and maintain dignity and choice regarding these important services. As I talk with seniors around the State of New York and throughout the country, what I hear most is that people want to stay in their homes with their loved ones for as long .as they can. However, too many individuals and families struggle to be able to afford quality home and community based care. In addition, families are unsure where to find the resources they need to purchase long-term care insurance.

That is why I have joined with my colleagues to introduce this legislation. The Improving Long-Term Care Choices Act will assist individuals in meeting their long-term care needs, while reducing Medicaid costs.

This bill will improve access to home and community based services through Medicaid that will help seniors remain in their homes and communities. It will also expand long-term care insurance consumer protections, provide tax deductions for the cost of long-term care insurance, and allow tax credits for individuals and their caregivers to help cover long-term care expenses not covered by insurance. Finally, this legislation would establish a national clearinghouse on long-term care information.

This legislation takes some important steps to assist individuals and families in gathering the resources necessary to prepare for their long-term care needs and gain access to services in their preferred choice of setting.

I look forward to continuing to work with Senators GRASSLEY and BAYH and all of my colleagues to ensure that all Americans have access to the resources that help them access high quality long-term care.

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By Ms. SNOWE:

S. 1603. A bill to establish a National Preferred Lender Program, facilitate the delivery of financial assistance to small businesses, and for other purposes; to the Committee on Small Business and Entrepreneurship.

Ms. SNOWE. Mr. President, I rise today to discuss a bill, the Small Business Lending Improvement Act of 2005, which I have introduced today to provide small businesses with easier access to loans and to increase efficiency in the Small Business Administration's largest loan program, the 7(a) program, which provided $12.7 billion in small business loans in 2004.

As Chair of the Senate Committee on Small Business and Entrepreneurship, I am committed to supporting our Nation's Main Street small business community by increasing its access to capital. This legislation will reform a cumbersome SBA lender licensing process that does not provide our small businesses with the most efficient means of accessing the capital they must have to start and sustain their firms. The bill would allow the SBA's 7(a) loan program to better capitalize on the demonstrated potential small business have to create jobs and economic growth.

As our Nation continues to prosper from economic growth, low inflation, and low unemployment, we should not forget the critical role played by our small businesses. Without strong and successful small businesses, our prosperity would not be what it is today.

Under current law, the most prolific lenders in the SBA's 7(a) loan program can participate in the "Preferred Lender Program" (PLP Program), which allows them to use their own processing facilities and therefore both increases lenders' efficiency and reduces costs for the SBA. However, PLP lenders are required to apply for PLP status in each of the 71 SBA districts nationwide to obtain PLP status in that district, and they must re-apply each year in each district. This is extremely inefficient and wasteful, and creates enormous unnecessary administrative costs.

Section 2 of this bill would allow qualifying lenders to participate in the PLP Program on a nationwide basis after just one licensing process. This provision was in S. 1375, the Small Business Administration 50th Anniversary Reauthorization Act of 2003, which I introduced in 2003 and which the Senate approved unanimously in September 2003.

This provision would drastically reduce administrative costs and would standardize the operation of the PLP program. A National Preferred Lenders Program would eliminate the inefficiencies and cost of applying for PLP status in each district, and would increase the ease with which loans are made to small businesses, thereby improving small businesses' access to capital. Competition among lenders for small business customers would increase, increasing financing alternatives and lowering costs for small businesses.

In addition to simplifying licensing processes for both lenders and the SBA, the bill would allow the SBA's lender oversight to be done more efficiently and effectively, on a national basis. The current process of having to renew licenses in each district is extremely time-consuming and administratively burdensome for the lenders and the SBA. A National Preferred Lenders Program could remedy the inefficiencies and cost of applying for PLP status in each district and save a tremendous amount of taxpayer dollars.

Section 3 of the act increases the maximum size of a 7(a) loan to $3 million, from the current $2 million, and increase the maximum size of a 7(a) guarantee to $2.25 million, from the current $1.5 million. This would maintain the maximum 75 percent guarantee. Small businesses' financing needs are increasing and, especially with the high cost of real estate and new equipment, it is appropriate to respond to those needs by offering larger loans.

In the SBA's 504 Loan Program, loans may now be as large as $10 million, with $4 million guaranteed, for manufacturing projects, $5 million (with $2 million guaranteed) for loans that serve an enumerated public policy goal (such as rural development), and $3.75 million (with $1.5 million guaranteed) for all other "regular" 504 Program loans. Thus, this increase in 7(a) Program loans to $3 million would bring 7(a) loans closer in size to 504 Program loans, while still leaving 7(a) loans smaller than 504 Program loans.

Section 4 of the bill increases the program's authorization level to $18 billion for fiscal year 2006, instead of the $17 billion authorized for fiscal year 2006 in the Omnibus Appropriations Act, enacted in December 2004. The program is on pace to achieve loan volume of between $14 and $15 billion in fiscal year 2005, and this provision would allow the program adequate ability to grow unimpeded in fiscal year 2006, especially if the maximum loan size is increased.

Section 5 of the bill requires the SBA to implement an alternative size standard, in addition to the program's current standard, for the 7(a) program. The SBA would create an alternative size standard for the 7(a) program, as it has already done for the 504 program, that considers a business's net worth and income. This provision would bring the 7(a) program into conformity with the 504 Program. This provision was also in S. 1375 in the 108th Congress, passed unanimously by the Senate in 2003.

Currently, in the 7(a) program a small business's eligibility to receive a loan is determined by reference to a multipage chart that has different size standards for every industry that can be very confusing, especially for small lenders that do not make many 7(a) loans. In the 504 Program, however, lenders can use either the industry-specific standards or an "alternative size standard" that the SBA created, which simply says a small business is eligible for a loan if it has gross income of less than $7 million or net worth of less than $2 million.

This would simplify the 7(a) lending process and provide small businesses with a streamlined procedure for determining if they are eligible for 7(a) loans, and it would conform the standards used by the 7(a) and 504 programs. It would make the program far more accessible to small businesses and small lenders.

All of these improvements to the SBA's largest loan program will support our national goal of building a vibrant and growing economy. Small businesses are the heart of our economy, and this bill will help to improve small businesses' economic prospects.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1603

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Lending Improvement Act of 2005".

### SEC. 2. NATIONAL PREFERRED LENDERS PROGRAM.

Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended by adding at the end the following:

"(E) NATIONAL PREFERRED LENDERS PROGRAM.—

"(i) ESTABLISHMENT.—There is established the National Preferred Lenders Program in the Preferred Lenders Program operated by the Administration, in which a participant may operate as a preferred lender in any State if such lender meets appropriate eligibility criteria established by the Administration.

"(ii) TERMS AND CONDITIONS.—An applicant shall be approved under the following terms and conditions:

"(I) TERM.—Each participant approved under this subparagraph shall be eligible to make loans for not more than 2 years under the program established under this subparagraph.

"(II) RENEWAL.—At the expiration of the term described in subclause (I), the authority of a participant to make loans for the program established under this subparagraph may be renewed based on a review of performance during the previous term.

"(III) EFFECT OF FAILURE.—Failure to meet the criteria under this subparagraph shall not affect the eligibility of a participant to continue as a preferred lender in a State or district in which the participant is in good standing.

"(iii) IMPLEMENTATION.—

"(I) REGULATIONS.—As soon as is practicable, the Administrator shall promulgate regulations to implement the program established under this subparagraph.

"(II) PROGRAM IMPLEMENTATION.—Not later than 120 days after the date of enactment of this subparagraph, the Administrator shall implement the program established under this subparagraph.".

### SEC. 3. MAXIMUM LOAN AMOUNT.

Section 7(a)(3)(A) of the Small Business Act (15 U.S.C. 636(a)(3)(A)) is amended by striking "$1,500,000 (or if the gross loan amount would exceed $2,000,000)" and inserting "$2,250,000 (or if the gross loan amount would exceed $3,000,000)".

### SEC. 4. SECTION 7(a) AUTHORIZATION FOR FISCAL YEAR 2006.

Section 20(e)(1)(B)(i) of the Small Business Act (15 U.S.C. 631 note) is amended by striking "$17,000,000,000" and inserting "$18,000,000,000".

### SEC. 5. ALTERNATIVE SIZE STANDARD.

Section 3(a)(3) of the Small Business Act (15 U.S.C. 632(a)(3)) is amended—

(1) by striking "When establishing" and inserting the following: "ESTABLISHMENT OF SIZE STANDARDS.—

"(A) IN GENERAL.—When establishing"; and

(2) by adding at the end the following:

"(B) ALTERNATIVE SIZE STANDARD.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this subparagraph, the Administrator shall establish an alternative size standard under paragraph (2), that shall be applicable to loan applicants under section 7(a) or under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.).

"(ii) CRITERIA.—The alternative size standard established under clause (i) shall utilize the maximum net worth and maximum net income of the prospective borrower as an alternative to the use of industry standards.

"(iii) INTERIM RULE.—Until the Administrator establishes an alternative size standard under clause (i), the Administrator shall use the alternative size standard in section 121.301(b) of title 13, Code of Federal Regulations, for loan applicants under section 7(a) or under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.).".

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By Mr. KYL (for himself, Mr. PRYOR, Mr. CORNYN, Mr. GRAHAM, Mr. BROWNBACK, and Mr. CHAMBLISS):

S. 1605. A bill to amend title 18, United States Code, to protect public safety officers, judges, witnesses, victims, and their family members, and for other purposes; to the Committee on the Judiciary.

Mr. KYL. Mr. President, I rise today to introduce the Law Enforcement Officers' Protection Act of 2005. This act will guarantee tough, mandatory punishment for criminals who murder or assault police officers, firefighters, judges, court employees, ambulance-crew members, and other public-safety officers in the course of their duties. Attacks on police officers and judges are serious crimes. They merit the toughest penalties. LEOPA imposes the following terms of imprisonment for attacks on public-safety officers: (1) second degree murder, 30 years to life; (2) voluntary manslaughter, 15 to 40 years; (3) assault resulting in serious bodily injury, 15 to 40 years; (4) assault with a dangerous weapon, 15 to 40 years; and (5) assault resulting in bodily injury, 5 to 20 years. The act also imposes commensurate penalties for retaliatory murders, kidnappings, and assaults committed against the family members of public-safety officers.

LEOPA includes additional provisions that will deter attacks upon police officers. The act expedites Federal-court review of state convictions for murder of a public-safety officer; it limits the damages that can be recovered by criminals for any injuries experienced during their arrest; it removes arbitrary barriers to retired officers' right to carry concealed weapons under Federal law; it makes it a crime to publicize a public-safety officer's identity in order to threaten or intimidate him; and it increases existing penalties for obstruction of justice and interference with court proceedings.

Aggravated assaults against police officers are a serious national problem. According to the most recent F.RI. report on the subject, 52 law-enforcement officers were feloniously killed in the United States in 2003. In the 10 year period from 1994 through 2003, a total of 616 lawenforcement officers were feloniously killed in the line of duty in the United States.

These officers' assailants unquestionably are among the worst criminals. Of those individuals responsible for unlawful killings of police officers between 1994 and 2003, 521 had a prior criminal arrest, including 153 who had a prior arrest for assaulting a police officer or resisting arrest. The individuals who commit these types of offenses are among the most dangerous members of the criminal class. Tough sentences for these criminals not only protect those who risk their lives to protect us; they also directly protect the public at large by removing a dangerous class of criminals from society.

Ordinary assaults against police officers have become a widespread problem. More than 57,000 law enforcement officers were assaulted in the course of their duties in 2003, and more than a quarter of these assaults resulted in injury to the officer. These numbers represent more than one of every 10 officers serving in the United States. Our society apparently has reached a point where criminals feel entitled to assault a police officer when they are being arrested. LEOPA is designed to change that understanding, to show criminals that assaults against police officers are unacceptable.

It bears mention that because of improvements in technology, recent years' numbers of officers killed in the line of duty even understate the extent of the violence that officers face. As the Los Angeles Times noted in 1994, "the number of officers killed—an average of 60 to 70 a year since the late 1980s—would have broken records, too, if not for the advent of bulletproof vests, police experts say; about 400 officers have survived shootings over the last decade because they were wearing protective armor." (Faye Fiore & Miles Corwin, Toll of Violence Haunts Families of Police Officers, N.Y. Times, Feb. 21, 1994, at 1). As the executive director of the Fraternal Order of Police noted recently, "there's less respect for authority in general and police officers specifically. The predisposition of criminals to use firearms is probably at the highest point in our history." (Jerry Nachtigal, Crime Down, but Number of Police Officers Killed Holds Steady, Associated Press Newswires, Apr. 11, 1999).

Violence against police officers also inhibits effective law enforcement. It breeds caution among officers and hinders robust investigation. LEOPA is designed to restore balance to the law. It is designed to ensure that police officers do not fear for their safety when enforcing the law, but instead, that criminals fear the consequences of breaking the law.

Finally, aside from their broader effects on law enforcement and society, aggravated assaults and murders of police officers simply are terrible crimes. The victims often are young and in the prime of life, leaving behind young children, spouses, and grieving parents. A few recent incidents in the news serve to illustrate the horrific toll that these homicides take on the surviving victims:

Los Angeles County Deputy Sheriff Shayne York, 26 years old, was murdered during an invasion robbery while waiting for his fiancee at a hair salon on August 16, 1997. He was killed solely because of his status as a police officer. The Los Angeles Times gave the following account of the crime from the testimony at the killer's trial:

> The robbers yelled racial slurs and ordered customers and employees to the floor, snatching valuables from everyone inside. When one of the bandits found a law enforcement badge in York's wallet, he kicked York as he lay on the ground, according to testimony from [York's fiancee], also a Los Angeles County sheriff's deputy. The gunman asked York if he ever mistreated blacks and Crips gang members at Los Angeles County's Pitchess Detention Center, where York worked. York responded, "No, sir." [The killer,] an alleged Crips gang member, then pointed a pistol at the back of York's head and squeezed the trigger, prosecutors said. [York's fiancee] testified she saw York's body go limp as she felt his blood flowing onto her legs. She said she heard the gunman say, "I always wanted to kill a pig." (Jack Leonard & Monte Morin, Man Guilty of Killing Off-Duty Deputy, L.A. Times, Aug. 23, 2000, at B1.)

Deputy York's killer never expressed any remorse over this senseless crime. When jurors read their verdict at his trial, he shouted at them, "May Allah kill you all, pagans, infidels." (Stuart Pfeifer & Richard Marosi, Jury Recommends Death for Robber Who Killed Deputy, L.A. Times, Sept. 8, 2000, at B7.)

California Highway Patrol Officer Don Burt, 25 years old, was shot seven times by a member of a street gang during a traffic stop on July 13, 1996. As Officer Burt lay wounded on the ground, the killer shot him in the head. The Los Angeles Times, covering the killer's trial, gave the following account of the testimony describing the devastating impact of Officer Burt's death on his family:

> [Don Burt's father] relived some of his happiest memories with his son—the wedding of his son and [daughter-in-law] Kristin, and the day he was told he was going to be a grandfather. But the proudest moment for both father and son was when the younger Burt joined the Highway Patrol. "I pinned on his badge and I hugged him," the father said, tearfully. "The proudest I'd ever seen him. The gleam he had in his eye—he was so proud."
>
> It was a quiet summer night the night his son died, [Burt's father] told the 12-member jury. He and his wife had just finished dinner. The telephone rang. It was their daughter-in-law's father, also a CHP officer, saying there had been a shooting in the area that the younger Burt patrolled. The elder Burt, a 30-year veteran trooper, called the CHP dispatch center to learn more. A patrol car arrived to take the parents to the hospital. "We drove [to the hospital] in dead silence," Burt said. "I knew my son was dead and I couldn't tell my wife. She was sitting there with hope and I couldn't tell her."
>
> Jeannie Burt said she didn't realize how serious her son's injuries were until a few minutes after they arrived at the hospital. "I thought he wasn't hurt too bad, that everything was going to be all right," Jeannie Burt told jurors. But then, "I saw Kristin's brother and he just shook his head. And I knew my son was dead." Tears streamed down Jeannie Burt's cheeks through most of her testimony. "He wasn't perfect, but pretty close to it," the mother said through her tears. "I'm grateful I had my son for the 25 years I had him. I wouldn't trade that with anything. I'm just so sad that my daughter-in-law has lost the love of her life. That his son does not have a father."
>
> Kristin Burt, widow of the slain officer, said she was seven months pregnant with their first child when her husband of nearly three years was killed. She took the stand Monday, faltering and fighting back tears as she described how the coroner told her that her husband was dead. The coroner "held my hand and slipped Don's wedding ring into my hand," Kristin Burt said. (Louis Roug & Meg James, Rage in the Courtroom, L.A. Times, Apr. 18, 2000, at B1.)

Officer Burt's son, Cameron, was born two months after he was killed.

Compton Police Officers Kevin Burrell and James MacDonald were shot and killed by a wanted criminal during a traffic stop on February 22, 1993. Newspapers gave the following account of the crime: "The officers were wearing bulletproof vests when they stopped a red pickup truck about 11 p.m., but were knocked to the ground by bullet wounds to their limbs. With the officers lying in the rain-soaked street, [the killer] pumped bullets into their heads, execution-style." (Jodi Wilgoren, Killer of 2 Compton Police Officers Sentenced to Death, L.A. Times, Aug. 16, 1995, at 1.)

Officers Burrell and MacDonald were both young men, with all of their parents still living, at the time of their deaths. At the killer's trial, their families described the deep trauma that the crime created. The Los Angeles Times gave the following account:

> One after another, the mothers and fathers of Officers James Wayne MacDonald and Kevin Michael Burrell took the stand to cry out their losses. Three could not complete their testimony without breaking down so badly that court recessed. Burrell's mother told how she had heard the shots that killed her son a few blocks from her home. MacDonald's father, sobbing uncontrollably, blurted, "Come home, Jimmy, let me trade places with you," when he was asked what he would tell his son if he could bring him back.
>
> James and Tonia MacDonald told how they visit their son's grave twice each day in their hometown of Santa Rosa, just to chat. Clark and Edna Burrell told how neither of them can bear to visit the cemetery where their son now lies.
>
> "I heard the shots," Edna Burrell said. Then she told how she reasoned that her son had been hit. "I was listening to my police scanner," she said, "and I knew it was Kevin because I didn't hear them call his name" on other dispatch calls. "So when she (a police officer) knocked on my door, all I could do is scream, 'Oh God, they shot my baby.'". With that, Edna Burrell broke down. Overwhelmed, she was led from the courtroom.

> past where [the killer] sat staring straight ahead. Sobbing softly, she repeated what she had said on the stand: "How could he do that? How could he do that?"
>
> Both sets of parents said the deaths of their sons left them feeling empty, lost and angry. "The whole time I was praying, just to let Jimmy live until I could see him again," Tonia MacDonald sobbed, remembering the hours after she was told about the shooting. "And then I was so mad at God. All I wanted was to see him one more time."
>
> All four parents said old friends have fallen away as grief consumed their lives. Mother's Day, James MacDonald testified, has become unbearable. "This year, when I got up, I didn't tell her (his wife) 'Happy Mother's Day' because it's a tough day," he said. "I could see the tears in her eyes." (Emily Adams, Slain Officers' Parents Tell of Pain, L.A. Times, June 1, 1995, at 1.)

It bears mention that all of the criminals responsible for the murders described here were convicted of capital offenses, and will be subject to the expedited federal review provisions in section 6 of LEOPA once they complete their State appeals.

Section 6 of the bill is named for Dr. John B. Jamison, a Coconino County, AZ, Reserve Sheriffs Deputy who was murdered while responding to a fellow deputy's call for assistance on September 6, 1982. The killer fired 30 rounds from an assault rifle into Dr. Jamison's car, killing the deputy before he could reach his gun or even unbuckle his seatbelt. Dr. Jamison was survived by his 13-year-old son and 10-year-old daughter. State courts completed their review of the killer's conviction and sentence in 1985. Federal courts then delayed the case for an additional 15 years. One judge on the U.S. Court of Appeals for the Ninth Circuit even tried to postpone the killer's final execution date on the alleged basis that the killer was wrongfully denied state funds to investigate a rare neurological condition that his lawyer had learned of while watching television. Dr. Jamison's killer ultimately was executed in 2000—18 years after the crime occurred, and 15 years after federal habeas-corpus proceedings began.

Section 6 is designed to prevent these kinds of delays in Federal review of cases involving state convictions for the murder of a public-safety officer. In the district court, parties will be required to move for an evidentiary hearing within 90 days of the completion of briefing, the court must act on the motion within 30 days, and the hearing must begin 60 days later and last no longer than 3 months. All district-court review must be completed within 15 months of the completion of briefing. In the court of appeals, the court must complete review within 120 days of the completion of briefing. In most cases, these limits will ensure that federal review of a defendant's appeal is completed within less than 2 years. This section also makes these deadlines practical and enforceable by limiting federal review to those claims presenting meaningful evidence that the defendant did not commit the crime—defendants would be barred from re-litigating claims unrelated to guilt or innocence. (Defendants still will be permitted to litigate all their legal claims in state court on direct review and state-habeas review, and in petitions for certiorari in the U.S. Supreme Court.)

The need for this provision is particularly stark in the judicial circuit that includes my home state of Arizona. The U.S. Court of Appeals for the Ninth Circuit's pattern of blocking capital punishment for all murderers—including those who kill police officers—is well documented. A recent committee report of the U.S. Senate, for example, notes that: "Data for the last ten years show that outside of the Ninth Circuit, usually 70 to 80 percent of death sentences are affirmed by a [federal] Court of Appeals on collateral review. In almost every year, however, the Ninth Circuit has reversed the majority of death sentences that it reviews. Moreover, this percentage has climbed sharply in recent years . . . In the last three years, the Ninth Circuit has reversed 88 percent, 80 percent, and 86 percent of the death sentences that it has reviewed." (S. Rep. No. 107-315 (2002), at 72-73) The Senate report also notes that a core group of Ninth Circuit judges vote to reverse virtually every death sentence that they review. Judge Stephen Reinhardt, for example, had reviewed 31 death sentences by 2002, and voted to reverse every single one. Other Ninth Circuit judges have similar records.

As Ninth Circuit Judge Alex Kozinski has noted, "there are those of my colleagues who have never voted to uphold a death sentence and doubtless never will." He continued: "Refusing to enforce a valid law is a violation of the judges' oath—something that most judges consider a shameful breach of duty. . . . [But] to slow down the pace of executions by finding fault with every death sentence is considered by some to be highly honorable." (Alex Kozinski, Tinkering with Death, The New Yorker, Feb. 10, 1997, at 48-53)

This pattern of behavior extends to the Ninth Circuit's review of death sentences imposed for the murder of police officers. In the nine States under the Ninth Circuit's jurisdiction, 34 criminals have been sentenced to death for murdering police officers since the late 1970's. Only one—the man who killed Dr. Jamison—has ever been executed. The Ninth Circuit consistently has obstructed all other death sentences for criminals convicted of murdering police officers in the western States.

As one Orange County newspaper columnist notes, these numbers reflect poorly on our society's commitment to ensuring justice for slain police officers and their families:

> When California voters reinstated the death penalty in 1978, they made killing an on-duty peace officer one of the "special circumstances" that could subject the killer to execution. The idea behind that was simple enough. If you made killing a cop a death-penalty offense, maybe it would make criminals think twice before doing it. . . . But it's doubtful that the special circumstance concerning peace officers strikes any fear into the heart of a would-be cop-killer. Because in the 24 years since the new death-penalty law was passed, not one cop-killer has been executed in California. During that time, more than 200 California peace officers have been murdered in the line of duty, including eight in Orange County, and dozens of cop-killers have been sent to death row. But not one has died for his crime. True, California hasn't been in any hurry to execute other murderers, either. Since 1978, more than 700 killers have been sent to death row, but only 10 have been executed. But the justice system seems particularly reluctant to actually enforce the death penalty against cop-killers. "That sends a terrible message," says Marianne Wrede of Anaheim Hills, whose son, West Covina Police Officer Kenneth Wrede, was murdered in 1983. "It says the justice system doesn't respect the sacrifices of police officers and their families." (Gordon Dillow, State Balks at Executing Cop-Killers, The Orange County Reg., Dec. 5, 2002)

These unconscionable delays have greatly increased the suffering experienced by the surviving families of murdered police officers. Again, a few examples from recent news stories illustrate the nature of the problems created by the current system of decades-long post-conviction review:

On August 31, 1983, West Covina Police Officer Kenneth Wrede, 26 years old, responded to a call about a man behaving strangely in a residential neighborhood. Wrede confronted the man, who became abusive and tried to hit Wrede with an 8-foot tree spike. Wrede could have shot the man, but instead attempted to defuse the situation. The man then reached into Wrede's car and ripped the shotgun and rack from the dashboard. Wrede drew his gun and persuaded the man to lay down the shotgun, but the man picked it up again when Wrede lowered his revolver and shot Wrede in the head, killing him instantly.

Years later, Wrede's parents described the terrible impact of this crime on their family. Marianne Wrede told of how "a half hour before local television newscasts would broadcast the story, her doorbell rang. On the steps stood her son's commander and a police lieutenant. Between them stood Kenneth Wrede's distraught wife. 'I knew it was bad news,' Marianne Wrede said. 'I shut the door in their faces and I said, 'It can't be my boy.'" (Laura-Lynne Powell, Grief Unites Kin of Fallen Officers, The Orange County Reg., June 20,1991, at EO1) Many years after the crime, she reflected that "every day I miss my son and it never goes away." (Anne C. Mulkern & Tiffany Montgomery, Caring Counts in Line of Duty, The Orange County Reg., Sept. 25. 1996, at BO1) Ken Wrede's father also described the impact of the loss of his son. "My life will never be the same. I deal with it every day; when I hear a police siren and immediately think of my son, when I pull up next to a police car and think that that could have been him. I still stop as often as I can and tell the officers to have a good day and be careful." (David Haldane & Michael Wagner, For Some, a Reminder of Past Tragedy, L.A. Times, July 15, 1996, at A3)

Officer Wrede's killer was sentenced to death in 1984, and that conviction was affirmed by the California Supreme Court in 1989. Then in 2000—17 years after Ken Wrede's murder—a divided panel of the Ninth Circuit reversed the killer's death sentence. The Ninth Circuit found that the killer's lawyer provided ineffective assistance of counsel at the penalty phase because he did not present additional evidence of the killer's abusive childhood and drug use.

At the time, Marianne Wrede noted, "We thought we finally were close to getting this behind us. And now this." (Gordon Dillow, Long Wait for Justice Gets Worse, The Orange County Reg., May 11, 2000, at BO1) A California Deputy Attorney General denounced the decision, stating that "it can always be suggested a jury should have heard something else in the penalty phase of a death penalty case." (Richard Winston, Reversal of Death Penalty in Officer's Killing Decried Courts, L.A. Times, May 10, 2000, at B3) West Covina Corporal Robert Tibbets, the original investigator at the scene of Wrede's murder, described the Ninth Circuit's decision as a "miscarriage of justice." (Id.) He had promised Wrede's parents that he would accompany them to every court hearing for their son's killer. He made good on his promise, even 19 years later, when the killer was retried and again sentenced to death in 2002. But the Wredes now face another round of state and then federal appeals. At the retrial, Ken's father noted that "my family and 1 had endured 19 years of trial, appeals, delays, causing us to relive the trauma of Kenny's death over and over again." The trial judge agreed. He stated, "It is an obscenity to put anyone through this needlessly for 19 years. It is inexcusable for us in the system that we need to look at this case for 19 years to get it resolved. The system at some point in the line has become clogged and broken." (Larry Welborn, 19 Years and no Resolution for Parents, The Orange County Reg., Sept. 21, 2002)

Riverside Police Officers Dennis Doty and Philip Trust were killed by a man whom they attempted to arrest at his home on May 13, 1982. The man was in bed when the officers arrived and they permitted him to dress. The man then pulled out a gun that he had been sitting on and shot and killed both officers. He apparently sought revenge for injuries that he sustained when he was shot while committing a bank robbery. Officer Doty had served a tour of duty in Vietnam, where he had received a Purple Heart and Bronze Star. The State supreme court affirmed the killer's conviction and death sentence in 1991.

In 2002, 20 years after the murders, Federal district court reversed the killer's death sentence, finding that he had received ineffective assistance of counsel because he did not trust his lawyers. Local Superior Court judge Edward Webster denounced the decision, declaring that he was "outraged by the entire federal process." He declared that "this [ decision] is just a product of judges" personal opinions and philosophies opposing the death penalty." (Marlowe Churchill, Riverside Judge Takes Federal Court to Task, The Press-Enterprise, July 22, 1995, at BO1) The Riverside assistant police chief noted that the decision was particularly unfortunate for the officers' families: "They lived this 20 years ago, and not to have closure on the trial process is particularly difficult" (Mike Kataoka, Court Annuls Death Decree, The Press Enterprise, May 31, 2002, at BO1)

Los Angeles Police Detective Tom Williams was shot and killed by a man against whom he had testified several hours earlier in a robbery trial on October 31, 1985. Detective Williams was killed while picking up his son at a day-care center. A local newspaper gave the following account of the crime: "With [his son] Ryan sitting beside him in the front seat of his truck, Williams, 42, saw the man in the ski mask, saw the automatic weapon pointing out of the driver's side window of the passing car. But he was helpless to do anything to protect himself. All he had time to do was scream for Ryan to get down, then cover the boy with his own body." (Dennis McCarthy, Youth Feels Need to Serve, L.A. Daily News, Aug. 24, 1993, at N1) The Los Angeles Times gave the following account of testimony from the killer's trial:

> A seventh-grade pupil at a Canoga Park church school testified Wednesday that he saw 6-year-old Ryan Williams sitting on the ground crying moments after the boy's father, a Los Angeles police detective, had been gunned down in the street on Oct. 31, 1985. Thomas C. Williams, 42, was picking up Ryan from school at 5:40 p.m. when he was struck by eight bullets from an automatic weapon. The detective died, slumped against the driver's side of his orange pickup truck. . . . [The pupil] said he looked toward Williams' truck, parked in front of the Faith Baptist Church school, and saw the windshield shatter. "It split into pieces," [he] said. "Then I ducked. I couldn't see anything. I got up because I heard some little boy cry. I walked over. He was sitting on the ground and he was crying and he had a bloody lip." (Lynn Steinberg, Boy Tells of Fatal Attack on Detective, L.A. Times, Feb. 11, 1998, at 12)

Detective Williams's killer remains on death row today, 20 years after committing this crime.

Garden Grove police officer Donald Reed was shot and killed while arresting a man at a bar on June 7, 1980. The killer appeared at first to cooperate with police, but then pulled a pistol from his jacket and began firing. One officer who comforted Reed as he lay on the ground describe the scene: "I could see a sense of panic in Don's eyes. He said, 'I am not gonna make it'" (Daniel Yi, Slain Officer's Family Testifies, L.A. Times, Feb. 9, 2000, at B1)

When Reed died, he had two toddler sons, ages 3 and 1½. Reed's killer was sentenced to death, but the sentence was reversed on appeal, and he was retried and sentenced to death again in 2000. Reed's sons were 22 and 21 by the time of the retrial. Still coping with the loss of their father, they chose not to attend the second trial. "I was a mother, a father, I had to teach them everything," Reed's widow stated. (Id.) Of her husband, she simply noted, "He was taken unnecessarily." (John McDonald, Officer's Widow Details Trauma, The Orange County Reg., Feb. 9, 2000, at B01) She also described the impact on her family of holding a second trial 20 years after the crime. "We had all moved on, and then this came back and smacked us in the face. It really just tears you apart." (Daniel Yi, Slain Officer's Family Testifies, L.A. Times, Feb. 9, 2000, at B1)

Los Angeles Police Officer Paul Verna was gunned down during a traffic stop on June 2, 1983, by two men who earlier had committed a series of violent robberies. The first man shot Verna from inside the car, and the second then exited the vehicle and shot Verna five more times as he lay on the ground. Verna was survived by his wife and two young sons. Years later, the state supreme court reversed the death sentence of one of the killers. A new trial was held in 2000. At the first trial, Verna's widow described the devastating impact of the crime on her family. She spoke of how "no one who has not done it can know how difficult it is to tell two young boys that the daddy they loved so much is gone." (Janet Rae-Dupree, 2 Sentenced to Die for Killing Policeman, L.A. Times, Sept. 21, 1985, at 6) A local newspaper gave the following accounts of the sentencing retrial:

> Vema's sons were young boys, 4 and 9, when he was murdered. This past week, they testified as young men. They told the jury that they did not have a lot of first-hand recollection of their dad. They did have the memories of stories from their mom and many others as to what their dad was like. Ryan [the younger son] spoke of sometimes feeling uneasy at being told how much he looked like and even acted like his dad, whom he does not remember. Sandy, Verna's widow, spoke of the challenge of properly raising two very young boys alone. (Jim

> Tatreau, Who Was Paul Verna? Murdered Officer Deeply Missed Hero, L.A. Daily News, Oct. 22, 2000, at V3)
>
> "At age 33, to be a widow—my roles in life completely changed. The very hardest part was when they were very young kids—when Ryan, who was 4 years old when his father died, would get hurt and would cry to his mother at bedtime, 'Mommy, I just want my daddy.' I couldn't give that to him, no matter how hard I tried. I could do everything else, but I couldn't give him his daddy." (Jason Kandel, Retrial Brings Victim's Family to Tears, L.A. Daily News, Sept. 27, 2000, at N4)
>
> [Ryan] has only vague memories of his father's death, and then he could know his father only through various police memorials, plaques and family pictures. He has learned most of the details of the death from three weeks of testimony during the penalty retrial, and his killer's image won't disappear. "My father didn't deserve to die in that manner, especially what was said to him and the gun being thrown on him when he's lying on the ground," he said in tears. "My father wasn't around for a lot of things, a lot of special things in my life." (Id.)

Our society must do everything that it can to deter these types of crimes to ensure that punishment for those who commit them is swift and certain. For all of these reasons, I urge my colleagues to support the Law-Enforcement Officers' Protection Act.

Mr. KYL. Mr. President, I rise today with my colleague, Senator CORNYN of Texas, to introduce the "DNA Fingerprint Act of 2005." This act will allow State and Federal law enforcement to catch rapists, murderers, and other violent criminals whom it otherwise would be impossible to identify and arrest.

The principal provisions of the DNA Fingerprint Act make it easier to include and keep the DNA profiles of criminal arrestees in the National DNA Index System, where that profile can be compared to crime-scene evidence. By removing current barriers to maintaining data from criminal arrestees, the act will allow the creation of a comprehensive, robust database that will make it possible to catch serial rapists and murderers before they commit more crimes.

The impact this act will have on preventing rape and other violent crimes is not merely speculative. We know from real life examples that an all-arrestee database can prevent many future offenses. In March of this year, the city of Chicago produced a case study of eight serial killers in that city who would have been caught after their first offense—rather than after their fourth or tenth—if an all-arrestee database had been in place. This study is included in the record at the conclusion of my remarks.

The first example that the Chicago study cites involves serial rapist and murderer Andre Crawford. In March 1993, Crawford was arrested for felony theft. Under the DNA Fingerprint Act, the state of Illinois would have been able to take a DNA sample from Crawford at that time and upload and keep that sample in NDIS, the national DNA database. But at that time—and still today—Federal law makes it difficult to upload an arrestee's profiles to NDIS, and bars States from keeping that profile in NDIS if the arrestee is not later convicted of a criminal offense. As a result, Crawford's DNA profile was not collected and it was not added to NDIS. And as a result, when Crawford murdered a 37-year-old woman on September 21, 1993, although DNA evidence was recovered from the crime scene, Crawford could not be identified as the perpetrator. And as a result, Crawford went on to commit many more rapes and murders.

On December 21, 1994, a 24-year-old woman was found murdered in an abandoned building on the 800 block of West 50th place in Chicago. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the September 1993 murder, and this December 1994 murder could have been prevented.

On April 3, 1995, a 36-year-old woman was found murdered in an abandoned house on the 5000 block of South Carpenter Street in Chicago. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the two earlier murders that he had committed, and this April 1995 muurder could have been prevented.

On July 23, 1997, a 27-year-old woman was found murdered in a closet of an abandoned house on the 900 block of West 51st Street in Chicago. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the three earlier murders that he had committed, and this July 1997 murder could have been prevented.

On December 27, 1997, a 42-year-old woman was raped in Chicago. As she walked down the street, a man approached her from behind, put a knife to her head, dragged her into an abandoned building on the 5100 block of South Peoria Street, and beat and raped her. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the four earlier murders that he had committed, and this December 1997 rape could have been prevented.

In June 1998, a 31-year-old woman was found murdered in an abandoned building on the 5000 block of South May Street in Chicago. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the four earlier murders and one rape that he had committed, and this June 1998 murder could have been prevented.

On August 13, 1998, a 44-year-old woman was found murdered in an abandoned house on the 900 block of West 52nd Street. Her clothes were found in the alley. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the five earlier murders and one rape that he had committed, and this August 1998 murder could have been prevented.

Also on August 13, 1998, a 32-year-old woman was found murdered in the attic of a house on the 5200 block of South Marshfield. Her body was decomposed, but DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the six earlier murders and one rape that he had committed, and this additional murder could have been prevented.

On December 8, 1998, a 35-year-old woman was found murdered in a building on the 1200 block of West 52nd Street. She had rope marks around her neck and injuries to her face. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the seven earlier murders and one rape that he had committed, and this December 1998 murder could have been prevented.

On February 2, 1999, a 35-year-old woman was found murdered on the 1300 block of West 51st Street. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the eight earlier murders and one rape that he had committed, and this February 1999 murder could have been prevented.

On April 21, 1999, a 44-year-old woman was found murdered in the upstairs of an abandoned house on the 5000 block of South Justine Street. DNA evidence was recovered. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the nine earlier murders and one rape that he had committed, and this April 1999 murder could have been prevented.

And on June 20, 1999, a 41-year-old woman was found murdered in the attic of an abandoned building on the 1500 block of West 51st Street. DNA evidence was recovered from blood on a nearby wall, indicating a struggle. That DNA evidence identifies Crawford as the perpetrator. If the DNA Fingerprint Act had been law, and Crawford's profile had been collected after his March 1993 arrest, he would have been identified as the perpetrator of the ten earlier murders and one rape that he had committed, and this additional murder could have been prevented.

As the city of Chicago case study concludes:

> In January 2000, Andre Crawford was charged with 11 murders and 1 Aggravated Criminal Sexual Assault. If his DNA sample had been taken on March 6, 1993, the subsequent 10 murders and 1 rape would not have happened.

The city of Chicago study goes on to discuss the cases of 7 other serial rapists and murders from that city. Collectively, together with Andre Crawford, these 8 serial rapists and killers represent 22 murders and 30 rapes that could have been prevented had an all-arrestee database been in place.

The DNA Fingerprint Act eliminates current federal statutory restrictions that prevent states from adding and keeping arresttee profiles in NDIS. In effect, the Act would make it possible to build a comprehensive, robust national all-arrestee DNA database.

Here is how the DNA Fingerprint Act works: First, under current Federal law, a DNA profile from an arrestee cannot be uploaded to NDIS until the arrestee is charged in an indictment or information. Thus today, even an arrestee charged in a pleading cannot have his DNA uploaded to the national index. The act eliminates this restriction, allowing arrestees to be included as soon as they are arrested. It also eliminates a statutory restriction that bars inclusion of profiles from suspects who provide so-called "exoneration" samples. The act recognizes that criminal suspects have no legitimate interest in evading identification for crimes that they have committed.

Second, the act requires an arrestee to take the initiative to opt out of NDIS if charges against him have been dismissed or he has been acquitted, and he does not want his DNA profile compared to future crime scene evidence. Current law places the burden of determining who may be removed from the index on the administrator of the DNA database, thus requiring the administrator to track the progress of individual criminal cases. This bureaucratic burden discourages states from creating and maintaining comprehensive, all-arrestee DNA databases. It also effectively precludes the creation of a genuine national all-arrestee database. In effect, only convicts' DNA profiles can be kept in the database over the long term. The act would allow arrestee profiles to be kept in the database as well.

Third, the DNA Fingerprint Act would allow expanded use of CODIS grants. Congress currently appropriates funds for use by states to expand their DNA databases. Current law restricts the use of these grants, however, to only building databases of convicted felons. This bill expands this authorization to allow use of these funds to build a database of all DNA samples collected under lawful authority—including samples taken from arrestees.

Fourth, the DNA Fingerprint Act allows the Federal Government to take and keep DNA samples from arrestees. The act gives the Attorney-General the authority to develop regulations allowing collection of DNA profiles from federal arrestees or detainees. The authority to issue such regulations would give the Attorney General the flexibility needed to respond to new legal developments and changes in technology.

And finally, the act tolls the statute of limitations for Federal sex offenses. Current law generally tolls the statute of limitations for felony cases in which the perpetrator is implicated in the offense through DNA testing. The one exception to this tolling is the sexual-abuse offenses in chapter 109A of title 18. When Congress adopted general tolling, it left out chapter 109A, apparently because those crimes already are subject to the use of "John Doe" indictments to charge unidentified perpetrators. The Justice Department has made clear, however, that John Doe indictments are "not an adequate substitute for the applicability of [tolling]." The Department has criticized the exception in current law as "work[ing] against the effective prosecution of rapes and other serious sexual assaults under chapter 109A," noting that it makes "the statute of limitation rules for such offenses more restrictive than those for all other Federal offenses in cases involving DNA identification." The DNA Fingerprint Act corrects this anomaly by allowing tolling for chapter 109A offenses.

Further evidence of the potential effectiveness of a comprehensive, robust DNA database is available from the recent experience of Great Britain. The British have taken the lead in using DNA to solve crimes, creating a database that now includes 2,000,000 profiles. Their database has now reached the critical mass where it is big enough to serve as a highly effective tool for solving crimes. In the U.K., DNA from crime scenes produces a match to the DNA database in 40 percent of all cases. This amounted to 58,176 cold hits in the United Kingdom 2001. (See generally "The Application of DNA Technology in England and Wales," a study commissioned by the National Institute of Justice.) A broad DNA database works. The same tool should be made available in the United States.

Some critics of DNA databasing argue that a comprehensive database would violate criminal suspects' privacy rights. This is simply untrue. The sample of DNA that is kept in NDIS is what is called "junk DNA"—it is impossible to determine anything medically sensitive from this DNA. For example, this DNA does not allow the tester to determine if the donor is susceptible to particular diseases. The Justice Department addressed this issue in its statement of views on S. 1700, a DNA bill that was introduced in the 108th Congress:

> [T]here [are no] legitimate privacy concerns that require the retention or expansion of these [burdensome expungement provisions]. The DNA identification system is already subject to strict privacy rules, which generally limit the use of DNA samples and DNA profiles in the system to law enforcement identification purposes. See 42 U.S.C. 14132(b)–(c). Moreover, the DNA profiles that are maintained in the national index relate to 13 DNA sites that do not control any traits or characteristics of individuals. Hence, the databased information cannot be used to discern, for example, anything about an individual's genetic illnesses, disorders, or dispositions. Rather, by design, the information the system retains in the databased DNA profiles is the equivalent of a "genetic fingerprint" that uniquely identifies an individual, but does not disclose other facts about him.

Elsewhere in its Views Letter, the Justice Department also explained why the restrictive expungement provisions in current law are unnecessary and contrary to sound public policy. The letter noted that the FBI maintains a database of fingerprints of arrestees—without regard to whether the arrestee later was acquitted or convicted. The letter states, "With respect to the . . . exclusion of DNA profiles of unindicted arrestees, it should be noted by way of comparison that there is no Federal policy that bars States from including fingerprints of arrestees in State and Federal law enforcement databases prior to indictment." The Justice Department also pointed out that "[t]here is no reason to have a . . . Federal policy mandating expungement for DNA information. If the person whose DNA it is does not commit other crimes, then the information simply remains in a secure database and there is no adverse effect on his life. But if he commits a murder, rape, or other serious crime, and DNA matching can identify him as the perpetrator, then it is good that the information was retained."

From the Chicago study—which examines the experience of just one American city over recent years—we know that an all-arrestee database can and inevitably will make the critical difference in solving and preventing violent sex offenses. From the British experience, we know that a comprehensive database can be a highly effective tool in solving crimes. And we know that DNA databasing does not violate the right to privacy. I urge the Congress to enact the DNA Fingerprint Act—before another preventable sex crime occurs.

I ask unanimous consent that the text of the Chicago study be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### CASE STUDY OF 8 SERIAL KILLERS AND RAPISTS: 60 VIOLENT CRIMES COULD HAVE BEEN PREVENTED, INCLUDING 22 MURDERS AND 30 RAPES, CITY OF CHICAGO, MARCH 2005

If Illinois collected DNA from 8 serial killers and rapists during any of their felony arrests, over 60 serious violent crimes would never have occurred. These include: 22 murders—all female victims ranging from 24 to 44 years old; 30 rapes—all victims ranging from 15 to 65 years old; attempted rapes; and aggravated kidnapping.

*Offender Andre Crawford, 37 years old: 10 preventable murders and 1 preventable rape*

Andre Crawford has been charged with eleven murders and one attempted murder/aggravated criminal sexual assault.

In March 1993, Andre Crawford was arrested for Felony Theft. If Illinois required him to give a DNA sample during that felony arrest, a DNA match could have been obtained with the DNA evidence recovered from his first murder, thereby identifying him as the offender and the subsequent 10 murders and one attempted murder/criminal sexual assault would have been prevented.

Timeline of Events: On March 6, 1993, Andre Crawford was arrested for Felony Theft.

On September 21, 1993, a 37-year-old woman was found murdered. Her body was discovered in a vacant factory lot on the 700 block of West 50th Street. She had blunt trauma to her head. DNA evidence was recovered.

The following are 10 preventable murders & 1 preventable attempted murder/rape which would not have occurred had Crawford's DNA sample been taken on March 6, 1993:

On December 21, 1994, a 24-year-old woman was found murdered. Her body was found in an abandoned building on the 800 block of West 50th Place. DNA evidence was recovered.

On April 3, 1995, a 36-year-old woman was found murdered. Her body was discovered in an abandoned house on the 5000 block of South Carpenter. DNA evidence was recovered.

On May 3, 1995, Andre Crawford was arrested for Attempted Criminal Sexual Abuse (Felony). Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

On July 23, 1997, a 27-year-old woman was found murdered. Her body was discovered in a closet of an abandoned house on the 900 block of West 51st Street. DNA evidence was recovered.

On December 27, 1997, a 42-year-old woman was raped. As she walked, an offender approached her from behind, placed a knife to her head, dragged her into an abandoned building on the 5100 block of South Peoria, then beat and raped her. DNA evidence was recovered.

In January 1998, Andre Crawford was arrested for Possession of a Controlled Substance (Felony). Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

In June 1998, a 31-year-old woman was found murdered. Her body was discovered in an abandoned building on the 5000 block of South May Street.

On August 13, 1998, a 44-year-old woman was found murdered. A rehabber discovered her body in the kitchen of an abandoned house on the 900 block of West 52nd Street. Her clothes were found in the alley. DNA evidence was recovered.

On August 13, 1998, a 32-year-old woman was found murdered. A real estate agent discovered her decomposed body lying on the floor in the attic on the 5200 block of South Marshfield. DNA evidence was recovered.

On December 8, 1998, a 35-year-old woman was found murdered. A rehabber discovered her body with her pants one around her ankle and the other completely off in a building on the 1200 block of West 52nd Street. She had rope marks around her neck and injuries to her face. DNA evidence was recovered.

On February 2, 1999, a 35-year-old woman was found murdered. Her body was discovered on the 1300 block of West 51st Street. DNA evidence was recovered.

On April 21, 1999, a 44-year-old woman was found murdered. Her body was discovered in the upstairs of an abandoned house on the 5000 block of South Justine. DNA evidence was recovered.

On June 20, 1999, a 41-year-old woman was found murdered. Her body was found in the attic of an abandoned building on the 1500 block of West 51st Street. DNA evidence was recovered from blood on the wall which indicated a struggle.

In November 1999, Andre Crawford was arrested for possession of a controlled substance (felony). Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

In January 2000, Andre Crawford was charged with 11 murders and 1 aggravated criminal sexual assault. If his DNA sample had been taken on March 6, 1993, the subsequent 10 murders and 1 rape would not have happened.

*Offender Brandon Harris, 18 years old: 4 preventable rapes and 1 preventable kidnapping*

Brandon Harris was convicted of five aggravated criminal sexual assaults and one aggravated kidnapping/attempted rape.

In August 2000, Brandon Harris was arrested with a felony charge. If Illinois required him to give a DNA sample after that arrest, a DNA match could have been obtained with the DNA evidence recovered from his first rape, thereby identifying him as the offender and the subsequent four rapes and one attempt rape/armed robbery/aggravated kidnapping would have been prevented.

Timeline of events: On December 2, 1999, a 17-year old girl was raped. As she was waiting for a bus, an offender displayed a knife, forced her to an abandoned garage on the 100 block of South 83rd Street and raped her.

On August 25, 2000, Brandon Harris was arrested for aggravated criminal sexual assault.

On October 29, 2000, Brandon Harris was arrested for aggravated criminal sexual assault.

The following are 4 preventable rapes and 1 attempted rape/armed robbery/aggravated kidnapping which would not have occurred had Harris's DNA sample been taken on August 25, 2000.

On November 26, 2000, a 25-year-old woman was raped. As she walked to work, an offender approached her, displayed a handgun, forced her into an abandoned house on the 7900 block of South Yale and raped her. DNA evidence was recovered.

On November 29, 2000, a 19-year-old girl was robbed and kidnapped. As she attempted to exit an L-Train, an offender displayed a handgun and demanded her to stay on the train. The offender ordered the victim to exit the train at a later stop, took her to an abandoned basement on the 200 block of West 80th Street where he made her take her clothes off and took her money.

On December 7, 2000, Brandon Harris was arrested for robbery—armed with a firearm & UUW (felony). However, Brandon was not convicted until February 5, 2001 and sentenced to home confinement. Six days later, he rapes again.

On February 11, 2001, a 22-year-old woman was raped. As she was waiting for a bus, an offender pulled up in a vehicle, ordered her into the car at gunpoint and raped her on the 8200 block of South Harvard. DNA evidence was recovered.

On February 28, 2001, a 15-year-old girl was raped. She exited an L-station and began to walk home when an offender walked up behind her, stuck a piece of glass to her neck, forced her to a basement stairwell on the 8000 block of South Princeton and raped her. DNA evidence was recovered.

On May 19, 2001, a 17-year-old girl was raped. As she waited for a bus, an offender approached her, led her at gunpoint to a backyard on the 8100 South Harvard and raped her.

Brandon Harris was convicted of 5 aggravated criminal sexual assaults and 1 attempt aggravated criminal sexual assault. If his DNA sample had been taken on August 25, 2000, the subsequent 4 rapes and 1 attempt rape would not have happened.

*Offender Geoffrey T. Griffin, 31 years old: 8 preventable murders and 1 preventable rape*

Geoffrey Griffin has been charged with eight murders and one aggravated criminal sexual assault.

In December 1993, Geoffrey Griffin was arrested for possession of a controlled substance (felony). If Illinois required him to give a DNA sample after that felony arrest, a DNA match could have been obtained with the DNA evidence recovered from his first rape, thereby identifying him as the offender and the subsequent eight murders, one rape and one attempted rape would have been prevented.

Timeline of Events: On August 26, 1995, Geoffrey Griffin was arrested for possession of a controlled substance.

On July 10, 1998, a 37-year-old woman was raped. She was forced into an abandoned building on the 6700 block of South Halsted. After being raped, she was beat into unconsciousness and left to die. DNA evidence was recovered from the sexual assault kit.

The following are 8 preventable murders, 1 rape and 1 attempted rape which would not have occurred had Griffin's DNA sample been taken on August 26, 1995.

On July 11, 1998, a 36-year-old woman was found murdered. She was found in the rear yard on the 7400 block of South Halsted, naked from the waist down. She suffered blunt trauma to the face and head. DNA evidence was recovered from the sexual assault kit.

On February 7, 1999, a 22-year-old woman was raped. She was attacked in an abandoned building on the 10900 block of South Edbrooke. The offender raped her, then beat her in the head with a brick and burned her eyes. DNA evidence was recovered from the sexual assault kit.

On May 2, 2000, a 33-year-old woman was found murdered. She was raped, and then strangled to death on the 15800 block of South Park. She was found naked. DNA evidence was recovered from the victim's fingernail clippings.

On May 12, 2000, a 32-year-old woman was found murdered. She was found naked in an abandoned building on the 11800 block of South Yale. She was strangled to death. DNA evidence of the assailant was recovered from the sexual assault kit.

On May 17, 2000, a 32-year-old woman was found murdered. Her body was discovered in an abandoned building on the 11900 block of South LaSalle. The murderer's jacket had the victim's blood stains on it. DNA evidence was recovered.

On June 13, 2000, a 21-year-old woman was attacked. As she was in an abandoned building on the 11900 block of South Wallace, an offender attempted to rape her. She was struck with a knife, but escaped.

On June 16, 2000, a 29-year-old woman was found murdered. Her body was discovered in an abandoned building on the 10700 block of South Michigan. DNA of the assailant was recovered from the victim's fingernails. Later matched.

On June 19, 2000, a 47-year-old woman was found murdered. Her body was found naked from her waist down and the cause of death was strangulation on the 20 block of East 113th Place (occurrence May 25, 2000). DNA of the assailant was recovered from the victim's fingernails.

On June 22, 2000, a 39-year-old woman was found murdered. Her body was found in an abandoned house on the 200 block of West 112th Place (occurrence June 13, 2000). She was naked from the waist down and the cause of death was strangulation. DNA evidence was recovered. The murderer's jacket had the victim's blood on it.

On June 27, 2000, a 44-year-old woman was found murdered. She was strangled to death. Her body was found naked from the waist down on the 11000 block of South Edbrooke (occurrence June 13, 2000). The murderer's jacket had the victim's blood on it.

Geoffrey Griffin was arrested on June 17, 2000. He has subsequently been charged with eight murders and 1 aggravated criminal sexual assault. If his DNA sample had been taken on August 26, 1995, the 8 murders, 1 rape and 1 attempted rape would not have happened.

*Offender Mario Villa, 37 years old: 8 preventable rapes or attempted rapes*

Mario Villa has been charged with four rapes, linked by DNA to two other rapes, and a main suspect in an additional rape and two attempted rapes.

In February 1999, Mario Villa was arrested for felony burglary. If Illinois required him to give a DNA sample after that arrest, a DNA match could have been obtained with the DNA evidence recovered from his first rape, thereby identifying him as the offender and the subsequent six rapes and two attempted rapes would have been prevented.

Timeline of Events: On February 6, 1999, Mario Villa was arrested for burglary (felony).

On July 5, 1999, a 16-year-old girl was raped. As she slept in her apartment on the 1300 block of North Dean Street, an offender entered her apartment and raped her. He ordered her to take a shower after raping her. DNA evidence was recovered from the criminal sexual assault kit.

The following are 8 preventable rapes or attempted rapes which would not have occurred had Villa's DNA sample been taken on February 6, 1999.

On May 26, 2002, a 32-year-old woman was raped. As she slept in her apartment on the 1300 block of South Greenview, an offender entered her residence, raped her and then ordered her to take a shower. DNA evidence of the assailant was recovered from the criminal sexual assault kit.

On March 17, 2003, a 47-year-old woman was raped. As she sat in her car at a forest preserve in Lisle, Illinois, the offender ordered her into the woods and raped her. DNA evidence of the assailant was recovered from the criminal sexual assault kit. Linked by DNA.

On June 8, 2003, a 19-year-old woman was attacked in her apartment. As she slept in her apartment on the 1800 block of North Halsted, an offender entered her residence and attempted to rape her. The victim yelled, "Fire, fire" and the offender fled.

On August 22, 2003, a woman was raped in Kenosha, Wisconsin. DNA evidence of the assailant was recovered from the criminal sexual assault kit. Linked by DNA.

On October 4, 2003, a 29-year-old woman was attacked at home on the 1200 block of West Byron at 3 a.m. in the morning, an offender entered her apartment and attempted to rape her.

On October 15, 2003, a 24-year-old woman was raped. As she slept in her apartment on the 3500 block of West Greenview, the offender entered her residence, placed a pillow over her face and raped her. Offender ordered her to take a shower after raping her.

On December 20, 2003, a 40-year-old woman was raped. As she slept in her apartment at 1300 of West Ohio, an offender entered her residence, told her not to say anything, placed a pillow over her mouth and raped her. Offender ordered her to take shower after raping her.

On February 7, 2004, a 23-year-old woman was raped. As she slept in her apartment, an offender entered her residence on the 2000 block of North Cleveland and raped her. The offender ordered her to take a shower after raping her.

On March 19, 2004, police officers obtained a search warrant and swabbed a DNA sample from Mario Villa as he appeared in court on an unrelated criminal trespassing charge. Subsequently, Mario Villa was charged with 4 aggravated criminal sexual assaults, linked by DNA or similarities in the other crimes. If his DNA sample had been taken on February 6, 1999, the subsequent 6 rapes and 2 attempted rapes would not have happened.

*Offender Bernard Middleton, 55 years old: 1 preventable murder and 2 preventable rapes*

Bernard Middleton has been charged with one murder and three aggravated criminal sexual assaults.

Bernard Middleton was arrested for felonies in 1987 and 1993, if Illinois required him to give a DNA sample after either arrest, a DNA match could have been obtained with the DNA evidence recovered from his first rape, thereby identifying him as the offender and the subsequent murder and two rapes would have been prevented.

Timeline of Events: On January 17, 1987, Bernard Middleton was arrested for aggravated battery.

On May 6, 1993, Bernard Middleton was arrested for felony theft.

On September 25, 1995, a 22-year-old woman was raped. As she waited for a bus, an offender placed a knife to her head, led her to an isolated area, beat and raped her on the 600 block of West Garfield. DNA evidence was recovered.

The following is 1 preventable murder and 2 preventable rapes which would not have occurred had Middleton's DNA sample been taken on May 6, 1993.

On October 16, 1995, a 32-year-old woman was found murdered. She was lured into a stairwell at Hope Academy on the 5500 block of South Lowe, raped, and then murdered. Her body was found in the stairwell. DNA evidence was recovered from the criminal sexual assault kit.

On May 28, 1997, Bernard Middleton was arrested for felony theft. Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

On July 25, 1997, a 34-year-old woman was raped. The offender placed a knife against her head, told that she would be killed and then raped her on the 5500 block of South Calumet. DNA evidence was recovered.

On September 14, 1998, Bernard Middleton was arrested for felony theft. Convicted on October 9, 1998 and sentenced to probation for 1 year. Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

On October 31, 1998, a 48-year-old woman was raped. As she walked down the street, an offender grabbed her from behind, placed a knife against her, forced her to the alley and raped her on the 1500 Block of North Claremont Avenue. DNA evidence was recovered.

On November 12, 2001, Bernard Middleton was arrested for possession of a controlled substance. Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

On August 8, 2002, Bernard Middleton was arrested for felony retail theft. Convicted and sentence to 20 months. Another missed opportunity to have his DNA sample entered into the system and to prevent further violence.

On May 1, 2003, Bernard Middleton was charged with the aforementioned murder and three rapes. While Bernard Middleton was in prison for a retail theft conviction in 2002, his DNA sample was entered into the DNA database and his sample matched the evidence recovered from the previous unresolved cases. If his DNA sample had been taken on May 6, 1993, the murder and 2 rapes would not have happened.

*Offender Ronald Macon, 35 years old: 2 preventable murders and 1 preventable criminal sexual assault*

In 2003, Ronald Macon was convicted of three murders and one criminal sexual assault.

Ronald Macon was arrested for a felony charge on three separate occasions in 1998. If Illinois required him to give a DNA sample after his first felony arrest in 1998, a DNA match could have been obtained with the DNA evidence recovered from his first murder, thereby identifying him as the offender and the subsequent two murders and one criminal sexual assault would have been prevented.

Timeline of Events: On January 13, 1998, Ronald Macon was arrested for retail theft (felony).

On July 20, 1998, Ronald Macon was arrested for defacing property (felony).

On September 8, 1998, Ronald Macon was arrested for retail theft (felony).

On February 18, 1999, a 43-year-old woman was found murdered. Her body was discovered on the 100 block of East 45th Street. DNA evidence was recovered.

The following are 2 preventable murders and 1 preventable criminal sexual assault which would not have occurred had Macon's DNA sample been taken on January 13, 1998.

On April 4, 1999, a 35-year-old woman was found murdered. She was choked and beaten to death with an electrical box on the 5900 block of South Damen Ave. DNA was evidence recovered.

On June 21, 1999, a woman was found murdered. She was choked, raped; her hands and feet were bound with shoelaces, and then strangled to death with a strap from a bag. Her body was discovered on the 400 block of East 69th Street. DNA evidence was recovered.

On August 9, 1999, Ronald Macon was arrested for criminal sexual assault of a 65-year-old woman. Ronald Macon placed a knife to the victim's neck and demanded her jewelry and money. Ronald Macon then wrapped a cord around her hands, led her into the bedroom and raped her.

On September 11, 2003, Ronald Macon was sentenced for life in prison for killing the three women and sentenced to 30 years for raping a 65-year-old woman. If his DNA sample had been taken on January 13, 1998, 2 murders and 1 rape would not have happened.

[The remainder of the study describes 11 preventable rapes committed by offenders Ronald Harris and Arto Jones, and 5 preventable rapes committed by offender Nolan Watson, all of which could have been prevented if Chicago had collected DNA from all felony arrestees.]

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By Mr. LAUTENBERG (for himself and Mr. CORZINE):

S. 1607. A bill to amend section 10501 of title 49, United States Code, to exclude solid waste disposal from the jurisdiction of the Surface Transportation Board; to the Committee on Commerce, Science, and Transportation.

Mr LAUTENBERG. Mr. President, I rise to introduce legislation to address a serious problem in New Jersey and across the nation—the unregulated sorting and processing of garbage at rail facilities in our communities.

A conflict in Federal laws and policy has resulted in certain solid waste-handling facilities located on railroad property being unregulated. Environmental laws such as the Solid Waste Disposal Act should apply to the operation of these facilities. However, a broad-reaching Federal railroad law forbids environmental regulatory agencies from overseeing the safe handling of trash or solid waste at these sites.

These unintended consequences require our attention, and are the reason for the Solid Waste Environmental Regulation Clarification Affecting Railroads Act of 2005.

The Federal railroad law in question was enacted most recently in the Interstate Commerce Commission Termination Act of 1995 to protect the operation of interstate rail service. The law gives 'exclusive' jurisdiction over rail transportation—and activities incident to such transportation—to the Federal Surface Transportation Board.

I realize this law is necessary for the efficient operation of commerce in our modern economy. I serve on the Committee on Commerce, Science and Transportation, as well as the Subcommittee on Merchant Marine and Surface Transportation, which oversees the Surface Transportation Board and considers nominations of its members. The board's reputation and expertise in rail regulation is second to none.

However, the Board is limited to only a passive role in ensuring that rail facilities are operated with minimal detriment to the public health and safety. These sites require active environmental regulation, just like other solid waste handling facilities.

The recent proliferation of solid waste rail transfer facilities has affected the ability of State and local governments to engage in long-term waste management planning. These agencies also are responsible for responding to accidents and incidents occurring at these facilities.

Although transporting solid waste by rail can reduce the number of trucks hauling solid waste on public roads, handling this waste without careful planning and management presents a danger to human health and the environment.

These transfer operations create thick dust, which is potentially hazardous and is breathed in by local residents and business owners.

Some transfer facilities don't have proper drainage on site, leading to the potential contamination of surface and groundwater and nearby wetlands.

In addition, these facilities raise serious concerns about the safety of their workers and the exemptions they claim from strong State worker protection laws.

As a result of these chilling reports, I asked state agencies in New Jersey, railroads, and other interested groups to provide input into possible legislation to address this problem.

Many experts in New Jersey, including the Department of Environmental Protection, the Meadowlands Commission, the Pinelands Commission, and the Rutgers Environmental Law Clinic, provided excellent suggestions. I look forward to working with them throughout the process to find a solution to this problem.

I have also met with railroad interests, who are concerned about their ability to continue hauling solid waste. Some operators of these rail facilities have voluntarily complied with State environmental laws, even though they could claim that Federal railroad law preempts any enforcement action States could take. I would like to thank members of the solid waste handling industry for their concern and input as well.

One reason this legislation is needed is that the Surface Transportation Board has never clarified whether it even has jurisdiction over the processing and sorting of solid waste at a rail facility.

This bill would make it clear that Congress' intent was not to subvert the policies of the Solid Waste Disposal Act and other environmental laws covering the handling of garbage.

The bill will clarify the intent of Congress in passing these two important laws, and ensure that they work together to provide for a robust, environmentally responsible rail system.

Some have suggested that perhaps this clarification should not be limited to the processing and sorting of solid waste. But these are the activities that require the greatest environmental oversight, because they pose the greatest environmental risk.

Many towns across the country are beginning to understand the problem of having an unregulated polluting neighbor, and having nowhere to turn for help. Many influential organizations support this effort, including: United States Conference of Mayors, National Governors Association, Solid Waste Association of North America, Mass Municipal Association, National Solid Wastes Management Association, Integrated Waste Services Association, and Construction Material Recyclers Association.

These garbage transfer facilities should not be able to circumvent and ignore our environmental and. safety laws. I realize that the Surface Transportation Board must have broad jurisdiction over rail transportation, but that jurisdiction should not be interpreted in a way that puts our environment at risk.

Railroading has a bright future in New Jersey and throughout our country, as freight loads have increased to levels we have not seen in some time. I have fought for many years to ensure that our freight transportation system, the backbone of our national economy, continues to flourish. But we need this legislation to ensure that these solid waste rail transfer facilities are run in the same environmentally responsible manner as other solid waste sites.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1607

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Solid Waste Environmental Regulation Clarification Affecting Railroads Act of 2005".

**SEC. 2. AMENDMENTS TO EXCLUDE SOLID WASTE DISPOSAL FROM THE JURISDICTION OF THE BOARD.**

Section 10501 of title 49, United States Code, is amended—

(1) in subsection (b)(2), by inserting "except solid waste management facilities (as

defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903))," after "facilities,"; and

(2) in subsection (c)(2)—

(A) by striking "over mass" and inserting the following: "over—

"(A) mass"; and

(B) by striking the period at the end and inserting the following: "; or

"(B) the processing or sorting of solid waste.".

Mr. CORZINE. Mr. President, I rise in support of legislation being introduced today by my colleague from New Jersey, Senator LAUTENBERG. This legislation, the Solid Waste Environmental Regulation Clarification Affecting Railroads Act of 2005, would deal with a growing problem in my state: the problem of railroads avoiding strict environmental standards by constructing waste transfer facilities next to rail lines. I am proud to cosponsor this important legislation.

I first became aware of this problem when constituents contacted me about a waste transfer facility proposed to be built by a railroad in Mullica Township, New Jersey. There could not be a worse place for such a facility. Mullica Township is located in the Pinelands National Reserve, which encompasses more than 1.1 million acres of ecologically sensitive land. The Pinelands was designated as our nation's first national reserve in order to protect its streams, bogs,and cedar and hardwood swamps, as well as the many species that live there. Yet many of these protections could be circumvented if this proposed facility is built. The railroad argues that federal statute provides a shield from all environmental standards for any trash facility built adjacent to a rail line. This same argument has been used by railroads in the case of 5 similar facilities that are already in operation in North Bergen. These facilities lie near New Jersey's Meadowlands, another environmental treasure.

The statute being used by the railroads establishes the Surface Transportation Board, STB, as the reulatory agency for the nation's railroads, title 49 of the United States Code. Under section 10501, the STB has exclusive jurisdiction over the "construction, acquisition, or operation" of "facilities" located adjacent to a rail line. The railroads argue that facility means any facility, including a trash transfer station. They argue that because of this statute, federal law preempts all other state and local protections.

I cannot believe that Congress intended these types of facilities to be exempt from State and local environmental standards. The risk to the surrounding communities from the air pollution and groundwater contamination that could occur when open rail cars carrying solid waste are allowed to load and off-load is too great. However, I believe that we must take steps to clarify the law's intent. The "Solid Waste Environmental Regulation Clarification Affecting Railroads Act of 2005 will do this. The Act makes it clear that all state and local environmental laws and restrictions apply to these facilities.

This is a commonsense measure that insures that the public remains fully involved in decisions relating to these facilities, regardless of where they are built. I urge its enactment.

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By Mr. SMITH (for himself, Mr. McCAIN, Mr. INOUYE, and Mr. NELSON of Florida):

S. 1608. A bill to enhance Federal Trade Commission enforcement against illegal spam, spyware, and cross-border fraud and deception, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. SMITH. Mr. President, I rise today with Senators McCAIN, INOUYE, and NELSON of Florida to introduce the "Undertaking Spam, Spyware, and Fraud Enforcement With Enforcers Beyond Borders Act of 2005" or the "U.S. SAFE WEB Act of 2005".

The Federal Trade Commission has a constitutionally mandated responsibility to protect the American consumer from all types of fraud and deception. Today, the American consumer is increasingly falling prey to a new type of fraud unknown just a few years ago. The US SAFE WEB Act of 2005 will take the important steps necessary to help combat this disturbing and growing trend.

The rise in the use of the internet has provided the American consumer with innumerable benefits. The global market place in which we live knows no borders, and the FTC must be provided with all the tools necessary to fulfill its duty in this type of environment.

Using internet and long-distance telephone technology, unscrupulous businesses are increasingly able to victimize consumers in ways not previously imagined. Deceptive spammers can easily hide their identities, forge the electronic path of their email messages, and send messages from anywhere in the world to anyone in the world. These businesses can strike quickly on a global scale, victimize thousands of consumers, and disappear nearly without a trace—along with their ill-gotten gains.

There are dangers that come into U.S. homes through some of the harmful online networks, including some peer-to-peer networks, who purposefully locate outside the United States to avoid our Federal laws and put American families at risk.

Cross-Border fraud, as it is known, is becoming an increasingly common problem facing the American consumer and the FTC. In 1995, fewer than 1 percent of all consumer fraud complaints received by the FTC were directed at foreign entities. In less than a decade, the percentage had grown to 16 percent. In 2004 alone, the FTC received more than 47,000 complaints by U.S. consumers against foreign companies complaining about transactions involving more that $92 million. In the past three years, over 100,000 consumers logged cross-border fraud complaints with the FTC.

Remarkably, these high numbers likely understate the problem. Consumers who reported instances of cross-border fraud only did so when they knew that they were complaining about foreign entities. In many more instances, consumers do not know that their complaints are against foreign entities. Fully one-third of all complaints to the FTC do not reveal the location of the entity being complained about.

The Federal Trade Commission also testified at a recent Aging Committee hearing on elder fraud that many sweepstakes and lottery scams originate in Canada, and consumer fraud has become increasingly cross-border in nature.

The US SAFE WEB Act helps to address the challenges posed by globalization of fraudulent, deceptive, and unfair practices.

Our bill draws on established models for international cooperation pioneered by agencies such as the Securities and Exchange Commission and the Commodities Futures Trading Commission. The FTC faces significant challenges in battling sophisticated cross-border schemes. Just as improved authority to act in cross-border cases gave the SEC and CFTC important new tools to fulfill their missions, enactment of the US SAFE WEB Act would help the FTC fulfill its mission of protecting and assisting U.S. consumers. The Act will substantially improve the FTC's ability to meet the challenges posed by international investigations and litigation.

The US SAFE WEB Act will provide the FTC with important new tools in many important areas. The provisions contained within the Act are needed to help the FTC to protect consumers from cross-border fraud and deception, and particularly to fight spam, spyware, and Internet fraud and deception.

Among key provisions within the bill are those that broaden reciprocal information sharing, expand investigative cooperation between U.S. and foreign law enforcement agencies, increase information from foreign sources, and enhance the confidentiality of FTC investigations.

These provisions are needed to allow the FTC to share important information with foreign agencies so that they can halt fraud, deception, spam, and spyware targeting U.S. citizens, and for the FTC to obtain, reciprocally, foreign information needed to halt these crimes.

Furthermore, this legislation enhances the FTC's ability to obtain consumer redress in cross-border cases. The US SAFE WEB Act would allow the FTC to target more resources toward foreign litigation to facilitate recovery of offshore assets to redress U.S. consumers.

In the 108th Congress, Senator McCain and I introduced this legislation and it quickly passed the Senate by unanimous consent. Unfortunately, the bill was not signed into law before Congress adjourned. I urge my colleagues to support quick passage of this very important legislation this year.

The American consumer is far too vulnerable to this growing type of fraud and deception. Enactment of the US SAFE WEB Act would help the FTC fulfill its mission of protecting and assisting U.S. consumers.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

### S. 1608

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; FINDINGS; PURPOSE.

(a) Short Title.—This Act may be cited as the "Undertaking Spam, Spyware, And Fraud Enforcement With Enforcers beyond Borders Act of 2005" or the "U.S. SAFE WEB Act of 2005".

(b) Findings.—The Congress finds the following:

(1) The Federal Trade Commission protects consumers from fraud and deception. Cross-border fraud and deception are growing international problems that affect American consumers and businesses.

(2) The development of the Internet and improvements in telecommunications technologies have brought significant benefits to consumers. At the same time, they have also provided unprecedented opportunities for those engaged in fraud and deception to establish operations in one country and victimize a large number of consumers in other countries.

(3) An increasing number of consumer complaints collected in the Consumer Sentinel database maintained by the Commission, and an increasing number of cases brought by the Commission, involve foreign consumers, foreign businesses or individuals, or assets or evidence located outside the United States.

(4) The Commission has legal authority to remedy law violations involving domestic and foreign wrongdoers, pursuant to the Federal Trade Commission Act. The Commission's ability to obtain effective relief using this authority, however, may face practical impediments when wrongdoers, victims, other witnesses, documents, money and third parties involved in the transaction are widely dispersed in many different jurisdictions. Such circumstances make it difficult for the Commission to gather all the information necessary to detect injurious practices, to recover offshore assets for consumer redress, and to reach conduct occurring outside the United States that affects United States consumers.

(5) Improving the ability of the Commission and its foreign counterparts to share information about cross-border fraud and deception, to conduct joint and parallel investigations, and to assist each other is critical to achieve more timely and effective enforcement in cross-border cases.

(c) Purpose.—The purpose of this Act is to enhance the ability of the Federal Trade Commission to protect consumers from illegal spam, spyware, and cross-border fraud and deception and other consumer protection law violations.

### SEC. 2. FOREIGN LAW ENFORCEMENT AGENCY DEFINED.

Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by adding at the end the following:

"'Foreign law enforcement agency' means—

"(1) any agency or judicial authority of a foreign government, including a foreign state, a political subdivision of a foreign state, or a multinational organization constituted by and comprised of foreign states, that is vested with law enforcement or investigative authority in civil, criminal, or administrative matters; and

"(2) any multinational organization, to the extent that it is acting on behalf of an entity described in paragraph (1).".

### SEC. 3. AVAILABILITY OF REMEDIES.

Section 5(a) of the Federal Trade Commission Act (15 U.S.C. 45(a)) is amended by adding at the end the following:

"(4)(A) For purposes of subsection (a), the term 'unfair or deceptive acts or practices' includes such acts or practices involving foreign commerce that—

"(i) cause or are likely to cause reasonably foreseeable injury within the United States; or

"(ii) involve material conduct occurring within the United States.

"(B) All remedies available to the Commission with respect to unfair and deceptive acts or practices shall be available for acts and practices described in this paragraph, including restitution to domestic or foreign victims.".

### SEC. 4. POWERS OF THE COMMISSION.

(a) Publication of Information; Reports.—Section 6(f) of the Federal Trade Commission Act (15 U.S.C. 46(f)) is amended—

(1) by inserting "(1)" after "such information" the first place it appears; and

(2) by striking "purposes." and inserting "purposes, and (2) to any officer or employee of any foreign law enforcement agency under the same circumstances that making material available to foreign law enforcement agencies is permitted under section 21(b).".

(b) Other Powers of the Commission.—Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is further amended by inserting after subsection (i) and before the proviso the following:

"(j) Investigative Assistance for Foreign Law Enforcement Agencies.—

"(1) In general.—Upon a written request from a foreign law enforcement agency to provide assistance in accordance with this subsection, if the requesting agency states that it is investigating, or engaging in enforcement proceedings against, possible violations of laws prohibiting fraudulent or deceptive commercial practices, or other practices substantially similar to practices prohibited by any provision of the laws administered by the Commission, other than Federal antitrust laws (as defined in section 12(5) of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211(5))), to provide the assistance described in paragraph (2) without requiring that the conduct identified in the request constitute a violation of the laws of the United States.

"(2) Type of assistance.—In providing assistance to a foreign law enforcement agency under this subsection, the Commission may—

"(A) conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance, using all investigative powers authorized by this Act; and

"(B) when the request is from an agency acting to investigate or pursue the enforcement of civil laws, or when the Attorney General refers a request to the Commission from an agency acting to investigate or pursue the enforcement of criminal laws, seek and accept appointment by a United States district court of Commission attorneys to provide assistance to foreign and international tribunals and to litigants before such tribunals on behalf of a foreign law enforcement agency pursuant to section 1782 of title 28, United States Code.

"(3) Criteria for determination.—In deciding whether to provide such assistance, the Commission shall consider all relevant factors, including—

"(A) whether the requesting agency has agreed to provide or will provide reciprocal assistance to the Commission;

"(B) whether compliance with the request would prejudice the public interest of the United States; and

"(C) whether the requesting agency's investigation or enforcement proceeding concerns acts or practices that cause or are likely to cause injury to a significant number of persons.

"(4) International agreements.—If a foreign law enforcement agency has set forth a legal basis for requiring execution of an international agreement as a condition for reciprocal assistance, or as a condition for provision of materials or information to the Commission, the Commission, with prior approval and ongoing oversight of the Secretary of State, and with final approval of the agreement by the Secretary of State, may negotiate and conclude an international agreement, in the name of either the United States or the Commission, for the purpose of obtaining such assistance, materials, or information. The Commission may undertake in such an international agreement to—

"(A) provide assistance using the powers set forth in this subsection;

"(B) disclose materials and information in accordance with subsection (f) and section 21(b); and

"(C) engage in further cooperation, and protect materials and information received from disclosure, as authorized by this Act.

"(5) Additional authority.—The authority provided by this subsection is in addition to, and not in lieu of, any other authority vested in the Commission or any other officer of the United States.

"(6) Limitation.—The authority granted by this subsection shall not authorize the Commission to take any action or exercise any power with respect to a bank, a savings and loan institution described in section 18(f)(3) (15 U.S.C. 57a(f)(3)), a Federal credit union described in section 18(f)(4) (15 U.S.C. 57a(f)(4)), or a common carrier subject to the Act to regulate commerce, except in accordance with the undesignated proviso following the last designated subsection of section 6 (15 U.S.C. 46).

"(7) Assistance to certain countries.—The Commission may not provide investigative assistance under this subsection to a foreign law enforcement agency from a foreign state that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App.2405(j)(4)).

"(k) Referral of Evidence for Criminal Proceedings.—

"(1) In general.—Whenever the Commission obtains evidence that any person, partnership, or corporation, either domestic or foreign, has engaged in conduct that may constitute a violation of Federal criminal law, to transmit such evidence to the Attorney General, who may institute criminal proceedings under appropriate statutes. Nothing in this paragraph affects any other authority of the Commission to disclose information.

"(2) International information.—The Commission shall endeavor to ensure, with respect to memoranda of understanding and international agreements it may conclude, that material it has obtained from foreign law enforcement agencies acting to investigate or pursue the enforcement of foreign criminal laws may be used for the purpose of investigation, prosecution, or prevention of violations of United States criminal laws.

"(l) Expenditures for Cooperative Arrangements.—To expend appropriated funds for—

"(1) operating expenses and other costs of bilateral and multilateral cooperative law enforcement groups conducting activities of interest to the Commission and in which the Commission participates; and

"(2) expenses for consultations and meetings hosted by the Commission with foreign government agency officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to the Commission's mission, development and implementation of cooperation agreements, and provision of technical assistance for the development of foreign consumer protection or competition regimes, such expenses to include necessary administrative and logistic expenses and the expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including—

"(A) such incidental expenses as meals taken in the course of such attendance;

"(B) any travel and transportation to or from such meetings; and

"(C) any other related lodging or subsistence.".

(c) Authorization of Appropriations.—The Federal Trade Commission is authorized to expend appropriated funds not to exceed $100,000 per fiscal year for purposes of section 6(l) of the Federal Trade Commission Act (15 U.S.C. 46(l)) (as added by subsection (b) of this section), including operating expenses and other costs of the following bilateral and multilateral cooperative law enforcement agencies and organizations:

(1) The International Consumer Protection and Enforcement Network.

(2) The International Competition Network.

(3) The Mexico-U.S.-Canada Health Fraud Task Force.

(4) Project Emptor.

(5) The Toronto Strategic Partnership and other regional partnerships with a nexus in a Canadian province.

(d) Conforming Amendment.—Section 6 of the Federal Trade Commission Act (15 U.S.C. 46) is amended by striking "clauses (a) and (b)" in the proviso following subsection (l) (as added by subsection (b) of this section) and inserting "subsections (a), (b), and (j)".

### SEC. 5. REPRESENTATION IN FOREIGN LITIGATION.

Section 16 of the Federal Trade Commission Act (15 U.S.C. 56) is amended by adding at the end the following:

"(c) Foreign Litigation.—

"(1) Commission attorneys.—With the concurrence of the Attorney General, the Commission may designate Commission attorneys to assist the Attorney General in connection with litigation in foreign courts on particular matters in which the Commission has an interest.

"(2) Reimbursement for foreign counsel.—The Commission is authorized to expend appropriated funds, upon agreement with the Attorney General, to reimburse the Attorney General for the retention of foreign counsel for litigation in foreign courts and for expenses related to litigation in foreign courts in which the Commission has an interest.

"(3) Limitation on use of funds.—Nothing in this subsection authorizes the payment of claims or judgments from any source other than the permanent and indefinite appropriation authorized by section 1304 of title 31, United States Code.

"(4) Other authority.—The authority provided by this subsection is in addition to any other authority of the Commission or the Attorney General.".

### SEC. 6. SHARING INFORMATION WITH FOREIGN LAW ENFORCEMENT AGENCIES.

(a) Material Obtained Pursuant to Compulsory Process.—Section 21(b)(6) of the Federal Trade Commission Act (15 U.S.C. 57b-2(b)(6)) is amended by adding at the end "The custodian may make such material available to any foreign law enforcement agency upon the prior certification of an appropriate official of any such foreign law enforcement agency, either by a prior agreement or memorandum of understanding with the Commission or by other written certification, that such material will be maintained in confidence and will be used only for official law enforcement purposes, if—

"(A) the foreign law enforcement agency has set forth a bona fide legal basis for its authority to maintain the material in confidence;

"(B) the materials are to be used for purposes of investigating, or engaging in enforcement proceedings related to, possible violations of—

"(i) foreign laws prohibiting fraudulent or deceptive commercial practices, or other practices substantially similar to practices prohibited by any law administered by the Commission;

"(ii) a law administered by the Commission, if disclosure of the material would further a Commission investigation or enforcement proceeding; or

"(iii) with the approval of the Attorney General, other foreign criminal laws, if such foreign criminal laws are offenses defined in or covered by a criminal mutual legal assistance treaty in force between the government of the United States and the foreign law enforcement agency's government;

"(C) the appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)) or, in the case of a Federal credit union, the National Credit Union Administration, has given its prior approval if the materials to be provided under subparagraph (B) are requested by the foreign law enforcement agency for the purpose of investigating, or engaging in enforcement proceedings based on, possible violations of law by a bank, a savings and loan institution described in section 18(f)(3) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(3)), or a Federal credit union described in section 18(f)(4) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(4)); and

"(D) the foreign law enforcement agency is not from a foreign state that the Secretary of State has determined, in accordance with section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), has repeatedly provided support for acts of international terrorism, unless and until such determination is rescinded pursuant to section 6(j)(4) of that Act (50 U.S.C. App. 2405(j)(4)).
Nothing in the preceding sentence authorizes the disclosure of material obtained in connection with the administration of the Federal antitrust laws or foreign antitrust laws (as defined in paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211)) to any officer or employee of a foreign law enforcement agency.".

(b) Information Supplied by and About Foreign Sources.—Section 21(f) of the Federal Trade Commission Act (15 U.S.C. 57b-2(f)) is amended to read asfollows:

"(f) Exemption From Public Disclosure.—

"(1) In General.—Any material which is received by the Commission in any investigation, a purpose of which is to determine whether any person may have violated any provision of the laws administered by the Commission, and which is provided pursuant to any compulsory process under this Act or which is provided voluntarily in place of such compulsory process shall not be required to be disclosed under section 552 of title 5, United States Code, or any other provision of law, except as provided in paragraph (2)(B) of this section.

"(2) Material obtained from a foreign source.—

"(A) In general.—Except as provided in subparagraph (B) of this paragraph, the Commission shall not be required to disclose under section 552 of title 5, United States Code, or any other provision of law—

"(i) any material obtained from a foreign law enforcement agency or other foreign government agency, if the foreign law enforcement agency or other foreign government agency has requested confidential treatment, or has precluded such disclosure under other use limitations, as a condition of providing the material;

"(ii) any material reflecting a consumer complaint obtained from any other foreign source, if that foreign source supplying the material has requested confidential treatment as a condition of providing the material; or

"(iii) any material reflecting a consumer complaint submitted to a Commission reporting mechanism sponsored in part by foreign law enforcement agencies or other foreign government agencies.

"(B) Savings provision.—Nothing in this subsection shall authorize the Commission to withhold information from the Congress or prevent the Commission from complying with an order of a court of the United States in an action commenced by the United States or the Commission.".

### SEC. 7. CONFIDENTIALITY; DELAYED NOTICE OF PROCESS.

(a) In General.—The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by inserting after section 21 the following:

### "SEC. 21A. CONFIDENTIALITY AND DELAYED NOTICE OF COMPULSORY PROCESS FOR CERTAIN THIRD PARTIES.

"(a) Application With Other Laws.—The Right to Financial Privacy Act (12 U.S.C.

3401 et seq.) and chapter 121 of title 18, United States Code, shall apply with respect to the Commission, except as otherwise provided in this section.

"(b) PROCEDURES FOR DELAY OF NOTIFICATION OR PROHIBITION OF DISCLOSURE.—The procedures for delay of notification or prohibition of disclosure under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) and chapter 121 of title 18, United States Code, including procedures for extensions of such delays or prohibitions, shall be available to the Commission, provided that, notwithstanding any provision therein—

"(1) a court may issue an order delaying notification or prohibiting disclosure (including extending such an order) in accordance with the procedures of section 1109 of the Right to Financial Privacy Act (12 U.S.C. 3409) (if notification would otherwise be required under that Act), or section 2705 of title 18, United States Code, (if notification would otherwise be required under chapter 121 of that title), if the presiding judge or magistrate judge finds that there is reason to believe that such notification or disclosure may cause an adverse result as defined in subsection (g) of this section; and

"(2) if notification would otherwise be required under chapter 121 of title 18, United States Code, the Commission may delay notification (including extending such a delay) upon the execution of a written certification in accordance with the procedures of section 2705 of that title if the Commission finds that there is reason to believe that notification may cause an adverse result as defined in subsection (g) of this section.

"(c) EX PARTE APPLICATION BY COMMISSION.—

"(1) IN GENERAL.—If neither notification nor delayed notification by the Commission is required under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or chapter 121 of title 18, United States Code, the Commission may apply ex parte to a presiding judge or magistrate judge for an order prohibiting the recipient of compulsory process issued by the Commission from disclosing to any other person the existence of the process, notwithstanding any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia. The presiding judge or magistrate judge may enter such an order granting the requested prohibition of disclosure for a period not to exceed 60 days if there is reason to believe that disclosure may cause an adverse result as defined in subsection (g). The presiding judge or magistrate judge may grant extensions of this order of up to 30 days each in accordance with this subsection, except that in no event shall the prohibition continue in force for more than a total of 9 months.

"(2) APPLICATION.—This subsection shall apply only in connection with compulsory process issued by the Commission where the recipient of such process is not a subject of the investigation or proceeding at the time such process is issued.

"(3) LIMITATION.—No order issued under this subsection shall prohibit any recipient from disclosing to a Federal agency that the recipient has received compulsory process from the Commission.

"(d) NO LIABILITY FOR FAILURE TO NOTIFY.—If neither notification nor delayed notification by the Commission is required under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.) or chapter 121 of title 18, United States Code, the recipient of compulsory process issued by the Commission under this Act shall not be liable under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, or under any contract or other legally enforceable agreement, for failure to provide notice to any person that such process has been issued or that the recipient has provided information in response to such process. The preceding sentence does not exempt any recipient from liability for—

"(1) the underlying conduct reported;

"(2) a failure to comply with the record retention requirements under section 1104(c) of the Right to Financial Privacy Act (12 U.S.C. 3404), where applicable; or

"(3) any failure to comply with any obligation the recipient may have to disclose to a Federal agency that the recipient has received compulsory process from the Commission or intends to provide or has provided information to the Commission in response to such process.

"(e) VENUE AND PROCEDURE.—

"(1) IN GENERAL.—All judicial proceedings initiated by the Commission under the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), chapter 121 of title 18, United States Code, or this section may be brought in the United States District Court for the District of Columbia or any other appropriate United States District Court. All ex parte applications by the Commission under this section related to a single investigation may be brought in a single proceeding.

"(2) In camera proceedings.—Upon application by the Commission, all judicial proceedings pursuant to this section shall be held in camera and the records thereof sealed until expiration of the period of delay or such other date as the presiding judge or magistrate judge may permit.

"(f) SECTION NOT TO APPLY TO ANTITRUST INVESTIGATIONS OR PROCEEDINGS.—This section shall not apply to an investigation or proceeding related to the administration of Federal antitrust laws or foreign antitrust laws (as defined in paragraphs (5) and (7), respectively, of section 12 of the International Antitrust Enforcement Assistance Act of 1994 (15 U.S.C. 6211).

"(g) ADVERSE RESULT DEFINED.—For purposes of this section the term 'adverse result' means—

"(1) endangering the life or physical safety of an individual;

"(2) flight from prosecution;

"(3) the destruction of, or tampering with, evidence;

"(4) the intimidation of potential witnesses; or

"(5) otherwise seriously jeopardizing an investigation or proceeding related to fraudulent or deceptive commercial practices or persons involved in such practices, or unduly delaying a trial related to such practices or persons involved in such practices, including, but not limited to, by—

"(A) the transfer outside the territorial limits of the United States of assets or records related to fraudulent or deceptive commercial practices or related to persons involved in such practices;

"(B) impeding the ability of the Commission to identify persons involved in fraudulent or deceptive commercial practices, or to trace the source or disposition of funds related to such practices; or

"(C) the dissipation, fraudulent transfer, or concealment of assets subject to recovery by the Commission.".

(b) CONFORMING AMENDMENT.—Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—

(1) in subparagraph (C) by striking "or" after the semicolon;

(2) in subparagraph (D) by inserting "or" after the semicolon; and

(3) by inserting after subparagraph (D) the following:

"(E) under section 21A of this Act;".

### SEC. 8. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is further amended by adding after section 21A (as added by section 7 of this Act) the following:

### "SEC. 21B. PROTECTION FOR VOLUNTARY PROVISION OF INFORMATION.

"(a) IN GENERAL.—

"(1) NO LIABILITY FOR PROVIDING CERTAIN MATERIAL.—An entity described in paragraphs (2) or (3) of subsection (d) that voluntarily provides material to the Commission that such entity reasonably believes is relevant to—

"(A) a possible unfair or deceptive act or practice, as defined in section 5(a) of this Act; or

"(B) assets subject to recovery by the Commission, including assets located in foreign jurisdictions;

shall not be liable to any person under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, for such provision of material or for any failure to provide notice of such provision of material or of intention to so provide material.

"(2) LIMITATIONS.—Nothing in this subsection shall be construed to exempt any such entity from liability—

"(A) for the underlying conduct reported; or

"(B) to any Federal agency for providing such material or for any failure to comply with any obligation the entity may have to notify a Federal agency prior to providing such material to the Commission.

"(b) CERTAIN FINANCIAL INSTITUTIONS.—An entity described in paragraph (1) of subsection (d) shall, in accordance with section 5318(g)(3) of title 31, United States Code, be exempt from liability for making a voluntary disclosure to the Commission of any possible violation of law or regulation, including—

"(1) a disclosure regarding assets, including assets located in foreign jurisdictions—

"(A) related to possibly fraudulent or deceptive commercial practices;

"(B) related to persons involved in such practices; or

"(C) otherwise subject to recovery by the Commission; or

"(2) a disclosure regarding suspicious chargeback rates related to possibly fraudulent or deceptive commercial practices.

"(c) CONSUMER COMPLAINTS.—Any entity described in subsection (d) that voluntarily provides consumer complaints sent to it, or information contained therein, to the Commission shall not be liable to any person under any law or regulation of the United States, or under the constitution, or any law or regulation, of any State, political subdivision of a State, territory of the United States, or the District of Columbia, for such provision of material or for any failure to provide notice of such provision of material or of intention to so provide material. This subsection shall not provide any exemption from liability for the underlying conduct.

"(d) Application.—This section applies to the following entities, whether foreign or domestic:

"(1) A financial institution as defined in section 5312 of title 31, United States Code.

"(2) To the extent not included in paragraph (1), a bank or thrift institution, a commercial bank or trust company, an investment company, a credit card issuer, an operator of a credit card system, and an issuer, redeemer, or cashier of travelers' checks, money orders, or similar instruments.

"(3) A courier service, a commercial mail receiving agency, an industry membership organization, a payment system provider, a consumer reporting agency, a domain name registrar or registry acting as such, and a provider of alternative dispute resolution services.

"(4) An Internet service provider or provider of telephone services.".

**SEC. 9. STAFF EXCHANGES.**

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended by adding after section 25 the following new section:

**"SEC. 25A. STAFF EXCHANGES.**

"(a) In General.—The Commission may—

"(1) retain or employ officers or employees of foreign government agencies on a temporary basis as employees of the Commission pursuant to section 2 of this Act or section 3101 or section 3109 of title 5, United States Code; and

"(2) detail officers or employees of the Commission to work on a temporary basis for appropriate foreign government agencies.

"(b) Reciprocity and Reimbursement.—The staff arrangements described in subsection (a) need not be reciprocal. The Commission may accept payment or reimbursement, in cash or in kind, from a foreign government agency to which this section is applicable, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, and employees in carrying out such arrangements.

"(c) Standards of Conduct.—A person appointed under subsection (a)(1) shall be subject to the provisions of law relating to ethics, conflicts of interest, corruption, and any other criminal or civil statute or regulation governing the standards of conduct for Federal employees that are applicable to the type of appointment.".

**SEC. 10. INFORMATION SHARING WITH FINANCIAL REGULATORS.**

Section 1112(e) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(e)) is amended by inserting "the Federal Trade Commission," after "the Securities and Exchange Commission,".

**SEC. 11. AUTHORITY TO ACCEPT REIMBURSEMENTS, GIFTS, AND VOLUNTARY AND UNCOMPENSATED SERVICES.**

The Federal Trade Commission Act (15 U.S.C. 41 et seq.) is amended—

(1) by redesignating section 26 as section 28; and

(2) by inserting after section 25A, as added by section 9 of this Act, the following:

**"SEC. 26. REIMBURSEMENT OF EXPENSES.**

"The Commission may accept payment or reimbursement, in cash or in kind, from a domestic or foreign law enforcement agency, or payment or reimbursement made on behalf of such agency, for expenses incurred by the Commission, its members, or employees in carrying out any activity pursuant to a statute administered by the Commission without regard to any other provision of law. Any such payments or reimbursements shall be considered a reimbursement to the appropriated funds of the Commission.

**"SEC. 27. GIFTS AND VOLUNTARY AND UNCOMPENSATED SERVICES.**

"(a) In General.—In furtherance of its functions the Commission may accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property and, notwithstanding section 1342 of 10 title 31, United States Code, accept voluntary and uncompensated services.

"(b) Limitations.—

"(1) Conflicts of interest.—The Commission shall establish written guidelines setting forth criteria to be used in determining whether the acceptance, holding, administration, or use of a gift, donation, or bequest pursuant to subsection (a) would reflect unfavorably upon the ability of the Commission or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs.

"(2) Voluntary services.—A person who provides voluntary and uncompensated service under subsection (a) shall be considered a Federal employee for purposes of—

"(A) chapter 81 of title 5, United States Code, (relating to compensation for injury); and

"(B) the provisions of law relating to ethics, conflicts of interest, corruption, and any other criminal or civil statute or regulation governing the standards of conduct for Federal employees.

"(3) Tort liability of volunteers.—A person who provides voluntary and uncompensated service under subsection (a), while assigned to duty, shall be deemed a volunteer of a nonprofit organization or governmental entity for purposes of the Volunteer Protection Act of 1997 (42 U.S.C. 14501 et seq.). Subsection (d) of section 4 of such Act (42 U.S.C. 14503(d)) shall not apply for purposes of any claim against such volunteer.".

**SEC. 12. PRESERVATION OF EXISTING AUTHORITY.**

The authority provided by this Act, and by the Federal Trade Commission Act (15 U.S.C. 41 et seq.) and the Right to Financial Privacy Act (12 U.S.C. 3401 et seq.), as such Acts are amended by this Act, is in addition to, and not in lieu of, any other authority vested in the Federal Trade Commission or any other officer of the United States.

**SEC. 13. REPORT.**

Not later than 3 years after the date of enactment of this Act, the Federal Trade Commission shall transmit to Congress a report describing its use of and experience with the authority granted by this Act, along with any recommendations for additional legislation. The report shall include—

(1) the number of cross-border complaints received by the Commission;

(2) identification of the foreign agencies to which the Commission has provided nonpublic investigative information under this Act;

(3) the number of times the Commission has used compulsory process on behalf of foreign law enforcement agencies pursuant to section 6 of the Federal Trade Commission Act (15 U.S.C. 46), as amended by section 4 of this Act;

(4) a list of international agreements and memoranda of understanding executed by the Commission that relate to this Act;

(5) the number of times the Commission has sought delay of notice pursuant to section 21A of the Federal Trade Commission Act, as added by section 7 of this Act, and the number of times a court has granted a delay;

(6) a description of the types of information private entities have provided voluntarily pursuant to section 21B of the Federal Trade Commission Act, as added by section 8 of this Act;

(7) a description of the results of cooperation with foreign law enforcement agencies under section 21 of the Federal Trade Commission Act (15 U.S.C. 57-2) as amended by section 6 of this Act;

(8) an analysis of whether the lack of an exemption from the disclosure requirements of section 552 of title 5, United States Code, with regard to information or material voluntarily provided relevant to possible unfair or deceptive acts or practices, has hindered the Commission in investigating or engaging in enforcement proceedings against such practices; and

(9) a description of Commission litigation brought in foreign courts.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 224—TO EXPRESS THE SENSE OF THE SENATE SUPPORTING THE ESTABLISHMENT OF SEPTEMBER AS CAMPUS FIRE SAFETY MONTH, AND FOR OTHER PURPOSES

Mr. DeWine (for himself and Mr. Biden) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. Res. 224

Whereas recent student housing fires in Ohio, Pennsylvania, Tennessee, and Maryland have tragically cut short the lives of some of the youth of our Nation;

Whereas since January 2000, at least 75 people, including students, parents, and children have died in student housing fires;

Whereas over three-fourths of these deaths have occurred in off-campus occupancies;

Whereas a majority of the students across the Nation live in off-campus occupancies;

Whereas a number of fatal fires have occurred in buildings where the fire safety systems have been compromised or disabled by the occupants;

Whereas it is recognized that automatic fire alarm systems provide the necessary early warning to occupants and the fire department of a fire so that appropriate action can be taken;

Whereas it is recognized that automatic fire sprinkler systems are a highly effective method of controlling or extinguishing a fire in its early stages, protecting the lives of the building's occupants;

Whereas many students are living in off-campus occupancies, Greek housing, and residence halls that are not adequately protected with automatic fire sprinkler systems and automatic fire alarm systems;

Whereas it is recognized that fire safety education is an effective method of reducing the occurrence of fires and reducing the resulting loss of life and property damage;

Whereas students are not routinely receiving effective fire safety education throughout their entire college career;

Whereas it is vital to educate the future generation of our Nation about the importance of fire safety behavior so that these behaviors can help to ensure their safety during their college years and beyond; and

Whereas by developing a generation of fire-safe adults, future loss of life from fires can be significantly reduced: Now, therefore, be it

*Resolved*, That the Senate—

(1) supports the establishment of September as Campus Fire Safety Month;

(2) encourages administrators and municipalities across the country to provide educational programs to all students during September and throughout the school year; and

(3) encourages administrators and municipalities to evaluate the level of fire safety being provided in both on- and off-campus student housing and take the necessary steps to ensure fire-safe living environments through fire safety education, installation of fire suppression and detection systems and the development and enforcement of applicable codes relating to fire safety.

## SENATE RESOLUTION 225—DESIGNATING THE MONTH OF NOVEMBER 2005 AS THE "MONTH OF GLOBAL HEALTH"

Mrs. MURRAY (for herself, Mr. SMITH, Mrs. CLINTON, Mr. CORZINE, Ms. CANTWELL, Mr. DAYTON, Ms. LANDRIEU, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

### S. RES. 225

Whereas child survival is a key element of global health and is of utmost importance to the United States and all countries of the world;

Whereas child survival must be addressed on a global scale;

Whereas increasing child survival rates is critical to population growth in countries around the world;

Whereas child survival depends on access to key nutrients that can avert millions of unnecessary deaths in third world countries from preventable diseases;

Whereas 5 simple interventions, if delivered to children before the age of 5, may significantly increase their chances of survival;

Whereas these 5 interventions—vaccines, antibiotics, Vitamin A and micronutrients, oral rehydration therapy, and insecticide-treated bednets—can be provided to third world countries at minimal cost;

Whereas 10,000,000 children die each year from preventable diseases in third world countries and 6,000,000 of those deaths could be prevented by the use of these interventions: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates the month of November 2005 as the "Month of Global Health";

(2) reaffirms its commitment to ensuring that children around the world receive the interventions necessary for survival as an integral component of efforts to improve global health; and

(3) encourages the people of the United States to observe the "Month of Global Health" with appropriate participation in key activities, programs, and fundraising in support of worldwide child survival.

Mrs. MURRAY. Mr. President, I want to take time to comment on the resolution I am introducing today which designates the month of November 2005 as the "Month of Global Health."

Today we live in a global community where all nations both benefit from those countries that prosper, and suffer with those that do not. The Month of Global Health is a great opportunity to increase awareness of the pressing global health crisis that threatens our own public health and that of all nations around the world.

I believe this resolution is important and draws attention to the needs of a growing population of children in the developing world that are living without proper health care and the essential nutrients they need to survive. The resolution also highlights the necessary steps that must be taken to increase child survival rates in developing countries.

Child survival is one of the key elements to addressing global health. As a nation, there is much more we can do to assist developing nations in their effort to increase child survival rates. We must work on a global scale to avert the millions of unnecessary deaths among children caused each year from preventable diseases.

This resolution reaffirms our commitment to the children of the world and sends a message that child survival is a fundamental component in our efforts to improve global health.

Mr. SMITH. Mr. President, today I am pleased to join my colleague Senator MURRAY in introducing an important resolution that will recognize November as the "Global Health Month."

Every year, 10 million children die from preventable diseases in Third World countries. As many as 6 million of these deaths can be prevented by vaccines, antibiotics, hydration adequate nutrition, and other simple, low-cost interventions.

As a long-time champion of helping the most vulnerable populations both here and abroad, I believe it is important to bring this issue to the attention of the American public. We can and must do more to ensure children around the world receive the interventions necessary for survival.

I hope my colleagues will join me in support of this resolution.

## SENATE RESOLUTION 226—CALLING FOR FREE AND FAIR PARLIAMENTARY ELECTIONS IN THE REPUBLIC OF AZERBAIJAN

Mr. BIDEN (for himself, Mr. MCCAIN, and Mr. HAGEL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

### S. RES. 226

Whereas the Republic of Azerbaijan is scheduled to hold elections for its parliament, the Milli Majlis, in November 2005;

Whereas Azerbaijan has enjoyed a strong relationship with the United States since its independence from the former Soviet Union in 1991;

Whereas international observers monitoring Azerbaijan's October 2003 presidential election found that the pre-election, election day, and post-election environments fell short of international standards;

Whereas the International Election Observation Mission (IEOM) in Baku, Azerbaijan, deployed by the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe, found that there were numerous instances of violence by both members of the opposition and government forces;

Whereas the international election observers also found inequality and irregularities in campaign and election conditions, including intimidation against opposition supporters, restrictions on political rallies by opposition candidates, and voting fraud;

Whereas Azerbaijan freely accepted a series of commitments on democracy, human rights, and the rule of law when that country joined the Organization for Security and Cooperation in Europe as a participating State in 1992;

Whereas, following the 2003 presidential election, the Council of Europe adopted Resolution 1358 (2004) demanding that the Government of Azerbaijan immediately implement a series of steps that included the release of political prisoners, investigation of election fraud, and the creation of public service television to allow all political parties to better communicate with the people of Azerbaijan;

Whereas, since the 2003 presidential election, the Government of Azerbaijan has taken some positive steps by releasing some political prisoners and working toward the establishment of public service television;

Whereas a genuinely free and fair election requires that citizens be guaranteed the right and opportunity to exercise their civil and political rights, free from intimidation, undue influence, threats of political retribution, or other forms of coercion by national or local authorities or others;

Whereas a genuinely free and fair election requires government and public authorities to ensure that candidates and political parties enjoy equal treatment before the law and that government resources are not employed to the advantage of individual candidates or political parties; and

Whereas the establishment of a transparent, free and fair election process for the 2005 parliamentary elections is an important step in Azerbaijan's progress toward full integration into the democratic community of nations: Now, therefore, be it

*Resolved*, That the Senate—

(1) calls on the Government of the Republic of Azerbaijan to hold orderly, peaceful, and free and fair parliamentary elections in November 2005 in order to ensure the long-term growth and stability of the country;

(2) calls upon the Government of Azerbaijan to guarantee the full participation of opposition parties in the upcoming elections, including members of opposition parties arrested in the months leading up to the November 2005 parliamentary elections;

(3) calls upon the opposition parties to fully and peacefully participate in the November 2005 parliamentary elections, and calls upon the Government of Azerbaijan to create the conditions for the participation on equal grounds of all viable candidates;

(4) believes it is critical that the November 2005 parliamentary elections be viewed by the people of Azerbaijan as free and fair, and that all sides refrain from violence during the campaign, on election day, and following the election;

(5) supports recommendations made by the Council of Europe on amendments to the Unified Election Code of Azerbaijan, specifically to ensure equitable representation of opposition and pro-government forces in all election commissions;

(6) urges the international community and domestic nongovernmental organizations to

provide a sufficient number of election observers to ensure credible monitoring and reporting of the November 2005 parliamentary elections;

(7) recognizes the need for the establishment of an independent media and assurances by the Government of Azerbaijan that freedom of the press will be guaranteed; and

(8) calls upon the Government of Azerbaijan to guarantee freedom of speech and freedom of assembly.

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## SENATE RESOLUTION 227—PLEDGING CONTINUED SUPPORT FOR INTERNATIONAL HUNGER RELIEF EFFORTS AND EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES GOVERNMENT SHOULD USE RESOURCES AND DIPLOMATIC LEVERAGE TO SECURE FOOD AID FOR COUNTRIES THAT ARE IN NEED OF FURTHER ASSISTANCE TO PREVENT ACUTE AND CHRONIC HUNGER

Mr. DeWine (for himself, Mr. Kohl, Mr. Cochran, Mr. Leahy, Mr. Chambliss, Mr. Harkin, Mr. Brownback, Mr. Durbin, Mrs. Dole, Mrs. Lincoln, Mr. Smith, Mr. Corzine, Mr. Coleman, Mr. Dorgan, Mr. Hatch, Mr. Obama, Ms. Collins, Ms. Cantwell, Mr. Santorum, Ms. Stabenow, Mr. Chafee, Mr. Lieberman, Mr. Martinez, Mr. Dayton, Mr. Roberts, Mr. Inouye, Mr. McCain, Mr. Nelson of Florida, Ms. Snowe, Mr. Lugar, Mr. Nelson of Nebraska, Mr. Sarbanes, Ms. Mikulski, Mr. Levin, and Mr. Reed) submitted the following resolution; which was referred to the Committee on Foreign Relations:

### S. Res. 227

Whereas although there is enough food to feed all of the people in the world, as of summer 2005, 852,000,000 people are in need of food aid;

Whereas almost 200,000,000 children under the age of 5 are malnourished and underweight and 1 child dies every 5 seconds from hunger and related ailments;

Whereas the United Nations World Food Programme estimates that more than 5,000,000 metric tons of food is needed to prevent widespread hunger, 80 percent of which will be used for emergency programs to provide aid for people threatened by famine in 2005;

Whereas, as of summer 2005, the United States contributed approximately ½ of the total food aid received by the United Nations World Food Programme in 2005;

Whereas, as of summer 2005, 1 person out of every 3 people in Africa is malnourished as a result of drought, conflict, the human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS), locust infestations, and economic dislocation, and countries in Africa will lack at least 1,500,000 metric tons of the food necessary to provide sufficient nutrition to the people in these countries if the level of donations does not increase;

Whereas the World Food Programme, as of summer 2005, had barely ½ of the contributions needed to provide food aid to the 26,000,000 victims of food shortage in Africa;

Whereas more than 14,000,000 people in the Horn of Africa are experiencing or are vulnerable to experiencing a severe food shortage;

Whereas approximately ⅔ of the population of Eritrea needs food aid and nearly ½ of the women and children in the country are malnourished;

Whereas, as of summer 2005, 8,300,000 people in Ethiopia are in need of food aid and other assistance as a result of poor harvests, degraded land, small land holdings, high population growth, loss of crops, and loss of livestock and other assets;

Whereas the United Nations World Food Programme food aid programs in Ethiopia have received less than ½ of the funding necessary to continue these operations;

Whereas the United Nations World Food Programme had received, as of summer 2005, less than 10 percent of the funding necessary to provide aid to the 3,500,000 people in Sudan who will need food in 2005, particularly during the height of the annual hunger season that lasts from August to October, due to political instability and weather conditions that ruined harvests in the country;

Whereas a lack of funds will require the United Nations World Food Programme to reduce the amount of aid given to 2,000,000 people in Burundi, including to 210,000 malnourished children and nursing mothers who face a food shortage as a result of drought and instability;

Whereas a lack of funds is expected to drastically constrain food aid programs worldwide and the critical efforts of private voluntary organizations of the United States that play a central role in implementing such programs;

Whereas a lack of funds forced the United Nations World Food Programme to begin reducing the amount of aid given to an estimated 6,000,000 people in West Africa who are experiencing a famine caused by displacement, drought, and locusts;

Whereas humanitarian agencies report rising rates of malnutrition among children under 5 years of age in Mauritania, Mali, and Niger, which can lead to developmental difficulties and growth stunting;

Whereas nearly 4,000,000 people in Niger, including 800,000 children, will face a food shortage in 2005 at a time when the child malnutrition rate in the Niger region has reached emergency levels and the country has been afflicted by locusts and drought;

Whereas the Government of Mauritania had received only ½ of the aid necessary to prevent a food shortage as of summer 2005, leaving 60 percent of the families in Mauritania without access to a sufficient amount of food in 2005;

Whereas a lack of food in Sierra Leone forced the United Nations World Food Programme to reduce the amount of aid given to 50,000 Liberian refugees residing in the country in the summer of 2005, causing additional strife in an already tense political environment;

Whereas in the Democratic Republic of the Congo, the United Nations World Food Programme has a 47 percent funding shortfall as of summer 2005, which could force reductions in the amount of food aid delivered to 2,900,000 people in the war-torn country;

Whereas, as of summer 2005, donors had provided less than 20 percent of the total funding that the United Nations World Food Programme needs to provide an adequate amount of food for the people of southern Africa;

Whereas, due to increasingly severe drought conditions, the number of people who are in need of food aid in southern Africa increased from 3,500,000 people in the beginning of 2005 to 8,300,000 people by the summer of 2005, of which 4,000,000 are located in Zimbabwe, 1,600,000 in Malawi, 1,200,000 in Zambia, 900,000 in Mozambique, 245,000 in Lesotho, 230,000 in Swaziland, and 60,000 in Nambia;

Whereas international donors determined that hunger and poverty in Zimbabwe are largely attributed to the political corruption of the governmental structure in the country;

Whereas the United Nations World Food Programme and the World Bank proposed using aid to fund innovative weather and famine insurance policies that could protect small farmers from hardships suffered as a result of droughts and natural disasters;

Whereas food insecurity, the HIV/AIDS pandemic, and weak government institutions leave countries more vulnerable to external shocks and internal political unrest; and

Whereas the Bill Emerson Humanitarian Trust was established solely to meet emergency humanitarian food needs in developing countries: Now, therefore, be it

*Resolved*, That—

(1) the Senate—

(A) encourages expanded efforts to alleviate hunger throughout developing countries; and

(B) pledges to continue to support international hunger relief efforts; and

(2) it is the sense of the Senate that—

(A) the United States Government should use financial and diplomatic resources to work with other donors to ensure that food aid programs receive all necessary funding and supplies; and

(B) food aid should be provided in conjunction with measures to alleviate hunger, malnutrition, and poverty.

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## SENATE RESOLUTION 228—EXPRESSING THE SENSE OF THE SENATE THAT IT SHOULD BE A GOAL OF THE UNITED STATES TO REDUCE THE AMOUNT OF OIL PROJECTED TO BE IMPORTED IN 2025 BY 40 PERCENT AND THAT THE PRESIDENT SHOULD TAKE MEASURES TO REDUCE THE DEPENDENCE OF THE UNITED STATES ON FOREIGN OIL

Ms. CANTWELL submitted the following resolution; which was referred to the Committee on Energy and Natural Resources:

### S. Res. 228

Whereas reports by the Energy Information Administration entitled "Annual Energy Outlook 2005" and "May 2005 Monthly Energy Review" estimated that, between January 1, 2005 and April 30, 2005, the United States imported an average of 13,056,000 barrels of oil per day and that, by 2025, the United States will import 19,110,000 barrels of oil per day;

Whereas technology solutions already exist to dramatically increase the productivity of the energy supply of the United States;

Whereas energy efficiency and conservation measures can improve the economic competitiveness of the United States and lessen energy costs for families in the United States;

Whereas the dependence of the United States on foreign oil imports leaves the United States vulnerable to oil supply shocks and reliant on the willingness of other countries to provide sufficient supplies of oil;

Whereas, although only 3 percent of proven oil reserves in the world are located in territory controlled by the United States, advances in fossil fuel extraction techniques and technologies could increase the United States energy supplies; and

Whereas reducing energy consumption also benefits the United States by lowering the environmental impacts associated with fossil fuel use: Now, therefore, be it

*Resolved*, That it is the sense of the Senate that—

(1) it should be a goal of the United States to reduce the amount of foreign oil that will be imported in 2025 by 40 percent from the amount the Energy Information Administration estimates will be imported in 2025;

(2) the President should take measures to reduce the dependence of the United States on foreign oil by—

(A) not later than 1 year after the date of passage of this resolution, and every 2 years thereafter—

(i) developing and implementing measures to reduce dependence on foreign oil by reducing oil in end-uses throughout the economy of the United States sufficient by 2015 to reduce by 1,000,000 barrels per day the total demand for oil in the United States projected for such year in the Reference Case in the Annual Energy Outlook 2005 report published by the Energy Information Administration; and

(ii) developing and implementing measures to reduce dependence on foreign oil by reducing oil in end-uses throughout the economy of the United States sufficient by 2025 to reduce by 7,640,000 barrels per day the total demand for oil in the United States projected for such year in the Reference Case in the Annual Energy Outlook 2005 report published by the Energy Information Administration; or

(B) if the President determines that there are insufficient legal authorities to achieve the target for 2025, developing and implementing measures to reduce dependence on foreign oil by—

(i) reducing oil in end-uses throughout the economy of the United States to the maximum extent practicable; and

(ii) submitting to Congress proposed legislation or other recommendations to achieve the target;

(3) in developing measures under paragraph (2), the President should—

(A) ensure continued reliable and affordable energy for the United States, consistent with the creation of jobs and economic growth and maintaining the international competitiveness of businesses in the United States, including the manufacturing sector; and

(B) implement measures under paragraph (2) under existing authorities of the appropriate Federal agencies, as determined by the President;

(4) not later than 1 year after the date of passage of this resolution, and annually thereafter, the President should submit to Congress a report, based on the most recent edition of the Annual Energy Outlook published by the Energy Information Administration, that assesses the progress made by the United States toward the goal of reducing dependence on foreign oil imports by 2025, including by—

(A) identifying the status of efforts to meet the goal described in paragraph (1);

(B) assessing the effectiveness of any measure implemented under paragraph (2) during the previous fiscal year in meeting the goal described in paragraph (1); and

(C) describing plans to develop additional measures to meet the goal described in paragraph (1).

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## SENATE RESOLUTION 229—DESIGNATING THE MONTH OF SEPTEMBER 2005 AS "NATIONAL PREPAREDNESS MONTH"

Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted the following resolution; which was referred to the Committee on the Judiciary:

### S. RES. 229

Whereas terrorist attacks, natural disasters, or other emergencies could strike any part of the United States at any time;

Whereas natural and man-made emergencies disrupt hundreds of thousands of lives every year, costing lives and causing serious injuries and billions of dollars in property damage;

Whereas Federal, State, and local officials and private entities are working to deter, prevent, and respond to all types of emergencies;

Whereas all citizens can help promote the overall emergency preparedness of the United States by preparing themselves and their families for all types of emergencies;

Whereas National Preparedness Month provides an opportunity to highlight the importance of public emergency preparedness and to encourage the people of the United States to take steps to be better prepared for emergencies at home, work, and school;

Whereas the people of the United States can prepare for emergencies by taking steps such as assembling emergency supply kits, creating family emergency plans, and staying informed about possible emergencies; and

Whereas additional information about public emergency preparedness may be obtained through the Ready Campaign of the Department of Homeland Security at www.ready.gov or the American Red Cross at www.redcross.org/preparedness: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates September 2005 as "National Preparedness Month"; and

(2) encourages the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe "National Preparedness Month" with appropriate events and activities to promote public emergency preparedness.

Ms. COLLINS. Mr. President, I rise today to express my support for S. 229, a resolution designating September 2005 as National Preparedness Month.

As the horrific attacks in London again demonstrate, the threat of a terrorist attack is very real. Although we have made significant strides in preventing and deterring another attack from occurring in the United States, it is imperative that steps be taken to mitigate the effects of the attack. In addition, natural disasters can strike at any given moment and we must know how to respond.

During the month of September, the Department of Homeland Security and the American Red Cross will co-sponsor National Preparedness Month 2005. This nationwide effort will involve more than 130 private sector organizations that will host and sponsor activities across the Nation to increase public awareness of preparedness. Activities such as CPR and first aid classes, blood drives, and other events is a simple and effective way for communities to become involved in preparedness efforts. Families, schools, and businesses can prepare for emergencies by taking steps such as making emergency supply kits, becoming informed about emergencies, and creating a family communications plan.

I join Senator LIEBERMAN in cosponsoring this resolution to promote citizen emergency preparedness. I hope that my colleagues will join us by supporting this important initiative.

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## SENATE RESOLUTION 230—DESIGNATING SEPTEMBER 2005 AS "NATIONAL PROSTATE CANCER AWARENESS MONTH"

Mr. SESSIONS (for himself, Mr. REID, Mr. SHELBY, Mr. CORZINE, Mr. BUNNING, Ms. LANDRIEU, Mr. HATCH, Ms. CANTWELL, Mr. CRAPO, Mrs. FEINSTEIN, Mr. LOTT, and Mr. DURBIN) submitted the following resolution; which was considered and agreed to:

### S. RES. 230

Whereas countless families in the United States have a family member that suffers from prostate cancer;

Whereas 1 in 6 men in the United States is diagnosed with prostate cancer;

Whereas throughout the past decade, prostate cancer has been the most commonly diagnosed type of cancer other than skin cancer and the second most common cause of cancer-related deaths among men in the United States;

Whereas, in 2005, more than 232,090 men in the United States will be diagnosed with prostate cancer and 30,350 men in the United States will die of prostate cancer according to estimates from the American Cancer Society;

Whereas 30 percent of the new diagnoses of prostate cancer occur in men under the age of 65;

Whereas a man in the United States turns 50 years old about every 14 seconds, increasing his odds of being diagnosed with prostate cancer;

Whereas African American males suffer from prostate cancer at an incidence rate up to 65 percent higher than white males and at a mortality rate double that of white males;

Whereas obesity is a significant predictor of the severity of prostate cancer and the chance that the disease will lead to death;

Whereas if a man in the United States has 1 family member diagnosed with prostate cancer, he has double the risk of prostate cancer, if he has 2 family members with such diagnosis, he has 5 times the risk, and if he has 3 family members with such diagnosis, he has a 97 percent risk of prostate cancer;

Whereas screening by both a digital rectal examination (DRE) and a prostate specific antigen blood test (PSA) can detect prostate cancer in earlier and more treatable stages and reduce the rate of mortality due to the disease;

Whereas ongoing research promises further improvements in prostate cancer prevention, early detection, and treatments; and

Whereas educating people in the United States, including health care providers, about prostate cancer and early detection strategies is crucial to saving the lives of men and preserving and protecting our families: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates September 2005 as "National Prostate Cancer Awareness Month";

(2) declares that it is critical to—

(A) raise awareness about the importance of screening methods and the treatment of prostate cancer;

(B) increase research funding to be proportionate with the burden of prostate cancer so that the causes of the disease, improved screening and treatments, and ultimately a cure may be discovered; and

(C) continue to consider methods to improve both access to and the quality of health care services for detecting and treating prostate cancer; and

(3) calls on the people of the United States, interested groups, and affected persons to—

(A) promote awareness of prostate cancer;

(B) take an active role in the fight to end the devastating effects of prostate cancer on individuals, their families, and the economy; and

(C) observe September 2005 with appropriate ceremonies and activities.

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## SENATE RESOLUTION 231—ENCOURAGING THE TRANSITIONAL NATIONAL ASSEMBLY OF IRAQ TO ADOPT A CONSTITUTION THAT GRANTS WOMEN EQUAL RIGHTS UNDER THE LAW AND TO WORK TO PROTECT SUCH RIGHTS

Ms. LANDRIEU (for herself, Ms. MURKOWSKI, Ms. CANTWELL, Mrs. FEINSTEIN, Ms. MIKULSKI, Mrs. MURRAY, Ms. SNOWE, Mrs. CLINTON, Ms. COLLINS, Mr. BIDEN, Ms. STABENOW, Mrs. HUTCHISON, Mrs. BOXER, Mr. LIEBERMAN, Mr. OBAMA, Mr. SCHUMER, Mrs. DOLE, Mr. LAUTENBERG, Mr. LEAHY, Mr. ALLEN, Mrs. LINCOLN, and Mr. SANTORUM) submitted the following resolution; which was considered and agreed to:

### S. RES. 231

Whereas Iraq is a sovereign nation and a party to the International Covenant on Civil and Political Rights, done at New York December 16, 1966, and entered into force March 23, 1976;

Whereas in Iraq's January 2005 parliamentary elections, more than 2,000 women ran for office and currently 31 percent of the seats in Iraq's National Assembly are occupied by women;

Whereas women lead the Iraqi ministries of Displacement and Migration, Communications, Municipalities and Public Works, Environment, and Science and Technology;

Whereas the Transitional Administrative Law provides for substantial participation of women in the Iraqi National Assembly and of personnel in all levels of the government;

Whereas the Personal Status Law provides for family and property rights for women in Iraq;

Whereas through grants funded by the United States Government's Iraqi Women's Democracy Initiative, nongovernmental organizations are providing training in political leadership, communications, coalition-building skills, voter education, constitution drafting, legal reform, and the legislative process;

Whereas a 275-member Transitional National Assembly, which is charged with the responsibility of drafting a new constitution, was elected to serve as Iraq's national legislature for a transition period.

Whereas Article 12 of Iraq's Transitional Administrative Law states that "[a]ll Iraqis [are] equal in their rights without regard to gender . . . and they are equal before the law";

Whereas Article 12 of the Transitional Administrative Law further states that "[d]iscrimination against an Iraqi citizen on the basis of his gender . . . is prohibited";

Whereas on May 10, 2005, Iraq's National Assembly appointed a committee, composed of Assembly members, to begin drafting a constitution for Iraq that will be subject to the approval of the Iraqi people in a national referendum;

Whereas the Senate recognizes the need to affirm the spirit and free the energies of women in Iraq who have spent countless hours, years, and lifetimes working for the basic human right of equal constitutional protection;

Whereas the Senate recognizes the risks Iraqi women have faced in working for the future of their country and admire their courageous commitment to democracy; and

Whereas the full and equal participation of all Iraqi citizens in all aspects of society is essential to achieving Iraq's democratic and economic potential: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the Iraqi people for the progress achieved toward the establishment of a representative democratic government;

(2) recognizes the importance of ensuring women in Iraq have equal rights and opportunities under the law and in society and supports continued, substantial, and vigorous participation of women in the Iraqi National Assembly and in all levels of the government;

(3) recognizes the importance of ensuring women's rights in all legislation, with special attention to preserving women's equal rights under family, property, and inheritance laws;

(4) strongly encourages Iraq's Transitional National Assembly to adopt a constitution that grants women equal rights and opportunities under the law and to work to protect such rights;

(5) pledges to support the efforts of Iraqi women to fully participate in a democratic Iraq; and

(6) wishes the Iraqi people every success in developing, approving, and enacting a new constitution that ensures the civil and political rights of every citizen without reservation of any kind based on gender, religion, or national or social origin.

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## SENATE RESOLUTION 232—CELEBRATING THE 40TH ANNIVERSARY OF THE ENACTMENT OF THE VOTING RIGHTS ACT OF 1965 AND REAFFIRMING THE COMMITMENT OF THE SENATE TO ENSURING THE CONTINUED EFFECTIVENESS OF THE ACT IN PROTECTING THE VOTING RIGHTS OF ALL CITIZENS OF THE UNITED STATES

Mr. KENNEDY (for himself, Mr. REID, Mr. LEAHY, Mr. FEINGOLD, Mr. DURBIN, Mr. KOHL, Mr. JEFFORDS, Mr. LAUTENBERG, Mr. BIDEN, Mr. LEVIN, Ms. MIKULSKI, Ms. LANDRIEU, Mr. OBAMA, Mr. SCHUMER, Mr. KERRY, and Mr. SPECTER) submitted the following resolution; which was referred to the Committee on the Judiciary:

### S. RES. 232

Whereas brave people in the United States, known and unknown, of different races, ethnicities, and religions, risked their lives to stand for political equality and against racial discrimination in a quest culminating in the passage of the Voting Rights Act of 1965;

Whereas numerous individuals paid the ultimate price in pursuit of political equality, while demanding that the United States enforce the guarantees enshrined in the 14th and 15th amendments to the Constitution;

Whereas, on March 7, 1965, a day that would come to be known as "Bloody Sunday", the historic struggle for equal voting rights led nonviolent civil rights marchers to gather on the Edmund Pettus Bridge in Selma, Alabama where the bravery of such individuals was tested by a brutal response from State and local authorities, which in turn sent a clarion call to the people of the United States that the fulfillment of democratic ideals could no longer be denied;

Whereas 8 days after Bloody Sunday, President Lyndon B. Johnson called for a comprehensive and effective voting rights bill as a necessary response by Congress and the President to the interference and violence, in violation of the 14th and 15th amendments to the Constitution, encountered by African-American citizens when attempting to protect and exercise the right to vote;

Whereas a bipartisan Congress approved the Voting Rights Act of 1965 and, on August 6, 1965, President Lyndon B. Johnson signed this landmark legislation into law;

Whereas the Voting Rights Act of 1965 stands as a tribute to the heroism of countless individuals and enactment of the Act was one of the most important civil rights victories in the history of the United States, enabling political empowerment and voter enfranchisement for all citizens of the United States;

Whereas the Voting Rights Act of 1965 effectuates the permanent guarantee of the 15th amendment that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude";

Whereas the Voting Rights Act of 1965 was amended in 1975 to facilitate equal political opportunity for language-minority citizens and was amended in 1982 to protect the rights of voters with disabilities;

Whereas the Voting Rights Act of 1965 has helped advance the true spirit of democracy in the United States by encouraging political participation by all citizens and ensuring for voters the ability to elect representatives in Federal, State, and local governments;

Whereas the Voting Rights Act of 1965 has increased voter registration among racial, ethnic, and language minorities, as well as enhanced the ability of citizens in those minority groups to participate in the political process and to elect minority representatives to public office, resulting in 81 African-American, Latino, Asian, and Native American Members of Congress and thousands of minority State and local officials across the United States;

Whereas despite the noteworthy progress from 40 years of enforcement of the Voting Rights Act of 1965, voter inequities, disparities, and obstacles still remain for far too many minority voters and serve to demonstrate the ongoing importance of the Voting Rights Act of 1965;

Whereas the Voting Rights Act of 1965 provides extensive voter protections, such as equipping voters with the means to challenge election laws that result in a denial or abridgement of voting rights on account of race, color, or language minority status (in section 2 of such Act), eliminating literacy tests nationwide (in section 201 of such Act), requiring Federal approval before jurisdictions with a history of practices that restrict minority voting rights may implement changes in voting practices and procedures (in section 5 of such Act), providing the Department of Justice with the authority to appoint Federal election monitors and observers to ensure that elections are conducted free from discrimination and intimidation (in sections 6 through 9 of such Act), and mandating language assistance and translated voting materials in jurisdictions with substantial concentrations of language minorities (in section 203 of such Act);

Whereas several of these provisions of the Voting Rights Act of 1965 will expire in August 2007 unless Congress acts to preserve and reauthorize them;

Whereas it is vital to democracy in the United States, and to the efforts of the United States to promote democracy abroad, that the provisions of the Voting Rights Act of 1965 are fully effective to prevent discrimination and dilution of the equal rights of minority voters;

Whereas, in 2005, the year marking the 40th anniversary of the Voting Rights Act of 1965, people in the United States must applaud the substantial progress that has been made in protecting the right to vote, but also continue efforts to ensure fairness and equal access to the political process in order to protect the rights of every citizen of the United States; and

Whereas the Voting Rights Act of 1965 has been widely hailed as the single most important civil rights law passed in the history of the United States: Now, therefore, be it

*Resolved*, That the Senate—

(1) observes and celebrates the 40th anniversary of the enactment of the Voting Rights Act of 1965;

(2) reaffirms its commitment to advancing the legacy of the Voting Rights Act of 1965 to ensure the continued effectiveness of the Act in protecting the voting rights of all citizens of the United States; and

(3) encourages the people of the United States to celebrate the 40th anniversary of the Voting Rights Act of 1965.

Mr. KENNEDY. Mr. President, 40 years ago, after the Selma-Montgomery march, many of us in the Senate and House worked hard to pass the landmark Voting Rights Act of 1965, to guarantee that racism and its bitter legacy would never again close the polls to any citizen. The failure to ensure voting rights regardless of race or national origin was a national shame, which was finally addressed in this long overdue bill. As we look toward August 6, the 40th anniversary of the Civil Rights Act, we must recall the sacrifices of those who worked tirelessly to ensure that all Americans have access to the ballot, regardless of race.

All of us are grateful for those sacrifices, which forced America to live up to its highest ideals, the ideal of equality and justice for all. And when we say all, we mean all. I want to thank my friend and colleague Congressman John Lewis for his leadership and his courage in joining Dr. Martin Luther King and so many others on the march across Selma's Pettus Bridge to demonstrate the need for voting rights. Those who marched and endured hatred and violence provided the guiding light for Congress. As we celebrate the Voting Rights Act, we also celebrate their contributions.

This celebration must also be a wake up call to remind us of the need to strengthen and reauthorize the provisions of the Voting Rights Act that are scheduled to expire in 2007. We must reauthorize section 5, which provides for Federal oversight of voting changes in—areas where a history of discrimination has limited the right to vote. We must also reauthorize Section 203, which provides for bi-lingual elections in areas where necessary, to ensure that American citizens can vote, even if they have limited English proficiency.

I look forward to working with my colleagues in both the House and Senate, and on both sides of the aisle, on this important issue.

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## SENATE CONCURRENT RESOLUTION 49—EXPRESSING THE SENSE OF THE CONGRESS WITH RESPECT TO THE IMPORTANCE OF MEDICAID IN THE HEALTH CARE SYSTEM OF OUR NATION

Mr. KENNEDY (for himself, Mr. Rockefeller, Mr. Baucus, Mr. Bingaman, Mr. Reid, Mr. Durbin, Ms. Stabenow, Mrs. Murray, Mr. Corzine, Mr. Schumer, Mr. Jeffords, Mr. Obama, Ms. Landrieu, Mr. Harkin, Mr. Reed, Mr. Sarbanes, Mr. Kohl, Mr. Dorgan, Ms. Cantwell, Mrs. Clinton, Mr. Wyden, Mr. Feingold, Mr. Nelson of Florida, Mrs. Feinstein, Mr. Biden, Mr. Dayton, Mr. Levin, Mr. Kerry, Mr. Johnson, Mrs. Lincoln, Mr. Lautenberg, Ms. Mikulski, Mr. Salazar, Mrs. Boxer, Mr. Pryor, Mr. Dodd, Mr. Bayh, Mr. Liberman, Mr. Conrad, Mr. Inouye, Mr. Akaka, Mr. Leahy, Mr. Byrd, and Mr. Carper) submitted the following concurrent resolution: which was referred to the Committee on Finance.

### S. Con. Res. 49

Whereas Medicaid was signed into law by President Lyndon B. Johnson in Independence, Missouri, on July 30, 1965, as title XIX of the Social Security Act;

Whereas under the Social Security Act, two programs were established to provide health insurance: Medicare for the elderly and Medicaid for the poor;

Whereas Medicaid is one of the Nation's major public health insurance programs, providing health and long-term care for more than 58 million Americans, including children, pregnant women, individuals with disabilities, and the elderly who are poor and frail;

Whereas Medicaid serves in a counter-cyclical role during economic downturns and during the recent economic slump between 2001 and 2002, Medicaid enrollment grew by three million people who, if not for Medicaid, would have become uninsured;

Whereas Medicaid is the most efficient payor in the market such that the average growth rate for Medicaid costs was nearly 7 percent per enrollee, substantially lower than the 12.6 percent growth in employer-sponsored insurance premiums from 2000 to 2003;

Whereas Medicaid provides health coverage to more than one in four of the Nation's children and those children represent nearly half of all Medicaid enrollees;

Whereas studies have found that children enrolled in public health insurance programs experienced substantial improvement in school attendance and behavior and increased engagement in normal childhood activities;

Whereas Medicaid is an important source of health care coverage for women in general, and low-income women in particular, in that women are twice as likely to qualify for Medicaid than men, women constitute over 70 percent of the adult beneficiaries, and one in five low-income women are covered by Medicaid;

Whereas Medicaid plays a particularly critical role for women of childbearing age in that Medicaid is the primary provider of necessary prenatal care for low-income pregnant women and covers nearly 40 percent of all births in the United States;

Whereas Medicaid is an important source of financial help for more than 7 million Medicare beneficiaries living in poverty by paying their Medicare premiums and cost sharing, and covering the costs of other essential services not provided by Medicare, such as dental care, long-term care, and vision care;

Whereas Medicaid is a lifeline for individuals living with disabilities, providing health insurance coverage to approximately eight million, or one-in-five, noninstitutionalized, non-elderly people who have specific, chronic disabilities, and is often the only source of health care for individuals with spinal cord injury, mental illness, and other disabling conditions such as cerebral palsy, cystic fibrosis, Downs syndrome, mental retardation, muscular dystrophy, autism, spina bifida, and HIV/AIDS;

Whereas Medicaid reduces disparities in health care delivery to racial and ethnic minorities, who make up approximately one-third of the total United States population but constitute more than half of those who receive health care through Medicaid and, without Medicaid, racial and ethnic minorities would make up a disproportionate number of Americans who are uninsured;

Whereas Medicaid plays a critical role in ensuring that Americans living in rural areas receive health care insofar as residents in rural counties are 50 percent more likely to have Medicaid coverage than residents in urban counties and Medicaid covers nearly 30 percent of children in rural areas compared to less than 19 percent of children in urban areas; and

Whereas Medicaid's protection against high out-of-pocket expenses for vulnerable, low-income Americans has encouraged and increased access to necessary health care and more than 40 percent of low-income adults who are under the age of 65, when forced to pay cost sharing, will choose to forego medical visits for clinically effective health care and low-income children receive 44 percent fewer clinically effective health care services: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of the Congress that—

(1) over the past four decades Medicaid has been a core component of the American health system;

(2) Medicaid has ensured that the vast majority of Medicaid beneficiaries did not join the ranks of the current 45 million Americans with no health insurance; and

(3) Congress must continue and strengthen the State-Federal partnership that provides this vital health insurance program.

Mr. KENNEDY. Mr. President, this Saturday marks the 40th anniversary of Medicaid. Over the past 4 decades, Medicaid has provided quality health care to millions of the most vulnerable members of our society—low-income children and parents, pregnant women, disabled persons, and senior citizens. While anniversary should be a time to celebrate the progress we have made in improving the health of those who are less fortunate—but instead, we find ourselves defending the program against harsh cuts that will destroy the health security of many of our fellow citizens.

Medicaid has served the Nation well over the past 40 years. It provides a critical safety net for those with nowhere else to turn for health care. The majority of Medicaid beneficiaries are too poor or too sick to buy coverage in the private market. Many have disabilities or multiple chronic conditions, or need long-term care. Others have severe mental health problems. More than 50 million people receive health coverage under Medicaid today, and most of them would be uninsured and uninsurable without it. States have significant flexibility to design Medicaid programs that meet the needs of their residents, with important Federal oversight to make sure that minimal standards are maintained.

Today, Medicaid covers nearly 40 percent of all births. It provides health coverage for one in four children. It's Early and Periodic Screening, Diagnosis, and Treatment benefit has been a success in making sure that children receive the care they need.

Medicaid also provides prenatal care for many low-income women, and it fills in the gaps in coverage for low-income seniors and disabled persons, covering long-term care services that are not covered by Medicare. It is also a major source of coverage for mental health and substance abuse care and is the largest payer of services for AIDS patients.

Medicaid enrollment has grown rapidly over the past few years as more and more Americans not only lost their jobs but lost the health care their employers offered. Low-income working families increasingly lost coverage as employers dropped coverage or couldn't afford it, because health costs soared while wages stagnated. It's true that Medicaid costs have risen over the past few years, but this growth is driven primarily by increased need. Medicaid does its job well—responding to economic downturns and providing a health safety net for those with nowhere else to turn.

Yet Medicaid is once again under attack by some who want to undermine the progress we have made. This year's budget mandates mean-spirited cuts in the program under the guise of balancing the budget, even though the very same budget includes large new tax breaks for the wealthy. These cuts were ordered even though a bipartisan majority of Senators voted against them.

Any changes in Medicaid should be made to improve the care offered to its beneficiaries, not to pay for even greater tax breaks for the wealthy. We need to consider ways to improve Medicaid and make it function more effectively, and we can't accept reforms that do otherwise. Cutting benefits or increasing costs for the poor will keep them from getting the care they need, and cost the Nation far more in the long-run.

Cutting health care for those who rely on Medicaid has real consequences. We know what limiting their access to care will do: it will result in more pain and suffering; it will lead to more deaths because treatable diseases will be diagnosed too late; it will lead to emergency rooms overcrowded with patients with no where else to turn; and it will lead to increased costs for those with health insurance, as they are charged more to make up for the cost of covering those with no insurance.

I look forward to celebrating many more Medicaid anniversaries. My hope is that we will continue to improve and modernize the program, not abandon it. We need to make it work for those it serves, especially the millions of low-income children who will grow up to healthy adults tomorrow, because we kept the faith with Medicaid today.

Mr. CORZINE. Mr. President, tomorrow marks the 40th Anniversary of the Medicare and Medicaid programs. On July 30, 1965, President Lyndon Baines Johnson traveled to Independence, MO to sign the Medicare and Medicaid programs into law. That day, President Johnson signed a contract with the citizens of this country. The contract states that our Nation recognizes that health care is a fundamental human right and that a just society will marshal resources to provide basic medical care for those most in need. Forty years later, the Medicare and Medicaid programs continue to abide by that contract, providing government safety nets that keep the elderly, disabled, and economically disadvantaged from falling into the ranks of the uninsured.

In passing legislation to establish the Medicare program, Members of this body took a courageous step by guaranteeing health insurance coverage to seniors and people with disabilities—regardless of a person's income and regardless of a person's illness. Medicare is a commitment to America's seniors that if you are over 65 or disabled, no matter what your income, we will stand by you and you will get the health care you need.

Before the Medicare program was established, nearly 50 percent of seniors lived their golden years without health coverage. Seniors were forced to choose between a trip to the grocery store and a visit to the doctor's office. Today, because of Medicare, 98 percent of older Americans have access to and can afford to get the medical care they need. Of the forty-two million Americans currently covered by Medicare, including 35 million seniors and 6 million people with disabilities or end-stage renal disease, 1.3 million live in my home State of New Jersey. I've spoken with many of those beneficiaries from throughout my State and it's clear there is great uncertainty about what the future of Medicare holds for beneficiaries.

On the 40th Anniversary of the Medicare program, we should be cheering the dramatic impact Medicare has had on the health and wellbeing of this country. Yet, I would be remiss if I failed to mention the real fear I have that Medicare beneficiaries will be in for a rude awakening early next year. This coming January, a prescription drug benefit will be added to the Medicare program. Since the day I joined the Senate, I consistently supported ensuring seniors access to affordable prescription drugs by adding prescription drug coverage to Medicare. In June, 2003, I was one of 76 Senators to vote to pass legislation to establish a comprehensive, affordable prescription drug benefit under Medicare. While bill was not perfect, on the whole the legislation would have been good for Medicare beneficiaries in New Jersey and those across the Nation. Yet, Mr. President, the bill that came back from House-Senate conference and was ultimately signed by the President does more harm than good.

For most New Jersey beneficiaries, the prescription drug plan set to take effect January 1, 2006 is neither affordable, nor comprehensive. It will cost seniors $3600 for $5,000 in drug benefits, will result in over 90,000 New Jersey retirees losing their drug coverage from their former employers, and could force nearly 200,000 New Jersey seniors out of Medicare as they know it into private HMOs.

Most troubling is the impact that the prescription drug plan will have on low and middle income beneficiaries in my state. My colleague Senator LAUTENBERG and I worked hard to save New Jersey's PAAD and Senior Gold programs—which the original Republican plan would have scrapped. But unlike New Jersey's PAAD and Senior Gold programs, the Medicare plan will have drug formularies that will restrict seniors' access to certain drugs. This means that a senior in PAAD or Senior Gold who now has complete prescription drug access may face limited drug access or substantially higher costs for their drugs.

One of the few bright spots that came of the Medicare prescription drug bill is the establishment of a "Welcome to Medicare" physical exam for new beneficiaries. For the majority of Medicare beneficiaries, this program has been a treatment program, not a preventive health program. Instead of covering preventive services like colonoscopy, cardiovascular screenings, and wellness programs that keep beneficiaries healthy, Medicare has traditionally focused more on treating the patient once he or she gets sick. We need to continue to promote prevention, instead of just reacting to illness, under the program. Not only will a focus on prevention keep our beneficiaries healthier and more independent, but the imminent retirement of the baby boom generation will continue to drive the costs of the program higher. The simplest way to constrain Medicare spending while also keeping Americans in their home and out of the hospital is to advance the program's focus on providing coverage of preventive health services.

I have no doubt that expanding Medicare coverage to include preventive measures will continue to improve the health and wellbeing beneficiaries. On the whole, however, I have grave reservations about the impact that the new prescription drug plan will have on what has, for 40 years, been a reliable and affordable health coverage program for this country's elderly and disabled citizens. One of the guiding principles of health care is, "do no harm." My real fear is that the prescription drug plan will seriously undermine the Medicare program by shifting costs and limiting access to lifesaving services. These terms were not part of the contract President Johnson signed to establish Medicare.

Forty years ago, along with the Medicare program, President Johnson signed legislation establishing Medicaid. This health insurance program was designed to keep the Nation's most vulnerable populations—the poorest and sickest, from falling onto the rolls of the uninsured. Medicaid is based on the proposition that the health of a nation should be judged by the health of its people. For the last 40 years, Medicaid has provided health care for 105 million Americans with disabilities, working families, the elderly, children, and pregnant women. The success of this federal-state partnership is a tribute to President Johnson and the members of Congress who were brave enough to recognize that, in the world's richest country, basic medical care should be a right, not a privilege.

The Medicaid program has grown and evolved from a safety net program to the primary source of care for millions of Americans. Today, Medicaid provides vital health care services more than 53 million Americans. For millions of low-income children and families, including 500,000 children in New Jersey, Medicaid covers primary and preventive health care services that they otherwise could not afford. Medicaid provides crucial primary care health services for children with disabilities. And as my colleagues know, Medicaid is the Nation's largest payer of nursing home and other long-term care services. The amazing thing about Medicaid is the fact that the program covers people who can't get health coverage anywhere else, and it does so at a fraction of the cost of other programs. A recent study found that the cost of serving an adult in Medicaid in 2001 was about 30 percent lower than if that same person were instead covered by private health insurance. And Medicaid spends about half as much on administrative costs as private insurance. In 2003, only 6.9 percent of Medicaid costs were administrative expenses compared to 13.6 percent for private insurance. It is truly remarkable that Medicaid is able to do so much for so many Americans.

As we take time to celebrate the dramatic success Medicaid has had in covering our most vulnerable populations, we must be cognizant that there is much more to do and that the program itself is vulnerable. Clearly, Medicaid does a remarkable job covering Americans who would otherwise be uninsured, but the reach of the program is becoming more and more limited. Forty-five million Americans were uninsured at some point during the past year. For many of these Americans, their primary source of care is hospital emergency rooms. Many could have been kept out of the hospital emergency room if they had access to basic health services under Medicaid, and this could have been achieved at a fraction of the cost. Yet, arguing that the program is rife with waste, fraud, and abuse, Republicans passed a budget earlier this year that cuts $10 billion out of the Medicaid program. Clearly, there's always room for improvement, and I don't think there is a member of this body who believes we shouldn't rid the program of any waste, fraud, and abuse that exists. However, I have seen no credible evidence to convince me that there is $10 billion in savings to be had from such efforts. Instead the evidence suggests that $240 million of the $10 billion in cuts will come directly from the New Jersey Medicaid program. For $240 million, New Jersey could cover 100,000 more children, 17,000 more seniors, or 12,000 more residents with disabilities. Instead of expanding the Medicaid program to these populations, the $10 billion in cuts will likely come at the expense of beneficiaries—pregnant women, children, and people with disabilities—people who rely on the program for their basic medical needs.

Dramatic changes to Medicaid based not on sound public policy but on achieving $10 billion in savings would be a grave mistake. It would be a huge step backward for Medicaid beneficiaries in New Jersey or across the country. It simply is not possible to cut $10 billion from the Medicaid program without chipping away at the foundation on which the program is based. Make no mistake about it, in a federal-state partnership such as this, cutting $10 billion from Medicaid means taking $10 billion away from the States ability to cover their uninsured. It means that States will be left with the tough choices of decreasing reimbursements to providers, eliminating services like prescription drugs and specialized services for the mentally ill, or raising taxes to preserve these services.

The most egregious aspect of the proposed Medicaid cuts is that these cuts come in a budget that includes the $204 billion cost of making permanent the President's tax cuts for millionaires. How do we, as legislators, look hard-working Americans in the eye and tell them honestly that we can't afford $10 billion for health coverage for low-income Americans, but we can afford $204 billion in tax breaks for the most well-off? Is this the same legislative body that recognized the social value of offering a helping hand to those who could otherwise not help themselves? Instead of tax cuts for those Americans least in need of tax cuts, we should be preserving and expanding access to health care for our Nation's most vulnerable by maintaining our Federal obligation to the States to pay our fair share for these services.

As we celebrate the 40th anniversary of Medicare and Medicaid, we must recognize that some of those who have urged the dismantling of these programs are the same people who argue that these programs are the epitome of big government run amuck. On the contrary, Medicare and Medicaid are government at its finest. For 40 years, these programs have been examples of government up to the plate to provide a lifeline for citizens who would otherwise fall through the cracks of society. On July 30, 1965, Medicare and Medicaid were the vision of a stronger, healthier, more prosperous America. We must continue to share this vision today, as we have for the past 40 years.

## SENATE CONCURRENT RESOLUTION 50—EXPRESSING THE SENSE OF CONGRESS CONCERNING THE VITAL ROLE OF MEDICARE IN THE HEALTH CARE SYSTEM OF OUR NATION OVER THE LAST 40 YEARS

Ms. STABENOW (for herself, Mr. REID, Mr. BAUCUS, Mr. ROCKEFELLER, Mr. KENNEDY, Mr. BINGAMAN, Mr. DURBIN, Mrs. MURRAY, Mr. CORZINE, Mr. SCHUMER, Mr. JEFFORDS, Mr. OBAMA, Ms. LANDRIEU, Mr. HARKIN, Mr. REED, Mr. SARBANES, Mr. KOHL, Mr. DORGAN, Ms. CANTWELL, Mrs. CLINTON, Mr. WYDEN, Mr. FEINGOLD, Mr. NELSON of Florida, Mrs. FEINSTEIN, Mr. BIDEN, Mr. DAYTON, Mr. LEVIN, Mr. KERRY, Mr. JOHNSON, Mrs. LINCOLN, Mr. LAUTENBERG, Ms. MIKULSKI, Mr. SALAZAR, Mrs. BOXER, Mr. PRYOR, Mr. DODD, Mr. BAYH, Mr. LIEBERMAN, Mr. CONRAD, Mr. INOUYE, Mr. AKAKA, Mr. LEAHY, Mr. BYRD, and Mr. CARPER) submitted the following concurrent resolution; which was referred to the Committee on Finance:

### S. CON. RES. 50

Whereas Medicare was signed into law by President Lyndon B. Johnson in Independence, Missouri, on July 30, 1965, as title XVIII of the Social Security Act;

Whereas Medicare was created to provide health insurance to the elderly in part because only about half of the elderly population had health insurance;

Whereas Medicare continues to achieve its purpose of improving health and financial security for Medicare beneficiaries by assuring access to affordable health care and contributing to the significant decrease in the poverty rate among the elderly, which has fallen from nearly 30 percent in 1966 to approximately 10 percent in 2002;

Whereas Medicare played a fundamental role, together with the Civil Rights Act of 1964, in desegregating the American health care system by assuring access to care, regardless of race or age;

Whereas Medicare has contributed to improvements in life expectancy for persons over 65 years of age;

Whereas Medicare began with 19 million beneficiaries, and since then has provided health care services for approximately 105 million beneficiaries over the last 40 years;

Whereas Medicare today provides comprehensive health insurance for nearly 42 million Americans, which includes more than 35 million senior citizens and 6 million people under 65 years of age who are permanently disabled or living with end stage renal disease, and by 2030 the number of Americans who will rely on Medicare for their health care is expected to reach 78 million, which is nearly double the number today;

Whereas Medicare ensures coverage along a continuum of health care settings such as inpatient hospital care, physician and outpatient hospital care, and other post-hospitalization benefits such as home health care, skilled nursing facility services, and hospice care;

Whereas Medicare has evolved over time to help beneficiaries maintain their health, prevent disease and injury, and to provide better benefits, including more preventive care, such that Medicare, which covered about 42 percent of expenditures for the elderly in 1968, covered approximately 55 percent of expenditures by 1997;

Whereas Medicare serves a diverse population of beneficiaries with complex health care needs—71 percent of beneficiaries have two or more chronic health conditions, 29 percent are in fair to poor health, and 23 percent have cognitive impairments;

Whereas many who depend upon Medicare have modest incomes and assets—a majority of Medicare beneficiaries have incomes below 200 percent of the Federal poverty level ($19,140 for individuals and $25,660 for married couples in 2005) and 48 percent of non-institutionalized Medicare beneficiaries have assets below $10,000;

Whereas Medicare provides health insurance for nearly 6 million individuals under the age of 65 who live with disabilities or illnesses such as multiple sclerosis, spinal cord injuries, depression, and HIV/AIDS, and who are more likely than those who are elderly to be in poor health and be unable to live independently and perform basic activities of daily living;

Whereas Medicare provides health insurance coverage for nearly one-in-five adult women in the United States and plays an especially important role in assuring access to health care for older women who have lower average annual incomes than men of the same age (average difference in income being $14,000) and fewer resources to pay for health care services;

Whereas Medicare covers important preventive and health maintenance services, including vaccinations, prostate and mammography screening, bone mass measurement, and glaucoma screening;

Whereas Medicare has achieved its major purpose of providing access for the elderly and individuals with disabilities to needed health care such that nearly 98 percent of elderly adults report that they have access to needed health care;

Whereas elderly Medicare beneficiaries are more satisfied with their coverage than privately insured nonelderly adults and Medicare beneficiaries are more likely to rate their health insurance coverage as "very good" or "excellent" and to report they were very satisfied with the care they received; and

Whereas Medicare is a remarkably efficient program, with administrative costs that average less than 2 percent of expenditures compared to about 12 percent in private plans and average per capita cost increases below those of the private sector, further highlighting its efficiency: Now, therefore, be it

*Resolved by the Senate (the House of Representatives concurring),* That it is the sense of Congress that—

(1) for the past 40 years, Medicare has made significant medical, social, and economic contributions to our Nation;

(2) the access to care provided by Medicare has changed the course of health outcomes for the elderly and those with disabilities, preventing physical deterioration and preventing more individuals from slipping into poverty; and

(3) Congress must continue to support, strengthen, and enhance the quality of care in this vital Federal health insurance program that guarantees all Medicare beneficiaries affordable health care that meets their needs.

Ms. STABENOW. Mr. President, I am very pleased to submit this Concurrent Resolution on behalf of myself and my Democratic colleagues.

I rise to commend two programs that have served as a safety net for millions of Americans, Medicare and Medicaid. This Saturday, Medicare and its sister program Medicaid turn forty, and for millions of Americans, these vital health care programs have literally meant the difference between life and death.

I am proud to be sponsoring a resolution to commemorate Medicare's birthday on behalf of the Democratic caucus and to be co-sponsoring a similar resolution for Medicaid. Medicare is a great American success story, and one of the most successful federal programs of all time. It has lifted countless seniors out of poverty, allowing them to live with dignity and independence, and it has ensured access to necessary, affordable, quality medical care for our most vulnerable citizens. Prior to the introduction of Medicare, half of America's seniors couldn't find or afford health insurance. Today, Medicare is the closest thing our Nation has to universal coverage, providing health care to nearly 42 million Americans, including over 1 million in Michigan.

Moreover, Medicare has been remarkably efficient, especially considering the population it covers. Its administrative costs average less than 2 percent of its expenditures; in comparison, the administrative costs for private insurance can run 12 to 13 percent, sometimes as high as 25 percent. Administrative costs this low are particularly striking when we consider the overwhelming majority of seniors and people with disabilities 87 percent—are enrolled in traditional Medicare, giving them full access to specialized care and their choice of physicians.

Medicaid, too, is celebrating its birthday this weekend. I began my political career in State government so I know the challenges facing our governors and State legislatures. One in seven Michiganians, or more than 1.4 million in my State, are enrolled in Medicaid. Michigan does a great job at trying to control its Medicaid costs. In fact, private insurance has been rising almost twice as fast as Michigan's Medicaid costs. That's remarkable when you realize that the program enrolls some of the sickest and most vulnerable Americans, people that could never afford private insurance.

I recognize that there are challenges facing both programs, but I do not believe that making arbitrary cuts—putting our patients and providers in jeopardy—is the way to improve either program. We certainly must ensure the efficiency of the programs' use of taxpayer dollars. While doing so we must not lose sight of the fact that, according to the Congressional Budget Office, the Medicare and Medicaid average spending growth on a per capita basis from 2000–2004 was lower than that of private insurance. We need to find ways to lower health care costs system-wide; addressing only Medicare and Medicaid means we often simply shift unaffordable costs to the states, our businesses, workers and patients. Let's work together on a bipartisan basis to make health care more affordable and accessible for all Americans.

Mr. KENNEDY. Mr. President, Medicare has changed the lives of millions of senior citizens over the past four decades. Before Medicare, vast numbers of elderly Americans were unable to afford the health care they needed. Since then, Medicare has made a real difference in their lives. Medicare has also made a real difference in the lives of millions of disabled persons, who became eligible for Medicare in 1972.

Today, Medicare means good health care for more than 42 million Americans across the country. It is one of the most popular government programs ever enacted. The number of senior citizens living in poverty has declined dramatically as seniors because of Medicare. Our seniors are able to get the health care they so desperately need.

Many important changes have been made over the years to improve the program. One of the most important changes was extending coverage to disabled persons. Another important change is moving Medicare's focus from caring for beneficiaries when they became sick to one that not only treats illnesses but also emphasizes preventive care and the management of chronic illnesses that affect so many senior citizens and disabled persons.

While Medicare has accomplished so much over the past four decades, there are still improvements to be made. The lack of coverage of prescription drugs is the most obvious problem, and many of us are deeply concerned that the new prescription drug benefit enacted by the last Congress will not in fact benefit many seniors who need and deserve the coverage. We had a real opportunity to provide all seniors with a good drug benefit, but politics won out.

Another significant failure has been "privatization," which has forced many of the elderly into HMOs that cost more than traditional Medicare.

The lack of long-term care in Medicare is another shortcoming. Too many Medicare beneficiaries must impoverish themselves in order to obtain the long-term care they need through Medicaid.

A further serious problem affects the disabled, who often have no coverage during the two-year waiting period before Medicare is available.

We can do better. Bills pending this year will modernize health information technology, and improve the quality of care. We need to provide stronger incentives to reward quality and encourage the availability of the best possible care. We can improve treatment and achieve better coordination of care for those with multiple chronic conditions. And we can use the purchasing power of Medicare to make sure that prescription drugs are priced reasonably.

Medicare was a landmark achievement in its day, and we in Congress who revere it now have a responsibility to see that it continues to meet the needs of both current and future beneficiaries in our own day and generation. Putting beneficiaries first is what has made Medicare so popular and successful over the past four decades, and if the same fundamental priority is respected by Congress today and in the years ahead, Medicare will have forty more years of brilliant accomplishment in meeting the needs of our seniors and our fellow citizens with disabilities.

Mr. REID. Mr. President, this Saturday marks the 40th anniversary of the creation of the Medicare and Medicaid programs. On July 30, 1965, President Lyndon B. Johnson signed Medicare and Medicaid into law in Independence, MO. There are currently 87 million people enrolled in Medicare, Medicaid, or both, yet we often talk about these two programs with inhuman terms and confusing acronyms. It is easy to forget that Medicare and Medicaid have human faces too.

Pauline Goldmann in Las Vegas is one of those faces. Two months ago, Pauline suffered a collapse related to diabetes. She is back at home now, thanks to Medicare's coverage of services she needed in a rehabilitation hospital. Without coverage for those services, she would have had to go to a nursing home. Eventually, she would have become eligible for Medicaid, and the Government would have picked up the tab for that costly institutionalization. More importantly, Pauline would have lost her independence and the ability to live in her home and community.

She is just one of the 42 million people currently served by Medicare. Before Medicare, about one-half of seniors could afford private health insurance. Now it is a program that they know and trust. Without it, many seniors and people with disabilities would have no health coverage at all. That this is practically inconceivable now is a testament to Medicare's success.

Over the years, Medicaid has helped ensure that children in poverty have access to the health care services they need. It has made sure that pregnant women get the prenatal care we know is so important for healthy babies. It has helped our senior citizens to pay for the costs Medicare doesn't cover. And it has assisted people with disabilities as they struggle to afford the services they need.

In the past 40 years, we have made changes to these programs. For example, we have expanded Medicare to cover people with disabilities and end-stage renal disease in 1972. In 1997, we created the successful Children's Health Insurance Program. And a new Medicare drug program will begin in 2006.

For years, we worked to add drug coverage to Medicare, but I am afraid Republican leaders fell short in 2003 when they created this new benefit. I am very concerned as we enter this time of uncertainty in the drug benefit's implementation. I hope we will have the opportunity to revisit some of the problematic aspects of that legislation so we can make it less confusing and give seniors and people with disabilities the drug benefit they deserve.

These are also uncertain times for Medicaid. Republican leaders have demanded cuts to that vital program. To be sure, the cost of Medicaid is growing, and our states struggle with their budgets as a result. But Medicaid's problems are the same 5 problems that exist in our health care system as a whole. Medicaid's rolls grow as more people become uninsured, and Medicaid faces the same unchecked health care cost increases we all do. Moreover, Medicaid fills in Medicare's gaps, covering long-term care and prescription drugs for people eligible for both programs. Rather than alleviating those drug costs, the new drug benefit continues this cost-shift to the States.

As our Republican counterparts look at ways to derive savings from Medicaid, we call on them to eliminate waste or other problems in the program, but also to redirect those savings to Medicaid. We also implore them to reject increases in cost-sharing for beneficiaries or allowances for changes to Medicaid's benefit package. Most of all, we ask them to keep in mind the faces of people covered by Medicaid.

Neither Medicare nor Medicaid could perform their missions without the providers who participate in the programs. I thank these individuals and institutions for the services they provide every day. Their commitment to the health of our citizens is tremendous, and in exchange, we must ensure that they are fairly treated by our public programs.

Today, I join my colleagues in submitting resolutions commemorating this important anniversary. Democrats created these two great programs in 1965. They are two of our proudest achievements. I look forward to many future birthday celebrations as these programs continue to address the basic health care needs of America's seniors, children, pregnant women, and people with disabilities.

Mr. ROCKEFELLER. Mr. President, on July 30, 1965, with one stroke of the pen, President Lyndon Baines Johnson created two Federal programs that gave America's poor and elderly access to high-quality comprehensive health care. Having grown up in the Hill Country of Texas, President Johnson knew first hand of the lack of health care for the poor, the elderly, and the disabled. He had witnessed the bitter consequences of men, women, and children denied access to meaningful and affordable health care.

While President Johnson's signing of the Medicare and Medicaid programs into law was historic, it would be inaccurate to bestow the sole credit for the creation of these vital programs on one person alone. The Social Security Amendments of 1965 represented the decades long work of both Democrats and Republicans who shared a commitment to improving the health of our nation. The amendments were a compromise between those who wanted a social insurance program solely for the elderly and those who believed we needed a similar program for the poor.

The addition of Medicaid to the Social Security Amendments of 1965 was of particular significance. Far from being the afterthought that it is typically described as, the creation of Medicaid was actually a reflection of a tradition of community and mutual obligation that, if not uniquely, is at least characteristically American. It was an extension of a guiding principle of our Nation's founding—a shared responsibility for the greater good of all, despite the broader spectrum of political beliefs. President Theodore Roosevelt, a Republican who embodied our Nation's commitment to the public good, was among the first to propose comprehensive health insurance for working families. Our language still bears witness to the type of Good Samaritan ideal that preceded the creation of Medicaid in local situations such as "barn raising" and "quilting bees." And on a national level, we have always rallied in times of crisis, channeling personal and individual efforts into a pursuit of the greater good.

This type of social contract with our fellow Americans was the basis for the creation of Medicaid. The economic disasters of the Depression left many families unable to pay for health care and, therefore, at the mercy of preventable and treatable diseases. Because of the poor health outcomes that occurred during the Great Depression, the Federal Government began to give serious consideration to a health care safety net. Democrats and Republicans alike in Congress recognized our country's moral obligation to its most vulnerable citizens, and they pushed for action. And, in various ways, virtually every President from Harry Truman to Dwight Eisenhower to John F. Kennedy helped lay the framework for the comprehensive health insurance legislation that Johnson ultimately finished.

Just as significant as the bipartisan support for the creation of Medicaid is the fact that subsequent administrations—Democratic and Republican—have reaffirmed a commitment to Medicaid because it is the fulfillment of a social contract between American citizens and their representative government.

Unfortunately, during the last decade, we have seen a misguided, darker view of Medicaid emerge, one that loses sight of the nobler efforts underlying that social contract. Medicaid had become a scapegoat for the larger ills facing our entire health care system. But, Medicaid isn't the problem. Instead, this vital program has inherited the problems of our entire health care system, and over the years has been asked to take on more and more responsibility for the health of our Nation with fewer and fewer resources. Because Medicare has never provided significant long-term care benefits, Medicaid has been left to foot the bill for individuals eligible for both Medicare and Medicaid. And, each year, more and more employers are dropping their employer-sponsored health insurance coverage, which drives more working families to Medicaid. With cost shifts of this magnitude, State governments are finding themselves having to dedicate more and more of their budgets to Medicaid. As a former governor, I understand concerns about balancing budgets. However, the solution proposed by this administration—cutting billions of dollars out of Medicaid—does not fit the problem, which is our health care system as a whole.

We can and should reform our entire health care system to make it more responsive to the needs of our Nation's citizens, and there are relatively easy ways to do this. We can start by creating a Federal long-term care system to provide all Americans greater retirement security. At the same time, we can provide employers with more incentives to retain health care coverage for their employees. And, finally, the Federal Government can lower the cost of prescription drugs for all Americans by allowing reimportation and improving access to generic drugs. If we do these things, then Medicaid can continue to be a vital, stable, and efficient health care program.

I believe taking care of our most vulnerable people is a moral obligation.

And it is an obligation that we, as Americans, have fulfilled time and again because it reaffirms our fundamental belief in democracy and community. As Alexis de Tocqueville wrote in Democracy in America, a record of his 19th century travels through the United States, America's "equality of conditions" not only characterized the new country's democratic political structure, but it reflected the community and mutual obligation that he saw as part and parcel of America's revolutionary form of government.

The social contract with America that was forged 40 years ago this week is no less valid or necessary today. According to the most recent Census data, nearly 24 million people with incomes below 200 percent of the poverty line were uninsured in 2003, including approximately 18 million adults under age 65 as well as 6 million children. Those numbers are expected to rise in the years ahead. Our representative democracy has a responsibility to do for the future what we have repeatedly done in the past: protect, preserve, and strengthen Medicaid.

Mr. WYDEN. Mr. President, on July 30, 1965, legislation was signed into law that created two fundamental programs: Medicare and Medicaid. The creation of those programs was a landmark for this country. When signing the Medicare legislation 40 years ago, President Johnson remarked, "We marvel not simply at the passage of this bill, what we marvel at is that it took so many years to pass it."

At that time, senior citizens were identified as the group most likely to be living in poverty in the U.S. Many had no type of health insurance. Since 1965, and largely thanks to Medicare and the access it has afforded seniors, the poverty rate has dropped significantly and older Americans are enjoying longer and healthier lives.

As John Gardner, Health, Education, and Welfare Secretary during President Johnson's administration, once stated, "Medicare was a great turning point, but it has to be continually revised." And Medicare has changed. Since 1972, Medicare has also included Americans with disabilities and those with end stage renal disease bringing access and coverage to millions of Americans in need of it. In 2003, Congress passed the Medicare Modernization Act to add a prescription drug benefit. Medicare began with about 19 million seniors, but faces an estimated 77 million Americans, almost double the number of Americans enrolled in the program now in 2030. These Medicare beneficiaries will live longer, and face very different needs than the first 19 million.

With the creation of Medicaid, our Nation affirmed that we wanted those who were poor to be able to have health care. Like Medicare, Medicaid has faced changes. Other categories of people in need have been added; States like my home State of Oregon have been able to experiment in creative ways to provide care to more people; and as more seniors need long-term care and do not have the funds to pay for it, Medicaid plays an important role in providing long-term care. Medicaid has uniquely borne the brunt of the failings of the health care system. For many, this program is a lifesaver and it must be maintained.

Both Medicare and Medicaid are facing financial crises. Those who fought hard for the creation of these fundamental programs could not have foreseen the technology and scientific breakthroughs that would change health care delivery. Nor could they have foreseen the costs. We need to continually revise these programs to find better ways to provide affordable care and to assure that these programs are up to date with the best science and medicine but—that they keep their original purpose—to provide care to those who are aged, disabled, or poor.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1644. Mr. CRAIG proposed an amendment to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

SA 1645. Mr. CRAIG proposed an amendment to the bill S. 397, supra.

SA 1646. Mr. FRIST (for Ms. COLLINS) proposed an amendment to the bill S. 501, to provide a site for the National Women's History Museum in the District of Columbia.

SA 1647. Mr. FRIST (for Mr. DEWINE) proposed an amendment to the bill S. 172, to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

## TEXT OF AMENDMENTS

**SA 1644.** Mr. CRAIG proposed an amendment to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; as follows:

On page 11, between lines 6 and 7, insert the following:

(D) MINOR CHILD EXCEPTION.—Nothing in this Act shall be construed to limit the right of a person under 17 years of age to recover damages authorized under Federal or State law in a civil action that meets 1 of the requirements under clauses (i) through (v) of subparagraph (A).

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**SA 1645.** Mr. CRAIG proposed an amendment to the bill S. 397, to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others; as follows:

On page 13, after line 4, insert the following:

**SEC. 5. ARMOR PIERCING AMMUNITION.**

(a) UNLAWFUL ACTS.—Section 922(a) of title 18, United States Code, is amended by striking paragraphs (7) and (8) and inserting the following:

"(7) for any person to manufacture or import armor piercing ammunition, unless—

"(A) the manufacture of such ammunition is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

"(B) the manufacture of such ammunition is for the purpose of exportation; or

"(C) the manufacture or importation of such ammunition is for the purpose of testing or experimentation and has been authorized by the Attorney General;

"(8) for any manufacturer or importer to sell or deliver armor piercing ammunition, unless such sale or delivery—

"(A) is for the use of the United States, any department or agency of the United States, any State, or any department, agency, or political subdivision of a State;

"(B) is for the purpose of exportation; or

"(C) is for the purpose of testing or experimentation and has been authorized by the Attorney General;".

(b) PENALTIES.—Section 924(c) of title 18, United States Code, is amended by adding at the end the following:

"(5) Except to the extent that a greater minimum sentence is otherwise provided under this subsection, or by any other provision of law, any person who, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which the person may be prosecuted in a court of the United States, uses or carries armor piercing ammunition, or who, in furtherance of any such crime, possesses armor piercing ammunition, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime or conviction under this section—

"(A) be sentenced to a term of imprisonment of not less than 15 years; and

"(B) if death results from the use of such ammunition—

"(i) if the killing is murder (as defined in section 1111), be punished by death or sentenced to a term of imprisonment for any term of years or for life; and

"(ii) if the killing is manslaughter (as defined in section 1112), be punished as provided in section 1112.".

(c) STUDY AND REPORT.—

(1) STUDY.—The Attorney General shall conduct a study to determine whether a uniform standard for the testing of projectiles against Body Armor is feasible.

(2) ISSUES TO BE STUDIED.—The study conducted under paragraph (1) shall include—

(A) variations in performance that are related to the length of the barrel of the handgun or center-fire rifle from which the projectile is fired; and

(B) the amount of powder used to propel the projectile.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report containing the results of the study conducted under this subsection to—

(A) the chairman and ranking member of the Committee on the Judiciary of the Senate; and

(B) the chairman and ranking member of the Committee on the Judiciary of the House of Representatives.

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**SA 1646.** Mr. FRIST (for Ms. COLLINS) proposed an amendment to the bill S. 501, to provide a site for the National Women's History Museum in the District of Columbia; as follows:

At the end, add the following:

**SEC. 6. FEDERAL PARTICIPATION.**

The United States shall pay no expense incurred in the establishment, construction, or operation of the National Women's History Museum, which shall be operated and maintained by the Museum Sponsor after completion of construction.

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**SA 1647.** Mr. FRIST (for Mr. DEWINE) proposed an amendment to the bill S. 172, to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes; as follows:

In lieu of the matter to be inserted, insert the following:

**SECTION 1. REGULATION OF CERTAIN ARTICLES AS MEDICAL DEVICES.**

Section 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j) is amended by adding at the end the following subsection:

"Regulation of Contact Lens as Devices

"(n)(1) All contact lenses shall be deemed to be devices under section 201(h).

"(2) Paragraph (1) shall not be construed as bearing on or being relevant to the question of whether any product other than a contact lens is a device as defined by section 201(h) or a drug as defined by section 201(g).".

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON FINANCE

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Friday, July 29, 2005, in the Mansfield Room, S-207 of the Capitol, to consider favorably reporting the nominations of Robert M. Kimmitt, to be Deputy Secretary of the Treasury; Randal Quarles, to be Under Secretary of the Treasury; Timothy D. Adams, Under Secretary of Treasury; Sandra L. Pack, to be Assistant Secretary of the Treasury; Kevin I. Fromer, to be Deputy Under Secretary, Legislative Affairs, of the Treasury; and Shara L. Aranoff, to be Member of the United States International Trade Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Nancy Falk, who is a fellow in my office, be granted the privileges of the floor during the pendency of H.R. 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I ask unanimous consent that Heideh Shahmoradi, Greg Murrill, and John Stoody be granted the privilege of the floor for the consideration of the conference report accompanying H.R. 3.

The PRESIDING OFFICER. Without objection, it is so ordered.

## FOREIGN TRAVEL FINANCIAL REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports for standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

### CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Elizabeth H. Croker: | | | | | | | | | |
| Uruguay | Peso | | 1,102.00 | | | | | | 1,102.00 |
| United States | Dollar | | | | 8,876.15 | | | | 8,876.15 |
| Senator E. Benjamin Nelson: | | | | | | | | | |
| Cuba | Peso | | 406.00 | | 90.00 | | 477.00 | | 973.00 |
| Amy Tejral: | | | | | | | | | |
| Cuba | Peso | | 406.00 | | 90.00 | | 477.00 | | 973.00 |
| James Nygren: | | | | | | | | | |
| Cuba | Peso | | 406.00 | | 90.00 | | 477.00 | | 973.00 |
| Total | | | 2,320.00 | | 9,146.15 | | 1,431.00 | | 12,897.15 |

SAXBY CHAMBLISS,
Chairman, Committee on Agriculture, Nutrition and Forestry, July 6, 2005

### CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Carl Levin: | | | | | | | | | |
| United States | Dollar | | | | 5,940.99 | | | | 5,940.99 |
| Israel | Shekel | | 1,034.00 | | | | 19.00 | | 1,053.00 |
| Jordan | Dinar | | 149.00 | | | | | | 149.00 |
| Richard D. DeBobes: | | | | | | | | | |
| United States | Dollar | | | | 6,145.83 | | | | 6,145.83 |
| Israel | Shekel | | 482.00 | | | | | | 482.00 |
| Jordan | Dinar | | 149.00 | | | | | | 149.00 |
| William P. Monahan: | | | | | | | | | |
| United States | Dollar | | | | 7,134.99 | | | | 7,134.99 |
| Israel | Shekel | | 1,051.00 | | | | 19.00 | | 1,070.00 |
| Jordan | Dinar | | 149.00 | | | | | | 149.00 |
| Michael J. Kuiken: | | | | | | | | | |
| United States | Dollar | | | | 6,011.80 | | | | 6011.80 |
| Israel | Shekel | | 1,058.00 | | | | 19.00 | | 1,077.00 |
| Senator James M. Inhofe: | | | | | | | | | |
| United States | Dollar | | 38.00 | | | | 200.00 | | 238.00 |
| Ethiopia | Birr | | 132.67 | | | | | | 132.67 |
| Uganda | Shilling | | 106.00 | | | | | | 106.00 |
| Turkey | Dollar | | 34.00 | | | | | | 34.00 |
| John Bonsell: | | | | | | | | | |
| United States | Dollar | | 38.00 | | | | 200.00 | | 238.00 |
| Ethiopia | Birr | | 155.23 | | | | | | 155.23 |
| Uganda | Shilling | | 154.00 | | | | | | 154.00 |
| Turkey | Dollar | | 29.00 | | | | | | 29.00 |
| Mark Powers: | | | | | | | | | |
| United States | Dollar | | 38.00 | | | | 230.00 | | 268.00 |
| Ethiopia | Birr | | 81.00 | | | | | | 81.00 |
| Uganda | Shilling | | 74.00 | | | | | | 74.00 |
| Turkey | Dollar | | 55.00 | | | | | | 55.00 |
| Jordan | Dinar | | 176.00 | | | | | | 176.00 |
| Senator Joseph I. Lieberman: | | | | | | | | | |
| United States | Dollar | | | | 6,759.99 | | | | 6,759.99 |
| Israel | Dollar | | 195.00 | | | | | | 195.00 |
| Jordan | Dollar | | 259.00 | | | | | | 259.00 |
| Frederick M. Downey: | | | | | | | | | |
| United States | Dollar | | | | 6,759.99 | | | | 6,759.99 |
| Israel | Dollar | | 1,011.00 | | | | | | 1,011.00 |
| Jordan | Dollar | | 408.00 | | | | | | 408.00 |
| Senator John McCain: | | | | | | | | | |
| Lebanon | Dollar | | 131.00 | | | | | | 131.00 |
| Cyprus | Dollar | | 141.68 | | | | | | 141.68 |
| Kyrgyzstan | Dollar | | 243.68 | | | | | | 243.68 |
| Croatia | Dollar | | 327.00 | | | | | | 327.00 |
| Senator Lindsey O. Graham: | | | | | | | | | |
| Lebanon | Dollar | | | | | | 27.00 | | 27.00 |
| Cyprus | Dollar | | 131.00 | | | | 15.11 | | 146.11 |
| Kyrgyzstan | Dollar | | 240.00 | | | | 127.68 | | 367.68 |
| Croatia | Dollar | | 177.00 | | | | 131.72 | | 308.72 |
| Richard H. Fontaine, Jr.: | | | | | | | | | |
| Lebanon | Dollar | | 154.00 | | | | | | 154.00 |
| Cyprus | Dollar | | 302.00 | | | | | | 302.00 |
| Kyrgzstan | Dollar | | 132.00 | | | | | | 132.00 |
| Croatia | Dollar | | 434.00 | | | | | | 434.00 |
| Senator Bill Nelson: | | | | | | | | | |
| Honduras | Lempira | | 129.91 | | | | | | 129.91 |
| Caroline Tess: | | | | | | | | | |
| Honduras | Lempira | | 250.00 | | | | | | 250.00 |
| Senator John Cornyn: | | | | | | | | | |
| Greece | Dollar | | 1,167.00 | | | | | | 1,167.00 |
| Romania | Dollar | | 1,781.90 | | | | 116.00 | | 1,897.90 |
| Turkey | Dollar | | 668.00 | | | | | | 668.00 |
| Hungary | Dollar | | 366.00 | | | | | | 366.00 |
| Senator James M. Inhofe: | | | | | | | | | |
| Italy | Euro | | 509.00 | | | | 34.00 | | 543.00 |
| Mark Powers: | | | | | | | | | |
| Uganda | Shilling | | 77.50 | | | | | | 77.50 |

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ARMED SERVICES FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Italy | Euro | | 536.68 | | | | | | 536.68 |
| Total | | | 14,955.25 | | 38,753.59 | | 1,138.51 | | 54,847.35 |

JOHN WARNER,
Chairman, Committee on Armed Services, July 15, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS FOR TRAVEL FROM APR. 1 TO JUN. 20, 2005.

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Mitch McConnell: | | | | | | | | | |
| Russia | Ruble | | 175.00 | | | | | | 175.00 |
| Ukraine | Hryvnia | | 132.00 | | | | | | 132.00 |
| United Kingdom | Pound | | 119.00 | | | | | | 119.00 |
| Paul Grove: | | | | | | | | | |
| Latvia | Lats | | 254.00 | | | | | | 254.00 |
| Russia | Ruble | | 175.00 | | | | | | 175.00 |
| Jordan | Dinar | | 500.00 | | | | | | 500.00 |
| United Kingdom | Pound | | 176.00 | | | | | | 176.00 |
| Tom Hawkins: | | | | | | | | | |
| Latvia | Lats | | 254.00 | | | | | | 254.00 |
| Russia | Ruble | | 175.00 | | | | | | 175.00 |
| Jordan | Dinar | | 500.00 | | | | | | 500.00 |
| United Kingdom | Pound | | 186.00 | | | | | | 186.00 |
| Katherine Hennessey: | | | | | | | | | |
| Greece | Euro | | 1,167.00 | | | | | | 1,167.00 |
| Turkey | Lira | | 668.00 | | | | | | 668.00 |
| Romania | Lei | | 276.00 | | | | | | 276.00 |
| Hungary | Forint | | 366.00 | | | | | | 366.00 |
| Senator Daniel K. Inouye: | | | | | | | | | |
| United States | Dollar | | | | 10,271.29 | | | | 10,271.29 |
| Japan | Dollar | | 2,148.00 | | | | | | 2,148.00 |
| Total | | | 7,271.00 | | 10,271.29 | | 0.00 | | 17,542.29 |

THAD COCHRAN,
Chairman, Committee on Appropriations, July 13, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOURSING, AND URBAN AFFAIRS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Richard Shelby: | | | | | | | | | |
| United States | Dollar | | | | 5,707.37 | | | | 5,707.37 |
| Belgium | Euro | | 1,185.00 | | | | | | 1,185.00 |
| The Netherlands | Euro | | 658.00 | | | | | | 658.00 |
| Italy | Euro | | 2,334.00 | | | | | | 2,334.00 |
| Spain | Euro | | 1,692.00 | | | | | | 1,692.00 |
| Hungary | Forint | | 366.00 | | | | | | 366.00 |
| Romania | Lei | | 276.00 | | | | | | 276.00 |
| Greece | Drachma | | 1,167.00 | | | | | | 1,167.00 |
| Turkey | Lira | | 668.00 | | | | | | 668.00 |
| Anne Caldwell: | | | | | | | | | |
| Hungary | Forint | | 366.00 | | | | | | 366.00 |
| Romania | Lei | | 276.00 | | | | | | 276.00 |
| Greece | Drachma | | 1,167.00 | | | | | | 1,167.00 |
| Turkey | Lira | | 668.00 | | | | | | 668.00 |
| Kathleen L. Casey: | | | | | | | | | |
| United States | Dollar | | | | 5,707.37 | | | | 5,707.37 |
| Belgium | Euro | | 1,185.00 | | | | | | 1,185.00 |
| The Netherlands | Euro | | 658.00 | | | | | | 658.00 |
| Italy | Euro | | 2,334.00 | | | | | | 2,334.00 |
| Spain | Euro | | 1,692.00 | | | | | | 1,692.00 |
| Hungary | Forint | | 366.00 | | | | | | 366.00 |
| Romania | Lei | | 276.00 | | | | | | 276.00 |
| Greece | Drachma | | 1,167.00 | | | | | | 1,167.00 |
| Turkey | Lira | | 668.00 | | | | | | 668.00 |
| Andrew S. Gray: | | | | | | | | | |
| United States | Dollar | | | | 5,707.37 | | | | 5,707.37 |
| Belgium | Euro | | 1,185.00 | | | | | | 1,185.00 |
| The Netherlands | Euro | | 658.00 | | | | | | 658.00 |
| Italy | Euro | | 2,334.00 | | | | | | 2,334.00 |
| Spain | Euro | | 1,692.00 | | | | | | 1,692.00 |
| Randel L. Zeller: | | | | | | | | | |
| United States | Dollar | | | | 5,636.00 | | | | 5,636.00 |
| Turkey | Lira | | 225.00 | | | | | | 225.00 |
| Azerbaijan | Manat | | 396.00 | | | | | | 396.00 |
| Armenia | Dram | | 171.00 | | | | | | 171.00 |
| Georgia | Lan | | 175.00 | | | | | | 175.00 |
| Ukraine | Hryvnia | | 186.00 | | | | | | 186.00 |
| Delegation Expenses: [1] | | | | | | | | | |
| Hungary | Forint | | | | | | 4,629.76 | | 4,629.76 |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| Total | | | 26,191.00 | | 22,758.11 | | 4,629.76 | | 53,578.87 |

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[1] Delegation expenses include direct payments and reimbursements to the Department of State under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by PL 95–384.

RICHARD W. SHELBY,
Chairman, Committee on Banking, Housing, and Urban Affairs,
July 26, 2005.

## CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BUDGET FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Mike Crapo: | | | | | | | | | |
| Latvia | Lat | | 254.00 | | | | | | 254.000 |
| Russia | Ruble | | 175.00 | | | | | | 175.00 |
| Ukraine | Hrvynia | | 132.00 | | | | | | 132.00 |
| Jordan | Dinar | | 508.00 | | | | | | 508.00 |
| England | Pound | | 186.00 | | | | | | 186.00 |
| Total | | | 1,255.00 | | | | | | 1,255.00 |

JUDD GREGG,
Chairman, Committee on Budget, July 27 2005.

## CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMERCE FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Jim DeMint: | | | | | | | | | |
| Latvia | Lats | | 44.00 | | | | | | 44.00 |
| Russia | Ruble | | 89.00 | | | | | | 89.00 |
| Ukraine | Hryvnia | | 17.00 | | | | | | 17.00 |
| Jordan | Dinar | | 337.00 | | | | | | 337.00 |
| England | Pound | | 186.00 | | | | | | 186.00 |
| Kristine Lynch: | | | | | | | | | |
| Canada | Dollar | | 1,079.28 | | | | | | 1,079.28 |
| United States | Dollar | | | | 1,877.26 | | | | 1,877.26 |
| Andrew Minkiewicz: | | | | | | | | | |
| Canada | Dollar | | 1,450.00 | | | | | | 1,450.00 |
| United States | Dollar | | | | 1,877.26 | | | | 1,877.26 |
| Total | | | 3,202.28 | | 3,754.52 | | | | 6,956.80 |

TED STEVENS,
Chairman, Committee on Commerce, July 25, 2005.

## CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Johnny Isakson: | | | | | | | | | |
| Germany | Dollar | | 301.41 | | | | | | 301.41 |
| Total | | | 301.41 | | | | | | 301.41 |

JAMES M. INHOFE,
Chairman, Committee on Environment and Public Works, July 22, 2005.

## CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Joseph R. Biden: | | | | | | | | | |
| Lebanon | Dollar | | 167.00 | | | | | | 167.00 |
| Jordan | Dollar | | 608.00 | | | | | | 608.00 |
| Chad | Dollar | | 220.00 | | | | | | 220.00 |
| United States | Dollar | | | | 3,609.00 | | | | 3,609.00 |
| Senator Norm Coleman: | | | | | | | | | |
| Brazil | Real | | 592.00 | | | | | | 592.00 |
| Colombia | Peso | | 542.00 | | | | | | 542.00 |
| Venezuela | Bolivar | | 566.00 | | | | | | 566.00 |
| United States | Dollar | | | | 5,040.33 | | | | 5,040.33 |
| Senator Norm Coleman: | | | | | | | | | |
| Jordan | Dinar | | 274.00 | | | | | | 274.00 |
| United Kingdom | Pound | | 669.00 | | | | | | 669.00 |
| Senator Christopher J. Dodd: | | | | | | | | | |
| Spain | Euro | | 1,015.00 | | | | | | 1,015.00 |
| United States | Dollar | | | | 5,580.00 | | | | 5,580.00 |
| Senator Chuck Hagel: | | | | | | | | | |
| Turkey | Lira | | 225.00 | | | | | | 225.00 |
| Azerbaijan | Manat | | 396.00 | | | | | | 396.00 |
| Armenia | Dram | | 171.00 | | | | | | 171.00 |
| Georgia | Lari | | 175.00 | | | | | | 175.00 |

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Ukraine | Hryvnia | | 186.00 | | | | | | 186.00 |
| United States | Dollar | | | | 5,635.99 | | | | 5,635.99 |
| Senator Paul S. Sarbanes: | | | | | | | | | |
| Turkey | Dollar | | 601.00 | | | | | | 601.00 |
| Senator John Sununu: | | | | | | | | | |
| Jordan | Dollar | | 262.00 | | | | | | 262.00 |
| United Kingdom | Pound | | 641.45 | | | | | | 641.45 |
| Senator John Sununu: | | | | | | | | | |
| Lebanon | Dollar | | 34.00 | | | | | | 34.00 |
| Cyprus | Dollar | | 272.68 | | | | | | 272.68 |
| Kyrgyzstan | Dollar | | 203.00 | | | | | | 203.00 |
| United States | Dollar | | | | 5,442.82 | | | | 5,442.82 |
| Senator George V. Voinovich: | | | | | | | | | |
| Slovenia | Tolar | | 594.00 | | | | | | 594.00 |
| Croatia | Kuna | | 110.00 | | | | | | 110.00 |
| United States | Dollar | | | | 6,882.84 | | | | 6,882.84 |
| Jonah Blank: | | | | | | | | | |
| India | Dollar | | 1,997.00 | | | | | | 1,997.00 |
| United States | Dollar | | | | 7,044.53 | | | | 7,044.53 |
| Antony Blinken: | | | | | | | | | |
| Lebanon | Dollar | | 167.00 | | | | | | 167.00 |
| Jordan | Dollar | | 608.00 | | | | | | 608.00 |
| Chad | Dollar | | 220.00 | | | | | | 220.00 |
| United States | Dollar | | | | 4,780.09 | | | | 4,780.09 |
| Michael Considine: | | | | | | | | | |
| Turkey | Lira | | 225.00 | | | | | | 225.00 |
| Azerbaijan | Manat | | 396.00 | | | | | | 396.00 |
| Armenia | Dram | | 171.00 | | | | | | 171.00 |
| Georgia | Lari | | 175.00 | | | | | | 175.00 |
| Ukraine | Hryvnia | | 186.00 | | | | | | 186.00 |
| United States | Dollar | | | | 5,615.99 | | | | 5,615.99 |
| Isaac Edwards: | | | | | | | | | |
| Russia | Dollar | | 382.00 | | | | | | 382.00 |
| United States | | | | | 1,845.37 | | | | 1,845.37 |
| Heather Flynn: | | | | | | | | | |
| Tanzania | Shilling | | 1,102.00 | | | | | | 1,102.00 |
| Mozambique | Metical | | 1,460.00 | | | | | | 1,460.00 |
| United States | Dollar | | | | 8,427.00 | | | | 8,427.00 |
| Healther Flynn: | | | | | | | | | |
| France | Euro | | 2,560.00 | | | | | | 2,560.00 |
| United States | Dollar | | | | 4,899.09 | | | | 4,899.09 |
| Heather Flynn: | | | | | | | | | |
| Chad | Dollar | | 220.00 | | | | | | 220.00 |
| Jordan | Dollar | | 608.00 | | | | | | 608.00 |
| United States | Dollar | | | | 6,785.00 | | | | 6,785.00 |
| Edward Levine: | | | | | | | | | |
| Netherlands | Euro | | 634.00 | | | | | | 634.00 |
| United States | Dollar | | | | 6,180.00 | | | | 6,180.00 |
| Kenneth A. Myers III: | | | | | | | | | |
| Russia | Dollar | | 500.00 | | | | | | 500.00 |
| United States | Dollar | | | | 5,566.73 | | | | 5,566.73 |
| Kenneth A. Myers III: | | | | | | | | | |
| Russia | Dollar | | 1,100.00 | | | | | | 1,100.00 |
| United States | Dollar | | | | 4,862.65 | | | | 4,862.65 |
| Janice O'Connell: | | | | | | | | | |
| Spain | Euro | | 1,015.00 | | | | | | 1,015.00 |
| United States | Dollar | | | | 3,762.90 | | | | 3,762.90 |
| Diana Ohlbaum: | | | | | | | | | |
| Honduras | Lempiras | | 669.00 | | | | | | 669.00 |
| Nicaragua | Cordobas | | 345.00 | | | | | | 345.00 |
| United States | Dollar | | | | 1,298.00 | | | | 1,298.00 |
| Jennifer Simon: | | | | | | | | | |
| Chile | Peso | | 496.00 | | | | | | 496.00 |
| United States | Dollar | | | | 3,231.15 | | | | 3,231.15 |
| Andrew Siracuse: | | | | | | | | | |
| Jordan | Dinar | | 274.00 | | | | | | 274.00 |
| United Kingdom | Pound | | 669.00 | | | | | | 669.00 |
| Jean Siskovic: | | | | | | | | | |
| Slovenia | Tolar | | 804.00 | | | | | | 804.00 |
| Croatia | Kuna | | 152.65 | | | | | | 152.65 |
| United States | Dollar | | | | 5,479.52 | | | | 5,479.52 |
| Puneet Talwar: | | | | | | | | | |
| Israel | Dollar | | 680.00 | | | | | | 680.00 |
| United States | Dollar | | | | 4,449.15 | | | | 4,449.15 |
| Puneet Talwar: | | | | | | | | | |
| Lebanon | Dollar | | 167.00 | | | | | | 167.00 |
| Jordan | Dollar | | 608.00 | | | | | | 608.00 |
| United Kingdom | Pound | | 1,011.00 | | | | | | 1,011.00 |
| Belgium | Euro | | 146.00 | | | | | | 146.00 |
| France | Euro | | 1,024.00 | | | | | | 1,024.00 |
| United States | Dollar | | | | 6,654.31 | | | | 6,654.31 |
| Lorianne Woodrow: | | | | | | | | | |
| Brazil | Real | | 592.00 | | | | | | 592.00 |
| Colombia | Peso | | 542.00 | | | | | | 542.00 |
| Venezuela | Bolivar | | 566.00 | | | | | | 566.00 |
| United States | Dollar | | | | 5,040.33 | | | | 5,040.33 |
| Margaret Aitken: | | | | | | | | | |
| Jordan | Dollar | | 608.00 | | | | | | 608.00 |
| Chad | Dollar | | 220.00 | | | | | | 220.00 |
| Lebanon | Dollar | | 167.00 | | | | | | 167.00 |
| United States | Dollar | | | | 3,609.00 | | | | 3,609.00 |
| Frank Jannuzi: | | | | | | | | | |
| Germany | Euro | | 1,728.00 | | | | | | 1,728.00 |
| United States | Dollar | | | | 6,528.09 | | | | 6,528.09 |
| Puneet Talwar: | | | | | | | | | |
| Switzerland | Francs | | 638.00 | | | | | | 638.00 |
| United States | Dollar | | | | 6,555.00 | | | | 6,555.00 |
| Total | | | 46,004.43 | | 118,628.17 | | 134,804.97 | | 169,161.75 |

RICHARD G. LUGAR,
Chairman, Committee on Foreign Relations, July 22, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Gordon Smith: | | | | | | | | | |
| Jordan | Dinar | | 274.00 | | | | | | 274.00 |
| United Kingdom | Pound | | 560.00 | | | | | | 560.00 |
| Senator Orrin Hatch: | | | | | | | | | |
| Jordan | Dinar | | 274.00 | | | | | | 274.00 |
| United Kingdom | Pound | | 669.00 | | | | | | 669.00 |
| Senator Jay Rockefeller: | | | | | | | | | |
| Taiwan | Dollar | | 308.90 | | | | | | 308.90 |
| Japan | Yen | | 920.78 | | | | | | 920.78 |
| Japan | Yen | | | | 268.00 | | | | 268.00 |
| United States | Dollar | | | | 16,102.79 | | | | 16,102.79 |
| D. Patrick Robertson: | | | | | | | | | |
| Taiwan | Dollar | | 308.90 | | | | | | 308.90 |
| Japan | Yen | | 1,244.88 | | | | | | 1,244.88 |
| Japan | Yen | | | | 268.00 | | | | 268.00 |
| United States | Dollar | | | | 8,182.79 | | | | 8,182.79 |
| Rob Epplin: | | | | | | | | | |
| Jordan | Dinar | | 274.00 | | | | | | 274.00 |
| United Kingdom | Pound | | 560.00 | | | | | | 560.00 |
| Total | | | 5,394.46 | | 24,821.58 | | | | 30,216.04 |

CHARLES E. GRASSLEY,
Chairman, Committee on Finance, July 20, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Leland Erickson: | | | | | | | | | |
| United States | Dollar | | | | 2,083.03 | | | | 2,083.03 |
| Iraq | Dollar | | 500.00 | | | | | | 500.00 |
| Dan Berkovitz: | | | | | | | | | |
| United States | Dollar | | | | 2,083.03 | | | | 2,083.03 |
| Iraq | Dollar | | 375.00 | | | | | | 375.00 |
| Leland Erickson: | | | | | | | | | |
| United States | Dollar | | | | 1,591.05 | | | | 1,591.05 |
| Israel | Shekel | | 1,416.05 | | | | | | 1,416.05 |
| Mark Nelson: | | | | | | | | | |
| United States | Dollar | | | | 1,591.05 | | | | 1,591.05 |
| Israel | Shekel | | 1,396.00 | | | | | | 1,396.00 |
| Total | | | 3,687.05 | | 7,348.16 | | | | 11,035.21 |

SUSAN M. COLLINS,
Chairman, Committee on Homeland Security and Governmental Affairs Committee, July 12, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Michael B. Enzi: | | | | | | | | | |
| Ethiopia | Birr | | 116.00 | | | | | | 116.00 |
| Uganda | Shilling | | 228.08 | | | | | | 228.08 |
| Uganda | Shilling | | | | 40.00 | | | | 40.00 |
| Turkey | Dollar | | 133.00 | | | | | | 133.00 |
| Wendy Gnehm: | | | | | | | | | |
| Ethiopia | Birr | | 116.00 | | | | | | 116.00 |
| Uganda | Shilling | | 197.97 | | | | | | 197.97 |
| Uganda | Shilling | | | | 40.00 | | | | 40.00 |
| Turkey | Dollar | | 133.00 | | | | | | 133.00 |
| Totals | | | 924.05 | | 80.00 | | | | 1,004.05 |

MICHAEL B. ENZI,
Chairman, Committee on Health, Education, Labor, and Pensions, July 21, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON VETERANS' AFFAIRS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Larry E. Craig: | | | | | | | | | |
| Kuwait | Dinar | | 788.00 | | | | | | 788.00 |
| Jordan | Dinar | | 254.00 | | | | | | 254.00 |
| Germany | Euro | | 528.00 | | | | | | 528.00 |
| Gordon Matlock: | | | | | | | | | |
| Kuwait | Dinar | | 788.00 | | | | | | 788.00 |

### CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON VETERANS' AFFAIRS FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Jordan | Dinar | | 254.00 | | | | | | 254.00 |
| Germany | Euro | | 528.00 | | | | | | 528.00 |
| Lupe Wissel: | | | | | | | | | |
| Kuwait | Dinar | | 788.00 | | | | | | 788.00 |
| Jordan | Dinar | | 254.00 | | | | | | 254.00 |
| Germany | Euro | | 528.00 | | | | | | 528.00 |
| Total | | | 4,710.00 | | | | | | 4,710.00 |

LARRY E. CRAIG,
Chairman, Committee on Veterans' Affairs, June 30, 2005.

### CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SELECT COMMITTEE ON INTELLIGENCE FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

| Name and country | Name of currency | Per diem | | Transportation. | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Jacqueline Russell: | Dollar | | | | 6,055.11 | | | | 6,055.11 |
| | | | 1,192.00 | | | | | | 1,192.00 |
| Thomas Corcoran: | Dollar | | | | 6,055.11 | | | | 6,055.11 |
| | | | 1,217.00 | | | | | | 1,217.00 |
| Todd Rosenblum: | Dollar | | | | 6,055.11 | | | | 6,055.11 |
| | | | 1,235.00 | | | | | | 1,235.00 |
| Nancy St. Louis: | Dollar | | | | 8,959.28 | | | | 8,959.28 |
| | | | 962.92 | | | | | | 962.92 |
| Adam Harris: | Dollar | | | | 8,959.28 | | | | 8,959.28 |
| | | | 962.92 | | | | | | 962.92 |
| Elizabeth O'Reilly: | Dollar | | | | 8,959.28 | | | | 8,959.28 |
| | | | 708.00 | | | | | | 708.00 |
| Rebecca Farley: | Dollar | | | | 8,959.28 | | | | 8,959.28 |
| | | | 963.00 | | | | | | 963.00 |
| John Livingston: | Dollar | | | | 8,959.28 | | | | 8,959.28 |
| | | | 672.00 | | | | | | 672.00 |
| Rebecca Farley: | Dollar | | | | 7,665.42 | | | | 7,665.42 |
| | | | 1,222.00 | | | | | | 1,222.00 |
| Thomas Auld: | Dollar | | | | 7,555.88 | | | | 7,555.88 |
| | | | 1,222.00 | | | | | | 1,222.00 |
| Total | | | 10,356.84 | | 78,183.03 | | | | 88,539.87 |

PAT ROBERTS,
Chairman, Committee on Intelligence, July 25, 2005.

### CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| H. Knox Thames: | | | | | | | | | |
| United States | Dollar | | | | 10,685.00 | | | | 10,685.00 |
| Kyrgzstan | Som | | 874.00 | | | | | | 874.00 |
| Azerbaijan | Manat | | 120.00 | | | | | | 120.00 |
| Turkmenistan | Manat | | 186.00 | | | | | | 186.00 |
| Hon. Christopher H. Smith: | | | | | | | | | |
| United States | Dollar | | | | 5,470.00 | | | | 5,470.00 |
| Austria | Euro | | 140.00 | | | | | | 140.00 |
| Ukraine | Hryvnia | | 614.00 | | 951.00 | | | | 1,565.00 |
| Hon. Benjamin L. Cardin: | | | | | | | | | |
| United States | Dollar | | | | 5,757.00 | | | | 5,757.00 |
| Austria | Euro | | 140.00 | | | | | | 140.00 |
| Ukraine | Hryvnia | | 614.00 | | 951.00 | | | | 1,565.00 |
| Sean H. Woo: | | | | | | | | | |
| United States | Dollar | | | | 3,947.00 | | | | 3,947.00 |
| Austria | Euro | | 140.00 | | | | | | 140.00 |
| Belgium | Euro | | 790.00 | | | | | | 790.00 |
| Dorothy Douglas Taft: | | | | | | | | | |
| United States | Dollar | | | | 5,470.00 | | | | 5,470.00 |
| Austria | Euro | | 76.00 | | | | | | 76.00 |
| Ukraine | Hryvnia | | 470.00 | | 951.00 | | | | 1,421.00 |
| Elizabeth Pryor: | | | | | | | | | |
| United States | Dollar | | | | 4,806.00 | | | | 4,806.00 |
| Austria | Euro | | 188.00 | | | | | | 188.00 |
| Ukraine | Hryvnia | | 425.00 | | 951.00 | | | | 1,376.00 |
| Maureen Walsh: | | | | | | | | | |
| United States | Dollar | | | | 5,272.00 | | | | 5,272.00 |
| Austria | Euro | | 779.00 | | | | | | 779.00 |
| Ukraine | Hryvnia | | 614.00 | | 951.00 | | | | 1,565.00 |
| Chadwick R. Gore: | | | | | | | | | |
| United States | Dollar | | | | 5,437.00 | | | | 5,437.00 |
| Austria | Euro | | 368.00 | | | | | | 368.00 |
| Marlene Kaufmann: | | | | | | | | | |
| United States | Dollar | | | | 5,437.00 | | | | 5,437.00 |
| Austria | Euro | | 140.00 | | | | | | 140.00 |
| Orest Deychakiwsky: | | | | | | | | | |
| United States | Dollar | | | | 5,764.00 | | | | 5,764.00 |
| Ukraine | Hryvnia | | 494.00 | | | | | | 494.00 |
| Michael Ochs: | | | | | | | | | |
| United States | Dollar | | | | 6,828.00 | | | | 6,828.00 |

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON COMMISSION ON SECURITY AND COOPERATION IN EUROPE FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Moldova | Lev | | 1,010.00 | | | | | | 1,010.00 |
| John Finerty: | | | | | | | | | |
| United States | Dollar | | | | 6,827.00 | | | | 6,827.00 |
| Moldova | Lev | | 946.00 | | | | | | 946.00 |
| Dorothy Douglas Taft: | | | | | | | | | |
| United States | Dollar | | | | 6,645.00 | | | | 6,645.00 |
| Switzerland | Franc | | 1,137.00 | | | | 91.00 | | 1,228.00 |
| Total | | | 10,265.00 | | 83,100.00 | | 91.00 | | 93,456.00 |

SAM BROWNBACK,
Commisson on Security and Cooperation in Europe,
May 11, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON CAUCUS ON INTERNATIONAL NARCOTICS CONTROL FOR TRAVEL FROM APR. 1 TO JUN. 30, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Janet Drew: | | | | | | | | | |
| Colombia | Peso | | 304.00 | | | | | | 304.00 |
| El Salvador | Dollar | | 255.38 | | | | | | 255.38 |
| Venezuela | Bolivar | | 165.00 | | | | | | 165.00 |
| Total | | | 724.38 | | | | | | 724.38 |

CHARLES E. GRASSLEY,
Caucus on International Narcotics Control,
July 13, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON CODEL REID FOR TRAVEL FROM MAR. 18 TO MAR. 26, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Harry Reid: | | | | | | | | | |
| Israel | New Shekel | | 724.00 | | | | | | 724.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Senator Richard Durbin: | | | | | | | | | |
| Israel | New Shekel | | 664.00 | | | | | | 664.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Senator Barbara Boxer: | | | | | | | | | |
| Israel | New Shekel | | 724.00 | | | | | | 724.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Senator Patty Murray: | | | | | | | | | |
| Israel | New Shekel | | 724.00 | | | | | | 724.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Senator Robert Bennett: | | | | | | | | | |
| Israel | New Shekel | | 724.00 | | | | | | 724.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Senator Lamar Alexander: | | | | | | | | | |
| Israel | New Shekel | | 644.00 | | | | | | 644.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Senator Ken Salazar: | | | | | | | | | |
| Israel | New Shekel | | 724.00 | | | | | | 724.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Martin Paone: | | | | | | | | | |
| Israel | New Shekel | | 724.00 | | | | | | 724.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Dr. John Eisold: | | | | | | | | | |
| Israel | New Shekel | | 724.00 | | | | | | 724.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Anna Gallagher: | | | | | | | | | |
| Israel | New Shekel | | 624.00 | | | | | | 624.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Tessa Hafen: | | | | | | | | | |
| Israel | New Shekel | | 500.00 | | | | | | 500.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON CODEL REID FOR TRAVEL FROM MAR. 18 TO MAR. 26, 2005—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Georgia | Lari | | 528.00 | | | | | | 528.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Gary Myrick: | | | | | | | | | |
| Israel | New Shekel | | 724.00 | | | | | | 724.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Rich Verma: | | | | | | | | | |
| Israel | New Shekel | | 724.00 | | | | | | 724.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Sally Walsh: | | | | | | | | | |
| Israel | New Shekel | | 604.00 | | | | | | 604.00 |
| Kuwait | Dinar | | 394.00 | | | | | | 394.00 |
| Georgia | Lari | | 598.00 | | | | | | 598.00 |
| France | Euro | | 924.00 | | | | | | 924.00 |
| Delegation Expenses: [1] | | | | | | | | | |
| Israel | New Shekel | | | | | | 30,146.68 | | 30,146.68 |
| Kuwait | Dinar | | | | | | 4,035.11 | | 4,035.11 |
| Iraq | Dollar | | | | | | 1,320.37 | | 1,320.37 |
| Georgia | Lari | | | | | | 9,351.17 | | 9,351.17 |
| Ukraine | Dollar | | | | | | 4,222.08 | | 4,222.08 |
| France | Euro | | | | | | 25,049.03 | | 25,049.03 |
| Total | | | | 36,306.00 | | | 74,124.44 | | 110,430.44 |

[1] Delegation expenses include payments and reimbursements to the Department of State, and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

HARRY REID,
Senator Harry Reid, Democratic Leader,
May 25, 2005.

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CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON CODEL FRIST FOR TRAVEL FROM APR. 30 TO MAY 6, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Bill Frist: | | | | | | | | | |
| Israel | Dollar | | 624.00 | | | | | | 624.00 |
| | Shekel | | 100.00 | | | | | | 100.00 |
| Jordan | Dollar | | 254.00 | | | | | | 254.00 |
| Egypt | Pound | | 478.00 | | | | | | 478.00 |
| Mark Esper: | | | | | | | | | |
| Israel | Dollar | | 624.00 | | | | | | 624.00 |
| | Shekel | | 50.00 | | | | | | 50.00 |
| Jordan | Dollar | | 254.00 | | | | | | 254.00 |
| Egypt | Pound | | 578.00 | | | | | | 578.00 |
| Nick Smith: | | | | | | | | | |
| Israel | Dollar | | 624.00 | | | | | | 624.00 |
| | Shekel | | 50.00 | | | | | | 50.00 |
| Jordan | Dollar | | 254.00 | | | | | | 254.00 |
| Egypt | Pound | | 478.00 | | | | | | 478.00 |
| Sally Walsh: | | | | | | | | | |
| Israel | Dollar | | 624.00 | | | | | | 624.00 |
| | Shekel | | 50.00 | | | | | | 50.00 |
| Jordan | Dollar | | 254.00 | | | | | | 254.00 |
| Egypt | Pound | | 578.00 | | | | | | 578.00 |
| Delegation Expenses: [1] | | | | | | | | | |
| Israel | Shekel | | | | | | 21,504.55 | | 21,504.55 |
| Jordan | Dollar | | | | | | 5,092.34 | | 5,092.34 |
| Lebanon | Dollar | | | | | | 3,612.10 | | 3,612.10 |
| Egypt | Pound | | | | | | 5,508.09 | | 5,508.09 |
| Total | | | 5,874.00 | | | | 35,717.08 | | 41,591.08 |

[1] Delegation expenses include payments and reimbursements to the Department of State, and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

BILL FRIST,
Senator Bill Frist, M.D., Majority Leader,
June 18, 2005.

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CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON MAJORITY AND DEMOCRATIC LEADERS FOR TRAVEL FROM APR. 6 TO APR. 8, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Bill Frist: | | | | | | | | | |
| Italy | Euro | | 538.00 | | | | | | 538.00 |
| Senator Richard Durbin: | | | | | | | | | |
| Italy | Euro | | 315.00 | | | | | | 315.00 |
| Senator Edward Kennedy: | | | | | | | | | |
| Italy | Euro | | 538.00 | | | | | | 538.00 |
| Senator Pete Domenici: | | | | | | | | | |
| Italy | Euro | | 418.00 | | | | | | 418.00 |
| Senator Joseph Biden: | | | | | | | | | |
| Italy | Euro | | 538.00 | | | | | | 538.00 |
| Senator Patrick Leahy: | | | | | | | | | |
| Italy | Euro | | 538.00 | | | | | | 538.00 |

### CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON MAJORITY AND DEMOCRATIC LEADERS FOR TRAVEL FROM APR. 6 TO APR. 8, 2005—Continued

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Christopher Dodd: | | | | | | | | | |
| Italy | Euro | | 517.00 | | | | | | 517.00 |
| Senator John Kerry: | | | | | | | | | |
| Italy | Euro | | 517.00 | | | | | | 517.00 |
| Senator Barbara Mikulski: | | | | | | | | | |
| Italy | Euro | | 517.00 | | | | | | 517.00 |
| Senator Mike DeWine: | | | | | | | | | |
| Italy | Euro | | 538.00 | | | | | | 538.00 |
| Senator Rick Santorum: | | | | | | | | | |
| Italy | Euro | | 538.00 | | | | | | 538.00 |
| Senator Susan Collins: | | | | | | | | | |
| Italy | Euro | | 439.00 | | | | | | 439.00 |
| Senator Jim Bunning: | | | | | | | | | |
| Italy | Euro | | 538.00 | | | | | | 538.00 |
| Senator Mel Martinez: | | | | | | | | | |
| Italy | Euro | | 538.00 | | | | | | 538.00 |
| Lula Davis: | | | | | | | | | |
| Italy | Euro | | 442.00 | | | | | | 442.00 |
| Mark Esper: | | | | | | | | | |
| Italy | Euro | | 517.00 | | | | | | 517.00 |
| Jim Manley: | | | | | | | | | |
| Italy | Euro | | 384.00 | | | | | | 384.00 |
| Eric Ueland: | | | | | | | | | |
| Italy | Euro | | 517.00 | | | | | | 517.00 |
| Sally Walsh: | | | | | | | | | |
| Italy | Euro | | 517.00 | | | | | | 517.00 |
| Delegation Expenses:[1] | | | | | | | | | |
| Italy | | | | | | | 23,666.40 | | 23,666.40 |
| Total | | | 9,404.00 | | | | 23,666.40 | | 33,070.40 |

[1] Delegation expenses include payments and reimbursements to the Department of State and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

BILL FRIST,
Senator Bill Frist, M.D. and Senator Harry Reid,
May 16, 2005.

### CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SENATE MAJORITY LEADER FOR TRAVEL FROM OCT. 1 TO DEC. 30, 2004

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Larry Craig: | | | | | | | | | |
| Argentina | Pesos | | 2,530.21 | | | | | | 2,530.21 |
| Senator Craig Thomas: | | | | | | | | | |
| Argentina | Pesos | | 2,530.21 | | | | | | 2,530.21 |
| George O'Connor: | | | | | | | | | |
| Argentina | Pesos | | 2,530.21 | | | | | | 2,530.21 |
| Daniel Whiting: | | | | | | | | | |
| Argentina | Pesos | | 2,530.21 | | | | | | 2,530.21 |
| Delegation Expenses:[1] | | | | | | | 3,080.00 | | 3,080.00 |
| Total | | | 10,120.84 | | | | 3,080.00 | | 13,200.84 |

[1] Delegation expenses include payments and reimbursements to the Department of State and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res 179 agreed to May 25, 1977.

BILL FRIST,
COP 10, Buenos Aires, May 19, 2005.

### CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SENATE MAJORITY LEADER FOR TRAVEL FROM JAN. 1 TO MAR. 31, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Bill Frist, MD: | | | | | | | | | |
| Switzerland | Franc | | 674.00 | | | | | | 674.00 |
| Mark Esper: | | | | | | | | | |
| Switzerland | Franc | | 1,039.00 | | | | | | 1,039.00 |
| Delegation Expenses:[1] | | | | | | | | | |
| Davos | | | | | | | 7,859.10 | | 7,859.10 |
| Total | | | 1,713.00 | | | | 7,859.10 | | 9,572.10 |

[1] Delegation expenses include payments and reimbursements to the Department of State and the Department of Defense under the authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179 agreed to May 25, 1977.

BILL FRIST,
World Economic Forum, Davos, May 14, 2005.

CONSOLIDATED REPORT OF EXPENDITURE OF FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE, UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON PRESIDENT PRO TEMPORE FOR TRAVEL FROM JUN. 9 TO JUN. 13, 2005

| Name and country | Name of currency | Per diem | | Transportation | | Miscellaneous | | Total | |
|---|---|---|---|---|---|---|---|---|---|
| | | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency | Foreign currency | U.S. dollar equivalent or U.S. currency |
| Senator Ted Stevens: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Senator Thad Cochran: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Senator Richard C. Shelby: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Senator Tom Harkin: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Senator Frank Lautenberg: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Senator Jeff Sessions: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Dr. John Eisold: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Dave Schiappa: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Keith Kennedy: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Terry Sauvain: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Sid Ashworth: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Charlie Houy: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Lesley Kalan: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Mazie R. Mattson: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Betsy Schmid: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Stewart Holmes: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Kay Webber: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Shannon Hines: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Richard Bender: | | | | | | | | | |
| France | Euro | | 396.00 | | | | | | 396.00 |
| Total | | | 7,524.00 | | | | | | 7,524.00 |

TED STEVENS,
President Pro Tempore, July 22, 2005.

## AUTHORITY TO SIGN ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader and majority whip and both Senators from Virginia be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NATIVE HAWAIIAN GOVERNMENT REORGANIZATION ACT OF 2005—MOTION TO PROCEED

Mr. FRIST. Mr. President, I now move to proceed to Calendar No. 101, S. 147, the Native Hawaiians bill, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 101, S. 147: A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity.

Bill Frist, Jon Kyl, Gordon Smith, Orrin Hatch, Lincoln Chafee, Chuck Grassley, Lindsey Graham, Norm Coleman, Daniel Inouye, Daniel K. Akaka, Patrick Leahy, Harry Reid, Dick Durbin, Patty Murray, Jack Reed, Dianne Feinstein, Herb Kohl.

Mr. FRIST. Mr. President, I am happy to yield to the Senator from Hawaii for a comment on the Native Hawaiians bill.

Mr. AKAKA. Mr. President, I thank the Majority Leader. I rise today to express my thanks to the Majority Leader for laying down the cloture petition on the motion to proceed to S. 147. As many of my colleagues are aware, I have worked closely with Hawaii's senior senator to bring the Native Hawaiian Government Reorganization Act to the Senate floor for debate and vote. We have struggled for five years to bring this bill to the floor.

I applaud the Majority Leader and the Democratic Leader for their efforts to uphold a commitment that was made last year for a debate and vote on the Native Hawaiian Government Reorganization Act prior to the August recess. While I am very disappointed that we were not able to consider the bill, I look forward to action on S. 147 when we return in September.

This is a bipartisan bill which is widely supported in Hawaii. The bill is supported by Hawaii's Governor, Linda Lingle, the first Republican governor in Hawaii in 40 years, who testified in strong support of the bill before the Senate Committee on Indian Affairs. The bill is also supported by the Hawaii State Legislature which passed resolutions in support of the bill in 2000, 2001, and 2005. The bill is cosponsored by Senators CANTWELL, COLEMAN, DODD, DORGAN, GRAHAM, INOUYE, MURKOWSKI, SMITH, and STEVENS. I want to especially thank the bill cosponsors who have actively worked with us to try to get this bill before the Senate.

S. 147 sets up a process for the reorganization of the Native Hawaiian governing entity for the purposes of a federally recognized government-to-government relationship. Congress has always treated Native Hawaiians in a manner similar to that of American Indians and Alaska Natives because of its recognition of Native Hawaiians as indigenous peoples.

Some have argued that Native Hawaiians are not native "enough" for a government-to-government relationship. There is no doubt that Native Hawaiians are indigenous to Hawaii. There is no doubt that Native Hawaiians exercised sovereignty over the Hawaiian archipelago. There is no doubt that Native Hawaiians had a governing structure and entered into treaties with the United States, similar to that of their American Indian and Alaska Native brethren.

Where we differ is that whereas most tribes have been allowed to retain their governing structure, Native Hawaiians, following the overthrow of the Hawaiian Kingdom, were forbidden from maintaining their government. Native Hawaiians did, however, maintain distinct communities, and retained their language, customs, tradition, and culture despite efforts to extinguish these "native" practices.

The bill does not create a new relationship—Congress has long recognized its legal and political relationship with Native Hawaiians as evidenced by the many statutes enacted to address the conditions of Native Hawaiians. This bill does not create a new group of natives—we have always been here, in fact we were here before the United States. Rather, this bill establishes parity in federal policies towards native peoples in the United States by formally extending the federal policy of self-governance and self-determination to Native Hawaiians.

I look forward to a full and thorough debate on this bill in September. I urge all of my colleagues to support the petition to invoke cloture—after five years, the people of Hawaii deserve to have this issue considered by the Senate. If you oppose the bill, then vote against it, but give us the opportunity to debate the merits of this bill. Unfortunately, there are some in this body who do not even want to allow us to debate this issue. I ask them to carefully consider their position over the August recess. While I respect their ability to use Senate procedure to prevent us from considering this measure, I do not agree with their tactics. I believe the people of Hawaii deserve more than that—we deserve a full debate and up or down vote on this bill.

Once again, I thank the Majority and Democratic leaders for working with us to bring this issue before the Senate for its consideration.

Mr. FRIST. Mr. President, through the Chair, I thank the distinguished Senator from Hawaii.

I ask unanimous consent that notwithstanding rule XXII, this cloture vote occur at 5:30 on Tuesday, September 6, with the mandatory live quorum waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I withdraw my motion.

## DEATH TAX REPEAL PERMANENCY ACT OF 2005—MOTION TO PROCEED

Mr. FRIST. Mr. President, I now move to proceed to Calendar No. 84, H.R. 8, the death tax repeal, and I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 84, H.R. 8: To make the repeal of the estate tax permanent.

Bill Frist, Jon Kyl, John Thune, James Inhofe, Lamar Alexander, Richard Burr, Pat Roberts, Christopher Bond, John E. Sununu, Michael B. Enzi, Johnny Isakson, Conrad Burns, Mike Crapo, Larry Craig, Elizabeth Dole, Rick Santorum, Richard G. Lugar.

Mr. FRIST. Mr. President, I ask unanimous consent that the mandatory live quorum be waived and that this vote occur immediately after the previously filed cloture motion, if not waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, this procedure has now set a cloture vote on the motion to proceed to the Native Hawaiians legislation. That vote will occur at 5:30 on Tuesday when we return. If cloture is invoked, we will stay on that motion until it is disposed of. If cloture is not invoked, we will proceed to a vote on the cloture motion to proceed to the death tax.

## USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3199, the House-passed PATRIOT Act reauthorization bill. I further ask unanimous consent that all after the enacting clause be stricken, the text of the committee-reported substitute to Calendar No. 171, S. 1389 be inserted, the bill, as amended, be read a third time and passed, and the Senate insist on its amendment and request a conference with the House with a ratio of six to four.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I intend to be very brief. Tonight the Senate is passing the renewal of the USA PATRIOT Act by unanimous consent. It is certainly not often that such a procedure would be used for a statute of such extraordinary importance. I believe that it is possible to fight terrorism ferociously without sacrificing civil liberties. Tonight I remain concerned that there will be an effort in the conference between the House and the Senate to authorize what are known as administrative subpoenas for the FBI under the law. These administrative subpoenas are warrants that FBI field offices can write themselves without having to make an application to a judge.

Under an administrative subpoena, an FBI field office could get records secretly for just about anything from just about anybody. Here is an example of how intrusive these administrative subpoenas could be. There are 56 field offices, one in almost every major city. The head of a field office could issue an administrative subpoena to a hospital director and ask for all of the hospital's medical records simply by claiming they were relevant to an investigation, the hospital director was busy or didn't have the resources to make a challenge. No judge would ever see the subpoena. The patients would not know their records had been seized. They would be totally in the dark. Your mother's, your husband's, your own medical records could move into the Government's hands, and you would be none the wiser.

Despite the very aggressive efforts in the Senate to include this power to conduct these what I believe are fishing expeditions, it is not in the version of the PATRIOT Act that is being passed tonight, since it is not in the House bill either. My view is that under rule XXVIII, it would be outside the scope of the conference to include these administrative subpoenas in any form in the PATRIOT Act. If I am informed later that it is in the conference report in some form, I will make a point of order at that time and the conference report would fall.

Finally, I want to state that I commend our leader, Senator REID and Senator LEAHY, for their handling of this. I know Senator DURBIN has been very involved in these issues for years as well. I also want to commend Chairman SPECTER who has talked with me about the PATRIOT Act on a number of occasions. We can strike a balance. We can ensure that we pull out all the stops to fight the terrorists without throwing our civil liberties into the ash can. If these administrative subpoenas show up in that conference report, that will skew the balance that is so important to make sure we can win the war on terrorism but also to protect the rights that we have brave men and women fighting for.

I yield the floor.

Mr. REID. Mr. President, last week, after negotiations that went late into the night and early morning, the Judiciary Committee unanimously approved S. 1389, a bipartisan, compromise bill to build on the PATRIOT Act.

This bill, entitled the USA PATRIOT Improvement and Reauthorization Act of 2005, is not perfect. Like all compromises, it includes provisions that are not supported by everyone in this body. However, Democratic and Republican members of the Judiciary Committee came together in a spirit of cooperation and compromise to agree on this bill, and I strongly support it.

I am very pleased that we have also been able to bring Republicans and Democrats together in the full Senate to pass this bill by unanimous consent. Given the divisions we have seen over this legislation in the years since it was passed, I believe it is very important for our Nation and for the American people that we have been able to compromise and to come together in a spirit of bipartisanship to pass this legislation unanimously.

This bill preserves the vital tools the Government needs to protect our national security. At the same time, it puts in place some important checks on the expanded authorities granted the government by the original PATRIOT Act.

Although Members of both parties may feel there are additional improvements that can be made to this bill, Senate Democrats have agreed to join our colleagues on the other side of the aisle to take up and pass the compromise legislation approved unanimously by the Judiciary Committee with no amendments in order.

The President and other officials in his administration have repeatedly called upon Congress to renew the PATRIOT Act as quickly as possible. Senate Democrats agree with the President that we should reauthorize the PATRIOT Act and do so quickly. We are pleased to be able to pass this bill today.

I only hope the spirit of bipartisanship and cooperation we have witnessed to this point continues throughout the rest of the legislative process. The next step in this process is a conference with the House. The Senate is passing a very good bill, and I urge Senate conferees—Democratic and Republican—to do everything they can to defend its provisions in the conference report. If they do so, I am confident the bipartisanship and cooperation we see today will continue and we will get a conference report that will be strongly supported by Members on both sides of the aisle.

Mr. SPECTER. Mr. President, I seek recognition to comment on the Senate's passage of the USA PATRIOT Improvement and Reauthorization Act of 2005. When I introduced this legislation just 2 weeks ago with my colleagues Senator FEINSTEIN and Senator KYL, I did not expect to be lauding its passage so soon but I am gratified by what we have accomplished in so short a period of time.

The alacrity of the bill's passage is a testament to the significant work that preceded its introduction and the intense efforts of many in the days that followed. The bill has been refined and improved to address the concerns of those on both sides of the political aisle.

The bill has been modified to exclude some provisions that may have had unintended consequences. For example, a provision that would have required criminal investigators to notify a court after sharing the contents of a criminal wiretap with intelligence officers was deleted in response to concerns that it might have discouraged interagency information sharing. Likewise, a provision that increased requirements for pen registers under the Foreign Intelligence Surveillance Act, or FISA, was removed to maintain parity between intelligence-related pen registers and criminal pen registers. And, a provision requiring public reporting of FISA pen register information was removed, in favor of enhanced congressional access to this information.

At the same time, additional safeguards have been added to the bill to ensure that the authorities conferred by the PATRIOT Act are utilized in a manner that preserves civil liberties. For example, for delayed notice or so-called "sneak and peek" warrants, the bill now requires notice of the search to be given within seven days of its execution, unless the court finds that the facts of the case justify a later date. This change is consistent with pre-PATRIOT case law in at least two circuits, which favored initial delays of seven days. Nevertheless, the revised bill gives law enforcement the flexibility to obtain longer delays with court approval, if justified by the facts.

We have also modified the relevance standard for court orders to obtain business records and tangible things in intelligence cases, the so-called "library" provision. As introduced, the bill required applications for such orders to include "a statement of facts" showing "reasonable grounds to believe that the records or other things sought are relevant to an authorized investigation." The revised bill further defines relevant records as those that: (1) pertain to a foreign power or an agent of a foreign power; (2) are relevant to the activities of a suspected agent of a foreign power; or (3) pertain to an individual in contact with, or known to, a suspected agent of a foreign power. This language addresses concerns about government "fishing" expeditions, but maintains substantial latitude for legitimate terrorism investigations.

These changes and similar improvements, many of which were hammered out during late-night negotiations among Judiciary Committee staff, led to a hard-won unanimous vote when the committee considered the legislation last week. Indeed, this compromise secured the support of ardent conservatives and liberals alike, including the one member who voted against the original PATRIOT Act—my colleague from Wisconsin, Senator FEINGOLD.

As I said when I introduced this legislation, the recent attacks in London serve as reminder that the danger of international terrorism remains real, and has not abated in the years since 9/11. So, we must remain vigilant, and we must be cautious not to recreate the legal circumstances that arguably contributed to significant intelligence failures before 9/11. As I have said, reauthorizing the PATRIOT Act, while incorporating improvements designed to safeguard our liberties and enhance oversight, is the right thing to do. So I am very pleased that the Senate has overcome partisan differences to endorse this bill unanimously.

Before I close, I would like to take a moment to thank those who have contributed to this significant achievement. First, I thank my original cosponsors, Senators FEINSTEIN and KYL, for the leadership they have demonstrated on terrorism matters. I also thank Senator LEAHY, the committee's ranking member, for working to secure broad bipartisan support of this measure and contributing substantially to the bill itself. I am also grateful to all of the members of the Judiciary Committee who made important improvements to the final bill and demonstrated a remarkable willingness to work together in a collegial fashion.

I offer a special thanks to the distinguished chairman of the Select Committee on Intelligence, Senator ROBERTS. Together with the vice chairman, Senator ROCKEFELLER, he held several oversight hearings on the PATRIOT Act, and reported a separate reauthorization bill. His bill, and his expertise, will continue to inform our review of the PATRIOT Act's intelligence provisions.

I am also grateful to my predecessor as chairman of the Judiciary Committee, Senator HATCH, who played a leading role in passage of the original PATRIOT Act and has been a strong advocate for the act in the years since it was enacted.

I also thank our majority and minority leaders, Senators FRIST and REID, for the personal attention that they and their staffs have devoted to this legislation and the efforts to secure unanimous consent for its passage.

Finally, I thank my own staff who have worked tirelessly on this bill. Those who have assisted with this measure are too numerous to mention, but I would like to acknowledge the steady leadership of the Judiciary Committee's chief counsel, Michael O'Neill, chief of staff and staff director, David Brog, and deputy chief counsel, Joe Jacquot. I also thank chief crime counsel Brett Tolman and counsel Nick Rossi for spearheading this effort. They were greatly aided by my general counsel, Carolyn Short, counsels Hannibal Kemerer and Evan Kelly, and staff members Adam Turner, Lisa Owings, Kim Aytes, Viana Cabral, Diane

Paulitz and Lissa Camacho. We all know that our work is supported by a large cast of talented staff, and I am very grateful to my staff, and the entire staff of the Judiciary Committee, for their efforts on this important legislation.

With regard to the staff of other Members, I extend my personal thanks to Steven Cash with Senator FEINSTEIN; Joe Matal and Stephen Higgins with Senator KYL; Bruce Cohen, Julie Katzman and Tara Magner with Senator LEAHY; Bruce Artim and Ken Valentine with Senator HATCH; Joe Zogby with Senator DURBIN; Rita Lari and Chad Groover with Senator GRASSLEY; Reed O'Connor with Senator CORNYN; Neil McBride and Eric Rosen with Senator BIDEN; Ajit Pai with Senator BROWNBACK; Preet Bahara with Senator SCHUMER; Paul Thompson with Senator DEWINE; Lara Flint with Senator FEINGOLD; Cindy Hayden and Amy Blankenship with Senator SESSIONS; Mary Chesser with Senator COBURN; Mark Blumberg and Christine Leonard with Senator KENNEDY; Nate Jones and Patricia Curran with Senator KOHL; and James Galyean with Senator GRAHAM. Their willingness to work closely with my staff under sometimes difficult circumstances was much appreciated.

This bill heeds President Bush's call to renew the PATRIOT Act. All of the act's provisions have been renewed, and all but two provisions have been made permanent. At the same time, we have made responsible changes to safeguard civil liberties. Now we must move forward to a conference with the House in the hopes of quickly presenting President Bush with a bill he can sign into law. I am proud of what we have accomplished thus far, and I look forward to our conference with the other body.

Mr. LEAHY. Mr. President, last week, the Committee on the Judiciary did something that the administration has been urging us to do all year—we reported a bill that reauthorizes every expiring provision of the USA PATRIOT Act. This achievement was particularly notable for its bipartisanship. Following months of intense negotiations involving members from both sides of the aisle, we produced a consensus bill that won the support of every member of the committee. I commend Chairman SPECTER and all members of the committee for their work on this important legislation. We made possible something that many of us would have thought impossible just a few weeks ago: a PATRIOT Act improvement and reauthorization package approved by every Member of the U.S. Senate.

The bill we pass today—S. 1389, as reported—has three key elements.

First, the bill protects the privacy interests of Americans. It requires the Government to convince a judge that a person is connected to terrorism or espionage before obtaining their library records, medical records or other sensitive personal information. It also requires the Government to notify the target of a "sneak and peek" search within 7 days, instead of the undefined delay that is currently permitted by the PATRIOT Act.

Second, the bill enhances judicial oversight and protects free speech rights. It gives the recipient of an order for sensitive personal information the right to challenge the order in court on the same grounds as they could challenge a grand jury subpoena. It also provides a right to challenge the gag order that currently prevents people who receive a request for records from speaking out even if they feel the Government is violating their rights.

Third, the bill increases transparency and ensures accountability. One of my principal objectives in this reauthorization process has been to introduce more sunshine into the PATRIOT Act. The reported bill requires increased reporting by the Department of Justice on its use of several PATRIOT Act powers, including roving wiretaps, business record orders, and "sneak and peak" search warrants. It also sets a 4-year "sunset" on three domestic surveillance powers with great potential to affect civil liberties.

Like the PATRIOT Act itself, S. 1389 is not the bill that I, or any Member, would have written if compromise were unnecessary. I would have liked the bill to include additional checks and balances on certain Government surveillance powers granted or expanded by the PATRIOT Act. I would have liked the bill to include more sunshine provisions, as well as additional sunsets. I regret that the bill repeals a sunset provision that Congress enacted last year and that is not due to expire until the end of 2006.

While far from perfect, S. 1389 is a good bill, which moves the law in what I believe is the right direction. The bill is also substantially better, from a civil liberties perspective, than either the House bill, H.R. 3199, or the bill reported by the Senate Select Committee on Intelligence, S. 1266. And as the product of true bipartisanship—an 18-to-0 vote is something you do not see every day in the Senate Judiciary Committee—it is a bill in which the American people can and should have confidence. I hope that the bipartisan effort that got us to this point will carry over to the conference and speed this bill to final passage.

Mr. FEINGOLD. Mr. President, I want to say a few words about the version of S. 1389, the USA PATRIOT Act Improvement and Reauthorization Act, that the Judiciary Committee unanimously reported last week. I am pleased that the Senate is about to pass it without modification.

The compromise that the Judiciary Committee worked out addresses a number of the concerns that I have been talking about since October 2001 when the Senate first considered the PATRIOT Act on the floor. We have come a long way since that night, and I am grateful for the efforts of my colleagues to try to deal with the civil liberties concerns that have been raised both here in the Senate and around the country. This is not a perfect bill, but it is a good bill.

This bill does not address all of the problems with the PATRIOT Act. But the compromise does deal with the core concerns that I and others have had about the standard for section 215 orders, sneak and peek search warrants, and meaningful judicial review of section 215 orders and National Security Letters, including judicial review of the gag rule. It does not go as far on any of these issues as the SAFE Act, but it does make meaningful changes to current law.

I want to be clear that this will not be the end of my efforts to further fix the PATRIOT Act. This bipartisan compromise takes a big step in the right direction, and I am pleased that I can support it, but I will continue to push for additional changes to the law.

I also want to caution that the conference process must not be allowed to dilute the safeguards in this bill. This Senate bill goes much further than the House version in ensuring that Americans' civil liberties will be protected. I urge the Senate conferees to fight—and fight hard—for this bill.

Mrs. FEINSTEIN. Mr. President, I am pleased to rise today in support of the USA PATRIOT Improvement and Reauthorization Act of 2005.

I understand that the Senate will shortly pass this legislation by unanimous consent, and I want to take this opportunity to thank Chairman SPECTER and Ranking Member LEAHY for the efforts to move this bill forward in a careful, collegial and effective matter. I believe the bill we pass today strikes a good balance between our nations need to defend against terrorism, and maintaining our deeply held civil liberties.

The USA PATRIOT Act is one of the most consequential laws that has ever been passed by Congress. It made wide ranging, and necessary changes to our intelligence and law-enforcement communities, giving them the tools they need to defeat this Nation's most dangerous and insidious enemies.

When we passed the PATRIOT Act shortly after September 11, 2001, we recognized that this was very significant legislation, providing new authorities to the Government. That's why we committed ourselves to vigorous and in-depth oversight of the implementation of the Act. In fact, sixteen of the most controversial provisions came with "sunset clauses," which would cause them to expire in December of this year.

Since 2001, I have worked, along with my colleagues on both the Judiciary and Intelligence Committees to carry out that oversight. The result has been literally hundreds of hours of hearings, briefings, and document reviews. We asked tough questions, and got answers. We did extensive research, and consulted with a wide array of experts.

As part of my effort to oversee the implementation of the USA PATRIOT Act, I asked the ACLU, in a letter dated March 25, 2005, to provide an update of their October 2003 statement that they did not know of any abuses of the USA PATRIOT Act.

On April 4, 2005, the ACLU published a reply to my letter, in which they listed what they described as 'abuses and misuses' of the Act. I carefully reviewed each of the examples provided in the letter. I also reviewed information provided to me by the Department of Justice about each of the examples. And while I understand the concerns raised by the ACLU, it does not appear that these charges rose to the level of 'abuse' of the PATRIOT Act.

This conclusion has been borne out by numerous inquiries, hearings and briefings. Simply put, there have been no sustainable allegations of serious abuse of the Act.

That said, I believe that we can, and should, make some changes to the PATRIOT Act to ensure it is less likely to be abused in the future.

Furthermore, I am confident that the expiring USA PATRIOT Act provisions should be retained. The sixteen sunsetted provisions are generally working and should be reauthorized with some of the modifications reflected in the bill we take up today.

The bottom line is that the Judiciary Committee was able to do its work, and reach appropriate compromises. This allowed the cmmittee to favorably report this bill by a vote of 18–0. This type of consensus and bipartisanship is welcome and bodes well for our continued work on these critical issues.

This Nation faces difficult times. We know that there are those already in our country or trying to enter our country who would do us grievous injury and harm unless we can stop them—and to stop them, we must find them first—before they act, not after they act. Therefore, this bill is necessary and prudent.

This legislation would permanently reauthorize 14 of the 16 provisions scheduled to sunset in December 2005 and extend two other provisions, multipoint, roving wiretaps, and the acquisition of business record, until December 2009.

I believe it was important to extend, rather than eliminate, the sunsets on these two most controversial provisions—they warrant continued scrutiny.

But this legislation does not merely extend the sunsets. It makes improvements to key portions of the act. The bill approved by Committee, and which take up today, went even further in strengthening the USA PATRIOT Act and protecting the civil liberties of Americans. It included the following modifications:

Clarifying the rules governing multipoint wiretaps as well as regulating the acquisition of business records in the course of foreign intelligence investigations by requiring that a judge determine that the request is relevant to a national security intelligence investigation, and increases the amount of information that must be provided to Congress to ensure adequate and effective oversight.

Changing Section 215 of the USA PATRIOT Act FISA Tangible Item Orders or the so-called "library provision," tightening the requirement to make it clear that investigators must not only show relevance but also that the request pertains to a known or suspected agent of a foreign power or their associates.

Changing Section 213 of the USA PATRIOT Act, Delayed Notification of Search Warrants or "Sneak and Peak," to include a "7-day default" for delayed notice search warrants. Extension of this delay is permitted to dates certain, limited to 90 days or less unless the facts of the case justify a longer period of delay, but only upon showing of facts supporting that request.

Changing Section 212 of the USA PATRIOT Act, so that electronic service provider, Verizon, Comcast, etc., are authorized to voluntarily, i.e., without a warrant, disclose customer records and the content of communications in an emergency situation—where delay could be harmful, but without a need to show "immediacy."

Changing Section 214 of the USA PATRIOT Act, FISA Pen Registers/Trap and Trace Devices, in a way that makes them consistent with those used in criminal cases.

Changing Section 505 of the USA PATRIOT Act, National Security Letter Protection, clarifying that any person contesting an order to produce a tangible thing, can not only challenge the order, but also any gag-order accompanying it.

Taken as a whole, these changes help ensure that these key provisions are used responsibly, in a focused and effective manner and against our Nation's enemies, not against ordinary Americans. They provide critical additional civil liberties protections, without sacrificing the safety of Americans. I strongly believe that Congress's responsibility does not end when it passes a law. We have an obligation to carry out vigorous oversight. We have an obligation to adjust and fine-tune laws to fit changing circumstances. We have an obligation to see that the law accomplishes its aims and remains balanced and appropriate.

I believe the bill before us represents the result of fulfilling those obligations, strikes a careful balance and should be approved.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, reserving the right to object to the unanimous consent request pending, I will make a brief statement regarding the PATRIOT Act, which is now being considered.

I rise in support of the compromise legislation. It is an amazing legislative achievement. This revision of the PATRIOT Act was enacted by the Senate Judiciary Committee, on which I am privileged to serve, by a vote of 18 to 0—a bipartisan vote—which indicated that both sides of the table came together in an effort to make meaningful revisions to the PATRIOT Act which will protect our freedom but not compromise our security.

We all remember the PATRIOT Act was passed shortly after 9/11, when we were the most engaged in the emotions of the moment. We worried that we might have another attack, and we needed to give our Government powers to protect us. But we worried as well that we might go too far in our emotion in the moment, so we included sunset provisions in the PATRIOT Act which forced us to revisit it. Those sunset provisions turned out to be exceedingly wise. They brought us back in the last few weeks to take another close look at that PATRIOT Act.

In the meantime, many people stepped forward with criticism of the original PATRIOT Act. One of those was my colleague, Senator LARRY CRAIG of Idaho. He and I probably have the most different voting records of any Senators you might find on the Senate floor—he being on the Republican side and my being on the Democratic side—yet we sat down and looked at the PATRIOT Act and found we had many concerns. We put together a bipartisan revision of the act, called the SAFE Act, which suggested some changes in the bill. We attracted support from across the political spectrum—from the American Conservative Union and the American Civil Liberties Union, from a wide range of different groups, right and left and center, who raised serious and important questions about whether the PATRIOT Act should be changed.

We brought that conversation to the Judiciary Committee while they were deliberating on this version of the PATRIOT Act. I am happy to report that many of the principles that Senator CRAIG and I were urging were included in this final revision of the act which now comes before us on the floor of the Senate.

There were some who worried that we might not reach that point because an early version of the SAFE Act had been threatened with a veto by the

Bush White House. Nevertheless, we found that when we could come together and reason together, we could produce a work product that we believe will be acceptable not only to the Senate but we hope to the House and to the President.

Like the SAFE Act, the Senate bill retains all of the new powers created by the PATRIOT Act. That is an important thing to say and underline. Like the SAFE Act, it enhances judicial oversight and requires the Government to report to the Congress and the American people on the use of the PATRIOT Act.

Like the SAFE Act, it protects the privacy and free speech rights of innocent Americans. Here is one example: The bill would require the Government to convince a judge that a person is connected to terrorism or espionage before obtaining their library records, medical records, financial data, or other sensitive personal information. That is the right thing to do. The bill isn't perfect, but it moves us in the right direction.

Let me say a word as I close. One of the most unlikely groups became so important in this debate—the American Library Association. I cannot recall a time in recent memory when this organization showed such leadership. Time and again, they came forward to tell us that they wanted to protect the privacy of their patrons at libraries across America who might come in and take out a magazine or book, and they certainly didn't want to do that with the knowledge that the Government could sweep up all of the library records and sift through them to see if anybody had checked out a suspicious book. They sent us petitions gathered from libraries across the Nation, and I think they really did good work on behalf of our Constitution and our rights and liberties guaranteed under the Bill of Rights.

I wish to dedicate any success we have with this revision of the PATRIOT Act to the American Library Association and all those who stood with them in asking that we make meaningful changes to the act without eliminating the important provisions that continue to make America safe.

This bill today is not perfect. That's the nature of a compromise. But it does significantly improve the Patriot Act, and it extends the sunset for several controversial provisions so Congress will have another opportunity to review them in four years.

In contrast, the House of Representatives last week passed a flawed bill that would extend the Patriot Act's expiring provisions, but not fix its fundamental problems. Many Republicans and Democrats voted against the bill because it doesn't protect our constitutional rights.

The Senate bill should serve as a model for how Republicans and Democrats can come together to protect our fundamental constitutional rights and give the government the powers it needs. This legislation shows that we can fight terrorism without changing the nature of our free and open society. It shows that we can be safe and free.

I urge my colleagues to support this legislation and to maintain this approach and balance in the Conference Committee.

I withdraw any reservation and accept the unanimous consent pending before the Senate.

The PRESIDING OFFICER. Without objection, the request is agreed to.

The bill (H.R. 3199), as amended, was read the third time and passed, as follows:

### S. 1389

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

### TITLE I—USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT

Sec. 101. References to USA Patriot Act.
Sec. 102. USA Patriot Act sunset provisions.
Sec. 103. Repeal of sunset provision relating to individual terrorists as agents of foreign powers.
Sec. 104. Repeal of sunset provision relating to section 2332b and the material support sections of title 18, United States Code.
Sec. 105. Sharing of electronic, wire, and oral interception information under section 203(b) of the USA Patriot Act.
Sec. 106. Duration of FISA surveillance of non-United States persons under section 207 of the USA Patriot Act.
Sec. 107. Access to certain business records under section 215 of the USA Patriot Act.
Sec. 108. Report on emergency disclosures under section 212 of the USA Patriot Act.
Sec. 109. Specificity and notification for roving surveillance authority under section 206 of the USA Patriot Act.
Sec. 110. Prohibition on planning terrorist attacks on mass transportation.
Sec. 111. Forfeiture.
Sec. 112. Adding offenses to the definition of Federal crime of terrorism.
Sec. 113. Amendments to section 2516(1) of title 18, United States Code.
Sec. 114. Definition of period of reasonable delay under section 213 of the USA Patriot Act.
Sec. 115. Attacks against railroad carriers and mass transportation systems.
Sec. 116. Judicial review of national security letters.
Sec. 117. Confidentiality of national security letters.
Sec. 118. Violations of nondisclosure provisions of national security letters.
Sec. 119. Reports.
Sec. 120. Definition for forfeiture provisions under section 806 of the USA Patriot Act.
Sec. 121. Limitation on authority to delay notice.
Sec. 122. Interception of communications.
Sec. 123. Penal provisions regarding trafficking in contraband cigarettes or smokeless tobacco.
Sec. 124. Prohibition of narco-terrorism.
Sec. 125. Interfering with the operation of an aircraft.
Sec. 126. Sense of Congress relating to lawful political activity.
Sec. 127. Repeal of first responder grant program.
Sec. 128. Faster and smarter funding for first responders.
Sec. 129. Oversight.
Sec. 130. GAO report on an inventory and status of homeland security first responder training.
Sec. 131. Removal of civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.
Sec. 132. Report by Attorney General.
Sec. 133. Sense of Congress.

### TITLE II—TERRORIST DEATH PENALTY ENHANCEMENT

Sec. 201. Short title.

#### Subtitle A—Terrorist Penalties Enhancement Act

Sec. 211. Terrorist offense resulting in death.
Sec. 212. Denial of Federal benefits to terrorists.
Sec. 213. Death penalty procedures for certain air piracy cases occurring before enactment of the Federal Death Penalty Act of 1994.
Sec. 214. Ensuring death penalty for terrorist offenses which create grave risk of death.
Sec. 215. Postrelease supervision of terrorists.

#### Subtitle B—Prevention of Terrorist Access to Destructive Weapons Act

Sec. 221. Death penalty for certain terror related crimes.

#### Subtitle C—Federal Death Penalty Procedures

Sec. 231. Modification of death penalty provisions.

### TITLE III—REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

Sec. 301. Short title.
Sec. 302. Entry by false pretenses to any seaport.
Sec. 303. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.
Sec. 304. Use of a dangerous weapon or explosive on a passenger vessel.
Sec. 305. Criminal sanctions for violence against maritime navigation, placement of destructive devices.
Sec. 306. Transportation of dangerous materials and terrorists.
Sec. 307. Destruction of, or interference with, vessels or maritime facilities.
Sec. 308. Theft of interstate or foreign shipments or vessels.
Sec. 309. Increased penalties for noncompliance with manifest requirements.
Sec. 310. Stowaways on vessels or aircraft.
Sec. 311. Bribery affecting port security.
Sec. 312. Penalties for smuggling goods into the United States.

Sec. 313. Smuggling goods from the United States.

TITLE IV—COMBATING TERRORISM FINANCING

Sec. 401. Short title.
Sec. 402. Increased penalties for terrorism financing.
Sec. 403. Terrorism-related specified activities for money laundering.
Sec. 404. Assets of persons committing terrorist acts against foreign countries or international organizations.
Sec. 405. Money laundering through Hawalas.
Sec. 406. Technical and conforming amendments relating to the USA Patriot Act.
Sec. 407. Technical corrections to financing of terrorism statute.
Sec. 408. Cross reference correction.
Sec. 409. Amendment to amendatory language.
Sec. 410. Designation of additional money laundering predicate.

## TITLE I—USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT

### SEC. 101. REFERENCES TO USA PATRIOT ACT.

A reference in this Act to the USA PATRIOT ACT shall be deemed a reference to the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001.

### SEC. 102. USA PATRIOT ACT SUNSET PROVISIONS.

(a) IN GENERAL.—Section 224 of the USA PATRIOT ACT is repealed.

(b) SECTIONS 206 AND 215 SUNSET.—Effective December 31, 2015, the Foreign Intelligence Surveillance Act of 1978 is amended so that sections 501, 502, and 105(c)(2) read as they read on October 25, 2001.

### SEC. 103. REPEAL OF SUNSET PROVISION RELATING TO INDIVIDUAL TERRORISTS AS AGENTS OF FOREIGN POWERS.

Section 6001 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3742) is amended by—

(1) striking subsection (b); and

(2) striking "(a)" and all that follows through "Section" and inserting "Section".

### SEC. 104. REPEAL OF SUNSET PROVISION RELATING TO SECTION 2332B AND THE MATERIAL SUPPORT SECTIONS OF TITLE 18, UNITED STATES CODE.

Section 6603 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3762) is amended by striking subsection (g).

### SEC. 105. SHARING OF ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION UNDER SECTION 203(B) OF THE USA PATRIOT ACT.

Section 2517(6) of title 18, United States Code, is amended by adding at the end the following: "Within a reasonable time after a disclosure of the contents of a communication under this subsection, an attorney for the Government shall file, under seal, a notice with a judge whose order authorized or approved the interception of that communication, stating the fact that such contents were disclosed and the departments, agencies, or entities to which the disclosure was made.".

### SEC. 106. DURATION OF FISA SURVEILLANCE OF NON-UNITED STATES PERSONS UNDER SECTION 207 OF THE USA PATRIOT ACT.

(a) ELECTRONIC SURVEILLANCE.—Section 105(e) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(e)) is amended—

(1) in paragraph (1)(B), by striking ", as defined in section 101(b)(1)(A)" and inserting "who is not a United States person"; and

(2) in subsection (2)(B), by striking "as defined in section 101(b)(1)(A)" and inserting "who is not a United States person".

(b) PHYSICAL SEARCH.—Section 304(d) of such Act (50 U.S.C. 1824(d)) is amended—

(1) in paragraph (1)(B), by striking "as defined in section 101(b)(1)(A)" and inserting "who is not a United States person"; and

(2) in paragraph (2), by striking "as defined in section 101(b)(1)(A)" and inserting "who is not a United States person".

(c) PEN REGISTERS, TRAP AND TRACE DEVICES.—Section 402(e) of such Act (50 U.S.C. 1842(e)) is amended—

(1) by striking "(e) An" and inserting "(e)(1) Except as provided in paragraph (2), an"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of an application under subsection (c) where the applicant has certified that the information likely to be obtained is foreign intelligence information not concerning a United States person, an order, or an extension of an order, under this section may be for a period not to exceed one year.".

### SEC. 107. ACCESS TO CERTAIN BUSINESS RECORDS UNDER SECTION 215 OF THE USA PATRIOT ACT.

(a) ESTABLISHMENT OF RELEVANCE STANDARD.—Subsection (b)(2) of section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is amended by striking "to obtain" and all that follows and inserting "and that the information likely to be obtained from the tangible things is reasonably expected to be (A) foreign intelligence information not concerning a United States person, or (B) relevant to an ongoing investigation to protect against international terrorism or clandestine intelligence activities.".

(b) CLARIFICATION OF JUDICIAL DISCRETION.—Subsection (c)(1) of such section is amended to read as follows:

"(c)(1) Upon an application made pursuant to this section, if the judge finds that the application meets the requirements of subsections (a) and (b), the judge shall enter an ex parte order as requested, or as modified, approving the release of records.".

(c) AUTHORITY TO DISCLOSE TO ATTORNEY.—Subsection (d) of such section is amended to read as follows:

"(d)(1) No person shall disclose to any person (other than a qualified person) that the United States has sought or obtained tangible things under this section.

"(2) An order under this section shall notify the person to whom the order is directed of the nondisclosure requirement under paragraph (1).

"(3) Any person to whom an order is directed under this section who discloses that the United States has sought to obtain tangible things under this section to a qualified person with respect to the order shall inform such qualified person of the nondisclosure requirement under paragraph (1) and that such qualified person is also subject to such nondisclosure requirement.

"(4) A qualified person shall be subject to any nondisclosure requirement applicable to a person to whom an order is directed under this section in the same manner as such person.

"(5) In this subsection, the term 'qualified person' means—

"(A) any person necessary to produce the tangible things pursuant to an order under this section; or

"(B) an attorney to obtain legal advice with respect to an order under this section.".

(d) JUDICIAL REVIEW.—

(1) PETITION REVIEW PANEL.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

"(e)(1) Three judges designated under subsection (a) who reside within 20 miles of the District of Columbia, or if all of such judges are unavailable, other judges of the court established under subsection (a) as may be designated by the Presiding Judge of such court (who is designated by the Chief Justice of the United States from among the judges of the court), shall comprise a petition review panel which shall have jurisdiction to review petitions filed pursuant to section 501(f)(1).

"(2) Not later than 60 days after the date of the enactment of the USA PATRIOT and Terrorism Prevention Reauthorization Act of 2005, the court established under subsection (a) shall develop and issue procedures for the review of petitions filed pursuant to section 501(f)(1) by the panel established under paragraph (1). Such procedures shall provide that review of a petition shall be conducted ex parte and in camera and shall also provide for the designation of an Acting Presiding Judge.".

(2) PROCEEDINGS.—Section 501 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861) is further amended by adding at the end the following new subsection:

"(f)(1) A person receiving an order to produce any tangible thing under this section may challenge the legality of that order by filing a petition in the panel established by section 103(e)(1). The Presiding Judge shall conduct an initial review of the petition. If the Presiding Judge determines that the petition is frivolous, the Presiding Judge shall immediately deny the petition and promptly provide a written statement of the reasons for the determination for the record. If the Presiding Judge determines that the petition is not frivolous, the Presiding Judge shall immediately assign the petition to one of the judges serving on such panel. The assigned judge shall promptly consider the petition in accordance with procedures developed and issued pursuant to section 103(e)(2). The judge considering the petition may modify or set aside the order only if the judge finds that the order does not meet the requirements of this section or is otherwise unlawful. If the judge does not modify or set aside the order, the judge shall immediately affirm the order and order the recipient to comply therewith. A petition for review of a decision to affirm, modify, or set aside an order by the United States or any person receiving such order shall be to the court of review established under section 103(b), which shall have jurisdiction to consider such petitions. The court of review shall immediately provide for the record a written statement of the reasons for its decision and, on petition of the United States or any person receiving such order for writ of certiorari, the record shall be transmitted under seal to the Supreme Court, which shall have jurisdiction to review such decision.

"(2) Judicial proceedings under this subsection shall be concluded as expeditiously as possible. The judge considering a petition filed under this subsection shall provide for the record a written statement of the reasons for the decision. The record of proceedings, including petitions filed, orders granted, and statements of reasons for decision, shall be maintained under security measures established by the Chief Justice of the United States in consultation with the

Attorney General and the Director of National Intelligence.

"(3) All petitions under this subsection shall be filed under seal, and the court, upon the government's request, shall review any government submission, which may include classified information, as well as the government's application and related materials, ex parte and in camera.".

(e) FBI DIRECTOR REQUIRED TO APPLY FOR ORDER OF PRODUCTION OF RECORDS FROM LIBRARY OR BOOKSTORE.—Section 501(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(a)) is amended—

(1) in paragraph (1), by striking "The Director" and inserting "Subject to paragraph (3), the Director"; and

(2) by adding at the end the following new paragraph:

"(3) In the case of an application for an order requiring the production of tangible things described in paragraph (1) from a library or bookstore, the Director of the Federal Bureau of Investigation shall not delegate the authority to make such application to a designee.".

### SEC. 108. REPORT ON EMERGENCY DISCLOSURES UNDER SECTION 212 OF THE USA PATRIOT ACT.

Section 2702 of title 18, United States Code, is amended by adding at the end the following:

"(d) REPORT.—On an annual basis, the Attorney General shall submit to the Committees on the Judiciary of the House and the Senate a report containing—

"(1) the number of accounts from which the Department of Justice has received voluntary disclosures under subsection (b)(8); and

"(2) a summary of the basis for disclosure in those instances where—

"(A) voluntary disclosure under subsection (b)(8) was made to the Department of Justice; and

"(B) the investigation pertaining to those disclosures was closed without the filing of criminal charges.".

### SEC. 109. SPECIFICITY AND NOTIFICATION FOR ROVING SURVEILLANCE AUTHORITY UNDER SECTION 206 OF THE USA PATRIOT ACT.

(a) INCLUSION OF SPECIFIC FACTS IN APPLICATION.—Section 105(c)(2)(B) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amended by striking "where the Court finds" and inserting "where the Court finds, based upon specific facts provided in the application,".

(b) NOTIFICATION OF SURVEILLANCE OF NEW FACILITY OR PLACE.—Section 105(c)(2) of such Act is amended—

(1) in subparagraph (C), by striking "and" at the end;

(2) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(E) that, in the case of electronic surveillance directed at a facility or place that is not known at the time the order is issued, the applicant shall notify a judge having jurisdiction under section 103 at the earliest reasonable time as determined by the court, but in no case later than 15 days, after electronic surveillance begins to be directed at a new facility or place, and such notice shall contain a statement of the facts and circumstances relied upon by the applicant to justify the belief that the facility or place at which the electronic surveillance is or was directed is being used, or is about to be used, by the target of electronic surveillance and shall specify the total number of electronic surveillances that have been or are being conducted under the authority of the order.".

### SEC. 110. PROHIBITION ON PLANNING TERRORIST ATTACKS ON MASS TRANSPORTATION.

Section 1993(a) of title 18, United States Code, is amended—

(1) by striking "or" at the of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (9); and

(3) by inserting after paragraph (7) the following:

"(8) surveils, photographs, videotapes, diagrams, or otherwise collects information with the intent to plan or assist in planning any of the acts described in the paragraphs (1) through (7); or".

### SEC. 111. FORFEITURE.

Section 981(a)(1)(B)(i) of title 18, United States Code, is amended by inserting "trafficking in nuclear, chemical, biological, or radiological weapons technology or material, or" after "involves".

### SEC. 112. ADDING OFFENSES TO THE DEFINITION OF FEDERAL CRIME OF TERRORISM.

Section 2332b)(g)(5)(B)(i) of title 18, United States Code, is amended—

(1) by inserting ", 2339D (relating to military-type training from a foreign terrorist organization)" before ", or 2340A"; and

(2) by inserting "832 (relating to nuclear and weapons of mass destruction threats)," after "831 (relating to nuclear materials),".

### SEC. 113. AMENDMENTS TO SECTION 2516(1) OF TITLE 18, UNITED STATES CODE.

(a) PARAGRAPH (c) AMENDMENT.—Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by inserting "section 37 (relating to violence at international airports), section 175b (relating to biological agents or toxins)" after "the following sections of this title:";

(2) by inserting "section 832 (relating to nuclear and weapons of mass destruction threats), section 842 (relating to explosive materials), section 930 (relating to possession of weapons in Federal facilities)," after "section 751 (relating to escape),";

(3) by inserting "section 1114 (relating to officers and employees of the United States), section 1116 (relating to protection of foreign officials), sections 1361-1363 (relating to damage to government buildings and communications), section 1366 (relating to destruction of an energy facility), " after "section 1014 (relating to loans and credit applications generally; renewals and discounts),";

(4) by inserting "section 1993 (relating to terrorist attacks against mass transportation), sections 2155 and 2156 (relating to national-defense utilities), sections 2280 and 2281 (relating to violence against maritime navigation)," after "section 1344 (relating to bank fraud),"; and

(5) by inserting "section 2340A (relating to torture)," after "section 2321 (relating to trafficking in certain motor vehicles or motor vehicle parts),".

(b) PARAGRAPH (p) AMENDMENT.—Section 2516(1)(p) is amended by inserting ", section 1028A (relating to aggravated identity theft)" after "other documents".

(c) PARAGRAPH (q) AMENDMENT.—Section 2516(1)(q) of title 18 United States Code is amended—

(1) by inserting "2339" after "2232h"; and

(2) by inserting "2339D" after "2339C".

### SEC. 114. DEFINITION OF PERIOD OF REASONABLE DELAY UNDER SECTION 213 OF THE USA PATRIOT ACT.

Section 3103a(b)(3) of title 18, United States Code, is amended—

(1) by striking "of its" and inserting ", which shall not be more than 180 days, after its"; and

(2) by inserting "for additional periods of not more than 90 days each" after "may be extended".

### SEC. 115. ATTACKS AGAINST RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

**"§ 1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air**

"(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

"(1) wrecks, derails, sets fire to, or disables railroad on-track equipment or a mass transportation vehicle;

"(2) with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life, and without the authorization of the railroad carrier or mass transportation provider—

"(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment or a mass transportation vehicle; or

"(B) releases a hazardous material or a biological agent or toxin on or near any property described in subparagraph (A) or (B) of paragraph (3);

"(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

"(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without the authorization of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

"(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without the authorization of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

"(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the railroad carrier or mass transportation provider;

"(5) with intent to endanger the safety of any person, or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment or a mass transportation vehicle;

"(6) commits an act, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on property described in subparagraph (A) or (B) of paragraph (3), except that this subparagraph shall not apply to rail police officers acting in the course of their law enforcement duties under section 28101 of title 49, United States Code;

"(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

"(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7),

shall be fined under this title or imprisoned not more than 20 years, or both.

"(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) of this section in a circumstance in which—

"(1) the railroad on-track equipment or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

"(2) the railroad on-track equipment or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

"(3) the railroad on-track equipment or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

"(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

"(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

"(4) the offense results in the death of any person,

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2) of this subsection, the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4) of this subsection, the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

"(c) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

"(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider or railroad carrier engaged in or affecting interstate or foreign commerce.

"(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

"(d) DEFINITIONS.—In this section—

"(1) the term 'biological agent' has the meaning given to that term in section 178(1);

"(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of more than 2½ inches in length and a box cutter;

"(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

"(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

"(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

"(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

"(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

"(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

"(9) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

"(10) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

"(11) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

"(12) the term 'serious bodily injury' has the meaning given to that term in section 1365;

"(13) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

"(14) the term 'State' has the meaning given to that term in section 2266;

"(15) the term 'toxin' has the meaning given to that term in section 178(2); and

"(16) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air.".

(b) CONFORMING AMENDMENTS.—

(1) The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking "**RAILROADS**" in the chapter heading and inserting "**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**";

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

"1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.".

(2) The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

**"97. Railroad carriers and mass transportation systems on land, on water, or through the air ............ 1991".**

(3) Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking "1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),";

(B) in section 2339A, by striking "1993,"; and

(C) in section 2516(1)(c) by striking "1992 (relating to wrecking trains)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),".

### SEC. 116. JUDICIAL REVIEW OF NATIONAL SECURITY LETTERS.

Chapter 223 of title 18, United States Code, is amended—

(1) by inserting at the end of the table of sections the following new item:

"3511. Judicial review of requests for information.";

and

(2) by inserting after section 3510 the following:

### "§ 3511. Judicial review of requests for information

"(a) The recipient of a request for records, a report, or other information under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947 may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the request. The court may modify or set aside the request if compliance would be unreasonable or oppressive.

"(b) The recipient of a request for records, a report, or other information under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, may petition any court described in subsection (a) for an order modifying or setting aside a nondisclosure requirement imposed in connection with such a request.

"(1) If the petition is filed within one year of the request for records, a report, or other information under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, the court may modify or set aside such a nondisclosure requirement if it finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. The certification made at the time of the request that disclosure may endanger of the national security of the United States or interfere with diplomatic relations shall be treated as conclusive unless the court finds that the certification was made in bad faith.

"(2) If the petition is filed one year or more after the request for records, a report, or other information under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114 (a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, the issuing officer, within ninety days of the filing of the petition, shall either terminate the nondisclosure requirement or re-certify that disclosure may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person. In the event or re-certification, the court may modify or set aside such a nondisclosure requirement if it finds that there is no reason to believe that disclosure may endanger the national security of the United States, interfere with a criminal, counterterrorism, or counterintelligence investigation, interfere with diplomatic relations, or endanger the life or physical safety of any person. The re-certification that disclosure may endanger of the national security of the United States or interfere with diplomatic relations shall be treated as conclusive unless the court finds that the re-certification was made in bad faith. If the court denies a petition for an order modifying or setting aside a nondisclosure requirement under this paragraph, the recipient shall be precluded for a period of one year from filing another petition to modify or set aside such nondisclosure requirement.

"(c) In the case of a failure to comply with a request for records, a report, or other information made to any person or entity under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947, the Attorney General may invoke the aid of any court of the United States within the jurisdiction in which the investigation is carried on or the person or entity resides, carries on business, or may be found, to compel compliance with the request. The court may issue an order requiring the person or entity to comply with the request. Any failure to obey the order of the court may be punished by the court as contempt thereof. Any process under this section may be served in any judicial district in which the person or entity may be found.

"(d) In all proceedings under this section, subject to any right to an open hearing in a contempt proceeding, the court must close any hearing to the extent necessary to prevent an unauthorized disclosure of a request for records, a report, or other information made to any person or entity under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947. Petitions, filings, records, orders, and subpoenas must also be kept under seal to the extent and as long as necessary to prevent the unauthorized disclosure of a request for records, a report, or other information made to any person or entity under section 2709(b) of this title, section 625(a) or (b) or 626(a) of the Fair Credit Reporting Act, section 1114(a)(5)(A) of the Right to Financial Privacy Act, or section 802(a) of the National Security Act of 1947.

"(e) In all proceedings under this section, the court shall, upon the Federal Government's request, review the submission of the Government, which may include classified information, ex parte and in camera.".

### SEC. 117. CONFIDENTIALITY OF NATIONAL SECURITY LETTERS.

(a) Section 2709(c) of title 18, United States Code, is amended to read:

"(c) Prohibition of Certain Disclosure.—

"(1) If the Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no wire or electronic communications service provider, or officer, employee, or agent thereof, shall disclose to any person (other than those to whom such disclosure is necessary in order to comply with the request or an attorney to obtain legal advice with respect to the request) that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

"(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

"(3) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice with respect to the request shall inform such person of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).".

(b) Section 625(d) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d)) is amended to read:

"(d) Confidentiality.—

"(1) If the Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person (other than those to whom such disclosure is necessary in order to comply with the request or an attorney to obtain legal advice with respect to the request) that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c), and no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information on a consumer report.

"(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

"(3) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).".

(c) Section 626(c) of the Fair Credit Reporting Act (15 U.S.C. 1681v(c)) is amended to read:

"(c) Confidentiality.—

"(1) If the head of a government agency authorized to conduct investigations or, or intelligence or counterintelligence activities or analysis related to, international terrorism, or his designee, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no consumer reporting agency or officer, employee, or agent of such consumer reporting agency, shall disclose to any person (other than those to whom such disclosure is necessary in order to comply with the request or an attorney to obtain legal advice with respect to the request), or specify in any consumer report, that a government agency has sought or obtained access to information under subsection (a).

"(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

"(3) Any recipient disclosing to those persons necessary to comply with the request or to any attorney to obtain legal advice with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).".

(d) Section 1114(a)(5)(D) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(D)) is amended to read:

"(D) Prohibition of certain disclosure.—

"(i) If the Director of the Federal Bureau of Investigation, or his designee in a position not lower than Deputy Assistant Director at Bureau headquarters or a Special Agent in Charge in a Bureau field office designated by the Director, certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no financial institution, or officer, employee, or agent of such institution, shall disclose to any person (other than those to whom such disclosure is necessary in order to comply with the request or an attorney to obtain legal advice with respect to the request) that the Federal Bureau of Investigation has sought or obtained access to a customer's or entity's financial records under paragraph (5).

"(ii) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

"(iii) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).".

(e) Section 802(b) of the National Security Act of 1947 (50 U.S.C. 436(b)) is amended to read as follows:

"(b) Prohibition of Certain Disclosure.—

"(1) If an authorized investigative agency described in subsection (a) certifies that otherwise there may result a danger to the national security of the United States, interference with a criminal, counterterrorism, or counterintelligence investigation, interference with diplomatic relations, or danger to the life or physical safety of any person, no governmental or private entity, or officer, employee, or agent of such entity, may disclose to any person (other than those to whom such disclosure is necessary in order to comply with the request or an attorney to obtain legal advice with respect to the request) that such entity has received or satisfied a request made by an authorized investigative agency under this section.

"(2) The request shall notify the person or entity to whom the request is directed of the nondisclosure requirement under paragraph (1).

"(3) Any recipient disclosing to those persons necessary to comply with the request or to an attorney to obtain legal advice with respect to the request shall inform such persons of any applicable nondisclosure requirement. Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).".

### SEC. 118. VIOLATIONS OF NONDISCLOSURE PROVISIONS OF NATIONAL SECURITY LETTERS.

Section 1510 of title 18, United States Code, is amended by adding at the end the following:

"(e) Whoever knowingly violates section 2709(c)(1) of this title, sections 625(d) or 626(c) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d) or 1681v(c)), section 1114(a)(3) or 1114(a)(5)(D) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3) or 3414(a)(5)(D)), or section 802(b) of the National Security Act of 1947 (50 U.S.C. 436(b)) shall be imprisoned for not more than one year, and if the violation is committed with the intent to obstruct an investigation or judicial proceeding, shall be imprisoned for not more than five years.".

### SEC. 119. REPORTS.

Any report made to a committee of Congress regarding national security letters under section 2709(c)(1) of title 18, United States Code, sections 625(d) or 626(c) of the Fair Credit Reporting Act (15 U.S.C. 1681u(d) or 1681v(c)), section 1114(a)(3) or 1114(a)(5)(D) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(3) or 3414(a)(5)(D)), or section 802(b) of the National Security Act of 1947 (50 U.S.C. 436(b)) shall also be made to the Committees on the Judiciary of the House of Representatives and the Senate.

### SEC. 120. DEFINITION FOR FORFEITURE PROVISIONS UNDER SECTION 806 OF THE USA PATRIOT ACT.

Section 981(a)(1)(G) of title 18, United States Code, is amended by striking "section 2331" each place it appears and inserting "2332b(g)(5)(B)".

### SEC. 121. LIMITATION ON AUTHORITY TO DELAY NOTICE.

(a) In General.—Section 3103a(b)(1) of title 18, United States Code, is amended by inserting ", except if the adverse results consists only of unduly delaying a trial" after "2705".

(b) Reporting Requirement.—Section 3103a of title 18, United States Code, is amended by adding at the end the following:

"(c) Reports.—On an annual basis, the Administrative Office of the United States Courts shall report to the Committees on the Judiciary of the House of Representatives and the Senate the number of search warrants granted during the reporting period, and the number of delayed notices authorized during that period, indicating the adverse result that occasioned that delay.".

### SEC. 122. INTERCEPTION OF COMMUNICATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (c)—

(A) by inserting before "section 201 (bribery of public officials and witnesses)" the following: "section 81 (arson within special maritime and territorial jurisdiction),";

(B) by inserting before "subsection (d), (e), (f), (g), (h), or (i) of section 844 (unlawful use of explosives)" the following: "subsections (m) or (n) of section 842 (relating to plastic explosives),"; and

(C) by inserting before "section 1992 (relating to wrecking trains)" the following: ", section 930(c) (relating to attack on federal facility with firearm), section 956 (conspiracy to harm persons or property overseas),"; and

(2) in paragraph (j)—

(A) by striking "or" before "section 46502 (relating to aircraft piracy)" and inserting a comma after "section 60123(b) (relating to the destruction of a natural gas pipeline"; and

(B) by inserting ", the second sentence of section 46504 (relating to assault on a flight crew with dangerous weapon), or section 46505(b)(3) or (c) (relating to explosive or incendiary devices, or endangerment of human life, by means of weapons on aircraft)" before of "title 49".

### SEC. 123. PENAL PROVISIONS REGARDING TRAFFICKING IN CONTRABAND CIGARETTES OR SMOKELESS TOBACCO.

(a) Threshold Quantity for Treatment as Contraband Cigarettes.—(1) Section 2341(2) of title 18, United States Code, is amended by striking "60,000 cigarettes" and inserting "10,000 cigarettes".

(2) Section 2342(b) of that title is amended by striking "60,000" and inserting "10,000".

(3) Section 2343 of that title is amended—

(A) in subsection (a), by striking "60,000" and inserting "10,000"; and

(B) in subsection (b), by striking "60,000" and inserting "10,000".

(b) Contraband Smokeless Tobacco.—(1) Section 2341 of that title is amended—

(A) in paragraph (4), by striking "and" at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraphs:

"(6) the term 'smokeless tobacco' means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted;

"(7) the term 'contraband smokeless tobacco' means a quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, that are in the possession of any person other than—

"(A) a person holding a permit issued pursuant to chapter 52 of the Internal Revenue Code of 1986 as manufacturer of tobacco products or as an export warehouse proprietor, a person operating a customs bonded warehouse pursuant to section 311 or 555 of the Tariff Act of 1930 (19 U.S.C. 1311, 1555), or an agent of such person;

"(B) a common carrier transporting such smokeless tobacco under a proper bill of lading or freight bill which states the quantity, source, and designation of such smokeless tobacco;

"(C) a person who—

"(i) is licensed or otherwise authorized by the State where such smokeless tobacco is found to engage in the business of selling or distributing tobacco products; and

"(ii) has complied with the accounting, tax, and payment requirements relating to such license or authorization with respect to such smokeless tobacco; or

"(D) an officer, employee, or agent of the United States or a State, or any department, agency, or instrumentality of the United States or a State (including any political subdivision of a State), having possession of such smokeless tobacco in connection with the performance of official duties;".

(2) Section 2342(a) of that title is amended by inserting "or contraband smokeless tobacco" after "contraband cigarettes".

(3) Section 2343(a) of that title is amended by inserting ", or any quantity of smokeless tobacco in excess of 500 single-unit consumer-sized cans or packages," before "in a single transaction".

(4) Section 2344(c) of that title is amended by inserting "or contraband smokeless tobacco" after "contraband cigarettes".

(5) Section 2345 of that title is amended by inserting "or smokeless tobacco" after "cigarettes" each place it appears.

(6) Section 2341 of that title is further amended in paragraph (2), as amended by subsection (a)(1) of this section, in the matter preceding subparagraph (A), by striking "State cigarette taxes in the State where such cigarettes are found, if the State" and inserting "State or local cigarette taxes in the State or locality where such cigarettes are found, if the State or local government".

(c) Recordkeeping, Reporting, and Inspection.—Section 2343 of that title, as amended by this section, is further amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "only—" and inserting "such information as the Attorney General considers appropriate for purposes of enforcement of this chapter, including—"; and

(B) in the flush matter following paragraph (3), by striking the second sentence;

(2) by redesignating subsection (b) as subsection (c);

(3) by inserting after subsection (a) the following new subsection (b):

"(b) Any person, except for a tribal government, who engages in a delivery sale, and who ships, sells, or distributes any quantity in excess of 10,000 cigarettes, or any quantity in excess of 500 single-unit consumer-sized cans or packages of smokeless tobacco, or their equivalent, within a single month, shall submit to the Attorney General, pursuant to rules or regulations prescribed by the Attorney General, a report that sets forth the following:

"(1) The person's beginning and ending inventory of cigarettes and cans or packages of smokeless tobacco (in total) for such month.

"(2) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person received within such month from each other person (itemized by name and address).

"(3) The total quantity of cigarettes and cans or packages of smokeless tobacco that the person distributed within such month to each person (itemized by name and address) other than a retail purchaser."; and

(4) by adding at the end the following new subsections:

"(d) Any report required to be submitted under this chapter to the Attorney General shall also be submitted to the Secretary of the Treasury and to the attorneys general and the tax administrators of the States from where the shipments, deliveries, or distributions both originated and concluded.

"(e) In this section, the term 'delivery sale' means any sale of cigarettes or smokeless tobacco in interstate commerce to a consumer if—

"(1) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mails, or the Internet or other online service, or by any other means where the consumer is not in the same physical location as the seller when the purchase or offer of sale is made; or

"(2) the cigarettes or smokeless tobacco are delivered by use of the mails, common carrier, private delivery service, or any other means where the consumer is not in the same physical location as the seller when the consumer obtains physical possession of the cigarettes or smokeless tobacco.

"(f) In this section, the term 'interstate commerce' means commerce between a State and any place outside the State, or commerce between points in the same State but through any place outside the State.".

(d) Disposal or Use of Forfeited Cigarettes and Smokeless Tobacco.—Section 2344(c) of that title, as amended by this section, is further amended by striking "seizure and forfeiture." and all that follows and inserting "seizure and forfeiture, and any cigarettes or smokeless tobacco so seized and forfeited shall be either—

"(1) destroyed and not resold; or

"(2) used for undercover investigative operations for the detection and prosecution of crimes, and then destroyed and not resold.".

(e) Effect on State and Local Law.—Section 2345 of that title is amended—

(1) in subsection (a), by striking "a State to enact and enforce" and inserting "a State or local government to enact and enforce its own"; and

(2) in subsection (b), by striking "of States, through interstate compact or otherwise, to provide for the administration of State" and inserting "of State or local governments, through interstate compact or otherwise, to provide for the administration of State or local".

(f) Enforcement.—Section 2346 of that title is amended—

(1) by inserting "(a)" before "The Attorney General"; and

(2) by adding at the end the following new subsection:

"(b)(1) A State, through its attorney general, a local government, through its chief law enforcement officer (or a designee thereof), or any person who holds a permit under chapter 52 of the Internal Revenue Code of 1986, may bring an action in the United States district courts to prevent and restrain violations of this chapter by any person (or by any person controlling such person), except that any person who holds a permit under chapter 52 of the Internal Revenue Code of 1986 may not bring such an action against a State or local government. No civil action may be commenced under this paragraph against an Indian tribe or an Indian in Indian country (as defined in section 1151).

"(2) A State, through its attorney general, or a local government, through its chief law enforcement officer (or a designee thereof), may in a civil action under paragraph (1) also obtain any other appropriate relief for violations of this chapter from any person (or by any person controlling such person), including civil penalties, money damages, and injunctive or other equitable relief. Nothing in this chapter shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government, or an Indian tribe against any unconsented lawsuit under this chapter, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government, or an Indian tribe.

"(3) The remedies under paragraphs (1) and (2) are in addition to any other remedies under Federal, State, local, or other law.

"(4) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

"(5) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.".

(g) Conforming and Clerical Amendments.—(1) The section heading for section 2343 of that title is amended to read as follows:

**"§ 2343. Recordkeeping, reporting, and inspection".**

(2) The section heading for section 2345 of such title is amended to read as follows:

**"§ 2345. Effect on State and local law".**

(3) The table of sections at the beginning of chapter 114 of that title is amended—

(A) by striking the item relating to section 2343 and inserting the following new item:

"2343. Recordkeeping, reporting, and inspection.";

and

(B) by striking the item relating to section 2345 and insert the following new item:

"2345. Effect on State and local law.".

(4)(A) The heading for chapter 114 of that title is amended to read as follows:

**"CHAPTER 114—TRAFFICKING IN CONTRABAND CIGARETTES AND SMOKELESS TOBACCO".**

(B) The table of chapters at the beginning of part I of that title is amended by striking the item relating to section 114 and inserting the following new item:

**"114. Trafficking in contraband cigarettes and smokeless tobacco ....... 2341".**

### SEC. 124. PROHIBITION OF NARCO-TERRORISM.

Part A of the Controlled Substance Import and Export Act (21 U.S.C. 951 et seq.) is amended by inserting after section 1010 the following:

"NARCO-TERRORISTS WHO AID AND SUPPORT TERRORISTS OR FOREIGN TERRORIST ORGANIZATIONS

"Sec. 1010A. (a) Prohibited Acts.—Whoever, in a circumstance described in subsection (c), manufactures, distributes, imports, exports, or possesses with intent to distribute or manufacture a controlled substance, flunitrazepam, or listed chemical, or attempts or conspires to do so, knowing or intending that such activity, directly or indirectly, aids or provides support, resources, or anything of pecuniary value to—

"(1) a foreign terrorist organization; or

"(2) any person or group involved in the planning, preparation for, or carrying out of, a terrorist offense, shall be punished as provided under subsection (b).

"(b) Penalties.—Whoever violates subsection (a) shall be fined under this title, imprisoned for not less than 20 years and not more than life and shall be sentenced to a term of supervised release of not less than 5 years.

"(c) Jurisdiction.—There is jurisdiction over an offense under this section if—

"(1) the prohibited drug activity or the terrorist offense is in violation of the criminal laws of the United States;

"(2) the offense or the prohibited drug activity occurs in or affects interstate or foreign commerce;

"(3) the offense, the prohibited drug activity or the terrorist offense involves the use of the mails or a facility of interstate or foreign commerce;

"(4) the terrorist offense occurs in or affects interstate or foreign commerce or would have occurred in or affected interstate or foreign commerce had it been consummated;

"(5) an offender provides anything of pecuniary value to a foreign terrorist organization;

"(6) an offender provides anything of pecuniary value for a terrorist offense that is designed to influence the policy or affect the conduct of the United States government;

"(7) an offender provides anything of pecuniary value for a terrorist offense that occurs in part within the United States and is designed to influence the policy or affect the conduct of a foreign government;

"(8) an offender provides anything of pecuniary value for a terrorist offense that causes or is designed to cause death or serious bodily injury to a national of the United States while that national is outside the United States, or substantial damage to the property of a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions) while that property is outside of the United States;

"(9) the offense occurs in whole or in part within the United States, and an offender provides anything of pecuniary value for a terrorist offense that is designed to influence the policy or affect the conduct of a foreign government;

"(10) the offense or the prohibited drug activity occurs in whole or in part outside of the United States (including on the high seas), and a perpetrator of the offense or the prohibited drug activity is a national of the United States or a legal entity organized under the laws of the United States (including any of its States, districts, commonwealths, territories, or possessions); or

"(11) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States.

"(d) Proof Requirements.—The prosecution shall not be required to prove that any defendant knew that an organization was designated as a 'foreign terrorist organization' under the Immigration and Nationality Act.

"(e) Definitions.—In this section, the following definitions shall apply:

"(1) Anything of Pecuniary Value.—The term 'anything of pecuniary value' has the meaning given the term in section 1958(b)(1) of title 18, United States Code.

"(2) Terrorist Offense.—The term 'terrorist offense' means—

"(A) an act which constitutes an offense within the scope of a treaty, as defined under section 2339C(e)(7) of title 18, United States Code, which has been implemented by the United States;

"(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act.

"(3) Terrorist Organization.—The term 'terrorist organization' has the meaning given the term in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).".

### SEC. 125. INTERFERING WITH THE OPERATION OF AN AIRCRAFT.

Section 32 of title 18, United States Code, is amended—

(1) in subsection (a), by redesignating paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8) respectively;

(2) by inserting after paragraph (4) of subsection (a), the following:

"(5) interferes with or disables, with intent to endanger the safety of any person or with a reckless disregard for the safety of human life, anyone engaged in the authorized operation of such aircraft or any air navigation facility aiding in the navigation of any such aircraft;";

(3) in subsection (a)(8), by striking "paragraphs (1) through (6)" and inserting "paragraphs (1) through (7)"; and

(4) in subsection (c), by striking "paragraphs (1) through (5)" and inserting "paragraphs (1) through (6)".

### SEC. 126. SENSE OF CONGRESS RELATING TO LAWFUL POLITICAL ACTIVITY.

It is the sense of Congress that the Federal Government should not investigate an American citizen for alleged criminal conduct solely on the basis of the citizen's membership in a non-violent political organization or the fact that the citizen was engaging in other lawful political activity.

### SEC. 127. REPEAL OF FIRST RESPONDER GRANT PROGRAM.

Section 1014 of the USA PATRIOT ACT is amended by striking subsection (c).

### SEC. 128. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

(a) IN GENERAL.—The Homeland Security Act of 2002 (Public Law 107-296; 6 U.S.C. 361 et seq.) is amended—

(1) in section 1(b) in the table of contents by adding at the end the following:

"TITLE XVIII—FUNDING FOR FIRST RESPONDERS

"1801. Definitions.
"1802. Faster and Smarter Funding for First Responders.
"1803. Covered grant eligibility and criteria.
"1804. Risk-based evaluation and prioritization.
"1805. Task Force on Terrorism Preparedness for First Responders.
"1806. Use of funds and accountability requirements.
"1807. National standards for first responder equipment and training.".

(2) by adding at the end the following:

## "TITLE XVIII—FUNDING FOR FIRST RESPONDERS

### "SEC. 1801. DEFINITIONS.

"In this title:

"(1) BOARD.—The term 'Board' means the First Responder Grants Board established under section 1804.

"(2) COVERED GRANT.—The term 'covered grant' means any grant to which this title applies under section 1802.

"(3) DIRECTLY ELIGIBLE TRIBE.—The term 'directly eligible tribe' means any Indian tribe or consortium of Indian tribes that—

"(A) meets the criteria for inclusion in the qualified applicant pool for Self-Governance that are set forth in section 402(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458bb(c));

"(B) employs at least 10 full-time personnel in a law enforcement or emergency response agency with the capacity to respond to calls for law enforcement or emergency services; and

"(C)(i) is located on, or within 5 miles of, an international border or waterway;

"(ii) is located within 5 miles of a facility designated as high-risk critical infrastructure by the Secretary;

"(iii) is located within or contiguous to one of the 50 largest metropolitan statistical areas in the United States; or

"(iv) has more than 1,000 square miles of Indian country, as that term is defined in section 1151 of title 18, United States Code.

"(4) ELEVATIONS IN THE THREAT ALERT LEVEL.—The term 'elevations in the threat alert level' means any designation (including those that are less than national in scope) that raises the homeland security threat level to either the highest or second highest threat level under the Homeland Security Advisory System referred to in section 201(d)(7).

"(5) EMERGENCY PREPAREDNESS.—The term 'emergency preparedness' shall have the same meaning that term has under section 602 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a).

"(6) ESSENTIAL CAPABILITIES.—The term 'essential capabilities' means the levels, availability, and competence of emergency personnel, planning, training, and equipment across a variety of disciplines needed to effectively and efficiently prevent, prepare for, respond to, and recover from acts of terrorism consistent with established practices.

"(7) FIRST RESPONDER.—The term 'first responder' shall have the same meaning as the term 'emergency response provider'.

"(8) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaskan Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(9) REGION.—The term 'region' means—

"(A) any geographic area consisting of all or parts of 2 or more contiguous States, counties, municipalities, or other local governments that have a combined population of at least 1,650,000 or have an area of not less than 20,000 square miles, and that, for purposes of an application for a covered grant, is represented by 1 or more governments or governmental agencies within such geographic area, and that is established by law or by agreement of 2 or more such governments or governmental agencies in a mutual aid agreement; or

"(B) any other combination of contiguous local government units (including such a combination established by law or agreement of two or more governments or governmental agencies in a mutual aid agreement) that is formally certified by the Secretary as a region for purposes of this Act with the consent of—

"(i) the State or States in which they are located, including a multi-State entity established by a compact between two or more States; and

"(ii) the incorporated municipalities, counties, and parishes that they encompass.

"(10) TASK FORCE.—The term 'Task Force' means the Task Force on Terrorism Preparedness for First Responders established under section 1805.

"(11) TERRORISM PREPAREDNESS.—The term 'terrorism preparedness' means any activity designed to improve the ability to prevent, prepare for, respond to, mitigate against, or recover from threatened or actual terrorist attacks.

### "SEC. 1802. FASTER AND SMARTER FUNDING FOR FIRST RESPONDERS.

"(a) COVERED GRANTS.—This title applies to grants provided by the Department to States, regions, or directly eligible tribes for the primary purpose of improving the ability of first responders to prevent, prepare for, respond to, mitigate against, or recover from threatened or actual terrorist attacks, especially those involving weapons of mass destruction, administered under the following:

"(1) STATE HOMELAND SECURITY GRANT PROGRAM.—The State Homeland Security Grant Program of the Department, or any successor to such grant program.

"(2) URBAN AREA SECURITY INITIATIVE.—The Urban Area Security Initiative of the Department, or any successor to such grant program.

"(3) LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM.—The Law Enforcement Terrorism Prevention Program of the Department, or any successor to such grant program.

"(b) EXCLUDED PROGRAMS.—This title does not apply to or otherwise affect the following Federal grant programs or any grant under such a program:

"(1) NONDEPARTMENT PROGRAMS.—Any Federal grant program that is not administered by the Department.

"(2) FIRE GRANT PROGRAMS.—The fire grant programs authorized by sections 33 and 34 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229, 2229a).

"(3) EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE ACCOUNT GRANTS.—The Emergency Management Performance Grant program and the Urban Search and Rescue Grants program authorized by title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.); the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (113 Stat. 1047 et seq.); and the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

### "SEC. 1803. COVERED GRANT ELIGIBILITY AND CRITERIA.

"(a) GRANT ELIGIBILITY.—Any State, region, or directly eligible tribe shall be eligible to apply for a covered grant.

"(b) GRANT CRITERIA.—The Secretary shall award covered grants to assist States and local governments in achieving, maintaining, and enhancing the essential capabilities for terrorism preparedness established by the Secretary.

"(c) STATE HOMELAND SECURITY PLANS.—

"(1) SUBMISSION OF PLANS.—The Secretary shall require that any State applying to the Secretary for a covered grant must submit to the Secretary a 3-year State homeland security plan that—

"(A) describes the essential capabilities that communities within the State should possess, or to which they should have access, based upon the terrorism risk factors relevant to such communities, in order to meet the Department's goals for terrorism preparedness;

"(B) demonstrates the extent to which the State has achieved the essential capabilities that apply to the State;

"(C) demonstrates the needs of the State necessary to achieve, maintain, or enhance the essential capabilities that apply to the State;

"(D) includes a prioritization of such needs based on threat, vulnerability, and consequence assessment factors applicable to the State;

"(E) describes how the State intends—

"(i) to address such needs at the city, county, regional, tribal, State, and interstate level, including a precise description of any regional structure the State has established for the purpose of organizing homeland security preparedness activities funded by covered grants;

"(ii) to use all Federal, State, and local resources available for the purpose of addressing such needs; and

"(iii) to give particular emphasis to regional planning and cooperation, including the activities of multijurisdictional planning agencies governed by local officials, both within its jurisdictional borders and with neighboring States;

"(F) with respect to the emergency preparedness of first responders, addresses the unique aspects of terrorism as part of a comprehensive State emergency management plan; and

"(G) provides for coordination of response and recovery efforts at the local level, including procedures for effective incident command in conformance with the National Incident Management System.

"(2) CONSULTATION.—The State plan submitted under paragraph (1) shall be developed in consultation with and subject to appropriate comment by local governments and first responders within the State.

"(3) APPROVAL BY SECRETARY.—The Secretary may not award any covered grant to a State unless the Secretary has approved the applicable State homeland security plan.

"(4) REVISIONS.—A State may revise the applicable State homeland security plan approved by the Secretary under this subsection, subject to approval of the revision by the Secretary.

"(d) CONSISTENCY WITH STATE PLANS.—The Secretary shall ensure that each covered grant is used to supplement and support, in a consistent and coordinated manner, the applicable State homeland security plan or plans.

"(e) APPLICATION FOR GRANT.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any State, region, or directly eligible tribe may apply for a covered grant by submitting to the Secretary an application at such time, in such manner, and containing such information as is required under this subsection, or as the Secretary may reasonably require.

"(2) DEADLINES FOR APPLICATIONS AND AWARDS.—All applications for covered grants must be submitted at such time as the Secretary may reasonably require for the fiscal year for which they are submitted. The Secretary shall award covered grants pursuant to all approved applications for such fiscal year as soon as practicable, but not later than March 1 of such year.

"(3) AVAILABILITY OF FUNDS.—All funds awarded by the Secretary under covered grants in a fiscal year shall be available for obligation through the end of the subsequent fiscal year.

"(4) MINIMUM CONTENTS OF APPLICATION.—The Secretary shall require that each applicant include in its application, at a minimum—

"(A) the purpose for which the applicant seeks covered grant funds and the reasons why the applicant needs the covered grant to meet the essential capabilities for terrorism preparedness within the State, region, or directly eligible tribe to which the application pertains;

"(B) a description of how, by reference to the applicable State homeland security plan or plans under subsection (c), the allocation of grant funding proposed in the application, including, where applicable, the amount not passed through under section 1806(g)(1), would assist in fulfilling the essential capabilities for terrorism preparedness specified in such plan or plans;

"(C) a statement of whether a mutual aid agreement applies to the use of all or any portion of the covered grant funds;

"(D) if the applicant is a State, a description of how the State plans to allocate the covered grant funds to regions, local governments, and Indian tribes;

"(E) if the applicant is a region—

"(i) a precise geographical description of the region and a specification of all participating and nonparticipating local governments within the geographical area comprising that region;

"(ii) a specification of what governmental entity within the region will administer the expenditure of funds under the covered grant; and

"(iii) a designation of a specific individual to serve as regional liaison;

"(F) a capital budget showing how the applicant intends to allocate and expend the covered grant funds;

"(G) if the applicant is a directly eligible tribe, a designation of a specific individual to serve as the tribal liaison; and

"(H) a statement of how the applicant intends to meet the matching requirement, if any, that applies under section 1806(g)(2).

"(5) REGIONAL APPLICATIONS.—

"(A) RELATIONSHIP TO STATE APPLICATIONS.—A regional application—

"(i) shall be coordinated with an application submitted by the State or States of which such region is a part;

"(ii) shall supplement and avoid duplication with such State application; and

"(iii) shall address the unique regional aspects of such region's terrorism preparedness needs beyond those provided for in the application of such State or States.

"(B) STATE REVIEW AND SUBMISSION.—To ensure the consistency required under subsection (d) and the coordination required under subparagraph (A) of this paragraph, an applicant that is a region must submit its application to each State of which any part is included in the region for review and concurrence prior to the submission of such application to the Secretary. The regional application shall be transmitted to the Secretary through each such State within 30 days of its receipt, unless the Governor of such a State notifies the Secretary, in writing, that such regional application is inconsistent with the State's homeland security plan and provides an explanation of the reasons therefor.

"(C) DISTRIBUTION OF REGIONAL AWARDS.—If the Secretary approves a regional application, then the Secretary shall distribute a regional award to the State or States submitting the applicable regional application under subparagraph (B), and each such State shall, not later than the end of the 45-day period beginning on the date after receiving a regional award, pass through to the region all covered grant funds or resources purchased with such funds, except those funds necessary for the State to carry out its responsibilities with respect to such regional application: *Provided*, That in no such case shall the State or States pass through to the region less than 80 percent of the regional award.

"(D) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO REGIONS.—Any State that receives a regional award under subparagraph (C) shall certify to the Secretary, by not later than 30 days after the expiration of the period described in subparagraph (C) with respect to the grant, that the State has made available to the region the required funds and resources in accordance with subparagraph (C).

"(E) DIRECT PAYMENTS TO REGIONS.—If any State fails to pass through a regional award to a region as required by subparagraph (C) within 45 days after receiving such award and does not request or receive an extension of such period under section 1806(h)(2), the region may petition the Secretary to receive directly the portion of the regional award that is required to be passed through to such region under subparagraph (C).

"(F) REGIONAL LIAISONS.—A regional liaison designated under paragraph (4)(E)(iii) shall—

"(i) coordinate with Federal, State, local, regional, and private officials within the region concerning terrorism preparedness;

"(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials within the region to assist in the development of the regional application and to improve the region's access to covered grants; and

"(iii) administer, in consultation with State, local, regional, and private officials within the region, covered grants awarded to the region.

"(6) TRIBAL APPLICATIONS.—

"(A) SUBMISSION TO THE STATE OR STATES.—To ensure the consistency required under subsection (d), an applicant that is a directly eligible tribe must submit its application to each State within the boundaries of which any part of such tribe is located for direct submission to the Department along with the application of such State or States.

"(B) OPPORTUNITY FOR STATE COMMENT.—Before awarding any covered grant to a directly eligible tribe, the Secretary shall provide an opportunity to each State within the boundaries of which any part of such tribe is located to comment to the Secretary on the consistency of the tribe's application with the State's homeland security plan. Any such comments shall be submitted to the Secretary concurrently with the submission of the State and tribal applications.

"(C) FINAL AUTHORITY.—The Secretary shall have final authority to determine the consistency of any application of a directly eligible tribe with the applicable State homeland security plan or plans, and to approve any application of such tribe. The Secretary shall notify each State within the boundaries of which any part of such tribe is located of the approval of an application by such tribe.

"(D) TRIBAL LIAISON.—A tribal liaison designated under paragraph (4)(G) shall—

"(i) coordinate with Federal, State, local, regional, and private officials concerning terrorism preparedness;

"(ii) develop a process for receiving input from Federal, State, local, regional, and private sector officials to assist in the development of the application of such tribe and to improve the tribe's access to covered grants; and

"(iii) administer, in consultation with State, local, regional, and private officials, covered grants awarded to such tribe.

"(E) LIMITATION ON THE NUMBER OF DIRECT GRANTS.—The Secretary may make covered grants directly to not more than 20 directly eligible tribes per fiscal year.

"(F) TRIBES NOT RECEIVING DIRECT GRANTS.—An Indian tribe that does not receive a grant directly under this section is eligible to receive funds under a covered grant from the State or States within the boundaries of which any part of such tribe is located, consistent with the homeland security plan of the State as described in subsection (c). If a State fails to comply with section 1806(g)(1), the tribe may request payment under section 1806(h)(3) in the same manner as a local government.

"(7) EQUIPMENT STANDARDS.—If an applicant for a covered grant proposes to upgrade or purchase, with assistance provided under the grant, new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards established by the Secretary, the applicant shall include in the application an explanation of why such equipment or systems will serve the needs of the applicant better than equipment or systems that meet or exceed such standards.

### "SEC. 1804. RISK-BASED EVALUATION AND PRIORITIZATION.

"(a) FIRST RESPONDER GRANTS BOARD.—

"(1) ESTABLISHMENT OF BOARD.—The Secretary shall establish a First Responder Grants Board, consisting of—

"(A) the Secretary;

"(B) the Under Secretary for Emergency Preparedness and Response;

"(C) the Under Secretary for Border and Transportation Security;

"(D) the Under Secretary for Information Analysis and Infrastructure Protection;

"(E) the Under Secretary for Science and Technology;

"(F) the Director of the Office for Domestic Preparedness;

"(G) the Administrator of the United States Fire Administration; and

"(H) the Administrator of the Animal and Plant Health Inspection Service.

"(2) CHAIRMAN.—

"(A) IN GENERAL.—The Secretary shall be the Chairman of the Board.

"(B) EXERCISE OF AUTHORITIES BY DEPUTY SECRETARY.—The Deputy Secretary of Homeland Security may exercise the authorities of the Chairman, if the Secretary so directs.

"(b) FUNCTIONS OF UNDER SECRETARIES.—The Under Secretaries referred to in subsection (a)(1) shall seek to ensure that the relevant expertise and input of the staff of their directorates are available to and considered by the Board.

"(c) PRIORITIZATION OF GRANT APPLICATIONS.—

"(1) FACTORS TO BE CONSIDERED.—The Board shall evaluate and annually prioritize all pending applications for covered grants based upon the degree to which they would, by achieving, maintaining, or enhancing the essential capabilities of the applicants on a nationwide basis, lessen the threat to, vulnerability of, and consequences for persons (including transient commuting and tourist populations) and critical infrastructure. Such evaluation and prioritization shall be based upon the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection of the threats of terrorism against the United States. The Board shall coordinate with State, local, regional, and tribal officials in establishing criteria for evaluating and prioritizing applications for covered grants.

"(2) CRITICAL INFRASTRUCTURE SECTORS.—The Board specifically shall consider threats of terrorism against the following critical infrastructure sectors in all areas of the United States, urban and rural:

"(A) Agriculture and food.

"(B) Banking and finance.

"(C) Chemical industries.

"(D) The defense industrial base.

"(E) Emergency services.

"(F) Energy.

"(G) Government facilities.

"(H) Postal and shipping.

"(I) Public health and health care.

"(J) Information technology.

"(K) Telecommunications.

"(L) Transportation systems.

"(M) Water.

"(N) Dams.

"(O) Commercial facilities.

"(P) National monuments and icons.

The order in which the critical infrastructure sectors are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such sectors.

"(3) TYPES OF THREAT.—The Board specifically shall consider the following types of threat to the critical infrastructure sectors described in paragraph (2), and to populations in all areas of the United States, urban and rural:

"(A) Biological threats.

"(B) Nuclear threats.

"(C) Radiological threats.

"(D) Incendiary threats.

"(E) Chemical threats.

"(F) Explosives.

"(G) Suicide bombers.

"(H) Cyber threats.

"(I) Any other threats based on proximity to specific past acts of terrorism or the known activity of any terrorist group.

The order in which the types of threat are listed in this paragraph shall not be construed as an order of priority for consideration of the importance of such threats.

"(4) CONSIDERATION OF ADDITIONAL FACTORS.—The Board shall take into account any other specific threat to a population (including a transient commuting or tourist population) or critical infrastructure sector that the Board has determined to exist. In evaluating the threat to a population or critical infrastructure sector, the Board shall give greater weight to threats of terrorism based upon their specificity and credibility, including any pattern of repetition.

"(5) MINIMUM AMOUNTS.—After evaluating and prioritizing grant applications under paragraph (1), the Board shall ensure that, for each fiscal year—

"(A) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan receives no less than 0.25 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D);

"(B) each of the States, other than the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, that has an approved State homeland security plan and that meets one or both of the additional high-risk qualifying criteria under paragraph (6) receives no less than 0.45 percent of the funds available for covered grants for that fiscal year for purposes of implementing its homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D);

"(C) the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands each receives no less than 0.08 percent of the funds available for covered grants for that fiscal year for purposes of implementing its approved State homeland security plan in accordance with the prioritization of needs under section 1803(c)(1)(D); and

"(D) directly eligible tribes collectively receive no less than 0.08 percent of the funds available for covered grants for such fiscal year for purposes of addressing the needs identified in the applications of such tribes, consistent with the homeland security plan of each State within the boundaries of which any part of any such tribe is located, except that this clause shall not apply with respect to funds available for a fiscal year if the Secretary receives less than 5 applications for such fiscal year from such tribes under section 1803(e)(6)(A) or does not approve at least one such application.

"(6) ADDITIONAL HIGH-RISK QUALIFYING CRITERIA.—For purposes of paragraph (5)(B), additional high-risk qualifying criteria consist of—

"(A) having a significant international land border; or

"(B) adjoining a body of water within North America through which an international boundary line extends.

"(d) EFFECT OF REGIONAL AWARDS ON STATE MINIMUM.—Any regional award, or portion thereof, provided to a State under section 1803(e)(5)(C) shall not be considered in calculating the minimum State award under subsection (c)(5) of this section.

### "SEC. 1805. TASK FORCE ON TERRORISM PREPAREDNESS FOR FIRST RESPONDERS.

"(a) ESTABLISHMENT.—To assist the Secretary in updating, revising, or replacing essential capabilities for terrorism preparedness, the Secretary shall establish an advisory body pursuant to section 871(a) not later than 60 days after the date of the enactment of this section, which shall be known as the Task Force on Terrorism Preparedness for First Responders.

"(b) UPDATE, REVISE, OR REPLACE.—The Secretary shall regularly update, revise, or replace the essential capabilities for terrorism preparedness as necessary, but not less than every 3 years.

"(c) REPORT.—

"(1) IN GENERAL.—The Task Force shall submit to the Secretary, by not later than 12 months after its establishment by the Secretary under subsection (a) and not later than every 2 years thereafter, a report on its recommendations for essential capabilities for terrorism preparedness.

"(2) CONTENTS.—Each report shall—

"(A) include a priority ranking of essential capabilities in order to provide guidance to the Secretary and to the Congress on determining the appropriate allocation of, and funding levels for, first responder needs;

"(B) set forth a methodology by which any State or local government will be able to determine the extent to which it possesses or has access to the essential capabilities that States and local governments having similar risks should obtain;

"(C) describe the availability of national voluntary consensus standards, and whether there is a need for new national voluntary consensus standards, with respect to first responder training and equipment;

"(D) include such additional matters as the Secretary may specify in order to further the terrorism preparedness capabilities of first responders; and

"(E) include such revisions to the contents of previous reports as are necessary to take into account changes in the most current risk assessment available by the Directorate for Information Analysis and Infrastructure Protection or other relevant information as determined by the Secretary.

"(3) CONSISTENCY WITH FEDERAL WORKING GROUP.—The Task Force shall ensure that its recommendations for essential capabilities for terrorism preparedness are, to the extent feasible, consistent with any preparedness goals or recommendations of the Federal working group established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d-6(a)).

"(4) COMPREHENSIVENESS.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness are made within the context of a comprehensive State emergency management system.

"(5) PRIOR MEASURES.—The Task Force shall ensure that its recommendations regarding essential capabilities for terrorism preparedness take into account any capabilities that State or local officials have determined to be essential and have undertaken since September 11, 2001, to prevent, prepare for, respond to, or recover from terrorist attacks.

"(d) MEMBERSHIP.—

"(1) IN GENERAL.—The Task Force shall consist of 25 members appointed by the Secretary, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of governmental and nongovernmental first responder disciplines from the State and local levels, including as appropriate—

‘‘(A) members selected from the emergency response field, including fire service and law enforcement, hazardous materials response, emergency medical services, and emergency management personnel (including public works personnel routinely engaged in emergency response);

‘‘(B) health scientists, emergency and inpatient medical providers, and public health professionals, including experts in emergency health care response to chemical, biological, radiological, and nuclear terrorism, and experts in providing mental health care during emergency response operations;

‘‘(C) experts from Federal, State, and local governments, and the private sector, representing standards-setting organizations, including representation from the voluntary consensus codes and standards development community, particularly those with expertise in first responder disciplines; and

‘‘(D) State and local officials with expertise in terrorism preparedness, subject to the condition that if any such official is an elected official representing one of the two major political parties, an equal number of elected officials shall be selected from each such party.

‘‘(2) COORDINATION WITH THE DEPARTMENT OF HEALTH AND HEALTH SERVICES.—In the selection of members of the Task Force who are health professionals, including emergency medical professionals, the Secretary shall coordinate such selection with the Secretary of Health and Human Services.

‘‘(3) EX OFFICIO MEMBERS.—The Secretary and the Secretary of Health and Human Services shall each designate one or more officers of their respective Departments to serve as ex officio members of the Task Force. One of the ex officio members from the Department of Homeland Security shall be the designated officer of the Federal Government for purposes of subsection (e) of section 10 of the Federal Advisory Committee Act (5 U.S.C. App.).

‘‘(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—Notwithstanding section 871(a), the Federal Advisory Committee Act (5 U.S.C. App.), including subsections (a), (b), and (d) of section 10 of such Act, and section 552b(c) of title 5, United States Code, shall apply to the Task Force.

### ‘‘SEC. 1806. USE OF FUNDS AND ACCOUNTABILITY REQUIREMENTS.

‘‘(a) IN GENERAL.—A covered grant may be used for—

‘‘(1) purchasing or upgrading equipment, including computer software, to enhance terrorism preparedness;

‘‘(2) exercises to strengthen terrorism preparedness;

‘‘(3) training for prevention (including detection) of, preparedness for, response to, or recovery from attacks involving weapons of mass destruction, including training in the use of equipment and computer software;

‘‘(4) developing or updating State homeland security plans, risk assessments, mutual aid agreements, and emergency management plans to enhance terrorism preparedness;

‘‘(5) establishing or enhancing mechanisms for sharing terrorism threat information;

‘‘(6) systems architecture and engineering, program planning and management, strategy formulation and strategic planning, life-cycle systems design, product and technology evaluation, and prototype development for terrorism preparedness purposes;

‘‘(7) additional personnel costs resulting from—

‘‘(A) elevations in the threat alert level of the Homeland Security Advisory System by the Secretary, or a similar elevation in threat alert level issued by a State, region, or local government with the approval of the Secretary;

‘‘(B) travel to and participation in exercises and training in the use of equipment and on prevention activities; and

‘‘(C) the temporary replacement of personnel during any period of travel to and participation in exercises and training in the use of equipment and on prevention activities;

‘‘(8) the costs of equipment (including software) required to receive, transmit, handle, and store classified information;

‘‘(9) protecting critical infrastructure against potential attack by the addition of barriers, fences, gates, and other such devices, except that the cost of such measures may not exceed the greater of—

‘‘(A) $1,000,000 per project; or

‘‘(B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the covered grant;

‘‘(10) the costs of commercially available interoperable communications equipment (which, where applicable, is based on national, voluntary consensus standards) that the Secretary, in consultation with the Chairman of the Federal Communications Commission, deems best suited to facilitate interoperability, coordination, and integration between and among emergency communications systems, and that complies with prevailing grant guidance of the Department for interoperable communications;

‘‘(11) educational curricula development for first responders to ensure that they are prepared for terrorist attacks;

‘‘(12) training and exercises to assist public elementary and secondary schools in developing and implementing programs to instruct students regarding age-appropriate skills to prevent, prepare for, respond to, mitigate against, or recover from an act of terrorism;

‘‘(13) paying of administrative expenses directly related to administration of the grant, except that such expenses may not exceed 3 percent of the amount of the grant;

‘‘(14) paying for the conduct of any activity permitted under the Law Enforcement Terrorism Prevention Program, or any such successor to such program; and

‘‘(15) other appropriate activities as determined by the Secretary.

‘‘(b) PROHIBITED USES.—Funds provided as a covered grant may not be used—

‘‘(1) to supplant State or local funds;

‘‘(2) to construct buildings or other physical facilities;

‘‘(3) to acquire land; or

‘‘(4) for any State or local government cost sharing contribution.

‘‘(c) MULTIPLE-PURPOSE FUNDS.—Nothing in this section shall be construed to preclude State and local governments from using covered grant funds in a manner that also enhances first responder preparedness for emergencies and disasters unrelated to acts of terrorism, if such use assists such governments in achieving essential capabilities for terrorism preparedness established by the Secretary.

‘‘(d) REIMBURSEMENT OF COSTS.—(1) In addition to the activities described in subsection (a), a covered grant may be used to provide a reasonable stipend to paid-on-call or volunteer first responders who are not otherwise compensated for travel to or participation in training covered by this section. Any such reimbursement shall not be considered compensation for purposes of rendering such a first responder an employee under the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

‘‘(2) An applicant for a covered grant may petition the Secretary for the reimbursement of the cost of any activity relating to prevention (including detection) of, preparedness for, response to, or recovery from acts of terrorism that is a Federal duty and usually performed by a Federal agency, and that is being performed by a State or local government (or both) under agreement with a Federal agency.

‘‘(e) ASSISTANCE REQUIREMENT.—The Secretary may not require that equipment paid for, wholly or in part, with funds provided as a covered grant be made available for responding to emergencies in surrounding States, regions, and localities, unless the Secretary undertakes to pay the costs directly attributable to transporting and operating such equipment during such response.

‘‘(f) FLEXIBILITY IN UNSPENT HOMELAND SECURITY GRANT FUNDS.—Upon request by the recipient of a covered grant, the Secretary may authorize the grantee to transfer all or part of funds provided as the covered grant from uses specified in the grant agreement to other uses authorized under this section, if the Secretary determines that such transfer is in the interests of homeland security.

‘‘(g) STATE, REGIONAL, AND TRIBAL RESPONSIBILITIES.—

‘‘(1) PASS-THROUGH.—The Secretary shall require a recipient of a covered grant that is a State to obligate or otherwise make available to local governments, first responders, and other local groups, to the extent required under the State homeland security plan or plans specified in the application for the grant, not less than 80 percent of the grant funds, resources purchased with the grant funds having a value equal to at least 80 percent of the amount of the grant, or a combination thereof, by not later than the end of the 45-day period beginning on the date the grant recipient receives the grant funds.

‘‘(2) COST SHARING.—

‘‘(A) IN GENERAL.—The Federal share of the costs of an activity carried out with a covered grant to a State, region, or directly eligible tribe awarded after the 2-year period beginning on the date of the enactment of this section shall not exceed 75 percent.

‘‘(B) INTERIM RULE.—The Federal share of the costs of an activity carried out with a covered grant awarded before the end of the 2-year period beginning on the date of the enactment of this section shall be 100 percent.

‘‘(C) IN-KIND MATCHING.—Each recipient of a covered grant may meet the matching requirement under subparagraph (A) by making in-kind contributions of goods or services that are directly linked with the purpose for which the grant is made, including, but not limited to, any necessary personnel overtime, contractor services, administrative costs, equipment fuel and maintenance, and rental space.

‘‘(3) CERTIFICATIONS REGARDING DISTRIBUTION OF GRANT FUNDS TO LOCAL GOVERNMENTS.—Any State that receives a covered grant shall certify to the Secretary, by not later than 30 days after the expiration of the period described in paragraph (1) with respect to the grant, that the State has made available for expenditure by local governments, first responders, and other local groups the required amount of grant funds pursuant to paragraph (1).

“(4) QUARTERLY REPORT ON HOMELAND SECURITY SPENDING.—The Federal share described in paragraph (2)(A) may be increased by up to 2 percent for any State, region, or directly eligible tribe that, not later than 30 days after the end of each fiscal quarter, submits to the Secretary a report on that fiscal quarter. Each such report must include, for each recipient of a covered grant or a pass-through under paragraph (1)—

“(A) the amount obligated to that recipient in that quarter;

“(B) the amount expended by that recipient in that quarter; and

“(C) a summary description of the items purchased by such recipient with such amount.

“(5) ANNUAL REPORT ON HOMELAND SECURITY SPENDING.—Each recipient of a covered grant shall submit an annual report to the Secretary not later than 60 days after the end of each Federal fiscal year. Each recipient of a covered grant that is a region must simultaneously submit its report to each State of which any part is included in the region. Each recipient of a covered grant that is a directly eligible tribe must simultaneously submit its report to each State within the boundaries of which any part of such tribe is located. Each report must include the following:

“(A) The amount, ultimate recipients, and dates of receipt of all funds received under the grant during the previous fiscal year.

“(B) The amount and the dates of disbursements of all such funds expended in compliance with paragraph (1) or pursuant to mutual aid agreements or other sharing arrangements that apply within the State, region, or directly eligible tribe, as applicable, during the previous fiscal year.

“(C) How the funds were utilized by each ultimate recipient or beneficiary during the preceding fiscal year.

“(D) The extent to which essential capabilities identified in the applicable State homeland security plan or plans were achieved, maintained, or enhanced as the result of the expenditure of grant funds during the preceding fiscal year.

“(E) The extent to which essential capabilities identified in the applicable State homeland security plan or plans remain unmet.

“(6) INCLUSION OF RESTRICTED ANNEXES.—A recipient of a covered grant may submit to the Secretary an annex to the annual report under paragraph (5) that is subject to appropriate handling restrictions, if the recipient believes that discussion in the report of unmet needs would reveal sensitive but unclassified information.

“(7) PROVISION OF REPORTS.—The Secretary shall ensure that each annual report under paragraph (5) is provided to the Under Secretary for Emergency Preparedness and Response and the Director of the Office for Domestic Preparedness.

“(h) INCENTIVES TO EFFICIENT ADMINISTRATION OF HOMELAND SECURITY GRANTS.—

“(1) PENALTIES FOR DELAY IN PASSING THROUGH LOCAL SHARE.—If a recipient of a covered grant that is a State fails to pass through to local governments, first responders, and other local groups funds or resources required by subsection (g)(1) within 45 days after receiving funds under the grant, the Secretary may—

“(A) reduce grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1);

“(B) terminate payment of funds under the grant to the recipient, and transfer the appropriate portion of those funds directly to local first responders that were intended to receive funding under that grant; or

“(C) impose additional restrictions or burdens on the recipient's use of funds under the grant, which may include—

“(i) prohibiting use of such funds to pay the grant recipient's grant-related overtime or other expenses;

“(ii) requiring the grant recipient to distribute to local government beneficiaries all or a portion of grant funds that are not required to be passed through under subsection (g)(1); or

“(iii) for each day that the grant recipient fails to pass through funds or resources in accordance with subsection (g)(1), reducing grant payments to the grant recipient from the portion of grant funds that is not required to be passed through under subsection (g)(1), except that the total amount of such reduction may not exceed 20 percent of the total amount of the grant.

“(2) EXTENSION OF PERIOD.—The Governor of a State may request in writing that the Secretary extend the 45-day period under section 1803(e)(5)(E) or paragraph (1) for an additional 15-day period. The Secretary may approve such a request, and may extend such period for additional 15-day periods, if the Secretary determines that the resulting delay in providing grant funding to the local government entities that will receive funding under the grant will not have a significant detrimental impact on such entities' terrorism preparedness efforts.

“(3) PROVISION OF NON-LOCAL SHARE TO LOCAL GOVERNMENT.—

“(A) IN GENERAL.—The Secretary may upon request by a local government pay to the local government a portion of the amount of a covered grant awarded to a State in which the local government is located, if—

“(i) the local government will use the amount paid to expedite planned enhancements to its terrorism preparedness as described in any applicable State homeland security plan or plans;

“(ii) the State has failed to pass through funds or resources in accordance with subsection (g)(1); and

“(iii) the local government complies with subparagraphs (B) and (C).

“(B) SHOWING REQUIRED.—To receive a payment under this paragraph, a local government must demonstrate that—

“(i) it is identified explicitly as an ultimate recipient or intended beneficiary in the approved grant application;

“(ii) it was intended by the grantee to receive a severable portion of the overall grant for a specific purpose that is identified in the grant application;

“(iii) it petitioned the grantee for the funds or resources after expiration of the period within which the funds or resources were required to be passed through under subsection (g)(1); and

“(iv) it did not receive the portion of the overall grant that was earmarked or designated for its use or benefit.

“(C) EFFECT OF PAYMENT.—Payment of grant funds to a local government under this paragraph—

“(i) shall not affect any payment to another local government under this paragraph; and

“(ii) shall not prejudice consideration of a request for payment under this paragraph that is submitted by another local government.

“(D) DEADLINE FOR ACTION BY SECRETARY.—The Secretary shall approve or disapprove each request for payment under this paragraph by not later than 15 days after the date the request is received by the Department.

“(i) REPORTS TO CONGRESS.—The Secretary shall submit an annual report to the Congress by January 31 of each year covering the preceding fiscal year—

“(1) describing in detail the amount of Federal funds provided as covered grants that were directed to each State, region, and directly eligible tribe in the preceding fiscal year;

“(2) containing information on the use of such grant funds by grantees; and

“(3) describing—

“(A) the Nation's progress in achieving, maintaining, and enhancing the essential capabilities established by the Secretary as a result of the expenditure of covered grant funds during the preceding fiscal year; and

“(B) an estimate of the amount of expenditures required to attain across the United States the essential capabilities established by the Secretary.

**“SEC. 1807. NATIONAL STANDARDS FOR FIRST RESPONDER EQUIPMENT AND TRAINING.**

“(a) EQUIPMENT STANDARDS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall, not later than 6 months after the date of enactment of this section, support the development of, promulgate, and update as necessary national voluntary consensus standards for the performance, use, and validation of first responder equipment for purposes of section 1805(e)(7). Such standards—

“(A) shall be, to the maximum extent practicable, consistent with any existing voluntary consensus standards;

“(B) shall take into account, as appropriate, new types of terrorism threats that may not have been contemplated when such existing standards were developed;

“(C) shall be focused on maximizing interoperability, interchangeability, durability, flexibility, efficiency, efficacy, portability, sustainability, and safety; and

“(D) shall cover all appropriate uses of the equipment.

“(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary shall specifically consider the following categories of first responder equipment:

“(A) Thermal imaging equipment.

“(B) Radiation detection and analysis equipment.

“(C) Biological detection and analysis equipment.

“(D) Chemical detection and analysis equipment.

“(E) Decontamination and sterilization equipment.

“(F) Personal protective equipment, including garments, boots, gloves, and hoods and other protective clothing.

“(G) Respiratory protection equipment.

“(H) Interoperable communications, including wireless and wireline voice, video, and data networks.

“(I) Explosive mitigation devices and explosive detection and analysis equipment.

“(J) Containment vessels.

“(K) Contaminant-resistant vehicles.

“(L) Such other equipment for which the Secretary determines that national voluntary consensus standards would be appropriate.

“(b) TRAINING STANDARDS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Under Secretaries for

Emergency Preparedness and Response and Science and Technology and the Director of the Office for Domestic Preparedness, shall support the development of, promulgate, and regularly update as necessary national voluntary consensus standards for first responder training carried out with amounts provided under covered grant programs, that will enable State and local government first responders to achieve optimal levels of terrorism preparedness as quickly as practicable. Such standards shall give priority to providing training to—

"(A) enable first responders to prevent, prepare for, respond to, mitigate against, and recover from terrorist threats, including threats from chemical, biological, nuclear, and radiological weapons and explosive devices capable of inflicting significant human casualties; and

"(B) familiarize first responders with the proper use of equipment, including software, developed pursuant to the standards established under subsection (a).

"(2) REQUIRED CATEGORIES.—In carrying out paragraph (1), the Secretary specifically shall include the following categories of first responder activities:

"(A) Regional planning.

"(B) Joint exercises.

"(C) Intelligence collection, analysis, and sharing.

"(D) Emergency notification of affected populations.

"(E) Detection of biological, nuclear, radiological, and chemical weapons of mass destruction.

"(F) Such other activities for which the Secretary determines that national voluntary consensus training standards would be appropriate.

"(3) CONSISTENCY.—In carrying out this subsection, the Secretary shall ensure that such training standards are consistent with the principles of emergency preparedness for all hazards.

"(c) CONSULTATION WITH STANDARDS ORGANIZATIONS.—In establishing national voluntary consensus standards for first responder equipment and training under this section, the Secretary shall consult with relevant public and private sector groups, including—

"(1) the National Institute of Standards and Technology;

"(2) the National Fire Protection Association;

"(3) the National Association of County and City Health Officials;

"(4) the Association of State and Territorial Health Officials;

"(5) the American National Standards Institute;

"(6) the National Institute of Justice;

"(7) the Inter-Agency Board for Equipment Standardization and Interoperability;

"(8) the National Public Health Performance Standards Program;

"(9) the National Institute for Occupational Safety and Health;

"(10) ASTM International;

"(11) the International Safety Equipment Association;

"(12) the Emergency Management Accreditation Program; and

"(13) to the extent the Secretary considers appropriate, other national voluntary consensus standards development organizations, other interested Federal, State, and local agencies, and other interested persons.

"(d) COORDINATION WITH SECRETARY OF HHS.—In establishing any national voluntary consensus standards under this section for first responder equipment or training that involve or relate to health professionals, including emergency medical professionals, the Secretary shall coordinate activities under this section with the Secretary of Health and Human Services.".

(b) DEFINITION OF EMERGENCY RESPONSE PROVIDERS.—Paragraph (6) of section 2 of the Homeland Security Act of 2002 (Public Law 107-296; 6 U.S.C. 101(6)) is amended by striking "includes" and all that follows and inserting "includes Federal, State, and local governmental and nongovernmental emergency public safety, law enforcement, fire, emergency response, emergency medical (including hospital emergency facilities), and related personnel, organizations, agencies, and authorities.".

### SEC. 129. OVERSIGHT.

The Secretary of Homeland Security shall establish within the Office for Domestic Preparedness an Office of the Comptroller to oversee the grants distribution process and the financial management of the Office for Domestic Preparedness.

### SEC. 130. GAO REPORT ON AN INVENTORY AND STATUS OF HOMELAND SECURITY FIRST RESPONDER TRAINING.

(a) IN GENERAL.—The Comptroller General of the United States shall report to the Congress in accordance with this section—

(1) on the overall inventory and status of first responder training programs of the Department of Homeland Security and other departments and agencies of the Federal Government; and

(2) the extent to which such programs are coordinated.

(b) CONTENTS OF REPORTS.—The reports under this section shall include—

(1) an assessment of the effectiveness of the structure and organization of such training programs;

(2) recommendations to—

(A) improve the coordination, structure, and organization of such training programs; and

(B) increase the availability of training to first responders who are not able to attend centralized training programs;

(3) the structure and organizational effectiveness of such programs for first responders in rural communities;

(4) identification of any duplication or redundancy among such programs;

(5) a description of the use of State and local training institutions, universities, centers, and the National Domestic Preparedness Consortium in designing and providing training;

(6) a cost-benefit analysis of the costs and time required for first responders to participate in training courses at Federal institutions;

(7) an assessment of the approval process for certifying non-Department of Homeland Security training courses that are useful for anti-terrorism purposes as eligible for grants awarded by the Department;

(8) a description of the use of Department of Homeland Security grant funds by States and local governments to acquire training;

(9) an analysis of the feasibility of Federal, State, and local personnel to receive the training that is necessary to adopt the National Response Plan and the National Incident Management System; and

(10) the role of each first responder training institution within the Department of Homeland Security in the design and implementation of terrorism preparedness and related training courses for first responders.

(c) DEADLINES.—The Comptroller General shall—

(1) submit a report under subsection (a)(1) by not later than 60 days after the date of the enactment of this Act; and

(2) submit a report on the remainder of the topics required by this section by not later than 120 days after the date of the enactment of this Act.

### SEC. 131. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) does not apply to a person if—

(1) the person's act or omission causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This section preempts the laws of any State to the extent that such laws are inconsistent with this section, except that notwithstanding subsection (b) this section shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term "person" includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term "fire control or fire rescue equipment" includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) STATE.—The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term "volunteer fire company" means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this section.

### SEC. 132. REPORT BY ATTORNEY GENERAL.

(a) REPORTS ON DATA-MINING ACTIVITIES.—

(1) REQUIREMENT FOR REPORT.—The Attorney General shall collect the information described in paragraph (2) from the head of each department or agency of the Federal Government that is engaged in any activity to use or develop data-mining technology and shall report to Congress on all such activities.

(2) CONTENT OF REPORT.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology and the data that will be used.

(B) A thorough discussion of the plans for the use of such technology and the target dates for the deployment of the data-mining technology.

(C) An assessment of the likely efficacy of the data-mining technology in providing accurate and valuable information consistent with the stated plans for the use of the technology.

(D) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(E) A list and analysis of the laws and regulations that govern the information to be collected, reviewed, gathered, and analyzed with the data-mining technology and a description of any modifications of such laws that will be required to use the information in the manner proposed under such program.

(F) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(G) A thorough discussion of the procedures allowing individuals whose personal information will be used in the data-mining technology to be informed of the use of their personal information and what procedures are in place to allow for individuals to opt out of the technology. If no such procedures are in place, a thorough explanation as to why not.

(H) Any necessary classified information in an annex that shall be available to the Committee on the Judiciary of both the Senate and the House of Representatives.

(3) TIME FOR REPORT.—The report required under paragraph (1) shall be—

(A) submitted not later than 180 days after the date of enactment of this Act; and

(B) updated once a year to include any new data-mining technologies.

(b) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term "data-mining" means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government for purposes other than intelligence or law enforcement;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist or other criminal activity.

(2) DATABASE.—The term "database" does not include telephone directories, information publicly available via the Internet or available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

### SEC. 133. SENSE OF CONGRESS.

It is the sense of Congress that under section 981 of title 18, United States Code, victims of terrorists attacks should have access to the assets forfeited.

## TITLE II—TERRORIST DEATH PENALTY ENHANCEMENT

### SEC. 201. SHORT TITLE.

This title may be cited as the "Terrorist Death Penalty Enhancement Act of 2005".

## Subtitle A—Terrorist Penalties Enhancement Act

### SEC. 211. TERRORIST OFFENSE RESULTING IN DEATH.

(a) NEW OFFENSE.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

**"§ 2339E. Terrorist offenses resulting in death**

"(a) Whoever, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death or imprisoned for any term of years or for life.

"(b) As used in this section, the term 'terrorist offense' means—

"(1) a Federal felony offense that is—

"(A) a Federal crime of terrorism as defined in section 2332b(g) except to the extent such crime is an offense under section 1363; or

"(B) an offense under this chapter, section 175, 175b, 229, or 831, or section 236 of the Atomic Energy Act of 1954; or

"(2) a Federal offense that is an attempt or conspiracy to commit an offense described in paragraph (1).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end the following new item:

"2339E. Terrorist offenses resulting in death.".

### SEC. 212. DENIAL OF FEDERAL BENEFITS TO TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by section 211 of this subtitle, is further amended by adding at the end the following:

**"§ 2339F. Denial of Federal benefits to terrorists**

"(a) An individual or corporation who is convicted of a terrorist offense (as defined in section 2339E) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

"(b) As used in this section, the term 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act, and also includes any assistance or benefit described in section 115(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, with the same limitations and to the same extent as provided in section 115 of that Act with respect to denials of benefits and assistance to which that section applies.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of the chapter 113B of title 18, United States Code, as amended by section 211 of this subtitle, is further amended by adding at the end the following new item:

"2339E. Denial of federal benefits to terrorists.".

### SEC. 213. DEATH PENALTY PROCEDURES FOR CERTAIN AIR PIRACY CASES OCCURRING BEFORE ENACTMENT OF THE FEDERAL DEATH PENALTY ACT OF 1994.

Section 60003 of the Violent Crime Control and Law Enforcement Act of 1994, (Public Law 103–322), is amended, as of the time of its enactment, by adding at the end the following:

"(c) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103–322), but after the enactment of the Antihijacking Act of 1974 (Public Law 93-366), it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term 'especially heinous, cruel, or depraved', as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language 'in that it involved torture or serious physical abuse to the victim', and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code.".

### SEC. 214. ENSURING DEATH PENALTY FOR TERRORIST OFFENSES WHICH CREATE GRAVE RISK OF DEATH.

(a) ADDITION OF TERRORISM TO DEATH PENALTY OFFENSES NOT RESULTING IN DEATH.—Section 3591(a)(1) of title 18, United States Code, is amended by inserting ", section 2339E," after "section 794".

(b) MODIFICATION OF AGGRAVATING FACTORS FOR TERRORISM OFFENSES.—Section 3592(b) of title 18, United States Code, is amended—

(1) in the heading, by inserting ", terrorism," after "espionage"; and

(2) by inserting immediately after paragraph (3) the following:

"(4) SUBSTANTIAL PLANNING.—The defendant committed the offense after substantial planning.".

### SEC. 215. POSTRELEASE SUPERVISION OF TERRORISTS.

Section 3583(j) of title 18, United States Code, is amended in subsection (j), by striking ", the commission" and all that follows through "person," .

## Subtitle B—Prevention of Terrorist Access to Destructive Weapons Act

### SEC. 221. DEATH PENALTY FOR CERTAIN TERROR RELATED CRIMES.

(a) PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.—Section 832(c) of title 18, United States Code, is amended by inserting "punished by death or" after "shall be".

(b) MISSILE SYSTEMS TO DESTROY AIRCRAFT.—Section 2332g(c)(3) of title 18, United States Code, is amended by inserting "punished by death or" after "shall be".

(c) ATOMIC WEAPONS.—Section 222b.of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by inserting "death or" before "imprisonment for life".

(d) RADIOLOGICAL DISPERSAL DEVICES.—Section 2332h(c)(3) of title 18, United States Code, is amended by inserting "death or" before "imprisonment for life".

(e) VARIOLA VIRUS.—Section 175c(c)(3) of title 18, United States Code, is amended by inserting "death or" before "imprisonment for life".

## Subtitle C—Federal Death Penalty Procedures

### SEC. 231. MODIFICATION OF DEATH PENALTY PROVISIONS.

(a) ELIMINATION OF PROCEDURES APPLICABLE ONLY TO CERTAIN CONTROLLED SUBSTANCES ACT CASES.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) in subsection (e)(2), by striking "(1)(b)" and inserting (1)(B);

(2) by striking subsection (g) and all that follows through subsection (p);

(3) by striking subsection (r); and

(4) in subsection (q), by striking paragraphs (1) through (3).

(b) MODIFICATION OF MITIGATING FACTORS.—Section 3592(a)(4) of title 18, United States Code, is amended—

(1) by striking "Another" and inserting "The Government could have, but has not, sought the death penalty against another"; and

(2) by striking ", will not be punished by death".

(c) MODIFICATION OF AGGRAVATING FACTORS FOR OFFENSES RESULTING IN DEATH.—Section 3592(c) of title 18, United States Code, is amended—

(1) in paragraph (7), by inserting "or by creating the expectation of payment," after "or promise of payment,";

(2) in paragraph (1), by inserting "section 2339E (terrorist offenses resulting in death)," after "destruction),";

(3) by inserting immediately after paragraph (16) the following:

"(17) OBSTRUCTION OF JUSTICE.—The defendant engaged in any conduct resulting in the death of another person in order to obstruct investigation or prosecution of any offense.".

(d) ADDITIONAL GROUND FOR IMPANELING NEW JURY.—Section 3593(b)(2) of title 18, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by inserting after subparagraph (D) the following:

"(E) a new penalty hearing is necessary due to the inability of the jury to reach a unanimous penalty verdict as required by section 3593(e); or".

(e) JURIES OF LESS THAN 12 MEMBERS.—Subsection (b) of section 3593 of title 18, United States Code, is amended by striking "unless" and all that follows through the end of the subsection and inserting "unless the court finds good cause, or the parties stipulate, with the approval of the court, a lesser number.".

(f) IMPANELING OF NEW JURY WHEN UNANIMOUS RECOMMENDATION CANNOT BE REACHED.—Section 3594 of title 18, United States Code, is amended by inserting after the first sentence the following: "If the jury is unable to reach any unanimous recommendation under section 3593(e), the court, upon motion by the Government, may impanel a jury under section 3593(b)(2)(E) for a new sentencing hearing.".

(g) PEREMPTORY CHALLENGES.—Rule 24(c) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (1), by striking "6" and inserting "9"; and

(2) in paragraph (4), by adding at the end the following:

"(C) SEVEN, EIGHT OR NINE ALTERNATES.—Four additional peremptory challenges are permitted when seven, eight, or nine alternates are impaneled.".

## TITLE III—REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

### SEC. 301. SHORT TITLE.

This title may be cited as the "Reducing Crime and Terrorism at America's Seaports Act of 2005".

### SEC. 302. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "or" at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) any secure or restricted area of any seaport, designated as secure in an approved security plan, as required under section 70103 of title 46, United States Code, and the rules and regulations promulgated under that section; or";

(2) in subsection (b)(1), by striking "5 years" and inserting "10 years";

(3) in subsection (c)(1), by inserting ", captain of the seaport," after "airport authority"; and

(4) by striking the section heading and inserting the following:

**"§ 1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport".**

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18 is amended by striking the matter relating to section 1036 and inserting the following:

"1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.".

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

**"§ 26. Definition of seaport**

"As used in this title, the term 'seaport' means all piers, wharves, docks, and similar structures, adjacent to any waters subject to the jurisdiction of the United States, to which a vessel may be secured, including areas of land, water, or land and water under and in immediate proximity to such structures, buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.".

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 25 the following:

"26. Definition of seaport.".

### SEC. 303. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

**"§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information**

"(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

"(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

"(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law or to resist a lawful arrest; or

"(B) intentionally provide materially false information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew.

"(b) Whoever violates this section shall be fined under this title or imprisoned for not more than 5 years, or both.

"(c) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Secretary of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

"(d) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

"(e) In this section—

"(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

"(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

"(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903); and

"(4) the term 'vessel of the United States' has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

"2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.".

### SEC. 304. USE OF A DANGEROUS WEAPON OR EXPLOSIVE ON A PASSENGER VESSEL.

Section 1993 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ", passenger vessel," after "transportation vehicle";

(B) in paragraphs (2)—

(i) by inserting ", passenger vessel," after "transportation vehicle"; and

(ii) by inserting "or owner of the passenger vessel" after "transportation provider" each place that term appears;

(C) in paragraph (3)—

(i) by inserting ", passenger vessel," after "transportation vehicle" each place that term appears; and

(ii) by inserting "or owner of the passenger vessel" after "transportation provider" each place that term appears;

(D) in paragraph (5)—

(i) by inserting ", passenger vessel," after "transportation vehicle"; and

(ii) by inserting "or owner of the passenger vessel" after "transportation provider"; and

(E) in paragraph (6), by inserting "or owner of a passenger vessel" after "transportation provider" each place that term appears;

(2) in subsection (b)(1), by inserting ", passenger vessel," after "transportation vehicle"; and

(3) in subsection (c)—

(A) by redesignating paragraph (6) through (8) as paragraphs (7) through (9); and

(B) by inserting after paragraph (5) the following:

"(6) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.".

### SEC. 305. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES.

(a) PLACEMENT OF DESTRUCTIVE DEVICES.—Chapter 111 of title 18, United States Code, as amended by subsection (a), is further amended by adding at the end the following:

**"§ 2282A. Devices or dangerous substances in waters of the United States likely to destroy or damage Ships or to interfere with maritime commerce**

"(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or dangerous substance which is likely to destroy or cause damage to a vessel or its cargo, cause interference with the safe navigation of vessels, or interference with maritime commerce (such as by damaging or destroying marine terminals, facilities, or any other marine structure or entity used in maritime commerce) with the intent of causing such destruction or damage, interference with the safe navigation of vessels, or interference with maritime commerce shall be fined under this title or imprisoned for any term of years, or for life; or both.

"(b) A person who causes the death of any person by engaging in conduct prohibited under subsection (a) may be punished by death.

"(c) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.

"(d) In this section:

"(1) The term 'dangerous substance' means any solid, liquid, or gaseous material that has the capacity to cause damage to a vessel or its cargo, or cause interference with the safe navigation of a vessel.

"(2) The term 'device' means any object that, because of its physical, mechanical, structural, or chemical properties, has the capacity to cause damage to a vessel or its cargo, or cause interference with the safe navigation of a vessel.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by subsection (b), is further amended by adding after the item related to section 2282 the following:

"2282A. Devices or dangerous substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.".

(b) VIOLENCE AGAINST MARITIME NAVIGATION.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code as amended by subsections (a) and (c), is further amended by adding at the end the following:

**"§ 2282B. Violence against aids to maritime navigation**

"Whoever intentionally destroys, seriously damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship, shall be fined under this title or imprisoned for not more than 20 years.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by subsections (b) and (d) is further amended by adding after the item related to section 2282A the following:

"2282B. Violence against aids to maritime navigation.".

### SEC. 306. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by section 305, is further amended by adding at the end the following:

**"§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials**

"(a) IN GENERAL.—Whoever knowingly transports aboard any vessel within the United States and on waters subject to the jurisdiction of the United States or any vessel outside the United States and on the high seas or having United States nationality an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing or having reason to believe that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title or imprisoned for any term of years or for life, or both.

"(b) DEATH PENALTY.—If the death of any individual results from an offense under subsection (a) the offender may be punished by death.

"(c) DEFINITIONS.—In this section:

"(1) BIOLOGICAL AGENT.—The term 'biological agent' means any biological agent, toxin, or vector (as those terms are defined in section 178).

"(2) BY-PRODUCT MATERIAL.—The term 'by-product material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

"(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 229F(1).

"(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 232(5) and includes explosive materials, as that term is defined in section 841(c) and explosive as defined in section 844(j).

"(5) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(f)(1).

"(6) RADIOACTIVE MATERIAL.—The term 'radioactive material' means—

"(A) source material and special nuclear material, but does not include natural or depleted uranium;

"(B) nuclear by-product material;

"(C) material made radioactive by bombardment in an accelerator; or

"(D) all refined isotopes of radium.

"(8) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

"(9) SPECIAL NUCLEAR MATERIAL.—The term 'special nuclear material' has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

**"§ 2284. Transportation of terrorists**

"(a) IN GENERAL.—Whoever knowingly transports any terrorist aboard any vessel within the United States and on waters subject to the jurisdiction of the United States or any vessel outside the United States and on the high seas or having United States nationality, knowing or having reason to believe that the transported person is a terrorist, shall be fined under this title or imprisoned for any term of years or for life, or both.

"(b) DEFINED TERM.—In this section, the term 'terrorist' means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by section 305, is further amended by adding at the end the following:

"2283. Transportation of explosive, chemical, biological, or radioactive or nuclear materials.
"2284. Transportation of terrorists.".

### SEC. 307. DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 111 the following:

### "CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

"Sec.
"2290. Jurisdiction and scope.
"2291. Destruction of vessel or maritime facility.
"2292. Imparting or conveying false information.

**"§ 2290. Jurisdiction and scope**

"(a) JURISDICTION.—There is jurisdiction, including extraterritorial jurisdiction, over an offense under this chapter if the prohibited activity takes place—

"(1) within the United States and within waters subject to the jurisdiction of the United States; or

"(2) outside United States and—

"(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); or

"(B) the activity involves a vessel of the United States (as that term is defined under section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).

"(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

**"§ 2291. Destruction of vessel or maritime facility**

"(a) OFFENSE.—Whoever intentionally—

"(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

"(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), destructive substance, as defined in section 31(a)(3), or an explosive, as defined in section 844(j) in, upon, or near, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

"(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or near, any maritime facility, including any aid to navigation, lock, canal, or vessel traffic service facility or equipment;

"(4) interferes by force or violence with the operation of any maritime facility, including any aid to navigation, lock, canal, or vessel traffic service facility or equipment, if such action is likely to endanger the safety of any vessel in navigation;

"(5) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or near, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

"(6) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

"(7) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365(h)(3), in, upon, or near, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

"(8) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

"(9) attempts or conspires to do anything prohibited under paragraphs (1) through (8), shall be fined under this title or imprisoned not more than 30 years, or both.

"(b) Limitation.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the transportation of hazardous materials regulated and allowed to be transported under chapter 51 of title 49.

"(c) Penalty.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under this title, imprisoned for a term up to life, or both.

"(d) Death Penalty.—If the death of any individual results from an offense under subsection (a) the offender shall be punished by death or imprisonment for any term or years or for life.

"(e) Threats.—Whoever knowingly imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title or imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

**"§ 2292. Imparting or conveying false information**

"(a) In General.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act that would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

"(b) Malicious Conduct.—Whoever knowingly, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title or imprisoned not more than 5 years.".

(c) Conforming Amendment.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

**"111A. Destruction of, or interference with, vessels or maritime facilities ............ 2290".**

## SEC. 308. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.

(a) Theft of Interstate or Foreign Shipments.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "trailer," after "motortruck,";

(B) by inserting "air cargo container," after "aircraft,"; and

(C) by inserting ", or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility," after "air navigation facility";

(2) in the fifth undesignated paragraph, by striking "in each case" and all that follows through "or both" the second place it appears and inserting "be fined under this title or imprisoned not more than 15 years, or both, but if the amount or value of such money, baggage, goods, or chattels is less than $1,000, shall be fined under this title or imprisoned for not more than 5 years, or both"; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: "For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise.".

(b) Stolen Vessels.—

(1) In general.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

"'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.".

(2) Transportation and sale of stolen vessels.—

(A) Transportation.—Section 2312 of title 18, United States Code, is amended—

(i) by striking "motor vehicle or aircraft" and inserting "motor vehicle, vessel, or aircraft"; and

(ii) by striking "10 years" and inserting "15 years".

(B) Sale.—Section 2313(a) of title 18, United States Code, is amended—

(i) by striking "motor vehicle or aircraft" and inserting "motor vehicle, vessel, or aircraft"; and

(ii) by striking "10 years" and inserting "15 years".

(c) Review of Sentencing Guidelines.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this title.

(d) Annual Report of Law Enforcement Activities.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this title.

(e) Reporting of Cargo Theft.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by no later than December 31, 2006.

## SEC. 309. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.

(a) Reporting, Entry, Clearance Requirements.—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking "or aircraft pilot" and inserting "aircraft pilot, operator, owner of such vessel, vehicle or aircraft, or any other responsible party (including non-vessel operating common carriers)";

(2) striking "$5,000" and inserting "$10,000"; and

(3) striking "$10,000" and inserting "$25,000".

(b) Criminal Penalty.—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended—

(1) by striking "or aircraft pilot" and inserting "aircraft pilot, operator, owner of such vessel, vehicle, or aircraft, or any other responsible party (including non-vessel operating common carriers)"; and

(2) by striking "$2,000" and inserting "$10,000".

(c) Falsity or Lack of Manifest.—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking "$1,000" in each place it occurs and inserting "$10,000".

## SEC. 310. STOWAWAYS ON VESSELS OR AIRCRAFT.

Section 2199 of title 18, United States Code, is amended by striking "Shall be fined under this title or imprisoned not more than one year, or both." and inserting the following:

"(1) shall be fined under this title, imprisoned not more than 5 years, or both;

"(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title or imprisoned not more than 20 years, or both; and

"(3) if death results from an offense under this section, shall be subject to the death penalty or to imprisonment for any term or years or for life.".

## SEC. 311. BRIBERY AFFECTING PORT SECURITY.

(a) In General.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

**"§ 226. Bribery affecting port security**

"(a) In General.—Whoever knowingly—

"(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent to commit international terrorism or domestic terrorism (as those terms are defined under section 2331), to—

"(A) influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

"(B) induce any official or person to do or omit to do any act in violation of the lawful duty of such official or person that affects any secure or restricted area or seaport; or

"(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

"(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

"(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism,

shall be fined under this title or imprisoned not more than 20 years, or both.

"(b) DEFINITION.—In this section, the term 'secure or restricted area' means an area of a vessel or facility designated as secure in an approved security plan, as required under section 70103 of title 46, United States Code, and the rules and regulations promulgated under that section.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"226. Bribery affecting port security.".

### SEC. 312. PENALTIES FOR SMUGGLING GOODS INTO THE UNITED STATES.

The third undesignated paragraph of section 545 of title 18, United States Code, is amended by striking "5 years" and inserting "20 years".

### SEC. 313. SMUGGLING GOODS FROM THE UNITED STATES.

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

**"§554. Smuggling goods from the United States**

"(a) IN GENERAL.—Whoever fraudulently or knowingly exports or sends from the United States, or attempts to export or send from the United States, any merchandise, article, or object contrary to any law or regulation of the United States, or receives, conceals, buys, sells, or in any manner facilitates the transportation, concealment, or sale of such merchandise, article or object, prior to exportation, knowing the same to be intended for exportation contrary to any law or regulation of the United States, shall be fined under this title, imprisoned not more than 10 years, or both.

"(b) DEFINITION.—In this section, the term 'United States' has the meaning given that term in section 545."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"554. Smuggling goods from the United States.".

(c) SPECIFIED UNLAWFUL ACTIVITY.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by inserting "section 554 (relating to smuggling goods from the United States)," before "section 641 (relating to public money, property, or records),".

(d) TARIFF ACT OF 1990.—Section 596 of the Tariff Act of 1930 (19 U.S.C. 1595a) is amended by adding at the end the following:

"(d) Merchandise exported or sent from the United States or attempted to be exported or sent from the United States contrary to law, or the proceeds or value thereof, and property used to facilitate the receipt, purchase, transportation, concealment, or sale of such merchandise prior to exportation shall be forfeited to the United States.".

(e) REMOVING GOODS FROM CUSTOMS CUSTODY.—Section 549 of title 18, United States Code, is amended in the 5th paragraph by striking "two years" and inserting "10 years".

## TITLE IV—COMBATING TERRORISM FINANCING

### SEC. 401. SHORT TITLE.

This title may be cited as the "Combating Terrorism Financing Act of 2005".

### SEC. 402. INCREASED PENALTIES FOR TERRORISM FINANCING.

Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) is amended—

(1) in subsection (a), by deleting "$10,000" and inserting "$50,000".

(2) in subsection (b), by deleting "ten years" and inserting "twenty years".

### SEC. 403. TERRORISM-RELATED SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.

(a) AMENDMENTS TO RICO.—Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (B), by inserting "section 1960 (relating to illegal money transmitters)," before "sections 2251"; and

(2) in subparagraph (F), by inserting "section 274A (relating to unlawful employment of aliens)," before "section 277".

(b) AMENDMENTS TO SECTION 1956(c)(7).—Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting ", or section 2339C (relating to financing of terrorism)" before "of this title"; and

(2) striking "or any felony violation of the Foreign Corrupt Practices Act" and inserting "any felony violation of the Foreign Corrupt Practices Act, or any violation of section 208 of the Social Security Act (relating to obtaining funds through misuse of a social security number)".

(c) CONFORMING AMENDMENTS TO SECTIONS 1956(e) AND 1957(e).—

(1) Section 1956(e) of title 18, United States Code, is amended to read as follows:

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postal Service, and the Attorney General. Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.".

(2) Section 1957(e) of title 18, United States Code, is amended to read as follows:

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postal Service, and the Attorney General.".

### SEC. 404. ASSETS OF PERSONS COMMITTING TERRORIST ACTS AGAINST FOREIGN COUNTRIES OR INTERNATIONAL ORGANIZATIONS.

Section 981(a)(1)(G) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by inserting the following after clause (iii):

"(iv) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism (as defined in section 2331) against any international organization (as defined in section 209 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309(b)) or against any foreign Government. Where the property sought for forfeiture is located beyond the territorial boundaries of the United States, an act in furtherance of such planning or perpetration must have occurred within the jurisdiction of the United States.".

### SEC. 405. MONEY LAUNDERING THROUGH HAWALAS.

Section 1956 of title 18, United States Code, is amended by adding at the end the following:

"(j)(1) For the purposes of subsections (a)(1) and (a)(2), a transaction, transportation, transmission, or transfer of funds shall be considered to be one involving the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer is part of a set of parallel or dependent transactions, any one of which involves the proceeds of specified unlawful activity.

"(2) As used in this section, a 'dependent transaction' is one that completes or complements another transaction or one that would not have occurred but for another transaction.".

### SEC. 406. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO THE USA PATRIOT ACT.

(a) TECHNICAL CORRECTIONS.—

(1) Section 322 of Public Law 107–56 is amended by striking "title 18" and inserting "title 28".

(2) Section 5332(a)(1) of title 31, United States Code, is amended by striking "article of luggage" and inserting "article of luggage or mail".

(3) Section 1956(b)(3) and (4) of title 18, United States Code, are amended by striking "described in paragraph (2)" each time it appears; and

(4) Section 981(k) of title 18, United States Code, is amended by striking "foreign bank" each time it appears and inserting "foreign bank or financial institution".

(b) CODIFICATION OF SECTION 316 OF THE USA PATRIOT ACT.—

(1) Chapter 46 of title 18, United States Code, is amended—

(A) by inserting at the end the following:

**"§987. Anti-terrorist forfeiture protection**

"(a) RIGHT TO CONTEST.—An owner of property that is confiscated under this chapter or any other provision of law relating to the confiscation of assets of suspected international terrorists, may contest that confiscation by filing a claim in the manner set forth in the Federal Rules of Civil Procedure (Supplemental Rules for Certain Admiralty and Maritime Claims), and asserting as an affirmative defense that—

"(1) the property is not subject to confiscation under such provision of law; or

"(2) the innocent owner provisions of section 983(d) apply to the case.

"(b) EVIDENCE.—In considering a claim filed under this section, a court may admit evidence that is otherwise inadmissible under the Federal Rules of Evidence, if the court determines that the evidence is reliable, and that compliance with the Federal Rules of Evidence may jeopardize the national security interests of the United States.

"(c) CLARIFICATIONS.—

"(1) PROTECTION OF RIGHTS.—The exclusion of certain provisions of Federal law from the definition of the term 'civil forfeiture statute' in section 983(i) shall not be construed to deny an owner of property the right to contest the confiscation of assets of suspected international terrorists under—

"(A) subsection (a) of this section;

"(B) the Constitution; or

"(C) subchapter II of chapter 5 of title 5, United States Code (commonly known as the 'Administrative Procedure Act').

"(2) SAVINGS CLAUSE.—Nothing in this section shall limit or otherwise affect any other remedies that may be available to an owner of property under section 983 or any other provision of law."; and

(B) in the chapter analysis, by inserting at the end the following:

"987. Anti-terrorist forfeiture protection.".

(2) Subsections (a), (b), and (c) of section 316 of Public Law 107–56 are repealed.

(c) CONFORMING AMENDMENTS CONCERNING CONSPIRACIES.—

(1) Section 33(a) of title 18, United States Code is amended by inserting "or conspires" before "to do any of the aforesaid acts".

(2) Section 1366(a) of title 18, United States Code, is amended—

(A) by striking "attempts" each time it appears and inserting "attempts or conspires"; and

(B) by inserting ", or if the object of the conspiracy had been achieved," after "the attempted offense had been completed".

**SEC. 407. TECHNICAL CORRECTIONS TO FINANCING OF TERRORISM STATUTE.**

Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting ")" after "2339C (relating to financing of terrorism".

**SEC. 408. CROSS REFERENCE CORRECTION.**

Section 5318(n)(4)(A) of title 31, United States Code, is amended by striking "National Intelligence Reform Act of 2004" and inserting "Intelligence Reform and Terrorism Prevention Act of 2004".

**SEC. 409. AMENDMENT TO AMENDATORY LANGUAGE.**

Section 6604 of the Intelligence Reform and Terrorism Prevention Act of 2004 is amended (effective on the date of the enactment of that Act)—

(1) by striking "Section 2339c(c)(2)" and inserting "Section 2339C(c)(2)"; and

(2) by striking "Section 2339c(e)" and inserting "Section 2339C(e)".

**SEC. 410. DESIGNATION OF ADDITIONAL MONEY LAUNDERING PREDICATE.**

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by inserting ", or section 2339D (relating to receiving military-type training from a foreign terrorist organization)" after "section 2339A or 2339B (relating to providing material support to terrorists)"; and

(2) by striking "or" before "section 2339A or 2339B".

The PRESIDING OFFICER appointed Mr. SPECTER, Mr. HATCH, Mr. KYL, MR. DEWINE, Mr. SESSIONS, Mr. ROBERTS, Mr. LEAHY, Mr. KENNEDY, Mr. ROCKEFELLER, and Mr. LEVIN conferees on the part of the Senate.

Mr. FRIST. Mr. President, I thank our colleagues on this very important piece of legislation—both those who have reservations and those who support this very important act. I talked to the Attorney General a short while ago, and he expressed his appreciation to this body.

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 212, 220, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 253, 254, 255 through 285, 287 through 293, 295, 296, 297 through 302, 303, 304, 305, 306, 307, 308, and all nominations on the Secretary's desk reported by the Armed Services Committee today; Calendar No. 311, Ronald Sega, PN–661; provided further that the following committees be discharged from further consideration of the listed nominations and the Senate proceed en bloc to their consideration: HELP Committee, Charles Ciccolella, PN–524; Foreign Relations Committee, William Burns, PN–747; William Timken, PN–737; Richard Jones, PN–757; Francis Ricciardone, PN–758.

I further ask that the Chair now put the question on Calendar No. 212, the nomination of Granta Nakayama, to be Assistant Administrator of EPA, and I note for the record that Senator BURNS is opposed and he would vote against this nominee.

The PRESIDING OFFICER. The question is, shall the Senate advise and consent to the nomination of Granta Y. Nakayama, to be an Assistant Administrator of the Environmental Protection Agency?

The nomination was confirmed.

Mr. FRIST. Mr. President, I ask unanimous consent that the remaining nominations that I enumerated be confirmed en bloc, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

#### ENVIRONMENTAL PROTECTION AGENCY

Granta Y. Nakayama, of Virginia, to be an Assistant Administrator of the Environmental Protection Agency.

#### DEPARTMENT OF ENERGY

James A. Rispoli, of Virginia, to be an Assistant Secretary of Energy (Environmental Management).

#### DEPARTMENT OF STATE

Henrietta Holsman Fore, of Nevada, to be an Under Secretary of State (Management).

Josette Sheeran Shiner, of Virginia, to be an Under Secretary of State (Economic, Business, and Agricultural Affairs).

Karen P. Hughes, of Texas, to be Under Secretary of State for Public Diplomacy, with the rank of Ambassador.

Kristen Silverberg, of Texas, to be an Assistant Secretary of State (International Organization Affairs).

Jendayi Elizabeth Frazer, of Virginia, to be an Assistant Secretary of State (African Affairs).

Henry Crumpton, of Virginia, to be Coordinator for Counterterrorism, with the rank and status of Ambassador at Large.

James Cain, of North Carolina, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Denmark.

Alan W. Eastham, Jr., of Arkansas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi.

Katherine Hubay Peterson, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Republic of Botswana.

Michael Retzer, of Mississippi, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Tanzania.

Gillian Arlette Milovanovic, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Macedonia.

#### DEPARTMENT OF VETERANS AFFAIRS

James Philip Terry, of Virginia, to be Chairman of the Board of Veterans' Appeals for a term of six years.

#### DEPARTMENT OF THE TREASURY

John C. Dugan, of Maryland, to be Comptroller of the Currency for a term of five years.

John M. Reich, of Virginia, to be Director of the Office of Thrift Supervision for a term of five years.

#### SECURITIES AND EXCHANGE COMMISSION

Christopher Cox, of California, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 2009.

Roel C. Campos, of Texas, to be a Member of the Securities and Exchange Commission for a term expiring June 5, 2010. (Reappointment)

Annette L. Nazareth, of the District of Columbia, to be a Member of the Securities and Exchange Commission for the remainder of the term expiring June 5, 2007.

#### FEDERAL DEPOSIT INSURANCE CORPORATION

Martin J. Gruenberg, of Maryland, to be Vice Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation.

Martin J. Gruenberg, of Maryland, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for the remainder of the term expiring December 27, 2006.

Martin J. Gruenberg, of Maryland, to be a Member of the Board of Directors of the Federal Deposit Insurance Corporation for a term expiring December 27, 2012. (Reappointment)

#### DEPARTMENT OF JUSTICE

Michael J. Garcia, of New York, to be United States Attorney for the Southern District of New York for the term of four years.

Peter Manson Swaim, of Indiana, to be United States Marshal for the Southern District of Indiana for the term of four years.

Phillip Jackson Bell, of Georgia, to be Deputy Under Secretary of Defense for Logistics and Materiel Readiness.

Keith E. Eastin, of Texas, to be an Assistant Secretary of the Army.

### IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be general*

Lt. Gen. Norton A. Schwartz, 7542

The following named officer for appointment as Vice Chief of Staff of the Air Force, and for appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 8034 and 601:

*To be general*

Lt. Gen. John D.W. Corley, 9553

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Kevin P. Chilton, 6603

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Donald J. Hoffman, 5449

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj.Gen. David A. Deptula, 6792

The following named officer for appointment in the United States Air Force, to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601, and to be the Senior Member of the Military Staff Committee of the United Nations under title 10, U.S.C., section 711:

*To be lieutenant general*

Lt. Gen. Victor E. Renuart, Jr., 0278

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. John L. Hudson, 5860

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.SC., section 8069:

*To be major general*

Brig. Gen. Melissa A. Rank, 1159

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

*To be major general*

Brigadier General Ted F. Bowlds, 8694
Brigadier General David E. Clary, 9098
Brigadier General David M. Edgington, 5942
Brigadier General Delwyn R. Eulberg, 8929
Brigadier General David S. Gray, 6354
Brigadier General Wendell L. Griffin, 7494
Brigadier General Irving L. Halter, Jr., 3411
Brigadier General Kevin J. Kennedy, 0042
Brigadier General John C. Koziol, 4047
Brigadier General William T. Lord, 1920
Brigadier General Arthur B. Morrill, III, 9005
Brigadier General Larry D. New, 2557
Brigadier General Richard Y. Newton, III, 8008
Brigadier General Allen G. Peck, 1135
Brigadier General Jeffrey R. Riemer, 4731
Brigadier General Eric J. Rosborg, 2128
Brigadier General David J. Scott, 6307
Brigadier General Mark D. Shackelford, 8403
Brigadier General John T. Sheridan, 8566
Brigadier General Gregory L. Trebon, 3693
Brigadier General Roy M. Worden, 4884

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

*To be major general*

Brigadier General Charles W. Collier, Jr., 5754
Brigadier General Scott A. Hammond, 1613
Brigadier General Henry C. Morrow, 7671
Brigadier General Roger C. Nafziger, 2043
Brigadier General Gary L. Sayler, 7927
Brigadier General Darryll D.M. Wong, 0536

*To be brigadier general*

Colonel Michael D. Akey, 2758
Colonel Frances M. Auclair, 3080
Colonel Kathleen F. Berg, 2061
Colonel Stanley E. Clarke, III, 5311
Colonel James F. Dawson, Jr., 8677
Colonel Michael D. Gullihur, 6497
Colonel Tony A. Hart, 2339
Colonel Martin K. Holland, 0105
Colonel Mary J. Kight, 8947
Colonel James W. Kwiatkowski, 5729
Colonel Ulay W. Littleton, Jr., 0409
Colonel Patrick J. Moisio, 4550
Colonel Loda R. Moore, 7982
Colonel Thomas A. Peraro, 2660
Colonel William M. Schuessler, 4670
Colonel Robert M. Stonestreet, 9000
Colonel Jannette Young, 9302

### IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be general*

Lt. Gen. William E. Ward, 9000

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Robert W. Wagner, 3914

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. Keith B. Alexander, 9763

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Ronald L. Burgess, Jr., 2986

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Lt. Gen. David H. Petraeus, 1960

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Martin E. Dempsey, 8511

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. William E. Mortensen, 1064

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S. C., section 601:

*To be lieutenant general*

Lt. Gen. Claude V. Christianson, 1982

The following named officer for appointment in the United States Army to the positions and grade indicated under title 10, U.S. C., section 3037:

*To be major general and the judge advocate general of the United States Army*

Maj. Gen. Scott C. Black, 1918

The following named officer for appointment in the United States Army to the positions and grade indicated under title 10, U.S.C., section 3037:

*To be major general and the assistant judge advocate general of the United States Army*

Maj. Gen. Daniel V. Wright, 1462

The following named officers for appointment in the United States Army to the grade indicated under title 10, U.S. C., section 624:

*To be major general*

Brigadier General Jay W. Hood, 6271

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

*To be brigadier general*

Col. Douglas L. Carver, 8279

### IN THE MARINE CORPS

The following named officer for appointment as Assistant Commandant of the Marine Corps, and for appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 5044 and 601:

*To be general*

Lt. Gen. Robert Magnus, 6252

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. John G. Castellaw, 2524

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Emerson N. Gardner, Jr., 0157

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Joseph F. Weber, 1316

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. Richard S. Kramlich, 9829

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be lieutenant general*

Maj. Gen. John F. Goodman, 3509

### IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Rear Adm. Ann E. Rondeau, 9812

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

*To be vice admiral*

Vice Adm. David C. Nichols, Jr., 5011

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, US.C., section 601:

*To be rear admiral*

Rear Adm. (lh) Henry Balam Tomlin, III, 9713

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral*

Rear Adm. (lh) Craig O. McDonald, 8124

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral*

Rear Adm. (lh) Ben F. Gaumer, 1618

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral*

Rear Adm. (lh) Raymond K. Alexander, 2501

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral*

Rear Adm. (lh) David O. Anderson, 4824
Rear Adm. (lh) Hugo G. Blackwood, 6868
Rear Adm. (lh) Dirk J. Debbink, 0752

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral*

Rear Adm. (lh) Thomas K. Burkhard, 8249

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral*

Rear Adm. (lh) Donna L. Crisp, 1255

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral*

Rear Adm. (lh) Michael S. Roesner, 8965

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral (lower half)*

Capt. Raymond P. English, 2452

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. Richard R. Jeffries, 2602
Capt. David J. Smith, 9548

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. Mark F. Heinrich, 5812
Capt. Charles M. Lilli, 2604

The following named officer for appointment in the United States Navy to the.grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. Michael D. Hardee, 4771

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. Timothy V. Flynn, III, 7136
Capt. Charles H. Goddard, 4746
Capt. John C. Orzalli, 6643

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. Tony L. Cothron, 8027

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. Moira N. Flanders, 1143

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

*To be rear admiral (lower half)*

Capt. Michael A. Brown, 0253

The following named officers for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

*To be rear admiral (lower half)*

Capt. Julius S. Caeser, 5106
Capt. William P. Loeffler, 1759
Capt. Lee J. Metcalf, 3052
Capt. Garland P. Wright, Jr., 7679

## [NEW REPORTS]

### DEPARTMENT OF THE TREASURY

Sandra L. Pack, of Maryland, to be an Assistant Secretary of the Treasury, vice Teresa M. Ressel, resigned.

Timothy D. Adams, of Virginia, to be an Under Secretary of the Treasury.

Randal Quarles, of Utah, to be an Under Secretary of the Treasury.

Kevin I. Fromer, of Virginia, to be a Deputy Under Secretary of the Treasury.

Robert M. Kimmitt, of Virginia, to be Deputy Secretary of the Treasury.

### UNITED STATES INTERNATIONAL TRADE COMMISSION

Shara L. Aranoff, of Maryland, to be a Member of the United States International Trade Commission for a term expiring December 16, 2012.

Ronald M. Sega, of Colorado, to be Under Secretary of the Air Force.

## NOMINATIONS PLACED ON THE SECRETARY'S DESK

### IN THE AIR FORCE

PN309 AIR FORCE nominations (10) beginning THOMAS L. BLASE, and ending GREGORY L. TATE, which nominations were received by the Senate and appeared in the Congressional Record of March 14, 2005.

PN736 AIR FORCE nominations (17) beginning DAVID J. LUTHER, and ending MERIDITH A. WARNER, which nominations were received by the Senate and appeared in the Congressional Record of July 19, 2005.

### IN THE ARMY

PN221 ARMY nominations (21) beginning JOHN M. BALAS JR., and ending PAUL J. WARDEN, which nominations were received by the Senate and appeared in the Congressional Record of February 15, 2005.

PN293 ARMY nominations (85) beginning EDWARD D. ARRINGTON, and ending CLIFTON E. YU, which nominations were received by the Senate and appeared in the Congressional Record of March 4, 2005.

PN315 ARMY nominations (13) beginning BARRY D. BOWDEN, and ending CRAIG N. WILEY, which nominations were received by the Senate and appeared in the Congressional Record of March 14, 2005.

PN616 ARMY nominations (166) beginning WILLIAM P.* ADELMAN, and ending JOSEPH J.* ZUBAK, which nominations were received by the Senate and appeared in the Congressional Record of June 9, 2005.

PN617 ARMY nominations (31) beginning TERRY W. AUSTIN, and ending PAUL J. YACOVONE, which nominations were received by the Senate and appeared in the Congressional Record of June 9, 2005.

PN618 ARMY nominations (16) beginning SCOTT W.* BURGAN, and ending JULIE A.* SMITH, which nominations were received by the Senate and appeared in the Congressional Record of June 9, 2005.

PN708 ARMY nominations (6) beginning MONROE N. FARMER JR., and ending WENDY C. SPRIGGS, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN709 ARMY nominations (5) beginning JERRY R. ACTON JR., and ending STEVEN R. MOUNT, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN710 ARMY nominations (11) beginning MARIA E. BOVILL, and ending MICHAEL J.* WALKER, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN711 ARMY nominations (18) beginning THELDA J.* ATKIN, and ending TAMI ZALEWSKI, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN712 ARMY nominations (106) beginning CHRISTOPHER AMAKER, and ending STEPHEN C. WOOLDRIDGE, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN713 ARMY nominations (79) beginning DENISE D. ADAMSMANN, and ending ROBIN A. VILLIARD, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN714 ARMY nominations (1631) beginning THOMAS H. AARSEN, and ending X3541, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

### IN THE MARINE CORPS

PN158 MARINE CORPS nomination of Daniel J. Peterlick, which was received by the Senate and appeared in the Congressional Record of February 8, 2005.

PN177 MARINE CORPS nominations (2) beginning DANNY A. HURD, and ending GEORGE C. MCLAIN, which nominations were received by the Senate and appeared in the Congressional Record of February 8, 2005.

IN THE NAVY

PN398 NAVY nominations (4) beginning JAMES W. CALDWELL JR., and ending RICHARD J. PAPESCA, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN399 NAVY nominations (10) beginning DAVID K. CHAPMAN, and ending WILLIAM V. WEINMAN JR., which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN400 NAVY nomination of Robert W. Worringer, which was received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN401 NAVY nomination of Melissa J. MacKay, which was received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN402 NAVY nominations (3) beginning THOMAS J. CUFF, and ending CARVEN A. SCOTT, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN403 NAVY nominations (2) beginning STEVEN F. MOMANO, and ending AGUSTIN L. OTERO, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN404 NAVY nominations (2) beginning LARRY THOMAS, and ending DAVID J. WRAY, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN405 NAVY nominations (4) beginning KERI A. BUCK, and ending WILLIAM J. WILSON III, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN406 NAVY nominations (5) beginning NICHOLAS A. FILIPPONE, and ending NANCY S. VEGEL, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN407 NAVY nominations (6) beginning EDWARD Y. ANDRUS and ending THOMAS E. STOWELL, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN 408 NAVY nominations (25) beginning REBEKAH R. BARRISH, and ending SAMUEL G. SUMWALT, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN409 NAVY nominations (17) beginning CHARLES E. ADAMS, and ending KATHERINE A. WALTER, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN410 NAVY nominations (18) beginning WALTER J. ADELMANN JR., and ending CLAYTON G. TETTELBACH, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN411 NAVY nominations (151) beginning RUSSELL E. ALLEN, and ending STEPHEN E. ZINI, which nominations were received by the Senate and appeared in the Congressional Record of April 6, 2005.

PN542 NAVY nominations (3) beginning ANTHONY COOPER, and ending WILLIAM S. GURECK, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN543 NAVY nominations (4) beginning ANNIE B. ANDREWS, and ending SUSAN L. SHERMAN, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN544 NAVY nominations (6) beginning ROBERT G. BERGMAN, and ending PHILIP G. STROZZO, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN545 NAVY nominations (6) beginning SCOTT D. KATZ, and ending PAUL C. STEWART, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN546 NAVY nominations (6) beginning WILLIAM T. AINSWORTH, and ending GEORGE D. SEATON, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN547 NAVY nominations (9) beginning KATHERINE M. DONOVAN, and ending MARTHA M. WARNER, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN548 NAVY nominations (12) beginning TERRY W. AUBERRY, and ending DAVID B. WILKIE, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN549 NAVY nominations (14) beginning NICHOLAS V. BUCK, and ending MATHIAS W. WINTER, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN550 NAVY nominations (17) beginning MICHAEL E. DEVINE, and ending ALVIN C. WILSON III, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN551 NAVY nominations (29) beginning RAYMOND M. ALFARO, and ending JOSEPH YUSICIAN, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN552–1 NAVY nominations (169) beginning ALAN J. ABRAMSON, and ending DOUGLAS E. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of May 25, 2005.

PN582 NAVY nominations (6) beginning CARL J. CWIKLINSKI, and ending ROBERT P. McCLANAHAN JR., which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN583 NAVY nominations (5) beginning JOSEPH A. CLEMENTS, and ending GAROLD G. ULMER, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN584 NAVY nominations (14) beginning JEFFREY T. BOROWY, and ending JULIUS C. WASHINGTON, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN585 NAVY nominations (34) beginning DIANNE A. ARCHER, and ending JEFFERY S. WOLFE, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN586 NAVY nominations (11) beginning ROBERT B. BLAZEWICK, and ending ERIC C. PRICE, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN587 NAVY nominations (35) beginning WILLIAM J. ADAMS JR., and ending STEVEN J. WINTER, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN588 NAVY nominations (32) beginning GREGORY S. BLASCHKE, and ending DAVID G. WRIGHT, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN589 NAVY nominations (13) beginning IOANA BETTIOS, and ending MICHAEL J. WOLFGANG, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN590 NAVY nominations (22) beginning LINNEA M. AXMAN, and ending LAURIE L. WILLIAMSON, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN592 NAVY nominations (2) beginning JOHN G. DILLENDER, and ending DIANE L. SNYDER, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN593 NAVY nominations (4) beginning JANE D. BINGHAM, and ending STEVEN R. MORGAN, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN594 NAVY nominations (33) beginning GREGORY F. BECHT, and ending MICHAEL L. ZABEL, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN595 NAVY nominations (28) beginning DEANA L. ABERNATHEY, and ending LINDA J. TIEASKIE, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN596 NAVY nominations (12) beginning MAUREEN E. CARROLL, and ending JACOB R. WALKER, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN597 NAVY nominations (20) beginning THOMAS L. AMERSON, and ending KENNETH E. WAVELL, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN598 NAVY nominations (4) beginning BRIAN D. HODGSON, and ending POMAY TSOI, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN599 NAVY nominations (25) beginning GREGORY L. BELCHER, and ending WAYNE M. WEISS, which nominations were received by the Senate and appeared in the Congressional Record of June 6, 2005.

PN629 NAVY nominations (5) beginning RICHARD W. HAUPT, and ending ALVIN A. PLEXICO JR., which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN630 NAVY nominations (11) beginning RONALD M. BISHOP JR., and ending ANTHONY S. VIVONA, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN631 NAVY nominations (12) beginning CHERYL J. COTTON, and ending TRACY D. WHITELEY, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN632 NAVY nominations (14) beginning ALBERT R. COSTA, and ending CHRISTOPHER S. WIRTH, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN633 NAVY nominations (14) beginning DAVID J. BYERS, and ending MARC T. STEINER, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN634 NAVY nominations (17) beginning JASON W. CARTER, and ending LAURA G. YAMBRICK, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN635 NAVY nominations (17) beginning CLIFFORD W. BEAN III, and ending DONNA M. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN636 NAVY nominations (37) beginning THOMAS J. ANDERSON, and ending MICHAEL ZIV, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN637 NAVY nominations (37) beginning JASON L. ANSLEY, and ending TRACY A. VINCENT, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN638 NAVY nominations (59) beginning DANIEL A. ABRAMS, and ending JOHN W. WOOD, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN639-1 NAVY nominations (317) beginning JOHN C. ABSETZ, and ending JOHN J. ZERR II, which nominations were received by the Senate and appeared in the Congressional Record of June 14, 2005.

PN715 NAVY nominations (40) beginning JAMES R. MARTIN, and ending GLEN WOOD, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN716 NAVY nominations (66) beginning MARJORIE ALEXANDER, and ending MARIA A. YOUNG, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN717 NAVY nominations (27) beginning ERIC M. AABY, and ending CHARLES S. WILLMORE, which nominations were received by the Senate and appeared in the Congressional Record of July 12, 2005.

PN722 NAVY nominations (3) beginning WILLIAM D. BRYAN, and ending BILLY W. SLOAN, which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

PN723 NAVY nominations (10) beginning BRUCE H. BOYLE, and ending BRADLEY E. TELLEEN, which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

PN724 NAVY nominations (25) beginning JEFFREY G. ANT, and ending BENJAMIN W. YOUNG JR., which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

PN725 NAVY nominations (28) beginning SYED N. AHMAD, and ending BARBARA H. ZELIFF, which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

PN726 NAVY nominations (44) beginning ANTHONY A. ARITA, and ending LINDA D. YOUBERG, which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

PN727 NAVY nominations (60) beginning JAMES T. ALBRITTON, and ending TODD E. YANIK, which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

PN728 NAVY nominations (154) beginning THOMAS C. ALEWINE, and ending TARA J. ZIEBER, which nominations were received by the Senate and appeared in the Congressional Record of July 14, 2005.

### Nomination Reference and Report

*Ordered*, That the following nomination be referred to the Committee on Health, Education, Labor, and Pensions:

Charles S. Ciccolella, of Virginia, to be Assistant Secretary of Labor for Veterans' Employment and Training, vice Frederico Juarbe, Jr., resigned.

*Ordered*, That the following nomination be referred to the Committee on Foreign Relations:

William J. Burns, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Russia Federation.

*Ordered*, That the following nomination be referred to the Committee on Foreign Relations:

William Robert Timken, Jr., of Ohio, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Federal Republic of Germany.

*Ordered*, That the following nomination be referred to the Committee on Foreign Relations:

Richard Henry Jones, of Nebraska, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

*Ordered*, That the following nomination be referred to the Committee on Foreign Relations:

Francis Joseph Ricciardone, Jr., of New Hampshire, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Arab Republic of Egypt.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

## ORDER FOR NOMINATIONS TO REMAIN IN STATUS QUO

Mr. FRIST. Mr. President, I ask unanimous consent that all nominations received by the Senate during the 109th Congress remain in status quo during the August adjournment of the Senate under the provisions of rule XXXI, paragraph 6, of the Standing Rules of the Senate, with the exception of the nomination of John Robert Bolton, PN326 and PN327.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NATIONAL PROSTATE CANCER AWARENESS MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 230, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 230) designating September 2005 as "National Prostate Cancer Awareness Month".

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 230) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

### S. Res. 230

Whereas countless families in the United States have a family member that suffers from prostate cancer;

Whereas 1 in 6 men in the United States is diagnosed with prostate cancer;

Whereas throughout the past decade, prostate cancer has been the most commonly diagnosed type of cancer other than skin cancer and the second most common cause of cancer-related deaths among men in the United States;

Whereas, in 2005, more than 232,090 men in the United States will be diagnosed with prostate cancer and 30,350 men in the United States will die of prostate cancer according to estimates from the American Cancer Society;

Whereas 30 percent of the new diagnoses of prostate cancer occur in men under the age of 65;

Whereas a man in the United States turns 50 years old about every 14 seconds, increasing his odds of being diagnosed with prostate cancer;

Whereas African American males suffer from prostate cancer at an incidence rate up to 65 percent higher than white males and at a mortality rate double that of white males;

Whereas obesity is a significant predictor of the severity of prostate cancer and the chance that the disease will lead to death;

Whereas if a man in the United States has 1 family member diagnosed with prostate cancer, he has double the risk of prostate cancer, if he has 2 family members with such diagnosis, he has 5 times the risk, and if he has 3 family members with such diagnosis, he has a 97 percent risk of prostate cancer;

Whereas screening by both a digital rectal examination (DRE) and a prostate specific antigen blood test (PSA) can detect prostate cancer in earlier and more treatable stages and reduce the rate of mortality due to the disease;

Whereas ongoing research promises further improvements in prostate cancer prevention, early detection, and treatments; and

Whereas educating people in the United States, including health care providers, about prostate cancer and early detection strategies is crucial to saving the lives of men and preserving and protecting our families: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates September 2005 as "National Prostate Cancer Awareness Month";

(2) declares that it is critical to—

(A) raise awareness about the importance of screening methods and the treatment of prostate cancer;

(B) increase research funding to be proportionate with the burden of prostate cancer so that the causes of the disease, improved screening and treatments, and ultimately a cure may be discovered; and

(C) continue to consider methods to improve both access to and the quality of health care services for detecting and treating prostate cancer; and

(3) calls on the people of the United States, interested groups, and affected persons to—

(A) promote awareness of prostate cancer;

(B) take an active role in the fight to end the devastating effects of prostate cancer on individuals, their families, and the economy; and

(C) observe September 2005 with appropriate ceremonies and activities.

## ENCOURAGING THE TRANSITIONAL NATIONAL ASSEMBLY OF IRAQ

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 231, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 231) encouraging the Transitional National Assembly of Iraq to adopt a constitution that grants women equal rights under the law and to work to protect such rights.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to, en bloc, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 231) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 231

Whereas Iraq is a sovereign nation and a party to the International Covenant on Civil and Political Rights, done at New York December 16, 1966, and entered into force March 23, 1976;

Whereas in Iraq's January 2005 parliamentary elections, more than 2,000 women ran for office and currently 31 percent of the seats in Iraq's National Assembly are occupied by women;

Whereas women lead the Iraqi ministries of Displacement and Migration, Communications, Municipalities and Public Works, Environment, and Science and Technology;

Whereas the Transitional Administrative Law provides for substantial participation of women in the Iraqi National Assembly and of personnel in all levels of the government;

Whereas the Personal Status Law provides for family and property rights for women in Iraq;

Whereas through grants funded by the United States Government's Iraqi Women's Democracy Initiative, nongovernmental organizations are providing training in political leadership, communications, coalition-building skills, voter education, constitution drafting, legal reform, and the legislative process;

Whereas a 275-member Transitional National Assembly, which is charged with the responsibility of drafting a new constitution, was elected to serve as Iraq's national legislature for a transition period.

Whereas Article 12 of Iraq's Transitional Administrative Law states that "[a]ll Iraqis [are] equal in their rights without regard to gender . . . and they are equal before the law";

Whereas Article 12 of the Transitional Administrative Law further states that "[d]iscrimination against an Iraqi citizen on the basis of his gender . . . is prohibited";

Whereas on May 10, 2005, Iraq's National Assembly appointed a committee, composed of Assembly members, to begin drafting a constitution for Iraq that will be subject to the approval of the Iraqi people in a national referendum;

Whereas the Senate recognizes the need to affirm the spirit and free the energies of women in Iraq who have spent countless hours, years, and lifetimes working for the basic human right of equal constitutional protection;

Whereas the Senate recognizes the risks Iraqi women have faced in working for the future of their country and admire their courageous commitment to democracy; and

Whereas the full and equal participation of all Iraqi citizens in all aspects of society is essential to achieving Iraq's democratic and economic potential: Now, therefore, be it

*Resolved*, That the Senate—

(1) commends the Iraqi people for the progress achieved toward the establishment of a representative democratic government;

(2) recognizes the importance of ensuring women in Iraq have equal rights and opportunities under the law and in society and supports continued, substantial, and vigorous participation of women in the Iraqi National Assembly and in all levels of the government;

(3) recognizes the importance of ensuring women's rights in all legislation, with special attention to preserving women's equal rights under family, property, and inheritance laws;

(4) strongly encourages Iraq's Transitional National Assembly to adopt a constitution that grants women equal rights and opportunities under the law and to work to protect such rights;

(5) pledges to support the efforts of Iraqi women to fully participate in a democratic Iraq; and

(6) wishes the Iraqi people every success in developing, approving, and enacting a new constitution that ensures the civil and political rights of every citizen without reservation of any kind based on gender, religion, or national or social origin.

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## NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING ACT OF 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1132, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1132) to provide for the establishment of a controlled substance monitoring program in each State.

There being no objection, the Senate proceeded to consider the bill.

Mr. KENNEDY. Mr. President, I commend our majority leader for bringing the Prescription Electronic Reporting Act to the floor for a vote so quickly, and I commend Senators ENZI, SESSIONS, DURBIN, and DODD for their contributions to this bill and their efforts to prevent the diversion of prescription drugs. Our goal is to help States establish electronic databases to monitor the use of prescription drugs and deal more effectively with the growing national epidemic of prescription drug abuse.

Over 6 million Americans currently use prescription drugs for nonmedical purposes. Thirty-one million people say they have abused such drugs at least once in their lives. The number of people reporting such abuse is higher than the total combined number of people abusing cocaine, hallucinogens, inhalants, and heroin.

The growing trend of prescription drug abuse is alarming. Since 1992, the total number of people abusing prescription drugs has soared by over 90 percent. The number of young adults who abuse prescription pain relievers and other addictive drugs has more than tripled. Prescription drug abuse among youths 12 to 17 has risen by tenfold. Today, 20 percent of teenagers have abused prescription drugs, and 37 percent have a close friend who does.

Better local programs to monitor addictive medications can help curb this abuse. Approximately 20 States have such programs in place, including Massachusetts, but they vary greatly in the collection and storage of data and the methods for using the databases.

The information in the databases can be used to identify physicians and patients who encourage the nonmedical use of prescription drugs. It can help people seek treatment early for their addiction. It can also be used to reduce the diversion of prescription drugs for illegal use.

Our bill authorizes the Secretary of HHS to make grants to States to establish needed monitoring programs. States with existing programs can use the grants to improve their systems and standardize the data to allow easy sharing of the information with other States.

Any such program, however, must include strong safeguards for medical privacy and make certain that the databases cannot be used to put improper pressure on physicians to avoid prescribing essential drugs. The effective treatment of pain is an enormous medical challenge, and good care will be much more difficult if patients fear that their prescription drug records will not be protected, or if physicians begin to look over their shoulder every time they prescribe pain medication.

We all share the goal of reaching the right balance between the interests of patients, physicians, and law enforcement, and this legislation does that. It requires the Secretary to develop criteria for ensuring the privacy and security of the database, including penalties for improper use. In their grant applications, States must show that they have enacted legislation with appropriate penalties, and explain how they will meet privacy and security criteria, such as by using encryption technology. They must have plans for purging data, and for certifying that requests for information are legitimate. The bill also requires the Secretary to provide a follow-up analysis of the privacy protections within 3 years after funds are appropriated.

The problem of prescription drug abuse is growing exponentially and worsens every year. Today, the group most at risk is our children. Now is the time to act to limit the diversion of prescription drugs and protect our most vulnerable citizens from prescription drug abuse.

Physicians want to treat pain without contributing to addiction. Law enforcement officials want to stop the flow of prescription drugs from pharmacies to the streets. A national monitoring program will provide a valuable resource to achieve these goals.

I commend Majority Leader FRIST, Chairman ENZI, and Senator SESSIONS for their leadership on this important health issue, and I urge our colleagues to pass this legislation as a significant step toward ending prescription drug abuse.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1132) was read the third time and passed.

## NATIONAL WOMEN'S HISTORY MUSEUM ACT OF 2005

Mr. FRIST. Mr. President I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 168, S. 501.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 501) to provide a site for the National Women's History Museum in the District of Columbia.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the Collins amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1646) was agreed to, as follows:

(Purpose: To specify that no Federal funds are to be used to establish, construct, or operate the National Women's History Museum)

At the end, add the following:

**SEC. 6. FEDERAL PARTICIPATION.**

The United States shall pay no expense incurred in the establishment, construction, or operation of the National Women's History Museum, which shall be operated and maintained by the Museum Sponsor after completion of construction.

The bill (S. 501), as amended, was read the third time and passed.

(The bill will be printed in a future edition of the RECORD.)

## REGULATION OF CONTACT LENSES AS MEDICAL DEVICES

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 177, S. 172.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 172) to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

There being no objection, the Senate proceeded to consider the bill to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes, which had been reported from the Committee on Health, Education, Labor, and Pensions, with an amendment.

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 172

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**[SECTION 1. FINDINGS.**

[Congress finds as follows:

[(1) All contact lenses have significant effects on the eye and pose serious potential health risks if improperly manufactured or used without appropriate involvement of a qualified eye care professional.

[(2) Most contact lenses currently marketed in the United States, including certain plano and decorative contact lenses, have been approved as medical devices pursuant to premarket approval applications or cleared pursuant to premarket notifications by the Food and Drug Administration ("FDA").

[(3) FDA has asserted medical device jurisdiction over most corrective and noncorrective contact lenses as medical devices currently marketed in the United States, including certain plano and decorative contact lenses, so as to require approval pursuant to premarket approval applications or clearance pursuant to premarket notifications.

[(4) All contact lenses can present risks if used without the supervision of a qualified eye care professional. Eye injuries in children and other consumers have been reported for contact lenses that are regulated by FDA as medical devices primarily when used without professional involvement, and noncorrective contact lenses sold without approval or clearance as medical devices have caused eye injuries in children.

**[SEC. 2. REGULATION OF CERTAIN ARTICLES AS MEDICAL DEVICES.**

[Section 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j) is amended by adding at the end the following:

["Regulation of Contact Lens as Devices

["(n)(1) All contact lenses shall be deemed to be devices under section 201(h).

["(2) Paragraph 1 shall not be construed as having any legal effect on any article that is not described in that paragraph.".]

***SECTION 1. FINDINGS.***

*Congress finds as follows:*

*(1) All contact lenses have significant effects on the eye and pose serious potential health risks if improperly manufactured or used without appropriate involvement of a qualified eye care professional.*

*(2) Most contact lenses currently marketed in the United States, including certain plano and decorative contact lenses, have been approved as medical devices pursuant to premarket approval applications or cleared pursuant to premarket notifications by the Food and Drug Administration ("FDA").*

*(3) FDA has asserted medical device jurisdiction over most corrective and noncorrective contact lenses as medical devices currently marketed in the United States, including certain plano and decorative contact lenses, so as to require approval pursuant to premarket approval applications or clearance pursuant to premarket notifications.*

*(4) All contact lenses can present risks if used without the supervision of a qualified eye care professional. Eye injuries in children and other consumers have been reported for contact lenses that are regulated by FDA as medical devices primarily when used without professional involvement, and noncorrective contact lenses sold without approval or clearance as medical devices have caused eye injuries in children.*

***SEC. 2. REGULATION OF CERTAIN ARTICLES AS MEDICAL DEVICES.***

*Section 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j) is amended by adding at the end the following:*

*"Regulation of Contact Lens as Devices*

*"(n)(1) All contact lenses shall be deemed to be devices under section 201(h).*

*"(2) Paragraph (1) shall not be construed as having any legal effect on any article that is not subject to such paragraph.".*

Mr. FRIST. I ask unanimous consent that the DeWine amendment be agreed to, the committee-reported amendment, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1647) was agreed to, as follows:

(Purpose: To provide a complete substitute)

In lieu of the matter to be inserted, insert the following:

**SECTION 1. REGULATION OF CERTAIN ARTICLES AS MEDICAL DEVICES.**

Section 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j) is amended by adding at the end the following subsection:

"Regulation of Contact Lens as Devices

"(n)(1) All contact lenses shall be deemed to be devices under section 201(h).

"(2) Paragraph (1) shall not be construed as bearing on or being relevant to the question of whether any product other than a contact lens is a device as defined by section 201(h) or a drug as defined by section 201(g).".

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 172), as amended, was passed.

## APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and upon the recommendation of the majority leader, pursuant to 22 U.S.C. 2761, as amended, appoints the following individuals as delegates of the Senate Delegation to the British-American Interparliamentary Group conference during the 109th Congress: the Honorable JUDD GREGG of New Hampshire; and the Honorable PAT ROBERTS of Kansas.

## AUTHORITY FOR COMMITTEES TO REPORT

Mr. FRIST. I ask unanimous consent that notwithstanding the Senate's adjournment, committees be authorized to report legislative and executive matters on Wednesday, August 31, from 10 a.m. to 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

## AUTHORITY TO MAKE APPOINTMENTS

Mr. FRIST. I ask unanimous consent that notwithstanding the upcoming recess or adjournment of the Senate, the President of the Senate, the President pro tempore, and the majority and minority leaders be authorized to make appointments to commissions, committees, boards, conferences or interparliamentary conferences authorized by law, by concurrent action of the two Houses or by order of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR TUESDAY, SEPTEMBER 6, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of H. Con. Res. 225 until 12 noon on Tuesday, September 6.

I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period for morning business until 12:30, with Senators permitted to speak for up to 5 minutes each; provided further that the Senate stand in recess from 12:30 to 2:15 for weekly policy luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

## UNANIMOUS-CONSENT AGREEMENT—MOTION TO PROCEED TO S. 147

Mr. FRIST. I ask unanimous consent that at 2:15, the Senate resume the motion to proceed to S. 147, the Native Hawaiians bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. We will return for business on Tuesday, September 6. We will be voting at 5:30. There could be two votes that evening on the previously filed cloture motion.

## THANKING STAFF AND SENATE PAGES

Mr. FRIST. Mr. President, I thank members and staff for their hard work. I also want to take this opportunity to thank the pages who have been with us over the last several weeks. It has been a real pleasure and a great opportunity for us to both work with them over the course of the summer and to also thank them for their tremendous work. I know several of the pages have gone back home over the course of the day, and we extend our appreciation to each and every one of them as well. This is their last day of their period here in the Senate.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, through the Chair to the distinguished majority leader, we, at least the Democrats, on Tuesday will have a regular party caucus. So since I did not hear that, will we be recessing on Tuesday from 12:30 to 2:15?

Mr. FRIST. That is correct, we will be having our normal policy lunches that day and then we will have votes at 5:30 in the afternoon.

## UNANIMOUS-CONSENT REQUEST—S. 667

Mr. REID. Mr. President, I know the hour is late. I will be as quick as possible on this very important issue.

Four months ago the Senate Finance Committee reported S. 667, the Personal Responsibility and Individual Development for Everyone Act, known as the PRIDE Act. This would reauthorize temporary assistance for needy families, which was due for reauthorization in 2002. It is a bipartisan bill and received virtually unanimous support in the committee, a compromise that demonstrates how things can work.

The PRIDE Act contains increased funding to help parents cover the costs of childcare, among other things, so that they can join the workforce. It contains critical transitional medical assistance so that parents who work do not immediately lose their health care benefits in the transition to work. In short, it will help tens of thousands of Americans who are simply trying to do the right thing by their families and their communities.

That is why our Governors and State legislatures, both Democrats and Republicans, have asked that we reauthorize the program and pass the PRIDE Act at the earliest possible date.

Unfortunately, instead of helping working families and listening to our Governors and legislatures by immediately taking up this important bipartisan legislation, Republicans have spent months fighting among themselves, delaying its consideration. In the meantime, these working families that I have described in our States have had to live with uncertainty about whether this program will continue and, if so, in what form and at what cost.

While we have been forced to wait several months for the majority to work out their intraparty squabbles, Congress has had to pass a series of stop-gap extensions to keep the program going. Just before the last recess we passed what was the tenth extension of this program. However, that extension will expire at the end of September if we do not act on permanent legislation before then.

Even more threatening, some of our Republican colleagues are interested in including TANF in reconciliation, which will mean serious cuts, not increases, in many of the important programs contained in the bipartisan legislation reported by the Finance Committee.

I commend Senators BAUCUS and GRASSLEY, the chairman and ranking member of that committee, for their efforts in behalf of this legislation and the American people. The chairman and ranking member of the Finance Committee have been working together for months in an effort to bring the committee-reported bill to the floor, but we must consider this measure soon. Therefore, I ask unanimous consent that no later than the close of business on September 9, the Senate begin consideration of Calendar No. 60, S. 667, the PRIDE Act, and that all amendments be relevant to the subject matter of the bill without the need for textual reference; and that the bill be completed before the Senate considers any reconciliation bill.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I very much appreciate the Democratic leader's comments on the PRIDE Act, especially stressing the critical importance of this piece of legislation. It is a bipartisan bill. I do, too, want to thank the chairman and the ranking member, Senators GRASSLEY and BAUCUS, for their diligent work, their hard work in bringing this bill forward. I look forward to working with the Chair and ranking member in appropriate scheduling of this bill.

I do object.

The PRESIDING OFFICER. Objection is heard.

## A CIVIL WORKING RELATIONSHIP

Mr. REID. Mr. President, prior to our leaving the body for the day and for a number of weeks, I want to express my appreciation for the pleasure it has been to work with the leader. I have enjoyed it. We have differences every day about what Members want to do in this body. We have tried, and I think we have accomplished civility. I have never to my knowledge raised my voice to the majority leader, nor has he raised his voice to me. We have distinct differences on occasion, but we have been able to work through those. I hope our ability to work together, in spite of the differences of the two political parties, has been good for the country.

We have spent time talking about what we need to do and how we are going to accomplish that. We have sometimes even disagreements on that. But the disagreements are not in any way unpleasant.

On behalf of the Democratic Senators, I express my appreciation for your always being able and willing to respond to my phone calls quickly. Mr. President, I say through you to the distinguished Senator from Tennessee, he is always a gentleman, for which I am very grateful.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I do have a longer statement I will make here shortly, but I think while the Democratic leader is here, what we have seen over the course of the last day, in the last week, in the last several weeks, does represent the very best of what this body is all about.

The American people, as the Democratic leader suggested, expect us to govern in a way working together with civility, and I think we have demonstrated that on some very tough and contentious issues. I look forward, as we enter into the post-recess session, to continuing that bipartisan civil spirit as we address, again, some very challenging issues.

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## LOOKING AHEAD: ISSUES BEFORE THE SENATE

Mr. FRIST. Mr. President, in the last few minutes here, I do want to look back very briefly and look ahead and foreshadow some of the issues we will be looking at. Before we leave for this August recess, I would like to look at and review very quickly some of the big, important issues we will be tackling this fall.

First and foremost, we will focus on one of the most significant and historic constitutional responsibilities, and that is, as we all know, to provide advice and consent on the President's Supreme Court nomination. Our goal, as spelled out a little bit earlier is to have a fair debate and a dignified debate on Judge Roberts, and to confirm him before the Supreme Court begins its new term on October 3. We can do that. We will do that.

I have worked very closely with the Democratic leader and with the President and with Senators SPECTER and LEAHY to lay out a hearing and floor schedule to move the process forward in September. To summarize, because we were on the floor a couple of hours ago talking about that in a colloquy, Judge Roberts' hearing will begin in the Judiciary Committee on September 6 and Chairman SPECTER intends to hold a committee vote on Judge Roberts Thursday, September 15. We will begin the Senate floor debate no later than the week of Monday, September 26. I look forward to an up-or-down confirmation vote no later than Thursday, September 29.

As we approach this process, let me say a couple of words about Judge Roberts. He is the best of the best legal minds in America. Everybody who has met him has reflected that. His credentials, so impressive, have reflected that. He is a graduate of Harvard University and Harvard Law School, a lawyer who has served two Presidents and argued 39 cases before the Supreme Court. He is a Federal judge who was unanimously confirmed by the Senate to serve on the DC Circuit Court. He has earned bipartisan respect as one of the finest appellate advocates in the Nation.

I have had the opportunity to get to know Judge Roberts personally over the last several weeks and I, like everyone else, have been so impressed with his intellect and his modest demeanor and his willingness to communicate freely and openly. He will be the kind of Justice who will make America proud, embodying the very best of the American spirit, embodying the best of the qualities America expects in a Justice on its highest court: Someone who is smart, fair, impartial, and committed to faithfully interpreting the Constitution and the law.

As we move this process forward to confirm Judge Roberts, I hope and I do believe that the Senate has and will put aside any sort of partisan delay or obstruction or personal attacks of judicial nominees.

I am concerned with two tactics that have emerged that should concern us all—tactics that at first may appear perfectly reasonable but are really designed to thwart the confirmation process. One tactic is asking Judge Roberts to prejudge cases and predetermine outcomes that threaten his judicial independence.

Some have asked the question: "whose side is Judge Roberts on?" in a particular case. And there is only one appropriate answer to that question: Judge Roberts is on the side of the Constitution. When he puts on the judicial robe and takes a seat on the bench with his fellow Justices, he will not be serving as an advocate for a client or a particular point of view. He will serve as a fair and impartial judge who is sworn to uphold the Constitution.

The other tactic that concerns me is the fishing expedition for confidential, privileged documents. The Judiciary Committee and the Senate will have an extensive and comprehensive record of Judge Roberts to review. Already, the White House has released 15,000 pages of documents from Judge Roberts's service in the Federal Government and is expediting the release of tens of thousands more. The committee also can review the more than 300 cases decided by Judge Roberts, the legal briefs and oral argument transcripts from his 39 cases before the Supreme Court, and the 14 hours of hearing transcripts from his previous nomination before the Senate. There will be ample evidence for Senators to consider when they vote yes or no on Judge Roberts, without requiring review of confidential, privileged documents he wrote as a lawyer for his clients.

As we move forward, I urge my colleagues to reject these tactics and to work together in a bipartisan way. We must ensure that Judge Roberts receives a fair hearing, and a fair up or down confirmation vote before the Supreme Court begins its new term on October 3.

In addition to fulfilling this grave responsibility, we also will be carrying out our duty to protect America's national and economic security. The London bombings remind us that the terrorists continue to plot and plan their evil acts. We must stay vigilant and tireless in our pursuit—breaking up their cells, chasing down the money trail, and bringing each and every collaborator to justice.

Defending the homeland also requires defending our borders. The Homeland Security bill we passed 2 weeks ago adds 2,000 more border patrol agents, investigators and detention officers—don't think we have "deportation officers, per se—to our border team. It expands much needed detention space so that we can be sure that people caught entering the country illegally are not released before their cases are processed. The Homeland Security bill also provides $340 million for U.S. Visitor and Immigration Status Indicator Technology—US VISIT. This new technology will enhance our ability to verify the identity of visitors with visas.

We are working hard to secure our borders. Part of that effort also involves reforming our immigration system. America is a nation of immigrants. It is what has made us strong, vibrant and a beacon of hope to the world. People come to America looking for a better life. And we live better lives because of them. But we must ensure that immigrants who come to America come here legally. Over 7,000 miles of land stretch across our borders. Our ports handle 16 million cargo containers. And 330 million non-citizens—students, visitors and workers—cross our borders every year.

Among these visitors is an unprecedented flow of illegal immigrants. And many of them die in the trying. Last year alone, several hundred people died in the deserts and mountains that separate the United States from Mexico. Most died of exposure to the elements.

Some died in accidents. An alarming number were murdered. Along Arizona's southern border—the only area for which we have good data—over 20 people died as a result of hanging, blunt-force trauma, gun shot wounds and other apparently deliberate acts during 2004. More corpses may be buried in shallow, unmarked graves. We don't keep records. We simply don't know. That is why I am asking the Government Accountability Office to produce a report on the deaths along our border to guide our future action.

These tragedies challenge our standards of compassion. But the sheer vastness of the illegal flow also compromises our security.

Among those seeking a better life are those seeking to harm our country. Some bring drugs. Some traffic in human beings. A few may even have links to terrorist groups. The safety and security of every citizen and every visitor who wishes to share in the American dream requires that we reform our laws to strengthen and improve our immigration system.

We also will turn to finishing our work on the Department of Defense authorization bill. Our troops in the field are depending on it. The security of our country depends on it. I thank our distinguished chairman, Chairman JOHN WARNER, who has been a tremendous leader on this bill and continues to represent the very best, I believe, in what a Senator should be as he takes that Department of Defense authorization bill through the activities that we must on the floor of the Senate.

This fall, as we work hard to address the national security concerns, we also will focus on another type of security—economic security, starting with the deficit. For the first time in a decade, we have the opportunity to seriously address the national deficit. President Bush has proposed a plan to cut that deficit in half in 5 years. By working together and rolling up our sleeves, we can hammer out a strategy to get this done.

We have to start that, I believe, by reducing the rate of Government growth, and the spending reconciliation bill will deliver real savings and strengthen our fiscal position. It has been about 9 years since we have had a spending aspect of that reconciliation bill.

A second way we can improve our economic security for working families is by permanently repealing the death tax. We all know the death tax is disruptive. It is unfair. It hurts small businesses. It destroys small businesses and hurts families and the hard-working people they hire. A typical family spends between $30,000 and $150,000 just trying to avoid this unfair tax. That alone is enough to start a small business or create dozens of jobs. Instead, it is simply wasted in trying to avoid a tax that is unfair.

Last week I, with another Senator, met a small group of business owners. The death tax was their very top concern. They talked about how their small family businesses were hurt—family farms and newspapers, shops and factories. So the death tax needs to go. It needs to be put to rest permanently. We will be addressing that soon after we return. Another issue of fairness that demands our attention is asbestos litigation. We have been grappling with this issue for years. Now it is apparent to everyone that asbestos litigation is out of control. More than 700,000 individuals have filed claims; over 8,400 defendant companies have been named in lawsuits; 300,000 claims are pending right now. More than $70 billion has been spent trying to resolve the claims, driving 77 companies bankrupt.

This pace of bankruptcies is accelerating. About a third have taken place in the past 4 years. These are big companies such as Johns Manville, Owens Corning, U.S. Gypsum, and W.R. Grace. Over 90 percent of the industries in America are affected.

Even with the billions spent, and the companies bankrupted, very few victims have received adequate compensation. If the victims receive anything at all, it is only after suffering long delays while waiting for unpredictable and inequitable awards.

The current system has only one real winner—the trial lawyers. Plaintiff trial lawyers get more than half of every settlement dollar. And they are on the hunt for new companies to sue, even companies with little or no connection to the asbestos problem.

Last month, the asbestos fairness bill passed out of committee on a bipartisan vote. It is my intention to bring that bill to the floor and pass it this fall and deliver a system based on fairness and compassion. These are just a few of the issues we will be tackling when we return after the Labor Day recess. We will also work to get our own house in order and finish the spending bills. And we will vote on the issue of Native Hawaiians, as well.

We have had an enormously productive 7 months. And I am proud of the progress we have made on behalf of our fellow citizens. When we began the 109th Congress, America faced a number of structural problems threatening our safety, prosperity and freedom. We needed to take bold action, so we laid out an ambitious plan. We began by passing the fifth fastest budget in Senate history. From there, we pulled together to pass a comprehensive class action reform bill with nearly three quarters of the Senate voting in favor. With this success at our backs, we turned to bankruptcy abuse. And we succeeded in passing the most sweeping overhaul of bankruptcy law in 25 years. Like class action, the bankruptcy bill passed with broad, bipartisan support. And like class action, we voted to restore fairness, integrity and personal responsibility to the legal system.

We then moved to the highway bill. For years, America's roads, ports and infrastructure have been falling into disrepair. Our highways and city streets have become choked with 24-hour traffic. For millions of workers, commuting has become a daily nightmare. Finally, after 3 years of hard work and negotiation, over a dozen hearings, and countless hours of testimony, we passed the highway bill by an overwhelming bipartisan vote. Communities will finally receive the funding they need to improve their roads and ports. And America's drivers will face less time sitting in traffic, wasting time and burning up gas. Which brings me to energy.

Yesterday, in an historic vote, the Senate passed America's most comprehensive energy plan in 40 years. After years of careful and patient negotiation, we finally delivered an energy plan that promises to make America safer and more secure, and our energy supply cleaner and more reliable.

In seven short months, we tackled big issues and got big results. Together we moved America forward. We broke the impasse that was crippling the judicial nomination process. We passed the Central American Free Trade Agreement which promises to strengthen our own security and prosperity in the Western hemisphere. CAFTA will create our second largest export market in Latin America, behind only Mexico. From Washington State apples to Florida oranges, America's producers will thrive. And Central America's democracies will benefit.

We renewed our commitment to our troops and the war on terror. And tonight, by unanimous consent, we passed the PATRIOT Act and will send it to conference with the House. The PATRIOT Act is an essential tool in this new war on terror. It allows us to track and stop terrorists before they are able to kill innocent people. Through it, our law enforcement and intelligence communities are working more closely together toward the common goal of keeping America safe. We face a different kind of enemy—one that hides in far away lands, and among us right here at home. The PATRIOT Act will help defeat terrorist cells operating right here in America.

We are working hard to defeat terrorism on all fronts. On the battlefields of Iraq and Afghanistan. In our own backyard. And at its the roots: the evil and murderous ideology that seeks the destruction of our way of life. And we are winning. Our steady commitment to the spread of democracy is beginning to bear fruit. Elections are taking hold in the Middle East—in Iraq, Afghanistan, the Palestinian Territories, Egypt, Saudi Arabia, and Kuwait.

A new Pew Research poll shows that growing confidence in the Muslim world that America truly supports democracy for their people. And even more encouraging, a growing number believe that democracy can work.

America's policies both here at home and abroad are making America stronger and more secure. With continued hard work and determination, we can keep the ball moving forward.

We have a lot to do when we get back. I am confident that with the President and the House as partners, we will continue to deliver meaningful solutions to the American people. I am confident that we will continue to secure a freer, safer and healthier future for generations of Americans to come. I wish my colleagues a happy, restful and productive August recess.

## ADJOURNMENT UNTIL TUESDAY, SEPTEMBER 6, 2005

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order under the provisions of H. Con. Res. 225.

Thereupon, the Senate, at 8:35 p.m., adjourned until Tuesday, September 6, 2005, at 12 noon.

## DISCHARGED NOMINATIONS

The Senate Committee on Health, Education, Labor, and Pensions was discharged from further consideration of the following nomination and the nomination was confirmed:

CHARLES S. CICCOLELLA, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

WILLIAM ROBERT TIMKEN, JR., OF OHIO, TO BE AMBASSADOR TO THE FEDERAL REPUBLIC OF GERMANY.

WILLIAM J. BURNS, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR TO THE RUSSIAN FEDERATION.

RICHARD HENRY JONES, OF NEBRASKA, TO BE AMBASSADOR TO ISRAEL.

FRANCIS JOSEPH RICCIARDONE, JR., OF NEW HAMPSHIRE, TO BE AMBASSADOR TO THE ARAB REPUBLIC OF EGYPT.

## NOMINATIONS

Executive nominations received by the Senate July 29, 2005:

### SUPREME COURT OF THE UNITED STATES

JOHN G. ROBERTS, JR., OF MARYLAND, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, VICE SANDRA DAY O'CONNOR, RETIRING.

### DEPARTMENT OF THE TREASURY

TERRY NEESE, OF OKLAHOMA, TO BE DIRECTOR OF THE MINT FOR A TERM OF FIVE YEARS, VICE HENRIETTA HOLSMAN FORE.

### DEPARTMENT OF COMMERCE

FRANKLIN L. LAVIN, OF OHIO, TO BE UNDER SECRETARY OF COMMERCE FOR INTERNATIONAL TRADE, VICE GRANT D. ALDONAS, RESIGNED.

### DEPARTMENT OF STATE

FRANCIS ROONEY, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE HOLY SEE.

JOSETTE SHEERAN SHINER, OF VIRGINIA, TO BE UNITED STATES ALTERNATE GOVERNOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF FIVE YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT BANK FOR A TERM OF FIVE YEARS; UNITED STATES ALTERNATE GOVERNOR OF THE AFRICAN DEVELOPMENT FUND; UNITED STATES ALTERNATE GOVERNOR OF THE ASIAN DEVELOPMENT BANK; AND UNITED STATES ALTERNATE GOVERNOR OF THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT, VICE ALAN PHILLIP LARSON.

### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

NAOMI CHURCHILL EARP, OF VIRGINIA, TO BE A MEMBER OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION FOR A TERM EXPIRING JULY 1, 2010. (REAPPOINTMENT)

### NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

MARK HOFFLUND, OF IDAHO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR THE REMAINDER OF THE TERM EXPIRING SEPTEMBER 3, 2008, VICE JAMES MCBRIDE, RESIGNED.

### DEPARTMENT OF VETERANS AFFAIRS

ROBERT JOSEPH HENKE, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (MANAGEMENT), VICE WILLIAM H. CAMPBELL, RESIGNED.

WILLIAM F. TUERK, OF VIRGINIA, TO BE UNDER SECRETARY OF VETERANS AFFAIRS FOR MEMORIAL AFFAIRS, VICE JOHN W. NICHOLSON, RESIGNED.

### FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION WITHIN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER: ROBERT S. CONNAN, OF FLORIDA

### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SUBJECT TO QUALIFICATIONS PROVIDED BY LAW, THE FOLLOWING FOR PERMANENT APPOINTMENT TO THE GRADES INDICATED IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

*To be captain*

JOHN W. HUMPHREY, JR.
PHILIP R. KENNEDY
MARK P. ABLONDI
SCOTT E. KUESTER
TODD C. STILES
MICHELE G. BULLOCK

*To be commander*

MARK H. PICKETT

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

LT. GEN. WILLIAM T. HOBBINS, 8417

### IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be brigadier general*

COL. JAMES R. JOSEPH, 0140

## CONFIRMATIONS

Executive nominations confirmed by the Senate Friday, July 29, 2005:

### ENVIRONMENTAL PROTECTION AGENCY

GRANTA Y. NAKAYAMA, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.

### DEPARTMENT OF ENERGY

JAMES A. RISPOLI, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (ENVIRONMENTAL MANAGEMENT).

### DEPARTMENT OF STATE

HENRIETTA HOLSMAN FORE, OF NEVADA, TO BE AN UNDER SECRETARY OF STATE (MANAGEMENT).

JOSETTE SHEERAN SHINER, OF VIRGINIA, TO BE AN UNDER SECRETARY OF STATE (ECONOMIC, BUSINESS, AND AGRICULTURAL AFFAIRS).

KAREN P. HUGHES, OF TEXAS, TO BE UNDER SECRETARY OF STATE FOR PUBLIC DIPLOMACY, WITH THE RANK OF AMBASSADOR.

KRISTEN SILVERBERG, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL ORGANIZATION AFFAIRS).

JENDAYI ELIZABETH FRAZER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (AFRICAN AFFAIRS).

HENRY CRUMPTON, OF VIRGINIA, TO BE COORDINATOR FOR COUNTERTERRORISM, WITH THE RANK AND STATUS OF AMBASSADOR AT LARGE.

JAMES CAIN, OF NORTH CAROLINA, TO BE AMBASSADOR TO DENMARK.

ALAN W. EASTHAM, JR., OF ARKANSAS, TO BE AMBASSADOR TO THE REPUBLIC OF MALAWI.

KATHERINE HUBAY PETERSON, OF CALIFORNIA, TO BE AMBASSADOR TO REPUBLIC OF BOTSWANA.

MICHAEL RETZER, OF MISSISSIPPI, TO BE AMBASSADOR TO THE UNITED REPUBLIC OF TANZANIA.

GILLIAN ARLETTE MILOVANOVIC, OF PENNSYLVANIA, TO BE AMBASSADOR TO THE REPUBLIC OF MACEDONIA.

### DEPARTMENT OF VETERANS AFFAIRS

JAMES PHILIP TERRY, OF VIRGINIA, TO BE CHAIRMAN OF THE BOARD OF VETERANS' APPEALS FOR A TERM OF SIX YEARS.

### DEPARTMENT OF THE TREASURY

JOHN C. DUGAN, OF MARYLAND, TO BE COMPTROLLER OF THE CURRENCY FOR A TERM OF FIVE YEARS.

JOHN M. REICH, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION FOR A TERM OF FIVE YEARS.

### SECURITIES AND EXCHANGE COMMISSION

CHRISTOPHER COX, OF CALIFORNIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE TERM EXPIRING JUNE 5, 2009.

ROEL C. CAMPOS, OF TEXAS, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR A TERM EXPIRING JUNE 5, 2010.

ANNETTE L. NAZARETH, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SECURITIES AND EXCHANGE COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 5, 2007.

### FEDERAL DEPOSIT INSURANCE CORPORATION

MARTIN J. GRUENBERG, OF MARYLAND, TO BE VICE CHAIRPERSON OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION.

MARTIN J. GRUENBERG, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR THE REMAINDER OF THE TERM EXPIRING DECEMBER 27, 2006.

MARTIN J. GRUENBERG, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM EXPIRING DECEMBER 27, 2012.

### DEPARTMENT OF DEFENSE

PHILLIP JACKSON BELL, OF GEORGIA, TO BE DEPUTY UNDER SECRETARY OF DEFENSE FOR LOGISTICS AND MATERIEL READINESS.

KEITH E. EASTIN, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF THE ARMY.

### DEPARTMENT OF THE TREASURY

SANDRA L. PACK, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE TREASURY.

TIMOTHY D. ADAMS, OF VIRGINIA, TO BE AN UNDER SECRETARY OF THE TREASURY.

RANDAL QUARLES, OF UTAH, TO BE AN UNDER SECRETARY OF THE TREASURY.

KEVIN I. FROMER, OF VIRGINIA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY.

ROBERT M. KIMMITT, OF VIRGINIA, TO BE DEPUTY SECRETARY OF THE TREASURY.

### UNITED STATES INTERNATIONAL TRADE COMMISSION

SHARA L. ARANOFF, OF MARYLAND, TO BE A MEMBER OF THE UNITED STATES INTERNATIONAL TRADE COMMISSION FOR A TERM EXPIRING DECEMBER 16, 2012.

### DEPARTMENT OF DEFENSE

RONALD M. SEGA, OF COLORADO, TO BE UNDER SECRETARY OF THE AIR FORCE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

### DEPARTMENT OF LABOR

CHARLES S. CICCOLELLA, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.

### DEPARTMENT OF STATE

WILLIAM ROBERT TIMKEN, JR., OF OHIO, TO BE AMBASSADOR TO THE FEDERAL REPUBLIC OF GERMANY.

WILLIAM J. BURNS, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR TO THE RUSSIAN FEDERATION.

RICHARD HENRY JONES, OF NEBRASKA, TO BE AMBASSADOR TO ISRAEL.

### DEPARTMENT OF JUSTICE

MICHAEL J. GARCIA, OF NEW YORK, TO BE UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF NEW YORK FOR THE TERM OF FOUR YEARS.

PETER MANSON SWAIM, OF INDIANA, TO BE UNITED STATES MARSHAL FOR THE SOUTHERN DISTRICT OF INDIANA FOR THE TERM OF FOUR YEARS.

## IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

LT. GEN. NORTON A. SCHWARTZ

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS VICE CHIEF OF STAFF OF THE AIR FORCE AND FOR APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 8034 AND 601:

*To be general*

LT. GEN. JOHN D. W. CORLEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. KEVIN P. CHILTON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. DONALD J. HOFFMAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. DAVID A. DEPTULA

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601, AND TO BE THE SENIOR MEMBER OF THE MILITARY STAFF COMMITTEE OF THE UNITED NATIONS UNDER TITLE 10, U.S.C., SECTION 711:

*To be lieutenant general*

LT. GEN. VICTOR E. RENUART, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JOHN L. HUDSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 8069:

*To be major general*

BRIG. GEN. MELISSA A. RANK

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIGADIER GENERAL TED F. BOWLDS
BRIGADIER GENERAL DAVID E. CLARY
BRIGADIER GENERAL DAVID M. EDGINGTON
BRIGADIER GENERAL DELWYN R. EULBERG
BRIGADIER GENERAL DAVID S. GRAY
BRIGADIER GENERAL WENDELL L. GRIFFIN
BRIGADIER GENERAL IRVING L. HALTER, JR.
BRIGADIER GENERAL KEVIN J. KENNEDY
BRIGADIER GENERAL JOHN C. KOZIOL
BRIGADIER GENERAL WILLIAM T. LORD
BRIGADIER GENERAL ARTHUR B. MORRILL III
BRIGADIER GENERAL LARRY D. NEW
BRIGADIER GENERAL RICHARD Y. NEWTON III
BRIGADIER GENERAL ALLEN G. PECK
BRIGADIER GENERAL JEFFREY R. RIEMER
BRIGADIER GENERAL ERIC J. ROSBORG
BRIGADIER GENERAL DAVID J. SCOTT
BRIGADIER GENERAL MARK D. SHACKELFORD
BRIGADIER GENERAL JOHN T. SHERIDAN
BRIGADIER GENERAL GREGORY L. TREBON
BRIGADIER GENERAL ROY M. WORDEN

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be major general*

BRIGADIER GENERAL CHARLES W. COLLIER, JR.
BRIGADIER GENERAL SCOTT A. HAMMOND
BRIGADIER GENERAL HENRY C. MORROW
BRIGADIER GENERAL ROGER C. NAFZIGER
BRIGADIER GENERAL GARY L. SAYLER
BRIGADIER GENERAL DARRYLL D.M. WONG

*To be brigadier general*

COLONEL MICHAEL D. AKEY
COLONEL FRANCES M. AUCLAIR
COLONEL KATHLEEN F. BERG
COLONEL STANLEY E. CLARKE III
COLONEL JAMES F. DAWSON, JR.
COLONEL MICHAEL D. GULLIHUR
COLONEL TONY A. HART
COLONEL MARTIN K. HOLLAND
COLONEL MARY J. KIGHT
COLONEL JAMES W. KWIATKOWSKI
COLONEL ULAY W. LITTLETON, JR.
COLONEL PATRICK J. MOISIO
COLONEL LODA R. MOORE
COLONEL THOMAS A. PERARO
COLONEL WILLIAM M. SCHUESSLER
COLONEL ROBERT M. STONESTREET
COLONEL JANNETTE YOUNG

## IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be general*

LT. GEN. WILLIAM E. WARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. ROBERT W. WAGNER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. KEITH B. ALEXANDER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. RONALD L. BURGESS, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. DAVID H. PETRAEUS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. MARTIN E. DEMPSEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. WILLIAM E. MORTENSEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. CLAUDE V. CHRISTIANSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE POSITIONS AND GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 3037:

*To be major general and the judge advocate general of the United States Army*

MAJ. GEN. SCOTT C. BLACK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE POSITIONS AND GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 3037:

*To be major general and the assistant judge advocate general of the United States Army*

MAJ. GEN. DANIEL V. WRIGHT

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be major general*

BRIGADIER GENERAL JAY W. HOOD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be brigadier general*

COL. DOUGLAS L. CARVER

## IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS ASSISTANT COMMANDANT OF THE MARINE CORPS AND FOR APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 5044 AND 601:

*To be general*

LT. GEN. ROBERT MAGNUS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant feneral*

MAJ. GEN. JOHN G. CASTELLAW

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. EMERSON N. GARDNER, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JOSEPH F. WEBER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. RICHARD S. KRAMLICH

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

MAJ. GEN. JOHN F. GOODMAN

## IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. ANN E. RONDEAU

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

VICE ADM. DAVID C. NICHOLS, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be rear admiral*

REAR ADM. (LH) HENRY BALAM TOMLIN III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) BEN F. GAUMER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) RAYMOND K. ALEXANDER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral*

REAR ADM. (LH) DAVID O. ANDERSON
REAR ADM. (LH) HUGO G. BLACKWOOD
REAR ADM. (LH) DIRK J. DEBBINK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) THOMAS K. BURKHARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) DONNA L. CRISP

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral*

REAR ADM. (LH) MICHAEL S. ROESNER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. DONALD R. GINTZIG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral (lower half)*

CAPT. RICHARD R. JEFFRIES
CAPT. DAVID J. SMITH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral (lower half)*

CAPT. MARK F. HEINRICH
CAPT. CHARLES M. LILLI

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral (lower half)*

CAPT. MICHAEL D. HARDEE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral (lower half)*

CAPT. TIMOTHY V. FLYNN III
CAPT. CHARLES H. GODDARD
CAPT. JOHN C. ORZALLI

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral (lower half)*

CAPT. TONY L. COTHRON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral (lower half)*

CAPT. MOIRA N. FLANDERS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

*To be rear admiral (lower half)*

CAPT. MICHAEL A. BROWN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

*To be rear admiral (lower half)*

CAPT. JULIUS S. CAESER
CAPT. WILLIAM P. LOEFFLER
CAPT. LEE J. METCALF
CAPT. GARLAND P. WRIGHT, JR.

### IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING WITH THOMAS L. BLASE AND ENDING WITH GREGORY L. TATE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 14, 2005.

AIR FORCE NOMINATIONS BEGINNING WITH DAVID J. LUTHER AND ENDING WITH MERIDITH A. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 19, 2005.

### IN THE ARMY

ARMY NOMINATIONS BEGINNING WITH JOHN M. BALAS, JR. AND ENDING WITH PAUL J. WARDEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 15, 2005.

ARMY NOMINATIONS BEGINNING WITH EDWARD D. ARRINGTON AND ENDING WITH CLIFTON E. YU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 4, 2005.

ARMY NOMINATIONS BEGINNING WITH BARRY D. BOWDEN AND ENDING WITH CRAIG N. WILEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 14, 2005.

ARMY NOMINATIONS BEGINNING WITH WILLIAM P. ADELMAN AND ENDING WITH JOSEPH J. ZUBAK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 9, 2005.

ARMY NOMINATIONS BEGINNING WITH TERRY W. AUSTIN AND ENDING WITH PAUL J. YACOVONE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 9, 2005.

ARMY NOMINATIONS BEGINNING WITH SCOTT W. BURGAN AND ENDING WITH JULIE A. SMITH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 9, 2005.

ARMY NOMINATIONS BEGINNING WITH MONROE N. FARMER, JR. AND ENDING WITH WENDY C. SPRIGGS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

ARMY NOMINATIONS BEGINNING WITH JERRY R. ACTON, JR. AND ENDING WITH STEVEN R. MOUNT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

ARMY NOMINATIONS BEGINNING WITH MARIA E. BOVILL AND ENDING WITH MICHAEL J. WALKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

ARMY NOMINATIONS BEGINNING WITH THELDA J. ATKIN AND ENDING WITH TAMI ZALEWSKI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

ARMY NOMINATIONS BEGINNING WITH CHRISTOPHER AMAKER AND ENDING WITH STEPHEN C. WOOLDRIDGE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

ARMY NOMINATIONS BEGINNING WITH DENISE D. ADAMSMANN AND ENDING WITH ROBIN A. VILLIARD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

ARMY NOMINATIONS BEGINNING WITH THOMAS H. AARSEN AND ENDING WITH X3541, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

### IN THE MARINE CORPS

MARINE CORPS NOMINATION OF DANIEL J. PETERLICK TO BE LIEUTENANT COLONEL.

MARINE CORPS NOMINATIONS BEGINNING WITH DANNY A. HURD AND ENDING WITH GEORGE C. MCLAIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON FEBRUARY 8, 2005.

### IN THE NAVY

NAVY NOMINATIONS BEGINNING WITH JAMES W. CALDWELL, JR. AND ENDING WITH RICHARD J. PAPESCA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH DAVID K. CHAPMAN AND ENDING WITH WILLIAM V. WEINMAN, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATION OF ROBERT W. WORRINGER TO BE CAPTAIN.

NAVY NOMINATION OF MELISSA J. MACKAY TO BE CAPTAIN.

NAVY NOMINATIONS BEGINNING WITH THOMAS J. CUFF AND ENDING WITH CARVEN A. SCOTT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH STEVEN F. MOMANO AND ENDING WITH AGUSTIN L. OTERO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH LARRY THOMAS AND ENDING WITH DAVID J. WRAY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH KERI A. BUCK AND ENDING WITH WILLIAM J. WILSON III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH NICHOLAS A. FILIPPONE AND ENDING WITH NANCY S. VEGEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH EDWARD Y. ANDRUS AND ENDING WITH THOMAS E. STOWELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH REBEKAH R. BARRISH AND ENDING WITH SAMUEL G. SUMWALT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH CHARLES E. ADAMS AND ENDING WITH KATHERINE A. WALTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH WALTER J. ADELMANN, JR. AND ENDING WITH CLAYTON G. TETTELBACH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH RUSSELL E. ALLEN AND ENDING WITH STEPHEN E. ZINI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 6, 2005.

NAVY NOMINATIONS BEGINNING WITH ANTHONY COOPER AND ENDING WITH WILLIAM S. GURECK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH ANNIE B. ANDREWS AND ENDING WITH SUSAN L. SHERMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH ROBERT G. BERGMAN AND ENDING WITH PHILIP G. STROZZO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH SCOTT D. KATZ AND ENDING WITH PAUL C. STEWART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH WILLIAM T. AINSWORTH AND ENDING WITH GEORGE D. SEATON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH KATHERINE M. DONOVAN AND ENDING WITH MARTHA M. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH TERRY W. AUBERRY AND ENDING WITH DAVID B. WILKIE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH NICHOLAS V. BUCK AND ENDING WITH MATHIAS W. WINTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH MICHAEL E. DEVINE AND ENDING WITH ALVIN C. WILSON III, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH RAYMOND M. ALFARO AND ENDING WITH JOSEPH YUSICIAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH ALAN J. ABRAMSON AND ENDING WITH DOUGLAS E. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 25, 2005.

NAVY NOMINATIONS BEGINNING WITH CARL J. CWIKLINSKI AND ENDING WITH ROBERT P. MCCLANAHAN, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH JOSEPH A. CLEMENTS AND ENDING WITH GAROLD G. ULMER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH JEFFREY T. BOROWY AND ENDING WITH JULIUS C. WASHINGTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH DIANNE A. ARCHER AND ENDING WITH JEFFERY S. WOLFE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH ROBERT B. BLAZEWICK AND ENDING WITH ERIC C. PRICE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH WILLIAM J. ADAMS, JR. AND ENDING WITH STEVEN J. WINTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH GREGORY S. BLASCHKE AND ENDING WITH DAVID G. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH IOANA BETTIOS AND ENDING WITH MICHAEL J. WOLFGANG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH LINNEA M. AXMAN AND ENDING WITH LAURIE L. WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH JOHN G. DILLENDER AND ENDING WITH DIANE L. SNYDER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH JANE D. BINGHAM AND ENDING WITH STEVEN R. MORGAN, WHICH

NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH GREGORY F. BECHT AND ENDING WITH MICHAEL L. ZABEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH DEANA L. ABERNATHEY AND ENDING WITH LINDA J. TIEASKIE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH MAUREEN E. CARROLL AND ENDING WITH JACOB R. WALKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH THOMAS L. AMERSON AND ENDING WITH KENNETH E. WAVELL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH BRIAN D. HODGSON AND ENDING WITH POMAY TSOI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH GREGORY L. BELCHER AND ENDING WITH WAYNE M. WEISS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 6, 2005.

NAVY NOMINATIONS BEGINNING WITH RICHARD W. HAUPT AND ENDING WITH ALVIN A. PLEXICO, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH RONALD M. BISHOP, JR. AND ENDING WITH ANTHONY S. VIVONA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH CHERYL J. COTTON AND ENDING WITH TRACY D. WHITELEY, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH ALBERT R. COSTA AND ENDING WITH CHRISTOPHER S. WIRTH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH DAVID J. BYERS AND ENDING WITH MARC T. STEINER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH JASON W. CARTER AND ENDING WITH LAURA G. YAMBRICK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH CLIFFORD W. BEAN III AND ENDING WITH DONNA M. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH THOMAS J. ANDERSON AND ENDING WITH MICHAEL ZIV, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH JASON L. ANSLEY AND ENDING WITH TRACY A. VINCENT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH DANIEL A. ABRAMS AND ENDING WITH JOHN W. WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH JOHN C. ABSETZ AND ENDING WITH JOHN J. ZERR II, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JUNE 14, 2005.

NAVY NOMINATIONS BEGINNING WITH JAMES R. MARTIN AND ENDING WITH GLEN WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

NAVY NOMINATIONS BEGINNING WITH MARJORIE ALEXANDER AND ENDING WITH MARIA A. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

NAVY NOMINATIONS BEGINNING WITH ERIC M. AABY AND ENDING WITH CHARLES S. WILLMORE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 12, 2005.

NAVY NOMINATIONS BEGINNING WITH WILLIAM D. BRYAN AND ENDING WITH BILLY W. SLOAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

NAVY NOMINATIONS BEGINNING WITH BRUCE H. BOYLE AND ENDING WITH BRADLEY E. TELLEEN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

NAVY NOMINATIONS BEGINNING WITH JEFFREY G. ANT AND ENDING WITH BENJAMIN W. YOUNG, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

NAVY NOMINATIONS BEGINNING WITH SYED N. AHMAD AND ENDING WITH BARBARA H. ZELIFF, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

NAVY NOMINATIONS BEGINNING WITH ANTHONY A. ARITA AND ENDING WITH LINDA D. YOUBERG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

NAVY NOMINATIONS BEGINNING WITH JAMES T. ALBRITTON AND ENDING WITH TODD E. YANIK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

NAVY NOMINATIONS BEGINNING WITH THOMAS C. ALEWINE AND ENDING WITH TARA J. ZIEBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON JULY 14, 2005.

## WITHDRAWAL

Executive Message transmitted by the President to the Senate on July 29, 2005 withdrawing from further Senate consideration the following nomination:

ALBERT HENRY KONETZNI, JR., OF NEW YORK, TO BE A MEMBER OF THE NUCLEAR REGULATORY COMMISSION FOR THE TERM OF FIVE YEARS EXPIRING JUNE 30, 2009, WHICH WAS SENT TO THE SENATE ON JANUARY 4, 2005.

# EXTENSIONS OF REMARKS

## A PROCLAMATION RECOGNIZING ANDREW W. KIRKLAND

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, whereas, Andrew W. Kirkland has devoted himself to serving others through his membership in the Boy Scouts of America; and

Whereas, Andrew W. Kirkland has shared his time and talent with the community in which he resides; and

Whereas, Andrew W. Kirkland has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Andrew W. Kirkland must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award.

Therefore, I join with the residents of Cadiz, the entire 18th Congressional District, Andrew's family and friends in congratulating Andrew W. Kirkland as he receives the Eagle Scout Award.

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## TRIBUTE TO REDSTONE-HUNTSVILLE CHAPTER OF THE ASSOCIATION OF THE U.S. ARMY

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CRAMER. Mr. Speaker, I rise today to congratulate the members of the Redstone-Huntsville Chapter of the Association of the U.S. Army for being named for the second year in a row the "Best Overall" AUSA Chapter in the country.

AUSA is dedicated to supporting the United States Army and maintaining a strong national defense. AUSA achieves its goals by supporting the needs and interests of soldiers, retirees, and family members.

As the home of Redstone Arsenal, the U.S. Army Aviation and Missile Command, and numerous defense partners, north Alabama has earned an excellent reputation for its role protecting the warfighter and defending our national security.

The Redstone-Huntsville Chapter of AUSA, which was founded in 1959, has been a strong advocate and voice for north Alabama's warfighters. All of us in north Alabama are very proud of the hard work and commitment AUSA has always exhibited.

Mr. Speaker, this award is wonderful news for our community and I rise on behalf of everyone in north Alabama to express our sincere congratulations to the members of the Redstone-Huntsville Chapter of AUSA.

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## IN HONOR OF MR. GEORGE J. GOMES, AGRICULTURALIST OF THE YEAR

### HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. COSTA. Mr. Speaker, I rise today to honor Mr. George J. Gomes of Carmichael, CA. The California Farm Bureau has honored Mr. Gomes by naming him the 2005 "Agriculturalist of the Year."

George began his agricultural odyssey on his family's dairy in Gustine, CA, where he operated the family dairy and farmed forage crops. After selling the farm, Mr. Gomes attended California State University, San Luis Obispo where he attained his bachelor of science degree in Agribusiness Management and his masters degree in Agriculture Education. He began his professional career as an associate professor at Cal Poly where he taught Agricultural Management.

George Gomes' career took him in many directions. Upon leaving the university, George managed the Napa County Fair. He later joined the California Department of Food and Agriculture in 1975 where he worked in the Division of Fairs and Expositions. Shortly thereafter, he became the assistant director before being appointed chief deputy director by Governor George Deukmejian. Mr. Gomes began a new journey in 1987 when he was named administrator of the California Farm Bureau Federation.

His extensive educational and professional experience has allowed George to become a widely recognized leader within California's agriculture industry. While in school he was an active member of the Dairy Club, National Dairy Judging Team and Agriculture Council. Beyond that, George has served as a member of the State Fair Advisory Committee, chair of the Cal Poly-San Luis Obispo Agriculture Advisory Committee, California Fair Services Board of Directors and Keep California Beautiful Board of Directors.

Through his public service commitments in education, government and community organizations George Gomes has been steadfast in promoting California agriculture. This award from the California Farm Bureau Federation could not have gone to anyone more deserving. I wish George and his family all the best.

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## COMMENDING ARMY SPECIALIST ADAM JAMES HARTING

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. VISCLOSKY. Mr. Speaker, it is with great pride and respect that I wish to commend Army Specialist Adam James Harting for his bravery in the field of battle and his willingness to fight for his country. Specialist Harting was assigned to the 3rd Battalion 69th Armor Regiment, 1st Brigade Combat Team, 42nd Infantry Division, Fort Stewart, GA. Specialist Harting lost his life on Monday, July 25, 2005, in Samarra, Iraq. His sacrifice will be remembered by a community that has been struck hard by the devastating loss of one of its own.

A native of Portage, IN, Specialist Harting graduated from Portage High School. It came as no surprise to those who knew Specialist Harting that he would serve his country. A true patriot, his love for his country was evident from the time that he was a child. He wanted to help make a difference in the world. At a young age Adam and his twin brother, Alex, wrote contracts to their father promising they were going to join the military.

Specialist Harting wanted to be a hero. He began speaking to recruiters about joining the military. The terrorist attacks on September 11, 2001 made his decision final. Specialist Harting felt tremendous pride for his country, and he was willing to endanger his own life to protect the lives of his fellow citizens. Soon after graduation he joined the military. In January 2003, at the age of 19, he was featured in Time magazine for being one of the youngest soldiers to arrive in Kuwait to serve in the conflict. He helped take a bridge over the Tigris River, and overran the airport in Baghdad. On July 25, 2005, less than 2 weeks after returning to the country for his third tour, Specialist Harting was killed when an explosive device detonated near the Bradley Fighting Vehicle that he was driving. His courage and heroism will always be remembered, and his sacrifice will forever live in the hearts and minds of those for whom he battled. He gave his life so that the freedoms and values he treasured could be enjoyed by those around the world.

Mr. Speaker, Adam's sacrifice for his country is a tribute to his dedication and willingness to put others before himself. He died not only while defending his fellow soldiers, but also defending his country and the Iraqi people from an oppressive regime. He is survived by his parents Jim and Katherine; stepmother Brenda; his twin brother, Alex, who served in the United States Air Force; and his siblings Mark, Josh, Jimmy, Tiffany, Tabitha, Hanna, and Leslie. Those who knew him best describe Adam as a kind, fun-loving person who always wanted to help others. He ultimately gave his life while protecting his fellow Americans and his heroism will never be forgotten.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in honoring a fallen hero, United States Army Specialist Adam Harting. He will forever remain a hero in the eyes of his family, his community, and his country. Let us never forget the sacrifice he made to preserve the ideals of freedom and democracy.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## A PROCLAMATION RECOGNIZING MARC WEST

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, whereas, Marc West has devoted himself to serving others through his membership in the Eagle Scouts; and

Whereas, Marc West has shared his time and talent with the community in which he resides; and

Whereas, Marc West has demonstrated a commitment to meet challenges with enthusiasm, confidence and outstanding service; and

Whereas, Marc West must be commended for the hard work and dedication he put forth in earning the Eagle Scout Award.

Therefore, I join with the residents of Zanesville, the entire 18th Congressional District of Ohio, Marc's family and friends in congratulating Marc West as he receives the Eagle Scout Award.

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## TRIBUTE TO DR. RICHARD SHOWERS

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CRAMER. Mr. Speaker, I rise today to honor Dr. Richard Showers and pay tribute to his thirty-six year educational career in North Alabama.

Dr. Showers has been an outstanding educator in North Alabama. Throughout his career, Dr. Showers has held many diverse positions. He has been an elementary technology teacher, a middle school earth science teacher, a middle school industrial teacher, a vocational education teacher, an adult education teacher, and an adult education coordinator.

Additionally Mr. Speaker, Dr. Showers has proudly served the Huntsville community as the District One City Council Member since October of 1988. In fact, he was the first African-American to be elected to the City Council since 1907. As a council member, Dr. Showers sponsored the first smoking ordinance in the city, he was successful in locating an industrial park in North Huntsville, and he supported efforts in naming the Northern bypass in honor of Reverend Dr. Martin Luther King, Jr.

Mr. Speaker, Dr. Showers has had a tremendous effect on our community as a teacher and City Council member and I would like thank him for his lifelong commitment to inspiring our community's children and his encouragement of adults to continue their education. I rise today to join his fellow teachers, students, family members, and friends in celebrating his distinguished career and to congratulate him upon his retirement.

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## IN HONOR OF CAPTAIN SANDRA L. DEGROOT

### HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. COSTA. Mr. Speaker, I rise today to honor and wish well in retirement Captain Sandra L. DeGroot of Lemoore, California. Captain DeGroot has diligently served her country for the past 30 years.

In September 1975 Sandra joined the United States Navy as a Nurse Corps Candidate and was commissioned an ensign. It was there that Captain DeGroot committed herself to ensuring proper care and recovery for the women and men who place themselves in harm's way in the effort to protect our freedom.

She graduated from Keuka College with a Bachelor of Science Degree in Nursing in 1976 and reported for Officer Indoctrination School in Newport, Rhode Island. Upon completion of her officer training, Sandra began her career at the Naval Hospital in Jacksonville, Florida in the Intensive Care unit.

Captain DeGroot's profession brought her to a variety of places. She was assigned to Naval Hospital Pensacola, Florida, as the charge nurse of the medicine ward. Shortly thereafter Sandra became head nurse of the Pediatric Clinic at Naval Hospital, Guam, and after a brief return to Florida, she joined the ranks in California at Naval Hospital San Diego. At San Diego Captain DeGroot filled many roles; she served as the staff nurse on Labor and Delivery, Division Officer OB/GYN clinics and Perinatal Clinical Nurse Specialist. Ever the avid learner, Sandra transferred to Utah where she completed her master of science degree in nursing, with a major in nurse-midwifery. Her dedication to work and school brought great rewards and in 1996 Captain DeGroot reported to Naval Hospital Jacksonville where she was the Navy's first Director of Women's Health Services. A few years later Sandra was assigned to U.S. Naval Hospital Keflavik, Iceland, before returning to California at Naval Hospital Lemoore as the commanding officer.

On top of her successful career Captain DeGroot has also made time for membership in various organizations. The American College of Nurse Midwives, the American Academy of Nurse Practitioners, the American Holistic Nurses Association and the Association of Women's Health, Obstetric and Neonatal Nurses are just some of the organizations with which she is involved. Her hard work has not gone unnoticed because Captain DeGroot has received the Meritorious Service Medal with Gold Star, Navy Commendation Medal with Gold Star, Navy Achievement Medal, National Defense Service Medal with Bronze Star and the Overseas Service Ribbon.

For us, her retirement is bittersweet—although it is well deserved Captain DeGroot's efforts will be greatly missed. I congratulate Captain Sandra L. DeGroot, and wish her and her family all the best.

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## HONORING MR. GARY NEALE

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to honor Mr. Gary Neale on the occasion of his retirement as chief executive officer of NiSource, where he has served the people of northwest Indiana since 1989 and who I am proud to call a friend.

Mr. Neale guided the Northern Indiana Public Service Company, a mid-sized utility provider, to become NiSource, one of the Nation's leading energy companies. Today, NiSource is a Fortune 500 company—the only one headquartered in northwest Indiana, and one of the few located in the State of Indiana. Because of Mr. Neale's work, NiSource is now the largest natural gas distributor east of the Rocky Mountains. This incredible growth came under the talented leadership of Mr. Neale, as he has brought an unparalleled level of vision and energy to NiSource. Because of his commitment to the community and his company, he will continue to serve NiSource as chairman of the board of directors after his retirement.

Upon his retirement, Mr. Neale will have nearly 40 years of experience in the energy industry. He has become one of the most well-respected leaders in the industry over the years. Mr. Neale has served as the chairman of the American Gas Association and the North American Electric Reliability Council. He was also appointed by former U.S. Energy Secretary Spencer Abraham to serve on the U.S. Department of Energy's Electricity Advisory Board and was selected by former U.S. Energy Secretary Bill Richardson to serve on the National Petroleum Council.

His contributions to the economy of northwest Indiana are only eclipsed by his commitment to community service. The NiSource Charitable Foundation contributes more than $5 million per year to non-profit organizations in the communities served by NiSource. Under his guidance, NiSource developed its Environmental Challenge Fund to support wildlife enhancement projects. To date, the fund has awarded more than $850,000 in support of wildlife projects. Mr. Neale himself is personally committed to public service, serving on the boards of the Northwest Indiana Symphony Society, the Lake County United Way Campaign, and the Northwest Indiana Americans With Disabilities Act Advisory Board. A leader in economic development and a man of foresight, Mr. Neale has worked to improve the efficiency of local government services through his involvement with the Good Government Initiative in northwest Indiana. Additionally, he has invested great amounts of personal time and energy in the Indiana Dunes Environmental Learning Center. He is also committed to higher education in northwest Indiana, serving as a Trustee of Valparaiso University.

Mr. Neale has accomplished much since coming to northwest Indiana from his home state of Washington, where he received his

B.A. and M.B.A. from the University of Washington. I wish him, his wife Sandy, his two children, Julie and David, and his five grandchildren the best of luck in his retirement.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in commending Gary Neale for his outstanding contributions to the community of northwest Indiana. His commitment to improving the quality of life for the people of the First Congressional District of Indiana is truly inspirational and should be recognized and commended. Over the years, I have sought out Gary for his advice and counsel on energy issues and to seek his assistance on matters affecting Northwest Indiana. I have always found him to be conscientious, deliberate, and innovative in his guidance. As James Joyce said, "not in time, place, or circumstance but in the man lies success;" or, as my father would say, "he's a 100% guy."

## A PROCLAMATION RECOGNIZING NANCY BELL

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, whereas, Nancy Bell received the Spirit of Democracy Award in recognition for her accomplishments as the Director of the Ross County Board of Elections; and

Whereas, Nancy Bell has been acknowledged by Secretary of State J. Kenneth Blackwell; and

Whereas, Nancy Bell should be commended for her outstanding dedication to the Ross County Board of Elections and for her exceptional knowledge of the elections process.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Nancy Bell for receiving the Spirit of Democracy Award.

## HONORING THE 200TH BIRTHDAY OF THE CITY OF HUNTSVILLE, ALABAMA

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CRAMER. Mr. Speaker, I rise today to honor the city of Huntsville, Alabama, on its 200th birthday. Huntsville is a part of my Congressional District and also my birthplace and hometown.

The city of Huntsville, named after pioneer John Hunt, was founded in 1805. By 1819, it was the largest city in the Alabama Territory and was soon named the State of Alabama's first capital.

Over the last two centuries, Huntsville has played a significant role in the development of our Nation and has established itself as a leader in science and technology development. Today, technology, space, and defense industries have a major presence in Huntsville with the Army's Redstone Arsenal, NASA's Marshall Space Flight Center, and Cummings Research Park. The city is home to several Fortune 500 companies and also offers a broad base of manufacturing, retail and service industries. In fact, Huntsville was recently named by CNN and Money Magazine as one of the best cities in the Nation to live and work.

Huntsville is most well known as America's Space Capital. In the 1950s, German Rocket Scientist Wernher von Braun and his team came to Redstone Arsenal to develop rockets for the U.S. Army. The von Braun team eventually developed the rockets which put the first American in space and transported the first astronauts to the moon. Huntsville's space legacy continues today at NASA's Marshall Space Flight Center and the U.S. Space and Rocket Center.

Mr. Speaker, in honor of the city's bicentennial, the city is constructing a large Bicentennial park. Once completed, the park will incorporate a wide variety of symbols that represent the first 200 years of the city.

Mr. Speaker, the city of Huntsville has been honoring its proud history through 2005 and will culminate its celebration during the first week of August with parades and the lighting of the Unity Candle on the city's birthday cake. I rise today to join the celebration and to congratulate Huntsville Mayor Loretta Spencer, City Council Members, Dr. Richard Showers, Sr., Mark Russell, Sandra Moon, Bill Kling, Jr., and Glenn Watson, and the Executive Director of the Bicentennial Commission, Mary Jane Caylor on a job well done.

## A PROCLAMATION HONORING PASTOR WAYNE ICKES

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, whereas, Wayne Ickes is celebrating 50 years of service and dedication to the ministry; and

Whereas, Wayne Ickes is the well loved executive pastor of East Richland Evangelical Friends Church in East Richland, OH; and

Whereas, Wayne Ickes is happily married to Barbara with sons David and Doug.

Therefore, I join with the residents of East Richland, and the entire 18th Congressional District of Ohio in congratulating Wayne Ickes as he celebrates his 50th Anniversary of service to the Lord.

## TRIBUTE TO SAMUEL SHAPIRO & COMPANY

### HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CARDIN. Mr. Speaker, I rise to pay special tribute to Samuel Shapiro & Company on its 90th anniversary. Based in Baltimore, Maryland, Samuel Shapiro & Company is one of the leading customs brokers in the United States.

Samuel Shapiro & Company was founded in August 1915 by Sam Shapiro—the hard-working son of Russian immigrants. In its first year of business, Samuel Shapiro & Company's books showed a net cash position of only $46.50. Undeterred, Sam Shapiro kept on working, building up his company through two World Wars and the Great Depression.

After the end of World War II, Samuel Shapiro & Company began to expand, opening up offices in Norfolk, Dulles and Baltimore-Washington (then Friendship) Airport. The company was passed on to Sam Shapiro's son Sigmund who guided it through the many technological transformations of the second half of the 20th century.

The new millennium has brought a new generation of Shapiro family members to manage the expanding company, which now has eight offices from New York to Savannah. Sig Shapiro's son Robert is now the company's lawyer and his daughter Majorie has taken his place as President and CEO. Under Majorie Shapiro, Samuel Shapiro & Company has maintained its reputation for delivering the highest quality of personalized customer service while using the most modern techniques available to provide that service.

I hope my colleagues in the U.S. House of Representatives will join me in saluting this third generation family business that has provided 90 years of the highest quality service to customers while maintaining a reputation as a model corporate citizen.

## A PROCLAMATION RECOGNIZING FRANCES WILKINSON

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, whereas, Frances Wilkinson has been a faithful member of the Board of Trustees of Belmont Senior Services for 25 years; and

Whereas, Frances Wilkinson has lovingly guided and nurtured the Belmont County Senior Services molding it into a effective and productive agency; and

Whereas, Frances Wilkinson has established a legacy of dedication to a worthy agency that provides care for the elderly citizens of Belmont County.

Therefore, I join with the residents of the 18th Congressional District of Ohio and the entire State in commending Frances Wilkinson for her outstanding ability to give of herself to others for the past 25 years.

## HONORING WILLIAM C. POLACEK, ACHIEVEMENT AWARD HONOREE

### HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. MURTHA. Mr. Speaker, I would like to share with you and my Colleagues a tribute to a man who has contributed to the economic development and community development of the 12th Congressional District of Pennsylvania, Mr. William C. Polacek, who has over

20 years of knowledge working in the steel fabrication industry. Mr. Polacek is not only a business man, but a civic minded individual who gives back to his community.

Born and raised in Daisytown, Pennsylvania, Mr. Polacek started out working in the family business, Johnny's Welding. In 1987, he purchased the business from his father; and through a great work ethic and superior workforce, the company has thrived and grown over the years to over 700 employees in two States. As well, he owns other businesses in the area. Mr. Polacek has always focused on "treating employees the way he would want to be treated."

Mr. Polacek has received numerous awards and honors for his success in business. His many awards are: 1994 Who's Who in Business; 1995 Dale Carnegie Highest Achievement; 1996 Western Pennsylvania Entrepreneur of the Year; 1997 Featured in "Follow That Dream," a Public Broadcasting Station national documentary; 1997 Cambria/Somerset County Entrepreneur of the Year; 1998 Arthur Anderson award for "Motivating and Retaining Employees in Western Pennsylvania; 2002 Chapel of the 4 Chaplains Award; 2004 "Forbes Magazine" story about his Entrepreneur character and for creating and keeping jobs in Johnstown.

Community service will be a legacy he will leave with our area for generations. Mr. Polacek and his family founded a non-profit organization, The Polacek Family Human Needs Foundation, which is devoted to assisting the community. Besides his foundation, other civic groups benefit from his involvement, such as the Junior Achievement, Mom's House, Johnstown Area Heritage Association, The Chamber of Commerce Advisory Board, Johnstown Area Regional Industries, Geistown-Richland Pee Wee Football League, and Venture Quest (a local entrepreneur group).

Currently, Mr. Polacek, his wife Sherry and their four children live in Richland Township. Johnstown Welding and Fabrication Industries was founded on a commitment to family and family values and continues to flourish in the Johnstown area. These values will be a lasting tribute to Mr. Polacek and his family.

Here in the 12th Congressional District, we are grateful to Mr. Polacek not only for his economic investment in the community, but his civic legacy to the future. I wish to congratulate Mr. William C. Polacek on receiving The Inter-Service Club Council of Greater Johnstown Achievement Award, and I wish him continued success.

## CONGRATULATING PATRICIA A. TOMSHO ON THE OCCASION OF HER RETIREMENT FOLLOWING 37 YEARS IN THE HUMAN SERVICE FIELD

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Patricia Tomsho, of Hazleton, Pennsylvania, who is retiring after 37 years in the human service field.

Since 1968, Ms. Tomsho has been affiliated with United Charities in West Hazleton. Initially, she served as director of social services which entailed coordination of services, regulation compliance, service delivery, supervision of personnel, program planning, evaluation of service delivery and client advocacy.

From 1985 to the present, Ms. Tomsho has served as executive director of United Charities and United Children's Homes. In that capacity, she has been responsible for budget development and fiscal administration, personnel recruitment and management, regulation compliance and coordination of services, program proposal and grant writing, coordination of building and grounds improvement and board preparation and management.

A graduate of Ursinus College where she earned a bachelor's degree in psychology, Ms. Tomsho also graduated from Bryn Mawr College where she earned a master's degree in social work and social service administration.

From 1974 through 1982, Ms. Tomsho worked at Northeast Counseling Services in Hazleton as a crisis interventionist, therapist and client advocate.

She is active in her church as a Sunday School teacher and member of the choir. She has served as a loaned executive for the United Way. And she has given selflessly of herself working to combat domestic violence and homelessness. She is an instructor at Marywood College and is frequently called upon to speak to various groups.

Mr. Speaker, please join me in congratulating Ms. Tomsho on the completion of a remarkable career. Her devotion to the needs of others has benefited thousands over the years and has contributed to elevating the quality of life in the Hazleton area of Luzerne County.

## A PROCLAMATION RECOGNIZING JILL THOMPSON

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, whereas, Jill Thompson is being recognized as the Athen's County Auditor; and

Whereas, Jill Thompson is being honored as the Distinguished County Auditor; and

Whereas, Jill Thompson should be commended for her completion of 100 or more hours of continuing education during her office term.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Jill Thompson for her outstanding accomplishment.

## THE THRIVE ACT

### HON. ROGER F. WICKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. WICKER. Mr. Speaker, I rise to direct my colleagues to the critical need for adult immunizations and ask that they join me in supporting the Total Health Requires Improved Vaccination Efforts—or THRIVE Act—which Ms. ROYBAL-ALLARD and I are introducing today.

Vaccines are one of our great medical achievements. Successful immunization efforts have eradicated small pox and driven rubella from the United States. Mumps, diphtheria, measles, and chicken pox are at record low levels. And thanks to immunization, we're on the brink of eradicating polio across the globe.

Unfortunately, the success of childhood vaccination efforts has largely over-shadowed the need for adult vaccinations. Vaccine-preventable diseases among adults result in 45 thousand unnecessary deaths each year.

I urge my colleagues to support the THRIVE Act which will improve adult immunization efforts and help save lives.

## A PROCLAMATION RECOGNIZING SUSAN COLER

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, whereas, Susan Coler has been recognized with the Morgan County Board of Mental Retardation and Developmental Disabilities 2004 Employee of the Year Award for the enthusiasm and knowledge she brings to the job; and

Whereas, Susan Coler has displayed commitment and sincere dedication to the individuals in the Mary Hammond Programs; and

Whereas, Susan Coler should be commended for her involvement with the 4–H Riding Therapy Program and her contributions to the Morgan County Special Olympics.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Susan Coler for her outstanding accomplishment.

## HONORING TREK BICYCLES

### HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. BALDWIN. Mr. Speaker, I rise today to recognize the Trek Corporation of Waterloo, Wisconsin, for their contribution to Lance Armstrong's seven straight Tour de France victories.

When Lance Armstrong triumphantly rode across the finish line in Paris, France on his Trek Madone SSLx on July 24, 2005, it marked the 7th time a Waterloo-manufactured Trek bicycle powered Armstrong to a Tour de France victory.

In 1998, while others doubted Armstrong's chances at returning to professional cycling after his battle with cancer, Trek signed a contract with him. One year later Armstrong won his first Tour de France on a Trek 5500 OCLV Carbon stock bike.

Every push of the pedal by Armstrong on his way to each Tour de France victory is a testament to the quality of Trek bicycles. Whether pushing up the Pyrenees Mountains or racing through the French countryside, Armstrong could always depend on his Trek bicycle.

Trek embodies the best of American innovation and dedication in business. Started by Dick Burke in 1976 with only 5 employees in a Waterloo barn, Trek now manufactures 700 bikes a day in Waterloo. Trek has a long history of innovation, which includes the introduction of their first carbon road bike in 1986 and the creation of the OCLV carbon bicycle in 1992. Trek got their start in professional cycling in 1983 when they sponsored their first race team.

Trek is still family owned, CEO John Burke is the son of the founder, and the company employs over 1,500 people dedicated to making some of the finest bicycles in the world. The devotion Trek has to producing superb bicycles is further demonstrated every time Lance Armstrong has raised his arms in victory.

## 70TH ANNIVERSARY OF CONCHAS DAM

### HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to recognize the 70th anniversary of the construction of Conchas Dam, near Tucumcari in my home State of New Mexico. Built during the Depression under the Emergency Relief Act of 1935, the Conchas Dam project created jobs for thousands of New Mexicans and resulted in a structure that controls flooding, conserves water and provides irrigation to nearby farmlands. On July 29 the U.S. Army Corps of Engineers will host an anniversary celebration and dedicate a plaque to the WPA workers who built the dam.

Located on the confluence of the Canadian and Conchas rivers, the dam is 230 feet high, 6,230 feet long and contains 836,000 cubic yards of concrete and 887,000 cubic yards of earth. Reservoir capacity is nearly 529,000 acre feet of water which covers almost 26 square miles and provides irrigation to some 42,000 acres of otherwise arid farmland. Water from Conchas Lake allows farmers to grow alfalfa hay, grain sorghum, cotton and broom corn, much of which is used to feed area livestock.

Construction on Conchas Dam started in 1935 when unemployment in New Mexico was as high as 50 percent due to the Depression. The Emergency Relief Act dictated that 90 percent of the workers must come from the relief pool so thousands of New Mexicans found employment building the dam. Workers and their families lived in tent cities near the site. After completion of the dam in 1940, many of them stayed in the community of Conchas which was a tremendous boost for the local economy.

Conchas Dam created the fourth-largest lake in New Mexico and one of the most popular water recreation sites in the state today. Conchas Lake features 60 miles of beautiful shoreline dotted with numerous coves, canyons and beaches. Tourists and locals alike enjoy fishing and boating on the reservoir and picnicking in the shadow of Conchas Dam.

Mr. Speaker, Conchas Dam is a testament to the achievements of the Works Progress Administration and the U.S. Army Corps of Engineers and a monument to the laborers who built it. The construction of Conchas Dam was a tremendous economic boost to New Mexico in the 30s and its value to the State today is nearly inestimable.

The 70th anniversary of the construction of Conchas Dam coincides with its inclusion in the National Register of Historic Places; a fitting time to reflect on the past and look to the future with the determination and fortitude of those men who built this great dam that we honor today.

## A PROCLAMATION RECOGNIZING JAMES AMATO

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, whereas, James Amato has demonstrated ongoing commitment to public service for the Shadyside School District and the Village of Shadyside, OH; and

Whereas, James Amato has served the State of Ohio as both an educator and a legislator for over 27 years; and

Whereas, James Amato has exemplified the meaning of successful civic duty through his unselfish role to serve the greater good of the Ohio Valley.

Therefore, I join with the residents of the District of Shadyside and the entire 18th Congressional District of Ohio in recognizing James Amato for his longtime dedication to the residents and children of Shadyside, OH.

## MOVEMENT DISORDERS AWARENESS MONTH

### HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to introduce my bill that calls for the observance of October as Movement Disorders Awareness Month. Movement disorders affect nearly 40 million Americans and often cause chronic or debilitating conditions. Some common movement disorders include: dystonia, Parkinson's disease, Rett Syndrome and Huntington's disease.

An author, Matt Marty, once said, "Understanding is curing ignorance and curing ignorance is abolishing fear." Many people fear what they do not understand. We must establish a Movement Disorders Awareness Month to educate the public about the causes, characteristics and treatments of movement disorders. Awareness would guide the public consciousness toward understanding. Acceptance is the key. We must affirm our commitment to the individuals and families who are affected by these disorders. We must encourage further research on movement disorders. We must also raise public consciousness and understanding in regards to these conditions. This is a most worthy and necessary cause.

## TRIBUTE TO ARKANSAS BUSINESSMAN JACK STEPHENS

### HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. BERRY. Mr. Speaker, I rise here today to pay tribute to a great businessman, Mr. Jack Stephens, who spent a lifetime helping Arkansas gain a competitive edge in the global economy. His talent and generosity led to important advances in business, transportation, medicine, and the arts that have left a lasting mark on our state.

Jack Stephens was born on August 9, 1923 in Grant County, Arkansas, the youngest of six children. He grew up on a farm near Prattsville during the great Depression. Coming from humble beginnings, the hard times and his parents taught him the values of self-reliance, diligence, integrity and hard work. His father, A.J. Stephens once told his young son, "It's no disgrace to be poor, it's a disgrace to stay poor." His father also advised, "Success is not a destiny to be reached, but the quality of the journey we make."

The advice from his father stayed with him throughout his life. In his younger years Jack Stephens worked on the family farm behind a mule drawn plow and picking cotton. By age 15, he held summer jobs as a bellhop and shoeshine boy at the Barlow Hotel in Hope, Arkansas. He added the delivery of telegrams to his duties when he realized he could do so after his normal hotel shift was finished.

A bright student, Mr. Stephens attended public schools in Prattsville and graduated high school from Columbia Military Academy in Columbia, Tennessee. He attended the University of Arkansas in Fayetteville and graduated from the United States Naval Academy in 1946. (Class of '47.)

Poor eyesight prevented Mr. Stephens from active duty in the Navy so he took a job offered to him on his graduation day by his brother W.R. "Witt" Stephens. With a simple handshake in his room at Annapolis, Mr. Stephens agreed to join his brother in Little Rock at a municipal bond house.

Witt was outgoing, a natural salesman. Jack was quiet, unassuming and studious. A decade later, in 1956, Jack became an equal partner with his brother and became President and Chief Executive Officer the following year (1957). The two brothers acquired the Fort Smith Gas Company and renamed it the Arkansas Oklahoma Gas Company.

The pair also acquired an oil and gas exploration firm and named it Stephens Production Company.

Both investments proved to be the catalyst for expansion from a municipal bond business to a diversified financial group that became Stephens Inc.

Jack Stephens served as President and CEO of Stephens Inc. from 1957 until 1986 when Stephens Group, Inc. was formed and became the parent company of Stephens Inc. His son, Warren, assumed the leadership of Stephens Inc. at that time. Mr. Stephens became Chairman of Stephens Group, Inc. that year, a title he carried for the remainder of his life.

Over the decades, Mr. Stephens led the company to great heights. Under his leadership, Stephens Inc. invested or assisted in many enterprises including the former Union Life Insurance Company, the former Systematics, Donrey Media (now Stephens Media Group), Dillards, Alltel, Wal-Mart, Tyson Foods and many more. Jack Stephens' leadership and business acumen was responsible for the creation of hundreds of businesses in America and thousands of jobs. Many of those enterprises have become Fortune 500 companies, and a number of them are located in his native Arkansas.

In recent years, Mr. Stephens has been recognized for his philanthropy but it is something he did all his life. He once told a reporter, "There are only two pleasures associated with money, making it and giving it away." For over 20 years Jack Stephens has been the principal benefactor for The Delta Project, a program designed to assist and educate underprivileged children in Arkansas' delta. When he sold the Little Rock cable franchise in 1985, he put the profits into the City Educational Trust Fund. For 20 years the Trust Fund has provided scholarships for students and incentive awards for innovative teachers. His gift of $48 million built the Jackson T. Stephens Spine and Neurosciences Institute on the campus of the University of Arkansas for Medical Sciences (DAMS) campus and financed the purchase of equipment for the institute as well as support programs and research.

The Stephens family has been a life long supporter of the Arkansas Arts Center and Jack Stephens donated a portion of his personal art collection to the Center as a permanent display. The Stephens Gallery currently boasts the works of Degas, Monet, Picasso, Wyeth and more. The Stephens display, valued at $22 million at the time of the gift, has been recognized as one of the most important art collections in the country. It is perhaps the finest art collection in the nation for a city the size of Little Rock. Mr. Stephens was also the lead contributor for the construction of a new 30,000 square foot wing at the Arkansas Arts Center.

The Episcopal Collegiate School, the campus of which bears his name, occupies 31 acres near downtown Little Rock. The total amount of this gift has never been made public but Mr. Stephens donated the money to purchase the land that comprises the campus. In April 2004, he donated $20 million of the announced $30 million endowment for the school. His son Warren and Warren's wife, Harriet, donated the remainder of the gift. Mr. Stephens also donated $20.4 million for the construction of the Jackson T. Stephens Special Events Center on the campus of the University of Arkansas at Little Rock (UALR). The facility will become the home court for the UALR Trojan basketball team.

The list of contributions to his community also includes a $5 million dollar endowment to Harding University, establishment of the Fulbright College of Arts and Sciences at the University of Arkansas, and the Bill and Skeeter Dickey Scholarship at the University of Arkansas Athletic Department.

Mr. Stephens's love of sports (football and golf in particular) led to a $10 million gift to the U.S. Naval Academy Foundation in Annapolis, Maryland. The donation funded the recent renovation at the Navy Marine Corp Stadium near the campus which has been renamed Jack Stephens Field. The gift is the largest ever made to the Naval Academy.

When asked by the PGA Tour if he would support the launching of a new program to teach golf and its values to children by creating affordable and accessible golf facilities, Mr. Stephens surpassed their expectations with a $5 million donation to help start The First Tee. The program serves children who have not previously been exposed to the game of golf.

Mr. Stephens loved the game of golf and once told a reporter, "Golf is a great teacher in life. The same skills needed to master this game are the same skills needed to master life, a life full of unseen obstacles and excitement."

In 1962, Mr. Stephens was invited to become a member of the Augusta National Golf Club. Mr. Stephens served as its fourth chairman (1991–1998) with the responsibility of overseeing the golf club and the most prestigious tournament in golf, the Masters. After turning over the duties of chairman to Hootie Johnson in 1998, Mr. Stephens was named Chairman Emeritus.

Mr. Stephens won numerous awards and recognitions during his lifetime. He was honored with the Horatio Alger Award in 1980 and he was the first recipient of the J. William Fulbright Award given for international trade development in 1989.

Mr. Stephens served on the board of the Little Rock Boys Club, The Quapaw Council of The Boy Scouts of America. He served 10 years on the University of Arkansas Board of Trustees and was awarded an honorary Doctor of Law Degree and a University of Arkansas Distinguished Alumnus citation. He was inducted into the Arkansas Business Hall of Fame, the Arkansas State Golf Hall of Fame, and the Arkansas Sports Hall of Fame.

Jack Stephens was a proud and loving father and grandfather. He is survived by two sons: Jackson T. "Steve" Stephens, Jr.; Warren Stephens, and his wife, Harriet Stephens; six grandchildren: Caroline Stephens, Jackson T. Stephens III, Mason Stephens, Miles Stephens, John Stephens and Laura Stephens; two great-grandchildren: Sydney Stephens and Bruce Stephens, Jr.; and two adopted children: Kerry LaNoche and James Stephens. Mr. Stephens is also survived by two sisters: Jewel Mays of Prattsville, Arkansas and Wilma Thornton of Searcy, Arkansas.

Jack Stephens was an original American success story with roots deep in the soil of his home state of Arkansas and his other great devotion, the Augusta National Golf Club. His life was filled with many successes and his compassion, commitment and dedication resulted in an extraordinary journey that touched many lives.

He was a great Arkansan, American, and friend.

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## A PROCLAMATION RECOGNIZING WANDA KAFURY

## HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, whereas, Wanda Kafury has been designated as the AAA District 9 Elder Caregiver of the Year; and

Whereas, Wanda Kafury has been acknowledged by the Ohio Department of Aging for her several years of faithful service; and

Whereas, Wanda Kafury should be commended for her compassion and dedication.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Wanda Kafury for her outstanding accomplishment.

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## PERSONAL EXPLANATION

## HON. ROB SIMMONS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. SIMMONS. Mr. Speaker, I was regrettably detained in a meeting regarding the Base Realignment and Closure process affecting SUBASE New London in my district, and was unable to be on the House Floor for rollcall votes 390 and 394.

Had I been present, I would have voted "yea" on rollcall 290, an amendment offered by Representative KING of Iowa, and "yea" on rollcall 294, an amendment offered by Representative WATSON.

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## TRIBUTE TO THE MOUNT CLEMENS ROTARY

## HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. LEVIN. Mr. Speaker, I rise to congratulate the Mount Clemens Rotary as they plan a unique local celebration of the 100th anniversary of Rotary International.

The Mount Clemens Rotary Club, organized in 1920, is the oldest and largest service club in Macomb County. The Mount Clemens Rotary and many individual rotarians have been at the forefront of activity in their community. A few of the many projects over the years include: assistance through the Cripple Children Society and the Boy Scouts; providing aid to the Clinton River Flood victims; working in the Relief Store during the Great Depression; leading the Urban Renewal Program in the 1950s and 60s; and helping to establish both Rotary Park in Downtown Mount Clemens and the Playscape on the old Wilson School property.

To commemorate the 100th anniversary of Rotary International, the Mt. Clemens Rotary is preserving a bit of history in downtown Mt. Clemens. Two cannons, donated by the United States Government in 1901, were originally in front of the old Macomb County Court

Building. The cannons were placed on pedestals and remained there until 1942 when at the request of the U.S. Government they were donated as part of the World War II scrap metal effort.

For sometime the Macomb County Historical Commission has wanted to replace the missing cannons, but the cost was always a major hurdle. Members of the Mount Clemens Rotary Club decided this worthy project could both commemorate local history and the history of Rotary.

The two cannons are accurate representations of a cannon used by General Alexander Macomb in 1812 and a cannon used by Colonel Stockton in the Civil War. General Alexander Macomb was the hero of the battle of Plattsburg and Lake Champlain during the War of 1812. General Macomb with only 3,000 troops was able to rout 13,000 British troops. The other cannon was dedicated to the memory of the Michigan Eighth Calvary Regiment and their commander, Colonel John Stockton. The regiment along with the Battery M of the 1st Michigan Artillery was organized and trained at Camp Stockton in Mount Clemens from the fall of 1862 to May 1863.

Mr. Speaker, on August 27, 2005, the Mount Clemens Rotary, working with the Macomb County Historical Society, will replace and rededicate the two cannons at a grand ceremony during the Bath City Festival. I look forward to joining with them, and ask my congressional colleagues to join me in saluting a major community asset, the Mount Clemens Rotary, on this important and historic occasion.

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## A PROCLAMATION HONORING EVA J. DENNEY ON HER 100TH BIRTHDAY

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, whereas, Eva J. Denney was born on June 19, 1905; and

Whereas, Eva J. Denney is celebrating her 100th birthday today; and

Whereas, Eva J. Denney, is a long-time active participant in the social and civic life of her community; and

Whereas, Eva J. Denney has exemplified a love for her family and friends and must be commended for her life-long dedication to helping others.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in wishing Eva J. Denney a very happy 100th birthday.

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## RECOGNIZING MICHAEL "MIKE" WALKER OF LOWER LAKE, CALIFORNIA

### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize California Highway patrolman, Michael "Mike" Walker of Lower Lake, California as he retires from 33 years of public service.

Born in Vallejo, California, and raised nearby in Benicia, Mike learned at an early age the importance of public service and the necessity of helping others. Compelled to serve our country, he enlisted in the Marine Corps in 1972. He served as an instructor teaching jungle survival techniques overseas. His hard work and commitment were duly noted as he earned four promotions during his 3 years in the United States Marine Corps.

In 1975, Mike joined the Benicia Police Department as a reserve officer. One year later, he transferred to the Alameda County Sheriff's Department where he served as Deputy Sheriff. Three years later, in 1978, he joined the California Highway Patrol and went through the academy in Sacramento. Upon graduation Officer Walker was assigned to the Glendale law enforcement team. In 1980 he transferred to Newhall and in 1984 to Clear Lake where he has spent the past 21 years serving the citizens of Lake County.

Officer Walker served as an instructor, training and arming his fellow officers with the proper knowledge and skills needed for fieldwork, including physical methods of arrest and advanced accident investigation.

Officer Walker is a kindhearted man, who has selflessly devoted his life to helping others. He is revered throughout Lake County as someone always willing to lend a hand wherever it is needed.

In retirement, Mike and his beloved wife of 29 years, Dorrie, plan on spending more time with their children, Christopher and Patricia, and their 2 grandchildren, Denim and Katie.

Mr. Speaker and colleagues, it is appropriate that we honor and thank California Highway Patrolman Michael "Mike" Walker for his hard work and dedication to public service and extend our best wishes to him in retirement.

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## MR. LEONID NEVZLIN'S STATEMENT BEFORE THE HELSINKI COMMISSION

### HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. ENGEL. Mr. Speaker, some major news organizations have been reporting current developments in Russia, directed by the Kremlin, that clearly undermine democratic institutions in that country. The latest initiative, a measure just approved by the Upper House of Parliament, further consolidates political control in Vladimir Putin's party and reduces any opportunity for opposition parties in future elections. It also greatly limits outside groups from monitoring or observing vote tabulation and reporting in national elections.

This week, my colleagues heard directly from a prominent "victim" of Mr. Putin's effort to purge political opposition. In an appearance before the Helsinki Commission, Mr. Leonid Nevzlin, who is a major share holder in the YUKOS Oil Company, discussed his situation and the political deterioration in Russia. When he visited Washington three years ago, Mr. Nevzlin was Deputy Chairman of the Upper House International Relations Committee, and advisor to the government on Middle East Policy, and head of the Russia Jewish Congress. Today, Mr. Nevzlin is forced to live in exile in Israel because he, like his long time associate and friend, Mikhail Khodorkovsky, dared to oppose the forces within the Kremlin.

Mr. Speaker, Leonid Nevzlin's statement before the Helsinki Commission clearly states the current situation in Russia today. I ask that it be included in the RECORD at this point.

STATEMENT TO THE COMMISSION ON SECURITY AND COOPERATION IN EUROPE "HELSINKI COMMISSION"

(By Leonid Nevzlin, July 13, 2005)

Mr. Chairman, I welcome the opportunity to appear before the Helsinki Commission to discuss the current situation in Russia and the concerns of all of us about the Putin government and the future of Russia.

First, I wish to emphasize the value of the Commission's mandate and stated criteria to promote compliance with the fundamental standards of civil society in Russia and the other former Soviet republics.

Second, those of us who have witnessed first-hand the travesty of justice in Russia much appreciate the concerns expressed by the co-chairmen about the improper handling of the Yukos trial and the sentencing of Mikhail Khodorkovsky and his colleagues by Russian authorities. Your formal statement to the world's press that the "case appears to the world to be justice directed by politics" and that the "selective prosecution such as appears to be the case here will wreak havoc on Russia's legal system" reflects that the chairmen of this commission have an accurate view of the Khodorkovsky trial and the weakened state of the legal system in Russia.

Third, it is vitally important that the Helsinki Commission continue monitoring the implementation of the provisions of the 1975 Helsinki Accords as they relate to Russia and report its findings to the public. While the U.S. Administration and Congressional leaders must necessarily balance many variables in the bilateral relationship, the Helsinki Commission has a clear mandate to insure that human rights and basic freedoms are maintained in the countries under its jurisdiction.

Mr. Chairman, it is my opinion that the rule of law is the cornerstone of civil society because it serves to protect the rights and freedoms of all citizens. What we have witnessed this past year in Russia is a legal system that differs very little from the Soviet days. The state prosecutor is an instrument of the Kremlin and the judiciary is not truly independent. When the finest lawyers in Russia cannot get a fair and just trial for their clients when the whole world is watching, no one in Russia can expect to obtain justice.

The lives of many hundreds or even thousands of people have been harmed forever as a result of the abuses of the Russian government, which has violated basic human rights and its own laws again and again. Many of those cases do not receive wide attention, but some do, and human rights groups have begun to document them. They are worthy of your attention and your future labors.

I am most familiar with the cases involving Yukos. Beyond Mr. Khodorkovsky and myself, Alexei Pichugin, a mid-level Yukos executive, has been sentenced to 20 years in prison in a secret murder trial conducted entirely behind closed doors. Mr. Pichugin has been drugged, interrogated without his lawyers present, kept from his wife and denied independent medical treatment—even after he lost nearly 70 pounds while in the custody of the FSB. My colleague, Platon Lebedev, who is suffering from liver ailments and who was arrested in his hospital bed, has also subsequently been denied independent medical care. He was tried in the same cage with Mr. Khodorkovsky in a show trial in which Russian and international legal norms were repeatedly violated. He, like Mr. Khodorkovsky, has now been sentenced to 9 years in prison.

The scope of the attack on those associated with Yukos has been broad in scope and terrible in its tactics. For example, Svetlana Bahkmina, a young Yukos lawyer, was arrested in December. She has been interrogated by FSB or other Russian officials to the point where her lawyers report that she has lost consciousness. She has been isolated from her children, ages 3 and 7. In the meantime, Russian government officials have said that Ms. Bahkmina will be released when her boss, Yukos' chief in-house lawyer, returns to Russia from England, where he is effectively a political refugee.

Other Yukos employees have had to flee Russia, too, and have found refuge in the democracies of the world. In a stark example of how the world now recognizes Russian "justice" for what it is, the Bow Street Magistrate's Court in London rejected a Russian extradition request for two such Yukos employees charged in the anti-Yukos campaign. Having heard all of the evidence, and noting President Putin's personal involvement in the cases, the judge concluded that no Russian court could be expected to withstand the Kremlin's political pressure such that it could provide a fair trial to these men. Subsequently, the British Home Office has given political asylum to a half dozen additional Yukos "refugees."

Beyond Yukos, just recently, it was reported that Russian prosecutors have opened a criminal case against former Russian Prime Minister Mikhail Kasyanov. Mr. Kasyanov was dismissed by Mr. Putin last year and has been critical of the administration since then. He has specifically criticized the handling of the Yukos case and has expressed his own higher political aspirations. The Kasyanov case has all the earmarks of another Yukos-style campaign, in which the powers of the FSB and Russian federal prosecutors are misused by the Kremlin to destroy a political opponent.

The West, and particularly America, is rightfully concerned by the Kremlin's coopting of Russia's criminal justice system as a tool to crush political opposition. The West is further properly concerned because, in the Yukos case, the Kremlin's campaign attacked what had become a model for corporate governance and transparency.

No one should doubt for a minute President Putin's motive in the dismemberment of the Yukos Oil Company and the state take-over of its major production unit. Energy is both very profitable and, given that major industrial companies depend on imports for their energy needs, inherently political. It is the Kremlin's aim to control Russia's energy sector to insure its dominant role in the world energy market. This will most certainly enhance President Putin's standing given that Europe and other countries become more dependent on Russia as a major supplier. The respected Count Lambsdorff of Germany warned last week that his country was on a perilous course by increasing its dependence on natural gas imports from Russia.

On civil society, whatever progress was made in developing democratic institutions during the Yeltsin years have all but disappeared under the current regime. The major tenets of democracy, as we know them, barely exist in Russia today. While there may be a degree of freedom and liberty, the institutions that protect those rights have been usurped by forces within the Kremlin. The government now owns or controls all media outlets, the courts are not truly independent, there is no viable political opposition, and the list goes on. It is increasingly apparent that former KGB and FSB officers are now dominant in the Kremlin and whatever transparency existed a few years ago is not in evidence today. The result is an emerging form of corruption at the highest levels in the Russian government. This corruption threatens to corrode the foundation of the Russian government to a degree that could put at risk Russian security and stability as well as the long-term economic well-being of the Russian people. I fear this will be Vladimir Putin's legacy.

This current view of Russian authorities is not confined to me or to opponents of the Kremlin. Valentin Gefter, the Director of the Human Rights Institute in Moscow said to your committee just a few short weeks ago that "very often, political, corporate and even personal reasons prevail over the rule of law [in Russia]." I absolutely agree. Michael McFaul, a senior fellow at the Council on Foreign Relations and executive director of the Council's Task Force on Russian American Relations, headed by former U.S. Vice Presidential nominees Jack Kemp and John Edwards, said that "Four or five years ago, there was a debate about whether Putin was a democrat. The debate is now over. The question today concerns the nature and extent of Putin's authoritarianism." Finally, Secretary of State Condoleezza Rice said that the Russian government's handling of the Yukos case "shook people's confidence," and that Russian officials must demonstrate that laws and regulations are fair and applied "consistently over time, applied over various cases."

It is not just Yukos that is under persecution by Russian authorities. As reported by Irina Yasina, the head of the Open Russia Foundation, a non-profit organization established by Mr. Khodorkovsky, myself and our colleagues to promote a democratic Russia, non-governmental organizations have been under "direct pressure and threats from the Ministry of Interior Affairs, Public Prosecutor's Office and Federal Security Services." This year, the Ministry of Justice has suspended the activity of the Nijny Novgorod Society of Human Rights and frozen the accounts of the Society of Russian-Chechen Friendship. The Kremlin has also thought to dismantle and put pressure a number on of international civil society organizations, including the Soros Foundation, the National Democratic Institute & British Council.

Mr. Chairman, I regret that Russia is moving in a direction that is contrary to Western values and traditions. This must be troubling to America as well. The question is what can America and other Western democracies do about it. Obviously, what does not work are casual refrains and diplomatic overtures. Given that the hardened and cynical forces in the Kremlin understand and respond only to sanctions that threaten their own interests, I offer two thoughts:

I applaud Senators MCCAIN and LIEBERMAN and Congressmen LANTOS and COX for their sponsorship of the G–8 Resolution. In examining the criteria for membership, it is clear Russia meets neither the economic nor democratic requirements for a seat at the G–8 table. Making clear that Russia's continued membership depends on its adherence to democratic principles and the rule of law will gain the attention of a leader who clearly relishes his position in the G–8 Club. At least America and other G–8 members should not allow Vladimir Putin to head the group given the circumstances in Russia today.

Russia aspires to be in the World Trade Organization for understandable reasons. But is it possible that a major country that uses extralegal means to seize control of private assets, selective prosecution, businessmen, renationalizes private enterprises, harasses companies with bogus tax charges and fails to erect a legal system that protects investments, shareholders and commercial contracts, deserves membership in the WTO? Capital outflows and the decline in investments are clearly due to perceptions inside and outside Russia that it is not safe for investment. If responsible nations ignore these trends and do not take effective action to combat them, it will only encourage Russian authorities to continue down the path of authoritarianism.

Finally, Mr. Chairman, I wish to make it clear I want to see an open, uncorrupted, prosperous and free Russia. On my last visit to Washington in June 2002, I was Deputy Chairman of the Russia Federation's International Relations Committee, president of the Russia Jewish Congress, a major shareholder in Group Menatep, the holding company of YUKOS oil, and heavily involved in education and philanthropic causes.

Today I am a proud citizen of Israel, the country whose democracy protects me from false accusations of undocumented crimes by a prosecutor who is on a political witch hunt. My sins, as viewed by the Kremlin, were to work with Mikhail Khodorkovsky and Yukos to promote greater freedom, an open civil society, business transparency and democratic values in Russia to help the Russian people. This is a dark time for those of us who cherish freedom and embrace democracy. If the Russian people had a greater faith in democracy and recognition of their power to demand it, there would be an uprising in the country. But their experience is too limited. Our only hope is that America, the author and inspiration of democracy, will use its prestige to convince Mr. Putin to change his ways.

Again, I thank the Helsinki Commission for maintaining its commitment to democratic values and willingness to confront Russia and other nations whenever those values are put into jeopardy.

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## PERSONAL EXPLANATION

## HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, yesterday I missed rollcall vote No. 440. Had I been present, I would have voted "aye."

## PERSONAL EXPLANATION

### HON. CHARLES H. TAYLOR

OF NORTH CAROLINA
IN THE HOUSE OF REPRESENTATIVES
*Thursday, July 28, 2005*

Mr. TAYLOR of North Carolina. Mr. Speaker, I voted "no" on the Dominican Republic-Central America Free Trade Agreement, DR–CAFTA, in the vote last night. I informed the majority leader and the Appropriations chairman I was voting "no", as I had informed my constituents I was voting "no." Representative HOWARD COBLE and I voted "no" together. Due to an error, my "no" vote did not record on the voting machine. The clerks computer logs verified that I had attempted to vote, but it did not show my "nay". I am re-inserting my "no" vote in the RECORD. But even with my "no" vote re-inserted, the bill still passed.

## HONORING PRESIDENT JUDGE THOMAS G. PEOPLES, JR.

### HON. BILL SHUSTER

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES
*Thursday, July 28, 2005*

Mr. SHUSTER. Mr. Speaker, I rise today to honor President Judge Thomas G. Peoples, Jr., who after 25 years of distinguished service is retiring from his prestigious responsibility as president judge. President Judge Peoples has had a very prestigious career with many achievements and recognitions. Completing a bachelor of arts from the University of Pennsylvania and a law degree from Dickinson School of Law, Judge Peoples was admitted to the Bar of Pennsylvania Supreme Court in 1965. Since 1965, he has practiced before all appellate courts of Pennsylvania and before the United States District Court for the Western District of Pennsylvania.

President Judge Peoples had a private law practice from 1965 to 1980 and he was first district attorney in Blair County from 1974 to 1980. From 1980 to 2005, he was a judge of the Court of Common Pleas of Blair County and during this same time he was the president of Blair County.

He has been involved in many public service and community activities including coincorporator and member of the original Advisory Board of Blair County Legal Services Corporation. He has been the President of the Board of Trustees for Mercy Hospital, Altoona, PA, and Bon Secours-Holy Family Hospital, Altoona.

Judge Peoples is an advocate for children and is presently a member of the Board and former president of Child Advocates of Blair County. He is also the co-founder and former Advisory Board member of the Blair County Domestic Abuse Project. He was awarded the Distinguished Citizen Award—Penns Woods Council, Boy Scouts of America and the Saint George Award of Scouting.

He resides in Altoona, PA, with his wife Maureen McManus Peoples. They have three children, Thomas G. Peoples III, Amy M. Dudukovich, and Jennifer A. Yourkavitch.

Mr. Speaker, President Judge Thomas G. Peoples, Jr. has been very active in both professional and personal activities throughout Blair County, PA. President Judge Thomas G. Peoples, Jr. is a great citizen of Blair County and we are honored to recognize him for all of his work and accomplishments. I congratulate him and wish him the best in his retirement.

## HONORING ALAN E. MICHELSON

### HON. SAM GRAVES

OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
*Thursday, July 28, 2005*

Mr. GRAVES. Mr. Speaker, I pause today to congratulate Alan E. Michelson, principal of Cordill-Mason Elementary School in Blue Springs, Missouri on his recent election as President of the National Association of Elementary School Principals.

Mr. Michelson has served the students, families and community of Blue Springs for a great number of years. He is a graduate of Tarkio College and received a Masters Degree from Central Missouri State University.

During his 27 years of service in the field of education, Mr. Michelson has been granted numerous awards in recognition of his outstanding skills and dedication as an educator. He was named one of the Heritage Who's Who in 2005. He received the Blue Springs School District Award for Leadership, Professionalism and Dedication in 2001. In 1993 he was awarded an Honorary Life Membership in the Parent Teacher Association. Rounding out his list of distinctions, he was named 1 of 10 Outstanding Missourians in 1982.

Mr. Speaker, I ask you to join me in recognizing the accomplishments of Mr. Michelson. I personally look forward to a continued relationship with him as both Principal of Cordill-Mason Elementary School and as President of the National Association of Elementary and Secondary School Principals.

## IN MEMORY OF THOMAS (TOM) J. WALSH

### HON. IKE SKELTON

OF MISSOURI
IN THE HOUSE OF REPRESENTATIVES
*Thursday, July 28, 2005*

Mr. SKELTON. Mr. Speaker, it is with deep sadness that I inform the House of the death of Mr. Thomas J. Walsh of Lee's Summit, Missouri.

Tom was born in Kansas City, Missouri, on October 3, 1932, son of Thomas E. Walsh and Clare E. Walsh. He attended Visitation Elementary School and Southwest High School. He received a bachelor's degree in political science from the University of Missouri where he was a member of Sigma Alpha Epsilon Social Fraternity. After graduation, he served in the United States Army as an officer in the Field Artillery. Upon his discharge from the service, Tom attended Georgetown University Law Center in Washington, D.C., where he received his juris doctor in 1958 and was a member of Phi Alpha Delta Legal Fraternity. While attending law school, Tom also worked in the office of Missouri Senator Stuart Symington.

Since 1958, Tom had been a member of both the D.C. Bar and the Missouri Bar and had maintained a full service law office in Lee's Summit, Missouri. During his years of practice, Tom served as attorney to the Jackson County Sheriff's Department, vice chairman of the Missouri Counsel of Criminal Justice, and as chairman of the Juvenile Justice Subcommittee. Tom was recognized in the inaugural edition of Who's Who in American Law, and in 1993, he was admitted to the United States Supreme Court Bar. He was a gubernatorial appointee to the Jackson County Board of Election Commissioners from 1993 to 2001. Tom also was the original chairman of my Skelton for Congress Committee.

In 1956, Tom was married to Ellen B. Walsh. They also are the proud parents of three children: Carolyn Walsh Heinz, David T. Walsh and Katherine Walsh.

Tom made many significant contributions to the community. He was a member of the Native Sons of Greater Kansas City, the Lee's Summit Optimist Club and the Lee's Summit Democratic Club.

Mr. Speaker, Tom was a valuable leader in his community who was respected by everyone who knew him. He was a dear friend of mine and will be missed by all. I know the members of the House will join me in extending heartfelt condolences to his family.

## HONORING JAMES T. MOLLOY

### HON. JAMES T. WALSH

OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
*Thursday, July 28, 2005*

Mr. WALSH. Mr. Speaker, I rise today to recognize James T. Molloy, former Doorkeeper of the House of Representatives who has been honored with the naming of a United States Postal Service facility located at 2061 South Park Avenue in Buffalo, New York, as the "James T. Molloy Post Office Building". Jimmy Molloy has been my friend since I first arrived in the House of Representatives back in January of 1989. He was the door keepers-door keeper, a special person simply beloved by everyone.

Six Presidents heard his thunderous announcements of their presence before joint sessions of Congress for the State of the Union address. When he said, "Mr. Speaker, The President of the United States," the chamber would erupt in applause reflecting the enthusiasm of the doorkeeper's voice. It was always a great moment to witness.

Jimmy always remembered his roots and the love he had for Buffalo, New York and its people. He spoke with great affection of his childhood in western New York and the foundation he developed for life in this region. Hard work, long hours, true friendships, and honesty were the hallmark of his life.

To Jimmy Molloy, his family and friends, congratulations on the naming of the United States Postal Service facility on South Park Avenue in Buffalo. You deserve this special recognition. As your friend, I am very pleased.

## HONORING THE WASHINGTON ANIMAL RESCUE LEAGUE

### HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. NORTON. Mr. Speaker, I rise today to recognize the Washington Animal Rescue League's, WARL, efforts to provide care and compassion for homeless and abused animals in our Nation's Capital and beyond, and to bring to the U.S. Congress's attention that Saturday, August 20th is National Homeless Animals' Day.

For over 90 years, WARL has worked tirelessly to promote humane treatment and eliminate the plight of homeless animals. Founded in 1914, WARL was the District's first animal shelter. Since its creation, this private, not-far-profit organization has expanded its mission from housing dogs, cats and horses to being a leader in implementing programs that promote animal welfare. WARL's policies and procedures were progressive from the organization's inception. From mandating home visits for potential adopters to providing low-cost or free veterinary care for animals in need, WARL is in a league all its own.

WARL's doors are always open to welcome an adoptable animal in need of care and compassion. Dedicated staff and volunteers work in many ways to promote animal welfare and find loving homes for these wayward animals. Throughout the week, WARL counsels potential adopters to match their cats and dogs in appropriate, loving, caring homes. WARL's medical clinic provides the highest quality care to the dogs and cats in residence and to companion animals of the District's low-income families. On weekends, while the shelter operates business as usual, WARL staff and volunteers hold off-site adoption events at animal-friendly businesses throughout the D.C. area.

Overpopulated animal shelters are a problem for too many communities. To help elevate the stress of overcrowding in shelters as far as Florida and Arkansas, WARL created the Shelter Animal Relief Effort, ShARE, program. Shelters participating in ShARE use WARL as their resource when in crisis, eliminating the need to euthanize adoptable animals.

Additionally, WARL provides humane education to District school children using a curriculum. that includes in-class lectures, activities, and trips to visit the shelter and medical center. This program strives to ensure the future of animal welfare in our society by teaching children to treat animals responsibly and with care and compassion.

Through these many efforts, WARL hopes to achieve its goal to eliminate the need to observe future National Homeless Animals' Day. But for now, WARL will join others across the country to raise awareness of the world's companion animal overpopulation crisis by participating in National Homeless Animals' Day on August 20th and spearheading the first event of its kind in our Nation's Capital.

Every day, WARL works to end the plight of homeless dogs and cats. We can all make a difference by promoting responsible guardianship and by adopting our pets from a local animal shelter, instead of a breeder or pet store, and by preventing the exponential increase of homeless animals by spaying and neutering our pets.

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## IN RECOGNITION OF THE PLANTING FIELDS ARBORETUM STATE HISTORIC PARK IN OYSTER BAY, NEW YORK

### HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. ACKERMAN. Mr. Speaker, I rise today in recognition of the Planting Fields Arboretum State Historic Park, located in Oyster Bay, New York. The park's 409 acres on the beautiful North Shore of Long Island provide a unique opportunity to educate, enrich, and entertain the visiting public.

The "Gold Coast" of Long Island is known around the world from F. Scott Fitzgerald's classic novel, The Great Gatsby. The Planting Fields Arboretum is a remarkable public garden that provides the public with the chance to experience the beauty and tranquility of this legendary part of America's geography.

The Planting Fields Arboretum is entering the final stage of construction of a new facility, the Hoffman Visitor Center. This enriching addition, due to open in the summer of 2006, will function as an educational center and will serve as a permanent home for the historical records of all Long Island parks.

Visitors to the Hoffman Visitor Center will be able to participate in interactive exhibits, which will acquaint them with the history and culture of the Planting Fields Arboretum. A 3-dimensional topographical map, featuring fiber optic light-up paths surrounded by educational panels, will introduce the visitors to the many attractions and specialty walks that the Planting Fields Arboretum has to offer.

Individuals interested in learning about Long Island's storied history will be able to peruse the archives, which will contain more than 85,000 images, schematics, blueprints, and plans from Robert Moses' Long Island National Park System.

The Planting Fields Arboretum will also showcase a new rooftop garden, complete with a pergola filled with hanging baskets of seasonal flowers to attract butterflies and birds. This relaxing area will be the perfect spot to sit and picnic with family and friends.

Mr. Speaker, I ask all my colleagues in the House of Representatives to please join me in commending the Planting Fields Arboretum of Oyster Bay, New York for the construction of the Hoffman Visitor Center, a facility that will only add luster to one of Nassau County and New York's brightest cultural gems.

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## CONGRATULATING MAYOR GEORGE PABEY

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure and honor that I congratulate Mayor George Pabey for being honored as 2005 East Chicagoan of the Year. For sixteen years, Twin City Community Services in East Chicago, Indiana, has awarded this title to prominent members of the community who have greatly contributed to the city and people of East Chicago. This year's festivities will take place on Friday, August 5, 2005, at the Knights of Columbus Hall in East Chicago.

George is a native of East Chicago, Indiana. At a young age his parents taught him the importance of hard work, accountability, and community service. His strong family values set the tone for his life and career. These values paved the way for George's decision to serve the people of East Chicago. In 1972, he decided to become a police officer with the East Chicago Police Department. George quickly rose through the ranks and his hard work and dedication did not go unnoticed. He served in the Narcotics Unit and was instrumental in developing the city's Gang Unit. In 1990, he was appointed Chief of Police. After he retired from the East Chicago Police Department in 1997, he was appointed Director of Security for a nationally known casino located in East Chicago, Indiana.

George's political career began in 1999. After campaigning on a platform of providing safer streets, reinvigorating neighborhoods and empowering people, George was elected to East Chicago's Common Council. Throughout his career, he earned praise for his leadership and integrity. On October 26, 2004, George made history and became the first Hispanic democrat to rise to the standing of Democratic nominee for Mayor of the City of East Chicago.

The Knights of Columbus Hall will be filled Friday night with friends and family who have been blessed with the opportunity to know and work with George and who wish to celebrate with him as he receives his award. George's hard work and dedication, which have earned him the East Chicagoan of the Year award, have been improving the community and the lives of East Chicagoans for over twenty years. Though he is dedicated to his career and the community of East Chicago, he has never limited his time and love for his family. George and his wife, Hilda, have two children, Maria Lisete and Anthony, and two grandchildren.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in congratulating Mayor George Pabey on being recognized as East Chicagoan of the Year. It is my privilege to extend my personal thanks to Mayor Pabey for his lifelong dedication to the citizens of the First Congressional District of Indiana.

## THE PRISE ACT OF 2005

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CONYERS. Mr. Speaker, today, I reintroduce the Promoting Responsible Interrogation Standards Enforcement Act. I am disappointed that it is necessary to do so, but over a year after the first pictures of abuse Abu Ghraib were leaked, there has still been no command responsibility for those who condoned the atrocious behavior. And recent news reports tell us that even more pictures of even worse treatment will soon be released.

Over the past year, we have come to learn that the abuse of detainees in American custody is not the work of a few bad apples in a single Iraqi prison, but a common occurrence throughout our military controlled detention centers. From Afghanistan to Guantanamo, at our hands or at the hands of well-known sponsors of torture, we have abused, tortured, and even killed those who we have captured or detained in the war on terror.

We clearly cannot leave the Administration to its own devices to prevent this abuse from happening again. After ten so-called "investigations," we are no closer to discovering just how high in the Administration the approval of torture tactics went. Every day we learn of more abuse, each allegation more horrific than the next. How much longer can we pretend it was all an accident?

That's why I am introducing this bill to clarify that torture at the hands of our personnel, or upon their request, is not allowed under any circumstance. It also clarifies that our responsibilities in the U.N. Convention Against Torture, unlike what the Attorney General is claiming, apply to everyone in our custody, regardless of where they are kept or which country they come from.

Intelligence obtained through torture is notoriously unreliable, and is therefore bad policy in the first place. But perhaps most importantly, our use of torture only encourages other nations to torture our own captured personnel. We cannot continue to put our own fighting men and women in danger.

I ask my colleagues to join me in support of both this bill, and H.R. 952, Congressman MARKEY's bill banning the outsourcing torture. Together, they will clarify that this Congress will no longer tolerate the inhumane treatment of those we capture or detain, and will hopefully start our country down the road to repairing its now tarnished reputation as the world's most preeminent human rights leader.

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## STATEMENT ON THE BAKASSI PENINSULA DISPUTE

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to share with my colleagues an international dilemma that has been brought to my attention. There is a disturbing situation taking place that is seriously affecting the relations between the African nations of Cameroon and Nigeria. President Olusegun Obasanjo of Nigeria promised several years ago to withdraw his troops from the Bakassi Peninsula in the Republic of Cameroon. President Obasanjo has yet to follow through on this arrangement. Not only has the Nigerian military remained in the Bakassi Peninsula, on June 17 and 18, there was an unfortunate violent incident that led to the death of a Cameroon soldier and the wounding of another. I call upon Nigeria to adhere to the International Court of Justice's decision and obey the rule of law by returning the Bakassi Peninsula to Cameroon, thereby finally putting an end to this ongoing dispute.

I call upon President Obasanjo to withdraw Nigerian troops from the Bakassi Peninsula and return the territory to the Republic of Cameroon. The West African region is extremely volatile and has already experienced numerous conflicts and wars. I sincerely hope that both nations can reach an agreement in accordance with the decision set forth by the International Court of Justice and work together in establishing greater cooperation and stability. A genuine effort from both sides is needed to resolve this issue in a peaceful and timely manner and I anticipate the realization of this goal.

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## TRIBUTE TO PAUL BAYE—2004 AIR FORCE SCIENTIST OF THE YEAR

### HON. MARILYN N. MUSGRAVE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mrs. MUSGRAVE. Mr. Speaker, I rise today to honor Paul Baye who was recently awarded the 2004 Air Force Outstanding Scientist of the Year. Mr. Baye, a computer scientist with the 22nd Space Operations, was recognized on June 29, 2005.

Paul Baye's effort to develop the first defensive counter-space architecture for Electromagnetic Environmental Monitoring System, EEMS, earned him this distinguished award.

Mr. Baye worked for the Air Force Space Command Space Analysis Center and the Space Warfare Center before joining the 22nd Space Operations as an operations analyst.

This award is a very unique honor, and proves the success of his hard work and dedication for the Air Force and the American people. Approximately 3 years ago Mr. Baye became involved in radio frequency spectrum monitoring. The project needed to be able to handle information from several disparate databases, none of which were originally designed to communicate with one another.

Fourteenth Air Force had told then Colonel Suzanne Vautrinot, of the 50th Space Wing Commander, that the wing needed a way to protect Air Force Satellite Communications Network traffic from radio-frequency or electromagnetic interference.

Mr. Baye used a computer software architecture originally developed at the Rome Battlelab evolving it to fit the AFSCN's needs. Implementing the combination of science and technology was the crux of the project.

Colonel Vautrinot asked for a demonstration, which the Space and Missile Center and AFSPC provided in January 2004 in a downselect between competing products. Mr. Baye's project was selected and moved from concept to prototype. Once the EEMS project became available, Mr. Baye took over the project development.

What makes this project unique is that the 14th Air Force requirement was unfunded. This project was provided and funded by the 50th Space Wing, which was a large sacrifice on their part.

Using an open architecture will allow developers to quickly and cheaply modify software to fit their needs. That, in turn, will save the Air Force even more time and money as it steps further into the frontier of defensive counterspace.

We are standing at the threshold of defensive counterspace, and it is my great honor to recognize Paul Baye, a great scientist and a great American.

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## URGING THE U.S. BUREAU OF INDIAN AFFAIRS TO APPROVE THE TRIBAL RECOGNITION PETITION OF THE MASHPEE WAMPANOAG

### HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. DELAHUNT. Mr. Speaker, I am pleased to stand before the House today with news that the Mashpee Wampanoag Indian Tribe and the Bureau of Indian Affairs have reached an important agreement. The Mashpee will be placed on the BIA's active consideration list for federal recognition. This agreement is an important milestone on what has been an exceedingly long and arduous road for the Mashpee.

As some of my colleagues know, the Mashpee are long-time residents of Cape Cod in our area 5,000 years before there was a United States of America, much less the Tenth Congressional District of Massachusetts. The Mashpee literally met the Mayflower in 1620 and were the Native Americans who aided the Pilgrims through their difficult first months and who attended the first Thanksgiving feast.

The history of the Mashpee Wampanoag in American life goes back to that meeting in 1620, but that only tells the most recent chapters of the story. With an unbroken chain of habitation spanning five millennia, the Mashpee accepted the Pilgrims and others—and went out of their way to offer assistance. And then, when European culture gave way to a fledgling United States, the Mashpee Wampanoag embraced their roles as both Native Americans and Americans. Mashpee Wampanoag Indians have served honorably in the U.S. armed forces in every war from the Revolution through Iraq. The Tribe's current Chief was part of the Allied invasion of Normandy in the Second World War, and the Chairman of the Tribal Council is a survivor of the siege on Khe Sanh. Mashpee Wampanoag Indians continue to serve and sacrifice with so many other Americans.

But the Mashpee have a dream: Formal recognition of their cultural identity by the Federal

Government. They have sought a decision from the Bureau of Indian Affairs since 1978. Today I am pleased to tell you that the Bureau has agreed to place the Mashpee's application on active status and has committed to issuing a decision by April of next year. This process, I have no doubt, will lead to recognition of the tribe by the federal government, as Massachusetts has since the early days of the Commonwealth.

Many in this Chamber are familiar with this issue and I thank my colleagues and their staffs for helping so much to this point. I ask for your continued support as the day of decision draws near. We all remember the Mayflower. It's now time to remember those who stood on the shore the day she landed, and, with open arms, embraced the Pilgrims—the Mashpee Wampanoag Indians.

## PAYING TRIBUTE TO GAVIN DeGRAW

### HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. HINCHEY. Mr. Speaker, I rise today to honor and commend Gavin DeGraw, a native son of Sullivan County, New York, whose hard work, persistence, and talent have propelled him into the national spotlight. On the occasion of Gavin's return to Sullivan County for his upcoming concert at Kutcher's Country Club, I am proud to offer my congratulations to Gavin and his family on the tremendous success that Gavin has thus far achieved in his relatively short career as a songwriter and performer.

Born and raised in South Fallsburg in the Catskill region, Gavin was engrossed in music throughout his youth. Inspired by his parents' musical talents and interests, Gavin began playing piano and singing at an early age. He later played music in cover bands with his older brother, who encouraged him to write his own music in addition to playing other artists' songs. Gavin studied music briefly at Ithaca College and then at the prestigious Berklee School of Music, but decided to pursue his career as a singer/songwriter in New York City in 1998.

With the continued support of his family, Gavin pursued his dream with passion and diligence, and over the following years, steadily built a loyal following in the New York City live music scene through his soulful performances, personal charisma and honest songwriting style. Gavin cultivated his talent and career patiently, refusing early recording contract offers, and committed himself to his continued development as an artist and performer. These deliberative efforts paid off as he continued to make a name for himself through his local performances, and eventually signed a recording contract with Clive Davis and J Records, who represent a number of nationally known artists.

Gavin's album Chariot, released in July 2003, debuted in the top ten on Billboard's Top Heatseekers chart and inspired reviewers and fans alike to compare Gavin with such musical icons as Elton John, Billy Joel and Van Morrison. The single "I Don't Want To Be" hit number one on Billboard's Top 40 Chart and is used as the theme song for the WB show, "One Tree Hill." The album was certified platinum in January 2005. Gavin's popularity as an artist has continued to grow, as evidenced by his string of sold-out live performances and his appearances on national shows, including Late Show With David Letterman, Tonight Show With Jay Leno, Good Morning America and The Ellen DeGeneres Show.

Mr. Speaker, I am delighted to pay tribute to the accomplishments of Gavin DeGraw and welcome him back to Sullivan County for this concert. I know that I speak for many in the community in stating that Sullivan County is proud of his success and proud of the fact that he has achieved this success through hard work and by remaining true to his own personal style and conviction.

## HONORING THE PASSING OF CHIEF OF POLICE JAMES M. POWELL, THE FIRST CHIEF OF THE UNITED STATES CAPITOL POLICE

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, I rise today to honor the passing of Chief James M. Powell, the first Chief of our United States Capitol Police following the separation from the DC Metropolitan Police Department. Chief Powell had a long distinguished career in law enforcement that lasted over four decades and culminated in his work transforming the Capitol Police force into a first-rate Federal law enforcement agency.

He was born on a farm in Chapel Hill, Tennessee on May 13, 1914. Like so many others during the Great Depression, he came to Washington in 1934 to look for work. While working at various jobs in DC he met and married his wife Dorothy E. Forsht on June 4, 1938.

Finally settling on a career, he joined the DC Metropolitan Police Department in 1940. He spent six years in the 5th Precinct where he started as a patrolman. He was promoted to Precinct Detective in 1944 and then to Detective Sergeant in 1946, when he was assigned to the Robbery Squad.

In 1953, Mr. Powell was promoted to Detective Lieutenant and named the Third District Detective Supervisor. Five years and several commendations later, he was promoted to Captain and began his work in the U.S. Capitol as supervisor of the Senate Plainclothes Detail. In 1965, he became an inspector and designated chief of the U.S. Capitol Police under the direction of the DC police department.

On December 20, 1979, the Congress enacted Public Law 96–152. This act created the position of Chief of the Capitol Police appointed by the Capitol Police Board. This law established the Capitol Police as its own independent legislative branch agency in charge of the safety and security of the Capitol complex. Mr. Powell was appointed to be the first Chief of the reorganized U.S. Capitol Police.

Chief Powell not only served with distinction by protecting the legislative branch, but he managed to earn recognition for his protection of the executive branch as well. While on Metropolitan police detail protecting President Harry S. Truman, he apprehended one of the Puerto Rican nationalists during the attempted assassination in 1950.

Mr. Powell retired from the U.S. Capitol Police on September 30, 1984. I am sure I speak on behalf of all the Members of the House of Representatives in expressing our gratitude for his dedicated service. Our deepest sympathies and prayers go out to his wife, Dorothy; his three sons, Jim, John, and Joe; his sister; three grandchildren; and three great-grandchildren.

## CELEBRATING THE BIRTH OF MARINA BLAKELY HANNER

### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. WILSON of South Carolina. Mr. Speaker, today, I am happy to congratulate Jennifer and Andy Hanner of Columbia, South Carolina on the birth of their beautiful baby girl. Marina Blakely Hanner was born on July 11, 2005 at 5:30 p.m., weighing 8 pounds, 8 ounces and measuring 19 inches long. Marina has been born into a loving home, where she will be raised by parents who are devoted to her well-being and bright future. Her birth is a blessing, and I greatly appreciate the longtime friendship I have shared with Mr. and Mrs. Hanner.

## TRIBUTE TO CAROL THOMAE BARRETT

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. UDALL of Colorado. Mr. Speaker, I rise today to express my condolences to the Barrett family on the death of Carol Barrett, the mother of my staff member Jennifer Barrett. Jennifer and her family came up with some reflections on Carol's life that I would like to submit for the RECORD. I know that Carol died from complications related to Parkinson's disease, an illness I am all too familiar with, since my father also lost a long struggle with Parkinson's in 1998.

I continue my fight for a cure for Parkinson's as co-chair of the Bi-Cameral Caucus on Parkinson's Disease. The fight is too big for one individual, but working together I believe we can make great strides. What we achieve as a community will impact medical research, health care delivery, and millions of people throughout the country and the world. Continuing our search for a cure for Parkinson's won't save Carol's life, but it will go a long way to honor her memory.

### REFLECTIONS ON THE LIFE OF CAROL THOMAE BARRETT

Carol was born November 12, 1938 in Boston to parents with strong ties to their Scandinavian and German heritage. Family ties were strengthened further when two Thomae brothers married two Larson sisters. Carol had no siblings, but her two cousins, Ken and Bob Thomae were very close to her, and became her brothers.

The families attended the Lutheran church in Dorchester and much of Carol's social life was connected with the youth activities of the church. An old photograph shows her as the Lucia Girl, chosen from the entire Boston area. She excelled in her academic studies, making it possible for her to attend Girl's Latin School in Boston, and subsequently to be admitted to Wellesley College as an English major.

A blind date for a day of skiing with a Harvard medical student named Peter changed her life, and Peter's, forever. They were married during their respective final years in school and moved into their first home, a fifth floor walk-up apartment in Boston.

Peter's princely wages of $60 per month as a resident in Internal Medicine at the Massachusetts General Hospital did not stretch very far, and Carol became the bread-winner by combining a teaching assistant position with a Masters program offered by Tufts University. Subsequently, her work as an elementary school teacher in Boston and in Bethesda, Maryland, provided most of our small family's support. The family expanded in 1963 with the arrival of John in 1963, in Bethesda, where Peter spent three years in research at the National Institutes of Health. Following an additional year in Boston, marked by the arrival of Jennifer, the family headed for the Wild West, where Peter continued his medical training, and then joined the faculty at Harbor-UCLA Medical Center in Gastroenterology in 1967. In the early years of marriage, Carol and Peter moved five times in a span of seven years, and they were very glad to move into a home in Palos Verdes where they could stay for a longer time. That home was located at 29377 Quailwood Drive, and that was 38 years ago. The third young Barrett, Anna, joined the family in 1969.

Carol was an active participant in community affairs, particularly with the Peninsula Committee for the Philharmonic, and became its President in 1990-91. She enjoyed her involvement in the PTA, various tennis leagues, book club, and numerous family trips to Montana and Colorado. Vacations often involved visiting Carol's family in the Boston area, or welcoming them into the home in Palos Verdes. Carol's grandmother, "Great Nana," was born in Sweden and had never traveled by air until she visited the Barretts. She enjoyed her visit greatly and became a "regular".

Carol always considered her most important roles to be in the home. Her consistent support was vital to Peter's success in his medical career, and was equally important in providing a wonderful home for their three children. She was their counselor, teacher, booster, and most of all, she was their mother. True to a lifelong pattern, on her last shopping trip she bought two dresses "for the girls."

Parkinson's disease was first diagnosed eleven years ago, but Carol was determined to continue with her many activities as long as possible. Initially she was very successful in these efforts, but the past several years brought increasing difficulty and frustration as her Parkinson's worsened. Nevertheless, because of the steadfast support of her large circle of friends, she was able to continue and to enjoy most of her social activities.

Carol's final trip consisted of a series of wonderful visits with family and friends. It included a visit with daughter Jennifer in Washington, with tours of the Capitol and White House; a day spent with life-long friends near Boston; several days of Harvard and Wellesley reunion activities; and a visit with her cousins in suburban Boston. At this point, new health problems developed which resulted in hospitalization at the Massachusetts General Hospital, the hospital where she was born. All of her family were with her when she finally slipped away. Life for her family and friends will not be the same without her.

### SOME THOUGHTS FROM HER CHILDREN

My mother Carol T. Barrett was a wonderful, intelligent, competent, efficient mother. She loved us and changed her life for us. Her greatest hurt was not being able to be with and help her family as she wished, in the setting of lengthy disability brought on by Parkinson's disease.

When we noticed a connection between cheesecake and Little League victories, she made a cheesecake each time I pitched. When I cut my finger playing with a razor blade, she calmly picked me up, took me to the doctor, and didn't say she told me so. She took three of us, ages 6, 4, and 3 months, unassisted, 3000 miles to go to our Uncle Ken's wedding on the east coast. She forgave us for pouring water on her cigarettes.

My mother's illness came on slowly and strong in the end. She didn't want people to know at first. To the end, she wanted to be with her family and love them. I feel like I did not pay her back for her love in the way that she deserved. When I told her I don't think she could hear me.

My mother expressed strong ideas about our country's approach to curing and managing diseases. Some people express religious objections to a scientific approach to these problems. I think my mother would say to them, "God helps those who help themselves." If the religious zealots who oppose such research followed my mother's moral and ethical compass, we would be better off. Her care and love had nothing to do with shouting and theorizing, and all to do with doing.—John F. Barrett, MD.

Mom was unhappy for the last few years of her life. She could no longer do the things she loved to do, such as ride horses or play tennis. She could no longer do things without assistance, like dressing or getting up from a chair. Travel was extremely difficult—so she didn't see her children or grandchildren as often as she would have liked. She lost her independence, and with it, her passion for living.

Despite her pain and steady decline, Mom held on tight to those she loved. Even when her life was closing around her, she always wanted to know about our lives and loves and dreams and disappointments.

At times the pain of the last few years has threatened to overwhelm my happier memories of Mom, but I'm determined to keep them alive in my heart, since they are all I have in the end. I will always remember her beauty and vitality and sense of fun. She was always there to protect us, watching as we swam in the huge waves at Redondo Beach, picking us up from school. She was always there to praise us for good grades or performances in school plays. She was a wonderful, warm, loving mother.

All she really wanted was for her children to be happy and to find love for ourselves. When we weren't happy, she felt our pain. I'd like to think that she is happy now, knowing that her children have found their way. All three of us are challenged by our jobs and busy lives. John is married with a beautiful wife and two children. Anna is recently married (one of Mom's last joys was attending the wedding of Anna and Kevin), and I am happy and in love. The thought that—at the end—she knew of my happiness gives me great comfort.

I will miss her forever.—Jennifer Hollister Barrett.

"I am part of all that I have met."—Alfred, Lord Tennyson

Carol Ann Thomae Barrett is a part of everyone and everything she touched, and the impact she made on her family, friends, and community is everlasting. If I am half the mother, daughter, wife, friend, and community volunteer that she was, my life will be fulfilled and I will owe it all to her. A Native American proverb says "They are not dead who live in the hearts they leave behind." My heart aches too much right now for this to bring me comfort, but I know it will in time. Mom lives in more hearts than I can count.—Anna Larson Barrett Loewen.

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## HONORING PEGGY HEINKEL-WOLFE

## HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. BURGESS. Mr. Speaker, I rise today in order to recognize the achievement of Mrs. Peggy Heinkel-Wolfe. Mrs. Heinkel-Wolfe has been awarded a contract from the University of North Texas to publish her book detailing the first four years of her son's life before he was diagnosed with autism.

After attending the University of North Texas, also my alma-mater, Peggy Heinkel-Wolfe worked with UNT as a research and development specialist and wrote for various publications including the Denton Record Chronicle. She has returned to UNT and is now a web marketing specialist for the university relations office.

Mrs. Heinkel-Wolfe's manuscript was chosen from among 34 entries by a panel of literary professionals at the Mayborn Literary Nonfiction Writers Conference of the Southwest. The book will provide insight for millions of individuals across the country who can relate to her son, Sam. The simple yet significant milestones she describes will allow readers a chance to place themselves "in her house" and "in her shoes."

Peggy Heinkel-Wolfe has captured the incredible compassion in her home and skillfully transposed those feelings into a novel. The compassion her family displays is an attribute every household should strive to instill.

I look forward to the completion of her story, and I applaud her for providing insight and advice to all who have the opportunity to read it.

## UPON RETIREMENT OF JACK KATZ

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, on the occasion of his retirement, I would like to thank Jack Katz for his outstanding service to the U.S. House of Representatives over the past 28 years.

Throughout the years, Jack has made significant contributions to the financial management of the U.S. House of Representatives' accounts and the processing and oversight of the staff payroll. Jack began his career with the House on March 25, 1977 and has served this great institution in financial counseling and payroll positions within the offices of both the Clerk of the House and the Chief Administrative Officer. He has held the positions of Auditor, Accounts Clerk and Financial Management Counselor in the Office of Finance, and currently holds the position of Payroll Counselor in the Office of Human Resources. During the past 28 years, Jack has provided financial and payroll guidance to every entity of the House, assuring that House staff is paid accurately and on time each month. His payroll and financial acumen has enabled House entities to make critical decisions related to financial and staff payroll issues. He has also provided many years of financial and payroll support and guidance to the countless House staff members who have worked in this great institution throughout the years.

On behalf of the entire House community, I would like to extend my congratulations to Jack Katz for his many years of dedication and outstanding contributions to the House staff payroll function. I wish Jack and his wife Melissa many wonderful years in fulfilling their retirement dreams.

## CELEBRATING THE BIRTH OF LUCILLE "LUCY" BRIGGS TEMPLE

### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. WILSON of South Carolina. Mr. Speaker, today, I am happy to congratulate Rachel and Adam Temple of Columbia, South Carolina, on the birth of their beautiful baby girl. Lucille Briggs Temple was born on April 19, 2005 at 6:30 p.m., weighing 7 pounds, 9 ounces and measuring 21 inches long.

Lucy has been born into a loving home, where she will be raised by parents who are devoted to her well-being and bright future. Her birth is a blessing. Adam is doing a wonderful job as Deputy Communications Director for U.S. Senator Jim DeMint, and I appreciate the friendship of both Mr. and Mrs. Temple.

## DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT IMPLEMENTATION ACT

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. UDALL of Colorado. Mr. Speaker, I rise in opposition to H.R. 3045, the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act, DR–CAFTA. Deciding how to vote on this has not been easy, but ultimately I believe that the bad in the agreement outweighs the good.

I definitely believe free trade brings benefits, but in this case I question who would get those benefits. I agree that open markets have helped lift up the lives of people in many countries of the world. But I am also alarmed about the growing economic inequality within and between countries. Unless free trade is also fair trade, we risk lifting up the few to the detriment of the many.

I think that an improved commercial relationship with the Dominican Republic and the five Central American countries could benefit our economy and U.S. farmers, workers, and manufacturers. But I am concerned about a number of provisions of DR–CAFTA. The agreement will help some U.S. agricultural industries, services markets, and high technology, chemical, medical and scientific equipment companies, among others. But it will harm other agricultural markets, and could have a detrimental impact on small Central American farmers as well. We ought to be encouraging rural economic development in this part of the world, not undercutting it.

The most problematic aspect of DR–CAFTA is that the administration failed to incorporate internationally recognized labor standards. Nor does the agreement clearly require any country to maintain and enforce a set of basic environmental regulations. America's interests are not simply about the bottom line. The U.S. should also be concerned about maintaining and enhancing the high mark set by American workers. While expanded trade is important to this country and the world, it will only be beneficial to a broad range of people in our Nation and abroad if it is carefully shaped to include basic standards and adequately protect the rights of workers and the environment. This agreement does not meet that test.

DR–CAFTA would also allow foreign investors to challenge our laws and regulations before international tribunals, bypassing domestic courts, if they believe U.S. laws on labor, environmental protections, and public health and safety reduce the value of their investments. The U.S. has already spent millions defending our laws from NAFTA, which includes a similar provision. Foreign companies have sued the U.S. over California's ban of MTBE, a California law regulating harmful gold mining practices, and the Agriculture Department's decision to close the border to Canadian beef due to concerns about mad cow disease.

DR–CAFTA also creates a challenge to the safety of the American food supply because it is silent on the issue of imported goods meeting the rigorous food safety and sanitary rules of the United States Department of Agriculture. This agreement takes a step backward in our efforts to provide the American consumer with the safest food possible.

Finally, the agreement includes a provision precluding generic pharmaceutical products from obtaining regulatory marketing approval for a 5–8 year period if approval has been granted for a brand name drug in that market. Especially since low-cost generics are already available in the DR–CAFTA countries, this provision will only serve to make drugs unavailable and unaffordable for most Central Americans, who are suffering in great numbers from HIV/AIDS and untreated diabetes, among other maladies. While market access for U.S. goods is important, we shouldn't be in the business of potentially undermining a country's ability to provide prescription drugs to its citizens.

As part of a long-term strategy to strengthen the American economy, I have supported a number of agreements to expand access to foreign markets for exports from our nation's farmers and businesses. But DR–CAFTA is one I cannot support.

I don't want this country to miss out on economic opportunities, but the problems with this agreement are real, and I don't believe this agreement will create the opportunities its proponents have touted. In the end, our progress together has to be about raising, and not lowering wages, reducing and not adding to the world's poverty, making more "haves" and fewer "have-nots."

I do believe in actively shaping globalization, not passively closing our doors. Although I cannot support DR–CAFTA today, I remain committed to this activist course and hope the Administration will present us with an agreement that deserves our support.

## IN MEMORY OF BURL JACK AKINS

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to give tribute to Burl Jack Akins for his lifelong contributions to his community, family, and country. Mr. Akins passed away at his home in Mesa, Arkansas with his wife Gail, by his side.

Born in rural Crawford County, Arkansas to Gene and Bonnie Akins, he was the youngest of three children. In 1947, Mr. Akins joined the United States Air Force and served as an aircraft mechanic for B–52's and F–111's until 1959. It is worth noting that he was intent on serving his country, so much so, that at the ripe, young age of 16, he lied about his age so he could be admitted into the armed services.

Mr. Akins continued as a civilian employee working for LTV Steel and General Dynamics until medically retired in 1971. He and his first wife Barbara, who preceded him in death after 45 years of marriage, had 7 children, 20 grandchildren and 17 great-grandchildren.

It was my honor to know Burl Jack Akins. I extend my sympathies to his family and friends. May the example of this man, whose contributions made richer the fabric of our American culture, be inspiration to all who seek their dreams to serve their fellow man.

## UPON RETIREMENT OF JEWELL DEESE

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, on the occasion of her retirement, I would like to thank Jewell Deese for her outstanding service to the U.S. House of Representatives over the past 28 years.

Throughout the years, Jewell has made significant contributions to the financial management of U.S. House of Representatives' accounts and the processing and oversight of the staff payroll. She began her career with the House on July 5, 1977 and has served this great institution in financial, benefits, and payroll positions within the offices of both the Clerk of the House and the Chief Administrative Officer. She has held the positions of General Clerk in the Office of Finance, processing the daily receipts for the House Restaurant system, and has held various positions in the Office of Personnel and Benefits. She will retire from her current position of Payroll Counselor in the Office of Human Resources. During the past 26 years as an Office of Human Resources Payroll Counselor she has provided financial and payroll guidance to every entity of the House, assuring that all House staff is paid accurately and on time each month. Her payroll and financial acumen have enabled House entities to make critical decisions related to staff payroll issues. She has also provided many years of benefits and payroll support and guidance to the countless House staff members who have worked in this great institution throughout the years.

On behalf of the entire House community, I would like to extend my congratulations to Jewell Deese for her many years of dedication and outstanding contributions to the House staff payroll function. I wish Jewell and her husband Gregory many wonderful years in fulfilling their retirement dreams.

## CELEBRATING THE BIRTH OF ARMEN JOHN LAYLAGIAN

### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. WILSON of South Carolina. Mr. Speaker, today I am happy to congratulate Janelle and Leon Laylagian of Hopkinton, New Hampshire, on the birth of their son. Armen John Laylagian was born on June 4, 2005 at 5:58 p.m., weighing 6 pounds, 3 ounces and measuring 20 inches long. Armen has been born into a loving home, where he will be raised by parents who are devoted to his well-being and bright future. His birth is a blessing. I appreciate the friendship I share with both Mr. and Mrs. Laylagian.

## HONORING SEVERAL SCHOOLS IN TENNESSEE'S 7TH DISTRICT

### HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mrs. BLACKBURN. Mr. Speaker, today, I ask my colleagues to join me in honoring several schools in Tennessee's 7th Congressional District that have been ranked among the best in the Nation.

Both Brentwood High School and Franklin High School were found to be exemplary by Newsweek magazine.

Brentwood High School, home of the Bruins, lives up to its mission statement of "Excellence through teaching and learning."

Few communities are fortunate enough to have one school noted for distinction, but we have been blessed with two.

Franklin High School, home of the Rebels, was also credited by Newsweek for providing a quality education and giving our kids a great start.

Mr. Speaker, these schools deserve our congratulations for their commitment to our community, and for planting the seeds of knowledge that will help make these students lifelong learners.

All of us should offer our thanks to Principal Kevin Keidel of Brentwood High School and Principal Willie Dickerson of Franklin High School for their hard work and dedication.

## SEEKING TRANSPARENCY AT THE UNITED NATIONS' WORLD HERITAGE COMMITTEE

### HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. POMBO. Mr. Speaker, the United States has been a party to "The Convention Concerning Protection of the World Cultural and Natural Heritage" (World Heritage Convention) for over thirty years. This convention, administered by the United Nations Educational, Scientific and Cultural Organization (UNESCO), currently protects 20 World Heritage Sites in the U.S. Moreover, the "Tentative List" of U.S. World Heritage Sites (www.cr.nps.gov/worldheritage) presently contains 70 properties including the Arctic National Wildlife Refuge. In order for a site to be nominated as a potential World Heritage Site, it must first be on a nation's "Tentative List."

The House Committee on Resources has jurisdiction over U.S. participation in the World Heritage Convention. Because of my concern for protecting private property rights and American sovereignty, I monitor the activities of the World Heritage Committee as do some U.S. organizations advocating these same principles.

Sovereignty International, based in Hollow Rock, TN and chaired by Henry Lamb, contacted me earlier this year requesting my assistance in its efforts to video tape the proceeding of World Heritage Committee's meeting held earlier this month in Durban, South Africa. Despite my efforts to advance this very modest proposal, Sovereignty International's request was denied in writing by the Secretary of UNESCO's World Heritage Committee based in Paris, France.

Because I believe strongly that governments and international organizations should make all reasonable efforts to be transparent, I have asked UNESCO for a detailed written explanation of why it denied Sovereignty International's request which is very modest by American standards. I urge my colleagues to read this letter and be forever vigilant in requiring the United Nations and other international organizations to be much more transparent in their daily operations.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
*Washington, DC, July 12, 2005.*

Hon. FRANCESCO BANDARIN,
*Secretary, UNESCO World Heritage Committee, Paris, France.*

DEAR DIRECTOR BANDARIN: As you may know, the House Committee on Resources has jurisdiction over the United States' participation in the World Heritage Convention. Earlier this year, I was contacted by Mr. Henry Lamb of Sovereignty International requesting the Committee's assistance in his efforts to tape proceedings of the World Heritage Committee's July meeting in Durban, South Africa.

Since Sovereignty International has solid credentials as an NGO and has taped official proceedings of the House Committee on Resources and many federal agencies, I can only consider this modest request as reasonable. As UNESCO frequently advocates increasing its "transparency" and this request is not only consistent with but also furthers transparency, it seems only logical that UNESCO would encourage taping of the proceedings.

Thus, I was surprised to read your June 22, 2005 letter to Mr. Lamb which stated, "the World Heritage Committee is a public meeting, except when otherwise decided by the Committee. The World Heritage Committee has not approved requests to film the proceedings in the past."

To better understand your decision regarding the request to video tape the Durban proceedings, I respectfully request the following:

1. A copy of the World Heritage Committee's official policy on taping that served as guidance for this decision to deny Mr. Lamb's request.

2. A list of Committee Members (and UNESCO and Centre staff) that addressed Mr. Lamb's request and an explanation of how they interpreted this official policy to reach their decision. Minutes of any relevant meetings would be most helpful.

3. A list of other organizations that have requested to "film the (Committee's) proceedings in the past," copies of any correspondence regarding these requests and an explanation as to how each of these requested were handled.

Finally, I would like to meet with you on this and other matters when you next visit Washington, DC. It would allow us both to better understand each other's concerns.

Thank you in advance for your assistance and a timely reply on this matter.

Sincerely,

RICHARD W. POMBO,
*Chairman.*

## UPON RETIREMENT OF LINDA DiMAURO

### HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NEY. Mr. Speaker, on the occasion of her retirement, I would like to thank Linda DiMauro for her outstanding service to the U.S. House of Representatives over the past 26 years.

Throughout the years, Linda has made significant contributions inputting financial data for the U.S. House of Representatives and processing and overseeing the staff payroll of the House. She began her career with the House on October 1, 1979 and has served this great institution in accounting and payroll positions within the offices of both the Clerk of the House and the Chief Administrative Officer. She has held the positions of Data Processing Clerk in the Office of Finance, Accounting Department, Payroll Counselor, and currently serves as a Senior Payroll Counselor in the Office of Human Resources. During the past 26 years, Linda has provided payroll guidance to every entity of the House, assuring that all House staff is paid accurately and on time each month. Her payroll and financial acumen has enabled House entities to make critical decisions related to staff payroll issues. She has also provided many years of payroll support and guidance to the countless House staff members who have worked in this great institution throughout the years.

On behalf of the entire House community, I extend congratulations to Linda DiMauro for her many years of dedication and outstanding contributions to the House staff payroll function. I wish Linda, her daughter Denise, and her grandson Dominick, many wonderful years in fulfilling her retirement dreams.

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## IN RECOGNITION OF MR. JOHN DASO AND THE GIFTED ARTIST OF AMERICA CENTER, INC.

### HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. WILSON of South Carolina. Mr. Speaker, I am proud today to recognize the valuable work of Mr. John Daso, a talented artist who resides in Lexington, South Carolina.

As one of the most beautiful states in the nation, South Carolina's landscape is certainly not easy to accurately illustrate for most artists. However, Mr. Daso's work demonstrates his unique ability to reflect the beauty of our state. I am proud that we have such a remarkable artist living in the Second District of South Carolina.

As the founder of the Gifted Artist of America Center, Inc., Mr. Daso is also generously serving our community. This valuable center helps educate, mentor and inspire young artists who are or were unable to afford a formal education. Specifically, the center offers business development, marketing skills, financial awareness, associative skill training and graphic design. By supporting our youth and encouraging public interest in the Arts, the Gifted Artist of America Center is inspiring individuals to make a difference in their communities by using their artistic skills.

I am grateful for Mr. Daso's artistic talent and leadership in our community.

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## RECOGNITION OF THE 40TH ANNIVERSARY OF THE VOTING RIGHTS ACT

### HON. EDDIE BERNICE JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, the passage of the Voting Rights Act was Congress' greatest accomplishment in America's long struggle in the fight against discrimination and oppression.

This, the 40th anniversary of the Voting Rights Act, serves to remind us of the need to reauthorize and strengthen many expiring provisions. There are many who say there is no longer a need for the Voting Rights Act. Unfortunately, this is not the case.

It is true that we have made remarkable progress since 1965, including: outlawing segregationist principles such as literacy tests, poll taxes, and the grandfather clause. However, we must not relent. There is still much work to be done.

As we all saw during the 2004 elections, minorities faced the uphill battle of misinformation distributed in black communities over how and when to vote, purging of voter rolls, and election day lines where individuals were waiting eight or more hours to vote.

I am proud to serve alongside Representative LEWIS, whose bravery and presence during that historic march across the Pettus Bridge in Selma changed this Nation. In this pivotal moment, Congress and President Johnson could no longer look away from the oppression and segregation America had long ignored.

There are many young people who may not know of, or did not experience this battle towards equality. However, it is imperative we recognize and celebrate our great accomplishments as a Nation. We cannot develop future policies or laws without knowing or applying the lessons we have learned from the past.

As we move forward, it is my hope that our young people will remain diligent; remembering the contributions of those who came before them, and finding new inspiration to fight for change.

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## ARGUS COURIER'S 150TH ANNIVERSARY

### HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. WOOLSEY. Mr. Speaker, I rise today to honor the Petaluma Argus Courier, my hometown newspaper, on the occasion of its 150th Anniversary.

The first edition of the Petaluma Journal and Sonoma County Advertiser, the forerunner of today's Argus-Courier, was published on August 18, 1855. That's 3 years before the City of Petaluma was incorporated.

It is a compliment to the Argus-Courier and its staff that the newspaper has kept in step with the vast changes that have taken place in Petaluma over this 150-year period. As the 10th oldest newspaper in the State of California and one of Petaluma's oldest business institutions, the Argus Courier is an eyewitness to Petaluma history.

The Argus-Courier has always fulfilled its obligation to its community by providing sound information and vigorous leadership on all matters affecting its citizens since 1855—from the Civil War to the Iraq wars, from the 1906 San Francisco earthquake to Loma Prieta, and from Petaluma's fame as the "egg basket to the world" to its status as telecom valley. The fact that the Argus-Courier has been published continuously for 150 years is evidence of its devotion to the public interest and its contribution to the growth and development of the community it serves.

Mr. Speaker, I congratulate the Petaluma Argus Courier on its sesquicentennial and know that it will continue to inform, entertain, and be a valued messenger of news and information to my constituents and me for many more years to come. And, I know that the Argus-Courier derives much satisfaction from the knowledge that it has had a part in the growth and in the furtherance of the free press that has helped to make this Nation great.

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## TRIBUTE TO CLIFFORD J. HARVISON, NTTC, UPON HIS RETIREMENT

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. RAHALL. Mr. Speaker, I rise today not to bury Cliff Harvison, but to praise him.

After, a number of decades of working in Washington, DC, and with 40 years dedicated soley to serving the cargo tank truck industry, Cliff is retiring at the end of this year.

Through the establishment of the Department of Transportation, the Environmental Protection Agency, the Occupational Safety and Health Administration, and more recently, the Department of Homeland Security; through deregulation of the trucking industry, and carrier consolidation; through the terrorist attacks on our infrastructure and upon our Nation; Cliff Harvison has kept watch at the National Tank Truck Carriers, Inc., the tank truck industry's national trade association.

In addition to working with me—for almost three decades as a Member of Congress who understands the needs and vast potential of our national transportation network to States such as West Virginia—as well as working with a great many other Members of Congress over the last several decades, Cliff has worked also with labor, with Federal agencies, and with his own carriers to improve highway transportation. In so doing, he has played a key role in the development of major legislative and regulatory initiatives aimed at highway safety, hazardous materials uniformity, and transportation security. The Motor Carrier Safety Act, the Hazardous Materials Transportation Act—and its successor, the Hazardous Materials Transportation Uniform Safety Act—the Safe Food Transportation Act, truck driver hazardous materials endorsements—these are all key pieces of legislation and regulation affecting motor carriers, and bear the stamp of Cliff Harvison's input as an honest, and honorable, broker.

Mr. Speaker, without America's cargo tank truck industry, Americans would not be able to buy gas conveniently at so many comer filling stations across the country. If we couldn't rely on the cargo tank truck industry, our chemical manufacturing sector, which is a very important manufacturing industry in parts of my home State of West Virginia, would be impeded by a great difficulty in getting goods to help make products to serve our ever day needs. Were it not for our cargo tank truck industry, it would not be possible to move fertilizers, baking products, plastics, and many other household products we take for granted.

All of these different products, transported in so many different kinds of uniquely designed trailers to ensure safe transportation, are vital to our national interests. Likewise, the ease with which they are transported guarantees Americans more affordable gasoline and other products, and protects our way of life. In addition, the cargo tank truck industry itself employs hundreds of thousands of Americans with good paying jobs.

As the cargo tank truck industry has evolved over the last four decades to play an increasingly integral role in our national economy, one constant has been Cliff Harvison's dedicated service to the industry, and to our Nation.

For these reasons, and many more, I am pleased to be able to honor Cliff for his service.

## INTRODUCING THE VOTER OUTREACH AND TURNOUT EXPANSION ACT OF 2005

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. HASTINGS of Florida. Mr. Speaker, I rise to introduce legislation that will significantly alter the ways in which we conduct elections. The Voter Outreach and Turnout Expansion Act of 2005, expands upon the Help America Vote Act, HAVA, of 2002 to incorporate several necessary measures.

In the aftermath of the 2000 election, Members of Congress united in an unparalleled bipartisan effort to pass election reform legislation. HAVA was one of the most far-reaching electoral measures since the Voter's Rights Act of 1965. This one accomplishment does not, however, signify the dissolution of political disenfranchisement within our current system.

In the 2004 Presidential election, we saw numerous problems resurface. Again, voters waited for hours to cast their ballots. Across the country, newly registered voters were denied access to polls and thousands of names were wrongfully removed from voter rolls. These egregious acts of disenfranchisement affected those most vulnerable, young students, minority communities and the elderly.

Such problems will continue to persist until further action is taken to implement election reform. We must not be afraid to be innovative in our solutions. Our greatest political legacies have often been born in times of unrest and implemented under the acquiescence of skeptics.

The VOTE Act takes aim at combating voter apathy through same day voter registration, early voting, no excuse absentee voting, improved registration by mail procedures, the establishment of an Election Day holiday, and guaranteed leave on election day to allow employees to vote. Specifically, the legislation does the following:

The VOTE Act requires states to establish same-day voter registration procedures. Under the legislation, voters who have not previously registered to vote will be permitted to register on Election Day at the appropriate polling location and vote in that election. To address concerns over voter fraud that in the past so many of my colleagues have suggested occurs, voters are required to present proof of residence and written confirmation pursuant to the Help America Vote Act. Title I of the bill is linked to the enforcement provisions of the Help America Vote Act to ensure states' compliance.

Further, the VOTE Act requires local elections supervisors to establish early voting polling locations within the jurisdiction where registered voters will be able to vote prior to election day. Early voting must commence no less than 22 days, or three weeks, prior to election day and shall be made available to voters during normal business hours each weekday. Additionally, elections supervisors must make early voting available to voters on no less than two weekend days during the three weeks.

The bill also prohibits states and local supervisors from requiring voters to provide a reason for voting absentee. All too often, voters become discouraged from voting absentee, or just voting at all, because they are required to provide a reason. Voting should not be a test where excuses are not permitted. On the contrary, absentee voting should be an option—and an easy one to take advantage of at that.

The VOTE Act also amends the Help America Vote Act to require that election supervisors provide voters with adequate time and opportunity to complete their mail-in voter registration form. In instances where the state registration deadline has already passed, supervisors are required to inform the voter of same-day voter registration opportunities that exist.

Further, my legislation requires that federal employees be given the day off on Election Day and encourages states to make Election Day a legal holiday and provide paid leave for state government employees.

Finally, the VOTE Act requires private companies with 25 or more employees to allow their staff to take up to 2 hours of paid or unpaid leave time to vote. Employees who live more than 25 miles away from their workplace are allowed to take up to three hours of leave. Enforcement of these provisions is tied into the Family Medical Leave Act. By and large, Americans who do not vote cite employment as the top reason for not voting. The VOTE Act allows them to work and vote without the fear of losing their jobs in the process.

Throughout these halls, Mr. Speaker, there have been numerous discussions of elections, yet the focus has been on who is spending what and how. We have become immersed in a discourse that is out of touch with the true needs of those we represent. As Members of Congress, it is our duty to pro actively address any and all institutional restrictions on political participation and civic engagement.

Mr. Speaker, how can we condemn the prevailing apathy among our youth if we ourselves personify that same approach? The VOTE Act will both engage new generations of voters and empower Americans in every city and State, nationwide. Our electoral concerns will not be abated unless such far-reaching legislative action is pursued. I urge my colleagues to not stand idly and watch our systems continue to weaken, lend your support to the Voter Outreach and Turnout Expansion Act.

## INTRODUCTION OF SEPTEMBER 11TH HUMANITARIAN RELIEF AND PATRIOTISM ACT

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mrs. MALONEY. Mr. Speaker, today, I introduce the September 11th Humanitarian Relief and Patriotism Act with Representatives PETER KING, WEINER, NADLER, HIGGINS, FARR, SERRANO, ENGEL, OWENS, MCDERMOTT, LANTOS, SCHAKOWSKY, BENNIE THOMPSON, SOLIS, SCHIFF, BERMAN, PALLONE, PATRICK KENNEDY and GRIJALVA.

We are introducing this legislation because the terrorist attacks of September 11, 2001, left many surviving spouses and children of legal employment-based visa holders and undocumented workers in jeopardy of being deported, because their immigration status was linked to a family member who was employed at the World Trade Center. While the USA PATRIOT Act allowed these individuals to stay in the United States until September 10, 2002, that reprieve has expired. These individuals should not be forced to leave the country because of the actions of the terrorists.

The "September 11th Humanitarian Relief and Patriotism Act," which would provide for the adjustment of status (application for permanent residence, commonly known as "green card" status) or the cancellation of removal (and adjustment of status) for the spouse, child, dependent son, or dependent daughter of victims who were killed on September 11. While the Administration continues to act with care by not moving forward with deportation procedures for these individuals, their legal status remains in limbo unless they are given legal status in the United States. They should not continue to be victimized by the 9/11 terrorists by living in fear that they will have to leave their homes, jobs, and communities. Additionally, New York City Mayor, Michael Bloomberg, supports this legislation and is calling on Congress to act.

Finally, I would like to thank Moshe and Debra Steinberg for their assistance in preparing this legislation for introduction and for all of the work they have done on behalf of the victims of the September 11, 2001, terrorist attacks. I urge my colleagues to support this legislation and urge its swift passage into law.

## TRIBUTE TO EIGHT SEWICKLEY WORLD WAR II TUSKEGEE AIRMEN OF THE ALL AFRICAN-AMERICAN 99TH PURSUIT SQUADRON

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. HART. Mr. Speaker, I would like to take this opportunity and join the Daniel B. Matthews Historical Society in honoring the extraordinary patriotism and valor of eight Sewickley World War II Tuskegee Airmen of the all African-American 99th Pursuit Squadron.

Often referred to as the "Sewickley Eight" by local historians, the three surviving honorees include brothers Mitchell Higginbotham and Robert Higginbotham, of California, and William Johnston of Ohio. Jim Addison, Curtis Branch, William Curtis Jr., William Gilliam and Frank Hailstock will be honored posthumously for their unprecedented service by the society as well.

These distinguished men continued their successes after the war. In a period of extreme racism, these men overcame immense professional challenges. Mitchell Higginbotham, commissioned as a Second Lieutenant and pilot, now serves as an itinerant Ambassador of Goodwill for the Tuskegee Airmen. After serving as an expert in multi-engine aircrafts, Robert Higginbotham went on to become the first African-American intern and resident at the Sewickley Valley Hospital. William Johnston, commissioned as a Second Lieutenant, serving as a Tuskegee pilot, went on to become a corporate pilot.

The "Sewickley Eight" and their families will be honored on Thursday August 4th by the Daniel B. Matthew Society's first annual Founders Luncheon at St. Stephen's Episcopal Church Sewickley, Pennsylvania. This event will take place on the opening day of the 39th annual Come-On-Home Weekend in Sewickley.

I ask my colleagues in the United States House of Representatives to join me in honoring the brave Sewickley natives of the World War II Tuskegee Airmen of the all African-American. 99th Pursuit Squadron. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute such citizens as the Tuskegee Airmen who embody the spirit of patriotism.

## TRIBUTE TO KENYA AJANAKU, A MULTIFACETED CULTURAL LEADER

### HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CLAY. Mr. Speaker, I rise today to call attention to an article that appeared in the July 15th edition of the St. Louis Post-Dispatch, which pays tribute to a man of abundant and diverse talents, Mr. Kenya Ajanaku. Not only has Mr. Ajanaku played an important part in my personal life as an admired relative, he has been a huge asset to the city of St. Louis. As the executive director of the Harambee Institute, and a professional jewelry maker, drummer, singer, dancer, storyteller and educator, Mr. Ajanaku has proven that pursuing one's passions can be personally rewarding as well as beneficial to one's community. The article, aptly entitled "Multifaceted", delivers Mr. Ajanaku the proper recognition he deserves.

Mr. Speaker, I ask that the entire text of the St. Louis Post-Dispatch article be placed in the RECORD.

[From the St. Louis Dispatch, July 15, 2005]

MULTIFACETED

(By Kathie Sutin)

Some of the best things in life happen by serendipity, that accidental, happy discovery that comes when you're looking for something else.

Take Kenya Ajanaku, a multi-talented man—a professional jewelry-maker, drummer, singer, dancer, storyteller and educator.

Ajanaku, 57, is executive director of the Harambee Institute, a nonprofit organization he created in 1994 to pass on to others what he has learned about making jewelry and the performing arts. He also performs a 45-minute interactive program incorporating drum-playing and the storytelling of African folk tales to groups around St. Louis and the country.

Except for singing, which he has done most of his life, he came upon each of his other professions by chance.

"I became a jeweler at 25, I became a dancer and drummer at 31, and I became a professional storyteller at 41," says Ajanaku (pronounced ah JAHN ah koo).

"It has enabled me to have heaven right here on Earth: he says. "I do this for a living, and it's really a blessing. I can't call it a job because a job is something you hate to do. I have to call this a profession because it's something I love to do."

Not that the path was easy. In the '70s, when Ajanaku started, it was almost unheard-of for an African-American to make a living selling jewelry.

"Most people said, 'He has gone crazy talking about he gon' make a living making jewelry," he said with a laugh.

Ajanaku understands the skepticism of those days.

"Our people hadn't seen anyone making a living doing this," he says. "And then I got involved with the drumming, and my mother—bless her soul—says, 'Bi-State is hiring. You're 31 years old. What are you going to do with a drum?'"

He credits his wife of 38 years, Weyni, who learned jewelry-making with him and who does the paperwork and teaches at the institute, for believing in him. The couple sell necklaces, bracelets and rings they handcraft from copper, brass, silver and 14-karat gold. They also set semiprecious stones from around the world such as obsidian, turquoise, malachite, black onyx and tiger's eye. Ajanaku also fashions antique sterling silverware he finds at auctions into bracelets and rings.

After graduating from Vashon High School in 1966, Ajanaku headed to Johnson C. Smith University in Charlotte, N.C., on a swimming scholarship. Shortly thereafter, he married Weyni. Then, three years into college, he moved back to St. Louis to become a barber.

A few years later, he and his wife decided to sell their possessions and the barbershop to move to Panama with friends to open a business.

But there, their plans were stymied when they learned that to open a business, they needed a Panamanian partner. They decided to go back to Charlotte, where they opened a small variety store across from the university Ajanaku had attended.

After going to a movie one day, the couple encountered two African-American men near the theater. They had big boards shaped like Africa, and they had black velvet on them, and they had their jewelry pinned on the front, Ajanaku says. One of them said, "Hey, would you be interested in some handcrafted jewelry?"

Ajanaku was amazed.

"It was the first time I had seen handcrafted jewelry, especially made by someone who looks like me," he said. "Up to then, I had never conceived that I could become a jeweler. You see, when I was growing up in my community, you didn't see any professional jewelers."

He was also impressed by the jewelry.

"I was just flabbergasted at the beauty and the time and effort that went into these pieces that they made," he said.

The couple learned that the men, part of a communal group called the Ajanakus, made their living traveling from city to city and selling jewelry. They bought some jewelry and invited the men to dinner. Later they would change their last name to Ajanaku, a Nigerian term meaning "strong-willed person."

After dinner, the men brought out their tools and materials and showed the couple how they made jewelry. That night, Kenya Ajanaku made his first piece of jewelry—a pair of earrings.

Ajanaku and his wife were captivated by the lifestyle, as well as the jewelry.

So they sold their business and eventually headed for Washington, where he met a man who taught him how to solder and set stones in silver.

"I remember our first piece of sterling silver we bought in Philadelphia," he says. "It was 1 foot of 16-gauge round sterling silver wire. Man, you would have thought that was gold to us because we had never worked with sterling before."

The family returned to St. Louis in 1979 and began to sell jewelry at craft shows.

Here, Someone told him about renowned dancer Katherine Dunham and a Senegalese man she brought to East St. Louis to teach African drumming. Ajanaku signed up for the class.

"I became a pretty good drummer, and fortunately Miss Dunham hired me as one of the drummers for the Katherine Dunham Dancers. That was really a help because when I first moved back to St. Louis, the only way I had to make money was through the jewelry. When I got involved in the performing arts, it helped me to diversify."

Ajanaku later played percussion behind St. Louisan Bobby Norfolk, one of the first African-American professional storytellers, who was on the roster of Young Audiences. When Norfolk went on to national and international gigs, the group asked Ajanaku to come up with a storytelling presentation.

Though the Ajanakus spend a lot of time teaching children and adults at the Harambee Institute and at classes they teach through the St. Louis Parks and Recreation Department, the Ferguson-Florissant School District and at Mark Twain Elementary School in St. Louis, they still sell their jewelry at festivals. That includes such events as the Festival of Nations, which will be held July 23-24 in Tower Grove Park, and the Best of Missouri Market at the Missouri Botanical Garden and Ottertoberfest at the St. Louis Zoo, both in October.

Ajanaku sees the institute as a way to enlighten the African-American community about professions in the arts and others about African culture.

"Nowadays, I tell people, 'The cotton has been picked: automation is here, so the need for unskilled laborers nowadays is zero," he says. "Nowadays you need some type of skill or some type of service you can provide."

The Harambee Institute is at 5223 Raymond Avenue. To learn more about it or to make an appointment to visit the gift shop, which features items from Africa and the Ajanakus' jewelry, call 314-454-6584.

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## ON THE OCCASION OF GLADYS BAISA'S 65TH BIRTHDAY

### HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CASE. Mr. Speaker, I rise to honor one of my most distinguished constituents on the occasion of her 65th birthday.

Gladys Coelho Baisa was born on August 13, 1940 on the Island of Maui, Hawaii. She grew up in the plantation camps and can remember a time when no door was locked and no one was a stranger. She lost her father at an early age was raised by her mother alone. Gladys graduated from Maui High School in 1958, where she was class valedictorian and a member of the National Honor Society. Two years later she graduated as a Practical Licensed Nurse from the St. Francis School of Nursing and began her illustrious career as a Licensed Practical Nurse and then a private duty nurse.

In 1967, having taken additional education at Maui Technical School in the accounting program, she began at the Maui Memorial Medical Center in the billing department. Within two years, Gladys was recruited to join the Maui Economic Opportunity (MEO) Inc., where she has been in a leadership position for 36 years and Executive Director for 21 years.

Gladys has demonstrated the highest qualities of leadership since taking the reins of MEO in 1984. When she became Executive Director, MEO had a budget of $1.9 million and operated 17 programs under three major categories: the Community Services Block Grants, Head Start, and County of Maui Grants. There were eight key staff members and seven supervisors. Today, MEO expects to serve over 20,000 unduplicated clients through its programs and community partnerships and has 272 employees and a budget of $14.5 million.

Additionally, in 2003, the National Community Action Partnership presented Gladys and MEO with its inaugural "Award of Excellence in Community Action", one of only four agencies to be so honored out of over 1,100 community action agencies in the nation.

Today, under Gladys' vision and enthusiasm, MEO offers job training, microenterprise business development, family development programs, housing assistance, welfare to work opportunities, Head Start, senior citizen programs, medical and life sustaining transportation, farmworker employment and training programs, immigrant acculturation, food distribution to those in need, youth programs, reintegration of inmates back into the community, and many other innovative and far reaching programs that have been incorporated into government operations and continue to serve the community.

Gladys wasn't content with just building up MEO. She saw a need to develop the not for profit sector on Maui and took an active role in the creation of the Maui Non-Profit Directors Association. This organization of over 50 dues paying members has become an important force in public policy discussions affecting Maui County, and a forum for training and information designed to strengthen each agency in their mission.

For almost four decades Gladys has selflessly given her passion, energy, and unending desire to assist the people of Maui and Hawaii. She has long been a leading source of "best practices" management and her colleagues honored her with their very first "Executive Director of the Year" award.

Gladys will soon retire from MEO for well-deserved rest and time with her family. I know this will be merely an informal retirement and she will continue to stay involved in assisting the Maui community and will continue to live by MEO's motto: "Helping People. Changing Lives."

Hauoli La Hanau, Gladys, and many many more!

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## MEMORANDUM OF FORT WORTH CITY COUNCIL MEMBER CHUCK SILCOX

### HON. KAY GRANGER

OF TEXAS

*Thursday, July 28, 2005*

Ms. GRANGER. Mr. Speaker, I would like to enter into the RECORD the following memorandum from Fort Worth City Council Member Chuck Silcox to the Mayor of Fort Worth and Council Members dated July 5, 2005. In the memorandum, Councilman Silcox indicates his desire for the successful implementation of the Trinity River Vision project in Fort Worth, Texas.

MEMO

JULY 5, 2005.

To: Mayor & Council Members.
From: Chuck Silcox,
Re: Trip to Washington, DC, June 21-23.

On June 21, I flew to Washington, DC for a series of meetings regarding the Trinity River and Highway 121 projects. Initially, let me report that the meetings went quite well. My appreciation to Congresswoman Kay Granger and her staff for all they did to arrange the schedule for me. I was accompanied with Reid Rector, Robert Head (Ms. Granger's Deputy Chief of Staff) and Pete Rose.

Wednesday, June 22, began with a meeting with Congresswoman Granger to discuss the agenda and key issues relative to the Trinity River and Highway 121 projects. This meeting went well, and I left there very comfortable that in the sense that Congresswoman Granger's office will continue to work very closely with us in support of our federal legislative agenda, to include the successful implementation of the Trinity River Plan and the Highway 121 projects. In addition, we also discussed, in general terms, the importance of maintaining the Wright Amendment and the current status of the B-36 project as affected by a lack of funding to retain the B-36 in Fort Worth.

Following the above meeting, we met with senior staff at the U.S. Army Corps of Engineers. The Corps was represented by Steve Stockton, Deputy Director of Civil Works, Gary Leow, Director of Civil Works Program Integration Division and John Meador, Civil Works Deputy, Southwestern Division. Several key points were discussed during this meeting:

1. The Corps staff stressed that while the key underlying need for the TRV was and remains flood control and repair of the levees in the area, this type of project is becoming more and more common in the Corps' work, i.e., combining economic development and flood control issues. In the terms of flood control, Corps staff emphasized that upstream development has significantly affected downstream drainage and flooding issues. In addition, the existing levees have "settled," a condition that also contributes to the flooding potential. The Trinity River project, with its bypass channel, would appropriately address these issues.

2. Regarding environmental issues associated with the Trinity River development, Corps staff indicated that the initial environmental impact statement is in line and that their initial review does not reveal any significant environmental problems. However, they stated that approximately $25 million has been allocated for dealing with any issues that might arise.

3. Regarding the location of businesses within the Trinity River project area, Corps staff stated that the only property that would be obtained would be that property necessary for the bypass channel and that no other property would be sought.

4. Regarding increases in project costs ($360 million to $435 million), it was explained that this is primarily due to "contingency" costs being added to insure that unanticipated costs are adequately covered.

5. These issues and any other relevant issues will be addressed at public meetings currently scheduled for July 26 and 27. It is my intent to see that these meetings are publicized so that the public can attend, learn about this project and raise any relevant questions they may have.

We then met with staff from the Federal Highway Administration to discuss the SH-121 project. Attending for the FHWA were Charles Nottingham, Associate Administrator for Policy and Government Affairs, Sal Deocampo of the Texas Division (by telephone), Ruth Rentch of the Office of Environmental Planning, Jennifer Southwick, a Special Assistant for Policy and Governmental Affairs and Marc Ott (by telephone).

As in the case of the meeting with the Corps of Engineers, several key issues were discussed:

1. The plan for groundbreaking in late 2005 was discussed and it was emphasized that City intended to stay on schedule.

2. With the revised cost estimates, as all parties investigate opportunities for refinement of the cost estimates, it is the City's strong intent not to compromise the quality of the project.

3. It was noted that NTTA should, within 90 days, be able to better understand the cost increases for the project. In this regard, it was noted that the City should be in close contact with the NTTA to urge favorable action relative to dealing with any cost increases. Marc Ott indicated that a letter from the Mayor was being forwarded to the NTTA addressing the cost issue.

4. Relative to these costs issues, FHWA staff indicated that costs cannot be finalized until the Record of Decision has been issued as the Record will play a significant role in final cost determinations. Now that the ROD has been issued, FHWA staff felt that the cost related issues would be resolved as design work progresses.

These meetings with Congresswoman Granger, the Corps and the FHWA were very informative. As a result of attending these meetings, I am confident that we can successfully address the relevant issues affecting the Trinity River and SH-121 projects.

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## INTRODUCTION OF THE ENVIRONMENTAL RESTORATION ACT OF 2005

### HON. TIM MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. MURPHY. Mr. Speaker, I am pleased today to introduce the Environmental Restoration Act of 2005. I am joined in the introduction by Representatives MURTHA, ENGLISH, HART and PETERSON of Pennsylvania.

It is fitting that this bill be introduced on the same day that the House will pass comprehensive energy policy legislation. This bill has the dual benefit of cleaning up a terrible environmental and health situation at the same time that it increases our energy independence.

The Environmental Restoration Act of 2005 creates incentives for the cleanup of dangerous and unsightly waste coal, or gob, piles by utilizing the waste coal as a domestic energy source. The bill provides transferable tax credits for the clean and safe burning of waste coal as fuel for power generation. The bill will result in the creation of jobs, enhanced energy security, recycled energy recovery from waste coal, and restoration of blighted areas back to productive use.

I want to highlight the environmental benefits of the legislation. This bill will produce electricity with a recycled waste energy resource. It will help clean up abandoned gob piles. There is over one billion tons of waste coal available on the ground today. Land will be restored to green space or productive use. Stream quality will be improved by eliminating sedimentation and acid mine drainage. Electricity will be produced with emissions lower than regulatory requirements. Finally, the need and number of refuse disposal facilities will be reduced.

The bill applies to existing as well as planned and future waste coal processing facilities. Today such facilities exist not only in my State of Pennsylvania, but in Utah, West Virginia and Montana. I hope to see more of these efficient plants developed.

I want to give an example of one of the Pennsylvania facilities that would qualify for credits under my bill—the Beech Hollow Power Project in Washington, Pennsylvania. Beech Hollow is a waste coal-fired power generation facility located in Robinson Township. The project is constructed on a 38-acre site immediately adjacent to a gob pile. The power generated will be transmitted via an interconnection with a transmission line owned by West Penn Power. The project has strong state and local support. There is a 17-year supply of waste fuel for this plant.

Beech Hollow has received all of its state and federal clean air act permits, with the strong support of the Pennsylvania Department of Environmental Protection. By using clean coal technology the plant and will exceed federal emission standards.

Beech Hollow will produce 252,000 kilowatts of net electrical power, derived from clean energy. This will be enough power to supply about 240,000 homes. In addition to the significant environmental benefits associated with the removal of this large source of groundwater contamination, the Beech Hollow Project will also have significant and diverse positive economic impacts throughout the local community. For instance, between construction and operation, it is estimated that the project will generate a total of 7,906 full-time equivalent job years of employment in Pennsylvania.

In the spirit of comprehensive energy policy and energy independence, I urge my colleagues to take a close look at this legislation. It is a prime example of how environmental protection and domestic energy use can go hand in hand.

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## HONORING DELFORD BOYER

### HON. PETER T. KING

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. KING of New York. Mr. Speaker, I rise today to honor the life of an exceptional man, Mr. Delford Boyer, who passed away on Tuesday, July 26, 2005. I offer my heartfelt condolences to his wife of 63 years, Dona Boyer, his son and daughter-in-law, Reg and Nancy Boyer, daughter and son-in-law, Jody and Roger Durand, daughter and son-in-law, Jill and Jim Maenner, his beloved grandchildren, Kristin, Molly, Aaron, Nick, Katie, Colin, Joslyn, and Marne and his brother Don and sister Shirley.

He was born in Cheney Nebraska on May 29, 1917 and served as a pilot with the Royal Canadian Air Force and with the U.S. Army Air Force in the China, Burma, India Theater during World War II. He was a recipient of the APTO Ribbon, Victory Medal, one Overseas Bar, Asiatic Pacific Ribbon with two Bronze Stars, Air Medal and Distinguished Flying Cross.

Mr. Speaker, on behalf of a grateful Nation I join all my colleagues today in expressing our sorrow and our thanks for the life and the service of Delford Boyer. His was a life full of love and grace. Words cannot express the grief of those whose lives he touched. He will be missed.

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## UNSOLVED CIVIL RIGHTS CRIME ACT

### HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. FILNER. Mr. Speaker, I rise today to introduce the Unsolved Civil Rights Crime Act with Congressman Bennie Thompson. As a former "Freedom Rider" in Mississippi during the 1960s, I have seen first hand the need for this bill.

While most are familiar with the recent prosecution of Edgar Ray Killen his participation in the slayings of Civil Rights workers James Chaney, Michael Schwerner and Andrew Goodman, there are many other cases that aren't as well known or remain unsolved, like Emmett Till. These cases need to be investigated.

We as a Congress have a moral obligation to bring justice to the families of these victims. Furthermore, as a society based on laws, we have a responsibility to ensure that criminals don't go unpunished.

This bill creates a special section within the Civil Rights Division of the Department of Justice to focus specifically on unsolved pre-1970 Civil Rights' homicides. In addition, the bill authorizes up to $5 million annually for this new section, which will provide States assistance with prosecuting Civil Rights era cases that have grown cold over time.

Unlike many other endeavors that have come before this House to address past racial injustice, this bill goes beyond mere rhetoric and "lip service" and provides an avenue to actually address Civil Rights' crimes.

Our country has come a long way since the 1960s. For example, seven states, since 1989, have reexamined 29 killings from the Civil Rights era, leading to 27 arrests and 22 convictions. However, as most are aware, there are still many unsolved homicides from that time period. And, while we can't go back in time, we can acknowledge our past transgressions and do our best to work towards correcting them.

"Justice delayed" is better than "Justice denied"!

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## INTRODUCTION OF THE "SAFE COMMUNITIES ACT OF 2005"

### HON. EARL BLUMENAUER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. BLUMENAUER. Mr. Speaker, an essential component of livable communities is the ability to avoid, withstand and quickly recover from disaster events. Today I am joined by my colleague from Pennsylvania, CURT WELDON, in introducing the Safe Communities Act 2005. This bill will give communities the tools to help them plan for and reduce the impact of disaster events.

The Safe Communities Act will create a new grant program to support state, local and regional planning activities aimed at reducing threats posed by natural and human-caused disasters. Grant-eligible projects include: comprehensive risk assessment and inventory of critical infrastructure, land-use planning for natural hazards and terrorism security, updating building codes and urban design techniques for risk-reduction. The bill will also create a research program to investigate the best practices in comprehensive land use and community planning aimed at reducing threats posed by natural hazards and acts of terror.

The number of people who live in harm's way is expanding dramatically; more properties and more lives are at risk from both natural and human-caused disasters. It is estimated that almost 75 percent of our communities are at risk for some type of natural disaster, be it wildfire, hurricane, flooding, or earthquake. Rising disaster-recovery costs impact us all: taxpayers, the financial services and insurance industry, as well as local communities.

Federal investment in natural disasters should include prevention and mitigation as well as response and recovery. Investment in prevention can save money in the long-term: The World Bank and U.S. Geological Survey have estimated that $40 billion invested in risk reduction strategies could have saved as much as $280 billion in worldwide economic losses from disasters in the 1990s—a $7 return for each dollar invested.

I hope that this bill moves quickly through the legislative process so that the Federal Government can be a good partner to communities to help them prepare for and prevent natural disasters.

## 40TH ANNIVERSARY OF MEDICARE

### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. MORAN of Virginia. Mr. Speaker, I rise today to celebrate the 40th anniversary of one of our nation's most vital and successful social programs: Medicare. To this day, it remains one of the greatest accomplishments, providing near universal coverage to America's most vulnerable citizens.

Since its inception in 1965, Medicare has drastically reduced the number of Americans living below the poverty line, and considerably reduced the financial burden on seniors and their families. The program has increased life expectancy among Americans, giving minorities greater access to health care, and given individuals with disabilities access to health care that was never previously available. All the while, this program has operated efficiently with our tax dollars. Administrative costs average less than two percent of expenditures, a fraction of what private insurance companies spend on such costs.

Yet while we have seen remarkable success in the last 40 years, we must ensure that the mission of Medicare is carried on through this new century. So far, this Congress has fallen woefully short. The Republican majority pushed through the Medicare Modernization Act of 2003 to provide prescription drug coverage to American seniors. A noble idea, but this law falls far short of the universal coverage and prohibits the government from using common sense negotiation strategies to keep drug costs low.

As future generations reflect on the legacy of this Congress, in many respects it will be shaped by the commitments—rather than the rhetoric—that we make to our seniors. Medicare is a program that offers stability and hope for millions. It is our responsibility to continue the strong history Medicare has built. Let's give America's seniors the drug and medical coverage that they deserve.

## CELEBRATING THE 40TH ANNIVERSARY OF THE VOTING RIGHTS ACT

### HON. DAVID SCOTT

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. SCOTT of Georgia. Mr. Speaker, I am pleased to celebrate August 6, 1965, the day President Lyndon B. Johnson signed into law the historic Voting Rights Act. It and the Civil Rights Act of 1964 are two of the most significant civil rights statutes ever enacted. Congress enacted the Voting Rights Act of 1965 to protect the voting rights of all Americans and ended the techniques that had been used for decades to deny millions of minorities the right to vote.

Throughout the 1950s and 1960s, those in the civil rights movement worked to get basic civil rights and voting rights enacted into statute. The cost for those in the movement was high: church burnings, bombings, shootings, and beatings. It required the ultimate sacrifice of ordinary Americans: James Chaney, Andrew Goodman, and Michael Schwerner who simply sought to register voters and Jimmie Lee Jackson whose death precipitated the famous march from Selma to Montgomery.

After the Civil Rights Act of 1964 was enacted, those in the civil rights movement turned their attention to the importance of obtaining voting rights. The struggle for voting rights led nonviolent civil rights marchers to gather on the Edmund Pettus Bridge in Selma, Alabama on March 7, 1965—a day that would come to be known as "Bloody Sunday" when the bravery of the marchers was tested by a brutal response, with many marchers being beaten.

The Voting Rights Act provided extensive protections by prohibiting any voting practice that serves as an impediment to the right to vote, such as: intimidation, voter harassment, poll taxes, literacy tests, language barriers, racial gerrymandering and other tools of disenfranchisement. It also provided for criminal and civil sanctions against persons interfering with the right to vote.

It is clear that the Voting Rights Act has been a great success. Consider the statistics. At the time the Act was adopted, only one-third of all African Americans of voting age were on the registration rolls in the specially covered states, while two-thirds of eligible whites were registered. In some states, fewer than five percent of African Americans were registered.

Today, African American voter registration rates are approaching parity with that of whites in many areas, and Hispanic voters in jurisdictions added to the list of those specially covered by the Act in 1975 are not far behind. Also, thanks to the Voting Rights Act, today there are 81 members of Congress of African American, Latino, Asian and Native American descent, and thousands of minorities in elected offices around the country. Despite the progress from 40 years of enforcement of the Voting Rights Act, voter inequities, disparities, and obstacles still remain for far too many minority voters.

It is important that we recognize this significant anniversary because The Voting Rights Act is an expression of important American values—equality, nondiscrimination, fairness, and ensuring the full participation in our society by everyone. Therefore, I celebrate this anniversary with pride and reflection knowing that although we have come a long way, we still have great distance to go in order to fulfill our nation's ideals of equality and equal opportunity.

## HONORING THE LIFE AND SACRIFICE OF ARMY SGT MICHAEL SCHAFER OF SPRING HILL, FLORIDA

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise to honor the life and sacrifice of Army Staff Sergeant Michael Schafer of Spring Hill, FL. Sgt. Schafer was killed by enemy fire July 25, 2005 in Oruzgan, Afghanistan. He leaves behind his loving wife Danielle, parents Karen and Dan Barr, brother Tim, and grandparents Ron Forbes and Stan and Loretta Barr. In times when children and families need role models to look up to and emulate, Sgt. Schafer was a true American hero.

A volunteer for the army in 1999, Sgt. Schafer performed his basic training at Fort Benning, GA and Airborne training in Fort Bragg, NC. After he completed his training, Sgt. Schafer served in both the Iraq and Afghanistan wars, as well as Kosovo. A proud member of C Company, 2nd Battalion, 503rd Infantry, 173rd Airborne Brigade, Sgt. Schafer was one of the first paratroopers to jump into Kirkuk, Iraq during the March 2003 invasion. Sgt. Schafer served nine months in Iraq before being transferred to Afghanistan, and had expressed interest in going back to Iraq to be where the action was.

In addition to serving honorably in the United States Army, Sgt. Schafer was a true and dedicated family man. Married to his wife Danielle within a week of shipping out to Kosovo, the couple was in constant contact throughout his tours of duty. At the time of his death, Sgt. Schafer and his wife were looking to adopt a baby.

As a sign of the love for his family, Sgt. Schafer wrote a poem to his mother before he left for basic training.

> Mother, there comes a time in every boy's life when he leaves the warmth of the nest. Perhaps to look for all your qualities in his future wife; or join the working class like the rest. I am standing here before you this very day. To let you know when I leave not to fear, because I will never be that far away. And you will always be near and dear to my heart, it is where I will keep your love. I know that the bond that we have between us cannot be torn apart, and when I think of you so beautiful like a white dove. I want you to know that as I leave for the Army, if you are feeling scared, do not be afraid to show it. Your love for me won't let any one harm me. I will be back home before you know it.

Mr. Speaker, as a mother and a grandmother, I know the pain that comes when a child leaves home for the first time. What Sgt. Schafer's family must cope with today, however, is the knowledge that their child will not be returning home. I can offer them this pledge, however; that this Congress will never forget the sacrifice Sgt. Schafer made serving his country.

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## INTRODUCING A RESOLUTION RECOGNIZING THE BENEFITS AND IMPORTANCE OF FEDERALLY QUALIFIED HEALTH CENTERS AND THE MEDICAID PROSPECTIVE PAYMENT SYSTEM FOR SUCH CENTERS

### HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. PICKERING. Mr. Speaker, I am pleased to introduce legislation today calling attention to the essential work of America's community health centers in providing quality affordable health care to people served by the Medicaid program and the nation's uninsured. I am pleased to be joined today by my colleague, the gentleman from New York, Mr. TOWNS, and a number of my House colleagues in supporting this legislation.

Mr. Speaker, community health centers will celebrate their 40th anniversary this year as will the Medicaid and Medicare programs. Among these programs, Medicaid and community health centers enjoy a special relationship, as twin pillars of a broad effort to improve health care for poor, minority, and underserved Americans. The two programs in fact are specifically designed to work in tandem with one another to make access to quality health care a reality for the nation's most vulnerable populations.

Recognizing the importance of this unique relationship, the Congress in 1989 made health center services a guaranteed benefit under Medicaid. In 2000, I joined with a bipartisan majority of colleagues in the Congress to once again reaffirm the importance of this relationship by supporting legislation that created the health center Medicaid Prospective Payment System. As the Congress intended, this payment system has allowed health centers to provide and expand primary care and preventive services to more people in need, while promoting efficient operation of and ensuring adequate Medicaid reimbursement for these centers.

Today, because of Congress's wise actions, community health centers help to form the backbone of America's health care safety net, providing quality health care to 15 million underserved individuals nationwide, nearly 6 million of whom are enrolled in Medicaid.

In my own State of Mississippi, health centers are the family doctor and medical home for more than 300,000 individuals, more than a third of whom are covered by Medicaid.

However, health centers are doing more than just providing affordable quality health care to and improving the health status of the Nation's vulnerable populations, they are also delivering cost savings to taxpayers and to all payers of health center services. To be sure, health centers' costs rank among the lowest, and health centers are effectively reducing the need for more expensive hospital in-patient and specialty care. In addition, dozens of studies over the past three decades have found that health centers save the Medicaid program 30 percent or more in total annual spending per beneficiary, compared to other providers. Studies have also shown that the cost of treating Medicaid patients through health centers is 26 to 40 percent lower for prescription drugs costs.

Mr. Speaker, I believe health centers are a top priority of President Bush and this Congress because they undoubtedly are providing cost-effective, high-quality health care to the Nation's poor and medically underserved and because they are a vital safety net in the Nation's health delivery system. I urge my colleagues to show their support for America's community health centers by supporting this important legislation.

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## TRIBUTE TO SPARTA, INC.

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CRAMER. Mr. Speaker, I rise today to honor Sparta, Inc on its twenty-fifth anniversary.

Mr. Speaker, Sparta is an employee owned firm that provides world-class technical products and services to the Defense, Aerospace, Intelligence, and Homeland Security Sectors of the Federal Government.

Sparta began operations in 1979 in the Huntsville, Alabama home of Wayne Winton. Today, it has fourteen offices and approximately fourteen hundred employees across the Nation.

In Alabama, Sparta works with the Space and Missile Defense Command's Future Warfare Center, Technical Center, and Technology Integration Center. By providing technical, programmatic, and acquisition support to many of SMDC's programs they make a significant contribution to our Nation's defense capabilities.

Mr. Speaker, I would like to congratulate Sparta and all of their employees on twenty-five years of service to our military and our country. On behalf of the House of Representatives and everyone in North Alabama, I thank them for their commitment to the war fighter and the security of our Nation.

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## BUSINESSMAN, TEACHER, ROLE MODEL

### HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. MARKEY. Mr. Speaker, on August 19, 2005, Sam Gordon will celebrate his 90th birthday, surrounded by his loving wife of 66 years, Carolyn, his family and his friends. I rise today to honor Sam, who continues to be an inspiration and a blessing to all who know him.

Sam Gordon is the son of a milkman, and his friendly, welcoming manner was forged during the trips he made as a young man to the homes of his customers in Worcester, Massachusetts. The oldest of four children born to Russian immigrant parents Pearl and Reuben Gordon, Sam has the curiosity and creativity that belies his senior citizen status. After working his way through the University of Michigan with a series of part-time jobs, Sam graduated as an English Major in 1937. He then joined his father's milk business and quickly developed a new concept—selling frozen food items, which were just becoming available with the invention of refrigeration. Sam's idea to offer frozen food along with milk, cream and cottage cheese led to the formation of a successful new business, R. Gordon and Sons, a wholesale frozen food company which sold frozen strawberries, juice, ice cream and other products to supermarkets, schools and hospitals.

Despite his demanding work schedule, Sam was a leader in his synagogue, Congregation Beth Israel in Worcester. He served as president of the Congregation, president of the Congregation's brotherhood, and president of the New England Region Men's Club. Prayer and community service continue to be central parts of Sam's everyday life. For the past five years, he has developed and run a senior learning initiative where he teaches Yiddish classes to many adult learners throughout Worcester, including classes at his synagogue, independent and assisted living buildings, and at the local Jewish Community Center, where some of his students are still in middle school. At the synagogue, he continues to be responsible for many creative ideas and fundraising projects. As always, his wife Carolyn plays the indispensable supporting role for Sam's many projects.

Whenever he had the opportunity, Sam set out with his wife to travel to interesting places around the world. They visited Europe, Israel, China, Thailand, and Singapore. Before he embarked on his journeys, Sam always thoroughly researched points of interest, including cooking and stained glass classes and local wineries. In his retirement, Sam continues his love of music by playing the organ and more recently taking lessons on his new keyboard. An Internet aficionado since the mid-1990's, Sam is online everyday, keeping current with news and trends. He continues to amaze his grandchildren with his up-to-the-minute knowledge of the latest developments in art, literature, and popular culture. Sam attends synagogue services daily and prayer is a powerful force in his life.

Sam is a loving and devoted husband to his wife, Carolyn, and he shares his zest for life through his honesty, integrity, knowledge, and sensitivity to his family and community. Sam's beloved mother, Pearl, taught him these values, instilling in him the importance of establishing "a good name" and reputation that stood for righteousness and respect for others. As his ninetieth birthday approaches, the name "Sam Gordon" is synonymous with these enduring American values.

Sam and Carolyn have two children, Nancy and Joel; four grandchildren, Ellen, Mark, Jennifer and Jessica; and two great-grandchildren, Ari and Abigail.

I am pleased to join with Sam's family and friends to honor this great American on his ninetieth birthday.

## COMMENDING CONGRESSMAN DAVID OBEY FOR HIS DEDICATION TO THE GREAT LAKES ICE BREAKER REPLACEMENT PROJECT

### HON. WILLIAM D. DELAHUNT

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. DELAHUNT. New Englanders are accustomed to harsh winters. We know all too well that frozen rivers and blocked harbors can impede tankers carrying goods and barges laden with home heating oil stocks, resulting in lost commerce and putting lives in danger.

The people of the Great Lakes are no strangers to these problems too—which is why I am so pleased that the state-of-the-art Ice Breaker *Mackinaw* was recently delivered to the U.S. Coast Guard. The *Mackinaw* replacement project couldn't have happened without the support and hard work of our colleague, and the ranking member of the Appropriations Committee, DAVE OBEY.

As many of my colleagues know, the new *Mackinaw* replaces a World War II-era icebreaker of the same name. For 60 years, she never missed a winter. However, the elements were beginning to take their toll on the ship, and it was becoming clear that a replacement vessel was needed.

Toward that end, Congressman OBEY has worked tirelessly to ensure the Coast Guard got the funding it needed for the Great Lakes Ice Breaker replacement project. His involvement with all aspects of the project—from concept to commissioning—means that the newly christened *Mackinaw* will continue the legacy of her namesake well into the 21st century.

But the *Mackinaw* is more than just an ice breaker. It is a homeland security platform complete with the necessary tools to carry out law enforcement operations on the Great Lakes. Additionally, its expanded decks will allow the cutter to tend to the lakes more than 2,500 navigational aids.

Without Congressman OBEY's leadership we'd still be waiting to commence construction of the new *Mackinaw*. In the meantime, the lakes would have continued to freeze-over and access to vital harbors would have been blocked. The result would have been millions of dollars of lost commerce and lost livelihoods. The people of the Great Lakes region and the Nation—as well as the U.S. Coast Guard—are truly the beneficiaries of his stewardship.

## HONORING LOUISIANA EMPLOYER AGGREKO'S NATIONAL REPAIR TEAM—RECIPIENT OF THE MANUFACTURING EXTENSION PARTNERSHIP OF LOUISIANA'S SECOND ANNUAL PACE AWARD

### HON. CHARLIE MELANCON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. MELANCON. Mr. Speaker, our local economies are greatly enhanced by the products, services and jobs that are created from the commitment and dedication of our local manufacturers. The manufacturer that I am recognizing today takes great pride in its contributions to the local community, as well as to the Nation, and demonstrates excellence through ongoing improvement in manufacturing and business management.

Aggreko's National Repair Team, located in New Iberia, Louisiana, provides major repairs and reconditioning of power generators and air compressors for Aggreko locations throughout North America. This local manufacturer has made significant advances in driving productivity and quality throughout their organization. In acknowledgement of these accomplishments, Aggreko will be honored by the Manufacturing Extension Partnership of Louisiana, MEPoL, with the second annual Platinum Award for Continued Excellence, PACE Award.

MEPoL, a non-profit business resource based at the University of Louisiana at Lafayette, serves to provide business and technical assistance to emerging and established manufacturing firms throughout the State of Louisiana. Since 1997, MEPoL, based on a philosophy of education, encouragement, and empowerment, has worked with manufacturers such as Aggreko to increase their productivity and profitability.

Working with MEPoL, Aggreko's National Repair Team has built a foundation for excellence through the principles of "Lean Manufacturing." By embracing this systematic approach for identifying waste and eliminating non-value added activities through continuous improvement, Aggreko has demonstrated leadership and set the stage for future growth and development. Their dedication to excellence is the reason that they are the recipients of MEPoL's second annual PACE award.

I congratulate Aggreko's National Repair Team, a local manufacturing leader whose significant organizational advancements and commitment to success has led to this outstanding achievement.

## TRIBUTE TO DENISE SNYDER

### HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. VAN HOLLEN. Mr. Speaker, I rise to commend Denise Snyder on a lifetime of service to the youngest residents of my district. Ms. Snyder recently retired after 17 years as Director of the C.C. Children's Center in Bethesda, Maryland.

During her tenure at the Center, Ms. Snyder guided over 1,500 children through their formative years. She embraced the children and their families, personally guiding them through their challenges and successes. Ms. Snyder ensured that the Center provided children with a nurturing environment that fostered cognitive, physical, social, and emotional development.

Ms. Snyder worked tirelessly to ensure that her doors were always open to children who needed the Center. She welcomed children of all races and religions, providing them with an environment where they could feel safe and loved. Her careful planning and outstanding leadership have earned the Center national accreditation from the National Association for Early Childhood Education.

Ms. Snyder has earned the trust and affection of her students and the respect and devotion of her staff. Her work sets an example for early childhood educators, and she has my gratitude for her many contributions to the Montgomery County community.

Mr. Speaker, there are too few people in this world with a heart as warm or as big as Denise Snyder's, and I am pleased to recognize her for her contributions to her community.

## COMMENTS BY A REPRESENTATIVE IN THE UNITED STATES CONGRESS

### HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. INSLEE. Mr. Speaker, too often, violence claims innocent lives in our world. We have seen suffering on our own soil, and all over the world in places like Indonesia, Israel, Palestine, Pakistan, Iraq, Afghanistan, and recently, England. Amid this instability, for a Representative in the United States Congress to even hypothetically suggest that the United States would destroy Mecca, a holy site of one of the world's major religions, serves only to exacerbate the impression that U.S. actions in the Muslim world are part of a religious struggle—certainly a step backwards in national security. Sadly, such statements also perpetuate the unfortunate misunderstanding that an entire religion is responsible for the actions of a minority of religious extremists. These reckless comments do not reflect American values, and irresponsibly put American security at risk.

## 40TH ANNIVERSARY OF THE VOTING RIGHTS ACT

### HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. LEWIS of Georgia. Mr. Speaker, not so long ago, 40 years ago, in many parts of the American South, it was almost impossible for people of color to register to vote. Just 40 years ago, people of color had to pay a poll tax and pass a so-called literacy test in some States in the South. There were black men and women who were professors in colleges and universities, black lawyers and black doctors who were told that they could not read or write well enough to register to vote. People were turned away from the courthouse when they attempted to register. Some were jailed.

Forty years ago, on March 7, 1965, about 600 black men and women, and a few young children attempted to peacefully march from Selma, Al, to Montgomery, to the State Capital, to dramatize to the world that people of color wanted to register to vote. And the world watched as we were met with night sticks, bull whips; we were trampled by horses and tear gassed.

Eight days after what became known as Bloody Sunday, President Johnson came to this very Chamber and spoke to a joint session of Congress. He started off that speech on March 15, 1965 by saying: "I speak tonight for the dignity of man and for the destiny of democracy." President Johnson went on to say: "At times, history and fate come together to shape a turning point in a man's unending search for freedom. So it was more than a century ago at Lexington and at Concord. So it was at Appomattox. So it was last week in Selma, Alabama."

And during that speech, 40 years ago, President Johnson condemned the violence in Selma, and called on Congress to enact the Voting Rights Act. Echoing the words of the civil rights movement, he closed his speech by saying "And we shall overcome."

Forty years ago, Congress passed the Voting Rights Act, and on August 6, 1965, it was signed into law.

Because of the action of Congress and the leadership of a President and the courage of hundreds and thousands of our citizens, we have witnessed a nonviolent revolution in America, a resolution of values, a revolution of ideas. The passage of the Voting Rights Act helped expand our democracy and open up our democracy to let in millions of our citizens.

We still need to keep the voting rights act strong. The Voting Rights Act must be reauthorized. Not just reauthorized, it must be renewed and strengthened. The vote is the most powerful, nonviolent tool that our citizens have in a democratic society, and nothing, but nothing, should interfere with the right of every citizen to vote and have their vote count.

Mr. Speaker, the history of the right to vote in America is a history of conflict, of struggling for the right to vote. Many people died trying to protect that right.

For millions like me, the struggle for the right to vote is not mere history; it is experience. The experience of minorities today tells us that the struggle is not over and that the special provisions of the Voting Rights Act are still necessary.

I am proud to be the sponsor of H. Con. Res. 216, a resolution commemorating the 40th anniversary of the Voting Rights Act, which I introduced with my colleagues from the Judiciary Committee, Mr. SENSENBRENNER, Mr. CONYERS, Mr. CHABOT and Mr. NADLER. In that resolution, we pledge to "advance the legacy of the Voting Rights Act of 1965 by ensuring the continued effectiveness of the Act to protect the voting rights of all Americans."

I look forward to working with my colleagues on both sides of the aisle to protect the voting rights of all Americans.

Today we celebrate how far we have come. We celebrate the 40th anniversary of the Voting Rights Act.

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## SETTING THE RECORD STRAIGHT

### HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. NADLER. Mr. Speaker, Mark Twain famously said that one of the most striking differences between a cat and a lie is that a cat has only nine lives. This is certainly the case with respect to one of the most persistent slanders against the State of Israel: the contention that on June 8, 1967, the Israel Defense Forces intentionally attacked a U.S. Naval Intelligence vessel, the USS *Liberty*.

Fortunately that lie has been put to rest once and for all by the careful and exhaustive research of the Honorable A. Jay Cristol, a distinguished judge of the U.S. Bankruptcy Court for the Southern District of Florida. His careful research of the *Liberty* incident clearly demonstrates that this tragedy was the result of mistaken identity at the height of the Six Day War, when Israel's very survival was at stake.

This conclusion is in line with the conclusions of 10 official U.S. investigations—including five congressional investigations—that there was never any evidence that the attack was made with knowledge that the target was a U.S. ship. There is substantial evidence the attack was a tragic mistake caused by errors on the part of both the U.S. and Israel.

On June 8,1967, at the height of the Six Day War, a U.S. Naval intelligence vessel, the USS *Liberty*, strayed into the waters 14 miles off the Sinai Peninsula, near El Arish. The Israel Defense Forces, having incorrectly identified it as an Egyptian vessel engaged in an attack of Israeli forces, attacked the *Liberty*, killing and wounding some of the crew.

As a U.S. Navy Court of Inquiry found, "Available evidence combines to indicate that the attack on LIBERTY on 8 June was in fact a case of mistaken identity."

No one with an open mind can read the evidence amassed by Judge Cristol and reach any other conclusion. Nonetheless, the conspiracy theories persist.

Conspiracy theories tend to have a life of their own. They can never be disproved. If there is no evidence supporting the conspiracy, then it is proof of a coverup. If there is evidence proving there was no conspiracy, that is also proof of a coverup. Either way, evidence disproving a conspiracy theory only proves to believers that the conspiracy really exists.

No one denies that this incident was a terrible tragedy, but some have sought to exploit a case of mistaken identity by insisting that the Israeli military knew that the *Liberty* was a U.S. naval vessel, and attacked it on purpose. Despite the complete absence of any credible evidence to support this outrageous claim, it continues to be repeated as if it were true.

Judge Cristol has done a tremendous service with his work. It is my hope that his book, "The Liberty Incident: The 1967 Attack on the U.S. Navy Spy Ship," which was the result of more than 14 years of research, will finally lay to rest this slander against one of our Nation's most reliable allies.

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## RECOGNIZING THE L.A. HOMPA HONGWANJI BUDDHIST TEMPLE

### HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today to recognize the Los Angeles Hompa Hongwanji Buddhist temple and its members as they celebrate their Centennial Anniversary. The temple is located in downtown Los Angeles in my 34th Congressional District.

The Temple, which began in 1905 in Little Tokyo on Jackson Street and Central Avenue, was established due to the strong and faithful desire of the followers of the teachings of Buddha to have a place to congregate after emigrating from Japan. The Issei (first generation) pioneers brought with them their Japanese culture, traditions, customs, and their Buddhist religion.

In 1925, a new temple was built on the corner of First and Central streets. The Temple, fondly called "Nishi" by Buddhists in Southern California, is currently housed in a traditional Japanese-style temple building on First Street in the eastern sector of Little Tokyo. Nishi is one of sixty temples around the United States that make up the Buddhist Churches of America.

Since its inception, Nishi has continuously served its members and the Little Tokyo community. Even during World War II, when the Temple was used as an initial assembly site for many of the 120,000 Japanese and Japanese Americans who were evacuated from the west coast of the United States to internment camps, the Temple provided the evacuees a haven to safely store their belongings until after the war. Throughout their internment, Nishi ministers continued to administer to the faithful Buddhist members.

Today, the Temple offers Sunday services, as well as services for weddings, funerals, and family memorials. Nishi also provides a children's day care center, and community programs for youth and adults, such as sports and cultural activities.

The Centennial Anniversary Celebration commemorates the dedication and commitment of the Issei pioneer members that laid the foundation of the Temple. It also commemorates the hard work of succeeding generations that built the Temple as it stands today. The addition of the new Wisteria Chapel and the Muryo Koju-do (nokotsudo-columbarium) were built as a centennial project to commemorate the pioneering members and to continue the legacy of the Issei for future generations. The Dedication Service of this new addition to the Temple will be part of the Centennial Celebration weekend of August 27–29, 2005. Nishi members will also conduct a memorial service in honor of past members and ministers and host an evening banquet.

I congratulate the Los Angeles Hompa Hongwanji Buddhist Temple and its members on reaching this historic milestone, and I join them in celebrating their 100th anniversary.

## INTRODUCTION OF THE CHEYENNE RIVER SIOUX TRIBE EQUITABLE COMPENSATION ACT

### HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. HERSETH. Mr. Speaker, today I am proud to introduce the Cheyenne River Sioux Tribe Equitable Compensation Act of 2005.

The Act will help to right a historic wrong that occurred during the construction of the Oahe dam and reservoir, depriving the Cheyenne River Sioux Tribe of some of their best lands and failing to provide adequate compensation.

Recognizing these past wrongs, Congress moved to compensate the tribe in 2000 by establishing a trust fund. While these actions were commendable, they left one important group behind—tribal members that lost privately owned lands. This act would correct that omission and allow the tribe to distribute funds to individuals who are currently prohibited from receiving them.

The Cheyenne River Sioux Tribe Equitable Compensation Act would provide just compensation for the taking of lands over 50 years ago. I urge its swift consideration and passage.

## RECOGNITION OF FINN GRAND FEST 2005

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. STUPAK. Mr. Speaker, I rise today to recognize a festival in my district in northern Michigan that honors the history, heritage, culture and contributions of American-Finnish and Canadian-Finnish people. This joint U.S./Canadian Finnish festival to be held on August 10–14, 2005, in Marquette, Michigan gives the Finnish communities in the U.S. as well as Canada the opportunity to experience activities, educational programs, worship opportunities, musical entertainment, cultural displays and a parade based around the theme "Heritage Powers the Future".

The Finn Grand Fest 2005 is the second time FinnFest USA and Finnish Canadian Grand Festival will have participated in a joint, international event. The first occasion took place five years ago in Toronto, Canada. Planning committees from both countries have expressed interest in holding a joint festival held every five years as a new tradition. The Canadian festival is considerably older than its U.S. counterpart having first been organized in the 1940's as an influx of Finnish immigrants came to Canada to work. Although Finnish immigrants first came to the U.S. during the decades around 1900, FinnFest USA was not established until 1983 in Minneapolis, MN.

Since 1983, FinnFest USA has been held each year around the country except the 1½ year gaps before and after February 2004 when accommodations were made for a winter festival in Florida. Locations are determined by places where there is a strong Finnish community to organize the event. A large population of people of Finnish decent live in Michigan's Upper Peninsula. This will be the second time Marquette, Michigan has hosted the festival in the United States. They also hosted it in 1996. Other Michigan cities to host this event include: Hankcock in 1985 and 1990 and Farmington Hills in the Detroit area in 1987. Other cities throughout the country include: Seattle, Washington (twice), Lake Worth, Florida (twice), Minneapolis, Minnesota (twice), Fitchburg, MA, Newark, DE, Thousand Oaks, CA, Portland, OR, and Portland, ME.

While Canadians have been able to maintain the use of the Finnish language in their current culture, the communities in the U.S. have unfortunately watched as the traditional language has been replaced by English. This happened over the generations as many families spoke Finnish at home but the children learned English in school. As time went on, English was the primary language used to communicate with non-Finns, taught in school and practiced at home. Canadians are facing the beginning phases of this trend that may result in the loss of native Finnish speakers in their country as well. Thankfully, there are still a number of people in Michigan's Upper Peninsula who still speak Finnish. In fact, my district is home to a weekly television program call "Finland Calling" hosted by Carl Pellonpaa. "Finland Calling" is a weekly show about Finnish heritage that has been on the air for 43 years.

Like the Finnish language, the original organizers of FinnFest are slowly slipping away. A major contributor from among the earliest generations was Dr. Sylvia Kinnunen who recently passed away on July 25, 2005. Despite her admired age of 84, she was an energetic force in the planning and execution as the Co-chair of Cultural Programs for Finn Grand Fest 2005. We appreciate her devotion to preserving Finnish culture and for her contributions to Michigan's Upper Peninsula. She will be greatly missed.

Americans and Canadians are proud of their Finnish heritage and the Finnish people. FinnFest organizers have noted that even are non-Finns have taken active roles and in some cases are major contributors to the event. Among those non-Finns is the musical headliner White Water made up of a family of folk music artists from Amasa, Michigan. The Premos began incorporating Finnish influence in their music and even performed at a folk music festival in Finland last year. The premiere performances at the Finn Grand Fest 2005 include a solo by Evan Premo during a double bass concerto on Thursday, August 11 and 100 violinists of all ages performing at the opening ceremony organized by Evan's mother Bette Premo.

The esteem felt for the Premos by the local Finns is an example of the educational sharing and overall embracing of non-Finns to the culture and heritage of the community. Aside from the encouragement of Finnish people to understand more about their own history and traditions, those involved with this festival hope that all people are able to enjoy and learn more about the Finns' unique ethnicity that has evolved in the American and Canadian societies throughout the years.

Mr. Speaker, it has been due to the incredible insight, dedication, passion and innovation of the planning boards from the U.S. and Canada that have made this four-day joint festival possible. I am pleased Marquette has been chosen for the second time to host the U.S. festival and as the first American location for the joint festival—it is because Marquette is "Sisu". I applaud the Finnish communities in both the United States and Canada for preserving their sense of identity into the next generation and, based on the theme "Heritage Powers the Future", I applaud them for utilizing their past to power the direction of their culture for years to come. I wish the Finn Grand Fest 2005 the greatest success and look forward to participating in the event this August.

## TRIBUTE TO VICE ADMIRAL JAMES B. STOCKDALE

### HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mrs. DAVIS of California. Mr. Speaker, I rise today to honor the life of Vice Admiral James Bond Stockdale, a true American patriot and a great military veteran. Vice Admiral Stockdale passed away on July 5, 2005 at the age of 81 after a life of public service and sacrifice. He is survived by his beloved wife Mrs. Sybil B. Stockdale of Coronado, Calif., and his four sons.

I believe Gordon R. England, the Secretary of the Navy, eloquently described the legacy Mr. Stockdale has left behind: "Admiral Stockdale's courage and life stand as timeless examples of the power of faith and the strength of the human spirit."

I could not agree more and would like to share a few details of his extraordinary life. Vice Admiral Stockdale was born on Dec 23, 1923 in Abingdon, Ill. At the age of 24 he graduated from the U.S. Naval Academy in the Class of 1947 and began his unmatched naval career. Among his many distinctions, Vice Admiral Stockdale is remembered for his remarkable leadership as the senior naval officer held in captivity during the Vietnam War.

On September 9, 1965, after flying more than 200 missions over Vietnam, he ejected over a small village after his plane was struck by anti-aircraft fire. He broke his left knee during the landing and it was broken a second time during his captivity.

During his 7½ year imprisonment, Vice Admiral Stockdale was tortured numerous times, was forced to wear heavy leg irons for over 2 years and spent 4 years in solitary confinement.

But his spirit and determination to survive never wavered. Despite the torture and abuse, he refused to participate in enemy propaganda films. Vice Admiral Stockdale's extraordinary heroism became widely known when he was awarded the Medal of Honor in 1976, only 3 years after his release.

His 26 combat awards included two Distinguished Flying Crosses, the Distinguished Service Medals, two Purple Hearts and four Silver Stars. He is a member of the Navy's Carrier Hall of Fame, the National Aviation Hall of Fame and an Honorary Fellow of the Society of Experimental Test Pilots. Stockdale received several honorary doctoral degrees.

He is the highest-ranking naval officer to wear both aviator wings and the Medal of Honor. His other accomplishments include earning a master's degree from Stanford University and serving at the prestigious institution's Hoover Institute for 15 years. He was also President of the Citadel for 2 years.

In 1992, he was a candidate for Vice President of the United States winning nearly 20 percent of the popular vote.

Mr. Speaker, I introduce this resolution today to recognize the great sacrifices Vice Admiral made protecting the freedoms of the United States and to recognize his commitment to public service. I would also like to extend my deepest sympathies to the family Mr. Stockdale left behind, including his wife and four sons.

His life serves as an inspiration to the many servicemen and women protecting our country at home and abroad. Vice Admiral Stockdale was admired and respected for his courage and unfaltering determination.

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## A TRIBUTE TO JOHN KERFOOT

### HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. ANDREWS. Mr. Speaker, I rise today to celebrate the 90th birthday of one of New Jersey's finest citizens, John Kerfoot, and to honor all that he has done for his fellow Americans.

John is a model citizen who devoted his life to serving his country and community. He fought bravely in the European Theater in World War Two, and was rightly honored with a Combat Infantry Badge and a Bronze Star for his service.

Upon his return, John Kerfoot committed himself to helping the great State of New Jersey. He has devoted time and energy to the Camden County Democratic Committee, the Office of the Aging, and the Camden County Municipal Utilities Authority. He has served as a Sergeant at Arms for the New Jersey State Senate, a Camden County Freeholder, and a Labor Compliance Inspector for the Camden County Community Development Program. Over the past 50 years, John has helped his hometown of Audubon by serving honorably with the Audubon Park Fire Company, the Audubon Board of Education, and the Audubon Park Borough Council.

Although John is an extremely busy man, he still finds time to bowl with his wife Anne. His skills are certainly not limited to bowling, however. He successfully boxed in the Golden Gloves Tournament in the early 1930's, and even won the boxing championship at Fort Dix in 1932 at the age of seventeen.

Mr. Speaker, it is a great privilege to honor John Kerfoot today. He has certainly accomplished much in the past 90 years, and his exemplary life of service is one to be admired. Moreover, it is a pleasure to call John a friend, and I wish him a very happy birthday, with the hope of many more to come.

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## SHERIFF LAWRENCE "LUMPY" LEVEILLE

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to an outstanding law enforcement officer who 40 years ago began his dedicated career in St. Ignace, Michigan as a police officer and rose through the ranks to head the Mackinac County Sheriff's Department. Sheriff Lawrence "Lumpy" Leveille retired this past winter with eight service stars upon his epaulets, each representing five years on the force. Sheriff Leveille's nearly 40 years as a law enforcement officer and leader stand as a shining example to us all.

Sheriff Leveille graduated from LaSalle High School in St. Ignace in 1965 where in the 10th grade he was given the nickname "Lumpy". Being native of the first city across the Mackinac Bridge from Michigan's Lower Peninsula, it seemed fitting for Leveille to return to St. Ignace when he began his career as a police officer on May 25th, 1965. That same year on September 11, he married Ara Jean Litzner. Through the years, they have grown their family with five children and eleven grandchildren. After 9 years of patrolling and protecting St. Ignace along the shores of the Straights of Mackinac, Leveille was promoted to Sergeant of the local police department.

Among his long list of accomplishments, Sheriff Leveille has decreased the number of drunk driving arrests thanks to new technology and better training for his officers, despite the increase in Mackinac County's population. He has improved safety for residents and his officers because of new cameras installed on patrol cars and in booking rooms which have lead to a reduction in criminal trials. He was also able to achieve fast finger print and background searches to help officers as well as the Straits Area Narcotics Enforcement Team. Sheriff Leveille's staff of 22 and budget of about $1.5 million made his department the largest in the county.

Although Sheriff Leveille's career with the Mackinac County Sheriff's Department has come to an end, he has continued to serve the public as a Mackinac County Commissioner. There he has and will continue to have an influence on local policy with the best interests of County residents in mind. Having worked with many of the people involved in the county's administration, "Lumpy" Leveille's transition to the Board has been smooth as he works to bring a better harmony to the system.

On a personal note, Mr. Speaker, as a former State Trooper myself, I have had the pleasure of knowing Sheriff Leveille over the years and can attest to his impeccable reputation of being a fair and honest protector of the people. I know that through his work he has encountered both exciting opportunities to grow with the community but also hard times when tragedy and tough times affected the area. He has given his heart and soul to his work and I have always admired his dedication to the people of Mackinac County and Michigan's First Congressional District.

Mr. Speaker, I ask the U.S. House of Representatives to join me in thanking Sheriff Lawrence "Lumpy" Leveille for his nearly 40 years of service to the people of St. Ignace, Mackinac County and to the State of Michigan and wish him well in his new position. Lawrence "Lumpy" Leveille's commitment to community and to justice has been a model of public service.

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## A TRIBUTE TO ELMER HAMILTON

### HON. DAVID SCOTT

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. SCOTT of Georgia. Mr. Speaker, I rise today in recognition of Mr. Elmer Hamilton, a civil-rights activist, a crusader for labor rights, a loving husband, and a caring father and grandfather. On August 20, 2005, Elmer will retire from a 45-year career in community and public relations and the organized labor movement.

Mr. Hamilton's life of service began in 1953 when he enlisted in the Navy, eventually serving as a machinist mate. After his military service, Elmer's commitment to civil rights led him to work on voter registration drives in Alabama and Mississippi and organize against racial discrimination in Georgia. He also served as a special assistant to Southern Christian Leadership Conference leader Ralph David Abernathy during his congressional bid.

Elmer's served in various community relations capacities in New York and South Carolina providing educational and job placement services to community members. At one point he served as a community organizer for the Brooklyn, NY, borough president.

After moving to Georgia, Elmer worked in public transportation as a bus operator for MARTA, the Metro Atlanta Rapid Transit Authority. He became the president of the Amalgamated Transit Union, Local 732 where he negotiated contracts for over 3,000 transit employees from MARTA, Cobb County Transit, and Gwinnett County Transit. When he retires, he will also leave his post as a board member of the AFL–CIO representing the Coalition of Black Trade Unionists.

Mr. Speaker and colleagues, please join me, Elmer's wife, Peggy, his six children and two grandchildren in congratulating Elmer on a fulfilling career. Best wishes, Elmer, and enjoy your retirement.

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## CONGRATULATIONS DR. MARC LIEBERMAN ON TEN YEARS OF TIBET VISION PROJECT

### TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. LANTOS. Mr. Speaker, I rise today to celebrate with Dr. Marc F. Lieberman the tenth anniversary of his humanitarian work in Tibet. Since 1995, Dr. Lieberman, an ophthalmologist and clinical professor at University of California at San Francisco, has traveled back and forth from Tibet as the founder of the non-profit, non-governmental organization called Tibet Vision Project.

Dr. Lieberman was truly inspired after meeting His Holiness the Dalai Lama in 1990 and discussing the high occurrence of preventable blindness plaguing the people of Tibet. Due to the high altitudes of Tibet and the harmful UV radiation that permeates the "roof of the world," cataracts progressively erode the sight of many Tibetans.

Tibet Vision Project's primary goals are two-fold. First, the Project seeks to provide sate-of-the-art eye treatment to a population suffering from cataract blindness. Second, Tibet Vision Project aims to assist Tibetans in developing their own medical resources to eliminate cataract blindness throughout Tibet by the year 2020.

Mr. Speaker, Dr. Lieberman spends almost two months in Tibet each year, traveling by Land Cruisers to remote and underserved rural areas, an eye camp comprised of 6–8 Tibetan nurses and technicians, and an entire mobile hospital unit complete with microscopes, lens implants, sutures and medicines, provides free eye care to everyone who visits. During the first three out of five days of eye camp, 250 to 400 patients—who travel by yak or on foot—are evaluated. Eyeglasses are disbursed as appropriate and children receive corrective lenses. As many as 150 patients are provided free, sight-restoring lens implant surgery—all performed by Tibetan surgical teams.

Along with the 2,000 people whose vision has been restored by the Tibet Vision Project, 20 Tibetan surgeons provide great hope to the people of Tibet. Dr. Lieberman and his colleague Dr. Melvyn Bert work with an extension of the Tibet Vision Project at the School for Blind Children in Lhasa, Tibet, supervising medical and referral needs to ensure the well-being of the children.

In conjunction with the Swiss Red Cross, Tibet Red Cross and Tilganga Eye Centre of Kathmandu, Nepal, Dr. Lieberman gains greater access to remote underserved populations in Tibet, meanwhile creating infrastructure for long term solutions to eye problems in Tibet.

Mr. Speaker, in the next 10 years, Tibet Vision Project aspires to help Tibetans become completely self-sufficient in eye care, providing competent and compassionate care to their own people. Dr. Lieberman and his crew are developing pilot projects for primary eye care such as accessibility to reading glasses, treating simple eye infections, and referring cataract cases to larger towns for surgery.

Originally from Baltimore, Maryland, Dr. Lieberman was trained at Johns Hopkins University before coming to the West Coast. While in the United States, he divides his time treating glaucoma in his offices in San Francisco, San Mateo and Santa Cruz. He is currently considering spending more time in Tibet, expanding his visits from two to four a year.

Despite the struggle to work with a budget of $50,000 a year and the obstacles of setting up remote eye camps, on rough terrain with poor roads, and dealing with the Chinese medical system, Lieberman and his teams continue their much needed work. Dr. Lieberman's visits to Tibet are nothing of miraculous. I admire his incredible, indefatigable work and his leadership in organizing so many others to help him on this quest. I am delighted that Tibet Vision Project has been so successful in its tireless work to help the people of Tibet.

I would like to recognize Dr. Lieberman with some words from His Holiness the Dalai Lama, which summarizes the recognized need and gratitude for Dr. Lieberman, his colleagues, and his trainees' efforts.

"In Tibetan Buddhist culture numerous positive references equate clear sight with wisdom and knowledge and obstructions to it with ignorance and negativity. The quest for the clear-sightedness of wisdom is priced on par with developing the kind heart of compassion. But these largely concern cultivating the mind.

"By voluntarily training Tibetan doctors and nurses in modern eye care he and his colleagues have contributed to restoring the sight of thousands of the rural poor in Tibet. What a great act of kindness!"

Mr. Speaker, it is my belief that Dr. Lieberman's generosity stems from his faith and practice of Judaism and Buddhism. In the spirit of gratitude and continued support for his humanitarian work, I ask my colleagues to join me in congratulating Dr. Marc Lieberman in the tenth year of Tibet Vision Project.

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## INTRODUCTION OF THE NORTH MAUI COASTAL PRESERVATION ACT OF 2005

### HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CASE. Mr. Speaker, I rise today to introduce the proposed North Maui Coastal Preservation Act of 2005, a bill directing the National Park Service to assess the feasibility of designating certain coastal lands on the north shore of the Island of Maui between the towns of Pa'ia and Sprecklesville as a unit of the National Park Service. This area is fully worthy of designation as a National Seashore, National Historic Park, or National Recreation Area.

Since assuming office as the representative for Hawai'i's Second Congressional District, I have heard loud and clear from the people of Maui, in person during countless times on the island and through petitions and postcards from some 2,000 constituents, about their deep concern for preserving this beautiful, historically significant and resources-rich coastline. Although the 128 acres identified in the bill are currently zoned as open space or parkland, they lie directly in the path of development in Maui's hot real estate market.

The desire of the people of Maui is to have the natural, scenic, and cultural resources of this unique area preserved and protected from development, and ultimately designated as the Patsy Takemoto Mink North Shore Heritage Park. As many of my colleagues know, my predecessor in this body, the late Congresswoman Patsy T. Mink, was born and grew up in Hamakua Poko, a small village near Pa'ia on just this coastline. If the Park Service finds that the area merits inclusion in the National Park System, I will introduce legislation authorizing establishment of a park and directing that it be named after Congresswoman Mink.

I want to take this opportunity to acknowledge the contribution of the Maui Sierra Club and especially of Lance Holter, a dedicated community activist, for inspiring the introduction of this bill. I can tell by the hundreds of cards I continue to receive from Maui residents in support of establishing such a park that there are many more people who have dedicated enormous energy and time in the hopes of preserving our precious natural and cultural heritage for future generations.

I urge my colleagues to join me in supporting this bill, and invite you to come to the Island of Maui to visit this special area. I know that if you do so, you will be convinced as I am of the vital importance of protecting these lands.

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## TESTIMONY BEFORE THE COMMITTEE ON WAYS AND MEANS SUBCOMMITTEE ON SELECT REVENUE MEASURES

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. KUCINICH. Mr. Speaker, I would like to submit my testimony on Select Revenue Measures before the Committee on Ways and Means for the RECORD:

Thank you Chairman Camp and Ranking Member McNulty for holding this important hearing. I would like to bring to your attention a proposal I introduced last Congress, H.R. 3655, the Progressive Tax Act of 2003, which will have a positive impact on millions of taxpayers.

I think it is fair to say that all Members of Congress believe we need to strive for a fair, simple, and adequate tax system. We may disagree on how this has been accomplished, but we have the same goals.

However, I think we can agree on the need for transparency. Transparency in the tax system is necessary to achieve fairness. Transparency permits the taxpayer to understand how fairness is arrived in the tax code. A simplified tax code can provide this transparency, which in turn provides a sense of trust in the government.

This committee should enact my proposal to create a $2000 Simplified Family Credit, a refundable tax credit that simplifies the tax code by consolidating the Earned Income Tax Credit (EITC), Child Tax Credit, Additional Child Credit, and dependent exemption for children into one streamlined Simplified Family Credit. This tax credit will simplify the tax code, provide greater transparency, provide extra work incentives, and provide a stimulus effect.

Families should not have to struggle to understand the eligibility requirements for each of the various family tax breaks in current law. All families should follow the same set of rules.

The Simplified Family Credit is structured to provide progressive tax benefits and a work incentive. The families with lower income will get more benefit, but they are also rewarded for work. The credit would be steeply phased in at the lowest income levels providing the incentive to work and a substantial benefit. As income rises a slow phase out would be necessary to ensure we maintain a progressive tax system.

The cost of this proposal would fall in the range of $20 billion a year. Given our current deficit problems, I believe that Congress should only create the Simplified Family Tax Credit if it is paid for. In my legislation H.R. 3655, there are several options to pay for this proposal including rolling back parts of the tax cuts enacted in the last 5 years. Those tax cuts only added to the complexity of the tax code and removed any remaining transparency.

Thank you for this opportunity to testify today.

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## CHALLENGES IN THE MIDDLE EAST

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. KNOLLENBERG. Mr. Speaker, with the world watching, Israel announced on April 18, 2004 its disengagement plan to withdraw Israeli settlers from the Gaza Strip and four West Bank settlements. Intended to improve security for Israeli citizens, Israel's disengagement plan also creates a possibility for greater Middle East peace.

Beginning in 1948, hostile nations have denied Israel's right to exist. Today, violence from terrorist organizations not only threatens stability in the region but the sovereignty of the Israeli people.

With the future uncertain, we must recognize one thing: freedom and security can be the future for both the Palestinian and Israeli people. The impending disengagement creates the opportunity for progress towards this goal.

We must recognize the difficulties Israel will face and support our dependable ally. We must also support efforts by the Palestinian leadership to fight terror and create more peaceful, sound Palestinian regions.

And, as Americans who have faced threats to our own existence, we must never forget what freedom is.

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## A TRIBUTE TO STEVE DiGERLANDO

### HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. COX. Mr. Speaker, I rise to pay tribute to a close, personal friend, Steve DiGerlando, on his last day as Chief of Staff in my California office. It is with deep gratitude—and more than a little sadness—that today my staff and I wish Steve farewell. I would like to take this opportunity to thank him for his twelve outstanding years of dedicated service to my office and to the residents of the 48th district of California.

For more than a decade, Steve has been a tireless advocate on behalf of Orange County residents. Since first joining my staff in 1991, Steve has personally handled more than 5,000 cases and he has helped literally thousands of people resolve their problems with Federal agencies. After a brief leave from my office a few years back, Steve returned in 2003 to take the post of Deputy District Director. Soon thereafter he was promoted to California Chief of Staff, where he demonstrated superb leadership and management skills. Steve has been a loyal and capable director, and his expertise, endless patience and imperturbable spirit have guided the office through the most hectic of times. All of us who have been fortunate to work with Steve over the years are deeply grateful for his generosity, his thoughtfulness and his friendship.

Steve was born and raised in Orange County, and his entire family still resides in Southern California. He is a staunch supporter of his alma mater, California State University, Fullerton, where he earned his undergraduate and graduate degrees. Upon completing his Masters in History at Cal State Fullerton, he went on to become a professor of world history and American history at Cypress Community College and Mt. San Antonio College. Thankfully for us, Steve's vast knowledge of history includes that of Orange County. He has been most helpful in educating members of my Washington staff who have not been personally familiar with the district, and he could often be found behind the wheel of a car giving his famed Orange County tour to visiting staff.

Though he is an Orange County native, Steve is somehow, mysteriously, an ardent Dodgers fan. As a big Angels fan myself, this has created a friendly baseball rivalry in the office, even though Steve always trumps me in baseball trivia regardless of the team we're discussing. I know he'll be missing those Dodger dogs once he leaves California.

Steve is a scholar and historian in the truest sense. Beyond academia, his wealth of knowledge ranges from the most important to the most trivial of facts. After working with him for more than twelve years, I am now ready to audition for Jeopardy. One particular anecdote I'll always remember relates to the statue of a rather obscure hero in California history that stands in the United States Capitol. Whenever I lead tours down this particular hall, I always bet my visitors that they cannot name the two statues that represent California. Invariably, most are able to name the most famous statue, Father Junipero Serra, the founder of the California missions. To this day, not a single one has correctly identified the second statue—except, of course, for Steve. Not only did he know the name, but he was an expert on the legacy of Thomas Starr King, the little known leader whose eloquent speeches and brave action saved California for the Union during the Civil War. In fact, Steve's knowledge of Thomas Starr King has even made its way to the pages of Orange County's local newspaper.

My staff and I are not the only ones who will miss Steve after he departs the office. A void will be felt throughout the county and the state when he and his family move to their new home in Houston, Texas. While we will miss having him in Orange County, we're excited for the great opportunities that await Steve, his wife Rita, and their daughter Samantha in the Lone Star State.

Mr. Speaker, I ask my colleagues to join me today in recognizing Steve DiGerlando on the occasion of his last day as my California Chief of Staff. He will be greatly missed, and I wish him every success in his future endeavors.

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## GAMBLING EXPLOSION

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. WOLF. Mr. Speaker, I remain terribly concerned about the explosion of gambling outlets, particularly casinos, opening around our country.

I am deeply concerned about the impact this is having on our society. Gambling destroys families and preys on the poor. According to the California Council on Problem Gambling, which operates a crisis hotline, 3,400 callers had lost an average of $32,000 each. That's $109 million of lost wealth, many who probably could least afford to lose it. Even more tragic is the fact that this statistic represents problem gamblers in only one state.

Mr. Speaker, I submit for the RECORD a copy of the article When Gambling Becomes Obsessive from the July 25 edition of Time magazine. I recently wrote President Bush urging his action on calling a halt to tribal gambling, which is now moving off reservations. Unfortunately, the administration responded that they do not have the authority to address this issue. If the administration believes it does not have authority to issue a moratorium to halt new tribal gambling operations, it should send Congress legislation so that we can take action to give it that authority.

[From Time Magazine, July 25, 2005]

WHEN GAMBLING BECOMES OBSESSIVE

(By Jeffrey Kluger)

For a man who hasn't bet a nickel since 1989, Bruce Roberts spends a lot of time in casinos. He's rarely there alone, however. He usually has an escort walk him through—the better to ensure that he doesn't succumb to the sweet swish of the cards or the signature rattle of the dice. A onetime compulsive gambler, Roberts, 62, weathered his years of wagering better than many. He never lost his wife or his home—although he has refinanced the house nine times. "Cards and Vegas were the two biggest things in my life," he says. "I'm a helluva poker player, but I have one serious flaw: I can't get my ass off the chair."

When Roberts visits a casino these days, it's as executive director of the California Council on Problem Gambling, an organization that helps gaming halls run responsible gambling programs. The rest of the time, he's back in the office, overseeing a crisis hotline. Last year his service took 3,400 calls from gamblers who had lost an average of $32,000 each. That's $109 million of evaporated wealth reported to just one hotline in just one year.

And California is not alone. More than 50 million people describe themselves as at least occasional poker players. Millions turn on the TV each week to watch one of eight scheduled poker shows—to say nothing of the 1 million who will tune in to ESPN's broadcast of this year's World Series of Poker.

Two hundred forty-seven Native American casinos dot tribal lands in 22 states: 84 riverboat or dockside casinos ply the waters or sit at berth in six states. And with local governments struggling to close budget gaps, slots and lotteries are booming. All told, 48 states have some form of legalized gambling—and none of that includes the wild frontier of the Internet. By 1996 the annual take for the U.S. gambling industry was over $47 billion, more than that from movies, music, cruise ships, spectator sports and live entertainment combined. In 2003 the figure jumped to over $72 billion.

All that money is coming from someone's pockets, and it's not the winners'. According to Keith Whyte, executive director of the National Council on Problem Gambling, as many as 10 million U.S. adults meet the "problem gambling" criteria. Kids are hit even harder. Exact figures aren't easy to come by, but various studies place the rate of problem gambling among underage players somewhere between two and three times the rate for adults.

Nobody thinks the gambling genie can be put back in the bottle. What health officials want to know is whether the damage can be curbed. What separates addictive gamblers from occasional ones? Is it personality, brain chemistry, environment? Can a behavior be a true addiction without a chemical driving it? "People have seen gambling in moral terms for a thousand years," says Whyte. "It's only recently that we've begun seeing it as a disease."

Defining compulsive gambling is like defining compulsive drinking: it's not clear when you cross the line. But if there are enough signs that your behavior is starting to slip out of your control (see the self-test), chances are that you have a problem. It's a problem of special interest to researchers because it reveals a lot about addiction as a whole. One of the difficulties in understanding drug or alcohol abuse is that the minute you add a chemical to the body, you muddy the mental processes. "It's hard to tease the connection out because you don't know how much is the drug and how much is the behavior," says Whyte. "But gambling is a pure addiction."

To see if that's true, scientists turn to such advanced diagnostic tools as functional magnetic resonance imaging (fMRI) machines to peer into the brains of gamblers while they play. In a 2001 study conducted at Harvard Medical School and elsewhere, researchers monitored subjects as they engaged in a wheel-of-fortune game. The investigators looked mainly at several areas of the brain known to be involved in processing dopamine, a pleasure-inducing chemical released during drug and alcohol use.

Sure enough, the same areas lighted up when test subjects gambled, becoming active not only when they won but also when they merely expected to win—precisely the pattern of anticipation and reward that drug and alcohol users show. "This put gambling on the map with other neurobiologic addictions," says Dr. Barry Kosofsky, a pediatric neurologist at Weill Cornell Medical Center in New York City.

Surprising support for that work came earlier this month when researchers at Minnesota's Mayo Clinic reported that 11 Parkinson's disease patients being treated with dopamine-enhancing medications began gambling compulsively; one patient eventually lost $100,000. Six of the 11 also began engaging in compulsive eating, drinking, spending or sex. Only when the dopamine was discontinued did the patients return to normal.

The dopamine cycle may not be the only thing that drives gamblers. Personality also plays a part. This month researchers in the U.S., Britain and New Zealand released the latest results from an ongoing, 30-year study of roughly 1,000 children born in the early 1970s. One purpose of the research was to determine which temperament types were most likely to lead to addictions.

The just released results showed that compulsive gamblers, drinkers and drug users have high underlying levels of negative emotionality, a syndrome that includes nervousness, anger and a tendency to worry and feel victimized. Significantly, they also score lower in the so-called constraint category, meaning they are given to impulsiveness and thrill seeking. That's a bad combination, particularly when you throw drugs, drink or gambling into the mix. "It's like picking your poison," says psychologist Avshalm Caspi of King's College in London, one of the researchers in the study.

What makes people start gambling may also be a function of availability. A 1999 study ordered by the U.S. Congress found that people who live within 50 miles of a casino have two times as much risk of developing a gambling problem as those living farther away. And the growing popularity of electronic gambling only makes things worse. In one study, researchers at Brown University found that while gamblers take an average of 312 years to develop a problem when they're playing traditional games like cards, slot-machine players fast-forward their addiction, getting hooked in just over a year.

So what can be done to get problem gamblers to quit? Medication, in theory, may help. Psychologists like G. Alan Marlatt of the University of Washington are interested in the potential of so-called opioid antagonists, drugs that might partially disrupt the neurochemistry that produces feelings of well-being, thus denying gamblers the kick they seek.

More effective may be the 12 Step protocol used by Alcoholics Anonymous. Gamblers Anonymous groups meet all across the country, stressing abstinence and providing a community of ex-gamblers to offer support. Marlatt is worried that abstinence may be less effective with young gamblers and is exploring cognitive techniques that instead teach kids to recognize the triggers that get them to gamble too much. The states may also have a role to play. Illinois has instituted a self-exclusion program in which gamblers can put their names on a voluntary blacklist, allowing casinos to eject them from the premises, require them to donate their winnings to a gambling-treatment program and, in some cases, charge them with trespassing.

Like Marlatt's moderation strategy, however, the Illinois program takes a measure of self-discipline that may be the very thing compulsive gamblers lack. "In addiction, they call it chasing the high," says psychologist Carlos DiClemente of the University of Maryland, Baltimore County. "In gambling, it's called chasing the big win. And that's where self-regulation goes down the tubes." Better, say DiClemente and others, to simply to put down the cards or dice or cup of coins for good. As battle-scarred gamblers are fond of saying, the only way to be sure you come out ahead is to buy the casino. —With reporting by Melissa August/ Washington, Helen Gibson/ London, Noah Isackson/ Chicago, Coco Masters/ New York and Jeffrey Ressner/ Los Angeles

## PERSONAL EXPLANATION

### HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. HIGGINS. Mr. Speaker, on Friday, June 30, 2005, a sudden death in my family kept me from casting votes on rollcalls Nos. 359, 360, 361, and 362. Had I been present, I would have voted "yes" on all four votes.

## HONORING JACK AND CAROL ENGLAND ON THEIR 70TH BIRTHDAYS

### HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today to honor John and Mary Carol England on the occasion of their 70th birthdays.

John and Mary, or "Jack" and "Carol" as their family and friends know them, have been married to each other for 43 years and have lived in Lower Burrell, Pennsylvania for 28 years.

The elder son of John England and Ruth Hines-England, Jack was born near our Nation's Capital in Baltimore, Maryland on September 2, 1935. Carol, the first of two daughters of Walter G. Holden and Isabel Bolan-Holden, was born in the Nation's heartland in Sioux City, Iowa on September 12, 1935. They were born only 10 days apart, yet the worlds of their early childhoods could not have been farther apart given the differences been urban and rural America during the Great Depression.

Their families weathered the difficult times of the Depression and World War II, and both Carol and Jack enrolled in college at American University in Washington, DC in the early 1950s. It was while studying at the university that they met and began their courtship.

Following their graduation from American University in 1957, Carol and Jack continued their graduate education separately. Carol earned a master's degree in sociology from Columbia University in New York City. After completing her graduate degree, Carol served as Associate Dean of Students at Plattsburgh State University in New York and later worked in human resources for the Woodward & Lothrop Department Stores for several years in the Washington, DC area.

Meanwhile, Jack entered the United States Air Force and earned a master's degree in hospital administration from the George Washington University.

On January 27, 1962, Jack and Carol were married at Our Lady of Lourdes Church in Bethesda, Maryland surrounded by family and friends. During Jack's service in the Air Force, the young couple had three sons—William, John and Andrew—who were born in Maryland, Texas, and Massachusetts respectively. Their youngest son, Thomas, was born in Washington, DC when the family settled in the Maryland suburbs after Jack completed his service in the U.S. Air Force in 1971. The young boys kept Carol busy at home as a full time homemaker.

After separating from the Air Force, Jack continued his work in hospital administration and served as assistant administrator at the Washington Hospital Center. In 1978 he accepted a position as administrator at the Allegheny Valley Hospital in Natrona Heights, Pennsylvania and he and Carol moved their young family to the neighboring community of Lower Burrell in October. In 1998, Jack retired as President and CEO of the hospital, where he served for 20 years of his 27 years in civilian hospital administration.

In retirement, Carol and Jack have taken courses from the Pennsylvania State University, New Kensington Campus where Jack also served on the advisory board. They are both avid fans of the performing arts, and they travel regularly to Niagara-on-the Lake in Ontario, Canada for the Shaw and Shakespeare festivals. Carol and Jack volunteer at both the local library and their parish church of St. Margaret Mary, and Jack is the secretary for his local Rotary. However, without a doubt, their favorite pastime is visiting with their young granddaughter, Sarah Elisabeth England and their daughter-in-law, Lorie Slass.

Mr. Speaker, I extend my best wishes to Jack and Carol England on the occasion of their 70th birthdays on September 2, 2005 and September 12, 2005 respectively, and I salute their continued active involvement and commitment to their family, community, and church. I also extend my heartfelt congratulations to their sons on their parents' many accomplishments.

## INTRODUCTION OF THE SOUTH MAUI COASTAL PRESERVATION ACT OF 2005

### HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CASE. Mr. Speaker, I rise today to introduce a bill directing the Secretary of the Interior to undertake a study to determine the suitability and feasibility of designating and acquiring lands located along the southern coast of the island of Maui as a National Seashore, National Recreation Area, National Monument, National Preserve, or other unit of the National Park Service.

The study area covered by the proposed South Maui Coastal Preservation Act of 2005 includes lands from and including the 'Ahihi-Kinau Natural Area Reserve to Kanaloa Point, a distance of approximately six miles.

The area is rich in archaeological, cultural, historical, and natural resources. Important sites in the proposed park area contain remnants of dwellings, heiau (places of worship), fishing shrines, platforms, enclosures, shelters, walls, graves, and canoe hale (houses) that date back as early as 1100 A.D. This portion of the southern coast is also the home of unique native plants and animals, some of which are endangered.

The County of Maui passed Resolution 00–136 on October 6, 2000, expressing its support for having this area designated as a National Park. The Hawaii State House and Senate also passed bills in support of having the area managed by the National Park Service.

Both these resolutions were in support of my predecessor, Congresswoman Patsy T. Mink's bill, H.R. 591, introduced in the 107th Congress, to study the feasibility of designating the more limited area from Keone'o 'io to Kanaloa Point as a National Park.

An initial reconnaissance survey by the NPS indicated that the resources deserved protection but stated that the more limited area was not appropriate for a National Park because most of the land was owned by the state. However, I believe the expressions of support for NPS control of the area by the County and State offer a firm basis for moving forward. Therefore, I have included a provision in my bill to ensure that the proposed study includes consultation with the State of Hawaii to assess the feasibility of transferring some or all of the State lands in the study area to the federal government.

The State of Hawaii has been unable to effectively manage and protect these important resources due to lack of funds. Further, this pristine coastline lies directly in the path of development and, absent action, too soon will be lost forever.

This is a site of national significance, which deserves the level of protection only the National Park Service can provide. I urge my colleagues to support this bill.

## IN HONOR OF NORA CASTLE

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of Nora Castle of Cleveland Heights, Ohio, upon the occasion of her retirement following thirty-two years of outstanding service in her role as champion of consumer rights, through radio and TV's consumer advocacy program, Call For Action. The work of Mrs. Castle has created a vital platform for countless consumers seeking justice throughout Northeast Ohio—consumers whose voices would otherwise not have been heard.

In 1978, Mrs. Castle was the point person for Call For Action at WERE radio, when Virgil Dominic, then News Director at TV–8, brought Mrs. Castle and the Call For Action program to television. Cleveland area residents flooded the lines with calls ranging in scope from the mundane, to serious issues concerning the health and safety of the community. Mrs. Castle's work consistently reflected diligence, integrity, and an unwavering search for consumer justice. Comfortable working behind the scenes, Mrs. Castle shied away from the spotlight of praise and accolades. Her focus on protecting the rights of consumers was consistent throughout her career, and she infused the same value, energy and commitment into every case, whether it involved an individual citizen or a Fortune 500 company. Her work brought these cases into the light of public discourse, and her advocacy enlightened legislators, ultimately prompting them to pass consumer protection laws on local, state and federal levels, including the Lemon Laws.

Beyond her career, Mrs. Castle's family and faith have always been central to her life: her husband, William; son, Peter; daughter, Amy; grandson, Aidan; and the memory of her daughter, Kate. Mrs. Castle's strength, faith and love for her family are extended throughout the community, where she continues to share her time, talents and energy with others. She and her family are long-time members of the Fairmount Presbyterian Church, where she serves as an officer with the Fairmount Women's Guild. Mrs. Castle taught Sunday school at the church for more than twenty-five years, and was also a twenty-five year volunteer at the Natural History Museum.

Mr. Speaker and Colleagues, please join me in honor and recognition of Nora Castle, for her outstanding work in protecting the rights of thousands of consumers across Northeast Ohio. Mrs. Castle's unwavering dedication as wife, mother, grandmother, co-worker, mentor, teacher, volunteer and friend, framed by her energy, wit, and above all, her concern for others, has uplifted the lives of countless individuals, bringing the light of justice throughout our community. As she journeys onward, I wish Mrs. Castle and her family an abundance of peace, health and happiness, today, and in all the years to come.

## STRENGTHENING SOCIAL SECURITY WITH PERSONAL ACCOUNTS

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. KNOLLENBERG. Mr. Speaker, I rise to stress the urgency of strengthening Social Security for future generations.

Over the next twenty years, the number of seniors will grow by 70 percent because of the retiring baby boomer generation. A half-century ago, 16 workers paid into Social Security for every retiree. Today only three workers support every retiree and in the next few decades, that number will drop to two. By 2042, the system will become bankrupt and it will only be able to pay 70 percent of promised benefits.

Younger workers can earn additional benefits by giving them the option to invest a small portion of their Social Security taxes in bonds and stocks. Personal accounts will allow them to build a financial nest-egg for their retirement; they can pass on to their loved ones.

Mr. Speaker, personal accounts will give our children and grandchildren the peace of mind that they will be financially secured in the future.

## A TRIBUTE TO CYNTHIA BARILE

### HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. COX. Mr. Speaker, I rise to pay tribute to a close friend and exceptional employee, Cynthia Barile, in anticipation of her last day as Caseworker in my California office. It is with deep gratitude—and more than a little sadness—that my staff and I must wish Cynthia farewell. I would like to take this opportunity to thank her for her 6 outstanding years of dedicated service to my office and to the residents of the 48th district of California.

Since joining my staff 6 years ago, Cynthia has been a tireless advocate on behalf of Orange County residents. She was first hired in August 1999 as the Office Manager for my California office, and assumed her new administrative duties with great ease. With Cynthia in this critical post, the district office was in the most capable of hands. She quickly demonstrated excellent communication and interpersonal skills and, thanks to her fluency in both English and Spanish, she became a vital link between the staff and our diverse constituency. In 2002, Cynthia was promoted to Congressional Caseworker, a position in which she has excelled for the past 3 years. In this time, Cynthia has personally handled over 2,500 cases and has helped literally thousands of people resolve their problems with Federal agencies. Though she has dealt with nearly every Federal agency during her tenure in my office, she has specialized in cases involving the U.S. Citizenship and Immigration Service; the Department of Veterans Affairs; the Department of Defense and military branches; the Department of Justice; and the State Department and U.S. Embassies around the world.

Cynthia's career in public service predates her work on behalf of the 48th Congressional District. Prior to joining my office, she was the Scheduler and Office Manager for former California Assemblyman Bill Campbell. Bill is a close, personal friend of mine, so I know how greatly he valued Cynthia's years of service to him and the constituents of the 71st Assembly District. Although she is now departing my office, she is not leaving the House of Representatives. Cynthia is moving just 25 miles up the road—and saving herself countless hours of commute time in Orange County traffic—to be a Caseworker in the district office of U.S. Representative ED ROYCE in Fullerton. I have no doubt that she will continue to excel in this new position, and commend my friend and colleague, ED, for his foresight in bringing her onboard.

Over the past 5 years, I have had the privilege of getting to know Cynthia and her family. Her love for and dedication to her two daughters, Brianna and Alexis, are inspiring. While on my staff, Cynthia celebrated her marriage to her husband Mark Barile, and the birth of their son Christian. Along with all those who have had the opportunity to know and work with Cynthia, I have been incredibly impressed by her ability to balance the demands of being a mother, wife and successful career woman.

Cynthia's professionalism, patience, and courtesy in working with her colleagues, constituents, and agency representatives have made her an invaluable asset to my staff. She is a dedicated, diligent and loyal public servant, and she will be missed greatly by all of us who have had the honor of working with her.

Mr. Speaker, I ask my colleagues to join me today in recognizing Cynthia Barile as she prepares to celebrate her last day as Caseworker in my California Office. She will be greatly missed, and I wish her every success in her future endeavors.

## INTRODUCTION OF THE CHARITY CARE FOR THE UNINSURED ACT

### HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. WOLF. Mr. Speaker, there are more than 40 million uninsured Americans today—nearly a million in the Commonwealth of Virginia. Throughout the country, medical professionals and countless others have responded to the need of those who are seriously ill and cannot pay for a doctor, medicine, and other health costs. In many places, this help has come in the form of community free clinics.

Community free clinics, particularly in Virginia, have helped people in communities come together to care for those in need. The health care "safety net" for the poor, like the community free clinics in my congressional district, exists in communities across America, but often in widely varying degrees.

I am pleased to introduce today "Charity Care for the Uninsured Act." While this legislation alone will not solve the problem of the uninsured, I believe it will help strengthen community "safety nets," like the community free clinics in Virginia, for those in need and will allow doctors recognition for their willingness to give back to their communities.

The Charity Care for the Uninsured Act would provide a personal income tax credit of up to $2,000 for doctors who provide between 25 and 50 hours of uncompensated, pro bono charity care to the uninsured in a single calendar year. This legislation would encourage the many physicians who have treated patients who were not able to pay, either in their offices or in community clinics, to continue to do so.

The Charity Care for the Uninsured Act also will help provide a valuable tool—a personal tax credit—to community clinics in recruiting physicians as well as helping motivate countless specialty doctors to take community clinic referrals. Free clinics have contributed to reduced emergency room (ER) utilization among the uninsured, helping save taxpayer dollars. A safety net in which the uninsured can access specialists and medications will improve their health and guard against catastrophic illnesses and trips to the ER.

All of the cost savings and health benefits can be traced back to the commitment and the compassion of the doctors and community partners, and their concern for those who cannot afford insurance. The Charity Care for the Uninsured Act of 2005 recognizes and encourages these caring acts made to help those who need a helping hand. This legislation can be an important tool for communities as they seek to strengthen or build the health care safety net available to their uninsured residents.

H.R. —

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Charity Care for the Uninsured Act of 2005".

**SEC. 2. CHARITY CARE CREDIT.**

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

**"SEC. 25C. CHARITY CARE CREDIT.**

"(a) ALLOWANCE OF CREDIT.—In the case of a physician, there shall be allowed as a credit against the tax imposed by this chapter for a taxable year the amount determined in accordance with the following table:

| "If the physician has provided during such taxable year: | The amount of the credit is: |
|---|---|
| At least 25 but less than 30 qualified hours of charity care | $1,000 |
| At least 30 but less than 35 qualified hours of charity care | 1,200 |
| At least 35 but less than 40 qualified hours of charity care | 1,400 |
| At least 40 but less than 45 qualified hours of charity care | 1,600 |
| At least 45 but less than 50 qualified hours of charity care | 1,800 |
| At least 50 qualified hours of charity care | 2,000 |

"(b) QUALIFIED HOURS OF CHARITY CARE.—For purposes of this section—

"(1) QUALIFIED HOURS OF CHARITY CARE.—The term 'qualified hours of charity care' means the hours that a physician provides medical care (as defined in section 213(d)(1)(A)) on a volunteer or pro bono basis.

"(2) PHYSICIAN.—The term 'physician' has the meaning given to such term in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).".

(b) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25B the following new item:

"Sec. 25C. Charity care credit.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

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## PERSONAL EXPLANATION

### HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. HIGGINS. Mr. Speaker, on Monday, July 18, 2005, personal business kept me from casting votes on rollcalls Nos. 380, 381, and 382. Had I been present, I would have voted "yes" on all three votes.

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## IN PRAISE OF THE NEW POSTAL STAMP COMMEMORATING FRANK GEHRY'S WALT DISNEY CONCERT HALL

### HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today to congratulate famed architect Frank Gehry for the selection of the Walt Disney Concert Hall as one of the Masterworks of Modern Architecture for this year's United States postal stamp collection. The Walt Disney Concert Hall stamp will be part of a collection of twelve masterworks of modern American architecture that includes Frank Lloyd Wright's Guggenheim Museum, the concrete Yale Art and Architecture Building, the Chrysler Building in New York, and the East Building of the National Gallery of Art in Washington, DC. The Walt Disney Concert Hall is the newest structure in this series and the only architectural masterpiece from our country's West Coast to receive this honor.

The Walt Disney Concert Hall is located in my congressional district, at the intersection of First Street and Grand Avenue in downtown Los Angeles. This beautiful masterpiece, situated on historic Bunker Hill, is home to the Los Angeles Philharmonic. The hall's bold and unique exterior is comprised of enormous curved shapes of stainless steel. The magnificent and magical architecture of the exterior is matched by that of its interior. The hardwood-paneled main auditorium, designed by world-renowned expert Yasuhisa Toyota, has been lauded for its state-of-the-art acoustics. In the auditorium, guests sit on all sides of the orchestra. Private boxes, typically present in concert halls, do not exist.

The Disney Concert Hall further welcomes a community atmosphere with its expansive transparent doors and windows that stretch along Grand Avenue. Occupying a full city block, the 3.6 acre site is also home to California's smallest state park.

Frank Gehry's Disney Hall masterpiece has drawn national attention to Los Angeles and has served as the centerpiece of successful efforts to revitalize downtown L.A. and its diverse artistic and cultural offerings.

This landmark project began in 1987 when Walt Disney's widow Lillian Disney gave a $50 million gift to Angelenos to build the concert hall and to demonstrate Walt Disney's commitment to the arts. Mr. Gehry was selected as its architect the following year. Construction on the hall began in 1999 and the Disney Concert Hall opened its doors in 2003.

The building of the Walt Disney Concert Hall was a collaboration of efforts throughout the County of Los Angeles. Talented ironworkers crafted the remarkable exterior. Corporations, foundations, and individuals, in conjunction with the State of California and the Disney family, partnered to provide the funding for this incredible undertaking.

Open daily to the public, Angelenos and visitors alike now enjoy an internationally renowned architectural masterpiece and one of the most remarkable concert halls in the world. Since its opening, the Walt Disney Concert Hall has had more than 450,000 visitors.

Frank Gehry's masterpiece is a fitting contribution to the U.S. Postal Service's collection of the Masterworks of Modern Architecture. On behalf of all Angelenos, I congratulate him and all who helped to make the Walt Disney Concert Hall a reality, worthy of this prestigious honor.

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## INTRODUCTION OF THE HAWAII VOLCANOES NATIONAL PARK EXPANSION ACT OF 2005

### HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CASE. Mr. Speaker, I rise today to introduce a bill to authorize expansion of Hawaii Volcanoes National Park located on the Island of Hawaii.

This bill would authorize expansion of the park's boundaries to allow the National Park Service to acquire 656 additional acres between the 1,000 and 2,000-foot elevation marks in the Kahuku district makai (ocean-side) of State Highway 11. This property, which is a part of the historic Kahuku Ranch, most of which has already been added to the Park, includes extensive natural and cultural resources. These Kahuku lands encompass the southwest rift zone of Mauna Loa, one of the most massive volcanoes in the world.

The geologic features of the proposed acquisition—three large pit craters—provide vestiges of native forest and other unique attributes. The property also includes ranch buildings, walls, and pasture lands that are reminiscent of nineteenth and early twentieth century ranching and contain remnant ranchlands that are not currently represented to the public by any National Park in Hawaii. These buildings would provide public, office, educational, and research space for a much-needed satellite headquarters for this portion of the 333,000-acre park. And locating these services in these historic structures will preserve more of the natural resources of the park in an unspoiled condition.

The property also provides magnificent open landscape views and vistas that offer a glimpse into a cultural landscape that has remained unchanged for decades.

The geologic, biologic and cultural resources contained on this property will also enhance the quality of the park for its legislated purpose and as a World Heritage Site and International Biosphere Reserve. In addition, the park has a well-developed partnership with adjacent landowners in management of native ecosystems and historic landscapes and acquisition of this makai section of Kahuku will help to facilitate this partnership.

The Hawaii House of Representatives passed H.R. No. 56 in the 2001 session supporting acquisition of the Kahuku Ranch as part of Hawaii Volcanoes National Park and the Hawaii State Senate passed a similiar resolution.

I would be very grateful for the support of my colleagues for this important bill.

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## IN HONOR OF DANIEL ELLSBERG

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. KUCINICH. Mr. Speaker, I rise today in honor of Daniel Ellsberg, a true patriot who has gone above and beyond the call of duty, dedicating his life to the service of his country. An expert economist with two years in the Marine Corps and two years at the State Department in Saigon, he is best known for revealing the truth about the Vietnam war through what became known as the Pentagon Papers. After his many years of dedicated service, he recently received the Rollo May Award, given to an individual whose life's work demonstrates his faith in human possibility.

Daniel is a man who has had the courage to stand up for his beliefs and speak the truth even in the face of great adversity. In bringing the Pentagon Papers to the public's attention, he took a risk that no member of Congress was willing to take, despite their immunity. Daniel leaked the information to the press in a desperate attempt to get out the truth, knowing that he would likely spend the rest of his life incarcerated. But for Daniel the loss of American lives was too great a sacrifice to be allowed to continue needlessly.

A man always looking out for the injustices of the world, Daniel has become a lecturer, writer and activist on the dangers of unlawful interventions and the nuclear era. He is there to remind us of our greater responsibilities to mankind, and I applaud his heroism and fortitude.

Mr. Speaker and Colleagues, please join me in honor and recognition of Daniel Ellsberg for his years of outstanding service to his country. His strength and dedication to the ideals of this country are to be commended and admired.

## FAIRNESS AND TRADE POLICY

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. KNOLLENBERG. Mr. Speaker, for too long, the International Trade Commission and Department of Commerce have ignored the impact that anti-dumping and countervailing duties on imported steel have had on steel consumers in the United States. Soon, the ITC will release a report on stainless steel duties and it's my hope there will be evidence that steel consumers are being considered.

Steel duties favor steel producers. Yet, the ITC has not even considered the impact such duties have on steel consuming industries. With nearly thirteen million American employees of steel consuming companies, but only two-hundred thousand employees of steel producing companies, this is simply wrong.

In the past, the ITC has not recognized the fundamental fairness of giving steel consumers the consideration they deserve. Forty-five Members of Congress have joined in cosponsoring House Resolution 84, urging the ITC and Commerce Department to consider the effects of such duties upon steel consumers. Hopefully, the ITC will finally listen.

## INTRODUCTION OF A BILL TO EXPAND THE AGRICULTURAL MANAGEMENT ASSISTANCE PROGRAM TO INCLUDE HAWAII

### HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CASE. Mr. Speaker, I rise today to introduce a bill to expand USDA's Agricultural Management Assistance Program to include my State of Hawaii.

The Agricultural Management Assistance Program provides cost-sharing assistance under contracts of three to ten years in fifteen specified states to help producers construct or improve water management and irrigation structures, plant trees, control soil erosion, practice integrated pest management, practice organic farming, develop value-added processing, and enter into futures, hedging, or options contracts to reduce production, price, or revenue risk. This worthy program was established in 2000 to benefit states where participation in Federal crop insurance programs has been historically low.

Hawaii, which was not included among the fifteen initial states, certainly qualifies based on this criterion, as there are relatively few Federal crop insurance programs for the crops we grow in Hawaii and those we have are only a few years old. Additionally, the activities allowed under this program coincide very well with the real needs of farmers in Hawaii, especially in relation to water management and irrigation, soil erosion, pest management, organic farming, and value-added processing.

The 2002 Farm Bill authorized annual funding of $20 million from FY2003 through FY2007. In FY2004, there were 723 active contracts and a total of $10.2 million was spent.

There is clearly adequate room in this program for Hawaii, which is dead last among all the 50 States in agricultural assistance received as a percentage of the value of its agricultural production. Hawaii receives less than 1 cent per dollar of agricultural value compared with the nationwide average of 6 cents.

I ask for my colleagues' support for including my state of Hawaii in this important program.

## PRIVATE NUCLEAR WASTE DUMP ON NATIVE AMERICAN LANDS

### HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. KUCINICH. Mr. Speaker, I would like to submit the following speech for the RECORD:

I wish to welcome musicians Ani DiFranco and the Indigo Girls (Amy Ray and Emily Saliers), actor James Cromwell, actress Joan McIntosh, leading opponents to PFS from the Skull Valley Goshute Tribe—Margene Bullcreek and Lena Knight, and Winona LaDuke, program director at Honor the Earth.

Thank you everyone for being here today. Your presence means much to us. Perspectives from those not inside the beltway are essential if we are to make the best public policy choices.

Today we will hear from the Native Americans who will be living next to a radioactive waste dump if the powers that be have their way. Private Fuel Storage (PFS) is a consortium of nuclear utilities that desire to dump nuclear waste on sacred Native American grounds in Utah.

The proposal put forth by PFS would house 44,000 tons of high-level radioactive waste and is unjust, extremely dangerous, and unnecessary. Placing a giant nuclear waste dump on Native American land, against the consent of the tribe, violates Native American rights and raises environmental justice issues.

The PFS proposal puts the safety of the American people at risk. High-level irradiated waste would need to be transferred thousands of miles across the country in order to get to the facility. This creates the possibility of a potentially catastrophic radioactivity release during transportation due to an accident or terrorist attack. I represent Cleveland and my constituents are not happy about living on a transportation route.

This facility is not necessary because it does not reduce the risks posed by high-level radioactive waste, and would only exacerbate the problems currently facing nuclear power in the United States.

In response, 61 Members of Congress signed a letter that urged the Nuclear Regulatory Commission to deny the license for PFS. We are awaiting the NRC's response.

I urge all of you here today to demand accountability, responsibility, justice, and fairness. We cannot allow this trampling of Native American rights.

## RECOGNIZING THE EFFORTS OF CONGRESSMAN KEVIN BRADY OF TEXAS FOR THE SUCCESSFUL PASSAGE OF DR-CAFTA

### HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. SHAW. Mr. Speaker, I rise today to recognize the tremendous efforts by my friend and Ways and Means colleague, the gentleman from Texas, Mr. KEVIN BRADY for the successful passage of the Dominican Republic-Central America Free Trade Agreement (DR–CAFTA).

Since his election to the United States House of Representatives, Representative Brady has envisioned the day when the United States would successfully negotiate a free trade agreement with our Central American neighbors. After a number of years and some tense months, that vision has come a reality.

American farmers, manufactures, businesses and consumers will now reap the benefits of duty-free access to the growing market of DR–CAFTA. For 20 years, these countries have benefitted from duty-free imports into the United States under the Caribbean Basin Initiative. Today, thanks to the leadership of Representative BRADY, the United States will receive this same benefit.

Representative BRADY has become a fervent advocate of free trade as a member of the Ways and Means Subcommittee on Trade. KEVIN has made strengthening trade between the United States and our global trading partners one of his top legislative priorities. As the world continues moving towards globalization, it is imperative that we support trade policy which protects American interests. I am proud to join my friend in this effort.

Mr. Speaker, a number of individuals played an important role in the passage of DR–CAFTA. However, my friend, Representative KEVIN BRADY went above and beyond to secure this historic agreement.

## INTRODUCTION OF A BILL TO INCLUDE MACADAMIA NUTS IN THE MANDATORY COUNTRY-OF-ORIGIN LABELING PROGRAM

### HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CASE. Mr. Speaker, I rise today to introduce a bill to include macadamia nuts in the mandatory country-of-origin labeling program established in the 2002 Farm Bill. The provisions for macadamia nuts would be similar to those for peanuts whereby roasted and flavored nuts in cans or other packaging would be labeled, but not nuts that are used for candy or as ingredients in other foods.

Hawaii produces the highest quality macadamia nuts in the world. The premium macadamia nut product—and the one where the quality, of the nut is most apparent—is the roasted and flavored nuts in cans or other packaging. Using lower quality nuts for these types of products when the packaging implies a Hawaii origin damages Hawaii macadamia growers in two ways: by decreasing demand for Hawaiian nuts (and therefore prices), and by damaging the reputation of Hawaiian macadamia nuts.

Country-of-origin labeling will give my Hawaii growers a well-deserved competitive advantage based on the quality of their product. Hawaii was the pioneer in developing a national and international market for macadamia nuts and many producers in other countries trade upon Hawaii's reputation to market their nuts.

The long-term viability of Hawaii's agriculture is tied to our ability to distinguish our high-quality products from those produced in other countries. And the cachet of Hawaii origin is also a market advantage. I have no doubt in the superiority of Hawaiian papayas, pineapples, mangoes, bananas, and macadamia nuts. Country-of-origin labeling will make it easier for consumers to distinguish among different origins and will result in a market advantage for Hawaii farmers.

For all of these reasons, my bill is fully supported by the Hawaiian macadamia nut industry.

Currently, the mandatory country-of-origin labeling law applies to farm-raised and wild fish and shellfish; ground and muscle cuts of beef, lamb, and pork; fresh and frozen fruits and vegetables; and peanuts. Country-of-origin labeling for fish and shellfish began on September 30, 2004; labeling for fresh produce, meats, and peanuts is currently mandated to begin on September 30, 2006.

I ask for my colleagues' support for adding macadamia nuts to the country-of-origin labeling law so that my macadamia nut farmers can enjoy the same marketing benefits as growers of American peanuts.

## IN REMEMBRANCE OF MARY M. BOGGS

### HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CASTLE. Mr. Speaker, it is with a heavy heart that I rise today to remember the life of Mary M. Boggs of Seaford, Delaware. Born 82 years ago to loving parents Linden E. Boggs, Sr., and Addie Phillips Marvel, Mary would go on to have a tremendous influence on not only the Seaford community, but also all of Delaware.

Upon graduation from Beacom Business College, Mary would embark on a distinguished career as the administrative service officer for the Department of Justice. After retiring, Mary would continue her service to the community with the Board of Directors for the Seaford Historical Society and as a member of the Acorn Club and VFW Post #4961 Auxiliary.

While very active in the community, Mary's impact was felt most by the local, county, and State branches of the Republican Party. The consummate volunteer, Mary was always willing to help and expected nothing more than a "thank you" in return. Her involvement with the party began in 1944 and she would eventually serve as the president of the Seaford Republican Women's Club and the Delaware Federation of Republican Women. Additionally, Mary was a devoted member of the Senior Citizen's Task Force for the National Federation of Republican Women.

On a personal note, Mary was instrumental in helping me throughout my political career, including my campaigns for Lieutenant Governor, Governor, and the United States House of Representatives. Many of us counted on Mary, and I can truly say she never let us down.

Mr. Speaker, in closing, all who knew Mary were lucky to have been graced by her presence. While I know she will be greatly missed by her family and friends, Mary Boggs will always be remembered for the work she has done throughout the State of Delaware and for the Republican Party.

## PERSONAL EXPLANATION

### HON. JO ANN DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mrs. JO ANN DAVIS of Virigina. Mr. Speaker, on Wednesday, July 27, 2005, I had to travel to my congressional district to attend the Boy Scout Jamboree at Ft. A.P. Hill and the memorial service for the four fallen Boy Scout leaders who died there on Monday, July 25, 2005. Unfortunately the program was cancelled because of severe weather which also hindered my return.

Had I been present I would have voted "yes" on the previous question on H. Res. 385. Had I been present I would have voted "yes" on the adoption of the resolution H. Res. 385. Had I been present I would have voted "yes" on the adoption of the resolution H. Res. 386. Had I been present I would have voted "no" on final passage of H.R. 3045. Had I been present I would have voted "yes" on adoption of H. Res. 308.

## REMARKS ON THE HEPATITIS AWARENESS WEEK CONGRESSIONAL BRIEFING

### HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. HONDA. Mr. Speaker, I rise today to commend and report on last week's "Aim for the B" Congressional Briefing held on July 21st. Chronic Hepatitis B is a serious health concern that is finally receiving much needed attention. Almost 350 million people worldwide have been infected with the hepatitis B virus, with 75 percent of those infected living in Asia. In the United States, approximately 1.25 million people are chronically infected with this life-threatening disease. Asian Pacific Americans have the highest rate of chronic hepatitis B infection of all ethnic groups.

Chronic hepatitis B is extremely dangerous because it can lead to cirrhosis of the liver, liver failure and liver cancer. The hepatitis B virus is transmitted through blood and body fluids, unprotected sex, childbirth and unsterilized needles. Unfortunately, many of those who become infected with the disease do not recognize symptoms until after they have developed significant liver damage.

The "Aim for the B" campaign was launched during the week of May 9th of this year through the passage of House and Senate resolutions. I want to applaud my colleagues who supported this resolution for their understanding of the need to focus additional attention and increase awareness of this disease nationwide. Last week's Congressional briefing delved further into the issues of hepatitis B, including the efforts of the Federal Government to combat the spread of hepatitis B and treat those already affected with this disease.

The briefing featured many well-known researchers and advocates in the field. I was pleased to have the opportunity to sit on the panel with Dr. John Ward, the Division of Viral Hepatitis Director at the Centers for Disease Control and Prevention, and Dr. Jay Hoofnagle, Director of the Liver Disease Research Branch at the National Institutes of Health. Their insight into the advances being made by the CDC and NIH painted a picture of a disease that is "on the run," but not yet eradicated. Attendees were also able to hear a personal testimonial from a hepatitis B patient, as well as advocacy efforts being undertaken by the Hepatitis B Foundation, American Liver Foundation, and the Hepatitis Foundation International.

We know that there is hope. We know that there are vaccines and treatments available that were not available 25 years ago. We know that with treatment, patients have a better shot at beating this disease and preventing its progression to liver disease. We also know that there is much work that needs to be done. We need to increase public education about hepatitis B, help infected patients and their physicians identify and manage this disease, raise awareness of the consequences of untreated chronic hepatitis B, and help increase the length and quality of life for those diagnosed with this life-threatening disease. We need to improve state-by-state tracking of trends, incidences and prevalence of chronic hepatitis B. Finally, we need to prioritize this disease as a major health issue in the United States, and to provide national agencies such as the CDC and NIH with the funding they need to increase research and education for chronic hepatitis B.

In closing, I would like to thank the organizers of last week's Congressional briefing for keeping this issue in the forefront of the medical discussion. And I especially want to thank the attendees of the briefing for showing the commitment to beating this disease through education and awareness. This is a call to action that I hope will produce the ultimate result of eradication.

## 100TH ANNIVERSARY OF THE McGILL MANUFACTURING COMPANY

### HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. VISCLOSKY. Mr. Speaker, it is my distinct pleasure to announce that the McGill Manufacturing Company will be celebrating their 100th Anniversary on Friday, August 5, 2005, during an Open House and luncheon at the McGill Manufacturing Plant in Valparaiso, Indiana.

James H. McGill founded the Crescent Company in Chicago, Illinois. In 1905, he moved his company to Valparaiso, Indiana where it continued as the Crescent Company until December 1, 1910, when the name was changed to McGill Manufacturing. The first products produced by the company were for the electrical industry, and included wire guards for lamps, cord spools, socket handles, coloring fluid for incandescent light bulbs, Chatterton compound, and other specialty products.

The McGill Metal Company was then formed, and among other products, they developed a line of bronze retainers for ball bearings that were sold to the Strom Bearing Company in Chicago, Illinois. In 1924, a number of ex-Strom employees moved to Valparaiso, Indiana and interested James McGill in producing bearings using the aluminum bronze retainers formerly sold through the Strom Company. The initial production was under the trademark of "Shubert," but in late 1926 all bearings were marked with the McGill name.

Hardwork and dedication led McGill to become a nationally-recognized leading source of precision bearings. After their incorporation, McGill expanded and built additional plants in Indiana, Texas, and Taiwan. In 1990, McGill was sold to Emerson and McGilll/EPT in Valparaiso is the headquarters of the Emerson Power Transmission Division.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in commending McGill Manufacturing/EPT for their outstanding contributions. The proud history of this outstanding company deserves to be honored by Congress. This company has contributed to the growth and development of the economy of the First Congressional District, and I am very proud to honor them in Washington, DC.

## CFTC'S EXCLUSIVE JURISDICTION

### HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. GOODLATTE. Mr. Speaker, as Chairman of the House Agriculture Committee and a conferee on the energy bill, I want to make it clear that sections 316 and 1281 of the conference report dealing with Natural Gas and Electricity Market Transparency are quite important. Those provisions clearly affirm the long established legal foundation of the Commodity Exchange Act, specifically the exclusive jurisdiction of the CFTC over exchanges and trading of futures in this country. I applaud the work of the conferees in producing sections 316 and 1281, which directs the Federal Energy Regulatory Commission, FERC, and the Commodity Futures Trading Commission, CFTC, to complete a memorandum of understanding regarding information sharing between the commissions within 180 days of enactment, without affecting the exclusive jurisdiction of the CFTC with respect to markets under its jurisdiction.

The Conferees recognized that domestic energy markets involve activity in both the physical energy markets and in futures markets, and that the FERC and the CFTC have important oversight duties in these markets, respectively. In order to ensure effective and efficient oversight of these markets, the Conferees expect the FERC and the CFTC to use the memorandum of understanding as an opportunity to memorialize the good information sharing relationship that has developed between the two agencies over the past several years. The Conferees expect this agreement to accomplish 3 important goals: (1) avoid regulatory duplication of information reporting; (2) ensure appropriate protection of proprietary business information, including business transactions or market positions of any person and trade secrets or names of customer; and (3) acknowledge the respective jurisdictions of both agencies in order to avoid any jurisdictional overlap. Moreover, the Committee expects the memorandum of understanding to insure that in creating an effective and efficient means for FERC to secure legitimately needed market trading information in the possession of the CFTC, FERC does not attempt to secure such information directly from CFTC-regulated futures exchanges. This would be contrary to the CFTC's exclusive jurisdiction over those futures exchanges and inconsistent with the longstanding process followed by all other Federal and State authorities. Sections 316 and 1281 do not give—and no other provisions of the NGA and FPA give—FERC such authority. Rather, these sections specifically intend for FERC to get such information but only through submitting its requests to CFTC.

I would further note that FERC will be subject to same restrictions on the use of such futures and options trading data information as the CFTC. Section 8(e) of the Commodity Exchange Act places restrictions on the public disclosure of futures and options trading data, as well as other sensitive CFTC information. If the CFTC provides futures and options trading data, or other materials identified in section 8, to FERC then FERC will be subject to the same restrictions as the CFTC, or any other Federal or State Agency which receives such information.

It is my understanding that the CFTC has a long history of sharing futures and options trading data as well as other confidential materials from their investigations with FERC and other Federal and State agencies who have a legitimate need for such information. Federal and State agencies not only recognize the exclusive jurisdiction of the CFTC but they also agree that they are subject to the section 8 restrictions on public disclosure of the information they receive. For these reasons it is my view that the MOD between the CFTC and FERC will merely formalize well established practices in this area.

## BEST PRACTICES IN THE HEDGE FUND INDUSTRY

### HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. SHAYS. Mr. Speaker, the hedge fund industry plays a critical and special role in our capital markets and is enormously important to helping institutional investors diversify their investment portfolios and meet their future funding needs.

While the numbers fluctuate some, there are believed to be close to 8,000 hedge funds that manage approximately $1 trillion in assets. Connecticut's Fourth Congressional District, which I'm very proud to represent, is the home to several hundred of the most successful hedge funds.

Over the past few years, the industry has received increasing attention from the media, Congress and the Securities and Exchange Commission (SEC). I happen to believe that strong oversight of our financial markets is critical to our nation's economic well-being, but recognize that with sophisticated and knowledgeable investors, hedge funds do not require the same level of scrutiny as is paid to the mutual fund industry. Nevertheless, it seems to me that more transparency and better government and regulator understanding of the industry will ultimately benefit investors and managers alike.

The Greenwich Roundtable is a not-for-profit organization, based in Greenwich, Connecticut with a mission to promote education in alternative investments. This thoroughly professional and thoughtful institution has produced a report entitled, "Best Practices in Hedge Fund Investing: Due Diligence for Equity Strategies," that I hope will serve as an important reference for this body, for investors and for others interested in our capital markets. The goal of the publication is to "help demystify a topic that has been shrouded in myth and, by doing so, help improve the level of education among those who wish to better understand the community of active hedge fund investors." It seems to me this is a very important document and would recommend it to any of my colleagues with an interest or concern about the industry to review it.

An abstract of this report is below, and I again would like to express my appreciation to the Greenwich Roundtable for this important and timely publication.

BEST PRACTICE IN HEDGE FUND INVESTING: DUE DILIGENCE

This publication is the first collaboration of its kind, between investors and managers. The goal of this publication is to help demystify a topic that has been shrouded in myth and, by doing so, help improve the level of education among those who wish to better understand the community of active hedge fund investors. This is the first issue of the planned series of Best Practices in Hedge Fund Investing.

Inside this first issue, you will be treated to an informed examination into the art of due diligence. The scope will be confined to examining equity-oriented strategies. The universe of hedge fund strategies is enormously broad and diverse. Any single method of inquiry applied to all due diligence would become generic. Future issues will cover strategies in other areas such as managed fixtures, fixed income and asset-backed markets.

The investors who created this publication are members of our Education Committee. Their backgrounds are broad and diverse. They hail from the family office, bank proprietary capital, or fund of funds communities. They are all seasoned investors in a broad range of strategies. For two years, our purpose has been to uncover "soft" aspects of performing hedge fund due diligence. Our emphasis is on developing an interpretative discussion whenever a flag is raised. There have been many generic investor questionnaires circulated. Most were focused on collecting quantitative data. Quantitative analysis is backward looking. Qualitative analysis is more useful as a forward looking tool.

SELECTED EXCERPTS

Strategy, Investment Process, and Market Opportunity—A critical first step in any evaluation of a hedge fund investment is the establishment of a proper context for the evaluation. Once the context for the evaluation is properly understood, it is possible to proceed with a more nuanced investigation of the investment strategy, the portfolio manager's edge, and other relevant fund particulars.

Team and Organization—The quality of a firm's human capital will contain, perhaps the strongest clues about its prospects for sustainable success. Moreover, the success of the organization requires both investment and business management acumen, skills that rarely reside in equal proportion in any single investment professional.

Fee Structure and Terms—The evaluation of a fund's fee structure and terms is essentially an exercise in understanding the value proposition of a particular hedge fund investment. Much of this will depend on the circumstances and environment in which the investment opportunity is presented. In the end, an investor must ultimately determine whether the terms and conditions for this investment are reasonable and fair.

Management Company, Fund Structure and Asset Base—An evaluation of the hedge fund's management company should be focused on the question of what kind of business it is. In the final analysis, an investor needs to understand if there is a true alignment of incentives between the prospective investor and the portfolio manager in regards to their investment objective.

Quantitative Review—Many experienced hedge fund investors appear to view quantitative analysis as a valuable complement, rather than a substitute, for more qualitatively drawn judgments. Deployed intelligently, certain quantitative disciplines can help confirm the wisdom of more qualitatively drawn judgments and assist in highlighting aspects of the investment strategy that warrant further investigation.

Operations and Transparency—There is a big difference between portfolio transparency and translucency. Transparency implies a more substantially active role on the part of the manager in identifying and clarifying key risks for investors. Translucency implies a simple commitment to provide a clear view of the portfolio holdings and may not be very helpful in informing the investor.

Third Parties—Evaluating the quality of the third-party vendors, as well as understanding the intersection of in-house and third-party business management, is critical to understanding how disciplined the hedge fund business and investment processes truly are.

Intuition, Judgment, and Experience—No amount of due diligence can completely replace the importance of experience and intuition when investing with a hedge fund manager. Finally and most importantly, would you invest your own money or your family's money with this manager?

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# A DEBT OF GRATITUDE OWED TO PAUL LANKFORD

## HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. DUNCAN. Mr. Speaker, I have often said that veterans have been called on to give more for their country than most of us ever will. Paul Lankford, a survivor of the Bataan Death March and a resident of Maryville, Tennessee, is living proof of that.

Mr. Lankford was captured by the Japanese military on the Bataan Peninsula on April 9, 1942, and was freed by Russian soldiers in July 1945. In those three years and three months in captivity, he survived horrific conditions.

At Bataan, Lankford was forced to march 65 miles in five days in unbearable heat, walk on human flesh, and bury his comrades. After the march, he was forced into slave labor.

When Lankford joined the Army Air Corps in 1941, his weight listed at 150 pounds. After being freed in 1945, he weighed 60 pounds.

After taking six months to recover from this terrible ordeal, Lankford continued his service to the Air Force, retiring in 1968 as chief master sergeant. A building at McGhee Tyson Air National Guard Base is named in his honor.

Mr. Speaker, this Country owes a debt of gratitude to Paul Lankford. He is a fine man, and our Nation is a better place because of his service.

I would like to call to the attention of my colleagues and other readers of the RECORD the following article from the July 17 edition of the Knoxville News Sentinel.

[From the Knoxville News Sentinel, July 17, 2005]

### MARCH OF DEATH, LIFE

(By Fred Brown)

Paul Lankford slipped back through his memory, as if turning pages, recalling a scene, and then explaining details of what he saw. It was like a movie reeling off in front of him, frame by frame. A war movie. A war movie of hell.

Six decades ago in July 1945, Lankford was a prisoner of war, having been held by the Japanese military for three years and three months. He had been captured along with the rest of Gen. Douglas MacArthur's army April 9, 1942, on the Bataan Peninsula.

He was 23 years old the day of his capture and 26 upon release. In July 1945, Lankford still had one more month to go before being liberated by a wild Russian army.

With the arrival of the Russians, who went on a rampage, Lankford and other POWS were transformed from slave to master. The allied soldiers who had been POWS were now guarding their former masters. The situation was surreal in the extreme.

In fact, Russian soldiers instructed former American POWs, including Lankford, to pick out a guard they particularly disliked, and the Russians would politely shoot him for the Americans.

Lankford's ordeal began the day MacArthur deserted the Philippines, leaving the bruised, battered and beaten army to survive the best way they could. He sent a message from the safety of his headquarters in Australia that the army was to fight to the end.

The end came April 9, 1942, after three months of aerial and artillery bombardment, starvation and disease. Lankford and the soldiers were out of ammo and food, with no choice but to surrender.

With the surrender of the Philippines, Lankford and his 27th Bomb Group were corralled. There were perhaps 1,200 defenders on Bataan, but including all soldiers, allies and Filipinos, the number was around 70,000.

Of that number, maybe 8,000 would survive the next three years. Of the 1,200 of Lankford's group on Bataan, an estimated 200 are alive today.

There are few, if any, monuments to the soldiers and sailors of Bataan—those Battling Bastards of Bataan, as they were known.

Lankford was born near Gadsden, Ala., and joined the U.S. Army in 1939. He then made the transfer to the U.S. Air Force when it was formed in 1948.

Now 86, he lives in Maryville, having retired in 1968 as chief master sergeant. He became the first commandant of the Professional Military Education Center at McGhee Tyson Air National Guard Base until his final retirement in 1981.

But in 1945, he was one of the few who survived the Bataan Death March.

"I had one canteen of water for 10 days," Lankford began his story.

"There was one rice ball, about the size of my fist," he said, making a ball with his hand.

Lankford was, he said, among the lucky. He was marched 65 miles from one end of the peninsula to the other. He eventually was moved from the Philippines to Korea and then wound up in Mukden, Manchuria.

When he left Korea for Manchuria in December 1942, it was 30 below zero. He had little warm clothing for the trip.

"The Japanese needed slave labor," said Lankford. "I worked on farms, in steel mills, tool and dye plants, tanning plants, foundries."

The day his personal march into hell began, Lankford made a promise to himself: "I said I would never give up. I would survive," he said. "I would take whatever they threw at me."

That was a fairly easy deduction for a fellow who was already down to eating horse, iguana and mule meat to survive.

"When you get hungry," says Lankford, "you will eat anything."

The soldiers who had survived Japanese bombardment were already listless from four months of half rations, then no food at all. They suffered from malaria and dysentery. Lankford had a severe case of malaria and malnutrition with sores around his mouth, nose and eyes.

"Our fighting men were zombies," he said.

He marched from the south in Mariveles, at the very tip of Bataan Peninsula in the South China Sea, north to San Fernando and then to Camp O'Donnell, a former Philippine Army training camp.

Along the way, historians believe some 10,000 Filipino soldiers died at the hands of Japanese guards. About one of every six on the march would die from brutality, murder, dehydration, beatings, starvation or other atrocities.

Of the 70,000 who began the march, some figures cite that 54,000 reached O'Donnell.

Lankford was bayoneted in the right shoulder because he was not moving fast enough or had infuriated his Japanese guard. He never knew why he had been bayoneted. He just was.

Lankford marched 65 miles in five days in the broiling sun. The only time the prisoners were allowed to rest—standing, not sitting—was at a change of Japanese guards. They were allowed no food, no water. If they dropped to the ground, they were shot. If they fell behind, they were shot.

If they cried out in agony, they were shot—or worse.

"If they heard a soldier screaming, they would cut his head off," said Lankford.

"The first day, we lost maybe 50. The second day, we lost 200. The third day, we lost another 300," said Lankford.

"Shortly after we started the march, a truck would come through, and if you didn't get out of the way, it would just run over you. There were bodies all over the road.

"At times, you walked on human flesh. It was like walking on jelly," said Lankford.

"We marched day and night. What I tried to do was to stay as far to the right side of the road as I could. Trucks filled with Japanese soldiers would come by, and they would bayonet you or hit you with bamboo rods," he said.

"It never crossed my mind that I would die, but you never knew what was going to happen to you."

Like being stuffed into narrow French-made boxcars on a narrow-gauge railroad.

The boxcars were big enough for maybe 50 men. Hundreds were jammed inside. The steel cars had no windows, no ventilation. There was no air, and it was pitch dark. Lankford said they were fast using up what oxygen there was in the railcar.

"Some of the men who were claustrophobic went stark raving mad," said Lankford. "Others died standing up."

When the cars were unloaded at one of the designated stops before arriving at Camp O'Donnell, the dead fell out.

He was at Camp O'Donnell until he was moved to Manila in November 1942. While at O'Donnell, he was placed on burial detail, bringing bodies to graves that were dug by POWs from sunup to sundown.

He had to transport his best friend to a grave.

"He had just given up and passed away," said Lankford, as if talking about a wisp of air that passes by and is gone.

During the O'Donnell ordeal, if an escape was attempted, the guards would take prisoners out and execute them, Lankford said, as an example to the others.

After working at other camps, Lankford was eventually put aboard a ship.

He and 1,500 other prisoners were forced down into the ship's hold, which had been used to transport horses and cattle. Filthy straw, with scattered piles of manure and the strong stench of urine, was everywhere, he says.

"We were suffering from dysentery, and some men went mad."

Men began dying immediately. They were fed a thin gruel of fish-head soup and a handful of rice twice a day.

They were sailing from Manila to Korea. U.S. naval vessels and submarines were hunting Japanese ships. The POW ships were unmarked and were attacked by the American vessels of war with impunity, never knowing that U.S. POWs were aboard. Thousands of American POWs died an ignominious death below decks in horse manure, human waste, vomit and stacks of the already dead.

It took his ship one month to go from Manila to Pusan, Korea. When the ship arrived, Lankford was among the 175 men in the worst condition.

He was taken to a racing track being used for a hospital. The remainder of the men he had traveled with were sent to Mukden, Manchuria.

"Each morning I would wake up, and there would be dead men on my left and right," he said.

The day he arrived in Mukden, he was given a big bowl of stew. Being from Alabama, he loved beef stew.

"This was dog meat. It tasted mighty good," said Lankford.

"You didn't see many stray dogs around there."

When he arrived in the Army Air Corps back in 1941, he had weighed about 150 pounds. In Manchuria at liberation, he weighed 60 pounds.

The Russians arrived, he said, and things became rather chaotic.

"I'll never forget it. These Russians were front-line troops. They were plenty rough. The Russians would make raids every night.

"It was like the Fourth of July every night. Everybody was shooting at everybody else."

Lankford was set free of his Japanese ordeal Aug. 20, 1945. The Russians put the POWs aboard a train and sent them back toward American lines.

He arrived in Port Arthur, Manchuria, and ran into an old navy chief who asked him what he'd like to eat.

"I told him I wanted some ice cream," said Lankford. "But I couldn't eat it. The chief said he'd just put it up for me with my name on it. I could have all the ice cream I wanted."

Eventually he was returned to Manila, put aboard a Danish ship and sent home.

"We were heading home," said Lankford. "We were so happy."

In the state of Washington, he boarded a hospital train. There he was given slippers and pajamas for the first time in four years.

"We crossed the big, ol' U.S.A.," he said, his face beaming with pride.

He was able to meet his family in Atlanta and spent about an hour with them before leaving for Augusta, Ga. Unlike most, Lankford had been able to let his family know by 1944 that he was a POW. They just didn't know where he was or under what conditions he had survived.

"I was lucky. Most of the POW families never knew their soldiers were alive until they got back to America."

He took six months to recover in an Augusta hospital. After a short time at home, Lankford decided to make the Air Force a career.

Today, a building at McGhee Tyson Air National Guard Base is named for Lankford. It houses all of his medals, and he plans to be buried there. The tombstone is already up.

But he is at peace now.

"For the first four or five years after I came home, I hated the Japanese," he said.

"Then I got to thinking about it. Why should I hate them? It didn't have anything to do with the war."

He and his wife, Edna, of 59 years, returned to Japan in 2001.

"It was no problem, really," he said. "I feel very fortunate that I got to speak to the Japanese people again."

But that hasn't stopped the nightmares. He still sees the brutal guards and their nicknames in his dreams. "The Bull," was one, he said.

"We knew who to stay away from."

Some nights in the early months after his return, said Edna, her husband would scream out and grab her by the throat.

And then Paul Lankford would wake up. He was back home and not in Manchuria, dodging the Bull.

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# ESTABLISHMENT OF THE MUSEUM OF THE HISTORY OF POLISH JEWS IN WARSAW, POLAND

## HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. ROS-LEHTINEN. Mr. Speaker, I rise in strong support of a Resolution which I cosponsored, and which was introduced today, recognizing the establishment of the Museum of the History of Polish Jews in Warsaw, Poland. This museum celebrates 900 years of Jewish life in Poland and commemorates the millions of Polish Jews killed during World War II.

The Holocaust proved to be one of the most horrendous offenses against humanity. In total, an estimated 6,000,000 Jews, more than 60 percent of the pre-World War II Jewish population of Europe, were murdered by the Nazis and their collaborators in Poland and throughout Europe.

As the epicenter for European Jewish culture and arts, Poland was home to 3.3 million Jews prior to World War II. The Nazis established their largest concentration camp in Poland at Auschwitz, At a minimum, 1.3 million people were deported to the camp between 1940 and 1945, and at least 1.1 million were murdered there.

I applaud and commend the Government of Poland's support of the Museum of the History of Polish Jews in Warsaw, and its commitment to Holocaust education. In addition, the philanthropic efforts by a number of companies and organizations cannot be ignored.

Mr. Speaker, we must never forget the tragic events that led up to the Holocaust and we must urge all countries and all peoples to strengthen their efforts to fight against racism, anti-Semitism and intolerance around the globe.

If we do not remain committed to teaching the lessons of the Holocaust for future generations, then history will be doomed to repeat itself. The Museum of the History of Polish Jews serves as an important element to ensure future generations will remember the 900 years of Jewish culture in Poland and their sacrifices.

## CONGRATULATIONS TO NOUREDDINE BOULOUHA, NEW AMERICAN CITIZEN

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. PAYNE. Mr. Speaker, I would like to ask my colleagues here in the United States House of Representatives to join me in congratulating Mr. Noureddine Boulouha on becoming a U.S. citizen.

Mr. Boulouha, who took his citizenship oath on June 1, 2005, came to the United States from Morocco 6 years ago. He quickly established himself as a valuable member of the local community. In addition to pursuing academic studies, he holds the position of Senior Vice President for Marketing and Operations at Amena Consulting. His engaging personality and impressive knowledge of American politics make him a popular figure at the Monocle Restaurant on Capitol Hill. He and his wonderful wife, Catherine, have just purchased their first home.

Mr. Speaker, we are all fortunate to live in this land of opportunity, and Noureddine Boulouha embodies the qualities that have made our Nation great: a spirit of entrepreneurship, industriousness, devotion to family and love of country. It is a pleasure to welcome him as a fellow American citizen.

## NATIONAL RECOVERY MONTH

### HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. ENGEL. Mr. Speaker, I rise today to call attention to the commemoration of the 16th annual National Recovery Month this September. National Recovery Month serves as an important reminder of the benefits of treating alcohol and drug use. It promotes the message that recovery from alcohol and drug use disorder in all its forms is possible and lauds the collective effort that goes into achieving such recovery.

Substance abuse and substance dependence create substantial health risks not only to the individual, but also to other community members in that individual's life. According to the U.S. Department of Health and Human Services, as many as 63 percent of Americans admit that addiction to alcohol or illicit drugs has had an impact on them at some point in their lives. This may include either their own personal addiction or that of a friend or family member. In 2003, an estimated 22.2 million Americans age 12 or older were considered in need of treatment for an alcohol or drug use disorder. Substance abuse is not only linked to chronic health problems, but also with other problems such as unemployment, crime, homelessness, and the HIV/AIDS epidemic.

These disorders can be treated, and the treatments leading to recovery are as successful as treatments to other medical conditions such as high blood pressure or asthma. Recovery, or the process of initiating and maintaining abstinence from drug use, requires persistent and often multiple courses of treatment, including behavior based therapies and for some, medication. Unfortunately, many people who are in need of treatment do not receive it.

National Recovery Month 2005 heightens awareness of the need to improve the process of assessing abuse problems and referring people to appropriate treatment. It is imperative that families are provided with the support services they need, that appropriate treatment is affordable, and that access to treatment options are more readily available.

Addiction is a real and complex disease, one which impacts the individual, family, and community. Our esteemed former colleague, Congressman Michael Forbes, was directly impacted by the substance abuse of a beloved family member, one of my constituents. Carrick Forbes of Hastings-on-Hudson is a courageous young woman who overcame her addiction problems and successfully rebuilt her life. Her recovery serves as an example of the importance of treatment and the need to support more programs and initiatives to help our friends, family, and members of our community.

## HONORING DAVID J. RUDIS

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. EMANUEL. Mr. Speaker, I rise today to congratulate Mr. David J. Rudis on his being honored by the Jewish Community Centers of Chicago at their annual Hall of Fame Heritage Society Luncheon.

David Rudis is a distinguished resident of Glencoe and has contributed greatly to the Chicago area Jewish community through his entrepreneurship, energy, and warm heart. His ability to fulfill the dual role of business leader and philanthropist is truly remarkable, and he has worked tirelessly to enhance the effectiveness of local civic, educational, and cultural organizations.

As the president of Personal Financial Services at LaSalle Bank, David is highly regarded in Chicago's business community. He sits on a number of important committees for the bank, which is among the largest in the nation. He also oversees strategic growth and development for LaSalle Bank.

David's contributions extend far beyond his business acumen. He is tirelessly devoted to the future and vitality of his community and actively participates in many charitable organizations.

He has held leadership positions at a wide array of community organizations, from the Merit School of Music to the Standard Club of Chicago. David has always been a strong supporter of Chicago Public Radio. He is a former chairman of the Governing Board of WBEZ, and he is currently a member of the WBEZ Executive Board. He is also a well-respected and active member of the Board of Directors of the Jewish Federation of Metropolitan Chicago.

Mr. Speaker, on behalf of the Fifth Congressional District of Illinois I thank David J. Rudis for his many outstanding contributions to our community. His efforts have had a profound impact on the lives of his co-workers, friends, and family. I wish him continued success in his business and philanthropic endeavors.

## WALLACE "MONK" SANFORD III, 2005 VIRGINIA FARMER OF THE YEAR

### HON. ERIC CANTOR

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CANTOR. Mr. Speaker, I rise today to recognize my constituent Wallace "Monk" Sanford III of Orange, Virginia, who has been selected as the 2005 Virginia Farmer of the Year and will compete in October to be named the Southeastern Farmer of the Year by the Lancaster/Sunbelt Expo.

Mr. Sanford is most deserving of this honor, as he not only runs a successful dairy and beef cattle operation, but he also proudly and honorably represents a way of life that has helped define Virginia for nearly 400 years. Fittingly, the image of the barn and silos of Mr. Sanford's farm, Kenwood, will appear on a new Virginia license plate that celebrates the rich agricultural heritage of the Commonwealth.

Mr. Sanford began farming full time at Kenwood when he graduated from high school in 1965, and in 1975 became a partner with his parents in the farm. Kenwood is now twice the size it was in 1975, and Mr. Sanford has plans to increase its operation further. But Mr. Sanford's success should not be measured by his farming operation alone.

He is also a tireless advocate for the agricultural community, participating in and serving on the boards of numerous local and statewide agricultural organizations, including the Maryland & Virginia Milk Producers Cooperative Association, of which his farm was a founding member. Mr. Sanford also speaks up for standards and regulations that he believes will impact the survivability of agribusiness.

Mr. Speaker, I hope you will join me in recognizing Wallace "Monk" Sanford III—a man whose dedication to honest, hard work and commitment to his community embodies not only Virginia's proud history, but also our American spirit.

## HONORING DON RANDEL, PRESIDENT OF THE UNIVERSITY OF CHICAGO ON BECOMING PRESIDENT OF THE ANDREW W. MELLON FOUNDATION

### HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. LIPINSKI, Mr. Speaker, I rise today to honor Don Michael Randel, president of the University of Chicago, on his recent acceptance to the appointment as the president of the Andrew W. Mellon Foundation.

Under his leadership of Don Randel, the University of Chicago has undergone a major process of rejuvenation through one of the most successful fundraising ventures in the university's history. With new building additions and upgraded research facilities, the University of Chicago enhanced its reputation of being one of the leading research institutions in the world.

With over three decades of commitment to the arts and humanities, along with being the president of one of the top universities in the nation, Don Randel has made himself an outstanding candidate for the position to serve the Andrew W. Mellon Foundation. Before becoming president of the University of Chicago, Don Randel served the community of Cornell University for 32 years as a music professor, dean of the College of Arts and Sciences, and most prestigiously as the provost of Cornell University. For the past 5 years, Don Randel has served the University of Chicago, leading many efforts to improve and enhance the academics as well as the university's fundraising program.

The Mellon Foundation was established in 1969 through the consolidation of the Old Dominion Foundation and the Avalon Foundation. It makes grants principally in five core areas: higher education and scholarship, library and scholarly communications, conservation and the environment, museums and art conservation, and the performing arts.

It is my honor to recognize Don Michael Randel for his many achievements both within and outside of the academic community, fostering the growth of a leading research institution, and helping create change and promote progress in today's society.

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## REMARKS OF THE FIRST LADY, LAURA BUSH, AT THE DAY OF REMEMBRANCE COMMEMORATION

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. LANTOS. Mr. Speaker, on Thursday, May 5, 2005, the annual ceremony to observe Yom Hashoah, the Day of Remembrance for victims of the Holocaust, was held in the Rotunda of the United States Capitol. This year's theme, "From Liberation to the Pursuit of Justice," commemorated the 60th anniversary of the Allied liberation of the Nazi concentration camps as well as the beginning of the prosecution of war criminals at Nuremberg, Germany. Members of Congress joined with representatives of the diplomatic corps, executive and judicial branch officials, and hundreds of Holocaust survivors and their families to commemorate the anniversary of this historical triumph.

This moving ceremony featured a stirring address by distinguished First Lady Laura Bush. As a proponent of tolerance and freedom, and the daughter of a liberator of the Nazi concentration camp at Nordhausen, Laura Bush champions the call to teach America's youth about the horrors of the Holocaust. She reminds us that we must honor the memory of the victims of Hitler's twisted tyranny so that current and future generations will always remember the dark atrocities of the Holocaust and never repeat them.

I ask, Mr. Speaker, that the outstanding address of First Lady Laura Bush be placed in the CONGRESSIONAL RECORD, and I urge my colleagues to study and ponder her thoughtful remarks.

REMARKS AT THE DAY OF REMEMBRANCE COMMEMORATION BY FIRST LADY LAURA BUSH

Thank you, Fred Zeidman and Ruth Mandel, for your leadership of the U.S. Holocaust Memorial Council. Thanks to the Members of Congress who are here with us, as well as the members of the diplomatic corps. Thank you, Susan Eisenhower, for representing your grandfather, who was a hero of freedom. I particularly want to express my gratitude to the survivors and the liberators who bear living witness to the Holocaust. Your presence is evidence that good will always triumph over evil.

Four years ago, I accompanied my husband here when he delivered remarks to observe the Day of Remembrance. My mother was with us that day, and neither of us knew when we came to this ceremony that the flags of the liberating units would be brought into the Rotunda. When we saw the Timberwolf on the 104th Infantry Division, we immediately recognized it as the symbol of my father's World War II unit. It was moving and it brought back a flood of memories. I'm honored to be here again today this year to see these proud flags of liberation.

The men and women of the Allied forces were fighting evil and cruelty. Six million Jews perished in the Holocaust. They were stripped of their dignity and robbed of their lives solely because of who they were and the faith they practiced. It was not the first time evil men had sought the destruction of the Jewish people. Even today, we see incidences of anti-Semitism around the world. The survivors of the Holocaust bear witness to the danger of what anti-Semitism can become, and their stories of survival remind us that when we are confronted by anti-Semitism, we must fight it.

The scope of the horror of the death camps emerged 60 years ago as Allied troops liberated the survivors. First Majdanek. Later Auschwitz, Birkenau, Buchenwald. One by one, the gates opened to reveal the horrors inside, and then to let in the light.

Survivors stepped forward to describe what had occurred, and then to carry forward the memory of mothers, fathers, children, and friends who were the victims. The liberated saw troops wearing the uniforms of many nations, and viewed them as "angels from heaven."

The liberators brought freedom. They also brought dignity. Men and women in the camps had been treated as less than human. They were given numbers for identification. They were deployed for slave labor and tossed aside when they could no longer work.

When the liberators came, simple acts gave rise to profound joy. A survivor named Gerda Weissman Klein recalled her liberation in an interview recorded in this Museum. An American soldier greeted Gerda and asked, "May I see the other ladies?" After six years of being addressed with insults and slurs, to be called a lady was an overwhelming courtesy. The soldier asked her to come with him, and Gerda said, "He held the door open for me and let me precede him, and in that gesture restored my humanity."

A survivor named Alan Zimm remembers the Allied soldiers who liberated him from Bergen-Belsen. They called to the people inside the camp in many different languages, each time with the same simple message: My dear friends, from now on, you are free.

The liberators themselves remember the scenes. They also became keepers of memories, witnesses to the evil. Few could comprehend what they saw. Young men, many in their teens, hardened by years of fighting their way across Europe, at the camps they wept for the people they met. One American who participated in the liberation of Dachau recalled that with just one look at the survivors, he quotes, "We realized what this war was all about."

Many of the soldiers returned home, unable to talk about their experiences at the camps. The emotions were too raw, the images too painful. Words could not fully convey what happened.

My father's unit, the 104th Infantry, helped to liberate the camp at Nordhausen. My father is no longer living, but when I used to ask him about that time, he couldn't bear to talk about it. I think in retrospect, he couldn't bear to tell his child that there could be such evil in the world.

As survivors and liberators leave us, the work of preserving their memories is all the more urgent. Staff and volunteers from the United States Holocaust Museum have conducted thousands of interviews to gather information from eyewitnesses. The information is available to all who seek it. Over the last 12 years, 22 million visitors have walked through the museum. Each year, 150,000 teachers receive training on how to educate children about the Holocaust. The museum has sent survivors to speak to more than 15,000 members of the armed forces at more than 40 military installations.

The museum is our national effort to honor the survivors, the liberators, the victims and the families affected by the Holocaust. It's fitting that it sits on the National Mall, near great monuments to democracy. The lessons of tyranny and liberty that lie at the heart of the Holocaust remind us that preserving freedom requires constant vigilance.

Other museums and memorials exist throughout America and around the world. Some are small and private, located in the hearts and homes of families who cherish their heritage. Others bring communities together to explore the impact of the Holocaust.

I learned of the efforts of a group of teachers and students in Whitwell, Tennessee. Whitwell is a rural town of about 1,600 people, most of them Christian. Students and staff at Whitwell Middle School began studying the Holocaust to explore, as one teacher described it, "what happens when intolerance reigns and when prejudice goes unchecked."

The students at Whitwell had trouble grasping the magnitude of the Holocaust. When thinking about the Jews who lost their lives in the concentration camp, one student asked, "What is six million?"

In the course of their research, the students discovered that during World War II, the people of Norway wore paper clips on their clothing in silent resistance to the Nazi aggression. Whitwell's students decided to collect six million paper clips so that they could visualize what a staggering number six million really is.

They ultimately collected 30 million paper clips. The school acquired a World War II-era German railcar, one used to carry people to the camps. Today, the railcar sits on the grounds of Whitwell Middle School, holding 11 million paper clips, to represent the victims of Nazi persecution.

But of course, what's important about the paper clips are the stories that accompanied them. Eyewitness accounts poured in from survivors and liberators, from men and women who had never known their grandparents, or who had lost their siblings. Survivors visited Whitwell to relate their experiences, and to help ensure that the lessons of the Holocaust reached even a small Appalachian town.

A center of Holocaust awareness and memory now sits in one of the least likely places. A movie called "Paper Clips" was produced to document the Whitwell project. Students give tours of their railcar memorial and pass along the knowledge they've gained. Teachers from the Whitwell have spoken to students in German schools, and they visited concentration camps.

When President Bush and I visited Auschwitz, I realized that there are things textbooks can't teach. They can't teach you how to feel when you see prayer shawls or baby shoes left by children being torn from their mothers, or prison cells with the scratch marks of attempted escape. But what moved me the most were the thousands of eyeglasses, their lenses still smudged with tears and dirt. It struck me how vulnerable we are as humans, how many needed those glasses to see, and how many people living around the camps and around the world refused to see. We see today and we know what happened and we'll never forget.

Later this week, President Bush and I will visit the Rumbula Holocaust Memorial in Latvia—the site of the second-largest massacre of Jews perpetrated by the Nazis during World War II. Whenever and wherever we remember the victims of the Holocaust, we deepen our commitment to tolerance and freedom. In Whitwell, Tennessee, in Washington, DC, at Yad Vashem, at Auschwitz—new generations are honoring those ideals simply by looking and learning and listening. The voices of the survivors and liberators will one day be silent, but their testimony will be heard forever. Thank you, and may God bless you all.

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## MARCUS GARVEY—HAPPY BIRTHDAY TO A LEGEND

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. RANGEL. Mr. Speaker, on August 17th a very important occasion will be observed—the 118th birthday of Marcus Garvey. Marcus Garvey is widely considered a monumental figure in world and American history. In the 1920's, his message of unity, cultural pride, and self-sufficiency inspired millions of people around the world.

In this country, Garvey's message of pride in heritage and identification with African roots inspired African Americans at a time when we were oppressed by the impact of slavery and segregation. The Harlem based movement he started with the Universal Negro Improvement Association (UNIA) during the early 1900's is still the largest that the modern Black world has ever seen.

His efforts would be a major impetus in the later movements that would free black peoples from the shackles of colonization and legalized discrimination. Indeed, his life and philosophy were embraced by influential Black leaders of the 20th century such as Kwame Nkrumah, Malcom X, and Martin Luther King. He is a national hero of almost mythic proportions in his native Jamaica, and was an inspiration for the Rastafarian movement in Jamaica during the 20th century. Indeed, his praises have been sung in reggae songs up to the present day.

Despite his future impact, the America in which he lived was a much different place then it is today. African Americans did not have rights, and were expected to accept their inequitable position in society. Many became threatened by the size and implications of Marcus Garvey's movement, and he soon became the target of significant government harassment, led by a young J. Edgar Hoover. Eventually, Mr. Garvey was convicted on a single charge of mail fraud—a charge that experts agree was spurious.

Marcus Garvey has been an inspiration to me since I was a child. I was born, raised, and still live in Harlem, where Garvey established the Headquarters for the Universal Negro Improvement Association. Though I was born three years after Garvey was, deported from the United States, his imprint on Harlem was still evident throughout my childhood and adolescence. I often met followers of Garvey's movement, known as Garveyites, who would preach his philosophy. Their words encouraged me to do my own research. As I grew older, I came to fully understand the importance of Garvey and the injustice of his wrongful conviction.

Since 1987, I have endeavored to restore the good name of Marcus Garvey, and my effort is continuing in the 109th Congress. I now have the support of an ever-increasing number of individuals, organizations, constituencies and legislators. Cities from Hartford, Connecticut to Lauderhill, Florida have passed resolutions calling for Mr. Garvey's exoneration, and Representative RANGEL's current Marcus Garvey resolution, H. Con. Res. 57, has garnered the most House support since it was first introduced in 1987.

A Presidential pardon is the final and most important step in restoring the good name of Marcus Garvey and preserving his legacy for future generations. To that end, I sent an official request to President Bush this week urging the granting of a posthumous Presidential pardon to Marcus Garvey. It is my hope that President Bush will take the time to investigate the merits of my request, as such consideration on behalf of Marcus Garvey is long overdue. I will also attend a ceremony in St. Ann's Bay, Jamaica—the birthplace of Marcus Garvey—in August, to commemorate the 118th anniversary of Mr. Garvey's birth.

We here in the House recently passed a resolution, H. Con. Res. 175, which acknowledged African descendants of the transatlantic slave trade in all of the Americas and recommended that the United States and the international community work to improve the situation of Afro-descendants in our hemisphere. That was one of the goals of Marcus Garvey—the improvement of Afro-descendents. As we continue to make progress on that front, we must continue to remember Marcus Garvey, and restore to him the honor which he deserves.

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## RECOGNIZING THE 40th ANNIVERSARY OF THE LANDMARK VOTING RIGHTS ACT OF 1965

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. TOWNS. Mr. Speaker, I rise today in full support of H. Con. Res. 216, which seeks to advance the legacy of the Voting Rights Act of 1965.

Ninety-five years after the passage of the Fifteenth Amendment, African Americans in the South still faced tremendous obstacles to voting, including poll taxes, literacy tests, and other bureaucratic restrictions designed to disenfranchise them. In addition, they risked harassment, intimidation, economic reprisals, and physical violence when they tried to register or vote. As a result, few African Americans were registered voters, and consequently wielded little, if any, local or national political power.

In the aftermath of "Bloody Sunday", where the rights of nonviolent civil rights marchers were brutally abridged, our nation recognized that democracy was not yet fulfilled for African-Americans. President Lyndon B. Johnson was then prompted to encourage Congress to draft a comprehensive voting rights bill. The outcome was the Voting Rights Bill of 1965, enacted on August 6, 1965. It took direct aim at black disenfranchisement in the South by targeting areas, such as Alabama, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia, where fewer than 50 percent of eligible voters participated in the election. In these areas, the Federal Government was then authorized to appoint examiners to conduct the registration process, in the place of local officials. It has been argued, by the Department of Justice, that the influx of "federal registrars represented the ultimate triumph of national policy toward minorities over state and local policies." Mr. Speaker, I contend that it was the long overdue enforcement of the rights provided in the Fourteenth and Fifteenth Amendments.

It is clear that the effects of the voting rights law were immediate and extensive. By 1967 black voter registration in six southern states had increased from 30 percent to more than 50 percent. There was also a correspondingly sharp increase in the number of blacks elected to political office in the South. Furthermore, in 1976, when Democrat Jimmy Carter was elected President of the United States by a narrow margin, the "newly-enfranchised southern blacks" were deemed to be largely responsible.

Although this legislation is of particular significance to African Americans, it is truly a landmark law, which secures the franchise for all Americans regardless of "race, color, or previous condition of servitude." As we approach the 40th Anniversary of the Voting Right Act, it is important that we remember to uphold and strengthen the tenets of this Act and in doing so preserve our constitutional rights.

We should never forget the sacrifices made by the activists of the Civil Rights Movement, and therefore strive to continually advance their legacy in this era.

## HONORING THE LIFE OF EARL MACPHERSON

### HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. WALDEN of Oregon. Mr. Speaker, colleagues, I rise to pay special tribute to the life and spirit of an outstanding community leader, Mr. Earl MacPherson. Earl passed away on July 10, 2005, at his home in Medford, Oregon. He is survived by his wife, Lyn; daughters, Laura and Adrienne; son, Ronald; and step-son, Robert. On behalf of the constituents of Oregon's Second Congressional District, my family, and myself, I offer deepest condolences to his family for their loss.

Earl's passing, after a life replete with civic accomplishments, concludes a remarkable string of military and volunteer service that set a commendable standard for other leaders and volunteers to follow. His legacy and contributions to southern Oregon veterans and seniors will live on for generations to come.

With service in the United States Marine Corps, the Oregon Army National Guard and the Oregon State Defense Force, Earl dedicated 50 years of service in defense of our Nation during World War II, the Korean and Vietnam wars. In 1944, following the Battle of Saipan, he received the Purple Heart medal for wounds sustained during an enemy grenade attack.

Ever the warrior, Earl spent the past 30 years championing the causes of, and lending his voice to, his fellow veterans. He was the founder and chairman of the Jackson County Allied Veterans Council, organized and started Medford's annual Veterans' Day parade and was instrumental in establishing the annual Southern Oregon Stand-down event to aid homeless veterans. In addition, Earl was an active member of some fifteen different veterans' organizations, including his beloved Marine Corps League. Mr. Speaker, I cannot begin to list all of his accomplishments as a volunteer. In fact, I last had the pleasure of seeing Earl at the dedication of the Medford Veterans Park Memorial, a fitting final project for an unparalleled veterans' advocate.

Earl's focus on community involvement extended beyond veterans' concerns. Since 1991, he had served on the Board of Directors of the Medford Senior Center. Under his guidance, this vitally important facility became a well spring for the mental, physical, and social health of thousands of Jackson County seniors.

Samuel Logan Brengle, the legendary leader in the Salvation Army, once spoke the following words that reflect Earl's character and life. He said, "The final estimate of men shows that history cares not an iota for the rank or title a man has borne, or the office he has held, but only the quality of his deeds and the character of his mind and heart." Indeed, Earl MacPherson has exemplified these ideals through his service, sacrifice and commitment to his country and his community.

## MEXICAN POSTAL SERVICE'S ISSUANCE OF THE "MEMIN PINGUIN" STAMPS

### HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CUMMINGS. Mr. Speaker, I would like to thank Representative CLEAVER and the Congressional Black Caucus for bringing focus to this sensitive issue.

The Mexican government's decision to release the "Memin Pinguin" stamp series has rekindled many memories of past racism in this Nation and abroad. I am outraged and disappointed that Mexico's President, Vicente Fox, has allowed such a negative racial depiction to circulate throughout Mexico.

Growing up during the heart of the Civil Rights Movement, I saw firsthand the struggles of my parents and many others more famous, like Representative JOHN LEWIS of Georgia, Martin Luther King, Jr., Thurgood Marshall, and many others that fought for the equal and fair treatment for all people, not just African-Americans. To publish a stamp that celebrates a stereotypical image of people with African ancestry is offensive to those who have fought and to those who are still fighting for the equal treatment of all people.

The "Memin Pinguin" depicts a young boy with much exaggerated features including large lips and bulging eyes. These depictions have served as a source of distasteful comedy for far too many years. This Mexican stamp series does nothing but hinder the ongoing efforts to remove racial barriers worldwide. The ideology expressed in this stamp shows the world that it is okay to mimic and belittle people, which is something that I know this Congress and this country do not condone.

Mr. Speaker, it is hard for me to explain to the constituents of Maryland's 7th District, which includes a growing South American population, as well as a sizeable African-American population, how the Mexican government justifies the distribution of such a derogatory stamp—that could possibly be mailed worldwide.

Our own administration has stated that these racially insensitive stamps have no place in the modern world.

Conversely, Mexico's President Vicente Fox has stated that he does not feel that the stamps express racial stereotypes and has ignored all calls to pull them from circulation. Additionally, he has stated there is absolutely nothing discriminatory about this stamp collection.

In May 2005, President Fox said that, "Mexican migrants in the U.S. did jobs even blacks don't want." President Fox's comment was a slap in the face to all American citizens who believe in justice and equality worldwide. Today, as we face the new world on terror, people of all races, nationalities and backgrounds are forming powerful political and economic coalitions. The comments and actions of President Fox do nothing to strengthen the bonds in these communities.

Additionally, Mr. Speaker, many civic organizations are disturbed by the release of the "Memin Pinguin" series and the subsequent comments made by the Mexican government. The NAACP has called the stamps "injurious to black people who live in the United States and Mexico." The Mexican Negro Association, which represents some 50,000 blacks, said "Memin Pinguin rewards, celebrates, typifies and cements the distorted, mocking, stereotypical and limited vision of black people in general."

These groups, in addition to various other civil rights groups have demanded, but to no avail, that President Fox apologize for his actions. I agree with these groups and support their efforts to not only have President Fox immediately cease the circulation and production of this stamp, but to also hold himself accountable for the inflammatory statements he has made against African-Americans.

In response to the public outcry, the Mexican Ambassador to the United States Carlos de Loaza released a letter. In the letter Ambassador de Loaza writes, "Mexico acknowledges and recognizes the relationship of mutual respect that it has with the African-American community, based on the struggle to protect our communities against discrimination and in the promotion of human rights and diversity."

While I appreciate the sentiments expressed in his letter, I believe that actions speak louder than words. If President Fox wants to show the level of respect that he has, for not only the African-American community, but for all people, I would request that he issue a formal apology and halt all sales and production of the "Memin Pinguin" stamps.

The insensitivity embedded in the circulation of the "Memin Pinguin" stamps are a clear indication that we still have a long way to go in improving race relations globally. It is truly disheartening when a world leader possesses apparent racial and cultural insensitivity and lacks the humility to apologize when there is nothing to lose.

The 750,000 stamps that were sold out after two days represent 750,000 symbols of ignorance and bigotry. Since the civil rights era, we have worked hard on healing as a Nation—we must not revert to the hatred and injustice of the past. These stamps are a haunting memory of America's iniquity that we should never revisit.

## TRIBUTE TO SHIRLEY ELLIOTT

### HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. ROGERS of Kentucky. Mr. Speaker, I rise today to pay tribute to Mr. Shirley Elliott, an exceptional Kentuckian. Elliott, a 72-year-old deputy sheriff, has served and protected the people of Knox County with distinction for 35 years. A man this committed to the safety and well being of his community deserves our recognition.

Like many eastern Kentucky teenagers from his generation, Elliott was prepared to work in the dark coal mines of Appalachia. He began helping his father haul coal out of the mines at the age of 15. In 1970, while he worked at a coal tipple in Knox County, he received an offer from then-Sheriff Jim Matt Mooneyham to become deputy sheriff. After a short time on duty, Elliott knew he had found his lifelong calling.

Thirty-five years later, Elliott is a pillar of the community that he serves and protects. The community and law enforcement officers in Knox County hold him in high regard, and he has earned a reputation as a mediator. Current Sheriff John Pickard recently told a Kentucky paper, "He's probably the best I've ever seen at calming a dangerous situation." Elliott says his strategy involves simply giving people time and space to cool off. During 35 years of service, he has never had to fire his .44-caliber Smith & Wesson during a potentially dangerous encounter.

Deputy Sheriff Elliott no longer works the night shift, which leaves more time for him to work in his garden and spend time with his wife Nikki and their children and grandchildren. He has considered retirement, but, for now, continues to proudly wear his badge.

Mr. Speaker, on behalf of my colleagues and myself, I want to thank Deputy Sheriff Shirley Elliott for his sacrifice and service on behalf of the people of Knox County, Kentucky. His dedication and integrity are an inspiration to us all.

## CARIBBEAN EMANCIPATION DAY

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. RANGEL. Mr. Speaker, I rise today to join in the Caribbean celebration of the 167th anniversary of their emancipation from slavery, which was achieved on August 1, 1838. This day of celebration and love for freedom is commemorated by the former British colonies in the Caribbean in appreciation of their collective independence. No longer were the inhabitants of Jamaica, Trinidad and Tobago, or the rest of the West Indies held in bondage as slaves in their homeland. No longer were they unjustly enchained at the hands of the European colonists.

Emancipation Day in the Caribbean is akin to Juneteenth Day for African-Americans. It is a time to recognize and celebrate our independence and freedom. Emancipation Day provided the Caribbean people with opportunities to direct and control their daily lives and to live and strive for greater independence.

I have long believed that the struggles for freedom of African-Americans and Afro-Caribbeans were connected. Slavery and injustice have been our common experience. Slavery drew lines between slaves and masters that would be difficult to break. We—African-Americans and Afro-Caribbeans—still struggle with breaking those barriers, stereotypes, and misperceptions that are the vestiges of the transatlantic slave trade. The major difference is the history and mechanisms at our disposal for the erosion of these ill effects.

For Afro-Caribbeans, Emancipation Day has emerged as an important reminder of their struggle and a significant enforcer of their dreams to be a better people. It is a reminder of their strength, determination, and willpower in fighting against their oppressor.

There is a famous story in the Caribbean that I like to tell around this time. It is about a young lady who was brought to the shores of Jamaica to work as a slave by the British in the early 1700s. Like the Caribbean countries themselves, her roots were African. Her name was likely Ashanti as she hailed from that great African kingdom, but upon arriving she was stripped of her given name and was known among her fellow slaves simply as "Nanny." The lost of name, heritage, and history is a practice that has long afflicted Africans in the Americas as a result of the brutal and tragic transatlantic slave trade.

While slavery existed outright in the Caribbean until 1834, and then under the name of "apprenticeship" until 1838, Nanny resisted it at every opportunity. Soon, after her arrival in Jamaica, she displayed that Caribbean proclivity for cutting her own path and escaped from her master's plantation with her five brothers. Granny Nanny of the Maroons, as she is popularly referred to today, traveled around the countryside organizing free Africans in the towns of Portland, St. James, and St. Elizabeth. She eventually established Nanny Town and based the community's governance on the Ashanti society. She held fast to her culture and incorporated into her new world.

Nanny was small and wiry, like many of the Caribbean nations. She was also singularly focused in her pursuit of self-determination. The vast British military presence on the island launched numerous attacks on Nanny and her comrades, hoping to force them back into slavery. For nearly 20 years, Nanny evaded the British and withstood their aggressions. She placed guards at lookout points, sent spies to live among the slave populations, and ordered her fighters to dress like trees and bushes to avoid detection. Slave resistance and rebellions were not just an American phenomenon.

In 1737, the British offered Nanny a truce. The maroons would be given land and rights as free men, but only if they promised to help capture and return runaway slaves, assist the government in putting down revolts, and cease their battles with the British. Their alternative would be to continue in their campaign against the massive British military, pitting 800 former slaves against the strongest army in the world at the time.

To proud, determined, and resourceful Nanny, this was an easy decision. She flatly turned down the British offer. Her freedom and the freedom of her people could not be bought. It would not be traded. It would not be negotiated away. She fought to her dying breath for that freedom and remains a powerful legend and force in the Caribbean today.

In that same vein, the nations of the Caribbean will not and have not wavered from their commitment to freedom. Go to Barbados, Nevis, the Bahamas, Antigua, Barbuda, Montserrat, Jamaica, Trinidad and Tobago, St. Vincent, Grenada and St. Lucia. There you will find the tales of Granny Nanny and her fight for freedom.

For centuries, the people of these countries refused to accept colonialism and fought stubbornly for their freedom in hideaways in cities, mountains, and forests. In 1838, the British gave up and emancipated the peoples of the Caribbean. The love of the Caribbean people for their freedom and the strength of majesties, like Granny Nanny, was too much to overcome.

When I think of the importance of Caribbean Emancipation Day, I think of the struggle and actions of individuals like Granny Nanny of the Maroons, the hero who typifies the spirit of these great nations. They remind me of American warriors such as Sojourner Truth and Harriet Tubman. Caribbean Emancipation Day belongs to the people of the Caribbean, but the celebration is truly an African celebration.

## RECOGNIZING THE 50TH ANNIVERSARY OF ROSA PARK'S COURAGEOUS OPPOSITION TO SEGREGATION

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. TOWNS. Mr. Speaker, I rise today in full support of H. Con. Res. 208, which recognizes the pivotal contribution of Mrs. Rosa Louise Parks. Mrs. Parks is best known as the seamstress who became a courageous activist and changed America forever with bold defiance of segregation. Although she has been portrayed as a quiet woman, her actions have spoken volumes. Her refusal, on December 1, 1955, to yield her seat to a white patron on a Montgomery, Alabama bus resulted in a charge of disorderly conduct. However, her action precipitated the famous Montgomery Bus Boycott, which brought Reverend Dr. Martin Luther King, Jr., to national prominence and prompted the U.S. Supreme Court decision to rule that segregation in public transportation is unconstitutional.

As a result, many regard her as the "Mother of the Civil Rights Movement." But there is far more to the story of the icon, Mrs. Rosa Parks. She was born on February 4, 1913 in Tuskegee, Alabama and educated at the Alabama State Teacher's College. Mrs. Parks and her husband, Raymond Parks, were very active in their local branch of the National Association for the Advancement of Colored People (NAACP). She, in particular, served both as secretary and youth leader. After the boycott, Mrs. Parks' civil rights advocacy did not end. In 1957, she moved to Detroit to continue her work through the Office of Congressman JOHN CONYERS, Jr. Then, in 1988, after leaving his office, she started the Rosa and Raymond Parks Institute for Self Development to motivate youth to reach their highest potential.

During the past four decades, she has continued to remind Americans of the history of the civil rights struggle. As a pioneer in the struggle for racial equality, subsequent generations owe her the sincerest appreciation. Although she is the recipient of innumerable honors, including the NAACP's Springarn Medal (1979), the Martin Luther King Jr. Nonviolent Peace Prize (1980), the Presidential Medal of Freedom (1996), and the Congressional Gold Medal (1999), we recognize the need for a national celebration of her contributions to the Civil Rights Movement.

Mrs. Parks is a living symbol of courage and determination and an inspiration to freedom-loving people everywhere. Since 2005 marks the 50th anniversary of her act of civil disobedience and the beginning of desegregation efforts throughout America, Mr. Speaker, it behooves us to recognize her this year. It is my hope that in celebrating Mrs. Parks, this great Nation will continue to uphold her legacy.

## HONORING THE CONTRIBUTIONS OF BARBARA JOHNSON

### HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. WALDEN of Oregon. Mr. Speaker, I rise today to pay tribute to Barbara Johnson, a trusted and dedicated member of my staff who has served the U.S House of Representatives and my constituents with distinction and an unswerving commitment to excellence.

Barbara keeps my district schedule in a meticulous fashion. Due to her efficient ways, I've never missed an official meeting on her scheduling watch. Every constituent seeking an appointment or my assistance receives a prompt and accurate response from Barbara, and visitors leave my office with a smile after dealing with her. Simply put, Barbara is a pleasure for people to work with and she's darn good at what she does.

In over three years of making district travel arrangements for me and my staff, there has never been a glitch. My colleagues can fully appreciate what a significant achievement that is. With a district larger than thirty-three states and my commuting back to my district every week, it is comforting to know that even the most ambitious travel schedule will go smoothly in Barbara's hands.

Mr. Speaker, as we all know, many times our constituents receive their first impression of us when they visit our offices. Barbara greets every visitor with a friendly smile and a warm welcome. People walking into my District Office know immediately from Barbara's cheerful demeanor and hospitable nature that they are welcome and are going to receive the best service I can render.

Although I could list many more of her significant contributions to our enterprise, her greatest asset is her ability to work with the fellow members of the team. She is always of good cheer and considerate of her fellow staff members. She is the calming force in stressful times and the mature, steady hand in any crisis. We tease her about being the "Mom," but without a doubt, she demonstrates that quiet and loving leadership that is often associated with an outstanding mother.

Sadly for our office and the residents of southern, central and eastern Oregon, at the end of this month Barbara will be leaving her service post in the United States Congress. Fortunately, she is moving on to new opportunities and a new phase in her very productive life. Although I am very happy that Barbara and her husband, Jim, will be enjoying the many new adventures that lie ahead for them, there is no doubt that Barbara will be sorely missed.

She leaves with my deepest gratitude for her service and the enduring friendship of all who have had the good fortune to work with her. She may be living in another city, but she will always be a member of our team.

## IN SUPPORT OF THE RESOLUTION COMMEMORATING THE 40TH ANNIVERSARY OF THE VOTING RIGHTS ACT OF 1965

### HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CUMMINGS. Mr. Speaker, on August 6, 2005, our Nation will commemorate a major milestone in our Nation's democracy: the signing of the 1965 Voting Rights Act. This bill, signed into law by President Lyndon Baines Johnson, ended an iniquitous era in our country that we should never revisit.

Mr. Speaker, we celebrate this bill because its mandate speaks to the most essential exercise of American citizenship—the right to vote.

If it were not for the Voting Rights Act, millions of Americans, particularly African Americans and other people of color, would not have access to this precious right.

I remember well the words of Dr. Martin Luther King Jr., as he and so many others sacrificed their lives for the creation of this bill: "The most revolutionary action our people can undertake is to assert the full measure of our citizenship."

His words ring with the same truth today.

As a result of the 1965 Voting Rights Act, States with a history of racial discrimination were forbidden from using illegal and biased tactics to determine an individual's eligibility to vote.

The 1965 Voting Rights Act also required these States to obtain Federal approval before enacting any election laws and assigned Federal officials to monitor the registration process in certain localities.

In the 40 years since the passage of this bill, the number of African American registered voters has increased dramatically.

Nationwide, the number of African American elected officials has grown from just a handful in the early 1960s to more than 9,000 today.

In addition, Americans of all ethnic backgrounds have found strength in the promise of the Voting Rights Act.

However, despite these accomplishments, it remains clear that America still has much work to do before the mandate of the 1965 Voting Rights Act is fully realized.

As we saw in the 2000 presidential election and as reported by the U.S. Commission on Civil Rights, there is a new brand of voter discrimination and intimidation.

As a result of inconsistent State voter registration laws, inefficient voter equipment and in many instances, subjective oversight at the polls, millions of Americans were denied their right to vote in 2000.

As recently as July 2004, it was revealed that Florida State officials were preparing to use an erroneous voter registration list for the November 2004 elections.

Although this voter list was abandoned, it reveals the gross inefficiency that continues to burden our elections process.

Today, we must not only celebrate the passage of the 1965 Voting Rights Act, we must breathe new life into this bill.

As several provisions of the Voting Rights Act of 1965 expire in 2007, namely the preclearance and bilingual provisions, I urge the President and this Congress to make certain reauthorization does not become a back burner issue.

Lastly, I applaud my colleagues of this body who are the stalwarts on the issues of civil rights and voting rights, particularly Representatives JOHN LEWIS, JOHN CONYERS and CHARLIE RANGEL. I also applaud Reverend Jesse Jackson and many other faith leaders who continue to stand up for civil rights and human rights.

Again, I say to my colleagues that we should use every resource in Congress, especially those resources encapsulated in the Help America Vote Act, to ensure that every vote that is cast is counted.

## THE CRISIS IN NIGER—WE STILL HAVE NOT LEARNED

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. RANGEL. Mr. Speaker, I rise to draw attention to the crisis taking place now in the nation of Niger. Niger is currently facing one ofthe worst hunger crises in its history following severe drought and the country's worst locust invasion in 15 years.

The World Food Program maintains that 3.6 million of Niger's 11.5 million people face food shortages, while 2.5 million are on the brink of starvation. Some families are trying to survive by eating leaves and wild roots. The most vulnerable are young children, with 800,000 "at risk", according to WFP. Medecins Sans Frontieres (MSF) reports that 10–15 are dying every week.

The United Nations' initial efforts to address the food crisis have been severely hindered by the slow response of the international community. It first alerted the international community to Niger's food shortages in November 2004. Subsequent appeals in March and May were both left unfulfilled. By July 2005 its $30.7 million appeal had still not been fully funded. Government officials in Niger and international aid workers say a slow response from donor countries to months of appeals has allowed the situation to spiral to emergency status.

Recent images coming from Niger over the last few days, along with increased calls from media and aid groups, has elicited an international response. Desperately needed food aid is now starting to get into the hands of the people, but more is needed. The U.S. announced on Tuesday, that it would be sending $7 million of food related assistance to the region, in addition to $1.6 million in emergency assistance it gave in May, and $4.6 million in overall 2005 assistance.

While this is welcomed, the slow pace of the response is cause for concern, especially after the Bush Administration announced in June that it would allocate $674.4 million in emergency food aid to Africa in 2005. Aid experts have asserted that the cost per person of addressing the Niger crisis has increased nearly 100 fold because of the delay in assistance.

Unfortunately, the situation in Niger had to deteriorate to a point where the world was again seeing emaciated children on the brink of death before it acted. This simply cannot continue to happen if we are to end the unnecessary occurrence of famine. Indeed, leaders in the field of humanitarian assistance are asking for a shift in the way that the world responds to such challenges.

A July 26th article in USA Today entitled "Aid Workers Say Niger Crisis Illustrates Need For Reform", includes the opinions of Clare Godfrey, head of humanitarian advocacy for the aid group Oxfam.

Ms. Godfrey argues that the United Nations should establish a $1 billion emergency famine relief fund to quickly respond to potential famine crises at the very first signs of trouble. Such a system would be much more cost effective, and prevent the unnecessary loss of life that we have seen in Niger. Ms. Godfrey further argues that such a mechanism could be agreed to at the upcoming U.N. Summit in September.

One could also argue that the famine fund approach may be a more efficient use of the $674.4 million in African emergency food aid which President Bush pledged in June. All one can say for sure is that the current international response to famine crises is inadequate—the people of Niger can attest to that.

[From USA Today, July 26, 2005]

### Aid Workers Say Niger Crisis Illustrates Need for Reform

(By Francis Temman)

London—Repeated U.N. appeals for money for Niger to save starving children were not answered until the situation became desperate, showing why the world needs to change the way it responds to humanitarian crises, aid workers say.

Donations have jumped dramatically in the last week because of increased media attention and TV images of the famine, U.N. humanitarian chief Jan Egeland has said.

Mike Kiernan, a spokesman for Save the Children USA, said children are especially vulnerable when food is in short supply, so the world must respond quickly.

"We believe that governments and the United Nations must and can do more to help protect children in every stage of a humanitarian esponse," Kiernan said Tuesday.

A key, he said, was mobilizing public opinion. He said Save the Children had seen an extraordinary response from Americans to appsals made on its behalf by actor Brad Pitt for another African country, Ethiopia.

John O'Shea, chief executive of the Irish aid agency Goal, said one way of shocking the world into action might be for the United Nations to declare itself incapable of responding.

He said the international community too often sits back and expects the United Nations to act as its "fire brigade"—which "it isn't."

"It's a collection of organizations, some good, some reasonably good, some bureaucratic, some full of corruption, some wasteful," O'Shea said. "The bottom line is they are not doing the job."

The United Nations first appealed for help for Niger in November and got almost no response. A March appeal for $16 million got about $1 million. A May 25 plea for $30.7 million has received $7.6 million—about 25 percent of the amount requested" U.N. officials say.

The British aid agency Oxfam said the United Nations should instead have a $1 billion emergency fund to draw on when it sees situations like the one in Niger developing.

Oxfam said the emergency fund should be adopted at a summit in September at which U.N. states are to consider proposed reforms.

"It's a real opportunity to change things around . . . how the world responds to crises like Niger," Clare Godfrey, Oxfam's head of humanitarian advocacy, said in an interview.

If the fund had been in place in November when the U.N. first pleaded for help for Niger, the money could have been drawn from it immediately, Godfrey said.

Hilary Benn, Britain's Cabinet minister for international aid, proposed such a fund last year, Godfrey said.

"The Nigers of the world won't happen again if there's commitment behind the rhetoric," Godfrey said.

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## RECOGNIZING THE 50TH ANNIVERSARY OF AMERICANS WITH DISABILITIES ACT

### HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. TOWNS. Mr. Speaker, 15 years ago, landmark civil rights legislation—the Americans with Disabilities Act (ADA)—was enacted to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.

As we celebrate the 15th anniversary of the Americans with Disabilities Act, we reaffirm the simple premise—and the law of the land—that every American has the right to live independently and to fully participate in all aspects of our society.

We also celebrate the hard-fought victories that have resulted in social inclusion so that individuals with disabilities will not be isolated and living separate lives. However, we would be remiss to think that all the barriers are behind us or that we are close to meeting the goals of the ADA.

Complete implementation of ADA policies is necessary, so that individuals with disabilities can obtain jobs for which they qualify. Full and equal access for individuals with disabilities in regards to education, governmental services, public accommodations, transportation, housing, and the right to vote must also be secured.

Let us remember, that this 15th commemoration of the ADA is our call to renew our efforts, to realize the promise of the ADA and to continue to work towards the restoration of full protections for disabled Americans.

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## SOLIDARITY ON 15TH ANNIVERSARY OF AMERICANS WITH DISABILITIES ACT

### HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. HOYER. Mr. Speaker, as we commemorate the fifteenth anniversary of the Americans with Disabilities Act (ADA), which occurred this week, I would like to share the attached Statement of Solidarity, signed by 170 national organizations and numerous state and local organizations. This Statement of Solidarity demonstrates the strong commitment in our nation for building upon the progress achieved in the first fifteen years after passage of the ADA, and continuing to strive to improve the lives of all Americans with disabilities.

### Statement of Solidarity on 15th Anniversary of Americans With Disabilities Act—July 26, 2005

Fifteen years ago today, with bipartisan support in Congress and broad endorsements from the civil rights coalition, President George H. W. Bush signed into law the Americans with Disabilities Act (ADA), calling for the "shameful wall of exclusion" to come tumbling down. As we mark this significant anniversary, we celebrate improvements in access to polling places and the secret ballot, government services and programs, transportation, public places, communication and information technology. Parents pushing strollers, workers delivering packages, and travelers pulling roller bags have grown accustomed to curb cuts, ramps, and other accessibility features less common in 1990. Our country is more accessible today thanks to the ADA, and all Americans are better off.

Although substantial progress has been made, we are reminded every day of the significant remnants of the "shameful wall of exclusion" that continue to prevent this great country from realizing the full promise of the ADA. The majority of Americans with disabilities continue to live in poverty and unnecessary isolation. Most adults with disabilities are either not working or not working to their full potential, robbing the economy of the contributions of tens of millions of would-be workers. Children and youth in special education continue to drop out of school in alarming numbers before obtaining a regular high school diploma. The promises of higher education, accessible and affordable housing and transportation, quality affordable healthcare, and a living wage continue to elude many adults with disabilities and their families. The ADA is slowly driving policy changes that have enabled more people with significant mental and physical disabilities to live independently in the community, but the ongoing institutional bias in the Medicaid program keeps too many people trapped in nursing homes and other institutions, unable to enjoy the freedoms and personal choices about where and how to live that other Americans take for granted.

New technologies are increasing the independence and productivity of many Americans. Yet, advances in technology alone are not guaranteed to improve the lives of people with disabilities. As we develop applications like Voice-over-Internet-Protocol (VOIP) telephony, wireless telecommunications, widespread broadband internet connectivity, new medical devices, new computer applications, and a plethora of new genetic tests, it is critical that these technologies be designed and used in a way that increases the inclusion, independence, and empowerment of Americans with disabilities as well as America's growing senior population.

The ADA has begun to change the landscape of our cities and towns, but a civil rights law alone does not create the kind of transformation of attitudes that Americans with disabilities, their families, and allies are fighting to achieve. This kind of change requires widespread discussion, education, and consciousness-raising.

In 2005, how do fears, myths, and stereotypes continue to artificially limit understanding and acceptance of disability as a form of human diversity? What role do the mass media and entertainment industries play in forming public perceptions of disability, and how can decision makers in these important fields be influenced to produce more content that depicts the actual life experience and first person perspectives of people with disabilities? What can be done to further improve accessibility at the design stage of new products and programs? How can disability awareness and disability-friendly practices create more productive places of business and learning? What concrete actions can worship communities and sports and recreation programs take to foster full participation of children, youth, and adults with disabilities in these activities?

Why do so many Americans continue to view disability as a fate worse than death, and how do these views affect surrogate medical decision making and the application of new genetic testing technologies?

These questions form the basis of an American conversation that still needs to take place.

Widespread social change cannot simply be legislated, and it will not occur without bold leadership from all sectors of American society.

Public and private employers, in particular, must make a serious, concerted effort to recruit and advance qualified workers with disabilities within their labor force.

Election officials must take the necessary actions to ensure that every adult is able to enter his or her polling place and cast a secret and independent vote.

School administrators and university presidents must embrace their responsibility to deliver a worldclass education to all their students.

It is time for leaders across America—business owners, little league coaches, moms and dads, sheriffs and clergy—to reject exclusion, paternalism, and segregation and to take personal responsibility for removing barriers to full participation that still exist in every community in this country.

With the aim of making America work better for everyone, the undersigned organizations pledge to build on the progress of the last 15 years and join together to promote the full participation and self-determination of the more than 50 million U.S. children and adults with disabilities. We believe that disability is a natural part of the human experience that in no way should limit the right of all people to make choices, pursue meaningful careers, live independently, and participate fully in all aspects of society. We encourage every American to join us in this cause, so that our country may continue on the path that leads to liberty and justice for all.

Signed (as of July 25, 2005):

NATIONAL ORGANIZATIONS

AAPD (American Association of People with Disabilities); AARP; Abilities, Inc.; ABILITY Awareness/ABILITY Magazine; ADA Watch/National Coalition for Disability Rights; ADAPT; AFL-CIO; ALDA, Inc. (Association of Late-Deafened Adults); Alliance for Children and Families; Alliance for Public Technology (APT); Alliance for Retired Americans; American Academy of Audiology; American Academy of Physical Medicine and Rehabilitation; American Association for Active Lifestyles and Fitness; American Association of Leisure and Recreation; American Association of Mental Retardation; American Association of the Deaf-Blind (AADB); American Association of University Women; American Association on Health and Disability; American Congress of Community Supports and Employment Services; American Council of the Blind; American Counseling Association; American Dance Therapy Association; American Diabetes Association; American Federation of State, County and Municipal Employees; American Foundation for the Blind.

American Institute on Domestic Violence; American Medical Student Association; American Medical Women's Association (AMWA); American Music Therapy Association; American Network of Community Options and Resources (ANCOR); American Occupational Therapy Association; American Psychological Association; American Public Health Association; American Therapeutic Recreation Association; Americans for Democratic Action (ADA); Amputee Coalition of America (ACA); APSE: The Network on Employment; Assistive Technology Industry Association (ATIA); Association of Assistive Technology Act Programs (ATAP); Association of State Independent Living Councils (ASILC); Association of University Centers on Disabilities (AUCD); Brain Injury Association of America; Campaign for America's Future; Center for an Accessible Society; Center for Disability Issues and the Health Professions (CDIHP).

Center on Disability and Health; Central Conference of American Rabbis; Chemical Sensitivity Disorders Association; Child Care Law Center; Christopher Reeve Paralysis Foundation; Coalition of Religious Communities; Common Cause; Consumers Union; Council of Citizens with Low Vision International (CCLVI); Disability Rights Education and Defense Fund (DREDF); Disability Service Providers of America (DSPA); Easter Seals; EIN SOF Communications; Enable America; Epilepsy Foundation of America; Ethel Louise Armstrong Foundation, Inc. (ELA); Exceptional Parent Magazine; Exploding Myths, Inc.; Family Voices; Fannie Lou Hamer Project.

Federally Employed Women; Federation of Families for Children's Mental Health; Friends Committee on National Legislation; General Federation of Women's Clubs; Gerontological Society of America; Hadassah, The Womens Zionist Organization of America; Inter-National Association of Business, Industry and Rehabilitation (I-NABIR); Judge David L.; Bazelon Center for Mental Health Law; Lawyers' Committee for Civil Rights Under Law; Leadership Conference on Civil Rights (LCCR); League for the Hard of Hearing; League of Women Voters of the United States; Legal Momentum; Lift, Inc.; Little People of America; Medicare Rights Center; MindFreedom Support Coalition International; Mobility Golf.

Mobility International USA (MIUSA); NAACP Legal Defense & Educational Fund, Inc.; National Asian Pacific American Legal Consortium (NAPALC); National Association for Visually Handicapped; National Association of Councils on Developmental Disabilities; National Association of Social Workers; National Association of State Head Injury Administrators; National Association of the Deaf (NAD); National Business & Disability Council (NBDC); National Center for Environmental Health Strategies; National Center on Domestic and Sexual Violence; National Chronic Fatigue Immune Dysfunction Syndrome Foundation (CFIDS), Inc; National Coalition Against Domestic Violence; National Congress of American Indians; National Consumers League (NCL); National Council of Jewish Women (NCJW); National Council of La Raza; National Council on Independent Living (NCIL); National Council on Rehabilitation Education.

National Council on the Aging; National Disability Rights Network; National Down Syndrome Congress; National Down Syndrome Society; National Employment Lawyers Association; National Empowerment Center (NEC); National Federation of Temple Youth; National Federation of the Blind; National Gay and Lesbian Task Force; National Health Law Program, Inc; (NHeLP); National Home Visitability Organization; National Indian Telecommunication Institute; National Industries for the Blind (NIB); National Multiple Sclerosis Society; National Organization For Women; National Organization of Nurses with Disabilities (NOND); National Organization on Disability; National Recreation and Park Association; National Rehabilitation Association; National Research Center for Women & Families.

National Spinal Cord Injury Association; National Women's Law Center; National Women's Health Network; 9to5, National Association of Working Women; NISH; Not Dead Yet; On a Roll Communications, LLC; Paralyzed Veterans of America; Parent Project Muscular Dystrophy; People for the American Way; People Who; People with Disabilities Broadcasting Corporation; Physically Challenged Bowhunters of America (PCBA); Presbyterian Church (U.S.A.) Washington Office; Progressive Coalition; Research and Training Center on Independent Living at the University of Kansas; RESNA (Rehabilitation Engineering and Assistive Technology Society of North America); Rock the Vote; Screen Actors Guild—Performers With Disabilities Committee.

Self Help for Hard of Hearing People (SHHH); Sikh American Legal Defense and Education Fund (SALDEF); Spina Bifida Association of America; Stop Family Violence; TASH; TDI (Telecommunications for the Deaf, Inc.); Telecommunication Services for the Deaf; The Arc of the United States; The Mitsubishi Electric America Foundation; The National Coalition on Self Determination, Inc; The National Coalition to Amend the Medicare Homebound Restriction; The National Women's Conference; The Rolling Rains Report; The Silent Witness Project; Tourette Syndrome Association, Inc; Union for Reformed Judaism; Unitarian Universalist Association of Congregations; United Cerebral Palsy; United Food and Commercial Workers International Union (UFCW); United

Spinal Association; USAction; Vocational Evaluation and Career Assessment Professionals (VECAP); WGBH National Center for Accessible Media; Women In Media & News (WIMN); Women of Reform Judaism; Women's Committee of 100; Workplace Fairness; World Institute on Disability.

To see a listing of state and local organizations, please visit www.aapd.com.

## INDEPENDENCE DAY OF TRINIDAD AND TOBAGO

## HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. RANGEL. Mr. Speaker, August 31st marks the 43rd anniversary of the independence of Trinidad and Tobago. The Caribbean nation gained independence from Great Britain in 1962, and has since gone on to become prosperous and influential member of our hemisphere, and a loyal ally to the United States.

Trinidad is a country of immense ethnic diversity. People of African, East Indian, European, Chinese, and even Middle Eastern descent coexist peacefully on this island of over 1.3 million. Many of Trinidad's citizens have migrated to the United States over the years, and have established sizable communities in many cities around the country, especially in the New York City area. This community has given much to our Nation by their presence.

Trinidad has also given much to the United States in other ways. The country hosted thousands of U.S. servicemen during World War II, and the immediate post-war years. Several U.S. bases were stationed on the island, and the U.S. presence left a deep imprint on the culture and character of Trinidad, which is still evident today. The era also exposed a generation of Americans to the beautiful island nation and its wonderful Calypso music. This exposure spurred an influx of American tourists to the island over the next half century. Today, Trinidad is major U.S. tourist destination, as are many other locales in the Caribbean.

In addition, Trinidad and Tobago has positioned itself as a significant component of America's energy supply over the last few years. Already an important regional exporter of crude oil, Trinidad is now the leading exporter of Liquid Natural Gas (LNG) in the Western Hemisphere. After 9–11, the U.S. sought to find energy sources beyond the Middle East and Persian Gulf. Additionally, rising gas prices, and increasing domestic shortages increased U.S. demand for LNG.

Trinidad has impressively stepped in to fill that demand. In 1999, Trinidad exported about 50 billion cubic feet of LNG to the U.S., accounting for only 31 percent of total U.S. LNG imports.

By 2003, Trinidad was the leading exporter of Liquid Natural Gas to the United States, totaling nearly 400 billion cubic feet, or 75 percent of all U.S. LNG imports. These numbers are projected to further increase over the next decade.

More than anything, however, the most important factor in the U.S./Trinidad relationship will be the genuine respect and admiration we hold for one another. As for Trinidad itself, the future looks bright. During his 1962 Independence Day Speech to the nation, Dr. Eric Williams, the first Prime Minister of Trinidad and Tobago, asserted that the "strength of the Nation depends on the strength of its citizens". Based on that criteria Trinidad is a strong nation indeed, and I wish a Happy Independence Day to her and her citizens.

## RECOGNIZING AND HONORING THE 15TH ANNIVERSARY OF THE SIGNING OF THE AMERICANS WITH DISABILITIES ACT OF 1990

## HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. LANGEVIN. Mr. Speaker, 15 years ago, the United States Congress passed, and President George H.W. Bush signed into law, the Americans with Disabilities Act (ADA)—landmark civil rights legislation for people with disabilities. On this important anniversary, we must take the opportunity to reflect on the Act's successes and discuss the work left to be done.

The ADA declared that 54 million Americans with disabilities, including myself, had the right to reasonable accommodations in the workplace and access to public buildings. In doing so, society acknowledged for the first time the civil rights of these Americans to live independently and to fully participate in all aspects of our society—our schools, our businesses, and our communities. At its core, the ADA was about empowerment—giving people the tools they need to pave their own way to success. For Americans with disabilities this can mean many things, from providing information and resources, to making public transportation and housing more accessible, to improving the healthcare system.

As a result of the ADA, Americans with disabilities have made significant progress in terms of inclusion since 1990. Students with disabilities no longer have to make choices about their education based on the number of ramps on a campus or the school's willingness to put Braille signs in their dorms. Many individuals with disabilities have achieved greater participation in their communities through increased access to public buildings, improved accommodations in the workplace and a heightened awareness of their needs and talents.

My own experiences and successes are, in many ways, a direct result of the ADA's intention. When I was first elected to Congress in 2000, infrastructure changes were necessary. For example, a chair was removed from the House floor to make space for my wheelchair, and an adjustable podium was built so that I could address my colleagues on the floor. The flexibility my colleagues have shown illustrates the tremendous advances America has made in accommodating disabled employees and it demonstrates how institutions, even those steeped in tradition, can adapt to assist people in special circumstances.

Not only does society look different to people with disabilities since the ADA, it looks differently at people with disabilities. It is no longer considered charity for businesses to install support beams in their restrooms or curb cuts in their parking lots. By declaring these legal responsibilities, Congress has significantly empowered Americans with disabilities. And in the course of living up to requirements of the ADA, many business owners have discovered loyal customers and employees who might otherwise have been unable to enter their doors. The most effective businesses are active participants in their communities, and in order to be an active part of the community, a business must reach out to all of its members.

Unfortunately, in many cases my success is still the exception rather than the rule. Barriers still exist. Although a major focus of the ADA was to improve employment opportunities, there has been little change in the employment rate of people with disabilities. Only 32 percent of people of working age who have a disability are employed. And today, people with disabilities are still three times more likely to live in poverty.

In many cases, we can make change by bringing the spirit of the ADA to other government-funded programs. For example, Medicare does not sufficiently cover certain mobility devices, such as power wheelchairs, and can even work against people, by refusing to cover wheelchairs for those who are able to leave their homes. Furthermore, many forms of public transportation still aren't accessible to people with disabilities, and accessible housing is often scarce and unaffordable. Too many Americans, all of whom have gifts and talents to contribute to our country, continue to be imprisoned by their disability.

Our work, as a nation, is far from finished. We have not yet met the goal of the ADA: "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." We must continue to strive for the day in our country when if you are qualified and you can do the job, you get that job—without regard to disability.

We must recommit to renewing our efforts to realize the promise of the ADA and working to restore its full protections. With thousands of severely injured soldiers returning home from Afghanistan and Iraq, we have a special responsibility to assure them that they will receive the fair treatment they deserve as they attempt to return to work and live in their communities.

We must bring our nation closer to the ideals of equality and opportunity that are both our heritage and our hope. Mr. Speaker, I urge my colleagues in the House to continue to lead the way in our national effort to make those ideals a reality for all Americans and to support H. Res. 378.

## 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

### HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. WELDON of Pennsylvania. Mr. Speaker, fifteen years ago, the Americans with Disabilities Act (ADA) was signed into law by President George H.W. Bush. As the first declaration of its kind, it was a significant moment in the battle for equality among the disabled. It is essential that on the anniversary of the ADA, we take some time to seriously reflect on the impact it has had on the lives of the 14 percent of Americans who live with at least one disability.

As a result of this act, those with disabilities are now able to travel more freely, enjoy a greater range of recreational and employment opportunities, and ultimately enjoy a higher overall standard of living. Otherwise productive Americans are no longer ostracized from their social surroundings or forced to live their lives in nursing homes or similarly confining facilities.

While more work remains to be done to ensure full integration of the disabled population into American life, I would like to acknowledge the continued success of the ADA in reinforcing the American ideals of compassion and equality for all.

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## THE DOMINICAN AMERICAN NATIONAL ROUNDTABLE LEADERSHIP INSTITUTE: INSPIRATION AND LESSONS

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. RANGEL. Mr. Speaker, I rise to share with my colleagues a wonderful meeting I had this morning with a group of bright, engaged, and active young Dominican Americans from the Dominican American National Roundtable, an organization which is becoming increasingly recognized for its advocacy on behalf of the Dominican American community. Today, the inaugural group of its Dominican Leadership Institute—all young men and women attending some of the best colleges in this Nation—visited my office to discuss their views on a variety of important issues facing this country today. From immigration to education, we had a lively thoughtful exchange about the future and direction of this Nation and ways that they can get involved and make an impact on this country.

In 2005, the Dominican American National Roundtable joined with the Coca-Cola Bottling Company and the Bert Corona Leadership Institute to host the Dominican Leadership Institute. The program is designed to expose college students to the range of opportunities and skills needed for the next generation of Dominican American leaders. The Leadership Institute trains, empowers, and motivates these future leaders in the research, command and advocacy of important issues facing the Nation and, specifically, Dominican Americans.

This inaugural class of the Dominican Leadership Institute includes Edwin Zambrano, Nassar Fand Mufdi Ruiz, Pablo Rodriguez, Ysaira C. Paulino F., Bethsaida George John A. Meche, Amaris Guzman, Evelyn Ng Duran, Suhaly Bautista, Natalie C. Archibald, Karla Acevedo, and Arlenis Almonte. These students and future leaders have been exposed to the challenges of leadership, the need for innovation and creativity, and the importance of civil engagement in the political system.

During their visit to my office, we spoke about the need for a more humane and effective immigration policy, the challenges in integrating new citizens into the country, the problems of the modem family in major urban communities, and the need for a really fair trade policy. They were thoroughly knowledgeable of the topics and presented ideas and suggestions that would be quite useful to this chamber.

I was impressed by the civility, awareness and thoughtfulness of this group. They approach each issue with a determination for justice and an ear for understanding. They were articulate about their views and thoughts and shared with me their life experiences and their reasons for wanting change. While we seldom disagreed on the policy implications of the concerns they raised, I was also impressed by their willingness to hear and sympathetically comprehend all sides on each issue. This group clearly represents a promising future for the leadership of the Dominican American community and our Nation.

However, I was a bit disappointed to hear about a disturbing experience of these bright champions of change in the offices of the House. As intelligent young Americans of Dominican origin concerned about the welfare of their families and other citizens of the Dominican Republic, they rightfully were opposed to CAFTA and met another group of people who supported the bill in the Longworth Cafeteria where they were having lunch yesterday. When they initially asked the supporters about their support, they received information about the background of CAFTA. When they expressed their awareness of the trade bill and opposition to it, the supporters became rude and hostile to them and would no longer explain their rationale. This was a grand opportunity for an exchange of ideas, a meeting of the minds, but it failed, and it failed shamefully.

While unsettling, this experience did not deter these young Dominican Americans from their commitment to highlight the issues of importance to them. It is a shame, Mr. Speaker, when students cannot come to their House and freely, comfortably, debate the issues of the day. This should be a place for open debate, a free exchange of ideas, and a respect for different and diverse opinions. I am glad these young men and women were not deterred by this instance; this is another example of their considerable maturity, comprehension of the issues, and respect for their fellow Americans.

I am grateful to have had such an opportunity to exchange views with such young outstanding Americans. I encourage them to continue in their diligence, dedication, and search for the truth. I look forward to seeing them in the future and to knowing of their success and the great contributions they will make in their professional careers to this Nation. I urge my colleagues to find ways to reach out to the Dominican American National Roundtable and obtain information on how you can recruit members of this group for internships in your congressional office. These students are bright, motivated, and promising. All they need to reach their great potential is opportunities for exposure to the policymaking and legislative process. And you will find that your exposure to this fine group of Americans will be thoroughly rewarding and insightful.

I submit to the RECORD a copy of the statement that this group presented to me on their policy recommehdations for this Congress. It is important that we carefully consider the thoughts of our young people.

We represent the Dominican community as members of the Dominican American National Roundtable (DANR), and we are before you today to discuss issues that affect our community and to propose a number of solutions.

EDUCATION

In order to allow the United States' economy to prosper, we propose that Congress pass the Development, Relief, and Education for Alien Minors (DREAM) Act due to its potential to increase the country's economy by the work of those future taxpayers.

In order to decrease the poverty level, we propose that Congress pass the DREAM Act so that it may increase the quality of life for those who are young and undocumented in the United States.

In addition, we support the Equal and High Quality Educational Amendment to the Constitution because the law would create and sustain high standards in all the schools within the Nation.

HEALTH CARE

We propose that Congress provide programs and services that may educate people on obtaining healthcare and create reasonable qualifications for those who are underprivileged.

We recommend that Congress provide free, complete, and quality healthcare for children under the age of eighteen (18). Furthermore, we request that adequate health information be provided by local clinics and health professionals regarding issues of teen pregnancy and sexually transmitted diseases to their communities.

We propose that Congress internally restructure and organize Medicaid and Medicare so that private specialists will accept public healthcare.

QUALITY OF LIFE

We propose that Congress counter the inevitable effects of gentrification (i.e., displacement due to the higher priced housing in our neighborhoods) by establishing Community Land Trusts, where the residents would own the buildings they live in and a non-profit neighborhood membership organization would own the land under the buildings. These Trusts would uphold living and maintenance standards and, more importantly, would safeguard low-income communities.

We propose that Congress provide ample funding to Community Centers within these neighborhoods in order to educate the residents as to this new protection, and to provide educational and extracurricular opportunities.

### DR-CAFTA

We propose that Congress vote against the DR-CAFTA, because both countries' economies cannot collectively prosper under the current agreement and only big corporations will benefit.

DR-CAFTA will eliminate tariffs on imported goods forcing out local competition and increase prices on basic commodities, which will increase the percentage of poverty-stricken households.

DR-CAFTA was modeled after NAFTA, which did not accomplish its goals of decreasing poverty and immigration to the United States. Furthermore, like NAFTA, DR-CAFTA allows foreign companies to sue national governments, therefore having a negative financial impact on developing countries' economies.

We thank you on behalf of our community for giving us the opportunity to speak with you regarding these issues and our proposed solutions affecting its development. Please send a written response.

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## 15TH ANNIVERSARY THE AMERICANS WITH DISABILITIES ACT

### HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. BORDALLO. Mr. Speaker, I rise today in support of H. Res. 378, and to acknowledge the positive impact and historical importance of the Americans with Disabilities Act. Signed into law 15 years ago today by President George Herbert Walker Bush, this Act has become recognized as a landmark law for civil rights and represents one of the crowning achievements of Congress over the past two decades. Its impact is felt every day in every community across America. Wheelchair ramps, signs in Braille, and curb cuts are now common place in every corner of our lives. The law has truly forever changed the landscape of America.

Over these 15 years, the law has been challenged and debated, yet it has endured as a testament to those who desire to create an inclusive society where living with a disability does not mean disappearing into isolation. The law embodies everything that we in America should strive for; protecting the rights of all men and all women regardless of ability, mental capacity, or physicality. By removing barriers for peoples with disability, we also removed another barrier that prevented America from being a society where justice and equality prevail.

I remain committed to the Americans with Disabilities Act and supportive of efforts to improve our infrastructure and policies to enable equal access for all people. In Guam, our community has made great strides in upholding the spirit of the Americans with Disabilities Act, and we will be celebrating its anniversary this week.

Our work in this area is not yet done, and we will strive to build upon the legacy that the Americans with Disabilities Act has created. I urge support for H. Res. 378.

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## IN RECOGNITION OF MR. ALBERT CHARLES SMITH

### HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. DEGETTE. Mr. Speaker, I rise today to recognize Mr. Albert Charles Smith of Denver, Colorado. Mr. Smith is retiring from the Environmental Protection Agency (EPA) after over 42 years of exemplary federal service.

Often in our deliberations in the United States Congress over budget and policy issues of the Federal Government we neglect to recognize the contributions of the thousands of hard working federal employees who serve our Nation. In particular, I would like to highlight the contributions of the employees of the Environmental Protection Agency. Charged with protecting our environment and human health, the EPA is charged with protecting the air we breath, the water we drink, and the land and food we need for sustenance and our livelihoods. While it is easy and important to get caught up in human events, it is also vital that we revere our planet and its fragile environment. It is not often enough that we take the time to stop to thank and recognize the employees of the EPA for their unselfish and committed contribution to our nation and our environment.

Mr. Alfred Charles Smith is one such federal public servant deserving of our attention. In the early 1950's, Mr. Smith served honorably as a corporal with the United States Army in Korea and Japan. He then went on to earn a Bachelor of Science degree in Bacteriology from Ohio State University, a Masters of Science in Chemistry from John Carrol University in Ohio, and a Juris Doctor degree from the Cleveland-Marshall College of Law. His first federal agency position was with the U.S. Department of Interior from 1966 to 1970.

When President Richard M. Nixon established the EPA, Mr. Smith was one of its original employees—first as a chemist in EPA's Chicago regional office, and later as a supervisory attorney and Regional Judicial Officer in EPA's Denver regional office. Most notable of his many awards and recognitions were the Agency's Gold Medal in 1975 for work in EPA's oil and hazardous materials spill response program; and in 1988, he was awarded EPA's Silver Medal for innovative use of Alternative Dispute Resolution in resolving a public water system's supply and health problems.

Mr. Speaker it is my honor to recognize Mr. Smith and his commitment to our Nation and its natural resources. Mr. Smith's personal and professional contributions to the Environmental Protection Agency, to the Federal Government and to the people of the United States over the course of his varied and meritorious career have earned him great respect and appreciation from his friends and colleagues.

We will all miss his knowledge, expertise and commitment to public service.

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## IN PRAISE OF IMMIGRANT CONTRIBUTION TO AMERICAN SOCIETY

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. RANGEL. Mr. Speaker, I rise today to recognize and praise the immigrant contribution to the United States. To say that immigration is a driving force in the American economy is to make an understatement. According to the 2005 Economic Report of the President immigration is shown as being a key to the growth of the labor force and has cemented the traditional belief that immigrants provide a positive net fiscal benefit to the American economy. Current governmental policies toward immigration, however, don't reflect the Report's findings.

Facts now point to the fact that today, 23 percent of the population is either foreign-born or children of someone who is. According to the most recent census, over 34 million people living in the U.S. were born outside of the U.S. with most of those coming from Latin America, about 25 percent hailing from Asia, nearly 15 percent from Europe and 8 percent coming from elsewhere including primarily Africa. Another 30 million are "second generation" Americans with one or both parents having been born elsewhere.

Immigrants play a vital role in American society. They are found in diverse occupations ranging from construction work and cooks to computer programmers and medical doctors. Their impact on American society can be seen in everything from musical icons such as Jennifer Lopez to our affinity for exotic cuisine.

It is the contributions of this wide and varying group that give America its diversity. Immigrants are our next-door neighbors, friends and colleagues. They are hardworking and diligent members of our society, who live, work, and pay U.S. taxes. In New York State alone, undocumented workers pay more than $1 billion in taxes a year.

Although it is true that we have unemployment among American citizens, we also have labor shortages, for example agricultural workers. Immigrants generally fill those jobs, which American citizens simply do not want to take.

America's continued economic growth requires a steady flow of immigration. It almost always has and will in the future, perhaps more than at any time in the past. Therefore, rather than placing up barriers we should embrace and celebrate the contributions of immigrants to our society.

I introduce in the RECORD an article from July 19, NYCarib reporting on the economic benefits of immigrant labor.

### IMMIGRANTS AND MELTING POT ECONOMICS—THE FLOW OF FOREIGNERS INTO U.S. BOOST BUT DON'T IMPERIL THE NATION

(By Tony Best)

Call it a lesson in "the melting pot economics 101," facts and figures that underscore an important reality of American society: immigration is a key element in the rejuvenation and the prosperity of the country.

Just as important, it's an essential cog in the economic wheel.

The latest data published by the U.S. Census Bureau not only showed that the United States is in the throes of what could be best described as a significant transformation of its demographic profile but that many of the claims the nativists are erroneous and that if their goals became nation's policy, they would be imperiling America's economic vitality.

"For those of us who believe that the melting pot is a vital and unique feature of American society, this finding that the new immigrants are integrating into our modern economy is highly re-assuring," stated Stephen Moore, a member of the Wall Street Journal's editorial board.

"Even more encouraging is the knowledge that a generous immigration policy can coexist with high rates of economic growth and low unemployment," he added in an OpEd commentary in the major business daily paper." The nativists have gotten this story wrong for at least the past 20 years; perhaps it would be wise to stop listening to them."

We couldn't agree.

But what do the Census figures and other data show us that we may not have known before?

Here are some of the numbers that support the above contention:

Between 1980 and 2002, about 20 million immigrants entered the United States, most of them coming from the Caribbean, Asia and Central America.

The foreign-born now account for about 12 percent of the country's population, up from 6.2 per cent in 1980.

Housing and financial assets have grown four-fold in the past two decades, a time of great expansion of wealth and skyrocketing immigration.

As more and more people arrived, the unemployment rate declined between 1980–82. Joblessness among Blacks dropped by six per cent and Hispanics almost four per cent in the last 20 years.

The U.S. has been a leader in the industrialized world when it came to immigration, integrating twice the number of immigrants than other wealthy nations.

Median real family income rose about a fifth, going to $52,000 today. People at the bottom of the economic ladder have seen their median income jump as well between 1980–2000.

Immigrants in the U.S. for less than three years have a jobless rate of just eight percent but that rate fall to 6.7 percent after living here for a decade and 6 percent after 20 years.

The foreign born who recently landed on U.S. shores have a median family income of slightly less than $32,000 while those persons who arrived in the 1990's have incomes that surpass $38,000. If you had arrived in the early 1980's then chances are the income is in the vicinity of $38,395.

According to Dr. Richard Vedde, a labor economist at Ohio University, the states with the highest levels of immigration had the lowest levels of unemployment.

What then do we learn from the data?

The lessons are obvious.

While it is true that immigrants go up against American workers for their jobs in certain industries, such as driving taxis, working in textile mills and serving as field hands in the agricultural sector, "there is no evidence," said Moore, that "on a macro-level," that immigrants suppress wages because native born Americans have left too many of those jobs for better paying tasks any how.

The numbers also allay the fears of Blacks and Hispanics that immigrants take away their jobs. For as the foreign born population expanded, the nation's unemployment rate fell from 7.3 percent to 5.1 percent over 20 years. Black unemployment also slumped as the immigrant numbers expanded.

## INTRODUCING A RESOLUTION SUPPORTING THE GOAL OF THE UNITED STATES ESTABLISHING A RESPONSIBLE ENERGY POLICY TOWARD THE GULF OF GUINEA REGION IN WESTERN AFRICA THAT ENCOURAGES LOCAL CONTENT DEVELOPMENT AND GREATER GOVERNMENTAL TRANSPARENCY

### HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce a resolution supporting the goal of the United States establishing a responsible energy policy toward the Gulf of Guinea region in Western Africa that encourages local content development and greater governmental transparency.

The United States buys approximately 15 percent of its oil from the Gulf of Guinea region in Western Africa. Research indicates that in 10 years the United States will import 25 percent of its oil from the Gulf of Guinea region. The Gulf of Guinea region comprises the countries of Nigeria, Cameroon, Gabon, Equatorial Guinea, Angola, Congo-Brazzaville, Sao Tome and Principe, and the Democratic Republic of Congo.

With record-breaking prices for oil and gasoline products, reliance on a narrow range of the world to supply most of our oil has proven to be short-sighted as well as costly. We must now consider a broader range of fueling sources. By working as an active partner with the Gulf of Guinea region in Western Africa, the U.S. can positively guide changes that help develop West Africa's oil economy while securing economic growth, finding additional oil resources, and honoring human needs.

Mr. Speaker, I urge my colleagues to support this resolution. As Members of Congress, it is our moral responsibility to ensure that we establish a responsible energy policy toward the Gulf of Guinea region that is mutually beneficial and responsible. I look forward to working with my colleagues and moving this promising resolution forward.

## RECOGNIZING MS. ROBBIE JACKMON

### HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. FORD. Mr. Speaker, I rise to recognize Ms. Robbie Jackmon, an individual whose continued commitment to public health has improved the lives of countless Tennesseans. Ms. Jackmon retires at the end of the year as the Executive Director of the Office of Minority Health for the Tennessee Department of Health.

Ms. Jackmon served communities within the state tirelessly for nearly 27 years. She has helped Tennesseans in every position she has held. As Director of Treatment Services for the Division of Alcohol and Drug Abuse Services, she proposed and implemented state policy pertaining to alcohol and drug treatment. As assistant commissioner for the Bureau of Alcohol and Drug Abuse Services, she directed and oversaw a $30 million budget. As Clinical Coordinator for Meharry Medical College she specialized in case management, where she continued to help Tennesseans recover from the ravages of addiction.

Her commitment to the improvement of Tennessee public health has led her to serve on a number of committees and boards of State and National review. Among them are the Advisory Group for the Congressional Office of Technological Assessment, as chair for the Southeastern School on Alcohol & Drug Abuse and the Advisory Board for Blue Cross/Blue Shield of Tennessee.

In her position as Executive Director of the Office of Minority Health, she served with great stature as chief liaison between the state of Tennessee and the Department of Health and Human Services. She oversaw matters regarding health disparities and HIV/AIDS. In addition, she administered program design, project implementation, grant monitoring and evaluation, and health policy planning to ensure that effective measures are taken to provide Tennesseans with knowledge they need to develop healthier lifestyles.

Mr. Speaker, on behalf of all Tennesseans, I extend my deepest feelings of appreciation to Ms. Jackmon. I commend her long outstanding career, service and commitment to improving the public health of her fellow Tennesseans. I ask my colleagues to join me in recognizing the works of a distinguished woman, and a model citizen.

## HEALTHCARE EQUALITY AND ACCOUNTABILITY ACT OF 2005

### HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to discuss a critically important bill that is being introduced today: the Healthcare Equality and Accountability Act of 2005. Before I go into detail, I must profusely thank three people who were incredibly instrumental in helping us get this bill developed and introduced: Sharon Coleman of the Congressional Research Service, and Peter Goodloe and Warren Burke, of the House Legislative Counsel. Ms. Coleman, Mr. Goodloe and Mr. Burke, on behalf of the TriCaucus, I thank and applaud you for your efforts.

Over the last two decades, hundreds of studies—most which have been conducted by credible sources, like the Institutes of Medicine, academic institutions, including Harvard, Johns Hopkins, Morehouse College and University of California, in addition to non-partisan foundations and think tanks—have confirmed that racial and ethnic health disparities are a challenge to health care in this country. Here in America, the color of your skin, your ethnic background, and your geography can not only influence your health care access and quality; they can determine them.

We have all heard the numbers and statistics. We see grave racial and ethnic differences in health status and outcomes that are unacceptable in a country as wealthy as this one. For example:

African American and American Indian/Alaska Native infant mortality rates are more than two times higher than that for whites.

African American women are nearly four times more likely than white women to die during childbirth or from pregnancy complications.

The death rate from asthma is more than three times higher among African Americans than among whites.

The diabetes death rates among African Americans and Hispanics are about 2 times higher than that among whites.

The AIDS case rate among African Americans is more than ten times higher than that among whites. The AIDS case rate for Hispanics is more than four times higher than that among whites.

Until the conditions that disproportionately affect racial and ethnic minorities are addressed and an emphasis is put on prevention, as well as treatment and care, then racial and ethnic disparities in health will continue to plague minority Americans.

Mr. Speaker, far too many people assume that racial and ethnic minorities have poorer health status and die prematurely because of bad health decisions. And, making healthy decisions is one part of the equation. However, it is difficult to make healthy decisions and to preserve good health when you are uninsured. And, uninsurance disproportionately affects racial and ethnic minorities.

In fact, racial and ethnic minorities comprise about one third of the total U.S. population, yet are represented in more than half of this country's uninsured population. Uninsurance, Mr. Speaker, is a major factor that exacerbates racial and ethnic health disparities, and reducing the numbers of the uninsured must be an integral part of any strategy to reduce—and ultimately eliminate racial and ethnic health disparities.

And then, Mr. Speaker, there is something else that happens too often when racial and ethnic minorities go to the doctor. Even when they have an insurance card from the best companies, the quality of their health care is less than that of whites and often does not meet medical standards. These disparities, Mr. Chairman, are the most egregious and disturbing because they serve as a reminder that more than four decades after the Civil Rights Movement, racial and ethnic minorities still are not treated equally and fairly.

When I first heard about these types of disparities, I was shocked. As a physician who practiced for more than two decades, I cannot fathom discriminating against a patient because of their skin color, their ethnic background or sexual orientation. But, the studies documenting these disparities are extensive and robust, and have found that:

Despite having heart disease and stroke rates that are disproportionately higher than whites, African American women with health insurance are 40 percent less likely than whites with health insurance to be recommended for cardiac catheterization.

African-American diabetics are more nearly 3.5 times more likely than white diabetics to have a lower limb amputation procedure performed.

African Americans are 3 times more likely than whites to be hospitalized for asthma and about 2½ times more likely to visit an emergency room with an asthma attack. This is significant because hospitalization for asthma is an avoidable admission if the condition is adequately managed.

Mr. Speaker, last Congress, my colleagues and I in the TriCaucus introduced a bill that would reduce racial and ethnic disparities in health and in health care. This Congress, we decided to re-introduce that bill in a concerted effort to continue our commitment and work to ensure that racial and ethnic health disparities are eliminated from our health care system.

This bill, entitled the Healthcare Equality and Accountability Act of 2005, proposes solutions to the factors that exacerbate racial and ethnic health disparities by working to accomplish the following:

Remove barriers to health care access by expanding existing forms of health insurance coverage.

Improve cultural and linguistic competence in health care by removing language and cultural barriers to quality health care.

Improve the diversity of the health care workforce to reflect, understand and respect the backgrounds, experiences and perspectives of the people it serves.

Support and expand programs to reduce health disparities in diseases and conditions, especially diabetes, obesity, heart disease, asthma and HIV/AIDS.

Improve racial, ethnic, socioeconomic and language data collection to adequately identify, measure and find reasonable and innovative solutions for health disparities.

Ensure accountability of the Bush administration to ensure adequate funding of the Office of Minority Health, and the National Center for Minority Health and Health Disparities and the important work that they do.

Bolster the capacity of institutions that provide care in minority communities.

Mr. Speaker, these health disparities are not just minority issues. Because these health disparities often result in death, they are moral issues. Because these health disparities leave minorities with greater disease and disability burden, they are civil rights issues. Because these disparities burden the health care system, they are economic issues. And, because these disparities jeopardize the health and well being of the people in this country, they are an American issue.

I therefore urge my colleagues—on both sides of the fence—to support the Healthcare Equality and Accountability Act of 2005.

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## THE FINAL MISSION OF THE LATE OSSIE DAVIS

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to an outstanding American actor, civil rights advocate, and highly regarded humanitarian—Ossie Davis. Throughout his distinguished career as an actor, he was simultaneously an activist who utilized the platform his celebrity status gave him to advocate for opportunity and justice for all Americans.

Ossie Davis passed away almost six months ago, leaving behind a legacy of determination, pride, and caring that will long be remembered and will continue to be an inspiration to all who were privileged to know him. Upon hearing of his death, I was deeply saddened but remembered his rich legacy of activism and leadership.

Ossie Davis fully participated in and led the great movements for civil rights and justice in this nation in the 1960s. As the Vietnam War, the Civil Rights Movement, and school desegregation threatened to divide our nation, Ossie stepped forward as a champion of integration, equality, and civil rights. From the Broadway stage to the motion picture screen to the streets where injustice lay, Ossie Davis was there to demand that each and every person be treated as an equal, as a brother. With his deep voice that spoke from wisdom and experience, he would discuss the challenges to the attainment of equal treatment and fairness that is the constitutionally mandated birthright of every citizen born in this great country. He would discuss how to achieve that level of equality and would challenge those around him to aid in his crusade.

Ossie Davis was selected to be the speaker at the first annual Congressional Black Caucus dinner, I recall, because we wanted to have someone who, as a celebrity and a highly respected civil rights leader, would be both entertaining and inspirational. Ossie, in a speech that is still remembered and quoted today, set us on a course to sustain the achievements of the civil rights era and to build upon them. He exceeded our collective expectations.

Ossie was one of the noblest individuals I knew. He lived a life of dignity and pride that was so exemplary that one wanted to emulate him. In his chosen profession of acting, he was a true legend that used his position to advance positive images of the Black male and to challenge those who would accept the subjugation of an entire group based on their race. He has a history of over one hundred films, plays, television series, and other productions that cover the range of experiences of the Black male in America today.

Ossie who was always working, always raising important issues, left us in the film on which he was working at the time of his death, an inspiring story that serves as a metaphor for the struggle by African-Americans for equality of opportunity and inclusion. We are fortunate in the Harlem community to have Ossie's film to screen as a highlight of our celebration of Harlem Week.

The movie Proud, which was released two months after his death, is a heroic story about an all-Black crew on the U.S. warship *Mason* during World War II. Ossie and his fellow cast members tell the important story of how the War and a segregated Navy changed them. True to his nature, Ossie Davis made this experience a personal investment in the struggle for justice and equality in Black America for his audience. This movie allows Ossie one last opportunity to tell the story of Black America in this country. It is also our last opportunity to witness this great man in action.

I submit for the RECORD the press release announcing the movie and describing how it came to be made. I look forward to attending the screening of Proud in my community next week and encourage everyone to take time out and see this wonderful film.

[From THEntertainment, April 18, 2005]

### PRESS RELEASE "PROUD"

NEW YORK.—The late Ossie Davis completes a final mission when the THEntertainment film "Proud," which will screen at the Tribeca Film Festival, April 23rd, is released by Castle Hill Productions in the New York, Washington and Los Angeles Magic Johnson Theatres during Memorial Day weekend.

Ossie Davis, a WWII veteran himself, not only stars in the film, but had taken a personal interest since becoming aware of this true adventure of the USS Mason in 1995. The men of the USS Mason were the only African-American sailors to take a navy warship into combat in WWII. Like Ossie Davis, they served in a segregated military, but found strength in the midst of struggles against racism from their camaraderie and pride in their own excellence.

Ossie Davis' character, Lorenzo DuFau, passes the story of his time on the Mason on to his grandson (Albert Jones) and two friends, who then become the 1940's sailors in a dramatic movie that depicts the events of the men's service on the USS Mason. As a destroyer escort, the men shepherded convoys across a perilous Atlantic infested with Nazi U-boats. They faced the storm of the century and were instrumental in saving a convoy. In spite of enduring racist incidents in a segregated Navy, they found an unexpected welcome in Northern Ireland. In "Proud" Stephen Rea plays the Derry man who welcomes them and Darnell Williams is the war correspondent, Thomas Young, who traveled with the Mason.

Tommy Hilfiger's attention was first attracted by the book and documentary done by Mary Pat Kelly, but he felt the story should be a dramatic feature if it were to reach a wide audience.

The events of 9/11 convinced him to finance the film himself. "We need our heroes," he said.

Hilfiger's daughter, Ally, became the producer and Mary Pat Kelly the writer/director. Ossie Davis was the first to sign on. "He blessed the movie with his presence," said Kelly and Hilfiger.

Ossie Davis attended a test screening of "Proud" in Washington, DC, with his grandson, Jamal Day, who plays trumpet on the movie score. Davis wore his USS Mason ball cap and told the audience he wore it all the time so interviewers would ask about it and he could tell them about the film.

Davis died of natural causes in Miami Beach, Florida on February 4, 2005. He had intended to help promote the film.

"We're pleased that those who admired Ossie Davis will see him in a role that so embodies his own life as an artist and activist," said Kelly.

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### OSSIE DAVIS (LORENZO DUFAU)

As USS Mason veteran, Lorenzo DuFau, Ossie Davis, himself a WWII veteran, forms the head of the movie "Proud." He is the grandfather who passes the story of the "men of the Mason" on to his grandson and thus insures that his shipmates will live on. "I am a part of American history," he says. "Proudly we served and I want that acknowledged."

As an actor, writer, producer and director, Ossie Davis has himself shaped American history and insured that the richness of African-American experience is presented with artistry and joy.

Born in Cogdell, Georgia, Mr. Davis attended Howard University and began a career as an actor and writer with the Rose McClelland Players in Harlem in 1939. He joined the Army after Pearl Harbor and served with great distinction as a member of a medical team in West Africa.

In 1946, Mr. Davis made his Broadway debut in "Jeb," the first of many roles that included following Sydney Poitier into the lead of "Raisin in the Sun." Mr. Davis used his backstage waiting time to write "Purlie Victorious" in which he starred in 1961. The artistically acclaimed play became the musical "Purlie" and introduced Melba Moore and Cleavon Little.

The film career of Ossie Davis is legendary. Beginning with "No Way Out" in 1950 with Sydney Poitier, Davis has appeared in dozens of feature films from "The Cardinal," "The Hill," and "The Scalphunter" through recent movies such as "Dr. Doolittle," "Do the Right Thing," and "On The Bus." He directed "Cotton Comes to Harlem" in 1970 and continued to direct and produce movies and plays. Mr. Davis did not neglect television. Beginning in 1965 in the title role of "The Emperor Jones," he's given award-winning performances in "Teacher, Teacher, King," and "Miss Evers' Boys" to name a few. He's been a regular on "Evening Shade" with his friend Burt Reynolds.

Davis' partnership with his wife actress/writer Ruby Dee has produced such notable achievements as the television special "Today Is Ours," "Martin Luther King: The Dream and The Drum," "A Walk Through the 20th Century with Bill Moyers" and the series "With Ossie and Ruby."

Mr. Davis received many honors and citations including the New York Urban League Frederick Douglass Award and the NAACP Image Award. With Ruby Dee, he received The Screen Actors Guild Life Achievement Award and in 2002 The President's National Medal of Arts at the Kennedy Center.

Mr. Davis died of natural causes in Miami Beach, Florida on February 4, 2005.

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### SHORT SYNOPSIS

Proud is a memory piece told by WWII vet, Lorenzo DuFau (Ossie Davis). As a sailor on the USS Mason, he was a member of the only African American crew to take a US Warship into combat. As DuFau tells his wartime experiences to his grandson and two college friends, the young men are transformed into USS Mason sailors. They fight for their country, but also have to battle the racism inherent in a segregated Navy. They perform heroically and receive an unexpectedly warm welcome in Ireland. The crew was recommended for commendations in 1944, but they were never awarded. The grandchildren take up the fight, and the long overdue commendation is awarded to the surviving crew members in 1995.

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## THE USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005 (H.R. 3199)

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## HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I rise to express my opposition to the reauthorization of the USA PATRIOT Act.

We live in a world in which vital issues of national security, homeland security and intelligence gathering need to be balanced with the most fundamental freedoms and civil liberties granted to the American people by our Constitution. Terrorism is a real threat to our security, but laws that empower over zealous government officials to enter the private lives of individuals and "sneak and peak" based on suspicion is also dangerous. There was an opportunity to find a common sense, bipartisan agreement on protecting our security and our liberties that has been ignored by this legislation.

There are sixteen provisions of The USA PATRIOT Act that the Bush Administration proposes to make permanent without sunsets. The bill before the House made 14 of these provisions permanent with two of the provisions scheduled to sunset in ten years.

The purpose of a sunset is to allow Congress oversight over the implementation of the law. By making these fourteen provisions permanent, Congress abdicates its responsibility to review these provisions in favor of granting power to the executive branch. As co-equal branches of government, I strongly believe Congress has a responsibility to check the power of the executive branch, not cede authority that can threaten the civil liberties of our citizens today and tomorrow.

Provisions in the PATRIOT Act continue to allow for government access to business records, private e-mail accounts, library reading lists and the monitoring of Internet habits. Credit card information and other private records including medical, employment and personal financial records can also be monitored. Virtually every aspect of an individual's life can come under profound scrutiny by government officials based on suspicion. This to me is frightening and to millions of honest, hardworking Americans.

Fighting terrorism, organized crime and narco-terrorism is critical to keeping our communities and families safe. The men and women in law enforcement from local, state and Federal agencies—and throughout the criminal justice and counter-terrorism systems—have my deep admiration and respect. Their job is difficult, but this legislation fails to provide additional resources to confront threats and keep our communities safe. It instead creates endless opportunities for the violation of civil liberties and the freedoms we deeply cherish as a nation.

Many people speak of sacrificing some of our freedoms in the name of security. This is a formula that empowers terrorists and encourages the very enemies of freedom. It is the wrong approach. I applaud my Republican colleagues who have joined Democrats in working for a common-sense PATRIOT Act that protects our security and our liberties. It is my hope that as this bill moves to conference committee with the Senate that the extremes in this legislation are tempered by a wisdom that embraces the American people's respect for privacy and desire for freedom.

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## AMERICANS WITH DISABILITIES ACT (ADA) 15TH ANNIVERSARY

### HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. ROSS. Mr. Speaker, on July 26, 1990, President George H. W. Bush signed into law the landmark Americans with Disabilities Act. This legislation was the world's first comprehensive declaration of equality for people with disabilities.

The Americans with Disabilities Act (ADA) was the next step in the civil rights revolution that began with the Civil Rights Act of 1964. The ADA extended broad civil rights protections to America's 54 million citizens with a disability. To the over 97,000 working disabled Arkansans, this legislation has helped to establish greater options for individuals who are willing and able participants in our communities.

Among its key provisions, the ADA prohibits employers with 15 or more employees from discriminating against qualified individuals with disabilities. It calls for the removal of barriers to access for people with disabilities to a wide range of public accommodations, including restaurants, lodgings, places of entertainment, hospitals, doctors' offices, pharmacies, grocery stores, and all other retail and service establishments. It also requires the removal of barriers to access for people with disabilities to various public services, including public transportation. Additionally it mandates that telecommunications be made accessible to those with speech and hearing impairments through the use of special relay systems.

Over the last 15 years, there is no question that the ADA has ushered in significant change. One need only look around to see the signs of progress: curb cuts, wheelchair lifts, Braille signs, and assistive listening devices at movie theaters. The ADA has made transit systems and communications systems more accessible. And, perhaps most importantly, the ADA has begun to change society's attitudes toward people with disabilities.

Despite this important and widespread progress, the promise of the ADA remains unfulfilled for far too many. A major focus of the ADA, for example, was to improve employment opportunities. However, the evidence shows that there has been little change in the employment rate of people with disabilities. Only 32 percent of people of working age who have a disability are employed. And today, people with disabilities are still three times more likely to live in poverty.

Furthermore, we can still find disparities for the disabled in education, housing, and technology. It is for this reason that we need to take greater steps to ensure that the disabled community not only has access to, but is also participating in gainful elements of all programs and facets of society. I call on my fellow colleagues to join together in a bipartisan effort to find ways we can strengthen the ADA and fulfill our commitment to our disabled communities.

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## FREEDOM FOR RENE GÓMEZ MANZANO

### HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Rene Gómez Manzano, a political prisoner in totalitarian Cuba.

Mr. Gómez Manzano is a lawyer and a distinguished member of the pro-democracy opposition in Cuba. Along with fellow Cuban patriots Martha Beatriz Roque and Felix Bonne Carcasses, he is a leader of the Assembly to Promote Civil Society. The Assembly is an umbrella organization of over 300 groups of Cubans who have asserted their independence from the totalitarian state. On May 20, 2005, the Assembly carried out a meeting of approximately 200 Cubans who publicly demonstrated their rejection of totalitarianism and their support for democracy and the rule of law in Havana. Mr. Gómez Manzano was one of the primary architects of that historic, admirable accomplishment. Accordingly, he has been the constant target of Castro's machinery of repression. He has been harassed by the tyrant's thugs and, now, unjustly incarcerated as a political prisoner for his peaceful activities.

Eight years before, in 1997, after co-authoring the important and historic work "La Patria es de Todos" ("The Homeland Belongs to All") with Martha Beatriz Roque, Felix Bonne Carcasses and another Cuban patriot, Vladimiro Roca, Mr. Gómez Manzano was arrested by the dictatorship and sentenced to various years in the gulag. During his unjust imprisonment, and after being released, Mr. Gómez Manzano never wavered in his commitment to bring freedom, democracy and human rights to the Cuban people. Unfortunately, in an additional act of extreme and despicable repression by the dictatorship, Mr. Gómez Manzano, along with dozens of others, was arrested once again on July 22, 2005, before he could attend a peaceful demonstration in front of the French Embassy in Havana to protest the resumption of the European Union's policy of so-called engagement with the terrorist regime in Havana.

I have never had the honor of personally meeting Mr. Gómez Manzano, but I can certainly say that I know him quite well. I have spoken to him by telephone during various Congressional hearings and other public events dedicated to highlighting the suffering and oppression of the Cuban people. He is a great patriot, a man of the law, a man of peace, and an apostle of freedom for Cuba.

Mr. Speaker, it is completely unacceptable that, while the world stands by in silence and acquiescence, Mr. Gómez Manzano languishes in the gulag because of his belief in freedom, democracy, human rights and the rule of law. We cannot permit the brutal treatment by a demented and murderous tyrant of a man of peace like Mr. Gómez Manzano for simply supporting freedom for his people. My colleagues, we must demand the immediate and unconditional release of Rene Gómez Manzano and every political prisoner in totalitarian Cuba.

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## ON THE INTRODUCTION OF A BILL TO EXCLUDE SOLID WASTE DISPOSAL FROM THE JURISDICTION OF THE SURFACE TRANSPORTATION BOARD

### HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. MENENDEZ. Mr. Speaker, I am proud to be joined by a number of my New Jersey colleagues to introduce legislation that will close a glaring loophole in current law that allows railroads to brazenly flout the critical Federal, State, and local environmental protections that keep our rivers clean, our air clear, and our families healthy.

In my district, a small railroad has recently begun operation of a solid waste transfer facility for construction and demolition debris. These sites are open to the air, polluting the surrounding neighborhoods with wind-blown debris, and have extremely poor stormwater controls, if any at all, allowing rain to leach through the trash piles and into sensitive wetlands. I have seen video of these sites, which sometimes reach the height of a 3-story building, and they are horrible eyesores that make you wonder how this can all be legal.

Of course, Mr. Speaker, it really isn't legal. At least, it's not legal according to the State, which recently fined the operator of these sites $2.5 million, or the county and local planning boards, which have sent me impassioned pleas asking for help. But because of this loophole in Federal law, it may all be perfectly legitimate. The railroad claims that because of the exclusive jurisdiction of the Surface Transportation Board over railroad activities, they are exempt from all State and local regulations regarding the handling of solid waste. That is only partially true.

Mr. Speaker, when Congress passed the Interstate Commerce Commission (ICC) Termination Act in 1995, it created the Surface Transportation Board (Board) and gave it broad authority over rail transportation issues. The jurisdiction of the Surface Transportation Board was deemed to be "exclusive" over activities that are integral to rail operations. The intent of this was to allow railroads, which cross State lines, to avoid having to deal with a patchwork of State economic regulations that might hinder interstate commerce. Subsequently, the courts have ruled that this exclusive jurisdiction of the Surface Transportation Board preempts State and local regulations when it comes to permitting requirements. Hence, railroads are exempt from having to comply with local land use plans when, for example, they decide to lay additional track, although they are still required to comply with

Federal environmental statutes such as the National Environmental Protection Act (NEPA)

However, despite the preemption of local regulations, Congressional intent was very clear at the time the ICC Termination Act was passed. The conference report states very clearly that the Board's exclusive jurisdiction does not generally preempt State and Federal law. The only restriction is that States do not attempt to economically regulate the railroads. The Surface Transportation Board concluded in 1999, in their decision in the dispute between the Borough of Riverdale and the New York Susquehanna and Western Railroad, that "Congress did not intend to preempt Federal environmental statues such as the Clean Air Act and the Clean Water Act." The U.S. District Court for the District of Vermont recently affirmed that statement in the case of Green Mountain Railroad Corporation v. State of Vermont.

I believe it is quite clear that these waste transfer stations are threats to the environment, and that the railroad's claim of Surface Transportation Board preemption to avoid compliance with any environmental regulations is wholly without merit. However, it could take years to put that issue to rest. Meanwhile, the people of New Jersey would continue to get exposed to fouled air and water as a result of unregulated and uncontrolled solid waste transfer sites, and more people would be put at risk as these sites multiply across the State.

But that is beside the point. Because I also believe that the operation of a solid waste transfer facility is in no way integral to the operation of a railroad. This question has not been settled by the courts or the Surface Transportation Board, but it can be settled unambiguously by Congress. The legislation we are introducing today would explicitly state that the Surface Transportation Board does not have exclusive preemption over the operation of solid waste transfer facilities, and that these facilities would be subject to local zoning and environmental regulations. We can not stand idly by while some unscrupulous railroads exploit an unintended loophole in Federal law when the price is the health and well-being of our constituents and our environment. I urge my colleagues to join us in cosponsoring this bill.

## VOTING RIGHTS ACT 40TH ANNIVERSARY COMMEMORATION

### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. HOLT. Mr. Speaker, I rise today to commemorate the 40th anniversary of enactment of the Voting Rights Act of 1965. The Voting Rights Act marked a watershed moment in American history, and I hope my colleagues will join me in celebrating the many ways in which it has transformed our democracy.

On Monday night, it was my great honor to join Representative LEWIS; Wade Henderson, the Executive Director of the Leadership Conference on Civil Rights; and hundreds of civil rights leaders at the commencement of the National Conference Commemorating the 40th Anniversary of the Voting Rights Act of 1965. In 1965, one could not have imagined a room in Washington, DC, full of elected leaders from various racial, ethnic, religious and socio-economic backgrounds. Today there are 81 members of Congress that are of African-American, Latino, Asian, and Native American descent, as well as thousands of minorities in State and local elected offices across the Nation. Due in large part to the Voting Rights Act, America's leadership is a reflection of our diversity.

The struggle for enfranchisement has been fought by citizens themselves to obtain and protect their right to vote. Representative LEWIS and the hundreds of civil rights activists who joined him on the Edmund Pettus Bridge in March 1965 showed courage and perseverance in the face of violent opposition. Unfortunately, they did not win the struggle for total voter enfranchisement on that fateful day in Alabama. The shocking and unconscionable murders of Michael Schwerner, Andrew Goodman, and James Chaney—killed in June of 1964 for registering black voters in Mississippi—did not win that struggle. But the sacrifices of voting rights activists over the past century have paved the way for the enfranchisement that we all seek. The Voting Rights Act has made progress possible, but there is still more to be done.

When I speak with students, I often ask, "What is the greatest invention in history?" Knowing of my background in physics, they usually suggest some scientific invention. In fact, I believe the greatest invention is our system of Constitutional democracy. It has transformed not just America, but the world, demonstrating that peaceful and productive government with the consent of the governed is possible. That consent is given by the vote. Thomas Paine wrote that the right to vote is "the primary right by which other rights are protected." For that reason, assuring the continued effectiveness of the Voting Rights Act is of monumental importance.

Application of the Voting Rights Act faces challenges in the 21st century. The 2000 and 2004 presidential elections demonstrated that disenfranchisement, though legally abolished, still exists in practice. In order to preserve influence of the Voting Rights Act, key protections of which are scheduled to expire in 2007, we must address voting irregularities that occurred in recent elections.

Mr. Speaker, I commend the work of the 89th Congress and honor the enactment of the Voting Rights Act. The work of voting activists has transformed America and helped advance the cause of universal suffrage. We must work to preserve and advance its legacy.

## THE FOREIGN RELATIONS AUTHORIZATION ACT FOR FISCAL YEARS 2006 AND 2007

### HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. MCCOLLUM of Minnesota. Mr. Speaker, I rise to express my concern with the Foreign Relations Authorization Act for Fiscal Years 2006 and 2007. While this bill authorizes I numerous commendable programs that strengthen U.S. efforts to advance foreign policy interests and America's role in the world, I am very concerned that this bill has become a vehicle for an extremist agenda which harms our Nation's global leadership role.

Having started working on this reauthorization in the International Relations Subcommittee on Africa, Global Human Rights and International Operations, I would like to express my appreciation to Chairman SMITH for accepting language to conduct a report on the issue of child marriage around the world. Child marriage, often involuntary and far too frequently intergenerational, puts girls as young as 8 and 9 years old at severe physical, emotional and health risk. The transmission of HIV, complications from early pregnancies and diminished economic and social power are common consequences of this harmful tradition practice that undermines U.S. development efforts in many African and Asian nations.

My principal opposition to the final version of this bill is the result of the inclusion of the Hyde amendment to impose an onerous set of mandates on the United Nations. This amendment will hold the U.N. hostage to the whims of Republicans in the U.S. Congress. The Hyde Amendment is virtually identical to the Henry J. Hyde United Nations Reform Act of 2005 (HR. 2745) which I voted against on June 17, 2005. This legislation is opposed by the Bush Administration and eight former U.S. ambassadors to the U.N. Sadly, this amendment taints a bill that could have otherwise been generally acceptable.

Finally, I would like to comment the amendment offered by Representative TOM LANTOS, ranking member on the International Relations Committee, requiring the State Department to develop a strategy to counter perceptions among international students they are no longer welcome to study at our institutions of higher education. While national security is our top priority, if we are serious about reaching out to the international community and repairing damaged credibility in the world, we must be open and accommodating to foreign scholars and people wishing to come to the United States to further their education and contribute to the great wealth of intellect in this country. I commend Ranking Member LANTOS for his efforts in this area.

The U.S. role in the world is critically important at a time in which we are confronting terrorism as well as the human challenges of extreme poverty and global pandemics like HIV. This re-authorization should provide an opportunity for the House to provide meaningful policy direction to the executive branch. Instead an all too familiar unilateral approach to foreign policy has reemerged by demanding the withholding of the United States' contribution to the U.N. If the intent is to create an expedited process to destroy the U.N. and diminish U.S. credibility in the world even beyond the extraordinary efforts of the Bush Administration, this bill has succeeded. I strongly oppose this abrasive, ineffective and counterproductive tactic.

## NATIONAL HEALTH CENTER WEEK

### HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. ROSS. Mr. Speaker, I would like to acknowledge the week of August 7–13, 2005, as "National Health Center Week."

Community Health Centers, CHCs, are a critical component of our health care infrastructure. These centers provide vital care to some of the neediest and disadvantaged people who have few places to turn. In 2004, 105,907 patients were served by CHCs in Arkansas; with a total of 435,211 patient encounters. Of this amount 52,794, 49 percent, were uninsured; 58 percent served lived below 200 percent of the poverty level; 12.9 percent were Medicare patients; and 18.9 percent were Medicaid patients.

CHCs help in lowering health care costs in our country. In Arkansas, CHCs help save the State 30 percent, or $3 million, in Medicaid savings due to reduced hospital admissions, reduced specialty care referrals, and fewer emergency room visits. In 2003, 1.2 million emergency room outpatient hospital visits were made by Arkansans. This resulted in approximately 115,607 visits that could have been treated in a CHC. That was $75 million in unnecessary care costs that would have been saved if CHCs had been accessed for these services.

I am pleased to be a cosponsor of a House Resolution that recognizes the importance of the Medicaid reimbursement system in our Nation's CHCs. I call on my fellow colleagues to join together in a bipartisan effort to protect Medicaid funding in the fiscal year 2006 appropriations cycle for these entities, so that they can continue to serve our poor and uninsured populations, and continue to help bring savings to our health care system.

I commend the work and dedication of CHC staff and their substantial contribution to helping numerous needy Americans receive health care during the week of August 7–13, 2005.

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## WESTERN SAHARA

### HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. POE. Mr. Speaker, recently, Moroccan police and security forces have arrested and tortured peaceful protestors. For example, as recently as July 20th, reports indicate that Moroccan security forces abducted five human rights activists: Mohamed Elmoutaoikil, Noumria Brahim, Elhoucine Lidri, Larbi Massaoud, and Gaoudi Fdaili. According to the reports, all five of these people suffered psychological torture for long hours, humiliation, and threats of rape. Unfortunately, this was all done due to their opinion concerning the status of Western Sahara.

After this incident, reports indicate that both Noumria Brahim and Lhoucine Lidri were subjected to further torture including being burned, handcuffed and blindfolded, and being brutally beaten. The Moroccan officials that perpetrated these horrendous acts of torture are reported to be the Wali of Security in El Ayun, Brahim Bensami, and the Urban Security Group Chief Officer, Ichi Abou Hassan, and Abdelhap Rabii, a security officer. When these torturers were finished, they locked their victims in the Black Jail in El Ayun on July 23, 2005. Reports indicate they are still being held captive.

Such acts of violence and abuse against peaceful protestors and human rights activists have escalated in the last few weeks in Morocco. Other reports indicate that on July 21, 2005, a group of six Saharawi political prisoners who were arrested during a protest in El Ayun were presented to the court of appeal in El Ayun. The report reveals the group was tried in a show trial on June 23, 2005. They were sentenced to up to 5 years imprisonment—one of the victims of this injustice is human rights activist Bougarfa Abderrahmane. Mr. Abderrahmane is 53 years old and a father to 10 children. The others were sentenced to 3 years in prison (Hamma Achrih, Chyahou Brahim) and 2 years in prison (Mohamed Salem Essallami, Azlai Abdellah).

Sources say the Court of Appeal in El Ayun was firmly controlled by the Moroccan security forces while the trial was taking place. Some Saharawi citizens were forbidden to enter the court room. In addition, a French journalist, Agata André, from the newspaper Charle Hebdo, who came to El Ayun to attend the trial of these political prisoners was put in a separate room until the Saharawi political prisoners' trial was over. Furthermore, it is reported that the families of the five activists arrested were banned from bringing food to their relatives as well as from seeing them. No telephone contact with them is possible. Unfortunately, these reports of torture and injustice are commonplace for the Saharawi people who are denied equal rights under the Moroccan occupation of Western Sahara.

On one of Secretary Condoleezza Rice's trips overseas, Secretary Rice delivered a strong message to the King of Morocco, Mohamed VI, concerning the lack of civil liberties in the kingdom of Morocco. The Spanish newspaper, La Razon, reported on June 30th that Ms. Rice expressed her concerns regarding the Moroccan regime's continuous violations of freedom of press and of expression. Amidst recent reports of escalating repression by Morocco's intelligence and security services against dissenting voices, and the repression perpetrated against Saharawis, Ms. Rice is reportedly urged the King to bring and end to the repression and allow progressive voices to be heard.

Other countries have expressed similar concerns about Morocco's human rights record regarding the Saharawis. Earlier this month in Spain, Spanish news sources reported that a Spanish delegation, composed of parliamentarians and representatives of the civil society of Aragon, was not allowed by Moroccan authorities to visit the occupied capital of Western Sahara, El Aaiun. The delegation planned to investigate allegations of human rights abuses by Moroccan forces. One of the delegates was quoted as saying Morocco's denial of the visit was absolutely unacceptable.

Morocco has been occupying Western Sahara for decades. The United Nations Security Council has continued to uphold the right of Western Sahara to self-determination. On April 29th, 2004, the Security Council adopted Resolution No. 1541 which reaffirmed support for the Peace Plan for Self-Determination of the People of Western Sahara devised by U.N. Secretary General Kofi Annan's Special Envoy, James Baker. Two years prior, the Security Council upheld the right to self-determination in a meeting to discuss the conflict over Western Sahara. In this 2002 meeting, the Security Council rejected other proposed options and clearly stated that the only viable resolution to this conflict must be based on the Saharawi people's right to self-determination.

There is a long history of international consensus that supports Western Sahara's right to self-determination. The International Court of Justice, issued on October 16, 1975 the following decision concerning the conflict over Western Sahara, "The Court's conclusion is that the materials and information presented to it do not establish any tie of territorial sovereignty between the territory of Western Sahara and the Kingdom of Morocco or the Mauritanian entity. Thus the Court has not found legal ties of such a nature as might affect the application of General Assembly resolution 1514(XV) in the decolonization of Western Sahara, and in particular, of the principle of the self-determination through the free and genuine expression of the will of the peoples of the territory."

I agree with many of my colleagues that Morocco is an important partner to the United States in our War on Terror and in international trade. However, the examples of human rights abuses that Moroccan officials have exhibited against the Saharawi people and the peaceful protestors is not the type of behavior we expect from our friends.

A conclusion for the conflict over Western Sahara is long overdue. Both sides of the conflict need to come together and implement the Settlement Plan elaborated by Secretary James Baker. A great step towards a peaceful resolution would be for Morocco to release all their political prisoners, including Mr. Tamek and Mrs. Haidar, to stop detaining and torturing peaceful protestors and human rights activists, and to allow freedom of thought and expression both in Morocco and in occupied Western Sahara.

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## COMMEMORATING WCLO'S 75th ANNIVERSARY

### HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. RYAN of Wisconsin. Mr. Speaker, I would like to take a moment to recognize the achievements of my hometown radio station, WCLO, which is celebrating its 75th anniversary. WCLO Radio, based in Janesville, Wisconsin, has served southern Wisconsin for three-quarters of a century through the broadcasting of news, weather, sports and community information.

Since 1930, WCLO has continuously been owned by the Bliss family, making it one of the Nation's oldest family-owned radio stations. It takes seriously its responsibility to its listeners. Despite major regulatory changes, the station has continued to operate as a public servant to its listening area, providing vital news and information to its audience. WCLO also takes an active role in supporting the community, through its continuing efforts on behalf of charities and the arts.

WCLO Radio has been consistently recognized for excellence in broadcasting by its peers and organizations including the Wisconsin Broadcasters Association and the Associated Press.

I'd like to extend congratulations to WCLO for 75 eventful years of serving southern Wisconsin.

## PAYING TRIBUTE TO MR. KEITH QUERRY

### HON. EMANUEL CLEAVER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Mr. CLEAVER. Mr Speaker, I proudly rise today to pay tribute to Mr. Lyle K. Querry, a political activist, humanitarian, and a man of faith, whose legacy continues to enrich the lives of all Kansas Citians. After 24 years of service, Keith, as he is known by all his friends, retired on June 30, 2005, as the Business Manager and Financial Secretary for the International Brotherhood of Electrical Workers, IBEW, Local 53. His dedication and commitment spanned 48 years as a member of IBEW and his service to the Kansas City community is the reason for this recognition and celebration.

Keith's reputation as a leader within the International Brotherhood of Electrical Workers, the community, and political organizations extends beyond the borders of the Fifth Congressional District of Missouri and even of our Nation. Among the many accolades Keith has received over the years was the prestigious Outstanding Leadership Award by the Heart of America United Way in 1988. In 1995, he received the distinguished Harry S. Truman Democratic Achievement Award, named in honor of a former Independence, Missouri, resident, and one of our country's most respected public servants, the 33rd President of the United States. Keith's steadfast commitment to and respect by the IBEW was rewarded when he was named to the Law Committee for their 33rd and 34th conventions held in 1986 and in 1988, respectively. As of July 1 of this year and despite "retiring", Keith was appointed as an International Representative for the International Brotherhood of Electrical Workers.

Keith has not only been an active member of the IBEW and many political organizations, he has also contributed his time, energy, and expertise to numerous civic organizations in the metropolitan area. He has served as an executive board member of the Heart of America Central Labor Council, was a board member of the National Conference of Christians and Jews, and a board member of the Jackson County United Way. He is currently serving on the boards of Blue Cross and Blue Shield of Kansas City, the Labor Management Council of Greater Kansas City, as a member of the executive committee of the Missouri State Democratic Party, as a committeeman for the 8th Senatorial District, and as chairman of both the IBEW Outside Task Force and Local 53 Safety Committee. He also serves as chairman for both the Missouri Valley Line Constructors Apprenticeship and Training group as well as the Line Construction Benefit Fund.

Born in 1938, a graduate of Fort Osage High School and a member of St. Matthews Presbyterian Church, Keith and his lovely wife Sandy will celebrate their 45th anniversary in October of this year. They are the proud parents of two daughters, Ronda and Tricia, and grandparents to five grandchildren, Marissa, Robert, Allen, Shannon, and Tyler. Over the years, Keith and Sandy have been one of the most influential and respected couples within the Missouri Democratic Party and have regularly been delegates at Democratic National Conventions.

Mr. Speaker, please join me in expressing our heartfelt gratitude to Mr. Lyle Keith Querry, for his relentless efforts in protecting and assisting the rights of others, while extending the labor movement, not only within the boundaries of the Fifth Congressional District, but within the United States and the entire global community. He represents the best in all of us. I urge my colleagues of the 109th Congress to please join me in congratulating Keith on his retirement from the 2,000.member Local 53 of the International Brotherhood of Electrical Workers. Although we know that he has not completely retired, the desire of this body is that Keith Querry will enjoy the community he helped build.

## THE 40TH ANNIVERSARY OF THE VOTING RIGHTS ACT OF 1965

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. RANGEL. Mr. Speaker, I rise today to commemorate the Fortieth anniversary of the Voting Rights Act (VRA) of 1965. This historic piece of legislation has helped significantly to restore and secure the voting rights of all Americans.

The 40-year legacy of the Voting Rights Act, which will be celebrated in a major national march and demonstration in Atlanta in which I will participate, on August 6, 2005, stems from the hard-won victories of the non-violent Civil Rights Movement. During the modern Civil Rights Movement, Blacks fought against the systematic and social oppressions of segregation. Many blacks, especially in the South, were denied the very rights and privileges given and implied by the Constitution. The right to vote was no exception.

Full participation in government and society has been a basic right of the country symbolizing the full citizenship and equal protection of all. The right to vote played an important role in ending the oppressive environment of segregation. Because of this, many Black Americans protested and died for full access to a government and a promise of equal treatment that had been denied to them. This was especially exemplified on March 7, 1965, known as "Bloody Sunday", which ushered in this enactment.

As with the brutal murder of Emmett Till, "Bloody Sunday" reinforced the new consciousness about the plight of Black Americans in this country, especially in the South. Six hundred Civil Rights marchers marched from Selma, Alabama heading east in protest for their rights as citizens to vote. Six blocks later they were met by awaiting law enforcement and were severely beaten with billy clubs and bombed with tear gas. They were subsequently pushed back into Selma. Although this was seemingly a defeat for the progression of the Movement, the incident caught national attention, including that of President Lyndon Johnson.

On August 6, 1965, President Johnson introduced legislation, giving rise to the Voting Rights Act of 1965. In an address to Congress, President Johnson supported this Act by saying "At times, history and fate meet at a single time in a single place to shape a turning point in man's unending search for freedom . . . about this there can be and should be no argument. Every American citizen must have the right to vote."

In subsequent years the VRA has been modified and evolved to include more and more disenfranchised groups. In 1970, Congress added provisions that extended the right to vote for 18 year olds. In 1975, provisions were added protecting the voting rights of citizens whose primary languages were of other languages. Lastly, the 1982 provisions created Congressional districts creating a more accessible minority voting pool. Through this, Congress has added amendments to the Act that support and secure the future of this most valuable tool for a true democracy.

The Voting Rights Act of 1965 was indeed a vital instrument of democracy, ensuring the integrity and reliability of a democratic process that we as a Country hold so dear.

As we shortly begin to rethink the questions of the previous provisions previously added to this Act in 2007, remember that our work does not end here. We must continue to uphold the basic principles and sentiments that created this most important and much needed body of legislation.

I submit this article from the current addition of the Carib News concerning the need and importance of securing further protections of the Voting Rights Act in 2007. It is evident, given the voting environment of the election of 2000, that there are still issues of denial that can compromise the voting rights of our constituents.

[From the Carib News]

### THE VOTING RIGHTS ACT—INSTRUMENT OF DEMOCRACY

(By Marc H. Morial)

"While we have made progress and curtailed injustices thanks to the Voting Rights Act, our work is not yet complete. We cannot let discriminatory practices of the past resurface to threaten future gains. The Voting Rights Act must continue to exist in its current form."

So said Rep. F. James Sensenbrenner, Republican, of Wisconsin, the chairman of the House Judiciary Committee, in a recent speech to the National Association for the

Advancement of Colored People at its annual convention in Milwaukee.

We at the National Urban League couldn't agree more. We made the renewal and strengthening of the Voting Rights Act of 1965, which must be accomplished by 2007, a focus of our recent annual Legislative Policy Conference in Washington, and a top recommendation of our annual scholarly volume, The State of Black America 2005.

And we've got plenty of company among the broad coalition of civil rights groups-including the NAACP, the NAACP Legal Defense Fund, RainbowPUSH, and such members of Congress as Rep. John Conyers, of Michigan, the ranking Democrat on the House Judiciary Committee, and the Congressional Black Caucus—who've also long vigorously publicized the continuing need for voting rights protections.

So, we welcome Rep. Sensenbrenner's vigorous expression of support—which he said he'll soon back up with legislation—and his bringing word that Speaker of the House, Dennis Hastert, Republican, of Illinois, has put the renewal "high on list of issues the House will address this congress."

Such words are further evidence that it's impossible to overstate the Voting Rights Act's importance. For, by granting the Federal government specific powers to ensure that Americans of African descent in the South could register to vote and vote, the Voting Rights Act made the word "democracy" an accurate description of American Society.

Its enactment was a hard-won victory for the nonviolent Civil Rights Movement, one that had produced casualties in the South literally up to the moment (and beyond) President Lyndon Johnson personally introduced the legislation to Congress on March 15, 1965—against the backdrop of the Bloody Sunday" beating of civil rights demonstrators in Selma, Alabama to previous week.

His words then were equal to the moment: "At times history and fate meet at a single time in a single place to shape a turning point in man's unending search for freedom," he said. "About this there can be and should be no argument. Every American citizen must have the right to vote."

With token opposition the law quickly passed the House and the Senate and President Johnson signed it on August 6, 1965.

The political impact was immediate, according to Dianne Pinderhughes, of the University of Illinois, who wrote about the Voting Rights Act in the State of Black America 2005. Within a year, more than 250,000 African Americans had registered in the thirteen states covered under the Act; and Mississippi, which had harbored the fiercest resistance to civil rights for blacks, recorded the nation's highest black voter turnout—74 percent.

A similar response in the other states ultimately produced enormous growth in the number of blacks holding elective office throughout the country—from about 350 in 1965 to more than 1,400 just five years later. Now, there are more than 9,000 black elected officeholders, including 42 members of Congress, according to the Joint Center for Political and Economic Studies, a Washington, D.C. think tank.

In the intervening four decades the Act has been extended three times, and new previsions added extending the right to vote to 18-year-olds (1970), protecting the voting rights of Spanish and other language speakers (1975), and most contentious of all, allowing the creation of Congressional districts in which the majority of voters would be members of a minority group (1982).

The consequences of these amendments underscore the powerful democratizing dynamic the Civil Rights Movement as a whole injected into American Society.

Now, as the date for renewal looms, it's clear the Act is still necessary. The vote-related controversies of the past two presidential elections, which led to some significant number of voters in some districts not being able to vote or not having their votes counted have made that clear—as have continuing debates regarding voter registration, the purging of voter rolls, access to the polls and reliability of election equipment, and the impact of state laws which bar ex-felons and those on probation from voting.

Thus, Professor Pinderhughes concluded in The State of Black America 2005, this new landscape "demands that the civil rights lobby educate its mass constituency and the broader American public about these issues which are now wreathed in complexity."

That's another reason the NAACP invitation to Representative Sensenbrenner and his speech to them are noteworthy: they move us further toward the renewal of that instrument of democracy, the Voting Rights Act of 1965.

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## HONORING MOLDED FIBER GLASS COMPANIES

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to recognize the contributions of Molded Fiber Glass Companies in Gainesville, Texas, located in my district, and to celebrate the passage of H.R. 6, The Energy Policy Act of 2005.

Molded Fiber Glass Companies had modest beginnings near Lake Erie in Ohio when they first opened their doors in 1948. Since then they have continued to push the limits of technology and have added offices and research facilities across the nation. In 2001, MFG began producing massive blades to harness the power of wind and open new doors in renewable energy. With this new bill, MFG will be able to provide more energy at a lower price to the surrounding communities.

A major component of The Energy Policy Act of 2005 extends the renewable electricity production credit through December 31, 2007 for wind, closed-loop biomass, open-loop biomass, geothermal, small irrigation power, landfill gas, and trash combustion. The provision will encourage the use of renewable energy, like wind energy, thereby increasing the demand for wind turbines such as those manufactured by MFG.

This company provides so much to our community, and I am proud to have them within the district I represent. I hope that their dedication to renewable energy and our environment continues well into the future.

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## IN HONOR OF DAVID J. MORALES, MARCH 5, 1945–JULY 9, 2005

### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BECERRA. Mr. Speaker, I rise today to pay tribute to Mr. David J. Morales, a dear friend, loving family man and devoted civic leader who passed away Saturday, July 9, 2005 after a valiant struggle with leukemia. David was laid to rest on Friday, July 15, 2005 surrounded by those who loved and admired him. We are comforted knowing that today he rests in peace.

David Morales was living proof that adversity exists to be overcome. Born to Pablo Morales and Bernardina Diaz Morales in Salinas, California on March 5, 1945, David was the youngest of 13 children. Before he had reached his first birthday, David's mother had succumbed to breast cancer. Thus began his life in his beloved Los Angeles where he was raised in the San Fernando Valley by his godparents, Ventura and Felicita Borbon.

Living modestly, David learned the lessons of life at an early age. He sold fruit and scrap metal that he found on his family farm. He began to nurture the strong entrepreneurial spirit that would guide his personal and career success that awaited. But before then, at the age of 14, David faced yet another tragedy—his beloved godmother Felicita passed away.

To finish high school, David moved in with an older brother. His brother would teach him to be a commercial painter, the trade that would shape his future.

In 1975, risking everything he had in order to support his family, David created Borbon, Inc. Over the past 30 years, Borbon, Inc. has become one of the largest commercial painting contractors in the country. A union painting company based in Southern California, Borbon Inc. has been recognized numerous times by Hispanic Business Magazine as one of the most successful Latino-owned enterprises in the Nation.

But here I must pause, because those of us who knew him are very familiar with David's rags to riches story. David had the heart, the brains and the guts to succeed. But more importantly—and it's no secret—he had Celia Martinez Morales. Together David and Celia raised five accomplished children, David, Lisa, Melissa, Christina and Paul. They gave their children what a youthful David could only dream of, a solid education, a world of opportunity and a reputation stronger than steel. None of that expired on July 9, 2005.

David defied great odds to become an accomplished businessman and took it upon himself to provide opportunities to others. He was an anchor of support to the Boys and Girls Club of Buena Park, California and the University of Southern California Mexican-American Alumni Association. As a member of the Latin Business Association and the Buena Park Chamber of Commerce, David sought to open doors for America's next generation of entrepreneurs.

In an era where we cannot trust who boards our planes or enters our Capitol, David succeeded on a handshake. In a world marked by indifference and tumbling civility, David was a builder. And in a place we call the City of Angels, David belonged.

Mr. Speaker, it is with heart-felt sorrow, yet great admiration and appreciation that I ask my colleagues to join me today in saluting David Morales, a wonderful husband and father, a cherished friend, and an inspirational example of America's dream come true. May his generosity and dedication to opening doors for others be remembered and carried on by his family and those of us who were fortunate enough to call him friend. David, you left us more than you could ever know.

## RECOGNIZING THE ATHLETIC EXCELLENCE OF MARIBEL ZURITA

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize the athletic excellence of Maribel Zurita.

Maribel Zurita made her pro boxing debut on July 31, 2001, in San Antonio, the city where she was born and raised. San Antonio still serves as her base, and she continues to train in the area. Maribel held the IFBA Flyweight title from 2004 to 2005.

Aptly nicknamed "Little Thunder," Zurita more than makes up for her smaller size through a fierce tenacity and effervescent energy in the ring. She possesses a unique combination of grace and toughness which, when complemented by her skill and agility, make her a formidable opponent.

Maribel has succeeded in raising the profile of an industry so often dominated by men through her charismatic style and charm. She wins over fans of all ages and nationalities with ease. Zurita brings a professional attitude and a commitment to sportsmanship, characteristics that are all too often absent in many aspects of today's professional athletics.

I am honored to recognize Maribel Zurita for her remarkable success in athletics and beyond. Her work ethic and dedication provide an outstanding example for any aspiring athlete.

## COMMEMORATING THE 30TH ANNIVERSARY OF THE MESQUITE REPUBLICAN WOMEN

### HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. HENSARLING. Mr. Speaker, today I would like to commemorate the 30th anniversary of the Mesquite Republican Women. On July 14, 1975, at the home of Mrs. Poppy Airhart, the Mesquite Republican Women were formed, based on the guiding principle of the National Federation of Republican Women, "to foster and encourage loyalty to the Republican Party and the ideals for which it stands."

For the past 30 years the Mesquite Republican Women has worked hard to promote the principles of the Grand Old Party and to elect Republican leaders from the Courthouse to the White House.

The Mesquite Republican Women are truly helping make our community and our country a better place to live. The Mesquite Republican Women continue to strengthen the Republican Party through candidate recruitment, training and election activities as well as advocating the GOP common sense conservative philosophy of faith, family, free enterprise, and freedom.

Today, I would like to honor the first officers of the Mesquite Republican Women. President Mrs. Kay Ballard, 1st Vice President Mrs. Poppy Airhart, 2nd Vice President Mrs. Janice Houston, 3rd Vice President Mrs. Elaine Bernhagen, Secretary Mrs. Jonette Thornhill, and Treasurer Mrs. Ginger Kraft. These strong Republican women embody the energy, visions and values of our party.

## THE APOLLO THEATER PROVISION CONTAINED IN THE HIGHWAY CONFERENCE REPORT

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. RANGEL. Mr. Speaker, I rise today to thank all of my colleagues on the highway conference for including in the highway conference report a provision that would allow the Apollo Theater in Harlem, New York, to apply for historic tax credits, notwithstanding their remaining two EDA grants from the Economic Development Administration.

As most of my colleagues know, the 1,500 seat Apollo Theater is truly "where stars are born and legends are made." A historic landmark building, the Apollo was responsible for launching the careers of artists including Sarah Vaughn, Elle Fitzgerald, James Brown, Stevie Wonder, Gladys Knight, Ray Charles and Luther Vandross, just to name a few. The Apollo is also an economic engine for the community with annual audiences of over 400,000 which generates almost $100 million annually to the local economy.

The 1914 Apollo building had begun to decay over the years and in the year 2000 the foundation began a capital campaign to make needed repairs and upgrades. The foundation has raised over $35 million from the public and private sectors to date.

The language included in the conference report on H.R. 3, will allow the Apollo Theater to capture other fundraising venues, including historic tax credits, notwithstanding the EDA grants numbered 01–01–07308 and 01–01–07552. The language would release EDA from the perimeters of the two grants and thus allow the Apollo to complete the renovation.

Again, I thank my colleagues for their consideration and approval of this provision and I yield the floor.

## HONORING THE 25TH ANNIVERSARY OF THE CAREFLITE EMERGENCY RESCUE TEAM

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BURGESS. Mr. Speaker, today I rise so that I may celebrate the 25th anniversary of the CareFlite Emergency Rescue Team. This non-profit rescue organization provides a crucial service to north central Texas serving nearly six million people in 100 counties and communities within a 150-mile radius of Dallas-Fort Worth.

Just this past year, CareFlite answered the call of duty 19,000 times with one of their six helicopters or one of their 21 ambulances. They are able to get a medical team to a site, stabilize the injured and transport them to the nearest medical facilities in a matter of minutes. Especially in situations where injuries affect several systems, this quick response time can make all the difference.

Beyond saving lives, CareFlite is very active in the communities which it serves. They offer the "Third Rider" and "Landing Zone" programs to educate other medical professionals about their area of expertise; and, perhaps most importantly, CareFlite works closely with the Texas Alcohol and Beverage Commission to put on their "Shattered Dreams" program to educate high school students about the dangers of underage drinking.

CareFlite provides an invaluable service to the Metroplex and it is imperative that we recognize that service. These men and women who dedicate their lives to saving others truly make every precious minute count.

## H.R. 3199: USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005

### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BECERRA. Mr. Speaker, I rise to express my opposition to the bill we consider today—H.R. 3199—which extends certain controversial provisions of the USA PATRIOT Act. As many of my colleagues have pointed out, the PATRIOT Act is already the law of the land. However, what we consider today—and what I am opposing—are the extension of 16 sunsetted provisions that increase access to personal information. I voted to support the USA PATRIOT Act of 2001; I did so because there was a structured and reasonable limit to how long these questionable provisions would be in effect. In the bill we consider today, the sunsets have been either removed or extended to such unreasonable lengths that they are rendered pointless.

In the 4 years since the bill has passed, little effort has been expended to ensure that the civil liberties of the American people are not being violated. As such, I will oppose this bill today, but I do not foreclose supporting this bill in the future should it come back with improved and more acceptable language that provides for the strong oversight we need to effectively combat terrorism while at the same time maintaining our civil liberties.

## IN RECOGNITION OF ROSA PARKS

### HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to give honor to Rosa Parks, considered to be the pioneer of the Civil Rights Movement, who protested the discrimination of Black bus riders by refusing to give her seat to a white man in 1955. Her subsequent arrest generated the Civil Rights Movement. She once said in regards to her protest, "I knew someone had to take the first step and I made up my mind not to move."

Her story is told to emphasize the power of one. One person can make a fleeting decision to impact the consciousness of society, by standing up for what they believe in. One person can cause the world to pay attention. One person can change the course of history.

Rosa Parks is one of many, and she is well deserving of this recognition.

## STATES MUST LEAD IN PROTECTING PRIVATE PROPERTY RIGHTS

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. UDALL of Colorado. Mr. Speaker, the June 23rd decision of the U.S. Supreme Court in the case of Kelo v. New London has raised concern about the potential abuse of the power of eminent domain by local governments.

I share that concern, which is why I voted for the resolution (H. Res. 340) expressing the House's disagreement with that decision.

Congress may consider proposals for even stronger legislative responses. I think that is completely appropriate, and well may support legislation on this subject.

At the same time, however, I think it is important to remember that the primary responsibility in this area rests with the States and their local governments.

As I said during debate on the resolution passed by the House, while (in the words of the resolution) "Congress maintains the prerogative and reserve the right to address through legislation any abuses of eminent domain by State and local government," Congress can only take such action in ways that are themselves consistent with the Constitution.

Further, I think we should be reluctant to take actions to curb what some—perhaps even a temporary majority—in Congress might consider improper actions by a State or local government.

The States, through their legislatures or in some cases by direct popular vote, can put limits on the use of eminent domain by their agencies or local governments. I think this would be the best way to address potential abuses, and I think we in Congress should consider taking action to impose our ideas of proper limits only as a last resort.

That point was well made in a recent column by State Senator Lois Tochtrop, with whom I had the honor to serve when I was in the Colorado legislature.

In that column, Senator Tochtrop writes "There's only one piece of 'good news' for Colorado citizens in the recent Supreme Court decision. The high court left it up to state legislatures to control city bureaucrats bent on turning your home or business into a new strip mall. Here in Colorado, legislators have lots to do. . . . I will reintroduce legislation in the upcoming session to stop cities from abusing the power of eminent domain by giving corporate welfare to retailers while the taxpayers pay the bills."

I commend Senator Tochtrop for her leadership on this important issue. For the information of our colleagues, here is the complete text of her recent column:

[From the (Boulder, CO) Daily Camera—July 14, 2005]

STATE MUST PROTECT PROPERTY RIGHTS

(By Sen. Lois Tochtrop)

Founding father James Madison: "Government (is) instituted to protect property of every sort. That alone is a just government which impartially secures to every man, whatever is his own."

United States Supreme Court: "Never mind!"

You've heard the bad news. If Wal-Mart or other big boxes want to take your home or business for a new store, that's OK by the U.S. Supreme Court. All big developers must do is convince property tax hungry city officials that the public will benefit. As we've seen in Colorado, that doesn't take much convincing.

Time was cities used eminent domain to condemn private property only for "public use" like roads, libraries or parks. Now, the Supreme Court says it's constitutional for government to take your property to build that Wal-Mart or Walgreen's, as long as there is some "public benefit." That promised benefit is the torrent of tax money that will supposedly flow into city coffers from the new economic development.

Allowing municipalities to "take" private property and give it to another private entity is wrong and unjustified even with the recent Supreme Court ruling. The original intent of eminent domain was only to be used for public good, not to allow cities to condemn property to increase their tax base by putting in big boxes at the expense of mom-and-pop businesses, which are the backbone of America.

Retiring Justice Sandra Day O'Connor wrote in her dissent that with "the banner of economic development . . . nothing is to prevent the state from replacing . . . any home with a shopping mall or any farm with a factory." The bottom line: Your home isn't your castle anymore. It's prime development land for a Wal-Mart Super Center.

There's only one piece of "good news" for Colorado citizens in the recent Supreme Court decision. The high court left it up to state legislatures to control city bureaucrats bent on turning your home or business into a new strip mall. Here in Colorado, legislators have lots to do.

From legislative hearing rooms to constituent living rooms, Colorado property owners are crying out for relief. I have heard testimony on the abuses of eminent domain from dozens of small businesses in Aurora whose property the city wants for "mixed use development" to complement the new medical complex at Fitzsimons. I listened to testimony from dozens of citizens who battled Arvada's plan to condemn a small lake for a Wal-Mart parking lot. I listened to a pioneer family in Westminster that is losing its homestead to make way for economic development.

The losers in the battle over eminent domain aren't only the folks you read about in the newspaper or see on TV trying valiantly to protect their private property. Colorado taxpayers are big losers too, because cities often grant developers a big property tax break called "tax increment financing." Tax increment financing is given to developers to build big boxes after the municipalities "take" the property from rightful private owners under the guise of urban renewal.

Just last year, Colorado taxpayers had to "infill" more than $18 million just to school districts because tax-increment financing robbed schools of tax money that the city gave away to developers. Who pays for that "infill"? Taxpayers, of course. Colorado taxpayers wind up subsidizing corporate giants like Wal-Mart after cities take private property from owners under the guise of urban renewal and economic development.

The only economic development is usually to the big box's bottom line. In 1999 the Legislature passed legislation which somewhat limits cities' power of eminent domain, but it does not go far enough to protect private property rights, as evidenced by local land grabs. Since then, I have introduced bills that removed "economic" from the definition of urban renewal and barred municipalities from declaring agricultural land "blighted." Lobbyists for cities and powerful land developers stopped both of those bills.

The constitutional private property rights of Colorado citizens must be protected. I will reintroduce legislation in the upcoming session to stop cities from abusing the power of eminent domain by giving corporate welfare to retailers while the taxpayers pay the bills.

Protecting private property rights will take more than new legislation. Every citizen must help. If you don't like the idea of a city taking private property so Wal-Mart can put in a new Super-Center, tell your city council that's not the way your city should be doing business.

Lois Tochtrop represents District 24 in the Colorado Senate.

## GRENADA—THEY STILL NEED OUR HELP

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. RANGEL. Mr. Speaker, I rise to draw attention to the ongoing struggles of our neighbors on the Caribbean island-nation of Grenada. Hurricane Emily recently struck the island causing significant structural damage to homes, as well as public and private buildings—including two main hospitals. There was widespread flooding across the country, and many crops were destroyed. Damage from this storm alone is estimated at $110 million.

This most recent disaster is especially saddening when we consider what Grenada has gone through over the last year. In September of 2004, Hurricane Ivan devastated Grenada, causing nearly 50 deaths and displacing thousands more. A staggering 90 percent of the country's buildings were destroyed by the hurricane, and the nutmeg crop, which accounts for the overwhelming bulk of the country's export earnings, was almost completely destroyed. Nutmeg is a very slow-growing crop which makes its destruction that much more tragic.

The damage to Grenada from Hurricane Ivan was easily in the billions of dollars—several times more than the country's Gross Domestic Product. A July 26th article in the publication CaribNews entitled "Grenada Needs All the Help It Can Get", argues that the U.S. and the international community must do more to help Grenada. Indeed, Grenada has suffered serious economic repercussions following the destruction caused by Ivan.

Before Ivan, the economy of Grenada was projected to grow by 4.7 percent, but the island's economy instead contracted by nearly 3 percent in 2004. The economy was also projected to grow by at least 5 percent through 2007, but, as of 2005, that estimate had been lowered to less than 1 percent. The government of Grenada also has incurred an extremely high level of debt. While it is taking steps on its own to remedy the problem it will need help from the U.S. and organizations like the International Monetary Fund, IMF.

More than $150 million in disaster and reconstruction aid was sent to Grenada in 2004, including nearly $50 million from the United States, but the country is still in a very fragile state. The IMF reported that the economic situation could get much worse, due to deficiencies in donor financing and tax revenues, and the risk of increasing global oil prices.

With all that said, the U.S. must do all it can to help Grenada. The President was able to get Congress to pass the controversial CAFTA bill this week by arguing, among other things, that it would help the countries of Central America to develop. I hope that the President and this Congress will not forget our friends in the Caribbean, as they also need our assistance and attention. The plight of Grenada proves this, and calls out for our collective action.

[From the CaribNews, July 26, 2005]

GRENADA NEEDS ALL THE HELP IT CAN GET

For the second time in less than a year Grenada, often called the "Spice Island" of the Caribbean and a "gem" in the region was hit hard by a devastating, hurricane.

Thank God it wasn't as bad as last year's tragedy.

Although the damage wasn't nearly as severe as last year's havoc left in the wake of Hurricane Ivan, the pain and troubles inflicted on the people, the government, business, church and other institutions are much more than any single country should be asked to bear.

That's why we join in the appeal by Dr. Keith Mitchell, Grenada's Prime Minister for all the assistance, which the United States, the Caribbean, the broad international community, and the Caribbean Diaspora can offer.

When "Ivan the terrible" struck in 2004, it caused more than $2 billion in damage, destroying about 90 percent of the homes, businesses and other structures, setting back the country for several years. After achieving significant gains in its quest to improve the quality of its people's lives in the 1980s and 1990s, Ivan struck with vengeance and halted that progress. Now Emily has added to the woes.

Dr. Mitchell met U.S. President George Bush over breakfast at the White House yesterday morning and laid out a strong case for more American assistance. He also appealed to the President to use his influence with the international community, especially the World Bank, the International Monetary Fund, the Inter-American development Bank and United Nations development agencies to get them to provide even more help to Grenada.

President Bush should act decisively on Dr. Mitchell's request. Grenadians abroad should also heed his advice and unite behind the national efforts at reconstruction and development.

They should resist any attempts to resort to partisan politics or even to stay on the sidelines in these times of need.

Last year, Grenadians reacted with determination and generosity and they should do so again.

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## HONORING THE TENTH ANNIVERSARY OF MONTGOMERY COLLEGE

### HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BRADY of Texas. Mr. Speaker, I rise today to honor the tenth anniversary of the opening of Montgomery College, part of the North Harris Montgomery County Community College District, NHMCCD.

The beginnings of Montgomery College started long before August 14, 1995 when Governor George W. Bush presided over the grand opening of the 315,000-square-foot campus nestled in 100 acres of pine forest between The Woodlands and Conroe, TX.

Residents of Montgomery County who dreamed of having an institution of higher education in their midst had sought unsuccessfully in the 1970s and 1980s to establish a branch campus of an existing institution. But it was not until 1991 that voters approved a plan to join the nearest community college district, North Harris County, and to build Montgomery College.

Dr. Bill Law, the founding president of Montgomery College, led the college from its first days with a mere 1000 students meeting at local high schools. By the time the new campus opened in 1995, Dr. Law could say, "The sun is always shining at Montgomery College. It shines because we have the tremendous opportunity to help people improve their lives."

As Montgomery County experienced rapid population growth and business expansion during the 1990s, it found itself one of the fastest-growing community colleges in Texas, as well as the entire U.S. As the college grew, so did the number of programs and services that it offered. In spite of the rapid growth, the college maintained its focus on the hiring of excellent faculty members, ensuring that students' classroom experience would prepare them for the next level—whether it be a new career or transfer to a 4-year university.

During the college's third year, a partnership between NHMCCD and six area universities, The University Center, debuted, offering bachelor's and master's degrees to area residents who desired to pursue higher education closer to home. The University Center, located on the Montgomery College campus, only served to strengthen the college's role in providing an avenue toward a higher degree for its students.

The college enhanced its continuing education program during this time by kicking off an annual summer camp for youth and establishing the Academy for Lifelong Learning, which provides educational programs for the burgeoning senior population in the area.

In 1999 and 2000, the college was the recipient of several large Federal and State grants designed to move welfare recipients into the working world through a variety of career-oriented programs. By the fall of 2001, the college's enrollment approached 6,000 students and showed no signs of slowing down.

In early 2002, Dr. Tom Butler, a native Texan, took over the presidency of Montgomery College and put into place a strategic planning process to manage growth. This included a 72,000-square-foot library and classroom building. Program expansion included a tripling of the college's capacity for nursing students and other programs designed to meet the tremendous needs in the health care industry. Other new programs included teacher certification track as well as the opportunity for students to receive college credit for internships with elected officials, including my office in Conroe, TX.

The college also found new ways to engage the community through the Lyceum speaker's series, a classic/independent film series, and diverse artistic performances and shows.

The innovative style that characterized the early years of Montgomery College have continued to keep the college focused on providing students and the community with a world-class learning environment. By the fall of 2004, enrollment for credit stood at 7,400 students.

According to Dr. Butler, "a successful community college is always listening and responding—whether it be to its own students, the community, or the businesses in the area. That, more than anything else, provides us with unlimited potential for the future."

Mr. Speaker, it is institutions of higher education such as Montgomery College that make American communities strong while making the American dream of a higher education available to all. It is an honor to represent the citizens of Montgomery County, including the students at Montgomery College, in the U.S. House of Representatives and I urge you to join me in honoring the tenth anniversary of the College's campus.

## EL CARNIVAL DEL BOULEVARD

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. RANGEL. Mr. Speaker, I rise to bring to the attention of my colleagues an important festival in my district this Sunday. On July 31, the Juan Pablo Duarte Foundation will be hosting the 6th anniversary of "El Carnival del Boulevard," the Carnival of the Boulevard.

"El Carnival" is an important celebration of the Dominican presence in the Washington Heights community. The festival will honor the memory of Juan Pablo Duarte who died July 15, 1844.

Juan Pablo Duarte is one of the founding fathers of the Dominican Republic. In resistance to the rule of the Haiti, Juan Pablo Duarte helped formed a secret dissident society, La Trinitaria, to support the Dominican demand for freedom and justice. Because of his heroism, the Dominican Republic was able to gain their independence form the Haitians on February 27, 1804. This year will mark the 161st anniversary of the independence of the Dominican Republic.

The pride and love of the Dominican people is alive and well in my district. This festival will celebrate and commemorate with honor and esteem the freedom and beauty of the Dominican Republic, its people, and its culture. I look forward to festivals as my district once again demonstrates its love and appreciation for our freedoms and its status as the soul of America.

## HONORING PONDER MAYOR VIVIAN COCKBURN

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to recognize and honor my friend, Vivian Cockburn. The spirit, courage, and passion she exemplifies as mayor of Ponder, Texas, and in her fight against ovarian cancer and yearly participation in the Annual Ovarian Cancer Walk is inspirational.

Mayor Cockburn and her husband, Dan, have made Ponder, Texas, their home for the past 33 years. They were proud to raise their four children—Danny, Amanda, Christina, and Peter—in Ponder and are now blessed with seven grandchildren.

Prior to becoming mayor, she was licensed as a vocational nurse for the Texas College of Osteopathic Medicine in Justin in 1976. She then served as school nurse for the Ponder Independent School District in 1984 and for Brandenburg Elementary in Irving, Texas, in 1997. Before serving at Brandenburg, Mayor Cockburn returned to school and received her Registered Nurse's degree from Texas Women's University. .

Mayor Cockburn served on Ponder's Planning and Zoning Commission before being appointed as mayor by the Town Council on November 2, 2000. Because of her outstanding leadership and commitment to the community, she was elected in May 2001 and reelected in May 2003 and again in 2005.

As mayor, she has played a key role in making a positive impact on the lives of the citizens of Ponder through her strong initiatives of repairing the streets and community for the children, handicapped, and the elderly. Among her accomplishments, the town, under her superior guidance, was able to remodel city offices to become handicap accessible, implement a recycling program for its residents, and communicate with the Texas Department of Transportation to push for the repairs of State Highway 156. With the passage of the Transportation Reauthorization Bill in the U.S. House of Representatives today, $1.6 million will go for FM 156 between Ponder and Krum. It was Mayor Cockburn's determination and commitment that truly made the project a reality, and I was glad to work with her on making this a high priority in the final passage. She also hopes for a city park with a playground where children of the community can safely play.

It is my distinguished honor to recognize Mayor Cockburn for her outstanding service and commitment to the improvement and development of the Ponder community. Her leadership and devotion serves as an inspiration to myself and others.

## IN HONOR OF BARBARA ARVI ON THE OCCASION OF HER RETIREMENT

### HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BECERRA. Mr. Speaker, it is with utmost pleasure and privilege that I rise today to pay tribute to Ms. Barbara Arvi, an outstanding educator and passionate advocate for American Indian culture in southern California. This year, Ms. Arvi retired after 22 years of commitment and exceptional service to the Southwest Museum of the American Indian in Los Angeles, California.

Barbara started as a docent with the Southwest Museum in 1983. She leaves now as the very accomplished Director of Education. During her tenure Barbara played an active and critical role in virtually every museum department. She served as curator and co-curator on several exhibits featuring the rich heritage of American Indian cultures. As director of the museum's Intertribal Marketplace, Barbara worked with countless artists from around the country to showcase the art, music and dance of native cultures. She understood so well the importance of infusing the Southwest Museum's programs and exhibits with a true native voice.

As a museum educator, Barbara made great strides in promoting accurate and respectful portrayals of American Indian culture and history in classrooms throughout California. She served as a Commissioner and Chair of the Curriculum Review and Salary Point Committee on the Los Angeles American Indian Education Commission of the Los Angeles Unified School District. Barbara partnered with the Arroyo Seco Museum Magnet School to create and implement the Junior Docent program to provide neighborhood youth with hands-on experience and curriculum in museum studies, as well as train students to become active, contributing docents at the Southwest Museum.

To Barbara, teaching involved more than the basics. As the founder of the museum's Ethno-botanical Garden, Barbara taught visitors about the importance of California's native plants and ecology. She established the innovative "Dig-It" program which provides young students with a simulated archaeological excavation project to teach history, archaeology and ecology. She also developed the American Indian Mentorship Program, which enabled American Indian artists to share their experiences with native youth to foster their skills and interest in the arts.

Since 1993 Barbara has played an instrumental role in the success of the nationally recognized Congressional Art Competition, "An Artistic Discovery" open to students throughout the country, including students of the 31st Congressional District. Whatever was needed she was always there to lend a helping hand. From opening the doors of the Southwest Museum for the competition's awards ceremony for this congressional district to judging the student artwork, Barbara's participation was all-encompassing. The people of the 31st Congressional District and I are truly grateful to Barbara for her dedication and generosity to our annual student art competition.

Mr. Speaker, it is with great admiration and pride that I ask my colleagues to join me today to salute an exceptional woman. Barbara Arvi has made the Southwest Museum a meaningful, lasting, and vital cultural center for Southern California and the Nation.

## RECOGNIZING THE HAYS COUNTY SHERIFF'S OFFICE FOR THEIR LEADERSHIP IN THE NATIONAL NIGHT OUT CAMPAIGN

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. CUELLAR. Mr. Speaker, I rise to recognize Sheriff Don Montague and the Hays County Sheriff's Office for their leadership in the National Night Out campaign.

Currently celebrating its 22nd Anniversary, the National Night Out (NNO) is a unique crime and drug prevention event sponsored by the National Association of Town Watch (NATW). Last year's National Night Out campaign involved citizens, law enforcement agencies, civic groups, businesses, neighborhood organizations, and local officials from over 10,000 communities throughout the United States. In all, over 34 million people participated in 2004. This year's event will be held on August 2nd.

The key to combating crime is by getting neighbors to know their neighbors—this is one of the main reasons NNO has been so effective. NNO helps heighten awareness of the efforts in crime and drug prevention, while also increasing participation in local crime deterrence programs. NNO strengthens neighborhood spirit, and encourages law enforcement and community partnerships. Most importantly, NNO sends a message to criminals, letting them know that neighborhoods are organized and ready to fighting back.

I am honored to recognize Sheriff Don Montague and the Hays County Sheriff's Office for their leadership roles in supporting the National Night Out. I encourage all Hays County residents to join forces with the thousands of other communities across the country in promoting cooperative crime prevention; your support is vital in the fight against crime.

## HONORING THE DISTINGUISHED SERVICE OF ALLEN CLARK

### HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. HENSARLING. Mr. Speaker, today I would like to honor Mr. Allen Clark for his distinguished military, business and public service careers, and thank him for his outstanding contributions to his community and his country.

This September will mark the end of Mr. Clark's service at the Veterans Administration North Texas Health Care System, bringing a close to his long and distinguished career as a spokesperson and representative for veterans in our community. Always keeping his fellow veterans at the heart of each of his decisions, Allen Clark has been a strong and vocal advocate for the VA and veterans issues.

A graduate of the United States Military at West Point and decorated combat veteran, Allen Clark bravely served his country in the ranks of the U.S. Army, volunteering for service in Vietnam. As a Military Intelligence Officer assigned to the 5th Special Forces Group in South Vietnam, Allen Clark was seriously wounded. His injury required the amputation of both his legs below the knee. This life-altering experience may have taken his legs, but it did not take his spirit. For his distinguished service Clark received the Purple Heart, the Silver Star for gallantry in action, the Combat Infantryman's Badge, Army Airborne Wings, and the Vietnam Campaign Ribbon with two battle stars.

After returning from Vietnam, Allen Clark built a successful business career, earning a Masters of Business Administration degree and later working in finance, investments, oil and gas exploration, real estate, marketing, and mortgage lending in Texas. He was president of three oil companies in Midland, Texas, as well as a co-founder of a real estate investment company in Austin, Texas. His career as a public servant is equally impressive. Allen Clark served as Special Assistant for Administration to Texas Governor William Clements and Assistant Secretary for Veterans Liaison in the Administration of President George H.W. Bush. In 1991, he was confirmed as the Director of the National Cemetery System. In 2001, he was appointed Public Affairs Officer at the Veterans Administration North Texas Health Care System after serving there as Administrative Officer for Spinal Cord Injury Service and Physical Medicine and Rehabilitation Service.

President Calvin Coolidge once said, "The nation which forgets its defenders will itself be forgotten." As a combat veteran and as a public servant, Allen Clark understands that better than most Americans. Throughout his life he has done his very best to ensure that our nation never forgets the sacrifices that our soldiers, sailors, marines and airmen made to defend our freedom.

Allen Clark is a dedicated public servant, a hero, and a true patriot. But I am most proud to call him my friend. His peers, his fellow veterans, and those like me who have had the privilege to know and work with Allen Clark, will greatly miss him. As the U.S. Representative for the Fifth Congressional District of Texas, today I would like to honor the service, sacrifice and bravery of Allen Clark, and thank him for the outstanding work he has done on behalf of our nation's veterans.

## TEACHERS COLLEGE AT COLUMBIA UNIVERSITY: PUTTING THE NEEDS OF OUR CHILDREN FIRST

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. RANGEL. Mr. Speaker, I rise to bring to your attention a crisis which is before many of our public schools today—the shortage of highly skilled teachers in our city's worst schools. This problem has not only affected schools in my state of New York, but is nationwide.

Excellence should be expected of every child. And the opportunity to excel must be guaranteed to every child. The right to a free, world-class public education has been the birthright of Americans for well over a century. It is a moral imperative that forms the foundation of democracy, the underpinning of the economy, and the cornerstone of America's greatness.

To provide every child the opportunity to excel, America must ensure that qualified, caring teachers educate and inspire their students in an environment that supports a love of learning. That means a vibrant classroom in a safe, modern school building equipped with the best learning technologies; supported by active, involved parents; and driven by a collective passion for educational excellence.

This opportunity must be guaranteed within the Nation's public schools and these sentiments are echoed by the outstanding staff and leadership at Teachers College at Columbia University. I commend them for not only seeing that the problem exists, but in advocating that something be done to address it.

I'd like to take this opportunity to submit to the CONGRESSIONAL RECORD, an article written by Arthur Levine, President of Teachers College at Columbia University and Darlyne Bailey, Vice President for Academic Affairs and Dean of the College which speaks to this issue and what our priorities should be.

### BRINGING GREAT TEACHERS TO STRUGGLING SCHOOLS: THE MOMENT IS NOW

(By Arthur Levine and Darlyne Bailey)

We live in a time when people rightfully have become skeptical about the political process and the possibilities for moving beyond rhetoric to action. Yet every now and then, like the inverse of a perfect storm, forces align themselves in ways that permit substantive change.

In New York City, we have just such a moment before us right now—an opportunity to dramatically improve our public school system by addressing the issue that, more than any other, has limited the hopes and prospects of vast numbers of low-income and disadvantaged children.

That issue is the dearth of highly skilled, experienced teachers where they are needed most: in the city's worst schools. Some 60 percent of our city's low-performing students are concentrated in just one-third of our schools, nearly all of them in high-poverty areas such as Bedford Stuyvesant, Harlem, Washington Heights and the South Bronx. The prospect of failure in these schools is so overwhelming that teacher turnover is constant, with even the best and most dedicated decamping for districts where the pay is higher and working conditions allow them to be more effective.

Back in April, a special commission of the New York City Council outlined highly detailed recommendations for righting these wrongs. In addition to calling for systemwide caps and reductions in class sizes, the Commission recommended that all teachers to be awarded salary incentives of 3 percent (to be added to any negotiated increases) in order to align local salaries with the regional labor market. To increase the number of qualified teachers in low-performing, high need schools, teachers in the most challenging schools would receive as much as an additional 23 percent if they teach in target schools that adopt an extended-year (11-month) calendar. Teachers whose skills qualify them for a newly-instituted designation of "Master Teacher" would receive a further 10-percent increase, and Master Teachers who chose to work in targeted high-needs schools would join the ranks of the most highly paid teachers in the state.

This is not a giveaway to teachers. To assure high quality, these changes would be directly tied to rigorous performance assessments. In fact, the entire structure of reform would be subject to ongoing review by an Independent Office for Research and Accountability that would identify target schools for augmented support and determine whether the Commission's intensified strategies are producing desired results.

What hope is there that these ideas will be acted upon? After all, similar proposals have been floated in the past.

The answer is that at this particular moment, we are blessed with a rare opportunity that combines a potential multi-billion dollar windfall for the city's school system with contract renewal negotiations between the United Federation of Teachers and the city and an upcoming Mayoral election.

Clearly the biggest barrier to school reform has been money. For decades, the city has been unable to offer the kind of teacher salaries found in the suburbs and upstate because it has not received a proportionate share of funding. More recently, under the provisions of the federal No Child Left Behind Act, city schools have been asked to meet clear and specific targets for student achievement even as they have been denied the wherewithal to do so. Now the courts have recognized that this amounts to a violation of our children's Constitutional right to a sound, basic education. A panel of special judges has recommended that the state make amends by providing the city with an additional $14 billion in operating and facilities funds over the next five years. That decision is being appealed, but many believe that within the next year, money will actually change hands.

That's a huge step, and certainly little else can happen without it. But it is only the beginning. Plaintiffs have won similar lawsuits in other states, gotten their money, and still were unable to enact meaningful reform. Usually this was because they failed to bring together all school stakeholders in a meaningful dialogue.

In New York City, the City Council commission began such a dialogue with the public hearings it held during this past year. But obstacles remain. One of the long-standing bones of contention has been the seniority system that allows the most experienced teachers to essentially choose their placements. Given the low pay and working conditions in struggling schools, most elect to work in higher-performing institutions where they can make a decent living and be effective. Not surprisingly, the union has fiercely defended this system.

The city government, for its part, has responded—with justification—that its hands are tied.

Lately, however, there have been encouraging signs. Both Randi Weingarten, the UFT president, and Joel Klein, the city schools chancellor, have said that in principle, they believe the key to turning around struggling schools is to populate them with excellent, experienced teachers. Mayor Bloomberg, who has made education reform the centerpiece of his first term, is running for a reelection. It is a moment, in short, when promises are being made; when compromise is in the air; and when unprecedented new financial resources seem likely to come our way.

That said, the beginning of the new school year is almost upon us. The teacher contract talks are at a critical point. So let's make the most of our opportunity. We have identified a clear priority—to put great teachers in the schools that need them most, as rapidly as possible. We have the political will to do so, and soon we will have the money. If we fail to deliver, history—and our children—will judge us harshly indeed.

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## IN RECOGNITION OF THE 1965 VOTING RIGHTS ACT

### HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. DAVIS of Illinois. Mr. Speaker, on this 40th anniversary of the landmark Voting Rights Act of 1965, we must pause to recognize the importance of this legislation. A century before its passing, the 15th Amendment guaranteed the right for Black men to vote. In 1920, women were also granted that right. Despite these laws, minority men and women were still prevented from voting through discriminatory means common to Jim Crow, antebellum South including poll taxes, literacy tests, gerrymandering and language discrimination. Through the Voting Rights Act, considered one of the foremost pieces of Civil Rights legislation, Congress saw the discrimination and realized the critical need to protect the minority. We must continue to do so.

The most basic and fundamental principles of any democracy are equal opportunity, equal protection under the law and guarantee of the right to participate, to have that right protected and to have that participation count.

Unfortunately in the last two Presidential elections and in an increasing number of elections across the country are being marred with allegations of manipulation, chicanery, trickery, intimidation and outright illegal acts of fraud, thievery, and violence. All of these acts and actions have served to undermine confidence in our electoral system, disrupt the process of normalcy, and are beginning to shake the very foundation of our democracy. We must not waver in our commitment to our citizens and continue to ensure that their vote matters.

The face of America is changing every day. Diversity of race, ethnicity, language and other aspects of the American citizen are evident in our society. The need to protect the rights of the electorate despite these differences is a constant struggle. This 40-year-old legislation stood the test of time. It is our duty to continue to protect the right to vote, one of the most basic rights, for all Americans.

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## JOHN L. PROCOPE AND THE POWER OF THE BLACK PRESS

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. RANGEL. Mr. Speaker, I rise today to pay tribute to John L. Procope, who was my friend and an extraordinary African-American businessman, entrepreneur, and role model. His passing earlier this month is a source of great sadness to a community of colleagues and friends who will greatly miss him. I know that Riverside Church, where he is being memorialized this morning, is filled with many tears, but with many more memories.

When the Black newspaper, the Amsterdam News, faced financial troubles and was threatened with closure, John L. Procope stepped forward to ensure that the African-American community in New York continued to have a voice and reliable source of information on the day's news. Knowing the important and significance of the Amsterdam News and other Black newspapers, John ensured that there would continually be a voice for a community that had so long been limited in its advocacy, expression, and information.

For generations, the Black press had been the communication hub of the Black community. It had been the voice for the community to its leaders and to each other. It connected the individuals of the community to one another and told the news and events of the day from their perspectives. The Black press questioned and challenged the system of segregation, highlighted and pointed out the social, political and economic inequalities of the community, and disputed and countered the official positions on issues of race and class. The Black press has historically been the pipeline of the concerns and issues of the Harlem community and other Black communities throughout the nation. It remains the compelling, focused, and thoughtful voice of the community and its residents, and it works against financial challenges, to maintain that role.

John recognized this important role of the black press as a voice to and of the community. He knew that for the community to flourish the press would have to remain strong. So, when John and his fellow investors saw the Amsterdam News faltering, they came to its rescue and the rescue of the community. John invested in and resurrected the paper. He ensured and maintained its role in Harlem and in Black communities throughout New York City. He continued the paper's important role as advocate, informer, and champion of the Black community.

The newspaper nonetheless was not John's only legacy. He ventured his business and economic skills into other arenas to become a successful entrepreneur and a powerful role model. He showed generations of African-Americans that to be successful, you had to be committed and dedicated, and that being successful did not mean forgetting your roots and your community.

I submit for the RECORD two articles from the July 26, 2005 edition of the CaribNews praising John's dedication and commitment to Harlem and the Black community. He will be missed in this community for all that he has done, but he may rest peacefully knowing that he has sowed the seeds for generations of progress.

[From the CaribNews; July 26, 2005]

CELEBRATING THE LIFE OF JOHN PROCOPE

John L. Procope, an entrepreneur and former publisher of The New York Amsterdam News, died on Friday, July 15. He was 82 and lived in Queens. The cause was complications from pneumonia.

Mr. Procope, a graduate of Morgan State University, was a marketing and advertising executive at several companies before he joined a consortium that bought The Amsterdam News in 1971. He was one of six co-owners of the newspaper when he succeeded Clarence B. Jones as publisher in 1974.

Mr. Procope earned his bachelor's degree in business from Morgan State University, attended business school at New York University and began his career in advertising. A native New Yorker, he was a former president of the National Newspaper Publishers Association. He was also a president of the Harlem Business Alliance and served as a trustee of Howard University for 15 years.

The Amsterdam News was founded by James Henry Anderson in 1909. W.E.B. Du Bois, Adam Clayton Powell and Malcolm X are among the famous black Americans who have written for the newspaper. Mr. Procope made waves in the Black community when he denounced the looting that took place after the 1977 blackout in New York by publishing a blistering editorial charging an apparent vacuum of leadership in the Black communities. Subsequently, he was appointed chairman of an Emergency Aid Commission which disbursed about $3 million to grants to businesses hurt by the looting.

Mr. Procope left the newspaper in 1982 to focus on E. G. Bowman, an insurance company that had been founded by his wife, Ernesta G. Procope, that was one of the first major African-American-owned businesses on Wall Street. The company's client list started with underserved Brooklyn homeowners but grew to include Fortune 500 companies.

Mr. Procope and his wife were a driving force behind the creation of the Fair Access to Insurance Requirements plan in 1968 to help make insurance available to all residents of New York State. He and his wife were also highly visible in political and philanthropic circles.

In addition to his wife, he is survived by two sisters, Dr. Jean Martin of Bloomfield, Conn. and Jonelle Terrell of Manhattan.

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### JOHN L. PROCOPE—THE PASSING OF A LEADER IN NEWSPAPER PUBLISHING AND THE CONSUMMATE BUSINESS LEADER

When John L. Procope died last week in New York City at the age of 82, he left behind a number of things.

The first is a rich legacy as an entrepreneur who along with his wife made a success of a business in an area where few Blacks had dared to walk as owners: Wall Street, perhaps the worlds most famous financial district.

Secondly, he also left behind a history of having stood on the shoulders of many 19th and 20th century Black newspaper publishers whose organs of information articulated the cause of Black people with verve and determination, during some of the most perilous of times, dating back to era of slavery, through reconstruction, the days of Jim Crow and into the civil rights struggle and right up to these days of immense challenges, successes and failures.

People like John Russwurm, who in 1827 was a recent graduate of Bowdoin College, and a young militant minister, the Rev. Samuel Cornish, who created and launched "Freedom's Journal," the first Black newspaper in the United States were the models for later Black publishers. The Freedom's Journal was the expression of a force and energy that paved the way for thousands of other Black newspapers which stood at the forefront of the battle for freedom, decency, human rights, civil liberties and respect for people of color.

The Pittsburgh Courier, the Chicago Defender, the New York Amsterdam News and more recent additions to the list of outstanding voices of Black people, including the CaribNews, have and are making names for themselves with their clarion calls for social and economic justice and racial equality in government, business, the church and other areas of life.

That Procope was able to lead the Amsterdam News with distinction in the 1970s and early 1980s before he left to devote his full energies to the family business is a measure of the man who like Russwurm traced the roots of his family tree to the Caribbean. His steady hand as the publisher of the Amsterdam News, one of the country's most important Black newspapers, contributed to its viability and while he may not have always pleased all sections of the Black community he certainly made his mark as a voice of reason and frankness, two highly cherished commodities which are often missing in our everyday lives.

As a co-owner and the publisher of the paper, Procope established a powerful presence and became a major asset as an advocate for Blacks. He routinely assumed that role with both dignity and clarity, never shrinking from the task at hand, even if it meant stating a fact of life that some Blacks found unpleasant to mention.

This sophisticated, business-like an elegant 20th century man recognized that the power of Black business, whether in newspaper publishing, insurance or in other ventures could be magnified through firm but behind the scenes action or public steps grounded in principle but devoid of fear.

In his later years, after leaving the Amsterdam News in 1982, a decade after he had joined with a group of Blacks who acquired the paper, Procope, joined E. Bowman, an insurance company founded by his wife, Ernesta G. Procope. He served as Chairman of the Board of the company, which served not only poor Black homeowners of Brooklyn but Fortune 500 companies whose shares, were traded on the New York Stock Exchange.

Both Mr. Procope and his wife were noted for their business acumen and their philanthropic impulses.

His passing due to complication from pneumonia leaves the City, the business community and the Caribbean much poorer.

His wife, two sisters, Dr. Jean Martin of Connecticut and Junelle Terrell of Manhattan and other relatives survive him.

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## HONORING SPECIALIST ERNEST W. DALLAS

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BURGESS. Mr. Speaker, today I rise to honor Specialist Ernest W. Dallas, Jr. of Denton, Texas. Specialist Dallas was killed in action on July 24, 2005, in Baghdad, Iraq, in support of Operation Iraqi Freedom. According to initial reports, Specialist Dallas died when an improvised explosive device detonated near his military vehicle.

Specialist Dallas was assigned to K Troop, 3rd Squadron, 3rd Armored Cavalry Regiment, Fort Carson, Colorado.

Specialist Dallas' family resides in Denton, Texas. I would like to extend my most heartfelt sympathy and condolences to his family and friends who have suffered this loss.

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## CAREFUL AND DELIBERATE ACTION BEST ON EMINENT DOMAIN REFORMS

### HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. UDALL of Colorado. Mr. Speaker, many of us have serious concerns about the recent decision of the U.S. Supreme Court in the case of Kelo v. New London and the potential effects on private property owners from local governments' exercise of the power of eminent domain.

Because of those concerns, I joined in voting for H. Res. 340, expressing disapproval of that decision, which was passed by the House last month.

However, as I said then, although I agreed with the resolution's statement that Congress could seek to "address through legislation any abuses of eminent domain by State and local government;" I think we should be reluctant to take actions to curb what some—perhaps even a temporary majority—in Congress might consider improper actions by a State or local government.

The States, through their legislatures or in some cases by direct popular vote, can put limits on the use of eminent domain by their agencies or local governments. I think this would be the best way to address potential abuses, and I think we in Congress should consider taking action to impose our ideas of proper limits only as a last resort.

So, I am glad to note that in Colorado discussion is already underway regarding possible changes to our laws that would modify the scope of eminent domain authority available to local governments.

A good example of that discussion is a recent editorial in Grand Junction's Daily Sentinel, which notes with approval a proposal for an amendment to the Colorado constitution but points out that its proponents should be cautious in their approach.

I think the editorial's points are well taken. I attach its full text and commend it to the attention of all our colleagues.

[From Grand Junction (CO) Daily Sentinel, July 21, 2005]

### VOTERS COULD CHECK EMINENT-DOMAIN ABUSE

State Rep. Al White, R-Winter Park, is joining a host of state government officials around the country who want tougher state rules on government's use of eminent domain to condemn private property.

Efforts are being pushed in at least 25 states in the wake of the U.S. Supreme Court ruling last month that said the city of New London, Conn., could condemn homes in an older middle-class neighborhood and turn them over to private developers for razing to build condos, a hotel, athletic clubs and other amenities.

Millions of Americans were understandably angered by the ruling. It opens the possibility that any home or small business can be condemned if some developer can demonstrate that his plans can produce more revenue for local government.

White says he intends to push a measure in the Legislature for a state constitutional amendment that would prohibit local government from taking land for private gain. If it doesn't pass the Legislature, he said he will mount a petition drive to get it on the 2006 ballot.

White's concerns for the rights of private property owners are well taken. But White should be cautious about overreaching. There are some cases where it may be legitimate for government to condemn private property and allow another private entity to benefit from it.

Even before this June's ruling, the Supreme Court had long held that governments can use eminent domain to condemn private property and turn it over to other private developers in order to eliminate blight.

Although "blight" may sometimes be poorly defined, eliminating health and safety issues associated with severely run-down or neglected properties meets a legitimate public need.

White's proposal or any other aimed at reducing the potential for eminent-domain abuse in Colorado must recognize that public need and provide clearly worded conditions under which it could be allowed.

## HONORING THE MEMORY OF CORPORAL GEORGE ALLEN ALFORD, JR.

### HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BRADY of Texas. Mr. Speaker, I rise today to honor the memory of Corporal George Allen Alford, Jr., USMC, who was killed in action on July 31, 1968.

Corporal Alford joined the Marine Corps at age 18 in 1966 and served on the U.S.S. *Galveston* as a Captain's Orderly. He left the *Galveston* in May of 1968 after volunteering for active duty in Vietnam. By the time he was 20 years old, Corporal Alford was a Squad Leader of the 3rd Platoon of Echo Company, 2nd Battalion, 5th Marine Regiment of the 1st Marine Division. He participated in numerous operations in Vietnam including Operation Houston III, Houston IV and Mameluke Thrust II. It was during Operation Mameluke Thrust II that Corporal Alford was killed in action on July 31, 1968.

In the words of his Commanding Officer,

"George was a singularly fine Marine noncommissioned officer. His enthusiasm, courage and complete devotion to duty won for him the respect of all who knew him."

Corporal Alford's sister, Brenda (now Brenda Alford Kaiser), wrote the following poem at the time of her brother's death:

Late on a hot evening,
In a rice field in Viet Nam,
My brother gave his young life,
For the cause of liberty.

Marines like my brother are no cowards,
From their foes they do not hide,
For their courage always has been
America's cause to live or die.

They trudged the marshes of Viet Nam,
In the mud thick and black,
And never once did they complain,
When Charlie was on their backs.

America can be proud of those,
Who are United States Marines,
For they still die for us today,
Just to keep our Nation free.

Mr. Speaker, it is heroes like Corporal George Allen Alford, Jr., and the family members and colleagues keeping memories of him alive, who make America strong. It is an honor to represent his community in the U.S. House of Representatives and I urge you to join me in honoring his service and the ultimate sacrifice he made for the country he loved.

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## DRUG TRAFFICKING IN WEST AFRICA—A GROWING SOURCE OF CONCERN

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. RANGEL. Mr. Speaker, in the aftermath of the G–8 summit, there has been much hope for the prospects of the African continent. While I too share in these hopeful sentiments I am well aware that we must remain vigilant in guarding against threats to the continent's development. A July 28th report from the San Diego Union Tribune entitled "South American drug cartels lured to West Africa," is one of a number of recent reports which detail the increasing presence of narco-traffic in West Africa.

Apparently, international drug cartels are increasingly using West Africa as a hub for drug shipments into Europe and North America. The political instability and inadequate government capacity which these countries experience provides the perfect environment for these cartels to operate. Even countries such as Ghana, which have been lauded for their good governance, will be challenged to dedicate resources to stopping this activity, when they have so many other issues to address.

The increasing problem of African drug trafficking is just one more reason why the Bush Administration must keep its promise to significantly increase aid to Africa, as the stakes continue to grow.

[From the San Diego Union Tribune, July 28, 2005]

SOUTH AMERICAN DRUG CARTELS LURED TO WEST AFRICA

(By Nick Tattersall)

DAKAR.—South American drug cartels are moving their logistics bases to West Africa, lured by lax policing in an unstable region and the presence of small, underground criminal groups, United Nations experts say.

Drug cartels are increasingly using West Africa as a hub for smuggling, working with criminal networks from the region who market cannabis, cocaine and heroin in Europe and North America, according to the U.N. Office on Drugs and Crime (UNODC).

"If you look at recent seizures of cocaine, the biggest are all linked to groups with operations on the West African coast," Antonio Mazzitelli, head of UNODC's regional office for West and Central Africa, told Reuters in an interview.

Consignments of cocaine would mainly come in from Latin America through the Cape Verde islands off the Atlantic coast, or through Ghana, Nigeria and Togo, from where they would be re-exported to markets including Spain, Portugal and the United Kingdom.

Spanish authorities seized nearly three tons of cocaine on a Ghana-registered vessel in international waters off the African coast just three days ago, arresting 12 Ghanaians, four Koreans and two Spaniards.

Spain said the traffickers had picked up the drugs in an unidentified South American country and refuelled along the African coast before setting off for Europe.

Major shipments of heroin produced in southern Asia were also transiting through West Africa, particularly Ivory Coast, after being flown by air couriers from Kenya and Ethiopia, UNODC said in a recent study on crime in Africa.

HARD TO CRACK

West Africa is seen as an attractive transit centre for international drug traffickers because the criminal networks already in place around the region have proven notoriously difficult for police and customs officers to break.

Operating as flexible networks of individuals rather than large-scale, hierarchical organizations, they can market illicit products to diaspora populations in drug consuming countries and recruit couriers among a cheap labor force available at home.

"One of the reasons these networks can abandon traditional command-and-control relations is that many of them are grounded in a common ethnicity," UNODC said in its study.

"Betraying compatriots is not only in violation of deeply ingrained values, it can result in exclusion from this vital support base," it said.

While war crimes prosecutors in Sierra Leone have said international terrorists have used the West African diamond trade to fund their operations, UNODC said no clear links had been established to the drugs trade, though that could change.

"This is the sort of environment within which organised criminal and terrorist groups can grow. There are many well-proven cases of terrorist groups going hand in hand with drug cartels," Mazzitelli said, taking Taliban fighters in Afghanistan and rebel groups in Colombia as examples.

"In Spain the terror attack was financed if not entirely then partially through drug trafficking," he said, referring to bomb attacks which killed 191 people in packed rush hour trains in Madrid in March 2004.

Mindful of the threat posed by criminal groups operating across borders, police forces around Africa have linked up to a global satellite communication system run by Interpol which is supposed to track fugitives and stolen goods.

Interpol Secretary-General Ronald Noble told reporters in Ghana this month that 31 African countries were now connected to the system.

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## HONORING ENTECH INC.

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BURGESS. Mr. Speaker, I rise today so that I may recognize the contribution of ENTECH Inc., an energy company in my district, and to celebrate the passing of H.R. 6, The Energy Policy Act of 2005.

Located in Keller, Texas since 1995, ENTECH has created solar energy systems which are capable of providing renewable electrical power without emissions and at a reduced cost. ENTECH is the world's leading manufacturer of concentrating photovoltaic solar systems. In addition to electrical output, ENTECH systems can also produce hot water or other thermal energy outputs. ENTECH's "SunLine" technology is able to provide clean and quiet energy for plumbing and lighting systems for a variety of applications ranging from commercial establishments to, most recently, the space program.

The Energy Policy Act of 2005 will provide tax relief to individuals and businesses investing in solar energy. It also creates a goal of instilling solar energy systems in 20,000 Federal building within the next 5 years.

ENTECH is having a significant impact on our community and our Nation, and I am proud to have them within the 26th Congressional District of Texas.

## ON THE LIFE AND SUDDEN DEATH OF HONORABLE ARTHUR E. TEELE, JR.

### HON. CORRINE BROWN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Ms. CORRINE BROWN of Florida. Mr. Speaker, on behalf of the constituents of the Third Congressional District of Florida, I stand today with a heavy heart following the sudden and tragic death of Mr. Arthur E. Teele, Jr.

On Wednesday, July 27, 2005 the State of Florida, this Nation, and I lost a great friend, patriot, and champion for the less fortunate. His death marks the end of a great career as a statesman, political leader, visionary, decorated veteran, attorney, newspaper publisher and family man.

Arthur Teele was an imposing figure, astute and sharp of mind and wit. He was as diverse as he was intuitive in matters of people, politics and the driving forces behind change. Here was a man as complex in his thinking, as he was simple in his focus on bettering the lives of so many. He ably balanced political acumen with the ability to traverse and bridge party and ideological lines, bringing a voice to the voiceless, hope to the hopeless, and instilling a fighting spirit in those who felt lifeless and forgotten.

Arthur Teele was a skilled and brilliant strategist, who knew not only the pulse but felt the heart beat of his constituency; moreover, he moved deftly and with passion through all political and social ranks, regardless of political affiliations, to bring to many communities much needed services. As head of the U.S. Urban Mass Transportation Administration, he built bridges of influence that brought transportation, jobs, and much needed services to depressed minority communities and the urban core. He stood tall and strong as a champion of enterprise, and as an advocate for changing the social, economic, and political fabric of communities across Florida, and indeed the Nation.

Arthur Teele, was the consummate man against the odds, taking on the fight for social and economic parity. He made us feel we were important and necessary partners in the fight to make this region, this State, and this Nation honor its promises to all citizens.

His legacy may well be written from varying viewpoints, yet I remind you that in all things, the good that men and women do, will in the eyes of those who really care, outlive and outshine all the other utterances.

## CITIZENSHIP RIGHTS FOR CARIBBEAN IMMIGRANTS

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. RANGEL. Mr. Speaker, I rise today to submit to the RECORD an article from the July 26, New York Carib News in support of citizen rights for Caribbean immigrants. Caribbean migrants have worked in the country for centuries. The Caribbean is the source of the U.S.'s earliest and largest Black immigrant group and the primary source of growth of the Black population in the U.S. The region has exported more of its people than any other region of the world since the abolition of slavery in 1834. The fact that there are close to 50 major Caribbean carnivals throughout North America attests to the permanence of the Caribbean immigration experience.

Caribbean music, such as soca, calypso, reggae, and now reggaeton, is having a profound impact on U.S. popular culture. Other Caribbean cultural expressions, like food, dance and art, are becoming established in mainstream America. The prominence of first- and second-generation Caribbean figures in U.S. labor and grassroots politics for many decades also testifies to the long tradition and established presence of the Caribbean population.

Today many Caribbean workers can be found in the hospital, construction, service and hotel industries, but there is also a growing professional sector. Estimates of the Caribbean population in the U.S. range upwards from 2.6 million, depending on how one defines the Caribbean.

While the largest Caribbean immigrant sources to the U.S. are from Cuba, the Dominican Republic, Jamaica and Haiti, U.S.-citizen migrants also come from Puerto Rico and the Virgin Islands.

Many of the undocumented immigrants from the Caribbean islands have been living, working and making vital contributions to our country for many years. In New York it is almost impossible to walk down the streets of Harlem or Brooklyn without hearing a Caribbean accent or coming across a Jamaican eatery.

The members of the Caribbean community are hard working, pay into our social security system and have U.S.-born children who do not know a home other than the United States.

In the great state of New York alone, undocumented workers pay more than $1 billion in taxes a year.

I believe that members of the Caribbean community who have had a long working record and qualify for U.S. naturalized citizenship should apply. The United States is historically a nation of immigrants. Our ancestors all had the possibility to fulfill their American Dream and I think that the same opportunity should be given to hard working newcomers who came to this country from the Caribbean.

I introduce in the RECORD the article from the July 26 NYCarib.

#### THE IMPORTANCE OF CITIZENS—WE MUST HEAR IT OVER AND OVER

It may have not been a fresh bit of advice and it certainly wasn't an observation by an elected official that we hadn't heard before.

Still, when U.S. Representative Gregory Meeks, a democrat of New York City said it, his point resonated with a lot of us.

Yes, they should become citizens, it makes a lot of sense, said the member of the U.S House of Representatives from Queens when asked about Caribbean immigrants becoming citizens of the United States.

"Too many people from the Caribbean are eligible for citizenship but they fail to step forward," he complained.

Perhaps, he needs to repeat it again and again so that more people in and out of his Sixth Congressional District and across the country would act.

People from the Caribbean, who have made the United States their home have every good reason to become naturalized American citizens. One is that it opens opportunities, such as jobs, scholarships and the like that are often reserved for citizens.

Another, it protects them from capricious actions by immigration authorities who would like to do nothing more than to "send them back where they came from." Thirdly, it enables them to vote so they can make choices about who should run the country, state or city.

Voting is something that comes naturally to people from the English-speaking Caribbean where parliamentary democracy is taken seriously. People routinely join political parties, become candidates for elected office or campaign for persons they believe are best suited to serve in national parliaments or local government bodies.

That experience should prove to be a powerful magnet for citizenship and political participation.

That's why it is so baffling that so many of them fail to become citizens.

The reluctance can't be explained simply by a devotion to their original nationality. After all, almost every Caribbean state recognizes dual citizenship, meaning that naturalization adds to their life but doesn't detract from their standing as people from the Caribbean.

One possible explanation is that some can't be bothered to go through the process. The result is they often end up placing their children and themselves at a disadvantage.

That's a crying shame. It explains why Congressman Meeks' appeal was relevant and should be listened to.

## SUPPORT EXTENDING THE CANCER CARE DEMONSTRATION PROJECT

### HON. ZACH WAMP

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. WAMP. Mr. Speaker, I praise my colleague Mr. HALL of Texas for introducing a resolution to get a sense of the Congress on the issue of extending the CMS quality of cancer care demonstration project. I recently authored a bipartisan letter to the President along with close to 100 of my colleagues, including Mr. HALL, asking the President to extend the demonstration project at the current $300 million funding level.

I would like to note that extending the demonstration project is only treating the symptom and not curing the actual problem with the new Medicare payment system introduced this year. The old system overpaid for cancer drugs, which subsidized non-payment and under-payment of essential cancer care services provided by community cancer clinics. However, under the new system, which pays for drugs closer to market rates, certain essential services like treatment cancer planning are not paid for by Medicare.

I urge my colleagues in supporting the extension of the cancer care demonstration project and directing CMS to work with community cancer care on permanent solutions. We have to ensure the viability of our Nation's cancer care delivery system and America's access to quality, affordable, and accessible cancer treatment.

## RECOGNIZING KEVIN TWOHEY OF SAINT HELENA, CALIFORNIA

### HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Kevin Twohey from my hometown of Saint Helena, California, as he is honored with the 2005 Saint Helena Citizen of the Year Award.

Mr. Speaker, born in Ohio, Kevin joined our unique community more than 18 years ago. Since that time, Kevin has devoted his life to serving the people of Saint Helena. Kevin is not only a driven, hard working man who is not afraid to role up his sleeves and get his hands dirty, but he is also selfless and has remained steadfast in his commitment to bettering our town.

Shortly after settling in California, Kevin, an avid and astute horticulturalist, purchased the locally owned Whiting's Nursery which has been a part of our community for nearly 60 years.

For the past 17 years, Kevin has served as a volunteer firefighter for the St. Helena Fire Department and has held the position of fire chief for 11 years. An integral and highly revered member of this team, Kevin has become a mentor to his fellow firefighters, helping them and guiding them through fires and life. What Kevin enjoys most about volunteering is the camaraderie and the ability to positively affect people's lives every single day.

When not fighting fires or running the nursery, Kevin can be found at the Saint Helena public pool coaching the Waves, Saint Helena's Swim Team. Kevin is also a passionate fly fisherman and fitness guru.

Mr. Speaker, I'm sure Kevin's wife, Margaret, and their daughter, Kathleen, are extremely proud of him. I believe I speak for Kevin's family, friends, and community when I say Kevin Twohey is an exemplary citizen and an inspiration to all of us. My fellow colleagues, it is appropriate that we take this time to thank and honor Kevin Twohey for his numerous, invaluable contributions to Saint Helena.

## IN RECOGNITION OF H.R. 3199: USA PATRIOT ACT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005

### HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Ms. VELÁZQUEZ. Mr. Speaker, I rise in strong opposition to this measure which expands expiring provisions of the Patriot Act by granting unlimited investigative powers to our government. This bill gives the government broad powers to secretly collect personal information on medical, library and business and financial records of our Nation's citizens. Additionally, this legislation sunsets provisions that are not about combating terrorism or making us safer, but about intruding upon our privacy and infringing upon our civil liberties.

Mr. Chairman, there is no limit to these surveillance and intelligence powers once they are given to our government. There are no guarantees to the American people that our Nation will be more stable and secure by enforcing these policies, which allow the government to conduct secret searches of your home or office—the so-called sneak and peek warrant—for an indefinite period of time. Our country takes great pride in upholding the true values of our constitution and freedom. However, these provisions certainly contradict these beliefs and, more importantly, the checks and balances intended to safeguard our liberty.

We must understand that neither the original USA PATRIOT Act, nor this legislation, have been subject to the proper oversight. We have evidence that the repercussions of the original Patriot Act has led to abusive powers by this Administration. Since the September 11th attacks, our government has detained and verbally and physically abused thousands of immigrants, without time limits, for unknown and unspecified reasons, and targeted the Arab-American community for intensive interrogations and immigration screenings.

A clear example of this happened in my Congressional district at the Metropolitan Detention Center where 84 detainees where mistreated under the conditions of confinement. This mistreatment was reported and documented by the Department of Justice where it has acknowledged the abuses which were documented by the Inspector General. I clearly recognize the outrage of terrorist attacks and the need to heighten our Nation's security—but not at the expense of undermining our freedom and our democratic values and ideals.

We have not been given the actual facts or had the time to accurately evaluate the ramifications of many of these provisions. Reauthorizing a bill which lacks oversights and expands provisions that violate the privacy of our citizens is undermining the American public's civil rights and misleading our Nation.

This bill fails to protect our Nation and, our civil liberties. It strikes the essence of our checks and balances, subjects individuals to repeated abuse and violates the confidentiality of our personal records. This is plain wrong. If we want to fight terrorism, let's do it the right way, by providing the adequate resources and funding to our homeland security and our local enforcement, by being consistent with our democracy and our true values and principles, I urge my colleagues to vote no on the underlying bill.

## HONORING STAFF SERGEANT JASON MONTEFERING

### HON. STEPHANIE HERSETH

OF SOUTH DOKOTA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Ms. HERSETH. Mr. Speaker, I am saddened to report the passing of Staff Sergeant Jason Montefering of Parkston, South Dakota. He was killed, while serving in Operation Iraqi Freedom.

The lives of countless people were enormously enhanced by Jason's goodwill and service. He inspired all those who knew him. Our Nation is a far better place because of his life. All Americans owe Jason, and the other soldiers who have made the ultimate sacrifice in defense of freedom, a tremendous debt of gratitude for their service.

Every member of the House of Representatives has taken a solemn oath to defend the constitution against all enemies, foreign and domestic. While we certainly understand the gravity of the issues facing this legislative body, Staff Sergeant Jason Montefering lived that commitment to our country. Today, we remember and honor his noble service to the United States and the ultimate sacrifice he has paid with his life to defend our freedoms and foster liberty for others.

Mr. Speaker, I express my sympathies to the family and friends of Staff Sergeant Jason Montefering. I believe the best way to honor him is to emulate his commitment to our country. I know he will always be missed, but his service to our Nation will never be forgotten.

## TRIBUTE TO COMMISSIONER DEVON BROWN—2005 BEST IN THE BUSINESS

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. PAYNE. Mr. Speaker, I am proud to rise today to honor an extraordinary public servant, Commissioner Devon Brown, as he receives the "2005 Best in the Business" from the American Correctional Association. Mr. Brown has held the position of Commissioner of the New Jersey Department of Corrections since January 2002. His accomplishments in the field have not only shown his dedication but also have proven revolutionary.

He once stated that, ". . . criminal justice is in my blood." Hailing from a family replete of judges, lawyers and police and correctional officers, Commissioner Brown was, to some extent, destined to follow in his family's legacy. After obtaining a bachelor's degree from Morgan State University, he went on to earn two master's degrees in psychology and public administration. As another testament to his commitment, Mr. Brown earned his Juris Doctorate from the University of Maryland.

Sometimes considered a maverick in the New Jersey Department of Corrections, Commissioner Brown has led in the implementation of programming that focused on educational enrichment and social responsibility. For example, he instituted the "Stock Market Game", which introduces inmates to the world of Wall Street and its role in the U.S. economy. By learning about financial markets and the management of one's investments, prisoners discover new methods of analysis and decision-making. In addition, inmates have had the opportunity to further their deductive reasoning by becoming champion chess players. In fact, many prisoners have competed and won against top collegiate teams. He has also introduced "Shakespeare Behind Bars" to the New Jersey Department of Corrections. This program, also used throughout the Nation's prison systems, allows the inmates to delve into relevant personal and social issues through art.

Richard Stalder, President of the Association of State Correctional Administrators stated that, "Despite highly formidable and oftentimes less than ideal circumstances, Commissioner Brown has remained focused, showing integrity, resourceful ingenuity and uncompromising commitment to excellence no matter how daunting the presenting challenge. Though his inspiration and unwavering resolve, he has advanced the profession and earned the New Jersey Department of Corrections a place among the most improved, progressively oriented, penal systems in the land." Therefore it is no surprise that Mr. Brown has also garnered many other awards besides the "2005 Best in the Business. In 2004, the College of New Jersey honored him with the "Gene Carte Memorial Award" for his exemplary correctional leadership.

Mr. Speaker, I invite my colleagues here in the House of Representatives to join me in honoring Commissioner Devon Brown, for being the recipient of the "2005 Best in the Business" as well as for his overall excellence and dedication to the field of corrections. A man who is not afraid to make the hard decisions or to stand up for the truth, Commissioner Brown exemplifies vision, professionalism and integrity. I am proud to have him as a dear friend and wish him never-ending success in his future endeavors.

## RECOGNIZING THE 10TH ANNIVERSARY OF THE LANDMARK EL MONTE GARMENT SLAVERY CASE

### HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Ms. SOLIS. Mr. Speaker, I rise today to recognize the 10th Anniversary of the landmark El Monte garment worker slavery case.

In 1995, I was shocked to learn one of the worst sweatshops in recent U.S. history was operating in the city of El Monte, California—in my congressional district. Seventy-two Thai workers lived and worked in substandard conditions. Sixty-seven of them were women. Most of these workers had been held in slavery for up to 17 years at an apartment complex and were made to sew clothes for some of the Nation's top manufacturers and retailers. The workers labored over 18 hours a day in a compound enclosed by barbed wire and armed guards. They had left their homes in Thailand in search of a better life and wound up enslaved just outside Los Angeles.

While the El Monte sweatshop is a terrible example of substandard working conditions and human trafficking, it is not uncommon. Approximately 600,000 to 800,000 people are trafficked across international borders each year for forced labor, domestic servitude, or sexual exploitation. When including the number of victims who are trafficked within borders, the total number rises to between 2 and 4 million.

Approximately 50,000 people are trafficked to the United States each year. Los Angeles is one of three major ports of entry for human trafficking. Most come from Southeast Asia and the former Soviet Union. About half of those are forced into sweatshop labor and domestic servitude similar to the El Monte sweatshop. The rest are forced into prostitution and the sex industry, or in the case of young children, kidnapped and sold for adoption. While many victims come willingly, they are not aware of the untenable terms and inhumane conditions they will face.

I have worked very hard—in the California state legislature and now in Congress—to support efforts to eliminate this inhumane and criminal activity. Beginning with the Victims of Trafficking and Violence Protection Act passed in 2000, the United States began a concerted effort to combat human trafficking into the United States and around the world.

Established under this law, the "T" visa has been critical to combating trafficking in the U.S. These visas allow victims of trafficking, who would face retribution if they were sent back to their home country, to remain in the U.S. for 3 years, and then apply for permanent residency. The "T" visa has allowed many victims of trafficking realize their dream of living in the U.S.

In 2003, Congress renewed the Trafficking Victims Protection Act and increased funding for anti-trafficking programs by more than $100 million for each fiscal year. The act also refined and expanded on the minimum standards for the elimination of trafficking that governments must meet. The legislation created a yearly "special watch list" of countries that the Secretary of State determined were not taking action to combat human trafficking.

In 2005, Congress will again renew the Trafficking Victims Protection Act. I am proud to be a cosponsor of this important legislation, which will close loopholes and increase assistance to victims of trafficking. The bill also addresses the needs of child victims of trafficking and directs relevant government agencies to develop anti-trafficking strategies for post-conflict situations and humanitarian emergencies abroad.

We have made progress since 1995 when the El Monte slavery case thrust the issue of human trafficking into the national spotlight. We must continue our work to eliminate trafficking within the United States. We must also work with foreign governments and non-governmental organizations abroad to end human trafficking and eliminate the conditions that foster trafficking, such as widespread poverty, crisis and warfare.

I am proud to join the Thai Community Development Center to recognize the 10th Anniversary of the Landmark El Monte Garment Slavery Case. This organization has been an amazing force working to raise awareness and efforts in eliminating slavery and trafficking. It is my privilege to take this opportunity to pay tribute to the Thai community and to honor the Thai workers.

## PERSONAL EXPLANATION

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BURGESS. Mr. Speaker, on July 28, 2005, I was present and did vote "aye" on rollcall vote No. 448, but was recorded as "not voting". I respectfully ask that the record show I did vote "aye" on final passage of H.R. 5, the HEALTH Act of 2005, but was not recorded.

## 40TH ANNIVERSARY OF THE VOTING RIGHTS ACT OF 1965

### HON. WILLIAM J. JEFFERSON

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. JEFFERSON. Mr. Speaker, 40 years ago, on August 6, 1965, President Lyndon Johnson signed a landmark piece of legislation, a turning point in our Nation's continuing struggle for equality, the Voting Rights Act of 1965. I rise today in honor of that momentous occasion.

Aristotle once wrote that "if liberty and equality . . . are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost." More than 2,000 years after Aristotle's death, Dr. Martin Luther King, Jr., said that "all men are caught in an inescapable network of mutuality." In 1965, this Congress passed the Voting Rights Act to ensure that all Americans, regardless of race or ethnicity, would be able to share in our government, to mutually enjoy the blessings of liberty and democracy.

Nevertheless, despite a constitutional guarantee of the right to vote, before the Voting Rights Act of 1965 became the law of the land, African Americans and other minority citizens were often forced to take a literacy test, pay a poll tax or overcome other often insurmountable barriers before they could vote. Those who could not pass the tests—which were, for the most part, absurdly unfair—or were too poor to pay the poll tax were denied the most basic right of all Americans: the right to take part in the selection of their Nation's leaders. President John F. Kennedy once said, "Let us not seek the Republican answer or the Democratic answer, but the right answer. Let us not seek to fix the blame for the past. Let us accept our own responsibility for the future."

It was the hope of the Johnson administration and this body that the Voting Rights Act would be a solution and bring to an end these and other measures that compromised the legitimacy of our democracy. President Johnson told his Vice President, Hubert Humphrey, that he wanted for all citizens "the right to vote with no ifs, ands, or buts—that's the key." It was his dream—and that of American men and women from every walk of life—to unquestionably ensure the benefits and responsibilities of citizenship to all Americans.

For the most part, the bill has been successful. Under Section 2 of the Act, for example, Congress prohibited the use of literacy tests throughout the country. They also identified those parts of the Nation with the greatest potential for discriminatory activity and mandated Federal oversight of these locations. With these measures and others, the Voting Rights Act became perhaps the most effective piece of civil rights legislation in history.

In my home state of Louisiana, 31.6 percent of African Americans were registered to vote in 1965, compared to 80.5 percent of whites. A little more than 30 years later, registration rates among African Americans climbed to 77.1 percent in the State, a jump of almost 50 percent and fully 2 percent higher than the rate of registration for whites. Such change in a comparatively short period is remarkable by a number of measures, not only making our democracy more inclusive, but also changing the face of our government.

The legislation also brought to fruition a government that more closely resembles the makeup of our population. The Civil Rights Coalition reports that "in 1964, there were only approximately 300 African Americans in public office nationwide, including just three in Congress. There are now more than 9,100 black elected officials, including 43 members of Congress, the largest number ever."

Despite these encouraging numbers, the VRA remains necessary to the continuing struggle to truly open our great experiment in Democracy to all. The results of the 2000 election proved to our country that we have yet to achieve the equality and democracy necessary, as Dr. King put it, to "live out the true meaning of our creed." Every American citizen who wishes to do so is entitled to have their voice heard and their vote counted—when that right is so blatantly ignored, we appear to regress to a time when the decision making process was reserved for the few and the powerful.

The passage of the Voting Rights Act 40 years ago today was a milestone in legislative history. This Congress defended the civil liberties of every American citizen, regardless of race or ethnicity. However, we cannot let our progress overshadow the very hard work that remains. Forty years on, every election still brings stories of voter intimidation, suppression and discrimination. It is incumbent upon us to secure the franchise, the most fundamental right of every American, and its exercise. Accordingly, we must continue to build on the sacrifices of ordinary men and women who became the heroes of equality and to uphold our promise to guarantee voting rights to every American citizen and ensure that it is carried out to the fullest.

Mr. Speaker, on this anniversary, I urge my colleagues to renew our collective commitment to the fundamental American principles that underlie the Voting Rights Act of 1965.

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## WISHING A HAPPY 50TH WEDDING ANNIVERSARY TO BENJAMIN AND MARSHA EMANUEL

### HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. EMANUEL. Mr. Speaker, I rise today to recognize a milestone in the lives of my parents, Benjamin and Marsha Emanuel. On August 21, 2005, they will celebrate their 50th wedding anniversary. On behalf of their four children and eleven grandchildren, I'd like to take this opportunity to wish them a very happy golden anniversary.

My father, Dr. Benjamin Emanuel, was born in Israel and moved to Chicago. While he was completing his medical residency he met my mother Marsha Smulevitz, a nurse in the same hospital. They were married on August 21, 1955, and settled in Chicago's North Andersonville neighborhood where they went on to raise four children in a loving home where we learned the values of public service and compassion which continue to guide me to this day.

My mother is a loving and caring person with a remarkable history of serving the greater good. In the early 1960's, she served 4 years on the Congress of Racial Equality, founded by students at the University of Chicago, and participated in Freedom Marches in the South. She went on to earn an advanced degree in social work from Northeastern Illinois University. For over 20 years, my mother has maintained her commitment to public service by working as a social worker and counselor to local children and adults.

My father was a practicing pediatrician on Chicago's North Side for over 40 years and continues to volunteer at Children's Memorial Hospital. My constituents in the Illinois Fifth District include many former patients of my father, and people often tell me of how much his life's work has meant to them.

Mr. Speaker, I am very proud to be the son of Benjamin and Marsha Emanuel, and I want to thank them for all of their love and support through the years. I ask that my colleagues please join me in wishing these two extraordinary people a very happy 50th wedding anniversary.

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## IN RECOGNITION OF CHRISTOPHER J. TAYLOR

### HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. ROGERS of Alabama. Mr. Speaker, Sergeant Christopher J. Taylor, 22, of Opelika, Alabama, died on July 24, 2005, in Iraq. Sergeant Taylor was assigned to B Battery, 1st Battalion, 41st Field Artillery Regiment, 3rd Infantry Division, at Fort Stewart, Georgia, and according to initial reports died when he was struck by indirect fire on a Coalition forces base. His survivors include his wife Janina, his son Xavier; and his daughter Aaliyah.

Christopher Taylor was proud to serve his country, Mr. Speaker. He was a graduate of Opelika High School and was known in the community as a loving friend and father. Like every soldier, he dutifully left behind his young family and loved ones to serve our country overseas.

Words cannot express the sense of sadness we have for his family, and for the gratitude our country feels for his service. Sergeant Taylor died serving not just the United States, but the entire cause of liberty, on a noble mission to help spread the cause of freedom in Iraq and liberate an oppressed people from tyrannical rule. He was a true American.

We will forever hold him closely in our hearts, and remember his sacrifice and that of his family as a remembrance of his bravery and willingness to serve. Thank you, Mr. Speaker, for the House's remembrance on this mournful day.

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## THE WINNERS OF THE NATIONAL 2005 MATH, ENGINEERING, AND SCIENCE ACHIEVEMENT COMPETITION

### HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. GRIJALVA. Mr. Speaker, I rise today to commend the winners of the national 2005 Math, Engineering, and Science Achievement Competition held in Anaheim, California.

Johnnie Gasper, Rosie Mankel, Esther Blue, and Darryl Davis-Rosas, from Tucson, Arizona's Pueblo High Magnet School took first place at the national competition.

The Math, Engineering, Science Achievement Competition, otherwise known as MESA, is a college preparation program founded in 1970 and launched in Arizona in 1983. Students from middle and high schools throughout southern Arizona participate in hands-on activities related to math, engineering, and science and college preparation workshops.

Over 60 schools in Arizona participate in MESA. A total of eight States competed in the competition—California, Colorado, Maryland, New Mexico, Oregon, Utah, and Washington.

These Pueblo High students were challenged to build a vehicle out of a mousetrap that could drive 10 meters, up a 30 degree incline, and stop accurately after traveling another five meters. The students had trouble with the original vehicle design, which tested their commitment and determination. Johnnie, Rosie, Esther and Darryl redesigned and built a new vehicle that led them to success. The competition also required them to write a 15-page essay and complete an academic presentation on their work. The students received high marks on all parts of the competition.

I would like to commend these young men and women for their incredible accomplishments in math and science; and to recognize the faculty of Pueblo High School for their guidance of these fine students. I urge my colleagues to join me in honoring them today.

## HONORING THE LIFE OF THOMAS STEINER

### HON. GRACE F. NAPOLITANO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mrs. NAPOLITANO. Mr. Speaker, it is with profound sadness that I rise to honor the life of Thomas Steiner, a 5-year veteran of the California Highway Patrol (CHP). On April 21, 2004, he was the victim of a senseless hate crime committed in front of the Los Angeles County Municipal Court in the city of Pomona. As he was walking to his car following traffic court testimony, a 16-year-old "wannabe" gang member pulled his car in front of Mr. Steiner, stepped out and opened fire, killing the officer. The California State Senate will soon consider a bill that would rename the interchange of State Highways 60 and 71—Thomas's favorite region to patrol—in his honor.

Tom was born February 14, 1969, and spent his childhood in Virginia and Ohio, before his parents settled in Long Beach in 1984. He graduated from Millikan High School in Long Beach and then pursued several different majors at Cal Poly Pomona. When he heard that the CHP was looking for accounting majors, he chose to study accounting. Tom always had been both attentive to details and desirous of being in law enforcement. He was not a perfectionist. He was just particular. Even as a child playing pick-up baseball, he never allowed cheating. He also loved helping people. Tom knew that being a CHP officer was the right career for him.

Tom's passion was fatherhood. He loved his stepson Justin, whom he called J.T., and his son Bryan, with whom he would walk home from preschool every Friday afternoon, holding hands. He converted his garage into a pool hall, with walls adorned with old Sports Illustrated covers, for both boys to enjoy. Also on the garage wall was Tom's collection of shot glasses from the different cities his father, Ron, had visited during his many business trips. It was a reminder that his father had valued his son Tom, and that now Tom valued his sons.

Tom is survived by his wife Heidi who will now raise 5-year-old Bryan and 14-year-old Justin. He is also survived by his parents, Ron and Carol, and his sister Julie.

Our country owes a great debt of gratitude to Tom. He died doing the job he loved, a victim of perhaps the ultimate hate crime: the assassination of a law enforcement officer solely based on the victim's status in the community, the uniform worn and what it represented. I met his father and with fellow CHP officers at the dedication of a memorial worthy of Tom's commitment to the safety of others. Join me in wishing our sincere sympathy to his family. We and the entire law enforcement community, especially the California Highway Patrol, mourn for a lost brother. I ask that all of my colleagues join me to honor this fallen hero who has made the ultimate sacrifice.

## EXPRESSING DISAPPOINTMENT THAT A RESOLUTION COMMEMORATING THE 40TH ANNIVERSARY OF THE VOTING RIGHTS ACT WAS PULLED FROM CONSIDERATION

### HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. LEWIS of Georgia. Mr. Speaker, it is with great disappointment that I submitted a statement for the RECORD yesterday, instead of going to the floor, as originally scheduled, to commemorate the 40th anniversary of the Voting Rights Act. The Republican Leadership has decided that the commemoration of the 40th anniversary of the Voting Rights Act is less important than leaving a day early for the Congressional August Recess.

I introduced House Concurrent Resolution 216 with my bipartisan colleagues from the Judiciary Committee, Mr. CONYERS, Mr. SENSENBRENNER, Mr. CHABOT and Mr. NADLER. On Wednesday, I had planned to join my colleagues in debating the resolution on the floor, but at the last moment, the Republican Leadership decided to pull the solution from consideration in order to consider CAFTA. Thursday morning, the resolution was listed for consideration, but by late morning, it was brought to my attention that the Republican Leadership had decided to reduce debate on this resolution to a mere 5 minutes, down from the customary 40 minutes allotted to consideration of resolutions under suspension of the rules. Furthermore, they planned to package the suspensions together under condensed time and they were also adding to that package an additional controversial suspension bill without allowing any debate. This important resolution was being treated as insignificant. The Minority Leader opposed giving this important resolution such short shrift, and in response, the Republican leadership pulled the legislation from consideration all together.

Today was the last opportunity for us to celebrate this important Act before the anniversary on August 6. This has become an unacceptable pattern for the Republican Leadership. The Republican majority promised after the 1994 elections to manage the House in a way that fostered "deliberative democracy," which they defined as the "full and free airing of conflicting opinions through hearings, debates, and amendments." They also pledged in their Contract with America to "restore accountability to Congress." Instead of sticking to their word, they have broken their promises, and flaunted and abused their power. They have abandoned the principle of procedural fairness or democratic accountability.

There is no reason that we could not debate this resolution this week, particularly when the Republicans will conclude business early in the day today. I am disappointed in my Republican colleagues for again derailing debate, particularly when it comes to issues related to voting and the Voting Rights Act.

## RECOGNIZING AND HONORING THE 15TH ANNIVERSARY OF THE SIGNING OF THE AMERICANS WITH DISABILITIES ACT OF 1990

### HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BROWN of Ohio. Mr. Speaker, the Americans with Disabilities Act of 1990 is one of the major civil rights victories of the past half-century. The ADA ensures that governments and businesses cannot discriminate against individuals with disabilities in employment.

Passage of the ADA has widened access, deepened involvement, and raised the level of engagement for people with disabilities at every level of society.

This is particularly true in the government, where the voices of disabled Americans are heard and help shape new policies and laws.

We're not there yet—with hard work and diligence, we'll continue to move our country toward being a place where disabled individuals are treated like every other American.

But we're making some progress.

I believe the federal government should take a leadership role in advocating on behalf of disabled Americans. Social Security's disability insurance program is one important aspect of that leadership role.

Here in Ohio and nationwide, Americans seeking Social Security disability benefits wait more than 3 years on average for final decisions on their appeals. In some cases, they are losing their family car, their savings, and even their homes—while they wait for their government to act.

I support responsible proposals to reform the disability appeals processing system. I have urged congressional appropriators to provide appropriate funding to help the Social Security Administration reduce the appeals backlog and reduce the wait for disabled Americans.

Disabled Americans have a huge stake in the fight to strengthen Social Security's solvency. Plans to privatize Social Security put the income security of American workers at risk—especially workers whose careers are cut short by a disabling illness or injury.

With more than 230,000 Ohioans currently receiving Social Security disability benefits, there is too much at stake to play games with Social Security's future.

It's appropriate for us to gather to celebrate the ADA—an important first step. Working together, we can fix these and other roadblocks for the millions of Americans who live full lives every day with disabilities.

## RESOLUTION TO COMMEMORATE 22ND ANNUAL NATIONAL NIGHT OUT

### HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. STUPAK. Mr. Speaker, I rise today in support of the Stupak/Brady resolution. Our resolution will commemorate the 22nd annual National Night Out event which is sponsored by the National Association of Town Watch.

I would like to thank my friend Congressman BRADY for cosponsoring this legislation with me once again this year. This bipartisan resolution has been supported by dozen of House Members for several years running and I am pleased we have another opportunity to highlight this important event again this year.

National Night Out, a nationwide grassroots crime prevention event, will take place on Tuesday, August 2. The event brings together involved citizens, law enforcement agencies, and civic groups throughout the U.S. to heighten crime and drug prevention awareness and to strengthen neighborhood spirit and police-community partnerships.

This has been a key part of America's community crime prevention success over the past two decades.

Community crime prevention is one of the most proven and effective ways to help law enforcement officials win the battle against crime. Whether it is stopping illegal drug sales, making schools safer, locating missing children, or remaining vigilant against terrorism, local law enforcement officials depend on the support of community networks to succeed.

The active involvement of citizens and the presence of local law enforcement in communities is a winning combination that makes and keeps neighborhoods safe.

Our resolution expresses Congress' support for community crime prevention and asks that the President focus Federal attention on the issue.

With this in mind, we hope that you will show your support for the community crime prevention efforts of citizens and police in your district and across the nation. Vote for the Stupak/Brady National Night Out Resolution.

## COMMENDING PROGRESS IN LEBANON

### HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. CROWLEY. Mr. Speaker, I would like to commend Secretary of State Condoleezza Rice for her visit to Lebanon last week, which recently held elections for a new Parliament. During her brief stay, Secretary Rice asserted the necessity for the uninhibited growth of democracy in that region and demanded the complete removal of foreign occupiers.

Lebanon carries in its history a long tradition of foreign occupation. After plunging into civil war in 1975, Syrian troops forcefully occupied Lebanon. Throughout subsequent decades, the Syrian military unjustly held Beirut, with their tenure characterized by violent bombings and raids on the Lebanese people. The United States has long opposed this occupation of Lebanon, and Congress has continually insisted on their removal.

Syrian and Iranian sponsorship of terrorist ally Hezbollah threatens the emerging Lebanese democracy. I praise the heroic Lebanese citizens on their insistence for the Syrian exodus in early 2005, despite the Hezbollah security threats. I also laud them on their fair elections for their first National Assembly after the termination of the Syrian presence. Accordingly, this provides an opportune time for self-determination and democratic changes in the region.

It is imperative that the U.S. continues to support Lebanon's desire for full security control and territorial autonomy so this budding democracy can materialize. Yet as Lebanon gains control over their country, they should simultaneously avoid isolating themselves from their neighbors. Israel and Lebanon share a number of parallel interests and could markedly benefit from stronger relations with the other. Syria has strangled trade with Lebanon since their withdrawal; additionally, trade between all three nations has essentially come to a standstill recently. There should be a push for increased commercial exchanges between Israel and Lebanon, especially with the United States through the Qualifying Industrial Zone. I recommend that as Lebanon stabilizes and secures itself as a viable democracy, we consider their addition to the QIZ, which would encourage the Middle East peace process via economic integration.

Assuring that emerging democracies in the Middle East are safe and stable should be a top priority of the U.S. With respect to Iraq, much work still remains. This administration, through Operation Iraqi Freedom, has presented a poorly executed plan to instill democracy in Iraq. I believe that what America, Iraq, and the Middle East at large need is a plan for success. My amendment to the State Department Authorization Act called for a plan for a success in Iraq, this accepted bipartisan amendment calls on the President to present a strategy indicating how we would provide for a stable Iraqi government and strong Iraqi police force, hence allowing for a lessened US presence there. This could be done by mobilizing an international effort through increased presence of NATO forces in Iraq. NATO participation in Iraq would open up the doors for other non-NATO countries to share the burden of the war. Furthermore, we should also better train the Iraqi military police, hence providing real security to the communities of Iraq.

## HONORING SERGEANT MAJOR EDWARD BROWN, JR.

### HON. BILL SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. SHUSTER. Mr. Speaker, I rise today to honor the life of Sergeant Major Edward Brown, Jr., who has distinguished himself with extraordinarily meritorious service during his 30-year career in the United States Army, leading up to a commendable tenure at Letterkenny Army Depot, Chambersburg, Pennsylvania. A long-standing track record of superior and dedicated leadership proves that Sergeant Major Brown is the kind of leader that other soldiers try to emulate and that the Army recognizes as the exemplary soldier.

Throughout his career, Sergeant Major Brown has been an exceptional, active, and inspiring leader. His positions of leadership include those of squad leader, platoon sergeant, battalion motor sergeant and maintenance non-commissioned officer in charge, multiple tours as company sergeant, and most recently Sergeant Major at Letterkenny Army Depot.

In the past 10 years Sergeant Brown has served in extraordinary places, such as Germany, Bosnia, Ft. Campbell, Ft. Huachuca, and Letterkenny, and has made significant contributions to each. In each location he held positions of leadership, with a responsibility for the welfare of soldiers, units, installations, and civilian members of the defense workforce.

Notable in Sergeant Major Brown's career is his tour of duty at Letterkenny Army Depot. He served 4 years there, and personally made tremendous and direct contributions and changes to the Depot. When Sergeant Major Brown arrived on July 1, 2001, the Depot was in a state of decline and malaise due to the fact that it had already undergone three rounds of the Base Realignment and Closing (BRAC) process. Sergeant Major Brown was instrumental in the mission of turning the depot around, bringing renewed vigor and a sense of purpose into the workplace.

Sergeant Major Brown began his tenure at Letterkenny at a most inauspicious time, just prior to the tragic events that took place on September 11, 2001. He immediately increased the Force Protection posture required by the attacks on the United States. Because of the open terrain and layout that characterize the Depot, the task of securing the mission and personnel at Letterkenny was made even more difficult. However, Sergeant Major Brown worked tirelessly with the organic guard assets of the Depot and with newly assigned troops from the National Guard and Reserve to ensure that Letterkenny remained secure until all immediate danger had passed.

Sergeant Major Brown, working as part of the Command Team, inspired and moved the workforce forward through post-modernization and beautification programs, LEAN implementation, and proactive leadership. As a result of his guidance, Letterkenny improved so much that the Depot has been selected to grow in the next BRAC round, an accomplishment that may be traced directly to his personal efforts.

During Sergeant Major Brown's career he has participated in Operation Desert Storm and Shield, Operation Joint Endeavor, and the global war on terrorism. Sergeant Major Brown has also been recognized by his peers for exceptional service and dedication, and has been awarded the Ordnance Order of Samuel Sharp Medal; he is also a member of the Audie Murphy Club. Mr. Speaker, Sergeant Major Edward Brown, Jr. has played a crucial role in the defense of the United States and in the service of other citizens. It is because of this that I wish to acknowledge him today.

## IN HONOR OF MS. WANDA MADGE JONES, THE 2004 MS. TEXAS SENIOR AMERICA

### HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today to recognize Ms. Wanda Madge

Jones, the 2004 Ms. Texas Senior America. The Ms. Senior America pageant is aimed at enriching the lives of senior citizens by raising social awareness through education and community service, while promoting the dignity and value of America's seniors.

Ms. Jones has taught dance for over 50 years to over 50,000 students as the owner of the Arabesque Studio of Dance in Dallas, Texas. As a performer, Ms. Jones has been in over 10,000 productions, showcasing her talent by entertaining our troops with the USO during both WWII and the Korean War, including a one time performance for Franklin Roosevelt.

Ms. Jones is active in multiple organizations where she strives to celebrate senior women and their accomplishments, while cultivating her own personal growth through community involvement.

Mr. Speaker, I hope you and our colleagues will join me in recognizing the many achievements of Ms. Jones, an entrepreneur and true patriot whose hard work and commitment has inspired those around her to achieve great feats in the face of adversity.

## CONFERENCE REPORT ON H.R. 6, ENERGY POLICY ACT OF 2005

### HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, July 28, 2005*

Ms. ESHOO. Mr. Speaker, nearly 5 years in the making, the energy bill passed by the House should have provided a vision for addressing our long term energy needs.

Instead, the bill sacrifices our long term economic, national, and environmental security for the short term advantage of oil companies and other energy producers.

Thankfully, some of the most extreme provisions were deleted from the final bill. The provision to give oil refiners liability protection for the damage done to drinking water supplies by the gasoline additive MTBE was removed from the bill. If this provision had been adopted, local communities would be responsible for $29 to $85 billion in cleanup costs resulting from MTBE contamination.

The provision opening the Arctic National Wildlife Refuge (ANWR) to drilling was also dropped, but the Majority leadership has promised to pass it in separate legislation.

Despite these omissions, the bill remains deeply flawed. New provisions were added and key policy challenges were not addressed.

The bill fails to address our growing dependence on foreign oil. Today we import more than half of the oil we use, and in 20 years, nearly 70 percent of our oil will come from overseas—whether or not this bill is signed into law.

By doing little to reduce our dependence on foreign oil, we're making ourselves dependent on OPEC and countries that might not share our interests.

This is a concern shared by a number of national security experts of diverse political viewpoints. In a letter to the President sent on March 24th of this year, the Energy Future Coalition (which includes former Reagan Administration National Security Advisor Robert McFarlane, former CIA Director James Woolsey, former Reagan Administration Assistant Defense Secretary Frank Gaffney, and former President George H.W. Bush's Counsel C. Boyden Gray) stated:

> The Unites States' dependence on imported petroleum poses a risk to our homeland security and economic well-being.
>
> With only two percent of the world's oil reserves but 25 percent of current world consumption, the United States cannot eliminate its need for imports through increased domestic production alone.

Since 40 percent of the 20 million barrels of oil we burn every day is used in passenger automobiles, we should be increasing automobile fuel economy requirements, but efforts to add those requirements to this bill were rejected.

Compounding the problem, the bill doesn't invest sufficiently in renewable alternatives. Only about 20 percent of the bill's $11 billion in tax incentives will go toward developing renewable energy resources which can replace fossil fuels.

The bill fails to address high gasoline prices. Rather than reducing gas prices, the bill guarantees that they'll go up by requiring that at least 7.5 billion gallons of ethanol be blended into gasoline by 2012—triple the current level. According to the Energy Information Administration, the independent forecasting agency within the Department of Energy, this mandate could force consumers to pay an extra $1.7 billion per year once it's fully implemented.

The bill weakens coastal protections and threatens the environment.

The bill requires an inventory of oil and natural gas resources in offshore areas where drilling is now prohibited, allowing pre-drilling activities in these areas. This includes Coastal California.

The bill undermines the ability of states to ensure that liquefied natural gas, LNG, terminals are properly sited and operate safely.

The bill provides oil and gas drilling operations exemptions under the Clean Water Act, the Clean Air Act, and the National Environmental Policy Act.

The bill fails to address global climate change.

The bill fails to compensate Western consumers for overcharges by electricity generators. The National Energy Policy developed by Vice President CHENEY was billed in part as a response to the Western "energy crisis" of 2000 and 2001, but there was never an effort to compensate consumers for the market manipulation that occurred in California and the western U.S. The Federal Energy Regulatory Commission arbitrarily limited the amount of refunds consumers could receive. My repeated efforts to add language to fully compensate consumers were rejected.

Conclusion. Energy touches all aspects of public policy: Public health, the environment, the economy, and national security. In the coming years and decades, the global competition for non-renewable energy resources will become more frantic. The bill passed by the Congress does not respond to that challenge, and it is comprehensive only in the sense that it contains a hodge-podge of special interest provisions that will benefit each segment of the energy production industry. Supporters of the bill have said that after 5 years we can't afford to kick the can down the road. With this bill, that's exactly what's happened.

## A TRIBUTE TO GENERAL GREGORY "SPEEDY" MARTIN

### HON. MICHAEL R. TURNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. TURNER. Mr. Speaker, I come to the House floor today to pay tribute to United States Air Force General Gregory S. "Speedy" Martin for his 35 years of distinguished and honorable service in the United States Air Force and to our Nation.

General Martin has had a distinguished career, beginning with his graduation from the Air Force Academy in 1970 with a commission as a second lieutenant. While at the academy, he became the National Collegiate Parachuting Champion; but jumping out of planes only begins to define his courage. He became a fighter pilot and flew 161 combat missions in Vietnam. He served as the mission commander for Operation Linebacker I and Operation Linebacker II during the Vietnam conflict and secured the release of American POWs.

Prior to serving as Commander of AFMC, General Martin served as Commander of United States Air Forces in Europe and Commander of Allied Forces Northern Europe, Ramstein Air Base, Germany. During Operation Enduring Freedom he directed airdrop support for American forces assisting Afghanistan refugees. During Operation Iraqi Freedom he provided deployment support, combat airdrop operations, and all air delivered sustainment support. In Europe, General Martin was awarded the Order of the Sword, the highest tribute the Air Force enlisted corps can pay to a commander.

As Commander of AFMC, General Martin led the development of a new Air Force Science and Technology vision which will guide critical research and development work to ensure the U.S. Air Force remains superior on the battlefields of tomorrow. He strengthened, unified, and streamlined the Air Force Program Executive Office to ensure more effective acquisition support for current and future Air Force weapon systems. General Martin created the Continuous Process Improvement initiatives in the air logistic centers which allowed AFMC to return $570 million in savings last year to the Department of Defense to support the Global War on Terror. General Martin has often referred to his assignment at AFMC as "The most satisfying assignment in my career."

He received numerous military awards for his service including: the Defense Distinguished Service Medal, the Distinguished Service Medal, the Defense Superior Service Medal, the Legion of Merit with two oak leaf clusters, the Distinguished Flying Cross, the Air Medal with 11 oak leaf clusters, and the NATO Meritorious Service Medal. Allied nations also recognized General Martin for his service by bestowing on him the following awards: the Medal of Commander of Order and Valor, Cameroon; the Medal of Merit—Gold, The Netherlands; the Legion of Honor, France; and the Cross of Merit, First Class, of the Minister of Defense, Czech Republic. General Martin is also a command pilot with over 4,600 flight hours in various aircraft, including the F–4, F–15, C–20 and C–21 and is a master parachutist.

I have known General Martin since he took command of AFMC in August 2003. I have received briefings from him and can assure you he is an authoritative and powerful speaker. General Martin is a man who is honest, provides a straight assessment and has the highest degree of ethics. His service honors the Air Force and our country. In providing an assessment of the need to transform the Air Force acquisition process, in classic style, he declared, in a delivery that would shame Jack Nicholson, the problem is: "some people can't handle the truth."

## COOPERATIVE DEVELOPMENT PROGRAM

### HON. JOE KNOLLENBERG

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. KNOLLENBERG. Mr. Speaker, the Cooperative Development Program, CDP, of USAID serves an important role in America's international development assistance. For a modest annual investment, credit unions and cooperatives can have a greater opportunity to flourish through the work of the World Council of Credit Unions and other non-governmental cooperative development organizations.

In a world where three billion people live on less than $2 a day, access to safe and sound financial services is essential to helping people build better lives for themselves. The World Council of Credit Unions, WOCCU, works to strengthen credit unions implementing technical assistance programs to improve credit union performance so that these non-for-profit cooperative financial institutions can offer an array of client-responsive services, extend their geographic coverage, and harness technology.

Created by the vision of the U.S. credit union movement, WOCCU has been implementing their technical assistance programs for over 30 years. Prior to WOCCU's formation in 1970, the Credit Union National Association, CUNA, had an international division called CUNA Global Projects dedicated to overseas credit union activities. Today, CUNA and their state league system, representing 86 million credit union members in the U.S., work with WOCCU to promote credit union growth in developing countries.

Through the current funding cycle of USAID's CDP, WOCCU will spend the next 4 years working with credit unions around the world and focused in Afghanistan, Kenya, the Philippines, Ecuador and Nicaragua to build networks—expanding low-cost transaction services for members, including remittances; creating enabling environments; training credit union managers and board members; and extending credit union operations to difficult operating environments, including HIV/AIDS-affected communities, conflict-prone zones and poverty-entrenched rural areas.

Credit unions and cooperatives provide hope for economic prosperity through grassroots businesses that provide jobs, income, basic education and democratic experience. I will continue to support the USAID Cooperative Development Program to sustain overseas cooperative development in developing countries and emerging democracies.

## MEDICAID IS IMPORTANT FOR PEOPLE AND CHILDREN WITH SERIOUS ILLNESSES

### HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. MORAN of Virginia. Mr. Speaker, as we approach the 40th anniversary of Medicaid on July 30, I want to underscore the importance of Medicaid to children and adults with serious illnesses. Medicaid is a public health insurance program that helps 52 million low-income and disabled Americans, including 540,000 Virginians, stay healthy. Nationally, half of Medicaid enrollees are children.

Medicaid is particularly important to people with serious illnesses. Medicaid can be the only way to pay for care.

Many people with serious illnesses must turn to Medicaid for several reasons. Many insurance policies have a lifetime upper limit of $1 or $2 million. Approximately 51 percent or 87.5 million people with employer-based insurance have a lifetime cap, according to a 2004 Kaiser Family Foundation survey. Many private insurance plans impose pre-existing condition and other exclusions and refuse to insure people with serious illnesses and disabilities. Many working Americans do not have job-based health insurance because their employers do not offer it. The cost of individual health insurance policies is often out of reach. And most Americans are too young for Medicare.

A serious, chronic illness can be emotionally and financially devastating. While we have made great strides in treating cancer today, everyone fears cancer. In 2004, 1.4 million new cases of cancer were diagnosed. In 2005, 34,000 Virginians will have cancer, says the American Cancer Society. Since 1990, over 18 million new cancer cases have been diagnosed nationwide and 9.6 million Americans are alive today with a history of cancer. Some cancer drugs can reach $300,000 a year. Hospitalization, chemotherapy, bone marrow transplants, and other treatments can be very expensive and people with insurance can reach the lifetime limit of their policy quickly.

Consider also the example of hemophilia. For the typical hemophilia patient, clotting factor to prevent bleeding, needed for a lifetime, can cost $250,000 each year, according to the National Hemophilia Foundation. Look at cystic fibrosis. The care for a person with moderate cystic fibrosis can climb to $70,000 a year. The average cost of care for all people with cystic fibrosis is $58,000 a year, reports the National Cystic Fibrosis Foundation. Drugs for rare genetic diseases can reach $200,000 a year, says the National Organization for Rare Disorders.

Caring for a person with spinal cord injury can be beyond almost anyone's ability to pay and it can be for a lifetime because spinal cord injury is most common among teenagers. The Spinal Cord Injury Information Network estimates that the average yearly expenses (health care and living expenses), for severe injury (high tetraplegia, C1–C4), the first-year cost would be $683,000; each subsequent year, $122,000. As for lifetime costs, for someone who is severely injured at age 25, costs could reach $2.7 million. If one is severely injured at age 50, can be $1.6 million.

Most American families cannot handle costs like those. This is why Medicaid is called "America's safety net"; it is often the only way to pay for care.

I'd also like to focus also on the importance of Medicaid to children. Over 25 million American children, one-fourth of all children, are enrolled in Medicaid. Medicaid is the largest public provider of health insurance for youngsters.

In Virginia, 23 percent of our children are Medicaid enrollees. Sadly, 8.6 percent or 163,501 of Virginia's children have no insurance. Insured children are more likely to get health care. Insured children are healthier, happier children.

We also need to understand how important Medicaid is to children's hospitals, where very sick children are often treated. In 2003, Medicaid-covered children were 47 percent of all discharges and 50 percent of all inpatient days of care at children's hospitals. According to the National Association of Children's Hospitals, children covered by Medicaid tend to need more care than other children's hospital patients. Children's hospitals provide 40 percent of the hospital care required by children on Medicaid. Children with particularly complex and life-threatening illnesses are frequently treated by children's hospitals and without Medicaid, these special institutions could not survive.

Medicaid has played a vital role in our country these last 40 years. I call on my colleagues to join me in working to strengthen Medicaid. It is truly a lifeline, especially for those unfortunate children and adults with serious illnesses.

## THE CREDIT CARD MESS—CONGRESS MUST ACT

### HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Ms. CARSON. Mr. Speaker, yesterday I introduced H.R. 3501, the "Consumer Access Rights Defense Act (CARD) of 2005". My bill is in response to the disastrous breach of credit card information and data privacy and continuous exposure of fraud suffered by millions of credit card consumers across the country.

My CARD ACT would require any data processing, credit or debit card businesses or other financial institutions to notify individuals when there has been a security breach compromising anyone's sensitive personal data, including Social Security numbers, driver's license or state identification numbers, credit or debit cards, or other financial account information.

Should any financial data be compromised, the bill will require notices be sent out by mail or e-mail without unreasonable delay. The bill will allow impose civil remedies for failure to notify; $1,000 per individual whose personal information was comprised or not more than $50,000 per day while failure to notify continues. The bill allows persons to sue for damages resulting from a data breach. The bill permits the placement of extended fraud alerts on credit reports. Finally, the bill will allow the Attorney General of every state to protect the interests of residents of their States when the federal government or businesses fail to notify individuals of a breach.

The bill covers both electronic and non-electronic data as well as encrypted and non-encrypted data. Furthermore, the bill sets a national standard so that individuals across the country have the same protections.

The law would be enforced by the Federal Trade Commission or other relevant regulator, or by a State attorney general who could file a civil suit. Individuals cold sue for actual damages.

Like most Americans, I was shocked to learn that the names, bank account and credit card details of possibly 40 million credit card holders have been exposed to fraud. Forty million accounts were exposed, and records pertaining to at least 200,000 admittedly were stolen, primarily MasterCard and Visa cards. Undoubtedly many people I represent could be affected by this disastrous breach of what credit companies and banks repeatedly have assured the public is a secure credit card system.

It is true that credit card holders are protected under Federal laws, including the Truth in Lending Act, which makes it illegal for banks to charge victims of credit card theft more than $50, despite the cost of purchases made on the card. And most banks have zero-liability policies, removing any financial responsibility of credit card theft from the cardholder. While the compromised data is said not to include addresses or Social Security numbers, the stolen information potentially can be used in turn to steal individual citizen's credit identify. Nearly 10 million people are victim of identity theft each year, costing consumers $5 billion in out-of-pocket losses and businesses $48 billion, according to the Federal Trade Commission. And that counts only the money loss. The Identity Theft Resource Center, a non-profit group based in San Diego, estimates the average victim spends about 600 hours trying to clear up credit problems after an ID theft.

Within days after this massive card data theft, some of that data was being bought and sold brazenly on the Internet by thieves who broker such information worldwide operating out of Russia and other Eastern European nations.

The irony of why and how the American people learned that 40 million of them, as well as others, had their financial privacy invaded should not be lost on my colleagues in this House.

We found out about this only because the State of California has a law which forces credit card companies to notify consumers when such theft happens. The Federal government has no such law, although those of us concerned about consumers rights are going to do our best to see that one is adopted quickly. At the very least, I believe, a person whose credit card information has been stolen or otherwise compromised has a right to swift and accurate notice from the issuing company or bank. For consumers fast notice of such a breach is the first, and sometimes, the only defense they have.

As member of the House Committee on Financial Services and of the Subcommittee on Financial Institutions and Consumer Credit, I am very much aware of the many credit information breaches that have occurred recently and over many months before. So many incidents like this have taken place, that I hope that this finally will spur the Congress to enact legislation to curb these frauds and protect consumers in the future.

While huge in numbers, the breach disclosed at CardSystems Solutions Inc. in California was not the first such attack on a card processor. In 2003, a Nebraska company called Data Processors International Inc., part of TransFirst Holdings Inc. had a similar breach and as many as 8 million account numbers were vulnerable. Earlier this month, Citigroup Inc. said UPS lost computer tapes with sensitive information from 3.9 million customers of CitiFinancial, which provides loans. Other companies, including Bank of America Corp., DSW Shoe Warehouse and BJ's Wholesale Club Inc., and CVS Drug Stores have also suffered extensive data theft.

While banks and credit card companies may have tighten their own security, they obviously have failed to force payment processors to meet similar high standards. Companies such as J.P. Morgan Chase & Co., Citigroup Inc., American Express Co. and MBNA Corp. said that they were not automatically alerting their customers that their information may have been exposed, but that they were "more closely monitoring the accounts" that may have been affected.

That simply is not good enough.

What happened in California has placed a needed spotlight on a little known, but highly sensitive part of the financial services industry; the hundreds of companies that process transactions between merchants and card issuers.

Edmund Mierzwinski, consumer program director at U.S. Public Interest Research Group, says that in his opinion "information travels through the credit system and stops in so many places where it could be illegally used that consumers have no idea what a hodgepodge of a system the credit card companies have created." He pointed out that the system is mainly designed to extract fees from consumers and businesses, "but very little of it is designed for security."

Even though many states are following California and adopting new laws, we in Congress should not drag our feet on this national issue anymore. We need federal protection for our people, at the very least, consumers have the right to know quickly when their private information is compromised.

In my view, here are the basic elements any protective legislation should include:

(1) Immediate notice of a breach by the card issuer to the card holder.

(2) A reasonable definition of when a "breach" occurs.

(3) Imposition of liability on third party card processors when at fault.

(4) A simple method of immediate assistance by the card issuer to the affected card holder to correct the problem as quickly as possible.

Mr. Speaker, I am assured that the CARD Act will be an important consumer law with teeth to rectify and strengthen consumer credit rights. I hope that this legislation will lessen the injurious liability that many of them face with no compassion from credit card companies, corporations, or the credit rating agencies, due to no fault of their own. I sincerely hope that the financial services industry will not oppose reasonable legislation to correct what is a very real and expanding national problem affecting millions of Americans.

I know some in the industry are saying that the cost of such notification is too great. But that statement flies in the fact of the numbers. The Wall Street Journal reports that the nation's largest banks profit each year by more than $20 billion in transaction fees they charge merchants on every credit card purchase made through MasterCard International Inc. or Visa USA Inc.

Surely some of that huge profit can be used for better and greater credit card security.

## TRIBUTE TO TAIWAN PRESIDENT CHEN SHUI-BIAN, ON THE OCCASION OF HIS FIRST ANNIVERSARY IN OFFICE

### HON. G. K. BUTTERFIELD

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. BUTTERFIELD. Mr. Speaker, I rise today to pay tribute to Taiwan President Chen Shui-bian on the occasion of his First Anniversary in office. He was elected to a second presidential term last year.

For more that 50 years, Taiwan and the United States have enjoyed a close relationship with each other economically and politically. Taiwan is our 8th largest trading partner and we are Taiwan's largest trading partner. We look forward to continuing this mutually beneficial relationship. Further, we are committed to the Taiwan Relations Act and believe in a peaceful resolution to the Taiwan issue.

Mr. Speaker, I have been informed that in recent days, Taiwan's two major opposition leaders visited China and were well received by Chinese leaders. I am pleased to see that Taiwan President Chen has been deft in his handling of the current cross-strait relations. Continued peace and stability in the Taiwan Strait is in every nation's best interest.

I join many of my colleagues in thanking Taiwan President Chen and his people for their total support of the United States, especially in the area of combating global terrorism. In the wake of 9/11, the government of Taiwan gave a million dollars to the Twin Towers Fund of New York. Two months ago, Taiwan gave another million dollars to the Pentagon Memorial Fund. To help fight terrorism, Taiwan has joined the United States and other international organizations through participation in anti-money laundering campaigns, the proliferation Security Initiative (PSI) and the Container Security Initiative (CSI). Taiwan Representative David Tawei Lee said it well, "Only by standing together will we succeed in making the world a safer place."

Mr. Speaker, Taiwan Representative David Tawei Lee came to Washington, DC, last July, and since then he has made many friends on the Hill. We are very impressed with his intelligence and industry. Taiwan couldn't find a better diplomat than Dr. David Tawei Lee in representing Taiwan's interest in the United States.

I wish to express my congratulations to the people of Taiwan on the occasion of their President's First Anniversary in office. I hope that high ranking officials from Taiwan, such as President of Taiwan, the Foreign Minister, and the Defense Minister will be able to come to Washington, DC, to communicate directly with members and administration officials on issues of mutual concern.

## TRIBUTE TO DON BARBER

### HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. FORD. Mr. Speaker, I rise today to pay tribute to Don Barber of Memphis, Tennessee who recently retired as Senior Vice President of Air Operations at FedEx Corporation. Don has had an extraordinary career with a remarkable company. Beginning in 1976 as an aircraft mechanic, his career trajectory tracked the success of FedEx Corporation. For 29 years, Don rose through the ranks of the company. He was promoted from mechanic to Managing Director of Engineering in 1982, to Managing Director of Power Plants in 1988, to Managing Director of Airframe Maintenance in 1989, to Vice President of Base Maintenance in 1990, to Vice President of Aircraft Maintenance in 1992 and finally to Senior Vice President of Air Operations in 1998.

Frederick W. Smith, FedEx Corporation's founder, Chairman and CEO put it best when he said, "Don's retirement marks the end of a career that exemplifies FedEx in so many ways, namely that there's little time for the status quo in a company moving at the pace of opportunity around the world."

Don also received accolades from former Federal Aviation Administrator Jane Garvey for his vision and drive and has been praised by his colleagues for his pivotal roles in the company's most important turning points such as the acquisition of Flying Tiger line and the purchase of the A380 Airbus, the world's largest commercial airplane.

FedEx Corporation is an organization known for its effective use of technology, aircraft, efficiency and commitment to customer service, however it is the company's people—individuals like Don Barber—who have made the company a success story that is known throughout the world. Mr. Speaker I ask that an article on Mr. Barber be included in the Congressional Record and urge my colleagues to join me in honoring him for his service to our community.

## THE ANNIVERSARY OF MEDICARE

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. DINGELL. Mr. Speaker, I am honored to commemorate 40 years of Medicare. This birthday represents 40 years of dignity for the elderly and individuals with disabilities who depend on this program for their health care. No one in this great Nation should have to suffer because of lack of medical care or become impoverished due to the high costs of that care. On July 30, 1965, Medicare and Medicaid were enacted as part of the Social Security Act to take care of our most vulnerable and needy citizens. On that historic day, President Lyndon B. Johnson signed a law that gave millions of Americans the ability to seek treatment from doctors and in hospitals without fear of destitution.

Today, Medicare provides health insurance security for nearly 42 million Americans, including more than 35 million senior citizens and 6 million individuals with disabilities under the age of 65. Over the past 40 years, 105 million Americans have enjoyed better health and received higher quality care as a result of Medicare.

Who depends on Medicare today? The men and women who served our Nation in time of war; widows and widowers; those Americans who have worked a lifetime to build this Nation and who now live in retirement; the former police officers and fire fighters, nurses, doctors, teachers, lawyers, and small business owners who were the backbone of our communities; our aging parents and grandparents, and in some instances, their disabled children. Medicare is a program that touches all of us.

Medicare is not just another health insurance program, but one of the leading insurers in our Nation. Private health plans have modeled their benefits after Medicare, from quality requirements to payments and reimbursements, to standards for certification. The Medicare program has not only greatly improved the quality and safety of health care for all Americans, but it has proven to be a remarkably efficient program, with administrative costs less than those in private plans.

Last year Congress added prescription drug coverage to round out the services provided by Medicare. Coverage of prescription medications was clearly a needed addition. I believe, however, that the design of the new program may keep beneficiaries from getting what they need. I have deep concerns over the unnecessary complexities of this law and whether it will truly provide affordable access to prescription drugs. I also appreciate that we must update Medicare to meet the changing landscape of health care, but not at the expense of those who depend upon it. I plan to continue to work hard to ensure that the Medicare program continues to provide Americans with the health care they both need and deserve.

On a personal note, this 40th anniversary makes me think of my dad, John Dingell, Sr., who fought throughout his 22 years in Congress for health programs that helped those with the greatest needs. He fought long and hard to enact the Social Security program, which he sponsored and which made such a difference to Americans who are retired or disabled. He also helped plant the seeds of compassion in Congress that eventually led to the enactment of Medicare and Medicaid. Were he here today, I know he would take up the battle to preserve and improve Medicare—a program that has served so many and improved the health of the Nation—as well as Medicaid, which serves those whose voices are rarely heard in the halls of power.

## H. CON. RES. 216: COMMEMORATING THE 40TH ANNIVERSARY OF THE VOTING RIGHTS ACT OF 1965

### HON. JANICE D. SCHAKOWSKY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in support of H. Con. Res. 216, a resolution commemorating the 40th Anniversary of the Voting Rights Act, which was signed into law on August 6, 1965.

Forty years ago, in many parts of the American South, it was almost impossible for people of color to register to vote. African Americans had to pay a poll tax and pass a socalled literacy test in some States in the South. There were black men and women who were professors in colleges and universities, black lawyers and black doctors who were told that they could not read or write well enough to register to vote. People were turned away from the courthouse when they attempted to register. Some were jailed.

The turning point came 40 years ago, on March 7, 1965, when about 600 men and women, and a few young children attempted to peacefully march from Selma, Alabama to Montgomery, the State Capitol, to dramatize to the world that people of color wanted to register to vote. And the world watched as they were met with night sticks, bull whips; they were trampled by horses, and tear gassed. One of the historic marchers is now a member of Congress, our colleague Representative John Lewis.

In the wake of what is now known as Bloody Sunday, under the leadership of President Johnson, Congress passed the Voting Rights Act, and on August 6, 1965, it was signed into law. This was a nonviolent revolution in America, a revolution of values, a revolution of ideas. The passage of the Voting Rights Act helped expand our democracy to let in millions of our citizens. We are a better country because of it.

Before we move toward reauthorization of the Voting Rights Act, we must take notice of how far we have come and where we now stand, so that we can move together to ensure the continued effectiveness of the Voting Rights Act. Today many, including elderly adults, persons with disabilities, and people of color, continue to fight for the right to have their vote count while our nation's election system has yet to catch up and meet the needs of all of America's voters.

Today, we remember the people who fought to expand democracy 40 years ago. But we must do more than just remember; we must use their example to continue the struggle today until the dreams of those who fought for the Voting Rights Act of 1965 become a reality for all Americans.

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## A TRIBUTE TO THE REV. DR. MARVIN J. BENTLEY

### HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. CROWLEY. Mr. Speaker, I rise today to honor the Rev. Dr. Marvin J. Bentley, a model community leader.

Rev. Bentley was born in Brooklyn, New York. He received his basic religious training at the Cornerstone Baptist Church, and under the tutelage of the late Dr. Sandy F. Ray was licensed to preach the Gospel by the Cornerstone Baptist Church, Brooklyn, New York.

Dr. Bentley was educated within the New York City public school system; he attained his Bachelor of Science degree from the State University of New York at Stonybrook, majoring in health science and social welfare. He obtained his seminary education at Union Theological Seminary, NYC, securing a Master in Divinity Degree. Drew University, Madison, NJ conferred his Doctor of Ministry Degree upon him, and he recently received an Associates Degree from Nassau Community College, L.I., N.Y., in Applied Sciences (Mortuary Science).

Dr. Bentley was ordained at the Abyssinian Baptist Church, New York, where he served as the Assistant Minister under the mentorship of Dr. Samuel D. Proctor, and Dr. Calvin Butts III.

Dr. Bentley is active in many civic and community activities. He serves on numerous boards and committees and is the former president of American Baptist Churches of Metro New York. He is a former Naval Chaplain in the United States Naval Reserves. He has served as President and Vice-President of Community School Board 30, former member of Community Board 3, and past president of the Corona-East Elmhurst Clergy Association. Dr. Bentley has received many civic and religious awards and honors.

As pastor, Dr. Bentley has been serving the Antioch Baptist Church of Corona for 24 years, enjoying a blessed ministry. During his tenure at the church, it has relocated into a beautiful, gothic style new church home on the corner of Northern Blvd and 103rd in Corona, Queens, New York. It has grown to numerous ministries that include male and female "Rights of Passage" ministries (GEM and GAAYAW), The Antioch Bible Institute, Christian Bookstore, Video Ministry, Credit Union and Athletic Ministry.

In addition to the aforementioned ministries, under Pastor Bentley's leadership, the Antioch Baptist Church of Corona has embarked upon a ministry to liquidate the credit card debt of their congregation. This ministry has caused the congregation to take a look at their finances, spending, and saving habits.

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## HONORING JOHN GURSKI

### HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, July 29, 2005*

Mr. GERLACH. Mr. Speaker, I rise today to honor the extraordinary life and career of John Gurski. John was an outstanding father, teacher, and football coach who touched countless lives throughout his impressive career.

Coach Gurski began his career as a teacher and coach in the fall of 1964. He immediately established himself as one of the most well-liked and dedicated faculty members. During his first season coaching the football team, Coach Gurski took great interest in instilling drive, dedication, and spirit in the athletes he coached. Coach Gurski was often known to get on the football field with his team to teach the players particular tackling and blocking techniques. He was never afraid to get his hands dirty and be directly involved with his players and the coaching process. The football team took to his style of coaching and his personality immediately. They saw him not only as a great coach who could push them beyond their limits, but also as a dignified role model on which to base their own lives.

Coach Gurski had an impressive career at Wilson High School in Reading, Pennsylvania. He holds the Wilson High School coaching career record of 151–44–4 and a lifetime career record of 198–57–6. It is particularly impressive to note Coach Gurski's dedication to the sport of football and to touching the lives of students and athletes. He gave up a promising business career after graduating from the prestigious Wharton School of Business to coach football and he made an indelible impression on his athletes throughout his many years at Wilson High School.

The Wilson School District honored Coach Gurski on October 21, 1998, when the Wilson School Board of Education unanimously voted to rename its stadium the "John Gurski Stadium." It was also decided that a monument would be erected inside the stadium in his honor.

Mr. Speaker, I ask that my colleagues join me in recognizing Coach Gurski's leadership and coaching ability that positively shaped the lives of hundreds of young men that came through the Wilson High School. Unfortunately, Coach Gurski passed away on February 28, 2005. Nonetheless, his spirit and influence will be felt for generations to come.

# SENATE—*Thursday, September 1, 2005*

The Senate met at 10:02 p.m., pursuant to section 2 of H. Con. Res. 225 of the 109th Congress, and was called to order by the Honorable THAD COCHRAN, a Senator from the State of Mississippi.

The PRESIDING OFFICER. Pursuant to the authority granted by section 2 of H. Con. Res. 225 of the 109th Congress, the Speaker of the House and the majority leader of the Senate, acting jointly and in consultation with the minority leaders of the House and Senate respectively, have determined that the public interest warrants a convening of the Senate at this time, notwithstanding the order of July 29, 2005.

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Lord God, Creator of land, sea, and sky, we come humbly into Your presence awed by nature's power and saddened by the tragic losses caused by Hurricane Katrina. We enter Your throne room more aware of the fragility of life and more cognizant of the many unanswered questions that reverberate in our hearts. We need You now more than ever.

Lord, let Your presence be felt in our land. As multitudes seek to rebuild their lives, give them wisdom and courage. Bring healing to the sick and provisions to the destitute. Comfort those who mourn, and guide our leaders as they seek to grapple with the challenges of today and tomorrow.

We pray in Your sovereign Name. Amen.

## PLEDGE OF ALLEGIANCE

The Honorable THAD COCHRAN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
*Washington, DC, September 1, 2005.*

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable THAD COCHRAN, a Senator from the State of Mississippi, to perform the duties of the Chair.

TED STEVENS,
*President pro tempore.*

Mr. COCHRAN thereupon assumed the Chair as Acting President pro tempore.

## RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

## LETTER OF NOTIFICATION

Mr. FRIST. Mr. President, I ask unanimous consent that a letter of notification relating to section 2 of H. Con. Res. 225 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 1, 2005.

DEAR COLLEAGUE: Pursuant to section 2 of House Concurrent Resolution 225, after consultation with the Minority Leader of the House of Representatives and the Minority Leader of the Senate, we hereby notify the Members of the Senate to reassemble at 10:00 p.m. on Thursday, September 1, 2005, and the Members of the House of Representatives to reassemble at 1:00 p.m. on Friday, September 2, 2005.

Sincerely,

J. DENNIS HASTERT,
*Speaker of the House.*
WILLIAM H. FRIST, M.D.,
*Majority Leader of the Senate.*

## HURRICANE KATRINA

Mr. FRIST. Mr. President, on behalf of my colleagues and fellow Americans, I come to the Senate floor to extend my heartfelt sympathies to the victims of Hurricane Katrina and to reassure the thousands of families suffering from this tragedy that we are committed to providing all of the relief and support necessary to get through this terrible and ongoing crisis. It is unprecedented, and it is unfolding before our eyes. Thus, this is a highly unusual emergency session we are conducting tonight.

As the President has said, our first priority is saving lives. At this very moment, relief organizations and faith-based volunteers are working valiantly to provide food, shelter, water, and medical care. FEMA, the Federal Emergency Management Agency, has delivered essential sustenance and supplies. It has supplied and continues to supply generators and thousands of cots and blankets and has deployed over 1,800 personnel to save lives and render medical assistance.

Our action, coupled with the House action tomorrow, will ensure that all necessary funds are immediately available to respond to this ongoing crisis.

The Army, Navy, National Guard, Coast Guard, Marine Corps, and Air National Guard are hard at work conducting rescue operations and providing aid. Twenty thousand guardsmen are on the ground right now. Thousands more are on the way.

Volunteers from my home State of Tennessee have been on the front lines all week. I think of Tennessee Baptist Disaster Relief, a ministry of 3,000 Southern Baptist Tennessee churches. They are working around the clock on rescue missions, at relief stations, cooking thousands of meals and providing emergency care. And they are offering something else, something desperately needed in this time of tragedy: the hope and the love and the compassion of a Nation—of all of us pulling together as one.

As Norma Jones, a 63-year-old volunteer from Indian Mound, told a newspaper, "Most of the time, the rescue survivors just want to be hugged."

Hundreds of storm victims have found refuge in Nashville and middle Tennessee. Many are staying with relatives until it is safe to return, which, as we all know, may not be for months.

The ongoing crisis has become a crisis of refugees, a crisis of refugees the likes of which this country has never seen. In Memphis, TN, actually a long way from the gulf, there are 10,000 refugees as we speak, and over the course of tonight they are expecting 4,000 more refugees in that town alone.

On the television, we see families wading waste-high for dozens of blocks in search of food or dry land or clean water. We see those families marooned on those rooftops, as floodwaters swirl past, writing, inscribing with whatever they have available: "Need insulin." "Diabetic." "Please help"—reaching out for hope, reaching out to be saved.

Our very own colleague and friend, Senator TRENT LOTT of Mississippi, lost his family home in this disaster. He returned recently—about 2 days ago—to his family home and found nothing. Our deepest sympathies go out to him and his family as they face this difficult time and to so many others in this body and, indeed, all around this country who face these personal challenges.

Towns, cities, communities, and shorelines have been decimated and reduced to rubble, to debris. We have a public health crisis that is just beginning, an ongoing crisis, but one that

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

will increase almost with certainty over the coming days and weeks.

New Orleans, one of America's most vibrant cities, will take years to recover. Hundreds of helpless people remain trapped on highway overpasses and in the city center with nowhere to go, no food, no water, no sanitation, and security has been tough, as we have all seen over the course of the day.

Most of Mississippi is without power, without electricity. Towns, villages have been totally destroyed.

The darkness of the night will be not just dramatic but, as we heard over the last several hours, haunting underneath those bridges, in rural areas with no lights for blocks, for miles, just human suffering.

Our rescue teams are working hard, and we see that. We are so proud of them, and they deserve our praise—our enormous praise—for their courage, for their boldness, for their dedication. People are still stranded. They are reaching their breaking point, and they need our help now. That is why at 10 o'clock tonight we are acting. That is why we are convening tonight in this urgent session for an emergency supplemental, operating by unanimous consent. FEMA needs additional funds now to continue their relief efforts and to continue the recovery.

Over the course of the last several days, we have had numerous calls with President Bush, and the Democratic leader and I just several hours ago received a call from President Bush requesting these funds. We applaud President Bush. He moved early to get emergency supplies prepared and ready to go. We have been in constant contact. He and his administration have been working tirelessly to meet this daunting challenge.

We all recognize we have much to do. There are a lot of frustrations that have bubbled up over the course of the last several days to do more or things are not going well, and we feel those frustrations. We feel that pain. We feel that suffering. Again, that is why we are here tonight—to support, to deliver, to answer those challenges.

I also thank our State and local leaders for their tremendous dedication and commitment. We, this body, our Federal Government, stand behind them 100 percent. Helping the victims of this hurricane disaster is our highest priority.

Hurricane Katrina and her aftermath is, as we now know, one of the worst catastrophes this country has ever seen. But this is America, and in America we face our toughest challenges together as one, united and lifted up by our compassion and our strength.

Even in our darkest hour, our humanity shines through, millions of citizens, millions of Americans committed to one another, to the care and well-being of all.

Inscribed in this very Chamber just above the Presiding Officer is "E Pluribus Unum," out of many, one.

Mr. President, I yield the floor.

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## RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The minority leader is recognized.

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## HURRICANE KATRINA RELIEF

Mr. REID. Mr. President, I begin by offering my thoughts and my prayers to the victims of Hurricane Katrina. They have experienced untold horrors in the past few days, and the road to recovery will be long and hard. As we approach the start of our regular fall work period, there can be no more important challenge facing this body in the days ahead than providing relief to the victims of this catastrophe. It will be weeks before we know the full toll this storm has exacted. The only thing we know for sure is that we have experienced a national crisis, and the people of the Gulf Coast need and deserve our help.

In these crucial hours, thousands of Americans are engaged in search and rescue efforts. I hope these brave men and women performing these heroic duties know that they, too, are in our thoughts and our prayers.

Tonight, in the Senate, we are taking a critical first step toward bringing relief to the victims of this disaster. I support President Bush for submitting this $10.5 billion request, and I thank my colleagues for permitting us to take up and pass this important legislation tonight.

Our unified response sends a powerful signal to victims of this tragedy, looking for signs that their Government sees their plight and stands with them during this dark time.

In these days ahead, it is important we continue to send a strong unified message. We must work together—not together as Democrats and Republicans but as Americans—united in helping families torn apart by this devastating storm.

It is my hope that our actions following the 9/11 attacks will be a model for what we do tonight and in the future. Our action after 9/11 was bipartisan. It was our top priority, and it moved significant resources to the victims of the terrorist attacks, and in a timely manner.

Our response to the tragedy of September 2005 must be every bit as bipartisan and direct as the tragedy of September 2001. We did not handle 9/11 with a Democratic or Republican aid package, and we should not handle this crisis any differently. This is not the time for partisanship. The victims of this terrible tragedy come first.

With that principle guiding us, it is important we begin to consider our next steps. The $10.5 billion we are sending now represents a good first effort, but we all know much more needs to be done. I am deeply concerned about the security situation on the ground as I speak. Unless we establish security in this area, we cannot mount an effective rescue operation, let alone begin rebuilding.

We have all seen the images of families stranded in the Superdome or sitting outside the Convention Center in filth and squalor. They do not have food. They do not have water. They do not have medicine. They are living in unsanitary conditions, and because we cannot keep the area safe, they have been unable to get out. They are trapped. This is not acceptable.

This is America. These are Americans we see suffering. We must find ways to get them the resources they need and bring them to safety. We must restore security, accelerate our rescue operations, and expedite our relief efforts as soon as possible. We must get these people the help they need and they deserve.

When we reconvene on Tuesday, just a few hours from today, the security and safety of the Gulf Coast residents must be our first order of business. These families are counting on us. They are suffering, and they have nowhere else to turn. We owe it to them to make their survival our top priority, and we should give them nothing less.

I yield the floor.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me first of all thank the majority leader, who is now presiding over the Senate, for responding so quickly to the request of the President for a supplemental appropriations bill providing needed funds to the Federal Emergency Management Administration and to the Department of Defense to carry on the disaster relief efforts that they have begun in the States that were so seriously affected by Hurricane Katrina.

The President has submitted a letter describing the reasons for the request for this appropriations bill. Rather than reading the entire letter, which has been made available to everyone—the letter is actually addressed to the Speaker of the House—I will just read the first two paragraphs:

> As I informed the Nation yesterday, we are dealing with one of the worst natural disasters in our country's history. Residents of the Gulf Coast states affected by the hurricane have lost loved ones, have lost homes, and have been displaced from their communities. My Administration is committed to ensuring that they will have the full support of the Federal Government.
>
> Due to the catastrophic nature of Hurricane Katrina, I am asking the Congress to consider expeditiously the enclosed request totaling $10.5 billion, for an emergency FY 2005 supplemental appropriation for the Departments of Homeland Security and Defense. These funds will ensure that Federal

response and recovery efforts continue uninterrupted.

Mr. President, I ask unanimous consent that the letter from the President be printed in full in the Record.

Mr. REID. No objection.

There being no objection, the letter was ordered to be printed in the Record, as follows:

September 1, 2005.

The Hon. J. Dennis Hastert,
*Speaker of the House of Representatives, Washington, DC.*

Dear Mr. Speaker: As I informed the Nation yesterday, we are dealing with one of the worst natural disasters in our country's history. Residents of the Gulf Coast states affected by the hurricane have lost loved ones, have lost homes, and have been displaced from their communities. My Administration is committed to ensuring that they will have the full support of the Federal Government.

Due to the catastrophic nature of Hurricane Katrina, I am asking the Congress to consider expeditiously the enclosed request, totaling $10.5 billion, for an emergency FY 2005 supplemental appropriation for the Departments of Homeland Security and Defense. These funds will ensure that Federal response and recovery efforts continue uninterrupted.

I hereby designate this proposal in the amount requested herein as an emergency requirement. This request responds to urgent needs associated with immediate response and recovery efforts associated with Hurricane Katrina in Mississippi, Louisiana, Alabama and other affected areas.

The enclosed request requires immediate action by the Congress to ensure that the Federal response to this disaster continues uninterrupted. I anticipate making a further request in the coming weeks that will provide for a comprehensive response and recovery effort after fully assessing the impact of the hurricane.

The details of this request are set forth in the enclosed letter from the Director of the Office of Management and Budget.

Sincerely,

George W. Bush,
*The White House.*

Mr. COCHRAN. Mr. President, the letter also contains a copy of a letter to the President from the Director of the Office of Management and Budget, Joshua B. Bolton. In this letter, he delineates specifically where the funds are needed, when they will be exhausted under current authority, and why this emergency appropriation is needed so that we can continue the aggressive disaster relief efforts in the coming weeks. And then he suggests:

> I anticipate recommending to you an additional request in the coming weeks to provide for a comprehensive response to this hurricane, once reliable estimates can be developed that recognize the extent of this disaster.
>
> This request fulfills known and urgent requirements that cannot reasonably be met under the current [fiscal year] 2005 funding levels. I recommend that you designate the proposal contained in this transmittal as an emergency requirement.

I ask unanimous consent that the complete text of the letter from the Director of the Office of Management and Budget to the President be printed in the Record.

Mr. REID. No objection.

There being no objection, the material was ordered to be printed in the Record, as follows:

September 1, 2005.

The President,
*The White House.*

Submitted for your consideration is a request for fiscal year 2005 supplemental appropriations totaling $10.5 billion to fund immediate emergency response and recovery needs associated with Hurricane Katrina.

Immediate Federal response and recovery efforts to date have been extensive. The Federal Emergency Management Agency (FEMA) has deployed more than 50 Disaster Medical Assistance Teams, more than 25 Urban Search and Rescue task forces, eight swift water rescue teams, and two Incident Support Teams to the region. FEMA is also delivering water, meals, medical supplies, generators, tents, and tarps and is working to help relocate those displaced by the hurricane.

The Department of Defense (DOD) is moving significant military resources into the Gulf States to aid in rescue and recovery. Eight Navy ships have moved into the area with water, food, medicine, hospital facilities, berthing, and more. DOD has responded to all FEMA requests and is providing logistical help, including strategic lift support for search and rescue efforts. Other agencies are also participating in response and recovery efforts. For example, Health and Human Services (HHS) Secretary Mike Leavitt has declared a public health emergency and HHS has delivered requested medical supplies to Louisiana, including basic first aid materials, blankets and patient clothing and comprehensive lifesaving medical equipment. HHS has placed 415 Public Health Service Officers on standby for deployment to support medical response in the affected states and CDC officials are working with local officials to identify hospital facilities, distribute medical supplies, and execute a public health plan to control disease and other risks to public health.

The funds that I recommend you request today will ensure that these immediate response and recovery efforts continue uninterrupted. The $10 billion requested for the Department of Homeland Security will enable FEMA to continue ongoing response efforts, including assistance to families and individuals so that they can be sheltered, fed and provided with emergency medical care. These funds will also support emergency protective measures and debris removal in the affected areas, and urgent response activities performed by other Federal agencies, as delegated by FEMA under the Stafford Act.

The $500 million requested for DOD will enable DOD to cover the costs associated with deployment of military personnel to assist communities, save lives, and provide relief supplies for the next several weeks. DOD's immediate crisis response costs include immediate facilities repairs of DOD property, evacuation of DOD personnel debris clean-up, transportation costs, and emergency utility costs.

I anticipate recommending to you an additional request in the coming weeks to provide for a comprehensive response to this hurricane, once reliable estimates can be developed that recognize the extent of this disaster.

This request fulfills known and urgent requirements that cannot reasonably be met under the current FY 2005 funding levels. I recommend that you designate the proposal contained in this transmittal as an emergency requirement.

I have carefully reviewed this proposal and am satisfied that it is necessary at this time. Therefore, I join the Secretary of Homeland Security and the Secretary of Defense in recommending you transmit the proposal to the Congress.

Sincerely,

Joshua B. Bolten,
*Director.*

Mr. COCHRAN. Mr. President, in response to this request, the House of Representatives, I am advised, will be prepared to adopt a bill making emergency supplemental appropriations to meet immediate needs arising from the consequences of Hurricane Katrina for the fiscal year ending September 30, 2005. And the text of the bill is that it:

> Be enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, that the following sums are appropriated out of any money in the Treasury not otherwise appropriated for the fiscal year ending September 30, 2005, namely the Department of Homeland Security:
>
> For an additional amount for "Disaster Relief", $10,000,000,000, to remain available until expended . . .

And then a provision, provided $500 million to the Department of Defense:

> . . . for emergency hurricane expenses, to support costs of evacuation, emergency repairs, deployment of personnel, and other costs resulting from immediate relief efforts, to remain available until September 30, 2006.

I ask unanimous consent that a copy of that bill, which we are advised will be adopted by the House of Representatives, be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, namely:

## DEPARTMENT OF HOMELAND SECURITY

### EMERGENCY PREPAREDNESS AND RESPONSE

#### Disaster Relief

For an additional amount for "Disaster Relief", $10,000,000,000, to remain available until expended: *Provided,* That the amount provided herein is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

## DEPARTMENT OF DEFENSE

### OPERATION AND MAINTENANCE

#### Operation and Maintenance, Defense-Wide

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Operation and Maintenance, Defense-Wide", $500,000,000 for emergency hurricane expenses, to support costs of evacuation, emergency repairs, deployment of personnel, and other costs resulting from immediate relief efforts, to remain available until September 30, 2006: *Provided,* That the Secretary of Defense may transfer these funds to appropriations for military personnel, operation and maintenance, procurement, family housing, Defense Health Program, and working capital funds: *Provided further,* That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not more than 5 days after making transfers from this appropriation, notify the congressional defense committees in writing of any such transfer: *Provided further*, That the amount provided herein is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

This Act may be cited as the "Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005".

Mr. COCHRAN. Mr. President, I commend the majority leader, with the concurrence and support of the minority leader, for calling the Senate into session tonight under these emergency conditions, to approve as if passed by the House, and when passed by the House and it is received here in the Senate, an emergency supplemental appropriations bill to fund disaster relief efforts.

These efforts are ongoing. We have all had an opportunity to see on television sets and to hear and read newspaper accounts of the work that has been going on the last several days. I had the opportunity to travel to my State of Mississippi yesterday and spent the day touring the ravaged areas along the Mississippi Gulf Coast and then traveled to Jackson, the Capitol of the State, where I was able to meet with Governor Haley Barbour and his disaster assistance team that he had assembled and was supervising in their efforts to make all of the resources of our State government available to disaster victims and to help them in the effort to recover from this terrible hurricane.

I have never seen any storm inflict such great damage as I saw yesterday. I was on the Gulf Coast immediately following Hurricane Camille in 1969. I was a practicing lawyer at the time. We were trying to help one of our clients ensure that the employees of their company, Standard Oil Company refinery, were able to present their claims to their insurance companies and otherwise be compensated, as they were entitled to under their policies, for the damages sustained throughout the area where those employees were living along the Gulf Coast. That was the worst storm that anybody in my age group had ever heard of, before or since—until Hurricane Katrina.

I can tell you, looking along the coastline, flying in a Mississippi National Guard helicopter, the whole coastline, the whole coastal area of the State has been virtually destroyed. There are a few buildings that are left standing—a few. Those may not be habitable, and the businesses that they house may not be able to continue to function until extensive repairs are made on those buildings, so it is virtually all a total loss for blocks and blocks beyond the beach area.

Everything was quiet. There was nobody moving around; it wasn't until today that many people could have access to the areas where those houses once stood. It was quiet. It was eerie. It was a horrible sight to behold. I don't know of anything that has depressed me more than seeing what I saw yesterday in my State of Mississippi.

So I am confident the Senate will continue to follow the progress of the disaster assistance effort to be sure that we make available to all Federal agencies and departments the funds they need to do the job to help in the recovery efforts in Mississippi and in Alabama and Louisiana and in the other States. There have been damages in Florida and Georgia and Texas as well.

The primary use of the funds that we give to the Department of Homeland Security, as requested by the President, will be used to reimburse Federal agencies for providing the relief effort that we have come to appreciate. The Coast Guard, Army Corps of Engineers, Health and Human Services Department, Housing and Urban Development—all are able to share in these funds that will be disbursed to reimburse those departments for participating in the disaster relief effort. So it is not only this one agency but others that will be sustained and assisted as they continue to work in this effort.

The President has appointed this task force as we all know now: Secretary of Homeland Security Michael Chertoff is chairing the task force on Hurricane Katrina; Mike Brown, the Director of FEMA, has been on the ground since the very beginning of this effort, coordinating the activities on the ground. Fifty-two counties in Mississippi have been identified as eligible for disaster declarations; thirty-two parishes in Louisiana; six counties in Alabama. The three Governors of those States have requested that the President waive cost-share requirements because of the expensive nature of these expenses for emergency response activities, and the President has granted this waiver.

I ask unanimous consent that a description of the challenges and accomplishments of this disaster relief effort be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### LIFE-SAVING EFFORTS

Over 3,000 people have been rescued by the United States Coast Guard and other operations. The Coast Guard has deployed 57 aircraft and 27 cutters.

More than 25 urban search and rescue task forces are operating with 1,800 personnel.

More than 50 National Disaster Medical System teams have deployed to deal with medical needs.

1,700 trucks have been mobilized to supply water, ice, food, medicine, and medical supplies.

450 buses are moving people out of the affected areas in Louisiana.

Over 78,000 people are in shelters across the region.

13.4 million liters of water and 3.4 million pounds of ice have been shipped to the impacted areas.

### ELECTRICITY/ENERGY

2.3 million citizens are without power in the Gulf Coast States.

Gasoline and diesel fuel is being routed to emergency personnel and services first.

The Department of Energy has authorized the release of oil from the Strategic Petroleum Reserve.

The Environmental Protection Agency has temporarily waived standards for gasoline and diesel fuels to make sure that more fuel is available for emergency services.

### MILITARY

State and local law enforcement and the National Guard are working to restore order throughout the affected areas.

13,000 National Guard are stationed in Mississippi, Louisiana, Alabama, and Florida, under control of the Governors. Approximately 6,000 members of the National Guard are stationed in Mississippi.

The total number of National Guard is expected to increase to more than 20,000 by Friday.

The Department of Defense has sent eight Navy ships to the area, including a hospital ship with 100 beds and 800 medical personnel.

The Department of Defense has provided over 20 million ready-to-eat meals.

### INFRASTRUCTURE

The Army Corps of Engineers is coordinating efforts to repair levees in New Orleans and remove water from the city.

Federal and State departments of transportation are working to repair and reopen highways and interstates.

Interstates 55, 59, 49, and 20 have been reopened in Mississippi. Interstate 10 is open with one lane of traffic for emergency vehicles only.

### HEALTH AND HUMAN SERVICES

The Department of Health and Human Services has declared a public health emergency in the affected areas.

A network of 40 medical shelters with 10,000 beds is staffed by 4,000 medical personnel.

2,600 beds have been identified in the immediate area, with 40,000 more beds nationwide.

### AGRICULTURE

USDA's Food and Nutrition Service is providing shelters and mass feedings sites and issuing emergency food stamps and infant formula. Over 80,000 pounds of commodities arrived in New Orleans today.

### OTHER

The Internal Revenue Service announced special relief for taxpayers in the disaster areas.

The Small Business Administration will position loan officers in disaster recovery centers to help small business owners.

The American Red Cross is providing a safe haven for nearly 46,000 evacuees in more than 230 shelters across the region.

## MAKING EMERGENCY SUPPLEMENTAL APPROPRIATIONS

Mr. COCHRAN. Mr. President, at this point, I ask unanimous consent that notwithstanding the recess or adjournment of the Senate, the Senate may receive from the House an emergency supplemental appropriations bill for relief of the victims of Hurricane Katrina, the text of which is at the desk, and that the measure be considered read three times and passed and a motion to reconsider laid on the table; provided that the text of the House bill is identical to that which is at the desk.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. I want the record to be spread with the fact that the ranking member of the Appropriations Committee, Senator ROBERT BYRD, has indicated he fully supports the action tonight and stands arm-in-arm with the chairman of the committee, Senator COCHRAN, to move forward any other requests that would come down from the administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

Mr. SCHUMER. Mr. President, first, my particular thoughts go to our colleague from Mississippi, the chairman of the Appropriations Committee, who has experienced visiting such devastation.

I have some idea of how he feels because less than 4 years ago—a little more than 4 years ago—I experienced the same in New York.

Tonight, our Nation is experiencing one of the most tragic and heart-rending natural disasters in our history. Entire towns have been destroyed, lives upturned, families lost, and the chaos we have all watched unfold continues even tonight.

Our hearts go out to the people of Louisiana, Mississippi, Alabama, and all of the other Gulf States affected by Hurricane Katrina. Our prayers go out most of all to those still stranded and to those who have lost loved ones. The images on television are devastating—hungry, weeping children sitting on the street amidst garbage; family members returning to the destroyed remains of their neighborhoods discovering they have lost everything they have ever owned, from precious family keepsakes to their houses, cars, and livelihoods; and angry, frightened people with nowhere to go and no rescue in sight.

I join with all Americans and people all over the world in praying for the safe rescue of all the victims of this heartbreaking tragedy.

Four years ago, my city of New York faced a devastating attack, and America stood with us in our time of need. New Yorkers will stand with the people of the gulf region now as they stood with us then.

The love and support New Yorkers received from the rest of the country after 9/11 meant so much in the wake of those attacks and the long, difficult road to recovery. I want the people of New Orleans, Louisiana, Mississippi, and the rest of the gulf to know we will support them, too, no matter how long and difficult their recovery may be. We will do whatever it takes to help now, tomorrow, and into the future.

Our first step comes tonight, when the Senate will agree to provide $10.5 billion in desperately needed disaster relief funding to the devastated region. And we will stand unified with President Bush and ready to provide everything and anything that New Orleans and the rest of the gulf region will need to rebuild and recover. Just as we did after 9/11, this body and the entire Nation will work together to overcome this disaster. The American people are strong, and we will persevere.

Like so many Americans, I have been watching the terrible images on television, and I worry about the thousands of people still stranded in the Superdome and throughout the city and region without food, water, sanitary facilities, or medical treatment. I worry so very much about the desperately ill people, including small babies and frail seniors who need medical care, and the people who may still be trapped in places rescuers have not reached, people in attics who retreated to the attics as the waters rose and then were stuck there.

I know firsthand how difficult it can be to organize a massive rescue and recovery effort, and clearly this disaster is unprecedented in its scope and difficulty.

Tonight, a lot of people's lives still hang in the balance. Money for the long run is necessary, and that is why we are here tonight. But there is much more we must do immediately. We must focus all our efforts on rescuing those who are in need of medicine, who are hungry, thirsty, and frightened and despairing. We must get these people to shelter and to medical facilities immediately. We must fly in food, water, clothing, blankets, medicine, and whatever else is needed. We must get as many ships, buses, and trucks as we can, from wherever we can get them, to transport the victims and to begin clearing the wreckage. We must provide the soldiers and law enforcement needed to restore law and order—however many it takes.

This is literally a life-and-death crisis, where every moment of delay has a human price. There is not a minute to lose, no matter the cost.

I know the phones have been ringing off the hook in my office and those of my colleagues. Many have called asking where they can contribute. That act of generosity is also noted. We are hearing from our constituents who have heartfelt questions about what went wrong in this tragedy and what else could have been done to prevent it. At the moment, we must keep our total focus on saving lives. But I want them to know that their questions are not falling on deaf ears. In due time, after we have done everything to save those whose lives hang in the balance, we will ask those difficult questions—not to lay blame but to learn from the mistakes that were made so that the Nation will be better prepared for the next disaster we might face.

But now is the time for action, for solving these problems, and for saving the lives that hang in the balance. In the days and months ahead, this Nation will pull together united as we did after 9/11. We will do everything we can to help the victims and repair and rebuild the cities and towns in the gulf, especially the much beloved city of New Orleans.

Just as we did in New York, we will face difficulties and great sorrow, but I know I join all of my colleagues in the Senate in pledging assistance—financial and beyond—that the gulf region needs and anything else in our power to help our fellow citizens.

Tonight, our prayers—our fervent prayers—are with them.

• Mr. HATCH. Mr. President, I rise today with sadness in my heart, yet firm in my resolve to due whatever is necessary in order to be of assistance to the citizens of Louisiana, Mississippi, Alabama, and Florida. No amount of Federal compensation can ever make up for the losses that have been suffered or for the tragic circumstances surrounding this event. Lives have been changed forever. However, now, as we have always done in the past, we will band together as a nation and begin the process of healing the wounds caused by this unprecedented tragedy.

I know I speak for all the citizens of Utah when I extend my State's heartfelt sympathies to all who have suffered. The Governor of Utah has graciously volunteered to open our State's doors to the refugees from the New Orleans area, by providing them with shelter, food, and other appropriate assistance. We are all anxious to help and provide as much relief and comfort as possible to these good people.

As a member of our Nation's Federal Government, I pledge my full support to provide assistance to the victims of Hurricane Katrina. I am also grateful for the President's leadership. He has done an extraordinary job of organizing land deploying our Nation's resources in a timely and expeditious manner. Currently, the Federal Emergency Management Agency is spending $500 million a day to help these citizens. This is a staggering amount of money, but these are staggering times and when we pledge our assistance, we pledge all the assistance we can possibly muster.

The suffering and pain felt by our citizens in the South is abhorrent and

I am, once again, in awe of the commitment, selflessness, and skill of our Nation's first responders, disaster agency personnel, military personnel, local volunteers, local leaders, and everyday heroes who are—right now—doing all they can to help. I am also indebted to our congressional leadership for bringing the Congress together in an unprecedented fashion to provide Federal aid in a timely manner so rescue and relief efforts can continue unobstructed.

I am resolved to do everything I can. I know millions of citizens throughout the country are similarly resolved. To those heroes who wish to alleviate the suffering in the South, please heed the President's request and donate cash to the groups that are providing direct assistance in Louisiana, Mississippi, Alabama, and Florida. Information can be found at the FEMA Web site or by calling the American Red Cross at 1–800–HELP-NOW.

The compassion and humanitarian efforts going on in this country are astounding. Thank you to all those citizens who have offered assistance and prayers. I know we can count on every American to do their part in this hour of need.•

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. FEINGOLD. Mr. President, like all Americans, my thoughts are with those struggling to cope with the terrible effects of Hurricane Katrina. The devastation brought by the storm is absolutely heart-wrenching and beyond description. Many of my constituents are deeply concerned by the scenes of suffering they are witnessing and I share their desire that the Government do all it can to get help to Katrina's victims as soon as possible.

I commend the majority leader and minority leader for acting to make sure that the Federal help is available to deal with Katrina's aftermath. I hope that the emergency supplemental we are passing will help to ensure that disaster relief efforts proceed as smoothly and expeditiously as possible. I will continue to work with my colleagues in Congress and with the President to make sure that the Federal Government does all it can to assist those who have lost so much in this national tragedy.•

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mrs. BOXER. Mr. President, even though we have all been scattered across the country during this past week as the Senate has been in recess, we have all witnessed through television the devastating scenes from Louisiana and Mississippi. My heart goes out to all of those who have been affected by Hurricane Katrina—those who have lost friends and family members; those who have lost homes; those whose lives have been completely upended. My thoughts and my prayers are with them all.

Having represented California in the Senate for the past 12½ years, I have been through my share of disasters—of earthquakes, floods, mudslides, and fires. I know a little of what they are going through right now in the South. But no matter how many disasters I have witnessed first hand in California, I must admit, these are some of the most disturbing and catastrophic scenes I have ever seen.

And here we are, several days after the hurricane struck, and it does not appear to be getting much better. Tens of thousands of people remained stranded and trapped—there is a critical lack of food and water—and people are dying. It is truly a desperate situation.

So I am pleased to support this legislation to provide emergency funding to help the relief efforts. I doubt it will be enough, and I suspect we will need to do more. I trust that the action we are taking tonight will be just the first step—and will serve to underscore our desire to take care of the people of the Gulf States.•

The bill (H.R. 3645) was read the third time and passed.

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE AND HOUSE OF REPRESENTATIVES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to S. Con. Res. 51, which is the adjournment resolution. I further ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 51) was agreed to, as follows:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. CON. RES. 51

*Resolved by the Senate (the House of Representatives concurring)*, That when the Senate recesses or adjourns at the close of business on Thursday, September 1, or on Friday, September 2, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12 noon on Tuesday, September 6, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, September 2, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, September 6, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. REID):

S. Con. Res. 51. A concurrent resolution providing for a conditional adjournment or recess of the Senate, and a conditional adjournment or recess of the House of Representatives; considered and agreed to.

## SUBMITTED RESOLUTIONS

### SENATE CONCURRENT RESOLUTION 51—PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE SENATE, AND A CONDITIONAL ADJOURNMENT OR RECESS OF THE HOUSE OF REPRESENTATIVES

Mr. FRIST (for himself and Mr. REID) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 51

*Resolved by the Senate* (the House of Representatives concurring), That when the Senate recesses or adjourns at the close of business on Thursday, September 1, or on Friday, September 2, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12 noon on Tuesday, September 6, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, September 2, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, September 6, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

## REPORTS OF COMMITTEES

Under the authority of the order of the Senate of July 29, 2005, the following reports of committees were submitted on August 31, 2005:

By Mr. McCAIN, from the Committee on Indian Affairs, without amendment:

S. 1295. A bill to amend the Indian Gaming Regulatory Act to provide for accountability and funding of the National Indian Gaming Commission (Rept. No. 109–122).

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 1250. A bill to reauthorize the Great Ape Conservation Act of 2000 (Rept. No. 109–123).

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 1339. A bill to reauthorize the Junior Duck Stamp Conservation and Design Program Act of 1994 (Rept. No. 109–124).

S. 1340. A bill to amend the Pittman-Robertson Wildlife Restoration Act to extend the date after which surplus funds in the wildlife restoration fund become available for apportionment (Rept. No. 109–125).

By Mr. INHOFE, from the Committee on Environment and Public Works, with amendments:

S. 1415. A bill to amend the Lacey Act Amendments of 1981 to protect captive wildlife and make technical corrections (Rept. No 109–126).

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

H.R. 1428. A bill to authorize appropriations for the National Fish and Wildlife Foundation, and for other purposes (Rept. No. 109–127).

By Mr. GRASSLEY, from the Committee on Finance:

Report to accompany S. 1307, a bill to implement the Dominican Republic-Central America-United States Free Trade Agreement (Rept. No. 109–128).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions:

Report to accompany S. 1317, a bill to provide for the collection and maintenance of cord blood units for the treatment of patients and research, and to amend the Public Health Service Act to authorize the Bone Marrow and Cord Blood Cell Transplantation Program to increase the number of transplants for recipients suitable matched to donors of bone marrow and cord blood (Rept. No. 109–129).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 525. A bill to amend the Child Care and Development Block Grant Act of 1990 to reauthorize the Act, to improve early learning opportunities and promote school preparedness, and for other purposes (Rept. No. 109–130).

S. 1107. A bill to reauthorize the Head Start Act, and for other purposes (Rept. No. 109–131).

## AUTHORITY TO SIGN BILLS AND JOINT RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the majority leader, the senior Senator from Mississippi, and the senior Senator from New Mexico be authorized to sign duly enrolled bills or joint resolutions during this adjournment of the Senate.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER FOR ADJOURNMENT

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment under the provisions of S. Con. Res. 51 until 12 noon on Tuesday, September 6, 2005, unless the House has not adopted S. Con. Res. 51, in which case the Senate shall stand adjourned until 4 p.m. on Friday, September 2, 2005.

The ACING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I want to take this final opportunity to thank our colleagues for their assistance in getting this emergency funding considered so quickly. We will be returning to business on Tuesday, and we will be monitoring the situation in all of the affected States as we mentioned tonight—really a much larger region in fact, the whole country—over the next several days.

Our hearts, as has been spelled out and articulated so well by my colleagues, and especially our prayers, go out to the people of those States as we pull together and capture the best of what America represents; that is, the support of, in times of crisis, each other as a nation in order to get through these unanticipated, unprecedented challenges for us.

## ADJOURNMENT UNTIL FRIDAY, SEPTEMBER 2, 2005, OR TUESDAY, SEPTEMBER 6, 2005

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order and under the provisions of S. Con. Res. 51.

There being no objection, the Senate, at 10:30 p.m. adjourned until 4 p.m. on Friday, September 2, 2005, or until 12 noon on Tuesday, September 6, 2005.

# HOUSE OF REPRESENTATIVES—*Friday, September 2, 2005*

Pursuant to section 2 of House Concurrent Resolution 225, 109th Congress, the House met at 1 p.m. and was called to order by the Speaker pro tempore (Mr. DELAY).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*September 2, 2005.*

I hereby appoint the Honorable TOM DELAY to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## NOTIFICATION OF REASSEMBLING OF CONGRESS

The SPEAKER pro tempore. The Chair lays before the House the text of the formal notification sent to Members on Thursday, September 1, 2005, of the reassembling of the Congress.

CONGRESS OF THE UNITED STATES,
*Washington, DC, September 1, 2005.*

DEAR COLLEAGUE: Pursuant to section 2 of House Concurrent Resolution 225, after consultation with the Minority Leader of the House of Representatives and the Minority Leader of the Senate, we hereby notify the Members of the Senate to reassemble at 10:00 p.m. on Thursday, September 1, 2005, and the members of the House of Representatives to reassemble at 1:00 pm on Friday, September 2, 2005.

Sincerely,

J. DENNIS HASTERT,
*Speaker of the House.*
WILLIAM H. FRIST, M.D.,
*Majority Leader of the Senate.*

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

The Nation, Lord God, is overwhelmed today by the mournful sound that comes from the Deep South.

Like a familiar songstress who knows the fragile pain of us all, her prayer, if set to music, would hold us as an audience on suspended notes that would lift us beyond present expectations.

From New Orleans and cities, towns, and rural areas of Louisiana, Mississippi and Alabama, there rises a soulful lament born of the blues now turned black.

The dreadful hurricane has swept over the South as a violent baptism. As witnesses, all of us turn to You, O Lord. You alone can renew faith and bring these people to new and promising life.

The cries of the poor over their families, their homes, their past and their future can sway any indifferent heart in America to be moved to prayer, solidarity, and generosity.

Until the South can sing again Your praises in her churches, on front porches, in the fields and the shipyards once again, we will hold onto the words of Your Song of Songs: "Deep waters cannot quench love; nor floods sweep it away."

Help us, Lord, to trust in Your faithful love and deepen our love for one another, especially those most in need of the kindness of strangers.

Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Ohio (Mrs. JONES) come forward and lead the House in the Pledge of Allegiance.

Mrs. JONES of Ohio led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has agreed to a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 51. Concurrent resolution providing for a conditional adjournment or recess of the Senate, and a conditional adjournment of the House of Representatives.

## RESIGNATION FROM THE HOUSE OF REPRESENTATIVES

The SPEAKER pro tempore laid before the House the following resignation from the House of Representatives:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, July 29, 2005.*
Hon. J. DENNIS HASTERT,
*Speaker of the House,*
*The Capitol, Washington, DC.*

DEAR MR. SPEAKER: Today, the U.S. Senate voted to confirm me for the position of Chairman of the Securities and Exchange Commission. As a result, I must submit to you herewith my resignation as a Member of the U.S. House of Representatives, effective as of 6 p.m. pdt on Tuesday, August 2, 2005. I have also written to Governor Schwarzenegger to advise him of my resignation.

Mr. Speaker, even more significant than the privilege of serving for 17 years in the House of Representatives has been the opportunity to serve with you in the elected Majority Leadership for the last 10 years. Thank you, again, for your friendship, your courage under fire, your wisdom, and your sterling example over so many years.

I very much look forward to continuing to work with you and serving the Nation in my new position.

Sincerely,

CHRISTOPHER COX,
*U.S. Representative.*

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CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
*Washington, DC, July 29, 2005.*
Hon. ARNOLD SCHWARZENEGGER,
*Governor, State of California, State Capitol Building, Sacramento, CA.*

DEAR GOVERNOR SCHWARZENEGGER: Today, I have been confirmed by the U.S. Senate for the position of Chairman of the Securities and Exchange Commission.

Accordingly, I am writing to inform you that, effective as of 6 p.m. pdt on Tuesday, August 2, 2005, I will resign my seat as the Representative of the 48th District of California in the U.S. House of Representatives. I have also written to House Speaker Hastert to inform him of the timing of my resignation.

For the past 17 years, I have had the great privilege and honor of representing the people of Orange County, California in the House of Representatives. My service in the Congress has been a truly rewarding experience, and I am grateful to Orange County's citizens for putting their trust and faith in me. As a member of the elected Majority Leadership and Chairman of three House committees, I have been especially privileged to have had the opportunity to work closely with you and our other elected California leaders on so many shared priorities.

Thank you, again, for your friendship and support. I look forward to continuing to work with you, and to serve California and the Nation in my new position.

Sincerely,

CHRISTOPHER COX,
*U.S. Representative.*

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the resignation of the gentleman from California (Mr. COX), the whole number of the House is 433.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, July 29, 2005.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on July 29, 2005 at 6:50 p.m.:

That the Senate agreed to the conference report H.R. 3.

That the Senate passed without amendment H.R. 3512.

With best wishes, I am sincerely,
JEFF TRANDAHL,
*Clerk of the House.*

## COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, August 2, 2005.*

Hon. J. DENNIS HASTERT,
*Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on August 2, 2005, at 1:40 pm:

That the Senate passed without amendment H.R. 1132.

Appointments: Delegation to the British-American Interparliamentary Group.

With best wishes, I am sincerely,
JEFF TRANDAHL,
*Clerk of the House.*

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, July 29, 2005:

H.R. 3512, to provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the highway trust fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century;

and the following enrolled bill on Wednesday, August 10, 2005:

H.R. 3, to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes;

and Speaker pro tempore TOM DAVIS of Virginia signed the following enrolled bills on Wednesday, August 3, 2005:

H.R. 6, to ensure jobs for our future with secure, affordable, and reliable energy;

H.R. 1132, to provide for the establishment of a controlled substance monitoring program in each State.

## EMERGENCY SUPPLEMENTAL APPROPRIATIONS ACT TO MEET IMMEDIATE NEEDS ARISING FROM THE CONSEQUENCES OF HURRICANE KATRINA, 2005

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that it shall be in order at any time without intervention of any point of order to consider H.R. 3645 in the House; the bill shall be considered as read; the previous question shall be considered as ordered on the bill to final passage without intervening motion except (1) 10 minutes of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit; clause 10 of rule XX shall not apply to the question of passage of the bill; and all Members may have 5 legislative days within which to revise and extend their remarks on the bill and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. OBEY. Mr. Speaker, reserving the right to object, I do not intend to object; but I think it would be helpful for Members to understand that if this proposal is agreed to, and I expect it to be, that there will be 5 minutes of debate on each side of the issue, and then any Member who wishes to comment will have an opportunity on a Special Order, which immediately follows, to do so.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. LEWIS of California. I appreciate the gentleman yielding. I just wanted to emphasize a comment you just made that the limited debate of 10 minutes is designed to have us expedite the paperwork and otherwise from this process. In the meantime, we know the Members want to be heard so there will be a Special Order following the passage of the bill so that we can move forward with the paperwork and make sure the President gets this on his desk as quickly as possible.

Mr. OBEY. Continuing under my reservation, Mr. Speaker, I think it is important that if this motion is agreed to, I do think that the situation in the Gulf Coast is serious enough that it warrants more than a dog and pony show and that it warrants some thoughtful discussion of how problems like this might be avoided in the future. I would simply say under my reservation that I have been horrified watching my television set over the past few days as I moved around my district in Wisconsin to see the absolute inadequacy of the Federal response to what has occurred. I would hope that the magnitude of the disaster which we have seen would make us all think through the degree of lack of discipline and denial that has marked this country's preparation for not just natural disasters but disasters of other origins as well.

Point one: I was personally appalled to see an interview with a representative of the Army Corps of Engineers in which he explained away our failure to prepare for anything worse than a level three hurricane for the New Orleans area by saying in essence that a cost-benefit analysis had been done, and it was concluded that it was not cost beneficial for us to prepare for anything above a level three hurricane. What that in essence says is that you are not going to worry about the biggest disasters that can occur; you are only going to worry about the smaller ones.

Whether it is with a hurricane or whether the action of the Mississippi River a number of years ago, how many times do we have to see disasters overwhelm our preparedness before we recognize that we are playing Russian roulette with people's lives, with their livelihood and with the life of whole communities if we do not prepare for the worst?

Point two: I think it is fair to say that the administration and the Congress itself has not covered itself with glory in terms of anticipating problems like this. We have seen the Congress in fiscal year 2004 cut the budget request by $170 million for FEMA. We have seen an amendment by the gentleman from Virginia (Mr. MORAN) to try to supplement FEMA funding several years ago turned down by the House. We have seen flood control projects in the Gulf short-sheeted in Federal budget requests from the executive, and we have seen now stories, one by Sidney Blumenthal, which makes the point that in early 2001, FEMA management issued a report saying that a hurricane striking New Orleans was one of the three most likely disasters in the U.S., including a terrorist attack on New York City.

Yet the Federal budget has not demonstrated any serious response to that warning. And we have seen other comments as well in the paper, including a number by Louisiana papers, documenting the lack of effective Federal response. Another statement in the New York Times indicated that 5 days after Katrina hit, the response from our government was still spectacularly inadequate and in the words of the editorial amounts to a stunning lack of both preparation and urgency in the Federal Government's response. I would hope that the pictures that we have seen on our television sets would change that.

□ 1315

Continuing under my reservation, the third point I would simply make is that I think the devastation and utter destruction that we have seen indicates that we have a serious problem not just with respect to our response to natural disasters but in response to other potential disasters. I would hope that we would take to heart the lessons that this disaster ought to teach us about the need for more adequate preparation across the board, including potential terrorist attacks.

There are those of us in the Congress who still believe that we are not doing enough to secure our borders.

There are those of us who still believe that we are not doing enough to protect this country against terrorist attacks from air cargo.

There are those of us who believe that we are not doing nearly enough to protect this country against terrorist attacks by the use of containers in our ports; and in my view, the response of the administration and the Congress since 9/11 on that score has been totally inadequate.

I think that this disaster in the Gulf demonstrates the importance of ending the practice of casual thinking on these potential problems.

Point four: and I do not know the answer to this, but I know questions have been raised about whether or not the heavy involvement of our Guard and Reserve forces in Iraq is in any way linked to the fact that we have had so few Guard and Reserve personnel being used in response to this disaster. I do not know whether there is a direct causation or not, but I do know that there are some 11,000 Guard and Reserve forces from the affected States now in Iraq and those are obviously troops that cannot be used on their home ground.

I think we need to examine very carefully whether or not this demonstrates that we need to do more to build up the size of our regular Army forces so that we do have a greater capacity to use the Guard and Reserve forces at home when they are needed.

I would also say that every time that we have a disaster, Congress responds by tossing together an appropriation bill for an emergency appropriation. It would seem to me after all of the disasters that we have had that we should have a more regularized approach to the problem. I have introduced in the past, and I will introduce again, legislation asking that we establish an experience-rated insurance fund from which all States can purchase insurance coverage against future disasters so that you have a ready-made source of funding the moment these disasters hit.

There are five or six States in the Union that experience disasters on a fairly regular basis, and it seems to me that we need to have an experience-rated insurance system so that we take into full account the cost of hurricanes and the cost of other disasters that might occur. If we did that, we might see a greater level of preparation with respect to, for instance, long-term planning by the Corps of Engineers to deal with the most severe hurricanes.

Mr. Speaker, this legislation obviously has to pass, but I hope this represents just the beginning of some new thinking so that we do not wind up 3 or 4 years from now facing yet another problem as unprepared as we apparently were for this unfortunate and heart-rending incident.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. ENGEL. Mr. Speaker, reserving the right to object, and I will not object, I want to say that I appreciate the fact that there will be a Special Order after this bill is debated where Members can say how we feel about it, but I really think it is inappropriate. I think that there should be substantial debate on this bill itself, not that we want to slow down any kind of funding, but frankly we fiddled and faddled for days and days, and now we are told that we can only have 5 minutes per side to debate this bill. I think it is wrong. I think Members of Congress who have rushed back here, who want to help, who want to make sure that the people of the Gulf are given their due and the moneys, we should have the right to debate this bill now. We watch TV and we see the looters and much has been made about the looters who are coming and looting in New Orleans. I think quite frankly with the prices of gas rising, the real looters are the big oil companies. They are looting the American people. It is unconscionable that we have had a spike of 30 to 50 cents in gasoline prices 2 days after this disaster happened. There is no way that that could have been reflected at the pump so quickly. So it is looting the American public, and I think these are the issues that Congress should debate. I am glad that our Energy and Commerce Committee is having a hearing on this on Wednesday, but the American people ought to hear Congress debating this. What are we going to do to bring relief to our people with these huge and unconscionable gas prices? We are doing nothing. We are fiddling while Rome is burning. So while I say that it is very important that we are passing this legislation quickly today and we should be doing this, I wish that we had had hours of debate on this, yesterday or today. It should not be where we have 10 minutes of debate because we quickly have to get the bill to the President. We need to get the bill to the President as quickly as possible but Congress needs to debate the issues of the day.

So while I will not object because we have to get the relief to the people of the Gulf, the fact is that Congress needs to debate the issue of high gas prices. Our constituents all across America are suffering. The oil companies are making record profits. Frankly, they ought to turn some of those profits back to the American people to try to keep the price of gasoline down. This is all tied in, and how dare they use this terrible disaster, this terrible tragedy to loot the American people and to spike the prices of gasoline higher and higher.

I hope this Congress can have a full and free debate on this. I do not object because I want to get the money there as quickly as possible, but this Congress needs to do and this President needs to do something about the high price of gasoline.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. LEWIS of California. Mr. Speaker, pursuant to the order of the House, I call up the bill (H.R. 3645) making emergency supplemental appropriations to meet immediate needs arising from the consequences of Hurricane Katrina, for the fiscal year ending September 30, 2005, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The text of the bill is as follows:

### H.R. 3645

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, namely:

### DEPARTMENT OF HOMELAND SECURITY

### Emergency Preparedness and Response

### DISASTER RELIEF

For an additional amount for ``Disaster Relief'', $10,000,000,000, to remain available until expended: *Provided*, That the amount provided herein is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

### DEPARTMENT OF DEFENSE

### Operation and Maintenance

### OPERATION AND MAINTENANCE, DEFENSE-WIDE

### (INCLUDING TRANSFER OF FUNDS)

For an additional amount for ``Operation and Maintenance, Defense-Wide'', $500,000,000 for emergency hurricane expenses, to support costs of evacuation, emergency repairs, deployment of personnel, and other costs resulting from immediate relief efforts, to remain available until September 30, 2006: *Provided*, That the Secretary of Defense may transfer these funds to appropriations for military personnel, operation and maintenance, procurement, family housing, Defense Health Program, and working capital funds: *Provided further*, That funds transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation or fund to which transferred:

*Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the Secretary of Defense shall, not more than 5 days after making transfers from this appropriation, notify the congressional defense committees in writing of any such transfer: *Provided further*, That the amount provided herein is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

This Act may be cited as the "Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005".

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from California (Mr. LEWIS) and the gentleman from Wisconsin (Mr. OBEY) each will control 5 minutes.

The Chair recognizes the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield myself such time as I may consume.

We have come together today, for all of us in the House of Representatives know that words are not adequate to begin to deal with this horrendous natural disaster that has beset all Americans but particularly those people in the region of the Gulf.

Indeed, Mr. Speaker, I do not intend to speak extensively here today but to say that the bill is designed to make sure that all of us understand that America will respond to this tragedy. Money is not going to make the difference in the final analysis. This bill provides for $10 billion to make sure that FEMA has enough flexibility and adequate dollars will be available to flow in the very near term as we really assess the cost moving forward. This will not be the last time we discuss this issue in terms of both financial strain and also the horrid strain it is placing upon those Americans who are directly affected. The bill beyond that provides $500 million that will also be available for the Department of Defense to, in a flexible fashion, be of further assistance in this tragic disaster.

With that, I hope that the Members will participate in the Special Order that will follow this very brief debate in order to make sure that there is a complete airing as the House would seek its will.

Mr. Speaker, words cannot begin to describe the toll Mother Nature has taken on the people of Louisiana, Mississippi, Alabama, and Florida. The levels of desperation and human suffering from Hurricane Katrina are unlike anything we have seen in our country.

I do not intend to take much time today for the need in the affected region is so great. This is not a time for words or political rhetoric. It is a time for action. We need to move quickly, to save lives, and help the people of the region get back on their feet. The President has promised an unprecedented level of immediate aid. Congress is backing that promise with the funding and resources to keep the aid flowing.

This is a simple 2½-page supplemental. It contains two sections: $10 billion for FEMA within the Department of Homeland Security; and $500 million for the Operation and Maintenance, Defense-Wide account within the Department of Defense. The $10.5 billion figure was determined based on what FEMA is now spending on a daily basis and how much is needed to take us out a few weeks until we get a better assessment of what the long-term funding needs will be.

At the beginning of this week, FEMA had roughly $2.6 billion in its Disaster Relief Fund and $1.5 billion in the Flood Insurance Program. In recent days, FEMA and OMB concluded that these funds were being utilized at a rate of between $500 and $750 million per day. President Bush and our leadership made the decision to convene the Congress in an emergency session and move this supplemental to the President for his signature today.

We do not yet know how much the recovery from this disaster is going to cost. Our resolution today provides an immediate infusion of money to allow FEMA and the Department of Defense to address the most immediate needs resulting from this natural disaster. Costs associated with evacuation, emergency repairs, deployment of personnel, and other costs resulting from immediate relief efforts are included in this package.

This initial step today will ensure that there is no disruption in funding for relief efforts. We fully expect to be approving additional emergency funding in the coming weeks. Quite frankly, it will take some time to assess the full scope and cost of this disaster. Much of the damage is still underwater and the full extent is still unknown. Damage assessments will be collected from a great many Federal entities—FEMA, the Corps of Engineers, the Coast Guard—and others.

The destruction that has overtaken New Orleans and the Gulf Coast will require months, and even years, of intense effort to recover and rebuild. It will take nothing less than a domestic Marshall Plan to rebuild new roads, utilities, homes, and businesses. On this point, let me be very clear: Rebuild, we must. Rebuild, we will. Congress and the Bush administration is one-hundred percent committed to the rebuilding process and today's action is the first step.

One final thought as I conclude my remarks: There is no greater spirit than the American spirit responding to citizens in need. When we see suffering, we want to do something. We want to lend a hand. Many people are responding to this tragic circumstance by offering their prayers and opening their hearts and their checkbooks to organizations like the Salvation Army and the American Red Cross. I encourage my colleagues and our citizens to do the same in the days and weeks ahead.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, by way of explanation, this bill provides $10.5 billion. $10 billion of which will go to FEMA, half a billion dollars to DOD. It provides for relief efforts for the aftermath of the Katrina hurricane. The funds to DOD will go to the operation and maintenance account with broad transfer authority. They will eventually wind up, I am certain, being used for procurement for housing and matters like that. The funds for FEMA may be used for any traditional purpose under the FEMA legislation, including public assistance, shelter, food, et cetera.

Let me simply say that I hope that we recognize this is just the initial downpayment in the costs that are going to be associated with this incredible disaster. I would also hope that we would recognize that we have for a long time been making inadequate investments in activities that could lessen the impact of disasters such as this, and I would hope we would recognize that values such as preventing this horrendous event from occurring again ought to be much higher on our values scale than they have been in past months and certainly in past recent years.

Mr. Speaker, I would urge support of the legislation.

Mr. Speaker, I yield the balance of my time to the distinguished gentlewoman from California (Ms. PELOSI), the minority leader.

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time, and I thank him for his very strong statement. I wish to right off the bat associate myself with the remarks of the gentleman from Wisconsin, our ranking member on the Appropriations Committee, his remarks that he made in reserving the right to object. I thank the gentleman from California (Mr. LEWIS), who knows firsthand as do I what an impact a natural disaster is to a State and how important it is to hear right away from the Federal Government as to what our commitment is to recovery.

I remember, as I am sure the gentleman from California does, when the Loma Prieta Earthquake hit Northern California, it was such a shock and such a surprise as with our colleagues today. We could see in my area of San Francisco parts of the city burning, bridges down and impassable, the people in need, without adequate shelter and the rest. The San Francisco Bay Area, let me broaden it, Loma Prieta is in the southern part of the bay area, as the gentlewoman from California (Ms. ZOE LOFGREN) is reminding me.

Jamie Whitten came to the floor that day and said, Last night there was an earthquake in San Francisco. I immediately called in my staff and said, what is it that we can do to help. We want to remove all doubt in anyone's mind that we understand the gravity of the situation, that the social compact that the people have with the Federal Government will be one that will be honored and that this will not be part of their problem, the same thing that I know that the gentleman from California (Mr. LEWIS) understood at the time of the Northridge Earthquake in Southern California where the response was one that helped remove doubt as to the fact that we are one Nation and that we are always moving to be a more perfect Union.

That challenge that our Founding Fathers gave us in the Constitution's preamble, to form a more perfect Union, it is the first responsibility listed there, is one that we must remember now, because we are faced with a situation where so many people in the Gulf States, in Louisiana and Mississippi and Alabama and Florida, are affected by this. In other natural disasters, as with our earthquakes in California, certain parts of the community were affected and other parts of the community helped the emergency relief and the recovery. Here we have a situation where we have a total devastation of a region. Who is there to help? All the more reason for us as the Congress of the United States to come together, to give hope to these people, to say to them that we hear your cries.

□ 1330

We hear them and we are told about them, also, from our distinguished Members of Congress from the region. The gentleman from Mississippi (Mr. TAYLOR) lost his home, his only home, and those of many of his staff did as well. The gentleman from Louisiana (Mr. MELANCON) has been manning an emergency center to help people get help. The list goes on. The gentleman from Louisiana (Mr. JEFFERSON) saw his whole city practically get wiped out. But I am sure that everyone on each side of the aisle has stories that they know firsthand. The gentleman from Mississippi (Mr. THOMPSON), the ranking Democrat on our Committee on Homeland Security who knows full well what our capability is as a country and what an attack this is of nature and therefore what more we need to do to get this all done. The list goes on. There are many heroes in this.

So when I hear my distinguished colleague for whom I have great esteem, the gentleman from California (Mr. LEWIS), say that we cannot have a full debate on this, we will just do it as a Special Order because we have got to get this to the President right away, that would have been a very good argument to have this special session of Congress much earlier this week, because it was clear that although we did not have all of the facts, we knew that people were hurting very badly in our country, that there was a need for additional resources, and it was important to bring the considerable talent on both sides of the aisle together in Washington, DC to make a judgment about the facts and to allocate the resources.

Just a couple of days ago it was thought that there was enough money to cover until next week, until we came back. So what? As it turns out, that was not a correct assessment. But even if it had been, why should we not have been here to give hope, to give inspiration if we are capable of that, but at least to remove all doubt in everyone's mind that this is the first order of business for us and that is to protect our people and try to make them whole in time of a natural disaster.

But we are here, and what we need to do and what we need people to hear is the strongest bipartisan cooperation, whatever the timing, on how we address their needs. Their needs have been referenced in terms of energy. Energy is important, not just at the pump, although let me say about that, pox on those who would price gouge at the pump to our people in our country who are already suffering from debilitating prices at the pump that enable some not to even be able to get to work, and now in this tragic time we do not want matters made worse with price gouging and there will be a price to pay for that. But energy for many reasons. Energy to get product, plywood, whatever it is, to where it is needed, to rebuild in the Gulf States, energy to keep the lights on, too. Such a high percentage of people, there are probably 5 million people, without electricity as we gather here today. Two million homes, 5 million people without electricity as we gather here.

Energy, and I know others will address it more specifically, is a very important part of this, especially since the Gulf States are such an important source of production and transport of energy to the rest of the country.

Our children. Think about the children. Right now they are supposed to be starting school. Instead, they are starting to wonder where their homes are, where their loved ones are, if their parents have jobs and if indeed they even have a school to go to. We have an enormous task ahead of us. Our children will forever be marked by the trauma of this hurricane unless we quickly take them to a place that says, there was a tragedy, people responded, you were considered a priority. Hopefully, they will get through. My own grandchildren who live in Houston and see all these children coming into the Houston area, Mr. Speaker, your area, they are becoming afraid of rain. If it rains, will our house be washed away? Just after 9/11 when kids were saying if a plane goes overhead, should we be afraid of that? We must reassure our children and eliminate the traumatic effect on top of the physical displacement that they are suffering here.

So whatever the allocation of these resources are, I hope it is enough. And if it is not, again with the facts as our friends, we must allocate the resources to make sure these children are in school.

I was telling some of the leaders yesterday in a conference call that when I visited Macedonia and other places in the Balkans, when these children were displaced and they did not have any classroom situation, it compounded the terrible experience that they had until a school situation was created for them. Think of what this is going to mean with people who have been sent to other States. How are those schools going to absorb all of these children even within their own States, but in two different school districts. In the allocation of our resources, I hope that we will have children first in terms of their education, their health.

That takes us to the significant public health issues that we are facing there. Dead bodies floating in the water, some say that is not a danger. I do not know. It sounds dangerous to me. The chemicals that are in the water. There are so many things that we do need the facts on. So it is not a question of speculation. What are the facts? What is the public health challenge that we face? How do we allocate the resources to stop that immediately, because if our children are sick and they see death around them, much of the rest that we do is not going to seem as relevant.

We know that the list goes on. Shelter, people losing everything. I can tell you from my earthquake experience, and this is a little discouraging, you really are never made whole. The history of your family, the photographs, the sentimental attachment that you may have, some of that is just now to be forgotten. But if we cannot make them whole in the same way, we certainly have to give people hope in a new way that the life that they will lead will be something that not only replaces, but enhances, their experience, because they have been through a lot and in our perfect Union, as we embrace each other as people of America, we have to do so in a way that honors the social compact between the people and the government.

That means all people. It does not mean people who have the wherewithal to get away to a second or third home. It does not mean people who can get helicoptered out, and God bless them for their success in being able to do that. God bless them for taking that route. But it does mean that if people are left behind because of their economic status, then that is wrong. That is wrong and that is not something that this $10 billion should support.

We must, if this is not enough, do more. It is all an investment. It will cause an economic growth in the region as we rebuild, creating jobs, giving hope, bringing people home that I think will more than return to the Treasury what we are putting out there. But right now they need our help and they need it in a very substantial way. They need it for their health, for their housing, for their jobs, the education of their children, for the environment in which they live so that it is healthy and not again a public health hazard. They need to be considered full participants in this great country that we are.

Let me say that there are many heroes in all of this. I named some of our colleagues, the gentleman from Mississippi (Mr. THOMPSON), the gentleman from Louisiana (Mr. MELANCON), the gentleman from Mississippi (Mr. TAYLOR), the gentleman from South Carolina (Mr. CLYBURN), those whose experiences I know firsthand. The list goes on and on. Again, others will speak from their firsthand experience about it. But the biggest heroes of course are the people who are on the front line all the time working very hard. I would hope that as we did in our earthquake situation, and forgive me for keeping returning to it, but it is an experience that we thought was the most desperate until we saw what we are seeing now, and this goes beyond anything I think that anyone can imagine, that the disaster assistance centers must be established, that people have to know what they have a right to in terms of their emergency assistance and that what people have a right to in terms of recovery, in terms of SBA loans and the rest of that.

There are some things in place that can help people right away if we can get FEMA in place to help them. But again we must remove all doubt that we are there for all people. It cannot be viewed as for those who will receive assistance and those who have not will go by the wayside. This issue of social justice, of economic justice, of the economic life of a city, of a State that rests on the fullest participation of all of its people must respond in the fullest way to all of its people.

I will say once again that I regret we could not have come here sooner with fuller participation of Members who have, again on both sides of the aisle, enormous experience in public health and energy issues and housing issues and education issues and the rest; but let us say that we get this running start now, and I have asked the Speaker that when we come back next week with the full participation of our membership that we establish a hurricane task force that would include the ranking members, the chairmen of the committees of jurisdiction relevant to this emergency relief and recovery and that that task force will immediately move forward in an expedited manner and not be slowed down by business as usual, but instead again give hope to these people.

Again, I associate myself with what the gentleman from Wisconsin said. Even 4 years later after 9/11, there are still many things that have not been done, that have been clearly indicated are necessary. We have the resources to do it. It is just a question of priorities. That takes us to what this is about, what our priorities are as a country. How we allocate our resources is a statement of our values. As we leave here today and we go forward in the weeks ahead, we must make sure that everyone understands that a statement of our values is to form a more perfect Union by meeting the needs of our people and not having half a loaf when they are all Americans and entitled to full recovery.

If we can spend $20 billion on reconstruction in Iraq, we can certainly use that as a start on reconstruction in America. I say that with the fullest appreciation for the importance of the reconstruction of Iraq. I respect that that is important to stability there. I respect that it is important to stability here, for us to do that. Again, I wish we were here sooner. We are not. Let us go forward. Let us do it in a bipartisan way. I think the last thing that the American people need to see is any kind of partisan bickering about how we go forward, but nonetheless we have to have a strong commitment to these people.

In the Bible, Isaiah tells us that to minister to the needs of God's creation is an act of worship. To ignore those needs is to dishonor the God who made us. Let us make the work that we do here an act of worship to the God who made us and an act of respect for the people who sent us here.

Mr. LEWIS of California. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. BLUNT), the distinguished majority whip.

Mr. BLUNT. Mr. Speaker, I thank the gentleman for yielding me this time. We are dealing with perhaps the worst natural disaster in our Nation's history. Residents of the Gulf Coast States affected by the hurricane have lost loved ones, have lost homes, have been displaced from their communities, not just by the thousands or the tens of thousands in terms of displacement but by the hundreds of thousands and by the millions.

I am committed and I hope we all are to making sure that we have the full support of the Federal Government, that they have the full support of the Federal Government to get the responses they need to begin to recover and rebuild from this catastrophe.

□ 1345

I also understand that the Federal Government is only part of the answer. The severity of this tragedy demands something from each of us. We must answer the call to personally give to those in most need of our help. The American people are generous, and we know that Americans will come to the aid of those in need. While our thoughts go out to those who are suffering in the loss of this catastrophe, it is critical that we respond to this in an organized manner, addressing the most urgent needs first.

It has been said in the last few minutes that we should have had this session earlier this week. But being here yesterday, I believe at 4 o'clock yesterday afternoon, the number that we decided we needed today was bigger than it was at 12 o'clock yesterday. We were hopeful that of course we could go until Tuesday based on funding that was available and come back and deal with these problems as they need to be dealt with.

That is why, Mr. Speaker, you and others have directed the committee chairmen to do everything they can to move forward on every front, to look at where their committee might make the best recommendations to this body. That is why today we are passing this supplemental to get FEMA through the process of next week.

We all need to be committed to making sure that the people affected will have the full support of the Federal Government. We need to look at what has happened to States whose revenue base has been decimated. We need to look at what is happening to our economy. We need to do our job. We need to do it in a manner that is not partisan, and we need to move forward to take this first step today.

Mr. LEWIS of California. Mr. Speaker, I yield myself the balance of my time to close the debate on this measure and in doing so suggest that those who are looking with interest that one of the great things that has happened in recent years is that we often televise our discussions here. While that theoretically would build a base of support on the part of Americans for the Congress, it is strange to me that the polling would suggest that many Americans are very disconcerted by the tendency for extreme rhetoric on both sides of the aisle often carrying on partisan battle for the sake of it and so the polls are just seen as coming down, down, down.

The reality of that is that the American people expect better of us than that. But Americans respond in times of crisis and tragedy. There is not any doubt that this tragic event that has been experienced by the people on the Gulf Coast is beyond imagination, but in reality also the public will see the Congress reflecting the best of our people. They do not want us pointing fingers at each other, trying to figure out who you can blame besides myself. They want us to recognize that we have a responsibility to serve our people, and in times of crisis especially respond to their basic needs, saving lives, extending those lives, helping them to begin to rebuild.

The destruction that has overtaken New Orleans and the Gulf Coast will require months and even years to completely respond to recovery. It will take nothing less than a domestic Marshall Plan to rebuild our roads and utilities and homes and businesses. On this point, let me be very clear. Rebuild we must. Rebuild we will. The majority whip suggested that Americans themselves are already responding individually. Indeed, as we responded to the tsunami in spades, Americans are already responding, with their hearts, with their prayers and indeed with their pocketbooks to the Salvation Army, the Red Cross and otherwise. They are going to make sure that money is not the question. We are beginning that process by way of our public responsibility today with this bill, but indeed in the weeks and months and years ahead, we will demonstrate as a Congress that America does its best work when we come together as Americans and not as partisans.

With the passage of this bill, this task is just beginning. I urge people on both sides of the aisle in the weeks ahead to make certain that we are holding hands with those victims and all of our Americans who want to see us respond in the way that we can respond and we are doing our best.

Mr. MEEK of Florida. Mr. Speaker, after seeing the heart-wrenching images of so many of our fellow Americans in Louisiana, Mississippi and Alabama who have lost everything and are unfed, thirsty, suffering from oppressive heat in unsanitary conditions and waiting in desperation for help from their government, this bill is a truly no-brainer.

Every American is united in the heart-felt desire to help the hundreds of thousands who are literally crying out for assistance. $10.5 billion is not nearly enough to get the job done, even in the short term. So far, judging from the horrible suffering of thousands of people that Americans see every night on their television screens, our government has not been handling this crisis very well.

I hope that this money will have some impact in finally getting some aid to the needy. Before Katrina, who among us would have thought that Americans would be begging for food and water and become refugees in our own country? Yet that is exactly what has been happening for days in Louisiana, Mississippi and Alabama. Thousands of these people are within blocks of aid, but for days no aid has been provided to them.

However, it is not enough to simply vote for funding bills. We have to make sure that the relief money we are appropriating today and that we will be appropriating in the weeks, months and years ahead actually gets to the victims, and is not skimmed off by fast-buck artists and unscrupulous contractors.

This crisis is so enormous and so devastatingly serious that it is without precedent in our history. For these reasons, we need to get out of a "business as usual" frame of mind and implement some bold new approaches to helping our people in their time of dire need.

First, the Speaker should immediately create a Task Force or Special Committee with the power to cut across overlapping jurisdictional lines to prevent duplication and expedite needed legislation. This Committee should draw on and coordinate the expertise of the House standing committees in the areas of public health, housing, food and nutrition, safety, social services, energy, transportation and commerce. There is precedent for this approach. In 1977, Speaker O'Neil set up the Ad Hoc Committee on Energy, with legislative authority to deal with the energy crisis. I think we should use the same approach today.

Second, Congress should provide additional resources to the office of the Inspector General of the Department of Homeland Security to help insure that the hundreds of billions of dollars that will likely be necessary to care for our people and rebuild our country are not wasted through fraud, abuse, overpayments or ineffective government management.

We have many good reasons for concern about wasteful spending. In the three years since the Department of Homeland Security was created, numerous reports by the Congress, the Department's Inspector General and the Government Accountability Office have detailed instance after instance of contracting deficiencies, fraud, wasteful or lavish spending, lax oversight and management, procurement shortcomings, blurred lines of responsibility and lack of accountability.

In addition, the case of U.S. government spending in Iraq is instructive in what we don't want to do in the hurricane areas, where multi-billion-dollar contracts were given to big companies like Halliburton with little oversight or accountability. Pentagon investigators found over one quarter of a billion dollars in unacceptable or unsupported charges by Halliburton in a contract they had to restore Iraqi oil. Hundreds of millions more in other contracts have simply disappeared or cannot be accounted for.

These practices have not only cheated the taxpayers, but they cheat the people who need help from getting the benefits that these funds should have provided.

I believe that this Congress must make sure, to the greatest extent possible, that the funds that we are appropriating today and in the coming months to help the Hurricane Katrina victims are directly squarely at helping the victims and not those who seek to profit at the expense of the victims.

Mr. REYES. Mr. Speaker, our country is once again devastated by a tragedy and our thoughts and prayers are with the victims and families who have been affected. I would like to wish the best to the Members of this House and their staffs from the affected areas; our prayers are with you and your families as well.

Mr. Speaker, I would also like to recognize and praise my constituents in El Paso, Texas, who like many other citizens have begun to organize efforts to send relief to those in need. Just yesterday, I helped kick off an initiative being called "48 Hours of Giving", a joint effort by the El Paso Sheriffs Department, the El Paso Chapter of the American Red Cross, the El Paso Salvation Army, and Bassett Place to raise money to help victims of Hurricane Katrina.

The El Paso County Sheriff's Department has also offered to send their Search and Rescue team to the area to provide assistance and the El Paso chapter of the American Red Cross has begun signing up and training volunteers to send to the Gulf Coast for relief. It truly is heartening to see communities come together in times of great need. It is my hope that we continue this spirit of generosity as we overcome this tragedy.

The passage of this Emergency Supplemental Appropriation will help continue the efforts to provide aid in a timely matter. While our communities are opening their hearts and doing whatever possible, it is our government's job to be doing everything it can with all resources to provide for the well-being of its own people. It is unconscionable that we are not taking care of our own, and that there are still Americans who have not been fed or sheltered or reunited with their families for five days now. It is embarrassing that this mighty nation that sends relief around the world has failed its own people so miserably.

I hope that this House and this government can rebuild our own devastated areas with the same enthusiasm and resources dedicated to rebuilding governments and nations abroad.

Mr. MOORE of Kansas. Mr. Speaker, Hurricane Katrina is the largest natural disaster in the United States in decades, impacting large parts of Alabama, Florida, Louisiana, and Mississippi. There has been enormous damage to homes and businesses in the Gulf Coast region, as well as a significant loss of human life. Both the mayor of New Orleans and the governor of Louisiana now estimate that the number dead in New Orleans alone could be in the thousands. That estimate, if correct, would make Katrina the Nation's deadliest natural disaster since the 1906 San Francisco earthquake and fire, which killed up to 6,000 people.

As co-chair of the Congressional Hazards Caucus, I unfortunately know firsthand how damaging natural disasters can be. While I am devastated by the enormity of this tragedy, I know that our faith, tenacity and determination ensure that we will work, as a Nation, to do all that we can to stem the crisis and help those in desperate need. Therefore, I rise today in full support of Congress's initial payment for disaster relief for the victims of Hurricane Katrina.

This supplemental appropriations bill contains $10 billion for the Federal Emergency Management Agency (FEMA) and $500 million for the Department of Defense, for a total of $10.5 billion in relief aid. This funding is desperately needed. Currently, FEMA is spending $500 million a day to aid victims. If this supplemental spending bill is passed, the $10 billion allotted to FEMA will enable it to assist the people affected by the hurricane for another 20 days. This aid will focus on critical areas, including public health and sanitation, public safety, housing, energy supplies, national transportation infrastructure, commerce, and the safety and adequacy of food supplies.

Hundreds of thousands of Americans have been devastated by Hurricane Katrina and are turning to their elected representatives for assistance. We must do all we can to ensure an immediate and thorough response to these needs, and I fully support the $10.5 billion supplemental appropriation for disaster relief.

Mr. THOMPSON of Mississippi. Mr. Speaker, "National Preparedness Month," an initiative of the Department of Homeland Security and the American Red Cross to "encourage Americans to take simple steps to prepare for emergencies in their homes, businesses and schools" began on September 1st. As the

Ranking Member of the House Committee on Homeland Security, I serve as the Honorary Congressional Co-Chair.

I was filled with sadness and disbelief when a press release from the Department came across my desk on Thursday announcing the initiative, saying that it would help Americans take simple steps such as "get a kit, make a plan, be informed, and get involved." The release seemed hollow and inappropriate in light of the devastation caused by Hurricane Katrina in Alabama, Florida, Louisiana and my home State of Mississippi.

My message to the Department and others in government is simple: we will need more than a few emergency kits and press releases to ensure that our Nation is adequately prepared to respond to a natural disaster or terrorist attack.

Hurricane Katrina was an unprecedented natural disaster, but to government officials tasked with protecting our Nation's communities, it should not have been a surprise.

Risk assessments have long told us that the Gulf Coast was in danger. The New Orleans Times-Picayune did a series of articles as early as 2002 about the risks to New Orleans from a hurricane. The Federal Emergency Management Agency (FEMA) has created reports and conducted exercises on Gulf Coast preparedness and response issues. Yet, it pains me that here we are a week after the hurricane struck with potentially thousands of deaths, communities razed, a city underwater and under siege, and gasoline shortages and price gouging across the Nation.

From what I am seeing here in Mississippi, our government failed in both its preparedness and its response to this disaster. I also believe that if terrorists, rather than a hurricane, had attacked the Gulf Coast—the result would have been no different.

It appears our preparedness plans did not anticipate that thousands of people would be stranded in a stadium or convention center. Or that citizens would be roaming the streets begging for food and water and seeking shelter wherever they can find dry spots—as they're doing in Mississippi.

Instead of a well-prepared plan, victims have had to rely on ad hoc charity from cities with big hearts such as Houston that are opening up venues to house now-homeless evacuees.

I have even heard that people are being put on two-day bus rides to Washington, DC, for shelter. While Washington should be commended for opening the DC Armory to victims, there is something wrong with having to put evacuees who have lost everything on buses for several days so far from what might be left, if anything, of their communities.

How will families and friends of these evacuees know how to find them? The same could be asked of those who are being turned away from the Astrodome and moved on to Dallas or San Antonio.

I also wonder how an electrical outage could take down such critical infrastructure as two oil and gas pipelines servicing a large section of the country? In 1998, President Clinton issued a presidential directive that required the government to look at pipeline and electrical grid security. In December 2003, President Bush issued a homeland security directive that repackaged the government's efforts.

The last several years in Congress, we have continually heard that the administration and private sector are working to secure our critical infrastructure. Yet, a power outage managed to cripple the pipelines, resulting in skyrocketing gas prices across the Nation. Overnight, some communities saw gas prices rise 40 cents, others $2.00.

What message does this send to terrorists if our petroleum systems are so vulnerable? I also wonder what extra steps the Federal Government and the energy sector are taking today to ensure that these facilities are bolstered against attack from terrorists who might try to exploit the current situation.

Despite the increasing threat of hurricanes, especially this year, our government continued to cut the funding of the Army Corps of Engineers, thereby cutting the funding for flood control projects. In 2005, President Bush only requested $3.9 million for the floor projects in New Orleans, although the Army Corps of Engineers said it would be able to spend $20 million if the funds were only provided. Congress increased the funding to $5.5 million, which still was insufficient to fund new construction contracts to secure the levees. For Fiscal Year 2006, the President has asked for even less, requesting only $3 million. Allowing dams and levees to remain vulnerable to disaster and attack simply is unacceptable.

The administration must focus on the very real threats to our communities, towns, and cities if we are to secure our Nation. Preparedness is our prime defense against natural disasters and terrorist attacks. What Americans face today is a result of what happens when our government fails to prepare.

Natural disaster or terrorist attack—our government must do better. We all deserve better.

Ms. JACKSON-LEE of Texas. Mr. Speaker, the United States is facing one of the most difficult challenges in its history, and I applaud the Congress for acting swiftly to introduce and pass H.R. 3645, a bill that will provide $10 billion in relief money to the Federal Emergency Management Administration (FEMA) to bring relief to the victims of Hurricane Katrina. As the Representative of the 18th Congressional District that includes Harris County, the local government that has given the most support to the displaced residents of New Orleans, LA, Alabama, and Mississippi, this supplemental appropriation has tremendous meaning and value.

The Washington Post called the effect of Katrina "[t]he largest displacement of Americans since the Civil War reverberated across the country from its starting point in New Orleans yesterday, as more than half a million people uprooted by Hurricane Katrina sought shelter, sustenance and the semblance of new lives." Mr. Speaker, I strongly support this appropriation because it is a very important first step to other very necessary ones to address the direct effects on Florida, Alabama, Mississippi, and Louisiana and the indirect effects on local governments that have stepped up to provide solace, safe haven, and hope such as my District of Houston, Texas and Harris County in particular. I would like to take this opportunity to applaud the City of Houston, its teams of first responders, and the compassionate taxpayers who exhibited leadership in spiritual, physical, and economic assistance to their brothers and sisters from Louisiana.

I am disheartened by my colleagues among us who ask the question of what sense it makes to spend billions of dollars to rebuild a city that lies six feet below sea level. As leaders of the legislative branch of the federal government and as the people responsible for making policy, we must be very careful not to show insensitivity or the semblance of arrogance since our own family members or close friends are not among the sufferers of this historic tragedy. Today's Houston Chronicle reads "Weary refugees grateful to arrive at resting place: The next step for many is finding family members." [*1*][1] Thousands of displaced persons—this time not in the context of Sudanese refugees but American refugees, have been bused and helicoptered from New Orleans to Houston's Reliant Astrodome where some are now abused, raped, and assaulted because many of these individuals no longer have hope. Ten billion dollars is hardly enough to restore lives that have been lost, medical records that float in what used to be New Orleans, or homes where memories were created.

As a member of the Committee on Homeland Security, I am pleased that, through the lessons learned from the attacks on 9/11, this Nation is at least well-versed on centralizing resources and manpower to respond as quickly and strongly as possible.

Mr. Speaker, I support this very critical legislation, and I hope that my colleagues will show their compassion by joining in this support.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in support of this legislation to provide $10 billion in emergency supplemental appropriations for the relief effort in the aftermath of Hurricane Katrina. Without question, this appropriations bill is only an early estimate of the funding needs along the Gulf Coast and will most likely be only the first installment of federal funds dedicated to this devastated region.

As Houstonians learned in June 2001 during Tropical Storm Allison, it takes quite a while to accurately assess the damage and determine just how much is needed to repair that damage after a natural disaster such as Hurricane Katrina. We remember all too well the flooding and destruction that Houstonians endured during Tropical Storm Allison. The memory of our pain and frustration during that time puts Houston in a unique position to empathize with and help our neighbors in Louisiana, Mississippi, and Alabama.

Houstonians are selflessly rising to the occasion and helping hurricane victims in need. Our hospitals within the Texas Medical Center are using their resources to evacuate the critically ill in Louisiana's hospitals and have done an admirable job of reuniting evacuated patients with their families. The good-hearted members of our community are coming out in droves to volunteer, to help in any way they can. And our schools are opening their doors to the children of Hurricane Katrina, so that the devastating events of the past week will not thwart their education and the bright future that lies ahead of them.

As we applaud the overwhelming generosity of the people of the Houston area—as well as communities all across the country who are coming together to provide much-needed help—it is critical to remember that the responsibility for relief ultimately lies with the federal government. There is no question that the federal government was unprepared for the kind of devastation that has ravaged Louisiana, Mississippi, and Alabama. As we support the local governments who have, without hesitation, stepped in and played a tremendous role in the relief effort, we must ensure that the generosity of these communities is met with a federal commitment to reimburse them for the expenses they've incurred as good Samaritans.

Across our country, American hearts ache as we witness the extreme suffering of our fellow Americans in Louisiana, Mississippi, and Alabama. I am proud to support this $10 billion disaster relief bill, which will be the first step in helping our brothers and sisters to rebuild their lives. Yet as we sympathize with their plight, it is impossible to deny that a majority of Katrina's victims fell through the cracks of our country's safety net long before the hurricane hit land. The faces of Hurricane Katrina will long be branded in our memory. Let us not forget those faces as we address future issues facing our country's safety net—a safety net that we know all too well can mean life or death for the disadvantaged in our country.

Mr. PLATTS. Mr. Speaker, the ongoing scenes of devastation and despair caused by Hurricane Katrina are heart-wrenching and unprecedented in our Nation's history. We must and will unite in a national effort to assist our fellow citizens in these hours of overwhelming need.

Our condolences and prayers go out to all individuals who have been impacted by Hurricane Katrina, especially those who have lost loved ones in this horrific tragedy. Passage of this legislation makes it clear that all members of Congress, Republicans, Democrats, and Independents alike, are indeed united in our prayers for and commitment to the victims of this devastating event. We are also united in our admiration of the military and emergency services personnel who are working tirelessly to save lives and maintain order. Their heroic efforts, matched with the outpouring of support from the American people, are a testament to the character and compassion of our people.

While the days, weeks, and months ahead will be long and difficult, our Nation will meet this unprecedented challenge with unwavering determination, compassion, and courage. May God watch over the victims of this tragedy during this time of tremendous loss and suffering.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, my deepest condolences go to the victims of Hurricane Katrina who have lost their lives, their homes and their livelihoods. For many, it did not have to be this way.

I represent south Florida, an area with a great deal of experience with hurricanes. Frankly, the planning and response efforts that I have seen from FEMA and the rest of the Federal Government leaves my confidence in our ability to respond to any kind of domestic disaster shaken and makes me fear for my constituents should a hurricane, or other disaster of this magnitude strike south Florida.

There are some serious questions to be asked: Why with several days' notice about this storm, were more people not evacuated? Where was the plan to evacuate people who did not have the money or ability to evacuate themselves? When the size and strength of the storm was known, why wasn't a response team in place to go into affected areas immediately? Why was Federal funding to reinforce the levee system cut when it would have saved thousands of lives and billions of dollars? And, given that this disaster was the first large scale test of the new Department of Homeland Security and their Federal Emergency Management Agency, does this new structure improve or hamper disaster prevention, response and relief?

Yesterday morning, President Bush went onto NBC's Today Show and made the following statement: "The critical thing was to get people out of there before the disaster. Some people chose not to obey that order. That was a mistake on their part." President Bush's statement shows a complete lack of understanding of, and insensitivity to, the plight facing so many American families today, or why those families died or are now suffering in the aftermath of Hurricane Katrina. The United States Census Bureau reports that in 2004 over 23 percent of the population of the city of New Orleans was living at or below the poverty level. The poverty level is $12,334 a year for a family of two, or $19,307 a year for a family of four. Mr. President, when a husband and wife only make $12,334 they very likely do not have a car, or money for gasoline, or even money for a bus fare to get out of town. It was not a mistake on their part, but rather Mr. President, a mistake on your part that you did not have a plan to evacuate these families from the path of imminent danger.

One thing is very clear; poor planning, and a slow response to an imminent disaster has cost hundreds of people their lives and hundreds more will die if the Government does not significantly increase its response. Even today, there are over 200,000 National Guard troops that have not been called up to help in the relief efforts. Even today, the Navy's Hospital ship *Comfort* remains in Baltimore Harbor, and will not set sail for the Gulf until Saturday and will not reach the Gulf for a week after that.

Our government must be better prepared to plan and respond to disasters of every kind in this country. But for right now, we must mobilize the incredible resources of the Federal Government and respond to this crisis in a manner that recognizes that people are dying as we speak because not enough has been done to help them.

Ms. MILLENDER-McDONALD. Mr. Speaker, I rise in strong support of House Concurrent Resolution 225 and ask for its immediate adoption so that the people of Louisiana, Mississippi and Alabama can get the relief they sorely need through funding from the Federal Government.

I offer my prayers to the victims of Hurricane Katrina and my thoughts and condolences are with the many families who have lost loved ones and family members.

During turbulent times such as this, I have witnessed the generosity of great Americans from across our country who have come to the aid of their fellow citizens. Now is the time those citizens of the Gulf Coast communities need our help. In my home State of California, those citizens who in recent years have suffered through devastating earthquakes, mudslides and brushfires know firsthand how natural disasters can dramatically impact their lives and how challenging it can be to rebuild homes, communities and families. Already the people in southern California and in my district are hard at work donating both time and resources to the many victims in the impacted Gulf Coast communities.

We Californians have a long tradition of helping our neighbors through devastating tragedies and disasters. And in that spirit, I call on all Americans to help support the rescue and recovery efforts that are under way in the region affected by Hurricane Katrina.

I applaud the leadership of Congress in convening this special session today to ensure that funding will be made available to help rebuild the lives of the families affected and the communities in which they live.

Mr. CARDIN. Mr. Speaker, I rise to say that our thoughts and prayers go out to all those who have suffered through the catastrophic event of Hurricane Katrina. I also rise today in support of the $10 billion supplemental spending bill to help deal with the ravages left in its wake. This category 4 Hurricane has laid waste to our Gulf Coast region, including the city of New Orleans. Today, I am outraged, outraged at the failure of our Federal Government to have planned for and adequately responded to a disaster we all knew could happen.

I join millions of Americans who have been stunned by the television coverage showing the desperation of thousands and thousands of our citizens and the failure of our Government to provide them with essential services—food, water, medical care, and sanitary conditions.

Today, I want to talk about the situation in New Orleans and the Gulf Coast and the immense suffering and desperation that the people there are experiencing. It has been 5 days since Hurricane Katrina slammed into the region and yet tens of thousands of Americans are without food and water. Lawlessness has settled in New Orleans and we have not provided the support necessary to secure the region. Tens of thousands of citizens are still stranded in shelters and we have not been able to evacuate them to safer areas; and thousands of residents of New Orleans are in need of rescue from their flood-filled homes and we have not mobilized the personnel necessary to search for them and bring them to safety.

Today, as thousands of residents of New Orleans and the Gulf Coast region face the possibility of death, I am outraged that the Federal Government failed to adequately plan for the hurricane as it approached this very vulnerable region. Last Friday, the hurricane's potential danger was clear, yet we did a poor job of getting resources in place.

After the hurricane struck, we did not activate the full resources of the Federal Government to assist the region. Instead, we relied on local and State governments, entities that were clearly overwhelmed and did not have the resources necessary to deal with a catastrophe of this magnitude.

Today, I am outraged at the failure of government to protect our citizens. Last year, James Lee Witt, former head of FEMA, testified before a congressional hearing, saying: "I am extremely concerned that the ability of our Nation to prepare for and respond to disasters has been sharply eroded. I hear from the emergency managers, local and State leaders and first responders nearly every day that the FEMA they knew and worked well with has now disappeared."

Today, we must bring the full weight of the Federal Government to bear in this crisis. I call on the Federal Government to send in the necessary personnel to rescue those in need and to restore order to the region. I also call on the Federal Government to open its facilities in order to share the burden of providing temporary housing for those who have been displaced.

Once we deal with the human tragedy that is now taking place, I call for congressional hearings that will examine what went wrong. Why our most vulnerable citizens were left to fend for themselves and why an entire region was not prepared for such a catastrophic event. I also call for congressional hearings to investigate the gas gouging that has spread across the Nation—taking advantage of human tragedy to make a profit. Hurricane Katrina has inflicted grievous pain on our country. I want to be sure that in the future we are prepared to deal effectively and competently with any catastrophic event that should occur.

Mr. DREIER. Mr. Speaker, in the aftermath of such a grave humanitarian catastrophe, one of the worst in our Nation's history, our thoughts and prayers are with those touched by tragedy and coping with loss.

Relief efforts for Hurricane Katrina are being carried out unabated in the face of great destruction, and much more needs to be done. Relief workers are locating survivors, evacuating those in harm's way, finding temporary shelter for the displaced and beginning to clean up debris. Over 20,000 National Guard troops and thousands of local law enforcement are working hard to maintain order and keep victims safe.

For this massive undertaking to continue and improve, it is essential that the Federal Emergency Management Agency has the funds needed to carry relief efforts through these crucial early days, as well as the long weeks ahead. Congress stands united with the President and with those affected in Gulf Coast States. The speaker has used his emergency powers to call us back to Washington to appropriate a supplemental $10.5 billion to FEMA and the Department of Defense. As the scope and scale of this tragedy become clearer, we will be ready to take additional action.

Under desperate and trying conditions, the soul of the South remains strong. In large measure, the people of Alabama, Louisiana and Mississippi, as well as Florida, are coping with lost lives, flattened houses and flooded businesses with great dignity and perseverance.

The Gulf Coast and the Port of New Orleans are vital to our economy and home to many important industries. Oil refineries, grain shipments, tourism and international trade are all affected by this natural disaster. While we urgently cope with the suffering of our fellow Americans, Congress is also mindful of the hurricane's economic fallout. We are committed to minimizing the adverse national and international economic affects of Katrina.

The lesson of past national tragedies, most recently September 11, 2001, is that when this country faces calamity, the American people and their elected representatives respond with overwhelming generosity, compassion and action. We also saw this with the response to the December 2004 Asian tsunami. So to those who are still in dire need of help, I can say with confidence that help is on the way. And help will not end with the rooftop rescue or the evacuation to another city. Congress, the President and FEMA will see this effort through until the very end.

There is still much hardship, loss and grief to endure, and the road to reconstructing lives, communities and jobs will be difficult. But, as we have before, this country will come together to aid those now suffering. We will get relief on the ground so the Gulf Coast region can begin rebuilding from the ground up.

Accordingly, Mr. Speaker, I urge all of my colleagues to support this necessary and important appropriations measure.

Mr. ROGERS of Michigan. Mr. Speaker, nothing tears at our hearts or bruises us emotionally as much as the pain and suffering of people trapped by the horrific natural disaster in our southern Gulf States this week.

Each of us watches helplessly from our living rooms, as TV screens fill with the faces of young and old, and we hear the voices, all beseeching us for the very basics of life: water, food, shelter, and safety.

These images and sounds fill us with pain, frustration and dismay. Our voices blend with those of our American brothers and sisters who need a helping hand: "Do something."

Like every other American, I wanted to load up my car with food and water and drive to New Orleans or one of the other cities so badly damaged and be there not only to give them sustenance, but also to tell them that we care about them and what has and is happening to them.

But the truth is that if we all did what we want to do, we would just magnify the problems.

And so we do what we can: we send donations of money and supplies, we send our National Guard and local law enforcement and emergency workers. And we yell at the government because we believe that in America, we ought to be better equipped to deal with such emergencies.

You know what? We should be better prepared. That is an issue we will deal with in the weeks and months ahead. The victims of Hurricane Katrina need us today, and our initial focus should be to meet their needs. Congress, by approving this major financial aid package, is responding with the rest of America to the immediate need.

Our first priority is saving lives and making sure these American citizens have their basic needs met. Once that occurs, we can move forward with long-range planning for these citizens who lost so much, and communities struggling with recovery.

Mr. Speaker, there is a time for campaigning and a time for governing, a time for leadership and compassion and a time for congressional hearings. Today is a time that we pull together with love of our neighbors and the love of our Nation to bring relief, safety and security to our fellow Americans in need.

Ms. KILPATRICK. Mr. Speaker, I want to extend my condolences to the families who have lost loved ones in the natural disaster we have witnessed over the last 5 days. Our hearts go out to them and we are working desperately to address this desperate situation.

I pay tribute to Democratic Leader PELOSI for giving this effort to provide for supplemental funding relief for the hurricane victims in Louisiana, Mississippi, Alabama, and Florida the priority attention and urgency it deserves. Because of her forward thinking and sensitivity to the scope of this disaster, we are here today in this special session of Congress doing what we should be doing: responding to the needs of the thousands of victims of this natural disaster to make sure the money is available for food; water; emergency supplies; temporary shelter; command, control, and communications networks; public safety; public health and sanitation; and other forms of emergency assistance.

Thank you, Mr. Speaker, for acceding to the gentlelady's call to convene the House to pass this $10 billion package. Today, we demonstrate that partisan politics stop when it comes to responding to the needs of thousands of Americans who find their very lives imperiled by Hurricane Katrina and its aftermath. We are showing that Congress can lead and provide a rapid response when misfortune strikes.

This is not the time for recriminations. There will be plenty of time for that when Congress reconvenes next week to review the slowness and inadequacy of the response and consequence management efforts of the natural disaster that struck our Gulf Coast. The experience of my congressional office in trying to contact responsible Federal agencies involved with the effort shows that communications between congressional offices, the Federal Emergency Management Agency, FEMA, and other responding Federal agencies has not improved since 9/11.

What shocks us as Americans is that the we are witnessing human tragedies on our television screens on a scale we do not expect to see in America. It is hard for us to accept a human tragedy like we see in the third world happen on our own shores. It is even harder for us to accept that our response to this human tragedy is no better than what we see by lesser and undeveloped countries. The lack of an effective response and plan of action has us all in shock.

While no class has escaped the human tragedy, the disproportionate numbers of victims are black, poor, aged, disabled or otherwise physically debilitated. These are the people who are the lowest priority in emergency evacuation plans because we do not know how to address their fundamental needs. They are the first who depend on the Government for services, the first at the mercy of the elements but the last on civic emergency action plans.

Our hearts go out to those who are stranded and dispossessed. We need leadership to address their needs. The private sector like the hotel industry and the civic community must step up to offer assistance. The city of Detroit has offered to transport 500 families to Detroit to shelter them and meet their basic human needs. The Mayor of Detroit, the Honorable Kwame Kilpatrick, has worked with FEMA, local hotels and food manufacturers to provide temporary shelter for an estimated 500 families. He has gained the cooperation of the city of Detroit School District to accommodate the children of dislocated families. We need more State and civic leaders to step up.

I also want to acknowledge the offers of assistance our government has received from the international community. Governments from other countries have offered their expertise in airlifting residents and in other humanitarian response recovery techniques in our time of need. I hope we are big enough to accept these offers where there is a need.

Again, I thank Democratic Leader PELOSI and the Speaker for seeing that Congress does its part to respond quickly. To all the victims, their families and loved ones, please know we stand with you in our actions and prayers.

Mr. KUCINICH. Mr. Speaker, this amount of money is only a fraction of what is needed and everyone here knows it. Let it go forward quickly with heart-felt thanks to those who are helping to save lives with necessary food, water, shelter, medical care and security. Congress must also demand accountability with the appropriations. Because until there are basic changes in the direction of this government, this tragedy will multiply to apocalyptic proportions.

The administration yesterday said that no one anticipated the breach of the levees. Did the administration not see or care about the 2001 FEMA warning about the risk of a devastating hurricane hitting the people of New Orleans? Did it not know or care that civil and Army engineers were warning for years about the consequences of failure to strengthen the flood control system? Was it aware or did it care that the very same administration, which decries the plight of the people today, cut from the budget tens of millions needed for Gulf-area flood control projects?

Countless lives have been lost throughout the South with a cost of hundreds of billions in ruined homes, businesses, and the destruction of an entire physical and social infrastructure.

The President said an hour ago that the Gulf Coast looks like it has been obliterated by a weapon. It has. Indifference is a weapon of mass destruction.

Our indifferent government is in a crisis of legitimacy. If it continues to ignore its basic responsibility for the health and welfare of the American people, will there ever be enough money to clean up after their indifference?

As our government continues to squander human and monetary resources of this country on the war, people are beginning to ask, "Isn't it time we began to take care of our own people here at home? Isn't it time we rescued our own citizens? Isn't it time we fed our own people? Isn't it time we sheltered our own people? Isn't it time we provided physical and economic security for our own people?" And isn't it time we stopped the oil companies from profiting from this tragedy?

We have plenty of work to do here at home. It is time for America to come home and take care of its own people who are drowning in the streets, suffocating in attics, dying from exposure to the elements, oppressed by poverty and illness, wracked with despair and hunger and thirst.

The time is now to bring back to the United States the 78,000 National Guard troops currently deployed overseas into the Gulf Coast region.

The time is now to bring back to the U.S. the equipment which will be needed for search and rescue, for clean up and reclamation.

The time is now for Federal resources, including closed Army bases, to be used for temporary shelter for those who have been displaced by the hurricane.

The time is now to plan massive public works, with jobs going to the people of the Gulf Coast States, to build new levees, new roads, bridges, libraries, schools, colleges and universities and to rebuild all public institutions, including hospitals. Medicare ought to be extended to everyone, so every person can get the physical and mental health care they might need as a result of the disaster.

The time is now for the Federal Government to take seriously the research of scientists who have warned for years about the dangers of changes in the global climate, and to prepare other regions of the country for other possible weather disasters until we change our disastrous energy policies.

The time is now for changes in our energy policy, to end the domination of oil and fossil fuel and to invest heavily in alternative energy, including wind and solar, geothermal and biofuels.

As bad as this catastrophe will prove to be, it is in fact only a warning. Our government must change its direction, it must become involved in making America a better place to live, a place where all may survive and thrive. It must get off the path of war and seek the path of peace, peace with the natural environment, peace with other nations, peace with a just economic system.

Mr. ETHERIDGE. Mr. Speaker, Hurricane Katrina has caused unprecedented destruction to our neighbors to the south. We in North Carolina understand the destructive power of hurricanes and floods, and our thoughts and prayers are with all the victims who suffered through the storm and suffer in its aftermath.

I am pleased that Democratic Leader NANCY PELOSI called for Congress to reconvene early in order to provide the needed personnel, equipment and resources for this disaster.

We must immediately devote the personnel, resources and funding necessary to help these people get the food, health care and safe shelter they need before rebuilding can begin, and this $10.5 billion is a good start.

The recovery from the Hurricane Katrina disaster will be long and difficult. I commend all the brave first responders, FEMA employees and volunteers with the Red Cross and other charitable agencies as they work to provide relief to the hurricane victims. People's lives have been changed forever, and the American people have responded with their money, time and prayers to help our neighbors.

Mr. ORTIZ. Mr. Speaker, I thank the bipartisan leadership—both for the whole House and for the Appropriations Committee—for this urgent response to our neighbors and families in the Gulf Coast region.

The notion of refugees in America is a foreign concept for us, but I know the American family will respond fully and completely in relocating the people who have fled the Gulf region; and who must now necessarily migrate north and make temporary lives somewhere else for at least the next few months.

I want to note something interesting to my colleagues. Just last week before the Base Closure and Realignment Commission, BRAC, I pointed out to the commissioners that the Gulf of Mexico has serious security needs.

With the BRAC recommended closures of Naval Station Ingleside and Ellington Air Field in Texas, and the closure of NS Pascagoula in Mississippi, we were leaving the Gulf of Mexico vulnerable to an attack that could disrupt our oil supplies—both the wells in the Gulf and the refineries along our southern coast—and our vital trade routes. Post-BRAC, we will have not a single surface Navy ship in the Gulf of Mexico.

Mother Nature painted a very vivid picture for all of us of how a major disruption in the Gulf can affect our Nation and our economy.

I will be talking to DOD officials and my colleagues on the House Armed Services Committee to pursue a Center of Excellence for Homeland Defense and Security in the western Gulf of Mexico.

Again, I thank the House for this rapid attention to the dire need for relief to our neighbors in Louisiana, Mississippi and Alabama. I support the bill, and urge swift passage.

We must come to grips now with the fact that this is just our first drop in the bucket; this ongoing rescue and relief effort will be monumental and long term. It will be years before New Orleans and the Gulf Coast can be rebuilt. It will take our money, it will take our energy, and it will take all our hearts.

Mr. DINGELL. Mr. Speaker, I rise in strong support of this emergency supplemental for the millions of Americans affected by the devastation stemming from Hurricane Katrina.

It is important that the Department of Homeland Security, the Federal Emergency Management Agency, the Department of Defense, and all other federal agencies involved have all monies necessary to do the recovery and reconstruction effort the right way.

This supplemental is a down payment to ensure that the recovery effort is not halted due to a lack of money. But, it is only a down payment. We must work in the coming months and years to make sure that Louisiana, Mississippi, Alabama, Florida, and all the other states dramatically affected by Hurricane Katrina are rebuilt and that the survivors are given the means necessary to begin their recovery.

I ask Americans all across this great country to open their hearts and donate to the effort to help their fellow citizens in their time of need. The recovery effort demands that private business, private charities, private citizens, and the government come together to help those in their time of crisis.

I applaud Leader PELOSI and Speaker HASTERT for bringing the House back into session today to pass this supplemental. It is one small way we in the Congress can ensure that the money from the federal treasury remain flowing so our first responders can do the work that needs to be done to help the survivors of this terrible disaster.

Mr. Speaker, this is a time for all Americans to come together and help those in need. It is time to get the survivors to safety, provide them with food, water, and shelter, and to ensure that their basic needs for survival are taken care of.

I rise in strong support of this supplemental and ask for all Americans to help their fellow citizens in their time of need.

Mr. HASTINGS of Florida. Mr. Speaker, I rise today in solidarity with the Members of this body—Republican and Democrat, liberal and conservative, southerner and westerner, black, white and brown—in support of the Emergency Supplemental Appropriations bill for Hurricane Katrina. Just as all of you were there for my constituents last year after an unprecedented four hurricanes devastated my home state of Florida, I stand here today with you to offer my full support for all of those affected by Hurricane Katrina.

On the eve of August 25, 2005, Katrina first made landfall in South Florida. Broward and Miami-Dade Counties were the first to witness the strength of this devastating storm. As a result of her strength and ferocity, more than 150 families saw their homes, some even in my district, receive major damage or were completely destroyed. Tens of thousands of homes and businesses were out of power for days and many in South Florida remain homeless today because of Katrina.

Despite this obvious disaster, I find myself today infuriated that FEMA has denied individual assistance to the residents of Broward and Miami-Dade Counties. The agency claims that the magnitude of the disaster in South Florida does not merit Federal assistance. I disagree. It does not matter if 1 or 100 homes are destroyed because of a natural disaster. Federal emergency disaster assistance exists to help those in need when they have no one but the Federal Government to turn to. It is beyond irresponsible for FEMA to neglect the needs of my constituents simply because the extent of the damage does not reach some artificial and fluid threshold.

My thoughts and prayers remain with the residents of Florida who have been affected by the storm, as well as the people of Louisiana, Mississippi, and Alabama. As this great body convenes today, I am deeply troubled by the pictures that I see on television and in the press. Our fellow citizens are in a battle not only with the elements of Mother Nature but also homelessness, disease, starvation, and dehydration.

I am pleased, Mr. Speaker, that this body is heeding the call of the Democratic Leader and meeting today to pass this emergency supplemental. But I am shocked that in the richest country in the world with our vast resources, our own fellow citizens are literally dying in the streets of New Orleans because we cannot get them food to eat and water to drink. I've even heard that organizations such as the American Red Cross are being prohibited from delivering essential humanitarian assistance to New Orleans residents because they are being prohibited access to downtown. I am outraged.

Making matters worse, our news programs now refer to the residents of New Orleans as refugees, as if they are not American citizens. Our words are extremely powerful, and the use of the term "refugee" suggests that Katrina's victims are second class individuals who rather than expecting the assistance from their fellow citizens instead should be grateful for anything they receive. Nothing could be further from the truth.

Americans must answer the calls of civic and moral responsibility that comes during a tragedy such as Katrina. Do all that you can—donate money and supplies, open your homes, say a prayer—so that the lives of those who have lost so much can return to some form of normalcy.

We have a responsibility to do all that we can to help those most in need, and our government must do everything in its power. If the roads are flooded and we are unable to drive people out of downtown New Orleans, then airlift them out. Figure out a way to get water and food to those who need it. Do it quickly, and do it now. The lives of our fellow citizens are at stake.

Mrs. LOWEY. Mr. Speaker, our first concern over the coming weeks must be assisting those who need to be rescued, who need essential supplies and medical attention, and who need temporary shelter to survive these difficult days. I am committed to helping provide that assistance and Congress was correct to pass this aid package today to ensure that immediate resources are available for those efforts.

However, as the recovery continues and we begin the rebuilding process, we cannot forget about the problems that have plagued our response to the hurricane. It is not too soon to ask what went wrong so that we can avoid those missteps in the coming weeks and in future disasters.

Early indications point to the fact that once again, our response teams have been hampered with the inability to effectively communicate with one another. In Oklahoma City in 1995, at Columbine in 1999, and then again in New York in 2001, our first responders were unable to communicate. The administration has done little to address this problem despite my efforts over the last four years. We must find out exactly how communications deteriorated as quickly as they did and put in place a real interoperability plan.

In addition, there appears to be a massive disconnect between the information the government has issued on the aid effort and what individuals on the ground have experienced. We have to make sure that aid gets to those in need immediately—right now, too many still lack basic necessities and that is simply unacceptable.

We have known that the levees in New Orleans could not withstand the most severe storms. Former Federal Emergency Management Agency Director James Lee Witt recently stated that in the 1990s, planning for a New Orleans nightmare scenario included the predeploying nearby of hospital ships and ships with pumps to remove water from the below-sea-level city. We have to ask—why was this not done? Was it incompetence, a lack of leadership or has the deployment of National Guard troops to Iraq slowed recovery efforts?

We also need to ask if reorganizations of the Department of Homeland Security (DHS) offer us the best protection against all hazards. Prior to the creation of DHS, FEMA was largely viewed as a very effective organization. Since it has been placed in DHS, FEMA's role in preparedness and response has changed. Does the current departmental organization offer the best model of response to any type of hazard, be it a natural disaster or manmade?

These are difficult questions but they are necessary ones. In the coming weeks, I will push for answers even as I work with Members of the Homeland Security Committee to make sure that the current crisis is addressed and victims are given the assistance they still so desperately need.

Mr. HOLT. Mr. Speaker, my thoughts and prayers today, and for the last few days, have been with the people of Louisiana, Mississippi and Alabama and their family members. The Gulf Coast region has experienced what will long be remembered as one of the worse natural disasters in our country's history. In the weeks, months and years to come a massive clean up will occur and then we will work to rebuild the homes, roads, businesses, and schools affected. But we will not be able to forget the death, the destruction or the emotional toll this terrible tragedy has inflicted on the people affected and across the Gulf Coast.

I am glad that we in Congress are providing the Federal Emergency Management Agency with the additional funds required to ensure that the needed rescue and recovery mission continues unimpeded. We have all seen on the television and read in the newspapers about the current situation in the Gulf Coast. The images and stories are heartbreaking and deeply troubling, but they are of people we know and they are our fellow citizens. Many of us know people who live in New Orleans, might have been vacationing there, or were supposed to return to college this fall. These are our family members, our friends, and our neighbors, and we cannot let them down. My own sister lives in the heart of New Orleans and as we meet now she still waits for evacuation—for the fifth day without running water or power.

The essential role of government is to provide for its citizens in their time of need. Today, we cannot say that we have done a good job in that critical task. Too many of our own people are suffering in horrific conditions and there exists a general state of lawlessness in a few areas and more concerning is that many feel they have been abandoned. If we cannot meet the needs of these clearly desperate citizens in the Gulf Coast, we need to seriously reconsider our budget priorities and what we value as a society. I am troubled that the pleas of regional officials and those from cities like New Orleans for an increased Federal commitment to guard against such storms have not been heeded over the past few years.

It is my deep hope that the Federal Government, with the money we are providing today, will ensure that order is restored to the affected region and that no one anywhere in the Gulf Coast is without food, water or shelter. But in the weeks and months ahead we need also to ensure that the proper resources are dedicated to guarantee that a tragedy like this and its indescribable scale is not repeated again. What that means is a commitment by the Federal Government to the people of America to meet their domestic needs. For too long this government has tried to do more with less, it has tried to provide for our people on the cheap. But this week has reminded us that there are too many critical tasks and services that only government can provide and that we ensure that the Federal Government provides the essential funding that these services require.

This terrible tragedy has also reminded us of the generous and compassionate nature of the American people. Already the Red Cross has received well over $100 million in donations to the relief effort. People all across America are emptying their coin jars and offering empty rooms to help in anyway they can. I know that this compassion will continue and I encourage all Americans to do what ever they can to help our fellow citizens in their most desperate time of need. However, I am troubled to see instances of greed in this time of desperate need. I have heard already from a number of my constituents who saw the price of gas skyrocket. I, along with other Members of Congress, will be looking into any instances of price gouging. In such a time of despair for so many, price gouging can not be tolerated

Once again, I want to express my condolences to those who have lost loved ones in the wake of Hurricane Katrina and to share my prayers of hope for those who remain in despair. I know that much remains to be done and I am hopeful that the funding we are providing today will go a long way to meeting the desperate needs of those in the Gulf Coast. The full story of this disaster remains to be told, but I am confident that out of dark moments of this tragedy will come beacons of light for those affected and a serious discussion about our true national priorities.

Mr. MORAN of Virginia. Mr. Speaker, our thoughts and prayers are with the families and individuals devastated by Hurricane Katrina. Reports that displaced residents in New Orleans and other parts of the Gulf Coast are unable to receive medical attention and basic supplies are truly horrible. This is an unacceptable situation for the wealthiest country in the world. The conditions are desperate and the full force of the Federal Government must be turned towards helping those in need.

The Federal Government is prepared to provide an unprecedented level of disaster assistance, starting today with a $10.5 billion emergency aid package.

The recovery effort has raised several issues that must be addressed. First, once the immediate need for medical assistance, food and other resources is met, the massive job of providing housing in different communities throughout the country for the thousands of displaced victims must be undertaken. This will require an unprecedented level of coordination between federal, state and local governments and the private sector. Also, decisions must be made in terms of the reconstruction of the areas most devastated, in a manner that ensures that a tragedy of this magnitude will not repeat itself.

Second, the alleged unwillingness of the federal personnel assigned to the disaster to use the resources available to them in a timely fashion must be investigated. The fact that there was one instance of a military helicopter being fired upon is not an excuse for helicopters not to land or buses not to transport people. Questions with regard to class, race and discriminatory attitudes must be addressed in a candid and constructive manner.

Third, the personnel and agencies responsible for responding to this disaster are the same as the nation would call on in the event of a terrorist attack. Their present response, in the President's words, has been unacceptable and inexcusable. We must ensure that future responses are dramatically different.

In the coming days and weeks ahead, I encourage every American to consider volunteering to help our fellow citizens in this time of great need. My offices have received hundreds of phone calls from constituents who are eager to help in anyway possible, and this will allow the generosity of the human spirit to prevail.

Mr. KOLBE. Mr. Speaker, on behalf of the citizens of southeastern Arizona, my deepest sympathies go out to the victims of Hurricane Katrina. While we are saddened by this tragedy, our compassion in this time of adversity will prevail. I am confident the spirit of community and generosity will be seen from across the country as we begin to clean up and rebuild from this horrible disaster. Whenever Americans get knocked down, they always get back up. Southern Arizona is ready to do its part, by opening its arms and its heart to shelter the homeless from Louisiana and Mississippi.

This is just the first bill that Congress will need to enact to recover from this terrible disaster. It will provide an immediate infusion of money to allow FEMA and the Department of Defense to address the most immediate needs, ensuring there is no disruption in funding for relief efforts. Because much of the region is still underwater, the full extent of the damage is unknown. It will take some time to assess the scope and cost of this disaster, but Congress will ensure that FEMA and other federal agencies have the resources they need to assist the citizens of this region to get back on their feet.

Ms. DELAURO. Mr. Speaker, today our thoughts and prayers are with the thousands of citizens in Louisiana, Mississippi and Alabama who have lost everything to Hurricane Katrina—their homes, their livelihoods, their families. Assisting people as they rebuild their lives after this unprecedented natural disaster is a moral responsibility of government. Like my colleagues, my top concern remains the search and rescue efforts underway on the ground in this affected region, and I am grateful for the heroic efforts of the relief workers who have joined in this effort.

I am encouraged that the battered Gulf Coast region will receive $10.5 billion in emergency funding from Congress, funding that will aid critical evacuation and recovery efforts as well as allow this area to begin to recover.

However, the issue is less whether we have the money for this—we will—than whether it will be used efficiently. Despite early warnings regarding the damage a hurricane could cause to this region, it appears the President's budget underfunded countless flood control and prevention projects.

At the same time, there are serious questions regarding the administration's competence in responding to this tragedy. In particular, the Federal Emergency Management Agency's incoherent response in the days following this disaster has been, in a word, unacceptable. The American people, writing and calling our offices here in Congress, are demanding accountability from their government.

In the coming days, they will begin to get answers. But today, I want to urge the President to take responsibility and move the Federal Government to action. That must be our continuing goal.

And so, Mr. Speaker, this emergency funding is a necessary first step on what will surely be a long road to recovery, and I urge my colleagues to support it. In the coming days, I will be working with my colleagues to ensure that it is used expeditiously and appropriately. The American people and the victims of this unprecedented natural disaster deserve no less.

Mr. KILDEE. Mr. Speaker, I rise to support the Emergency Supplemental Appropriations request before us today to provide $10.5 billion in immediate aid to our fellow Americans who have been devastated by Hurricane Katrina. This $10.5 billion in emergency funding will allow the Department of Defense and the Federal Emergency Management Agency to continue the Federal Government's efforts to help the people of Louisiana, Mississippi, Alabama and other States impacted by the effects of Hurricane Katrina.

I am sure that the President will be requesting additional funds in the near future, and I am equally sure that the Congress will respond as quickly to approve the additional funds as they are needed. Anyone watching their televisions over the last week realizes that the effects of Katrina have been of biblical proportions. State and local officials have estimated the number of deaths from Katrina to be in the thousands, and property damage is estimated to be in yet unknown billions of dollars.

This is a national, natural disaster, and as such it deserves a swift and effective national response. We as a nation must come together to help our neighbors who have suffered such devastating losses.

It is the proper role of the Federal Government to provide that national response to such a national emergency. That is why I am pleased that the Congress has acted so swiftly to provide this immediate emergency funding of $10.5 billion. And we as a nation, stand ready to provide additional aid to the people affected by Hurricane Katrina.

Once again, Mr. Speaker, I add my support to the swift passage of this down payment of $10.5 billion for recovery efforts from Hurricane Katrina.

Mr. KIND. Mr. Speaker, the destruction of Hurricane Katrina and the massive flooding of the city of New Orleans and surrounding areas have created a national tragedy that is unprecedented in U.S. history. The resulting humanitarian crisis and the horror that has developed in the streets of New Orleans are both appalling and unacceptable. Our national response must be equal to the need of the victims, and although emergency responders and relief workers on the frontlines are working around the clock to do everything they can, immediate Federal efforts were inadequate.

However, despite this grave tragedy, I am confident that together we will overcome the challenges ahead to help our brothers and sisters of the city of New Orleans and the impacted Gulf region. For the victims and their families, know that your country grieves with you, and we stand with you in this time of need. Be assured that help is on the way.

President Bush has told the Nation that the government will commit all the necessary resources, and we in Congress are working hard to make sure Federal aid is delivered and victims are helped. In the last few days thousands of National Guard troops, including 475 Wisconsin soldiers, have been deployed to the Gulf States to provide assistance and security to the region. Today, Congress will pass what is likely a first installment of emergency aid for the ravaged areas.

The national community is rallying in other ways as many local communities and volunteers are organizing fundraising drives and other relief projects. I have heard from many constituents who want to know how they can help and who are already assisting in local efforts. The people of western Wisconsin have consistently demonstrated their generosity in times of crisis and once again they are answering the call of compassion.

There is a lot of work to do in the days, weeks and months ahead, but we will not stop until we have found a safe haven for every citizen, provided the necessary medical care to the weak and ailing, and attended to the needs of all victims of this awful tragedy. May our hearts, thoughts, aid, and support continue to be with the victims and their loved ones over the Labor Day weekend and throughout the relief and reconstruction process.

Mr. COSTELLO. Mr. Speaker, I want to take this opportunity to express my support for this critical funding to address the enormous needs that exist along the Gulf Coast following the devastation of Hurricane Katrina. I also want to express my heartfelt condolences to the victims, both living and dead, of this storm. While this country has encountered many natural disasters, few in memory have produced the scenes of destruction and human need that we are seeing daily from the region. This $10 billion we are approving today is what I expect to be a very small portion of the actual cost of the rescue and evacuation efforts in New Orleans and the gulf area, and is a first step in a process that could take years to complete. I commend Speaker HASTERT and Leader PELOSI for acting quickly to pass this legislation.

As we always do, the people of the United States are rallying to support their fellow citizens during this time of crisis. I want to thank all of the volunteers that are heading to the region and all of the people around the country that have reached into their pocketbooks or in some other way are sending aid. This help is essential and greatly appreciated.

While there are questions being asked about why it has taken so long to get food and water to those who are stranded, now is not the time to point fingers or assign blame. There will be plenty of time to assess the government's response after the rescue and evacuation process has been completed. Let's get the job done and then make the necessary assessment.

Another painful effect of the storm is the steep rise in gasoline prices. Increased prices are hammering working families with little to no relief in sight. The Federal Government can do very little other than releasing the oil from the Strategic Petroleum Reserve and prosecuting price gouging. It comes down to supply and demand. Demand remains high and the supply has been significantly reduced by Hurricane Katrina. We must continue to work diligently to repair the oil platforms and refineries that have been damaged, and Congress will—with the state attorneys general—keep a close eye on any potential price gouging.

Mr. Speaker, I again want to thank the leadership of the House for considering this legislation during this special session today. I know that we will continue to work on a bipartisan basis to fully address the needs of the communities that have been so horribly afflicted by Hurricane Katrina.

Ms. SLAUGHTER. Mr. Speaker, our thoughts and prayers go out to all those affected by the devastating destruction of Hurricane Katrina. I know that the American people are a generous people. I know that the men and women of this Nation feel the suffering of their fellow citizens, and will continue to stand with them in any way that they can.

We are here today to discuss what our government must do in the wake of this disaster. The emergency appropriations bill set to be passed this afternoon is a step in the right direction. Everyone in this chamber realizes that more money—much more—will be needed in the days and months ahead. I'm confident that this Congress won't think twice about doing everything necessary to meet the critical needs of the desperate citizens in the affected regions of our country.

The shock and grief which has rightly motivated this degree of Federal support is, however, already giving way to anger. Over the past 4 years, a great portion of our national discourse has focused on preparedness. Members of Congress have created new government entities, spent billions upon billions of dollars on them, and spoken at great length about the need for our country to be perpetually vigilant and always ready to respond to any disaster which could befall it.

It is therefore not surprising that the loss of life produced by this hurricane—perhaps four times as great as the human cost of September 11, 2001—has incensed our citizens and shocked observers around the world. It has revealed that we are still unable to respond to homeland disasters in the fast and aggressive manner required.

But as is often the case, what has happened in the Gulf States has also revealed what can only be described as a skewed set of national priorities. Simply put, this was a tragedy which didn't have to happen. People at all levels of government have known for years that New Orleans was a greatly vulnerable city. In fact, in 2001, the Federal Emergency Management Agency produced a list of the worst disasters which could confront our country. A hurricane striking New Orleans was at the top of that list.

And so, it would be reasonable to expect that during the years leading up to this past week, local, State, and Federal Governments would have been doing everything within their power to prepare a complete and carefully planned strategy for how to deal with the aftermath of such an event.

They didn't. It was obvious that we still are not ready to evacuate a large number of people from their homes to safety quickly and effectively. This failing is a danger to all Americans, and must be corrected immediately.

But what is worse, our government spent the last few years actually undermining our readiness for disaster prevention in New Orleans and the surrounding region. Federal funds for flood control projects in that city have faced massive recent budget cuts. To cite but one example: The U.S. Army Corps of Engineers, which has so valiantly struggled against the rising floodwaters this week, had to struggle previously against an 80 percent cut of its funding for New Orleans in 2004. Predictably, one of the major motivators of cuts like these was the spiraling costs of American military operations in Iraq, which continue to siphon off tens of billions of dollars from domestic programs.

The natural defenses of New Orleans faced an assault as well. In 2003, the current Administration reversed a previous commitment to defending coastal wetlands which would have helped to mitigate the effect of storms on the Gulf coast. Instead, the areas were opened up for rapid development.

Nor were the people of the region given the tools they needed for survival. Poverty in America has been increasing year after year. Now, 12.7 percent of our population lives in poverty—that's four million more people than in 2001. As is overwhelmingly obvious, those damaged the most by Hurricane Katrina were some of our country's poorest citizens. Before the storm hit, they were out of direct communication with authorities. They had no means to evacuate themselves or their families. And during the critical hours when wealthier residents were fleeing, the poorest were left alone to fend for themselves.

It is true that the devastation vested upon New Orleans and the Gulf region was the product of an act of nature. But its severity was greatly exacerbated by a combination of a lack of vision by our leaders and a failure to properly prioritize our Nation's energies and resources. Despite all the talk to the contrary, our government has viewed elective foreign wars as more important than having a real system in place here at home which can respond to any contingency. It hasn't seriously worked to address the poverty which makes millions of people all the more vulnerable to disasters. And it has seen commercial activity as simply being more valuable than defending the naturally existent barriers to disaster which we should be perfectly willing to save.

If anything positive can come from this, I hope it's a wake up call. This week, our failures had horrific consequences for millions of people, and they were especially devastating for just those men and women our society should be focused on the most: the poor, the elderly, the sick, the needy, the displaced, and the homeless. We must meet these serious problems head on and work to solve them. Our errors should not be covered up with political grand standing and slaps on the back. This failure must not be swept under the rug. If we don't learn from this horrible, horrible mistake, I fear we will repeat it, at a new point in time, and at a new place on the map.

This Congress must do what is right for the people of this Nation. They will be watching.

Mr. CASTLE. Mr. Speaker, I rise today in support of H.R. 3645 to provide emergency supplemental appropriations to meet the immediate needs arising from the consequences of Hurricane Katrina. But more importantly, I rise today in support of the hundreds of thousands of men, women and children who are suffering throughout the Gulf Coast States as a result of what has been called our Nation's greatest natural disaster, Hurricane Katrina. I know I speak for all of my colleagues when I say our prayers are with each and everyone of them as they struggle through these extremely difficult and life threatening times.

The supplemental legislation we are approving today is absolutely critical to continue the infusion of federal funding into this area. News agencies have reported the cost of this disaster to be around $500 million a day. The $10.5 billion in federal funding we are approving today should be viewed as a down payment in terms of funding and resources to come in the following months. I am confident these resources will be used efficiently and effectively, helping those most in need and importantly, helping to support emergency protective measures as well as debris removal and rehabilitation.

The Federal Emergency Management Agency should be recognized for its response to this disaster and their organization of food, water, medical supplies, generators, shelter and other items to help those who have been displaced due to Hurricane Katrina. And the Department of Defense and National Guard should be recognized for the deployment of military personnel who are helping communities respond to this crisis.

I know personally that every State is pooling their resources and is doing all it can to help these victims in the Gulf Coast area. For example in my home State of Delaware, we have deployed National Guard troops and planes to help at Ground Zero and in the surrounding disaster areas; Delaware State University is waiving tuition for Tulane University students to attend class; my office is working with the Food Bank of Delaware to start a Hunger Drive for those in need; local schools are collecting monetary donations to send to the victims; and, Delmarva Power is sending workers to restore electricity in the region. But I am confident we can reach even deeper and partner together to help our fellow Americans.

It is always in times of tragedy—like the terrorist attacks of September 11, 2001 or the Tsunami this past December in Southeast Asia—where human decency and patriotism is front and center. We need to muster the same resources and patriotism and provide the same help to the victims of Hurricane Katrina.

I am hopeful the Federal Government will continue to respond in a way that is appropriate, action oriented and immediate to the Gulf Coast Region. As I have said, the funding we are approving today, is just the beginning. I expect a more comprehensive package to reach the House Floor in the coming weeks, once more precise estimates are understood.

These are very sad and trying times. May God Bless those in need and their families.

Mr. BACA. Mr. Speaker, for more than a week we have all watched television coverage of Hurricane Katrina, transfixed by the devastating impact of the storm on the Gulf Coast, especially in and around New Orleans. Although the full extent of the damage is not yet known, it is clear that thousands of Americans have died, and many more have been injured, shaken and displaced. The wind, rain and flooding has destroyed homes, businesses, farms and crops, causing immeasurable suffering.

The destruction has significantly scarred the people and the economy of the region and even beyond. Rebuilding the area's infrastructure will probably take years. Rebuilding the lives of our fellow Americans will also take time and require assistance.

Many people in Louisiana, Mississippi, and Alabama lack basics such as food, water, clothing, sleeping materials, medicine and first aid. We must help provide for their critical immediate needs so they can survive.

I am heartened that my constituents in the Inland Empire of California have heeded the call to help. I am not surprised by our response; however, because I already know that our communities are generous. We have shown great compassion responding to those in need, as we did following September 11th and other tragedies affecting people thousands of miles away. And we must do so again when so many Americans are suffering.

My immediate concern has been the effort to rescue and assist the 'victims of Hurricane Katrina, making sure that we do all we can to help those in need.

Congress is taking a first step by approving more than $10 billion of funding for emergency assistance to help. We all recognize that the costs of rescue, recovery and rebuilding will be substantially higher, and I am confident that Congress, and the American people, will support additional funding.

However, we in Congress must also focus on determining what needs to be done to minimize devastation from future natural disasters or other emergencies. So we must ask difficult questions about the Federal Government's preparation and planning prior to the storm and the response following it.

One of the fundamental responsibilities of government is to protect our citizens. So we must investigate fully whether the Administration did all it could have, and should have, to protect Americans.

Katrina was a powerful and deadly natural disaster, but we must ask whether hundreds, maybe even thousands of Americans, died because of the failure of officials to prepare and respond effectively.

Mr. CLEAVER. Mr. Speaker, my heart and my prayers go out to all those caught in the path of Hurricane Katrina and the conditions they are suffering in its wake. Katrina was a hurricane of biblical proportions that has left thousands of people without food, clean water, shelter and medicine, particularly those people stranded in New Orleans where conditions are absolutely unlivable and public safety is virtually nonexistent. They have waited for days hoping for at least some sort of information about when they might get to escape their ravaged city and where they will go next.

With the chaos and looting that has ensued in New Orleans, it is critical that our government get in there and provide the necessary relief—not tomorrow, not next week, but right now. People are dying on the streets; the President and the Federal Government cannot afford to waste another minute.

It is inexcusable that the President and his administration did not act more swiftly to provide the basic necessities of survival to the victims, nor did they act swiftly to ensure the City's public safety. As the richest nation in the world and the world's only superpower, we ought to be ashamed. With so many troops abroad in Iraq attempting to secure a whole nation, it is inexcusable that we cannot secure one city on our own shores.

That is why I am pleased that Congress acted quickly today to pass legislation providing $10.5 billion in emergency funds for the relief and recovery from Hurricane Katrina. The Supplemental Appropriations Act will deliver $10 billion in emergency aid for FEMA and $500 million for the Department of Defense.

However, this is only a down payment. FEMA is currently spending $500 million a day and under this scenario, the $10 billion for FEMA will provide only another 20 days as they continue to assess the needs of the devastated communities.

It could take months for families to find homes and establish some sort of normalcy in their day-to-day life, and I call on the President and the Federal Government to remain committed to helping people rebuild their lives.

Each of us has in some way been personally touched by this horrific tragedy. For my wife Dianne and I, it was waiting for our youngest son, Evan, to make his way to our house after escaping the disaster of New Orleans. We were further touched as we learned that a family member of a parishioner at the Church I pastor, St. James United Methodist, was given refuge by a kind elderly couple after being stranded in a home surrounded by water. Fortunately, the Coast Guard rescued them all on Sunday morning. All of us have a duty to reach out to those in greatest need.

Americans will stand strong together to help our brothers and sisters in their time of dire need, and the Kansas City area is no exception. Children's Mercy Hospital has already opened their doors to twenty-four sick children and their families flown in from New Orleans by the Missouri Air National Guard, and the Red Cross has raised hundreds of thousands of dollars from Kansas Citians. The outpouring of support from across the country has been phenomenal, and I am confident that our citizens will remain resolute until the job is done.

Mr. MCDERMOTT. Mr. Speaker, last Monday, August 29th, Hurricane Katrina hit Louisiana and Mississippi as a Category 4 storm, with winds of over 140 miles per hour. We all know the aftermath of that terrible storm: thousands dead, more than a million refugees, billions of dollars in damage, and a major American city rendered uninhabitable. The greatest tragedy of all is that, for the most part, this could have been avoided.

The President told us that he didn't "think anyone anticipated the breach of the levees," a misinformed statement at best. New Orleans is the only major American city below sea level, and the Federal Government was well aware of the flooding threat to the city in the event of a hurricane. Just last July, the Federal Emergency Management Agency (FEMA) conducted a five-day hurricane exercise simulating the effects that a powerful storm would have on New Orleans. During the apocalyptic simulation, 120 mile per hour wind gusts and 20 inches of rain combined to top the levees, forcing the evacuation of more than one million residents.

Yet despite the lessons learned from that exercise the Bush administration stunningly neglected to heed the threat.

The President slashed funding for the Southeast Louisiana Urban Flood Control Project (SELA), the U.S. Army Corps of Engineers' project to control flooding in the New Orleans area, to $10.4 million, one-sixth of what local officials had said they needed. Funding for Army Corps projects have been cut across the board for the last few years by this administration and this Congress, whose reckless tax-cutting, combined with funding cuts and National Guard deployments to Iraq, have sharply increased vulnerability to natural disaster in this country. It is worth noting that more than 7,000 soldiers from the Louisiana and Mississippi National Guard are stationed in Iraq, including more than 3,000 from the 256th Brigade Combat Team based in New Orleans.

Even as the hurricane was hitting land as a Category 4 storm, the administration failed to mobilize help. Dr. Max Mayfield, Director of the National Hurricane Center, said that both Homeland Security Secretary Michael Chertoff and FEMA Director Mike Brown were made aware of the storm's potential in the days leading up to its landfall, yet it took until Friday, September 2nd, four days after the storm hit, for any meaningful National Guard presence to arrive to relieve the burden on local Guard units, bring about law and order, and ease suffering. The first 72 hours after a disaster are the most important in terms of saving lives, and this administration completely failed in that regard.

Sadly, the 200,000 or so people who did not evacuate the city in time were overwhelmingly those who were too poor, old, or sick to leave. It is they who have suffered the most from the gross Federal Government incompetence before, during, and after the storm.

Mr. ACKERMAN. Mr. Speaker, I'm sure this is politically incorrect, but watching the President fly into the disaster area left by Hurricane Katrina and declare that the director of FEMA has done a good job should cause everyone of us to scream out "the President has no clue." As has become painfully obvious, the Bush administration's response to this fearsome natural disaster has been woefully late and utterly inadequate.

Mr. Speaker, this is not meant to be a partisan attack; it's important to remember that not all criticism of the President is for political advantage. Indeed one of the principal duties of the Congress, and one we have been shamefully inattentive to, is oversight of the executive branch and its utilization of taxpayer resources. And if there is no criticism of the disastrous response to this disaster, then we have no right to expect that this administration, or some later administration, will not similarly mishandle the future challenges our Nation is sure to face.

Americans rightfully should have expected that by now, every region of this country, every metropolitan area, every great city, would have a comprehensive disaster response and evacuation plan. It should not require a disaster or a cataclysm, or worse, a terrorist attack, nor should it be a mystery, or an improvisational effort to figure out how to preserve hospital and medical services, to know which facilities will be needed to provide emergency shelters, or to determine how food, water, medicine, blankets and cots and other essentials are going to be sent to designated distribution sites in the fastest, most efficient way.

It should be obvious, even to those who have habitually failed or refused to see the obvious, that once again, there is no plan. By diffidence and incompetence the Bush administration has lost the battle for New Orleans. We in this House need to ensure that we don't lose the battle for the survival of America.

Mr. Speaker, I never take joy in publicly criticizing my President, but questions about the failure of his leadership in the planning and implementation of rescue efforts—whether now or when the dust settles—have to be asked. If a country knows they're going to be attacked, whether by Mother Nature or by terrorists, they must be prepared. It is all too apparent that the federal government was not prepared for Hurricane Katrina. Sufficient troops and ample disaster relief supplies should have been on the ground in advance of the storm, and there should have been clear plans for additional resources to be brought in within a reasonable amount of time.

Moreover, in light of the vast scale of the devastation, and the immediacy of need, where was the innovative spirit and can-do attitude we Americans are so rightly famous for? Why not contract with Greyhound and America's other bus companies and use them to make short runs to nearby safe railroad terminals so hurricane survivors could have been more quickly relocated to safer out-lying areas on trains? Couldn't a system like this have transported more people to safe ground quicker? Wasn't there some way to free up the too few school buses which were forced to drive to cities far away and make return trips with nobody on board? Couldn't those same vehicles have been used to bring in bottled water, food, emergency supplies and medicine?

Mr. Speaker, what on earth has the Federal Government been doing since 9/11 to prepare for a disaster striking a major American city? With all the Federal agencies, the massive homeland security bureaucracy, and all the many czars, bosses and chiefs, there is still no national or regional master plan to evacuate people, to rapidly bring in relief and to adequately deal with a large scale emergency of this nature. Where has all the money and effort gone? What have the taxpayers got for their hard earned money? All the money for Homeland Security, what has it bought us? Where is the coordination? Where is the Federal-State-local partnership? Have we learned nothing about disaster response from 9/11?

Is there a plan in place for how to deal with the profiteers when the resettling and rebuilding begins? Is there a plan to address the spike in oil prices? Do we even have a system to help our fellow Americans in finding friends and loved ones? Is our government even capable of putting together a list of the lost, missing, found and deceased?

Of course, right now, the Government must devote its energy to rescue efforts and to beginning the recovery of the affected region. And, once again, we cannot adequately thank all those first responders and rescue workers who have once again shown the kind of steadfast bravery that makes us proud to be Americans. We will never be able to repay their heroism adequately or thank them for all the lives they've already saved.

But as the crisis passes, Mr. Speaker, we cannot and we must not ignore how the Federal Government failed to protect the health and safety of its citizens. If the measure of a great nation is how it deals with its weakest and neediest citizens, then Hurricane Katrina has revealed some very unpleasant truths. How we deal with those truths will show what kind of nation we really are.

Ms. MATSUI. Mr. Speaker, our thoughts and prayers are with the people of New Orleans and all other Gulf Coast residents affected by this horrific disaster. As a nation we have watched with horror as the city of New Orleans has faced Hurricane Katrina and been overtaken by the waters of Lake Pontchartrain. We have seen the heart-wrenching stories that restore your faith, but sadly we have also seen the opposite.

Lives have been interrupted. Families separated. And many now face an uncertain future of trying to locate family and friends as well as begin to rebuild their lives, many from scratch. With the victims dispersed across this nation, when this can begin is not known. The full impact of Hurricane Katrina—emotionally, physically and financially—will not be known for years and more realistically decades.

It is during tragedies like this, that we must come together as Americans to help our fellow citizens in their time of need. Mr. Speaker, I would like to take this opportunity to praise the hundreds of Americans who are working day and night to help rescue and bring relief to the thousands of people trapped in the affected area.

From the start, the American people have again shown their unity of spirit and their willingness to aid those in the midst of this devastation. And these are not only professional rescue personnel but simply kind-hearted neighbors who may have a boat, or some extra water or blankets and are scouring the area looking for survivors. I cannot imagine the difficulties they are facing and the sacrifices they have made to help their fellow Americans. I thank them for all their efforts and pray that they remain safe themselves and return home to their families.

I commend the generosity of the American people, including my home town of Sacramento, which because of its location at the confluence of the American and Sacramento Rivers has a unique understanding of being a flood-threatened city. I am proud of their generosity and extension of assistance—sending its firefighters, search and rescue teams and opening its doors to hundreds of victims of Hurricane Katrina who are unable to return to their homes. Their efforts to restore a sense of normalcy for those who have been so up-rooted are a testament to them.

I also share the frustration of so many with the early response of our government to this crisis. While the conditions under which the relief workers are functioning are catastrophic we can and must do better. Our primary focus must be on getting to those who are still stranded and need immediate assistance. Once that is accomplished I feel strongly that Congress must take a critical look at this response effort.

This is a moment of national sorrow. Sorrow at not preventing the preventable and sorrow for the tragic circumstances that came to be. Yet it is also a moment of national unity that is truly heart-warming.

Again, Mr. Speaker, I send my thoughts and prayers to all those affected by Hurricane Katrina and I thank all those brave and generous Americans who are working to bring assistance and relief to the region. The outpouring of generosity from Americans across the country can make us all proud.

Mr. LANGEVIN. Mr. Speaker, I rise today in strong support of H.R. 3645, which will provide an initial installment of desperately needed supplemental funding for disaster relief efforts in the Gulf Coast region. Hurricane Katrina has left untold devastation and loss in its wake, and it is critical that we do everything we can to get assistance to those who need it without delay.

I have received dozens of calls this week from Rhode Islanders who are angry and frustrated by the horrific images they are seeing from Louisiana, Mississippi and Alabama. They are right to be outraged by the utter failure of our government to ensure the prompt evacuation and rescue of stranded residents or to deliver needed medical supplies, food and clean drinking water to the tens of thousands of people whose very survival depends on it.

The Federal reaction to this crisis has been slow and ill-coordinated, which is particularly troubling in light of the advance notice and warning systems we are able to rely upon in hurricane and other natural disaster situations. I am deeply concerned not only about the response to this disaster, but about how much worse it could have been had we been given no warning, as in the case of a terrorist attack.

Four years after September 11th and tens of billions of dollars later, we should have been better prepared for this disaster. We have received countless assurances from the Administration that this Nation is ready and equipped to keep our citizens safe, but our citizens have just come face to face with the truth, and it tells a shockingly different story.

In the weeks and months to come, there will be many, many tough questions to be answered on the part of Federal officials and others. As a member of the Homeland Security Committee, I look forward to working with my colleagues to get to the bottom of this national failure as we carefully examine what went wrong, how the region and Federal Government could have been better prepared, and what must be done to ensure this kind of situation is never repeated. We must look at the organization of FEMA and the Department of Homeland Security, funding for disaster response, coordination between domestic agencies and the military, interoperable communications, public health preparedness, critical infrastructure protection and much more.

However, as the crisis continues, it is important that we focus on the critical days ahead and concentrate our efforts on ensuring that we are doing everything in our power from this point forward. Hundreds of thousands of displaced residents, many of whom have lost everything, are looking to us for help, and we can not let them down. Today's supplemental appropriation will provide an infusion of funding to allow immediate needs to be met, and my colleagues and I will be ready to provide whatever additional assistance may become necessary as the response progresses.

Today, my thoughts and prayers go out to all those who have lost loved ones, had their homes and livelihoods destroyed, and who continue to suffer in terrible conditions, not knowing what the future may hold. I also want to express my deepest appreciation to those who are working to offer whatever assistance they can. Thousands of National Guard troops, local first responders, relief workers and others are putting their lives on hold to help, and we should all do whatever we can to aid in those efforts as well.

Thank you Mr. Speaker, and I urge my colleagues to support H.R. 3645.

Mr. STUPAK. Mr. Speaker, my deepest sympathies are with those families who are affected by the worst natural disaster our country has ever seen. I also extend my gratitude to those first responders, members of the U.S. Coast Guard, the National Guard, and U.S. Army Corps of Engineers for their aid and assistance in relief and recovery efforts.

Like the rest of America, I was extremely frustrated and angered with the lack of preparedness and timely response by the Federal Government. This was an instance where the system failed. Five days after the hurricane, thousands were still without food, shelter and clothing. We saw on television grueling pictures of our most needy: the poor, elderly, and children stranded in unbelievable conditions. Many Americans, Democrats and Republicans alike—even President Bush himself—have recognized that the initial federal response was "not acceptable".

New Orleans is the only major American city below sea level, and it is wedged between Lake Pontchartrain and the Mississippi River. In the case of a bad hurricane hitting, experts have said for some time now, that the city could "fill up like a cereal bowl, killing tens of thousands and laying waste to the city's architectural heritage." Despite speculation that a disaster of this magnitude could occur in this region, the President's recent budgets have actually proposed to reduce funding for flood prevention in the New Orleans area.

In June 2004, Walter Maestri, emergency management chief for Jefferson Parish, fretted to The Times-Picayune in New Orleans: "It appears that the money has been moved in the President's budget to handle homeland security and the war in Iraq, and I suppose that's the price we pay. Nobody locally is happy that the levees can't be finished, and we are doing everything we can to make the case that this is a security issue for us."

With hundreds of millions of dollars and 40 percent of our National Guard already dedicated to the War in Iraq, Katrina is a glaring example of the question of whether or not we are able to effectively handle problems that arise here at home.

While this is most certainly concerning, the important thing right now, is ensuring that the Federal Government is doing everything humanly possible to help the victims of this catastrophe. As this crisis continues, our first priority must be to provide those affected with basic human needs.

Looking to the days and weeks ahead, Congress also needs to investigate the lack of response of government and look into what hampered relief efforts at the most critical time. In this regard, particular focus should be placed on the organization of DHS and FEMA.

Again, it is clear that there was a lack of adequate preparedness and response. I had concerns during the creation of the Department of Homeland Security (DHS) about whether it was appropriate to fold this vital agency for national emergency preparedness into DHS, rather than leave it as an independent agency.

I voted against the inclusion of FEMA into the Department of Homeland Security back in 2002. My concerns in this instance may have been well founded, as FEMA's initial response was lacking at best and failed to deliver urgently needed help.

I have joined with Congressman DINGELL to introduce legislation to remove FEMA from DHS so it will once again be an independent agency with cabinet-level status. The bill also requires that the Director of FEMA be an emergency management professional, and creates two deputy directors—one responsible for natural disasters and the other responsible for terrorism related disasters with each required to have significant experience related to their positions.

While this legislation would be a start in addressing concerns of the American people about the handling of emergency situations, the fact remains that it is still the responsibility of the appropriate agencies to have comprehensive plans in place beforehand in order to avoid the situation we are currently finding ourselves in.

At this time, we don't have all of the answers as to why relief and recovery efforts fell short. One thing we do know is this national tragedy in the Gulf States highlights the importance of the ability of our first responders to communicate in the event of a national emergency. Public safety, government and military leaders have all said that the inability of local, State, and Federal agencies to communicate was a major obstacle that made the crisis worse. As President Bush said after September 11th, the ability for first responders to communicate is critical in the hours after a crisis. Unfortunately, it has been 4 years since September 11th, and clearly we have made little progress in addressing our first responders' communications needs. I call on Congress to make a real commitment to the public safety officers who are working so bravely and diligently to help the victims of this national disaster.

Finally, I was very pleased Congress acted quickly to pass the $10.5 billion emergency supplemental bill. This is an important first step in the effort to provide direct relief. We are now hearing that the devastation this deadly storm has left in its path may cost upwards of $40 billion. That is equal to the funding provided in the emergency supplemental bill passed after the September 11th terrorist attacks. Congress must provide whatever is necessary to help our Southern friends.

It is a travesty that here in America we have seen our own citizens affected by Hurricane Katrina suffer without the basic necessities required for survival, including food, water, clothing and shelter. However, communities across our country are coming together to help provide much needed assistance. The Mayor of Detroit, Michigan, has announced that Detroit will provide transportation to the Detroit region, temporary housing, food, and even open their schools and provide counseling for the victims. This is just one example of many across our Nation where the American people are pulling together and showing an outpouring of generosity and regard for humanity.

My thoughts and prayers are with all of those who have suffered throughout this tragedy. My colleagues and I in Congress must and will do whatever is in our power to assist the ongoing rescue and relief efforts.

Ms. McCOLLUM of Minnesota. Mr. Speaker, I rise in support of the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (H.R. 3645) and of the decision to call this special session to send resources to Louisiana, Mississippi and Alabama quickly.

The thoughts and prayers of all Americans go out to the citizens of the states and communities devastated by Hurricane Katrina. The entire country has watched the images of the destruction caused by this natural disaster with shock and sadness. Those who have lost loved ones, their homes and their communities must receive immediate aid and the legislation we are passing today will start that process.

As we respond to the immediate needs of the families displaced by this tragic natural disaster, the citizens of Louisiana, Mississippi and Alabama also have my commitment that I will work with you to rebuild New Orleans and the rest of the Gulf Coast. The impacts of this disaster on families, communities, the economy, and the environment will be long lasting. It will take resolve and commitment to ensure that we complete this enormous task.

The American spirit and the generosity of our citizens will be there for the victims of this tragedy. The first responder in this effort, however, must be the federal government—both for immediate needs and for long term rebuilding. Today is a critical first step in that effort and I am pleased to support this bill.

Mr. ANDREWS. Mr. Speaker, today I stand in full support of H.R. 3645 to provide financial relief to the millions of those affected by Hurricane Katrina. My prayers go out to the victims and their families. Despite a massive search and rescue effort to locate victims of Hurricane Katrina, many still remain in harm's way while scores of others attempt to piece together what is left of their lives. As such, we are faced with the difficult task of providing the attention and resources in order to rescue those still in danger; providing comfort to those without food, clean water, or shelter; and preventing further devastation from disease. This funding will provide the Federal Emergency Management Agency with just enough money to get started on immediate disaster assistance.

However, this is just the beginning of our financial commitment to the people of these ravaged areas. The $10 billion will give our emergency responders the means to save and help rebuild lives in the short-term, but the long-term funding situation is uncertain and daunting. It is too early to estimate the final cost of rescue operations or the huge task of caring for the victims of this enormous tragedy. It is my understanding that total costs could exceed $100 billion. I will continue to support whatever funding is needed for as long as it takes to rescue all in danger and to help our fellow Americans rebuild their lives.

As is always the case with a disaster of this magnitude, we must closely examine what could have been done differently and try to make right what once was wrong. In this instance, many factors combined to cause such widespread destruction and loss of life. The key questions are: what could have been done to properly plan for such a disaster and what should have been done to respond more quickly once the destination of Katrina was confirmed.

Proper planning on the part of the local and State governments was severely lacking. The decision to evacuate New Orleans without making provisions to transport people too poor to own or too sick to operate a vehicle was a moral abomination. We basically left people to see if they would die and many of them did. Every evacuation response plan in the Nation should, by federal law, be required to include transportation plans for such people. The excuse that this catastrophe was unpredictable is nonsense—scientists and engineers have been saying for years that a hurricane with Katrina's force could break the levees and flood the city of New Orleans. Despite these specific warnings, the local and State governments were woefully underprepared to deal with the magnitude of this disaster.

The slow response of the Federal government is equally abysmal and even more troubling. The Administration showed its indifference to the people in the Gulf by waiting until Saturday, September 3rd to deploy 7,200 active-duty ground troops. However as soon as the storm passed, it was clear that the local and State governments were overwhelmed by the magnitude of the disaster. President Bush should have deployed these troops to the region as soon as the levee broke on Tuesday, if not sooner. All of the available resources of the federal government should have been mobilized immediately to evacuate people and organize food, shelter, and medical operations. In the days after Katrina's winds and rain subsided, it is indisputable that the Federal government failed the people of the Gulf Region.

Rather than acknowledge these shortcomings, the administration has brazenly lauded the Federal response. President Bush and others glossed over the fact that many people died as a result of the government's incompetence and indifference. The inadequate response to this disaster demonstrated to me that we have learned little from the lessons of September 11, 2001, and we are ill-prepared to deal with a major national disaster whether it be a natural or man-made.

I am determined to play whatever role I can in changing our Federal response system so that this type of gross negligence does not happen again. Mr. Speaker, I reiterate my support for H.R. 3645 and I pledge my continued support for the victims of Hurricane Katrina.

Mr. CARNAHAN. Mr. Speaker, I rise today in support of the emergency supplemental appropriation to help the recovery efforts along the Gulf of Mexico. Hurricane Katrina has caused damage of historic proportion, and it is our responsibility to do everything we can to fully support the revitalization of all of the effected areas.

The images of the devastation that we have all seen over the course of the past week will be with us for some time. We need to turn our attention to and provide sufficient resources to repairing the lives of our fellow Americans most affected by this disaster: the poor, the elderly, and the disabled.

It is obvious that the administration's preparedness and response was insufficient. It is apparent that FEMA did not take action quickly enough to prevent the massive destruction of property and the widespread loss of human life.

While it is important that these issues be addressed in a timely manner, our immediate focus, and top priority should be helping the thousands of Americans who need our assistance during this tremendous rescue and cleanup effort that lies ahead of us.

I urge all of my colleagues to support this emergency appropriation, so that we can give immediate assistance to everyone affected by this disaster.

Mr. SHERMAN. Mr. Speaker, I would like to join with my colleagues in expressing my sincere condolences to the victims of Hurricane Katrina. My heart goes out to those who are suffering, especially those who are still seeking information on the fate of missing loved ones. The devastation of Hurricane Katrina will continue to be felt for years to come.

Therefore, I support this all important supplemental appropriation bill to ensure our Nation can and will provide the necessary relief services to the victims of Hurricane Katrina. In the aftermath of this horrible tragedy, as in past tragedies, we have seen the true generosity and compassion of the American people. I continue to be amazed at the outpouring of support from people all over the country working together to offer assistance to those in need.

Hundreds of fire fighters and search and rescue crews from my home state of California have gone to New Orleans and the Gulf coast devastated by the hurricane. I am proud to say that this includes the 70 strong Los Angeles urban rescue team from Fire Station No. 88 in Sherman Oaks in my Congressional District.

In both my District and Washington, DC offices, I have received hundreds of calls from my constituents calling to express their concern for those in need and seeking to identify ways to provide them with assistance. For many of my constituents, this tragedy brought back their memories of surviving natural disasters, like the 6.8 earthquake that struck Northridge at 4:30 am on January 17, 1994. Like Katrina, this earthquake caused monumental damage to communities, including road structures, and was one of the costliest natural disasters in our nation's history.

Following the earthquake, the Northridge community experienced similar outpouring of support from Americans. However, we also experienced a much greater and more effective response from the Federal Emergency Management Agency, FEMA. According to the U.S. Department of Transportation, the response of the Federal Emergency Management Agency, FEMA began 15 minutes after the earthquake. This is particularly significant because unlike Katrina, the Northridge earthquake was not predicted to occur in 2004. In addition, the FEMA Headquarters Emergency Support team was activated 90 minutes after the earthquake. FEMA coordinated the response of the 27 Federal agencies involved in the Northridge earthquake allowing for services to be provided quickly. An Earthquake Service Center with representatives from all disaster agencies was opened almost immediately. FEMA also expedited the loan process for victims and disseminated important information to Los Angeles County residents.

In short, we saw results. Victims received relief in a timely manner. We saw an efficient Federal agency carrying out its mission. Reason would dictate that 11 years after this disaster, our response to natural disasters would be even more rapid and effective, and not slower and inefficient.

Sadly, this has not been the case. Almost exactly four years after the September 11th terrorist attacks, our Nation continues to struggle with properly aiding its citizens when disaster strikes.

And, unfortunately, we have seen firsthand the results of this struggle. We have all seen the images on television and heard the grim reports. People who have already lost their homes, who were separated from their families did not have access to basic necessities—food, water, and medical supplies. Many of these families, who needed their government the most, were forced to live in despicable, unhealthy and dangerous conditions. Women have been raped, babies have had to go without diapers, and people were forced to live in filth surrounded by human waste and corpses.

This is absolutely unacceptable, and I join with my colleagues in demanding a complete explanation of and accountability for what went wrong. We must also ensure that this ineffectual initial response never happens again.

Congress has a vital role in overseeing agencies and providing adequate funding. We need to reinstitute disaster mitigation programs like "Project Impact" that were in place during the Northridge earthquake. In addition to providing assistance after a disaster we need to take steps to prevent disasters. This includes responding to the funding requests of the Army Corps of Engineers and local communities who have predicted disasters, like the one we are now experiencing. In our capacity as legislators, we must ensure that FEMA has the leadership, tools and resources to effectively respond to a crisis without being burdened by untold levels of bureaucracy and lack of a clear mission.

This is an agency that needs to be directed by an experienced professional. What we have seen is just the opposite. I therefore call for the resignation of FEMA director Michael Brown. I am encouraged that former FEMA director James Lee Witt is providing his knowledge and experience to the state of Louisiana and it is my sincere hope that Mr. Witt will be reappointed to his position as Chief of FEMA and restore that agency to the strength it had during the Northridge earthquake.

But, that is not enough. We must also help individuals facing financial vulnerabilities from natural disasters as well as foster an environment that allows the private sector to properly aid those in need. To that end, I have worked with my colleague from Florida, Ms. Brown-Waite, on legislation that would require the Secretary of the Treasury to ensure there was sufficient insurance capacity available for private homeowners to cover catastrophic natural disasters. I urge my colleagues to cosponsor the Homeowners' Insurance Availability Act of 2005 (H.R. 846).

In 2002, along with several of my colleagues, I asked GAO to study efforts to securitize natural catastrophe and terrorism risk. We received that report in April 2003, but have not held hearings in the Financial Services Committee on the issue since then. I am hopeful that we can enact this needed insurance legislation so that Americans living in areas subject to cyclonic, seismic, volcanic and other catastrophic activity can rest assured that the industry insuring them against losses will be there when they need it the most.

This is just one suggestion for ways that we can move forward to protect our citizens and our financial industry. Once again, I thank my fellow citizens who have shown such wonderful compassion for those affected by Katrina. I look forward to working with my colleagues toward the goal of implementing a fully functional and effective government response that aids people in need and provides them with the tools to help get them back on their feet as quickly as possible. The American people deserve no less.

Mr. MEEHAN. Mr. Speaker, for those of us not on the Gulf Coast, it is impossible to comprehend the experience of those whose lives have been upended by the brute force of Hurricane Katrina. New Orleans and much of the Gulf Coast are a disaster area—bodies float in floodwaters that still rise unchecked, power is out, looters steal without fear, and violence is widespread. Our Nation grieves with the residents and survivors and we will stand with them during the long road to recovery.

Hurricane Katrina appears to be headed for the history books as one of the worst national disasters ever to hit the United States. Yet the deeper tragedy is not just how large a toll this storm will eventually take, but how avoidable it all could have been.

The devastation wrought on the Gulf tonight is the result of two terrible disasters. The first was the fury of nature. The other is the unnecessary consequence of this government's inexcusable failure to prepare for the inevitable.

The primary function of a government is to ensure the safety of its citizens. This Congress and this Administration have failed to do so in the most incompetent and willfully negligent way imaginable.

This hurricane was not a surprise. For decades meteorologists, State and local officials, Army engineers, academics, and, yes, FEMA have warned that a Category Four or Five hurricane hitting New Orleans was among the top three most likely major disasters to affect the United States and that we must be prepared. The most recent analysis was conducted just last year, where a computer simulation of the fictional "Hurricane Pam" pounded New Orleans much as Katrina did, pushing the waters of Lake Pontchartrain through the levees flooding the city and stranding 300,000 poor and African-American New Orleanians.

The day before Katrina reached land, FEMA's own director, Michael Brown, raised the possibility of the levees being breached. On August 28th, Brown told CNN that "we knew from experience, based back in the '40s and even in the late 1800s, if a Category Four or Five hurricane were to strike New Orleans just right, the flooding would be devastating. It could be catastrophic." And yet the President said just yesterday that "I don't think anybody anticipated the breach of the levees."

Plans to prepare for this catastrophe had been developed at FEMA as early as the 1990s when President Clinton's FEMA Director, James Lee Witt, laid out a plan for coping with a nightmare scenario in New Orleans that included pre-positioning hospital ships and pumps to handle the catastrophe. Why this was not done is just the beginning of the laundry list of problems with the response to this disaster. Command and control has still not been established. There are FEMA personnel on site and they can do nothing as they await instructions from the bureaucracy in Washington. When will someone take control? The Gulf Coast desperately needs a leader to emerge at FEMA who can direct its operation. Why has this taken so long?

Lurking just below the surface is another set of troubling questions: What if this had been a terrorist attack? Is our emergency response capability so weak that a levee breach, or power outages, or debris can incapacitate an entire region? President Bush has pledged repeatedly since 9/11, now over 4 years ago, that he would keep our country safe. Is this the best this Administration can do? Do our citizens not deserve all the protection and support this government can provide?

The reality is that this country is woefully unprepared to respond to a major domestic disaster in this country because FEMA has been systematically dismantled over the past 5 years by incompetent leaders, anti-government ideology, budget cuts, and bureaucratic red tape.

FEMA's current problems essentially began with the creation of the Department of Homeland Security, which demoted FEMA from cabinet-level status and reduced it to one of 22 organizations under the umbrella of the Secretary of Homeland Security. Next, its mission was reprioritized and its budget cut, taking the emphasis off of responding to natural disasters while the upper ranks of management were filled by patronage hires, five out of eight having had no emergency preparedness experience. At the same time, FEMA's professional staff was becoming increasingly demoralized. By this week, nine out of ten regional director positions were vacant, as were three out of five disaster response director positions. This brain drain left an agency without the proper leadership, resources, or influence in government to cope with a major catastrophe.

Responsibility, however, does not rest solely with the Bush Administration. This Congress has been a willing co-conspirator in the degradation of FEMA's capabilities.

Since 2001, many Federal disaster mitigation programs have fallen to budgetary pressures. FEMA's Project Impact, a model mitigation program, has been canceled outright. Federal funding of post-disaster mitigation efforts designed to protect people and property from the next disaster has been cut in half, and now communities across the country must compete for pre-disaster mitigation dollars.

In 2003, Congress approved a White House proposal to cut FEMA's Hazard Mitigation Grant Program in half. Previously, the Federal government was committed to investing 15 percent of the recovery costs of a disaster toward mitigating future problems. Under the Bush formula, only 7.5 percent are given. Experts say that such post-disaster mitigation efforts are the best way to minimize future losses.

In 2004 alone, Congress cut FEMA's budget by $170 million.

And FEMA is not the only agency to feel the effects of budget cuts. Bush's 2005 budget proposal called for a 13 percent reduction in the Army Corps of Engineers' budget, down to $4 billion from $4.6 billion in fiscal 2004 and the New Orleans Corp of Engineers was to lose $71.2 million out of its budget, the largest cut in its history. This is the very agency responsible for the New Orleans levee system. Assistant Secretary of the Army Michael Parker was even fired for accusing the Bush Administration of failing to adequately fund the Corp of Engineers before Katrina struck.

Natural disasters are a fact of life in this country. Hurricanes, tornadoes and earthquakes are just some of the eventualities that will inevitably occur and need to be dealt with. Over the past decade, FEMA has responded to more than 500 such disasters with varying degrees of effectiveness. But Katrina has provided its first major test since September 11. The repercussions of the failure of that test are staggering.

Going forward, I believe we need to create a bipartisan, national commission, similar to the 9/11 Commission, to provide an objective look at what went wrong and to make recommendations to repair what is clearly a broken system. Doing so is essential to restoring the confidence of the American people in our government's ability to respond to a crisis on American soil and to keep them safe. The people of the Gulf Coast have demanded answers to their questions and we owe them that.

There is also much more to be said about what this catastrophe has to reveal about the problems of race and class in America. It is in some way illustrative of this Administration's neglect of the less fortunate that those in the worst situations after this storm are the poorest and most disenfranchised populations—precisely the people this Administration's policies have, at best, callously ignored.

But social justice is a conversation for a later time. For now, we must focus on the immediate task at hand. Our duty is to do everything we can for the victims of this disaster and to rebuild the Gulf Coast. We begin tonight with this modest appropriation of $10.5 billion. Hundreds of billions more are certain to follow. The money will pay for the finest clean up possible, but, in the end, it will not change the reality that things did not have to happen this way.

Mr. LEWIS of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the bill is considered read and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

## PROVIDING FOR A CONDITIONAL ADJOURNMENT OR RECESS OF THE TWO HOUSES

The SPEAKER pro tempore laid before the House the following privileged Senate concurrent resolution (S. Con. Res. 51) providing for a conditional adjournment or recess of the Senate, and a conditional adjournment of the House of Representatives.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 51

*Resolved by the Senate (the House of Representatives concurring),* That when the Senate recesses or adjourns at the close of business on Thursday, September 1, or on Friday, September 2, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand recessed or adjourned until 12 noon on Tuesday, September 6, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the House adjourns on the legislative day of Friday, September 2, 2005, on a motion offered pursuant to this concurrent resolution by its Majority Leader or his designee, it stand adjourned until 2 p.m. on Tuesday, September 6, 2005, or until the time of any reassembly pursuant to section 2 of this concurrent resolution, whichever occurs first.

SEC. 2. The Majority Leader of the Senate and the Speaker of the House, or their respective designees, acting jointly after consultation with the Minority Leader of the Senate and the Minority Leader of the House, shall notify the Members of the Senate and House, respectively, to reassemble at such place and time as they may designate whenever, in their opinion, the public interest shall warrant it.

The SPEAKER pro tempore. Without objection, the Senate concurrent resolution is concurred in.

There was no objection.

A motion to reconsider was laid on the table.

## HURRICANE KATRINA

(Mrs. CAPITO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. CAPITO. Mr. Speaker, it is with a heavy heart that I rise today to show compassion and readiness to work with our neighbors who are in crisis. I represent a State, West Virginia, that has had numerous flooding disasters. Collectively, we will do everything we can to help those in need. The number one priority now is the families and children who are affected. The photos from these areas are gut wrenching, and I am sure we are just beginning to hear the heartbreaking stories. Our responses must be quicker and stronger. I know our compassion as a Nation is incredible and we are frustrated by the enormity of this crisis.

As West Virginians, we have been helped time and time again. Like those affected in this disaster action, we are hardworking, country-loving, patriotic, respectful citizens. We now wish to return our compassion to those in need. Our State has started fund drives, deployed utility professionals, our National Guard, and other means of help. We will continue. Our hearts are joined in prayer to those who need prayers the most, to give them the strength and the willpower to rebuild and go on. We will stand together to recover and rebuild the lives and the cities. This is the nature of our country and its people.

It is with a heavy heart that I rise today to show compassion and readiness to work to help our neighbors who are in crisis. I represent a state, West Virginia, that has had numerous flooding disasters and collectively we will do everything that we can to help those in this devastating situation.

The number one priority right now is the welfare of the families and children in their time of need. The photos from the area are gut-wrenching and we have only just begun to hear the heart breaking stories of the destruction of lives and properties.

Our responses must be quicker and stronger as we reach out to the despair. I know that our compassion as a nation is incredible and we are frustrated by the enormity of the crisis. The funding we provide today will be significant but will only take us so far.

In recent disasters around this Nation we have seen the worst of destruction that can come from both man and from nature: but the best of society. We have seen the power of this Nation when it comes together to assist those in need. In the coming hours and days, we have got to press forward to help in every way.

As West Virginians, we have been helped time and again. Like those affected in this disaster, we are hard working, country loving, patriotic, respectful citizens. We now wish to return our compassion in your hour of need. Our State has started fund drives, deployed utility professionals, sent our National Guard and other means of help. We will continue. Our hearts are joined in prayers to give those in need the strength and willpower to rebuild and go on.

To that end, the Red Cross and the Salvation Army need our support to continue their efforts on the ground. We are grateful to those who are on the ground from all emergency organizations in the Gulf Coast area to assist those who have been affected.

We will stand together to recover and rebuild the lives and cities. That is the nature of this country and its people.

## HURRICANE KATRINA

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I recognize that FEMA's immediate focus is to provide relief for the victims in the Gulf States, but I take this time to ask the agency to reconsider its decision to deny South Florida individual assistance in the aftermath of Hurricane Katrina. As my Florida colleagues and I stated in a letter to the FEMA director, he has the authority to provide such assistance and I urge him promptly to do so.

I commend our Governor, Jeb Bush, for his efforts in deploying personnel and equipment to the impacted States, and I especially applaud his strong actions against price gouging. Members of Florida's extensive team of emergency response vessel crews, search and rescue teams, National Guardsmen and emergency management officials will continue to deploy from Florida to support operations in the impacted areas. These efforts represent Florida's largest State-to-State assistance in history. South Florida was devastated by Hurricane Andrew 13 years ago. We understand how long it will take for these Gulf State victims to recover economically, physically, and emotionally.

Mr. Speaker, it is with a heavy heart that I rise today to speak about the devastation of Hurricane Katrina.

I come from an area and a State that knows first hand the tragedy and suffering that can be caused by a hurricane of the magnitude of Katrina.

It is therefore from within this deep understanding that we extend our thoughts and prayers to all whose lives have been affected by this deadly disaster.

I fully support providing all the necessary assistance and funding and emphasize the need to use every available resource to aid all the victims of Hurricane Katrina.

I recognize that FEMA's immediate focus is to provide relief for the victims in Louisiana, Mississippi, and Alabama, but ask FEMA to reconsider its decision to deny South Florida Individual Assistance in the aftermath of Hurricane Katrina.

As my colleagues and I stated in a letter to Undersecretary Michael Brown, FEMA has the authority to provide such individual assistance and should promptly exercise such authority.

I am pleased that the State of Florida has responded so quickly to New Orleans and Mississippi.

The State has deployed personnel, equipment and commodities to Mississippi to aid response and recovery from the overwhelming impact of Hurricane Katrina.

In the hours and days after the catastrophic storm, Governor Jeb Bush pledged the support of Florida to Mississippi Governor Haley Barbour.

I must commend Governor Bush for his outstanding efforts, especially for taking strong action against price gougers, and for expressing his solidarity with the people so severely impacted in Mississippi and Louisiana.

Resources from Florida were mobilized through the Emergency Management Assistance Compact.

Tons of food and money collected in South Florida are ready to be sent to ravaged Gulf Coast States.

Florida's State Emergency Response Team is supporting local officials and federal responders with search and rescue missions and emergency management operations in Mississippi.

Members of Florida's extensive team of emergency response vessel crews, search and rescue teams, National Guardsmen and emergency management officials will continue to deploy as needed to support operations in the impacted area.

These efforts represent Florida's largest State-to-State assistance in history.

I extend my most heartfelt gratitude to all those who have joined in efforts to provide assistance, especially all volunteers, representatives of the Red Cross, the Salvation Army, the National Guard, the Reserves, Emergency and law enforcement personnel, and Department of Health medical assistance resources.

Hurricance Katrina, and the devastating after-effects, has severely impacted many staff and Members of our own Congressional Community.

Specifically, the coastal districts of Alabama, Louisiana, and Mississippi were most hard hit. Staff and Members from these areas have been personally affected and in some cases their district offices were either severely damaged or destroyed.

Although my home State of Florida, and especially my Congressional district in South Florida, were hit hard by Hurricane Katrina, we were fortunate that the damage was not as severe as was initially anticipated.

Yet, the damage incurred has serious long-term ramifications for the welfare of our State.

Thousands of constituents have suffered severe damage to their home and property, in addition to enduring power outages and lack of communications.

The Florida agriculture community was one of the hardest hit. Katrina's unexpected jog south caught many South Miami-Dade nurseries and groves unprepared.

As the agricultural community reels, the farmers, growers, and laborers who depend on the industry for their livelihood are tense with uncertainty.

Katrina's high waters and heavy winds inundated acres of agriculture.

Crop loss in Miami has been estimated at $427 million and economic loss is estimated at $691 million.

This loss will have far reaching effects as Miami-Dade's billion dollar agricultural industry is second to tourism as the areas top source of income.

It is clear that this is a nationwide issue that requires a nationwide response.

Our country's strength has always derived from the character, courage, and compassion of our people and, together, we will help each other through this difficult period and prevail over the devastation.

## HURRICANE KATRINA

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, in January I traveled to Aceh, Puquet and Colombo and saw American foreign aid save the lives of tens of thousands of people ravaged by the tsunami. Two weeks ago, I was in Darfur, Sudan and visited refugee and IDP camps in that war-ravaged area and saw firsthand U.S. taxpayer funds and U.S. leadership saving and rebuilding the lives of hundreds of thousands of Africans. But charity begins at home, Mr. Speaker, and we must leave no stone unturned in our effort to save the lives of Americans, our neighbors, devastated by Hurricane Katrina.

Today's appropriation is a downpayment. It is a beginning of an aggressive humanitarian effort that will take months, even years, to rebuild the lives of those shattered people. Today we say to the suffering, we will do whatever it takes to save lives, to mitigate disease, and rebuild.

## HURRICANE KATRINA

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, we heard today the majority whip describe a domestic Marshall Plan for rebuilding the southeast United States and particularly the Port of Orleans and the city of New Orleans. I want to just mention how proud I am of the State of Texas, the Governor of Texas, who opened his arms to refugees from Louisiana 400 miles away. We have refugees from Louisiana all over north Texas right now, right next to my district office in Fort Worth, Texas. Last night I spent time with a mother who had been separated from her newborn baby, spent time with a child who had been separated from his parents, truly heart-wrenching stories from this area that were so badly hit by the hurricane.

I want to thank Attorney General Greg Abbott for his strong stand against price gouging. I want to thank American Airlines for freeing up assets to fly equipment down to New Orleans or to Baton Rouge and to bring people back. I want to thank DFW Airport for stepping up to the plate immediately and offering their assistance. This has been a widespread effort across North Texas. People have opened their hearts, their homes and their wallets. I trust this exercise will continue. I am now glad that the Congress is here and passed this money to help with the recovery.

☐ 1400

## SPECIAL ORDERS

The SPEAKER pro tempore (Mr. THORNBERRY). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## OUR TROOPS ARE STATIONED IN THE WRONG GULF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. KUCINICH) is recognized for 5 minutes.

Mr. KUCINICH. Mr. Speaker, the amount of money that the House just appropriated is only a fraction of what is needed, and all Members know that. Let it go forward quickly, with bipartisan cooperation and with heartfelt thanks to those helping to saving lives with necessary food, water, shelter, medical care and security.

Congress must also demand accountability with the appropriations because until there are basic changes in the direction of this government, this tragedy will multiply to apocalyptic proportions.

The administration said yesterday no one anticipated the breach of the levees. Did the administration not see or care about the 2001 FEMA warning about the risk of a devastating hurricane hitting the people of New Orleans? Did it not know or care that civil and Army engineers were warning for years about the consequences of failure to strengthen the flood control system? Was it aware or did it care that the very same administration which decries the plight of the people today cut from the budget tens of millions needed for Gulf area flood control projects?

Countless lives have now been lost throughout the South in the cost of hundreds of billions in ruined homes, businesses and the destruction of entire physical and social infrastructure.

The President said a couple of hours ago that the Gulf Coast looks like it has been obliterated by a weapon. It has. Indifference is a weapon of mass destruction. Our indifferent government is in a crisis of legitimacy. If it continues to ignore its basic responsibilities for the health and economic welfare of the American people, will there ever be enough money to clean up after their indifference?

As our government continues to squander the human and monetary resources of this country on the war, people are beginning to ask: Is it not time we begin to take care of our people here at home? Is it not time that we rescue our own citizens? Is it not time that we feed our own people? Is it not time that we shelter our own people? Is it not time that we provide physical and economic security for our own people? And is it not time that we stop the oil companies from profiting from this tragedy?

We have plenty of work to do here at home, and it is time for America to come home and take care of its own people who are drowning in the streets, suffocating in the attics, dying from exposure to the elements, oppressed by poverty and illness, racked with despair by hunger and thirst.

The time is now to bring back to the United States the 78,000 National Guard troops currently deployed overseas. Many of our troops are already stationed in the wrong Gulf.

The time is now to bring back to the U.S. the equipment needed to search and rescue for clean up and reclamation. The time is now for Federal resources, including closed Army bases, to be used for temporary shelter for those who have been displaced by the hurricane. The time is now to plan massive public works with jobs going to the people of the Gulf Coast States to build new levees, bridges, roads, libraries, schools, colleges and universities, and to rebuild all public institutions, including hospitals. Medicare ought to be extended to everyone so every person can get the physical and mental health care they need as a result of the disaster.

The time is now for the Federal Government to take seriously the research of scientists who have warned for years about the dangers of changes in the global climate, and to prepare other regions of the country for other possible weather disasters until we change our disastrous energy policies. The time is now to change our energy policies, to end the domination of oil and fossil fuel, and to invest heavily in alternative energy, including wind and solar, geothermal and biofuels.

As bad as this catastrophe will prove to be, it is in fact only a warning. Our government must change its direction. It must become involved in making America a better place to live, a place where all may survive and thrive. It must get off the path of war and seek the path of peace, peace with a natural environment, peace with other nations, peace through a just economic system.

## EXCHANGE OF SPECIAL ORDER TIME

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent to claim the time assigned to the gentleman from Missouri (Mr. BLUNT).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

## EMERGENCY RELIEF TO VICTIMS OF HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nevada (Mr. GIBBONS) is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, today we come to the floor of this body not as Democrats, not as Republicans, but as Americans, united in an effort to find a solution to find help for the people affected by the wrath of Hurricane Katrina.

Today, Mr. Speaker, we unanimously passed financial assistance to the victims of Hurricane Katrina and this Nation stands united. This entire Nation stands ready and willing to help the many thousands of victims in Hurricane Katrina's wrath. But first, let me extend my deepest sympathies to those who have lost loved ones in the rising flood waters and the devastation of this storm. We all share the grief they are feeling during this tragic time.

Our most immediate concern is the safety and security of the people of Louisiana, Mississippi and Alabama who are fighting this very day, this very hour, this very moment to survive.

Many Nevadans have stepped up to offer their help in this effort. We have contractors in Nevada who have donated construction material, concrete, steel to help rebuild. We have banking institutions like Wells Fargo that have offered emergency financial assistance, emergency financial support and processes by which these people can access financial assistance.

Members of the National Guard in the State of Nevada have also been called up, both from the 152nd Air National Guard Medical Group based in Reno and the Army Guard's Medical Detachment 5 headquartered in Reno. And Las Vegas were among the 100 already-deployed Nevadans assisting in the emergency response currently underway.

The emergency team doctors, nurses and other medical specialists and their equipment left Reno on a C–130 with less than 24 hours' notice. The team will spend up to 2 weeks aiding the victims of Hurricane Katrina. As the recovery effort continues, Congress took the necessary steps today as a united body to enable these communities to begin to rebuild.

Thousands of residents in Louisiana, Mississippi and Alabama have had their lives shattered, have lost their homes, their businesses; and entire livelihoods have been swept away.

Rebuilding these cities like New Orleans, Gulfport, and Biloxi and the many other once-bustling resort towns will not be done overnight, but the people of these Gulf Coast communities should know that the American people stand united, united not just with our rhetoric but with our action; and we will work with them to rebuild these cherished communities.

The people and businesses of Nevada, like Albertson's, which will provide $9 million in water and food, have given generously to the relief effort and will continue to do so.

May our thoughts and our prayers be with the victims of Hurricane Katrina as they work to find the strength to overcome the devastation Mother Nature has wrought upon them.

Mr. Speaker, may God bless this great country and assist these people.

## WAKE-UP CALL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. WEXLER) is recognized for 5 minutes.

Mr. WEXLER. Mr. Speaker, like all Americans, my heart goes out to the millions of people displaced and suffering from one of our largest national catastrophes in our history. I hope the victims of Hurricane Katrina know that our prayers are with them in this most difficult hour, and I strongly support today's initial package to help the victims of Hurricane Katrina.

However, the administration's response to this catastrophe is nothing short of a national disgrace itself. How is it possible, how is it possible that the administration did not realize earlier what a catastrophe this is? There is a 90,000 square-mile footprint of disaster, and yet last night FEMA's director, Michael Brown, admitted that the administration had no idea exactly how bad the situation was. Even worse, he had previously characterized the security situation in New Orleans as "pretty darn good," and stopped just short of blaming the residents of New Orleans themselves for not evacuating.

The Bush administration failed the American people in advance of this hurricane by cutting critical funding in spite of the pleas by the Army Corps of Engineers, money that would have been used to reinforce the very levees that broke and flooded New Orleans.

We had plenty of money to pay for tax cuts for the wealthiest Americans, but none apparently to save the poorest Americans with an ounce of prevention.

In terms of the response to the disaster itself, what we have seen is unquestionably too little too late. While the President today said relief efforts so far were "not acceptable," how can he possibly be surprised by this deplorable response? How can he say that flooding was not anticipated? Quite to the contrary, it was expected. It was predicted. What is not acceptable is the President's response.

Mr. Speaker, 1 year ago we had an opportunity to learn from the disasters in my home State of Florida. Floridians experienced the consequences of FEMA's failure to deliver aid to communities who needed it the most. We saw the most vulnerable in our society, the elderly and the poor, being left out and overlooked. Last year we had the opportunity to prevent this from happening again. At the time I called for the resignation of the head of FEMA, Michael Brown, because of his grievous mismanagement in Florida. The President did not heed that call, nor did he see fit to make any substantial changes in FEMA.

Last year when the President's election was in question, his response to the hurricanes in the swing State of Florida was tremendously fast, even passing out ice in the immediate aftermath. Where was he in the immediate aftermath in New Orleans? Where were the trucks of food, where were the water buffalo? Where were the tents of aid that are just now being established and delivered?

When the issue was the medical condition of Terry Schiavo, the President and the Congress flew back to Washington on Palm Sunday to intervene.

Why did the President delay so long for an entire American city in crisis? These have desperate people who need food, water, shelter and safety, not a photo opportunity, which even itself comes 5 days too late.

Every asset of the great American military in this hemisphere should have been devoted to America's humanitarian crisis starting on Monday at 5 in the afternoon.

I was in Aceh in Indonesia last month. I saw firsthand the greatness of the American aid efforts. Our response in the aftermath of the tsunami was one of America's finest hours. I was extremely proud as an American to see all the work that Americans and our country have done to stave off famine and disease for tens of thousands of desperate people.

Our aircraft carrier was off the Aceh coast within 2 days. If we can do that 12,000 miles away in Indonesia, why not in New Orleans? If we had even met that same standard, help would have been in New Orleans on Wednesday. We would not be seeing the horrific scenes we saw yesterday and today. It should have been self-evident on Monday that now is the time to use our enormous strength for the benefit of our own people.

Mr. Speaker, now is a wake-up call for America. This should never happen again. It should not have happened this time.

□ 1415

## HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SHAYS) is recognized for 5 minutes.

Mr. SHAYS. Mr. Speaker, a disaster of this magnitude can be hard to comprehend. Convinced of our mastery of the physical world, we too often underestimate Nature's horrible, irresistible power.

A storm like Hurricane Katrina should puncture that hubris and occasion in its wake a humble assessment of our plans and preparations to meet the catastrophes Mother Nature sends our way.

As our fellow citizens in affected States struggle to cope, now is not the time to compound their fears with criticisms and second guessing about rescue and recovery efforts. But gaps and flaws in the joint local, State and Federal response are clearly showing. Today the President concluded those efforts so far were "not acceptable." They are not acceptable.

In the weeks and months ahead, those of us charged with oversight of homeland security issues will be asking hard questions about the effectiveness of the Department of Homeland Security and the Federal Emergency Management Agency, commonly referred to as FEMA, for their response, planning and execution.

Streams of refugees and reports of lawless gangs terrorizing the streets of New Orleans convey images more commonly associated with the Third World than with a major commercial port in the New World.

When a catastrophe, natural or manmade, rips through the social fabric, the first obligation of governments at all levels is to maintain order and deal with the short-term needs of the populace. The capability to reestablish public safety and protect the lives and property of law-abiding citizens must be brought to bear visibly and promptly.

Katrina's destruction took just hours, but reconstruction will take months and years. Together, we must work overtime until homes are built and people are back to work. We must continue to provide all the government support, money and manpower they need. We must continue to encourage private donations of food, blood, funding and services.

Although the burden of this storm has been borne by those who live in the region, this is truly a national challenge. I have heard from so many of my constituents, and all want to express their love and concern and convey their desire to be of help by lending their skills, opening their homes, providing financial assistance, and doing whatever else they can.

Two wonderful organizations in our district, Save the Children and AmeriCares, are working around the clock to provide relief. On our Web site, we have provided information on ways to donate money, food and water to the efforts.

Since Katrina washed away homes, businesses, families and lives, America has grieved deeply. We all mourn those who lost their lives, and we grieve with those who have lost their loved ones and friends.

While we cannot reverse Katrina's damage, we can begin to repair the region, which sustains millions of Americans and is vital to our Nation. Today's legislation will help us begin that process of rebuilding the area, providing support to law enforcement and getting Gulf Coast residents back to the business of their lives. In the days and weeks to come, there will be much more that follows.

## HURRICANE KATRINA SUPPLEMENTAL RELIEF

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. ZOE LOFGREN) is recognized for 5 minutes.

Ms. ZOE LOFGREN of California. Mr. Speaker, on behalf of the people of San Jose, California, I extend our deepest condolences to the thousands who have lost family and friends, and to those who are still searching for loved ones. As the chairperson of the California Democratic Congressional Delegation, I want to let the people suffering today know that we care and that we Californians stand with them.

The people of California have also faced natural disasters in the form of earthquakes, floods, and fires. I recall the Loma Prieta Earthquake on October 17, 1989, that measured 7.1 on the Richter scale. Sixteen years have passed, but everyone who lives in the bay area remembers where they were when the earthquake struck. Americans everywhere stood with Californians, and this gave us the strength we needed to recover, rebound and rebuild.

As difficult as that earthquake was for us in California, the situation in the Gulf Coast is infinitely more challenging. Homes across the Gulf Coast are gone. People are left with nothing but the clothes on their back. Biloxi, Gulfport, Pass Christian, Bay St. Louis, Waveland, Kiln, Slidell, and other towns barely exist.

Our Nation has never had a city in the desperate shape that New Orleans finds itself in right now. The rule of law has broken down. People at the Superdome and the Convention Center are suffering in ways that are just not seen in our country in the 21st century. Mayor Nagin has said that thousands may be dead in New Orleans. This is an unprecedented human tragedy.

As a Nation, we must be steadfast and commit ourselves to save these people. We must stand with all of the people of the Gulf Coast and let them know that we are here today to help them get back on their feet. We are here to lend them a shoulder to lean on. We will be with you as long as it takes to get your lives in order, as long as it takes to get our cities back.

The people of the Gulf Coast have experienced hell on earth over the past week. They will face challenges in the coming days, weeks and months that are almost unimaginable. People are hungry, sick, homeless, and desperate. The storm has hit everyone hard and it has hit the poor hardest of all. The Federal response to this disaster has been too little and too slow. The situation must change and it must change right now.

Last night I flew across our great country to be here today to participate in this emergency session of Congress. It is important that the necessary resources be provided for this disaster, but actual leadership by the administration is desperately needed right now. There are dead bodies floating in New Orleans as we speak. There are tens of thousands of our fellow Americans who have been without the help that they need for this entire week.

I do not believe that our Federal Government is incapable of mobilizing to meet this disaster. The problem is that we have not yet done so as comprehensively as is necessary. Even the President stated today that the response of his administration has been inadequate.

There will be plenty of opportunity in the months to come to analyze what we could have done better, but today our task is simply to do better, to engage in a massive mobilization to save the lives of our fellow citizens and to end the chaos that has descended upon New Orleans and other areas devastated by this hurricane.

Our Nation stands united with the victims of this ruthless storm. Our fellow citizens from Mobile, Alabama, to New Orleans, Louisiana, need to know that they have our commitment to do all that we can. The bill we passed today is just a start. We will recover. We will rebuild. We will prevail.

In the days and weeks to come, the Congress will have many tasks before it, from fully funding the Army Corps' efforts, to revising the bankruptcy laws so the victims who have lost their homes can have a fresh start. But today, we call on you, Mr. President. Article 2, section 1, the executive power shall be vested in a President of the United States. We expect that the resources, the food, the water, the health care, the evacuation, the shelter will be brought to bear so our fellow citizens can end their suffering.

## EXCHANGE OF SPECIAL ORDER TIME

Mr. ENGLISH. Mr. Speaker, I seek unanimous consent to claim the time of the gentlewoman from Florida (Ms. HARRIS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

## HURRICANE KATRINA SUPPLEMENTAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ENGLISH) is recognized for 5 minutes.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, we are in the midst of a crisis, a crisis of crushing proportions in terms of lives lost and property destroyed. Time is clearly of the essence, and I commend Speaker HASTERT for calling Congress back into session over this holiday weekend.

While we are still assessing the full extent of the damage caused by Hurricane Katrina, we know that the damage is severe and that the response must be strong and steady. The legislation that we have just passed in the House will provide financial assistance to the victims who have borne the brunt of this devastating storm.

It will allow the Federal Emergency Management Agency adequate resources to continue operating and to restore order in the affected areas. Rescuing and evacuating those who are trapped, getting food, drinking water and medical care to those who are stranded, should be our top priority, and this funding is essential to accommodate some of those basic initiatives.

The image we have all seen on television and in the newspapers only begins to convey the desperation of those in and around the areas that have been hit. My heart goes out to those families, and I am pleased that Congress has answered the call here today and sent and guaranteed the much-needed resources.

On behalf of western Pennsylvania, an area where we are familiar with Mother Nature and how tough she can be, I am here to express our solidarity with the people in those communities that have been hardest hit. The economic impact of Katrina also looms over us as we move forward, and as gas and other oil prices spiral out of control this natural disaster certainly has the potential to become a serious economic challenge as well.

We need to take action in Congress to alleviate the short-term crisis that has been caused by Katrina. It will likely take the next several weeks and perhaps longer before we know the full extent and the true extent of the damage and begin to repair our critical energy infrastructure.

We recognize already that electricity remains sparse in some communities, limiting the capacity of refineries to operate. In addition, distribution pipelines also lack capacity, so refined products are unable to reach local gas stations. The production and delivery problem will, without a doubt, have significant impact on consumers and a ripple effect on the economy. We in Congress I think need to anticipate that and respond. I think it is essential that we act to address any fuel shortage and act decisively to blunt its nationwide consequences.

While our supply chain is coming back online, Congress needs to carefully consider options for managing the energy supply and the price of gasoline, such as giving the President the authority to fight price gouging for oil and oil by-products, and manage strategy fuel supplies.

Further, we ought to consider a temporary suspension of the Federal gas tax to give consumers at least a small break from the unanticipated increases. Any temporary measures we can engage will ameliorate the enormous impact of the present situation, and these need to be carefully thought through.

For now, however, we have to quickly move forward, as we have done with this emergency appropriations bill today, which will help the victims who have suffered most from the devastation of this storm. This storm is a challenge to the Nation, and I urge the American people to pull together and to help each other get through this.

I encourage people to donate what they can to the charity of their choice and do what they independently can do to conserve energy. I believe this will test us and perhaps also show us at our best.

## MAKE REAL THE PROMISE OF DEMOCRACY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Mrs. JONES) is recognized for 5 minutes.

Mrs. JONES of Ohio. Mr. Speaker, I rise today in support of this legislation, but I rise today also to say to America it is time now, not later on. One of my favorite speakers, Dr. King, had a speech that he gave saying "Now is the Time." For a moment I am going to paraphrase some of his words. He said now is the time to make real the promise of democracy.

He said now is the time to rise from the dark and desolate valley, and I say the valley is this national despair that we are in right now, to the sunlit path of Americans helping Americans.

Now is the time to lift our Nation from the quicksands of Hurricane Katrina to the solid rock of safety and normalcy for the people of America.

We have had all these images on television. We have had images of people in facilities that were built for games. We have images of people in facilities that were built for conventions. We have had images of people who are American people, they are taxpayers, they are the elderly, they are the frail, they are the poor, they are the people left out without any housing. This is a class issue because those of us who had the money to get out of New Orleans, get out of Mississippi, get out of Alabama, they got out. But these are people who are American taxpayers who could not get out. Why are we not helping them?

Today we have allocated resources. What I am concerned about is who will the resources go to? When we look at Iraq, they went to Halliburton. What about the resources going to the American taxpayers? They paid their dues.

I took a moment and went on the Internet and got the application for disaster resource. The application and the pages that go with them are some 25 pages. Can you imagine if you were in the situation of some of these people, that they would in fact have to fill out this form. Let us get rid of the form and give them what they need. Put these people on cruise ships with bedrooms, bathrooms, food, a place where they could be. Let us not try to figure out and make magic. We know what can work for these people.

Finally, these men, women and families are entitled. They are American taxpayers, take care of them.

Ms. KILPATRICK of Michigan. Mr. Speaker, will the gentlewoman yield?

Mrs. JONES of Ohio. I yield to the gentlewoman from Michigan.

☐ 1430

Ms. KILPATRICK of Michigan. Mr. Speaker, I first want to say that these people are not refugees. They are American citizens who pay taxes and are raising their children. I would hope that we would not relegate them to something less than American citizens.

I rise in support of the legislation and would like to report on what the City of Detroit is doing. Mayor Kwami Kilpatrick has put together an organization with the private sector as well as FEMA over the last 48 hours, and we are offering to the families that have been decimated 500 housing spots immediately. We have been working with the United Way and the health care industry to provide the resources that these families will need, housing, health care, water, food, clothing.

We in the City of Detroit stand ready, under Mayor Kilpatrick's leadership. We have spoken with the gentleman from Mississippi (Mr. THOMPSON), as well as the gentleman from Alabama (Mr. DAVIS), and the gentleman from New Orleans, Louisiana (Mr. JEFFERSON), and all have agreed to work to move them now.

We need other government officials from around the country to step up and to bring them home. The people of New Orleans have nothing to go back to.

Mr. Speaker, we are proud of our Mayor and the City of Detroit. Detroit has stood up, through Mayor Kilpatrick's leadership, and we ask that other cities around this great Nation of ours who have the wherewithal, because private companies are ready to help, and they have helped us.

The Detroit public schools have agreed to take children from the ravished areas. I thank the Mayor of Detroit as well as my colleague for yielding me this time.

Mrs. JONES of Ohio. Mr. Speaker, now is the time to help the people of America who have been in this situation for 3 or 4 days. If we can go into Iraq and rebuild Iraq, we can build what the people of America need in the Gulf region and take care of what they need.

## EXCHANGE OF SPECIAL ORDER TIME

Mr. WAMP. Mr. Speaker, I ask unanimous consent to claim the time of the gentlewoman from West Virginia (Mrs. CAPITO).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

## HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. WAMP) is recognized for 5 minutes.

Mr. WAMP. Mr. Speaker, I began this week with a stomach virus that had me flat on my back and very quickly that illness was replaced with a sickness in my stomach from watching our fellow Americans, some of the most vulnerable, some of the poorest, hurting, even dying, and all week long, like many of my colleagues I have spoken with today, feeling somewhat helpless, even as a Federal legislator, not being able to roll up my sleeves and go and help our fellow man.

We are with all of these people. From the Tennessee Valley to the Silicon Valley, we stand with our friends and neighbors in Louisiana and Mississippi and Alabama, but particularly in the New Orleans area and in southern Mississippi where the devastation is so bad.

Mr. Speaker, there is going to be plenty of time to point fingers, scrub the problems, determine what changes need to be made, what broke down at the local, State, Federal level. I hope knowing this institution now as well as I have known it for 11 years, and knowing the goodness of most people from both sides of the aisle, we can do as much as possible, like we did after September 11 and come together, bring the Nation together, around the solutions.

This has been an extraordinary time over these last 4 years in this country as we put 22 agencies together to form the Department of Homeland Security, including taking FEMA from an independent agency under this new umbrella. Obviously all of the bugs have not been worked out; and obviously, as the President said today, this is an unacceptable response, frankly, at every level, local, State and Federal.

But let us today try to hold off on too much of the blame and come together to support all of these people. I am greatly encouraged today to see the truckloads and the air loads going in and people being evacuated. Until every person that is still living is in a safe and secure place, let us try to meet each other at the water's edge and try to solve these problems. Every minute it is improving and the system is improving at every level of government.

These are difficult, difficult times. It is important that we come together. Natural disasters, terrorist activities, these activities will probably continue, and we have to make sure I believe as leaders that the unity of purpose, of mind, of spirit is maintained in order to preserve what we have. It is going to be easy for chaos to take place in the cities that are affected or even on the floor of this great institution if we are not careful that we do not dumb down to the lowest common denominator of criticizing or breaking down. It is a time of unity in the day and months ahead. The solutions are extremely difficult.

I want to also talk beyond this crisis and hurricane because I believe we were headed for serious trouble before this hurricane hit. In places where people are on fixed income, the cost of energy, not just gasoline but all energy, was becoming such a burden, and now it is compounded because of this incident.

When crisis sets in, character is born, leaders emerge. We must in the short run use every bit of influence to increase the capacity for oil for our country. OPEC is just 11 countries, many of which get significant funding annually from our country. We need oil. If they cannot release more oil, we should hold back the contributions we make to their country until we get a satisfactory flow of crude oil into this country, from OPEC countries as well as non-OPEC countries. But OPEC countries have much more oil than non-OPEC countries, but non-OPEC countries are actually producing much more oil than OPEC countries today.

Pressure needs to be placed from the executive branch, but also the legislative branch, which has the power of the purse. We need to say this is a time of crisis in America. Following this hurricane and following incredibly accelerating gas prices, we need relief. We need refinery capacity as well. We need cooperation at every level. We need response to the short term. And in the long term, we need to bring about changes in our country's policy to get ourselves off of oil.

So let us unite and solve these problems and help America at this critical time.

## HURRICANE KATRINA SUPPLEMENTAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. SCHIFF) is recognized for 5 minutes.

Mr. SCHIFF. Mr. Speaker, I rise in support of the supplemental appropriation to help the people devastated by this hurricane. As Members can probably tell, I have laryngitis. I may lose my voice again during the course of my remarks, but I feel compelled to speak today at the outset to express my sincere condolence to all those families that have lost loved ones or still wonder where their loved ones are in the wake of this terrifying and terrible hurricane.

My heart goes out to all of those that have been impacted. The effects of this hurricane have been devastating. We have seen its physical force, extraordinary winds, the water, the flooding, the wrath of nature in Hurricane Katrina.

It has been awesome and terrible in its destruction, but sadness has given way to anger and disbelief as we have seen people stranded on roof tops, as we have seen mothers worry about whether their babies will have enough to eat, as we have seen children worry about their parents' medical conditions and the lack of medicine, as we have wondered how this could happen in the United States of America.

National disasters afflict every part of the globe, but it seems that this national disaster has been compounded by our response and in cases by our lack of response. The images we have seen have been horrifying. We have all wondered how it was that so many people came to be left behind, how it was that we could have assumed that when 20 percent of the population of New Orleans lives under the level of poverty, that everyone would have a means of getting out of New Orleans before the storm. How it is that there are not buses running around the clock to take people away from this terrible place with no food, no water, giving way to lawlessness?

I heard today that the District of Columbia is sending 10 buses, and I applaud the District of Columbia, but it will take days for those buses to get there. Why are there not buses around the clock? Why is it that these news crews can go and take this devastating footage and find these survivors, and the relief effort cannot?

I, like a great many Americans, do not understand how this is possible in the United States of America. My constituents demand that we move both earth and heaven to bring relief as fast as possible to the people of the Gulf Coast, and we have been bitterly disappointed to see how this tragedy has been prolonged, and we have the most profound questions about how in the richest Nation on earth it can take so long to simply get people out of that disaster zone to higher ground, drier ground, to food, medicine. I do not understand the government's response. I really do not.

And yes, there will be plenty of time to ask these questions and we will ask them. But the rest of the country is asking them now. We demand a better response than we are getting. I hope that as some of the officials from FEMA and the National Guard are saying, the calvary is on the way, the calvary is truly on the way. And I hope that effort only accelerates and mushrooms and does not stop until every last person has been evacuated.

This has been a devastating week for the United States. We have seen bodies floating through the streets. We have heard the voices of Americans question how their government could leave them in such a place in such a time with such developed mass transportation, without airlifts of food and medicine, without rapid evacuation. This country can do better. This country must do better. I hope and pray we are doing a lot better right this moment.

I am proud of this Congress for coming into this session and rapidly approving this aid, and it is incumbent upon this Congress to ensure this aid is delivered ASAP and not another moment goes by with another victim waiting to be rescued.

☐ 1445

## EXCHANGE OF SPECIAL ORDER TIME

Mr. KIRK. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Texas (Mr. BURGESS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

## DESPERATELY NEEDED SUPPORT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. KIRK) is recognized for 5 minutes.

Mr. KIRK. Mr. Speaker, Thomas Payne wrote in 1776 that "now is the time that try men's souls." This is also one of those times in the life of our country, as we witness the destruction of a major U.S. city and the pain of our fellow Americans on the Gulf Coast.

In our Constitution, the Federal Government is charged with the mission to provide for the common defense. That defense is not just against threats coming from other countries, but also from natural disasters like Hurricane Katrina.

I have heard recriminations against the mayor of New Orleans, against the governor of Louisiana, and against the President of the United States, but now is not the time to divide Americans in political fighting. The mayor, the governor and the President must pull together at this time for search and rescue, for humanitarian relief and for reconstruction of the Gulf Coast.

Catastrophes like this illustrate the kindness and generosity of the American spirit. With hundreds of thousands unable to return to their homes, communities have opened their doors and welcomed victims. In my district we have seen five major high schools and scores of other schools begin fund raising drives for hurricane relief.

Major Illinois employers have already donated $7.2 million in cash. Abbott Laboratories, Medline, Astella, and Cardinal Health all have donated major supplies, and thanks to their generosity, truckloads of baby formula and nutritional supplements and electrical generators are on their way from Illinois to the scene. To help police and emergency officials regain control of the situation, Motorola has sent 2,500 portable radios to New Orleans.

Today in Congress we approved a $10.5 billion supplemental emergency appropriation to ensure the continuation of the rescue and recovery effort. Today's bill, enacted by Congress in just 22 hours, is the third largest disaster supplemental in our history, and no doubt there will be Katrina supplementals 2 and 3 to follow.

We should do this, but we should also do more by encouraging Americans and corporate citizens to open their hearts and their wallets, and with this outpouring of support we will speed the recovery.

Mr. Speaker, for the last 2 weeks I have been on active duty as a reservist in the United States Navy. Working as an intelligence officer in the Joint Chiefs of Staff, I spent the first week on duty reporting on the usual topics: Developments in Afghanistan, the withdrawal of Israel from Gaza, et cetera, but all of that changed when Katrina loomed off the coast of the United States. Deep in the operations center of the Joint Staff, we formed a Katrina response cell to coordinate what is now becoming the largest U.S. military-civilian relief effort in history. We focused all of the vast resources of the Department of Defense on the defense of New Orleans. Within hours of the response cell's creation, dozens of ships, hundreds of planes, thousands of troops and millions of meals were on the way.

Like the U.S. military's response to the tsunami, the current operation will save lives, repair infrastructure, and will speed the recovery. I want to particularly thank our new Chief of Naval Operations who took it on his own initiative to send ships towards the relief effort. Admiral Mullen's prompt action meant that the Navy relief helicopters arrived on the scene much sooner than planned.

Today in the wake of this natural disaster, we are witnessing selfless dedication by Americans in uniform. There are over 21,000 military personnel responding to the hurricane. The bulk of these forces are National Guard men and women called into service to assist in the rescue effort. They are truly citizen soldiers and their service is urgently needed and deeply appreciated.

As more National Guard troops arrive on the scene, law and in order will be restored and communications and power reestablished. Today there are more than 154 helicopters rescuing trapped civilians, delivering food and water, and dropping sand bags to plug the breaches in the levee system. The Army Corps of Engineers is working to plug gaps in the levees and to begin pumping the water out of New Orleans.

More help is on the way. The crew of the USS *Bataan* is on station off the coast with its helicopters delivering supplies and conducting search and rescue missions. USS *Iwo Jima* and the mighty aircraft carrier USS *Harry Truman* are also there to provide helicopter support. All told, there are over 10 Navy ships currently on station or on their way to provide support, and this includes the hospital ship USS *Comfort* with 2,000 hospital beds.

The DLA has made more than 750,000 Meals-Ready-to-Eat available, and has access to 3 million more if needed. The response from the Department of Defense has been impressive and is accelerating, and I want to thank Admiral Keating at Northern Command, Lieutenant General Honore of Joint Task Force Katrina, and Lieutenant General Blum at the National Guard Bureau for their efforts.

Mr. Speaker, there are countless acts of heroism taking place along the Gulf Coast. The military, Coast Guard and the FEMA are all spearheading this Federal response. Every day people are doing their part for the relief effort and we here in Congress should do that as well by directing additional resources to the effort.

Mr. Speaker, today is just a first step in what is going to be a long and costly recovery, and we should stand united by our commitment to help rebuild those hurt by Katrina.

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## HURRICANE KATRINA SUPPLEMENTAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. BAIRD) is recognized for 5 minutes.

Mr. BAIRD. Mr. Speaker, I rise today to extend my personal condolences, that of my family and all of the constituents I am privileged to represent, to the families and victims of this terrible natural disaster. I almost did not come down here today because I am painfully aware that nothing we can say here is going to make the kind of difference that we would like to make.

The $10.5 billion will make some difference, but it is very small in comparison to the magnitude of the suffering. What I think myself and all of my colleagues would rather to be doing is being down there in New Orleans helping with the effort. We would like to be giving water to those thirsty, comfort to those who have lost loved ones, and help begin the rebuilding progress with our own hands.

We are not able to be there because we are not needed as much as the rescue personnel. While we would like to be there, we have constituents calling and asking tough questions, and I think it is incumbent upon us to respond to some of those tough questions.

Constituents are asking: Why was the preparation not better? Why is it taking so long to rescue people and provide basic food and shelter and clothing? Why are oil companies who are already enjoying record profits being able to take what seems to be exorbitant profit from even this catastrophe?

I do not have the answer to all of those, but some things we should consider and the American people have a right to know, the American people have a right to know that for the past 5 years the administration has proposed draconian cuts to the Corps of Engineers' budgets, including nearly a 50 percent cut to hurricane flood prevention in the very area now affected by this tragedy.

It would be fair to call it a natural disaster, but in this case this natural disaster was aided and abetted by budget cuts that inhibited the ability of the Corps of Engineers to prevent the devastating damage that we have seen, and I think the American people have a right to know that.

Government in the end is about choices, and choices have consequences. If we choose tax cuts in the short term for some of the wealthiest Americans, and in exchange for those tax cuts we cut the budget for the Corps of Engineers for flood control, for harbor maintenance and for all of the other things that the Corps does, we see the consequences.

I serve on the Water Resources Subcommittee, and we have oversight over the Corps, and when the administration has come with these proposed cuts they have been supported by groups like Taxpayers for Common Sense. And I and some of my colleagues have asked, help us understand something. If we spend a few dollars today to save hundreds or thousands of dollars and countless lives tomorrow, how is it common sense to not spend those dollars?

It may look in the short term more politically appealing that we have cut the terrible Corps of Engineers and we have saved pork spending, but if in the long run what you have done is failed to maintain your levees, failed to provide flood control prevention, failed to prepare for precisely this disaster, you have been beyond penny wise and pound foolish, you have been irresponsible. And I regret to say that I believe the policies of this administration with regard to Corps of Engineers projects have been precisely that. And tragically, the people of New Orleans are suffering the consequences.

We have made other choices. We have chosen to send the National Guard and military and American dollars and other resources overseas to Iraq, and now we are stretched in our economy's ability to fund this relief effort. We will do so because we must and should do so, but the $300 billion spent in Iraq could be certainly better used by the people in the southeast.

We have chosen to allow energy companies to raise their prices without any constraint at all, and now consumers who used to be paying $20 to $30 to fill their tanks are paying $80 to $90 and this will have a devastating effect on our economy.

In closing, I want to commend the citizens in the region affected who are pulling together in spite of what they see as a lack of government support to help one another in a time of need, and I want to commend the people of my own district and districts around the country who are digging deep in their wallets and resources.

I know school groups are gathering clothing and having fund-raising drives. These young people deserve to be commended, and I urge all Americans to pitch in and do whatever we can to help the victims of this tragedy.

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## EXCHANGE OF SPECIAL ORDER TIME

Mr. SIMMONS. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from New Jersey (Mr. SMITH).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

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## RESPONDING TO HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. SIMMONS) is recognized for 5 minutes.

Mr. SIMMONS. Mr. Speaker, today we have approved $10.5 billion in Federal funding to help the victims of Hurricane Katrina. This is one of the largest natural disasters to ever hit the United States, and it is essential that Federal, State and local governments work together in a bipartisan fashion to provide the relief that is vitally needed.

As a member of the Committee on Homeland Security, I recognize the important job that the Federal Emergency Management Agency has to coordinate disaster relief and life-saving efforts. The funding that we provide here today will go a long way to supporting that effort.

The effort to recover the Gulf Coast is costing FEMA $750 million a day. At that rate, we anticipated we would run out of funding by next Tuesday, so it is critical that we deliver this help today, and we have.

Katrina hit the Gulf Coast, but this is not just a Gulf Coast disaster. We are all in this together. We are all Americans. We all want to help our fellow citizens.

Back home in my State of Connecticut, Governor Rell and Members of the delegation are taking action. We have activated 100 National Guard troops with experience as military police to try to help regain civil order in New Orleans. In addition, the governor has added four colleges in our State university system to offer free tuition and space to students from Connecticut who otherwise were studying at colleges that have been demolished by the storm.

The governor has called upon Connecticut residents to do what they can to help, and they are responding. Around the State, civic groups, churches, businesses, and individuals are collecting bottled water, blankets, batteries and other essentials to ship into the region.

Just this morning, my wife, Heidi, dropped off food and baby formula at the New London armory in an effort to help. Others are doing the same.

Hurricane Katrina has given America a tremendous challenge. Family members cannot contact loved ones and are unaware of their condition and their fate. There are sanitation and health problems that must be addressed. People are homeless and need to be evacuated. Children are out of school and need to get back into school.

The hurricane and the ensuing flood were deadly, disruptive and costly. We must respond as a people and stay united in that response. Just as we recovered from the man-made disaster of 9/11 a few years ago, so we will recover from this natural disaster as well, if we work together. If we are divided, we fail. We fail ourselves, we fail those who look to us and who need us and we fail the Nation.

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## HURRICANE KATRINA RESPONSE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. NADLER) is recognized for 5 minutes.

Mr. NADLER. Mr. Speaker, it is with a heavy heart that I rise in support of the emergency relief bill. I know that all of us have been held rapt by the images and stories coming out of the Gulf Coast. The sorrow and suffering there is almost unimaginable, and it is my fervent hope and prayer that relief, real relief, will come soon.

On top of our grief, there is also outrage for it is nothing short of outrageous that in this country, where we talk of 9/11 every day, we still have not dedicated enough resources to improving our emergency response capabilities.

The people of New Orleans and the Gulf Coast, as they wait day after agonizing day for help to arrive, are crying out for leadership and more simply, for help. For those who have died unnecessarily, the help is already too late. If this is the best the world's greatest power can do for its own people, or if it is not, it is a national disgrace.

There will be plenty of time in the future to assess exactly why we were so poorly prepared for this storm and why it has taken the Federal Government so long after the levees broke to get effective help to New Orleans.

Certainly the roots of the inept handling of the situation are old and deep, but in the short term we need to focus on solutions. We need real leadership, a real plan, and a much bigger contingent of emergency transportation and aid workers. Reports from every corner of embattled New Orleans are that the presence of law enforcement is at best minimal, despite the declarations of the Secretary of Homeland Security, and there is, 5 days after the hurricane and 3 days after the levees broke, still no effective distribution of food, water or medicine.

☐ 1500

How can this be? We cannot let another hour pass without a substantive response to the glowing shortfalls in the relief and evacuation effort. I would like to join the minority leader, the gentlewoman from California (Ms. PELOSI), in her call for the creation of a Select Hurricane Relief Task Force.

Our hearts go out to all those affected as well as those doing their best to respond to this disaster. Tragically, it is evident that the Federal Government's response has been wholly inadequate. Congress must insist on immediate improvement so that we can put an end to the suffering in New Orleans and the Gulf Coast as soon as possible.

Finally, we must learn some lessons. We must not save money by not preparing to prevent or to ameliorate potential catastrophes. We did not, despite ample warning, properly build up and strengthen New Orleans' defenses against hurricanes. We are paying a frightful price for that negligence.

We are not now buying the loose nuclear material in the former Soviet Union before it is smuggled to al Qaeda to make nuclear weapons.

We are not now inspecting more than about 6 percent of the millions of shipping containers that enter our ports every year, any one of which could contain a weapon of mass destruction.

We are not now adequately protecting our chemical and nuclear facilities against sabotage that could kill hundreds of thousands of Americans.

We should learn from this disaster. The administration and Congress cut the budget for building up the levees, and we are reaping the whirlwind. The administration has acted unbelievably lethargically in bringing relief efforts, and people have died as a result.

Let us not continue our negligent disregard until we suffer a nuclear or chemical catastrophe. I am tired, Mr. Speaker, of passing post-catastrophe relief bills. It is time the administration and this Congress act to prevent the next catastrophe.

## MAINTAINING ORDER IN A TIME OF NEED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIEL E. LUNGREN) is recognized for 5 minutes.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, we have all seen a tragedy of tragedies this past week. We are here as representatives of the American people to attempt to try and ensure that the proper governmental response is possible, and it is not a time for recrimination or finger-pointing. As a matter of fact, I would like to draw the attention to the superb job that has been done by the Coast Guard. I have not heard one suggestion of criticism of the Coast Guard.

The Coast Guard, which has in our Nation's history a unique status of being both a civilian operation and a military operation, often is left in the shadows as we look to the other military establishments in this country. But the remarkable job done by the Coast Guard, particularly the work done by the helicopter pilots and those who are working with the pilots to rescue hundreds and literally thousands of people in the affected area, is something of which we should be proud, something of which we should be joyous; and it suggests to me that we should take another look at the way in which we have taken for granted the tremendous efforts made by the Coast Guard.

As we look forward in analyzing what occurred and what is occurring now, we ensure that as we make plans for the future, we equip the Coast Guard with everything that the Coast Guard needs to be able to carry out its functions, the traditional function which we have seen over the past week, and the new responsibility we have given them in the war on terrorism.

But, Mr. Speaker, I would be remiss as someone who spent 8 years as the chief law enforcement officer of the State of California if I did not remark on what I observed with the breakdown in order that we saw in the city of New Orleans.

Quite simply, when we have a situation in which law enforcement stands by and allows looting to take place with the excuse that it is only for food and water, one should understand that if we say looting is okay for food and water, we will ensure that only the strong get the food and the water and the weak will not.

It was not the weak that were breaking into those places and taking that home; it was, rather, those who were healthy and those who were able to go in and do that, and I doubt that they were running back to assist those who were far less fortunate.

When you suggest that that breakdown in order is allowable, what you do is suggest to the criminal community that they can do more, and we saw the spiraling from food and water to clothes, to appliances, and finally to guns and ammunition; and we saw terrible tragedy that ensued that was man-made, not as the result of the terrible forces of the hurricane and the terrible forces of the flooding that took place thereafter, but rather those who would take advantage of that tragedy for their own purposes.

My only suggestion, Mr. Speaker, is that it ought to be a lesson for all of us, all of us, that when we are confronted with tragedies of this sort, whether they are man-made or natural, we must understand the importance of order being maintained.

While some may believe it is in a sense of generosity or a sense of empathy to say that looting is okay for selected purposes, we should understand that ultimately it does the greatest damage to those who need our help the most, the least among us, the weakest among us, those who cannot fend for themselves.

So as we sort things out and as we in this Congress look for those things that are necessary for the Federal Government to do related to the State and local governments, we should understand that we need to have order in the midst of chaos to the extent we can so that we can ensure that our efforts are made to protect those who are least able to protect themselves. It is a terrible lesson that we had to learn once again, but it is a lesson that we ought to embrace and a lesson that we ought to utilize to assist us in any future problem.

We have many things to look at over the next few weeks as we continue in response to this terrible tragedy, but I would hope that we would understand that those who are the least among us, those who are the weakest among us, need the support from the strongest, and that in very real terms necessitates every effort to protect order.

## EMERGENCY ACTIONS NEEDED TO ADDRESS SKYROCKETING ENERGY PRICES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. MARKEY) is recognized for 5 minutes.

Mr. MARKEY. Mr. Speaker, our hearts go out to all of the victims in Louisiana, Alabama and Mississippi; and we in Congress stand committed to ensuring that we rebuild each of those families' hopes and dreams. But, unfortunately, during this time of crisis, I am very, very concerned that the American driving public is being gouged at the pump by Big Oil and by OPEC, which has been taking advantage of this crisis in our country. I am very concerned that Big Oil is exploiting this tragedy by tipping consumers upside down at the pump and shaking money out of their pockets. This is no time to take advantage of the American consumer. This is a time for the oil companies, as well as OPEC, to rally to the protection of the American consumer and the American economy.

We have all been disturbed by the television footage of looters ransacking stores and homes in New Orleans, but it also appears that Big Oil is engaging in widespread looting as it runs up the price of gasoline paid by the driving public.

We need action by this administration. They have to make it clear that they are going to put in effect immediately investigations, put investigators in the field, in the board rooms, to make sure that people understand that this kind of exploitation of the American consumer will not be tolerated. Unfortunately, right after 9/11, the very same oil companies took advantage of the American consumer, resulting ultimately in large fines having to be paid by oil companies for their exploitation of the American consumer in the immediate aftermath of 9/11.

Also the President should demand that OPEC help us at this time. OPEC has announced that they will take up the issue of producing more oil at their September 19 meeting. September 19? When Saddam Hussein was threatening the Middle East, we did not say to our friends, Call us next month. We said we would respond immediately.

OPEC, led by Saudi Arabia, should announce that they are going to produce 1.5 million to 2 million barrels of oil a day beginning today, not waiting until some September 19 meeting. And the President, who held the hand of the Saudi prince in April at his ranch in Crawford, should now hold OPEC's feet to the fire and ensure that, as they are now saying they may have a surplus of 1.5 million to 2 million barrels of oil a day to produce, and they may consider releasing it all.

They should have done that back in April, when the price of gasoline was already skyrocketing. We should not be at a point where a barrel of oil is at $65 a barrel, now approaching $70 and going higher. All of that has happened subsequent to Katrina, this additional spike.

So we need a response from OPEC. We can no longer allow them to sit on the sidelines with this additional 1.5 million to 2 million barrels of oil that they are going to consider releasing on September 19.

In addition, the President should immediately suspend all royalty relief for the oil and gas companies for drilling on public lands, the Secretary of Interior should require the oil companies to pay the full royalty for drilling and extracting oil and gas from public lands, and those revenues should be earmarked for the victims of this enormous disaster. That is where those revenues should go. And the President and this Congress should enact a windfall profits tax on the oil industry, and the proceeds should go to the Low Income Home Energy Assistance Program for this coming winter, the neediest people in our society, who are going to be most adversely affected by these skyrocketing energy prices.

But we just have to look in the rearview mirror 5 weeks ago when this Congress and President Bush passed and then signed a historic energy bill that was a failure in dealing with increase in fuel economy standards for SUVs, encouraging renewable energy resources that would be used by the utilities in this country. Instead, we gave tax breaks to the oil and gas industries of our country. It is time we got something back from those industries. It is time for this Congress and this President to stand up.

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## BIG OIL COMPANIES LOOTING THE AMERICAN PUBLIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ENGEL) is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker, as I mentioned before when I reserved my right to object, I think that this debate should have been going on before we passed the bill, not after we passed the bill. I appreciate the opportunity to speak on this, but this should have been part of the debate.

Mr. Speaker, there is looting going on. We know there is looting going on. You can turn on your television and see looting going on. But the real looting that is going on is the looting of the big oil companies, looting the American public, picking the pockets of the American public.

It is unconscionable that gasoline prices in a matter of days have been spiked 30 to 50 cents a gallon. This is price gouging on the part of the oil companies. There is no way that the disaster in the Gulf States could have been reflected so quickly with an upswing of prices at the pump. There is no way, except for greed and price gouging.

Big oil companies should stop the looting of the American people. When the price of a barrel of oil goes down, it takes a month or two to be reflected at the pump. Why, then, is it quite the opposite when disaster hits? Why is there an immediate increase in the price of gasoline?

How dare the oil companies use this disaster to line their pockets. How dare the oil companies use this tragedy to get richer and to stick it to the American people. The American people demand answers and want to know why they are being forced to pay so much for gasoline.

This Congress and the President should do everything possible to bring down the cost of gasoline. If it means releasing the strategic reserves, as I have been calling for for months and the President says he will do, we should do that, and then some; and we should call on the oil companies to put back some of their profits into helping the American people bring down the cost of gasoline.

Now, of course, I support this legislation. Of course, we must help the people of Louisiana, Mississippi and Alabama. As a New Yorker, I am appreciative of how the country responded after September 11. We need that kind of response today.

Why were these things not in place before the hurricane happened? We knew the hurricane was going to happen. Why did we not have food and clothes and water and all kinds of things for the people? Why is it still, days and days later, taking time to evacuate people? Why are there dead bodies floating around? What is the administration doing about this? Government has dropped the ball and heads should roll, quite frankly, because it is unconscionable that we are standing by and not responding properly or effectively enough.

I flew over the tsunami. I flew over Indonesia and I saw the devastation there. It is one thing to have devastation in a Third World country, as terrible as it is; but in the United States of America in the 21st century, days later, for people to be there stranded without water and food and shelter, it is unconscionable.

Again, how dare the oil companies take advantage of this and raise the price of a gallon of gasoline so that the American people during Labor Day and after are suffering. It is shameful that they are using people's misery in three States to line their pockets and spike the price of gasoline for the entire American public.

Mr. Speaker, the other issue involves us weaning ourselves off foreign oil. Local gas stations in New York and elsewhere and in places outside of the Gulf Coast supply lines have gasoline. Their suppliers and shippers have gasoline. So why are prices going up so much?

Again, it is simply price gouging by the giant oil companies. I realize that gasoline is priced on a futures market and that gas prices today reflect what is expected in the future. But it is bad enough that this Congress passed an energy bill several weeks ago that did nothing to help the American people in terms of bringing down the price of gasoline. So now Congress has a challenge not only to help the victims of Katrina, but to help the American people with this spike in gasoline prices.

For years I have been talking about the need to wean ourselves off oil because we have to rely on the sheikdoms that are either unstable, unfriendly to the U.S. or even supporters of terrorism.

Now we have another reason to wean ourselves off foreign oil. So much of our economy is based on oil, and when Mother Nature gets grumpy, it sends us into a tailspin; and the oil companies use the tragedy of hundreds of thousands of hurricane survivors as cover to extract more profit from our constituents.

This cannot stand. We need to improve the fuel economy of passenger cars and SUVs to a level our advanced technology makes possible, not issue CAFE standards, as the administration did last week, which do nothing to improve fuel efficiency.

We need to make America the world's leader in energy technologies, not rely on the inefficiencies of the past. We can do this. I am currently forming a bipartisan Oil and National Security Caucus to highlight the danger of our over-reliance on oil.

But in the end we will never end our addiction to oil and never break the grip of the oil companies unless we act now. So I call on this Congress to come up with solutions which are already there to wean us off foreign oil, and I believe that this Congress needs to take action now.

Now, provisions and assistance should have been on the ready, as I mentioned before, so that as soon as this storm moved on, the food, water, medical supplies and personnel, military and civilian, would be on their way. We must not ignore the mistakes that have been made. We must fix them immediately and learn from them for the future. We must help the people immediately.

Let me finally say that the priority of this Congress and this administration has been tax cuts, tax cuts and tax cuts; and this is a result of it. We do not put the money where we need to put the money. We do not put the money into infrastructure. We do not do the kinds of things to prevent disasters from happening again.

Priorities cannot only be tax cuts and war; priorities must be helping the American people, first in Mississippi, Louisiana and Alabama, and then taking strong steps to wean us off foreign oil.

## EXPRESSING SORROW TO VICTIMS OF HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. RUPPERSBERGER) is recognized for 5 minutes.

Mr. RUPPERSBERGER. Mr. Speaker, I rise today to join all Americans in expressing our great sorrow for those who have lost loved ones in the wake of Hurricane Katrina and our outrage for those still suffering in the South. This is a real crisis, and Americans are in need. These people, many of whom are most vulnerable, have lost everything. Now they are losing hope.

President Bush has called the response "not acceptable." This must change now. It is not about Democrats or Republicans; it is about helping our fellow Americans in their darkest hour. This is not the time for excuses or blame. Our country has the means to rescue and care for these people; and we must do it quickly, before more lives are lost.

First, we need to address their very basic needs. We need to get food, water, and medical supplies to the thousands of people desperately waiting for it at shelters like the Superdome and the convention center in New Orleans. Rescue workers also need to get a handle on who is trying to survive out on their own in flooded areas across Louisiana, Mississippi, Alabama and Florida. We need to send out the National Guard and local police in skiffs, boats and helicopters to locate these people, street by street and house by house, rescue them and bring them to a safe location where supplies are waiting for them and reconnect them with their loved ones. One national database needs to be set up for family members searching for survivors once they have been brought to safety.

But before we need to do that, we must set up a central command center to coordinate the response from top to bottom. One of the many complaints that we have heard is that no one is in charge. We need someone leading the recovery efforts, calling the shots and directing the resources where they are needed most. We are now a Nation at war with time, and we need a real war room to ensure these people survive.

Another complaint we hear often is a lack of communication. There is no power, so TVs and radios do not work and cell phone communication is sketchy at best.

Today, almost 5 days after Hurricane Katrina rocked the Gulf Coast, people still have no idea what to do. First responders need good information to tell people where to go for help. Rescue workers need the Federal Government to pitch in and give them the communication and technology necessary to coordinate their efforts.

Finally, law and order must be restored. People in these flood-ravaged areas are homeless, scared and desperate. Some have crossed the line and turned to violence. The National Guard needs to move in immediately in massive numbers to restore peace and stability along with local law enforcement.

This is all on the short term. In the long term, these hurricane victims need somewhere to go until their towns and cities can be rebuilt. The Federal Government needs to consider opening up military bases across the country so families can live there until they are put back in their homes or put back in their own lives. Every State in the country should consider taking a certain number of families and housing them in their State so everyone can pitch in.

Finally, once we have done all of this, we must evaluate what was done wrong and what was done right. We must learn from this experience so that we can better respond the next time.

In closing, I know there are many inspiring stories that are not being told, the massive efforts of the Coast Guard to rescue everyone they could and other individuals out there who have put their lives on the line to help and save other people, the neighbors helping neighbors make it through the worst natural disaster many have ever seen. Those are not the stories that are making the evening news.

But I know the true value of the American spirit. In these dark times, I know these communities will be rebuilt, and these families, these cities and towns and this Nation will persevere.

## HELPING THE VICTIMS OF HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. BUTTERFIELD) is recognized for 5 minutes.

Mr. BUTTERFIELD. Mr. Speaker, I rise this afternoon in support of the supplemental appropriation. It is with great sadness that we are being called upon today to address this issue.

Let me begin my remarks by first commending those great Americans who are engaged in the rescue efforts down in Louisiana, Alabama and Mississippi. They are great Americans.

This tragedy today brings back unpleasant memories. It was my district in eastern North Carolina that was devastated in 1999 by Hurricane Floyd; and so we know so well, so well, the pain of those people who are displaced. So on behalf of the people of the First Congressional District of North Carolina, we offer our prayers and sincere concern for their welfare.

Mr. Speaker, I am concerned about the absence of an adequate plan to cope with the damage done by this hurricane. Hurricane Katrina has triggered a nightmare, a nightmare, for thousands of our citizens. Many thousands at this very moment are in harm's way. They are displaced, they are hungry, they need medical assistance. They need every resource that this government has available, and that includes FEMA's assistance, transportation and housing assistance from the military and other humanitarian assistance.

These displaced families must be extricated from the danger that surrounds them; and we have the capacity, we have the capacity to do it, and we must accelerate our efforts.

Mr. Speaker, I can tell you that several military bases are willing and able to provide immediate housing for these victims. Space is available. There is substantial housing resources on our bases, and we must use them. As a member of the Committee on Armed Services, I encourage us to use our military resources to the fullest.

There are many, many communities across the South and across this country who are eager to provide housing and health care and education for these victims. In Columbia, South Carolina, for example, those great Americans want to care for these victims; and they are conferencing right now with the gentleman from South Carolina (Mr. SPRATT) and the gentleman from South Carolina (Mr. CLYBURN).

In my State of North Carolina, Laurinburg Institute is eager to provide space and educational opportunities for up to 200 school-age children. We must begin to move these families to loving American communities.

Mr. Speaker, we must also protect communities. We must protect communities who open their resources to displaced families. We must guarantee to them that the cost of care for these families will be provided. We must also guarantee that they will not incur any legal liability as a result of their efforts.

So I want to encourage FEMA to quickly secure trailer homes needed for temporary housing. My constituents in 1999 were required to wait, in our opinion, an unreasonable time before trailers were erected. I know it cannot be done with the snap of a finger, but the process must be expedited. FEMA must execute a comprehensive plan that will not result in the dumping of these displaced families when the FEMA specialists complete their work. This was a problem in 1999. These specialists must provide one message, and they must stay on site until every issue is resolved.

It is important, Mr. Speaker, that the Federal Government provide full financial assistance to these displaced families, and that includes housing and health care for those who choose to decline FEMA housing and elect to stay with their family and their friends. They too, they too deserve an assistance stipend.

The distinguished gentleman from California, the chairman of the Committee on Appropriations, stated a few minutes ago, actually it was a couple of hours ago now, that money will not make the difference in the final analysis. Well, I understand the import of that statement, but I want to emphasize that adequate money resources will make life better, will make life better for these Americans. We should not suggest otherwise.

Finally, Mr. Speaker, I understand that the Federal Government does not and cannot act with precision in these types of disasters, but we must insist that FEMA and the military and the National Guard and other rescue efforts engage in coordinated efforts, and we must provide the resources.

I applaud and support the minority leader's suggestion of a select hurricane task force. I support the idea.

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## REBUILDING COMMUNITIES DEVASTATED BY HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. OBERSTAR) is recognized for 5 minutes.

Mr. OBERSTAR. Mr. Speaker, I rise in support of the emergency supplemental appropriations for hurricane disaster relief. The $10.5 billion that we have acted upon today will be a downpayment, and we must recognize it as such, a downpayment on a much longer-term investment that we will have to make to restore the communities devastated by Hurricane Katrina.

I commend the leadership, majority and minority, of both the House and the Senate, for this timely response, as we did in reacting to the attacks of September 11, 2001. I especially appreciate the persistence of our minority leader, the gentlewoman from California (Ms. PELOSI), in pressing for action by Congress this week, not waiting until after return from the Labor Day recess.

The massive disaster unfolding before the Nation's eyes on television has both statewide and personal dimensions. In my family, it is very personal. My wife, Jean, is a member of the third generation of a long-standing New Orleans family. Her brothers, Charles and Edward Denechaud, live there, their homes inundated by water, perhaps irretrievable. Jean's classmates and dearest friends, still in New Orleans, all are experiencing inexpressible loss.

My heart goes out to our House colleague and our colleague on the Committee on Transportation and Infrastructure, my good friend, the gentleman from Mississippi (Mr. TAYLOR), whose home in Mississippi is devastated, just kindling, and to the former majority leader of the Senate, Trent Lott, a good friend of mine, whom I have known since he came to Congress. His home, likewise, was devastated.

It shows that the hurricane respects no status and no condition of existence, but has treated rich and poor, famous and infamous, alike, terribly, drastically; that recovery will take years and most damage will be irreparable because of the destructive effects of water standing for days, perhaps even weeks, and toxic polluted water at that.

There are inspiring stories of humanitarian response, such as my good friend from Duluth, a businessman, Jeno Paulucci, who has sent truckloads of thousands of bottles of desperately needed water to the disaster area.

I want to put this issue in another context, a larger context, of natural disasters in the United States. Over the last 20 years, from 1980 through 2000, this Congress has appropriated $35 billion, $35,668,000,000 to be exact. Insured losses totaled an additional $115 billion, for a total of $150.6 billion in FEMA-insured disaster assistance for hurricanes and earthquakes and other similar tragedies.

But what is most striking is that the period of 1993 through 2000, in just 7 years, the figure is $28.4 billion in disaster assistance. It suggests that we are going to continue to see disasters of enormous proportions, increasing in cost and intensity over the years ahead.

The city of New Orleans is divided into 13 levee districts by the Corps of Engineers to provide flood protection from the Mississippi River to the south and Lake Pontchartrain to the north, as well as protection from hurricane and storm damage from frequent smaller-scale storms. Two portions of these levees failed, for reasons yet unknown, during Hurricane Katrina, which has caused significance flooding of six of the levee districts and minor flooding of the remaining seven.

Once the water entered the Orleans Parish, the flood waters from Lake Pontchartrain were able to move through the streets to other portions the city relatively quickly; and the Corps of Engineers, as soon as the breaches are sealed, will be able to begin pumping the water at a rate of one-half inch of water per hour.

In addition to levee protection, the City of New Orleans also contains a system of pumping stations which enable the City and the Corps of Engineers to dewater portions of the city when necessary. However, the lack of electricity in the City and surrounding regions has made the majority of these pumps inoperable, further complicating the issue of flooding in the region.

Currently, the Corps of Engineers is attempting to perform two tasks—to close up the two breaches in the levee system, and to restore power to the City to operate the pumps. Once the breaches have been sealed, and the pumps are operable, the Corps expects that it can dewater the region at a pace of roughly ½ inch of water per hour. The Corps may also purposefully breech non-vital sections of the levees surrounding the City to aid in the dewatering process.

The Corps has had difficulty, thus far, in sealing the existing levee breaches due to a height differential in water levels between Lake Pontchartrain and the City. (As of September 1st the lake levels in Lake Pontchartrain were 1 to 2 feet above normal, but falling at a rate of 0.05 to 0.10 feet per hour.) Recent reports suggest, however, that these levels are coming into equilibrium, and once that occurs, the Corps will have an easier time of repairing the breach.

As of September 1st the Corps reports that it has contracted with a pile driving operation to insert new piles in the breech openings, and is continuing to use sand bags to halt the flow of flood waters. The Corps is beginning with the 17th Street Canal and will then move to the London Avenue Canal.

### SUPPORT FOR THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

As part of the National Response Plan, the Corps is executing missions in the areas of ice and water delivery to regional warehouses, emergency power assessment and generation, debris, removal, emergency roofing repair, temporary housing, and the unwatering of the City of New Orleans. The total value of the Corps mission assignments is $135 million. A total of 505 Corps military and civilian personnel are in support of the FEMA missions. The 249th Engineer Battalion (prime Power) his 44 soldiers deployed and has initiated emergency power assessments of critical facilities.

### CURRENT STATUS OF THE MISSISSIPPI RIVER AND OTHER PORTS (AS OF AUGUST 31ST)

The Mississippi River is open from the Sea Buoy to Mile Marker 507 to tug and barge traffic only. Deep draft ships may move within anchorages if they have pilots on board., The GIWW is open from Mile Marker 177 (west of Harvey Locks) to Mile Marker 89 (east of the Harvey Locks).

The Ports of Mobile, Gulfport, Pascagoula, Pensacola, Destin/Panama City are closed. All bridges, floodgates and locks are closed in vicinity of the Port of New Orleans.

New Orleans and Mobile District crews are surveying the river from New Orleans to ocean (New Orleans) and the GIWW (Mobile).

Corps hopper dredge WHEELER is standing by in New Orleans ready to dredge as necessary. It is enroute to Head of Passes today.

Corps Dustpan dredge Jadwin is underway from Vicksburg to be ready for any dredging requirement.

Industrial Canal not open due to bridges being underwater, locks are operational with—auxiliary generators.

Baptiste Collette channel will be surveyed and dredged to offer alternate route around industrial Canal.

Port Fourchon will be surveyed and channel dredging, clearance of debris and vessels will be evaluated to ensure support vessels to offshore oil industry.

### PRESIDENT'S BUDGET REQUEST FOR THE ARMY CORPS OF ENGINEERS

In March, as the Subcommittee prepared an analysis of the President's budget request for the Corps of Engineers for fiscal year 2006. In this analysis, the Subcommittee highlighted the President's failure to adequately fund the Nation's water-related infrastructure, including the infrastructure constructed and maintained by the Corps.

The Subcommittee concluded that the administration's budget request failed to recognize that continued investment in the Nation's water-related infrastructure is a key element for simulating and improving the U.S. economy, as well as protecting the lives and livelihoods of those living in flood prone areas, alleviating the potential for tremendous economic and personal hardship.

The passage of time and years of inadequate funding for maintenance and replacement of Corps projects have taken a toll on the Nation's water related infrastructure, minimizing the utility of many projects, and setting-up the possibility for catastrophic failure of essential navigation linkages or flood protection projects.

While it is too soon to know what caused the failure of the levee system surrounding the City of New Orleans, the question remains, did the levee fail due to lack of proper maintenance or deterioration, and could this failure have been avoided with increased maintenance funding for the Corps of Engineers?

The administration's budget request for fiscal year 2006 marked the fifth attempt in as many years to cut funding for the Corps. This pattern of shrinking budget requests and repeated attempts to under-fund the Nation's premier water-related infrastructure agency, reflects a lack of commitment to addressing the economic, ecological, and humanitarian needs of the county.

In the fiscal year 2006 request, the total budget request for the Corps was 10 percent less ($527 million) than the appropriation for fiscal year 2005, The greatest single programmatic cut was in the construction account, which was down 11 percent ($207 million), with all on-going construction projects (with the exception of dam safety projects) facing a reduction or elimination of funding, This account includes funding for small flood control projects under existing authorities—a program that has been heavily subscribed in recent years.

In relative terms, the greatest percentage cut proposed in the President's budget was to the General Investigations account, which proposed a 34-percent reduction ($48.7 million), This significant reduction would prevent the Corps from initiating or completing future project recommendations, and is part of the administration's stated objective to reduce the backlog of under-funded projects by slowing the rate of addition of newer projects.

Finally, and most troubling, was the administration's proposal to cut funding for vital operations and maintenance at Corps projects by 6 percent, or $119.8 million, Facilities in the Corps' inventory are rising both in number and in age, This translates into a need to devote greater resources to protect the taxpayers' investment, and to make necessary engineering and technological improvements where necessary, Last year, the Corps' own estimates noted that the budget request for operations and maintenance would need to increased by 50 percent to addressed delayed maintenance that is vitally needed, and will only cost more in the long term.

Without vital maintenance, Corps facilities run the risk of catastrophic failure, as may have been the case with the New Orleans levee system.

### THE WATER RESOURCES DEVELOPMENT ACT AND COASTAL LOUISIANA RESTORATION:

In July, the House of Representatives passed H.R. 2864, the Water Resources Development Act of 2005, This legislation included an authorization for the first stage of the comprehensive restoration of the Louisiana Coastal Area (LCA).

The LCA includes about 30 percent of the Nation's coastal marshes, but about 90 percent of the coastal land loss in the lower 48 States is occurring in this area. Over 1 million acres of the Louisiana coastal area have become open water since the 1930's. Another one-third of a million acres could be lost in the next 50 years unless corrective actions are taken.

The Louisiana coastal wetlands exist in the interface of the freshwater from coastal rivers including the Mississippi River and the saltwater of the Gulf of Mexico. This area once included more extensive marsh and barrier islands that served as a protective zone and buffered the effects of large storms that would otherwise severely damage inland areas. This natural protective barrier has been severely reduced. There are thousands of oil and gas wells along the coast with an associated network of pipelines and channels causing saltwater intrusion into a fresh water environment, destroying thousands of acres of coastal wetlands, and increasing the process of land subsidence and coastal erosion.

In addition, the flood control and navigation projects that keep the Mississippi River in a single channel have cut off the freshwater and sediment flows that historically created the coastal marsh where the river has overflowed its banks. Channelization of the Mississippi River has also increased the velocity of the water, depositing sediment off the Continental Shelf rather than distributing it along the deltaic plain. This funneling of nutrient-laden sediment through a single river channel has also exacerbated a hypoxic condition (dead zone) in an area of the Gulf of Mexico.

There is approximately $100 billion of critical energy, transportation, and industrial infrastructure in the Louisiana coastal area that is at increasing risk from storm damage if coastal erosion continues unchecked. This includes major ports on the Mississippi between New Orleans and Baton Rouge, Port Fourchon, a major port for offshore oil and gas exploration, 1,806 miles of navigation channel, 42,000 oil and gas wells and 4,200 miles of pipelines, 2,500 miles of highways, several of the Nation's largest oil refineries, and over 300,000 acres of agricultural lands.

In the 1990s, the Corps of Engineers, in partnership with the State of Louisiana, designed a comprehensive project for the long-term reversal of the loss of coastal wetlands in the State. This project, estimated to cost approximately $20 billion over the next 30 years, was designed to restore thousands of acres of coastal wetlands by diverting water and sediment from the Mississippi River into the coastal areas of Louisiana, attempting to mimic the deltaic forces which originally created this region. In addition, the project would attempt to build upon the successes of the Coastal Wetland Planning, Protection and Restoration Act, CWPPRA, though a continuation of rebuilding strategic barrier islands and other coastal protections to provide further protection of the coastal region.

The Water Resources Development Act of 2005 authorizes the first installment of the LCA project, called the LCA Near-Term Plan. This plan, estimated to cost approximately $2 billion over 10 years, would authorize the first five major projects of the longer term plan. In addition, this authorization would establish a process for the development of other future critical projects for the protection, conservation, and restoration of the coastal Louisiana ecosystem, as well as the selection of demonstration projects, and projects for the beneficial use of dredged material to test innovative technologies, models, and methods which may prove valuable in the future.

For the LCA Near-Term project, the cost share of constructing environmental restoration projects is 65 percent Federal, 35 percent nonfederal. The non-federal partner for this project is the State of Louisiana.

### LAKE PONTCHARTRAIN BASIN RESTORATION PROGRAM

In 2000, the Committee on Transportation and Infrastructure approved legislation to create the Lake Pontchartrain Basin Restoration program. This program, established within the Environmental Protection Agency, EPAA, and modeled under the National Estuaries Program, was designed to restore the ecological health of the Basin by developing and funding restoration projects and related scientific and public education projects.

The Lake Pontchartrain Basin Restoration program focuses on water quality concerns within the Lake, and not hurricane and storm damage reduction projects, which are performed by the Corps. However, as the Corps begins to dewater the City of New Orleans, the issue of water quality may be a concern because of the pollutants, such as domestic sewage and toxic chemicals, contained in the flood waters that will need to be discharged back into the Lake.

## EXPRESSING SHAME AT GOVERNMENT'S RESPONSE TO HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. MILLER) is recognized for 5 minutes.

Mr. MILLER of North Carolina. Mr. Speaker, I know that today's session was a formality, that there would be no votes other than a voice vote; but I thought it was important to be here. to show my support for the victims of Hurricane Katrina in whatever way I could. however modest.

Martin Luther King said that we cannot walk alone. We are responsible for one another. We help others in need on the faith that when we are in need, we will be helped. North Carolinians have twice faced desperate needs following devastating hurricanes in just the last decade. Other Americans have responded generously, both acting together through their government and in their contributions to private relief efforts. Americans are again responding generously to help the victims of Hurricane Katrina.

But, Mr. Speaker, I share the anger of many Americans at how shamefully inadequate our government's response has been. Tens of thousands of Americans are living outside the walls of civilization. They are without food, they are without water to drink, they are without medicine or medical care, they are without effective shelter. Mr. Speaker, they are without the protection against violence that law provides.

The failures that have led to that are not the failures of the last 4 days, but of the last 4 years. There have been repeated warnings that New Orleans and the Gulf Coast were vulnerable to precisely what has occurred, and yet our government was stunningly unprepared.

The President's press secretary was asked earlier this week about our Nation's response, our government's response to the hurricane, and he said now is not the time for finger-pointing. Earlier today on this floor the gentleman from California (Mr. LEWIS) said now is not the time for finger-pointing. The gentleman from Tennessee (Mr. WAMP) has said now is not the time for finger-pointing. The gentleman from Illinois (Mr. KIRK) said now is not the time for recrimination. The gentleman from California (Mr. DANIEL E. LUNGREN) said now is not the time for recrimination or for finger-pointing.

They say that this is a time to grieve for the victims of the hurricane; and, Mr. Speaker, I do grieve for the victims of the hurricane. They say now is the time to help the victims of the hurricane; and, Mr. Speaker, I want to help the victims of the hurricane in every way I can. I am here today, and like millions of Americans, my wife and I are contributing to private relief efforts.

But, Mr. Speaker, there has to come a time for accountability. If there is not accountability for the stunning failures that we have seen in our government's response to this hurricane, we will fail again and again.

I know that this administration thinks that accountability is an ephemeral thing. If there is an attempt at accountability too soon, it is finger-pointing. If there is an attempt at accountability too late, then it is something you should get over. There is just a moment for accountability.

Mr. Speaker, tell me when that moment will be? Tell me precisely when the moment will come for accountability for the failures of our response, for the failures of our planning that have led to the devastation and the hardships that we are seeing now.

Mr. Speaker, tell me where the line forms to ask hard questions.

□ 1545

## RISING TO THE OCCASION AS AMERICANS TO HELP AMERICANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, yes, New Orleans is worth saving and rebuilding. It is one of the most American cities, for it represents how diversity comes together in harmony and blends into our music, our foods, our culture, and our Americanism.

Response to this disaster was a miserable failure. Americans died, Americans went hungry, Americans were living for days without water and without health services. You can live without food for 7 days, but you cannot live without water. Our health services were dysfunctional. We must admit, we failed at protecting our American citizens in our own homeland.

We as Congress must rise to the occasion. We have American citizens suffering and cannot get immediate help to them. Medics always take our wounded off the battlefields. Our social contract says trust us and we will deliver in your time of need. This is America's Gulf War.

One-half million people have been uprooted. Millions of people in Alabama, Mississippi, Florida, Georgia, Texas, Arkansas and Louisiana, have been affected. 150,000 of the displaced live below the poverty line, and 50,000 of them are post-retirement age.

So what are we doing about it? What am I doing about it? I have called my State government, I have called my board of education, I have called my local representatives to ask them to do a displacement absorption plan; invite them to California, invite them to Los Angeles. Share your housing with a family. Share your schools, your colleges and your universities with those post-secondary students. Both public and private colleges must kick in.

We have started the New Orleans Hurricane Relief Fund. I am collecting money, along with several other organizations in the L.A. area and with one of our major radio stations, and we are having that money hand-carried into these disaster areas to the leadership that has been chosen to be responsible.

Mr. Speaker, there are so many things that we can do and we must do, and we must do them now. I do not want to watch television another evening and see people begging for food and water, begging for medicine, begging to be taken out of areas that are soaked with water that will be causing diseases, with an environment that is polluted from the smoke coming up from the buildings that are on fire.

Where are we when the world is watching? I am embarrassed for the U.N. to say we are going to help you, but I am overjoyed that other nations are addressing our needs when we are in need, as we have addressed theirs when they are in need.

So let us rise to the occasion. Let us save Americans. They are not refugees; they are citizens of the United States.

## IN SUPPORT OF EMERGENCY APPROPRIATIONS FOR THE VICTIMS OF HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, I rise in support of this emergency appropriation.

This is a moment of crisis for America. This is a test of our character as a great nation.

As we gather here in relative comfort, Americans are dying in Louisiana. At this moment, Americans are facing danger and desperation in Alabama, Florida, and Mississippi.

We all have seen the horrific pictures. We have heard the desperate screams for help. We all have heard the accounts of the almost unimaginable devastation that has gripped America's Gulf Coast.

Now is the time for Americans to immediately respond. Now is the time for us, as a people, to take action with a force equal to that of Hurricane Katrina.

We face an enormous challenge; yet, this is not the time to become overwhelmed. It is, however, a time that cries out for a heightened sense of urgency.

Now is the time for immediate and effective action, as a nation and individually.

The Federal Government is responding—and we are moving to pick up the pace.

Today, the Congress will approve a $10 billion emergency aid package to help fund relief efforts.

The members of the Congressional Black Caucus have pledged to do all that we can to help. Several of our members will be visiting the Gulf Coast in the next few weeks to provide support. However, we cannot stop here.

The Bush administration and the Congress must demonstrate that we share the sense of urgency felt by those on the front lines of this battle for survival on the Gulf Coast. We must dedicate the full resources of the Federal Government to stabilize, repair, and rebuild this important region of our country.

There is no time to waste, for people are dying. The destruction caused by the aftermath of this storm gets worse every hour.

Hundreds of thousands of Americans felt lucky just to be alive after surviving the storm. Now, they are in a continuing struggle for their survival. Men, women and children (our countrymen) have now gone days without food—and far too long without the clean water and medical attention that they need. They are surrounded by flood waters littered with dead bodies.

It is the frail, sick, weak, and elderly that are dying, all while the Nation is about to celebrate a long holiday weekend.

Many of those now in such dire circumstances were already living in poverty and destitution even before Hurricane Katrina. They had no ability to evacuate. And, now, their very survival depends upon the response of their country.

Many of these Americans who now are struggling to survive are Americans of color. Their cries for assistance confront America with a test of our moral compass as a Nation. We cannot allow it to be said by history that the difference between those who lived and those who died in the great storm and flood of 2005 was nothing more than poverty, age or skin color. It would be unconscionable to stand by and do nothing.

I had a constructive conversation yesterday with Mr. Claude Allen, the President's top assistant for domestic policy. I am confident that the Federal Government is expanding and intensifying its response as I speak.

Yet, government cannot succeed in this challenge without help. We must challenge leaders in the private sector to formulate strategies as to how they can best contribute.

We have long heard claims of "compassionate conservatism" among our Nation's leaders. This is the time for those with wealth and resources to step up to the plate and demonstrate that compassion.

This is the time to save human lives. People are dying because they have no water. Companies that bottle water now have the power to save lives. Infants are dying because there is no baby formula to keep them alive. Companies that make this formula must be on the front lines. Food companies could work. with the National Guard to coordinate the distribution of food to the victims. Private contractors that have helicopters and boats and buses at their disposal could put those tools to work in the service of their country.

It has been reported that oil producers and home improvement stores may actually benefit in the long run from Hurricane Katrina. These are industries that should be the first to offer support.

Ladies and gentlemen, I am not saying that nothing is being done at this time, although we all expected the Federal response would have been more immediate.

Nevertheless, generosity of spirit is being demonstrated by countless individuals in this country who have given an outpouring of support.

Now, however, is the time for those who can make a major impact with just one phone call to do so. And if these private companies already have something planned, it is important that they coordinate their efforts to provide their help most effectively.

This crisis demands a heightened—and sustained—sense of urgency.

The public has asked what they can do. They can begin by donating to the various charities that have pledged to help in the relief effort. They can also follow our lead today by demanding that the mayors and governors across this great Nation provide essential services to those now seeking shelter and aid.

In Matthew 25, verses 34 through 40, the Lord gives a simple explanation of what is demanded of true Christians:

> Then the King will say to those on his right, "Come, you who are blessed by my Father; take your inheritance, the kingdom prepared for you since the creation of the world.
>
> For I was hungry and you gave me something to eat, I was thirsty and you gave me something to drink, I was a stranger and you invited me in. I needed clothes and you clothed me, I was sick and you looked after me, I was in prison and you came to visit me."
>
> Then the righteous will answer him, "Lord, when did we see you hungry and feed you, or thirsty and give you something to drink? When did we see you a stranger and invite you in, or needing clothes and clothe you? When did we see you sick or in prison and go to visit you?"
>
> The King will reply, "I tell you the truth, whatever you did for one of the least of these brothers of mine, you did for me."

Mr. President, the least of our brothers have lost the little they had. They are hungry, they are suffering, and they are vulnerable now to the worst expressions of human desperation. You have recognized that our response to date has fallen short of our duties.

And I fear that God, also, would not be pleased. We are called on to do all that is necessary to care for our brothers at this time. And we pledge to work with you to extend our Nation's hand and all of our Nation's resources to those in dire need.

When history looks back upon how our Nation pulled through this difficult time, let it reveal a record worthy of a great Nation.

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## HELPING VICTIMS OF HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. GORDON) is recognized for 5 minutes.

Mr. GORDON. Mr. Speaker, like so many families, my family has been watching the horrible scenes that we see from Mississippi and Louisiana, and really every day my wife, Leslie, and I talk about how lucky we are and talk about how really the trivial problems in our life are just that, trivial, compared to what is going on elsewhere.

Last night, I told her a story that I had not thought about in a long time, that was, that back in 1969, it was August of 1969, three friends of mine from school, Jim Caperton, Doug Young and Sammy Sells, we went down to Jackson, Mississippi, for a school program; and we were there when Hurricane Camille struck the coast. Some National Guard came to our meeting and said, Would any of you volunteer to go down and help clean up after Hurricane Camille?

Well, Doug and Jim and Sammy and I decided we would do that. We wanted to help, and we also thought it would be an adventure. So we got in the back of the National Guard truck and started heading down to the coast. As we drove down there, there was just a steady stream of cars and trucks and buses coming the other way. So many folks had all the goods that they could salvage tied down to their car and were coming this way.

Then when we got there, it was shocking. I had seen what a tornado could do in my hometown of Murphysboro to a house, and I had seen how it was torn up. But at that time, what you found is that the hurricane would send in these massive tides. They would tear down anything in their way and then take it all back out to sea, and it was like it had never been there before, and all you might see would be maybe some brick steps here and there to a home. It was, as I say, shocking.

The first thing that we were asked to do was to hand out food and water to some of the survivors there. It was, again, shocking to see the desperation on their faces, the unbelievableness of what was happening to them.

It really reminds me, there was an old blues song that said something to the effect that the only thing that I own is what is on my back, and I have been wearing those clothes for the last 4 days. That was really the situation of all these people at that time.

Then they took us over to a dorm late that night, or what seemed to be a dorm, there was no electricity or water and all the windows were all blown out, and we swept the glass out, turned over the mattresses and fell asleep in an exhaustive state and got up the next day.

The next day our job was to sort through clothes that had been shipped from all over the country. We would separate them into women's clothes and men's clothes and different sizes, and we handed out those clothes again to people that were lined up in the only clothes that they had for quite some time.

So my wife, Leslie, last night was telling me, we have a four-year-old daughter, her name is Payton, and like all little girls, she has outgrown a lot of her clothes. I have been trying to get my wife to donate them to the church so that someone would get some good use out of them, but Leslie feels like sort of giving up those clothes is like giving up those early years of our daughter's life. But last night she said, You know, we need to box these clothes up and send them to Mississippi and to Louisiana. So that is what we are doing.

Then I called my mother and I talked with her, and she told me the story that she has told me a lot of times in the past. When she was a little girl, their house burned; and when their house burned, they lost everything. Back then, when you lived out in the country and your house burned, you did not have insurance. All you had was your neighbors and friends and whatever generosity that they might provide. So now I think that really we really are the neighbors and friends of these desperate folks down in Louisiana and Mississippi, and we all need to try to find a way to help them.

I hope I can help you to help them. For the ones of you that live in the

Sixth Congressional District in Tennessee, you can get on my Web site, www.house.gov/bart, and we will give you a list of organizations and ways to help. If you do not live in the Sixth District of Tennessee, then the Federal Government has set up a Web site, it is www.firstgov.gov, and that is the way that you can help.

I think by helping, it makes all of us feel that in some way we are trying to relieve this horrible pain that other folks are going through. They are our neighbors, and we need to help. Here is how you can do it.

## PROVIDING ASSISTANCE TO VICTIMS OF HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, we gathered here in the People's House today to provide some financial assistance to those who have suffered as a result of this natural disaster. I think it is important for us to remember that those who are suffering most are those who are the poorest among us.

I was reading the New York Times, and I read this comment from an engineering professor at the State University of Louisiana who has served as a consultant on Louisiana's State evacuation plan. He said that little attention had been paid to the evacuation of New Orleans' low mobility population, the elderly, the infirm and the poor without cars or other means of fleeing the city, about 100,000 people.

We knew this disaster was upon us days before it reached our shore. In fact, the President went on television and urged people to evacuate the city. We saw the TV pictures of cars lining the freeways as they were heading northward out of harm's way. But apparently there were many in New Orleans and elsewhere along the hurricane's path that did not have cars, that did not have credit cards, that had no means of renting an automobile for transportation, that could not afford a bus ticket, that simply were left behind. These were the poorest among the city's population.

Then the flooding came, and these, the sickest, the poorest, the oldest, along with many children, have died; and the sad truth is that many have died unnecessarily. Many have died simply because they lacked for water, they lacked for food, they lacked for timely medical attention.

We are the greatest, most advanced Nation on the face of the Earth. We have at our disposal every resource that is known to mankind. Yet when disaster hit our own country, when our own citizens were without food and water and medical care, we did not respond in a timely manner, so many lost their lives. And those who lost their lives were primarily black and they were primarily poor, and that should strike at the conscience of every one of us.

We are all a part of a great human family, but we are also a part of a great national family; and when tragedy strikes any of us, all of us should feel affected.

Mr. Speaker, the House has done a good thing today in providing initial relief resources, but there is much more that needs to be done in the days and months ahead. One of the things that must be done is for us to examine ourselves as a Federal Government and as a people. Why is it, why is it that it is the poor, the minority, the child, the elderly and the infirm who are most likely to suffer in times of disaster, whether they be of man-made proportions or of a natural occurrence?

Mr. Speaker, we should all pray that those who are in need of assistance at this hour receive it as quickly as possible, but we should also hold those accountable who are responsible for making sure that that assistance is available in a timely manner.

## FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3645. An Act making emergency supplemental appropriations to meet immediate needs arising from the consequences of Hurricane Katrina, for the fiscal year ending September 30, 2005, and for other purposes.

## APPOINTMENT OF HON. MAC THORNBERRY TO ACT AS SPEAKER PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH SEPTEMBER 6, 2005

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC, SEPTEMBER 2, 2005.

I hereby appoint the Honorable MAC THORNBERRY to act as Speaker pro tempore to sign enrolled bills and joint resolutions through September 6, 2005.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KUCINICH) to revise and extend their remarks and include extraneous material:)

Mr. KUCINICH, for 5 minutes, today.
Mr. WEXLER, for 5 minutes, today.
Ms. ZOE LOFGREN of California, for 5 minutes, today.
Mrs. JONES of Ohio, for 5 minutes, today.
Mr. SCHIFF, for 5 minutes, today.
Mr. BAIRD, for 5 minutes, today.
Mr. NADLER, for 5 minutes, today.
Mr. MARKEY, for 5 minutes, today.
Mr. ENGEL, for 5 minutes, today.
Mr. RUPPERSBERGER, for 5 minutes, today.
Mr. BUTTERFIELD, for 5 minutes, today.
Mr. OBERSTAR, for 5 minutes, today.
Ms. KILPATRICK of Michigan, for 5 minutes, today.
Mr. MILLER of North Carolina, for 5 minutes, today.
Ms. WATSON, for 5 minutes, today.
Mr. CUMMINGS, for 5 minutes, today.
Mr. STRICKLAND, for 5 minutes, today.

(The following Members (at the request of Mr. SHAYS) to revise and extend their remarks and include extraneous material:)

Mr. BLUNT, for 5 minutes, today.
Mr. GIBBONS, for 5 minutes, today.
Mr. SHAYS, for 5 minutes, today.
Ms. HARRIS, for 5 minutes, today.
Mrs. CAPITO, for 5 minutes, today.
Mr. BURGESS, for 5 minutes, today.
Mr. ENGLISH of Pennsylvania, for 5 minutes, today.
Mr. WAMP, for 5 minutes, today.
Mr. SMITH of New Jersey, for 5 minutes, today.
Mr. KIRK, for 5 minutes, today.
Mr. SIMMONS, for 5 minutes, today.
Ms. ROS-LEHTINEN, for 5 minutes, today.
Mr. DANIEL E. LUNGREN of California, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. GORDON, for 5 minutes, today.

## ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3. An act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

H.R. 6. An act to ensure jobs for our future with secure, affordable, and reliable energy.

H.R. 1132. An act to provide for the establishment of a controlled substance monitoring program in each State.

H.R. 3512. An act to provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st century.

## BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on July 29, 2005 he presented to the President of the United States, for his approval, the following bills.

H.J. Res. 59. Expressing the sense of Congress with respect to the establishment of an appropriate day for the commemoration of the women suffragists who fought for and won the right of women to vote in the United States.

H.R. 2361. Making appropriations for the Department of the Interior, environment, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

H.R. 2985. Making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes.

H.R. 3045. To implement the Dominican Republic-Central America-United States Free Trade Agreement.

H.R. 3423. To amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees.

H.R. 3512. To provide an extension of administrative expenses for highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

Jeff Trandahl, Clerk of the House also reports that on August 4, 2005 he presented to the President of the United States, for his approval, the following bills.

H.R. 6. To ensure jobs for our future with secure, affordable, and reliable energy.

H.R. 1132. To provide for the establishment of a controlled substance monitoring program in each State.

Jeff Trandahl, Clerk of the House also reports that on August 10, 2005 he presented to the President of the United States, for his approval, the following bill.

H.R. 3. To authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

## ADJOURNMENT

Mr. STRICKLAND. Mr. Speaker, pursuant to Senate Concurrent Resolution 51, 109th Congress, I move that the House do now adjourn.

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to Senate Concurrent Resolution 51, 109th Congress, the House stands adjourned until 2 p.m. on Tuesday, September 6, 2005.

Thereupon, (at 3 o'clock and 57 minutes p.m.), pursuant to Senate Concurrent Resolution 51, the House adjourned until Tuesday, September 6, 2005, at 2 p.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3591. A communication from the President of the United States, transmitting requests for emergency FY 2005 supplemental appropriations for the Departments of Homeland Security and Defense; (H. Doc. No. 109–52); to the Committee on Appropriations and ordered to be printed.

3592. A letter from the Under Secretary for Acquisition, Technology and Logistics, Deparment of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3593. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3594. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3595. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

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3599. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3600. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3601. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3602. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3603. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3604. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3605. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3606. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3607. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3608. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3609. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3610. A communication from the President of the United States, transmitting notification that the emergency regarding export control regulations is to continue in effect beyond August 17, 2005, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 109–51); to the Committee on International Relations and ordered to be printed.

3611. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 16-169, "Homeless Services Act of 2005," pursuant to D.C. Code section 1-233(c)(1); to the Committee on Government Reform.

3612. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Seventh Coast Guard District [CGD07-05-009] (RIN: 1625-AA09) received August 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3613. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills, and their tributaries, NY [CGD01-05-032] received August 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3614. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Napa River, CA [CGD 11-05-025] (RIN: 1625-AA09) received August 11, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3615. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security and Safety Zone: M/V Spirit of Ontario, Lake Ontario, NY [CGD09-05-054] (RIN: 1625-AA00) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3616. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones: Anchorage, Cook Inlet [COTP Western Alaska 05-007] (RIN: 1625-AA87) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3617. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone Regulation: Tampa Bay, FL [COTP TAMPA 05-077] (RIN: 1625-AA87) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3618. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-05-026] (RIN: 1625-AA00) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3619. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-05-045] (RIN: 1625-AA00) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3620. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-05-061] (RIN: 1625-AA00) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3621. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-05-064] (RIN: 1625-AA00) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3622. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-05-071] (RIN: 1625-AA00) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3623. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Savannah River, Savannah, GA [COTP Savannah-05-086] (RIN: 1625-AA00) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3624. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Entrance of St. Marys River to Kings Bay, GA [COTP Jacksonville 05-069] (RIN: 1625-AA87) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3625. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Kings Bay to the sea buoy at the entrance of St. Marys River, GA [COTP Jacksonville 05-070] (RIN: 1625-AA87) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3626. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; St. Marys River to Kings Bay [COTP Jacksonville 05-085] (RIN: 1625-AA87) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3627. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Ribault Bay to St. Johns River [COTP Jacksonville 05-094] (RIN: 1625-AA87) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3628. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Entrance of St. Johns River to Ribault Bay [COTP Jacksonville 05-095] (RIN: 1625-AA87) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3629. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; President Bush, Milwaukee, WI, Lake Michigan, Racine, Wisconsin [CGD09-05-018] (RIN: 1625-AA87) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3630. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Severn River and College Creek, Annapolis, Maryland [CGD05-05-057] (RIN: 1625-AA87) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3631. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Spa Creek, Annapolis, Maryland [CGD05-05-036] (RIN: 1625-AA00) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3632. A letter from the Regulatory Ombudsman, FMCSA, Department of Transportation, transmitting the Department's "Major" final rule — Hours of Service of Drivers [Docket No. FMCSA-2004-19608; formerly FMCSA-1997-2350] (RIN: 2126-AA90) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

*[Omitted from the Record of July 29, 2005]*

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARTON: Committee on Energy and Commerce. H.R. 1640. A bill to ensure jobs for our future with secure and reliable energy, with an amendment (Rept. 109–215 Pt. 1). Ordered to be printed.

Mr. BOEHLERT: Committee on Federal energy research, development demonstration, and commercial application activities, and for other purposes; with an amendment (Rept. 109-216 Pt. 1). Ordered to be printed.

### DISCHARGE OF COMMITTEES

*[Omitted from the Record of July 29, 2005]*

Pursuant to clause 2 of rule XII:

The Committees on Energy and Commerce, Resources and Transportation and Infrastructure discharged from further consideration H.R. 610. Ordered to be printed.

The Committee on Homeland Security discharged from further consideration H.R. 889. Ordered to be printed.

The Committees on Science, Resources, Education and the Workforce, Transportation and Infrastructure, Financial Services, and Agriculture discharged from further consideration H.R. 1640. Ordered to be printed.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. LEWIS of California:

H.R. 3645. A bill making emergency supplemental appropriations to meet immediate needs arising from the consequences of Hurricane Katrina, for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE:

H.R. 3646. A bill to provide consumers with relief from high gas prices; to the Committee on Energy and Commerce.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 215: Mr. LEACH.
H.R. 224: Mr. RYAN of Ohio.
H.R. 521: Mr. CAMP and Mr. RYAN of Ohio.
H.R. 690: Mrs. CAPITO and Mr. MOLLOHAN.

H.R. 1079: Mr. MOLLOHAN.

H.R. 1182: Mr. WEXLER.

H.R. 1806: Mrs. NAPOLITANO.

H.R. 2238: Mr. DEFAZIO, Mr. KUCINICH, Mr. MCDERMOTT, Ms. SOLIS, Mr. JOHNSON of Illinois, Mr. MEEHAN, Mr. SMITH of Washington, and Mr. TIBERI.

H.R. 2694: Mr. ANDREWS.

H.R. 2899: Mr. HOLDEN.

H.R. 3144: Mr. HAYWORTH.

H.R. 3196: Ms. LEE.

H. Res. 360: Mr. BOUSTANY, Mr. MANZULLO, Mr. MACK, Mr. FOLEY, Mr. FALEOMAVAEGA, Mr. FOSSELLA, and Mr. ISSA.

H. Res. 375: Mrs. MALONEY, Mr. SMITH of Washington, Mr. DEFAZIO, Mr. VAN HOLLEN, Mr. MCGOVERN, Mr. HOLT, Mr. FILNER, Mr. WYNN, Mr. FRANK of Massachusetts, Mr. CUMMINGS, Mr. MEEKS of New York, Mr. LEACH, Mr. SHERMAN, Mr. TIERNEY, Mr. CLEAVER, Ms. MOORE of Wisconsin, Mr. MORAN of Virginia, Mr. NADLER, Ms. CORRINE BROWN of Florida, Mr. THOMPSON of California, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. UDALL of Colorado.

# EXTENSIONS OF REMARKS

## CONGRESSIONAL OVERSIGHT OF THE PATRIOT ACT IS ESSENTIAL

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### HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 2, 2005*

Mr. MOORE of Kansas. Mr. Speaker, on Thursday, July 21, 2005, I voted against final passage of H.R. 3199, providing for the reauthorization of 16 sunset provisions of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001.

Following the horrific and devastating attacks of 9/11, Congress acted swiftly by enacting the PATRIOT Act just six weeks after the terrorist attacks. I voted for the original PATRIOT Act because it gave our intelligence and law enforcement agencies the tools they needed to fight the war on terrorism. Congress recognized, however, the need to review certain provisions of the Act that could change our way of life and liberty in this country. It is not a good idea to make permanent policy for the United States concerning our fundamental rights and freedoms during extraordinary times of war. We must never allow the terrorists to alter the freedoms that define our country and make us the greatest Nation in the world.

While I still believe that the 16 provisions of the Act are necessary to protect the Nation against future terrorist attacks, I do not believe that it is necessary or strategic to make these provisions permanent. We have learned that the terrorists will change the nature of their attacks in whatever way is needed to try and overcome our security forces. It is essential that our investigative agencies have the ability to review these laws over time to make adjustments according to our ever-changing security needs.

The PATRIOT Act should be a living document that Congress reviews frequently to correct any problems or abuses and strengthens when there are indicators that additional tools are needed to protect Americans in the war on terrorism.

While our national security must be protected, we can and must fight terrorism without violating the very constitutional protections that define us as a nation and make us the greatest country in the world.

Congressional oversight of the PATRIOT Act is essential.

## OVERTURN THE BRAC COMMISSION'S DECISION REGARDING FORT MONMOUTH

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### HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 2, 2005*

Mr. HOLT. Mr. Speaker, today I joined a number of New Jersey officials and citizens in filing suit in Federal court in an effort to overturn the Base Realignment and Closure (BRAC) Commission's decision to uphold the Pentagon's recommendation to close Fort Monmouth. This lawsuit is about protecting our men and women in the field. They are fighting for us every day, and I'm going to continue fighting for them. Closing Fort Monmouth would disrupt their current efforts and jeopardize their safety and effectiveness. Eleven generals and the BRAC Commission itself recognized the dangers involved.

In making its recommendation pertaining to Fort Monmouth, the BRAC Commission exceeded its authority and failed to comply with statutorily required procedures. Our lawsuit does not ask the court to revisit the data or arguments reviewed by the BRAC Commission. We are simply asking the court to review the process and determine whether the BRAC Commission failed to comply with the BRAC Acts of 2005 and 1990. If we win, the remedy is simple: take the fort off the list.

Even as we continue to fight for Fort Monmouth, we must also plan for a future that may not include it. The men and women who work at Fort Monmouth deserve nothing less, and I am working with Federal, State, and local leaders to develop a comprehensive plan for Monmouth County's future that will give us the best opportunity to preserve jobs, stimulate our economy, and enhance our quality of life.

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## PERSONAL EXPLANATION

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### HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 2, 2005*

Mr. MOORE of Kansas. Mr. Speaker, on January 26, 2005, I inadvertently failed to cast a recorded vote on rollcall vote 11, concerning the Crowley amendment to H.R. 54. Had I cast my vote, I would have voted "aye."

On Sunday, March 20, I was unable to get a flight to Washington, D.C., after learning that there would be a recorded vote on legislation regarding Terri Schiavo, which occurred at 12:45 a.m. on March 21, 2005. Had I been present, I would have voted "no" on rollcall vote 90, concerning S. 686.

On April 27, 2005, I accidentally voted "no" on rollcall vote 142, the Jackson-Lee amendment to H.R. 748, when I had intended to vote "aye".

On May 4, 2005, I inadvertently failed to cast a recorded vote on rollcall vote 156, concerning H. Res. 195. Had I cast my vote, I would have voted "aye."

On May 23, I inadvertently failed to cast a recorded vote on rollcall vote 200, concerning H.R. 744. Had I cast my vote, I would have voted "aye."

On June 8, I inadvertently failed to cast a recorded vote on rollcall vote 235, concerning the Chabot amendment to H.R. 2744. Had I cast my vote, I would have voted "no."

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## TRIBUTE TO THE LATE KANSAS DEMOCRATIC PARTY CHAIRMAN NORBERT DREILING

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### HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Friday, September 2, 2005*

Mr. MOORE of Kansas. Mr. Speaker, I rise today to pay tribute to Norbert Dreiling, of Hays, Kansas, who died on August 1, 2005.

Norbert Dreiling will long be remembered in Kansas as one of the fathers of the modem Kansas Democratic Party. As Representative JERRY MORAN of Kansas said in his very generous tribute to Norbert Dreiling before the House on July 19, 2004, "Through years of dedicated service, he breathed life into a struggling Democratic Party and established a lasting two-party system in Kansas." Under Chairman Dreiling's leadership, for the first time an incumbent Republican governor of Kansas was defeated by a Democratic challenger, Robert Docking, who was elected governor four times—the most terms ever served by a governor in Kansas. In addition to his extensive service to his community, State and nation, Norbert Dreiling also maintained a successful law practice and was instrumental in promoting the Volga-German heritage of Hays and Ellis County, Kansas.

Norbert Dreiling was born April 7, 1925, in Gorham, Kansas, and married Donna Jean Myerly in 1948. He was a member of St. Joseph Catholic Church, St. Joseph 3rd Degree Knights of Columbus and 4th Degree Bishop Cunningham Assembly Knights of Columbus, all of Hays. He was a graduate of St. Joseph Military Academy, Fort Hays State University and Washburn University Law School. He was senior partner in the law firm of Dreiling, Bieker and Hoffman, Hays. He was elected and served two terms as Ellis County Attorney, served as Kansas State Democratic Chairman from 1966 to 1974, and led several delegations to the National Democratic Conventions. He was a member of the Phi Alpha Delta law fraternity. He was involved in numerous non-political civic and educational activities. He was a charter member of Hays

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Kiwanis Club, a charter member of the Volga German Society of Hays, a Fort Hays State University Endowment Association Trustee and the Washburn Law School Board of Governors. He was a member of the Board of Directors of St. Anthony Hospital and Farmers State Bank, both of Hays. He helped establish and create St. Johns Rest Home of Victoria and Hays, serving on the board for many years. He was the recipient of the Distinguished Alumni Award from Fort Hays State University. He was honored by TMP-Marian High School in Hays and was the first recipient of the St. Thomas More Friend For All Seasons Award. Survivors include his wife, Donna Jean Dreiling, of the home; two sons, Mark Dreiling, Denver, Colo., and Curt Dreiling, Estes Park, Colo.; two daughters, Jan Schuster, Bradenton, Fla., and Kathy Dreiling, Colorado Springs, Colo; and 10 grandchildren, Kimberly McDaniels, Brian Schuster, Jeffrey Dreiling, Scott Schuster, Jackson Dreiling, Nicholas Dreiling, Krysta Dreiling, Sean Dreiling, Amy Schuster and Sam Talarico.

Mr. Speaker, longtime Kansas Democratic Party activist Glenn Staab of Hays, posted a blog on the state party's website on the day of Norbert Dreiling's death that provides a fitting summary of the life and legacy of former Chairman Dreiling. I am reproducing it in the Record here in its entirety, followed by Topeka Capital Journal coverage of his death.

Norbert Dreiling passed away today (8-1-05). Norbert was my first political hero. He was very generous with his time when it came to talking politics. I never visited him without taking pen and paper. Some of those notes are over thirty years old. Following is the column I wrote about Norbert that appeared in the Hays Daily News on November 23, 2003.

President John Kennedy was assassinated 40 years ago last Saturday. It was my generation's "moment in history." Every generation has a, "Where were you when . . . ?"

I consider JFK's assassination my first political encounter. It is my first memory of a President, and the tragedy as it unfolded was my first taste of national politics. Since I'm always looking for an excuse to visit with Norbert Dreiling, the infamous anniversary gave me a reason to sit down and speak with him about his relationship with President Kennedy.

Norbert Dreiling was the Ellis County Democratic Chair when a Senator from Massachusetts was considering a run for President. He was Democrat, and he was Catholic. The Kennedy people were looking for a "bellweather" county to test the waters. Norbert had already been working with the Kennedy campaign for some period when our heavily Democratic, heavily Catholic county was chosen as that county to host a banquet.

The event was sold out and exceeded Kennedy staff's expectations. Kennedy's announcement for President followed soon after. Norbert became very familiar with the inner circle of the Kennedy campaign, family and presidency. After Kennedy was elected, Norbert paid a visit to the newly elected President. Ted Sorensen, a member of the inner council, spread a large map of the United States to show Norbert the states and counties that had voted for JFK. Sorensen said, "Ellis County was regarded highly by those who were active in this campaign."

Kennedy's visit was the first Presidential hopeful's visit to Hays since Teddy Roosevelt in 1903. So, to date, three Presidential hopefuls visited Hays in the 1900's and were successful in their electoral bids: Roosevelt in '03; Kennedy in '59; Al Gore in '88 who won in 2000, but was not allowed to serve his term.

Norbert was the Kansas Democratic State Chair as Robert Docking was successful in four consecutive two-year terms for Governor; which will never happen again, unless the state constitution is changed. It was during this time that I started reading Norbert Dreiling quotes and taking a real interest in politics. I can remember thinking that I would like to be that clever someday. I'm still waiting.

I remember sitting in Norbert's office listening to his campaign stories. No one could tell a story better than he. He could mesmerize an audience with his speeches. Today, he battles against Parkinson's. His speech is halted and almost a whisper, but that hasn't hindered his opinions.

His disdain of the current Bush administration is clear. He detests the "permissive binge" of big corporations. He adds that those who profess to support the constitution "give little credit to those who hold the country together."

When asked about present day politics, he said, "The politics of this era should reflect the greatness of this country. There is much material wealth that could be available to assure that good could be done—especially for the poor and the disabled and here we are in another war. One asks if we did learn anything from Vietnam? The Balkans?"

To this day, Norbert is sought out for political advice. Patrick Murray was hired as the Executive Director of the Kansas Democratic Party last spring. The twenty-four-year-old Maryland Democrat was given instructions by state officials to visit with Norbert for his opinions and history of Kansas politics. Murray said of his visit, "You can't plan for the future if you don't understand the past. The insight that Mr. Dreiling gave me on state and national politics was beyond measure."

I asked Norbert for examples of people that give him credit for their political involvement. He said, "A lot of people say a lot of nice things."

When asked about family coming home for the holidays, he related that all his kids were coming home. It was a chance for us to agree on something besides politics. I told him to say "Hi" to his daughter Kathy, relating to him that she is still the best "Dolly" I've ever seen. He told me that although her lead performance as a junior at Hays High School in "Hello Dolly" was over two decades ago, people still stop him and tell him the same thing I did.

This Thanksgiving I am thankful for family and friends, but I am also thankful for Norbert Dreiling and his influence in my love of politics.

Our community owes much to Norbert Dreiling. He has been generous in countless ways. And one afternoon in November 1959, he brought a touch of Camelot to Hays.—Glenn Staab

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[The Topeka Capital-Journal, Aug. 3, 2005]

(By Chris Moon)

### DOCKING CAMPAIGNER DIES AT 80

Norbert Dreiling, the western Kansas lawyer credited with "making it acceptable to be a Democrat in Kansas," died Monday. He was 80.

In the 1960s and 1970s, Dreiling led Democrat Robert Docking to an unprecedented four straight general election wins, earning admiration from Democrats and Republicans alike.

Topeka lawyer Larry Tenopir, a longtime Democratic Party leader in Kansas, said Dreiling turned the fortunes of the Kansas Democratic Party during the Docking years—"just by making it acceptable to be a Democrat in Kansas."

"Winning had a lot to do with that," he said.

Dreiling started his law practice in Hays in 1949 and also began volunteering as a Democratic precinct committeeman. That eventually led him into the heart of statewide politics in the late 1960s.

But before and after that—his close colleagues chime in—Dreiling was a lawyer.

"Norb Dreiling was the best lawyer I ever met," said Dennis Bieker, who has worked as a partner in Dreiling's Hays law firm since 1966.

He said Dreiling had a way of communicating the most complex schemes in simple terms that jurors could understand—a skill he transferred to the political realm when he served as state party chairman from 1966 to 1974.

"He understood the basics of politics, which is communication 101," said Tenopir, who was a leader of the Young Democrats at the time.

He recalled 6-inch-tall stickers used in a Docking campaign, which read "Docking Stands for You" and showed the governor standing up.

In a speech last year before Congress, Republican U.S. Rep. Jerry Moran—also from Dreiling's hometown of Hays—called the Democratic activist "the father of Democratic politics in the state of Kansas."

Moran on Tuesday credited Dreiling for his work in the community, helping the local hospital, Catholic school and Fort Hays State University.

"He was the go-to guy for fundraising," Moran said. "He's the epitome of a small town community leader, a lawyer, who wants to make a difference in his community."

# SENATE—*Tuesday, September 6, 2005*

The Senate met at 12 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Immortal, invisible, God only wise, You rule the Earth, sea, and sky. As we deal with Hurricane Katrina's wake-up call and the death of our 16th Supreme Court Chief Justice, steady this great land. Make us grateful for the acts of generosity and altruism we have seen in this Nation and around the world.

Help us to remember Your sovereignty as You lead us away from the dead-end streets of pointing fingers to the productive paths of self-examination.

Like the canary in the mine, may these difficult days warn us of the dangers of ignoring extreme disparities in economic and social conditions. Forgive us when we cry pathology in order to justify our own indifference. Help us to build on this opportunity to work toward liberty and justice for all.

Use our Senators as agents of Your will. Give them wisdom to know what is right and the courage to do it. As we labor to strengthen freedom in other nations, open our eyes to the invisible people on life's margins in America. Hasten the day when justice will roll down like waters and righteousness like a mighty stream.

We pray in Your Holy Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 12:30 p.m., with Senators permitted to speak therein up to 5 minutes each.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, I have a few housekeeping matters as we begin today.

I have talked to the Democratic leader and a number of our colleagues about changes we have made in our current schedule. As all Members are aware, on July 29 we filed cloture motions on two items that were scheduled for consideration today. In light of Hurricane Katrina, we will be shifting our focus this week, and I am prepared to make those changes by unanimous consent.

### ORDER OF PROCEDURE

First, I ask unanimous consent that the two cloture votes scheduled for 5:30 this afternoon be vitiated.

The PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. FRIST. Mr. President, I also ask unanimous consent that the order be modified so that at 2:15 today, the Senate begin a period for morning business with Senators permitted to speak for up to 10 minutes each, with the time until 5:30 equally divided between the two leaders or their designees.

I further ask consent that at 5:30 today, the Senate proceed to a vote on adoption of a resolution related to Hurricane Katrina.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, Senators should be aware that now the vote at 5:30 today will occur on the resolution expressing condolences to the victims of Katrina. I expect that a number of our colleagues will want to speak today on that resolution, and we have provided time to do so between 2:15 and 5:30 today.

In addition, following that vote, at 6 p.m. this evening there will be an all-Senators briefing related to our Gulf States. At that briefing will be a number of the Cabinet Secretaries who will be available. That briefing will be in S–407 in the Capitol.

As I have been stating, it is our intention to move very quickly, responsibly, and aggressively to Hurricane Katrina and her aftermath. This relief is underway. We need to make sure that we are maximally supportive and responsive in a timely fashion. I believe we demonstrated that last Thursday when we came in in an urgent session to approve $10.5 billion which subsequently became law and was signed by the President.

Later today—again another manifestation of being able and appropriately responding to the changing events—we will clear a bill known as the Federal Judiciary Emergency Special Sessions Authority which will allow the affected U.S. courts to conduct business under these emergency conditions.

Tomorrow, we will pay tribute to the Chief Justice of the United States, William Rehnquist. I will say more later today on the schedule as it relates to the funeral and a Senate resolution relating to Chief Justice Rehnquist.

Finally, we will be turning to the Commerce, Justice and Science appropriations bill later this week. That appropriations measure does fund a number of hurricane-related activities.

Earlier today, the Democratic leader and I, Chairman SPECTER, and Ranking Member LEAHY from the Judiciary Committee outlined the schedule with regard to Judge Roberts' hearings and the nomination process over the next month. Those hearings will begin Monday, September 12, at noon. The committee will report out Judge Roberts no later than Thursday, September 22. We will begin Senate floor consideration the week of September 26, and we will complete action no later than Friday, September 30.

I believe that is relatively complete in terms of the changes we have made in response to two very sad and unfortunate events: Hurricane Katrina, a natural disaster which is ongoing, as we all know, and the death of Chief Justice Rehnquist. We will remain flexible in terms of our scheduling in this body to address that natural catastrophe along the Gulf States. We will be acting in a bipartisan and bicameral way, as has been seen to date, in these matters in order to facilitate an immediate response initially to the victims and then ultimately to the recovery and rebuilding of those gulf regions, with the goal of greater prosperity than they have ever seen in the past.

## KATRINA AFTERMATH AND RECOVERY EFFORTS

Mr. FRIST. I did have the opportunity to travel to the gulf coast and participate, not as a Senator but as a volunteer physician, and to see firsthand the tremendous response on the ground among our medical personnel, our health personnel, and our volunteers, but also to witness firsthand that scope of human suffering and need that was caused by last week's catastrophe, which affected those three Gulf States and indirectly affected the entire region—indeed, the entire country. What I saw was staggering. Hurricane Katrina now stands as the largest natural disaster in American history.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Ninety thousand square miles, an area larger than the United Kingdom, have been utterly devastated.

Many of my colleagues have had the chance to fly over that region. As we all know, many of our colleagues and their families have been directly and personally impacted. The cities are flooded, the entire coast along southern Mississippi destroyed, towns demolished, farmlands turned to swamp, transportation, distribution channels totally wiped out, and local communication destroyed, slowly coming back but totally destroyed. Hundreds of thousands of residents affected across these three States are now displaced.

In our leadership meeting a little while ago, we went around the table. Everybody has received the displaced persons in numbers of thousands and thousands.

Many of these people have health problems, short-term and long-term problems, that must be addressed. It is going to take all of us pulling together to do this.

Secretary Leavitt, Health and Human Services Secretary, estimates that thousands of innocent people have died in the hurricane's wake. As the floodwaters recede, more and more bodies, unfortunately, will be found—people who were unable to escape the torrential flooding that took place shortly after the hurricane struck. The loss is so profound that none of us will be able to express what we have seen or what we feel in words.

I have had a chance to be in other areas, in Sri Lanka after the tsunami and in the Darfur region in Sudan. Everybody says, Is this worse? How do you compare it? You can't compare it; all were tremendous tragedies. But I will say that what I had the chance to see there, in terms of the mass of humanity in that convention center and in the New Orleans airport, I can't compare it to anything I have seen, even having seen such tragedies elsewhere in the world.

One of the other things I need to mention early on is that human connection you do see when you are in the middle of a response such as this—the compassion, the concern. You saw patients lying together on scores and scores of stretchers, hundreds of stretchers that were on the floor, and you have one patient leaning over, taking care of another patient even though they didn't know each other. Patients were taking care of themselves, especially early on when there was a clear shortage of personnel to respond to that initial disaster, as people came flowing into the airport.

You had rescue workers from all walks of life, volunteers from college campuses, health personnel from what are called DMAT or disaster medical assistance teams from around the country, all enduring crushing heat and exhaustion to pour out their hearts and use those skills they had, whatever those skills, so we could maximize that response to those people being evacuated from this place.

Volunteer workers were from the State of the distinguished President pro tempore, the State of Alaska. I had the opportunity to work side by side with them, and with volunteers from Hawaii and from Tennessee. I saw a number of my colleagues from medical college, from Vanderbilt in Nashville, and Boston, MA, where I worked in the past. They were contributing in such a positive way.

Many people were so moved by the stories they read they got on the road and went to that Gulf State region to volunteer their services. They didn't ask; they didn't pay attention to the redtape or people who said stay away, and went in. They were all very useful as they poured out their hearts to those who were suffering from this catastrophe.

I have to also mention the Knox County Volunteers, because the sheriff's department there sent down several helicopters early on, again before even being asked, and they were very instrumental in dropping food and dropping supplies and helping people trying to evacuate their homes. I had the opportunity to spend a lot of time with them for both days, both at the convention center where we spent time, as well as at the New Orleans airport and, indeed, over in Mobile, AL. They were there and all along the Mississippi coast, as we touched down there.

I will have more to say about what I have been able to observe in those experiences because I think it does reflect both the misery but also the great compassion and the pulling together, the great spirit of the American people that we are going to absolutely have to call upon as we continue to address this tragedy.

We in the Senate are acting. We are acting aggressively and responsively and early. We are going to continue to do so. This has become our major priority, even though there are a lot of other issues we are addressing. We have the skyrocketing energy prices, gasoline prices, and oil prices. We have the ongoing war in Iraq. We have the judicial nomination which is underway. And we have the response to Katrina. The response to Katrina right now, because it is an ongoing catastrophe, an ongoing natural disaster, needs to be first and foremost. We are acting and we are going to continue to act aggressively.

Last Thursday night we came in and the Democratic leader and I helped usher through, in a highly unusual emergency session, the $10.5 billion aid bill. As we said then, that was only the beginning. We have so many urgent responsibilities now that we will be working together in a bipartisan way to address these issues.

Last Tuesday we sent out a note to all committee chairmen to begin bringing their legislative proposals to us. Over the next 48 hours we will be talking to each of the chairmen and ranking members, to pull together their ideas both for the immediate response and the midterm response and the long-term response. There are a lot of human, practical needs that have to be addressed right now. The Federal Government has a major role as we look at health and we look at social services and we look at housing and we look at food and we look at shelter, and then, in the longer term, solutions to putting the Gulf Coast back on a fast track to recovery and to rebuild, and rebuild with a goal of even greater prosperity in the future.

The Energy Committee is conducting hearings today and will be addressing the supply/demand issues. There will be many more hearings addressing these issues. I have encouraged our Members to look at some of these real warning flags that have arisen, things such as the price gouging and excessive profit taking by energy companies and by oil companies. These are issues we have to be aggressive with, especially in this time of need.

Even before the hurricane hit, having spent about 2 weeks traveling across Tennessee, listening, we heard again and again the price of gasoline and diesel at the pump was wiping out any margins of even survival for many farmers and people who rely on our transportation industry.

I do want to call upon the energy industry and the energy sector to be a responsible corporate actor. If not, there is going to be a real focus placed by this Congress because they absolutely must respond appropriately. I mention that because of the reports, people calling in about price gouging and excessive profit taking. If that is occurring anywhere, it absolutely must be reported immediately to the Department of Energy and must be prosecuted to the full extent of the law.

We have asked the Homeland Security and Governmental Affairs Committee to conduct vigorous oversight hearings on what went wrong during those initial days and hours, and what lessons we can learn from this awful tragedy. Most of our response and energy needs to be focused on the victims right now, both their evacuation and responding to their needs, but at the same time that committee will begin their vigorous oversight hearings in an orderly way to collect the appropriate information. Emergency response was unacceptable early on and in many ways I saw it firsthand as a medical volunteer. We have to fix it. Those sorts of things should not happen in America today.

Every issue before us we will be addressing. Again, we are just coming back in. I look forward to doing that.

One of the biggest problems on the ground will be the issues surrounding communications, command and control structures, and we will be addressing the longer term issues of housing long term but also temporary housing, and issues such as health coverage and unemployment insurance, getting power back, restoring the ports back to activity, dredging channels for those displaced, and making sure their insurance coverage—if they were so lucky to have insurance—is actually provided to them in a timely way.

Let me close by simply saying I am humbled and inspired by the tremendous generosity of all Americans who have given so much of themselves and their time and their energy over the last several days—and their money—and the resources of compassion. I thank you and I know America thanks you.

We are going to have to continue to invest. We are going to have to continue to pull together. The Senate is rolling up its sleeves. It has done so. We are at work and will work aggressively to respond appropriately.

I am confident that America will be able to meet the challenges that lay ahead. Through all of this, we will be made stronger and better and more unified and more hopeful as we pull together as a government and as a people in this time of crisis. The American people are leading the way, and together we will all be able to overcome these challenges.

### THE SUPREME COURT

Tomorrow, I will have more to say about Chief Justice Rehnquist and the nomination of Judge Roberts for Chief Justice.

Today, let me briefly say the Senate and the Nation mourn the loss of the Chief, as he was affectionately known by so many of us and known on the Supreme Court. We will all miss Chief Justice Rehnquist—from his brilliant legal mind to his efficient and effective administration of the Supreme Court.

We look forward with confidence as the President's new nominee for Chief Justice, Judge Roberts, is considered. Judge Roberts learned from the best. He was, in fact, a clerk, as we all know, for then-Associate Justice Rehnquist. There is no doubt in my mind that Judge Roberts has the temperament, has the skill, and has the mind to lead the Supreme Court for decades to come.

With that, we have a lot to do. I know the Democratic leader has a statement. Then we will have time this afternoon after our lunches for people to come back and make statements as well.

Mr. REID. Mr. President, it is my understanding the Senate, under the standing order, is to go out of session at 12:30 today. Is that right?

The PRESIDENT pro tempore. That is correct.

Mr. REID. Mr. President, I ask unanimous consent, if my remarks take a little bit longer, that we wait until after my remarks to put the recess.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## EXPRESSION OF APPRECIATION

Mr. REID. Mr. President, the August recess was memorable for me for several reasons, not the least of which was my first visit to a hospital on my own behalf since I was 8 years old. I am grateful to the physicians who cared and consulted with me. Admiral Eisold, the Physician of the Capitol, is really a national treasure. The Congress is fortunate to have his curative hand over all we do.

While speaking of admirals, I would be remiss not to mention the Senate Chaplain, ADM Barry Black. After my brief hospital visit, my first public appearance in Nevada was at a faith-based summit I had been planning since January. The event turned out extremely well. The highlight of the summit was a presentation of Dr. Black, our Chaplain. I only wish all Americans—Christian, Jewish, Protestant, Mormon, Hindu, and Muslim—could have heard his presentation on faith and on virtue and why America must be a virtuous nation. His remarks were inspiring not only for me but for everyone within the sound of his voice.

I am happy to report that I am well. I feel fine. I have been advised medically that I have no restrictions on my activities. I am so fortunate to now return to work in a place that I love—the U.S. Senate.

Words cannot adequately express my appreciation for the thoughts and prayers and good wishes that I received from my Senate colleagues and the rest of the Senate family—some of whom are in the Chamber as I speak—and, of course, my friends in Nevada and around the country. I will long remember the cards, letters, phone calls, e-mails, and other expressions of concern. So even though these words are insufficient, I thank you all for your concern for me.

## SUPREME COURT NOMINATIONS

Mr. REID. Mr. President, much has happened in the weeks since we adjourned for the August recess. In just the last few days, we have seen tragedy strike the gulf coast and learned that our friend, William Rehnquist, Chief Justice of the United States, had passed. Our thoughts and our prayers are with those struggling to pick up the pieces on the gulf coast following the hurricane. And, of course, our thoughts and prayers are with the Chief Justice's family.

I had the good fortune of working with the Chief on several occasions, the first when I was head of the Democratic Policy Committee. I told my Democratic Senators I was going to ask the Chief Justice to come and talk to us. They said he would never do that. I called him, and he was happy to come. At that lunch, he displayed a great command of the law, of course, a strong commitment to judicial independence, and something that we didn't know existed—a sharp sense of humor. Just a short time later, I got to know him better when he presided over the impeachment trial here in the Senate.

I am grateful to have worked with him, and in addition to have spoken to him on the telephone on several occasions at his office and at his home.

As I have indicated, my condolences are with his family. He will be missed.

Now that the President has said he will nominate Judge Roberts to replace Chief Justice Rehnquist, the Senate's advice and consent responsibility is even more important. If confirmed to this lifetime job, Judge Roberts will be the leader of the third branch of the Federal Government and most prominent judge in our Nation. The Senate must be vigilant in considering this nomination.

I, of course, look forward to consulting with the President on the O'Connor seat which at some time will become vacant when the replacement is chosen. Justice O'Connor, we have heard from this floor and around the country, has been a voice of moderation and reason on the Court, and should be replaced by someone who, like her, embodies fundamental American values of fairness, liberty, and equality.

## HURRICANE KATRINA

Mr. REID. Mr. President, the work that we have to complete in the waning days of this session is significant and difficult, and nothing we do in the days ahead can be more important than helping the victims of Hurricane Katrina get back on their feet. They are counting on us. It is their time of need. We owe it to them to give them everything we are capable of giving them.

The most terrible tragedies routinely bring out the best in America and Americans. We have seen that again in the aftermath of Katrina, one of the most horrible natural disasters in the history of this Nation.

Americans are coming together and giving their time and money to the millions of victims. They are putting their personal concerns aside so they can put Americans in need first. Now they expect America's Government to do the same.

There are dozens of steps the Senate can take in order to get immediate relief to the victims of the gulf coast—steps we can take to make sure Medicaid is easily and readily available to those who need it, to get families the housing assistance they badly need, and to get resources to the school districts all over the country so displaced children do not lose a precious day of this school year. These items must be our top priority.

I commend the majority leader for clearing the Senate Calendar of the estate tax so we can focus on Katrina. We can do better. Families in Louisiana, Mississippi, Alabama, and Florida are counting on us to do that. They are suffering, and they have nowhere else to turn. We owe it to them to make their safety and survival our top priority, and we should give them nothing less.

## RECESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate stand in recess prior to the hour that was chosen, just a couple of minutes early.

There being no objection, the Senate, at 12:28 p.m., recessed until 2:15 p.m. and reconvened when called to order by the Presiding Officer (Mr. VOINOVICH).

Mr. LEAHY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HURRICANE KATRINA

Mr. HARKIN. Mr. President, the entire Nation continues to be focused on the millions of Americans who have been devastated and displaced by hurricane Katrina. My heart and prayers go out to the individuals and the families who have had to endure so much over the last 8 days; first, the natural disaster of Katrina and then the unnatural disaster of the delayed and deeply flawed relief effort.

Last week, as this tragedy was unfolding, I was on a congressional delegation in Afghanistan and Pakistan, among other things, meeting with members of the Iowa National Guard who are training units of the new Afghan Army. I will have more to report about that trip in coming days. While this tragedy was unfolding, most of the time I was in Pakistan watching. No matter where we went, it was on television, whether we were going to meet the President of Pakistan or whether we were going out to a small village to visit some schools we have helped to fund in the past in poor villages. Everyone had a television focused on it.

As I was there watching it unfold, I had this terrible feeling of helplessness; also, I must add, a feeling of embarrassment and being ashamed that our Government was not responding more forcefully to this disaster.

I will take advantage of this first opportunity to be back in the Senate to speak publicly about the events surrounding Hurricane Katrina. There is no question FEMA has failed and, more broadly, the Federal Government has failed the people of the gulf coast. In other parts of the country that are vulnerable to similar natural disasters or terrorist attacks, Americans are saying: There, but for the grace of God, go I, go me or my city. It is important those responsible for this systematic failure be held accountable and plans and procedures be put in place to avoid any recurrence of this failure.

I know I will not be the only Senator demanding hearings and rigorous oversight by Congress in the weeks ahead, but that is in the weeks ahead. That is down the road. Today, we must focus on the immediate and longer term human needs of the people of the gulf coast. As ranking member of the Agriculture Committee and of the subcommittee on Labor and Health and Human Services of the Committee on Appropriations I will do my part, again with my distinguished chairman, Senator CHAMBLISS of the Committee on Agriculture, and Senator SPECTER, who is chairman of the subcommittee on Labor, Health, and Human Services, along with Senator COCHRAN, the full chairman of the Committee on Appropriations, to see we provide maximum resources for relief and recovery efforts across the gulf coast region.

For instance, we need to make sure USDA, the Department of Agriculture, is able to meet the food needs of the victims and to assist hard-hit agricultural producers. We will also need to extend emergency Medicaid benefits to hundreds of thousands of victims. I will work closely with Senators and officials from Louisiana, Mississippi, and Alabama, to ensure that their needs are fully and effectively met.

Indeed, in recent days, my staff has been meeting with Senator LANDRIEU's staff to share the experience and the expertise we gained in the wake of our widespread flooding in Iowa back in 1993. Some of the visual images, especially of New Orleans and some of the other towns along the gulf coast totally flooded with water, brought back memories of the flood of 1993 in Iowa, when whole towns were wiped out, some never to be rebuilt. People lost their homes, life savings, and mementos, such as pictures and family albums, the things that mean so much in our lives.

I remember 1993 and those floods in Iowa. At that time, I cochaired a task force, along with Senator KIT BOND of Missouri, whose State was also devastated by the same flooding, to identify the types of assistance that would be needed, as well as the best way to secure that assistance in Congress as well as in the executive branch. I am hopeful our past experience can provide a roadmap for officials responding to this latest disaster.

Some of the needed assistance is obvious, beginning, of course, with food. Me must make sure these people who have been displaced to other States get adequate food and nutrition, and shelter, of course. It is so wonderful to see so many people opening their homes, their communities, their facilities, to take care of people who have been displaced from their own homes and communities. But we need to provide shelter in the longer term. Where is that going to come from? People cannot live for 6 months, 9 months, 2 years, in the Astrodome or in any other public facility which is housing these people now. We have to find adequate shelter.

Many of the people who have been displaced—let's face it, the vast majority are very poor people, and I will have more to say about that later—need health care assistance. Many of the communities are already at the breaking point, in terms of providing health care to the poorest of their citizens.

We need to be doing something about at least those three things—food, shelter and health care—right now. In the weeks and months ahead, more will be needed, including grants to individuals. Grants to individuals helped immeasurably in my State of Iowa after the flood of 1993, to help them move back, to get a start, to buy simple things like a bed, a stove, a refrigerator.

Loans will be needed to small businesses to get them back on their feet. Think of all the small Main Street businesses wiped out. They are going to need help to get back on their feet.

We need buyouts of homes in frequently flooded areas. Senator BOND and I also worked together after the flood of 1993 on hazard mitigation. Sometimes individuals located in an area constantly under flood threats or which has been flooded numerous times need to be relocated. We did that very effectively in both Iowa and in Missouri.

We need funding for community redevelopment. Much more will have to be done down the pike.

This Congress must step up to the plate and do it. If we can spend between $5 billion and $6 billion a month in Iraq, surely we cannot shirk our responsibility to our own citizens in this country.

As we learned back in 1993 in the Iowa floods, there are other less obvious forms of assistance that are also critically important. I add here, psychological counseling, psychological help for people who have lost loved ones or were traumatized by the disaster, especially young people and kids.

I salute Governor Tom Vilsack, of my State of Iowa, for leading a robust response to this disaster. He has ordered our State Government to prepare for the potential relocation of up to 5,000 people from the gulf coast region. They will be given shelter and assistance in communities all across our State. Again, I am so proud of my fellow Iowans. The phone calls have been coming in. They have room to take in one, two, or three people. They are opening their homes. The churches across our State are saying they will do whatever they can to help find housing and accommodations for people. Governor Vilsack has also directed the Iowa Department of Public Health to deploy a 30-member team of doctors, nurses, and other health officials to southeast Louisiana.

I say to my fellow Iowans and to all my fellow Americans, our prayers for the victims are important, but as President Kennedy once reminded us, here on Earth, God's work must truly be our own. Each and every one of us can make a difference to the victims of this disaster. There are dozens of organizations, including the Red Cross and Salvation Army, in urgent need of donations and assistance.

So it is at times like this we are reminded we truly are one American family. Families look out for one another. I have no doubt people all across this country will continue to open their hearts and be as generous as possible in the days and weeks and months ahead.

Likewise, I am hopeful this Congress and this White House will also be generous. We will do whatever it takes to help the people of New Orleans and the gulf coast put their lives and communities back together.

Mr. President, with that I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I, too, rise in an expression of sympathy to the victims of Hurricane Katrina and to convey my deep gratitude to the many people who are working in ongoing relief efforts.

As we gather here today, thousands of people throughout the South are struggling to recover from one of this Nation's greatest natural disasters. Really, if you think about it, it is a disaster that continues to unfold. With the public health issues, the sustenance-of-human-life issues, the needs that need to be met on a daily basis, this disaster, the full extent of it, is not yet even known.

As we all know, Hurricane Katrina hit the gulf coast on Monday, August 29, leaving in its wake destruction and devastation. The loss of life is incalculable at this time. The city of New Orleans lies in ruin, and residents of Louisiana, Mississippi, Alabama, and Florida are struggling today to meet their most basic needs—shelter, food, clean water, and medical care.

This Congress has appropriated, on an emergency basis, more than $10 billion to help meet the most immediate needs of these victims of this disaster. But, obviously, there is more that needs to be done.

Thousands of Americans now face the daunting task of rebuilding their lives. I am proud to report the people of my State of Texas are doing their part, welcoming literally almost a quarter of a million people with open arms. While some Texans are providing resources to meet evacuees' immediate needs, others are facilitating longer term needs for this large and displaced population. State and local government agencies are coordinating efforts on the ground and countless volunteers—from churches, synagogues, mosques, other faith-based organizations, and just good hearted people—are providing all of the help they can on a round-the-clock basis to ensure our neighbors' needs are being met.

On the ground, nearly 2,000 soldiers and airmen from the Texas Air National Guard are continuing to provide assistance with Hurricane Katrina relief and security efforts. An additional 350 members of the Texas State Guard have also joined them. Texas National Guard aviation has moved more than 6,650 people, distributed 20,000 meals, and almost 40,000 bottles of water, and supplied more than a million pounds of material to help repair the breach in New Orleans' levees.

Even as Texas leaders have notified FEMA and Louisiana officials that we are nearing capacity, people across the State continue to open their homes to their neighbors in need and to reach out to help them in any way they can.

In the shelters, one of the most important ongoing efforts is to locate a place for displaced residents to actually live on a temporary basis. The Red Cross in Dallas is doing everything it can to register evacuees or those who have been victimized by Katrina. This will help facilitate the reuniting of these victims with their families and loved ones. This effort is being duplicated at all other shelters.

The city of Fort Worth and Tarrant County have partnered to provide the best possible care for victims. The local government has taken full responsibility for this situation and is managing these shelters in an efficient and professional manner.

In Houston, 20,000 people are being housed and cared for at the Astrodome. Another 4,000 are being sheltered at the Reliant Center. And 3,000 more are being housed at the George R. Brown Convention Center. It is estimated that up to 100,000 more are in hotels and shelters throughout the greater Houston area, with around 200,000 to 250,000 victims of Katrina in Texas.

Mr. President, 20,000 volunteers in Houston alone have been working to accommodate the enormous manpower requirements to put all of these efforts in place.

A lot of credit is due not only at the highest levels of State government, to Governor Perry and his team, but also to local leaders such as Harris County Judge Robert Eckels and Mayor Bill White of Houston who have done an excellent job working to mobilize the major county and city efforts to offer immediate shelter to these victims. Both the judge and the mayor have been going to Fortune 500 companies in the greater Houston area to ask for immediate help and have been met with generous offers of assistance. Shelter volunteers are working, also, to make sure the medical needs of these evacuees are being met. Dallas County Health and Human Services has stated that physicians are taking extra precautions to prevent the outbreak of communicable diseases at the shelters. The Mental Health and Mental Retardation Department has deployed social workers and psychiatrists to shelters to help deal with the mental trauma associated with this disaster.

But in addition to the immediate needs for food, clothing, water, and medical care, there are long-term needs that need to be addressed as well. We must also ensure that these long-term needs are met by this same team effort of Federal, State, and local officials, as well as nongovernmental and faith-based organizations. Federal agencies have stepped up and have given information to evacuees on how to receive Social Security and other Government benefits while they are temporarily displaced.

The Post Office has stopped mail according to ZIP Codes so mail will not be lost and can ultimately be delivered. Local district clerks have given information regarding how to apply for child support payments. And I recently was in communication with district clerk Charles Bacarisse of Harris County, who is working with attorney general Gregg Abbott to make sure child support payments are delivered on time to those who are entitled to them.

Congress is also considering waivers so the Department of Housing and Urban Development can give out vouchers for housing.

My office has joined with the rest of the congressional delegation to facilitate the Federal Emergency Management Agency's ability to provide services and assisting HUD to provide housing as quickly as possible to such an enormous number of people. Likewise, communities have joined together, and many good people are personally even housing in their home those who have nowhere else to turn.

So I am gratified, but not surprised, by the big heart of the people in the State of Texas toward those who are in need. We know there are stories that are heartwarming on a personal level as well as on a larger level as to the way people are responding, which is in a way that we would all hope that if the shoe were on the other foot we would respond.

While we have heard there have been episodes of lawlessness, looting, and other acts of desperation, it is important to remember there have been innumerable acts of kindness from those expressing charity and goodwill which I believe truly embodies the American spirit and the Texas spirit. These are some of the stories on which I would like to close.

I was told an expectant couple from Louisiana was so appreciative of the warm welcome they received when they arrived in Dallas that they named their newest arrival, their baby girl, "Dallas," after our fine city.

After a 23-hour drive to Texas, one woman gave birth to her new son and named him after the hospital where he was born in gratitude for the money, gift certificates, clothes, and other necessities that the hospital staff collected for her.

Louisiana resident Bernell Royal was rescued from his rooftop with nothing more than a bag of clothes—no identification, no wallet, no personal documents or effects. He is now being housed at a shelter in Austin, TX. Although he believes everything he owned is now gone, he told one reporter:

> I feel like in Austin I've found a new sense of respect, dignity and honor. I would love to stay in Austin, get a job, and start a new life.

We hope he will.

In Duncanville, Darwin German II and his family wanted to help hurricane victims, so they decided to give away what they had—free apartments at the Candlelight Park Apartments. Move-in costs will be covered, as well as 4 months of free rent.

Dallas school officials over the weekend prepared to enroll approximately 500 student evacuees who were expected to start school today. The Dallas Morning News reports that Melissa Farria said when her children were registered for school:

> These people are amazing. . . .When they were saying they were registering students, I couldn't believe it.

And the University of Texas is likewise opening its doors to Texas students who were on their way to Louisiana universities. It has been reported that 134 undergraduates and 60 law students have now been enrolled at the University of Texas and will be able to continue their programs of study.

The Dallas Morning News is offering free classified advertisements for businesses and individuals offering free goods or services to evacuees from areas struck by Hurricane Katrina.

These are just some of the stories of goodwill and charity and big hearts that we found in response to this terrible disaster. I know the temptation is perhaps almost irresistible, particularly here in Congress, to point the finger of blame at mistakes made, plans that were not executed the way we hoped they might have been. Believe me, there will be plenty of time for that. But I believe right now it represents a distraction from the job we ought to be about, as exemplified by these wonderful Good Samaritans I have described this afternoon.

We ought to be about making sure people have food, shelter, and clean water; that they have medical care; that their children are allowed to go to school; and that we help them get on with their lives and leave the blame game and the finger-pointing for later on. I know Congress and the Senate will undertake a series of hearings—and, in fact, this afternoon—looking at gasoline prices. We should and we will deal with that issue appropriately. We also ought to look at the mistakes that were made and things that could be done better. I am confident the Homeland Security and Governmental Affairs Committee will, in due course, have hearings and make sure we learn from those mistakes and we do better next time.

But I think more than anything else this is a time for Americans to pull together. I wanted to take a few minutes to express my gratitude to the bighearted people of Texas for taking in these nearly quarter of a million evacuees from Hurricane Katrina who had nowhere else to turn and who were looking for the milk of human kindness, which they found in the great State of Texas.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, millions of Americans on the Gulf Coast have endured an almost unspeakable tragedy over the past 10 days. Thousands are likely dead. Hundreds of thousands had their lives upended and wondered so rightly why their Government seemed to have abandoned them. Millions of Americans across the country are asking themselves when the suffering will end.

We cannot undo what has happened, but there is one thing we can do to redeem ourselves and to live up to our greatest American ideals.

We can commit that we will not stop, that we will not rest, until these communities are back and stronger than before, until families have been reunited, and until the survivors of this catastrophe are restored into the full measure of American life.

If 6 months from now we are still referring to American citizens as refugees, if we are content that American families are holed up without jobs, without homes, without security, then we will have failed and failed miserably.

Our response to date has not been worthy of our Nation, and we will have to examine why it wasn't until last Friday that our brave and committed National Guard forces were deployed to deliver supplies to the starving, suffering Americans stranded at the New Orleans Convention Center.

The time will also come to determine why the mandatory evacuation order wasn't implemented effectively and why the Army Corps of Engineers wasn't given the resources long ago to prevent the collapse of the levees that caused most of the loss of life, especially when FEMA had called such a hurricane one of the "likeliest, most catastrophic disasters facing the country."

Clearly, mistakes were made that cost lives, displaced thousands, and left one of America's most unique and treasured cities under water and abandoned. There will come a time to hold accountable the responsible officials who allowed this disaster to become even more disastrous.

But our first priority now is to do everything we can to meet the needs of our fellow citizens and to provide a helping hand to the countless generous Americans throughout the Nation who have opened their homes, their schools, and their communities to our displaced fellow citizens. Today our job is to meet the great, daunting, and unprecedented challenge of rebuilding the entire region.

Our obligation is to guarantee that the Americans thrust into the darkness of despair and homelessness last week emerge with a restored faith in their fellow citizens and a renewed belief that this is a land of opportunity.

This is a challenge for all of us—as individuals, as public officials, and as members of religious and charitable organizations.

But above all it is the job of our national Government, which alone has the resources, the manpower, and the authority to lead this enormous effort. The eyes of the world are upon us—watching to see how we take care of our own.

The $10.5 billion Congress passed last week was an initial gesture, but it's just a small fraction of the amount needed to address the unprecedented challenges this entire region faces. It's only the beginning, and we need to recognize that.

We should move quickly, for example, to address the health needs of these citizens. The disaster area is a public health hazard as well. The floodwaters are potentially disease-ridden. Countless people have been injured or taken ill as a result of the disaster. The physical and mental health needs of thousands must be met as they try to cope with the horror that they've endured.

We also need to ensure that the elderly and disabled who rely on supplemental assistance to live continue to get it, even though they've been dislocated.

We must do all we can to see that school children and college students don't miss a year of their education.

There are approximately 70,000 children in the New Orleans school system, some 7,000 to 8,000 schoolteachers. That school system has effectively been completely destroyed—all of the books lost, all of the records completely lost. We don't know where those schoolchildren have moved to, which children have gone where. The payrolls for all of the school administrators have effectively been lost. We know that what I just mentioned for New Orleans has been replicated in school district after school district throughout the whole gulf area.

School districts across the country are taking in children from the disaster area. Thirty-five cities as far north as Detroit have come forward to date, we understand, with Houston working to serve 6,000 students, Dallas-Fort Worth making room for 5,000. These school districts are doing our Nation a great service. We need to make sure they have the support they need as they step forward.

In my own State of Massachusetts, a number of colleges have offered to take the graduate students that were studying at law schools such as Tulane and other students who were studying at the great universities in Louisiana and along the gulf area. This is something we should follow up on, the challenges, to make sure that the students, whether it is K–12, whether it is in college, or whether it is in graduate schools, we reach out to try to assist students in the educational area.

Colleges are volunteering to admit displaced students from the region. We must offer them additional aid for generously admitting these students and must assure that adequate student aid is available to those who temporarily attend a new college.

The hundreds of thousands of workers who now have no jobs need an income to help them overcome the delay in finding new employment. We must amend our disaster unemployment assistance laws to enable these men and women to qualify for help. For example, under the emergency unemployment provisions, you to have wait 30 days in order to be eligible to be a recipient. That is obviously a rule that has to be addressed if we are going to use that particular mechanism to get income to these needy families.

We need to rebuild the public health infrastructure which is under increasing strain as the number of uninsured continues to climb. Sadly, Hurricane Katrina has only made this crisis worse.

These are but a few of the actions we must take—and take now—to deal with the immediate needs of those displaced by Katrina and of the communities that have so generously taken them in.

In the longer term, I believe we should establish a New Orleans and Gulf Coast Redevelopment Authority, with cabinet rank, to coordinate planning and funding needed to restore the infrastructure of that battered region—the electricity, water, gas, roads, railroads, and bridges, and, especially, the levees and flood control facilities. These actions are beyond the ability of any single community, city, and State to handle on their own. It is a national responsibility, and we need a capable authority to work with State and local officials and local citizens to rebuild the future.

The scope of this national crisis exceeds anything since the Great Depression. It's the first time a major U.S. city has been leveled since the San Francisco earthquake of 1906. It will likely exceed the cost in human lives of the Galveston Hurricane of 1900, where more than 8,000 persons are thought to have perished.

It's the kind of disaster we no longer thought possible in an age of instantaneous global communications, rapid transportation, highly accurate weather forecasts, and advanced engineering. It was most certainly the kind of suffering that should not be tolerated by a modern society with so many tools at its disposal.

In the weeks, months, and even years ahead, the recovery from this disaster—the complete, total, and unambiguous recovery—must become a primary focus of our national government.

As elected officials we cannot allow this work to be sidetracked by lesser priorities. If we don't get this right for our fellow Americans, little else can matter.

For our political leadership in Washington, in the White House and here on Capitol Hill, this is a test of wills, a test of leadership, a test of vision and compassion.

It will require singular focus and an unyielding commitment.

The most immediate task is still to save lives. Over 1.5 million have been evacuated from the devastated area, but many still remain, particularly in outlying rural areas cut off the most from the outside world.

Local authorities, the National Guard, and the Coast Guard are still trying to reach and rescue men, women, and children from the ravaged areas. It's a race against time before waterborne disease, dehydration, and neglect take their toll. They are working around the clock, and they deserve all the resources they need.

For the hundreds of thousands of Americans thrust into homeless shelters as a result of the tragedy, we need to make sure they are getting the care, nutrition, and counseling they so desperately need.

But the urgency is not limited to these immediate and enormous humanitarian tasks. It extends to the rebuilding efforts too, because the more rapidly we can revitalize the great city of New Orleans, and so many other communities, the sooner we can help people rebuild their lives.

These cities and towns are not just bricks and mortar. They are communities and economies of countless families, neighbors, and business owners, desperate for a return to normalcy.

It's said that nearly 80,000 jobs in New Orleans alone are provided by the tourism industry. How many more of those jobs can we save—how many more families can have stability again—if we get the city back on its feet in 6 months as opposed to 1 year? Two years? Three years? How much human misery and suffering can we still prevent?

I'm impressed with the way the Army Corps of Engineers is working to rebuild the levees and begin to drain away the water. It's such a critical step in locating the missing and beginning the process of recovery.

The Army Corps now estimates that perhaps within 30 days, New Orleans and the surrounding areas will finally be dry.

The question for Congress and the administration is will we be ready on Day 31? Will we be ready to start cleaning the streets and homes and removing the ghastly evidence of this most unbearable tragedy.

We owe it to the living to be ready. We owe it to the charitable organizations that are filling in the gaps and helping the displaced to get back on their feet. We owe it to the first responders who are giving so much of themselves to ease the suffering.

We owe it to the millions of Americans who are opening their hearts and checkbooks to their fellow citizens.

History is watching us now, and it will judge our actions. We can't undo the failures in planning over many years or the failures in the immediate response over the past 10 days.

But we can resolve to dedicate all of our energies and resources, and our resolve from this point forward to resources to bring about a complete and total recovery for the entire Gulf Coast area, and the men and women and children who've endured more than any of us can possibly imagine in this massive tragedy.

To the Gulf Coast region we need to be like Aaron and Hur who held up Moses' tired arms in battle.

Today, we need to be just as dedicated to the Gulf Coast region if we are going to lead our fellow Americans out of this time of darkness to a better and stronger future.

The Katrina disaster also shines a bright light on another challenge facing our country—the glaring economic disparities facing our citizens. Those with means were able to escape the disaster. Those without could not.

Those with means can slowly and painfully rebuild their lives.

Those without means have nothing to let them rebuild.

As a nation, we must be sensitive to this inequality—sensitive as we respond to Katrina, and sensitive, too, as we select new Justices for the Supreme Court. That's a critical question for Judge Roberts. Can he unite America for the future?

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I know we have been alternating between the Democrats and Republicans. I note that there is no Republican on the Senate floor, and I will therefore now proceed in the interest of economy of time.

The PRESIDING OFFICER. The Senator is recognized.

Ms. MIKULSKI. I note Senator LOTT has come to the floor of the Senate. I didn't know if the Senator wished to speak, as someone who has lost his home in his State. I am happy to return to my time. Would the Senator like to talk now?

Mr. LOTT. Mr. President, I thank the Senator, my good friend and my partner, for allowing me to have this opportunity. But to tell the truth, I just arrived a few minutes ago, and I am still a bit emotional right this minute. If she would continue to give me just a few minutes to get my papers in order, I would appreciate it.

Ms. MIKULSKI. Certainly. We welcome you back. And to the people of Mississippi, know that we extend our concern and want to put our good intentions into operation.

I come to the floor of the Senate to speak about what has happened to our country and ideas on how we can move forward and make sure this never happens again. I note that the Presiding Officer himself has been a mayor and a Governor, so he knows what these kind of challenges are.

Last week on the Senate break, when I saw what was happening in Louisiana, in Mississippi, and in Alabama, I couldn't believe it. I could not believe the devastation that occurred in these communities where entire neighborhoods were wiped out, that a wonderful city we have all loved and admired and enjoyed, New Orleans, was now under 10 feet of water, that the people of Mississippi all along their coast lost their homes, where with the flyovers all you saw was wreckage, people on a beach and an American flag and a sheet saying: Please help us. And then also this going on in Alabama. We in Maryland know what it is like for a hurricane to hit. Just a few years ago, we survived Hurricane Isabel where we had communities that looked like Baghdad on the bay. So we were very concerned.

One thing we had was confidence that hope and help would be on the way.

Well, my gosh, this did not happen. I could not believe the slowness and the sluggishness of the response to these communities; that it was the private sector that was on response a lot faster than our own Government.

Mr. President, this is just unacceptable. This failure of Government to be able to respond more quickly and more effectively shows that the people in these States have been doubly victimized. They were victimized by the natural disaster, Hurricane Katrina, and now by the response of their own Government.

It did not have to be this way. It did not have to be this way. In 2000, a tiptop FEMA was turned to the Bush administration. President Bush appointed Joe Allbaugh to be head of FEMA. We kept the legacy of reform that had begun under President Bush 1 and had started with Andrew Card and myself working on a reform of FEMA. This reform left FEMA in tiptop condition to respond to a crisis of a natural disaster in an American community.

I want to recall this to my colleagues. Back in the 1990s, I chaired an appropriations subcommittee called VA-HUD and Independent Agencies. One of the independent agencies was FEMA. We saw its lackluster performance in Hugo. But when Andrew hit Florida it was a disaster. It was a disaster of proportions from the hurricane and then again the ineptness of FEMA.

Well, we went to work, hands on. President Bush 1 sent Andy Card to Florida and he began to work and we on appropriations began to work, and we worked across the aisle on a bipartisan basis to help not only Florida but to take a longer look at the need to reform FEMA. And again, working on a bipartisan basis, reform FEMA we did. We took it from an agency that was focused on the Cold War, was riddled with cronyism both at the National and State Governments. There was a tradition that because FEMA was only organized in the case of a nuclear attack that you did not have to put in professionals because it would not matter; we would all be dead anyway. So there was cronyism, it was unfocused, it was of the Cold war, but again, working on a bipartisan basis, we in appropriations worked with the White House to change it.

President Clinton came in, and we kept the reform momentum going. And what did we do? We said, No. 1, that FEMA, first of all, should say goodbye to the Cold War and hello to being a risk-based agency, to take a look at what most American communities would be threatened by. In those days, it was a hurricane, it was a tornado, it was an earthquake. And then for it to go to an all-hazards agency, whether it was a train that got stuck in a Baltimore tunnel with toxic fumes that we worried about or whether it was an earthquake in California or a tornado in one of our Midwest States.

The other thing we focused on was that FEMA had to be run by professionals. It had to be run by someone who had dealt with management situations. And that was either a civilian involved in emergency management or possibly someone from retired military, and we asked each Governor to also reform themselves at the State level. We literally upgraded FEMA from the State and local level to the national level. We have had James Lee Witt. We had Joe Allbaugh, things were improving.

The other thing we did was we made sure that we practiced the three Rs for FEMA. What were the three Rs? Readiness, response, and recovery. It took time, it took money, and it took cooperation. But again, working on a bipartisan basis, we had it accomplished. We worked, as I said, with President Bush 1, then with President Clinton, and then, even though I chaired FEMA appropriations and was the prime mover in 1994, Senator KIT BOND became the chairman of that wonderful subcommittee, and for a decade, he too, working hand in hand, kept the momentum of reform going concentrating on a professionalized FEMA that could work on readiness, recovery, and response.

The States were ready, we were ready, and I think everyone agreed during that time it worked well.

Well, now something terrible has happened since 2000, since 9/11, and I will tell you what happened.

First of all, somehow or another, FEMA has lost its way. Since it has moved into Homeland Security, it has become unfocused, it has become unclear, it has lost its direction of being an all-hazards independent agency. Therefore, today, I am proposing a couple of things. I am proposing that, No. 1, we restore FEMA to being an independent agency responsible to the President the way it was before 9/11; No. 2, that we also make sure that, as an independent agency, it is an all-hazards agency run by a professional. I think it is time that Michael Brown leave FEMA. I think he either should leave voluntarily or involuntarily, but we need a professional in charge of FEMA; No. 3, there should be a commission to look at what happened. But we can't wait. There is much to be done. There is much rebuilding that needs to be done. We need to make sure that we are helping our own communities.

First of all, we want to congratulate the people at the local level for their tremendous resiliency, the people of Mississippi, Alabama, and, of course, Louisiana. No. 2, we need to congratulate the nonprofit sector—the Red Cross, the Salvation Army, Catholic Charities, also universities that are taking in students. We need to thank people from around the world who not only have sent condolences but have sent resources, and we appreciate their help. But we need to make sure that we have a FEMA that the American people can count on. We need to restore it to an independent level, make it an all-hazards agency, make it one that focuses on readiness, response, and recovery.

What we can do now with new leadership is focus on the recovery part. We want to say to the people of these States we know that when the TV cameras leave, your Government cannot leave you, we cannot forsake you, we cannot abandon you. To the Governors of the States that have welcomed these people, from Texas to Georgia to Arkansas, each struggling, we say that we need to be there to help you. For all those other States that have sent help, including my own State of Maryland, we need to back those States and back those communities.

I say to all those people who have no home and living in temporary shelters, we need to help you find a way. For all of you who are living in motel rooms because you could evacuate, running out of time, running out of money, we need to identify who you are, see where you are, to make sure you are connected with your family and begin to see if we can't connect you with a home and with a job. We need to be able to do that. But in order to do that, No. 1, we need new leadership at FEMA. No. 2, we need to reform FEMA. And No. 3, we need to look ahead.

There are those who say: Well, Senator MIKULSKI, FEMA went under Homeland Security because of a global war against terrorism. We know that, and I was one who voted to put it there. Well, I will tell you, would you trust FEMA now if a dirty bomb hit a city? Would you trust FEMA now to be able to respond to a chemical or biological weapon? The answer is no, no, no.

Much needs to be done. First of all, we need to support those communities that are helping other communities. We need to also salute that which is working. Three cheers for the Coast Guard that was one of the first on the job doing rescue; support the private sector, America's corporations that are both paying their employees and sending in incredible donations. We need to support the nonprofits that are also helping. But most of all we need to support each other.

I want to, once again, as I did at the time of Hurricane Andrew, reach across the aisle to an American President to say let's stop using the term "refugee." Let's start using the term "Americans." Let's start using the term "citizens." Let's start acknowledging that we are all one people under God, indivisible. Let's work to reform FEMA. Let's get in the right leadership. And then let's work with the right resources, and let's do it in a spirit of cooperation. We had that spirit after 9/11. That is what somebody did to us. Now, we had a hurricane do something terrible to us. We should not do unto ourselves by not responding to the needs of our own people. Somebody once said it takes a village to raise a child. Right now it takes a country to raise these villages and all of those towns. My heart goes out to them. As I said, we in Maryland know what it is like to be on the coast and be hurt. I say to my colleague who has lost his beloved home that has been in his family for years, looking at him as a Senator, he has some power, and we are going to help him, but we think about all the little people, all the little people, and we think about how we can help them. If we work together as a country and make sure we work with America's corporations, we will get the resources in the United States of America. And then for the long haul, let's make FEMA an independent agency—an all-hazards, professionally run independent, responsible only to the call of the Commander in Chief.

Mr. President, I once again say, God bless America and the people of its communities. I look forward to working, on a bipartisan basis, to resolve this issue. I thank the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. I thank the Chair.

Mr. President, I say to the distinguished Senator from Maryland, Ms. MIKULSKI, I appreciate her kind remarks, and I know how she feels, on a human and an individual basis, and I know she will be working with us to make sure that the full force of the Government is used and that where we need changes and where we need help, we will work together to put those in place.

I have learned, once again, that Mother Nature is a great equalizer. When you experience what we have experienced, which is an attack of monumental proportions, politics and partisanship, national origin and economic status, religion, all of that is put aside so that you can work together to help people who are struggling for their lives, literally.

I want to take a few minutes to talk about what is the situation there. I came back because I wanted to express my feelings in a number of areas and talk about the devastation and not try to complain—in fact, I will not complain—but tell people how they can help. We need solutions, and we need actions. After a couple days here, where I can maybe meet with Cabinet Secretaries and meet with others who make decisions, we will go back, and we will continue the effort. We are not at real cleanup yet, certainly not reconstruction. We are still dealing with devastation, search and rescue, and health and safety. And it is desperate. I want to begin by thanking my colleagues. So many of my colleagues have sent messages, have called my offices, have gotten through to me and made huge efforts to try to express their concerns. I don't want to belabor this point, but one of the calls was from Senator KERRY from Massachusetts. He said that he and Teresa had been worried about my wife Trisha and me and could they help. I said: You bet. He said: What can we do? What do you need? Where do you need it? I told him: Don't worry about distribution. You let us know when you are going to land. We will have people for pickup and distribution.

That story can be told hundreds of times over from friends or people you do not even know. Republicans, Democrats, people from Michigan, Illinois. It makes no difference. I could tell you an anecdote about every State. A lady from Illinois, pastor of a church, wanted to do something. She loaded up her own van, did not even have enough fuel to get there, but somehow or another she begged, borrowed, wound up in the disaster area handing out materials, supplies. Nobody paid for it. Nobody asked for it. She loaded up and went to the sound of the cannon, and she made a difference.

Yesterday, when I flew in a Black Hawk helicopter to Poplarville, MS, one of the areas off the Gulf Coast that one does not hear a lot about, to make sure people in rural and small towns know that help is on the way there, too, I was escorted by our delegation. We had a Mississippi Black Hawk and three New York National Guard Black Hawk helicopters. Some of the first National Guardsmen who arrived were from Michigan. You name it, I can tell a story about every State.

On Wednesday, when I was digging through the rubble of my own neighborhood, some guys walked up from Bert, FL, and said: We know a little bit about hurricanes. We know you are hurting and you need help. We have six men, a bobcat, and a front-end loader. How can we help? I said: Can you clear that road, where we could get through there because the traffic in that area is getting to be a problem. And there is a little retired schoolteacher living back over here. We have not been able to get into her house. The debris was 6 or 8 feet up against her doors. We were afraid she was in there, but she showed up later in the afternoon, and we got her into her house. I do not know those guys. They were from Bert, FL. If they are listening, if they ever hear this, I want to thank them for loading up and coming to help.

Now, I have been dealing with disasters in Mississippi and in our region for 37 years, going back when I was a staff member for a Democratic Member in the House. So I have dealt with hurricanes. I was there for Camille, and I promised the Good Lord, if he would let me live through that one, I would not stay for another one. I have not stayed for any more. I leave, and then when the wind slows down, I go back and I take down the boards and I pull the debris, with my neighbors and my friends and my family. This time we could not even pull the debris. There was too much of it. But I have seen hurricanes of all kinds, and I have seen tornadoes and the devastation from ice storms and floods. We have had everything in Mississippi but locusts, and I expect them to show up real soon. This is a disaster of biblical proportions. I want the people to understand that.

My house is irrelevant, in the bigger picture of what happened, except for one thing. This house was 150 years old. It was 12 feet above sea level. It was 8 feet off the ground. Senator MCCONNELL slept in that house. It was nothing special, but everything in there was special. The point though is, for 150 years, this house had been able to withstand everything Mother Nature could deal her. Yes, we had the porch torn off and we had the roof replaced several times and we had other damages, but basically it stood right there similar to a rock, and that is my hometown, Pascagoula, MS. As you go west, the damage gets worse and worse and worse: Biloxi, MS, Gulfport, MS, Pass Christian, Long Beach, Bay Saint Louis. Waveland, MS, no longer exists. You might say, well, the buildings are still standing. They were gutted. No, there is not a building standing—this little community of 7,000 people. And then there is New Orleans. A lot of people have been so emotionally touched and upset by what they have seen there, but one of the things they need to know is the hurricane hit us Monday. Their biggest disaster was Friday because the levees broke, the pumps had salt in them, and they did not work. I flew over Jefferson Parish on Friday with the President. They had water up to the roof lines of the houses standing there, and it had been rising ever since about Tuesday or Wednesday. So their worst disaster was not the hurricane; it was the aftermath.

I flew over and saw three big fires going on in New Orleans. Nobody was trying to put them out. You know why? You could not get there. Finally, the National Guard came in with helicopters and buckets and helped a little bit.

So the proportions of this are enormous. And for that reason, our response has not been perfect. A lot of criticism has been pointed at this place or that place, why was the military not there earlier, or this person or that group? It took the National Guard in my home State, going from Camp Shelby, 70 miles, to Gulfport, MS, 7 hours because they had to cut their way through a major highway. Highway 49 was covered with pine trees. They were still falling the next night when I went through there because they were kind of standing there and eventually fell right on down.

When you got on the ground, we did not know exactly where it was going to hit, and then the proportions of it exceeded what anybody expected. And even when you got there, you could not communicate with anybody, no hard lines, no cell phones operating, no blackberry messages were coming and going. It took us 2 days to get to where people were. We are still looking for people we have not been able to find. A lot of the bad things that I have tried to deal with turned out to be rumors. I had two good friends who were identified basically as missing or dead Tuesday. Well, they were there Friday. I was told I could not get to my house; the roads were closed. I advised what I was going to do to anybody who tried to stop me. When I got there, there were no blockades. I went right through there like lightening, and so did everybody else. So there are rumors about things.

Now, have mistakes been made? Is it bad? Is it still horrible? Has it not been fast enough, good enough? Yes, yes, yes, yes, yes. What good does that do? I met yesterday with elected officials from 33 counties in my State, mayors, supervisors, clerks, sheriffs, police chiefs. And by the way, I cannot give enough accolades for what they have done. I told them: Look, I do not want to hear about the problems of yesterday. I want to hear what your problem is today. Tell me what the solution is, and we will fix it before the sun goes down.

I want to give some idea of what is happening. The loss of life is just, one cannot even comprehend what people are dealing with. Of course, similar to everything else in life, when you have a disaster such as this, it is bad on everybody. The poor people and the people in low-lying areas, they are hit harder than anybody, and we have to make sure we help them.

I want to specifically thank a few people. It is not a long list and I am going to miss some and I will be back to get to the rest of them. The first responders saved a lot of lives, even saved property, which became irrelevant. National Guard, Coast Guard, military in general, they are working now, the Seabees, the Corps of Engineers, the Navy. For the first time in history, we are moving Navy flat-bottomed troop carriers in to house people so that emergency workers will have a place to sleep at night and get a warm meal. Once again, we saw that the military is not only for Iraq. We need the military for here.

You know when they got order in New Orleans? When the 82nd Airborne pulled in, the shooting stopped. They brought in a tough general that came off the plane cussing. Within 6 hours, things were under control. So I want to thank them all. Policemen, firemen, stories I have heard, people I have seen, emergency rescuers, ambulance, all of those first responders. Local and State officials do not get enough credit.

In my State of Mississippi, one reason why I think we are doing a little better than we have in the past or than some other areas is we have the best quality of elected officials, men and women, mayors, supervisors. Our Governor, Haley Barbour, and our Lieutenant Governor, Amy Tuck, they have all been pulling together, and they deserve a lot of credit. Federal officials, there are so many things that have happened I cannot list them all. Cabinet Secretaries and agency people, individuals, FEMA is there on the job. They are getting hammered the most, and we will have to think about whether they are set up in the right way, but there will be time for that.

Right now we want to know what can we do to help them do a better job. In my own State of Mississippi, the Mississippi Emergency Management Administration has been criticized. I was about ready to express myself in a very profound way yesterday about the fact that we do not have emergency housing arriving yet. I was told that the Mississippi Emergency Management Administration had not requested the trailers. So I got to where a MEMA official was and asked: Did you request the trailers?

Yes, 20,000, 2 or 3 days ago.

What is the problem?

He said: I do not know. I have made the request. So then the word from FEMA was: Well, we have not been told where to put them. Excuse me? The whole area is slick. Park them anywhere. There are no parking limits. We are a parking lot. That is ridiculous. So there is bureaucratic nonsense going on, but we are getting there. We have that problem resolved. We have FEMA talking to MEMA, talking to the people who have the trailers. Three hundred arrived this morning; 20,000 more are coming. We will get through that.

I want to thank the Red Cross, the Salvation Army, all the other charities, individuals, and churches. My wife, yesterday, worked all afternoon loading an 18 wheeler at Christ United Methodist Church, Jackson, MS, where Baptists, Methodists, Catholics, and Jews were all working together, all kinds of backgrounds, loading those 18 wheelers. Nobody asked to pay for it. Nobody told them where to send it. They said: We are loading them, and we are sending them to the First Baptist Church, Pascagoula, the First Presbyterian Church, Pascagoula, and to the Episcopal Church at Ocean Springs, MS. They are there this morning with things such as Clorox—never stop to think you need that—cleaning materials.

I saw the Red Cross riding around. They did not wait for people to come to them because people could not get there. The Red Cross people went into the communities and said: Here is a Styrofoam plate of warm food. Some people had not seen warm food for days. Some people had not eaten for days. And they are out there handing out water on the frontline. The Salvation Army never asks questions; they provide help. So all of those are doing a great job.

I want to do something else too. Well, before I get to that, volunteers, boy, they have been great—people showing up saying: Where do I go? That is one thing we do need is leaders. You have to have somebody who will be willing to take charge and get people coordinated. That takes a little time.

I also want to put a list in the record. It is a long list. I ask unanimous consent that this list be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

### DONATIONS AND ASSISTANCE

### RETAIL AND BUSINESS

*Wal-Mart*

Donated $1,000,000 each to the Salvation Army and Red Cross.

Donating $15,000,000 to jump start the national relief effort. As part of this donation, mini Wal-Marts are being established to give free food, water, diapers, toothbrushes and clothes to victims.

Using stores as staging areas for disaster assistance and distribution centers are stocked with flashlights and blankets for disbursement.

Have several truckloads of supplies heading to the area.

Giving funds to displaced employees for housing, food and basic needs.

*Home Depot*

On phone with Governor's office to see where the below is needed most.

Have more than 800 trucks staged in the area for deployment.

Directing generators, flashlights, batteries, tarps, plywood, etc. to areas hit by Katrina.

Partnering with Super Value to deliver non-perishable food items like beef jerky, peanut butter, bottled water, diapers, etc. Planning six sites for "tent stores" that will be staffed and supplied in the following days.

Have generators on the way to Northrop Grumman for their use, per Pickering's request according to Beth.

*FedEx*

Flying a plane of relief supplies into New Orleans.

Donating $500,000 to the Red Cross plus $500,000 for shipping costs in addition to the $250,000 annual donation and annual $850,000 shipping.

Giving logistical support to the Emergency Command Center established in Louisiana.

A chartered flight today from Newark will carry 90,000 pounds of cots and hygiene kits to evacuees located in the Houston Astrodome.

*Ashley Furniture*

Donating $500,000 to the Red Cross plus employee and individual store donations.

Willing to sell furniture to FEMA below showroom costs for storm victims.

*SmartSynch*

Accepting donations of clothing and other items to be taken and distributed to evacuees in Jackson area shelters.

### FOOD RETAILERS

*Altria (Kraft)*

Sending 4 truckloads of Fruit20 and 2 truckloads of snacks, cookies and Capri Sun to the Red Cross.

Sending 1 truckload of Fruit20 and 1 truckload of Planter's Nuts to Americares.

*Quizno's*

Trying to coordinate food shipments from their Jackson store to the Coast.

*Mar's*

Working on getting truckloads of snack food into the Gulf Coast.

### TRANSPORTATION INDUSTRY

*Nissan*

Donating $500,000 to the Red Cross and matching employee contributions up to $250,000.

Leased 50 trucks and SUVs to the Mississippi Emergency Management Agency.

*Ford*

Organizing blood, clothing and monetary drives to benefit the Red Cross and Salvation Army.

Donated approximately 165 SUVs, heavy-duty trucks and vans for relief efforts.

Deferring car payments for 90 days to those in the affected areas.

*Toyota*

Donating $5,000,000 to the American Red Cross and other hurricane-related relief efforts.

*Northwest Airlines*

Making planes available to fly relief into the affected areas.

*BNSF*

Donating $1,000,000 to the Red Cross.

Offering rail transportation to aid in the relief effort to the Governor's of Mississippi, Louisiana and Alabama.

*Honeywell*

Donated planes and crews to help transport relief related cargo.

*ASTAR Air Cargo & ATA*

Helping with air lift operations.

*Koch Industries*

Donating $1,000,000 to the Red Cross and $250,000 to the Salvation Army.

Matching employee donations to either or organization up to $1,000,000.

*General Electric*

Gave $6,000,000 to the Red Cross and employees have given an additional $1,000,000 that GE matched—making a total of $7,000,000 from GE and an additional $1,000,000 from their employees.

Sending at least $10 million in medical devices, power generation equipment, water purification and other goods and services as identified by Federal relief authorities.

### BANKS & FINANCIAL INSTITUTIONS

*Citigroup*

Making a direct donation of $1,000,000 to the Red Cross and employee matching for up to $2,000,000—possibly more if contributions exceed this amount.

Suspending credit card payments, fees and interest charges for customers in the disaster areas. Also working on a case-by-case basis to help with house mortgage payments for those customers.

*JP Morgan Chase*

Donating $1,000,000 to the Red Cross and matching employee donations up to $1,000,000.

Working with their 1.5 million customers in Mississippi to quickly process checks and loans.

*BankPlus*

Established an account for donations to the Red Cross. They are matching donations up to $250,000.

### PHONE COMPANIES, MEDIA & COMMUNICATIONS

*Bell South*

Have two "tent cities" set up in Gulfport and Lyman with supplies for employees and retirees. Another tent is being set up in Hattiesburg.

*Cingular*

Sending trailers of meals, ice and other personal items to Ocean Springs.

Sending text messages to customers asking them to donate to the Red Cross.

Setting up a tent city for their employees and working to ensure those employees affected get paychecks.

Moving ATMs and health clinics in these tent cities by this weekend.

*Verizon*

Encouraging customers to donate by sending text messages to a central number (2HELP or 24357). Their donation to the Red Cross will be added onto their bill. The first message will add $5.00 and a second will add $25.

*Nextel*

Have 11 satellite trucks in the area and giving out free phones to victims of the hurricane.

*ABC/Disney/ESPN*

Running free PSAs for the Salvation Army.

Donated $2,500,000 divided into the following categories: $1,000,000 to the Red Cross, $1,000,000 to various children's charities and $500,000 to help supply volunteer shelters.

Given toys and videos to the Red Cross for children.

Trying to get portable TVs in the affected areas.

*DirecTV*

Dedicated a channel to FEMA alerts, Red Cross announcements, press conferences and local shelter information. This channel will also be available for public officials to communicate with the shelters. They are working with the Red Cross to provide this service to approximately 250 shelters across the area.

Established a Hurricane Katrina text message and e-mail message line for people trying to connect with loved ones. They leave a message with their name, location, who they're trying to reach and the message. Messages are then transcribed and scrolled on Hurricane Channel mentioned above.

*New Skies Satellite*

Donating satellite capacity to the FCC and FEMA to help facilitate communication via satellite phones and Internet access.

Offering the service of their engineers to area communications companies to help them get back operational.

### OIL COMPANIES

*Chevron*

Donated $5,000,000 to the Red Cross.

Erected a "tent city" near the Pascagoula refinery for their 1,500 employees and their families. The site will include water, first aid, food, bedding and toiletries.

*ExxonMobil*

Committed $7,000,000 to the Red Cross and other national or local charities.

Working with FEMA and other local emergency management organizations to provide fuel and lubricants.

*Shell*

Donating $2,000,000 to the Red Cross and matching employee donations up to $1,000,000.

### GOVERNMENT DEPARTMENTS

*Health and Human Services*

Sending 10,000 beds and supplies to local hospitals.

*Department of Education*

Examining ways to redirect existing funds toward relief efforts.

Student loan borrowers living in affected areas may delay payments on their loans without penalty.

On a case-specific basis the Department will relax certain reporting provisions of the No Child Left Behind Act for affected states.

*Department of Justice*

Donated $5,000,000 to help fund emergency law enforcement. Mississippi will receive $879,056 of that.

*Housing and Urban Development*

Established a toll-free number (866-641-8102) for the public to get information on housing needs.

Identifying vacant multi-family housing, public housing units and HUD-owned homes in a 500-mile radius of the affected areas that could be used as temporary housing.

Disaster voucher assistance for any family rendered homeless—$200 million available with authority from Congress.

Vouchers for replacement units for displaced public housing families or displaced residents living in other HUD multifamily projects—$50 million available.

Indian Community Development Block Grant funding—up to $300,000 per grantee—for disaster relief for Indian housing and Tribal areas.

### ASSOCIATIONS & CHARITIES

*American Trucking Association*

Making a $10,000 donation to the Red Cross.

*The Gulf Coast Relief 5K Run*

James Carville and Mary Matalin, Pacers Running Stores, Mizuno USA and Great Harvest Bread Company are hosting a 5K on September 17th in Old Town Alexandria. Entry fees will go to help those affected by the storm.

*John Grisham/Rebuild the Coast Fund Organization*

Grisham has established an account at BancorpSouth with a $5,000,000 donation. The bank is handling the money. The account is open for other individuals to contribute.

Contributions can be made at any BancorpSouth branch; or by sending a check or money order to BancorpSouth, c/o Rebuild the Coast Fund Inc., P.O. Box 789, Tupelo, MS 38802 or Rebuild the Coast Fund, P.O. Box 4500, Tupelo MS 38803. Make checks payable to: Rebuild the Coast Fund Inc.

*Knights of Columbus*

They have pledged $2,500,000 to charities broken into the following groups: $250,000 for Catholic Charities, $1,250,000 to assist evacuees and those left homeless, and the final $1,000,000 will be dedicated to rebuilding Catholic churches and schools.

*Retail Industry Leader's Association*

Creating a DHS "Wish-List" to be distributed to member stores.

*National Air Transportation Association*

Coordinating members volunteering to fly food, supplies, generators, etc. to the area.

### PHARMACEUTICALS

*Accenture*

Donated $100,000 to the Red Cross in relief supplies and are matching employee contributions up to $100,000.

*Abbott*

Pledged $2,000,000 in cash donations.

Working to provide $2,000,000 in nutritional and medical supplies.

*Amgen*

Cash donation of $2,500,000 million and matching employee donations.

*Amylin*

Donated $100,000 to the Red Cross and will match employee donations to an additional $100,000.

Donated $50,000 to the Pennington Medical Center at LSD to establish an emergency diabetes clinic.

*Astellas*

Donating $50,000 to the Red Cross and matching employee contributions up to $50,000.

Working to send needed antibiotics to the area.

*Astrazeneca*

Initial cash donation of $1,000,000 to the Red Cross and matching employee donations dollar-for-dollar.

Working with local disaster relief organizations to provide direct aid and medication.

*Bayer*

Donated $2,000,000 to the Red Cross And will match employee donations dollar-for-dollar.

*BMS*

Initial donation of $1,000,000 to the Red Cross and are matching employee donations.

Shipping infant formula to the federal government and is working with the Red Cross to coordinate the shipment.

*Boehringer Ingelheim*

Donating $600,000.

*Cephalon*

Matching employee donations.

*Eli Lilly*

Donating $1,000,000 to the Red Cross and matching employee donations to the Red Cross

Donation $1,000,000 worth of insulin products.

*Genzyme*

Matching employee donations.

Making product donations.

*GlaxcoSmithKline*

Giving a $1,000,000 cash donation to be divided among the Red Cross, Mississippi Hurricane Fund and Louisiana Disaster Recovery Foundation

Giving $2,000,000 in products and consumer goods.

Matching employee contributions.

Donating medicines and health products as needed.

*Johnson & Johnson*

Working with disaster relief organization to provide needed medicine products.

Donated $250,000 in disaster relief products.

Matching employee and retirees' donations.

*Merck*

Donated $1,000,000 to the Red Cross and matching employee donations.

Working with states to provide needed medicines and vaccines.

Replacement prescription medicines for victims, hospitals and clinics in flooded areas.

*Millennium*

Allowing employees make donations to AmeriCares and the Red Cross via direct payroll deductions.

*Medical Planning Resources*

Waiting for HHS to approve a proposal for up to 40 fully-equipped 150 bed medical facilities, more than 1,000 medical providers, two 747s for patient transport and addition medical equipment and supplies.

*Novartis*

Matching employee contributions to the Novartis Hurricane Katrina Relief Gift Program.

Working with local officials to ship supplies to shelters, AmeriCares, and the Red Cross.

*Organon*

Working on making a cash donation and matching employee donations in addition to independently raising money for relief efforts.

*Otsuka*

Donating $3,000,000 to the Red Cross and making additional donations to area victims.

*Pfizer*

Donating $1,000,000 to help rebuild hospitals and healthcare center.

Donating $1,000,000 divided among Red Cross, Salvation Army and the United Way.

Donation medicines, consumer and animal health products.

*Procter & Gamble*

Initially donating $700,000 in cash and products.

Working with the Red Cross to assess additional needs.

*Purdue Pharma*

Matching employee donations to the Red Cross and AmeriCares up to $50,000.

Working with AmeriCares to provide medication.

*Roche*

Matching employee donations to the Red Cross.

Evaluating needs for products and supplies.

*Sanofi-Aventis*

Matching employee donations.

Helping employees affected by the storm.

Donating needed medication to relief efforts.

*Schering-Plough*

Product donation of $2,000,000.

Donating $500,000 cash with an employee matching program.

*Sepracor*

Offering a matching gift program.

*Solvay*

Already shipped 75,000 respirators.

Sending $1,000,000 in safety, medical and cleaning products.

Matching employee donations up to $500,000.

*Valeant*

Match employee donations.

Donate appropriate medicines to relief efforts.

Providing support for any affected employees.

Allowing time off for employee who are assisting with the relief efforts.

*Wyeth*

Donating $1,000,000 to be distributed to the Red Cross and the Children's Health Fund as well as matching employee donations to the Red Cross.

Donating needed pharmaceutical products to relief efforts

*PhRMA*

Matching employee donations.

### FOREIGN AID

Australia has given a $10,000,000 to the Red Cross.

Israel is sending search and rescue units specialized in extraction from collapsed buildings.

Taiwan gave $2,000,000 to the federal government to help with recovery efforts.

Mr. LOTT. These are donations and assistance from private companies. I am not going to list them all now because I will exclude somebody, but Wal-Mart has been unbelievable. They donated $15 million to jump start the national relief effort. They gave $1 million to the Red Cross. Home Depot, 800 trucks staged in the area of deployment. They took food, water, flashlights, batteries, and tarps; FedEx; food retailers have been out there; automobile dealers, Nissan, Ford, Toyota; Northwest Airlines, making planes available to fly relief in; railroads, major companies, Honeywell, financial institutions, Citigroup, JPMorgan, Cingular, Verizon; oil companies, Chevron gave $5 million to the Red Cross; ExxonMobil committed $7 million to the Red Cross; American Trucking Association made a contribution and helped us resolve a technical problem we had.

Even writers such as John Grisham, the writer of the great books from Mississippi, personally donated $5 million to the effort. Pharmaceutical companies have helped us get pharmaceuticals pre-positioned, ready for the health crisis. We know it is coming. Procter & Gamble has given cash and supplies. Foreign aid, Sri Lanka has offered us money, $25,000. Well, it might as well as be $25 billion. Australia, Taiwan, countries all over the world. This is an incredible list and it is just a short list of people who are doing their part and I wanted that to be in the RECORD.

Most of all, I want to thank the people of my State. I cannot speak for people in other States, but I know the people in my State. I have been there with them in Pascagoula and Biloxi, Ocean Springs, Poplarville, Jackson and points south. What an incredible spirit. We have been hammered, and they are on their knees. This very morning, as my staff called and tried to talk to county supervisors and mayors, two counties said: Look, we need MREs—that is food—and we could always use more fuel and we have some problems, but do not waste your time on us. Go help somebody else that needs it worse.

When I stood with Gene Gaezo in Biloxi, MS, which is an international city, a city of Slovenians, French, German, Greeks, Italians, Vietnamese, and Hispanics, behind him was where his house was. He had lost everything, cars, boats, trash piled up way over your head, lost his job in the gaming industry. And he said: Trent, what do I do? I said: Well, take care of yourself, feed your family, make sure everybody is safe, and then begin working on this trash. Help is on the way, do not worry. And he said: Well, you go take care of somebody who has been hurt worse than me.

Unless you have lost loved ones, you were not hurting worse than that guy was. The spirit has been indomitable. They are not blaming anybody. They are asking for help. I am proud of them. Our attitude is, hey, we have been hit before, we may feel similar to a punching bag, but we will come back. We are going to rebuild, and we will be bigger and better and stronger for it all. So I want to make sure that the American people know the spirit of the people in my area.

I know there are going to be hearings. There are a lot of questions. But, please, please, my colleagues, let's not try to fix blame right now. There will be time for that. Let's fix the problems we have to deal with now.

Do I have some ideas of what we need to do? Oh, yes. I agree with the Senator from Maryland, we should not have ever put FEMA in Homeland Security. We thought about it. Heck, we did it. Who are we going to blame for that? We did that. Maybe it was recommended. I don't know. But you make mistakes. Last time I checked, we are still human beings.

I found out something else last week: Disasters bring out the worst in bad people but the best in good people. But let's focus on the good.

We are going to need legislative help. We are going to need appropriations. I know already, for instance, we have to allow in local communities for cleanup contractors to go on private property. The law doesn't allow that except for the immediate aftermath for health and safety. There are no lines. In Biloxi, MS, and Gulfport, MS, you can't tell where the private property was and public property was. It is nothing but a mound of debris. If you lost everything you had, it will be months. You can't get the infrastructure back if you can't clean it. So we have to change that. I have lots of ideas how we can improve it for us now, but, more important, for the future, too.

What do we need? I want the American people to know. People from all over America are calling and crying, saying: How can I help? You can help. What we need right now are still basics. Food is still a problem, getting it there, getting it distributed. We have now got to the point where we need clothes. People lost everything they had. We had doctors Saturday, in my hometown, wearing the same clothes they wore Sunday the week before, because they didn't have any and they didn't have a place to get a shower or any of that.

So we need food, clothes, gas. If you can get there with some fuel, in some of those red containers, we need that. Baby supplies—I have been amazed how quickly you need diapers and baby wipes and baby formula. We could use that. Cleaning supplies. Plywood, if you have some plywood laying around, load it and bring it down. Equipment of all types—chain saws, brooms, the basic stuff.

I believe there are people in Missouri and people in Georgia, when they know that, who will load up and they will bring it to us and they will distribute it on their own.

Yes, we need money. We don't need cash, but we need you to contribute to the Red Cross and Salvation Army so they can pay the expenses. Now we are beginning to have a problem with the need for oxygen tanks. We have to find a way to get those and get them where people need them.

We need manpower. If you are in Oklahoma and you are retired at 65 and you want to help, get in your truck and drive on down. Don't ask where to go and don't worry about what to do when you get there. When you get there, look around. You will see plenty you can do. Anybody in America who wants to go there and help us, come on down. We aren't blocking anybody.

We have to be careful because we may have an impending health problem. I fear people are going to begin to have heart attacks and mental depression and emotional problems. If you cut your foot in Gulfport, MS, you could be exposed to some bad infections and bad diseases, so we have to be careful.

We do need more action. We get back down to what Senator MIKULSKI was saying. We need leaders, men and women in the Government and everywhere else, who can make a fast decision, be flexible when they make that decision, think innovatively when they make a decision, and use a very difficult thing—common sense. Use common sense.

Some of the people have been denied access to fuel or told you can't do that. It is insane. I am getting ready to leave my hometown on Wednesday night and I want to turn left, and the policeman says you can't turn left. I said, Why not? and the policeman says, Well, I'm not from here but I am told you can't turn left. So I went down to the next interchange, made a left turn and turned right. It didn't make any sense. No common sense. We have to do that.

I also have already reached out to some of what I think are some of the best thinkers in America and some of the people who dealt with this, and I said tell us what we can do so we can do it better, quicker, and when we build back we will be more secure and we will be able to survive maybe because of the way we build. I wanted to know how did California get Interstate 10 bridges and overpasses back in operation in 2 months when it ordinarily would take 2 years. What was it they had?

I found out the Governor had the authority to waive everything. He waived hearings, he waived environmental considerations. They awarded a contract under expedited procedure. They gave the contractor huge incentives to finish ahead of schedule and under the money and great penalties if they didn't. And guess what, a 2-year project was completed in 2 months and 2 days and the contractor made more off the incentive payment than he did off the basic price. OK. We need to replicate that.

I also think the Federal Government needs to think innovatively. If you look at the situation in Bay St. Louis, MS, or New Orleans, LA, what do we want to do to avoid this sort of problem in the future, and how can we do whatever we do better than we have done it?

We need a very aggressive, entrepreneurial proposal for the dramatic, bold rebuilding of the Gulf Coast. We want to rebuild, but we don't want to build it the way it was. We want to build it bigger and stronger, maybe a little further back, maybe with the help of some incentives we haven't had before, like tax credits. We need to help people rebuild now. They don't need a refund next year, they need money and assistance now.

These are the times that try men's souls, the worst I have ever seen. But I do believe we will persevere and, with God's help and with the help of my colleagues in this great body, and with our President—who has been there, has cried with us and sweated with us, and I have looked at him and I have watched him show his compassion, and I have seen him give orders to do a better job—we will get through this.

I thank everybody. I am going to do something unusual, too. There are exceptions, but even the news media have been helpful. The news media in my home State don't just tell the bad stories. We had a wedding for some evacuees. This young couple had to get married, so the people in Jackson, MS, gave the lady a wedding dress and a wedding cake, and they gave them a wedding.

They told us good stories and they told us many times where we needed to be and where the problems are. Yes, there is some criticism and negativism to go around, but there is a lot of positive out there, too, and I am making sure we build on that side of this equation.

The PRESIDING OFFICER (Mr. COLEMAN). The majority whip.

Mr. McCONNELL. Mr. President, first let me say I know on behalf of everyone in the Senate how relieved we are that our colleague TRENT LOTT and his wife are safe. We all thank him for his inspiring observations about the experiences of the past week, the reactions of the people, the response of people around America to this great crisis. I say to our friend from Mississippi how grateful we are he is safe and sound and back among us. We will be working with him to make sure we deal with the immediate needs and make whatever adjustments we can for the future, to try to make sure the next time, God forbid something like this happens to our country, we will be even better organized to respond.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Ms. STABENOW. Mr. President, I rise to join with my colleagues today to talk about the devastation in Louisiana, Mississippi, and Alabama as a result of Hurricane Katrina. While Senator LOTT is on the floor, I want to give my personal condolences to him and his family and all those who have suffered in Mississippi as well as the other States involved.

My personal deepest sympathies, and those from the people of Michigan as well as our prayers, go out to the families grieving the loss of their loved ones and to the survivors who are struggling to cope and to find shelter, food, and medical care in the wake of this horrendous, this terrible disaster.

My heart goes out to all of our colleagues—Senator LANDRIEU, Senator VITTER, Senator LOTT, Senator COCHRAN, Senator SHELBY, and Senator SESSIONS. Their constituents are suffering. So are they, and particularly Senator LANDRIEU and Senator LOTT, who have lost their family homes to this vicious storm. All of America is hurting with the victims and their families. We are finding ways to help and reach out and make a difference in these critical times following the hurricane.

Americans are donating record amounts of money, time, and supplies to help those who are displaced by the hurricane. The most important thing right now is to make sure we are saving lives and that we are providing food and shelter and medical care for the people affected by this tragedy.

As has happened with many other States, two jetliners arrived in Michigan yesterday with the first group of 289 hurricane evacuees. Troops and volunteers at our Battle Creek Air National Guard base will provide clean shelter and food and clothing to them. They are the first of many evacuees we plan to take in Michigan, and I know this is happening in the States of my colleagues all over the country as people open their hearts, open their homes, and open their pocketbooks to share with those who have been affected. Michigan's Department of Natural Resources has loaded 25 boats and trailers with supplies and sent them to the Gulf Coast. We also have several Michigan State Police teams moving south to assist with the emergency response.

Michigan's Department of Transportation has fuel trucks headed south and is making arrangements for alternative flight operators to pick up evacuees, if necessary.

There are so many individual stories of heroism and generosity rising from the depths of this catastrophe, both in the States affected by the hurricane and in communities all across our country. I have heard stories about individuals in New Orleans who stayed after helping their families escape to safety. They stayed to help rescue their neighbors. Two men from Simmesport took their airboat through New Orleans and transported by themselves more than 1,000 people to safety in the first day after the hurricane. When a news crew from North Carolina tried to interview them about their heroic efforts, they declined, saying they had too much work to do and no time to stop and talk.

We have all heard the heartbreaking stories of sacrifice—of the wife who let go of her husband's hand as he clung to the wreckage of their home, giving her own life so her husband would be able to be alive to raise their children. We salute each and every one of those heroes, these people who put others before themselves, who made sacrifices so others could be brought to safety.

There are stories about people all across our great Nation who are answering the call to help fellow Americans. In Michigan, families and businesses are working together to help victims and families. My alma mater, Michigan State University, and the University of Michigan, are collecting donations for the Red Cross at their football games. On Saturday, the University of Michigan fans put $40,000 into buckets as they entered the stadium. One anonymous donor put in a wad of five $100 bills. Some donations are big, some are small, but they all count and the donations are coming in from all kinds of venues. Nine-year-old Rochester Hills resident Megan and her five-year-old sister Lauren set up a booth to sell lemonade, chocolate chips, and their toys to raise money to send to the Red Cross. The girls raised $80, and their parents promised to match it.

These are the stories that matter right now, both in the States affected and all across the country: saving lives, finding shelter, food, medical care, and raising funds to help the hurricane victims.

But there is also another story to tell. It is about the Federal Government and our responsibility to all Americans to be prepared—to be prepared not only for this kind of disaster but for a coordinated response to help save lives and prevent chaos. We must find answers to basic questions that the American people are asking right now as they watch the aftermath on TV, minute by minute, hour by hour, and they say over and over again to themselves: How could this have happened in the United States of America, the greatest country on Earth? How could our country allow people to die without getting them water, food, and medical care?

In this time immediately following the disaster, we have an obligation to correct the mistakes in crisis response and we have questions to answer to everyone—certainly to those who have been affected.

Are we investing enough in homeland security? I say no, and I have said no since 9/11. Why has the Senate basically ignored the Rudman report from 3 years ago that showed our Nation's first responders need additional funding in the amount of $20 billion a year? Senator DODD and I offered that amendment to fully respond to that report now for 3 different years. I hope we are going to be able to get that done.

How much are we to invest to maintain the flood control projects of our Corps of Engineers? Clearly, the current level is not enough, and people have said that it wasn't enough. In 2002, Mike Parker, former Assistant Secretary for the Army for Civil Works, testified before the Senate Budget Committee, of which I am a member, that funding cuts to the Corps' budget would have a negative impact on the national interest.

Are we stretching our National Guard troops too thin? Thirty-five percent of Louisiana's National Guard troops—3,000 soldiers—are in Baghdad. Is that too many? Spokesman LT Andy Thaggard of the Mississippi National Guard, which has a brigade of more than 4,000 troops in central Iraq, said this about the hurricane response: "We need our people."

Are we heeding the scientific advice that overwhelmingly points to global warming as a possible cause for increased hurricanes?

We have important questions to answer—serious questions for which we all need to work together to take responsibility—about how the Federal Government could have better handled the events that unfolded as a result of this catastrophe called Hurricane Katrina. We need to make sure that we are responding quickly, not only to help those in need today but, Heaven forbid, that something happens tomorrow. We have to be ready. We have to learn from this catastrophe, from the mistakes and the lack of adequate response, and quickly fix it. That is our job.

It is absolutely critical that local communities have the tools they need to communicate, to coordinate, and to respond effectively when disasters hit. They didn't have that in New Orleans—where the police department and three nearby parishes are on different radio systems. They didn't have enough satellite phones. They had ground and cell phone lines that were taken out with the storm. And the communications systems they did have—like most local communities across the Nation—were not interoperable. They do not work together.

Police officers called Senator LANDRIEU's office because they couldn't reach commanders on the ground in New Orleans because they were sharing satellite phones that were in short supply. The result of this lack of interoperability was nothing short of chaos.

FEMA Director Michael Brown has said that emergency assistance delivery problems were caused by "the total lack of communications—the inability to hear and have good intelligence on the ground."

The distinguished Senator from Louisiana, Mr. VITTER, has said that FEMA's efforts to deal with the hurricane have been completely ineffective, and he called the Federal Government's response a failure. These are his words:

> I think FEMA has been completely dysfunctional and is completely overwhelmed, and I don't know why. This situation was utterly predictable.

And he is right. We knew before Katrina hit that too many of our police, fire, and emergency medical services and transportation officials could not communicate and still cannot communicate with each other. Our local departments are not able to link their communications with State and Federal emergency response agencies.

A June 2004 U.S. Conference of Mayors survey found that 94 percent of cities do not have interoperable capability between police and fire and emergency medical services. Sixty percent said they do not have interoperable capability with the State emergency operations center. As we saw with the hurricane, that puts our communities and every single American in danger.

This lack of communications interoperability is a crisis, and we must deal with it. We must deal with it now. It is one of the lessons that has been painfully—painfully—learned from this hurricane. We need to learn it, and we need to learn it quickly.

That is why as soon as possible I will offer, again, my amendment that provides $5 billion for interoperable communications grants for America's first responders to provide a strong commitment to this problem. We know what it costs. CBO outlined what it would cost. We need to get this done.

When we debated this amendment in this year's 2006 debate on homeland security appropriations, many of my colleagues across the aisle opposed it because they felt it was a local responsibility.

Communications is not a local responsibility when the FEMA Director admits that he learned about the 25,000 people trapped at the New Orleans Convention Center from news reports. This is not acceptable, and the American people expect us to act now. There is no more time to waste. I am for fixing the problem.

I believe our Government failed the people of the gulf coast. Members of the administration and the Congress must admit that we need more resources to deal with potential disasters, whether they are natural disasters or stem from a terror attack.

The shock and the horror of the aftermath of Hurricane Katrina will live with us forever.

We salute the heroes in this disaster, and our prayers are with the victims. The American people, as they always do, are rising to the challenge and helping our communities across the Nation. We thank every single person for making that contribution, saying that prayer, donating their clothes, donating food, getting in their cars and driving down to help, or getting a bus or getting a caravan from their church. But I believe from the bottom of my heart that we in Government, this Senate and the House and the administration, have got to step up and do our part. We have got to step up. We know what needs to be done. We know what needs to be done to make sure our communities have the communications equipment they need. We know what needs to be done to make sure these disasters don't happen again—by providing the Army Corps of Engineers with what they need to keep communities safe. We know what needs to be done.

While we are joining on the floor—and we will join together to reach out to help the victims and address issues that relate to health care, housing, education, and other issues that need to be addressed—I hope we are not going to leave this floor after working on those things without having said we fixed it for the next hurricane, for the next terrorist attack, for the next bioterrorist attack, or for the next natural disaster. We have a responsibility to step up and solve the problems that added to the chaos and the hurt and the loss of life because the right priorities were not put in place by the Congress and this administration.

We can fix it, and it is on our shoulders to make sure that we do.

I yield the floor.

The PRESIDING OFFICER. The minority whip.

Mr. DURBIN. Mr. President, I thank you.

A few moments ago, Senator TRENT LOTT of Mississippi spoke on the floor of the Senate about the pastor from my State of Illinois who just got into her truck and drove to Mississippi to see what she could do to help. There are people like her all over my State and all over this Nation.

Illinois so far has received 500 Hurricane Katrina evacuees. Another 250 will arrive at the Rockford Airport today. The number could rise into the thousands.

Thirty families so far have asked to enroll their children in Illinois schools, and more are on their way.

America's Second Harvest, based in Chicago, and the American Red Cross, filled a United Airlines flight with 25,000 pounds of critically needed relief supplies and sent it—in just a few days from Chicago to New Orleans.

I got a call while I was traveling the State last week from a Pepsi Cola distributor in Quincy, IL. He said:

> Senator, I want to send 33,000 cases of water to Louisiana. How can I do it?

We have been working with them ever since.

Six-hundred Illinois firefighters traveled to Baton Rogue. Personnel from the Scott Air Force base near Belleville, IL, have been busy flying airlift missions to the disaster area.

Mr. President, 328 members of the Illinois National Guard are providing some of the big trucks they desperately need to transport people and material to the areas hard hit by Katrina. Another 500 members of the Illinois National Guard are expected to ship out to the gulf coast by tomorrow. By the end of the week, nearly one-tenth of the entire Illinois National Guard could be serving on the gulf coast.

Mr. President, 400 doctors and nurses from the Rush University Medical Center, the University of Illinois, and Cook County Hospital are ready to be deployed as soon as they get the call.

What does this say? It says that when we have pain and distress in the American family, we come together. And that is the way it should be.

Twelve years ago, there was a flood on the Mississippi, Illinois and Missouri Rivers. As a Congressman from the flood-affected area, I really felt the pain of the people living in the small communities. I reflected on that for a moment and the heroic efforts made by some to respond to their needs. Then I tried to put it into perspective of what was happening on the gulf coast in Alabama and Mississippi and certainly in the State of Louisiana. What we went through just absolutely pales in comparison.

Thousands of our fellow Americans may have lost their lives in Hurricane Katrina. Hundreds of thousands of people in Alabama, Mississippi, and Louisiana have been displaced from their homes maybe never ever to return.

Hurricane Katrina may be one of the worst economic disasters in our Nation's history.

Put in perspective, 48 hours after 9/11 we came up with the estimate that we would need $250 billion to deal with the devastation of that terrible act of terrorism; that is about the high level mark for the cost of a disaster. Preliminary estimates now from Hurricane Katrina surpass $100 billion, and some say as high as $150 billion, to give you some idea of the devastation and the challenge that we face.

How do we estimate how many jobs have been lost on the gulf coast? Some say a half million.

The economic aftershocks are being felt across the country. Just ask anybody who is filling up a gas tank anywhere in America.

In Illinois, our farmers, who have had a tough year with the drought and a short corn crop, now worry about getting their products down the Mississippi and down the Illinois to market with the Port of New Orleans damaged.

Let us put it into some perspective for a moment.

President John Kennedy said:

> To those whom much is given, much is required.

Sadly, the agenda of the Senate in the past has not reflected what I consider to be the core value and truth of President Kennedy's remarks.

Last week, while the mayor of New Orleans was issuing a desperate SOS for help to rescue tens of thousands of people who were trapped in the city and in danger of dying without food, water, medical care, or shelter, the leader of the Republic National Committee sent out his own SOS. It said: Call your Senators and tell them to vote this week to give a $1 trillion tax break—to the wealthiest people in America.

It is hard to understand how that could be happening in the midst of this national disaster. At a time when thousands are dispossessed, homeless, hungry, and desperate to know what their futures will be, how can we focus on tax breaks and tax cuts for the wealthiest people in America?

Majority leader BILL FRIST did the right thing. He pulled the estate tax issue from the agenda. A trillion-dollar tax break for millionaires should be the last thing on our minds. We have Americans in distress. Let us not worry about making it more comfortable for those who live in the lap of luxury already.

Never in our history have we cut taxes for the wealthy during a war—which we are engaged in now in Iraq and Afghanistan—and never should we cut taxes on those in America who are well enough during a national crisis such as Hurricane Katrina. We need to put first things first.

At a time when the American family is in pain, when our neighbors are homeless in Katrina's wake, when we are losing our children in Iraq, when our hard-working friends can't afford health insurance and gasoline for their cars and the basics for their kids, when the blessings of prosperity reach a few and not the many, Members of Congress on both sides of the aisle must feel the hurt and understand the heart of America.

Americans will always rise to a call for shared sacrifice and unity. During World War II, President Franklin Roosevelt made a speech. This is what he said.

> Not all of us can have the privilege of fighting our enemies in distant parts of the world. Not all of us can have the privilege of working in a munitions factory or a shipyard, or on the farms or in oil fields or mines, producing the weapons or the raw materials that are needed by our Armed Forces.
>
> But there is one front, and one battle, where everyone in the United States—every man, woman, and child—is in action, and will be privileged to remain in action throughout this war. That front is right here at home, in our daily lives, in our daily tasks. . . .

FDR said:

> Here at home everyone will have the privilege of making whatever self-denial is necessary, not only to supply our fighting men, but to keep the economic structure of our country fortified and secure during the war and after the war. . . . This will require, of course, the abandonment not only of luxuries, but of many other creature comforts.

Franklin Roosevelt was appealing to the best in America, a sense of unity and a sense of sacrifice in a time of great national need. Can anyone recall a time recently, other than September 11, when we have felt that same sense of need in this country?

President Roosevelt went on to say:

> Every loyal American is aware of his individual responsibility. Whenever I hear anyone saying, "The American people are complacent—they need to be aroused." I feel like asking them to come to Washington to read the mail that floods into the White House and into all departments of this government. The one question that recurs throughout all these thousands of letters and messages is, "What more can I do to help my country in winning this war?"

Those are the words of Franklin Roosevelt, appealing to a core American value, appealing to the American family to stand together.

After September 11, a new generation of Americans asked the same question: What can we do to help this country win this war on terrorism? Many of them, the best of them, are serving today in Iraq and Afghanistan. Nearly 2,000 members of our military, including 77 from my home State of Illinois, have paid the ultimate price, have given up their lives in Iraq and Afghanistan. Four Illinoisans died in Iraq during August. More National Guard and Reserve members died in Iraq during the first 10 days in August than in any full month during the entire war. Many thousands more have suffered serious injuries. I have met some of them at Walter Reed Hospital and other veterans facilities. They are making enormous sacrifices.

After September 11, Americans answered the call for shared sacrifice at home, too. What an enormous outpouring of sympathy and generosity, including the blood banks with people standing in line, the charities with people making their contributions, the outpouring of sentiment and hope and prayers for the victims of September

11. Even people living on small fixed incomes in America asked: How can I help? They each gave what they could.

Some of the same units that served in the Persian Gulf, those who served in Iraq and Afghanistan, are now helping others right here at home. That is the spirit of America.

This week, as we prepare to mark the fourth anniversary of the September 11 attacks, we see the same spirit on the rise in America. The extraordinary way our country reaches out with its wallets, its hearts, opening its home to the victims of Hurricane Katrina shows us once again that the spirit of shared sacrifice is strong. That spirit must not only guide us in our conversation with America, it should guide us with our agenda in Congress.

We are all in this together, in times of war and in times of national catastrophe. It is not tax cuts for the wealthy that protect America and make us strong. What sees us through hard times has always been our belief in America, our shared commitment to one another, and our willingness to accept our fair share of sacrifice.

We have all learned a lot in the last few weeks. Sadly, many believed our homeland security was up to the challenge and the task. It did not work in many parts of the gulf coast. It certainly did not work in New Orleans. This hurricane, leading to a breach of a levee, has resulted in the loss of thousands of innocent lives.

Many felt if we faced that kind of catastrophe, whether from a natural disaster or from some terrorist attack involving biological or chemical weapons, we were ready to evacuate innocent people, to move folks out of hospitals so they could be taken care of in other places. But we know now from what happened just a few days ago that we are not prepared. We are not ready. We are not as safe and secure as we should be in this time of danger in the world, danger from terrorist attack, danger from natural disaster.

We need to do more. We need to focus on making America safe. We need to focus on thanking those who are giving so much every minute of every day to help those in need. And we need to focus on our prayers and thoughts directed to the victims of this terrible tragedy.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

Mr. SCHUMER. Mr. President, I rise to speak, as my colleagues have before me, about the terrible tragedy in the Gulf Coast. As the rescue and recovery in the Gulf Coast continues, as we pray for each life, my thoughts, for instance, always go back to 9/11, the tragedy that befell my city and State.

It is sort of a horrible thing to say, in a certain sense, about the number of people who died, but people thought the number of deaths in our State and our city would be much greater than it was. I think about a week after the planes hit the Twin Towers, most people were talking about over 10,000 people dying. As I said, I feel awkward saying this, but it is a true thought we all have, that only 3,000 were found to have passed. Still, it is an awful number, and the families miss those people every single day. I knew some of them myself. I miss them and think of them. But we hope and pray this happens in Louisiana, that the horrible numbers we have heard about—the possible number of deaths—are significantly lower.

One other thought I want to mention about New York, before getting into the substance of my remarks, is that this morning I was privileged to attend a groundbreaking for the new New York/New Jersey rail station to be built at Ground Zero. It will be a beautiful and sweeping station. The architect, the world-famous Mr. Calatrava, got the idea of a child releasing a dove at the station. At least by the designs and pictures I have seen, it will be a soaring and sweeping station.

At that memorial I thought about the victims and the people of the Gulf. I said to them that a week after the planes hit the Twin Towers, we were filled with despair, anguish, anger, and thought there would never be any hope after something that horrible happened. But the human condition is a remarkable one. And, of course, hope is always with us, as the Greek mythological story of Pandora's box shows.

The groundbreaking that Senators CLINTON and LAUTENBERG and CORZINE and I attended this morning with the Governors of New York and New Jersey shows us there is always hope. This station—a beautiful, sweeping, soaring station—will rise like a phoenix out of the ashes of 9/11.

I say to my colleagues who represent the Gulf States, as well as to all the people in the Gulf States: Hope will return. It is hard to see now, with so much devastation and so much anguish and so much sadness, but it will return. Just as in New York we are rebuilding ourselves, hopefully to be bigger and better and stronger than we were before 9/11, I know that, too, will happen with the people in the gulf region. So my thoughts are with them. All of our thoughts are with them.

Because of the devastation of Katrina, we confront one of the most extraordinary challenges this Nation has ever faced: To feed, to clothe, to house, to help an estimated 1 million Americans who were displaced and who now have to rebuild their lives.

The disaster area is some 90,000 square miles. That is almost double the entire State of New York. It is an area nearly as large as the United Kingdom. The amount of damage to the homes, the businesses, the schools, the infrastructure, the roads, the bridges is in the tens of billions of dollars, most certainly. It is already estimated, for instance, that Louisiana alone has lost at least 110,000 businesses. And that number is likely to climb as we calculate the full extent of the damage.

The images on TV are devastating. They are of hungry, weeping children, of families returning to the destroyed remains of their neighborhoods, discovering they have lost everything they have owned, from precious family keepsakes to their houses and cars and livelihoods. The pictures of angry, frightened people, with nowhere to go, unsure of what will happen to themselves and their loved ones rings a deep chord in every one of our hearts. And there are the deaths of so many. The psychological toll of this tragedy will be heavy indeed, especially, of course, on the children. Another thing we learned after 9/11 is to pay particular attention to the children. Sometimes it took them, in New York, over a year to speak about what they had seen.

When my city faced a devastating attack, America stood with us in our time of need. I want to assure the people of the gulf region that New Yorkers—I think I can say probably just about every one of the 19 million New Yorkers—will stand with you, the people of the gulf region, as you stood with us in the dark days immediately following 9/11.

The love and support New Yorkers received from the rest of the country after 9/11 meant so much in the wake of those attacks and the long, difficult road to recovery. I want the people of New Orleans and the rest of the Gulf Coast to know we will support them, too, no matter how long, no matter how difficult their recovery may be. We will do whatever it takes to help now, tomorrow, next week, next month, next year, and on into the future.

We took the first step last week when Congress provided $10.5 billion in desperately needed disaster relief funds to the devastated region. But as I learned in the aftermath of 9/11, money is only the first step. The next step is to ensure that bureaucratic rules and regulations do not prevent the money from being spent quickly and where it is most needed. We discovered after 9/11 that the rules governing how Federal dollars can be spent and benefits accessed—from HUD to the Department of Transportation to the IRS—became insurmountable obstacles for so many of our citizens in need. And many of the problems faced after 9/11 will be faced a thousandfold for Hurricane Katrina because there are so many more people and businesses that were hurt.

It is essential that Congress take action as quickly as possible on as many fronts as possible. Every day makes a difference for those seeking a place to live, a way to get their children back to school, to get health care, to get a job. So many jobs are gone. Furthermore, after 9/11, Congress tackled many of the problems facing Hurricane Katrina victims and has a template to work with. And Senator REID, working with our committee leaders, has already compiled a list of action items Congress should address this week.

Before I get into those action items, I want to say one other thing. We do need the most competent people running the agencies that are in charge of this recovery effort. And I heard, an hour or so ago on the floor, our colleague, my friend, Senator MIKULSKI, speak on that issue. We all know Senator MIKULSKI is somebody who knows FEMA and the agencies involved with recovery extremely well because as chairperson and as ranking Democrat on the relevant appropriations subcommittee with jurisdiction over FEMA, she knows them. We also know she is a temperate person in the sense that she does not regularly get up and demand that people step down. But when she spoke on the floor an hour ago and said that the FEMA head, Brown, should either step down or be forced to step down, I think all of us should listen to her. These are serious times, and fingers of blame should not be pointed at any one place. But to make sure we have the most competent people in charge as the rescue effort proceeds is very important. So again I want to urge my colleagues to listen to what Senator MIKULSKI had to say because I think it is extremely important to us.

Now, getting back to the list that Senator REID, working with some of our committee leaders, has compiled, it is a list of action items, and I hope Congress will address it this week. The list includes providing Medicaid, housing vouchers, and emergency cash for all displaced victims, waiving deadlines, and expediting applications where necessary, and waiving the requirements to prove residency or asset levels or to provide other paperwork which, of course, so many of those who have lost everything in their lives no longer have. The Reid package also proposes tax incentives for families who take in victims, and identifying Federal facilities that can house them.

The proposal also focuses on helping the tens of thousands of children who need to get enrolled quickly into schools around the country by providing those schools with financial assistance and waiving the usual bureaucratic requirements for enrollment. I believe this must be one of our highest priorities. Since the hurricane occurred right at the beginning of the school year, there is not a day to waste. We cannot let our children simply hang out there without providing for their education, which, Katrina or not, means their future.

My heart grieves at the sight of so many of these children sitting around the Astrodome and other shelters with no place to go. It is September. Let us pledge to get all those children, who have faced so much trauma already, into school by the end of the month. We must provide the Federal dollars needed to bolster those schools that are opening their hearts and doors to these children, from Houston to San Francisco to Vermont. We must also provide these children with all they will need—food and shelter and school supplies—to keep their education on track.

We must also make sure our brave National Guard personnel, who are on the front lines abroad in Iraq and now here at home, receive all the assistance they need, from debt and student loan relief to allowing them to qualify for Federal health care and retirement benefits. Our Nation owes these American heroes nothing less.

Finally, the Reid proposal addresses what may ultimately be our most pressing challenge—finding employment for the victims of Katrina, by making employers eligible to claim the Work Opportunity Tax Credit of up to $2,400 per worker they hire. We need to do this and much more. With so many businesses and so much infrastructure destroyed, we will need both the Federal Government and the private sector to step to the plate and get people back to work.

Congress can and should tackle right away in these few weeks the problems that have been mentioned above. We should learn lessons from what we were able to do after 9/11 for New York. With a million people in need of assistance, it is inexcusable that we would delay. Let us move this package this week, not next week or the week after.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, my colleagues today have spoken about the almost unbelievable disaster that has occurred in the Gulf region. Only now are we fully beginning to understand the lives lost and the complete devastation of the region. I know there will be a lot of time, perhaps, to evaluate what kind of emergency preparedness existed or why proper preparedness did not exist. This is the moment and the time for all of us to concentrate on finding the survivors.

There are so many victims. We know that many of those who have died in this disaster have not yet been found. We know there are survivors who have not yet been found. We are nearly certain of that. This is an important time to marshal the resources of this country, to effectively organize the resources to search for survivors, and then to help those who have been made victims by this devastating hurricane.

Many of us have suffered disasters. In North Dakota, in 1997, there were the Red River Valley floods, when the entire city of Grand Forks was evacuated. It was an enormous evacuation of people. Thank God at that point we did not lose lives. We lost a great deal of property and people suffered and had very tough times, but there was not loss of life with respect to those floods. But an entire city of over 50,000 people was evacuated from those floods. I recall President Clinton flying into Grand Forks on Air Force One and meeting with a large number of people who had crowded into a hangar at the Air Force base. I remember what President Clinton said to them that day. He said very simply: You are not alone.

That is the message that our country must give to all of those who are victims of Hurricane Katrina: You are not alone. This country doesn't move ahead by leaving some behind. This country knows your plight, knows the despair of having lost what you have lost, joins you in sympathy for the loss of lives, and extends a hand to say we want to help you during these difficult times.

There are so many needs and so many things that have to be done: housing, basic needs such as food and shelter, jobs, education, short-term spending money to get on your feet if you have lost everything. Those are the things that, in a package of assistance by the Congress, need to be addressed quickly.

I know there are some who tend to believe that Government ought not exist. They think Government is the problem. But when something like this happens, we together, through our Government, work to extend a helping hand. This Congress cannot be reticent about arriving at that point to extend a helping hand to provide for the needs of people who have been displaced, who have suffered and are victims of this devastating hurricane.

My thoughts and prayers are with all of the victims of this devastating hurricane that has displaced, some say, 1 million people and caused massive loss of life. While there are public policy issues that we should discuss and will discuss in the coming days and months, all of us, as a country, will pray for those poor people who have suffered immensely in recent days. We hope the searches to find survivors continue to move forward and that we find additional survivors. And we hope in every possible way those who have been the victims of this hurricane understand this is a great country and this country extends its hand to say to them: You are not alone. Actions by this Congress will manifest that. We ought to do that quickly and urgently.

## GASOLINE PRICES AND WINDFALL PROFITS

Mr. DORGAN. Mr. President. I also wish to speak about a subject that has some relationship but an issue that the American people were facing before the hurricane hit. Prior to the devastating Hurricane Katrina, the Senate Energy Committee had scheduled a hearing on gasoline and oil prices. That hearing is now going on. I spent the last 2 hours attending it. It was scheduled before this hurricane. Obviously, when the hurricane hit, a number of oil refineries and a couple of major pipelines shut down. It has had an impact beyond that which was occurring prior to the hurricane.

Prior to the hurricane hitting, oil prices had already risen $30 a barrel above that which existed a year and a half to 2 years ago. The major integrated oil companies that have become larger through mergers and concentration in recent years were already earning record profits.

Last evening, a friend of mine went to a gas station and pumped gasoline into his car and his son's car, about 15 gallons in each car. The bill was $103 dollars. Every American citizen understands that sticker shock when they pull up to the gas pump. We are told by some: It is the free market.

Here is what has happened to the profits of U.S. major oil and gas companies in billions of dollars from 2002, at which point they were $20 billion, to this year, when they are going to be over $100 billion. This is not a free market; this is a market with clogged arteries. It is OPEC pricing. It is a few countries that live on top of sand that is undergirded by substantial deposits of oil sitting around and deciding how much they are going to produce and what price they want to extract. So it is OPEC pricing. It is a concentrated domestic industry through mergers. It is rampant speculation. And it is also substantial windfall profits for some very profitable oil companies.

The question is, Where is the gain and where is the pain? Here is the gain.

We use 21 million barrels of oil a day. Sixty percent comes from outside of our country, which means we now have revenuesharing going on between the American drivers and consumers and the OPEC countries, including the Saudis, the Kuwaitis, and the Iraqis and others. It is forced revenuesharing. We pull up to the pump, we pay an inflated price for gasoline, and we send the money to the Middle East. Forty percent of that which we use is produced domestically by larger and larger oil companies, grown larger by mergers in recent years. That 40 percent has increased by $30 a barrel. That means the profits have increased by $7 billion a month for the domestic producers.

The integrated domestic producers in many cases have control of oil from the discovery in the ground to the gasoline pump. Eighty billion dollars a year in extra profits will exist in the coming year if the price of oil stays where it is now. That profit doesn't emerge out of thin air. It comes from extracting it from the consumers who drive up to the gas pump and take out their credit card or their currency and pay for a tank of gasoline.

Something needs to be done. Tomorrow, I intend to introduce windfall profits rebate legislation. The bill will establish a price point for a barrel of oil. A portion of the windfall profits above that amount would be captured and sent back to the consumers who are paying the excess or windfall profits to the companies. I would exempt from that windfall profits recapture that amount of additional money that is being used by the companies for domestic exploration or for increasing refinery capacity. If it is being used for that, I say fine. At least we are trying to search for a better future with a greater energy supply. But some of the major oil companies are now buying back their stock with that profit. That doesn't benefit this country.

These are windfall profits at the expense of consumers to enrich the larger integrated oil companies. I believe part of it ought to be recaptured and sent back as a rebate to the American consumer. I will introduce that legislation tomorrow.

I know it is controversial. I know some people may think the best way to address all of this is to sit around with your hands in your pocket and wipe your brow and wring your hands and fret about it and essentially do nothing. These represent the windfall profits on 40 percent of that which we use. Twenty-one million barrels a day. Forty percent of that comes from domestic producers. That has increased over $30 a barrel with no additional cost incurred by the major oil companies. It amounts to $7 billion windfall profits a month or $80 billion windfall profits a year. I believe some of that ought to be collected and sent back to consumers as rebates.

Again, I know that is controversial. I know some won't want to do that. The plain fact is, if we do nothing, you have a massive transfer of income from people who can't afford it to people who shouldn't get it to interests that shouldn't get it. I believe Congress should take action. I understand that this is a shorter term issue, but John Kenneth Galbraith said: In the long run, we are all dead. So let's deal with the short term.

Yes, I want to shed our addiction of running gasoline through carburetors and fuel injectors. I wrote the provision in the Energy bill, signed by the President, that has a $3.7 billion title dealing with hydrogen and fuel cells. That ought to be our future, hydrogen and fuel cells. If you run on hydrogen—and hydrogen is ubiquitous, it is everywhere—you get water vapor out the tailpipe, and you have twice the efficiency of power to the wheel. That is wonderful. Put up a wind turbine and collect energy from the wind and use the electricity collected from the wind to separate hydrogen from water with electricity—something called electrolysis—and then put that hydrogen in a hydrogen fuel cell vehicle. The Energy bill has a pretty good title on that. I wrote that title.

We need to shed our addiction to this oil. We need to shed our dependence on Middle East oil. In the meantime, in the short term, when you drive up to a gas pump with 2 cars and pump 15 gallons in each and pay $103, the question is, Who is pocketing that money and why? There is no justification for that kind of windfall profit.

If the oil industry wants to have substantial profits to invest back into the ground or to build additional refineries, that is fine. That wouldn't be captured by a windfall profit. But when the oil industry is getting windfall profits to the tune of $7 billion a month, which they are doing right now, and some are busy buying back their stock, the American consumers deserve a break. They have had a bellyful of this. We have seen it all over this country where the big interests get bigger. They extract more from the rest, and nobody seems to care much.

One final point, there is also a provision in the final Energy bill that requires the Federal Trade Commission to launch an investigation of oil and gas prices within 90 days. I wrote that provision as well. But frankly, I have minimum hope that the Federal Trade Commission is going to be an ambitious referee with respect to pricing. This Congress should take action.

Here is what we face from now to Halloween to Thanksgiving to Christmas with respect to $226 million a day of windfall profits. That is $30 a barrel above that which existed when you already had record profits in the domestic industry. I believe some of it ought to be recaptured and given back to American consumers.

I saw an old car with an old bumper hanging down. That car had seen a better day—rust in the fenders and the bumper hanging halfway on the right. I saw it at a stop sign near Mohall, ND, one day. The bumper sticker had a plaintive message. It said: We fought the gas war and gas won.

The fact is, American consumers ought to be given an even break. That is why I am introducing this legislation tomorrow.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Before the Senator from North Dakota leaves the floor, I commend him for his comments. I am prepared to share some thoughts as well about the events in our country over the last week or so, but the Senator's comments about the energy crisis are tremendously timely in light of what has occurred in prices over the last number of days all across our country. And I join him in introducing legislation at least by tomorrow I hope in a bipartisan effort.

Again, he makes a very significant point that any of these resources, additional dollars that are pouring into the coffers of the industries that would go for exploration, research, refining capacity, are not included. In fact, we wish they would do more in developing new sources of energy. But if they are pocketing these resources at the expense of our economy, then I think it is incumbent upon us in this institution to respond and to not allow this gouging to occur at a time when the country is suffering. As someone who has paid a lot of attention over the years to the fuel cell industry, I do not think I am exaggerating when I say the capital of the fuel cell industry has been the State of Connecticut over the last number of years. United Technologies, to their great credit—aside from being a large defense contractor—has worked aggressively in the fuel cell area. The Senator from North Dakota is absolutely correct that fuel cells offer tremendous opportunity. It is not like inventing some new technology. It is out there. If we would put the resources behind it, make it a bit more efficient than it is today, which is not a great deal, not a very difficult thing to do, then we could make some giant steps forward in reducing our dependency on foreign countries and our dependency on nonrenewable sources of energy.

I commend the Senator for his comments and his ideas.

Mr. DORGAN. I wonder if the Senator will yield for a moment.

Mr. DODD. I am happy to yield.

Mr. DORGAN. There are many companies involved in hydrogen fuel cell technology, including United Technologies, that are very active in this area. The Senator is absolutely right with respect to activities in Connecticut. I also want to point out my point on the floor of the Senate is not to tarnish the oil industry. I have been a supporter of it in areas where I felt we should support it. We produce oil in North Dakota. My point is that as the major integrated companies become bigger and more concentrated, they in some cases work oil from the ground to the gas pumps with tremendous pricing capabilities. They are beneficiaries from the enormous amount of excess profit. If they pump those back into the ground or to increase refinery capacity, that is fine. But when they are buying back their stock, I believe they ought to give that windfall, ill-gained profit back to the consumers from where it came.

Mr. DODD. I commend my colleague from North Dakota. I know my colleague from Connecticut, Congresswoman ROSA DELAURO, has offered the legislation in the other body. I think it was a bipartisan proposal that she made over there on this issue. So again my compliments to Senator DORGAN.

## HURRICANE KATRINA

Mr. DODD. Mr. President, I wanted to spend a few minutes this afternoon if I could and express my sympathy and the sympathy of my family. I know the sympathy of all of us in this Chamber, to the victims of Hurricane Katrina and the subsequent flooding that occurred particularly in Louisiana. I thank the leadership for giving us an opportunity today to express ourselves as a national body about this devastation that has occurred. There will be a lot of discussion about what happened, what did not happen, the shortcomings of our Government in responding in a timely fashion to this situation. But today is a time to offer our prayers and our sincere and deep sympathies to those who have suffered as much as they have.

There will be hearings next week. The President, I gather, has announced an investigation at the executive branch level. I think an independent investigation is probably the best way to proceed. Having the Government investigate itself is interesting but not always the best way to get to the bottom of the information we ought to have about what happened. Because we will have events like this—hopefully nothing of this magnitude—again. There will be other events that require our Nation to respond far more expeditiously, far more thoughtfully, far more humanely than we did in this situation.

First, it obviously goes without saying that the thoughts and prayers of all of us and the entire country are with the people of the Gulf region at this hour. This is a disaster of unspeakable and unprecedented proportions, and we are still struggling to comprehend the magnitude of this event. Certainly the attacks of September 11, 2001 come to mind in terms of the damage done to life and property.

At the same time the devastation wrought by this act of nature is quantitatively and qualitatively different. As we speak here this afternoon, an entire American city, between a half a million and a million people, is uninhabitable. Its mayor tells us it will remain in that state for many months to come. Hundreds are believed to be dead and he predicts that the number will soar in the days to come—possibly into the thousands.

In Mississippi over 100 are known dead. According to that State's Governor, the destruction of the Gulf communities such as Biloxi, Gulfport, and Bay St. Louis is nearly total. Let me be clear and repeat what I said. I said destruction, not damage. Thousands of homes and places of business are a total loss and will have to be completely rebuilt in the coming months. I know that our colleague, Senator LOTT of Mississippi, lost his own home. Nearly a million homes in his State have been without power for days.

In Alabama more than 400,000 homes and businesses have lost power. Mobile and the surrounding environs suffered severe flooding. In western Florida the situation is similar. The Presiding Officer certainly knows of what I speak. Hundreds of thousands were without power and with scant access to the basic necessities of life—clean water, sanitary facilities, food, and shelter.

The upshot of all this destruction and damage is that millions of our fellow American citizens are now literally refugees in their own country.

We don't like to use the word refugee and I certainly have stayed away from it. But as you watch pictures of people walking along railroad tracks, along highways, of people perched on rooftops waiting patiently for aid, and enduring deprivation that we have never seen in this country on such an immediate and immense scale as we have in this event, then certainly the word refugee is appropriate in these circumstances.

We are receiving reports of looting, shooting, and chaos that has interfered with rescue and relief efforts. We all struggle to remember a comparable amount of destitution and destruction in our Nation. And so far we struggle in vain in that effort. We cannot believe what we are seeing is taking place in our own Nation, our beloved America. Nothing like this has ever happened in the United States.

And we are reminded as well that America is not a loose collection of States or regions. We are a single indivisible nation. What happens in one State or region is felt all across our country in the concerns of loved ones, the charitable contributions, and the secondary deprivations that all Americans will experience as a result of this catastrophe.

The Gulf region is a principal source of domestic and foreign goods that are consumed by all of us—natural gas, oil, lumber, poultry, coffee, and bananas. It is the departure point for the export of billions of dollars worth of goods made in our own Nation—corn, soybeans, wheat, and other commodities.

The Army Corps of Engineers tells us it could take as long as 6 months to drain the water from the basin in which the city of New Orleans lies. It will take months if not years before that city and other areas damaged by this hurricane and flood return to some semblance of normalcy. The aid package we considered last Thursday evening is the first installment of emergency aid for the national Government but by no means will it be the last. This Senator pledges his support for delivering all appropriate aid as expeditiously as possible to those in need in the gulf region. This is a time requiring unity and urgent action.

There will be a time, as I said earlier, in the days and weeks to come to examine what went wrong. And a lot went wrong before as well as after this hurricane and flood.

Our citizens are already asking the tough questions about what we could have done to prevent the full extent of this tragedy. They are outraged, not just in the Gulf area. I spent yesterday in my home State of Connecticut. I went to the State armory in that city to help organize food assistance packages that were being shipped to the Gulf region. I can tell you people in the city of Hartford, as well as people throughout my State are outraged and appalled by what they saw as incompetence and indifference at the very highest levels of our national Government. And I think they are right to be incensed and to demand better action and answers to what occurred.

They want to know why there has been a 44-percent cut in funds for flood prevention in New Orleans since 2001, even though a 2001 FEMA report told us that a hurricane flooding New Orleans was one of the three most likely major disasters facing the United States, along with a terrorist attack in the city of New York.

Citizens want to know why the administration, despite promising there would be no net loss of wetlands, has allowed their development, including those in the Gulf region, which are better flood prevention mechanisms than any dam or levy built by man.

Citizens all across this country want to know why, despite knowing for days before the hurricane that it could cause major devastation, it took so long for the Federal agencies to mobilize relief, rescue, and law and order operations.

Citizens want to know all across our Nation whether nationwide spikes in the price of gasoline are normal under these circumstances or the result of price gouging by unscrupulous profiteers who always stand ready to take advantage of tragedy. And they want to know that our President and Attorney General are doing everything possible to prevent price gouging.

These are very important issues—not the only ones—but they are some of the ones being asked by our fellow citizens at this very hour.

As I said a moment ago, now is the time for us to pull together as a nation to support one another, to do what we can to help the people of the Gulf region get their lives back to some semblance of normalcy.

Eight days after the hurricane first hit the gulf region and 9 days after it became a storm stronger than the New Orleans levees could hold, there are still critical needs that must be addressed immediately.

Right now as we speak here today in this Chamber, New Orleans is coated with a layer of toxic sewage that endangers the health of both those left stranded and the relief workers themselves. It has been estimated that there are thousands of bodies that have yet to be recovered on the streets and bayous of Jefferson Parish. There are public safety concerns. There is not enough food and water. And the city remains without power.

They need our help now, and they need more than the direct assistance we have just begun to deliver. Last week, as I mentioned earlier, this body approved over $10 billion in emergency aid. That is a fraction of what will be required in the coming months and years to rebuild the lives and communities affected by this tragedy.

Our first concern must, of course, be the health of those who still remain.

We need to guarantee all displaced victims access to comprehensive health care coverage, to Medicaid, including waiving residency, assets, and copayments requirements. Those who survive remain at great risk for illness and disease. They need and deserve medical care.

We need to provide resources to help the Centers for Disease Control and Prevention and local public health authorities monitor and respond to disease outbreaks and to help treat victims. We need to work closely with the pharmaceutical industry to get badly needed medication to these affected areas.

We need to make sure that this is a long-term effort. We must provide funding for continued monitoring of those in the region, as exposure to environmental hazards could have lifelong consequences.

We should invest in the public safety net and support mental health providers to help victims cope emotionally with the disaster. We need to offer Federal support for communities and tax incentives for individuals to incorporate displaced victims.

We also must provide basic services and support for those who now literally live as refugees in other States.

The New Orleans school district has been decimated. Only 2,500 of the 7,000 employees have been accounted for. The central office has been destroyed, and all of the school records in New Orleans are gone.

Thankfully, there are over 30 cities that have stepped forward to take in the 20,000 children who have so far been identified as in need.

We have to get direct financial assistance to the school districts absorbing these students so they can adequately care for them in addition to the students they already serve.

We also must provide financial assistance for college students as they relocate to other universities and provide incentives for those universities that have already offered students a new home.

And we must make sure that victims are not penalized by rules, regulations, and responsibilities that may work well under normal circumstances but can be debilitating in times of an emergency.

We should waive income requirements for Head Start displaced children. We should give States that have offered childcare to refugees flexibility on their subsidy payments. And we should waive TANF work requirements for victims of the hurricane and flood.

We should also offer tax relief to victims so they can begin rebuilding their lives and expand and extend unemployment assistance so they can get back on their feet more quickly.

We should mobilize volunteers through AmeriCorps and other organizations in a unified rebuilding effort. And we should encourage private industry to participate with their own resources and expertise.

We also need to guarantee that the brave military personnel who continue to carry out operations in the gulf region with characteristic precision and professionalism will have all the resources that they need.

Last week, the U.S. Coast Guard crews rescued over 22,000 people in Louisiana, Mississippi, and Alabama, but we are not properly supporting them, in my view. Their costs in both operations and reconstruction are estimated in the hundreds of millions of dollars, and they are being forced to divert funds from their already strapped 2005 accounts. This should be simply unacceptable to all of us.

We also must start discussing long-term solutions. We must be prepared as a nation to prevent or mitigate the effects of tragedies of this magnitude. We must invest in viable and sufficient flood control projects. We must examine building codes to consider if they can be strengthened to limit damage in the future. Perhaps most importantly, we must develop disaster relief plans throughout our Nation so that we will not again be caught off guard as we were this time.

We must restore the ability of the Federal Government to respond to a disaster of this magnitude whether manmade or natural.

During the 1990s, FEMA evolved to fulfill this role and demonstrated through several disasters its ability and confidence, I might add, to quickly mobilize resources and other aspects of relief efforts. By all accounts, that is no longer the case. We should consider whether FEMA should be made a Cabinet level agency and whether there are other steps that the national Government can take so that in the future we can fully mobilize our resources to respond to national catastrophes.

I am also going to revisit shortly, when the appropriations bills come up, what I have recommended on three different occasions, along with my colleague from Michigan, Senator STABENOW, to fully fund the first responders. It was strongly recommended by our former colleague, Warren Rudman, who, along with a very distinguished commission financed and supported by the Council on Foreign Relations, reported that we should be spending some $20 billion every year for 5 years to see to it that we have the adequate resources in place to respond.

Now, they were talking about a terrorist attack when they talked about first responders. They did not have in mind natural disasters of this magnitude. But clearly we need to anticipate both. We have narrowly lost that amendment on three different occasions. But I would hope in light of what has occurred in the Gulf region of our own Nation over the last week and a half that we would be able to find the necessary support to see to it that our first responders in this country have the tools, the equipment, and the preparation so that we never ever again find ourselves in this situation, ill prepared to respond to a crisis of this kind.

Lastly, I want to pay a little special tribute to my own constituency. As I mentioned a few moments ago, I spent a good part late yesterday morning at the armory in Hartford, CT, where people in my office were gathering these supplies to send down to the gulf region. It was Labor Day, and I went over half expecting there might be a handful of people there to process and handle the contributions. There were hundreds of people there. It was really rather an emotional moment to drive up and see literally hundreds of people, volunteers from various churches and organizations in my State, gathering the materials. There was a line of automobiles that went around the block several times. People with their families in the car, with young children, arrived, opened up their trunks and the backs of their cars, and pulled out food, clothing, supplies of all kinds to be delivered to the victims of Katrina in the Gulf region. And then to watch volunteers sorting it out, packaging it up again. This was at one armory. Today they are opened up across the State, and again we are seeing the same reaction today—literally thousands of people pouring out in our small State of Connecticut to provide assistance. What I know is that it is occurring all across the country.

While we are talking about the failures of Government to respond well, how proud all of us ought to be in this Chamber of our fellow citizens because they are not sitting down. They are reacting. They are involved in telethons and charitable giving, doing everything they can to assist the people of the Gulf region. It is a great picture of America. It is what all of us believe about our country. In moments like this I did not hear a person in Connecticut talk about the South or southerners or differences in red States and blue States. I watched good people in the city of Hartford, CT, doing everything they can to help out people in Louisiana, Alabama, and Mississippi. That is our America. That is the country we represent, and we are all deeply proud of our fellow citizens. We will get through this. We will put these people back on their feet again, but we need to be better prepared so we can minimize the kind of hardship that these communities have suffered through in the last 10 days.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise this afternoon to join my colleagues in offering my support and sympathy and certainly everything we can do from my home State of Washington to so many of our fellow Americans who are suffering so tragically from the outfall of Hurricane Katrina. I want them to know we will do everything we can to make sure we are there for them.

I have to say that over the past week, citizens from this end of the country to my end of the country on the west coast have been glued to their television screens and really overwhelmed by the tremendous devastation and the unfathomable suffering of so many of our fellow Americans. The images have become almost too much to bear, watching families without food and water, people who have been trapped on their roofs, people searching for their loved ones. People have come up to me everywhere when I have gone through my State over the last week. My office has been inundated by calls from my fellow citizens in Washington State who are really horrified at the conditions they have seen on TV. They are asking, rightfully, what can we do to help and how can we be there for our citizens? They are reaching into their own pockets and doing everything they can, and that truly has been heartwarming to see.

They are also asking, How could this have happened? I have to say that people in my home State are upset and, really, with good reason. Our Government failed in its initial response. We now have to see that we succeed in this ongoing recovery. That certainly is my focus right now.

There is going to be a lot of time for hard questions and accountability, but I think today we need to focus on meeting the tremendous needs that rescue workers and our guard and police forces are meeting on the ground. We also need to recognize that the recovery area is now no longer just limited to the gulf coast. As Americans have opened their hearts and their homes and they have opened up their communities and their stadiums and their hospitals and their homes in towns and cities from coast to coast, that need has spread across the country.

Shortly, in my home State of Washington, we are expecting to welcome 2,000 evacuees. Nearly 200 of them are going to arrive by this Thursday, and we need to make sure we are doing everything and being prepared to meet their needs as they come to our States. Right now we have to ensure that the evacuees have the bare essentials, that they have food, clothing, and shelter. We also have to make sure we are preparing for the long term.

For most children in this country, as we all know, this week marks a very exciting time, the beginning of the school year, a time that they head off to meet their new teachers and reconnect with old friends and make new ones. For all of the children who have been displaced from their homes and their school districts by the effects of Hurricane Katrina, the beginning of the school year is really the least of their worries. But we will need to come together as a country to help these schools across the Nation that are taking in these students from the gulf coast.

I just heard on the television before I came here that there will be probably 200,000 or more of these young students, and we have to do everything we can to absorb the costs and help the transition for these children and families, to make it as smooth as possible.

We also need to make sure we pay special attention to funding for support for homeless and foster children and ensure that the most vulnerable among us have the support they need to succeed and to build brighter futures again.

In the aftermath of Hurricane Katrina, many different sectors of our transportation system have also stepped up to the plate to deliver critical service, and because this region's infrastructure is so devastated we need to immediately explore alternatives to moving people and freight throughout the region. I think we all know it is going to take time to get our transportation infrastructure back to where it was, but we need to start concentrating on that and getting systems put in place now as well.

Rest assured, I will be asking very hard questions in the days to come about what went wrong and what we need to do to ensure that Americans never endure such preventable suffering again. All of those questions will be explored in detail, but right now I am going to continue to make sure that we are providing the immediate support that our families and our communities again need. Once again, I just want to say my thoughts and my prayers go out to everyone who has been touched by this disaster.

I see my colleague from Illinois who has been down in the region is on the floor with us. I look forward to hearing about his firsthand experience as well.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. Mr. President, I rise to address what has been a heartbreaking week for all of us. As was mentioned by my distinguished colleague from Washington, I just returned from a trip from Houston with former Presidents Clinton and Bush as part of a fund-raising effort to deal with the aftermath of Hurricane Katrina. As we wandered through the crowd, we heard in very intimate terms some of the heart-wrenching stories that all of us have witnessed on television over the past several days: Mothers separated from their babies; adults mourning the loss of elderly parents; descriptions of the heat, filth, and fear of the Superdome and of the convention center in New Orleans.

There was an overriding sense of relief in Houston, and the officials in Houston and in the entire State of Texas deserve great credit for the outstanding job they have done in creating a clean and stable place for the tens of thousands of families who have been displaced.

A conversation I had with one woman captured the realities that are settling into the families as they face the future. She said to me: We had nothing before the hurricane, and now we have less than nothing. We had nothing before the hurricane, now we have less than nothing.

In the coming weeks, as the images of the immediate crisis fade and this Chamber becomes consumed with other matters, we will be hearing a lot about lessons learned and steps to be taken. I will be among those voices who will be calling for action. In the most immediate term, we will have to assure that the efforts at evacuating families from the affected States proceed—they are not finished yet—that these Americans who are having to flee their homes, their cities, their counties, and their towns are fed, clothed, housed, and provided with the medical care and medicine they need.

We are also going to have to make sure we cut through the redtape that has inexcusably prevented so much help from getting to the places where it is needed. I can say from personal experience over the last week how frustrating it has been, how unconscionable it has been to be unable to find somebody in charge so that we can get medical supplies, doctors, nurses, and other supplies down to the affected areas quickly enough.

We are going to have to make sure in this Chamber that any impediments that may continue to exist in preventing relief efforts from moving forward rapidly are eliminated.

Once we stabilize the situation, this country is going to face the enormous challenge in providing stability for displaced families over the months and years that it is going to take to rebuild. Already the State of Illinois has committed to accepting 10,000 displaced families. There are stories in Illinois, as there are all across the country, of churches, mosques, synagogues, and individual families welcoming people with open arms and no strings attached.

Indeed, if there is any bright light that has come out of this disaster, it is the degree to which ordinary Americans have responded with speed and determination, even as their Government has responded with what I consider to be unconscionable ineptitude, which brings me to the next point. Once the situation is stable, once families are settled for at least the short term, once children are reunited with their parents and enrolled in school and the wounds both on the outside and on the inside have healed, we are going to have to do some hard thinking about how we could have failed our fellow citizens so badly and how we will prevent such failures from ever occurring again.

It is not politics to insist that we have an independent commission to examine these issues. It is not politics. Indeed, one of the heartening things about this crisis has been the degree of outrage that has come from across the political spectrum—from across races, across incomes; the degree to which the American people sense that we can and we must do better, and a recognition that if we can't cope with a crisis that has been predicted for decades, a crisis in which we were given 4 to 5 days' notice, then how can we ever hope to respond to a serious terrorist attack in a major American city in which there is no notice and in which the death toll and the panic and the fear may be far greater?

That brings me to my final point. There has been a lot of attention in the media about the fact that those who were left behind in New Orleans were disproportionately poor and disproportionately African American. I have said publicly that I do not subscribe to the notion that the painfully slow response of FEMA and the Department of Homeland Security was somehow racially based. I do not agree with that. I think the ineptitude was colorblind.

But what must be said is that whoever was in charge of planning and preparing for the worst-case scenario seemed to assume that every American has the capacity to load up the family in a SUV, fill it up with $100 worth of gasoline, stick some bottled water in the trunk, and use a credit card to check into a hotel on safe ground. I see no evidence of active malice, but I see a continuation of passive indifference on the part of our Government toward the least of us.

So I hope that out of this crisis we all begin to reflect—Democrats and Republicans, Black and White, young and old, poor and wealthy. I hope we all begin to reflect, not only on our individual responsibilities to our families and ourselves but on our mutual responsibilities to our fellow Americans, mutual responsibilities that reflect themselves in church and community organizations and block clubs but also express themselves through our Government.

I hope we realize the people of New Orleans were not just abandoned during the hurricane, they were abandoned long ago—to murder and mayhem in their streets, to substandard schools, to dilapidated housing, to inadequate health care, to a pervasive sense of hopelessness.

That is the deeper shame of this past week, that it has taken a crisis such as this to awaken in us the understanding of the great divide that continues to fester in our midst. That is what all Americans are truly ashamed about. That is what I am ashamed about. And the fact that we are ashamed about it is a good sign. The fact that all of us don't like to see such a reflection of this country that we love tells me that the American people have better instincts and a broader heart than our current politics would indicate. "We had nothing before the hurricane," the woman told me. "Now we have even less." I hope we all take the time to ponder the truth of that message.

Mrs. HUTCHISON. Mr. President, over the weekend, I visited several hurricane relief shelters around the State of Texas. Hearing the stories from the victims of Katrina firsthand has reminded me that whenever natural disasters occur, we must help those affected recover and move on with their lives. But this is no easy task, and the impact of Katrina will be felt for many years to come.

I know this personally. Growing up in Galveston County, I lived through Carla in 1961 and other hurricanes. I have never forgotten the experience of driving to my parents' house because we had not heard from them. Telephone service was out, so we packed our car with water and other supplies and drove to their home. As we approached, we saw more and more of the hurricane's destruction. Finally, we reached their battered house, and fortunately found them unharmed.

Dealing with disasters has made Texans both strong and compassionate. Whenever people encounter adversity, they are forced to make a decision about how to respond. So often, Texans have stood tall, displaying virtue in the heat of the moment. When battered by a hurricane, Texans have increased their resolve, battling the elements to survive. When threatened by funnel clouds, they have reacted with bravery and risked their lives to save the lives of others. And after the moment of danger has passed, they have showed kindness and generosity in helping neighbors get back on their feet.

Approximately 80 percent of the city of New Orleans has been covered in water, and thousands of people suddenly found themselves homeless and with no one to turn to. I am proud of how my State has responded. About 250,000 Katrina evacuees are in Texas at this time, and more are expected. As many as 100,000 evacuees will be housed in 243 shelters dispersed across the State and FEMA officials estimate another 150,000 Katrina victims are living in hotels.

In the midst of this tragedy, my heart has been warmed by the many Texans who opened their arms and their homes to their fellow Americans.

Public institutions, many churches and charities, and numerous individuals have provided food, shelter, and money for those escaping the hurricane's devastation.

In one story that was particularly touching, a Texas couple who had just moved into their new home took their old home off the market in order to provide shelter to a family of nine in the months ahead.

In another part of Texas, a company has offered about 40 vacant apartments in a retirement community, plus food, transportation, and housekeeping for no charge. Another Texas company will donate $1 million to the American Red Cross and will offer rail transportation in support of hurricane relief and recovery efforts.

The Texas Health and Human Services Commission kept many offices open throughout the holiday weekend and has certified more than 50,000 Louisiana families for emergency benefits. One Houston office extended its Friday hours until 2 a.m. Saturday morning.

The Texas Department of Family and Protective Services is providing assistance with the placement of Louisiana foster care children, including 49 children from a New Orleans facility. The agency has identified placements for more children if needed and is working with shelters to ensure that any children who have been separated from their families receive help quickly.

I am also very proud of my own staff, many of whom generously gave up their holiday weekend to answer phones at the Red Cross.

I had a personal experience that was very heartwarming when I talked to a woman in the Dallas Convention Center who said her son was in the Navy and she wanted to get him a message that she was safe in Houston and that his wife and their son were fine. We were able to contact him on the USS *Harry Truman* later that night to inform him. He sent back a very long e-mail to his mother which will be delivered to her soon. It is important we do these little things to try to help as much as we can, and the Senate stands ready to do that.

One woman receiving aid in Texas thanked the workers there and gave them a message to pass along:

> Thank you for everything. God bless.

She went on to say that if they were ever in New Orleans once it is back in order, to please look her up so she could show them some New Orleans hospitality. We know New Orleans will recover, and we can't wait for that party.

To my friends back home in Texas, you repeatedly make me proud and I am honored to be your Senator. And to our neighbors along the Gulf of Mexico, know that Texas and the Nation stand with you. God Bless Alabama, Mississippi, Louisiana, and all of the United States of America.

Ms. SNOWE. Mr. President, I rise to extend my deepest sympathies and strongest possible support for the people of America's Gulf Coast region, which was devastated by the terrible forces of Hurricane Katrina.

In the aftermath of the worst natural disaster in the history of the United States, we continue our attempt to comprehend the magnitude of the losses that have occurred—most especially all those who have lost their lives, lost livelihoods, and virtually all their physical possessions. The scale of the destruction is most horrifically reflected in the faces of those we have seen over the past week—faces etched with an indelible and almost unimaginable sorrow, suffering, and burden, and their images have reverberated throughout a country in solidarity with their terrible plight. Indeed, there are colleagues in this very body who have endured horrendous loss, and my thoughts and prayers go out to them as well.

In Louisiana, Mississippi, Alabama, and Florida lives have been forever transformed along with the landscape, as we have witnessed untold scenes of homes that no longer exist; floods that ravage entire neighborhoods and cities; fires that consume what remains of buildings, men, women, children, and the elderly seeking food, water, and medicine—as well as missing loved ones.

The cities of New Orleans, Biloxi, Gulf Port, Pascagula, and so many others have sustained injuries almost beyond belief. America and the world have been stunned by the cruelty of the tragic effects of this storm. At the same time, we are also hearing the stories of those who have rushed to the aid of our fellow Americans in need—men and women of the National Guard and the U.S. Armed Services, paramedics, doctors, police men and women, volunteers from all walks of life. And as chair of the Senate Commerce Subcommittee on Fisheries and Coast Guard, I especially thank the selfless commitment of the people of the Coast Guard, who have rescued at least 32,000 thousand individuals find have served with the greatest heroism and honor.

To the people of the Gulf region: You do not stand alone in your pain and frustration. Congress has a responsibility to ensure that essential items, medical care, and shelter are provided in a timely fashion, wherever and whenever they are needed. I am pleased the Congress passed a $10.5 billion emergency spending bill to move the Gulf region toward recovery, and there should be no question that as additional resources are required, they will be provided. It is only with the full weight of the Federal Government that the entire region will not only endure, but recover. And as chair of the Senate Small Business Committee, I will leave no stone unturned in identifying resources and services that can help bring such a recovery to fruition.

I also believe that, looking forward, it is critical to examine and assess what steps might have been taken not only to diminish the impact of the hurricane, but also to respond appropriately in its aftermath. We must determine how we, as a nation, could have been better prepared. We owe that not only to those who will face potential catastrophes in the future, but also to all those who have died and those suffering today from Katrina's swathe of devastation.

In the end, no human or natural act can deprive Americans of their unyielding and singularly determined spirit, and that truth has once again demonstrated itself in the hearts of the people of the Gulf Coast as well as the millions of acts of kindness and compassion that have manifested themselves throughout America in Katrina's wake. We also appreciate the outpouring of sympathy and support expressed by many nations and their people throughout the world. Grief and humanity, hope and caring truly know no political boundaries. This is a tragedy for all of humankind, a wound to our world, but it is one from which we will, in time, recover to the fullest extent possible.

All of our will and our resources as one of the wealthiest nations on earth must and will be brought to bear over what will be a long but ultimately triumphant process of reclaiming our Gulf Coast towns and cities for the future. As we all work toward that common goal, we do so hand-in-hand with all those for whom we are praying and keeping in our thoughts.

While the hurricane's winds and rain have long since dissipated, the collective concern and strength of this Nation continues ever onward—unbroken.

undaunted, unflagging. Our message to the people of the Gulf Coast is both simple and solemn: Your country will be with you every step of the way, and that is our promise to you in this most difficult and desperate of times and forever forward from this day.

I yield the floor.

Mr. FEINGOLD. Mr. President, I want to again express my deepest sympathies to all those who have suffered so much because of Hurricane Katrina and its aftereffects. This past week has seen destruction and misery on a scale perhaps not witnessed before in the United States. Words simply cannot describe it.

Americans have responded to this tragedy in typical fashion with untold acts of kindness and selflessness. Many who have lost everything themselves have worked without sleep and in terrible conditions to help those who cannot help themselves. The Coast Guard and military saved thousands stranded on rooftops. People have volunteered their services and their homes and have donated generously. Companies both large and small have also stepped up to help, as has the international community. In my own State of Wisconsin, we have mobilized and deployed almost 500 members of the National Guard. First responders and rescue workers have traveled to the stricken areas to help, people are preparing shelters for those who have been displaced, and people are opening their pocketbooks. I deeply admire and respect all of these acts of heroism and generosity. And as a member of the Senate Foreign Relations Committee, I want to express my sincere thanks to the many in the international community who have come forward with their own offers of help, and their words of support and solidarity.

Unfortunately, these acts of heroism and compassion starkly contrast with the inadequacy of the response to this major national disaster. Thousands desperate for help were left stranded as the relief effort slowly sputtered into action. Empty assurances and high-level excuses were no comfort to those stuck in overcrowded and unsafe shelters or to those who were desperate for medicine. It is shocking and disappointing, to say the least, that 4 years of efforts to supposedly improve our emergency response capabilities fell so short. We have devoted countless hours, and tens of billions of taxpayer dollars, to Homeland Security since 9/11. But the American people have not gotten an adequate return for this massive investment.

We must do all we can to help the residents of Louisiana, Mississippi, and Alabama get back on their feet and rebuild their homes and their lives. These Americans will need our resolve and our partnership long after the headlines fade.

In addition it is of the utmost importance that there be a thorough and independent review of the response to Hurricane Katrina in order to identify failures and improve our emergency response system and capabilities. I pledge to work with my colleagues on both sides of the aisle to ensure that those responsible for costly failures are held accountable, and to ensure that we learn from this tragedy. We must face up to the searing and shameful images of American families being left to fend for themselves in increasingly desperate circumstances, and we must ensure that we never see such images again.

The PRESIDING OFFICER. The majority leader.

## PROVIDING FOR THE USE OF THE CATAFALQUE IN CONNECTION WITH MEMORIAL SERVICES FOR THE LATE HONORABLE WILLIAM H. REHNQUIST, CHIEF JUSTICE OF THE UNITED STATES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Con. Res 52, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislate clerk read as follows:

A concurrent resolution (S. Con. Res. 52) providing for the use of the catafalque situated in the crypt beneath the Rotunda of the Capitol in connection with the memorial services to be conducted in the Supreme Court Building for the late honorable William H. Rehnquist, Chief Justice of the United States.

There being no objection, the Senate proceeded to consideration of the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 52) was agreed to, as follows:

S. CON. RES. 52

*Resolved by the Senate* (the House of Representatives concurring), That the Architect of the Capitol is authorized and directed to transfer to the custody of the Supreme Court of the United States the catafalque which is situated in the crypt beneath the Rotunda of the Capitol so that such catafalque may be used in the Supreme Court Building in connection with services to be conducted there for the late honorable William H. Rehnquist, Chief Justice of the United States.

## ORDERS FOR WEDNESDAY, SEPTEMBER 7, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that following the rollcall vote on the Hurricane Katrina resolution, the Senate adjourn until 10:30 a.m. on Wednesday, September 7. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a period of morning business until 12 noon, with the time equally divided and Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will pay its respects to the late Chief Justice William Rehnquist. Senators will be able and are encouraged to make statements tomorrow morning relating to the passing of Justice Rehnquist.

We will be voting at noon tomorrow on a resolution which expresses the sense of the Senate. The Senate will recess during the funeral ceremonies as a further mark of respect. As I mentioned earlier, we will begin consideration of the Commerce, Justice and Science appropriations bill on Thursday this week.

## EXPRESSING THE CONDOLENCES OF THE NATION TO THE VICTIMS OF HURRICANE KATRINA

Mr. FRIST. Mr. President, in a few minutes, we will be voting on a resolution expressing our deep and heartfelt sympathy for the victims of Hurricane Katrina. I know I speak for all when I say that the Senate and the American people stand by the good people of Alabama, Louisiana, and Mississippi who have suffered so deeply and who have lost so much. We are committed to helping them recover and rebuild. Last Thursday night, we passed $10.5 billion in aid, but this is just the downpayment. There is still much hard work ahead.

One of our most important and pressing duties is to conduct a thorough investigation from top to bottom of the initial emergency response. There is no question that in many places the early emergency response was simply unacceptable. No one who saw the news and the mounting discomfort and despair at the Superdome and the convention center could say otherwise. We need to find out what went wrong and what went right, and we will. We need to find out what we need to do so we are never, ever caught unprepared again.

As I mentioned this morning, I traveled to the gulf coast this weekend, not as a Senator but as a volunteer physician. A major problem I saw firsthand was a very basic one, one of communications. It is so ironic, and this is why it is so important that we provide the oversight, because Congress has appropriated funds for communications and for the interoperability of communications, but I didn't see any of that on the ground. People worked without functioning radios when I arrived, and literally within that large terminal and one of the large main rooms there, people could not communicate from one side of that room to the other. Doctors and nurses had to use runners to shuttle through the airport. It simply did not make sense. It does not make sense in America.

Many other challenges I saw we will be addressing on the floor of the Senate in the appropriate oversight mechanism. Our full attention at this juncture needs to be directed to saving lives. The President has stated this again and again. Literally as we speak here today, there are people in those second and third floors of homes who have not yet been rescued. Every major city houses the poor and the elderly and the infirm, and every American city is a potential target of a disaster or an attack, either natural or otherwise. There can be no excuses for inaction.

Senator SUSAN COLLINS and Senator JOE LIEBERMAN, the chairman and ranking member of the Homeland Security and Governmental Affairs Committee, have announced their oversight hearings. Again, our attention needs to be on saving and sustaining those people who are suffering as we speak, but at the same time we have a mechanism that is underway to begin our very serious, very important responsibility of oversight as to what did not go well and what needs to go much better in the future.

I do want to assure the American people that the Senate is hard at work. We have rolled up our sleeves. We began with the passage of the $10.5 billion the other night. It is very likely that in very short order, we will have a much larger supplemental come through, maybe within the next several days, on the Senate floor, and it will require yet another supplemental funding bill in the future. We are determined that New Orleans, where I was Saturday and Sunday; or Biloxi, where I was on Sunday; or Mobile, also on Sunday—really that entire coast—will recover and that we will rebuild in a way that is bigger and better and stronger. That is the future to which we are committed.

We have many hurdles to face in the meantime, and we will address those aggressively. We faced urban disasters in our history. As former Speaker Gingrich said in the last couple of days: A large chunk of Chicago was burned all the way to the ground, and it came back stronger than ever. He also mentioned San Francisco, leveled by an earthquake only to reemerge a much more beautiful and more prosperous city. America has never shied from a challenge. We are a nation of people who have come to these shores to work hard and to dream big. It is in our national DNA. It is what makes us great.

This weekend, I saw the incredible generosity and caring and compassion and outpouring among volunteers and military personnel and Guard personnel and medical and health professionals from all over the country—citizens helping one another, patients in adjacent gurneys helping one another, pouring out their hearts and their time and their resources. It was humbling and it was inspiring.

I am confident that together we will meet the challenges that lie ahead and emerge more prosperous and more united than ever.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will report the resolution.

The legislative clerk read as follows:

A resolution (S. Res. 233) expressing the condolences of the Nation to the victims of Hurricane Katrina, commending the resiliency of the people of the States of Louisiana, Mississippi, and Alabama, and committing to stand by them in the relief and recovery efforts.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) would vote "yea."

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Colorado (Mr. ALLARD), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Louisiana (Mr. VITTER).

Further, if present and voting, the Senator from Louisiana (Mr. VITTER) would have voted "yea."

The PRESIDING OFFICER (Mr. CHAMBLISS). Is there any Senator in the Chamber wishing to vote?

The result was announced—yeas 94, nays 0, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—94

Akaka
Alexander
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Voinovich
Warner
Wyden

NOT VOTING—6

Allard
Inouye
Landrieu
Rockefeller
Specter
Vitter

The resolution (S. Res. 233) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 233

Whereas, on August 28, 2005, Hurricane Katrina reached landfall devastating the Gulf Coast states;

Whereas there has yet to be a full accounting for all our citizens whose lives were tragically lost;

Whereas the cost in human suffering is ongoing for hundreds of thousands of people who have lost loved ones, homes, and livelihoods;

Whereas immediate humanitarian aid is still critically needed in many of the devastated regions;

Whereas the devastation on the Gulf Coast of Mississippi, Louisiana, and Alabama is catastrophic;

Whereas the City of New Orleans is tragically flooded and the surrounding communities of St. Bernard and Plaquemines parishes are devastated;

Whereas every city on the Mississippi Gulf Coast is severely damaged or destroyed, including Waveland, Bay St. Louis, Pass Christian, Long Beach, Gulfport, Biloxi, Ocean Springs, Moss Point, and Pascagoula;

Whereas the States of Florida, Texas, and Georgia also sustained damage;

Whereas Coast Guard search and rescue teams, police, firefighters, the National Guard and many ordinary citizens have risked their lives to save others;

Whereas doctors, nurses, and medical personnel worked expeditiously to ensure that hospitals, medical centers, and triage units provided needed care;

Whereas the American Red Cross, the Salvation Army, and other volunteer organizations and charities are supplying hurricane victims with food, water, and shelter;

Whereas the State of Texas and numerous other states have welcomed tens of thousands of victims from Louisiana and provided them with aid and comfort;

Whereas the Army Corps of Engineers has worked to reinforce levees in Louisiana; and

Whereas thousands of volunteers and government employees from across the Nation have committed time and resources to help with recovery efforts: Now, therefore, be it

*Resolved*, That the Senate—

(1) expresses the condolences of the Nation to the victims of Hurricane Katrina;

(2) commends the resiliency and courage of the people of the States of Louisiana, Mississippi, and Alabama; and

(3) commits to provide the necessary resources and to stand by the people of the States of Louisiana, Mississippi, and Alabama in the relief, recovery, and rebuilding efforts.

## HONORING CHIEF JUSTICE WILLIAM H. REHNQUIST

Mr. CORZINE. Mr. President, I rise today to offer my sincere condolences to the family of Chief Justice William H. Rehnquist and to recognize his achievements during a lifetime of public service.

Throughout his life, William H. Rehnquist served this Nation with dignity and integrity, first in the Army Air Corps during World War II and later as an Associate and then Chief Justice on the United States Supreme Court. For 33 years, Justice Rehnquist was a fixture on the Court, and he demonstrated both a love and a respect for the institution. He led the Judicial Conference of the United States with distinction, advocating for judicial independence during this 18-year tenure as Chief Justice. And even as his health declined in recent years, Judge Rehnquist continued to lead the Court, a testament to his tenacity and character.

Although I did not always agree with his legal decisions, I have deep respect for Chief Justice Rehnquist's service to our Nation, and I join my colleagues in honoring him today.

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## HONORING OUR ARMED FORCES

### ARMY STAFF SERGEANT JEREMY DOYLE

Mr. BAYH. Mr. President, I rise today with a heavy heart and deep sense of gratitude to honor the life of a brave soldier who attended high school in Indianapolis and whose family resides in Martinsville. Jeremy Doyle, 24 years old, died on August 18 when his vehicle was struck by a roadside bomb in Samarra, Iraq. With so much of his life left before him, Jeremy risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

Although he did not call Martinsville home, Jeremy's impact on the town was demonstrated by the hundreds of families who lined the town's streets for 3½ miles as his funeral procession wound through downtown. At the funeral, family members remembered Jeremy as a jokester and a soldier who deeply loved his family and the U.S. military. A commander of an armored humvee, Jeremy was on his second tour of duty in Iraq having returned to Iraq after being slightly wounded last spring while he tried to deactivate an explosive. His uncle told the crowd gathered at Jeremy's funeral service: [Jeremy] will forever be my hero. I stand here today to express the same feelings of pride and gratitude for this young man's sacrifices and those made by his family on behalf of our country.

Jeremy was killed while serving his country in Operation Iraqi Freedom. He was assigned to the 3rd Infantry Division, stationed at Fort Wayne, GA. This brave young soldier leaves behind his wife, Leah McGinnis Doyle.

Today, I join Jeremy's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Jeremy, a memory that will burn brightly during these continuing days of conflict and grief.

Jeremy was known for his dedication to his family and his love of country. Today and always, Jeremy will be remembered by family members, friends and fellow Hoosiers as a true American hero, and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Jeremy's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg: We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here. This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Jeremy's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Jeremy Doyle in the official record of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Jeremy's can find comfort in the words of the prophet Isaiah who said: He will swallow up death in victory; and the Lord God will wipe away tears from off all faces.

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Jeremy.

### ARMY SERGEANT MICHAEL SCHAFER

Mr. President, with a heavy heart and deep sense of gratitude I wish to honor the life of a brave soldier from Crown Point. Michael Schafer, 25 years old, died on July 25 from enemy gunfire on a quick reaction force mission in Oruzgan, Afghanistan. With so much of his life left before him, Michael risked everything to fight for the values Americans hold close to our hearts, in a land halfway around the world.

A generous and humorous man, Michael enlisted in the military following high school and re-enlisted 2 years ago. In joining the military, Michael continued a family tradition, as his father, Mark, served in the Navy. He was among the paratroopers who jumped into northern Iraq in March 2003 at the start of the war. Upon the completion of his time in the Army, Michael dreamed of becoming a police officer. A true believer in the cause of freedom, Michael often told his family that he loved what he was doing. His family recounted to a local newspaper their pride in Michael and his habit of putting others before himself. I stand here today to express the same feelings of pride and gratitude for this young Hoosier's sacrifices and those made by his family on behalf of our country.

Michael was killed while serving his country in Operation Enduring Freedom. He was assigned to the 2nd Battalion, 503rd Infantry Regiment, Vicenza, Italy. This brave young soldier leaves behind his wife, Danielle, and their adopted son.

Today, I join Michael's family and friends in mourning his death. While we struggle to bear our sorrow over this loss, we can also take pride in the example he set, bravely fighting to make the world a safer place. It is his courage and strength of character that people will remember when they think of Michael, a memory that will burn brightly during these continuing days of conflict and grief.

Michael was known for his dedication to his family and his love of country. Today and always, Michael will be remembered by family members, friends and fellow Hoosiers as a true American hero and we honor the sacrifice he made while dutifully serving his country.

As I search for words to do justice in honoring Michael's sacrifice, I am reminded of President Lincoln's remarks as he addressed the families of the fallen soldiers in Gettysburg:

> We cannot dedicate, we cannot consecrate, we cannot hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor power to add or detract. The world will little note nor long remember what we say here, but it can never forget what they did here.

This statement is just as true today as it was nearly 150 years ago, as I am certain that the impact of Michael's actions will live on far longer than any record of these words.

It is my sad duty to enter the name of Michael Schafer in the official record of the United States Senate for his service to this country and for his profound commitment to freedom, democracy and peace. When I think about this just cause in which we are engaged, and the unfortunate pain that comes with the loss of our heroes, I hope that families like Michael's can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

May God grant strength and peace to those who mourn, and may God be with all of you, as I know He is with Michael.

## IN REMEMBRANCE OF LAURA ESGUERRA ADAMS

Mrs. BOXER. Mr. President, today I pay tribute to Laura Esguerra Adams, a member of my staff who died last week after a valiant struggle against cancer. I want the Senate and the American people to know about this extraordinary young woman who served us all so well.

Laura was my Web designer, in charge of my Senate Web site. Over the past several years, she transformed "boxer.senate.gov" from a simple, nondescript Web page to a modern, cutting-edge site that has won awards for its clean look, comprehensive content, and accessibility.

Today thousands of Californians visit this site every week to get up-to-date information, express their opinions, and obtain help from my office and Government agencies. Laura's many additions to the site included video updates from California and the Senate floor, contests for kids on Earth Day and the Fourth of July, and dozens of links to other sites providing news, information, and assistance.

Laura was not only a tremendous asset to my staff; she was also a joy to work with. She was smart, funny, and most of all big hearted. She was both tech wise and user friendly, always willing to share her knowledge and expertise. In our Los Angeles office, she organized great potluck lunches where she cooked well, ate prodigiously, and shared her eclectic taste in music of all kinds—good, bad, and strange.

A truly urban Angeleno, Laura lived in a downtown LA loft and recently led her new husband James and their wedding party on a candlelight procession through the center city.

Laura was a highly skilled and devoted public servant who believed that technology can and should add to our understanding of Government and give more people the opportunity to participate in our democracy. I deeply appreciate her service to the Senate and the people of California.

I know Members will join me in honoring the memory of Laura Esguerra Adams and sending our thoughts and prayers to her husband, family, and many dear friends.

## ADDITIONAL STATEMENTS

## TRIBUTE TO THOMAS A. GRAU

● Mr. BURNS. Mr. President, I congratulate Thomas A. Grau, CPCU, who is near the end of his term as the 100th president of the Nation's largest insurance association, the Independent Insurance Agents & Brokers of America, IIABA. He was elected to IIABA's executive committee in September 1999, and was installed as the organization's president last October. Tom is an executive with the Cogswell Agency in Great Falls, MT.

During Tom's year as president, IIABA accomplished a number of milestone achievements. It sought—and earned—the honor of a major policy address to its members by President Bush in April. The association met its goal of having 5,000 agencies on board as members of its Trusted Choice® branding initiative, and did so 6 months ahead of schedule. It continued its momentum in the area of agency technology and paid off the mortgage on its headquarters in Alexandria, VA.

Tom has been active on all levels of the insurance industry throughout his career. From his service as the Independent Insurance Agents of Montana representative, to the chairman of the national IIABA finance committee, Tom has exhibited great vision and direction for this organization. On the local level, he twice served as president of the Independent Insurance Agents of Great Falls.

Tom's experience has not been limited to leadership roles alone. He also has proven instrumental in various insurance industry education efforts throughout his career, and taught many professional accreditation classes. I also value Tom's commitment to his community. He is active in church and professional organizations, from Optimist International, to the Muscular Dystrophy Association and the Boy Scouts.

I sincerely thank Tom for his efforts on behalf of IIABA and the positive impact his efforts have had on this organization and his community back home in Great Falls, MT. I wish him and his wife Cheryl all the best in their future endeavors.●

## IN CELEBRATION OF ALAN BERGMAN

● Mrs. BOXER. Mr. President, I would like to take this opportunity to recognize a wonderful Californian, Alan Bergman, in honor of his 80th birthday. Few in the world today have brought so much pleasure, joy, and insight to so many as have Alan and his wife Marilyn.

Alan Bergman was born on September 11, 1925, in Brooklyn, NY. He had an ear for music at a young age—at age 10, he knew he wanted to be a songwriter. After studying at the University of North Carolina at Chapel Hill and the University of California at Los Angeles, Alan moved to Philadelphia. There, he worked as a director for children's television shows, and moonlighted as a songwriter. He soon moved back to Los Angeles at the urging of his mentor, Johnny Mercer, to work full time on his budding songwriting career.

In Los Angeles, Alan met Marilyn Keith. Alan and Marilyn hit it off right away, and Alan knew that in Marilyn he had a friend and a musical partner. Alan also knew that he wanted to spend the rest of his life with this remarkable woman. And in 1958, Alan and Marilyn were married. With Marilyn's musical background, she and Alan were a perfect match. They began to write lyrics together. It soon became evident that Alan and Marilyn Bergman were a powerful team, working on lyrics for television shows and movies. In 1968, their efforts won them their first Oscar for "The Windmills of Your Mind," the theme song from the "Thomas Crown Affair."

There would be more recognition to come for the Bergmans, the only husband-and-wife team of lyricists. In 1968, Alan and Marilyn also won a Golden Globe Award for "The Windmills of Your Mind." In 1973, Alan and Marilyn won two Emmys, an Oscar, a Grammy, and a Golden Globe Award for "The Way We Were." In 1984, they won another Oscar for the score for "Yentl," and won Emmys for "Sybil," "Queen of the Stardust Ballroom," "Ordinary Miracles" and "A Ticket to Dream." And these are just a few of Alan and Marilyn's many awards.

In addition to these awards, Alan and Marilyn have received many accolades. Among others, they have been inducted into the Songwriters Hall of Fame, and have received the National Academy of Songwriters Lifetime Achievement Award, the Spanish Cultural Medal of Honor, and the Governors Award from the National Association of Recording Arts and Sciences. As president of the American Society of Composers, Authors and Publishers, Marilyn has worked with many in Congress, in a bipartisan way, to protect intellectual property rights.

Recently, Alan unveiled another one of his many talents—in addition to being a world-renowned songwriter, Alan is also a gifted singer. He has performed shows across the country, from the Algonquin Hotel in New York to the Jazz Bakery in Los Angeles, showcasing the songs that he has written with Marilyn.

When I met Alan and Marilyn in 1990, I knew that my life as a political leader would take on a new dimension. I was to learn that as a human being I had been enriched beyond measure.

Alan and Marilyn's musical achievements throughout their lifetimes show how exceedingly talented and gifted they are. Their success is a result of their hard work and dedication. It is no wonder that they are one of the most respected songwriting teams in music today.

I believe it is appropriate that Alan be recognized in the CONGRESSIONAL RECORD today not only on the occasion of his 80th birthday, but, along with Marilyn, for enriching the lives of so many Americans for so many years.●

### 125TH ANNIVERSARY OF COLMAN, SD

• Mr. THUNE. Mr. President, today I wish to recognize Colman, SD. The town of Colman will celebrate the 125th anniversary of its founding this year.

Located in Moody County, Colman was founded when the Milwaukee railroad extended its line reaching the town in 1880. It was originally known as Sankey and then Allentown. The city eventually changed its name to Colman in honor of the Colman Lumber Company, a local business.

I would like to offer my congratulations to Colman on their anniversary and I wish them continued prosperity in the years to come.•

### HONORING INDIANAPOLIS LIFE

• Mr. BAYH. Mr. President, today I wish to recognize the centennial celebration of Indianapolis Life. I am honored to have the opportunity to offer my sincere congratulations on the company's 100 years of service and I want to express my gratitude and admiration for its many contributions to the State of Indiana. It is companies such as Indianapolis Life Insurance that make me proud to be a Hoosier.

I had the honor of serving briefly on the board of directors of Indianapolis Life, giving me the chance to see the workings of this company first-hand. Not only does Indianapolis Life provide high-quality insurance to hundreds of thousands of customers, but it is also a pillar of community support in Indianapolis, through its corporate philanthropy and the volunteer activities of its staff. The financial success of the company has created economic growth across the country and has been an important part of the State economy for a century now.

On behalf of the State of Indiana, I thank all the employees, staff and directors who have made Indianapolis Life into the company it is today.•

### DAR IN MONROE, LA

• Mr. VITTER. Mr. President, I wish to acknowledge the Fort Miro Chapter of the Daughters of the American Revolution in Monroe, LA. Beginning September 17 and ending September 23, this great organization will observe its annual Constitution Week. Today, I would like to spend a few moments highlighting the importance of their efforts.

The Daughters of the American Revolution petitioned Congress in 1955 to set aside a week to celebrate the Constitution. Thanks to their petition, Congress, through a joint resolution on August 2, 1956, requested that the President proclaim that September 17 through 23 serve as Constitution Week.

This week sets out to emphasize citizens' responsibilities for protecting and defending the Constitution, inform people that the Constitution is the basis for America's great heritage, and encourage the study of the historical events surrounding its framing in September 1787.

I applaud the Daughters of the American Revolution for their continued dedication to celebrating the importance of the Constitution through education and activism. Moreover, I commend the Fort Miro Chapter of the Daughters of the American Revolution in Monroe, LA, for doing this fine work on behalf of the State of Louisiana.•

### MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

### MESSAGE FROM THE HOUSE RECEIVED DURING THE ADJOURNMENT

Under authority of the order of September 1, 2005, a message from the House of Representatives, delivered by one of its clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3645. An act making emergency supplemental appropriations to meet immediate needs arising from the consequences of Hurricane Katrina, for the fiscal year ending September 30, 2005, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 51. Concurrent resolution providing for a conditional adjournment or recess of the Senate, and a conditional adjournment or recess of the House of Representatives.

### ENROLLED BILLS SIGNED

Under authority of the order of January 4, 2005, the Secretary of the Senate, on August 4, 2005, during the adjournment of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bills:

H.R. 3. An act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes.

H.R. 6. An act to ensure jobs for our future with secure, affordable, and reliable energy.

H.R. 1132. An act to provide for the establishment of a controlled substance monitoring program in each State.

Under authority of the order of January 4, 2005, the enrolled bills were signed on August 4, 2005, during the adjournment of the Senate, by the Acting President Pro Tempore (Mr. WARNER).

### MESSAGE FROM THE HOUSE

A message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3645. An act making emergency supplemental appropriations to meet immediate needs arising from the consequences of Hurricane Katrina, for the fiscal year ending September 30, 2005, and for other purposes.

The enrolled bill was signed on September 6, 2005, during the adjournment of the Senate, by the Majority Leader (Mr. FRIST).

### EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–3320. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (beginning with tab A "Document Table" and ending with tab K "Counsel Memoranda, Legal Opinions, Etc.") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3321. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (beginning with tab A "Trust Indenture and Security Agreement" and ending with tab C "Omnibus Assignment, Assumption and Consent Agreement") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3322. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (2 subjects on 1 disc beginning with "Inquiry Response Regarding Privatized Housing") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3323. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (10 subjects on 1 disc beginning with "Inquiry Response Regarding Maritime Information Systems, San Diego and Undersea Sensor Systems, Newport, RI") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3324. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (7 subjects on 1 disc beginning with "Inquiry Response Regarding Consolidation of B–1's at One Base") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3325. A communication from the Under Secretary of Defense for Acquisition, Technology, and Logistics, transmitting, pursuant to law, a report (8 subjects on 1 disc beginning with "Inquiry Response Regarding Current Data on Facilities for Storage and Maintenance of STAMP at McConnell AFB") relative to the Defense Base Closure and Realignment Act of 1990, as amended; to the Committee on Armed Services.

EC–3326. A communication from the Office of the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, an interim report entitled "Implementation Plan for Accession of Persons with Specialized Skills"; to the Committee on Armed Services.

EC–3327. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in the acting role of Assistant Secretary of Defense (Networks, Information and Integration), received on July 28, 2005; to the Committee on Armed Services.

EC–3328. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of Defense (Legislative Affairs), July 28, 2005; to the Committee on Armed Services.

EC–3329. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of Defense (Networks, Information and Integration), received on July 28, 2005; to the Committee on Armed Services.

EC–3330. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in the acting role of Assistant Secretary of Defense (Public Affairs), July 28, 2005; to the Committee on Armed Services.

EC–3331. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of action on the nomination for the position of Assistant Secretary of the Army (Civil Works), received on July 28, 2005; to the Committee on Armed Services.

EC–3332. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary of the Air Force (Installations, Environment and Logistics), received on July 28, 2005; to the Committee on Armed Services.

EC–3333. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of action on the nomination for the position of Under Secretary of Defense (Acquisition, Technology and Logistics), received on July 28, 2005; to the Committee on Armed Services.

EC–3334. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a nomination for the position of Under Secretary of Defense (Policy), received on July 28, 2005; to the Committee on Armed Services.

EC–3335. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a change in previously submitted reported information for the position of Deputy Secretary of Defense, received on July 28, 2005; to the Committee on Armed Services.

EC–3336. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy and the designation of an acting officer for the position of Deputy Secretary of Defense, received on July 28, 2005; to the Committee on Armed Services.

EC–3337. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of the discontinuation of service in the acting role of General Counsel of the Department of the Army, received on July 28, 2005; to the Committee on Armed Services.

EC–3338. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled "Update to Divided State Retirement Systems Coverage Group List and Technical Coverage Corrections Required by the Social Security Protection Act of 2004" (RIN0960–AG18) received on July 28, 2005; to the Committee on Finance.

EC–3339. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Interaction of Sections 105 and 401 on Retiree Health Accounts in a Profit-Sharing Plan" (Rev. Rul. 2005–55) received on July 28, 2005; to the Committee on Finance.

EC–3340. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Treatment of a Stapled Foreign Corporation under Sections 269B and 367(b)" ((RIN1545–BD06)(TD 9216)) received on August 8, 2005; to the Committee on Finance.

EC–3341. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities for Fiscal Year 2006" (RIN0938–AN65) received on July 28, 2005; to the Committee on Finance.

EC–3342. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2006 Rates" (RIN0938–AN57) received on August 8, 2005; to the Committee on Finance.

EC–3343. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Hospice Wage Index for Fiscal Year 2006" (RIN0938–AN89) received on August 8, 2005; to the Committee on Finance.

EC–3344. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for Fiscal Year 2006" (RIN0938–AN43) received on August 8, 2005; to the Committee on Finance.

EC–3345. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "An Arrangement for Tool Allowance Payments is not an Accountable Plan and Payments Made to Employees under the Arrangement are Wages, Subject to Withholding and Payment of Employment Taxes" (Rev. Rul. 2005–52) received on August 8, 2005; to the Committee on Finance.

EC–3346. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 1273—Determination of Amount of Original Issue Discount" (Rev. Rul. 2005–47) received on August 8, 2005; to the Committee on Finance.

EC–3347. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Interaction between 83(b) and Securities Law" (Rev. Rul. 2005–48) received on August 8, 2005; to the Committee on Finance.

EC–3348. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Revenue Ruling Regarding Simplified Service Cost Method and Simplified Production Method" (Rev. Rul. 2005–53) received on August 8, 2005; to the Committee on Finance.

EC–3349. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Exclusions from Gross Income of Foreign Corporations" (TD 9218) received on August 8, 2005; to the Committee on Finance.

EC–3350. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Automatic Consent for an Eligible Educational Institution to Change Reporting Methods" (Rev. Proc. 2005–50) received on August 8, 2005; to the Committee on Finance.

EC–3351. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 601.204: Changes in Accounting Periods and in Methods of Accounting" (Rev. Proc. 2005–47) received on August 8, 2005; to the Committee on Finance.

EC–3352. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Notice: Modification of Notice 2005–4" (Notice 2005–62) received on August 8, 2005; to the Committee on Finance.

EC–3353. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 613A Marginal Production Rates" (Notice 2005–55) received on August 8, 2005; to the Committee on Finance.

EC–3354. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Final and Temporary Regulations Regarding the Simplified Service Cost Method and the Simplified Production Method" (T.D. 9217) received on August 8, 2005; to the Committee on Finance.

EC–3355. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update—Pension Funding Equity Act of 2004" (Notice 2005–63) received on August 8, 2005; to the Committee on Finance.

EC–3356. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Information is Being Provided About Additional Criteria that Will be Applied in Selecting Proposals for the Internal Revenue Service's Industry Issue Resolution Program Regarding Application of Accountable Plans in Specific Industries" (Notice 2005–59) received on August 8, 2005; to the Committee on Finance.

EC–3357. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Section 43 Inflation Adjustment Factor" (Notice 2005–56) received on August 8, 2005; to the Committee on Finance.

EC–3358. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska; Closure" (I.D. No. 071305A) received July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3359. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands Management Area; Closure" (I.D. No. 071205A) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3360. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Pacific Ocean Perch in the Western Regulatory Area of the Gulf of Alaska; Closure" (I.D. No. 071505D) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3361. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska" (I.D. No. 071505B) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3362. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area; Closure" (I.D. No. 071805A) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3363. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Pacific Ocean Perch in the Eastern Aleutian District of the Bering Sea and Aleutian Islands Management Area" (I.D. No. 070805A) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3364. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Temporary Rule: Closure of the Regular B Days-at-Sea (DAS) Pilot Program in the Georges Bank Cod Stock Area" (I.D. No. 071305B) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3365. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Final Rule: Correcting Amendment to 50 CFR 300.65 Clarifying Regulations for the Subsistence Halibut Program in Alaska" (RIN0648–AT44) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3366. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report of a rule entitled "16 CFR Part 460—Labeling and Advertising of Home Insulation [2005 Amendments]" (RIN3084–0109) received on August 8 2005; to the Committee on Commerce, Science, and Transportation.

EC–3367. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, a report entitled "Annual Report 2005: Fair Debt Collection Practices Act"; to the Committee on Commerce, Science, and Transportation.

EC–3368. A communication from the Attorney Advisor, Research and Innovative Technology Administration, Department of Transportation, transmitting, pursuant to law, the report of action on a nomination for the position of Administrator, received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3369. A communication from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Amendment of Part I of the Competitive Rules—Competitive Procedures, WT Docket No. 97–82; FCC 04–295, Second Order on Reconsideration of the Fifth Report and Order" received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3370. A communication from the Legal Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Amendment of Part I of the Commission's Rules—Competitive Bidding Procedures, WT Docket No. 97–82; FCC 03–98, Second Order on Reconsideration of the Third Report and Order and Order on Reconsideration of the Fifth Report and Order" received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3371. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Islamorada, Marathon and Sugarloaf Key, Florida)" (MB Docket No. 05–107) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3372. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Roby and Anson, Texas)" (MB Docket No. 05–66) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3373. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Baudette, MN; Fernley, NV; Pittsburg, OK; and Paducah, TX)" (MB Docket Nos. 04–403, 04–349, 04–351, 04–342) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3374. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Tipton, Oklahoma)" (MB Docket No. 05–128) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3375. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Parker, Prescott Valley, Mayer, Miami, and Ajo, Arizona)" (MB Docket No. 04–203) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3376. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Jackson and Madison, Mississippi)" (MB Docket No. 05–135) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3377. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Americus and Oglethorpe, Georgia)" (MB Docket No. 04–328) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3378. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Colfax, Louisiana and Moody, Texas)" (MB Docket Nos. 05–117 and 05–119) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3379. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (St. Albans and Grand Isle, Vermont and Tupper Lake, New York)" (MB Docket No. 05–3) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3380. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Pima, Arizona)" (MB Docket No. 04–82) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3381. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Coosada, Livingston, and Rockford, Alabama)" (MB Docket Nos. 05–82, 05–83, and 05–84) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3382. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Fruita and Hotchkiss, Colorado)" (MB Docket No. 04–300) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3383. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Morganfield and Corydon, Kentucky)" (MB Docket No. 04–420) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3384. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Guntown and Booneville, Mississippi)" (MB Docket No. 05–80) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3385. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Strong, Arkansas; Silver Springs, Nevada; Covington, Oklahoma; Spur, Texas; and Poultney, Vermont)" (MB Docket Nos. 05–141, 05–76, 05–77, 05–87, and 05–78) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3386. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Dallas, Oregon)" (MB Docket No. 04–124) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3387. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Burlington and Cary, North Carolina)" (MB Docket No. 04–429) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3388. A communication from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.622(b), Table of Allotments, DTV Broadcast Stations (Oklahoma City, OK)" (MB Docket No. 00–104, RM–9812) received on July 28, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3389. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Tank Level or Pressure Monitoring Devices on Single-Hull Tank Ships and Single-Hull Tank Barges Carrying Oil or Oil Residue as Cargo" (RIN1625–AA94) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3390. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone Regulations (including 4 regulations): [CGD01–05–012], [CGD08–05–015], [CGD08–05–012], and [CGD08–05–019]" (RIN1625–AA00) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3391. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zone; High Capacity Passenger Vessels in the Seventeenth Coast Guard District" (RIN1625–AA87) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3392. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Drawbridge Operation Regulations; CSX Railroad, Hillsborough River, mile 0.7, Tampa, FL" (RIN1625–AA09) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3393. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Safety Zone Regulations (including 6 regulations): [CGD13–05–028], [COTP Jacksonville 05–092], [CGD01–05–072], [CGD13–05–030], [CGD09–05–101], and [CGD09–05–100]" (RIN1625–AA00) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3394. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Special Local Regulations for Marine Events; Mill Creek, Fort Monroe, Hampton, Virginia" (RIN1625–AA08) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3395. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Security Zones: Charleston Harbor, Cooper River, SC" (RIN1625–AA87) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3396. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Aircraft Assembly Placard Requirements: Final Rule, Notice of OMB Approval for Information Collection and Addition of Amendment Numbers" (RIN2120–ZZ75) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3397. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Use of Certain Portable Oxygen Concentrator Devices Onboard Aircraft" (RIN2120–AI30) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3398. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Stage 4 Aircraft Noise Standards" (RIN2120–AH99) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3399. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Reservation System for Unscheduled Arrivals at Chicago's O'Hare International Airport" (RIN2120–AI47) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3400. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Implementing the Maintenance Provisions of Bilateral Agreements" (RIN2120–AI19) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3401. A communication from the Attorney, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled, "Applicability of the Hazardous Materials Regulations to a 'Person Who Offers' a Hazardous Material for Transportation in Commerce" (RIN2137–AE04) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3402. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Final Rule: Fuel Tank Safety Compliance Extension and Aging Airplane Program Update (disposition of comments)" ((RIN2120–AI20) (2005–0001)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3403. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC–10–10 and DC–10–10F Airplanes; Model DC–10–15 Airplanes; Model DC–10–30 and DC–10–30F (KC–10A and KDC–10) Airplanes; and Model DC–10–40 and DC–10–40F Airplanes" ((RIN2120–AA64)(2005–0331)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3404. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hartzell Propeller, Inc., McCauley Propeller Systems, and Sensenich Propeller Manufacturing Company, Inc. Propellers" ((RIN2120–AA64)(2005–0332)) received on August 8 2005; to the Committee on Commerce, Science, and Transportation.

EC–3405. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa

Brasileira de Aeronautica S.A. Model EMB 135 and Model EMB 145, 145ER, 145MR, 145LR, 145XR, 145MP, and 145EP Airplanes" ((RIN2120–AA64)(2005–0328)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3406. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rockwell International Models AT 6 (SNJ 2), AT 6A (SNJ 3), AT 6B, AT 6C (SNJ 4), AT 6D (SNJ 5), AT 6F (SNJ 6), BC 1A (SNJ 7), and T 6G Airplanes; and Autair Ltd. Model Harvard (Army AT 16) Airplanes; CORRECTION" ((RIN2120–AA64)(2005–0326)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3407. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Hartzell Propeller Inc. Models HC–B3TN–2, HC–B3TN–3, HC–B3TN–5, HC–B3MN–3, HC–B4TN–3, HC–B4TN–5, HC–B4MN–5, HC–B4MP–3, HC–B4MP–5, and HC–B5MP–3 Propellers" ((RIN2120–AA64)(2005–0360)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3408. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes; Model A300 B4 600, B4 600R, and F4 600R Series Airplanes; and Model C4 605R Variant F Airplanes; and Model A310 200 and 300 Series Airplanes" ((RIN2120–AA64)(2005–0358)) received on August 8, 2005; to the Committee on Commerce, Science and Transportation.

EC–3409. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Air Tractor Inc. Models AT 300, AT 301 AT 302, AT 400, AT 400A, AT 401, AT–402, AT 602, AT 802, and AT 802A Airplanes" ((RIN2120–AA64)(2005–0339)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3410. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Honeywell International Inc. TFE731–2 and –3 Series Turbofan Engines" ((RIN2120–AA64)(2005–0343)) received on August 8, 2005; to the Committee on Commerce, Science and Transportation.

EC–3411. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–400F Series Airplanes" ((RIN2120–AA64)(2005–0344)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3412. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model CL 600 2C10 Series Airplanes and Model CL 600 2D24 Series Airplanes" ((RIN2120–AA64)(2005–0345)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3413. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited BAe 146 and Avro 146–RJ Airplanes" ((RIN2120–AA64)(2005–0346)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3414. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: AvCraft Dornier Model 328–100 and –300 Airplanes" ((RIN2120–AA64)(2005–0347)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3415. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: AvCraft Dornier Model 328–100 and –300 Airplanes" ((RIN2120–AA64)(2005–0348)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3416. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Short Brothers Model SD3–60 Airplanes" ((RIN2120–AA64)(2005–0349)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3417. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777–200 and –300 Series Airplanes" ((RIN2120–AA64)(2005–0350)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3418. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model BAe 146 and Avro 146–RJ Series Airplanes" ((RIN2120–AA64)(2005–0351)) received on August 8, 2005; to the Committee on Commerce, Science and Transportation.

EC–3419. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model DC–9–10 Series Airplanes; Model DC–9–20 Series Airplanes; Model DC–9–30 Series Airplanes; Model DC–9–40 Series Airplanes; Model DC–9–50 Series Airplanes; Model DC–9–81, DC–9–82, DC–9–83, and DC–9–87 Airplanes and Model MD–88 Airplanes" ((RIN2120–AA64)(2005–0352)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3420. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F.28 Mark 1000, 2000, 3000, and 4000 Airplanes" ((RIN2120–AA64)(2005–0353)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3421. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–300, 400, and 500 Series Airplanes" ((RIN2120–AA64)(2005–0354)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3422. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777–200 and 300 Series Airplanes" ((RIN2120–AA64)(2005–0355)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3423. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777–200 and 300 Series Airplanes" ((RIN2120–AA64)(2005–0356)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3424. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–100, 200, and 200C Series Airplanes" ((RIN2120–AA64)(2005–0357)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3425. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2 and B4 Series Airplanes" ((RIN2120–AA64)(2005–0359)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3426. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A321–100 and 200 Series Airplanes" ((RIN2120–AA64)(2005–0361)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3427. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Learjet Model 23, 24, 24A, 24B, 24B–A, 24C, 24D, 24D–A, 24E, 24F, 24F–A, 25, 25A, 25B, 25C, 25D, 25F, 28 29, 31, 31A, 35, 35A, and 36 Airplanes" ((RIN2120–AA64)(2005–0362)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3428. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Bombardier Model DHC–8–100, DHC–8–200, and DHC–8–300 Series Airplanes" ((RIN2120–AA64)(2005–0363)) received on August 8, 2005; to the Committee on Commerce, Science and Transportation.

EC–3429. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Fokker Model F.28 Mark 0070 and 0100 Airplanes" ((RIN2120–AA64)(2005–0364)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3430. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777–200 and 300 Series Airplanes" ((RIN2120–AA64)(2005–0365)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3431. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A300 B2–203 and B4–203 Airplanes; Model A310–200 and 300 Series Airplanes; and Model A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model A300 C4–605R Variant F Airplanes" ((RIN2120–AA64)(2005–0366)) received on August 8, 2005; to the Committee on Commerce, Science and Transportation.

EC–3432. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Empresa Brasileira de Aeronautica S.A. Model EMB 145 and EMB 135 Series Airplanes" ((RIN2120–AA64)(2005–0367)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3433. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Rolls Royce plc Models RB211 Trent 768–60, Trent 772–60, and Trent 772B–60 Turbofan Engines" ((RIN2120–AA64)(2005–0325)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3434. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747 Airplanes" ((RIN2120–AA64)(2005–0327)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3435. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 777–200 and 300 Series Airplanes" ((RIN2120–AA64)(2005–0329)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3436. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 707–300B, 300C, and 400 Series Airplanes" ((RIN2120–AA64)(2005–0330)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3437. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: AvCraft Dornier Model 328–100 Airplanes" ((RIN2120–AA64)(2005–0333)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3438. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 737–200, 200C, 300, 400, 500, 600, 700, 700C, 800, and 900 Series Airplanes" ((RIN2120–AA64)(2005–0334)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3439. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: McDonnell Douglas Model MD 90–30 Airplanes" ((RIN2120–AA64)(2005–0335)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3440. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Airbus Model A319, A320, and A321 Series Airplanes" ((RIN2120–AA64)(2005–0336)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3441. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Model 650 Airplanes" ((RIN2120–AA64)(2005–0338)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3442. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: The New Piper Aircraft, Inc. PA 34, Series Airplanes" ((RIN2120–AA64)(2005–0340)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3443. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Cessna Aircraft Company Models 172R, 172S, 182T, T182T, 206H, and T206H Airplanes" ((RIN2120–AA64)(2005–0341)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3444. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: Boeing Model 747–400, 400D, 400F; 767–200, 300, 300F; and 777–200 and 300 Series Airplanes" ((RIN2120–AA64)(2005–0337)) received on August 8, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3445. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Airworthiness Directives: BAE Systems Limited Model 4101 Airplanes" ((RIN2120–AA64)(2005–0342)) received on August 8, 2005 to the Committee on Commerce, Science, and Transportation.

EC–3446. A communication from the Director, Court Services and Offender Supervision Agency for the District of Columbia, transmitting, the report of proposed legislation entitled "Court Services and Offender Supervision Agency Volunteer Authority Act of 2005"; to the Committee on Homeland Security and Governmental Affairs.

EC–3447. A communication from the Assistant Chief Counsel for Regulations, Transportation Security Administration, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled "Ronald Reagan Washington National Airport: Enhanced Security Procedures for Certain Operations" received on August 8, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3448. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–151, "Mechanic's Lien Amendment Act of 2005" received on August 1, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3449. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–152, "Mayor's Youth Leadership Institute Act of 2005" received on August 1, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3450. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–153, "Exploratory Committee Disclosure Informational Report and Contribution Prohibition Temporary Amendment Act of 2005" received on August 1, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3451. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, a report on D.C. Act 16–166, "Fiscal Year 2006 Budget Support Act of 2005" received on August 1, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3452. A communication from the Deputy Secretary, Department of Labor, transmitting, the report of a proposed bill entitled "Child Labor Protection Act of 2005"; to the Committee on Health, Education, Labor, and Pensions.

EC–3453. A communication from the Human Resources Specialist, Office of the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy, the designation of an acting officer, and a nomination for the position of Assistant Secretary for Veterans Employment and Training, received on July 28, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3454. A communication from the Human Resources Specialist, Office of the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of the discontinuation of service in the acting role for the position of Assistant Secretary for Mine Safety and Health, received on July 28, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3455. A communication from the Assistant General Counsel for Regulations, Office of the General Counsel, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Training of Interpreters for Individuals Who Are Deaf or Hard of Hearing and Individuals Who Are Deaf-Blind" (RIN1820–ZA39) received on July 28, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3456. A communication from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" (29 CFR Parts 4022 and 4044) received on July 28 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3457. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Change of Address; Technical Amendment" received on July 28, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3458. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Listing of Color Additives Exempt from Certification; Mica-Based Pearlescent Pigments" (Docket No. 1998C–0431) received on August 8, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3459. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Office of the Secretary, Department of the Interior, transmitting, the report of a draft bill entitled "Natural Resource Protection Cooperative Agreement Act" received on August 8, 2005; to the Committee on Energy and Natural Resources.

EC–3460. A communication from the Acting Assistant Secretary for Fish and Wildlife and Parks, Office of the Secretary, Department of the Interior, transmitting, the report of a draft bill relative to clarifying the authorities for the use of certain National Park Service properties within Golden Gate National Recreation Area and San Francisco Maritime National Historic Park, and for other purposes, received on August 8, 2005 to the Committee on Energy and Natural Resources.

EC–3461. A communication from the Chief Human Capital Officer/Director, Office of Human Capital Management, Department of Energy, transmitting, pursuant to law, the report of a vacancy and the designation of an acting officer for the position of Assistant Secretary, Energy Efficiency and Renewable Energy, received on July 28, 2005; to the Committee on Energy and Natural Resources.

EC–3462. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Standardization of Small Generator Interconnection Agreements and Procedures" (Docket No. RM02–12–000) received on July 28, 2005; to the Committee on Energy and Natural Resources.

EC–3463. A communication from the Assistant Secretary of the Army (Civil Works), Department of Defense, transmitting, pursuant to law, a report relative to the navigation study for Jacksonville Harbor; to the Committee on Environment and Public Works.

EC–3464. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Colorado; Long-Term Strategy of State Implementation Plan for Class I Visibility Protection" (FRL No. 7937–1) received July 28, 2005; to the Committee on Environment and Public Works.

EC–3465. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Salt Lake City Revised Carbon Monoxide Maintenance Plan and Approval of Related Revisions" (FRL No. 7939–8) received July 28, 2005; to the Committee on Environment and Public Works.

EC–3466. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Identification of Ozone Areas for Which the 1-Hour Standard Has Been Revoked and Technical Correction to Phase 1 Rule" (FRL No. 7947–4) received July 28, 2005; to the Committee on Environment and Public Works.

EC–3467. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks" (FRL No. 7847–3) received July 28, 2005; to the Committee on Environment and Public Works.

EC–3468. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the State of Hawaii State Implementation Plan, Update to Materials Incorporated by Reference" (FRL No. 7946–7) received August 8, 2005; to the Committee on Environment and Public Works.

EC–3469. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Hazardous Waste Management System; Modification of the Hazardous Waste Program: Mercury Containing Equipment" (FRL No. 7948–1) received August 8, 2005; to the Committee on Environment and Public Works.

EC–3470. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Commonwealth of the Northern Mariana Islands State Implementation Plan, Update to Materials Incorporated by Reference" (FRL No. 7938–6) received August 8, 2005; to the Committee on Environment and Public Works.

EC–3471. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing" ((RIN2060–AL91) (FRL No. 7948–5)) received August 8, 2005; to the Committee on Environment and Public Works.

EC–3472. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Oregon; Correcting Amendment" (FRL No. 7944–1) received August 8, 2005; to the Committee on Environment and Public Works.

EC–3473. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Texas; Vehicle Inspection and Maintenance Program for Travis and Williamson Counties" (FRL No. 7948–7) received August 8, 2005; to the Committee on Environment and Public Works.

EC–3474. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans; Washington" (FRL No. 7944–4) received August 8, 2005; to the Committee on Environment and Public Works.

EC–3475. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for North Dakota; Revisions to the Air Pollution Control Rules" (FRL No. 7942–2) received August 8, 2005; to the Committee on Environment and Public Works.

EC–3476. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Alachlor, Carbaryl, Diazinon, Disulfoton, Pirimiphos-methyl, and Vinclozolin; Tolerance Revocations" (FRL No. 7725–6) received August 8, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3477. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Topramezone; Pesticide Tolerances" (FRL No. 7726–9) received August 8, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3478. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Inert Ingredients; Revocation of Pesticide Tolerance Exemptions for Three CFC Chemicals" (FRL No. 7728–5) received August 8, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3479. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Tebuconazole; Pesticide Tolerances for Emergency Exemptions" (FRL No. 7727–5) received August 8, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3480. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Acetic Acid; Exemption from the Requirement of a Tolerance" (FRL No. 7717–2) received August 8, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3481. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Tuberculosis in Cattle and Bison; State and Zone Designations; California" (APHIS Docket No. 05–010–2) received on August 1, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3482. A communication from the Secretary, Department of Agriculture, transmitting, the report of draft legislation relative to establishing a program to revitalize rural multi-family housing; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3483. A communication from the Secretary, Department of Agriculture, transmitting, the report of draft legislation entitled "Forest Service Partnership Enhancement Act"; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3484. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the quarterly report of obligations and outlays of fiscal years 2004 and 2005 funds under the Emergency Plan for AIDS Relief through March 31, 2005; to the Committee on Appropriations.

EC–3485. A communication from the Assistant Secretary, Policy Management and Budget, Office of Financial Management, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Administrative Wage Garnishment" (RIN1090–AA93) received on July 28, 2005; to the Committee on the Judiciary.

EC–3486. A communication from the President of the United States of America, transmitting, pursuant to law, a report relative to the Export Administration Act of 1979, as amended; to the Committee on Banking, Housing, and Urban Affairs.

EC–3487. A communication from the Under Secretary, Emergency Preparedness and Response, Federal Emergency Management Agency, transmitting, pursuant to law, a report that funding for the State of Rhode Island as a result of the record snow on January 22–23, 2005, has exceeded $5,000,000; to the Committee on Banking, Housing, and Urban Affairs.

EC–3488. A communication from the Regulatory Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Community Reinvestment Act Regulations (Part 25)" (RIN1557–AB98) received on August 8, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3489. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Multifamily Accelerated Processing (MAP): MAP Lender Quality Assurance Enforcement" ((RIN2502–AI01) (FR–4836–F–02)) received on August 8, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3490. A communication from the Assistant to the Board, Board of Governors, Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Joint Final Rule Amending Community Reinvestment Act Regulations" (Docket No. 1225) received on August 1, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3491. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a nomination for the position of Assistant Administrator, Bureau for Global Health and a confirmation for the position of Assistant Administrator for the Bureau for Democracy, Conflict and Humanitarian Assistance, received on July 28, 2005; to the Committee on Foreign Relations.

EC–3492. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements other than treaties (List 05–168—05–186); to the Committee on Foreign Relations.

EC–3493. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services in the amount of $100,000,000 or more to the United Kingdom and Canada; to the Committee on Foreign Relations.

EC–3494. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a certification regarding the proposed transfer of major defense equipment valued at $14,000,000 or more from Saudi Arabia to Mexico; to the Committee on Foreign Relations.

EC–3495. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad in the amount of $39,000,000 to Japan; to the Committee on Foreign Relations.

EC–3496. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Iraq; to the Committee on Foreign Relations.

EC–3497. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of major defense equipment and defense articles in the amount of $100,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–3498. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Russia, Ukraine, and Norway (and Korea and France pertaining to Koreasat V); to the Committee on Foreign Relations.

EC–3499. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Russia and Kazakhstan; to the Committee on Foreign Relations.

EC–3500. A communication from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $100,000,000 or more to Sea Launch Company, LLC and the Boeing Company to the Committee on Foreign Relations.

EC–3501. A communication from the Assistant Administrator, Office of Administration and Resources Management, Environmental Protection Agency, transmitting, pursuant to law, the report of a nomination and a change in previously submitted reported information for the position of Assistant Administrator for Solid Waste and Emergency Response and the report of a nomination and a change in previously submitted reported information for the position of Assistant Administrator for Enforcement and Compliance Assurance, received on August 17, 2005; to the Committee on Environment and Public Works.

EC–3502. A communication from the Deputy Associate Administrator for Congressional Relations, Environmental Protection Agency, transmitting, the report of draft legislation entitled "Amendment to Federal Insecticide, Fungicide and Rodenticide Act to Authorize Registration Fee Collection" and "Amendment to Toxic Substances Control Act"; to the Committee on Environment and Public Works.

EC–3503. A communication from the Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Rule to Remove Helianthus eggertii (Eggert's sunflower) from the Federal List of Endangered and Threatened Plants" (RIN1018–AJ08) received on August 17, 2005; to the Committee on Environment and Public Works.

EC–3504. A communication from the Acting Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the California Tiger Salamander, Central Population; Final Rule" (RIN1018–AT68) received on August 17, 2005; to the Committee on Environment and Public Works.

EC–3505. A communication from the Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Listing Roswell springsnail, Koster's springsnail, Noel's amphipod, and Pecos assiminea as Endangered with Critical Habitat" (RIN1018–AI15) received on August 17, 2005; to the Committee on Environment and Public Works.

EC–3506. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "2-amino-4, 5-dihydro-6-methyl-4-propyl-s-traizolo(1,5-alpha)pyrimidin-5-one (PP796); Exemption from the Requirement of a Tolerance" (FRL No. 7728–1) received August 17, 2005; to the Committee on Environment and Public Works.

EC–3507. A communication from the Assistant Secretary, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Final Designation of Critical Habitat for 15 Vernal Pool Species in California and Oregon" (RIN1018–AU06) received on August 17, 2005; to the Committee on Environment and Public Works.

EC–3508. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Maryland; Control of Emissions from Small Municipal Waste Combustor (SMWC) Units; Delegation of Authority" (FRL No. 7551–3) received August 17, 2005; to the Committee on Environment and Public Works.

EC–3509. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination to Stay and/or Defer Sanctions, San Joaquin Valley Air Pollution Control District" (FRL No. 7449–2) received August 17, 2005; to the Committee on Environment and Public Works.

EC–3510. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the California State Implementation Plan, Ventura County Air Pollution Control District" (FRL No. 7945–2) received August 17, 2005; to the Committee on Environment and Public Works.

EC–3511. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District and Monterey Bay Unified Air Pollution Control District" (FRL No. 7949–1) received August 17, 2005; to the Committee on Environment and Public Works.

EC–3512. A communication from the Chairman, Naval Sea Cadet Corps, transmitting, pursuant to law, the 2004 Audit of the Naval Sea Cadet Corps (NSCC) and the 2004 Annual Report of the U.S. Naval Cadet Corps; to the Committee on the Judiciary.

EC–3513. A communication from the Chairman, Federal Trade Commission, transmitting, pursuant to law, the Commission's Annual Report for Fiscal Year 2004; to the Committee on the Judiciary.

EC–3514. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Department of Justice transmitting, pursuant to law, the report of a rule entitled "Definition and Registration of Reverse Distributors" (RIN1117–AA19) received on August 17, 2005; to the Committee on the Judiciary.

EC–3515. A communication from the Secretary, Department of Housing and Urban Development, transmitting, pursuant to law, the Government National Mortgage Association (Ginnie Mae) management report for the fiscal year ended September 30, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–3516. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to terrorists who threaten to disrupt the Middle East peace process that was declared in Executive Order 12947 of January 23, 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–3517. A communication from the Acting General Counsel, Export-Import Bank of the United States, transmitting, pursuant to law, the report of a vacancy in the position of First Vice President and the vacancy and designation of an acting officer for the position of President, received August 17, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3518. A communication from the Assistant Secretary, Division of Corporation Finance, Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled "Ownership Reports and Trading by Officers, Directors and Principal Security Holders" (RIN3235–AJ27) received on August 17, 2005; to the Committee on Banking, Housing, and Urban Affairs

EC–3519. A communication from the Acting Deputy Director, Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Mortgage Fraud Reporting" (RIN2550–AA31) received on August 17, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3520. A communication from the Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Burmese Sanctions Regulations" (31 CFR Part 537) received on August 17, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3521. A communication from the Assistant to the Board, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled "Regulation Z (Truth in Lending)" (Docket No. R–1231) received on August 17, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3522. A communication from the Chief of Staff, Office of the Comptroller of the Currency, Department of the Treasury, transmitting, pursuant to law, the Office of the Comptroller's Quarterly Journal (fourth quarter 2004); to the Committee on Banking, Housing, and Urban Affairs.

EC–3523. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Audit of Advisory Neighborhood Commission 2D for Fiscal Years 2003 and 2004"; to the Committee on Homeland Security and Governmental Affairs.

EC–3524. A communication from the Acting Inspector General, General Services Administration, transmitting, pursuant to law, the Administration's Office of Inspector General Report for the six-month period ending March 31, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3525. A communication from the Senior Procurement Executive, National Aeronautics and Space Administration, General Services Administration, transmitting, pursuant to law, the report of a rule entitled "Federal Acquisition Regulation; Federal Acquisition Circular 2005–05" (FAC 2005–05) received on August 17, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3526. A communication from the Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Law Enforcement Officer and Firefighter Retirement" (RIN3206–AJ39) received on August 17, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3527. A communication from the Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Federal Employees' Group Life Insurance Federal Acquisition Regulation" (RIN3206–AI65) received on August 17, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3528. A communication from the Administrator, Risk Management Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "General Administrative Regulations, Subpart V-Submission of Policies, Provisions of Policies, Rates of Premium, and Premium Reduction Plans" (RIN0563–AB95) received on August 17, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3529. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Imported Fire Ant; Additions to Quarantined Areas in Arkansas and Tennessee" (APHIS Docket No. 05–030–1) received on August 17, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3530. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Addition of Malaysia to List of Regions in Which Highly Pathogenic Avian Influenza Subtype H5N1 is Considered to Exist" (APHIS Docket No. 04–091–2) received on August 17, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3531. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Asian Longhorned Beetle; Removal of Regulated Areas" (APHIS Docket No. 05–011–2) received on August 17, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3532. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Brucellosis in Swine; Add Florida to List of Validated Brucellosis-Free States" (APHIS Docket No. 05–009–2) received on August 17, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3533. A communication from the Human Resources Specialist, Office of the Assistant Secretary for Administration and Management, Department of Labor, transmitting, pursuant to law, the report of a vacancy and the discontinuation of service in the acting role for the position of Assistant Secretary for Occupational Safety and Health, received on August 17, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3534. A communication from the General Counsel, Institute of Museum and Library Services, transmitting, pursuant to law, the report of a vacancy and the designation of an acting officer for the position of Director, received on August 17, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3535. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Listing of Color Additives Exempt From Certification; Tomato Lycopene Extract and Tomato Lycopene Concentrate" (Docket No. 2001C–0486) received on August 17, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3536. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Change of Name and Address Technical Amendment" (Docket No. 2005N–0201) received on August 17, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3537. A communication from the Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Disability and Rehabilitation Research Projects and Centers Program — National Center for the Dissemination of Disability Research" received on August 17, 2005 to the Committee on Health, Education, Labor, and Pensions.

EC–3538. A communication from the Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative

Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Rehabilitation Research and Training Centers Program — Promoting Access to Effective Consumer-Centered and Community-Based Practices and Supports for Adults with Serious Mental Illness" received on August 17, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3539. A communication from the Assistant General Counsel for Regulations, Office of Special Education and Rehabilitative Services, Department of Education, transmitting, pursuant to law, the report of a rule entitled "Rehabilitation Research and Training Centers Program — Children with Special Health Care Needs" received on August 17, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3540. A communication from the Secretary of Health and Human Services, transmitting, the report of a draft bill entitled "New Freedom Initiative Medicaid Demonstrations Act of 2005" received on August 8, 2005; to the Committee on Finance.

EC–3541. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Bureau of Labor Statistics Price Indexes for Department Stores—June 2005" (Rev. Rul. 2005–56) received on August 17, 2005; to the Committee on Finance.

EC–3542. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Exclusions from Gross Income of Foreign Corporations" ((RIN1545–BE16)(TD 9218)) received on August 17, 2005; to the Committee on Finance.

EC–3543. A communication from the Administrator, Small Business Administration, transmitting, pursuant to law, the report of the designation of an acting officer for the position of Deputy Administrator, received on August 17, 2005; to the Committee on Small Business and Entrepreneurship.

EC–3544. A communication from the Deputy Secretary of Veterans Affairs and the Under Secretary of Defense (Personnel and Readiness), transmitting, pursuant to law, the report for Fiscal Year 2004 regarding the activities and accomplishments of the Department of Veterans Affairs and Department of Defense Joint Executive Committee; to the Committee on Veterans' Affairs.

EC–3545. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, a report pursuant to Section 7120 of the Intelligence Reform and Terrorism Prevention Act of 2004; to the Committee on Foreign Relations.

EC–3546. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the report of a rule entitled "Amendment to the International Traffic in Arms Regulations: Section 126.1(l)" (RIN1400–ZA18) received on August 17, 2005; to the Committee on Foreign Relations.

EC–3547. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, a joint Department of State/Department of Defense report on counter-drug efforts in Afghanistan; to the Committee on Foreign Relations.

EC–3548. A communication from the Acting Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to law, the Fiscal Year 2004 Annual Report on U.S. Government Assistance to Eastern Europe and the Fiscal Year 2004 Annual Report on U.S. Government Assistance to and Cooperative Activities with Eurasia; to the Committee on Foreign Relations.

EC–3549. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 05–187—05–199); to the Committee on Foreign Relations.

EC–3550. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Procedures for Participating in and Receiving Data from the National Driver Register Problem Driver Pointer System" (RIN2127–AI45) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3551. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Low Speed Vehicles; Maximum GVWR" (RIN2127–AJ12) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3552. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Bus Emergency Exits and Window Retention and Release" (RIN2127–AJ47) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3553. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect" (RIN2127–AI43) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3554. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Glazing Materials" (RIN2127–AJ43) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3555. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Hydraulic and Electric Brake Systems" (RIN2127–AI47) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3556. A communication from the Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "In the Matter of Section 68.4(a) of the Commission's Rules Governing Hearing Aid Compatible Telephones" ((WT Docket No. 01–309) (FCC 05–122)) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3557. A communication from the Associate Managing Director/PERM, Office of Managing Director (OMD/PERM), Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Assessment and Collection of Regulatory Fees for Fiscal Year 2005; Assessment and Collection of Regulatory Fees for Fiscal Year 2004" ((MD Dockets 05–59 and 04–73) (FCC 05–137)) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3558. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Implementation of the Understandings Reached at the April 2005 Australia Group (AG) Plenary Meeting" (RIN0694–AD51) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3559. A communication from the Deputy Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Exports of Nuclear Grade Graphite: Change in Licensing Jurisdiction" (RIN0694–AD28) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3560. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Georgetown, Mason, Oxford and West Union, Ohio, and Salt Lick, Kentucky)" (MB Docket No. 04–411) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3561. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Opal and Reliance, Wyoming and Brigham City, Woodruff, Price and Fountain Green, Utah)" (MB Docket No. 02–294) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3562. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Talladega and Munford, Alabama)" (MB Docket No. 04–19) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3563. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Big Spring, Texas)" (MB Docket No. 05–137) received on August 17 2005; to the Committee on Commerce, Science, and Transportation.

EC–3564. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Altheimer, Arkansas and Little Rock, Arkansas)" (MB Docket No. 05–81) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3565. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Morgan, Georgia)" (MB Docket No. 02–109) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3566. A communication from the Legal Advisor to the Chief, Media Bureau, Federal

Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Palacios, Texas)" (MB Docket No. 04–330) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3567. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Jacksonville, Texas)" (MB Docket No. 05–129) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3568. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (San Luis Obispo and Lost Hills, California and Maricopa, California)" (MB Docket No. 05–88) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3569. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Knox City, Texas; Gunnison, Colorado; Red Oak, Oklahoma; Tignall Georgia; and Rosebud, South Dakota" (MB Docket No. 01–199; MB Docket Nos. 02–171, 02–174; 02–288; and 04–170) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3570. A communication from the Legal Advisor to the Chief, Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled "Amendment of Section 73.606(b) and 73.622(b), Table of Allotments, TV and DTV Broadcast Stations (Columbia and Edenton, NC)" ((MB Docket No. 04–289) (RM–10802)) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3571. A communication from the Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Magnuson-Stevens Fishery Conservation and Management Act Provisions; Pacific Halibut Fisheries; Fisheries of the Exclusive Economic Zone Off Alaska; Individual Fishing Quota Program; Community Development Quota Program; Final Rule" (RIN0648–AT03) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3572. A communication from the Acting Assistant Secretary, Division of Habitat and Resource Conservation, Fish and Wildlife Service, transmitting, pursuant to law, the report of a rule entitled "Marine Mammals; Native Exemptions" (RIN1018–AT48) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3573. A communication from the Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Gulf Grouper Recreational Management Measures" (RIN0648–AT45) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3574. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery, Emergency Temporary Rule to Address Haddock Bycatch in 2005 Herring Fishery" (RIN0648–AT36) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3575. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "2005 Final Specifications for the U.S./Canada Management Area Total Allowable Catches (TACs) for the Northeast (NE) Multispecies Fishery Management Plan" (RIN0648–AS74) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3576. A communication from the Deputy Assistant Administrator for Regulatory Programs, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Atlantic Herring Fishery; 2005 Specifications; Final Rule" (RIN0648–AS23) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3577. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Apportioning the Reserves of 'Other Flatfish' in the Bering Sea and Aleutian Islands Management Area" (I.D. No. 062905B) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3578. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Prohibiting Directed Fishing for 'Other Flatfish' in the Bering Sea and Aleutian Islands Management Area" (I.D. No. 062905A) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3579. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Pelagic Shelf Rockfish in the West Yakutat District of the Gulf of Alaska" (I.D. No. 072005B) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3580. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Temporary Rule: Access and Gear Modifications for the Eastern U.S./Canada Area" (I.D. No. 063005A) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3581. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Trip Limit Reduction for Gulf of Mexico Grouper Fishery" (I.D. No. 071505C) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3582. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Notification of Scup Winter II Quota Adjustment and Possession Limit Adjustment" (I.D. No. 071905B) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3583. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "'Other Rockfish' in the Western Regulatory Area of the Gulf of Alaska" (I.D. No. 072205A) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3584. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska" (I.D. No. 072205C) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3585. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Open Yellowfin Sole in the Bering Sea and Aleutian Islands" (I.D. No. 072205B) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3586. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Northern Rockfish in the Western Regulatory Area of the Gulf of Alaska; Closure" (I.D. No. 071905A) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3587. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #3—Adjustment of the Commercial Salmon Fishery from the U.S./Canada Border to Cape Falcon, Oregon" (I.D. No. 072205F) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3588. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #2—Adjustment of the Commercial Salmon Fishery from the U.S./Canada Border to Cape Falcon, Oregon" (I.D. No. 072205E) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC-3589. A communication from the Acting Director, Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #4—Adjustment of the Commercial Salmon Fishery from the U.S./Canada Border to Cape Falcon, Oregon" (I.D. No. 072205G) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3590. A communication from the Acting White House Liaison, Office of General Counsel, Department of Commerce, transmitting, pursuant to law, the report of action on a nomination and change in previously submitted reported information for the position of General Counsel, received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3591. A communication from the Acting White House Liaison, Office of Legislative and Intergovernmental Affairs, Department of Commerce, transmitting, pursuant to law, the report of a vacancy, designation of an acting officer, and change in previously submitted reported information for the position of Assistant Secretary for Legislative and Intergovernmental Affairs received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3592. A communication from the Acting White House Liaison, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of action on a nomination and change in previously submitted reported information for the position of Under Secretary for Export Administration, received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3593. A communication from the Acting White House Liaison, Bureau of Industry and Security, Department of Commerce, transmitting, pursuant to law, the report of action on a nomination and change in previously submitted reported information for the position of Assistant Secretary for Export Enforcement, received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3594. A communication from the Acting White House Liaison, Office of the Secretary, Department of Commerce, transmitting, pursuant to law, the report of action on a nomination and change in previously submitted reported information for the position of Deputy Secretary, received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3595. A communication from the Acting White House Liaison, Technology Administration, Department of Commerce, transmitting, pursuant to law, the report of action on a nomination and change in previously submitted reported information for the position of Director, National Institute of Standards and Technology, received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3596. A communication from the Secretary, Federal Trade Commission, transmitting, pursuant to law, the Commission's Cigarette Report for 2003; to the Committee on Commerce, Science, and Transportation.

EC–3597. A communication from the Chairman, Federal Communications Commission, transmitting, pursuant to law, the Commission's Year 2004 Inventory of Commercial Activities; to the Committee on Commerce, Science, and Transportation.

EC–3598. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "NASA Grant and Cooperative Agreement Handbook—Intellectual Property Required Reports and Publications" (RIN2700–AD14) received on August 17, 2005; to the Committee on Commerce, Science, and Transportation.

EC–3599. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Public Information Regulations" (Docket No. 2004N–0214) received on August 17, 2005; to the Committee on Health, Education, Labor, and Pensions.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

S. 1410. A bill to reauthorize the Neotropical Migratory Bird Conservation Act, and for other purposes (Rept. No. 109–132).

## EXECUTIVE REPORTS OF COMMITTEES—JULY 29, 2005

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Eric S. Edelman, of Virginia, to be Under Secretary of Defense for Policy.

*Gordon England, of Texas, to be Deputy Secretary of Defense.

*Ronald M. Sega, of Colorado, to be Under Secretary of the Air Force.

By Mr. GRASSLEY for the Committee on Finance.

*Sandra L. Pack, of Maryland, to be an Assistant Secretary of the Treasury.

*Timothy D. Adams, of Virginia, to be an Under Secretary of the Treasury.

*Randal Quarles, of Utah, to be an Under Secretary of the Treasury.

*Kevin I. Fromer, of Virginia, to be a Deputy Under Secretary of the Treasury.

*Robert M. Kimmitt, of Virginia, to be Deputy Secretary of the Treasury.

*Shara L. Aranoff, of Maryland, to be a Member of the United States International Trade Commission for a term expiring December 16, 2012.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

## EXECUTIVE REPORT OF COMMITTEE—AUGUST 31, 2005

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Treaty Doc. 108–16 U.N. Convention Against Transnational Organized Crime (Exec. Rept. No. 109–4)

THE TEXT OF THE RESOLUTION OF RATIFICATION AS REPORTED BY THE COMMITTEE ON FOREIGN RELATIONS *Resolved (two-thirds of the Senators present concurring therein),*

### SECTION 1. SENATE ADVICE AND CONSENT SUBJECT TO RESERVATIONS, UNDERSTANDINGS, AND DECLARATIONS

The Senate advises and consents to the ratification of the United Nations Convention Against Transnational Organized Crime (hereinafter in this resolution referred to as the "Convention") and two supplementary protocols: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereinafter in this resolution referred to as the "Trafficking Protocol") and the Protocol Against Smuggling of Migrants by Land, Sea and Air (hereinafter in this resolution referred to as the "Smuggling Protocol"), adopted by the United Nations General Assembly on November 15, 2000 and signed by the United States on December 13, 2000 at Palermo, Italy (T. Doc. 108–16), subject to the reservations, understandings, and declarations of sections 2, 3 and 4.

### SECTION 2. RESERVATIONS AND DECLARATION RELATIVE TO THE CONVENTION

(a) RESERVATIONS.—The advice and consent of the Senate under section 1 is subject to the following reservations relative to the Convention, which shall be included in the United States instrument of ratification:

(1) The United States of America reserves the right to assume obligations under the Convention in a manner consistent with its fundamental principles of federalism, pursuant to which both federal and state criminal laws must be considered in relation to the conduct addressed in the Convention. U.S. federal criminal law, which regulates conduct based on its effect on interstate or foreign commerce, or another federal interest, serves as the principal legal regime within the United States for combating organized crime, and is broadly effective for this purpose. Federal criminal law does not apply in the rare case where such criminal conduct does not so involve interstate or foreign commerce, or another federal interest. There are a small number of conceivable situations involving such rare offenses of a purely local character where U.S. federal and state criminal law may not be entirely adequate to satisfy an obligation under the Convention. The United States of America therefore reserves to the obligations set forth in the Convention to the extent they address conduct which would fall within this narrow category of highly localized activity. This reservation does not affect in any respect the ability of the United States to provide international cooperation to other Parties as contemplated in the Convention.

(2) The United States of America reserves the right not to apply in part the obligation set forth in Article 15, paragraph 1(b) with respect to the offenses established in the Convention. The United States does not provide for plenary jurisdiction over offenses that are committed on board ships flying its flag or aircraft registered under its laws. However, in a number of circumstances, U.S. law provides for jurisdiction over such offenses committed on board U.S.-flagged ships or aircraft registered under U.S. law. Accordingly, the United States will implement paragraph 1(b) to the extent provided for under its federal law.

(3) In accordance with Article 35, paragraph 3, the United States of America declares that it does not consider itself bound by the obligation set forth in Article 35, paragraph 2.

(b) DECLARATION.—The advice and consent of the Senate under section 1 is subject to the following declaration relative to the Convention:

The United States of America declares that, in view of its federalism reservation, current United States law, including the laws of the States of the United States, fulfills the obligations of the Convention for the United States. Accordingly, the United States of America does not intend to enact new legislation to fulfill its obligations under the Convention.

### SECTION 3. RESERVATIONS, UNDERSTANDING, AND DECLARATION RELATIVE TO THE TRAFFICKING PROTOCOL

(a) Reservations.—The advice and consent of the Senate under section 1 is subject to the following reservations relative to the Trafficking Protocol, which shall be included in the United States instrument of ratification:

(1) The United States of America reserves the right not to apply in part the obligation set forth in Article 15, paragraph 1(b), of the United Nations Convention Against Transnational Organized Crime with respect to the offenses established in the Trafficking Protocol. The United States does not provide for plenary jurisdiction over offenses that are committed on board ships flying its flag or aircraft registered under its laws. However, in a number of circumstances, U.S. law provides for jurisdiction over such offenses committed on board U.S.-flagged ships or aircraft registered under U.S. law. Accordingly, the United States will implement paragraph 1(b) of the Convention to the extent provided for under its federal law.

(2) The United States of America reserves the right to assume obligations under this Protocol in a manner consistent with its fundamental principles of federalism, pursuant to which both federal and state criminal laws must be considered in relation to conduct addressed in the Protocol. U.S. federal criminal law, which regulates conduct based on its effect on interstate or foreign commerce, or another federal interest, such as the Thirteenth Amendment's prohibition of "slavery" and "involuntary servitude," serves as the principal legal regime within the United States for combating the conduct addressed in this Protocol, and is broadly effective for this purpose. Federal criminal law does not apply in the rare case where such criminal conduct does not so involve interstate or foreign commerce, or otherwise implicate another federal interest, such as the Thirteenth Amendment. There are a small number of conceivable situations involving such rare offenses of a purely local character where U.S. federal and state criminal law may not be entirely adequate to satisfy an obligation under the Protocol. The United States of America therefore reserves to the obligations set forth in the Protocol to the extent they address conduct which would fall within this narrow category of highly localized activity. This reservation does not affect in any respect the ability of the United States to provide international cooperation to other Parties as contemplated in the Protocol.

(3) In accordance with Article 15, paragraph 3, the United States of America declares that it does not consider itself bound by the obligation set forth in Article 15, paragraph 2.

(b) Understanding.—The advice and consent of the Senate under section 1 is subject to the following understanding relative to the Trafficking Protocol, which shall be included in the United States instrument of ratification: The United States of America understands the obligation to establish the offenses in the Protocol as money laundering predicate offenses, in light of Article 6, paragraph 2(b) of the United Nations Convention Against Transnational Organized Crime, as requiring States Parties whose money laundering legislation sets forth a list of specific predicate offenses to include in such list a comprehensive range of offenses associated with trafficking in persons.

(c) Declaration.—The advice and consent of the Senate under section 1 is subject to the following declaration relative to the Trafficking Protocol: The United States of America declares that, in view of its reservations, current United States law, including the laws of the States of the United States, fulfills the obligations of the Protocol for the United States. Accordingly, the United States of America does not intend to enact new legislation to fulfill its obligations under the Protocol.

### SECTION 4. RESERVATIONS AND UNDERSTANDING RELATIVE TO THE SMUGGLING PROTOCOL

(a) Reservations.—The advice and consent of the Senate under section 1 is subject to the following reservations relative to the Smuggling Protocol, which shall be included in the United States instrument of ratification:

(1) The United States of America criminalizes most but not all forms of attempts to commit the offenses established in accordance with Article 6, paragraph 1 of this Protocol. With respect to the obligation under Article 6, Paragraph 2(a), the United States of America reserves the right to criminalize attempts to commit the conduct described in Article 6, paragraph 1(b), to the extent that under its laws such conduct relates to false or fraudulent passports and other specified identity documents, constitutes fraud or the making of a false statement, or constitutes attempted use of a false or fraudulent visa.

(2) In accordance with Article 20, paragraph 3, the United States of America declares that it does not consider itself bound by the obligation set forth in Article 20, paragraph 2.

(b) Understanding.—The advice and consent of the Senate under section 1 is subject to the following understanding relative to the Smuggling Protocol, which shall be included in the United States instrument of ratification: The United States of America understands the obligation to establish the offenses in the Protocol as money laundering predicate offenses, in light of Article 6, paragraph 2(b) of the United Nations Convention Against Transnational Organized Crime, as requiring States Parties whose money laundering legislation sets forth a list of specific predicate offenses to include in such list a comprehensive range of offenses associated with smuggling of migrants.

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. NELSON of Nebraska:

S. 1610. A bill to require the Federal Trade Commission to conduct an inquiry into the retail price of gasoline; to the Committee on Commerce, Science, and Transportation.

By Mr. ALLARD:

S. 1611. A bill to amend title 40, United States Code, to authorize the Administrator of General Services to lease and redevelop certain Federal property on the Denver Federal Center in Lakewood, Colorado; to the Committee on Homeland Security and Governmental Affairs.

By Mr. NELSON of Florida:

S. 1612. A bill to amend the Homeland Security Act of 2002 to establish certain qualifications for the office of the Under Secretary for Emergency Preparedness and Response; to the Committee on Homeland Security and Governmental Affairs.

By Mr. GRASSLEY (for himself and Mr. Harkin):

S. 1613. A bill to amend the Livestock Mandatory Reporting Act of 1999 to extend the termination date for mandatory price reporting; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ENZI (for himself and Mr. Kennedy):

S. 1614. A bill to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON (for herself, Ms. Mikulski, Mr. Lautenberg, and Mr. Jeffords):

S. 1615. A bill to establish the Federal Emergency Management Agency as an independent agency, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. KENNEDY (for himself and Mr. Kerry):

S. 1616. A bill to modify the boundary of Lowell National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY (for himself and Mr. Kerry):

S. 1617. A bill to suspend temporarily the duty on gemifloxacin, gemifloxacin mesylate, and gemifloxacin mesylate sesquihydrate; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself, Mr. Reid, Ms. Landrieu, Mr. Vitter, Mr. Cochran, Mr. Lott, Mr. Shelby, Mr. Sessions, Mr. Akaka, Mr. Alexander, Mr. Allard, Mr. Allen, Mr. Baucus, Mr. Bayh, Mr. Bennett, Mr. Biden, Mr. Bingaman, Mr. Bond, Mrs. Boxer, Mr. Brownback, Mr. Bunning, Mr. Burns, Mr. Burr, Mr. Byrd, Ms. Cantwell, Mr. Carper, Mr. Chafee, Mr. Chambliss, Mrs. Clinton, Mr. Coburn, Mr. Coleman, Ms. Collins, Mr. Conrad, Mr. Cornyn, Mr. Corzine, Mr. Craig, Mr. Crapo, Mr. Dayton, Mr. DeMint, Mr. DeWine, Mr. Dodd, Mrs. Dole, Mr. Domenici, Mr. Dorgan, Mr. Durbin, Mr. Ensign, Mr. Enzi, Mr. Feingold, Mrs. Feinstein, Mr. Graham, Mr. Grassley, Mr. Gregg, Mr. Hagel, Mr. Harkin, Mr. Hatch, Mrs. Hutchison, Mr. Inhofe, Mr. Inouye, Mr. Isakson, Mr. Jeffords, Mr. Johnson, Mr. Kennedy, Mr. Kerry, Mr. Kohl, Mr. Kyl, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mrs. Lincoln, Mr. Lugar, Mr. Martinez, Mr. McCain, Mr. McConnell, Ms. Mikulski, Ms. Murkowski, Mrs. Murray, Mr. Nelson of Florida, Mr. Nelson of Nebraska, Mr. Obama, Mr. Pryor, Mr. Reed, Mr. Roberts, Mr. Rockefeller, Mr. Salazar, Mr. Santorum, Mr. Sarbanes, Mr. Schumer, Mr. Smith, Ms. Snowe, Mr. Specter, Ms. Stabenow, Mr. Stevens, Mr. Sununu, Mr. Talent, Mr. Thomas, Mr. Thune, Mr. Voinovich, Mr. Warner, and Mr. Wyden):

S. Res. 233. A resolution expressing the condolences of the Nation to the victims of

Hurricane Katrina, commending the resiliency of the people of the States of Louisiana, Mississippi, and Alabama, and committing to stand by them in the relief and recovery efforts; considered and agreed to.

By Mr. FRIST (for himself, Mr. REID, Mr. LOTT, and Mr. DODD):

S. Con. Res. 52. A concurrent resolution providing for the use of the catafalque situated in the crypt beneath the Rotunda of the Capitol in connection with memorial services to be conducted in the Supreme Court Building for the late honorable William H. Rehnquist, Chief Justice of the United States; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 4

At the request of Mr. FRIST, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 4, a bill to reduce healthcare costs, expand access to affordable healthcare coverage, and improve healthcare and strengthen the healthcare safety net, and for other purposes.

S. 25

At the request of Mr. CHAMBLISS, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 25, a bill to promote freedom, fairness, and economic opportunity by repealing the income tax and other taxes, abolishing the Internal Revenue Service, and enacting a national sales tax to be administered primarily by the States.

S. 103

At the request of Mrs. FEINSTEIN, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

At the request of Mr. TALENT, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 103, supra.

S. 114

At the request of Mr. KERRY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 114, a bill to amend titles XIX and XXI of the Social Security Act to ensure that every uninsured child in America has health insurance coverage, and for other purposes.

S. 185

At the request of Mr. NELSON of Florida, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 185, a bill to amend title 10, United States Code, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.

S. 372

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 372, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literacy, musical, artistic, or scholarly compositions created by the donor.

S. 392

At the request of Mr. LEVIN, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from New Hampshire (Mr. SUNUNU) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 398

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 398, a bill to amend the Internal Revenue Code of 1986 to expand the expensing of environmental remediation costs.

S. 438

At the request of Mr. ENSIGN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 438, a bill to amend title XVIII of the Social Security Act to repeal the medicare outpatient rehabilitation therapy caps.

S. 445

At the request of Ms. STABENOW, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 445, a resolution to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for Medicare prescription drugs.

S. 548

At the request of Mr. CONRAD, the names of the Senator from Iowa (Mr. GRASSLEY) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 548, a bill to amend the Food Security Act of 1985 to encourage owners and operators of privately-held farm, ranch, and forest land to voluntarily make their land available for access by the public under programs administered by States and tribal governments.

S. 626

At the request of Mr. NELSON of Nebraska, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Montana (Mr. BURNS), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 626, a bill to amend title XVIII of the Social Security Act to improve access to diabetes self management training by designating certified diabetes educators who are recognized by a nationally recognized certifying body and who meet the same quality standards set forth for other providers of diabetes self management training, as certified providers for purposes of outpatient diabetes self-management training services under part B of the medicare program.

S. 627

At the request of Mr. HATCH, the names of the Senator from Ohio (Mr. DEWINE), the Senator from Michigan (Mr. LEVIN), the Senator from Mississippi (Mr. COCHRAN) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 635

At the request of Mr. SANTORUM, the names of the Senator from Iowa (Mr. HARKIN), the Senator from Ohio (Mr. DEWINE) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 635, a bill to amend title XVIII of the Social Security Act to improve the benefits under the medicare program for beneficiaries with kidney disease, and for other purposes.

S. 662

At the request of Ms. COLLINS, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 662, a bill to reform the postal laws of the United States.

S. 695

At the request of Mr. BYRD, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 695, a bill to suspend temporarily new shipper bonding privileges.

At the request of Mr. COCHRAN, the names of the Senator from Montana (Mr. BURNS) and the Senator from North Carolina (Mr. BURR) were added as cosponsors of S. 695, supra.

S. 776

At the request of Mr. DURBIN, his name was withdrawn as a cosponsor of S. 776, a bill to designate certain functions performed at flight service stations of the Federal Aviation Administration as inherently governmental functions, and for other purposes.

S. 843

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 843, a bill to amend the Public Health Service Act to combat autism through research, screening, intervention and education.

S. 852

At the request of Mr. SPECTER, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 852, a bill to create a fair and efficient system to resolve claims of victims for bodily injury caused by asbestos exposure, and for other purposes.

S. 978

At the request of Mr. SANTORUM, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 978, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the purchase of qualified health insurance, and for other purposes.

S. 1002

At the request of Mr. BAUCUS, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 1002, a bill to amend title XVIII of the Social Security Act to make improvements in payments to hospitals under the medicare program, and for other purposes.

S. 1038

At the request of Mr. LUGAR, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1038, a bill to amend the Farm Security and Rural Investment Act of 2002 to enhance the ability to produce fruits and vegetables on covered commodity base acres.

S. 1060

At the request of Mr. COLEMAN, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1060, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for the purchase of hearing aids.

S. 1062

At the request of Mr. KENNEDY, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 1062, a bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage.

S. 1081

At the request of Mr. KYL, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

S. 1086

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1086, a bill to improve the national program to register and monitor individuals who commit crimes against children or sex offenses.

S. 1112

At the request of Mr. BAUCUS, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1168

At the request of Mr. NELSON of Florida, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1168, a bill to amend section 212 of the Immigration and Nationality Act to make inadmissible individuals who law enforcement knows, or has reasonable grounds to believe, seek entry into the United States to participate in illegal activities with criminal gangs located in the United States.

S. 1183

At the request of Mr. WARNER, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 1183, a bill to provide additional assistance to recipients of Federal Pell Grants who are pursuing programs of study in engineering, mathematics, science, or foreign languages.

S. 1196

At the request of Mr. CORZINE, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1196, a bill to provide for disclosure of fire safety standards and measures with respect to campus buildings, and for other purposes.

S. 1272

At the request of Mr. NELSON of Nebraska, the names of the Senator from Rhode Island (Mr. REED) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1287

At the request of Mr. COLEMAN, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1287, a bill to amend the definition of independent student for purposes of the need analysis in the Higher Education Act of 1965 to include older adopted students.

S. 1317

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1317, a bill to provide for the collection and maintenance of cord blood units for the treatment of patients and research, and to amend the Public Health Service Act to authorize the Bone Marrow and Cord Blood Cell Transplantation Program to increase the number of transplants for recipients suitable matched to donors of bone marrow and cord blood.

S. 1350

At the request of Mr. SPECTER, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1350, a bill to amend the Communications Act of 1934 to protect the privacy rights of subscribers to wireless communications services.

S. 1366

At the request of Mr. DORGAN, the name of the Senator from West Virginia (Mr. ROCKEFELLER) was added as a cosponsor of S. 1366, a bill to amend the Internal Revenue Code of 1986 to allow tax-free distributions from individual retirement accounts for charitable purposes.

S. 1386

At the request of Mr. MARTINEZ, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1386, a bill to exclude from consideration as income certain payments under the national flood insurance program.

S. 1405

At the request of Mr. NELSON of Nebraska, the names of the Senator from Arkansas (Mr. PRYOR), the Senator from New York (Mrs. CLINTON), the Senator from Michigan (Ms. STABENOW), the Senator from Maine (Ms. COLLINS) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1405, a bill to extend the 50 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility and to establish the National Advisory Council on Medical Rehabilitation.

S. 1417

At the request of Mr. CRAIG, the names of the Senator from Maine (Ms. SNOWE), the Senator from Vermont (Mr. JEFFORDS), the Senator from New York (Mr. SCHUMER) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1417, a bill to impose tariff-rate quotas on certain casein and milk protein concentrates.

S. 1488

At the request of Mr. VITTER, the names of the Senator from Idaho (Mr. CRAIG) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 1488, a bill to withhold funding from the United Nations if the United Nations abridges the rights provided by the Second Amendment to the Constitution, and for other purposes.

S. 1496

At the request of Mr. CRAPO, the names of the Senator from Illinois (Mr. OBAMA), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 1496, a bill to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

S. 1504

At the request of Mr. ENSIGN, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from South Carolina (Mr. DEMINT) were added as cosponsors of S. 1504, a bill to establish a market driven telecommunications marketplace, to eliminate government managed competition of existing communication service, and to provide parity between functionally equivalent services.

### S. 1508

At the request of Mr. FEINGOLD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1508, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

### S. 1512

At the request of Mr. SARBANES, the names of the Senator from Missouri (Mr. TALENT) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1512, a bill to grant a Federal charter to Korean War Veterans Association, Incorporated.

### S. 1525

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1525, a bill to ensure that commercial insurers cannot engage in price fixing, bid rigging, or market allocations to the detriment of competition and consumers.

### S. 1555

At the request of Ms. CANTWELL, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1555, a bill to amend the Farm Security and Rural Investment Act of 2002 to reform funding for the Seniors Farmers' Market Nutrition Program, and for other purposes.

### S. 1558

At the request of Ms. COLLINS, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of S. 1558, a bill to amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and extend the public filing requirement for 5 years.

### S. 1584

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1584, a bill to amend the Internal Revenue Code of 1986 to provide for a nonrefundable tax credit against income tax for individuals who purchase a residential safe storage device for the safe storage of firearms.

### S.J. RES. 7

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S.J. Res. 7, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women.

### S.J. RES. 22

At the request of Mr. DURBIN, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S.J. Res. 22, a joint resolution proclaiming Casimir Pulaski to be an honorary citizen of the United States posthumously.

### S. RES. 182

At the request of Mr. COLEMAN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. Res. 182, a resolution supporting efforts to increase childhood cancer awareness, treatment, and research.

### S. RES. 184

At the request of Mr. SANTORUM, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. Res. 184, a resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes.

### S. RES. 219

At the request of Mrs. FEINSTEIN, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 219, a resolution designating March 8, 2006, as "Endangered Species Day", and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide.

### S. RES. 231

At the request of Ms. LANDRIEU, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. Res. 231, a resolution encouraging the Transitional National Assembly of Iraq to adopt a constitution that grants women equal rights under the law and to work to protect such rights.

### S. RES. 232

At the request of Mr. KENNEDY, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. Res. 232, a resolution celebrating the 40th anniversary of the enactment of the Voting Rights Act of 1965 and reaffirming the commitment of the Senate to ensuring the continued effectiveness of the Act in protecting the voting rights of all citizens of the United States.

### AMENDMENT NO. 762

At the request of Mr. NELSON of Florida, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of amendment No. 762 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. HARKIN):

S. 1613. A bill to amend the Livestock Mandatory Reporting Act of 1999 to extend the termination date for mandatory price reporting; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. GRASSLEY. Mr. President, I am pleased to be joined by my colleague Senator HARKIN to introduce legislation today that would extend the termination date for mandatory price reporting.

Due in large part to concerned Iowa livestock producers, Congress passed the Livestock Mandatory Reporting Act, LMPR, in 1999 to help improve market transparency.

Since Mandatory Price Reporting was implemented by USDA in 2001, I have heard from producers across Iowa who question the integrity and accountability of the reported prices under Mandatory Price Reporting under this law.

While there is a lack of "believability" regarding the information generated by Mandatory Price Reporting, nearly all producers across Iowa feel strongly that the information would be valuable if the program had more credibility and improved transparency.

Thanks to producer comments and dissatisfaction with the current program, Senator HARKIN and I offered to initiate a Government Accountability Office, GAO, examination of the Mandatory Price Reporting program.

I then conditioned my support of any multi-year extension or revision of Mandatory Price Reporting on the GAO study results.

Unfortunately, there is growing pressure from packers and "packer lackeys" to act before the GAO report is completed.

Under the auspice of "consensus" a number of groups serving packer interests are pushing agendas contrary to the interests of Iowa's pork producers and cattlemen.

The Iowa livestock community believes any congressional action before receipt and review of the GAO report would be premature and ill-advised.

The goal of re-authorization should be to improve the existing legislation to the best of our ability based upon the best available information and analysis.

If the non-partisan GAO is not allowed to complete its work before the law is re-authorized, Congress will be neglecting the opportunity to review and reflect upon an exhaustive study.

Let me be clear, livestock producers in Iowa do not think it is prudent to move forward without substantive review and potential improvement of the current program. Only those entities that fear transparency should be fighting for a 5 year extension with no consideration for the GAO's pending conclusions.

The House Agriculture Committee passed out a five year extension and I hope they will take into consideration the remarks made by me today. I look forward to protecting the interests of family farmers and believe this another way of providing that protection.

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By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1614. A bill to extend the authorization of programs under the Higher Education Act of 1965, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. ENZI. Mr. President, I rise today to introduce the Higher Education Amendments of 2005.

Education beyond high school and lifelong education opportunities are vital if we are to retain our competitive edge in the global economy and make every American a part of our Nation's success story. Our workforce needs education and training that will meet the demands of tomorrow's workplace.

Technology, demographics and diversity have brought far-reaching changes to the U.S. economy and the workplace, including an increased demand for a well-educated and highly skilled workforce. Those changes will continue and the need for skilled workers will only increase in the years to come.

The reauthorization of the Higher Education Act is an important part of meeting these concerns. Today's students will become tomorrow's leaders, in the economy, in education, and in every other aspect of our society. A strong postsecondary education will be the key to their future success in those roles.

I am pleased to be introducing this legislation with my distinguished colleague and ranking member of the Committee, Senator KENNEDY. He and I both share a commitment to improving access and quality of postsecondary education for all students, and a strong interest in keeping America competitive in this global economy.

The legislation we are introducing today will improve postsecondary education by strengthening the accreditation process, improving access through the use of technology, supporting student financial aid programs, reducing the need for remedial education, helping more students complete high school, and supporting transitions for all students from high school to college.

Among the most important provisions of this bill is a program that would provide additional grant aid to those students with the greatest financial need. This legislation would also focus its resources on increasing the number of math and science graduates by providing additional grant aid for students in their third and fourth years of college.

This legislation would also increase access to Federally guaranteed student loans, which would help ensure that students are not forced to take out higher interest loans from other sources. It would also expand the role of institutions and guaranty agencies in providing financial literacy to students, so they will make better choices regarding their financial future.

In addition to these priorities, the bill would also help to address the Federal deficit in a meaningful way, by saving $7 billion over the next 5 years. Although we were forced to make some difficult choices in reaching this level of deficit reduction, I am pleased that we were also able to write good policy, provide increased support for students and put in place a program that will help strengthen America's place in the global marketplace our economy.

I ask unanimous consent that the text of the bill be printed in the RECORD.

S. 1614

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Amendments of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. References.
Sec. 3. General effective date.

TITLE I—GENERAL PROVISIONS

Sec. 101. Additional definitions.
Sec. 102. General definition of institution of higher education.
Sec. 103. Definition of institution of higher education for purposes of title IV programs.
Sec. 104. Protection of student speech and association rights.
Sec. 105. National Advisory Committee on Institutional Quality and Integrity.
Sec. 106. Drug and alcohol abuse prevention.
Sec. 107. Prior rights and obligations.
Sec. 108. Cost of higher education.
Sec. 109. Performance-based organization for the delivery of Federal student financial assistance.
Sec. 110. Procurement flexibility.

TITLE II—TEACHER QUALITY ENHANCEMENT

Sec. 201. Teacher quality enhancement grants for States and partnerships.

TITLE III—INSTITUTIONAL AID

Sec. 301. Program purpose.
Sec. 302. Definitions; eligibility.
Sec. 303. American Indian tribally controlled colleges and universities.
Sec. 304. Alaska native and native Hawaiian-serving institutions.
Sec. 305. Native American-serving, nontribal institutions.
Sec. 306. Part B definitions.
Sec. 307. Grants to institutions.
Sec. 308. Allotments to institutions.
Sec. 309. Professional or graduate institutions.
Sec. 310. Authorization of appropriations.
Sec. 311. Technical corrections.

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

Sec. 401. Federal Pell Grants.
Sec. 402. Federal trio programs.
Sec. 403. Gaining early awareness and readiness for undergraduate programs.
Sec. 404. Academic achievement incentive scholarships.
Sec. 405. Federal supplemental educational opportunity grants.
Sec. 406. Leveraging Educational Assistance Partnership Program.
Sec. 407. Special programs for students whose families are engaged in migrant and seasonal farmwork.
Sec. 408. Robert C. Byrd Honors Scholarship Program.
Sec. 409. Child care access means parents in school.
Sec. 410. Learning anytime anywhere partnerships.

PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

Sec. 421. Extension of authorities.
Sec. 422. Federal payments to reduce student interest costs.
Sec. 423. Federal consolidation loans.
Sec. 424. Default Reduction Program.
Sec. 425. Reports to credit bureaus and institutions of higher education.
Sec. 426. Common forms and formats.
Sec. 427. Student loan information by eligible borrowers.
Sec. 428. Consumer education information.
Sec. 429. Definition of eligible lender.
Sec. 430. Repayment by the Secretary of loans of bankrupt, deceased, or disabled borrowers; treatment of borrowers attending schools that fail to provide a refund, attending closed schools, or falsely certified as eligible to borrow.

PART C—FEDERAL WORK-STUDY PROGRAMS

Sec. 441. Authorization of appropriations.
Sec. 442. Allowance for books and supplies.
Sec. 443. Grants for Federal work-study programs.
Sec. 444. Job location and development programs.
Sec. 445. Work colleges.

PART D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

Sec. 451. Funds for administrative expenses.

PART E—FEDERAL PERKINS LOANS

Sec. 461. Program authority.
Sec. 462. Terms of loans.
Sec. 463. Cancellation of loans for certain public service.

PART F—NEED ANALYSIS

Sec. 471. Cost of attendance.
Sec. 472. Definitions.

PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE

Sec. 481. Definition of academic and award year.
Sec. 482. Compliance calendar.
Sec. 483. Forms and regulations.
Sec. 484. Student eligibility.
Sec. 485. Statute of limitations and state court judgments.
Sec. 486. Institutional refunds.
Sec. 487. Institutional and financial assistance for students.
Sec. 488. National student loan data system.
Sec. 489. Early awareness of financial aid eligibility and demonstration program to provide early estimates and early awards of financial aid.

Sec. 490. College Access Initiative.
Sec. 491. Program participation agreements.
Sec. 492. Regulatory relief and improvement.
Sec. 493. Transfer of allotments.
Sec. 494. Wage garnishment requirement.
Sec. 495. Purpose of administrative payments.
Sec. 496. Advisory Committee on Student Financial Assistance.
Sec. 497. Regional meetings.
Sec. 498. Year 2000 requirements at the Department.
PART H—PROGRAM INTEGRITY
Sec. 499. Recognition of accrediting agency or association.
Sec. 499A. Administrative capacity standard.
Sec. 499B. Program review and data.
TITLE V—DEVELOPING INSTITUTIONS
Sec. 501. Definitions.
Sec. 502. Authorized activities.
Sec. 503. Duration of grant.
Sec. 504. Postbaccalaureate opportunities for Hispanic Americans.
Sec. 505. Applications.
Sec. 506. Cooperative arrangements.
Sec. 507. Authorization of appropriations.
TITLE VI—INTERNATIONAL EDUCATION PROGRAMS
Sec. 601. Findings.
Sec. 602. Graduate and undergraduate language and area centers and programs.
Sec. 603. Undergraduate international studies and foreign language programs.
Sec. 604. Research; studies.
Sec. 605. Technological innovation and cooperation for foreign information access.
Sec. 606. Selection of certain grant recipients.
Sec. 607. American overseas research centers.
Sec. 608. Authorization of appropriations for international and foreign language studies.
Sec. 609. Centers for international business education.
Sec. 610. Education and training programs.
Sec. 611. Authorization of appropriations for business and international education programs.
Sec. 612. Minority foreign service professional development program.
Sec. 613. Institutional development.
Sec. 614. Study abroad program.
Sec. 615. Advanced degree in international relations.
Sec. 616. Internships.
Sec. 617. Financial assistance.
Sec. 618. Report.
Sec. 619. Gifts and donations.
Sec. 620. Authorization of appropriations for the Institute for International Public Policy.
Sec. 621. Definitions.
Sec. 622. Assessment and enforcement.
TITLE VII—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS
Sec. 701. Purpose.
Sec. 702. Allocation of Jacob K. Javits Fellowships.
Sec. 703. Stipends.
Sec. 704. Authorization of appropriations for the Jacob K. Javits Fellowship Program.
Sec. 705. Institutional eligibility under the Graduate Assistance in Areas of National Need Program.
Sec. 706. Awards to graduate students.
Sec. 707. Additional assistance for cost of education.
Sec. 708. Authorization of appropriations for the Graduate Assistance in Areas of National Need Program.
Sec. 709. Authorization of appropriations for the Thurgood Marshall Legal Educational Opportunity Program.
Sec. 710. Fund for the improvement of postsecondary education.
Sec. 711. Special projects.
Sec. 712. Authorization of appropriations for the fund for the improvement of postsecondary education.
Sec. 713. Authorization of appropriations for the urban community service program.
Sec. 714. Grants authorized for demonstration projects to ensure students with disabilities receive a quality higher education.
Sec. 715. Applications for demonstration projects to ensure students with disabilities receive a quality higher education.
Sec. 716. Authorization of appropriations for the demonstration projects to ensure students with disabilities receive a quality higher education.
TITLE VIII—MISCELLANEOUS
Sec. 801. Mathematics and Science Scholars Program.
TITLE IX—AMENDMENTS TO OTHER LAWS
PART A—EDUCATION OF THE DEAF ACT OF 1986
Sec. 901. Laurent Clerc National Deaf Education Center.
Sec. 902. Agreement with Gallaudet University.
Sec. 903. Agreement for the National Technical Institute for the Deaf.
Sec. 904. Cultural experiences grants.
Sec. 905. Audit.
Sec. 906. Reports.
Sec. 907. Monitoring, evaluation, and reporting.
Sec. 908. Liaison for educational programs.
Sec. 909. Federal endowment programs for Gallaudet University and the National Technical Institute for the Deaf.
Sec. 910. Oversight and effect of agreements.
Sec. 911. International students.
Sec. 912. Research priorities.
Sec. 913. Authorization of appropriations.
PART B—UNITED STATES INSTITUTE OF PEACE ACT
Sec. 921. United States Institute of Peace Act.
PART C—THE HIGHER EDUCATION AMENDMENTS OF 1998
Sec. 931. Repeals.
Sec. 932. Grants to States for workplace and community transition training for incarcerated youth offenders.
PART D—INDIAN EDUCATION
SUBPART 1—TRIBAL COLLEGES AND UNIVERSITIES
Sec. 941. Tribally Controlled College and University Assistance.
SUBPART 2—NAVAJO HIGHER EDUCATION
Sec. 945. Short title.
Sec. 946. Reauthorization of the Navajo Community College Act.
TITLE X—RECONCILIATION
Sec. 1001. Provisional grant assistance program.
Sec. 1002. National SMART grants.
Sec. 1003. Loan limits.
Sec. 1004. PLUS loan interest rates and zero special allowance payment.
Sec. 1005. Reduction of lender insurance reimbursement rates.
Sec. 1006. Guaranty agency origination fee.
Sec. 1007. Deferment of student loans for military service.
Sec. 1008. Rehabilitation through consolidation.
Sec. 1009. Single holder rule.
Sec. 1010. Default reduction program.
Sec. 1011. Requirements for disbursements of student loans.
Sec. 1012. Special insurance and reinsurance rules.
Sec. 1013. School as lender moratorium.
Sec. 1014. Permanent reduction of special allowance payments for loans from the proceeds of tax exempt issues.
Sec. 1015. Loan fees from lenders.
Sec. 1016. Origination fee.
Sec. 1017. Income contingent repayment for public sector employees.
Sec. 1018. Income protection allowance for dependent students.
Sec. 1019. Simplified need test and automatic zero improvements.
Sec. 1020. Loan forgiveness for teachers.

**SEC. 2. REFERENCES.**

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.).

**SEC. 3. GENERAL EFFECTIVE DATE.**

Except as otherwise provided in this Act or the amendments made by this Act, the amendments made by this Act shall take effect on July 1, 2006.

## TITLE I—GENERAL PROVISIONS

**SEC. 101. ADDITIONAL DEFINITIONS.**

(a) AMENDMENT.—Section 103 (20 U.S.C. 1003) is amended—

(1) by redesignating paragraphs (1) through (16) as paragraphs (2) through (17), respectively; and

(2) by inserting before paragraph (2) (as redesignated by paragraph (1)) the following:

"(1) AUTHORIZING COMMITTEES.—The term 'authorizing committees' means the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives.".

(b) CONFORMING AMENDMENTS.—The Act (20 U.S.C. 1001 et seq.) is amended—

(1) in section 131(a)(3)(B) (20 U.S.C. 1015(a)(3)(B)), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees";

(2) in section 141(d)(4)(B) (20 U.S.C. 1018(d)(4)(B)), by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees";

(3) in section 206 (20 U.S.C. 1026)—

(A) in the matter preceding paragraph (1) of subsection (a), by striking ", the Committee on Labor and Human Resources of the Senate, and the Committee on Education and the Workforce of the House of Representatives" and inserting "and the authorizing committees"; and

(B) in subsection (d), by striking "Committee on Labor and Human Resources of the

Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees";

(4) in section 207(c)(1) (20 U.S.C. 1027(c)(1)), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees";

(5) in section 401(f)(3) (20 U.S.C. 1070a(f)(3)), by striking "to the Committee on Appropriations" and all that follows through "House of Representatives" and inserting "to the Committee on Appropriations of the Senate, the Committee on Appropriations of the House of Representatives, and the authorizing committees";

(6) in section 428 (20 U.S.C. 1078)—

(A) in subsection (c)(9)(K), by striking "House Committee on Education and the Workforce and the Senate Committee on Labor and Human Resources" and inserting "authorizing committees";

(B) in the matter following paragraph (2) of subsection (g), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees"; and

(C) in subsection (n)(4), "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees";

(7) in section 428A (20 U.S.C. 1078–1)—

(A) in the matter preceding subparagraph (A) of subsection (a)(4), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees"; and

(B) in subsection (c)—

(i) in the matter preceding subparagraph (A) of paragraph (2), by striking "Chairperson" and all that follows through "House of Representatives" and inserting "Chairpersons and Ranking Members of the authorizing committees";

(ii) in paragraph (3), by striking "Chairperson" and all that follows through "House of Representatives" and inserting "Chairpersons and Ranking Members of the authorizing committees"; and

(iii) in paragraph (5), by striking "Chairperson" and all that follows through "House of Representatives" and inserting "Chairpersons and Ranking Members of the authorizing committees";

(8) in the matter preceding paragraph (1) of section 428I(h) (20 U.S.C. 1078–9(h)), by striking "Chairman" and all that follows through "Education and Labor" and inserting "Chairpersons of the authorizing committees";

(9) in section 432 (20 U.S.C. 1082)—

(A) in subsection (f)(1)(C), by striking "the Committee on Education and the Workforce of the House of Representatives or the Committee on Labor and Human Resources of the Senate" and inserting "either of the authorizing committees"; and

(B) in the matter following subparagraph (D) of subsection (n)(3), by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees";

(10) in section 437(c)(1) (20 U.S.C. 1087(c)(1)), by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees";

(11) in section 439 (20 U.S.C. 1087–2)—

(A) in subsection (d)(1)(E)(iii), by striking "advise the Chairman" and all that follows through "House of Representatives" and inserting "advise the Chairpersons and Ranking Members of the authorizing committees";

(B) in subsection (r)—

(i) in paragraph (3), by striking "inform the Chairman" and all that follows through "House of Representatives," and inserting "inform the Chairpersons and Ranking Members of the authorizing committees";

(ii) in paragraph (5)(B), by striking "plan, to the Chairman" and all that follows through "Education and Labor" and inserting "plan, to the Chairpersons and Ranking Members of the authorizing committees";

(iii) in paragraph (6)(B)—

(I) by striking "plan, to the Chairman" and all that follows through "House of Representatives" and inserting "plan, to the Chairpersons and Ranking Members of the authorizing committees"; and

(II) by striking "Chairmen and ranking minority members of such Committees" and inserting "Chairpersons and Ranking Members of the authorizing committees";

(iv) in paragraph (8)(C), by striking "implemented to the Chairman" and all that follows through "House of Representatives, and" and inserting "implemented to the Chairpersons and Ranking Members of the authorizing committees, and to"; and

(v) in the matter preceding subparagraph (A) of paragraph (10), by striking "days to the Chairman" and all that follows through "Education and Labor" and inserting "days to the Chairpersons and Ranking Members of the authorizing committees"; and

(C) in subsection (s)(2)—

(i) in the matter preceding clause (i) of subparagraph (A), by striking "Treasury and to the Chairman" and all that follows through "House of Representatives" and inserting "Treasury and to the Chairpersons and Ranking Members of the authorizing committees"; and

(ii) in subparagraph (B), by striking "Treasury and to the Chairman" and all that follows through "House of Representatives" and inserting "Treasury and to the Chairpersons and Ranking Members of the authorizing committees";

(12) in section 455(b)(8)(B) (20 U.S.C. 1087e(b)(8)(B)), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees";

(13) in section 482(d) (20 U.S.C. 1089(d)), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives" and inserting "authorizing committees";

(14) in section 483(c) (20 U.S.C. 1090(c)), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees";

(15) in section 485 (20 U.S.C. 1092)—

(A) in subsection (f)(5)(A), by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees"; and

(B) in subsection (g)(4)(B), by striking "Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "authorizing committees";

(16) in section 486 (20 U.S.C. 1093)—

(A) in subsection (e), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees"; and

(B) in subsection (f)(3)—

(i) in the matter preceding clause (i) of subparagraph (A), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees"; and

(ii) in the matter preceding clause (i) of subparagraph (B), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees";

(17) in section 487A (20 U.S.C. 1094a)—

(A) in subsection (a)(5), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees"; and

(B) in subsection (b)(3)(B), in the matter preceding clause (i)—

(i) by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees"; and

(ii) by striking "such Committees" and inserting "the authorizing committees";

(18) in section 493A(a)(5) (20 U.S.C. 1098c(a)(5)), by striking "Chairperson of the Committee on Labor and Human Resources of the Senate and the Chairperson of the Committee on Education and the Workforce of the House of Representatives" and inserting "Chairpersons of the authorizing committees"; and

(19) in section 498B(d) (20 U.S.C. 1099c–2(d))—

(A) in paragraph (1), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees"; and

(B) in paragraph (2), by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "authorizing committees".

### SEC. 102. GENERAL DEFINITION OF INSTITUTION OF HIGHER EDUCATION.

Section 101 (20 U.S.C. 1001) is amended—

(1) in subsection (a)(3), by inserting ", or awards a degree that is acceptable for admission to a graduate or professional degree program, subject to the review and approval by the Secretary" after "such a degree"; and

(2) by striking subsection (b)(2) and inserting the following:

"(2) a public or nonprofit private educational institution in any State that, in lieu of the requirement in subsection (a)(1), admits as regular students persons—

"(A) who meet the requirements of section 484(d)(3);

"(B) who are beyond the age of compulsory school attendance in the State in which the institution is located; or

"(C) who will be dually or concurrently enrolled in such institution and a secondary school.".

### SEC. 103. DEFINITION OF INSTITUTION OF HIGHER EDUCATION FOR PURPOSES OF TITLE IV PROGRAMS.

Section 102 (20 U.S.C. 1002) is amended—

(1) in subsection (a)—

(A) by striking paragraph (2)(A)(i) and inserting the following:

"(i) in the case of a graduate medical school located outside the United States—

"(I) at least 60 percent of those enrolled in, and at least 60 percent of the graduates of, the graduate medical school outside the United States were not persons described in section 484(a)(5) in the year preceding the year for which a student is seeking a loan under part B of title IV; and

"(II) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States or Canada (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of title IV; or";

(B) by striking paragraph (3) and inserting the following:

"(3) LIMITATIONS BASED ON ENROLLMENT.—An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

"(A) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the limitation contained in this subparagraph for a nonprofit institution that provides a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree, or an associate's degree or a postsecondary diploma, respectively; or

"(B) has a student enrollment in which more than 50 percent of the students do not have a secondary school diploma or its recognized equivalent, and does not provide a 2- or 4-year program of instruction (or both) for which the institution awards a bachelor's degree or an associate's degree, respectively, except that the Secretary may waive the limitation contained in this subparagraph if a nonprofit institution demonstrates to the satisfaction of the Secretary that the institution exceeds such limitation because the institution serves, through contracts with Federal, State, or local government agencies, significant numbers of students who do not have a secondary school diploma or its recognized equivalent.";

(C) by redesignating paragraphs (4), (5), and (6), as paragraphs (5), (6), and (7), respectively; and

(D) by inserting after paragraph (3) the following:

"(4) LIMITATIONS BASED ON MODE OF DELIVERY.—

"(A) IN GENERAL.—An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

"(i) offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998; or

"(ii) enrolls 50 percent or more of the institution's students in correspondence courses, unless the institution is an institution that meets the definition in such section 3(3)(C), except that the Secretary, at the request of such institution, may waive the applicability of this subparagraph to such institution for good cause, as determined by the Secretary in the case of an institution of higher education that provides a 2- or 4-year program of instruction (or both) for which the institution awards an associate or baccalaureate degree, respectively.

"(B) DISTANCE EDUCATION PROGRAM ELIGIBILITY.—Notwithstanding subparagraph (A), an institution of higher education, other than a foreign institution, that offers education or training programs principally through distance education shall be considered to meet the definition of an institution of higher education in paragraph (1) if such institution—

"(i) has been evaluated and determined (before or after the date of enactment of the Higher Education Amendments of 2005) to have capability to effectively deliver distance education programs by an accrediting agency or association that—

"(I) is recognized by the Secretary under title IV; and

"(II) has evaluation of distance education programs within the scope of its recognition, as described in section 496(n)(3);

"(ii) is otherwise eligible to participate in programs authorized under title IV;

"(iii) has not had its participation in programs under title IV suspended or terminated within the 5 years preceding the year for which the determination is made;

"(iv) has not had, or failed to resolve, an audit finding or program review finding under this Act during the 2 years preceding the year for which the determination is made that, following any appeal to the Secretary, resulted in the institution being required to repay an amount that is equal to or greater than 25 percent of the total funds the institution received under the programs authorized under title IV for the most recent award year; and

"(v) has met the requirements of section 487(d), if applicable.

"(C) DEFINITION.—

"(i) IN GENERAL.—In this Act, except as otherwise provided, the term 'distance education' means a course or program that uses 1 or more of the technologies described in clause (ii) to—

"(I) deliver instruction to students who are separated from the instructor; and

"(II) support regular and substantive interaction between the students and the instructor, either synchronously or asynchronously.

"(ii) INCLUSIONS.—For the purposes of clause (i), the technologies used may include—

"(I) the Internet;

"(II) one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;

"(III) audio conferencing; or

"(IV) video cassette, DVDs, and CD-ROMs, provided that they are used in a course in conjunction with the technologies listed in subclauses (I) through (III)."; and

(2) in subsection (b)(1)—

(A) in subparagraph (D), by inserting "and" after the semicolon;

(B) in subparagraph (E), by striking "; and" and inserting a period; and

(C) by striking subparagraph (F).

### SEC. 104. PROTECTION OF STUDENT SPEECH AND ASSOCIATION RIGHTS.

Section 112 (20 U.S.C. 1011a) is amended—

(1) in subsection (a)—

(A) by inserting "(1)" before "It is the sense"; and

(B) by adding at the end the following:

"(2) It is the sense of Congress that—

"(A) the diversity of institutions and educational missions is one of the key strengths of American higher education;

"(B) individual colleges and universities have different missions and each institution should design its academic program in accordance with its educational goals;

"(C) within the context of institutional mission, a college should facilitate the free and open exchange of ideas;

"(D) students should not be intimated, harassed, discouraged from speaking out, or discriminated against;

"(E) students should be treated equally and fairly; and

"(F) nothing in this paragraph shall be construed to modify, change, or infringe upon any constitutionally protected religious liberty, freedom, expression, or association."; and

(2) in subsection (b)(1), by inserting ", provided that the imposition of such sanction is done objectively and fairly" after "higher education".

### SEC. 105. NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.

Section 114(g) (20 U.S.C. 1011c(g)) is amended by striking "September 30, 2004" and inserting "September 30, 2011".

### SEC. 106. DRUG AND ALCOHOL ABUSE PREVENTION.

Section 120 (20 U.S.C. 1011i) is amended by striking subsections (e) and (f) and inserting the following:

"(e) GRANTS DIRECTED AT REDUCING HIGHER EDUCATION DRUG AND ALCOHOL ABUSE.—

"(1) AUTHORIZATION OF PROGRAM.—The Secretary may award grants to eligible entities to enable the entities to reduce the rate of drug abuse, underage alcohol use, and binge drinking among students at institutions of higher education.

"(2) APPLICATIONS.—An eligible entity that desires to receive a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each application shall include—

"(A) a description of how the eligible entity will work to enhance an existing, or where none exists to build a, statewide coalition;

"(B) a description of how the eligible entity will target underage students in the State;

"(C) a description of how the eligible entity intends to ensure that the statewide coalition is actually implementing the purpose described in paragraph (1) and moving toward the achievement indicators described in paragraph (4);

"(D) a list of the members of the statewide coalition or interested parties involved in the work of the eligible entity;

"(E) a description of how the eligible entity intends to work with State agencies on substance abuse prevention and education;

"(F) the anticipated impact of funds provided under this subsection in reducing the rates of drug abuse and underage alcohol use;

"(G) outreach strategies, including ways in which the eligible entity proposes to—

"(i) reach out to students;

"(ii) promote the purpose described in paragraph (1);

"(iii) address the range of needs of the students and the surrounding communities; and

"(iv) address community norms for underage students regarding drug abuse and alcohol use; and

"(H) such additional information as required by the Secretary.

"(3) USES OF FUNDS.—Each eligible entity that receives a grant under this subsection shall use the grant funds to carry out the activities described in such entity's application submitted pursuant to paragraph (2).

"(4) ACCOUNTABILITY.—On the date on which the Secretary first publishes a notice in the Federal Register soliciting applications for grants under this subsection, the Secretary shall include in the notice achievement indicators for the program authorized under this subsection. The achievement indicators shall be designed—

"(A) to measure the impact that the statewide coalitions assisted under this subsection are having on the institutions of higher education and the surrounding communities, including changes in the number of alcohol and drug-related abuse incidents of any kind (including violations, physical assaults, sexual assaults, reports of intimidation, disruptions of school functions, disruptions of student studies, mental health referrals, illnesses, or deaths);

"(B) to measure the quality and accessibility of the programs or information offered by the statewide coalitions; and

"(C) to provide such other measures of program impact as the Secretary determines appropriate.

"(5) SUPPLEMENT NOT SUPPLANT.—Grant funds provided under this subsection shall be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out the activities described in this subsection.

"(6) DEFINITIONS.—In this subsection:

"(A) ELIGIBLE ENTITY.—The term 'eligible entity' means a State, an institution of higher education, or a nonprofit entity.

"(B) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 101(a).

"(C) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(D) STATEWIDE COALITION.—The term 'statewide coalition' means a coalition that—

"(i) includes—

"(I) institutions of higher education within a State; and

"(II) a nonprofit group, a community drug abuse or underage drinking prevention coalition, or another substance abuse prevention group within a State; and

"(ii) works toward lowering the alcohol abuse rate by targeting underage students at institutions of higher education throughout the State and in the surrounding communities.

"(E) SURROUNDING COMMUNITY.—The term 'surrounding community' means the community—

"(i) that surrounds an institution of higher education participating in a statewide coalition;

"(ii) where the students from the institution of higher education take part in the community; and

"(iii) where students from the institution of higher education live in off-campus housing.

"(7) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of a grant awarded under this subsection may be expended for administrative expenses.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

### SEC. 107. PRIOR RIGHTS AND OBLIGATIONS.

Section 121(a) (20 U.S.C. 1011j(a)) is amended—

(1) in paragraph (1), by striking "1999" and inserting "2006"; and

(2) in paragraph (2), by striking "1999" and inserting "2006".

### SEC. 108. COST OF HIGHER EDUCATION.

Section 131 (20 U.S.C. 1015) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) COLLEGE CONSUMER INFORMATION.—

"(1) IN GENERAL.—The Secretary shall make available to the public, on an annual basis, the information described in paragraph (2), in a form that enables the public to compare the information among institutions of higher education. Such information shall be made available for each of the categories described in paragraph (3) and updated regularly.

"(2) INFORMATION.—The information described in this paragraph is the following:

"(A) Tuition and fees for a full-time undergraduate student.

"(B) Cost of attendance for a full-time undergraduate student.

"(C) The average annual cost of attendance for a full-time undergraduate student for the 10 academic years preceding the year for which the information is made available under this subsection, or if data are not available for such 10 preceding academic years, data for as many of such 10 preceding academic years as are available.

"(D) The percentage of full-time undergraduate students receiving financial assistance, including—

"(i) Federal grants;

"(ii) State and local grants;

"(iii) institutional grants; and

"(iv) loans to students.

"(E) The percentage of students successfully transferring academic credit from another institution of higher education.

"(F) Information regarding students who have completed an undergraduate certificate or degree program and who are placed in employment.

"(G) Information regarding students who have completed an undergraduate degree and who enroll in graduate education.

"(H) A ranking of the dollar and percentage increases in tuition for all institutions of higher education for which data are available, disaggregated by quartiles.

"(3) CATEGORIES.—The categories described in this paragraph are as follows:

"(A) All institutions of higher education.

"(B) 4-year public, degree-granting, institutions of higher education.

"(C) 2-year public, degree-granting, institutions of higher education.

"(D) 4-year, nonprofit, private, degree-granting institutions of higher education.

"(E) 2-year, nonprofit, private, degree-granting institutions of higher education.

"(F) 4-year, for-profit, private, degree-granting institutions of higher education.

"(G) 2-year, for-profit, private, degree-granting institutions of higher education.

"(4) STANDARD DEFINITIONS.—In carrying out this section, the Secretary shall use the standard definitions developed under subsection (a)(3)."; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting "be conducted on an annual basis and" after "Such study shall";

(B) in paragraph (2)—

(i) in subparagraph (B), by striking "and" after the semicolon;

(ii) in subparagraph (C), by striking the period and inserting a semicolon; and

(iii) by adding at the end the following:

"(D) the average cost of attending an institution of higher education, disaggregated by category, as described in subsection (b)(3), of institution of higher education;

"(E) the average annual cost of attending an institution of higher education for the 10 academic years preceding the year for which the study is conducted (if available), disaggregated by category, as described in subsection (b)(3), of institution of higher education; and

"(F) the assistance provided to institutions of higher education by each State, which information the Secretary shall make available to the public.";

(C) in paragraph (3)—

(i) in the paragraph heading, by striking "FINAL" and inserting "ANNUAL";

(ii) by striking "a report" and inserting "an annual report"; and

(iii) by striking "not later than September 30, 2002"; and

(D) by striking paragraph (4) and inserting the following:

"(4) HIGHER EDUCATION COST INDEX.—The Bureau of Labor Statistics, in consultation with the Commissioner of Education Statistics, shall develop a higher education cost index that tracks inflation changes in the relevant costs associated with higher education.".

### SEC. 109. PERFORMANCE-BASED ORGANIZATION FOR THE DELIVERY OF FEDERAL STUDENT FINANCIAL ASSISTANCE.

Section 141 (20 U.S.C. 1018) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "operational" and inserting "administrative and oversight"; and

(B) in paragraph (2)(D), by striking "of the operational functions" and inserting "and administration";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "the information systems administered by the PBO, and other functions performed by the PBO" and inserting "the Federal student financial assistance programs authorized under title IV"; and

(ii) by striking subparagraph (C) and inserting the following:

"(C) assist the Chief Operating Officer in identifying goals for—

"(i) the administration of the systems used to administer the Federal student financial assistance programs authorized under title IV; and

"(ii) the updating of such systems to current technology."; and

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking "administration of the information and financial systems that support" and inserting "the administration of Federal";

(ii) in subparagraph (A)—

(I) in the matter preceding clause (i), by striking "of the delivery system for Federal student assistance" and inserting "for the Federal student assistance programs authorized under title IV";

(II) by striking clauses (i) and (ii) and inserting the following:

"(i) the collection, processing, and transmission of data to students, institutions, lenders, State agencies, and other authorized parties;

"(ii) the design and technical specifications for software development and procurement for systems supporting the student financial assistance programs authorized under title IV;";

(III) in clause (iii), by striking "delivery" and inserting "administration";

(IV) in clause (iv)—

(aa) by inserting "the" after "supporting"; and

(bb) by striking "and" after the semicolon;

(V) in clause (v), by striking "systems that support those programs." and inserting "the administration of the Federal student assistance programs authorized under title IV; and"; and

(VI) by adding at the end the following:

"(vi) ensuring the integrity of the student assistance programs authorized under title IV."; and

(iii) in subparagraph (B), by striking "operations and services" and inserting "activities and functions"; and

(3) in subsection (c)—

(A) in paragraph (1)(C)—

(i) in clause (iii), by striking "information and delivery"; and

(ii) in clause (iv)—

(I) by striking "Developing an" and inserting "Developing"; and

(II) by striking "delivery and information system" and inserting "systems";

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "the" after "PBO and"; and

(ii) in subparagraph (B), by striking "Officer" and inserting "Officers"; and

(C) in paragraph (3), by inserting "students," after "consult with";

(4) in subsection (d)—

(A) in paragraph (1), by striking the second sentence; and

(B) in paragraph (5)—

(i) in subparagraph (B), by striking "paragraph (2)" and inserting "paragraph (4)"; and

(ii) in subparagraph (C), by striking "this";

(5) in subsection (f)—

(A) in paragraph (2), by striking "to borrowers" and inserting "to students, borrowers,"; and

(B) in paragraph (3)(A), by striking "(1)(A)" and inserting "(1)";

(6) in subsection (g)(3), by striking "not more than 25";

(7) in subsection (h), by striking "organizational effectiveness" and inserting "effectiveness";

(8) by striking subsection (i);

(9) by redesignating subsection (j) as subsection (i); and

(10) in subsection (i) (as redesignated by paragraph (9)), by striking ", including transition costs".

### SEC. 110. PROCUREMENT FLEXIBILITY.

Section 142 (20 U.S.C. 1018a) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "for information systems supporting the programs authorized under title IV"; and

(ii) by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) through the Chief Operating Officer—

"(A) to the maximum extent practicable, utilize procurement systems that streamline operations, improve internal controls, and enhance management; and

"(B) assess the efficiency of such systems and assess such systems' ability to meet PBO requirements.";

(2) by striking subsection (c)(2) and inserting the following:

"(2) FEE FOR SERVICE ARRANGEMENTS.—The Chief Operating Officer shall, when appropriate and consistent with the purposes of the PBO, acquire services related to the functions set forth in section 141(b)(2) from any entity that has the capability and capacity to meet the requirements set by the PBO. The Chief Operating Officer is authorized to pay fees that are equivalent to those paid by other entities to an organization that provides services that meet the requirements of the PBO, as determined by the Chief Operating Officer.";

(3) in subsection (d)(2)(B), by striking "on Federal Government contracts";

(4) in subsection (g)—

(A) in paragraph (4)(A)—

(i) in the subparagraph heading, by striking "SOLE SOURCE.—" and inserting "SINGLE-SOURCE BASIS.—"; and

(ii) by striking "sole-source" and inserting "single-source"; and

(B) in paragraph (7), by striking "sole-source" and inserting "single-source";

(5) in subsection (h)(2)(A), by striking "sole-source" and inserting "single-source"; and

(6) in subsection (l), by striking paragraph (3) and inserting the following:

"(3) SINGLE-SOURCE BASIS.—The term 'single-source basis', with respect to an award of a contract, means that the contract is awarded to a source after soliciting an offer or offers from, and negotiating with, only such source (although such source is not the only source in the marketplace capable of meeting the need) because such source is the most advantageous source for purposes of the award.".

## TITLE II—TEACHER QUALITY ENHANCEMENT

### SEC. 201. TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS.

Part A of title II (20 U.S.C. 1021 et seq.) is amended to read as follows:

## "PART A—TEACHER QUALITY ENHANCEMENT GRANTS FOR STATES AND PARTNERSHIPS

### "SEC. 201. PURPOSES; DEFINITIONS.

"(a) PURPOSES.—The purposes of this part are to—

"(1) improve student achievement;

"(2) improve the quality of the current and future teaching force by improving the preparation of prospective teachers and enhancing professional development activities;

"(3) hold institutions of higher education accountable for preparing highly qualified teachers; and

"(4) recruit qualified individuals, including minorities and individuals from other occupations, into the teaching force.

"(b) DEFINITIONS.—In this part:

"(1) ARTS AND SCIENCES.—The term 'arts and sciences' means—

"(A) when referring to an organizational unit of an institution of higher education, any academic unit that offers 1 or more academic majors in disciplines or content areas corresponding to the academic subject areas in which teachers provide instruction; and

"(B) when referring to a specific academic subject area, the disciplines or content areas in which academic majors are offered by the arts and sciences organizational unit.

"(2) CHILDREN FROM LOW-INCOME FAMILIES.—The term 'children from low-income families' means children as described in section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965.

"(3) EARLY CHILDHOOD EDUCATION PROGRAM.—The term 'early childhood education program' means a Head Start program or an Early Head Start program carried out under the Head Start Act (42 U.S.C. 9831 et seq.), a State licensed or regulated child care program or school, or a State prekindergarten program that serves children from birth through kindergarten and that addresses the children's cognitive (including language, early literacy, and pre-numeracy), social, emotional, and physical development.

"(4) EARLY CHILDHOOD EDUCATOR.—The term 'early childhood educator' means an individual with primary responsibility for the education of children in an early childhood education program.

"(5) EDUCATIONAL SERVICE AGENCY.—The term 'educational service agency' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(6) EXEMPLARY TEACHER.—The term 'exemplary teacher' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(7) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term 'high-need local educational agency' means a local educational agency or educational service agency—

"(A)(i) that serves not fewer than 10,000 children from low-income families;

"(ii) for which not less than 20 percent of the children served by the agency are children from low-income families; or

"(iii) with a total of less than 600 students in average daily attendance at the schools that are served by the agency and all of whose schools are designated with a school locale code of 7 or 8, as determined by the Secretary; and

"(B)(i) for which there is a high percentage of teachers not teaching in the academic subject areas or grade levels in which the teachers were trained to teach; or

"(ii) for which there is a high teacher turnover rate or a high percentage of teachers with emergency, provisional, or temporary certification or licensure.

"(8) HIGHLY QUALIFIED.—The term 'highly qualified' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965 and, with respect to special education teachers, in section 602 of the Individuals with Disabilities Education Act.

"(9) PROFESSIONAL DEVELOPMENT.—The term 'professional development' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(10) SCIENTIFICALLY BASED READING RESEARCH.—The term 'scientifically based reading research' has the meaning given such term in section 1208 of the Elementary and Secondary Education Act of 1965.

"(11) SCIENTIFICALLY BASED RESEARCH.—The term 'scientifically based research' has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

"(12) TEACHER MENTORING.—The term 'teacher mentoring' means mentoring of teachers through an established or implemented program—

"(A) that includes qualifications for mentors;

"(B) that provides training for mentors;

"(C) that provides regular and ongoing opportunities for mentors and mentees to observe each other's teaching methods in classroom settings during the school day;

"(D) in which the mentoring is provided by a colleague who teaches in the same field, grade, or subject as the mentee; and

"(E) that includes—

"(i) common planning time or regularly scheduled collaboration with teachers in the teachers' same field, grade, or subject area; and

"(ii) additional professional development opportunities.

“(13) TEACHING SKILLS.—The term ‘teaching skills’ means the ability to—

“(A) increase student achievement;

“(B) effectively convey and explain academic subject matter;

“(C) employ strategies that—

“(i) are based on scientifically based research;

“(ii) are specific to academic subject matter; and

“(iii) focus on identification and tailoring of academic instruction to students’ specific learning needs, particularly students with disabilities, students who are limited English proficient, and students who are gifted and talented;

“(D) conduct ongoing assessment of student learning;

“(E) effectively manage a classroom;

“(F) communicate and work with parents and guardians, and involve parents and guardians in their children’s education; and

“(G) in the case of an early childhood educator, use age appropriate strategies and practices for children in early childhood education programs.

**“SEC. 202. STATE GRANTS.**

“(a) IN GENERAL.—From amounts made available under section 209(a)(1) for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible States to enable the eligible States to carry out the activities described in subsections (d) and (e).

“(b) ELIGIBLE STATE.—

“(1) DEFINITION.—In this part, the term ‘eligible State’ means—

“(A) the Governor of a State; or

“(B) in the case of a State for which the constitution or law of such State designates another individual, entity, or agency in the State to be responsible for teacher certification or licensure and preparation activity, such individual, entity, or agency.

“(2) CONSULTATION.—The Governor or the individual, entity, or agency designated under paragraph (1)(B) shall consult with the Governor, State board of education, State educational agency, State agency for higher education, or other applicable State entities (including the State agency responsible for early childhood education), as appropriate, with respect to the activities assisted under this section, including the development of the grant application and implementation of the activities.

“(3) CONSTRUCTION.—Nothing in this subsection shall be construed to negate or supersede the legal authority under State law of any State agency, State entity, or State public official over programs that are under the jurisdiction of the agency, entity, or official.

“(c) APPLICATION.—To be eligible to receive a grant under this section, an eligible State shall submit an application to the Secretary that—

“(1) meets the requirement of this section;

“(2) demonstrates that the eligible State is in full compliance with—

“(A) sections 206(b) and 207; and

“(B) if applicable, sections 207(b) and 208, as such sections were in effect on the day before the date of enactment of the Higher Education Amendments of 2005;

“(3) includes a description of how the eligible State intends to use funds provided under this section;

“(4) includes measurable objectives for the use of the funds provided under this section;

“(5) describes how funded activities will—

“(A) reduce shortages, if any, of—

“(i) highly qualified general and special education teachers, including in low-income urban and rural areas and in high-need academic subject areas; and

“(ii) fully competent early childhood educators; and

“(B) be consistent with State, local, and other education reform activities that promote effective teaching skills and student academic achievement and consistent with State early learning standards for early childhood education programs, including how funded activities will support carrying out the applicable requirements of the eligible State under sections 1111 and 1119 of the Elementary and Secondary Education Act of 1965, and section 612(a)(14) of the Individuals with Disabilities Education Act;

“(6) contains an assurance that the eligible State will carry out each of the intended uses of grant funds described in paragraph (3);

“(7) describes the eligible State’s—

“(A) current capacity to measure the effectiveness of teacher preparation programs and professional development activities within the State using available statewide data;

“(B) activities to enhance or expand the integration of existing data systems to better measure the effectiveness of teacher preparation programs and professional development activities within the State; or

“(C) if such data systems do not exist, plans for the development of an integrated statewide data system to measure the effectiveness of teacher preparation programs and professional development activities within the State using available statewide data; and

“(8) contains such other information and assurances as the Secretary may require.

“(d) REQUIRED USES OF FUNDS.—An eligible State that receives a grant under this section shall use the grant funds to reform teacher preparation requirements, to coordinate with State activities under section 2113(c) of the Elementary and Secondary Education Act of 1965 and subsections (a) and (b) of section 654 of the Individuals with Disabilities Education Act, and to ensure that current and prospective teachers are highly qualified, by carrying out each of the following activities:

“(1) REFORMS.—Ensuring that all teacher preparation programs in the State are preparing current or prospective teachers to become highly qualified, to understand scientifically based research and its applicability, and to use technology effectively, including use of instructional techniques to improve student academic achievement, by assisting such programs—

“(A) in retraining faculty;

“(B) in designing (or redesigning) teacher preparation programs so that such programs—

“(i) are based on rigorous academic content and scientifically based research (including scientifically based reading research), and aligned with challenging State academic content standards;

“(ii) promote effective teaching skills; and

“(iii) promote understanding of effective instructional strategies for students with special needs, including students with disabilities, students who are limited English proficient, and students who are gifted and talented;

“(C) in ensuring collaboration with departments, programs, or units outside of the teacher preparation program in relevant academic content areas to ensure a successful combination of training in both teaching and such content;

“(D) in developing high-quality, rigorous clinical experiences (that include student teaching experience) in which students participate while enrolled in a teacher preparation program, lasting not less than 1 term, through dissemination of best practices, technical assistance, or other relevant activities; and

“(E) in collecting and using data, in collaboration with institutions of higher education, schools, and local educational agencies, on teacher retention rates, by school, to evaluate and strengthen the effectiveness of the State’s teacher support system.

“(2) CERTIFICATION OR LICENSURE REQUIREMENTS.—Reforming teacher certification or licensure requirements to ensure that—

“(A) teachers have the academic content knowledge and teaching skills in the academic subject areas that the teachers teach that are necessary to help students meet challenging State student academic achievement standards;

“(B) such requirements are aligned with challenging State academic content standards;

“(C) teacher certification and licensure assessments are—

“(i) used for purposes for which such assessments are valid and reliable;

“(ii) consistent with relevant, professional, and technical standards; and

“(iii) aligned with the reporting requirements of sections 205 and 206; and

“(D) such requirements for high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages) and high-need areas (such as special education, language instruction educational programs, and early childhood education) exist and reflect qualifications to help students meet high standards, which may include the development of a State test for such areas.

“(3) EVALUATION.—

“(A) ANNUAL EVALUATION.—An eligible State that receives a grant under this section shall evaluate annually the effectiveness of teacher preparation programs and professional development activities within the State. To the extent practicable, such evaluation shall examine—

“(i) teachers’ contributions to improving student academic achievement, as measured by State academic assessments required under section 1111(b)(3) of the Elementary and Secondary Education Act of 1965; and

“(ii) teacher mastery of the academic subject matter the teachers teach.

“(B) PUBLIC REPORTING.—The eligible State shall make the information described in subparagraph (A) (except such information that is individually identifiable) widely available through public means, such as posting on the Internet, distribution to the media, and distribution through public agencies.

“(C) BETTER MEASUREMENT OF EFFECTIVENESS.—

“(i) IN GENERAL.—An eligible State that receives a grant under this section and does not have the capacity to measure the effectiveness of teacher preparation programs and professional development activities within the State using available statewide data, shall use a portion of funds received under this section to enhance or expand the integration of existing data systems, as described in subsection (c)(7)(B), or develop an integrated statewide data system, as described in subsection (c)(7)(C), to better measure the effectiveness of teacher preparation programs on student learning and achievement, and the impact of pre-service and ongoing professional development on teacher placement and retention.

"(ii) TECHNICAL QUALITY; STUDENT PRIVACY; FUNDS FROM OTHER SOURCES.—In carrying out clause (i), the eligible State shall ensure—

"(I) the technical quality of the data system to maximize the validity, reliability, and accessibility of the data;

"(II) that student privacy is protected and that individually identifiable information about students, their achievements, and their families remains confidential, in accordance with the Family Educational Rights and Privacy Act of 1974; and

"(III) that funds provided under this section are used to supplement State efforts to enhance or expand the integration of existing data systems or to develop an integrated statewide data system.

"(e) ALLOWABLE USES OF FUNDS.—An eligible State that receives a grant under this section may use the grant funds to reform teacher preparation requirements, to coordinate with State activities under section 2113(c) of the Elementary and Secondary Education Act of 1965 and subsections (a) and (b) of section 654 of the Individuals with Disabilities Education Act, and to ensure that current and future teachers are highly qualified, by carrying out any of the following activities:

"(1) ALTERNATIVES TO TRADITIONAL PREPARATION FOR TEACHING AND STATE CERTIFICATION OR LICENSURE.—Providing prospective teachers with alternative routes to State certification or licensure and alternative route programs to become highly qualified teachers through—

"(A) innovative approaches that reduce unnecessary barriers to State certification or licensure while producing highly qualified teachers;

"(B) a selective means for admitting individuals into such programs that includes passage of State approved teacher examinations in appropriate subject areas;

"(C) programs that help prospective teachers develop effective teaching skills and strategies through knowledge of research-based information on the learning process and learning practices;

"(D) programs that provide support to teachers during the teachers' initial years in the profession; and

"(E) alternative routes to State certification or licensure of teachers for qualified individuals, including mid-career professionals from other occupations, paraprofessionals, former military personnel, and recent college graduates with records of academic distinction.

"(2) INNOVATIVE PROGRAMS.—Planning and implementing innovative programs to enhance the ability of institutions of higher education, including charter colleges of education, or university and local educational agency partnership schools, to prepare highly qualified teachers, which programs shall—

"(A) permit flexibility in the manner in which the institution of higher education meets State requirements as long as graduates, during the graduates' initial years in the profession, increase student academic achievement;

"(B) provide a description in the application of long-term data gathered from teachers' performance over multiple years in the classroom regarding the teachers' ability to increase student academic achievement;

"(C) ensure high-quality preparation of teachers from underrepresented groups;

"(D) create performance measures that can be used to document the effectiveness of innovative methods for preparing highly qualified teachers; and

"(E) develop frameworks for exemplary induction programs informed by research and best practices.

"(3) TEACHER RECRUITMENT AND RETENTION.—Undertaking activities that develop and implement effective mechanisms to ensure that local educational agencies and schools are able to recruit and retain highly qualified teachers, which may include the following activities:

"(A) PERFORMANCE BASED COMPENSATION.—Assisting local educational agencies in developing—

"(i) performance systems that reward teachers who increase student academic achievement and take on additional responsibilities, such as teacher mentoring and serving as master teachers; and

"(ii) strategies that provide differential and bonus pay in high-need local educational agencies to recruit and retain—

"(I) principals;

"(II) highly qualified teachers who teach in high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages);

"(III) highly qualified teachers who teach in schools identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965;

"(IV) highly qualified special education teachers;

"(V) highly qualified teachers specializing in teaching children who are limited English proficient; and

"(VI) highly qualified teachers in low-income urban and rural schools or districts.

"(B) ADDITIONAL MECHANISMS.—Developing and implementing effective mechanisms to ensure that local educational agencies and schools are able to—

"(i) address needs identified with respect to—

"(I) underrepresented groups;

"(II) high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages);

"(III) high-need areas (such as special education, language instruction educational programs, and early childhood education);

"(IV) high-need communities, such as rural and urban areas;

"(V) high-need schools, including schools with high rates of teacher turnover; and

"(VI) students with disabilities and students who are limited English proficient;

"(ii) offer teacher mentoring for new teachers during such teachers' initial years of teaching; and

"(iii) provide access to ongoing professional development opportunities for teachers and administrators.

"(C) TEACHER ADVANCEMENT.—Assisting local educational agencies in developing teacher advancement and retention initiatives that promote professional growth and emphasize multiple career paths (such as paths to becoming a highly qualified mentor teacher or exemplary teacher) and pay differentiation.

"(D) RECRUIT QUALIFIED PROFESSIONALS.—Developing recruitment programs or assisting local educational agencies in—

"(i) recruiting qualified professionals from other fields, including highly qualified paraprofessionals (as defined in section 2102 of the Elementary and Secondary Education Act of 1965); and

"(ii) providing such professionals with alternative routes to teacher certification or licensure.

"(E) UNDERREPRESENTED POPULATIONS.—Providing increased opportunities for minorities, individuals with disabilities, and other individuals underrepresented in the teaching profession.

"(F) RURAL EDUCATION RECRUITMENT AND RETENTION PROGRAMS.—Making grants to rural school districts, or a consortia of rural school districts, to implement—

"(i) teacher recruitment strategies, which may include tuition assistance, student loan forgiveness, housing assistance, bonus pay, and other effective approaches;

"(ii) teacher retention strategies, such as mentoring programs and ongoing opportunities for professional growth and advancement; and

"(iii) partnerships with institutions of higher education designed to—

"(I) prepare beginning teachers to teach; and

"(II) assist teachers (including teachers who teach multiple subjects) to become highly qualified.

"(4) TEACHER SCHOLARSHIPS AND SUPPORT.—Providing—

"(A) scholarships to help students, such as individuals who have been accepted by, or who are enrolled in, a program of undergraduate education at an institution of higher education, pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program, if—

"(i) the Secretary establishes such requirements as the Secretary determines necessary to ensure that recipients of scholarships under this section who complete teacher preparation programs—

"(I) subsequently teach in an early childhood education program or a high-need local educational agency for a period of time equivalent to the period of time for which the recipient received scholarship assistance, plus an additional 1 year; or

"(II) repay the amount of the scholarship if the recipient does not teach as described in subclause (I); and

"(ii) the eligible State provides an assurance that the eligible State will recruit minority students to become highly qualified teachers;

"(B) support services, if needed, to enable scholarship recipients to complete postsecondary education programs, or to move from a career outside of the field of education into a teaching career; and

"(C) follow-up services to former scholarship recipients during the recipients' initial years of teaching.

"(5) TEACHER REMOVAL.—Developing and implementing effective mechanisms to ensure that local educational agencies and schools are able to expeditiously remove incompetent or unqualified teachers consistent with procedures to ensure due process for the teachers.

"(6) TEACHER EFFECTIVENESS.—Developing—

"(A) systems to measure the effectiveness of teacher preparation programs and professional development programs; and

"(B) strategies to document gains in student academic achievement or increases in teacher mastery of the academic subject matter the teachers teach, as a result of such programs.

"(7) EARLY CHILDHOOD EDUCATORS.—Developing strategies to improve and expand teacher preparation programs for early childhood educators to teach in early childhood education programs.

"(8) PROFESSIONAL DEVELOPMENT.—Developing and enhancing high-quality professional development, instructional materials, and relevant training materials.

"(9) TECHNOLOGY.—Assisting teachers to use technology effectively, including use for instructional techniques and the collection, management, and analysis of data to improve teaching, learning, and decision making for the purpose of increasing student academic achievement.

"(10) AREAS OF INSTRUCTIONAL SHORTAGE.—Increasing the number of—

"(A) teachers in the classroom providing instruction in high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages) and high-need areas (such as special education, language instruction educational programs, and early childhood education); and

"(B) special education faculty dedicated to preparing highly qualified special education teachers at institutions of higher education.

"(11) TECHNICAL ASSISTANCE.—Providing technical assistance to low-performing programs of teacher preparation within institutions of higher education identified under section 207(a).

"(12) EVALUATION SUPPORT.—Performing data collection, evaluation, and reporting to meet the requirements of subsection (d)(3).

"(13) PROFESSIONAL ADVANCEMENT.—Developing a professional advancement system to—

"(A) initiate or enhance a system in which highly qualified teachers who pursue advanced licensure levels are required to demonstrate increased competencies and undertake increased responsibilities for increased compensation as the teachers progress through levels established by the State; or

"(B) provide opportunities for professional growth, including through—

"(i) a nationally recognized advance credentialing system; or

"(ii) special certification in advanced placement or international baccalaureate content, teaching gifted and talented students, and pedagogy.

"(f) SUPPLEMENT, NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities under this section.

### "SEC. 203. PARTNERSHIP GRANTS.

"(a) GRANTS.—From amounts made available under section 209(a)(2) for a fiscal year, the Secretary is authorized to award grants under this section, on a competitive basis, to eligible partnerships to enable the eligible partnerships to carry out the activities described in subsections (e) and (f).

"(b) DEFINITIONS.—

"(1) ELIGIBLE PARTNERSHIP.—

"(A) IN GENERAL.—In this part, the term 'eligible partnership' means an entity that shall include—

"(i) a partner institution;

"(ii) a school of arts and sciences;

"(iii) a high-need local educational agency and a school or a consortium of schools served by the agency; and

"(iv) at least 1 individual or entity described in subparagraph (B).

"(B) ADDITIONAL INDIVIDUALS AND ENTITIES.—In this part, the term 'eligible partnership' means an entity that shall include at least 1 of the following:

"(i) A Governor.

"(ii) A State educational agency.

"(iii) A State board of education.

"(iv) A State agency for higher education.

"(v) A school or department within the partner institution focusing on education, psychology, human development, or a department with comparable expertise in the disciplines of teaching, learning, and child and adolescent development.

"(vi) An institution of higher education or a department within such institution, not described in subparagraph (A).

"(vii) A public charter school.

"(viii) A public or private elementary school or secondary school.

"(ix) A public or private nonprofit educational organization.

"(x) A business.

"(xi) A science-, mathematics-, or technology-oriented entity.

"(xii) An early childhood education program.

"(xiii) A teacher organization.

"(xiv) An educational service agency.

"(xv) A consortium of local educational agencies.

"(xvi) A nonprofit telecommunications entity.

"(2) PARTNER INSTITUTION.—In this section, the term 'partner institution' means an institution of higher education, which may include a 2-year institution of higher education offering a dual program with a 4-year institution of higher education, that has a teacher preparation program—

"(A) whose graduates exhibit strong performance on State-determined qualifying assessments for new teachers through—

"(i) demonstrating that 80 percent or more of the graduates of the program who intend to enter the field of teaching have passed all of the applicable State qualification assessments for new teachers, which shall include an assessment of each prospective teacher's subject matter knowledge in the content area in which the teacher intends to teach; or

"(ii) being ranked among the highest-performing teacher preparation programs in the State as determined by the State—

"(I) using criteria consistent with the requirements for the State report card under section 206(b); and

"(II) using the State report card on teacher preparation required under section 206(b), after the first publication of such report card and for every year thereafter; or

"(B) that requires all the students of the program to meet high academic standards and participate in intensive clinical experience, and—

"(i) in the case of secondary school candidates, to successfully complete—

"(I) a major or its equivalent in coursework in the academic subject area in which the candidate intends to teach; or

"(II) a related major in the academic subject area in which the candidate intends to teach;

"(ii) in the case of elementary school candidates, to successfully complete—

"(I) an academic major or its equivalent in coursework in the arts and sciences; or

"(II) a major in elementary education with a significant amount of coursework in the arts and sciences; and

"(iii) in the case of early childhood educators, to become fully competent and meet degree requirements, as established by the State.

"(c) APPLICATION.—Each eligible partnership desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may require. Each such application shall contain—

"(1) a needs assessment of all the partners with respect to the preparation, induction, and professional development of early childhood educators, general and special education teachers, and principals;

"(2) a description of the extent to which the teacher preparation program of the eligible partnership prepares new teachers with effective teaching skills;

"(3) a description of how the eligible partnership will coordinate with other teacher preparation or professional development programs, including those funded under the Elementary and Secondary Education Act of 1965 and the Individuals with Disabilities Education Act, and how the activities of the eligible partnership will be consistent with State, local, and other education reform activities that promote student achievement;

"(4) a resource assessment that describes the resources available to the eligible partnership, the intended use of the grant funds (including a description of how the grant funds will be fairly distributed), and the commitment of the resources of the eligible partnership to the activities assisted under this part, including financial support, faculty participation, time commitments, and continuation of the activities when the grant period ends;

"(5) a description of—

"(A) how the eligible partnership will meet the purposes of this part;

"(B) how the eligible partnership will carry out the activities required under subsection (e) and any permissible activities under subsection (f);

"(C) the eligible partnership's evaluation plan pursuant to section 205(b);

"(D) how the eligible partnership will align the teacher preparation program with the challenging student academic achievement standards, State early learning standards for early childhood education programs (where applicable), and challenging academic content standards, established by the State in which the partnership is located;

"(E) how faculty of the teacher preparation program at the partner institution will serve, over the period of the grant, with highly qualified teachers in the classrooms of the high-need local educational agency included in the eligible partnership;

"(F) how the eligible partnership will ensure that teachers, principals, and superintendents in all schools (including private schools, as appropriate) located in the geographic areas served by an eligible partnership under this section are provided information about the activities carried out with funds under this section, including through electronic means;

"(G) how the eligible partnership will design, implement, or enhance the clinical program component, including promoting close supervision of student teachers by faculty of the teacher preparation program and mentor teachers while in the program and during the student teachers' initial years of teaching if hired by schools included in the eligible partnership;

"(H) how the eligible partnership will develop or enhance an induction program that includes high-quality professional development to support new teachers during the teachers' initial years of teaching that includes teacher mentoring and collaborating with teachers in the same grade, department, or field; and

"(I) how the eligible partnership will collect, analyze, use, and disseminate data on the retention of all teachers in schools located in the geographic areas served by the eligible partnership to evaluate the effectiveness of its teacher support system; and

"(6) an assurance that the eligible partnership will carry out each of the activities described in paragraph (5).

"(d) CONSULTATION.—

"(1) IN GENERAL.—Members of an eligible partnership that receives a grant under this section shall engage in regular consultation throughout the development and implementation of programs and activities under this section.

“(2) REGULAR COMMUNICATION.—To ensure timely and meaningful consultation, regular communication shall occur among all members of the eligible partnership, including the high-need local educational agency. Such communication shall continue throughout the implementation of the grant and the assessment of programs and activities under this section.

“(3) WRITTEN CONSENT.—The Secretary may approve changes in grant activities only if a written consent signed by all members of the eligible partnership is submitted to the Secretary.

“(e) REQUIRED USES OF FUNDS.—An eligible partnership that receives a grant under this section shall use the grant funds to carry out each of the following activities:

“(1) REFORMS.—Ensuring that each teacher preparation program and each early childhood educator preparation program, where applicable, of the eligible partnership that is assisted under this section addresses the needs identified in the needs assessment of the partnership and is preparing current or prospective teachers to be highly qualified, and, where applicable, early childhood educators to be fully competent, to understand scientifically based research and its applicability, and to use technology effectively, including use of instructional techniques to improve student academic achievement, and in the case of early childhood educators, techniques to improve children's cognitive, social, emotional, and physical development, by assisting such programs—

“(A) in retraining faculty;

“(B) in designing (or redesigning) teacher preparation programs so that such programs—

“(i) are based on rigorous academic content and scientifically based research (including scientifically based reading research), and aligned with challenging State academic content standards and for early childhood educators, aligned with State early learning standards;

“(ii) promote effective teaching skills;

“(iii) promote understanding of effective instructional strategies for students with special needs, including students with disabilities, students who are limited English proficient, students who are gifted and talented, and children in early childhood education programs; and

“(iv) promote high-quality mathematics, science, and foreign language instruction, where applicable;

“(C) in ensuring collaboration with departments, programs, or units outside of the teacher preparation program in all academic content areas to ensure a successful combination of training in both teaching and such content; and

“(D) in developing high-quality, rigorous clinical experiences, lasting not less than 1 term, through dissemination of best practices, technical assistance, or other relevant activities.

“(2) CLINICAL EXPERIENCE AND INTERACTION.—Improving sustained and high-quality preservice clinical experiences, including—

“(A) providing teacher mentoring; and

“(B) substantially increasing interaction between faculty at institutions of higher education and new and experienced teachers, principals, and other administrators at elementary schools or secondary schools, and providing support, including preparation time and release time, for such interaction.

“(3) SUPPORT PROGRAMS FOR NEW TEACHERS.—Creating a program to support new teachers during the initial years of teaching (for not less than 1 year and not more than 3 years). Such program shall promote effective teaching skills and may include the following components:

“(A) Development of skills in educational interventions based on scientifically based research.

“(B) Development of knowledge of scientifically based research on teaching and learning.

“(C) Inclusion of faculty who model the integration of research and practice in the classroom.

“(D) Opportunities for—

“(i) high-quality teacher mentoring; and

“(ii) additional professional development, dissemination of evidence-based research on educational practices, and professional development activities.

“(E) Interdisciplinary collaboration among exemplary teachers, faculty, researchers, and other staff who prepare new teachers on the learning process and the assessment of learning.

“(f) ALLOWABLE USES OF FUNDS.—An eligible partnership that receives a grant under this section may use the grant funds to carry out any of the following activities that address the needs identified in the needs assessment:

“(1) ALTERNATIVES TO TRADITIONAL PREPARATION FOR TEACHING AND STATE CERTIFICATION OR LICENSURE.—The activity described in section 202(e)(1).

“(2) DISSEMINATION AND COORDINATION.—Broadly disseminating information on effective practices used by the eligible partnership, and coordinating with the activities of the Governor, State board of education, State agency for higher education, State agency responsible for early childhood education, and State educational agency, as appropriate.

“(3) INNOVATIVE PROGRAMS.—Developing innovative programs designed to provide graduates of programs funded under this title with opportunities to continue their education through supports and opportunities to improve instructional practices in the initial years of teaching, including the following:

“(A) INTERNSHIPS.—

“(i) TEACHER PREPARATION ENHANCEMENT INTERNSHIP.—Developing a 1-year paid internship program for students who have completed a 4-year teacher preparation program, or alternative routes to State certification or licensure program, to enable such students to develop the skills and experience necessary for success in teaching, including providing intensive clinical training and combining in-service instruction in teacher methods and assessments with classroom observations, experiences, and practices. Such interns shall have a reduced teaching load and a mentor for assistance in the classroom.

“(ii) MID-CAREER PROFESSIONAL INTERNSHIPS.—Developing a 1-year paid internship program for mid-career professionals from other occupations, former military personnel, and recent college graduates from fields other than teacher preparation with records of academic distinction to enable such individuals to develop the skills and experience necessary for success in teaching, including providing intensive clinical training and combining in-service instruction in teacher methods and assessments with classroom observations, experiences, and practices. Such interns shall have a reduced teaching load and a mentor for assistance in the classroom.

“(B) RESIDENCY PROGRAMS FOR NEW TEACHERS.—Supporting teachers in a residency program that provides an induction period for all new general education and special education teachers that includes—

“(i) a forum for information sharing among prospective teachers, teachers, principals, administrators, and participating faculty in the partner institution; and

“(ii) the application of scientifically based research on teaching and learning generated by entities such as the Institute of Education Sciences, and the National Research Council of the National Academies.

“(C) PATHWAYS FOR PARAPROFESSIONALS TO ENTER TEACHING.—Creating intensive programs to provide the coursework and clinical experiences needed by highly qualified paraprofessionals, as defined in section 2102 of the Elementary and Secondary Education Act of 1965, to qualify for State teacher certification or licensure.

“(4) MANAGERIAL AND LEADERSHIP SKILLS.—Developing and implementing proven mechanisms to provide principals and superintendents with effective managerial, leadership, curricula, and instructional skills that result in increased student academic achievement.

“(5) TEACHER SCHOLARSHIPS AND SUPPORT.—Providing—

“(A) scholarships to help students, such as individuals who have been accepted by, or who are enrolled in, a program of undergraduate education at an institution of higher education, pay the costs of tuition, room, board, and other expenses of completing a teacher preparation program, if—

“(i) the Secretary establishes such requirements as the Secretary determines necessary to ensure that recipients of scholarships under this paragraph who complete teacher preparation programs—

“(I) subsequently teach in a high-need local educational agency for a period of time equivalent to the period of time for which the recipient received the scholarship assistance, plus an additional 1 year; or

“(II) repay the amount of the scholarship if the recipient does not teach as described in subclause (I); and

“(ii) the eligible partnership provides an assurance that the eligible partnership will recruit minority students to become highly qualified teachers;

“(B) support services, if needed, to enable scholarship recipients to complete postsecondary education programs, or to transition from a career outside of the field of education into a teaching career; and

“(C) follow-up services for former scholarship recipients during the recipients' initial years of teaching.

“(6) COORDINATION WITH COMMUNITY COLLEGES.—

“(A) TEACHER PREPARATION PROGRAMS.—Coordinating with 2-year institutions of higher education to implement teacher preparation programs, including through distance learning, for the purposes of allowing prospective teachers—

“(i) to obtain a bachelor's degree and State certification or licensure; and

“(ii) to become highly qualified teachers.

“(B) PROFESSIONAL DEVELOPMENT.—Coordinating with 2-year institutions of higher education to provide professional development that—

“(i) improves the academic content knowledge of teachers in the academic subject areas in which the teachers are certified or licensed to teach, or in which the teachers are working toward certification or licensure to teach; and "(ii) promotes effective teaching skills.

"(7) Clinical experience in science, mathematics, and technology.—Creating opportunities for clinical experience and training for teachers and prospective teachers through participation with professionals in business, research, and work environments in areas relating to science, mathematics, and technology, including opportunities for using laboratory equipment.

"(8) Professional development.—Creating opportunities for enhanced and ongoing professional development for experienced general education and special education teachers, early childhood educators, principals, administrators, and faculty.

"(9) Technology.—The activity described in section 202(e)(9).

"(10) Areas of instructional shortage.—Increasing the number of—

"(A) teachers in the classroom providing instruction in high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages), and high-need areas (such as special education, language instruction educational programs, and early childhood education);

"(B) special education faculty dedicated to preparing highly qualified special education teachers at institutions of higher education; and

"(C) faculty at institutions of higher education with expertise in instruction of students who are limited English proficient.

"(11) Improving instruction.—Improving instruction by—

"(A) improving understanding and instruction in core academic subjects and other, specialized courses, such as geography, American history and government, and world history; and

"(B) creating externships for teachers and prospective teachers for field experience and training through participation in business, research, and work environments in high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages) and high-need areas (such as special education, language instruction educational programs, and early childhood education).

"(12) Graduate programs.—Developing, in collaboration with departments, programs, or units of both academic content and teacher education within a partner institution, master's degree programs that meet the demonstrated needs of teachers in the high-need local educational agency participating in the eligible partnership for content expertise and teaching skills.

"(13) Literacy teacher training.—Establishing and implementing a program that strengthens content knowledge and teaching skills of secondary school teachers in literacy that—

"(A) provides teacher training and stipends for literacy coaches who train classroom teachers to implement literacy programs;

"(B) develops or redesigns rigorous research-based curricula that are aligned with challenging State and local academic content standards, and with postsecondary standards for reading and writing;

"(C) provides training and stipends for teachers to tutor students with intense individualized reading, writing, and subject matter instruction during or beyond the school day;

"(D) provides opportunities for teachers to plan and assess instruction with other teachers, school leaders, and faculty at institutions of higher education; and

"(E) establishes an evaluation and accountability plan for activities conducted under this paragraph to measure the impact of such activities.

"(g) Construction.—Nothing in this section shall be construed to prohibit an eligible partnership from using grant funds to coordinate with the activities of eligible partnerships in other States or on a regional basis through Governors, State boards of education, State educational agencies, State agencies responsible for early childhood education, local educational agencies, or State agencies for higher education.

"(h) Supplement, Not Supplant.—Funds made available under this section shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities under this section.

**"SEC. 204. ADMINISTRATIVE PROVISIONS.**

"(a) Duration; Number of Awards; Payments.—

"(1) Duration.—

"(A) Eligible states.—Grants awarded to eligible States under this part shall be awarded for a period not to exceed 3 years.

"(B) Eligible partnerships.—Grants awarded to eligible partnerships under this part shall be awarded for a period of 5 years.

"(2) Number of awards.—An eligible partnership may not receive more than 1 grant during a 5-year period. Nothing in this title shall be construed to prohibit an individual member, that can demonstrate need, of an eligible partnership that receives a grant under this title from entering into another eligible partnership consisting of new members and receiving a grant with such other eligible partnership before the 5-year period described in the preceding sentence applicable to the eligible partnership with which the individual member has first partnered has expired.

"(3) Payments.—The Secretary shall make annual payments of grant funds awarded under this part.

"(b) Peer Review.—

"(1) Panel.—The Secretary shall provide the applications submitted under this part to a peer review panel for evaluation. With respect to each application, the peer review panel shall initially recommend the application for funding or for disapproval.

"(2) Priority.—In recommending applications to the Secretary for funding under this part, the panel shall—

"(A) with respect to grants under section 202, give priority to eligible States—

"(i) that have innovative reforms to hold institutions of higher education with teacher preparation programs accountable for preparing teachers to become highly qualified and have effective teaching skills;

"(ii) that have innovative efforts aimed at reducing the shortage of highly qualified general and special education teachers, including in low-income urban and rural areas and in high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages); and

"(iii) whose awards promote an equitable geographic distribution of grants among rural and urban areas; and

"(B) with respect to grants under section 203, give priority—

"(i) to applications from broad-based eligible partnerships that involve businesses and community organizations; and

"(ii) to eligible partnerships so that the awards promote an equitable geographic distribution of grants among rural and urban areas.

"(3) Secretarial selection.—The Secretary shall determine, based on the peer review process, which applications shall receive funding and the amounts of the grants. In determining grant amounts, the Secretary shall take into account the total amount of funds available for all grants under this part and the types of activities proposed to be carried out.

"(c) Matching Requirements.—

"(1) State grants.—Each eligible State receiving a grant under section 202 shall provide, from non-Federal sources, an amount equal to 50 percent of the amount of the grant (in cash or in kind) to carry out the activities supported by the grant.

"(2) Partnership grants.—Each eligible partnership receiving a grant under section 203 shall provide, from non-Federal sources (in cash or in kind), an amount equal to 25 percent of the amount of the grant for the first year of the grant, 35 percent of the amount of the grant for the second year of the grant, and 50 percent of the amount of the grant for each succeeding year of the grant.

"(d) Limitation on Administrative Expenses.—An eligible State or eligible partnership that receives a grant under this part may use not more than 2 percent of the grant funds for purposes of administering the grant.

"(e) Additional Activities.—The Secretary shall use funds repaid pursuant to section 202(e)(4)(A)(i)(II) or section 203(f)(5)(A)(i)(II) to carry out additional activities under section 202 or 203, respectively.

**"SEC. 205. ACCOUNTABILITY AND EVALUATION.**

"(a) State Grant Accountability Report.—An eligible State that receives a grant under section 202 shall submit an annual accountability report to the Secretary and the authorizing committees. Such report shall include a description of the degree to which the eligible State, in using funds provided under such section, has made progress in meeting the purposes of this part and substantial progress in meeting the following goals, as applicable:

"(1) Student academic achievement.—Increasing student academic achievement for all students as defined by the eligible State.

"(2) Raising standards.—Raising the State academic standards required to enter the teaching profession as a highly qualified teacher, and where applicable, as a fully competent early childhood educator.

"(3) Initial certification or licensure.—Increasing success in the pass rates and scaled scores for initial State teacher certification or licensure, or increasing the numbers of qualified individuals being certified or licensed as teachers through alternative routes to State certification or licensure programs.

"(4) Percentage of highly qualified teachers.—Providing data on the progress of the State towards meeting the highly qualified teacher requirements under section 1119(a)(2) of the Elementary and Secondary Education Act of 1965.

"(5) Decreasing teacher shortages.—Decreasing shortages of—

"(A) highly qualified teachers in—

"(i) low-income urban and rural areas;

"(ii) high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages);

"(iii) special education; and

"(iv) high-need areas (such as special education, language instruction educational programs, and early childhood education); and

"(B) fully competent early childhood educators.

“(6) INCREASING OPPORTUNITIES FOR PROFESSIONAL DEVELOPMENT.—Increasing opportunities for enhanced and ongoing professional development that—

“(A) improves the academic content knowledge of teachers in the academic subject areas in which the teachers are certified or licensed to teach or in which the teachers are working toward certification or licensure to teach; and

“(B) promotes effective teaching skills.

“(b) ELIGIBLE PARTNERSHIP EVALUATION.—Each eligible partnership submitting an application for a grant under section 203 shall establish and include in such application, an evaluation plan that includes strong performance objectives. The plan shall include objectives and measures for increasing—

“(1) student achievement for all students as measured by the eligible partnership;

“(2) teacher retention in the first 3 years of a teacher's career;

“(3) success in the pass rates and scaled scores for initial State certification or licensure of teachers;

“(4) the percentage of highly qualified teachers hired by the high-need local educational agency participating in the eligible partnership; and

“(5) the percentage of—

“(A) highly qualified teachers among underrepresented groups, in high-need academic subject areas (such as reading, mathematics, science, and foreign language, including less commonly taught languages), in high-need areas (such as special education, language instruction educational programs, and early childhood education), and in high-need schools;

“(B) elementary school, middle school, and secondary school classes taught by teachers who are highly qualified;

“(C) early childhood education program classes taught by providers who are fully competent; and

“(D) highly qualified special education teachers.

“(c) REVOCATION OF GRANT.—

“(1) ELIGIBLE STATES.—If the Secretary determines that an eligible State is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the second year of a grant under this part, then the grant payment shall not be made for the third year of the grant.

“(2) ELIGIBLE PARTNERSHIPS.—If the Secretary determines that an eligible partnership is not making substantial progress in meeting the purposes, goals, objectives, and measures, as appropriate, by the end of the third year of a grant under this part, then the grant payments shall not be made for any succeeding year of the grant.

“(d) EVALUATION AND DISSEMINATION.—The Secretary shall evaluate the activities funded under this part and report the Secretary's findings regarding the activities to the authorizing committees. The Secretary shall broadly disseminate—

“(1) successful practices developed by eligible States and eligible partnerships under this part; and

“(2) information regarding such practices that were found to be ineffective.

**“SEC. 206. ACCOUNTABILITY FOR PROGRAMS THAT PREPARE TEACHERS.**

“(a) INSTITUTIONAL AND PROGRAM REPORT CARDS ON THE QUALITY OF TEACHER PREPARATION.—

“(1) REPORT CARD.—Each institution of higher education that conducts a traditional teacher preparation program or an alternative routes to State certification or licensure program and that enrolls students receiving Federal assistance under this Act shall report annually to the State and the general public, in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary, both for traditional teacher preparation programs and alternative routes to State certification or licensure programs, the following information:

“(A) PASS RATES AND SCALED SCORES.—For the most recent year for which the information is available for those students who are enrolled in the traditional teacher preparation program or alternative routes to State certification or licensure program, or who have completed the traditional teacher preparation program or alternative routes to State certification or licensure program during the 2-year period preceding such year, for each of the assessments used for teacher certification or licensure by the State in which the program is located—

“(i) the percentage of students who have completed 100 percent of the nonclinical coursework and taken the assessment who pass such assessment;

“(ii) the percentage of all students who passed each such assessment;

“(iii) the percentage of students taking an assessment who completed the teacher preparation program after enrolling in the program, which shall be made available widely and publicly by the State;

“(iv) the average scaled score for all students who passed each such assessment;

“(v) a comparison of the program's pass rates with the average pass rates for programs in the State; and

“(vi) a comparison of the program's average scaled scores with the average scaled scores for programs in the State.

“(B) PROGRAM INFORMATION.—The criteria for admission into the program, the number of students in the program (disaggregated by race and gender), the average number of hours of supervised clinical experience required for those in the program, the number of full-time equivalent faculty and students in the supervised clinical experience, and the total number of students who have been certified or licensed as teachers, disaggregated by subject and area of certification or licensure.

“(C) STATEMENT.—In States that require approval or accreditation of teacher preparation programs, a statement of whether the institution's program is so approved or accredited, and by whom.

“(D) DESIGNATION AS LOW-PERFORMING.—Whether the program has been designated as low-performing by the State under section 207(a).

“(E) USE OF TECHNOLOGY.—A description of the activities that prepare teachers to effectively integrate technology into curricula and instruction and effectively use technology to collect, manage, and analyze data in order to improve teaching, learning, and decision making for the purpose of increasing student academic achievement.

“(2) REPORT.—Each eligible partnership receiving a grant under section 203 shall report annually on the progress of the eligible partnership toward meeting the purposes of this part and the objectives and measures described in section 205(b).

“(3) FINES.—The Secretary may impose a fine not to exceed $25,000 on an institution of higher education for failure to provide the information described in this subsection in a timely or accurate manner.

“(4) SPECIAL RULE.—In the case of an institution of higher education that conducts a traditional teacher preparation program or an alternative routes to State certification or licensure program and has fewer than 10 scores reported on any single initial teacher certification or licensure assessment during an academic year, the institution shall collect and publish information, as required under paragraph (1)(A), with respect to an average pass rate and scaled score on each State certification or licensure assessment taken over a 3-year period.

“(b) STATE REPORT CARD ON THE QUALITY OF TEACHER PREPARATION.—

“(1) IN GENERAL.—Each State that receives funds under this Act shall provide to the Secretary, annually, in a uniform and comprehensible manner that conforms with the definitions and methods established by the Secretary, a State report card on the quality of teacher preparation in the State, both for traditional teacher preparation programs and for alternative routes to State certification or licensure programs, which shall include not less than the following:

“(A) A description of reliability and validity of the teacher certification and licensure assessments, and any other certification and licensure requirements, used by the State.

“(B) The standards and criteria that prospective teachers must meet in order to attain initial teacher certification or licensure and to be certified or licensed to teach particular academic subject areas or in particular grades within the State.

“(C) A description of how the assessments and requirements described in subparagraph (A) are aligned with the State's challenging academic content standards required under section 1111(b)(1) of the Elementary and Secondary Education Act of 1965 and State early learning standards for early childhood education programs.

“(D) For each of the assessments used by the State for teacher certification or licensure—

“(i) for each institution of higher education located in the State and each entity located in the State that offers an alternative route for teacher certification or licensure, the percentage of students at such institution or entity who have completed 100 percent of the nonclinical coursework and taken the assessment who pass such assessment;

“(ii) the percentage of all such students at all such institutions taking the assessment who pass such assessment; and

“(iii) the percentage of students taking an assessment who completed the teacher preparation program after enrolling in the program, which shall be made available widely and publicly by the State.

“(E) A description of alternative routes to State certification or licensure in the State, if any, including, for each of the assessments used by the State for teacher certification or licensure—

“(i) the percentage of individuals participating in such routes, or who have completed such routes during the 2-year period preceding the date of the determination, who passed each such assessment; and

“(ii) the average scaled score of individuals participating in such routes, or who have completed such routes during the period preceding the date of the determination, who passed each such assessment.

“(F) A description of the State's criteria for assessing the performance of teacher preparation programs within institutions of higher education in the State. Such criteria shall include indicators of the academic content knowledge and teaching skills of students enrolled in such programs.

"(G) For each teacher preparation program in the State, the criteria for admission into the program, the number of students in the program (disaggregated by race and gender), the average number of hours of supervised clinical experience required for those in the program, and the number of full-time equivalent faculty, adjunct faculty, and students in supervised clinical experience.

"(H) For the State as a whole, and for each teacher preparation program in the State, the number of teachers prepared, in the aggregate and reported separately by—

"(i) area of certification or licensure;

"(ii) academic major; and

"(iii) subject area for which the teacher has been prepared to teach.

"(I) Using the data generated under subparagraphs (G) and (H), a description of the extent to which teacher preparation programs are helping to address shortages of highly qualified teachers, by area of certification or licensure, subject, and specialty, in the State's public schools, including those areas described in section 205(a)(5).

"(J) A description of the activities that prepare teachers to effectively integrate technology into curricula and instruction and effectively use technology to collect, manage, and analyze data in order to improve teaching, learning, and decision making for the purpose of increasing student academic achievement.

"(2) PROHIBITION AGAINST CREATING A NATIONAL LIST.—The Secretary shall not create a national list or ranking of States or schools using the scaled scores provided under this subsection.

"(c) REPORT OF THE SECRETARY ON THE QUALITY OF TEACHER PREPARATION.—

"(1) REPORT CARD.—The Secretary shall provide to Congress, and publish and make widely available, a report card on teacher qualifications and preparation in the United States, including all the information reported in subparagraphs (A) through (J) of subsection (b)(1). Such report shall identify States for which eligible States and eligible partnerships received a grant under this part. Such report shall be so provided, published, and made available annually.

"(2) REPORT TO CONGRESS.—The Secretary shall prepare and submit a report to Congress that contains the following:

"(A) A comparison of States' efforts to improve the quality of the current and future teaching force.

"(B) A comparison of eligible partnerships' efforts to improve the quality of the current and future teaching force.

"(C) The national mean and median scaled scores and pass rate on any standardized test that is used in more than 1 State for teacher certification or licensure.

"(3) SPECIAL RULE.—In the case of a teacher preparation program with fewer than 10 scores reported on any single initial teacher certification or licensure assessment during an academic year, the Secretary shall collect and publish information, and make publicly available, with respect to an average pass rate and scaled score on each State certification or licensure assessment taken over a 3-year period.

"(d) COORDINATION.—The Secretary, to the extent practicable, shall coordinate the information collected and published under this part among States for individuals who took State teacher certification or licensure assessments in a State other than the State in which the individual received the individual's most recent degree.

**"SEC. 207. STATE FUNCTIONS.**

"(a) STATE ASSESSMENT.—In order to receive funds under this Act, a State shall have in place a procedure to identify and assist, through the provision of technical assistance, low-performing programs of teacher preparation. Such State shall provide the Secretary an annual list of such low-performing teacher preparation programs that includes an identification of those programs at risk of being placed on such list. Such levels of performance shall be determined solely by the State and may include criteria based on information collected pursuant to this part. Such assessment shall be described in the report under section 206(b).

"(b) TERMINATION OF ELIGIBILITY.—Any program of teacher preparation from which the State has withdrawn the State's approval, or terminated the State's financial support, due to the low performance of the program based upon the State assessment described in subsection (a)—

"(1) shall be ineligible for any funding for professional development activities awarded by the Department;

"(2) shall not be permitted to accept or enroll any student that receives aid under title IV in the institution's teacher preparation program; and

"(3) shall provide transitional support, including remedial services if necessary, for students enrolled at the institution at the time of termination of financial support or withdrawal of approval.

"(c) NEGOTIATED RULEMAKING.—If the Secretary develops any regulations implementing subsection (b)(2), the Secretary shall submit such proposed regulations to a negotiated rulemaking process, which shall include representatives of States, institutions of higher education, and educational and student organizations.

"(d) APPLICATION OF THE REQUIREMENTS.—The requirements of this section shall apply to both traditional teacher preparation programs and alternative routes to State certification and licensure programs.

**"SEC. 208. GENERAL PROVISIONS.**

"(a) METHODS.—In complying with sections 206 and 207, the Secretary shall ensure that States and institutions of higher education use fair and equitable methods in reporting and that the reporting methods do not allow identification of individuals.

"(b) SPECIAL RULE.—For each State that does not use content assessments as a means of ensuring that all teachers teaching in core academic subjects within the State are highly qualified not later than the end of the 2005–2006 school year, as required under section 1119 of the Elementary and Secondary Education Act of 1965, and that each person employed as a special education teacher in the State who teaches elementary school, middle school, or secondary school is highly qualified by such deadline, as required under section 612(a)(14)(C) of the Individuals with Disabilities Education Act,—

"(1) the Secretary shall, to the extent practicable, collect data comparable to the data required under this part from States, local educational agencies, institutions of higher education, or other entities that administer such assessments to teachers or prospective teachers; and

"(2) notwithstanding any other provision of this part, the Secretary shall use such data to carry out requirements of this part related to assessments, pass rates, and scaled scores.

"(c) LIMITATIONS.—

"(1) FEDERAL CONTROL PROHIBITED.—Nothing in this title shall be construed to permit, allow, encourage, or authorize any Federal control over any aspect of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law. This section shall not be construed to prohibit private, religious, or home schools from participation in programs or services under this title.

"(2) NO CHANGE IN STATE CONTROL ENCOURAGED OR REQUIRED.—Nothing in this title shall be construed to encourage or require any change in a State's treatment of any private, religious, or home school, whether or not a home school is treated as a private school or home school under State law.

"(3) NATIONAL SYSTEM OF TEACHER CERTIFICATION OR LICENSURE PROHIBITED.—Nothing in this title shall be construed to permit, allow, encourage, or authorize the Secretary to establish or support any national system of teacher certification or licensure.

"(d) RELEASE OF INFORMATION TO TEACHER PREPARATION PROGRAMS.—

"(1) IN GENERAL.—For the purpose of improving teacher preparation programs, a State educational agency shall provide to a teacher preparation program, upon the request of the teacher preparation program, any and all pertinent education-related information that—

"(A) may enable the teacher preparation program to evaluate the effectiveness of the program's graduates or the program itself; and

"(B) is possessed, controlled, or accessible by the State educational agency.

"(2) CONTENT OF INFORMATION.—The information described in paragraph (1)—

"(A) shall include an identification of specific individuals who graduated from the teacher preparation program to enable the teacher preparation program to evaluate the information provided to the program from the State educational agency with the program's own data about the specific courses taken by, and field experiences of, the individual graduates; and

"(B) may include—

"(i) kindergarten through grade 12 academic achievement and demographic data, without individual identifying information, for students who have been taught by graduates of the teacher preparation program; and

"(ii) teacher effectiveness evaluations for teachers who graduated from the teacher preparation program.

**"SEC. 209. AUTHORIZATION OF APPROPRIATIONS.**

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years, of which—

"(1) 50 percent shall be available for each fiscal year to award grants under section 202; and

"(2) 50 percent shall be available for each fiscal year to award grants under section 203.

"(b) SPECIAL RULE.—If the Secretary determines that there is an insufficient number of meritorious applications for grants under section 202 or 203 to justify awarding the full amount described in paragraph (1) or (2) of subsection (a), respectively, the Secretary may, after funding the meritorious applications, use the remaining funds for grants under the other such section.".

## TITLE III—INSTITUTIONAL AID

### SEC. 301. PROGRAM PURPOSE.

Section 311 (20 U.S.C. 1057) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "351" and inserting "391"; and

(B) in paragraph (3)(F), by inserting ", including services that will assist in the education of special populations" before the period; and

(2) in subsection (c)—

(A) in paragraph (6), by inserting ", including innovative, customized, remedial education and English language instruction courses designed to help retain students and move the students rapidly into core courses and through program completion" before the period;

(B) by redesignating paragraphs (7) through (12) as paragraphs (8) through (13), respectively;

(C) by inserting after paragraph (6) the following:

"(7) Education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents."; and

(D) in the matter preceding subparagraph (A) of paragraph (13) (as redesignated by subparagraph (B)), by striking "subsection (c)" and inserting "subsection (b) and section 391".

**SEC. 302. DEFINITIONS; ELIGIBILITY.**

Section 312 (20 U.S.C. 1058) is amended—

(1) in subsection (b)(1)(A), by striking "subsection (c) of this section" and inserting "subsection (d)"; and

(2) in subsection (d)(2), by striking "subdivision" and inserting "paragraph".

**SEC. 303. AMERICAN INDIAN TRIBALLY CONTROLLED COLLEGES AND UNIVERSITIES.**

Section 316 (20 U.S.C. 1059c) is amended—

(1) by striking subsection (b)(3) and inserting the following:

"(3) TRIBAL COLLEGE OR UNIVERSITY.—The term 'Tribal College or University' means an institution that meets the definition of a tribally controlled college or university in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801).";

(2) in subsection (c)(2)—

(A) in subparagraph (B), by inserting before the semicolon at the end the following: "and the acquisition of real property adjacent to the campus of the institution";

(B) by redesignating subparagraphs (G), (H), (I), (J), (K), and (L) as subparagraphs (H), (I), (J), (K), (L), and (N), respectively;

(C) by inserting after subparagraph (F) the following:

"(G) education or counseling services designed to improve the financial literacy and economic literacy of students or parents of students;";

(D) in subparagraph (L) (as redesignated by subparagraph (B)), by striking "and" after the semicolon;

(E) by inserting after subparagraph (L) (as redesignated by subparagraph (B)) the following:

"(M) developing or improving facilities for Internet use or other distance learning academic instruction capabilities; and"; and

(F) in subparagraph (N) (as redesignated by subparagraph (B)), by striking "subparagraphs (A) through (K)" and inserting "subparagraphs (A) through (M)"; and

(3) by striking subsection (d) and inserting the following:

"(d) APPLICATION, PLAN, AND ALLOCATION.—

"(1) INSTITUTIONAL ELIGIBILITY.—To be eligible to receive assistance under this section, a Tribal College or University shall be an eligible institution under section 312(b).

"(2) APPLICATION.—

"(A) IN GENERAL.—A Tribal College or University desiring to receive assistance under this section shall submit an application to the Secretary at such time, and in such manner, as the Secretary may reasonably require.

"(B) STREAMLINED PROCESS.—The Secretary shall establish application requirements in such a manner as to simplify and streamline the process for applying for grants.

"(3) ALLOCATIONS TO INSTITUTIONS.—

"(A) CONSTRUCTION GRANTS.—

"(i) IN GENERAL.—Of the amount appropriated to carry out this section for any fiscal year, the Secretary may reserve 30 percent for the purpose of awarding 1-year grants of not less than $1,000,000 to address maintenance and renovation needs at eligible institutions.

"(ii) PREFERENCE.—In providing grants under clause (i), the Secretary shall give preference to eligible institutions that have not yet received an award under this section.

"(B) ALLOTMENT OF REMAINING FUNDS.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Secretary shall distribute the remaining funds appropriated for any fiscal year to each eligible institution as follows:

"(I) 60 percent of the remaining appropriated funds shall be distributed among the eligible Tribal Colleges and Universities on a pro rata basis, based on the respective Indian student counts (as defined in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)) of the Tribal Colleges and Universities; and

"(II) the remaining 40 percent shall be distributed in equal shares to eligible Tribal Colleges and Universities.

"(ii) MINIMUM GRANT.—The amount distributed to a Tribal College or University under clause (i) shall not be less than $500,000.

"(4) SPECIAL RULES.—

"(A) CONCURRENT FUNDING.—For the purposes of this part, no Tribal College or University that is eligible for and receives funds under this section shall concurrently receive funds under other provisions of this part or part B.

"(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.".

**SEC. 304. ALASKA NATIVE AND NATIVE HAWAIIAN-SERVING INSTITUTIONS.**

Section 317(c)(2) (20 U.S.C. 1059d(c)(2)) is amended—

(1) in subparagraph (G), by striking "and" after the semicolon;

(2) in subparagraph (H), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(I) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents.".

**SEC. 305. NATIVE AMERICAN-SERVING, NONTRIBAL INSTITUTIONS.**

(a) GRANT PROGRAM AUTHORIZED.—Part A of title III (20 U.S.C. 1057 et seq.) is amended by adding at the end the following:

**"SEC. 318. NATIVE AMERICAN-SERVING, NONTRIBAL INSTITUTIONS.**

"(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Native American-serving, nontribal institutions to enable such institutions to improve and expand their capacity to serve Native Americans.

"(b) DEFINITIONS.—In this section:

"(1) NATIVE AMERICAN.—The term 'Native American' means an individual who is of a tribe, people, or culture that is indigenous to the United States.

"(2) NATIVE AMERICAN-SERVING, NONTRIBAL INSTITUTION.—The term 'Native American-serving, nontribal institution' means an institution of higher education that, at the time of application—

"(A) has an enrollment of undergraduate students that is not less than 10 percent Native American students; and

"(B) is not a Tribal College or University (as defined in section 316).

"(c) AUTHORIZED ACTIVITIES.—

"(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Native American-serving, nontribal institutions to assist such institutions to plan, develop, undertake, and carry out activities to improve and expand such institutions' capacity to serve Native Americans.

"(2) EXAMPLES OF AUTHORIZED ACTIVITIES.—Such programs may include—

"(A) the purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

"(C) support of faculty exchanges, and faculty development and faculty fellowships to assist faculty in attaining advanced degrees in the faculty's field of instruction;

"(D) curriculum development and academic instruction;

"(E) the purchase of library books, periodicals, microfilm, and other educational materials;

"(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

"(G) the joint use of facilities such as laboratories and libraries; and

"(H) academic tutoring and counseling programs and student support services.

"(d) APPLICATION PROCESS.—

"(1) INSTITUTIONAL ELIGIBILITY.—A Native American-serving, nontribal institution desiring to receive assistance under this section shall submit to the Secretary such enrollment data as may be necessary to demonstrate that the institution is a Native American-serving, nontribal institution, along with such other information and data as the Secretary may by regulation require.

"(2) APPLICATIONS.—

"(A) PERMISSION TO SUBMIT APPLICATIONS.—Any institution that is determined by the Secretary to be a Native American-serving, nontribal institution may submit an application for assistance under this section to the Secretary.

"(B) SIMPLIFIED AND STREAMLINED FORMAT.—The Secretary shall, to the extent possible, prescribe a simplified and streamlined format for applications under this section that takes into account the limited number of institutions that are eligible for assistance under this section.

"(C) CONTENT.—An application submitted under subparagraph (A) shall include—

"(i) a 5-year plan for improving the assistance provided by the Native American-serving, nontribal institution to Native Americans; and

"(ii) such other information and assurances as the Secretary may require.

"(3) SPECIAL RULES.—

"(A) ELIGIBILITY.—No Native American-serving, nontribal institution that receives funds under this section shall concurrently receive funds under other provisions of this part or part B.

"(B) EXEMPTION.—Section 313(d) shall not apply to institutions that are eligible to receive funds under this section.

"(C) DISTRIBUTION.—In awarding grants under this section, the Secretary shall, to the extent possible and consistent with the competitive process under which such grants are awarded, ensure maximum and equitable distribution among all eligible institutions.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 399 (20 U.S.C. 1068h) is amended by adding at the end the following:

"(c) MINIMUM GRANT AMOUNT.—The minimum amount of a grant under this title shall be $200.000.".

### SEC. 306. PART B DEFINITIONS.

Section 322(4) (20 U.S.C. 1061(4)) is amended by inserting ", in consultation with the Commissioner for Education Statistics" before "and the Commissioner".

### SEC. 307. GRANTS TO INSTITUTIONS.

Section 323(a) (20 U.S.C. 1062(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "360(a)(2)" and inserting "399(a)(2)";

(2) by redesignating paragraphs (7) through (12) as paragraphs (8) through (13), respectively; and

(3) by inserting after paragraph (6) the following:

"(7) Education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents.".

### SEC. 308. ALLOTMENTS TO INSTITUTIONS.

Section 324 (20 U.S.C. 1063) is amended by adding at the end the following:

"(h) SPECIAL RULE ON ELIGIBILITY.—Notwithstanding any other provision of this section, a part B institution shall not receive an allotment under this section unless the part B institution provides data indicating that the part B institution—

"(1) enrolled Federal Pell Grant recipients in the preceding academic year;

"(2) in the preceding academic year, has graduated students from a program of academic study that is licensed or accredited by a nationally recognized accrediting agency or association recognized by the Secretary pursuant to part H of title IV where appropriate; and

"(3) where appropriate, has graduated students who, within the past 5 years, enrolled in graduate or professional school.".

### SEC. 309. PROFESSIONAL OR GRADUATE INSTITUTIONS.

Section 326 (20 U.S.C. 1063b) is amended—

(1) in subsection (c)—

(A) in paragraph (2), by inserting ", and for the acquisition and development of real property that is adjacent to the campus for such construction, maintenance, renovation, or improvement" after "services";

(B) by redesignating paragraphs (5) through (7) as paragraphs (7) through (9), respectively;

(C) by inserting after paragraph (4) the following:

"(5) tutoring, counseling, and student service programs designed to improve academic success;

"(6) education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents;";

(D) in paragraph (7) (as redesignated by subparagraph (B)), by striking "establish or improve" and inserting "establishing or improving";

(E) in paragraph (8) (as redesignated by subparagraph (B))—

(i) by striking "assist" and inserting "assisting"; and

(ii) by striking "and" after the semicolon;

(F) in paragraph (9) (as redesignated by subparagraph (B)), by striking the period and inserting "; and"; and

(G) by adding at the end the following:

"(10) other activities proposed in the application submitted under subsection (d) that—

"(A) contribute to carrying out the purposes of this part; and

"(B) are approved by the Secretary as part of the review and acceptance of such application.";

(2) in subsection (e)—

(A) in paragraph (1)—

(i) by inserting a colon after "the following";

(ii) in subparagraph (Q), by striking "and" at the end;

(iii) in subparagraph (R), by striking the period and inserting a semicolon; and

(iv) by adding at the end the following:

"(S) Alabama State University qualified graduate program;

"(T) Coppin State University qualified graduate program; and

"(U) Prairie View A & M University qualified graduate program.";

(B) in paragraph (2), by inserting "in law or" after "instruction";

(C) in paragraph (3), by striking "1998" and inserting "2006";

(3) in subsection (f)(3)—

(A) by striking subparagraphs (A) and (B) and inserting the following:

"(A) The amount of non-Federal funds for the fiscal year for which the determination is made that the institution or program listed in subsection (e)—

"(i) allocates from institutional resources;

"(ii) secures from non-Federal sources, including amounts appropriated by the State and amounts from the private sector; and

"(iii) will utilize to match Federal funds awarded for the fiscal year for which the determination is made under this section to the institution or program.

"(B) The number of students enrolled in the qualified graduate programs of the eligible institution or program, for which the institution or program received and allocated funding under this section in the preceding year.";

(B) in subparagraph (C), by striking "(or the equivalent) enrolled in the eligible professional or graduate school" and all that follows through the period and inserting "enrolled in the qualified programs or institutions listed in paragraph (1).";

(C) in subparagraph (D)—

(i) by striking "students" and inserting "Black American students or minority students"; and

(ii) by striking "institution" and inserting "institution or program"; and

(D) by striking subparagraph (E) and inserting the following:

"(E) The percentage that the total number of Black American students and minority students who receive their first professional, master's, or doctoral degrees from the institution or program in the academic year preceding the academic year for which the determination is made, represents of the total number of Black American students and minority students in the United States who receive their first professional, master's, or doctoral degrees in the professions or disciplines related to the course of study at such institution or program, respectively, in the preceding academic year."; and

(4) in subsection (g), by striking "1998" and inserting "2006".

### SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

Subsection (a) of section 399 (20 U.S.C. 1068h) is amended to read as follows:

"(a) AUTHORIZATIONS.—

"(1) PART A.—(A) There are authorized to be appropriated to carry out part A (other than section 316) such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 316 such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(C) There are authorized to be appropriated to carry out section 317 such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(D) There are authorized to be appropriated to carry out section 318 such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(2) PART B.—(A) There are authorized to be appropriated to carry out part B (other than section 326) such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 326 such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(3) PART C.—There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(4) PART D.—(A) There are authorized to be appropriated to carry out part D (other than section 345(7), but including section 347) such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 345(7) such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(5) PART E.—There are authorized to be appropriated to carry out part E such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

### SEC. 311. TECHNICAL CORRECTIONS.

Title III (20 U.S.C. 1051 et seq.) is further amended—

(1) in section 342(5)(C) (20 U.S.C. 1066a(5)(C)), by striking ",," and inserting ", ";

(2) in section 343(e) (20 U.S.C. 1066b(e)), by inserting "SALE OF QUALIFIED BONDS.—" before "Notwithstanding";

(3) in the matter preceding clause (i) of section 365(9)(A) (20 U.S.C. 1067k(9)(A)), by striking "support" and inserting "supports";

(4) in section 391(b)(7)(E) (20 U.S.C. 1068(b)(7)(E)), by striking "subparagraph (E)" and inserting "subparagraph (D)";

(5) in the matter preceding subparagraph (A) of section 392(b)(2) (20 U.S.C. 1068a(b)(2)), by striking "eligible institutions under part A institutions" and inserting "eligible institutions under part A"; and

(6) in the matter preceding paragraph (1) of section 396 (20 U.S.C. 1068e), by striking "360" and inserting "399".

## TITLE IV—STUDENT ASSISTANCE

## PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

### SEC. 401. FEDERAL PELL GRANTS.

Section 401 (20 U.S.C. 1070a) is amended—

(1) in subsection (a)(1)—

(A) in the first sentence, by striking "2004" and inserting "2012"; and

(B) in the second sentence, by striking ".." and inserting ".";

(2) in subsection (b)—

(A) by striking paragraph (2)(A) and inserting the following:

"(2)(A) the amount of the Federal Pell Grant for a student eligible under this part shall be—

"(i) $5.100 for academic year 2006–2007;

"(ii) $5.400 for academic year 2007–2008;

"(iii) $5.700 for academic year 2008–2009;

"(iv) $6.000 for academic year 2009–2010; and

"(v) $6.300 for academic year 2010–2011.

less an amount equal to the amount determined to be the expected family contribution with respect to that student for that year.”;

(B) by striking paragraph (3);

(C) by redesignating paragraphs (4) through (8) as paragraphs (3) through (7), respectively;

(D) in paragraph (4) (as redesignated by subparagraph (C)), by striking “$400, except” and all that follows through the period and inserting “10 percent of the maximum basic grant level specified in the appropriate Appropriation Act for such academic year.”; and

(E) by striking paragraph (5) (as redesignated by subparagraph (C)) and inserting the following:

“(5) In the case of a student who is enrolled, on at least a half-time basis and for a period of more than 1 academic year in a 2-year or 4-year program of instruction for which an institution of higher education awards an associate or baccalaureate degree, the Secretary shall allow such student to receive not more than 2 Federal Pell Grants during a single award year to permit such student to accelerate the student's progress toward a degree by attending additional sessions. In the case of a student receiving more than 1 Federal Pell Grant in a single award year, the total amount of Federal Pell Grants awarded to such student for the award year may exceed the basic grant level specified in the appropriate Appropriation Act for such award year.”; and

(3) in subsection (c), by adding at the end the following:

“(5) The period of time during which a student may receive Federal Pell Grants shall not exceed 18 semesters, or an equivalent period of time as determined by the Secretary pursuant to regulations, which period shall—

“(A) be determined without regard to whether the student is enrolled on a full-time basis during any portion of the period of time; and

“(B) include any period of time for which the student received a Federal Pell Grant prior to the date of enactment of the Higher Education Amendments of 2005.”.

**SEC. 402. FEDERAL TRIO PROGRAMS.**

(a) PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.—Section 402A (20 U.S.C. 1070a–11) is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by striking “4” and inserting “5”;

(ii) by striking subparagraph (A); and

(iii) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(B) by striking paragraph (3) and inserting the following:

“(3) MINIMUM GRANTS.—Unless the institution or agency requests a smaller amount, an individual grant authorized under this chapter shall be awarded in an amount that is not less than $200,000, except that an individual grant authorized under section 402G shall be awarded in an amount that is not less than $170,000.”;

(2) in subsection (c)—

(A) in paragraph (2), by striking “service delivery” and inserting “high quality service delivery, as determined under subsection (f),”;

(B) in paragraph (3)(B), by striking “is not required to” and inserting “shall not”; and

(C) in paragraph (5), by striking “campuses” and inserting “different campuses”;

(3) in subsection (e), by striking “(g)(2)” each place the term occurs and inserting “(h)(4)”;

(4) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively;

(5) by inserting after subsection (e) the following:

“(f) OUTCOME CRITERIA.—

“(1) IN GENERAL.—The Secretary, by regulation, shall establish outcome criteria for measuring, annually and for longer periods, the quality and effectiveness of programs authorized under this chapter.

“(2) USE FOR PRIOR EXPERIENCE DETERMINATION.—The outcome criteria under paragraph (1) shall be used to evaluate the programs provided by a recipient of a grant under this chapter, and the Secretary shall determine an eligible entity's prior experience of high quality service delivery, as required in subsection (c)(2), based on the outcome criteria.

“(3) CONSIDERATION OF RELEVANT DATA.—The outcome criteria under this subsection shall take into account data pertaining to secondary school completion, postsecondary education enrollment, and postsecondary education completion for low-income students, first generation college students, and individuals with disabilities, in the schools and institutions of higher education served by the program to be evaluated.

“(4) CONTENTS OF OUTCOME CRITERIA.—The outcome criteria shall include the following:

“(A) For programs authorized under section 402B, whether the eligible entity met or exceeded the entity's objectives established in the entity's application for such program regarding—

“(i) the delivery of service to a total number of students served by the program;

“(ii) the continued secondary school enrollment of such students;

“(iii) the graduation of such students from secondary school; and

“(iv) the enrollment of such students in an institution of higher education.

“(B) For programs authorized under section 402C, whether the eligible entity met or exceeded its objectives for such program regarding—

“(i) the delivery of service to a total number of students served by the program, as agreed upon by the entity and the Secretary for the period;

“(ii) such students' school performance, as measured by the grade point average, or its equivalent;

“(iii) such students' academic performance, as measured by standardized tests, including tests required by the students' State;

“(iv) the retention in, and graduation from, secondary school of such students; and

“(v) the enrollment of such students in an institution of higher education.

“(C) For programs authorized under section 402D—

“(i) whether the eligible entity met or exceeded the entity's objectives regarding the retention in postsecondary education of the students served by the program;

“(ii)(I) in the case of an entity that is an institution of higher education offering a baccalaureate degree, the extent to which the entity met or exceeded the entity's objectives regarding such students' completion of the degree programs in which such students were enrolled; or

“(II) in the case of an entity that is an institution of higher education that does not offer a baccalaureate degree, the extent to which the entity met or exceeded the entity's objectives regarding—

“(aa) the completion of a degree or certificate by such students; and

“(bb) the transfer of such students to institutions of higher education that offer baccalaureate degrees;

“(iii) whether the entity met or exceeded the entity's objectives regarding the delivery of service to a total number of students, as agreed upon by the entity and the Secretary for the period; and

“(iv) whether the applicant met or exceeded the entity's objectives regarding such students remaining in good academic standing.

“(D) For programs authorized under section 402E, whether the entity met or exceeded the entity's objectives for such program regarding—

“(i) the delivery of service to a total number of students, as agreed upon by the entity and the Secretary for the period;

“(ii) the provision of appropriate scholarly and research activities for the students served by the program;

“(iii) the acceptance and enrollment of such students in graduate programs; and

“(iv) the attainment of doctoral degrees by former program participants.

“(E) For programs authorized under section 402F, whether the entity met or exceeded the entity's objectives for such program regarding—

“(i) the enrollment of students without a secondary school diploma or its recognized equivalent, who were served by the program, in programs leading to such diploma or equivalent;

“(ii) the enrollment of secondary school graduates who were served by the program in programs of postsecondary education;

“(iii) the delivery of service to a total number of students, as agreed upon by the entity and the Secretary for the period; and

“(iv) the provision of assistance to students served by the program in completing financial aid applications and college admission applications.”;

(6) in subsection (g) (as redesignated by paragraph (4))—

(A) in the first sentence, by striking “$700,000,000 for fiscal year 1999” and all that follows through the period and inserting “such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.”; and

(B) by striking the fourth sentence; and

(7) in subsection (h) (as redesignated by paragraph (4))—

(A) by redesignating paragraphs (1) through (4) as paragraphs (3) through (6), respectively;

(B) by inserting before paragraph (3) (as redesignated by subparagraph (A)) the following:

“(1) DIFFERENT CAMPUS.—The term ‘different campus’ means a site of an institution of higher education that—

“(A) is geographically apart from the main campus of the institution;

“(B) is permanent in nature; and

“(C) offers courses in educational programs leading to a degree, certificate, or other recognized educational credential.

“(2) DIFFERENT POPULATION.—The term ‘different population’ means a group of individuals, with respect to whom an eligible entity desires to serve through an application for a grant under this chapter, that—

“(A) is separate and distinct from any other population that the entity has applied for a grant under this chapter to serve; or

“(B) while sharing some of the same needs as another population that the eligible entity has applied for a grant under this chapter to serve, has distinct needs for specialized services.”;

(C) in paragraph (5) (as redesignated by subparagraph (A))—

(i) in subparagraph (A), by striking “or” after the semicolon;

(ii) in subparagraph (B), by striking the period at the end and inserting "; or"; and

(iii) by adding at the end the following:

"(C) was a member of a reserve component of the Armed Forces called to active duty for a period of more than 180 days."; and

(D) in paragraph (6), by striking "subparagraph (A) or (B) of paragraph (3)" and inserting "subparagraph (A), (B), or (C) of paragraph (5)".

(b) Talent Search.—Section 402B (20 U.S.C. 1070a–12) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "to identify qualified youths with potential for education at the postsecondary level and to encourage such youths" and inserting "to encourage eligible youths";

(B) in paragraph (2), by inserting ", and facilitate the application for," after "the availability of"; and

(C) in paragraph (3), by striking ", but who have the ability to complete such programs, to reenter" and inserting "to enter or reenter, and complete";

(2) by redesignating subsection (c) as subsection (d);

(3) by striking subsection (b) and inserting the following:

"(b) Required Services.—Any project assisted under this section shall provide—

"(1) academic tutoring, or connections to high quality academic tutoring services, to enable students to complete secondary or postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

"(2) advice and assistance in secondary course selection and, if applicable, initial postsecondary course selection;

"(3) assistance in preparing for college entrance examinations and completing college admission applications;

"(4)(A) information on both the full range of Federal student financial aid programs (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

"(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a);

"(5) guidance on and assistance in—

"(A) secondary school reentry;

"(B) alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma;

"(C) entry into general educational development (GED) programs; or

"(D) postsecondary education; and

"(6) education or counseling services designed to improve the financial literacy and economic literacy of students or their parents, including financial planning for postsecondary education.

"(c) Permissible Services.—Any project assisted under this section may provide services such as—

"(1) personal and career counseling or activities;

"(2) information and activities designed to acquaint youths with the range of career options available to the youths;

"(3) exposure to the campuses of institutions of higher education, as well as cultural events, academic programs, and other sites or activities not usually available to disadvantaged youth;

"(4) workshops and counseling for families of students served;

"(5) mentoring programs involving elementary or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons; and

"(6) programs and activities as described in subsection (b) or paragraphs (1) through (5) of this subsection that are specially designed for students who are limited English proficient, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), or students who are in foster care or are aging out of the foster care system."; and

(4) in the matter preceding paragraph (1) of subsection (d) (as redesignated by paragraph (2)), by striking "talent search projects under this chapter" and inserting "projects under this section".

(c) Upward Bound.—Section 402C (20 U.S.C. 1070a–13) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) Required Services.—Any project assisted under this section shall provide—

"(1) academic tutoring to enable students to complete secondary or postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

"(2) advice and assistance in secondary and postsecondary course selection;

"(3) assistance in preparing for college entrance examinations and completing college admission applications;

"(4)(A) information on both the full range of Federal student financial aid programs (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

"(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a);

"(5) guidance on and assistance in—

"(A) secondary school reentry;

"(B) alternative education programs for secondary school dropouts that lead to the receipt of a regular secondary school diploma;

"(C) entry into general educational development (GED) programs; or

"(D) postsecondary education; and

"(6) education or counseling services designed to improve the financial literacy and economic literacy of students, including financial planning for postsecondary education.";

(2) in subsection (c)—

(A) in the subsection heading, by striking "Required Services" and inserting "Additional Required Services for Multiple-Year Grant Recipients"; and

(B) by striking "upward bound project assisted under this chapter" and inserting "project assisted under this section";

(3) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(4) by inserting after subsection (c) the following:

"(d) Permissible Services.—Any project assisted under this section may provide such services as—

"(1) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(2) information, activities and instruction designed to acquaint youths participating in the project with the range of career options available to the youths;

"(3) on-campus residential programs;

"(4) mentoring programs involving elementary school or secondary school teachers or counselors, faculty members at institutions of higher education, students, or any combination of such persons;

"(5) work-study positions where youth participating in the project are exposed to careers requiring a postsecondary degree;

"(6) special services to enable veterans to make the transition to postsecondary education; and

"(7) programs and activities as described in subsection (b), subsection (c), or paragraphs (1) through (6) of this subsection that are specially designed for students who are limited English proficient, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), or students who are in foster care or are aging out of the foster care system.";

(5) in the matter preceding paragraph (1) of subsection (e) (as redesignated by paragraph (3)), by striking "upward bound projects under this chapter" and inserting "projects under this section"; and

(6) in subsection (f) (as redesignated by paragraph (3))—

(A) by striking "during June, July, and August" each place the term occurs and inserting "during the summer school recess, for a period not to exceed 3 months"; and

(B) by striking "(b)(10)" and inserting "(d)(5)".

(d) Student Support Services.—Section 402D (20 U.S.C. 1070a–14) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "and" after the semicolon;

(B) by striking paragraph (3) and inserting the following:

"(3) to foster an institutional climate supportive of the success of low-income and first generation college students, students with disabilities, students who are limited English proficient, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), and students who are in foster care or are aging out of the foster care system."; and

(C) by adding at the end the following:

"(4) to improve the financial literacy and economic literacy of students, including—

"(A) basic personal income, household money management, and financial planning skills; and

"(B) basic economic decisionmaking skills.";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e);

(3) by striking subsection (b) and inserting the following:

"(b) Required Services.—A project assisted under this section shall provide—

"(1) academic tutoring to enable students to complete postsecondary courses, which may include instruction in reading, writing, study skills, mathematics, science, and other subjects;

"(2) advice and assistance in postsecondary course selection;

"(3)(A) information on both the full range of Federal student financial aid programs (including Federal Pell Grant awards and loan forgiveness) and resources for locating public and private scholarships; and

"(B) assistance in completing financial aid applications, including the Free Application for Federal Student Aid described in section 483(a);

"(4) education or counseling services designed to improve the financial literacy and economic literacy of students, including financial planning for postsecondary education;

"(5) activities designed to assist students participating in the project in securing college admission and financial assistance for enrollment in graduate and professional programs; and

"(6) activities designed to assist students enrolled in 2-year institutions of higher education in securing admission and financial assistance for enrollment in a 4-year program of postsecondary education.

"(c) Permissible Services.—A project assisted under this section may provide services such as—

"(1) consistent, individualized personal, career, and academic counseling, provided by assigned counselors;

"(2) information, activities, and instruction designed to acquaint youths participating in the project with the range of career options available to the students;

"(3) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(4) activities designed to acquaint students participating in the project with the range of career options available to the students;

"(5) mentoring programs involving faculty or upper class students, or a combination thereof;

"(6) securing temporary housing during breaks in the academic year for students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)) or were formerly homeless children and youths and students who are in foster care or are aging out of the foster care system; and

"(7) programs and activities as described in subsection (b) or paragraphs (1) through (5) of this subsection that are specially designed for students who are limited English proficient, students with disabilities, students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)) or were formerly homeless children and youths, or students who are in foster care or are aging out of the foster care system.";

(4) in subsection (d)(1) (as redesignated by paragraph (2)), by striking "subsection (b)" and inserting "subsection (c)"; and

(5) in the matter preceding paragraph (1) of subsection (e) (as redesignated by paragraph (2)), by striking "student support services projects under this chapter" and inserting "projects under this section".

(e) Postbaccalaureate Achievement Program Authority.—Section 402E (20 U.S.C. 1070a-15) is amended—

(1) in subsection (b)—

(A) in the subsection heading, by inserting "Required" before "Services";

(B) in the matter preceding paragraph (1), by striking "A postbaccalaureate achievement project assisted under this section may provide services such as—" and inserting "A project assisted under this section shall provide—";

(C) in paragraph (5), by inserting "and" after the semicolon;

(D) in paragraph (6), by striking the semicolon and inserting a period; and

(E) by striking paragraphs (7) and (8);

(2) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively;

(3) by inserting after subsection (b) the following:

"(c) Permissible Services.—A project assisted under this section may provide services such as—

"(1) education or counseling services designed to improve the financial literacy and economic literacy of students or their parents, including financial planning for postsecondary education;

"(2) mentoring programs involving faculty members at institutions of higher education, students, or any combination of such persons; and

"(3) exposure to cultural events and academic programs not usually available to disadvantaged students.";

(4) in the matter preceding paragraph (1) of subsection (d) (as redesignated by paragraph (2)), by striking "postbaccalaureate achievement";

(5) in the matter preceding paragraph (1) of subsection (f) (as redesignated by paragraph (2)), by striking "postbaccalaureate achievement project" and inserting "project under this section"; and

(6) in subsection (g) (as redesignated by paragraph (2))—

(A) by striking "402A(f)" and inserting "402A(g)"; and

(B) by striking "1993 through 1997" and inserting "2006 through 2010".

(f) Educational Opportunity Centers.—Section 402F (20 U.S.C. 1070a 16) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) to improve the financial literacy and economic literacy of students, including—

"(A) basic personal income, household money management, and financial planning skills; and

"(B) basic economic . decisionmaking skills."; and

(2) in subsection (b)—

(A) by redesignating paragraphs (5) through (10) as paragraphs (6) through (11), respectively;

(B) by inserting after paragraph (4) the following:

"(5) education or counseling services designed to improve the financial literacy and economic literacy of students or their parents;";

(C) by striking paragraph (7) (as redesignated by subparagraph (A)) and inserting the following:

"(7) individualized personal, career, and academic counseling;"; and

(D) by striking paragraph (11) (as redesignated by subparagraph (A)) and inserting the following:

"(11) programs and activities as described in paragraphs (1) through (10) that are specially designed for students who are limited English proficient, students with disabilities, or students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)), or programs and activities for students who are in foster care or are aging out of the foster care system.".

(g) Staff Development Activities.—Section 402G(b)(3) (20 U.S.C. 1070a–17(b)(3)) is amended by inserting ", including strategies for recruiting and serving students who are homeless children and youths (as such term is defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a)) and students who are in foster care or are aging out of the foster care system" before the period at the end.

(h) Reports, Evaluations, and Grants for Project Improvement and Dissemination.—Section 402H (20 U.S.C. 1070a–18) is amended—

(1) by striking the section heading and inserting "**REPORTS, EVALUATIONS, AND GRANTS FOR PROJECT IMPROVEMENT AND DISSEMINATION**.";

(2) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

(3) by inserting before subsection (b) (as redesignated by paragraph (2)) the following:

"(a) Report to Congress.—At least once every 2-year period, the Secretary shall prepare and submit to Congress a report on the outcomes achieved by the programs authorized under this chapter. Such report shall include a statement for the preceding fiscal year specifying—

"(1) the number of grants awarded during each fiscal year, and the number of individuals served by the programs carried out under such grants;

"(2) the number of entities that received grants during the fiscal year, including the number of entities that—

"(A) received a grant to carry out a program under this chapter for the fiscal year; and

"(B) had not received funding for that particular program during the previous grant cycle;

"(3) a comparison of the number and percentage of grant awards made to entities described in paragraph (2), with the number of such entities funded through discretionary grant competitions conducted by the Secretary under this chapter in the 3 grant cycles preceding the fiscal year;

"(4) information on the number of individuals served in each program authorized under this chapter; and

"(5) information on the outcomes achieved by each program authorized under this chapter, including the outcome criteria described in section 402A(f) for each program.".

### SEC. 403. GAINING EARLY AWARENESS AND READINESS FOR UNDERGRADUATE PROGRAMS.

(a) Early Intervention and College Awareness Program Authorized.—Section 404A (20 U.S.C. 1070a–21) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) Program Authorized.—The Secretary is authorized, in accordance with the requirements of this chapter, to establish a program that encourages eligible entities to provide support to eligible low-income students to assist the students in obtaining a secondary school diploma (or its recognized equivalent) and to prepare for and succeed in postsecondary education, by providing—

"(1) financial assistance, academic support, additional counseling, mentoring, outreach, and supportive services to middle school and secondary school students to reduce—

"(A) the risk of such students dropping out of school; or

"(B) the need for remedial education for such students at the postsecondary level; and

"(2) information to students and their parents about the advantages of obtaining a postsecondary education and the college financing options for the students and their parents.";

(2) by striking subsection (b)(2)(A) and inserting the following:

"(A) give priority to eligible entities that have a prior, demonstrated commitment to early intervention leading to college access through collaboration and replication of successful strategies;"; and

(3) by striking subsection (c)(2) and inserting the following:

"(2) a partnership—

"(A) consisting of—

"(i) 1 or more local educational agencies; and

"(ii) 1 or more degree granting institutions of higher education; and

"(B) which may include not less than 2 other community organizations or entities, such as businesses, professional organizations, State agencies, institutions or agencies sponsoring programs authorized under subpart 4, or other public or private agencies or organizations.".

(b) Requirements.—Section 404B (20 U.S.C. 1070a–22) is amended—

(1) by striking subsection (a) and inserting the following:—

"(a) Funding Rules.—

"(1) Distribution.—In awarding grants from the amount appropriated under section 404G for a fiscal year, the Secretary shall take into consideration—

"(A) the geographic distribution of such awards; and

"(B) the distribution of such awards between urban and rural applicants.

"(2) Special rule.—The Secretary shall annually reevaluate the distribution of funds described in paragraph (1) based on number, quality, and promise of the applications.";

(2) by striking subsections (b), (e), and (f);

(3) by redesignating subsections (c), (d), and (g) as subsections (b), (c), and (d), respectively; and

(4) by adding at the end the following:

"(e) Supplement, Not Supplant.—Grant funds awarded under this chapter shall be used to supplement, and not supplant, other Federal, State, and local funds that would otherwise be expended to carry out activities assisted under this chapter.".

(c) Application.—Section 404C (20 U.S.C. 1070a–23) is amended—

(1) in the section heading, by striking "**ELIGIBLE ENTITY PLANS**" and inserting "**APPLICATIONS**";

(2) in subsection (a)—

(A) in the subsection heading, by striking "Plan" and inserting "Application";

(B) in paragraph (1)—

(i) by striking "a plan" and inserting "an application"; and

(ii) by striking the second sentence; and

(C) by striking paragraph (2) and inserting the following:

"(2) Contents.—Each application submitted pursuant to paragraph (1) shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require. Each such application shall, at a minimum—

"(A) describe the activities for which assistance under this chapter is sought, including how the eligible entity will carry out the required activities described in section 404D(a);

"(B) describe how the eligible agency will meet the requirements of section 404E;

"(C) provide assurances that adequate administrative and support staff will be responsible for coordinating the activities described in section 404D;

"(D) ensure that activities assisted under this chapter will not displace an employee or eliminate a position at a school assisted under this chapter, including a partial displacement such as a reduction in hours, wages or employment benefits;

"(E) describe, in the case of an eligible entity described in section 404A(c)(2), how the eligible entity will define the cohorts of the students served by the eligible entity pursuant to section 404B(d), and how the eligible entity will serve the cohort through grade 12, including—

"(i) how vacancies in the program under this chapter will be filled; and

"(ii) how the eligible entity will serve students attending different secondary schools;

"(F) describe how the eligible entity will coordinate programs with other existing Federal, State, or local programs to avoid duplication and maximize the number of students served;

"(G) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this chapter; and

"(H) provide information about the activities that will be carried out by the eligible entity to support systemic changes from which future cohorts of students will benefit.";

(3) in the matter preceding subparagraph (A) of subsection (b)(1)—

(A) by striking "a plan" and inserting "an application"; and

(B) by striking "such plan" and inserting "such application"; and

(4) in subsection (c)(1), by striking the semicolon at the end and inserting "including—

"(A) the amount contributed to a student scholarship fund established under section 404E; and

"(B) the amount of the costs of administering the scholarship program under section 404E;".

(d) Activities.—Section 404D (20 U.S.C. 1070a–24) is amended to read as follows:

**"SEC. 404D. ACTIVITIES.**

"(a) Required Activities.—Each eligible entity receiving a grant under this chapter shall carry out the following:

"(1) Provide information regarding financial aid for postsecondary education to participating students in the cohort described in subsection 404B(d)(1)(A).

"(2) Encourage student enrollment in rigorous and challenging curricula and coursework, in order to reduce the need for remedial coursework at the postsecondary level.

"(3) Support activities designed to improve the number of participating students who—

"(A) obtain a secondary school diploma; and

"(B) complete applications for and enroll in a program of postsecondary education.

"(4) In the case of an eligible entity described in section 404A(c)(1), provide for the scholarships described in section 404E.

"(b) Optional Activities for States and Partnerships.—An eligible entity that receives a grant under this chapter may use grant funds to carry out 1 or more of the following activities:

"(1) Providing tutoring and supporting mentors, including adults or former participants of a program under this chapter, for eligible students.

"(2) Conducting outreach activities to recruit priority students described in subsection (d) to participate in program activities.

"(3) Providing supportive services to eligible students.

"(4) Supporting the development or implementation of rigorous academic curricula, which may include college preparatory, Advanced Placement, or International Baccalaureate programs, and providing participating students access to rigorous core courses that reflect challenging State academic standards.

"(5) Supporting dual or concurrent enrollment programs between the secondary school and institution of higher education partners of an eligible entity described in section 404A(c)(2), and other activities that support participating students in—

"(A) achieving challenging academic standards;

"(B) successfully applying for postsecondary education;

"(C) successfully applying for student financial aid; and

"(D) developing graduation and career plans.

"(6) Providing support for scholarships described in section 404E.

"(7) Introducing eligible students to institutions of higher education, through trips and school-based sessions.

"(8) Providing an intensive extended school day, school year, or summer program that offers—

"(A) additional academic classes; or

"(B) assistance with college admission applications.

"(9) Providing other activities designed to ensure secondary school completion and postsecondary education enrollment of at-risk children, such as—

"(A) the identification of at-risk children;

"(B) after-school and summer tutoring;

"(C) assistance to at-risk children in obtaining summer jobs;

"(D) academic counseling;

"(E) volunteer and parent involvement;

"(F) encouraging former or current participants of a program under this chapter to serve as peer counselors;

"(G) skills assessments;

"(H) personal counseling;

"(I) family counseling and home visits;

"(J) staff development; and

"(K) programs and activities described in this subsection that are specially designed for students who are limited English proficient.

"(10) Enabling eligible students to enroll in Advanced Placement or International Baccalaureate courses, or college entrance examination preparation courses.

"(11) Providing services to eligible students in the participating cohort described in section 404B(d)(1)(A), through the first year of attendance at an institution of higher education.

"(c) Additional Optional Activities for States.—In addition to the required activities described in subsection (a) and the optional activities described in subsection (b), an eligible entity described in section 404A(c)(1) receiving funds under this chapter may use grant funds to carry out 1 or more of the following activities:

"(1) Providing technical assistance to—

"(A) middle schools or secondary schools that are located within the State; or

"(B) partnerships described in section 404A(c)(2) that are located within the State.

"(2) Providing professional development opportunities to individuals working with eligible cohorts of students described in section 404B(d)(1)(A).

"(3) Providing strategies and activities that align efforts in the State to prepare eligible students for attending and succeeding in postsecondary education, which may include the development of graduation and career plans.

"(4) Disseminating information on the use of scientifically based research and best practices to improve services for eligible students.

"(5)(A) Disseminating information on effective coursework and support services that assist students in obtaining the goals described in subparagraph (B)(ii).

"(B) Identifying and disseminating information on best practices with respect to—

"(i) increasing parental involvement; and

"(ii) preparing students, including students with disabilities and students who are limited English proficient, to succeed academically in, and prepare financially for, postsecondary education.

"(6) Working to align State academic standards and curricula with the expectations of postsecondary institutions and employers.

"(7) Developing alternatives to traditional secondary school that give students a head start on attaining a recognized postsecondary credential (including an industry certificate, an apprenticeship, or an associate's or a bachelor's degree), including school designs that give students early exposure to college-level courses and experiences and allow students to earn transferable college credits or an associate's degree at the same time as a secondary school diploma.

"(8) Creating community college programs for drop-outs that are personalized drop-out recovery programs that allow drop-outs to complete a regular secondary school diploma and begin college-level work.

"(d) Priority Students.—For eligible entities not using a cohort approach, the eligible entity shall treat as priority students any student in middle or secondary school who is eligible—

"(1) to be counted under section 1124(c) of the Elementary and Secondary Education Act of 1965;

"(2) for free or reduced price meals under the Richard B. Russell National School Lunch Act;

"(3) for assistance under a State program funded under part A or E of title IV of the Social Security Act (42 U.S.C. 601 et seq., 670 et seq.); or

"(4) for assistance under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.).

"(e) Allowable Providers.—In the case of eligible entities described in section 404A(c)(1), the activities required by this section may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4, and other organizations the State determines appropriate.".

(e) Scholarship Component.—Section 404E (20 U.S.C. 1070a–25) is amended—

(1) by striking subsections (e) and (f);

(2) by redesignating subsections (b), (c), and (d) as subsections (d), (f), and (g), respectively;

(3) by inserting after subsection (a) the following:

"(b) Limitation.—

"(1) In general.—Subject to paragraph (2), each eligible entity described in section 404A(c)(1) that receives a grant under this chapter shall use not less than 25 percent and not more than 50 percent of the grant funds for activities described in section 404D(c), with the remainder of such funds to be used for a scholarship program under this section.

"(2) Exception.—Notwithstanding paragraph (1), the Secretary may allow an eligible entity to use more than 50 percent of grant funds received under this chapter for such activities, if the eligible entity demonstrates that the eligible entity has another means of providing the students with the financial assistance described in this section and describes such means in the application submitted under section 404C.

"(c) Notification of Eligibility.—Each eligible entity providing scholarships under this section shall provide information on the eligibility requirements for the scholarships to all participating students upon the students' entry into the programs assisted under this chapter.";

(4) in subsection (d) (as redesignated by paragraph (2)), by striking "the lesser of" and all that follows through the period at the end of paragraph (2) and inserting "the minimum Federal Pell Grant award under section 401 for such award year.";

(5) by inserting after subsection (d) (as redesignated by paragraph (2) and amended by paragraph (4)) the following:

"(e) Portability of Assistance.—

"(1) In general.—Each eligible entity described in section 404A(c)(1) that receives a grant under this chapter shall create or organize a trust for each cohort described in section 404B(d)(1)(A) for which the grant is sought in the application submitted by the entity, which trust shall be an amount that is not less than the minimum scholarship amount described in subsection (d), multiplied by the number of students participating in the cohort.

"(2) Requirement for portability.—Funds contributed to the trust for a cohort shall be available to a student in the cohort when the student has—

"(A) completed a secondary school diploma, its recognized equivalent, or other recognized alternative standard for individuals with disabilities; and

"(B) enrolled in an institution of higher education.

"(3) Qualified educational expenses.—Funds available to an eligible student from a trust may be used for—

"(A) tuition, fees, books, supplies, and equipment required for the enrollment or attendance of the eligible student at an institution of higher education; and

"(B) in the case of an eligible student with special needs, expenses for special needs services which are incurred in connection with such enrollment or attendance.

"(4) Return of funds.—

"(A) Redistribution.—

"(i) In general.—Trust funds that are not used by an eligible student within 6 years of the student's scheduled completion of secondary school may be redistributed by the eligible entity to other eligible students.

"(ii) Return of excess to the Secretary.—If, after meeting the requirements of paragraph (1) and, if applicable, redistributing excess funds in accordance with clause (i), an eligible entity has funds remaining, the eligible entity shall return excess funds to the Secretary for distribution to other grantees under this chapter.

"(B) Nonparticipating entity.—Notwithstanding subparagraph (A), in the case of an eligible entity described in section 404A(c)(1)(A) that does not receive assistance under this subpart for 6 fiscal years, the eligible entity shall return any trust funds not awarded or obligated to eligible students to the Secretary for distribution to other grantees under this chapter."; and

(6) in subsection (g) (as redesignated by paragraph (2))—

(A) in paragraph (2), by striking "1993" and inserting "2000"; and

(B) in paragraph (4), by striking "early intervention component required under section 404D" and inserting "activities required under section 404D(a)".

(f) Repeal of 21st Century Scholar Certificates.—Chapter 2 of subpart 2 of part A of title IV (20 U.S.C. 1070a-21 et seq.) is further amended—

(1) by striking section 404F; and

(2) by redesignating sections 404G and 404H as sections 404F and 404G, respectively.

(g) Authorization of Appropriations.—Section 404G (as redesignated by subsection (f)) (20 U.S.C. 1070a–28) is amended by striking "$200,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

(h) Conforming Amendments.—Chapter 2 of subpart 2 of part A of title IV (20 U.S.C. 1070a-21 et seq.) is further amended—

(1) in section 404A(b)(1), by striking "404H" and inserting "404G";

(2) in section 404B(a)(1), by striking "404H" and inserting "404G"; and

(3) in section 404F(c) (as redesignated by section 6(2)), by striking "404H" and inserting "404G".

### SEC. 404. ACADEMIC ACHIEVEMENT INCENTIVE SCHOLARSHIPS.

Chapter 3 of subpart 2 of part A of title IV (20 U.S.C. 1070a-31 et seq.) is repealed.

### SEC. 405. FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS.

(a) Appropriations Authorized.—Section 413A(b)(1) (20 U.S.C. 1070b(b)(1)) is amended by striking "$675,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

(b) Allocation of Funds.—

(1) Allocation of funds.—Section 413D (20 U.S.C. 1070b-3) is amended—

(A) by striking subsection (a)(4); and

(B) in subsection (c)(3)(D), by striking "$450" and inserting "$600".

(2) Technical correction.—Section 413D(a)(1) (20 U.S.C. 1070b-3(a)(1)) is amended by striking "such institution" and all that follows through the period and inserting "such institution received under subsections (a) and (b) of this section for fiscal year 1999 (as such subsections were in effect with respect to allocations for such fiscal year).".

### SEC. 406. LEVERAGING EDUCATIONAL ASSISTANCE PARTNERSHIP PROGRAM.

(a) Appropriations Authorized.—Section 415A(b)(1) (20 U.S.C. 1070c(b)(1)) is amended to read as follows:

"(1) In general.—There are authorized to be appropriated to carry out this subpart such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

(b) Applications.—Section 415C(b) (20 U.S.C. 1070c-2(b)) is amended—

(1) in the matter preceding subparagraph (A) of paragraph (2), by striking "not in excess of $5,000 per academic year" and inserting "not to exceed the lesser of $12,500 or the student's cost of attendance per academic year"; and

(2) by striking paragraph (10) and inserting the following:

"(10) provides notification to eligible students that such grants are—

"(A) Leveraging Educational Assistance Partnership grants; and

"(B) funded by the Federal Government, the State, and other contributing partners.".

(c) Grants for Access and Persistence.—Section 415E (20 U.S.C. 1070c-3a) is amended to read as follows:

### "SEC. 415E. GRANTS FOR ACCESS AND PERSISTENCE.

"(a) Purpose.—It is the purpose of this section to expand college access and increase college persistence by making allotments to States to enable the States to—

"(1) expand and enhance partnerships with institutions of higher education, early information and intervention, mentoring, or outreach programs, private corporations, philanthropic organizations, and other interested parties in order to—

"(A) carry out activities under this section; and

"(B) provide coordination and cohesion among Federal, State, and local governmental and private efforts that provide financial assistance to help low-income students attend an institution of higher education;

"(2) provide need-based grants for access and persistence to eligible low-income students;

"(3) provide early notification to low-income students of the students' eligibility for financial aid; and

"(4) encourage increased participation in early information and intervention, mentoring, or outreach programs.

"(b) Allotments to States.—

"(1) In general.—

"(A) Authorization.—From sums reserved under section 415A(b)(2) for each fiscal year, the Secretary shall make an allotment to each State that submits an application for an allotment in accordance with subsection (c) to enable the State to pay the Federal share, as described in paragraph (2), of the cost of carrying out the activities under subsection (d).

"(B) Determination of allotment.—In making allotments under subparagraph (A), the Secretary shall consider the following:

"(i) Continuation of award.—If a State continues to meet the specifications established in such State's application under subsection (c), the Secretary shall make an allotment to such State that is not less than the allotment made to such State for the previous fiscal year.

"(ii) Priority.—The Secretary shall give priority in making allotments to States that meet the requirements described in paragraph (2)(A)(ii).

"(2) Federal share.—

"(A) In general.—The Federal share under this section shall be determined in accordance with the following:

"(i) If a State applies for an allotment under this section in partnership with—

"(I) any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents less than a majority of all students attending institutions of higher education in the State; and

"(II)(aa) philanthropic organizations that are located in, or that provide funding in, the State; or

"(bb) private corporations that are located in, or that do business in, the State,

then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 50 percent.

"(ii) If a State applies for an allotment under this section in partnership with—

"(I) any number of degree granting institutions of higher education in the State whose combined full-time enrollment represents a majority of all students attending institutions of higher education in the State; and

"(II)(aa) philanthropic organizations that are located in, or that provide funding in, the State; or

"(bb) private corporations that are located in, or that do business in, the State,

then the Federal share of the cost of carrying out the activities under subsection (d) shall be equal to 57 percent.

"(B) Non-federal share.—

"(i) In general.—The non-Federal share under this section may be provided in cash or in kind, fully evaluated and in accordance with this subparagraph.

"(ii) In kind contribution.—For the purpose of calculating the non-Federal share under this section, an in kind contribution is a non-cash award that has monetary value, such as provision of room and board and transportation passes, and that helps a student meet the cost of attendance.

"(iii) Effect on need analysis.—For the purpose of calculating a student's need in accordance with part F of this title, an in-kind contribution described in clause (ii) shall be considered a resource and not a reduction in the cost of attendance.

"(c) Application for Allotment.—

"(1) In general.—

"(A) Submission.—A State that desires to receive an allotment under this section on behalf of a partnership described in paragraph (3) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) Content.—An application submitted under subparagraph (A) shall include the following:

"(i) A description of the State's plan for using the allotted funds.

"(ii) Assurances that the State will provide the non-Federal share from State, institutional, philanthropic, or private funds, of not less than the required share of the cost of carrying out the activities under subsection (d), as determined under subsection (b), in accordance with the following:

"(I) The State shall specify the methods by which non-Federal share funds will be paid and include provisions designed to ensure that funds provided under this section will be used to supplement, and not supplant, Federal and non-Federal funds available for carrying out the activities under this title.

"(II) A State that uses non-Federal funds to create or expand existing partnerships with nonprofit organizations or community-based organizations in which such organizations match State funds for student scholarships, may apply such matching funds from such organizations toward fulfilling the State's non-Federal share obligation under this clause.

"(iii) Assurances that early information and intervention, mentoring, or outreach programs exist within the State or that there is a plan to make such programs widely available.

"(iv) A description of the organizational structure that the State has in place to administer the activities under subsection (d), including a description of the system the State will use to track the participation of students who receive grants under this section to degree completion.

"(v) Assurances that the State has a method in place, such as acceptance of the automatic zero expected family contribution determination described in section 479, to identify eligible low-income students and award State grant aid to such students.

"(vi) Assurances that the State will provide notification to eligible low-income students that grants under this section are—

"(I) Leveraging Educational Assistance Partnership Grants; and

"(II) funded by the Federal Government, the State, and other contributing partners.

"(2) State agency.—The State agency that submits an application for a State under section 415C(a) shall be the same State agency that submits an application under paragraph (1) for such State.

"(3) Partnership.—In applying for an allotment under this section, the State agency shall apply for the allotment in partnership with—

"(A) not less than 1 public and 1 private degree granting institution of higher education that are located in the State, if applicable;

"(B) new or existing early information and intervention, mentoring, or outreach programs located in the State; and

"(C) not less than 1—

"(i) philanthropic organization located in, or that provides funding in, the State; or

"(ii) private corporation located in, or that does business in, the State.

"(4) Roles of partners.—

"(A) State agency.—A State agency that is in a partnership receiving an allotment under this section—

"(i) shall—

"(I) serve as the primary administrative unit for the partnership;

"(II) provide or coordinate non-Federal share funds, and coordinate activities among partners;

"(III) encourage each institution of higher education in the State to participate in the partnership;

"(IV) make determinations and early notifications of assistance as described under subsection (d)(2); and

"(V) annually report to the Secretary on the partnership's progress in meeting the purpose of this section; and

"(ii) may provide early information and intervention, mentoring, or outreach programs.

"(B) Degree granting institutions of higher education.—A degree granting institution of higher education that is in a partnership receiving an allotment under this section—

"(i) shall—

"(I) recruit and admit participating qualified students and provide such additional institutional grant aid to participating students as agreed to with the State agency;

"(II) provide support services to students who receive grants for access and persistence under this section and are enrolled at such institution; and

"(III) assist the State in the identification of eligible students and the dissemination of early notifications of assistance as agreed to with the State agency; and

"(ii) may provide funding for early information and intervention, mentoring, or outreach programs or provide such services directly.

"(C) Programs.—An early information and intervention, mentoring, or outreach program that is in a partnership receiving an allotment under this section shall provide direct services, support, and information to participating students.

"(D) Philanthropic organization or private corporation.—A philanthropic organization or private corporation that is in a partnership receiving an allotment under this section shall provide funds for grants for access and persistence for participating students, or provide funds or support for early information and intervention, mentoring, or outreach programs.

"(d) Authorized Activities.—

"(1) In general.—

"(A) Establishment of partnership.—Each State receiving an allotment under this section shall use the funds to establish a partnership to award grants for access and persistence to eligible low-income students in order to increase the amount of financial assistance such students receive under this subpart for undergraduate education expenses.

"(B) AMOUNT OF GRANTS.—

"(i) PARTNERSHIPS WITH INSTITUTIONS SERVING LESS THAN A MAJORITY OF STUDENTS IN THE STATE.—

"(I) IN GENERAL.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(i), the amount of a grant for access and persistence awarded by such State shall be not less than the amount that is equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, work study amount, and scholarship amount received by the student), and such amount shall be used toward the cost of attendance at an institution of higher education, located in the State, that is a partner in the partnership.

"(II) COST OF ATTENDANCE.—A State that has a program, apart from the partnership under this section, of providing eligible low-income students with grants that are equal to the average undergraduate tuition and mandatory fees at 4-year public institutions of higher education in the State, may increase the amount of access and persistence grants awarded by such State up to an amount that is equal to the average cost of attendance at 4-year public institutions of higher education in the State (less any other Federal or State sponsored grant amount, work study amount, and scholarship amount received by the student).

"(ii) PARTNERSHIP WITH INSTITUTIONS SERVING THE MAJORITY OF STUDENTS IN THE STATE.—In the case where a State receiving an allotment under this section is in a partnership described in subsection (b)(2)(B)(ii), the amount of an access and persistence grant awarded by such State shall be not more than an amount that is equal to the average at 4-year public institutions of higher education in the State where the student resides (less any other Federal or State sponsored grant amount, college work study amount, and scholarship amount received by the student), and such amount shall be used by the student to attend an institution of higher education, located in the State, that is a partner in the partnership.

"(2) EARLY NOTIFICATION.—

"(A) IN GENERAL.—Each State receiving an allotment under this section shall annually notify low-income students, such as students who are eligible to receive a free lunch under the school lunch program established under the Richard B. Russell National School Lunch Act, in grade 7 through grade 12 in the State, of the students' potential eligibility for student financial assistance, including an access and persistence grant, to attend an institution of higher education.

"(B) CONTENT OF NOTICE.—The notification under subparagraph (A)—

"(i) shall include—

"(I) information about early information and intervention, mentoring, or outreach programs available to the student;

"(II) information that a student's candidacy for an access and persistence grant is enhanced through participation in an early information and intervention, mentoring, or outreach program;

"(III) an explanation that student and family eligibility and participation in other Federal means-tested programs may indicate eligibility for an access and persistence grant and other student aid programs;

"(IV) a nonbinding estimation of the total amount of financial aid a low-income student with a similar income level may expect to receive, including an estimation of the amount of an access and persistence grant and an estimation of the amount of grants, loans, and all other available types of aid from the major Federal and State financial aid programs;

"(V) an explanation that in order to be eligible for an access and persistence grant, at a minimum, a student shall—

"(aa) meet the requirement under paragraph (3);

"(bb) graduate from secondary school; and

"(cc) enroll at an institution of higher education that is a partner in the partnership;

"(VI) information on any additional requirements (such as a student pledge detailing student responsibilities) that the State may impose for receipt of an access and persistence grant under this section; and

"(VII) instructions on how to apply for an access and persistence grant and an explanation that a student is required to file a Free Application for Federal Student Aid authorized under section 483(a) to be eligible for such grant and assistance from other Federal and State financial aid programs; and

"(ii) may include a disclaimer that access and persistence grant awards are contingent upon—

"(I) a determination of the student's financial eligibility at the time of the student's enrollment at an institution of higher education that is a partner in the partnership;

"(II) annual Federal and State appropriations; and

"(III) other aid received by the student at the time of the student's enrollment at an institution of higher education that is a partner in the partnership.

"(3) ELIGIBILITY.—In determining which students are eligible to receive access and persistence grants, the State shall ensure that each such student meets not less than 1 of the following:

"(A) Meets not less than 2 of the following criteria, with priority given to students meeting all of the following criteria:

"(i) Has an expected family contribution equal to zero (as described in section 479) or a comparable alternative based upon the State's approved criteria in section 415C(b)(4).

"(ii) Has qualified for a free lunch, or at the State's discretion a reduced price lunch, under the school lunch program established under the Richard B. Russell National School Lunch Act.

"(iii) Qualifies for the State's maximum undergraduate award, as authorized under section 415C(b).

"(iv) Is participating in, or has participated in, a Federal, State, institutional, or community early information and intervention, mentoring, or outreach program, as recognized by the State agency administering activities under this section.

"(B) Is receiving, or has received, an access and persistence grant under this section, in accordance with paragraph (5).

"(4) GRANT AWARD.—Once a student, including those students who have received early notification under paragraph (2) from the State, applies for admission to an institution that is a partner in the partnership, files a Free Application for Federal Student Aid and any related existing State form, and is determined eligible by the State under paragraph (3), the State shall—

"(A) issue the student a preliminary access and persistence grant award certificate with tentative award amounts; and

"(B) inform the student that payment of the access and persistence grant award amounts is subject to certification of enrollment and award eligibility by the institution of higher education.

"(5) DURATION OF AWARD.—An eligible student that receives an access and persistence grant under this section shall receive such grant award for each year of such student's undergraduate education in which the student remains eligible for assistance under this title, including pursuant to section 484(c), and remains financially eligible as determined by the State, except that the State may impose reasonable time limits to baccalaureate degree completion.

"(e) USE OF FUNDS FOR ADMINISTRATIVE COSTS PROHIBITED.—A State that receives an allotment under this section shall not use any of the allotted funds to pay administrative costs associated with any of the authorized activities described in subsection (d).

"(f) STATUTORY AND REGULATORY RELIEF FOR INSTITUTIONS OF HIGHER EDUCATION.—The Secretary may grant, upon the request of an institution of higher education that is in a partnership described in subsection (b)(2)(B)(ii) and that receives an allotment under this section, a waiver for such institution from statutory or regulatory requirements that inhibit the ability of the institution to successfully and efficiently participate in the activities of the partnership.

"(g) APPLICABILITY RULE.—The provisions of this subpart which are not inconsistent with this section shall apply to the program authorized by this section.

"(h) MAINTENANCE OF EFFORT REQUIREMENT.—Each State receiving an allotment under this section for a fiscal year shall provide the Secretary with an assurance that the aggregate amount expended per student or the aggregate expenditures by the State, from funds derived from non-Federal sources, for the authorized activities described in subsection (d) for the preceding fiscal year were not less than the amount expended per student or the aggregate expenditure by the State for the activities for the second preceding fiscal year.

"(i) SPECIAL RULE.—Notwithstanding subsection (h), for purposes of determining a State's share of the cost of the authorized activities described in subsection (d), the State shall consider only those expenditures from non-Federal sources that exceed the State's total expenditures for need-based grants, scholarships, and work-study assistance for fiscal year 1999 (including any such assistance provided under this subpart).

"(j) REPORTS.—Not later than 3 years after the date of enactment of the Higher Education Amendments of 2005 and annually thereafter, the Secretary shall submit a report describing the activities and the impact of the partnerships under this section to the authorizing committees.".

### SEC. 407. SPECIAL PROGRAMS FOR STUDENTS WHOSE FAMILIES ARE ENGAGED IN MIGRANT AND SEASONAL FARMWORK.

Section 418A (20 U.S.C. 1070d-2) is amended—

(1) in subsection (a), by adding "(including providing outreach and technical assistance)" after "maintain and expand";

(2) in subsection (b)—

(A) in paragraph (1)(B)(i), by striking "parents" and inserting "immediate family";

(B) in paragraph (3)(B), by inserting "(including preparation for college entrance examinations)" after "college program";

(C) in paragraph (5), by striking "weekly";

(D) in paragraph (7), by striking "and" after the semicolon;

(E) in paragraph (8), by striking the period at the end and inserting "; and"; and

(F) by adding at the end the following:

"(9) other activities to improve persistence and retention in postsecondary education.";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in subparagraph (B)—

(I) in the matter preceding clause (i), by inserting "to improve placement, persistence, and retention in postsecondary education" after "services"; and

(II) in clause (i), by striking "and career" and inserting "career, and economic education or personal finance";

(ii) in subparagraph (E), by striking "and" after the semicolon;

(iii) by redesignating subparagraph (F) as subparagraph (G); and

(iv) by inserting after subparagraph (E) the following:

"(F) internships; and"; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "and" after the semicolon;

(ii) in subparagraph (B), by striking the period at the end and inserting ", and coordinating such services, assistance, and aid with other non-program services, assistance, and aid, including services, assistance, and aid provided by community-based organizations, which may include mentoring and guidance; and"; and

(iii) by adding at the end the following:

"(C) for students attending 2-year institutions of higher education, encouraging the students to transfer to 4-year institutions of higher education, where appropriate, and monitoring the rate of transfer of such students.";

(4) in subsection (e), by striking "section 402A(c)(1)" and inserting "section 402A(c)(2)";

(5) in subsection (f)—

(A) in paragraph (1), by striking "$150,000" and inserting "$180,000"; and

(B) in paragraph (2), by striking "$150,000" and inserting "$180,000"; and

(6) in subsection (h)—

(A) in paragraph (1), by striking "$15,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years."; and

(B) in paragraph (2), by striking "$5,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

### SEC. 408. ROBERT C. BYRD HONORS SCHOLARSHIP PROGRAM.

Section 419K (20 U.S.C. 1070d–41) is amended by striking "$45,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

### SEC. 409. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL.

(a) MINIMUM GRANT.—Section 419N(b)(2)(B) (20 U.S.C. 1070e(b)(2)(B)) is amended—

(1) by striking "A grant" and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (ii), a grant"; and

(2) by adding at the end the following:

"(ii) INCREASE TRIGGER.—For any fiscal year for which the amount appropriated under the authority of subsection (g) is equal to or greater than $20,000,000, a grant under this section shall be awarded in an amount that is not less than $30,000.".

(b) DEFINITION OF LOW-INCOME STUDENT.—Paragraph (7) of section 419N(b) (20 U.S.C. 1070e(b)) is amended to read as follows:

"(7) DEFINITION OF LOW-INCOME STUDENT.—For the purpose of this section, the term 'low-income student' means a student who—

"(A) is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made; or

"(B) would otherwise be eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made, except that the student fails to meet the requirements of—

"(i) section 401(c)(1) because the student is enrolled in a graduate or first professional course of study; or

"(ii) section 484(a)(5) because the student is in the United States for a temporary purpose.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 419N(g) (20 U.S.C. 1070e(g)) is amended by striking "$45,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

### SEC. 410. LEARNING ANYTIME ANYWHERE PARTNERSHIPS.

Subpart 8 of part A of title IV (20 U.S.C. 1070f et seq.) is repealed.

## PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM

### SEC. 421. EXTENSION OF AUTHORITIES.

(a) FEDERAL INSURANCE LIMITATIONS.—Section 424(a) (20 U.S.C. 1074(a)) is amended—

(1) by striking "2004" and inserting "2012"; and

(2) by striking "2008" and inserting "2016".

(b) GUARANTEED LOANS.—Section 428(a)(5) (20 U.S.C. 1078(a)(5)) is amended—

(1) by striking "2004" and inserting "2012"; and

(2) by striking "2008" and inserting "2016".

(3) CONSOLIDATION LOANS.—Section 428C(e) (20 U.S.C. 1078–3(e)) is amended by striking "2004" and inserting "2012".

### SEC. 422. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.

Section 428 (20 U.S.C. 1078) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (N)—

(i) in clause (i), by striking "or" after the semicolon; and

(ii) by striking clause (ii) and inserting the following:

"(ii) in the case of a student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, are, at the request of the student, disbursed directly to the student by the means described in clause (i), unless such student requests that the check be endorsed, or the funds transfer be authorized, pursuant to an authorized power-of-attorney; or

"(iii) in the case of a student who is studying outside the United States in a program of study at an eligible foreign institution, are, at the request of the foreign institution, disbursed directly to the student by the means described in clause (i):"; and

(B) in subparagraph (Y)(i)(III), by inserting ", except that, if requested by an institution of higher education, the lender shall confirm such status through use of the National Student Loan Data System" before the semicolon; and

(2) in subsection (c)(2)(H)(i), by striking "preclaims" and inserting "default aversion".

### SEC. 423. FEDERAL CONSOLIDATION LOANS.

Section 428C(b)(1) (20 U.S.C. 1078–3(b)(1)) is amended—

(1) in subparagraph (E), by striking "and" after the semicolon;

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

"(F) that the lender will disclose, in a clear and conspicuous manner, to borrowers who consolidate loans made under part E of this title—

"(i) that once the borrower adds the borrower's Federal Perkins Loan to a Federal Consolidation Loan, the borrower will lose all interest-free periods that would have been available, such as those periods when no interest accrues on the Federal Perkins Loan while the borrower is enrolled in school at least half-time, during the grace period, and during periods when the borrower's student loan repayments are deferred;

"(ii) that the borrower will no longer be eligible for loan forgiveness of Federal Perkins Loans under any provision of section 465; and

"(iii) the occupations described in section 465(a)(2), individually and in detail, for which the borrower will lose eligibility for Federal Perkins Loan forgiveness; and".

### SEC. 424. DEFAULT REDUCTION PROGRAM.

Section 428F (20 U.S.C. 1078-6) is amended by adding at the end the following:

"(c) FINANCIAL AND ECONOMIC LITERACY.—Where appropriate as determined by the institution of higher education in which a borrower is enrolled, each program described in subsection (b) shall include making available financial and economic education materials for the borrower, including making the materials available before, during, or after rehabilitation of a loan.".

### SEC. 425. REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION.

Section 430A(a) (20 U.S.C. 1080a(a)) is amended—

(1) in the first sentence, by striking "with credit bureau organizations" and inserting "with each consumer reporting agency that compiles and maintains files on consumers on a nationwide basis (as defined in section 603(q) of the Fair Credit Reporting Act (15 U.S.C. 1681a(q))";

(2) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(3) by inserting before paragraph (2) (as redesignated by paragraph (2)), the following:

"(1) the type of loan made, insured, or guaranteed under this title;";

(4) by inserting after paragraph (2) (as redesignated by paragraph (2)), the following:

"(3) information concerning the repayment status of the loan, which information shall be included in the file of the borrower, except that nothing in this paragraph shall be construed to affect any otherwise applicable provision of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.)";

(5) in paragraph (4) (as redesignated by paragraph (2)), by striking "and" after the semicolon;

(6) in paragraph (5) (as redesignated by paragraph (2)), by striking the period and inserting "; and"; and

(7) by adding at the end the following:

"(6) any other information required to be reported by Federal law.".

### SEC. 426. COMMON FORMS AND FORMATS.

Section 432(m)(1)(D)(i) (20 U.S.C. 1082(m)(1)(D)(i)) is amended by adding at the end the following: "Unless otherwise notified by the Secretary, each institution of higher education that participates in the program under this part or part D may use a master promissory note for loans under this part and part D.".

### SEC. 427. STUDENT LOAN INFORMATION BY ELIGIBLE BORROWERS.

Section 433 (20 U.S.C. 1083) is amended by adding at the end the following:

"(f) Borrower Information and Privacy.—Each eligible lender, guaranty agency, secondary market, consumer reporting agency, or student loan servicer participating in a program under this part shall not use, release, sell, transfer, or give any student information, including the name, address, social security number, or amount borrowed by a borrower or a borrower's parent, for any purpose that is not related to the processing of, the collecting of, the servicing of, or other activities associated with the prevention of default on, loans under this title.

"(g) Loan Benefit Disclosures.—

"(1) In general.—Each eligible lender, holder, or servicer of a loan made, insured, or guaranteed under this part shall provide the borrower with information on the loan benefit repayment options the lender, holder, or servicer offer, including information on reductions in interest rates—

"(A) by repaying the loan by automatic payroll or checking account deduction;

"(B) by completing a program of on-time repayment; and

"(C) under any other interest rate reduction program.

"(2) Information.—Such borrower information shall include—

"(A) any limitations on such options;

"(B) explicit information on the reasons a borrower may lose eligibility for such an option;

"(C) examples of the impact the interest rate reductions will have on a borrower's time for repayment and amount of repayment;

"(D) upon the request of the borrower, the effect the reductions in interest rates will have with respect to the borrower's payoff amount and time for repayment; and

"(E) information on borrower recertification requirements.".

### SEC. 428. CONSUMER EDUCATION INFORMATION.

Part B (20 U.S.C. 1071 et seq.) is amended by inserting after section 433 (20 U.S.C. 1083) the following:

### "SEC. 433A. CONSUMER EDUCATION INFORMATION.

"Each guaranty agency participating in a program under this part working with the institutions of higher education served by such guaranty agency (or in the case of an institution of higher education that provides loans exclusively through part D, the institution working with a guaranty agency or with the Secretary) shall develop and make available a quality educational program and materials to provide training for students in budgeting and financial management, including debt management and other aspects of financial literacy, such as the cost of using very high interest loans to pay for postsecondary education, particularly as budgeting and financial management relates to student loan programs authorized by this title. Nothing in this section shall be construed to prohibit a guaranty agency from using an existing program or existing materials to meet the requirement of this section. The activities described in this section shall be considered default reduction activities for the purposes of section 422.".

### SEC. 429. DEFINITION OF ELIGIBLE LENDER.

Section 435(d)(2) (20 U.S.C. 1085(d)(2)) is amended by striking subparagraph (F) and inserting the following:

"(F) shall use the proceeds from special allowance payments, interest payments from borrowers, proceeds from the sale of a loan made, insured, or guaranteed under this part, and all other proceeds related to such a loan that are furnished to the eligible institution or any entity affiliated (directly or indirectly) with the eligible institution, for need based grant programs, except that such payments and proceeds may be used for reasonable reimbursement for direct administrative expenses;".

### SEC. 430. REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW.

Section 437 (20 U.S.C. 1087) is amended—

(1) in the section heading, by striking "**CLOSED SCHOOLS OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW**" and inserting "**SCHOOLS THAT FAIL TO PROVIDE A REFUND, ATTENDING CLOSED SCHOOLS, OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW**"; and

(2) in the first sentence of subsection (c)(1), by inserting "or was falsely certified as a result of a crime of identity theft" after "falsely certified by the eligible institution".

## PART C—FEDERAL WORK-STUDY PROGRAMS

### SEC. 441. AUTHORIZATION OF APPROPRIATIONS.

Section 441(b) (42 U.S.C. 2751(b)) is amended by striking "$1,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

### SEC. 442. ALLOWANCE FOR BOOKS AND SUPPLIES.

Section 442(c)(4)(D) (42 U.S.C. 2752(c)(4)(D)) is amended by striking "$450" and inserting "$600".

### SEC. 443. GRANTS FOR FEDERAL WORK-STUDY PROGRAMS.

Section 443(b)(2) (42 U.S.C. 2753(b)(2)) is amended—

(1) by striking subparagraph (A);

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively; and

(3) in subparagraph (A) (as redesignated by paragraph (2)), by striking "this subparagraph if" and all that follows through "institution;" and inserting "this subparagraph if—

"(i) the Secretary determines that enforcing this subparagraph would cause hardship for students at the institution; or

"(ii) the institution certifies to the Secretary that 15 percent or more of its total full-time enrollment participates in community service activities described in section 441(c) or tutoring and literacy activities described in subsection (d) of this section;".

### SEC. 444. JOB LOCATION AND DEVELOPMENT PROGRAMS.

Section 446(a)(1) (42 U.S.C. 2756(a)(1)) is amended by striking "$50,000" and inserting "$75,000".

### SEC. 445. WORK COLLEGES.

Section 448(f) (42 U.S.C. 2756b(f)) is amended by striking "5,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

## PART D—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

### SEC. 451. FUNDS FOR ADMINISTRATIVE EXPENSES.

Section 458 (20 U.S.C. 1087h) is amended—

(1) in subsection (a)(1), in the matter following subparagraph (B), by striking "$617,000,000" and all that follows through the period and inserting "$904,000,000 in fiscal year 2006, $943,000,000 in fiscal year 2007, $983,000,000 in fiscal year 2008, $1,023,000,000 in fiscal year 2009, $1,064,000,000 in fiscal year 2010, and $1,106,000,000 in fiscal year 2011."; and

(2) in subsection (c)(1), by striking subparagraphs (A) through (E) and inserting the following:

"(A) for fiscal year 2006, shall not exceed $271,000,000;

"(B) for fiscal year 2007, shall not exceed $293,000,000;

"(C) for fiscal year 2008, shall not exceed $315,000,000;

"(D) for fiscal year 2009, shall not exceed $336,000,000;

"(E) for fiscal year 2010, shall not exceed $356,000,000; and

"(F) for fiscal year 2011, shall not exceed $378,000,000.".

## PART E—FEDERAL PERKINS LOANS

### SEC. 461. PROGRAM AUTHORITY.

Section 461(b) (20 U.S.C. 1087aa(b)) is amended—

(1) in paragraph (1), by striking "$250,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years."; and

(2) in paragraph (2),—

(A) by striking "fiscal year 2003" and inserting "fiscal year 2009"; and

(B) by striking "October 1, 2003" and inserting "October 1, 2009".

### SEC. 462. TERMS OF LOANS.

Section 464 (20 U.S.C. 1087dd) is amended—

(1) in subsection (b)(1), by striking "for an additional loan under this part" and inserting "for additional aid under this title"; and

(2) in subsection (e), by striking "written".

### SEC. 463. CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE.

Section 465(a) (20 U.S.C. 1087ee(a)) is amended—

(1) in paragraph (2)—

(A) in subparagraph (B), by striking "Head Start Act which" and inserting "Head Start Act, or in a prekindergarten or child care program that is licensed or regulated by the State, that";

(B) in subparagraph (H), by striking "or" after the semicolon;

(C) in subparagraph (I), by striking the period and inserting a semicolon; and

(D) by inserting before the matter following subparagraph (I) (as amended by subparagraph (C)) the following:

"(J) as a full-time faculty member at a tribally controlled college or university, as that term is defined in section 2 of the Tribally Controlled College or University Assistance Act of 1978; or

"(K) as a librarian, if the librarian has a master's degree in library science and is employed in—

"(i) an elementary school or secondary school library that is eligible for assistance under title I of the Elementary and Secondary Education Act of 1965; or

"(ii) a public library that serves a geographic area that contains 1 or more schools eligible for assistance under title I of the Elementary and Secondary Education Act of 1965."; and

(2) in paragraph (3)(A)(i), by striking "or (I)" and inserting "(I), (J), or (K)".

## PART F—NEED ANALYSIS

### SEC. 471. COST OF ATTENDANCE.

Section 472 (20 U.S.C. 1087ll) is amended—

(1) by striking paragraph (4) and inserting the following:

"(4) for less than half-time students (as determined by the institution), tuition and fees and an allowance for only—

"(A) books, supplies, and transportation (as determined by the institution);

"(B) dependent care expenses (determined in accordance with paragraph (8)); and

"(C) room and board costs (determined in accordance with paragraph (3)), except that a student may receive an allowance for such costs under this subparagraph for not more than 3 semesters or the equivalent, of which not more than 2 semesters or the equivalent may be consecutive;";

(2) in paragraph (11), by striking "and" after the semicolon;

(3) in paragraph (12), by striking the period and inserting "; and"; and

(4) by adding at the end the following:

"(13) at the option of the institution, for a student in a program requiring professional licensure or certification, the one time cost of obtaining the first professional credentials (as determined by the institution).".

### SEC. 472. DEFINITIONS.

(a) DEFINITIONS.—Section 480 (20 U.S.C. 1087vv) is amended—

(1) in subsection (f)—

(A) in paragraph (1), by inserting "qualified education benefits (except as provided in paragraph (3))," after "tax shelters,"; and

(B) by adding at the end the following:

"(3) A qualified education benefit shall not be considered an asset of a student for purposes of section 475.

"(4) In determining the value of assets in a determination of need under this title (other than for subpart 4 of part A), the value of a qualified education benefit shall be—

"(A) the refund value of any tuition credits or certificates purchased under a qualified education benefit; and

"(B) in the case of a program in which contributions are made to an account that is established for the purpose of meeting the qualified higher education expenses of the designated beneficiary of the account, the current balance of such account.

"(5) In this subsection:

"(A) QUALIFIED EDUCATION BENEFIT.—The term 'qualified education benefit' means—

"(i) a qualified tuition program (as defined in section 529(b)(1)(A) of the Internal Revenue Code of 1986) or other prepaid tuition plan offered by a State; and

"(ii) a Coverdell education savings account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986).

"(B) QUALIFIED HIGHER EDUCATION EXPENSES.—The term 'qualified higher education expenses' has the meaning given the term in section 529(e) of the Internal Revenue Code of 1986."; and

(2) in subsection (j)—

(A) in the subsection heading, by striking "; TUITION PREPAYMENT PLANS";

(B) by striking paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2); and

(D) by inserting after paragraph (2) (as redesignated by subparagraph (C)) the following paragraph:

"(3) Notwithstanding paragraph (1) and section 472, assistance not received under this title may be excluded from both estimated financial assistance and cost of attendance, if that assistance is designated by the State providing that assistance to offset a specific component of the cost of attendance. If that assistance is excluded from estimated financial assistance or cost of attendance, that assistance shall be excluded from both calculations.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations of need under part F of title IV for academic years beginning on or after July 1, 2006.

## PART G—GENERAL PROVISIONS RELATING TO STUDENT ASSISTANCE

### SEC. 481. DEFINITION OF ACADEMIC AND AWARD YEAR.

The second sentence of section 481(a)(2) (20 U.S.C. 1088(a)(2)) is amended by inserting "and that measures program length in credit hours or clock hours" after "baccalaureate degree".

### SEC. 482. COMPLIANCE CALENDAR.

Section 482 (20 U.S.C. 1089) is amended by adding at the end the following:

"(a) COMPLIANCE CALENDAR.—Prior to the beginning of each award year, the Secretary shall provide to institutions of higher education a list of all the reports and disclosures required under this Act. The list shall include—

"(1) the date each report or disclosure is required to be completed and to be submitted, made available, or disseminated;

"(2) the required recipients of each report or disclosure;

"(3) any required method for transmittal or dissemination of each report or disclosure;

"(4) a description of the content of each report or disclosure sufficient to allow the institution to identify the appropriate individuals to be assigned the responsibility for such report or disclosure;

"(5) references to the statutory authority, applicable regulations, and current guidance issued by the Secretary regarding each report or disclosure; and

"(6) any other information which is pertinent to the content or distribution of the report or disclosure.".

### SEC. 483. FORMS AND REGULATIONS.

Section 483 (20 U.S.C. 1090) is amended—

(1) by striking subsections (a) and (b), and inserting the following:

"(a) COMMON FINANCIAL AID FORM DEVELOPMENT AND PROCESSING.—

"(1) IN GENERAL.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used to determine the need and eligibility of a student for financial assistance under parts A through E of this title (other than under subpart 4 of part A). The forms shall be made available to applicants in both paper and electronic formats and shall be referred to (except as otherwise provided in this subsection) as the 'Free Application for Federal Student Aid', or 'FAFSA'.

"(2) PAPER FORMAT.—

"(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall produce, distribute, and process common forms in paper format to meet the requirements of paragraph (1). The Secretary shall develop a common paper form for applicants who do not meet the requirements of or do not wish to use the process described in subparagraph (B).

"(B) EZ FAFSA.—

"(i) IN GENERAL.—The Secretary shall develop and use a simplified paper application form, to be known as the 'EZ FAFSA', to be used for applicants meeting the requirements under section 479(c).

"(ii) REDUCED DATA REQUIREMENTS.—The EZ FAFSA shall permit an applicant to submit for purposes of determining financial need and eligibility, only the data elements required to make a determination of student eligibility and whether the applicant meets the requirements of section 479(c).

"(iii) STATE DATA.—The Secretary shall include on the EZ FAFSA such data items as may be necessary to award State financial assistance, as provided under paragraph (5), except the Secretary shall not include a State's data if that State does not permit its applicants for State assistance to use the EZ FAFSA.

"(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the EZ FAFSA, and the data collected by means of the EZ FAFSA shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (9).

"(v) TESTING.—The Secretary shall conduct appropriate field testing on the EZ FAFSA.

"(C) PHASING OUT THE FULL PAPER FORM FOR STUDENTS WHO DO NOT MEET THE REQUIREMENTS OF THE EZ FAFSA.—

"(i) IN GENERAL.—The Secretary shall make all efforts to encourage all applicants to utilize the electronic forms described in paragraph (3).

"(ii) PHASEOUT OF FULL PAPER FAFSA.—Not later than 5 years after the date of enactment of the Higher Education Amendments of 2005, to the extent practicable, the Secretary shall phase out the printing of the long paper form created under subparagraph (A) and used by applicants who do not meet the requirements of the EZ FAFSA described in subparagraph (B).

"(iii) AVAILABILITY OF FULL PAPER FAFSA.—

"(I) IN GENERAL.—Both prior to and after the phaseout described in clause (ii), the Secretary shall maintain on the Internet printable versions of the paper forms described in subparagraphs (A) and (B).

"(II) ACCESSIBILITY.—The printable versions described in subclause (I) shall be made easily accessible and downloadable to students on the same Web site used to provide students with the common electronic forms described in paragraph (3).

"(III) SUBMISSION OF FORMS.—The Secretary shall conduct a study to determine the feasibility of using downloaded forms to ensure sufficient quality to meet the processing requirements of this section. Following the completion of the study, the Secretary shall enable, to the extent practicable, students to submit a form described in this clause that is downloaded from the Internet and printed, in order to meet the filing requirements of this section and to receive financial assistance under this title.

"(iv) USE OF SAVINGS.—

"(I) IN GENERAL.—The Secretary shall utilize any realized savings accrued by phasing out the full paper FAFSA and moving more applicants to the common electronic forms, to improve access to the electronic forms for applicants meeting the requirements of section 479(c).

"(II) REPORT.—The Secretary shall report annually to the authorizing committees on—

"(aa) the steps taken to improve access to the common electronic forms for applicants meeting the requirements of section 479(c); and

"(bb) the phaseout of the long common paper form described in subparagraph (A).

"(3) ELECTRONIC FORMAT.—

"(A) IN GENERAL.—The Secretary shall produce, distribute, and process common forms in electronic format and make such forms available through a broadly accessible website to meet the requirements of paragraph (1). The Secretary shall develop common electronic forms for applicants who do not meet the requirements of subparagraph

(B). The Secretary shall include on the common electronic forms space for information that needs to be submitted from the applicant to be eligible for State financial assistance, as provided under paragraph (5), except the Secretary shall not require applicants to complete data required by any State other than the applicant's State of residence. The Secretary shall use all available technology to ensure that a student using a common electronic form answers only the minimum number of questions necessary.

"(B) SIMPLIFIED ELECTRONIC APPLICATIONS.—

"(i) IN GENERAL.—The Secretary shall develop and use a simplified electronic application form to be used by applicants meeting the requirements of section 479(c) and an additional, separate simplified electronic application form to be used by applicants meeting the requirements under section 479(b).

"(ii) REDUCED DATA REQUIREMENTS.—The simplified electronic application forms shall permit an applicant to submit for purposes of determining financial need and eligibility, only the data elements required to make a determination of student eligibility and whether the applicant meets the requirements under subsection (b) or (c) of section 479.

"(iii) STATE DATA.—The Secretary shall include on the simplified electronic application forms such data items as may be necessary to award State financial assistance, as provided under paragraph (5), except the Secretary shall not require applicants to complete data required by any State other than the applicant's State of residence and shall not include a State's data if such State does not permit its applicants for State assistance to use the simplified electronic application form described in this subparagraph.

"(iv) FREE AVAILABILITY AND PROCESSING.—The provisions of paragraph (6) shall apply to the simplified electronic application forms, and the data collected by means of the simplified electronic application forms shall be available to institutions of higher education, guaranty agencies, and States in accordance with paragraph (9).

"(v) TESTING.—The Secretary shall conduct appropriate field testing on the forms developed under this subparagraph.

"(C) USE OF FORMS.—Nothing in this subsection shall be construed to prohibit the use of the forms developed by the Secretary pursuant to this paragraph by an eligible institution, eligible lender, a guaranty agency, a State grant agency, a private computer software provider, a consortium of such entities, or such other entity as the Secretary may designate. Data collected by the forms shall be used only for the application, award, and administration of aid awarded under this title, State aid, or aid awarded by eligible institutions or such entities as the Secretary may designate. No data collected by such electronic version of the forms shall be used for making final aid awards under this title until such data have been processed by the Secretary or a contractor or designee of the Secretary, except as may be permitted under this title.

"(D) PRIVACY.—The Secretary shall ensure that data collection under this paragraph complies with section 552a of title 5, United States Code, and that any entity using the electronic version of the forms developed by the Secretary pursuant to this paragraph shall maintain reasonable and appropriate administrative, technical, and physical safeguards to ensure the integrity and confidentiality of the information, and to protect against security threats, or unauthorized uses or disclosures of the information provided on the electronic version of the forms.

"(E) SIGNATURE.—Notwithstanding any other provision of this Act, the Secretary may permit an electronic form under this paragraph to be submitted without a signature, if a signature is subsequently submitted by the applicant or if the applicant uses a personal identification number provided by the Secretary under subparagraph (F).

"(F) PERSONAL IDENTIFICATION NUMBERS AUTHORIZED.—The Secretary is authorized to assign to applicants personal identification numbers—

"(i) to enable the applicants to use such numbers as a signature for purposes of completing a form under this paragraph; and

"(ii) for any purpose determined by the Secretary to enable the Secretary to carry out this title.

"(4) STREAMLINED REAPPLICATION PROCESS.—

"(A) IN GENERAL.—The Secretary shall develop streamlined reapplication forms and processes, including both paper and electronic reapplication processes, consistent with the requirements of this subsection, for an applicant who applies for financial assistance under this title in the next succeeding academic year subsequent to an academic year in which such applicant applied for financial assistance under this title.

"(B) MECHANISMS FOR REAPPLICATION.—The Secretary shall develop appropriate mechanisms to support reapplication.

"(C) IDENTIFICATION OF UPDATED DATA.—The Secretary shall determine, in cooperation with States, institutions of higher education, and agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

"(D) REDUCED DATA AUTHORIZED.—Nothing in this title shall be construed as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

"(E) ZERO FAMILY CONTRIBUTION.—Applicants determined to have a zero family contribution pursuant to section 479(c) shall not be required to provide any financial data in a reapplication form, except that which is necessary to determine eligibility under such section.

"(5) STATE REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in paragraphs (2)(B)(iii), (3)(A), and (3)(B)(iii), the Secretary shall include on the forms developed under this subsection, such State-specific data items as the Secretary determines are necessary to meet State requirements for need-based State aid. Such items shall be selected in consultation with State agencies in order to assist in the awarding of State financial assistance in accordance with the terms of this subsection, except as provided in paragraphs (2)(B)(iii), (3)(A), and (3)(B)(iii). The number of such data items shall not be less than the number included on the form for the 2005–2006 award year unless a State notifies the Secretary that the State no longer requires those data items for the distribution of State need-based aid.

"(B) ANNUAL REVIEW.—The Secretary shall conduct an annual review process to determine which data items the States require to award need-based State aid.

"(C) ENCOURAGE USE OF FORMS.—The Secretary shall encourage States to take such steps as are necessary to encourage the use of simplified application forms, including those described in paragraphs (2)(B) and (3)(B), for applicants who meet the requirements of subsection (b) or (c) of section 479.

"(D) FEDERAL REGISTER NOTICE.—The Secretary shall publish, on an annual basis, a notice in the Federal Register requiring States to inform the Secretary—

"(i) if the State plans to use the FAFSA to collect data to determine eligibility for State need-based financial aid;

"(ii) of the State-specific data that the State requires for delivery of State need-based financial aid; and

"(iii) if the State agency is unable to permit applicants to utilize the simplified application forms described in paragraph (2)(B) or (3)(B).

"(E) STATE NOTIFICATION TO THE SECRETARY.—

"(i) IN GENERAL.—Each State agency shall notify the Secretary—

"(I) whether the State permits an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based financial aid; and

"(II) of the State-specific data that the State requires for delivery of State need-based financial aid.

"(ii) ACCEPTANCE OF FORMS.—If a State does not permit an applicant to file a form described in paragraph (2)(B) or (3)(B) for purposes of determining eligibility for State need-based financial aid, then the State shall notify the Secretary if it is not permitted to do so because of State law or agency policy. The notification shall include an acknowledgment that State-specific questions will not be included on a form described in paragraph (2)(B) or (3)(B).

"(iii) LACK OF NOTIFICATION BY THE STATE.—If a State does not notify the Secretary pursuant to clause (i), the Secretary shall—

"(I) permit residents of that State to complete simplified application forms under paragraphs (2)(B) and (3)(B); and

"(II) not require any resident of such State to complete any data previously required by that State under this section.

"(F) RESTRICTION.—The Secretary shall not require applicants to complete any financial or non-financial data that are not required by the applicant's State, except as may be required for applicants who use the paper forms described in subparagraphs (A) and (B) of paragraph (2).

"(6) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORMS PROHIBITED.—The common financial reporting forms prescribed by the Secretary under this subsection shall be produced, distributed, and processed by the Secretary, and no parent or student shall be charged a fee by the Secretary, a contractor, a third-party servicer or private software provider, or any other public or private entity for the collection, processing, or delivery of financial aid through the use of such forms. The need and eligibility of a student for financial assistance under parts A through E (other than under subpart 4 of part A) may be determined only by using a form developed by the Secretary pursuant to this subsection. No student may receive financial assistance under parts A through E (other than under subpart 4 of part A), except by use of a form developed by the Secretary pursuant to this subsection. No data collected on a paper or electronic form, worksheet, or other document for which a fee is charged shall be used to complete the form prescribed under this subsection. No person, commercial entity, or other entity shall request, obtain, or utilize an applicant's personal identification number assigned under paragraph (3)(F) for purposes of submitting an application on an applicant's behalf.

"(7) APPLICATION PROCESSING CYCLE.—The Secretary shall—

"(A) enable students to submit forms created under this subsection in order to meet the filing requirements of this section and in order to receive financial assistance from programs under this title; and

"(B) enable students to submit forms created under this subsection and initiate the processing of such forms under this subsection, as early as practicable prior to January 1 of the student's planned year of enrollment.

"(8) EARLY ESTIMATES.—The Secretary shall permit an applicant to complete a form described in this subsection in the years prior to enrollment in order to obtain from the Secretary a nonbinding estimate of the applicant's expected family contribution, as defined in section 473. Such applicant shall be permitted to update information submitted on a form described in this subsection using the process required under paragraph (4).

"(9) DISTRIBUTION OF DATA.—Institutions of higher education, guaranty agencies, and States shall receive, without charge, the data collected by the Secretary using the form developed pursuant to this subsection for the purposes of processing loan applications and determining need and eligibility for institutional and State financial aid awards. Entities designated by institutions of higher education, guaranty agencies, or States to receive such data shall be subject to all the requirements of this section, unless such requirements are waived by the Secretary.

"(10) THIRD PARTY SERVICERS AND PRIVATE SOFTWARE PROVIDERS.—To the extent practicable and in a timely manner, the Secretary shall provide, to private organizations and consortia that develop software used by institutions of higher education for the administration of funds under this title, all the necessary specifications that the organizations and consortia must meet for the software the organizations and consortia develop, produce, and distribute (including any diskette, modem, or network communications) which are so used. The specifications shall contain record layouts for required data. The Secretary shall develop in advance of each processing cycle an annual schedule for providing such specifications. The Secretary, to the extent practicable, shall use means of providing such specifications, including conferences and other meetings, outreach, and technical support mechanisms (such as training and printed reference materials). The Secretary shall, from time to time, solicit from such organizations and consortia means of improving the support provided by the Secretary.

"(11) PARENT'S SOCIAL SECURITY NUMBER AND BIRTH DATE.—The Secretary is authorized to include on the form developed under this subsection space for the social security number and birth date of parents of dependent students seeking financial assistance under this title.";

(2) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and

(3) in subsection (c) (as redesignated by paragraph (2)), by striking "that is authorized" and all that follows through the period at the end and inserting "or other appropriate provider of technical assistance and information on postsecondary educational services that is authorized under section 663(a) of the Individuals with Disabilities Education Act. Not later than 2 years after the date of enactment of the Higher Education Amendments of 2005, the Secretary shall test and implement, to the extent practicable, a toll-free telephone based system to permit applicants who meet the requirements of 479(c) to submit an application over such system.".

### SEC. 484. STUDENT ELIGIBILITY.

Section 484 (20 U.S.C. 1091) is amended—

(1) in subsection (d), by adding at the end the following:

"(4) The student shall be determined by the institution of higher education as having the ability to benefit from the education or training offered by the institution of higher education, upon satisfactory completion of 6 credit hours or the equivalent coursework that are applicable toward a degree or certificate offered by the institution of higher education.";

(2) by striking subsection (*l*) and inserting the following:

"(l) COURSES OFFERED THROUGH DISTANCE EDUCATION.—

"(1) RELATION TO CORRESPONDENCE COURSES.—

"(A) IN GENERAL.—A student enrolled in a course of instruction at an institution of higher education that is offered predominately through distance education and leads to a recognized certificate, or associate, baccalaureate, or graduate degree, conferred by such institution, shall not be considered to be enrolled in correspondence courses.

"(B) EXCEPTION.—An institution of higher education referred to in subparagraph (A) shall not include an institution or school described in section 3(3)(C) of the Carl D. Perkins Vocational and Technical Education Act of 1998.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive grants, loans, or work assistance under this title shall be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to such student.

"(3) SPECIAL RULE.—For award years prior to the date of enactment of this subsection, the Secretary shall not take any compliance, disallowance, penalty, or other action against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this title if the institution demonstrates to the satisfaction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.

"(4) DEFINITION.—In this subsection, the term 'distance education' has the meaning given the term in section 102."; and

(3) in subsection (r)—

(A) in the matter preceding the table, by inserting "of a controlled substance, while such student is enrolled in an institution of higher education and receiving financial assistance under this title," after "the possession";

(B) in the column heading of the first table, by inserting "**while the student is enrolled in an institution of higher education and receiving financial assistance under this title**" after "**possession of a controlled substance**"; and

(C) by redesignating paragraph (3) as paragraph (4); and

(D) by inserting after paragraph (2) the following:

"(2) INTERACTION WITH FAFSA.—The Secretary shall not require a student to provide information regarding the student's possession of a controlled substance on the Free Application for Federal Student Aid described in section 483(a).".

### SEC. 485. STATUTE OF LIMITATIONS AND STATE COURT JUDGMENTS.

Section 484A (20 U.S.C. 1091a) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "and" after the semicolon;

(B) in paragraph (2), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(3) in collecting any obligation arising from a loan made under part E of this title, an institution of higher education that has an agreement with the Secretary pursuant to section 463(a) shall not be subject to a defense raised by any borrower based on a claim of infancy."; and

(2) by adding at the end the following:

"(d) SPECIAL RULE.—This section shall not apply in the case of a student who is deceased or to a deceased student's estate or the estate of such student's family. If a student is deceased, then the student's estate or the estate of the student's family shall not be required to repay any financial assistance under this title , including interest paid on the student's behalf, collection costs, or other charges specified in this title.".

### SEC. 486. INSTITUTIONAL REFUNDS.

Section 484B (20 U.S.C. 1091B) is amended—

(1) in subsection (a)—

(A) in the matter preceding clause (i) of paragraph (2)(A), by striking "a leave of" and inserting "1 or more leaves of"; and

(B) in paragraph (3)(C)(i), by striking "grant or loan assistance under this title" and inserting "grant assistance under subparts 1 and 3 of part A, or loan assistance under parts B, D, and E,";

(2) in subsection (b), by adding at the end the following:

"(4) TIME FRAME.—Not later than 45 days after the date of an institution's determination that a student withdrew from the institution, the institution shall—

"(A) return the amount required under paragraph (1);

"(B) notify the student of the applicable requirements regarding the overpayment of grant and loan assistance and

"(C) notify the student of the student's eligibility for post-withdrawal disbursements.";

(3) in subsection (c)(2)—

(A) by striking the period at the end and inserting "; or";

(B) by striking "may determine the appropriate" and inserting "may determine—

"(A) the appropriate"; and

(C) by adding at the end the following:

"(B) that the requirements of this section do not apply to the student."; and

(4) in subsection (d)(2), by striking "clock hours—" and all that follows through the period and inserting "clock hours scheduled to be completed by the student in that period as of the day the student withdrew.".

### SEC. 487. INSTITUTIONAL AND FINANCIAL ASSISTANCE FOR STUDENTS.

Section 485 (20 U.S.C. 1092) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (N), by striking "and" after the semicolon;

(ii) in subparagraph (O), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(P) student body diversity at the institution, including information on the percentage of enrolled, full-time students who are—

"(i) male;

"(ii) female;

"(iii) from a low-income background; and

"(iv) a self-identified member of a major racial or ethnic group.";

(B) by striking paragraph (4) and inserting the following:

"(4) For purposes of this section, institutions may—

"(A) exclude from the information disclosed in accordance with subparagraph (L) of paragraph (1) the completion or graduation rates of students who leave school to serve in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government; or

"(B) in cases where 20 percent or more of the students described in subparagraph (A) are excluded in a reporting year, include in such information on the completion or graduation rates of students described in subparagraph (A) by excluding from the calculation described in paragraph (3) the time period such students were not enrolled due to their service in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government."; and

(C) by adding at the end the following:

"(7) The information disclosed under subparagraph (L) of paragraph (1), or reported under subsection (e), shall include information disaggregated by gender, by each major racial and ethnic subgroup, and by low-income background status as measured by Federal Pell Grant eligibility, if the number of students in such subgroup or with such status is sufficient to yield statistically reliable information and reporting would not reveal personally identifiable information about an individual student. If such number is not sufficient for such purposes, then the institution shall note that the institution enrolled too few of such students to so disclose or report with confidence and confidentiality.";

(2) in subsection (b), by adding at the end the following:

"(3) Each eligible institution shall, during the exit interview required by this subsection, provide to a borrower of a loan made under part B, D, or E a clear and conspicuous notice describing the general effects of using a consolidation loan to discharge the borrower's student loans, including—

"(A) the effects of consolidation on total interest to be paid, fees to be paid, and length of repayment;

"(B) the effects of consolidation on a borrower's underlying loan benefits, including loan forgiveness, cancellation, and deferment;

"(C) the ability for the borrower to prepay the loan, pay on a shorter schedule, and to change repayment plans, and that borrower benefit programs may vary among different loan holders;

"(D) the tax benefits for which the borrower may be eligible; and

"(E) the consequences of default.";

(3) in subsection (d)(2)—

(A) by inserting "grant assistance, as well as State" after "describing State"; and

(B) by inserting "and other means, including through the Internet" before the period at the end;

(4) in subsection (e), by striking paragraph (3) and inserting the following:

"(3) For purposes of this subsection, institutions may—

"(A) exclude from the reporting requirements under paragraphs (1) and (2) the completion or graduation rates of students and student athletes who leave school to serve in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government; or

"(B) in cases where 20 percent or more of the students described in subparagraph (A) are excluded in a reporting year, include in such information on the completion or graduation rates of students described in subparagraph (A) by excluding from the calculation described in subsection (a)(3) the time period such students were not enrolled due to their service in the Armed Forces, on official church missions, or with a recognized foreign aid service of the Federal Government.";

(5) in the matter preceding subparagraph (A) of subsection (f)(1), by inserting ", other than a foreign institution of higher education," after "under this title"; and

(6) by adding at the end the following:

"(h) TRANSFER OF CREDIT POLICIES.—

"(1) DISCLOSURE.—Each institution of higher education participating in any program under this title shall publicly disclose in a readable and comprehensible manner the institution's transfer of credit policies which shall include a statement of the institution's current transfer of credit policies that includes, at a minimum—

"(A) a statement that transfer of credit shall not be denied solely on the basis of the agency or association that accredited such other institution of higher education, if that agency or association is recognized by the Secretary pursuant to section 496 to be a reliable authority as to the quality of the education or training offered; and

"(B) a list of institutions of higher education with which the institution has established an articulation agreement.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to—

"(A) authorize an officer or employee of the Department to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any institution of higher education, or over any accrediting agency or association;

"(B) limit the application of the General Education Provisions Act; or

"(C) create any legally enforceable right on the part of a student to require an institution of higher education to accept a transfer of credit from another institution.".

### SEC. 488. NATIONAL STUDENT LOAN DATA SYSTEM.

Section 485B(a) (20 U.S.C. 1092b(a)) is amended—

(1) by redesignating paragraphs (6) through (10) as paragraphs (7) through (11), respectively;

(2) in paragraph (5) (as added by Public Law 101-610), by striking "effectiveness." and inserting "effectiveness;"; and

(3) by redesignating paragraph (5) (as added by Public Law 101-234) as paragraph (6).

### SEC. 489. EARLY AWARENESS OF FINANCIAL AID ELIGIBILITY AND DEMONSTRATION PROGRAM TO PROVIDE EARLY ESTIMATES AND EARLY AWARDS OF FINANCIAL AID.

Part G of title IV (20 U.S.C. 1088 et seq.) is amended by inserting after section 485C (20 U.S.C. 1092c) the following:

### "SEC. 485D. EARLY AWARENESS OF FINANCIAL AID ELIGIBILITY AND DEMONSTRATION PROGRAM TO PROVIDE EARLY ESTIMATES AND EARLY AWARDS OF FINANCIAL AID.

"(a) IN GENERAL.—The Secretary shall implement, in cooperation with States, institutions of higher education, secondary schools, middle schools, early intervention and outreach programs under this title, other agencies and organizations involved in student financial assistance and college access, public libraries, community centers, employers, and businesses, a comprehensive system of early financial aid information in order to provide students and families with early information about financial aid and early estimates of such students' eligibility for financial aid from multiple sources. Such system shall include the activities described in subsections (b) and (c).

"(b) COMMUNICATION OF AVAILABILITY OF AID AND AID ELIGIBILITY.—

"(1) STUDENTS WHO RECEIVE BENEFITS.—The Secretary shall—

"(A) make special efforts to notify students who receive or are eligible to receive benefits under Federal means-tested benefit programs (including the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), and other such programs as determined by the Secretary) of such students' potential eligibility for a maximum Federal Pell Grant under subpart 1 of part A; and

"(B) disseminate such informational materials as the Secretary determines necessary.

"(2) MIDDLE SCHOOL STUDENTS.—The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, middle schools, and programs under this title that serve middle school students, shall make special efforts to notify students and their parents of the availability of financial aid under this title and, in accordance with subsection (c), shall provide nonbinding estimates of grant, work-study, and loan aid that an individual may be eligible for under this title upon completion of an application form under section 483(a). The Secretary shall ensure that such information is as accurate as possible and that such information is provided in an age-appropriate format using dissemination mechanisms suitable for students in middle school.

"(3) SECONDARY SCHOOL STUDENTS.—The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, secondary schools, and programs under this title that serve secondary school students, shall make special efforts to notify students in secondary school and their parents, as early as possible but not later than such students' junior year of secondary school, of the availability of financial aid under this title and, in accordance with subsection (c), shall provide nonbinding estimates of the amounts of grant, work-study, and loan aid that an individual may be eligible for under this title upon completion of an application form under section 483(a). The Secretary shall ensure that such information is as accurate as possible and that such information is provided in an age-appropriate format using dissemination mechanisms suitable for students in secondary school.

"(4) ADULT LEARNERS.—The Secretary, in cooperation with States, institutions of higher education, other organizations involved in college access and student financial aid, employers, workforce investment boards and public libraries, shall make special efforts to provide individuals who would qualify as independent students, as defined in section 480(d), with information regarding the availability of financial aid under this title and, in accordance with subsection (c), with nonbinding estimates of the amounts of grant, work-study, and loan aid that an individual may be eligible for under this title upon completion of an application form under section 483(a). The Secretary shall ensure that such information—

"(A) is as accurate as possible;

"(B) includes specific information regarding the availability of financial aid for students qualified as independent students, as defined in section 480(d); and

"(C) uses dissemination mechanisms suitable for adult learners.

"(5) PUBLIC AWARENESS CAMPAIGN.—Not later than 2 years after the date of enactment of the Higher Education Amendments of 2005, the Secretary, in coordination with States, institutions of higher education, early intervention and outreach programs under this title, other agencies and organizations involved in student financial aid, local educational agencies, public libraries, community centers, businesses, employers, employment services, workforce investment boards, and movie theaters, shall implement a public awareness campaign in order to increase national awareness regarding the availability of financial aid under this title. The public awareness campaign shall disseminate accurate information regarding the availability of financial aid under this title and shall be implemented, to the extent practicable, using a variety of media, including print, television, radio and the Internet. The Secretary shall design and implement the public awareness campaign based upon relevant independent research and the information and dissemination strategies found most effective in implementing paragraphs (1) through (4).

"(c) AVAILABILITY OF NONBINDING ESTIMATES OF FEDERAL FINANCIAL AID ELIGIBILITY.—

"(1) IN GENERAL.—The Secretary, in cooperation with States, institutions of higher education, and other agencies and organizations involved in student financial aid, shall provide, via a printed form and the Internet or other electronic means, the capability for individuals to determine easily, by entering relevant data, nonbinding estimates of amounts of grant and loan aid an individual may be eligible for under this title upon completion and processing of an application and enrollment in an institution of higher education.

"(2) DATA ELEMENTS.—The Secretary, in cooperation with States, institutions of higher education, and other agencies and organizations involved in student financial aid, shall determine the data elements that are necessary to create a simplified form that individuals can use to obtain easily nonbinding estimates of the amounts of grant and loan aid an individual may be eligible for under this title.

"(3) QUALIFICATION TO USE SIMPLIFIED APPLICATION.—The capability provided under this paragraph shall include the capability to determine whether the individual is eligible to submit a simplified application form under paragraph (2)(B) or (3)(B) of section 483(a).".

### SEC. 490. COLLEGE ACCESS INITIATIVE.

Part G of title IV (20 U.S.C. 1088 et seq.) is further amended by inserting after section 485D (as added by section 489) the following:

### "SEC. 485E. COLLEGE ACCESS INITIATIVE.

"(a) STATE-BY-STATE INFORMATION.—The Secretary shall direct each guaranty agency with which the Secretary has an agreement under section 428(c) to provide to the Secretary the information necessary for the development of Internet Web links and access for students and families to a comprehensive listing of the postsecondary education opportunities programs, publications, Internet Web sites, and other services available in the States for which such agency serves as the designated guarantor.

"(b) GUARANTY AGENCY ACTIVITIES.—

"(1) PLAN AND ACTIVITY REQUIRED.—Each guaranty agency with which the Secretary has an agreement under section 428(c) shall develop a plan, and undertake the activity, necessary to gather the information required under subsection (a) and to make such information available to the public and to the Secretary in a form and manner prescribed by the Secretary.

"(2) ACTIVITIES.—Each guaranty agency shall undertake such activities as are necessary to promote access to postsecondary education for students through providing information on college planning, career preparation, and paying for college that is limited or related to subsection (a). The guaranty agency shall publicize such information and coordinate such activities with other entities that provide or distribute such information in the States for which such guaranty agency serves as the designated guarantor.

"(3) FUNDING.—The activities required by this section may be funded from the guaranty agency's Operating Fund established pursuant to section 422B and to the extent funds remain, from earnings on the restricted account established pursuant to section 422(h)(4).

"(4) RULE OF CONSTRUCTION.—Nothing in this subsection shall require a guaranty agency to duplicate any efforts currently underway that meet the requirements of this subsection.

"(c) ACCESS TO INFORMATION.—

"(1) SECRETARY'S RESPONSIBILITY.—The Secretary shall ensure the availability of the information provided, by the guaranty agencies in accordance with this section, to students, parents, and other interested individuals, through Web links or other methods prescribed by the Secretary.

"(2) GUARANTY AGENCY RESPONSIBILITY.—The guaranty agencies shall ensure that the information required by this section is available without charge in printed format for students and parents requesting such information.

"(3) PUBLICITY.—Not later than 270 days after the date of enactment of the Higher Education Amendments Act of 2005, the Secretary and guaranty agencies shall publicize the availability of the information required by this section, with special emphasis on ensuring that populations that are traditionally underrepresented in postsecondary education are made aware of the availability of such information.".

### SEC. 491. PROGRAM PARTICIPATION AGREEMENTS.

Section 487 (20 U.S.C. 1094) is amended—

(1) in subsection (a)—

(A) in paragraph (23), by adding at the end the following:

"(D) An institution shall be considered in compliance with the requirements of subparagraph (A) for any student to whom the institution electronically transmits a message containing a voter registration form acceptable for use in the State in which the institution is located, or an Internet address where such a form can be downloaded, if such information is in an electronic message devoted solely to voter registration."; and

(B) by adding at the end the following:

"(24) The institution will, as calculated in accordance with subsection (f)(1), have not less than 10 percent of its revenues from sources other than funds provided under this title, or will be subject to the sanctions described in subsection (f)(2).";

(2) by redesignating subsections (d) and (e) as subsection (e) and (f), respectively;

(3) by inserting after subsection (c) the following:

"(d) INSTITUTIONAL REQUIREMENTS FOR TEACH-OUTS.—

"(1) IN GENERAL.—In the event the Secretary initiates the limitation, suspension, or termination of the participation of an institution of higher education in any program under this title under the authority of subsection (c)(1)(F) or initiates an emergency action for termination under the authority of subsection (c)(1)(G) and its prescribed regulations, the Secretary shall require that institution to prepare a teach-out plan for submission to the institution's accrediting agency or association in compliance with section 496(c)(4), the Secretary's regulations on teach-out plans, and the standards of the institution's accrediting agency or association.

"(2) TEACH-OUT PLAN DEFINED.—In this subsection, the term 'teach-out plan' means a written plan that provides for the equitable treatment of students if an institution of higher education ceases to operate before all students have completed their enrollment at the institution, and may include, if required by the institution's accrediting agency or association, an agreement between institutions for such a teach-out plan."; and

(4) by adding at the end the following:

"(g) IMPLEMENTATION OF NONTITLE IV REVENUE REQUIREMENT.—

"(1) CALCULATION.—In carrying out subsection (a)(24), an institution shall use the cash basis of accounting and count the following funds as from sources of funds other than funds provided under this title:

"(A) Funds used by students from sources other than funds received under this title to pay tuition, fees, and other institutional charges to the institution, provided the institution can reasonably demonstrate that such funds were used for such purposes.

"(B) Funds used by the institution to satisfy matching-fund requirements for programs under this title.

"(C) Funds used by a student from savings plans for educational expenses established by or on behalf of the student and which qualify for special tax treatment under the Internal Revenue Code of 1986.

"(D) Funds paid by a student, or on behalf of a student by a party other than the institution, to the institution for an education or training program that is not eligible for funds under this title, provided that the program is approved or licensed by the appropriate State agency or an accrediting agency recognized by the Secretary.

"(E) Funds generated by the institution from institutional activities that are necessary for the education and training of the institution's students, if such activities are—

"(i) conducted on campus or at a facility under the control of the institution;

"(ii) performed under the supervision of a member of the institution's faculty; and

"(iii) required to be performed by all students in a specific educational program at the institution.

"(F) Institutional aid, as follows:

"(i) In the case of loans made by the institution, only the amount of loan repayments received by the institution during the fiscal year for which the determination is made.

"(ii) In the case of scholarships provided by the institution, only those scholarship funds provided by the institution that are—

"(I) in the form of monetary aid or tuition discounts based upon the academic achievements or financial need of students; and

"(II) disbursed during the fiscal year for which the determination is made from an established restricted account and only to the extent that the funds in that account represent designated funds from an outside source or income earned on those funds.

"(iii) In the case of tuition discounts, only those tuition discounts based upon the academic achievement or financial need of students.

"(2) SANCTIONS.—

"(A) FAILURE TO MEET REQUIREMENT FOR 1 YEAR.—In addition to such other means of enforcing the requirements of this title as may be available to the Secretary, if an institution fails to meet the requirements of subsection (a)(24) in any year, the Secretary may impose 1 or both of the following sanctions on the institution:

"(i) Place the institution on provisional certification in accordance with section 498(h) until the institution demonstrates, to the satisfaction of the Secretary, that it is in compliance with subsection (a)(24).

"(ii) Require such other increased monitoring and reporting requirements as the Secretary determines necessary until the institution demonstrates, to the satisfaction of the Secretary, that it is in compliance with subsection (a)(24).

"(B) FAILURE TO MEET REQUIREMENT FOR 3 YEARS.—An institution that fails to meet the requirements of subsection (a)(24) for 2 consecutive years shall be ineligible to participate in the programs authorized under this title.

"(3) PUBLIC AVAILABILITY OF INFORMATION.—The Secretary shall make publicly available, through the means described in subsection (b) of section 131, any institution that fails to meet the requirements of subsection (a)(24) in any year as an institution that is failing to meet the minimum non-Federal source of revenue requirements of such subsection (a)(24).".

### SEC. 492. REGULATORY RELIEF AND IMPROVEMENT.

Section 487A(b) (20 U.S.C. 1094a(b)) is amended—

(1) in paragraph (1)—

(A) by striking "1998" and inserting "2005" ; and

(B) by striking "1999" and inserting "2006"; and

(2) by striking the matter preceding paragraph (2)(A) and inserting the following:

"(2) REPORT.—The Secretary shall review and evaluate the experience of institutions participating as experimental sites and shall, on a biennial basis, submit a report based on the review and evaluation to the authorizing committees. Such report shall include—"; and

(3) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking "Upon the submission of the report required by paragraph (2), the" and inserting "The"; and

(ii) by inserting "periodically" after "authorized to";

(B) by striking subparagraph (B);

(C) by redesignating subparagraph (C) as subparagraph (B); and

(D) in subparagraph (B) (as redesignated by subparagraph (C))—

(i) by inserting ", including requirements related to the award process and disbursement of student financial aid (such as innovative delivery systems for modular or compressed courses, or other innovative systems), verification of student financial aid application data, entrance and exit interviews, or other management procedures or processes as determined in the negotiated rulemaking process under section 492," after "requirements in this title"; and

(ii) by inserting "(other than an award rule related to an experiment in modular or compressed schedules)" after "award rules"; and

(iii) by inserting "unless the waiver of such provisions is authorized by another provision under this title" before the period at the end.

### SEC. 493. TRANSFER OF ALLOTMENTS.

Section 488 (20 U.S.C. 1095) is amended in the first sentence—

(1) in paragraph (1), by striking "and" after the semicolon;

(2) in paragraph (2), by striking "413D." and inserting "413D; and"; and

(3) by adding at the end "(3) transfer 25 percent of the institution's allotment under section 413D to the institution's allotment under section 442.".

### SEC. 494. WAGE GARNISHMENT REQUIREMENT.

Section 488A(a)(1) (20 U.S.C. 1095a(a)(1)) is amended by striking "10 percent" and inserting "15 percent".

### SEC. 495. PURPOSE OF ADMINISTRATIVE PAYMENTS.

Section 489(b) (20 U.S.C. 1096(b)) is amended by striking "offsetting the administrative costs of" and inserting "administering".

### SEC. 496. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

Section 491 (20 U.S.C. 1098) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (B), by striking "and" after the semicolon;

(B) in subparagraph (C), by striking the period and inserting a semicolon; and

(C) by adding at the end the following:

"(D) to provide knowledge and understanding of early intervention programs, and to make recommendations that will result in early awareness by low- and moderate-income students and families—

"(i) of their eligibility for assistance under this title; and

"(ii) to the extent practicable, of their eligibility for other forms of State and institutional need-based student assistance; and

"(E) to make recommendations that will expand and improve partnerships among the Federal Government, States, institutions of higher education, and private entities to increase the awareness and the total amount of need-based student assistance available to low- and moderate-income students.";

(2) in subsection (d)(6), by striking ", but nothing" and all that follows through "or analyses";

(3) in subsection (j)—

(A) in paragraph (1)—

(i) by inserting "and simplification" after "modernization" each place the term appears; and

(ii) by striking "including" and all that follows through "Department,"; and

(B) by striking paragraphs (4) and (5) and inserting the following:

"(4) conduct a review and analysis of regulations in accordance with subsection (l); and

"(5) conduct a study in accordance with subsection (m).";

(4) in subsection (k), by striking "2004" and inserting "2010"; and

(5) by adding at the end the following:

"(l) REVIEW AND ANALYSIS OF REGULATIONS.—

"(1) RECOMMENDATIONS.—The Advisory Committee shall make recommendations to the Secretary for consideration of future legislative action regarding redundant or outdated regulations under this title, consistent with the Secretary's requirements under section 498B.

"(2) REVIEW AND ANALYSIS OF REGULATIONS.—The Advisory Committee shall conduct a review and analysis of the regulations issued under this title that are in effect at the time of the review and that apply to the operations or activities of participants in the programs assisted under this title. The review and analysis may include a determination of whether the regulation is duplicative, is no longer necessary, is inconsistent with other Federal requirements, or is overly burdensome. In conducting the review, the Advisory Committee shall pay specific attention to evaluating ways in which regulations under this title affecting institutions of higher education (other than institutions described in section 102(a)(1)(C)), that have received in each of the 2 most recent award years prior to the date of enactment of the Higher Education Amendments of 2005 less than $200,000 in funds through this title, may be improved, streamlined, or eliminated.

"(3) CONSULTATION.—

"(A) IN GENERAL.—In carrying out the review and analysis under paragraph (2), the Advisory Committee shall consult with the Secretary, relevant representatives of institutions of higher education, and individuals who have expertise and experience with the regulations issued under this title, in accordance with subparagraph (B).

"(B) REVIEW PANELS.—The Advisory Committee shall convene not less than 2 review panels of representatives of the groups involved in student financial assistance programs under this title who have experience and expertise in the regulations issued under this title to review the regulations under this title, and to provide recommendations to the Advisory Committee with respect to the review and analysis under paragraph (2). The panels shall be made up of experts in areas such as the operations of the financial assistance programs, the institutional eligibility requirements for the financial assistance programs, regulations not directly related to the operations or the institutional eligibility requirements of the financial assistance programs, and regulations for dissemination of information to students about the financial assistance programs.

"(4) REPORTS TO CONGRESS.—The Advisory Committee shall submit, not later than 2 years after the completion of the negotiated rulemaking process required under section 492 resulting from the amendments to this Act made by the Higher Education Amendments of 2005, a report to the authorizing committees and the Secretary detailing the expert panels' findings and recommendations with respect to the review and analysis under paragraph (2).

"(5) ADDITIONAL SUPPORT.—The Secretary and the Inspector General of the Department shall provide such assistance and resources to the Advisory Committee as the Secretary and Inspector General determine are necessary to conduct the review required by this subsection.

"(m) STUDY OF INNOVATIVE PATHWAYS TO BACCALAUREATE DEGREE ATTAINMENT.—

"(1) STUDY REQUIRED.—The Advisory Committee shall conduct a study of the feasibility of increasing baccalaureate degree attainment rates by reducing the costs and financial barriers to attaining a baccalaureate degree through innovative programs.

"(2) SCOPE OF STUDY.—The Advisory Committee shall examine new and existing programs that promote baccalaureate degree attainment through innovative ways, such as dual or concurrent enrollment programs, changes made to the Federal Pell Grant program, simplification of the needs analysis process, compressed or modular scheduling, articulation agreements, and programs that allow 2-year institutions of higher education to offer baccalaureate degrees.

"(3) REQUIRED ASPECTS OF THE STUDY.—In performing the study described in this subsection, the Advisory Committee shall examine the following aspects of such innovative programs:

"(A) The impact of such programs on baccalaureate attainment rates.

"(B) The degree to which a student's total cost of attaining a baccalaureate degree can be reduced by such programs.

"(C) The ways in which low- and moderate-income students can be specifically targeted by such programs.

"(D) The ways in which nontraditional students can be specifically targeted by such programs.

"(E) The cost-effectiveness for the Federal Government, States, and institutions of higher education to implement such programs.

"(4) CONSULTATION.—

"(A) IN GENERAL.—In performing the study described in this subsection the Advisory Committee shall consult with a broad range of interested parties in higher education, including parents, students, appropriate representatives of secondary schools and institutions of higher education, appropriate State administrators, administrators of dual enrollment programs, and appropriate officials from the Department.

"(B) CONGRESSIONAL CONSULTATION.—The Advisory Committee shall consult on a regular basis with the authorizing committees in carrying out the study required by this section.

"(5) REPORTS TO CONGRESS.—

"(A) INTERIM REPORT.—The Advisory Committee shall prepare and submit to the authorizing committees and the Secretary 1 interim report, not later than 1 year after the date of enactment of the Higher Education Amendments of 2005, describing the progress that has been made in conducting the study required by this subsection and any preliminary findings on the topics identified under paragraph (2).

"(B) FINAL REPORT.—The Advisory Committee shall, not later than 3 years after the date of enactment of the Higher Education Amendments of 2005, prepare and submit to the authorizing committees and the Secretary a final report on the study, including recommendations for legislative, regulatory, and administrative changes based on findings related to the topics identified under paragraph (2).".

### SEC. 497. REGIONAL MEETINGS.

Section 492(a)(1) (20 U.S.C. 1098a(a)(1)) is amended by inserting "State student grant agencies," after "institutions of higher education,".

### SEC. 498. YEAR 2000 REQUIREMENTS AT THE DEPARTMENT.

(a) REPEAL.—Section 493A (20 U.S.C. 1098c) is repealed.

(b) REDESIGNATION.—Section 493B (20 U.S.C. 1098d) is redesignated as section 493A.

## PART H—PROGRAM INTEGRITY

### SEC. 499. RECOGNITION OF ACCREDITING AGENCY OR ASSOCIATION.

Section 496 (200 U.S.C. 1099b) is amended—

(1) in subsection (a)—

(A) by striking paragraph (4) and inserting the following:

"(4)(A) such agency or association consistently applies and enforces standards that respect the stated mission of the institution of higher education, including religious missions, and that ensure that the courses or programs of instruction, training, or study offered by the institution of higher education, including distance education courses or programs, are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered; and

"(B) if such agency or association has or seeks to include within its scope of recognition the evaluation of the quality of institutions or programs offering distance education, such agency or association shall, in addition to meeting the other requirements of this subpart, demonstrate to the Secretary that—

"(i) the agency or association's standards effectively address the quality of an institution's distance education in the areas identified in section 496(a)(5), except that the agency or association shall not be required to have separate standards, procedures or policies for the evaluation of distance education institutions or programs in order to meet the requirements of this subparagraph; and

"(ii) the agency or association requires an institution that offers distance education to have processes through which the institution establishes that the student who registers in a distance education course or program is the same student who participates, completes and receives the academic credit;";

(B) in paragraph (5), by striking subparagraph (A) and inserting the following:

"(A) success with respect to student achievement in relation to the institution's mission, including—

"(i) consideration of student academic achievement as determined by the institution;

"(ii) student retention;

"(iii) course and program completion;

"(iv) as appropriate, State licensing examinations;

"(v) as appropriate, job placement rates; and

"(vi) as appropriate, other student performance information selected by the institution, particularly that information used by the institution to evaluate or strengthen its programs;";

(C) by striking paragraph (6) and inserting the following:

"(6) such an agency or association shall establish and apply review procedures throughout the accrediting process, including evaluation and withdrawal proceedings which comply with due process procedures that provide for—

"(A) adequate specification of requirements and deficiencies at the institution of higher education or program examined;

"(B) an opportunity for a written response by any such institution to be included in the evaluation and withdrawal proceedings prior to final action;

"(C) upon the written request of an institution, an opportunity for the institution to appeal any adverse action, including denial, withdrawal, suspension, or termination of accreditation, or placement on probation of an institution, at a hearing prior to such action becoming final, before an appeals panel that—

"(i) shall not include current members of the agency or association's underlying decision-making body that made the adverse decision; and

"(ii) is subject to a conflict of interest policy; and

"(D) the right to representation by counsel for such an institution;"; and

(D) by striking paragraph (8) and inserting the following:

"(8) such agency or association shall make available to the public and the State licensing or authorizing agency, and submit to the Secretary, a summary of agency or association actions, including—

"(A) the award of accreditation or reaccreditation of an institution;

"(B) final denial, withdrawal, suspension, or termination of accreditation, or placement on probation of an institution, and any findings made in connection with the action taken, together with the official comments of the affected institution; and

"(C) any other adverse action taken with respect to an institution."; and

(2) in subsection (c)—

(A) in paragraph (1), by inserting ", including those regarding distance education" after "their responsibilities";

(B) by redesignating paragraphs (2) through (6) as paragraphs (5) through (9);

(C) by inserting after paragraph (1) (as amended by subparagraph (A)) the following:

"(2) ensures that the agency or association's on-site evaluation for accreditation or reaccreditation includes review of the Federally required information the institution or program provides its current and prospective students;

"(3) monitors the growth of programs at institutions that are experiencing significant enrollment growth;

"(4) requires an institution to submit a teach-out plan for approval to the accrediting agency upon the occurrence of any of the following events:

"(A) The Department notifies the accrediting agency of an action against the institution pursuant to section 487(d).

"(B) The accrediting agency acts to withdraw, terminate, or suspend the accreditation of an institution.

"(C) The institution notifies the accrediting agency that the institution intends to cease operations.";

(D) in paragraph (8) (as redesignated by subparagraph (B)), by striking "and" after the semicolon;

(E) in subparagraph (9) (as redesignated by subparagraph (B)), by striking the period and inserting "; and"; and

(F) by adding at the end the following:

"(10) confirms, as a part of the agency or association's review for accreditation or reaccreditation, that the institution has transfer of credit policies—

"(A) that are publicly disclosed;

"(B) that do not deny transfer of credit based solely on the accreditation of the sending institution, if the agency or association accrediting the sending institution is recognized by the Secretary pursuant to this section; and

"(C) in which acceptance or denial of transfer of credit is decided according to criteria established in guidelines developed by the institution's admissions committee.".

### SEC. 499A. ADMINISTRATIVE CAPACITY STANDARD.

Section 498 (20 U.S.C. 1099c) is amended—

(1) in subsection (d)(1)(B), by inserting "and" after the semicolon; and

(2) by adding at the end the following:

"(k) TREATMENT OF TEACH-OUTS AT ADDITIONAL LOCATIONS.—

"(1) IN GENERAL.—A location of a closed institution of higher education shall be eligible as an additional location of an eligible institution of higher education, as defined pursuant to regulations of the Secretary, for the purposes of a teach-out, if such teach-out has been approved by the institution's accrediting agency.

"(2) SPECIAL RULE.—An institution of higher education that conducts a teach-out through the establishment of an additional location described in paragraph (1) shall be permitted to establish a permanent additional location at a closed institution and shall not be required—

"(A) to meet the requirements of sections 102(b)(1)(E) and 102(c)(1)(C) for such additional location; or

"(B) to assume the liabilities of the closed institution.".

### SEC. 499B. PROGRAM REVIEW AND DATA.

Section 498A(b) (20 U.S.C. 1099c–1(b)) is amended—

(1) in paragraph (4), by striking "and" after the semicolon;

(2) in paragraph (5) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(6) provide to an institution of higher education an adequate opportunity to review and respond to any program review report or audit finding, and relevant materials related to the report or finding, before any final program review or audit determination is reached;

"(7) review and take into consideration an institution of higher education's response in any final program review or audit determination; and

"(8) maintain and preserve at all times the confidentiality of any program review report or audit finding until the requirements of paragraphs (6) and (7) are met, and until a final program review or audit determination is issued, other than to the extent required to comply with paragraph (5), except that the Secretary shall promptly disclose any and all program review reports and audit findings to the institution of higher education under review.".

## TITLE V—DEVELOPING INSTITUTIONS

### SEC. 501. DEFINITIONS.

Section 502(a) (20 U.S.C. 1101a(a)) is amended—

(1) in paragraph (5)—

(A) in subparagraph (A), by inserting "and" after the semicolon;

(B) in subparagraph (B), by striking "; and" and inserting a period; and

(C) by striking subparagraph (C); and

(2) by striking paragraph (7).

### SEC. 502. AUTHORIZED ACTIVITIES.

Section 503(b) (20 U.S.C. 1101b(b)) is amended—

(1) by redesignating paragraphs (6) through (14) as paragraphs (8) through (16), respectively;

(2) in paragraph (5), by inserting ", including innovative, customized remedial education and English language instruction courses designed to help retain students and move the students rapidly into core courses and through program completion" before the period at the end; and

(3) by inserting after paragraph (5) the following:

"(6) Education or counseling services designed to improve the financial literacy and economic literacy of students or the students' parents.

"(7) Articulation agreements and student support programs designed to facilitate the transfer from 2-year to 4-year institutions.".

### SEC. 503. DURATION OF GRANT.

Section 504(a) (20 U.S.C. 1101c(a)) is amended to read as follows:

"(a) Award Period.—The Secretary may award a grant to a Hispanic-serving institution under this title for 5 years.".

### SEC. 504. POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS.

(a) Establishment of Program.—Title V (20 U.S.C. 1101 et seq.) is amended—

(1) by redesignating part B as part C;

(2) by redesignating sections 511 through 518 as sections 521 through 528, respectively; and

(3) by inserting after section 505 the following:

## "PART B—PROMOTING POSTBACCALAUREATE OPPORTUNITIES FOR HISPANIC AMERICANS

### "SEC. 511. PROGRAM AUTHORITY AND ELIGIBILITY.

"(a) Program Authorized.—Subject to the availability of funds appropriated to carry out this part, the Secretary shall award grants, on a competitive basis, to eligible institutions to enable the eligible institutions to carry out the authorized activities described in section 512.

"(b) Eligibility.—For the purposes of this part, an 'eligible institution' means an institution of higher education that—

"(1) is a Hispanic-serving institution (as defined in section 502); and

"(2) offers a postbaccalaureate certificate or degree granting program.

### "SEC. 512. AUTHORIZED ACTIVITIES.

"Grants awarded under this part shall be used for 1 or more of the following activities:

"(1) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(2) Construction, maintenance, renovation, and improvement in classroom, library, laboratory, and other instructional facilities, including purchase or rental of telecommunications technology equipment or services.

"(3) Purchase of library books, periodicals, technical and other scientific journals, microfilm, microfiche, and other educational materials, including telecommunications program materials.

"(4) Support for needy postbaccalaureate students, including outreach, academic support services, mentoring, scholarships, fellowships, and other financial assistance, to permit the enrollment of such students in postbaccalaureate certificate and degree granting programs.

"(5) Support of faculty exchanges, faculty development, faculty research, curriculum development, and academic instruction.

"(6) Creating or improving facilities for Internet or other distance learning academic instruction capabilities, including purchase or rental of telecommunications technology equipment or services.

"(7) Collaboration with other institutions of higher education to expand postbaccalaureate certificate and degree offerings.

"(8) Other activities proposed in the application submitted pursuant to section 513 that are approved by the Secretary as part of the review and acceptance of such application.

### "SEC. 513. APPLICATION AND DURATION.

"(a) Application.—Any eligible institution may apply for a grant under this part by submitting an application to the Secretary at such time and in such manner as the Secretary may require. Such application shall demonstrate how the grant funds will be used to improve postbaccalaureate education opportunities for Hispanic and low-income students and will lead to such students' greater financial independence.

"(b) Duration.—Grants under this part shall be awarded for a period not to exceed 5 years.

"(c) Limitation.—The Secretary may not award more than 1 grant under this part in any fiscal year to any Hispanic-serving institution.".

### SEC. 505. APPLICATIONS.

Section 521(b)(1)(A) (as redesignated by section 504(a)(2)) (20 U.S.C. 1103(b)(1)(A)) is amended by striking "subsection (b)" and inserting "subsection (c)".

### SEC. 506. COOPERATIVE ARRANGEMENTS.

Section 524(a) (as redesignated by section 504(a)(2)) (20 U.S.C. 1103c(a)) is amended by striking "section 503" and inserting "sections 503 and 512".

### SEC. 507. AUTHORIZATION OF APPROPRIATIONS.

Section 528(a) (as redesignated by section 504(a)(2)) (20 U.S.C. 1103g(a)) is amended—

(1) by inserting "part A of" after "carry out";

(2) by striking "$62,500,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.";

(3) by striking "(a) Authorizations.—There are" and inserting the following:

"(a) Authorizations.—

"(1) Part A.—There are"; and

(4) by adding at the end the following:

"(2) Part B.—There are authorized to be appropriated to carry out part B of this title such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

## TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

### SEC. 601. FINDINGS.

Section 601 (20 U.S.C. 1121) is amended—

(1) in the section heading, by striking "**AND PURPOSES**" and inserting "; **PURPOSES; CONSULTATION; SURVEY**"

(2) in subsection (a)(3), by striking "post-Cold War";

(3) in subsection (b)(1)(D), by inserting ", including through linkages with overseas institutions" before the semicolon; and

(4) by adding at the end the following:

"(c) Consultation.—The Secretary shall, prior to requesting applications for funding under this title during each grant cycle, consult with and receive recommendations regarding national need for expertise in foreign languages and world regions from the head official, or a designee of such head official, of the National Security Council, the Department of Homeland Security, the Department of Defense, the Department of State, the Federal Bureau of Investigation, the Department of Labor, and the Department of Commerce, and the Director of National Intelligence. These entities shall provide information to the Secretary regarding how they utilize services provided by grantees under this title. The Secretary shall take into account such recommendations and information when requesting applications for funding under this title, and shall make available to applicants a list of areas identified as areas of national need.

"(d) Survey.—The Secretary shall assist grantees in developing a survey to administer to students who have participated in programs under this title to determine postparticipation placement. All grantees, where applicable, shall administer such survey not less often than annually and report such data to the Secretary.".

### SEC. 602. GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS AND PROGRAMS.

Section 602 (20 U.S.C. 1122) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (G), by striking "and" after the semicolon;

(ii) in subparagraph (H), by striking the period and inserting "; and"; and

(iii) by adding at the end the following:

"(I) support for instructors of the less commonly taught languages."; and

(B) in paragraph (4)—

(i) by redesignating subparagraphs (C) through (E) as subparagraphs (D) through (F), respectively;

(ii) by inserting after subparagraph (B) the following:

"(C) Programs of linkage or outreach between or among—

"(i) foreign language, area studies, or other international fields; and

"(ii) State educational agencies or local educational agencies."; and

(iii) in subparagraph (F) (as redesignated by clause (i)), by striking "and (D)" and inserting "(D), and (E)";

(2) in subsection (b)—

(A) in the subsection heading, by striking "GRADUATE"; and

(B) by striking paragraph (2) and inserting the following:

"(2) ELIGIBLE STUDENTS.—A student receiving a stipend described in paragraph (1) shall be engaged—

"(A) in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program; and

"(B)(i) in the case of an undergraduate student, in the intermediate or advanced study of a less commonly taught language; or

"(ii) in the case of a graduate student, in graduate study in connection with a program described in subparagraph (A), including—

"(I) predissertation level study;

"(II) preparation for dissertation research;

"(III) dissertation research abroad; or

"(IV) dissertation writing.";

(3) by striking subsection (d) and inserting the following:

"(d) ALLOWANCES.—

"(1) GRADUATE LEVEL RECIPIENTS.—A stipend awarded to a graduate level recipient may include allowances for dependents and for travel for research and study in the United States and abroad.

"(2) UNDERGRADUATE LEVEL RECIPIENTS.—A stipend awarded to an undergraduate level recipient may include an allowance for educational programs in the United States or educational programs abroad that—

"(A) are closely linked to the overall goals of the recipient's course of study; and

"(B) have the purpose of promoting foreign language fluency and knowledge of foreign cultures."; and

(4) by adding at the end the following:

"(e) APPLICATION.—Each institution or combination of institutions desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may require. Each application shall include an explanation of how the activities funded by the grant will reflect diverse and balanced perspectives and generate debate on world regions and international affairs. Each application shall also describe how the applicant will address disputes regarding diversity and balance of activities funded under the application. Each application shall also include a description of how the applicant will encourage government service in areas of national need as identified by the Secretary.".

### SEC. 603. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.

Section 604 (20 U.S.C. 1124) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) by redesignating subparagraphs (I) through (M) as subparagraphs (J) through (N), respectively; and

(ii) by inserting after subparagraph (H) the following:

"(I) providing subgrants to undergraduate students for educational programs abroad that—

"(i) are closely linked to the overall goals of the program for which the grant is awarded; and

"(ii) have the purpose of promoting foreign language fluency and knowledge of foreign cultures;"; and

(B) in paragraph (7)—

(i) in subparagraph (C), by striking "and" after the semicolon;

(ii) in subparagraph (D), by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(E) an explanation of how the activities funded by the grant will reflect diverse and balanced perspectives and generate debate on world regions and international affairs, where applicable;

"(F) a description of how the applicant will address disputes regarding diversity and balance of activities funded under the application; and

"(G) a description of how the applicant will encourage government service in areas of national need as identified by the Secretary."; and

(2) in subsection (c)—

(A) by striking "FUNDING SUPPORT.—The Secretary" and inserting "FUNDING RULES.—

"(1) THE SECRETARY.—The Secretary";

(B) by striking "10" and inserting "20"; and

(C) by adding at the end the following:

"(2) GRANTEES.—Of the total amount of grant funds awarded to a grantee under this section, the grantee may use not more than 10 percent of such funds for the activity described in subsection (a)(2)(I).".

### SEC. 604. RESEARCH; STUDIES.

Section 605(a) (20 U.S.C. 1125(a)) is amended—

(1) in paragraph (8), by striking "and" after the semicolon;

(2) in paragraph (9), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(10) evaluation of the extent to which programs assisted under this title reflect diverse and balanced perspectives and generate debate on world regions and international affairs;

"(11) the systematic collection, analysis, and dissemination of data that contribute to achieving the purposes of this part; and

"(12) support for programs or activities to make data collected, analyzed, or disseminated under this section publicly available and easy to understand.".

### SEC. 605. TECHNOLOGICAL INNOVATION AND COOPERATION FOR FOREIGN INFORMATION ACCESS.

Section 606 (20 U.S.C. 1126) is amended—

(1) in subsection (a)—

(A) by striking "new electronic technologies" and insert "electronic technologies";

(B) by inserting "from foreign sources" after "disseminate information";

(C) by striking "AUTHORITY.—The Secretary" and insert "AUTHORITY.—

"(1) IN GENERAL.—The Secretary"; and

(D) by adding at the end the following:

"(2) PARTNERSHIPS WITH NOT-FOR-PROFIT EDUCATIONAL ORGANIZATIONS.—The Secretary may award grants under this section to carry out the activities authorized under this section to the following:

"(A) An institution of higher education.

"(B) A public or nonprofit private library.

"(C) A consortium of an institution of higher education and 1 or more of the following:

"(i) Another institution of higher education.

"(ii) A library.

"(iii) A not-for-profit educational organization.";

(2) in subsection (b)—

(A) in paragraph (1), by striking "to facilitate access to" and inserting "to acquire, facilitate access to,";

(B) in paragraph (2), by inserting "or standards for" after "means of";

(C) in paragraph (6), by striking "and" after the semicolon;

(D) in paragraph (7), by striking the period and inserting a semicolon; and

(E) by adding at the end the following:

"(8) to establish linkages to facilitate carrying out the activities described in this subsection between—

"(A) the institutions of higher education, libraries, and consortia receiving grants under this section; and

"(B) institutions of higher education, not-for-profit educational organizations, and libraries overseas; and

"(9) to carry out other activities that the Secretary determines are consistent with the purpose of the grants or contracts awarded under this section."; and

(3) in subsection (c), by striking "institution or consortium" and inserting "institution of higher education, library, or consortium".

### SEC. 606. SELECTION OF CERTAIN GRANT RECIPIENTS.

Section 607 (20 U.S.C. 1127) is amended—

(1) in subsection (a), by striking "evaluates the applications for comprehensive and undergraduate language and area centers and programs." and inserting "evaluates—

"(1) the applications for comprehensive foreign language and area or international studies centers and programs; and

"(2) the applications for undergraduate foreign language and area or international studies centers and programs."; and

(2) in subsection (b), by adding at the end the following: "The Secretary shall also consider an applicant's record of sending students into public service and an applicant's stated efforts to increase the number of students that go into public service.".

### SEC. 607. AMERICAN OVERSEAS RESEARCH CENTERS.

Section 609 (20 U.S.C. 1128a) is amended by adding at the end the following:

"(e) APPLICATION.—Each center desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may require. Each application shall include how the activities funded by the grant will reflect diverse and balanced perspectives and generate debate on world regions and international affairs, where applicable. Each application shall also describe how the applicant will address disputes regarding diversity and balance of activities funded under the application.".

### SEC. 608. AUTHORIZATION OF APPROPRIATIONS FOR INTERNATIONAL AND FOREIGN LANGUAGE STUDIES.

Section 610 (20 U.S.C. 1128b) is amended by striking "$80,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

### SEC. 609. CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.

Section 612(f) (20 U.S.C. 1130–1(f)) is amended—

(1) in paragraph (3), by striking "and" after the semicolon;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(5) assurances that activities funded by the grant will reflect diverse and balanced perspectives and generate debate on world regions and international affairs, where applicable.".

### SEC. 610. EDUCATION AND TRAINING PROGRAMS.

Section 613(c) (20 U.S.C. 1130a(c)) is amended by adding at the end the following: "Each such application shall include an assurance that, where applicable, the activities funded by the grant will reflect diverse and balanced perspectives on world regions and international affairs.".

### SEC. 611. AUTHORIZATION OF APPROPRIATIONS FOR BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS.

Section 614 (20 U.S.C. 1130b) is amended—

(1) in subsection (a), by striking "$11,000,000 for fiscal year 1999" and all that follows through "fiscal years" and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years"; and

(2) in subsection (b), by striking "$7,000,000 for fiscal year 1999" and all that follows through "fiscal years," and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years".

### SEC. 612. MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM.

Section 621 (20 U.S.C. 1131) is amended—

(1) in subsection (c), by adding at the end the following: "Each application shall include a description of how the activities funded by the grant will reflect diverse and balanced perspectives on world regions and international affairs, where applicable."; and

(2) in subsection (e)—

(A) by striking "MATCH REQUIRED.—The eligible" and inserting "MATCHING FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), the eligible"; and

(B) by adding at the end the following:

"(2) WAIVER.—The Secretary may waive the requirement of paragraph (1) for an eligible recipient if the Secretary determines such waiver is appropriate.".

### SEC. 613. INSTITUTIONAL DEVELOPMENT.

Section 622 (20 U.S.C. 1131–1) is amended—

(1) in subsection (a)—

(A) by striking "Tribally Controlled Colleges or Universities" and inserting "tribally controlled colleges or universities"; and

(B) by striking "international affairs programs." and inserting "international affairs, international business, and foreign language study programs, including the teaching of foreign languages, at such colleges, universities, and institutions, respectively, through increased collaboration with institutions of higher education that receive funding under this title."; and

(2) in subsection (c)—

(A) by striking paragraphs (1) and (3); and

(B) by redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively.

### SEC. 614. STUDY ABROAD PROGRAM.

Section 623(a) (20 U.S.C. 1131a(a)) is amended—

(1) by striking "as defined in section 322 of this Act"; and

(2) by striking "tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978" and inserting "tribally controlled colleges or universities".

### SEC. 615. ADVANCED DEGREE IN INTERNATIONAL RELATIONS.

Section 624 (20 U.S.C. 1131b) is amended—

(1) in the section heading, by striking "**MASTERS**" and inserting "**ADVANCED**";

(2) in the first sentence, by inserting ", and in exceptional circumstances, a doctoral degree," after "masters degree";

(3) in the second sentence, by striking "masters degree" and inserting "advanced degree"; and

(4) in the fourth sentence, by striking "United States" and inserting "United States.".

### SEC. 616. INTERNSHIPS.

Section 625 (20 U.S.C. 1131c) is amended—

(1) in subsection (a)—

(A) by striking "as defined in section 322 of this Act";

(B) by striking "tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978" and inserting "tribally controlled colleges or universities";

(C) by striking "an international" and inserting "international,"; and

(D) by striking "the United States Information Agency" and inserting "the Department of State"; and

(2) in subsection (c)(1)—

(A) in subparagraph (E), by inserting "and" after the semicolon;

(B) in subparagraph (F), by striking "; and" and inserting a period; and

(C) by striking subparagraph (G).

### SEC. 617. FINANCIAL ASSISTANCE.

Part C of title VI (20 U.S.C. 1131 et seq.) is further amended—

(1) by redesignating sections 626, 627, and 628 as sections 627, 628, and 629, respectively; and

(2) by inserting after section 625 the following:

### "SEC. 626. FINANCIAL ASSISTANCE.

"(a) AUTHORITY.—The Institute may provide financial assistance, in the form of summer stipends described in subsection (b) and Ralph Bunche scholarship assistance described in subsection (c), to needy students to facilitate the participation of the students in the Institute's programs under this part.

"(b) SUMMER STIPENDS.—

"(1) REQUIREMENTS.—A student receiving a summer stipend under this section shall use such stipend to defray the student's cost of participation in a summer institute program funded under this part, including the costs of travel, living, and educational expenses necessary for the student's participation in such program.

"(2) AMOUNT.—A summer stipend awarded to a student under this section shall not exceed $3,000 per summer.

"(c) RALPH BUNCHE SCHOLARSHIP.—

"(1) REQUIREMENTS.—A student receiving a Ralph Bunche scholarship under this section—

"(A) shall be a full-time student at an institution of higher education who is accepted into a program funded under this part; and

"(B) shall use such scholarship to pay costs related to the cost of attendance, as defined in section 472, at the institution of higher education in which the student is enrolled.

"(2) AMOUNT AND DURATION.—A Ralph Bunche scholarship awarded to a student under this section shall not exceed $5,000 per academic year.".

### SEC. 618. REPORT.

Section 627 (as redesignated by section 617(1)) (20 U.S.C. 1131d) is amended by striking "annually" and inserting "biennially".

### SEC. 619. GIFTS AND DONATIONS.

Section 628 (as redesignated by section 617(1)) (20 U.S.C. 1131e) is amended by striking "annual report described in section 626" and inserting "biennial report described in section 627".

### SEC. 620. AUTHORIZATION OF APPROPRIATIONS FOR THE INSTITUTE FOR INTERNATIONAL PUBLIC POLICY.

Section 629 (as redesignated by section 617(1)) (20 U.S.C. 1131f) is amended by striking "$10,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

### SEC. 621. DEFINITIONS.

Section 631 (20 U.S.C. 1132) is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), (7), (8), and (9), as paragraphs (8), (5), (9), (2), (11), (3), (7), and (4), respectively;

(2) in paragraph (2), as redesignated by paragraph (1), by striking "comprehensive language and area center" and inserting "comprehensive foreign language and area or international studies center";

(3) in paragraph (11), as redesignated by paragraph (1), by striking "undergraduate language and area center" and inserting "undergraduate foreign language and area or international studies center";

(4) in paragraph (3), as redesignated by paragraph (1), by striking the first occurrence of the term "critical languages" and inserting "critical foreign languages";

(5) in paragraph (7), as redesignated by paragraph (1), by striking "and" after the semicolon;

(6) in paragraph (4), as redesignated by paragraph (1), by striking the period at the end and inserting a semicolon;

(7) by inserting after paragraph (5), as redesignated by paragraph (1), the following:

"(6) the term 'historically Black college and university' has the meaning given the term 'part B institution' in section 322;"; and

(8) by inserting after paragraph (9), as redesignated by paragraph (1), the following:

"(10) the term 'tribally controlled college or university' has the meaning given the term in section 2 of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801); and".

### SEC. 622. ASSESSMENT AND ENFORCEMENT.

Part D of title VI (20 U.S.C. 1132) is amended by adding at the end the following:

### "SEC. 632. ASSESSMENT; ENFORCEMENT; RULE OF CONSTRUCTION.

"(a) IN GENERAL.—The Secretary is authorized to assess and ensure compliance with all the conditions and terms of grants provided under this title. If a complaint regarding activities funded under this title is not resolved under the process outlined in the relevant grantee's application, and such complaint is filed with the Department, the Secretary shall be notified, and is authorized, when circumstances warrant, to immediately suspend future funding for the grant pending resolution of such dispute. Such resolution shall not exceed 60 days. The Secretary shall take the outcomes of such complaints into account when determining the renewal of grants.

"(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to authorize the Secretary to mandate, direct, or control an institution of higher education's specific instructional content, curriculum, or program of instruction.

### "SEC. 633. EVALUATION, OUTREACH, AND INFORMATION.

"The Secretary may use not more than 1 percent of the funds made available under this title to carry out program evaluation, national outreach, and information dissemination activities relating to the programs authorized under this title.".

## TITLE VII—GRADUATE AND POSTSECONDARY IMPROVEMENT PROGRAMS

### SEC. 701. PURPOSE.

Section 700(1)(B)(i) (20 U.S.C. 1133(1)(B)(i)) is amended by inserting ", including those areas critical to United States national and homeland security needs such as mathematics, science, and engineering" before the semicolon at the end.

### SEC. 702. ALLOCATION OF JACOB K. JAVITS FELLOWSHIPS.

Section 702(a)(1) (20 U.S.C. 1134a(a)(1)) is amended to read as follows:

"(1) Appointment.—

"(A) In general.—The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board (referred to in this subpart as the 'Board') consisting of 9 individuals representative of both public and private institutions of higher education who are especially qualified to serve on the Board.

"(B) Qualifications.—In making appointments under subparagraph (A), the Secretary shall—

"(i) give due consideration to the appointment of individuals who are highly respected in the academic community;

"(ii) assure that individuals appointed to the Board are broadly representative of a range of disciplines in graduate education in arts, humanities, and social sciences;

"(iii) appoint members to represent the various geographic regions of the United States; and

"(iv) include representatives from minority institutions, as defined in section 365.".

### SEC. 703. STIPENDS.

Section 703(a) (20 U.S.C. 1134b(a)) is amended by striking "graduate fellowships" and inserting "Graduate Research Fellowship Program".

### SEC. 704. AUTHORIZATION OF APPROPRIATIONS FOR THE JACOB K. JAVITS FELLOWSHIP PROGRAM.

Section 705 (20 U.S.C. 1134d) is amended by striking "$30,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years to carry out this subpart.".

### SEC. 705. INSTITUTIONAL ELIGIBILITY UNDER THE GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED PROGRAM.

Section 712(b) (20 U.S.C. 1135a(b)) is amended to read as follows:

"(b) Designation of Areas of National Need.—After consultation with appropriate Federal and nonprofit agencies and organizations, including the National Science Foundation, the Department of Defense, the Department of Homeland Security, the National Academy of Sciences, and the Bureau of Labor Statistics, the Secretary shall designate areas of national need. In making such designations, the Secretary shall take into consideration—

"(1) the extent to which the interest in the area is compelling;

"(2) the extent to which other Federal programs support postbaccalaureate study in the area concerned;

"(3) an assessment of how the program may achieve the most significant impact with available resources; and

"(4) an assessment of current and future professional workforce needs of the United States.".

### SEC. 706. AWARDS TO GRADUATE STUDENTS.

Section 714 (20 U.S.C. 1135c) is amended—

(1) in subsection (b)—

(A) by striking "1999–2000" and inserting "2006–2007"; and

(B) by striking "graduate fellowships" and inserting "Graduate Research Fellowship Program"; and

(2) in subsection (c)—

(A) by striking "716(a)" and inserting "715(a)"; and

(B) by striking "714(b)(2)" and inserting "713(b)(2)".

### SEC. 707. ADDITIONAL ASSISTANCE FOR COST OF EDUCATION.

Section 715(a)(1) (20 U.S.C. 1135d(a)(1)) is amended—

(1) by striking "1999–2000" and inserting "2006–2007"; and

(2) by striking "1998–1999" and inserting "2005–2006".

### SEC. 708. AUTHORIZATION OF APPROPRIATIONS FOR THE GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED PROGRAM.

Section 716 (20 U.S.C. 1135e) is amended by striking "$35,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years to carry out this subpart.".

### SEC. 709. AUTHORIZATION OF APPROPRIATIONS FOR THE THURGOOD MARSHALL LEGAL EDUCATIONAL OPPORTUNITY PROGRAM.

Section 721(h) (20 U.S.C. 1136(h)) is amended by striking "$5,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

### SEC. 710. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

Section 741(a) (20 U.S.C. 1138(a)) is amended—

(1) by striking paragraph (3) and inserting the following:

"(3) the establishment and continuation of institutions, programs, consortia, collaborations, and other joint efforts based on the technology of communications, including those efforts that utilize distance education and technological advancements to educate and train postsecondary students (including health professionals serving medically underserved populations);";

(2) in paragraph (7), by striking "and" after the semicolon;

(3) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(9) the introduction of reforms in remedial education, including English language instruction, to customize remedial courses to student goals and help students progress rapidly from remedial courses into core courses and through program completion; and

"(10) the creation of consortia that join diverse institutions of higher education for the purpose of integrating curricular and co-curricular interdisciplinary study.".

### SEC. 711. SPECIAL PROJECTS.

Section 744(c) (20 U.S.C. 1138c) is amended to read as follows:

"(c) Areas of National Need.—Areas of national need shall include, at a minimum, the following:

"(1) Institutional restructuring to improve learning and promote productivity, efficiency, quality improvement, and cost and price control.

"(2) Improvements in academic instruction and student learning, including efforts designed to assess the learning gains made by postsecondary students.

"(3) Articulation between 2- and 4-year institutions of higher education, including developing innovative methods for ensuring the successful transfer of students from 2- to 4-year institutions of higher education.

"(4) Development, evaluation and dissemination of model programs, including model core curricula that—

"(A) provide students with a broad and integrated knowledge base;

"(B) include, at a minimum, broad survey courses in English literature, American and world history, American political institutions, economics, philosophy, college-level mathematics, and the natural sciences; and

"(C) include sufficient study of a foreign language to lead to reading and writing competency in the foreign language.

"(5) International cooperation and student exchanges among postsecondary educational institutions.".

### SEC. 712. AUTHORIZATION OF APPROPRIATIONS FOR THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

Section 745 (20 U.S.C. 1138d) is amended by striking "$30,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

### SEC. 713. AUTHORIZATION OF APPROPRIATIONS FOR THE URBAN COMMUNITY SERVICE PROGRAM.

Section 759 (20 U.S.C. 1139h) is amended by striking "$20,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years to carry out this part.".

### SEC. 714. GRANTS AUTHORIZED FOR DEMONSTRATION PROJECTS TO ENSURE STUDENTS WITH DISABILITIES RECEIVE A QUALITY HIGHER EDUCATION.

Section 762 (20 U.S.C. 1140a) is amended—

(1) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A), by striking "to teach students with disabilities" and inserting "to teach and meet the academic and programmatic needs of students with disabilities in order to improve retention and completion of postsecondary education";

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (F), respectively;

(iii) by inserting after subparagraph (A) the following:

"(B) Effective transition practices.—The development of innovative and effective teaching methods and strategies to ensure the successful transition of students with disabilities from secondary school to postsecondary education.";

(iv) in subparagraph (C), as redesignated by clause (ii), by striking the period at the end and inserting ", including data on the postsecondary education of and impact on subsequent employment of students with disabilities. Such research, information, and data shall be made publicly available and accessible.";

(v) by inserting after subparagraph (C), as redesignated by clause (ii), the following:

"(D) Distance learning.—The development of innovative and effective teaching methods and strategies to provide faculty and administrators with the ability to provide accessible distance education programs or classes that would enhance access of students with disabilities to higher education, including the use of accessible curriculum and electronic communication for instruction and advisement.

"(E) Disability career pathways.—Training and providing support to secondary and postsecondary staff to encourage interest in, enhance awareness and understanding of, provide educational opportunities in, teach practical skills related to, and offer work-based opportunities in, disability related fields, among students, including students with disabilities. Such training and support may include developing means to offer students credit-bearing, college-level coursework, and career and educational counseling."; and

(vi) by adding at the end the following:

"(G) Accessibility of Education.—Making postsecondary education more accessible to students with disabilities through curriculum development."; and

(B) in paragraph (3), by striking "subparagraphs (A) through (C)" and inserting "subparagraphs (A) through (G)"; and

(2) by adding at the end the following:

"(d) Report.—The Secretary shall prepare and disseminate a report reviewing the activities of the demonstration projects authorized under this part and providing guidance and recommendations on how successful projects can be replicated.".

### SEC. 715. APPLICATIONS FOR DEMONSTRATION PROJECTS TO ENSURE STUDENTS WITH DISABILITIES RECEIVE A QUALITY HIGHER EDUCATION.

Section 763 (20 U.S.C. 1140b) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) a description of how such institution plans to address the activities allowed under this part;";

(2) in paragraph (2), by striking "and" after the semicolon;

(3) in paragraph (3), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(4) a description of the extent to which the institution will work to replicate the research based and best practices of institutions of higher education with demonstrated success in serving students with disabilities.".

### SEC. 716. AUTHORIZATION OF APPROPRIATIONS FOR THE DEMONSTRATION PROJECTS TO ENSURE STUDENTS WITH DISABILITIES RECEIVE A QUALITY HIGHER EDUCATION.

Section 765 (20 U.S.C. 1140d) is amended by striking "$10,000,000 for fiscal year 1999" and all that follows through the period and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

## TITLE VIII—MISCELLANEOUS

### SEC. 801. MATHEMATICS AND SCIENCE SCHOLARS PROGRAM.

The Act (20 U.S.C. 1001 et seq.) is amended by adding at the end the following:

## "TITLE VIII—MISCELLANEOUS

## "PART A—MATHEMATICS AND SCIENCE SCHOLARS PROGRAM

### "SEC. 811. MATHEMATICS AND SCIENCE SCHOLARS PROGRAM.

"(a) Program Authorized.—The Secretary is authorized to award grants to States, on a competitive basis, to enable the States to award eligible students, who complete a rigorous secondary school curriculum in mathematics and science, scholarships for undergraduate study.

"(b) Eligible Students.—A student is eligible for a scholarship under this section if the student is a full-time undergraduate student in the student's first and second year of study who has completed a rigorous secondary school curriculum in mathematics and science.

"(c) Rigorous Curriculum.—Each participating State shall determine the requirements for a rigorous secondary school curriculum in mathematics and science described in subsection (b).

"(d) Priority for Scholarships.—The Governor of a State may set a priority for awarding scholarships under this section for particular eligible students, such as students attending schools in high-need areas, students who are from groups underrepresented in the fields of mathematics, science, and engineering, students served by local educational agencies that do not meet or exceed State standards in mathematics and science, or students with regional or geographic needs as determined appropriate by the Governor.

"(e) Amount and Duration of Scholarship.—The Secretary shall award a grant under this section—

"(1) in an amount that does not exceed $1,000; and

"(2) for not more than 2 years of undergraduate study.

"(f) Matching Requirement.—In order to receive a grant under this section, a State shall provide matching funds for the scholarships awarded under this section in an amount equal to 50 percent of the Federal funds received.

"(g) Authorization.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

## "PART B—POSTSECONDARY EDUCATION ASSESSMENT

### "SEC. 821. POSTSECONDARY EDUCATION ASSESSMENT.

"(a) Contract for Assessment.—The Secretary shall enter into a contract, with an independent, bipartisan organization with specific expertise in public administration and financial management, to carry out an independent assessment of the cost factors associated with the cost of tuition at institutions of higher education.

"(b) Timeframe.—The Secretary shall enter into the contract described in subsection (a) not later than 90 days after the date of enactment of the Higher Education Amendments of 2005.

"(c) Matters Assessed.—The assessment described in subsection (a) shall—

"(1) examine the key elements driving the cost factors associated with the cost of tuition at institutions of higher education during academic year 2000 and succeeding academic years;

"(2) identify and evaluate measures being used to control postsecondary education costs;

"(3) identify and evaluate effective measures that may be utilized to control postsecondary education costs in the future; and

"(4) identify systemic approaches to monitor future postsecondary education costs trends and postsecondary education cost control mechanisms.

## "PART C—JOB SKILL TRAINING IN HIGH-GROWTH OCCUPATIONS OR INDUSTRIES

### "SEC. 831. JOB SKILL TRAINING IN HIGH-GROWTH OCCUPATIONS OR INDUSTRIES.

"(a) Grants Authorized.—The Secretary is authorized to award grants, on a competitive basis, to eligible partnerships to enable the eligible partnerships to provide relevant job skill training in high-growth industries or occupations.

"(b) Definitions.—In this section:

"(1) Eligible partnership.—The term 'eligible partnership' means a partnership—

"(A) between an institution of higher education and a local board (as such term is defined in section 101 of the Workforce Investment Act of 1998); or

"(B) if an institution of higher education is located within a State that does not operate local boards, between the institution of higher education and a State board (as such term is defined in section 101 of the Workforce Investment Act of 1998).

"(2) Nontraditional student.—The term 'nontraditional student' means a student who—

"(A) is independent, as defined in section 480(d);

"(B) attends an institution of higher education—

"(i) on less than a full-time basis;

"(ii) via evening, weekend, modular, or compressed courses; or

"(iii) via distance learning methods; or

"(C) has delayed enrollment at an institution of higher education.

"(3) Institution of higher education.—The term 'institution of higher education' means an institution of higher education, as defined in section 101(b), that offers a 1- or 2-year program of study leading to a degree or certificate.

"(c) Application.—

"(1) In general.—Each eligible partnership that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may require.

"(2) Contents.—Each application submitted under paragraph (1) shall include a description of—

"(A) how the eligible partnership, through the institution of higher education, will provide relevant job skill training for students to enter high-growth occupations or industries;

"(B) local high-growth occupations or industries; and

"(C) the need for qualified workers to meet the local demand of high-growth occupations or industries.

"(d) Award Basis.—In awarding grants under this section, the Secretary shall—

"(1) ensure an equitable distribution of grant funds under this section among urban and rural areas of the United States; and

"(2) take into consideration the capability of the institution of higher education—

"(A) to offer relevant, high quality instruction and job skill training for students entering a high-growth occupation or industry;

"(B) to involve the local business community and to place graduates in the community in employment in high-growth occupations or industries;

"(C) to provide secondary students with dual-enrollment or concurrent enrollment options;

"(D) to serve nontraditional or low-income students, or adult or displaced workers; and

"(E) to serve students from rural or remote communities.

"(e) Use of Funds.—Grant funds provided under this section may be used—

"(1) to expand or create academic programs or programs of training that provide relevant job skill training for high-growth occupations or industries;

"(2) to purchase equipment which will facilitate the development of academic programs or programs of training that provide training for high-growth occupations or industries;

"(3) to support outreach efforts that enable students to attend institutions of higher education with academic programs or programs of training focused on high-growth occupations or industries;

"(4) to expand or create programs for distance, evening, weekend, modular, or compressed learning opportunities that provide relevant job skill training in high-growth occupations or industries;

"(5) to build partnerships with local businesses in high-growth occupations or industries;

"(6) to support curriculum development related to entrepreneurial training; and

"(7) for other uses that the Secretary determines to be consistent with the intent of this section.

"(f) Requirements.—

"(1) Fiscal agent.—For the purpose of this section, the institution of higher education in an eligible partnership shall serve as the fiscal agent and grant recipient for the eligible partnership.

"(2) Duration.—The Secretary shall award grants under this section for periods that may not exceed 5 years.

"(3) Supplement, not supplant.—Funds made available under this section shall be used to supplement and not supplant other Federal, State, and local funds available to the eligible partnership for carrying out the activities described in subsection (e).

"(g) Authorization of Appropriations.—There are authorized to be appropriated to carry out this part such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

### "PART D—GRANT PROGRAM TO INCREASE STUDENT RETENTION AND PROMOTE ARTICULATION AGREEMENTS

### "SEC. 841. GRANT PROGRAM TO INCREASE STUDENT RETENTION AND PROMOTE ARTICULATION AGREEMENTS.

"(a) Authorization of Program.—The Secretary shall award grants, on a competitive basis, to eligible institutions to enable the institutions to—

"(1) focus on increasing traditional and nontraditional student retention at such institutions; and

"(2) promote articulation agreements among different institutions that will increase the likelihood of progression of students at such institutions to baccalaureate degrees.

"(b) Definition of Eligible Institution.—In this section, the term 'eligible institution' means an institution of higher education (as defined in section 101(a)) where not less than 40 percent of such institution's student body receives financial aid under subpart 1 of part A of title IV.

"(c) Application.—An eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including the number of students proposed to be served and a description of the services that will be provided.

"(d) Mandatory Activities.—An eligible institution that receives a grant under this section shall use the grant funds to carry out each of the following:

"(1) Offering counseling and advisement services to help students adapt to postsecondary education and select appropriate coursework.

"(2) Making mentors available to students who are at risk for not completing a degree.

"(3) Providing detailed assistance to students who request help in understanding—

"(A) the options for financing their education, including information on grants, loans, and loan repayment programs;

"(B) the process of applying for financial assistance;

"(C) the outcome of their financial assistance application; and

"(D) any unanticipated problems related to financing their education that arise.

"(4) Offering tutoring to students at risk of dropping out of school with any course or subject.

"(5) Designing and implementing innovative ways to improve retention in and completion of courses, such as enrolling students in cohorts, providing counseling, or creating bridge programs that customize courses to the needs of special population students.

"(6) Conducting outreach activities so that all students know that these services are available and are aware of how to access the services.

"(7) Creating articulation agreements to promote smooth transition from two year to four year programs.

"(8) Making services listed in paragraphs (1) through (5) available in students' native languages, if it is not English, if the percentage of students needing translation services in a specific language exceeds 5 percent.

"(e) Permissible Activities.—An eligible institution that receives a grant under this section may use grant funds to carry out any of the following activities:

"(1) Designing innovative course schedules to meet the needs of working adults, such as online, modular, compressed, or other alternative methods.

"(2) Offering childcare during the hours when students have class or are studying.

"(3) Providing transportation assistance to students that helps such students manage their schedules.

"(4) Partnering with local businesses to create flexible work-hour programs so that students can balance work and school.

"(5) Offering time management or financial literacy seminars to help students improve their management skills.

"(6) Improving professional development to align instruction with innovative program designs.

"(7) Any other activities the Secretary believes will promote retention of students attending eligible institutions.

"(f) Technical Assistance.—The Secretary may enter into a contract with a private entity to provide such technical assistance to grantees under this section as the Secretary determines appropriate.

"(g) Evaluation.—The Secretary shall conduct an evaluation of program impacts under the demonstration program, and shall disseminate to the public the findings from the evaluation and information on best practices.

"(h) Authorization of Appropriations.—There is authorized to be appropriated to carry out this and such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

### "PART E—AMERICAN HISTORY FOR FREEDOM

### "SEC. 851. AMERICAN HISTORY FOR FREEDOM.

"(a) Grants Authorized.—The Secretary is authorized to award 3-year grants, on a competitive basis, to eligible institutions to establish or strengthen postsecondary academic programs or centers that promote and impart knowledge of—

"(1) traditional American history;

"(2) the history and nature of, and threats to, free institutions; or

"(3) the history and achievements of Western civilization.

"(b) Definitions.—In this section:

"(1) Eligible institution.—The term 'eligible institution' means an institution of higher education as defined in section 101.

"(2) Free institution.—The term 'free institution' means an institution that emerged out of Western civilization, such as democracy, constitutional government, individual rights, market economics, religious freedom and religious tolerance, and freedom of thought and inquiry.

"(3) Traditional American history.—The term 'traditional American history' means—

"(A) the significant constitutional, political, intellectual, economic, and foreign policy trends and issues that have shaped the course of American history; and

"(B) the key episodes, turning points, and leading figures involved in the constitutional, political, intellectual, diplomatic, and economic history of the United States.

"(c) Application.—

"(1) In general.—Each eligible institution that desires a grant under this part shall submit an application to the Secretary at such time, in such manner, and accompanied by such additional information as the Secretary may require.

"(2) Contents.—Each application submitted under subsection (a) shall include a description of—

"(A) how funds made available under this part will be used for the activities set forth under subsection (e), including how such activities will increase knowledge with respect to traditional American history, free institutions, or Western civilization;

"(B) how the eligible institution will ensure that information about the activities funded under this part is widely disseminated pursuant to subsection (e)(1)(B);

"(C) any activities to be undertaken pursuant to subsection (e)(2)(A), including identification of entities intended to participate;

"(D) how funds made available under this part shall be used to supplement and not supplant non-Federal funds available for the activities described in subsection (e); and

"(E) such fiscal controls and accounting procedures as may be necessary to ensure proper disbursement of and accounting for funding made available to the eligible institution under this part.

"(d) Award Basis.—In awarding grants under this part, the Secretary shall take into consideration the capability of the eligible institution to—

"(1) increase access to quality programming that expands knowledge of traditional American history, free institutions, or Western civilization;

"(2) involve personnel with strong expertise in traditional American history, free institutions, or Western civilization; and

"(3) sustain the activities funded under this part after the grant has expired.

"(e) Use of Funds.—

"(1) Required use of funds.—Funds provided under this part shall be used to—

"(A) establish or strengthen academic programs or centers focused on traditional American history, free institutions, or Western civilization, which may include—

"(i) design and implementation of programs of study, courses, lecture series, seminars, and symposia;

"(ii) development, publication, and dissemination of instructional materials;

"(iii) research;

"(iv) support for faculty teaching in undergraduate and, if applicable, graduate programs;

"(v) support for graduate and postgraduate fellowships, if applicable; or

"(vi) teacher preparation initiatives that stress content mastery regarding traditional American history, free institutions, or Western civilization; and

"(B) conduct outreach activities to ensure that information about the activities funded under this part is widely disseminated—

"(i) to undergraduate students (including students enrolled in teacher education programs, if applicable);

"(ii) to graduate students (including students enrolled in teacher education programs), if applicable;

"(iii) to faculty;

"(iv) to local educational agencies; and

"(v) within the local community.

"(2) ALLOWABLE USES OF FUNDS.—Funds provided under this part may be used to support—

"(A) collaboration with entities such as—

"(i) local educational agencies, for the purpose of providing elementary, middle and secondary school teachers an opportunity to enhance their knowledge of traditional American history, free institutions, or Western civilization; and

"(ii) nonprofit organizations whose mission is consistent with the purpose of this part, such as academic organizations, museums, and libraries, for assistance in carrying out activities described under subsection (a); and

"(B) other activities that meet the purposes of this part.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

## "PART F—TEACH FOR AMERICA

### "SEC. 861. TEACH FOR AMERICA.

"(a) DEFINITIONS.—

"(1) IN GENERAL.—The terms 'highly qualified', 'local educational agency', and 'Secretary' have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

"(2) GRANTEE.—The term 'grantee' means Teach For America, Inc.

"(3) HIGH NEED.—The term 'high need', when used with respect to a local educational agency, means a local educational agency experiencing a shortage of highly qualified teachers.

"(b) GRANTS AUTHORIZED.—The Secretary is authorized to award a grant to Teach For America, Inc., the national teacher corps of outstanding recent college graduates who commit to teach for 2 years in underserved communities in the United States, to implement and expand its program of recruiting, selecting, training, and supporting new teachers.

"(c) REQUIREMENTS.—In carrying out the grant program under subsection (b), the Secretary shall enter into an agreement with the grantee under which the grantee agrees to use the grant funds provided under this section—

"(1) to provide highly qualified teachers to high need local educational agencies in urban and rural communities;

"(2) to pay the cost of recruiting, selecting, training, and supporting new teachers; and

"(3) to serve a substantial number and percentage of underserved students.

"(d) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Grant funds provided under this section shall be used by the grantee to carry out each of the following activities:

"(A) Recruiting and selecting teachers through a highly selective national process.

"(B) Providing preservice training to the teachers through a rigorous summer institute that includes hands-on teaching experience and significant exposure to education coursework and theory.

"(C) Placing the teachers in schools and positions designated by partner local educational agencies as high need placements serving underserved students.

"(D) Providing ongoing professional development activities for the teachers' first 2 years in the classroom, including regular classroom observations and feedback, and ongoing training and support.

"(2) LIMITATION.—The grantee shall use all grant funds received under this section to support activities related directly to the recruitment, selection, training, and support of teachers as described in subsection (a).

"(e) REPORTS AND EVALUATIONS.—

"(1) ANNUAL REPORT.—The grantee shall provide to the Secretary an annual report that includes—

"(A) data on the number and quality of the teachers provided to local educational agencies through a grant under this section;

"(B) an externally conducted analysis of the satisfaction of local educational agencies and principals with the teachers so provided; and

"(C) comprehensive data on the background of the teachers chosen, the training the teachers received, the placement sites of the teachers, the professional development of the teachers, and the retention of the teachers.

"(2) STUDY.—

"(A) IN GENERAL.—From funds appropriated under subsection (f), the Secretary shall provide for a study that examines the achievement levels of the students taught by the teachers assisted under this section.

"(B) ACHIEVEMENT GAINS COMPARED.—The study shall compare, within the same schools, the achievement gains made by students taught by teachers who are assisted under this section with the achievement gains made by students taught by teachers who are not assisted under this section.

"(3) REQUIREMENTS.—The Secretary shall provide for such a study not less than once every 3 years, and each such study shall include multiple placement sites and multiple schools within placement sites.

"(4) PEER REVIEW STANDARDS.—Each such study shall meet the peer review standards of the education research community.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.

"(2) LIMITATION.—The grantee shall not use more than 25 percent of Federal funds from any source for administrative costs.

## "PART G—PATSY T. MINK FELLOWSHIP PROGRAM

### "SEC. 1. PATSY T. MINK FELLOWSHIP PROGRAM.

"(a) PURPOSE.—

"(1) IN GENERAL.—It is the purpose of this section to provide, through eligible institutions, a program of fellowship awards to assist highly qualified minorities and women to acquire the doctoral degree, or highest possible degree available, in academic areas in which such individuals are underrepresented for the purpose of enabling such individuals to enter the higher education professoriate.

"(2) DESIGNATION.—Each recipient of a fellowship award from an eligible institution receiving a grant under this section shall be known as a 'Patsy T. Mink Graduate Fellow'.

"(b) DEFINITIONS.—In this section, the term 'eligible institution' means an institution of higher education, or a consortium of such institutions, that offers a program of postbaccalaureate study leading to a graduate degree.

"(c) PROGRAM AUTHORIZED.—

"(1) GRANTS BY SECRETARY.—

"(A) IN GENERAL.—The Secretary shall award grants to eligible institutions to enable such institutions to make fellowship awards to individuals in accordance with the provisions of this section.

"(B) PRIORITY CONSIDERATION.—In awarding grants under this section, the Secretary shall consider the eligible institution's prior experience in producing doctoral degree, or highest possible degree available, holders who are minorities and women, and shall give priority consideration in making grants under this section to those eligible institutions with a demonstrated record of producing minorities and women who have earned such degrees.

"(2) APPLICATIONS.—

"(A) IN GENERAL.—An eligible institution that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(B) APPLICATIONS MADE ON BEHALF.—

"(i) IN GENERAL.—The following entities may submit an application on behalf of an eligible institution:

"(I) A graduate school or department of such institution.

"(II) A graduate school or department of such institution in collaboration with an undergraduate college or university of such institution.

"(III) An organizational unit within such institution that offers a program of postbaccalaureate study leading to a graduate degree, including an interdisciplinary or an interdepartmental program.

"(IV) A nonprofit organization with a demonstrated record of helping minorities and women earn postbaccalaureate degrees.

"(ii) NONPROFIT ORGANIZATIONS.—Nothing in this paragraph shall be construed to permit the Secretary to award a grant under this section to an entity other than an eligible institution.

"(3) SELECTION OF APPLICATIONS.—In awarding grants under subsection (a), the Secretary shall—

"(A) take into account—

"(i) the number and distribution of minority and female faculty nationally;

"(ii) the current and projected need for highly trained individuals in all areas of the higher education professoriate; and

"(iii) the present and projected need for highly trained individuals in academic career fields in which minorities and women are underrepresented in the higher education professoriate; and

"(B) consider the need to prepare a large number of minorities and women generally in academic career fields of high national priority, especially in areas in which such individuals are traditionally underrepresented in college and university faculties, such as mathematics, science, technology, and engineering.

"(4) DISTRIBUTION AND AMOUNTS OF GRANTS.—

"(A) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among public and independent eligible institutions that apply for grants under this section and that demonstrate an ability to achieve the purpose of this section.

"(B) SPECIAL RULE.—To the maximum extent practicable, the Secretary shall use not less than 30 percent of the amount appropriated pursuant to subsection (f) to award grants to eligible institutions that—

"(i) are eligible for assistance under title III or title V; or "(ii) have formed a consortium that includes both non-minority serving institutions and minority serving institutions.

"(C) Allocation.—In awarding grants under this section, the Secretary shall allocate appropriate funds to those eligible institutions whose applications indicate an ability to significantly increase the numbers of minorities and women entering the higher education professoriate and that commit institutional resources to the attainment of the purpose of this section.

"(D) Number of fellowship awards.—An eligible institution that receives a grant under this section shall make not less than 15 fellowship awards.

"(E) Reallotment.—If the Secretary determines that an eligible institution awarded a grant under this section is unable to use all of the grant funds awarded to the institution, the Secretary shall reallot, on such date during each fiscal year as the Secretary may fix, the unused funds to other eligible institutions that demonstrate that such institutions can use any reallocated grant funds to make fellowship awards to individuals under this section.

"(5) Institutional allowance.—

"(A) In general.—

"(i) Number of allowances.—In awarding grants under this section, the Secretary shall pay to each eligible institution awarded a grant, for each individual awarded a fellowship by such institution under this section, an institutional allowance.

"(ii) Amount.—Except as provided in paragraph (3), an institutional allowance shall be in an amount equal to, for academic year 2006-2007 and succeeding academic years, the amount of institutional allowance made to an institution of higher education under section 715 for such academic year.

"(B) Use of funds.—Institutional allowances may be expended in the discretion of the eligible institution and may be used to provide, except as prohibited under paragraph (4), academic support and career transition services for individuals awarded fellowships by such institution.

"(C) Reduction.—The institutional allowance paid under paragraph (1) shall be reduced by the amount the eligible institution charges and collects from a fellowship recipient for tuition and other expenses as part of the recipient's instructional program.

"(D) Use for overhead prohibited.—Funds made available under this section may not be used for general operational overhead of the academic department or institution receiving funds under this section.

"(d) Fellowship Recipients.—

"(1) Authorization.—An eligible institution that receives a grant under this section shall use the grant funds to make fellowship awards to minorities and women who are enrolled at such institution in a doctoral degree, or highest possible degree available, program and—

"(A) intend to pursue a career in instruction at—

"(i) an institution of higher education (as the term is defined in section 101);

"(ii) an institution of higher education (as the term is defined in section 102(a)(1));

"(iii) an institution of higher education outside the United States (as the term is described in section 102(a)(2)); or

"(iv) a proprietary institution of higher education (as the term is defined in section 102(b)); and

"(B) sign an agreement with the Secretary agreeing—

"(i) to begin employment at an institution described in paragraph (1) not later than 3 years after receiving the doctoral degree or highest possible degree available, which 3-year period may be extended by the Secretary for extraordinary circumstances; and

"(ii) to be employed by such institution for 1 year for each year of fellowship assistance received under this section.

"(2) Failure to comply.—If an individual who receives a fellowship award under this section fails to comply with the agreement signed pursuant to subsection (a)(2), then the Secretary shall do 1 or both of the following:

"(A) Require the individual to repay all or the applicable portion of the total fellowship amount awarded to the individual by converting the balance due to a loan at the interest rate applicable to loans made under part B of title IV.

"(B) Impose a fine or penalty in an amount to be determined by the Secretary.

"(3) Waiver and modification.—

"(A) Regulations.—The Secretary shall promulgate regulations setting forth criteria to be considered in granting a waiver for the service requirement under subsection (a)(2).

"(B) Content.—The criteria under paragraph (1) shall include whether compliance with the service requirement by the fellowship recipient would be—

"(i) inequitable and represent an extraordinary hardship; or

"(ii) deemed impossible because the individual is permanently and totally disabled at the time of the waiver request.

"(4) Amount of fellowship awards.—Fellowship awards under this section shall consist of a stipend in an amount equal to the level of support provided to the National Science Foundation graduate fellows, except that such stipend shall be adjusted as necessary so as not to exceed the fellow's tuition and fees or demonstrated need (as determined by the institution of higher education where the graduate student is enrolled), whichever is greater.

"(5) Academic progress required.—An individual student shall not be eligible to receive a fellowship award—

"(A) except during periods in which such student is enrolled, and such student is maintaining satisfactory academic progress in, and devoting essentially full time to, study or research in the pursuit of the degree for which the fellowship support was awarded; and

"(B) if the student is engaged in gainful employment, other than part-time employment in teaching, research, or similar activity determined by the eligible institution to be consistent with and supportive of the student's progress toward the appropriate degree.

"(e) Rule of Construction.—Nothing in this section shall be construed to require an eligible institution that receives a grant under this section—

"(1) to grant a preference or to differentially treat any applicant for a faculty position as a result of the institution's participation in the program under this section; or

"(2) to hire a Patsy T. Mink Fellow who completes this program and seeks employment at such institution.

"(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2006 for each of the 5 succeeding fiscal years.

## "PART H—STUDY ON COLLEGE ENROLLMENT BY SECONDARY SCHOOLS

### "SEC. 1. STUDY ON COLLEGE ENROLLMENT BY SECONDARY SCHOOLS.

"The Secretary shall contract with a not-for-profit organization, with demonstrated expertise in increasing college enrollment rates in low-income communities nationwide, to make publicly available year-to-year college enrollment rate trends by secondary schools, in full compliance with the Family Educational Rights and Privacy Act of 1974 (FERPA).".

## TITLE IX—AMENDMENTS TO OTHER LAWS

## PART A—EDUCATION OF THE DEAF ACT OF 1986

### SEC. 901. LAURENT CLERC NATIONAL DEAF EDUCATION CENTER.

Section 104 of the Education of the Deaf Act of 1986 (20 U.S.C. 4304) is amended—

(1) by striking the heading and inserting "**LAURENT CLERC NATIONAL DEAF EDUCATION CENTER**";

(2) in subsection (a)(1)(A), by inserting "the Laurent Clerc National Deaf Education Center (referred to in this section as the 'Clerc Center') to carry out" after "maintain and operate"; and

(3) in subsection (b)—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking "elementary and secondary education programs" and inserting "Clerc Center";

(B) in paragraph (2), by striking "elementary and secondary education programs" and inserting "Clerc Center"; and

(C) by adding at the end the following:

"(5) The University, for purposes of the elementary and secondary education programs carried out at the Clerc Center, shall—

"(A)(i) select challenging academic content standards, challenging student academic achievement standards, and academic assessments of a State, adopted and implemented, as appropriate, pursuant to paragraphs (1) and (3) of section 1111(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311(b)(1) and (3)) and approved by the Secretary; and

"(ii) implement such standards and assessments for such programs by not later than the beginning of the 2008–2009 academic year;

"(B) annually determine whether such programs at the Clerc Center are making adequate yearly progress, as determined according to the definition of adequate yearly progress defined (pursuant to section 1111(b)(2)(C) of such Act (20 U.S.C. 6311(b)(2)(C))) by the State that has adopted and implemented the standards and assessments selected under subparagraph (A)(i); and

"(C) publicly report the results of the academic assessments implemented under subparagraph (A) and whether the programs at the Clerc Center are making adequate yearly progress, as determined under subparagraph (B).".

### SEC. 902. AGREEMENT WITH GALLAUDET UNIVERSITY.

Section 105(b)(4) of the Education of the Deaf Act of 1986 (20 U.S.C. 4305(b)(4)) is amended—

(1) by striking "the Act of March 3, 1931 (40 U.S.C. 276a–276a–5) commonly referred to as the Davis-Bacon Act" and inserting "subchapter IV of chapter 31 of title 40, United States Code, commonly referred to as the Davis-Bacon Act"; and

(2) by striking "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)" and inserting "section 3145 of title 40, United States Code".

### SEC. 903. AGREEMENT FOR THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.

Section 112 of the Education of the Deaf Act of 1986 (20 U.S.C. 4332) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the first sentence—

(I) by striking "an institution of higher education" and inserting "the Rochester Institute of Technology, Rochester, New York"; and

(II) by striking "of a" and inserting "of the"; and

(ii) by striking the second sentence;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following:

"(2) Notwithstanding the requirement under paragraph (1), if the Secretary or the Rochester Institute of Technology terminates the agreement under paragraph (1), the Secretary shall consider proposals from other institutions of higher education and enter into an agreement with 1 of such institutions for the establishment and operation of a National Technical Institution for the Deaf."; and

(2) in subsection (b)—

(A) in paragraph (3), by striking "Committee on Education and Labor of the House of Representatives and to the Committee on Labor and Human Resources of the Senate" and inserting "Committee on Education and the Workforce of the House of Representatives and to the Committee on Health, Education, Labor, and Pensions of the Senate"; and

(B) in paragraph (5)—

(i) by striking "the Act of March 3, 1931 (40 U.S.C. 276a-276a-5) commonly referred to as the Davis-Bacon Act" and inserting "subchapter IV of chapter 31 of title 40, United States Code, commonly referred to as the Davis-Bacon Act"; and

(ii) by striking "section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)" and inserting "section 3145 of title 40, United States Code".

### SEC. 904. CULTURAL EXPERIENCES GRANTS.

(a) Cultural Experiences Grants.—Title I of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) is amended by adding at the end the following:

### "PART C—OTHER PROGRAMS

### "SEC. 121. CULTURAL EXPERIENCES GRANTS.

"(a) In General.—The Secretary shall, on a competitive basis, make grants to, and enter into contracts and cooperative agreements with, eligible entities to support the activities described in subsection (b).

"(b) Activities.—In carrying out this section, the Secretary shall support activities providing cultural experiences, through appropriate nonprofit organizations with a demonstrated proficiency in providing such activities, that—

"(1) enrich the lives of deaf and hard-of-hearing children and adults;

"(2) increase public awareness and understanding of deafness and of the artistic and intellectual achievements of deaf and hard-of-hearing persons; or

"(3) promote the integration of hearing, deaf, and hard-of-hearing persons through shared cultural, educational, and social experiences.

"(c) Applications.—An eligible entity that desires to receive a grant, or enter into a contract or cooperative agreement, under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years.".

(b) Conforming Amendment.—The title heading of title I of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) is amended by adding at the end ": OTHER PROGRAMS".

### SEC. 905. AUDIT.

Section 203 of the Education of the Deaf Act of 1986 (20 U.S.C. 4353) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking the second sentence and inserting the following: "The institution of higher education that the Secretary has an agreement with under section 112 shall have an annual independent financial and compliance audit made of NTID programs and activities. The audit shall follow the cycle of the Federal fiscal year.";

(B) in paragraph (2), by striking "sections" and all that follows through the period and inserting "sections 102(b), 105(b)(4), 112(b)(5), 203(c), 207(b)(2), subsections (c) through (f) of section 207, and subsections (b) and (c) of section 209."; and

(C) in paragraph (3), by inserting "and the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate" after "Secretary"; and

(2) in subsection (c)(2)(A), by striking "Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate".

### SEC. 906. REPORTS.

Section 204 of the Education of the Deaf Act of 1986 (20 U.S.C. 4354) is amended—

(1) in the matter preceding paragraph (1), by striking "Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate" and inserting "Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate";

(2) in paragraph (1), by striking "preparatory,";

(3) in paragraph (2)(C), by striking "upon graduation/completion" and inserting "on the date that is 1 year after the date of graduation or completion"; and

(4) in paragraph (3)(B), by striking "of the institution of higher education" and all that follows through the period and inserting "of NTID programs and activities.".

### SEC. 907. MONITORING, EVALUATION, AND REPORTING.

Section 205 of the Education of the Deaf Act of 1986 (20 U.S.C. 4355) is amended—

(1) in subsection (b), by striking "The Secretary, as part of the annual report required under section 426 of the Department of Education Organization Act, shall include a description of" and inserting "The Secretary shall annually transmit information to Congress on"; and

(2) in subsection (c), by striking "fiscal years 1998 through 2003" and inserting "fiscal years 2006 through 2010".

### SEC. 908. LIAISON FOR EDUCATIONAL PROGRAMS.

Section 206(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4356(a)) is amended by striking "Not later than 30 days after the date of enactment of this Act, the" and inserting "The".

### SEC. 909. FEDERAL ENDOWMENT PROGRAMS FOR GALLAUDET UNIVERSITY AND THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF.

Section 207(h) of the Education of the Deaf Act of 1986 (20 U.S.C. 4357(h)) is amended by striking "fiscal years 1998 through 2003" each place it appears and inserting "fiscal years 2006 through 2010".

### SEC. 910. OVERSIGHT AND EFFECT OF AGREEMENTS.

Section 208(a) of the Education of the Deaf Act of 1986 (20 U.S.C. 4359(a)) is amended by striking "Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives" and inserting "Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate".

### SEC. 911. INTERNATIONAL STUDENTS.

Section 209 of the Education of the Deaf Act of 1986 (20 U.S.C. 4359a) is amended—

(1) in subsection (a)—

(A) by striking "preparatory, undergraduate," and inserting "undergraduate";

(B) by striking "Effective with" and inserting the following:

"(1) In General.—Except as provided in paragraph (2), effective with"; and

(C) by adding at the end the following:

"(2) Distance Learning.—International students who participate in distance learning courses that are at NTID or the University and who are residing outside of the United States shall—

"(A) not be counted as international students for purposes of the cap on international students under paragraph (1), except that in any school year no United States citizen who applies to participate in distance learning courses that are at the University or NTID shall be denied participation in such courses because of the participation of an international student in such courses; and

"(B) not be charged a tuition surcharge, as described in subsection (b)."; and

(2) by striking subsections (b), (c), and (d), and inserting the following:

"(b) Tuition Surcharge.—Except as provided in subsections (a)(2)(B) and (c), the tuition for postsecondary international students enrolled in the University (including undergraduate and graduate students) or NTID shall include, for academic year 2007–2008 and any succeeding academic year, a surcharge of—

"(1) 100 percent for a postsecondary international student from a non-developing country; and

"(2) 50 percent for a postsecondary international student from a developing country.

"(c) Reduction of Surcharge.—

"(1) In General.—Beginning with the academic year 2007–2008, the University or NTID may reduce the surcharge—

"(A) under subsection (b)(1) to 50 percent if—

"(i) a student described under subsection (b)(1) demonstrates need; and

"(ii) such student has made a good faith effort to secure aid through such student's government or other sources; and

"(B) under subsection (b)(2) to 25 percent if—

"(i) a student described under subsection (b)(2) demonstrates need; and

"(ii) such student has made a good faith effort to secure aid through such student's government or other sources.

"(2) Development of Sliding Scale.—The University and NTID shall develop a sliding scale model that—

"(A) will be used to determine the amount of a tuition surcharge reduction pursuant to paragraph (1); and

"(B) shall be approved by the Secretary.

"(d) Definition.—In this section, the term 'developing country' means a country with a per-capita income of not more than $4,825, measured in 1999 United States dollars, as adjusted by the Secretary to reflect inflation since 1999.".

### SEC. 912. RESEARCH PRIORITIES.

Section 210(b) of the Education of the Deaf Act of 1986 (20 U.S.C. 4359b(b)) is amended by striking "Committee on Labor and Human Resources of the Senate" and inserting "Committee on Health, Education, Labor, and Pensions of the Senate".

### SEC. 913. AUTHORIZATION OF APPROPRIATIONS.

Section 212 of the Education of the Deaf Act of 1986 (20 U.S.C. 4360a) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking "fiscal years 1998 through 2003" and inserting "fiscal years 2006 through 2011"; and

(2) in subsection (b), by striking "fiscal years 1998 through 2003" and inserting "fiscal years 2006 through 2011".

## PART B—UNITED STATES INSTITUTE OF PEACE ACT

### SEC. 921. UNITED STATES INSTITUTE OF PEACE ACT.

(a) Powers and Duties.—Section 1705(b)(3) of the United States Institute of Peace Act (22 U.S.C. 4604(b)(3)) is amended by striking "the Arms Control and Disarmament Agency,".

(b) Board of Directors.—Section 1706 of the United States Institute of Peace Act (22 U.S.C. 4605) is amended—

(1) by striking "(b)(5)" each place the term appears and inserting "(b)(4)"; and

(2) in subsection (e), by adding at the end the following:

"(5) The term of a member of the Board shall not commence until the member is confirmed by the Senate and sworn in as a member of the Board.".

(c) Funding.—Section 1710 of the United States Institute of Peace Act (22 U.S.C. 4609) is amended by adding at the end the following:

"(d) Extension.—Any authorization of appropriations made for the purposes of carrying out this title shall be extended in the same manner as applicable programs are extended under section 422 of the General Education Provisions Act.".

## PART C—THE HIGHER EDUCATION AMENDMENTS OF 1998

### SEC. 931. REPEALS.

The following provisions of title VIII of the Higher Education Amendments of 1998 (Public Law 105-244) are repealed:

(1) Part A.

(2) Part C (20 U.S.C. 1070 note).

(3) Part F (20 U.S.C. 1862 note).

(4) Part J.

(5) Section 861.

(6) Section 863.

### SEC. 932. GRANTS TO STATES FOR WORKPLACE AND COMMUNITY TRANSITION TRAINING FOR INCARCERATED YOUTH OFFENDERS.

Section 821(b) of the Higher Education Amendment of 1988 is amended by striking "25" and inserting "35".

## PART D—INDIAN EDUCATION

### Subpart 1—Tribal Colleges and Universities

### SEC. 941. TRIBALLY CONTROLLED COLLEGE AND UNIVERSITY ASSISTANCE.

(a) Clarification of the Definition of National Indian Organization.—Section 2(a)(6) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)(6)) is amended by striking "in the field of Indian education" and inserting "in the fields of tribally controlled colleges and universities and Indian higher education".

(b) Indian Student Count.—Section 2(a) of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1801(a)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following:

"(7) 'Indian student' means a student who is—

"(A) a member of an Indian tribe; or

"(B) a biological child of a member of an Indian tribe, living or deceased;".

(c) Continuing Education.—Section 2(b) of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1801(b)) is amended by striking paragraph (5) and inserting the following:

"(5) Determination of credits.—Eligible credits earned in a continuing education program—

"(A) shall be determined as 1 credit for every 10 contact hours in the case of an institution on a quarter system, or 15 contact hours in the case of an institution on a semester system, of participation in an organized continuing education experience under responsible sponsorship, capable direction, and qualified instruction, as described in the criteria established by the International Association for Continuing Education and Training; and

"(B) shall be limited to 10 percent of the Indian student count of a tribally controlled college or university.".

(d) Accreditation Requirement.—Section 103 of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1804) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by inserting after paragraph (3), the following:

"(4)(A) is accredited by a nationally recognized accrediting agency or association determined by the Secretary of Education to be a reliable authority with regard to the quality of training offered; or

"(B) is, according to such an agency or association, making reasonable progress toward accreditation.".

(e) Technical Assistance Contract Awards.—Section 105 of the Tribally Controlled College or University Assistance Act (25 U.S.C. 1805) is amended in the second sentence by striking "In the awarding of contracts for technical assistance, preference shall be given" and inserting "The Secretary shall direct that contracts for technical assistance be awarded".

(f) Title I Reauthorization.—Section 110(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1810(a)) is amended—

(1) in paragraphs (1), (2), (3), and (4), by striking "1999" and inserting "2006";

(2) in paragraphs (1), (2), and (3), by striking "4 succeeding" and inserting "5 succeeding";

(3) in paragraph (2), by striking "$40,000,000" and inserting "such sums as may be necessary";

(4) in paragraph (3), by striking "$10,000,000" and inserting "such sums as may be necessary"; and

(5) in paragraph (4), by striking "succeeding 4" and inserting "5 succeeding".

(g) Title III Reauthorization.—Section 306(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1836(a)) is amended—

(1) by striking "1999" and inserting "2006"; and

(2) by striking "4 succeeding" and inserting "5 succeeding".

(h) Title IV Reauthorization.—Section 403 of the Tribal Economic Development and Technology Related Education Assistance Act of 1990 (25 U.S.C. 1852) is amended—

(1) by striking "$2,000,000 for fiscal year 1999" and inserting "such sums as may be necessary for fiscal year 2006"; and

(2) by striking "4 succeeding" and inserting "5 succeeding".

### Subpart 2—Navajo Higher Education

### SEC. 945. SHORT TITLE.

This subpart may be cited as the "Navajo Nation Higher Education Act of 2005".

### SEC. 946. REAUTHORIZATION OF THE NAVAJO COMMUNITY COLLEGE ACT.

Section 5(a)(1) of the Navajo Community College Act (25 U.S.C. 640c-1(a)(1)) is amended by striking "$2,000,000" and all that follows through "years" and inserting "such sums as may be necessary for fiscal year 2006 and each of the 5 succeeding fiscal years".

## TITLE X—RECONCILIATION

### SEC. 1001. PROVISIONAL GRANT ASSISTANCE PROGRAM.

(a) Amendment.—Subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a) is amended by adding at the end the following:

### "SEC. 401A. PROVISIONAL GRANT ASSISTANCE PROGRAM.

"(a) Grants.—

"(1) In general.—From amounts appropriated under subsection (c) for a fiscal year and subject to subsection (b), the Secretary shall award grants to students (which shall be known as 'ProGAP awards') in the same manner as the Secretary awards grants to students under section 401, except that the Secretary shall determine the amount of a grant under this section for an academic year by—

"(A) determining the total number of students eligible for a grant under section 401 for the academic year, and the amount that each of those students are eligible to receive under section 401 calculated on the basis of the maximum grant level specified in the appropriate Appropriation Act for section 401 for the academic year;

"(B) determining the amount each of those students would receive under section 401 if the grant award under section 401 were calculated on the basis of the sum of the total amount appropriated to carry out section 401 and the total amount appropriated to carry out this section for the academic year; and

"(C) awarding to each of those students the amount by which the amount determined under subparagraph (B) exceeds the amount determined under subparagraph (A).

"(2) Students with the greatest need.—The Secretary shall ensure grants are awarded under this section to students with the greatest need as determined under paragraph (1).

"(b) Cost of Attendance Limitation.—A grant awarded under this section for an academic year shall be awarded in an amount that does not exceed—

"(1) the student's cost of attendance for the academic year; less

"(2) an amount equal to the expected family contribution for that student for the academic year.

"(c) Authorization and Appropriation of Funds.—There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Education to carry out this section and section 401B—

"(1) $965,000,000 for fiscal year 2006;

"(2) $971,000,000 for fiscal year 2007;

"(3) $971,000,000 for fiscal year 2008;

"(4) $972,000,000 for fiscal year 2009; and

"(5) $972,000,000 for fiscal year 2010.

"(d) Sunset Provision.—This section shall be effective with respect to amounts appropriated for fiscal year 2006 and each of the 4 succeeding fiscal years.".

(b) Sense of the Senate.—It is the sense of the Senate that the amounts appropriated to carry out sections 401A and 401B of the Higher Education Act of 1965 are the result of the savings generated by the amendments made by this title.

### SEC. 1002. NATIONAL SMART GRANTS.

Subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a) is further amended by adding after section 401A (as added by section 1001):

### "SEC. 401B. NATIONAL SMART GRANTS.

"(a) Grants Authorized.—From amounts appropriated under section 401A(c) for a fiscal year, the Secretary shall award grants to eligible students to assist the eligible students in paying their college education expenses.

"(b) Designation.—A grant under this section shall be known as a 'National Science and Mathematics Access to Retain Talent Grant' or a 'National SMART Grant'.

"(c) Definition of Eligible Student.—In this section the term 'eligible student' means a student who, for the academic year for which the determination is made—

"(1) is eligible for a Federal Pell Grant; and

"(2) is in the student's 3rd or 4th year at an institution of higher education majoring in—

"(A) mathematics, science, technology, or engineering (as determined by the Secretary pursuant to regulations); or

"(B) a foreign language that the Secretary, in consultation with the Director of National Intelligence, determines is critical to the national security of the United States.

"(d) Grant Amount.—The Secretary shall award a grant under this section in an amount that does not exceed $1,500 for an academic year.

"(e) Funding Rule.—The Secretary shall use not more than $200,000,000 of the funds appropriated under section 401A(c) for each of the fiscal years 2006 through 2010 to carry out this section.

"(f) Unobligated Funds Available for Federal Grant Assistance.—The Secretary shall make any funds made available under subsection (e) for a fiscal year that remain unobligated at the end of the fiscal year available to carry out section 401A.

"(g) Matching Assistance.—An institution of higher education may, from funds provided from private sources, provide additional assistance to a student receiving a grant under this section, except that the total assistance provided under this title to a student shall not exceed the student's cost of attendance.".

### SEC. 1003. LOAN LIMITS.

(a) Federal Insurance Limits.—Section 425(a)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1075(a)(1)(A)) is amended—

(1) in clause (i)(I), by striking "$2,625" and inserting "$3,500"; and

(2) in clause (ii)(I), by striking "$3,500" and inserting "$4,500".

(b) Guarantee Limits.—Section 428(b)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(A)) is amended—

(1) in clause (i)(I), by striking "$2,625" and inserting "$3,500"; and

(2) in clause (ii)(I), by striking "$3,500" and inserting "$4,500".

(c) Federal Plus Loans.—Section 428B of the Higher Education Act of 1965 (20 U.S.C. 1078-2) is amended—

(1) in subsection (a)(1)—

(A) in the matter preceding subparagraph (A), by striking "Parents" and inserting "A graduate or professional student or the parents";

(B) in subparagraph (A), by striking "the parents" and inserting "the graduate or professional student or the parents"; and

(C) in subparagraph (B), by striking "the parents" and inserting "the graduate or professional student or the parents";

(2) in subsection (b), by striking "any parent" and inserting "any graduate or professional student or any parent";

(3) in subsection (c)(2), by striking "parent" and inserting "graduate or professional student or parent"; and

(4) in subsection (d)(1), by striking "the parent" and inserting "the graduate or professional student or the parent".

(d) Unsubsidized Stafford Loans for Graduate or Professional Students.—Section 428H(d)(2) of the Higher Education Act of 1965 (20 U.S.C. 1078-8(d)(2)) is amended—

(1) in subparagraph (C), by striking "$10,000" and inserting "$12,000"; and

(2) in subparagraph (D)—

(A) in clause (i), by striking "$5,000" and inserting "$7,000"; and

(B) in clause (ii), by striking "$5,000" and inserting "$7,000".

### SEC. 1004. PLUS LOAN INTEREST RATES AND ZERO SPECIAL ALLOWANCE PAYMENT.

(a) PLUS Loans.—Section 427A(l)(2) of the Higher Education Act of 1965 (20 U.S.C. 1077a(l)(2)) is amended by striking "7.9 percent" and inserting "8.5 percent".

(b) Conforming Amendments for Special Allowances.—

(1) Amendments.—Subparagraph (I) of section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)) is amended—

(A) in clause (iii), by striking ", subject to clause (v) of this subparagraph";

(B) in clause (iv), by striking ", subject to clause (vi) of this subparagraph"; and

(C) by striking clauses (v), (vi), and (vii) and inserting the following:

"(v) Recapture of excess interest.—

"(I) Excess credited.—With respect to a loan on which the applicable interest rate is determined under section 427A(l) and for which the first disbursement of principal is made on or after April 1, 2006, if the applicable interest rate for any 3-month period exceeds the special allowance support level applicable to such loan under this subparagraph for such period, then an adjustment shall be made by calculating the excess interest in the amount computed under subclause (II) of this clause, and by crediting the excess interest to the Government not less often than annually.

"(II) Calculation of excess.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

"(aa) the applicable interest rate minus the special allowance support level determined under this subparagraph; multiplied by

"(bb) the average daily principal balance of the loan (not including unearned interest added to principal) during such calendar quarter; divided by

"(cc) four.

"(III) Special allowance support level.—For purposes of this clause, the term 'special allowance support level' means, for any loan, a number expressed as a percentage equal to the sum of the rates determined under subclauses (I) and (III) of clause (i), and applying any substitution rules applicable to such loan under clauses (ii), (iii), and (iv) in determining such sum.".

(2) Effective date.—The amendments made by this subsection shall not apply with respect to any special allowance payment made under section 438 of the Higher Education Act of 1965 (20 U.S.C 1087-1) before April 1, 2006.

### SEC. 1005. REDUCTION OF LENDER INSURANCE REIMBURSEMENT RATES.

(a) Amendment.—Subparagraph (G) of section 428(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)) is amended to read as follows:

"(G) insures 97 percent of the unpaid principal of loans insured under the program;".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) for which the first disbursement is made on or after January 1, 2006.

### SEC. 1006. GUARANTY AGENCY ORIGINATION FEE.

(a) Amendment.—Section 428(b)(1)(H) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(H)) is amended to read as follows:

"(H) provides for the collection, and the deposit in the Federal Fund established under section 422A(a), of a guaranty agency origination fee of 1.0 percent of each disbursement of the proceeds of the loan, which fee may be provided from funds in the guaranty agency's operating fund under section 422B or from other non-Federal funds;".

(b) Effective Date.—The amendment made by subsection (a) shall be effective with respect to any loan guaranteed under part B of title IV of the Higher Education Act of 1965 on or after April 1, 2006.

### SEC. 1007. DEFERMENT OF STUDENT LOANS FOR MILITARY SERVICE.

(a) Federal Family Education Loans.—Section 428(b)(1)(M) of the Higher Education Act of 1965 (20 U.S.C. 1078(b)(1)(M)) is amended—

(1) by striking "or" at the end of clause (ii);

(2) by redesignating clause (iii) as clause (iv); and

(3) by inserting after clause (ii) the following new clause:

"(iii) not in excess of 3 years during which the borrower—

"(I) is serving on active duty during a war or other military operation or national emergency; or

"(II) is performing qualifying National Guard duty during a war or other military operation or national emergency; or".

(b) Direct Loans.—Section 455(f)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087e(f)(2)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) not in excess of 3 years during which the borrower—

"(i) is serving on active duty during a war or other military operation or national emergency; or

"(ii) is performing qualifying National Guard duty during a war or other military operation or national emergency; or".

(c) Perkins Loans.—Section 464(c)(2)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087dd(c)(2)(A)) is amended—

(1) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

(2) by inserting after clause (ii) the following new clause:

"(iii) not in excess of 3 years during which the borrower—

"(I) is serving on active duty during a war or other military operation or national emergency; or

"(II) is performing qualifying National Guard duty during a war or other military operation or national emergency;".

(d) DEFINITIONS.—Section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088) is amended by adding at the end the following new subsection:

"(d) DEFINITIONS FOR MILITARY DEFERMENTS.—For purposes of parts B, D, and E of this title:

"(1) ACTIVE DUTY.—The term 'active duty' has the meaning given such term in section 101(d)(1) of title 10, United States Code, except that such term does not include active duty for training or attendance at a service school.

"(2) MILITARY OPERATION.—The term 'military operation' means a contingency operation as such term is defined in section 101(a)(13) of title 10, United States Code.

"(3) NATIONAL EMERGENCY.—The term 'national emergency' means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

"(4) SERVING ON ACTIVE DUTY.—The term 'serving on active duty during a war or other military operation or national emergency' means service by an individual who is—

"(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with a war or other military operation or national emergency, regardless of the location at which such active duty service is performed; and

"(B) any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

"(5) QUALIFYING NATIONAL GUARD DUTY.—The term 'qualifying National Guard duty during a war or other military operation or national emergency' means service as a member of the National Guard on full-time National Guard duty (as defined in section 101(d)(5) of title 10, United States Code) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, in connection with a war, other military operation, or a national emergency declared by the President and supported by Federal funds.".

(e) RULE OF CONSTRUCTION.—Nothing in the amendments made by this section shall be construed to authorize any refunding of any repayment of a loan.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to loans for which the first disbursement is made on or after July 1, 2001.

### SEC. 1008. REHABILITATION THROUGH CONSOLIDATION.

Section 428(c) of the Higher Education Act of 1965 (20 U.S.C 1078(c)) is amended—

(1) in paragraph (2)(A)—

(A) by inserting "(i)" after "including"; and

(B) by inserting before the semicolon at the end the following: "and (ii) requirements establishing procedures to preclude consolidation lending from being an excessive portion of guaranty agency recoveries on defaulted loans under this part";

(2) in paragraph (2)(D), by striking "paragraph (6)" and inserting "paragraph (6)(A)"; and

(3) in paragraph (6)—

(A) by inserting "(A)" before "For the purposes of paragraph (2)(D),";

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(C) by adding at the end the following new subparagraphs:

"(B) GUARANTY AGENCY OBLIGATIONS.—A guaranty agency shall—

"(i) on or after October 1, 2006—

"(I) not charge the borrower collection costs in an amount in excess of 18.5 percent of the outstanding principal and interest of a defaulted loan that is paid off through consolidation by the borrower under this title; and

"(II) remit to the Secretary a portion of the collection charge under subclause (I) equal to 8.5 percent of the outstanding principal and interest of such defaulted loan; and

"(ii) on and after October 1, 2009, remit to the Secretary the entire amount charged under clause (i)(I) with respect to each defaulted loan that is paid off with excess consolidation proceeds.

"(C) EXCESS CONSOLIDATION PROCEEDS.—For purposes of subparagraph (B), the term 'excess consolidation proceeds' means, with respect to any guaranty agency for any Federal fiscal year beginning on or after October 1, 2009, the proceeds of consolidation of defaulted loans under this title that exceed 45 percent of the agency's total collections on defaulted loans in such Federal fiscal year.".

### SEC. 1009. SINGLE HOLDER RULE.

Subparagraph (A) of section 428C(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078–3(b)(1)) is amended by striking "and (i)" and all that follows through "so selected for consolidation)".

### SEC. 1010. DEFAULT REDUCTION PROGRAM.

Section 428F(a)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-6(a)(1)) is amended—

(1) in subparagraph (A), by striking "consecutive payments for 12 months" and inserting "9 payments made within 20 days of the due date during 10 consecutive months";

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) A guaranty agency may charge the borrower and retain collection costs in an amount not to exceed 18.5 percent of the outstanding principal and interest at the time of sale of a loan rehabilitated under subparagraph (A).".

### SEC. 1011. REQUIREMENTS FOR DISBURSEMENTS OF STUDENT LOANS.

Section 428G of the Higher Education Act of 1965 (20 U.S.C. 1078–7) is amended—

(1) in subsection (a)(3), by adding at the end the following: "Notwithstanding section 422(d) of the Higher Education Amendments of 1998, this paragraph shall be effective beginning on the date of enactment of the Higher Education Amendments of 2005."; and

(2) in subsection (b)(1), by adding at the end the following: "Notwithstanding section 422(d) of the Higher Education Amendments of 1998, the second sentence of this paragraph shall be effective beginning on the date of enactment of the Higher Education Amendments of 2005.".

### SEC. 1012. SPECIAL INSURANCE AND REINSURANCE RULES.

(a) REPEAL.—Section 428I of the Higher Education Act of 1965 (20 U.S.C. 1078–9) is repealed.

(b) CONFORMING AMENDMENTS.—Part A of title IV of the Higher Education Act of 1965 (20 U.S.C.1070 et seq.) is amended—

(1) in section 428(c)(1)—

(A) by striking subparagraph (D); and

(B) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively; and

(2) in section 438(b)(5), by striking the matter following subparagraph (B).

### SEC. 1013. SCHOOL AS LENDER MORATORIUM.

Section 435(d)(2) of the Higher Education Act of 1965 (20 U.S.C. 1085(d)(2)) is amended—

(1) in subparagraph (E), by striking "and" after the semicolon; and

(2) by inserting before the matter following subparagraph (F) the following:

"(G) shall have met the requirements of subparagraphs (A) through (F), and made loans under this part, on or before August 31, 2005;

"(H) shall hold each loan the eligible institution makes under this part to a student enrolled at the eligible institution until the student enters into a grace period described in section 427(a)(2)(B) or 428(b)(7);

"(I) shall use the proceeds from the sale of a loan made under this part, for need based grant aid programs, except that such proceeds—

"(i) shall not be used to provide a grant to a student for an academic year in an amount that is more than the student's cost of attendance for the academic year; and

"(ii) shall supplement and not supplant other Federal, State, and institutional grant aid; and

"(J) shall not be a foundation or alumni organization;".

### SEC. 1014. PERMANENT REDUCTION OF SPECIAL ALLOWANCE PAYMENTS FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT ISSUES.

(a) TECHNICAL CLARIFICATION.—The matter preceding paragraph (1) of section 2 of the Taxpayer-Teacher Protection Act of 2004 (Public Law 108–409; 118 Stat. 2299) is amended by inserting "of the Higher Education Act of 1965" after "Section 438(b)(2)(B)". The amendment made by the preceding sentence shall be effective as if enacted on October 30, 2004.

(b) AMENDMENT.—Section 438(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)(B)) is amended—

(1) in clause (iv), by striking "and before January 1, 2006,"; and

(2) in clause (v)(II)—

(A) in item (aa), by striking "and before January 1, 2006,";

(B) in item (bb), by striking "and before January 1, 2006,"; and

(C) in item (cc), by striking "and before January 1, 2006,".

### SEC. 1015. LOAN FEES FROM LENDERS.

(a) AMENDMENT.—Paragraph (2) of section 438(d)(2) (20 U.S.C. 1087–1(d)) is amended to read as follows:

"(2) AMOUNT OF LOAN FEES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), with respect to any loan made under this part for which the first disbursement was made on or after October 1, 1993, the amount of the loan fee that shall be deducted under paragraph (1) shall be equal to 0.50 percent of the principal amount of the loan.

"(B) CONSOLIDATION LOANS.—With respect to any loan made under section 428C on or after April 1, 2006, the amount of the loan fee that shall be deducted under paragraph (1) shall be equal to 1.0 percent of the principal amount of the loan.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.) for which the first disbursement is made on or after April 1, 2006.

### SEC. 1016. ORIGINATION FEE.

Section 455(c) of the Higher Education Act of 1965 (20 U.S.C. 1087e(c)) is amended—

(1) by striking "shall" and inserting "is authorized to"; and

(2) by striking "4.0 percent of the principal amount of loan" and inserting "not less than 1 percent and not more than 3 percent of the principal amount of the loan, except that the Secretary shall charge the borrower of a Federal Direct PLUS Loan an origination fee of 4.0 percent of the principal amount of the loan.".

### SEC. 1017. INCOME CONTINGENT REPAYMENT FOR PUBLIC SECTOR EMPLOYEES.

Section 455(e) of the Higher Education Act of 1965 (20 U.S.C. 1087e(e)) is amended by adding at the end the following:

"(7) REPAYMENT PLAN FOR PUBLIC SECTOR EMPLOYEES.—

"(A) IN GENERAL.—The Secretary shall forgive the balance due on any loan made under this part for a borrower—

"(i) who has made 120 payments on such loan pursuant to income contingent repayment; and

"(ii) who is employed, and was employed for the 10-year period in which the borrower made the 120 payments described in clause (i), in a public sector job.

"(B) PUBLIC SECTOR JOB.—In this paragraph, the term 'public sector job' means a full-time job in emergency management, government, public safety, law enforcement, public health, education (including early childhood education), or public interest legal services (including prosecution or public defense).

"(8) RETURN TO STANDARD REPAYMENT.—A borrower who is repaying a loan made under this part pursuant to income contingent repayment may choose, at any time, to terminate repayment pursuant to income contingent repayment and repay such loan under the standard repayment plan.".

### SEC. 1018. INCOME PROTECTION ALLOWANCE FOR DEPENDENT STUDENTS.

(a) AMENDMENT.—Section 475(g)(2)(D) (20 U.S.C. 1087oo(g)(2)(D)) is amended by striking "$2,200" and inserting "$3,000".

(b) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to determinations of need for periods of enrollment beginning on or after July 1, 2006.

### SEC. 1019. SIMPLIFIED NEED TEST AND AUTOMATIC ZERO IMPROVEMENTS.

Section 479(c) of the Higher Education Act of 1965 (20 U.S.C. 10877ss(c)) is amended—

(1) in paragraph (1), by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the parents is less than or equal to $20,000; or";

(2) in paragraph (2), by striking subparagraph (B) and inserting the following:

"(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to $20,000.".

### SEC. 1020. LOAN FORGIVENESS FOR TEACHERS.

Section 3(b)(3) of the Taxpayer-Teacher Protection Act of 2004 (20 U.S.C. 1078–10 note) is amended by striking ", and before October 1, 2005".

Mr. KENNEDY. Mr. President, I rise today to join my chairman, Senator ENZI, in the introduction of a bill that will bring much needed relief to students and families struggling to pay for college. We plan to report out this bill from our Committee later this week. The assistance it contains can not come soon enough.

In today's global economy, a college degree is more valuable than ever. Students and workers must have the skills they need to succeed. When I graduated from high school, good jobs were available to high school graduates. Today, that is not the case. More and more jobs—particularly jobs that can reasonably support a family—require men and women to have a college degree or certificate, and the best jobs require advanced degrees.

But today, many families across America are facing a combination of hope and anxiety as their children go back to college—hope that their children will do well and anxiety about rising costs that are swamping family budgets.

Public tuition is up 35 percent over the last 4 years. Nationally, last year, almost 200,000 qualified students didn't go to college at all because they couldn't afford the high cost. According to new data from the Congressional Advisory Committee on Student Financial Assistance, the poorest students face an average unmet financial need of nearly $6,000.

Many who find a way to go to college are borrowing more heavily than ever. In 1990, only 16 percent of students took out a college loan. Today, it is 52 percent. Thirty years ago, the typical student aid package was 60 percent grants and 40 percent loans. Today, it is the reverse—40 percent grants and 60 percent loans. The average undergraduate now has $17,000 in college debt.

Families across the country are dedicating larger and larger portions of their income to send their children to college. In Massachusetts, after taking the average financial aid package into consideration, a family making the average salary must contribute 31 percent of their income to cover the costs of sending one child to college for just one year. In some States, the percentage is even higher. Families are struggling to pay for college and as a result the doors of college are barred for too many students.

Congress can do more to ease the squeeze, and this bill is an important step in the right direction. Many of us would like to do more, and we are concerned that $7 billion in this bill will be dedicated to Reconciliation, which will be used to pay for tax cuts for the wealthy.

Nevertheless, the assistance in this bill for students and for their families is substantial. It provides at least $5.5 billion for additional grant aid to the students who need it the most. It improves the existing student loan programs by making important changes to create real competition between the various programs and keeping the cost of loans affordable. It also strengthens the act's graduate studies program, and expands access to loans and grant aid for these students.

The bill also strengthens programs to prepare students to go to college and stay in college, such as GEAR UP and TRIO. We extend and improve programs to support minorities, such as the Hispanic Serving Institution Program, the Tribal College Program and the Historically Black Colleges and Universities Program. A new program supports institutions serving large numbers of Native American students.

We are making small improvements in getting qualified young people to college, but we still have much to do to keep them enrolled and earn a degree. The committee has made an effort to address the retention issue by including programs to help students succeed in college.

We also continue our focus on teacher preparation by strengthening partnerships with the K–12 systems who hire the teachers, and giving priority to preparing teachers for shortage subjects such as special education and math and science.

As the bill recognizes, to help the Nation compete in today's global economy, we must strengthen the teaching of math and science in schools and colleges. It is shameful that America is now ranked only 29th in the industrial world in math education, and that we have fallen from third in the world to 15th in producing scientists and engineers.

The bill provides strong incentives for math and science graduates to teach for at least 5 years in the schools that need them most. We also create a new scholarship program for low income students, pursuing careers in math, science, technology and engineering, and high need foreign languages.

From our earliest days as a nation, education has been the engine of the American dream, and we can't let it stall. A larger share of our population needs to participate in postsecondary education. We looked at ways to expand access to working adults through modular and compressed coursework, and to students with disabilities who can benefit from taking courses rather than taking standardized tests.

Our goal is to give all students and their parents the support they need to benefit from education and keep our country strong in the years ahead.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 233—EXPRESSING THE CONDOLENCES OF THE NATION TO THE VICTIMS OF HURRICANE KATRINA, COMMENDING THE RESILIENCY OF THE PEOPLE OF THE STATES OF LOUISIANA, MISSISSIPPI, AND ALABAMA, AND COMMITTING TO STAND BY THEM IN THE RELIEF AND RECOVERY EFFORTS

Mr. FRIST (for himself, Mr. REID, Ms. LANDRIEU, Mr. VITTER, Mr. COCHRAN, Mr. LOTT, Mr. SHELBY, Mr. SESSIONS, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. MCCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 233

Whereas, on August 28, 2005, Hurricane Katrina reached landfall devastating the Gulf Coast states;

Whereas there has yet to be a full accounting for all our citizens whose lives were tragically lost;

Whereas the cost in human suffering is ongoing for hundreds of thousands of people who have lost loved ones, homes, and livelihoods;

Whereas immediate humanitarian aid is still critically needed in many of the devastated regions;

Whereas the devastation on the Gulf Coast of Mississippi, Louisiana, and Alabama is catastrophic;

Whereas the City of New Orleans is tragically flooded and the surrounding communities of St. Bernard and Plaquemines parishes are devastated;

Whereas every city on the Mississippi Gulf Coast is severely damaged or destroyed, including Waveland, Bay St. Louis, Pass Christian, Long Beach, Gulfport, Biloxi, Ocean Springs, Moss Point, and Pascagoula;

Whereas the States of Florida, Texas, and Georgia also sustained damage;

Whereas Coast Guard search and rescue teams, police, firefighters, the National Guard and many ordinary citizens have risked their lives to save others;

Whereas doctors, nurses, and medical personnel worked expeditiously to ensure that hospitals, medical centers, and triage units provided needed care;

Whereas the American Red Cross, the Salvation Army, and other volunteer organizations and charities are supplying hurricane victims with food, water, and shelter;

Whereas the State of Texas and numerous other states have welcomed tens of thousands of victims from Louisiana and provided them with aid and comfort;

Whereas the Army Corps of Engineers has worked to reinforce levees in Louisiana; and

Whereas thousands of volunteers and government employees from across the Nation have committed time and resources to help with recovery efforts: Now, therefore, be it

*Resolved*, That the Senate—

(1) expresses the condolences of the Nation to the victims of Hurricane Katrina;

(2) commends the resiliency and courage of the people of the States of Louisiana, Mississippi, and Alabama; and

(3) commits to provide the necessary resources and to stand by the people of the States of Louisiana, Mississippi, and Alabama in the relief, recovery, and rebuilding efforts.

### SENATE CONCURRENT RESOLUTION 52—PROVIDING FOR THE USE OF THE CATAFALQUE SITUATED IN THE CRYPT BENEATH THE ROTUNDA OF THE CAPITOL IN CONNECTION WITH MEMORIAL SERVICES TO BE CONDUCTED IN THE SUPREME COURT BUILDING FOR THE LATE HONORABLE WILLIAM H. REHNQUIST, CHIEF JUSTICE OF THE UNITED STATES

Mr. FRIST (for himself, Mr. REID, Mr. LOTT, and Mr. DODD) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 52

*Resolved by the Senate* (the House of Representatives concurring), That the Architect of the Capitol is authorized and directed to transfer to the custody of the Supreme Court of the United States the catafalque which is situated in the crypt beneath the Rotunda of the Capitol so that such catafalque may be used in the Supreme Court Building in connection with services to be conducted there for the late honorable William H. Rehnquist, Chief Justice of the United States.

### AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, September 6 at 2:30 p.m. The purpose of this hearing is to receive testimony regarding oil and gasoline pricing.

The PRESIDING OFFICER. Without objection, it is so ordered.

### NOTIFICATION OF THE DEATH OF THE HONORABLE WILLIAM H. REHNQUIST, CHIEF JUSTICE OF THE UNITED STATES

The PRESIDING OFFICER. The Chair lays before the Senate a communication from the Associate Justice of the Supreme Court of the United States, the Honorable Antonin Scalia, notifying the Senate of the death of the Chief Justice of the United States, the late Honorable William H. Rehnquist.

The message is as follows:

SUPREME COURT OF THE UNITED STATES,
*Washington, DC, September 6, 2005.*

Hon. RICHARD B. CHENEY,
*President, U.S. Senate,*
*Washington, DC.*

DEAR MR. PRESIDENT: This is to notify the Senate, through you, that the Chief Justice of the United States died in Arlington, Virginia on Saturday, September 3, 2005.

Very truly yours,

ANTONIN SCALIA,
*Associate Justice.*

### ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 10:30 a.m., tomorrow, September 7, 2005.

Thereupon, the Senate, at 6:24 p.m., adjourned until Wednesday, September 7, 2005, at 10:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate September 6, 2005:

SUPREME COURT OF THE UNITED STATES

JOHN G. ROBERTS, JR., OF MARYLAND, TO BE CHIEF JUSTICE OF THE UNITED STATES, VICE WILLIAM H. REHNQUIST, DECEASED.

DEPARTMENT OF AGRICULTURE

JAMES M. ANDREW, OF GEORGIA, TO BE ADMINISTRATOR, RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE, VICE HILDA GAY LEGG, RESIGNED.

DEPARTMENT OF DEFENSE

MICHAEL W. WYNNE, OF FLORIDA, TO BE SECRETARY OF THE AIR FORCE, VICE JAMES G. ROCHE.

DONALD C. WINTER, OF VIRGINIA, TO BE SECRETARY OF THE NAVY, VICE GORDON ENGLAND.

DELORES M. ETTER, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF THE NAVY, VICE JOHN J. YOUNG.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ORLANDO J. CABRERA, OF FLORIDA, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE MICHAEL MINORU FAWN LIU, RESIGNED.

DEPARTMENT OF ENERGY

JEFFREY D. JARRETT, OF PENNSYLVANIA, TO BE AN ASSISTANT SECRETARY OF ENERGY (FOSSIL ENERGY), VICE MICHAEL SMITH, RESIGNED.

DEPARTMENT OF COMMERCE

SANTANU K. BARUAH, OF OREGON, TO BE ASSISTANT SECRETARY OF COMMERCE FOR ECONOMIC DEVELOPMENT, VICE DAVID A. SAMPSON.

ENVIRONMENTAL PROTECTION AGENCY

LYONS GRAY, OF NORTH CAROLINA, TO BE CHIEF FINANCIAL OFFICER, ENVIRONMENTAL PROTECTION AGENCY, VICE CHARLES JOHNSON.

DEPARTMENT OF THE TREASURY

CLAY LOWERY, OF VIRGINIA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY, VICE RANDAL QUARLES.

## SOCIAL SECURITY ADMINISTRATION

JOHN E. MAUPIN, JR., OF TENNESSEE, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2010, VICE GERALD M. SHEA, TERM EXPIRED.

## DEPARTMENT OF STATE

ELLEN R. SAUERBREY, OF MARYLAND, TO BE AN ASSISTANT SECRETARY OF STATE (POPULATION, REFUGEES, AND MIGRATION), VICE ARTHUR E. DEWEY, RESIGNED.

## UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

JACQUELINE ELLEN SCHAFER, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, VICE EMMY B. SIMMONS.

## BROADCASTING BOARD OF GOVERNORS

MARK MCKINNON, OF TEXAS, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM EXPIRING AUGUST 13, 2008, VICE JOAQUIN F. BLAYA, TERM EXPIRED.

## DEPARTMENT OF STATE

BRENDA LAGRANGE JOHNSON, OF NEW YORK, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO JAMAICA.

ALEXANDER R. VERSHBOW, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KOREA.

DAVID B. DUNN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE TOGOLESE REPUBLIC.

THOMAS A. SHANNON, JR., OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AN ASSISTANT SECRETARY OF STATE (WESTERN HEMISPHERE AFFAIRS), VICE ROGER FRANCISCO NORIEGA.

## DEPARTMENT OF JUSTICE

THOMAS O. BARNETT, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE R. HEWITT PATE.

## THE JUDICIARY

JAMES S. HALPERN, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE UNITED STATES TAX COURT FOR A TERM OF FIFTEEN YEARS. (REAPPOINTMENT)

## DEPARTMENT OF HOMELAND SECURITY

EMILIO T. GONZALEZ, OF FLORIDA, TO BE DIRECTOR OF THE BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES, DEPARTMENT OF HOMELAND SECURITY, VICE EDUARDO AGUIRRE, JR.

## DEPARTMENT OF VETERANS AFFAIRS

JOHN M. MOLINO, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (POLICY AND PLANNING), VICE CLAUDE M. KICKLIGHTER, RESIGNED.

LISETTE M. MONDELLO, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF VETERANS AFFAIRS (PUBLIC AND INTERGOVERNMENTAL AFFAIRS), VICE CYNTHIA R. CHURCH, RESIGNED.

GEORGE J. OPFER, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF VETERANS AFFAIRS, VICE RICHARD J. GRIFFIN.

## IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES COAST GUARD RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be rear admiral (lower half)*

CAPT. MICHAEL R. SEWARD, 2642

## IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

### *To be lieutenant general*

MAJ. GEN. DOUGLAS M. FRASER, 7505

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

### *To be lieutenant general*

LT. GEN. JOHN F. REGNI, 3567

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED IN ACCORDANCE WITH ARTICLE II, SECTION 2, CLAUSE 2, OF THE CONSTITUTION:

### *To be brigadier general*

COL. RICHARD J. TUBB, 8067

## IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

### *To be general*

GEN. BURWELL B. BELL III, 7158

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

### *To be lieutenant general*

MAJ. GEN. ANNE E. DUNWOODY, 4139

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be major general*

BRIG. GEN. WILLIAM T. NESBITT, 8512

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be major general*

BRIG. GEN. JAMES P. EGGLETON, 1830

### *To be brigadier general*

COL. BLAKE E. WILLIAMS, 2990

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be brigadier general*

COL. JOHN E. CORNELIUS, 2976

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

### *To be brigadier general*

COL. KENNY C. MONTOYA, 7096

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

### *To be brigadier general*

COLONEL DANIEL B. ALLYN, 6989
COLONEL JAMES C. BOOZER, SR., 1513
COLONEL RONALD M. BOUCHARD, 7342
COLONEL MARK S. BOWMAN, 4544
COLONEL THOMAS M. COLE, 9526
COLONEL JESSE R. CROSS, 6194
COLONEL KENNETH S. DOWD, 7036
COLONEL MICHAEL T. FLYNN, 4740
COLONEL WILLIAM H. FORRESTER, JR., 6402
COLONEL WILLIAM B. GARRETT III, 7276
COLONEL JAMES L. HODGE, 5525
COLONEL ANTHONY R. IERARDI, 8705
COLONEL JOHN D. JOHNSON, 8672
COLONEL GREGG F. MARTIN, 8042
COLONEL WILLIAM C. MAYVILLE, JR., 1736
COLONEL JAMES M. MCDONALD, 3211
COLONEL PATRICIA E. MCQUISTION, 4806
COLONEL JOHN W. PEABODY, 1226
COLONEL DAVID G. PERKINS, 8615
COLONEL DANA J. H. PITTARD, 4461
COLONEL JOE E. RAMIREZ, JR., 1924
COLONEL JAMES E. ROGERS, 7358
COLONEL MICHAEL E. ROUNDS, 6679
COLONEL FREDERICK S. RUDESHEIM, 8656
COLONEL TODD T. SEMONITE, 8702
COLONEL JOHN E. SEWARD, 0909
COLONEL ROBIN P. SWAN, 6382
COLONEL ANTHONY J. TATA, 8746
COLONEL KEVIN R. WENDEL, 0434
COLONEL WILLIAM T. WOLF, 2298
COLONEL TERRY A. WOLFF, 8867

## IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND AS PERMANENT PROFESSOR, UNITED STATES AIR FORCE ACADEMY, UNDER TITLE 10, U.S.C., SECTIONS 9333(B) AND 9336(A):

### *To be colonel*

GARY A. PACKARD, JR., 1944

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

### *To be lieutenant colonel*

STACEY T. KNUTZEN, 7863
JONATHAN R. SPECHT, 8072

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

### *To be major*

DONALD E. RECKART, 7760

# WITHDRAWAL

Executive Message transmitted by the President to the Senate on September 6, 2005 withdrawing from further Senate consideration the following nomination:

JOHN G. ROBERTS, JR., OF MARYLAND, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, WHICH WAS SENT TO THE SENATE ON JULY 29, 2005.

# HOUSE OF REPRESENTATIVES—*Tuesday, September 6, 2005*

The House met at 2 p.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

As Members assemble for this fall session of the 109th Congress, Lord God, we ask for Your blessing upon all who serve as Members or staff in the House of Representatives. Invigorate them, Lord, with health and clarity of conscience, that in and through them Your holy will be accomplished.

As true representatives of the people, enable Members to undertake the task of addressing the Nation's greatest natural disaster in history and whatever else You ask of them with care, imagination and deep commitment.

May all the work accomplished in this Chamber be blessed by You and be perceived as a blessing by the people of this Nation and the world community. May all laws be just, inclusive and far-reaching both in vision and effectiveness.

May Your people hold this noble institution in high esteem and give You, Almighty God, glory and praise now and forever. Amen.

## THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from South Carolina (Mr. WILSON) come forward and lead the House in the Pledge of Allegiance.

Mr. WILSON of South Carolina led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3199. An act to extend and modify authorities needed to combat terrorism, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3199) "An Act to extend and modify authorities needed to combat terrorism, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. SPECTER, Mr. HATCH, Mr. KYL, Mr. DEWINE, Mr. SESSIONS, Mr. ROBERTS, Mr. LEAHY, Mr. KENNEDY, Mr. ROCKFELLER and Mr. LEVIN, to be the conferees on the part of the Senate.

The message also announced that the Senate has passed bills of the following titles in which concurrence of the House is requested:

S. 172. An act to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes.

S. 397. An act to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 501. An act to provide a site for the National Women's History Museum in the District of Columbia.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to clause 1 of rule I, the Speaker signed the following enrolled bill on Friday, September 2, 2005:

H.R. 3645, making emergency supplemental appropriations to meet immediate needs arising from the consequences of Hurricane Katrina, for the fiscal year ending September 30, 2005, and for other purposes.

## THE LOUISIANA-TEXAS CONNECTION

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, in 1836 Texans were in desperate need and fighting for freedom and independence from Mexico. Hundreds of men from Louisiana joined to help Texas in this struggle and time of need. Among them were Jim Bowie, hero of the Alamo; and volunteer soldiers forming a unit known as the New Orleans Greys helped in this endeavor. These brave men came to Texas' aid to fight against the oppression of the dictator Santa Anna. They fought and died at the Alamo, Goliad and San Jacinto.

Today, 170 years later, it is the people of Louisiana who are in desperate need in their struggle against the oppression caused by Hurricane Katrina. There are approximately 200,000 people from Louisiana now in Texas because of Katrina.

Mr. Speaker, just as the people of Louisiana came to Texas' aid those many years ago, so will Texans come to theirs. We along with other Americans will join the people of Louisiana until they are able to be free from the effects of Hurricane Katrina and rebuild their great city of New Orleans. It is what good Americans, good neighbors, good Southerners, and good Texans do.

## HURRICANE KATRINA

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, our Nation failed its people last week. There was a violation of the trust that the American people have a right to vest in their government. The importance of that trust cannot be overstated. It is why we let our sons and daughters go to foreign lands to fight wars. It is why we pay our taxes. It is why we obey official laws and orders.

But last week this trust was breached. Whether it is because we are not used to seeing poverty so visible or the results of institutional racism so stark or because of just pure incompetence, it was criminal to abandon thousands and thousands of men and women, mothers and children and grandparents to rot in the squalor of complete government neglect. There has to be an immediate, rigorous and harsh determination of accountability for this criminal neglect.

But there must also be a response worthy of a great and prosperous and noble Nation. A person of the caliber of a Colin Powell, perhaps, must be given singular authority and responsibility to resettle when necessary, to rebuild where possible, and to return eventually New Orleans to its status as one of America's great cities. The people of New Orleans are asking for no more and the American people should demand no less.

## HOPE FROM HURRICANE KATRINA

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, throughout the past week, Americans have watched scenes of devastation that we never imagined would occur in our country. Lives have been lost, families have been separated, and communities have been demolished in the wake of Hurricane Katrina. As rescue workers search for survivors and permanent shelter for evacuees, the severity of this disaster continues to shock all Americans.

As a former National Guard liaison to the Governor's office during hurricanes in South Carolina, I see that our Nation grows more hopeful every day. Federal, State, and local officials are working together to save lives, deliver relief and restore order in Louisiana, Mississippi, Alabama, and Florida. Last Friday, Congress passed a $10.5 billion emergency relief package to immediately help American families.

Across our country, Americans are opening up their homes and their checkbooks to help their neighbors. I would like to encourage South Carolinians to join this effort by contacting the Red Cross at www.redcross.org or by calling 1-800-HELP-NOW. Now more than ever, Americans must do what we do best: help each other.

In conclusion, God bless our troops, and we will never forget September 11.

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## HURRICANE KATRINA

(Mr. McGOVERN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McGOVERN. Mr. Speaker, I am here today to express, first and foremost, my sincere sympathy for the victims of Hurricane Katrina. The people of Louisiana, Mississippi, and Alabama are dealing with a catastrophic event; and they deserve whatever it takes from the Federal Government. The mismanagement of the Federal response to this disaster is beyond comprehension. The victims and the rest of America deserve answers to their questions, not excuses, because there is no excuse for the slow Federal reaction. There is no excuse for the lack of preparedness. There is no excuse for this absence of leadership.

Why were Federal funding requests by Louisiana for flood control perennially denied? Why was the New Orleans district of the U.S. Army Corps of Engineers budget for levee construction slashed by a record $72 million? Why was the head of FEMA, Michael Brown, hired despite having zero background in disaster management and was actually fired from his previous job for mismanagement?

It is clear now that we need to revamp FEMA, and that starts with firing Michael Brown as director who has been an absolute embarrassment. Louisiana Governor Blanco has hired former FEMA director James Lee Witt to direct Katrina recovery efforts. I encourage President Bush to follow Governor Blanco's lead and to hire someone new, this time based on qualifications, not political patronage.

Mr. Speaker, the U.S. Government needs to get the best people possible working on the rescue, recovery, and rebuilding efforts. Anything less is unacceptable.

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□ 1415

## ENCOURAGING CONTRIBUTIONS TO CHARITABLE ORGANIZATIONS FOR VICTIMS OF HURRICANE KATRINA

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to express my heartfelt condolences to the victims of Hurricane Katrina. My thoughts and prayers are with those who suffered through the storm and continue to suffer through its aftermath. I especially pray for those who have lost loved ones and hope they can find some comfort in this time of distress.

I commend the many volunteers, health care workers, law enforcement officials and military personnel who have been working selflessly around the clock to help those who have been devastated by this hurricane.

I hope that my constituents in North Carolina's Fifth Congressional District and other Americans will join me in making a contribution to a charitable organization. The outpouring of generosity and support from our communities has been amazing, but we must do more. The people affected by this storm need our help right away. A donation to the American Red Cross, the Salvation Army and other charitable organizations will help provide the resources necessary for these people to survive.

Again, I extend my thoughts and prayers to the victims of this hurricane and their loved ones. May God bless you all.

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## NATIONAL EMERGENCY MANAGEMENT RESTORATION AND IMPROVEMENT ACT

(Mr. DINGELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, we confront a hideous problem in this Nation. People are dying. People are dead. And people need help. The hospitals are full and nonfunctioning, and the suffering is tremendous all across the southern part of the United States.

The first task we have is to assure that we take care of the people, and we resolve the problems of seeing to it that their suffering is ended and that the rebuilding begins. But while we are doing that, we can commence looking at one thing, and that is the structure of the Federal Government to address problems of these kinds.

At the time we passed the Homeland Security legislation, it was very plain that inserting FEMA into the Department of Homeland Security was a prodigious mistake. Events in the southern United States associated with Hurricane Katrina have proved that to be so.

I am introducing at an early time legislation which sees to it that FEMA becomes an independent agency, with the head reporting directly to the President of the United States, whose responsibility will be set out in statute and whose qualifications and that of his two principal assistants, also subject to confirmation by the Senate, will have to meet certain tests, and that is the need to show ability and experience in areas of emergency management. Only by doing this can we assure that the kind of misfortune and the kind of open criticism that has occurred in the United States of FEMA and our efforts to help people in the southern United States will not occur on a regular basis.

Mr. Speaker, FEMA was an outstanding Federal agency directing its attentions to the cure of massive problems that followed catastrophes, things like hurricanes, fires and earthquakes. We need to see to it that that wonderful reputation is restored by proper structuring of the agency.

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## AMERICAN CAN-DO SPIRIT WILL WORK FOR HURRICANE KATRINA VICTIMS

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, this Sunday marks the fourth anniversary of one of the most tragic days in our Nation's history: September 11th of 2001. We all know what happened following that tragic day. We came together, Democrats and Republicans, focusing on ways in which we could deal with the crisis of terrorist attacks on our soil.

We all know what has happened since that time. We just last week saw what our Chaplain very appropriately described as the worst natural disaster in our Nation's history, and I believe now it is absolutely essential that we do all we can to come together to make sure that we face that number-one priority of meeting the human need that is there.

This Congress is going to do everything we possibly can to ensure that our fellow Americans are comforted. Then, we need to focus on rebuilding.

Mr. Speaker, I have to tell my colleagues, in 1994, we had a tragic earthquake in Los Angeles, the Northridge earthquake, and we, at that time, saw the crumbling of I-10, the same interstate that runs into New Orleans. I have a piece of it right here from just over La Cienega Boulevard. When it collapsed, the most traversed freeway in the country, a quarter of a million cars a day go over it, they said it could take up to 2 years to rebuild that freeway. By incentivizing the contractor and reducing the regulatory burden, within 66 days, the Santa Monica Freeway was moving again.

We need to use this same can-do spirit to do exactly what Governor Haley Barbour said. He said, We will build the Gulf Coast bigger and better than it ever has been.

## AMERICAN SPIRIT

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, as we return from our district work period, at the forefront of all of us is the catastrophe of Hurricane Katrina which literally turned our Nation upside down.

In my district on the north side of Atlanta, I am so proud of the work that has been done to provide relief support for those directly affected by the storm, the largest natural disaster in our Nation's history. Local towns are sending not just money and goods but personnel from fire and police departments. Our local Red Cross has activated shelters to help evacuees find relatives and get back on their feet. These are Americans helping Americans. The American can-do spirit is alive and well and strong.

But most disheartening has been the vicious, personal attacks against some who are trying their hardest to help folks recover, attacks that have even come from supposed leaders in our Nation. These statements and their tone are harmful to our Nation and our recovery. I call on all Americans, especially those in positions of influence, to work positively and constructively to solve our current challenge. Anything less does a disservice to all Americans and, ultimately, our viability as a free and a democratic society.

## BUSH ADMINISTRATION BEGINS DAMAGE CONTROL SPIN OPERATION

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute.)

Mr. GEORGE MILLER of California. Mr. Speaker, I rise to express my support for the people affected and harmed by Hurricane Katrina and to pledge my total support for their aid and recovery. There is so much to be done to help the people on the ground, and there is so much to do in Washington to scrutinize and improve Federal policy regarding disaster prevention and response, and we must undertake that review and those efforts.

But I am also deeply frustrated and angry by the Bush administration's failed response to this tragedy and its failure to take responsibility for its own mistakes. According to the New York Times, the administration, led by Karl Rove, has begun a political damage control operation to blame the local officials in Louisiana, the Governor and the Mayor of the City of New Orleans, for the Federal Government's failures.

No one can undo the damage that has been done, and I wish we could. We should be putting our efforts into helping these people and repairing that damage. I wish the administration would have put as much energy into an early and timely response, an effective response to Hurricane Katrina, as the energy they are putting in now to developing a political strategy to undermine the local officials who have suffered so much in their own communities.

## THANKING THE PEOPLE OF TEXAS FOR THEIR EFFORTS IN PROVIDING RELIEF TO THE VICTIMS OF HURRICANE KATRINA

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, I wanted to take this minute and thank the people of my home State of Texas for opening their hearts and opening their State to their neighbors in Louisiana. Almost a quarter of a million residents from the State of Louisiana are now seeking shelter in the State of Texas.

In my district in north Texas, truly an unbelievable story has unfolded. The Dallas County Medical Society sent out a fax last week to 3,600 doctors and their membership; 800 members immediately sent back the response: Where do I show up and when?

That group put together a response for the hurricane victims that is absolutely unprecedented in my experience in medicine. In my own district in north Texas, from Gainesville to Denton to Keller, to the City of Fort Worth, shelters have been set up, sometimes at a church, sometimes at a summer camp, sometimes at an old hospital, but these centers have provided the shelter and the comfort to the victims of this devastating hurricane. And hopefully, we will get them back on their way, get them the help they need and allow them to rebuild their lives.

Mr. Speaker, I again want to thank the people of the great State of Texas for all that they have done to help their neighbors in Louisiana.

## HURRICANE KATRINA EXPOSES FAILURE OF FEDERAL POLICIES

(Ms. McCOLLUM of Minnesota asked and was given permission to address the House for 1 minute.)

Ms. McCOLLUM of Minnesota. Mr. Speaker, Hurricane Katrina has inflicted destruction, suffering and death on our Nation. The people of Mississippi and Louisiana have our prayers, and they deserve our Nation's full support. Our gratitude also goes out to the relief workers, law enforcement and military personnel who are helping, healing and saving lives.

Now, as one Nation, Congress must act to provide the necessary relief, shelter, jobs, schools and hope our fellow citizens need to restart their lives. This is a long-term commitment, and these families must not be left behind.

Katrina exposed the Federal policies that have neglected and abandoned our Nation's poor, elderly and disabled. Congress must address these shameful failures of the Federal Government's pathetic emergency response that left thousands of Americans vulnerable, exposed and abandoned.

The American people and Katrina's victims deserve action and answers, and Congress has the obligation to deliver both.

## WORKING TOGETHER TO FIX WHAT IS WRONG

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, we have all seen the horrors left in the wake of Hurricane Katrina over the past week. Yet, in the midst of this chaos and destruction, the American people, once again, demonstrated their compassion for those left with nothing. The American people and people from all over the world have opened not only their wallets, but also their homes, cities and schools. This compassion has not been limited to Americans alone. Over 70 countries have offered their assistance as well.

Now, a great deal of criticism has been leveled against the Federal Government's response, and much of it may be deserved. But there is also a level of criticism due to local and State governments, too. Allowing New Orleans to turn into something out of the Wild West where anarchy reins is inexcusable, and all levels of government need to see what was done wrong. In the meantime, we must work together to ensure that the necessary resources are available.

## ENCOURAGING SIMPLIFIED FORM FOR VICTIMS OF HURRICANE KATRINA

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute.)

Mr. BROWN of Ohio. Mr. Speaker, our hearts go out to all who have suffered the tragedy of Hurricane Katrina. Our hearts also go out to those who have suffered the tragedy of a failed Federal Government in coming to their aid in saving people's lives.

I ask my friends on the other side of the aisle to step back for a minute, to stop their campaign out of the White House blaming local and State officials for their role in this tragedy. I also ask my friends on the other side of the aisle to step back from their mission to cut Medicaid $10 billion, that they step back from their drive to cut taxes for the wealthiest 1 percent of people in this country; because instead of those tax cuts for the wealthy, instead of cutting Medicaid $10 billion, this Congress should, first of all, adopt legislation that anybody in need of disaster-related assistance should only have to fill a single form out for Medicaid, if they have lost their job, for TANF, for unemployment insurance, for food stamps. The simplified form, instead of the bureaucracy we know they will deal with, could be used to determine eligibility for all Federal programs for a 90-day period, just showing you have lost your job because of Hurricane Katrina, and then they could be helped.

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## IMMIGRATION PROBLEM IS MORE ALARMING THAN EVER

(Mr. SHUSTER asked and was given permission to address the House for 1 minute.)

Mr. SHUSTER. Mr. Speaker, I rise today because America's immigration problem has grown to be even more alarming to me than it was just 2 weeks ago. Three men were killed in Altoona, Pennsylvania, by an illegal alien who should have been deported years ago.

Miguel Padilla, the alleged killer, has been living in central Pennsylvania for 15 years. He has a driver's license, a registered car. He graduated from a Pennsylvania high school and has been arrested twice for assault with a knife and illegal possession of a gun, all after entering the U.S. illegally.

Al Mignogna, a beloved local businessman; Fred Rickabaugh; and Stephen Heiss, a Marine veteran, were killed in cold blood by Padilla last week.

□ 1430

It is terrible enough when a murder occurs, but to have it happen by someone who should not have been here adds to the despair. This is an example of what happens far too often in our country. When police had Padilla in custody during these arrests, they contacted the Immigration and Customs Enforcement. ICE did nothing and they have no answers to this day. Three murders could have been prevented. It is outrageous for Padilla to go unnoticed by ICE for so long, especially with prior arrests. It is hard enough to find illegal aliens, but when they are handed over to Federal authorities, action needs to be taken.

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## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BOOZMAN). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

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## COMMEMORATING THE 60TH ANNIVERSARY OF V-J DAY AND THE END OF WORLD WAR II IN THE PACIFIC

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 360) commemorating the 60th anniversary of V–J Day and the end of World War II in the Pacific.

The Clerk read as follows:

### H. RES. 360

Whereas the United States entered the Second World War in December 1941, following the Japanese attack on Pearl Harbor, and over the next four years Americans participated in what was arguably the greatest national endeavor in the Nation's history;

Whereas the casualty toll of Americans in the Pacific Theater during World War II was approximately 92,904 killed, 208,333 wounded, and tens of thousands missing in action and prisoners of war, with civilians and military forces of the Allied Powers suffering equally devastating tolls;

Whereas Japanese military forces and the Japanese civilian population also suffered staggering losses;

Whereas on August 15, 1945, Emperor Hirohito of Japan announced the unconditional surrender of Japan's military forces, made formal on September 2, 1945, aboard the U.S.S. Missouri in Tokyo Bay, Japan; thus ending the most devastating war in human history;

Whereas Japan is now a free and prosperous democracy, a valued, durable friend based on shared values and mutual interests, and a guarantor against despotism and oppression in that area of the world; and

Whereas the courage and sacrifice of the members of the United States Armed Forces and of the military forces of the Allied Powers who served valiantly to rescue the Pacific nations from tyranny and aggression should always be remembered: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) recognizes the 60th anniversary of V–J Day and the end of World War II in the Pacific theater;

(2) joins with a grateful Nation in expressing respect and appreciation to the members of the United States Armed Forces who served in the Pacific theater during World War II; and

(3) remembers and honors those Americans who made the ultimate sacrifice and gave their lives for their country during the campaigns in the Pacific theater during World War II.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Kentucky (Mr. CHANDLER) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

### GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

I would like to begin by thanking the gentleman from Florida (Mr. STEARNS), my good friend and colleague, for authoring this resolution. The gentleman is a Member who is considerably schooled in the Far East and knows well the effects which the war in the Pacific had, not only on Japan, but on other nations in the region.

The gentleman from Florida is also a senior member of the House Committee on Veterans' Affairs, and I know that he has been a leader in ensuring that no veteran is ever left behind. He is also the author of the Millennium Health Care Act, which puts a special emphasis on providing long-term health care, especially to our World War II veterans. So it is very fitting, I think, that the gentleman from Florida (Mr. STEARNS) is the author of this resolution, and I thank the gentleman for introducing it.

Mr. Speaker, H. Res. 360 is a resolution that recognizes the 60th anniversary of victory in the Pacific during World War II, V–J Day.

Mr. Speaker, 60 years ago the guns fell silent and the world was able to begin the process of, paraphrasing Abraham Lincoln at Gettysburg when he said, we will bind up our Nation's wounds when we begin the very difficult and arduous process of binding up the world's wounds. The loss of life was indeed staggering; the process of rebuilding seemingly insurmountable. But just as Americans had rallied in war, Americans rallied in peace as well.

This resolution reiterates the simple, but very powerful, message that our Nation honors and deeply appreciates the men and women who served in the Pacific Theatre during World War II, and we especially remember and pay tribute to those Americans who made the ultimate sacrifice for our country.

Mr. Speaker, we take this opportunity to honor those individuals who gave their lives in the Pacific Theatre and thank all veterans of World War II. During the war, several million members of the United States Armed Forces fought in the Pacific, including the chairman of the International Relations Committee, our distinguished friend and colleague, the gentleman from Illinois (Mr. HYDE). This was one of the largest military forces ever committed by the U.S. in any theatre of operation.

I would also briefly pay tribute to my own late father, who saw horrific combat starting in New Guinea and ending in the Philippines. My dad was tough as nails but had a very gentle heart, and he was like so many of those combat veterans that I have met over the many years who absolutely hated war, but felt it was his duty to defend freedom and to defend America.

This resolution recognizes the staggering deaths and casualties and the struggle by military forces and civilians of the allied powers during the epic struggle for the control of the Pacific. It also recognizes that since the war Japan has become a free and prosperous democracy and has become a valued partner in the process of standing tall against despotism and oppression.

This is an occasion, Mr. Speaker, to remember and to commemorate. We must remember why the war was fought, remember the victims and the heroes, and thank those who fought so hard and sacrificed so much. I join millions of Americans participating in thousands of events all across the United States, many of which have already been held, and around the world, in observing and honoring the courage of American servicemembers, allied soldiers, and home front workers. This truly was the greatest generation.

Mr. Speaker, I reserve the balance of our time.

Mr. CHANDLER. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise today in support of this resolution. Mr. Speaker, it is a privilege for me to address this resolution where the House will once again congratulate the Armed Forces of our great Nation for their service in the Pacific Theatre of World War II. And it is also a privilege to serve on a committee whose chairman participated in the struggle against fascism by helping liberate the Philippines and helped liberate the people of those islands from Japanese control.

It is with a point of personal privilege to support this particular resolution that I stand to mention that my family, like so many other families, were affected. Just about every family in the United States of America was affected by World War II, and most by the Pacific Theatre in World War II.

My grandfather had the honor to serve on the Military Affairs Committee of the United States Senate during World War II; and during that service on the Military Affairs Committee, he spent time in the Pacific Theatre meeting with such American heroes as General Douglas MacArthur and General Joseph Stillwell to discuss allied war strategy. He said that he was never more proud than he was of our soldiers in the Pacific Theatre because they gave everything that they had.

The liberation of much of Eastern Asia and the eventual victory of allied forces in the war on the Pacific now seems to have been predetermined. Yet it was anything but decided during that important moment in global history.

Mr. Speaker, I have the greatest respect and admiration for the sacrifices of American soldiers, many of whom gave their lives in this epic battle against the forces of fascism. There are millions of citizens in the Asia-Pacific region, from the Philippines to South Korea, who also owe their freedom to the brave Americans who fought our enemies at Midway, at Guadalcanal and many other places.

In many ways, Mr. Speaker, the victory over Japan was more of a beginning than an end. In the aftermath of World War II, the United States developed strong alliances across the Asian-Pacific region that have only strengthened over the last 60 years.

The United States and Japan have developed a robust multifaceted relationship based on shared democratic values and mutual interests in Asia and global stability and development.

The strength of our relationship with Japan today demonstrates that the sacrifices made by brave American soldiers in the Pacific Theatre were indeed not in vain. With passage of this resolution, we once again commemorate these enormous contributions and commit ourselves to remembering for all time those who made the ultimate sacrifice for our Nation.

Mr. Speaker, it is only right that we continue to help these veterans. I was amazed to hear reports that members of our Armed Forces who survived Pearl Harbor have now survived Hurricane Katrina.

415 veterans from World War II and Korea whose Armed Forces retirement home in Gulfport, Mississippi, was swamped by Hurricane Katrina have been relocated around the country; 250 of those veterans have come to this very city.

Mr. Speaker, just as we are caring for our veterans who have been afflicted by this horrendous crisis, I hope this House quickly turns to the relief of all of our people on our Nation's gulf coast.

And I would also like to thank the U.S. servicemen and -women and all those citizens who are helping the citizens of Louisiana, Mississippi, and Alabama survive and recover from the devastation that they are enduring.

I fully support the emergency appropriations that this House passed last week. And I and the people of Kentucky stand ready to not only help the veterans but also every U.S. citizen affected by this devastating natural disaster.

Mr. Speaker, we are supremely proud of our heroes of the Pacific Theatre in World War II. And I proudly support this resolution. I urge all of my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the author of the resolution, my distinguished friend and colleague from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, I thank the gentleman from New Jersey (Mr. SMITH), my distinguished colleague, the former chairman of the Committee on Veterans' Affairs. And like his father, the gentleman is as tough as nails, also with a gentle heart. And I think most of our people on the Committee on Veterans' Affairs where he served with distinction as chairman will agree with that.

I am very pleased this afternoon to bring my resolution to the floor commemorating the 60th anniversary of V-J Day and the end of World War II in the Pacific. I thank sincerely the two Chairs of the committees of jurisdiction for their consideration. First of all, the House Committee on International Relations, the gentleman from Illinois (Mr. HYDE), who himself fought for victory in Japan as mentioned by my colleague from Kentucky, and the chair of the Committee on Armed Services, the gentleman from California (Mr. HUNTER). Like my father, Chairman HUNTER's father, Robert Hunter, served in World War II.

On August 15, 1945, Emperor Hirohito of Japan, in a radio address to his countrymen, announced the unconditional surrender of Japan's military forces. So, frankly, World War II officially came to a close with the signing of the surrender documents on September 2, 1945, aboard the USS *Missouri* in Tokyo Bay.

Throughout the Pacific Theatre, the men and women of the United States Armed Forces fought bravely and suffered brutally. My own father, United States Navy Captain Clifford Robert Stearns, participated in the landing on the island of Iwo Jima. During the battle, a bullet passed close by his temple, striking the bulwark of the ship behind him. He recovered the bullet, brought it home to my mother and I. And while I could never name each of my constituents who fought, I have been honored by many such stories, just like my dad's.

I wanted, in this World War II anniversary year, to focus attention once more on what we call V-J Day.

For years, following World War II, both V-E Day, victory in Europe, May 8, and V-J Day were commonly printed on calendars. But that is not so anymore. And sometimes when I talk to veterans of the Pacific Theatre, they will say, you know, CLIFF, we have seen movies like "Saving Private

Ryan" and "Band of Brothers." and while we take nothing away from the triumph of our brothers in the European theaters, we would like to see our story told also. And I do think this summer we see a renewed interest in just this. From the movie "The Great Raid," to dances, a parade, a V-J 60th speech by the President, to fireworks last Friday night, September 2, on the National Mall, the veterans of the Pacific are getting their due.

When exactly is V–J Day, some will ask me. Some refer to it as the day that the Emperor announced the surrender, which is August 15. This is when many of our World War II allies formally recognized August 15 as V–J Day, namely, the United Kingdom, New Zealand, Australia. In Australia, as a matter of fact, they are particularly adamant about naming August 15 V–J and not V-P, for victory in the Pacific, as some do, because the Australians in the West fought just as strongly in the Indian Ocean. Some Asian islands, such as China and Korea, recognize August 15 as Liberation Day.

Also since the surrender announcement fell on August 14 in American time zones, you may see this date commemorated as V-J Day here.

And finally, it may refer to the date of the formal surrender which was September 2, as I mentioned earlier, in 1945.

I would like to take us back to August 14, 1945. When this news was made public over radios, America experienced a moment mixed with both relief and jubilation. This is the very essence of V-J Day, a collective sense of ease and an express ebullience of excitement. We had endured many years of worry, of rationing, planting victory gardens, buying war bonds, air raid drills and civil defense patrol, blackouts even on our own soil. But on V–J Day this ended. America was thrown open for the Nation's single largest tailgate party, and we were all there rooting for the same team.

In this jubilation, there was no difference between enlisted, officers or civilians. Americans danced in the streets, honked horns, blared radios. Americans poured into village parks, busy city squares in the streets. Libations flowed. Everywhere the noise was deafening.

Even before the surrender, when it appeared imminent, there was some interesting preparation.

❑ 1445

In my State of Florida, on August 10, 1945, Governor Millard F. Caldwell issued a proclamation calling for Floridians to maintain the "solemnity and dignity of the occasion" by avoiding "boisterous conduct," and to facilitate this, that "all liquor package stores, bars and tap rooms and places dispensing alcoholic beverages remain closed during that period."

Now, I do not imagine that he achieved his objective here. I do not think the decorum was what he thought it would be, but everybody was excited with jubilation.

Of course, the image most recognizable to Americans and the world is of the Life Magazine cover of a joyous kissing sailor and nurse which photographer Alfred Eisenstadt froze for all time. In an interview last month, the nurse, now a grandmother, Edith Cullen Shain, recalled the pandemonium on August 14, 1945, when people grabbed anyone and hugged and kissed each other.

Mr. Speaker, I close with the testament that understanding and alliances can arise out of former cataclysms. Today, Japan stands with us as a true and enduring friend, fellow economic world leader and a force for a stable and prosperous Asia.

I believe it is important to bring this resolution to the floor to commemorate that. As the events of World War II pass further and further into history, the deeds of so many must not fade in our memories. The veterans in the Pacific theater brought peace and liberation to millions and millions of people. And as Americans rejoiced on V-J Day 1945, we will continue to salute those veterans for many, many more years to come.

I am pleased that the House is bringing up my resolution commemorating the 60th anniversary of V–J Day and the end of World War II in the Pacific. I want to thank the two Chairs of the Committees of jurisdiction for their consideration. First, of the House Committee on International Relations, the gentleman from Illinois, the Honorable HENRY HYDE, who himself fought for Victor in Japan by piloting a landing craft in the Lingayen Gulf. And next, the Chair of the Committee on Armed Services, the gentleman from California, the Honorable DUNCAN HUNTER. Like mine, Chairman HUNTER's father, Robert Hunter, served in WWII.

On August 15, 1945, Emperor Hirohito of Japan, in a radio address to his countrymen, conceded defeat and announced the unconditional surrender of Japan's military forces. World War II officially came to a close with the signing of the surrender documents on September 2, 1945, aboard the U.S.S. *Missouri* in Tokyo Bay. Thus ended this devastating war.

Throughout the Pacific Theater, the men and women of the United States Armed Services fought bravely, and suffered brutally. My own father, USN Captain Clifford Robert Stearns participated in the landings on the island of Iwo Jima. During the battle, a bullet passed close by his temple striking the bulwark of the ship behind him. He recovered the bullet and brought it to my mother and me. And, while I could never in a million years name every one of my constituents and neighbors who fought in this theater, I have had the honor of hearing so many stories:

1. Writing last Friday for the Gainesville Sun on V–J Day, Bob Gasche of Gainesville was a Marine who saw combat in the Pacific.

And from my hometown of Ocala,

2. James C. Phillips, while we were interviewing him for the Library of Congress' Veterans History Project, quietly described his harrowing experience as a Kamikaze survivor of the USS *Luce*;

3. Dewey Roberson joined the Army Air Corps and went from New Guinea to the Philippines to Okinawa, dodging bombs every step of the way;

4. Nolie Deas was in the 517th Army Battalion in the South Pacific who invaded the Philippines in June 1945;

5. Leonard Orr served in the 509th Composite Group in the Air Force; and

6. Tommy Needham served in the Naval Reserve in post-war Japan. All of these gentlemen, and many women, brought us to Victory in Japan.

But I did not author this legislation to rehash the horrific, but brave, tales of Pacific battles; this has been done so much before. Instead, I wanted, in this World War II anniversary year, to focus attention once more, as we did 60 years ago, on what we called V–J Day.

For years following World War II, both V–E Day (Victory in Europe, May 8) and V–J Day (Victory over Japan, Aug. 14), were commonly printed on calendars. But that's not so anymore, and I think this is a little sad. And sometimes, when I talk to veterans of the Pacific Theater they'll say, "You know Cliff, we see movies like 'Saving Private Ryan', and 'Band of Brothers'. And while we take nothing away from the tremendous triumph of our brothers in the European theater, we sure would like our story told, too." And, I do think this summer we are seeing a renewed interest. For example, the movie "The Great Raid", about the successful rescue of over 500 Americans from a Japanese POW camp by the 6th Army Rangers Battalion and Filipino guerrillas was released. In my hometown, Ocala, Florida, the Yankee Air Force Inc. had a V–J Day dance on August 6 at the American Legion Post 58. More, the History Channel hosted and aired a commemoration on the USS *Intrepid* in New York City on V–J Day, on August 14th. Also Sunday the 14th, Moosup, Connecticut held a parade, believed to be the only V–J Day parade still held in the eastern United States. Meanwhile, the President commemorated the 60th Anniversary of V–J Day Naval Air Station North Island San Diego, California. And still, last Friday night September 2 on the National Mall, the National Park Service put on a fireworks display.

So, I think you, Pacific Theater veterans, are getting your due this summer and it is essential and proper that we as a grateful nation honor you.

When I talked about my V–J Day resolution, I encountered questions about when, exactly is it? Some refer to it as the day that the Emperor announced the surrender: August 15th. This is when many of our World War II allies formally recognize August 15th as "V–J Day", namely the United Kingdom, New Zealand, and Australia. In Australia, as a matter of fact, they are particularly adamant about naming August 15th V–J, and not V–P for Victory in the Pacific, as some do, because the Australians in the West fought just as strongly in the Indian Ocean. Relatedly, some Asian lands, such as China and Korea, recognize August 15 as Liberation Day.

Also in the U.S., since the surrender announcement fell on August 14th in American time zones, you may see this date commemorated as V–J Day. Finally, it may refer to the date of the formal surrender, September 2, 1945.

I would like to take us back to August 14, 1945, to the battlefront, and to the homefront. When this news was made public over radios, Americans experienced a moment mixed of both relief and jubilation. This is the very essence of V–J Day—a collective exhalation of ease, and expressive ebullience.

We had endured years of worry, of rationing, planting Victory Gardens and canning, buying war bonds. Even school children bought many war stamps and pasted them in special books. When the books were filled, the students traded them in for a war bond. We had air raid drills and civil defense patrolled blackouts on our own soil. Civil defense wardens saw to it that people obeyed the rules. According to a North Carolina history museum, one Wilmington, North Carolina department store clerk was even arrested, convicted, and fined "for smoking a lighted cigarette upon the streets after having been warned by a person in authority to extinguish it." We studied printed plane silhouettes to learn the shape of enemy aircraft. Ration coupons for sugar, meat, fabric, and gasoline were a way of life, as was carpooling to preserve rubber and gasoline for troops. Housewives poured off cooking fat to be salvaged for munitions.

But on V–J Day, this was over in an instant. America was thrown open for the Nation's single largest tailgate party, and we were all rooting for the same team. In the joyous celebration, there was no difference between enlisted or officer or civilian, Americans danced in the streets, honked horns, blared radios. Americans poured into village parks, busy city squares and the streets. Libations flowed and everywhere, the noise was deafening.

Even days before the surrender, when it appeared eminent, there was some interesting preparation. In my State of Florida, on August 10, 1945, Governor Millard F. Caldwell issued a proclamation calling for Floridians to maintain the "solemnity and dignity of the occasion" by avoiding "boisterous conduct," and to facilitate this, that "all liquor package stores, bars and tap rooms and places dispensing alcoholic beverages, remain closed during that period". I do not imagine that he achieved the abstemious decorum he sought, but it all went well. (I would like to enter this into the RECORD.)

Of course, the image most recognizable to Americans, and the world, is of the Life magazine cover of a joyous, kissing sailor and nurse, which photographer Alfred Eisenstadt froze for all time. In an interview last month, Edith Cullen Shain recalled the pandemonium on August 14, 1945, the day of victory for the Allied Forces over Japan, when people grabbed anyone and hugged and kissed each other. "I let him kiss me because he had been in war and he fought for me," Shain said of the sailor. "I only wish now I had had a conversation with him or asked his name. I just got lost in the moment," said Shain, now an 87-year-old great-grandmother from Santa Monica, California. And never missing the opportunity to point out a Floridian, I share that Elizabeth Harris of Tampa is the lady in the photo peeking over the sailor's shoulder. Also, two Floridians had their own V–J Day kiss. Betty and Dominick Bruno, 79 and 86 today living in Lakeland, never met but conducted a wartime correspondence. They finally met in person in Charlotte, North Carolina four years later, and kissed in the V–J Day bedlam in the streets, and have become local celebrities in Charlotte where they are featured in newspaper stories every decade on the anniversary of V–J Day.

I would like to close with a testament that understandings and alliances can arise out of former cataclysm, today Japan stands with us as a true and enduring friend, fellow economic world leader, and force for a stable and prosperous Asia.

Thank you, again, for bringing this Resolution to the Floor. As the events of World War II pass further into history, the deeds of so many must not fade in our memories. The veterans in the Pacific Theater brought peace and liberation to millions, and as Americans rejoiced on V–J Day 1945, we will continue to salute you for many years to come.

[From: Division of Elections, Proclamations and Executive Orders, 1845–1995, Series S 13]

### V–J DAY PROCLAMATION, 1945

The United States entered the Second World War in December 1941, following the Japanese attack on Pearl Harbor, Hawaii. For the next four years Americans participated in what was arguably the greatest national endeavor in our nation's history.

World War II had an enormous impact on the state of Florida. More than 250,000 Floridians served in the Army, Navy, Marines, or Coast Guard and almost 4,700 gave their lives. About 170 military training bases of various sizes were established in the state; while shipyards at Tampa, Jacksonville, Panama City, and Pensacola turned out Liberty Ships and landing craft; and Florida farmers helped feed both Allied soldiers and civilians.

Spessard L. Holland served as Florida's governor for most of World War II, but Millard F. Caldwell had been elected the state's twenty-ninth governor in late 1944. He presided over the victory celebrations that erupted across the state in May 1945 upon the defeat of Nazi Germany, and again in August 1945, when victory over Japan was proclaimed.

On August 10, when it became obvious that Japan was on the verge of surrender, Governor Caldwell issued a proclamation calling for Floridians to maintain the "solemnity and dignity of the occasion" by avoiding "boisterous conduct." He urged all establishments that dispensed alcohol to close for twenty-four hours following the announcement of the surrender. Nevertheless, when news reached the state a few days later of Japan's acceptance of surrender terms, joyous pandemonium ensued. "News of the Japanese capitulation last night hit Tallahassee," reported a newspaper, "with the force of Uncle Sam's new atomic bomb and was the signal for everybody to unloose that pent-up feeling and start what old-timers view as the most wild, spontaneous and enthusiastic celebration ever witnessed in the Capital City."

A text version of the V–J Day proclamation is included below the graphic image.

PROCLAMATION

STATE OF FLORIDA

EXECUTIVE DEPARTMENT

TALLAHASSEE

WHEREAS, the announcement of victory against Japan and the final end of the destructive world-wide conflict, in which we have been engaged since 1941, will be received by the people of Florida, of the United States of America, and of the entire civilized world, with gratitude and thanksgiving that we have been spared further damage and sorrow, and

WHEREAS, the solemnity and dignity of this occasion should not be marred by any boisterous conduct on the part of the thoughtless or by any tragic incident that can be avoided,

NOW, THEREFORE, I, Millard F. Caldwell, by virtue of the authority vested in me as Governor of the State of Florida, proclaim V–J DAY in Florida as the twenty-four hours next succeeding announcement of the surrender of Japan upon the proclamation by the President of the United States that hostilities are at an end, and urge that all liquor package stores, bars and tap rooms and other places dispensing alcoholic beverages, remain closed during that period;

I also call upon the Sheriffs, their deputies and other law enforcement officers throughout the State to cooperate in making V–J Day orderly, dignified and law-abiding in accordance with the spirit and intent of this proclamation.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Florida at Tallahassee, the Capital, this the 10th day of August, A.D. 1945.

MILLARD F. CALDWELL,
*Governor.*

Attest: R. A. Gray, Secretary of State.

Mr. BACA. Mr. Speaker, I rise in support of H.R. 360, a resolution commemorating the 60th anniversary of V–J Day and the end of World War II in the Pacific.

Sixty years ago today, Japanese officials formally surrendered and by doing so concluded the bloodiest war in modern history,

The United States entered the Second World War in December 1941, following the Japanese attack on Pearl Harbor, and over the next four years Americans participated in the greatest national endeavor in our Nation's history.

The casualty toll of Americans in the Pacific Theater during World War II was approximately 92,904 killed, 208,333 wounded, and tens of thousands missing in action and prisoners of war, with civilians and military forces of the Allied Powers suffering equally devastating tolls.

Mr. Speaker, the people of the Inland Empire are grateful to this greatest generation for their sacrifice and we honor them for their courage.

Courage of people like Frank Sandoval of Ontario, California who bravely stood his ground as a landing crew machinist during battles with Japanese forces off the Island of Leyte, Philippines.

Courage like that of former Congressman Jerry Pettis, who fought in the Pacific and then returned home to dedicate his life to his community. Indeed, our local VA Medical Center in Loma Linda is named after him.

Mr. Speaker, I am proud to support this resolution so we may appropriately acknowledge the countless number of Americans who sacrificed their lives in World War II.

The contributions of these brave Americans have allowed us to live in the prosperous and free America we know today. It is our duty not only to recognize and remember their example, but also to courageously follow it.

Mr. HONDA. Mr. Speaker, as we commemorate the 60th anniversary of the victory over Japan and the end of World War II in the Pacific Theater, let us not forget the suffering and injustices experienced by prisoners of war (POWs) and innocent civilians who found themselves in the path of the Japanese military.

Thousands of American servicemen in the Pacific Theater were taken prisoner during World War II. Many were subjected to the Bataan Death March, in which the Japanese military forced them to march more than 60 miles with little food or water. During this torturous trek, hundreds of U.S. soldiers died of dehydration, starvation, and violence. After being transported to Japan, many of these American POWs were handed over to private Japanese companies to toil as slave laborers.

Sadly, American POWs were not the only victims of Japanese military abuse. The list of atrocities committed by the Japanese military is extensive. Some of the more widely known acts of brutality include: death, beheadings, rape and other violent acts, forced labor and marches, and imprisonment during the occupation of Guam and many Asian countries; creation of a biochemical warfare detachment, known infamously as Unit 731 in Mukden, Manchuria, where horrendous experiments on living POWs were conducted; killing of more than 300,000 Chinese men, women, and children and the rape of 20,000 women during the event known as the 'Rape of Nanking'; and forced sexual slavery of hundreds of thousands of women from Korea, the Philippines and other countries for Japanese troops.

I acknowledge that H. Res. 360 properly recognizes that, "Japan is now a free and prosperous democracy, a valued and durable friend based on shared values and mutual interests, and a guarantor against despotism and oppression in that area of the world." However, we must not forget the past.

While the Government of Germany has formally apologized to the victims of the Holocaust and has taken great steps to provide financial compensation to the victims, the Government of Japan has refused to fully acknowledge the crimes it committed during World War II, and to provide reparations to its victims. The Government of Japan must reconcile its past in order to become a trusted world leader today.

Mr. WILSON of South Carolina. Mr. Speaker, I join in supporting House Resolution 360 recognizing V–J Day.

Last week, I was honored to serve on a delegation with Congresswoman MADELEINE BORDALLO, accompanied by Col. Antonio Baines (U.S. Army—Ret.) for the V–J Day activities in Beijing, China. The U.S. Embassy staff professionally coordinated the visit.

A highlight was to meet with U.S. veterans who served in China during World War II. It was inspiring to personally meet heroes who still exhibit the courage of their service 60 years ago.

I am grateful for my host, the Hon. Jiang Enzhu, Chairman of the Foreign Affairs Committee of the National People's Congress, who extended the invitation and provided a warm exchange of ideas to promote Chinese American Friendship. I addressed concern that the talks on textile imports had broken down the previous day.

At the Great Hall of the People, we were welcomed by the Hon. Sheng Hauren, Vice Chairman of the National People's Congress Standing Committee. In a frank exchange of viewpoints, we determined China and America have more in common rather than differences.

It was inspiring to join veterans of a dozen nations at the Beijing Peace Wall for the signing for the Beijing Peace Declaration. Our stay concluded with a dinner hosted by President Hu Jintao.

As the son of a Flying Tiger who served in China, I especially was appreciative to attend these events. My late father, 1LT Hugh D. Wilson, was proud to have protected the Chinese people in the Fourteenth Air Force as a member of the 91st Fighter Squadron, 81st Fighter Group known as the Thunderdragons of Fungwaushan, China.

The following report by my father was presented to fellow 14th Air Force Veterans as he reflected on his service.

### A NIGHT ON A SANDBAR ON THE YANGTZE RIVER—MARCH 8, 1945

(By Hugh D. Wilson)

I had spent twelve months in China as a fighter pilot, flying P–40's and P–47's. In another three months I would finish my quota of missions and be on my way home.

On March 7, Lt. Col. Getchel, 1st Lt. Phil Van Sickle and I were called into our CO's office to inform us that we had been picked to ferry three L–5's (Stinson) from Kunming to Chengtu a distance of 600 miles. We were to fly by transport to Kunming early on the 8th. The planes would be ready and we were to fly half way back by night fall to Ipin, spend the night and then on to Chengtu.

We took off from Kunming about 2 p.m. with an ETA at Ipin at 5 p.m. The L–5's had a 165 HP Engine and we were cruising about 100 MPH.

Van Sickle and I being 1st Lts. closely followed our Col. which was a mistake, for after about two hours he called on the radio that he thought he had missed a check point.

I had been doing some map reading and assured the Col. that we couldn't be far off course and should reach the Yangtze river in about 45 minutes. So—on we flew and arrived at the river in one hour. The Col. said he thought we were west of Ipin and that we should fly east along the river until we could recognize some check points.

Ipin is at the foot of the Himalaya mountains on the headwaters of the Yangtze river. We were warned not to fly much west of Ipin because there was a tribe of Chinese head hunters at the foot of Mt. Minya Konka. (Second highest mountain in the world 24,900 ft.)

It was getting dark about this time as I spotted a white sand bar that I thought we could land on. We all agreed and flew down close to get a good look. The river runs thru a narrow valley with mountains on each side rising to 800 ft.

On landing the Col. who went in first landed too far from the water where the sand was soft and nosed but he was not hurt. Van Sickle and I were both from Florida and knew that on our beaches the sand is firmer at the water's edge. We both got in fine. In a few minutes it was dark.

In about thirty minutes we could see a circle of lanterns all around us and closing in slowly. We didn't know whether they were head hunters or who. As they closed in on us we stood close together and agreed to be as friendly as possible (all the Chinese we knew was "Ding How"—"good"). Inside my jacket I had the Chinese and American flag and I took it off to show them.

There were at least fifty men all with a lantern with candles in them and each had a gun of some kind. I have never seen as many old guns, some were blunderbusses even.

In a few minutes they acknowledged that we were Americans and friendly. They took a good look at our planes and saw the U.S. Air Force identification.

In another twenty minutes, a Chinese Buddha monk arrived from a monastery that was atop the mountain just above us. He could speak some English and asked us to follow him up the mountain for shelter for the night (800 ft).

The monk offered us some food and we decided to eat some of their duck eggs.

After a fairly comfortable night and assured by the monks that we were east of Ipin the Col. flew with me west to Ipin and to gas up (50 miles). We then flew back to assure Van Sickle that he could follow us home. We transferred the gas from the wrecked plane to Van Sickle's and flew on home with no further trouble. This time we all three navigated!

The above summary is indicative of the courage of our veterans in China and it is with deep appreciation that I urge my colleagues to support H.R. 360.

Mr. CASE. Mr. Speaker, I rise today in support of House Resolution 360, a resolution commemorating the 60th Anniversary of V-J Day and the end of World War II in the Pacific.

On Friday, September 2, 2005, a ceremony was held on the USS *Missouri* in Pearl Harbor, Hawaii, commemorating the September 2, 1945 signing of the final surrender of Japan on her deck. Although I was in Iraq on that day, I made the following statement:

> On this very ship, six decades ago, the greatest conflagration our world has ever known and, pray God, will ever know, came to a merciful end. As we stand here today, we feel acutely, and with the living, breathing spirit of history around us, that range of emotions coming to us through these lengthening years: the depth of treachery by some to the human spirit; the magnitude of suffering; the breadth of bravery and sacrifice; the exhilaration of triumph and victory; the sorrow of loss; and the faith and abiding promise of democracy and freedom.
>
> I so regret that I cannot be with you personally for this moment, but I am with our troops in still another war on the other side of our world. But please know that I am here in spirit as we pause to remember all of this and to recommit ourselves that we shall forever heed the lessons of World War II.

Ms. BORDALLO. Mr. Speaker, World War II marked a great pivot point for our Nation and the world. The Allies' great victory against the forces of oppression endures today as a testament to the determination and will of freedom's progress over oppression. The end of the war in the Pacific was a triumph for liberty in the world, and though many lives were lost, the memories of their valiant sacrifice will never be forgotten.

As we mark the 60th anniversary of the end of the war in the Pacific, we must also remember the sacrifices and hardships faced by the only Americans to be occupied during the war, the Chamorro people of Guam.

For the island of Guam, the war in the Pacific was a dark time indeed. Thirty-two months of oppressive occupation caused hardship and suffering, necessitating sacrifice and perseverance by the Chamorro people. Today we honor those whose lives were lost during this period. Though the scars of the occupation remain today, the liberation of the island is remembered as a seminal moment in the history of the Chamorro people.

The brave men of the 3rd Marine Division, the 77th Army Infantry Division, and the 6th Marine Provisional Brigade on July 21, 1944, fought tirelessly to liberate the Chamorro people and end the occupation. The people of Guam would like to acknowledge the enduring memory of these men who risked their lives on our behalf. Those who perished in this noble effort are today memorialized in solemn remembrance and will be for generations to come.

Mr. CHANDLER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 360.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. STEARNS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## CALLING UPON THE PRESIDENT TO ISSUE A PROCLAMATION RECOGNIZING THE 30TH ANNIVERSARY OF THE HELSINKI FINAL ACT

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 19) calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act, as amended.

The Clerk read as follows:

### S.J. RES. 19

Whereas August 1, 2005, is the 30th anniversary of the Final Act of the Conference on Security and Cooperation in Europe (CSCE), renamed the Organization for Security and Cooperation in Europe (OSCE) in January 1995 (hereafter in this resolution referred to as the "Helsinki Final Act");

Whereas the Helsinki Final Act established a new framework for relations among countries in Europe and the North Atlantic region that recognized that respect for human rights is a fundamental principle in regulating international relations;

Whereas, during the Communist era, members of nongovernmental organizations, such as the Helsinki Monitoring Groups in Russia, Ukraine, Lithuania, Georgia, and Armenia and similar groups in Czechoslovakia and Poland, sacrificed their personal freedom and even their lives in their courageous and vocal support for the principles enshrined in the Helsinki Final Act;

Whereas Congress contributed to advancing the aims of the Helsinki Final Act by creating the Commission on Security and Cooperation in Europe to monitor and encourage compliance with provisions of the Helsinki Final Act;

Whereas, in the 1990 Charter of Paris for a New Europe, the participating States in the OSCE (hereafter in this resolution referred to as the "participating States") declared that "[h]uman rights and fundamental freedoms are the birthright of all human beings, are inalienable and are guaranteed by law" and that "[t]heir protection and promotion is the first responsibility of government";

Whereas, in the 1991 Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE, the participating States "categorically and irrevocably declare[d] that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned";

Whereas, in the 1990 Charter of Paris for a New Europe, the participating States committed themselves "to build, consolidate and strengthen democracy as the only system of government of our nations";

Whereas the pro-democracy revolution in Serbia in 2000, the Rose Revolution in Georgia in 2003, the Orange Revolution in Ukraine in 2004, and the popular revolution in Kyrgyzstan in 2005 demonstrate the primacy of popular sovereignty and the importance of OSCE commitments on free and fair elections;

Whereas the OSCE and the participating States have undertaken a series of measures aimed at combating anti-Semitism, racism, xenophobia, and discrimination and should report on related progress during the OSCE Conference on anti-Semitism and on Other Forms of Intolerance in Cordoba, Spain, in June 2005;

Whereas the 1999 Istanbul OSCE Charter for European Security and the November 19, 1999, Istanbul Summit Declaration note the particular challenges of ending violence against women and children as well as sexual exploitation and all forms of trafficking in human beings, and commit the participating States to strengthen efforts to combat corruption, eradicate torture, and end discrimination against Roma;

Whereas the main challenge facing the participating States remains the implementation of the principles and commitments contained in the Helsinki Final Act and other OSCE documents adopted on the basis of consensus;

Whereas the participating States have recognized that economic liberty, social justice, and environmental responsibility are indispensable to prosperity;

Whereas the participating States have committed themselves to promoting economic reforms through enhanced transparency for economic activity, with the aim of advancing the principles of market economies;

Whereas the participating States have stressed the importance of respect for the rule of law and vigorous efforts to fight organized crime and corruption, which constitute a great threat to economic reform and prosperity;

Whereas OSCE has expanded the scope and substance of its efforts, undertaking a variety of preventive diplomacy initiatives designed to prevent, manage, and resolve conflict within and among the participating States;

Whereas the politico-military aspects of security remain vital to the interests of the participating States and constitute a core element of OSCE's concept of comprehensive security;

Whereas the OSCE has played an increasingly active role in civilian police-related activities, including training, as an integral part of OSCE's efforts in conflict prevention, crisis management, and post-conflict rehabilitation; and

Whereas the participating States bear primary responsibility for raising awareness of violations of commitments contained in the Helsinki Final Act and other OSCE documents: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That Congress calls upon the President—

(1) to issue a proclamation—

(A) recognizing the 30th anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe;

(B) reasserting the commitment of the United States to full implementation of the Helsinki Final Act;

(C) urging all participating States to abide by their obligations under the Helsinki Final Act; and

(D) encouraging the people of the United States to join the President and Congress in observance of this anniversary with appropriate programs, ceremonies, and activities; and

(2) to convey to all signatories of the Helsinki Final Act that respect for human rights and fundamental freedoms, democratic principles, economic liberty, and the implementation of related commitments continue to be vital elements in promoting a new era of democracy, peace, and unity in the region covered by the Organization for Security and Cooperation in Europe.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Kentucky (Mr. CHANDLER) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

### GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S.J. Res. 19.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in very strong support of Senate Joint Resolution 19, as amended, calling on the President to issue a proclamation in recognition of the 30th anniversary of the signing of the Helsinki Final Act.

The resolution urges the 55 states of North America, Europe and Eurasia which comprise the Organization For Security and Cooperation in Europe to abide by their obligations under the

Helsinki Final Act. The Congress further calls on the President to reiterate the United States' agreement that respect for human rights and fundamental freedoms, democratic principles and economic liberty are vital elements in promoting a new era of democracy, peace and unity in this region of the world.

For all of the history that we make here, Mr. Speaker, it is not too often that we in this body have the opportunity to celebrate and honor an event that has so conspicuously marked such a turning point in human affairs. Too often the history of international relations is one of false starts and missed opportunities. The victories, when they do happen, are more often ones of prevention, disasters averted or crises ended. Or if not that, then the results are realized too far into the future to be judged with any clarity. This is not the case with the Helsinki Final Act signed on August 1, 1975.

With that historic event, what we saw was a recognition not just by the United States or even the West, but even in Eastern Europe and the Soviet Union, that human rights are the pivot, the linchpin of true security and peace in the world. What the Helsinki Final Act asserted and what subsequent history has taught beyond any reasonable doubt is this: The way governments treat their people is the concern not just of those governments but of all the nations and peoples of the world. In essence, security and human dignity and human rights are one and indivisible.

Indeed, it is in the fall of the Communist regimes in Europe that we have seen the principles of the Helsinki Final Act, and the process that the act inaugurated, unleashed forces of good and of hope. The document spoke truth to power and empowered millions to rise up and demand democracy and fundamental freedoms, especially religious freedom. Many became Helsinki monitors in dictatorships, in places like Czechoslovakia where members of Charter 77 risked their lives and often went to prison in demanding that their dictatorship allow them fundamental freedoms.

We saw it in places like Perm 35, a horrible gulag that the gentleman from Virginia (Mr. WOLF) and I visited back in the 1980s, where men were actively clamoring for their rights. For instance Mikhail Kazachkov, a physcist by training imprisoned for his dissident activites, took the Helsinki Final Act and, even at risk of cruel retribution, would speak up and demand his freedoms and those of his fellow inmates.

Recently, the United States Helsinki Commission of which I am the Co-chair hosted an event commemorating the 30th anniversary. We had Dr. Henry Kissinger as our principal speaker. Dr. Kissinger, as many will know and recall, was Secretary of State in that period, and he pointed out how rough the world was at the time, how close we were to superpower conflict between ourselves and the Soviet Union. The arsenals were brimming over with nuclear weapons that unfortunately seemed to be at the ready.

Dr. Kissinger pointed out that the Helsinki Final Act was not popular at the time. Many thought it was a concession to the Soviet Union, that somehow they would make propaganda, and they would reap tremendous benefits from it. People had serious misgivings about what the Helsinki Final Act would actually do. The United States signed onto the Final Act and, of the three baskets, we emphasized the human rights dimension and promoted it and promoted it and promoted it, much to the chagrin of leaders in the Kremlin, as well as those who were part of the Warsaw Pact.

In reality, Dr. Kissinger noted the Helsinki process served as a catalyst to "promote change in the political situation and also to change the human rights situation." He said, "I can think of nothing that the Soviet Union got out of this, except that their position in Eastern Europe and their position along the dividing line in Germany was undermined."

Whenever we met with Soviet authorities or Polish leaders or any leaders of those occupied countries, we always had lists of political prisoners and of religious prisoners. We always based our inquiries on the fact that all of these nations were voluntary signatories to the Helsinki Final Act. This was a matter of international concern. These were not simply American values, these were universally recognized and agreed to values.

Mr. Speaker, let me also say that the Helsinki process continues. We need to continue fighting. We are now fighting to try to stem the rise of anti-Semitism, that ugly specter of hate toward Jews throughout the countries that make up the OSCE, including the United States. We are working to combat racism and xenophobic behavior. We are now working very hard, and have been since the 1990s, to combat this hideous form of slavery known as human trafficking, especially for prostitution where women are turned into chattel and into commodities and their lives destroyed.

We are also working on a number of other human rights issues within the Helsinki process, trying to get the Central Asian countries to realize that they have commitments that need to be abided by. Mr. Speaker, this is not a document that we only look back on. This is a living document that we work to implement as we go forward.

Mr. Speaker, one of the hallmarks of the Helsinki Final Act is our ability to use it to promote democracy and elections. No organization does a better job than the OSCE monitors when it comes to elections. When the commitments have been implemented, political parties have had the opportunity for free and fair elections. When emphasis is given to the conduct of free elections, we have witnessed some amazing changes, including Kyrgyzstan's Tulip Revolution, Ukraine's Orange Revolution, Georgia's Rose Revolution and Serbia's Democratic Revolution. These events in the last 5 years alone testify to the power of the principles inscribed in the Helsinki Final Act and the other OSCE documents that followed on.

Some participating States, however, most notably Belarus, Russia, Turkmenistan and Uzbekistan, seem determined to not live up to their commitments. These remain some of the areas of concern that our Helsinki Commission works on on a daily basis.

Finally, Mr. Speaker, having served as a member of the Helsinki Commission since my second term in 1983, I believe the U.S. must hold vigorously to the values that have inspired fundamental and democratic change in much of the OSCE region. As I said a moment ago, our work is not done. Much needs to be done going forward. I know we will do it. We will use this now famous document, the Helsinki Final Act, as our inspiration going forward.

Mr. Speaker, I reserve the balance of my time.

Mr. CHANDLER. Mr. Speaker, I rise in strong support of this Senate Joint Resolution 19, as amended, and Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1975, in an effort to reduce the risks of war between the North Atlantic Alliance and the Warsaw Pact, the countries of the North Atlantic community and Eastern and Central Europe could agree on a common set of principles on peaceful relations and decent treatment of their citizens.

As the gentleman from New Jersey (Mr. SMITH) so passionately and so eloquently said, it was a true watershed in human history. At the time, I am sure that the leaders of the Soviet Union thought that they had achieved much, such as the de facto recognition of a divided Germany, and given little. What, after all, they thought, is the danger of a few words about freedom on a piece of paper? Thirty years later, it is clear what was wrought by these words.

The principles of human rights and fundamental freedoms empowered the dissidents of Russia, Ukraine, the Baltic States, Czechoslovakia, Poland and others to establish Helsinki monitoring or similar groups to try to push their governments to live up to the commitments of the Helsinki Final Act.

Indeed, many of those dissidents lost their personal freedom and sometimes even their lives in their courageous and vocal support for these principles. And the Helsinki Final Act is not merely an artifact of history, not merely an artifact of history. The Organization for

Security and Cooperation in Europe, the successor to the conference that drafted the act, continues to promote freedom and human rights throughout Europe, including the newly independent States of the former Soviet Union.

Just in the last year, the OSCE through its Offices for Democratic Institutions and Human Rights has supported civil society in Belarus; sent election observers to Kyrgyzstan as it makes efforts to transition to an authoritarian regime; provided training on human rights monitoring to groups in the Caucasus; and assisted countries throughout the region in stopping the scourge of modern day slavery, the trafficking in persons.

Later this year, OSCE will make efforts to have a successful free and fair parliamentary election in Azerbaijan, a critical country to our efforts in Afghanistan and a country that is seeking to throw off the communist bonds of its past.

The Organization for Security and Cooperation in Europe does not stop in Europe.

□ 1500

It is helping the countries of Africa and other regions in their efforts at democratization.

Indeed, many have talked about a Helsinki Final Act for the Middle East to bring the value of the accords to the people of those countries. Some have argued for a democracy charter for the countries of the Arab League, similar to the charter adopted by the Organization of American States.

Mr. Speaker, I hope the administration is seriously taking the lessons of the Helsinki process to heart as it moves forward with its efforts to promote democracy and pluralism through the broader Middle East and North Africa Initiative.

I strongly support this legislation, and may we strike more blows for basic human rights in the world.

Mr. CARDIN. Mr. Speaker, I rise in strong support of S.J. Res. 19, which recognizes the 30th anniversary of the Helsinki Final Act. The President issued a proclamation on August 1, 2005 which celebrated this important anniversary.

I am privileged to serve as the Ranking Member of the Helsinki Commission, formally known as the U.S. Commission on Security and Cooperation in Europe. The Commission encourages compliance with the Helsinki Final Act by the 55 nations of the Organization for Security and Cooperation in Europe (OSCE), which is the largest regional security organization in the world.

The United States has actively participated in the Helsinki process since its inception 30 years ago. Today we acknowledge and celebrate that participation. This resolution recalls the importance of the Helsinki process in promoting human rights, democracy, and the rule of law within the OSCE. The Helsinki process consists of three "baskets" of rights which are essential to security: political, economic, and human rights.

Our Commission is unusual in that it is an independent Federal agency which has both the legislative and executive branches working together side by side. I have greatly appreciated this opportunity to work as equal partners in the Helsinki process, which I think has frankly increased our effectiveness on a number of issues within the OSCE region.

I have enjoyed working with our colleagues on the International Relations Committee, Mr. HYDE and Mr. LANTOS, as well as with my Helsinki Commission Co-Chairman CHRIS SMITH and Chairman SAM BROWNBACK from the Senate.

Our work on the Helsinki Commission is bipartisan, and I do not think I can ever recall a moment in my entire service on this Commission where we have had a partisan difference. Our bipartisan record has led to numerous accomplishments on critical issues in the OSCE. The OSCE is perhaps best known for leading election monitoring missions to insure free and fair elections in emerging democracies in Europe and Eurasia.

The Helsinki process allowed many Jews to leave the former Soviet Union. Today the Helsinki process has taken the lead in fighting the growing scourge of anti-Semitism in Europe, culminating in an unprecedented conference on anti-Semitism and the issuance of the Berlin Declaration, which adopts a number of concrete commitments for States to fight anti-Semitism.

I am also privileged to serve as the Chairman of the economic committee of the Parliamentary Assembly (PA) of the OSCE, which has focused on anti-corruption measures and the promotion of small businesses, particularly those owned by women and minorities. I commend the gentleman from Florida, Mr. HASTINGS, for his excellent leadership of the OSCE PA as the first American to serve as President of this organization.

Earlier this year Chairman SMITH and I visited Ukraine to meet with the new democratic government. Many of the former Soviet republics are still struggling today with their transition to a democratic form of government, and the OSCE plays an integral role in assisting these governments in establishing the rule of law.

Many challenges remain for the Helsinki process, but today we celebrate its rich legacy and record of accomplishments. I look forward to using the Helsinki process as we confront the new political, economic, and human rights challenges of the 21st century.

Mr. ADERHOLT. Mr. Speaker, I rise today in support of S.J. Res. 19, a joint resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act. As a Commissioner of the Organization for Security and Cooperation in Europe (OSCE), I am pleased to continue to work with my fellow commissioners in Congress, the Administration and our counterparts in the other 54 member nations.

The Organization for Security and Cooperation in Europe (OSCE) had its origin in the early 1950s when the Soviet Union first proposed the creation of an all-European security conference. However it wasn't until November 1972 when representatives from the original 35 nations met for nearly three years to work out the arrangements. On August 1, 1975, the leaders of the original 35 participating States gathered in Helsinki and signed the Final Act of the Conference on Security and Cooperation in Europe.

Also known as the Helsinki Accords, the Final Act is a binding agreement consisting of three main sections, known as Baskets, regarding political, economic and human rights.

Since 1975, the number of countries signing the Helsinki Accords has expanded to 55, reflecting changes such as the breakup of the Soviet Union, Czechoslovakia and Yugoslavia. Institutionalization of the Conference in the early 1990s led to its transformation to the Organization for Security and Cooperation in Europe, effective January 1995.

The Helsinki Final Act and the process it began provided an important backdrop against which President Ronald Reagan, standing in front of Berlin's Brandenburg Gate, could boldly declare, "Mr. Gorbachev, tear down this wall." This began the process of systemic change, eventually leading to the release of hundreds of cases of political prisoners and prisoners of conscience as well as the reunification of tens of thousands of families.

In a step designed to preserve the unity of the Helsinki process, each country that joined the OSCE after 1975 submitted a letter in which the accepted in their entirety all commitments and responsibilities contained in the Helsinki Final Act, and all subsequent documents adopted prior to their membership. To underscore this continuity, the leaders of each of these countries signed the actual original 1975 Final Act document.

I have been particularly interested in working with former Chairman SMITH and now with Chairman BROWNBACK on human rights and religious freedom. There remains a great deal of work to do on these matters throughout the OSCE member countries. I look forward to continuing to work with the OSCE members and their outstanding staff.

Mr. HOYER. Mr. Speaker, I strongly support this Joint Resolution calling on President Bush to issue a proclamation recognizing the 30th anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe, commonly known as the Helsinki Agreement.

The Helsinki Final Act—which was signed on August 1, 1975—was the first international agreement to accord human rights the status of a fundamental principle in regulating international relations, and has been widely credited with helping to expose human rights violations in the former Soviet bloc.

In fact, I firmly believe that the political process set in motion by the signing of the Helsinki Final Act laid the groundwork for the forces that consumed the former Soviet empire.

In 1975, many of the Final Act signatory states viewed the language of the act dealing with human rights and the obligation that each state had toward its own citizens, as well as those of other states, as essentially meaningless window dressing. Their objective was to secure a framework in which their international political position and the then-existing map of Europe would be adjudged a fait accompli.

They were proved wrong. The Helsinki process, which provided a forum and international backing for Refuseniks and others fighting behind the Iron Curtain for fundamental freedoms and human rights—led inevitably to the collapse of Soviet communism.

Today, we celebrate the freedom yielded by our steadfast commitment to the Helsinki process and by our demand that the former Soviet bloc countries adhere to and implement the human rights standards enshrined by the accords.

The fall of the Berlin Wall transformed the world and demonstrated without reservation that respect for the dignity of all individuals is fundamental to democracy.

As we reflect on this 30th anniversary, we understand that the countries and peoples of the region are still in transition and will be for decades to come. Great strides have been made by many former communist countries in building democratic societies and market economies.

But in my view, Mr. Speaker, it is critical that the United States remain engaged with the peoples and governments of Europe and the countries that emerged from the former Soviet Union, especially Russia.

We must remain committed to a Europe whole, free, democratic and at peace. It is in our strategic and national interest to do so. And by doing so, we honor the memory of all those who sacrificed so much to hold high the banner of freedom.

Finally, let me note that this Joint Resolution reasserts the commitment of the United States to fully implement of the Helsinki Act; urges all participating states to abide by their obligations under the Act; and encourages Americans to join the President and Congress in observing this 30th anniversary.

I urge my colleagues to support this important Resolution.

Mr. CHANDLER. Mr. Speaker, I have no other requests for speaking time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, we have no further requests for time, and I yield back the balance of our time as well.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 19, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

### RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 3 o'clock and 2 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

☐ 1834

### AFTER RECESS

The recess having expired, the House was called to order at 6 o'clock and 34 minutes p.m.

### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 52. Concurrent resolution providing for the use of the catafalque situated in the crypt beneath the Rotunda of the Capitol in connection with memorial services to be conducted in the Supreme Court Building for the late honorable William H. Rehnquist, Chief Justice of the United States.

### COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
*Washington, DC, August 30, 2005.*

Hon. J. DENNIS HASTERT
*The Speaker, House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: I have the honor to transmit herewith a Certificate of Election received from the Honorable J. Kenneth Blackwell, Secretary of State, State of Ohio, indicating that, at the election held on August 2, 2005, the Honorable Jean Schmidt was duly elected Representative in Congress for the Second Congressional District, State of Ohio.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
*Clerk.*

Attachment.

### SWEARING IN OF THE HONORABLE JEAN SCHMIDT, OF OHIO, AS A MEMBER OF THE HOUSE

The SPEAKER. Will the Representative-elect and the members of the Ohio delegation please present themselves in the well.

Mrs. SCHMIDT appeared at the bar of the House and took the oath of office, as follows:

Do you solemnly swear that you will support and defend the Constitution of the United States against all enemies, foreign and domestic; that you will bear true faith and allegiance to the same; that you take this obligation freely, without any mental reservation or purpose of evasion; and that you will well and faithfully discharge the duties of the office on which you are about to enter. So help you God.

The SPEAKER. Congratulations, you are now a Member of the 109th Congress.

### WELCOMING THE HONORABLE JEAN SCHMIDT TO THE HOUSE OF REPRESENTATIVES

(Mr. REGULA asked and was given permission to address the House for 1 minute.)

Mr. REGULA. Mr. Speaker, I am pleased to join my colleagues from Ohio, and particularly our Senator, Senator VOINOVICH, and my other colleagues. And as dean of the Ohio delegation, it is a great pleasure that I rise this afternoon to introduce the Honorable JEAN SCHMIDT of the Second District of Ohio.

She has been a lifelong resident of Clermont County, the first woman ever elected to represent southern Ohio in Congress. The diverse Second Congressional District includes seven counties, a lot of Lincoln Day dinners, stretches from downtown Cincinnati to the riverside town of Portsmouth in Scioto County.

Throughout her career, Congresswoman SCHMIDT has held various roles in public office and has been actively involved in civic and community groups. That is a great background for serving here. She served for two terms in the Ohio statehouse, and according to the Cincinnati Enquirer, she ". . . proved effective in passing legislation to address her district's concerns." While serving in the State legislature, SCHMIDT enacted legislation to create jobs, protect Ohio's children, and ensure access to quality health care.

Prior to her election to Ohio's statehouse, Mrs. SCHMIDT served 10 years as a Miami Township trustee. In this leadership role, she helped Miami Township to become a world-class community by initiating a variety of projects and improvements, including creating a 300-acre first-class park system, securing funds for critical road repairs, and attracting 2,000 high-paying jobs for the township. My township could use some of her advice. She also established a 5K run and located a branch of the Clermont County Library in Miami Township.

Congresswoman SCHMIDT resides in Miami Township with her husband, Peter, and their daughter Emily. She holds degrees in political science and secondary education from the University of Cincinnati. Her interests include auto racing and long-distance running. She has completed 56 marathons and still counting.

Mr. Speaker, I want to say she is tonight embarking on the greatest marathon of her career.

Mr. Speaker, I am pleased to welcome Congresswoman SCHMIDT to the House.

## MAIDEN SPEECH BY THE HONORABLE JEAN SCHMIDT

(Mrs. SCHMIDT asked and was given permission to address the House for 1 minute.)

Mrs. SCHMIDT. Mr. Speaker, I stand here today in the same shoes, though with a slightly higher heel, as thousands of Members who have taken the same oath before me. I am mindful of what is expected of me both by this hallowed institution and the hundreds of thousands of Americans I am blessed to represent. I am the lowest-ranking Member of this body, the very bottom rung of the ladder; and I am privileged to hold that title.

This House has much work to do. On that we can all agree. We will not always agree on the details of that work. Honorable people can certainly agree to disagree. However, here today I accept a second oath. I pledge to walk in the shoes of my colleagues and refrain from name-calling or the questioning of character. It is easy to quickly sink to the lowest form of political debate. Harsh words often lead to headlines, but walking this path is not a victimless crime. This great House pays the price.

So at this moment, I begin my tenure in this Chamber, uncertain of what history will say of my tenure here. I come here green with only a desire to make our great country even greater. We have much work to do. In that spirit, I pledge to each of you that any disagreements we may have are just that and no more. Walking in each other's shoes takes effort and pause; however, it is my sincere hope that I never lose the patience to view each of you as human beings first, God's creatures, and foremost. I deeply appreciate this opportunity to serve with each of you. I very much look forward to getting to know you better, and I humbly thank you, Mr. Speaker, for allowing me to address this humble body.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Under clause 5(d) of rule XX, the Chair announces to the House that, in light of the administration of the oath to the gentlewoman from Ohio (Mrs. SCHMIDT), the whole number of the House is 434.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

House Resolution 360, by the yeas and nays;

Senate Joint Resolution 19, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

## COMMEMORATING THE 60TH ANNIVERSARY OF V-J DAY AND THE END OF WORLD WAR II IN THE PACIFIC

The SPEAKER. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 360.

The Clerk read the title of the resolution.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the resolution, H. Res. 360, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 394, nays 0, not voting 39, as follows:

[Roll No. 454]

### YEAS—394

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carson
Carter
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hyde
Inglis (SC)
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

### NOT VOTING—39

Berkley
Bilirakis
Boucher
Brady (PA)
Brady (TX)
Buyer
Cardin
Case
Conaway
Costello
Delahunt
Dicks
Emerson
Engel
Fattah
Gallegly
Hefley
Hunter
Inslee
Latham
Maloney
McCrery
McDermott
Melancon
Mollohan
Moore (KS)
Murtha
Olver
Pickering
Rush
Sanchez, Loretta
Sessions
Stark
Strickland
Tancredo
Taylor (MS)
Waters
Weiner
Young (AK)

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1902

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BILIRAKIS. Mr. Speaker, I missed the recorded vote for H. Res. 360, which commemorates the 60th anniversary of V–J Day and the end of World War II in the Pacific. Had I been present, I would have voted "yea" on rollcall vote 454.

## MOMENT OF SILENCE IN MEMORY OF VICTIMS OF HURRICANE KATRINA

The SPEAKER. The Chair would ask all Members to stand and observe a moment of silence in memory of the victims of Hurricane Katrina.

## ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Without objection, proceedings will continue with a 5-minute vote.

There was no objection.

## CALLING UPON THE PRESIDENT TO ISSUE A PROCLAMATION RECOGNIZING THE 30TH ANNIVERSARY OF THE HELSINKI FINAL ACT

The SPEAKER. The pending business is the question of suspending the rules and passing the Senate joint resolution, S.J. Res. 19, as amended.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the Senate joint resolution, S.J. Res. 19, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 393, nays 1, not voting 39, as follows:

[Roll No. 455]

YEAS—393

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boustany
Boyd
Bradley (NH)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hyde
Inglis (SC)
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—1

Paul

NOT VOTING—39

Berkley
Bilirakis
Boucher
Brady (PA)
Brady (TX)
Buyer
Cardin
Conaway
Costello
Delahunt
Dicks
Emerson
Engel
Fattah
Gallegly
Hefley
Hunter
Inslee
Jefferson
Latham
Maloney
McCrery
McDermott
Melancon
Mollohan
Moore (KS)
Murtha
Olver
Pickering
Rush
Sanchez, Loretta
Sessions
Stark
Strickland
Tancredo
Taylor (MS)
Waters
Weiner
Young (AK)

□ 1918

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. BILIRAKIS. Mr. Speaker, I missed the recorded vote for S.J. Res. 19, which calls upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act. Had I been present, I would have voted "yea" on rollcall vote 455.

## COMMUNICATION FROM ASSOCIATE JUSTICE OF SUPREME COURT

The SPEAKER pro tempore (Mrs. BIGGERT) laid before the House the following communication from Antonin Scalia, Associate Justice of the Supreme Court of the United States:

SUPREME COURT OF THE UNITED STATES,
*Washington, DC, September 6, 2005.*

Hon. J. DENNIS HASTERT,
*Speaker of the House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: This is to notify the House of Representatives, through you, that the Chief Justice of the United States died in Arlington, Virginia on Saturday, September 3, 2005.

Very truly yours,
ANTONIN SCALIA,
*Associate Justice.*

## EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF THE HONORABLE WILLIAM H. REHNQUIST, CHIEF JUSTICE OF THE UNITED STATES

Mr. DELAY. Madam Speaker, I offer a privileged resolution (H. Res. 422) and ask for its immediate consideration.

The Clerk read the resolution. as follows:

H. RES. 422

*Resolved*. That the House has heard with profound sorrow of the death of the Honorable William H. Rehnquist; Chief Justice of the United States.

*Resolved*, That the House tenders its deep sympathy to the members of the family of the late Chief Justice in their bereavement.

*Resolved*, That the Clerk communicate these resolutions to the Senate and to the Supreme Court and transmit a copy of the same to the family of the late Chief Justice.

*Resolved*. That when the House adjourns today. it adjourn as a further mark of respect to the memory of the late Chief Justice.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## PROVIDING FOR USE OF CATAFALQUE IN CRYPT BENEATH ROTUNDA OF CAPITOL IN CONNECTION WITH MEMORIAL SERVICES FOR THE LATE HONORABLE WILLIAM H. REHNQUIST. CHIEF JUSTICE OF THE UNITED STATES

Mr. DELAY. Madam Speaker. I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 52) providing for the use of the catafalque situated in the crypt beneath the Rotunda of the Capitol in connection with memorial services to be conducted in the Supreme Court Building for the late honorable William H. Rehnquist. Chief Justice of the United States, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 52

*Resolved by the Senate (the House of Representatives concurring)*, That the Architect of the Capitol is authorized and directed to transfer to the custody of the Supreme Court of the United States the catafalque which is situated in the crypt beneath the Rotunda of the Capitol so that such catafalque may be used in the Supreme Court Building in connection with services to be conducted there for the late honorable William H. Rehnquist, Chief Justice of the United States.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2290

Mr. JONES of North Carolina. Madam Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2290.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I. the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 7 o'clock and 23 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 2241

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. REICHERT) at 10 o'clock and 41 minutes p.m.)

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## EXCHANGE OF SPECIAL ORDER TIME

Ms. KAPTUR. Mr. Speaker, I ask unanimous consent to take the time of the gentlewoman from New York (Mrs. McCARTHY).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

## CONCERNS REGARDING RESPONSE TO HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker. we here in the Congress have just returned to conduct the Nation's business, and our hearts are with the families and individuals who have lost loved ones and are scattered across this country as a result of the terrible, terrible devastation of Hurricane Katrina.

The House of Representatives this evening met with the President's Cabinet for nearly 3 hours, and this evening I would like to address concerns regarding how the institutions of this Nation failed the American people and what can be done about it as we try to heal as a Nation and thank those who are extending their compassion and assistance and to try to give strength to those who have suffered so much. There is not a single American who does not feel just horrible about what has happened, and we in the Congress bear responsibility, as does this administration, for the response and its shortcomings.

There is a story today in the Wall Street Journal entitled: "Behind Poor Katrina Response. a Long Chain of Weak Links." I would like to enter that into the RECORD and read from a key section of that article that talks about what went wrong.

☐ 2245

Number one, the absorption of the Federal Emergency Management Agency into the gargantuan and terrorism-focused Department of Homeland Security, which I voted against as a Member of this Congress over 2 years ago: I served on the Committee on Appropriations where FEMA came before us. We had an agency that finally worked after 10 years of reform in the Clinton administration, and James Lee Witt, the director of that agency. did such a terrific job. All of that changed as FEMA was subsumed under this gargantuan Department of Homeland Security. which in essence had a very different kind of mission.

Just 2 weeks ago, as the Wall Street Journal article recounts. five State emergency managers brought a tough message here to Washington. this was before Katrina, and met with Michael Chertoff, the Homeland Security Secretary. And these emergency directors told them straight out that the administration was weakening emergency management with potentially dangerous consequences. In fact, Dave Liebersback, the Director of Alaska's Division of Homeland Security and Emergency Management, said that the Department's focus on terrorism was undermining its readiness here at home.

The article goes on to say that there were not firm procedures in place, for example, for directing people and materials when a national emergency such as Katrina would strike. And this article, along with other information that I choose to enter into the record this evening, shows that the appropriations for the funding of FEMA, as part of this major new department, were actually cut by over $600 million in the area of regional operations. These are bad decisions that need to be reversed. The American people and we here in this Congress must do this.

A few years ago, when the Department of Homeland Security was being debated here in the Congress. I stated, and reread for the record tonight. "I do not want FEMA put in the Department of Homeland Security. Why? Because FEMA worked. It took us 10 years to fix FEMA back during the decades of the 1990s, so why do we want to stick FEMA into this big new department that will have 170.000 people in it. and we cannot even get direct communications up to the top? The United States fought World War II, and we did not need a Department of Homeland Security. We defeated the Communists during the Cold War. and we didn't need a 170,000-person Department of Homeland Security. We fought the Persian Gulf War, and we did not need it."

But our words were not successful here in the Congress. And we ended up with a majority of Members of Congress passing a Department of Homeland Security that buried FEMA far underneath this mammoth administrative structure. I hate to call it a management structure because it became a mismanagement structure. And then funding for local responses was cut by over $600 million.

Interestingly, the Web site of the current Committee on Homeland Security here in the U.S. House of Representatives indicates a vacancy in the chairmanship, with the movement of Mr. Cox of California to the Securities and Exchange Commission. So even one of the key committees here in the House lacks the key chair as we move into this difficult period.

But the point is that there has been very bad decision making here in the Congress that relegated FEMA in terms of domestic affairs, and also, those put in charge over the last 5 years have had absolutely no hands-on experience with emergency management.

Mr. Speaker, as I mentioned previously, the articles I referred to earlier are submitted hereafter for inclusion in the Record.

### What Went Wrong?

Some reasons why the U.S. didn't adequately protect and rescue its citizens from a natural disaster.

The absorption of the Federal Emergency Management Agency into the gargantuan—and terrorism-focused—Department of Homeland Security.

A military stretched by wars in Iraq and Afghanistan, which made commanders reluctant to commit some active-duty units nearby.

A total breakdown of communications systems.

Missteps at the local level, including a rudimentary plan to deal with hurricanes.

A failure to plan for the possibility that New Orleans's levee system would fail.

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[From the Wall Street Journal, Sept. 6, 2005]

### Power Failure: Behind Poor Katrina Response, a Long Chain of Weak Links—Changing Structure of FEMA, Emphasis on Terrorism Contributed to Problems—a Shortage of Helicopters

(By Robert Block, Amy Schatz, Gary Fields and Christopher Cooper)

Just two weeks ago, five state emergency managers brought a tough message to a meeting in Washington with Homeland Security Secretary Michael Chertoff and his top deputies.

"We told them straight out that they were weakening emergency management with potentially disastrous consequences," says Dave Liebersbach, the director of Alaska's Division of Homeland Security and Emergency Management. The department's focus on terrorism was undermining its readiness for other catastrophes, said the visiting officials, who included emergency managers from Mississippi and Alabama.

Now that Hurricane Katrina has left the Gulf Coast flooded and New Orleans in ruins, the question ricocheting around the nation and the world is this: How could the world's biggest superpower fail so badly in protecting and rescuing its residents from a natural disaster so frequently foretold?

The answer is sure to receive intense scrutiny this fall in Congress and around the nation, especially given revived fears that the U.S. is ill-prepared for a terrorist attack. "We are going to take a hard, hard look at our disaster-response procedures," said Republican Majority Leader Bill Frist of Tennessee this weekend as he assisted patients at the New Orleans airport.

Yesterday, the government moved aggressively to show it has the situation in hand. President Bush paid his second visit to the region in four days, visiting Baton Rouge, La., and Poplarville, Miss. He asserted that federal, state and local governments are "doing the best we can." The major levee breach in New Orleans, at the 17th Street Canal, was closed, allowing the city to begin pumping out floodwaters, a process expected to take about 30 days.

Meanwhile, thousands of federal troops appeared to be firmly in control of the city, with most residents evacuated and searches for survivors well underway. A Customs and Border Protection aircraft operating as a flying communication link gave first responders in New Orleans the ability to communicate for the first time since Katrina struck more than a week ago. In suburban Jefferson Parish, thousands of residents were allowed to check their homes under tight restrictions to evaluate what was left.

But the weekend's progress hasn't erased the troubling questions left by the government's delayed understanding of the scope of the damage last week and its initial slowness in mounting rescues and bringing food and water to stricken citizens. The problems include:

The decision to transform the Federal Emergency Management Agency from a cabinet-level agency reporting directly to the president to just one piece of a new, gargantuan Department of Homeland Security, which altered FEMA's mission and watered down its powers.

Too few helicopters stationed in the Gulf Coast area ahead of the storm.

A military stretched by wars in Iraq and Afghanistan, which left commanders near New Orleans reluctant to commit some active-duty units at nearby Fort Polk, La., because they were in the midst of preparing for an Afghan deployment this winter.

A total breakdown of communications systems, an echo of the problems that faced New York officials dealing with the 2001 terrorist attacks and a system the government has been trying to fix for four years.

Poor coordination among federal, state and local officials in the days immediately before and after the hurricane.

Failure at all levels of government to take seriously many studies and reports over many years warning of the potential disaster.

Indeed, despite many warnings of the dangers, Mr. Chertoff and other administration officials have explained their poor initial response by saying government planners didn't expect both a serious hurricane and a breach in levees. "This is really one which I think was breathtaking in its surprise," Mr. Chertoff told reporters on Saturday.

Planners, he said, "were confronted with a second wave that they did not have built into the plan, but using the tools they had, we have to move forward and adapt."

Plenty of missteps at the local level contributed to last week's disaster too, from a failure to take basic steps to protect the telecom infrastructure to inadequate food and water at the Superdome. New Orleans may be able to stage events such as Mardi Gras and Jazzfest and provide parking, crowd control and adequate toilets for millions of visitors, but its hurricane plan was more rudimentary. "Get people to higher ground and have the feds and the state airlift supplies to them—that was the plan, man," Mayor Ray Nagin said in an interview yesterday.

But so far, the federal government is bearing the brunt of criticism, given its vast resources and unique role in responding to major disasters. Critics say the response shows that the nation's disaster-response system, rebuilt in the wake of the 2001 terrorist attacks, is woefully inadequate. In a Washington Post-ABC News poll taken on Friday, the public said by a 67% to 31% margin that the federal government wasn't adequately prepared for Katrina.

"What the events of the last week have shown is that over the last few years since 9 11 we have slowly disassembled our national emergency response system and put in its place something far inferior," says Bill Waugh, an academic expert on emergency management at Georgia State University. "We reinvented the wheel when we didn't need to and now have something that doesn't roll very well at all."

Many of last week's problems are rooted in January 2003, when the Bush administration, urged on by some members of Congress, created the Homeland Security Department. It amalgamated 22 agencies, from the Coast Guard to the Secret Service, creating the largest government bureaucracy since the Pentagon was formed in 1947.

From the start, emergency experts and even the Government Accountability Office, the investigative arm of Congress, warned that a special effort was needed to be sure FEMA's traditional mission of providing disaster relief wasn't lost in the shuffle.

But it was. FEMA's clout had long depended on its ability to help states plan for natural disasters by providing emergency preparedness grants and other resources. Under Homeland Security, grant-making decisions were transferred to a new, department-wide office in an attempt to consolidate funding. As a result, FEMA lost control of more than $800 million in preparedeness grants since 2003, congressional figures show. State emergency managers and congressional investigators say the overwhelming focus for grants is now on fighting terrorism. More money goes to local police and fire departments for that mission than responding to and recover from disasters.

Officials from Shelby County, Ala., for instance, last year said they could get federal money for chemical suits. But they were unable to get money for an emergency operations center that could link computers, phones and televisions to respond to tornadoes. Between 1957 and 2003, the county had 20 tornadoes that it said killed 11 people and caused more than $32 million in damages.

Meanwhile, morale at FEMA has dropped since it was subsumed by Homeland Security. Several key jobs are unfilled and its executives are overtaxed. Its acting chief operating officer in Washington, for instance, is also the director of FEMA's Atlanta region; his seat there is being held by another acting director. That area includes much of the hurricane-prone Southeast.

In July, Mr. Chertoff unveiled a departmental restructuring that would cement FEMA's reduced role. Among other moves, the plan restricted FEMA's purview to disaster response, stripping away longstanding functions such as helping communities build houses outside flood zones.

The plan, he told Congress, was "to take out of FEMA a couple of elements that were really not related to its core missions, that were generally focused on the issue of preparedness in a way that I think was frankly more of a distraction to FEMA than an enhancement to FEMA."

On July 27, Alaska's Mr. Liebersbach, in his role as the head of the National Emergency Management Association, an association of state emergency management directors, warned in a letter to Congress that Mr. Chertoff's plan was nothing short of disastrous. It would have "an extremely negative impact on the people of this nation," he wrote.

"The proposed reorganization increases the separation between preparedness, response and recovery functions," the letter said. "Any unnecessary separation of these functions will result in disjointed response and adversely impact the effectiveness of departmental operations." It was the letter that prompted the meetings with Homeland Security officials in late August.

Last week's response certainly revealed cracks in the current system. Though President Bush declared a state of emergency before Katrina made landfall on Monday, officials appear to have underestimated the severity of the damage caused by the storm. By Tuesday it became clear that the response was not meeting needs and that FEMA and Louisiana emergency teams were overwhelmed. Then the flood waters hit in New Orleans. It still took several more hours for Mr. Chertoff to declare the disaster an "incident of national significance."

Even then, some requirements hampered speed. Because of worries that terrorists could take advantage of such chaos, FEMA now must abide by post-9/11 security procedures, such as putting air marshals on flights. That meant stranded residents couldn't be evacuated from the New Orleans airport until FEMA had rounded up dozens of Transportation Security Administration screeners and more than 50 federal air marshals. Inadequate power prevented officials from firing up X-ray machines and metal detectors until the government decided evacuees could be searched manually.

In the hours before and after Katrina struck, there weren't firm procedures in place for directing people and materials. Dan Wessel, owner of Cool Express Inc., a Blue River, Wis., transportation company that contracts with FEMA to move supplies, said he didn't get a green light to send trucks to a staging area in Dallas until about 4 p.m. Monday, hours after Katrina made landfall. That was too late to meet a deadline of getting trucks to Dallas by noon Tuesday, he said.

Once the trucks arrived, drivers often found no National Guard troops, FEMA workers or other personnel on hand to help unload the water and ice, Mr. Wessel said. "I almost told the guys to leave, but people are wanting the water," he said. "The drivers distributed it."

Inside New Orleans, said Dr. Joseph Guarisco, chief of the emergency department of Ochsner Clinic Foundation, a 580-bed hospital in New Orleans above the water line, said there was confusion about where to direct evacuees seeking shelter.

For a couple of days, Dr. Guarisco said, he directed a stream of patients to what he understood was a FEMA mass-casualty tent at the intersection of Interstate 10 and Causeway Boulevard. "A number came back and said, 'there's no one there.'" Dr. Guarisco said.

Some critics have blamed the war in Iraq, and the deployment of thousands of troops, including National Guard members, to that effort. President Bush has vehemently denied that charge. The administration has said problems on the ground were due to an unexpectedly severe storm and unanticipated flooding.

Four weeks before the hurricane, Lt. Colonel Pete Schneider, of the Louisiana National Guard, told WGNO, a local ABC affiliate, that when guard members left for Iraq last October, they took a lot of needed equipment with them, including dozens of high-water vehicles, Humvees, refueling tankers and generators that would be needed in the event a major natural disaster hit the state.

"You've got combatant commanders over there who need it, they say they need it, they don't want to lose what they have and we certainly understand that," he said. "It's a matter of us educating that combatant commander [that] we need it back here as well."

Col. Schneider also said the state had enough equipment to get by, and that if Louisiana were to get hit by a major hurricane, the neighboring states of Mississippi, Alabama and Florida had all agreed to help. In the end, those states were hit by Katrina as well.

The U.S. Army has a large facility, Fort Polk, in Leesville, La., about 270 miles northwest of New Orleans. Officials at Fort Polk, which has nearly 8,000 active duty soldiers, said their contribution so far has consisted of a few dozen soldiers from the 10th Mountain Division manning purification equipment and driving half-ton trucks filled with supplies and equipment. The first contingent of soldiers didn't receive orders until Saturday afternoon.

A spokeswoman at Fort Polk said she did not know why the base received its deployment orders so late in the game. "You'd have to ask the Pentagon," she said. A senior Army official said the service was reluctant to commit the 4th brigade of the 10th Mountain Division from Fort Polk, because the unit, which numbers several thousand soldiers, is in the midst of preparing for an Afghanistan deployment in January.

Instead, the Pentagon chose to send upwards of 7,500 soldiers from the 1st Cavalry Division at Fort Hood, Texas and the 82nd Airborne Division from Fort Bragg, N.C., along with Marines from California and North Carolina. Soldiers from the 82nd Airborne Division are able to deploy anywhere in the world in 18 hours. It took several days for them to arrive on the ground in Louisiana.

There, no piece of equipment was more necessary than helicopters. But in the first 48 hours after the levees were breached, the shortage of helicopters became acute. FEMA wanted choppers to save stranded residents, while the Army Corps of Engineers needed the aircraft, known as "rotary wing" in military jargon, to repair the breaches. The Coast Guard, the primary agency responding to the disaster in New Orleans, had a total of 20 aircraft in the area, mostly helicopters, which focused solely on rescue operations.

"We have very limited aviation assets and rotary wing is what we need to put materials into those breaches, and that's the very asset we need to do search and rescue and save victims, so our efforts became something of a second priority and our initial plan was delayed a bit because of that," says Lt. Gen. Carl Strock, commander of the Army Corps of Engineers.

A FEMA spokesman said the Coast Guard and National Guard had adequate numbers of helicopters on hand, but that rescue and supply operations were hampered by other factors, including limited airspace around New Orleans, which is geographically small. "You put in 30 helicopters in that area and you create a dangerous situation," said the spokesman, Marty Bahamonde.

On the supply front, helicopters flew food to the Superdome, he said, but the helipad there could only accommodate small aircraft, which couldn't hold many supplies.

Communications systems also broke down, as they did at the World Trade Center in 2001, preventing emergency officials from communicating with each other and the military. That led to the odd juxtaposition of top federal officials praising the rescue effort and denying problems at New Orleans' overcrowded convention center while TV cameras showed people there crying for help.

Flooding and power shortages appear to be behind most of the serious communications problems, but incompatible radio systems didn't help. Emergency responders in New Orleans and three nearby parishes all use different radio systems. New Orleans and nearby Jefferson Parish both use radios that operate on the 800 Mhz band, according to a Louisiana State Police interoperability report, but they were manufactured by different vendors. That means officials there had up to five channels on which to talk to one another.

"Communication is always difficult in emergency situations because of increased traffic," says William Vincent of the Lafayette Office of Homeland Security and Emergency Preparedness, about 135 miles from New Orleans. Emergency 911 dispatchers in Lafayette fielded calls from New Orleans residents who still had working cellphones but couldn't reach local police.

New Orleans officials had equipment at the fire department's communication center that could link otherwise incompatible local and federal systems. It was reportedly knocked out by flooding.

Another problem: Even after 9/11, local officials and federal emergency responders don't typically use the same radio frequencies, which can make communication difficult until agreements are reached on sharing channels.

As handheld radios began losing power in New Orleans, police officers and other emergency responders had no way of recharging them. Unlike radios used by firefighters combating wild fires, which can be powered by disposable batteries found in any grocery store, a typical handheld police emergency radio uses rechargeable batteries similar to those powering cell phones, according to Ron Haraseth, director of automated frequency coordination at the Association of Public-Safety Communications Officers.

FEMA itself seemed to frequently have bad information. At a Tuesday press conference Bill Lokey, federal coordinating officer for FEMA and the agency representative on site, downplayed the severity of the flooding caused by the breaches in New Orleans, saying the water wasn't rising in most areas. "I don't want to alarm everybody that, you know, New Orleans is filling up like a bowl," he said. "That's just not happening."

Within hours, much of the city was under water, and Mr. Lokey was calling Katrina the most significant natural disaster to hit the United States."

The possible problems had long been trumpeted. In June 2004, FEMA spent more than half a million dollars to commission a "catastrophic hurricane disaster plan" from IEM Inc., a Baton Rouge-based emergency-management and homeland security consulting firm. A report analyzing results of a mock hurricane hitting New Orleans, dubbed "Hurricane Pam," was envisioned and a response and recovery plan was to be drawn up.

During a five-day mock exercise in July 2004, emergency-management responders huddled in Baton Rouge to plan a response to "Hurricane Pam," a Category 3 storm which featured 120 miles per hour winds and a storm surge that topped New Orleans's levees. For reasons that aren't clear, the mock exercise never anticipated the levees giving way, despite such warnings. Even-so, the mock hurricane—destroyed 500,000 buildings in New Orleans and displaced one million residents.

The group developed a plan to get stranded residents out of the way and construction of a "command structure" with enough space for upwards of 800 rescue workers. A report, dated Jan. 5 of this year, detailed recommendations from the exercise and was provided to FEMA, an IEM spokeswoman said. FEMA has not released the report.

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### TITLE III: PREPAREDNESS AND RECOVERY

The DHS Emergency Preparedness and Recovery functions are intended to improve the nation's capability to reduce losses from all disasters, including terrorist attacks. Table 6 includes funds expended during FY2003 for these functions, and compares them to amounts requested for FY2004, recommended by each House, and approved by conferees in the final version ultimately enacted.

TABLE 6. PREPAREDNESS AND RECOVERY

($ in millions)

| Operational component | FY2003 Enacted | FY2004 Request | FY2004 House | FY2004 Senate | FY2004 Conf. |
|---|---|---|---|---|---|
| Title III. Preparedness and Recovery | | | | | |
| Office of Domestic Preparedness | 3,236 | 3,558 | 3,513 | 3,638 | 4,037 |
| Basic formula grants (state and local) | 1,006 | — | 1,900 | 1,250 | 1,700 |
| Emerg. Wartime Supplement (P.L. 108–11) | 1,330 | — | — | — | — |
| St. & loc. law enforce., terrorism prevent. | — | 500 | 500 | 500 | 500 |
| Firefighter assistance grants | — | 500 | — | 750 | 750 |
| Hi-threat, hi-density urban areas | 700 | — | 500 | 750 | 725 |
| Other assistance; national programs | 200 | 2,558 | 613 | 388 | 362 |
| Counter-terrorism fund | 160 | 40 | 20 | 20 | 10 |
| Emergency Preparedness and Response | 3,373 | 4,352 | 5,110 | 3,603 | 4,402 |
| Admin.; regional operations | 798 | 165 | 169 | — | 171 |
| Operating expenses | — | — | — | 827 | — |
| Prepare., mitigation, response & recovery | — | 163 | 363 | 150 | 225 |
| Public health programs | 498 | 434 | 484 | — | 484 |
| Biodefense countermeasure (current year) | — | 890 | 890 | — | 890 |
| (advance appropriations) | — | (4,703) | (4,703) | — | (4,703) |
| Biodefense countermeas. (10-year total) | — | (5,593) | (5,593) | — | (5,593) |
| Grant programs | 169 | 300 | 200 | 165 | 180 |
| Emergency food and shelter | 152 | 153 | 153 | 153 | 153 |
| Firefighter assistance grants | 745 | — | 760 | — | — |
| Disaster relief | 776 | 1,956 | 1,800 | 1,956 | 1,800 |
| National pre-disaster mitigation fund | — | — | — | — | 150 |
| Flood map modernization fund | 149 | 200 | 200 | 200 | 200 |
| National flood insurance fund | 89 | 90 | 91 | 110 | 110 |
| Disaster assistance direct loan program | 1 | 1 | 1 | 1 | 1 |
| Cerro Grande Fire claims | — | — | — | 38 | 38 |
| Misc. adj.; rescissions; transfers; rounding | -4 | — | — | 3 | — |
| Subtotal: Title III (current year, net) | 6,769 | 7,950 | 8,643 | 7,261 | 8,449 |

Note: Rounding may affect totals. Amounts for FY2004 do not include a 0.59% across-the-board reduction called for by conferees on H.R. 2673 (Consolidated Appropriations for FY2004), to which the House has agreed, and which awaits Senate action (see page 10).

Source: H. Rept. 108–169; S. Rept. 108–86; H. Rept. 108–280 (Conference report).

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## EXCHANGE OF SPECIAL ORDER TIME

Ms. McKINNEY. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from Oregon (Mr. DEFAZIO).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Georgia?

There was no objection.

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## KATRINA DISASTER

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Georgia (Ms. MCKINNEY) is recognized for 5 minutes.

Ms. McKINNEY. Mr. Speaker, I would like to take this opportunity to join in the remarks of my colleague about the intensity of feeling that we have for the people of Louisiana and Mississippi and Alabama and, of course, Florida on the first stop of Hurricane Katrina and the situation that has unfolded literally before our very eyes.

I should also take a moment to commend the journalists who have facilitated us being able to see what has unfolded. Part of what has unfolded is sheer incompetence on the part of this administration, and the feelings that the people are experiencing result from the fact that we have an administration who let the American people down, who let the people in Louisiana, Mississippi, Alabama and Florida down, and just will not say We let you down. We made a mistake. They, instead, try to defend the indefensible.

Part of the late response comes from the fact that 40 percent of the Mississippi National Guard are in Iraq; 35 percent for those of Louisiana are in Iraq; 26 percent of the Florida National Guard are in Iraq; and 23 percent of the Alabama National Guard are in Iraq.

I have seen the interviews that have been done by Aaron Broussard of Jefferson Parish and Malik Rahim in New Orleans proper. Aaron Broussard said, "We have been abandoned by our own country." Investigative journalists sent information to me that Customs' Blackhawk helicopter pilots were livid because they were not allowed to rescue people.

And then in the matter of attitude, and of course, I will be speaking more at length on this on Thursday in a 1-hour special order, but in attitude, FEMA Chief Michael Brown had the nerve to say, No one was clairvoyant enough to foresee this happening. But there have been studies, there have been articles, and this is his job to foresee this happening. I have got articles from National Geographic and Scientific American all saying exactly what happened and what we witnessed unfolding. And then he had the unmitigated gall to say that people must take some responsibility.

Well, Mr. Brown, you need to take responsibility.

And, Mr. Bush, you need to take responsibility.

The Times-Picayune has called for Mr. Brown's firing, and I have to say that they are absolutely correct. And I would just like to ask this administration to just admit that they messed up instead of appearing before the American people with all kinds of excuses about what they did and what they did not do, and we are not going to revisit the past, we are going to make sure we move forward or we look forward. There are a million people who have been affected by this, dispersed all over our country. The State of Georgia has received and is receiving thousands of them. The Fourth Congressional District is receiving as many of them as we can. The City of Atlanta has opened its arms to the victims of this administration.

With interest, I note, on the State Department Web site, that they provide us a clue as to when we are seeing misinformation, and what they tell us is that we are being misinformed when we are being told something that is clearly not true. What the administration has said to us tonight, in many instances, is clearly untrue.

And let me just say that it is unconscionable that the Secretary of Energy could stand before us tonight and say that he does not know how to bring down gas prices, which was the original reason that I asked for this 5 minutes tonight.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind all Members to address their remarks to the Chair.

## EXCHANGE OF SPECIAL ORDER TIME

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I ask unanimous consent to take the time of the gentlewoman from California (Ms. WOOLSEY).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

## HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) is recognized for 5 minutes.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, first let me say that my thoughts and prayers go out to those who have lost loved ones and those who have suffered as a result of the destruction of this devastating natural disaster. I represent South Florida, an area that is far too often in the cone of error of just about every hurricane that approaches the United States and also home to the last time a Category 5 storm hit a United States territory.

As I speak here tonight, it is unclear how many people have been killed or will ultimately die as a result of this storm. What is clear is that America has received a wake-up call, and it came in the form of Hurricane Katrina. Hurricane Katrina calls into question our preparedness as a Nation to deal with any kind of major disaster, whether it is a natural disaster or a disaster resulting from a terrorist attack.

This month marks the fourth anniversary of the September 11 attack on our Nation. Our country saw the devastation that could be caused by a terrorist attack, recognized our vulnerabilities and supposedly set about the task of protecting Americans as best we could from disaster. The administration knew about the vulnerabilities of the levees in New Orleans. They knew about the level of poverty that exists in the Gulf States that would hamper evacuation plans, and they should have known at a minimum the day before the hurricane hit that they would need more law enforcement, rescue, medical and evacuation personnel.

And herein lies the problem: They knew about these problems as we know about many problems and vulnerabilities that exist throughout other cities nationwide, yet we have been slow to act to improve the situation. I represent a city, the City of Miami, which is the third poorest in the Nation. In prior years, local officials in New Orleans recommended a plan that would have cost $14 billion to reinforce the levee and pump system that keeps New Orleans safe. The State of Louisiana sent out a call for help that the project was too big, and they needed Federal assistance to even begin the project. And the pleas for help from State and local officials fell on deaf ears in the White House and Congress.

Let us put the New Orleans levee construction into perspective. We spend over $1 billion a week on operations in Iraq and Afghanistan, and we just handed out $14 billion to oil companies in President Bush's energy bill we passed this summer. What is the ultimate lesson of Katrina? The lesson is that the officials that were supposed to provide support, safety and security to the people in the Gulf States failed. The result was a situation where every emergency coordinator knew that disaster was imminent. However, the existing emergency infrastructure was not there to remove people from harm's way, and by doing so, it could have saved their lives.

We cannot as local, State and Federal officials draw up plans, have a 1-day mock disaster drill, and then pat ourselves on the back and say our job is done here. The government is here to provide the infrastructure that is necessary to prevent deaths from imminent disaster and step in immediately afterwards to ensure that deaths do not result from the destruction caused by that disaster. I think that the response from the Federal Government fell far short of that standard.

The lesson that Hurricane Katrina needs to have taught our government officials is that the current emergency management infrastructure could not handle a disaster the size of Katrina, and that we must streamline and reform our disaster preparedness and response. And we have to do it today. Our Nation's first priority should be to provide security, safety and infrastructure here at home. It is a disgrace that it took a disaster of such magnitude to bring light to the weaknesses of our system, and we must take the lessons learned to ensure that such catastrophes do not occur again.

At the very least, we need not have our leaders respond in the fashion that the President and the Speaker of the House and a number of other leaders have in the last 10 days, indicating that perhaps they did not think New Orleans should be rebuilt and perhaps the people who did not get out of New Orleans made a bad decision.

□ 2300

We need to think about the wherewithal that people in these communities had prior to the storm, and we need to give them that wherewithal to move forward and go on so we can rebuild New Orleans and make sure that we never have to stare down a hurricane the magnitude of Katrina and not be prepared as we were in this storm.

## HURRICANE KATRINA

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from New Mexico (Mr. PEARCE) is recognized for 30 minutes as the designee of the majority leader.

Mr. PEARCE. Mr. Speaker, we have seen unprecedented suffering in this Nation in the last weeks. No one in this country has been able to comprehend the size and scope of the destruction. To put it into perspective, one of my colleagues pointed out that the size of the area affected is the size of Wyoming. Another pointed out that the size of the area affected was equal to the nation of Great Britain. So as we talk about our failures and our successes, I think it is important that we really discuss Katrina in an overall view.

I know that from my perspective there are going to be three major challenges. We have to deal with the human suffering that is felt by every one of the families who have lost loved ones but also by those people who are displaced. So the human suffering in terms of jobs lost and regaining jobs of any sort, regaining an income in order to pay for current expenses, some way to access the safety nets that this Nation is providing, that is one challenge of the problem.

The second challenge is rebuilding the entire gulf coast region, and that is going to be a long and arduous task and one that is going to require the dedication and commitment of the entire Nation.

But the third thing that I think we must be aware of as leaders and as the House of Representatives is the effect on our economy.

So tonight I am joined by the gentleman from Kentucky (Mr. DAVIS). We would like to discuss the effects of Katrina that we see and the things that we think the Nation should be aware of as we move into the days ahead. I would like to discuss some of the responses that we have seen and some that we have not seen.

But at this point, I yield to the gentleman from Kentucky (Mr. DAVIS) to talk about his perceptions of the disaster and the destruction that we have seen.

Mr. DAVIS of Kentucky. Mr. Speaker, I thank the gentleman for yielding to me.

This tragedy is of grave proportions, as evidenced by the unprecedented meeting of the President's Cabinet here tonight, Mr. Speaker, who spent 3 hours with us discussing a wide range of responses from government agencies, of agencies of the State as well as the local level, but particularly looking at the response that was engendered by this.

I think the one thing that we can clearly say, looking at history, looking at this response and looking at others is there is no substitute for leadership and initiative, particularly on the front lines and in the local level; and there are countless stories of individuals and communities who rose to the occasion, ranging from mayors of small cities, pastors of churches, small business owners who all gave of themselves to make a tremendous difference, as the military and national response was able to come into an area that was devastated and largely inaccessible. I would point out that the response has been actually unprecedented in scale.

When we think about this, I would like to bring some perspective to my colleagues. No disaster, no natural disaster, has struck this Nation of the proportions that Hurricane Katrina has in terms of its devastation and its impact. Nearly 90,000 square miles were affected by this. That is an area approximately the size of Great Britain, approximately the size of the State of Wyoming. When we begin to look at that, I do not believe that there is any agency that had fully prepared or built the infrastructure for that level and certainly the city of New Orleans did not have the wherewithal, just the simple hydraulics and physics of it.

But the one thing that I want to point out is that people in neighborhoods rose to the occasion, individual citizens rose to the occasion. And many of my colleagues have risen to the occasion, abandoning the legislative role during that last week of the recess, working in everything from relief positions to the gentleman from Louisiana (Mr. BOUSTANY), one of my colleagues, a physician, who helped in the start-up of hospitals, coordinating rescue operations from his district in Lafayette. I look at communities in the surrounding States and throughout the country who have responded with an incredible amount of magnanimity, of charity, of compassion, of love and outreach to see these people have a hope and an opportunity and a future.

In some ways, Mr. Speaker, I have to share candidly, as a former military professional, I was somewhat disappointed with some of the media coverage. I felt that it neglected many of the great works that were being performed by people in hidden places throughout the communities that were affected. Just as an aside, the Coast Guard rescued more people in the last week than four times what it would do in a typical year. That is simply remarkable, the ability to stage those resources in there and begin that response. When I look at the amount of rescues that have had to be performed for nearly 60,000 people who were trapped on rooftops and structures, public safety professionals, military professionals, National Guard resources from all over the United States are pouring in. Even before the storm hit, resources were being mustered around the United States, even from our own fourth district.

The day after the storm, I ran into early Tuesday morning a convoy of vehicles from our own Owen Electric Cooperative that had been on two prior hurricane responses and were on their way to lower Mississippi to the central staging area. There was a concerted response of private groups, of public groups coming together to deal with the tragedy whose magnitude no one could have imagined.

For a week now, we have watched the heartbreaking scenes of death and destruction in Mississippi,. Alabama, and Louisiana. So many people left homeless, left without anything except the clothes they were wearing and one or two precious items that they could grab as the flood waters deluged their homes. As we grieve over this unimaginable horror, we have also watched in unmistakable awe ordinary people who have opened their hearts, their homes, their pocketbooks to these storm victims. Families who have little to spare themselves are taking in entire families of strangers simply because someone else is in need. This is the American way of selflessness and generosity. There is no ulterior motive, no agenda; and there is nothing but the simple desire to help, to lend a hand, to reinforce the dignity of every individual who is affected by this great tragedy.

The city of Houston, Texas, has done something unprecedented. And I point out that in the tsunami and in other disasters in other parts of the world no country, no people have ever responded with the level of outpouring of response of individuals to local, State and Federal Government agencies as we have seen in the last 7 days. I think that is an important point of perspective that we keep in mind. The level of this tragedy was equal in magnitude to any of the countries that were hit by the tsunami, and when we look at the response of our people here, it has been simply phenomenal from a perspective of infrastructure.

In that outpouring in Houston alone, 225,000 people have been received into that city. The people of Texas have set an example of compassion and leadership. Other States around the country are receiving people, colleges, universities, communities, homeless shelters even. And I look at that, and I see in virtually every State, all of our States along the Ohio Valley, where I live, are seeing the same level of compassion. It has been simply overwhelming. They have responded to a grave situation by giving hope, by giving opportunity, and helping communities to ultimately reestablish while the water is being removed, while an infrastructure that no longer exists is being put back in place.

Things that are important to remember from a standpoint affecting the entire country as we are dealing with the human tragedies, we are dealing with the health care issues, as we are providing refuge for those who are affected by this storm, crews from industry, from the private sector, from our national security organizations have responded. By the end of this week, our national refineries in the gulf will be back at 95 percent of production. That is a tremendous statement.

□ 2310

Our pipelines are going to be open again to make sure that that critical infrastructure is working. The on-water transit capability is going to be back in operation very shortly, and hopefully, we will see that port open up. Why that is so important is restoring normalcy and restoring employment, vocation, jobs and restarting that market economy and rebuilding the foundations of those communities over time.

I think it is also important to remember what the national response is. During Operation Iraqi Freedom, it took nearly 6 months to stage the 250,000 troops into Iraq, including the infrastructure that they needed, only crossing one major water obstacle, a river with most of the bridges intact. As of tomorrow, there will be nearly 50,000 soldiers in the disaster area, mobilized in less than 1 week. That, again, is a testimony to the resourcefulness of the response and capability of our military, of our National Guard, and I think they need to be commended for what they are doing. Our first responders have done an outstanding job. Many are overwhelmed, out of resources, are taking the initiative to do the things that are necessary to make sure that lives can be saved, that people can be kept healthy.

In my district, Kentucky's Fourth, the largest medical center, St. Elizabeth's Hospital in Florence, recently sent about 15 medical personnel, including a dozen nurses and two pallets of medical supplies to a staging center in Louisiana. St. Luke's Hospital, also in Florence, also sent medical personnel to the Gulf Coast. And my church, Grace Evangelical Free Church, is sending its third truckload of supplies to the region this weekend.

Last Tuesday morning, as I mentioned, the utilities crews that were heading south, not to mention truckloads of equipment that passed through my district on I-75 headed toward the disaster areas. We have seen vehicles coming from as far away as Canada, but from all over the United States, that are converging to provide the resources to help stabilize that situation and rebuild it. This is a beacon of outstanding response. There is no perfect response to any unpredictable situation, but I want to look at and commend the adaptability of our people who have responded on the scene and those who have opened their pocketbooks, opened their resources and lent their hands from around the United States.

The city of Covington, Kentucky, sent a truck loaded with water, sports drinks and other provisions to its unofficial sister city of Covington, Louisiana. There was a report of a woman who arrived in Covington in a beat-up car and who was described in a newspaper report as not looking "like she had a penny to spend," but she brought $100 worth of supplies because she simply cared. Covington City officials were also waiting to learn how many people would be traveling to their area of northern Kentucky for temporary housing. Northern Kentucky University is reaching out to take in as many students as it possibly can. Communities around our district, as with many, many congressional districts around this country, are responding with an openness and a charity that I think sets an example of brotherly love and compassion that honors the spirit of our founders in this country.

Then, there is Mike Detzel and Dave Yeazell who loaded up a van with 3,900 bottles of water and drove south from Florence, Kentucky, to Slidell, Louisiana. Prior to making this trip, Mr. Yeazell gave money to the Red Cross and Mr. Detzel and his wife offered spare rooms in their homes to the evacuees. But like so many others, they wanted to do more.

One of the things I have always admired most about our country is our willingness to give and to want to help. We respond to international tragedies with such an outpouring of generosity that we are left breathless by the momentum. And now that we have been hit here at home by a tragedy of almost biblical proportions, it seems there are no boundaries to the generosity of our people and the response from around the United States.

As difficult as this time is for the storm's victims, we must approach this carefully and orderly to be sure that the supplies reach the people who need them the most. People in the disaster areas need to know they are cared about; there is concern and outpouring from around this Nation; and this country will not let up until every person is found; and no one will be left behind.

We also have to give thought to the Housing issues in the long term to those who have lost their homes in the wake of this deadly storm. So many cities throughout this Nation are taking in evacuees on what is being called a temporary basis. Mobile home manufacturers in our area are responding with upgraded production and, in many cases, donated mobile homes to be sent into the disaster areas, as is happening around the country. There is a long-term need for housing, for schools, that needs to be addressed, and it will be addressed by this body as well as local governments, and it must be addressed sooner rather than later.

I think those of us who are in a decision-making position who have not been directly impacted by this tragedy have overcome our initial shock. We are past denying that it is not going to turn out as badly as we think. The harsh reality is it turned out much worse than anyone could have imagined or frankly could have planned for. Now we need to focus on long-term solutions for the evacuees, the survivors and rebuilding the region and the economy and the communities that these people have spent their lives building prior to this impact.

I think, in the long term, the ultimate benefit of this is going to be a great demonstration of the American spirit, Mr. Speaker, but also along those same lines, in this new world that we live in today, the silver lining in this is going to be a response to potential great disasters that could befall this country. God forbid they ever happen, but the lessons that we should learn out of this will provide the wisdom, the knowledge, the planning infrastructure to respond to far greater threats that may emerge in the future.

I thank the gentleman for the opportunity to share. I appreciate his leadership on this issue and his ability to put this together on such short notice.

Mr. PEARCE. Mr. Speaker, I thank the gentleman from Kentucky for his comments and for his heartfelt expressions of what this Nation is about.

I wanted to discuss briefly the fact that there is great concern about the responses of our Nation, and we were treated tonight to an unprecedented, unprecedented in my tenure here in this Congress, 3 hours from administrative Cabinet-level Secretaries being here to address this House of Representatives and answer questions and be accountable. The information shared was extremely timely and was poignant.

I would point out that one of the most impressive things to me was the responses of our military, and again, as we talk about the numbers of military, keep in mind that they may sound like a lot, but spread over 90,000 square miles, spread over the entire region of Great Britain, then we begin to understand just the proportions of responses that were actually required.

Before the hurricane ever struck, a state of emergency was declared by the President. So we had a couple of days of lead time before Katrina actually begins to hit and move. This is a time line from August 26, 27, 28 and on, so we have Katrina hitting Florida about this point. We have already at that point activated troops in both Louisiana, listed in blue, and then Mississippi, listed in green. So we have activated troops prior to the hurricane actually moving into the Gulf.

As it moved closer and closer into New Orleans and actually strikes New Orleans at this point, we can see that the troop level is now at 5,000, most of those troops in Mississippi; about half in Mississippi and about 40 percent in Louisiana. Then, the next day, we have an increase then to almost 8,000. Within 24 hours, now we are up to 10,000 troops, and we can see that the increase of troops has gone to where we have now 60,000 troops mobilized and on scene in this 90,000-square-mile region. Tomorrow, there will be an additional 10,000 troops. We will have at that point about 70,000 uniform personnel. About 43,000 of those are National Guard members, and about 17,000 of the ones on duty today are active duty military.

But we also have to understand that the Coast Guard was able to be activated, and the Coast Guard rescued more people, about three times more people in this 1-week period than they normally rescue in about a 1-year period. About 60 percent of the helicopters available to the Coast Guard were actually activated and being used.

□ 2320

And one of the problems that we faced is that communications throughout the region were just almost nonexistent; and especially as you went deeper into the highly populated area of New Orleans, the flood waters obliterated most of the communications systems. The wireless communications were not available. Cell phone communications were not available. The regular telephone communications were not available. So even if we had people there and on-site, they could not necessarily be directed right to the points where the problems were.

But the responses that many are finding inadequate, and we have to admit as a Nation, the President, I think, said it best, that he appreciated the strength of responses, but they did not result in the kind of results we would have wanted to have.

But once we get past that, we must evaluate what we should do in the future, not just try to point fingers in the current circumstance. I would point out that there is still much work to be done. So as we in this city begin to concentrate on recriminations and asking for resignations, what we are actually doing is distracting from those people who are actually on-site and trying to go through their jobs.

There will be plenty of time to give consideration to the problems and the flaws that we did face. But at the current point I think that our administration is focused correctly on what we should be doing currently to ease the suffering of those people who have been displaced, to regain the control of the city's infrastructure, to re-establish the infrastructure in the city and in the rural areas that surround New Orleans, but also dealing with the misery of lost lives.

The one thing that I think is extremely important for us to address with respect to New Orleans is the economic impact that we are going to face just from the loss of refining capacity.

I have had good questions that are raised by constituents and friends of mine about why the price of gasoline would be jumping as it relates to this emergency, and so I would like to go through just a brief discussion about the components of production and the price of gasoline.

We, first of all, need to be aware that gasoline is the end product, that we actually get it as a refined product of crude oil. To get crude oil, the first thing that we must do is to drill wells. And so, as I just put up here the basic sequence of getting refined gasoline, the first thing that we have to do as a Nation is drill oil wells or gas wells. And be aware when we are talking gas we are talking natural gas, not gasoline. But we drill. And when we drill successfully, we have oil that then must go through pipelines, and so we have got a transportation question here.

Once the pipelines conduct the oil, usually it is carried to refineries, and so we have got the refinery then accepts the oil, and from the refinery then we get to usually a series of products. But the ones that most of us would be familiar with would be that we get either gasoline, which we get at the pump, or we get diesel which, again, many of our trucks going across the highways would use.

Finally, then jobbers, these are independent, usually, operators who would go to the refinery and pick up gasoline in 10 or 12,000 lots and deliver it to service stations. So we then have the trucking from the refinery and finally to the service station.

Now, that entire process is very complex. Just the drilling of the oil well might take 30 to 50 days, even for shallow oil wells. For the deep ones like you see offshore from New Orleans, we are talking billions of dollars and years to literally put these facilities into place.

But then the conducting of the oil through the pipelines. Again, we put it in the refinery. It is at that point we begin to extract the oil or the gasoline or the diesel from the basic crude oil that comes from the oil well, and then the trucking to local service stations; and at that point, then you, as consumers, would drive up to the service station and access the fuel.

And what we see over here as a price, generally, the average price across the country has dropped a couple of cents in the last couple of days. But basically right now the retail price average for the Nation is about $3.04.

If we consider the source of that $3.04, where does that number come from, we have got a couple of charts that are extremely instructive. And the first one would show that when we have $3.04 of gasoline at the pump, that a $1.70 of that is created from the cost of crude oil itself. Refining creates $0.79 of the $3.04, and then the taxes that we add on top of that are the equivalent of $0.55.

Now, you can see that the cost of crude oil is the dominant component. About 55 percent of the price that you pay at the pump is going to come from the price of oil. So as we talk about the price of oil nationwide, it is in the high $60 range, and then has recently peaked up almost into the 70 or maybe into the $70 range, and then has decreased back down. And you would ask what effect is Katrina going to have on the price of gasoline at the pump, and why would it have the effect.

The chart that I have got here shows the track of Katrina coming in. It came across Florida, swung down into the gulf. Actually as it cleared through Florida, it decreased to about a Category 1 storm, and the speculation was early that it would simply bring rain across the southern gulf coast. But what it actually did was circulate out south into the gulf, pick up energy from the systems that were already in the gulf, and then it swung back toward the gulf coast here.

And what is depicted right here in the dark zones are the oil platforms off the coast of southern U.S. there and the Gulf of Mexico. Also, we have got refineries that are listed here.

So two things happened that are going to affect the price of gasoline as far as this storm is concerned. One is we lost some production from these platforms off in the Gulf of Mexico. But then secondly, we lost almost all of the refining capacity here in this region around Mississippi, Alabama, and Louisiana. Now, that represents about 25 percent of our Nation's refining capacity.

We heard testimony tonight from the Secretary of Energy that much of that refining capacity is shut down simply temporarily. We have got about four of the 13 refineries that are going to suffer long-term damage, and it is still unknown. But let us say that we lose about 20 percent of our refining capacity. Then we can see that what we are doing is we are going to limit the amount of gasoline that is produced, and it is going to drive the price higher.

We have got several things that are driving the price of gasoline higher right now worldwide. One of the factors that we tend not to think of, we understand as a Nation we have increased population and we have increased the amount of driving, and so we know that we, as a Nation, are demanding more petroleum products, more gasoline.

### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WESTMORELAND). The gentleman from New Mexico (Mr. PEARCE) is recognized for the remaining 30 minutes.

Mr. PEARCE. The thing that we do not often think about that drives this price higher is the fact that the emerging nations, China and India and the other emerging nations, are demanding tremendous high quantities of fossil fuels because that is the fuel of emerging economies. It is the fuel of our economy.

□ 2330

So worldwide, the demand for oil and gas is spiraling up, and yet we have limited supplies. Now, we as a Nation have made decisions that limit, first of all, the supplies of gasoline because we have not permitted new refineries in the past 30 years. It has been almost 30 years since we have built a new refinery. And only this year, earlier this year, did we even permit a new refinery, and it has not yet been built.

So one of things that is escalating the price of gasoline is that we have reached our capacity in refining. Not only is the price of crude oil going up, it has gone from $25, 3 or 4 years ago now, to $67, so that you can see the dominant cost of a price of gasoline coming from crude oil about 55 percent, we would expect that that would drive the price of gasoline higher. But then we have arbitrarily as a Nation chosen to limit our productive capacities because of the unnecessarily complex regulatory procedures that affect the permitting of new refineries.

Now, those are choices that we have made, and we are at the absolute capacity of our Nation to produce gasoline so that, for the first time in our Nation's history, we began to get gasoline in through imports, and that is not a good sign for the future of our economy because our economy, again, is built on affordable energy. We, now, then, again with Katrina coming in to the Gulf Coast region, we have lost somewhere between 5 and 20 percent of our refining capacity. That is going to then drive down the supply of gasoline available at the pump which is going to drive this price up. Now, the effect on our offshore platforms will not be such a large effect.

This Nation uses approximately 21 million barrels a day. The Gulf Coast region produces about 1.5 million barrels of crude oil a day, and so you can see that less than 5 percent of our productive capacity comes from this region. So even though we suffered some damage as a percent of our overall supply of crude oil, it is not going to be that large of an effect. Again, the largest effect coming from the restrictions to our refining capacity that we are going to find.

Now, as a side note, we as a Nation have chosen to limit the amount of crude oil that we produce so that we import more crude oil today than ever before in our Nation's history. We import about 13 million barrels a day, most of it coming from the Middle East, from Saudi Arabia, Kuwait and those nations. We also get oil from Mexico. We also get oil from Venezuela.

Now, another factor that is going to very much affect the price of gasoline that we pay at the pump will be that Venezuela is currently talking to the nation of China, and China is trying to talk them into a 100-year contract with all of the production from Venezuela going to China for the next 100 years.

Now, we as a Nation get 15 percent of our imported oil from Venezuela. So you can imagine that, if that contract goes through with China, taking away the production that we currently get from Venezuela, sending it to China, that we are going to see possibly a 10 or 15 percent jump in prices.

Now, we have made choices to limit the amount of drilling that we do in this Nation so that we will be more immune to price manipulation from overseas from those countries that would import or export into us, and some of those choices are, for instance, in ANWR. Back in 1995, this Congress, both House and Senate, voted to drill in ANWR. That is an oil preserve, a wildlife preserve in Alaska. And there was a piece set aside strictly to do this drilling which has been stalled out by extremists. And so we as a Congress, both House and Senate, passed a bill which would allow drilling in ANWR, and President Clinton then vetoed that. If we had passed that bill and had it signed at that point, we would be experiencing about a million and a half barrels a day of production which would come down to this area.

Now, again, that is about the amount that we have gone in the past, and when we would get price spikes, we would go to the Saudi Arabians and ask them if they would increase production by a million and a half barrels a day to help us lower the price of gasoline at the pump and keep our economy on sound footing. But we instead did not pass that bill that would allow the drilling in ANWR, and we as a Nation now are facing these $3.04 averages. That is an average price. Actually, some places are paying a much higher price, but we are experiencing these prices of gasoline because of past decisions that we have made to limit drilling. This is ourselves. We as a Nation are limiting our drilling, but we also have limited our refining capacity.

Now, the energy bill that we passed recently, people would ask exactly what effect is that going to have on the price of gasoline at the pump. I would tell you that mostly what we did are things that would, long term, begin to limit our need for mostly natural gas. Natural gas is used to produce electricity, and we had great stimulation in the bill which would affect nuclear. We have also had great stimulation for many other renewables, both solar, wind, bio-mass and other forms of renewables energy. But those are long term.

The only thing that really would affect the price of gasoline today is to increase the amount of crude oil production; that is drilling for more wells or to increase our refining capacity. Either one of those could have an effect on the price of gasoline today. But again, we, as a Nation, politically have decided in the past not to do that. And those are questions that we need to be asking ourselves right now.

How high is the price of gasoline going to go before we think that we as a Nation should permit more refineries to be built? I think that we have passed that point.

Now, my office, I am going to introduce in the coming week, we are proposing legislation that would in response to Katrina take the Federal excise tax off of gasoline. Currently, again, referring back to our chart, the price of gasoline is about $3.04; 55 cents of that $3.04 is made up of taxes. About 18.4 cents is a Federal tax. And our suggestion is that we as a Nation consider limiting that tax for a period of 6 months, so that the price of gasoline would fall immediately by 18.4 cents. And so you can see that we would be back under $2 a gallon for gasoline. But that is merely a short-term solution.

In the long term, if we want to affect the price of gasoline, we must increase refining capacity or we must increase drilling. In the past, we have implemented different methods of or different measures which would restrict our capabilities or voluntarily restrict our use, but what we found is, as we got more mileage in cars, then people simply drove more because they are going to spend a certain amount of their budget for mobility. That is the way we as Americans are. Now we can agree or disagree with it, but we found that those measures that were designed solely to increase the mileage of our cars in the past actually did not lower the demands for gasoline, but simply we drove more miles demanding more gasoline.

Now, one of the effects that I would like to visit about briefly before we finish is this trucking. Now, in my chart here, again we have got drilling, pipelines, refining, trucking to our local community and then the service station. But if we think of trucking in addition to not only trucking the gasoline from the refinery to a service station, then putting it in tanks at the service station, if we think about the trucking of all the goods and services along the highways; when you are driving along and you see the motorcades of hundreds of thousands of 18 wheelers moving along, those are taking goods that have been produced across this Nation and delivering them to the points of use or marketing and that those truckers are experiencing extremely high cost increases because they demand a lot of energy.

□ 2340

They demand a lot of diesel, and the price of diesel is extraordinarily high right now.

So we have tremendous downward pressure on our economy. It is one of the reasons that we are suggesting that the Federal taxes could be deleted for a period of 6 months to give us a chance to evaluate just what the effect of this storm Katrina is going to be, but in addition, it allows us to begin to have this debate on how complex do we have to make it for ourselves to build new refineries.

I think we know the elements of refining that would create difficulties in our environment. No one is going to watch as our environment is spoiled, but right now, we are limiting ourselves arbitrarily, even though we know the safety standards that we need to implement. I, for one, feel like we can do both. We can have safety and create new refineries at the same point. Likewise, we have limited drilling for the same purpose. I think that we can drill in an environmentally safe manner, and we are going to either have to do that or watch as the price of our energy increases. Katrina has simply accentuated the pressures that already existed inside our economy, and it is time for us, as a Nation, to look at the effects of our decisions in the past.

I would like to conclude my statements this evening by saying that, again, our hearts and our prayers go out to the people who have been suffering tremendously from this storm. We have seen the hearts of the Nation open up and accept these people who have been dislocated and have been taken in all across the Nation, into homes and into churches and into the Astrodome in Texas. I think that speaks so well of the compassion of this Nation and of our willingness to give of ourselves at a point where someone else is suffering.

I think that in the days ahead we are going to see this Nation pool its resources, to pool its ingenuity together. We are going to see people really begin to buckle down to approach the problems that we, as a Nation, are facing right now, and in a unified fashion. I think that we will see New Orleans cleaned up. I think that we will see a rebuilding effort across the entire Gulf Coast region. I think that we will see those economies come back into those States and communities that have been devastated by these current situations.

Again, we, as a Nation, owe it to ourselves to understand the full ramifications of what we face, and we owe it to ourselves to reinvest in those areas that have been so prolific and are so important to this Nation's economy. New Orleans not only has the refining capacity, they not only have the offshore platforms through Louisiana, offshore from Mississippi and Texas, but they process many, many of our grain crops on the way outbound as we export them. Many of the imports coming in come through New Orleans. It is an extremely vital and important part of this Nation, and I join with the rest of my colleagues on both sides of the aisle saying that we feel like that the days ahead will see the most magnificent responses to some of the most deeply felt problems this Nation has ever seen, from either a natural or unnatural disaster.

Mr. Speaker, I thank the Chair for allowing me to address the situations that have occurred in the Gulf Coast.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. BERKLEY (at the request of Ms. PELOSI) for today and the balance of the week on account of medical reasons.

Mr. CARDIN (at the request of Ms. PELOSI) for today.

Mrs. MALONEY (at the request of Ms. PELOSI) for today and the balance of the week on account of illness in the family.

Mr. MELANCON (at the request of Ms. PELOSI) for today and the balance of the week on account of district business relating to Hurricane Katrina.

Mr. TAYLOR of Mississippi (at the request of Ms. PELOSI) for today and the balance of the week on account of district business relating to Hurricane Katrina.

Mr. CONAWAY (at the request of Mr. DELAY) for today and the balance of the week on account of a death in the family.

Mr. PICKERING (at the request of Mr. DELAY) for today on account of Hurricane Katrina.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. MCKINNEY) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Ms. MCKINNEY, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. DOGGETT, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Mr. CLYBURN, for 5 minutes, today.

Ms. CARSON, for 5 minutes, today.

Mr. SCOTT of Georgia, for 5 minutes, today.

Ms. WASSERMAN SCHULTZ, for 5 minutes, today.

(The following Members (at the request of Mr. DAVIS of Kentucky) to revise and extend their remarks and include extraneous material:)

Mr. GUTKNECHT, for 5 minutes, today.

Mr. OSBORNE, for 5 minutes, today and September 7.

Mr. DANIEL E. LUNGREN of California, for 5 minutes, today.

Mr. POE, for 5 minutes, today and September 7 and 8.

Mr. BURGESS, for 5 minutes, today and September 7.

Mr. BURTON of Indiana, for 5 minutes, today and September 7 and 8.

Mr. NORWOOD, for 5 minutes, September 8.

Mr. GINGREY, for 5 minutes, September 7.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

Mr. PETERSON of Pennsylvania, for 5 minutes, September 7.

## SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 172. An act to amend the Federal Food, Drug, and Cosmetic Act to provide for the regulation of all contact lenses as medical devices, and for other purposes; to the Committee on Energy and Commerce.

S. 501. An act to provide a site for the National Women's History Museum in the district of Columbia; to the Committee on Transportation and Infrastructure.

## ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3645. An act making emergency supplemental appropriations to meet immediate needs arising from the consequences of Hurricane Katrina, for the fiscal year ending September 30, 2005, and for other purposes.

## BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on September 2, 2005 he presented to the President of the United States, for his approval, the following bill.

H.R. 3645. Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005.

## ADJOURNMENT

Mr. PEARCE. Mr. Speaker, pursuant to House Resolution 422, I move that the House do now adjourn in memory of the late Hon. William H. Rehnquist, Chief Justice of the United States.

The motion was agreed to; accordingly (at 11 o'clock and 44 minutes p.m.), pursuant to House Resolution 422, the House adjourned until tomorrow, Wednesday, September 7, 2005, at 10 a.m. in memory of the late Hon. William H. Rehnquist, Chief Justice of the United States.

## OATH OF OFFICE MEMBERS, RESIDENT COMMISSIONER, AND DELEGATES

The oath of office required by the sixth article of the Constitution of the United States, and as provided by section 2 of the Act of May 13, 1884 (23 Stat. 22), to be administered to Members, Resident Commissioner, and Delegates of the House of Representatives, the text of which is carried in 5 U.S.C. 3331:

> "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

has been subscribed to in person and filed in duplicate with the Clerk of the House of Representatives by the following Member of the 109th Congress, pursuant to the provisions of 2 U.S.C. 25:

JEAN SCHMIDT, Ohio Second.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3633. A letter from the Principal Deputy Associate Administrator, Environmental

Protection Agency, transmitting the Agency's final rule — Topramezone; Pesticide Tolerences [OPP-2005-0156; FRL-7726-9] received August 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3634. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Inert ingredients; Revocation of Pesticide Tolerance Exemptions for Three CFC Chemicals [OPP-2005-0068; FRL-7728-5] received August 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3635. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Alachlor, Carbaryl, Diazinon, Disulfoton, Pirimiphos-methyl, and Vinclozolin; Tolerance Revocations [OPP-2005-0183; FRL-7725-6] received August 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3636. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — 2-amino-4, 5-dihydro-6-methyl-4-propyl s-triazolo (1,5-alpha) pyrimidin-5-one (PP796); Exemption from the Requirement of a Tolerance [OPP-2005-0141; FRL-7728-1] received August 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3637. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Lieutenant General Robert Magnus, United States Marine Corps, to wear the insignia of the grade of general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

3638. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General William E. Mortensen, United States Army, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

3639. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Rear Admiral Ann E. Rondeau, United States Navy, to wear the insignia of the grade of vice admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

3640. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General John F. Goodman, United States Marine Corps, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

3641. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Donald J. Hoffman, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

3642. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Lieutenant General John D.W. Corley, United States Air Force, to wear the insignia of the grade of general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

3643. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General John G. Castellaw, United States Marine Corps, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

3644. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General David A. Deptula, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

3645. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Emerson N. Gardner, Jr., United States Marine Corps, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

3646. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Richard S. Kramlich, United States Marine Corps, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

3647. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General John L. Hudson, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

3648. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Joseph F. Weber, United States Marine Corps, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

3649. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Lieutenant General William E. Ward, United States Army, to wear the insignia of the grade of general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

3650. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Lieutenant General Norton A. Schwartz, United States Air Force, to wear the insignia of the grade of general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

3651. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Kevin P. Chilton, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

3652. A letter from the Principal Deputy Associate Administrator, Environmenal Protection Agency, transmitting the Agency's final rule — Interim Final Determination to Stay and/or Defer Sanctions, San Joaquin Valley Unified Air Pollution Control District [CA-316-0484c, FRL-7949-2] received August 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3653. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Cellulose Products Manufacturing [OAR-2003-0193; FRL-7948-5] (RIN: 2060-AL91) received August 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3654. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for North Dakota; Revisions to the Air Pollution Control Rules [RME Docket Number R08-OAR-2005-ND-0001; FRL-7942-4] received August 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3655. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Washington [R10-OAR-2005-0004; FRL-7944-4] received August 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3656. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implemenation Plans; Texas; Vehicle Inspection and Maintenance Program for Travis and Williamson Counties [R06-OAR-2005-TX-0011; FRL-7948-7] received August 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3657. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Oregon; Correcting Amendment [R10-OAR-2005-OR-0005; FRL-7944-1] received August 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3658. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District and Monterey Bay Unified Air Pollution Control District [CA-316-0484a; FRL-7949-1] received August 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3659. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revision to the California State Implementation Plan, Ventura County Air Pollution Control District [R09-OAR-2005-CA-0022; FRL-7945-2] received August 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3660. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Maryland; Control of Emissions from Small Municipal Waste

Combustor (SMWC) Units; Delegation of Authority [RO3-OAR-2005-MD-0007; FRL-7951-3] received August 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3661. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; Model A300 B4-600, B4-600R Series Airplanes, and Model A300 C4-605R Variant F Airplanes (Collectively Called A300-600 Series Airplanes); and Model A310-200 and -300 Series Airplanes [Docket No. FAA-2004-19534; Directorate Identifier 2004-NM-99-AD; Amendment 39-14198; AD 2005-15-09] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3662. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F (KC-10A and KDC-10), DC-10-40, DC-10-40F, MD-10-10F, MD-10-30F, MD-11, and MD-11F Airplanes [Docket No. FAA-2005-20882; Directorate Identifier 2004-NM-241-AD; Amendment 39-14192; AD 2005-15-03] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3663. A letter from the Regulations Coordinator, CMM, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Program; Inpatient Rehabilitation Facility Prospective Payment System for FY 2006 [CMS-1290-F] (RIN: 0938-AN43) received August 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

3664. A letter from the Regulations Coordinator, CMM, Department of Health and Human Services, transmitting the Department's "Major" final rule — Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2006 Rates [CMS-1500-F] (RIN: 0938-AN57) received August 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER:

H.R. 3647. A bill to render nationals of Denmark eligible to enter the United States as nonimmigrant traders and investors; to the Committee on the Judiciary.

By Mr. SENSENBRENNER:

H.R. 3648. A bill to impose additional fees with respect to immigration services for intracompany transferees; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska (for himself and Mr. OBERSTAR):

H.R. 3649. A bill to ensure funding for sportfishing and boating safety programs funded out of the Highway Trust Fund through the end of fiscal year 2005, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Ways and Means, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SENSENBRENNER (for himself, Mr. CONYERS, Mr. SMITH of Texas, Mr. BERMAN, and Mr. GOHMERT):

H.R. 3650. A bill to allow United States courts to conduct business during emergency conditions, and for other purposes; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 3651. A bill to amend title 9, United States Code, to allow employees the right to accept or reject the use of arbitration to resolve an employment controversy; to the Committee on the Judiciary.

By Mr. ANDREWS:

H.R. 3652. A bill to provide workers with certain impairments employment protection; to the Committee on Transportation and Infrastructure.

By Mr. ANDREWS:

H.R. 3653. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax to C corporations which have substantial employee ownership and to encourage stock ownership by employees by excluding from gross income stock paid as compensation for services, and for other purposes; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 3654. A bill to amend title XVIII of the Social Security Act to provide certain Medicare beneficiaries living abroad a special Medicare part B enrollment period during which the late enrollment penalty is waived and a special Medigap open enrollment period during which no underwriting is permitted; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BACA:

H.R. 3655. A bill to require the Secretary of Education to review and revise the guidelines relating to the "Principles of Effectiveness" criteria developed pursuant to the Safe and Drug-Free Schools and Communities Act to improve State and local prevention programs and activities carried out under such Act, and for other purposes; to the Committee on Education and the Workforce.

By Mr. DINGELL (for himself, Mr. STUPAK, Mr. HASTINGS of Florida, Mr. BOREN, Ms. LEE, Mr. MOORE of Kansas, Mr. SHERMAN, Ms. DEGETTE, Mr. BOUCHER, Mr. TOWNS, Mr. ROTHMAN, Mr. ANDREWS, Mr. ROSS, Mr. RUPPERSBERGER, Mr. BROWN of Ohio, Ms. DELAURO, Mr. ENGEL, Mr. GRIJALVA, Mr. LEVIN, Mr. HINCHEY, Ms. LINDA T. SÁNCHEZ of California, Ms. KAPTUR, Mr. KUCINICH, Mr. RYAN of Ohio, Mr. KILDEE, Mr. BACA, Mr. VISCLOSKY, Mr. THOMPSON of California, Mr. DAVIS of Florida, Ms. MCCOLLUM of Minnesota, Mr. WEINER, Mr. CARDOZA, Mr. MEEHAN, Mr. WU, Mr. BERMAN, Ms. KILPATRICK of Michigan, Mrs. MALONEY, Mr. CROWLEY, Mr. INSLEE, Ms. BORDALLO, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. HOLT, Mr. KANJORSKI, Mr. MCDERMOTT, Mr. NADLER, Mr. GONZALEZ, Mrs. LOWEY, and Mr. MORAN of Virginia):

H.R. 3656. A bill to reestablish the Federal Emergency Management Agency as an independent establishment in the executive branch, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LARSEN of Washington (for himself and Mr. WOLF):

H.R. 3657. A bill to regulate international marriage broker activity in the United States, to provide for certain protections for individuals who utilize the services of international marriage brokers, and for other purposes; to the Committee on the Judiciary.

By Mr. MEEK of Florida:

H.R. 3658. A bill to amend the Haitian Refugee Immigration Fairness Act of 1998; to the Committee on the Judiciary.

By Mr. OBERSTAR (for himself and Ms. NORTON):

H.R. 3659. A bill to reestablish the Federal Emergency Management Agency as an independent establishment in the executive branch that is responsible for the Nation's preparedness and response to disasters, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL:

H.R. 3660. A bill to amend the Farm Security and Rural Investment Act of 2002 to require, as a condition on the receipt of direct payments or counter-cyclical payments under such Act for rice produced by tenants and sharecroppers in Texas, that the producers on the farm agree to retain the rice cropland in production for the next crop year; to the Committee on Agriculture.

By Mr. PAUL:

H.R. 3661. A bill to amend title II of the Social Security Act to replace the 60-month period of employment requirement for application of the Government pension offset exemption with the rule that last applied before section 418 of the Social Security Protection Act of 2004 was enacted; to the Committee on Ways and Means.

By Ms. SLAUGHTER:

H.R. 3662. A bill to delay for 2 years the general effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005; to the Committee on the Judiciary, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WU:

H.R. 3663. A bill to amend part A of title IV of the Social Security Act to provide a State option to extend current waivers and create additional waiver authority under the temporary assistance for needy families program; to the Committee on Ways and Means.

By Ms. LEE:

H. Con. Res. 233. Concurrent resolution affirming the obligation and leadership of the United States to improve the lives of the 35,900,000 Americans living in poverty and an additional 15,300,000 Americans living in extreme poverty; to the Committee on Government Reform.

By Mr. DELAY:

H. Res. 422. A resolution expressing the profound sorrow of the House of Representatives on the death of the Honorable William H. Rehnquist, Chief Justice of the United States; considered and agreed to.

By Mr. SENSENBRENNER (for himself, Mr. CONYERS, Mr. COBLE, Mr. JENKINS, Mr. BACHUS, Mr. FRANKS of Arizona, Mr. GREEN of Wisconsin, Mr.

Pence, Mr. King of Iowa, Mr. Smith of Texas, Mr. Cannon, Mr. Chabot, Mr. Inglis of South Carolina, Mr. Daniel E. Lungren of California, Mr. Hostettler, Mr. Keller, Mr. Boucher, Mr. Schiff, Mr. Feeney, Mr. Berman, Mr. Gohmert, Ms. Zoe Lofgren of California, Mr. Issa, and Mr. Scott of Virginia):

H. Res. 423. A resolution honoring and recognizing the distinguished service, career, and achievements of Chief Justice William Hubbs Rehnquist upon his death, and for other purposes; to the Committee on the Judiciary.

By Mr. CALVERT:

H. Res. 424. A resolution to congratulate the National Aeronautics and Space Administration and the Discovery crew of Commander Eileen Collins, Pilot Jim Kelly, Mission Specialist Charlie Camarda, Mission Specialist Wendy Lawrence, Mission Specialist Soichi Noguchi, Mission Specialist Steve Robinson, and Mission Specialist Andy Thomas on the successful completion of their 14 day test flight to the International Space Station for the first step of the Vision for Space Exploration, begun from the Kennedy Space Center, Florida, on July 26, 2005, and completed at Edwards Air Force Base, California, on August 9, 2005. This historical mission represented a great step forward into the new beginning of the Second Space Age; to the Committee on Science.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 65: Mrs. Drake and Mr. Feeney.

H.R. 144: Mr. Hunter.

H.R. 146: Mr. Hunter.

H.R. 297: Mr. Andrews.

H.R. 312: Mr. Otter.

H.R. 314: Mr. Schwarz of Michigan and Mr. Chandler.

H.R. 528: Mr. Rothman.

H.R. 550: Mr. Ramstad, Mr. Issa, Mr. Meehan, Ms. Moore of Wisconsin, and Mr. Barrow.

H.R. 558: Mr. Price of North Carolina, Mr. Emanuel, and Mr. Calvert.

H.R. 633: Mr. Rothman.

H.R. 698: Mr. Herger, Mrs. Myrick, and Mr. Brown of South Carolina.

H.R. 735: Mr. Frank of Massachusetts.

H.R. 759: Mr. Brady of Pennsylvania and Mr. Payne.

H.R. 813: Mr. DeFazio.

H.R. 865: Mr. Fitzpatrick of Pennsylvania.

H.R. 871: Mr. Pastor.

H.R. 923: Mr. Conyers, Mr. McGovern, and Mr. Levin.

H.R. 998: Mr. Andrews, Mr. Cooper, Mr. Foley, Mr. Chocola, Mr. Gibbons, and Mr. Pence.

H.R. 1002: Mr. Michaud, Mr. Al Green of Texas, and Mr. Nadler.

H.R. 1246: Mr. Hinchey, Mr. Costello, Ms. DeGette, Ms. Lee, Mr. Tancredo, Mr. Ruppersberger, Mr. McDermott, and Ms. Kaptur.

H.R. 1297: Mr. Wexler.

H.R. 1322: Mr. Gene Green of Texas and Mr. Rothman.

H.R. 1358: Mr. Lincoln Diaz-Balart of Florida, Mr. Alexander, Mr. Kennedy of Rhode Island, Mr. Kuhl of New York, and Mr. Schwarz of Michigan.

H.R. 1413: Mr. McGovern and Ms. McCollum of Minnesota.

H.R. 1431: Mr. Miller of Florida.

H.R. 1554: Mr. Lucas, Mr. Inslee, and Mr. Manzullo.

H.R. 1561: Mr. Gordon, Mr. Brown of Ohio, Mr. Paul, Mr. Filner, Mr. McCotter, Mr. Akin, Mr. Leach, Mr. Etheridge, and Mr. Frank of Massachusetts.

H.R. 1566: Mr. Ford and Mr. Gordon.

H.R. 1582: Mr. Farr and Mrs. Capps.

H.R. 1591: Mr. Ryan of Ohio, Ms. Eshoo, Ms. Slaughter, Mr. Green of Wisconsin, Mr. Higgins, and Mr. Andrews.

H.R. 1620: Mr. Grijalva.

H.R. 1636: Mr. Frank of Massachusetts and Ms. Millender-McDonald.

H.R. 1671: Mr. Osborne, Mr. Miller of North Carolina, Mr. Shays, Mr. Davis of Kentucky, Mr. Pallone, Mr. Terry, and Mr. Gohmert.

H.R. 1688: Mr. Olver and Mr. Andrews.

H.R. 1689: Mr. Lincoln Diaz-Balart of Florida.

H.R. 1696: Mr. Rush.

H.R. 1823: Mr. Stark.

H.R. 1871: Mr. Moore of Kansas and Mr. Tiberi.

H.R. 1953: Mr. Doggett, Mr. McKeon, Mr. Herger, Mr. Doolittle, Mr. Gallegly, and Mr. Gary G. Miller of California.

H.R. 1973: Mr. Bass, Mr. Filner, and Mr. Gordon.

H.R. 1986: Mr. Calvert.

H.R. 2011: Mr. Miller of North Carolina.

H.R. 2017: Mr. Lynch.

H.R. 2061: Mr. Wamp, Mr. Wilson of South Carolina, Mr. Gingrey, Mr. Dent, and Mr. Stearns.

H.R. 2074: Mr. Cummings.

H.R. 2106: Mr. Cannon.

H.R. 2193: Mr. Andrews and Mr. Farr.

H.R. 2230: Mr. Engel.

H.R. 2231: Mr. Israel, Mr. Ryan of Ohio, Mr. Ackerman, Mr. Walsh, Mr. Sweeney, Mr. Neal of Massachusetts, Mr. Reynolds, and Ms. McCollum of Minnesota.

H.R. 2389: Mr. Porter.

H.R. 2429: Mr. Ross, Mrs. Davis of California, Ms. Carson, and Ms. Moore of Wisconsin.

H.R. 2519: Mr. Reyes.

H.R. 2533: Mr. Price of North Carolina, Mr. Michaud, Mr. Holden, and Ms. Herseth.

H.R. 2562: Mr. Abercrombie, Mr. Stark, and Mr. Filner.

H.R. 2646: Ms. Zoe Lofgren of California, Mr. Ruppersberger, Mr. Filner, Mr. Grijalva, Mr. Gonzalez, and Mr. Sherman.

H.R. 2682: Mr. Filner, Mr. Weldon of Florida, Ms. Zoe Lofgren of California, Mr. Sullivan, Mr. Platts, and Mr. Reyes.

H.R. 2925: Mr. Hastings of Washington.

H.R. 2926: Mr. Wolf.

H.R. 2933: Mr. Jones of North Carolina.

H.R. 2963: Mrs. Jones of Ohio, Mr. Reyes, Mr. Emanuel, Mr. Pastor, and Ms. Herseth.

H.R. 2987: Mr. LoBiondo and Ms. Zoe Lofgren of California.

H.R. 3003: Mr. Baird and Mr. Miller of North Carolina.

H.R. 3049: Mr. McHugh.

H.R. 3132: Mr. Boozman, Mr. McHugh, Mrs. Miller of Michigan, Mr. Daniel E. Lungren of California, Mr. Boehlert, Ms. Schakowsky, Mr. Putnam, Mr. Barrow, Mr. Gibbons, Mr. Walden of Oregon, Mr. Moore of Kansas, Mr. Norwood, Mr. Fossella, Mr. McIntyre, Mr. Ryan of Wisconsin, and Mr. McCaul of Texas.

H.R. 3135: Mr. Rogers of Kentucky.

H.R. 3147: Mr. Al Green of Texas and Mr. Bass.

H.R. 3163: Mr. Fitzpatrick of Pennsylvania.

H.R. 3195: Mr. Al Green of Texas, Mr. Kolbe, and Mr. Emanuel.

H.R. 3312: Mr. Kucinich and Mr. Strickland.

H.R. 3333: Mr. Sam Johnson of Texas.

H.R. 3334: Mr. Alexander, Mr. Boehlert, Mr. Hinojosa, Mr. Waxman, Mr. Price of North Carolina, Mr. Strickland, Mr. Owens, Mr. Cummings, Mr. Davis of Illinois, Mr. Reyes, and Mr. Nadler.

H.R. 3352: Mr. Beauprez, Mr. Tancredo, and Mr. Calvert.

H.R. 3361: Mr. Costello, Mr. Crowley, Mr. Menendez, Mr. Royce, Mr. Baca, Mr. Andrews, and Mr. Weiner.

H.R. 3369: Mr. Cummings.

H.R. 3385: Mr. McCotter, Mr. Frank of Massachusetts, and Mrs. Maloney.

H.R. 3405: Mr. Conaway, Mr. Ross, Mr. Kind, Mr. McIntyre, Mr. Peterson of Minnesota, Mr. Leach, Mr. Wilson of South Carolina, and Mr. Lewis of Kentucky.

H.R. 3442: Mr. Conyers.

H.R. 3504: Mr. Michaud, Mr. Sherman, and Mr. Doyle.

H.R. 3540: Mr. Sherman.

H.R. 3546: Mrs. McCarthy.

H.R. 3554: Mr. Etheridge.

H.R. 3569: Mrs. Napolitano, Mrs. Jones of Ohio, Mr. Kildee, and Ms. Berkley.

H.R. 3603: Mr. Saxton.

H.R. 3617: Mr. Brown of Ohio, Mr. Buyer, Mr. Goode, Mrs. Northup, Mr. McHugh, Mr. Leach, Mr. Kennedy of Rhode Island, and Mr. Platts.

H.J. Res. 61: Mr. Delahunt, Mr. Feeney, Mrs. Emerson, Mr. Barrow, Ms. Ginny Brown-Waite of Florida, Mr. Bradley of New Hampshire, Mr. Edwards, Mr. Rohrabacher, Mr. Burton of Indiana, Mr. Scott of Georgia, Mr. Rogers of Alabama, Ms. Eddie Bernice Johnson of Texas, Mr. Fitzpatrick of Pennsylvania, Ms. Harris, Mr. Ford, Mr. Rahall, Mr. LaHood, Mr. McCotter, Mr. Gary G. Miller of California, Mr. Turner, Mrs. McCarthy, Mr. Daniel E. Lungren of California, Mr. Kind, Ms. Jackson-Lee of Texas, Mr. Berry, Mr. Carter, Ms. Kilpatrick of Michigan, Mr. Ruppersberger, Mrs. Tauscher, Ms. Millender-McDonald, Mr. Simmons, Mr. Bachus, Ms. Watson, Mr. Sessions, Mr. Meek of Florida, Mr. Emanuel, Mr. Poe, Ms. Bordallo, Mr. Ortiz, Mr. Hunter, Mr. Evans, Ms. Corrine Brown of Florida, Mr. Tanner, and Ms. Herseth.

H. Con. Res. 24: Mr. Stark and Mr. Sherman.

H. Con. Res. 154: Ms. Wasserman Schultz.

H. Con. Res. 162: Mr. Barrow.

H. Con. Res. 172: Mr. Filner and Mr. Bachus.

H. Con. Res. 174: Ms. Kaptur, Mr. Goode, Mr. Gene Green of Texas, Mr. Wicker, Mr. Castle, Mr. Shaw, Ms. Harris, Mr. Wolf, and Mr. Jefferson.

H. Con. Res. 179: Mr. Tierney, Mr. Waxman, Mr. Van Hollen, Mr. Marshall, Mr. Hinchey, Mr. Gordon, Mr. Goode, Mr. Platts, Mr. Rothman, Mr. Wolf, Mr. DeFazio, Ms. Schakowsky, and Mr. Wexler.

H. Con. Res. 219: Mr. Al Green of Texas.

H. Con. Res. 222: Mr. Moore of Kansas, Mr. Hunter, Mr. Akin, Mr. Leach, Mr. King of Iowa, and Mr. Frank of Massachusetts.

H. Res. 15: Mr. Moore of Kansas, Mr. Holden, and Ms. Baldwin.

H. Res. 123: Mr. Ryan of Ohio, Mrs. Emerson, and Ms. McCollum of Minnesota.

H. Res. 222: Mr. Emanuel and Mr. Otter.

H. Res. 299: Mrs. McCarthy, Mr. Neal of Massachusetts, Mr. Ryan of Ohio, and Mr. Lipinski.

H. Res. 305: Mr. Fossella.

H. Res. 325: Mr. Reynolds.

H. Res. 360: Mr. Engel.

H. Res. 388: Mr. DAVIS of Kentucky, Mr. PITTS, Mr. ROHRABACHER, Mr. SMITH of New Jersey, Mr. KELLER, and Mr. BAKER.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2290: Mr. JONES of North Carolina.

# EXTENSIONS OF REMARKS

## IN HONOR OF THE CITY OF NORTHVILLE, MI

### HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. McCOTTER. Mr. Speaker, I rise today in tribute to the City of Northville, MI, which is celebrating its 50th anniversary.

Located on the western fringe of the Detroit metropolitan area, the city of Northville was incorporated as a village in 1867 and as a city in 1955. The area was a small industry-trade center in the early 1800s when farming and lumbering were the main occupations.

Today, Northville is home for approximately 6,500 residents and supports one of the finest school districts in the State of Michigan. Known for its rolling hills and attractive countryside, Northville has retained its small-town appeal with stately Victorian-era architecture in its Historic District and a "walk to" downtown area, which boasts of old-fashioned street lamps, galleries, and specialty shops and includes the historic Marquis Theater, which has served the families of the community for more than 80 years. The theater's marquee has been in operation since 1925, and at one time it was one of only 26 working marquees in the United States. Today's performers sing, dance, and act on the same stage as legendary stars Woody Herman, The Harmonicats, The Four Freshmen, and Count Basie.

The city has grown and prospered since the first city council meeting on December 19, 1955. Citizens of Northville are fortunate to have had strong leadership from its first Mayor; Claude Ely, to the current Mayor, Christopher Johnson. Citizen involvement insures Northville continues to be a vibrant community in which to live, work, and raise a family.

Mr. Speaker, I ask my colleagues to join me in congratulating the people of Northville as they celebrate their historic past. It is my hope this fine community will enjoy a long and prosperous future.

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## CONGRATULATING CRISPIN VALVES OF BERWICK, PA, ON THE OCCASION OF THE COMPANY'S 100TH ANNIVERSARY

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Crispin Valves, of Berwick, PA, which is celebrating its 100th anniversary.

Begun in 1905 on the foundation of the patents granted to Clarence Crispin for his design of the Air Valve, Crispin is a fourth generation family business employing 70 people.

The Crispin Air Valve, for the first time ever, allowed the release of air build-up in water pipes without leaks or interruption of water flow in the line.

Since its inception, Crispin has served customers the world over. Still located on its original manufacturing site, Crispin today is a modern, professional company deeply rooted in the traditional values of its early beginnings.

No other company in the world has manufactured air valves longer than Crispin and no other company in the air valve market has the experience that Crispin has.

Crispin products are used in both hemispheres and in almost every country in the world. The breadth of their international experience allows them to understand and provide the flexibility that international customers require.

Focusing primarily on the municipal water industries, Crispin products are also used extensively by industrial, mining, chemical, energy and processing companies.

Crispin's customers include some of the world's top corporations including Phillips Petroleum, Walt Disney, Anheuser Busch, Bechtel, International Paper and Black and Veatch.

Their municipal client index includes customers from major metropolitan areas as well as small town water systems. They include Denver, CO; Los Angeles, CA; Tampa, FL; New York City, Dallas, TX, and thousands of others.

Mr. Speaker, please join me in congratulating Crispin Valves and its president, Mr. Darren Crispin, for representing the finest qualities of the American entrepreneurial spirit. Their family heritage and community-mindedness has resulted in a successful company that has employed many people in northeastern Pennsylvania for over a century.

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## IN HONOR OF COLONEL MICHAEL R. SIMONE

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. FARR. Mr. Speaker, I rise today to honor a tremendous public servant. Col. Michael R. Simone, United States Army, recently retired after 30 years of uniformed service to our Nation. I know him both as a friend and as the Commandant of the Defense Language Institute located in my Central California District. DLI is the premier language training institution in the world, instructing U.S. troops in any language required to meet national security demands. I can think of no other single training officer in the U.S. military other than Colonel Simone who has done more to directly prepare our service men and women to meet the challenges we face in Iraq, Afghanistan, North Korea, and in the broader struggle against international terrorism.

In 1975, Colonel Simone earned a bachelor of science at the U.S. Military Academy at West Point. After serving in field artillery, he went on to earn a masters in International Affairs from Columbia University in 1985. Colonel Simone served as assistant professor of Soviet Studies at West Point, completed a masters in Political Science at Columbia University, and also earned a Certificate of Advanced Training in Soviet Studies from the Averell Harriman Institute. Finally, he attended the Armed Forces Staff College, the U.S. Army Russian Institute, and completed the Defense Attaché Course.

Then Colonel Simone became a diplomat. From 1993 to 1995, he served as the Assistant Army Attaché in Embassy Moscow. Colonel Simone then moved to Vienna as the Assistant Joint Staff Representative to the U.S. Delegation to the Organization for Security and Cooperation in Europe. In 1998, he returned to Moscow as the Army Attaché. Then from August 2000 until May 2003, he commanded the European Operations Division of the Defense Threat Reduction Agency's On-Site Inspection Directorate in Darmstadt, Germany. On June 4, 2003, Colonel Simone became the Commandant of the Defense Language Institute. And the rest, as they say, is history.

Finally, Mr. Speaker, I wish to close with a short personal anecdote. One of the greatest pleasures as a Member of Congress is to nominate the brightest high school graduates of our districts to the service academies. Every year, I host a small reception for the nominees and their families just before the students leave for their first academy year. This year, I asked Colonel Simone to host this reception. Not only did he and his wonderful wife Jan open their home, but they made sure, more importantly, that every room was full of serving junior officers, academy graduates all, who could offer the students advice and support as they began their great journey. This happy evening gave me a first-hand look at Colonel Simone's all-consuming dedication to training soldiers.

Mr. Speaker, it is my pleasure to applaud Col. Michael R. Simone, a person who has served his country with great distinction for so many years. I join with all his friends and family in honoring this talented man and his many achievements.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

## HONORING THE CITY OF NEWARK, CA'S 50TH ANNIVERSARY

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. STARK. Mr. Speaker, I rise today to pay tribute to the city of Newark, CA as it celebrates its 50th year of incorporation. The city will celebrate this milestone anniversary during its annual Newark Days event on September 22–25, 2005. This year's Newark Days celebration will fall on the anniversary of the city's incorporation in 1955.

The slogan for this year's Newark Days is "People, Pride and Progress." Newark Mayor Dave Smith describes this slogan as an accurate representation of the involvement of the city's community. In a recent article in the Tri-City Voice, a local paper serving the cities of Fremont, Newark and Union City, the Mayor describes "rampant volunteerism" in the city; everything from Newark Days, a non-profit organization, to feeding the poor through an organization like the Viola Blythe Center or the just concluded Ash Street Park summer program run by Friends of Ash Street Community Enrichment or the League of Volunteers Newark, which provides many services to the city.

During a recent interview in the Tri-City Voice, Mayor Smith proudly stated: the people of Newark always rise to the occasion to give of themselves to the community. This makes it a special place. Why do they do it? It's because they take pride in their community. There is a tremendous community pride in Newark.

From humble beginnings as a total bedroom community, the city developed a long-term vision and a strategic focus to insure its prosperity and economic independence. Thoughtful planning of residential and commercial development, careful renovation, community involvement, as well as the exemplary delivery of services has resulted in the city's fiscal and social wellness.

I join in expressing heartiest congratulations to the city of Newark, its elected leadership, administrators, and residents on the 50th anniversary to Newark's' incorporation. I am confident Newark will continue to thrive. Happy birthday and best wishes for continued success.

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## CONGRATULATING GENERAL WILLIAM L. "SPIDER" NYLAND ON THE OCCASION OF HIS RETIREMENT FROM THE MARINE CORPS AFTER 37 YEARS OF SERVICE

### HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. MILLER of Florida. Mr. Speaker, today I recognize and pay tribute to General William L. "Spider" Nyland, United States Marine Corps, on the occasion of his retirement from active duty. General Nyland has served our great Nation for more than 37 years. The departure of General Nyland marks not only the end of an illustrious career replete with many honors, it also marks the beginning of several initiatives which, by virtue of his strategic vision, dynamic leadership and accomplished diplomatic skills, will ensure that U.S. national strategy is prepared to meet the challenges of the 21st century.

General Nyland was commissioned a second lieutenant in the Marine Corps under the NROTC program upon graduation from the University of New Mexico in 1968. In addition to attaining a M.S. degree from the University of Southern California, his formal military education includes The Basic School (1968), Naval Aviation Flight Training (NFO) (1969), Amphibious Warfare School (1975), Navy Fighter Weapons School (TopGun) (1977), College of Naval Command and Staff, Naval War College (1981), and Air War College (1988).

After being assigned to VMFA–531, General Nyland was ordered to Vietnam where he flew 122 combat missions with VMFA–314 and VMFA–115. General Nyland's other tours included Instructor RIO, VMFAT–101; Squadron Assistant Operations Officer and Operations Officer, VMFA–115; and Brigade FORSTAT and Electronic Warfare Officer, 1st Marine Brigade. He also served as Operations Officer and Director of Safety and Standardization, VMFA–212; Aviation Safety Officer and Congressional Liaison/Budget Officer, Headquarters, U.S. Marine Corps, Washington, DC; and Operations Officer, Marine Aircraft Group–24, 1st Marine Amphibious Brigade. He commanded VMFA–232, the Marine Corps' oldest and most decorated fighter squadron, from July 1985 to July 1987.

General Nyland subsequently served as section chief for the Central Command section, European Command/Central Command Branch, Joint Operations Division, Directorate of Operations (J–3), Joint Staff, Washington, DC. In July 1990, he assumed command of Marine Aviation Training Support Group (MATSG), Pensacola. Following his command of MATSG he assumed duties as Chief of Staff, 2nd Marine Aircraft Wing on July 5, 1992, and assumed additional duties as Assistant Wing Commander on November 10, 1992. He was promoted to Brigadier General on September 1, 1994 and was assigned as Assistant Wing Commander, 2nd MAW serving in that billet until December 1, 1995.

He served next on the Joint Staff, J–8, as the Deputy Director for Force Structure and Resources, completing that tour on June 30, 1997. General Nyland was advanced to Major General on July 2, 1997, and assumed duties as the Deputy Commanding General, II Marine Expeditionary Force, Camp Lejeune, N.C. He served next as the Commanding General, 2d Marine Aircraft Wing, MCAS Cherry Point, North Carolina from July 1998 to June 2000. He was advanced to Lieutenant General on 30 June 2000 and assumed duties as the Deputy Commandant for Programs and Resources, Headquarters, U.S. Marine Corps. He next served as the Deputy Commandant for Aviation on 3 August 2001. He was advanced to the grade of General on September 4,2002 and assumed his current duties shortly thereafter.

General Nyland's personal decorations include: Defense Distinguished Service Medal, Legion of Merit, Defense Meritorious Service Medal, Meritorious Service Medal, the Air Medal with eight Strike/Flight awards, and Joint Service Commendation Medal.

Throughout his career as a United States Marine, General Nyland has demonstrated uncompromising character, discerning wisdom, and a sincere, selfless sense of duty to his Marines and members of other services assigned to his numerous joint commands. His powerful leadership inspired the Marines to tremendous success no matter the task, and achieved results which will assure the United States' security in this hemisphere and overseas.

General Nyland concludes his illustrious career as the Assistant Commandant of the Marine Corps. In this capacity, he has been the principal advisor to the Commandant of the Marine Corps on all decisions of major consequence. His extensive and diverse background in operational and joint planning, professional military education and training, and budgetary and programmatic policy issues have been given wide credibility by decision makers in the Department of the Navy, the Joint Staff, the Office of the Secretary of Defense, and the United States Congress.

General Nyland has made a lasting contribution to the capabilities of today's Marine Corps and the future shape of tomorrow's Corps. We are grateful for General Nyland's dedication, sense of duty, advice and counsel. The Marine Corps will miss him, but General Nyland leaves a tremendous legacy for others to follow and emulate. I wish General Nyland and his lovely wife, Brenda, daughters, Brandy and Leslie, and son, Matthew, congratulations and all best wishes as they enter this new chapter of their lives.

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## IN HONOR OF THE ARC OF WESTERN WAYNE COUNTY, MI

### HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. McCOTTER. Mr. Speaker, I rise today to acknowledge and honor the Arc of Western Wayne County, MI, which is celebrating 50 years of commitment to reducing the incidence, and limiting the consequences of, mental retardation and other developmental disabilities.

In the 1950's there were very few educational, employment or recreational opportunities available for people with mental retardation living in southwestern Wayne County, and families were commonly encouraged to institutionalize their children. Small groups of parents chose to seek alternative solutions for their children and began to band together with a common goal and commitment to promote the general welfare of people with mental retardation and other developmental disabilities. In 1954 this group of parents founded the Arc of Western Wayne County.

Today, with a membership of 140 families, the Arc of Western Wayne County works to create opportunities for people with disabilities to gain assertiveness and community living skills. The organization and its members help to shape public policy and advocate for people who have traditionally been excluded from society by monitoring, supporting and creating progressive community programs.

Mr. Speaker, for 50 years the Arc of Western Wayne County has been committed to guaranteeing, for all people with developmental disabilities, the opportunity to choose where they live, learn, work and play. I hope my colleagues will join me in honoring the Arc of Western Wayne County, and the many men and women who contribute their time and energy and make a positive impact on our communities.

## PAYING TRIBUTE TO STAFF SERGEANT CHRISTOPHER M. FALKEL

### HON. THOMAS G. TANCREDO

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. TANCREDO. Mr. Speaker, I rise today to pay tribute to a fallen soldier from Highlands Ranch, SSG Christopher M. Falkel. Staff Sergeant Falkel died during combat operations in Deh Afghan, Afghanistan. He was just 22 years old.

Chris was a member of the elite Green Berets, and was affectionately known by his colleagues as "little brother." He was well known by his peers for his principle, toughness, patriotism, love of country and his bravery.

Staff Sergeant Falkel was a 2001 graduate of Thunder Ridge High School in Colorado. He enlisted that October with the goal of serving his country in the Special Forces. After completing courses in Arabic language and survival, evasion, resistance and escape he began Special Forces training in 2002.

Ultimately, Christopher was assigned to the 1st Special Warfare Training group, where he served his country with honor and distinction, earning—among other awards and medals—the Purple Heart and the Bronze Star.

Mr. Speaker, my deepest sympathies and heartfelt condolences go out to friends and family of Staff Sergeant Falkel.

Christopher served his country with bravery and distinction, fighting against the forces of tyranny and oppression. He will be missed by all who knew and loved him.

All Americans owe Christopher and his family a great debt of gratitude. We honor his service and his sacrifice.

## CONGRATULATING MAGEE RIETER AUTOMOTIVE SYSTEMS OF BLOOMSBURG, PENNSYLVANIA ON BEING NAMED SUPPLIER OF THE YEAR TO GENERAL MOTORS FOR THE 13TH CONSECUTIVE YEAR

### HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Magee Rieter Automotive Systems of Bloomsburg, Pennsylvania, on the occasion of their being named worldwide "Supplier of the Year" to General Motors for the 13th consecutive year.

Of GMs 30,000 suppliers, Magee Rieter Automotive Systems is the only company in North America to achieve this remarkable record, a fact that should make its nearly 800 employees exceedingly proud.

Magee Rieter is the leading supplier of carpets to General Motors in America. The company has been in business in Bloomsburg since 1889 and has been supplying General Motors for more than 90 years, first with hand draped tapestries for Fisher Body carriages and, today, with fully molded carpet floors and integrated acoustical systems.

For more than a century, the company has endured and overcome numerous challenges including floods, fires and the rapidly changing business environment. After World War II, the company received the Army/Navy "E" award for excellence in recognition of its production of high quality materials for the war effort.

Magee Rieter records annual sales in excess of $175 million and has an annual payroll of more than $37 million that provides its employees with family sustaining incomes that average about $39,000 annually. Overall, Magee Rieter is responsible for a $168 million annual impact to the local economy.

The current employees of Magee Rieter are carrying on traditions of pride and success handed down by their parents, grandparents and great grandparents who worked at this remarkable company.

Under the leadership of president and chief executive officer Mike Katerman, Magee Rieter continues to be a cornerstone of the Bloomsburg community.

Mr. Speaker, please join me in congratulating Magee Rieter for demonstrating superior performance and for serving as a shining example for other businesses to emulate.

## IN RECOGNITION OF THE WHITE LAKE TOWNSHIP LIBRARY ON ITS 30TH ANNIVERSARY

### HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. McCOTTER. Mr. Speaker, I rise today to acknowledge and honor the White Lake Township Library, which is celebrating 30 years of service to the White Lake, MI, community.

On April 5, 1975, a resolution was adopted at the Annual Meeting of the Electors of White Lake Township, establishing "a free public library in accordance with Act 164, P.A. 1877." The six-member Provisional Library Board was appointed on May 20, 1975 and the first permanent board was named shortly after. The Library Board is composed of non-partisan elected officials who serve 4-year terms.

Library service was originally provided through a contract with the Waterford Township library. In 1980, White Lake Township's voters provided permanent support for the library by approving a perpetual operating millage of 0.3 mils in property taxes. In 1998, voters approved 0.5 mils for 8 years to add, maintain and improve library service.

The library has been housed in several locations around the township including the White Lake Community Hall and Brooks School. The core of the current building was built in 1984–1985, using local funds and a Library Services and Construction Act grant. The library was extensively remodeled and expanded in 2001 and now contains approximately 10,000 square feet and over 50,000 library items. Use figures have doubled in 5 years as the number of registered borrowers has grown to over 10,000 individuals. Long-range plans call for additional library space and expanded print, electronic and staff resources to meet the information and cultural needs of a rapidly growing township.

Mr. Speaker, for over 30 years the citizens of White Lake Township, MI, have continued to support the White Lake Township Library. I hope my colleagues will join me in thanking the citizens of White Lake Township, Library Board members and employees of the library for their outstanding service to the people of Michigan, and wish them well in the next 30 years.

## HONORING MR. DONALD G. WALDON

### HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. ADERHOLT. Mr. Speaker, today I rise to honor Mr. Donald G. Waldon on the occasion of his retirement as the Administrator of the Tennessee-Tombigbee Waterway Development Authority. I am honored to stand before this body of Congress and this Nation to recognize his many accomplishments. He is truly a man who embodies the American principles of hard work, dedication to one's family and service to one's community.

Don is a native of Columbus, Mississippi but grew up in Mobile, Alabama. He graduated from Mississippi State University in 1961 with a Bachelor's Degree in Civil Engineering and completed post graduate studies in science and engineering at the Massachusetts Institute of Technology in 1963 and Texas A&M in 1964. He is a 1994 graduate of the University of Oklahoma's Economic Development Institute and the recipient of the Southern Industrial Development Council's 1994 Robert B. Cassell Award for Best Research Thesis.

Don joined the Army Corps of Engineers in 1961, where he worked in Mobile until 1966, conducting feasibility studies for water resource projects such as ports and waterways, including some early ideas for the Tenn-Tom Waterway. In 1966 he went to work for the Office of Management and Budget of the Executive Office of the President where he advised OMB and White House officials, including the President, on major budgetary, policy and legislative matters involving natural resources.

Don worked for OMB until 1974 when he was appointed as Deputy Assistant Secretary for the U.S. Department of the Interior, a position he held until September, 1975. His duties included management responsibilities for all land and water resource agencies within the Department of the Interior, which at the time had a budget of nearly $2 billion and approximately 12,000 employees. He had oversight over reclamation projects and the development of oil fields, coal mining on public lands, the Alaska Pipeline, the measures taken under the Nixon Energy Initiative, and served on a number of White House task forces, involving energy.

In 1975, on the advice of Tenn-Tom project Administrator Glover Wilkins, Don entered an exchange program inside the Federal Government and came to the Tenn-Tom on a 2-year basis, but ultimately stayed for 30. In 1979 Don resigned from the Federal Government and remained with the Tenn-Tom, taking the position of Deputy Administrator. When Glover Wilkins retired in 1984 Don was appointed to the post of Administrator, a position he has held ever since.

As Administrator of the Tennessee-Tombigbee Waterway Development Authority Don has worked tirelessly to promote the development of the Waterway, exploring economic and trade opportunities, and addressing potential barriers to the Waterway's beneficial use. Under Don's leadership the Waterway has resulted in approximately $5 billion in expanded industry. The Waterway has had a tremendous impact on the local communities, not just with industrial development, but by bringing in recreation and tourism dollars as well.

Apart from his leadership of the Tenn-Tom Waterway Authority, Don is active in a variety of organizations devoted to the development of our waterways. He is President of the Tennessee-Tombigbee Waterway Development Council, Vice-Chairman of the National Waterways Conference, Inc., Director of the Inland Rivers, Ports and Terminals, Inc. (a national trade group representing inland ports), Executive Committee member of the U.S. Maritime Administration's Heartland Intermodal Partnership, Vice-President of the Alabama-Tombigbee Rivers Coalition and an Advisory Board Member of the Mississippi Water Resources Research Institute.

Mr. Speaker, it is a great privilege to honor Donald G. Waldon for his many accomplishments and his enduring impact on his country, community, friends and family. He is a man of great dignity and character who takes pride in the accomplishments of those he has helped over the years. Don is an inspiring role model for all of us and I join his friends and colleagues in wishing him God's richest blessings in his retirement.

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## TRIBUTE TO LIEUTENANT COLONEL LARNELL EXUM ON HIS RETIREMENT

### HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. DUNCAN. Mr. Speaker, I rise today to recognize and pay tribute to LTC Larnell Exum, Deputy Chief, Army House Liaison Division, Office of the Chief of Legislative Liaison, who retired September 1. Lieutenant Colonel Exum's illustrious career as an infantry officer embodies all of the Army's values of loyalty, duty, respect, selfless service, honor, integrity, and personal courage and spans 20 years, during which he has distinguished himself as a soldier, leader, and friend of the United States House of Representatives.

Lieutenant Colonel Exum demonstrated his outstanding tactical and operational expertise in numerous command and staff positions overseas and in the continental United States. Continually serving in positions of ever-increasing responsibility, the highlights of his career include serving as a Company Commander with the 101st Airborne Division, Air Assault, at both Fort Campbell, KY, and in combat in Kuwait and Iraq during Operations Desert Shield and Desert Storm and then as Aide-de-Camp to the Undersecretary of the Army.

As the Deputy Chief of the Legislative Liaison in the House Liaison Division, his last assignment in the United States Army, Lieutenant Colonel Exum demonstrated the outstanding dedication and leadership skills that have characterized his distinguished career. In particular, he excelled at building relationships with Members of Congress and their staffs.

He escorted over 45 worldwide fact-finding missions for congressional delegations, traveling with over 135 Members to 25 countries. These ventures served to educate Members on subjects as diverse as the global war on terror, Army transformation, magnetic levitation trains, and future transportation technologies.

I traveled with Lieutenant Colonel Exum on several times and was thoroughly impressed with him on each occasion. He is one of the finest people I have worked with during my 17 years in Congress.

From 1986 to 1989, Lieutenant Colonel Exum distinguished himself as one of the top company grade leaders in Alpha Company, 1/22 Infantry Battalion, Fort Drum, NY, serving as a Rifle Platoon Leader and Mortar Platoon Leader in a light infantry battalion. He then was assigned to Alpha Company, 2/187 Infantry Battalion, both at home station and in combat operations in Kuwait and Iraq for Desert Shield and Desert Storm, when he was decorated for valor in combat.

Due to his fabulous reputation as one of the bright young officers in the Army, Lieutenant Colonel Exum was selected as the Aide-de-Camp/Military Assistant for the Under Secretary of the Army. He performed magnificently in this position and was subsequently given the rarest of opportunities, a second company level command, which he maintained for all Army soldiers assigned to the Military District of Washington with duty at Fort Meade, MD.

In 1995, Lieutenant Colonel Exum was assigned with the Office of the Chief of Staff of the Army and served there until 1996. During his year of seryice, he was the Protocol Staff Officer. His actions had a direct, positive impact on the public persona of the Secretary of the Army and the Chief of Staff of the Army by coordinating events for the "Big Four" senior Army leadership with foreign dignitaries, senior U.S. Government officials, and senior military leaders.

He then transitioned from active duty to become an active Guard Reserve National Guard officer. His contributions to the National Guard while serving as the Security Clearance Adjudications Officer and Reserve Incentive Program Manager from 1996 to 2001 were without measure and positively impacted the lives of individual soldiers and the readiness and training of the Guard Bureau as a whole.

After serving as the Chief of the Inquiries Branch in the National Guard Bureau Legislative Office, he was then hand-picked to represent the National Guard Bureau and the Army as the first National Guard officer to serve in the House Liaison Division of the Secretary of the Army's Legislative Liaison office for many years.

Lieutenant Colonel Exum is a natural at building and maintaining credible relationships with Members of Congress and their staffs, which was invaluable as the Army faced many challenges associated with its budget and real world combat operations in the Global War on Terror. Members knew they could count on Lieutenant Colonel Exum for his sage counsel, professional advice, and unwavering integrity.

Lieutenant Colonel Exum's faithful service, leadership, loyalty, and dedication to duty uphold the highest traditions of military service, and he has repeatedly stood for the defense of this Nation, her citizens, and their freedom. His devotion to the defense of liberty epitomizes the words soldier, patriot, and American. Lieutenant Colonel Exum is a role model for his two children, Tyler and Taylor, and is a devoted husband to his wife, Tina.

Mr. Speaker, I wish to extend my gratitude and that of the entire Nation to Lieutenant Colonel Exum for his service to the United States and his hard work in defense of freedom.

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## IN RECOGNITION OF RON FOWKES

### HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. McCOTTER. Mr. Speaker, I rise today to acknowledge and honor a good friend and public servant, Ron Fowkes, as he retires from his position as Council President for the Village of Milford, Michigan.

As a public servant Ron has demonstrated a deeply rooted commitment to the values of family, faith, democracy, and hard work. Before serving on the Village Council, Ron served on the Milford Parks and Recreation Commission, which included terms as vice-chair and chairman. He also served on the board of directors for the Huron Valley Chamber of Commerce; the American Eagles Flying Club; River Bend Playscape steering committee; and founding board member of the Village Tree Board.

Mr. Speaker, Ron Fowkes has made a significant impact on his community over the past decade—from securing funds to plant more than 200 trees in the Milford community to leading the effort to renovate playgrounds and park facilities. His commitment to God, family and country has been a source of inspiration to the many lives he has touched.

I hope my colleagues will join me in honoring Ron Fowkes. His wife Barbara and daughters Aimee and Victoria, and his many friends today can feel a rightful sense of pride and appreciation for Ron, and I offer my congratulations and appreciation for all he has done for his community and his country.

## RECOGNIZING AGOSTINO LOPORTO

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to acknowledge Mr. Agostino Loporto of Citrus County, Florida, a Purple Heart recipient from World War II.

Inducted into the military on March 1, 1941, Mr. Loporto went to boot camp at Fort Dix, NJ, and received additional training at Fort Benning and Camp Gordon. Shipped overseas in late 1943 to Liverpool, England, Mr. Loporto was in the Battle of the Bulge on D-Day.

Attached to the 4th Infantry Motorized Division in Belgium, Mr. Loporto was wounded in his shoulder by shrapnel in the Black Forest. He was taken to a hospital in Belgium and was transferred to a hospital in England when the Belgian hospital was hit by a B2 German bomber. Mr. Loporto received 4 months of medical treatment and was discharged from the military on November 4, 1945.

Mr. Speaker, true American heroes like Agostino Loporto should be honored for their service to our Nation and for their commitment and sacrifices in battle. I am honored to present Mr. Loporto with his long-overdue Purple Heart. He is truly one of America's greatest generation.

## SALUTING THE CONTRIBUTIONS OF THE LITTLE LEAGUE WESTERN REGION

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. BACA. Mr. Speaker, I rise to salute the Little League Western Region, and its contributions to the youth of the Inland Empire, through its Western Regional Tournament. Little League is the foundation of good values and sportsmanship. Some of us may be bigger than others, or faster, but in team sports, as in life, it is the effort that counts! Through perseverance and teamwork, one can succeed!

Here in the Inland Empire, we like to be known for historic firsts. Did you know that San Bernardino was the first site of Little League, west of the Rocky Mountains? Did you know San Bernardino had the first team from the West to advance to the World Series in 1951? So, when you play here, you are a part of history! This is a special place!

We should stop to honor those who have made this facility possible. The Western Regional Headquarters was constructed in 1969. The property on which the headquarters was placed was made available to Little League Baseball by the City of San Bernardino. Al Houghton Stadium and the Thomas C. Boyle Administration Building were built first, and the balance of what is here today has been gradually added. Warner Hodgdon, a local businessman, contributed heavily to the swimming pool, which is now such an important part of the Headquarters. Local firms pitched in with donated building materials, equipment and labor to gradually complete the complex. Many District Administrators and other local people labored hard and long. Western Regional Headquarters as it stands today has been a "labor of love."

On the grounds of the Headquarters Complex is a Junior Olympic size swimming pool. For other recreation and practice there are table games, batting cages, practice fields and a recreation hall. There is also a Senior Division field.

The Western Regional Tournament is the culmination of hard work by parents, fundraisers, volunteers, and the business community, as well as these talented players. Twelve teams, and 10 days of play! An audience of 50,000 to 60,000! A Tournament Committee of over 125 volunteers from 11 Western States! Recognition of all teams at the Inland Empire Sixty Sixers home game! The involvement of Team 14, a group of local businessmen and women who volunteer to host a team and take the players to other Southern California events! An annual Golf Tournament!

In addition, Little League Leadership Training Clinics are offered for League Officials, District Administrators, Managers/Coaches, scorekeepers and volunteer umpires. Included in the training sessions are two one-week Umpire Schools along with weekend rules clinics.

And so, I salute the young people who participate, and those who support the game. Play ball!

## RECOGNIZING HAROLD KURTH

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to acknowledge Mr. Harold Kurth of Citrus County, Florida, a Purple Heart recipient from World War II.

Volunteering for service in 1943, Mr. Kurth's ambition was to join the Air Corp, but was inducted into the Army at Camp Roberts to receive his basic training instead.

Following his initial training, Mr. Kurth was aboard the Sea Witch on his way to Guadalcanal when the ship was fired on by Japanese submarines. Luckily, the Sea Witch made it safely to Guadalcanal without further contact with the enemy.

Mr. Kurth then took part in campaigns on the Soloman Islands and the Philippines, where he was wounded by a hand grenade while guarding a church in Manila. He was part of a group of six soldiers who came under enemy fire in the church yard following a river crossing. Several of his compatriots were injured as well in the battle.

Part of the "Heavyweights of the South Pacific," Mr. Kurth's division was credited with killing 12,500 enemy soldiers during World War II. Serving three years without a furlough, Mr. Kurth returned to the United States on Christmas Eve, 1945.

Mr. Speaker, true American heroes like Harold Kurth should be honored for their service to our Nation and for their commitment and sacrifices in battle. I am honored to present Mr. Kurth with his long-over Purple Heart. He is truly one of America's greatest generation.

## IN HONOR OF THE 20TH ANNIVERSARY OF THE SINFONIA MEXICANA

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. BACA. Mr. Speaker, it is with great pride that I rise to pay tribute to the Sinfonia Mexicana, on the occasion of its 20th anniversary.

This important institution, located in San Bernardino, has been thrilling audiences since 1985, when Mario Porras and Charles Eisenhard inspired members of the Inland Empire Symphony Association, local civic leaders, and then Consul of Mexico Emerenciano Rodriguez, to form a committee to present a unique concert of Mexico's symphonic masterpieces. Consul Rodriguez was selected to chair the committee for this exciting endeavor. The concert was a tremendous success! Enthused, the committee continued to present annual state-of-the-art musical and culturally enriching programs for the enjoyment of the entire community.

The purpose of this organization is to present the finest music compositions of Mexico to the Inland Empire. In addition to its outstanding music programming, the group has committed numerous volunteer hours and financial contributions throughout these many years, with participation of organizations and individuals that shared in the identical goal of program development and other auxiliary components.

The current success of the Sinfonia Mexicana has been recognized as an outstanding achievement in the Inland Empire and beyond. It is a well-established fact that Mexican folkloric music is enormously popular and world-renowned; however, what was relatively unknown to many people locally, was Mexico's veritable treasure of classical and symphonic music created by notable composers and arrangers—many of whom Sinfonia showcased over the past 19 years. They included: Carlos Chávez, Pablo Moncayo, Manuel M. Ponce, Silvestre Revueltas, Miguel Bernal, Blás Galindo, Juventino Rosa, Enrique Mora, Manuel Enriques, Ricardo Castro, Candelario Huízar, Felipe Villanueva, and others. To be sure, Chávez's "Sinfonia India" is a fine example of the unification of Yaqui and Seri indigenous melodies into a symphonic masterpiece.

A typical Sinfonia program of Mexican classical music often features a guest conductor and/or artists from Mexico performing with the San Bernardino Symphony Orchestra at the historic California Theatre of Performing Arts in San Bernardino. Guest conductors have included Abraham Chávez, Sergio Cardenas, Francisco Savín, Guadalupe Flores, Eduardo Diazmuñoz, Enrique Diemecke, José Hernandez, Stewart Robertson, and Jeff Nevin. On two occasions Sinfonia had the distinction to host the "Orquésta Sinfónica Nacional de México" in San Bernardino. On their first visit, Maestro Francisco Savín served as musical director.

Sinfonia has presented a variety of special performances by outstanding ensembles from Mexico and Southern California. Sinfonia is now organized as a non-profit 501(c)(3) organization and yet maintains its volunteer-driven mission to foster the awareness of Mexico's symphonic musical masterpieces, and educate the public of the fine music and culture of Mexico.

Mr. Speaker, that is a résumé of the substantial achievements of this important cultural institution. My family and I enjoy this music. We encourage everyone in the community to partake of this great resource.

I ask that a more detailed history of Sinfonia be included in the CONGRESSIONAL RECORD, for public display and historical preservation. And again, I say: thank you to Sinfonia, for preserving these important musical traditions!

SINFONIA MEXICANA—A HISTORICAL OVERVIEW

Sinfonia Mexicana has been thrilling audiences since 1985 when Mario Porras and Charles Eisenhard inspired members of the Inland Empire Symphony Association, local civic leaders, and then Consul of Mexico Emerenciano Rodriguez, to form a committee to present a unique concert of Mexico's symphonic masterpieces. Consul Rodriguez was selected to chair the committee for this exciting endeavor. The concert was a tremendous success! Enthused, the committee continued to present annual state-of-the-art musical and culturally enriching programs for the enjoyment of the entire community.

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Sinfonia has presented a variety of special performances by outstanding ensembles from Mexico and Southern California. They featured the West Coast premiere of "Navidades" by the internationally acclaimed Ballet Folklorico de Amalia Hernandez from Mexico City. And, from Baja California, Sinfonia presented "Bastian y Bastiana" Mozart's comic opera performed by a student group, Grupo Juvenil de Tijuana. Moreover, Sinfonia presented the West Coast premiere of the first Chicano opera, "Esperanza" composed by David Bishop and the libretto by Carlos Morton based on the classic cult film, "Salt of the Earth." The opera was performed by the Euterpe Opera Theatre of Pasadena, which featured soprano Ariella Vaccarino and tenor Eric Castro.

Quintessentially popular mariachi performances have included the legendary Los Camperos de Nati Cano, Sol de México de José Hernandez, Las Reinas de Los Angeles, Mariachi Mujer, Mariachi Divas, and Mariachi Champaña. Other diverse artists included Latin jazz great, Tito Puente, the romantic trio, Los Tres Reyes, famed folklorists Tlen Huicani (Veracruz), and the brilliant Ballet Folklorico del Pacifico. The famous pop artist, Vikki Carr graced Sinfonia's portfolio, as did Alicia Juarez (widow of José Alfredo Jimenez), Lalo Guerrero, Mayor Judith Valles, sopranos Maria Luisa Tamez and Florencia Tinoco; tenors Alejandro Guerrero, Pedro Rey, Raul Hernandez, Dennis Meade, Daniel Hendricks, and the West Coast debut of tenor Daniel Rodriguez performing with a symphony orchestra (the former New York police officer who awed the nation with his rendition of "God Bless America" in the aftermath of 9–11). Sinfonia endeavors to help promote the musical careers of local young aspiring artists such as Elizabeth Quintero and Desiree Flores. Sinfonia supported the very first youth mariachi in the region, Mariachi Estudiantil and founder Lou Herz, whom Sinfonia sponsored for several years, and supported the debut of the region's first all-girl, Mariachi las Princesas.

Sinfonia is now organized as a non-profit 501(c)(3) organization and yet maintains its volunteer-driven mission to foster the awareness of Mexico's symphonic musical masterpieces, and educate the public of the fine music and culture of Mexico. The board of directors and staff invite interested members of the community to become involved in Sinfonia Mexicana programs.

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# TRIBUTE TO MR. MARIANO RIVERA

## HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Mr. Mariano Rivera, as he is awarded the 2004 Latino MVP Relief Pitcher of the Year Award by Latino Sports and the Latino Sports Writers & Broadcasters Association (LSWBA).

Rivera made his major league debut with the New York Yankees in 1995. Since 1997 he has served as the team's closer and has blown away his competition. Rivera is arguably the most effective closer in postseason baseball history, recording final outs in three Yankee world title seasons (1998, 1999 and 2000). He also owns the Major League record for most postseason saves with 32, as well as most World Series saves with 9. Rivera also established the longest scoreless innings streak in postseason play with thirty-three innings pitched and was named as the World Series MVP in 1999 and the Most Valuable Player of the American League Championship Series in 2003. He currently leads the Yankees as the club's all-time saves leader with 366 and boasts an incredible Earned Run Average below 1.00 in postseason play.

Mariano Rivera was born on November 11, 1969, in Panama City. The son of a fisherman, he grew up poor and played baseball as a kid using a glove fashioned out of a cardboard box. He has been described by many as being a deeply religious man, and says that he would one day want to move back to his native Panama to become a Priest. While fans of opposing teams dread to see Rivera on the mound, all will agree that he is a class act. Never one to boast or brag about his incredible gift, Rivera comes to work and does the job better than anyone. He is fearless yet humble, a combination that we seldom see in today's athletes.

When the game is on the line, great athletes always rise to the challenge. Jordan, Montana and Pelé all separated themselves from the pack with their ability to overcome their fears and anxiety and play with a high level of confidence. With his ability to shut down opponents at the end of a game Rivera has earned a place among these elite competitors.

Mr. Speaker, Mariano Rivera is proof of the great contributions Latinos continue to make to this country. While I am proud of the many championships Rivera has helped to bring to the city of New York, I am more proud of the fact that he has helped to improve the lives of many young people in the South Bronx. Whether he knows it or not, Rivera's attitude towards the game of baseball provides all who watch him with a model of how to approach life—hard work and determination.

Mariano Rivera exemplifies the idea of an athlete as a role model. For his unyielding competitive spirit and positive impact on the lives of all Americans, I ask my colleagues to join me in paying tribute to Mr. Mariano Rivera as he is awarded the 2004 Latino MVP Award.

## RECOGNIZING THE SPRING HILL NATIONAL DIXIE YOUTH AAA BASEBALL TEAM

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to acknowledge the members of the Spring Hill National Dixie Youth AAA baseball team on their recent victories at the State championships and world series.

The Spring Hill Nationals are made up of 9- and 10-year-olds who have worked tirelessly for their successes. The 13 members of this extraordinary team have demonstrated through their victories the traits of sportsmanship, dedication, loyalty, and discipline.

Mr. Speaker, I would like to recognize the following members of the Spring Hill team: Gabe Abbadessa, Mason Arroyo, Drue Brooks, Brandon Brosher, Alex Martin, Danny Gendusa, Derek Newman, Nic Pasarela, Nick Ramirez, Drew Dessa, Brad Smith, Evan Webster, and Joey Wright. Their manager, Dave Smith, and assistant coaches, Bob Pasarela and Dave Newman contributed to their successes.

The Spring Hill National Dixie Youth AAA baseball team is Florida's team. I am honored that these fine young gentlemen are from my district and am proud of their accomplishments.

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## IN LOVING MEMORY OF ANASTASIA "ANNIE" SAIZ, OF BELEN, NM

### HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. BACA. Mr. Speaker, I rise in loving tribute and memory of my sister Anastasia "Annie" Saiz, who passed away over the August congressional recess.

Beloved wife of Seferino Saiz, beloved sister of Florenio, Maria "Lupe" Napier, Morris, Tanny, Raymond, Joe, and Theresa Perez, and the late Abiflio Baca, beloved mother and mother-in-law of Robert Saiz and Lisa; Elsie Giron and husband, William; Sefe Saiz Jr. and wife, Liz; Dorothy Johnston and husband, Johnny; Lorraine Marquez and husband, Carl; and Charlie Saiz and wife, Rose, all of Belen. She is survived by 16 grandchildren, and 6 great grandchildren.

Annie lived life to the fullest, reaching the mark of 78 years young. She and Seferino had just celebrated their 60th anniversary with a family dinner at their home on August 5. They were married in 1945 in La Joya.

Annie was widely admired by family, friends, and colleagues. She was hard working, dedicated, committed, disciplined, loving and supporting. She was everything one would want in a sister, daughter, mother, wife, grandmother, and great grandmother.

She was employed by the Los Lunas Hospital and Training School, working with mentally challenged children. She had a big heart and compassion for the less fortunate. She would bring home children during the Easter holiday to enjoy the picnics; she couldn't see them being alone.

She was a devoted Catholic, and active in our Lady of Belen Catholic Church, and she volunteered at Sacred Heart Catholic Church. She participated in civic causes, volunteering her time, getting up at 7 a.m. to drive voters to the polls. When she believed in a cause, she would work her heart out.

She loved to shop. During the holidays she always gave out presents to strangers and her friends. She enjoyed listening to Mariachi music, going dancing at the senior citizen dances with Seferino and friends. She enjoyed listening to Jennifer sing Mariachi songs. When we would visit she was always so thoughtful and kind to give me and Barbara and my children a little gift. We will always remember her kindness and love for family.

Annie enjoyed spending time with her family. She always supported her children and grandchildren, cheering them on at baseball games; she was their No. 1 fan. She defended her family, as she stood by their side. She was all about "familia." On her children's birthday, she would call the local DJ and dedicate songs to her children. She would tell them to turn on the radio, and there is a special song, chosen from her heart.

She was a great cook. Everyone would go to her house, and even if you were not hungry, she would make sure that she gave you a plate and made you eat. The food was always so delicious, how could you refuse. We loved her tortillas and atole. She had special Mexican food remedies for our colds.

Annie's life was dedicated to family, friends, and community. Her memory lives on in our thoughts and prayers. We say, "Goodbye. God bless you, we love you, and we miss you." We all loved her with all our hearts. She is now in a better place with her heavenly Father and at peace.

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## CONGRATULATING IRVIN "BUZZ" CAVERLY

### HON. MICHAEL H. MICHAUD

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. MICHAUD. Mr. Speaker, since 1933, Baxter State Park has been one of the most important natural and recreational places in the state of Maine. From an initial purchase of 5,960 acres, the park has grown to 204,733 acres that welcome more than 100,000 visitors each summer from all parts of the United States. Baxter State Park is special for its role as home to many of Maine's most beautiful mountains, lakes, and rivers and as the northern terminus of the Appalachian Trail.

Throughout Baxter State Park's history, no man or woman, besides Governor Percival Baxter himself, has been as important to the park as Baxter State Park Director Irvin "Buzz" Caverly. Buzz Caverly began his career at Baxter State Park as a ranger in 1959 and by 1981 had risen to the rank of Park Director, where he has ably and enthusiastically managed the park since.

Buzz recently announced his retirement. Through the years, Buzz earned a well-deserved reputation for thoughtfulness, fairness, and dedication to the legacy of Percival Baxter and to Baxter State Park.

Growing up in the Katahdin region of Maine, Baxter State Park has always been my backyard, and I know that Buzz has continued the proud traditions of conservation and recreational access on which Baxter State Park was founded and which the people of the Katahdin region and all of Maine deeply value.

It can truly be said that Buzz knows Baxter State Park better than any man or woman alive, and his absence will be felt for years to come at the park. Indeed, Buzz's legacy will be remembered not only by those of us that love the park, but by the countless thousands of people who had the good fortune to meet him throughout the years and enjoy his own infectious love for Baxter.

On behalf of the residents of Maine's Second Congressional District, and for myself personally, I would like to thank Baxter State Park Director Irving "Buzz" Caverly for his hard work and dedication to Baxter State Park and for protecting an area that will remain a special place for all future generations of visitors from throughout Maine and away. Buzz, thank you and congratulations.

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## RECOGNIZING JOSH COOLEY

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to acknowledge Mr. Josh Cooley of Pasco County, Florida, a Purple Heart recipient from Operation Iraqi Freedom.

A deputy in the Pasco County Sheriff's office since 1998, Mr. Cooley enlisted in the Marine Corps Reserve in July of 2003. A third generation Marine, Lance Corporal Cooley was deployed to Iraq in December 2004.

While on patrol in Iraq, Mr. Cooley was the victim of a roadside blast. Following the attack, Mr. Cooley has required several head surgeries to remove pieces of scrapnel, some as large as a credit card. He currently remains in a local hospital recovering from his wounds sustained in early July.

While at National Naval Medical Center in Bethesda, Maryland, Mr. Cooley was presented his Purple Heart by President George W. Bush. An emotional and brief ceremony with Mr. Cooley's family was a fitting tribute to his and their sacrifices both on the battlefield and back here in Florida.

In addition to the support from his coworkers and family, the entire Pasco County region has helped the Cooley family. Volunteers have hosted fundraisers to help defray the costs of his medical bills, and have even reroofed his house. We are all proud to know that the good people of Pasco County have come together to support those who defend our freedoms and liberties in the United States Armed Forces.

Mr. Speaker, true American heroes like Josh Cooley should be honored for their service to our Nation and for their commitment and sacrifices in battle. I am honored to present Mr. Cooley and his family with this proclamation and let them know that America is grateful for the sacrifices of Lance Corporal Josh Cooley and that we truly consider him one of America's heroes.

## REGARDING THE POEM "A SOLDIER'S REFLECTIONS"

### HON. G. K. BUTTERFIELD

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. BUTTERFIELD. Mr. Speaker, on July 12, 2005 I read a poem on this Floor entitled "A Soldier's Reflections." At that time, I inadvertently gave credit to the wrong author. I apologize to its author Mr. George L. Skypeck and ask that the CONGRESSIONAL RECORD be amended and the appropriate correction be made to credit the author.

## RECOGNIZING JOHN FEDYSZYN

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to acknowledge Mr. John Fedyszyn of Lady Lake, Florida, a Purple Heart recipient from the Vietnam War.

A native of Dunkirk, NY, Lance Corporal Fedyszyn was a proud member of C Battery, 1st Battalion, 12th Marines, 3rd Marine Division. Mr. Fedyszyn served as a forward-observer radioman who fought in savage exchanges with North Vietnamese Army artillery units north/northeast, west, and south of Dong Ha throughout his deployment with the 12th Marines in Vietnam.

Many times, out-gunned and out-ranged, the 1st Battalion 12th Marines continued to return fire rather than give any quarter to North Vietnamese artillery units. Lance Corporal Fedyszyn earned his Purple Heart when he was wounded by the enemy during an attack on May 9, 1968. He was first presented the Purple Heart by the Commanding General of the 3rd Marine Division.

Mr. Speaker, true American heroes like John Fedyszyn should be honored for their service to our Nation and for their commitment and sacrifices in battle. I am honored to present Mr. Fedyszyn with his long-overdue purple heart. He is truly one of America's greatest generation.

## CALIFORNIA'S CENTRAL COAST RESIDENTS REACH OUT TO VICTIMS OF HURRICANE KATRINA

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. FARR. Mr. Speaker, on behalf of the constituents of the 17th District of California, we extend our heartfelt sympathy to the victims of Hurricane Katrina. The devastation wrought on Louisiana, Mississippi and Alabama is unimaginable to most Americans but we on the Central Coast of California want our fellow Americans on the Gulf Coast to know that we stand shoulder to shoulder with them to rebuild their lives and communities.

The epicenter of the 1989 Lorna Prieta earthquake occurred in the Santa Cruz Mountains 10 miles from my congressional district. It was 7.1 on the Richter scale and was the first major quake in northern California since 1906. Since that time, residents on the Central Coast have experienced many federally designated natural disasters including mudslides and flooding.

We Californians understand all too well that Federal disaster assistance has to be immediate and sustained. The $10.5 billion in emergency funding approved on September 2 is the start of what must be a long-term Federal effort to assist the residents of the Gulf Coast communities to rebuild their lives and communities. There is no price tag on the emotional and spiritual healing for the victims of Hurricane Katrina, but it may be a small comfort to know that millions and millions of Americans are contributing in many ways to your future well-being and that you are not alone.

## RECOGNIZING EDWIN BOMBLY

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to recognize the passing of Mr. Edwin Jerome Bombly of Hernando, FL.

Born in Hamtramck, MI, Mr. Bombly moved to Hernando, FL in 1978. An Army Veteran and the owner of a local insurance company, Mr. Bombly was very involved in local philanthropic activities and social organizations.

Mr. Bombly was a member of Our Lady of Fatima Catholic Church, a third degree member of the Knights of Columbus, chairman of the Citrus County Right to Life, and had recently been elected president of the Florida Right to Life. In addition to participating in these organizations, Mr. Bombly was a devoted family man who enjoyed playing the saxaphone.

Mr. Speaker, I know that his family, friends and loved ones miss his presence but are heartened to know that he has passed on to a better place.

## RECOGNIZING MR. PATRICK WEST

### HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker. I rise today to recognize Mr. Patrick West for his 25 years of service to the people of Paramount, California.

Pat began his career with Paramount in 1980 at a time when the city was being called a "suburban disaster," and was ranked as one of the Nation's worst places to live. Pat was a leading part of a team of local citizens and city employees who made a commitment to turn Paramount around. And turn the city around they did.

For example, to help reduce the high crime and gang problem in Paramount, Pat and other city employees and community leaders developed the GRIP anti-gang youth program. GRIP is now nationally recognized as one of America's longest running and most successful programs at reaching children early in elementary school, steering them away from gang involvement and towards more positive activities.

Pat started work in the city's Recreation Department, where GRIP is located. During 1986–1994 he moved to the Community Development Department where he was responsible for planning, zoning, and housing efforts in the city. Then, in 1994, Pat became City Manager for Paramount. Pat's able hand at community development and city management can be seen today in the thriving business districts of Paramount, and the creative use of suburban revitalization methods, such as pocket parks. Those years in the 1980's and 1990's saw the dramatic transformation of Paramount from suburban disaster status to a model of positive suburban redevelopment, with a city that stands out today for the quality of its city management and the quality of public services that it provides its residents and businesses. Pat West has played a leading role in directing that transformation over two and a half decades.

Pat's roots and life have been spent in our region of Southern California. Born in Inglewood, raised in Huntington Beach, and educated at UC Irvine for a bachelor's degree, and Cal State Los Angeles and Cal State Dominguez Hills for masters' degrees, Pat is truly a local Southern Californian who has done well, and done well for his State and his greater community.

Pat is leaving Paramount after 25 years to take a promotional opportunity working for the larger city of Long Beach where he will head up that city's redevelopment agency and help another city in our region successfully meet the challenges it faces.

Mr. Speaker and distinguished colleagues, please join me in honoring Pat West for his many years of service to the people of Paramount, CA and in wishing him the very best in his work ahead for the people of Long Beach, CA.

## RECOGNIZING JOSHUA JOEL GRAMLING OF ZEPHYRHILLS, FLORIDA

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to acknowledge Corporal Joshua Joel Gramling of Zephyrhills, FL, a Marine Corps veteran of the war in Iraq. I am proud to join the entire Zephyrhills community, his friends and family, and his fellow soldiers to welcome Corporal Gramling back safely from Iraq.

Following his enlistment in the Marine Corps in 1998, Corporal Gramling served as a tank gunner for the first four years of his service. Following the completion of his four-year duty, Corporal Gramling decided to re-enlist in the Marine Corps. Activated before the end of the year, Corporal Gramling was deployed to Iraq in March, 2005 where he served in Regimental Combat Team 8.

During his time in the Marine Corps, Corporal Gramling has received two Good Conduct Medals, the Iraqi Campaign Medal, the War on Terrorism Service Medal, and the National Defense Medal.

Born into the military with both parents serving at MacDill Air Force Base in Florida, Corporal Gramling comes from a long line of military veterans. A proud member of three generations of American military men and women, Corporal Gramling continues his family's tradition of service to America's Armed Forces. In fact, twelve members of his family have served in the Gulf War, the Vietnam War and in World War II.

Mr. Speaker, the entire Zephyrhills Community is proud to have a native son and proud soldier return home safely from active duty. True American heroes like Corporal Gramling should be honored for their service to our nation and for their commitment and sacrifice in battle.

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## RECOGNIZING CENTRAL HIGH SCHOOL NJROTC PROGRAM

### HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to acknowledge the Naval Junior Reserve Officers Training Corps unit of Central High School in Brooksville, FL for being recognized by the Navy as the 2005 Best Unit in the Navy's Area 7 and runner up as the 2005 Best Unit in the Nation. Both of these prestigious awards are sponsored by the Navy League of the United States.

Central High's NJROTC program is focused on the development of their cadets as model citizens as well as fostering the growth of tomorrow's leaders. In addition to their countless time spent drilling and reviewing on the parade grounds, the unit has amassed over 5,900 community service hours in a wide variety of community oriented activities. The unit has also pushed its cadets to achieve in the classroom, with several cadets participating in national academic contests, three cadets being awarded NROTC scholarships, and one cadet appointed to the U.S. Naval Academy.

In his application to the National NJROTC Awards Nominating Committee, the Area 7 manager stated that he had never seen a more inspiring event than the Evening Parade conducted by Central High's NJROTC Unit. Working as a team, the unit performed with a flawless precision that was of the same caliber as some of the finest honor guards in Washington, DC.

Mr. Speaker, in honor of Central High's Area 7 Best Unit award and their number two ranking in the nation, I would like to congratulate all the cadets participating in Central High's NJROTC program and their instructors for their dedication to the cadet program, for their service to the Brooksville community, and for their love of the United States of America. This unit will serve as an inspiration and an example for other NJROTC programs throughout Florida and throughout the Nation.

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## IN RECOGNITION OF NORTH HIGH SCHOOL'S CENTENNIAL CELEBRATION

### HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Ms. MCCOLLUM of Minnesota. Mr. Speaker, in North St. Paul, MN, this year marks 100 years of North High School, a pillar of the community since 1905. North High is one of three high schools serving the North St. Paul-Maplewood-Oakdale School District, a district which educates nearly 12,000 students each year.

As illustrated by the school's vision statement and exemplified in the work of its faculty and staff, learning and citizenship come first at North High. Generations of students and their families have acquired knowledge, attained skills, and developed values that prepare them for lifelong learning and civic participation in our democratic society.

Learning and growth happen outside of the classroom at North High as well. Students are provided with many leadership opportunities, including participation in more than 25 clubs and organizations, such as National Honor Society, Students Against Destructive Decisions, and Teens Advocating Peace. In addition, North High offers more than 26 athletic team opportunities for both boys and girls to learn the values associated with teamwork and physical fitness.

Many families in Minnesota and in North St. Paul have shared memories and developed lifelong friends because of their North High experiences. My own family has strong connections to North High—both of my children are alumni of North High and I was a student teacher at North High while finishing my bachelor's degree at the College of St. Catherine.

We count on our Nation's schools to help create and support our communities, strengthen our neighborhoods, and educate and prepare our children and youth. North High is a wonderful example of such a school. It is with great pride and appreciation for the role that students, faculty, staff, and alumni at North High play in North St. Paul and surrounding communities that I submit this statement for the official United States CONGRESSIONAL RECORD.

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## INTRODUCING THE RICE FARMERS FAIRNESS ACT

### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. PAUL. Mr. Speaker, I am today introducing the Rice Farmers Fairness Act. This legislation conditions the continuation of farm subsidies in the state of Texas upon the maintenance of rice production. Federal law allows for the continuation of subsidies to landowners who discontinue tenant rice farming on their land. In essence, this means that the subsidy continues to flow in spite of an end to production.

This is a "something for nothing" subsidy of the worst kind! As a result of this provision, there is a very real threat to the agricultural infrastructure. With landowners receiving subsidies in spite of lack of production, the entire warehousing, processing and "value-added" industries are put at risk.

As grain elevators, processors and others see a reduction in demand for their services because of the diminution of production permitted by Federal law, they have a disincentive to continue to provide said services, services which must remain in place in order for those who remain in production to be able to bring to market the rice which they continue to produce. Thus, by way of the decimation of the infrastructure, this subsidy to non-producers comes at the expense of those who continue to produce rice. Therefore, the provisions of Federal law which provide this subsidy actually amount to another form of Federal welfare, taking from producers and giving to non-producers. These destructive government policies have particularly pernicious effect in Texas, where rice farming, and the related industries, are a major sector of the economy in many towns along the Texas coast.

My legislation is very simple and direct in dealing with this problem. It says that those who have tenant rice farmers producing rice in Texas must agree to continue to maintain rice in their crop rotation if they wish to receive subsidies. In this way, we can remove the perverse incentive, which the Federal Government has provided to landowners to exit the rice business and thereby put the entire rice infrastructure at risk.

America's rice farmers are the most efficient, effective producers of rice in the world, despite the many hurdles erected by Washington. The Rice Farmer Fairness Act helps removes one of these hurdles and this makes America's rice farmers even more efficient. In order to enhance our competitive position, we should also end our embargoes of other nations. Congress should eliminate the burdensome taxes and regulations imposed on America's farmers. I hope my colleagues will join me in removing these federally imposed burdens on rice farmers by supporting free trade, low taxes and regulations, and cosponsoring my Rice Farmer Fairness Act.

## A CONGRESSIONAL TRIBUTE TO ARCHITECT FRANK GEHRY'S WALT DISNEY CONCERT HALL ON THE OCCASION OF THE HALL'S INCLUSION IN THE U.S. POSTAL SERVICE'S 2005 MASTERWORKS OF MODERN ARCHITECTURE SERIES

### HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise today to congratulate famed architect Frank Gehry for having his building, the Walt Disney Concert Hall, included in the U.S. Postal Service's 2005 Masterworks of Modern Architecture series. The hall is one of 12 modern structures in the nation—and the only one on the West Coast—featured in the postal stamp collection now on sale at post offices throughout the country.

As part of this series, the Walt Disney Concert Hall is among a distinguished collection that includes the Guggenheim Museum in New York City, the Hancock Center tower in Chicago and the East Building of the National Gallery of Art in Washington, DC.

Located in my congressional district in downtown Los Angeles, the Walt Disney Concert Hall draws national attention to Los Angeles and serves as the centerpiece of downtown's successful revitalization that includes showcasing the area's diverse artistic and cultural offerings.

Occupying a full city block on the historic Bunker Hill, the concert hall serves most notably as the home of the Los Angeles Philharmonic and its 3.6 acre site also includes California's smallest state park. Traveling at the intersection of First Street and Grand Avenue, passersby quickly take notice of Mr. Gehry's stunning design. The hall's bold eye-catching exterior is comprised of enormous curves made of stainless steel. Its expansive transparent doors and windows stretch along Grand Avenue and welcome the public to come inside. A futuristic-style external aerial walkway begins on Grand Avenue, and lifts visitors up and across the front of the venue, offering views of City Hall and beyond, and eventually winding around to the garden level on the other side of the building.

The interior of the hall is just as original. Acoustically designed by the world-renowned Yasuhisa Toyota, the hardwood-paneled main auditorium is lauded as state of the art. Even the seating arrangement is insightful. Theatergoers are seated on all sides of the orchestra and the absence of private boxes—common in most concert halls—adds a unique element to the experience.

The history of the origin of this national landmark is as inspirational as Mr. Gehry's creative genius. In 1987, Walt Disney's widow Lillian Disney gave a $50 million gift to the community to build the concert hall as a way of paying tribute to her late husband's lifelong commitment to the arts.

Sixteen years later, when the building opened its doors in 2003, the completed Walt Disney Concert Hall stood as a proud collaboration of effort, talent and vision. There are many to thank for helping to make the Walt Disney Concert Hall a reality, including, but not limited to, the ironworkers who built the hall's exterior and the many financial sponsors who worked with The Music Center, the Los Angeles Philharmonic Association, the County of Los Angeles and the Disney family to obtain the funding needed to complete the project.

It is truly because of their devotion and hard work that so many visitors from all over the world have had the opportunity to enjoy Mr. Gehry's architectural masterpiece that stands today.

On behalf of all Angelenos, I congratulate Mr. Gehry for being recognized in this special way by the U.S. Postal Service and, above all, I thank him for giving Los Angeles a cultural and architectural jewel that will surely be enjoyed for generations to come.

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## CONGRATULATIONS TO ST. FRANCIS MEDICAL CENTER COLLEGE OF NURSING

### HON. RAY LaHOOD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. LAHOOD. Mr. Speaker, I rise today to extend hearty congratulations to the Saint Francis Medical Center College of Nursing in Peoria, IL, as they celebrate 100 years of providing quality nursing education. This outstanding program was organized in 1905 as the Saint Francis Hospital School of Nursing by The Sisters of the Third Order of St. Francis. Only 10 years later, the school was approved for a diploma nursing program by the State of Illinois.

As testament to their academic rigor and overall success, the School of Nursing has been accredited by the National League of Nursing for 55 years. Additionally, in 1985, the School of Nursing established the baccalaureate in nursing degree program and became the Saint Francis Medical Center College of Nursing. More recently, in 2001, the College of Nursing began offering a master of nursing degree as confirmation of their adherence to the highest standards of academic and clinical instruction.

The achievements of the College of Nursing are numerous and great, as evidenced by their attainment of the highest level of accreditation by the Higher Learning Commission of the North Central Association and National League for Nursing Accrediting Commission, as well as the significant impact of more than 4,300 graduates on patients throughout the United States and the world.

I wish the Saint Francis Medical Center College of Nursing all the best with their centennial celebration and thank them for their dedication to developing caring professionals through the finest nursing education.

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## INTRODUCING THE TEXAS EDUCATOR RETIREMENT EQUITY ACT

### HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. PAUL. Mr. Speaker, I rise to introduce the Texas Educator Retirement Equity Act, which restores to widowed Texas public schoolteachers the means to receive the same spousal Social Security benefits as every other American. As I am sure my colleagues are aware, widowed public school employees in Texas, like public employees throughout the Nation, have their spousal Social Security benefits reduced if they receive a government pension. This "Government Pension Offset" affects Texas teachers who work in school districts that do not participate in Social Security and even applies if the teacher in question worked all the quarters necessary to qualify for full Social Security benefits either before or after working in the public school system!

Until last year, Texas schoolteachers could qualify for full widow benefits by working one day in a school that participates in Social Security. Unfortunately, last year Congress took that option away from Texas teachers.

One consequence of this action is that many teachers have taken early retirement while others have been discouraged from entering teaching. Thus, the victims of this action are not only Texas teachers, but also Texas school children who are denied access to quality teachers.

Passing the Texas Educator Retirement Equity Act is a good first step toward treating teachers fairly. Of course, I remain committed to working to pass H.R. 147, the Social Security Fairness Act that repeals both the Government Pension Offset and the Windfall Elimination Provision, another provision that denies public employees full Social Security benefits.

Congress should also be encouraging good people to enter the education profession by passing my Teacher Tax Cut Act (H.R. 402) that provides every teacher with a $1,000 tax credit, as well as my Professional Educators Tax Relief Act (H.R. 405) that provides a $1,000 tax credit to counselors, librarians, and all school personnel.

In conclusion, Mr. Speaker, I urge my colleagues to join me in enabling Texas teachers to obtain the Social Security benefits for which they would be eligible if they were not teachers by cosponsoring the Texas Educator Retirement Equity Act.

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## RECOGNIZING THE COMMUNITY OF ALMA, KANSAS

### HON. JERRY MORAN

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. MORAN of Kansas. Mr. Speaker, I rise today to recognize the community of Alma, Kansas for the successful revitalization of the Alma Creamery.

Beginning in 1946, this town of 762 people was identified by the presence of the Alma

Creamery, famous for producing delicious Alma Cheese. Bernie Hansen, a pioneer in the development of value-added foods, furthered this tradition when he purchased the company in 1986. Bernie developed the company and sold it more than a decade later. Unfortunately, the creamery then closed in 2000. This was a setback to the community of Alma. And for more than 3 years, the production plant lay dormant. However, during this time, Alvin Kahle and Jim Ferguson, two longtime employees, did something great. On their own initiative, they regularly cleaned up and maintained the plant with the hope that one day it would reopen.

Their hopes were fulfilled in October of 2003 when former owner Bernie Hansen purchased the plant at an auction. Bernie quickly rehired Alvin and Jim. He also asked Linda Craghead, who serves part-time as Wabaunsee County economic development director, to serve as general manager of the company. In addition, more than one million dollars was invested in equipment, facilities and personnel.

On April 28, 2004, the hopes of Bernie, Linda, Alvin, Jim and the entire community were realized. On that day, the first batch of hand-made Alma Cheese was produced in a completely remodeled plant. Since the plant reopened, this delicious product has been attracting more and more customers. The company's workforce has expanded from 5 to 15 employees in order to keep up with increasing demand.

According to Bernie Hansen, the company's growth is the result of an inspired team effort: "The renewed success of Alma Creamery can be attributed to a hard working staff, a supportive community and a trusted brand name widely-recognized across the state of Kansas," Hansen said.

For rural communities to survive and prosper into the future, citizens must be willing to create their own opportunities for success. The revitalization of Alma Creamery is an example of how hard work, innovation, professional management and community support can create just such an opportunity.

Citizens throughout Kansas are working together to enhance the quality of life in their communities. Alma Creamery is a success story that demonstrates how teamwork and creative thinking can make a positive difference in rural America.

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## WEST VIRGINIA RESPONSE TO HURRICANE KATRINA

### HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. RAHALL. Mr. Speaker, on behalf of all West Virginians, our thoughts and prayers are with the countless many whose lives were disrupted by Hurricane Katrina. We extend our hope that families will be reunited, lives will continue to be saved and, in time, homes and towns will be rebuilt.

Once again, when it mattered most, West Virginians have risen to the occasion. Hurricane Katrina dealt us a big blow last week, and reaction to this disaster will probably be analyzed long after our people have recovered and our cities have been reconstructed. But it is with great certainty that I tell you no one will question the swift reaction of West Virginia, among the first states to roll up its sleeves and roll out its resources.

West Virginia has had its share of devastating floods in recent years and has learned how to rapidly organize its agencies following an emergency. Because of this, we were able to mobilize quickly in response to the calls of help from the governors.

Three West Virginia Air National Guard C–130 cargo planes flew in 200 evacuees from New Orleans late Saturday and early Sunday. Most of these evacuees are now housed at the Camp Dawson Army Training Site in Preston County. As of Monday morning, five C–130 Hercules cargo planes from West Virginia stand ready in Texas to bring back about 400 evacuees from the Houston Astrodome.

Six crews from our State's Air National Guard—four from the Charleston-based 130th Airlift Wing, which just two weeks ago was saved from the chopping block by the BRAC Commission, and two from the Martinsburg-based 167th Airlift Wing—have been sent to aid storm victims.

In addition to these ongoing National Guard efforts, our Secretary of Military Affairs and Public Safety Jim Spears, the National Guard and the State Police continue to work directly with the homeland security officials in Texas, Louisiana, and Mississippi on formulating an action plan to assist victims who have lost their homes and are in desperate need of a place to stay.

Our citizens, too, have wasted no time in pitching in. They never do.

Marshall University has waived all application and late fees for students displaced by Hurricane Katrina who wish to take classes during the fall semester.

Marshall students, faculty and staff have begun making plans for a relief effort for victims of Katrina. Thunder Relief 2005 will be a joint effort in response to the devastation from the disaster in Louisiana, Alabama, Mississippi and Florida. All donations raised from the effort will go to the American Red Cross. And at the medical school, Dr. Robert B. Walker is serving as a liaison officer for any medical personnel in hurricane-stricken areas who need to get Marshall's assistance in transferring patients or providing medical or other required public health resources.

In my hometown of Beckley, West Virginia, the Beckley Christian Ministerial Alliance, spearheaded by the Rev. David F. Allen, is collecting donations from area congregations through the month of September, with a presentation of the donations to the Red Cross scheduled for September 30.

There are other countless community and individual efforts going on across our state: Fish fries, barbecues and spaghetti dinners in small towns, bucket brigades at stoplights, donations from widows on fixed budgets, from children with piggy-banks full of carefully saved pennies. A drop in the bucket might only be a drop, but when it's all added up, our residents are giving a little hope to those who need it the most.

As a West Virginian, I am proud of the way both our State leaders and residents have responded to this disaster. Like any good neighbor, they opened their doors and their hearts to those in need. Our friends to the South can count on West Virginia.

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## IN HONOR OF MAYOR DAN ALBERT

### HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. FARR. Mr. Speaker, there is a rumor in Monterey, California, that when the Portola expedition arrived there in June, 1770, Mayor Dan Albert was there to welcome them to the City. Mayor Albert has served the people of Monterey for so long that we forget that there was a time when he was not part of local government. He and his wife Joanne are also dear friends to me and my wife Shary. So I rise today to honor not only a public servant of the highest caliber, but also a friend of many years.

Dan Albert is serving his tenth two-year term as Mayor of Monterey. He has held the position of Mayor longer than anyone in Monterey's 225 year history. Mayor Albert was elected to the City Council in 1979 and elected Mayor in 1986. Prior to that time, he served on the City of Monterey Parks and Recreation Commission for several years. He is a former member and Chair of the Local Agency Formation Commission (LAFCO), the one local position that he and I have both held.

But length of service is not everything, as my colleagues know. The value to a community comes through what it continues to receive from its longstanding public officials. By that measure, Dan Albert is worth his weight in gold. When first elected to the City Council, Monterey was in the economic doldrums. The fishing industry had disappeared, the tourism industry was weak and the military economic activity was being continually threatened. What a difference 25 years of real leadership makes. The BRAC Commission just reaffirmed the indispensable role that Monterey plays in supporting the Defense Language Institute and Naval Postgraduate School. Monterey is the center of a thriving regional tourism economy. Its convention center, Window on the Bay Park, Aquarium, and coastal recreation trail all draw and enrich visitors from at home and abroad. And the City of Monterey is a national model for the participation of its citizens in neighborhood preservation and enhancement. All of these trends, and many others, have Dan Albert's quiet leadership at their center. It is a legacy that has made a permanent mark on Monterey.

Mayor Albert retired after 37 years from his position as teacher at Monterey High School. During his time at Monterey High he coached the Monterey High varsity football team for 23 years. Mayor Albert and his wife, Joanne, are lifetime residents of the city and both attended Monterey High School. They have four grown children and ten grandchildren.

Finally, I want to mention something that is not often said of politicians. Danny Albert is polite. He is always gracious; always friendly. He treats all those around him with dignity, respect and a charming humor. Which is not to say that he doesn't fight hard for his city. As a former football coach, he knows how to block, tackle, and score touchdowns for Monterey. But he does so with a style that preserves the conversation and promotes mutual respect and comity.

## TRIBUTE TO A LEADER. GENERAL JOHN W. HANDY. COMMANDER. U.S. TRANSPORTATION COMMAND AND AIR MOBILITY COMMAND

### HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. SAXTON. Mr. Speaker, it is my honor and privilege today to pay tribute to a leader and warrior, GEN John W. Handy, Commander, United States Transportation Command, USTRANSCOM, and Commander, Air Mobility Command, AMC. General Handy is retiring after honorably serving this great Nation for over 38 years. It has been a distinguished career.

General Handy was commissioned in the U.S. Air Force in 1967 and received his pilot wings in 1968. He has accumulated over 5,000 hours piloting just about every mobility aircraft in the U.S. Air Force, to include the C–7A Caribou, the C–130 Hercules, the C–141 Starlifter, the C–37 Gulfstream V, the C–9 Nightingale, the KC–10 Extender, and the Nation's newest mobility airlifter, the C–17 Globemaster III. His hands-on performance, sound judgment, and expertise made him an exceptional Air Force leader.

General Handy commanded the 21st Air Force at McGuire Air Force Base. He created and commanded AMC's Tanker Airlift Control Center. He also commanded two airlift wings and a maintenance squadron. He previously served as the Director of Operations and Logistics for USTRANSCOM; the Air Force's Director of Programs and Evaluations; the Deputy Chief of Staff, Installations and Logistics, Headquarters U.S. Air Force, Washington, DC; and Vice Chief of Staff, Headquarters U.S. Air Force, Washington, DC. It is clear and widely accepted that General Handy is the preeminent mobility and logistics expert in the Department of Defense.

In November 2001 General Handy assumed command of US TRANS COM at Scott Air Force Base, Illinois. USTRANSCOM is one of nine unified combatant commands and executes mobility combat operations through its three component commands: The Air Force's IAMC, the Navy's Military Sealift Command, MSC, and the Army's Military Surface Deployment and Distribution Command, SDDC. General Handy has had the unique distinction of simultaneously commanding both USTRANSCOM and its air component command, AMC. USTRANSCOM provides the synchronized transportation, distribution, and sustainment which projects and maintains our national power. As a global combatant commander, General Handy has made supporting the American warfighter his top priority.

Since the tragic events of September 11, 2001, USTRANSCOM, under General Handy's leadership, has moved over 2.4 million passengers, 6.4 million short tons of cargo, and 2.8 billion gallons of fuel in support of the Global War on Terrorism, including Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom. To put this in perspective, the passenger movement is equivalent to moving the entire population of Kansas while the cargo movement is equivalent to moving over 70 Washington Monuments halfway around the world. General Handy, an avid NASCAR racing fan, is fond of stating the amount of fuel moved could run the Nextel Cup Series for the next 19,473 years.

America truly has a military deployment and distribution system that is unmatched anywhere in the world. America's military might moves with USTRANSCOM, but so too does its heart. As quick as we are to defend this great nation, Americans are just as quick to assist those in need; and when we do, we turn to the remarkable capabilities of USTRANSCOM. Under General Handy's command, USTRANSCOM has provided humanitarian relief to hurricane victims in the United States, earthquake victims in Iran, and tsunami victims in South Asia, just to name a few. The medicines, supplies, equipment, and personnel that USTRANSCOM delivered to these and other natural disasters ultimately saved lives and eased human suffering.

In addition to conducting the largest military movement since World War II and providing unparalleled humanitarian relief, General Handy has made it a priority to transform our Nation's deployment and distribution system, ensuring our ability to project national power where needed with the greatest speed and agility, the highest efficiency, and the most reliable level of trust and accuracy. As the USTRANSCOM commander, General Handy actively took on the role of the Distribution Process Owner for DOD, charged with improving efficiency and interoperability across the entire DOD supply chain. His initiative to develop Joint Deployment and Distribution Operations Centers, JDDOCs, in each of the regional combatant commands continues to improve combat capability and save valuable resources. Regional Combatant Commanders can now plug into the DOD supply chain system, track their requirements, and prioritize their actions. The net result is that troops and equipment are now arriving to the battlefield faster and at less cost. While meeting the needs of the warfighter, General Handy's Distribution Process Owner improvements have generated almost one-half billion dollars in cost avoidances and savings in the global war on terror.

General Handy will be the first to tell you he did not accomplish these feats alone. General Handy has led the way in seeking collaborative joint solutions to today's complex combat issues. Those who worked for him and with him, military and civilians from every branch of Service, will miss his leadership and mentorship. They'll miss the stories and humor he used to get his message across. We in Congress will miss his straightforward approach and sound counsel. The nation will miss his devotion to duty, ceaseless drive for improvement, and unwavering support to the American warfighter.

General Handy will be remembered as the man who brilliantly led our Nation's mobility forces during the Global War on Terrorism. I know we speak on behalf of our colleagues and a grateful nation in saying thank you to General Handy and his wife, Mickey, for their years of service and sacrifice. General Handy, we wish you well in all your future endeavors and pray that those who follow in your footsteps may continue the legacy of unprecedented support to our great Nation. Good luck and Godspeed.

## NATIONAL HEALTH CENTER WEEK

### HON. JERRY WELLER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. WELLER. Mr. Speaker, I rise today to support the goals and ideals of National Health Center Week. I also wish to recognize the Will County Community Health Center which is one of Illinois' largest and most comprehensive public health agencies. The Will County Community Health Center has served Will County in my 11th Congressional District since 1942 and became a Federally Qualified Health Center in 1997. They annually care for more than 48,000 medically underserved county residents.

On July 25, 2005, House Resolution 289, of which I am co-sponsor, passed the U.S. House of Representatives. House Resolution 289 reads as follows:

Whereas community, migrant, public housing, and homeless health centers are nonprofit, community owned and operated health providers and are vital to the Nation's communities;

Whereas there are more than 1,000 such health centers servicing more than 15,000,000 people in over 3,600 communities;

Whereas such health centers have provided cost-effective, high quality health care to the Nation's poor and medically underserved (including the working poor, the uninsured, and many high-risk and vulnerable populations), acting as a vital safety net in the Nation's health delivery system;

Whereas these health centers provide care to 1 of every 7 uninsured individuals, 1 of every 9 Medicaid beneficiaries, 1 of every 7 people of color, and 1 of every 9 rural Americans, all of whom would otherwise lack access to health care;

Whereas these health centers are engaged with other innovative programs in primary and preventive care to reach out to over 621,000 homeless persons and more than 709,000 farm workers;

Whereas these health centers make health care responsive and cost-effective by integrating the delivery of primary care mammograms, and glaucoma screenings;

Whereas in communities served by these health centers, infant mortality rates have been reduced over the past 4 years even as infant mortality rates across the country have risen;

Whereas these health centers are built by community initiative, and run by the patients they serve;

Whereas Federal grants provide seed money empowering communities to find partners and resources to recruit doctors and needed health professionals;

Whereas Federal grants on average contribute 25 percent of such a health center's budget, with the remainder provided by State and local governments, Medicare, Medicaid, private contributions, private insurance, and patient fees;

Whereas there are more than 100 health centers that receive no Federal grant funding, yet continue to serve their communities regardless of their patients' ability to pay;

Whereas health centers tailor their services to fit the special needs and priorities of their communities, working together with schools, businesses, churches, community organizations, foundations, and State and local governments;

Whereas health centers contribute to the health and well-being of their communities by keeping children healthy and in school and helping adults remain productive and on the job;

Whereas health centers encourage citizen participation and provide jobs for nearly 100,000 community residents; and

Whereas National Health Center Week raises awareness of the health services provided by health centers: Now, therefore be it

*Resolved*, That the House of Representatives—

(1) supports the goals and ideals of National Health Center Week; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Mr. Speaker, I urge this body to identify and recognize Health Departments in their own districts whose actions have so greatly benefitted and strengthened America's families and communities.

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## PERSONAL EXPLANATION

## HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. PICKERING. Mr. Speaker, on Thursday, July 21, 2005, the U.S. House of Representatives considered numerous amendments to H.R. 3199, a bill to reauthorize the Patriot Act. While I did vote on a number of these amendments earlier in the day and week, I had to depart D.C. on the afternoon of July 21, 2005, and travel to New Orleans to attend and testify before a Base Realignment and Closure meeting. I was granted an official leave of absence by unanimous consent on July 22, 2005 (see 151 Cong. Rec. H6376–01). I was absent during consideration of the following votes. If present, I would have voted the following:

1. Rollcall vote No. 409 (Berman Amendment)—No.
2. Rollcall vote No. 410 (Schiff Amendment)—Yes.
3. Rollcall vote No. 411 (Hart Amendment)—Yes.
4. Rollcall vote No. 412 (Jackson-Lee Amendment)—No.
5. Rollcall vote No. 413 (Boucher Amendment)—No.
6. Rollcall vote No. 414 (Final Passage)—Yes.

Thank you, Mr. Speaker.

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## PERSONAL EXPLANATION

## HON. CHARLES W. "CHIP" PICKERING

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, September 6, 2005*

Mr. PICKERING. Mr. Speaker, on Tuesday, September 6, 2005, the U.S. House of Representatives considered the following pieces of legislation: (1) H. Res. 360—Commemorating the 60th anniversary of V–J Day and the end of World War II in the Pacific; and (2) S.J. Res. 19—A joint resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act. Unfortunately, I was absent and unable to vote for these two pieces of legislation, as I was attending to and assisting my constituents and their needs in the Third Congressional District of Mississippi after the devastating destruction caused by Hurricane Katrina on Monday, August 29, 2005. I have requested an official leave of absence for this time. If present, I would have voted "aye" for both resolutions.

# SENATE—*Wednesday, September 7, 2005*

The Senate met at 10:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

## PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, King of kings and Lord of lords, we thank You today for the gift of exemplary living, particularly as we remember our Supreme Court's 16th Chief Justice, William Rehnquist. We received inspiration from his commitment to public service and from his desire to invest his life in things that flourish beyond his lifetime. We were challenged by his willingness to choose duty over personal comfort.

As many mourn his death, remind us that one day we must all stand before Your judgment seat, for You are the Chief Judge of the universe. May the reality of our accountability to You prompt us to live our lives for Your glory.

Empower each Senator to listen to the whisper of conscience as he or she labors for liberty. May his or her first priority be to live for Your honor. Give all of us the power to rule our spirits so that we may fulfill Your purpose for our lives.

We pray in Your powerful Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until 12 noon with the time equally divided and Senators permitted to speak therein for up to 10 minutes each.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, just a short while ago, the Senate proceeded as a body to the U.S. Supreme Court to pay final respect to the late Chief Justice William Rehnquist. We continue this morning with tributes to the Chief Justice. Senators will be able to come to the Senate floor until 12 noon to make those statements.

### ORDER OF PROCEDURE

I ask unanimous consent that at 12 noon today, the Senate proceed to a vote on the adoption of a resolution honoring the life of Chief Justice Rehnquist.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Mr. President, Senators should be aware that the next vote will occur at noon today. The Senate will also recess early this afternoon during the funeral for Chief Justice Rehnquist as a further mark of respect. If necessary, we will return to session later today to consider any additional Katrina-related legislation or tributes.

This week, we also anticipate a further supplemental appropriations bill relative to the efforts in our Gulf States. We will consider that bill as expeditiously as possible to continue the recovery and rescue efforts.

Finally, I remind my colleagues that tomorrow we will begin consideration of the Commerce-Justice-Science appropriations bill. The measure has important hurricane-related issues, including small business disaster loans and Justice Department law enforcement assistance grants. Votes will occur during the remainder of the week as we consider these matters.

## HONORING CHIEF JUSTICE WILLIAM H. REHNQUIST

Mr. FRIST. Mr. President, last Saturday, in the wake of one terrible loss, our Nation suffered another loss, a quiet loss but one that was also deeply felt across the land. We learned that William H. Rehnquist, the 16th Chief Justice of the United States, had passed away. Karen and I and the entire Senate family extend our deepest sympathies to his family and to his friends. Our Nation mourns the loss of a great leader.

William Rehnquist was an American hero—a World War II veteran, a lifelong public servant, a brilliant legal mind, and a jurist of historic consequence. He was an inspiration to all who knew him. This was especially true in his final months as he stoically fought the cancer that would eventually claim his life.

Since October 2004, when the Chief Justice announced he had thyroid cancer, his chin remained up and his mind focused and devoted. Today, that optimism, that determination, that strength of spirit in purpose remain an encouragement to us all.

I feel privileged to have had the opportunity to get to know William Rehnquist during my tenure in the Senate. I am honored to call him a friend. But even more, perhaps the most one can say of any leader, I simply feel blessed to have lived in his time and in the country that so benefited from his wisdom.

William Rehnquist was born on October 1, 1924, in Milwaukee, WI. The son of William Benjamin Rehnquist, a paper salesman, and Margery Peck Rehnquist, a multilingual translator, he spent his childhood in the Milwaukee suburb of Shorewood, WI, where he attended public schools. Even as a young student, William Rehnquist expressed interest in public service, telling others he wanted to "change the government." Well, he did exactly that.

William Rehnquist grew up in an era marked by grave challenges and extraordinary triumphs. He saw our Nation rise from the depths of the Great Depression to defeat the threat of Nazi Germany and Imperial Japan.

On December 7, 1941, when Pearl Harbor was bombed, William Rehnquist was 17 years old. Shortly thereafter, he signed up to fight, joining the Army Air Corps, serving at home and abroad from 1943 to 1946.

After the Armed Forces, with the help of the GI bill, William Rehnquist went on to college. At Stanford, he earned a bachelor's and master's degree in political science and graduated Phi Beta Kappa. But his academic journey was far from over.

He took a brief hiatus from Stanford, heading east to Harvard for a second master's degree, this time in government. In 1950, he returned to Stanford ready for law school and the defining point in his life. From Stanford, William Rehnquist would graduate first in his class that included none other than his future colleague on the high Court, Sandra Day O'Connor.

As a law student, he was known for his astute ability to defend conservatism and for his bright legal mind. One of his professors described William Rehnquist as "the outstanding student of his law school generation." This same professor would later introduce him to Supreme Court Justice Robert Jackson. In a private interview, William Rehnquist convinced Justice

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Jackson to award him with a coveted clerkship with the Supreme Court, despite Rehnquist's initial thoughts that he had been "written [off] as a total loss" by Justice Jackson.

After completing his clerkship, he married Natalie Cornell. The coupled settled in Phoenix, where they raised three children—James, Janet, and Nancy—and where Justice Rehnquist would practice law for 16 years.

As a young lawyer, William Rehnquist was known to wear loud shirts and ties, prompting even President Nixon to refer to him as "the guy dressed like a clown." But clearly, Nixon was impressed by what he saw on the inside of the young lawyer from Phoenix. President Nixon selected Rehnquist to serve as the Assistant Attorney General for the Department of Justice's Office of Legal Counsel.

In 1971, President Nixon nominated William Rehnquist again, this time to replace Justice John Marshall Harlan as an Associate Justice on the Supreme Court. William Rehnquist was overwhelmingly confirmed by a Democratic Senate by a vote of 68 yeas and 26 nays.

In 1986, President Regan nominated Justice Rehnquist as Chief Justice, and the Senate, by a wide margin once again, confirmed him to serve as the 16th Chief Justice of the highest Court in the land. Today, I echo what my good friend and former colleague Senator Bob Dole said of the Chief Justice during that confirmation debate now two decades ago. He was a man of "unquestioned integrity, incorruptibility, fairness, and courage."

During my tenure in the Senate, I had the privilege of getting to know the Chief Justice, or "the Chief" as the law clerks called him. And since our first introduction, I found William Rehnquist to be thoughtful, intelligent, and, I must say, quite humorous.

A skilled writer and avid historian, Chief Justice Rehnquist is the author of a number of books on Supreme Court history and the American legal system. Many articles have been written about William Rehnquist and his successes as Chief Justice of the United States, and in almost every one of these articles, he is praised for his superb ability to efficiently manage the Court.

Speaking to this point, Supreme Court Justice Byron R. White once said:

> I have never ceased to marvel how one person could possibly carry out all of the tasks given the Chief Justice and yet also decide cases and write opinions as the rest of us do. Yet Chief Justices do them with regularity and, of the three Chief Justices with whom I have served, the man who now sits in the center chair in the courtroom . . . seems to me to be the least stressed by his responsibilities and to be the most efficient manager of his complicated schedule.

A former adviser to the Chief Justice said that Justice White's comments mirrored his own observations. He said that William Rehnquist's rigorous work ethic and dedication to efficiency is reflected on his staff, which he, in fact, reduced when he became Chief Justice, relying on only three clerks, although he was authorized to have four.

The former adviser described William Rehnquist as a man who could do twice the work of the average judge in half the time. Having worked alongside William Rehnquist on the Smithsonian's Board of Regents, I couldn't agree more. I treasure the days we spent together on this Board of Regents. In his capacity as the chancellor of the Smithsonian, he served as chairman of the Smithsonian's Board of Regents. I, in that capacity, saw firsthand the Chief Justice's commitment to that institution, the Smithsonian, attending every meeting despite his very busy day job at the Court. He even hosted planning meetings for board staff and liaisons of the Supreme Court in the Natalie Cornell Rehnquist Dining Room, named after his late wife of 38 years. Recently, he brought the entire Court to the Smithsonian's American History Museum to see the Brown v. Board of Education exhibit.

As he did on the Court, since the Chief Justice became chancellor, he emphasized the importance of efficient management in the Smithsonian's affairs, and he brought a certain sense of distinction to our work for the Smithsonian. Moreover, he inspired me to always be mindful of our duty to history, our place in preserving the strength of this Nation we serve.

In recent months, while the ongoing debate in the Senate regarding judicial nominations was occurring, I thought a lot about our Federal courts and our judges. I have often wondered what are the most important qualities to look for in an individual who is being considered for a lifetime appointment on the courts. I have looked to the Chief, and I have seen those qualities embodied in his approach to the law—commitment to judicial restraint, fairness, integrity, impartiality, even temperament, openmindedness, and respect for the Constitution and the rule of law.

What is more, William Rehnquist was a man not only of high intellect but common sense—a unique combination reflected in the clarity of his opinions.

I witnessed firsthand William Rehnquist's intelligence, his temperament, and his commitment to equal justice under the law when he became only the second Chief Justice to preside over Presidential impeachment in the trial of President Bill Clinton.

A friend of mine and a former administrative assistant to the Chief Justice said:

> What impressed me most about the manner in which he presided over the impeachment trial was his astute and facile recognition of and respect for the traditions and rules of the Senate. I knew he would provide impartial leadership but he also adjusted his superb management skills appropriately to the Senate's traditions. At the conclusion of the trial he was praised by the Leaders of both parties. It was another demonstration of the rare combination of high intellect and common sense that he possesses.

To this day, my colleagues on both sides of the aisle continue to remember the Chief Justice for his efficient managerial skills and his steadfast respect for the Senate during the impeachment trial. In an atmosphere of partisanship, the Chief Justice was a constant reminder of the solemn legal duties our Constitution requires of the Senate.

The Chief loved the Court. He held a deep respect for the law and its traditions, and in turn his colleagues, even those with different judicial philosophies, held a deep respect for him.

A former colleague who often decided cases differently than the Chief Justice, Justice Harry Blackmun, praised William Rehnquist as a "splendid administrator" and often testified to his fairness and commitment to the coherence and cohesion of the Court.

Once the Court's leading liberal, Justice William Brennan called Chief Justice Rehnquist "the most all-around successful" Chief that he had known and described him as "meticulously fair."

Another liberal on the Court, Justice Thurgood Marshall, described him as "a great Chief Justice."

In his 19 years as Chief Justice of the highest Court in the land, Chief Justice Rehnquist never placed himself on a higher plane than his colleagues. To fellow Justices, his law clerks and secretaries, he was sensitive, humble, and ever respectful.

I am confident that the President's nominee to the Chief Justice's seat, Judge John Roberts, will bring the same dignity to the job and earn the same level of respect from his colleagues. Judge Roberts, after all, learned from the best. From 1980 to 1981, he was clerk to then Associate Justice Rehnquist.

Having come to know John Roberts these last few weeks, there is no doubt in my mind that he has the skill, the mind, the philosophy, and the temperament to lead the Supreme Court.

With his passing over the weekend, the Supreme Court loses one of the most prolific scholars and brilliant legal minds ever to sit on the Federal bench. His passing marks a sad day for America, but it is also a day to reflect on our great fortune to have had William Rehnquist in the service of our Nation.

For over 33 years, Chief Justice Rehnquist generously offered America his brilliant mind, his unwavering leadership, and his fair and impartial judgment. He was the embodiment of all of the ideal qualities of a judge, and his humility, wisdom, and superb managerial skills allowed him to become one of the most memorable, influential, and well-respected Supreme Court Justices in our history.

Many feel that history will remember the Chief for presiding over the Senate during impeachment trials, for his participation in landmark decisions, for his perseverance in fulfilling his duties through ailing health. I believe William Rehnquist will be most remembered for his magnificent leadership and management, his ability to build consensus, his compassion and respect for others, and his fair and impartial review of each and every case that came before the Court. The imprint of William Rehnquist's gavel will not fade fast. No, it is indelibly stamped upon the face of American history and the legacy of the law we uphold. America was blessed to have William Rehnquist as Chief Justice and today he enters the history books as one of the greatest Chief Justices ever to serve on the Supreme Court of the United States.

May God bless William Rehnquist and may God bless the United States of America.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

## HONORING CHIEF JUSTICE WILLIAM H. REHNQUIST

Mr. REID. Mr. President, I was a high school student in a place called Basic High School in Henderson, NV. I was a boy about 16 years old, and Mrs. Robinson came into the classroom. She was a part-time counselor and a full-time government teacher. She pulled me out of the class and she said, I have looked at all of your reports and you should go to law school.

I had never met a lawyer, had never even seen a courthouse, let alone been in one, but I accepted Mrs. Robinson's word that I should go to law school. From that day forward, that is what I set my mind to do. I came back here to go to law school. I was a full-time student at George Washington University, went to school in the daytime and worked as a Capitol policeman in the nighttime.

Still having never been in a courthouse, as a law student in an appellate practice course I was taking, the students were invited to go into the Supreme Court to listen to a Supreme Court argument. I can remember going there. The case the professor chose was not one that sounds very exciting. It certainly did not sound very exciting to me at the time. It did not involve some spectacular criminal case. It involved a case called Baker v. Carr. The first time I was ever in a courthouse I listened to one of the most important, significant Supreme Court arguments in the history of the country because those lawyers debating this case, these issues of law, were there to talk about the one man-one vote doctrine, which the U.S. Supreme Court a few months later, after having heard these arguments, decided that we in the United States would be bound by one man, one vote.

As a result of that, reapportionment took place in State legislatures and, of course, in the United States through the Federal courts. In the States where the legislature did not follow the one man-one vote rule, the courts took over.

As I look back, I was so fortunate to be able to have my first exposure to the law in the place where I later became a member of the Supreme Court bar. Having heard that case is something I will always remember.

I was a trial lawyer, and I have argued cases before the Nevada Supreme Court and the Ninth Circuit, but I never argued a case before the U.S. Supreme Court. I wish I had had that opportunity.

Having heard Baker v. Carr those many years ago, I have never forgotten it. That is why it has been so pleasant for me to develop a personal relationship with some of the Supreme Court Justices, one of whom was the man whose funeral I will go to today at 2, William Rehnquist.

I said earlier and I will say again, I had a tour of duty as chairman of the Democratic Policy Committee and every Thursday there is an off-the-record discussion that takes place in the Senate with Democratic Senators, and we always try to come up with things that will interest the Senators. I said to a number of my colleagues I wanted to invite William Rehnquist to come to the Democratic Policy luncheon and they said, no, he is a dyed-in-the-wool Republican, he is partisan, and he will not come anyway.

I picked up the telephone and in a matter of a minute or two he was on the line. I said, Mr. Justice, would you come to this policy luncheon? You will talk for 5 or 10 minutes, and we will ask questions.

Yes, I would like to do that.

He came over to the LBJ Room, one of the best luncheons we ever had. He answered all the questions. As I reflect on Justice Rehnquist coming to that Democratic Policy luncheon, the thing I remember more than anything else is how funny he was. He was a man physically large in stature with a biting sense of humor.

I felt so comfortable having him preside over the impeachment trial. That was also kind of an awkward time for me. I had just been selected as the assistant Democratic leader. I had this seat right here. I had never sat so close to what was going on before and I felt so uncomfortable sitting here. My first tour of duty in the Senate in that seat was as a Senator as part of the impeachment trial of President Clinton.

Of course, I visited with him, talked to him when he kept getting up. He had a bad back and he suffered a lot from physical pain for many years as a result of his back. He would get up every 20 minutes or so and stand and walk around his chair. I had a number of very nice, warm conversations with him at that time.

The conversation I will remember beyond all other conversations with the Chief Justice, there was so much speculation in the newspapers about he was sick and he was going to step down and would it be this Monday or the next Monday or when was it going to be. So in that I felt comfortable and had spoken to him on the telephone a number of occasions, I called him at his home and I said, I am sorry to bother you at home. He was not well. I said, the simple reason I have called you is to say, do not resign.

He said, I am not going to.

I am not going to talk about all that was said during the call, but I would say he told me he was not going to resign. I will always remember that telephone conversation with the Chief Justice of the United States. I am confident I did the right thing in calling him. I did not tell any of my colleagues. I did not tell my family. I did not tell anybody, but I picked up the telephone and I called him, and I am glad I did.

So I join with the distinguished majority leader in spreading on the record of this Senate the accolades for this good man. He was very politically conservative, so I understand. He served as a lawyer for 16 years after he graduated first in his class at Stanford Law School and I have a great amount of affection for that law school. One of my boys went to Stanford. It was a wonderful place to go to school. He served in the Army Air Corps. He was Phi Beta Kappa. That was not enough education for him. He got a second master's degree at Stanford after having gotten a master's degree at Stanford.

I am sorry that he is not going to be on the Court any more because I thought he was an outstanding administrator. He spoke for the Federal judges with strength and clarity. When we kept piling stuff on Federal judges to give them jurisdiction and do things, he complained about it. He said they work too hard, they have too much to do. So we are going to miss his voice.

## HURRICANE KATRINA AND SENATE AGENDA

Mr. REID. Mr. President, Hurricane Katrina was a tremendous hit to us. When I say "us," I mean the American people. We recognize this administration needs to have a review of what took place. Certainly they have to acknowledge that, but I think it is the wrong thing for the President to be investigating himself. That is basically what he said he was going to do yesterday. Baseball games do not work out very well when you have the man throwing the pitches calling the balls and strikes.

I heard the House is going to start meeting today on actually passing legislative matters that are so important to being able to give relief to these people, but outside the $10.5 billion we did on an emergency basis last Thursday, we have not done anything here legislatively to help the people who are so devastated. It is time we get to work for the gulf coast families.

What does it mean to have lost everything? That is what has happened to tens of thousands of people. They have lost everything. They are at the National Guard Armory sleeping on cots. There are hundreds of them coming from Nevada. The Senator from Arkansas, BLANCHE LINCOLN, indicated yesterday there are about 60,000 evacuees who have come to Arkansas with no jobs, no money, no change of clothes—nothing. They are counting on us, and we in the Senate are not doing anything.

We all care about these victims. This is not a question of who cares the most. But I have to say, and I raise a flag of concern, tomorrow morning we are going to the Commerce, Science, and Justice appropriations bill. Under the rules of the Senate, you are really restricted as to what you can do on an appropriations bill. This appropriations bill is no different. We can do a few little things to help the victims but almost nothing: SBA loans and maybe a few things for law enforcement, but there is nothing that gets the victims the health care, the housing, the education, or the financial relief they need now. We need to adjust our priorities on the floor of the Senate.

If we go to another appropriations bill, the same problems are here. We cannot get to the things that we need to get to, to help these people who are so desperately in need of help. I personally think we should finish the Defense authorization bill. That is what should be called up. Call up the Defense authorization bill. I spoke to the majority leader last week about this and indicated I would talk to Senator LEVIN about how much time he thought it would take. I reported my findings to Senator FRIST. We have to get to the Defense authorization bill. We spent some time on it; a few days, as you will remember. Nothing happened, to speak of. The bill was pulled.

We have hundreds of thousands of people who will be affected by the Defense authorization bill, not only those on the ground as soldiers and marines and airmen and some naval personnel who will be helped, who are on the ground in Afghanistan and Iraq. We have to do it for that reason, but we also have to do it for the hundreds of thousands of veterans who are affected by what we do with the Defense authorization bill, or do not do, and right now we are doing nothing. If we brought up the Defense authorization bill, we could do the things that need to be done to help the victims of Katrina.

What, obviously, is the game plan around here is we will wait on the Defense authorization bill until we are way down the road. Then people will say you are spending too much time on this and you are bringing up matters that are not in keeping with the defense of this country. I think the defense of this country is right now. What we have seen happening in the gulf indicates that we need our soldiers and marines, our military personnel. There are about 60,000 of them down there right now, in those three Gulf States—60,000. The Defense bill is important. Let's bring it up.

If we brought up that bill, there are some things we could do. We could, for example, introduce legislation to reestablish FEMA at the Cabinet level so it is no longer the toothless tiger it has become. We could introduce legislation to establish an independent commission to study what went wrong with Katrina. It is going to happen. There will be an independent commission to study Katrina just like there was an independent commission to study 9/11. The administration fought that and fought that, but it came to be and it was good. Congressman Hamilton and Governor Kean did a wonderful job for the people of America and the world with the work they did. We need a similar bipartisan commission to find out what took place after the storm hit.

There is legislation in which some are interested—including, it is my understanding, Congressional Representatives from Louisiana, and I know I have spoken to Senator KENNEDY about this—to have an independent authority for how we are going to spend maybe as much as $200 billion, $150 billion, to do what needs to be done as a result of that catastrophe, an independent commission like the Tennessee Valley Authority, as an example, so that money is spent in the right way.

What about gas prices? Do we need to take a look at that? Do we need legislation to take a look at that? Of course we do. Of course we do. In one quarter, the last quarter, ExxonMobil's profits were up to $8 billion, one quarter net profit; British Petroleum, $6 billion; Shell, $5.4 billion; ChevronTexaco, $3.7 billion; Conoco, $3.10 billion—their profits up 55 percent; Chevron profits up 13 percent; Shell up 35 percent; British Petroleum, their profits up 37 percent; ExxonMobil up 32 percent.

People are going to fill their vehicles today, and they will wind up spending $100 for a tank of gas—one tank. So having the Defense bill brought up would give us an opportunity to do that. I can't imagine why we can't go to the Defense authorization bill—other than the reasons I just indicated.

There are things we could be doing. The Energy and Water conference, we have been waiting for months to have a conference on that. We can't do that. Why? Because the Senate number is higher than the House number, so the House fixes that. They just won't let us go to conference. Chairman HOBSON is not allowing us to do anything because our number is bigger than theirs.

The American people should understand that part of the Energy and Water subcommittee money that we need to spend is for the Corps of Engineers. It is here and it is in the doldrums, to say the least. Nothing is happening. Why can't we go to conference?

Also, in that the Republicans control the House, the Senate, and the White House, I think we need to revisit this budget and reconciliation. Is it really the time in the history of our country to have, as called for in the documents I have just talked about, $70 billion more in tax cuts? That is what we are being asked to go along with.

On the night we voted on the budget resolution I read a letter from the head of the Lutheran Church, the Methodist Church, mainline Protestant Churches. They said to me: I want you to tell everyone here voting on this—and I read it into the RECORD; they gave it to me in the form of a letter—that the budget document that you are being asked to vote on is "immoral." That is their word, not mine: "immoral."

If it was immoral when we passed it, think about it now. We are going to ask for $70 billion more in tax cuts, most of them for the rich, of course; $35 billion in spending cuts, $10 billion alone for Medicaid. In all the pictures on television and the newspapers you see those people who could not get out of the storm because they had no automobiles, there was no public transportation—they were stuck there. The poorest of the poor have been hit the hardest by Katrina. Shouldn't we consider not cutting Medicaid $10 billion? That is where that money goes, to the poorest of the poor. We cut student loans, food stamps—these are cuts to the very programs the survivors of Katrina need. America can do better.

FEMA and other agencies failed these people, in my opinion. The Senate must not fail the American people. It is time we get to work. I have given some outlines. We as a minority are happy to work with the majority, but I have given an outline of some of the things I think we need to do. The burden is on the majority to do something about this budget and reconciliation because it is on the conscience of the majority. I have to say: $10 billion cuts in Medicaid? More tax cuts? Cutting food stamps? Student loans?

I also say that we have a burden, an obligation to do something about the military that is sacrificing so much.

The little, sparsely populated State of Nevada had 24 soldiers killed.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Kentucky.

## HONORING CHIEF JUSTICE WILLIAM H. REHNQUIST

Mr. McCONNELL. Madam President, it is my privilege to join others in discussing the life and career of the late Chief Justice William Rehnquist. Chief Justice Rehnquist was only the 16th Chief Justice in American history. John Jay was the first, sworn in in October of 1789. Many of us had an opportunity to go over and pay our respects, over in the Supreme Court a few moments ago, and had a chance to look at the busts of those Chief Justices.

Chief Justice Rehnquist filled the role defined for him by our Founding Fathers with wisdom and with dignity. Millions of Americans honor him for his legacy of achievement. When I went home last night, I noticed a long line of people waiting to file past the casket and pay their respects to this wonderful man.

I first met the Chief Justice in 1969 here in Washington. At the time, he was Assistant Attorney General for the Office of Legal Counsel. I was a young legislative aide to a Senator named Marlow Cook, who represented the Commonwealth of Kentucky. Senator Cook was on the Judiciary Committee and this was a period in which there were a couple of highly contentious Supreme Court nominations. Judge Clement Haynsworth of the Fourth Circuit, who was subsequently defeated, and District Judge Harold Carlswell from Florida, who was also defeated. So President Nixon had not only one but two nominations at the Supreme Court defeated.

Bill Rehnquist, which is what I called him in those days, was the guy who sort of crafted the speeches and helped us, helped the Republicans and as many Democrats who were interested in supporting those two nominees—helped us craft the speeches and did the important work of helping us express ourselves. My boss ended up supporting Haynsworth and opposing Carlswell, so I was not working with Bill Rehnquist on the second nomination.

He was an extraordinary person: Dedicated, hard-working, the smartest lawyer I had ever been around at that point, and even after all these years I would still say he was the smartest lawyer I had ever been around; a keen intellect with a very sharp mind. He was also, as others have pointed out and will point out this morning, a kind and personable man, which he remained even while rising to the foremost position in American jurisprudence.

After working for Senator Cook, I returned to Kentucky in January of 1971, thinking I was sort of through with Washington. Toward the end of the year, to my surprise and pleasure, President Nixon nominated Bill Rehnquist to be on the Supreme Court. So, on my own nickel, I came back to Washington for a month and worked on his confirmation—just as a volunteer, and did odd jobs and helped do whatever was thought to be appropriate by those who were officially in charge of his confirmation. But it was a thrill to see him confirmed to the Supreme Court.

Later, in 1986, when President Reagan elevated Justice Rehnquist to the Chief Justice position, by then I was a Member of this body and, in fact, a member of the Judiciary Committee. So that was my second opportunity to work on a William Rehnquist nomination to the Supreme Court. Of course, I was proud to be involved in that and very proud to vote to confirm him.

The Chief Justice served our country with his characteristic wisdom and grace. After leading the Court for 19 years, he was the longest-serving Chief Justice since 1910. He was only the fifth Chief Justice in our Nation's history to have previously served as an Associate Justice. He exemplified the highest virtue for a Justice: He entered each case with an open mind, free of bias, never prejudging the case before the decision was made. In fact, some of his decisions over the years surprised observers and proved that he was willing to rethink opinions he may have once held. Actually, that is a good thing.

He reminded us that judges should be like umpires—never taking sides, just fairly applying the rules.

He leaves behind him a legacy that will be studied for generations. I would submit that a chief component of that legacy will be his steering the Supreme Court back toward the principle of federalism, which, alongside separation of powers, stands as one of the two structural principles undergirding our Constitution. Chief Justice Rehnquist expressed that view in dissent after dissent in the early years when he was on the Court until, with time, his dissenting views became majority ones. Because of his clear understanding of the underlying purpose of federalism, he worked to establish a jurisprudence that guards against untrammeled Federal power and helps ensure that decisions that are purely local in nature will remain in the hands of the citizens who must, of course, abide by them.

The Chief Justice earned a reputation for being a fair and even-handed leader of the High Court. Former Justice William Brennan, who was frequently on the opposite side in cases, said Chief Justice Rehnquist was "meticulously fair in assigning opinions." He went on to say that since Rehnquist's ascension to the Chief Justice position, "I can't begin to tell you how much better all of us feel . . . and how fond all of us are of him personally." That was Justice Brennan, with whom Justice Rehnquist rarely agreed.

In this recent age of many 5-to-4 decisions, it is all the more extraordinary that the Chief Justice created such a harmonious court. The late Justice Thurgood Marshall, who served with the Chief Justice from 1972 to 1991, said simply that William Rehnquist is "a great Chief Justice."

As Chief Justice, William Rehnquist was the same honest and upright man I had observed when I first met him back in 1969. In his final months as Chief, he reminded us all once again what it means to serve with dignity and honor, as he persevered through his fight with cancer. Who was not moved to see the concept of "duty" personified on January 20, 2005, when, under extraordinary physical duress, he administered the oath of office to the President of the United States?

This Nation owes Chief Justice Rehnquist a debt that can never be fully repaid. He served his country in combat with the Army Air Corps during World War II, as a law clerk to Associate Justice Robert Jackson, as an Assistant Attorney General, as Associate Justice, and finally as Chief Justice of the United States. Throughout it all he stood for the rule of law and the upholding of the principles that this Republic holds dear. In my opinion, he was the most consequential Chief Justice since John Marshall. I repeat: the most consequential Chief Justice since John Marshall.

Elaine and I extend our sympathies to his family, his daughters Janet and Nancy, his son James, his sister Jean, and his nine grandchildren.

As miraculous a document as it is, the Constitution is only words on paper. It requires men and women of principle to see its meaning and spirit made real. William Rehnquist was one of those persons. Our grateful Nation will always remember his heroic service and his devotion to duty until the very end.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, let me thank the distinguished Democratic whip for letting me precede him in making this statement.

It was with great sadness that I learned of Chief Justice Rehnquist's passing, and even more sad when I joined the Senate to pay our last respects to him this morning.

I first met Bill Rehnquist in 1952. We were both young lawyers here in Washington, DC. We each had taken jobs here in Washington after finishing law school and in the course of many months became very good friends. In fact, my first date with my first wife was double-dating with Bill Rehnquist.

We had both served in the Army Air Corps during World War II, and we were comrades in the deepest sense of the word. I respected Bill personally then and professionally. He was a law clerk to Supreme Court Justice Jackson.

He took his responsibilities to the Court and to the American people very seriously. Bill Rehnquist was devoted to the rule of law and to our democratic system.

In many of our Nation's most turbulent moments, we relied upon Chief Justice Rehnquist's commitment to the law to steer us toward calmer waters. History will remember his evenhandedness and his impartiality in the face of tough decisions. During the impeachment process, which he chaired in the Senate, the Chief demonstrated his fairness and his commitment to follow precisely our Constitution and the precedents of the past. It was during that time that I once again had the privilege of sharing lunches and coffees and just talking off the floor with my great friend of the past.

Bill Rehnquist was a humble and gracious man, as we all know. Among his clerks and among his friends, he was known just as "the Chief," and he was guided by the belief that no man is more important than the nation or the institution he serves. It was this belief that guided his efforts to narrow the concept of judicial activism and restore our system to its constitutional roots.

I didn't always agree with Bill Rehnquist. As a matter of fact, as young lawyers, we had a lot of arguments. But I knew he was a brilliant man, and he proved to be a great administrator for our Supreme Court. Those of us who knew the Chief respected his commitment to law and valued his advice and counsel. His friends were from all walks of life. He counted law clerks, Senators, Congressmen, and Presidents among his friends.

He embodied the lines in the Rudyard Kipling poem, "If." Bill Rehnquist could "walk with kings" without losing "the common touch."

Those of you who knew him will miss the Chief's wry sense of humor. As a matter of fact, inspired by a costume from his favorite Gilbert and Sullivan operetta, he is the only Justice who added four gold stripes to each sleeve of his black Supreme Court robe.

He also loved a practical joke. One of my favorite stories is an April Fools' prank played on Chief Justice Warren Burger, with whom I also served at the Department of Justice. Bill put a life-size photo of Warren Burger on the front steps of the Supreme Court building with a sign asking tourists to pay $1 to get a picture with the Chief Justice. Remember, it was April Fools' day. He then drove the Chief Justice by those steps so he could see his reaction to this prank.

But he said once to me, "The Chief Justice brings to the office no one but himself." This may be true, but this Chief Justice leaves office with the gratitude of our entire Nation. You can see it today in those long lines over by the Supreme Court. The Supreme Court has lost a great legal mind, the country has lost a devoted public servant, and I have lost another good friend.

Catherine and I extend our deepest sympathies to Bill's family and friends. He will be missed by all—greatly by me.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I know the Senator from Alabama is waiting to speak. I would like to ask him how long he would like to speak so we can set up a time arrangement with the Senator from California.

Mr. SESSIONS. I am thinking 7 to 10 minutes.

Mr. DURBIN. If it meets with the Chair's approval, I ask unanimous consent that after I finish speaking, the Senator from Alabama speak for 10 minutes and the Senator from California for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Thank you, very much. I will try to be brief and to the point.

Chief Justice Rehnquist was a person I probably disagreed with in most political arguments. I read his opinions, and I realized that we just looked at the world in a different way. Yet I liked him. I liked him a lot.

I had two direct contacts with him as U.S. Senator, the first as a new Member of Senate and as a member of the Senate Judiciary Committee, and I received an invitation to come across the street, which is unusual, from the Senate to the Supreme Court for lunch. It was with a Federal judicial council. I was flattered and accepted the invitation. I then started asking the staff: Who are these people? They said: They are Federal judges from all across the United States. They gather together infrequently across the street for lunch in the Supreme Court, in a large chamber with the Chief Justice. They have invited you to come and speak to them.

Reflecting on my storied legal career as a small-town lawyer in Springfield, IL, and the fact that I didn't set the world on fire in law school, I wondered why they would ever invite me. Then it dawned on me. I was the ranking member on the court administrations subcommittee of the Judiciary Committee which had responsibility for determining the salaries of Federal judges. So they were going to entertain me for lunch and pay close attention to all of my views in the hopes that I would listen carefully when they recommended increases in judicial salaries. That is exactly what happened. But the circumstances of that meeting were amazing.

It was a large room and a huge table. There were two chairs empty as I walked into the room with all of these federal judges in every direction. I sat in one of them. Then we waited quietly, and the door of the back room opened and everyone stood as Chief Justice Rehnquist came in to sit next to me. As he sat down, I thought to myself: There isn't a single law professor I ever had in school who would ever dream I would be sitting next to the Chief Justice, but I am certain my mother looking down from heaven thought it was entirely appropriate that her son was sitting next to the Chief Justice of the United States.

The second time was the impeachment trial in the Senate, which was presided over by Chief Justice Rehnquist. There is a small room called The President's Room. It is a historic chamber, and people often go in there for quick meetings off the floor. It became the Chief Justice's office when he was here for the impeachment trial. It was a curious setup because as you walked by there, he had a desk that was literally smack dab in the center of the room with the chair behind it, and I do not recall that there was any other furniture in the room. He just kind of sat there isolated, like this little island. I would walk by and glance in there from time to time.

Finally, I got the courage to walk in and talk to him. He dropped what he was doing and started talking right away. I was impressed. The man was entirely approachable, personable, and funny. He had a ton of questions about the Senate because he had been for over 30 years at the Supreme Court and the Senate was brand new to him. He asked basic questions and joked about the rollcalls. He said, "I love it when we have a rollcall, and it will be BAYH 'aye' and SNOWE 'no.' He said, "I just love to listen as you call the roll here in the Senate."

We had a great conversation. He gave me a book he had written about the impeachment process. He agreed to autograph a few things. I really liked him a lot personally.

I can understand why those who disagreed with him politically still thought the world of Chief Justice William Rehnquist. He was a man dedicated to public service. I respected him so much for that.

As others have said, when he showed up in frail health at the second inauguration of President George W. Bush on a blustery, cold day to administer the oath, it was a great gesture on his part. It showed his personal commitment to his job as Chief Justice, his love of his Nation, and his responsibility. We are going to miss him. Very few men and women ever get the chance to serve as Chief Justice.

The Rehnquist Court was a Court which because of his leadership will be remembered for many years to come.

## SENATE BUSINESS

Mr. DURBIN. Madam President, I wish to follow up the statement by our minority leader, HARRY REID. It is time to get down to business. We will finish this afternoon, after the funeral of Chief Justice Rehnquist. I hope the Senate will return immediately, come right back to the Senate and not waste any time. Let's start moving on important legislation.

The Department of Defense authorization bill was pulled from the calendar over 6 weeks ago by the Republican leadership so they could bring a bill sponsored by the gun lobby on the immunity of gun dealers from being sued in a court of law for wrongdoing. It was hard to believe we would take away from consideration a bill that dealt with our troops and our veterans, that tried helping, in the right way, the war in Iraq. We took that off the calendar so we could help a special interest group. Let's get back on the calendar to the Department of Defense authorization bill. That is something we can start this afternoon, and we should. Let's get it done this week, if we do nothing else, to make certain we are responsive to a very real concern we all share.

We have lost 1,886 American soldiers, as of today, in Iraq. Over 14,000 have suffered serious injuries. We need to get back on that bill, and then as soon as we finish that, focus on Hurricane Katrina.

All are stunned to see on the television each night, and to read in the newspapers, the accounts of the suffering that continues. Some of it is not as acute as it was just a few day ago, but consider the circumstances. These poor families were yanked out of their homes—in many cases their homes were destroyed—and now have been cast into other communities, in my State and other States, to try to keep it together while they search the whereabouts of their loved ones, put their kids in school, try to get a roof over their head, and try to get back to a normal life.

We need to do our part in Washington, DC, on a bipartisan basis, to deal with it. First, we need to provide the resources. The $10.5 billion from last week will be gone quickly because this is such an expensive undertaking. Senator HARRY REID said yesterday, and I agree with him, let us not underestimate the cost of what this means: $100 billion or $150 billion is not unrealistic when considering the gravity of this hurricane and the damage it did. I fear some do not want to mouth those words—$100 billion or $150 billion—because they reflect the reality of what this is going to cost.

If we face the reality of the cost of Katrina, we are going to have to be honest about other decisions. How could we possibly turn to a reconciliation bill, another bill we consider in the Senate, and cut spending for food stamps, cut spending for Medicaid, the health insurance program for poor in America, in this time of great national need? Yet that is what is planned. How could we conceive of the notion of going to a bill that would cut taxes on the wealthiest people in America, when we are at war with our children losing their lives every day, and we are facing Katrina and its aftermath where hundreds of thousands of Americans are in distress? How could we turn at that moment and say our highest priority is to give a tax break to wealthy people? That is not what America is all about. That is not what our values are all about.

For those who come to the Senate and speak in terms of their religious commitment, the basic reality is this: If you care for the least among you, you have to show it in your life's work. The Senate has that responsibility as well and more than others who do their work each day.

Two things come out of this crisis with Katrina. First, we understand what E.J. Dionne wrote on September 2 of this year in an article for the Washington Post entitled, "When Government is Good." He quoted a former Member of the Senate: Bill Cohen of Maine, who was also a Defense Secretary, and what he said was "Cohen's Law." Cohen's Law was this: Government is the enemy until you need a friend.

That is what we are learning with Katrina. We certainly learned it with September 11. We have learned it when it comes to the war on terrorism. Those who condemn Government and say, Let's keep shutting down agencies and Government employees right and left, have to understand the day may come, and soon, when we will need the American family working together as a government to do things that individuals cannot accomplish.

The second part of this is Hurricane Katrina has opened a door which has remained shut for too long. It is a door which reflects the reality of being poor in America. This door is now open 24/7 for all to see through. The poorest among us in America were the worst victims of Hurricane Katrina. Many others suffered, too, but as a group the poor suffered the most. We have to be mindful and sensitive to our responsibility to make this a great Nation of opportunity for the least among us, as well as those who have been blessed with prosperity and wealth. It is important our agenda, in the closing months of this session, reflect that reality as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Madam President, I ask unanimous consent that when Senator BOXER completes her remarks, our distinguished colleague, Senator HATCH, the former chairman of the Judiciary Committee, be recognized for remarks on Chief Justice Rehnquist's death.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## HONORING CHIEF JUSTICE WILLIAM H. REHNQUIST

Mr. SESSIONS. Madam President, I will share a few personal thoughts about Chief Justice Rehnquist. I came to appreciate Justice Rehnquist as a young prosecutor. I was assistant U.S. attorney, tried a lot of cases and was involved in a lot of cases and had to read Supreme Court opinions on criminal law. I was impressed with his writings. It touched me in many ways. I felt he was speaking the truth when other Justices were missing and not understanding the reality of law enforcement in America.

This was in the mid-1970s, when our crime was increasing at an exponential rate. We had double-digit percentage increases in crime in the 1960s and 1970s. In the 1950s, we did not lock the door of our house, and we left our keys in the car. People did not worry about crime. It became a growing problem. At the same time crime was surging, the Warren Court handcuffed the police and their ability to deal with it.

Justice Rhenquist, during the Warren Court years, would often write dissents. Sometimes he would be the lone dissenter. I distinctly remember being in the U.S. Attorney's Office in Mobile, Alabama, reading an opinion and calling my colleagues to say: Look at this. At least one Justice understands the reality of crime and law enforcement in America.

He helped create a different approach to law and order in America. Instead of ruling on emotion and politics, he made his decisions based on the law and facts. In fact, before he left office, cases he was dissenting 8 to 1, he was winning a number of them 5 to 4 and 6 to 3. What an accomplishment to see that happen over a lifetime. I never would have thought it possible. I thought the trends were against that. Being young, I never thought we would see the pendulum swing back, but it did, and he played a key role in that.

From my observations as a member of the Department of Justice for nearly 15 years, as a member, now, of the Senate Judiciary Committee for 8 years, where I currently chair the Subcommittee on Administrative Oversight and the Courts, my humble opinion is Chief Justice Rehnquist is one of the greatest chief Justices ever to serve. Senator MCCONNELL said after John Marshall, but I don't know. I am not sure any have served more ably.

He was also a great Associate Justice. He wrote clean, succinct opinions that made sense. They were consistent with the law of our country and our heritage.

He came to the Court when the Warren Court was in full bloom and judicial activism was at its apex. In case after case, he was the lone member of that Court to sound the alarm about the dangers that arise when a court detaches itself from a principled and honest commitment to the Constitution of the United States of America and the laws we passed. He saw the dangers in that, and he dissented many times—he joined with the majority many times, but he dissented many times—on matters of great principle in an intelligent and effective way.

He played a key role in the demise of judicial activism as a dominant view of the Court. By "judicial activism"—I will paraphrase Senator HATCH's definition of it—it means when a judge allows their personal or political views about what is good policy or bad policy to affect their rulings in a case. It is not faithful to the Constitution when you twist the words of the Constitution or of a statute so they come out to mean what you would like them to in order to achieve the result that you prefer in a given case. Justice Rehnquist loved our Constitution, the one that we have, the good parts of it and the parts he may not agree with. He loved every section all and respected each one of them. He followed them and was faithful to them.

He understood liberty in America is dependent on order. Look what is happening, so sadly, in New Orleans: police are threatened, doctors and nurses could not get out to help or rescue people because order broke down. The Founders of our Republic never doubted the Government and the law enforcement of the United States of America. The States and counties and cities had to have certain authority to maintain order or we would never have liberty. This extreme commitment to libertarian views can undermine the basic order necessary to allow liberty to flourish in our individual capability first. He understood that very critically.

An example of the dangers he saw on the Court would be in death penalty cases. Chief Justice Rehnquist, as Associate Justice and as Chief, fully understood the Constitution makes at least eight references to capital crimes, to not being able to take someone's life without due process; at least eight references were made in that great document to the death penalty. How could the Constitution declare the death penalty was unconstitutional when it absolutely approved it?

Two Justices dissented in every single death penalty case, saying they thought it was cruel and unusual punishment. What a weird, unprincipled dangerous interpretation of the Constitution. Justice Rhenquist stood against that tide, often as a lone Associate Justice.

Until now, people have come to realize that the Constitution and laws of this country allow a State or the Federal Government to have a death penalty, if they choose to have it. If you do not like that, take it to your legislative branch. The Constitution does not prohibit it, for heaven's sake. The Constitution explicitly authorizes it.

He had a good understanding of church and State. I remember Senator REID, the distinguished majority leader now, when he was the assistant leader under Thomas Daschle during that year when they were in the majority, and the Ninth Circuit struck down the Pledge of Allegiance, he criticized the Ninth Circuit. I have been a big critic of the Ninth Circuit, but I remember making remarks at that time saying as big a critic of the Ninth Circuit and as much of a critic of their striking down the Pledge of Allegiance, I have to say many Supreme Court rulings on separation of church and State are so extreme that could well be justified under language of the United States Supreme Court. The Supreme Court has given us a very confused jurisprudence on what is a legitimate separation of church and State in America.

We got to the point in one case, the Jaffree case from Alabama, the Supreme Court, by a 6 to 3 majority, struck down a moment of silence in a classroom. Justice Rehnquist dissented in that case, as he consistently dissented against some of the confused thinking that was there.

If this court had followed Justice Rehnquist's thoughts and opinions on the question of separation of church and State, we would not have the confusion we have today. We would not have one case where the Ten Commandments in Texas are OK and another case in Alabama where the Ten Commandments are not OK. What kind of jurisprudence is that? We need to get that straight. The Court has failed, in my view, in establishment clause jurisprudence. But Chief Justice Rehnquist has been a consistent and sound and reasonable voice on how to strike the proper balance. We need to go back and continue to read those opinions and see if we cannot make them correct.

He also was a student of America. He wrote a number of books, grand inquests about impeachments, before we had the Clinton impeachment case in this body. He wrote a book, "All The Laws But One," that deals with the rule of law in America in a time of crisis, and dealt with the Civil War and other times in our country. He was a historian who understood America, understood our exceptional nature, our commitment to law and the Constitution. He understood that deeply. Every day when he went to work, every opinion he ever wrote was consistent with his view and respect for America, her heritage, her rule of law, and her Constitution.

He understood that States have certain powers in our country. He understood that the Federal Government, through the commerce clause, has broad power, but there are limits to the reach of the commerce clause. It does not cover every single matter the United States Senate may desire to legislate on, to the extent that the federal government controls even simple, discreet actions within a State. He reestablished a respect for State law and State sovereignty through a number of his federalism opinions.

Madam President, we have lost one of the Nation's great Justices, a man who respected our Constitution, gave his life to his country, his whole professional career. All of us should be proud of that service and honor his memory.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

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## HURRICANE KATRINA

Mrs. BOXER. Madam President, I rise today with a heavy heart. We have all watched in horror as the Gulf Coast has been struck by what could be called the worst natural disaster in our history.

Over the weekend, Chief Justice Rehnquist, who served our Court and country with such distinction for 33 years, and showed such bravery in the last months of his life, passed away.

We have now lost nearly 2,000 young men and women in Iraq, and we still do not have, in my opinion, a credible plan, a mission, a timetable to achieve success and bring our troops home. Gas prices are putting horrible strains on most Americans.

There is a tremendous amount of anxiety in America today. I feel it when I go home to California. We must confront it immediately in the Senate, in the House, and, yes, at the White House.

With one party controlling the entire Government, there is pressure in some quarters to be silent and just let mistakes and misplaced priorities take their toll.

Well, I do not agree with that mindset. I am going to say what I think. And even more important, I am going to do everything I can with my colleagues on both sides of the aisle to help get our country moving in the right direction again.

Lives hang in the balance in this disaster and, God forbid, in the next one. It is difficult to put into words how heartbroken we all are for Americans affected by Hurricane Katrina. Thousands of people have lost their lives. Far more have lost their homes, their jobs, their communities. Brave souls everywhere are still searching for some family members while trying to keep others alive and hopeful.

I even heard a doctor on CNN talking about being forced to make the impossible choice of whom to save and whom to leave behind to die.

Yes, the acts of bravery are being celebrated, as they should be—neighbor helping neighbor, churches filling in for FEMA, local law enforcement putting their own hardships aside to work 24 hours a day helping others.

But there are images, such as this one I show here, that leave us in tears. It shows a makeshift grave along the road—a makeshift grave. Somebody put a sheet over a body, and it looks like bricks are holding down the sheet. There is a cross on top, and it says: "Here lies Vera. God help us." God help us, indeed. How can this have happened in America? Here we are, the most powerful and prosperous country in the world, and our people have to write notes on handmade graves to get attention.

Well, words of compassion are not enough. We must show those who have suffered so much that their Government will help them find their missing relatives, and rebuild their lives, homes, and communities.

The $10.5 billion we appropriated was an important start but just a start. We should not wait another day to give all the victims of Katrina immediate access to Medicaid or to exempt them from the recent bankruptcy law. We should not be cutting Medicaid now, and that is exactly what is in the budget bill the Republicans are bringing before us.

We should not wait another day to provide temporary housing for all those displaced, including emergency vouchers. We also should use our military bases that are vacant to house people until they are on their feet again.

We should not wait another day to make sure that Halliburton, or any other company receiving Federal contracts, employs some of the estimated 500,000 to 1 million people who are now jobless. Put them to work rebuilding their own communities. You are giving these companies Federal contracts. Let them step to the plate and do their share. There are two similarities that I see between Iraq and this hurricane. The administration did not have a plan for either, and Halliburton will end up making billions of dollars for both.

Hurricane Katrina has shown a spotlight on the best and the worst of America. We have seen the inspiring courage of the survivors and the dedicated men and women working around the clock to help them. We have also seen those who would loot, and take advantage of this tragic situation. We have seen the heroics of the press, which put a spotlight on the full extent of the tragedy.

We have also seen the deadly chasm between the haves and the have-nots, with the poorest among us left behind, literally and figuratively, to weather the storm. And, yes, we have seen, in my opinion, an unacceptable response from our Federal Government. The President himself said that, and then he backed away.

I know the President has said he will launch an investigation, but it is not sufficient for the President to investigate his own administration. Congress must fulfill its oversight responsibility. I thank Senator COLLINS and Senator LIEBERMAN for pledging to hold hearings on the Government's response to this tragedy.

Today, an AP wire story that was just handed to me says, "The top U.S. disaster official"—that is Michael Brown—"waited hours after Hurricane Katrina struck the Gulf Coast before he proposed to his boss," that is Michael Chertoff, "sending at least 1,000 Homeland Security workers into the region to support rescuers, internal documents show."

Quoting further the AP wire story:

> The same day Brown wrote Chertoff, Brown also urged local fire and rescue departments outside Louisiana, Alabama and Mississippi not to send trucks or emergency workers into disaster areas without an explicit request for help from state or local governments.

We must fulfill our oversight responsibility. I agree with Senator CLINTON that we should also create an independent Katrina commission. Hurricane Katrina has raised alarming questions about our Nation's ability to prepare for and respond to disasters.

Last Thursday, the President told Diane Sawyer that we did anticipate a serious storm, and I quote him:

> I don't think anyone anticipated the breach of the levees.

Well, that is unbelievable. All you had to do was look at FEMA's own report in 2001, which listed the three most likely catastrophic disasters our country could face. What were they? A massive earthquake in California, a terrorist attack on New York City, and a major hurricane hitting New Orleans. All you had to do was look at the Houston Chronicle, which predicted this. The New Orleans Times-Picayune predicted this. The National Geographic predicted this. There was a 5-day simulation in July of 2004 to specifically address a disastrous hurricane in New Orleans. The LA Times reported that in late May the Army Corps of Engineers in the New Orleans district formally notified Washington that hurricane storm surges could knock out two of the big pumping stations that keep the city dry.

On the day before the tragedy struck, an AP wire story said:

> Experts expect Katrina to turn New Orleans into Atlantis, leaving up to 1 million homeless.

They did not think the levees would break?

And what about the budgets? Despite repeated requests from New Orleans for more Federal money to protect the city, the press reported that funding for Corps of Engineers projects in the New Orleans area fell by 44 percent between 2001 and 2005. This is unacceptable.

Michael Brown should go. He is a nice man. But I agree with Senator MIKULSKI, he should go. He should go because he does not even have the experience to do this job. He was the head of an Arabian horsemen's association. That is not training to step into a disaster the size of the one we have seen.

Now, in California, we know how important FEMA is during a disaster. After the Northridge Earthquake, James Lee Witt, the head of FEMA, was out there. We counted on him, and Lord knows how many lives he saved. He knew what he was doing. We built up FEMA during that time, all of us working together. It has now been turned into a shadow of its former self.

I also agree we ought to make FEMA again an independent agency. Senator BYRD tried to do that. He offered an amendment that said: Let's wait before we put FEMA under Homeland Security. Twenty-eight of us voted for that. It did not pass. I warned at that time very clearly that this was making me extremely nervous. My quote was:

> Putting the Federal Emergency Management Administration, [FEMA] lock, stock, and barrel, into this new Department I just think is going to be a real problem for us. . . . I am very worried about accountability.

Now, I do not say this to imply that I knew what was going to happen. I did not. But I do have some common sense, and I know you need one person in charge who has the ability, yes, to move mountains.

Yesterday, we had a briefing on this up in room 407. We had the whole Cabinet there. I listened to a lot of good people. I would have preferred one person I could hold accountable.

There are many more things I am going to do. But I have to say this: For years we tried to get interoperable communications funding—for years. I had a bill. Senator STABENOW had a bill. It got through the Senate. It got taken out by the House. We still do not have emergency workers able to talk to one another.

So we need to move fast. We need to move fast before the next disaster strikes. Now, we all pray in the Senate we will not have another disaster like this, but we must plan in case we do. That is our job. That is our work. We must set aside a lot of other things we are going to do around here to get this right because we know we are living under the threat of a terrorist attack that could occur in any city in this country. And this is a sad case for us and not one that should be emulated.

We all have to move forward. And, yes, the people who did not do the right thing should not be heading these agencies. In my state of California, we know how it feels to lose your bearings, your home, and your sense of security. I saw it so many times in my congressional career, in my Senate career. Earthquakes, fires, floods, mud slides; you name it, we have had it. You need strength at the Federal Government level when these things happen. Look at the city of New Orleans, what they tried to do with the police officers. Two police officers committed suicide. They had nothing, and they were trying to secure a city for days.

Well, it is hard to look at this, but we have to look at it. We have to do it with an independent commission. We have to make sure people who are counting on us get their lives back. And we can do it. This is America. But we need to hold people accountable. We need to be credible with our response. The job is a tough one, but we need to do it, and we need to do it soon. We owe nothing less to the people we represent.

Madam President, thank you.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I was also at that meeting last night in the secure room in S. 407. I have to say, I was absolutely blown away by how much the Federal Government has mobilized to try and help in the Gulf region. There is no question that we knew this city was 10 to 12 feet under sea level and that there was bound to be some sort of a problem happen. I think there is plenty of blame to be cast around to everybody. The important thing that we ought to be considering is solving the problem and getting that city back on its feet. From what I heard last night, the Federal Government is doing everything it possibly can. Frankly, I believe every agency, including FEMA, has done a good job under the circumstances. This has been a catastrophe of great proportions. There is no question about it. All of the criticism in the world is not going to change that.

The fact is, we had a number of Cabinet-level officials there, from the Secretary of the Treasury to the Secretary of Labor, and I thought they made a pretty good case. I think we ought to get the job done and quit worrying so much about criticizing.

Mr. SANTORUM. Madam President, words cannot express the sense of loss and hopelessness that many residents are feeling at this time in Mississippi, Alabama, Louisiana, and Florida. My family and I send prayers and heartfelt condolences to all of those who have lost loved ones in the wake of this catastrophe.

One certainty of every disaster that occurs in the United States and around the world is the desire of fellow Americans to help those who are in need. Today, as we watch the terrifying developments on our TV sets, we know that generous Americans across the country are contributing food, clothing, money, and time to the unfortunate victims of this tragedy.

The Salvation Army has more than 250 volunteers, employees and others prepared to serve up to 500,000 hot meals per day to residents and first responders in the aftermath of Hurricane Katrina. They have mobilized approximately 100 mobile canteens that provide up to 5,000 hot meals per day, and staged two, 54-foot mobile Base Camp kitchens that can provide 20,000 hot meals per day. Salvation Army staff and volunteers are working in shelters and coordinating the distribution of supplies.

The American Red Cross is currently providing thousands of volunteers, Red Cross workers and resources to aid victims of Hurricane Katrina. The Red Cross has about 485 shelters open in 18 States serving more than 142,000 people. Working with the Southern Baptist Convention, the Adventists, and Second Harvest, the Red Cross is prepared to provide nearly 3.3 million meals each day. More importantly for some, the Red Cross is partnering with local and government entities to provide medical aid and counseling to families. The Red Cross is providing a safe haven for thousands of evacuees in hundreds of Red Cross shelters around the world.

Catholic Charities agencies from around the region are ready to send technical assistance teams to help the local Catholic Charities in the impacted areas with their response efforts, as well as providing long-term recovery work.

I am also thankful for the efforts of charitable organizations in my home State of Pennsylvania. From the moment that disaster struck, individuals, families and organizations across the Commonwealth have made great efforts in assisting those in need. Brother's Brother Foundation, BBF, a 47-year old Pittsburgh-based international charity, is sending a tractor-trailer full of donations, including 5,000 pairs of new shoes donated by CROCS Inc. of Boulder, CO, and new clothing and hygiene items.

Fraternal benefit societies have also stepped up to the plate, including the Loyal Christian Benefit Association headquartered in Erie, PA, as well as the Knights of Columbus and Thrivent. The Greek Catholic Union of the United States, headquarted in Beaver, PA, has donated $15,000 to Catholic Charities, Salvation Army, and American Red Cross.

The University of Pittsburgh Medical Center, UPMC, is ready to deploy two helicopters to States hit by the hurricane if emergency management officials ask for them.

Additionally, UPMC has offered to treat hurricane patients at its Pittsburgh hospitals or set up a 250-bed medical facility around the disaster area.

Carnegie Mellon University has offered to assist Tulane University in New Orleans in any possible way, which could include CMU taking on students from Tulane so they do not fall behind in their classwork.

The charitable efforts of so many Americans during this crisis is a reminder that government should be making laws that support and encourage such philanthropy. Legislation such as the bipartisan CARE Act benefits a sector that is vital during these times of crisis. The estimated $2 billion in food-donation incentives that the CARE Act provides would allow farmers, restaurants and corporations to give more of their surplus food to local food banks and soup kitchens. Additionally, individuals would be willing to donate even more if current law was more favorable to those who charitably donate.

## ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, I ask unanimous consent that the vote on S. Res. 234 be delayed until 12:10.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HONORING CHIEF JUSTICE WILLIAM H. REHNQUIST

Mr. HATCH. Madam President, I want to pay tribute to a good man whom I knew well, who was a great judge, the late Chief Justice William Rehnquist.

His service and leadership on the Supreme Court, the principles he consistently followed, and the steady hand with which he guided the judiciary make him one of the judiciary's very best.

William Hubbs Rehnquist served on the Supreme Court of the United States for 33 years and almost 8 months.

He was the eighth longest serving of the Court's 108 members, having recently surpassed the tenure of the legendary Justice Joseph Story.

He was the fourth longest serving of the Court's 16 Chief Justices, and one of just five individuals to have served as both Associate and Chief Justice.

William Rehnquist's service was a powerful mixture of the personal and the professional.

He brought a kind of dignified practicality, or perhaps it was practical dignity, to what is one of the most formal and respected posts in the Federal Government.

William Rehnquist was the historian who could play a practical joke, the defender of the judicial institution who played poker with his colleagues.

We will miss this scholar and author, who also led an annual Christmas carol sing-along for the Court's employees.

Yesterday, his former clerks surrounded his casket and carried it past his former colleagues into the Court where he lay in repose in a plain white pine casket. It was so touching.

We were all touched by Justice Sandra Day O'Connor weeping at the loss of a man who had been a fellow law student more than 50 years ago and was a fellow Justice for the past 24. He was No. 1 in his class; she was No. 3. They were close friends.

The respected legal analyst Stuart Taylor writes that one attribute of greatness is being esteemed by one's colleagues. Whether his fellow Justices voted with him or against him on the cases before the Court, they all cherished and esteemed him.

Liberal icons such as Justice William Brennan called Chief Justice Rehnquist a breath of fresh air.

Justice Thurgood Marshall called him a great Chief Justice.

Justice Lewis Powell said he had a good sense of humor and was both generous and principled.

When President Nixon nominated William Rehnquist to be an Associate Justice in 1971, Attorney General John Mitchell said he expected Justice Rehnquist to be independent.

Before the Judiciary Committee, the nominee pledged as his fundamental commitment to totally disregard his own personal beliefs when interpreting and applying the law.

Democratic Senator John McClellan of Arkansas, a member of the Judiciary Committee, explained in the pages of the New York Times why he supported what he called a distinguished nominee.

He said that William Rehnquist would not contribute to the trend of pursuing abstract goals driven by ideology rather than law. As both Associate and Chief Justice, William Rehnquist confirmed Senator McClellan's judgment.

Chief Justice Rehnquist strongly defended the prerogatives of the judicial branch. This alone might give pause to those who believe the judiciary was already too strong.

But he coupled that commitment to institutional vigor with a fidelity to constitutional rigor.

While insisting that the Court was the primary interpreter of the Constitution, he did not join those who said the Constitution's meaning ebbed and flowed with the latest cultural and political fad.

Chief Justice Rehnquist understood that we entrust interpretation of our laws to unelected judges only because, as he had, they promise to keep their own moral and political viewpoints on the sideline.

Over time, by example and leadership, this principle helped him move the Court toward its traditionally modest role within our system of government.

Commentators and reporters discussing the Chief Justice's legacy almost reflexively use the moniker "Lone Ranger" to describe the new Associate Justice Rehnquist.

He was sometimes a lonely dissenter on a Court that saw itself as the vanguard of social change.

In that role, however, he reminded us of the fundamental principles that should guide the judiciary.

Judges may not exercise judicial review based on their personal opinions, preferences, or agendas. They must take the Constitution as they find it and apply it as it is.

As new Justices joined the Court, and Chief Justice Rehnquist continued articulating and applying such traditional principles, he found himself with more company.

While some talk of Chief Justices as able to bring colleagues together in a particular case, Chief Justice Rehnquist did so, patiently and steadily, over the long haul of his entire tenure.

In a 1996 address at American University's Washington College of Law, Chief Justice Rehnquist called judicial independence the "crown jewel" of the American judicial system.

He took this seriously on a personal as well as a judicial level.

In this last year or so, William Hubbs Rehnquist lived and finished life on this earth in his own independent way.

He shared what he wanted to share, when and how he chose to share it.

He carried himself with dignity, in a way protecting his privacy publicly, if such a thing is possible.

He was a good man and a good judge.

Our lives, individually as citizens and collectively as a nation, are much better for him having been among us.

I knew him personally. I know what a great man he was, as far as I am concerned. I know what a supreme intellect he was on that Court. I know what a decent, honorable, honest person he was on that Court. I can remember one lunch I had with Chief Justice Rehnquist, Justice Scalia, and Justice Kennedy. It was terrific luncheon, filled with intellectual repartee. It was a luncheon that I will never forget. I can remember his smiling from time to time as his colleagues made some of their points. He had this wry sense of humor that I suppose came from the people that he was born and raised with in his own State. This is a man of tremendous, inestimable talent, intellect, and ability. But he was warm. He was kind. He was decent. The only time I saw any flare for the unusual was the stripes on his black robe. That was done tongue in cheek, to just kind of lampoon some of the overseriousness some of us sometimes have with regard to the Supreme Court.

William Rehnquist was a good father. His daughter Janet worked with us on my staff for a short time. I think the world of her. She is a good person. The other offspring of Justice Rehnquist are also good people. I knew Justice Rehnquist's wife who preceded him in death. She was a beautiful, lovely human being, to whom he gave great deference. This was a man who counted. This was a Chief Justice who made a difference. This is a person whom I respect and whom I care for.

I yield the floor.

Mr. CONRAD. Madam President, today, we remember the life and dedication of one of the most influential leaders of the U.S. Supreme Court.

William H. Rehnquist, 16th Chief Justice of the United States, passed away on Saturday, September 3, 2005. A midwesterner, Rehnquist's service to our country dates back to March 1943 when he was drafted to the U.S. Army Air Corps, the equivalent of today's U.S. Air Force. He served in World War II until 1946.

After his time in the military, Rehnquist began his academic journey under the G.I. bill at Stanford University, where he earned a bachelor's degree, a master's degree, and ultimately graduated first in his class at the Stanford Law School. After clerking for Justice Robert H. Jackson, Rehnquist spent the next 16 years in private practice in Arizona.

In 1971, President Nixon nominated William Rehnquist to be an Associate Justice on the Supreme Court. As Associate Justice, Rehnquist was nicknamed the "Lone Ranger" for his many lone dissents on the nine-member Court.

In 1986, President Ronald Reagan elevated William Rehnquist to Chief Justice of the United States. In that role, Rehnquist became known for his ability to foster and retain collegiality among Associate Justices with widely differing views on the issues before the Court. He was an outstanding leader of the judicial branch of our Government.

Those of us in the Senate probably remember him best for his service during the impeachment trial for President Clinton. He presided over that historic event with dignity and decorum.

Over the past year, as he battled cancer, Chief Justice Rehnquist was as determined and sharp as ever, doing his job faithfully until the day that he passed away.

Today, we remember the Chief Justice's passion, dedication, and brilliance. And we also remember his great sense of humor. Bill Rehnquist will be sorely missed by his family, his friends, and his country.

Mrs. HUTCHISON. Madam President, I rise today to recognize and honor one of our country's greatest judicial leaders, a noble public servant, the 16th Chief Justice of the United States, William Hubbs Rehnquist. For the past 33 years, the last 19 of which as its leader, Chief Justice Rehnquist served the Supreme Court with honor, wisdom, and keen judgment. His record will be remembered as one of ideological dedication and devotion in a court of consensus and collegiality.

A native of Milwaukee, WI, William Rehnquist first answered his country's call to service in World War II by serving in the Army Air Corps as a weather observer in North Africa from 1943 to 1946. Upon his return, he earned his bachelor's and master's degrees in political science from Stanford University in 1948, and a master's degree in government from Harvard University in 1950. He earned his L.L.B. from Stanford in 1952, graduating first in his class, a class which included his future Supreme Court colleague Sandra Day O'Connor.

Chief Justice Rehnquist's first experience with the Supreme Court came when he clerked for Associate Supreme Court Justice Robert Jackson. Rehnquist observed during this time at the Court what he would later describe as the "expansion of federal power at the expense of State power."

After his clerkship, Rehnquist moved to Phoenix, AZ, where he practiced law in the private sector for more than 15 years. During this time, he became involved in politics; and when President Nixon was elected in 1968, Rehnquist was asked to serve as Assistant Attorney General for the Justice Department's Office of Legal Counsel. Three years later, in 1971, President Nixon nominated Rehnquist to replace Justice John Marshall Harlan on the United States Supreme Court.

From his early years as an Associate Justice through his years as the Court's leader, Chief Justice Rehnquist chartered a course to reestablish the important principle of federalism, an integral part of our Nation's constitutional structure. In cases such as National League of Cities v. Usery in 1976 through U.S. v. Lopez in 1995, his opinions aimed to protect the role of the States within the Federal system by recognizing that our government is one of enumerated rights and dual sovereignty.

Though a strong and vigorous advocate for his beliefs, Chief Justice Rehnquist was always respectful of his colleagues and committed to the rule of law, never allowing politics or infighting to threaten his Court. All of us in the Senate got to know Chief Justice Rehnquist when he presided over the impeachment trial of President William Clinton. He was a decisive, but not intrusive arbiter. His insightful observations about the operation of the Senate were both serious and humorous. A profound defender of the Constitution and a staunch protector of liberty, Chief Justice Rehnquist has left behind a legacy of thoughtfulness and quiet intellect, and will be remembered as one of our Nation's greatest judicial leaders.

Mr. ENZI. Madam President, I was sad to hear of Chief Justice Rehnquist's passing, but I want to share my gratitude for his service. He exceeded all but seven Justices by the length of his 33 years on the Supreme Court bench. President Nixon nominated him to be the 100th Supreme Court Justice in 1971. Fourteen years later, President Reagan nominated him to serve as Chief Justice. In his tenure as Chief Justice, he oversaw benchmark cases and events that helped to shape the Supreme Court and the country as we know it today. His efficient management of the Court and careful interpretation of the Constitution provide a good example for future Chief Justices.

He was a very learned man, interested in a wide range of topics and pleasant to be around. In 1952, he graduated first in his law school class at Stanford. In addition to his law degree, he held master degrees in political science from Stanford and Harvard.

He left law school and moved to Washington, DC, to clerk at the Supreme Court, a place where he would eventually spend over a third of his life.

At times, our lives intersected. During the impeachment trial of President Clinton, I presided on the Senate floor just before Chief Justice Rehnquist took the presiding officer's chair—and then I took over each day as he left the chair. I also presided when he was escorted out of the chamber following the end of the trial. I enjoyed reading his book about civil liberties in wartime and his book about the history of impeachments, which I was fortunate enough to get him to sign for me.

Now in the wake of his death and one of the worst natural disasters in U.S. history, the Senate will soon move to fill the vacancies on the court. People are going through some hard times in our country. Chief Justice Rehnquist knew about hard times.

He returned to the bench after being diagnosed and treated for cancer. He fought bravely to finish his job and spurned the rumors of retirement this summer. He stated that he would "continue as long as his health permits." And he did. I admire him for it.

We also must continue to do our job by holding hearings and then voting on the President's nominees to the court. If we keep the political posturing to a minimum, we should have plenty of time to fill the spot of the man who held it for so long and so well.

Mr. FEINGOLD. Madam President, today we mourn Chief Justice William H. Rehnquist, who faithfully served the Supreme Court and our Nation for 33 years—19 of them as Chief Justice. That tenure made him the fourth-longest serving Chief Justice in the history of our Nation, surpassed only by Chief Justices Melville Weston Fuller, Roger B. Taney, and John Marshall. He was also the fifth longest serving Justice in our history. Walter Dellinger, former acting Solicitor General in the Clinton administration, has suggested that Chief Justice Rehnquist will be judged by history as one of the three most influential Chief Justices, together with Marshall and Chief Justice Earl Warren. We have truly lost a historic figure.

It is with pride, then, that we in Wisconsin claim Justice Rehnquist as a native son. He was born in our State, and Wisconsin was his first home. He grew up in Shorewood, a suburb of Milwaukee, and graduated from Shorewood High School in 1942. Wisconsin must have provided a good foundation for his future; he went on to graduate first in his class from Stanford Law School and to clerk for former Supreme Court Justice Robert H. Jackson, another of the great jurists of the 20th century.

I have deep respect for this son of Wisconsin, although I did not always agree with his substantive legal views. Indeed, we are hearing praise for Justice Rehnquist from across the political and legal spectrum. To be admired and respected despite philosophical differences is one of the marks of a truly great man.

Justice John Paul Stevens, perhaps Rehnquist's most ideologically distant colleague on the current Court, paid tribute to him on behalf of the entire Court on the occasion of Justice Rehnquist's 30th anniversary on the bench. Justice Stevens praised him for his efficiency, good humor, and absolute impartiality when presiding over Court conferences. That Chief Justice Rehnquist possessed sufficient intellectual strength and personal skill to preside over discussions among nine of the finest legal minds in the nation and to earn their respect is no small feat, particularly considering the difficulties and dissension that have marked discussions and conferences in other eras. All acknowledge that Chief Justice Rehnquist was a devoted and skilled court administrator, not just for his own highest court but also in his role as guardian of our entire third branch of government, the Federal judiciary.

In addition to his accomplishments on the Court, Chief Justice Rehnquist deserves our greatest respect for the dignity and fortitude with which he conducted himself in the last year. Despite the fact that he was clearly suffering from serious illness, he continued to serve the public and the Court. He was an inspiration to all who encounter physical obstacles in carrying out their duties, to all who face the challenges of illness or disability but still want to contribute to their country or their communities.

History will judge whether Chief Justice Rehnquist led the Court in a direction that was good for the country. For now, it is appropriate to recognize his intellect and his service. I have deep respect for Justice Rehnquist's integrity, his personal fortitude and his devotion to the Court and the entire judicial branch. Wisconsin will miss our distinguished son.

Mr. HAGEL. Madam President, I rise today to honor the late Chief Justice William H. Rehnquist. The Chief Justice leaves behind a legacy as one of the longest serving and most influential members of America's highest Court. America is a better and stronger nation because of his distinguished service on the U.S. Supreme Court.

As many from his generation did, Chief Justice Rehnquist served in the military during World War II. He relied on the GI bill to attend college after the war and graduated from Stanford law school at the top of his class. In 1951 and 1952, Justice Rehnquist served as a U.S. Supreme Court law clerk to Justice Robert Jackson, and then went on to a distinguished career in private legal practice.

In 1971, President Nixon nominated Rehnquist to replace John Marshall Harlan on the Supreme Court, beginning one of the longest terms of service in the history of the U.S. Supreme Court. In 1986, President Ronald Reagan nominated Justice Rehnquist to be Chief Justice. He served in that capacity for over 18 years.

Only 16 individuals have served as Chief Justice of the U.S. Supreme Court. Legal scholars identify periods of evolution in American jurisprudence by the name of the Chief Justice presiding during each era. The Rehnquist Court will go down in American history as one of the most important.

As an Associate Justice, Rehnquist began coaxing the Court back into the role our Founders envisioned. As Chief Justice, Rehnquist continued to gradually pull the Court away from promoting particular social policies and back toward the principles of federalism enshrined in our Constitution. By the time he was through, Rehnquist had patiently helped reshape the relationships between our branches of Government and the States.

Chief Justice Rehnquist deserves enormous credit for returning the Court to its role of analyzing and interpreting the Constitution and our laws. History will judge Chief Justice Rehnquist well for the way in which he shaped and guided the Supreme Court during his service to our Nation.

America will miss him.

Mr. CORNYN. Madam President, today I rise to pay tribute to one of the greatest legal minds of our day: Chief Justice William Hubbs Rehnquist, who passed away late Saturday night. His death is a tremendous loss to our entire Nation. I join my fellow Americans in both mourning his passing and honoring his profound contribution to our country.

Chief Justice Rehnquist faithfully served the American people on their Supreme Court for 33 years. Without question, our country owes him a debt of great gratitude.

The individual who occupies the center seat on the Supreme Court is not the Chief Justice of the Supreme Court, but the Chief Justice of the United States—the one person who embodies our national commitment to constitutional democracy and to the rule of law. Throughout his life, William Hubbs Rehnquist revered the Supreme Court and the rule of law as few people have—not only as our Nation's Chief Justice for 19 years, as Associate Justice for 14 years, and as a high Court law clerk, but also a student and a scholar of the Supreme Court. Rehnquist has written numerous books on legal history and the Supreme Court—including: The Supreme Court: How It Was, How It Is; Grand Inquests: The Historic Impeachments of Justice Samuel Chase and President Andrew Johnson; All the Laws But One: Civil Liberties in Wartime; and Centennial Crisis: The Disputed Election of 1876.

William Hubbs Rehnquist was born October 1, 1924, in Milwaukee, WI. He entered the U.S. Army Air Force and served in World War II from 1943 to 1946. Rehnquist obtained his undergraduate degree from Stanford University and two master's degrees from Stanford and Harvard Universities. He received his law degree from Stanford, graduating first in his class. Rehnquist served as a law clerk for Justice Robert H. Jackson, then practiced law in Phoenix, Arizona. President Richard Nixon appointed Rehnquist to serve, first as Assistant Attorney General in charge of the Office of Legal Counsel at the U.S. Department of Justice, and then as Associate Justice in 1972. President Ronald Reagan nominated him Chief Justice in 1986.

The Supreme Court enjoyed renewed admiration under Rehnquist's leadership. Guided by Rehnquist's steady hand, the United States Senate weathered one of the most difficult and controversial moments in our nation's modern history—the impeachment trial of a sitting U.S. president.

Rehnquist believed that the best judiciary was a restrained judiciary—one that would adhere to the letter of the law—not to the personal policy preferences of its members. Two areas in particular stand out in my mind as perhaps the most lasting examples of this legacy.

The Rehnquist Court may perhaps best be remembered for the restoration of common sense to our criminal justice system. Many Americans perhaps do not remember the days of the Supreme Court under Chief Justice Earl Warren. The 16 years under Warren, from 1953 to 1969, were nothing short of a heyday for criminals in America. Many Americans probably are familiar with the notion of letting a criminal off on the basis of a "technicality." This notion originated in the years of the Warren Court. The Supreme Court let countless criminals go free because police officers did not say precisely what the Court wanted them to say when they arrested criminals, or because warrants did not say precisely what the Court wanted them to say when the police searched criminals. It is no exaggeration to assert that, at that time, the rights of criminals were placed before the rights of victims—not to mention before the wellbeing of society in general.

This period ended when President Reagan elevated William Rehnquist to Chief Justice. Chief Justice Rehnquist did his level best to return our Constitution to its original understanding, an understanding that gives law enforcement officials the freedom they need to protect society from criminals. Over the last decade, we have witnessed an historic decline in violent crime all across America. This is due, in no small part, to the efforts of Chief Justice Rehnquist.

The second area, one equally, if not more important than the first, was the effort to restore the federal-state partnership known as "federalism" envisioned by our Founding Fathers. Our Founding Fathers believed that States and the Federal Government should be equal partners. Indeed, it was the view of our Founding Fathers that the Federal Government should have limited and enumerated powers, and, in fact, the primary authority to legislate should be left to State governments. I know this might come as a surprise to some, but not all wisdom emanates from Washington DC. State governments, after all, are closer to the people than the Federal Government is. Our Founding Fathers realized this fact.

Unfortunately, many Supreme Court Justices did not. Over the years, many of these Justices had interpreted the Constitution to give the Federal Government unlimited powers. These Justices characterized everything the Federal Government wanted to do as a regulation of "interstate commerce."

This was a fiction, of course, but over the years the Federal Government grew bigger and more powerful, the State governments grew smaller and less powerful, and the American people became less free.

Chief Justice Rehnquist did his part to stem this tide. He tried to stand for our Constitution and the founding vision that not everything should be left to the Federal Government. Although this project is still unfinished, Chief Justice Rehnquist made impressive strides, and there is no question that our Nation is better off today for his efforts.

Chief Justice Rehnquist's passing also reminds us that Supreme Court Justices are, after all, human beings—and that they should be treated with civility and respect, not as political pawns. Thus, perhaps the best way that we in the Senate might pay tribute to Chief Justice Rehnquist's legacy is to put partisanship aside in the judicial confirmation process.

President Bush has now fittingly nominated one of Rehnquist's former law clerks, Judge John Roberts, to replace him as Chief Justice. We should do the right thing by Chief Justice Rehnquist and vote on Judge Roberts's nomination as expeditiously as possible—and without some of the political posturing that has greeted other well-qualified nominees.

My thoughts and prayers are with Chief Justice's Rehnquist's family. The Nation suffered a profound loss on Saturday night. I am confident, however, that we in the Senate will do our part to proceed in a manner that honors the memory of our late Chief Justice and in a manner that would make him proud.

Mr. KYL. Madam President, the death of William Hubbs Rehnquist leaves us saddened but also grateful for his more than three decades of service to his country as a Justice of the U.S. Supreme Court, including 19 years as its Chief Justice.

I first met Chief Justice Rehnquist when he was a lawyer in Phoenix. He spent most of the 1950s and 1960s practicing law in our State, and raising a family there with his wife, Natalie, who passed away in 1991. He made an annual return to Arizona from 1994 until last year, to teach a course on Supreme Court history at the University of Arizona College of Law, my alma mater.

Appointed to his seat by President Nixon in 1972, and elevated to Chief Justice by President Reagan in 1986, he provided steady leadership at the Court through turbulent decades. He showed that one man of integrity really can make a difference.

He was a conservative whose philosophy did not always carry the day, especially in his early years on the Court. More recently, there has been greater acceptance of his notion of balance between the authority of States and the Federal Government. His decisions helped prevent the rights of criminal suspects from being overemphasized to the point that law enforcement was hampered in doing its job. They curbed the Government's use of racial quotas, deemed by most Americans to be a squandering of the moral authority of the civil rights movement. They reaffirmed the religious freedom clause of the first amendment. They upheld restrictions on the practice of abortion, again in keeping with the views of most Americans.

On a personal level, William Rehnquist had a quick, dry wit and a manner that was warm and courteous. He was a straight shooter, devoid of pretentiousness, yet deeply learned in the law and many other things. The legacy he leaves includes the histories he wrote, namely his four books on the Court and the American legal system: "The Supreme Court: How It Was, How It Is," 1987; "Grand Inquests: The Historic Impeachments of Justice Samuel Chase and President Andrew Johnson," 1992; "All the Laws But One: Civil Liberties in Wartime," 1998; and "Centennial Crisis: The Disputed Election of 1876," 2004.

Notice those titles. We had, during his tenure as Chief Justice, a Presidential impeachment—over which he presided with a dignity and good sense that were reassuring to all, in and out of the Senate Chamber. We had a disputed election—in which he led the Court in delivering the U.S. Government and the country from a nightmare of litigation and partisan combat.

His death has left mourners even among those who disagreed with him. The liberal law professor Laurence H. Tribe offered words of praise for his brilliance, his honesty, and his calm leadership. He called Chief Justice Rehnquist "a master" at enabling the Court to "earn the respect of all who take part in its proceedings or are affected by its rulings." Justice Ruth Bader Ginsburg said he "was the fairest, most efficient boss I have ever had."

The admiration he inspired in people all across the political spectrum is due also to the superb job he did as the Federal judiciary's top administrator, which is part of the role of Chief Justice. He staunchly asserted the independence of the Federal court system and fought to see that those who worked in it were adequately compensated.

William Rehnquist loved his family; he loved the law; he loved America and its history; and he loved the Supreme Court as an institution. The courage and tenacity he showed, despite suffering from thyroid cancer, were typical of him. He presided over oral arguments in the spring and continued his work on that group of cases until just last month.

> It is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit.

So said the Massachusetts Constitution of 1780, which influenced the writing of the U.S. Constitution. William Rehnquist was a free, an impartial, and an independent judge. His combination of strong-mindedness and meticulous fairness made him perfect for the position he held. He makes Americans, and especially Arizonans, very proud. We mourn his loss.

## HURRICANE KATRINA

Mr. McCAIN. Madam President, at times we come to the floor of the Senate not to debate policy but to mark the death of fellow Americans. I am deeply saddened to note that this is one such occasion.

By some estimates, Hurricane Katrina has taken what may be thousands of lives throughout the southeastern United States. The storm not only ended lives but it also displaced hundreds of thousands of our fellow citizens. They have now been scattered throughout the Nation, hoping to one day return to the homes and lives they were forced to leave behind. Our work to help the victims of this national tragedy has just begun, and Congress must do all that is necessary to fund essential relief and recovery efforts and help those in need.

## HONORING CHIEF JUSTICE WILLIAM REHNQUIST

Mr. McCAIN. Madam President, while the Nation's attention is rightly focused on the ongoing tragedy in the South, I would also like to say a few words about the passing of a great American. After a long and extraordinary life, William Rehnquist died this past weekend. The 16th Chief Justice of the United States leaves us with an unmatched legacy of service to our Nation.

Born 80 years ago in Milwaukee, WI, William Rehnquist lived a truly remarkable life. Like many in his generation, he served in World War II and was stationed in North Africa. With the support of scholarship money from the G.I. Bill, Justice Rehnquist attended college at Stanford University. He then went on to earn his law degree from Stanford Law School. At law school, the Chief Justice began to establish his reputation as a brilliant legal thinker and an able scholar. He graduated at the top of his class, just ahead of Sandra Day O'Connor.

After clerking for Supreme Court Justice Robert Jackson, Rehnquist married his late wife Natalie Cornell and moved to Phoenix, AZ. There, Justice Rehnquist and Nan raised their three children—James, Janet, and Nancy—while he built a long career as one of Arizona's leading attorneys.

In 1969, Chief Justice Rehnquist became a public servant as an assistant U.S. attorney general. Two years later, he was nominated by President Nixon to the Supreme Court. After being confirmed by the Senate, he took his seat as an Associate Justice of the Court—at 47, he was the Court's youngest member. In 1986, President Reagan nominated and the Senate confirmed Justice Rehnquist as the Chief Justice of the United States.

During his 33 years on the Court, Justice Rehnquist gained respect for his sharp intellect, his strong sense of fairness, and his profound devotion to the Court and to public service.

The Chief Justice's extraordinary legal career was surpassed only by the courage that he showed in his final year of life. During that time, he battled bravely against thyroid cancer. Through radiation and chemotherapy treatments, he continued to serve on the Court and stated that he would continue to perform his duties as Chief Justice as long as his health permitted. He did just that, with the dignity and dedication that characterized his tenure on the Court.

William Rehnquist truly was first among equals. May he rest in peace.

Mr. OBAMA. Madam President, today I speak in honor of Chief Justice William Rehnquist. The Chief Justice served this Nation's highest court with distinction and honor for more than three decades, and his career in public service started years earlier. Even as he battled cancer over the past year, he continued to be an example of personal strength, dignity, and fortitude. I join my colleagues in mourning his passing and offering my prayers to his family.

The Chief Justice was a staunch defender of the Supreme Court and an active, independent judiciary. He was admired as a warm and helpful colleague, a thoughtful mentor, and an extremely effective administrator of the federal court system. The courts were well cared for under his distinguished leadership.

Justice Rehnquist also engaged directly with many of the toughest constitutional controversies of the twentieth century. Although I often disagreed with his decisions, Justice Rehnquist's opinions have been the source of important scholarship and litigation. Like the Chief Justice he followed, the late Earl Warren, Justice Rehnquist will be remembered as an important historical figure whose legacy will impact generations of Americans.

I knew the Chief Justice only at a distance. As a lawyer and a constitutional law instructor, I was required to wrestle intellectually with his ideas and arguments, and to press my students to divine his judicial instincts and motivations. My regret is that I never got to know him personally, or even to join one of his legendary walks around the Capitol or monthly poker games. I know that his warmth and humor have touched many of my colleagues, and he will be missed.

Of course, the strength of our constitutional structure is that it is greater than any individual. Each of us plays but a small role in designing or building or repairing that structure—it is greater and more important than any of us. We mourn the passing of Justice Rehnquist and now look to the future and the important work to be done.

Mr. JEFFORDS. Madam President, I rise today to honor Chief Justice William Rehnquist, who was a brilliant jurist, a devoted public servant, and a person who shared my love of Vermont.

Though most Americans knew Chief Justice Rehnquist for his years of service on the Supreme Court, many Vermonters knew him as a neighbor and a friend. Like most who visit our great State, Chief Justice Rehnquist fell in love with Vermont's natural beauty and rural character and purchased a home in Greensboro in 1974.

For over 30 years, Chief Justice Rehnquist escaped the humidity and stress of Washington every summer in favor of the picturesque surroundings and quiet charm of Caspian Lake. Whether it was playing cards, visiting Willey's Store, or worshipping at the Greensboro United Church of Christ, Chief Justice Rehnquist immersed himself in the community with a remarkable subtlety and modesty for a man of his stature and prominence. The Chief Justice would also share his knowledge of history, politics, and the law with community members in a lecture that became a much-anticipated summer tradition in Vermont's Northeast Kingdom.

Each year, before the State of the Union, I would usually have a chance to chat with the Chief Justice about his time in Vermont. Amidst the chaos and cameras of the Capitol on such a busy night, Chief Justice Rehnquist always found time to reminisce about the summer months he spent in our State. I always enjoyed these brief discussions with such a kind and engaging man who valued life's simple pleasures so dearly.

On September 5, the Burlington Free Press, describing the reaction in Greensboro to the Chief Justice's passing, wrote:

> It wasn't a dignitary that was mourned; it was a guy who liked to walk everywhere and call people by their first names (and expected them to return the favor). It was a guy who had an affinity for Hershey's Special Dark Chocolate bars and Donna Gerow's homemade pumpkin bread.

As millions of Americans mourn the loss of one of the most influential people of our time, Vermonters in Greensboro, and around Caspian Lake, mourn a good neighbor, a great friend, and a fellow Vermonter.

## RELATIVE TO THE DEATH OF WILLIAM H. REHNQUIST, CHIEF JUSTICE OF THE UNITED STATES

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a vote on the resolution honoring the life of Chief Justice William Rehnquist, which the clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 234), relative to the death of William H. Rehnquist, Chief Justice of the United States.

Mr. HATCH. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the resolution. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Louisiana (Mr. VITTER).

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Louisiana (Ms. LANDRIEU), and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 95, nays 0, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—95

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Voinovich
Warner
Wyden

NOT VOTING—5

Biden
Corzine
Landrieu
Rockefeller
Vitter

The resolution (S. Res. 234) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 234

Whereas William H. Rehnquist, the late Chief Justice of the United States, was born in Milwaukee, Wisconsin, to William Benjamin Rehnquist and Margery Peck Rehnquist and raised in Shorewood, Wisconsin;

Whereas a young William H. Rehnquist served our Nation during the Second World War in the United States Army Air Force at home and abroad from 1943 to 1946;

Whereas William H. Rehnquist enrolled in Stanford University, where he earned a bachelor's and master's degree in political science and was elected to Phi Beta Kappa;

Whereas William H. Rehnquist earned a second master's degree in government from Harvard University;

Whereas William H. Rehnquist graduated first in a very impressive class, including his future Supreme Court colleague, Sandra Day O'Connor, from Stanford University's School of Law;

Whereas William H. Rehnquist began his legal career by serving as a law clerk to Supreme Court Justice Robert Jackson;

Whereas William H. Rehnquist married the late Natalie Cornell, and they raised 3 children, James, Janet, and Nancy;

Whereas William H. Rehnquist was an accomplished attorney, having practiced law for 16 years in Phoenix, Arizona;

Whereas President Richard Nixon selected William H. Rehnquist to serve as Assistant Attorney General for the Office of Legal Counsel of the Department of Justice;

Whereas President Richard Nixon also nominated William H. Rehnquist to serve as an Associate Justice on the Supreme Court of the United States;

Whereas President Ronald Reagan nominated William H. Rehnquist to serve as the sixteenth Chief Justice of the United States;

Whereas William H. Rehnquist had a profound love for history and respect for the arts and served as Chancellor of the Smithsonian Institution for 19 years;

Whereas William H. Rehnquist was a skilled writer and avid historian and authored several books on Supreme Court history and the American legal system;

Whereas William H. Rehnquist was a man of enormous intellect and great common sense, a combination that was reflected in the clarity of his opinions;

Whereas William H. Rehnquist's record illustrates his unwavering commitment to judicial restraint, judicial independence, and the rule of law;

Whereas, under his firm leadership and superb managerial skills, William H. Rehnquist efficiently managed the Supreme Court of the United States for 19 years;

Whereas leaders of both political parties agree that William H. Rehnquist served with honor and integrity in his role as the second Chief Justice of the United States to preside over a presidential impeachment trial, respecting the institutional domain of the Senate and its processes, procedures, and traditions;

Whereas, as the leader of the Supreme Court, William H. Rehnquist was highly regarded by all of his colleagues, including those with differing judicial philosophies;

Whereas his former colleagues have described William H. Rehnquist as a "splendid administrator", "the most efficient manager", "a great Chief Justice", "meticulously fair", and the "most all-around successful" Chief Justice;

Whereas William H. Rehnquist served with distinction on the Supreme Court of the United States for over 14 years as an Associate Justice and 19 years as the Chief Justice, more than 33 years in all;

Whereas William H. Rehnquist was the fourth longest serving Chief Justice of the United States;

Whereas William H. Rehnquist was 1 of our Nation's most influential and memorable Chief Justices;

Whereas William H. Rehnquist was the embodiment of the ideal qualities of a judge, fair, impartial, open minded, and above all committed to the Constitution and the rule of law;

Whereas William H. Rehnquist will be remembered as 1 of the greatest Chief Justices of the United States;

Whereas William H. Rehnquist passed away on September 3, 2005, surrounded by his loving family; and

Whereas our Nation is deeply indebted to William H. Rehnquist, a truly distinguished American: Now, therefore, be it

*Resolved*, That the Senate—

(1) extends its heartfelt sympathy to the family and friends of William H. Rehnquist;

(2) acknowledges William H. Rehnquist's life-long service to the United States of America as a World War II veteran, a talented attorney, a dedicated public servant, a brilliant jurist, and one of our Nation's greatest Chief Justices; and

(3) commends William H. Rehnquist for his 33 year tenure on the Supreme Court of the United States and his many accomplishments as Chief Justice of the United States.

Mr. FRIST. I ask unanimous consent the time until 1:30 be equally divided, and at 1:30 the Senate stand in recess until 3:30 today as a further mark of respect to Chief Justice Rehnquist, provided further that when the Senate reconvenes at 3:30 there be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

## THE DISASTER IN NEW ORLEANS

Mr. KENNEDY. Madam President, Americans continue to be moved by the devastation of Hurricane Katrina and its toll on our fellow Americans, from New Orleans and in the Gulf Coast region, particularly in Louisiana, Mississippi, and Alabama. The human tragedy has brought out the generosity of the American spirit, as people have opened their homes and pocketbooks to families uprooted by the storm. This is a disaster of Biblical proportions. The dimensions of this tragedy almost are beyond human comprehension and the failures by our Government to prepare and to respond run deep and wide.

Yesterday the President and the White House spokesman proclaimed that the administration would not play the blame game. This is not a game. This is not some schoolyard spat. It is about life and death and, most important, it is about getting it right the next time.

We must be about the work of providing continuing relief to our citizens and rebuilding our communities. But we also cannot delay the important task of determining what went so gravely wrong, and holding accountable those responsible for the tragic failures that Americans have seen so clearly on their televisions and read in their newspapers. The next disaster could be tomorrow. It could be a devastating earthquake. It could be a deadly terrorist attack. It could be another destructive storm. We need an immediate and independent assessment of what went wrong and what we must do to fix it.

Any corporation faced with such devastation and incompetence by its leadership would have its board and its shareholders demanding an independent assessment of the failures and demanding accountability from its leadership. It would not be business as usual.

The same holds true for the people's Government. The people have a right to candor and honesty about the state of their Government's preparedness to protect them. The new Department of Homeland Security, created by this administration, was supposed to protect us. It was supposed to do a better job of keeping us safe. It failed, and more than a million people have been displaced from their homes, a treasured American city is a wasteland, thousands have lost their lives, an economy has been shattered with ripple effects all over America. Candor, honesty, action—that is what we need. The people have a right to know that they will be better protected the next time.

Another lesson of this tragedy is that America can ignore the disparities in our society no longer. The powerful winds of this storm have torn away the mask that has hidden from our debates the many Americans who are left out and left behind. We see now in stark relief that so many Americans live every day on the brink of economic disaster. For them any setback becomes a major obstacle to survival, and a hurricane of this force leaves their lives in the balance. These disparities have emerged not out of malice but out of indifference, but they are real and we can neglect them no longer.

In August, the Census Bureau reported that the poverty rate in America is up and has risen for 4 years. It is now 12.7 percent, with 37 million Americans surviving in poverty. A quarter of all African Americans live in poverty; for Latinos it is 22 percent. One-fifth of our children live in poverty, and a tenth of our elderly. Thirty-six million Americans are hungry or malnourished. A third of our children are in families without health insurance. In fact, 45 million Americans have no health insurance at all. And the disparity in incomes has never been greater, with the rich getting richer and the rest of America, the poor and the middle class, falling behind.

People in the middle class are having a harder time, too. Already they were struggling to cope with rising gasoline prices, rising college tuition, and rising costs of health care. Now those affected by Katrina have lost everything: Their homes, their cars, their family photos—everything. We cannot be an America of haves and have-nots. We cannot be an America of 50 separate, isolated States. As we rebuild the Gulf Coast, we must also come together to tackle these disparities. We must be a united America, one Nation under God, with liberty and justice for all. And when we say all, we mean all.

To address this challenge, our Government must respond in ways that are as good and compassionate as the American people. We cannot just fix the hole in the roof; we need to rebuild the whole foundation.

I propose that we create a New Orleans and Gulf Coast Redevelopment Authority, modeled after the Tennessee Valley Authority in its heyday. We should invest at least $150 billion, as our Democratic leader HARRY REID has suggested previously. We should invest it in actions to work with Governors and mayors and citizens and communities to plan, help fund, and coordinate for the reconstruction of that damaged area. It should help hire workers to put people back to work rebuilding their own communities and helping them get back on their feet again.

This is a national responsibility. The tragedy affects us all, not only in our hearts, but it affects the national economy and our national security.

That is the America we stand for, an America where we treat each other with respect, where we address our mistakes and meet our challenges with honesty and candor and immediate action. America deserves no less.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Madam President, I ask unanimous consent to speak for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Madam President, I do not speak often on the floor of the Senate. Frankly, it has been my observation that we have too many speeches and not enough action in this town. But some events are so profound that they demand our reflection. The tragedy along the Gulf Coast is such a time.

This Sunday will be the fourth anniversary of the terrorist attacks on September 11, attacks that opened our eyes to the dangerous world we live in, made real the existence of evil, and shook our national complacency forever.

Last week we witnessed a tragedy of equal proportions, not a terrorist attack, but an act of nature made more tragic by the violation of the bedrock American value of community and the fundamental promise implicit between our Government and our people. Our Government failed at one of the most basic functions it has, providing for the physical safety of our citizens, and in so doing raised questions about who we are as a people, what makes us special, and whether our leaders understand.

I am not going to dwell on the horror of the past week which we as a Nation witnessed and which the people of the Gulf Coast experienced. Among the horrors, we also witnessed countless episodes of tremendous heroism and heartwarming generosity, and we saw Americans rise up to play the role the Government should have played by getting money, food, water, clothes, even opening their homes to complete strangers. That is the best of America.

There will be a time for hearings and for factfindings, for commissions. Those investigations must be independent, so we can get to the bottom of what happened and why. And those responsible must be held accountable for their mistakes, not promoted or awarded medals.

Today, however, I want to talk about something deeper: The breaking of a promise between our basic institutions of Government and the American people who have created those institutions. The fact is that scores, maybe hundreds or thousands of lives were lost, not simply because people didn't leave or because the levees were not strengthened, but because after the storm our institutions of Government failed them, and that is not right. Many of us never thought we would live to see the day when tens of thousands of our fellow citizens would be left for nearly a week to fend for themselves without food, without water, and stranded on rooftops.

This is a moment where we have to step back and revisit the idea of what America is all about. People came here because of that idea. They came because of the promise that everyone has an opportunity to aspire to something greater, and if you work hard and play by the rules, our Government will stand up for you if you happen to fall down on your luck. What happened last week in New Orleans and along the Gulf Coast broke faith with that idea in a profound way.

I believe the truth about America today is that our institutions, and particularly this administration, have broken their fundamental promise to the people they were elected to serve. It is unfortunate but perhaps not surprising from leaders ideologically hostile to the institutions they lead. The answer to the challenges we confront today cannot be big government, but it can also not be no government. And above all it cannot be incompetent government. But that is what they have given us.

What we are seeing in New Orleans is the result of a series of misjudgments and misdirected priorities that have all produced an increasingly tragic result, a people unprotected by their own Government, a government that no longer embodies our most basic and most precious of values. From soldiers without armor to protect them in battle, to children with no health care to protect them against disease, to corporate employees with no pensions to provide for them in their elder years, this administration has sown the seeds of indifference and division for too long and now we are all reaping the whirlwind.

Americans have always prized individuality. It is a part of our national DNA. But America is a community that draws strength from the sum of our people and has always known that the total of that sum is worth far more than its individual parts.

We can only do so much alone. To maximize our freedom, to make the most of our liberties, sometimes we must act together. It is what separates us from the law of the jungle. It is what makes us special and different from other countries, too.

As a civil rights leader once said, we may have arrived on these shores in different ships, but we are all in the same boat now.

Last week we were not all in the same boat. There were too many left adrift, too many of our boats were left behind. This is not the America we have known for more than 200 years. It is not the America we should aspire to be. Our Government broke a promise. It did not keep faith with our values. It is time for us to renew that commitment, to make a new promise to the people who went through the horror of last week, and to say to each and every American across our great land, we are going to work with you to rebuild your city, to give you the tools and the resources you need to get back on your feet, that together we are all in the same boat and that everyone—everyone—has a place. It will help you and it will strengthen all of us.

We must provide funding to school districts that accept displaced children. We must provide medical assistance for displaced victims without forcing them to wade through endless redtape. We must rebuild and strengthen the levee system in New Orleans as quickly as humanly possible, which should have been done years ago, so that its people never again will face the calamity of last week. If Holland can do it, the little nation of Holland, then so, too, can we.

But to accomplish all of this and so much more that remains to be done, it will take leadership, leadership unlike that which has controlled Washington for these last several years. The times demand leaders who understand that the true test of leadership is not how we accentuate the differences among us but instead how we reconcile them, how we forge principled consensus, how we find common ground. We need leaders who appeal to us to think about something other than narrow self-interest but instead focus upon the greater, the better good.

The answer to our challenges can be found all around us on this floor. It is written in the motto of the Great Seal of the U.S. Senate. E Pluribus Unum: Out of Many, One.

It is written on the motto of the great seal of the United States Senate, "E Pluribus Unum," Out of Many, One.

United, there are no challenges we cannot meet; divided, we will be surrounded by dangers, our potential as a nation unfulfilled.

So this Sunday, September 11, let us say a prayer for the victims in New York and for those on the Gulf Coast and, most of all, let us say a prayer and ask for a blessing on this great country that we might have the unity and the wisdom and the selflessness to fulfill the full meaning of our creed: "One nation under God, with liberty and justice for all."

Thank you, Madam President. I yield the floor.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CARPER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

## HONORING CHIEF JUSTICE WILLIAM REHNQUIST

Mr. CARPER. Mr. President, I would like to take the next 10 minutes to talk about a couple of different items.

Not far from where we are today, the body of our late Chief Justice has lain in repose, and a number of us were privileged to go there earlier today just to say goodbye and to thank him for his service to our country—33 years. That is a long time, more than three decades that he has served us. His love for our country, his love for the law and the integrity of our Nation's judiciary system was only surpassed by his love for his family and for those with whom he worked.

During his time on the Court, he fostered, among other things, real congeniality among the Justices—something that is not easy to do in that forum or, frankly, in this one. In return, he was held in high esteem by his colleagues who had called him, among other things, "brilliant," "principled," "generous," with "a good sense of humor," something we can never have too much of.

He demonstrated great personal strength and courage in leading the Court and this country through difficult and contentious times, continuing his work in the face of ever-daunting health problems that would have set most of us on our backs and far out of the courtroom.

There are many judicial hallmarks of his time on the Court. Throughout his tenure on the Court, he staunchly supported the independence of the Federal judiciary and our overall governmental system of checks and balances. We will miss him, but we are grateful that he was here to serve us for as long as he has.

## HURRICANE RELIEF

Mr. CARPER. I would also like to talk about the good efforts that are going on in a number of places around our country to support the relief effort to those who have been stricken by Hurricane Katrina. We heard a fair amount of questioning about whether the response was adequate, was timely, what we could have done better, what we needed to do better, and those are all legitimate questions and they need to be answered in time—some of them now, some of them in the course of the next couple of weeks and months.

I said to some of my colleagues with whom I was discussing Katrina and our response—we were talking about the role of government in a situation such as this—Lincoln had it right about 150 years ago when he said words to the effect that the role of government is to do for people what they cannot do for themselves. That is our role in this instance as well.

Not long ago I was in our church, and the focal point of the sermon was the parable from the New Testament about the Good Samaritan and the question that is asked at the beginning of the parable of the Good Samaritan. Who is my neighbor? We go on to be reminded that our neighbor is not just the people who live across the street from us in Wilmington, DE, or in South Carolina. Our neighbor could just as well be a person who lives in New Orleans, Biloxi, Mobile, or any of the other places affected.

I am inspired by outpouring, not just from government and for us to do our jobs—we are paid literally to help people in instances such as this, and that is the expectation of us, but for a lot of people this is not their expectation. People are literally showing their faith by their deeds. In some cases, people are opening up their homes, opening up their military installations, opening up all types of facilities to receive those who have been dislocated, welcoming youngsters to schools far from the schools those kids would normally be attending to make sure their education is not disrupted.

I think of the folks from my own State, the doctors and nurses, folks in our medical operation out of our Delaware Air National Guard. They were literally on the scene today providing services and assistance to those who need it. People are collecting food, people are giving blood, people are giving boatloads of money and, frankly, boatloads more are needed. But it is an inspiring outpouring after a difficult and disappointing beginning.

Among the questions I hope we will focus on as we try to decide what went well and what did not go well, what was right, what went right, and what we did poorly, is the issue of the levees that surround the city of New Orleans that keep Lake Pontchartrain from pouring into the city of New Orleans. If you look in the dictionary for a definition of "city at risk" if there ever was a Category 3, 4, or 5 hurricane, you would see New Orleans. That is the poster child for this kind of risk. We knew the threat was there. We knew it was a grave threat. We have been talking about it for years. The people have talked about it for years. The Army Corps of Engineers sought to reinforce the levees.

We knew this storm was coming. It is not one that popped up at the last minute. Yet, in spite of that, the work that should have been done on the levees to strengthen them to sustain this kind of onslaught by Mother Nature, someone has dropped the ball. I am not interested in finger-pointing or witch hunts. We have to find out where we went wrong, why we went wrong, and fix that. If New Orleans is ever to rise again—not from the ashes but from the waters that engulf it today—this is an issue that has to be not only resolved, we have to come up with a solution to make sure we have learned from this very expensive lesson.

I fear a storm which could have cost tens of billions may cost more than $100 billion to repair the damage, a lot of it from New Orleans. A storm that could have cost us hundreds of lives will probably cost us thousands of lives. It did not have to be.

The last thing I wish to say is I was encouraged in the presentation we had by some of our Cabinet Secretaries who talked about what the Department of Health and Human Services is doing, making sure the folks who need medical assistance and Medicaid eligibility, identification, people who need help getting their food stamp allocations, people need to receive their unemployment checks—all kinds of things were discussed, what the Federal Government can do to help people. It was encouraging.

One of the presenters was the Secretary of the Department of Treasury. He talked, as the Presiding Officer may recall, about the work being done to defer the payment of taxes. People who normally would have an estimated tax payment—personal business maybe—on September 15 will be given until the end of October to make that payment. They were looking for ways we, through the Federal Government, could exercise some charity, some consideration for those who were in harm's way and are now in desperate straits to pull their lives back together.

I come from a State where we have a lot of banks. We probably have more credit card banks per capita—probably issue half the credit cards issued in America. I am empowered to speak on this point. We have a lot of financial services companies around the world. They extend credit. Most do a great job of extending credit to people through America, the Northeast, Midwest, Southwest, and also the Gulf Coast States. Just as the Department of Treasury is trying to find ways to show kindness and a little consideration to those who are affected in the disaster areas on the tax side, my hope is our financial services companies which are going to be benefiting from the implementation of our new bankruptcy law this fall, this might be a good opportunity for some of them to say—and some of them already are doing this, I should point that out. Some financial services companies are saying: We want to help folks in the Southeast United States who have been affected, and here are the variety of ways we will do that. Some are not entirely forgiving indebtedness but are providing payment holidays, extending the dates on which payments are due, and taking away interest and finance charges. That is what we ought to applaud and the behavior we ought to encourage others to undertake.

Today, in addition to saying goodbye to our Chief Justice and to saying terrific work by folks from all walks of life to help people in dire straights, well done, we say to our financial services companies around the country that are trying to find their own ways to reach out and help people. God bless you. Good for you. Finally, to say to those who aren't, maybe you would like to join the parade and lend a helping hand as well.

(The remarks of Mr. CARPER pertaining to the introduction of S. 1627 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CARPER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. In my capacity as a Senator from the State of South Carolina, I ask unanimous consent that the order for the quorum call be rescinded.

Without objection, it is so ordered.

## RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 3:30 p.m.

Thereupon, the Senate, at 1:30 p.m., recessed until 3:30 p.m. and reassembled when called to order by the Presiding Officer (Mr. MARTINEZ).

## MORNING BUSINESS

The PRESIDING OFFICER. The Senate is in a period of morning business with Senators recognized for up to 10 minutes.

The Senator from Idaho.

## ORDER OF PROCEDURE

Mr. CRAIG. Mr. President, I ask unanimous consent that following my 10 minutes, the Senator from New Hampshire, Mr. GREGG, be recognized for 10 minutes, to be followed by the Senator from Kansas, Mr. BROWNBACK.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HONORING CHIEF JUSTICE WILLIAM H. REHNQUIST

Mr. CRAIG. Mr. President, I come to the floor this afternoon to speak for three very important reasons. Of course, first is to recognize our Chief Justice who has just passed, William Rehnquist.

Today the Senate paid its respects to the late Justice Rehnquist, filing through the halls of the Supreme Court where he served this Nation with distinction for more than 33 years.

I could not help but remember a conversation I had with Chief Justice Rehnquist a couple of years ago. I was walking to work and happened to run into him on one of his legendary strolls around the Court. We talked a bit about what was happening in the judicial nomination process in the Senate. But the specifics of that conversation are probably less important than the style of the conversation. He was informal, approachable, genteel, but certainly direct. And regardless of his physical frailty, he had lost none of his interest or his ability to give a shrewd analysis of the events of the day. If you spent any time at all with this very important man, you would feel the force of his great personality.

Much has already been written about the legal legacy of Justice Rehnquist because he was one of the most influential jurists of our time. He anchored and presided over a shift to conservative principles, underscoring in particular the importance of federalism and limitations on Government. I know some in the conservative community were disappointed that the Supreme Court, on his watch, did not reverse more prior left-leaning precedents, but his strong hand was certainly obvious in a long series of history-making decisions. William Rehnquist's impact on jurisprudence was profound and will be felt for many years to come.

In his personal life, I know this engaging man had many friends, and to all of them, as well as his family, I extend my deepest condolences. The Court has lost a brilliant and fair leader. America has lost a great public servant. I consider myself fortunate to have had the chance to know and be inspired by William Rehnquist.

I thank the leader for this opportunity to add one more voice to the chorus of tributes from a grateful Nation.

## TRIBUTE TO DAMON TOBIAS AND GEORGE O'CONNOR

Mr. CRAIG. Mr. President, if you serve long enough in the Congress—I had the opportunity to serve 10 years in the House, and now I am into my third term in the Senate—you have a lot of very capable and wonderful people who work for you. If you serve long enough, as I have mentioned, they not only work for you but sometimes they decide to retire. In my situation, in my office, I have two people retiring this month, and I am going to miss them greatly. I want to speak a few moments about them.

First, I talk about Damon Tobias. Damon has been on my staff and handling my budget and tax issues and appropriations issues for a good number of years. I first met Damon in the House of Representatives when he was on the staff of Congressman Charlie Stenholm of Texas. Damon and I and Congressman Stenholm became involved in the balanced budget amendment movement at a time when deficits were totally out of control, and many of us worked to bring them under control. That is when Damon and I became friends. Through the 1980s we worked together on this most important issue.

I left the House to come to the Senate, and Damon left the Stenholm office to go to the U.S. Chamber of Commerce. Later on, 2 years after I came to the Senate, Damon joined my staff in March of 1992. Damon has continued to work for me over that time, dealing with the balanced budget amendment, dealing with taxes and budget and labor issues, immigration issues. Probably Damon has spent more time, along with me, trying to solve the immigration question for American agriculture and for workers in the American agricultural economy than nearly any other issue. Of course, that paramount bill he worked so much on now has majority support in this Senate and a vast coalition of Americans behind it, known as AgJOBS, and it is a legacy of which Damon can be truly proud. He worked on appropriations and small business and Hispanic issues.

He and his bride are going to return to his home State of New Mexico where Damon, I am sure, will proceed to do other things along with taking care of his aging mother. I and my staff are going to miss Damon Tobias, and I am convinced the Senate will also miss him.

Mr. President, I now wish to speak about George O'Connor. Many who are in the energy field not only here in the Senate but across the United States know George O'Connor. He has served with me as counsel, on the Energy and Natural Resources Committee for a good number of years. He came to this city as a lawyer in 1980, working for the Stein, Mitchell & Mezines law firm as a litigator. He specialized in administrative law litigation before the Federal Trade Commission. He became a trial attorney for the Federal Energy Regulatory Commission's Office of General Counsel in the Division of Hydroelectric Licensing in 1982.

He worked then as a legal advisor to FERC Commissioner Charles A. Trabandt from 1985 until 1993 and was responsible for environmental issues associated with energy projects. He returned to the FERC's Office of General Counsel until 1997.

In 1998, George joined my staff as a fellow, and it was not long before I realized I needed his talent on a full-time basis in the area of energy and natural resources. In the year 2000, he became directly involved with me and has worked in that capacity for a tremendous number of years. I must say that both George and I, at the close of the session for the August recess and the passage of the National Energy Policy Act, saw that as not only a culmination of a great career here in the Senate for George O'Connor but a substantial success for myself and other members of the Energy Committee who were much involved in that.

George has worked a total of 24 years in the Federal Government, and a total of 8 years in my office. I say, without question, I am going to miss George O'Connor. He is retiring to go downtown to do other things, and I am sure he will be back here when we need him helping us with his expertise and his talent. He is well known by all who associate with him as a tough but very fairminded and talented man.

I must say that George O'Connor has served my State of Idaho well, has served the Pacific Northwest well, where hydro is still a dominant producer of our electricity, and has served this Nation and the Senate well.

My hope for George O'Connor and Damon Tobias is that in their next life, which they are now about to assume, they will do well and be as successful in it as they have been as very talented and capable staffers here in the Senate.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

## HONORING CHIEF JUSTICE WILLIAM H. REHNQUIST

Mr. GREGG. Mr. President, I wish to join with all my colleagues and with America in expressing our condolences to the Rehnquist family and, obviously, our great appreciation for his extraordinary service to this Nation. I hope at a later date to put in a more extensive statement. He was a man whose commitment to the law was exceptional, but his commitment to the country was even higher. We are very fortunate to have had him as our Chief Justice and as a Justice on the Supreme Court for so long.

## RECONCILIATION INSTRUCTIONS

Mr. GREGG. I rise today basically to speak about another issue, and that is a letter which I have received as chairman of the Budget Committee and which was sent to the majority leader, the Speaker of the House, and the chairman of the Budget Committee on the House side by the leadership of the Democratic membership of the Senate and the House—Congresswoman PELOSI; JOHN SPRATT, who is ranking member on the House Budget Committee on the Democratic side; Senator REID, who, of course, is the Democratic leader; and KENT CONRAD, who is the ranking Democratic member of the Budget Committee.

The letter asks that we indefinitely postpone reconciliation, reconciliation being the mechanism by which we address the entitlement spending and tax policy here at the Federal level. It is an outgrowth, of course, of the budget process.

Now, the letter itself, if I can look at it, although I can hardly see it—I wish they would send these letters in larger fonts so those of us getting older would not have to take out our glasses to read them. But, in any event, the letter itself is structured in a way to assert a number of items, boldly assert items which essentially are inaccurate. In fact, the boldness of these inaccuracies is such that it would be humorous if they were not going to, I am sure, become part of the nomenclature of the left in the country and, indeed, be carried forth by the echo chambers, such as National Public Radio, which speaks for the left.

But their language says this:

> Now is not the time to cut services for our most vulnerable, cut taxes for our most fortunate, and add $35 billion to the deficit.

That is the basic theme of the letter.

> If allowed to go forward, this bill—

They are talking about the reconciliation bill—

> would likely cut programs that many victims of Hurricane Katrina will be relying on, including Medicaid, food stamps, and student loans.

Those two statements are, as I said, boldly inaccurate and reflect a failure to accept history and a failure to look at the specifics of the reconciliation bill as it passed the Senate.

Now that does not surprise me. I have to admit, and the folks who signed this letter readily admit, they did not vote for the budget when it first passed 8 months ago or 7 months ago, however long ago, 6 months ago. When it first passed, these four individuals and their caucuses strongly opposed putting in place here in the Congress a budget that had fiscal discipline, and they voted against it. So it should not come as a surprise and this letter should not come as a surprise that they are still against it and they still want to indefinitely postpone the key mechanisms which will make this budget effective.

But what is a little surprising is that they would assert such inaccuracies in their letter. Let's begin with the tax inaccuracy. They must be ignoring or they must not just look at history. They must not look at the history of the Kennedy tax cuts and the Reagan tax cuts, and most recently the George W. Bush tax cuts because one thing we proved beyond any reasonable doubt is that when you significantly cut taxes on the productive side of the American economy, you create economic activity, and as a result, you create jobs and you give people work and you create revenues for the Federal Government.

The numbers are incontrovertible. In the last 3 years, revenues have been jumping dramatically relative to the base we hit as a bottom as a result of the recession we experienced as a result of the bubble bursting, the Internet bubble of the 1990s, and the effects of 9/11. In fact, 2 years ago revenues jumped by 9 percent.

This year, revenues are literally going to jump by more than that. The revenue projections for the next few years are projected to increase by 7 percent, 6 percent, 7 percent. And the deficit has dropped by over $150 billion from the original estimates purely as a result of economic activity that has been stimulated in large part because we have reduced the tax burden on the productive side of the ledger and created an incentive for people to go out and invest. As a result, there is an incentive for people to create jobs.

We had some of the best job creation in the history of this country over the last 2 years. As a result, people are paying taxes and revenues are going up. It is totally ignored and misrepresented in this letter. More specifically, and I think the thing that I find most unreasonable about the terms of this letter—or, as I say, most boldly inaccurate—is its representation that the reconciliation instructions, as they relate to the mandatory accounts, will somehow affect programs that benefit people relative to the problems which we have in the South today as a result of Hurricane Katrina. Nothing could be further from the truth, be more inaccurate, or be more of an attempt to use the trauma and tragedy of Katrina to assert a political agenda here in the Congress of the United States, which they have been trying to assert, as I said, since they voted against that budget 6 months ago. The two have no substantive relationship, but there is an attempt now to use the political arena to try to link them up.

The fact is that the reconciliation instructions in this bill will in no way reduce student loans. In fact, the committee which has jurisdiction over this issue, under the extraordinarily able leadership of Senator ENZI, is proposing a bill which will expand rather aggressively student loans, while saving money for the Federal taxpayer by addressing excesses in the lending community.

In fact, the proposal from the HELP Committee will increase Pell grants, will increase the availability of loans to students, and will reduce the interest rates on those loans. If we do not go forward with reconciliation and use reconciliation as a vehicle to protect this higher education initiative that comes out of the HELP Committee, we will actually end up increasing the costs to students. This letter is totally and obscenely inaccurate on that point.

It is equally inaccurate on the issue of pensions. Without reconciliation instructions on pensions, we are going to see more and more companies thrown into bankruptcy. As a result, the taxpayers are going to have to pick up the pension obligations of those companies. The people who benefit from those pensions are going to see their pensions dramatically reduced because, under the bankruptcy rules, you can significantly cut your pension liability. But if we correct the pension laws and if we use reconciliation to increase the premium cost of the pensions, which will be paid primarily by the corporations, we will be able to save some of the pensions which are now in dire straits.

The only way we can do this is probably through reconciliation. So if you don't have reconciliation, you are going to see more companies going into bankruptcy. You are going to see more pensions being wiped out. And you are going to see more employees—who have worked their whole life, invested in their company—find that that pension, which they thought they had, is actually going to be cut, if you follow the thought process which is being proposed here by the Democratic leadership of the Senate and the House of Representatives and which is totally the opposite of what their language in this letter talks about.

It is a total inaccuracy; 180 degrees different from the actual language of this letter will occur. People will lose their pensions. The cost to the American taxpayer will go up if we do not have reconciliation dealing with pensions.

The third area which this language talks about is Medicaid. Let's talk about Medicaid. The reconciliation instructions suggest that we reduce the rate of growth in Medicaid over the next 5 years from 41 percent to 40 percent. It was originally going to be back to 39 percent, but we went from 41 percent to 40 percent, a $10 billion reduction in the rate of growth—not in spending increases, in rate of growth, not a cut, on a $1.3 trillion base. In other words, we are going to spend $1.3 trillion on Medicaid over the next 5 years. What we asked in the budget was that we slow that rate of growth by 1 percent. We let it grow by 40 percent over the next 5 years instead of 41 percent or $10 billion.

And how was that going to be accomplished? It was going to be accomplished in concert with the Governors who are going to get much more flexibility in the way that they deliver the Medicaid services. Almost every Governor who came to us said: We will be able to deliver better services and cover more people if we get this flexibility than if we don't get the flexibility. As a result, we can certainly handle the 1-percent slowing of rate of growth of increase in exchange for getting the flexibility which will give us the capacity to cover more people. Dramatically more people will be covered if we use our reconciliation vehicle to change the law so that Governors don't have to go through all the hoops they have to go through today in order to address Medicaid, so that we don't have people defrauding the system as we have today but, rather, have a system that is honest and covers people who need to be covered. But you can't get there from here unless you use reconciliation because you can't pass a bill in this Senate with 60 votes. You can't get 60 votes because the party on the other side of the aisle simply refuses to do anything constructive in this area, and they have talked walked away from the table. So you need reconciliation protection. In fact, there will be no services cut.

To tie it into Katrina is so gross in its representation as to its inaccuracy as to be beyond blatant politics. The simple fact is, the reconciliation instructions assume no savings in Medicaid over the next year. All the savings come in years two, three, four, and five. Obviously, most all the spending for the Katrina situation is going to occur in the next year. To tie it into Katrina is absurd.

This letter is not surprising because it comes from people who oppose discipline in the budget to begin with, but its assertions are, even by the standards of politics in this body, bold in their inaccuracy.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kansas.

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## HONORING CHIEF JUSTICE WILLIAM H. REHNQUIST

Mr. BROWNBACK. Mr. President, I rise to pay tribute to William Rehnquist, 16th Chief Justice of the United States. That is the title, Chief Justice of the United States. While the ceremony honoring him goes forward I think it is appropriate that we in this body recognize his incredible service to the Nation. His biography, where he came from and what he did, has been spoken of a great deal. What I wanted to speak about is not only that, but also his personal impact on me, one that he wouldn't have known or known about.

As a young law student in the early 1980s at the University of Kansas, I can remember studying constitutional law and other areas where his opinions came forth. Frequently, in those days he was in the minority opinion role.

Many of my law school professors would say: Can you believe what this guy wrote? I remember reading his opinions and thinking his opinion seemed very logical. It seems to me, he believed in holding with the great traditions of being a nation of the rule of law, not the rule of man. The Constitution is a textural document. Chief Justice Rehnquist had a big impact on me in his writings and what he believed we stood for as a nation. He has had a big impact on this Nation, and he will be sorely missed.

He was genteel in all of his dealings. Even when he presided in the Senate over the impeachment trial for President Clinton, he did so in a very stately, gentle fashion. Just his presence was one of a man at peace with himself, who knew what he was about, and knew his role and his duty. He fulfilled his duty to the best of his abilities as Chief Justice, Associate Justice on the Supreme Court, as presiding over an impeachment trial, and working with clerks.

I think one of most telling things for an individual is what the people say that worked for you, and particularly those who worked for you perhaps in a lower capacity. It seems uniform that the clerks for Chief Justice Rehnquist admired the man while they worked for him. It is a tribute to him how well they worked together and how he helped form them. There is a great symmetry about this in John Roberts being nominated now, as a former clerk of Chief Justice Rehnquist, and now nominated to fill the vacancy on the Supreme Court left by his former boss. John Roberts is an outstanding nomination to the Chief Justice position. I hope we can move forward with in an expeditious fashion, certainly thorough, but in an expeditious fashion.

That is not what we are here today to talk about. Today it is to talk about and to reflect upon an amazing American in William Rehnquist. He grew up in the suburbs of Milwaukee, WI. His father was the son of Swedish immigrant parents, worked as a paper salesman. His mother was a multilingual professional translator. Shortly after graduation from high school, Chief Justice Rehnquist enlisted in the Air Force and during World War II served as a weather observer in North Africa. On completion of his service in the Air Force, the Chief Justice began his undergraduate work at Stanford University. Yes, he did it on the GI bill.

In 1952, Rehnquist graduated first in his class from Stanford Law School, certainly a monumental accomplishment, an accomplishment of great discipline. Following law school, he clerked for former Supreme Court Justice Robert Jackson. In 1953, he began work at a law firm in Phoenix, and his brilliance was noted by the Nixon Deputy Attorney General at that time, Richard Kleindienst. On October 22, 1971 President Richard Nixon, nominated him to serve as an Associate Justice on the Supreme Court. He was confirmed less than 2 months later, which would be record speed for this body by today's standard.

During his time on the Supreme Court, Chief Justice Rehnquist has defended the original text of the Constitution. To a number of people that may seem like a simple task. After all, it is the Constitution. It is the basic law of the land. What is there to defend? The law speaks for itself. It is a set of plain words on a clear document that has such a significant historical place in our hearts and minds. Yet he comes along on a Court at a point in time when a number of people are saying: It is a living document, it can move with the culture, and we can interpret the words more broadly. We can interpret it not by what it says, but by what we would like it to say.

Chief Justice Rehnquist fought against that and fought for the original text of the Constitution and said it is as it is. This is a textural document. If we want to change it, that is fine, but it is changed by two-thirds of the House and two-thirds of the Senate and three-fourths of the States, not by five people on the Court. Those are not his words, but they are the principles he stood for.

The role of a Justice on the Supreme Court is to look at the plain meaning and the original text of the Constitution, not at your own cultural bias of the moment and what you believe America may need and therefore may be willing to move to.

The problem with a living document is that you don't have the rule of law. You are more of a rule of man. So he defended this proposition of the original text of the Constitution, the intent of the Framers.

Certainly, he was a promoter of life. It was in the 1973 dissent in Roe v. Wade that then-Associate Justice Rehnquist wrote, "To reach its result, the Court necessarily has had to find within the scope of the Fourteenth Amendment a right that was apparently completely unknown to the drafters of the Amendment."

These are the Associate Justice Rehnquist's words. In his early years of lonely dissents in cases like Roe, Rehnquist made his mark by standing for constitutional principle over the political preferences of an unelected judiciary. With the retirement of Chief Justice Warren Burger in 1986, President Reagan then elevated Associate Justice Rehnquist to the Court's top post, where he served with distinction until his death.

The last 19 years have shown that Chief Justice Rehnquist was a terrific choice to lead the Supreme Court. He authored countless landmark decisions and thought-provoking dissents. In carefully reasoned opinions, he insisted that the principle of federalism is an integral part of our nation's constitutional structure. He recognized that our Government is one of enumerated rights and dual sovereignty, with certain functions and powers properly left to the States.

One example of Chief Justice Rehnquist's commitment to the laws is his opinion in Dickerson v. United States. Although a long-time critic of Miranda v. Arizona, Rehnquist nevertheless placed his past position aside and wrote the opinion in Dickerson, effectively affirming the holding of Miranda. He served well. He served nobly, and he served with courage. I might note that even during his recent sickness, he found the strength to do his duty and to serve in office. He found the strength to administer the oath of office to President Bush, to consider the challenging cases that came before the Court.

Peggy Noonan wrote of President Bush's inauguration, "the most poignant moment was the manful William Rehnquist, unable to wear a tie and making his way down the long marble steps to swear in the president. The continuation of democracy is made possible by such gallantry."

While some of his colleagues on the Court disagreed with him at times, there will there can be no doubt that they admired his strong leadership, his likable personality, and his ability to build consensus. That is the noteworthy quality of a gentleman. He served with distinction. He served us well. He carried his course out, and he is now at rest.

I yield the floor.

The PRESIDING OFFICER (Mr. COBURN). The Senator from North Dakota is recognized.

## RECONCILIATION INSTRUCTIONS

Mr. CONRAD. Mr. President, I rise today to talk about the proposal that a number of us have made—Leader REID in the Senate, myself, the ranking member of the Budget Committee, Leader PELOSI in the House, Congressman SPRATT, the ranking member of the Budget Committee—to put off the reconciliation proposals that flow from the budget resolution.

We have just been hit by perhaps the greatest natural calamity in our Nation's history. We don't know yet how it will rank, but there is certainly a possibility this will be one of the greatest calamities in our Nation's history. And that is the reason we sent the letter this morning to Majority Leader FRIST and Speaker HASTERT, as well as the chairmen of the Budget Committees in both the House and the Senate recommending that we suspend those reconciliation instructions that are part of the budget resolution.

We did that because we don't think what was written then fits the facts now. We have just had a massive disaster. It makes no sense to pursue the priorities that were part of that budget resolution.

This is not a time to be cutting services to the most needy among us. This is not the time to cut food stamps, to cut medical care for the indigent, to cut student loans. That is what is in the reconciliation process. Are we really going to cut Medicaid $10 billion when we have hundreds of thousands of people homeless and don't have medical care and don't have a home? Are we really going to cut Medicaid in that context? Are we really going to cut food stamps when there are tens of thousands of people displaced, hundreds of thousands of people have had to leave their homes, and we are going to cut services for the most needy and, at the same time, cut taxes for the most fortunate among us?

Frankly, I did not think the budget resolution made much sense when we passed it. The budget resolution's reconciliation instructions cut spending $35 billion and cut taxes $70 billion, so it increased the deficit, on balance, $35 billion when we are facing massive budget shortfalls—among the biggest in our history.

In fact, the budget that was passed here will increase the debt of the country every year by $600 billion. That is stunning. It is going to increase the debt $600 billion. That is before Katrina. Now are we really going to continue down that path? Are we going to continue down a path that says on an emergency basis cut services to the least among us, cut taxes for the wealthiest among us, and run up the debt even more? What sense does this make?

It makes no sense to consider those legislative proposals in light of this new reality. It seems to me very clear none of us can know yet the cost to the Federal budget of the response to Hurricane Katrina. We should not be rushing through a further reduction in resources the Federal Government has available to respond to our Nation's challenges.

Katrina is a body blow of stunning proportion. We already passed $10 billion of aid, which we obviously should have done. We are told that we are going to be asked to immediately consider another $51 billion of aid, which clearly we should do. But that is just the beginning.

I have been told that the cost of this disaster to the Federal Government may well reach $150 billion. So for us to go forward with a budget plan that was written before this catastrophe, and for some to come to the floor of the Senate and say, Steady as she goes, just keep on with that plan, does not make a whole lot of sense.

We have just seen a dramatic disaster, a catastrophic disaster. You don't stick with the same old plan when something of this consequence occurs. We have to respond, and we do not just respond by doing what we were getting ready to do when we faced a totally different set of facts. Frankly, I don't think it made much sense before this disaster. It makes absolutely no sense after this disaster.

Again, let me say to my colleagues, are we really going to cut Medicaid when we have hundreds of thousands of people displaced? Are we really going to cut student loans when we have a whole group of colleges that have been wiped out? Are we really going to cut food stamps when every night we can see on television what is happening to people who have lost everything? Are we going to say to them, Sorry, there is no help for you because we had a plan, a reconciliation plan up in Washington, and we had to stick to it? Is that really going to be the answer? I hope not because the facts have changed. The facts have changed, and the facts require that we change. The facts require that the plan changes, and the facts require we have a new plan and a new approach.

I submit to my colleagues this is not the time to cut assistance for those who are the least among us and to cut taxes for those who are the wealthiest among us. This is a time for all of us to come together as a nation and respond to this disaster with a generous heart. That is my belief of what is required of us at this moment. That is the moral imperative at this moment—to respond to this disaster, to help those in need, to assist in the rebuilding, to help the sick, to feed the hungry. Goodness knows, we can see on our television screens every moment of every day that there are tens of thousands of our fellow citizens who deserve a helping hand. The notion that we just go forward with the plan as written makes absolutely no sense.

Here are the images. We can all see them. Here are the homes flooded—an absolute unmitigated disaster.

I have been asked by the news media about an incident that occurred in 2002 before the Senate Budget Committee. I want a chance to review that for the record. I have been asked repeatedly about a series of questions that I asked in 2002 of Mr. Parker.

I asked a question in a Budget Committee hearing on February 26, 2002, of one of the witnesses, Mr. Mike Parker, the Assistant Secretary of the Army for Civil Works. He said at that hearing:

> If the corps is limited in what it does for the American people, we will see a negative impact on the people of this country.

He was talking in testimony that he provided the Budget Committee and in response to a series of questions that I asked him.

Here is how that conversation went. Assistant Secretary Parker said: "That figure we came up with was around $6.4 billion [for Army Corps funding] . . ."

I asked him:

> That is what you requested?
>
> Assistant Secretary PARKER: Yes.

My question back to him:

> $6.4 billion?
>
> Assistant Secretary PARKER: Right.
>
> Senator CONRAD: And you got, on a comparison basis, $4 billion . . . Well, did you think $4 billion was the right number to come to?
>
> Assistant Secretary PARKER: No. I would have offered that number if I thought it was the right number.

In other words, what happened was I asked Assistant Secretary Parker if the amount of money being requested by the administration for the Army Corps of Engineers was sufficient to deal with the challenges they were facing. He told me, no, they were not sufficient, that they had estimated $6.4 billion was needed, but the administration would only ask for $4 billion. And that is after the previous year's budget was $4.6 billion.

I also addressed questions to Lieutenant General Robert Flowers, Chief of Engineers for the Army Corps, who came to testify with Assistant Secretary Parker. Here is how that conversation went.

> Let me ask you this. Last year, there was $4.6 billion [in Army Corps funding]. The President cut that by $600 million on a fair comparison basis to $4 billion. What are the implications of those reductions? What will it mean? . . .

LTG Robert Flowers said:

> With the budget as it stands, we would in fact have to terminate projects . . .
>
> Senator CONRAD: So you would have no choice but to terminate contracts?
>
> Lieutenant General FLOWERS: Yes, sir. That's correct . . .
>
> Senator CONRAD: It doesn't sound like it makes much sense to me. Does it make much sense to you, General Flowers, knowing what those projects are? Would it make any sense to you to terminate these projects?
>
> Lieutenant General FLOWERS: Sir, it doesn't.

Lieutenant General Flowers went on to say:

> . . . I would submit that in combating the war on terrorism and providing homeland security, the work we do in maintaining strategic ports is very vital to the military effort as well as the economy, because 98 percent of our foreign commerce is seaborne.

My rejoinder:

> . . . So this has got a security issue attached to it.

Lieutenant General Flowers:

> Sir, I believe it does. We have traditionally, in the U.S. Army Corps of Engineers, I think, contributed to the national defense.

What happened in these exchanges is very clear. I asked Mr. Parker, the civilian head of the Corps of Engineers, if he was asking for enough money. He said he was not. He said the administration had sent up a request for $4 billion. He determined what was needed was $6.4 billion, but the administration would not allow him to make that request.

Because of that testimony, Mr. Parker was then fired by the administration. He lost his job.

Senator TRENT LOTT said:

> "Mike Parker told the truth that the Corps of Engineers budget, as proposed, is insufficient," said Senate Minority Leader Trent Lott.

Newspaper headlines on the firing of the Army Corps Chief in 2002 ran the gamut from the New York Times that said:

> Official Forced to Step Down after Testifying on Budget Cut.

The Washington Post:

> Corps of Engineers' Civilian Chief Ousted; Parker Resigns after Openly Questioning Bush's Proposed Spending Cuts.

The Wall Street Journal:

> Head of Corps of Engineers is Forced Out after Criticizing Budget Cuts for Agency.

The Sun Herald of Biloxi, MS:

> Parker Let Go as Army Corps Chief; Honesty Got Him Fired, Some Say.

The fact is, the funding for the Corps of Engineers was deficient to do the job necessary to protect New Orleans and other cities. It was clear at the time. It was testified to by the man who was the head of the Agency, and because he was honest and forthright in questions that I put to him, he was removed from his job.

That is the factual history of what occurred. And those who removed him because he was honest and forthright about the needs bear serious responsibility, I believe, for what has occurred.

All of us now have a special responsibility to reach out and assist those who have been devastated. It should never have happened. None of us can know if these funds had been forthcoming at the time that they were clearly needed, and that need was made clear by an appointee of this administration, who was then removed from his position because he said the funding was inadequate.

This calamity requires a response, and the notion that we stick with the plan I do not think will withstand much scrutiny. We are going to have to have a new plan, and as part of that plan we should not be cutting the least fortunate among us. We should not be cutting food stamps. We should not be cutting the other life lines, whether it is medical assistance or any of the other programs that are now in place to assist these people who have been so badly hurt.

I do not believe it makes any sense at this moment to cut the resources of the Federal Government when we already cannot come close to paying our bills.

The PRESIDING OFFICER. The Senator from Florida is recognized.

## HURRICANE KATRINA

Mr. MARTINEZ. Mr. President, I rise today to reach out to my colleagues in the Gulf States and to all of the residents of Louisiana, Alabama, and Mississippi. The devastation and destruction experienced by Florida's neighbors is like nothing this country has ever experienced from a natural disaster.

The great State of Florida has had its own recent struggles to recover not only from the four hurricanes we experienced last year but from two already this year, Dennis, which hit Florida's panhandle, and Katrina, which first made landfall in Miami and Dade County before making its way over the Gulf of Mexico to continue on its path of destruction. As Floridians, we all know well the pain and destruction wrought by hurricanes, and we feel a special kinship for our brothers and sisters in Louisiana, Mississippi, and Alabama. We have a great sense of duty to help our neighbors through this difficult time, just as they so selflessly helped us during our time of need last year.

We, as a nation, have all begun to appreciate how fragile our very existence is in the face of this incredible force of nature. The loss of life and the scope of the destruction are beyond our capacity to understand. The feeling of isolation, despair, desolation experienced by those in the wake of a storm, and their families, is beyond consolation.

Having only too recently been the recipient of our own neighbors' good will, comfort, and support in the wake of our own struggles, Floridians stand ready to respond in kind. Today the news reports that over 25,000 evacuees are expected in central Florida, bringing it close to the point of strain on the local resources because of that kind of activity. Thousands of Floridians are already helping. More are asking how they can help. Citizens have contributed to numerous nonprofit groups that in turn are sending truckloads of supplies to hurricane-damaged areas.

Our National Guard troops are now stationed in Mississippi, Louisiana, and Alabama, providing much needed manpower to the ongoing recovery efforts. Our law enforcement and fire department personnel have sacrificed time with their families so they can be in Louisiana, Alabama, and Mississippi providing emergency aid and security. Church groups have offered temporary housing, and schools in Florida have offered to take students displaced by the disaster.

I am proud of the way Floridians and all Americans have reached out in this great time of need for our country. We will continue to help our neighbors, continue to keep them in our prayers, and continue to mourn the loss of so many of our fellow Americans through such a powerful natural disaster.

While we certainly cannot avert our eyes and attention from the human suffering, we must also recognize the tremendous outpouring of love, support, and compassion directed to those who have lost so much. The American spirit of unity and survival is reflected in the response to the American Red Cross, the Office of Housing and Employment for the Displaced, the offer of neighboring public universities to accept students from Louisiana to avoid interruption in their education. These all serve to remind us that for all our differences, we are all one people, and we will take care of our own.

Many have raised legitimate concerns about the level of our preparedness as a nation for the disaster, but now is not the time for recrimination. The time for examination and for determining lessons learned will soon come, but for now we must not be distracted from the mission of delivering aid and comfort to those who so desperately are in need and we must begin the process of rebuilding.

The rise of rhetoric will not empty the flood waters, provide relief to the living, bury the dead or rebuild our cities. Together we can begin to restore hope to those where hope has been lost. Together we must move forward in good faith as one nation.

As we look to the future, we have a responsibility to examine our disaster readiness at every level of Government. When lives are at stake, there is no room for territorial or jurisdictional turf wars. We must make certain no lives are lost that might otherwise be saved with proper planning, training, and cooperation among Government agencies at every level. I look forward to working with my colleagues in the Congress to be certain that that goal is achieved.

Our country has been through very challenging times. We have suffered through terrorist attacks on our homeland, wars in Afghanistan and Iraq, and most recently Hurricane Katrina and surging oil prices. Yet through all of this, the American people have moved forward with optimism and determination. It is our way. We are a resilient people. Because of the incredible resiliency of the American people, we will recover from Katrina and we will be stronger and we will be better.

## HONORING CHIEF JUSTICE WILLIAM H. REHNQUIST

Mr. MARTINEZ. Mr. President, I would be remiss if I did not take a moment to say what a great loss our country has experienced with the passing of our Chief Justice William Rehnquist. William Rehnquist was a man of deep integrity and honor, a true public servant. He served our country well, always keeping an eye toward tradition and working to bring constitutional reason to the complex questions of our nation. Our country is better for the guiding hand he placed on the Court. His resolute spirit will be missed.

Chief Justice Rehnquist's leadership brought the Court through three decades of very tumultuous times. September 17 of this year would mark the 29th year of his tenure as Chief Justice. This term exceeds that of every other Chief Justice in our nation's history, with the exception of Chief Justice John Marshall, who served for 34 years.

He led the judiciary with resolve and a steady hand. He will be greatly missed by his family, his colleagues, the Court, and by a grateful nation.

As we turn our attention in the coming weeks to the confirmation process to consider the President's nominee to serve as the next Chief Justice, it would be appropriate to pause and reflect on the service to our country provided by this man of exceptional intellect who served his Nation long and faithfully.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Mr. President, I join with my colleague, the distinguished Senator from Florida, in expressing my personal condolences and those of my fellow Minnesotans to the family and friends of the former Chief Justice, and I share the sentiments in regard to his distinguished service to our nation.

## HURRICANE KATRINA AND SOARING GAS PRICES

Mr. DAYTON. Mr. President, I also want to join with others of my colleagues today who have expressed the concerns, condolences, and sympathies to the victims of Hurricane Katrina, which has so horribly claimed so many of our fellow Americans' lives, families and friends, homes, businesses, farms, schools, and entire communities that are the worst victims of this unprecedented disaster. Our hearts go out to all of them. Our helping hands are being extended and must continue to be extended to them.

There are millions of other victims of this disaster, Americans nationwide whose economic well-being has been harmed by price increases and supply or service disruptions.

In my State of Minnesota, probably the worst economic damage and financial hardships have been caused by the skyrocketing prices for gasoline and other essential energy supplies. Even before Hurricane Katrina, those prices had been increasing sharply. In the 3 months from May 28 to August 28 of this year, the average price of regular unleaded gasoline throughout Minnesota has risen from $1.92 a gallon to $2.55 a gallon. That is an increase of 63 cents a gallon, a one-third increase in just 3 months.

Then, in 3 days last week, from August 29 to September 1, the average gasoline prices in Minnesota jumped another 46 cents a gallon, according to one Web site that has spot check reports from throughout the State. So in 3 months and 3 days, the average gasoline prices, according to this Web site, in Minnesota, jumped from $1.92 a gallon to $3.01 a gallon, a 57-percent increase. That is not as bad as some other parts of the country, but it is sure worse than bad enough for Minnesota.

I know from direct personal experience driving around northern Minnesota last week that actual prices were much higher, as high as $3.46 a gallon for regular unleaded gasoline, which was up almost $1 a gallon from 2 weeks before. Unfortunately, that up-to-date, accurate information is not available from the Energy Information Administration Web site, and that is one of the defects that needs to be remedied.

Most of Minnesota's oil and gasoline supplies originate from Canada, come in either by gasoline or oil pipelines and then refined within our State. So almost all of our price increases for gasoline and other energy products were not directly the result of Katrina's supply disruptions. Rather, they were the result of other people taking advantage of that disaster to take advantage of the people of Minnesota.

Last week, President Bush called it "price gouging at the gasoline pump," and I agree with the President. President Bush also said that there should be zero tolerance for gasoline price gouging, similar to looting in New Orleans, and I agree with the President on that as well because price gouging has the same effect as looting or other kinds of stealing. It is robbing the people of Minnesota and elsewhere throughout this country by overcharging them for their essential energy needs.

Given the similarity of the gasoline price increases throughout Minnesota, I think there is a strong possibility of pricing collusion by the major oil suppliers and distributors that demands immediate investigation and, where called for, vigorous prosecution of violators. What they have done is not only immoral, it is also illegal under Federal law.

I have written the United States Attorney General and urged him to back up the President's strong words with his strong immediate action to investigate all indications of price gouging and/or pricing collusion of gasoline, diesel fuel, aviation fuel, farm fertilizers, natural gas, liquid petroleum gas, home heating oil, ethanol, and any and all other oil supplies.

At this time, I urge the President to release whatever supplies are necessary from our Nation's Strategic Petroleum Reserves to offset the loss of oil, gasoline, and other energy supplies resulting from Hurricane Katrina.

Last night, the Secretary of Energy told a number of us in the Senate, in a briefing, that gasoline prices have been stabilized. Well, with due respect, Mr. Secretary, I must say they have been stabilized far too high in Minnesota, if, in fact, they have been stabilized at all. Thus, whatever has been done so far is not enough. Gasoline prices are still unaffordably too high in Minnesota. Other energy prices are still unaffordably too high, and with the cold weather heating season soon upon Minnesotans and other Americans in the United States, it is imperative to act now and keep on doing whatever is necessary to get energy prices back down to pre-Katrina levels—which were still too high—and then deal with that continuing energy price crisis in Minnesota and other affected States and continue to do whatever is necessary to get those lower prices.

In the immediate term, we need to strive for lower energy prices, and we need executive action to prosecute price gouging, price collusion. We also, then, need, as a body of Congress, to do whatever is necessary to strengthen Federal legislation to prohibit and prevent this kind of economic looting of our fellow citizens.

A couple of my colleagues have announced, just in the last 2 days, their intentions to introduce legislation. Senator DORGAN of North Dakota intends to offer windfall profits tax legislation on U.S. oil companies and other energy suppliers. Senator CANTWELL of Washington has indicated her intention to offer legislation that would give the President additional powers to mitigate price increases in times of crisis.

I intend to introduce in the next 2 days, as soon as it is complete, legislation that would prevent and prosecute price gouging in energy and other essential commodities. In a nutshell, this legislation would make it illegal in any emergency situation to take advantage of consumers by raising energy prices or other essential commodity prices. It would give the U.S. Attorney General further authority to prosecute retail gasoline stations, oil companies, distributors—whoever is found to be in violation of this provision. It would require the Energy Information Administration to provide current prices for major metropolitan areas for every State and for our entire Nation on a daily basis so that we can evaluate those price increases so that citizens can know, in perspective, what they are being charged and how it compares with other parts of the country. They can then be our eyes and ears to report evidence of these rising prices that constitute price gouging, as the President said, at the gasoline pump.

We have witnessed once again, in the midst of this disaster affecting Southern United States, that such disasters bring out both the best and the worst of human nature. They bring out the best, as we have seen the courageous men and women of the National Guard, the medical personnel, and many others who are literally risking their own lives to save the lives of others. We have seen the best of human nature in the response of millions of Americans from all over the country who have contributed whatever they can and are offering to do more to alleviate this suffering.

Here in the Senate last week, and also in the House, we provided an additional $10.5 billion the President requested to continue emergency operations. All of us, including those at a meeting last night with a number of the Cabinet Secretaries, were asking the administration, What do you need us to do? Money? Authorizing legislation? Streamlining existing legislation? Tell us what we need to do in the Senate and House to expedite in the best possible ways the relief effort that must continue for months ahead.

This is not a Republican or Democratic disaster or Republican or Democratic response. It is an American disaster, and it is a response of all of us as Americans to our fellow citizens in need.

Unfortunately, there is another side to human nature, and that is what we must also address. It cannot be allowed. It certainly cannot be rewarded with profits to those who take advantage of the despair of their fellow citizens. Some cannot be allowed to cause even further economic hardship, even devastation, especially to those who can least afford the prices of energy essentials and other necessities of life. That is where our fellow citizens look to us to stand up on their behalf to prevent, prosecute, and to prohibit this kind of economic looting that the President called price gouging.

I support his statement. I urge the U.S. Attorney General to put action behind those words, and then I urge my colleagues to join with me in passing legislation to prohibit and prevent this from happening again and to prosecute those who are responsible for it.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## CONGRESSMAN JOHN LEWIS

Mr. REID. Mr. President, one of the pleasures I have as a Member of Congress, having served in the House and the Senate, is having the opportunity to meet people who are special, unique. During the time that I have had in Congress to meet some of these individuals, I have in my own frame of reference chosen a number of heroes. One of those heroes is a Congressman from the Fifth District of Georgia by the name of JOHN LEWIS.

At home last night, I read Newsweek magazine. I saw an opinion piece written by my hero, JOHN LEWIS. This appeared on page 52 of this week's Newsweek magazine, entitled "Opinion: A Civil-rights Leader Mourns an African-American Population Left Behind."

I will read what JOHN LEWIS said:

> I was headed to New Orleans as a Freedom Rider in May of 1961. It would've been my first visit, but we were arrested in Jackson, Miss., and never made it. In happier times, though, I have been able to visit New Orleans over the years. It's one of my favorite cities, one of the great Southern cities. The people are friendly, warm, helpful. In the old part of the city, there's so much history when you walk down Canal Street or Royal. One of my favorite places is a shop on Royal where they have lots of art posters by African-American artists. After Katrina, there's a loss of the music, the restaurants and the character in addition to the unbelievable loss of lives. Maybe we will never know the number of people who have been lost.
>
> It's very painful for me to watch and read about what is happening. I have a sense of righteous indignation. I think all Americans should rise up and speak out. It's not like 9/11 that just happened. We saw this in the making. The media told us for days this storm was coming and for years people have been telling us we need to do something to prepare. It took us so many days to make the full force of the government available afterwards.
>
> In 1957, during the crisis in Little Rock and President Dwight Eisenhower—maybe he was reluctant, maybe he had some reservations—but he put the full force of the government behind the decision to desegregate Central High. During the Freedom Rides, President John Kennedy didn't hesitate to federalize the National Guard and put the whole city of Montgomery under martial law. It's baffling to me that we didn't have the ability or the will to do something much earlier. We still haven't had the passionate statement that should be made by officials in this administration.
>
> It's so glaring that the great majority of people crying out for help are poor, they're black. There's a whole segment of society that's being left behind. When you tell people to evacuate, these people didn't have any way to leave. They didn't have any cars, any SUVs.
>
> It's so strange that when we have something like this happening, the president gets two ex-presidents—his father and Bill Clinton—to raise money. What they propose to do is good and I appreciate all the work the private sector and the faith-based community are doing. But when we get ready to go to war, we don't go around soliciting resources with a bucket or an offering plate. We have the courage to come before Congress and debate the issue, authorize money. That's what we need to do here. By next year we'll have spent $400 to 500 billion in Afghanistan and Iraq. That money could be used to help rebuild the lives of people. If we fail to act as a nation, I don't think history will be kind to us.
>
> We've got to do more than the $10 billion that Congress appropriated. We need a massive Marshall-type plan to rebuild New Orleans. But in rebuilding we should see this as an opportunity to rebuild urban America. New Orleans could be a model. There must be a commitment of billions and billions of dollars—maybe $50 to 100 billion. I think even in other urban centers, there are people who are just barely existing. We sing the song "hope is on the way," but it's taking a long time before hope arrives. It becomes very discouraging where you see people dying—children, the elderly, the sick—the lack of food and water. I've cried a lot of tears the past few days as I watched television—to see some body lying dead outside the convention center. I went to Somalia in 1992 and I saw little babies dying before my eyes. This reminded me of Somalia. But this is America. We're not a third-world country. This is an embarrassment. It's a shame. It's a national disgrace.
>
> John Lewis is the U.S. Congressman from the 5th District of Georgia.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## HONORING DAVE MATTIO

Mr. DURBIN. Mr. President, I rise today to honor Dave Mattio, Marian Catholic High School graduate and head coach of the Spartan football squad for 29 seasons.

The message that Coach Mattio instills in his players is "energy and ownership" and his accomplishments demonstrate the success of this motto.

Over the course of his 29 seasons with the Spartans, Coach Mattio has created a football program that remains among the most successful in the state of Illinois. Among his many accomplishments, Coach Mattio has seen hundreds of his players go on to play football in college and three go on to the National Football League.

Coach Mattio has led the Marian Catholic Spartans to a state championship and a Chicagoland Prep Bowl championship. He has also shown consistency, with teams qualifying for the playoffs 16 times and compiling winning records 26 of the last 29 seasons.

Coach Mattio's successes have been recognized many times by his peers. He was inducted into the Illinois High School Football Coaches Association Hall of Fame in 1997 as well as the Marian Catholic Alumni Association Hall of Fame in 1994. He was also named the Frank Leahy Prep Coach of the Year in 1994.

I congratulate Dave Mattio on his accomplishments as head coach of the Marian Catholic Spartans and wish him many more years of happiness and accomplishment, both on and off the football field.

## LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On August 15, 2004, Joel Robles was stabbed 20 times in Fresno, CA. The apparent motivation for the stabbing was that he was a transgendered woman. Robles' body was later found inside his apartment where he had died, according to police.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that are born out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

## A FORGOTTEN WAR

Mr. LEAHY. Mr. President, I rise to speak of Chechnya, a remote part of the world where horrific crimes and suffering are occurring every day, that has faded from the newspapers and the minds of many of us here.

Contrary to the myth perpetrated by the Russian Government that the conflict is over and life in Chechnya is returning to normal, the Russian military and the militias they support continue to use brutal, even barbaric tactics, including extra-judicial executions, arbitrary detention, kidnappings, rape, and torture. Armed opposition forces are also terrifying innocent civilians with their indiscriminate attacks. There seems to be no end to this conflict or to the suffering of the Chechen people.

The Bush administration has been conspicuously silent about what is happening. One can only hope that President Bush has expressed alarm about the atrocities being committed by Russian soldiers in Chechnya in his meetings or conversations with President Putin, but there is no indication that if he has it has had any effect.

There is certainly no evidence that the administration has exerted any real pressure on President Putin to reign in the Russian military, presumably because it does not want to jeopardize Russia's support for U.S. operations in Iraq and combating international terrorism. But contrary to what the Russian Government and some in the Bush administration insist, the violence in Chechnya has far more to do with self-determination than with international terrorism. While acts of terrorism by all parties to the conflict remain common, most Chechen resistance fighters have taken up arms to seek revenge for the atrocities and impunity of Russian soldiers.

In each of the last 6 years, the Foreign Operations Appropriations Act has included a provision to withhold a portion of our assistance to the Russian Government unless the President certifies that international nongovernmental humanitarian organizations are provided full access to Chechnya. Every year, the Russian Government fails to comply.

In the Senate-passed version of the fiscal year 2006 Foreign Operations bill, we included $5 million for humanitarian, conflict mitigation, relief and recovery assistance for Chechnya, Ingushetia, and elsewhere in the North Caucasus region. This funding, in addition to the $5 million for this purpose in the fiscal year 2005 supplemental, will provide much needed relief and development assistance for civilians caught in the midst of this conflict.

But it is essential that this assistance be coupled with a strong message of concern and condemnation by the administration. The message should be loud and clear that war crimes by the Russian military, and by resistance fighters, must stop.

It is obvious that despite President Putin's rosy portrayal of the situation, there is no military solution to the Chechnyan conflict. The only hope for resolving it is through a process of demilitarization and political dialogue, and I suspect that will require the active and sustained participation of a credible third party, such as the United Nations. This is what the United States should be pressing for. It is long past time for the White House to stop giving the Russian Government a free pass on Chechnya.

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## THE FEDERAL JUDICIARY EMERGENCY SPECIAL SESSIONS ACT OF 2005

Mr. CORNYN Mr. President, I rise today as an original co-sponsor of the Federal Judiciary Emergency Special Sessions Act of 2005. I want to thank Chairman SPECTER, Ranking Member LEAHY and the other cosponsors for working on this legislation in an expedited fashion to respond to the unprecedented challenges facing the judiciary in Louisiana and Mississippi in the wake of Hurricane Katrina.

We have all witnessed over the past week the heart wrenching agony of those affected and displaced by Hurricane Katrina. An entire city has been devastated and will face an uphill battle to repair and replace the homes, buildings, and commerce that are so vital to New Orleans. Areas in Mississippi face similar challenges. I join all Americans in keeping those affected by this tragedy in our thoughts and prayers during these difficult times.

In times like these, the generosity of ordinary Americans emerges and shines bright. Once everyday working men and women learned of the plight of their Louisiana neighbors they set their lives on hold and committed themselves to helping those who are less fortunate. I have heard reports of citizens and churches from across the country organizing fundraising drives, collecting basic necessities for evacuees, and even renting U-Haul trucks to deliver those supplies to the needy.

I am especially proud of my friends and fellow citizens from Texas. Texas has opened its arms, as my State is known to do, and has taken in as many evacuees as it can handle. The Astrodome has virtually become a satellite city of New Orleans evacuees. Additionally, Texas residents have opened their homes to take in evacuees to provide some semblance of a normal life during their displacement.

Congress too will have responsibility. Last week the Congress passed an emergency relief bill to provide some immediate assistance to the area. And today, with this bill, the Congress continues to identify discreet, but critical areas, that are affected by the hurricane. And one of the areas that needs to be addressed is how the judiciary, from the prestigious Fifth Circuit Court of Appeals to the Federal district courts, bankruptcy courts and magistrate courts will function during this difficult time.

Our democracy depends on a functioning judiciary. The dedication of the men and women of the judiciary—from the trial courts to the appellate courts—who daily preside over important and difficult issues is essential to our democracy. Current law requires Federal courts to conduct business in a few select locations. This legislation makes sure that a Federal court, unable to hold proceedings in its normal location because of emergency circumstances, may hold court in another area.

It is important that as the rebuilding begins in New Orleans and other affected areas that our judicial system be open to anyone who may need its assistance. This legislation makes sure that the doors to the courthouse remain open even during catastrophic events.

I hope that the Senate and the House pass this legislation immediately and send it to the President as soon as possible.

I yield the floor.

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## WATER RESOURCES DEVELOPMENT ACT

Mr. INHOFE. Mr. President, section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. At the time of filing of the report, the statement was unavailable. The statement has since been received by the committee. I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

*S. 728, Water Resources Development Act of 2005, As reported by the Senate Committee on Environment and Public Works on April 26, 2005*

*Summary*

S. 728 would authorize the Army Corps of Engineers (Corps) to conduct water resource studies and undertake specified projects and programs for flood control, inland navigation, shoreline protection, and environmental restoration. The bill would authorize the agency to conduct studies on water resource needs, to complete feasibility studies for specified projects, and to convey ownership of certain Federal properties. Finally, the bill would extend, terminate, or modify existing authorizations for various water projects and would authorize new programs to develop water resources and protect the environment.

Assuming appropriation of the necessary amounts, including adjustments for increases in anticipated inflation, CBO estimates that implementing S. 728 would cost about $4.1 billion over the 2006–2010 period and an additional $7.6 billion over the 10 years after 2010. (Some construction costs and operations and maintenance would continue or occur after this period.)

S. 728 would allow the Corps to spend any proceeds that it collects from grazing fees, shoreline management permit fees, municipal and industrial water supply fees, recreational fees, and leases. In addition, the bill would allow the Federal Government's power marketing administrations (PMAs) to use proceeds from power sales to fund Corps expenses related to hydropower. S. 728 also would convey parcels of land to various non-Federal entities and would forgive the obligation of some local government agencies to pay certain project costs. Finally, the bill would allow the Corps to collect and spend fees collected for training courses and permit processing. CBO estimates that enacting those provisions would increase direct spending by $212 million in 2006, $1.1 billion over the 2006–2010 period, and $2.3 billion over the 2006–2015 period. Pursuant to section 407 of H. Con. Res. 95 (the Concurrent Resolution on the Budget, Fiscal Year 2006), CBO estimates that enacting S. 728 would cause an increase in direct spending greater than $5 billion in the 10-year period beginning in 2046. Enacting the bill would not affect revenues.

S. 728 contains no intergovernmental or private-sector mandates as defined in UMRA. Federal participation in water resources projects and programs authorized by this bill would benefit State, local, and tribal governments, and any costs to those governments to comply with the conditions of this Federal assistance would be incurred voluntarily. The bill also would benefit those governments by authorizing additional funds or reducing matching requirements for some specific projects.

*Estimated Cost to the Federal Government*

The estimated budgetary impact of S. 728 is shown in the following table. The costs of this legislation fall within budget functions 300 (natural resources and the environment) and 270 (energy).

TABLE 1. ESTIMATED BUDGETARY IMPACT OF S. 728 OVER THE 2006–2010 PERIOD

[By fiscal year, in millions of dollars]

| | 2006 | 2007 | 2008 | 2009 | 2010 |
|---|---|---|---|---|---|
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | |
| Estimated Authorization Level | 902 | 864 | 861 | 857 | 884 |
| Estimated Outlays | 632 | 866 | 853 | 849 | 867 |
| CHANGES IN DIRECT SPENDING | | | | | |
| Estimated Budget Authority | 232 | 222 | 224 | 219 | 227 |
| Estimated Outlays | 212 | 218 | 223 | 219 | 227 |

*Basis of Estimate*

For this estimate, CBO assumes that S. 728 will be enacted near the beginning of fiscal year 2006 and that the necessary amounts will be appropriated for each fiscal year.

SPENDING SUBJECT TO APPROPRIATION

S. 728 would authorize new projects related to environmental restoration, shoreline protection, and navigation. This bill also would modify many existing Corps projects and programs by increasing the amounts authorized to be appropriated to construct or maintain them or by increasing the Federal share of project costs. Assuming appropriation of the necessary funds, CEO estimates that implementing this bill would cost $4.1 billion over the 2006–2010 period and an additional $7.6 billion over the 10 years after 2010. For ongoing construction costs of previously authorized projects, the Corps received a 2005 appropriation of about $1.8 billion, including funds from the Inland Waterway Trust Fund.

For new water projects specified in the bill, the Corps provided CBO with estimates of annual budget authority needed to meet design and construction schedules. CBO adjusted those estimates to reflect the impact of anticipated inflation during the time between project authorization and appropriation of construction costs. Estimated outlays are based on historical spending rates for Corps projects.

Significant New Authorizations. S. 728 would authorize the Army Corps of Engineers to conduct water resource studies and undertake specified projects and programs for flood control, inland navigation, shoreline protection, and environmental restoration. For example, the bill includes authorizations for enhanced navigation improvements on the Upper Mississippi River at an estimated Federal cost of $1.8 billion and an ecosystem restoration project, also on the Upper Mississippi River, at an estimated Federal cost of $1.6 billion. Another large project authorized by this bill is the Indian River Lagoon project in the Florida Everglades at an estimated Federal cost of $605 million. Construction of those projects would likely take more than 15 years.

Deauthorizations. Title VI would withdraw the authority for the Corps to build 58 projects authorized in previous legislation. Based on information from the Corps, however, CBO does not expect that the agency would begin any work (under current law) for most of those projects over the next 5 years. Some of those projects do not have a local sponsor to pay nonFederal costs, others do not pass certain tests for economic viability, and still others do not pass certain tests for environmental protection. Consequently, CBO estimates that canceling the authority to build those projects would provide no significant savings over the next several years.

Future Corps Appropriations for Operations and Maintenance. As discussed below under "Direct Spending," sections 2019 and 2020 would make about $175 million a year available for operations and maintenance at Corps facilities without further appropriation. In fiscal year 2005, the Corps received an appropriation of about $2 billion for operations and maintenance costs, including funds from the Harbor Maintenance Trust Fund. Enacting this bill could result in a reduction in future appropriations if the Congress chose to reduce total Corps spending below the level appropriated in 2005. In lieu of a reduction, however, the Congress could choose to continue Corps funding at current levels to provide funds for the backlog of the agency's maintenance needs. For this estimate, CBO assumes that future Corps appropriations would continue at current levels and that new spending authorized by the bill would be in addition to the current level of agency funding.

DIRECT SPENDING

Based on information from affected agencies, CBO estimates that enacting S. 728 would increase direct spending by about $212 million in 2006 and $2.3 billion over the 2006–2015 period. Table 2 presents the direct-spending components of the bill. Most of the direct spending under the bill would stem from provisions to allow for the spending of existing power revenues associated with Corps projects for facility planning, operation, maintenance, and upgrades without further appropriation. Under current law, those and other fees that would be made available for spending are deposited (as setting receipts) to the general fund of the Treasury.

Improvement of Water Management at Corps of Engineers Reservoirs. Section 2019 would allow the Corps to spend any proceeds collected from grazing fees, shoreline management permit fees, and municipal and industrial water supply fees. Under the bill, the Corps could spend such funds for operations and maintenance at its facilities. Based on information from the agency, CBO estimates that spending of such receipts would total $21 million in 2006 and 88 million over the 2006–2015 period.

Direct Funding of Corps Operations and Maintenance for Hydropower. Section 2020 would allow the Federal power marketing administrations to use proceeds from the sale of electricity to fund Corps expenses related to hydropower functions. Based on information from the PMAs, CBO expects that such direct funding would cost $142 million in 2006 and $1.5 billion over the 2006–2015 period, with additional costs after 2015. Currently, receipts collected by the PMAs for the sale of electricity and related services are deposited in the Treasury. Once such expenditures are directly funded, annual appropriations for the Corps could be reduced by a similar amount, or those funds could be spent on other unfunded Corps priorities.

The PMAs are required to set electricity rates at a level that recoups Federal costs. Such costs include expenses specific to maintaining hydropower facilities at Corps projects in addition to joint costs or those allocated between all functions at a project (recreation, environmental, flood control, etc.). This bill would specify that only costs allocated exclusively to electricity production could be funded with sales revenues.

Recreational Areas and Project Sites. Section 2004 would authorize spending of receipts from leases and fees at Corps recreational areas for operations and maintenance at recreation areas and project sites. Based on information from the Corps, CBO estimates that enacting this section would cost $41 million in 2006 and $507 million over the 2006-2015 period.

TABLE 2. CHANGES IN DIRECT SPENDING UNDER S. 728

[By fiscal year, in millions of dollars]

| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|---|---|---|---|---|---|---|---|---|---|
| CHANGES IN DIRECT SPENDING | | | | | | | | | | |
| Improvement of Water Management at Corps Reservoirs: | | | | | | | | | | |
| Estimated Budget Authority | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 |
| Estimated Outlays | 21 | 27 | 30 | 30 | 30 | 30 | 30 | 30 | 30 | 30 |
| Direct Funding of Operations and Maintenance for Hydropower: | | | | | | | | | | |
| Estimated Budget Authority | 142 | 140 | 142 | 144 | 145 | 148 | 149 | 152 | 154 | 159 |
| Estimated Outlays | 142 | 140 | 142 | 144 | 145 | 148 | 149 | 152 | 154 | 159 |
| Spending of Lease Receipts: | | | | | | | | | | |
| Estimated Budget Authority | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Estimated Outlays | 8 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 |
| Recreation Fees: | | | | | | | | | | |
| Estimated Budget Authority | 42 | 42 | 42 | 42 | 42 | 42 | 42 | 42 | 42 | 42 |
| Estimated Outlays | 33 | 41 | 41 | 42 | 42 | 42 | 42 | 42 | 42 | 42 |
| Land Conveyances and Other Direct Spending: | | | | | | | | | | |
| Estimated Budget Authority | 8 | * | * | −7 | * | * | * | * | * | * |
| Estimated Outlays | 8 | * | * | −7 | * | * | * | * | * | * |

TABLE 2. CHANGES IN DIRECT SPENDING UNDER S. 728—Continued

[By fiscal year, in millions of dollars]

| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
|---|---|---|---|---|---|---|---|---|---|---|
| Total Changes: | | | | | | | | | | |
| Estimated Budget Authority | 232 | 222 | 224 | 219 | 227 | 230 | 231 | 234 | 236 | 241 |
| Estimated Outlays | 212 | 218 | 223 | 219 | 227 | 230 | 231 | 234 | 236 | 241 |

NOTE: * = less than $500,000.

Spending of Corps Lease Receipts. This section would allow the Corps to spend money it collects from leases at recreational areas and project sites without further appropriation on operations and maintenance. Based on information from the Corps, CBO estimates that enacting this section would cost $8 million in 2006 and $98 million over the 2006–2015 period.

Spending of Recreation Fees. This section would direct the Corps to establish a new system of recreation fees, including charges for admission to Corps recreation sites and for the use of recreation facilities, visitor centers, equipment, and services. Under the bill, the new fees (which would be based on the value of the admission or service purchased) would replace charges authorized under more restrictive, existing laws. CBO estimates that, once the broader fee authority that would be provided by this section has been fully implemented, Corps offsetting receipts would increase by $12 million a year from the current annual level of about $42 million. (We expect that increases would initially be less because of delays in determining the market value of similar local recreation opportunities and establishing appropriate fee schedules for some recreation sites.) Because all amounts collected under the fee system would be available to the Corps without further appropriation, however, CBO estimates that enacting this provision would have a net cost of $33 million in 2006 and nearly $200 million over the 2006–2010 period. Over the 2006–2015, the total increase in net direct spending would be just over $400 million.

Various Land Conveyances. S. 728 would authorize the Corps to convey at fair market value 13 acres of land and the structures on the land, including a loading dock with mooring facilities, in Alabama. In addition, S. 728 would authorize the conveyance at fair market value 650 acres of Federal land at the Richard B. Russell Lake in South Carolina to the State. Based on information from the Corps, CBO estimates that the Federal Government would receive about $7 million in 2008 from those sales.

The bill also would convey certain Federal land in Alabama, Pennsylvania, Georgia, Oregon, Kansas, and Missouri. CBO estimates that those conveyances would have no significant impact on the Federal budget.

Arcadia Lake, Oklahoma. Section 3071 would eliminate the obligation of the city of Edmond, Oklahoma, to pay outstanding interest due on its water storage contract with the Corps. CBO estimates that this provision would result in a loss of receipts of about $8 million in 2006.

Waurika Lake Project. Section 3073 would eliminate the obligation of the Waurika Project Master Conservancy District in Oklahoma to pay its outstanding debt related to the construction of a water conveyance project. Because of an accounting error, the Corps inadvertently undercharged the district for costs associated with a land purchase related to the water project in the early 1980's. Under terms of the construction contract, the district is required to pay all costs associated with building the project, including the full cost of the land purchases. CBO estimates that enacting this section would cost less than $200,000 a year over the 2006–2015 period.

Funding to Process Permits. Section 2017 would make permanent the Corps' current authority to accept and spend funds contributed by private firms to expedite the evaluation of permit applications submitted to the Corps. CBO estimates that the Corps would accept and spend less than $500,000 during each year of this extension and that the net budgetary impact of this provision would be negligible.

Training Funds. Section 2003 would allow the Corps to collect and spend fees collected from the private sector for training courses. CBO estimates that the Corps would accept and spend less than $500,000 annually and that the net budgetary impact would be negligible.

*Estimated Long-Term Direct Spending Effects*

Pursuant to section 407 of H. Con. Res. 95 (the Concurrent Resolution on the Budget, Fiscal Year 2006), CBO estimates that enacting S. 728 would cause an increase in direct spending greater than $5 billion in the 10-year period beginning in 2046. That estimate assumes that the bill's estimated direct spending cost of $241 million in 2015 would continue to increase over the next 40 years. Specifically, CBO assumes that the Corps' costs for operations and maintenance at PMA projects would increase at the rate of inflation projected for 2015 for this activity about 2.9 percent a year. That inflator reflects a weighted average of pay and nonpay components of Corps operations and maintenance activities. In addition, we assume that Corps collections from grazing, permit, water-use fees, and proceeds from the use of recreationsites would increase more slowly, near the observed historical rates of growth for such collections.

*Intergovernmental and Private-Sector Impact*

S. 728 contains no intergovernmental or private-sector mandates as defined in UMRA. Federal participation in water resources projects and programs authorized by this bill would benefit State, local, and tribal governments, and any costs to those governments to comply with the conditions of this Federal assistance would be incurred voluntarily. The bill also would benefit those governments by authorizing additional funds or reducing matching requirements for some specific projects.

Estimate Prepared By: Federal Costs: Julie Middleton, Lisa Cash Driskill, Deborah Reis, and Mike Waters; Impact on State, Local, and Tribal Governments: Marjorie Miller; Impact on the Private Sector: Selena Caldera.

Estimate Approved By: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## NUCLEAR SECURITY ACT

Mr. INHOFE. Mr. President, section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. At the time of filing of the report, the statement was unavailable. The statement has since been received by the committee. I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the material ordered to be printed in the RECORD, as follows:

*S. 864, Nuclear Security Act of 2005, As reported by the Senate Committee on Environment and Public Works on July 1, 2005*

*Summary*

S. 864 would amend the Atomic Energy Act of 1954 to establish several new programs designed to protect the nation's nuclear infrastructure. Based on information from the Nuclear Regulatory Commission (NRC), CBO estimates that implementing S. 864 would have a gross cost of $10 million in 2006 and $64 million over the 2006–2010 period. Under current law, the NRC is authorized to collect fees to offset 90 percent of most of its budget authority provided from the general fund (a portion of funds are provided from the Nuclear Waste Fund) in 2005 and 33 percent for each year after 2005. After accounting for those collections, CBO estimates that S. 864 would have a net cost of $5 million in 2006 and $41 million over the 2006–2010 period.

S. 864 would impose both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) by requiring expanded security procedures at certain nuclear facilities, new guidelines for tracking spent fuel rods and segments at nuclear power plants, and a mandatory tracking system for radiation sources in the United States. The bill also would impose a private-sector mandate on persons who import and export radiation sources by requiring them to meet new requirements. Finally, the bill would preempt State laws restricting the use and transport of certain firearms and may preempt State regulation of the disposal of certain types of byproduct material by transferring that authority to the NRC. CBO estimates that the aggregate cost of the mandates in the bill would be below the annual thresholds established in UMRA for intergovernmental mandates ($62 million in 2005, adjusted annually for inflation) and for private-sector mandates ($123 million in 2005, adjusted annually for inflation).

*Estimated Cost to the Federal Government*

The estimated budgetary impact of S. 864 is shown in the following table. The costs of this legislation fall within budget function 270 (energy).

[By fiscal year, in millions of dollars]

| | 2006 | 2007 | 2008 | 2009 | 2010 |
|---|---|---|---|---|---|
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | |
| Evaluation of Security-Response Plans: | | | | | |
| Estimated Authorization Level | .......... | 6 | 6 | 6 | 6 |
| Estimated Outlays | 5 | 5 | 6 | 6 | 6 |
| Radiation Source Tracking System: | | | | | |
| Estimated Authorization Level | 5 | 6 | 4 | 4 | 4 |
| Estimated Outlays | 4 | 5 | 4 | 4 | 4 |
| Treatment of Radioactive Byproduct: | | | | | |
| Estimated Authorization Level | 1 | 6 | 3 | 3 | 3 |
| Estimated Outlays | 1 | 4 | 3 | 3 | 3 |
| Firearms Use: | | | | | |
| Estimated Authorization Level | 1 | 0 | 0 | 0 | 0 |
| Estimated Outlays | 1 | 0 | 0 | 0 | 0 |
| Gross Changes: | | | | | |
| Estimated Authorization Level | 14 | 17 | 12 | 12 | 13 |
| Estimated Outlays | 10 | 15 | 13 | 13 | 13 |
| NRC Fee Collection Offset[1]: | | | | | |
| Estimated Authorization Level | −5 | −6 | −4 | −4 | −4 |
| Estimated Outlays | −5 | −6 | −4 | −4 | −4 |
| Net Changes Under S. 864: | 10 | 12 | 8 | 8 | 8 |
| Estimated Outlays | 5 | 9 | 9 | 9 | 8 |

[1] Under current law, collections are authorized at declining percentages of the NRC's budget (90 percent in 2005 and 33 percent after 2005). To estimate the net change in NRC costs under S. 864, that 33 percent rate was applied to the estimated cost of the programs under S. 864.

NOTE: Details may not sum to totals because of rounding.

*Basis of Estimate*

For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2006, that the necessary amounts will be appropriated for each year, and that outlays will occur at historical rates for similar programs.

S. 864 would require the NRC to update and adopt rulemakings and programs related to security at the nation's nuclear power plants. The bill would set new criteria for preparing and evaluating security response plans at nuclear facilities, require a tracking system for radiation sources, and set requirements for the transport and disposal of radioactive byproduct material, firearms use by certain security personnel, background checks for certain security personnel, and guidelines for tracking the location of spent fuel rods. Under current law, the NRC is authorized to collect annual fees to offset 90 percent of most of its general fund appropriation. When this authority expires at the end of fiscal year 2005, the NRC will be authorized to collect annual user fees from its licensees of up to only 33 percent of its budget.

Based on information from the NRC, CBO estimates that implementing S. 864 would have a gross cost of $64 million over the 2006–2010 period, assuming appropriation of the necessary amounts. After accounting for offsetting collections, CBO estimates that S. 864 would have a net cost of $41 million over the 2006–2010 period.

EVALUATION OF SECURITY-RESPONSE PLANS

S. 864 would require the NRC to evaluate the security response plans at designated nuclear facilities at least once every 3 years. The evaluations would simulate the threats that nuclear facilities must be able to defend against. We expect that the NRC would use contractors to conduct mock exercises known as force-on-force. Under S. 864, the NRC also would revise its "design basis threats" or the attack scenario nuclear facilities must be capable of defeating. Based on information from the NRC, CBO estimates that the NRC would incur a gross cost of about $5 million in 2006 and $27 million over the 2006–2010 period to revise those requirements.

RADIATION SOURCE TRACKING SYSTEM

Under S. 864, the NRC would have to establish a system for tracking radiation sources in the United States that is compatible with the Secretary of Transportation's tracking system of radiation shipments. S. 864 also would establish a task force on radiation source protection and security to recommend measures to protect radiation sources from potential terrorist threats. The bill also would require the National Academy of Sciences to conduct a study on the industrial, research, and commercial uses for radiation sources. Based on information from the NRC, CBO estimates that this program would have a gross cost of $4 million in 2006 and $21 million over the 2006–2010 period.

TREATMENT OF RADIOACTIVE BYPRODUCT MATERIAL

S. 864 would establish regulations for the transport and disposal of radioactive byproduct material and expand the definition of radioactive byproduct material to include naturally occurring or accelerator-produced radioactive material (known as NARM). Under current law, 35 States have entered into agreements with the NRC that authorize them to treat and dispose of certain radioactive byproduct materials, including NARM. S. 864 would require the NRC to prepare a transition plan for States to transfer regulatory authority over NARM byproducts to the NRC. CBO estimates that the NRC would incur a gross cost of $14 million over the 2006–2010 period to oversee disposal of NARM in the 15 States without waste disposal agreements with the NRC. Under the bill, those States may opt to obtain a waiver allowing them to retain oversight of NARM disposal. In that event, NRC costs would be lower.

FIREARMS USE AND BACKGROUND CHECKS

S. 864 would authorize the NRC to permit certain security employees at nuclear facilities to use several types of firearms and would establish guidelines for checking the background of those security personnel. Based on information from the NRC, CBO estimates that the one-time cost of establishing those procedures would be about $1 million in 2006.

*Intergovernmental and Private-Sector Impact*

S. 864 would impose both intergovernmental and private-sector mandates as defined in UMRA by:

Increasing costs borne by licensees to pay for fingerprint checks by increasing the number of individuals requiring background checks;

Requiring certain nuclear sites to correct any security defects identified during NRC's force-on-force security evaluations;

Establishing new guidelines for tracking and controlling individual spent fuel rods and segments by nuclear power plants; and

Requiring NRC licensees that possess or transport certain radiation sources to identify those sources and report any loss or change in the location to the NRC.

The bill also would impose an additional private-sector mandate on individuals who import and export radiation sources by requiring them to meet new requirements. The bill would impose an additional intergovernmental mandate by preempting State laws restricting the use and transport of certain firearms, and may preempt State regulation of the disposal of certain types of byproduct material by transferring that authority to the NRC. CBO estimates that the aggregate cost of the mandates in the bill would be below the annual thresholds established in UMRA for intergovernmental mandates ($62 million in 2005, adjusted annually for inflation) and for private-sector mandates ($123 million in 2005, adjusted annually for inflation).

REQUIREMENTS ON NRC LICENSEES

Additional Fee for Background Checks. Section 103 would require fingerprinting of additional individuals connected with nuclear facilities (public and private) as part of criminal background checks done through the U.S. Attorney General's Office. The cost of the government background checks would be borne directly by licensees. The duty to pay the increased cost would be both a private-sector and intergovernmental mandate under UMRA, but because the cost of each background check is small and many persons associated with nuclear facilities have already undergone background checks, CBO estimates that the aggregate cost of the mandate would be small.

Security Evaluations. Section 104 would require the NRC to conduct security-response evaluations at certain nuclear facilities. Those evaluations would include force-on-force exercises and would require facilities to remedy any defects. Given that NRC is already conducting those evaluations, CBO estimates that the incremental costs of such legislated requirements would be minimal.

New Tracking System for Spent Fuels Rods and Segments. Section 109 would require NRC to establish uniform guidelines for tracking and controlling spent fuel rods and segments at nuclear power plants. Current NRC regulations include similar guidelines for tracking and controlling spent fuel rods and segments, and CBO estimates that any additional cost to NRC licensees resulting from this provision would be minimal.

New Tracking System for Radiation Sources. Section 201 would direct the NRC to establish a mandatory tracking system for category 1 and 2 radiation sources (as defined by the International Atomic Energy Agency) in the United States. Category 1 and 2 radiation sources are held by both public and private NRC licensees and are used for medical and industrial purposes. The tracking system would include identification by serial number, reporting of changes in ownership or location of radiation sources, reporting of lost sources, and reporting through a secure Internet connection. According to the NRC, identification of radiation sources already is being done to some extent, and the agency expects to take on most of the cost of creating the tracking system. Based on this information, CBO expects that, while there would be some personnel costs for certain NRC licensees to comply with the monitoring and reporting requirements of the new tracking system, any additional costs would be small.

### REQUIREMENTS ON IMPORTERS AND EXPORTERS OF RADIATION SOURCES

Section 201 would prohibit the import and export of radiation sources in the United States unless certain requirements are met. The bill would require that exporters of radiation sources verify that the recipient country may receive and possess the radiation source and has the capability to securely manage the source; send notice to the recipient country prior to shipment; and obtain notification upon receipt of the shipment. Importers of radiation sources would be required to prove that they are lawfully authorized by the NRC to receive the radiation source. Those requirements would constitute private-sector mandates under UMRA. However, the costs of those mandates would be small. According to NRC, similar regulations already have been proposed by the agency. An analysis of those proposed regulations by the Office of Management and Budget indicates that the aggregate cost to all importers and exporters would be approximately $130,000 annually.

### PREEMPTIONS OF STATE LAWS AND REGULATIONS

Authorization of Firearm Possession. Section 102 would preempt State laws restricting the use and transport of certain firearms. That provision would expand existing NRC authority that allows the agency to authorize certain security employees to use and transport several types of firearms, regardless of State or local regulations. Such a preemption would not impose significant costs on State or local governments.

Waste Disposal Provisions. Depending on future action by the NRC, section 202 could preempt State regulation of the disposal of certain types of radioactive byproduct material. Specifically, this section of the bill would transfer regulatory authority for the disposal of naturally occurring and accelerator-produced radioactive byproduct material to the NRC. Currently, States have this authority by default because the NRC does not expressly regulate such material. For those States with direct agreements with the NRC (agreement States), the authority to regulate the disposal of NARM would be returned to the State per those agreements. However, in non-agreement States, that authority would remain with the NRC. NRC sources have expressed an intent to maintain the status quo across all States for the disposal of NARM, and therefore, CBO estimates that the costs of this potential preemption would be insignificant.

*Previous CBO Estimate*

On April 19, 2005, CBO transmitted a cost estimate for H.R. 1640, the Energy Policy Act of 2005, as ordered reported by the House Committee on Energy and Commerce on April 13, 2005. S. 864 includes provisions similar to sections 662 through 665 of H.R. 1640. The estimated costs for those similar provisions are identical.

Estimate Prepared By: Federal Costs: Lisa Cash Driskill and Jimin Chung; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branum and Ian Rudge; Impact on the Private Sector: Selena Caldera.

Estimate Approved By: Peter Fontaine, Deputy Assistant Director for Budget Analysis.

## NUCLEAR FEES REAUTHORIZATION ACT

Mr. INHOFE. Mr. President, section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. At the time of filing of the report, the statement was unavailable. The statement has since been received by the committee. I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

*S. 858, Nuclear Fees Reauthorization Act of 2005, As ordered reported by the Senate Committee on Environment and Public Works on June 8, 2005*

*Summary*

CBO estimates that the net cost of implementing S. 858 would be $2 million in fiscal year 2006 and about $10 million over the 2006–2010 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or revenues.

Under current law, the Nuclear Regulatory Commission (NRC) is authorized to collect annual fees to offset about 90 percent of its general fund appropriation. If that authority is allowed to expire at the end of fiscal year 2005, the NRC would be authorized to collect only 33 percent of its budget through user fees. S. 858 would extend the NRC's current authority to charge annual fees to offset 90 percent of most of its general fund appropriation through 2011 and also would prohibit amounts appropriated to the NRC for certain specified homeland security activities to be offset with user fees. The fees that NRC collects are classified as offsetting collections (a credit against discretionary spending) because they are explicitly tied to the level of annual discretionary appropriations for the agency.

S. 858 also would authorize the NRC to establish several new initiatives with higher education institutions to enhance employee recruitment. The programs would provide support, such as grants, loans, and equipment to higher education institutions for NRC-related curricula, and for scholarships and fellowships to students potentially seeking careers at NRC. S. 858 also would authorize funding for promotional items used in recruitment, reimbursement of travel expenses for students working with the NRC, medical costs of overseas NRC employees, and mentoring, training, and research programs at Hispanic-serving, historically black, and tribally controlled colleges or universities.

S. 858 contains both an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the costs of the intergovernmental mandate would not exceed the threshold ($62 million in 2005, adjusted annually for inflation) established in that act. CBO cannot determine whether the costs of the private-sector mandate would exceed the annual threshold established in UMRA ($123 million in 2005, adjusted annually for inflation) because UMRA does not specify how CBO should measure the costs of extending an existing mandate. Depending on how they are measured, the costs to the private sector could exceed the threshold.

*Estimated Cost to the Federal Government*

The estimated budgetary impact of S. 858 is shown in the following table. The costs of this legislation fall within budget function 270 (energy).

[By fiscal year, in millions of dollars]

| | 2006 | 2007 | 2008 | 2009 | 2010 |
|---|---|---|---|---|---|
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | |
| Higher Education and Recruitment Programs: | | | | | |
| Estimated Authorization Level | 1 | 6 | 6 | 6 | 6 |
| Estimated Outlays | 1 | 4 | 5 | 6 | 6 |
| NRC Fee Collection Offset[1]: | | | | | |
| Estimated Authorization Level | | | | | |
| Estimated Outlays | −1 | −5 | −5 | −5 | −5 |
| NRC Cost Recovery from Government Agencies: | | | | | |
| Estimated Authorization Level | 2 | 2 | 2 | 2 | 2 |
| Estimated Outlays | 2 | 2 | 2 | 2 | 2 |
| Total Net Change in Discretionary Spending Under S. 858: | | | | | |
| Estimated Authorization Level | 2 | 3 | 3 | 3 | 3 |
| Estimated Outlays | 2 | 1 | 2 | 3 | 3 |

[1] Under current law, collections are authorized at declining percentages of the NRC's budget (90 percent in 2005 and 33 percent after 2005). S. 858 would authorize a 90 percent collection for 2006 to 2011. To estimate the net change in NRC costs under S. 858, 90 percent was applied to the estimated cost of higher education and recruitment programs as authorized by S. 858.

*Basis of Estimate*

For this estimate, CBO assumes that the bill will be enacted near the start of fiscal year 2006, that the necessary amounts will be appropriated for each year, and that outlays will occur at historical rates.

S. 858 would establish new initiatives with higher education institutions and recruitment efforts at the NRC. The bill would make changes to the NRC's authority to collect fees to offset its appropriations. Based on information from the NRC, CBO estimates that the net cost of implementing S. 858 would be $2 million in 2006 and about $10 million over the 2006–2010 period. All budget effects of the bill would be subject to appropriation action.

### HIGHER EDUCATION AND RECRUITMENT PROGRAMS

S. 858 would establish new NRC programs with colleges and universities to enhance employee recruitment. The programs would provide grants, loans, and equipment to higher education institutions for NRC-related curriculum and scholarships and fellowships to students with prospects of future employment at NRC. S. 858 also would authorize funding for promotional items used in recruitment, travel expenses reimbursement for students working with the NRC, medical cost coverage of overseas NRC employees, and various mentoring, training, and research programs at Hispanic-serving, historically black, and tribally controlled colleges or universities. Based on information from the NRC, CBO estimates that implementing higher education and recruitment programs would have a gross cost of $1 million in 2006 and $22 million over the 2006–

2010 period. Under S. 858, the NRC would recover 90 percent of these costs through fees that are credited against its annual appropriations.

### NRC FEES

Under current law, the NRC is authorized to offset 90 percent of most of its budget authority in 2005 and 33 percent for each year after 2005. In 2005, the NRC received a gross appropriation from the general fund of $601 million to be offset by an estimated $541 million from the collection of fees. Such fees are classified as offsetting collections a form of discretionary spending. As is the case under current law for 2005, S. 858 would set fee collection at 90 percent of most of the agency's budget authority provided from the general fund (a portion of funds are provided from the Nuclear Waste Fund) for each year from 2006 through 2011. Under S. 858, the NRC also would be prohibited from recovering costs for certain homeland security activities. For example, for 2006, the NRC requested $31 million for homeland security activities that would no longer be offset by user fees under this bill.

By continuing to authorize fee collections at 90 percent of NRC's annual general fund appropriation, S. 858 would lead to the collection of approximately $550 million in fees in 2006. In contrast, if that 90 percent fee-collection authority were not extended, the portion of spending recoverable through fees would drop to 33 percent, and the amount of fees collected would fall to about $200 million in 2006. Those estimates assume that NRC funding in 2006 is equal to the amounts provided in 2005 with an adjustment for inflation.

### NRC COST RECOVERY

Under current law, the NRC collects fees from its private licensees that offset its annual appropriation. Such fee collection includes the cost of issuing licenses to some government agencies. S. 858 would require that government agencies pay their licensing and regulatory activity fees, rather than the private sector.

Currently, the NRC charges private licensees about $2 million per year for licenses issued to government agencies. Under S. 858, those license fees would come from appropriated funds rather than the private sector; thus, the government would incur a net cost relative to current law to pay them. We estimate that such additional costs would be $2 million in 2006 and $10 million over the 2006-2010 period.

### *Intergovernmental and Private-Sector Impact*

Under current law, the NRC is authorized to collect annual fees from its licensees (public and private) to offset 90 percent of a major portion of its general fund appropriation. CBO estimates that those collections will amount to an estimated $541 million in fiscal year 2005. Those fee collections include the cost of issuing licenses to some Federal agencies. The NRC's authority to collect that level of fees expires at the end of fiscal year 2005. When that authority expires, the NRC will be authorized to collect annual fees up to only 33 percent of its budget. S. 858 would extend the NRC's current authority to charge annual fees to offset 90 percent of its net appropriation through 2011. The duty to pay such fees would be a mandate as defined in UMRA.

The total amount of fees collected under this provision would depend on the level of future appropriations. Assuming appropriations in the amount authorized for 2005, CBO estimates that extending the fees would result in additional collections of more than $300 million in 2006 from industries regulated by the NRC (primarily electric utilities) and similar amounts for fiscal years 2007 through 2010. CBO estimates that most of the annual fees would be paid by private, investor-owned nuclear utilities (less than 5 percent would be paid by nonFederal, publicly owned utilities).

In the case of a mandate that has not yet expired, UMRA does not specify whether CBO should measure the cost of the extension relative to the mandate's current costs or assume that the mandate will expire and that it must measure the costs of the mandate's extension as if the requirement were new. Measured against the costs that would be incurred if current law remains in place and the annual fee declines, the total cost to the private sector of extending this mandate would be close to $300 million annually, beginning in fiscal year 2006. Measured that way, the cost of the mandate would exceed the annual threshold for the private sector as defined in UMRA. By contrast, measured against the fees paid for fiscal year 2005, the mandate would impose no additional costs on the private sector because the fees under the bill would not differ much from those currently in effect. In any case, CBO estimates that the total costs to State, local, and tribal governments would be small relative to the threshold for intergovernmental mandates.

Estimate Prepared By: Federal Costs: Lisa Cash Driskill and Jimin Chung; Impact on State, Local, and Tribal Governments: Lisa Ramirez-Branun; Impact on the Private Sector: Selena Calera.

Estimate Approved By: Peter Fontaine, Deputy Assistant Director for Budget Analysis.

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## DEATH OF MO MOWLAM

Mr. KENNEDY. Mr. President, last month, sadly, Mo Mowlam, Great Britain's former Secretary of State for Northern Ireland, died after a long and courageous battle with cancer. Mo will long be remembered for her leadership at a critical moment in the history of Northern Ireland. I first met her when she was a member of the Labour Party and her party was in opposition in Parliament. I was delighted when Prime Minister Blair came to power and named her Secretary of State for Northern Ireland. She was a breath of fresh air and quickly won over nearly every Irish American she met. She was exceedingly effective and was the right person for the job at the right time in Northern Ireland. With her remarkable abilities, she created the conditions that led to the historic Good Friday Agreement in 1998. Mo was fair, intelligent, and willing to take risks for peace.

On a personal note, my wife, Vicki, and I will always warmly recall our visit with Mo, and her husband, Jon Norton, at Hillsborough in Northern Ireland in January 1998.

Irish Senator Martin Mansergh, himself a key player in the Northern Ireland peace process, recently wrote a well-deserved tribute to Mo in the Irish Times, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Irish Times, Aug. 27, 2005]

### MO WAS WILLING TO DIRTY HER HANDS FOR PEACE

(By Martin Mansergh)

A first memory of Mo Mowlam is of a young, newly elected MP accompanying, as deputy, the British Labour Party's Northern Ireland spokesman Kevin McNamara to an Anglo-Irish conference in Ditchley Park, Oxfordshire.

The British have an inexhaustible belief in country house diplomacy to solve problems like Northern Ireland in an atmosphere cut off from the modem world. Its efficacy was not evident on that occasion.

When John Smith died tragically in 1994, Mo Mowlam, a fellow north of England MP, was a principal lieutenant of Tony Blair in his leadership campaign. Her reward in being appointed Northern Ireland spokeswoman marked a shift away from the moderate pro-nationalist stance of McNamara and Labour's formal policy through the 1980s of Irish unity by consent.

Whether Labour would ever have been active persuaders for unity is doubtful. That policy was devised as a means of containing pressure from the Labour left for "troops out" and British withdrawal. By 1994, after the Downing Street Declaration, Labour adjusted its position to broad bipartisanship with the John Major government, both on constitutional principles and tactics.

Mo Mowlam did her homework while in opposition, studying the issues, attending conferences, meeting different parties, and acting as conduit to Tony Blair. Unwilling to open any flank for attack that might endanger election victory, Labour refrained from criticising the Tory mishandling of the peace process which contributed to, even if it was not responsible for, the breakdown of the first ceasefire. Labour kept its powder dry, and by the 1997 general election had become almost as acceptable to unionism as the outgoing Conservative administration.

Mo Mowlam became Northern Ireland Secretary of State, and held office during the crucial 12-month period that began with restoration of the IRA ceasefire in July 1997. With Irish help, Labour worked round the demand for immediate decommissioning that was a roadblock to progress at that stage.

She kept her cool in the conference room in July 1997 and gave nothing away when Conor Cruise O'Brien, sitting alongside Robert McCartney on the UKUP delegation, sought formal repudiation of more radical views she had once held on Ireland. Further negotiations at Stormont created conditions of engagement from late September in multi-party talks chaired by former U.S. Senator George Mitchell that included Ulster Unionists, loyalists and Sinn Féin, as well as the SDLP, Alliance and Women's Coalition.

As incoming Secretary of State, she made every attempt to be even-handed, and was prepared to be as sympathetic and receptive to unionist as to nationalist and republican views. Her eventual decision to let the Drumcree parade through in 1997 (for the last time) was evidence of that.

Much of the comment about her focuses more on style than substance. Her casual manner and outspoken language were something that not all British civil servants, used to the traditional patrician style exemplified by Sir Patrick Mayhew, appreciated. The Irish delegation had few problems on that

> front, though occasionally she made even Ray Burke look fastidious.
>
> She was a culture shock to the Ulster Unionist Party, as to some extent was Liz O'Donnell. If Mo Mowlam ended up closer to nationalists, it was because unionists left her little choice, by increasingly refusing to deal substantively with her.
>
> They bypassed her with impunity, by constant recourse to No 10 Downing Street—if not Tony Blair himself, his diplomatic adviser John Holmes, who provided reassuring continuity for them from John Major's time.
>
> Nevertheless, with the help of minister of state Paul Murphy, and partnered on the Irish side by David Andrews, she kept the talks on the road over a difficult eight-month period, even if many strategic negotiations also took place between Downing Street, the NIO, the Taoiseach's Office, Foreign Affairs and Justice. Mo Mowlam made an important and courageous decision to go into the Maze to see loyalist prisoners, when their ceasefire appeared to be collapsing in January 1998, following several murders.
>
> Not only did she hold the ring, albeit with difficulty, but it was the moment the British system realised that agreement would only happen if it involved a radical programme to release paramilitary prisoners, however awful their convictions. She well understood that to obtain peace one had to be prepared to get one's hands dirty.
>
> In the last hours of the Good Friday negotiations, she sat with the Taoiseach Bertie Ahern (and this columnist) listening interminably to some 77 unsatisfied demands by Sinn Féin, all requiring answers, not least to satisfy large backroom teams.
>
> While the Government had always striven for agreement bringing everyone present on board, the point had been reached, where, if necessary, continued Government credibility would have required agreement without Sinn Féin (already geared to campaign against changes to Articles 2 and 3).
>
> Mo Mowlam, like the Taoiseach, favoured retaining a special electoral system, which would, most likely, have secured a place in the Assembly for both the Women's Coalition and the loyalists. The loyalist parties mistakenly believed they did not need such arrangements to stay out of the cold, creating problems to this day.
>
> The Good Friday agreement is Britain's finest achievement so far in relation to Ireland. Mo Mowlam is entitled to full credit for her part in that, as the following Labour Party conference affirmed with thunderous applause. It is almost always a mistake for a minister to challenge the prime minister, and she was easily undermined by those who coveted her post for Peter Mandelson. His main positive contribution, in late 1999, was to persuade Ulster Unionists to let the institutions start, however temporarily.
>
> Apart from her deserved place in British Labour Party folklore, Mo Mowlam's courage and down-to-earth approach will ensure that she long retains a warm place in the memory of most Irish people.

## COMMEMORATION OF 50TH ANNIVERSARY OF THE GREAT LAKES COMMISSION

Mr. LEVIN. Mr. President, this year marks the 50th anniversary of the Great Lakes Commission. The Great Lakes Commission is a bi-national agency working to improve the Great Lakes and the region. The Commission promotes the orderly and comprehensive development, use and conservation of the Great Lakes basin, its tributaries and the St. Lawrence River. Its members include the eight Great Lakes States, Illinois, Indiana, Michigan, Minnesota, Ohio, New York, Pennsylvania and Wisconsin, with associate member status for the Canadian provinces of Quebec and Ontario.

Since its establishment in 1955, the Great Lakes Commission has been a pioneer in applying principles of sustainability to the natural resources of the Great Lakes basin and St. Lawrence River. The Commission promotes the paired goals of environmental protection and economic improvement and has built its reputation on an integrated and objective approach to public policy issues and opportunities.

When the Great Lakes Commission was founded in 1955, the Great Lakes region was about to gain greater regional and economic importance; St. Lawrence Seaway was close to completion. With a greater influx of commercial activity along the waters, there was a collaborative desire in the region to form an organization whose task would be to promote the development, use and conservation of the Great Lakes Basin while making it possible for the States to derive maximum benefit from its resources. Additionally, the Commission was to serve as an advisory agency of the States and Federal Government. In 1954, at the Great Lakes Seaway and Water Resources Conference the notion of creating a State and provincial compact was discussed. In the following year, the eight Great Lakes States all passed legislation to establish the Commission.

Congressional ratification did not come until 1968 after jurisdiction over the type of consultation the Commission would be able to provide to both the U.S. and Canada had been addressed.

Over the years, the Great Lakes Commission has been responsible for providing a unified voice, quality research, and sound advice for the Great Lakes region. Among its accomplishments are the establishments the Great Lakes Regional Water Use Database, the Great Lakes Basin Program for Soil Erosion and Sediment Control, the Great Lakes Information Network, the Michigan Water Corps, and Great Lakes St. Lawrence Mayors' Conference. I would just like to share briefly with my colleagues a bit about these great programs.

In 1988, the Great Lakes Regional Water Use Database was one of the first compilations of its sort. It provides a comprehensive collection of information on the region's water use, including reports, charts and other publications. Today, it is just one of many database and monitoring programs initiated by the Great Lakes Commission.

The Great Lakes Basin Program for Soil Erosion and Sediment Control works in partnership with the U.S. Department of Agriculture, the EPA and the U.S. Army Corps of Engineers. It was created in 1991 to prevent further soil erosion and sedimentation from damaging the Great Lakes waters by using educational and financial tools. This program has already saved more than 650,000 tons of soil and prevented 487 tons of nitrogen and 674 tons of phosphorus from flowing into the waterways.

The Great Lakes Information Network is an online database that combines economic, environmental, travel, and educational information about the Great Lakes. It is a premier search engine on information regarding the region and has won numerous awards. The Commission's work to establish and maintain such a network is invaluable to those who need data and research on the Great Lakes.

Recently, the Michigan Clean Water Corps has also joined the long list of successful programs supported by the Great Lakes Commission. The Clean Water Corps was established in 2003 by executive order from Governor Jennifer Granholm to work in partnership with the Huron River Watershed Council and the Michigan Department of Environmental Quality. The goal of the Corps is to provide volunteers with training to monitor and distribute information on the water quality of the waters around Michigan and to provide educational tools to assist in creating an informed public.

In 1987, the Commission brought together the regional mayors to meet about Great Lakes issues for the first time. The Commission helped promote the idea that the mayors in the Great Lakes region could unite and be a driving political force. This annual conference also provides a forum for the mayors of the Great Lakes region to share ideas to address the area's problems.

These are just a few of the programs that the Great Lakes Commission oversees and implements. As they continue these initiatives in the coming years, they will also focus more on sustainability and growth.

The Great Lakes Commission is vital for the health and future of the Great Lakes. I would like to thank the Great Lakes Commission for the wonderful work they have done over the past 50 years and congratulate them on reaching this milestone. I hope that my colleagues will join me in expressing that appreciation.

## ADDITIONAL STATEMENTS

## IN REMEMBRANCE OF BENJAMIN AARON BENJAMIN

• Mr. LEVIN. Mr. President, I would like to take this opportunity to pay tribute to Benjamin Aaron Benjamin, a great musician and teacher, who passed away at the age of 40 on May 22, 2005. Mr. Benjamin was well respected in the Detroit community and dedicated his life to sharing the gift of music with others. He will be sorely missed by those whose lives he has touched.

Benjamin Aaron Benjamin, who learned to play the piano at a very young age, was born in Stamford, CT on March 8, 1965, to James and Rebekah Benjamin. He attended the Hart School of Music and was a concert pianist who devoted much of his time to instilling in children his love of music. He founded the Benjamin Conservatory of Music in 2002 to provide music education to the people of the greater Detroit area.

He is mourned by his family, former students, and many people across my home State of Michigan. Benjamin is survived by his parents, his daughter, Yasmine, and his seven siblings: James, John, Mark, Richard, Chandler, Grace, and Myah.

This is, indeed, a great loss to all who knew him and to those who have benefitted from his talent and love of music. I know my colleagues will join me in paying tribute to the life and work of Benjamin Aaron Benjamin. I hope his family takes comfort in knowing that his legacy will be passed on through the music he loved so much and by the many whose lives have been enriched by his efforts.•

## TRIBUTE TO MR. J. GEORGE MITNICK

• Mr. SHELBY. Mr. President, I rise today to pay tribute to a good friend, George Mitnick, who I have known for more than a quarter-century. He passed away on August 6, 2005, at the age of 87, and I would like to take this opportunity to honor his life.

A devoted family man, George was married for 61 years to Willine Engel Mitnick. Together, they raised two daughters, Ronne Mitnick Hess and Karen Mitnick. He and his wife resided in Jasper, AL, until his passing.

George was born in Hartford, CT, on December 21, 1917, and attended college at the University of Connecticut. Upon graduation, he enlisted in the military and served in World War II. He was a captain in the 65th Infantry Division in the European Theatre and received two Bronze Stars for his service.

George Mitnick was very devoted to charitable efforts, making generous contributions in money, time and energy. Some of those organizations included United Cerebral Palsy and the United States Holocaust Memorial Museum in Washington, DC. In addition, much of his philanthropic work was aimed at young people. Both the Mitnick Fellowship Fund and the Mitnick Wilderness Boot Camp helped youth in Alabama.

Well known as a business leader, he was a co-founder of Top Dollar Stores in the 1950s. The company, which expanded to over 250 stores, was acquired by Sav-A-Stop Company, and George served on the company's board of directors and on its executive committee. He also served as a director of the First National Bank of Jasper and First Commercial Bankshares.

George was very active in civic, professional and political organizations. He was committed to making a difference across the State of Alabama, dedicating much of his time to community organizations. He served as president of the Alabama Retail Association, the Jasper Chamber of Commerce and the Jasper Rotary Club. He was instrumental in founding the Walker Area Community Foundation and the Walker College Civic Concert Association.

He served on a number of boards including the Northwest Alabama Mental Health Center, the Walker County Association of Retarded Citizens, Walker Junior College and Walker Regional Medical Center. He was also very involved in the political process, playing an integral role in Americans for Good Government.

Active in the Jewish community in Alabama and across the nation, George served as president of the Temple Emanu-El in Jasper, AL and the Walker County Lodge of B'nai B'rith. In 2003, he was named "Man of the Year" by the American Israel Public Affairs Committee, where he also served as a member of the executive board.

George Mitnick gave of himself so selflessly to the Jasper community and the State of Alabama. We are better off for having him a part of our State and our country, and I am fortunate to have known him and called him a friend. My deepest sympathies are extended to his wife, Willine, and his daughters, Karen and Ronne. May this tribute, in a small way, honor his life and memory.•

## TRIBUTE TO GENERAL JOHN W. HANDY

• Mr. CHAMBLISS. Mr. President, it is my honor and privilege today to pay tribute to a leader and warrior, General John W. handy, Commander, United States Transportation Command, USTRANSCOM, and Commander, Air Mobility Command, AMC. General Handy is retiring after honorably serving this great Nation for over 38 years.

General Handy was commissioned in the U.S. Air Force in 1967 and received his pilot wings in 1968. He has accumulated over 5,000 hours piloting just about every mobility aircraft in the U.S. Air Force, to include the C–7A Caribou, the C–130 Hercules, the C–141 Starlifter, the C–37 Gulfstream V, the C–9 Nightingale, the KC–10 Extender, and the Nation's newest mobility airlifter, the C–17 Globemaster III. His hands-on performance, sound judgment, and expertise have made him an exceptional Air Force leader.

General Handy commanded the 21st Air Force at McGuire Air Force Base. He created and commanded AMC's Tanker Airlift Control Center. He also commanded two airlift wings and a maintenance squadron. He previously served as the Director of Operations and Logistics for USTRANSCOM; the Air Force's Director of Programs and Evaluations; the Deputy Chief of Staff, Installations and Logistics, Headquarters U.S. Air Force, Washington, DC; and Vice Chief of Staff, Headquarters U.S. Air Force, Washington, D.C. It is clear that General Handy is the preeminent mobility and logistics expert in the Department of Defense.

In November 2001, General Handy assumed command of USTRANSCOM at Scott Air Force Base, Illinois, responsible for executing mobility combat operations through three component commands: The Air Force's AMC, the Navy's Military Sealift Command, MSC, and the Army's Military Surface Deployment and Distribution Command, SDDC. General Handy has had the unique distinction of simultaneously commanding both USTRANSCOM and its air component command, AMC. USTRANSCOM provides the synchronized transportation, distribution, and sustainment which projects and maintains our national power. As a global combatant commander, General Handy has made supporting the American warfighter his top priority.

Since the tragic events of 11 September 2001, USTRANSCOM, under General Handy's leadership, has moved over 2.4 million passengers, 6.4 million short tons of cargo, and 2.8 billion gallons of fuel in support of the Global War on Terrorism, including Operation Noble Eagle, Operation Enduring Freedom, and Operation Iraqi Freedom. To put this in perspective, the passenger movement is equivalent to moving the entire population of Kansas while the cargo movement is equivalent to moving over 70 Washington monuments halfway around the world. General Handy, an avid NASCAR racing fan, is fond of stating the amount of fuel moved could run the NEXTEL Cup Series for the next 19,473 years.

America truly has a military deployment and distribution system that is unmatched anywhere in the world. America's military might moves with USTRANSCOM, but so too does its heart. As quick as we are to defend this great Nation, Americans are just as quick to assist those in need; and when we do, we turn to the remarkable capabilities of USTRANSCOM. Under General Handy's command, USTRANSCOM has provided humanitarian relief to hurricane victims in the United States, earthquake victims in Iran, and tsunami victims in South Asia, just to name a few. The medicines, supplies, equipment, and personnel that USTRANSCOM delivered to these and other natural disasters ultimately saved lives and eased human suffering.

In addition to conducting the largest military movement since World War II and providing unparalleled humanitarian relief, General Handy has made it a priority to transform our Nation's deployment and distribution system, ensuring our ability to project national power where needed with the greatest speed and agility, the highest efficiency, and the most reliable level of trust and accuracy. As the USTRANSCOM commander, General Handy actively took on the role of the distribution process owner for DOD, charged with improving efficiency and interoperability across the entire DOD supply chain. His initiative to develop Joint Deployment and Distribution Operations Centers JDDOCs, in each of the regional combatant commands continues to improve combat capability and save valuable resources. Regional combatant commanders can now plug into the DOD supply chain system, track their requirements, and prioritize their actions. The net result is that troops and equipment are now arriving to the battlefield faster and at less cost. While meeting the needs of the warfighter, General Handy's distribution process owner improvements have saved almost one-half billion dollars in the global war on terror.

General Handy will be the first to tell you he did not accomplish these feats alone. General Handy has led the way in seeking collaborative joint solutions to today's complex combat issues. Those who worked for him and with him, military and civilians from every branch of Service, will miss his leadership and mentorship. They will miss the stories and humor he used to get his message across. In Congress, we will miss his straightforward approach and sound counsel. The Nation will miss his devotion to duty, ceaseless drive for improvement, and unwavering support to our warfighters.

General Handy will be remembered as the man who brilliantly led our Nation's mobility forces during the global war on terrorism. I know we speak on behalf of our colleagues and a grateful Nation in saying thank you to General Handy and his wife, Mickey, for their years of service and sacrifice. We wish General Handy and his wife, Mickey, all the best in future endeavors and pray that those who follow in your footsteps may continue the legacy of unprecedented support to our great Nation. Good luck and Godspeed.●

## HONORING THE EMPLOYEES OF THE MOTHER'S COOKIE COMPANY AND WAMZ-FM RADIO IN LOUISVILLE, KY

● Mr. BUNNING. Mr. President, I wish to recognize the employees of the Mother's Cookie Company and WAMZ-FM Radio in Louisville, KY, for their commitment to philanthropy through their participation in a charity softball game to benefit St. Jude Children's Research Hospital.

The employees from Mother's Cookie Company assembled a team to take on the WAMZ-FM Hamz softball team. For the past 2 years, this Louisville radio station has assembled players to compete against area businesses willing to provide a location, umpires, and players to raise money to benefit the St. Jude Children's Hospital. While the team from Mother's Cookies lost a close game by a score of 7–8, they won big raising money for St. Jude's Children's hospital. Their donation of $1.264.65 was the largest single game donation generated this season.

I believe the employees of these two companies in Louisville are examples of how every American can contribute to the care and maintenance of community by participating in activities that bring people together, and unselfishly dedicating their time and resources to a worthy cause. Companies that give back to the community and employees who share their time with others form the backbone of the American economy, and are the foundation of a strong neighborhood. The men and women who work at the Mother's Cookie Company not only took the time to raise money for medical research, but also bake more than 60 percent of the Girl Scout cookies in America throughout the year.

I commend the employees of Mother's Cookie Company and WAMZ-FM Radio in Louisville, KY, for their dedication to community service. They are an inspiration to the citizens of Kentucky, and I thank them for their generosity.●

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1265. A bill to make grants and loans available to States and other organizations to strengthen the economy, public health, and environment of the United States by reducing emissions from diesel engines (Rept. No. 109–133).

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1021. A bill to reauthorize the Workforce Investment Act of 1998, and for other purposes (Rept. No. 109–134).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. CANTWELL (for herself and Mr. BROWNBACK):

S. 1618. A bill to regulate international marriage broker activity in the United States, to provide for certain protections for individuals who utilize the services of international marriage brokers, and for other purposes; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S. 1619. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require local educational agencies and schools to implement integrated pest management systems to minimize the use of pesticides in schools and to provide parents, guardians, and employees with notice of the use of pesticides in schools, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. REID (for Mr. CORZINE (for himself, Mr. REID, Mrs. CLINTON, Mr. BROWNBACK, Mr. DODD, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LIEBERMAN, and Mr. FEINGOLD)):

S. 1620. A bill to provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11, 2001, terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, and for other purposes; to the Committee on the Judiciary.

By Ms. COLLINS (for herself, Mr. WARNER, and Ms. LANDRIEU):

S. 1621. A bill to amend the Internal Revenue Code of 1986 to increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses; to the Committee on Finance.

By Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. REED, Mr. SALAZAR, Mr. OBAMA, and Mrs. BOXER):

S. 1622. A bill to establish a congressional commission to examine the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States especially in the States of Louisiana, Mississippi, Alabama and other areas impacted in the aftermath and make immediate corrective measures to improve such responses in the future; to the Committee on Homeland Security and Governmental Affairs.

By Mr. LAUTENBERG:

S. 1623. A bill to suspend temporarily the duty on Lewatit; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 1624. A bill to suspend temporarily the duty on certain chemicals; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 1625. A bill to extend the temporary suspension of duty on certain ion-exchange resins; to the Committee on Finance.

By Mr. LAUTENBERG:

S. 1626. A bill to suspend temporarily the duty on certain vinyl chloride-vinyl acetate copolymers; to the Committee on Finance.

By Mr. CARPER (for himself and Mr. BIDEN):

S. 1627. A bill to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing a unit of the National Park System in Delaware; to the Committee on Energy and Natural Resources.

By Mr. MARTINEZ (for himself and Mr. VITTER):

S. 1628. A bill to provide the Secretary of Education with waiver authority for students who are eligible for Federal Pell Grants and are adversely affected by a natural disaster; to the Committee on Health, Education, Labor, and Pensions.

By Mr. LEVIN:

S. 1629. A bill to provide the President with authority to temporarily freeze the price of gasoline and other refined products; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. OBAMA:

S. 1630. A bill to direct the Secretary of Homeland Security to establish the National Emergency Family Locator System; to the Committee on Homeland Security and Governmental Affairs.

By Mr. DORGAN (for himself, Mr. Dodd, and Mrs. Boxer):

S. 1631. A bill to amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil and to rebate the tax collected back to the American consumer, and for other purposes; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself, Mr. Reid, Mr. McConnell, Mr. Durbin, Mr. Specter, Mr. Leahy, Mr. Akaka, Mr. Alexander, Mr. Allard, Mr. Allen, Mr. Baucus, Mr. Bayh, Mr. Bennett, Mr. Biden, Mr. Bingaman, Mr. Bond, Mrs. Boxer, Mr. Brownback, Mr. Bunning, Mr. Burns, Mr. Burr, Mr. Byrd, Ms. Cantwell, Mr. Carper, Mr. Chafee, Mr. Chambliss, Mrs. Clinton, Mr. Coburn, Mr. Cochran, Mr. Coleman, Ms. Collins, Mr. Conrad, Mr. Cornyn, Mr. Corzine, Mr. Craig, Mr. Crapo, Mr. Dayton, Mr. DeMint, Mr. DeWine, Mr. Dodd, Mrs. Dole, Mr. Domenici, Mr. Dorgan, Mr. Ensign, Mr. Enzi, Mr. Feingold, Mrs. Feinstein, Mr. Graham, Mr. Grassley, Mr. Gregg, Mr. Hagel, Mr. Harkin, Mr. Hatch, Mrs. Hutchison, Mr. Inhofe, Mr. Inouye, Mr. Isakson, Mr. Jeffords, Mr. Johnson, Mr. Kennedy, Mr. Kerry, Mr. Kohl, Mr. Kyl, Ms. Landrieu, Mr. Lautenberg, Mr. Levin, Mr. Lieberman, Mrs. Lincoln, Mr. Lott, Mr. Lugar, Mr. Martinez, Mr. McCain, Ms. Mikulski, Ms. Murkowski, Mrs. Murray, Mr. Nelson of Florida, Mr. Nelson of Nebraska, Mr. Obama, Mr. Pryor, Mr. Reed, Mr. Roberts, Mr. Rockefeller, Mr. Salazar, Mr. Santorum, Mr. Sarbanes, Mr. Schumer, Mr. Sessions, Mr. Shelby, Mr. Smith, Ms. Snowe, Ms. Stabenow, Mr. Stevens, Mr. Sununu, Mr. Talent, Mr. Thomas, Mr. Thune, Mr. Vitter, Mr. Voinovich, Mr. Warner, and Mr. Wyden):

S. Res. 234. A resolution relative to the death of William H. Rehnquist, Chief Justice of the United States; considered and agreed to.

By Mr. LOTT (for himself, Mr. Dodd, Mr. Cochran, Ms. Landrieu, Mr. Vitter, Mr. Shelby, Mr. Sessions, Mr. Frist, Mr. Reid, Mr. Domenici, Mr. Allard, Mr. Kohl, Mr. Kyl, Mr. Akaka, Mr. Gregg, Mr. Kennedy, Mr. Alexander, Mr. Martinez, Ms. Murkowski, Ms. Collins, Mr. Enzi, Mr. Thomas, Mr. Chambliss, Mr. Carper, Mr. Dorgan, Mr. Lautenberg, Mr. Corzine, Mr. Reed, Mr. Lieberman, Mr. DeWine, Mrs. Hutchison, Mr. Dayton, Mr. Jeffords, Mr. Thune, Mr. Allen, Mr. DeMint, Mr. Coburn, Mr. Burr, Ms. Stabenow, Mr. Pryor, Mr. Bingaman, Mr. Hagel, Mr. Santorum, Mr. Salazar, Mr. Stevens, Mr. Roberts, Mr. Talent, Mr. Kerry, Mrs. Lincoln, Mr. Harkin, Mr. Coleman, Mrs. Dole, and Ms. Cantwell):

S. Res. 235. A resolution to permit the solicitation of donations in Senate buildings for the relief of victims of Hurricane Katrina; considered and agreed to.

## ADDITIONAL COSPONSORS

### S. 103

At the request of Mrs. Feinstein, the names of the Senator from Wisconsin (Mr. Feingold), the Senator from Connecticut (Mr. Dodd) and the Senator from Massachusetts (Mr. Kennedy) were added as cosponsors of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

### S. 337

At the request of Mr. Graham, the name of the Senator from Michigan (Ms. Stabenow) was added as a cosponsor of S. 337, a bill to amend title 10, United States Code, to revise the age and service requirements for eligibility to receive retired pay for non-regular service, to expand certain authorities to provide health care benefits for Reserves and their families, and for other purposes.

### S. 406

At the request of Ms. Snowe, the name of the Senator from Kansas (Mr. Brownback) was added as a cosponsor of S. 406, a bill to amend title I of the Employee Retirement Security Act of 1974 to improve access and choice for entrepreneurs with small businesses with respect to medical care for their employees.

### S. 420

At the request of Mr. Kyl, the name of the Senator from Idaho (Mr. Craig) was added as a cosponsor of S. 420, a bill to make the repeal of the estate tax permanent.

### S. 511

At the request of Mr. DeMint, the name of the Senator from South Dakota (Mr. Thune) was added as a cosponsor of S. 511, a bill to provide that the approved application under the Federal Food, Drug, and Cosmetic Act for the drug commonly known as RU-486 is deemed to have been withdrawn, to provide for the review by the Comptroller General of the United States of the process by which the Food and Drug Administration approved such drug, and for other purposes.

### S. 601

At the request of Mr. Conrad, the names of the Senator from Michigan (Ms. Stabenow) and the Senator from Idaho (Mr. Craig) were added as cosponsors of S. 601, a bill to amend the Internal Revenue Code of 1986 to include combat pay in determining an allowable contribution to an individual retirement plan.

### S. 738

At the request of Mr. Specter, the name of the Senator from Tennessee (Mr. Alexander) was added as a cosponsor of S. 738, a bill to provide relief for the cotton shirt industry.

### S. 772

At the request of Mr. Cornyn, the name of the Senator from Idaho (Mr. Crapo) was added as a cosponsor of S. 772, a bill to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

### S. 889

At the request of Mrs. Feinstein, the name of the Senator from New York (Mrs. Clinton) was added as a cosponsor of S. 889, a bill to amend title 49, United States Code, to require phased increases in the fuel efficiency standards applicable to light trucks, to require fuel economy standards for automobiles up to 10,000 pounds gross vehicle weight, to increase the fuel economy of the Federal fleet of vehicles, and for other purposes.

### S. 935

At the request of Mrs. Feinstein, the name of the Senator from New York (Mr. Schumer) was added as a cosponsor of S. 935, a bill to regulate .50 caliber sniper weapons designed for the taking of human life and the destruction of materiel, including armored vehicles and components of the Nation's critical infrastructure.

### S. 958

At the request of Mr. Sarbanes, the name of the Senator from Virginia (Mr. Allen) was added as a cosponsor of S. 958, a bill to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the States of Maryland and Virginia and the District of Columbia as a National Historic Trail.

### S. 970

At the request of Mrs. Clinton, the name of the Senator from New York (Mr. Schumer) was added as a cosponsor of S. 970, a bill to establish the African Burial Ground National Historic Site and the African Burial Ground International Memorial Museum in New York, New York, and for other purposes.

### S. 1004

At the request of Mr. Allen, the name of the Senator from Wyoming (Mr. Enzi) was added as a cosponsor of S. 1004, a bill to provide the Federal Trade Commission with the resources necessary to protect users of the Internet from the unfair and deceptive acts and practices associated with spyware, and for other purposes.

S. 1014

At the request of Ms. SNOWE, the name of the Senator from Tennessee (Mr. FRIST) was added as a cosponsor of S. 1014, a bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes.

S. 1120

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 1120, a bill to reduce hunger in the United States by half by 2010, and for other purposes.

S. 1123

At the request of Mr. LEVIN, the names of the Senator from Ohio (Mr. VOINOVICH) and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of S. 1123, a bill to suspend temporarily the duty on certain microphones used in automotive interiors.

S. 1244

At the request of Mr. GRASSLEY, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 1244, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term needs.

S. 1272

At the request of Mr. NELSON of Nebraska, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1367

At the request of Mr. ALEXANDER, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1367, a bill to provide for recruiting, selecting, training, and supporting a national teacher corps in underserved communities.

S. 1388

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1388, a bill to amend chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act), to ensure complete analysis of potential impacts on small entities of rules, and for other purposes.

S. 1438

At the request of Mr. THOMAS, his name was added as a cosponsor of S. 1438, a bill to provide for immigration reform.

S. 1442

At the request of Mrs. CLINTON, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1442, a bill to amend the Public Health Service Act to establish a Coordinated Environmental Health Network, and for other purposes.

S. 1462

At the request of Mr. BROWNBACK, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1462, a bill to promote peace and accountability in Sudan, and for other purposes.

S. 1465

At the request of Mr. LAUTENBERG, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1465, a bill to strengthen programs relating to ocean, coastal, and Great Lakes science training by providing coordination of efforts, greater interagency cooperation, and the strengthening and expansion of related programs administered by the National Oceanic and Atmospheric Administration, and to diversify the ocean, coastal, and Great Lakes science community by attracting underrepresented groups.

S. 1496

At the request of Mr. CRAPO, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1496, a bill to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

S. 1504

At the request of Mr. ENSIGN, the name of the Senator from South Carolina (Mr. DEMINT) was withdrawn as a cosponsor of S. 1504, a bill to establish a market driven telecommunications marketplace, to eliminate government managed competition of existing communication service, and to provide parity between functionally equivalent services.

S. 1580

At the request of Mr. AKAKA, the names of the Senator from Maryland (Mr. SARBANES), the Senator from California (Mrs. BOXER) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1580, a bill to improve the health of minority individuals.

S. 1615

At the request of Mrs. CLINTON, the names of the Senator from Rhode Island (Mr. REED), the Senator from California (Mrs. BOXER) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 1615, a bill to establish the Federal Emergency Management Agency as an independent agency, and for other purposes.

S. RES. 184

At the request of Mr. SANTORUM, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. Res. 184, a resolution expressing the sense of the Senate regarding manifestations of anti-Semitism by United Nations member states and urging action against anti-Semitism by United Nations officials, United Nations member states, and the Government of the United States, and for other purposes.

S. RES. 204

At the request of Mr. DURBIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Res. 204, a resolution recognizing the 75th anniversary of the American Academy of Pediatrics and supporting the mission and goals of the organization.

S. RES. 225

At the request of Mrs. MURRAY, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 225, a resolution designating the month of November 2005 as the "Month of Global Health".

S. RES. 227

At the request of Mr. DEWINE, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. Res. 227, a resolution pledging continued support for international hunger relief efforts and expressing the sense of the Senate that the United States Government should use resources and diplomatic leverage to secure food aid for countries that are in need of further assistance to prevent acute and chronic hunger.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LAUTENBERG:

S. 1619. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require local educational agencies and schools to implement integrated pest management systems to minimize the use of pesticides in schools and to provide parents, guardians, and employees with notice of the use of pesticides in schools, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. LAUTENBERG. Mr. President. I rise today to introduce legislation that will help protect our children from the harmful health effects of pesticides. This legislation, a companion bill to Congressman RUSH HOLT's School Environment Protection Act, SEPA, addresses the need for States and local education agencies to protect schoolchildren and school staff from exposure to harmful chemicals in school buildings and on school grounds.

According to the Environmental Protection Agency, EPA, children face higher risks than adults from pesticides because their systems are still developing, and therefore not as capable of detoxification. Pesticide exposure can adversely affect a child's neurological, respiratory, immune, and endocrine systems and has been linked to exacerbated asthma symptoms.

In July of this year, the Journal of the American Medical Association released a study which confirmed that pesticide exposure at schools causes acute illnesses in school employees and students. The study recommends that integrated pest management programs, designed to require less, if any, chemical pesticide application, be used in schools to help keep our children safe and healthy.

Safe alternatives to the use of dangerous chemical pesticides exist. This bill would require all schools, local education agencies, and States to develop school pest management plans that emphasize these safe alternatives, minimizing health damage from pesticides and minimizing economic damage by pests at the same time. This legislation would encourage schools to use techniques that attempt to move away from chemical pesticides where possible, that are proven to be safe and effective, and that involve proper timing and notification of students, families, and school employees in cases when pesticides cannot be avoided.

This bill builds the foundation for a strong working relationship between the Environmental Protection Agency, EPA, and State and local agencies so that they may solve this problem together. The EPA is called upon to develop guidelines with State and local education agencies for school pest management plans. Local education agencies would be required to develop and implement school pest management plans that comply. The EPA would continue to offer program assistance after such plans are implemented.

The Senate passed a similar version of this bill in the 107th Congress, but the full Congress has been slow to act. I sincerely hope that Congress finally acts on this important issue. We must take the advice of scientists, especially considering the ever-growing body of knowledge concerning the effects of harmful chemicals on children, and pass the School Environment Protection Act. Children have the right to learn in a healthy atmosphere. Parents and guardians have the right to know whether their children are to be exposed to toxic chemicals and take mitigating steps. I urge all my colleagues to support the School Environmental Protection Act.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1619

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "School Environment Protection Act of 2005".

### SEC. 2. FINDINGS.

Congress finds that—

(1) in 1992, the National Parent Teacher Association passed a resolution calling for the reduced use of pesticides in schools and calling on policymakers to consider all possible alternatives before using any pesticides;

(2) the National Education Association and many other national public interest organizations have announced support for reducing or eliminating pesticide use in schools;

(3) childhood cancer is continuing to increase at the alarming rate of 1 percent per year;

(4) the overall incidence of childhood cancer increased 10 percent between 1974 and 1991, making cancer the leading cause of childhood death from disease;

(5) approximately 4,800,000 children in the United States under the age of 18 have asthma, the most common chronic illness in children, and the incidence of asthma is on the rise;

(6) children are more susceptible to hazardous impacts from pesticides than are adults;

(7) numerous scientific studies have linked both cancer and asthma to pesticide exposure;

(8) the Environmental Protection Agency has recommended the use of an integrated pest management system by local educational agencies, which emphasizes nonchemical ways of reducing pests, such as sanitation and maintenance;

(9) integrated pest management—

(A) promotes nonchemical methods of pest prevention and management using least toxic pesticides after all other methods have been exhausted; and

(B) requires a notification process by which each student, parent, guardian, staff member, and teacher shall be notified of a pesticide application;

(10) parents and guardians have a right to know that there is an integrated pest management system in their children's schools;

(11) an integrated pest management system provides long-term health and economic benefits; and

(12) parents and guardians wish to and have a right to be notified in advance of any use of a pesticide in their children's schools.

### SEC. 3. INTEGRATED PEST MANAGEMENT SYSTEMS FOR SCHOOLS.

The Federal Insecticide, Fungicide, and Rodenticide Act is amended—

(1) by redesignating sections 34 and 35 (7 U.S.C. 136x, 136y) as sections 35 and 36, respectively; and

(2) by inserting after section 33 (7 U.S.C. 136w-8) the following:

### "SEC. 34. INTEGRATED PEST MANAGEMENT SYSTEMS FOR SCHOOLS.

"(a) Definitions.—In this section:

"(1) Board.—The term 'Board' means the National School Integrated Pest Management Advisory Board established under subsection (c).

"(2) Contact person.—The term 'contact person' means an individual who is—

"(A) knowledgeable about integrated pest management systems; and

"(B) designated by a local educational agency as the contact person under subsection (f).

"(3) Crack and crevice treatment.—The term 'crack and crevice treatment' means the application of small quantities of a pesticide in a building into openings such as those commonly found at expansion joints, between levels of construction, and between equipment and floors.

"(4) Emergency.—The term 'emergency' means an urgent need to mitigate or eliminate a pest that threatens the health or safety of a student or staff member.

"(5) Fund.—The term 'Fund' means the Integrated Pest Management Trust Fund established under subsection (m).

"(6) Integrated pest management system.—The term 'integrated pest management system' means a managed pest control system that—

"(A) eliminates or mitigates economic, health, and aesthetic damage caused by pests;

"(B) uses—

"(i) integrated methods;

"(ii) site or pest inspections;

"(iii) pest population monitoring;

"(iv) an evaluation of the need for pest control; and

"(v) 1 or more pest control methods, including sanitation, structural repair, mechanical and biological controls, other nonchemical methods, and (if nontoxic options are unreasonable and have been exhausted) least toxic pesticides; and

"(C) minimizes—

"(i) the use of pesticides; and

"(ii) the risk to human health and the environment associated with pesticide applications.

"(7) Least toxic pesticides.—

"(A) In general.—The term 'least toxic pesticides' means—

"(i) boric acid and disodium octoborate tetrahydrate;

"(ii) silica gels;

"(iii) diatomaceous earth;

"(iv) nonvolatile insect and rodent baits in tamper resistant containers or for crack and crevice treatment only;

"(v) microbe-based insecticides;

"(vi) botanical insecticides (not including synthetic pyrethroids) without toxic synergists;

"(vii) biological, living control agents; and

"(viii) materials for which the inert ingredients are nontoxic and disclosed.

"(B) Exclusions.—The term 'least toxic pesticides' does not include a pesticide that is determined by the Administrator to be an acutely or moderately toxic pesticide, carcinogen, mutagen, teratogen, reproductive toxin, developmental neurotoxin, endocrine disrupter, or immune system toxin, and any application of the pesticide using a broadcast spray, dust, tenting, fogging, or baseboard spray application.

"(8) List.—The term 'list' means the list of least toxic pesticides established under subsection (d).

"(9) Local educational agency.—The term 'local educational agency' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(10) Person.—The term 'person' means—

"(A) an individual that attends, has children enrolled in, works at, or uses a school;

"(B) a resident of a school district; and

"(C) any other individual that may be affected by pest management activities of a school.

"(11) Official.—The term 'official' means the official appointed by the Administrator under subsection (e).

"(12) Pesticide.—

"(A) In general.—The term 'pesticide' means any substance or mixture of substances, including herbicides and bait stations, intended for—

"(i) preventing, destroying, repelling, or mitigating any pest;

"(ii) use as a plant regulator, defoliant, or desiccant; or

"(iii) use as a spray adjuvant such as a wetting agent or adhesive.

"(B) Exclusion.—The term 'pesticide' does not include antimicrobial agents such as disinfectants or deodorizers used for cleaning products.

"(13) School.—The term 'school' means a public—

"(A) elementary school (as defined in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801));

"(B) secondary school (as defined in section 14101 of that Act); or

"(C) kindergarten or nursery school.

"(14) School Grounds.—

"(A) In general.—The term 'school grounds' means the area outside of the school buildings controlled, managed, or owned by the school or school district.

"(B) Inclusions.—The term 'school grounds' includes a lawn, playground, sports field, and any other property or facility controlled, managed, or owned by a school.

"(15) Space Spraying.—

"(A) In general.—The term 'space spraying' means application of a pesticide by discharge into the air throughout an inside area.

"(B) Inclusion.—The term 'space spraying' includes the application of a pesticide using a broadcast spray, dust, tenting, or fogging.

"(C) Exclusion.—The term 'space spraying' does not include crack and crevice treatment.

"(16) Staff Member.—

"(A) In general.—The term 'staff member' means an employee of a school or local educational agency.

"(B) Inclusions.—The term 'staff member' includes an administrator, teacher, and other person that is regularly employed by a school or local educational agency.

"(C) Exclusions.—The term 'staff member' does not include—

"(i) an employee hired by a school, local educational agency, or State to apply a pesticide; or

"(ii) a person assisting in the application of a pesticide.

"(17) State Educational Agency.—The term 'State educational agency' has the meaning given the term in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(18) Universal Notification.—The term 'universal notification' means notice provided by a local educational agency or school to—

"(A) all parents or guardians of children attending the school; and

"(B) staff members of the school or local educational agency.

"(b) Integrated Pest Management Systems.—

"(1) In general.—The Administrator, in consultation with the Secretary of Education, shall establish a National School Integrated Pest Management Advisory System to develop and update uniform standards and criteria for implementing integrated pest management systems in schools.

"(2) Implementation.—Not later than 18 months after the date of enactment of this subsection, each local educational agency of a school district shall develop and implement in each of the schools in the school district an integrated pest management system that complies with this section.

"(3) State Programs.—If, on the date of enactment of this section, a State maintains an integrated pest management system that meets the standards and criteria established under paragraph (1) (as determined by the Board), a local educational agency in the State may continue to implement the system in a school or in the school district in accordance with paragraph (2).

"(4) Application to Schools and School Grounds.—The requirements of this section that apply to a school, including the requirement to implement an integrated management system, apply to pesticide application in a school building and on the school grounds.

"(5) Application of Pesticides When Schools in Use.—A school shall prohibit—

"(A) the application of a pesticide when a school or a school ground is occupied or in use; or

"(B) the use of an area or room treated by a pesticide, other than a least toxic pesticide, during the 24-hour period beginning at the end of the treatment.

"(c) National School Integrated Pest Management Advisory Board.—

"(1) In general.—The Administrator, in consultation with the Secretary of Education, shall establish a National School Integrated Pest Management Advisory Board to—

"(A) establish uniform standards and criteria for developing integrated pest management systems and policies in schools;

"(B) develop standards for the use of least toxic pesticides in schools; and

"(C) advise the Administrator on any other aspects of the implementation of this section.

"(2) Composition of Board.—The Board shall be composed of 12 members and include 1 representative from each of the following groups:

"(A) Parents.

"(B) Public health care professionals.

"(C) Medical professionals.

"(D) State integrated pest management system coordinators.

"(E) Independent integrated pest management specialists that have carried out school integrated pest management programs.

"(F) Environmental advocacy groups.

"(G) Children's health advocacy groups.

"(H) Trade organization for pest control operators.

"(I) Teachers and staff members.

"(J) School maintenance staff.

"(K) School administrators.

"(L) School board members.

"(3) Appointment.—Not later than 180 days after the date of enactment of this section, the Administrator shall appoint members of the Board from nominations received from Parent Teacher Associations, school districts, States, and other interested persons and organizations.

"(4) Term.—

"(A) In general.—A member of the Board shall serve for a term of 5 years, except that the Administrator may shorten the terms of the original members of the Board in order to provide for a staggered term of appointment for all members of the Board.

"(B) Consecutive terms.—Subject to subparagraph (C), a member of the Board shall not serve consecutive terms unless the term of the member has been reduced by the Administrator.

"(C) Maximum term.—In no event may a member of the Board serve for more than 6 consecutive years.

"(5) Meetings.—The Administrator shall convene—

"(A) an initial meeting of the Board not later than 60 days after the appointment of the members; and

"(B) subsequent meetings on a periodic basis, but not less often than 2 times each year.

"(6) Compensation.—A member of the Board shall serve without compensation, but may be reimbursed by the Administrator for expenses (in accordance with section 5703 of title 5, United States Code) incurred in performing duties as a member of the Board.

"(7) Chairperson.—The Board shall select a Chairperson for the Board.

"(8) Quorum.—A majority of the members of the Board shall constitute a quorum for the purpose of conducting business.

"(9) Decisive votes.—Two-thirds of the votes cast at a meeting of the Board at which a quorum is present shall be decisive for any motion.

"(10) Administration.—The Administrator—

"(A) shall—

"(i) authorize the Board to hire a staff director; and

"(ii) detail staff of the Environmental Protection Agency, or allow for the hiring of staff for the Board; and

"(B) subject to the availability of appropriations, may pay necessary expenses incurred by the Board in carrying out this subtitle, as determined appropriate by the Administrator.

"(11) Responsibilities of the Board.—

"(A) In general.—The Board shall provide recommendations to the Administrator regarding the implementation of this section.

"(B) List of least toxic pesticides.—Not later than 1 year after the initial meeting of the Board, the Board shall—

"(i) review implementation of this section (including use of least toxic pesticides); and

"(ii) review and make recommendations to the Administrator with respect to new proposed active and inert ingredients or proposed amendments to the list in accordance with subsection (d).

"(C) Technical advisory panels.—

"(i) In general.—The Board shall convene technical advisory panels to provide scientific evaluations of the materials considered for inclusion on the list.

"(ii) Composition.—A panel described in clause (i) shall include experts on integrated pest management, children's health, entomology, health sciences, and other relevant disciplines.

"(D) Special review.—

"(i) In general.—Not later than 2 years after the initial meeting of the Board, the Board shall review, with the assistance of a technical advisory panel, pesticides used in school buildings and on school grounds for their acute toxicity and chronic effects, including cancer, mutations, birth defects, reproductive dysfunction, neurological and immune system effects, and endocrine system disruption.

"(ii) Determination.—The Board—

"(I) shall determine whether the use of pesticides described in clause (i) may endanger the health of children; and

"(II) may recommend to the Administrator restrictions on pesticide use in school buildings and on school grounds.

"(12) Requirements.—In establishing the proposed list, the Board shall—

"(A) review available information from the Environmental Protection Agency, the National Institute of Environmental Health Studies, medical and scientific literature, and such other sources as appropriate, concerning the potential for adverse human and environmental effects of substances considered for inclusion in the proposed list; and

"(B) cooperate with manufacturers of substances considered for inclusion in the proposed list to obtain a complete list of ingredients and determine that such substances contain inert ingredients that are generally recognized as safe.

"(13) Petitions.—The Board shall establish procedures under which individuals may petition the Board for the purpose of evaluating substances for inclusion on the list.

"(14) Periodic review.—

"(A) In general.—The Board shall review each substance included on the list at least once during each 5-year period beginning on—

"(i) the date that the substance was initially included on the list; or

"(ii) the date of the last review of the substance under this subsection.

"(B) Submission to Administrator.—The Board shall submit the results of a review under subparagraph (A) to the Administrator with a recommendation as to whether the substance should continue to be included on the list.

"(15) Confidentiality.—Any business sensitive material obtained by the Board in carrying out this section shall be treated as confidential business information by the Board and shall not be released to the public.

"(d) List of Least Toxic Pesticides; Pesticide Review.—

"(1) In general.—The Board shall recommend to the Administrator a list of least toxic pesticides (including the pesticides described in subsection (a)(7)) that may be used as least toxic pesticides, any restrictions on the use of the listed pesticides, and any recommendations regarding restrictions on all other pesticides, in accordance with this section.

"(2) Procedure for evaluating pesticide use.—

"(A) List of least toxic pesticides.—

"(i) In general.—The Administrator shall establish a list of least toxic pesticides that may be used in school buildings and on school grounds, including any restrictions on the use of the pesticides, that is based on the list prepared by the Board.

"(ii) Regulatory review.—The Administrator shall initiate regulatory review of all other pesticides recommended for restriction by the Board.

"(B) Recommendations.—Not later than 1 year after receiving the proposed list and restrictions, and recommended restrictions on all other pesticides from the Board, the Administrator shall—

"(i) publish the proposed list and restrictions and all other proposed pesticide restrictions in the Federal Register and seek public comment on the proposed proposals; and

"(ii) after evaluating all comments received concerning the proposed list and restrictions, but not later than 1 year after the close of the period during which public comments are accepted, publish the final list and restrictions in the Federal Register, together with a discussion of comments received.

"(C) Findings.—Not later than 2 years after publication of the final list and restrictions, the Administrator shall make a determination and issue findings on whether use of registered pesticides in school buildings and on school grounds may endanger the health of children.

"(D) Notice and comment.—

"(i) In general.—Prior to establishing or making amendments to the list, the Administrator shall publish the proposed list or any proposed amendments to the list in the Federal Register and seek public comment on the proposals.

"(ii) Recommendations.—The Administrator shall include in any publication described in clause (i) any changes or amendments to the proposed list that are recommended to and by the Administrator.

"(E) Publication of list.—After evaluating all comments received concerning the proposed list or proposed amendments to the list, the Administrator shall publish the final list in the Federal Register, together with a description of comments received.

"(e) Office of Pesticide Programs.—

"(1) Establishment.—The Administrator shall appoint an official for school pest management within the Office of Pesticide Programs of the Environmental Protection Agency to coordinate the development and implementation of integrated pest management systems in schools.

"(2) Duties.—The official shall—

"(A) coordinate the development of school integrated pest management systems and policies;

"(B) consult with schools concerning—

"(i) issues related to the integrated pest management systems of schools;

"(ii) the use of least toxic pesticides; and

"(iii) the registration of pesticides, and amendments to the registrations, as the registrations and amendments relate to the use of integrated pest management systems in schools; and

"(C) support and provide technical assistance to the Board.

"(f) Contact Person.—

"(1) In general.—Each local educational agency of a school district shall designate a contact person for carrying out an integrated pest management system in schools in the school district.

"(2) Duties.—The contact person of a school district shall—

"(A) maintain information about pesticide applications inside and outside schools within the school district, in school buildings, and on school grounds;

"(B) act as a contact for inquiries about the integrated pest management system;

"(C) maintain material safety data sheets and labels for all pesticides that may be used in the school district;

"(D) be informed of Federal and State chemical health and safety information and contact information;

"(E) maintain scheduling of all pesticide usage for schools in the school district;

"(F) maintain contact with Federal and State integrated pest management system experts; and

"(G) obtain periodic updates and training from State integrated pest management system experts.

"(3) Pesticide use data.—A local educational agency of a school district shall—

"(A) maintain all pesticide use data for each school in the school district; and

"(B) on request, make the data available to the public for review.

"(g) Notice of Integrated Pest Management System.—

"(1) In general.—At the beginning of each school year, each local educational agency or school of a school district shall include a notice of the integrated pest management system of the school district in school calendars or other forms of universal notification.

"(2) Contents.—The notice shall include a description of—

"(A) the integrated pest management system of the school district;

"(B) any pesticide (including any least toxic pesticide) or bait station that may be used in a school building or on a school ground as part of the integrated pest management system;

"(C) the name, address, and telephone number of the contact person of the school district;

"(D) a statement that—

"(i) the contact person maintains the product label and material safety data sheet of each pesticide (including each least toxic pesticide) and bait station that may be used by a school in buildings or on school grounds;

"(ii) the label and data sheet is available for review by a parent, guardian, staff member, or student attending the school; and

"(iii) the contact person is available to parents, guardians, and staff members for information and comment; and

"(E) the time and place of any meetings that will be held under subsection (g)(1).

"(3) Use of pesticides.—A local educational agency or school may use a pesticide during a school year only if the use of the pesticide has been disclosed in the notice required under paragraph (1) at the beginning of the school year.

"(4) New employees and students.—After the beginning of each school year, a local educational agency or school of a school district shall provide the notice required under this subsection to—

"(A) each new staff member who is employed during the school year; and

"(B) the parent or guardian of each new student enrolled during the school year.

"(h) Use of Pesticides.—

"(1) In general.—If a local educational agency or school determines that a pest in the school or on school grounds cannot be controlled after having used the integrated pest management system of the school or school district and least toxic pesticides, the school may use a pesticide (other than space spraying of the pesticide) to control the pest in accordance with this subsection.

"(2) Prior notification of parents, guardians, and staff members.—

"(A) In general.—Subject to paragraphs (4) and (5), not less than 72 hours before a pesticide (other than a least toxic pesticide) is used by a school, the school shall provide to a parent or guardian of each student enrolled at the school and each staff member of the school, notice that includes—

"(i) the common name, trade name, and Environmental Protection Agency registration number of the pesticide;

"(ii) a description of the location of the application of the pesticide;

"(iii) a description of the date and time of application, except that, in the case of outdoor pesticide applications, 1 notice shall include 3 dates, in chronological order, that the outdoor pesticide applications may take place if the preceding date is canceled;

"(iv) a statement that The Office of Pesticide Programs of the United States Environmental Protection Agency has stated: 'Where possible, persons who potentially are sensitive, such as pregnant women and infants (less than 2 years old), should avoid any unnecessary pesticide exposure.';

"(v) a description of potential adverse effects of the pesticide based on the material safety data sheet of the pesticide;

"(vi) a description of the reasons for the application of the pesticide;

"(vii) the name and telephone number of the contact person of the school district; and

"(viii) any additional warning information related to the pesticide.

"(B) Method of notification.—The school may provide the notice required by subparagraph (A) by—

"(i) written notice sent home with the student and provided to the staff member;

"(ii) a telephone call;

"(iii) direct contact; or

"(iv) written notice mailed at least 1 week before the application.

"(C) Reissuance.—If the date of the application of the pesticide needs to be extended beyond the period required for notice under this paragraph, the school shall reissue the notice under this paragraph for the new date of application.

“(3) POSTING OF SIGNS.—

“(A) IN GENERAL.—Subject to paragraphs (4) and (5), at least 72 hours before a pesticide (other than a least toxic pesticide) is used by a school, the school shall post a sign that provides notice of the application of the pesticide—

“(i) in a prominent place that is in or adjacent to the location to be treated; and

“(ii) at each entrance to the building or school ground to be treated.

“(B) ADMINISTRATION.—A sign required under subparagraph (A) for the application of a pesticide shall—

“(i) remain posted for at least 72 hours after the end of the treatment;

“(ii) be at least 8½ inches by 11 inches; and

“(iii) state the same information as that required for prior notification of the application under paragraph (2).

“(C) OUTDOOR PESTICIDE APPLICATIONS.—

“(i) IN GENERAL.—In the case of outdoor pesticide applications, each sign shall include 3 dates, in chronological order, that the outdoor pesticide application may take place if the preceding date is canceled due to weather.

“(ii) DURATION OF POSTING.—A sign described in clause (i) shall be posted after an outdoor pesticide application in accordance with subparagraph (B).

“(4) ADMINISTRATION.—

“(A) APPLICATORS.—Paragraphs (2) and (3) shall apply to any person that applies a pesticide in a school or on a school ground, including a custodian, staff member, or commercial applicator.

“(B) TIME OF YEAR.—Paragraphs (2) and (3) shall apply to a school—

“(i) during the school year; and

“(ii) during holidays and the summer months, if the school is in use, with notice provided to all staff members and the parents or guardians of the students that are using the school in an authorized manner.

“(5) EMERGENCIES.—

“(A) IN GENERAL.—A school may apply a pesticide (other than a least toxic pesticide) in the school or on school grounds without complying with paragraphs (2) and (3) in an emergency, subject to subparagraph (B).

“(B) SUBSEQUENT NOTIFICATION OF PARENTS, GUARDIANS, AND STAFF MEMBERS.—Not later than the earlier of the time that is 24 hours after a school applies a pesticide under this paragraph or on the morning of the next school day, the school shall provide to each parent or guardian of a student enrolled at the school, and staff member of the school, notice of the application of the pesticide for emergency pest control that includes—

“(i) the information required for a notice under paragraph (2)(A);

“(ii) a description of the problem and the factors that qualified the problem as an emergency that threatened the health or safety of a student or staff member; and

“(iii) a description of the steps the school will take in the future to avoid emergency application of a pesticide under this paragraph.

“(C) METHOD OF NOTIFICATION.—The school may provide the notice required by subparagraph (B) by—

“(i) written notice sent home with the student and provided to the staff member;

“(ii) a telephone call; or

“(iii) direct contact.

“(D) POSTING OF SIGNS.—A school applying a pesticide under this paragraph shall post a sign warning of the pesticide application in accordance with paragraph (3).

“(E) MODIFICATION OF INTEGRATED PEST MANAGEMENT PLANS.—If a school in a school district applies a pesticide under this paragraph, the local educational agency of the school district shall modify the integrated pest management plan of the school district to minimize the future applications of pesticides under this paragraph.

“(6) DRIFT OF PESTICIDES ONTO SCHOOL GROUND.—Each local educational agency, State pesticide lead agency, and the Administrator are encouraged to—

“(A) identify sources of pesticides that drift from treated land to school grounds of the educational agency; and

“(B) take steps necessary to create an indoor and outdoor school environment that are protected from pesticides described in subparagraph (A).

“(i) MEETINGS.—

“(1) IN GENERAL.—Before the beginning of a school year, at the beginning of each new calendar year, and at a regularly scheduled meeting of a school board, each local educational agency shall provide an opportunity for the contact person designated under subsection (d) to receive and address public comments regarding the integrated pest management system of the school district.

“(2) EMERGENCY MEETINGS.—An emergency meeting of a school board to address a pesticide application may be called under locally appropriate procedures for convening emergency meetings.

“(j) INVESTIGATIONS AND ORDERS.—

“(1) IN GENERAL.—Not later than 60 days after receiving a complaint of a violation of this section, the Administrator shall—

“(A) conduct an investigation of the complaint;

“(B) determine whether it is reasonable to believe the complaint has merit; and

“(C) notify the complainant and the person alleged to have committed the violation of the findings of the Administrator.

“(2) PRELIMINARY ORDER.—If the Administrator determines it is reasonable to believe a violation occurred, the Administrator shall issue a preliminary order (that includes findings) to impose the penalty described in subsection (j).

“(3) OBJECTIONS TO PRELIMINARY ORDER.—

“(A) IN GENERAL.—Not later than 30 days after the preliminary order is issued under paragraph (2), the complainant and the person alleged to have committed the violation may—

“(i) file objections to the preliminary order (including findings); and

“(ii) request a hearing on the record.

“(B) FINAL ORDER.—If a hearing is not requested within 30 days after the preliminary order is issued, the preliminary order shall be final and not subject to judicial review.

“(4) HEARING.—A hearing under this subsection shall be conducted expeditiously.

“(5) FINAL ORDER.—Not later than 120 days after the end of the hearing, the Administrator shall issue a final order.

“(6) SETTLEMENT AGREEMENT.—Before the final order is issued, the proceeding may be terminated by a settlement agreement, which shall remain open, entered into by the Administrator, the complainant, and the person alleged to have committed the violation.

“(7) COSTS.—

“(A) IN GENERAL.—If the Administrator issues a final order against a school or school district for violation of this section and the complainant requests, the Administrator may assess against the person against whom the order is issued the costs (including attorney's fees) reasonably incurred by the complainant in bringing the complaint.

“(B) AMOUNT.—The Administrator shall determine the amount of the costs that were reasonably incurred by the complainant.

“(8) JUDICIAL REVIEW AND VENUE.—

“(A) IN GENERAL.—A person adversely affected by an order issued after a hearing under this subsection may file a petition for review not later than 60 days after the date that the order is issued, in a district court of the United States or other United States court for any district in which a local educational agency or school is found, resides, or transacts business.

“(B) TIMING.—The review shall be heard and decided expeditiously.

“(C) COLLATERAL REVIEW.—An order of the Administrator subject to review under this paragraph shall not be subject to judicial review in a criminal or other civil proceeding.

“(k) CIVIL PENALTY.—

“(1) IN GENERAL.—Any local educational agency, school, or person that violates this section may be assessed a civil penalty by the Administrator under subsections (h) and (i), respectively, of not more than $10,000 for each offense.

“(2) TRANSFER TO TRUST FUND.—Except as provided in subsection (i)(4)(B), civil penalties collected under paragraph (1) shall be deposited in the Fund.

“(l) INTEGRATED PEST MANAGEMENT TRUST FUND.—

“(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the ‘Integrated Pest Management Trust Fund’, consisting of—

“(A) amounts deposited in the Fund under subsection (j)(2);

“(B) amounts transferred to the Secretary of the Treasury for deposit into the Fund under paragraph (5); and

“(C) any interest earned on investment of amounts in the Fund under paragraph (3).

“(2) EXPENDITURES FROM FUND.—

“(A) IN GENERAL.—Subject to subparagraph (B), on request by the Administrator, the Secretary of the Treasury shall transfer from the Fund to the Administrator, without further appropriation, such amounts as the Secretary determines are necessary to provide funds to each State educational agency of a State, in proportion to the amount of civil penalties collected in the State under subsection (j)(1), to carry out education, training, propagation, and development activities under integrated pest management systems of schools in the State to remedy the harmful effects of actions taken by the persons that paid the civil penalties.

“(B) ADMINISTRATIVE EXPENSES.—An amount not to exceed 6 percent of the amounts in the Fund shall be available for each fiscal year to pay the administrative expenses necessary to carry out this subsection.

“(3) INVESTMENT OF AMOUNTS.—

“(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the Fund as is not, in the judgment of the Secretary of the Treasury, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

“(B) ACQUISITION OF OBLIGATIONS.—For the purpose of investments under subparagraph (A), obligations may be acquired—

“(i) on original issue at the issue price; or

“(ii) by purchase of outstanding obligations at the market price.

“(C) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

“(D) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

"(4) TRANSFERS OF AMOUNTS.—

"(A) IN GENERAL.—The amounts required to be transferred to the Fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury.

"(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

"(5) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations to carry out paragraph (2)(A). Amounts received by the Secretary in the form of donations shall be transferred to the Secretary of the Treasury for deposit into the Fund.

"(m) EMPLOYEE PROTECTION.—

"(1) IN GENERAL.—No local educational agency, school, or person may harass, prosecute, hold liable, or discriminate against any employee or other person because the employee or other person—

"(A) is assisting or demonstrating an intent to assist in achieving compliance with this section (including any regulation);

"(B) is refusing to violate or assist in the violation of this section (including any regulation); or

"(C) has commenced, caused to be commenced, or is about to commence a proceeding, has testified or is about to testify at a proceeding, or has assisted or participated or is about to participate in any manner in such a proceeding or in any other action to carry out this section.

"(2) COMPLAINTS.—Not later than 1 year after an alleged violation occurred, an employee or other person alleging a violation of this section, or another person at the request of the employee, may file a complaint with the Administrator.

"(3) REMEDIAL ACTION.—If the Administrator decides, on the basis of a complaint, that a local educational agency, school, or person violated paragraph (1), the Administrator shall order the local educational agency, school, or person to—

"(A) take affirmative action to abate the violation;

"(B) reinstate the complainant to the former position with the same pay and terms and privileges of employment; and

"(C) pay compensatory damages, including back pay.

"(n) GRANTS.—

"(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, shall provide grants to local educational agencies to develop and implement integrated pest management systems in schools in the school district of the local educational agencies.

"(2) AMOUNT.—The amount of a grant provided to a local educational agency of a school district under paragraph (1) shall be based on the ratio that the number of students enrolled in schools in the school district bears to the total number of students enrolled in schools in all school districts in the United States.

"(o) RELATIONSHIP TO STATE AND LOCAL REQUIREMENTS.—This section (including regulations promulgated under this section) shall not preempt requirements imposed on local educational agencies and schools related to the use of integrated pest management by State or local law (including regulations) that are more stringent than the requirements imposed under this section.

"(p) REGULATIONS.—Subject to subsection (m), the Administrator shall promulgate such regulations as are necessary to carry out this section.

"(q) RESTRICTION ON PESTICIDE USE.—Not later than 6 years after the date of enactment of this section, no pesticide, other than a pesticide that is defined as a least toxic pesticide under this subsection, shall be used in a school or on school grounds unless the Administrator has met the deadlines and requirements of this section.

"(r) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $7,000,000 for each of fiscal years 2006 through 2010.".

**SEC. 4. CONFORMING AMENDMENT.**

The table of contents in section 1(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. prec. 121) is amended by striking the items relating to sections 34 and 35 and inserting the following:

"Sec. 34. Integrated pest management systems for schools.
  "(a) Definitions.
    "(1) Board.
    "(2) Contact person.
    "(3) Crack and crevice treatment.
    "(4) Emergency.
    "(5) Fund.
    "(6) Integrated pest management system.
    "(7) Least toxic pesticides.
    "(8) List.
    "(9) Local educational agency.
    "(10) Official.
    "(11) Person.
    "(12) Pesticide.
    "(13) School.
    "(14) School ground.
    "(15) Space spraying.
    "(16) Staff member.
    "(17) State educational agency.
    "(18) Universal notification.
  "(b) Integrated pest management systems.
    "(1) In general.
    "(2) Implementation.
    "(3) State programs.
    "(4) Application to schools and school grounds.
    "(5) Application of pesticides when schools in use.
  "(c) National School Integrated Pest Management Advisory Board
    "(1) In general.
    "(2) Composition of Board.
    "(3) Appointment.
    "(4) Term.
    "(5) Meetings.
    "(6) Compensation.
    "(7) Chairperson.
    "(8) Quorum.
    "(9) Decisive votes.
    "(10) Administration.
    "(11) Responsibilities of the Board.
    "(12) Requirements.
    "(13) Petitions.
    "(14) Periodic review.
    "(15) Confidentiality.
  "(d) List of Least Toxic Pesticides.
    "(1) In general.
    "(2) Procedure for evaluating pesticide use.
  "(e) Office of Pesticide Programs.
    "(1) Establishment.
    "(2) Duties.
  "(f) Contact person.
    "(1) In general.
    "(2) Duties.
    "(3) Pesticide use data.
  "(g) Notice of Integrated Pest Management System.
    "(1) In general.
    "(2) Contents.
    "(3) Use of pesticides.
    "(4) New employees and students.
  "(h) Use of pesticides.
    "(1) In general.
    "(2) Prior notification of parents, guardians, and staff members.
    "(3) Posting of signs.
    "(4) Administration.
    "(5) Emergencies.
    "(6) Drift of pesticides onto school ground.
  "(i) Meetings.
    "(1) In general.
    "(2) Emergency meetings.
  "(j) Investigations and orders.
    "(1) In general.
    "(2) Preliminary order.
    "(3) Objections to preliminary order.
    "(4) Hearing.
    "(5) Final order.
    "(6) Settlement agreement.
    "(7) Costs.
    "(8) Judicial review and venue.
  "(k) Civil penalty.
    "(1) In general.
    "(2) Transfer to Trust Fund.
  "(l) Integrated Pest Management Trust Fund.
    "(1) Establishment.
    "(2) Expenditures from Fund.
    "(3) Investment of amounts.
    "(4) Transfers of amounts.
    "(5) Acceptance and use of donations.
  "(m) Employee protection.
    "(1) In general.
    "(2) Complaints.
    "(3) Remedial action.
  "(n) Grants.
    "(1) In general.
    "(2) Amount.
  "(o) Relationship to State and local requirements.
  "(p) Regulations.
  "(q) Restriction on pesticide use.
  "(r) Authorization of appropriations.
"Sec. 35. Severability.
"Sec. 36. Authorization of appropriations.".

**SEC. 5. EFFECTIVE DATE.**

This Act and the amendments made by this Act take effect on October 1, 2005.

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By Mr. REID (for Mr. CORZINE (for himself, Mr. REID, Mrs. CLINTON, Mr. BROWNBACK, Mr. DODD, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LIEBERMAN, and Mr. FEINGOLD)):

S. 1620. A bill to provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11, 2001, terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, and for other purposes; to the Committee on the Judiciary.

Mr. CORZINE. Mr. President, I rise today to introduce the September 11 Family Humanitarian Relief and Patriotism Act and to urge all of my colleagues to support this important legislation.

On September 11, 2001, the world we live in was torn apart. Each of us, no matter where we lived, shared in the overwhelming sense of loss and grief. We shared our grief with the victims, their loved ones, and their friends. And each of us joined together in the midst of the devastation to unite as Americans and to show the terrorists that we will not be divided.

At that time of grief, we stood together as families, as communities, and as one Nation. We were all personally touched by this outrageous crime. And we stood together to show the terrorists that although they might destroy our buildings, they could never destroy the foundation of our democracy.

Over the years our Nation has matured, and we have become a vast melting pot of cultures and of people, joining together to create the America of today that we love and cherish.

The terrorists sought to destroy our great Nation and the very values upon which our country was built. But they were sorely mistaken. No matter how hard they try, they will never force us to turn our back on our values.

And that means that we can never turn our back on the victims of the terrorist attacks or on their family members. On September 11, almost three thousand people were killed. Many of the victims left behind husbands, wives, sons, and daughters. We cannot turn our back on them. We can not allow these attacks, and the terrorists who perpetrated them, to undercut the love of freedom, justice, and community that makes us who we are.

Terrorists did not distinguish nondocumented immigrants from documented immigrants or natural born citizens on September 11. On that date, we were all Americans, attacked by a determined enemy who sought to break our spirit and destroy our way of life.

That is why I have joined with my colleagues to introduce this legislation, which will provide legal recognition and protection to family members of non-citizen victims of the September 11 terrorist attacks.

Many of our immigrant residents lost loved ones that day, and no person who has faced such personal heartache and hardship at the hands of terrorists should be forced to face deportation.

Moreover, these family members should be permitted to remain here to visit the memorials that are presently being built in New York and other locations to honor the victims who perished in the terrorist attacks. In many cases, these memorials will be all that husbands, wives, and children, have left to remember their loved ones.

This bipartisan bill will end deportation procedures, and allow husbands, wives, sons, and daughters of non-citizen victims killed in New York, Pennsylvania and Virginia nearly four years ago to apply for green cards that will allow them to become permanent legal residents. The act will apply to dependents of the deceased victims of the September 11, 2001 terrorist attacks as determined by the September 11 Victims Compensation Fund.

The USA Patriot Act initially allowed many of these individuals to stay in the country. However, that provision expired on September 10, 2002. Moreover, many others were never protected by the Patriot Act legislation. All of these individuals today face the prospect of deportation.

Although our government has not moved forward with deportation procedures, the status of these families, who have already been through so much, remains uncertain. This Act would provide the permanent relief these families need and deserve.

And so I ask all of my colleagues to join me in supporting this legislation and in demonstrating to the spouses and children of the non-citizen victims of September 11 that we are all Americans.

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By Ms. COLLINS (for herself, Mr. WARNER, and Ms. LANDRIEU):

S. 1621. A bill to amend the Internal Revenue Code of 1986 to increase the above-the-line deduction for teacher classroom supplies and to expand such deduction to include qualified professional development expenses; to the Committee on Finance.

Ms. COLLINS. Mr. President, I am pleased to introduce today the teacher tax act of 2005, which I am offering along with my good friends, Senator WARNER and Senator LANDRIEU. Our bill increases to $400, and makes permanent, the tax deduction available to teachers who incur out-of-pocket expenses to purchase classroom supplies. It would also allow this above-the-line deduction for expenses related to professional development.

This bill builds upon the $250 tax deduction established by legislation we authored in 2001, which became law as part of that year's tax relief package. The Tax relief provided by that bill was later extended through the end of this year.

Increasing the deduction for teachers who buy classroom supplies is warranted by the facts. So often teachers in Maine, and throughout the country, spend their own money to improve the classroom experiences of their students. While many of us are familiar with the National Education Association's estimate that teachers spend, on average, $400 a year on classroom supplies, other surveys show that they are spending even more than that. Indeed, I have spoken to dozens of teachers in my home State who tell me they routinely spend far in excess of the $250 deduction limit—a few even as much as $1,000—on materials they use in their classrooms. At every school I visit, I find teachers who are spending their own money to improve the educational experiences of their students by supplementing classroom supplies. One such teacher is Debra Walker, who teaches kindergarten and first grade in the town of Milo, ME. She has taught for more than 25 years. Year after year, she spends hundreds of dollars on books, bulletin boards, computer software, crayons, construction paper, tissue paper, stamps and inkpads. She even donated her own family computer for use by her class. She described it well by saying, "These are the extras that are needed to make learning fun for children and to create a stimulating learning environment."

Another example is Tyler Nutter, a middle school math and reading teacher from North Berwick, ME. After teaching for just two years, Tyler incurred substantial "startup" fees as he built his own collection of needed teaching supplies. In his first years on the job, he spent well over $500 out-of-pocket each year, purchasing books and other materials that are essential to his teaching program. This tax deduction is, in Tyler's words, "a nice recognition of the contributions that many teachers have made."

It is important that this deduction also be available to teachers who incur expenses for professional development. While this tax relief provides modest assistance to educators, it is my view that students are its ultimate beneficiaries. Studies consistently show that well-qualified teachers, and involved parents, are the most important contributors to student success. Educators themselves understand just how important professional development is to their ability to make a positive impact in the classroom. Teachers in Maine repeatedly tell me that they need, and want, more professional development. But tight school budgets often make funds to support this development impossible to get. By making professional development expenses deductible, this bill will help teachers take that additional course or pursue that advanced degree that will make them even better at what they love to do.

The teacher tax relief we have made available since 2001 is a step in the right direction. Increasing that deduction, and making it permanent, would be a small but appropriate means of recognizing our teachers for a job well done.

Mr. WARNER. Mr. President, I rise today in support, once again, of America's teachers by joining with Senator COLLINS in introducing the Teacher Tax Relief Act of 2005.

Senator COLLINS and I have worked closely for some time now in support of legislation to provide our teachers with tax relief in recognition of the many out-of-pocket expenses they incur as part of their profession. In the 107th Congress, we were successful in providing much needed tax relief for our Nations' teachers with passage of H.R. 3090, the Job Creation and Worker Assistance Act of 2002.

This legislation, which was signed into law by President Bush, included the Collins-Warner Teacher Tax Relief Act of 2001 provisions that provided a $250 above the line deduction for educators who incur out-of-pocket expenses for supplies they bring into the classroom to better the education of their students. These important provisions provided almost half a billion dollars' worth of tax relief to teachers all across America in 2002 and 2003.

In the 108th Congress we were able to successfully extend the provisions of the Teacher Tax Relief Act for 2004 and 2005.

While these provisions will provide substantial relief to America's teachers, our work is not yet complete.

It is now estimated that the average teacher spends $521 out of their own pocket each year on classroom materials—materials such as pens, pencils and books. First year teachers spend even more, averaging $701 a year on classroom expenses.

Why do they do this? Simply because school budgets are not adequate to meet the costs of education. Our teachers dip into their own pocket to better the education of America's youth.

Moreover, in addition to spending substantial money on classroom supplies, many teachers spend even more money out of their own pocket on professional development. Such expenses include tuition, fees, books, and supplies associated with courses that help our teachers become even better instructors.

The fact is that these out-of-pocket costs place lasting financial burdens on our teachers. This is one reason our teachers are leaving the profession. Little wonder that our country is in the midst of a teacher shortage.

Without a doubt the Teacher Tax Relief Act of 2001 took a step forward in helping to alleviate the Nation's teaching shortage by providing a $250 above the line deduction for classroom expenses.

However, it is clear that our teachers are spending much more than $250 a year out of their own pocket to better the education of our children.

Accordingly, Senator COLLINS and I have joined together to take another step forward by introducing the Teacher Tax Relief Act of 2005.

This legislation will build upon current law in three ways. The legislation will: (1) Increase the above-the-line deduction, as President Bush has called for, from $250 allowed under current law to $400; (2) allow educators to include professional development costs within that $400 deduction. Under current law, up to $250 is deductible but only for classroom expenses; and (3) make the teacher tax relief provisions in the law permanent. Current law sunsets the Collins-Warner provisions after 2005.

Our teachers have made a personal commitment to educate the next generation and to strengthen America. And, in my view, the Federal Government should recognize the many sacrifices our teachers make in their career.

The Teacher Tax Relief Act of 2005 is another step forward in providing our educators with the recognition they deserve.

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By Mr. CARPER (for himself and Mr. BIDEN):

S. 1627. A bill to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing a unit of the National Park System in Delaware; to the Committee on Environment and Public Works.

Mr. CARPER. Mr. President, some folks were looking for a place to go on summer vacation on the Internet. A lot of people go to national parks. A couple of summers ago, my family and I went to Alaska and visited Denali, a national park bigger than my State. We had a wonderful time in Alaska. But if you go to the national park Web site, you can find national parks to visit in 49 States. There is one State that has no national park. It is my State.

I am reintroducing legislation Senator BIDEN and I introduced at the end of the last Congress. We will reintroduce that so we get our State on the road to having our own national park and providing people around the country and the world the opportunity to learn about our coastal heritage, which included the landing of the first Swedes and Finns when they came to America. They landed in Wilmington, DE, to establish the colony of New Sweden. I don't think the Finns called it that, but the Swedes did. We want to have a national park of our own that would include that discovery, commemorate that discovery.

Our bill authorizes the National Park Service to conduct a Special Resource Study of Delaware's coastal region. This study is the first step toward establishing the first national park in Delaware.

Delaware's coastal region is rich in historical sites, parks, and wildlife areas. This Special Resource Study will trace the various threads that make up the fabric of Delaware, which are an ideal microcosm for the tapestry of America. Together, these sites highlight the threads of history, heritage, commerce, and nature. The result would be a national park highlighting America's history, cultural heritage, commercial progress and natural beauty.

The study would be anchored on Fort Christina and the 7th Street Peninsula in Wilmington. It would extend south from there to include old New Castle and points along Delaware's coast in Kent and Sussex Counties, which have been the location of many significant events throughout America's history.

This proposed study will help encapsulate the human and natural activity that has occurred along our coast that has helped create the very fabric of our society.

I am confident this study will prove that a national park highlighting Delaware's rich coastal heritage would be a very appropriate and fitting addition to the National Park system. Our national park would demonstrate that coastal regions like those found in Delaware are a vital part of America's past, present, and future.

Delaware is first in so many ways, but it is the only state without a national park. Every year, millions of Americans plan their vacations around our nation's national park system. They log onto the Park Service web site and search for ideas for their family vacations. Right now, that search will turn up nothing for Delaware. With a national park unit here in Delaware, that will change.

In the future, those families will be considering a trip to Delaware to visit our national park. Those trips will be a significant boost to our economy and will teach new generations of Americans about Delaware's rich cultural heritage.

I have described to you today a vision resulting from the hard work of many dedicated Delawareans. Today, I take the next step in making their vision a reality.

I believe this is an exciting proposal and one that, when incorporated into the National Park System, will become an important element in preserving the wonderful human and natural history presented by our coastal region.

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By Mr. LEVIN:

S. 1629. A bill to provide the President with authority to temporarily freeze the price of gasoline and other refined products; to the Committee on Banking, Housing, and Urban Affairs.

Mr. LEVIN. Mr. President, today I am introducing legislation to give the President the temporary authority to freeze the price of gasoline and other petroleum products at their levels just prior to the devastation wrought by Hurricane Katrina on the Gulf Coast of the United States. This authority would expire once supplies of these products have been restored to their pre-hurricane levels.

Our topmost priority, of course, must be to provide immediate aid directly to the victims of this immense tragedy. Hundreds of thousands of people have been driven from their homes. Thousands may have died. The destruction along the Gulf Coast is extensive, and much of New Orleans is still submerged. We must continue to place the highest priority on providing food, clothing, and shelter for the people displaced by the hurricane.

At the same time, we must start to take measures to address other consequences of the damage caused by Katrina. Katrina has damaged a number of oil refineries along the Gulf Coast, knocking out about ten percent of our daily gasoline production. Current estimates are that it will take several months before production is restored to pre-hurricane levels.

Gasoline prices have skyrocketed in the wake of Katrina. Last Friday, the average price for a gallon of regular gasoline in Michigan reached $3.13. Today the national average is about $3.05 per gallon. These prices are record highs in the United States. Even adjusted for inflation, these prices are higher than they were during the energy crises of the 1970s, when high energy prices helped push the economy into a recession.

For most people, driving the car each day is not a luxury but a necessity. Millions of Americans depend upon affordable gasoline and other petroleum products for essential goods and services, including transportation to and from work, schools, grocery stores, and medical care; home heating oil; jet fuel for the other airlines; and a host of other daily needs.

Most people cannot drive less to get to work, school, or to buy groceries, so they are forced to pay whatever the oil companies charge for gasoline. In the language of economics, demand for gasoline is largely inelastic. Higher prices will not lead to a reduction in demand, or an increase in speed of repairs, since pre-Katrina production and profits were already at record levels and were more than sufficient to provide a major incentive to speed up repairs.

Moreover, the massive and unjustified gasoline price increases of the last week will not bring on more supply—only more profits for oil companies, as well as severe hardships for millions of Americans. Higher prices will not bring on additional supply, in the short term, only more profits for the oil companies and more pain for consumers.

I do not favor price controls when the market is working properly. In a properly functioning market, prices are set by the law of supply and demand.

However, in the current situation, we do not have a properly functioning market. Part of the market infrastructure has been physically destroyed by Hurricane Katrina. Price cannot play its normal role under the laws of supply and demand because increasing prices cannot produce either an increase in supply short-term or a significant reduction in demand. In a largely inelastic market, like our gasoline markets, where people depend upon gasoline for life's necessities, and cannot significantly reduce their consumption, increasing prices in the aftermath of a disaster serve no function other than to enrich the sellers at the expense of the buyers.

At a time of national crisis and tragedy, it is unseemly for a few to gain huge profits at the expense of everyone else. In the wake of the hurricane, millions of Americans are opening their hearts and homes to aid to the victims of the hurricane. It is unfair for a few to gain huge profits while many others are sacrificing.

A frequent comment in recent discussions about the effectiveness of price controls is "Price controls didn't work in the 1970s." However, price controls in the 1970s were imposed for long periods of time, several years in fact. In the current situation, we are talking about a much shorter period of freeze—indeed I am urging a temporary freeze until supplies are restored to pre-hurricane levels. Until then, the market cannot function properly: supply cannot be increased no matter how high the price. Hence, the experience of the 1970s is not relevant to the current situation.

Under the bill I am introducing, once the market is restored to its pre-hurricane condition, the authority in this bill to freeze prices would expire.

There is a recent precedent for this action. In 2001, the Federal Energy Regulatory Commission imposed price caps on the wholesale price of electricity in California and other western markets in times when demand outstripped supply. FERC found the market was "dysfunctional" under these circumstances and price controls were necessary to provide "just and reasonable" rates for consumers.

President Bush supported FERC's price controls in the California electricity market. In so doing, the President referred to FERC's action as a "market-based mitigation plan" rather than price controls. Whatever the name, however, the effect was the same: when supply was inadequate to meet demand, the FERC stepped in to cap prices to keep rates just and reasonable.

The legislation I am introducing would provide the President with the authority to temporarily freeze the price of gasoline and other refined products at or below the levels that prevailed before Hurricane Katrina hit the Gulf Coast of the United States. This authority would terminate when the President determines that the domestic supply of refined petroleum products meets or exceeds the level of domestic supply before Hurricane Katrina.

I ask unanimous consent that the text of this bill be printed in the RECORD. I urge my colleagues to support this legislation.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1629

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Hurricane Katrina Emergency Temporary Energy Price Freeze Act of 2005."

**SEC. 2. FINDINGS.**

(a) The Congress hereby finds that—

(1) Hurricane Katrina has caused extensive damage to petroleum production, refining and transportation facilities, and extensive damage to port facilities and electricity generation facilities, causing additional shutdowns of refineries and loss of transportation capacity for petroleum products;

(2) the shutdown of refineries and reduction in transportation capacity for petroleum products caused by Hurricane Katrina has led to massive price increases for petroleum products throughout the United States;

(3) these massive price increases have caused severe hardships for millions of Americans who depend upon affordable and adequate supplies of gasoline and petroleum products for transportation and other daily necessities; and

(4) these massive price increases threaten the availability and affordability of many products in interstate commerce.

(b) To address these problems caused by Hurricane Katrina, the President should temporarily freeze the price of gasoline and other petroleum products to reduce the burden on millions of Americans and interstate commerce from rapidly increasing prices of gasoline and other petroleum products.

**SEC. 3. PRESIDENTIAL AUTHORITY TO FREEZE PRICES.**

(a) The President is authorized to issue such orders and regulations to temporarily freeze wholesale and retail prices of gasoline and other petroleum products at or below the levels prevailing on August 27, 2005. Such orders and regulations may provide for the making of such adjustments as may be necessary to prevent any gross inequities.

(b) The President may delegate the performance of any function under this Act to such officers, departments, and agencies of the United States.

**SEC. 4. ENFORCEMENT.**

(a) Whoever willfully violates any order or regulation under this section shall be fined an amount up to three times the amount of the gain from such violation.

(b) The President, or any person delegated authority under this Act by the President, shall have authority to seek a temporary or permanent injunction in the proper United States district court to prevent or halt violations of orders or regulations issued under this Act.

**SEC. 5. TERMINATION OF AUTHORITY.**

The authority under this Act shall terminate upon a finding by the President that the domestic supply of petroleum products meets or exceeds the level of domestic supply as of August 27, 2005.

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By Mr. OBAMA:

S. 1630. A bill to direct the Secretary of Homeland Security to establish the National Emergency Family Locator System; to the Committee on Homeland Security and Governmental Affairs.

Mr. OBAMA. Mr. President, today I introduce a bill to provide some assistance to those tens of thousands of Americans who have found themselves in one of the worst nightmares I can imagine—they are separated from their spouses, their children, and their parents. These Americans are struggling to locate their loved ones displaced by the horrors of Hurricane Katrina. They are searching the Astrodome, combing the Internet, hoping that their family members have survived the storm and will get in touch with them. A similar plight is faced by those victims who have weathered the storm and want to tell their family and friends that they are okay.

I have received dozens of calls to my offices in Illinois from constituents asking my caseworkers to help them locate their relatives lost in the Gulf Coast. Greta from Chicago was looking for her Aunt Perra Lee. John from Romeoville was looking for his children and grandchildren in Biloxi. The calls kept coming, but my staff could only point these constituents to various nonprofit organizations doing their best to provide locator services. There was no centralized Federal Government system in place to deal with this issue. Such a system should be in place.

The government must provide these people with a means to let their families know that they are out of harm's way. Various non-profit organizations and news services have done a stellar job at using the Internet to connect displaced people with their families. Our government, through the Department of Homeland Security, should synthesize the best aspects of these services, so that after an emergency, displaced individuals can call one phone number or go to one website, and post their location and condition. Family members and law enforcement officials should be able use this same secure, centralized system to check the status of missing loved ones.

I am introducing a bill—the National Emergency Family Locator System Act that will instruct the Department of Homeland Security to create such a system. I hope that the next time our country experiences a disaster like Katrina, this system will provide worried families with some sense of relief.

I hope my colleagues will support this legislation and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection the bill was ordered to be printed in the RECORD, as follow:

S. 1630

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "National Emergency Family Locator Act".

**SEC. 2. DEFINITIONS.**

In this Act:

(1) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(2) EMERGENCY.—The term "emergency" has the meaning given the term in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(3) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(4) SYSTEM.—The term "System" means the National Emergency Family Locator System established under section 3(a).

**SEC. 3. NATIONAL EMERGENCY FAMILY LOCATOR SYSTEM.**

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall establish within the Department the National Family Locator System.

(b) PURPOSES.—The purposes of the System are—

(1) to enable individuals displaced by an emergency to provide to the Department the name and location of the displaced individuals and any other relevant information using the telephone, the Internet, and other means determined to be appropriate by the Secretary; and

(2) to enable the Department—

(A) to compile the information collected under paragraph (1); and

(B) to provide the information collected and compiled under the System to the family members of the displaced individuals and law enforcement officials.

(c) CONSIDERATIONS.—In establishing the System under subsection (a), the Secretary shall take into account and, to the maximum extent practicable, incorporate into the System—

(1) intermediary-based locator systems such as the National Next of Kin Registry; and

(2) information from existing family locator databases, such as the Family News Network of the International Committee of the Red Cross.

**SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary to carry out this Act.

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## SUBMITTED RESOLUTIONS

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## SENATE RESOLUTION 234—RELATIVE TO THE DEATH OF WILLIAM H. REHNQUIST, CHIEF JUSTICE OF THE UNITED STATES

Mr. FRIST (for himself, Mr. REID, Mr. MCCONNELL, Mr. DURBIN, Mr. SPECTER, Mr. LEAHY, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mrs. DAYTON, Mr. DEMINT, Mr. DEWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 234

Whereas William H. Rehnquist, the late Chief Justice of the United States, was born in Milwaukee, Wisconsin, to William Benjamin Rehnquist and Margery Peck Rehnquist and raised in Shorewood, Wisconsin;

Whereas a young William H. Rehnquist served our Nation during the Second World War in the United States Army Air Force at home and abroad from 1943 to 1946;

Whereas William H. Rehnquist enrolled in Stanford University, where he earned a bachelor's and master's degree in political science and was elected to Phi Beta Kappa;

Whereas William H. Rehnquist earned a second master's degree in government from Harvard University;

Whereas William H. Rehnquist graduated first in a very impressive class, including his future Supreme Court colleague, Sandra Day O'Connor, from Stanford University's School of Law;

Whereas William H. Rehnquist began his legal career by serving as a law clerk to Supreme Court Justice Robert Jackson;

Whereas William H. Rehnquist married the late Natalie Cornell, and they raised 3 children, James, Janet, and Nancy;

Whereas William H. Rehnquist was an accomplished attorney, having practiced law for 16 years in Phoenix, Arizona;

Whereas President Richard Nixon selected William H. Rehnquist to serve as Assistant Attorney General for the Office of Legal Counsel of the Department of Justice;

Whereas President Richard Nixon also nominated William H. Rehnquist to serve as an Associate Justice on the Supreme Court of the United States;

Whereas President Ronald Reagan nominated William H. Rehnquist to serve as the sixteenth Chief Justice of the United States;

Whereas William H. Rehnquist had a profound love for history and respect for the arts and served as Chancellor of the Smithsonian Institution for 19 years;

Whereas William H. Rehnquist was a skilled writer and avid historian and authored several books on Supreme Court history and the American legal system;

Whereas William H. Rehnquist was a man of enormous intellect and great common sense, a combination that was reflected in the clarity of his opinions;

Whereas William H. Rehnquist's record illustrates his unwavering commitment to judicial restraint, judicial independence, and the rule of law;

Whereas, under his firm leadership and superb managerial skills, William H. Rehnquist efficiently managed the Supreme Court of the United States for 19 years;

Whereas leaders of both political parties agree that William H. Rehnquist served with honor and integrity in his role as the second Chief Justice of the United States to preside over a presidential impeachment trial, respecting the institutional domain of the Senate and its processes, procedures, and traditions;

Whereas, as the leader of the Supreme Court, William H. Rehnquist was highly regarded by all of his colleagues, including those with differing judicial philosophies;

Whereas his former colleagues have described William H. Rehnquist as a "splendid administrator'', ''the most efficient manager'', ''a great Chief Justice'', ''meticulously fair'', and the ''most all-around successful'' Chief Justice;

Whereas William H. Rehnquist served with distinction on the Supreme Court of the United States for over 14 years as an Associate Justice and 19 years as the Chief Justice, more than 33 years in all;

Whereas William H. Rehnquist was the fourth longest serving Chief Justice of the United States;

Whereas William H. Rehnquist was 1 of our Nation's most influential and memorable Chief Justices;

Whereas William H. Rehnquist was the embodiment of the ideal qualities of a judge, fair, impartial, open minded, and above all committed to the Constitution and the rule of law;

Whereas William H. Rehnquist will be remembered as 1 of the greatest Chief Justices of the United States;

Whereas William H. Rehnquist passed away on September 3, 2005, surrounded by his loving family; and

Whereas our Nation is deeply indebted to William H. Rehnquist, a truly distinguished American: Now, therefore, be it

*Resolved*, That the Senate—

(1) extends its heartfelt sympathy to the family and friends of William H. Rehnquist;

(2) acknowledges William H. Rehnquist's life-long service to the United States of America as a World War II veteran, a talented attorney, a dedicated public servant, a brilliant jurist, and one of our Nation's greatest Chief Justices; and

(3) commends William H. Rehnquist for his 33 year tenure on the Supreme Court of the United States and his many accomplishments as Chief Justice of the United States.

## SENATE RESOLUTION 235—TO PERMIT THE SOLICITATION OF DONATIONS IN SENATE BUILDINGS FOR THE RELIEF OF VICTIMS OF HURRICANE KATRINA

Mr. LOTT (for himself, Mr. DODD, Mr. COCHRAN, Ms. LANDRIEU, Mr. VITTER, Mr. SHELBY, Mr. SESSIONS, Mr. FRIST, Mr. REID, Mr. DOMENICI, Mr. ALLARD, Mr. KOHL, Mr. KYL, Mr. AKAKA, Mr. GREGG, Mr. KENNEDY, Mr. ALEXANDER, Mr. MARTINEZ, Ms. MURKOWSKI, Ms. COLLINS, Mr. ENZI, Mr. THOMAS, Mr. CHAMBLISS, Mr. CARPER, Mr. DORGAN, Mr. LAUTENBERG, Mr. CORZINE, Mr. REED, Mr. LIEBERMAN, Mr. DEWINE, Mrs. HUTCHISON, Mr. DAYTON, Mr. JEFFORDS, Mr. THUNE, Mr. ALLEN, Mr. DEMINT, Mr. COBURN, Mr. BURR, Ms. STABENOW, Mr. PRYOR, Mr. BINGAMAN, Mr. HAGEL, Mr. SANTORUM, Mr. SALAZAR, Mr. STEVENS, Mr. ROBERTS, Mr. TALENT, Mr. KERRY, Mrs. LINCOLN, Mr. HARKIN, Mr. COLEMAN, Mrs. DOLE, and Ms. CANTWELL) submitted the following resolution; which was considered and agreed to:

S. RES. 235

*Resolved*,

**SECTION 1. SOLICITATION FOR HURRICANE KATRINA RELIEF.**

Notwithstanding any other provision of the rules or regulations of the Senate—

(1) a Senator or employee of the Senate may solicit another Senator or employee of the Senate within Senate buildings for nonmonetary donations for the relief of victims of Hurricane Katrina; and

(2) a Senator or employee of the Senate may work with a nonprofit organization with respect to the delivery of donations described in paragraph (1).

## AUTHORITY FOR COMMITTEES TO MEET

### SELECT COMMITTEE ON INTELLIGENCE

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 7, 2005 at 1:30 p.m. to hold a briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PERMITTING SOLICITATION OF DONATIONS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to consideration of S. Res. 235, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 235) to permit the solicitation of donations in Senate buildings for the relief of victims of Hurricane Katrina.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, the ranking member of the Senate Rules Committee, Senator DODD, and 47 other Senators and I today submitted a resolution that would allow Senators and Senate staff to make donations of food, clothing, medical supplies, and other needed materials for victims of Hurricane Katrina.

Current Senate regulations prohibit any soliciting within Senate buildings. This resolution suspends these regulations for noncash solicitations among the Senate family. It is my hope this resolution will demonstrate the generosity of Senators and staff and will help ease the suffering of the millions of people along the Gulf whose lives have been devastated by this unprecedented disaster.

But I think we can do more at this time of crisis. I believe Senators should be able to use Senate facilities to encourage all of our constituents and friends to donate to charities that are working 24 hours a day to help alleviate the suffering caused by the hurricane, and I intend to introduce legislation that will facilitate that effort.

This is a modest effort at time of great suffering. We need to do more right now and not allow inflexible rules to prevent us from helping our citizens at a time of crisis.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 235) was agreed to, as follows:

S. RES. 235

*Resolved*,

**SECTION 1. SOLICITATION FOR HURRICANE KATRINA RELIEF.**

Notwithstanding any other provision of the rules or regulations of the Senate—

(1) a Senator or employee of the Senate may solicit another Senator or employee of the Senate within Senate buildings for nonmonetary donations for the relief of victims of Hurricane Katrina; and

(2) a Senator or employee of the Senate may work with a nonprofit organization with respect to the delivery of donations described in paragraph (1).

## UNANIMOUS CONSENT AGREEMENT—H.R. 2862

Mr. FRIST. Mr. President, I ask unanimous consent that following morning business on Thursday, September 8, the Senate proceed to the immediate consideration of Calendar No. 137, H.R. 2862. I further ask that the committee-reported substitute be agreed to as original text for the purposes of further amendment, with no points of order waived by virtue of this agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ORDERS FOR THURSDAY, SEPTEMBER 8, 2005

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, September 8. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved and the Senate proceed to a period for morning business for up to 60 minutes, with the first 30 minutes under the control of the minority leader or his designee and the final 30 minutes under the control of the majority leader or his designee; provided that following morning business, the Senate proceed to the consideration of H.R. 2862, the Commerce, Justice, Science appropriations bill as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PROGRAM

Mr. FRIST. Mr. President, tomorrow the Senate will turn to the Commerce, Justice, Science appropriations bill. The managers will be ready to go through amendments and expedite consideration of this important bill. I encourage our colleagues who may have amendments to work with the managers tomorrow morning in order to schedule consideration.

In addition to that measure, we anticipate a further supplemental appropriations bill to arrive from the House.

We will need to act quickly on that emergency funding to continue our efforts in our Southern Gulf States. Therefore, there will be votes during Thursday's session of the Senate, and I will announce Friday's voting schedule tomorrow once we can gauge our progress.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. If there is no further business to come before the Senate, I ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:01 p.m., adjourned until Thursday, September 8, 2005, at 9:30 a.m.

## CONFIRMATION

Executive nomination confirmed by the Senate Friday, July 29, 2005:

### DEPARTMENT OF STATE

FRANCIS JOSEPH RICCIARDONE, JR., OF NEW HAMPSHIRE, TO BE AMBASSADOR TO THE ARAB REPUBLIC OF EGYPT.

# HOUSE OF REPRESENTATIVES—*Wednesday, September 7, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. SIMPSON).

## DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
*September 7, 2005.*

I hereby appoint the Honorable MICHAEL K. SIMPSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
*Speaker of the House of Representatives.*

## PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Since justice and judgment are the foundation of Your throne, Lord God: because You love those who hate evil and guard the lives of Your faithful ones. Lord, we know that You welcome into the heavenly court Your servant, Chief Justice William H. Rehnquist.

May his legacy continue to guide this Chamber, the provisions of the courts of this land and the citizens governed: to seek the truth behind every dispute and deferring opinion, to work for equal justice under the law for all Your people.

Eternal rest and reward grant unto him, O Lord. Amen.

## THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

## PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from California (Ms. SOLIS) come forward and lead the House in the Pledge of Allegiance.

Ms. SOLIS led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

## SUPPORTING JUDGE JOHN ROBERTS

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to voice my strong support for President Bush's nominee for Chief Justice, Judge John Roberts, Jr. Judge Roberts has a distinguished record, a brilliant legal mind, and is uniquely qualified to replace the late Chief Justice William Rehnquist.

Judge Roberts graduated summa cum laude from Harvard University in only 3 years. He then went on to graduate magna cum laude from Harvard Law School where he served as editor of the Law Review. Judge Roberts also clerked for our late Chief Justice Rehnquist.

Judge Roberts has argued 39 cases before the Supreme Court, earning him a reputation as one of the finest advocates in the Nation. Only a handful of the 180,000 members of the Supreme Court bar come close to this record.

Since 2003, he has served on the U.S. Court of Appeals for the D.C. District. This court is regarded as the second most influential court in the Nation. Judge Roberts was confirmed unanimously for this important position by the United States Senate.

Judge Roberts is the kind of judge we need. He will apply the law as written and decide the case on its merits, regardless of his personal political views.

Mr. Speaker, it is clear Judge Roberts offers all we could ask for in a Chief Justice nominee. Therefore, I urge the Senate to hold fair and speedy hearings in order to fill this important vacancy as soon as possible.

## KATRINA RESPONSE

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, there are three ways to respond to the crisis along the gulf coast: rebuilding, restoring, and retrospection. We must pinpoint the errors made prior to the storm and flooding, develop an action plan on what needs to be done to ensure that the response failures do not happen again, and focus on rebuilding people's lives.

Pointing fingers and attributing blame does little to put our country back together again. On the other hand, acting Pollyannish, as if everything went according to plan, would be dangerous. Failing to respond in a time of need is unacceptable.

Here are four things we must begin immediately to help folks put their lives back together: first, anyone affected by this tragedy should be exempted from the recently enacted bankruptcy laws. Second, we need to make sure the kids whose lives have been turned upside down receive universal health care and an education. Those seeking a higher education will receive a $3,000 voucher. Third, we need to start reconstruction from housing to highways. New Orleans and the rest of the gulf coast must come back better and safer than before. Fourth, we need to immediately begin to restore the region's natural buffer zones.

Mr. Speaker, in a crisis people look to their fellow countrymen, and they are looking to this country. It is time to start the rebuilding, the restoring, and the retrospection.

## "GIT'R DONE"

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, I want to congratulate and thank Texans that are helping our neighbors from across the Sabine River in Louisiana. The amazing hurricane relief efforts being organized in the State of Texas are a model for compassion, concern, and competence. The city of Houston, following the leadership of Mayor Bill White, is housing over 40,000 individuals from New Orleans. The Houston Astrodome has been opened up under the supervision of Harris County Judge Robert Echols and is housing close to 20,000 people. Next door in Jefferson County under the direction of Judge Carl Griffith, they are housing more than 1,800 people in their county complex. Altogether close to a quarter of a million displaced persons from Louisiana are being taken care of by Texas.

Mr. Speaker, there are those who have done nothing in this disaster except criticize and complain. I instead rise to praise and encourage. I would like to thank Mayor White, Judge Echols, Judge Griffith, and the thousands of volunteers across the State of Texas for showing us what character and compassion are all about. I know they will continue to "git'r done."

## DEALING WITH NATURAL DISASTERS IN THE FUTURE

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker, as we all reel from the devastation of Katrina, what is surprising is that so many claim to have been surprised by

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

an event both predictable and inevitable.

This is the moment when the Nation's attention is trained upon not just this tragedy but what we must do to prevent future unnecessary suffering and loss. Today with a majority of Americans at risk from natural disasters, this is more important than ever for us to get the job done right.

Four years ago, we got it wrong as FEMA lost its focus in the vast Homeland Security bureaucracy. We need to listen to each other this time and to the consensus of independent experts. We need to deal with the long term and to find an appropriate Federal role. We need to use the forces of nature to protect against the power of nature. We must assure that each step along the way that we take as a Congress leaves our communities more liveable and our families safer, healthier, and more economically secure.

## IN MEMORY OF CHIEF JUSTICE WILLIAM REHNQUIST

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, today our thoughts and prayers are with the Rehnquist family and our Nation. As we celebrate the life of Chief Justice William Rehnquist today, we mourn the loss of a true leader who made the most of his unique opportunity to help the American people. He was a skilled judge and a brilliant man who devoted over a third of his life to ensuring that our highest Court fairly upheld our laws.

From fighting excessive Federal laws as an Associate Justice to battling cancer as Chief Justice, Rehnquist embodied determination and conviction throughout his tenure. Often the lone vote on an issue, he remained true to his conservative beliefs and worked tirelessly to ensure that justice was fairly delivered, and efficiently. Because of his monumental impact on our legal system, he earned a valuable place in our Nation's history.

As his family and friends gather today, I would like to express my sincere respect and gratitude for the life and work of Chief Justice William Rehnquist.

In conclusion, God bless our troops, and we will never forget September 11.

## HURRICANE KATRINA AND THE IMPACT ON LATINOS

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, last week the world witnessed the devastating impact of one of the greatest calamities the United States has ever faced. Hurricane Katrina left hundreds of thousands of people without their livelihood and homes and many more without a sense of hope and esperanza.

As shelters across the United States open their arms to evacuees, we must remember all the vulnerable communities which are suffering tremendously in the wake of this natural disaster, including the immigrant population that resides in the embattled areas of the Nation.

More than 150,000 Hondurans, 100,000 Mexicans, and a host of other individuals who live in that particular area, these are immigrants and their families who have contributed significantly to the social and economic fabric of the gulf coast, working in casinos, on farms, in hotels, construction sites, and also in janitorial services. I feel strongly that these immigrants and their families cannot be forgotten in this crisis.

Just as we embrace all the victims of disaster, I hope and I know that the Federal Government will do the same without regard to race, ethnicity, and country of origin. Let us not forget that these individuals contribute every single day to our Nation.

## EDWARD M. REUTINGER

(Mr. NEY asked and was given permission to address the House for 1 minute.)

Mr. NEY. Mr. Speaker, I rise today to commemorate the life of a great American, Edward M. Reutinger. Edward Reutinger passed away on August 25, 2005, from a stroke at the age of 58. He was a Green Township trustee in Ross County, Ohio, for 12 years and planned on renewing his public service to Ohio this November by running for trustee again.

Edward Reutinger was a devoted family man and a cherished husband, father, grandfather, and uncle. He and his wife were set to celebrate their 37th wedding anniversary this year.

Mr. Speaker, Edward Reutinger represents some of the best that Ohio and America have to offer. I want to remember him for his upstanding citizenship and for the love he had for his township and his country. May God rest his soul.

## HURRICANE KATRINA AND AFRICAN AMERICANS

(Mrs. CHRISTENSEN asked and was given permission to address the House for 1 minute.)

Mrs. CHRISTENSEN. Mr. Speaker, I have been through some of the worst hurricanes in the last quarter of a century. They were experiences I never want to go through again, but none comes close to the devastation especially in the lives of the people of Louisiana, Mississippi, and Alabama. I would have thought that there would have been some institutional history and expertise at FEMA that would have dictated a more appropriate preparation and immediate lifesaving response. Obviously, I was wrong and lives were lost.

What I have not been wrong about is what my CBC colleagues and I have been telling this body over and over again for a long time, that African Americans are left out and left behind in just about every facet of American life. Now the entire country and the whole world has seen it in its most stark and tragic reality.

If nothing else comes out of the devastation we have witnessed over the past week, it should be that we forge the will and determination and the leadership of this Nation to close the gaps; to eliminate the disparities; and, finally, after all of these centuries, ensure fairness, equality, and justice for all and that all Americans be finally embraced into the fullness of the promise that is America.

## THE BEST OF HUMAN NATURE

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, over the Labor Day weekend, I had the opportunity to go to Baton Rouge not as a Member of Congress but as a physician and to work in the River Center where the evacuees, over 5,000, so many of them were there, and to help provide basic health care needs.

What I saw in Louisiana was the best of human nature: a level of confusion, of course, and some disorganization, but people pulling together and trying to do the best they could in a difficult situation.

Mr. Speaker, I would ask my colleagues on both sides of the aisle at a time like this, probably the greatest tragedy this Nation has ever seen, to pull together, avoid the temptation to get into a finger-pointing, blaming situation, and let us see as a result of this the best of the human nature of this Congress.

## FEMA

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, I agree with the gentleman who went before me: we should see the best of human nature and we should all join together, and hopefully Congress and the administration can do better in the relief and the rebuilding efforts than they did in the prevention and disaster response.

But it is a time to learn and reform because it may only be days or weeks until we have another devastating hurricane, who knows when the terrorists will attack, and have we learned any lessons since 9/11.

A gentleman before me said we will never forget. We have forgotten. There were no interoperable secure communications. They want to blame New Orleans for that. Guess what, the Bush administration zeroed out interoperable communications in the Homeland Security budget. The Bush administration insisted that FEMA had to go into Homeland Security. I joined with 163 Members of this House saying no, that will degrade FEMA. FEMA has been degraded. They have a political hack as their head.

Changes need to be made now, and urgently, because the next disaster may strike tomorrow. And if the response is as poor as it was in this emergency, more people will die needlessly.

## PULLING TOGETHER

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, we all watched in disbelief as the desperation of fellow Americans rolled across our TV screens waving from rooftops in New Orleans, waiting to be saved. And as the hours rolled by, it became clear that our response, our response, at the local, State, and Federal levels was lacking.

□ 1015

Hurricane Katrina is the largest natural disaster in the history of our Nation, affecting an area the size of the entire State of Michigan. Any response would have been lacking for some. There will be opportunities in Congress and elsewhere to evaluate that response, but now is the time for all Americans to pull together and work together to get millions of our fellow citizens back on their feet. Now is the time for the American spirit to shine.

We are a giving and a generous country, and millions of Americans are desperate to help. There are so many avenues of opportunity.

Our Nation has faced huge challenges before, and we know how to succeed in the face of adversity. We succeed by marshaling that American spirit and by working together. Together, it is imperative that now we in Congress and across our Nation move forward with that uniquely American can-do, never-fail attitude.

## HELP THE REAL VICTIMS

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, in the wake of Hurricane Katrina, our prayers are with the families who are still displaced, those who have lost loved ones, and those who have yet to locate friends and family.

Last week we offered a $10.5 billion down payment on a long-term rebuilding effort, and I hope this initial commitment will send a clear message to the victims that the American people stand ready to help during their time of need.

But I am concerned about politics. I have been around long enough to recognize opportunism when I see it. Some Democrats are already using this opportunity to impugn the integrity of the President with blame and finger-pointing. Though it is appropriate to determine what went wrong, I am afraid that they may have another agenda.

Now is the time for all of us to work together to help those in need. Lest we forget who they are, here is a hint: They do not work here in the Capitol, they do not run for political office, they live in refugee camps in a dozen States because their homes and lives were destroyed by Katrina.

## BEING RESPONSIBLE WITH OUR NATION'S RESOURCES

(Mr. FLAKE asked and was given permission to address the House for 1 minute.)

Mr. FLAKE. Mr. Speaker, we have already made a down payment of $10.5 billion. We will do another $50 billion likely later this week, as we should.

I want to encourage my colleagues in our leadership to seek out offsets. When a family has an emergency, they will sometimes put it on a credit card or plan for it some other way. Our credit is just about at its limit, and we have to dig deep within ourselves and say, how are we going to pay for this? What else are we going to cut?

I have many suggestions. A prescription drug benefit that will go into effect next year has about a $40 billion price tag for 1 year. That will be a great place to start. We just passed a massive transportation bill that we ought to have revisions on. There are many ways that we can look for the money, but we have to find the money somewhere, and we should not simply assume that we can spend new money and that everything will go along just fine.

We have to be responsible with the Nation's resources.

## PULLING TOGETHER AS A NATION

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Mr. Speaker, I have the honor of representing the entire coast of Georgia from Savannah to Brunswick to St. Mary's, Georgia, and during my 14 years in Congress, we have had a number of tropical depressions and hurricanes, and we have had to evacuate and so forth. And we have been hit, but certainly not to the degree that the gulf has been.

Yet, one thing I know from that experience is that you do not sit around and point fingers. You get folks their basic needs after a storm. You get them water, you get them food, you get them shelter, you get them electricity, you get them medical attention, you get them transportation. These things are what we need to be doing right now.

Sure, we can sit around in Louisiana and say, why was the National Guard not ordered, and who is in charge of that? Why were the 4,000 buses in New Orleans not activated? Who is in charge of that? We could say, why was the evacuation of New Orleans only made on Sunday, the day beforehand? We can sit around and do that, but that is not going to help people who rightfully need medical attention, food, and water.

This is the time to pull together as a Nation, as different people from all over the States with different perspectives and different social statuses and different income brackets, to unify into one and help those on the ground who need our help the most.

The United States Congress is doing that. We passed the emergency bill for disaster relief last Friday and we will do it again this week. We are going to continue to pull together to get this recovery going as fast and as orderly as possible.

## MAKING IN ORDER AT ANY TIME CONSIDERATION OF HOUSE RESOLUTION 423, HONORING AND RECOGNIZING THE DISTINGUISHED SERVICE, CAREER, AND ACHIEVEMENTS OF CHIEF JUSTICE WILLIAM HUBBS REHNQUIST UPON HIS DEATH

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that it shall be in order at any time to consider in the House the resolution (H. Res. 423); the resolution shall be considered as read; and the previous question shall be considered as ordered on the resolution to its adoption without intervening motion or demand for division of the question except: (1) 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on House Resolution 423.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

## HONORING AND RECOGNIZING THE DISTINGUISHED SERVICE, CAREER, AND ACHIEVEMENTS OF CHIEF JUSTICE WILLIAM HUBBS REHNQUIST UPON HIS DEATH

Mr. SENSENBRENNER. Mr. Speaker, pursuant to the order of the House entered into previously today, I call up the resolution (H. Res. 423) honoring and recognizing the distinguished service, career, and achievements of Chief Justice William Hubbs Rehnquist upon his death, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of House Resolution 423 is as follows:

H. RES. 423

Whereas William H. Rehnquist was born on October 1, 1924, in Milwaukee, Wisconsin and grew up the son of a paper salesman;

Whereas William H. Rehnquist served the United States in the Army Air Corps during World War II;

Whereas William H. Rehnquist attended and graduated from Stanford University, earning a bachelor's and master's degree in political science, and a second master's degree in government from Harvard University;

Whereas William H. Rehnquist went on to graduate first in his class at Stanford Law School in 1952, where he met his wife Natalie "Nan" Cornell;

Whereas William H. Rehnquist and Natalie had three children: James, Janet, and Nancy;

Whereas William H. Rehnquist served as a law clerk to Justice Robert H. Jackson on the Supreme Court during the 1951 and 1952 terms, and as Assistant Attorney General for the Justice Department's Office of Legal Counsel, where he advised the Nixon Administration on constitutional law from 1969 until 1971;

Whereas William H. Rehnquist was appointed by President Nixon and confirmed by the Senate as an Associate Justice of the United States on December 10, 1971, at the age of 47;

Whereas William H. Rehnquist was appointed by President Reagan and confirmed by the Senate as the 16th Chief Justice of the United States in 1986;

Whereas Chief Justice Rehnquist's 33-year tenure on the Supreme Court was one of the longest and most influential in the Nation's history;

Whereas legal scholars of all perspectives rank Chief Justice Rehnquist as among the great Chief Justices of the United States who influenced the interpretation of the law in significant ways;

Whereas Chief Justice Rehnquist was widely respected for his evenhandedness as Chief Justice; and

Whereas on January 7, 2002, the 30th Anniversary of his swearing in at the Supreme Court, Justice John Paul Stevens praised Chief Justice Rehnquist for "the efficiency, good humor and absolute impartiality that you have consistently displayed when presiding at our Conferences": Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) has learned with profound sorrow of the death of Chief Justice Rehnquist; and

(2) honors, recognizes, and expresses gratitude for the distinguished service, career, and achievements of William H. Rehnquist upon his death.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Resolution 423 which honors and recognizes the distinguished service, career, and achievements of Chief Justice William Hubbs Rehnquist upon his death.

Mr. Speaker, the passing of Chief Justice Rehnquist means that a long and distinguished career has come to an end. William Rehnquist was born on October 1, 1924, in Milwaukee, Wisconsin and was raised in nearby Shorewood, Wisconsin, which currently lies in the congressional district I am proud to represent. The future Chief Justice attended Kenyon College briefly before joining the U.S. Army Air Corps during World War II.

Following his career in the Army, Chief Justice Rehnquist attended and graduated from Stanford University, where he received a bachelor's and master's degree in political science and a second master's degree in government from Harvard University.

At Stanford Law School, the future Chief Justice graduated first in the class that famously included his future colleague, Justice Sandra Day O'Connor. It was also at Stanford Law School that the Chief Justice met his future wife, Natalie "Nan" Cornell, whom he married in 1953.

After graduation, William Rehnquist clerked for Supreme Court Justice Robert H. Jackson for the 1952 and 1953 terms. He then went on to practice as an attorney in his adopted home State of Arizona for several years before returning to Washington, DC, to serve as Assistant Attorney General for the Justice Department's Office of Legal Counsel, where he advised the Nixon administration on constitutional law from 1969 until 1971.

On October 22, 1971, President Nixon nominated William Rehnquist to fill the vacancy on the United States Supreme Court created by Justice John Marshall Harlan's retirement. The Senate confirmed him to the post of Associate Justice on December 10, 1971, and he was sworn into office on January 7, 1972, at the age of 47.

Under his leadership, federalism, judicial restraint, and State autonomy once again became staple features of the Court's jurisprudence. Chief Justice Rehnquist deeply respected the proper roles of each branch of government and the separation of powers envisioned by our Founders. He repeatedly acknowledged that the first amendment to the Constitution guaranteed the free exercise of religion.

By the time President Reagan nominated him to become the 16th Chief Justice of the United States on June 20, 1986, to replace Warren Burger, the pieces were in place for the Chief Justice to make a profound impact on American jurisprudence. His commitment to his principles were evidenced in his majority opinion upholding Cleveland, Ohio's program of school vouchers, which allowed public school students in poor areas to use vouchers to attend better, and often religious, schools, against an Establishment Clause challenge. His support for freedom of religion was also evidenced in his concurring opinion of Elk Grove Unified School District v. Newdow, in which he rightly concluded that the phrase "under God" in the Pledge of Allegiance was not a violation of the Establishment Clause.

Most recently, Chief Justice Rehnquist joined Justice O'Connor's dissent in Kelo v. City of New London in which they correctly concluded that it is a violation of the fifth amendment's Public Use Clause when a government takes private property and gives it to another private entity to use for private commercial purposes.

Apart from the doctrinal changes the Chief Justice brought to the Court, he also streamlined the manner in which the Court operated. His keen intellect and evenhandedness were appreciated by all of his colleagues. On the 30th anniversary of Rehnquist's swearing in, Justice John Paul Stevens, who often found himself on the opposite side of opinions from the Chief Justice, praised him for the "efficiency, good humor, and absolute impartiality that you have consistently displayed when presiding at our conferences." These traits have led observers of all political persuasions to view Chief Justice Rehnquist as one of the most consequential jurists in our history.

When Chief Justice Rehnquist was diagnosed with thyroid cancer in October of 2004, many of his admirers feared that his tenure on the Court would come to an end. The Chief Justice, however, had other plans and continued to make his presence felt on the Court even as he battled his disease. Unfortunately, last Saturday, Chief Justice Rehnquist lost that battle, and the country has lost a great intellect and a great public servant. His decision to swear in President George W. Bush last January while battling his illness inspired millions of Americans.

From a personal standpoint, let me say that I first met the future Chief Justice back in 1968 going door-to-door while running for a seat in the Wisconsin Assembly, and when I knocked on his parents' door, they introduced me to the Chief Justice-to-be, and he and I have kept contact up for a number of years until he passed away, both before he was selected for the Court and I was elected to the Congress.

As the chairman of the Committee on the Judiciary, let me say that I deeply appreciated the Chief Justice's invitations to address the twice-yearly meetings of the Judicial Conference of the United States on issues relating to the separation of powers and the interrelationship to how the laws the Congress passes relate to the operation of the third branch of government. I can say that the Chief Justice was extremely responsive when I had complained that the Judicial Discipline statute enacted in 1980 was not being utilized properly and effectively in terms of disciplining judges in the appeals court and in the lower Federal courts that may have strayed from the bounds of propriety and the ethical standards that we hope all of the judges will uphold.

I can say that probably one of my most profound memories of the Chief Justice was at a Judicial Conference meeting on the morning of September 11, 2001, where, because I had the first three bills up on the floor at 10 o'clock, the Chief Justice put me on first. At that time the Twin Towers had both been hit, and the Chief Justice came in, sat down and said, "Jim, make this snappy. Something bad is going on."

☐ 1030

So my remarks got condensed to a minute and a half and the Chief Justice said, "There are no questions of the chairman, are there?" And everybody else in the room got the message, so I was then excused, and when I got here to the Capitol to make the three motions for suspensions of the rules, the Pentagon had already been hit. So the Chief Justice, I think, was advised that we were all in danger, he wanted to get the business done despite the danger, and he was able to do that. I think that this shows his character, and it is a way that touched me in an extremely personal way.

While the country has lost so much, his family, including his children James, Nancy, and Janet, and his six grandchildren have lost a loving family member as well. I know that the whole House will join me in extending our condolences to his family and our thanks for his great service to this country. I hope that all Members will join me in supporting House Resolution 423 honoring, recognizing, and expressing our gratitude for the distinguished service, career, and achievements of Chief Justice William H. Rehnquist.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I rise to celebrate the life of Chief Justice Rehnquist. Justice Rehnquist was devoted to the highest Court of the land and, more broadly, to our system of justice; and throughout his long tenure, he served them both admirably. During his 33 years on the Court, 19 of which were as Chief Justice, he chartered a definitive path which reflected his philosophy and left an unquestionable impact on the direction of the Court.

In his early years on the Court, at a time when his approach to constitutional interpretation often was not shared by a majority on the Court, Justice Rehnquist stuck closely to his principles, earning him the moniker "The Lone Ranger." Over time, he was joined by other Justices who shared his ideology, and he was able to craft majorities that moved the Court towards adopting his vision of the law. To his great credit, when faced with a conflict between his own strongly held position and the dictates of stare decisis, as happened with recent efforts to limit the Miranda decision, he frequently sided with precedent.

While it is fair to say that over the years on decisions which have split the Court, I have probably disagreed with Chief Justice Rehnquist's opinions more often than I have agreed with them; however, I have admired many of his efforts to protect the independence of the judiciary and his willingness to criticize his own party.

Chief Justice Rehnquist often stated his discomfort with Congress encroaching on a court's prerogative in an attempt to guard judicial independence. He lashed out at those attempting to impeach judicial activists and threaten judges for rulings they did not like. "The Constitution protects judicial independence not to benefit judges but to promote the rule of law. Judges are expected to administer the law fairly, without regard to public reaction," he once said.

Chief Justice William H. Rehnquist also criticized Congress for repeatedly enacting Federal criminal laws that overlap State laws. The States have the primary role in the area of crime and law enforcement, he said in his annual message on the judiciary, and Congress needs to think twice before turning "every highly publicized societal ill or sensational crime" into a new Federal law. "The trend to federalize crimes that traditionally have been handled in State courts not only is taxing the judiciary's resources," he said, "but it also threatens to change entirely the nature of the Federal system. Federal courts were not created to adjudicate local crimes, no matter how sensational or heinous the crimes may be. State courts do, can, and should handle such problems."

The impact of Congress having relegated more complex and time-consuming cases appropriate for State court adjudication to Federal jurisdiction, such as Congress did with class action reform, warranted Rehnquist's rebuke: "Congress should commit itself to conserving the Federal courts as a distinctive judicial forum of limited jurisdiction in our system of federalism. Civil and criminal jurisdiction should be assigned to the Federal courts only to further clearly define national interests, leaving to the State courts the responsibility for adjudicating all other matters. This long-range plan for Federal courts is based not simply on the preferences of Federal judges but on the traditional principle of federalism that has guided this country throughout its existence."

As noted by the New York Times, Chief Justice Rehnquist was also duly critical of hastily enacted limitations on judicial sentencing decisions and the potential damage that compiling information on the sentencing habits of individual judges could do to fair and impartial justice. Chief Justice Rehnquist plainly saw his role as defender in chief of the Nation's independent court system, which he famously called "one of the crown jewels of our system of government."

His often practical approach to immeasurably weighty responsibility of having one out of nine votes on the most powerful Court in the country reflected his devotion and respect for the institution of the Supreme Court and its effect on the lives of all Americans. Nowhere did Justice Rehnquist's love for the Court shine through more than in his numerous books on Supreme Court history and lore.

Chief Justice Rehnquist also displayed considerable skill in managing an often divided Court. His colleagues have spoken of his deft ability, good humor, and impartiality as he led the Court through landmark cases. On top of this, he served for nearly 2 decades as the chief judicial officer of the Nation's Federal court system, constantly advocating for the resources needed to improve the courts' mission of delivering evenhanded justice throughout the Nation.

I would commend to my colleagues the op-ed piece in the New York Times yesterday by Laurence Tribe, a frequent litigator in the Supreme Court who argued many, many cases, who speaks of Chief Justice Rehnquist's career there and finds many, many reasons to praise and admire him. He closes his article urging that as the Senate now considers the confirmation of a new Chief Justice, they look to one of the issues that he felt Chief Justice Rehnquist so ably stood for and that is the ability of new Justices to help the Court earn the respect of all who take part in its proceedings or are affected by its rulings, which means everyone. "Chief Justice Rehnquist," Professor Tribe noted, "was a master at that mission. For that, and for the steadiness of his leadership, I will always remember him with profound gratitude and admiration."

We are all saddened by the loss of Chief Justice William Rehnquist. As we mourn his death, regardless of our political differences, we must remember how he selflessly gave to the Court and the Nation. His work is an important legacy that impacts every American's life and will shape the lives of future generations. I join the Nation in applauding his accomplishments, and I express my sympathy for our collective loss.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Speaker, not unlike the gentleman from Wisconsin, I also appeared at the Supreme Court on 9/11 to address the judicial conference. Just as I approached the podium, the Chief Justice handed me a note which read: "The Pentagon has been bombed." I thought perhaps they did not know about the World Trade Center because they had been in session the entire morning, and I said, "No, Chief, it's the World Trade Center." He said, "No, Howard, it's the Pentagon here." My staff, Mr. Speaker, admonishes me to this day for not having retained that piece of paper. It would have been a nice personal memento. Each time I saw the Chief after that, he or I mentioned that exchange between us.

Not unlike the gentleman from Wisconsin, I did not know the Chief that intimately, but I am very high on him. I think he was an outstanding Chief Justice. Each time I saw him, he or I mentioned that exchange between us on 9/11.

If I could describe him very briefly, I would say a man blessed with supreme intellect; a warm, cordial demeanor; an outstanding Chief Justice; an outstanding jurist; an outstanding citizen; an outstanding gentleman. He will indeed be missed. I join with my colleagues in extending our sincere condolences to the family of this great man.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, as chairman of the Constitution Subcommittee of the Judiciary Committee, I want to take this opportunity to honor the late Supreme Court Justice William Hubbs Rehnquist. Our country was privileged to have Justice Rehnquist serve as a member of our Supreme Court for 33 years, the last 18 years, as we know, as Chief Justice. Once considered the maverick lone star justice for his solo dissents, he eventually led a majority which perhaps most importantly favored a shift in power from Washington back to the States where it belongs.

Among other challenges he met during his tenure, Chief Justice Rehnquist presided over the impeachment trial of a President, President Clinton. Having served as one of the House managers myself, I can say that he did so with an evenhanded approach, showing fairness and dignity to both sides. Also, notably, he was the last member of the Court who voted on the landmark case of Roe v. Wade, dissenting from that ruling that legalized abortion. I will always appreciate his respect for the value of human life and his commitment to this body and local government's making decisions to protect life, such as the ban on partial-birth abortion.

Through his opinions, the Chief Justice showed that an active Court could uphold conservative policy through judicial restraint. As we begin the process of finding a replacement for Justice Rehnquist, I hope that we will remember the important impact of his presence on the Court and his commitment to upholding the text and history of the Constitution.

His strength and dedication to our country could be seen most recently when he fulfilled his duties of swearing in our 43rd President for the second time while battling terminal thyroid cancer. Let us remember this, I believe, historic Chief Justice for his love of the law and his love for his country. Our thoughts and prayers are with his family on this day.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, Chief Justice Rehnquist was a man of great intellect on a Court that is saturated with great intellect. He was also a man of vast common sense. Unfortunately, common sense was not so well and evenly distributed on the Court. Nonetheless, as a gentle man, a man of class, a man of integrity, he brought great wisdom and great honor to the Court. As a former prosecutor, a former district judge, a former chief justice of an appellate court in Texas, I watched his actions. I read his opinions and appreciated his great intellectual honesty and appreciation for the Constitution. He was a rare man, a man that brought great honor upon the Court, upon this country, and upon the Constitution. He will be sorely missed. It is with great respect that we extend our sympathy and our sincere best wishes and our prayers to the family and those closest to the Chief Justice. We all mourn the loss of a very great American.

Ms. PELOSI. Mr. Speaker, I join all of my colleagues in expressing our deepest condolences to the family of Chief Justice William H. Rehnquist. I mourn his loss, and I thank the gentleman from Wisconsin, Mr. SENSENBRENNER, and the gentleman from Michigan, Mr. CONYERS, for introducing this resolution.

I had the privilege yesterday of paying my respects to the Chief Justice as he lay in repose at the Great Hall. As I prayed, I thought of the great courage he displayed in the last few months, and his devotion to duty, even in the face of illness.

As a Nation, today we honor his memory and a lifetime of dedicated public service. Chief Justice Rehnquist was a man of great intellect and passion for the Supreme Court and its traditions, who was an outstanding leader and administrator of the judiciary. He was not only a student of history, an author of books on American history, but he also wrote chapters in our Nation's history as Chief Justice.

As a law clerk to a great Justice, Robert Jackson, he formed an early appreciation for the institution that he would serve in a long and distinguished career. As Justice John Paul Stevens noted, Chief Justice Rehnquist set an exemplary example as leader of the Court. His colleagues uniformly spoke of his fair and impartial leadership of their proceedings, and of his efforts to prevent disagreements from becoming personal.

His legacy is his steadfast and proud defense of an independent judiciary. As Justice Ruth Bader Ginsburg said on Sunday: "He regarded an independent judiciary as our country's hallmark and pride, and in his annual reports, he constantly urged Congress to safeguard that independence."

I hope all of us in Congress will honor his legacy by preserving an independent judiciary. It is our oath of office to protect and defend the Constitution of the United States—and that means protecting an independent judiciary free of manipulation and intimidation.

As the New York Times noted this morning, Chief Justice Rehnquist disapproved of recent Congressional attempts to "intimidate individual judges, strip federal courts of jurisdiction to decide certain constitutional challenges, and otherwise undermine the constitutional separation of powers and checks and balances." In his last annual report, the Chief Justice wrote that "A judge's judicial acts may not serve as a basis for impeachment. Any other rule would destroy judicial independence."

An independent judiciary has served for more than two centuries as the guardian of our constitutional liberties and as the words on the Supreme Court building so nobly state, has ensured "equal justice under law." We must preserve an independent judiciary and honor his memory by doing so.

It is with sadness and respect that I extend my sympathies to Chief Justice Rehnquist's family and friends. I hope it is a comfort that so many people are praying for them at this sad time. He will long be remembered and missed.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to pay tribute to one of the most influential jurists of the 20th Century, Chief Justice William H. Rehnquist, the 16th Chief Justice of the United States upon his passing on the evening of Saturday, September 3, 2005.

First appointed to the Supreme Court as an Associate Justice by President Richard Nixon in 1972, Rehnquist would go on to serve for 33 years, the final 19 of which as Chief Justice. During his time on the Court, Rehnquist earned the reputation as a conservative intellectual who would challenge the status quo in the name of judicial restraint and federalism principles. He respected the Court's role as an independent body whose role was not to legislate subjectively on the issues of the day; but rather, to serve as the objective arbiter of the rule of law.

Notwithstanding the politically charged nature of the Court during the latter half of the 20th Century, Rehnquist was very well liked and respected by all his colleagues, even those with whom he frequently disagreed. In fact, Justice John Paul Stevens, the Justice with whom Rehnquist most frequently disagreed, commented on "the efficiency, good humor and absolute impartiality that [Rehnquist had] consistently displayed when presiding at [Supreme Court] Conferences." This ability to work closely with all of his colleagues was a testament to Chief Justice Rehnquist's affability, professionalism and evenhandedness.

Not only will Chief Justice William H. Rehnquist be missed as a jurist, he will also be missed as a loving family man. Though his wife preceded him in death, he is survived by three wonderful children to whom he no doubt passed his strong work ethic, patriotism, and deep and abiding respect for our American institutions.

In closing Mr. Speaker, please let me extend my condolences to Chief Justice Rehnquist's family and friends on their loss. He was a great American and will be missed by us all.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to the order of the House of today, the resolution is considered read and the previous question is ordered.

The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

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□ 1045

## EXPRESSING CONDOLENCES OF NATION TO VICTIMS OF HURRICANE KATRINA

Mr. BOUSTANY. Mr. Speaker, I ask unanimous consent that it shall be in order at any time to consider in the House the resolution (H. Res. 425); the resolution shall be considered as read; the previous question shall be considered as ordered on the resolution to its adoption without intervening motion or demand for division of the question except: (1) 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure; and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BOUSTANY. Mr. Speaker, pursuant to the order of the House of today, I call up the resolution (H. Res. 425) expressing the condolences of the Nation to the victims of Hurricane Katrina, commending the resiliency of the people of the States of Louisiana, Mississippi, and Alabama, and committing to stand by them in the relief and recovery efforts, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The text of H. Res. 425 is as follows:

### H. RES 425

Whereas, on August 28, 2005, Hurricane Katrina reached landfall devastating the Gulf Coast states;

Whereas there has yet to be a full accounting for all our citizens whose lives were tragically lost;

Whereas the cost in human suffering is ongoing for hundreds of thousands of people who have lost loved ones, homes, and livelihoods;

Whereas immediate humanitarian aid is still critically needed in many of the devastated regions;

Whereas the devastation on the Gulf Coast of Mississippi, Louisiana, and Alabama is catastrophic;

Whereas the City of New Orleans is tragically flooded and the surrounding communities of St. Bernard and Plaquemines parishes are devastated;

Whereas every city on the Mississippi Gulf Coast is severely damaged or destroyed, including Waveland, Bay St. Louis, Pass Christian, Long Beach, Gulfport, Biloxi, Ocean Springs, Moss Point, and Pascagoula;

Whereas the States of Florida, Texas, and Georgia also sustained damage;

Whereas Coast Guard search and rescue teams, police, firefighters, the National Guard, and many ordinary citizens have risked their lives to save others;

Whereas doctors, nurses, and medical personnel worked expeditiously to ensure that hospitals, medical centers, and triage units provided needed care;

Whereas the American Red Cross, the Salvation Army, and other volunteer organizations and charities are supplying hurricane victims with food, water, and shelter;

Whereas the State of Texas and numerous other States have welcomed tens of thousands of victims from Louisiana and provided them with aid and comfort;

Whereas the Army Corps of Engineers has worked to reinforce levees in Louisiana; and

Whereas thousands of volunteers and government employees from across the Nation have committed time and resources to help with recovery efforts: Now, therefore, be it

*Resolved*, That the House of Representatives—

(1) expresses the condolences of the Nation to the victims of Hurricane Katrina;

(2) commends the resiliency and courage of the people of the States of Louisiana, Mississippi, and Alabama; and

(3) commits to provide the necessary resources and to stand by the people of the States of Louisiana, Mississippi, and Alabama in the relief, recovery, and rebuilding efforts.

The SPEAKER pro tempore. Pursuant to the order of the House of today, the gentleman from Louisiana (Mr. BOUSTANY) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 30 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BOUSTANY).

### GENERAL LEAVE

Mr. BOUSTANY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 425.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BOUSTANY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the House of Representatives expresses the condolences of the Nation to the victims of Hurricane Katrina, and this resolution expresses those condolences. It commends the resiliency and courage of the people of the States of Mississippi, Louisiana, and Alabama, and it commits to provide the necessary resources and to stand by the people of the States of Mississippi, Louisiana, and Alabama in the relief, recovery, and rebuilding efforts.

Mr. Speaker, the Senate approved a similar resolution last night, and bipartisan support for recognizing the work of first responders and to express congressional concern for those displaced by the hurricane and those who died is in order. My district, the Seventh Congressional District of Louisiana, did not suffer significant damage from Hurricane Katrina, but we face enormous challenges of sheltering and supporting the numerous evacuees now in my district. The rest of our State down in the New Orleans area and south, in Plaquemines Parish and St. Bernard Parish were devastated.

Mr. Speaker, we are up to the challenge. In my district, in Lake Charles, there are an estimated 25,000 evacuees, and in Lafayette, my hometown, there are an estimated 40,000 evacuees. Official tallies are much lower because many had family or friends to stay with or had funds to pay for hotel rooms, but this is going to be temporary. Almost all available housing has been rented or bought. Schools are preparing to accept thousands of new students. In fact, we are already currently enrolling many of these students.

State and local officials are concerned about being able to support evacuees for the long months of recovery. Local community organizations are stepping up to help, but have limited resources. The evacuation process continues. Much media attention has been on New Orleans, but there are other areas of Louisiana that remain under 10 feet of water or more. A number of communities in the Third District of Louisiana, represented by the gentleman from Louisiana (Mr. MELANCON), have been completely destroyed. Entire towns in Mississippi have been destroyed. There are residents of these communities still waiting for aid, food, water, and health supplies.

The recovery process will be long and expensive. The Federal Government must continue to step in and bring its resources to bear in this effort.

Mr. Speaker, the visual images have been heartbreaking, and I have seen the damage with my own eyes. I have spoken to the many victims who have been affected, and the human stories are unfathomable to hear. And, like many, I am frustrated with the delay and the bureaucracy that has interfered with getting relief and supplies to our evacuees. But this is not the time to point fingers; this is not the time for blame.

There is an enormous amount of work that still needs to be done and done in a bipartisan manner. Accountability will come, and I know Congress will look into the disaster.

I urge my colleagues to rise above the vicious rhetoric that does not provide the thousands of children in my district with school supplies or uniforms, or does not provide displaced small businesses with the help to get back on their feet, or does not provide opportunities for families to reunite or housing for seniors with care or comfort.

Mr. Speaker, this is going to take time. It is going to take a monumental effort. We must pull together to accomplish all of this.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the work of the gentleman from Louisiana (Mr. BOUSTANY) in coming forward with this bipartisan resolution.

I am going to offer some formal remarks, and then I am going to say a word further about the irony of my managing this bill this morning.

Mr. Speaker, 10 days ago Hurricane Katrina slammed into America's gulf coast. The aftermath of the hurricane has prompted one of the largest response mobilizations in United States history. At the very core of all the relief effort is the overwhelming concern we all have for our fellow Americans, ordinary citizens who have become victims of this vast, unprecedented devastation.

Thousands of local State and Federal workers and volunteers are engaged in life-saving activities. Life-sustaining activities, supported by virtually all national charities, are spreading across all parts of the United States. Sheltering and housing initiatives so vital to the well-being of the victims have been activated all across the country. These efforts are aimed at providing some measure of efforts and relief to the tens of thousands of displaced Americans, many who survived with merely the clothes on their backs.

It is with a heavy heart, but with a deep sense of hope for a better future that I join all of my colleagues today in expressing my deep sense of sorrow and the condolences of the Nation to all the victims of Hurricane Katrina. I commend the resilience of all who have survived and all who are helping them to survive and am awed by their enduring vision for a better future.

For the present, I will work to fulfill our Nation's commitment to each victim that all the necessary resources and the might of the country will be used to relieve their suffering and to provide the resources they need for the brighter future characteristic of our country.

Mr. Speaker, I say the irony is, I was at an opening of an employment and training center for SOME, So Others Might Eat, and commenting there on the irony of the opening of that employment and training center at a time when just yesterday I had gone to Dulles Airport to retrieve 300 evacuees from a plane, who now reside in the Armory just a few blocks from here. And I said the symbolism of this center opening now is not lost on me, and the first moment I have to tell my colleagues about the symmetry between the opening of this center and the evacuees here, I am going to do it. Then I got a phone call saying we need someone to manage the bill expressing our condolences as a Nation and our resolve for the victims on the gulf coast.

Mr. Speaker, as I left this center, this new center where I had indicated that here in D.C. is doing very well, but certainly the poorest part of the region, surrounded by very rich counties, I was proud of my city because we had seen the need and said, Come here even though there are many unemployed here.

The man who runs this new SOME center said, We are quickly filling the 60 slots; we have 20 slots left. I am on the other side of the Anacostia in Ward 7, and Wards 7 and 8 are the high unemployment wards. So if there are only 60 slots, there are 60 times 60 people in Ward 7 alone that need it. And so he said, I think we ought to give the slots to the people who got off the plane yesterday. And I said, What a wonderful contribution that would be. We all have to find a contribution to make, and for you to contribute 20 of 60 slots from the highest unemployment pool in the city is to make the kind of sacrifice our country needs to be prepared to make now. And that is the kind of sacrifice we are seeing all over the country.

I want to say that in this House we have got to ask ourselves, what sacrifice are we prepared to make? We have assumed the best of all possible worlds, but what we cannot control is always possible and what we cannot control has happened.

I hope that in the coming weeks, as we finish the session, we will remember that it is time for us to make sacrifices. Already the Senate appears to say it is not going to bring forward the permanent repeal of the estate tax. If it took a tragedy to do it, then it has been done. The mega-rich will not get richer this time around. I just think in the spirit of trying to figure out how we can go home and say this is something we did that we would not otherwise have done but for Katrina is what we need to say.

Of course, we will go home and talk about the $20 billion and now the $40 billion. That, of course, is mandatory. That is what we are here for. The real issue for me is, what is it that we wanted to do, talking to both sides of the aisle, that we now forswear, that we now say, in the name of the greatest natural tragedy in memory, we decide that we will not do that that we most wanted to do.

Some of us wanted to do spending on some things. Some of us may want to do a little more tax cutting, but it is time for us to become introspective about being visited with the most massive natural tragedy of our time.

My heart is with the people of Mississippi, Alabama, Louisiana, and the entire gulf coast. That is true of America generally. But as people take in people in their own homes, as people send money, we have to ask ourselves, what will we do, what will we say is the sacrifice we as Members of Congress have made as a body when we go home next week?

☐ 1100

Mr. Speaker, I reserve the balance of my time.

Mr. BOUSTANY. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Pennsylvania (Mr. SHUSTER), who is the distinguished subcommittee chairman of the Subcommittee on Economic Development, Public Buildings and Emergency Management on the Committee on Transportation and Infrastructure.

Mr. SHUSTER. Mr. Speaker, I thank my good friend from Louisiana for yielding this time.

I join my colleagues today to convey to the people of the gulf coast a very simple message: you are not alone.

Time and again, this Nation has banded together to overcome terrible challenges it has faced, and we will do so again to overcome the challenge that is Hurricane Katrina. I, like most all of my colleagues, have been inundated with phone calls from constituents offering their support and assistance to those in need during this terrible time; and at present, we are working through the gentleman from Louisiana's (Mr. BOUSTANY) office to get those resources from Pennsylvania down to Louisiana and the gulf coast.

The people of the gulf coast need to know also that we in Congress will do whatever it takes to help them overcome this difficult time; and more importantly, we will be there in the long run to help them recover.

Recovery from this disaster will require not just the pumping of flood water and rebuilding of homes and businesses, the reconstruction of utilities, water and sewer, roads, levees and countless other activities. Recovery will also require the restoration of civic, educational, and social institutions. We will be with you during this process as well.

We will spend whatever it takes, implement any changes that are needed, and maintain rigorous oversight to ensure the process works well.

As the chairman of the subcommittee with jurisdiction over FEMA, I wanted to also urge my colleagues to show restraint in making judgments about the response until all of the facts can be gathered. All of the facts need to be gathered, not just what we hear as the sound bite on the TV today.

This disaster is quite simply the largest humanitarian challenge the Nation has faced on its own shores. The hurricane devastated hundreds of miles of shoreline, disrupted power, water, energy sources in all of the gulf States, and displaced hundreds of thousands of people. There are just no parallels in size, scope, or impact to what has happened.

Now is the time for helping people get the food, water, and medical attention that they need. Now is the time to begin looking forward to how we will help the people of the gulf States recover and return to their homes and places of business. Now is not the time to point fingers or cast blame or, even worse, to call for the removal of key officials, especially since the response and relief effort is still ongoing.

There will be plenty of time in the coming weeks and months to evaluate what happened in the days leading up to and during the storm, to meet with responsible officials, to go over who did what and when, and, if necessary, to make policy and legislative changes. It is both unseemly and inappropriate to try and do so now, while we do not have all the facts.

I again want to express my sincere condolences to the families of those that have lost loved ones and pledge my support and the support of my constituents to do whatever is necessary to overcome this terrible challenge.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

I agree with the gentleman that we are not in an atmosphere where we can properly evaluate and investigate what has happened here. I do think it important to note that the only way to avoid making mistakes is to look at the mistakes we have made.

I do want to say this for the record. It took us a very long time to get bipartisan support for a 9/11 Commission. Is anybody in this body sorry? What would have happened if history had looked back and said there was no independent commission that looked into 9/11?

In this same way, this natural disaster is the functional equivalent of 9/11 for natural disasters. We need an independent commission to do the kind of job that the 9/11 Commission did, and I think a fair reading of that report is not that it pointed fingers at anybody, but that it did advise what it is we should do.

We should quickly get about the business of appointing a commission equal to the task of doing a credible, unbiased, independent investigation in the name of the people of the gulf coast who have suffered and in the name of the people of the United States of America.

Mr. Speaker, I am pleased to yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I want to thank the distinguished gentleman from Louisiana for his leadership, and of course, express our sympathy and concern for the people of Louisiana, Mississippi and Alabama; and I think the Congresswoman is an example of the outpouring of concern across the Nation, having received just recently a number of evacuees, survivors, into Washington, D.C. It is good to know that even people without votes can open their hearts and minds to this great and powerful, horrific incident that has occurred, a tragedy in our lives.

Let me first of all say to the members the families, those survivors, evacuees, and those who have lost loved ones, we are, in fact, our brothers' and sisters' keepers; and through the last 5 days I have been reminded more of the Good Samaritan parable in the Bible than at any other time in my life. We can say that Americans have certainly been the Good Samaritans, but I do want to take this time to acknowledge Houstonians and the people of Texas.

There has been such an outpouring of effort, volunteers coming from every walk of life, the mustering together of resources through the county, county judges and the mayor of the city of Houston. The pictures may not have been as pretty as we would have liked, but the immediate response of the Astrodome and the immediate response of the coming together of elected persons and now a facility in my congressional district, the George R. Brown Convention Center; and the thought that went into organizing this process was overwhelming. The local responding to the crying out of people who, as I walked through those aisles of cots and humanity, babies and elderly and the sickly and the strong, each and every one had a thank you on their lips and said that they still had hope.

As they lay there, to each of them I asked the question, were you in water? I could not imagine a 1-month-old or twins who were 1 month old or toddlers or 9-year-olds or amputees who had been in water, but each one had a sense of hope.

So to Houston, I want to give, if I could, the enormous gratitude of the American people because you had willing hands, and I might want to acknowledge that the pastors of that community, the religious community of all different faiths, they are on their job. Anyone who is asking the question where are the pastors, where are the religious leaders, they are there. We are hoping they will continue to be there at the will of the people, going in and nurturing and counseling and worshipping as they desire, not putting it on them, but as they desire. I encourage my community to allow all of the pastors into the areas where the people are desirous of them to come, but might I, as I offer sympathy, offer these points of concern.

We have to have policies today emphasizing the reunification of families, and it is necessary in the emergency supplemental to have the technology that will unite all of the shelters across America so that families can be reunited. I look forward to working on that language that gives the technology and underwrites that cost for local communities.

FEMA has to get more personnel on the ground. We cannot do it with 11 or 20. We must hire local officials, local people, and hire the victims or survivors. They can do it, and train the survivors to do the work that FEMA needs, the intake work, the counseling work or getting the information. We need to declare the area in this impact area a health crisis because we found E. coli. We have got to declare it a health crisis.

We need assistance with law enforcement, and the children have got to have special emphasis, language in the emergency supplemental, that deals with the plight of children not getting the education, health care, not because it is a desire, but we need the capacity.

Finally, might I say we are, in fact, our brothers' and sisters' keepers. We are the Good Samaritans, not by words but by deeds. An inquiry of commission is not finger-pointing; it is fact-finding so that America knows that the safety net of the Federal Government will never leave her abandoned. That is the crux of my advocacy and legislation on the inquiry; it is that America will never abandon her people.

God bless all of those who are now surviving, and God bless those who have lost their loved ones.

Mr. BOUSTANY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GOHMERT). The State of Texas has been very, very generous in helping out, reaching out to evacuees.

Mr. GOHMERT. Mr. Speaker, I thank the gentleman from Louisiana, a dear friend, for the time.

We have made a lot of new, dear friends in past days. There have been hundreds and thousands of people that have come through our east Texas area, and it has been a real privilege and honor to witness and to reach out to those folks that are staying in centers all over east Texas.

As my colleague, the gentlewoman from Houston, indicated, they have many tens of thousands in Houston; but it has been an amazing thing to watch. I have seen people on the networks. I have seen leaders in various positions accuse others of being racist in the handling of this matter. And I am telling my colleagues what: anybody that says that there is racist activity needs to come to east Texas because there Martin Luther King, Jr., I think, would be proud to see his dream taking effect, where people are judged not by the color of their skin but by the content of their character, and even one step further, beyond even character, by the depth of the pain and the hurt they are experiencing.

There are people, whites, blacks, Hispanics, different races, that have come together and embraced physically, literally, figuratively. The people all over that I have witnessed firsthand have opened their arms. They have opened their hearts. They have opened their wallets and become as one people, getting through this tragedy.

Abraham Lincoln is attributed to have said, Those who look for the good in man will surely find it. It is true. If we look for the good through this tragedy, we find incredible stories and testimonies of the goodness of man, of the hope that springs eternal in the human breast. They are all over the southern area of America as it is responding to this tragedy, and the hope continues.

I was continually asked by people who have come, many of them from New Orleans, most of them from southern Louisiana in our district, do you think we will ever rebuild? I am telling my colleagues, there will be a rebuilding. New Orleans, southern Louisiana, southern Mississippi, southern Alabama will rise again and be a testimony to the strength of character and the depth of compassion that exists in this country.

Our hearts and our prayers go out to those who have lost loved ones, who are continually reaching out trying to find their loved ones. We continue to help. The gentlewoman from Texas had a good idea, but our prayers and our efforts and our money will go to help those people.

Ms. NORTON. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentlewoman's courtesy in permitting me to speak on this resolution.

The devastation of Hurricane Katrina has presented us with an unprecedented opportunity to focus the spotlight of public attention and political concern on not just doing the best job possible for the victims of this tragic storm but make it less likely that others suffer needlessly in the future. I think that this is the best way to honor the memory of the thousands who have died and respect the losses of tens of thousands more who are living.

I agree that the last thing we need to do is to jump to conclusions or be satisfied by drawing up a list of suspects responsible for what went wrong. There will be plenty of time to do this as the sad tragedy continues to unfold; but after having been in Congress for a decade, the greatest danger now I fear on the floor of the House is that we, under the pressure, will adopt a quick fix so that Congress looks like it is doing something.

□ 1115

While we focus relentlessly on rescue and relief, it is not too early to think about how to make sure that not only the residents of the Gulf of Mexico States are better off in the long run, but that all Americans are safer and more secure.

What is frustrating for me is not that this was just so obvious. I am tempted to ask how any official could assert the failure of the levees was unforeseen. Steps could have been taken to moderate the losses. I truly believe that thousands of people were killed, injured or lost their homes unnecessarily, and we must assure that it never happens again.

As Members of Congress, we are all concerned about the administration's well-publicized problems with performance, but I also know that long-term security must also start with State and local governments who must pay careful attention to making sure that people are not put in harm's way in the first instance. Businesses and individuals are going to have to share responsibility for their actions and their policies.

I am also concerned that we here in Congress acknowledge our responsibilities, because ultimately they are our budgets. We establish the Corps of Engineers' project list. We are the ones who put FEMA into the Department of Homeland Security. It is important for us to draw the right lessons from this situation. The rushed reaction to 9/11 put FEMA in a flawed Department of Homeland Security, which haunts us today and contributed to the misery of Katrina's victims.

We should establish fundamental principles from the outset that guide reconstruction. One critical overarching principle which is obvious, but sadly has not been practiced in the past, is that there should be no Federal investment that merely puts people back in harm's way and leaves the environment the same or worse than before. Our investments and our actions must leave people and the environment better than it was before. We must make a commitment for what we do in metropolitan New Orleans and indeed throughout the tri-State region of devastation to be a model about how to do it right. We must use this specific opportunity on a broad level to do the planning correctly.

As someone who has been working on these issues since long before coming to Congress, I look forward to working with all my colleagues, for we must come forward with our suggestions to advance the serious discussions and highlight the critical elements that must be included in any final plan. We must, at the end of the day, make sure that these communities are more livable and that all these families, indeed all American families, are safer, healthier, and more economically secure.

Mr. BOUSTANY. Mr. Speaker, I am now pleased to yield 5 minutes to the distinguished gentleman from Louisiana (Mr. BAKER), my colleague and friend who has been involved in the relief efforts.

Mr. BAKER. Mr. Speaker, I thank the gentleman and doctor, for yielding me this time, and I want to express my appreciation to him for his leadership in bringing this matter to the House's attention this morning.

And to the Chair and to Members I wish to express deep appreciation. I see my good friend, the gentleman from Louisiana (Mr. JEFFERSON), here this morning, whose district has been so adversely affected. I want to express to the Members of the House and to the Senate our appreciation for the extraordinary generosity, concern, and love that has been expressed in these preceding days.

To all Americans who have given of themselves, their time, their financial resources, their assets, it is an extraordinary thing to be on the end of people's generosity in a time of crisis, and it is a bit overwhelming. I can tell you that every dollar sent will be utilized for the highest and best purpose, that every bottle of water, every asset they choose to give us is indeed warranted and justified; and we are only in the early days of our difficulty.

I am told that there are areas in New Orleans where water may not yet be completely moved for another 80 days. So the stories will continue to unfold a day at a time, a week at a time, as the scope of this tragedy becomes fully appreciated.

To my fellow congressmen, the gentleman from South Louisiana (Mr. MELANCON), whose St. Bernard Parish is at the moment 10 feet under water; to the gentleman from Mississippi (Mr. TAYLOR), who has lost his personal residence and all his congressional capabilities; to his staff, who have also lost their personal assets; and to Senator LOTT, who lost his home, which had stood for 151 years on the coast of Mississippi and endured the 200 mile-an-hour wrath of Hurricane Camille in

1969 and had no expectation that this storm would bring the consequences it brought.

On Sunday morning, before the storm's arrival on the following Monday, we heard this from the media: The storm has been downgraded from a Category 5 to a Category 4. It has now moved on an eastward track and will likely miss the city of New Orleans, and the evacuation has proceeded in an orderly and efficient manner. People are leaving in record numbers.

All of those predictions and observations were accurate. The storm missed New Orleans. It destroyed Mississippi. What we are now seeing is the aftermath of a levee failure. And with all due respect to those who have seen flood waters come and go for many decades, no one could predict the breach of those levees. No one expected it to occur. And the devastation that occurred was amplified by people who had stayed in their homes, survived 140-mile-an-hour winds, endured the passage of a 12-hour storm, saw the sun come out and the skies clear and think, we have made it. Within 20 minutes of a phone call to a New Orleans resident who was in one of those houses that survived, he had 3 feet of water in his home. He could not even grab resources to get out quick enough. The water rose to 10 feet. Those in single-story structures were in great peril.

The magnitude of this tragedy cannot be explained in mere words. It is 90,000 square miles of devastation, and will more than double the cost of 9/11 to American citizens. The remedy is to get resources to people, get the lights on and let us go back to work.

There is corn and grain from the Midwest. Harvest season starts in 3 weeks. Sixty percent of that product goes through the Port of Orleans to the rest of the world. That has real economic implications for this Nation. Our petroleum industry needs to get back to work. Our port needs to get opened so dock workers can have jobs.

We can build ourselves back. We want to go to work. We need tolerance and patience and hope. We do not need recriminations and accusations today. The terrible scope of this tragedy is going to extend for 3 more months. There will be lots of time next year to decide who was at fault and what did not happen when it occurred.

I will tell you this: I am so appreciative to the President and the National Guard. My word, the personal effort these guys and ladies have put into their effort is just beyond comprehension. Many Louisianans, law enforcement, got in boats day and night to pull people out.

Everybody who has been touched by this wants the same thing: We want personal suffering to go away. We want lives to be restored and to go forward. Nobody got up and said, I am going to flip the switch off on the phones. No one said, I am not going if people need me.

The National Guard had to chain-saw their way from north Mississippi after the storm occurred to the coastal areas to get help in, and then we had the incredible event of people firing on their rescuers. This is unheard of. We then mobilized 7,500 National Guard. In any case, anywhere, any time, it takes 2 days to do that. It took 2 days to do it this time. Help is now on the ground. We have got a long way to go, but circumstances are better now than ever before.

Let me close and say, thank you, just a deep heartfelt thanks to America and thanks to this Congress. You guys are great, and we cannot make it without you.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume to comment that I appreciate what the gentleman has just said about how much of this was unpredictable. There is no question that that is the case.

But, for the record, it must be said that the levee was built to withstand a Category 3 storm. So the Corps of Engineers has been saying, yelling for decades that no one can say we will not ever surpass a Category 3 storm. People will tell you in Louisiana that they have been talking about dodging the bullet for decades because they did not go above Category 3.

I hope that when we repair the damage, and it will take billions more than we can imagine now, that we will do what we say we are going to do for the possibility of terrorism, that is to say, prepare for the worst-case scenario, not the case scenario that we wish for. And the worst-case scenario is finally what Louisiana got.

Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I thank the gentlewoman from the District of Columbia (Ms. NORTON) for yielding me this time and this opportunity.

It is appropriate that we recognize, as this resolution does, the courage of those who have risked their lives to save lives in the gulf coast tragedy. It is appropriate, as this resolution does, that we offer condolences for those who have suffered such great loss. It is appropriate that we do these things. I would suggest that there is another way that this House can extend itself in an appropriate fashion to offer further condolences and consolation.

We can console the people of the gulf coast with a plan for complete recovery, a new national recovery act, if you will, in that we can console the people of the gulf coast region with food, with shelter, with clothing and with health care. We need the Center for Disease Control to be tasked immediately with the responsibility of making sure that conditions that could create cholera or typhoid are met with the full resources of our government, and that we control any conditions that could create an outbreak of disease that would be even more devastating than the conditions we find right now.

We can console the people of the gulf coast with complete efforts to reconnect families. We have heard over and over again how families have been broken up. We have heard over and over again how people are desperately searching for loved ones. Only our Federal Government can be involved effectively in helping to bring about the reuniting of families.

We can use our resources and effectively console people with complete rebuilding of the infrastructure. We know and we have heard many stories of how there were many plans to repair the infrastructure or to shore it up so that people would be spared the devastation that occurred. We need to move forward from this point and commit ourselves to seeing the infrastructure and flood control programs brought forward, and also to make sure that all of the structures that have been destroyed that are public structures are rebuilt.

We can console the people of the States who have been affected by this tragedy by helping to lift people out of poverty, to make sure that the jobs that are created are jobs that are created for people who live in the area, to make sure that people are paid a living wage. The whole Nation saw the images of poverty reflected in the rising flood waters, but what we need to also show reflected is action from this Congress that would provide appropriate consolation for those who are mired in poverty.

We need to provide the resources that will rebuild the cities, that will provide jobs, and then we also can expect the cities to have responsibility then. One of the cruelest assertions that is occurring right now is certain Federal officials maintaining that local communities had the first responsibility in this regard. That is just not true. The Federal Government surely could have foreseen and taken action.

Well, now we can foresee the action that must be taken to rebuild communities. We can console the people with the health care system that would be expanded through Medicare so that people can not only receive the long-term care they are going to need but also the immediate short-term care that is vital to their survival.

□ 1130

We can console the people by providing appropriate environmental protections. Now we see the stories of pollution that was in New Orleans being pumped back into sources that are not polluted. We need to look at available technologies that can enable us to provide increased environmental protection in the immediate circumstances.

while we are also trying to prepare for long-term environmental protection.

We can console the people by making sure their children will be educated during this time and setting up temporary schools.

We can console the people through letting them see their government finally at work and go from government inaction to seeing a government in action.

We can console the people by being there for them at once and repair the breach, not only that has occurred in a levee, but the breach of faith that people have had in their government.

This is the time for people to see their government in action, and I think that this Congress will provide effective consolation to the people when we take that position.

Mr. BOUSTANY. Mr. Speaker, this is not a time to cast blame and to second-guess actions.

Mr. Speaker, I am pleased now to yield 5 minutes to my friend and colleague, the gentleman from Louisiana (Mr. JINDAL), who lost his home, his district has been devastated, and he will inform us on what the facts are.

Mr JINDAL. Mr. Speaker, I want to thank my colleague from Lafayette not only for recognizing me but also for his volunteer efforts and his community's hospitality to so many thousands of dislocated residents of my own district.

Mr. Speaker, I want to share with this body that, first of all, the pictures do not do the suffering justice. I have been spending the last several days in the water, in helicopters, in boats, on land, just trying to help bring comfort and trying to bring relief to the people of southeast Louisiana. The pictures do not do the suffering justice.

Yet there are some lessons that we have learned. Many of you have heard me share very specific frustrations about what has worked and what has not worked. Certainly we can learn from the red tape and the bureaucracy where aid could have been delivered more quickly, where relief could have been provided in a more efficient way.

But I am not here just to point out what did not work, and there are many examples where red tape and bureaucracy got in the way. I am also here to say a big thank you. I am here to offer on behalf of my district our sincere gratitude to the people of Baton Rouge and Lafayette; to the people of Texas and Arkansas; to the people across the country who literally took in thousands of evacuees, people who were forced, like myself, to leave our homes.

The State of Texas took in over 220,000 people. They did not ask how are we going to do this. They literally opened their homes, opened their wallets, opened their hearts to create temporary housing, to create health care, to create opportunities for people to find comfort.

I want to say thank you to the medical volunteers that rushed into harm's way. I want to say thank you to the first responders, the sheriffs' deputies, the law enforcement officials, the Coast Guard officials, Wildlife and Fisheries officials, those that have been working 7, 8, 9, 10 days without relief, without rest. Many of these heroes have no idea what happened to their own property. Many of these heroes have been separated from their own families. Yet they worked tirelessly to provide relief to others.

I want to say thank you to our National Guardsmen. If ever before we needed yet another reminder of the true heroism of our military, we saw tens of thousands of men and women on the ground in the most dangerous circumstances, thinking not of themselves, but of others.

I want to say thank you to the entire communities that pulled together, with the sheriffs, the mayors in my districts, who had so little, and yet reached out to their colleagues to share what they had, literally patching together impromptu communications systems, food supply systems, and other systems. Those that had the least shared the most.

I want to say thank you to all these people. We have been reminded again what a great and powerful country America really is.

I want to say thank you to the private sector. We called on Ford Motor Company to provide overnight search and rescue vehicles to first responders, and they did that. I want to say thank you to the bottling companies that sent the water, the food, the supplies, Anheuser Busch and the many other companies. I want to say thank you to Lamar for providing the tarps to cover people's homes.

I want to say thank you to all the companies like Verizon, Wal-Mart and others, the pharmaceutical companies and small businesses that opened their stores, opened their warehouses, provided during this time of need without any concern for compensation, without any concern for anything other than helping their fellow man.

I want to thank all those employers that have done so much work to find their missing employees, to set up shelters to truly meet our needs during this devastating tragedy.

I also want to comment on the amazing spontaneous effort by our faith-based community. Churches all over our State, all over our Nation literally opened their doors, made room in their pews, made room in their sanctuaries for families. One church, Healing Place in Baton Rouge, literally put up hand-lettered signs the day of and the day after the hurricane saying: "If you need water, if you need food, if you need shelter, come here."

We have private individuals across the State and now even outside the State that organized a network for people with extra bedrooms, extra places in their own homes to take in complete strangers.

Again, in this tragedy we have seen on TV and in national images some of the very worst behavior. And yet these are the very few, those that choose to be obstructionists to get in the way of the relief efforts, a very few who resorted to violence. They were outnumbered greatly by the tremendous number of people who opened their doors, opened their hearts, opened their wallets.

Let us not let the images of a small number of people who out of frustration or for whatever other reasons became violent, became obstructionists, let us not let them be the final story of Hurricane Katrina. Let us look to the churches, let us look to the first responders, let us look to the National Guard, let us look to the communities in Texas, in Arkansas, across the country, that have been so generous.

Now I want to say a word to this body about what comes next. We are still rescuing people from the water and off the rooftops. We have an obligation to bring people to safety. We have an obligation to cut through the red tape and bring people housing, make sure that people know where their kids will go to school, how they get their health care. We also have an obligation to rebuild. We have an obligation to rebuild southeast Louisiana.

But shame on us if we also at the same time we preserve and rebuild what was good in southeast Louisiana, we also rebuild what was bad. Shame on us if we do not use this as an opportunity to rebuild a better health care system, a better educational system, a better economy, better paying jobs for the people that are coming back. We want every single person to come back to a better city, to a better region.

We had problems in New Orleans and in southeast Louisiana before the hurricane. We had problems with education, we had problems with health care, we had problems with crime, we had problems in our economy. Things were getting better, but more can be done.

I want to say thank you to those who have been so generous; but I want to urge this body as we are generous in our response, let us keep our eye also on saving lives, but also on rebuilding a better city, a better region.

God bless Louisiana.

Ms. NORTON. Mr. Speaker, I yield 5 minutes to the gentleman from New Orleans, Louisiana (Mr. JEFFERSON). I am sure perhaps no Member has suffered more greatly than the Member I am about to yield the floor to now.

Mr. JEFFERSON. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, it is indeed with a heavy heart that I rise today in this Chamber to support this resolution. I want to thank my colleague, the gentleman from Louisiana (Mr. BOUSTANY), for his work.

During my 15 years in the people's House, we have confronted many trying circumstances: runaway fires in the West, rolling blackouts across the Northeast, the extraordinary destruction of Hurricane Andrew, the horror of September 11. And the Asian tsunami. But my heart has never been as personally struck and touched as by the tragedy of a disaster as it is now.

Just over a week ago when Hurricane Katrina roared ashore, it left wide paths of destruction, unprecedented in American history. The citizens of Mississippi, Alabama, Florida, and my home State of Louisiana have suffered unspeakable tragedies. Hundreds, possibly thousands, of lives have been lost. Hundreds of thousands of homes have been destroyed and shuttered. Thousands of businesses have been closed, at the risk of perhaps never opening again.

The images in the news media shocked the American people, but they are only a pale reflection of the devastation experienced by our friends, families, and neighbors throughout the gulf coast region.

My hometown of New Orleans, my constituents, friends and family, thought they had once again dodged a bullet when Hurricane Katrina changed course at the last minute, making landfall in another place bordering the city.

But we woke Tuesday morning to a heart-wrenching discovery. The levee system that had protected New Orleans for hundreds of years had failed. Our city was inundated, 80 percent of it, with deadly water. Thousands of lives were lost, many drowned, trapped in their homes. Others were lost trying to escape the fury. Others were lost unnecessarily through neglect, and still others have now survived and are spread far and wide throughout the country, have lost their sense of place and their connection to home.

Our neighbors and families are living in shelters, staying with friends or family, benefiting from the hospitality and kindness of caring Americans. Tens of thousands of homes have been destroyed, churches and businesses at the heart of many of our beloved city's neighborhoods have been flooded and lay in ruins.

In sum, Hurricane Katrina was more than a destructive hurricane. It has dealt a death blow to the very fabric and culture of a grand American city and region. Hurricane Katrina has left most of New Orleans, known for its vibrant spirit and vitality, threadbare and melancholy.

The gentleman from Louisiana (Mr. JINDAL) talked about the people of our city, and I want to say something about that too.

The spirit of the folks in my city, although beaten down, is still vibrant. If you saw the people who were standing and waiting for help, they were orderly. They were a model of orderliness in most cases. When I went down Friday to see folks at the convention center, they simply said to me, Jeff, help us get out of here. When are the buses coming?

The few scenes you have seen of some people taking advantage of people who were there in dire circumstances are few and far between. The image that we want to remember is one of people who endured unnecessary suffering and who stood strongly and in an orderly fashion and dealt with it. I am so proud of our people for having done that.

I also am proud of the outpouring of support that has come from around the country. I want to thank my colleagues for their words of encouragement, for their support, and for their prayers: from the mayor of Detroit, who told us we could bring in 500 families, to just one man from San Diego who offered his small plane to the folks in New Orleans, to pick them up and take them to safety, and one couple from Illinois who called us saying they had just sent their three kids off to college and they had three spare bedrooms for anyone who needed them.

The generosity has been overwhelming. It has reminded us that the human spirit is vibrant and that goodwill is abundant in the American people's hearts.

I want to thank all those who contacted my family, my office, to express concern, those who are now telling us they want to help to reach our constituents, to get our constituent services back together. And I want to thank all of you who have worked with us over the Labor Day weekend. I want to thank my CBC colleagues who have initiated unprecedented efforts to marshal resources to help dislocated Louisianans.

I want to tell you that the most important thing we can do right now is to make sure that people who are displaced are dealt with with dignity, that they are taken care of properly and their needs are met, and that we try as soon as we can and as well as we can to get our people back home, back to the State of Louisiana, back connected to their way of life, back connected to their culture, back connected to their people, and that we commit ourselves for the long haul to rebuild our city, to rebuild our region, and to rebuild the lives of our people. This is our mission now in the Congress.

Also, though we look at all the good things that have happened, it is not inappropriate to ask the question as to whether or not we could not have done a better job. The President himself has said that the response is unacceptable.

So I am one who believes that as we do these other things and as we congratulate each other for the work we have done, and as I congratulate the Red Cross and the FEMA workers that have given a great deal, and our responders, our mayor and our State government, our police and fire people, that we recognize there is a need to do better for our people, and in the future we would make sure that things that did not go right never ever happen again.

Mr. Speaker, I thank everyone for what they have done. We appreciate it very much.

Mr. BOUSTANY. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I want to thank the gentleman from Louisiana not only for bringing forward this resolution but also for the great work that he did in the State of Louisiana in regard to organizing medical clinics and emergency health care, and I commend him for that.

This is a great resolution. It emphasizes a positive. There is no finger-pointing, name-blame game. This is exactly the kind of resolution that shows the spirit of this Congress.

I want to say, Mr. Speaker, that the gentleman from Louisiana (Mr. JEFFERSON), I will just tell a little story about that, what really inspired me to go to Louisiana over the Labor Day weekend in Baton Rouge and try to help out in a medical clinic.

I saw the gentleman from Louisiana (Mr. JEFFERSON) on television talking about Jefferson Parish and the devastation and how much they had suffered. I was fortunate enough when I went to the emergency command center in Baton Rouge to run into my friend, the gentleman from Louisiana (Mr. JEFFERSON); and we had a brief hug, pat on the back, sincere handshake and the spirit of cooperation that he just expressed so eloquently.

I want to echo what the gentleman said and what the gentleman from Louisiana (Mr. JINDAL) and, of course, the gentleman from Louisiana (Mr. BOUSTANY) and all of the legislative delegation Members of this Congress from the States that have been so adversely affected, especially Louisiana, Mississippi, Alabama, said.

My own state of Georgia was not unscathed.

□ 1145

We had a number of tornadoes that came as a result of the hurricane that touched down in the 11th Congressional District, and one life was lost and a business destroyed in Carollton, Georgia.

So, again, I commend and support, as we all do, this resolution, which is just saying it in the right way, totally nonpartisan.

When I was on the ground in Louisiana, I had an opportunity to see a lot of the evacuees and the Red Cross and the many people coming together. I saw the best of human nature, not the worst. And I think this is truly a time for the best of the human nature of the

Members of this Congress, on both sides of the aisle, both bodies, to come together because this is all about uplifting people and the ones that are suffering so much.

And let us not forget that the suffering continues. It is not just the emergency response, but it is going to go on a long time, and fatigue might set in for some of the volunteers; so we need to keep a list and keep going and continue to support the gulf coast in that great part of the United States.

Again, I thank the gentleman from Louisiana (Mr. BOUSTANY) for the resolution and thank him for yielding me time for the opportunity to join in and say a few words.

Ms. NORTON. Mr. Speaker, I yield myself the balance of my time.

I just have a few closing remarks. We all agree that the first obligation of any government is to protect its citizens. The majority often say that, and we have seen no contradiction from this side on that score. And I think there has been agreement that we have not fully honored that responsibility.

It was with a great deal of thought that I became a cosponsor of the bill today, H.R. 3659, to reestablish FEMA as an independent agency outside the control of the bureaucracy of the Department of Homeland Security. I did not do that easily. Frankly, I strongly supported and still support the establishment of a Department of Homeland Security. So I had to think about this matter. Is this a contradiction from what I generally believe, that these agencies must be brought together?

I have resolved that conflict in my mind because it is clear that FEMA is not about preventing anything. FEMA is about going in quickly and nimbly after there has been either an actual natural attack or a national attack; and there is telling evidence about how we have diverted funds from FEMA's natural disaster responsibilities to our legitimate concern with preparation for terrorism.

I believe, therefore, that we do no harm to the notion of one cohesive unit, the Homeland Security Department, to prevent attacks if we have FEMA outside. I think that FEMA simply has not done well inside the Department of Homeland Security. I cannot guarantee that taking it out will make it whole again. I do know this: that we did not have complaints about FEMA during the 1990s, and I remember FEMA's being held to great glory for how they handled and how they were reorganized during the 1990s.

I, therefore, want to thank the gentleman from Louisiana for coming forward and to say that I know I speak for every Member on my side when I say he will have our full cooperation, more than our empathy, our full cooperation when it comes to Louisiana and the entire gulf coast. I thank him for his initiative. I am pleased to be a part of it.

Mr. BOUSTANY. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentlewoman for her kind remarks.

Mr. Speaker, today the House of Representatives, through this resolution, expresses its condolences to the victims of Hurricane Katrina. It commends the resiliency and the courage of all those involved in this, both the victims and the volunteers, who gave so willingly to help these victims. It also makes clear that we have a tremendous task ahead of us in Congress; and yet I know, as many others here know, that we are up to the task.

What we are going to do is we will commit the necessary resources to stand by the people of Louisiana, Mississippi, and Alabama who have been affected by this disaster. We have a tremendous task ahead in sustaining life as we continue to search for and rescue those still missing. We have a tremendous effort ahead in the recovery of the entire gulf coast, and I know this Congress is up to that task.

So I stand with my colleagues on both sides of the aisle in expressing these condolences and urge support for this resolution. It is time to move forward. It is time for action so that we can get on with recovery.

Mr. Speaker, thousands of students have been displaced as a result of Hurricane Katrina, including university students who rely on federal financial aid for their education expenses.

Several institutions have had to close for the entire semester, leaving students without schools to attend.

Fortunately, other colleges have stepped up and are accepting many of these students. The University of Louisiana at Lafayette is one example of this generosity. They have already enrolled over 835 displaced students, and the numbers are expected to increase.

But not all students will be able to attend other institutions.

Many have suffered large losses of property, jobs, and, most devastatingly, family and friends.

In the past, low-income students who were the recipient of need-base Pell grants and suffered extreme losses due to natural disasters have been forced to repay their Pell grants, further straining their financial resources.

H.R. 3169 will provide financial relief to many students displaced by Katrina by waiving the Pell Grant repayment for those students withdrawing from school as a result of the hurricane, and it will also ensure that future natural disaster victims are treated in the same manner.

I urge my colleagues to support this bipartisan measure, which will assist thousands of needy students who have been dealt an enormous blow by Hurricane Katrina.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I have spent much of the past week examining the aftermath of Hurricane Katrina, one of the most tragic natural disasters in our Nation's history. My heart goes out to each and every person who has suffered in the wake of this situation. I grieve for the loss of life, and I sympathize with those who have lost their livelihood as a result of this terrible tragedy.

First and foremost, it is important to give credit to countless brave men and women, both volunteer and professional, who have been working tirelessly on our recovery and rescue operations. Their heroic efforts have saved countless lives, and we need to ensure they have the support and tools they need to accomplish their jobs. In addition, it is important to recognize National Guard Units and other emergency management professionals who have been attempting to restore order under exceptionally trying circumstances.

Hurricane Katrina has proven to be one of the most damaging storms ever experienced by the people of the Gulf Coast. It will take a long time for this area of the country to regain some semblance of normalcy—a process that will depend on the collective acts of kindness, generosity, and selflessness of all Americans as much as it does the acts of government. I salute those who have already volunteered their services, donated money or goods, or opened their homes to their displaced countrymen.

In the weeks and months to come, much of our attention in Washington will be focused on the response to Katrina. There will be much to say and plenty of time to say it. But for now I want to pause to remember the victims of this storm and to grieve for their passing. For the survivors, I offer my condolences and, through the work we will pursue together, as one Nation, the prospect of hope.

Mr. EDWARDS. Mr. Speaker, our deepest condolences go to the victims of Hurricane Katrina, who lost their lives, their homes and their livelihoods. Our thoughts and prayers are with them and their families. While the devastation caused by this tragedy is vast, our faith and determination ensure that we will rebuild and we will endure.

Congress and President Bush have taken the first step in appropriating emergency funds to aid relief efforts in the aftermath of Hurricane Katrina and much more is on the way. It is vital that this emergency funding moves quickly toward rescue and relief efforts in the Gulf Coast region and throughout the Nation. Together, Federal, State and local authorities must continue to work diligently to protect and assist those in need.

In Texas, we are opening our hearts, homes, and facilities to over 75,000 victims of Hurricane Katrina. The Federal Government has a responsibility to help communities in Texas who are generously helping others during this time of national tragedy.

During this difficult time, most Americans have shown an inspirational outpouring of support for the victims of Hurricane Katrina. However, it appears that some have acted out of greed and taken advantage of our national tragedy by price gouging Americans when it comes to basic necessities like gas, food, and shelter. That is totally unacceptable and the Federal Government must act quickly to fulfill its responsibility to protect the public and hold price gougers accountable.

History will judge all of us by our response to this national tragedy and it is vital that we come together, rise above the partisanship, and do what's right for the American people in this time of crisis.

I am confident that we will and the American spirit of generosity will prevail in the days, weeks, and months ahead, as our American family from coast to coast continues to provide much needed assistance to those who have lost so much.

Ms. BORDALLO. Mr. Speaker, as the waters recede in New Orleans and as the families impacted by Hurricane Katrina attempt to recover, we must now embark upon the monumental task of helping to rebuild both the infrastructure and vitality of the Gulf Coast communities. We also have begun to reflect on the tragedy, one which many say is one of the worst disasters to strike an American city in our history. The people of Guam would like to express their condolences to the families that have lost loved ones, and to the thousands of people who are now struggling to recover from what can only be described as a humanitarian catastrophe.

Families and individuals have been uprooted, homes have been destroyed, and the process of rebuilding will be long and arduous. The communities involved depend upon support from Congress, and we must fully fund every stage of the recovery that is necessary to rebuild homes and lives.

We must also ensure that our cities and coastlines are protected as best as possible from perilous storms. The people of Guam know far too well the toll that hurricanes can have upon a population. Located in what is known as "Typhoon Alley" in the Pacific Ocean, our island is annually threatened and sometimes pummeled by typhoons that can have winds upwards of 180 miles per hour. These Super Typhoons have the potential for widespread devastation, but Guam is well prepared to withstand these potentially destructive storms. From tough building codes to a stratified warning system, Guam is in a state of constant readiness. In fact, at the time Hurricane Katrina was intensifying in the Gulf of Mexico, Guam was in a state of readiness as Typhoon Nabi was forecast to make a direct hit. In our case, the storm turned away, but nonetheless Guam was bracing for the worst.

There is more our island needs to do to be better prepared for Typhoons, such as burying our power lines and improving our water system. We continue to perfect our disaster preparedness plan and harden our infrastructure. Our community, as well as all communities across the Nation, are now more dependent than ever on the support of the Federal Government to help us prepare for and recover from devastating storms. It is imperative that at-risk areas be better equipped and prepared, from the Federal level to the local level, to deal with hurricanes and other natural disasters.

I support House Resolution 425 and urge its passage. Together, let us as a Congress, express the Nation's sorrow for the victims of this tragedy.

Mrs. MALONEY. Mr. Speaker, sadly, approaching the four year anniversary of the September 11, 2001 terrorist attacks, our country faces great tragedy again and a tremendous national challenge in the wake of Hurricane Katrina.

I would like to assure the people of Louisiana, Mississippi, and Alabama that New Yorkers who lived through 9/11 understand the shock and dismay being felt deeply after Hurricane Katrina.

We are well aware that time and great effort will be needed to rebuild after Hurricane Katrina, but we know also that the recovery will advance strongly because of the great will of the people of Louisiana, Mississippi, and Alabama. I also hope that the recovery will be spurred by the strong support most assuredly coming from countless New Yorkers and Americans from all corners of the country.

I stand ready to work with Members of Congress from Louisiana, Mississippi, and Alabama to advance all Federal programs necessary for recovery operations after Katrina. My thoughts and prayers are with those affected by Hurricane Katrina and with the people now facing great recovery challenges in its wake.

Mr. LARSEN of Washington. Mr. Speaker, I would like to convey my deepest condolences to the victims of Hurricane Katrina, many of whom lost loved ones, their homes and their livelihoods. Many constituents have contacted my office, concerned about relatives, friends, and fellow Americans in that area. A member of my own staff has been touched by this tragedy and has dozens of family members displaced and in distress. Our thoughts and prayers are with his family and all those other families who have been affected by this disaster.

While we are devastated by this tragedy, our faith, perseverance and American spirit of generosity will ensure that we help the region and its residents recover and rebuild.

The Pacific Northwest, where my Congressional District is located, is about as far north and west of this tragedy as you can get in the continental U.S. Yet even there, Governor Gregoire is coordinating with state and Federal officials nationwide to get state employees and volunteers on the ground in the affected areas. Our state has readied 600 Washington National Guard soldiers and airmen. We have offered up our State's refueling aircraft, support personnel, helicopters, and satellite communications systems, among other assets. Washington State's residents are giving generously to aid relief efforts and victims. It is likely that we will soon provide a temporary home to thousands of displaced hurricane victims.

I would also like to extend my deepest gratitude to organizations such as the Red Cross for their significant disaster relief efforts. The Red Cross has said that this is their largest relief effort ever—larger than after September 11, 2001, and larger than all four Florida hurricanes last year. We continue hearing heartwarming stories of American Red Cross volunteers from across the Nation, including in my Congressional District, who have already headed down to help with relief efforts.

As we respond to this tragedy, I will continue working with my colleagues to provide needed Federal assistance to the people harmed by this disaster. I know that in months ahead there will be much work to do. As Americans, we have pulled together through tragedies in the past. I am confident that we will demonstrate that same unity and perseverance in overcoming the devastating effects of Hurricane Katrina.

Mr. OBERSTAR. Mr. Speaker, 10 days ago Hurricane Katrina slammed into America's Gulf Coast. The devastation we have seen is unprecedented. While the Federal Government's response to this devastation has itself been a management catastrophe, I have been heartened by the overwhelming response of our fellow Americans to the victims of Katrina. People have opened their homes and their hearts to their victims. They have donated food, clothing, and money. The goodness of our citizens to one another, especially in their time of need, should make all Americans proud.

With a heavy heart, but with confidence in a better future, I join all my colleagues today in expressing my personal deep sense of sorrow and offering the condolences of a nation to all the victims of Hurricane Katrina. All who have watched these tragic events unfold before us on TV are inspired by, and in awe of, the resilience of the New Orleanians, their courage under adversity, their extraordinary self-sacrifice in mutual assistance, their love of their city, and their determination to rebuild their lives. I pledge my enduring efforts—and I know that my colleagues on the Committee on Transportation and Infrastructure join in this pledge—to provide New Orleans and the states of Louisiana, Mississippi, and Alabama, the resources necessary for the reconstruction efforts.

Today we must remain focused on the recovery from the devastation wrought by Katrina. However, in the coming weeks and months, this Congress must investigate the Government's disastrous response to this disaster. To begin that process, Congresswoman NORTON and I have introduced a bill, H.R. 3659, to reestablish FEMA as an independent agency outside of the control of the bureaucracy of the Department of Homeland Security.

The Government's first priority must be to protect its citizens. It has failed to honor that responsibility, and we must insure that such failure never happens again.

Mr. TANNER. Mr. Speaker, I rise today to speak about the tragedy that has resulted from Hurricane Katrina. Like our colleagues and so many Americans, I watched with sadness as this massive storm approached the coast and threatened to wreak unprecedented destruction on anything that stood in its path.

Over the hours that followed, we learned that entire communities along the Gulf of Mexico coast had literally been devastated, homes and businesses had been destroyed, churches and schools were in ruins, and floodwaters continued to rise in New Orleans. While the physical damage was restricted to the Gulf Coast region itself, we all recognized immediately that Hurricane Katrina was a national catastrophe that would touch millions and have long-term effects on us all.

The people of Louisiana, Mississippi and Alabama need strong leadership in Washington right now. The Federal Government can and will stand strong to do all we can until the flood waters recede, homes are rebuilt, families and communities are reunited and normalcy returns. However, it will require the time and efforts of us all.

The American people have responded with overwhelming generosity. Citizens from Tennessee and elsewhere across the country have donated their time, goods and money to help in every possible way with the relief effort. Many communities in our State have shown again how we earned our nickname "The Volunteer State," and I know many other communities have also proven their kindness, welcoming with open arms those who have literally lost everything and been forced from their homes. There are countless stories of families, churches and schools opening their doors and taking in these newly found homeless. I am proud of my fellow Tennesseans and our fellow Americans in showing such support for those who need help.

Our Nation continues to face unprecedented threats on physical, emotional and economic fronts, and we will fight those battles together. Federal, State and local officials, private industry and charitable organizations must work together to fight these battles and start the process of rebuilding our communities, and I hope our Nation will be stronger. Mr. Speaker, we have watched a terrible disaster unfold, but I am certain Americans will stand together and meet these challenges with the American spirit that has helped us through so many tough times before.

Mr. TURNER. Mr. Speaker, I am a co-sponsor of this resolution which expresses the Nation's condolences to the victims of Hurricane Katrina and commends the resiliency of the citizens of the States impacted by Hurricane Katrina.

Our hopes and prayers go out the men, women, and children whose lives have been forever changed by this tragic natural disaster. We have all been moved by the images of destruction in Louisiana, Mississippi and Alabama, and the lives taken by Hurricane Katrina.

We have also been moved by the flood of compassion that is replacing the flood waters of Katrina. As we mourn the dead and express our sympathy to those who have lost loved ones, we can take heart in the efforts of those who are aiding the recovery effort.

We have been inspired by the efforts of private citizens and organizations to help those in need. From doctors to nurses to police officers and many others, Americans are pulling together to help their fellow citizens in the Gulf Coast States.

I am proud of the work of the service men and women from Wright Patterson Air Force Base in my district in Dayton, Ohio in aiding the relief effort. Additionally, I have been overwhelmed by the number of phone calls to my offices from Ohioans who are anxious to help in whatever way possible the people affected by Hurricane Katrina.

Mr. Speaker, we will always remember the victims of Hurricane Katrina and we will continue to help the people of the Gulf Coast as they rebuild their homes and their lives, and thank those working to assist those who have endured what most of us cannot imagine.

Mr. BOUSTANY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to the order of the House of today, the resolution is considered as read and the previous question is ordered.

The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

## RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 53 minutes a.m.), the House stood in recess subject to the call of the Chair.

☐ 1630

## AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 4 o'clock and 30 minutes p.m.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

## FEDERAL JUDICIARY EMERGENCY SPECIAL SESSIONS ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3650) to allow United States courts to conduct business during emergency conditions, and for other purposes.

The Clerk read as follows:

H.R. 3650

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Federal Judiciary Emergency Special Sessions Act of 2005".

### SEC. 2. EMERGENCY AUTHORITY TO CONDUCT COURT PROCEEDINGS OUTSIDE THE TERRITORIAL JURISDICTION OF THE COURT.

(a) CIRCUIT COURTS.—Section 48 of title 28, United States Code, is amended by adding at the end the following:

"(e) Each court of appeals may hold special sessions at any place within the United States outside the circuit as the nature of the business may require and upon such notice as the court orders, upon a finding by either the chief judge of the court of appeals (or, if the chief judge is unavailable, the most senior available active judge of the court of appeals) or the judicial council of the circuit that, because of emergency conditions, no location within the circuit is reasonably available where such special sessions could be held. The court may transact any business at a special session outside the circuit which it might transact at a regular session.

"(f) If a court of appeals issues an order exercising its authority under subsection (e), the court—

"(1) through the Administrative Office of the United States Courts, shall—

"(A) send notice of such order, including the reasons for the issuance of such order, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives; and

"(B) not later than 180 days after the expiration of such court order submit a brief report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives describing the impact of such order, including—

"(i) the reasons for the issuance of such order;

"(ii) the duration of such order;

"(iii) the impact of such order on litigants; and

"(iv) the costs to the judiciary resulting from such order; and

"(2) shall provide reasonable notice to the United States Marshals Service before the commencement of any special session held pursuant to such order.".

(b) DISTRICT COURTS.—Section 141 of title 28, United States Code, is amended—

(1) by inserting "(a)(1)" before "Special";

(2) by inserting "(2)" before "Any"; and

(3) by adding at the end the following:

"(b)(1) Special sessions of the district court may be held at such places within the United States outside the district as the nature of the business may require and upon such notice as the court orders, upon a finding by either the chief judge of the district court (or, if the chief judge is unavailable, the most senior available active judge of the district court) or the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where such special sessions could be held.

"(2) Pursuant to this subsection, any business which may be transacted at a regular session of a district court may be transacted at a special session conducted outside the district, except that a criminal trial may not be conducted at a special session outside the State in which the crime has been committed unless the defendant consents to such a criminal trial.

"(3) Notwithstanding any other provision of law, in any case in which special sessions are conducted pursuant to this section, the district court may summon jurors—

"(A) in civil proceedings, from any part of the district in which the court ordinarily conducts business or the district in which it is holding a special session; and

"(B) in criminal trials, from any part of the district in which the crime has been committed and, if the defendant so consents, from any district in which the court is conducting business pursuant to this section.

"(4) If a district court issues an order exercising its authority under paragraph (1), the court—

"(A) through the Administrative Office of the United States Courts, shall—

"(i) send notice of such order, including the reasons for the issuance of such order, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives; and

"(ii) not later than 180 days after the expiration of such court order submit a brief report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives describing the impact of such order, including—

"(I) the reasons for the issuance of such order;

"(II) the duration of such order;

"(III) the impact of such order on litigants; and

"(IV) the costs to the judiciary resulting from such order; and

"(B) shall provide reasonable notice to the United States Marshals Service before the commencement of any special session held pursuant to such order.".

(c) BANKRUPTCY COURTS.—Section 152(c) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(c)";

(2) by adding at the end the following:

"(2)(A) Bankruptcy judges may hold court at such places within the United States outside the judicial district as the nature of the business of the court may require, and upon such notice as the court orders, upon a finding by either the chief judge of the bankruptcy court (or, if the chief judge is unavailable, the most senior available bankruptcy judge) or by the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where the bankruptcy judges could hold court.

"(B) Bankruptcy judges may transact any business at special sessions of court held outside the district pursuant to this paragraph that might be transacted at a regular session.

"(C) If a bankruptcy court issues an order exercising its authority under subparagraph (A), the court—

"(i) through the Administrative Office of the United States Courts, shall—

"(I) send notice of such order, including the reasons for the issuance of such order, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives; and

"(II) not later than 180 days after the expiration of such court order submit a brief report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives describing the impact of such order, including—

"(aa) the reasons for the issuance of such order;

"(bb) the duration of such order;

"(cc) the impact of such order on litigants; and

"(dd) the costs to the judiciary resulting from such order; and

"(ii) shall provide reasonable notice to the United States Marshals Service before the commencement of any special session held pursuant to such order.".

(d) UNITED STATES MAGISTRATE JUDGES.—Section 636 of title 28, United States Code, is amended in subsection (a) by striking "territorial jurisdiction prescribed by his appointment—" and inserting "district in which sessions are held by the court that appointed the magistrate judge, at other places where that court may function, and elsewhere as authorized by law—".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3650.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, every Member of this body is aware of the scope of the tragedy and destruction that Hurricane Katrina inflicted on the gulf coast region, and Congress has already taken several steps to bring relief to the affected States and their people. In addition to the thousands of private residences and businesses destroyed or rendered uninhabitable by the hurricane and subsequent floods, many entities of the Federal Government located in that region may not be able to operate for a time period that remains uncertain.

The creation and maintenance of a court system that allows citizens to adjudicate disputes is a fundamental responsibility of government. The purpose of H.R. 3650 is to authorize Federal courts to conduct business outside of their statutorily defined geographic domains during times of emergency. It is critical that Congress enact the legislation expeditiously so that the affected courts in Louisiana, Mississippi, and Alabama may continue to function in the wake of Hurricane Katrina.

The text of H.R. 3650 is substantially similar to section 15 of H.R. 1751, the Secure Access to Justice and Court Restoration Act of 2005, which the Subcommittee on Crime, Terrorism, and Homeland Security reported to the full Committee on the Judiciary on June 30.

Mr. Speaker, the need for this legislation became tragically apparent following the terrorist attacks of September 11, 2001, and the impact of these disasters on court operations, particularly in New York City. In emergency conditions, a Federal court facility in an adjoining district or circuit might more readily and safely be available to court personnel, litigants, jurors, and the public than a facility at the place of holding court within the district. This is especially true in major metropolitan areas such as New York, Washington, D.C., Dallas, and Kansas City, where the metropolitan area includes parts of more than one judicial district.

This legislation is also needed to address natural disasters. The recent impact of Hurricane Katrina on the Federal courts in Louisiana, Mississippi, and Alabama has increased the urgency of congressional action. Where court operations cannot be transferred to other divisions within the affected judicial district due to widespread flooding and destruction, judges must be empowered to shift court proceedings temporarily into a neighboring judicial district.

The advent of electronic court record systems will facilitate the implementation of this authority by providing judges, court staff, and attorneys with remote access to case documents. The bill authorizes circuit, district, and bankruptcy courts that conduct special sessions outside of their respective geographic boundaries upon a finding that because of emergency conditions, no locations within the boundaries of those courts are reasonably available where such special sessions could be held.

The Administrative Office of the U.S. Courts, or AO, is required to notify the House and Senate Committees on the Judiciary, as well as the Marshals Service when a court issues an order to conduct an emergency session. The AO must also follow up no later than 180 days after such an order expires by submitting a brief report to both committees summarizing why the order was issued, its duration, its impact on litigants, and its cost to the judiciary.

The bill specifies that criminal trials may not be conducted outside the State in which a crime has been committed unless a defendant otherwise consents. This is consistent with the provisions of article III of the Constitution and the sixth amendment. With this one exception, a Federal court is empowered to conduct all business in a special session outside a district that it might otherwise conduct during a regular session.

Given these constitutional constraints, however, jurors in criminal trials may only be summoned from "any part of the district in which the crime has been committed," unless a defendant agrees to be tried by jurors from the district in which the court is holding a special session.

Finally, United States magistrate judges are currently subject to certain territorial limitations on their powers imposed by the Federal Magistrates Act. The bill clarifies that magistrate judges can also participate in the emergency extraterritorial sessions of the district courts.

Mr. Speaker, I urge my colleagues to support this bipartisan legislation to return a measure of continuity to the victims of Hurricane Katrina and the Federal Court system that serves them.

Mr. Speaker, I submit for the RECORD a letter from the Justice Department in support of this legislation.

DEPARTMENT OF JUSTICE, OFFICE OF LEGISLATIVE AFFAIRS, OFFICE OF THE ASSISTANT ATTORNEY GENERAL

*Washington, DC, September 7, 2005.*

Hon. F. JAMES SENSENBRENNER,
*Chairman, Committee on the Judiciary,*
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: I am writing to express the views of the Department on H.R. 3650, "The Federal Emergency Special Sessions Act of 2005." We support swift enactment of this legislation.

This bill is drawn from other legislation currently being considered in the Congress that will permit Federal courts to conduct business in other locations in the event of an emergency situation. The need for this bill has been clearly demonstrated by the recent catastrophe caused by Hurricane Katrina, which has already caused extreme disruption to the courts. Passing this bill on an emergency basis will permit the Federal Courts to return to the Nation's critical business more quickly and more easily.

The Department already has commented on similar provisions in prior legislation and some of our prior comments have been addressed in this bill. In future legislation, we will continue to seek refinement of the law in this area, particularly as it relates to the critical need for consultation and coordination between the Judiciary and the Marshals Service in the event of any serious emergency.

Thank you for the opportunity to express our views. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

Sincerely,

WILLIAM E. MOSCHELLA,
*Assistant Attorney General.*

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

I, too, Mr. Speaker, join the chairman of the Committee on the Judiciary in rising in support of this legislation. One of the many effects of the terrible tragedy resulting from Hurricane Katrina, one of the worst in our history, is the problem that the Federal courthouses in the region are flooded, preventing countless civil and criminal cases from proceeding. This legislation would permit the circuit courts, the district courts, magistrates, and the bankruptcy courts to all conduct proceedings outside their normal jurisdictions in times of emergency. These courts are, in many instances, closed as we meet today in Washington.

Terrorist attacks and natural disasters can render unusable the Federal courthouses. Along with the tragic humanitarian results of such events, the administration of justice would come to a halt, preventing citizens from exercising their rights in court. In such circumstances, the chief judge of the court or judicial council of the circuit court could order the court proceedings to be conducted at any other place within the United States.

Upon such an order, the Administrative Office of the United States Courts would notify Congress of the reasons. Also, within 180 days of the termination of the special session, the Administrative Office would notify us of the order's duration, its impact on litigants, and the cost to the judiciary.

This bill, H.R. 3650, further provides that jurors for civil cases may come from either the original or the temporary jurisdiction of the court. With respect to criminal cases, the legislation preserves the sixth amendment rights of defendants by limiting the jury pool to the district where the crime is committed, unless the defendant consents otherwise.

There is an issue not addressed in the bill, and that is who would pay for the parties, including criminal defendants, to travel to the new location. Presumably, because a public function is at issue, the government should pay such expenses. It would be untenable for the courts and prosecutors to travel at government expense while defendants are left to fend for themselves in times of disaster. I am hoping that this can be corrected. There may be due process and sixth amendment violations if we force defendants to pay their own way to a distant courthouse. I hope to work with my colleagues in the House and Senate and the chairman of our committee in the House in the coming weeks to ensure that this oversight is properly resolved.

Finally, Mr. Speaker, I strongly believe that we in the Congress must do more, much more, to alleviate the effects of Hurricane Katrina. Thousands of people may be forced to seek bankruptcy protection, but now will be subjected to the onerous and creditor friendly provisions of the newly enacted bankruptcy law, including its means test, which goes into effect on October 17. Victims of disasters and other tragedies, I think, ought be exempt from such rigid requirements.

We have also heard countless reports of price gouging at gas stations. Big oil says the pipelines and refineries are down, thus limiting supply and increasing prices, but somehow they still continue to reap record profits. Along with a number of my colleagues, I have called upon the Federal Trade Commission to investigate this profiteering.

Mr. Speaker, H.R. 3650, the Federal Judiciary Emergency Special Sessions Act of 2005, deserves the support of every Member in this body.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that the gentleman from Michigan (Mr. CONYERS) makes a good point relative to the reimbursement of travel and subsistence expenses of parties, particularly those who may be indigent, and I think that we ought to look at this issue as time progresses, basically in seeing how far away criminal trials have to be moved away from New Orleans and the other places on the gulf coast where the courts are either impaired or not able to function in their chosen venues.

However, I would point out that the Office of General Counsel For the Administrative Office of the Courts advises that jurors may obtain reimbursement for mileage, subsistence, and lodging expenses under this bill just as they may under normal circumstances. Similarly, there is the payment of travel and subsistence expenses for witnesses who will be available during the emergency special sessions under the bill.

As far as the parties are concerned, particularly the indigent ones, I can give the gentleman from Michigan my assurance that we all will continue to work with the Administrative Office of the United States Courts, the appropriators, and the Senate on this point. I think the thing that we have got to do now is to get this bill enacted into law as quickly as possible so that the courts can be up and running to do their business even though their current facilities may still be under water.

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. SMITH), the chair of the Subcommittee on Courts, the Internet, and Intellectual Property.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Wisconsin, the chairman of the Committee on the Judiciary, for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 3650, the Federal Judiciary Emergency Special Sessions Act of 2005. H.R. 3650 authorizes Federal courts to conduct business outside of their geographic jurisdictions during times of emergency. Congress must enact this legislation immediately so that the affected courts in the gulf region can continue to operate in the wake of Hurricane Katrina.

Hurricane Katrina has severely damaged, perhaps ravaged is a better word, Federal courthouses in Louisiana, Alabama, and Mississippi. We must act with a sense of urgency. To illustrate why, consider the Eastern Judicial District of Louisiana, where operations are currently suspended.

There is virtually no Federal district court presence there. Judges and court staff are physically scattered throughout Louisiana and other States. But crime in the district, assault, rape, and robbery, has not taken the week off. Yet there is no court that can act and no judge to preside. Criminal defendants will walk if deadlines established in the Speedy Trial Act cannot be met. In other words, we must restore the rule of law in the Eastern District of Louisiana as well as elsewhere.

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The bill contemplates that affected courts could use other facilities that are convenient and practicable to participants under the circumstances. The special circumstances allowing courts to operate outside their normal jurisdictions would continue only until the vacated courthouses could be restored for normal business activities.

We need to enact H.R. 3650 as part of the initial effort to help the displaced citizens of the region get back on their feet.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 3650, as we are all aware, much if not all of the Gulf Coast region has been flooded by the devastating forces of Hurricane Katrina. I personally spent 4 days in shelters in and around the Houston area, so I have first hand knowledge of the devastation this natural disaster has caused as well as what the evacuees are going through. In addition to the many problems that have resulted from the aftermath of this hurricane, many of the Federal courthouses in the region are flooded; thus, preventing countless civil and criminal cases from proceeding. Furthermore, many attorneys and court employees have been displaced, not only from their homes, but also from their jobs. H.R. 3650 would permit the circuit courts, district courts, magistrates, and bankruptcy courts to conduct proceedings outside their normal territorial jurisdictions in times of emergency.

The bill further provides that jurors for civil cases may come from either the original or temporary jurisdiction of the court. With respect to criminal cases, the legislation preserves the Sixth Amendment rights of defendants by limiting the jury pool to the district where the crime is committed unless the defendant consents otherwise. While these are issues are important, the bill fails to address who would pay for the parties to the case to travel to the new location. Presumably because a public function is at issue, the government should pay such expenses. It would be untenable for the courts and prosecutors to travel at government expense while defendants are left to fend for themselves in times of disaster. There may be due process and Sixth Amendment violations if we force defendants to pay their own way to distant courthouses.

In spite of my support for this bill, I hope the concerns I just mentioned can be worked out in the coming weeks as this bill moves forward. In closing, I strongly believe we must do much more to alleviate the effects of Hurricane Katrina. Thousands of people may be forced to seek bankruptcy protection but now will be subject to the onerous and creditor-friendly provisions of the newly-enacted bankruptcy law, including its means test. Victims of disasters and other tragedies should be exempt from such rigid requirements.

I urge my colleagues to support this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3650.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## PELL GRANT HURRICANE AND DISASTER RELIEF ACT

Mr. KELLER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3169) to provide the Secretary of Education with waiver authority for students who are eligible for Pell grants who are adversely affected by a natural disaster, as amended.

The Clerk read as follows:

H.R. 3169

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Pell Grant Hurricane and Disaster Relief Act".

**SEC. 2. WAIVERS OF FEDERAL PELL GRANT REPAYMENT BY STUDENTS AFFECTED BY DISASTERS.**

Section 484B(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1091b(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) WAIVERS OF FEDERAL PELL GRANT REPAYMENT BY STUDENTS AFFECTED BY DISASTERS.—The Secretary may waive the amounts that students are required to return under this section with respect to Federal Pell Grants if the withdrawals on which the returns are based are withdrawals by students—

"(i) who were residing in, employed in, or attending an institution of higher education that is located in an area in which the President has declared that a major disaster exists, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170);

"(ii) whose attendance was interrupted because of the impact of the disaster on the student or the institution; and

"(iii) whose withdrawal ended within the academic year during which the designation occurred or during the next succeeding academic year.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. KELLER) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. KELLER).

### GENERAL LEAVE

Mr. KELLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3169.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. KELLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, earlier this year I introduced the Pell Grant Hurricane and Natural Disaster Relief Act.

Last week Hurricane Katrina struck Florida, Alabama, Mississippi, and Louisiana. While the damage from this storm is particularly tragic, the hurricane's devastation was a familiar sight. Last year, four hurricanes ravaged Florida over a 40-day period. Many students lost their homes, their jobs, and they were forced to withdraw from school.

In addition to all the suffering they underwent, Pell grant recipients who withdrew from classes were forced to repay any Pell grant funds they used to pay for school expenses beyond fees and tuition, or else were barred from enrolling in future classes.

I believe that our neediest students, who would not have access to college without Pell grants, should not be further punished after enduring a natural disaster.

After writing a letter to the Secretary of Education to ask for relief for these students, I discovered that students who are victims of natural disasters can receive similar help with regard to student loans, but the only way to help Pell grant recipients is by passing this legislation.

My bill would allow the Secretary, in her discretion, to provide a waiver for repaying Pell grants for students who were forced to withdraw from classes due to a natural disaster as declared by the President of the United States.

Language from this bill was incorporated into the higher education bill passed by the Committee on Education and the Workforce earlier this year with unanimous, bipartisan support.

I urge my colleagues to vote "yes" on H.R. 3169.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support H.R. 3169, the Pell Grant Hurricane and Disaster Relief Act recognizing the state of emergency that the country is in in the aftermath of Hurricane Katrina. Hundreds of thousands of people have been left homeless with hundreds, maybe even thousands, dead.

Nearly 100,000 college students have been displaced in some 30 colleges in the gulf coast region that have been severely damaged by the hurricane. In addition, countless more student borrowers have been left without jobs, without any income, and yet must repay their college loans. I support this legislation because it is the right thing to do, and I want to thank the gentleman from Florida for introducing this legislation and responding in this manner so quickly.

It authorizes, as the gentleman said, the Secretary of Education to waive the requirement for students to repay their Pell grants if they withdraw from college due to a disaster. The Secretary can use this authority to ensure that the Pell grant recipients affected by Hurricane Katrina are not punished financially as a result of this national emergency.

While this is a necessary and appropriate step, we also must recognize that Congress should be doing more to provide relief for these 100,000 students. I say that not as a point in contention. I say that as part of the dialogue that we have been having between the two sides of the aisle on this committee as we start to assess the situation that these students find themselves in.

There is great urgency to this bill for these Pell grant recipients so they can quickly calculate the situation that they are going to be in and the question of how they continue their education in another location.

But I would hope that we would go further quickly, because this only deals with the recipients of Pell grants, and yet we know that we have hundreds of thousands of students that have student loans and student campus-based loans available to them, all of which have been thrown into question.

Today, the gentleman from Michigan (Mr. KILDEE) and I will introduce the Katrina College Relief Act to provide expansive relief for college students, their families and student borrowers affected by the hurricane. In addition to H.R. 3169, the Katrina College Relief Act would allow affected student borrowers to defer their loans for 6 months so they do not have to make payments and are not charged interest on those loans.

Under current law, student borrowers affected by the disaster may apply for a 3-month forbearance on their college loans. However, loans in forbearance continue to accrue interest, which raises the overall cost of the loan. We should not be forcing students who have been ravaged by Hurricane Katrina to pay more for their college loans.

The Katrina College Relief Act would also allow students and families affected by the hurricane to have their student aid award immediately readjusted to better reflect their financial situation. This is important to tens of thousands of these students, because currently many of these students and their families no longer have the necessary resources to pay for college even after their current Federal student aid is taken into account.

Congress should direct the Secretary of Education to immediately readjust how much these families are expected to pay toward college for their current term and for the next academic year.

We must do everything we can to ensure that 100,000 college students affected by Hurricane Katrina are able to continue their education immediately. While the initial efforts of college alumni and donors to help relocate displaced students should be commended, we must do more. It is not enough to support a bill that says that we care or accept the status quo. We should support efforts to help all of the students affected by the hurricane, not just those who receive the Pell grants.

Mr. Speaker, I would hope that we would be able to pass this legislation in a very timely fashion, and I would hope the Senate would give its immediate consideration. Then I would also hope that we would move forward to see what we can do to financially alleviate the burdens that this hurricane has placed on the students and on their families; and that we can in a timely fashion, and I understand that the colleges support the effort, recalculate the financial contributions that these families will be able to make. Given the fact that many of the families and students have been devastated in terms of the loss of their homes, their jobs, their places of business, and students who were working have lost their jobs in these areas, the jobs may or may not be available to them.

These students are now having to quickly decide whether or not they can continue their education at an alternative location, in many instances far away from their home, or where their home used to be, and we have to do everything we can so they will be able to resolve that decision in favor of continuing their education, not losing a semester, not losing a year, and certainly not having the cost of their education increased to them by virtue of the fact that they are the victims of this largest national disaster to befall our country.

Mr. Speaker, I want to thank the gentleman again for addressing this problem in this very, very timely fashion. I hope that we can work together for these other students who are not the recipients of Pell grants.

Mr. KELLER. Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. KILDEE), the ranking member on the Subcommittee on 21st Century Competitiveness.

Mr. KILDEE. Mr. Speaker, I rise today to urge this body to offer real relief to college students impacted by the disastrous Hurricane Katrina. Well over 100,000 students at over 30 major institutions and others have been directly impacted by this terrible tragedy, with countless more feeling the aftershocks of the disaster.

I support the bill offered by the gentleman from Florida (Mr. KELLER) to offer relief to Pell grant recipients affected by natural disasters and thank him for this introduction. But this bill is not enough; as we all realize, not only Pell grant recipients were affected by this tragedy.

Thousands of affected students and graduates will be unable to make payments on their Stafford or Perkins loans. Currently, students in repayment who are suffering from economic hardship can go through a lengthy process to defer the accumulation of interest and repayment on their loans. Also they can apply and receive a temporary forbearance on their loans, allowing them to defer payments, but continue the accumulation of interest. We need to cut the red tape by allowing any student impacted by a natural disaster to receive an automatic deferment of both the accumulation of interest and the payments. Graduates already struggling to dig themselves out of the student loan debt, an average of $17,500, must not be penalized because of this terrible tragedy.

Enrolled students who are currently receiving Federal aid had their financial aid packages calculated based on the Expected Family Contributions, the so-called EFC, which includes parent contributions and contributions of working students. With millions unemployed, including the one in five undergraduates who were working more than 30 hours a week to support themselves, the calculated Expected Family Contribution is no longer realistic.

The Miller-Kildee bill allows those students to have their EFC student aid packages readjusted to reflect the financial changes that family may have suffered. Affected families have limited resources to aid their recovery. The little they have needs to go toward rebuilding their homes and lives. But this should not mean that their children should have to drop out of school. We really need an adjustment in the Expected Family Contributions.

Mr. Speaker, I am pleased that the majority leadership has decided to take up the issue of college students impacted by this tragedy and am pleased with the work of the gentleman from Florida (Mr. KELLER). Yet comprehensive relief is necessary for all students with financial hardship.

Mr. Speaker, I hope Congress will soon consider a more comprehensive package. An extraordinary catastrophe demands an extraordinary solution. Congress must do more.

Mr. KELLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, I rise in strong support of this bill to provide assistance to the victims of Hurricane Katrina whose higher education aspirations have been disrupted as a result of the tragic events of the last 10 days. This bill represents a first small step in our efforts in the weeks and months to come that we hope will make a critical difference for students and families as they work to rebuild their homes and their lives, and hopefully are able to return to higher education.

I want to thank the gentleman from Florida (Mr. KELLER) for developing this bill and for recognizing the forgotten struggles of students forced to withdraw from college as a result of a natural disaster.

The premise behind this bill is very simple. It says that if a student is forced to withdraw from higher education because of a natural disaster, that student will not have to repay their Pell grant that has already been awarded and perhaps already spent. The gentleman from Florida (Mr. KELLER) has been developing this legislation for months, in large part because of what he saw in last year's hurricane in Florida and how it impacted his constituents enrolled in higher education and those that had Pell grants.

The Higher Education Act already allows waiver authority for the Secretary of Education to exercise in case of a natural disaster declared by the President. However, that authority exists for student loans and not for Pell grants, a discrepancy that can have a significant impact on disadvantaged college students.

Pell grants serve some of the most disadvantaged students enrolled in higher education. In fiscal year 1999, an estimated nearly 45 percent of dependent Pell grant recipients had total parental income of below $20,000, and more than 90 percent had total income of less than $40,000.

Pell grants are a need-based aid that students do not have to pay back. However, when students withdraw from higher education, they may have to return a portion of their Pell grant aid.

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Unfortunately, in the case of a natural disaster, there is no mechanism for the Secretary to waive that requirement, which may force students who have already lost their homes and communities to actually pay back the Pell grant funds that they had been awarded.

I am pleased that my committee included this provision in a comprehensive Higher Education Act reform package approved in July. Today, however, we have an opportunity to act quickly to ensure that students in the gulf coast region get the relief they need and they get it soon. This proposal was adopted with bipartisan support in the committee, by a voice vote, during subcommittee markup of our higher education reform package; and I expect similar support today as my colleagues on both sides of the aisle join together to provide relief to college students impacted by this unprecedented natural disaster.

Once again, I want to thank the gentleman from Florida (Mr. KELLER), the bill's sponsor, and urge my colleagues to join me in support of the bill.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I thank the ranking member from California for yielding me this time.

I rise in support of this legislation, and I want to commend the gentleman from Florida (Mr. KELLER) for his introduction of it.

I think all of us recognize the importance of formal education, higher education, training; and that if individuals for whatever the reason are not able to avail themselves of these opportunities, then obviously life for them will be far more difficult.

I think it is also important, though, that we go beyond just the individuals who are recipients of the Pell grant, and I support strongly the legislation that I understand is being introduced later on today by the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Michigan (Mr. KILDEE) that would allow us to provide for the recalculation to take another look at how we assess family income to try to make sure that we maximize the potential of each and every individual in our country to have the greatest possibility of receiving formal education that goes beyond the primary and secondary levels.

So there are many ways to respond to the impact of Katrina, and I think many people are doing so in many places throughout the country, everybody using what it is that they have got to give.

Again, I commend the gentleman from Florida (Mr. KELLER) for his insight, for his intuition, for his introduction of this bill, and would urge that we support it and also urge support for the Miller-Kildee legislation that I understand is being introduced later on today.

Mr. KELLER. Mr. Speaker, I continue to reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Speaker, I rise in strong support of the Pell Grant Hurricane and Disaster Relief Act.

Hurricane Katrina created a disaster of monumental proportions. First and foremost, our priority should remain saving of lives and delivering aid immediately to those most in need. As long as this crisis continues, we should tap every available resource of the Federal Government to make sure that we are providing relief in every corner of the disaster zone. This relief extends to young Americans who work so very hard and, with the help of Federal assistance, were able to realize their dream of attending college.

This crucial legislation would allow the Secretary to grant waivers to students who were forced from school by a natural disaster such as Katrina. This would waive the requirement for them to pay back Federal Pell grant aid when they withdraw from school. It is hard enough for them to get into college without this disaster throwing up yet another barrier to achieving the dream of a college education.

I commend the gentleman from Florida (Mr. KELLER) for introducing this legislation, and I thank the leadership for calling this legislation to the floor so quickly. And I also thank my colleagues on the Committee on Education and the Workforce for supporting this measure when we considered the Higher Education Act in July.

Mr. Speaker, this is a good bill in a difficult hour. I strongly encourage my colleagues to vote for it.

I also would like to say a word about the bill that the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Michigan (Mr. KILDEE) are introducing today. It is every bit as important that we pass that bill in a timely fashion as it is that we pass the gentleman from Florida's (Mr. KELLER) bill. It is particularly important that we allow families to adjust their expected family contribution.

One of the problems with the financial aid system is that the information that is used to determine eligibility is often a year behind reality. That system works when reality does not change that much from year to year; but when it changes as dramatically as it has for so many people affected by this tragedy, it would place students in a thoroughly disadvantageous position if they were unable to change their financial contribution. So I urge speedy consideration and passage of that bill as well as of the gentleman from Florida's (Mr. KELLER) bill.

Mr. KELLER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Mr. Speaker, I thank the gentleman for yielding me this time.

I simply want to join in the chorus in support for this bill. It is difficult for us to recognize how far reaching the implications and consequences of Hurricane Katrina have been. And I know, for example, when I mentioned to another individual today that we would be dealing with the Pell grant in the context of the hurricane, this Member did not see any connection whatsoever until I pointed out the consequences.

I am very pleased that we are taking such rapid action in this Chamber to deal with the wide-reaching consequences of the hurricane and recognize that there are so many dimensions of our citizens' lives that have been affected by this. I am pleased at this rapid action. I am grateful that this bill is presented to us. I will certainly support it and vote for it, and I hope the other body will give equal consideration and rapid consideration so that we may service our students.

Let us also remember to continue in prayer for all the victims who have been affected in their lives in so many different ways, and let us continue to work together to ensure that very rapidly we can deal with restoring the Southern States to their positions, their economic position, and, above all, the positions of the families who live there so that they may return to their homes.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Again, I just want to thank the gentleman from Florida for introducing this legislation, for bringing it to the floor, and I hope that we can get the Senate to give its timely attention.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KELLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a commonsense piece of legislation that will make sure our neediest college students will not be forced to prematurely terminate their college education due to Hurricane Katrina or other natural disasters. Without this legislation, thousands of college students will be barred from enrolling in future college classes as a result of a hurricane that they had no control over whatsoever.

Let us join together now in a bipartisan spirit and help these college students by providing the Secretary of Education with waiver authority for students who are eligible for Pell grants and who have been adversely impacted by natural disasters. I urge all of my colleagues to vote "yes" on H.R. 3169.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 3169, which would amend the Higher Education Act of 1965 to authorize the Secretary of Education to waive requirements for Pell Grant repayments if student withdrawals from institutions of higher education are due to disasters. This bill essentially provides aid to those students who have been displaced as a result of the devastating forces of Hurricane Katrina. In Mississippi, Louisiana, and Alabama thousands of students are no longer able to attend classes at universities such as Dillard, Xaiver, and the University of New Orleans. These universities have historically provided minorities the opportunity to receive a college education.

Fortunately, universities such as Texas Southern, and the University of Houston are taking in displaced students so they can continue their education as we continue to address the many problems facing the victims of Hurricane Katrina.

I urge my colleagues to support this legislation.

Mr. ETHERIDGE. Mr. Speaker, I rise in support of this legislation to assist college students who have been victimized by widespread devastation visited on the Gulf Coast by Hurricane Katrina last week. We, in North Carolina, know well the destruction hurricanes can cause as our State has been hit by at least five major hurricanes over the past decade. The Federal Government has a solemn responsibility to help those in need, and H.R. 3169 is one very small step in that effort.

Specifically, H.R. 3169 will relieve some burden for displaced college students who otherwise would be required to pay back their Pell grants. This bill would allow the U.S. Education Department to waive the repayment requirement for Pell grant recipients whose school attendance is interrupted because of the impact of a disaster, provided that the students were living, working or attending school in an area designated by the President to warrant major disaster assistance.

Congress must also pass legislation introduced by Congressman GEORGE MILLER and Congressman DALE KILDEE to provide more comprehensive relief for student victims of the storm. Nearly 100,000 college students have been displaced, while some 30 colleges in the Gulf Coast region have been severely damaged by Hurricane Katrina. Many students and families no longer have the necessary resources to pay for college—even after their current Federal student aid is taken into account. We need to ensure that we help all college students and student borrowers who have been adversely impacted by this disaster.

Congress has much, much more work to do to assist in the relief, recovery and reconstruction in the wake of Hurricane Katrina. H.R. 3129 is a minimal early step in that effort, and I urge its adoption.

Mr. KELLER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Florida (Mr. KELLER) that the House suspend the rules and pass the bill, H.R. 3169, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. KELLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

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## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 3650, by the yeas and nays;

H.R. 3169, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

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## FEDERAL JUDICIARY EMERGENCY SPECIAL SESSIONS ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3650.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3650, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 409, nays 0, not voting 24, as follows:

[Roll No. 456]

YEAS—409

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood

Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weldon (FL)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—24

Baker
Berkley
Brady (TX)
Butterfield
Buyer
Conaway
Costello
Dreier
Emerson
Ford
Hoekstra
Levin
Maloney
Marchant
McNulty
Melancon
Olver
Pickering
Reynolds
Sanchez, Loretta
Taylor (MS)
Weiner
Weldon (PA)
Young (AK)

□ 1732

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. LEVIN. Mr. Speaker, I was unavoidably delayed on rollcall No. 456. Had I been present, I would have voted aye.

## PELL GRANT HURRICANE AND DISASTER RELIEF ACT

The SPEAKER pro tempore (Mr. LaHood). The pending business is the question of suspending the rules and passing the bill, H.R. 3169, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. Keller) that the House suspend the rules and pass the bill, H.R. 3169, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 21, as follows:

[Roll No. 457]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boswell
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—21

Baker
Berkley
Brady (TX)
Butterfield
Buyer
Conaway
Costello
Dreier
Emerson
Ford
Hoekstra
Maloney
Marchant
McNulty
Melancon
Olver
Pickering
Sanchez, Loretta
Taylor (MS)
Weiner
Young (AK)

□ 1747

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1642

Mr. WILSON of South Carolina. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1642.

The SPEAKER pro tempore (Mr. LaHood). Is there objection to the request of the gentleman from South Carolina?

There was no objection.

## WHATEVER WE CAN DO

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, in Tennessee we are called "volunteers," and that is for good reason because when our Nation is in need, our State responds. And such is the case we see this week and over the past several days as those who are the victims, the evacuees, from Hurricane Katrina have needed our help. Our Nation and our State have responded.

This headline in the Williamson AM pretty much says it: "Whatever we can do." And that is the way the people of Tennessee have responded, opening their churches, opening their homes, opening town halls to help those who are in need of supplies, in need of schooling for children, in need of a place to live, food to eat.

I want to say thank you to all of those volunteers who have risen to the occasion in Tennessee, and I thank the volunteers all across the Nation who have responded to those who have found themselves in need because of the storm that we experienced last week.

## HONORING ADOLFO AGUILAR ZINSER

(Mr. BROWN of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, Adolfo Aguilar Zinser was a scholarly and outspoken Mexican diplomat and politician whose independent struggle for democracy helped end 71 years of single-party rule.

Ambassador Zinser was killed in a traffic accident while driving back from his country home south of Mexico City. He was only 55.

It is my honor to lend my voice to the many admirers of Ambassador Zinser whose untimely death is a tremendous loss for all of us who believe in the fight for social and economic justice.

A tireless defender of democracy and human rights, Mr. Aguilar Zinser will be remembered as a true patriot, a true fighter for his country, and a friend to so many of us.

In recognition of his outstanding and valuable service to Mexico, I want to offer my deepest sympathies to his family and to his many friends around the world.

## SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

## UNCOVER DISASTER PREPAREDNESS PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, tomorrow the House of Representatives under suspension of the rules, that is, a bill with 40 minutes of debate total, no amendments allowed by any Member of the House for any reason, will vote to borrow on behalf of all the American people $51.8 billion to begin the recovery, rebuilding and continuing the aid and assistance efforts subsequent to the disaster of Hurricane Katrina.

Now, it is good that we are reacting and we are going to begin to fund the incredible needs that will arise and have arisen from this disaster. It is the beginning of a long process, and it is probably only a down payment. But some say that we cannot, as the House of Representatives or the legislative branch, examine the causes of the miserable response that caused unnecessary loss of life while recovery efforts are still ongoing.

Some say that we cannot question the work done by the administration and the appointees in place who failed to act adequately. They say that would be unseemly.

But during World War II, Harry Truman, in a Democratic-controlled legislature, chaired a special committee investigating the procurement scandals of a Democratic administration in the greatest crisis of our history, World War II.

We can do both. We can provide aid and assistance, and we can get at the root causes of unnecessary loss of life and unnecessary disaster. We can do that.

There are a number of lessons to be learned. We need to be able to respond better today or tomorrow. Hurricane season is not over yet. We might have another. Another might follow tragically that same path. That might be an incredible disaster. And we are going to have the same people in place, the same procedures in place. That is not going to be enough.

The terrorists are not going to wait. It has been 4 years since 9/11. We still do not have interoperable, secure communications that were identified as a principal problem on 9/11. The Bush administration zeroed them out in this year's budget, and the Congress has not yet seen fit to restore that money. I hope they will do that in one of these emergency spending bills.

Then there are the cuts at FEMA. The aggregate budget for FEMA during the term of the Bush administration, the Federal Emergency Management Agency, has been reduced. We are not quite sure how much yet because we do not have the final numbers on this bill. I guess with this disaster assistance that will not be the case. But in terms of their preparedness and mitigation, it has been reduced.

The Corps of Engineers has hundreds of critical infrastructure problems, including the levee around New Orleans, underfunded and unfunded. I had a dam in my district that was failing, a flood control dam, with the largest cities in the State downstream. And the Corps of Engineers simply said, We do not have the money. Finally they scrambled around and they found the money. But, unfortunately, they were not able to do that in New Orleans for the Corps budget had been dramatically reduced.

□ 1800

In fact, the Corps' own people predicted that this could happen because of the underfunding of the ongoing maintenance and the needed improvements in the diking system there, but all's well.

Deputy Press Secretary Trent Duffy said things are on track to privatize Social Security because we are going to borrow so much money for the disaster we are going to need to privatize Social Security. What? The Bush plan for privatization of Social Security requires borrowing more money. That is absurd. Then he says, oh, and the tax cuts are all on track, too. The tax cuts for the wealthiest among us are on track in face of a war and a disaster. Why? Because trickle-down will help the people of New Orleans.

How about Federal investment in the infrastructure that would protect the people of New Orleans and other cities around the United States of America? How about interoperable communications for our first responders across the United States of America? How about more money for disaster mitigation preparedness for FEMA? How about those investments before tax cuts for the wealthiest among us?

But they live on the high ground, and I guess they think they are exempt. They are not exempt. We are all in this together, and there should be some degree of sacrifice and level-headedness downtown. We are going to borrow $52.8 billion tomorrow, adding to the deficit; and they are proposing more tax cuts for people who earn over $300,000 a year and estates over $6 million.

Come on, let us get real. Let us act on behalf of all our people. Let us invest in our country and our people and do a better job against natural disasters and the potential for terrorist attacks. We need some changes. It should be more than 40 minutes of debate, and one or two amendments at least should be allowed.

## HIGH FUEL PRICES

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, I am sure that most Members spent time touring their districts in August, and I did as well. The major complaint that

I heard was what probably most Members heard. That was concern about high fuel prices. We all know that fuel for automobiles, trucks, and airplanes have simply gone out of sight. One thing that we are not probably quite as aware of as a Nation is what it has done to agriculture, particularly where irrigation is concerned.

I talked to one Member of Congress who does some farming and irrigating. He was telling me that he had one center pivot that was powered by electricity; it cost him $1,000. He had one center pivot that was powered by either diesel or propane; that was $4,000. Same pivot, same size, and normally electricity would be higher than diesel or propane. So fuel has really eaten into the farm profits this year, and it is going to make farming very unprofitable for many people.

What has happened? Obviously, one major issue has been that global demand has increased. We realize that China, India, countries like these, have been industrialized, and over the last 4, 5, 6 years have been using much more fuel.

Number two, exploration has been curtailed. A 1998 executive order extended a moratorium on offshore drilling for 10 years. It is assumed that these areas would contain 75 billion barrels of oil and 362 trillion cubic feet of natural gas, but they are off limits. Federal law restricts access to resources in the Rocky Mountains and the Gulf of Mexico. Drilling in ANWR has not been allowed; and so whichever side of the environmental fence you are on, whether you agree or disagree, it certainly has made it more difficult to meet our fuel demands. Natural gas prices have increased 83 percent over the last 3 years, and this will cost our economy roughly $111 billion, and a lot of this is simply because of a shortage of natural gas, at least that is available to us; and we have a tremendous amount of it in Alaska and other places we are not able to get to.

Number three, refinery capacity has been reduced due to obsolescence. As a refinery gets old and equipment begins to go downhill, rather than being replaced, it simply is retired; and we have lost 30 percent of our refinery capacity since 1976. For the last 30 years, we have been steadily losing capacity; and this, again, is mostly due to environmental regulation. We have mandated also 13 blends of gasoline. These are called boutique fuels, which add expense and time to fuel refining; and of course, in many cities, like Chicago, you may have to have three or four different fuel blends in a year. Every time you change a blend, you shut down the refinery, you clean the pipes and you start over again; and, again, that adds to expense. Katrina's destruction of refineries has pushed us over the brink. Obviously, just losing 5 or 10 percent, with such a thin margin, has made it somewhat inoperable.

Four, we have increased reliance on foreign oil, which everybody realizes. We are nearly 60 percent dependent on foreign oil at the present time. Much of this is from OPEC. So they can simply have a meeting, tighten the screws and prices go up. This contributes greatly, this dependence on foreign oil, to a $670 billion annual trade deficit, which this country simply cannot continue to sustain. We have to get more energy-independent, obviously.

I guess fifth, something that is in everybody's mind, is has price gouging occurred? To be honest with you, I do not know. I do not think anybody at this point knows, but I do know this: E85, that is 85 percent ethanol, was $1.60 in my State of Nebraska 4 weeks ago. Today, it is $2.75, an increase of $1.15 in 4 weeks. Katrina did not have anything to do with that because the cost of corn has remained low. All of the ethanol manufacturing is done in the Midwest, and so the hurricane had nothing to do with this issue. I think these are things that have to be looked into, probably by Congress.

The solution eventually, I hope, will be, what we have in our energy bill, will eventually provide relief, ethanol, biodiesel, solar, wind energy, nuclear, hydrogen fuel cells, and I think some additional refinery capacity; but it is all going to take time. This will be a difficult time, and I think Congress probably really needs to do some soul searching and look at some of the regulations we have placed upon ourselves.

## KATRINA DISASTER RESPONSE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Ms. DELAURO) is recognized for 5 minutes.

Ms. DELAURO. Mr. Speaker, these last 9 days have been as difficult as any in our Nation's history. The devastation caused by the aftermath of Hurricane Katrina to the thousands of citizens from Louisiana, Mississippi and Alabama is, put simply, without precedent in this country.

The images that we have seen, that we continue to see, are unimaginable: people cutting through their rooftops simply to keep their families above the rising flood water; seniors in wheelchairs stuck in 110-degree convention centers and stadiums for days with plumbing overflowing and no food or drinking water; parents desperately needing for family members to call them and let them know they are safe; unspeakable acts of lawlessness and violence.

We have seen ordinary citizens with shovels burying the dead, not because they knew them, but out of respect, because it was the right thing to do. Just yesterday, The Washington Post ran a picture of a body of a man who had died of seizures outside a New Orleans gas station, his dog lying by his side for 5 days.

So it is unsurprising that countless Americans from across the country have expressed their outrage at the slow Federal response to this tragedy. Indeed, the slow response and tepid leadership cost us many lives on the gulf coast. Thankfully, as we speak, our troops, National Guard, rescue personnel from across the country and ordinary citizens in cities across America are volunteering and giving to take in the homeless, continue the rescue. Heroism is winning out.

Indeed, of all the tragedies that have befallen our country and the gulf coast in the last week, perhaps the saddest is that we knew that this day was coming for New Orleans. Contrary to the President's assertions that this flooding was unexpected, scientists, Federal officials, and others had predicted the potential for a Katrina-like disaster for decades. In 2002, the New Orleans Times-Picayune ran the now-infamous five-part series exploring the vulnerability of the city, specifically addressing the possibility of massive floods drowning residents, destroying homes, releasing toxic chemicals throughout the city. Just days ago, FEMA Director Brown, Homeland Security Secretary Chertoff listened in on electronic briefings given by the staff before Hurricane Katrina had even touched Louisiana and Mississippi. They knew full well of the storm's deadly potential.

Yet they were unprepared to do anything about it. Last year, former director of FEMA James Lee Witt said as much, testifying before a panel I chaired outside of the Congress. He told the committee, and I quote, "Scientists tell us that we are going to be seeing more catastrophic natural disaster events in the 21st century than we have ever seen, more devastating. And yet we have destroyed the one agency that not only responds to those events but also works with State and local governments to do pre-disaster mitigation prevention before that risk could ever happen, to minimize that risk."

He went on to say that there were virtually no communications within FEMA itself and that it no longer had the communications channels or partnerships with State and local governments that it needed. Indeed, he said communications were virtually nonexistent between FEMA headquarters in Washington and its 10 regional offices. It took the submerging of one of our most culturally vibrant cities to put Director Witt's words to the test.

So this is not about assigning blame at an untimely moment. It is about understanding what this administration has done to FEMA, which is a symbol of its priorities and underlying values. They have cut the heart out of FEMA, as they have cut the heart out of so much of our capacity to address our domestic needs and secure our homeland from terrorist threats, from natural disasters, from global economic changes. The reason why the head of FEMA is so speechless at this moment and why he must go is that he represents an approach that leaves us with our fingers crossed instead of with real vision for tackling the threats before America.

This administration and this Congress' answer to every problem is more tax cuts, mostly for the most privileged. They have left us saddled with bulging deficits, a diminished Social Security trust fund, weakened investments in our own people and communities, and that is why the Federal Government and the agency responsible for emergency relief failed to act and failed to lead.

I start by calling for the resignation of Michael Brown, the director of FEMA, as a statement by the administration and our country that we intend to face these challenges in a wholly new way. It is the only way we can honor the heroism that we are now witnessing in New Orleans, across the gulf coast, and around the country.

I make this request as a Member of the United States Congress and an American, not as a partisan. We need to unite now just as our volunteers, our police, firemen, troops are united in a common effort. That means accepting that we have the responsibility as a community to tackle the rescue and tackle the rebuilding of this part of our country. Those are the values that now govern in this period.

We must make sure that our budget priorities are reordered, not to reward greed but civic virtue. We must rebuild. We must give people the capacity to remake their lives, and it starts by getting this relief effort right. The new appropriations of our resources must enable people to get housing, get their families back on track, repair the levee breaches, pumping out the flood water, giving food and shelter. We must invest in New Orleans, but also in our infrastructure and environment and our people.

That is why America is so special, Mr. Speaker. We have to do so much in this institution, not measured only in dollars and in cents but our character and our compassion that is evident every day as we watch the heroism of the gulf coast. It is a time for leadership and heroism as well.

## LANCE ARMSTRONG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, the news reports: 80-year-old woman gives birth to 300-pound baby; bat child found in Utah cave; Lance Armstrong used performance-enhancing drugs.

Mr. Speaker, these are a few tabloid headlines that have been released recently. They seem a bit outrageous to normal people, especially the last one. As a fellow Texan and great admirer of Lance Armstrong, I stand with him in the face of this mindless, babbling slander.

Using unknown procedures and almost none of the standards outlined by the World Anti-Doping Agency, a newspaper pretends to have proof that in 1999, six years ago no less, Lance Armstrong used a performance-enhancing drug. What a shock, the newspaper is a French one.

This most recent saga is a continuation of an ongoing struggle between Lance Armstrong and the French press. Since 1999 when Lance won the first of his seven consecutive Tour de France races, the French press has accused him of using drugs. The French would line the streets as Lance raced by. They would spit on him and curse and chant, "Dope, dope."

Lance Armstrong's past is fairly well-known. In 1996, Lance Armstrong was diagnosed with testicular cancer, and the condition spread to his abdomen, his lungs and his brain. He was given about a 33 percent chance of living. With the help of modern medicine, the good Lord and an iron will, Lance Armstrong beat cancer, went on to race again, and became arguably the best cyclist in history.

But, Mr. Speaker, the anti-American French press cannot handle this truth so they attack the victor. Once again, they try and project their arrogance and obsessed outlandish sentiment against one of cycling's best.

□ 1815

Cycling in France is like baseball or football is in the United States, and they cannot comprehend how an American, a Texan no less, could dominate their sport.

The most important aspect of Armstrong's success is his ability to train longer and harder than any other man alive. In the words of one racing expert, "Lance pushed physical preparations to new limits." In his book, Lance attributes his training abilities to the fact that he learned how to endure pain during his battle with cancer.

Mr. Speaker, the idea of a perfect athlete is similar to the idea of a perfect storm. You take the most gifted athlete, his ability to combine that with the most dedicated work ethic, and what you have is Lance Armstrong. You see, Lance wants it more than anyone else.

Seven Tour de France crowns and a million dumbfounded French reporters later what you get is this situation today. We have a tremendous athlete falling victim to the accusations of reporters with an obvious case of sour grapes and elitist European snobbery.

Mr. Speaker, I was a felony court judge in Texas for 20 years and a prosecutor for 8. I never lost a jury trial as a prosecutor, so I know what it takes to convict someone. I know about the chain of evidence and due process. And nothing about the most recent of the French allegations against Lance Armstrong is credible. Not a court in the United States or even France would convict him of these atrocious and appalling allegations.

There have been many drug tests done on Lance Armstrong over the years, and all of a sudden, years later, as if out of some obscure cave, a French newspaper reports some old samples from a French lab came back positive. Mr. Speaker, that dog just won't hunt.

Essentially, there is no proof that these mysterious samples used in this test were even Lance Armstrong's. There is no proof they were stored properly and there is no proof the test is even reliable. The chain of evidence is so horrible that nobody can prove that the samples were not switched.

Mr. Speaker, what we have here is simply the latest bombardment of the 7-year smear campaign by the French media. They cannot defeat Lance Armstrong in their race, so they are attempting to bring him down with allegations and junk tabloid journalism. If this latest so-called proof is the best the French can do, I suggest they do what they do best: throw up their hands and surrender. The burden of proof is on the accuser, not the accused, and I would encourage this tabloid to put out the campfire and call in the dogs, because the hunt is over.

Mr. Speaker, what the French need to remember is that Lance Armstrong's life stands for much more than his amazing cycling abilities and winning seven races. He knows there is more to life than the 15,205 miles he cycled in those seven races. Although the Tour de France is known as the world's most grueling test of human endurance, fighting cancer and going on to win the test of life is more remarkable.

As a superior athlete, he has succeeded in inspiring cancer patients around the globe and will continue his fight for years to come, despite absurd accusations as this one. Perhaps Lance Armstrong has the best answer to these absolute absurd allegations. In a 2000 Nike commercial that he produced he made the statement, "Everybody wants to know what I'm on. What I'm on: I'm on a bike busting my butt 6 hours a day. What are you on?"

## KATRINA RESPONSE

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, in the past week all Americans, in fact, the whole world, has witnessed the devastation along our gulf coast. As a nation and as a Congress there are three ways to respond to this crisis: rebuilding, restoring, and retrospection.

We must pinpoint the errors made prior to the storm and the flooding; develop an action plan on what needs to be done, ensuring these times of failures do not happen again to Americans; and focus on rebuilding the lives. And we will rebuild those lives. As many tomorrows as those folks along the coast need, every American will dedicate themselves to being there as they regather their lives, regather their loved ones, and regather their property. We will be there every step of the way. That is the most important message they need to know.

Before we do anything, we need to dispense with the myths that we were not warned. Earlier this year, the New Orleans Times-Picayune ran a series of articles on the possibility of a Category 5 hurricane and what would happen to New Orleans.

In December 2004, the Army Corps issued a report saying the levees needed to be raised. According to Newsweek, Senator Breaux from Louisiana personally discussed this issue with the President last year. So let us not kid ourselves. The warnings were there about where the weaknesses existed.

Now, that is as it relates to the hurricane. We also have articles relating to, and reports just yesterday in the Wall Street Journal about, how, in fact, FEMA directors around the country reported up to the head of Homeland Security that, in fact, the way we were structured we could not handle a major crisis in the country, leading to a meeting in August with Director Chertoff because everybody was upset about what was happening to FEMA and the degradation of the operation.

We need to be honest with the American people. They ultimately pay for this government. They need to know, and that is not going to be about pointing fingers or about blaming anybody, because you cannot fix a problem if you do not think you have a problem. And there are a lot of individual actions where people can be proud of people who have served, volunteered, or who have done heroic things beyond the call of duty. That is all good and that is the right thing and that needs to be supported.

But we need to be honest with ourselves, and that does not mean pointing fingers for political gain. If FEMA was not up to snuff, it was not up to snuff. If the director of Homeland Security did not take the type of hands-on approach that was needed and people were concerned internally, we need to deal with that.

Here we had a natural crisis. The Wall Street Journal noted the other day about how this may be a boon to the terrorists. We need to improve our response to an emergency so this does not happen again to any American, anywhere, any time, because failure when it comes to an emergency is not an option. When lives are at stake, and this was the worst tragedy in America and lives could have been saved, we need to be honest with ourselves and the American people who pay the bills here, because they expect that type of service, and they should, from their government.

Now, pointing fingers and attributing blame does little to put our country back together. On the other hand, acting Pollyanna, as if everything went according to plan, would be dangerous and foolish. Again, you cannot fix a problem if you do not think you have a problem. My colleagues, we have a problem.

In times of crisis like this, the American people rightfully look to their government. This time, the government at all levels failed them. That is unacceptable. People should and will be held accountable. But today our utmost important task and this body's primary task should be putting the people's lives back together and building communities.

Here are four things I think we can do immediately. First, anyone affected by this tragedy should be exempted from the recently enacted bankruptcy laws immediately. Many have lost everything, including their jobs. Expecting them to honor their obligations would be unrealistic and against the values of this country.

Second, we need to make sure that all the children have universal health care and access to education, and we should provide these children and their families universal health care at least minimally for the next 18 months. We should also consider making community health care part of our emergency response on the part of FEMA, like any first responders. We must also make sure they do not miss a day of school by quickly enrolling them in new schools and providing those schools with the types of services they need.

In addition to that, on education, every individual who is going to get either a GED, college education, postgraduate work, or job training should get a $3,000 voucher for their education.

## IN MEMORY OF SPECIALIST ERNEST DALLAS, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, just before we left at the end of July, I received notice from the Department of Defense about the death of one of my constituents, Specialist Ernest Dallas, Jr., in the country of Iraq on July 24. I wanted to take some time this evening to talk about the life of Specialist Ernest Dallas. Many of the remarks that I am going to make tonight were taken from an article that appeared in the Denton Record Chronicle on July 27, written by Matthew Haag.

Mr. Speaker, I think it is appropriate tonight to honor the memory of Specialist Ernest Dallas. He was from my district, the 26th Congressional District of Texas, and he was serving his country during Iraqi Freedom. Again, he died on July 24 with three other soldiers when a roadside bomb exploded next to their Bradley fighting vehicle. Specialist Dallas was assigned as a scout in the Third Armored Cavalry Regiment in Baghdad. He was 21 years old.

Celebrating and recognizing the life of Specialist Dallas is important. He was a graduate of Fred Moore High School, and he enlisted for a 3-year term in the Army in November of 2003 because he wanted to serve his country and he felt he needed the training that he would be provided to meet his future goals, a future that he hoped included a job as a Denton police officer.

Specialist Dallas was a loving family member and he always took time to phone home to get his family caught up on news of what was going on with their unit. He was the first Denton, Texas, resident to die in the conflict in Iraq.

His first love was baseball, his family said. He started playing when he was 9, and he idolized the former Texas Rangers Catcher Ivan (Pudge) Rodriguez. In 2000, he decided to forgo baseball and enrolled in the Denton Police Department's Citizen Youth Academy. He turned out to have another dream. He wanted to be a Denton policeman, said his stepfather, Manuel Sauseda. In the program, Specialist Dallas would ride along with Denton police officers.

As soon as school let out in the afternoon, Specialist Dallas would race home and get ready to go out with the officers. The program was scheduled from 3 p.m. until midnight when the officers' shift was over. But his stepfather said that Specialist Dallas would frequently call at midnight and ask to stay a little longer, and a little longer frequently turned out to be 6 a.m. in the morning. His mother joked that the neighbors must have grown suspicious of the police cars that were constantly stopping by her house and bringing him home. I know what the neighbors thought: that little boy must be in so much trouble, said his mother, Charlene Sauseda.

Specialist Dallas' family said he always wanted to protect the people he loved. So 2 years after 9/11, he enlisted in the Army. He said that the attacks inspired him to enlist. He saw how it affected everybody, his mother said. Enough was enough, said Ernie. He wanted to go over there and take care of things.

I had the opportunity to sit down with Specialist Dallas' family during the August break and they told me of his love of the Police Academy. They told me how he came to love the Police Academy. Specialist Dallas was sometime earlier prone to leadership that was taking him in the wrong direction. He was brought home one afternoon by a sheriff's deputy in Denton, a gentleman I know well, named Greg Levling, who now works for the Dallas Sheriff's Department.

Apparently, Specialist Dallas was at that time, at 8 years old, a lookout man for someone who had figured out how to get free pinball games on a pinball machine. Specialist Dallas was to watch and tell if anyone was coming. Well, when the sheriff's deputy came around the corner, Specialist Dallas sang out "Here comes somebody." The sheriff brought him home and his mother said that the sheriff's deputy, Mr. Levling, provided some firm direction for the young man; and it was then and there that he got his love for the police force and his wish to, hopefully, one day serve in the military.

Just a few weeks prior to his death, Specialist Dallas sent an engagement ring to his girlfriend.

He was truly a soldier who understood his duty, and he planned for a future beyond the service to his country.

Mr. Speaker, it was my honor to represent Specialist Dallas. I extend my deepest sympathies to his family. On behalf of the United States Congress, I want his family to know that his service and their sacrifice were deeply appreciated and we thank them.

## HONORING THE LIFE OF ARMY SPECIALIST TOCCARA GREEN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. CUMMINGS) is recognized for 5 minutes.

Mr. CUMMINGS. Mr. Speaker, I rise today to pay tribute to an American hero. Army Specialist Toccara Green, a native of Rosedale, Maryland, served with the 10th Mountain Division based in Fort Drum, New York. While on mission in Al Asad, Iraq, with her transportation company, she was unfortunately killed by the detonation of a roadside bomb.

Specialist Green was the first woman from Maryland killed in combat in Iraq. What we know with certainty is that she made the ultimate sacrifice in service of her country. The lasting lesson about this tragedy arises in part from the fact that Specialist Green was only 23 years old. Her wonderful and promising life was cut too short by far.

Mr. Speaker, for as long as humanity has walked this earth, we have been forced to deal with the terrible devastation of war.

□ 1830

This age-old truth brings little comfort, however, when the loss becomes so personal. Knowing this, I offer my deepest condolences to her family during this very difficult time, and I join the entire Maryland Federal delegation in mourning their loss.

Our prayers go out to a very strong and close family, which includes her mother and father, Yvonne Green and Detective Garry Green of the Baltimore City Police Department; her brother, who she loved dearly, her "big brother," she called him, Marine Staff Sergeant Garry M. Green, Jr.; her sister-in-law, Kim; her nephew, Jayline; and all the family and friends who have been touched by Toccara's life.

This remarkable young woman was one of Maryland's finest citizens. Public service was in her blood. The Armed Forces seemed like a natural progression for Specialist Green. She spent 4 years in ROTC while attending Forest Park High School in my district in Baltimore. Her dad, a Baltimore City police detective, risks his life for us on the streets of Baltimore every day. Her brother, whose life was an inspiration to Specialist Green, serves in the Marines.

Her mother and father instilled in their children the importance of serving others. Yet, knowing the perils of war, they were apprehensive when their only daughter shared with them her dream of joining the Army. As loving parents, her safety and security was their priority. But Toccara Green's determination was steadfast.

Along with her intense desire to serve, she also shared her father's love of cars, and she transferred that love to her duty in the Army as a motor and transport operator. She was serving her second tour, her second tour of duty in Iraq when she was killed.

Toccara Green loved her country. She wanted to do all that she could to help people and give back to the Nation that had given so much to her.

Yet, as I noted, Mr. Speaker, her death is an all too painful reminder of how deeply the sorrows of war cut into our hearts and burden our souls. Now we will never know what her future would have become. Her family and her friends will never celebrate the milestones and triumphs that each passing year would have brought to her life. They have been deprived of her laughter, her affection and of her love.

Nevertheless, Specialist Green has left with them, and all of us, a legacy that can inspire. I am sure she saw more horror while serving in Iraq than most of us can ever imagine. Yet, even in the face of death and destruction, she had the ability to provide strength and a positive outlook to her weary fellow soldiers. She was an eternal optimist who could find the good in the worst of situations. They called her the unofficial morale officer of her unit.

Toccara Green was following a higher calling, a calling to serve. She rose above the adversity that surrounded her, lifting herself and others by her courage and her unyielding determination to do her part in attempting to make the world a better place.

Toccara Green gave our Nation her very best. She willingly did her job because she was a woman of honor and a courageous soldier. She touched the hearts and lives of all of those who knew her. As Americans, we owe her a debt of gratitude that we can never repay. We can only do our best to give meaning to her sacrifice.

Mr. Speaker, I thank the family of Specialist Green for sharing her with the Nation and the world. She is now at rest; and as a Christian who was active in her church, I am sure she is looking down from above saying, It is well, it is well, it is well with my soul.

## INSPIRING ACTS OF KINDNESS OCCURRING IN WAKE OF HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, I rise today to share one of the many inspiring stories of personal commitment and sacrifice that have occurred in the aftermath of Hurricane Katrina. In the Eleventh District of Georgia in the town of Marietta, my hometown, a community came together to rescue more than 30 hurricane victims from the Waldo Boys Home in Louisiana.

It started when Marlene Murphy, an employee at InfoMart, a local company in Marietta, made a desperate appeal to her fellow workers. Marlene's sister and brother-in-law were counselors at the Waldo Burton Boys Home in New Orleans. They were stranded, along with many of the residents and staff, after floodwaters engulfed that city.

Without wasting a bit of time, InfoMart employees, led by the company's president, Tammy Cohen, swung into action, taking on the cause as their own. The employees brought food, clothing, and necessities for the stranded boys. They notified the Coast Guard of the situation. Naval Air Station Atlanta's Captain Sean King and other leaders in the community quickly organized a mission to rescue these victims.

InfoMart rented three passenger vans and a truck, and they started that long trip to New Orleans. On the way, there were plenty of reasons to turn back: 2-mile long lines for gas, police barricades, and even cars driving on the wrong side of the interstate.

But these volunteers did not for a second think of themselves or their troubles. They were only focused on rescuing these boys, no matter what; and I am proud to report that their mission was a success. Fifteen boys, aged from 12 months to 15 years, along with 16 staff and family members, were brought back to Marietta, Georgia, where now they were welcomed by a generous community eager to help.

After spending the night in donated rooms at the Marietta Conference Center, the boys are now being transitioned into three homes owned by the YWCA. They have been fed. They have been given fresh clothes and personal necessities. Efforts are being made also to locate other family members, and local businesses and charities are donating the resources needed to get these victims settled.

Mr. Speaker, if I thank all the people who deserve praise for this astonishing and selfless effort, we would be here all night. A gas station in Birmingham donated gas for the trip home, and local restaurants, like Panera Bread and Mellow Mushroom Pizza, are donating food for the boys. InfoMart employees and community members have donated supplies, clothes, and that most important gift of all, their time.

This is a shining example of a community coming together to help another community. In this time of crisis we can draw strength from the knowledge that Americans are helping Americans. It is good to know that the American way is a generous and giving one.

Mr. Speaker, the acts of kindness I have witnessed in Katrina's wake make me proud to be a citizen of this great Nation. Neither waves, nor rain, nor wind, nor blistering heat can crush the American spirit. Wherever nature kicks us down, there are millions of hands waiting to lift us up.

There are many acts of kindness taking place across this Nation, and I ask that you join me in praising the selfless dedication our citizens have shown in opening their wallets, their homes, and, most importantly, their hearts.

## ENSURING THAT MEDICAID IS AVAILABLE TO HURRICANE KATRINA VICTIMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Mr. Speaker, Hurricane Katrina put a human face on hardship. It reminded us that there are Americans who work hard and pay their taxes and play by the rules, yet are still hanging on by a thread. It reminded us how easily that thread can break. In the clearest terms possible, it communicated the value, both tangible and intangible, of government assistance.

Many people who suffered from Katrina have relied on Medicaid, a government health care program for poor families, for families who are working but do not make enough or have health insurance. Yet as we return to Washington this week after surveying the damage from this terrible storm, Republican leaders are pursuing $10 billion, $10 billion, in cuts to that Medicaid program, in large part because they are insisting on more tax cuts for the wealthiest 1 percent of the people of our country.

As we saw the poorest in New Orleans left behind while those who were more affluent were able to escape, this Congress, frankly, is mimicking that same process, that same scenario, where we are giving tax cuts to the wealthiest citizens, while the poorest and the middle class and those who are working hard and playing by the rules and paying their taxes but who cannot afford health care, we are leaving them behind.

Our Nation's leaders must stop blaming the poor for having the same health care needs we all do. Helping the poor secure health care is not a frivolous extravagance; it is an expression of our values as a Nation. Health care is expensive. No one has figured out, especially in this institution, with the power of the drug companies and the influence of the insurance industry, no one here has been willing to find a solution to contain medical costs without stifling medical progress.

Our Nation's leaders must stop pretending that taking health care away from the poor solves that dilemma. They must stop pretending that the poor take advantage of Medicaid, as if enrollees look for excuses to take off work and see the doctor. The Nation's leaders must stop pretending that taking health care away from the poor will not hurt them. It is a convenient theory. It is also patently false.

Hurricane Katrina forced this Nation, if only for a few days, to see through the eyes of Americans living in poverty. It was a grim reminder that Americans from all walks of life can be financially independent one day and in desperate need the next. A natural disaster, a catastrophic illness, a stock market crash, an aging parent, a sick child, that is all it takes.

Katrina reminded us that when Americans witness human suffering, they do everything in their power as a great Nation, as the people, not the government, they do everything in their power to alleviate that suffering.

Medicaid is the Nation's insurer of last resort. It simply is a financing mechanism that, with modest adjustments and sufficient resources, can accommodate the health care needs of the hurricane victims without delay, without red tape. Medicaid serves people who have virtually no resources of their own. In Louisiana, Mississippi and Alabama, we have seen what that kind of poverty looks like.

Some policymakers have proposed saving money by increasing the cost-sharing burden on Medicare enrollees, people who already ration every dollar to get through their daily lives, to cover their basic necessities.

Medicaid enrollees are not going to respond to increased cost-sharing by forsaking discretionary care. Other obstacles, like transportation costs and hourly wage jobs, already force those choices. Increased cost-sharing will deter timely, necessary health care. That is not right, that is not smart, that is not compassionate. Delays increase the cost of treating illnesses.

Policymakers have also proposed "tailoring" Medicaid coverage to fit the health care needs of different beneficiaries. That is not an efficient way of cutting costs; it is an efficient way of cutting care. It is the wrong decision to make, to make this $10 billion Medicaid cut.

## REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. LINCOLN DIAZ-BALART of Florida from the Committee on Rules, submitted a privileged report (Rept. No. 109–217) on the resolution (H. Res. 426) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

## MINNESOTANS SUPPORT HURRICANE SURVIVORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. RAMSTAD) is recognized for 5 minutes.

Mr. RAMSTAD. Mr. Speaker, the Minnesota spirit is alive and well. The Minnesota spirit of compassion and help for people in need has moved countless Minnesotans to step forward to provide relief for the survivors of Hurricane Katrina.

My district office has literally been overwhelmed with calls from people offering housing, food, clothing, health care, labor, and monetary assistance. Camp Ripley, located in northern Minnesota, is presently welcoming over 3,000 survivors of Hurricane Katrina. Other Minnesota communities are similarly opening their doors.

In our suburban communities, churches and synagogues, civic and service clubs, school groups, the business community and numerous other organizations have answered the call to help disaster survivors. The Minnesota Vikings football team collected 70,000 pounds of clothing, toiletries, and other supplies for Katrina's survivors. As head coach Mike Tice said, this was an example of Americans helping Americans.

In our Lake Minnetonka community, Interfaith Outreach & Community Partners, representing 21 area churches, has a long history of helping people in need. Interfaith Outreach & Community Partners is jump-starting its annual housing fund drive to aid the housing needs of Hurricane Katrina survivors. I will be home this coming

Saturday to join Interfaith Outreach & Community Partners in kicking off a drive to raise $1.5 million for people in the gulf States who are so devastated by Hurricane Katrina.

☐ 1845

John Berg, chairman of the Interfaith Outreach and Community Partners Housing Fund, put it best when he said, "It's simply the right thing to do. We can't look away from the suffering of these people. We need to leverage all the resources and partnerships available to ensure a safe place to call home for both the families and children of our community and the families and children devastated by Katrina. It's a time for faith," concluded Mr. Berg.

Interfaith Outreach and Community Partners, Mr. Speaker, which sponsors the Sleep Out annually to raise funds for homeless people in our community, will also continue to raise funds for local emergency and long-term housing initiatives. Last winter's Sleep Out raised over $1.3 million from the generous people of our Lake Minnetonka communities to literally, literally, bring in 42 homeless families from the cold and to enable 656 other families with over 800 children to keep a roof overhead.

Mr. Speaker, the people of our communities back home have big hearts, and I know they will come through again for the Hurricane Katrina Housing Relief Fund. A special thanks to all the good people of Minnesota for opening their arms to hurricane survivors who have suffered so greatly. Once again, Mr. Speaker, the people I am proud to represent are doing the Lord's work here on Earth.

## SMART SECURITY AND THE KATRINA HURRICANE

The SPEAKER pro tempore (Mr. DENT). Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, Katrina, the Category 4 hurricane that hit the gulf coast last week, leveled nearly everything in its path. It tore apart homes and destroyed entire coastal cities. It has taken the lives of countless hundreds, if not thousands. It will cost an estimated $150 billion to rebuild and repair the affected region.

Sadly, the Federal Government's response to Katrina was lackluster at best and shamefully negligent at worst. Despite the public's forewarning that there was a knowledge of Katrina's severity, the Bush administration failed to provide adequate Federal aid and hands-on support for the thousands of citizens stuck in the storm's aftermath. A large part of this failure stems directly from the lack of qualified first responders, the thousands of Guardsmen and Reservists who are currently stuck fighting in Iraq and Afghanistan.

It is during wholesale natural disasters like these that Americans should be able to rely on our Nation's capable National Guard and Reserve forces.

Unfortunately, it has not worked out that way because the Bush administration has more than 50,000 National Guardsmen and Reservists stationed in Iraq. That amounts to just over 40 percent of the total U.S. military forces there.

The Army's Guard and Reserve units are supposed to be our Nation's emergency force, America's defenders of last resort. Yet the Army's Web site actually defines the Army reserve as being "like a part-time job that enables soldiers to keep their civilian careers while they continue to train near home."

But the President has 50,000 of them fighting in a war very, very far from home, shouldering a disproportionate share of the burden in Iraq. He has them suffering for a war that was supposedly about weapons of mass destruction and then about Saddam's link to al Qaeda and then about bringing democracy to Iraq. But no matter how we slice it, the war in Iraq was never a war of last resort. The emergency units should have remained here at home in case of a real emergency. In fact, all 3,700 of Louisiana's National Guardsmen are currently stationed in Iraq and will not return home to help their devastated State or their own families, for that matter, for another week. Unfortunately, it was only a matter of time before the deployment of thousands of Guardsmen and Reservists to Iraq ended up hurting Americans right here at home.

The city of New Orleans and the rest of the gulf coast has learned that lesson in a painful way, losing family members, loved ones, friends, and pets that could have been saved if their government had provided more human support and a smarter approach to dealing with Katrina's aftermath.

It is my hope that our national overreliance on military solutions during the past 4 years, made painfully clear by the Katrina hurricane, will lead us to a smarter national security strategy in the future. That is why I have introduced SMART Security: a Sensible, Multilateral, American Response to Terrorism. SMART is based on the belief that we should pursue the military solution only in the most extreme circumstances and after every diplomatic solution has been exhausted. SMART would divert resources for military spending and foreign wars to homeland security and energy independence, from outdated weapons systems to an ambitious development plan for the troubled regions both in the United States and around the world.

Democracy-building, international aid, human rights education, small business development, these are the cures to poverty, to oppression, to hopelessness that plague both the people of Iraq and the survivors in the gulf, particularly in New Orleans. SMART projects protect America by relying on the very best of America, not violence and conquest, but our capacity for global leadership, our belief in freedom, and our compassion for the vulnerable people here at home and around the world.

Mr. Speaker, Katrina's aftermath has given us a firsthand look at what happens when a nation's forces are stretched thin. That is why it is time for us to start bringing our troops home. The Iraqi people need the United States, they need the U.S. National Guard out of Iraq, and no less important, the American people need them here at home where they belong.

## STATEMENT REQUIRED BY SECTION 402(a)(3) OF H. CON. RES. 95, THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2006

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of California. Mr. Speaker, the funds provided in H.R. 3673 to meet the urgent needs arising from the consequences of Hurricane Katrina are designated as emergency requirements for the purposes of section 402 of H. Con. Res. 95, 109th Congress. The requirements funded in the bill meet criteria outlined in section 402(c) since they are in response to a situation which poses a direct threat to life and property, is sudden, is urgent and compelling, is unpredictable, and is not permanent in nature. The funds are also essential to the continuing recovery effort.

The devastation that has occurred in New Orleans and around the Gulf Coast as the result of Hurricane Katrina is of monumental proportions. It already is the most costly natural disaster in the Nation's history, and most government natural disaster assistance experts anticipate recovery needs far beyond the $62.3 billion to be provided by Congress in the first two Hurricane Katrina supplemental measures. The funds in H.R. 3673 will provide urgently needed food, shelter, security, and reconstruction. The funds will help to save lives. Clearly, the funds meet emergency needs and are consistent with the criteria outlined in the budget resolution.

## EXCHANGE OF SPECIAL ORDER TIME

Ms. MILLENDER-McDONALD. Mr. Speaker, I ask unanimous consent to take the Special Order time of the gentleman from New York.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

## PAY INEQUITY AND THE WAGE GAP IN THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. MILLENDER-MCDONALD) is recognized for 5 minutes.

Ms. MILLENDER-McDONALD. Mr. Speaker, earlier this week we observed Labor Day. We take this important opportunity every year to honor this Nation's workers.

Tonight I want to shed light on one way that this country can really honor a group of workers that make up almost half of this Nation's workforce, and those are our women.

Mr. Speaker, the Department of Labor estimates that women will account for 55 percent of the increase in total labor-force growth between 2002 and 2012. However, in 2004 women made up 46 percent of the total United States workers. In that same year 68 million women were either working or looking for work.

Women work in every sector of our economy. They are professionals, managers, nurses, salespersons, factory workers, and business owners. More and more women are entering into nontraditional occupations. We are an essential component of the American workforce.

Then why is it that a full-time working woman receives only 73 cents to every dollar received by a man? That figure is worse for women of color. African American women earn 65 cents for every dollar paid to a white male. Hispanic women receive only 53 cents for each dollar earned by a white male. This means that Hispanic women are paid only slightly more than half of what white men earn. Even in jobs where women make up the majority of the workforce, and that is over 70 percent, men still earn close to 20 percent more than the women.

This trend must stop. Anyone would be hard pressed to find statistical evidence proving that women work is less arduous than their male counterparts or that they underperform comparatively. There is no logical explanation why a woman, who is often times still responsible for her children and family, in addition to working full time, should earn less than a male doing the same work.

This is not an issue that is going to go away, Mr. Speaker. Pay inequity is affecting the American family. If women earned the same amount of money as men who work the same hours doing the same job, their families' annual income would increase by $4,000 per year. This would cut poverty rates in half. Equal pay for equal work will increase women's spending capability. Equal pay for equal work will empower women to plan for their children's education and their own retirement.

Over 40 years have passed since the enactment of the Equal Pay Act. In that time we have only closed the wage gap by one-third of 1 cent per year. Mr. Speaker, this is unacceptable. We must do more to correct this disparity.

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## HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

Mr. LIPINSKI. Mr. Speaker, the whole country continues to be focused on the millions of Americans who have been displaced by Hurricane Katrina. As we begin to understand the enormity of the situation in the gulf region, it is becoming clear that this is one of the worst natural disasters to ever strike our country. My thoughts and prayers go out to the families grieving the loss of their loved ones and to the survivors who are struggling to cope and to find shelter, food, and medical care in the wake of this terrible disaster.

These are the moments that we realize that we are our brothers' keepers. It is clear that we must all come together to help our fellow citizens. And Americans are donating record amounts of money, time, and supplies to help those who are displaced by the hurricane. The most important thing right now is to make sure that we are saving lives and we are providing the food, shelter, and medical care for the people affected by this tragedy.

As has happened in many other States, four jetliners arrived yesterday in my home State of Illinois with the first group of 540 hurricane evacuees; and Illinois expects to provide housing, food, and medical care for up to 10,000 evacuees.

I am pleased that Congress was called back to Washington last week for a special session to pass the $10.5 billion in relief funding for the victims of this horrific natural disaster. This funding is only the first step on a long and challenging path to recovery for the entire gulf coast region.

Unfortunately, many of the victims have had to endure not only the natural disaster of Katrina but also the unnatural disaster of the delayed and deeply flawed relief effort. In this time immediately following the disaster, we have an obligation to correct the mistakes in crisis response. We must find answers to basic questions that the American people are asking right now as they watch the aftermath unfolding on their television screens minute by minute and hour by hour. They are saying over and over again to themselves, How could this have happened in the United States of America, the most powerful country on the Earth? How could our country allow people to die without getting them water, food, and medical care?

One thing that is clear is that the Federal Emergency Management Agency, FEMA, must assume a large share of the blame for the woefully inadequate response to the hurricane. Somehow FEMA has lost its way. During the Clinton administration, FEMA was transformed into an exemplary and effective cabinet-level agency under the leadership of James Lee Witt, a veteran emergency director. Unfortunately, as part of the Homeland Security Act of 2002, the President and Congress moved FEMA from an independent, cabinet-level rank to a subagency of the Department of Homeland Security under the authority of the Secretary of Homeland Security.

It is time for us to return FEMA to its status as a cabinet-level agency that reports directly to the President and establish it once again as an independent agency.

☐ 1900

I have signed on to legislation to do this, and I urge my colleagues to quickly and carefully review this bill.

We have important questions to answer about how the Federal Government could have better handled the events that unfolded as a result of this catastrophe. These are serious questions on which we all need to work together. We need to make sure that we are responding quickly not only to those in need today, but also prepare for anything that may happen in the future.

Today, we live under the specter of terrorist attacks, and we may face a situation much worse than we have faced with Katrina. We have to be ready. We have to learn from this catastrophe, from the mistakes and the lack of adequate response, and we have to quickly fix the problems. As we have all too painfully seen, the lives of millions of Americans depend on how we handle this, depend on how FEMA handles these emergencies. So it depends on what we here in Congress do to correct this situation so it never happens again.

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## FEDERAL GOVERNMENT'S SHAMEFUL RESPONSE TO HURRICANE KATRINA

The SPEAKER pro tempore (Mr. REICHERT). Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, the devastation wrought by Hurricane Katrina has torn down the curtain and exposed the dirty secret that divides our Nation like an open wound, and the entire world is watching. If anyone ever doubted that there were two Americas, Hurricane Katrina and our government's shameful response have made the division very clear for all to see.

New Orleans is a city where 67 to 70 percent of its population was black, Nearly 30 percent, one in three, were living below the poverty line. Twenty-one percent of the households earned less than $10,000 a year. Eighty-four percent of the people living in poverty in New Orleans were black.

So when a disaster came such as this one, the people who had cash in the bank and a car in the garage, they escaped, and those who did not were shamefully left to fend for themselves, and the majority were poor and black.

The Bush administration's response to Katrina has been nothing short of shameful, and they must account for their actions. Why did Federal officials ignore predictions of a disastrous flood and hurricane in New Orleans? Why did FEMA turn away assistance, telling Amtrak it did not need to help evacuating survivors, denying the Red Cross access to New Orleans, turning away three trailer trucks from Wal-Mart that were loaded with water, and preventing the Coast Guard from delivering 1,000 gallons of diesel fuel?

How many people died as a result of this delayed response? And why has the FEMA budget been cut since 2003? Why have the last two directors of FEMA been political appointees who had no experience with disaster management?

As one commentator recently said, he said, "Actions have consequences. No one could predict that a hurricane the size of Katrina would hit this year, but the slow Federal response when it did happen was no accident. It was the result of 4 years of deliberate Republican policy and budget choices that favor ideology and partisan loyalty at the expense of operational competence. It is the Bush administration in a nutshell."

Quite frankly, the director of FEMA, Michael Brown, should resign immediately, or he should be fired. And we must help put people's lives back together immediately by providing the health care and the housing and the mental health care and the services and the education, all of the basics that people deserve, who live in the wealthiest country in the world.

The incompetence and the indifference demonstrated by the administration in responding to this tragedy was shocking, but it was not really surprising. Does anyone doubt that if this sort of devastation had taken place in the communities where the small percentage of people who are benefiting from the Bush administration tax cuts live, the response would have been swift and efficient? Can you imagine Bush fund-raisers desperately clinging to their roofs, waiting for days to be rescued?

This indifference to the most vulnerable among us is not isolated to this tragedy; it is part and parcel of a systemic problem that seeks to make a large sector of our population invisible.

Many people viewing the human tragedy left in Katrina's wake could not recognize the images that they were seeing. They thought they were witnessing a tragedy in Somalia or Haiti or the Sudan. They think to themselves, they think, this does not look like the America that I know. Some have even come to refer to the survivors of this catastrophe as refugees, as if the image of the survivors they are seeing are too foreign for them to recognize them as Americans.

The people you see on television are not refugees; they are Americans. They are Americans. And for some of us, though, let me just say, for some of us, this is an America that we know very well, an America that is often swept under the rug by lawmakers and the media.

The truth is, there are almost 36 million Americans living in poverty in the United States. There are more than 15 million living in extreme poverty.

What does that mean? According to the Census Bureau, it means that a family of three is living on less than $14,680 a year. They define extreme poverty as half of that. In 2003, the number of children living in poverty, this number grew by a half a million. Since President Bush took office, the number of poor people in America has grown by 17 percent. Is this the real state of this ownership society that we keep hearing about?

It is unacceptable. The Bush administration policies of tax cuts for the wealthy and cutting funding from the programs that provide for economic and domestic security in order to pay for this unnecessary war in Iraq are only making matters worse. That is why we must call for the President to develop a plan to eliminate poverty by 2010.

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## CALLING FOR AN INVESTIGATION INTO THE LACK OF TIMELY RESPONSE TO HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. SCOTT) is recognized for 5 minutes.

Mr. SCOTT of Georgia. Mr. Speaker, I rise with indeed a heavy heart, as so many in America do. This is an extraordinary time in our country. My heart goes out to all of those thousands and thousands of people in the gulf area that have lost everything. This is one of our darkest hours, and let us hope some bright light can shine very, very quickly. But in order for that bright light to shine, Mr. Speaker, we must realize the importance of having an investigation quickly.

Let me hurry up and say that this investigation is not a blame game, because we already know where the blame is. It is for those individuals who had the responsibility. It has been a failure of leadership at the national level. Here in Congress, a failure of leadership. At the White House, a failure of leadership. The President, a failure of leadership. Our military, a failure of leadership. And our Homeland Security, a failure of leadership. In FEMA, a failure of leadership. And we must examine that now so that we can prepare quickly for the next disaster, because it is coming, or a terrorist attack. There have been mistakes after mistakes after mistakes. That is why we need a thorough investigation of what went wrong in the Federal response to Katrina, and why there was such a delay. Delay after delay after delay.

We must not try to skirt around and assume and put blame, unrighteous blame, on the city of New Orleans and their police department and mayor, who were victims. They were suffering from the flood. They were suffering from the hurricane. Here is a Category 5 hurricane coming at a city 6 feet below sea level and 30 percent of its population below the poverty level. Where was that plan? Their police departments immediately disseminated. Several of their policemen were killed in the flood. They were not able to do it. And then to hide behind and go to the Governor and say, where is the Governor in this? We cannot fault the Governor for this, nor the mayor. This was a national disaster, and the national leadership failed.

We must move quickly to get an investigation so we can determine what went wrong. The need for this investigation, like I said, is not simply to find blame, but it is to prepare us for future disasters and attacks. We cannot delay in this investigation, because time is of the essence. Questions must be asked and corrections in the system must be made while the timeline of the responses is still fresh in our minds of actually what happened and why, because we do not know how soon the next event will happen.

This was on television, Mr. Speaker, for everyone to see. We cannot run and hide from this one. And I tell my colleagues, in looking at the television, no matter what it is, this is not a Republican problem, it is not a Democratic problem; it is an American problem, and America is expecting us to stand up for America.

There are two essential questions that must be raised and answered. The first one is, why did it take the military so long? Six days. Bodies floating in New Orleans. Flooding up to the rooftops. People trying to get rescued. And on every television station, Fox News, Shepard Smith, my hat is off to him. Tears in his eyes saying, Where is our military? Where are people, Geraldo, cradling a baby, with tears coming down his face. Where is our President? Where is our Congress? Where is our FEMA? Where is our Homeland Security? A failure. We deserve to investigate this quickly, and get answers.

And then the other question, Mr. Speaker, that is on everybody's mind is this one: What role did race and poverty and class play in this?

We cannot hide behind the sensitivities of this. Some of these questions are very unpleasant. They were not created by you or me, but they are there. Those were black and poor people who feel that if those people were white, that would not be happening if they were white and middle class. I am not the only one asking this. African Americans are not the only ones asking this. White people, too, are asking this. We need an investigation to get to the bottom of this particular question.

And then this other question, Mr. Speaker: Why can an administration who can, without a declaration of war, without authority from Congress, invade another country, topple its government, and then can do it in 24 or 72 hours, but it took them 6 days to respond to sick children and people on ventilators who had passed away. We have to ask the question, Mr. Speaker, because the great tragedy here is not Katrina, it is the tens of thousands of American citizens' lives that were lost because their Federal Government failed them. We owe it to the American people, Mr. Speaker, to quickly put together a commission, just like we did with 9/11, with subpoena power, and get to the bottom of this and fix it so that we can put back together and protect this country.

## RELIEF EFFORTS FOR HURRICANE KATRINA VICTIMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

Mr. GENE GREEN of Texas. Mr. Speaker, I am proud of what I have seen of what is happening not only in America, but also in my home State of Texas. I think we are all an America, where the tragedy occurred in Louisiana, Mississippi, and Alabama last week, and the human and economic cost is unprecedented in our history. I know our Congress will respond to that.

We pray daily for those who have been affected by this terrible storm, and as we say in southeast Texas, "There but for the grace of God go us" in southeast Texas, because we have had our storms and our floods, and that is why I think we have been so willing to help, particularly in Texas as a whole, our neighbors to the east, mostly Louisiana, but possibly Mississippi and Alabama.

I rise to focus on the relief efforts for these evacuees, thousands of which are in my hometown of Houston, Texas. Getting folks out of harm's way is the first objective, and we then have to provide for them during the many months it takes to recover from this disaster.

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Today there are over 30,000 in four mega-shelters in Houston where Texans are being the best friends in need that they can be. The Reliant Astrodome, Reliant Center, Reliant Arena, and George R. Brown Convention Center are full or filling up with evacuees.

The American Red Cross has shelters around the area with an estimated 2,600 displaced persons, including Baytown, Texas. And the people of our area, whether in Baytown or across our county, are responding to this tragedy. Countless people are working long hours to serve, particularly, I know, a Baytown City Council member, Sammy Mahan, and Fire Marshal Bernard Olive who literally formed their own shelter and provided so much assistance to our neighbors.

Thousands more are in hotels and private homes across Texas and in the Houston area. There are about 100 seniors that have just moved into a senior housing facility in our district, and thousands more may end up in similar housing.

Some estimate in the Houston area we have about 100,000 to 150,000 total evacuees, maybe more.

The health care, food, and clothing and other needs of these shelters is and will continue to be enormous for a long time.

The charitable giving by individuals, nonprofits, and businesses has been overwhelming. Like 9/11, we are seeing Americans and Texans at their best.

However, most of the burden for caring for these new residents of the Houston area will fall on already over-burdened local governments. So we are relieved that FEMA is up with five disaster relief centers at some of the shelters coordinating the disaster assistance. But we need a lot more. We had 20 centers during Tropical Storm Allison in 2001.

Unfortunately, we are having a hard time caring for all the needy folks who live in the Houston area alone, so we are going to have to rely on the Federal Government to respond to this national disaster.

To show how steep the costs are, the city of Houston on Monday, Labor Day, met in special council session and put $10,000 advance cost immediately for evacuee costs. This does not include our Harris County costs. And the amounts are so huge in other jurisdictions, the city has to rely on accountants from the Big Four accounting firms who volunteered to compile these expenses.

I understand our Federal disaster law has never been used to compensate States for such a massive relief operation for citizens who are not from our State.

There appears to be a significant amount of red tape for the money. There are several different ways to flow funds, through Louisiana then to Texas, or Texas may have to bill Louisiana, and then Louisiana gets reimbursed, and Texas may be reimbursed by the Federal Government directly.

In addition, the public health costs alone present a complex situation. And I believe Texas will need a public health emergency declaration just like Louisiana.

Many of these evacuees could already have or be susceptible to infectious diseases that thrive in our cramped conditions. That is why we are trying to move them out of these large facilities to apartments and homes as quickly as we can.

How can Texas afford handling the Medicaid and Medicare costs of Louisiana residents who fled to our State? We cannot even cover our own needy children as we would like to. That is why the Federal Government should pay, at least in an emergency, 100 percent of the Medicaid match in times of emergency and national disaster. And tonight I am going to introduce legislation for that.

While progress is being made on the housing front, there is much work to be done, and the sooner housing is found, the better off for our health situation.

We need to figure out the best way to do this in an unprecedented situation. This event will be the largest charity and volunteer operation ever by Texans, and I think by our Nation. But we are stepping up to the challenge.

Many Houstonians worked through Labor Day weekend to provide the initial relief for our Louisiana brothers and sisters. Donations are pouring into our churches and charities across my district, our community, and our State.

Our religious community, it is great to see these daily meetings in the city of Houston with our Democratic city of Houston mayor and our county judge is a Republican, being problem solvers and dealing with our faith community. Our Catholic bishop and our Methodist bishop, churches of all walks of life are literally out there every day helping. However, local and State governments cannot be equipped.

Mr. Speaker, I know I have used up my 5 minutes. That is why I would like to put the rest of my statement in the RECORD. And I cannot say too much about being so proud to be a Texan, but also an American.

However, the local and State governments are just not equipped to deal with the scale of the situation. There is a reason that disasters like this are borne on the Federal level.

Therefore, Texas, like Louisiana, will need to be reimbursed for the local government costs of this operation. Otherwise Hurricane Katrina's impact will become ever wider as the costs spread ever outwards.

FEMA has been criticized for its red tape, but on this issue we have a chance to be proactive. Let's devise a financial strategy that keeps aid and relief moving as fast as possible.

If we need a legislative fix, then we need to find out now, rather than later. We will have at least two more supplementals to address the situation.

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## FEMA'S INEPTITUDE IN THE AFTERMATH OF HURRICANE KATRINA

The SPEAKER pro tempore (Mr. REICHERT). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I would like to continue a discussion I began last evening about who is responsible for much of the human destruction caused by Hurricane Katrina. The Bush administration has been in charge of relief efforts, and it is clear they have failed the American people. Why were relief efforts so painfully slow to get started and, in fact, FEMA not on the ground after 4 days?

Meanwhile, trying to fill the gap of a failed Federal administration, our thousands of first responders, volunteers, members of the National Guard and active duty military personnel and religious and committed Americans who are performing exemplary service and deserve the highest praise.

President Truman used to have a sign on his desk that said, "The buck stops here." Truly, the buck in this instance stops with the President of the United States. It is he who appointed the Cabinet and subcabinet level individuals tasked with organizing and implementing the plan to deliver timely relief to those in need, and they failed to do that. Yes, the President holds responsibility. His appointees hold responsibility. Specifically, these include the Director of Homeland Security, Michael Chertoff, and the Federal Emergency Management Director, Mike Brown, and several other individuals.

And it has been quite painful for me, as a Member of Congress who served on the FEMA Oversight Committee for a number of years, to witness the constant failures of judgment by this team, starting with the President himself when he took office, and importantly, early on in his administration, hollowed out FEMA, taking away its Cabinet status, saying that it should no longer be an independent agency that reported directly to the President, instead rolling it into the gargantuan Department of Homeland Security and tasking that with eliminating terrorism.

FEMA is tucked three levels down in this lumbering massive bureaucracy of 170,000 people which still cannot figure out how to answer a letter.

I voted "no" on that reorganization; was on the losing side when the President tried to pass that through Congress and was successful, and have now joined with my dear colleague, the gentleman from Michigan (Mr. DINGELL), to call for the removal of FEMA from the Department of Homeland Security in order to restore it as a fully independent agency headed by an actual professional with direct reporting to the President of the United States.

Now, the first person that the President appointed to head FEMA was his campaign director from Texas who ran the Bush campaign in the year 2000. His name is Joe Albaugh, and he accepted the FEMA position in 2001. And here is what he said back then. He characterized the organization as an oversized entitlement program, and counseled States and cities to rely instead on faith-based organizations like the Salvation Army and the Mennonites Disaster Service. As important as they are, those organizations are not equipped to handle a national disaster. Thank God we have them, but even they know they are not up to the task fully. So the tone was set back in the first Bush administration. And it is instructive to see how the President's appointees have been locked in over at FEMA.

We know that Mr. Chertoff, who heads the Department of Homeland Security, is an attorney. He has spent more time in courtrooms prosecuting the Mafia than managing large-scale crises like these.

Under him is Michael Brown, the Director of FEMA, who has absolutely no experience in national disasters or emergencies. In the last 10 years before being appointed by President Bush as head of FEMA, he earned about $100,000 a year in a position with the International Arabian Horse Association, where his job was to ensure that judges followed rules and to investigate allegations of cheating in horse races.

Most frightening is, after he got his position, and when Katrina hit, he waited 5 hours after Katrina actually reached land to officially request help and legal authority to send rescue workers and supplies into the affected regions. What was he doing during those 5 hours, and why was he not more active ahead of time in evacuating people?

As noted by the Center for American Progress, those under Mr. BROWN, his deputies, make him look qualified. The number two at FEMA is Chief of Staff Patrick Rhode, who was an event planner or advance man for the Bush Presidential campaign. He had absolutely no emergency management experience before joining FEMA. And under him, the number three person at FEMA, Deputy Chief of Staff Scott Morris, was a press flak at the Bush campaign. He previously worked for Maverick Media, the firm that produced TV supports for Bush's campaigns.

I say, who holds responsibility? The President of the United States holds responsibility. The buck stops with him.

God bless the people who have suffered and God bless this country.

On CNN, just his second day in Louisiana, Brown placed blame on the victims for not evacuating.

Most frightening, though, is the fact that Mike Brown waited until five hours after Katrina reached land to officially request help and legal authority to send rescue workers supplies into the affected regions. Despite three to four days of constant alarms that Katrina was a Category 5 hurricane poised to strike Louisiana, Brown did practically nothing to prepare for the devastation that was predicted in the event of just such an occurrence.

In spite of the dire warnings of what would happen should a Category 4 or 5 Hurricane strike New Orleans (and the Gulf Coast in General) Mike Brown sat patiently by while the Hurricane delivered 100+ mph winds and a 25-foot storm surge into the region—obliterating towns, killing thousands of Americans and causing what will be hundreds of billions of dollars in damage.

Mike Brown is not the only FEMA official with little to no experience, though. As noted by the Center for American Progress, "Brown's top deputies, however, make him look qualified. The number two at FEMA, Chief of Staff Patrick Rhode, was an event planner ("advance man") for Bush's presidential campaign. He had absolutely no emergency management experience before joining FEMA. The number three at FEMA, Deputy Chief of Staff Scott Morris, was a press flak at the Bush campaign. He previously worked for Maverick Media, the firm that produced TV spots for Bush's campaigns. Morris also has no emergency management experience. In contrast, the top deputies of Clinton-era FEMA Director James Lee Witt ran regional FEMA offices for at least 3 years before assuming senior positions in Washington.

FEMA spokesperson Natalie Rule said the absence of direct managing emergencies is irrelevant because top managers need "the ability to keep the organization running."

That's all well and good, except for the fact that this Administration cut more than six hundred million dollars last year from funding for local administrators and offices—diverting it to other accounts. Effectively, poor planning and management has created a vacuum of leadership anywhere in this agency that Congress and former President Clinton worked so hard to "fix" in the early to mid-1990's.

As former chief-of-staff at FEMA Jane Bullock said yesterday, "We knew that about 120,000 of the people who needed to be evacuated did not have cars, so we would have to position buses. The buses were not there. We knew that the levees would be under heavy stress and so we should position barges with pumps up the Mississippi in preparation for flooding. This was not done. We knew that the Superdome would be used as a refuge of last resort so we should pre-position food and medical supplies. They were not there. There was a lack of leadership."

[From the New York Post, Sept. 7, 2005]

### FEMA FOOL SAT ON HIS HANDS

(By Douglas Simpson, Ted Bridis and Ian Bishop)

The head of FEMA waited a mind-boggling five hours after Hurricane Katrina hit the Gulf before even contacting his boss about sending personnel to the area—then suggested workers be allowed two days to get to the ravaged region, shocking internal documents reveal.

One stunning Aug. 29 memo—sent from embattled Federal Emergency Management chief Michael Brown to Homeland Security Secretary Michael Chertoff—called killer Katrina a "near-catastrophic event," but otherwise lacked any other urgent language underlining the potential magnitude of the disaster.

Brown then politely ended his memo with: "Thank you for your consideration in helping us to meet our responsibilities."

In another note sent later to FEMA workers, Brown said one of their duties would essentially be to make the agency look good. "Convey a positive image of disaster operations to government officials, community organizations and the general public," he wrote.

In Brown's memo to Chertoff, he proposed sending 1,000 Homeland Security workers within 48 hours and then another 2,000 within seven days.

In explaining the two-day period that workers had to arrive in the disaster area, Homeland Security spokesman Russ Knocke said it was to ensure they had adequate training before going down.

The same day Brown wrote his memo to Chertoff, he also urged local fire and rescue departments outside Louisiana, Alabama and Mississippi not to send trucks or emergency workers into disaster areas without an explicit request for help from state or local governments.

Brown said it was vital to coordinate fire and rescue efforts.

Several congressmen have already called for Brown's resignation.

In other developments yesterday:

President Bush and Congress pledged separate probes into the feds' response to Katrina.

The airline industry said the government's request for help evacuating storm victims didn't come until late Thursday afternoon—three days after Katrina made landfall as a Category 4 hurricane.

A Long Island congressman ripped into New Orleans officials, who he said did a woefully inadequate job of responding to the hurricane, compared with how New York handled 9/11.

"All New Orleans has to worry about is a hurricane. They don't have to worry about terrorist attacks," Republican Representative Peter King said. "They've seen this coming for 200 years."

As the Army Corps of Engineers battled to pump out flooded New Orleans, Mayor Ray Nagin warned that the receding water will reveal horrors.

"It's going to be awful and it's going to wake the nation up again," he warned.

Late last night, Nagin authorized law enforcement and the military to forcibly evacuate residents who have refused to obey orders to leave.

A refugee from the devastated city attempted suicide aboard a commercial flight bound for Washington, D.C., causing the plane to be diverted.

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[From the Financial Times, Sept. 7, 2005]

### Staff Exodus and Cutbacks Curb Disaster Management

(By Peter G. Gosselin and Alan C. Miller)

While the federal government has spent much of the last 25 years trimming the safety nets it provides to Americans, it has dramatically expanded its promise of protection in one area—disaster.

Since the 1970s Washington has emerged as the insurer of last resort against floods, fires, earthquakes and, after 2001, terrorist attacks. But the government's stumbling response to the storm that devastated America's Gulf coast reveals that the federal agency singularly most responsible for making good on Washington's expanded promise has been hobbled by cutbacks and a bureaucratic downgrading.

The Federal Emergency Management Agency (Fema) once speedily delivered food, water, shelter and medical care to disaster areas and paid to rebuild damaged roads and schools and get businesses and people back on their feet. Like a commercial insurance company setting safety standards to prevent future problems, it also underwrote efforts to get cities and states to reduce risks ahead of time and plan for action if calamity struck.

But in the aftermath of the September 11 attacks, Fema lost its cabinet-level status as it was folded into the giant new Department of Homeland Security. And in recent years it has suffered budget cuts, the elimination or reduction of key programmes and an exodus of experienced staff.

The agency's core budget, which includes disaster preparedness and mitigation, has been cut each year since it was absorbed by the Homeland Security Department in 2003.

The agency's staff has been reduced by 500 positions to 4,735. Among the results, Fema has had to cut one of its three emergency management teams, which are charged with overseeing relief efforts in a disaster.

Three out of every four dollars the agency provides in local preparedness and first-responder grants go to terrorism-related activities, even though a recent Government Accountability Office report quotes local officials as saying what they really need is money to prepare for natural disasters and accidents.

"They've taken emergency management away from the emergency managers," complained Morrie Goodman, who was Fema's chief spokesman during the Clinton administration.

Michael Chertoff, secretary of homeland security, acknowledged in interviews on Sunday that Washington was insufficiently prepared for the hurricane that laid waste to New Orleans and surrounding areas. But he defended its performance by arguing that the size of the storm was beyond anything his department could have anticipated and that primary responsibility for handling emergencies rested with state and local, not federal, officials.

His remarks, which echoed earlier statements by President George W. Bush, prompted withering rebukes both from former senior Fema staffers and outside experts. "They can't do that," former agency chief of staff Jane Bullock said of administration efforts to shift responsibility away from Washington. "The moment the president declared a federal disaster, it became a federal responsibility."

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## THE TRAGEDY OF HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

Ms. CARSON. Thank you very much, Mr. Speaker, and thank you all Americans for your prayers, your volunteerism, your most generous financial support, and all of the ways that you attempted to relieve some of the pain of those evacuees who were affected. My prayers continue.

The United States Congress, Members of the United States Congress, should board the plane transportation and go to the gulf, go to Mississippi, go to Louisiana, and all the other affected places. Congress should go, not just watch it on television, because it is very heart-wrenching, and I think we ought to be there in person.

I think we need to understand what happened to the young man whose mother cried out for help. On a Monday they promised her help was coming. On Tuesday they promised her it would be there shortly. On Wednesday it would be there in just a few. On Thursday, help is on the way. On Friday she drowned. Most heart-wrenching story that I have seen.

In my district, Calvary Temple sent nine buses after they got authorized by the American Red Cross to go down. But once they got there, FEMA would not allow them to board people on the buses. And they only allowed 12 people to get on nine buses, and the rest of the buses returned to Indianapolis empty, which is tragic.

We have some of the most sophisticated hospital ships in the whole world that sit right out here at Virginia. It took them 5 days to even get started to go down to the gulf, when it was clear that the help of the ships and the midshipmen and all the medical supplies on board were needed immediately.

We need to immediately reinstitute WPA days, Work Progress Administration days, that worked so well during the Roosevelt administration and that allowed all of these unemployed people that we have now in the South to begin to rebuild their own cities. And I know that numerous of them would be more than happy to allow the government to pay them while they rebuild their own cities. It is like Charles Dickens' "Tale of Two Cities," the worst of times. But we could augment legislation to make it better times for the people that were so tragically affected. And I encourage Congress to do that.

Mr. Speaker, there have been so many comments made that I was going to make, and I will not replicate them. But in closing, I would like to remind us that every Member of this Congress should get together, not all at the same time, it is too many of them. But day after day after day we need to take a trip to the gulf, meet the people there, help serve the homeless, help serve the hungry, take clothes, our own money used, take clothes, take water, take diapers, take hygiene equipment. We need to personally be involved ourselves. And we need to get on the road right away.

Mr. Speaker, I regretfully rise today to join a growing chorus of American outrage in the wake of the Hurricane Katrina disaster on the Gulf Coast.

My purpose tonight is not to assign blame for this tragedy onto any single official or agency, but to express my shame and the shame of my constituents at the failure of our government to serve its citizens when they needed it most. Mr. Speaker, the American people know that this great Nation can do better. They deserve answers. They deserve results.

When I talk to my constituents I hear their indignation that a city like New Orleans, which lies below sea level and is so obviously vulnerable to hurricanes, was turned down repeatedly in recent years by its Federal Government for assistance in shoring up levees and reinforcing the ailing water pumps which kept the city above ground.

I hear anger that, in a city where with several days' notice of an imminent landfall of the hurricane, in a city where one third of all residents live below the poverty line, the only real option for evacuation was the ownership and deployment of privately owned automobiles.

Mr. Speaker, families living on less than $9,000 a year don't own cars. And because the hurricane came at the end of the month, low-wage earners living from paycheck to paycheck could not afford passage even if they had them. It was these poor, overwhelmingly African-American residents who were left to die in the thousands. The American public knows this tragedy could have been avoided. They deserve answers. They deserve results.

And now, with as much as 10,000 feared dead and thousands more waiting for housing, food, and other supplies, Americans from across this country who have offered their assistance and opened their cities to displaced citizens from Louisiana and Mississippi are being turned down by FEMA.

Last weekend a caravan of relief supplies and buses organized by local charities in my hometown of Indianapolis arrived in New Orleans to help evacuate the homeless to Indianapolis but was sent home by FEMA officials who insist that such generosity first pass through exorbitant layers of red tape before reaching citizens in need.

Never before has the great disconnect between the American public and its government been so clear.

The management of this disaster calls into question our readiness to deal with similar emergencies, including future terrorist attacks that may displace citizens and require massive relief efforts. But it also exposes the colossal failures of this Congress. And for that the American public deserves answers. They deserve results.

The business of this body has for too long been dominated by legislation that explicitly benefits the wealthy at the expense of our Nation's poor, such as the bankruptcy bill, the repeal of the estate tax, the President's devastating income tax proposals, and multiple bills shielding corporations from lawsuits, which are often the only means to reverse the injustices inflicted on our forgotten poorest citizens by our richest and most powerful.

Indeed, this Congress and this administration have not dared acknowledge the plight of the poor and less fortunate in this country. Now, finally, we have no choice.

In the wake of this profound tragedy, let us find the strength to face the failures of our past and turn toward policies that aim to protect all our citizens from harm.

## HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. CORRINE BROWN) is recognized for 5 minutes.

Ms. CORRINE BROWN of Florida. Mr. Speaker, what we are witnessing in Louisiana and in Mississippi right now is the complete meltdown of the Federal Government, and in particular, the Department of Homeland Security. Given that the Federal Government can't even dole out adequate assistance to this one area of the country during this tragedy, how can U.S. citizens feel safe at a time when we are faced with the threat of a terrorist attack on a national level?

What I find truly amazing is that the disaster planners have said that a direct hurricane strike on New Orleans is one of the top 3 catastrophic scenarios facing our Nation. So how is it that the agencies have been so slow to respond to this crisis, claiming to have been caught off guard? The President himself said that the levee breach was not anticipated . . . how can that possibly be true? In addition, while the Superdome has long been considered as the city's main hurricane refuge spot, no supplies were stocked there before the storm hit on Monday. It is simply incomprehensible to me how Federal officials had not deployed equipment and relief supplies before Katrina struck land, or even bothered to mobilize in the region beforehand? This lack of response is outright shameful, an outrage, and an embarrassment!

This is one more example of the complete failure of the Federal Government under the Republican led administration. Since 9/11, the Republican led Congress has given natural disaster preparedness secondary status in the Federal budget, undermining the effectiveness of FEMA, and has cut funding for the Army Corps floor control projects in and around New Orleans, and throughout the Nation.

In the post 9/11 reorganization, FEMA joined 21 other agencies to form the new Homeland Security Department, and was stripped of the Cabinet rank that had allowed it to report directly to the President. Later, in a further department shuffle back in July, FEMA lost its mission of working with State and local governments on preparedness plans even before a disaster hits. FEMA used to be a very powerful organization, with veteran staffers, that is, up until the Bush administration threw everything together into one huge department, ironically labeling it "Homeland Security." What the new department should have been called is the "Department of Insecurity!"

And now, as many here in Washington and around the country have been urging for the agency to have its independence restored, the Republican Congress has just taken away people and money, as well as power and authority from FEMA, doing away with our national security while doling out tax cuts for the rich. This agency, which in the past has given out hundreds of millions of dollars in grants to State and local responders, has now lost the ability to do so, leaving grant giving in the hands of the overextended Homeland Security Department. Moreover, the Bush administration has canceled other FEMA programs, including a Clinton administration-era disaster mitigation effort known as Project Impact. And what's more, at a time in our history when homeland security experts are calling for a greater emphasis on preparing for calamity, Michael Brown, FEMA's current director, has faced years of funding cuts, personnel departures and the downgrading of the department. And of course, worse yet, Michael Brown himself is a mere political appointee, who obtained his current position because of his close friendship with Joe M. Allbaugh, who managed President Bush's 2000 presidential campaign. I think many would agree with me that for a position as important as this one, past experience in emergency management is crucial.

One other terrible decision made previously in the administration was the transferring of the Coast Guard to the Department of Homeland Security. Let us remember that the Coast Guard was the first agency to respond to the terrorist attacks on September 11th. Within minutes after the attacks, their ships were guarding our bridges and waterways.

In closing, it is clear that we really need to evaluate our country's ability to handle national disasters. It is simply unacceptable for the Federal Government to wait until there are bodies floating down rivers to begin activating the National Guard! Again, I would have hoped that FEMA would have had a contingency plan in the case of a major hurricane hitting the Gulf Coast. Yet obviously, they did not.

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## ORDER OF BUSINESS

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

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## HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, hurricanes may be natural disasters, but Hurricane Katrina has made it clear to anyone in the world with a television that who lives and who dies, who is left to suffer, who is left without the most basic necessities of life, who is left without medical care as a result of that disaster is very much related to who you are.

We have watched with horror and rapidly growing anger as Katrina came and went and left behind many, overwhelmingly poor, black, old, sick, to drown, to be stranded, to be herded into shelters under filthy, inhuman conditions, to be left in sweltering heat without water and food and to be cut off from health care. Why did it take aid and security so long to arrive?

□ 1930

We have received no answer.

Why were we so unprepared? We have received no answer.

What kind of shelters are planned without stockpiles of water and food as well as basic sanitation, medical personnel, and emergency power? We have received no answer.

Why did we not immediately press into service every able-bodied National Guard member? Why did we not immediately bring into service emergency teams from cities across the country? We have received no answer.

Why have we not moved to use unoccupied military barracks to house families left homeless by the storm? We have received no answer.

Where are the plans and the resources to stabilize the lives of hundreds of thousands with no homes, no jobs, no schools? We have received no answers.

Where are the plans and the resources to rebuild all that has been destroyed and to heal the families and communities left so devastated? We have received no answers.

When will we act to rein in the profiteering by big oil? We have received no answer.

How much can we do to lessen the impact of big storms by restoring natural buffers like wetlands, ending our disinvestment in infrastructure such as levees and acting to halt global warming? We have received no answer.

Ordinary Americans have responded without reservation. They have opened their hearts and their wallets. They have already given hundreds of millions of dollars. They have given of their time and their material possessions. Many have opened their homes.

We thank all of those who have contributed and we urge every household to find some way to join this great patriotic effort. Despite the sometimes heroic efforts of many frontline first responders, America's response to Katrina has been every bit as big a disaster as the storm itself.

It is government, especially the Federal Government, that has failed. "Unacceptable" is much too weak a term to describe that response to this disaster. It is time, it is past time, to put America's priorities straight and get them straight today.

I call upon the President to immediately mobilize adequate resources, medical supplies, personnel, security, transportation, and move those who are still in harm's way to safety. We call on the administration to present to Congress an emergency plan and a budget to address the needs of all those left homeless and jobless while their homes and communities are being rebuilt.

I call on the President to initiate an emergency public works program to rebuild America, to restore infrastructure, roads, bridges, water and sewers; and to mesh with private-sector insurance to rebuild every home, every small business.

We have a clear choice. We can use this as an opportunity to offer thousands, especially our young people, a chance to work to learn new skills from construction to nursing, or we can abandon tens, perhaps hundreds of thousands who have been uprooted and displaced, who have lost their material possessions, but each of whom is still a unique and irreplaceable person with untapped resources.

The President indicated that there is no limit to what we will spend in Iraq. I ask, how much will we spend in America?

I thank all of those in my immediate community, from the governor to the mayor to the president of our county board, all elected officials, churches, members of organizations and groups. I am proud to live in Chicago and in Illinois where we have opened our hearts and our wallets, and I simply ask that our Federal Government do the same.

## EXCHANGE OF SPECIAL ORDER TIME

Mrs. JONES of Ohio. Mr. Speaker, I ask unanimous consent to claim the time of the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

The SPEAKER pro tempore (Mr. REICHERT). Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

## SWEEP AROUND OUR OWN FRONT DOOR

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Mrs. JONES) is recognized for 5 minutes.

Mrs. JONES of Ohio. Mr. Speaker, I stand today concerned about what happened on the Gulf Coast from Hurricane Katrina. I hope that apart from this devastation we can say that Hurricane Katrina has brought to light the atrocities that have been going on for years across our country.

Only yesterday in Cleveland, Ohio, we were notified that 400 evacuees would be coming to Cleveland tomorrow that we were supposed to support. Only 2 hours ago, we learned that they were not coming.

This is a part of that same situation we are talking about, that FEMA does not know what they are doing. What we are concerned about is people being put on a bus, being told, "We are going to take you somewhere," and the people do not even know where they are going. It is part of denying these evacuees dignity, denying them an opportunity to say that we are Americans and we are entitled to the very same democracy that everyone else is entitled to.

Far too long we have neglected the underprivileged of this country, and we are quick to criticize others for not taking care of their own. However, we have all forgotten the poor in our country and we are hoping this will be an opportunity again for this country to address the issue of poverty, the lack of housing, the lack of education, the lack of the ability to create wealth, the lack of opportunity to grow African American and small businesses.

A recent study by the Population Reference Bureau noted that the Orleans Parish, Louisiana, and Harrison County, Mississippi, are counties that are homes to New Orleans and Biloxi and have median incomes that are just above $32,000, 44 percent below that of the national average. I will not read through all the statistics that I have, but I will say these statistics point out the dilemma that we face as a result of poverty being rampant in our country. It is unacceptable. It is unacceptable.

Now, the President said it was unacceptable what FEMA did, but since saying that he is backing off on his statement about its being unacceptable.

The other thing I need to point out is, people keep saying to those of us who are speaking out that we should not place any blame, that we should be quiet and move forward. But the reality is, you have got to own up to your mistakes before you can correct those mistakes. And the United States Government needs to own up to the mistakes that they made over the past few days with regard to this.

There is a gospel song that says, "Sweep around your own front door," and that is what we need to do in America is sweep around our front doors across this country, the doors that used to exist, the doors that no longer exist.

It is our job, and we are calling upon people across America to say that it is unacceptable, that what we have seen over the past few days from our government is unacceptable, that it is not permissible and that the people of America, the people who have been devastated by the storm, deserve to have the same kind of support, the same kind of encouragement that all other Americans want.

## GOVERNMENT FAILS MOST VULNERABLE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATERS) is recognized for 5 minutes.

Ms. WATERS. Mr. Speaker, this is a very special time in American history. We have experienced one of the greatest catastrophes in the history of this country. We have lost lives, and we have seen this catastrophe mismanaged in ways that most of us could never have imagined.

Mr. Speaker, I was sitting at home watching television, and for 3 days or more, I saw almost 30,000 people in front of the Convention Center in New Orleans waiting for food, waiting for water, waiting for some assistance.

They waited and they waited and nothing happened.

I decided to leave Los Angeles and join with some of my friends in New Orleans to see what was going on. After all, I am the ranking member of the Subcommittee on Housing and Community Opportunity of the Committee on Financial Services; and when people are homeless in America, particularly 30,000 as a result of a catastrophe, I need to understand what I can do to make sure that those people are housed, that they get some kind of shelter.

So I went to New Orleans and was met by State Senator Cleo Fields, and he and his staff and others, we joined together and we went to the State Police compound, motor vehicle compound where people were gathered. All of our agencies were gathered there. The governor of the State was there. Mr. Chertoff was there, representing Homeland Security. Mr. Michael Brown was there, representing FEMA. The National Guard was represented and on and on and on.

I had an opportunity to speak with the governor. I had an opportunity to speak with Mr. James Lee Witt, who is now advisor to the governor, who was once head of FEMA, to try and find out what was going on and where the breakdown was.

What became very, very clear in my interactions there early on in one of my visits was that there certainly had been a breakdown, that responsibility had not been accepted, assumed, implemented in ways that we expected. And what surprised me more than anything else was the fact that we have spent a lot of time organizing Homeland Security. We have spent millions of dollars making sure that there are plans in cities and States. We have spent millions of dollars identifying the first responders and their responsibility. But all of the sudden we have a catastrophe that could have been a terrorist attack.

The levee that broke, that was vulnerable and could have been attacked by a terrorist, and this is the operation that was supposed to respond, it had fallen apart. It did not happen. And poor people, the most vulnerable of people, were left without any protection.

By the time that I got there, they had started to move the people to the Louis Armstrong Airport. This had become a staging ground, and the buses were supposed to go there to take them to shelters that had been identified all over the State. And they were supposed to have airlifts that were taking them even farther out of State.

Cleo Fields, a State senator was trying to get them to open England Air Force Base. It is an Air Force base that is right there in the area, Alexandria, Louisiana, that is all boarded up, has 450 dormitories unused. He brought with him three huge buses, and he told the governor and everybody else, Mr. Chertoff and everybody else, that he was going to fill these buses up with people from the Convention Center and people along the highway and people at the airport, and he was going to take them to England Air Force Base and he was going to force them to open it up and let them in and give them some safe and secure place to live until they could get permanent housing.

We put them on the buses and we drove into the Louis Armstrong Airport and it was a sight that I shall never forget in my life. There were thousands of people on the sidewalks, in wheelchairs, people who did not know what their future held. We finally got inside the airport. Thousands of people, people who needed medication, people who needed insulin, there were people who had not been attended to.

Well, we stayed there a few days and we went to a number of shelters up and down the State. We were not only in shelters in Louisiana, the top part of the State, but the bottom line is this, Mr. Speaker, our government failed us, and they failed the most vulnerable people.

We cannot let this get swept under the rug. We have to keep this before the American people. It does not appear that the attitude exists here that we will pay attention in the way we paid attention to 9/11. But we have to make sure that we do not fail the people again and again. We have got to get them out of these temporary shelters. We have got to get them into permanent housing and that is some responsibility that we are going to accept.

□ 1945

## ORDER OF BUSINESS

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent to speak for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

## HURRICANE KATRINA DISASTER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEWIS) is recognized for 5 minutes.

Mr. LEWIS of Georgia. Mr. Speaker, I rise this evening with a heavy heart. What we have witnessed during the past few days in New Orleans and the gulf coast of Mississippi and Alabama is unreal. It is unbelievable.

This did not have to be. We were told by the National Weather Service and by the media that a dangerous storm, a very dangerous storm, was on the way; but something went wrong. Somebody someplace at the highest level of this government fell asleep at the switch.

Our government had time to act, but we failed to move. The strength and the might of the most powerful Nation on Earth, the only remaining superpower, could not defend, could not protect, could not save her people.

Even a mother hen in time of great trouble, in the midst of a mighty wind, would gather her little chick under her wing. Can we do any less?

I do not understand how we can put a man on the Moon, how we can go to the bottom of the ocean, or conduct a war thousands of miles away, yet we cannot save our own citizens here at home.

What happened in New Orleans is an embarrassment and a national disgrace, and it must never ever happen again. Some people are trying to blame local and State officials for this disaster, but as Harry Truman suggested, the buck stops at the top.

What this disaster has showed us is that this Nation is still divided by both race and class. This administration never had an urban policy. It never tried to find a way to help the poor in America.

There were people with very little means who were left out and left behind in New Orleans. They did not have an automobile or an SUV. They could not buy an airplane ticket to go to Dallas or Houston, Chicago, or Atlanta. They were left out and left behind, not just in apartments but waiting in water up to their waists, to their chests, over their heads. They have been trapped for decades in lives of poverty and neglect.

Do not tell me that our government cannot be responsible. Do not tell me that it is hard to respond. When we get ready to go to war, we do not ask two former Presidents to go pass around a tin cup to raise money. We authorize, we appropriate, and that is what we should do now.

Do not tell me that this Nation cannot respond in a crisis when the safety of the American people is at stake.

In 1957, when there was a crisis in Little Rock, Arkansas, at Central High, President Eisenhower sent in the Federal troops.

In 1961, when there was a crisis during the Freedom Rides, Americans were beaten and brutalized, President Kennedy placed the city of Montgomery under martial law and sent in the National Guard to protect the lives of local citizens.

In 1965, President Lyndon Johnson did not hesitate. He used his capacity, he used his power as Commander in Chief to call out the Federal troops to protect Americans as they marched from Selma to Montgomery.

Yes, Mr. Speaker, we are the most powerful Nation on Earth; and we are able, we are able, we have the ability, we have the capacity to respond in a crisis. We have the means. Now we just have to find the will.

A great nation is defined by the methods it uses to defend the dignity of humanity. This hurricane has put us to the test, and it is my hope and my prayer that some good can come out of this very bad situation.

People have lost their lives. Families are broken. Mothers are here. Fathers are there. Children and grandchildren are someplace else. We may never really know how many people died because of this disaster. There are people suffering from dehydration. People cannot get their medicine. They are stranded for days and cannot get food to eat or water to drink. A great Nation, a proud people should be able to do better.

The American people have taken the lead. They have poured out their compassion and come to the aid of their fellow citizens. They have expressed a sense of righteous indignation. They have called us on the telephone. They have e-mailed us. They are demanding action. They want to know why this has happened; and Mr. Speaker, it is the role of their government to respond.

We must deliver Federal support to help rebuild New Orleans, to help rebuild the gulf coast of America. We must deliver Federal support to help rebuild the lives of thousands of American people and help them find their way back home; and if we do anything less, if we fail to act, then I am afraid the spirit of history will not be kind to us.

## FEDERAL GOVERNMENT'S RESPONSE TO HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, we got word today that there will be a bipartisan, bicameral investigation into what went wrong in the Federal Government's response to Hurricane Katrina. This is welcome news. A full investigation will help us understand, in detail, how we can improve our disaster response capabilities to prevent this sort of mishandling from ever happening again.

The problem is that an investigation will take months. Meanwhile, it is clear that the Federal Government still does not have its act together on this crisis; and in the meantime, people are dying.

Here are just a few of the recent foul-ups:

In the Gulf of Mexico, the USS Bataan, a Navy hospital ship, has been sitting in the Gulf of Mexico since Hurricane Katrina hit. Yet the Bataan's hundreds of hospital beds are still going empty.

FEMA has requested hundreds of firefighters from around the country to rescue Katrina victims, but for 4 days they have been sitting idle in a hotel at the Atlanta airport and playing cards while studying FEMA history. Said one Pennsylvania firefighter, "On the news every night you hear hurricane victims say, How come everybody forgot us? We didn't forget. We're stuck in Atlanta drinking beer."

On Tuesday, FEMA asked the South Carolina Department of Public Health to scramble on only a half hour of notice to receive 180 injured evacuees from New Orleans. The South Carolina doctors then waited for hours for the evacuees to arrive in Charleston. It turns out that FEMA had sent the evacuees to the wrong Charleston: Charleston, West Virginia, instead of Charleston, South Carolina, where the doctors were waiting.

Now we hear that the director of FEMA, Michael Brown, waited hours after Katrina hit before submitting a plan to send FEMA personnel into action. This despite the fact that the President of the United States had declared a Federal emergency 2 days before Katrina hit.

Mr. Speaker, Republicans are eager to accuse anyone who questions the Federal Government's response of "playing politics." But this is not about politics. This is about getting answers as to why our Federal Government cannot protect its citizens. We cannot sit still waiting for hearings when it is clear that Americans are suffering and dying while their government officials learn on the job.

Mr. Speaker, the Director of FEMA, Michael Brown, needs to go and to go now. This is not a political act; it is a humanitarian act. Who knows how many Americans might still be alive if someone other than Mr. Brown was in charge of FEMA. Mr. Brown should get out of the way so someone with experience can come in and fix this whole thing; and if Mr. Brown does not come to his senses and step aside, the President should remove him immediately.

Some say that we cannot switch leaders in the midst of this relief effort because it would disrupt the efforts already under way. Mr. Speaker, I do not see how our worst enemies could disrupt our efforts much further. It seems the effort will be far more organized if someone other than Mr. Brown were in charge.

One more disturbing trend I have noticed is the effort of administration officials to shift the blame to State and local officials for this scale of disaster. This is unconscionable, and I do not think the American people will really swallow it. The President declared Katrina to be a Federal emergency 2 days before it hit. He claimed responsibility for the emergency response for the Federal Government. Now it is time for him to take responsibility for the Federal Government's colossal failure.

## HURRICANE KATRINA DISASTER

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Mississippi (Mr. THOMPSON) is recognized for 60 minutes as the designee of the minority leader.

Mr. THOMPSON of Mississippi. Mr. Speaker, I am joined this evening by the gentleman from Louisiana (Mr. JEFFERSON), my colleague from New Orleans, on a Special Order held by the Congressional Black Caucus to discuss the events of the last few days relative to Hurricane Katrina.

As you know, we have had serious troubles in our part of the country. The gentleman from Louisiana (Mr. JEFFERSON) and the gentleman from Alabama (Mr. DAVIS) and myself, who are members of the Congressional Black Caucus, have had our districts pretty much decimated because of Hurricane Katrina, and we have some serious concerns about our government and its response. On behalf of the Congressional Black Caucus, we want to share those concerns tonight.

Mr. Speaker, I yield at this point to the gentleman from Louisiana (Mr. JEFFERSON).

Mr. JEFFERSON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, it is important the Congressional Black Caucus address these issues tonight because many of the people who are affected by this tragedy are African American and otherwise impoverished or disadvantaged, and they are folks who need to have their concerns given voice tonight.

Many of our Members will talk on different issues. I want to talk about the recovery of that area, of our area, and about an economic recovery package for New Orleans and the other areas affected by Hurricane Katrina.

Hundreds of thousands of my constituents have been uprooted from their homes. More than 100,000 businesses have been shuttered, and possibly thousands of lives have been lost to the wrath of Hurricane Katrina.

The extent of the damage, the human toll, property damage and economic loss is unprecedented in our Nation's history.

Of particular significance, a disproportionate share of the damage in my hometown of New Orleans was meted out to parts of our great city that were already extraordinarily economically disadvantaged.

The poverty and economic depression in these areas in no small way were factors in the extraordinary loss of life and property experienced by my constituents.

For that reason, it is critically important at this time to come together to ensure that all areas affected by Hurricane Katrina receive the necessary resources to rebound from what could be an economically devastating blow all across the gulf coast.

Now, we are talking about an economic package of $40 billion coming up. We just approved $10 billion a few days ago, but I think it is important to put the right number before the Congress. At this time, we do not know what that number is, but we know it is a lot larger than $50 billion.

The Wall Street Journal reports today that through their own analysis they have come up with a figure of $150 to $200 billion. Today, at a press conference, I called on our Congress and our Nation to set aside some $225 billion for this tragedy, $100-plus billion for New Orleans alone.

I believe it is important to talk about a number that is closer to the right number now so that we will not have the rest of the Congress figuring that we have already fixed the problem with 40 or 50 or $60 billion when we know it is going to be four times that number.

So as the Congress moves on various relief packages, I would like to articulate a few principles and policy proposals I believe should guide our efforts and be included in any relief package.

☐ 2000

First, the urban poor in New Orleans were dramatically and disproportionately affected, as I have said, by the destruction of Hurricane Katrina. Therefore, our efforts must include provisions to improve conditions to the point that the magnitude of the damage is never again experienced in our great Nation.

Second, businesses large and small have been shuttered throughout the region, leading to an economic double whammy. Not only is the region cut off from the goods and services provided by these businesses, but the tens of thousands of employees working for these businesses are cut off from their jobs and their paychecks.

Third, the public health effects of Hurricane Katrina are also extraordinary. In response to the health impacts of the hurricane, we must restore health care access, health care quality, health outcomes and the health care worker force because all Americans deserve equal treatment in health care. A proper investment in health care will improve both the health and economic well-being of our region and our country. The legislation we propose ought to address rebuilding the public health infrastructure and ensuring health care coverage. We must, therefore, move to immediately counter these difficult challenges.

On the economic front, I think it is important to propose measures to jump-start the economic recovery throughout the gulf coast, and in the long term to improve the lives of hard-working Americans throughout the region. Because there are a number of Federal tax benefits conditioned on the household living situation of the taxpayer, and in light of the extraordinary displacement of citizens throughout the region, I think we should recommend changes to the Tax Code that ensure that displaced Americans are not disqualified from the tax benefits to which they are otherwise entitled as a result of the hurricane.

Under current law, there are limits on a taxpayer's ability to deduct casualty or disaster losses in ways that would severely affect large numbers of our constituents. Accordingly, I believe we should propose to eliminate any barriers in the Tax Code that would prevent the devastated families from the tax relief to which they are now entitled.

So many of our people who lost their property back home were not home owners; unfortunately, they lived in apartments. They did not have renters insurance or flood insurance. They have lost everything. This has to be taken into account as we go about this.

One of the most extraordinary effects of Hurricane Katrina ever is the unprecedented destruction of housing in New Orleans. One hundred sixty thousand homes in New Orleans alone, and across the area more than 200,000 homes have been affected by this or destroyed by this hurricane. This is going to take some extraordinary action by FEMA and HUD, and some flexibility in the Community Development Block Grant program and the HOME program to get our region back on its feet.

I think we should look at the New Markets Tax Credits program and add $1 billion in 2006 and another $1 billion in 2007 to help with the restructuring there.

With our businesses, of course, there are no jobs, and we ought to ensure that we provide businesses throughout the region the tools necessary to reopen and thrive, as well as incentives to provide jobs to the thousands of displaced Americans throughout the region.

On health care, we ought to have a declaration of emergency to trigger emergency Medicaid provisions, and we ought to allow our States to therefore simplify the application process and eliminate other barriers to enrollment and participation. We should think about a 100 percent Federal Medicaid match to States directly affected by Hurricane Katrina or States receiving evacuees, and elimination of residency requirements as people are being scattered throughout the country.

On Medicare, we ought to waive the late enrollment penalties for affected residents to sign up for the new prescription drug benefit from October of this year to some other time, if they become newly eligible. We ought to delay transition of the affected dual-eligible to the Medicare program. And we ought to create a health safety net for all people affected by Katrina.

With regard to the health care workforce, we have to redirect our resources there to make sure we have people available to do the work. We ought to establish health empowerment zones, for instance, and freeze budget cuts for safety net and public health programs for two. And, finally, we ought to be concerned about the mental health of our people, because displacement is a terrible mental health issue, and we ought to make sure services are delivered there in the proper way.

Mr. Speaker, I would like to yield to my colleague, the chairman of the Congressional Black Caucus, the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I thank my colleague, the gentleman from Louisiana (Mr. JEFFERSON), and the gentleman from Mississippi (Mr. THOMPSON) for providing an opportunity for us to speak this evening. I am speaking as Chair of the Congressional Black Caucus, and we are here to show our support for our three Members whose districts have been severely and adversely affected by Hurricane Katrina, the gentleman from New Orleans, Louisiana (Mr. JEFFERSON), the gentleman from Mississippi (Mr. THOMPSON), who represents part of that district, and the gentleman from Alabama (Mr. DAVIS), who represents part of that State. We are here to support their efforts on behalf of their constituents.

Mr. Speaker, it is coincidental that those constituents are disproportionately African American. I say it is coincidental because I believe this catastrophe, this hurricane, was certainly not directed at African American people. But the reality is that poor people, disproportionately African American people who were poor, were not able to get away from the disaster. When they were told to leave New Orleans, in particular, they did not have the financial means to escape the disaster.

This is an issue that the Congressional Black Caucus has been talking about not only in the context of a hurricane, but in the context of an agenda which describes disparities in every area of our lives. It is an agenda that we have been talking about the entire year. We did not just start talking about it in the context of a hurricane.

Disproportionately, African Americans are poor. And if this same catastrophe had happened in any American community in which black people and white people were living, disproportionately African Americans would have been left behind, subject to the whims of nature and the catastrophe.

So we are here to express our support for our Members and their constituents, and we heartily endorse the proposals that have been outlined in general terms by our friend, the gentleman from New Orleans (Mr. JEFFERSON). We endorse them and we encourage our colleagues to embrace them.

Our Nation is at a crossroads, and we must respond. We must respond to these constituents in the same way that we would respond to other Americans, rich, middle class and otherwise, who were subjected to this kind of disaster. I encourage my colleagues to pay attention to what is going on in this area and to devote our resources and our energy, both private-sector and governmental, to addressing this problem.

Mr. Speaker, I will yield back to my colleague, the gentleman from Mississippi (Mr. THOMPSON), and again applaud him for providing this opportunity for Members of the Congressional Black Caucus to address this issue.

Mr. THOMPSON of Mississippi. Mr. Speaker, I now yield to the gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK of Michigan. Mr. Speaker, I thank my colleague from Mississippi for yielding to me and for his leadership during this difficult time. We are here to stand with you and to offer assistance to you.

And to the gentleman from Louisiana (Mr. JEFFERSON), whose district has been so devastated, we are here to say that we support you wholeheartedly.

I want to thank the millions of Americans, individual Americans and families, who have brought into their own homes, into their churches and into their schools many people who find themselves homeless. I want to applaud the American citizenry for stepping up at a time when our Federal Government did not.

In our own State of Michigan, we have received evacuees. The governor advised today that no more evacuees would be coming to Michigan, but I am here to say, Madam Governor, that they are still coming to Detroit. We have 300 families in Detroit right now and we are housing them, we are clothing them, we are feeding them, and the medical community in Detroit has come together under the leadership of Mayor Kilpatrick.

I want to pledge to my colleagues, the gentleman from Mississippi (Mr. THOMPSON), the gentleman from Louisiana (Mr. JEFFERSON) and the gentleman from Alabama (Mr. DAVIS) that we will continue to do that. We are here to serve, to represent, and to take care of the least among us. And so we will do that, my congressional brothers. And I want the governor of the State of Michigan to know that we appreciate her, but we will take care of these people as they come to our doors from this grief-stricken region.

I want to applaud Secretary Alphonso Jackson and HUD, who has been working with our mayor to make sure that we have the facilities available. Our private community has stepped forward, our hotel industry, our manufacturers of food, and our health care industry. That is how we are able to do what we are doing in the city of Detroit, and we will continue to do so.

We need the Federal Government to cut the red tape. There is too much red tape here. We have an emergency. We have put out $10.5 billion, which has been passed by both Houses of Congress. I am told today that Halliburton got $500 million of that already in a no-bid contract to help in New Orleans, to relieve the streets of its water. I wonder why we could not find others. At the same time, I have families who have been stopped from getting the food and nutrition that they need.

FEMA must develop a plan. I, too, call for the firing of Mr. Brown, the FEMA director with no emergency management experience, as well as his deputy, a friend of the President's, with no emergency management experience. We need real professionals in this time of need. The CBC stands ready, our Congressional Black Caucus, to do what we must do, and we will be visiting the stricken area soon now.

I was in an appropriation hearing today where we discussed the tens of billions of dollars, over $250 billion, that is being spent in the reconstruction of Iraq. Must we be there? Maybe. But should we take care of America's people? We must. So I call upon this Congress and the President to work together to make sure that American people are taken care of.

I witnessed this morning on a morning show a family with the last name of Allen, a wife whose husband works for the housing department in Louisiana, who stayed in Louisiana to help the people who were left there. The wife and one of the sons were evacuated. This family has a son fighting for this country in Iraq.

So, you see, they are American citizens, many who have been evacuated because of a national disaster. We owe them. They pay taxes. The seniors, the frail, they built this country. We owe them.

Let us rise up, America. This Congress can do better and we will do better, because we cannot let them down.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield to the gentleman from Chicago, Illinois (Mr. RUSH).

Mr. RUSH. Mr. Speaker, I thank the gentleman from Mississippi for yielding to me, and I want him to know that he and the gentleman from Louisiana (Mr. JEFFERSON), and the gentleman from Alabama (Mr. DAVIS) are an inspiration to many of us. Your courage, your commitment, and the leadership that you have displayed over these trying times, not only to those who reside in your districts but also to the American people in general have not gone unnoticed.

The Bible says, "When the righteous are in authority, the people rejoice: but when the wicked rule, the people groan." Mr. Speaker, when I think of the devastating effects of the failed rapid response of the Federal Government to Hurricane Katrina, I cannot help but wonder about the value of some life, some human life in this country, particularly the lives of the poor, the powerless, and the black.

Along with the rest of the world, I have been outraged by the less-than-rapid response, of the inaction, of the lack of attention and the lack of providing aid to the thousands of individuals who were left to die and fend for themselves in the aftermath of the worst natural disaster in American history. Those who did not die were subject to the most dehumanizing conditions, the demoralizing squalor in the Superdome and other relief centers in New Orleans has been compared to the conditions in the hulls of slave cargo ships.

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I might add, this is not a far-fetched and extreme exaggeration.

Hurricane Katrina is an example of how the Federal Government failed. It is an example of a complete breakdown when responding to those in need of critical help. In times of national crisis, the cries of mothers, fathers and families from Louisiana and Mississippi and Alabama went unheard.

I serve on the Committee on Energy and Commerce, and today our committee held a hearing on price gouging at America's pumps. But my immediate concerns are on the price of human suffering being paid by the most vulnerable in our society.

New Orleans is going through a full-blown public health crisis, Mississippi is going through a full-blown public health crisis, and so is Alabama: and they are all suffering from the debilitating environmental conditions caused by Hurricane Katrina and by human malfeasance.

In addition to examining the incompetence and indifference of FEMA, the National Guard, and, I might add, the American Red Cross in their responding to this catastrophe, this Congress needs to address immediate and emergency concerns, including the purification of the drinking water and the abatement of dreaded diseases such as e-coli, hepatitis A, cholera, West Nile and other mosquito and waterborne diseases. Clearly, the public health concerns of this Nation and particularly the Gulf Coast region are of paramount importance.

I might also quickly note that we should sharply increase funding for the LIHEAP program, so that we can address the rising cost of heating oil during the upcoming winter months.

Lastly, we must examine and address the psychological scars that people have suffered from this terrible tragedy. We cannot underestimate the wounds that lie deeply in the psychology of the victims of Hurricane Katrina. The week-long conditions under which many of them toiled are unimaginable.

In this regard, we must especially be sensitive to the psychological needs of the children. Children may have suffered trauma that will stay with them for the rest of their lives. It is important that this Congress provide comprehensive mental health services to the children and to all of the evacuees.

It is now time for this Congress to acknowledge that there is widespread poverty in this Nation. It is now time for this Congress to also acknowledge the role that poverty played in the paucity of the Federal response during this national crisis.

Mr. Speaker, I also join with my colleagues in saying down with Michael Brown. Down with Michael Brown.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield to the gentleman from Alabama (Mr. DAVIS), another Member of this body that was also affected by Hurricane Katrina.

Mr. DAVIS of Alabama. Mr. Speaker, I thank the gentleman from Mississippi (Mr. THOMPSON) for yielding. I certainly thank all of my colleagues in this Chamber who have expressed solicitude to me. But, frankly, that solicitude is better spent on my colleagues from Mississippi and Louisiana. My State of Alabama was gratuitously spared virtually all of this damage. There are certainly people in my State who lost power, there are people in my State who were hurt. But God did not create all suffering on the same scale, and I know the difference between what has happened in my State and what has happened to my colleagues.

I am very proud of the gentleman from Mississippi (Mr. THOMPSON), I am very proud of the gentleman from Louisiana (Mr. JEFFERSON) for all of the work that they do in this Congress, but particularly for their fortitude in the last week, because, Mr. Speaker, we have been able to sit at these things from a distance. We have been able to talk as compassionate people about these losses.

The gentleman from Mississippi (Mr. THOMPSON) and the gentleman from Louisiana (Mr. JEFFERSON) have the very hard work of going into their communities and talking to people who are in pain and saying, "I will use my power to try to help you," and seeing the tears in response. So it is they who very much deserve our solicitude tonight, and I am proud to serve with them.

Mr. Speaker, I want to make three points that I think are related. The first one is this:

So many of the people who died, and we understand that the numbers of the dead will likely exceed 10,000, the largest single disaster in American history, so many of the ones who died had lives that do not put them on the front page of the newspaper. They had lives that were relatively anonymous. They were hard-working people, trying to make it through their lot in life, and all of a sudden they were cut down in blameless circumstances.

The challenge of leadership though is to give an honor and a place to those who die in tragic circumstances. The challenge of real leadership is to lift the anonymity and to put an honor on the table.

One of the things that I wish we would see in this Chamber, Mr. Speaker, is for the President of the United States to do what he did the last time our country was seared, to come and gather the House and Senate together in this body, to address the Nation and the Congress, and to paint a vision of how we can do better next time and a vision of how we can rebuild these people.

I would love to see the President go to the National Cathedral, a place he went 4 days after September 11, because when he went to the National Cathedral, he gave an honor to those victims and lifted them up to a certain place of honor. I would love to see that done for the people in your State of Mississippi and the people in the great State of Louisiana.

We cannot let the anonymity that lingered over the lives of these people mask the honor of their death, because the honor of their death is this: They were innocent, hard-working Americans who lost their lives in part because of nature, but in part because of the errors of our government. And it is that second point that I want to turn to tonight.

The country needs this President to admit that his government failed; the country needs this President to come here and say that the standard that was set by FEMA last week is one that was unacceptable for the people of Mississippi and Louisiana; and the country needs this President to name this as the disaster that it was. I cannot say it nearly as eloquently as our friend and colleague the gentleman from Georgia (Mr. LEWIS), but our country is embarrassed when we have power and do not use it intelligently and effectively. Our country is embarrassed when we have the means, the capacity and the ability to know what was happening last week, and still fail to adequately respond to it.

I have heard some of my friends and colleagues on the other side of the aisle say that they were pleased and satisfied and thankful for the job that happened last week, and I would simply differ with them in this one sense: Can we truly be pleased with the lack of response, the constant underestimation, the constant miscalculation? Because if we are pleased with that and we consider that to be good work, our standard is far too low.

The final point that I want to make, I say to the gentleman from Mississippi (Mr. THOMPSON), is one that perhaps should be more obvious to us. The fissures that already exist in our society become even more painful and more acute when there are stresses in our society. Last week, as so many people in this Chamber have said so well, the people who were left in the Superdome, the people not evacuated in time, so many are the people we often do not see. And we owe this next quote to Mr. Brown, the head of FEMA. Mr. Brown said that we learned that there were people that we did not even know existed.

Mr. BROWN did not mean to be profound when he said that, but he was unintentionally so, because we did learn and his administration did learn last week that there are people that they did not know existed, who live in the cracks and fissures in our society. And that ought to pain us.

The last point that I want to make, and it is the point I would hang over this Chamber as we think over this next several weeks: We owe people in this country a better place than the margins of life. There are people who, because of their own faults and their own demerits, end up in a particular place. We understand that. We know that. The Bible tells us that. But we ought to be strong enough and bold enough as a country to not let people who are trying to live their lives fall into the margins because we do not care enough to build a net around them. The absence of a net in New Orleans, the absence of a net in Mississippi, the absence of a safety net in much of the South, was laid bare last week, and we ought to be moved by that.

I will not cheapen this tragedy by saying there is a silver lining in it. Too many people died for that. But I will say that I hope that we draw some inspiration. I hope that as we go about fashioning a strategy for relief, that we fashion a strategy for relief that can lift up the weakest of these people and the least of them in an economic sense.

But I hope as we move past Hurricane Katrina, and, frankly most of us in this Chamber will find a way to do that, it is the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from Louisiana (Mr. JEFFERSON) who will continue to you live with it, but for a lot of the people in this Chamber, we will be able to move past this. We will be on to the next crisis of the month or the next political cause of the month.

But I hope as we move on, we carry this lesson with us, we carry this notion that if we are a just country, we cannot be a country where being left behind and being left out has the consequences that happened in the gentlemen's State of Mississippi and in Louisiana last week. If we are to be the country that we say we are, we have to do better by all of our people.

The final point before I yield back my time, I turn once again to the

President and his leadership. This President would not serve himself or our country well if this is turned into an attack on the mayor of New Orleans or the governor of Louisiana. This is not the time to make false comparisons and to wonder whether the governor and the mayor did not do this or did not do that, because there is something we ought to understand: The governor and the mayor lived in the midst of a crisis.

The people who sat comfortably in this city last week were removed from that crisis. They were in a position and had the level head to do better, and they came up with the sea of incompetence that we saw. So how dare we look at the mayor and the governor sitting among their people in the midst of all of this and blame them, when people sat in this city far removed from the danger and could not do better?

Mr. Speaker, again I thank the gentleman from Mississippi (Mr. THOMPSON) for his leadership, and I hope that his constituents, and know that his constituents, appreciate it. I thank the gentleman for his work as the ranking member of the Committee on Homeland Security, because it ought to be said. What is the measure of homeland security if we cannot find a way to secure our own people in the midst of danger?

Mr. THOMPSON of Mississippi. Mr. Speaker, I thank the gentleman very much.

Mr. Speaker, I yield to the gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Speaker, I join my colleagues in expressing my heartfelt sympathy to all of the victims of Hurricane Katrina and their families. Our thoughts and prayers remain with them as they cope with the aftermath of this enormous tragedy. We stand in solidarity with our brothers, the gentleman from Louisiana (Mr. JEFFERSON), the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from Alabama (Mr. DAVIS).

My home State of New Jersey has responded by deploying police officers, firefighters and decontamination personnel from around our State to aid relief efforts in the City of New Orleans. I commend Governor Codey of New Jersey for his leadership in responding to the needs of those affected by the catastrophic conditions in New Orleans and the surrounding areas.

In addition, Continental Airlines, which has a hub in my home city of Newark, is participating in Operation Air Care to provide emergency airlift to more than 25,000 New Orleans residents stranded by Hurricane Katrina. I appreciate the efforts.

Many of our local churches in my congressional district have taken the lead in organizing relief efforts to collect clothing, food and money to help hurricane victims. Over the past weekend I met with Reverend Raymond Jefferson of Metropolitan Baptist Church, originally from Louisiana, who is organizing a comprehensive statewide relief. Just last night he convened a meeting of concerned community leaders and is working tirelessly to bring refugee relief to the hurricane victims.

My office received a call from a family of 11, who needed assistance, coming up from Louisiana, and we were able to locate housing for them. Then we went to Reverend William Howard's church, Bethany Baptist Church in Newark, to help provide additional social services, including medical attention, preschool for the youngsters, as well as schooling for high school and college students, and Social Security for the elderly. It is really a complicated system, and everybody needs to be involved.

While Reverend Howard and I were meeting with the family at the church, we received a call that the grandfather of the family who had been missing was located at a hospital in New Orleans. This was a great feeling.

Reverend Joe Carter of New Hope Baptist Church started a fund-raising drive on Sunday and will meet with the pastor from New Orleans tonight in Atlanta at a meeting of the National Baptist Convention. So everyone is doing their own thing, collectively.

Let me conclude by saying, unfortunately, much of the devastation caused by Hurricane Katrina could have been mitigated if President Bush and his director of Federal Emergency Management Agency had shown real leadership by responding swiftly and completely to the warning before Katrina hit the gulf coast. Instead, they seem to be in denial about their woeful and inadequate response, even to the point of blaming the victims.

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FEMA Director Michael Brown coldly made the statement that those behind had failed to heed the advance warnings and thus were basically responsible for their own misfortune. It apparently never occurred to him that not everyone had the resources to drive or fly out of the city before the hurricane struck.

Today's Washington Post reported that offers of assistance from other countries were ignored for days after the tragedy. An executive with a telecommunications company based in the Netherlands expressed his frustration with these words: "FEMA? That was a lost case. We got zero help. We lost one week trying to get things so that we could move forward."

I serve as one of two congressional delegates to the United Nations, and it is going to be embarrassing for me next week to be with our allies from around the world who offered assistance which was turned down.

Let me conclude by saying I received a call from Rome today, and they said they were shocked at the abject poverty in the United States. They did not realize that there was so much poverty in this country. And even The Washington Post referred to people as refugees. By international law, if they looked it up, one cannot be a refugee in one's own country. Disgraceful, wrong, and that is what the W in George W. stands for. Wrong, wrong, wrong.

Mr. Speaker, we often hear it said from this administration that this government should be run like a private business. I would like to ask the Members what business would ever think about retaining an employee who performed as dismally as Mr. Brown did, completely failing to fulfill his responsibilities at a time of crisis?

I was also shocked to hear statements made by others that many of the victims are better off in the shelters in Houston because they were underprivileged anyway. It was said by a very prominent American. Unbelievable. To suggest that it does not matter if poor people lose the roof over their heads and all of their possessions, lose loved ones and have their families separated seems to me to be the height of insensitivity on the part of the overprivileged.

Mr. Speaker, I hope that we will have a thorough investigation into the failings of our government to respond to this cataclysmic event and the consequences it had on all victims and disproportionately on victims and people of color. We are the United States of America, and we certainly can do better.

Mr. THOMPSON of Mississippi. Mr. Speaker, I thank the gentleman for his comments.

I now yield to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, my prayers and my heart go out to those who have been displaced and the families that have been disrupted by this devastation. I stand firmly with my brothers, the gentleman from Louisiana (Mr. JEFFERSON) and, most importantly, New Orleans; the gentleman from Mississippi (Mr. THOMPSON); and the gentleman from Alabama (Mr. DAVIS) while they meet the challenges ahead and while they grapple with this devastation.

Hurricane Katrina is turning out to be the worst human catastrophe in America's history, far surpassing Hurricane Camille and the 1906 San Francisco earthquake in its destructive and deadly impact.

At this time I would like to thank all Californians for their generosity and outpouring of donations, food, clothing, and opening their homes to the families and to our families of this gulf coast area. My district has a hurricane disaster relief effort, and we are getting big-rig trucks that are taking all of this to those ravaged areas, and we thank my church that raised over

$100,000 on Sunday, Second Baptist Church, Dr. William Epps, in providing donations to the region.

The flooding and physical destruction of New Orleans, a truly historic American city, coupled with the complete destruction of families, homes, businesses, roads, and bridges along this 120 miles of Louisiana and Mississippi coastline presents a humanitarian challenge of unprecedented proportions with consequences that will be felt for years to come by those who lost loved ones, jobs, homes, and any sense of comfort and security. And the reality of our government's failure thus far to deal adequately with the tragedy that has occurred in New Orleans and along the gulf coast deepens each day.

While Hurricane Katrina could not have been prevented, it is now clear that the flooding of New Orleans that followed Katrina would not have been so devastating if the levees had been rebuilt and the wetlands had not been taken away.

For years the Federal Government had not provided the critical funding that would have made possible the building of sound infrastructure that would have protected New Orleans from this assault that has come to the great people of this great city.

Our figure says it all. It would have cost only $2.5 billion to build storm defenses around New Orleans capable of resisting a Category 5 hurricane. Katrina was an upper Category 4 hurricane. Nothing about New Orleans in this situation is new. Its vulnerability has been known for decades. This government knew that, yet nothing was done to protect the city and the surrounding communities.

FEMA, supposedly given a high priority for funding in the wake of 9/11, was not visible in the first days following this hurricane. We saw and heard evidence of the lifesaving work of countless private organizations like the Red Cross and the Salvation Army; yet this FEMA was not seen or heard of. In other words, we did not know what they were doing.

And in the days after Katrina hit the gulf coast, we have now learned that in many cases, FEMA was actually an impediment to the ongoing rescue and recovery efforts attempted by State and local officials. I am certain that in the months ahead we will see that FEMA's slow response to this terrible disaster needlessly resulted in the loss of hundreds, maybe thousands, of additional deaths and injuries. Why did this happen in the most powerful country in this world? This question begs for real answers.

Finally, there is a much more profound American problem that this disaster has illuminated, and that is the fact that the victims of the flooding in New Orleans have been, for the most part, African Americans and poor. The lowest lying areas of New Orleans, the most vulnerable to flooding, were inhabited by the city's most vulnerable people. Tragically, these victims, many of whom are children, the elderly, and the disabled, could have been spared much of the pain and massive destruction that was caused by Katrina if only their safety had been our government's priority. Instead, they were essentially left to fend for themselves with even more tragic consequences.

How could this happen, Mr. Speaker, in the world's most powerful and wealthiest country? Clearly, it was not due to a lack of resources; but, rather, it was the result of our Homeland Security and this administration whose priorities did not include assisting the most vulnerable and needy of our society.

One of the first questions that we will need answers for after the rescue and recovery efforts are completed is what will happen to New Orleans? And these questions should be answered by Congress and the administration.

What will happen to New Orleans?

I will say this: we must have a plan for rebuilding New Orleans and the surrounding gulf coast communities, and we must have it soon. The people of New Orleans and the surrounding gulf coast communities cannot wait too long for solutions to this immediate crisis they now face. Mr. Speaker, we must act now. The people of New Orleans and the people of this country are waiting.

Mr. THOMPSON of Mississippi. Mr. Speaker, I thank the gentlewoman for her comments.

Mr. Speaker, I now yield to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I join my colleagues in extending my sympathy and that of the people of the U.S. Virgin Islands to the people of Louisiana, Mississippi, and Alabama who have suffered great losses and continue to suffer from the impact of Hurricane Katrina on their lives. They are very fortunate to be represented by the gentleman from Mississippi (Mr. THOMPSON), the gentleman from Louisiana (Mr. JEFFERSON), and the gentleman from Alabama (Mr. DAVIS).

I am proud to say that we, who know the fury of these storms, have many who are working in the affected and host communities, that our hotel association and countless individuals and businesses have contributed close to $200,000 and that number continues to climb, that our National Guard sent many of our able troops to this vital effort, and our university has opened its doors to displaced students.

After 9/11, it was clear that we needed to become not just a stronger America but a better America, one where everyone was treated with dignity, fairness, justice, and compassion. Our leaders, though, urged us to go back to normal, and that was clearly not good enough. Despite the generosity of many good people, we have witnessed what has become normal for far too many in this country: for the poor, the rural, and people of color.

What happened in Alabama, Mississippi, and especially in Louisiana, the extent to which we have not yet seen, brings the issue of health and socioeconomic disparities into stark focus. Based on what is estimated, Katrina's toll will add more than 12,000 preventable, premature deaths to the close to 100,000 we African Americans experience every year.

I am greatly concerned about all that has to be done now and for recovery and reconstruction; but as a physician, the health care challenges that are immediately upon us trouble me most. I am concerned because as a member of the Committee on Homeland Security, along with the gentleman from Mississippi (Mr. THOMPSON), we have been issuing repeated calls for repairing and strengthening our public health system especially in our poor, minority, and rural communities. Calls that went unheeded.

I am concerned because we knew from a New York Academy of Medicine study that people would need more help and information to respond as instructed. I am concerned because another report on national health disparities will be released this week which will again tell us that disparities are widespread and due to persistent and institutional racial and ethnic discrimination and the socioeconomic problems they spawn in communities of color.

And so in the affected areas we have worsening chronic disease, diabetics without insulin for far too long, HIV/AIDS patients without medication, and babies without the proper feeding. Crowding and poor sanitation will increase infectious diseases, and we will have mental health problems now and for a long time to come. In this area the lack of the culturally competent providers we have long pressed for will be acutely felt.

No planning in Iraq, no planning here; yet another crisis has been allowed to develop. The President has not only to own up to the inadequacy of the preparedness and response, but he must also not cover it up. He has to work with us to correct it.

Mr. Speaker, we have an opportunity that the CBC will lead to make this right, to still become a better America. We can do it if we invest in our people and our country instead of giving tax cuts to the wealthiest Americans. We can do it if we improve Medicaid, not cut it; if we restore proposed cuts to food stamps, WIC, public housing, small business programs, education, and all of the health care programs that improve the health services and health status for all of us who live here.

We can do it if we do everything that is needed to bring the destroyed places back and the displaced back home; if we strengthen the infrastructure in New Orleans and all around this country and in doing so create jobs and economic opportunity for all. We can do it, and in this time of great tragedy and distress, the time that usually brings people together, my prayer is that we will; and I call on all of our colleagues to support this effort.

Mr. THOMPSON of Mississippi. Mr. Speaker, I thank the gentlewoman for her comments.

Mr. Speaker, I now yield to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Speaker, I thank the gentleman from Mississippi (Mr. THOMPSON) for yielding to me, and again I concur with all of our colleagues in expressing our partnership, our involvement, our support of the gentleman from Mississippi, the gentleman from Alabama (Mr. DAVIS), and certainly the gentleman from New Orleans and Louisiana (Mr. JEFFERSON).

I want to start out by certainly illustrating an opportunity that our President has to truly lead here. We know that there has been a failure in national leadership. We have talked about that. We have criticized that. But we are going forward now, and there are some important points that need to be made, and I want to appeal to our President because I think he has an excellent opportunity to make up some lost ground on regaining the position of national leadership on this issue because it is not too late because we have got to move forward.

And I think one of the first orders of business, Mr. Speaker, is that the President would reach out to the African American Members of Congress. We are the duly elected representatives who need to be involved in every critical process going forward. We all know the faces on the television cameras. The majority of the victims were African Americans and poor. We know that race and poverty and class play a part in this. Who better to make sure that this Nation is sensitive to that important fact?

□ 2045

It is not something to be brushed under the rug; it is something to be lifted up. For if it is true, there will be more than 10,000 or 12,000 individuals left, and as the water recedes in New Orleans, we owe it to those who have lost their lives, who because they were poor did not have a way to get out. And many in this Nation feel that our national leadership failed them.

Now is the time to pick up from there, and the first order of business would be to reach out to members of this Congressional Black Caucus and make sure that members of the Congressional Black Caucus are active in the investigation committees going forward, to make sure we are there to ask the right questions, to get the right answers, and there will be credibility going forward.

It is important for members of the Congressional Black Caucus to be on the spending committees. So far, there has been $10.5 billion put forward. There is another $50.5 billion that will be put forward later this week, possibly tomorrow. We must be at the table. We must help to decide where that money is going.

And then, Mr. President, here is a sterling opportunity to lead. It is going to take at least $250 billion or $300 billion, by all of the estimates that we have examined, and I have been on the phone to Harvard economists and others who have said that it is going to take at least $300 billion. We need a huge investment in New Orleans, in Louisiana. We need something there that will attract people to come back to New Orleans. One of the sad things I heard so many people saying is, I am going from New Orleans, I am not coming back to New Orleans. Fats Domino said it well: "I am walking to New Orleans."

All of us need to walk back to New Orleans. We need people coming from everywhere to walk back to New Orleans so New Orleans does not lose a beat; and in order to do that, we have to put a sizable investment in New Orleans. $200 billion, $300 billion, I do not know the figure, but it is certainly more than 50, certainly more than 100. I would think $300 billion. And we have to think that way. That is what it takes for public works and transportation.

Then we need to determine, what do the victims need to rebuild their identity. They have no license, they have no addresses, they have no money; and where can they get immediate financial help? We have an excellent opportunity for leadership. I look forward to doing it, as do all of us here in the Congressional Black Caucus. This needs to be a partnership and a two-way street, and we look forward to working to make this a positive out of a negative.

Mr. THOMPSON of Mississippi. Mr. Speaker, I now yield to the gentlewoman from California (Ms. LEE).

Ms. LEE. Mr. Speaker, I want to thank the gentleman from Mississippi for yielding, and also to the gentleman from Louisiana, I want to thank him for his leadership and his hard work 24/7 in helping communities, your communities, work through this devastation, and also in leading this Congress in an effective response. We stand with the gentleman from Louisiana. Our constituents extend their desire to help in whatever way possible and to help in a very real way.

Mr. Speaker, I said earlier, and I have to say this again, that the world is watching. The world is watching as our Nation has been exposed. If anyone has ever doubted that there are two Americas, Hurricane Katrina and our government's shameful response have made this division very clear.

New Orleans is a city where 65 percent of the population was black. Nearly 30 percent, or one in three, were living below the poverty line. Twenty-one percent of the households earned less than $10,000 a year. Eighty-four percent of the people living in poverty in New Orleans were black. People died because they were poor and black and young and old and disabled. The incompetence and the indifference demonstrated by this administration in responding to this tragedy was really quite shocking, but it was not surprising.

For some of us, however, this is an America that we know very well. It is an America that has often been swept under the rug by lawmakers and the media. This is the America that many of us know, and that is why the Congressional Black Caucus and so many in this House fight each and every day against these obscene tax cuts for the wealthy, and Medicaid and housing and health care budget cuts.

This is the America that I know, and this is why I have said over and over again that the war against Iraq, based on distortions and false information, did not have to be fought. We did not have to spend over $300 billion and deplete the resources that could have gone to domestic security, economic security, and taken care of our people right here at home.

Each and every Member of Congress should be frightened to death, seeing the lack of preparedness and the unacceptably slow and deadly response by our government. People died who would not have died if our government had responded quickly and efficiently. This is a crime.

Each and every Member of Congress has had a glimpse of what could happen in their districts should a natural disaster or, God forbid, a terrorist attack occur in the future.

Now Americans have risen to the occasion and asked what they could do to help. And after listening to a very disappointing briefing by Cabinet Members and, however, listening to Members of Congress from affected districts who, in spite of the odds, again have been responding around the clock to the survivors of this devastation in heroic ways, I have a few thoughts that I think we should do immediately.

Well, of course, we must recognize, first of all, and thank individuals and organizations who have continued with monetary donations and also providing donations of medicine, clothing, bedding, and hygiene articles. But do my colleagues know what? The Federal Government must step up to the plate and lead this effort. We must help find temporary transitional housing so that people can live with dignity and respect until they can return home.

And we must insist that the Red Cross hire staff, and many of us have had experience working with the Red Cross; they need to hire staff and volunteers who reflect the populations that they serve, such as African Americans and Latino volunteers and staff. They should be brought in.

Mental health professionals should also be sensitive to, and they should be of, the diversity of the affected populations and understand the cultural background of those who have been traumatized. And they should understand, quite frankly, that they just left a war zone, and post-traumatic stress syndrome will be setting in. And we must insist that the rebuilding process takes into account the populations who have been displaced. Developers should not just come in and create a city where no one can afford to return home. There must be affordable housing and good-paying jobs for those survivors of this devastation.

Also, we must ensure that survivors' losses are not compounded by financial institutions. Credit card late fees and penalties and mortgages, all of these issues must be addressed, and we must make sure that our Americans are protected from predatory lenders at this time of extreme need.

Let me just say, quite frankly, we must not allow military recruiters to take advantage of the misfortune of hurricane survivors. They should not be allowed to access temporary housing and shelters to recruit the destitute and the vulnerable. As the proud daughter of a 25-year career military officer, I honor and thank our service men and women for their bravery and service, but I do not believe that recruiting traumatized survivors of this hurricane is the right thing to do.

The world is watching, and I thank the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from Louisiana (Mr. JEFFERSON) for leading the way.

### GENERAL LEAVE

Mr. THOMPSON of Mississippi. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield to the gentleman from Houston, Texas (Mr. GREEN).

Mr. AL GREEN of Texas. Mr. Speaker, I thank the gentleman from Mississippi. I would like to extend my sympathies to all of the persons who have suffered.

Mr. Speaker, I am not asking for help for the survivors because they are black, of the black race; I am not asking that they be helped because some of them are of the white race. I am asking for help because they are all of the human race, and that is the race that counts.

I believe, Mr. Speaker, that we must do something that is critical: We must not continue to call them refugees. Because, Mr. Speaker, these are tax-paying Americans. They have earned the right to be called American citizens who are in need of our help. So I beg today that we extend the hand of friendship and that this Congress spend whatever is necessary to restore their lives.

Mr. THOMPSON of Mississippi. Mr. Speaker, as my colleagues know, this is a Congressional Black Caucus hour. We wanted to talk about Hurricane Katrina and its impact on our Member districts. What I would like to do is offer the balance of my time to the gentleman from New Orleans, Louisiana (Mr. JEFFERSON).

Mr. JEFFERSON. Mr. Speaker, I thank the gentleman from Mississippi for his expert handling of this hour to help to bring to the attention of the American people the particular plight of African Americans, the particular plight of people who are impoverished, the particular plight of disadvantaged citizens who have been afflicted by this storm, and the hope and promise that our Nation holds for them and for my great city of New Orleans and the gulf coast region. I want to thank the gentleman for his attention to this matter, and I thank my colleagues for joining us in this very special and important hour.

Mrs. JONES of Ohio. Mr. Speaker, while there has been much devastation brought upon the Gulf Coast from Hurricane Katrina, I hope that apart from its devastation, we can say that Hurricane Katrina brought to light some of the atrocities that have been going on for years such as the poverty crisis in this country.

For far too long, we as a nation have neglected the underprivileged of this country. We are quick to criticize other countries for not taking care of their own, however, we have all but forgotten the poor in our own country.

A recent study by the Population Reference Bureau noted that Orleans Parish, Louisiana and Harrison County, Mississippi, the counties that are home to New Orleans and Biloxi respectively, had median household incomes of just $31,369, 44 percent below that of the national average of $44,684.

Additionally, 23.2 percent of the people in Orleans Parish and 14.6 percent of the people of Harrison County are below the poverty rate. Disproportionate rates of those people are African American. A whopping 35 percent in Orleans Parish and 27.4 percent in Harrison County.

High proportions of elderly residents of the Gulf Coast have disabilities as well. In New Orleans alone, 56.4 percent or 28,195 elderly resident have disabilities, compared to the national average of 39.6 percent.

About 9 percent of households in New Orleans did not even have a vehicle available to escape the storm. And for those who did have transportation, add to that the steadily rising gas prices which now exceed $3.20.

This is simply unacceptable. The world is watching. And they are waiting to see if we are going to do right by our own citizens. If we will pull together to do what is right. We can send massive amounts of aid to tsunami victims, but we can't bail out the Gulf Coast. We fight for democracy across the globe, but when our own needed help we were slow to respond.

There is a gospel song that says, "Sweep around your own front door." Today, I say America it is time for us to sweep around our own front doors. We can no longer put on blinders to the poverty crisis that is now staring us in our face.

We must work within this Congress to put in place legislation that will help these victims not just over the next few months, but for years, because that is how long it will take for us to heal from this natural disaster.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to address the ongoing crisis for those who have evacuated Louisiana, Mississippi, Alabama, and Florida, and to recognize the extraordinary efforts of Texans. And in particular residents of Dallas.

For the people along the Gulf Coast, I wish to express my deepest condolences.

This devastation has cost many individuals their homes, jobs, belongings, and worst of all their lives.

Almost a quarter million evacuees have traveled to Texas. Seventeen thousand of which have come to Dallas. This is an extremely traumatic situation. Many of these individuals are looking for missing family and friends. Most do not know if or when they will be able to return home.

The one bright spot is the thousands of Americans who have opened their hearts to volunteer time and money. I truly believe it is the personal efforts that make the greatest impact.

During this time of tragedy many heroes have emerged. Local residents, churches, and businesses in Dallas have overwhelmingly offered assistance.

The efforts of those who are volunteering their time at Dallas area shelters have made an immeasurable impact. In addition, many Texans have offered jobs or opened their homes to evacuated families.

I know that the generous spirit of Texans and of all Americans will help to aid this transition. When these dislocated people return to their communities, immediate economic opportunities should be given to them first so they can rebuild.

Mr. Speaker, we now look towards this Administration to exhibit the same type of sacrifice and humanity that countless Americans and charities have displayed.

I question those policies that stretched those National Guard units that could have rendered more immediate aid in New Orleans and elsewhere. First responders have not been given the tools they need. And this Administration drastically underfunded the Army Corps of Engineers, who are responsible for maintaining the levees surrounding New Orleans.

It is time to acknowledge our dependence on fossil fuels—whether foreign or domestic—which set the stage for further economic displacement ahead.

It is neither premature nor unpatriotic to raise questions as the federal government recovers its footing after an initially dismal performance. The point is that even though the government is now showing signs of progress, much work remains.

I can assure the Administration we, as Members of CSC, will do our best to work with them towards fulfilling our commitment to the American citizens.

I will be offering a comprehensive education appropriations bill along with Congressman HINOJOSA. There are currently 160,000 displaced students as a result of Hurricane Katrina. The Texas Education Agency predicts that as many as 70,000 displaced students will enter Texas schools this year.

This bill sets up a $500 million fund for displaced students within the Department of Education. From this fund, states will receive $3,000 for each displaced student that enters their school systems. This money will provide funding for additional classrooms, teachers, books, and supplies. These young people have been through a traumatic experience and providing a safe stable school environment is vital.

I will also introduce a bill that would call on the Department of Health and Human Services to ensure that the displaced survivors of Hurricane Katrina and first responders receive the mental health services they need.

Mr. Speaker and colleagues, think of the incredible stress these people are experiencing. There is anxiety. There is depression. There is a sense of hopelessness.

I am a former nurse, and I worked in the mental health sector. I feel strongly that these displaced individuals, many of whom are left with nothing, desperately need mental health services to address the trauma they have endured.

This bill will call upon Health and Human Services and the Department of Justice to address those needs. Mental health should not be forgotten.

Mr. Speaker, the Federal Emergency response to this calamity was disappointing. When I visited my District in Dallas and saw the suffering of many displaced individuals, I was struck at how far-reaching and long-term these issues will be. Let us make good legislative decisions to help them in the best way possible.

Mr. JEFFERSON. Mr. Speaker, I yield back the balance of my time.

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## ORDER OF BUSINESS

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask unanimous consent to reclaim my time to address the House for 5 minutes.

The SPEAKER pro tempore (Mr. KIRK). Is there objection to the request of the gentlewoman from Texas?

There was no objection.

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## COMING TOGETHER FOR THE VICTIMS OF HURRICANE KATRINA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I hope that as my colleagues have spoken now for almost an hour, the American people will understand the depth of passion and concern that we are now experiencing as Members of the United States Congress.

In particular, I want to acknowledge the gentleman from Louisiana (Mr. JEFFERSON) and the gentleman from Alabama (Mr. DAVIS) and the gentleman from Mississippi (Mr. THOMPSON) for the devastation that they have experienced in their districts and simply suggest that this is not a question of "I's" and "me's," but it is a time now for "me's" and, if you will, "us's," a time for America to come together, and a time for us to stand steadfast and to be able to be the wind beneath the wings of those survivors.

I will also say, Mr. Speaker, that it is not a time to shy away from the critical questions that need to be asked and answered.

There are many people now today that had homes and had a sense of comfort and might now be sitting with their family around a television set, just finishing dinner, going out, coming back in. But, Mr. Speaker, the bottom line is, they had a home. And unfortunately tonight, as we stand in this wonderful testament to democracy, we have Americans who have experienced a brutal and unending disaster in their lives.

□ 2100

And so I come today most of all to offer my deepest sympathy for the ones who lost their lives, and my deepest expression of concern to the survivors. And they are survivors. For those of us who watched in utter shock the events of the last week, what an opportunity to come face to face in my own city of Houston with the survivors. What an opportunity to be able to see the greatest expression of charitable output, if you will, by the city of Houston and Harris County, as people worked day in and day out, first working with no road map, no structure on how to receive hundreds and hundreds of buses and thousands of people, almost 1,700 in one night, coming, individuals with the same clothing that they had on, suffering from overexposure, water, fear, trauma, individuals who had come from the Superdome and ultimately the Convention Center who thought they had been abandoned with no food, no water and no clothing and disaster amongst them.

These individuals survived, and they came with a resilient spirit, and they buoyed the volunteers, and they buoyed the leadership of our city and Harris County. They worked to improve the conditions of the Dome, albeit as I walked and saw the throngs of people and sometimes the despair in senior citizens begging to go home, as they sat by the wheelchair of an elderly person, sitting with no clothing, people looking for their loved ones, holding up signs, where is my daughter, where is my son, my grandmother, my mother, my husband, my wife; doctors coming in in throngs from the medical center and all around the community; clothing being brought time after time. It was an amazing outpouring, but yet there was despair.

But still, the volunteers in Houston kept meeting and meeting and meeting, recognizing that they could not give up as well. And now the George R. Brown Convention Center, opening its doors with people and wonderful sites for the children and libraries and the medical MASH unit.

And we have gotten better, Mr. Speaker. We know how to do it now. And these are, in fact, our brothers and sisters. And, yes, there is something to the story of the Good Samaritan. We are, in fact, not doers of the deed, but we do it; and we understand what it means.

But at the same time we rejoice that there are survivors, we must recognize that there must be an inquiry. And as we speak, I am writing legislation entitled the Katrina Inquiry Commission, because we remember the 9/11 Commission, and we are grateful for it.

I am also associated with writing legislation that will drop tomorrow that provides relief for the survivors, so that if they are in bankruptcy, none of the benefits from the Federal Government can be used to discharge debts.

We are also looking to provide more technology and working with FEMA right now for the technology to help speed up the reunification of families. We are asking for more personnel on the ground and more resources so that we can put FEMA personnel in units like the Prince Center on Jensen Drive, doing an excellent job, just open their doors and allow people in; the Thurgood Marshall Center is a school in the North Forest Independent School District; and St. Peter Clavier.

Mr. Speaker, I know that we can do better for the children. We can do better for our community. But certainly America knows that we can do better in the future. But right now, as we work toward this, we must draw together. We must insist, as we work together in the Congressional Black Caucus, that the people know that we have not abandoned them.

I rise tonight with my colleagues eight days after Hurricane Katrina devastated parts of Louisiana, Mississippi and Alabama. I want to especially thank Congressmen JEFFERSON and THOMPSON who have displayed great courage and resolve to help their constituents through the aftermath of this natural disaster. In my Congressional District in Houston tens of thousands of evacuees are being sheltered and fed. In fact, Americans throughout this country are stepping up to help those affected by this disaster. It demonstrates that once again in our darkest hour that we have united as a nation to help our brothers and sisters who now seek to rebuild their lives.

As we stand here tonight in Congress we must find steps to move forward to help those affected by this disaster and to try to prevent such an ineffective response from taking place again. I plan to introduce a number of legislative measures that will seek to alleviate the suffering of the survivors of the most devastating natural disaster in modern American history. I along with my Judiciary colleagues led by Ranking Member CONYERS will introduce legislation to protect the hundreds of thousands of families and small businesses financially devastated by Hurricane Katrina from being penalized by debtor provisions contained in the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, scheduled to take effect on October 17, 2005. This legislation is based in part on an amendment I offered at the markup of the Bankruptcy bill. We expect a Senate counterpart to be introduced this week as well.

We are concerned that just as survivors of Hurricane Katrina are beginning to rebuild their lives, the new bankruptcy law will result in a further and unintended financial whammy. Unfortunately, the new law is likely to have the consequence of preventing devastated families from being able to obtain relief from massive and unexpected new financial obligations they are incurring by forcing them to repay their debt with income they no longer have, but which is counted by the law.

Our bill makes several important adjustments. First, it would specify that individuals who are victims of natural disasters, and who incurred a substantial portion of their debt as a result of that disaster, are not subject to the "means test" and therefore cannot be forced into burdensome repayment plans. Although the current law includes an exception to the means test if the debtor can demonstrate "special circumstances," qualifying for such an exemption will be quite costly and burdensome, and require numerous detailed filings and legal certifications. This is the last thing a hurricane victim should need to worry about. Since the current bankruptcy law counts all income earned in the six months prior to the bankruptcy as part of future income, this means that hurricane victims who have lost their jobs will be considered high income debtors who are presumed to be abusing the bankruptcy system. This is obviously absurd; so our bill gives the hurricane victims an automatic carve out, as we already do for certain categories of veterans.

Second, it would specify that disaster relief payments are not counted as part of income for purposes of calculating repayment plans. These are one time, limited payments, and should not result in a hurricane victim being treated as a high income debtor. Just as we excluded Social Security, compensation for victims of war crimes, and terrorism payments from current monthly income, we also should exclude these payments as part of the calculation of relevant income.

Third, our bill would give the court the discretion to extend certain deadlines for businesses devastated by Hurricane Katrina, to insure that a business is not inadvertently forced to liquidate—and lay off workers—as a result of an arbitrary deadline. Other key provisions of our bill would:

Exempt from the requirement of completing credit counseling and credit education in order to get a discharge debtors who cannot complete those requirements because of a natural disaster (a similar exemption is provided under the bankruptcy law for individuals serving in military combat zones and people who are disabled or incompetent);

Exempt victims of natural disasters from the provisions of the new law that make it easier for landlords to lift the automatic stay and evict their tenants who are in bankruptcy;

Exempt victims of natural disasters whose records are likely lost or destroyed from the more onerous paperwork and documentation requirements of the new law; and

Provide additional filing options for debtors who have relocated or are otherwise unable due to a natural disaster to file in the venue designated by law.

The legislation we plan to introduce will prevent new bankruptcy provisions from having adverse and unintended consequences for the hundreds of thousands of individuals now facing financial ruin by providing needed flexibility for victims of natural disasters in bankruptcy proceedings.

I also plan to introduce a bill that will provide tax breaks for individuals who take in evacuees into their home. These people are stepping up to provide shelter and relief to their fellow Americans and I believe it is certainly proper to encourage this behavior through the implementation of tax breaks.

In addition, I propose legislation that will grant a minimum of 20,000 two-year tenant-based housing assistance vouchers for Katrina's victims, together with transportation and relocation assistance to be used where necessary. These vouchers should be administered by local housing agencies presently administering HUD-funded Section 8 Housing Choice Voucher assistance, which are located in or near the areas hardest hit by Katrina. These agencies are already position to provide housing assistance and can play an extremely helpful role meeting the immediate housing needs of Katrina's victims. This legislation would also allow the Secretary of Housing and Urban Development to issue a wide range of statutory and regulatory waivers in order to most effectively and flexibly utilize HUD resources to meet the needs of victims.

Finally, I am calling for the establishment of a Commission to study the genesis of the devastation caused by the hurricane. We need a 9/11 style commission to know everything that took place. In addition, I am calling for the establishment of a position of an ombudsman for FEMA in order to provide proper oversight. Without a proper investigation we can not get all the answers and without the answers we can not provide the necessary legislation and oversight needed to try to prevent this kind of human suffering from happening again in the future.

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## HONORING CHIEF JUSTICE WILLIAM REHNQUIST

The SPEAKER pro tempore (Mr. KIRK). Under the Speaker's announced policy of January 4, 2005, the gentleman from Texas (Mr. CARTER) is recognized for 60 minutes as the designee of the majority leader.

Mr. CARTER. Mr. Speaker, I appreciate the recognition, and I rise this evening to discuss a man and a history on the bench, judicial bench, that probably will be recorded as one of the great careers in the legal profession in the history of the United States. I am referring to Chief Justice William Rehnquist.

Today we laid to rest Chief Justice William Rehnquist, who has served this country and served it well for many, many years. Justice Rehnquist is going to be sorely missed by the citizens of this country. His wisdom and his leadership and his all-around ability to unite and work with every faction of the Supreme Court has been an inspiration to all of the citizens of this country.

He served tirelessly with great wisdom, judgment, and leadership. He leaves behind a legacy as one of the most influential Chief Justices in our Nation's history; and today, in sadness, we bid him farewell, and we say to Justice Rehnquist, job well done.

A native of Milwaukee, Wisconsin, William Rehnquist grew up in the nearby suburb of Shorewood. His father, the son of Swedish immigrant parents, worked as a paper salesman, and his mother as a multilingual professional translator.

I come from a part of Texas which has a large Swedish heritage, and I am sure that Justice Rehnquist got his base principles established by that Swedish heritage that he grew up in.

After service in World War II with the Army Air Corps from 1943 to 1946, and with the assistance of the GI Bill, Rehnquist earned bachelor's and master's degrees in political science from Stanford University, finishing in 1948. In 1950 he received a master's degree in government from Harvard. Rehnquist later returned to Stanford University to attend law school, where he graduated first in his class in 1952, even ahead of Justice Sandra Day O'Connor, currently serving on the Court. He also served as the editor of the Law Review.

Rehnquist served as a law clerk for Associate Supreme Court Justice Robert Jackson both in 1951 and 1952. Following his clerkship, he settled in Phoenix, Arizona, where he was in private practice from 1953 to 1969.

In 1964 he also served as a legal advisor to the Barry Goldwater Presidential campaign.

When President Nixon was elected in 1968, Rehnquist returned to Washington, D.C. to serve as Assistant Attorney General in the Office of Legal Counsel. In this position Rehnquist served as the chief legal counsel to the Attorney General. He served as Assistant Attorney General in the Office of Legal Counsel until 1971, when President Nixon nominated him to replace

John Marshall Harlan on the Supreme Court.

During his time in the Court, Chief Justice Rehnquist authored countless landmark decisions and thought-provoking dissents. He carefully reasoned his opinions and insisted that the principle of federalism is an integral part of our Nation's constitutional structure. His opinions recognized that our government is one of enumerated rights and dual sovereignty, with certain functions and powers left to the States.

His jurisprudence has shown that the first amendment establishment clause does not dictate government hostility toward religion. Rather, the government should act in a manner which respects our freedom to worship as we please, neither favoring nor disfavoring religion.

The last 19 years have shown that Chief Justice Rehnquist was a terrific choice to lead the Supreme Court. Though some of his colleagues on the Court disagreed with him at times, there is no doubt that they admired his strong leadership and his likable personality and his ability to build a consensus. While always a forceful advocate for his views, the Chief Justice consistently strove for consensus on the Court and treated his colleagues with courtesy and respect.

It is thanks to his personal attributes that even in an age of 5 to 4 decisions, the Court never descended into bitter infighting. Instead, Justice Rehnquist led a court united by friendship, committed to the law and service to our country.

One example of Chief Justice Rehnquist's commitment to the law is his opinion in Dickerson v. The United States. Although a long-time critic of Miranda v. Arizona, Rehnquist nevertheless placed his past position aside and wrote an opinion in Dickerson effectively affirming Miranda.

In 1999 Justice Rehnquist lent his services to the Senate when he became only the second Chief Justice in history to preside over a Presidential impeachment in the trial of President Clinton. During that difficult time, with the Nation and some of its Senators locked in partisan struggle, the Chief Justice's very presence reminded us of the solemn legal duties the constitution requires of the Senate.

A historian of the Supreme Court, Chief Justice Rehnquist, had authored three books on the history of the Court and the American legal system.

As Chief Justice, Mr. Rehnquist led not only the Supreme Court but the entire third branch of government. In that role he was an eloquent advocate for a strong and independent judiciary. In his annual reports on the judiciary and other public pronouncements, Chief Justice Rehnquist championed the interest of the judicial branch, earning praise from judges of all jurisdictional stripes.

At all times Chief Justice Rehnquist performed his duties of office with nobility and courage. Even in his recent sickness, he found the strength to administer the oath of office to President Bush and to consider the challenging cases that came before the Court.

Peggy Noonan wrote of President Bush's inauguration, "And the most poignant moment was the manful William Rehnquist, unable to wear a tie and making his way down the long marble steps to swear in the President. The continuation of democracy is made possible by such gallantry."

Our Nation is deeply indebted to William Rehnquist. Above all, the rule of law was paramount for Chief Justice Rehnquist. He understood that our government cannot survive without a judiciary that places the rule of law above politics.

Justice Rehnquist has tirelessly served our Nation for the last 3 decades, and he serves a permanent legacy as one of the great Supreme Court Justices. The next Chief Justice will surely have big shoes to fill.

At this time, Mr. Speaker, I would like to yield as much time as he wishes to consume to my colleague, the gentleman from Arizona (Mr. FRANKS).

Mr. FRANKS of Arizona. Thank you, Mr. Speaker, and thank you. We call you Judge Carter here in this institution. Mr. Speaker, the gentleman from Texas (Mr. CARTER) has earned a great deal of respect in this institution because he is not only a man that brings judicial experience to this body, but he is someone that we can all trust. He is someone that we know has a heart that burns with patriotism, for love for his country, for love for his fellow human beings and just a commitment to human freedom.

And I want you to know, Mr. Speaker, that it is my precious honor to serve with a man like Judge Carter, we call him. You know, and perhaps that is all too appropriate tonight as we speak of judges, because we talk sometimes of judges legislating from the bench. Maybe Judge Carter comes to this body with just the kind of experience he needs to have. But we are grateful that he is a man that did not legislate from the bench, and that he understands the difference between the judiciary and the legislative body.

And with that, Mr. Speaker, I would just like to pay a few words tonight of tribute to a towering figure in our country, Chief Justice William Rehnquist.

The era of the Rehnquist Court has come to a close, and William H. Rehnquist has stepped quietly into the arms of God. Chief Justice Rehnquist was one of America's great Chief Justices. This Nation has suffered a great loss with his passing, and as twilight falls upon this remarkable man's career, the most notable elements of his extraordinary legacy must not be lost to revisionist history, Mr. Speaker, because in his tireless defense of the United States Constitution, Chief Rehnquist strongly advocated for a judiciary that applies the law rather than legislates from the bench.

We, as Americans, should be very grateful for our Founding Fathers and for the genius of the constitutional system that they left to us. It was a framework that protects human dignity and individual freedom by enforcing limits on government power. It is incumbent upon ours and future generations to jealously guard that precious gift bestowed upon us by our forebears.

Chief Justice Rehnquist spent decades on the highest Court in the land acting as the Constitution's protector. He was a constitutional originalist, defending the process of interpretation of the law that is constrained by the text and the original meaning of that great document.

Mr. Speaker, there is a fundamental reason why we, as a self-governing people, so carefully put pen to paper to memorialize our Constitution and our laws and our great founding documents. They are written words that have become an agreement between the people and the government. We write it all down to keep a record and an understanding of the limits placed on government by the will of the people.

□ 2115

Chief Justice Rehnquist's efforts to advance this understanding that at times the Federal courts must enforce limitations on Federal power while recognizing the preeminent role of democratically elected institutions at both the State and Federal levels. Chief Justice Rehnquist was a valiant defender of States' rights in recognition of the superiority of a federalist system when governing peoples of divergent views, divergent faith and cultures.

He was an influential man in leading the Court back toward the original intent of the Constitution after decades of abuse by a liberal activist Court born of the Roosevelt era and the New Deal philosophy.

Mr. Speaker, that New Deal activist Court actually delivered such bizarre rulings as in Wickard v. Filburn, a ruling that a man in Ohio who was growing wheat in his own backyard as a means to feed his family and his own livestock had somehow violated the Interstate Commerce Clause of the United States Constitution because of the quantity of wheat that he grew could have actually been sold.

Moreover, in their unanimous decision, this liberal activist Court affirmed, "If we assume it is never marketed, homegrown wheat competes with wheat in commerce. The stimulation of commerce is a use of the regulatory function quite as definitive and quite as definitely as prohibitions or restrictions thereon."

Mr. Speaker, what a circuitous and false logic.

The stage was then set of course by this activist Court for massive expansion of Federal power. Year after merciless year a liberal Supreme Court, drunk with self-imposed power, delivered an unprecedented assault upon the rights of the States and of the people.

During his years on the court, especially his early years, Mr. Speaker, Justice Rehnquist was often called the lone dissenter to outrageous decisions, even once receiving a Lone Ranger doll awarded by his friends. But yet his adherence to the Constitution, faithfully expressed in some of his earliest dissents, had great influence upon the Court as evidenced in later majority opinions where he was vindicated in his previous conclusions.

In 1973, when the Supreme Court illegitimately bestowed its imprimatur on abortion on demand, it was Justice William Rehnquist who wrote a scathing dissent to that majority opinion in Roe v. Wade. He said, "To reach its results, the Court necessarily has had to find within the scope of the 14th amendment a right that was apparently completely unknown to the drafters of the amendment." How very eloquent.

Chief Justice Rehnquist was also instrumental in fighting back assaults on religious freedom in his efforts to make clear that the Constitution ensures government neutrality in matters of religious conscience, but not the requirement to move religion altogether from the public square. He understood the Constitution.

In the 1995 case of United States v. Lopez, the Rehnquist Court marked the first time in over 50 years, Mr. Speaker, that the Supreme Court upheld the rights of States, ruling against the expansion of Federal power and finding a Federal law in violation of that now woefully distorted commerce clause of the Constitution.

Chief Justice William Rehnquist was often found standing in the breach of defense of the Constitution, endowing this Nation through the years with a noble legacy of resistance to a liberal, activist Court determined to make its own law and enact its own agenda.

Mr. Speaker, he gave the American people his last full measure of devotion and stayed at his post through great personal pain and sacrifice while he was fighting cancer. To the very end, he led a brave and good-natured effort to restore the Supreme Court to its ethical grounding.

Mr. Speaker, as we bid loving farewell to this stoic champion, I reflect upon the words of Alfred Lord Tennyson in tribute: "Though much is taken, much abides; and though we are not now that strength in which the old days moved earth and heaven; that which we are, we are, one equal-temper of heroic hearts, made weak by time and fate, but strong in will to strive, to seek, to find, and not to yield."

Mr. Speaker, when the final battle with illness and physical weakness came to Chief Justice William H. Rehnquist, he resolutely remained at his post for his President, for his country, and for the future of all mankind. He did not yield.

Mr. CARTER. Mr. Speaker, I thank my colleague for that very well-presented picture of this great man that we are talking about here tonight.

The gentleman is right. There was a time when William Rehnquist stood alone for the rule of law and a strict interpretation of the United States Constitution in a world where lots of people actually made jokes about him, that were of the other persuasion.

To us that are conservatives and respected his intelligence, his wit, and his humor, and his bulldoggedness, he was someone that we respected and we loved because when he got ready to do his job, he did it.

One of the things you can look at is, when your colleagues who disagree with you have comments that are positive about you, I think that speaks a lot about not only his ability to stand his ground but his ability to stand it with grace as a man who demanded and received respect because of his behavior and because of the way he handled himself.

Now, Chief Justice William Brennan is well known for the way he uses certain language. I am going to read a quote from Justice Brennan, and some of it is a little rough, but I think we will enjoy it. He is talking about Justice Rehnquist.

"He is just a breath of fresh air. He is so damn personable. He lays his position out, casts his vote. You know exactly where he stands on every goddamn case. And he's meticulously fair in assigning opinions. I can't begin to tell you how much better all of us feel and how fond all of us are of him personally." That is a quote from Justice Brennan.

Another of his colleagues, Justice Louis Powell said, "In many ways he is the best-educated person I have ever worked with, very familiar with the classics. He'll quote them with confidence. Everybody agrees generally, I suppose, that he's brilliant, but he has a good sense of humor and he is very generous and he is principled."

Former Supreme Court Justice Thurgood Marshall said, "Rehnquist is a great Chief Justice."

All these people were people on the other side of most of the issues with William Rehnquist, and yet they speak of him as a colleague that they highly respect and they believe he handled himself very well.

As we are talking about colleagues that we respect, I see that we are joined today by the gentleman from east Texas (Mr. GOHMERT) and also one of my judicial colleagues, coming to this august body from the judiciary of Texas, which is getting to be a habit for quite a bit of our congressmen, and we are glad to have him. I wonder if the gentleman would like to step up and make a statement about the Chief Justice and join in a colloquy about the Chief Justice.

Mr. GOHMERT. Mr. Speaker, it is a pleasure and an honor to be here to talk about the great Chief Justice William Rehnquist.

The gentleman knows, those of us that really believed in strict constructionism, that the Founders and writers of the Constitution meant what they said, know this to be a great man, a brilliant man. We do mourn in the passing of the Chief Justice, 19 years, as the gentleman pointed out, as the Chief Justice, 34 years as a Justice. That is incredible that he maintained his humility, his sense of purpose, his servanthood-type mentality.

I just want to highlight some things. Under his leadership the 10th and 11th amendments began to have more meaning, as they were intended. For so long they had just been forgotten. The 10th amendment talks about if it is not an enumerated power, basically it is reserved to the people in the States.

This is a man that had an intellect unsurpassed by anybody on the Court, past or present, and yet sometimes the intellect seems to get in the way and you cannot see the forest for the trees. He saw the words in simplistic brilliance. He knew they meant what they said and he said so.

In Alden v. Maine, Seminole Tribe v. Florida, U.S. v. Printz, U.S. v. Lopez, that was one the Chief penned himself, those were cases where he pointed these things out.

In the Lopez case, it is a great case, one of my favorites, it had the powerful language that reins in the commerce clause power that Congress has. And he explained that commerce clause means what it says. You cannot just keep reaching out and say a school is part of interstate commerce. That is not the intention and everybody knows it. And he helped rein in the Court to where it should be.

Now, the Chief Justice wrote the 2005 opinion Van Orden v. Perry that allowed the State of Texas to continue to display a monument containing, among other things, the Ten Commandments. As I sat there and listened to the oral argument before the Supreme Court, and I am a member of the Supreme Court bar, and it was an honor and privilege to be sitting there, you look up and you see Moses holding the Ten Commandment tablets and, here they are trying to decide if it is okay for the State of Texas to have a monument to the Ten Commandments.

He understood the hypocrisy. He understood how silly it was for people to try to be so intellectual, as a lady back in Mount Pleasant where I grew up used to say, "Some people have a Ph.D. but the truth is they are still P-H-U-L's. They are fools." But the Chief Justice had that kind of delightful sense of humor as well.

In the establishment clause he framed the issue very well when he said, "This case, like all establishment clause challenges, presents us with the difficulty of respecting both faces. Our institutions presuppose a Supreme Being. Yet these institutions must not press religious observances upon their citizens. One face looks to the past in acknowledgment of our Nation's heritage, while the other looks to the present in demanding a separation between church and State. Reconciling these two faces requires that we neither abdicate our responsibility to maintain a division between church and State nor evince a hostility to religion by disabling the government from, in some ways, recognizing our religious heritage."

At times, like the World War II monument where they just did not include the part where Roosevelt said, "So help us God," like that was going to offend somebody, it reminds me, I had a summer in the Soviet Union back in college. Stalin wrote Trotsky completely out of the history books. That is what Chief Justice Rehnquist was saying. You cannot just rewrite history to suit yourself. A Supreme Being, the acknowledgement of God, has been part of our history, and it should not be ignored.

The Chief quoted a case previously decided by the Court in 1952 because he also believed in precedent, like we do, like we did as judges; that is what we are supposed to do. That has been placed as far back as a rule for justices to follow. He understood that just because something, a monument, a speech or a display, contains religious symbols or words, it does not mean that it violates the establishment clause.

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On the sensitive issue of abortion, the gentleman from Arizona (Mr. FRANKS) pointed this out, he was steadfast. He said the States have that right. They have the right. So he dissented in Roe v. Wade; and again, he dissented in Parenthood v. Casey. It was clear to the Chief, he believed, that States had a right to place restrictions unless they were prevented from doing so by clear language of the Constitution, and that simply was not there.

This same usurpation that Members of Congress just talk about daily, this was a man that lived it. He did not believe in usurpation of the State and local governments' rights.

As I reflect on the Court and awe and reference from such a humble man of peace, man of life, I could not help but think about the words in the Declaration of Independence. We are created equal by our creator, but it is pretty clear a lot of us did not get this equal amount of common sense.

Everybody on the Supreme Court is brilliant, some of the brightest minds in this country; and yet the common sense was not equally passed around those nine Justices. So things that made complete sense, common sense, were so simple that it apparently flew right by some of the pseudo-intellectuals. Here was a man who made the complicated simple, as it should have been. He is a man this country owes a great debt of gratitude to. He is a man that I will always have great respect for. He is a man that should and could be a role model for all Americans. He loved liberty more than self.

He was a servant, and I thank God for Chief Justice William Rehnquist. I thank God for the life he lived. I thank God for the life he tried to make sure that others would have as well, and our thoughts and prayers will continue to be with his loved ones.

I thank the gentleman from Texas (Mr. CARTER) for giving me an opportunity to share in this tribute. It does weigh heavy. It is important that we pay tribute to such a great man.

Mr. CARTER. Mr. Speaker, I was thinking back. The gentleman from Texas (Mr. GOHMERT) and I both served in the Texas judiciary, and I do not know if you were there at the time or not and if you remember. At one point in my 22 years on the bench this took place, but we had a State judicial conference. Our guest speaker was a very, very personable and intelligent professor of law from the University of Virginia. He actually was smart enough to carry two full days of education for judges by himself, and you have got to be pretty good to do that.

In one of these sessions, he was analyzing the President's Supreme Court, and this was prior to Chief Justice Rehnquist becoming Chief Justice, when he was Justice Rehnquist, and he was talking about the makeup of the United States Supreme Court at that point in time.

He started by tracking the liberals on the Court, which at that time was the vast majority; and he talked about their capabilities and what direction they wanted to take things and all this stuff. Finally he got down and he said those of you who are feeling very depressed because you do not have a liberal bend towards the law, do not lose heart because you have a champion, and he is equal to the task of all those we have just discussed put together in his ability to analyze and take forward his view of the United States Constitution.

He said never sell short William Rehnquist. He knows what he is doing; he knows where he wants to take the law; and he will take it there. And believe me, as long as it is a Republican in office, he should and will be the next Chief Justice of the United States Supreme Court, and at that time he will turn the corner on many of the decisions which we have found to be very strange and not very well directed towards the trial courts and the trial courts' abilities. So do not lose heart. You have a champion and he is a white knight and he will deliver for the conservative view, the rule-of-law view of the Constitution.

He certainly did. Even though he wrote dissents, sometimes those dissents were so telling that they moved the Court slowly. Absolutely a phenomenal intelligence and ability to wordsmith, to word things so that they led us in a direction we needed to go.

Mr. GOHMERT. Mr. Speaker, if the gentleman will yield, I think about one of the last cases the Court decided under his Chief Justice administration, the Kelo case. He was in the dissent, and it brings to mind the quote, "The price of liberty is eternal vigilance." He did a great deal. He was able to help turn the Court back toward having the Constitution mean what it said.

Yet, here again, the Kelo case, he dissented. He was, as you say, very clear, very precise. He had Justices Scalia, Thomas, and O'Connor with him on that in dissenting. They all four dissented, and yet a majority of the Court turned around, said you know what, we are going back to the day of fiefdoms and kings and dukes. So whoever is better friends with the ones in power, well, they can just flat take land away from those that have, if they are going to promise to provide more bounty to the ones in power. Phenomenal decision, just an embarrassment. It should be for everyone who sits on the bench anywhere.

Yet, to the very end, he maintained his integrity, he maintained his principle, he maintained the clarity of mind to understand not only is that not right, not only is that not fair, not only is that un-American, it violates the Constitution.

Mr. CARTER. Mr. Speaker, if I can reclaim my time, I noticed that the gentleman from Iowa (Mr. KING), our friend, has arrived in the Chamber. I would really like to hear what he has to say about Justice Rehnquist. So I yield to our colleague and good friend from Iowa.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman. It is an honor for me to stand on the floor here with two of the three judges that we have from Texas to help guide us down through this constitutional path and my good friend, the gentleman from Arizona (Mr. FRANKS), who is a pure constitutionalist and whom I have the honor to serve on the Subcommittee on the Constitution with.

I have a lot of things to say about Chief Justice Rehnquist, and it is an honor for me to have an opportunity to say a few words here, but I would like to first start by recapping some of his life. That is a life just so well-lived and so impressive to see what he has done and how he put it together piece by piece, almost without flaw.

Looking back through that life, we know that we have lost a great public servant just last Saturday, and it happened in the middle of the disaster down in the gulf coast. So some of the media was swamped by those current events, and this happened underneath that shell in a way that we need to raise this up and commemorate this man's life in a special way.

He was just a month short of his 81st birthday. He battled cancer that eventually took his life, but he battled it with the same determination that he battled for principles that we all here hold so dear.

The Chief Justice awed the Nation by never giving up, and he never retired. He continued his service to our Nation until the very end. He was consistent with his lifetime of service, and he also was consistent with the vision of the Founding Fathers in that these Justices would be appointed for life. They were expected to serve for life or until retirement. He served a full, full lifetime for this country and 33 years, and he was consistent and true to his principles all the way through. He was a noble and honorable American who was part of the Greatest Generation. Examining his lifetime and career gives us insight into this powerful figure.

He devoted the majority of his life to serving this country in numerous capacities, and I take you back to 1943 to 1946 where he served in the U.S. Army Air Corps, and there is no question he had an incredibly deep intelligence.

He attended top schools, earning numerous advanced degrees, and was consistently at the top of his class, and unquestionably served as a model for his fellow students.

He received a BA and an MA in political science from Stanford and another master's in government from Harvard. He graduated first in his class from Stanford in 1952, just two places ahead of Justice Sandra Day O'Connor. He served as a law clerk for Justice Robert Jackson on the Supreme Court of the United States in the 1951 and 1952 terms and practiced law in Phoenix, AZ, from 1953 until 1969.

He served as Assistant Attorney General in the Office of Legal Counsel from 1969 until 1971. As Assistant Attorney General for the Justice Department's Office of Legal Counsel, it was one of his primary functions to screen potential Supreme Court candidates.

When Justice John Marshall Harlan retired, a search went out for a replacement, and Attorney General John Mitchell, who many of us remember, he was Rehnquist's boss at the time, announced he had found someone suitable for the job. That person was Justice Rehnquist whom Nixon appointed to the Court. So at the tender age of 47, which at that time was a young age for those appointments, and at this time as well, he was confirmed as Associate Justice on December 10, 1971, by a vote of 68 to 26. I can only imagine there are 26 votes out there that would like to have the opportunity to reconsider that vote.

His first day on the job was January 7, 1972. He served on the Nation's highest court throughout seven Presidencies. In 1986, Chief Justice Warren Burger retired, and President Reagan nominated Justice Rehnquist through to the reins of the Court as Chief Justice. There was a confirmation debate and deliberation that ensued. He was confirmed as Chief Justice on September 17, 1986, by a vote of 65 to 33, another 33 that I believe would like to have a chance to reconsider that vote in light of the historical 33 years of service of Chief Justice Rehnquist.

We have gotten to know a little bit more about him in the last few days. His management style, his effort to be fair, to be a giving and forgiving boss, but one that was also a task master. As a result he was able to form a cohesive Supreme Court body. Even though they had a lot of different personalities and a lot of different kinds of common sense they brought to their jurisprudence, Justice Rehnquist pulled them together. He left quite a legacy.

In elementary school, he was asked about his career plans by his teacher, and what I think is one of the best prophesies I have heard of a career in some time, he replied, "I'm going to change the government." Now some people say, I am going to change the government, they mean they are going to grow government or they are going to adapt government in light of modern contemporary values.

Chief Justice Rehnquist did change the government. He fought a rear guard action to preserve our Constitution, the text of the Constitution. He was a constitutionalist. He was a model of judicial restraint. He stayed true to the principle and the paramount principle which is strict construction. No matter what path the other members of the Court took, at the beginning of his career on the Supreme Court, Justice Rehnquist was often a dissenter on a Court filled with judicial activists. He held firm to the guidance that the Constitution itself provides and was eventually joined by allies who helped him hold on to some of the meaning of our Constitution's text.

He led the Court in preserving States' rights, which was referenced here, and I appreciate that discussion; but it started with U.S. v. Lopez, which struck down a Federal law banning guns near local schools. Now I approve of the policy, but I more approve of his constitutional decision in dissenting from the Congress's policy. In U.S. v. Morrison, which struck down substantial parts of the Violence Against Women Act, again something, a policy, that I approved of, but a constitutional decision that I agreed with, and I appreciate that restraint.

He was not yet there on the Court when Griswold v. Connecticut in 1965 established a right to privacy. I wish he had been there on that day because that was the day that the Court turned to an extreme activist Court, established this right to privacy that had never been found in the Constitution before. It was discovered in the emanations and penumbras of the Constitution, meaning that we laypersons could not divine that. In fact, maybe some of the judges here could not have found that right in the Constitution either.

He was a staunch defender of the right to life. He authored Rust v. Sullivan, where the government can withhold funds from clinics that advocate abortion. He strongly dissented in Roe v. Wade; Planned Parenthood v. Casey, which reaffirmed Roe v. Wade; and in Stenberg v. Carrhart, which was the constitutional decision that found a right to partial birth abortion. Justice Rehnquist held the line against that. He needed more help on the Court. Most every day he was there he needed more help on the Court. He firmly rejected the extra constitutional right to privacy that his colleagues created.

□ 2145

Chief Justice Rehnquist also did something many shy away from today. He recognized that the free exercise clause of the first amendment is just as important as the establishment clause.

He authored the 2002 case that upheld school vouchers in Zelman v. Simmons-Harris, and strongly dissented in the 2000 case that held that public schools could not allow organized prayer at sporting events, even if the speaker is a student, and that was Santa Fe Independent School District v. Doe.

He joined the majority in Agostini v. Felton in 1987, which allowed public school teachers to provide remedial education in parochial schools.

Rehnquist dissented from the Court's 1985 decision that moments of silence in public schools are unconstitutional. That was Wallace v. Jaffree.

And in 2003, he strongly dissented in the Court's affirmative action cases, Strutter and Gratz, which we remember.

And I sat in on those cases and I remember watching him sitting on the bench as he deliberated on those presentations and oral arguments. He condemned the racial preference policies as a sham and a naked effort to achieve racial balancing. His position in 2003 matched that of the majority he joined in the 1978 Bakke case, which held that Federal law does not permit a university's consideration of race in admissions.

He was consistent from 1978 until 2003. He was consistent until the last day of his life. Justice Rehnquist opposed the reading of "public use" as being substituted for "public benefit" in this summer's Kelo eminent domain decision, which we have had much discussion about here on the floor of this Congress. And I think all of us have engaged in that. He argued the fifth amendment means what it says.

And I would support that statement that those 12 words in the fifth amendment of the Constitution, "nor shall private property be taken for a public use without just compensation," are some of the clearest and cleanest words that we have in the entire Constitution, yet the majority of the Court, with Justice Rehnquist and Justice O'Connor dissenting, held otherwise. I do not believe that the fifth amendment could be written more precisely, more concisely, and I would challenge the attorneys that we have across this country to write that better than it has been written.

Both the personal and case histories I have discussed here show that Chief Justice Rehnquist, whose passing we mourn, whose legacy we celebrate tonight, was a man of great principle and honor. I firmly believe that without Chief Justice Rehnquist's presence on the Court for the last 33 years, our Constitution would be unrecognizable. It is to him that we owe our deepest thanks for preserving our Constitution for future Americans to fully restore to its original text.

I would say that there was a time in my life when I had the privilege and honor to sit in the presence of this great man. I am not going to pose the question here into this RECORD tonight, but I posed a question to Justice Rehnquist that caused him to deliberate for quite some time, and he finally answered, "I am going to elect not to answer that question." Now, I do not believe he elected not to answer the question because he did not know the answer. I believed he elected not to answer the question because of how the answer would reflect on the other members of the Court.

He had an ability to do a calculation on a question or a problem and boil it down to the root quicker than anyone that I have watched process these heavy legal questions.

He was a giant of a man. He lived a life that was well lived, and we are here to celebrate tonight and give great honor to a man who hung on to this Constitution as dearly and as strongly as anyone has been charged with when they take the oath to uphold this Constitution.

It has been an honor to be a citizen of this country for the 33 years that he has served us so well. It has been an honor to have worked with him, to have been in his presence, and to deliberate with him on those occasions, and an honor to be in the courtroom to hear the oral arguments and an honor to read the opinions that he has given us. He has left us a legacy.

He has also left us a duty and a responsibility to pick up this ball now, and where he has held onto this Constitution, it is our job to carry forward and reestablish the text of this Constitution that he held so dear, and that we all hold so dear.

Our prayers go out to the family. Our prayers of gratitude for the lifetime, the legacy of Chief Justice William Rehnquist will continue into the future.

As I say, it has been an honor to be serving in this government with a man like that, and I hope and pray that we will be able to carry on the legacy that he left for us.

Mr. CARTER. Mr. Speaker, I thank the gentleman for his comments, and I was thinking as he was speaking, and he gave an excellent presentation of the Chief Justice, but we are joined here in the Chamber today by two men who basically made their entire life a part of dealing in the justice system both as members of the bar, members of the bench, and who also built, basically from scratch, from what I know of both of them, very successful businesses, overcoming insurmountable obstacles. And then, when they had the ability to continue to go out and make those businesses thrive, they volunteered to come to Washington and become a part of the justice system, a part of the legislative branch of our government. This kind of defines the kind of man that Justice Rehnquist personally reached out to, kind of everybody.

He wrote the opinions of those of us who honor our heritage, who honor the language that our forefathers wrote into the Constitution and think that if that is what it says, that is what it says. It does not take a genius to read the paper and say that is what it says. And with all his skill and writing ability, really you can cut it down to the fact that that is the way he looked at it. He said, Wait a minute, let us read the Constitution. That is what it says. It speaks volumes that Justice Rehnquist was able to do that in such a talented manner and in such a manner that challenged legal scholars across the country.

One of his opponents from Harvard University made a comment about him, something to the effect that no matter what you thought of him, whether you agreed with his ideology, he said, I have to give Rehnquist an A. That is the kind of talent that he had. He could take the causes that those of us working in the trenches, the trial judges, and we liked to say there is a difference between trial judges and appellate judges. We shoot from the hip and make those decisions and then they get to grade our papers. Of course, Judge Gohmert has been both, so he has experience in both those areas, but I am just an old trial judge.

Mr. GOHMERT. If the gentleman will yield, I might just say that it is easier to grade papers after people have shot from the hip.

Mr. CARTER. Well, at least you know they are shooting from the hip.

Mr. GOHMERT. But we all loved, I think, his simplicity. Even towards the end of this great man's life, I remember seeing on television the reporters all after him, asking are you going to resign or are you going to retire? And he came back, this man of brilliance yet simplicity, and said, It is for me to know and for you to find out. That is the kind of man he was even to the end, cute, humble, and a lot of fun.

Mr. KING of Iowa. Mr. Speaker, if the judges would yield, there is another anecdote that is worth mentioning, and I do not know if it has been passed along here tonight, but I think it demonstrates his sense of humor. And sometimes it was self-deprecating and sometimes it was succinct.

Several years after he had been appointed to the bench, he was asked what it is like to serve here on the Supreme Court. He said, Well, you spend the first 2 years here wondering how you got here, and the rest of your time wondering how they got here.

Mr. CARTER. Mr. Speaker, I thank the gentleman for sharing that, and I now yield to my colleague, the gentleman from Arizona (Mr. FRANKS).

Mr. FRANKS of Arizona. Mr. Speaker, I think my primary reason for being here tonight was just to not let this man's towering contribution to the judicial process slip away into history. There is an old quote by Dostoevski. He said, "He who controls the present, controls the past. And he who controls the past, controls the future."

Of course, as somebody was saying, there are a lot of revisionists out there trying to rewrite history in order to affect the future, but this man's history is very important to our country. I will make a prediction tonight that a lot of the decisions, where he found himself in dissent, in the next 20 or 30 years will turn in the other direction, and we will see that this man was before his time.

There is a saying that if you fail without succeeding, if you struggle without succeeding, it is so someone else might succeed after you. And if you succeed without struggling, which I think some of our modern-day justices are going to do, it is because someone has struggled and succeeded before you. This man, I believe, is going to be vindicated in society, because he did not find a lot of these hidden things that the gentleman from Iowa (Mr. KING) talked about.

We have seen judges say that somehow the words in the Pledge of Allegiance, "under God," might be unconstitutional; or that it is unconstitutional to protect a 9-year-old girl from

Internet pornography, or it is unconstitutional to protect an unborn child from partial-birth abortion. With regard to all of these insane notions, he did not see them.

One woman said, Maybe these judges who find all these things ought to be out looking for Osama bin Laden if they are that good at finding things that are not there.

This judge saw the Constitution for what it was. He did not try to make a new revolution. He simply tried to affirm the one we already had. I think that tonight we celebrate the life of a man that many justices of the future will stand on his shoulders and look back and say, you know, Judge Rehnquist was right, Justice Rehnquist was correct.

The ship of state turns slowly sometimes, but this man had his hand on the rudder long before the rest of us even knew. And I again just wanted to join with all of my colleagues and honor this man's life.

Mr. CARTER. Mr. Speaker, I thank the gentleman for his comments, and let me say this. As we discuss Chief Justice Rehnquist and what he has accomplished and the legacy he brings to the United States of America, we are doing this on the very eve of the beginning of the new selection of a Chief Justice of the United States Supreme Court. It is, I think, appropriate to realize that as Judge Rehnquist was serving 33 years on the highest court in this land, he also was writing history books to record history.

He knew just what my colleague said, the gentleman from Arizona (Mr. FRANKS), that it is important that we remember the history as it was, not revise it to make it what we want it to be. So he wrote three history books about the Court so we could say, Well, what does history tell us about that event at that time? And so the judge, the great researcher, has given us the research and a direction on the history as it pertains to the Court, something the other justices of the Court that will follow can turn to as additional information to get a picture of where the Court was coming from as it made rulings.

It is very important, and I hope our colleagues in the Senate, as they look at the confirmation of Judge Roberts, I hope that they are looking at the history of the United States Supreme Court and the legacy of William Rehnquist.

Mr. KING of Iowa. Mr. Speaker, there is a point that comes to mind, and I can get it quickly made. This right to privacy that was in the emanation's penumbras, in the shadows, was something that was never recognized by Chief Justice Rehnquist. That right to privacy will be presented to Judge Roberts, and he will be asked. In fact, he will be demanded to recognize that right to privacy as a condition of his confirmation over in the Senate, a very right to privacy that Chief Justice Rehnquist never recognized.

That is how they are going to try to amend the Constitution and the confirmation process over in the Senate. I think it is important to recognize that the legacy of Justice Rehnquist should be preserved in the confirmation process in the Senate as well.

Mr. CARTER. I wonder how you can be unqualified to serve by not recognizing that right, when there are members sitting on the Court at this time who do not recognize that right.

The point of a Supreme Court is that there are multiple points of view, and you should not be requiring only one point of view on the United States Supreme Court. To make a confirmation hearing dependent upon one point of view absolutely flies in the face of justice in America.

Mr. GOHMERT. Mr. Speaker, I appreciated hearing from my colleague from Iowa regarding his saying in elementary school that he wanted to change the government. I think about the example of the emperor who had no clothes, yet all the crowd got swept up in seeing clothes that were not there and saying, Oh, are the clothes not beautiful? They were not there. Chief Justice Rehnquist was one of those if he had to stand alone and say they are not there, there are no clothes, he did it.

Just in conclusion, I think about the end of Frost's poem: Two roads diverged in the woods for Chief Justice Rehnquist many years ago, and he took the one less traveled by, and that has made all the difference. It has, in fact, changed a Nation for the good.

□ 2200

Mr. CARTER. Mr. Speaker, reclaiming my time. I thank the gentleman. One of the downfalls of appearing in the Congress with the gentleman from Texas (Mr. GOHMERT) and the gentleman from Arizona (Mr. FRANKS) and the gentleman from Iowa (Mr. KING) is these guys are great in quoting all these things off the top of their head, and that is hard for an old trial judge who is just used to shooting from the hip. I do enjoy the wonderful quotes these guys pull out and quote them right. It is a blessing to have them as Members of our Congress.

Mr. Speaker, you have been very patient today as we honor our passing Chief Justice of the Supreme Court, as we laid him to rest today. We thank you for your patience in allowing us to express our opinions about him.

## ISSUES AFFECTING AMERICA IN THE AFTERMATH OF HURRICANE KATRINA

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes.

Mr. MEEK of Florida. Mr. Speaker, it is an honor to address the House once again. I am glad that we are here back in the people's capital of the United States to represent those that sent us up here to represent them.

This hour is designated by the Democratic Leader, the gentlewoman from California (Ms. PELOSI), and the rest of our leadership on the Democratic side, the gentleman from Maryland (Mr. HOYER), also the gentleman from New Jersey (Mr. MENENDEZ), and the gentleman from South Carolina (Mr. CLYBURN), our vice chair of our caucus; and week after week we come to the floor to share with Americans issues that are facing not only them, but also this country.

I can tell you that we appreciate the fact that the leader had enough foresight and insight to know that not only those of us that are in the 30-something Working Group, but young Americans, have to have a voice in this process.

As you all know, in the aftermath of Hurricane Katrina and a number of other issues that have faced the Nation since we recessed for the summer to go back to our districts to also take care of other congressional business, there is a lot that has happened for and to Americans. I think it is important for us to just reflect a little bit on what has happened as it relates to Hurricane Katrina.

Tonight I am joined not only by the gentleman from Ohio (Mr. RYAN), but also the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), who is my neighbor in Florida and representing south Florida. The gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) and I, both our districts were touched by Hurricane Katrina as a Category 1 storm, but not as a Category 5, some may say 4, that hit the gulf coast area; and our hearts go out to those individuals that are going through the process.

I think tonight not only are we going to talk about the issues that are facing many of these families, but many of them are young families, many of them are elderly; and because of the mistakes and the failures in some part of our emergency management agency and other responding agencies, there was loss of life that could have been prevented. I think we should take this in a very serious way. The responsibility of this Congress, one, is to ask the questions and to make sure it does not happen again.

I do commend not only the Democratic leader for recommending that there be a task force or a select committee to deal with the issue of the recovery process and to be able to review the whole Hurricane Katrina experience, but I am glad that the Speaker has taken her recommendation and moved on it and they will appoint a task force to deal with this issue, because I think it needs the kind of oversight to make sure that we do not make the victims victims over again because we thought that it was important to appropriate some $50 billion-plus towards the recovery effort without the appropriate oversight to make sure that it gets where it is supposed to be.

Mr. Speaker, I also feel, before I yield to my colleagues, that it is important that we all understand that we are in the first 2 minutes of the first quarter, if this were a football game, as it relates to the recovery process. I think the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) and other Members from States that are constantly hit by hurricanes understand that we are in the very early stages.

We know that a number of Americans have been turned off by the recovery and the response, and there will be a time and place to be able to identify that. That time is now, that time is also in the future, but also to make sure that we do not continue to fumble the ball.

When I say "we," I think it is important to understand that we do have an executive branch that has the responsibility for appointing responsible individuals to carry out the task that we legislate for here in this Congress, and that we make sure that they have the dollars, A, that is the question as relating to levees and other preventative measures that could have prevented loss of life; and, B, making sure that there are individuals that can make the decision without an act of Congress to go in and save lives in a timely manner.

So, I am glad, Mr. Speaker, that we are here. I am glad that the 30-something Working Group, that one thing that not only the Democratic Caucus can count on, but also this Congress can count on, we will come here week after week to make sure that the American people know what they need to know and make sure that this Congress also hears the voices of those that cannot be heard here.

I have some information, but I am going to yield to my colleagues, A, talking about the process on what are the programs that are available to Americans, because, Mr. Speaker, I feel those that are victims, and I am talking about in the tens of thousands, that are victims, some are in shelters, but, guess what? Many have been taken in by their family members and friends throughout the country. Maybe FEMA, maybe the State government, maybe the local government has not been able to locate these individuals to let them know what they are eligible for.

If they left their home in the middle of a storm trying to swim out of their home and the water is over the roof, they may not know they are eligible for assistance from the very government they have been paying taxes through the noses to over the years. So as it relates to their home and as it relates to their job, to even making sure they are able to receive the kind of counseling, their children receive counseling, it is important that we tell them and break it down to the point that they can understand. If they have a problem as it relates to getting that information, that is what their Member of Congress is for.

So we have people throughout this country, we have the list of how many people are displaced in different States, but how many of those individuals cannot be reached. Hopefully, we will reach family members and loved ones that can share with them their rights, so that they will be able to take advantage of some of the assistance that has been provided thus far.

Mr. Speaker, with that, I yield to my good friend and colleague, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I thank the gentleman. It is again great to be here with my colleagues from Florida and Ohio. It is so important that we spend the time that we spend here each week helping to get the message out to our generation and, quite honestly, to the generations ahead of us and behind us.

We had a devastating tragedy happen to us in our country, and that is to all of us, about 10 days ago. The gentleman from Florida (Mr. MEEK) and I literally live at one point or another through every storm in the "cone of error," as every storm that approaches the United States at some point or another, the gentleman's and my home and the homes of our constituents are in the cone of error for some period of time. So we know what it is like to stare down any one of a number of different levels of hurricanes or tropical storms.

As we speak tonight, we have Ophelia just about 100 miles off the coast of our State, yet again another tropical storm warning. We are up to "O" now. It is just never-ending.

One of the things that I would like to spend some time on tonight with both of your indulgence is we do need to get the information out, and one of the things that I did on Tuesday at home in south Florida was help to try to channel the energy of south Floridians who obviously were devastated by the last Category 5 hurricane that hit the United States and that unfortunately hit us in south Florida, deep in the hearts of our community, and we had an outpouring of affection and assistance from across the world. So you can imagine listening to this, what people in south Florida so badly want to do is return the favor and give back to the people in the gulf States and across the country what was given to them 13 years ago.

They do not know where to channel that energy, because there are so many relief organizations, so many on-the-spot relief organizations that have cropped up in the last week; and, unfortunately, if you recall during Andrew and during the 9/11 attacks, you have groups that will form within a matter of days to take advantage of a whole lot of money that is flowing through people's hands.

So what we did in south Florida is we channeled people's energy through one organization, Volunteer Florida, which is an organization affiliated with the State that exists throughout the year to help foster volunteerism. But we turned it into the clearinghouse for our State and gave people a phone number that they can call. I will check my notes and provide it. I do not want to give out the wrong number. Logon to www.volunteerflorida.org. We are trying to make sure that people go through an agency they know they can have confidence in.

Beyond that, there is an absolute necessity, I feel, for us to talk about what has gone on in the last 6 or 7 days, or, rather, what did not go on, because it is just absolutely unacceptable to me, and unacceptable is not a strong enough word.

The response, the lack of response, the indifference, the insensitivity and the actions and words of the leadership that is running this country in response to this devastating tragedy is just inexcusable to me.

While I have heard many of my colleagues and other people across this country say now is not the time for finger pointing, well, do you know what? If we did not talk about what was not going on last week, then, quite honestly, I think President Bush might still be on vacation even today. I think quite honestly that perhaps there would not have been a response even to the degree that we needed it without someone saying that the emperor had no clothes. Where was the help?

We know, because we live in the cone of error, so often in south Florida that you have several days' notice, and they did have several days notice that a Category 5 hurricane was bearing down on the gulf coast States. Where were the troops on the border of the cone of error? Where was the readiness? Where was the preparation? Where was the response? Where was the organization? It was nowhere.

We have got to make sure not only that it never happens again, but that there is an investigation and that there is a discussion in this body as to why it happened. We should talk about FEMA and why it is being led by a person who has absolutely no previous emergency preparedness or disaster experience, none, why his ineptitude was allowed to continue. Why a year ago when Florida faced four hurricanes, FEMA was handing relief checks out like candy to people who were not even victims of the storms.

There has got to be some accountability, and the time is not 2 months from now. We have billions of dollars that we are appropriating here and are about to appropriate that we should be appropriating, but we are going to go put it in the hands of people who have proven that they are incapable of handling disasters like this? Something needs to happen so that we can hold these people accountable on many different levels.

Mr. RYAN of Ohio. Mr. Speaker, if the gentleman will yield, I agree 100 percent with the gentlewoman. And to look back and hear all the information that FEMA had beforehand, an article here from Cox News and the New Orleans Times, Dr. Max Mayfield, Director of the National Hurricane Center, was talking to FEMA. They were going through simulations on what exactly could happen and what the worst-case scenario could be, what the storm surge capabilities were for overtopping levees.

I think it is important, if this is not pointing fingers, we get paid to oversee administrative government, and that is what we are doing here. The thing that is outrageous is that the people who are in charge and who are incompetent for those early days are the same people that are running the operation now. Thank God we have got some military in there now to actually fix some of the problems.

But I think it is important that we share with the American people, not to be critical, but so the problem gets fixed. This is our responsibility here. This is our constitutional responsibility here.

Dr. Max Mayfield, and you can get this on the Internet, the Cox News article said, knew storm's potential. Just to read through here a little bit and share with you, there were briefings by this Dr. Mayfield who told FEMA that the strength of the storm and the potential disaster it could bring were made clear during both briefings and an informal advisory which warned of a storm surge capable of overtopping levees in New Orleans and winds strong enough to blow out windows of high-rise buildings.

"We were briefing them way before landfall, Mayfield said. It is not like this was a surprise. We had advisories that the levee could be topped."

These guys had the information and they failed to respond. And the most insulting part of this whole thing is to have the President say days afterwards, "I do not think anyone anticipated a breach of the levees."

□ 2215

I mean, it is just not true. It is just not true because the FEMA people knew, and there were these advisories and there was all this information that FEMA had, and it is unacceptable that this is the way the government is supposed to work. Because after 9/11 the American people charged this Congress, reelected this Congress, reelected this President because he had the capability supposedly to keep us safe. I do not think there is one American out there now that would even feel close to safe if something happened here.

I do not know, and it seems like the goals that we wanted to try to communicate, intraoperability where people could communicate with each other because they would have the proper communication equipment, the predisaster mitigation which they used out West for an earthquake where they actually went in early and secured buildings and spent $20 million, which ended up saving $500 million out there, that program that Mr. Witt started was called Project Impact; and the day the earthquake hit on February 28, 2001, was the same day the President cut that program. This was a lack of foresight for many, many, many years.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, will the gentleman yield?

Mr. MEEK of Florida. I yield to the gentlewoman from Florida.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I want to just highlight that this is not an isolated incident. It would be easy to say that FEMA was just overwhelmed and could not possibly have been expected to be prepared for a storm the size of Katrina since this administration changed the rules of the game when it comes to FEMA. FEMA used to be an independent agency prior to the Bush administration and prior to its being absorbed into the Department of Homeland Security after 9/11. FEMA was an independent agency with a director and a staff that had expertise in disaster preparedness.

I want to just highlight for my colleagues prior to Hurricane Katrina some of the instances of irresponsibility on FEMA's part under Secretary Brown's leadership. In 2004 Florida officials recorded 123 fatalities from last year's hurricanes. We had four hurricanes that hit Florida last year. FEMA pays expenses for 315 deaths; 123 fatalities documented from last year's storms. FEMA pays expenses for 315 deaths. There is something wrong with that.

In 2004 FEMA reimbursed over 5,000 people $9.3 million for rental assistance when a follow-up study showed that most residents never left their homes. In 2004 FEMA reimbursed people for 11-piece bedroom sets when they just owned a bed. In 2005 Hurricane Katrina strikes Florida damaging over 200 homes. FEMA has declined to pay individual assistance to those homeowners.

And I stood in the yard of an 86-year-old woman on Monday who lives in my district who was in tears, whose hearing was so poor she could barely hear what I was saying to her. Her home had no roof. Her neighbor's home across the street was basically crumpled in his yard, and around the corner was the same type of home with the roof ripped off and lying on the front lawn. FEMA has decided that there is an 800-home standard for destruction or damage before they will pay individual homeowners reimbursement for their damage.

Let me just show my colleagues the type of damage that FEMA says people are not eligible for assistance. This is what FEMA will not pay for. After Hurricane Katrina, as a Category 1 storm, struck Florida last week, this is the damage that they say these people do not deserve reimbursement for because we did not have 800 homes suffer this kind of damage.

Mr. RYAN of Ohio. Because why?

Ms. WASSERMAN SCHULTZ. FEMA is saying that the standard they are using in 2005, and as I have outlined for my colleagues, which they had no such standard in 2004, coincidentally in a Presidential year, they are saying that because Florida did not reach the threshold of 800 homes that were damaged that our homeowners who have damage are not eligible for individual assistance, meaning they cannot get reimbursed by the government, by FEMA, for the damage.

Now, I will not claim by any stretch of the imagination that Floridians suffered the same type of strife and damage that people in the gulf States did from Katrina, but I will argue that hurricanes know no boundaries. Hurricanes do not respect State boundaries. Katrina did not know the border of Florida and Alabama and on westward. The impact on a homeowner in Florida is the same as it is on the homeowner who suffered the same kind of damage in a gulf State. This is what FEMA is denying. It is disgusting. And it is just not going to stop. We have got to get the word out to people, Mr. Speaker, that there are places that they can turn to for help, but clearly FEMA was not one of them.

Mr. MEEK of Florida. Mr. Speaker, I think it is important that everyone understand that Homeland Security Director, the FEMA Director, or the President of the United States can reverse an original decision by FEMA not to pay individual homeowners or assist individual homeowners who do not have insurance, that are eligible for Federal programs. It is almost like saying that we have the antidote for their problem, but there are only 200 or 300 people affected and we have to get to 800 before we can help them.

I mean, it does not make sense, and because of that we have asked the President, and a bipartisan letter has gone to not only the President but also to the FEMA Director and also to the Department of Homeland Security Secretary, about looking at this very small issue. But I can tell the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) that if there are issues of the very obvious, what happens under a $50-plus billion dollar appropriations to an agency that cannot see that there is a need out there that needs to be met?

Let me tell the gentleman from Ohio (Mr. RYAN) when Americans pay their taxes, they expect a response in times such as this. They do not expect bureaucratic lip service. They expect action. And I just want to make sure the people are clear on this. Folks may say, well, you know, you all are there and you all are Democrats and all, and it is your job to be able to point out everything that is wrong. That is incorrect. And I know the gentleman from Ohio (Mr. RYAN) is from the heart of America, this, that, and the other; but the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) and I are from the South, and I think this is an issue about how this country feels about the South, how they feel about people that live in the South.

I will tell my colleagues this: maybe in another part of the country the response would have been different, but I can tell the Members right now there are a lot of individuals that are down there that pay taxes just like anyone else that expects representation. I do not know, maybe this lady may be a Republican. She may be an Independent. We do not care. She needs assistance.

And the bottom line is that FEMA is supposed to be there in a time of need. The Federal Government is supposed to be there in a time of need. When the local government resources are out or depleted or coming close to being depleted, that is why we have a Federal Government. They are not independent countries out there. Louisiana is not by itself. Alabama is not by itself, and I can guarantee my colleagues that Mississippi is not there by itself. So why should they be treated any differently than any other part of the country?

The bottom line I feel is what is the Federal obligation to the South? What is it? And I feel that we really do not have to paint a picture for Americans. We really do not. They have seen it. And they saw folks having press conference after press conference talking about what the situation is. They say, We knew that 5 or 6 days ago. And what my colleague was talking about with the hurricane director, they knew. They were just hoping that the levees held.

But I think it is outstanding that the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) brought pictures here tonight, because when we talking about the 30-something Working Group, third-party and fourth-party validators are important because we have folks who take to the floor saying, Well, it is not what some people tell you that it is. Do you believe us or your lying eyes? We see it on television.

The reason I talked about information, that it is important that we disseminate information, I want the Members and the American people to see what we get in the U.S. Congress. We get one sheet of paper talking about a recovery process. Like my cousin used to say, If I am lying, I am flying. The bottom line is that this came out as Congressional Advisory No. 8, September 6. This is yesterday's advisory. Today is like three quarters of a page. I thought I would at least get a full-page report. It is just bullets and feel-good language, not telling us anything.

I just want to take this little segment out here while we are talking about the major inequities here, and hopefully, Mr. Speaker, hopefully, someone will say we need to correct this. Not only should we provide more information to Members of Congress but we should also make sure we provide information to more victims.

This is what it is: the Housing Task Force, whoever they are, are also identifying long-term housing facilities to assist disaster victims as quickly as possible. What is "quickly as possible"? Do I pay my taxes as quickly as possible, or do I have a date to pay my taxes?

Here is the other issue: assuring that security and order to the impact areas, maintaining law and order is a priority to assist recovery and evacuation efforts, deliver relief in a timely and effective manner.

This is stuff that one puts on their Web site when they are selling cookies.

The bottom line is we have people that we have not even found yet. I am talking about FEMA or whatever the case may be. But here is the issue: we must assume nothing. And I tell my colleagues on both sides of the aisle, and I have said this before and they all have heard me, I do not care if they are Republican, Independent, Democrat. They need to go see the wizard and get some courage and say, listen, it is not working and we need to make it work, not going down there and walking around for a day saying, well, you know they are doing the best they can do, because folks are hurting.

So we have got to get this information out. We have got to make sure that this lady and other folks are able to get the assistance that they pay taxes for. So if I have anything to contribute here tonight, and I have some other information, and I see that the gentleman from Ohio is looking at me, but if I have anything else to contribute here tonight, I want to make sure this Congress understands. Here is a question for the Congress and for the Federal Government: What commitment do you have to the people that are living in the South? That is what I want to know. I want to know is it lip service or is it for real? And I can tell the Members right now from what I am seeing, there are no recommendations for a national day of mourning. People have died in this thing, and we are finding more people. There are no recommendations to go down to the South and have a joint session of Congress. It is beyond a natural disaster. A lot of it is failure of government.

I am coming in for a landing. There was a letter that was written today to a chairman of a major committee here of serious questions that were asked. Could New Orleans' levee system hold? The budget of the Corps of Engineers for construction projects in New Orleans District was cut over 40 percent between 2001 and 2005 apparently to free up funds for the war in Iraq and homeland security projects.

Mr. RYAN of Ohio. Say that again.

Mr. MEEK of Florida. Mr. Speaker, I am going to finish, and then I am going to go back over it again.

In 2004, for the first time in 37 years, the first time in 37 years, the Corps of Engineers halted all work. They stopped all work on the New Orleans levee system. Not because they felt like it. It was because they did not have any money. I am on the Committee on Homeland Security and we knew, and I know the gentleman from Ohio (Mr. RYAN) has information that they went through a whole exercise about what if this happens. They knew it could happen. So when someone lines up in front of a camera and starts talking, I do not care who they are. I was emancipated many years ago; so I do not care what some may feel about what I say here tonight. The bottom line is if it is the President or the village council person or whoever it might have been as it relates to holding back funds from the levee system, saying this was a natural disaster, what could we do, we could have governed in a way that we should govern on behalf of individuals in the South that pay taxes just like anyone else.

And the bottom line is if it was not for Katrina, Mr. Speaker, we would have been voting here on the estate tax for a huge tax break, to even make the reality even more evident that the Corps of Engineers never would have had started work on the levee system next year or the year after that or the year after that because we have no money.

□ 2230

Mr. RYAN of Ohio. Mr. Speaker, I think this gets back to a basic concept that we have seen over the course of the last couple of years here. The outfit that runs this body and that lives in the White House and this administration, they just hate government. They just hate it, and they think that if it was gone and abolished, everything would be fine. So, if you bring that attitude to government, that government cannot do anything good.

And then your philosophy leads you to a point where you put an attorney for Arabian horses and a guy who used to run horse shows in charge of the Federal Emergency Management Agency, that is where that philosophy takes you, and then you get someone who is incompetent to handle the job, not a professional emergency management specialist, but just a political appointment, because government is for supplying our friends with graft, and that is all this is.

Now, the gentleman mentioned something, and I want to go through this and I read a little bit of this article earlier. And this is Dr. Mayfield and what he said. He participated, he and his staff participated in a 5-day Hurricane Pam exercise, which was sponsored by FEMA and the Louisiana Office of Homeland Security and Emergency Preparedness last July, that assumed a similar storm as Katrina would hit Louisiana, and they called it Hurricane Pam at the time, on July 23 of 2004.

So FEMA released, after they simulated this Hurricane Pam in Louisiana, FEMA announced the exercise and basically summed up the simulation. Here it is, quote: "Hurricane Pam," and this is FEMA talking in July of 2004. "Hurricane Pam brought sustained winds of 120 miles per hour, up to 20 inches of rain in parts of southeast Louisiana, and the storm surge toppled levees in New Orleans. More than 1 million residents evacuated, and Hurricane Pam destroyed between 500,000 and 600,000 buildings. Emergency officials from 50 parish, State, Federal, and volunteer organizations faced this scenario during a 5-day exercise held this week at the State Emergency Operations Center in Baton Rouge."

Then, a year later, this same government says they had no idea that could possibly happen. How disingenuous is that? You ran a simulation. You wargamed Hurricane Katrina and you called it Hurricane Pam a year ago. And then you come to the American people and say, the best you could come up with is, who would have thought the levees would have broken. Thinking everybody is stupid? Thinking this would not come out?

It is criminal, criminal, what happened. You put an Arabian horse purchaser in charge of FEMA, you wargame it the year before, and the guy still does not know what he is doing, and people died because of it. That is the sad part of this whole thing.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, to piggyback on what the gentleman from Florida said about tax cuts, I mean it is just mind-boggling that yet again, their answer, their solution for everything is more tax cuts. I mean, I would not believe it unless I had it in print in front of me, but Treasury Secretary Snow said just the other day, today is September 7, he said yesterday at a press statement, this is in response to what we should do about Hurricane Katrina and the aftermath. He said, "Making the tax cuts permanent would be a real plus in a situation like this, because people would know they had going forward the advantage of lower tax rates," Snow said. "And when people know they have lower tax rates locked in going forward, it affects their behaviors. It makes them more confident of the future."

Now, let us talk more about FEMA's failure, because that is really what it boils down to at the end of the day, because we need FEMA to be there, we need FEMA to generate confidence in Americans.

Mr. Speaker, the Republicans, and I am going to use the word "Republican," but the Republicans ran last year on being the party that would be the best choice to protect people. They were the security party. That is supposedly the thing that tipped the scales.

Well, it is not just an issue of security in a terrorist crisis, which all of this resulting from Hurricane Katrina calls into question now, about whether they really are the party. They are clearly not the party of crisis.

Mr. RYAN of Ohio. They have proved they are not the party.

Ms. WASSERMAN SCHULTZ. They have proved they would not be able to be there in a disaster, in a disaster of any major proportion.

Let me just detail, because I have another chart here that is going to outline a couple of things that I think are important, FEMA's failures. Let us talk about cleanup, and let me just acknowledge that "personnel" is spelled wrong on this chart. I want to make sure the people knew that I know how to spell "personnel."

Cleanup: FEMA has failed for pay for debris removal from private property. This has resulted in many homeowners incurring large expenses paying for the removal of not only their own fallen trees and other damage, but also rubble blown onto their lots from other locales.

Let us talk about Federal aid.

So we give them an "F" in cleanup, because they are basically ignoring Florida as if a storm never hit our State.

FEMA must be more responsible in allocating Federal aid. We are talking about the things that FEMA should have been doing already and must do going forward. About $30.8 million in FEMA money has been awarded to residents in Miami-Dade, a county that I represent and that Congressman MEEK lives in, much of it for replacement of appliances such as televisions and air conditioners, although the storms last year in Florida barely grazed the county. Meanwhile, this year, when the storm hit the county directly, now they are not reimbursing people who have legitimate damage and roofs ripped off their houses. Meanwhile, other storm-ravaged areas still have many families who continue to be displaced because of the severe damage to their homes. So they get an "F" in Federal aid.

How about personnel? Subsequent reports detailed how FEMA inspectors received little training, that FEMA approved millions in assistance to other areas of the country largely unaffected by disasters; that government scientists said that FEMA misrepresented wind data that it used to justify the payments in Miami-Dade County last year, and that the agency paid 315 hurricane-related funeral claims in Florida, even though the official death toll was only 123. So they get an "F" in personnel.

Fourth, the shocking statistics in terms of their preparedness. Florida officially recorded 123 fatalities last year from hurricanes, as I outlined, but were paid for 315 deaths, including those of a man who shot himself and a stroke victim who was hospitalized more than a week before the last storm hit, and that was documented by the Fort Lauderdale Sun Sentinel. In one case, a FEMA worker tried unsuccessfully to persuade a coroner to count among the hurricane casualties a morbidly obese heart attack patient who purportedly was scared to death.

This is the kind of thing that went on in FEMA before Katrina. These are the people that we are putting our confidence in and that people in the gulf coast States are having to put their confidence in, who are going to come in and rescue them and clean up this mess.

Most recently, disaster aid earmarked for hurricane victims in central Florida paid for funerals for people who died of cancer, a brain aneurysm and, in one case, advanced AIDS, according to the local medical examiner. That was in the Sun Sentinel as well. Asked to comment on payouts in central Florida, FEMA spokesman James McIntyre did not provide a response. He also did not address how many more funerals FEMA has paid for since that time.

We have to make sure that FEMA takes responsibility and is held accountable for its mishaps. This is an organization that gets an "F" in every single thing that they are primarily responsible for. This is the organization that Americans are supposed to be putting their confidence in, that is going to be there for them when disaster strikes, and in advance of disasters striking that they should be ready for, and afterwards when they have to come in and clean it up. It is just absolutely inexcusable and disgusting.

For example, with the President, responding to the damage that the gentleman talked about to the levees, he said on Good Morning, America last Tuesday, that no one expected the levees to fail. Yet, he cut the budget that would have shored up those levees just last June, in 2004.

Mr. RYAN of Ohio. Mr. Speaker, that was the same, almost the same identical phrase that we heard from the Secretary, the new Secretary of State Condoleezza Rice, about 9/11 when she was National Security Adviser: Who would possibly think anyone would take a plane and fly it into a building like a missile? Well, we found out later that people knew that was going to happen. They knew that was an option.

It is the same old rhetoric with these people over and over and over again. It does not make any sense. It just does not add up. Now, all of a sudden, the spotlight is on, and we have all of this information here, and we have pages and pages and folders and folders full of how much they knew beforehand and played dumb.

Mr. MEEK of Florida. The same letter here that I read from earlier, I just want to read another paragraph out of the letter to the committee chairman from Ranking Member WAXMAN and also Ranking Member OBERSTAR and THOMPSON of the Committee on Homeland Security and the Committee on Government Reform and also the Committee on Transportation and Infrastructure.

The President said, I don't think anybody anticipated the breach of the levees. But just the opposite is true. Multiple reports have predicted that a large hurricane could overflow the levees and cause massive damage in New Orleans. Both the Red Cross and FEMA ranked a hurricane in New Orleans as the Nation's most dangerous natural disaster threat.

I am going to tell my colleagues, this is well documented. Senator Breaux, who is retired, came out of retirement and jumped on TV 2 days after the storm saying, Excuse me, I am sorry, I just, I do not know what folks are talking about when they say they did not know this was going on. I mean, year after year, we tried to get money from the Federal Government. His entire congressional career was based on getting money for the levees. That is why some folks started talking about, well, you know, they are here talking all that mess, and we are trying to save lives, they are talking about what is not happening.

Let me tell my colleagues what we are doing here tonight. We are saving lives, literally. We are saving lives here and pointing out the inequities of an agency that we just gave $10-plus billion to and said, You handle it, okay? And the bottom line is that just as upset as Americans were about 9/11 and the loss of life, they need to be upset about Katrina and the loss of life and the lack of oversight in governance. The bottom line, period, dot.

So I think any American life that is lost when it could have been prevented deserves to be brought to the highest levels of Congress on both sides of the aisle. I am beyond partisanship right now. This is about responsibility. And the bottom line is, if the tables were turned and there was a man in the White House that had a Democrat, had a "D" behind his name, we could not stop the line of Republicans out the door to talk about what he or she did not do when they were supposed to do it and how they were supposed to do it.

So the bottom line is this: What are we going to do? I do not have a family member, God bless, in this situation, but there are people that do. And guess what? They may not be a Member of Congress. We have to give voice to those individuals.

What commitment does the Federal Government have to the people that are living in the South? That is the question. That is the bottom line. I do not care if they are a chairman, ranking member, somebody elected them over something in this Congress. The bottom line is, What is the commitment to the South? Because that is the only thing that I can point out, I say to my colleagues; I cannot come out with anything else.

Maybe the folks down there do not talk as fast as other folks. I do not know. Maybe they do not have endowed universities like we have in the North and in the central part of this country. I do not know. Maybe there are individuals that do not necessarily care about infrastructure and look at the warnings as it relates to New Orleans. Now it has happened.

The question is, what are we going to do about these individuals who are living in football stadiums and folks think it is okay for them to be there for 6 months. You can reach over and touch the next person in your bed. Do we have sex offenders living in the same stadium on the 50-yard line or the 60-yard line from a child? These are the things that we have to correct. These are the things that we must pay attention to. We cannot allow it to happen, or they will be made victims time after time and again.

So the bottom line is that we have individuals that are displaced. We have a Federal agency that we are about to give $50-plus billion, and I guarantee my colleagues that there will be no real discussion about oversight.

☐ 2245

There will be no real action. I will guarantee, we will not stand by and watch this administration get this money and start handing out contracts to their buddies.

Mr. RYAN of Ohio. That is exactly right. We are not going to let that happen.

Mr. MEEK of Florida. And making individuals victims again. Because I guarantee, and I told you this earlier today, I may be in some retirement community at 80, if God is willing, walking around with a walker, and someone looks back in the history books about what took place at this time in the moment, and they look at me and they say well, were you not a Member of Congress at this time? What were you doing? I will tell them refer to the CONGRESSIONAL RECORD and also reflect on what happened and what the American people did because they knew what these individuals were doing and making these individuals victims again.

Now, do not get me wrong. I am not saying that it is intentional. But I guarantee you for folks who do not look and wear the flag of oversight and making sure that this never ever happens again, folks talking about never ever happen again. Let us stop the bad from happening. And the only way we are going to stop the bad from happening is governing in the way that we are supposed to govern.

And you know something, I say to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ), we are in a bad situation. We have constituents that are hurt. We have constituents that are raising money and doing those things and sending truckloads and giving to the American Red Cross and to the Salvation Army and to the NAACP and all the other groups that have relief funds. There are kids throughout this Nation that are giving lunchboxes and giving toys and all of these different things and running around.

Meanwhile, the big kitty, the $50-plus billion we are running around here on a hush hush kind of thing and Members barely know what is going in the bill, what oversight is there. Where will it go? No one has been removed for a more qualified individual to be placed in a position that can continue the response and the recovery.

We are in the first quarter of this recovery and we know that our quarterback is not up to the task to be able to make it to the goal line. The FEMA Director, possibly the Homeland Security Secretary, possibly the individual in the White House that is quarterbacking the administrative moves on behalf of the White House, we need to call them in. We need to call time out, and we need to change our personnel for individuals that not only carry the resume but have the wisdom to be able to carry it out.

And you know, I am on the Homeland Security Committee, and I know these individuals. I sit down and talk to them. I have gone to the Department of Homeland Security. But guess what? This is not about personalities. This is about governance. And it is not personal. It is just business, and the business of saving lives and making sure that these individuals are made whole as much as possible. And we have got to correct it, not now but right now.

Ms. WASSERMAN SCHULTZ. You talk about the quarterback, and let us continue the football analogy. If you have got the quarterback in the FEMA Director not having any ability to get things done, let us continue the football analogy and call Secretary Chertoff the coach, and the President the man in the front office. You have got both of those people who we cannot have any confidence in either.

And I will take a less than left-leaning example here, an excerpt from Fox News Sunday, because the gentleman from Florida (Mr. MEEK) talks about it not being intentional. The gentleman is right. It is not intentional. Their response was not intentional. It was just indifferent. The indifference is what is shocking. And you had Chris Wallace go through this exchange with Secretary Chertoff on Fox News Sunday this past Sunday.

Mr. Wallace said, "But Mr. Secretary, you know there are an awful lot of people around the country that are asking these questions and want to hear answers from you today.

During the week, during this past week you seemed to minimize or not to know about a lot of problems on the ground in New Orleans. Let us watch some of those."

And then he went on to show him some of the clips.

And this was Secretary Chertoff's response: "We are extremely pleased at the response that every element of the Federal Government, all of our Federal partners have made to this terrible tragedy. There have been isolated incidents of criminality. We have all seen pictures of looting."

Then he goes on to say: "I have not heard a report of thousands of people in the Convention Center who do not have food and water."

Well, I can understand why, because yesterday when we had the briefing in this Chamber from most of the members of the Cabinet, you had one of the Secretary of Defense's military leaders stand up and say that the pictures we have all seen on TV are just like looking through a straw, that that does not show the full picture. We are looking through a straw, that they are extremely pleased with their response and it is going exceedingly well.

So then he goes on to say, what Chris Wallace says: "Mr. Secretary, how is it possible that you could not have not known on late Thursday, for instance, that there were thousands of people in the Convention Center who did not have food, who did not have water, who did not have security, when that was being reported on national television?"

Secretary Chertoff says: "Well, Chris, you know, that is one of the issues we have to look at. I mean, we were in constant touch with what was going on in the field, getting information from State and local officials. As it happened on that very Thursday I was in a video conference with State officials and did not get any information about this. And one of the things we will look at is why in the middle of this emergent crisis there was a conflict in the information."

You know, I can tell Secretary Chertoff why the State and local officials did not feel like they had to tell you that there were people at the Convention Center, because you could not turn on your TV and not see them dehydrating in front of your very eyes. How about the woman who had her dehydrated baby who she could not even wake up? I mean, I have a 2-year-old. God forbid that ever happened in my family. I can assure you that if it happened in the community that I represent, I have a hunch that the response would have been a little bit quicker because my constituents are not poor and they are not African American primarily.

You know, you talk about the South, and obviously I am one of those Members that would be very protective of the South. But this could be a natural disaster in Detroit or in Wisconsin or name any State with a black community or a predominantly poor community, and there but for the grace of God go them. I mean, really.

We are not here to point fingers. We are just here to point at what has been happening in front of our very eyes. And this has just got to stop. We do have to come up with solutions. We cannot hand out $50 billion to a person who is running the show like it is a circus, like he is the ring leader in a circus, and not a very good one. It is just inexcusable. We cannot ever let this happen again, and we have got to draw a line in the sand and say this far and no further.

Mr. RYAN of Ohio. It almost brings up the point, whether it is black or white or whatever, number of electoral votes the way this group operates. You know, if you have got a State that has enough electoral votes, we will maybe even be there before anything comes. But if you do not have enough, you know, you are on your own, and we are going to absolutely roll the dice.

And as we are kind of creeping into the final few minutes here, I want to just touch upon what the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) has just said, that I hope the ultimate point that we can all carry out of this whole tragedy that is still going on for thousands and thousands and thousands of people, and I hope when New Orleans is rebuilt and we are all down there, you know, hanging out again, that the point that we all remember is this: this tragedy highlighted the clear disparity between many people in this country and many others in this country. Whether it is black or white or rich or poor, there is a huge, tremendous rift between those people who have a lot of money and those people who do not have anything.

And we saw it today, or this past week because people were saying, well, why did they not leave? Well, 35 percent of the African Americans, I believe, in the city, did not have cars. Now, regardless of how the whole thing was structured, and we will have arguments about everything else, they were at a clear disadvantage. They were reliant upon someone else. And you go through education and health care and basic skills that kids test on, it is unbelievable how poorer kids do so much worse.

And this is going on in Youngstown, in Akron, in Cleveland, in Milwaukee, in Detroit. Pick a city, as the gentlewoman said. And I hope that after all this we realize that that is unacceptable and to give millionaires trillions and trillions of dollars and see what the end result is, whether it is through kids, education, health care or levees being built, the government has a role to play, and those people who benefit from society have an obligation to meet their responsibility to everybody else. And that is really, I think, the ultimate point in this. And I hope that the reaction to this is the same reaction that we had in 1927 when the big flood hit in 1927, which eventually led to a very progressive era in government and into the 1930s and 1940s and, quite frankly, into the 1980s.

So I hope that we all realize that, you know, we are pretty lucky, most of us. But there are some people that we need to reach out to and find ways to reform government and put the money in the right places to make sure that those people have the kind of opportunity that many others have.

Mr. MEEK of Florida. I would say to the gentleman from Ohio (Mr. RYAN) and the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) I just wanted to go over a couple of these programs that FEMA has available for individuals that are in the Federal disaster area, those States that have been designated by the President. There are a number of grants and I just want to make sure, and also low-interest loans, and if anyone wants assistance as it relates to those, you can call and just ask the question. The operators will go over it with you. They are working 7 days a week, 24 hours a day. You can call 1-800-621-FEMA, F-E-M-A, and that is 3362. So that is 1-800-621-3362 to register. If you are hearing impaired, you will dial the TDY line, which is 1-800-462-7585. I am going to read that other number over again, 1-800-621-3362. If you are hearing impaired, 1-800-462-7585. They also have an online, you can reach FEMA through FEMA acronym, FEMA.gov/register. That is again 24-hour grant. They also have 24-hour you can get the grant information. And many of the family members may have to get it on behalf of the other family members because they may not be in an area where they can receive that information. You have to help your family and friends through this process. even though government is reaching out to them.

The individual housing grants that are also available. this is the primary vehicle of assistance that FEMA provides to individuals. Also what that individual grant information does. it provides you with a voucher for short-term housing. Each individual can get up to $26,200 per individual or household. And I think that is important. And we will give you more information in the coming days on that.

Disaster unemployment relief. This program, with acronym of DUA. provides benefits to individuals that were previously employed or self-employed that have been made jobless because of a direct result of the major disaster which will be Katrina, that are not eligible for regular Federal or State unemployment insurance. I think that is important. But I still urge Americans and also Members to encourage their constituents to go after these programs.

Dislocated worker activities. this is a program that provides training and also related assistance to persons that have lost their jobs that are unlikely to return back to their current job or industry. That is important for individuals that are throughout the country.

I just want to be able to add in the last couple of minutes here, we have folks that are all over the country, that are literally all over the country. And I am coming back to the gentleman from Ohio (Mr. RYAN).

In Alabama. there are some 5.017 individuals; Arkansas, 5,534. I am just reading out some of the big numbers. Louisiana there are a lot of people still there. 67,000 individuals. So there are a number of programs that are available. I urge you to go to the FEMA Web site or even call them. Mr. RYAN. do you want to give the Web site information?

Mr. RYAN of Ohio. 30somethingdems@mail.house.gov. We are going to be trying to recruit college kids to go down and help with the clean up too. So it is 30somethingdems@mail.house.gov

Mr. MEEK of Florida. Well, on behalf of the 30-something Working Group, we would like to thank the Democratic leader. Mr. Speaker. for allowing us to come here to the floor once again. and it was an honor addressing the House once again.

## ENERGY EFFICIENCY

The SPEAKER pro tempore (Mr. KUHL of New York). Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes.

Mr. BARTLETT of Maryland. Mr. Speaker, this evening I wanted to spend the first few moments reflecting on the crisis in the gulf.

□ 2300

I have been privileged to observe nearly 8 decades of life and I will tell you that this is the only time that I can remember that I was looking at television. coming from our country that seemed really surreal to me. I had to pinch myself to make sure that I was not dreaming. because how could it be that in our country, the United States of America. there were people sitting dead in wheelchairs by the sidewalk. there were people rolled up in sheets dead and others walking by them. there were corpses floating by in the water?

There were tens of thousands of people in buildings that they could not leave because water was around them and they had no food, no water, no bathroom facilities and no power.

The situation is better now and it is improving; and no one is happy with the response of either the local officials. the State officials or the Federal Government. But, Mr. Speaker. this is not the time to look at what went wrong.

Now is the time to make sure that these people are all rescued, who are not already out, to make sure that they all are comfortable in housing, to make sure that their needs are met, that their children are in school.

There will come a time that is not now, Mr. Speaker. when we will really take a hard look at what went wrong, not to place blame. Because I really believe, Mr. Speaker, that everyone at every level made what they thought was the right decision at the time they made it. Obviously, in hindsight, it was not the right decision and we need to make sure that we learn from this experience so that we do not repeat it when we have another crisis. And there will be another crisis. either a natural disaster or a terrorist-induced crisis.

Americans are really helping. When a tragedy occurred overseas we poured out ourselves to help in the tsunami and Americans are doing that now for other Americans. And we are learning that sometimes bureaucracy gets in the way because we have people who want to help and they are ready to help and they wait and they wait. What can we do? And they are ready with supplies. We are working very hard. Mr. Speaker, as we clear away these roadblocks in our bureaucracy because we know that what the Bible says is true, that it is more blessed to give than to receive.

We are now taking a lot of money from our people and from our children and our grandchildren because we will not be able to pay it back, money we need to help the survivors of this catastrophe. But we must not deny our citizens the satisfaction. the reward, the fulfillment that they get from helping themselves. And so we must continue to work to make sure that bureaucracy does not get in the way of people helping people because that really, in the end, is the best kind of help.

Just a little example about how much some of our agencies have done. This is the Coast Guard. They rescued over 23,000 survivors, assisted in the evacuation of another 10,000 from area hospitals. They have brought in over 2,600 servicemen and women. called up another 800 Reservists to undertake response operations. They moved over 75 aircraft, 22 cutters, those are ships, 110 small boats into the disaster area to execute search and rescue, environmental clean-up and to restore navigation to ports. That is very important because a lot of oil moves in there.

They dispersed tons of food, potable water and other supplies to survivors. surveyed and replaced dozens of aids to navigation required to reopen 62 percent of the local ports and waterways to deliver critically needed oil. gas and other natural resources.

They have begun the environmental remediation on gulf waterways by removing 60,000 gallons of oil, 665 floating containers of unknown liquid, 132 compressed cylinders and 10 petroleum tanks.

Mr. Speaker, as a result of this crisis. gas that was already high has skyrocketed higher. and now many people are talking about energy. We started talking about energy and a coming crisis on March 14. Katrina has just hastened and magnified the process that we began talking about then.

On March 4, just 10 days before we gave our first floor speech here on this subject, gas was $1.93. By August 29, just before the hurricane hit, it was $2.60. That is a pretty big increase, from March 4 to August 29 a 67 percent increase. In just 7 days from August 29 to September 5, the price of oil jumped from $2.60, this is an average nationwide, more some places, less some others, to $3.04 average. This is an increase of $1.22 in just 1 year.

But. Mr. Speaker, it could have been much worse. We have over 4,000 wells in the gulf; 953 of those are manned rigs and platforms. Only about 20 of those were cut. And, by the way, from those 4,000 wells we get about 1.5 million barrels of oil a day. which is just a bit more than a fourth of all the oil that we pump. So we pump just a little over 6 million barrels of oil. But, Mr. Speaker, we use 21 million barrels of oil and the rest has to come from somewhere else and that somewhere else is all over the world, and much of it from countries that are relatively unstable, whereas, the President says, the people do not particularly like us.

I have here. Mr. Speaker, a little chart that shows the density of the oil rigs off the coast. And notice the little line here, the little symbols here. That shows where the hurricane came in.

Lucky for us the hurricane came in where there was the least density of oil wells. Had it come in just a little west of that, it would have hit a very much higher density of oil wells, and the crisis might have been much worse than it is.

On September 7 there was an article by Reuters that said another storm would devastate U.S. energy, and it was quoting some analysts. And one of the analysts I know, because I have spoken with him several times and met him, was Matthew Simmons; by the way, he is the energy adviser for the President. He was an energy adviser in his first campaign and in his second campaign. He is the president and CEO of the largest energy investment bank in the world.

This is what Matt Simmons said in talking about our refineries and the infrastructure that moves the refined product to a great many users on the east coast. He says, "We shoved it all into Texas and Louisiana. We put the heart of the industry in the middle of hurricane alley."

Mr. Speaker, we may want to rethink where we have this infrastructure in light of its vulnerability to this kind of natural disaster.

I have here a news story from the 4th of March of this year, that was just 10 days before we gave our first floor speech here on this subject; and I am quoting from this. "The average pump price then was $1.93," as I just said.

Trilby Lundberg—this is the Lundberg family, everybody has heard of the Lundberg Report that for many years now has been giving the price of gas and predicting what it will be in the future—she said, "The chances of gasoline rises are very, very strong, if not immediately, then in coming weeks as we move into spring." It was $1.93 then, remember.

A government official who works for the U.S. Energy Information Administration, and I will not give you his name, Mr. Speaker, because he would be quite embarrassed, because this is what he said. He said, "It takes about 8 weeks for crude prices to make it to the pumps," and he did not think the increase would be more than 10 cents. It was $1.93 so he did not think it would go up in the summer to more than $2.03. Mr. Speaker, it was $2.60 before the price was pumped up by the hurricane.

I guess it just goes to show, Mr. Speaker, that you cannot believe everything your government tells you.

The AAA reporting in that same story made this statement, Mr. Robert Sinclair from the AAA said, "Probably the era of cheap oil as we have known it, where a barrel of crude oil was $29 or $30 is gone forever."

Sadly, Mr. Speaker, I think that Mr. Sinclair was exactly right, and the chart that I have here shows that.

Now I have had to modify this chart. This shows inflation steadily rising and it shows the price of oil which has been up and down. And we notice what I had to do over there at the end, because a few weeks ago when I used this chart, we had not gone over $55 a barrel for oil and so I put that down as the 2005 figure. But just a few days ago during intraday trading, the price of oil went up to $71.85, almost off the chart.

When I come back again, Mr. Speaker, and I will, to talk about this subject, because I think it is so important that we need to emphasize it over and over again so that we have enough interest and enough knowledge so that we do the things that we really must do to avoid a really big problem with this in the future. So I suspect, Mr. Speaker, that when I come back to talk again that this might very well be off the chart, and we will try to add something to the corner of the chart to show you how high it has gone.

□ 2310

On the next chart are some numbers that are widely known. We have only 2 percent of the known reserves of oil. We use 25 percent of the world's oil. As I said just a few moments ago, about two-thirds of that is imported.

By the way, we have gone from bad to worse. In the Arab oil embargo in 1973 we imported 34 percent, about one-third of the oil we use. We did not learn a whole lot from that, did we, Mr. Speaker, because now we are importing two-thirds of the oil that we use. So we are even more vulnerable, and look what happened then with the Arab oil embargo.

We represent only 5 percent, as a matter of fact less than 5 percent, of the world's population, one person out of 22, and we use a fourth of all of the oil which is used in the world. The other figure here is a really interesting one, and that shows that we pump 8 percent of the world's oil. If we have only 2 percent of the reserves, and from that 2 percent of the reserves we are pumping 8 percent of the oil, that means we are pretty good at pumping oil, and we are. It also means that we have a whole lot of oil wells probably, and we do. More than half of all the oil wells drilled in the world, Mr. Speaker, are drilled in this country. So we do not have much oil, and we are using it up really quickly. When there is an end to oil, we will come there before the rest of the world because we use so much, we have so little, and we are pumping the so little we use so fast.

The next chart shows a consequence of this, and by the way, those numbers inspired about 30 of the leading citizens in our country, McFarland, Jim Woolsey, Frank Gaffney and about 30 names total, retired generals and admirals and leading people in our country wrote a letter to the President saying, Mr. President, the fact that we have only 2 percent of the oil and use 25 percent of the oil and import two-thirds of what we use is a national security risk, which is unacceptable. We have to do something to wean ourselves from foreign oil.

The chart that I have here, Mr. Speaker, points out one of the problems that we face, and that is, that we are not only a country that needs a lot of oil. China now is the second largest importer in the world. Last year, they increased their importation 25 percent. I saw the number. They increased their oil use by 14.7 percent. I am not sure how we get so precise, but this chart of the world here shows where they are. They are now scouring the world to make sure that they have oil, and they are entering into contracts and buying assets.

You may remember, Mr. Speaker, they bid on Unocal in our country, almost got it, bid more than Chevron. Fortunately, they withdrew their bid. By the way the price of oil is not set by who owns it. It is set by how much of it there is in the world compared to demand in the world. It would have not been nice for China to own oil right in our country, but it really would not have affected the price of oil at all.

Notice, they are in Colombia. They are in Venezuela. They are in Brazil. They are really in the Middle East. In the big far eastern Russian oil reserves in the Sakhalin Islands, they are now building a pipeline. Originally, we thought it would go to a port where the oil would then go to Japan. Russia has just recently said that at least a large part of that is going to be diverted on down to a pipeline that goes to China. So we now have a world in which China and India and all of the developing countries, many of them in northern Africa, particularly in the Orient, are now demanding more and more oil.

To put this in context, Mr. Speaker, and to kind of see how we got here, we need to go back 60 years. Our next chart takes us back there 60 years and just a word about the origin of this chart.

Working for the Shell Oil Company in the 1940s and 1950s was a scientist known as M. King Hubbert. He watched the pumping and the exhaustion of oil fields and he noticed that for almost all of those fields that they followed a bell curve. Now, most people are familiar with a bell curve. There are some people very short, some very tall, but most of us are somewhere in the middle. So there is a bell by weight, and most things out there in the nature, their distribution follows a bell curve. What he found was that we pumped oil faster and faster until finally we reached a peak, and at that peak, he noticed that about half of the oil that was in the field had been found, and no matter how hard they sucked and pumped, the production of oil from that field fell down the other side. It is perfectly reasonable that the last part of the oil is more difficult to get than the first part of the oil.

So what M. King Hubbert did was to say, gee, if I knew how many oil fields there were in the United States, and I knew how many more we were likely to find, and if I added up all these little bell curves, I could get a big bell curve which would tell me when the United States was going to peak in oil production. He did this study and he made that prediction in 1956. Everybody thought that he was going to be really wrong and really be embarrassed, and Shell Oil Company said, please, do not do that.

He published the paper anyhow, and right on target, in 1970, we reached our peak oil production. M. King Hubbert went from being something of an embarrassment to being an icon because he was right on the money. He predicted 14 years ahead when we would peak in oil production in this country.

Using those same analytical techniques, he predicted that the world would peak in oil production about 2000. That did not happen because he could not have known of the Arab oil embargo and the oil price spike hikes and the worldwide recession that occurred as a result of these oil price spike hikes.

Many experts believe that we in the world are peaking about now. If not now, soon. The next chart shows where we have gotten our oil from in the United States, and it shows the production curve and the fact that right on target in 1970 we peaked in oil production, and it has been downhill since.

This shows where we get the oil from, a whole bunch from Texas, the rest of the United States, natural gas, liquids. Notice Alaska there. This is Prudhoe Bay, from which we get a fourth of our oil, and Mr. Speaker, that produced only a little blip in sliding down Hubbert's Peak, and notice the yellow there. I am sure you can remember the fabled Gulf of Mexico oil discoveries. This was going to solve the problem. There would be oil for a very long time. That is all the contribution. That yellow there is the total contribution from the Gulf of Mexico oil discoveries.

Mr. Speaker, I am having some trouble understanding why we ought to drill ANWR. Let me tell you why. We have only 2 percent of the known reserves of oil. We use 25 percent of the world's oil. I am having trouble understanding how it is in our national security interests to use up that little bit of oil we have as quickly as we can. If we could pump that oil tomorrow, and we cannot, but figuratively, if we could pump that oil tomorrow, what would we do the day after tomorrow? And there would be a day after tomorrow.

ANWR will be, most people believe, not more than half of what Prudhoe Bay was, and you see that it did little or nothing to stop our slide down Hubbert's Peak. So I would like to reserve ANWR. We are really going to need oil in the future. It and gas are the feedstock for an enormous petrochemical industry. We live in a plastic world, and in the future, when we look back at what we have done, we will be embarrassed that we burned, just to get energy, so much oil, and particularly gas, because they are such an important feedstock for our petrochemical industry that we see all around us.

We live really in a plastic world. It builds our tractors and makes the insecticides, makes the herbicides. It makes the plastics. It is anything and everything in our society.

□ 2320

The next chart shows something very interesting. In spite of increasing techniques, in spite of computers, in spite of 3D seismic, the peak oil discoveries were about 40 years ago. Now, this is blocked off by 5-year increments, and there was a big one here at about 1980, but generally speaking the discovery of oil has been down, down, down. And the experts do not believe that there is more than about maybe 5 percent of the known reserves that are yet to be discovered.

We have drilled a lot of holes. We have done a lot of exploration. We are really good at finding oil. And most of the experts do not believe we should count on much more than maybe about 5 percent of our current reserves as unknown, yet-to-be-discovered reserves.

The next chart shows something very interesting, and that shows that you cannot drill your way out of this problem. This shows the production of oil in the United States; and in 1980, when the Reagan administration came in, we were already 10 years down Hubbert's Peak. We had slid over the top and were starting down the other side of this bell curve called Hubbert's Peak. We were importing oil, and Reagan was concerned that we needed more oil. And so he did what you do in a market society like we have, he gave incentives for drilling. If we just give them some incentives, some tax advantages, some profit motive for drilling, they will go out and drill.

This yellow line represents the number of wildcat wells that were drilled. And, boy, was he successful. He got them to drill a whole lot more wells. But notice what happens down here. They produced less and less oil. They soon tired of drilling those extra wells when they were not finding any oil; and so, notice that the number of wells they drilled slipped down and down because they were finding less and less oil and we were going more and more negative.

The next chart shows something which Albert Einstein said was the most powerful force in the universe. When we had discovered atomic energy and the nuclear weapons, Albert Einstein was asked, Gee, Dr. Einstein, what will we do next? What will be the next big increment in energy? What will we fight the next war with and so forth? He said, The most powerful force in the universe was the force of compound interest; that is exponential growth.

And so here we show some exponential growth curves. The bottom straight line here is a 2 percent growth in the first year, and then just extrapolating out there from that. If you have money in the bank and it is getting 2 percent interest, and every year you take out the 2 percent and just keep it and do not let it in there to create any more interest, that is the rate at which it will grow. But if you leave the interest in and it is compounded, then you see what happens. You have what is called an exponential curve. This is 2 percent and 4 percent and 5 percent.

And this one on the left here is a really interesting one, Mr. Speaker. That one that goes almost straight up, that is the rate at which China is growing, almost 10 percent a year. With a 10 percent growth rate, you double in 7 years, 7.2 years to be precise, but roughly 7 years. You are four times bigger in 14 years and you are eight times bigger in 21 years. Now, I do not think China will necessarily continue with a 10 percent growth rate for 25 years, but if they do, their economy will be eight times bigger than it is today.

The next chart shows this same 2 percent growth. And, by the way, you can make that bell curve very sharp, very high and very sharp. You can simply change the numbers on the abscissa and the ordinate here. But this is the same 2 percent we saw in the previous one, and this has been about the rate that the consumption of oil has grown in the world, about 2 percent a year. That is the 2 percent curve here.

Now, obviously, up until this time the rate of reduction has equaled the rate of use because we have used all the oil that was produced and we have had all the oil we needed to use. But there will come a time, if in fact there is a phenomenon known as peak oil, when you peak, and there was for our country.

I want to remind you, Mr. Speaker, that there are a couple of unassailable facts. The first one is that M. King Hubbert was right about the United States. We did peak in 1970. He predicted that we would peak in 2000. Now, why should not M. King Hubbert be right about the world if he was right about the United States? And we now have oil at, what, roughly $65 a barrel, that has recently spiked up to over $71 a barrel.

But notice, Mr. Speaker, from this chart that the problem does not wait until peak. And, by the way, this 2 percent growth curve doubles in 35 years. So from this point to the end here, all the shaded area, that spans 35 years, because the upper point here is twice this one. That would mean that you start to have problems, if you could see them that precisely, 17½ years before peak. So we do not necessarily have to reach the peak before there is a discrepancy between what you would like to use, India and China and us.

We think, Mr. Speaker, if our economy is not growing at least 2 percent a year, the sky is going to fall, so we need to grow. China is certainly growing. India is growing. All of the Orient is growing and all demanding more oil. And if we stay with only a 2 percent increase—China last year increased 14.7 percent, India increased. If we stay with only a 2 percent increase, we are going to be really lucky. And, Mr. Speaker, we will not even be able to use all of the energy that is available here if, in fact, we are going to make a reasonably smooth transition to alternatives.

Mr. Speaker, we will transition to alternatives, because the age of oil will not last forever. And as oil runs down, we must move to alternatives. We will either move to alternatives because there is not any more oil available in the quantity we would like, and by the way we are not running out of oil; there will be oil for another 100 years. What we are running out of is readily available, high-quality oil produced in the quantities that we need to meet our current economic demands.

Now, we really are going to have to reduce our consumption here so that we will have some energy to invest in the alternatives, because you are not going to make the transition without investing three things: Money. Mr. Speaker, we do not worry much about money. We just borrow it, without permission, from our kids and grandkids. But we cannot borrow time and we cannot borrow energy. So we are going to need to have time and need to have energy. So what we are going to need to do is to conserve, so that we reduce our energy demands so that we have something to invest.

The next chart shows us, Mr. Speaker, that we really can do that. This shows through the years from 1960 to 2000 the energy use per capita, per person, in the United States. Now, on this chart, Mr. Speaker, we see something very interesting. We, and by "we," me and everybody else in the United States and California, started out at the same place, about 4,000 kilowatt hours per person. We have been using more and more energy as we have lived better and better from 1960 until now. We have more labor-saving things that are using fossil fuels to help us. But notice what has happened. Because of their emphasis on environment and efficiency in California, the average Californian uses only about 65 percent as much energy as the rest of America. This shows, Mr. Speaker, that we can conserve. We can be more efficient. We can reduce our consumption of energy.

The next chart shows what we have available to us to transition from fossil fuels, oil, gas, and coal to renewables. We have some finite resources. These are things which we have that are not the typical petroleum product that we can rely on to give us some energy. Tar sands and oil shales and coal and nuclear fission and nuclear fusion. Just a word about these.

I would first like to make an observation about energy density, because this is a quality of energy that is very important in our society. Fossil fuels have enormous energy density. For instance, Mr. Speaker, one barrel of oil, the refined product of which is 42 gallons of gasoline, you can buy at the pump for just a little over $100 now. That will give you, Mr. Speaker, the work output of 12 people working all year for you and it costs you just a little over $100.

Now, to give you some sense that that is probably correct, I would like you to reflect for a moment, Mr. Speaker, on the car you drive and how many miles per gallon you get. That gallon of gas is still, at $3-something, cheaper than small bottles of water in the grocery store, by the way. But reflect on how far that gallon of gas will take you in your car and then you think about how long it would take you to pull your car that far.

☐ 2330

So you will get some notion that this energy density is probably correct, that a barrel of oil, 42 gallons of gas, the refined product will give you the work output of 12 people working all year for you, and it costs you just a little over $100.

Mr. Speaker, another way of looking at this is to go out this weekend and work very hard in your yard, manual labor, digging a ditch, cutting grass, whatever you want to do. I will use an electric motor and less than 25 cents worth of electricity, and I will get more mechanical work done than you will working all day long real hard. That is kind of humbling, is it not, Mr. Speaker, to recognize that in terms of the energy in fossil fuel, you and I are worth less than 25 cents a day.

But this is really the problem we have had, because these fossil fuels are so good, they are so available, the energy density is so high that we have just come really to rely on them. So when we are looking for alternatives, if we are going to continue the lifestyle anything like the lifestyle we have now, we are going to have to find substitutes that have something like the quality of energy this our fossil fuels. That is not going to be easy, Mr. Speaker.

Here are the finite resources that we have. There are some big oil sands, they call them oil sands up in Canada, and they are now producing oil from the oil sands at about $30 a barrel. Oil is selling at $65 a barrel, and that is a good deal, so Canadians are producing a lot of oil up there from the oil sands. From a dollars and cents perspective, that makes a lot of sense. They are doing that and selling it.

But there is another profit ratio that we have to think here, and that is energy profit ratio. That is energy in and energy out. I am told that at this time they are using more energy from natural gas.

You see, this tar and the tar sands is so stiff that it will not flow at normal temperatures. So they drill two wells together, then they go horizontal, and in the upper well they put hot water, steam, and that softens the oil. Then it goes down through the rock and sand and then they pick it up in the lower well that is drilled under that. They can now drill down perpendicularly and go horizontally, as they have been able to do for a number of years.

I am told they are using more energy from natural gas than they will get out of the oil they produce. For them that is still maybe a good idea, because the natural gas is up there and it is cheap for them and hard to transport. Because it is a gas and there is not very much of it, the density is very low. They are converting gas energy into oil energy, and although they get less energy out of the oil, you can put it in a pipe or ship and you can easily move it and you are getting $65 a barrel for the oil, so they are doing it.

But this points out, Mr. Speaker, that we should not be too sanguine about all of the potential energy in the tar sands and oil shales, because it may take, even if we get really good, and they are now talking about putting a nuclear power plant up there to heat the water, to soften the oil to get it out of the ground, if we are really good at getting this out, it is not going to be very energy positive. We are going to have to be good to make it energy positive at all.

Then coal, in a couple of moments I will show you a chart on coal, we have 250 years at current use rates, but that shrinks when you have to use it in higher quantities, and we will have to use it in higher quantities.

Nuclear fission, that is the conventional nuclear power plants, now we get 14 percent of our total energy, 20 percent of our electricity, from nuclear. As you drive home tonight, Mr. Speaker, note that every fifth house and every fifth building would be dark if we did not have nuclear energy.

We probably in this transition period need to have a lot more of that, and we need to think through what we do with the waste from that and how we handle that. But either you are going to end up using far less energy than you are using now, or you are going to get energy from sources you are not now getting it from, and nuclear is a very attractive source to get energy from because you have such enormous energy output from a single plant.

But that is not a final solution with the kind of power plants we have now, because they use fissionable uranium, and that is in limited supply in the world and that will not last forever. Maybe, I get different numbers. I get numbers between 30 years and 200 years, depending on who you are talking to. We desperately need an honest broker, like maybe the National Academy of Sciences, to help us agree on a number so we have something to work with.

But in any event, when fissionable uranium is gone, and that is at current use rates, by the way, we have 30 to 200 years. If you ramp up the use rates, it goes more quickly. Then we have to go to breeder reactors, with which we have little experience and which produce by-products that have to be stored away, even more critical by-products, end products, than from the fissionable uranium, that have to be stored away for maybe a quarter of a million years, and that kind of boggles the mind to think of storing something away for that long.

The last one here is nuclear fusion. I support all the money that technology can absorb. I think the chances of getting to nuclear fusion in our lifetime are about the same as my chances of winning the lottery and solving my personal economic problems. If I think the lottery is a good bet, I am going to think that nuclear fusion is a good bet. But I would not bet the ranch that we are going to get to nuclear fusion.

If we get there, Mr. Speaker, we are home free, because there is essentially a inexhaustible amount of energy there. We ought to support all of those skilled people that have expertise in this area to see if it is possible to get there. But it is certainly something we should not bank on. It will be really nice if it happens, but we better have an alternative course of action, because it is unlikely to happen.

Once we have gone through these finite resources, then we come to the alternatives. I would like to look at the next chart and leave this one up, because I want to come back to it.

This now shows where we are. This is our total energy use in the little circle here, and three-fourths of that, the natural gas, the petroleum and the coal, if you add those up, they add up to 85, it should be 85 percent.

The other sources of energy are then 15 percent total. A bit more than half of that comes from nuclear power and so-called renewables. Here the chart has blown that up so we can see it. The biggest part of that comes from hydroelectric, and that is not likely to grow in our country, because we have dammed up about every river we should and maybe a few we should not and we are breaching more dams than we are creating now. So that is probably not going to grow.

The next biggest source of renewables is wood. This is not the rural person burning it for heating their home. This is a big timber industry and paper industry wisely burning what would otherwise be a waste product to get energy.

Then waste. This one can grow, the waste, and it should grow. It is really kind of dumb to bury our waste rather than burning it to get energy from it. Landfills create problems. When you burn it many of those problems, when you control it the pollutants disappear and you get energy from it.

But what this points out is that the sources that we are going to have increasingly turn to as we run down Hubbard's peak are things like solar, which is now one percent of 7, which is one out of 7 percent, which is .07 percent. Wind, these are just now really minuscule, but they are the resources that we have got to invest in, because they are going to have to be big sources of energy for us in the future.

Here, alcohol. A couple of weeks ago I spent a full day, Mr. Speaker, at the National Press Club here on a conference on ethanol. There is a big controversy out there about whether or not we can produce ethanol and get more energy out of the ethanol than we put into producing it, mowing the land, building the tractor, putting the tires on the tractor, fertilizing and so forth. There are a couple of really good scientists who believe they have looked at all of the energy inputs and they think that you have an energy deficit when you go from corn to ethanol, that you put more energy into producing it than you get out of it. Others think it is maybe energy positive.

But the point I am making is if it is energy positive, it is not going to be very energy positive, and it may be a nice convenient way to end up. You cannot put cornstalks in your car and go, but you could have a little critter that breaks down the cellulose there into glucose and then ferment that and get alcohol and put that in your car and go. I am not saying it is not a good idea, but I am saying we are not going to get enormous amounts of energy from it.

□ 2340

It may be energy positive; but if energy positive, not very energy positive.

Here is geothermal, and, by the way, that is not the geothermal of the guy who is selling the heat pump and telling us he is going to put in a heat thermal system. And what he is doing is very wisely connecting us either to groundwater or the ground so that we are not trying to heat the summer air to cool our house or cool the winter air to warm our house. It is what we do with the heat pump that interfaces with air, and they call that geothermal. And I agree they ought to put that in quotes because the real geothermal is where we are doing what Iceland does and tap into the molten core of our Earth where we are close enough where we can drill down and get the benefit of that heat.

If one goes to Iceland, I have never seen a chimney there. I have been there several times. They do not need chimneys because they have a lot of geothermal there. This points out the importance of these now very miniscule contributions to our energy. We are very much, Mr. Speaker, like a young couple that has just gotten married and we have really lucked out. We have got a big inheritance from our grandparents. We really lucked out. We found a lot of fossil fuels.

So now we have established a life-style where 85 percent of all the money we spend is our grandparents' inheritance and only 15 of percent of it comes from our income. But our grandparents' inheritance is not going to last until we retire and certainly not until we die. So we are going to do, Mr. Speaker, one of two things. Either we are going to have to spend less money, or we are going to make more money; and that is exactly where we are in energy. Eighty-five percent of what we use is fossil fuels. Fifteen percent of it is what we have earned in a sense because it comes from nuclear power, and if we go to breeder reactors, that could be a perpetual source of power, and it comes from these renewables.

And we are going to have to transition as we run down Hubbert's Peak. We are going to have to transition from this 85 percent inheritance of our grandparents to the 15 percent, and would it not be nice if we could make it more than 15 percent? But the probability is that we are going to have to have life-styles in the future which require less energy.

And let us go back to our previous chart. If we look at the potential for energy sources from all of these solar and wind and geothermal and ocean energy, can one imagine, Mr. Speaker, how much energy it takes to lift the ocean 2 feet, the tides? But the problem with that is it is so diffuse, it is very hard to harness. But people are trying. Wave energy, thermal gradients in the ocean, there are lots of possibilities of energy from the ocean; but it is very diffuse. It is very difficult to get it concentrated so we can use it.

Then all the agricultural sources, Mr. Speaker, I am not so sanguine about energy from agricultural as I once was as I recognize that we are barely able to feed the world. Tonight, a fifth of the world will go to bed hungry. When I recognize that we are barely able to maintain the productivity of our soils with no till farming that helps us keep our top soils.

Before that we were losing the battle, and our top soils in the center of our country were ending up in the Mississippi Delta, from the Chesapeake Bay Watershed. They were ending up in the Chesapeake Bay. Now we are doing better; but I am concerned, Mr. Speaker, how much biomass we can take from our agricultural land and still have enough organic material, good tilth, which is what we call that quality of soil. So we can get some energy from agriculture, but it is going to be limited. It is not going to be enormous amounts of energy we get there. But we need to get energy from every place we can get it because we have an enormous challenge to come up with enough energy to replace the fossil fuels as we run down Hubbert's Peak.

Waste energy, we mentioned that. It was on the previous chart. We really need to do more of that. That is a really good idea.

Just a word about hydrogen from renewables. Hydrogen, Mr. Speaker, is not an energy source. It will always take more energy to produce hydrogen than we get out of hydrogen. Otherwise, we are going to have to suspend the laws of thermodynamics, and they are not going to be suspended. But still it is a good idea to use hydrogen because we can get hydrogen from some things like coal, like electricity from a nuclear power plant; and we cannot put a nuclear reactor in the trunk of our car. We cannot put coal in the trunk of our car. We did that in the coal car behind the engine, but we do not do it in our cars and we will not.

So what we are doing really is converting one kind of undesirable energy to a very desirable form of energy in hydrogen that burns and we get only water from it. And in addition to that, Mr. Speaker, we can now use it in a fuel cell. It is very adaptable to a fuel cell where we will get about twice the efficiency that we do from a reciprocating engine. But please think of hydrogen as the equivalent of a battery. It takes energy from one place and stores it in a very convenient form so we can use it someplace else.

Several weeks ago we had a hearing here, and we had experts here on hydrogen and the hydrogen economy. And they all agreed that of the three ways that we could store hydrogen, only one of them was really feasible if we were ever going to move to a true hydrogen economy. Three ways of storing hydrogen. One is to compress it. It is the lightest element in the universe. It is always trying to get out of wherever we put it. And it takes big, thick pressure vessels because it is so light to store very much of it. So that is a big problem. They say that we can never really have a really functional hydrogen economy if we have to compress it.

Another way of storing is to liquefy it. Then it is really cold, and it takes a lot of energy to compress it and cool it, compress it and cool it until it finally becomes a liquid, and then we have to store it in a really insulated vessel; and when we park our car, it is just going off.

And they say that the third way of storing it is the only way that is really going to make a hydrogen economy feasible, and that is solid state storage. Storing the hydrogen in a reversible chemical reaction. Mr. Speaker, that is exactly what we do with the electron battery, which is the conventional battery we have. We take electrons and we put them in a chemical form that is reversible so we can charge the battery and then discharge the battery to get power from it.

So when we have a hydrogen economy, which will really be effective and doable, these experts say we are going to have to find a battery, a way of storing hydrogen in a solid form to make it really doable. So just think of it as another kind of battery.

The next chart is really a very interesting one, and it points out to us something that we should have realized, and this covers about 400 years. It goes from 1630 to the present. And on the ordinant it shows the energy that our societies have produced; and over here, of course, is time. And the brown here is wood; and it shows that when we really learned how to use wood in the Stanley Steamer and our charcoal for smelting iron and so forth, we started an industrial revolution. It was stuttering, and then we found coal, and, boy, it really jumped. But then the use of coal really dropped off when we found oil because oil had qualities that exceeded coal. It was so much easier to use. The energy density was higher. And look what happened to our production of energy.

And, by the way, the increase in population pretty much followed the increase in the production of energy. It made it possible now to live so much easier. We could have more children. We could support the children. And notice up at the top up there that little dip. That is the Arab oil embargo and the worldwide recession. And what that did, Mr. Speaker, was to delay the onset of peak oil.

The next chart shows us some characteristics of the alternatives that we are going to have to replace these fossil fuels. On the ordinant here, we have energy profit ratio. I talked a little bit ago about energy profit. This is how much energy we get out from what energy we put in. And if we go subzero, we may as well not do it if we are putting in more energy in than we get out unless what we are getting out has some qualities that are better than the qualities we are putting in.

And we are down here now with hydrogen. Hydrogen is down here. It is below zero. We are putting more energy in than we are getting out. But never mind, because hydrogen has real economic effectiveness in transport. We can put it in a vessel, and we can run our car with it.

☐ 2350

Now, what you want, of course, is an alternative that has the highest energy profit ratio and has the highest economic effectiveness in transport, and what meets that are the giant oil fields. We do not have any of those in our country. Most of U.S. oil is way down here. It is really good in terms of economic effectiveness, but it takes a whole lot more energy to get it out than it takes over in Saudi Arabia, and the big, giant oil fields are up here, and there never were any of those in our country, they are in the Middle East. You can see here coal. You get a meaningful amount of energy out of coal but, boy, it is not very good in economic effectiveness. You have to convert it into something else. Photovoltaics in 1995, they were way down here, and now we have moved them up to here. Hydro and coal-fired and nuclear are down here, and this tells you the qualities of the replacements that we are going to need to find for fossil fuels if we are going to be able to maintain anything like the economic activity and the lifestyle that we now have.

The next chart is an interesting one. It shows us coal, and people will tell us, do not worry about energy, we have 250 years of coal left in our country. That is not forever, by the way, but that is a very long time. That is true. At current use rates, we have 250 years of coal. But, if we are going to use more coal, we are going to have an increased use of coal, and if we use coal only with a 2 percent growth per year, and, Mr. Speaker, we are going to have to use a much greater growth rate than that to make up for the slide down Hubbard's Peak in oil, but only 2 percent growth per year, compounded, it now shrinks to 85 years. And, since you cannot use coal for a lot of things like running your car, you have to convert to a gas or liquid; well, you have now made that conversion, you are now down to only about 50 years. The coal is there, it is dirty, it produces a lot of pollutants. You either put up with the pollutants or you pay a lot of energy and money, and we will not worry about money, we should worry about energy, to clean up the coal.

The next chart is an interesting one. The top shows you the subject that I spent a full day down here at the National Press Club a couple of weeks ago on, and that is ethanol. On the right here it shows the energy you get from oil. You put in 1 million BTUs and you get out 1.23 million BTUs. I am sorry. With an input of 1.3 million, you get out 1 million BTUs. Obviously, you are going to have to use some of the energy and the oil to transport it and to refine it and to deliver it and so forth.

Now, the chart on the left here was given to me by our Department of Energy. I am told by the experts that this is wildly optimistic, but this is at least this group's view of what we can get out of it. The Energy Conference had these two experts who said that you need to put in more energy than you will get out. And even this optimistic assessment says that to get a million BTUs out, you need to put in three-fourths that amount. Now, of course, the extra energy comes from the sun, which, by the way, is where the oil came from too, because the oil and gas all come from things that grew a very long time ago with sun.

On the bottom here is a really interesting chart. In this little pie-shaped thing here, it shows all of the energy that goes into producing a bushel of corn. And notice that nearly half the energy, Mr. Speaker, that goes into producing a bushel of corn comes from nitrogen. And that nitrogen fertilizer is made from natural gas, so that is natural gas energy there. And notice almost every other slice of this pie, we are talking about fossil fuel energy to grow the seed to haul, to supply the water, many of the chemicals come from oil, custom work, putting oil in the combine, natural gas that is liquefied or used as natural gas for drying your crop, electricity that is used for a lot of things; gasoline itself, diesel, the lime and the phosphate and the pot ash are all mined using fossil fuels, so essentially, for every piece of this pie, fossil fuels are used.

Now, what do we need to do? This next chart, which is our last chart, shows us the challenge. And, Mr. Speaker, what we need is a focus that is equivalent, if you are old enough to remember the Manhattan Project, it is equivalent to the Manhattan Project, or putting a man on the moon. That was a real challenge. And I think we need to challenge the American people in a very similar way. We have to do something about our dependence on foreign oil. If you do not think there is going to be such a thing as peak oil, and I think we are probably here. I hope not. I hope I am wrong. I hope these world experts are wrong. But if we are right, then we face a very bumpy ride. But even if you do not believe that as a problem, you have to believe that getting two-thirds of our oil from overseas is a big national security risk. By the way, we need to do exactly the same thing to reduce the national security risk that we need to do to transition. We need to buy time, conservation, and efficiency. We need to use that very wisely. If you do the wrong thing, you may end up making the problem even worse.

I would encourage my colleagues, Mr. Speaker, to look into Jevons Paradox. Very interesting paradox. For some problems, the harder you work, the worse the problem gets. There will be real benefits to doing this. We will have technologies we can sell to the world, not just we, but the world, so we need to make this transition. We will create a lot of new jobs. It will be challenging to our people.

Whether we like it or not, Mr. Speaker, we are going to be a role model. We use 25 percent of the world's oil. We are a role model. We are going to be a role model. We need to step up to that.

Mr. Speaker, I would like to challenge our government and our people to step up to this challenge. There are those who believe that we cannot do this. One writer begins his article by saying, dear reader, civilization as we know it will end soon. His name is Mat Savinar, you will find him with a google search of "peak oil." Please read the article. You will be genuinely frightened, having finished the article.

I am not as pessimistic as Mat Savinar. I think that the American people, because we have met every other challenge, I think we can meet this challenge. But, Mr. Speaker, we are not likely to meet the challenge if we do not know there is a problem. So I am very appreciative for this opportunity to speak about this problem, and we will be back again, because this problem is not going to go away, and we need to talk more and more about the solutions and the problem.

## LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BUTTERFIELD (at the request of Ms. PELOSI) for today and September 8 on account of a death in the family.

Mr. FORD (at the request of Ms. PELOSI) for today on account of attending a funeral.

Mr. MCNULTY (at the request of Ms. PELOSI) for today on account of personal reasons.

Mrs. EMERSON (at the request of Mr. DELAY) for September 6 and today on account of helping with Hurricane Katrina relief.

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Ms. DELAURO, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. LIPINSKI, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. SCOTT of Georgia, for 5 minutes, today.

Mr. GENE GREEN of Texas, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. CARSON, for 5 minutes, today.

Ms. CORRINE BROWN of Florida, for 5 minutes, today.

Ms. WASSERMAN SCHULTZ, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Ms. DELAURO) to revise and extend their remarks and include extraneous material:)

Ms. MILLENDER-MCDONALD, for 5 minutes, today.

Ms. WATERS, for 5 minutes, today.

Mr. RANGEL, for 5 minutes, today.

(The following Member (at the request of Mr. RAMSTAD) to revise and extend his remarks and include extraneous material:)

Mr. RAMSTAD, for 5 minutes, today.

(The following Member (at the request of Mr. POE) to revise and extend his remarks and include extraneous material:)

Mr. LEWIS of California, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Mrs. JONES of Ohio, for 5 minutes, today.

Mr. LEWIS of Georgia, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

## ADJOURNMENT

Mr. BARTLETT of Maryland. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 58 minutes p.m.), the House adjourned until tomorrow, Thursday, September 8, 2005, at 10 a.m.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

3665. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Methoxyfenozide; Pesticide Tolerances for Emergency Exemptions [OPP-2005-0224; FRL-7732-3] received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3666. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Halosulfuron-methyl; Pesticide Tolerances for Emergency Exemptions [OPP-2005-0165; FRL-7719-8] received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3667. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Flonicamid; Pesticide Tolerance [OPP-2005-0217; FRL-7731-6] received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

3668. A communication from the President of the United States, transmitting requests for emergency FY 2005 supplemental appropriations for the Departments of Homeland Security and Defense and the Army Corps of Engineers; (H. Doc. No. 109–53); to the Committee on Appropriations and ordered to be printed.

3669. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101-510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3670. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3671. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101-510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3672. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting certified materials supplied to the Defense Base Closure and Realignment Commission, pursuant to Public Law 101–510, section 2903(c)(6) and 2914(b)(1); to the Committee on Armed Services.

3673. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the grade of real admiral (lower half) accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

3674. A letter from the Under Secertary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Wallace C. Greyson, Jr., United States Marine Corps, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

3675. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Richard L. Kelly, United States Marine Corps, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

3676. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Richard A. Hack, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

3677. A letter from the Under Secertary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of General William L. Nyland, United States Marine Corps, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

3678. A letter from the Secretary, Department of Health and Human Services, transmitting written notification of a determination of a public health emergency in the states of Arkansas, Colorado, Georgia, North Carolina, Oklahoma, Tennessee, West Virginia, and Utah, pursuant to 42 U.S.C. 247d(d); to the Committee on Energy and Commerce.

3679. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production [OAR-2003-0003; FRL-7957-7] (RIN: 2060-AM23) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3680. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Protection of Stratospheric Ozone: Allocation of Essential Use Allowances for Calendar Year 2005 [FRL-7958-2] (RIN: 2060-AM50) received August 23, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3681. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Protection of Stratospheric Ozone: Process for Exempting Critical Uses of Methyl Bromide for the 2005 Supplemental Request [FRL-7962-4] (RIN: 2060-AN13) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3682. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing [OAR-2003-0121; AD-FRL-7961-9] (RIN: 2060-AN09) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3683. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Minnesota; Revised Format of 40 CFR Part 52 for Materials Being Incorporated by Reference; Correction [MN-86-2; FRL-7962-6] received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

3684. A letter from the Acting Assistant Secretary for Legislatve Affairs, Department of State, transmitting a report as required by Section 7120 of the Intelligence Reform and Terrorism Prevention Act of 2000 (P.L. 108-458); to the Committee on International Relations.

3685. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Report on Adherence to and Compliance with Arms Control, Nonproliferation and Disarmament Agreements and Committments for August 2005, pursuant to 22 U.S.C. 2593; to the Committee on International Relations.

3686. A letter from the Chief Executive Officer, Corporation for National and Community Service, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3687. A letter from the Acting White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3688. A letter from the Acting White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3689. A letter from the Acting White House Liaison, Department of Commerce, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3690. A letter from the Political Personnel and Advisory Comm. Mgmt. Spec., Department of Health and Human Services, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3691. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3692. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3693. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3694. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3695. A letter from the Assistant Secretary for Administration and Management, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3696. A letter from the Assistant Secretary for Administration and Management, Department of Labor, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3697. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3698. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3699. A letter from the Assistant Administrator, OARM, Environmental Protection Agency, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3700. A letter from the Assistant Administrator, OARM, Environmental Protection Agency, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3701. A letter from the General Counsel, Office of Management and Budget, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

3702. A letter from the Asst. Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule — Oil and Gas and Sulphur Operations in the Outer Continental Shelf — Plans and Information (RIN: 1010-AC47) received August 26, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

3703. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; San Francisco Giants Fireworks Display, San Francisco Bay, CA [CGD 11-05-008] (RIN: 1625-AA08) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3704. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; San Francisco Giants Season Home Opener Fireworks Display, San Francisco Bay, CA [CGD11 05-003] (RIN: 1625-AA08) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3705. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations; Bucksport, South Carolina [CGD07-05-038] (RIN: 1625-AA08) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3706. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulation for Marine Events; Neuse River, New Bern, NC [CGD05-05-040] (RIN: 1625-AA08) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3707. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Regulation for Marine Events; Western Branch, Elizabeth River, Portsmouth, VA [CGD05-05-026] (RIN: 1625-AA08) received August 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3708. A letter from the Program Analyst, FAA, Department of Transporation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A320-111 Airplanes and Model A320-200 Series Airplanes [Docket No. FAA-2005-20500; Directorate Identifier 2004-NM-235-AD; Amendment 39-14191; AD 2005-15-02] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3709. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB-135 Airplanes, and Model EMB-145, -145ER, -145MR, -145LR, -145XR, -145MP, and -145EP Airplanes [Docket No. FAA-2005-21598; Directorate Identifier 2005-NM-121-AD; Amendment 39-14159; AD 2005-13-22] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3710. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Lockheed Model L-1011-385 Series Airplanes [Docket No. 99-NM-129-AD; Amendment 39-14190; AD 2005-15-01] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3711. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A300 B4-600, B4-600R, and F4-600R Series Airplanes, and Model A300 C4-605R Variant F Airplanes (Collectively Called A300-600 Series Airplanes) [Docket No. FAA-2005-20867; Directorate Identifier 2004-NM-188-AD; Amendment 39-14194; AD 2005-15-05] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3712. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-200C and 747-200F Series Airplanes [Docket No. FAA-2005-20690; Directorate Identifier 2003-NM-230-AD; Amendment 39-14195; AD 2005-15-06] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3713. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747-100B SUD, -200B, -300, -400, and -400D Series Airplanes [Docket No. FAA-2004-19175; Directorate Identifier 2003-NM-246-AD; Amendment 39-14197; AD 2005-15-08] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3714. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; McDonnell Douglas Model DC-10-10, DC-10-10F, DC-10-15, DC-10-30, DC-10-30F (KC-10A and KDC-10), DC-10-40, DC-10-40F, MD-10-10F, MD-10-30F, MD-11, and MD-11F Airplanes [Docket No. 2001-NM-359-AD; Amendment 39-14201; AD 2005-15-12] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3715. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Airbus Model A320-111 Airplanes and Model A320-200 Series Airplanes [Docket No. FAA-2005-21023; Directorate Identifier 2004-NM-262-AD; Amendment 39-14196; AD 2005-15-07] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3716. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited (Jetstream) Model 4101 Airplanes [Docket No. FAA-2005-21137; Directorate Identifier 2002-NM-86-AD; Amendment 39-14200; AD 2005-15-11] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3717. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; The New Piper Aircraft, Inc. Models PA-34-200T, PA-34-220T, PA-44-180, and PA-44-180T Airplanes [Docket No. FAA-2005-21590; Directorate Identifier 2005-CE-33-AD; Amendment 39-14199; AD 2005-15-10] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3718. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model CL-600-1A11 (CL-600), Model CL-600-2A12 (CL-601), and Model CL-600-2B16 (CL-601-3A, CL-601-3R, and CL-604) Airplanes [Docket No. FAA-2005-21139; Directorate Identifier 2003-NM-196-AD; Amendment 39-14193; AD 2005-15-04] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3719. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Rolls-Royce plc RB211-524 Series Turbofan Engines [Docket No. 2002-NE-40-AD; Amendment 39-14202; AD 2005-15-13] (RIN: 2120-AA64) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

3720. A letter from the Secretary, Department of Health and Human Services, transmitting a waiver of certain Medicare, Medicaid, and State Children's Health Insurance Program Requirements, pursuant to 42 U.S.C. 1320b-5; jointly to the Committees on Ways and Means and Energy and Commerce.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. LINCOLN DIAZ-BALART of Florida: Committee on Rules.

House Resolution 426. Resolution providing for consideration of motions to suspend the rules (Rept. 109-217). Referred to the House Calendar.

## PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. KANJORSKI:

H.R. 3664. A bill to amend the Internal Revenue Code of 1986 to impose a windfall profit tax on oil and natural gas (and products thereof) and to appropriate the proceeds for the Low-Income Home Energy Assistance Program; to the Committee on Ways and Means, and in addition to the Committee on Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOOZMAN (for himself, Ms. Herseth, Mr. Filner, and Mr. Evans):

H.R. 3665. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide adaptive housing assistance to disabled veterans residing temporarily in housing owned by a family member and to make direct housing loans to Native American veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. EVANS (for himself, Mr. Filner, Mr. Gutierrez, Ms. Corrine

Brown of Florida, Mr. Michaud, Ms. Herseth, Mr. Strickland, Ms. Hooley, Mr. Reyes, Ms. Berkley, and Mr. Udall of New Mexico):

H.R. 3666. A bill to provide that, for the period ending August 31, 2007, veterans affected by Hurricane Katrina shall have access to health care from the Department of Veterans Affairs; to the Committee on Veterans' Affairs.

By Mr. WAXMAN (for himself and Mr. McHugh):

H.R. 3667. A bill to designate the facility of the United States Postal Service located at 200 South Barrington Street in Los Angeles, California, as the "Karl Malden Station"; to the Committee on Government Reform.

By Mr. JINDAL (for himself, Mr. Boehner, Mr. McKeon, Mr. Wilson of South Carolina, Mr. Porter, Mr. Boustany, Mr. Hinojosa, Mr. Wu, Mrs. Davis of California, Ms. McCollum of Minnesota, Mr. Davis of Illinois, Mr. Van Hollen, Mr. Baker, Mr. McCrery, Mr. Bachus, and Mr. Wicker):

H.R. 3668. A bill to provide the Secretary of Education with waiver authority for students who are eligible for Federal student grant assistance who are adversely affected by a major disaster; to the Committee on Education and the Workforce.

By Mr. NEY (for himself, Mr. Baker, Ms. Waters, Ms. Ginny Brown-Waite of Florida, and Mr. Davis of Alabama):

H.R. 3669. A bill to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program; to the Committee on Financial Services.

By Mr. EVANS (for himself, Mr. Filner, Mr. Gutierrez, Ms. Corrine Brown of Florida, Mr. Snyder, Mr. Michaud, Ms. Herseth, Mr. Strickland, Ms. Hooley, Mr. Reyes, Ms. Berkley, Mr. Udall of New Mexico, and Mrs. Davis of California):

H.R. 3670. A bill to extend for persons affected by Hurricane Katrina the time for appeal to the United States Court of Appeals for Veterans Claims of certain decisions of the Board of Veterans Appeals that are rendered during the period from June 1, 2005, through November 30, 2005; to the Committee on Veterans' Affairs.

By Mr. GENE GREEN of Texas:

H.R. 3671. A bill to amend title XIX of the Social Security Act to authorize the Secretary of Health and Human Services to provide 100 percent as the Federal medical assistance percentage for displaced Medicaid recipients receiving medical assistance outside their State of residence due to a declared public health emergency; to the Committee on Energy and Commerce.

By Mr. McCRERY (for himself, Mr. Jefferson, Mr. Baker, Mr. Jindal, and Mr. Pickering):

H.R. 3672. A bill to provide assistance to families affected by Hurricane Katrina, through the program of block grants to States for temporary assistance for needy families; to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LEWIS of California:

H.R. 3673. A bill making further emergency supplemental appropriations to meet immediate needs arising from the consequences of Hurricane Katrina, for the fiscal year ending September 30, 2005, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 3674. A bill to authorize the Secretary of Transportation to make grants for projects to construct fences or other barriers to prevent public access to tracks and other hazards of fixed guideway systems in residential areas; to the Committee on Transportation and Infrastructure.

By Mr. BASS:

H.R. 3675. A bill to amend the Federal Trade Commission Act to increase civil penalties for violations involving unfair or deceptive acts or practices that exploit popular reaction to an emergency or major disaster, and to authorize the Federal Trade Commission to seek civil penalties for such violations in actions brought under section 13 of that Act; to the Committee on Energy and Commerce.

By Mr. BERRY:

H.R. 3676. A bill to suspend temporarily the duty on clock radio combos; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 3677. A bill to suspend temporarily the duty on dog accessories; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 3678. A bill to suspend temporarily the duty on floor coverings and mats of vulcanized rubber; to the Committee on Ways and Means.

By Mr. BERRY:

H.R. 3679. A bill to suspend temporarily the duty on manicure and pedicure sets; to the Committee on Ways and Means.

By Mr. CAMP:

H.R. 3680. A bill to amend the Internal Revenue Code of 1986 to increase and extend temporary expensing for equipment used in refining of liquid fuels; to the Committee on Ways and Means.

By Mr. CONYERS (for himself, Mr. Nadler, Mr. Meehan, Mr. Scott of Virginia, Ms. Zoe Lofgren of California, Mr. Delahunt, Ms. Linda T. Sánchez of California, Ms. Wasserman Schultz, Ms. Jackson-Lee of Texas, Mr. Thompson of Mississippi, Mr. Jefferson, Mr. Schiff, Mr. Taylor of Mississippi, Mr. Crowley, Mr. Sanders, Mr. Van Hollen, Mr. Case, Ms. Watson, Mr. Capuano, Mr. Boren, Mr. Filner, Mr. Kucinich, Mr. McDermott, Ms. McCollum of Minnesota, Mr. Weiner, Mr. George Miller of California, Mr. Larson of Connecticut, Mr. Al Green of Texas, Ms. Lee, Ms. Kilpatrick of Michigan, Ms. Carson, Mrs. Maloney, Mr. Cleaver, Ms. Roybal-Allard, Mr. Inslee, and Mr. Serrano):

H.R. 3681. A bill to amend the Clayton Act to make unlawful price gouging for necessary goods and services during Presidentially declared times of national disaster; to the Committee on the Judiciary.

By Mr. TOM DAVIS of Virginia (for himself and Mr. Wolf):

H.R. 3682. A bill to redesignate the Mason Neck National Wildlife Refuge in Virginia as the Elizabeth Hartwell Mason Neck National Wildlife Refuge; to the Committee on Resources.

By Mr. ENGLISH of Pennsylvania (for himself, Mr. Shadegg, Mr. Paul, Mr. McHenry, Mr. Ford, Mr. Sensenbrenner, Mr. Wilson of South Carolina, Mr. Simmons, Mr. Kennedy of Minnesota, Mr. Goode, Mrs. Cubin, Mr. McCaul of Texas, Mr. Hayworth, Mrs. Johnson of Connecticut, Mr. Aderholt, Mr. Renzi, Mr. Weller, Mr. Gingrey, Mrs. Blackburn, Mr. Miller of Florida, Mr. Franks of Arizona, and Mrs. Miller of Michigan):

H.R. 3683. A bill to amend the Internal Revenue Code of 1986 to suspend for 30 days the Federal excise taxes on highway motor fuels; to the Committee on Ways and Means.

By Mr. FLAKE (for himself, Mr. Sam Johnson of Texas, Mr. Wilson of South Carolina, Mr. Kline, Mr. McHenry, Mr. King of Iowa, Mr. Shadegg, Mr. Barrett of South Carolina, Mr. Bishop of Utah, Mr. Herger, Mr. Culberson, Mr. Tiahrt, Mr. Goode, Mr. Tancredo, Mr. Wicker, Mr. Pitts, Mr. Barton of Texas, Mr. Istook, Mr. Brown of South Carolina, Mr. Feeney, Mr. Chabot, Mrs. Myrick, Mr. Gohmert, Mr. Hensarling, Mr. Doolittle, Mr. Gingrey, Mr. Franks of Arizona, Mr. Pence, Mr. Wamp, and Mr. Garrett of New Jersey):

H.R. 3684. A bill to suspend the Davis-Bacon wage rate requirements for Federal contracts in areas declared national disasters; to the Committee on Education and the Workforce.

By Mr. FOLEY (for himself, Mr. Shaw, Mr. Clyburn, Mr. Flake, Mr. Miller of Florida, Mr. Paul, Mr. Manzullo, Mrs. Maloney, Mrs. Myrick, and Mr. Brown of South Carolina):

H.R. 3685. A bill to reestablish the Federal Emergency Management Agency as an independent establishment in the executive branch; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GERLACH:

H.R. 3686. A bill to amend titles 23 and 49, United States Code, to promote the integration of local land use planning and transportation planning; to the Committee on Transportation and Infrastructure.

By Mr. GUTKNECHT (for himself, Mr. Delahunt, and Mr. Poe):

H.R. 3687. A bill to authorize appropriations for grants for specialized technical assistance and training to improve the quality of criminal investigation and prosecution of child abuse cases; to the Committee on the Judiciary.

By Mr. ISRAEL:

H.R. 3688. A bill to require the Comptroller General to conduct a study of the consolidation of the refiners, importers, producers, and wholesalers of gasoline with the sellers of such gasoline at retail; to the Committee on Energy and Commerce.

By Mr. MEEK of Florida:

H.R. 3689. A bill to authorize the Secretary of Education to make grants to reduce the size of core curriculum classes in public elementary and secondary schools, and for other purposes; to the Committee on Education and the Workforce.

By Mr. GEORGE MILLER of California (for himself, Mr. Kildee, Mrs. McCarthy, Mr. Andrews, Mr. Hinojosa, Mr. Holt, Ms. McCollum of Minnesota, Mr. Barrow, Mr. Ryan of Ohio, Mr. Van Hollen, Ms.

Slaughter, Mr. Scott of Virginia, Mr. Brown of Ohio, Mr. Davis of Florida, Mr. Grijalva, Mr. Etheridge, Mr. Moore of Kansas, Ms. Lee, Mr. Payne, Mr. Kennedy of Rhode Island, Mr. Higgins, Mr. Davis of Illinois, Mr. Tierney, Mr. Moran of Virginia, Mr. Kucinich, Mr. Pallone, Mrs. Davis of California, Mr. Bishop of New York, Mr. Conyers, Mr. Nadler, Mr. Hoyer, and Mr. Menendez):

H.R. 3690. A bill to provide relief to students, schools, and student borrowers affected by natural disaster; to the Committee on Education and the Workforce.

By Mr. NUNES:

H.R. 3691. A bill to amend the Central Valley Project Improvement Act to provide for improved water management and conservation, and for other purposes; to the Committee on Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself, Ms. Bordallo, Mr. Case, Mr. Farr, and Mr. Filner):

H.R. 3692. A bill to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PRICE of Georgia:

H.R. 3693. A bill to require the Secretary of Homeland Security to prevent all unlawful entries into the United States by January 1, 2007, and for other purposes; to the Committee on Homeland Security, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WU:

H.R. 3694. A bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide grants to rural counties to ensure they are able to offer a sufficient level of advice and casework services to help veterans learn about and obtain the benefits they have earned, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. LEE (for herself, Mrs. Christensen, Mr. Grijalva, Mr. Serrano, Mr. Owens, Mr. Rangel, Mrs. Jones of Ohio, Mr. Cummings, Mr. Al Green of Texas, Ms. McKinney, Ms. Kilpatrick of Michigan, Mr. Scott of Virginia, Mr. Clay, Mr. Meeks of New York, Ms. Norton, Mr. Rush, Mr. Davis of Illinois, Mr. Hastings of Florida, Mr. Scott of Georgia, Mr. Cleaver, Mr. Payne, Mr. Clyburn, Ms. Watson, Ms. Carson, Mr. Fattah, Mr. Meek of Florida, Ms. Waters, Ms. Jackson-Lee of Texas, Ms. Millender-McDonald, Mr. Bishop of Georgia, Ms. Moore of Wisconsin, Mr. Wynn, Mr. Cardin, Mr. Towns, Ms. Eddie Bernice Johnson of Texas, Mr. Jackson of Illinois, Mr. Thompson of Mississippi, and Mr. Jefferson):

H. Con. Res. 234. Concurrent resolution affirming the obligation and leadership of the United States to improve the lives of the 37,162,000 Americans living in poverty and the 15,600,000 of those who live in extreme poverty; to the Committee on Government Reform.

By Mr. EVANS:

H. Con. Res. 235. Concurrent resolution expressing the sense of the Congress that States should require candidates for driver's licenses to demonstrate an ability to exercise greatly increased caution when driving in the proximity of a potentially visually impaired individual; to the Committee on Transportation and Infrastructure.

By Mr. SMITH of Washington:

H. Con. Res. 236. Concurrent resolution expressing the sense of the Congress that all Americans should program their cell phones and other portable electronic devices to show personal emergency contacts under the acronym ICE (In Case of Emergency) to enable emergency personnel to contact family and friends in the event of an emergency; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOUSTANY (for himself, Mr. Baker, Mr. Jefferson, Mr. Jindal, Mr. Rogers of Alabama, Mr. Ney, Mr. Aderholt, Mr. Pickering, Mr. Bonner, Mr. Turner, Mr. Alexander, Mr. Cramer, Mr. Bachus, Mr. Young of Alaska, Mr. Everett, Ms. Jackson-Lee of Texas, and Mr. Shuster):

H. Res. 425. A resolution expressing the condolences of the Nation to the victims of Hurricane Katrina, commending the resiliency of the people of the States of Louisiana, Mississippi, and Alabama, and committing to stand by them in the relief and recovery effort; to the Committee on Transportation and Infrastructure. considered and agreed to.

By Mr. HYDE (for himself, Mr. Lantos, and Mr. Doolittle):

H. Res. 427. A resolution relating to the terrorist attacks against the United States on September 11, 2001; to the Committee on International Relations, and in addition to the Committees on Armed Services, Transportation and Infrastructure, the Judiciary, and Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE (for himself and Mr. Lantos):

H. Res. 428. A resolution expressing the sincere gratitude of the House of Representatives to the foreign individuals, organizations, and governments that have offered material assistance and other forms of support to those who have been affected by Hurricane Katrina; to the Committee on International Relations.

By Mr. ABERCROMBIE (for himself and Mr. Case):

H. Res. 429. A resolution congratulating the West Oahu Little League Baseball team for winning the 2005 Little League Baseball World Series; to the Committee on Government Reform.

By Mr. COLE of Oklahoma:

H. Res. 430. A resolution commending the University of Oklahoma's gymnastics team for winning the 2005 National Collegiate Athletic Association Division I Gymnastics Championship; to the Committee on Education and the Workforce.

By Mr. SWEENEY:

H. Res. 431. A resolution expressing the sense of the House of Representatives that there should be established a Lifelong Learning Week; to the Committee on Government Reform.

## PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. CARDOZA introduced a bill (H.R. 3695) for the relief of Daniel Acevedo; which was referred to the Committee on the Judiciary.

## ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 13: Mr. Schwarz of Michigan.

H.R. 23: Mr. Thompson of Mississippi, Mr. Kuhl of New York, and Mr. Bishop of Utah.

H.R. 42: Mr. Norwood.

H.R. 63: Mr. Kennedy of Rhode Island.

H.R. 97: Mr. Price of North Carolina.

H.R. 111: Ms. Schwartz of Pennsylvania.

H.R. 127: Mr. Ryan of Ohio.

H.R. 128: Mr. Price of North Carolina.

H.R. 133: Mr. Scott of Georgia.

H.R. 215: Mr. Van Hollen.

H.R. 220: Ms. Norton.

H.R. 226: Mr. Udall of Colorado.

H.R. 239: Mr. King of Iowa.

H.R. 269: Ms. Harris, Mr. Reyes, and Mr. McIntyre.

H.R. 294: Mr. Michaud.

H.R. 303: Mr. Jindal, Mr. Petri, Mrs. Musgrave, Mr. Goodlatte, and Mr. Leach.

H.R. 305: Mrs. Wilson of New Mexico.

H.R. 354: Mr. Sherman and Mr. Gerlach.

H.R. 363: Mr. Larson of Connecticut, Mr. Thompson of Mississippi, Mr. Allen, and Mr. Higgins.

H.R. 371: Ms. Slaughter.

H.R. 500: Mr. Camp.

H.R. 503: Mr. Lynch and Mr. Davis of Florida.

H.R. 515: Mr. Hinojosa and Ms. Wasserman Schultz.

H.R. 552: Mr. Westmoreland, Mr. Hayes, and Mr. Mica.

H.R. 602: Mr. Burgess, Ms. Millender-McDonald, Mrs. Napolitano, Mr. Andrews, and Mr. Green of Wisconsin.

H.R. 609: Ms. Ros-Lehtinen and Mr. Lewis of Kentucky.

H.R. 691: Mr. Fortuño.

H.R. 699: Mr. Andrews, Mr. Shimkus, and Mr. Fossella.

H.R. 771: Mr. Tierney.

H.R. 799: Mr. Lewis of Georgia.

H.R. 856: Mr. Pickering, Mr. Scott of Virginia, and Mr. Pomeroy.

H.R. 867: Mr. Grijalva, Ms. McCollum of Minnesota, and Mr. Smith of Washington.

H.R. 874: Mr. Beauprez.

H.R. 881: Mr. Kuhl of New York, Mr. Moore of Kansas, Mr. Filner, Mr. Foley, Mr. Mica, and Mr. Hastings of Washington.

H.R. 884: Mr. Wu, Mr. Filner, Ms. Velázquez, Mr. Stark, Ms. Schakowsky, Ms. Zoe Lofgren of California, Mr. Larsen of Washington, Ms. DeLauro, Mrs. Capps, Ms. Wasserman Schultz, and Mr. Engel.

H.R. 888: Mr. Jenkins.

H.R. 896: Mr. Watt, Mr. Filner, Mr. Wamp, Mrs. Tauscher, Mr. Owens, Mr. Boucher, and Mr. Sabo.

H.R. 916: Mr. MOLLOHAN, Mr. FARR, Mrs. EMERSON, Mr. ROTHMAN, Mr. CUMMINGS, Mrs. DRAKE, Mr. SHUSTER, Mr. HONDA, and Mr. HIGGINS.

H.R. 949: Mr. PLATTS, Mr. ORTIZ, Mr. FILNER, Mr. STARK, Ms. ZOE LOFGREN of California, and Mr. FRANK of Massachusetts.

H.R. 985: Mr. BOUCHER.

H.R. 986: Mr. EHLERS and Mr. MICHAUD.

H.R. 1010: Mr. SOUDER and Mr. REYNOLDS.

H.R. 1059: Mr. RANGEL and Mr. BROWN of Ohio.

H.R. 1105: Mr. PASTOR.

H.R. 1120: Mr. LEWIS of Georgia and Mr. WELDON of Pennsylvania.

H.R. 1126: Mr. EVANS.

H.R. 1131: Mr. CALVERT, Mr. VAN HOLLEN, and Mr. PRICE of North Carolina.

H.R. 1146: Mr. HERGER.

H.R. 1200: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1202: Mr. MANZULLO.

H.R. 1214: Mr. ANDREWS.

H.R. 1258: Mr. PETERSON of Minnesota.

H.R. 1262: Ms. SLAUGHTER.

H.R. 1298: Mr. FOLEY, Mr. FARR, Mr. GOODE, Mr. LaTOURETTE, Mr. HASTINGS of Washington, and Mr. PETERSON of Minnesota.

H.R. 1300: Mr. PAYNE.

H.R. 1306: Mr. McCAUL of Texas, Ms. MATSUI, Mr. ROYCE, and Mrs. BONO.

H.R. 1329: Mr. ROSS, Mr. ANDREWS, and Mr. BASS.

H.R. 1333: Mr. MOLLOHAN, Mr. ROTHMAN, and Mr. DENT.

H.R. 1355: Mr. PETERSON of Minnesota.

H.R. 1357: Mr. SODREL.

H.R. 1366: Mr. MORAN of Kansas, and Mr. REYES.

H.R. 1418: Mr. FRANK of Massachusetts.

H.R. 1456: Mr. PLATTS.

H.R. 1498: Mr. HASTINGS of Florida, Mr. BOSWELL, Ms. CORRINE BROWN of Florida, Mr. PASTOR, Ms. LINDA T. SÁNCHEZ of California, and Mr. MARSHALL.

H.R. 1518: Mr. FORD, Mr. KENNEDY of Minnesota, and Mr. OWENS.

H.R. 1534: Mr. MARSHALL.

H.R. 1535: Mr. MARSHALL.

H.R. 1536: Mr. MARSHALL.

H.R. 1547: Mr. PRICE of North Carolina.

H.R. 1554: Mr. MILLER of North Carolina.

H.R. 1588: Mr. LEACH, Mr. PALLONE, and Mr. BERRY.

H.R. 1594: Mr. RYUN of Kansas.

H.R. 1602: Mr. GRIJALVA, Mr. KING of New York, Mr. DAVIS of Alabama, Mr. PLATTS, Mr. TANCREDO, Mr. FILNER, Mr. GERLACH, Mr. LEWIS of Kentucky, Mr. FOLEY, Mr. LaTOURETTE, Mr. DAVIS of Florida, Mr. WAMP, Mr. HAYES, Mr. PASTOR, Mr. GENE GREEN of Texas, Mr. BARTLETT of Maryland, Mr. DREIER, Ms. BERKLEY, Mr. MANZULLO, Mr. PITTS, and Mr. GARY G. MILLER of California.

H.R. 1615: Mr. KENNEDY of Rhode Island, Mr. LANTOS, Mr. McGOVERN, Mr. HINCHEY, and Mr. PRICE of North Carolina.

H.R. 1621: Mr. MARKEY, Mr. STUPAK, and Mr. ALEXANDER.

H.R. 1632: Mr. WYNN.

H.R. 1636: Mr. PETERSON of Minnesota.

H.R. 1651: Mr. FORD and Mr. WAMP.

H.R. 1652: Mr. PRICE of North Carolina and Mr. MOORE of Kansas.

H.R. 1668: Mr. HASTINGS of Florida, Mrs. CHRISTENSEN, and Mr. ROTHMAN.

H.R. 1671: Ms. SCHWARTZ of Pennsylvania.

H.R. 1688: Mr. PASCRELL.

H.R. 1704: Mr. KUCINICH, Mr. FRANKS of Arizona, Mr. PLATTS, Mr. WELDON of Pennsylvania, and Mr. ISSA.

H.R. 1709: Ms. McKINNEY, Mr. CUMMINGS, Mr. FRANK of Massachusetts, Mr. PALLONE, Mr. SHERMAN, and Mr. MEEKS of New York.

H.R. 1748: Mr. INGLIS of South Carolina.

H.R. 1772: Mr. CANNON.

H.R. 1790: Mr. PETERSON of Minnesota.

H.R. 1898: Mr. GIBBONS, Mr. BARTLETT of Maryland, Mr. SHAYS, Mr. HUNTER, Mr. TANCREDO, Mr. RYUN of Kansas, Mr. JONES of North Carolina, and Mr. BEAUPREZ.

H.R. 1951: Mr. JEFFERSON, Mrs. JONES of Ohio, Mr. GOODE, Mr. RAMSTAD, Mr. BRADLEY of New Hampshire, and Mr. BASS.

H.R. 1973: Ms. ZOE LOFGREN of California.

H.R. 2043: Mr. WYNN.

H.R. 2048: Ms. SOLIS, Mr. CUMMINGS, Mr. ROTHMAN, Mr. GOODLATTE, Mr. WYNN, and Mr. BARTLETT of Maryland.

H.R. 2049: Mr. HERGER and Mr. GARY G. MILLER of California.

H.R. 2076: Mrs. MALONEY and Mr. REYES.

H.R. 2106: Mr. BISHOP of Utah, Mr. MATHESON, and Mr. PETERSON of Minnesota.

H.R. 2186: Mr. PETERSON of Minnesota.

H.R. 2229: Mr. CALVERT and Mr. WALSH.

H.R. 2238: Mr. HIGGINS, Mr. FORD, and Mr. TIERNEY.

H.R. 2290: Ms. HARRIS.

H.R. 2308: Mr. FRANK of Massachusetts.

H.R. 2317: Mrs. NAPOLITANO, Mr. WILSON of South Carolina, Mrs. BONO, Mr. FARR, Mr. HIGGINS, Mr. YOUNG of Alaska, Mr. TOWNS, Mr. GILCHREST, and Mr. BISHOP of Georgia.

H.R. 2350: Mr. PETERSON of Minnesota.

H.R. 2365: Mr. CONYERS, Mr. HOLDEN, and Mr. EMANUEL.

H.R. 2369: Mr. McCOTTER, Mr. BOEHLERT, and Mr. ETHERIDGE.

H.R. 2386: Mr. RANGEL, Mr. WESTMORELAND, Mr. LIPINSKI, Mr. RYUN of Kansas, Mr. GRAVES, Mr. LANGEVIN, Mr. HOLDEN, Mr. HOYER, and Mr. FRANK of Massachusetts.

H.R. 2409: Mr. GEORGE MILLER of California.

H.R. 2410: Ms. MOORE of Wisconsin.

H.R. 2423: Mr. PETERSON of Minnesota.

H.R. 2498: Mr. WILSON of South Carolina, Mr. COSTA, Mr. PRICE of North Carolina, and Mr. EVANS.

H.R. 2525: Mr. WALDEN of Oregon.

H.R. 2564: Mr. MEEKS of New York.

H.R. 2637: Mr. OLVER.

H.R. 2662: Ms. DeGETTE, Mr. MORAN of Virginia, Mr. THOMPSON of California, Mr. GERLACH, Mrs. NAPOLITANO, Mr. LEVIN, and Ms. CORRINE BROWN of Florida.

H.R. 2671: Mr. ROTHMAN.

H.R. 2717: Mr. SALAZAR, Mr. SCHWARZ of Michigan, Mr. MURTHA, Mr. McDERMOTT, Mr. COSTELLO, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. TAUSCHER, Mr. SMITH of New Jersey, Mr. LIPINSKI, Mr. STARK, Ms. DeLAURO, Mr. DOYLE, Ms. ZOE LOFGREN of California, and Mr. LEVIN.

H.R. 2799: Mr. WYNN, Mr. GRIJALVA, Mr. SCHIFF, Mr. CALVERT, and Mr. GENE GREEN of Texas.

H.R. 2803: Mr. BAKER, Mr. DAVIS of Tennessee, Ms. WATERS, Mr. EDWARDS, Mr. PLATTS, Mr. OTTER, and Mr. FORD.

H.R. 2807: Mr. FORD.

H.R. 2822: Mr. DOGGETT and Mr. GOODE.

H.R. 2869: Mr. DeFAZIO and Mr. FRANK of Massachusetts.

H.R. 2870: Mr. SHERMAN.

H.R. 2872: Ms. WASSERMAN SCHULTZ, Mr. SERRANO, Mr. JONES of North Carolina, Mr. SHAYS, Mr. FORTUÑO, Mr. SCOTT of Georgia, Mr. WILSON of South Carolina, Mr. FILNER, Ms. HARRIS, Mr. DAVIS of Kentucky, Mr. MOORE of Kansas, Mr. SENSENBRENNER, Mr. SHERMAN, Mr. FEENEY, Mr. LANGEVIN, Mr. DENT, Mr. OTTER, Mr. ANDREWS, Mr. CHABOT, Mr. MENENDEZ, Mr. COSTA, Mr. LaTOURETTE, Mr. MICHAUD, and Mr. LEWIS of Georgia.

H.R. 2926: Mr. BOUCHER.

H.R. 2939: Mr. HINCHEY, Mrs. DAVIS of California, Mr. GRIJALVA, Ms. ESHOO, and Mr. SHAYS.

H.R. 2943: Mr. KIND, Mr. LANTOS, Mr. FILNER, and Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 2989: Mr. EHLERS, Mrs. NORTHUP, Mr. NORWOOD, Mr. MICHAUD, Mr. McGOVERN, Mr. CRAMER, Mr. LEACH, Mr. HOLDEN, Mr. HONDA, Mr. OTTER, Ms. HARRIS, and Mr. HIGGINS.

H.R. 3034: Mr. FRANK of Massachusetts.

H.R. 3046: Mr. McHUGH.

H.R. 3082: Mr. FILNER.

H.R. 3085: Mr. LINDER and Mr. NORWOOD.

H.R. 3086: Mr. SANDERS, Ms. SLAUGHTER, and Ms. ZOE LOFGREN of California.

H.R. 3096: Mr. PAYNE.

H.R. 3103: Mr. BACA and Mr. McCOTTER.

H.R. 3143: Mr. KENNEDY of Minnesota.

H.R. 3144: Mr. TAYLOR of Mississippi.

H.R. 3145: Mr. CLAY, Mr. KIRK, Mr. MOORE of Kansas, Mr. COSTA, Mr. McCOTTER, and Mr. SHIMKUS.

H.R. 3150: Mr. ISTOOK, Mr. GUTKNECHT, Mr. TANCREDO, Mr. GOODE, Mr. CULBERSON, Mr. WAMP, Mr. PRICE of Georgia, Mr. LUCAS, Mr. HERGER, Mr. SHADEGG, Mr. McHENRY, Mr. SODREL, Mr. RYUN of Kansas, Mr. PITTS, Mr. BROWN of South Carolina, Mrs. MYRICK, Ms. FOXX, Mr. WESTMORELAND, Mr. CHABOT, Mr. McCAUL of Texas, Mr. SAM JOHNSON of Texas, Mr. KLINE, and Mr. BISHOP of Utah.

H.R. 3159: Mr. SIMMONS, Mr. KENNEDY of Rhode Island, and Mr. SHAYS.

H.R. 3183: Mr. TANCREDO and Mr. SALAZAR.

H.R. 3189: Mr. TANCREDO and Mr. MARKEY.

H.R. 3255: Mr. BOUCHER.

H.R. 3260: Mr. OBERSTAR.

H.R. 3263: Ms. ESHOO and Mr. FRANK of Massachusetts.

H.R. 3279: Mr. DAVIS of Kentucky.

H.R. 3300: Mrs. EMERSON.

H.R. 3304: Mr. CANNON and Mr. TERRY.

H.R. 3321: Mr. McGOVERN and Mr. LYNCH.

H.R. 3323: Mr. GENE GREEN of Texas, Ms. PRYCE of Ohio, Ms. DeGETTE, Mr. KENNEDY of Rhode Island, Mr. MOORE of Kansas, Ms. SCHAKOWSKY, and Mr. LEWIS of Kentucky.

H.R. 3326: Mr. BOEHLERT, Mr. MICHAUD, Ms. DeLAURO, Mr. HINCHEY, Mr. OWENS, Ms. LEE, Mr. CUMMINGS, Mr. KENNEDY of Rhode Island, Ms. ESHOO, Ms. LINDA T. SÁNCHEZ of California, and Mr. FRANK of Massachusetts.

H.R. 3352: Mr. McDERMOTT and Mr. ROGERS of Kentucky.

H.R. 3360: Mr. RAMSTAD and Mr. LEACH.

H.R. 3361: Mr. LANGEVIN.

H.R. 3372: Mr. OTTER and Mr. RAMSTAD.

H.R. 3373: Mrs. CAPPS, Mr. JEFFERSON, Mr. TAYLOR of Mississippi, Mr. MARSHALL, Ms. BALDWIN, Mr. CLAY, Mr. SCHWARZ of Michigan, Mr. BISHOP of New York, Mr. MOORE of Kansas, Mr. GILCHREST, Mr. BOUCHER, Mr. SIMPSON, Mr. ANDREWS, Mr. JONES of North Carolina, Mr. FORD, Mr. BUTTERFIELD, Mr. CASE, and Mr. YOUNG of Florida.

H.R. 3401: Mr. WOLF and Mr. BACHUS.

H.R. 3403: Mr. SOUDER, Mrs. NORTHUP, and Mr. SAM JOHNSON of Texas.

H.R. 3405: Mr. BACHUS, Mr. KUHL of New York, Mr. CUELLAR, Mr. HERGER, Mr. MACK, Mr. DOOLITTLE, Mr. McGOVERN, Ms. HARRIS, Mr. RAMSTAD, Mr. OSBORNE, Mr. SCHWARZ of Michigan, Mr. GUTKNECHT, Mr. HAYES, Mr. SALAZAR, Mr. CHANDLER, Mr. GENE GREEN of Texas, Mr. LATHAM, Mrs. JO ANN DAVIS of Virginia, and Mr. GORDON.

H.R. 3427: Mr. OWENS, Mr. GILCHREST, Mr. MOORE of Kansas, Mr. GOODE, and Mr. BOSWELL.

H.R. 3436: Mr. NORWOOD, Mr. BAKER, Mr. SODREL, Mr. MILLER of Florida, and Mr. BRADLEY of New Hampshire.

H.R. 3478: Mr. SIMMONS.

H.R. 3532: Mr. LEVIN, Mr. DINGELL, and Mr. EHLERS.

H.R. 3548: Mr. KING of New York, Mr. RANGEL, Mr. NADLER, Mr. WEINER, and Mrs. McCARTHY.

H.R. 3579: Mr. FILNER, Mr. GUTIERREZ, Ms. CORRINE BROWN of Florida, Mr. CONYERS, Mr. VAN HOLLEN, Ms. HERSETH, and Mr. PAUL.

H.R. 3585: Mr. BRADLEY of New Hampshire.

H.R. 3604: Mr. GENE GREEN of Texas.

H.R. 3612: Mr. MOORE of Kansas.

H.R. 3613: Mr. INGLIS of South Carolina.

H.R. 3656: Mr. DOYLE, Mr. CLEAVER, Ms. WATSON, Mrs. CAPPS, Ms. WASSERMAN SCHULTZ, Mr. JEFFERSON, Mr. GENE GREEN of Texas, Ms. SCHAKOWSKY, Mr. HOYER, Mr. MCGOVERN, Mr. RANGEL, Mr. CONYERS, Mr. MURTHA, Mr. CLAY, Mr. MELANCON, Mr. MENENDEZ, and Mr. RAHALL.

H.R. 3659: Mr. LIPINSKI, Mr. NADLER, Mr. CAPUANO, Mr. HONDA, Ms. CORRINE BROWN of Florida, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. DEFAZIO, Mr. CUMMINGS, Mr. LARSEN of Washington, Ms. MILLENDER-MCDONALD, Mr. BAIRD, Ms. BERKLEY, and Mr. RAHALL.

H.J. Res. 55: Mr. RANGEL, Mr. PAYNE, Mr. NADLER, Mr. FILNER, Ms. CARSON, Ms. WATSON, Mr. HONDA, Mr. MCNULTY, and Mrs. CAPPS.

H.J. Res. 57: Mr. GORDON.

H.J. Res. 61: Mr. ROGERS of Michigan, Mr. TOWNS, Ms. KAPTUR, Mr. DUNCAN, Mr. BRADY of Pennsylvania, Mr. ACKERMAN, Mr. REYES, Mr. SODREL, Mr. MORAN of Virginia, Mr. MCINTYRE, Mr. DINGELL, Mr. MARSHALL, Mr. ISTOOK, Mr. BROWN of South Carolina, Mr. WESTMORELAND, Mr. CHABOT, Mr. CANTOR, Mr. FLAKE, Mr. BISHOP of Utah, Mr. MCHENRY, Mr. HOSTETTLER, Mr. ISSA, Mr. TANCREDO, and Mr. MILLER of North Carolina.

H. Con. Res. 23: Mr. RYAN of Ohio.

H. Con. Res. 106: Mr. KLINE and Mr. BAKER.

H. Con. Res. 120: Mr. ANDREWS.

H. Con. Res. 179: Mr. MOORE of Kansas and Mr. OXLEY.

H. Con. Res. 197: Ms. NORTON, Mr. ABERCROMBIE, and Mr. VAN HOLLEN.

H. Con. Res. 215: Mr. MARKEY.

H. Con. Res. 221: Mr. GARY G. MILLER of California.

H. Res. 61: Mr. FARR.

H. Res. 85: Ms. GRANGER.

H. Res. 276: Mr. MCCOTTER, Mr. SABO, Mr. SIMMONS, Mr. HINOJOSA, Mr. COBLE, Mr. RUPPERSBERGER, Mr. GORDON, Ms. DELAURO, Mr. MCDERMOTT, Mr. OBERSTAR, Mr. GREEN of Wisconsin, Mr. TIBERI, Mr. VAN HOLLEN, Mr. MEEHAN, and Mr. FRANK of Massachusetts.

H. Res. 295: Mr. CUMMINGS.

H. Res. 316: Mr. BARROW, Mrs. CAPPS, and Mr. MORAN of Kansas.

H. Res. 317: Ms. ZOE LOFGREN of California.

H. Res. 367: Mr. CROWLEY, Mr. PRICE of North Carolina, and Mr. VAN HOLLEN.

H. Res. 368: Mr. PRICE of North Carolina, Mr. HIGGINS, Mrs. DAVIS of California, Mr. GARRETT of New Jersey, Mr. ISRAEL, Mr. TANCREDO, Ms. WATSON, Mr. DAVIS of Tennessee, Mr. FOSSELLA, Mr. KIRK, Mr. NEAL of Massachusetts, Mr. VAN HOLLEN, Mr. CHANDLER, Mr. WEINER, and Mr. GENE GREEN of Texas.

H. Res. 371: Mr. INGLIS of South Carolina.

H. Res. 375: Mr. LARSEN of Washington, Mrs. CAPPS, Mr. BAIRD, and Ms. ESHOO.

H. Res. 382: Ms. SOLIS, Mr. GONZALEZ, and Mr. CARNAHAN.

H. Res. 389: Mr. ABERCROMBIE, Mr. ALEXANDER, Ms. BALDWIN, Mr. BECERRA, Mr. BERMAN, Mr. BOEHLERT, Mrs. CAPPS, Mr. CAPUANO, Mr. CARDOZA, Mr. CASE, Mr. CHANDLER, Mrs. CHRISTENSEN, Mr. CONYERS, Mr. CUMMINGS, Mr. DAVIS of Illinois, Mrs. DAVIS of California, Mr. DELAHUNT, Ms. DELAURO, Mr. DICKS, Mr. ENGEL, Mr. ENGLISH of Pennsylvania, Mr. ETHERIDGE, Mr. FARR, Mr. FILNER, Mr. FRANK of Massachusetts, Mr. GONZALEZ, Mr. AL GREEN of Texas, Mr. GENE GREEN of Texas, Mr. GRIJALVA, Mr. HINCHEY, Mr. HOLDEN, Mr. HOLT, Mr. INSLEE, Mrs. JOHNSON of Connecticut, Ms. KAPTUR, Mr. LARSEN of Washington, Ms. LEE, Mrs. LOWEY, Mrs. MALONEY, Mr. MARKEY, Ms. MATSUI, Ms. MCCOLLUM of Minnesota, Mr. MCDERMOTT, Mr. MCGOVERN, Mr. MCHUGH, Mr. MEEHAN, Mr. MEEK of Florida, Mr. MEEKS of New York, Mr. MENENDEZ, Mr. MOORE of Kansas, Mr. MORAN of Virginia, Mr. NADLER, Mr. NEAL of Massachusetts, Mr. OBERSTAR, Mr. OWENS, Mr. PAYNE, Mr. RANGEL, Mr. REYES, Mr. ROSS, Mr. RUSH, Mr. RYAN of Ohio, Mr. SANDERS, Ms. SCHAKOWSKY, Mr. SERRANO, Mr. SHIMKUS, Mr. SMITH of Washington, Ms. SOLIS, Mr. SPRATT, Mr. THOMPSON of California, Mr. TOWNS, Mr. WAXMAN, Mr. WEINER, Mr. WEXLER, and Ms. WOOLSEY.

## DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1642: Mr. WILSON of South Carolina.

## AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 3673

OFFERED BY: MR. TANCREDO

AMENDMENT NO. 1: At the end (before the short title), insert the following new title:

### TITLE —ESTABLISHMENT OF SELECT COMMITTEE

SEC. . There is established a select committee to investigate and oversee the awarding and execution of contracts for relief and reconstruction activities in areas affected by hurricane Katrina.

SEC. . The select committee shall conduct an ongoing study and investigation of the awarding and carrying out of contracts by the Government for relief and reconstruction activities in areas affected by Hurricane Katrina, and to make such recommendations to the House as the select committee deems appropriate regarding the following matters—

(1) oversight procedures for the awarding of contracts and distribution of appropriated funds;

(2) bidding, contracting, and auditing standards in the issuance of government contracts;

(3) accountability of contractors and Federal, State, and local government officials involved in procurement;

(4) penalties for violations of law, official corruption, and abuses in the awarding or carrying out of government contracts; and

(5) such other matters as the select committee deems appropriate.

SEC. . The select committee shall be composed of 15 individuals, to be appointed by the Speaker of the House (of whom 7 shall be appointed upon the recommendation of the minority leader), one of whom shall be designated as chairman. Any vacancy occurring in the membership of the select committee shall be filled in the same manner in which the original appointment was made.

SEC. . (a) For the purpose of carrying out this title, the select committee may sit and act during the present Congress at any time and place within the United States or elsewhere, whether the House is in session, has recessed, or has adjourned and hold such hearings as it considers necessary and to require, by subpoena or otherwise, the attendance and testimony of such witnesses, the furnishing of information by interrogatory, and the production of such books, records, correspondence, memoranda, papers, documents, and other things and information of any kind as it deems necessary, including classified materials.

(b) One-third of the members of the select committee shall constitute a quorum for the transaction of business except for the reporting of the results of its study and investigation (with its recommendations) or the authorization of subpoenas, which shall require a majority of the committee to be actually present.

(c) A subpoena may be authorized and issued by the select committee in the conduct of any investigation or series of investigations or activities only when authorized by 8 members of the select committee. Authorized subpoenas shall be signed by the chairman or by any member designated by the select committee, and may be served by any person designated by the chairman or such member. Subpoenas shall be issued under the seal of the House and attested by the Clerk. The select committee may request investigations, reports, and other assistance from any agency of the executive, legislative, or judicial branch of the Government.

(d) The chairman, or in his absence a member designated by the chairman, shall preside at all meetings and hearings of the select committee. All meetings and hearings of the select committee shall be conducted in open session, unless 8 members of the select committee vote to close a meeting or hearing.

(e) The Rules of the House of Representatives applicable to standing committees shall govern the select committee where not inconsistent with this title.

(f) The select committee shall adopt additional written rules, which shall be public, to govern its procedures, which shall not be inconsistent with this title or the Rules of the House of Representatives.

SEC. . (a) The select committee staff shall be appointed, and may be removed, by the chairman and shall work under the general supervision and direction of the chairman.

(b) The chairman shall fix the compensation of all staff of the select committee within the budget approved for such purposes for the select committee.

(c) The select committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by them in the performance of the their functions for the select committee.

(d) There shall be paid out of the applicable accounts of the House such sums as may be necessary for the expenses of the select committee. Such payments shall be made on vouchers signed by the chairman of the select committee and approved in the manner directed by the Committee on House Administration. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on House Administration.

(e) The select committee shall cease to exist at the close of the 109th Congress.

SEC. __. (a) The select committee shall provide quarterly reports to the House containing the results of its study and investigation, with its recommendations. Any report made by the select committee when the House is not in session shall be filed with the Clerk of the House. Any report made by the select committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

(b) Upon the dissolution of the select committee, the records, files, and materials of the select committee shall be transferred to the Clerk of the House.

# EXTENSIONS OF REMARKS

## CONGRATULATIONS TO SHARDAY M. BROWN, RECIPIENT OF THE PRESIDENTIAL FREEDOM SCHOLARSHIP

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to recognize the superior academic performance of Sharday M. Brown, a recipient of this year's Presidential Freedom Scholarship. Thirteen students in the 26th Congressional District are receiving this special recognition.

This award recognizes outstanding service and citizenship initiatives by the students who were nominated, and provides an opportunity to acknowledge their leadership. Administered by Learn and Serve America, the scholarship provides $500 in Federal funds, matched with $500 from a community organization or business obtained for the student by their high school or Boys and Girls Club. Winners must have completed at least 100 hours of community service, either through a school-based service-learning program or independently through service at a nonprofit or faith-based organization.

Sharday is a member of the Boys and Girls Club of Cooke County Teen Center. This organization also contributed matching funds worth $500.

Over 38,000 students to date have received this award and I extend my sincere congratulations to Sharday M. Brown for being one of them. This student's contribution and services should serve as inspiration to those who wish to make a positive difference in the lives of others.

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## RECOGNIZING IAN LEWIS HENDERSON FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Ian Lewis Henderson of Kansas City, Missouri, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 395, and in earning the most prestigious award of Eagle Scout. Ian will receive his Eagle at a Court of Honor on September 18 at Pine Ridge Presbyterian Church.

Ian has been very active with his troop, participating in many scout activities. Over the years Ian has been involved with scouting, he has earned numerous merit badges and has served in leadership positions within his troop.

Mr. Speaker, I proudly ask you to join me in commending Ian Lewis Henderson for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout. It is an honor to represent Eagle Scout Henderson in the United States Congress.

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## CONGRATULATING BILL STRAUB AND DEBRA MEADE

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate Bill Straub and Debra Meade for their many years of hard work and support toward the game of shooting, throughout the entire State of Pennsylvania.

Bill and Debra have dedicated themselves to the game of shooting by holding several positions at the Pennsylvania Skeet Shooting Association (PSSA). Over the years, both Debra and Bill have occupied various offices at the PSSA, including Director, President, and Vice President. Currently, Bill is the Shoot Manager of the PA State Skeet Championships and Debbie holds the office of Secretary/Treasurer at the PSSA.

The pair has also been very active in the National Skeet Shooting Association, both serving as Directors. Bill and Debra have left their mark on the sport in their own right. Bill has been named to the All American Skeet and PA State Skeet Teams, as well as earning an induction into to the PA Skeet Shooting Association's Hall of Fame. Debra, who has shot nearly 100,000 skeet targets, has garnered numerous accolades and Lady Championship Victories throughout her career.

I ask my colleagues in the United States House of Representatives to join me in honoring Bill and Debra. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute such dedicated citizens as Bill Straub and Debra Meade.

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## CONGRATULATING THE ORANGE LITTLE LEAGUE SOFTBALL TEAM ON THEIR TRIP TO THE 2005 LITTLE LEAGUE SOFTBALL WORLD SERIES

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Ms. DELAURO. Mr. Speaker, it is with great pride and my sincere congratulations that I rise today to join the community of Orange, Connecticut to celebrate the achievements of the Orange Little League All-Star Softball Team. The team and their coaches recently returned from Portland, Oregon where they went to the Championship game in the 2005 Little League Softball World Series. Though they did not win their final game, they represented Orange and the State of Connecticut well and I am honored to have this opportunity to extend my sincere congratulations to them for this wonderful effort!

The Orange All-Star Softball Team, made up of eleven- and twelve-year-old girls, were undefeated and won the State Championship for the opportunity to play in the World Series. Throughout their regular season, the girls not only defeated every challenger they faced, but, more importantly, they learned one of life's most valuable lessons—teamwork. Softball, like all sports, teaches us the value of teamwork, practice, camaraderie, and commitment to excellence. These skills will serve these young people well as they begin to make a difference in the world. Working together, they have already accomplished so much. I have no doubt that each of these young women will enjoy great success in all of their future endeavors.

At only eleven and twelve years old, each of these girls has demonstrated remarkable talent and a unique passion for the game. However, it has been under the guidance of their coaches that their skills have been developed and sharpened. It is with great pleasure that I also recognize Ken Slowik and the entire coaching staff—all of whom have worked hard to give these young people the chance to play! Without their efforts, the success of the Orange All-Stars would not be possible.

It was wonderful to see the Orange community come together in support of these young women and today's parade is yet another example of the excitement and enthusiasm that this community and its residents have shown the Orange Little League All-Star Softball Team. I am honored to stand with them today in extending my sincere congratulations to you for your outstanding team work and on your first-rate season. Win or lose, you have made us all proud!

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## TRIBUTE TO SPEAKIN' OUT WEEKLY NEWS

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. CRAMER. Mr. Speaker, I rise today to pay tribute to Speakin' Out Weekly News on its twenty-fifth anniversary.

Speakin' Out is published in my Congressional District and has become the longest running African-American owned newspaper in North Alabama and the Tennessee Valley.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, the story behind Speakin' Out is an inspiration to entrepreneurs in Alabama and across the country. In 1980, my friend William Smothers published the first issue of Speakin' Out. It was published on his kitchen table in the City of Decatur with a meager budget of $800.

Speakin' Out quickly grew from its humble beginnings. It soon moved out of the kitchen and into its first office located on the corner of Lee and Bank Street in Decatur, changing its format from a magazine to a tabloid newspaper.

In 1983, Speakin' Out News merged with The Weekly News, published by Professor L.C. Jamar, Sr., and changed the company name to Speakin' Out Weekly News. Following the merger, Speakin' Out Weekly News relocated its office to Huntsville, Ala. The format was again changed from a tabloid to a broad sheet newspaper and remains so today.

From its inception, Speakin' Out covered politics, the arts, business, and health issues. The editorial content was geared toward the African American community. Its unique opinions and balanced reporting has helped attract a large subscriber base. In fact, the newspaper currently boasts a weekly readership in excess of 80,000.

Furthermore, Speakin' Out has established itself as a community partner in North Alabama. It hosts and sponsors numerous events each year. Speakin' Out has also established the North Alabama Journalism Center, its nonprofit entity, serving as an educational and professional haven for students with an interest in communications. The center collaborates with surrounding colleges and universities to provide a venue for students to gain practical instruction. The center also offers an after school tutorial program, Starting Smarter, for students K–12.

Mr. Speaker, Speakin' Out Weekly News has given a voice to African-Americans in my community and has established itself as a reliable source of community events, news, and opinions. I appreciate the publication's impartial reporting, the hard work of its reporters, and its strong commitment to our community.

Mr. Speaker, over the weekend of August 13th and 14th, Speakin' Out held a community wide celebration in honor of its silver anniversary. I rise today to join them in their celebration and to congratulate them on this exciting milestone.

## IN RECOGNITION OF JAMES BRAZELTON

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. CARDOZA. Mr. Speaker, I rise today to recognize the contributions of my friend Jim Brazelton, who recently retired from his position as Stanislaus County District Attorney.

Jim began his career as a military policeman assigned to the White House Security Detail. In 1963, he joined the City of Bakersfield Police Department where he served as a patrolman, motorcycle officer and detective. Five years later, Jim accepted a position with the City of Orange's police department where he worked his way through the ranks of patrolman, detective, watch commander, SWAT Commander and Sergeant. During his time there, he attended Western State University's College of Law in Anaheim, California. Upon graduating in 1974, Jim left the department and practiced law for the next 11 years.

In 1985, Jim came to the Stanislaus County District Attorney's Office where he served in the felony trial division. As Senior Deputy District Attorney, he was responsible for the prosecution of many high-profile homicide cases. In January of 1993, Jim was named Chief Deputy District Attorney for the Felony Superior Court Division. In August of 1995, he was named Chief Deputy District Attorney of Administration.

In March 1996, Jim was appointed by the Stanislaus County Supervisors to fill the unexpired term of the retiring District Attorney. District Attorney Brazelton ran unopposed in the 1998 and 2002 elections.

In addition to his duties as District Attorney, Jim is a member of the local Police Officer's Association, where he has served both on the board and as president, as well as the Stanislaus County Association of Law Enforcement Executives where he served as president in 2000. In 2001, he was appointed by State Attorney General Bill Lockyer to serve on his Blue Ribbon SWAT Team Practices Commission. He has served as a member of the Board of Directors for the California District Attorneys Association, was on their Capital Litigation Committee for several years, and often lectures at their conferences.

For the past several years, Jim has been an active and valued member of several worthwhile community organizations. He was an Executive Board member of Fight Crime-Invest in Kids and is on the board of the Carol Sund/Carrington Memorial Reward Foundation.

District Attorney James Brazelton has been dedicated to public safety and service for more than 40 years. For the past 20 years, he has vigorously and effectively sought to protect the citizens of Stanislaus County and to ensure justice for the victims of crime. I ask my colleagues in the House to join me in thanking Mr. Brazelton for his dedicated service to the public and wish him the very best in the years to come.

## CONGRATULATIONS TO TALIAH C. LAWSON, RECIPIENT OF THE PRESIDENTIAL FREEDOM SCHOLARSHIP

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to recognize the superior academic performance of Taliah C. Lawson, a recipient of this year's Presidential Freedom Scholarship. Thirteen students in the 26th Congressional District are receiving this special recognition.

This award recognizes outstanding service and citizenship initiatives by the students who were nominated, and provides an opportunity to acknowledge their leadership. Administered by Learn and Serve America, the scholarship provides $500 in Federal funds, matched with $500 from a community organization or business obtained for the student by their high school or Boys and Girls Club. Winners must have completed at least 100 hours of community service, either through a school-based service learning program or independently through service at a nonprofit or faith-based organization.

Taliah is a member of the Boys and Girls Club of Cooke County Teen Center. This organization also contributed matching funds worth $500.

Over 38,000 students to date have received this award and I extend my sincere congratulations to Taliah C. Lawson for being one of them. This student's contribution and services should serve as inspiration to those who wish to make a positive difference in the lives of others.

## RECOGNIZING HELEN AND HARRY DANKS

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize two outstanding constituents of Missouri's Sixth Congressional District: Helen and Harry Danks of Grundy County, Missouri. Helen and Harry will celebrate their 60th Wedding Anniversary on December 23, 2005.

Helen and Harry Danks were married on December 23, 1945 in Memphis, Tennessee. At the time, Harry was serving our country at Millington Naval Air Station in Millington, Tennessee and Helen was working at the Oak Ridge Bomb Plant in Oak Ridge, Tennessee. Incidentally, Helen worked at Oak Ridge Bomb Plant at the same time that Fat Man and Little Boy were made.

Helen and Harry Danks have been outstanding citizens of Grundy County and Northwest Missouri. They have operated the family farm for over 50 years, and are dedicated and active members of their church and community.

Mr. Speaker, I proudly ask you to join me in recognizing Helen and Harry Danks. Their marriage of 60 years is inspirational, and I am honored to represent them in the United States Congress.

## CONGRATULATING STEPFAMILY ASSOCIATION OF AMERICA

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the Stepfamily Association of America (SAA) and recognize their efforts as they celebrate their annual Stepfamily Day on September 16, 2005.

Over the past nine years the SAA, our Nation's largest stepfamily organization, has worked diligently to provide outreach to stepfamilies and to those who work with them. The SAA offers information, education, and support to stepfamilies across the country to ensure that they have the proper tools to build and maintain strong families.

I ask my colleagues in the United States House of Representatives to join me in honoring the SAA and to acknowledge the annual Stepfamily Day. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute an organization like the Stepfamily Association of America.

## HONORING THE VOLUNTEER FIRE DEPARTMENT OF PROSPECT AS THEY CELEBRATE THEIR 60TH ANNIVERSARY

### HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to extend my sincere congratulations to Chief Robert Chatfield and all of the members of the Volunteer Fire Department of Prospect, past and present, as they celebrate their 60th Anniversary. This is a milestone for this wonderful organization and I am proud to have this opportunity to honor their outstanding work on behalf of the Prospect community.

The men and women who serve as firefighters face risks that few of us can comprehend. Each day, they must be ready to perform under intense pressure—literally in life or death situations as we have all witnessed in recent days. Few things are more important than feeling safe in our homes and workplaces. Our firefighters provide us with that peace of mind. Their commitment and dedication cannot be questioned and our thanks can never repay those who put their lives on the line to ensure our safety.

Since its incorporation in September of 1945, the Volunteer Fire Department of Prospect has grown from a small building with just two bays to a multi-million dollar state-of-the-art facility which houses 10 bays. The Department serves a community of over 9,000, responding to an estimated 270 fire calls and nearly 600 medical calls annually. Though it is fully dependent on volunteers, there is never a shortage of responders to a call. Though much has changed in the six decades since its inception, the one thing that has not is the reliability and consistency of those who volunteer to serve.

I have always held a deep admiration for those who serve as firefighters—each day facing new challenges and seemingly overwhelming responsibility. It takes an exceptional combination of bravery, compassion, and generosity to serve as a volunteer firefighter. In its 60 years of history, nearly 800 individuals have served in the Department. Every member of the Prospect Volunteer Department has demonstrated a unique commitment and dedication to public service throughout their careers. From the training they must receive to the responsibility of responding to emergencies to the generous fundraising efforts for the Department, they have willingly devoted themselves to their community.

Too often we take for granted the courageous work of our country's firefighters. I would like to take this opportunity to thank all of those Prospect residents who have volunteered their time and efforts to the Department. I am proud to recognize and commend the commitment the Volunteer Fire Department of Prospect has made to protect Prospect for 60 years. To reach such an anniversary is a testament to the generosity and civic mindedness of the resident volunteers and the Town of Prospect. My sincere congratulations to you on this very special occasion!

## TRIBUTE TO STATE REPRESENTATIVE NELSON R. STARKEY

### HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. CRAMER. Mr. Speaker, I rise today to pay tribute to Alabama State Representative Nelson R. Starkey. Representative Starkey has represented the City of Florence in the Alabama State Legislature since 1978. He plans to retire from public service at the conclusion of his current legislative term in 2006.

I consider it a privilege to have worked with Representative Starkey on a wide variety of issues facing Northwest Alabama. He has done a great deal to help further the quality of life for all individuals in our community. He is most well known for his strong advocacy for increased Alabama school funding.

During his many years of service in the State House, Representative Starkey was elected by his peers to numerous legislative leadership positions. For eight years, he was the Chairman of the House Democratic Caucus and the Joint Highway Committee. He also served as Chairman of the Local Government Committee for four years and Chairman of the State Administration Committee.

Mr. Speaker, Representative Starkey is well respected throughout our local community and the entire State of Alabama. In 1993, he was chosen by the Montgomery Advertiser to receive the Meritorious Public Service Award. This honor was based on his reputation for integrity, effectiveness, vision, trustworthiness, commitment and diligence.

Mr. Speaker, on Tuesday August 23rd, the North Alabama community gathered to honor and celebrate all of Representative Starkey's achievements. I rise today, to join in their celebration and to thank Representative Starkey for his many years of dedicated service.

## STATEMENT ON MARIA C. RAMOS

### HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. CARDOZA. Mr. Speaker, I rise today to honor Maria C. Ramos. Ms. Ramos has dedicated her life to educating others and serving her community and country. Maria is retiring after dedicating the past 30 years to serving her community. Maria's efforts to better her community and country will be sorely missed.

Born in Mexico, Ms. Ramos moved to Oakland when she was 14 years old. Since then, she has selflessly devoted much of her life to giving back to the place that has afforded her such an opportunity to succeed.

Maria has, for more than 30 years, worked tirelessly as an educator to ensure that those children would have the same opportunities to succeed as she had. She started working at St. Gertrude's School in 1974, where she served as a bilingual assistant and has since gone on to serve at Marshall Junior High and many other schools in the Stockton Unified School District.

In addition to her longstanding commitment to education, Maria is involved in countless social and political organizations. She serves on numerous boards, including the California State Employees Association, the Democratic Central Committee, the Californians for Justice Committee, the 17th Assembly District Committee, and Comerciantes Unidas, to name just a few.

It is my distinct honor and privilege to call Maria Ramos a friend and to have the opportunity to recognize her longstanding commitment to education and service to her community.

Though her selfless devotion will be missed by all of us in the community, I'm sure her family looks forward to spending more time with her and she certainly deserves some time off.

I am delighted to recognize her service and retirement after 30 years as I wish my very best in the many years to come.

## CONGRATULATIONS TO TIFFANY A. McBATH, RECIPIENT OF THE PRESIDENTIAL FREEDOM SCHOLARSHIP

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to recognize the superior academic performance of Tiffany A. McBath, a recipient of this year's Presidential Freedom Scholarship. Thirteen students in the 26th Congressional District are receiving this special recognition.

This award recognizes outstanding service and citizenship initiatives by the students who were nominated, and provides an opportunity to acknowledge their leadership. Administered by Learn and Serve America, the scholarship provides $500 in Federal funds, matched with $500 from a community organization or business obtained for the student by their high school or Boys and Girls Club. Winners must have completed at least 100 hours of community service, either through a school-based service-learning program or independently through service at a nonprofit or faith-based organization.

Tiffany is a member of the Boys and Girls Club of Cooke County Teen Center. This organization also contributed matching funds worth $500.

Over 38,000 students to date have received this award and I extend my sincere congratulations to Tiffany A. McBath for being one of them. This student's contribution and services should serve as inspiration to those who wish to make a positive difference in the lives of others.

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## RECOGNIZING ALEX Q. NEWMASTER FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Alex Q. Newmaster, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, and in earning the most prestigious award of Eagle Scout.

Alex has been very active with his troop, participating in many scout activities. Over the many years Alex has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Alex Q. Newmaster for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

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## TRIBUTE TO THE LAFAYETTE LITTLE LEAGUE TEAM

### HON. CHARLES W. BOUSTANY, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BOUSTANY. Mr. Speaker, I rise today in recognition of the achievements of the Lafayette Little League team. This group of young men embarked on a journey at the beginning of this summer that took them over 2,000 miles and ended at the Little League World Series in Williamsport, Pennsylvania.

This team won the Louisiana State championship in August. They then won the Southwest Regional title in Waco, Texas. And then they inspired millions of Americans with two heart-stopping come-from-behind wins en route to the semifinals of the U.S. bracket of the Little League World Series.

Their success on the field earned these "Comeback Cajuns" a finish in this country's top four and the world's top eight teams. When they were eliminated from competition by Ewa Beach, Hawaii—which eventually claimed the world championship—the squad was one of only five teams still alive out of over 70,000 that began Little League postseason play.

These twelve young men exemplify the ideals of Little League Baseball—character, courage, and loyalty. I honor them today for their superb play on the field and their magnificent sportsmanship.

Andrew Stevenson, Connor Toups, Andreas Duplantis, Sam Scofield, Patrick Foreman, Ryan Bergeron, Jace Conrad, Brenn Conrad, Tyler Douglas, Jordan Romero, Alex Stringer, and Alex Miller.

And their coaches, Mike Conrad, Mark Toups, and Ken Douglas.

I am proud of the way they represented our State, our hometown, and themselves.

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## THE PASSING OF ERIKA HILLS

### HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Ms. PELOSI. Mr. Speaker, it is with great personal sorrow that I come to the floor of the House to remember my friend Erika Hills, who died tragically in an automobile accident in Napa Valley on August 17th. Today, her family and friends are gathering in Grace Cathedral in San Francisco to mourn her passing. I extend my deepest sympathy to her husband Austin, her sons Austin and Justin, her father Dr. Max Brunar, and her siblings Dieter Mascen and Eva Pongraz of Graz, Austria. Her death leaves a void in our lives but her bright light will remain in our hearts forever.

A home design expert, she had owned an antique shop in St. Helena, California. Her husband Austin Hills is a founder and partner in Napa Valley's Grgich Hills Cellar in Rutherford, California, and a descendent of the Hills Bros. Coffee family.

Erika's exuberance was contagious and elevated all the causes she championed. She and her husband were active supporters of the arts; the San Francisco Symphony, the San Francisco Opera and the Museum of Modem Art. She was generous with her time and her resources and dedicated herself to helping people less fortunate than she.

Erika served on numerous boards and volunteered in many charitable organizations. Her support extended from the cultural life of the San Francisco Bay Area to Roots of Peace, an international humanitarian organization that works to eradicate land mines, returning the land to agricultural use.

Most recently she served on the advisory council of the Land Trust of Napa County, Cal Performances in Berkeley, and the Seven Tepees Youth Program that helps underprivileged children with their education. She and her husband were founding members of the Copia center for wine and food in Napa.

Erika will be missed by all of us fortunate enough to have been touched by her life. Her joy, her generosity, as well as her concern for children around the world, will long be remembered by all who knew her.

I know I speak for all my constituents when I extend condolences to Austin, Austin Jr. and Justin for their heartbreaking loss. My thoughts and prayers and those of my husband Paul and the entire Pelosi family are with her loved ones at this sad time.

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## JEWISH COMMUNITY SUPPORT FOR ISRAEL'S DISENGAGEMENT

### HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. FRANK of Massachusetts. Mr. Speaker, just before we adjourned, the Jewish Community Relations Council of Greater Boston issued a very thoughtful statement in support of the disengagement by Israel from the Gaza Strip, and the dismantling by the Israeli government of Israeli settlements in that area.

Mr. Speaker, this was a very wrenching process for many in Israel, and the willingness of the government of Israel—supported by a majority of the people of Israel—to engage in this withdrawal with all of its difficult emotional strains speaks highly of that country's willingness to take steps for peace. The withdrawal from Gaza should not be the last action taken in this process, but it is unreasonable to expect that they will be able to take further actions in the absence of a showing by the Palestinian Authority of its willingness and ability to respond in kind to this disengagement.

The statement of the JCRC is a first-rate statement of what should be done going forward, and it is an appropriate expression of support of a majority of the Jewish Community of Greater Boston for a peace process that is thoughtful, balanced and prudent. I ask that this important statement be printed here.

#### JEWISH COMMUNITY EXPRESSES SUPPORT FOR ISRAEL'S DISENGAGEMENT PLAN

July 19, 2005.

Nancy K. Kaufman, Executive Director and Susan A. Calechman, President of the Jewish Community Relations Council of Greater Boston issued the following statement today regarding Israel's plans to disengage from the Gaza Strip and communities in northern Samaria.

"The JCRC fully supports Prime Minister Sharon and the government of Israel as they begin implementation of the Gaza disengagement plan. Israel's vigorous democracy is taking bold and courageous risks in an effort to protect her security and to renew the process of resolving the Israeli-Palestinian conflict. We also support the Israeli government's effort to resolve the conflict through a negotiated two-state solution as expressed in the Road Map. Final borders and other final status issues must be left to the parties themselves to negotiate in a peace process free from violence and the threat of violence.

Disengagement will only lead to a peaceful outcome if there is a commitment on the part of the Palestinian leadership to put an end to terrorism. We call upon the Palestinian Authority (PA) to disarm the terrorist groups and their infrastructure. This includes removal of existing stockpiles of weapons and preventing such stockpiles from being rebuilt; preventing the smuggling of weapons; closing of clandestine weapons manufacturing and preventing attacks, especially during the engagement process. The future of peace, and the stability of the PA itself, is fully dependent on it taking this action.

We recognize the profound sacrifices being made by the families who are being relocated, some after living in their homes for nearly 30 years. The loss of their homes, synagogues, farms, businesses and schools is an immense sacrifice which should be recognized with efforts made to bridge any gaps that develop among Israelis as a result of this effort.

We condemn the rhetoric of a tiny extremist fringe that promotes violence as a response to policies undertaken by the democratically elected Israeli government. At the same time, the rights of free speech and lawful dissent which are basic and indispensable in a democratic society must be protected. It is critically important that those with differing views of the peace process condemn explicit hate speech, venomous language, and threatening words. It is also important that discussion among all the conflicting viewpoints be created to promote an atmosphere in which differences can be expressed with civility and respect.

We call the U.S. Government to continue its work with Israeli and Palestinian leaders to ensure that all commitments are met and that a resolution to this conflict leads to a secure peace for both sides.

## HONORING U.S. ARMY SPC. ALVIN K. BEAN UPON HIS RECEIPT OF THE ARMY COMMENDATION MEDAL

### HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. HIGGINS. Mr. Speaker, I rise today to honor the exemplary community service of Alvin K. Bean, a resident of Chautauqua County, Town of Panama, upon receiving the Army Commendation Medal with valor device for a January 6 rescue mission as part of Operation Iraqi Freedom.

The award was given on March 15, 2005. Spc. Bean was honored for his gallant actions during the rescue mission of an M2 Bradley that had received a devastating hit by an explosive device. The United States Army praised Bean saying he showed no regard for his own safety and placed the recovery of the M2 Bradley fighting vehicle before himself.

Mr. Bean has donated countless hours towards improving his community. He is hard working and dedicated. His leadership and generosity sets an example for us all. That is why, Mr. Speaker, I honor him today.

## CONGRATULATING THE PRESIDENTIAL FREEDOM SCHOLARSHIP RECIPIENT ASHLEY K. THARAYIL

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to recognize the superior academic performance of Ashley K. Tharayil, a recipient of this year's Presidential Freedom Scholarship. Thirteen students in the 26th Congressional District are receiving this special recognition.

This award recognizes outstanding service and citizenship initiatives by the students, who were nominated, and provides an opportunity to acknowledge their leadership. Administered by Learn and Serve America, the scholarship provides $500 in Federal funds, matched with $500 from a community organization or business obtained for the student by their high school or Boys and Girls Club. Winners must have completed at least 100 hours of community service, either through a school-based service-learning program or independently through service at a nonprofit or faith-based organization.

Ashley is currently a junior at North Hills School and the organization matching her $500 in Federal funds is the North Hills School—Volunteers in Partnership.

Over 38,000 students to date have received this award and I extend my sincere congratulations to Ashley K. Tharayil for being one of them. This student's contribution and services should serve as inspiration to those who wish to make a positive difference in the lives of others.

## RECOGNIZING JOHN ROBERT MOHR FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize John Robert Mohr, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 214, and in earning the most prestigious award of Eagle Scout.

John has been very active with his troop, participating in many scout activities. Over the many years John has been involved with scouting, he has not only earned numerous merit badges, but also the respect of his family, peers, and community.

For his Eagle Project, John designed and built a wheeled oak cabinet for storing toys and a matching oak table custom built for small children for the daycare center at his local church, Saint James Catholic Church.

Mr. Speaker, I proudly ask you to join me in commending John Robert Mohr for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

## CONGRATULATING LAWRENCE COUNTY ECONOMIC DEVELOPMENT CORPORATION

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the Lawrence County Economic Development Corporation (LCEDC), on the 50th anniversary of the founding of the corporation.

Over the past 50 years the LCEDC has worked diligently to promote business growth and help foster ideal climates for commerce development. The corporation has also worked tirelessly with local business leaders and government officials throughout the community, to create jobs for the citizens of the greater Lawrence county region. I recognize the LCEDC for all of their hard work and dedication to cultivating small businesses which serve as the backbone of the American economy.

I ask my colleagues in the United States House of Representatives to join me in honoring the 50th anniversary of the LCEDC. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute such a principled organization as the Lawrence County Economic Development Corporation.

## JAKE STOWERS' DEDICATION TO PINELLAS COUNTY'S ENVIRONMENTAL STEWARDSHIP

### HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. YOUNG of Florida. Mr. Speaker, Pinellas County, Florida, which I have the privilege to represent, is Florida's most densely populated county. You would not know it though because our county commissioners have done an outstanding job over the years in preserving park lands and greenways for our residents and visitors to enjoy Florida's natural beauty.

At the point of that effort has been Pinellas County's Assistant Administrator Jake Stowers, who has poured his life and soul for more than 30 years into giving our urban community an abundance of green spaces and outdoor recreational opportunities. As Jake said in a recent interview by the publication Bay Soundings, "I can have you in the woods in 15 minutes." And he's right.

The National Association of Counties and the Trust for Public Land recognized Pinellas County's efforts this spring by presenting it with the prestigious County Leadership in Conservation award at a national convention in our Nation's Capital.

Following my remarks, I would like to include for my colleagues a profile of Jake Stowers from the spring 2005 edition of Bay Soundings. It includes information about Pinellas County's unique commitment, under Jake's leadership, to preserving our county's environment. The county is home to a 47-mile urban trail called the Pinellas Trail, 4,200 acres of parkland, 14,000 acres of preserves including the recently completed 8,000-acre Booker Creek Preserve, and Fort DeSoto Park, which this year was ranked as our nation's most beautiful beach. Along with the members of the Pinellas County Board of County Commissioners, Jake has had a hand in every one of those projects.

Mr. Speaker, Jake Stowers is a case study of what love and passion for your job will yield, in this case for the greater good of an entire community. It has been a real pleasure to work with Jake on a number of projects over the years and I know the people of Pinellas County will greatly miss him when he retires next year. However, the legacy of his lifelong work will live on for generations of future Pinellas County residents and visitors.

[Bay Soundings, Spring 2005]

JAKE STOWERS: DESIGNING WITH NATURE

(By Mary Kelley Hoppe)

Jake Stowers has a passion for livable communities, places you can work and call home and still be able to get away from it all without leaving town.

He found his patch of paradise in Pinellas County, where he was born and raised near Safety Harbor. Home today is along an intercoastal waterway in Largo, where he lives with his wife, Jo, and two sons.

Just as a wellspring of environmental consciousness in the 1970s was sparking a wave of landmark federal clean water and air legislation, Stowers began his career with Pinellas County as an urban forester. His initial plans to study law were scrubbed after a wildlife biologist at the University of Florida fueled his appetite for field work. After graduating with a degree in forestry, he went on to receive a masters degree in agriculture with a forestry focus.

On a summer internship with the Department of the Interior in Gainesville, Stowers studied ways to keep hungry migratory blackbirds out of crop farms. Following a short stint as Ft. Lauderdale's first urban forester, he headed back home to Pinellas County and a job that allowed him to pursue what has become a life-long passion, infusing a growth-hungry county with green spaces and corridors for wildlife and folks seeking escape from the urban jungle.

"I can have you in woods in 15 minutes," boasts Stowers, an avid angler and hunter whose dad taught him to flyfish. Indeed, Florida's most densely packed county harbors a remarkably rich number of natural getaways accessible within a quick drive. Along with a 47-mile urban trail that runs north and south, Pinellas County has 4,200 acres of parkland and 14,000 acres of preserves including the more than 8,000-acre Brooker Creek Preserve completed last year. Fort DeSoto Park at the county's southernmost tip is the top ranked beach in the continental U.S.

When Stowers retires next year as assistant county administrator, he'll leave an indelible mark as a catalyst and champion for environmental stewardship and balanced growth. While quick to credit county commissioners and residents who have repeatedly supported conservation efforts at the ballot box, he's lauded as the go-to person who has helped steer, nudge and implement numerous environmental initiatives and policies.

For the past 30-plus years, he has worked behind the scenes to facilitate conservation land purchases, establish an environmental trust fund that's leveraged millions of federal dollars, and craft smart growth policies—at the bidding of and, simultaneously influencing, the county commissioners he serves.

"Jake is such an incredible asset," says County Commissioner Susan Latvala, who recently returned from Washington, D.C. where Pinellas County's environmental initiatives were recognized with a prestigious award for County Leadership in Conservation from the Trust for Public Land and the National Association of Counties (NACo). "His knowledge, love and passion for the environment are contagious," she adds.

Almost everyone can recall a favorite book that had a major impact on their lives. For Stowers, it was "Design with Nature" by Ian McHarg, hailed as one of America's most influential landscape architects. McHarg's book, published in 1969, placed landscape architects at the center of an emerging environmental movement. Long before words like watersheds and impervious surface became important in planning cities and buildings, it was the first to discuss what we now call sprawl and advocate a means for sustainable urban development. The message was this, says Stowers: "Let the natural systems guide you in designing where to build on a property." McHarg's ideas made a lasting impression.

As an urban forester starting in 1974, Stowers worked to strengthen local ordinances that spelled out how sites should be developed. Once the county determined the land use, "our job was figuring out 'how do I build it in the best way,'" he said. "We'd literally go out and walk the woods, putting stakes in the ground," trying to steer builders clear of the wetland fringe. "Early on it was very contentious, but developers came to see it as part and parcel of developing wisely."

A county charette completed just before Stowers came on board earmarked environmentally sensitive lands for preservation. The seminal document became a roadmap for county commissioners in the decades to come. Their commitment coupled with behind-the-scenes work by Stowers and others paid off. To date, all but one of the 162 properties flagged in the charette have been purchased, notes Latvala.

Stowers rose to become assistant director of a fledgling environmental management department guiding it through a period of significant growth. "I kind of inherited Jake," said former director Steve Peacock, now with Florida Design Consultants. "It was one of the best things to happen to me and the organization."

The two were involved in the county's aggressive land-buying campaign to acquire lands that would ultimately form the 8,300-acre Brooker Creek Preserve, a vast wilderness area located in the northeast corner of Pinellas County. The land was snatched up in parcels with earliest purchases targeted to protect groundwater quality and waters flowing into Lake Tarpon. Adoption of the county's growth management plan in 1989 encouraged expansion of the conservation lands around that area. A Penny for Pinellas sales tax and state Preservation 2000 funds provided additional funds.

"Once we had the land, we needed to let people come in and the concept of environmental education centers evolved," Stowers says. "It was the commitment of the county commissioners to build these that became instrumental in passing the second penny tax."

"He's a rainmaker," says former County Commissioner Sallie Parks. "Jake was always good at understanding where there were areas for compromise."

Most weekends find Stowers out on the water. Fort DeSoto and Weedon Island are favorite boating destinations, but the quiet stretches of Tampa Bay's Braden and Hillsborough rivers hold special charms. "I can take a fly rod and popping bug or a spider and catch bluegill all day," says Stowers.

Fishing is a family affair, exercised every chance they get. Stowers recalls a trip deep into the Alaskan wilderness where the family spent time with Apabaskan Indians, whose poverty failed to dim their joy for the land and fishing. "We try to build those kind of cultural experiences in whenever we can," he says.

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## CONGRATULATIONS TO WANDA SAMEK

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to congratulate Wanda Samek on her installation as President of the National Society of Accountants. Entering into this role serves as a symbol of Mrs. Samek's ongoing devotion and commitment to the organization.

During her affiliation with the National Society of Accountants, Mrs. Samek has held numerous leadership positions, chairing various committees and task forces. In addition, she has received multiple honors, such as being named Accountant of the Year in 1994, winning the Golden Quill Award in 1998, and the President's Award in 2003. For her tireless service and dedication, Mrs. Samek was presented in 1996 with the Society's most prestigious accolade, the Distinguished Service Award.

Within her new role as president, Mrs. Samek will provide leadership to the National Society of Accountants by serving as chairman of the organization's Board of Directors and its Executive Committee which is responsible for monitoring and implementing investment policy. During her tenure, she will also be presiding over many meetings of the association. In addition, she will deliver the annual message of the National Society to its National Council of Delegates, providing them with an update on the organization's progress and growth.

It is with great honor that I stand here today and recognize Wanda Samek. Her inauguration as president of the National Society of Accountants is a testament to her commitment to the association and her professional career. I am honored to congratulate a constituent from my district on attaining this well-deserved position.

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## RECOGNIZING JEREMY CHRISTOPHER WOOD FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Jeremy Christopher Wood of Kansas City, Missouri, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 395, and in earning the most prestigious award of Eagle Scout. Jeremy will receive his Eagle at a Court of Honor on September 18 at Pine Ridge Presbyterian Church.

Jeremy has been very active with his troop, participating in many scout activities. Over the years Jeremy has been involved with scouting he has earned numerous merit badges and has served in leadership positions within his troop.

Mr. Speaker, I proudly ask you to join me in commending Jeremy Christopher Wood for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout. It is an honor to represent Eagle Scout Wood in the United States Congress.

## CONGRATULATING THE SRI CHINMOY MARATHON TEAM

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the Sri Chinmoy Marathon Team for their organization and participation of the World Harmony Run 2005.

Commencing April 16, the World Harmony Run seeks to advance international camaraderie through bringing together runners from more than seventy countries and all fifty states. The goal of this event is to promote genuine goodwill and understanding of cultures through a 10,000 mile trek that will come to an end on August 14th. This event was inspired by Sri Chinmoy in 1987 through his vision of sport as a means of furthering international harmony.

I ask my colleagues in the United States House of Representatives to join me in honoring the participants of the World Harmony Run 2005. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute the diligent work of the many volunteers involved in World Harmony Run 2005 and the members of the Sri Chinmoy Marathon Team.

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## PERSONAL EXPLANATION

### HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mrs. MALONEY. Mr. Speaker, on September 6, 2005, I was unavoidably detained and missed rollcall votes numbered 454 and 455. Rollcall vote 454 was on the motion to suspend the rules and agree to, H. Res. 360, commemorating the 60th anniversary of V–J Day and the end of World War II in the Pacific. Rollcall vote 455 was on the motion to suspend the rules and agree to, S.J. Res. 19, a joint resolution calling upon the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act.

Had I been present I would have voted "yea" on rollcall votes 454 and 455.

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## FRANCHISING APPRECIATION DAY

### HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BAKER. Mr. Speaker, I rise today to welcome over 300 franchisee, franchisor, and franchise supplier members of the International Franchise Association who are visiting Washington on September 13 as part of "Franchise Appreciation Day," the IFA's annual fly-in to the Nation's Capital.

As I am sure my colleagues are aware, the IFA is the world's oldest and largest trade association representing the franchise community with a membership roster that includes more than 1,000 franchisors, 8,000 franchisees and 400 suppliers.

Franchising is a driving force of our economy and generates $1.53 trillion in economic output and one-of-every-seven jobs in the Nation's private-sector economy, according to a study conducted for the IFA Educational Foundation by PricewaterhouseCoopers. The "Economic Impact of Franchised Businesses" study found that there are more than 760,000 franchised small businesses in the U.S., generating more than 18 million jobs.

Those statistics are impressive enough on their own, but of particular concern and interest to me is the initiative the International Franchise Association has taken to help our veterans move from their service in the armed forces into the world of franchise ownership. Through the Veterans Transition Franchise Initiative, commonly known as "VetFran," 360 veterans have been assisted in purchasing their own franchise small business, and 120 more are in various stages of negotiation.

VetFran was established by Don Dwyer, the late founder of The Dwyer Group and an IFA leader, during Operation Desert Storm. It was re-initiated following the September 11, 2001, terrorist attacks. The program requires that participating franchisors offer veterans their "best deal" through discounts or other incentives that are determined by each company, and more than 150 franchise companies that are members of IFA participate.

These businesses provide a great public service to our veterans and our communities, and I would like their names to be officially entered into the CONGRESSIONAL RECORD so that their good work may be officially recognized. I also would like the RECORD to include a list of the businesses started in 45 states.

It is inspiring to me to see these companies step up, put their resources on the line and help our veterans. I think it is important to note that these are not Federal dollars—these are private-sector dollars, and I think this program is a model that should be followed and supported by others.

I would also like to add that the good work of this program has been recognized by the U.S. Dept. of Veterans Affairs, which recently recognized IFA with a Support Sector Champion Award for expanding business opportunities for veterans; the U.S. Small Business Administration and the Veterans Corporation.

Those who know me know that I am no stranger to helping veterans, and earlier this year, I introduced legislation that would ease the way for more U.S. veterans to buy a franchised business.

The "Veterans Self-Employment Act" would establish a five-year pilot program that would allow American service members, veterans, national guardsmen, reservists, and qualified others to use some of their Veterans Administration educational assistance to defray training costs associated with obtaining a franchised small business.

Acquiring a franchise is a great way for people to gain the skills they need to successfully open and operate a business, but it often requires "basic training" in business education—customer service, daily operations management, business computer systems, inventory control, costing and pricing, and meeting regulatory obligations—as well as specialized training for the goods, services, policies, and practices of the individual franchise system.

The legislation I introduced is endorsed by the International Franchise Association, and I urge my colleagues to support this bill that would help to turn more proud veterans into proud business owners.

When franchise leaders and small business men and women visit us on Franchise Appreciation Day, September 13, I have no doubt that my colleagues will join me in making them feel welcome and discuss public-policy issues that will help franchising to continue to boost the nation's economy, and help our men and women who have fought so valiantly to protect our freedoms. IFA Member Franchisors Participating in the VetFran Program include:

1-800-DryClean, 1-800-Got-Junk, 2 Scoops Café, @Wireless, @WORK Franchise, @WORK HelpingHands Services, @WORK Medical Services, @WORK Personnel Services, A-Pro Services, Action International, AeroWest Services, AIM Mail Centers, Aire Serv Heating & Air Conditioning, All American Specialty Restaurants, All Tune & Lube, Allegra Print & Imaging, Alta Mere Window Tinting and Auto Alarms, American Leak Detection, American Poolplayers Association, American Wholesale Thermographers, AmeriSpec Home Inspection Service, Bark Busters, Baskin-Robbins, Batteries Plus, Bevinco's, Big L's-Friendly Computers, Big O Tires, Blimpie's Subs & Salads, Brightscape Investment Centers, Camp Bow Wow, Candy Bouquet, Cardsmart Retail Corporation, Cartridge World North America, Carvel Corporation, Case Handyman Services, CGI International, Checkers Drive-In Restaurants, Children's Orchard, CHIP The Child I.D. Program of America, The Cleaning Authority, CM IT Solutions, The Coffee Beanery, College Nannies & Tutors, ComForcare Senior Services, Comfort Keepers, Computer Renaissance, ComputerTots/Computer Explorers, Concerto Networks, Cookies by Design/Cookie Bouquet, Copy Club, Cottman Transmissions Systems, Coverall Cleaning Concepts, Creative Colors International, Crestcom International, Cruise Holidays, Cruise One, D'Angelo Sandwich Shops, DreamMaker Bath & Kitchen, Dunkin' Donuts, Edible Arrangements, The Entrepreneur's Source, Expense Reduction Analysts, Expense Reduction Consulting, Expetec Technology Services, Express Personnel Services, ExxonMobil Corporation, Fantastic Sam's, Fastframe USA, The Filta Group, Foodnet, Foot Solutions, Furniture Medic, Geeks on Call, Glass Doctor, Gold's Gym International, Gymboree Play & Music, Handyman Matters Franchise Corp., Happy & Healthy Products, Have Signs Will Travel, i9 Sports, Inspect-It 1st Franchising Corp., Island Ink-Jet Systems, Jet Black International, Juice It Up Franchise Corp., KaBloom Franchising Corp., Kitchen Tune-Up, Kwik Kopy Business Centers, Labor Finders, Lawn Doctor, Learning Express Toys, Leather Medic, Lentz USA Service Center, Liberty Tax Service, Link Staffing Services, Maid Brigade, MaidPro, Marble Slab Creamery, Marco's Pizza, Matco Tools, Maui Wowi Smoothies, Meineke Car Care Centers, Merry Maids, L.P., Milex, Tune-Up and Brakes, Molly Maid, Money Mailer, Mr. Appliance, Mr. Electric, Mr. Handyman, Mr. Rooter Plumbing, Mr. Transmission, Multistate Transmissions, Navis Pack & Ship Centers, Netspace, Open Works, Outdoor Lighting Perspectives, Parcel Plus, The Philly Franchising Company, Planet Beach

Franchising Corp., Positive Changes Hypnosis, PostalAnnex+, Postal Connections of America, PostNet, Precision Tune Auto Care, Puroclean, Rainbow Int'l Restoration and Cleaning, Ritter's Frozen Custard, Safe Kids Cards, Sarah Adult Day Services, The Screen Machine, SealMaster, Sears Carpet & Upholstery Care, ServiceMaster Clean, Siegel Capital, Snelling Personnel Services, Sparkle Wash, Sport Clips, The Sports Section, Spring-Green Lawn Care Corp., Sunbelt Business Brokers, TeamLogic IT, Togo's Eatery, Travel Lines Express, TruFoods, TurboHaul, Two Men And A Truck, The UPS Store, Vanguard Cleaning Systems, Victory Lane Quick Oil Change, Virginia Barbecue Franchise Co., Wild Bird Centers of America, WineStyles, Wing Zone, Wireless Zone, World Inspection Network, Zoup! Systems.

Franchised Businesses Established Through the VetFran Program include:

*Alabama:* Birmingham: Meineke, Decatur: Vanguard Cleaning Systems, Robertsdale: Merry Maids.

*Alaska:* Anchorage: American Poolplayers, MBE/UPS Store.

*Arizona:* Gilbert: DreamMaker Bath & Kitchen, Lake Havasu: MBE/UPS Store, Maricopa: World Inspection Network, Mesa: Expetec, Peoria: Coffee Beanery, Phoenix: Foot Solutions, Molly Maid, World Inspection Network, Scottsdale: PostNet, Show Low: Aire Serv Heating & Air Conditioning, Vail: KaBloom Franchising Corp.

*Arkansas:* Little Rock: Cleaning Authority, Rogers: PostNet, Siloam Springs: PostNet, Springdale: PostNet.

*California:* Anaheim: Navis Pack & Ship Centers, Angel Camp: Mr. Rooter, Antelope: MBE/UPS Store, Auburn: PostalAnnex+, Chula Vista: MBE/UPS Store, PostNet, Corte Madera: 1–800 Dry-Clean, Crona: PostNet, Encinitas: Mr. Handyman, Fair Oaks: PostNet, Fallbrook: DreamMaker Bath & Kitchen, Granada Hills: MBE/UPS Store, Hayward: PostNet, Hesperia: World Inspection Network, Huntington Beach: MBE/UPS Store, Imperial: Rainbow Int'l Restoration & Cleaning, La Habra: Cm IT Solutions, Laguna Hills. MBE/UPS Store, Laguna Niguel: Mr. Handyman, Lakeside: MBE/UPS Store, Los Angeles: 1-800-Got Junk, Meineke, Morgan Hills: World Inspection Network, Mountain View: Mr. Handyman, Newark: Cartridge World, Orange: Express Personnel, Pacifica: Molly Maid, Pasadena: MBE/UPS Store, San Diego: Concerto Network, PostalAnnex+, Santa Ana: MBE/UPS Store, Suisun City: MBE/UPS Store, Upland: World Inspection Network.

*Colorado:* Colorado Springs: Meineke, PostalAnnex+, Ranbor Int'l Restoration & Cleaning, Sears Carpet & Upholstery Care, Denver: Meineke Car Care Centers, Fort Collins: Expetec, Longmont: Mr. Electric, Loveland: MBE/UPS Store, Parker: PostNet, Superior: MBE/UPS Store, Rainbow Int'l Restoration & Cleaning.

*Connecticut:* Orange: MBE/UPS Store, Southbury: FastFrame USA.

*District of Columbia:* Washington: Meineke Car Care Centers, Safe Kids Card.

*Florida:* Apollo Beach: MBE/UPS Store, Charlotte: Mr. Appliance, Groveland: DreamMaker Bath & Kitchen, Inverness: MBE/UPS Store, Jacksonville: Cleaning Authority, Mr. Appliance, Melbourne: Creative Colors, Miami: MBE/UPS Store, Naples: Coffee Beanery, Ocqla: Lentz USA Service Centers, Orlando: Matco Tools, Meineke Car Care Centers, Vanguard Cleaning Systems, Pompano Beach: MBE/UPS Store, Santa Rosa Beach: MBE/UPS Store, St. Charlotte: Glass Doctor, St. Petersburg: Express Personnel, Tampa: Geeks on Call, Titusville: MBE/UPS Store.

*Georgia:* Athens: Merry Maids, Atlanta: Comfort Keepers, Geeks on Call, Gold's Gym, MBE/UPS Store, Meinke Car Care Centers, Carrollton: MBE/UPS Store, Dacula: FastFrame USA, Dallas: MBE/UPS Store, Douglasville: Mr. Appliance, Fairburn: The Sports Section, Hiram: MBE/UPS Store, Savannah: MBE/UPS Store, Woodstock: MBE/UPS Store.

*Hawaii:* Lihue: MBE/UPS Store.

*Idaho:* Boise: DreamMaker Bath & Kitchen, Mr. Appliance.

*Illinois:* Cary: Sport Clips, Champaign/Urbana: Meineke Car Care Centers, Chicago: Expetec; Meineke Car Care Centers, Geneva: Navis Pack & Ship Centers, Homewood: Aire Serv Heating & Air Conditioning, N. Aurora: Molly Maid, Ottawa: MBE/UPS Store, Sycamore: Vanguard Cleaning Systems.

*Indiana:* Evansville: MBE/UPS Store, Indianapolis: Outdoor Lighting Perspectives, Ritter's Frozen Custard, Merillville: BE/UPS Store.

*Iowa:* Ankeny: MBE/UPS Store, Council Bluffs: MBE/UPS Store, Pleasant Hill: World Inspection Network.

*Kansas:* Kansas City: 1–800–Got Junk, Navis Pack & Ship Centers, Olathe: MBE/UPS Store.

*Kentucky*: Georgetown: MBE/UPS Store, Lexington: MBE/UPS Store, Louisville: Sport Clips, Richmond: Comfort Keepers.

*Louisiana*: Hammond: Mr. Appliance, Kenner: DreamMaker Bath & Kitchen.

*Maryland*: Baltimore: Meineke Car Care Centers, Edgewater: MBE/UPS Store, Largo: Wireless Zone, Perry Hall: MBE/UPS Store.

*Massachusetts*: Boston: FastFrame USA, Gold's Gym, East Falmouth: MBE/UPS Store, Falmouth: Mr. Rooter, Rowley: MBE/UPS Store.

*Michigan*: Berkley: Coffee Beanery, Clinton Township: MBE/UPS Store, Mr. Handyman, Wayne: MBE/UPS Store.

*Minnesota*: Minneapolis: Two Men And A Truck, Ramsey: DreamMaker Bath & Kitchen.

*Mississippi*: Gulfport: American Poolplayers, Ridgeland: FastFrame USA.

*Missouri*: Centralia: Mr. Appliance, Creve Coeur: MBE/UPS Store, Eureka: MBE/UPS Store, Fenton: World Inspection Network, Hattiesburg: Coffee Beanery, Independence: MBE/UPS Store, Maplewood: Vanguard Cleaning Systems, Raytown: MBE/UPS Store, St. Charles: MBE/UPS Store, St. Louis: Meineke Car Care Centers.

*Montana*: Billings: Meineke Car Care Centers.

*Nebraska*: Omaha: World Inspection Network.

*Nevada*: Carson City: FastFrame USA, Mr. Appliance, Henderson: World Inspection Network, Las Vegas: MBE/UPS Store, Reno: PostNet, Sparks: PostNet.

*New Hampshire*: Manchester: Express Personnel.

*New Jersey*: Barnegat: Expetec, Bergenfield: Molly Maid, Bloomfield: Merry Maids, Flemington: Mr. Electric, Highland Park: MBE/UPS Store, Maplewood: Concerto Network, Middlesex/Somerset: Meineke Car Care Centers, Oakridge: Coffee Beanery, Toms River: Cleaning Authority, Trenton: Matco Tools, Woolwich Twpk: PostalAnnex+.

*New Mexico*: Roswell: MBE/UPS Store, Santa Fe: Glass Doctor.

*New York*: Brooklyn: MBE/UPS Store, Great Neck: Molly Maid, Macedon: Happy & Healthy Products, Seldon: MBE/UPS Store, Staten Island: MBE/UPS Store, Syosset: MBE/UPS Store, Williamsville: MBE/UPS Store.

*North Carolina*: Charlotte: Geeks on Call, Fayetteville: Sears Carpet & Upholstery Care, Greensboro: Molly Maid, Navis Pack & Ship Centers, Raleigh: DreamMaker Bath & Kitchen, MBE/UPS Store, Meineke Car Care Centers, Rocky Mount: Mr. Appliance, Williamston: PostNet, Wilmington: Candy Bouquet.

*North Dakota*: Fargo/Moorehead: Meineke Car Care Centers.

*Ohio*: Ashland: MBE/UPS Store, Canton: Maid Brigade, Cincinnati: i9 Sports, Columbus: FastFrame USA, Dayton: AmeriSpec Home Inspection Service, Franklin: MBE/UPS Store, Strongsville: FastFrame USA, Waterford: Mr. Rooter, Westerville: PostNet.

*Oklahoma*: Tulsa MBE/UPS Store, Tutle: Mr. Handyman.

*Oregon*: Eugene: PostNet, Woodbum: PostNet.

*Pennsylvania*: Allentown: 1-800-Got Junk, Express Personnel, Collegeville: Expetec, Hollidaysburg: Aire Serv Heating & Air Conditioning, Lansdale: Sparkle Wash, Lebanon: Safe Kids Card, Lower Burrell: Mr. Appliance, Palmyra: MBE/UPS Store, Philadelphia: Geeks on Call, i9 Sports, Pittsburgh: Concerto Network, MBE/UPS Store, Two Men and a Truck, Richboro: MBE/UPS Store, State College: Express Personnel, York: Candy Bouquet.

*Rhode Island*: Warwick: Expetec.

*South Carolina*: Beaufort: MBE/UPS Store, Charleston: Concerto Network, Greenville: Cleaning Authority, Moncks Comer: DreamMaker Bath & Kitchen, Mount Pleasant: Safe Kids Card, Ocean Isle: Mr. Appliance, Sumter: Comfort Keepers.

*Tennessee*: Chattanooga: Sport Clips, Germantown: FastFrame USA, Jackson: DreamMaker Bath & Kitchen, Nashville: Expetec, Vanguard Cleaning Systems, World Inspection Network.

*Texas*: Amarillo: Mr. Electric, Bailey: Safe Kids Card, Baytown: Express Personnel, Beaumont: MBE/UPS Store, Boerne: Candy Bouquet, College Station: DreamMaker Bath & Kitchen, Mr. Electric, Cypress: MBE/UPS Store, Dallas: Meineke Car Care Centers, Garland: MBE/UPS Store, Houston: KaBloom Franchising, MBE/UPS Store, Ritter's Frozen Custard, Safe Kids Card, Vanguard Cleaning Systems League City: MBE/UPS Store, Mansfield: Safe Kids Card, Midland: MBE/UPS Store, New Braunfels: Cartridge World, Round Rock: Mr. Electric, San Antonio: MBE/UPS Store, Texarkana: MBE/UPS Store, The Colony: Molly Maid, The Woodlands: PostNet, Victoria: Coffee Beanery, Waco: Mr. Appliance.

*Utah*: Herriman: MBE/UPS Store, Riverton: PostalAnnex+, Salt Lake City: Navis Pack & Ship Centers, Saratoga Springs: PostNet.

*Virginia*: Bristow: PostNet, Chantilly: Expetec, Charlottesville: Matco Tools, Sport Clips, Fredericksburg: 1-800-Got Junk, New Castle: Glass Doctor, Portsmouth: MBE/UPS Store, Roanoke: Precision Tune Auto Care, Rockingham: County Meineke Car Care Centers, Virginia Beach: 1–800–Got Junk, PostNet, Wireless Zone.

*Washington*: Burlington: MBE/UPS Store, Mills Creek: Comfort Keepers, North Bend: DreamMaker Bath & Kitchen, Spokane: Molly Maid, Spokane Valley: MBE/UPS Store, Walla Walla: American Poolplayers Association.

*West Virginia*: Huntington: Mr. Electric.

*Wisconsin*: Green Bay: i9 Sports, Milwaukee: 1-800-Got Junk, Muskego: Expetec, Stevens Point: MBE/UPS Store, Superior: MBE/UPS Store.

## CONGRATULATIONS TO VELMA LORNE

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to congratulate Velma Lorne for being a recipient of the "Unsung Hero" Award, presented by the Texas Public Employees Association. Mrs. Lorne was one of eleven people to receive the honor out of approximately three hundred nominees.

Velma Lorne has been a corrections officer in Texas for nearly three decades. During her tenure with the Denton and Gainesville State Schools, she has been the recipient of many accolades, including being named Employee of the Year in 1988.

This award represents the varied activities that Mrs. Lorne devotes herself to within Gainesville State School. She goes beyond her daily duties to help fellow employees with transportation to and from the facility as well as providing meals for State School functions. In addition, she is actively involved in annual fundraising efforts for the United Way among State School employees.

It is a great honor to stand here today and congratulate Velma Lorne for winning the "Unsung Hero" Award. This is an honor that is well deserved by Mrs. Lorne, as she has served as a hero to ma[illegible] Texas youth throughout her career of sel[illegible]vice.

## RECOGNIZING NICHOLAS WILLIAM WINDHORST FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Nicholas William Windhorst of Kansas City, Missouri, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 395, and in earning the most prestigious award of Eagle Scout. Nicholas will receive his Eagle at a Court of Honor on September 18 at Pine Ridge Presbyterian Church.

Nicholas has been very active with his troop, participating in many scout activities. Over the years Nicholas has been involved with scouting he has earned numerous merit badges and has served in leadership positions within his troop.

Mr. Speaker, I proudly ask you to join me in commending Nicholas William Windhorst for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout. It is an honor to represent Eagle Scout Windhorst in the United States Congress.

## CONGRATULATING THE PARKVIEW VOLUNTEER FIRE DEPARTMENT

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Ms. HART Mr. Speaker, I would like to take this opportunity to congratulate the Parkview Volunteer Fire Department, PVFD, of O'Hara Township on their 75th anniversary of service.

Over the past 75 years the PVFD has maintained its missions of protecting the residents of O'Hara Township. Serving nearly 9,000 people and roughly 150 businesses, the PVFD has established a tremendous amount of respect among the community for their public service. Since 1930 the PVFD has developed, maintained, and strengthened a strong mutual trust and open communications between the fire department and the community in which it protects.

I ask my colleagues in the United States House of Representatives to join me in honoring the 75th anniversary of the Parkview Volunteer Fire Department. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute such principled public servants as the Parkview Volunteer Fire Department.

## 350TH ANNIVERSARY OF JEWISH LIFE IN AMERICA

### HON. STEVE CHABOT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. CHABOT. Mr. Speaker, in 2003, along with our former colleague Congressman Rob Portman, I introduced House Concurrent Resolution 106, recognizing the 350th anniversary of Jewish communal life in North America. H. Con. Res. 106 was adopted by unanimous vote. An identical resolution was introduced in the other body by Senators DEWINE and VOINOVICH and was adopted as well.

Today, I would like to insert in the CONGRESSIONAL RECORD a Rabbinical Resolution issued by the Presidents of the Central Conference of American Rabbis, the Rabbinical Assembly, the Rabbinical Council of America, and the Reconstructionist Rabbinical Association commemorating the 350th anniversary of Jewish life in America and proclaiming the period from September 2004 to September 2005 "to be one of special thanksgiving, prayer, study, reflection and celebration."

The resolution follows.

#### CELEBRATE 350—JEWISH LIFE IN AMERICA, 1654–2004

Let it be known that in Elul 5764 (September 2004) the Jewish community of the United States began a year long commemoration marking the 350th Anniversary of Jewish settlement in this country.

With the help of God and under the protection of the Constitution of the United States, we have lived and prospered in this land. We have been an integral part of American life. We have worked with all other Americans in the never-ending effort to keep secure the democratic way of life. Our ancient prophetic ideals and the teachings of our sages serve as cornerstones of this nation's values. Our work, our hopes, and above all, our living religion have been among our proudest offerings to the American community.

In some lands across the seas the Jewish people have felt the searing flame of prejudice, persecution and death. The American Jew has had the sad yet inspiring opportunity to bring comfort to the oppressed, the joyous opportunity to participate in the reconstitution of the Jewish state on the ancient soil of Israel, and the inescapable and ennobling responsibility to mend the broken places in our world.

Even as we have worked for the well-being of our people abroad, the Jewish people in America have struggled to preserve our noble heritage, our historic traditions, our ancient teachings, our ethics, and our spiritual ideals in the free climate of our nation.

Mindful of our manifold blessings and with deep gratitude in our hearts to the God of Israel, Who, in 1954, led our forebears to the shores of this great new land.

We have proclaimed the period from Elul 5764 (September 2004) through Elul 5765 (September 2005) to be one of special thanksgiving, prayer, study, reflection and celebration to mark the 350th Anniversary of Jewish Communal Life in America.

We call on all American Jewry to participate in the observance of this anniversary; to thank God for the bountiful blessings that have been bestowed on us in this remarkable land. Let us express our collective hope that peace, security, and prosperity will reign in our nation for all. May the principles of freedom and liberty that have been the lodestar values of this great Republic continue to radiate their blessings on our nation.

RABBI HARRY DANZIGER,
*President, Central Conference of American Rabbis.*
RABBI PERRY RAPHAEL RANK,
*President, Rabbinical Assembly.*
RABBI DALE POLAKOFF,
*President, Rabbinical Council of America.*
RABBI BRANT ROSEN,
*President, Reconstructionist Rabbinical Association.*

## IN HONOR OF RECORDING ARTS DAY

### HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mrs. BONO. Mr. Speaker, I would like to pay special recognition to the first ever Recording Arts Day on Capitol Hill.

The Recording Arts and Sciences Congressional Caucus, working with The Recording Academy®, has sought to include the voice of artists and other professionals in policymaking decisions. Over the course of the year, Members of Congress have reached out to members of the recording arts community in hopes of working together on many critical issues facing this industry. Today, musicians, songwriters, singers, producers and other key members of The Recording Academy® will visit Members of Congress on the Hill to share their experiences and raise awareness on matters of importance to them.

Those participating in Recording Arts Day will focus on a variety of issues, including protecting intellectual property rights, bolstering music education and emphasizing the importance of music preservation. It is through the private and public sectors working together on these causes that we can nurture future artists and support music, one of this county's greatest and largest exports.

Under the leadership of Recording Academy® President Neil Portnow, The Recording Academy® has greatly increased its presence on Capitol Hill. Mr. Portnow realizes how critical it is for artists to engage in policymaking and sees it as the responsibility of artists and others to educate and influence actions affecting them.

I would also like to commend the Recording Academy's Daryl Friedman, Vice President of Advocacy and Government Affairs, for helping to organize Recording Arts Day. Thanks to his efforts, this promises to be a very successful and informative day.

Mr. Speaker, I would once again like to recognize Recording Arts Day and hope this inaugural event becomes an annual tradition.

## IN MEMORY OF SPECIALIST ERNEST DALLAS, JR.

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BURGESS. Mr. Speaker, I rise today in memory of Army Specialist Ernest Dallas, Jr., from the 26th Congressional District of Texas, for serving our country during Iraqi Freedom. SPC Dallas died July 24, 2005 with three other soldiers when a roadside bomb exploded next to their Bradley Fighting Vehicle. SPC Dallas was assigned as a scout in the 3rd Armored Cavalry Regiment in Baghdad. He was 21 years old.

I would like to recognize and celebrate Army Specialist Ernest Dallas, Jr.'s life today. SPC Dallas, a Fred Moore High School graduate, enlisted for a three-year hitch in November 2003, because he wanted to serve his country and felt he needed the training to meet his future goals. A loving family member, Specialist Dallas took time to phone home to get caught up with his family and hear news from Texas.

He was a dedicated solider who earned the respect of those around him. Sergeant Frederick Wysingle, who recruited SPC Dallas in July 2003, said he was the perfect soldier. He was proud of the work he was doing and had just relayed to his family news that his platoon had recently curbed insurgent activity in Iraq. Promoted two months prior to his death from private first class, his promotion was made official two days after he died.

Just a few weeks prior to his death, Army Specialist Ernest Dallas, Jr. sent an engagement ring to his girlfriend. He was truly a solider who understood his duty, and planned for a future beyond his service to his country.

It was my honor to represent Army Specialist Ernest Dallas, Jr., and I extend my deepest sympathies to his family and friends. He will be deeply missed and his service was greatly appreciated.

## RECOGNIZING BRANDON JAMES MYNATT FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Brandon James Mynatt of Kansas City, Missouri, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 395, and in earning the most prestigious award of Eagle Scout. Brandon will receive his Eagle at a Court of Honor on September 18 at Pine Ridge Presbyterian Church.

Brandon has been very active with his troop, participating in many scout activities. Over the years Brandon has been involved with scouting he has earned numerous merit badges and has served in leadership positions within his troop.

Mr. Speaker, I proudly ask you to join me in commending Brandon James Mynatt for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout. It is an honor to represent Eagle Scout Mynatt in the United States Congress.

## CONGRATULATING THE LAWRENCE COUNTY BUILDERS ASSOCIATION

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the Lawrence County Builders Association (LCBA), on the 25th anniversary of its founding.

Over the past 25 years the LCBA has worked diligently to provide support services to its builder and associate members. This nonprofit trade association has also worked tirelessly with the National Association of Home Builders and Pennsylvania Builders Association to create a positive regulatory and legislative environment to keep housing and general construction affordable. I recognize the LCBA for all of their hard work and dedication to education and professional development for all of its members.

I ask my colleagues in the United States House of Representatives to join me in honoring the 25th anniversary of the LCBA. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute such a principled organization as the Lawrence County Builders Association.

## HONORING THE LIFE OF PFC RAMON A. VILLATORO, JR.

### HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. COSTA. Mr. Speaker, I rise today to honor and remember the life of Private First Class Ramon A. Villatoro, Jr., who lost his life supporting Operation Iraqi Freedom.

Mr. Villatoro, 19, joined the United States Army on July 24, 2004. He attended Basic Training and Advanced Individual Training at Fort Knox, Kentucky. Shortly thereafter, he reported to his first assignment at the Replacement Detachment. Within a few days, Mr. Villatoro's leadership and dedication was recognized and he was assigned to the K Troop, 3rd Squadron, and 3rd Armored Cavalry Regiment on January 7, 2005. Mr. Villatoro was committed to his role in his Primary Military Occupational Specialty, as a 19D, Cavalry Scout.

Mr. Villatoro was deployed to protect our country in Operation Iraqi Freedom on March 3, 2005. Prior to leaving on his envoy to Iraq, Mr. Villatoro was promoted to Private First Class (PFC). Unfortunately, Mr. Villatoro's tour in Iraq ended when an improvised explosive device detonated near his military vehicle on July 24, 2005.

Mr. Villatoro's strength of character and valor earned him well-deserved recognition, including: Army Good Conduct Medal (Posthumous); National Defense Service Medal; Iraq Campaign Medal; Global War on Terrorism Service Medal; Army Service Ribbon, Combat Action Badge (Posthumous). He also received the Bronze Star Medal (Posthumous); and the Weapons Qualification Badge, which certified him as an expert in certain rifle weaponry. Finally, Mr. Villatoro was awarded a Purple Heart, currently the oldest military decoration in the world, awarded to members of the armed forces who are wounded or killed in the line of action.

Surviving Mr. Villatoro is his wife of eight months, Amanda Villatoro. Mrs. Villatoro is expecting their first child in three months. Also surviving Mr. Villatoro is his family, all of whom reside in Bakersfield, CA.

I would like to extend my heartfelt sympathy and condolences, to Mr. Villatoro's family, for the loss of his life. His loss symbolizes the ultimate sacrifice one can make for his country. His service represented his commitment to protect his family, community, and our Nation. Mr. Villatoro's dedication to the principles of freedom and democracy will serve as an example to all of us, for generations to come.

## COMMENDING THE PUERTO RICAN DAY PARADE STEERING COMMITTEE

### HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. HIGGINS. Mr. Speaker, I first would like to extend my thanks towards the committee, for inviting me to partake in today's celebration.

Since its inception, The Puerto Rican Day Parade of WNY, Inc, has brought the history and heritage of Hispanics to the forefront of this areas long standing cultural legacy. The Puerto Rican Day Parade allows people from all over western New York to come and enjoy themselves as they preserve a part of there culture.

This parade does not only supply this community with a day long celebration of beauty and pride, but empowers the community by celebrating the history of Puerto Rico.

And lastly the parade supplies a positive outlook for this community. This parade is a example of how prosperous a future the Hispanic community has, and its prominent role in the direction of western New York.

Thanks to the selfless and tireless efforts of this committee, for the last 3 years the Puerto Rican community has had the ability to collectively share and embrace there heritage right here in Buffalo.

I, Congressman BRIAN HIGGINS, on behalf of the 27th Congressional District, would like to show my gratitude towards the committee.

## PERSONAL EXPLANATION

### HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. GALLEGLY. Mr. Speaker, on Tuesday, September 6, 2005, I was unable to vote on the motion to suspend the rules and agree to H. Res. 360, commemorating the 60th anniversary of V–J Day and the end of World War II in the Pacific (rollcall vote 454); and on the motion to suspend the rules and pass as amended, S.J. Res. 19, Calling on the President to issue a proclamation recognizing the 30th anniversary of the Helsinki Final Act (rollcall vote 455). Had I been present, I would have voted "yea" on both measures.

## IN MEMORY OF THOMAS HERRION

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to give tribute to Thomas Herrion, from Fort Worth, Texas, and his passion for life. He died at the tender age of 23 after collapsing in the San Francisco 49ers locker room following a National Football League exhibition game.

Thomas was one of seven children growing up in south Fort Worth. He often played the drums at church where his father was the minister. While attending Polytechnic High School, he was a 4-year starter for the football team, a center for the basketball team, and competed in discus and the shot-put on the track team. When he wasn't competing or studying, he worked to help support his family. After high school, he went on to play for Kilgore Junior College and the University of Utah.

Thomas will be remembered as a hard worker and someone who lived his life to the fullest. He always had a bright personality that made everyone laugh, and he had passion for life and infused this zeal into everything he did. His ultimate dream, after finishing his NFL career, was to return home to Fort Worth and help his community. Thomas wanted to get his teaching degree and coach football. First in his heart was his mother—he wanted to always be there for her and planned to her the house of her dreams.

I extend my condolences to the family and friends of Thomas Herrion. His legacy will serve as an inspiration those who strive to achieve their dreams and live life to the fullest.

## RECOGNIZING GREGORY ALLAN POLITTE FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Gregory Allan Politte of Kansas City, Missouri, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 395, and in earning the most prestigious award of Eagle Scout. Gregory will receive his Eagle at a Court of Honor on September 18 at Pine Ridge Presbyterian Church.

Gregory has been very active with his troop, participating in many scout activities. Over the years Gregory has been involved with scouting he has earned numerous merit badges and has served in leadership positions within his troop.

Mr. Speaker, I proudly ask you to join me in commending Gregory Allan Politte for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout. It is an honor to represent Eagle Scout Politte in the United States Congress.

## CONGRATULATING THE ADULT LITERACY LAWRENCE COUNTY ON ITS 25TH ANNIVERSARY

### HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the Adult Literacy Lawrence County (ALLC), on the 25th anniversary of its founding.

Over the past 25 years the ALLC has worked diligently to provide support services to adults that struggle to read. This organization was launched when New Castle Public Library's director, Ms. Roux, heard Al Bennett of the U.S. Dept. of Education speak about libraries taking responsibility for developing literacy programs. Securing non-profit status in 1996, the ALLC officially became a community-based organization.

This non-profit organization has worked tirelessly to create a positive environment to meet the changing needs of the community. The agency offers tutoring, ABE and GED, family literacy, and computer literacy components. From July 1, 2004 through June 30, 2005 more than 240 adults participated in one or more ALLC program components. Additionally 1,048 children read more than 5,000 books as they competed for a ride in the Summer Reading Kickoff Parade. It is with great pleasure that I recognize the ALLC for all of their hard work and dedication to continued education and literacy competence of its community members.

I ask my colleagues in the United States House of Representatives to join me in honoring the 25th anniversary of the ALLC. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute such a principled organization as the Adult Literacy Lawrence County.

## TRIBUTE TO J. ROBERTS DAILEY

### HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. PENCE. Mr. Speaker, the State of Indiana lost a pillar of the political community last month. On Saturday, August 13, J. Roberts Dailey passed away at Westminster Village, a retirement home in Muncie, Indiana.

J. Roberts Dailey was a leader of unparalleled reputation in public service. His tenure in the Indiana General Assembly where he served as Speaker of the House was marked by the consistent pursuit of principle and the interests of the people of Indiana.

Bob Dailey entered politics in 1952, serving 2 years on the Delaware County Council. He was a precinct committeeman between 1958 and 1978 and was Delaware County's GOP finance chairman between 1963 and 1978. He had been a delegate to every Republican state convention since 1954.

Dailey, a real estate agent, was first elected to the Legislature in 1976 before being elevated to Speaker in 1980.

In 1992, Dailey received one of Ball State University's highest honors, the Medal of Distinction for leadership and service to the state and university.

Six years later, he was named chairman of the Christian Coalition of Indiana, a state affiliate of the national organization that was a trailblazer in conservative Christian politics.

As he was to an entire generation of aspiring Hoosier leaders, Bob Dailey was my friend, a mentor and a true role model. He will be missed by our community and our state, but his example of integrity, faith and conservative leadership will continue to challenge and inspire future leaders for generations to come.

Mr. Speaker, on behalf of the entire State of Indiana, I extend heartfelt sympathies over the loss of J. Roberts Dailey.

Indiana will never forget Speaker Dailey.

## CONGRATULATIONS ON THE BURLINGTON ELECTRIC DEPARTMENT'S 100TH ANNIVERSARY

### HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. SANDERS. Mr. Speaker, I am pleased to celebrate the 100th anniversary of the city of Burlington Electric Department. What an incredible achievement!

One of the great experiences I had as Mayor was seeing, close up, how much it mattered to Burlington's citizens that we had public power, and not a for-profit corporation, delivering the electricity our city's households and businesses need. The results are clear. Burlington today has some of the lowest electric bills in the state. And that is no small matter when families are hard pressed by increasing gasoline and fuel oil prices, and the difficult economy that is faced by so many.

When the goal of a department is to provide the best quality service at the lowest possible cost, rather than huge profits and big CEO compensation packages, amazing things can happen. Through innovative and creative management and by utilizing aggressive energy efficiency measures, electricity use in Burlington is 1 percent below what it was in 1989—saving Burlington customers some $6.7 million a year. Burlington is using less power at a time of economic growth—a remarkable achievement. Since 1995 average rates have decreased by 17 percent. Clearly there is something very right about the Burlington Electric Department which the rest of Vermont and America can learn from.

Several years ago I brought a number of the most innovative electric departments in the country together for a meeting in Washington. I was very proud that the BED showed itself to be one of the very best in the nation. Given the major energy crisis that our country now faces, I am confident that BED will continue to come forward with bold and innovative ideas to protect our rate-payers and our environment.

Whether it is in the normal operation of business, or dealing with power outages from an ice storm or a blizzard, the employees of Burlington Electric serve the people of Burlington with real dedication. Whatever the job is, they get it done.

To Mayor Clavelle, Barbara Grimes, BED's General Manager; to the Electric Commission; and the City Council; and most especially to the men and women who not only work for the Electric Department but make it work for all of Burlington:

Congratulations on BED's hundredth anniversary.

## CONGRATULATIONS TO MEGAN ELIZABETH DAY, RECIPIENT OF THE PRESIDENTIAL FREEDOM SCHOLARSHIP

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to recognize the superior academic performance of Megan Elizabeth Day, a recipient of this year's Presidential Freedom Scholarship. Thirteen students in the 26th Congressional District are receiving this special recognition.

This award recognizes outstanding service and citizenship initiatives by the students who were nominated, and provides an opportunity to acknowledge their leadership. Administered by Learn and Serve America, the scholarship provides $500 in Federal funds, matched with $500 from a community organization or business obtained for the student by their high school or Boys and Girls Club. Winners must have completed at least 100 hours of community service, either through a school-based service-learning program or independently through service at a nonprofit or faith-based organization.

Megan is a recent graduate of Bethesda Christian School. The Whitney Masonic Lodge #355 is matching her $500 in Federal funds.

Over 38,000 students to date have received this award and I extend my sincere congratulations to Megan Elizabeth Day for being one of them. This student's contribution and services should serve as inspiration to those who wish to make a positive difference in the lives of others.

## RECOGNIZING BRENT TRAUGOTT SAVING FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Brent Traugott Saving of Kansas City, Missouri, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 395, and in earning the most prestigious award of Eagle Scout. Brent will receive his Eagle at a Court of Honor on September 18 at Pine Ridge Presbyterian Church.

Brent has been very active with his troop, participating in many scout activities. Over the years Brent has been involved with scouting he has earned numerous merit badges and has served in leadership positions within his troop.

Mr. Speaker, I proudly ask you to join me in commending Brent Traugott Saving for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout. It is an honor to represent Eagle Scout Saving in the United States Congress.

## A TRIBUTE TO INTERPRINT, INC. UNDER THE LEADERSHIP OF WILLIAM M. HINES, SR.

### HON. JOHN W. OLVER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. OLVER. Mr. Speaker, I rise to commend the outstanding community service of Interprint, Inc., which for 20 years, under the direction of William M. Hines, Sr., has continually made social responsibility and community involvement a hallmark of the company. Mr. Hines recognizes the importance of building and maintaining a community presence which has become a keystone of Interprint, Inc.'s success as well as the City of Pittsfield.

Recently, Mr. Hines has chaired a number of specialty events for the American Red Cross—Berkshire County Chapter (2003–2004), including the 2004 Fashion Show, which raised $10,000 to help disaster victims of Berkshire County.

In addition, Interprint, Inc. has always been a pacesetter company for the Berkshire United Way Annual Fund Drive which supports the enhancement of the quality of life in our community through the support of non-profit human service organizations and their programs. Interprint also has supported the American Heart Association as a sponsor for the Heart Ball in 2003 and 2004 and the American Heart Walk in 2004. Mr. Hines was also involved with the Capital Fund Drive for Kid's Place in 1997 raising funds to provide an interdisciplinary, cooperative team approach to address the needs of children subjected to violence. The center provides a safe, caring, home-like atmosphere that coordinates the combined knowledge of law enforcement, social service, medical, prosecutorial, and mental health agencies to ensure an effective response to childhood trauma.

Finally, I commend Interprint, Inc. on its 20th Anniversary, September 15, 2005, for the many years of community service that it has contributed to Berkshire County. I look forward to the many years ahead that Interprint, Inc. will continue to be a productive and contributing member of the surrounding community.

## TRIBUTE TO JAMES DELMAR ELLIS

### HON. BOB BEAUPREZ

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BEAUPREZ. Mr. Speaker, I rise today to pay tribute to James Delmar Ellis, a marshal for the Brighton Colorado Police Force. While Night Marshal Ellis was making his rounds in downtown Brighton on March 6, 1908 at 2:20 a.m., he encountered three men. When he was ordered to throw up his hands and halt, Ellis refused and one of the three opened fire. Ellis, though hit, gallantly returned fire then made his way to a telephone office for help. In a short time, two local doctors arrived but Marshal Ellis's condition was assessed as grave and was placed on a train to

Denver but died en-route at the young age of twenty-five.

The investigation of the event revealed that the three men were attempting to break into the United States Post office located in Brighton.

Marshal James Delmar Ellis died serving the people of Brighton. In May of 2005 his name was added to the Roll Call of Fallen Officers at the National Law Enforcement Officer's Memorial in Washington, D.C.

Mr. Speaker, I ask my colleagues to join me in paying tribute to Marshal Ellis and all of our nations' fallen officers by honoring those who made the ultimate sacrifice to protect our communities.

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## CONGRATULATIONS TO BRIAN ROBERSON, RECIPIENT OF THE PRESIDENTIAL FREEDOM SCHOLARSHIP

### HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. BURGESS. Mr. Speaker, I rise today to recognize the superior academic performance of Brian Roberson, a recipient of this year's Presidential Freedom Scholarship. Thirteen students in the 26th Congressional District are receiving this special recognition.

This award recognizes outstanding service and citizenship initiatives by the students, who were nominated, and provides an opportunity to acknowledge their leadership. Administered by Learn and Serve America, the scholarship provides $500 in Federal funds, matched with $500 from a community organization or business obtained for the student by their high school or Boys and Girls Club. Winners must have completed at least 100 hours of community service, either through a school-based service-learning program or independently through service at a nonprofit or faith-based organization.

Brian is a member at the Technology Center Boys and Girls Club. This organization also contributed the matching funds worth $500.

Over 38,000 students to date have received this award and I extend my sincere congratulations to Brian Roberson for being one of them. This student's contribution and services should serve as inspiration to those who wish to make a positive difference in the lives of others.

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## RECOGNIZING SHAWN PATRICK BURT FOR ACHIEVING THE RANK OF EAGLE SCOUT

### HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Shawn Patrick Burt of Kansas City, MO, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 395, and in earning the most prestigious award of Eagle Scout. Shawn will receive his Eagle at a Court of Honor on September 18 at Pine Ridge Presbyterian Church.

Shawn has been very active with his troop, participating in many scout activities. Over the years Shawn has been involved with scouting he has earned numerous merit badges and has served in leadership positions within his troop.

Mr. Speaker, I proudly ask you to join me in commending Shawn Patrick Burt for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout. It is an honor to represent Eagle Scout Burt in the United States Congress.

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## HONORING THE 322ND MEDICAL BATTALION OF THE 97TH INFANTRY DIVISION IN WWII

### HON. LINCOLN DAVIS

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. DAVIS. Mr. Speaker, at a time when we are humbled and saddened by the devastation caused by Hurricane Katrina along the Gulf Coast, I would like to take a few minutes to salute and honor the men of the 322nd Medical Battalion of the 97th Infantry Division. They served during World War II and are meeting in Nashville, Tennessee on September 17, 2005 for a reunion.

After completing training in Texas, Louisiana, and Missouri, the 97th Infantry Division was sent to Camp San Luis Obispo, California to receive amphibious training in preparation for deployment to the Pacific for operations against the Japanese. In the fall of 1944, the Division was notified that it would be sent to the Far East in December. However, with the high number of American casualties during the Battle of the Bulge, the 97th was ordered to the European Theatre of Operations for the final assault on Nazi Germany.

They arrived in Europe in March of 1945 and participated in the reduction of the Ruhr pocket. The 97th captured Solingen and Düsseldorf as well as other small towns in Germany. Later, the 97th was transferred to Patton's 3rd Army where they participated in the liberation of Czechoslovakia. The 97th Infantry was credited with firing the last official shot in the European Theatre of Operations during World War II.

After the surrender of Germany, the 97th returned to the States and in September left for the Pacific where they had been scheduled to take part in the invasion of Japan before the Japanese formally surrendered on September 2, 1945. The 97th went on to perform occupation duty in Japan until its final deactivation in March of 1946.

These brave young men not only helped to finalize the end of the war against Nazi Germany but went on to begin the peace process in Japan. I salute them for a "job well done."

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## RECOGNIZING BILL STIGLITZ AS THE 101ST PRESIDENT OF THE INDEPENDENT INSURANCE AGENTS & BROKERS OF AMERICA

### HON. ANNE M. NORTHUP

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mrs. NORTHUP. Mr. Speaker, I rise today to congratulate Mr. William G. Stiglitz III, on his selection as the 101st president of the Independent Insurance Agents & Brokers of America, IIABA. Bill has been an important part of Louisville's business community for the past 35 years and I pause today to congratulate him on this honor.

Bill prepared for his professional career by attending Centre College, from which he graduated in 1968. Upon completion of his studies, Bill served in the U.S. Army, including 14 months in Vietnam with the 35th Engineer Battalion. In 1970, Bill joined his uncle, English Miller, at the insurance firm of Miller & Scholtz. During Bill's career in Louisville, he has been a leader in his industry and within our community. In 1987, he served as the president of the Independent Insurance Agents of Kentucky. Bill has also served as president of the Leukemia Society of Kentucky. Bill and his wife Pat have two children, Garrett and Kate.

Mr. Speaker, I rise to congratulate Bill on this honor. I wish him the best of luck during his term as president of the IIABA.

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## TRIBUTE TO CHARLES E. "TED" HERGET, JR.

### HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to Charles "Ted" Herget, Jr., a Baltimore businessman and philanthropist who has served on the Villa Julie College Board of Trustees since 1975, and has chaired the Board since 2002. In his 30 years of service to Villa Julie, Ted Herget has been instrumental in helping build the college into a highly regarded institution of higher learning in the Baltimore area.

In those first years, Villa Julie was a young institution that awarded only associate degrees. Since then, its 400 students have grown to approximately 2,500 students, and Villa Julie now confers four-year degrees, specializing in career-focused and adult-accelerated programs.

As co-founder and principal of Asset Strategy Consultants, Ted Herget has used his financial acumen to benefit Villa Julie College. He was the first chairman of the finance committee and in that role stressed the need to invest the college's money for the future. He also helped to develop the benefit structure and retirement plans that are still in place.

In addition to his work with Villa Julie, Ted Herget has a long history of civic leadership. He has served on numerous boards in the Baltimore metropolitan area and is recognized as a committed and dedicated community leader.

Mr. Speaker, I call upon my colleagues to join me in applauding the enormous impact that Ted Herget has had on the success and growth of Villa Julie College. Many people are responsible for Villa Julie's achievements, but Ted Herget certainly tops the list.

## PERSONAL EXPLANATION

### HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. McDERMOTT. Mr. Speaker, I missed votes on Tuesday, September 6, 2005. Had I been able to, I would have voted "yea" on H. Res. 360, rollcall vote No. 454, and "yea" S.J. Res. 19, rollcall vote No. 455.

## INTRODUCTION OF THE ANTI-PRICE GOUGING ACT OF 2005

### HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. CONYERS. Mr. Speaker, today I am introducing the Anti-Price Gouging Act of 2005, legislation that makes price gouging during a time of a national disaster a Federal crime. I am joined by Representatives Debbie Wasserman Schultz, Linda Sánchez, Jerrold Nadler, Martin Meehan, Sheila Jackson-Lee, Bennie Thompson, William Jefferson, Adam Schiff, Joe Crowley, William Delahunt, Zoe Lofgren, Gene Taylor, Chris Van Hollen, Diane Watson, Bobby Scott, Ed Case, Bernie Sanders, Mike Capuano, Dennis Kucinich, Bob Filner, Dan Boren, Jim McDermott, George Miller, John Larson, Al Green, Julia Carson, Carolyn Kilpatrick, Carolyn Maloney, Emanuel Cleaver, Anthony Weiner, Barbara Lee, Betty McCollum, Lucille Roybal-Allard, Jay Inslee, and José Serrano.

Every time a major disaster occurs, we are confronted with scarcity of resources that often results in exorbitant prices for necessary resources such as gas, food and water. While some adjustment to prices may be necessary, unconscionable increases in price are unfair and harmful to consumers, who, at a time of national disaster, are already dealing with significant personal losses. It is unconscionable for the same gasoline that sold for $2.50 per gallon on one day, to be marked up to $3.50 on the next day. Similarly, a hotel room that was promised at $80 per night on the phone; should not be raised $200 per night upon arrival. These instances of price gouging have been occurring throughout the country, even in areas far removed from the direct damage caused by Hurricane Katrina.

Currently, at least 13 States—Alabama, Arkansas, Florida, Georgia, Indiana, Louisiana, Mississippi, New York, North Carolina, South Carolina, Tennessee, Virginia and West Virginia—have laws that specifically address price gouging in the event of a declared emergency. Unfortunately, there is no Federal statute addressing the issue.

When we have unprecedented natural disasters, such as Hurricane Katrina, and price gouging that harms consumers across the Nation, we need Federal law enforcement available to support the States. As a result, the Anti-Price Gouging Act of 2005 would make it a violation of the Antitrust Laws for a supplier to charge unconscionable prices for necessary goods or services once a state of emergency has been declared by the President.

This legislation is not only extremely important now, at a time of national disaster, but it is also mindful that we cannot sit around and wait for disaster to strike before putting in place mechanisms that will help consumers in their times of need. I hope the Congress moves quickly to enact the Anti-Price Gouging Act of 2005.

## RECOGNITION OF PASTOR LEONARD P. BUELOW

### HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. GREEN of Wisconsin. Mr. Speaker, it is my honor to recognize before this House Pastor Leonard P. Buelow in observance of his 50th year in active ministry. Pastor Buelow's service and commitment to his congregations over the last 50 years has been both admirable and inspirational. He continues to serve his parishioners with the same dedication and enthusiasm as he did when he was first ordained.

Pastor Buelow began his career in the Christian ministry by attending and graduating from Concordia Seminary in Springfield, IL, in 1954. He was ordained on September 11, 1955, and went on to serve the congregation of St. James Lutheran Church of Shawano, WI, until 1965. Then, from 1965 to 1992, Pastor Buelow led the congregation of the Redeemer Lutheran Church of Green Bay, WI. Following his service at Redeemer Lutheran, he went on to found Christ the King Evangelical Lutheran Church in Green Bay, WI, where he continues to serve as their full-time minister. During his tenure with these congregations, Pastor Buelow has earned the reputation of being a true leader of the church and a tireless servant of God.

Mr. Speaker, it is my pleasure to recognize Pastor Leonard P. Buelow for his years of dedicated service to the church and his congregation. His guidance and compassion will continue to be cherished for many years to come.

## HONORING WILLIAM THOMAS "KETER" BETTS

### HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Ms. LEE. Mr. Speaker, Mr. Conyers and I rise today to honor the extraordinary life and achievements of one of the great artistic voices of our time, William Thomas "Keter" Betts of Silver Spring, Maryland. A legend in the world of jazz for over 50 years, Keter was not only a bassist of incomparable talent, but an original artist, devoted teacher, and wonderful friend. He passed away in Maryland on August 6, 2005 at the age of 77.

Keter Betts was born in 1928 in Port Chester, New York. He discovered music as a child when one day, while running an errand for his mother, he encountered a parade and was so fascinated by the music that he followed it all over town. It was not long before he began practicing on a small drum, and eventually moved on to playing on a full set. However, in his late teens he tired of carrying his drum set up and down the stairs of his apartment building, so in 1946 he switched to bass.

When he was only 19, Keter landed his first professional gig, playing for thirteen weeks in Washington, DC with saxophonist Carmen Leggio. He toured the country from 1949 through 1956, working with jazz singer Dinah Washington during the latter five years of the tour. Keter than teamed up with Charlie Byrd and Woody Herman to tour Europe and South America, before joining Ella Fitzgerald for a short tour that was the beginning of the twenty-four-year working partnership the two would share.

Over the years Keter played with many more jazz greats, such as Count Basie, Cannonball Adderly, Nat Adderly, Stan Getz, Kenny Burrell and Louis Bellson, playing venues all over the world. He was a member of the Smithsonian Jazz Masterworks Big Band and was inducted into the Washington Area Music Association Hall of Fame. And after playing on more than 100 recordings, Keter finally released his first solo album, Bass, Buddies & Blues in 1998, and soon followed it up with Bass, Buddies, Blues Beauty Too.

In addition to performing, Keter was a longtime instructor of music at Howard University in Washington, DC beginning in 1963. He also impacted his community as an educator through his commitment to instructing young people through various programs such as the Washington Performing Arts Society's Concerts in Schools and Prince George's County's Arts Alive.

Keter Betts is widely considered to be the most accomplished and highly respected bassist in jazz history. Keter's life and music impacted countless members of younger generations not only because of the excellence and originality he brought to his art, but because of his incredible wisdom, his insight, and his firm belief that every artist must strive to be unique and find his or her true voice.

Today Keter's family and friends will come together to celebrate his impact not only on the world of jazz, but on the innumerable lives he touched and artistic journeys he inspired. On behalf of the 9th Congressional District of California and the 14th Congressional District of Michigan, we salute and thank Keter Betts for his invaluable contributions to jazz music, our country and our world.

## U.S. ARMY SPC. LAURO DELEON

### HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. CUELLAR. Mr. Speaker, I rise today to honor U.S. Army Spc. Lauro DeLeon, who died one year ago while serving as part of Operation Iraqi Freedom.

Lauro joined the Army Reserves before graduating from Floresville (Texas) High School in 2003, seeing the military as a way of financing a college education. He then enrolled at Palo Alto College that fall to pursue a degree in business, but soon learned he had been called up for active duty.

Lauro went to Baghdad as part of Operation Iraqi Freedom in February 2004. The Mojadi army was attacking the city, and Lauro's unit was stuck in camp for three days before making its way out of Baghdad.

During that summer of 2004, Lauro surprised his family with a return home as part of a two-week leave from the Army which he won in a lottery. Lauro, a good Christian man from a good Christian family, prayed that he would be granted the opportunity to go home to his family, and his number was the last one called.

Lauro then returned to Iraq to serve with the 644th Transportation Company. On September 8, 2004, the truck Lauro was driving went over an explosive device, killing Lauro and putting the soldier with him in critical condition.

While in Iraq, both Lauro and his mother, Grace Lopez, read a chapter a day from the Bible. She passed along a message that helped Lauro make it through the tough times: "Fear is not of God; whenever you start feeling fear, tell God to remove it." It is this faith that carried Lauro through the war, and it is this faith that continues to carry his family after his passing.

Along with all of our fallen servicemen and women, Lauro DeLeon has honored our nation by making the greatest sacrifice of all. It is the least we can do to offer these words of remembrance today. As always, our prayers remain with Lauro, his family, and all those representing our country in our Armed Forces.

## HURRICANE KATRINA

### HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. LANTOS. Mr. Speaker, the disaster along our Gulf Coast has wrought heartbreaking devastation on a scale too staggering to comprehend. I rise to join my colleagues in extending deepest sympathies to all those who have been struck by this catastrophe. Our hearts go out to all those who are suffering.

First and foremost, we must provide effective and immediate relief to our neighbors who are the victims of this tragedy. Federal authorities must render all assistance necessary in this overwhelming national crisis.

Congress has already taken the needed steps to ensure that funds are available for assistance. This is only the beginning of relief, and when more is needed, we will provide whatever is required.

We in the San Francisco Bay Area know first hand the impact of natural disaster, and we stand ready to help. I am encouraged by the support being shown by people in the Bay Area. Emergency volunteers have been dispatched. Hundreds of survivors will be housed in San Francisco's St. Mary's Cathedral. California schools are opening their doors as well: In my district, Notre Dame de Namur University in Belmont has offered to take in 50 displaced students. The California State Universities, the University of California at Berkeley, and Stanford are accepting others. Many people have given, and will continue to give, to established relief agencies at this critical time.

As the Ranking Member of the House International Relations Committee, I also want to express my deep gratitude and appreciation to our friends in the world community who have pledged to help. Secretary General Kofi Annan has acknowledged American generosity in helping others, and he has graciously offered the assistance of the United Nations in our time of need. The leaders of a broad array of countries have expressed their condolences and extended offers of aid.

All Americans can be proud of the hard and sometime heart-rending work being done by local, state and federal emergency workers now on the scene of the disaster. But it seemed that immediate emergency action arrived in slow motion last week when it was so desperately needed. Those who were watching the news reports, as well as those who were hurting in the midst of the devastation, were united in one question: Why did the rescue efforts take so long? Now other questions are beginning to arise. We must answer them in order to do better in the event of another emergency. Even the President indicates that the response to this one has been less than acceptable.

When the Department of Homeland Security (DHS) was formed in 2002, I voiced concern about folding into it the Federal Emergency Management Agency (FEMA). After failing to adequately respond to Hurricane Hugo in 1989 and Hurricane Andrew in 1992, FEMA had reestablished itself as a singularly responsive federal agency by clearly defining its mission and aggressively pursing it. It was not helpful to change its structure and culture only a few years later in order to fit into the massive and newly created Department.

I believe our primary purpose in establishing the DHS was to better protect the nation through better prevention and response to catastrophe. We have yet to demonstrate improved prevention, and in this case our response has been pathetically sluggish. Confusion and lack of leadership dominate our efforts. I call on President Bush to take swift action to relieve FEMA Director Michael Brown of his duties.

I also join with Ranking Members WAXMAN, OBERSTAR, and THOMPSON in requesting that the committees of jurisdiction, the Committee on Government Reform, the Committee on Transportation and Infrastructure, and the Committee on Homeland Security, conduct hearings on the questions raised in responding to Hurricane Katrina.

And finally, I advocate the establishment of a blue ribbon, non-partisan committee on the scope and with the clout of the 9–11 Commission to prepare a long-range and thorough investigation into this matter, in order to lay out the lessons learned. We need to find out what went wrong, what went right, and what we can do how we can do to brace for a future disaster. We need to ensure that a similar natural event, or even a major terrorist attack, is not made any worse by our own failure to respond with speed, efficiency, and real compassion rather than rhetoric.

Mr. Speaker, let's work together to help our neighbors and friends whose lives stood in the path of destruction. And let's do a better job of shielding our nation against such events.

## REMEMBERING THE LIFE OF CUBAN BOLLERO SINGER IBRAHIM FERRER

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. RANGEL. Mr. Speaker, I rise today to recognize the life and legacy of legendary Cuban musician Ibrahim Ferrer, who died Saturday August 6, after suffering multiple organ failure.

Ibrahim Ferrer was at the center of the Buena Vista Social Club, a phenomenon that brought long delayed international fame to a group of older Cuban musicians thanks to a Grammy-winning 1997 album produced by Ry Cooder and a subsequent film by Wim Wenders, both by that name. Besides offering American audiences a musician's-eye view of Cuba, the film created a recognition of Mr. Ferrer as an unlikely musical icon.

Mr. Ferrer's story is particularly inspiring to me because it speaks to the limitless possibilities of talent and chance. He was a gifted musician but of all the larger-than-life personalities that make up the Buena Vista Social Club, Ibrahim Ferrer seemed the least likely to emerge as an international superstar. Yet within three years of his first international tours with the Afro-Cuban All Stars outside of Cuba in 1996, Mr. Ferrer was filling the world's great venues and receiving rapturous ovations from audiences for whom he had become the embodiment—the heart and soul—of the multi-million-selling Buena Vista phenomenon.

Mr. Ferrer, a bolero singer who was compared to Nat King Cole, was born in Santiago in eastern Cuba on February 20, 1927, and began singing professionally in 1941. In the 1950s, he was an established singer who performed with well-known Cuban bands, including that of the legendary Benny More. But sadly, Ferrer was a forgotten name by the mid–1990s, supplementing a meager state pension by shining shoes. He was lifted from obscurity by the 1997 Buena Vista Social Club recording brought together by Texas guitarist Ry Cooder that shot a group of vintage Cuban musicians to international fame and an unexpected second career.

Mr. Ferrer was a man who was full of life and energy. Even in his seventies he could still salsa dance with the best of them. He was a musical powerhouse and an animated figure that clearly enjoyed performing Cuba's traditional "son" music of the 1940s and 1950s for new generations of fans.

I extend my condolences to his lovely wife and six children. Mr. Ferrer and his music are truly an inspiration to both Cubans and people throughout the world. His life and music are a testament to the vibrancy and resilience of Cuban people.

Creating some of Cuba's most rhythmic and dynamic music, Mr. Ferrer accomplished an enormous feat because despite the constraints of the U.S. embargo, his music was able to break through and Americans responded to it with overwhelming enthusiasm. His life legacy as a musician demonstrate the kind of beauty and musical genius that can come out of a relationship with Cuba and it is my hope that the failed U.S. embargo against Cuba will be lifted soon to permit the enrichment of an enhanced cultural exchange to the benefit of the people of Cuba and the U.S. Mr. Ferrer paved the way for generations of Cuban singers to come and it is my hope that their music will continue to reach the hearts of Americans and people throughout the world.

I would like to submit for the RECORD an obituary from the August 8th edition of the New York Times.

[From the New York Times, August 8, 2005]

IBRAHIM FERRER, 78, CUBAN SINGER IN "BUENA VISTA SOCIAL CLUB," DIES

(By Ben Ratliff)

Ibrahim Ferrer, the Cuban singer whose life included one of popular music's most triumphant second acts, died on Saturday in Havana. He was 78. The cause was multiple organ failure, his manger, Carmen Romero, announced.

Mr. Ferrer was at the center of the Buena Vista Social Club, a phenomenon that brought long-delayed international fame to a group of older Cuban musicians thanks to a Grammy-winning 1997 album produced by Ry Cooder and a subsequent film by Wim Wenders, both by that name. Besides offering American audiences a musician's-eye view of Cuba, the film set up Mr. Ferrer as a particularly sympathetic figure—tall, distinguished and lively, an excellent bolero singer who used space and silence in his relaxed elegant delivery to increase the drama, a man who had been rolled over by history and was now simply trying to enjoy an absurdly lucky situation.

At the time that he war enticed out of retirement to make the album, Mr. Ferrer was living on a small state pension and shining shoes in Havana for extra money.

He was not interested in recording anymore; he had retired from singing in 1991.

"An angel came and picked me up and said, 'Chico, come and do this record,' "he said in 1998. "I didn't want to do it, because I had given up on music."

Born in 1927 at a social club dance in the eastern city of Santiago de Cuba—his mother went into labor on a night out—Mr. Ferrer's first professional involvement with music came at age 13, a year after he became an orphan, when he joined a band, Los Jóvenes del Son.

Later he sang with groups that included Conjunto Sorpresa, the Orquesta Chepín Chovén (with which he had a local hit, "El Platanal de Bartolo," in 1955) and the Beny Moré orchestra, with which he was a background vocalist; in 1953 he began working with Pacho Alonso's band, Maravilla de Beltrán, in Santiago. The band later moved from Santiago to Havana and called itself Los Bocucos.

For most of his career Mr. Ferrer generally sang uptempo numbers, guarachas and sones, not the slow romantic boleros, even though he loved them. But his chance finally came on "The Buena Vista Social Club," when Mr. Cooder and Juan de Marcos González, the album's musical director, persuaded him to sing songs like "Dos Gardenias," which he had learned decades before when singing with Moré.

In 1998, the Cuban Egrem label released "Tierra Caliente," an album of older songs he had made with Los Bocucos. In 1999 the British World Circuit label (with Nonesuch in the United States) released Mr. Ferrer's first solo album, and in 2003 his second, "Buenos Hermanos"; both were produced by Mr. Cooder. In "Buenos Hermanos" Mr. Cooder took more artistic liberties, stirring the very un-Cuban accordion and the gospel singing group the Blind Boys of Alabama into the mix.

Though by this time he was in his 70's, Mr. Ferrer won a Latin Grammy for Best New Artist in 2000. "Buenos Hermanos" won a Grammy for Best Traditional Tropical Latin Album of 2003, but Mr. Ferrer was denied a visa to enter the United States for the awards ceremony last year.

His last performance in New York was in April 2003. He was on a European tour in the week leading up to his death.

Mr. Ferrer is survived by his wife, Caridad Diaz, 6 children, 14 grandchildren and 4 great grandchildren, Ms. Romero said.

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## TO COMMEMORATE THE 60TH ANNIVERSARY OF THE SAN LORENZO HOMES ASSOCIATION

### HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. STARK. Mr. Speaker, on Saturday, September 10, 2005, the San Lorenzo Homes Association in San Lorenzo, California will celebrate 60 years as one of the oldest homeowners' associations in the United States.

During World War II, thousands came to the San Francisco Bay Area to work in the shipyards. In response to the need for housing, David D. Bohannon purchased rich farmland south of the San Lorenzo Creek where abundant fruit and vegetable crops were grown.

On May 18, 1944, builders broke ground on the first home in the Village tracts, which launched the wartime construction of the planned community. Bohannon applied a mass production method, the reverse of the normal prefab process, by moving the factory to the housing site. Each worker was trained to do a single part of the job. The assembled houses rolled off the line at the rate of one every seven hours.

The first houses had a "war worker's room" with a separate entrance to help meet the housing shortage. The 1945 three-bedroom homes were priced at $5,950. Some rented for $55 per month. With the slogan "Every Lot a Garden Spot" and In-Door-Outdoor Living, San Lorenzo Village grew at the rate of 1,329 houses per project.

Land was set aside for schools, churches, stores, parks, restaurants, a movie theater and the Nimtez Freeway, which was built in 1953. The construction headquarters was turned into a playground, community hall and the San Lorenzo Homeowners' Association offices.

The Association is controlled by a board of directors elected annually on staggered terms of three years each. The first meeting was held on April 5, 1945. After a few months, with the number of homes increasing so rapidly, it became apparent that it was necessary to have paid employees to devote their full time to Homes' Association work.

Through the years, the Association, with its volunteer Board of Directors and professional management, has been successful in ensuring the appearance, safety, and financial accountability of San Lorenzo Village.

Since 1945, San Lorenzo Village has grown from its original 1,329 homes to 5,686. The value of San Lorenzo Village homes has increased over eight thousand percent over the past sixty years.

I have a personal connection to the San Lorenzo Homes Association. My wife, Deborah Roderick Stark, was born in San Lorenzo and her parents, Frank and Mary Roderick, are long-time residents and members of the Association.

On behalf of the Roderick and Stark families, I applaud the exemplary contributions of the San Lorenzo Homes Association. The Association has demonstrated its leadership to maintain the integrity of this planned community and its commitment to quality service delivery to meet the needs of Village residents.

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## IN CELEBRATION OF 43 YEARS OF JAMAICAN INDEPENDENCE

### HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. RANGEL. Mr. Speaker, I rise today to recognize the tremendous contributions that Jamaican Americans have made to our society and to join with them in celebrating their 43rd anniversary of independent rule on August 6, 2005.

Jamaicans have been immigrating to the United States for centuries and have undeniably left their mark on cities throughout our Nation. Their contributions can be seen at the center of our neighborhoods and industries, everywhere from New York to California. They are skilled business people, engineers, doctors, lawyers, and have produced some of our Nation's greatest leaders including former Secretary of State, General Colin Powell, and basketball star Patrick Ewing.

Despite the many challenges that this group has faced both in Jamaica and the U.S. they continue to hold fast to the Jamaican spirit of perseverance and continue in an extraordinary way to defy the odds. Theirs is a history of an effort that while marked with a host of successes and some failures, just like all nations, has shown that Jamaica is in a much better position today than when it became the first English-speaking Caribbean nation to assume the responsibility of nationhood.

Jamaica's record has proven that a relatively small but powerful nation can take charge of its own affairs and be a vital and vibrant member of the international community. Instead of tearing itself apart as other developing and developed nations have done, Jamaica and Jamaicans have held firm through thick and thin.

Having earned its place among the best-known developing countries at the United Nations, whether in international diplomacy, culture or excellence in sports Jamaica has been able to move far forward. Today, its people enjoy some of the longest life spans in the Western Hemisphere, about 74 years, poverty has dropped dramatically in recent years, educational opportunities continue to escalate, demonstrating the nation's commitment to invest in its people's future.

Jamaica has come so very far in the last 43 years and I look forward to its continued growth and prosperity in the future. Jamaica and Jamaicans will always hold a special place in my heart. It is impossible to imagine New York or Harlem without the contributions of Jamaicans. They are an ever-present and important part of our community from whom a great deal of our Nation's diversity is derived.

I would like to submit the following statement from Jamaican Prime Minister P.J. Patterson to commemorate this historic occasion.

INDEPENDENCE DAY MESSAGE FROM THE MOST HON. P.J. PATTERSON, ON, PC, QC, MP PRIME MINISTER

AUGUST 6, 2005

My Fellow Jamaicans:

Every year at this time we pause to reflect on the progress we have made as a people in this great country we call home. In our National Anthem, we ask for the blessings and guidance of the Eternal Father on this land.

We know so well that God helps those who help themselves, but that none but ourselves can free our minds. We realize that it is by our own efforts we can rid ourselves not only from the obstacles of the past, but also dissipate the inertia that would prevent us from overcoming present difficulties. We have to create our own path to the future of which we dream—the future which we would want our children and their children to inherit.

More and more we have come to appreciate that Independence is not simply a single event that took place in August 1962 but a process which allows us to build a nation for ourselves.

Our Founding Fathers based the pursuit of Independence on the firm conviction that we can be the creators of our own destiny. In this changed, and still rapidly changing world of this twenty-first century, it becomes even more urgent that we hold on to that conviction.

We are, after all, a people of proven grit and resilience whether we reside at home or abroad. We must use these attributes to creatively explore our potential and the opportunities that exist for economic, social and spiritual growth and development. To do otherwise, is a defiance of commonsense and a devaluation of the gift of life we have been given.

Fellow Jamaicans:

You have a right to expect from your leaders and the society at large: proper healthcare; affordable housing; a sound education that can facilitate and ease the journey from childhood to adulthood.

You are right to expect opportunities for gainful employment which is sustained and adequate to meet the vicissitudes of life.

And it is right that you should want to have the assurance of individual safety and collective security since all such rights herald the great freedoms from hunger, from ignorance, from disease and from fear.

But none of these can be achieved without the strategic alliances we must make between each other with all the caring, trust and compassion that a civilized society demands of all who inhabit it.

Forty three years in the life of a nation is short compared to the four and more centuries of degradation and deprivation. Through the struggles, the wisdom, foresight and example of our Founding Fathers, we have developed, and continue to develop, even greater self-esteem and self-confidence.

We have seen over the years that, despite the challenges and inherited disadvantages, we are not only fit to rule ourselves but also able to make a remarkable contribution on the regional and international stage.

In today's competitive global economy comparative advantage rests on intellectual skills and the mastery of technology. It is for this reason, that I have been stressing the importance of investing in our human resources—in ourselves—through education.

Today, education is the most effective means of shaping values, attitudes, behaviours and skills. Education is the key driver of economic transformation. It is our solemn responsibility to equip the future generation with the thinking skills that will assure their individual growth and development and the creation of a habitable society.

It is for this reason, that I have been stressing the importance of investing in our human resources—in our young students and adults—through education and training.

To do so, we are harnessing the resources to create an education system that is viable and relevant in the global marketplace.

The challenge is immense!

It is indeed a challenge for all Jamaicans: civil society; our private sector; the Church; the family in whatever form; our energetic and talented youth population; our workers and their trade unions; and, of course, our elected representatives.

Let us view ourselves as custodians of our nation's resources which we must invest in a broader purpose—the betterment of all our people.

This is a time for both celebration and renewal.

On this 43rd anniversary of our Independence, I once again summon every Jamaican in town or country, at home or overseas, to re-commit yourselves to giving to this our beloved country the loyalty, caring, dedication it so richly deserves from us all.

I wish everyone a peaceful and reflective Independence.

May God bless us all and bless Jamaica, this beautiful land we love.

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## IN REMEMBRANCE OF ROSALIE S. OBARA

### HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, September 7, 2005*

Mr. CASTLE. Mr. Speaker, it is with great respect, admiration and much sorrow that I rise today to remember the life of Rosalie S. Obara. Rosalie was elected to the office of New Castle County Clerk of the Peace for a record seven terms, serving from 1969 to 1996. She loved life and took great pleasure in giving back to the community that brought her so much happiness. She was also indispensable to my own career, lending a helping hand in many elections.

In the 1930's, Rosalie moved to Delaware, where she would raise four kids with her husband Frank J. Obara, a former City Council President. During her seven terms as Clerk of the Peace, she would perform over 15,400 marriages.

In addition to her professional success, Rosalie left an indelible mark on her community. She was the co-founder and one-time president of the Americans of Polish Descent Cultural Society, as well as an officer with the Council of Polish Societies and Clubs of Delaware. Rosalie was also very active in her church, St. Hedwig, and served the Republican Party as a member of the State Committee and the New Castle County Republican Women's Club.

During her lifetime, Rosalie was the recipient of numerous honors, including the Order of the First State, the highest honor given by the State of Delaware. During the Eisenhower administration, she joined Mamie Eisenhower for tea in the White House. Rosalie will be remembered for her class and dignity.

In closing Mr. Speaker, I would like to point to a 1996 quote from Rosalie that sums up her American Dream story, "I'm the daughter of immigrants. I survived the Depression. I had a limited education, but I made something of myself . . . I am glad I was able to help others." Rosalie Obara can rest in peace knowing that she was always able to help others with grace and elegance.

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## SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 8, 2005 may be found in the Daily Digest of today's RECORD.

### MEETINGS SCHEDULED

### SEPTEMBER 12

12 noon

Judiciary

To hold hearings to examine the nomination of John G. Roberts, Jr., of Maryland, to be Chief Justice of the United States.

SR-325

### SEPTEMBER 13

9:30 a.m.

Judiciary

To continue hearings to examine the nomination of John G. Roberts, Jr., of Maryland, to be Chief Justice of the United States.

SH–216

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine the financial services industry's responsibilities and role in preventing identity theft and protecting sensitive financial information.

SD–538

Homeland Security and Governmental Affairs

To hold hearings to examine the nominations of John R. Fisher, to be an Associate Judge of the District of Columbia Court of Appeals, Juliet JoAnn McKenna, to be an Associate Judge of the Superior Court of the District of Columbia, Colleen Duffy Kiko, of Virginia, to be General Counsel of the Federal Labor Relations Authority, and Mary M. Rose, of North Carolina, to be a Member of the Merit Systems Protection Board.

SD–342

### SEPTEMBER 14

9:30 a.m.

Judiciary

To continue hearings to examine the nomination of John G. Roberts, Jr., of Maryland, to be Chief Justice of the United States.

SH–216

10 a.m.

Energy and Natural Resources

Business meeting to consider pending calendar business.

SD–366

Homeland Security and Governmental Affairs

To hold hearings to examine recovering from Hurricane Katrina.

SD–342

### SEPTEMBER 15

9:30 a.m.

Judiciary

To continue hearings to examine the nomination of John G. Roberts, Jr., of Maryland, to be Chief Justice of the United States.

SH–216

### SEPTEMBER 20

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentation of the American Legion.

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### SEPTEMBER 21

9:30 a.m.

Indian Affairs

To hold an oversight hearing to examine Indian gaming.

Room to be announced

10 a.m.

Agriculture, Nutrition, and Forestry

Forestry, Conservation, and Rural Revitalization Subcommittee

To hold an oversight hearing to examine the Forest and Rangeland Research Program of the USDA Forest Service.

SR–328A

### SEPTEMBER 28

2:30 p.m.

Indian Affairs

To hold an oversight hearing to examine Indian housing.

SR–485

### SEPTEMBER 29

10 a.m.

Indian Affairs

To hold hearings to examine proposed Duck Valley Reservation, Shoshone Paiute Tribes, Water Rights Settlement.

SR–485

## CANCELLATIONS

### SEPTEMBER 14

9:30 a.m.

Judiciary

To hold hearings to examine able danger and intelligence information sharing.

SD–226

## POSTPONEMENTS

### SEPTEMBER 13

9:30 a.m.

Judiciary

To hold hearings to examine prisoner reentry.

SD–226